AN ACT to amend the public health law, in relation to pharmacy benefit managers; to amend the insurance law, in relation to registration and licensing of pharmacy benefit managers; and to repeal certain provisions of the public health law relating thereto

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

Section 1. Section 280-a of the public health law is REPEALED and a new section 280-a is added to read as follows:

§ 280-a. Pharmacy benefit managers. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Health plan or provider" means an entity for which a pharmacy benefit manager provides pharmacy benefit management including, but not limited to: (i) a health benefit plan or other entity that approves, provides, arranges for, or pays for health care items or services, under which prescription drugs for beneficiaries of the entity are purchased or which provides or arranges reimbursement in whole or in part for the purchase of prescription drugs; or (ii) a health care provider or professional that acquires prescription drugs to use or dispense in providing health care to patients where the prescription drug is the subject of the pharmacy benefit manager's pharmacy benefit management services.

(b) "Pharmacy benefit management services" means the service provided to a health plan or provider, directly or through another entity, and regardless of whether the pharmacy benefit manager and the health plan or provider are related, or associated by ownership, common ownership, organization or otherwise; including the procurement of prescription drugs to be dispensed to patients, or the administration or management of prescription drug benefits, including but not limited to, any of the following:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [—] is old law to be omitted. LBD06526-05-9
(i) mail service pharmacy;
(ii) claims processing, retail network management, or payment of
claims to pharmacies for dispensing prescription drugs;
(iii) clinical or other formulary or preferred drug list development
or management;
(iv) negotiation or administration of rebates, discounts, payment
differentials, or other incentives, for the inclusion of particular
prescription drugs in a particular category or to promote the purchase
of particular prescription drugs;
(v) patient compliance, therapeutic intervention, or generic substi-
tution programs;
(vi) disease management;
(vii) drug utilization review or prior authorization;
(viii) adjudication of appeals or grievances related to prescription
drug coverage;
(ix) contracting with network pharmacies; and
(x) controlling the cost of covered prescription drugs.
(c) "Pharmacy benefit manager" means any entity that performs pharmacy
benefit management services for a health plan or provider.
(d) "Maximum allowable cost price" means a maximum reimbursement
amount set by the pharmacy benefit manager for therapeutically equiv-
alent multiple source generic drugs.
(e) "Controlling person" means any person or other entity who or which
directly or indirectly has the power to direct or cause to be directed
the management, control or activities of a pharmacy benefit manager.
(f) "Covered individual" means a member, participant, enrollee,
contract holder or policy holder or beneficiary of a health plan or
provider.
(g) "License" means a license to be a pharmacy benefit manager, under
article twenty-nine of the insurance law.
(h) "Spread pricing" means the practice of a pharmacy benefit manager
retaining an additional amount of money in addition to the amount paid
to the pharmacy to fill a prescription.

2. Duty, accountability and transparency. (a) The pharmacy benefit
manager shall have a duty and obligation to the covered individual and
the health plan or provider, and shall perform pharmacy benefit manage-
ment services with care, skill, prudence, diligence, and professional-
ism, and for the best interests primarily of the covered individual, and
the health plan or provider.
(b) All funds received by the pharmacy benefit manager in relation to
providing pharmacy benefit management services shall be received by the
pharmacy benefit manager in trust for the health plan or provider and
shall be used or distributed only pursuant to the pharmacy benefit
manager's contract with the health plan or provider or applicable law;
including any administrative fee or payment expressly provided for in
the contract between the pharmacy benefit manager and the health plan or
provider to compensate the pharmacy benefit manager for its services.
Any funds received by the pharmacy benefit manager through spread pric-
ing shall be subject to this paragraph.
(c) The pharmacy benefit manager shall periodically account to the
health plan or provider for any pricing discounts, rebates of any kind,
inflationary payments, credits, clawbacks, fees, grants, chargebacks,
reimbursements, or other benefits received by the pharmacy benefit
manager. The pharmacy benefit manager shall ensure that any portion of
such income, payments, and financial benefits is passed through to the
health plan or provider in full to reduce the reportable ingredient
cost. The health plan or provider shall have access to all financial and
utilization information of the pharmacy benefit manager in relation to
pharmacy benefit management services provided to the health plan or
provider.

