

1 State of Arkansas  
2 95th General Assembly  
3 Regular Session, 2025  
4

# A Bill

SENATE BILL 544

5 By: Senators M. Johnson, K. Hammer  
6 By: Representatives Gazaway, Lundstrum  
7

## For An Act To Be Entitled

8 AN ACT TO AMEND THE ARKANSAS PHARMACY BENEFITS  
9 MANAGER LICENSURE ACT; AND FOR OTHER PURPOSES.  
10

## Subtitle

11 TO AMEND THE ARKANSAS PHARMACY BENEFITS  
12 MANAGER LICENSURE ACT.  
13

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
15

16 SECTION 1. Arkansas Code § 23-92-503, concerning definitions used  
17 under the Arkansas Pharmacy Benefits Manager Licensure Act, is amended to add  
18 additional subdivisions to read as follows:  
19

20 (16)(A) "Opt-out contract" means an agreement or a contract in  
21 which a pharmacy must proactively notify the pharmacy benefits manager if the  
22 pharmacy wishes to opt-out of certain terms potentially leading to lower  
23 reimbursement rates or network exclusions if the pharmacy does not opt-out of  
24 the contract.  
25

26 (B) "Opt-out contract" includes a term that requires a  
27 pharmacy to take affirmative action to opt-out of certain terms or conditions  
28 of the contract;  
29

30 (17)(A) "Pharmacy benefits manager national contract to  
31 pharmacies" means a standardized agreement entered into by a pharmacy  
32 benefits manager and a network of pharmacies across the United States in  
33 which a pharmacy is, either directly or indirectly, passed through a pharmacy  
34 services administrative organization messenger model to agree to certain  
35 pricing terms and conditions for a patient if that pharmacy is managed or  
36 represented by a pharmacy benefits manager network.



1                   (B) "Pharmacy benefits manager national contract to  
 2 pharmacies" includes a nationwide network of pharmacies that have entered  
 3 into a contract for national reimbursement rates, terms, and conditions that  
 4 are not Arkansas-specific with a pharmacy benefits manager to provide  
 5 pharmacist services, including without limitation dispensing medications to a  
 6 patient within the pharmacy benefits manager network;

7                   (18)(A) "Place on probation" means an enforcement action against  
 8 a pharmacy benefits manager for lack of compliance with the requirements of  
 9 the Arkansas Pharmacy Benefits Manager Licensure Act, § 23-92-501 et seq.

10                   (B) "Place on probation" includes penalties of probation  
 11 and may include:

12                                 (i) Prohibiting on advertising or bidding on new  
 13 business or requests for proposals;

14                                 (ii) Requiring notification of probation to a  
 15 current contracted plan or program that is directly or indirectly funded by a  
 16 state appropriation to furnish, cover the cost of, or otherwise provide for  
 17 pharmacist services to an individual who resides in or is employed in this  
 18 state; or

19                                 (iii) Other penalties established by rule of the  
 20 Insurance Commissioner;

21                   (19) "Underpayment violation" means:

22                                 (A) A violation of § 23-92-506(b);

23                                 (B) A violation of § 17-92-507; or

24                                 (C) A fair and reasonable compensation payment violation  
 25 as defined under § 23-92-506(a) and by rule of the commissioner; and

26                   (20) "Unique combination for pharmacy claims" means a pharmacy  
 27 claims bank identification number, pharmacy claims group number, pharmacy  
 28 claims processor control number, or any combination of a pharmacy claims bank  
 29 identification number, pharmacy claims group number, and pharmacy claims  
 30 processor control number that is used by a pharmacy benefits manager to  
 31 process a pharmacy claim.

32  
 33                   SECTION 2. Arkansas Code § 23-92-506, concerning prohibited practices  
 34 of a pharmacy benefits manager, is amended to add additional subsections to  
 35 read as follows:

36                   (f) Upon request, a pharmacy benefits manager, including pharmacy

1 benefits managers contracting for Medicare pharmacy and pharmacist benefits,  
2 shall provide a pharmacy services administrative organization, pharmacy, or  
3 pharmacist with each pharmacy claims bank identification number, pharmacy  
4 claims group number, pharmacy claims processor control number, and each  
5 unique combination for pharmacy claims for each pharmacy network established  
6 or administered by a pharmacy benefits manager to enable the pharmacy  
7 services administrative organization, pharmacy, or pharmacist to make an  
8 informed healthcare contracting decision to support negotiating a new  
9 contract or to exit or renew an existing contract.

10 (g) For a new contract, an opt-out contract, a contract amendment, or  
11 a renewal of an existing network, a pharmacy benefits manager, including  
12 pharmacy benefits managers contracting for Medicare pharmacy and pharmacist  
13 benefits, shall clearly list for the pharmacy services administrative  
14 organization, a pharmacy, or pharmacist each pharmacy claims bank  
15 identification number, pharmacy claims group number, pharmacy claims  
16 processor control number, and each unique combination for pharmacy claims for  
17 each pharmacy network established or administered by a pharmacy benefits  
18 manager to enable the pharmacy services administrative organization,  
19 pharmacy, or pharmacist to make an informed healthcare contracting decision.

