SENATE BILL 1382

AN ACT

AMENDING TITLE 20, CHAPTER 25, ARTICLE 2, ARIZONA REVISED STATUTES, BY
ADDING SECTIONS 20-3333 AND 20-3334; RELATING TO PHARMACY BENEFIT
MANAGERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 20, chapter 25, article 2, Arizona Revised Statutes, is amended by adding sections 20-3333 and 20-3334, to read:

20-3333. Pharmacy benefit manager; certificate of authority; department; rules

A. A PHARMACY BENEFIT MANAGER SHALL APPLY FOR, OBTAIN AND MAINTAIN A VALID CERTIFICATE OF AUTHORITY TO OPERATE AS A PHARMACY BENEFIT MANAGER IN THIS STATE. A CERTIFICATE OF AUTHORITY IS RENEWABLE BIENNIALY AND IS NONTRANSFERABLE.

B. A PHARMACY BENEFIT MANAGER THAT APPLIES FOR A CERTIFICATE OF AUTHORITY SHALL SUBMIT TO THE DIRECTOR BOTH OF THE FOLLOWING:

1. AN APPLICATION IN A FORM AND MANNER PRESCRIBED BY THE DIRECTOR. AN OFFICER OR INDIVIDUAL WHO IS RESPONSIBLE FOR THE CONDUCT OF THE ACTIVITIES OF THE PHARMACY BENEFIT MANAGER SHALL SIGN THE APPLICATION AND VERIFY THAT THE CONTENTS OF THE APPLICATION AND ANY ATTACHMENTS ARE CORRECT. THE APPLICATION FORM SHALL INCLUDE THE FOLLOWING:

   (a) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE PHARMACY BENEFIT MANAGER.
   (b) A COPY OF ALL BASIC ORGANIZATIONAL DOCUMENTS OF THE PHARMACY BENEFIT MANAGER, INCLUDING THE ARTICLES OF INCORPORATION, BYLAWS, ARTICLES OF ASSOCIATION AND TRADE NAME CERTIFICATE, ANY OTHER SIMILAR DOCUMENTS AND ALL AMENDMENTS TO THE DOCUMENTS.
   (c) A COPY OF A POWER OF ATTORNEY THAT IS DULY EXECUTED BY THE PHARMACY BENEFIT MANAGER IF THE PHARMACY BENEFIT MANAGER IS NOT DOMICILED IN THIS STATE AND THAT APPOINTS A DIRECTOR, THE DIRECTOR'S SUCCESSORS IN OFFICE AND THE DIRECTOR'S AUTHORIZED DEPUTIES AS THE POWER OF ATTORNEY FOR THE PHARMACY BENEFIT MANAGER IN THIS STATE THAT MAY RECEIVE SERVICE OF PROCESS.
   (d) THE NAMES, ADDRESSES, OFFICIAL POSITIONS AND PROFESSIONAL QUALIFICATIONS OF EACH INDIVIDUAL WHO IS RESPONSIBLE FOR THE CONDUCT OF THE ACTIVITIES OF THE PHARMACY BENEFIT MANAGER.
   (e) THE NAME, ADDRESS, TELEPHONE NUMBER, EMAIL ADDRESS AND OFFICIAL POSITION OF THE EMPLOYEE WHO WILL SERVE AS THE PRIMARY CONTACT FOR THE DEPARTMENT.
   (f) A SIGNED CERTIFICATE OF GOOD STANDING.
   (g) A DESCRIPTION OF THE PHARMACY BENEFIT MANAGER AND ITS SERVICES, FACILITIES AND PERSONNEL.
   (h) A DOCUMENT IN WHICH THE PHARMACY BENEFIT MANAGER CONFIRMS THAT ITS BUSINESS PRACTICES AND EACH ONGOING ARIZONA CONTRACT COMPLY WITH THIS ARTICLE AND ALL LAWS OF THIS STATE.

2. AN APPLICATION FEE PRESCRIBED BY THE DIRECTOR.

DENIAL AND SHALL ALLOW THE APPLICANT SIXTY DAYS TO REMEDY THE STATED REASONS FOR THE DENIAL.

D. WITHIN THIRTY DAYS AFTER ANY MATERIAL MODIFICATION OF THE INFORMATION SUBMITTED WITH THE APPLICATION FOR A CERTIFICATE OF AUTHORITY, THE PHARMACY BENEFIT MANAGER SHALL FILE A NOTICE OF MODIFICATION WITH THE DIRECTOR.

E. THE DIRECTOR MAY REFUSE TO ISSUE A CERTIFICATE OF AUTHORITY IF THE DIRECTOR DETERMINES THAT THE PHARMACY BENEFIT MANAGER HAD A PHARMACY BENEFIT MANAGER CERTIFICATE OF AUTHORITY OR LICENSE REVOKED FOR CAUSE IN ANOTHER STATE.

