

1 SB73
2 200173-6
3 By Senator Orr
4 RFD: Healthcare
5 First Read: 05-MAR-19

1 SB73

2
3
4 ENROLLED, An Act,

5 To prohibit pharmacy benefit managers from
6 preventing pharmacies and pharmacists from disclosing
7 information on the amount an individual would pay for a
8 prescription drug if he or she does not have an insurance
9 plan, benefits, discounts, or if an individual paid for a
10 prescription without using their pharmacy benefits; and to
11 require pharmacy benefit managers to register with the
12 Department of Insurance.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. This act shall be known as and may be
15 cited as the Alabama Pharmacy Benefits Manager Licensure and
16 Regulation Act.

17 Section 2. (a) This act establishes the standards
18 and criteria for the regulation and licensure of pharmacy
19 benefits managers providing claims processing services or
20 other prescription drug or device services for health benefit
21 plans.

22 (b) The purpose of this act is to:

23 (1) Promote, preserve, and protect the public
24 health, safety, and welfare through effective regulation and
25 licensure of pharmacy benefits managers;

1 (2) Provide for powers and duties of the Insurance
2 Commissioner, the State Insurance Department; and

3 (3) Prescribe penalties and fines for violations of
4 this act.

5 Section 3. For purposes of this act, the following
6 words shall have the following meanings:

7 (1) Claims processing services means the
8 administrative services performed in connection with the
9 processing and adjudicating of claims relating to pharmacist
10 services that include:

11 a. Receiving payments for pharmacist services;

12 b. Making payments to pharmacists or pharmacies for
13 pharmacist services; or

14 c. Both subdivisions a. and b. of this section.

15 (2) Commissioner means the Commissioner of Insurance
16 of this state.

17 (3) Other prescription drug or device services means
18 services other than claims processing services, provided
19 directly or indirectly, whether in connection with or separate
20 from claims processing services, including without limitation:

21 a. Negotiating rebates, discounts, or other
22 financial incentives and arrangements with drug companies;

23 b. Disbursing or distributing rebates;

24 c. Managing or participating in incentive programs
25 or arrangements for pharmacist services;

1 d. Negotiating or entering into contractual
2 arrangements with pharmacists or pharmacies, or both;

3 e. Developing formularies;

4 f. Designing prescription benefit programs; or

5 g. Advertising or promoting services.

6 (4) Pharmacist means an individual licensed as a
7 pharmacist by the State Board of Pharmacy.

8 (5) Pharmacist services means products, goods, and
9 services, or any combination of products, goods, and services,
10 provided as a part of the practice of pharmacy.

11 (6) Pharmacy means the place licensed by the State
12 Board of Pharmacy in which drugs, chemicals, medicines,
13 prescriptions, and poisons are compounded, dispensed, or sold
14 at retail.

15 (7) a. Pharmacy benefits manager means a person,
16 business, or entity, including a wholly or partially owned or
17 controlled subsidiary of a pharmacy benefits manager, that
18 provides claims processing services or other prescription drug
19 or device services, or both, for health benefit plans.

20 b. Pharmacy benefits manager does not include any:

21 (i) Healthcare facility licensed in Alabama;

22 (ii) Healthcare professional licensed in Alabama; or

23 (iii) Consultant who only provides advice as to the
24 selection or performance of a pharmacy benefits manager.

1 Section 4. (a) (1) Effective January 1, 2020, to
2 conduct business in this state, a pharmacy benefit manager
3 must be licensed by the Commissioner. To initially obtain a
4 license or renew a license, a pharmacy benefits manager shall
5 submit:

6 a. A nonrefundable fee not to exceed \$500;

7 b. A copy of the licensee's corporate charter,
8 articles of incorporation, or other charter document; and

9 c. A completed licensure form adopted by the
10 Commissioner containing:

11 1. The name and address of the licensee.

12 2. The name, address, and official position of an
13 employee who will serve as the primary contact for the
14 Department of Insurance.

15 3. Any additional contact information deemed
16 appropriate by the commissioner or reasonably necessary to
17 verify the information contained in the application.

