

1 SB227
2 212711-3
3 By Senators Butler, Beasley, Allen, Scofield, Barfoot, Holley,
4 Orr, Stutts, Livingston, Smitherman, Marsh, Roberts and Gudger
5 RFD: Banking and Insurance
6 First Read: 11-FEB-21

2
3
4 ENGROSSED

5
6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to health care; to amend Sections 3 through
12 7 of Act 2019-457, 2019 Regular Session, now appearing as
13 Sections 27-45A-3, 27-45A-4, 27-45A-5, 27-45A-6, and 27-45A-7,
14 Code of Alabama 1975; and to add Sections 27-45A-8, 27-45A-9,
15 27-45A-10, 27-45A-11, and 27-45A-12 to the Code of Alabama
16 1975; to prohibit a pharmacy benefits manager from limiting or
17 incentivizing a patient's choice in pharmacies; to prohibit a
18 pharmacy benefits manager from denying a pharmacy from
19 participating as a contract provider of pharmacy services for
20 a health benefit plan if the pharmacy meets the terms and
21 conditions of the pharmacy benefits manager's contract; to
22 prohibit pharmacy benefits managers from steering an insured
23 to use a mail-order pharmacy or a pharmacy benefits manager
24 affiliate, with certain exceptions; to prohibit a pharmacy
25 benefits manager from limiting certain powers of a pharmacy or
26 pharmacist; to require certain annual reporting; to revise
27 definitions; to provide further for the Commissioner of

1 Insurance to administer and enforce laws relating to pharmacy
2 benefits managers; to provide further for the licensure of
3 pharmacy benefits managers; to require rulemaking; to provide
4 civil penalties for certain violations; and to amend Sections
5 10A-20-6.16 and 27-21A-23, Code of Alabama 1975, to subject
6 certain health insurers to the pharmacy benefits manager laws.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 3 through 7 of Act 2019-457,
9 2019 Regular Session, now appearing as Sections 27-45A-3,
10 27-45A-4, 27-45A-5, 27-45A-6, and 27-45A-7, Code of Alabama
11 1975, are amended to read as follows:

12 "§27-45A-3.

13 "(a) For purposes of this chapter, the following
14 words shall have the following meanings:

15 "(1) CLAIMS PROCESSING SERVICES. The administrative
16 services performed in connection with the processing and
17 adjudicating of claims relating to pharmacist services that
18 include any of the following:

19 "a. Receiving payments for pharmacist services.

20 "b. Making payments to pharmacists or pharmacies for
21 pharmacist services.

22 "c. Both paragraphs a. and b.

23 "(2) COVERED INDIVIDUAL. A member, policyholder,
24 subscriber, enrollee, beneficiary, dependent, or other
25 individual participating in a health benefit plan.

26 "(3) HEALTH BENEFIT PLAN. A policy, contract,
27 certificate, or agreement entered into, offered, or issued by

1 a health insurer to provide, deliver, arrange for, pay for, or
2 reimburse any of the costs of physical, mental, or behavioral
3 health care services.

4 "(4) HEALTH INSURER. An entity subject to the
5 insurance laws of this state and rules of the department, or
6 subject to the jurisdiction of the department, that contracts
7 or offers to contract to provide, deliver, arrange for, pay
8 for, or reimburse any of the costs of health care services,
9 including, but not limited to, a sickness and accident
10 insurance company, a health maintenance organization operating
11 pursuant to Chapter 21A, a nonprofit hospital or health
12 service corporation, a health care service plan organized
13 pursuant to Article 6, Chapter 20 of Title 10A, or any other
14 entity providing a plan of health insurance, health benefits,
15 or health services.

16 "~~(2)~~(5) OTHER PRESCRIPTION DRUG OR DEVICE SERVICES.
17 Services, other than claims processing services, provided
18 directly or indirectly, whether in connection with or separate
19 from claims processing services, including ~~without limitation,~~
20 but not limited to, any of the following:

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.

26 "d. Negotiating or entering into contractual
27 arrangements with pharmacists or pharmacies, or both.

1 "e. Developing formularies.

2 "f. Designing prescription benefit programs.

3 "g. Advertising or promoting services.

