



The Daily Bulletin: 2019-09-11

PUBLIC/SENATE BILLS

S 432 (2019-2020) [BIRTH CENTER & PHARM BENEFITS MGR. LICENSURE \(NEW\)](#). Filed Mar 28 2019, *AN ACT TO ESTABLISH A LICENSURE PROCESS AND ANNUAL LICENSE FEES FOR BIRTH CENTERS AND TO ESTABLISH STANDARDS AND CRITERIA FOR THE REGULATION AND LICENSURE OF PHARMACY BENEFITS MANAGERS PROVIDING CLAIMS PROCESSING SERVICES OR OTHER PRESCRIPTION DRUG OR DEVICE SERVICES FOR HEALTH BENEFIT PLANS.*

House committee substitute to the 2nd edition makes the following changes.

Part II.

Makes the following modifications to the proposed changes to Article 56A, Pharmacy Management Benefits, of GS Chapter 58.

Repeals GS 58-56A-10, concerning civil penalties for violations regarding pharmacy benefit manager regulations (previously, recodified and modified).

Makes changes to refer to a pharmacy benefits manager as a "PBM" throughout the Article.

Makes the following changes to GS 58-56A-2, concerning PBM licensure. Now prohibits any person from acting as, offering to act as, or holding him- or herself out as a PBM without a valid PBM license issued by the Commissioner of Insurance (Commissioner). Adds that licenses are renewable annually, and provides that failure to submit a complete renewal application will result in expiration. Allows the Commissioner to grant an extension for good cause. Requires each application for issuance or renewal to be made upon a form prescribed by the Commissioner and accompanied by a nonrefundable \$2,000 application fee or \$1,500 annual renewal fee, as appropriate (previously, directed the Commissioner to prescribe the application and authorized the Commissioner to charge the described fees). Modifies the application requirements, now requiring the application for issuance to include specified organizational documents; internal regulations; the names, addresses, official positions, and qualifications of identified individuals responsible for the conduct of affairs of the PBM; annual financial statements or reports; a general description of the business operations; a signed statement regarding PBM officers' past convictions or violations; and any other pertinent information required of the Commissioner (previously, only required the names and addresses of specified officers and agents, and the described signed statement regarding past convictions or violations, of all applicants). Adds a new provision requiring the application information be kept confidential. Authorizes the Commissioner to use the information in any judicial or administrative proceeding instituted against the PBM. Requires an application for renewal to include or be accompanied by any changes in the required application information. Adds new provisions to require applicants to make copies of all contracts with insurers or other persons using the services of the PBM available for inspection by the Commissioner, authorize the Commissioner to refuse license issuance if specified findings are made, and establishes a procedure for notification of refusal to issue a license and a procedure for review of the Commissioner's action. Now requires a PBM to notify the Commissioner of any material change in its ownership, control, or other fact or circumstance affecting its qualification for licensure in the State within 10 business days after the change takes effect (previously, required filing notice of any material change with no time period given). Authorizes the Commissioner to adopt rules establishing additional licensing and reporting requirements consistent with the Article (was, consistent with the statute).

Further amends GS 58-56A-3, concerning consumer protections, to require disclosure of all incentives, discounts, and rebates received by the PBM and the entities who benefit from the incentives, discounts, and rebates, including amounts received by the PBM, whether in the form of money, reduction in costs, or any other benefit to the PBM.

Further amends GS 58-56A-4, concerning pharmacy and pharmacist protections, to explicitly forbid a PBM from prohibiting or in any way restricting a pharmacy or pharmacist from dispensing any prescription drug allowed to be dispensed under a license to practice pharmacy (previously, did not specifically prohibit a PBH from restricting the dispensing). No longer

includes a clarification regarding pharmacists' right to refuse to fill or refill a prescription. Adds a new prohibition to forbid a PBM from coercing, steering, or enticing an insurance provider or an insured to other entities that operate under the umbrella of the PBM.

Makes technical and conforming changes to GS 58-56A-5 to refer to the maximum allowable cost list.

Amends proposed GS 58-56A-20, concerning PBM networks, to additionally prohibit a PBM from denying a pharmacy wholesaler or pharmacy services administration organization the right to participate in a network on the same terms and conditions as other participants in the network (previously, only specifically prohibited denial of properly licensed pharmacists or pharmacies). Regarding a PBM's obligation for payment of services rendered after termination of a pharmacy or pharmacist from a PBM network, excludes cases of fraud, waste, or abuse from the obligation (was, cases of fraud, waste, and abuse).

Makes technical changes to proposed GS 58-56A-25 to refer to the Health Insurance Portability and Accountability Act of 1996 (rather than just HIPAA).

Amends proposed GS 58-56A-35, regarding enforcement, to authorize the Commissioner to contract with consultants and other professionals with relevant experience as necessary and appropriate to conduct an examination or audit of a PBM (previously, authorized to retain certain professionals and specialists as examiners). Adds that the Commissioner must institute a civil action to recover the expenses of an examination against a PBM that refuses or fails to pay the expense of retaining those consultants and professionals. Modifies the confidentiality provisions to now establish that all working papers, information, documents, and copies thereof produced by, obtained by, or disclosed to the Commissioner or any other person in connection with an examination or audit under the statute are confidential, not subject to a subpoena, are not public record, and cannot be made public by the Commissioner or any other person (previously, deemed the information proprietary, confidential and not public record, and prohibited the Commissioner from making the information or data public). Adds that the Commissioner can use the information in any regulatory or legal action brought as part of the Commissioner's official duties. No longer includes related rulemaking authority. Deletes the provisions regarding penalties and disciplinary actions for violations of the Article.