F. THE DIRECTOR MAY ISSUE A CEASE AND DESIST ORDER IF THE PHARMACY BENEFIT MANAGER DOES NOT HOLD A VALID CERTIFICATE OF AUTHORITY. THE DIRECTOR MAY DENY, SUSPEND OR REVOKE A PHARMACY BENEFIT MANAGER'S CERTIFICATE OF AUTHORITY IF THE DIRECTOR FINDS, AFTER NOTICE AND OPPORTUNITY FOR HEARING, THAT ANY OF THE FOLLOWING APPLIES:

1. THE PHARMACY BENEFIT MANAGER VIOLATED ANY RULE OR ORDER OF THE DIRECTOR OR ANY LAW OF THIS STATE APPLICABLE TO A PHARMACY BENEFIT MANAGER.

2. THE PHARMACY BENEFIT MANAGER REFUSED TO BE EXAMINED OR TO PRODUCE ITS ACCOUNTS, RECORDS AND FILES FOR EXAMINATION OR THAT ANY INDIVIDUAL RESPONSIBLE FOR THE CONDUCT OF THE ACTIVITIES IN THIS STATE OF THE PHARMACY BENEFIT MANAGER REFUSED TO PROVIDE INFORMATION WITH RESPECT TO ITS ACTIVITIES OR REFUSED TO PERFORM ANY OTHER LEGAL OBLIGATION REQUIRED BY THE DIRECTOR.

3. THE PHARMACY BENEFIT MANAGER IS REQUIRED UNDER THIS SECTION TO HAVE A CERTIFICATE OF AUTHORITY AND FAILS AT ANY TIME TO MEET ANY QUALIFICATION FOR WHICH ISSUANCE OF A CERTIFICATE OF AUTHORITY COULD HAVE BEEN REFUSED HAD THE FAILURE EXISTED AT THE TIME OF ISSUANCE AND BEEN KNOWN TO THE DIRECTOR, UNLESS THE DIRECTOR ISSUED A CERTIFICATE OF AUTHORITY WITH KNOWLEDGE OF THE GROUND FOR DISQUALIFICATION AND HAD THE AUTHORITY TO WAIVE IT.

4. ANY INDIVIDUAL WHO IS RESPONSIBLE FOR THE MANAGEMENT OF THE PHARMACY BENEFIT MANAGER IS CONVICTED OF OR ENTERS A PLEA OF GUILTY OR NO CONTEST TO A FELONY RELATED TO THE INDIVIDUAL'S ACTIVITIES ON BEHALF OF THE PHARMACY BENEFIT MANAGER.

5. THE PHARMACY BENEFIT MANAGER'S CERTIFICATE OF AUTHORITY OR LICENSE HAS BEEN REVOKED IN ANOTHER STATE.

G. IF A PHARMACY BENEFIT MANAGER'S CERTIFICATE OF AUTHORITY IS SUSPENDED OR RESTRICTED, THE DIRECTOR MAY ALLOW THE OPERATION OF THE PHARMACY BENEFIT MANAGER FOR A LIMITED TIME NOT TO EXCEED ONE HUNDRED TWENTY DAYS. THE DIRECTOR MAY ALLOW A PHARMACY BENEFIT MANAGER WHOSE CERTIFICATE OF AUTHORITY HAS BEEN SUSPENDED OR RESTRICTED TO OPERATE FOR A PERIOD THAT EXCEEDS ONE HUNDRED TWENTY DAYS IF THE DIRECTOR DETERMINES THAT THE CONTINUED OPERATION OF THE PHARMACY BENEFIT MANAGER IS IN THE BENEFICIAL INTERESTS OF THE COVERED PERSONS BY ENSURING MINIMAL DISRUPTIONS TO THE CONTINUITY OF CARE. A PHARMACY BENEFIT MANAGER WHOSE...
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CERTIFICATE OF AUTHORITY HAS BEEN SUSPENDED OR RESTRICTED IS SUBJECT TO THE FOLLOWING CIVIL PENALTIES EACH MONTH, AS DETERMINED BY THE DIRECTOR, UNTIL THE PHARMACY BENEFIT MANAGER REMEDIES THE VIOLATION:

1. FOR AN UNINTENTIONAL VIOLATION, NOT MORE THAN $1,000 FOR EACH VIOLATION AND NOT MORE THAN AN AGGREGATE OF $10,000 IN ANY SIX MONTH PERIOD.

2. FOR AN INTENTIONAL VIOLATION, NOT MORE THAN $5,000 FOR EACH VIOLATION AND NOT MORE THAN AN AGGREGATE OF $50,000 IN ANY SIX MONTH PERIOD.