4 "~~(3)~~ (6) PHARMACIST. ~~An individual licensed as a~~
5 ~~pharmacist by the State Board of Pharmacy~~ As defined in
6 Section 34-23-1.

7 "~~(4)~~ (7) PHARMACIST SERVICES. Products, goods, and
8 services, or any combination of products, goods, and services,
9 provided as a part of the practice of pharmacy.

10 "~~(5)~~ (8) PHARMACY. ~~The place licensed by the State~~
11 ~~Board of Pharmacy in which drugs, chemicals, medicines,~~
12 ~~prescriptions, and poisons are compounded, dispensed, or sold~~
13 ~~at retail~~ As defined in Section 34-23-1.

14 "~~(6)~~ (9) PHARMACY BENEFITS MANAGER. a. A person,
15 ~~business, or entity,~~ including a wholly or partially owned or
16 controlled subsidiary of a pharmacy benefits manager, that
17 provides claims processing services or other prescription drug
18 or device services, or both, to covered individuals who are
19 employed in or are residents of this state, for health benefit
20 plans.

21 "b. Pharmacy benefits manager does not include any
22 of the following:

23 "1. A healthcare facility licensed in ~~Alabama~~ this
24 state.

25 "2. A healthcare professional licensed in ~~Alabama~~
26 this state.

1 "3. A consultant who only provides advice as to the
2 selection or performance of a pharmacy benefits manager.

3 "(10) PBM AFFILIATE. A pharmacy or pharmacist that,
4 directly or indirectly, through one or more intermediaries, is
5 owned or controlled by, or is under common control by, a
6 pharmacy benefits manager.

7 "(11) PRESCRIPTION DRUGS. Includes, but is not
8 limited to, certain infusion, compounded, and long-term care
9 prescription drugs. The term does not include specialty drugs.

10 "(12) SPECIALTY DRUGS. Prescription medications that
11 require special handling, administration, or monitoring and
12 are used for the treatment of patients with serious health
13 conditions requiring complex therapies, and that are eligible
14 for specialty tier placement by the Centers for Medicare and
15 Medicaid Services pursuant to 42 C.F.R. § 423.560.

16 "§27-45A-4.

17 ~~"(a) (1) Effective January 1, 2020, to conduct~~
18 ~~business in this state, A person may not establish or operate~~
19 ~~as a pharmacy benefits manager must be licensed by in this~~
20 ~~state without first obtaining a license from the commissioner.~~

21 ~~To~~

22 "(b) Effective through December 31, 2021, to
23 initially obtain a license or renew a license, a pharmacy
24 benefits manager shall submit all of the following:

25 ~~"a.~~(1) A nonrefundable fee not to exceed five
26 hundred dollars (\$500).

1 "~~b.~~(2) A copy of the licensee's corporate charter,
2 articles of incorporation, or other charter document.

3 "~~c.~~(3) A completed licensure form adopted by the
4 commissioner containing:

5 "~~1.~~a. The name and address of the licensee.

6 "~~2.~~b. The name, address, and official position of an
7 employee who will serve as the primary contact for the
8 Department of Insurance.

9 "~~3.~~c. Any additional contact information deemed
10 appropriate by the commissioner or reasonably necessary to
11 verify the information contained in the application.

12 "~~(2) The licensee shall inform the commissioner by
13 any means acceptable to the commissioner of any change in the
14 information required by this subsection within 30 days of the
15 change. Failure to timely inform the commissioner of a change
16 shall result in a penalty against the licensee in the amount
17 of fifty dollars (\$50).~~

18 "(c) Not later than January 1, 2022, the
19 commissioner shall adopt rules for licensure of pharmacy
20 benefits managers to operate in this state. The rules shall
21 establish all of the following:

22 "(1) The licensing procedure and application form.

23 "(2) Requirements for licensure.

24 "(3) Reporting requirements.

25 "(4) A fee schedule for a non-refundable application
26 fee and a nonrefundable license renewal fee, set to allow the

1 regulation and oversight activities of the department to be
2 self-supporting.

3 "(d) On and after January 1, 2022, a person applying
4 for a pharmacy benefits manager license shall submit an
5 application for licensure in the form and manner prescribed by
6 the commissioner by rule, along with the application fee.

