

1 HB254  
2 136143-4  
3 By Representative Johnson (R)  
4 RFD: Health  
5 First Read: 09-FEB-12

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8 SYNOPSIS: Under existing law, the State Board of  
9 Pharmacy requires pharmacists and pharmacies and  
10 every manufacturer, bottler, packager, repackager,  
11 or wholesale distributor of drugs to register  
12 annually. Currently, a pharmacy benefit manager is  
13 not required to register with any board or entity  
14 of the state.

15 This bill would provide for a pharmacy  
16 benefit manager which provides services to covered  
17 persons to register with the State Board of  
18 Pharmacy and would provide the board with rules to  
19 establish standards and criteria for pharmacy  
20 benefit managers.

21  
22 A BILL  
23 TO BE ENTITLED  
24 AN ACT

25  
26 To provide for the regulation and licensing of  
27 pharmacy benefits managers by the State Board of Pharmacy.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. As used in this act, the following terms  
3 shall have the following meanings:

4 (1) BOARD. The Alabama State Board of Pharmacy.

5 (2) COVERED PERSON. A policy holder, subscriber,  
6 enrollee, or other individual participating in a health  
7 benefit plan.

8 (3) PHARMACY BENEFIT MANAGER. A person, business, or  
9 other entity, and any wholly or partially owned or controlled  
10 subsidiary of the entity, that administers the prescription  
11 drug or device portion of a health benefit plan, including,  
12 but not limited to, claims processing services on behalf of a  
13 third party including plan sponsors, insurance companies,  
14 unions, and health maintenance organizations in accordance  
15 with a pharmacy benefit management plan.

16 (4) PRACTICE OF PHARMACY. The interpretation and  
17 evaluation of prescription orders or the compounding,  
18 dispensing, administering, and labeling of drugs and devices  
19 or the participation in drug selection and drug utilization  
20 reviews or medication therapy management or the proper and  
21 safe storage of drugs and devices or the maintenance of proper  
22 records or the responsibility for the advising, where  
23 necessary or where required, of therapeutic values, content,  
24 hazards, and use of drugs and devices or the offering or  
25 performing of those acts, services, operations, or  
26 transactions necessary in the conduct, operation, management,

1 and control of a pharmacy, or in connection with the  
2 compounding or dispensing of drugs or medical devices.

3 Section 2. This act shall apply to a pharmacy  
4 benefit manager that provides services to covered persons who  
5 are residents of this state. Nothing in this act shall be  
6 construed to apply to an employee welfare benefit plan, as  
7 defined in Section 3(1) of the Employee Retirement Income  
8 Security Act of 1974, 29 U.S.C. §1002(1), as amended.

9 Section 3. (a) No person, business, or other entity  
10 shall establish, act, or operate as a pharmacy benefit manager  
11 in this state without a valid permit issued by the board.

12 (b) Every pharmacy benefit manager shall register  
13 biennially with the board by application for a permit on a  
14 form furnished by the board and accompanied by a fee to be  
15 determined by board rule. All permits issued under this  
16 section shall become due on October 31st and shall become null  
17 and void on December 31st of even numbered years. Each  
18 application for the renewal of the permit, along with a  
19 renewal fee to be determined by board rule, shall be made on  
20 or before December 31st of even numbered years. A penalty of  
21 twenty-five dollars (\$25) for each overdue month shall be  
22 assessed in addition to the permit fee for renewal of  
23 delinquent permits. For each application for a permit made and  
24 found to be satisfactory by the board, the secretary of the  
25 board shall issue to the applicant a permit, which permit  
26 shall be displayed in a conspicuous place.

1 (c) The board shall establish by rule grounds  
2 justifying the imposition of disciplinary sanctions which must  
3 be proven by a preponderance of the evidence. Upon the  
4 required finding of guilt, the board may enter an order  
5 imposing one or more of the following sanctions:

6 (1) Refuse to issue or deny the permit.

7 (2) Revoke or suspend the permit.

8 (3) Enter a censure.

9 (4) Enter an order fixing a period of probation best  
10 adapted to protect the public health and safety and for any  
11 rehabilitation.

12 (5) Impose an administrative fine not to exceed one  
13 thousand dollars (\$1,000) for each count or separate offense.

14 (6) Assess costs.

15 (7) Impose restrictions on the scope of the  
16 operation of the pharmacy practice manager.

17 (8) A failure to comply with any final or consent  
18 order of the board, including, but not limited to, an order of  
19 censure or probation, shall be cause for a suspension or  
20 revocation.

21 Section 4. No action to impose discipline of any  
22 permit shall be taken until the holder of the permit has been  
23 furnished a statement in writing of the charges together with  
24 a notice of a time and place of hearing. The statement of  
25 charges and notice shall be served at least 30 days before the  
26 date fixed for the hearing and service may be perfected by  
27 personal service, certified mail, Federal Express, or similar

1 courier service. Service shall be to the last address  
2 furnished to the board.

3 Section 5. From any order of the board, any permit  
4 holder affected thereby may appeal such ruling only to the  
5 circuit court of the county in which the board's office is  
6 located; provided, however, that all other requirements for  
7 judicial review shall be those set forth in and governed by  
8 the judicial review provisions of the Alabama Administrative  
9 Procedure Act.

10 Section 6. If it shall appear to the board that any  
11 person, business, or other entity is violating any of the  
12 provisions of this act, the board, in its own name, may bring  
13 an action in the circuit court for an injunction, and the  
14 court may enjoin any person, business, or other entity from  
15 violating the provisions of this act regardless of whether  
16 proceedings have been or may be instituted.

17 Section 7. This act shall become effective on the  
18 first day of the third month following its passage and  
19 approval by the Governor, or its otherwise becoming law.