

Vermont Department of Financial Regulation

LICENSING REQUIREMENTS FOR PHARMACY BENEFIT MANAGERS

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SECTION 1. PURPOSE

The purpose of this rule is to set forth the requirements and standards for the licensing of persons or entities that establish or operate as a pharmacy benefit manager under 18 V.S.A. § 3611 and 18 V.S.A. Chapter 77.

SECTION 2. AUTHORITY

This rule is adopted under the authority granted to the Commissioner by 18 V.S.A. § 3611(e) and 18 V.S.A. §3603.

SECTION 3. DEFINITIONS

- (a) “Commissioner” shall mean the Commissioner of Financial Regulation.
- (b) “Health benefit plan” has the same meaning as in 18 V.S.A. § 3602(4).
- (c) “Pharmacy benefit manager” has the same meaning as in 18 V.S.A § 3602(12)((A).
- (d) “Pharmacy benefit manager affiliate” has the same meaning as in 18 V.S.A. § 3602(13).
- (e) “Pharmacy benefit management” has the same meaning as in 18 V.S.A § 3602(11).

SECTION 4. APPLICABILITY AND SCOPE

No person or entity meeting the definition of a pharmacy benefit manager shall provide claims

processing services, prescription drug or device services for health benefit plans in this state without a valid and current pharmacy benefit manager license. Such license is not transferable or assignable and is valid only for the person or entity to whom issued.

SECTION 5. INITIAL LICENSE APPLICATION

(a) On or before January 1, 2026, and each year thereafter, each pharmacy benefit manager operating in Vermont shall complete a pharmacy benefit manager license application and submit to the Commissioner. The pharmacy benefit manager shall provide as part of the license application the following:

(1) Pharmacy benefit manager officer and business contact information including:

- (A) The name and address of the pharmacy benefit manager;
- (B) The names, business addresses, and job titles of the principal officers of the pharmacy benefit manager;
- (C) The name, business address, business telephone number, business email address, and job title of the officer or employee who should be contacted regarding any pharmacy benefit manager regulatory compliance concerns; and
- (D) The business telephone number and business email address where the pharmacy benefit manager personnel directly responsible for the processing of appeals from patients, providers and pharmacies may be contacted.

(2) Pharmacy benefit management organization documents:

- (A) A copy of the pharmacy benefit manager's organizational documents, including Articles of Incorporation, Articles of Association, and partnership agreements;
- (B) A copy of all by-laws or similar document(s), if any, regulating the conduct or the internal affairs of the pharmacy benefit manager or pharmacy benefit management affiliates; and
- (C) The relevant documentation, such as policies and procedures, and a detailed explanation, that demonstrates the pharmacy benefit manager has adopted processes to ensure compliance with 18 V.S.A §§ 9472-9473 including any written policies or procedures describing the appeals or dispute resolution processes between the pharmacy benefit manager and a pharmacy benefit manager-affiliated pharmacy, as applicable.

(3) Financial and Other Documents

- (A) The most recent year-end financial statement for the pharmacy benefit manager;

- (B) A listing of all health benefit plans the pharmacy benefit manager contracts with to provide pharmacy benefit management services for, in Vermont, including any non-ERISA self-funded or governmental plans;
- (C) The number of projected enrollees or beneficiaries in Vermont to be serviced by the applicant during the upcoming year for all contracted health benefit plans; and
- (D) A listing of any delegated or contracted companies that perform part of the pharmacy benefit manager's pharmacy benefit management services.

(4) Required Responses

A certified statement indicating whether the pharmacy benefit manager:

- (A) Has been refused or denied a registration, license, or certification to act as or provide the services of a pharmacy benefit manager in any state or federal entity, providing specific details separately for each such refusal or denial, if any, including the date, nature and disposition of the action;
- (B) Has had any registration, license or certification to act as or provide the services of a pharmacy benefit manager suspended, revoked or nonrenewed for any reason by any state or federal entity, providing specific details separately for each such suspension, revocation or nonrenewal, if any, including the date, nature and disposition of the action; and
- (C) Has had a business relationship with a health plan terminated for any finding by a court of law of fraudulent or illegal activities in connection with the administration of a pharmacy benefits plan, providing specific details regarding the termination.

(b) Application Fee

The applicant shall provide as part of the license application a nonrefundable application fee of and an initial licensure fee, pursuant to 18 V.S.A. §3611(b).