7 "(e) The commissioner may refuse to issue or renew a
8 license if the commissioner determines that the applicant has
9 been found to have violated this chapter or the insurance laws
10 of this state or any other jurisdiction, or has had an
11 insurance or other certificate of authority or license denied
12 or revoked for cause by any jurisdiction.

13 ~~"(3) (f) Upon receipt of a completed licensure form~~
14 ~~and the licensure fee, the commissioner shall issue a~~ Unless
15 denied licensure pursuant to subsection (e), a person who
16 meets the requirements of this chapter and rules adopted by
17 the commissioner shall be issued a pharmacy benefits manager
18 license. The license may be in paper or electronic form and
19 shall clearly indicate the expiration date of the ~~licensure~~
20 license. Licenses are nontransferable. Notwithstanding any
21 provision of law to the contrary, the ~~licensure form~~
22 application and license shall be public records.

23 ~~"(4) (g) The license shall be initially renewed in~~
24 ~~accordance with a schedule prescribed by the commissioner and~~
25 ~~shall thereafter be subject to renewal on a~~ biennial annual
26 basis along with the nonrefundable license renewal fee. The
27 ~~commissioner shall adopt by rule an initial licensure fee not~~

1 ~~to exceed five hundred dollars (\$500) and a renewal fee not to~~
2 ~~exceed five hundred dollars (\$500), both of which shall be~~
3 ~~nonrefundable.~~

4 "(h) A licensee shall inform the commissioner by any
5 means acceptable to the commissioner of any material change in
6 the information required by this section or rules adopted
7 pursuant to this section within 30 days of the change. Failure
8 to timely inform the commissioner of a change shall result in
9 a penalty against the licensee in the amount of fifty dollars
10 (\$50).

11 "(i) The commissioner may suspend or revoke a
12 license or may impose civil penalties for a violation of this
13 chapter or the insurance laws of this state or any other
14 jurisdiction, as determined by the commissioner in accordance
15 with rules adopted by the commissioner, provided a pharmacy
16 benefits manager shall have the same rights as insurers to
17 request a hearing in accordance with Sections 27-2-28, et seq.
18 and to appeal as provided in Section 27-2-32.

19 "(j) Unless surrendered, suspended, or revoked by
20 the commissioner, a license issued under this section shall
21 remain valid as long as the pharmacy benefits manager
22 continues to do business in this state and remains in
23 compliance with this chapter and applicable rules, including
24 the payment of an annual license renewal fee as set forth in
25 subsection (g).

26 ~~"(5)(k)~~ (k) All documents, materials, or other
27 information, and copies thereof, in the possession or control

1 of the department that are obtained by or disclosed to the
2 commissioner or any other person in the course of an
3 application, examination, or investigation made pursuant to
4 this chapter shall be confidential by law and privileged,
5 shall not be subject to any open records, freedom of
6 information, sunshine, or other public record disclosure laws,
7 and shall not be subject to subpoena or discovery. This
8 subdivision only applies to disclosure of confidential
9 documents by the department and does not create any privilege
10 in favor of any other party.

11 "(1) (1) Fees collected pursuant to this section
12 shall be deposited in the State Treasury to the credit of the
13 Insurance Department Fund.

14 "(2) Civil penalties collected pursuant to this
15 chapter shall be deposited in the State Treasury to the credit
16 of the state General Fund.

17 "§27-45A-5.

18 ~~"(a) A pharmacy or pharmacist may provide a covered~~
19 ~~person with information regarding the amount of the covered~~
20 ~~person's cost share for a prescription drug. Neither a~~
21 ~~pharmacy nor a pharmacist shall be proscribed by a pharmacy~~
22 ~~benefits manager from discussing any such information or for~~
23 ~~selling a more affordable alternative to the covered person if~~
24 ~~such an alternative is available.~~

25 ~~"(b) A health benefit plan that covers prescription~~
26 ~~drugs may not include a provision that requires an enrollee to~~
27 ~~make a payment for a prescription drug at the point of sale in~~

1 ~~an amount that exceeds the lesser of: (1) the contracted~~
2 ~~co-payment amount; or (2) the amount an individual would pay~~
3 ~~for a prescription if that individual were paying with cash.~~