20 (h)(1) An opt-out contract shall include at least sixty-days notice to  
21 the pharmacy services administrative organization, pharmacy, or pharmacist.

22 (2) The notice required under subdivision (h)(1) of this section  
23 shall be sent by both email and fax.

24 (3) The opt-out option in an opt-out contract shall offer the  
25 pharmacy services administrative organization, pharmacy, or pharmacist the  
26 ability to notify the pharmacy benefits manager of the decision to opt-out or  
27 remain in the network.

28 (4) If a pharmacy benefits manager has not received a reply from  
29 the pharmacy services administrative organization, pharmacy, or pharmacist  
30 within thirty (30) days of the first notice that the opt-out notice was  
31 received, the pharmacy benefits manager shall send a notice to the pharmacy  
32 services administrative organization, pharmacy, or pharmacist a notification  
33 by certified mail of the opt-out contract.

34 (i)(1) A pharmacy benefits manager shall not offer "take it or leave  
35 it" terms and conditions in a contract that would violate requirements of  
36 state law.

1           (2) A pharmacy benefits manager shall actively respond,  
 2 communicate, and adjust to the concerns of a pharmacy services administrative  
 3 organization, pharmacy, or pharmacist that proposed or existing contract and  
 4 provider manual terms do not follow state law.

5           (j) A pharmacy benefits manager shall not utilize a pharmacy benefits  
 6 manager national contract to pharmacies that does not include a separate  
 7 Arkansas-based amendment or Arkansas-specific contract that clearly complies  
 8 with this subchapter and other state laws.

9  
 10           SECTION 3. Arkansas Code § 23-92-508(c), concerning the penalties  
 11 under the Arkansas Pharmacy Benefits Manager Licensure Act, is amended to  
 12 read as follows:

13           (c) After notice and opportunity for hearing, the commissioner may:

14           (1) Impose a penalty of up to five thousand dollars (\$5,000) per  
 15 violation against a pharmacy benefits manager if the commissioner finds that  
 16 the pharmacy benefits manager has not:

17           (A) Followed the process established for determining  
 18 pricing or costs under the Maximum Allowable Cost List under § 17-92-507; ~~or~~

19           (B) Used the national average drug acquisition cost under  
 20 § 23-92-506(b); or

21           (C) Complied with the requirements of this subchapter;

22           (2) Revoke, place on probation, or suspend the license of a  
 23 pharmacy benefits manager or revoke, place on probation, or suspend the use  
 24 of a specific network used by a pharmacy benefits manager and identified by a  
 25 registered unique combination for pharmacy claims if the commissioner finds  
 26 that the pharmacy benefits manager:

27           (A) Has committed a pattern of violations of this  
 28 subchapter;

29           (B) Has not followed the process established for  
 30 determining pricing and costs under the Maximum Allowable Cost List under §  
 31 17-92-507; ~~or~~

32           (C) Has not used the national average drug acquisition  
 33 cost under § 23-92-506(b); or

34           (D) Has violated this subchapter; and

35           (3) For a pattern of more than two (2) violations of this  
 36 subchapter, revoke, or prohibit a pharmacy benefits manager for up to three

1 (3) years from bidding on new business opportunities with a plan or program  
2 that is directly or indirectly funded by a state appropriation to furnish,  
3 cover the cost of, or otherwise provide for pharmacist services to an  
4 individual who resides in or is employed in this state.

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6 SECTION 4. Arkansas Code § 23-92-508, concerning enforcement of the  
7 Arkansas Pharmacy Benefits Manager Licensure Act, is amended to add an  
8 additional subsection to read as follows:

9 (d)(1) The commissioner shall require a pharmacy benefits manager that  
10 has an underpayment violation to:

11 (A) Pay twelve percent (12%) interest per month as a  
12 penalty to the impacted pharmacy or pharmacist for pharmacist services on an  
13 underpayment violation that is calculated on the number of days after the  
14 claim was adjudicated until resolution of the underpayment violation; and

15 (B) Pay the entire amount of the amount of the  
16 underpayment violation plus the required interest under subdivision (d)(1) of  
17 this section to the impacted pharmacy or pharmacist for pharmacist services  
18 on an underpayment violation.

19 (2) A pharmacy or pharmacist shall not be required to collect an  
20 amount of an underpayment violation or interest from a patient in the form of  
21 copay or out-of-pocket expense to the patient.

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23 SECTION 5. Arkansas Code § 23-92-509(b)(1), concerning the rules for  
24 the Arkansas Pharmacy Benefits Manager Licensure Act, is amended to read as  
25 follows:

26 (b)(1) Rules adopted under this subchapter shall set penalties or  
27 finer, including without limitation monetary fines, probation, suspension of  
28 licensure or unique combination for pharmacy claims, and revocation of  
29 licensure or unique combination for pharmacy claims for violations of this  
30 subchapter and rules adopted under this subchapter.