(d) The pharmacy benefit manager shall disclose in writing to the
health plan or provider the terms and conditions of any contract or
arrangement between the pharmacy benefit manager and any party relating
to pharmacy benefit management services provided to the health plan or
provider including but not limited to, dispensing fees paid to the phar-
macies.

(e) The pharmacy benefit manager shall disclose in writing to the
health plan or provider any activity, policy, practice, contract or
arrangement of the pharmacy benefit manager that directly or indirectly
presents any conflict of interest with the pharmacy benefit manager's
relationship with or obligation to the health plan or provider.

(f) Any information required to be disclosed by a pharmacy benefit
manager to a health plan or provider under this section that is reason-
ably designated by the pharmacy benefit manager as proprietary or trade
secret information shall be kept confidential by the health plan or
provider, except as required or permitted by law, including disclosure
necessary to prosecute or defend any legitimate legal claim or cause of
action.

(g) The commissioner shall establish, by regulation, minimum standards
for pharmacy benefit management services which shall address the elimi-
nation of conflicts of interest between pharmacy benefit managers and
health benefit plans and health care providers; and the elimination of
deceptive practices, anti-competitive practices, and unfair claims prac-
tices.

(h) A health care provider and a covered individual shall be deemed to
be third-party beneficiaries of the duties, obligations and requirements
applicable to the pharmacy benefit manager under this section and shall
be entitled to legal or equitable relief for any injury or loss to the
health care provider or the covered individual caused by any violation
of such duties, obligations or requirements.

3. Prescriptions. A pharmacy benefit manager may not substitute or
cause the substituting of one prescription drug for another in dispens-
ing a prescription, or alter or cause the altering of the terms of a
prescription, except with the approval of the prescriber or as explicit-
ly required or permitted by law.

4. Appeals. A pharmacy benefit manager shall, with respect to
contracts between a pharmacy benefit manager and a pharmacy or, alterna-
tively, a pharmacy benefit manager and a pharmacy's contracting agent,
such as a pharmacy services administrative organization, include a
reasonable process to appeal, investigate and resolve disputes regarding
multi-source generic drug pricing. The appeals process shall include the
following provisions:

   (a) the right to appeal by the pharmacy and/or the pharmacy's
contracting agent shall be limited to thirty days following the initial
claim submitted for payment;

   (b) a telephone number through which a network pharmacy may contact
the pharmacy benefit manager for the purpose of filing an appeal and an
electronic mail address of the individual who is responsible for proc-
essing appeals;

   (c) the pharmacy benefit manager shall send an electronic mail message
acknowledging receipt of the appeal. The pharmacy benefit manager shall
respond in an electronic message to the pharmacy and/or the pharmacy's
contracting agent filing the appeal within seven business days indicat-
ing its determination. If the appeal is determined to be valid, the
maximum allowable cost for the drug shall be adjusted for the appealing
pharmacy effective as of the date of the original claim for payment. The
pharmacy benefit manager shall require the appealing pharmacy to reverse
and rebill the claim in question in order to obtain the corrected
reimbursement:

(d) if an update to the maximum allowable cost is warranted, the phar-
mary benefit manager or covered entity shall adjust the maximum allow-
able cost of the drug effective for all similarly situated pharmacies in
its network in the state on the date the appeal was determined to be
valid; and

(e) if an appeal is denied, the pharmacy benefit manager shall identi-
fy the national drug code of a therapeutically equivalent drug, as
determined by the federal Food and Drug Administration, that is avail-
able for purchase by pharmacies in this state from wholesalers regis-
tered pursuant to subdivision four of section sixty-eight hundred eight
of the education law at a price which is equal to or less than the maxi-
mum allowable cost for that drug as determined by the pharmacy benefit
manager.