4 ~~"(c) For purposes of this section, the following~~
5 ~~words have the following meanings:~~

6 ~~"(1) COVERED PERSON. Any individual, family, or~~
7 ~~family member on whose behalf third-party payment or~~
8 ~~prepayment of health or medical expenses is provided under a~~
9 ~~health benefit plan.~~

10 ~~"(2) ENROLLEE. A person named on a policy or~~
11 ~~certificate of coverage under a health benefit plan.~~

12 ~~"(3) HEALTH BENEFIT PLAN. As defined in Section~~
13 ~~27-54A-2.~~

14 ~~"(a) The commissioner may adopt rules necessary to~~
15 ~~implement this chapter.~~

16 ~~"(b) The powers and duties set forth in this chapter~~
17 ~~shall be in addition to all other authority of the~~
18 ~~commissioner.~~

19 ~~"(c) The commissioner shall enforce compliance with~~
20 ~~the requirements of this chapter and rules adopted thereunder.~~

21 ~~"(d) (1) The commissioner may examine or audit any~~
22 ~~books and records of a pharmacy benefits manager providing~~
23 ~~claims processing services or other prescription drug or~~
24 ~~device services for a health benefit plan as may be deemed~~
25 ~~relevant and necessary by the commissioner to determine~~
26 ~~compliance with this chapter.~~

1 "(2) Examinations conducted by the commissioner
2 shall be pursuant to the same examination authority of the
3 commissioner relative to insurers as provided in Chapter 2,
4 including, but not limited to, the confidentiality of
5 documents and information submitted as provided in Section
6 27-2-24; examination expenses shall be processed in accordance
7 with Section 27-2-25; and pharmacy benefits managers shall
8 have the same rights as insurers to request a hearing in
9 accordance with Sections 27-2-28, et seq., and to appeal as
10 provided in Section 27-2-32.

11 "(e) The commissioner's examination expenses shall
12 be collected from pharmacy benefits managers in the same
13 manner as those collected from insurers.

14 "§27-45A-6.

15 ~~"(a) The commissioner may adopt reasonable rules~~
16 ~~necessary to implement Sections 27-45A-4 and 27-45A-5.~~

17 ~~"(b) The rules adopted under this chapter shall set~~
18 ~~penalties or civil fines for violations of Sections 27-45A-4~~
19 ~~and 27-45A-5 and the rules implementing this chapter~~
20 ~~including, without limitation, monetary fines and the~~
21 ~~suspension or revocation of a license.~~

22 ~~"(c) The fees collected pursuant to this chapter~~
23 ~~shall be deposited in the State Treasury to the credit of the~~
24 ~~Insurance Department Fund. Any civil fine or penalty collected~~
25 ~~shall be deposited in the State Treasury to the credit of the~~
26 ~~State General Fund.~~

1 "Nothing in this chapter is intended or shall be
2 construed to do any of the following:

3 "(1) Be in conflict with existing relevant federal
4 law.

5 "(2) Apply to any specialty drug.

6 "(3) Impact the ability of a hospital to mandate its
7 employees use of a hospital-owned pharmacy.

8 "§27-45A-7.

9 ~~"(a) This chapter is applicable to a contract or~~
10 ~~health benefit plan issued, renewed, recredentialed, amended,~~
11 ~~or extended on and after January 1, 2020.~~

12 ~~(b) A contract existing on the date of licensure of~~
13 ~~the pharmacy benefits manager shall comply with the~~
14 ~~requirements of this chapter as a condition of licensure for~~
15 ~~the pharmacy benefits manager.~~

16 ~~"(c) Nothing in this chapter is intended or shall be~~
17 ~~construed to be in conflict with existing relevant federal~~
18 ~~law.~~

19 [RESERVED]

20 Section 2. Sections 27-45A-8, 27-45A-9, 27-45A-10,
21 27-45A-11, and 27-45A-12, are added to the Code of Alabama
22 1975, to read as follows:

23 §27-45A-8.

24 A pharmacy benefits manager may not do any of the
25 following:

26 (1) Require a covered individual, as a condition of
27 payment or reimbursement, to purchase pharmacist services,

1 including, but not limited to, prescription drugs, exclusively
2 through a mail-order pharmacy or pharmacy benefits manager
3 affiliate.

