

STATE OF NEW YORK

438--A

Cal. No. 296

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. MYRIE, LIU, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the insurance law, in relation to prescription drug supply chain transparency; and to amend the state finance law, in relation to deposits into the pharmacy benefit manager regulatory fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the
2 "prescription drug supply chain transparency act".

3 § 2. The insurance law is amended by adding a new article 30 to read
4 as follows:

ARTICLE 30

PRESCRIPTION DRUG SUPPLY CHAIN TRANSPARENCY

Section 3001. Definitions.

8 3002. Electronic filing requirement.

9 3003. Special reports and other powers.

10 3004. Registration of pharmacy services administrative organiza-
11 tions.

12 3005. Required disclosures by pharmacy services administrative
13 organizations.

14 3006. Registration of pharmacy switch companies.

15 3007. Required disclosures by pharmacy switch companies.

16 3008. Registration of rebate aggregators.

17 3009. Required disclosures by rebate aggregators.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 3010. Deposit of penalties and fees.

2 § 3001. Definitions. (a) For the purposes of this article, the defi-
3 nitions contained in section two hundred eighty-a of the public health
4 law shall apply to this article as if specifically set forth herein.

5 (b) For the purposes of this article, the following words or phrases
6 shall have the following meanings, unless the context otherwise
7 requires:

8 (1) "Manufacturer" means an entity engaged in the manufacture of
9 prescription drugs sold in this state.

10 (2) "Pharmacy services administrative organization" or "PSAO" means an
11 entity that is operating in this state and that contracts with a pharma-
12 cy for the purpose of conducting business on the pharmacy's behalf with
13 wholesalers, distributors, health plans or pharmacy benefit managers.

14 (3) "Rebate aggregator" means an entity that provides formulary rebate
15 administrative services for pharmacy benefit managers or otherwise nego-
16 tiates rebates with manufacturers on behalf of pharmacy benefit manag-
17 ers.

18 (4) "Switch company" means an entity that acts as an intermediary
19 between a pharmacy and a pharmacy benefit manager or health plan for the
20 purpose of routing insurance claims data to or from a pharmacy.

21 § 3002. Electronic filing requirement. Notwithstanding any law to the
22 contrary, any filing or submission required under this article shall be
23 made electronically unless the entity required to make such filing or
24 submission demonstrates undue hardship, impracticability or good cause
25 as required by section three hundred sixteen of this chapter.

26 § 3003. Special reports and other powers. (a) The superintendent may
27 address to any entity required to register or report information under
28 this article, or its officers, or any agent or employee thereof any
29 inquiry in relation to its business or any matter connected therewith.
30 Every individual or entity so addressed shall reply in writing to such
31 inquiry promptly and truthfully, and such reply shall be, if required by
32 the superintendent, subscribed by such individual, or by such officer or
33 officers of the entity, or by such agent or employee of the entity as
34 the superintendent shall designate, and affirmed by them as true under
35 the penalties of perjury.

36 (b) In the event any individual or entity does not submit a good faith
37 response to an inquiry from the superintendent pursuant to subsection
38 (a) of this section within a time period specified by the superintendent
39 of not less than fifteen business days, the superintendent is authorized
40 to levy a civil penalty, after notice and hearing, against such person
41 not to exceed one thousand dollars per day for each day beyond the date
42 specified by the superintendent for response to the inquiry.

43 (c) In addition to all other powers granted by law, the superintendent
44 is hereby empowered to order any person or entity required to register
45 or report information under this article to cease and desist from
46 violations of this article and, following issuance of such an order, may
47 bring and maintain an action in any court of competent jurisdiction for
48 an injunction or other appropriate relief to enjoin threatened or exist-
49 ing violations of this article, or of the superintendent's orders or
50 regulations. Such action may specifically seek restitution on behalf of
51 persons aggrieved by a violation of this article or orders or regu-
52 lations of the superintendent.