H. THE DIRECTOR MAY REVOKE THE CERTIFICATE OF AUTHORITY IF THE PHARMACY BENEFIT MANAGER HAS BEEN OPERATING UNDER A SUSPENDED CERTIFICATE OF AUTHORITY FOR A PERIOD OF MORE THAN ONE HUNDRED TWENTY DAYS.

I. FOR THE PURPOSES OF THIS SECTION, A PHARMACY BENEFIT MANAGER HAS THE SAME RIGHTS TO NOTICE AND A HEARING PRESCRIBED IN TITLE 41, CHAPTER 6, ARTICLE 10.

J. THE DIRECTOR MAY INVESTIGATE OFFICERS, DIRECTORS AND OWNERS OF A PHARMACY BENEFIT MANAGER TO COMPLY WITH THIS SECTION.

K. TO RENEW A CERTIFICATE OF AUTHORITY, A PHARMACY BENEFIT MANAGER SHALL SUBMIT TO THE DIRECTOR ALL OF THE FOLLOWING:

1. A RENEWAL APPLICATION IN A FORM AND MANNER PRESCRIBED BY THE DIRECTOR. AN OFFICER OR AUTHORIZED REPRESENTATIVE OF THE PHARMACY BENEFIT MANAGER SHALL SIGN THE APPLICATION AND VERIFY THAT THE CONTENTS OF THE RENEWAL FORM ARE CORRECT.

2. A RENEWAL SCHEDULE AND A FEE PRESCRIBED BY THE DIRECTOR.

L. A PHARMACY BENEFIT MANAGER'S CERTIFICATE OF AUTHORITY EXPIRES BY OPERATION OF LAW IF A COMPLETE RENEWAL APPLICATION AND FEE IS NOT RECEIVED BY THE DUE DATE AS ESTABLISHED IN RULE.


N. A PHARMACY BENEFIT MANAGER SHALL COMPLY WITH THE RECORDS RETENTION SCHEDULES AS PRESCRIBED IN RULE AND SECTION 20-3334.

O. A PHARMACY BENEFIT MANAGER SHALL COMPLY WITH THE DUTIES AND APPEALS PROCESSES OF A UTILIZATION REVIEW AGENT AS PRESCRIBED BY RULE AND CHAPTER 15 OF THIS TITLE.

P. THE DIRECTOR MAY EXAMINE OR REVIEW THE RELEVANT BOOKS AND RECORDS OF A PHARMACY BENEFIT MANAGER TO DETERMINE IF THE PHARMACY BENEFIT MANAGER IS IN COMPLIANCE WITH THIS ARTICLE. ALL OF THE FOLLOWING APPLY TO THE INFORMATION OR DATA THAT IS OBTAINED DURING AN EXAMINATION OR REVIEW:

1. THE INFORMATION IS CONSIDERED AND TREATED AS PROPRIETARY AND CONFIDENTIAL.

2. THE INFORMATION IS NOT A PUBLIC RECORD AND IS EXEMPT FROM TITLE 39, CHAPTER 1.
3. THE INFORMATION IS TO BE USED ONLY FOR THE PURPOSE OF ENSURING A
PHARMACY BENEFIT MANAGER’S COMPLIANCE WITH THIS ARTICLE.

Q. THE DIRECTOR MAY ADOPT RULES TO IMPLEMENT THIS SECTION.

20-3334. Records retention; schedule
A. THE DIRECTOR SHALL ESTABLISH A RETENTION SCHEDULE FOR ALL
RECORDS, BOOKS, DOCUMENTATION AND OTHER DATA ON FILE WITH THE DEPARTMENT
RELATED TO THE ENFORCEMENT OF THIS ARTICLE.
B. THE DIRECTOR SHALL NOT ORDER THE DESTRUCTION OR OTHER DISPOSAL
OF ANY RECORD, BOOK, DOCUMENT OR OTHER DATA THAT IS:
1. REQUIRED BY LAW TO BE MAINTAINED.
2. KEPT ON FILE WITH THE DEPARTMENT UNTIL TEN YEARS HAVE PASSED.
3. FILED DURING THE DIRECTOR’S ADMINISTRATION OR ADMINISTRATIONS.
C. ALL OF THE FOLLOWING APPLY TO THE RECORDS, BOOKS, DOCUMENTATION
AND OTHER DATA OBTAINED BY THE DEPARTMENT:
1. THE INFORMATION IS CONSIDERED AND TREATED AS PROPRIETARY AND
   CONFIDENTIAL.
2. THE INFORMATION IS NOT A PUBLIC RECORD AND IS EXEMPT FROM TITLE
   39, CHAPTER 1.
3. THE INFORMATION IS TO BE USED ONLY FOR THE PURPOSE OF ENSURING
   THE PHARMACY BENEFIT MANAGER’S COMPLIANCE WITH THIS ARTICLE.

Sec. 2. Effective date
This act is effective from and after December 31, 2024.