5. Contract provisions. No pharmacy benefit manager shall, with
respect to contracts between such pharmacy benefit manager and a pharma-
cy or, alternatively, such pharmacy benefit manager and a pharmacy's
contracting agent, such as a pharmacy services administrative organiza-
tion:

(a) prohibit or penalize a pharmacist or pharmacy from disclosing to
an individual purchasing a prescription medication information regard-
ing:

(1) the cost of the prescription medication to the individual, or
(2) the availability of any therapeutically equivalent alternative
medications or alternative methods of purchasing the prescription medi-
cation, including but not limited to, paying a cash price;

(b) charge or collect from an individual a copayment that exceeds the
total submitted charges by the pharmacy for which the pharmacy is paid.
If an individual pays a copayment, the pharmacy shall retain the adjudi-
cated costs and the pharmacy benefit manager shall not redact or recoup
the adjudicated cost; or

(c) require a pharmacy to meet any pharmacy accreditation standard or
recertification requirement inconsistent with, more stringent than, or in
addition to federal and state requirements for licensure as a pharma-
cy.

§ 2. The insurance law is amended by adding a new article 29 to read
as follows:

ARTICLE 29
PHARMACY BENEFIT MANAGERS

Section 2901. Definitions.

2902. Acting without a registration.
2903. Registration requirements for pharmacy benefit managers.
2904. Reporting requirements for pharmacy benefit managers.
2905. Acting without a license.
2906. Licensing of a pharmacy benefit manager.
2907. Revocation or suspension of a registration or license of a
pharmacy benefit manager.
2908. Penalties for violations.
2909. Stay or suspension of superintendent's determination.
2910. Revoked registrations or licenses.
§ 2901. Definitions. For purposes of this article:
(a) "Controlling person" is any person or other entity who or which directly or indirectly has the power to direct or cause to be directed the management, control or activities of a pharmacy benefit manager.
(b) The terms "health plan or provider", "pharmacy benefit manager" and "pharmacy benefit management services" have the same meanings as defined by section two hundred eighty-a of the public health law.

§ 2902. Acting without a registration. (a) No person, firm, association, corporation or other entity may act as a pharmacy benefit manager on or after April first, two thousand twenty and prior to January first, two thousand twenty-one, without having a valid registration as a pharmacy benefit manager filed with the superintendent in accordance with this article and any regulations promulgated thereunder.
(b) Any person, firm, association, corporation or other entity that violates this section shall, in addition to any other penalty provided by law, be liable for restitution to any health plan or provider or covered individual harmed by the violation and shall also be subject to a penalty not exceeding the greater of (1) one thousand dollars for the first violation and two thousand five hundred dollars for each subsequent violation or (2) the aggregate economic gross receipts attributable to all violations.