4 (2) Prohibit or limit any covered individual from
5 selecting an in-network pharmacy or pharmacist of his or her
6 choice who meets and agrees to the terms and conditions,
7 including reimbursements, in the pharmacy benefits manager's
8 contract.

9 (3) Impose a monetary advantage or penalty under a
10 health benefit plan that would affect a covered individual's
11 choice of pharmacy among those pharmacies that have chosen to
12 contract with the pharmacy benefits manager under the same
13 terms and conditions, including reimbursements. For purposes
14 of this subdivision, "monetary advantage or penalty" includes,
15 but is not limited to, a higher copayment, a waiver of a
16 copayment, a reduction in reimbursement services, a
17 requirement or limit on the number of days of a drug supply
18 for which reimbursement will be allowed, or a promotion of one
19 participating pharmacy over another by these methods.

20 (4)a. Use a covered individual's pharmacy services
21 data collected pursuant to the provision of claims processing
22 services for the purpose of soliciting, marketing, or
23 referring the covered individual to a mail-order pharmacy or
24 PBM affiliate.

25 b. This subdivision shall not limit a health benefit
26 plan's use of pharmacy services data for the purpose of
27 administering the health benefit plan.

1 c. This subdivision shall not prohibit a pharmacy
2 benefits manager from notifying a covered individual that a
3 less costly option for a specific prescription drug is
4 available through a mail-order pharmacy or PBM affiliate,
5 provided the notification shall state that switching to the
6 less costly option is not mandatory. The commissioner, by
7 rule, may determine the language of the notification
8 authorized under this paragraph made by a pharmacy benefits
9 manager to a covered individual.

10 (5) Require a covered individual to make a payment
11 for a prescription drug at the point of sale in an amount that
12 exceeds the lesser of the following:

13 a. The contracted cost share amount.

14 b. An amount an individual would pay for a
15 prescription if that individual were paying without insurance.

16 §27-45A-9.

17 (a) For purposes of this section, client means a
18 health insurer, payor, or health benefit plan.

19 (b) If requested by a client under subsection (d), a
20 pharmacy benefits manager shall prepare an annual report by
21 June 1 which discloses all of the following with respect to
22 that client:

23 a. The aggregate amount of all rebates that the
24 pharmacy benefits manager received from pharmaceutical
25 manufacturers on behalf of the client.

1 (2) The aggregate amount of the rebates the pharmacy
2 benefits manager received from pharmaceutical manufacturers
3 that did not pass through to the client.

4 (3) If a pharmacy benefits manager or any consultant
5 providing pharmacy benefits management services engages in
6 spread pricing, the aggregated amount of the difference
7 between the amount paid by the client for prescription drugs
8 and the actual amount paid to the pharmacy or pharmacist for
9 pharmacist services. For purposes of this subdivision, "spread
10 pricing" means the model of prescription drug reimbursement in
11 which a pharmacy benefits manager charges a client a
12 contracted price for prescription drugs, and the contract
13 price for the prescription drugs differs from the amount the
14 pharmacy benefits manager, directly or indirectly, pays the
15 pharmacy or pharmacist for pharmacist services.

16 (c) Confidentiality of a report submitted under this
17 section shall be governed by contract between the pharmacy
18 benefits manager and the client.

19 (d) A pharmacy benefits manager shall annually
20 notify all its clients in a timely manner that a report
21 described in subsection (b) will be made available to the
22 client by the pharmacy benefits manager if requested by the
23 client.

24 §27-45A-10.

25 A pharmacy benefits manager may not do any of the
26 following:

1 (1) Reimburse a pharmacy or pharmacist in the state
2 an amount less than the amount that the pharmacy benefits
3 manager reimburses a similarly situated PBM affiliate for
4 providing the same pharmacist services to covered individuals
5 in the same health benefit plan.

6 (2) Deny a pharmacy or pharmacist the right to
7 participate as a contract provider if the pharmacy or
8 pharmacist meets and agrees to the terms and conditions,
9 including reimbursements, in the pharmacy benefits manager's
10 contract.

