

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4676

STATE OF NEW JERSEY

DATED: JUNE 1, 2017

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 4676.

This bill, entitled the “Prescription Drug Patient Protection Act,” requires pharmacy benefits managers to obtain, in accordance with the bill’s provisions, a certificate of authority from the Commissioner of Banking and Insurance in order to operate in this State.

The bill requires a pharmacy benefits manager operating in this State on the bill’s effective date to submit an application for a certificate of authority, within nine months of that date, on a form and in a manner to be prescribed by the Commissioner of Banking and Insurance by regulation. A pharmacy benefits manager that seeks to commence operations in this State after the bill’s effective date must also submit an application.

The application shall be signed under oath by the chief executive officer of the pharmacy benefits manager or by a legal representative of the pharmacy benefits manager, and must include contact information for the pharmacy benefits manager, the proposed plan of operation, and an audited financial statement.

The bill requires the commissioner to issue a certificate of authority to a pharmacy benefits manager if, in the determination of the commissioner, the application demonstrates that the pharmacy benefits manager:

(1) will provide pharmacy benefits management services in compliance with the provisions of the bill and P.L.2015, c.179;

(2) will provide a complaint resolution mechanism that includes reasonable procedures for the resolution of complaints by pharmacists, prescribers, and covered persons;

(3) is financially sound and may reasonably be expected to meet its obligations to purchasers and covered persons;

(4) has a procedure to establish and maintain a uniform system of cost accounting approved by the commissioner and a uniform system of reporting and auditing, which meet the requirements of the commissioner; and

(5) has adopted procedures to ensure compliance with all State and federal laws governing the confidentiality of its records with respect to pharmacists, prescribers, and covered persons.

If the commissioner rejects an application by a pharmacy benefits manager for a certificate of authority, the commissioner shall specify in what respect the application fails to comply with the requirements for certification.

If the commissioner revokes a certificate of authority for a pharmacy benefits manager, the pharmacy benefits manager shall proceed, immediately following the effective date of the order of revocation, to pay all outstanding pharmacy benefits claims of covered persons and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the pharmacy benefits manager. The commissioner may permit such further operation of the pharmacy benefits manager as the commissioner may find to be in the best interest of the purchaser of pharmacy benefits management services and covered persons.

A certificate of authority issued pursuant to the bill shall be valid for three years from the date of issuance by the commissioner, and shall be renewed every three years thereafter.

The commissioner shall establish fees for an application for a certificate of authority and for a renewal of a certificate of authority, the amounts of which shall be no greater than is reasonably necessary to enable the Department of Banking and Insurance to carry out the provisions of the bill.

The provisions of this bill shall not apply to a pharmacy benefits manager that is an affiliate of a carrier and provides pharmacy benefits management services solely to that carrier.

The bill also amends the statutes governing organized delivery systems, which are regulated by the Department of Banking and Insurance. By defining "limited health care services" to include pharmaceutical services, instead of excluding them, the bill is intended to allow the department to regulate pharmacy benefit managers that fall under the category of organized delivery systems because they provide limited health care services.