

House Engrossed Senate Bill
pharmacy benefit managers; certificate requirements

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

CHAPTER 74
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)

1 Be it enacted by the Legislature of the State of Arizona:

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

4 20-3333. Pharmacy benefit manager; certificate of authority;
5 department; rules

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

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

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

17 (a) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE PHARMACY BENEFIT
18 MANAGER.

19 (b) A COPY OF ALL BASIC ORGANIZATIONAL DOCUMENTS OF THE PHARMACY
20 BENEFIT MANAGER, INCLUDING THE ARTICLES OF INCORPORATION, BYLAWS, ARTICLES
21 OF ASSOCIATION AND TRADE NAME CERTIFICATE, ANY OTHER SIMILAR DOCUMENTS AND
22 ALL AMENDMENTS TO THE DOCUMENTS.

23 (c) THE NAME AND ADDRESS OF THE PHARMACY BENEFIT MANAGER'S AGENT IN
24 THIS STATE FOR SERVICE OF PROCESS.

25 (d) THE NAMES, ADDRESSES, OFFICIAL POSITIONS AND PROFESSIONAL
26 QUALIFICATIONS OF EACH INDIVIDUAL WHO IS RESPONSIBLE FOR THE CONDUCT OF
27 THE ACTIVITIES OF THE PHARMACY BENEFIT MANAGER.

28 (e) THE NAME, ADDRESS, TELEPHONE NUMBER, EMAIL ADDRESS AND OFFICIAL
29 POSITION OF THE EMPLOYEE WHO WILL SERVE AS THE PRIMARY CONTACT FOR THE
30 DEPARTMENT.

31 (f) A SIGNED CERTIFICATE OF GOOD STANDING.

32 (g) A DESCRIPTION OF THE PHARMACY BENEFIT MANAGER AND ITS SERVICES,
33 FACILITIES AND PERSONNEL.

34 (h) A DOCUMENT IN WHICH THE PHARMACY BENEFIT MANAGER CONFIRMS THAT
35 ITS BUSINESS PRACTICES AND EACH ONGOING ARIZONA CONTRACT COMPLY WITH THIS
36 ARTICLE AND ALL LAWS OF THIS STATE.

37 2. AN APPLICATION FEE PRESCRIBED BY THE DIRECTOR.

38 C. WITHIN NINETY DAYS AFTER RECEIPT OF A COMPLETED APPLICATION AND
39 APPLICATION FEE, THE DIRECTOR SHALL REVIEW THE APPLICATION AND ISSUE A
40 CERTIFICATE OF AUTHORITY IF THE APPLICANT IS DEEMED QUALIFIED UNDER THIS
41 SECTION. IF THE DIRECTOR DETERMINES THAT THE APPLICANT IS NOT QUALIFIED,
42 THE DIRECTOR SHALL NOTIFY THE APPLICANT, SHALL SPECIFY THE REASON FOR THE
43 DENIAL AND SHALL ALLOW THE APPLICANT SIXTY DAYS TO REMEDY THE STATED
44 REASONS FOR THE DENIAL.

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

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

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

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

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

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

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

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

36 G. IF A PHARMACY BENEFIT MANAGER'S CERTIFICATE OF AUTHORITY IS
37 SUSPENDED OR RESTRICTED, THE DIRECTOR MAY ALLOW THE OPERATION OF THE
38 PHARMACY BENEFIT MANAGER FOR A LIMITED TIME NOT TO EXCEED ONE HUNDRED
39 TWENTY DAYS. THE DIRECTOR MAY ALLOW A PHARMACY BENEFIT MANAGER WHOSE
40 CERTIFICATE OF AUTHORITY HAS BEEN SUSPENDED OR RESTRICTED TO OPERATE FOR A
41 PERIOD THAT EXCEEDS ONE HUNDRED TWENTY DAYS IF THE DIRECTOR DETERMINES
42 THAT THE CONTINUED OPERATION OF THE PHARMACY BENEFIT MANAGER IS IN THE
43 BENEFICIAL INTERESTS OF THE COVERED PERSONS BY ENSURING MINIMAL
44 DISRUPTIONS TO THE CONTINUITY OF CARE. A PHARMACY BENEFIT MANAGER WHOSE
45 CERTIFICATE OF AUTHORITY HAS BEEN SUSPENDED OR RESTRICTED IS SUBJECT TO

