

# **One Hundred Eighth Legislature - First Session - 2023**

## **Introducer's Statement of Intent**

### **LB778**

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**Chairperson: Senator Julie Slama**

**Committee: Banking, Commerce and Insurance**

**Date of Hearing: March 21, 2023**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 778 would clarify the definition of “health benefit plan” under the Pharmacy Benefit Manger Licensure and Regulation Act (the “Act”) to ensure that the Act applies to employer sponsored plans, whether insured or self-funded, and to the Medical Assistance Program. The bill would also codify the following items:

- Extends the appeal, investigation, and dispute resolution process under the Act to reimbursements for a specific drug or drugs made under a maximum allowable cost price at below the pharmacy acquisition cost;
- Protects pharmacies from being paid below their cost of acquisition for dispensing medications;
- Establishes a pharmacy benefit manager duty of care, good faith and fair dealing with respect to the performance of pharmacy benefit manager services for the best interest of covered persons, health benefit plans and providers;
- Prohibits a plan, except as provided in Section 44-4610 regarding specialty pharmacy networks, from requiring pharmacy accreditation standards or recertification requirements to participate in networks which are inconsistent with, more stringent than, or in addition to the federal and state requirements for licensure as a pharmacy in Nebraska;
- Prohibits a pharmacy benefit manager from reimbursing a pharmacy or pharmacist an amount less than the amount that the pharmacy benefit manager reimburses a plan affiliate for providing the same pharmacist services;
- Prohibits a pharmacy benefit manager from directly or indirectly engaging in patient steering to a pharmacy benefit manager affiliate;
- Prohibits a pharmacy benefit manager, health carrier or health benefit plan, either directly or indirectly through an intermediary, agent, or affiliate, from engaging in, facilitating or entering into a contract with another person involving spread pricing in Nebraska;
- Requires a pharmacy benefit manager to acknowledge that spread pricing is not permitted under the Act in any pharmacy benefit manager contract with a health carrier or health benefit plan entered into on or after the effective date of the Act; and

- Expands the enforcement powers of the Department of Insurance under the Act to include suspension or revocation of the license of a pharmacy benefit manager.

**Principal Introducer:** \_\_\_\_\_

**Senator Eliot Bostar**