53 (d) In addition to all other powers granted by law, whenever it shall
54 appear to the superintendent, either upon complaint or otherwise, that
55 in the course of its business within or from this state that any entity
56 shall have employed, or employs, or is about to employ any business

1 practice or shall have performed, or is performing, or is about to
2 perform any act in violation of this article or orders or regulations of
3 the superintendent, or the superintendent believes it to be in the
4 public interest that an investigation be made, the superintendent may,
5 in the superintendent's discretion, either require or permit such entity
6 or any agent or employee thereof, to file with the department a state-
7 ment in writing under oath or otherwise as to all the facts and circum-
8 stances concerning the subject matter that the superintendent believes
9 is in the public interest to investigate and for such purpose may
10 prescribe forms upon which such statements shall be made. The super-
11 intendent may also require such other data and information as the super-
12 intendent may deem relevant and may make such special and independent
13 investigations as the superintendent may deem necessary in connection
14 with the matter. It shall be the duty of all public officers, their
15 deputies, assistants, subordinates, clerks or employees and all other
16 persons to render and furnish to the superintendent, when requested in
17 connection with an investigation under this subsection, all information
18 and assistance in their possession or within their power.

19 (e) Any entity who violates an order under subsection (c) or (d) of
20 this section shall be subject to a civil penalty, after notice and a
21 hearing, of not more than ten thousand dollars per act in violation, in
22 addition to any other penalty provided by law.

23 (f) Any communications or documents sent or received in connection
24 with an investigation under this article and any materials referring to
25 such information in the possession of the superintendent shall be confi-
26 dential and not subject to disclosure. Notwithstanding the foregoing,
27 the superintendent may release such confidential communications or docu-
28 ments to the extent necessary to address criminal or other unlawful
29 behavior. This subsection shall not apply to information, documents and
30 materials in the possession and under the control of an entity other
31 than the superintendent.

32 § 3004. Registration of pharmacy services administrative organiza-
33 tions. (a) No PSAO shall operate in this state after March thirty-first,
34 two thousand twenty-seven without first registering with the department.

35 (b) A PSAO seeking registration shall file, in a form and manner
36 determined by the superintendent, information that includes at a mini-
37 mum:

38 (1) the legal name of the entity;

39 (2) any trade or other names used by the entity;

40 (3) the organizational structure of the entity;

41 (4) the pharmacies located within this state with which the entity
42 provides services;

43 (5) the persons who exercise control of the entity;

44 (6) a primary point of contact for the entity;

45 (7) an agent for service of process;

46 (8) a set of audited financials for the prior fiscal year; and

47 (9) such other information as the superintendent shall require.

48 (c) The superintendent shall accept a registration only if the super-
49 intendent determines that all the required information has been provided
50 in a satisfactory form and has received payment of a nonrefundable
51 registration fee of five thousand dollars. Notwithstanding the require-
52 ments of this subsection the superintendent may, in their sole
53 discretion and upon good cause shown, reduce the registration fee for
54 any PSAO to an amount not less than one-tenth of one percent of the fees
55 earned by the PSAO from all pharmacies located in New York in the prior
56 calendar year.

1 (d) If any of the information contained in the registration shall
2 change, the PSAO shall notify the department of such change in a form
3 and manner prescribed by the superintendent for such purpose within
4 twenty-one days of the change. The requirement to update shall include
5 the filing of a new set of audited financials upon adoption. For any
6 change other than new audited financials, the filing shall not be deemed
7 complete unless accompanied by a payment of a fee of fifty dollars.

8 (e) Every PSAO registration issued pursuant to this section shall
9 expire twelve months after the date of issue. A PSAO may renew its
10 registration for another twelve months upon the filing of an application
11 in conformity with this section.

12 (f) Before a PSAO registration shall be renewed, the PSAO shall file
13 an application for renewal in such form as the superintendent prescribes
14 and pay a fee of five thousand dollars. Notwithstanding the requirements
15 of this subsection, the superintendent may, in their sole discretion and
16 upon good cause shown, reduce the registration fee for any PSAO to an
17 amount not less than one-tenth of one percent of the fees earned by the
18 PSAO from all pharmacies located in New York in the prior calendar year.

