

Blog Post

New Florida Law Will Impose A Third-Party Administrator Licensing Requirement for Pharmacy Benefit Managers

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On May 3, 2023, the Florida governor signed a comprehensive law ([SB 1550](#)) regarding pharmacy benefit managers (PBMs). This new law imposes significant new requirements on PBMs. This article discusses only one of these new requirements: a PBM must obtain a license, called a certificate of authority, to act as an insurance administrator, which is commonly referred to as a third-party administrator, or TPA.

Before enactment of this new law, a Florida PBM was only required to register with the Office of Insurance Regulation (OIR). As provided in section 624.490, Florida Statutes, the registration process is straightforward and only requires minimal information (PBM's name, address, and a list of its officers and directors).

Effect of new law on licensing

Under the new law, a PBM will be required to obtain a TPA license from the OIR. In contrast to the current PBM registration process, the TPA licensure process is much more extensive and involves the submission of comprehensive information that will allow the OIR to evaluate a PBM's finances and assess the

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background and suitability of the PBM's officers, directors, and owners. Although some provisions of the new law may require further regulatory interpretation, we believe the following list highlights the main requirements a PBM will likely need to meet to obtain its Florida TPA license:

- Submission of biographical affidavits for officers, directors, and individuals who own 10 percent or more of the TPA (direct or indirect ownership)
- Completion of background investigative reports for officers, directors, and individuals who own 10 percent or more of the TPA
- Fingerprints for officers, directors, and individuals who own 10 percent or more of the TPA
- The PBM's plan of operations
- A fidelity bond
- Organizational chart showing the PBM's relationship to all companies in its holding company system (identifying all companies from the PBM's immediate parent to the ultimate owner, including all officers, directors, and owners of these companies)
- Submission of the PBM's annual financial statements
- Copies of the PBM's contract templates with pharmacies
- Copies of all subcontracts in support of the PBM's operations

Practical consideration

The OIR's review of license applications, including TPA applications, is very detailed and thorough. When preparing a TPA application, the applicant needs to ensure that it carefully scrutinizes each section and completely provides the information or material required. For example, when completing the biographical affidavits, each blank on the affidavit must be addressed. If a particular request is

not applicable, state “N/A” in the affidavit, even if the answer seems obvious from the context. Completely addressing each application requirement will reduce the OIR’s requests for additional information and expedite the application’s processing.

Importantly, there could be serious concerns with the timing and processing of applications for PBMs to become licensed as TPAs. If a PBM is currently registered with the OIR, it has until January 1, 2024, to obtain its license. The TPA licensure application can take up to three months to complete, and the biographical affidavits and background reports alone can take up to a month or longer to complete and process. Because the OIR frequently asks applicants for additional or clarifying information during the application process, it can take even longer. There are currently 74 registered PBMs in Florida. Assuming all these PBMs submit TPA license applications at approximately the same time, there could be a significant delay in processing applications.

If a new PBM wants to start operations, or if an existing PBM wishes to continue operating as a PBM after January 1, 2024, we strongly encourage the submission of a TPA license application at the earliest possible time. Specifically, the new law takes effect July 1, 2023, so it would be advisable to submit the license application on or near that date. From informal discussions with the OIR, we understand that the OIR is considering revising the TPA application form to include the new requirements for PBM licensing.

Akerman has significant experience with TPA licensing and the OIR’s licensing process and is available to assist with the preparation and submission of license applications.

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