11 (3) Impose credentialing standards on a pharmacist
12 or pharmacy beyond or more onerous than the licensing
13 standards set by the Alabama State Board of Pharmacy or charge
14 a pharmacy a fee in connection with network enrollment,
15 provided this subdivision shall not prohibit a pharmacy
16 benefits manager from setting minimum requirements for
17 participating in a pharmacy network.

18 (4) Prohibit a pharmacist or pharmacy from providing
19 a covered individual specific information on the amount of the
20 covered individual's cost share for the covered individual's
21 prescription drug and the clinical efficacy of a more
22 affordable alternative drug if one is available, or penalize a
23 pharmacist or pharmacy for disclosing this information to a
24 covered individual or for selling to a covered individual a
25 more affordable alternative if one is available.

26 (5) Prohibit a pharmacist or pharmacy from offering
27 and providing delivery services to a covered individual as an

1 ancillary service of the pharmacy, provided all of the
2 following requirements are met:

3 a. The pharmacist or pharmacy can demonstrate
4 quality, stability, and safety standards during delivery.

5 b. The pharmacist or pharmacy does not charge any
6 delivery or service fee to a pharmacy benefits manager or
7 health insurer.

8 c. The pharmacist or pharmacy alerts the covered
9 individual that he or she will be responsible for any delivery
10 service fee associated with the delivery service, and that the
11 pharmacy benefits manager or health insurer will not reimburse
12 the delivery service fee.

13 (6) Charge or hold a pharmacist or pharmacy
14 responsible for a fee or penalty relating to an audit
15 conducted pursuant to The Pharmacy Audit Integrity Act,
16 Article 8 of Chapter 23 of Title 34, provided this prohibition
17 does not restrict recoupments made in accordance with the
18 Pharmacy Audit Integrity Act.

19 (7) Charge a pharmacist or pharmacy a point-of-sale
20 or retroactive fee or otherwise recoup funds from a pharmacy
21 in connection with claims for which the pharmacy has already
22 been paid, unless the recoupment is made pursuant to an audit
23 conducted in accordance with the Pharmacy Audit Integrity Act.

24 (8) Except for a drug reimbursed, directly or
25 indirectly, by the Medicaid program, vary the amount a
26 pharmacy benefits manager reimburses an entity for a drug on
27 the basis of whether:

1 a. The drug is subject to an agreement under 42
2 U.S.C. § 256b; or

3 b. The entity participates in the program set forth
4 in 42 U.S.C. § 256b.

5 (9) If an entity participates, directly or
6 indirectly, in the program set forth in 42 U.S.C. § 256b, do
7 any of the following:

8 a. Assess a fee, charge-back, or other adjustment on
9 the entity.

10 b. Restrict access to the pharmacy benefits
11 manager's pharmacy network.

12 c. Require the entity to enter into a contract with
13 a specific pharmacy to participate in the pharmacy benefits
14 manager's pharmacy network.

15 d. Create a restriction or an additional charge on a
16 patient who chooses to receive drugs from the entity.

17 e. Create any additional requirements or
18 restrictions on the entity.

19 (10) Require a claim for a drug to include a
20 modifier to indicate that the drug is subject to an agreement
21 under 42 U.S.C. § 256b.

22 (11) Penalize or retaliate against a pharmacist or
23 pharmacy for exercising rights under this chapter or the
24 Pharmacy Audit Integrity Act.

25 §27-45A-11.

1 A pharmacy benefits manager may not knowingly make a
2 material misrepresentation to a covered individual,
3 pharmacist, or pharmacy.

4 §27-45A-12.

5 A pharmacist or pharmacy that participates in a
6 health benefit plan's pharmacy network shall process a
7 prescription drug using the pharmacy benefits of the covered
8 individual if failure to do so will result in a higher
9 out-of-pocket cost to the covered individual.

10 Section 3. Sections 10A-20-6.16 and 27-21A-23, Code
11 of Alabama 1975, are amended to read as follows:

12 "§10A-20-6.16.

13 "(a) No statute of this state applying to insurance
14 companies shall be applicable to any corporation organized
15 under this article and amendments thereto or to any contract
16 made by the corporation; except the corporation shall be
17 subject to the following:

18 "(1) The provisions regarding annual premium tax to
19 be paid by insurers on insurance premiums.