19 (g) If a PSAO files a renewal application with the superintendent at
20 least one month before its expiration, then the registration sought to
21 be renewed shall continue in full force and effect either until the
22 issuance by the superintendent of the renewal registration applied for
23 or until five days after the superintendent shall have refused to issue
24 such renewal registration and given notice of such refusal to the appli-
25 cant, otherwise the PSAO registration shall expire and the registrant
26 shall have no expectation of renewal.

27 § 3005. Required disclosures by pharmacy services administrative
28 organizations. (a) (1) Each PSAO shall at the time of registration
29 pursuant to section three thousand four of this article disclose to the
30 department the extent of any ownership or control of the PSAO or by the
31 PSAO of any parent company, subsidiary, or affiliate that:

32 (A) provides pharmacy services;

33 (B) provides prescription drug or device services; or

34 (C) manufactures, sells, or distributes prescription drugs, biolog-
35 icals, or medical devices.

36 (2) A PSAO shall furnish a copy of the disclosure made at the time of
37 registration to all pharmacies located in this state with which it has a
38 contract in place at the time of the registration. A PSAO shall not
39 collect any fee for any services provided to a pharmacy for any period
40 beginning five days after the filing of a registration with the depart-
41 ment until such disclosure is sent to the pharmacy.

42 (3) Not later than April first, two thousand twenty-eight, the depart-
43 ment shall publish all disclosures received under this section on a
44 publicly accessible online database, which shall be searchable at least
45 by PSAO name. All disclosures shall be posted not later than ten busi-
46 ness days after a registration is accepted and shall remain on the data-
47 base for the duration of the registration of the PSAO.

48 (b) (1) Prior to entering into any contract with any pharmacy located
49 in this state, including a contract with a group of pharmacies at least
50 one of which is in this state, a PSAO shall furnish to the pharmacy a
51 written disclosure of the information required to be disclosed in
52 subsection (a) of this section. No contract with a pharmacy shall be
53 enforceable against the pharmacy by a PSAO unless such PSAO makes such
54 disclosure prior to the agreement. In addition to any other power
55 conferred by law, the superintendent may prescribe the form and manner
56 of such disclosures.

1 (2) A PSAO that owns, is owned by, in whole or in part, or controls
2 any entity that manufactures, sells, or distributes prescription drugs,
3 biologicals, or medical devices shall not, as a condition of entering
4 into a contract with a pharmacy, require that the pharmacy purchase any
5 drugs or medical devices from an entity with which the PSAO has a finan-
6 cial interest, or an entity with an ownership interest in the PSAO.

7 (3) No PSAO shall enter into a contract with a pharmacy in this state
8 unless such contract shall provide that all remittances for claims
9 submitted by a pharmacy benefit manager or third-party payer on behalf
10 of a pharmacy to the PSAO shall be passed through by the PSAO to the
11 pharmacy within a reasonable amount of time, established in the
12 contract, after receipt of the remittance by the PSAO from the pharmacy
13 benefit manager or third-party payer.

14 (c) (1) A PSAO that provides, accepts, or processes a discount,
15 concession, or product voucher, to reduce, directly or indirectly, a
16 covered individual's out-of-pocket expense for the order, dispensing,
17 substitution, sale, or purchase of a prescription drug shall make avail-
18 able to each pharmacy in this state that it contracts with or which it
19 contracted with in the prior calendar year, an annual report that
20 includes:

21 (A) an aggregated total of all such transactions, by the pharmacy; and

22 (B) an aggregated total of any payments received by the PSAO itself
23 for providing, processing, or accepting any discount, concession, or
24 product voucher on behalf of a pharmacy.

25 (2) A pharmacy in this state that is a party to a contract with a PSAO
26 shall have a right to an accounting of the funds received by the PSAO
27 for goods or services provided by the pharmacy to patients and custom-
28 ers.

29 § 3006. Registration of pharmacy switch companies. (a) No switch
30 company may do business in this state after June thirtieth, two thousand
31 twenty-seven without first registering with the department.

