

LEGISLATURE OF NEBRASKA  
ONE HUNDRED NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 533**

Introduced by Kauth, 31.

Read first time January 22, 2025

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to the Pharmacy Benefit Manager Licensure and  
2 Regulation Act; to amend sections 44-4601 and 44-4603, Revised  
3 Statutes Cumulative Supplement, 2024; to define terms; to provide  
4 requirements relating to clinician-administered drugs; to harmonize  
5 provisions; to provide an operative date; and to repeal the original  
6 sections.

7 Be it enacted by the people of the State of Nebraska,

1           **Section 1.** Section 44-4601, Revised Statutes Cumulative Supplement,  
2 2024, is amended to read:

3           44-4601 Sections 44-4601 to 44-4612 and section 3 of this act shall  
4 be known and may be cited as the Pharmacy Benefit Manager Licensure and  
5 Regulation Act.

6           **Sec. 2.** Section 44-4603, Revised Statutes Cumulative Supplement,  
7 2024, is amended to read:

8           44-4603 For purposes of the Pharmacy Benefit Manager Licensure and  
9 Regulation Act:

10           (1) Auditing entity means a pharmacy benefit manager or any person  
11 that represents a pharmacy benefit manager in conducting an audit for  
12 compliance with a contract between the pharmacy benefit manager and a  
13 pharmacy;

14           (2) Claims processing service means an administrative service  
15 performed in connection with the processing and adjudicating of a claim  
16 relating to a pharmacist service that includes:

17           (a) Receiving a payment for a pharmacist service; or

18           (b) Making a payment to a pharmacist or pharmacy for a pharmacist  
19 service;

20           (3) Clinician-administered drug means an outpatient prescription  
21 drug other than a vaccine that:

22           (a) Cannot reasonably be self-administered by the covered person to  
23 whom the drug is prescribed or by an individual assisting the covered  
24 person with self-administration; and

25           (b) Is typically administered:

26           (i) By a health care provider authorized to administer the drug,  
27 including when acting under a physician's delegation and supervision; and

28           (ii) In a physician's office, hospital outpatient infusion center,  
29 or other clinical setting;

30           (4) ~~(3)~~ Covered person means a member, policyholder, subscriber,  
31 enrollee, beneficiary, dependent, or other individual participating in a

1 health benefit plan;

2 (5) ~~(4)~~ Director means the Director of Insurance;

3 (6) ~~(5)~~ Health benefit plan means a policy, contract, certificate,  
4 plan, or agreement entered into, offered, or issued by a health carrier  
5 or self-funded employee benefit plan to the extent not preempted by  
6 federal law to provide, deliver, arrange for, pay for, or reimburse any  
7 of the costs of a physical, mental, or behavioral health care service;

8 (7) ~~(6)~~ Health carrier has the same meaning as in section 44-1303;

9 (8) ~~(7)~~ Other prescription drug or device service means a service  
10 other than a claims processing service, provided directly or indirectly,  
11 whether in connection with or separate from a claims processing service,  
12 including, but not limited to:

13 (a) Negotiating a rebate, discount, or other financial incentive or  
14 arrangement with a drug company;

15 (b) Disbursing or distributing a rebate;

16 (c) Managing or participating in an incentive program or arrangement  
17 for a pharmacist service;

18 (d) Negotiating or entering into a contractual arrangement with a  
19 pharmacist or pharmacy;

20 (e) Developing and maintaining a formulary;

21 (f) Designing a prescription benefit program; or

22 (g) Advertising or promoting a service;

23 (9) ~~(8)~~ Pharmacist has the same meaning as in section 38-2832;

24 (10) ~~(9)~~ Pharmacist service means a product, good, or service or any  
25 combination thereof provided as a part of the practice of pharmacy;

26 (11) ~~(10)~~ Pharmacy has the same meaning as in section 71-425;

27 (12)(a) ~~(11)(a)~~ Pharmacy benefit manager means a person, business,  
28 or entity, including a wholly or partially owned or controlled subsidiary  
29 of a pharmacy benefit manager, that provides a claims processing service  
30 or other prescription drug or device service for a health benefit plan to  
31 a covered person who is a resident of this state; and

1 (b) Pharmacy benefit manager does not include:

2 (i) A health care facility licensed in this state;

3 (ii) A health care professional licensed in this state;

4 (iii) A consultant who only provides advice as to the selection or  
5 performance of a pharmacy benefit manager; or

6 (iv) A health carrier to the extent that it performs any claims  
7 processing service or other prescription drug or device service  
8 exclusively for its enrollees; and

9 (13) (12) Plan sponsor has the same meaning as in section 44-2702;  
10 and -

11 (14) Specialty pharmacy means a pharmacy that specializes in  
12 dispensing drugs for patients with rare or complex medical conditions.

13 **Sec. 3. (1) A specialty pharmacy that ships a clinician-**  
14 **administered drug to a health care provider or pharmacy shall:**

15 (a) Comply with all federal laws regulating the shipment of drugs,  
16 including, but not limited to, general chapter 800 of the United States  
17 Pharmacopeia;

18 (b) In response to questions from a health care provider or  
19 pharmacy, provide access to a pharmacist or nurse employed by the  
20 specialty pharmacy twenty-four hours per day, seven days per week;

21 (c) Allow a covered person and health care provider to request a  
22 refill of a clinician-administered drug on behalf of a covered person in  
23 accordance with the pharmacy benefit manager's or health carrier's  
24 utilization review procedures; and

25 (d) Adhere to the track and trace requirements, as described in the  
26 federal Drug Supply Chain Security Act, 21 U.S.C. 360eee et seq., for a  
27 clinician-administered drug that needs to be compounded or manipulated.

28 (2) For any clinician-administered drug dispensed by a specialty  
29 pharmacy selected by the pharmacy benefit manager or health carrier, the  
30 requesting health care provider or the provider's designee shall provide  
31 the requested date, approximate time, and place of delivery of a

1 clinician-administered drug at least five business days before the date  
2 of delivery. The specialty pharmacy shall require a signature upon  
3 receipt of the shipment when shipped to a health care provider.

4 (3) A pharmacy benefit manager or health carrier that requires  
5 dispensing of a clinician-administered drug through a specialty pharmacy  
6 shall establish and disclose a process which allows the health care  
7 provider or pharmacy to appeal and have exceptions to the use of a  
8 specialty pharmacy when:

9 (a) A drug is not delivered as specified in subsection (2) of this  
10 section; or

11 (b) An attending health care provider reasonably believes a covered  
12 person may experience immediate and irreparable harm without the  
13 immediate, one-time use of a clinician-administered drug that a health  
14 care provider or pharmacy has in stock.

15 (4) A pharmacy benefit manager or health carrier shall not require a  
16 specialty pharmacy to dispense a clinician-administered drug directly to  
17 a covered person with the intention that the covered person will  
18 transport the clinician-administered drug to a health care provider for  
19 administration.

20 **Sec. 4.** This act becomes operative on January 1, 2026.

21 **Sec. 5.** Original sections 44-4601 and 44-4603, Revised Statutes  
22 Cumulative Supplement, 2024, are repealed.