Enacts GS 58-56A-40, setting forth the Commissioner's authority to suspend, revoke, or refuse to renew the license of a PBM for cause after proper notice and hearing. Enumerates nine triggering offenses, including (1) that the PBM has violated any administrative rule, subpoena, or order of the Commissioner or violation of the Chapter; (2) that the PBM or any officer with management control has been convicted of a felony; or (3) that the financial condition or business practices of the PBM pose an imminent threat to the public health, safety, or welfare of residents. Authorizes the Commissioner to summarily suspend a license upon a written finding that the public health, safety, or welfare requires emergency action. Details the effectiveness and procedure required for orders summarily suspending a license.

Amends the definitions set forth in GS 58-56-2, applicable to Article 56 (Third Party Administrators), to exclude licensed PBMs from the definition of *third party administrator*.

Makes further technical changes.

Intro. by Ballard.

GS 58, GS 131E

[View summary](#)

**Business and Commerce, Occupational Licensing,
Government, State Agencies, Department of Health and
Human Services, Health and Human Services, Health, Health
Care Facilities and Providers, Health Insurance**

S 692 (2019-2020) [2019 SENATE REMEDIAL MAP](#). Filed Sep 11 2019, *AN ACT TO COMPLY WITH ORDER OF THE COURT IN 18 CVS 014001, WAKE COUNTY.*

Sets out GS 120-1(a), which sets forth the composition of the Senatorial districts, without changes.

Specifies that the plan adopted by Section 1 of this act is effective for the elections in 2020 unless the North Carolina Supreme Court reverses or stays the decision of the Wake County Superior Court in 18 CVS 014001 holding unconstitutional GS 120-

1(a) as it existed prior to the enactment of this act (or the decision is otherwise enjoined or made inoperable or ineffective), and in any such case the prior version of GS 120-1(a) is again effective.

Intro. by Daniel, Hise, Newton.

GS 120

[View summary](#)

Government, General Assembly

ACTIONS ON BILLS

PUBLIC BILLS

H 29: STANDING UP FOR RAPE VICTIMS ACT OF 2019.

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Special Message Sent To House

House: Special Message Received For Concurrence in S Com Sub

H 75: SCHOOL SAFETY FUNDS, PROGRAMS, AND REPORTS. (NEW)

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Special Message Sent To House

House: Special Message Received For Concurrence in S Com Sub

H 211: VARIOUS DMV CHANGES.-AB

Senate: Conf Report Adopted

H 283: CONNER'S LAW.

Senate: Regular Message Sent To House

House: Regular Message Received For Concurrence in S Amend

H 555: MEDICAID TRANSFORMATION IMPLEMENTATION. (NEW)

House: Veto Overridden

Senate: Veto Received from House

Senate: Ref To Com On Rules and Operations of the Senate

H 655: NC HEALTH CARE FOR WORKING FAMILIES.

House: Withdrawn From Cal

House: Re-ref Com On Health

H 966: 2019 APPROPRIATIONS ACT.

House: Veto Overridden

Senate: Veto Received from House

Senate: Ref To Com On Rules and Operations of the Senate

S 118: PRISON SAFETY/TANF STATE PLAN/CLARIFICATIONS. (NEW)

House: Passed 2nd Reading

House: Passed 3rd Reading

House: Special Message Sent To Senate

Senate: Special Message Received For Concurrence in H Com Sub

S 429: DISASTER RECOVER - 2019 BUDGET PROVISIONS. (NEW)

House: Passed 2nd Reading

House: Passed 3rd Reading

House: Special Message Sent To Senate

Senate: Special Message Received For Concurrence in H Com Sub

S 432: BIRTH CENTER & PHARM BENEFITS MGR. LICENSURE (NEW).

House: Reptd Fav Com Sub 2

House: Re-ref Com On Rules, Calendar, and Operations of the House

S 458: PTS DAY/CARDIAC TASK FORCE/TITUS'S LAW/DATA. (NEW)

Senate: Withdrawn From Cal

Senate: Placed On Cal For 09/12/2019

S 553: REGULATORY REFORM ACT OF 2019.

Senate: Ratified

S 683: COMBAT ABSENTEE BALLOT FRAUD.

Senate: Failed Concur In H Com Sub

S 691: EMERGENCY OPERATING FUNDS FOR UTILITIES.

Senate: Passed 1st Reading

Senate: Ref To Com On Appropriations/Base Budget

Senate: Sequential Referral To Rules and Operations of the Senate Added

Senate: Reptd Fav

Senate: Re-ref Com On Rules and Operations of the Senate

S 692: 2019 SENATE REMEDIAL MAP.

Senate: Filed

LOCAL BILLS

S 270: DURHAM DEANNEXATION. (NEW)

Senate: Concurred On 3rd Reading

Senate: Ordered Enrolled

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