§ 2903. Registration requirements for pharmacy benefit managers. (a) Every pharmacy benefit manager that performs pharmacy benefit management services on or after April first, two thousand twenty and prior to January first, two thousand twenty-one shall register with the superintendent in a manner acceptable to the superintendent, and shall pay a fee of one thousand dollars for each year or fraction of a year in which the registration shall be valid. The superintendent, in consultation with the commissioner of health, may establish, by regulation, minimum registration standards required for a pharmacy benefit manager. The superintendent can reject a registration application filed by a pharmacy benefit manager that fails to comply with the minimum registration standards.
(b) For each business entity, the officer or officers and director or directors named in the application shall be designated responsible for the business entity's compliance with the financial services and insurance laws, rules and regulations of this state.
(c) Every registration will expire on December thirty-first, two thousand twenty regardless of when registration was first made.
(d) Every pharmacy benefit manager that performs pharmacy benefit management services at any time prior to April first, two thousand twenty, shall make the registration and fee payment required by subsection (a) of this section on or before April first, two thousand twenty. Any other pharmacy benefit manager shall make the registration and fee payment required by subsection (a) of this section prior to performing pharmacy benefit management services.
(e) Registrants under this section shall be subject to examination by the superintendent as often as the superintendent may deem it necessary. The superintendent may promulgate regulations establishing methods and procedures for facilitating and verifying compliance with the requirements of this article and such other regulations as necessary to enforce the provisions of this article.
§ 2904. Reporting requirements for pharmacy benefit managers. (a)(1)
On or before July first of each year, beginning in two thousand twenty,
every pharmacy benefit manager shall report to the superintendent, in a
statement subscribed and affirmed as true under penalties of perjury,
the information requested by the superintendent including, without limi-
tation,
(i) any pricing discounts, rebates of any kind, inflationary payments,
credits, clawbacks, fees, grants, chargebacks, reimbursements, other
financial or other reimbursements, incentives, inducements, refunds or
other benefits received by the pharmacy benefit manager; and
(ii) the terms and conditions of any contract or arrangement, includ-
ing other financial or other reimbursements incentives, inducements or
refunds between the pharmacy benefit manager and any other party relat-
ing to pharmacy benefit management services provided to a health plan or
provider including but not limited to, dispensing fees paid to pharma-
cies.
The superintendent may require the filing of quarterly or other state-
ments, which shall be in such form and shall contain such matters as the
superintendent shall prescribe.
(2) The superintendent may address to any pharmacy benefit manager or
its officers any inquiry in relation to its provision of pharmacy bene-
fit management services or any matter connected therewith. Every phar-
macy benefit manager or person so addressed shall reply in writing to
such inquiry promptly and truthfully, and such reply shall be, if
required by the superintendent, subscribed by such individual, or by
such officer or officers of the pharmacy benefit manager, as the super-
intendent shall designate, and affirmed by them as true under the penal-
ties of perjury.
(b) In the event any pharmacy benefit manager or person does not
submit the report required by paragraph one of subsection (a) of this
section or does not provide a good faith response to an inquiry from the
superintendent pursuant to paragraph two of subsection (a) of this
section within a time period specified by the superintendent of not less
than fifteen business days, the superintendent is authorized to levy a
civil penalty, after notice and hearing, against such pharmacy benefit
manager or person not to exceed one thousand dollars per day for each
day beyond the date the report is due or the date specified by the
superintendent for response to the inquiry.
(c) All information disclosed by a pharmacy benefit manager under this
section shall be deemed confidential and not subject to public disclo-
sure except by court order.
§ 2905. Acting without a license. (a) No person, firm, association,
corporation or other entity may act as a pharmacy benefit manager on or
after January first, two thousand twenty-one without having authority to
do so by virtue of a license issued in force pursuant to the provisions
of this article.
(b) Any person, firm, association, corporation or other entity that
violates this section shall, in addition to any other penalty provided
by law, be subject to a penalty not exceeding the greater of (1) one
thousand dollars for the first violation and two thousand five hundred
dollars for each subsequent violation or (2) the aggregate economic
gross receipts attributable to all violations.
§ 2906. Licensing of a pharmacy benefit manager. (a) The superinten-
dent may issue a pharmacy benefit manager’s license to any person, firm,
association or corporation who or that has complied with the require-
ments of this article, including regulations promulgated by the super-
The superintendent, in consultation with the commissioner of health, may establish, by regulation, minimum standards for the issuance of a license to a pharmacy benefit manager.

(b) The minimum standards established under this subsection may address, without limitation:

(1) conflicts of interest between pharmacy benefit managers and health plans or insurers;
(2) deceptive practices in connection with the performance of pharmacy benefit management services;
(3) anti-competitive practices in connection with the performance of pharmacy benefit management services;
(4) unfair claims practices in connection with the performance of pharmacy benefit management services; and
(5) protection of consumers.

(c)(1) Any such license issued to a firm or association shall authorize all of the members of the firm or association and any designated employees to act as pharmacy benefit managers under the license, and all such persons shall be named in the application and supplements thereto.
(2) Any such license issued to a corporation shall authorize all of the officers and any designated employees and directors thereof to act as pharmacy benefit managers on behalf of such corporation, and all such persons shall be named in the application and supplements thereto.
(3) For each business entity, the officer or officers and director or directors named in the application shall be designated responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.

