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Licensing of pharmacy benefit managers.

(A) Purpose

The purpose of this rule is to establish licensing standards, procedures, and requirements for pharmacy benefit managers.

(B) Authority

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041 and 3957.02 of the Revised Code.

(C) Initial licensing standards, requirements, and application

For the protection of the people of this state, no person, or domestic, foreign, or alien corporation shall be, act as, or hold itself out to be a pharmacy benefit manager in this state unless licensed as such by the superintendent. Only alien corporations that have established a domicile within the United States and its territories may be issued an Ohio pharmacy benefit manager license. To that end, the superintendent shall not issue, nor permit to exist, any pharmacy benefit manager's license unless the following standards and requirements are met to the satisfaction of the superintendent:

(1) In lieu of testing, the applicant has submitted and fully responded to all questions contained and provided all additional information in the form and manner as instructed and prescribed in the relevant initial application for a pharmacy benefit manager's license.

(2) The applicant has met or complied with all requirements contained in section 3957.04 of the Revised Code, including payment for the nonrefundable filing fee associated with their application.

(3) If an individual, the applicant must:

(a) Be at least eighteen years of age;

(b) Consent to a criminal records check and the result of that criminal records check must be determined to be satisfactory by the superintendent pursuant to section 9.79 of the Revised Code;

(c) Never have been convicted of a financially related felony;

(d) Not have committed any act that is grounds for the denial, suspension, or revocation of a license issued under Title XXXIX of the Revised Code or the laws of another state;

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(e) Provided proof of United States citizenship or proof of legal authorization to work in the United States; and

(f) Provide a copy of their current, valid license as a pharmacy benefit manager in their resident state if seeking a nonresident pharmacy benefit manager license in this state or complete all licensing requirements imposed on applicants for a resident pharmacy benefit manager license if their resident state does not license pharmacy benefit managers.

(4) If a business entity, the applicant must:

(a) Provide proof that it is domiciled or maintains its principal place of business in this state, as evidenced by a certificate of good standing issued by the secretary of state if seeking a resident pharmacy benefit manager license or a certificate of good standing for a foreign corporation issued by the secretary of state if seeking a nonresident pharmacy benefit manager license;

(b) Identify all officers, directors, partners, or members of the business entity and any owners or members that hold five per cent or more ownership in or otherwise control the business entity;

(c) Identify an officer, director, partner, or member responsible for its compliance with Chapter 3957 of the Revised Code and the rules adopted thereunder;

(d) Certify that neither the applicant nor any of its officers, directors, or partners have been convicted of a financially related felony;

(e) Certify that neither the applicant nor any of its officers, directors, or partners have committed any act that is grounds for the denial, suspension, or revocation of a license issued under Title XXXIX of the Revised Code or the laws of another state; and

(f) Provide a copy of its current, valid license as a pharmacy benefit manager in its resident state if seeking a nonresident pharmacy benefit manager license in this state or complete all licensing requirements imposed on applicants for a resident pharmacy benefit manager license if their resident state does not license pharmacy benefit managers.

(5) The applicant has demonstrated, to the satisfaction of the superintendent, that it has procured and maintained insurance and bonds in compliance with the requirements of division (H) of section 3957.09 of the Revised Code. All licensed pharmacy benefit managers are under a continuing obligation and will

notify the superintendent of each renewal of required insurance policies and bonds and provide the superintendent with satisfactory proof that all required coverage is in force or that it is exempt from any such requirement.