1 THE FOLLOWING CIVIL PENALTIES EACH MONTH, AS DETERMINED BY THE DIRECTOR,
2 UNTIL THE PHARMACY BENEFIT MANAGER REMEDIES THE VIOLATION:

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

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

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

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

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

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

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

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

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

27 M. IF A PHARMACY BENEFIT MANAGER AND AN INSURER ENTER INTO A
28 CONTRACTUAL AGREEMENT, THE PHARMACY BENEFIT MANAGER SHALL COMPLY WITH THE
29 LAWS AND RULES THAT GOVERN THE CONTRACTUAL AGREEMENT AS OF THE DATE OF
30 ISSUANCE OF THE CERTIFICATE OF AUTHORITY.

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

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

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

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

42 2. THE INFORMATION IS NOT A PUBLIC RECORD AND IS EXEMPT FROM TITLE
43 39, CHAPTER 1.

44 3. THE INFORMATION IS TO BE USED ONLY FOR THE PURPOSE OF ENSURING A
45 PHARMACY BENEFIT MANAGER'S COMPLIANCE WITH THIS ARTICLE.

1 Q. THE DIRECTOR MAY ADOPT RULES TO IMPLEMENT THIS SECTION.
2 R. THIS SECTION SHALL ONLY APPLY TO A PHARMACY BENEFIT MANAGER
3 PERFORMING SERVICES FOR A HEALTH PLAN SUBJECT TO THE JURISDICTION OF THIS
4 STATE.
5 S. THIS SECTION DOES NOT APPLY TO A WORKERS' COMPENSATION INSURER
6 PERFORMING SERVICES UNDER TITLE 23.
7 20-3334. Records retention; schedule
8 A. THE DIRECTOR SHALL ESTABLISH A RETENTION SCHEDULE FOR ALL
9 RECORDS, BOOKS, DOCUMENTATION AND OTHER DATA ON FILE WITH THE DEPARTMENT
10 RELATED TO THE ENFORCEMENT OF THIS ARTICLE.
11 B. THE DIRECTOR SHALL NOT ORDER THE DESTRUCTION OR OTHER DISPOSAL
12 OF ANY RECORD, BOOK, DOCUMENT OR OTHER DATA THAT IS:
13 1. REQUIRED BY LAW TO BE MAINTAINED.
14 2. KEPT ON FILE WITH THE DEPARTMENT UNTIL TEN YEARS HAVE PASSED.
15 3. FILED DURING THE DIRECTOR'S ADMINISTRATION OR ADMINISTRATIONS.
16 C. ALL OF THE FOLLOWING APPLY TO THE RECORDS, BOOKS, DOCUMENTATION
17 AND OTHER DATA OBTAINED BY THE DEPARTMENT:
18 1. THE INFORMATION IS CONSIDERED AND TREATED AS PROPRIETARY AND
19 CONFIDENTIAL.
20 2. THE INFORMATION IS NOT A PUBLIC RECORD AND IS EXEMPT FROM TITLE
21 39, CHAPTER 1.
22 3. THE INFORMATION IS TO BE USED ONLY FOR THE PURPOSE OF ENSURING
23 THE PHARMACY BENEFIT MANAGER'S COMPLIANCE WITH THIS ARTICLE.
24 Sec. 2. Effective date
25 This act is effective from and after December 31, 2024.

APPROVED BY THE GOVERNOR APRIL 18, 2023.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2023.