

Adopted Filing – Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:
Licensing Requirements for Pharmacy Benefit Managers

/s/ Kaj Samson

, on 5/1/2025

(signature)

(date)

Printed Name and Title:

Kaj Samson, Commissioner

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Clean text of the rule (Amended text without annotation)
- Letter regarding changes to the final proposed

Revised January 10, 2023

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1. TITLE OF RULE FILING:

Licensing Requirements for Pharmacy Benefit Managers

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE 25P006

3. ADOPTING AGENCY:

Department of Financial Regulation

4. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

5. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

18 V.S.A. §3611(e), 18 V.S.A. §3603 and 18 V.S.A Chapter 77

6. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE FINAL PROPOSED RULE.

7. THE AGENCY HAS NOT INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE, INCLUDING CHANGES IN ECONOMIC IMPACT.

8. THE LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES DID NOT OBJECT TO THE FINAL PROPOSAL.

9. PROCEDURAL HISTORY OF ADOPTION:

Revised January 10, 2023

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ICAR Filing: 12/24/2024

Proposal Filed with Office of the Secretary of State: 1/21/2025

Notices Posted Online: 1/21/2025

Notices Published in the Newspapers of Record: 1/30/2025

A Hearing WAS Held.

Hearings Held (*PLEASE USE ADDITIONAL SHEETS TO PROVIDE THE DATE, TIME, AND LOCATION OF ALL HEARINGS, IF THIS FORM IS INSUFFICIENT TO LIST ALL HEARINGS HELD*):

Date: 2/27/2025

Time: 01:00 PM

Street Address: This hearing was held remotely via Microsoft Teams.

Zip Code:

URL for Virtual:

https://teams.microsoft.com/l/meetupjoin/19%3ameeting_YTNkZjgzZmItMzNiMi00Y2FlLWI3OGEtNjYxMDg1OGU0NTM1%40thread.v2/0?context=%7b%22Tid%22%3a%220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%220id%22%3a%22d2587d24-913a-4985-921f-d30ba33292b8%22%7d

Date: Time:

AM

Street Address:

Zip Code:

URL for Virtual:

Date: Time:

AM

Street Address:

Zip Code:

URL for Virtual:

Date: Time:

AM

Street Address:

Zip Code:

URL for Virtual:

Deadline for Public Comment: 3/6/2025

Final Proposal —

Filed with Secretary of State: 01/17/2025

Filed with LCAR: 04/04/2025

Dates of LCAR Review: 04/24/2025, , , ,

Adopted Rule —

Filed with Secretary of State: 05/01/2024

Filed with LCAR: 05/01/2024

10. EFFECTIVE DATE: 05/19/2025

(A RULE MAY TAKE EFFECT 15 DAYS AFTER ADOPTION IS COMPLETE OR AT A LATER TIME PROVIDED IN THE TEXT OF THE RULE SEE 3 V.S.A. §845(d) FOR DETAILS).

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Licensing Requirements for Pharmacy Benefit Managers

2. ADOPTING AGENCY:

Department of Financial Regulation

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Vermont Department of Financial Regulation – Insurance Division

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).
- (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 engage in pharmacy benefit management 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) Beginning on January 1, 2026, 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 Act 127 of 2024 (18 V.S.A. §§ 9472-9473; 18 V.S.A. §3612, §3622 and §3631)

(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 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;
 - (C) Has had a business relationship with a health plan terminated for cause, including for breach of contract or fiduciary duty, or any fraudulent behavior in connection with the administration of a pharmacy benefits plan, providing specific details regarding the termination; and
 - (D) Has been the defendant or respondent in legal proceedings that have resulted in findings of fraudulent or illegal activities by a court of law or regulatory body, providing specific details of the case or matter.

(b) Application Fee

The applicant shall provide as part of the license application a nonrefundable application fee 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 initially licensed and 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 manager license as required by section 5 and 6, 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 license 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 may 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 pharmacy benefit management;
 - (7) Fails to continue to meet licensing requirements, or withholds information, or fails to cooperate with an examination or investigation, or makes a material misstatement in a

license application, license renewal, or any document submitted to the Commissioner;
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 does not order one, 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 reasonable fine upon the pharmacy benefit manager.

SECTION 10. EFFECTIVE DATE

This rule shall take effect on May 19, 2025.



State of Vermont
Department of Financial Regulation
89 Main Street
Montpelier, VT 05620-3101

April 30, 2025

Office of the Secretary of State
128 State Street
Montpelier, VT 056933

For consumer assistance:
[Banking] 888-568-4547
[Insurance] 800-964-1784
[Securities] 877-550-3907
www.dfr.vermont.gov

To whom it may concern,

The Department of Financial Regulation (“Department”) submits its Final Adopted Rule titled “Licensing Requirements for Pharmacy Benefit Managers” (the “Rule”) which includes changes from the Final Proposed Filing to the Vermont Secretary of State and the Legislative Committee on Administrative Rules (LCAR).

In response to comments received from Jennifer Carbee, Office of Legislative Counsel, the Department made the following changes to the Rule as shown for clarity and grammatical accuracy:

SECTION 5. INITIAL LICENSE APPLICATION

- (a) ~~On or before~~ **Beginning** on 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:

SECTION 6. RENEWAL LICENSE APPLICATION

- (a) Beginning on January 1, 2026, and each year thereafter, each pharmacy benefit manager **initially licensed and** operating in Vermont shall complete a renewal license application.

SECTION 7. APPLICATION REVIEW

- (a) Upon receipt of a completed application for an initial or renewal pharmacy benefit manager license as required by section 5 and 6, 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 license 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 therefore; and

SECTION 9. ENFORCEMENT

- (a) The Commissioner ~~shall~~ **may** 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 pharmacy benefit management;
 - (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~~ **Fails to continue to meet licensing requirements, or withholds information, or fails to cooperate with an examination or investigation, or makes a**

material misstatement in a license application, license renewal, or any document submitted to the Commissioner; or

SECTION 9. ENFORCEMENT

(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 **does not order one** ~~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 reasonable fine upon the pharmacy benefit manager.

An effective date of May 19, 2025 was also added. No other changes have been made to the Rule since the Proposed Final Filing.

Sincerely,

Susan F. Morris

Susan F. Morris
Assistant General Counsel