(d)(1) Before a pharmacy benefit manager's license shall be issued or renewed, the prospective licensee shall properly file in the office of the superintendent a written application therefor in such form or forms and supplements thereto as the superintendent prescribes, and pay a fee of two thousand dollars for each year or fraction of a year in which a license shall be valid.
(2) Every pharmacy benefit manager's license shall expire thirty-six months after the date of issue. Every license issued pursuant to this section may be renewed for the ensuing period of thirty-six months upon the filing of an application in conformity with this subsection.

(e)(1) If an application for a renewal license shall have been filed with the superintendent before November first of the year of expiration, then the license sought to be renewed shall continue in full force and effect either until the issuance by the superintendent of the renewal license applied for or until five days after the superintendent shall have refused to issue such renewal license and given notice of such refusal to the applicant.
(2) Before refusing to renew any license pursuant to this section for which a renewal application has been filed pursuant to paragraph one of this subsection, the superintendent shall notify the applicant of the superintendent's intention to do so and shall give such applicant a hearing.

(f) The superintendent may refuse to issue a pharmacy benefit manager's license if, in the superintendent's judgment, the applicant or any member, principal, officer or director of the applicant, is not trustworthy and competent to act as, or in connection with, a pharmacy benefit manager, or that any of the foregoing has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance of such license.
(g) Licensees and applicants for a license under this section shall be subject to examination by the superintendent as often as the superintendent may deem it expedient. The superintendent may promulgate regulations establishing methods and procedures for facilitating and verifying compliance with the requirements of this section and such other regulations as necessary.

(h) The superintendent may issue a replacement for a currently in-force license that has been lost or destroyed. Before the replacement license shall be issued, there shall be on file in the office of the superintendent a written application for the replacement license, affirming under penalty of perjury that the original license has been lost or destroyed, together with a fee of two hundred dollars.

(i) No pharmacy benefit manager shall engage in any practice or action that a health plan or provider is prohibited from engaging in pursuant to this chapter.

§ 2907. Revocation or suspension of a registration or license of a pharmacy benefit manager. (a) The superintendent may refuse to renew, may revoke, or may suspend for a period the superintendent determines the registration or license of any pharmacy benefit manager if, after notice and hearing, the superintendent determines that the registrant or licensee or any member, principal, officer, director, or controlling person of the registrant or licensee, has:

(1) violated any insurance laws, section two hundred eighty-a of the public health law or violated any regulation, subpoena or order of the superintendent or of another state’s insurance commissioner, or has violated any law in the course of his or her dealings in such capacity after such license has been issued or renewed pursuant to section two thousand nine hundred six of this article;

(2) provided materially incorrect, materially misleading, materially incomplete or materially untrue information in the registration or license application;

(3) obtained or attempted to obtain a registration or license through misrepresentation or fraud;

(4)(A) used fraudulent, coercive or dishonest practices;

(B) demonstrated incompetence;

(C) demonstrated untrustworthiness; or

(D) demonstrated financial irresponsibility in the conduct of business in this state or elsewhere;

(5) improperly withheld, misappropriated or converted any monies or properties received in the course of business in this state or elsewhere;

(6) intentionally misrepresented the terms of an actual or proposed insurance contract;

(7) admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) had a pharmacy benefit manager registration or license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(9) failed to pay state income tax or comply with any administrative or court order directing payment of state income tax; or

(10) ceased to meet the requirements for registration or licensure under this article.

(b) Before revoking or suspending the registration or license of any pharmacy benefit manager pursuant to the provisions of this article, the superintendent shall give notice to the registrant or licensee and to
every sub-licensee and shall hold, or cause to be held, a hearing not
less than ten days after the giving of such notice.

(c) If a registration or license pursuant to the provisions of this
article is revoked or suspended by the superintendent, then the super-
intendent shall forthwith give notice to the registrant or licensee.

