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Office

H.B. 229
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 229's Bill Analysis](#)

Version: As Passed by the Senate

Primary Sponsor: Rep. Deeter

Local Impact Statement Procedure Required: No

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Highlights

- The bill may increase the Department of Insurance's administrative costs associated with oversight of pharmacy benefit managers (PBMs). The Department's administrative cost is paid from the Department of Insurance Operating Fund (Fund 5540). The bill imposes certain fees and fines which must be deposited into Fund 5540. Any fees and fines collected under the bill may be sufficient to pay for such cost increases.
- The bill has no direct fiscal impact to local governments.

Detailed Analysis

Pharmacy benefit manager

The bill establishes a licensing process and requirements governing a pharmacy benefit manager (PBM). A PBM is an entity that contracts with pharmacies on behalf of an employer, a multiple employer welfare arrangement, public employee benefit plan, state agency, insurer, managed care organization, or other third-party payer to provide claims processing services, pharmacy benefit management services or administration, or other prescription drug or device services, including the state pharmacy benefit manager selected for Medicaid managed care plans.

Beginning July 1, 2027, the bill prohibits a PBM from (1) using plan sponsor funds for any purpose not specifically set forth in writing by the PBM, (2) failing to disclose in written solicitation materials and at least once annually to contracted plan sponsors any ownership relationship of 5% or more between the PBM and an insurer, (3) failing to remit insurance premiums within the policy period or within the time agreed to in writing between the insurer and the PBM, and (4) failing to disclose in writing the method of collecting and holding a plan

sponsor's funds. The bill specifies other prohibitions and requirements for a PBM, which are detailed in the bill analysis.

The bill also prohibits any person from soliciting a plan, acting as a PBM, or otherwise providing pharmacy benefit management services while the person's PBM license is expired. The bill specifies that whoever knowingly violates the prohibition is guilty of a fourth degree misdemeanor.

The bill specifies that a PBM or representative of a PBM, beginning July 1, 2027, must not cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading.

The bill allows the Superintendent of Insurance to adopt any necessary rules for the administration, implementation, and enforcement of the bill, but must consider standards and procedures that have been found to be best practices relative to the use and regulation of PBMs when adopting the rules.

Under existing law, a PBM is a type of third-party administrator (TPA) and is required to obtain a license as a TPA from the Department of Insurance. Under existing law, a fee of \$200 for an initial license application and \$300 for license renewal are imposed on a TPA. A PBM is any person who adjusts or settles claims on residents of this state in connection with life, dental, health, prescription drugs, or disability insurance or self-insurance programs. TPAs, inclusive of PBMs, are required to comply with certain requirements under existing law.

Licensure

A person seeking to be licensed as a PBM is required to apply to the Superintendent of Insurance in the form and manner prescribed by the Superintendent, including all information the Superintendent considers necessary to process the application and satisfactory evidence that the applicant meets the licensure requirements as specified under the bill. The bill requires applicants for an initial PBM license to include a nonrefundable filing fee of \$2,000 per application.

The bill specifies that if the application is approved, the Superintendent must grant the applicant an initial license to operate as a PBM in this state. The initial license is effective on the date the application is approved by the Superintendent and expires annually on June 30. If the initial license application is approved in May or June, the license expires on June 30 the following year. The bill specifies the renewal process for the initial license. The bill requires the Superintendent to provide a renewal notice to each licensee by a certain date. Each application for a license renewal must be made in the form and manner prescribed by the Superintendent, including a \$3,000 renewal fee, which must be paid before the license expires. However, a licensee must not apply for renewal more than 90 days before the date the license expires. The bill specifies that if a licensee fails to apply for a license renewal and pay the renewal fee before the date the license expires, the license will expire on the expiration date, and the former licensee is not authorized to operate as a PBM in this state beginning on that date. A person whose license is expired may apply to reinstate the license in the same manner as a license renewal, except that the filing fee equals one-half times the renewal fee (i.e., \$4,500). The bill requires all application and renewal fees be deposited into the existing Department of Insurance Operating Fund (Fund 5540).

Suspension, revocation, and nonrenewal

The bill specifies actions that may be taken by the Superintendent if the Superintendent determines that a licensed PBM has engaged in the enumerated prohibited conduct under the bill or if the Superintendent believes it to be in the best interest of the public, insurers, and plan sponsors.

The bill allows the Superintendent to impose a monetary fine up to \$15,000 per violation against a licensee if, upon investigation and after notice and opportunity for a hearing, the Superintendent finds that the licensee has violated any provisions governing PBMs under the bill or any rule adopted by the Superintendent pursuant to the bill. The bill provides that a PBM may also be suspended for a period not to exceed two years, revoked, or not renewed by the Superintendent after notice to the licensee and hearing, if upon investigation and proof the Superintendent finds that the licensee has knowingly violated provisions regulating PBMs.

The bill requires a licensed PBM to notify the Superintendent if the PBM, or any owner of the PBM, is subject to an administrative action or a criminal prosecution, including relevant documents.

Books and records

The bill allows the Superintendent to examine PBMs' relevant books and records as necessary for certain purposes as specified under the bill beginning July 1, 2027. The Superintendent may contract with a third party to examine such relevant books and records. The bill requires PBMs to pay for all expenses associated with the examination functions authorized or required under the bill, including any expenses related to a contract with a third party to conduct that examination to the Superintendent. All examination expenses received under the bill must be deposited into Fund 5540. The bill specifies that all information and data acquired by the Superintendent or the Department of Insurance under the bill is considered proprietary and confidential and is not a public record.

Written agreement

A person is prohibited from acting as a PBM on or after July 1, 2027, without first entering into a written agreement with a plan sponsor. The PBM must retain the written agreement as part of the PBM's official records for the duration of the agreement and for five years thereafter. The bill requires that such agreement must include certain provisions as specified by the bill. The bill requires PBMs to maintain certain records for the duration of the agreement with the plan sponsor, including providing and disclosing certain information to the plan sponsor. The bill also specifies requirements for a PBM associated with its agreement with an insurer or plan sponsor. The bill requires a PBM licensed under the bill, at all times, to maintain any required insurance coverage or bond as provided for and mandated by the Employee Retirement and Income Security Act of 1974.

Other provision

The bill clarifies that for purposes of licensure, the bill's requirements do not apply to an employer's self-insurance program or fully insured plan unless federal law supersedes, preempts, or prohibits its application to the plan.

Fiscal effect

The bill may increase the Department of Insurance's administrative costs associated with licensing and oversight of PBMs. Currently, the Department's administrative cost is paid from the Department of Insurance Operating Fund (Fund 5540). The bill imposes a \$2,000 fee for a PBM license application and a \$3,000 fee for license renewal. The bill also allows the Superintendent to impose various monetary fines. All such fees and fines would be deposited into Fund 5540. Any fees collected under the bill may be sufficient to pay for such cost increases.

The bill has no direct fiscal impact to local governments. However, the bill's requirements may increase PBMs' administrative costs, which may have an undetermined indirect fiscal effect on local governments' health benefit plans that contract with PBMs. Based on [Health Insurance 2025: the Cost of Health Insurance in Ohio's Public Sector \(PDF\)](#), a report published by the State Employment Relations Board, in 2025 about 78% of medical plans offered by public employers in the state were self-insured while the remaining 22% were fully insured. Self-insured public employers generally pay health benefits costs of employees and their beneficiaries directly. Under fully insured employer plans, employees would purchase insurance coverage from an insurance company.