20 "(2) Chapter 55 of Title 27.

21 "(3) Article 2 and Article 3 of Chapter 19 of Title
22 27.

23 "(4) Section 27-1-17.

24 "(5) Chapter 56 of Title 27.

25 "(6) Rules promulgated by the Commissioner of
26 Insurance pursuant to Sections 27-7-43 and 27-7-44.

27 "(7) Chapter 54 of Title 27.

- 1 "(8) Chapter 57 of Title 27.
- 2 "(9) Chapter 58 of Title 27.
- 3 "(10) Chapter 59 of Title 27.
- 4 "(11) Chapter 54A of Title 27.
- 5 "(12) Chapter 12A of Title 27.
- 6 "(13) Chapter 2B of Title 27.
- 7 "(14) Chapter 29 of Title 27.
- 8 "(15) Chapter 62 of Title 27.
- 9 "(16) Chapter 45A of Title 27.

10 "(b) The provisions in subsection (a) that require
11 specific types of coverage to be offered or provided shall not
12 apply when the corporation is administering a self-funded
13 benefit plan or similar plan, fund, or program that it does
14 not insure.

15 "§27-21A-23.

16 "(a) Except as otherwise provided in this chapter,
17 provisions of the insurance law and provisions of health care
18 service plan laws shall not be applicable to any health
19 maintenance organization granted a certificate of authority
20 under this chapter. This provision shall not apply to an
21 insurer or health care service plan licensed and regulated
22 pursuant to the insurance law or the health care service plan
23 laws of this state except with respect to its health
24 maintenance organization activities authorized and regulated
25 pursuant to this chapter.

26 "(b) Solicitation of enrollees by a health
27 maintenance organization granted a certificate of authority

1 shall not be construed to violate any provision of law
2 relating to solicitation or advertising by health
3 professionals.

4 "(c) Any health maintenance organization authorized
5 under this chapter shall not be deemed to be practicing
6 medicine and shall be exempt from the provisions of Section
7 34-24-310, et seq., relating to the practice of medicine.

8 "(d) No person participating in the arrangements of
9 a health maintenance organization other than the actual
10 provider of health care services or supplies directly to
11 enrollees and their families shall be liable for negligence,
12 misfeasance, nonfeasance, or malpractice in connection with
13 the furnishing of such services and supplies.

14 "(e) Nothing in this chapter shall be construed in
15 any way to repeal or conflict with any provision of the
16 certificate of need law.

17 "(f) Notwithstanding the provisions of subsection
18 (a), a health maintenance organization shall be subject to all
19 of the following:

20 "(1) Section 27-1-17.

21 "(2) Chapter 56.

22 "(3) Chapter 54.

23 "(4) Chapter 57.

24 "(5) Chapter 58.

25 "(6) Chapter 59.

26 "(7) Rules promulgated by the Commissioner of
27 Insurance pursuant to Sections 27-7-43 and 27-7-44.

- 1 "(8) Chapter 12A.
- 2 "(9) Chapter 54A.
- 3 "(10) Chapter 2B.
- 4 "(11) Chapter 29.
- 5 "(12) Chapter 62.
- 6 "(13) Chapter 45A."

7 Section 4. Commencing January 1, 2022, a pharmacy
8 benefits manager licensed by the commissioner prior to January
9 1, 2022, shall submit an application for a new license in
10 accordance with subsections (d) of Section 27-45A-4, Code of
11 Alabama 1975. The pharmacy benefits manager's previous license
12 shall expire on the date the commissioner issues a new license
13 or April 1, 2022, whichever occurs earlier.

14 Section 5. This act shall become effective July 1,
15 2021, following its passage and approval by the Governor, or
16 its otherwise becoming law, and shall apply to pharmacy
17 benefits manager contracts on and after October 1, 2021.

1
2
3
4
5
6
7
8
9
10

11
12
13
14
15
16
17

Senate

Read for the first time and referred to the Senate
committee on Banking and Insurance..... 11-FEB-21

Read for the second time and placed on the calen-
dar with 1 substitute and..... 07-APR-21

Read for the third time and passed as amended 08-APR-21

Yeas 31
Nays 0

Patrick Harris,
Secretary.