32 (b) A switch company seeking registration shall file with the depart-
33 ment, in a form and manner determined by the superintendent, information
34 including but not limited to:

35 (1) the legal name of the entity;

36 (2) any trade or other names used by the entity;

37 (3) the organizational structure of the entity;

38 (4) the pharmacies located within this state and the pharmacy benefit
39 managers licensed in this state with which the entity provides services;

40 (5) the persons who exercise control of the entity;

41 (6) a primary point of contact for the entity;

42 (7) an agent for service of process;

43 (8) a set of audited financials for the prior fiscal year; and

44 (9) such other information or documents as the superintendent shall
45 require.

46 (c) The superintendent shall accept a registration only if they deem
47 that all the required information has been provided in a satisfactory
48 form and manner and has received payment of a nonrefundable registration
49 fee of one thousand dollars.

50 (d) If any of the information contained in the registration shall
51 change, the switch company shall notify the department of the change in
52 a form and manner prescribed by the superintendent for such purpose
53 within twenty-one days of the change. Such requirement to update shall
54 include the filing of a new set of audited financials upon adoption. For
55 any change other than new audited financials, the filing shall not be

1 deemed complete unless accompanied by a payment of a fee of fifty
2 dollars.

3 (e) Every pharmacy switch company's registration shall expire twelve
4 months after the date of issue. Every registration issued pursuant to
5 this section may be renewed for the ensuing period of twelve months upon
6 the filing of an application in conformity with this section.

7 (f) Before a pharmacy switch company's registration shall be renewed,
8 the pharmacy switch company shall properly file in the office of the
9 superintendent an application for renewal in such form as the super-
10 intendent prescribes and pay a fee of one thousand dollars.

11 (g) If an application for a renewal registration shall have been filed
12 with the superintendent at least one month before its expiration, then
13 the registration sought to be renewed shall continue in full force and
14 effect either until the issuance by the superintendent of the renewal
15 registration applied for or until five days after the superintendent
16 shall have refused to issue such renewal registration and given notice
17 of such refusal to the applicant, otherwise the registration shall
18 expire and the registrant shall have no expectation of renewal.

19 § 3007. Required disclosures by pharmacy switch companies. (a) Each
20 switch company shall annually disclose to the department, in a form and
21 manner prescribed by the superintendent, such information as the super-
22 intendent deems necessary for the proper supervision of the industry.
23 Such information shall include:

24 (1) a list of services the switch company provides and the industries
25 to which they are provided;

26 (2) information on electronic voucher services provided by the switch
27 company, including:

28 (A) a list of manufacturers that the switch company has contracts with
29 or for which it transmits electronic vouchers;

30 (B) a list of medications and the National Drug Codes (NDCs) for which
31 the switch company may apply electronic vouchers; and

32 (C) the total amount of money collected from manufacturers related to
33 transmission of electronic vouchers; and

34 (3) the number of transactions processed in this state and the total
35 amount of revenue attributable to those transactions.

36 (b) A switch company shall disclose to each pharmacy benefit manager
37 with which it does business any instance in which an electronic voucher
38 was applied in the course of routing the claim.

39 § 3008. Registration of rebate aggregators. (a) No rebate aggregator
40 may do business in this state after September thirtieth, two thousand
41 twenty-seven without first registering with the department.

42 (b) A rebate aggregator seeking registration shall file, in a form and
43 manner determined by the superintendent, information including but not
44 limited to:

45 (1) the legal name of the entity;

46 (2) any trade or other names used by the entity;

47 (3) the organizational structure of the entity;

48 (4) the health plans and the pharmacy benefit managers licensed in
49 this state for which the entity provides services;

50 (5) the persons who exercise control of the entity;

51 (6) a primary point of contact for the entity;

52 (7) an agent for service of process;

53 (8) a set of audited financials for the prior fiscal year; and

54 (9) such other information or documents as the superintendent shall
55 require.

1 (c) The superintendent shall accept a registration only if they deem
2 that all the required information has been provided in a satisfactory
3 form and manner and has received payment of a nonrefundable registration
4 fee of one thousand dollars.

5 (d) If any of the information contained in the registration shall
6 change the rebate aggregator shall notify the department of such change
7 in a form and manner prescribed by the superintendent for such purpose
8 within twenty-one days of the change. Such requirement to update shall
9 include the filing of a new set of audited financials upon adoption. For
10 any change other than new audited financials, the filing shall not be
11 deemed complete unless accompanied by a payment of a fee of fifty
12 dollars.

