SB345

NR46GJJ-1

By Senator Stutts

RFD: Banking and Insurance

First Read: 05-Mar-26

SYNOPSIS:

This bill would make a change to a pharmacy classification in the law governing the licensing and operation of pharmacy benefits managers.

The current term of "independent pharmacy," referring to a pharmacy classified by the Alabama State Board of Pharmacy as a community pharmacy, would be deleted. In its place, a new term, "unaffiliated pharmacy," would be introduced to refer to a pharmacy that is not affiliated with a pharmacy benefits manager.

A BILL

TO BE ENTITLED

AN ACT

Relating to pharmacies; to amend Section 2 of Act 2025-136, 2025 Regular Session, now appearing as Sections 27-45A-3 and 27-45A-10, Code of Alabama 1975, and Section 3 of Act 2025-136, 2025 Regular Session, now appearing as 27-45A-13, Code of Alabama 1975, to delete the definition of an "independent pharmacy" and add a definition for "unaffiliated pharmacy"; and to make conforming changes.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 2 of Act 2025-136, 2025 Regular Session, now appearing as Sections 27-45A-3 and 27-45A-10, Code of Alabama 1975, and Section 3 of Act 2025-136, 2025 Regular Session, now appearing as 27-45A-13, Code of Alabama 1975, are amended to read as follows:

"§27-45A-3

For purposes of this chapter, the following words have the following meanings:

(1) AFFILIATE or PBM AFFILIATE. An entity, including, but not limited to, a pharmacy, health insurer, or group purchasing organization that directly or indirectly, through one or more intermediaries, has one of the following affiliations:

a. Owns, controls, or has an investment interest in a pharmacy benefits manager.

b. Is owned, controlled by, or has an investment interest holder who is a pharmacy benefits manager.

c. Is under common ownership or corporate control with a pharmacy benefits manager.

(2) CLAIMS PROCESSING SERVICES. The administrative services performed in connection with the processing and adjudicating of claims relating to pharmacist services that include any of the following:

a. Receiving payments for pharmacist services.

b. Making payments to pharmacists or pharmacies for pharmacist services.

c. Both paragraphs a. and b.

(3) COVERED INDIVIDUAL. A member, policyholder,

subscriber, enrollee, beneficiary, dependent, or other individual participating in a health benefit plan.

(4) HEALTH BENEFIT PLAN. A policy, contract, certificate, or agreement entered into, offered, or issued by a health insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of physical, mental, or behavioral health care services, including pharmaceutical services.

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

(6) ~~INDEPENDENT PHARMACY. A pharmacy as defined in Section 34-23-1 located in the state which holds an active permit from the Alabama State Board of Pharmacy and is classified by the Alabama State Board of Pharmacy as a community pharmacy.~~

~~(7)~~ IN-NETWORK or NETWORK. A network of pharmacists or pharmacies that are paid for pharmacist services pursuant to

an agreement with a health benefit plan or a pharmacy benefits manager.

~~(8)~~ (7) MEDICAID REIMBURSEMENT RATE. The total payment amount for an outpatient drug dispensed by a pharmacy as set by rule adopted by the Alabama Medicaid Agency which is in effect on April 15, 2025.

~~(9)~~ (8) OTHER PRESCRIPTION DRUG OR DEVICE SERVICES. Services, other than claims processing services, provided directly or indirectly, whether in connection with or separate from claims processing services, including, but not limited to, any of the following:

a. Negotiating rebates with drug companies.

b. Disbursing or distributing rebates.

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

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

e. Developing formularies.

f. Designing prescription benefit programs.

g. Advertising or promoting services.

~~(10)~~ (9) PHARMACIST. As defined in Section 34-23-1.

~~(11)~~ (10) PHARMACIST SERVICES. Products, goods, and services, or any combination of products, goods, and services, provided as a part of the practice of pharmacy.

~~(12)~~ (11) PHARMACY. As defined in Section 34-23-1.

~~(13)~~ (12) PHARMACY BENEFITS MANAGER. a. A person, including a wholly or partially owned or controlled subsidiary of a pharmacy benefits manager, that provides claims

processing services or other prescription drug or device services, or both, to covered individuals who are employed in or are residents of this state, for health benefit plans. The term includes any person that administers a prescription discount program directly for or on behalf of a pharmacy benefits manager or health benefit plan for drugs to covered individuals which are not reimbursed by a pharmacy benefits manager or are not covered by a health benefit plan.

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

1. A health care facility licensed in this state.

2. A health care professional licensed in this state.

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

~~(14)~~ (13) PRESCRIPTION DRUGS. Includes, but is not limited to, certain infusion, compounded, and long-term care prescription drugs. The term does not include specialty drugs.

~~(15)~~ (14) REBATE. Any payments or price concessions that accrue to a pharmacy benefits manager or its health benefit plan client, directly or indirectly, including through its PBM affiliate or its subsidiary, third party, or intermediary, including an off-shore purchasing organization, from a pharmaceutical manufacturer or its affiliate, subsidiary, third party, or intermediary. The term includes, but is not limited to, payments, discounts, administration fees, credits, incentives, or penalties associated, directly or indirectly, in any way with claims administered on behalf of a health benefit plan.

