



PATIENT’S RIGHT TO PHARMACY CHOICE COMMISSION

Insurance Commissioner, Glen Mulready

400 NE 50th Street
Oklahoma City, OK 73105
405.521.2828
oid.ok.gov

Mark Lewandowski, Chair
Gregory S. Huenergardt, Member
Melanie Maxwell, Member, Co-Chair
Rose Thomas-Bendel, Member
Anthony J. “A.J.” Ferate, Member
Gena Perry, Commission Member
Teah Corley, Commission Member

REGULAR MEETING OF THE PHARMACY CHOICE COMMISSION Thursday, February 16, 2023, at 10:00 a.m.

MINUTES

A regular meeting of the Patient’s Right to Pharmacy Choice Commission (“Commission”) was held on February 16, 2023, at 10:00 am at the Oklahoma Insurance Department (“Department”), 400 NE 50th Street, Oklahoma City, Oklahoma. The agenda was posted on the Oklahoma Insurance Department’s website and in a prominent public view by the front doors of the Department 24 hours in advance in accordance with 25 O.S. § 311. The meeting notice was sent to the office of the Oklahoma Secretary of State, also pursuant to 25 O.S. § 311.

Members present were Chairman Mark Lewandowski, Commissioner Gregory Huenergardt, Commissioner Gena Perry, Commissioner Teah Corley, and Commissioner Rose Thomas-Bendel.

Call to Order

Call to order 10:05 a.m. by Chairman Lewandowski, Commission’s Chair.

Roll Call

After the roll call was taken, Commissioner Chairman Lewandowski announced the presence of a Quorum and noted that Vice-Chairman Melanie Maxwell and Commission member Anthony J., “AJ” Ferate were absent from the meeting.

Minutes

The drafted minutes of the January 19, 2023, meeting were reviewed.

Motion: Commissioner Teah Corley motioned for approval of minutes.
Second: Commissioner Gena Perry second motion.
Those Voting Aye: Unanimously.

THE MOTION CARRIED: Motion of the January 19, 2023, meeting minutes are approved.

Introduction of Molly Clinkscapes, Managing Counsel for the PBM Compliance and Enforcement Division

1. Counsel Clinkscapes introduced herself to the Commission and provided work history with life and health insurance regulation. She also stated that the new organization of the PBM Division is intended to bifurcate the director and legal counsel roles.
2. Discussion questions regarding the Department’s position regarding ERISA plans. It is the position of the Department that if the PBMs are licensed in Oklahoma, they must



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follow Oklahoma law regardless of whether the plan being administered is self-funded or a self-funded plan issued in another state.

Legislative Announcements and Updates

1. Director Ashley Scott presented current 2022 adopted rules regarding PBM regulation. She also discussed Senate Bill 737 and the changes it has for PBM regulation. In addition, she discussed 2023 proposed PBM rules and how they will affect current enforcement. Commissioner Huenergardt had questions regarding the intent of the legislature regarding claim reports. He brought up an issue regarding "electronic method" and submission of claims or verification. He also inquired about the definition of "rural service area" and the conflicting language between the definition in the statutes and the definition in the PBM contracts.
2. Director Scott also presented the Commission with bills pending at the legislature that may affect the Commission members. These bills include House Bills 1598, 1655, 1713, 1843, 1920, 2085, 2108, 2117, and 2853. She also included information regarding Senate Bills 13, 146, 227, 228, 232, 549, 765, 768, 879, 931, and 1055.

Review and Discussion Regarding the Organization and Processes of the PBM Compliance and Enforcement Division

1. Director Scott's intent is to provide detailed information to show how the Commission and the Department are working together.
 - a. The Caremark Settlement
 - i. \$4.8 million dollar settlement. \$2.3 million was to be returned to the pharmacies affected and \$2.5 million was for an enforcement fine.
 - ii. \$1.9 million dollars of the amount to be returned to the pharmacies is to be returned to Caremark due to the court ruling on Medicare Part D claims. Close to \$400,000.00 was returned to the pharmacies. 908 warrants/checks were sent to the pharmacies. Some of the checks were returned. The Department is working through those items to find a valid address. 195 checks are still outstanding checks, 41 of the 195 are independent pharmacies, the remainder are larger pharmacies. The intent is to have the returned items sent out by week's end.
 - b. A second Caremark Settlement was reached. A fine of \$570,000 was received.
 - c. Express Scripts settlement resulted in \$210,000.00. Almost \$13,000.00 of that amount went back to pharmacies
 - d. Magellan settlement that refunded almost \$2,000.00 back to pharmacies.



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- e. Some smaller settlements of almost \$1,000.00 in two other instances for a total of almost \$18,000.00 back to pharmacies in four or five other matters that we have worked on here at the Department level. And over \$800,000.00 in fines to the State for those violations.
- 2. Discussion regarding quarterly reports. Director Scott asked for input from Commissioners regarding format of report. Discussion regarding dashboard type report.
- 3. The Commission books will be phased out. The Commission will be moving toward an electronic format to distribute information. We will be moving to some type of tablet.
- 4. Reminder letters have been sent to the PBMs for network access reports. To date, all licensees' reports have been received by the Department. This will help the Department in getting the geo-access information completed before the next quarter is filed.

New Business

No new business was presented.

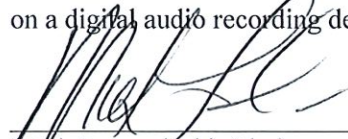
Adjournment of Pharmacy Choice Commission

Motion: Commissioner Teah Corley motioned for adjournment.
Second: Commissioner Gena Perry second motion.
Those Voting Aye: Unanimously.

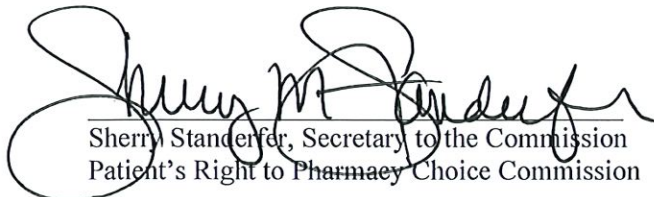
THE MOTION CARRIED: Meeting adjourned at 11:15 a.m.

Official Minutes.

The action taken by the Patient's Right to Pharmacy Choice Commission on the items for consideration after Motion duly made and seconded has been noted, herein, and made a part of these minutes. The Commission caused the entire proceeding of the meeting, excepting any executive sessions, to be recorded on a digital audio recording device to be retained as a record in the office of the Commission.



 Mark Lewandowski, Chairman
 Patient's Right to Pharmacy Choice Commission



 Sherry Standerfer, Secretary to the Commission
 Patient's Right to Pharmacy Choice Commission