- (6) The applicant has certified that it is not affiliated with, or is under same general management or interlocking directorate or ownership of, another pharmacy benefit manager that transacts business in this state and that is not licensed under Chapter 3957 of the Revised Code.
- (7) An application for licensure as a pharmacy benefit manager that contains all the necessary information for licensure shall be available upon request from the superintendent.
- (8) Any application for a pharmacy benefit manager license received by the superintendent that does not contain all the required information stated herein, including any required criminal records check, fees, and complete application, will be considered incomplete and not considered until any omitted information or documentation has been received from the applicant.
- (9) The applicant has provided any additional documentation, records, information, or responses to inquiries made to it by the superintendent that the superintendent has determined, in its sole and absolute discretion, would be appropriate, helpful, or expedient for the proper consideration of its application for a pharmacy benefit manager license.
- (10) The effective date of a pharmacy benefit manager's license is that date on which the pharmacy benefit manager is issued a license by the superintendent and expires annually on the thirtieth day of June, unless the applicant's initial license is approved in May or June in which case the license would expire on the thirtieth day of June the following year.

(D) Continuing notification requirements

- (1) Any change of officers, directors, partners, members, or trustees, and any change of shareholders or other owners or members holding five per cent or more of ownership of a pharmacy benefit manager, or any change of the business address of any pharmacy benefit manager must be reported on a form provided by the superintendent and filed with the superintendent within fifteen days after the end of the month in which the change occurs.
- (2) Forms for all pharmacy benefit manager licenses shall be available upon request from the superintendent.

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- (3) A business entity pharmacy benefit manager's license will be immediately revoked if it ceases to exist as a corporate or other legal entity.

(E) License renewal

- (1) Pharmacy benefit manager licenses expire annually on the thirtieth day of June. Pharmacy benefit managers may apply to renew their license by:

- (a) Submitting and fully responding to all questions contained and provided all additional information in the form and manner as instructed and prescribed in the relevant renewal application for a pharmacy benefit manager's license;
- (b) Meeting or complying with all requirements contained in section 3957.08 of the Revised Code, including payment for the nonrefundable filing fee associated with their renewal application;
- (c) If a nonresident licensee, providing a copy of their current, valid license as a pharmacy benefit manager in their resident state;
- (d) Providing proof that all insurance and bonds required by division (H) of section 3957.09 of the Revised Code have been procured and maintained continuously in force or that it is exempt from that requirement; and
- (e) Providing any additional documentation, records, information, or responses to inquiries made to it by the superintendent that the superintendent has determined, in its sole and absolute discretion, would be appropriate, helpful, or expedient for the proper consideration of its renewal application for a pharmacy benefit manager license.

- (2) A pharmacy benefit manager license may only be renewed within one hundred eighty days of its expiration. Any pharmacy benefit manager license not renewed within one hundred eighty days will be terminated and the individual or business entity may only become licensed again by applying for an initial license as set forth in section 3957.04 of the Revised Code and paragraph (D) of this rule.

(F) Service of legal process

Foreign or alien pharmacy benefit managers are deemed to have irrevocably appointed the superintendent as agent for the acceptance of service of process issued in Ohio in any action or proceeding against the nonresident pharmacy benefit manager arising out of such licensing or out of such transactions under the license.

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(G) Surrender

- (1) A pharmacy benefit manager can surrender its license by submitting a form prescribed by the superintendent. If the pharmacy benefit manager is under investigation by the superintendent or the superintendent has issued a notice of opportunity for hearing under Chapter 119 of the Revised Code, the superintendent cannot accept a surrender except for cause and as a resolution of allegations that the pharmacy benefit manager violated the insurance laws and regulations of this state. For purposes of this paragraph, an investigation will include the review of any complaint made against or involving the pharmacy benefit manager.
- (2) A surrender will be effective immediately after the superintendent receives the request or at a date chosen by the pharmacy benefit manager but in no case will the surrender be effective prior to the date of receipt by the superintendent or more than five days after receipt of the surrender request.
- (3) The pharmacy benefit manager must notify each employer, multiple employer welfare arrangement, public employee benefit plan, state agency, insurer, managed care organization, plan sponsor, plan, or other third-party payer upon the surrender of its license.
- (4) Anyone that has surrendered a pharmacy benefit manager license must follow the application process for an initial license stated in section 3957.04 of the Revised Code if they wish to regain their license.

(H) Severability

If any portion of this rule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule or related rules which can be given effect without the invalid portion or application, and to this end the provisions of this rule are severable.