

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

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

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

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act shall be known as and may be  
21 cited as the Alabama Pharmacy Benefits Manager Licensure and  
22 Regulation Act.

23 Section 2. (a) This act establishes the standards  
24 and criteria for the regulation and licensure of pharmacy  
25 benefits managers providing claims processing services or  
26 other prescription drug or device services for health benefit  
27 plans.

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

2 (1) Promote, preserve, and protect the public  
3 health, safety, and welfare through effective regulation and  
4 licensure of pharmacy benefits managers;

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

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

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

11 (1) Claims processing services means the  
12 administrative services performed in connection with the  
13 processing and adjudicating of claims relating to pharmacist  
14 services that include:

15 a. Receiving payments for pharmacist services;

16 b. Making payments to pharmacists or pharmacies for  
17 pharmacist services; or

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

19 (2) Commissioner means the Commissioner of Insurance  
20 of this state.

21 (3) Other prescription drug or device services means  
22 services other than claims processing services, provided  
23 directly or indirectly, whether in connection with or separate  
24 from claims processing services, including without limitation:

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

27 b. Disbursing or distributing rebates;

1           c. Managing or participating in incentive programs  
2 or arrangements for pharmacist services;

3           d. Negotiating or entering into contractual  
4 arrangements with pharmacists or pharmacies, or both;

5           e. Developing formularies;

6           f. Designing prescription benefit programs; or

7           g. Advertising or promoting services.

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

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

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

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

22           b. Pharmacy benefits manager does not include any:

23           (i) Healthcare facility licensed in Alabama;

24           (ii) Healthcare professional licensed in Alabama; or

25           (iii) Consultant who only provides advice as to the  
26 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  
26          license may be in paper or electronic form and shall clearly  
27          indicate the expiration date of the licensure. Licenses are

1 nontransferable. Notwithstanding any provision of law to the  
2 contrary, the licensure form and license shall be public  
3 records.

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

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

23 Section 5. (a) A pharmacy or pharmacist shall have  
24 the right to provide a covered person with information  
25 regarding the amount of the covered person's cost share for a  
26 prescription drug. Neither a pharmacy nor a pharmacist shall  
27 be proscribed by a pharmacy benefits manager from discussing

1 any such information or for selling a more affordable  
2 alternative to the covered person if such an alternative is  
3 available.

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

10 (c) For purposes of this section, the following  
11 words have the following meanings:

12 (1) COVERED PERSON. Any individual, family, or  
13 family member on whose behalf third-party payment or  
14 prepayment of health or medical expenses is provided under a  
15 health benefit plan.

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

18 (3) HEALTH BENEFIT PLAN. As defined in Section  
19 27-54A-2, Code of Alabama 1975.

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

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

1           (c) The fees collected pursuant to this act shall be  
2 deposited in the State Treasury to the credit of the Insurance  
3 Department Fund. Any civil fine or penalty collected shall be  
4 deposited in the State Treasury to the credit of the State  
5 General Fund.

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

9           (b) A contract existing on the date of licensure of  
10 the pharmacy benefits manager shall comply with the  
11 requirements of this act as a condition of licensure for the  
12 pharmacy benefits manager.

13           (c) Nothing in this act is intended or shall be  
14 construed to be in conflict with existing relevant federal  
15 law.

16           Section 8. This act shall be effective immediately  
17 following its passage and approval by the Governor, or its  
18 otherwise becoming law.



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Senate

Read for the first time and referred to the Senate  
committee on Healthcare..... 05-MAR-19

Read for the second time and placed on the calen-  
dar with 1 substitute and 1 amendment..... 08-MAY-19

Read for the third time and passed as amended .... 15-MAY-19

Yeas 27  
Nays 0

Patrick Harris,  
Secretary.