13 (e) Every rebate aggregator's registration shall expire twelve months
14 after the date of issue. Every registration issued pursuant to this
15 section may be renewed for the ensuing period of twelve months upon the
16 filing of an application in conformity with this section.

17 (f) Before a rebate aggregator's registration shall be renewed, the
18 rebate aggregator shall properly file in the office of the superinten-
19 dent an application for renewal in such form as the superintendent
20 prescribes and pay a fee of one thousand dollars.

21 (g) If an application for a renewal registration shall have been filed
22 with the superintendent at least one month before its expiration, then
23 the registration sought to be renewed shall continue in full force and
24 effect either until the issuance by the superintendent of the renewal
25 registration applied for or until five days after the superintendent
26 shall have refused to issue such renewal registration and given notice
27 of such refusal to the applicant, otherwise the registration shall
28 expire and the registrant shall have no expectation of renewal.

29 § 3009. Required disclosures by rebate aggregators. (a) Each rebate
30 aggregator that has a contract or arrangement with a pharmacy benefit
31 manager serving a health plan shall, on an annual basis, disclose in
32 writing to the health plan the following:

33 (1) fee structure provisions of any contract or arrangement between
34 the rebate aggregator and pharmacy benefit manager or drug manufacturer,
35 including:

36 (A) fees collected for aggregating rebates due to the health plan; and
37 (B) such other information as the superintendent may require by regu-
38 lation; and

39 (2) quantification of inflationary payments, credits, grants,
40 reimbursements, other financial or other reimbursements, incentives,
41 inducements, refunds or other benefits received by the rebate aggregator
42 from the drug manufacturer and retained by the rebate aggregator, wheth-
43 er referred to as a rebate, a discount, or otherwise.

44 (b) (1) Each rebate aggregator shall, at the time of registration,
45 disclose to the department the extent of any ownership or control of the
46 rebate aggregator or by the rebate aggregator of any parent company,
47 subsidiary, or other affiliated organization that provides pharmacy
48 benefit management services.

49 (2) Each rebate aggregator shall on an annual basis disclose to the
50 department the information requested by the superintendent, including:

51 (A) any payments made to a rebate aggregator by a drug manufacturer
52 relating to a drug's utilization, including inflationary payments, cred-
53 its, grants, reimbursements, other financial or other reimbursements,
54 incentives, inducements, refunds or other benefits received by the
55 rebate aggregator, whether referred to as a rebate, a discount, or
56 otherwise;

1 (B) any payments made, including those described in subparagraph (A)
2 of this paragraph and subsequently retained by a rebate aggregator;

3 (C) any fees charged by the rebate aggregator to the pharmacy benefit
4 manager or drug manufacturer relating to a drug's utilization;

5 (D) any payments made to a rebate aggregator from a program adminis-
6 tered by a drug manufacturer for the purpose of assisting patients with
7 the cost of prescription drugs, including copayment assistance programs,
8 discount cards, and coupons; and

9 (E) the terms and conditions of any contract or arrangement between
10 the rebate aggregator and a pharmacy benefit manager or drug manufactur-
11 er.

12 § 3010. Deposit of penalties and fees. Penalties and fees collected
13 pursuant to this article shall be deposited into the pharmacy benefit
14 manager regulatory fund established pursuant to section ninety-nine-oo
15 of the state finance law.

16 § 3. Subdivision 3 of section 99-oo of the state finance law, as added
17 by chapter 128 of the laws of 2022, is amended to read as follows:

18 3. Such fund shall consist of money received by the state as fees
19 under [~~article~~] articles twenty-nine and thirty of the insurance law or
20 penalties ordered under [~~article~~] articles twenty-nine and thirty of the
21 insurance law and all other monies appropriated, credited, or trans-
22 ferred thereto from any other fund or source pursuant to law. All monies
23 shall remain in such fund unless and until directed by statute or appro-
24 priation.

25 § 4. This act shall take effect on the one hundred fiftieth day after
26 it shall have become a law.