

By Senator Wright

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1 A bill to be entitled
2 An act relating to pharmacy benefit managers; amending
3 s. 624.3161, F.S.; requiring the Office of Insurance
4 Regulation to conduct market conduct examinations of
5 pharmacy benefit managers as often as the office deems
6 necessary; amending s. 624.490, F.S.; defining the
7 terms "affiliate" and "spread pricing"; authorizing
8 the office to take certain disciplinary actions
9 against a pharmacy benefit manager for specified acts;
10 providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsections (1) and (3) of section 624.3161,
15 Florida Statutes, are amended to read:

16 624.3161 Market conduct examinations.—

17 (1) As often as it deems necessary, the office shall
18 examine each pharmacy benefit manager as defined in s.
19 624.490(1); each licensed rating organization;~~7~~ each advisory
20 organization;~~7~~ each group, association, carrier~~7~~ as defined in
21 s. 440.02, or other organization of insurers which engages in
22 joint underwriting or joint reinsurance;~~7~~ and each authorized
23 insurer transacting in this state any class of insurance to
24 which the provisions of chapter 627 are applicable. The
25 examination shall be for the purpose of ascertaining compliance
26 by the person examined with the applicable provisions of
27 chapters 440, 624, 626, 627, and 635.

28 (3) The examination may be conducted by an independent
29 professional examiner under contract to the office, in which

8-00270-23

2023420__

30 case payment shall be made directly to the contracted examiner
31 by the insurer or person examined in accordance with the rates
32 and terms agreed to by the office and the examiner.

33 Section 2. Present subsection (7) of section 624.490,
34 Florida Statutes, is redesignated as subsection (8), a new
35 subsection (7) is added to that section, and subsection (1) of
36 that section is amended, to read:

37 624.490 Registration of pharmacy benefit managers.—

38 (1) As used in this section, the term:

39 (a) "Affiliate" means, with respect to a pharmacy benefit
40 manager, a pharmacy:

41 1. In which the pharmacy benefit manager, directly or
42 indirectly, has an investment or financial or ownership
43 interest;

44 2. That, directly or indirectly, has an investment or
45 financial or ownership interest in the pharmacy benefit manager;
46 or

47 3. That is under common ownership, directly or indirectly,
48 with the pharmacy benefit manager.

49 (b) "Pharmacy benefit manager" means a person or entity
50 doing business in this state which contracts to administer
51 prescription drug benefits on behalf of a health insurer or a
52 health maintenance organization to residents of this state.

53 (c) "Spread pricing" means any technique by which a
54 pharmacy benefit manager charges or claims an amount from a
55 health insurer or health maintenance organization for pharmacy
56 or pharmacist services, including payment for a prescription
57 drug, which amount is different than the amount the pharmacy
58 benefit manager pays to the pharmacy or pharmacist that provided

8-00270-23

2023420__

59 the services.

60 (7) The office may suspend or revoke a pharmacy benefit
61 manager's registration or impose a fine if it finds the pharmacy
62 benefit manager committed any of the following:

63 (a) Breached its fiduciary duty to the health insurer or
64 health maintenance organization.

65 (b) Used spread pricing.

66 (c) Reduced payment for pharmacy or pharmacist services,
67 directly or indirectly, by creating, imposing, or establishing
68 direct or indirect remuneration fees; generic effective rates,
69 dispensing effective rates, brand effective rates, or any other
70 effective rates; in-network fees, performance fees,
71 preadjudication fees, or postadjudication fees; or any other
72 mechanism that reduces, or aggregately reduces, payment for
73 pharmacy or pharmacist services.

74 (d) Required or influenced an insured or enrollee to use an
75 affiliate of the pharmacy benefit manager.

76 (e) Required or influenced an insured or enrollee to use a
77 mail-order pharmacy.

78 (f) Excluded a pharmacy that was willing to accept the
79 plan's terms and reimbursement and that met the plan's
80 credentialing requirements and quality standards from
81 participating in the plan.

82 (g) Violated s. 624.491, s. 627.6131, s. 627.64741, s.
83 627.6572, s. 641.314, or s. 641.3155.

84 Section 3. This act shall take effect July 1, 2023.