18 (2)The licensee shall inform the commissioner by any
19 means acceptable to the commissioner of any change in the
20 information required by this subsection within 30 days of the
21 change. Failure to timely inform the commissioner of a change
22 shall result in a penalty against the licensee in the amount
23 of fifty dollars (\$50).

24 (3) Upon receipt of a completed licensure form and
25 the licensure fee, the commissioner shall issue a license. The

1 license may be in paper or electronic form and shall clearly
2 indicate the expiration date of the licensure. Licenses are
3 nontransferable. Notwithstanding any provision of law to the
4 contrary, the licensure form and license shall be public
5 records.

6 (4) The license shall be initially renewed in
7 accordance with a schedule prescribed by the commissioner and
8 shall thereafter be subject to renewal on a biennial basis.
9 The commissioner shall adopt by rule an initial licensure fee
10 not to exceed five hundred dollars (\$500) and a renewal fee
11 not to exceed five hundred dollars (\$500), both of which shall
12 be nonrefundable..

13 (6) All documents, materials, or other information,
14 and copies thereof, in the possession or control of the
15 Department of Insurance that are obtained by or disclosed to
16 the commissioner or any other person in the course of an
17 application, examination or investigation made pursuant to
18 this Act shall be confidential by law and privileged, shall
19 not be subject to any open records, freedom of information,
20 sunshine or other public record disclosure laws, and shall not
21 be subject to subpoena or discovery. This provision only
22 applies to disclosure of said confidential documents by the
23 Department of Insurance and does not create any privilege in
24 favor of any other party.

1 Section 5. (a) A pharmacy or pharmacist shall have
2 the right to provide a covered person with information
3 regarding the amount of the covered person's cost share for a
4 prescription drug. Neither a pharmacy nor a pharmacist shall
5 be proscribed by a pharmacy benefits manager from discussing
6 any such information or for selling a more affordable
7 alternative to the covered person if such an alternative is
8 available.

9 (b) A health benefit plan that covers prescription
10 drugs may not include a provision that requires an enrollee to
11 make a payment for a prescription drug at the point of sale in
12 an amount that exceeds the lesser of: (1) the contracted
13 co-payment amount; or (2) the amount an individual would pay
14 for a prescription if that individual were paying with cash.

15 (c) For purposes of this section, the following
16 words have the following meanings:

17 (1) COVERED PERSON. Any individual, family, or
18 family member on whose behalf third-party payment or
19 prepayment of health or medical expenses is provided under a
20 health benefit plan.

21 (2) ENROLLEE. A person named on a policy or
22 certificate of coverage under a health benefit plan.

23 (3) HEALTH BENEFIT PLAN. As defined in Section
24 27-54A-2, Code of Alabama 1975.

1 Section 6. (a) The commissioner may adopt reasonable
2 rules necessary to implement Sections 4 and 5 of this act.

3 (b) The rules adopted under this act shall set
4 penalties or civil fines for violations of Section 4 and 5 of
5 this act and the rules implementing this act including,
6 without limitation, monetary fines and the suspension or
7 revocation of a license.

8 (c) The fees collected pursuant to this act shall be
9 deposited in the State Treasury to the credit of the Insurance
10 Department Fund. Any civil fine or penalty collected shall be
11 deposited in the State Treasury to the credit of the State
12 General Fund.

13 Section 7. (a) This act is applicable to a contract
14 or health benefit plan issued, renewed, recredentialed,
15 amended, or extended on and after January 1, 2020.

16 (b) A contract existing on the date of licensure of
17 the pharmacy benefits manager shall comply with the
18 requirements of this act as a condition of licensure for the
19 pharmacy benefits manager.

20 (c) Nothing in this act is intended or shall be
21 construed to be in conflict with existing relevant federal
22 law.

23 Section 8. This act shall be effective immediately
24 following its passage and approval by the Governor, or its
25 otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

President and Presiding Officer of
the Senate

Speaker of the House of Representa-
tives

SB73

Senate 15-MAY-19

I hereby certify that the within Act originated in
and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 29-MAY-19

By: Senator Orr