(d) The revocation or suspension of any registration or license pursu-
ant to the provisions of this article shall terminate forthwith such
registration or license and the authority conferred thereby upon all
sub-licensees. For good cause shown, the superintendent may delay the
effective date of a revocation or suspension to permit the registrant or
licensee to satisfy some or all of its contractual obligations to
perform pharmacy benefit management services in the state.

(e)(1) No individual, corporation, firm or association whose registra-
tion or license as a pharmacy benefit manager has been revoked pursuant
to subsection (a) of this section, and no firm or association of which
such individual is a member, and no corporation of which such individual
is an officer or director, and no controlling person of the registrant
or licensee shall be entitled to obtain any registration or license
under the provisions of this article for a minimum period of one year
after such revocation, or, if such revocation be judicially reviewed,
for a minimum period of one year after the final determination thereof
affirming the action of the superintendent in revoking such license.

(2) If any such registration or license held by a firm, association or
corporation be revoked, no member of such firm or association and no
officer or director of such corporation or any controlling person of the
registrant or licensee shall be entitled to obtain any registration or
license, or to be named as a sub-licensee in any such license, under
this article for the same period of time, unless the superintendent
determines, after notice and hearing, that such member, officer or
director was not personally at fault in the matter on account of which
such registration or license was revoked.

(f) If any corporation, firm, association or person aggrieved shall
file with the superintendent a verified complaint setting forth facts
tending to show sufficient ground for the revocation or suspension of
any pharmacy benefit manager's registration or license, then the super-
intendent shall, after notice and a hearing, determine whether such
registration or license shall be suspended or revoked.

(g) The superintendent shall retain the authority to enforce the
provisions of and impose any penalty or remedy authorized by this chap-
ter against any person or entity who is under investigation for or
charged with a violation of this chapter, even if the person's or enti-
ty's registration or license has been surrendered, or has expired or has
lapsed by operation of law.

(h) A registrant or licensee subject to this article shall report to
the superintendent any administrative action taken against the regis-
trant or licensee in another jurisdiction or by another governmental
agency in this state within thirty days of the final disposition of the
matter. This report shall include a copy of the order, consent to order
or other relevant legal documents.

(i) Within thirty days of the initial pretrial hearing date, a regis-
trant or licensee subject to this article shall report to the super-
intendent any criminal prosecution of the registrant or licensee taken
in any jurisdiction. The report shall include a copy of the initial
complaint filed, the order resulting from the hearing and any other
relevant legal documents.
§ 2908. Penalties for violations. (a) The superintendent, in lieu of
revoking or suspending the registration or license of a registrant or
licensee in accordance with the provisions of this article, may in any
one proceeding by order, require the registrant or licensee to pay to
the people of this state a penalty in a sum not exceeding the greater of
(1) one thousand dollars for each offense and two thousand five hundred
dollars for each subsequent violation or (2) the aggregate gross
receipts attributable to all offenses.
(b) Upon the failure of such a registrant or licensee to pay the
penalty ordered pursuant to subsection (a) of this section within twenty
days after the mailing of the order, postage prepaid, registered, and
addressed to the last known place of business of the licensee, unless
the order is stayed by an order of a court of competent jurisdiction,
the superintendent may revoke the registration or license of the regis-
trant or licensee or may suspend the same for such period as the super-
intendent determines.
§ 2909. Stay or suspension of superintendent’s determination. The
commencement of a proceeding under article seventy-eight of the civil
practice law and rules, to review the action of the superintendent in
suspending or revoking or refusing to renew any certificate under this
article, shall stay such action of the superintendent for a period of
thirty days. Such stay shall not be extended for a longer period unless
the court shall determine, after a preliminary hearing of which the
superintendent is notified forty-eight hours in advance, that a stay of
the superintendent’s action pending the final determination or further
order of the court will not unduly injure the interests of the people of
the state.
§ 2910. Revoked registrations or licenses. (a)(1) No person, firm,
association, corporation or other entity subject to the provisions of
this article whose registration or license under this article has been
revoked, or whose registration or license to engage in the business of
pharmacy benefit management in any capacity has been revoked by any
other state or territory of the United States shall become employed or
appointed by a pharmacy benefit manager as an officer, director, manag-
er, controlling person or for other services, without the prior written
approval of the superintendent, unless such services are for maintenance
or are clerical or ministerial in nature.
(2) No person, firm, association, corporation or other entity subject
to the provisions of this article shall knowingly employ or appoint any
person or entity whose registration or license issued under this article
has been revoked, or whose registration or license to engage in the
business of pharmacy benefit management in any capacity has been revoked
by any other state or territory of the United States, as an officer,
director, manager, controlling person or for other services, without the
prior written approval of the superintendent, unless such services are
for maintenance or are clerical or ministerial in nature.
(3) No corporation or partnership subject to the provisions of this
article shall knowingly permit any person whose registration or license
issued under this article has been revoked, or whose registration or
license to engage in the business of pharmacy benefit management in any
capacity has been revoked by any other state, or territory of the United
States, to be a shareholder or have an interest in such corporation or
partnership, nor shall any such person become a shareholder or partner
in such corporation or partnership, without the prior written approval
of the superintendent.
Section 2911. Change of address. A registrant or licensee under this article shall inform the superintendent by a means acceptable to the superintendent of a change of address within thirty days of the change.

