

Legislative Regulation Review Committee

2009-005

Insurance Department

PHARMACY BENEFIT MANAGERS

**STATE OF CONNECTICUT
REGULATION
OF**

**NAME OF AGENCY
INSURANCE DEPARTMENT**

**Requirements for Pharmacy Benefits Managers Applying for a Certificate of Registration to do
Business in the State of Connecticut**

Section 1. The Regulations of Connecticut State Agencies are amended by adding sections 38a-479aaa-1 through 38a-479aaa-5, inclusive, as follows:

(NEW) Sec. 38a-479aaa-1. Definitions

As used in section 38a-479aaa-1 through Section 38a-479aaa-5, inclusive of the Regulations of Connecticut State Agencies:

- (1) "Commissioner" means the Insurance Commissioner;
- (2) "Material modification" means a change in the information provided under section 38a-479aaa-3(a)(1)(A) through (G), inclusive, and under section 38a-479aaa-3(a)(2)(D) of the Regulations of Connecticut State Agencies;
- (3) "Person" means person, as defined in section 38a-1 of the general statutes;
- (4) "Pharmacy benefits manager" means a person as defined in section 38a-479aaa of the Connecticut General Statutes.

(NEW) Sec. 38a-479aaa-2. Timing of Application and Registration

- (a) Each person acting as a pharmacy benefits manager on January 1, 2008 shall obtain a certificate of registration from the commissioner on or before April 1, 2008, after completion of an application form containing the information described in section 38a-479aaa-3 of the Regulations of Connecticut State Agencies and approval of the application by the commissioner. All certificates of registration expire annually on December 31st of each year. A pharmacy benefits manager which continues to do business in the State after January 1, 2008 must renew its certificate of registration annually and submit a renewal application to the commissioner by November first annually for a January first effective date of renewal of the certificate of registration.
- (b) A person seeking to commence activity as a pharmacy benefits manager in the state after January 1, 2008, must first apply for, and receive, a certificate of registration from the commissioner as a pharmacy benefits manager, before commencing such activity. Upon receipt of a certificate of registration, such person may perform the business of a pharmacy benefits manager from the effective date of the certificate of registration through December 31 of that year. Thereafter, the pharmacy benefits manager shall renew its certificate of registration on an annual basis as described in this subsection.

(NEW) Sec. 38a-479aaa-3. Contents of Application

- (a) The filing required from a pharmacy benefits manager shall include the following information:
 - (1) The identity of the pharmacy benefits manager and any company or organization controlling the operation of the pharmacy benefits manager, including the name, business address, and contact person, for the pharmacy benefits manager and the controlling entity, and, where applicable, the following:
 - (A) a certificate from the Secretary of the State regarding the pharmacy benefits manager's and the controlling company's or organization's, if applicable, good standing to do business in the state;

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- (B) the name, address, official position and professional qualifications of each individual responsible for the conduct of the affairs of the pharmacy benefits manager, including all members of the board of directors, board of trustees, executive committee, other governing board or committee, the principal officers in the case of a corporation, the partners or members in the case of a partnership or association, and any other person who exercises control or influence over the affairs of the pharmacy benefits manager;
 - (C) the name, address, official position and professional qualifications of each individual who is a member of the controlling company's organization's board of directors or other policy-making body and of those executive officers who are responsible for the controlling company's or organization's activities with respect to the pharmacy benefits services;
 - (D) a list of the pharmacy benefits manager's principal owners;
 - (E) in the case of an out-of-state pharmacy benefit manager, controlling company or organization, a certificate that such pharmacy benefits manager, company, or organization is in good standing in its state of organization;
 - (F) a report of the details of any suspension, sanction or other disciplinary action relating to the pharmacy benefits manager, or controlling company or organization, in this state or in any other state; and
 - (G) the name and address of the agent for service of process for the pharmacy benefits manager in the state.
- (2) A general description of the pharmacy benefits manager, including:
- (A) the geographical service area of the pharmacy benefits manager;
 - (B) a list of all entities on whose behalf the pharmacy benefits manager has contracts or agreements to provide pharmacy benefits services to state residents;
 - (C) an approximate number of total enrollees served under all of the pharmacy benefits manager's contracts or agreements in the state and nationwide; and
 - (D) a contingency plan describing how contracted pharmacy benefits services will be provided in the event of insolvency of the pharmacy benefits manager.
- (3) Financial information concerning the pharmacy benefits manager, including:
- (A) the most recently concluded fiscal year-end financial statements for the pharmacy benefits manager and its controlling company or organization, which statements have been audited by an independent certified public accountant (CPA) under U.S. generally accepted accounting principles (GAAP);
 - (B) the names and addresses of the public accounting firm and internal accountant(s) preparing or assisting in the preparation of such financial statements; and
 - (C) evidence of a surety bond in the amount required pursuant to section 38a-479bbb of the Connecticut General Statutes.
- (4) A certification signed by the Chief Executive Officer of the pharmacy benefits manager attesting to the accuracy of the information contained in the filing.