- (c) A pharmacy benefit manager providing services to less than 100 individuals in Vermont and unable to provide a required document in section 5 may submit to the Commissioner an exception request. The request must list the required document and provide a brief explanation.
- (d) If the applicant asserts information submitted in connection with an initial license application is proprietary or otherwise exempt from public inspection and copying under the Vermont Public Records Act, the applicant must designate the specific section or document claimed as exempt and provide a detailed explanation supporting the claim for exemption, including reference to applicable sections of the Vermont Public Records Act and other applicable law.

SECTION 6. RENEWAL LICENSE APPLICATION

- (a) Beginning on January 1, 2026, and each year thereafter, each pharmacy benefit manager operating in Vermont shall complete a renewal license application.
- (b) The pharmacy benefit manager shall provide as part of the renewal application the information in section 5(a).
- (c) The pharmacy benefit manager shall submit a non-refundable annual renewal license fee pursuant to 18 V.S.A. § 3611(d)(3).
- (d) If the applicant asserts information submitted in connection with a renewal license application is proprietary or otherwise exempt from public inspection and copying under the Vermont Public Records Act, the applicant must designate the specific section or document claimed as exempt and provide a detailed explanation supporting the claim for exemption, including reference to applicable sections of the Vermont Public Records Act and other applicable law.

SECTION 7. APPLICATION REVIEW

- (a) Upon receipt of a completed application for an initial or renewal pharmacy benefit license as required by section 6 and 7, the Commissioner shall review the application and may take the following actions:
 - (1) Approve the application;
 - (2) Notify the applicant, in writing, that the application is incomplete and request additional information to complete the review and, if the missing or requested information is not received, the Commissioner may deny the application; or
 - (3) Deny a registration pursuant to the criteria set forth in 18 V.S.A § 3611(c). If a pharmacy benefit manager license is denied, the Commissioner shall:
 - (A) Provide written notice to the applicant that the application has been denied and the grounds therefor; and
 - (B) Advise the applicant that they may request a reconsideration in accordance with 8 V.S.A § 2104.

SECTION 8. SEVERABILITY

If any provision of this rule or the application of it to any person, entity or circumstance is for any reason held to be invalid, the remainder of this rule shall not be affected.

SECTION 9. ENFORCEMENT

- (a) The Commissioner shall deny, suspend or revoke the license of a pharmacy benefit manager, or shall issue a cease and desist order should the pharmacy benefit manager not have a license if, after notice and opportunity for hearing, the Commissioner finds that the pharmacy benefit manager:
- (1) Is in an unsound financial condition;
 - (2) Is not competent, trustworthy, or of good personal and business reputation;
 - (3) Has been found to have violated the insurance laws of this State or any other jurisdiction or has had an insurance license, registration or other certification or license denied, suspended, nonrenewed or revoked for cause by any jurisdiction.
 - (4) Is using such methods or practices in the conduct of its business so as to render its further transaction of business in this state hazardous or injurious to insured persons or the public;
 - (5) Has failed to pay any judgment rendered against it in this state within sixty (60) days after the judgment has become final;
 - (6) Has refused to have its books and records examined or audited as it relates to its provision of claim processing services or other prescription drug or device services for a health plan;
 - (7) Is required under this rule to have a pharmacy benefit manager license and fails at any time to meet any qualification for which issuance of a license could have been refused had the failure then existed and been known to the Commissioner, unless the Commissioner issued a license with knowledge of the ground for disqualification and had the authority to waive it; or
 - (8) Has failed to provide the required documents required under this rule.
- (b) The Commissioner may, without advance notice, and before a hearing may issue an order immediately suspending the license of a pharmacy benefit manager, or may issue a cease and desist order should the pharmacy benefit manager not have a license, if the Commissioner finds that one or more of the following circumstances exist:
- (1) The pharmacy benefit manager is insolvent or impaired;
 - (2) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the pharmacy benefit manager has been commenced in any state;
or
 - (3) The financial condition or business practices of the pharmacy benefit manager otherwise pose an imminent threat to the public health, safety, or welfare of Vermont residents.
- (c) At the time an order has been issued by the Commissioner in accordance with subsection b

of this section, the Commissioner shall serve notice to the pharmacy benefit manager that the pharmacy benefit manager may request a hearing within ten business days after the receipt of the order. If a hearing is requested, the Commissioner shall schedule a hearing within ten business days after receipt of the request. If a hearing is not requested and the Commissioner orders none, the order shall remain in effect until modified or vacated by the Commissioner.

If the Commissioner finds that one or more grounds exist for the suspension or revocation of a license issued under this part, or for a cease and desist order, the Commissioner may, in lieu of or in addition to the suspension, revocation or cease and desist order, impose a fine upon the pharmacy benefit manager.

SECTION 10. EFFECTIVE DATE

This rule shall take effect upon adoption.