Section 2912. Applicability of other laws. Nothing in this article shall be construed to exempt a pharmacy benefit manager from complying with the provisions of articles twenty-one and forty-nine of this chapter and articles forty-four and forty-nine and section two hundred eighty-a of the public health law, section three hundred sixty-four-j of the social services law, or any other provision of this chapter or the financial services law.

Section 2913. Assessments. Pharmacy benefit managers that file a registration with the department or are licensed by the department shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulating such pharmacy benefit managers in such proportions as the superintendent shall deem just and reasonable.

Section 3. Subsection (b) of section 2402 of the insurance law, as amended by section 71 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

(b) "Defined violation" means the commission by a person of an act prohibited by: subsection (a) of section one thousand one hundred two, section one thousand one hundred fourteen, one thousand two hundred seventeen, one thousand two hundred twenty, one thousand three hundred thirteen, subparagraph (B) of paragraph two of subsection (i) of section one thousand three hundred twenty-two, subparagraph (B) of paragraph two of subsection (p) of section two thousand three hundred thirteen, section two thousand three hundred twenty-four, two thousand five hundred two, two thousand five hundred three, two thousand five hundred four, two thousand six hundred one, two thousand six hundred two, two thousand six hundred three, two thousand six hundred four, two thousand six hundred six, two thousand seven hundred three, two thousand nine hundred two, two thousand nine hundred five, three thousand one hundred nine, three thousand two hundred twenty-four-a, three thousand four hundred twenty-
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nine, three thousand four hundred thirty-three, paragraph seven of
subsection (e) of section three thousand four hundred twenty-six, four
thousand two hundred twenty-four, four thousand two hundred twenty-five,
four thousand two hundred twenty-six, seven thousand eight hundred nine,
seven thousand eight hundred ten, seven thousand eight hundred eleven,
seven thousand eight hundred thirteen, seven thousand eight hundred
fourteen and seven thousand eight hundred fifteen of this chapter; or
section 135.60, 135.65, 175.05, 175.45, or 190.20, or article one
hundred five of the penal law.

§ 4. Severability. If any provision of this act, or any application
of any provision of this act, is held to be invalid, or ruled by any
federal agency to violate or be inconsistent with any applicable federal
law or regulation, that shall not affect the validity or effectiveness
of any other provision of this act, or of any other application of any
provision of this act.

§ 5. This act shall take effect on the ninetieth day after it shall
become a law and shall apply to any contract for providing pharmacy
benefit management made or renewed on or after that date. Effective
immediately, the commissioner of health shall make regulations and take
other actions reasonably necessary to implement this act on that date.