

HB79 INTRODUCED



1 HB79
2 BWRBQ4J-1
3 By Representative Brown
4 RFD: Health
5 First Read: 04-Feb-25
6 PFD: 06-Jan-25



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SYNOPSIS:

Existing law prohibits the State Board of Medical Examiners and the Medical Licensure Commission from taking action against the license of a physician when the physician recommends or prescribes a medical treatment that is off-label.

This bill would give pharmacists the same protection by prohibiting the Board of Pharmacy from suspending, revoking, or refusing to renew the license of a pharmacist who either recommends the off-label use of a drug or fills a prescription for the off-label use of a drug.

This bill would prohibit any entity that furnishes pharmacy services from terminating or taking adverse action against a pharmacist for recommending the off-label use of a drug or filling a prescription for the off-label use of a drug, and would provide a civil action for a pharmacist who is so terminated or disciplined.

This bill would also prohibit a pharmacy benefits manager from taking any action against a pharmacist or his or her employing pharmacy in retaliation for recommending, or filling a prescription for, the off-label use of a drug.



HB79 INTRODUCED

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A BILL
TO BE ENTITLED
AN ACT

Relating to off-label medical treatment; to prohibit the State Board of Pharmacy or an employer from taking action against a pharmacist who recommends the off-label use of a drug or who dispenses a drug for off-label use on the prescription of a health care professional; to provide a cause of action against an employer who takes action against a pharmacist for recommending or dispensing a drug for off-label use; and to prohibit a pharmacy benefits manager from retaliating against a pharmacist or the employing pharmacy for recommending or dispensing a drug for off-label use.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) For the purposes of this section, the following terms have the following meanings:

- (1) BOARD. The State Board of Pharmacy.
- (2) EMPLOYER. Any person that owns or manages a pharmacy as defined in Section 34-23-1, Code of Alabama 1975, and which retains, supervises, or terminates pharmacists.
- (3) HEALTH CARE PROFESSIONAL. Any of the following individuals:
 - a. A physician licensed to practice medicine in this state.
 - b. An assistant to physician licensed by the State Board of Medical Examiners of the State of Alabama.



HB79 INTRODUCED

57 c. A certified registered nurse practitioner or a
58 certified nurse midwife certified by the Board of Nursing.

59 (4) LICENSE. The same meaning as defined in Section
60 34-23-1, Code of Alabama 1975.

61 (5) OFF-LABEL MEDICAL TREATMENT. The use of a drug,
62 biological product, or device approved by the United States
63 Food and Drug Administration (FDA) in any manner other than
64 the use approved by the FDA.

65 (b) The board may not revoke, suspend, fail to renew,
66 or take any other adverse action against a pharmacist's
67 license based solely on either of the following:

68 (1) The pharmacist's recommendation of an off-label
69 medical treatment for the treatment of a disease, condition,
70 or symptom.

71 (2) The pharmacist's dispensing of a prescription of an
72 off-label medical treatment which is ordered by a health care
73 professional.

74 (c) (1) An employer may not terminate, discipline, or
75 take any other adverse action against an employee pharmacist
76 based solely on either of the following:

77 a. The pharmacist's recommendation of an off-label
78 medical treatment for the treatment of a disease, condition,
79 or symptom.

80 b. The pharmacist's dispensing of a prescription of an
81 off-label medical treatment which is ordered by a health care
82 professional.

83 (2)a. A pharmacist who is terminated or suffers adverse
84 action by his or her employer for recommending or dispensing



HB79 INTRODUCED

85 an off-label medical treatment under subdivision (1) may bring
86 an action for injunctive relief against the employer in the
87 circuit court of the county in which the off-label medical
88 treatment was recommended or dispensed.

89 b. The court in such an action may award injunctive
90 relief, including ordering reinstatement of the pharmacist to
91 his or her job position, back pay, costs of the action, and
92 reasonable attorney fees.

93 Section 2. A pharmacy benefits manager or a PBM
94 affiliate, both as defined in Section 27-45A-3, Code of
95 Alabama 1975, may not penalize or retaliate against a
96 pharmacist or a pharmacist's employing pharmacy for
97 recommending or dispensing a prescription of an off-label
98 medical treatment as defined in Section 1, including, but not
99 limited to, any of the following:

100 (1) Canceling or refusing to renew a contract.

101 (2) Taking legal action for breach of contract.

102 (3) Taking any action otherwise prohibited under
103 Chapter 45A of Title 27, Code of Alabama 1975.

104 (4) Initiating an audit under The Pharmacy Audit
105 Integrity Act, Article 8, Chapter 23, Title 34, Code of
106 Alabama 1975.

107 Section 3. This act shall not apply to the prescribing,
108 administration, or dispensing of any controlled substances, as
109 defined in Section 20-2-2, Code of Alabama 1975.

110 Section 4. This act shall become effective on October
111 1, 2025.