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(b) Material modification of information submitted:

In the event of a material modification to the information provided by the pharmacy benefits manager in its application for a certificate of registration, the pharmacy benefits manager must file information on the material modification with the commissioner, including supporting documentation, within 30 days of such modification.

(NEW) Sec. 38a-479aaa-4. Contents of Exemption Form

A pharmacy benefits manager seeking exemption from registration pursuant to section 38a-479bbb of the Connecticut General Statutes must notify the commissioner and include the following information in the notification:

- (1) the name and address of the pharmacy benefits manager, including the name, address, phone number, and email address of a contact person at the pharmacy benefits manager;
- (2) the name and address of the health insurer, health care center, hospital service corporation, medical service corporation, or fraternal benefit society for which entity the pharmacy benefits manager is operating as a line of business or is an affiliate, and the name, address, phone number, and email address of a contact person at such entity; and
- (3) certification by the Chief Executive Officer of the health insurer, health care center, hospital service corporation, medical service corporation, or fraternal benefit society that the pharmacy benefits manager is operating as a line of business under, or affiliate or subsidiary of, such entity.

(NEW) Sec. 38a-479aaa-5. Timing of Exemption Request.

- (a) For pharmacy benefits managers doing business on January 1, 2008, the health insurer, health care center, hospital service corporation, medical service corporation, or fraternal benefit society shall make the filing described in section 38a-479aaa-4 of the Regulations of Connecticut State Agencies before April 1, 2008, and thereafter prior to January 1 of each subsequent year, for so long as the pharmacy benefits manager continues to do business in the state, and for so long as the pharmacy benefits manager remains a line of business of, or affiliate or subsidiary of, the entity filing for exemption.
- (b) For pharmacy benefits managers commencing business after January 1, 2008, the entity claiming exemption shall file an exemption form as described in section 38a-479aaa-4 of the Regulations of Connecticut State Agencies before commencing business in the state, and thereafter prior to January 1st of each subsequent year, under the circumstances described in this section.

Statement of Purpose:

To specify the timing requirements and the contents of the application form and annual renewal form for a certificate of registration to be completed by each entity acting as a pharmacy benefit manager in the state and submitted to the commissioner for approval, and to describe the timing requirements and contents of an exemption form for those entities which are not obligated to obtain a certificate of registration.

A. The problems, issues or circumstances that the regulation proposes to address.

The Regulation sets forth the contents of the application form and timing requirements for Pharmacy Benefit Managers to obtain and maintain a certificate of registration from the Insurance Department in order to provide pharmacy services in the State.

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B. A Summary of the main provisions of the regulation

Each Pharmacy Benefit Manager doing business in Connecticut must annually file an application with the Insurance Department containing information on ownership of the Pharmacy Benefit Manager, financial information, information on any disciplinary proceedings in other states and other information, as well as a surety bond. This information enables the Insurance Department to evaluate the appropriateness of issuing and renewing a certificate of registration for the Pharmacy Benefit Manager.

In addition the Regulation also provides for an exemption form applicable to the situation where the Pharmacy Benefit Manager is owned by, or affiliated with, an insurer, and a certificate of registration is not required.

C. The legal effects of the regulation, including all ways that the regulation would change existing regulations or other laws.

There is no impact on existing laws or regulations.

CERTIFICATION

R-39 REV. 1/77

Be it known that the foregoing:

Page _____ of _____ pages

Regulations Emergency Regulations

Are:

Adopted Amended as hereinabove stated Repealed

By the aforesaid agency pursuant to:

Sections 38a-8 and 38a-479ggg _____ of the General Statutes.

Section _____ of the General Statutes, as amended by Public Act No. _____ of the _____ Public Acts.

Public Act No. _____ of the Public Acts.

After publication in the Connecticut Law Journal on, September 2, 2008 of the notice of the proposal to:

Adopt Amend Repeal such regulations

(If applicable): And the holding of an advertised public hearing on _____ day of _____ 20 _____

WHEREFORE, the foregoing regulations are hereby:

Adopted Amended as hereinabove stated Repealed

Effective:

When filed with the Secretary of the State.

(OR)

The _____ day of _____.

In Witness Whereof:	DATE <u>12/10/08</u>	SIGNED (Head of Board, Agency or Commission) <i>[Signature]</i>	OFFICIAL TITLE, DULY AUTHORIZED INSURANCE COMMISSIONER
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Approved by the Attorney General as to legal sufficiency In accordance with Sec. 4-169, as amended, C. G. S. :	SIGNED <i>[Signature]</i>	DATE <u>12/23/08</u>	OFFICIAL TITLE, DULY AUTHORIZED
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- Approved
- Disapproved
- Disapproved in part, (Indicate Section Numbers disapproved only)
- Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance With Sec. 4-170, as amended, of the General Statutes.	DATE	SIGNED (Clerk of the Legislative Regulation Review Committee)
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Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE	SIGNED (Secretary of the State.)	BY
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INSTRUCTION

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.
3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capitol letters and deleted language in brackets. Section 4-170 of the General Statutes.