~~(16)~~ (15) SPECIALTY DRUGS. Prescription medications that require special handling, administration, or monitoring and are used for the treatment of patients with serious health conditions requiring complex therapies, and that are eligible for specialty tier placement by the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R. § 423.560.

~~(17)~~ (16) SPREAD PRICING. A prescription drug pricing model used by a pharmacy benefits manager in which the pharmacy benefits manager charges a health benefit plan a contracted price for a prescription drug which is higher than the amount the pharmacy benefits manager pays the pharmacy for the prescription drug.

~~(18)~~ (17) STEERING. The term includes all of the following practices by a pharmacy benefits manager:

a. Directing, ordering, or requiring a covered individual to use a specific pharmacy, including a PBM affiliate pharmacy, for the purpose of filling a prescription or receiving pharmacist services.

b. Inducing a covered individual to use a designated pharmacy, including a PBM affiliate pharmacy, by increasing costs to the health benefit plan or charging the covered individual up to the full cost for a prescription drug if the covered individual fails to use the pharmacy designated by the pharmacy benefits manager.

c. Advertising, marketing, or promoting a pharmacy, including a PBM affiliate pharmacy, over another in-network pharmacy.

d. Engaging in any practice that results in excluding,

restricting, or inhibiting an in-network pharmacy from providing prescription drugs to beneficiaries under a health benefit plan, which may involve, but not be limited to, the use of credentialing or accreditation standards, day supply limitations, or delivery method limitations.

e. Engaging in any practice aimed at directly or indirectly influencing a pharmaceutical manufacturer to limit its distribution of a prescription drug to certain pharmacies or to restrict distribution of the drug to non-PBM affiliate pharmacies.

(18) UNAFFILIATED PHARMACY. A pharmacy that is not a PBM affiliate."

"§27-45A-10

With respect to a pharmacist or pharmacy, a pharmacy benefits manager, directly or through an affiliate or a contracted third party, may not do any of the following:

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

(2) Practice spread pricing in this state unless required under the health benefit plan. If spread pricing is practiced pursuant to the health benefit plan, the pharmacy benefits manager shall submit an annual report to the commissioner which discloses the differences between the amount the health benefit plan is charged and the amount network pharmacies are reimbursed.

(3) Deny a pharmacy or pharmacist the right to participate as a network provider if the pharmacy or pharmacist meets and agrees to the terms and conditions, including reimbursements, in the pharmacy benefits manager's contract, including an ~~independent~~unaffiliated pharmacy that qualifies for reimbursement at the minimum rate established in Section 27-45A-13(a)(1), notwithstanding any term to the contrary in the pharmacy benefits manager's contract.

(4) Impose credentialing standards on a pharmacist or pharmacy beyond or more onerous than the licensing standards set by the Alabama State Board of Pharmacy or charge a pharmacy or pharmacist any fee in regard to, without limitation, network enrollment, network participation, credentialing or recredentialing, change of ownership, submission of claims, transmission of claims, adjudication of claims, claims processed through discount card programs, or otherwise, if not in conjunction with an audit conducted pursuant to Article 8, Chapter 23, Title 34~~;~~, provided~~, however,~~ this subdivision shall not prohibit a pharmacy benefits manager from setting minimum requirements for participating in a pharmacy network.

(5) Prohibit a pharmacist or pharmacy from providing a covered individual with any relevant information about a prescription drug, including the following:

a. The cost and reimbursement amount of the drug.

b. An alternative drug.

c. Any other information considered to be necessary in the professional judgment of the pharmacist.

(6) Prohibit a pharmacist or pharmacy from offering and providing delivery services to a covered individual as an ancillary service of the pharmacy, provided all of the following requirements are met:

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

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

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

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

(8) Charge a pharmacist or pharmacy a point-of-sale or retroactive fee or otherwise recoup funds from a pharmacy in connection with claims for which the pharmacy has already been paid, unless the recoupment is made pursuant to an audit conducted in accordance with Article 8, Chapter 23, Title 34.

(9) Except for a drug reimbursed, directly or indirectly, by the Medicaid program, vary the amount a pharmacy benefits manager reimburses an entity for a drug, including each and every prescription medication that is

eligible for specialty tier placement by the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R. § 423.560, regardless of any provision of law to the contrary, on the basis of whether:

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

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

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

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

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

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

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

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

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

(12) Penalize or retaliate against a pharmacist or pharmacy for exercising rights under this chapter or Article 8, Chapter 23, Title 34. For purposes of this subdivision, the

conduct prohibited includes any written or verbal communication that a reasonable individual would construe as a threat of penalty or retaliation received before or in the course of exercising rights under this chapter or Article 8, Chapter 23, Title 34.

(13) Prohibit a pharmacist or pharmacy from declining to dispense a drug to a covered individual, or directing a covered individual to another pharmacy, if the reimbursement amount would be lower than the dispensing cost of the pharmacist or pharmacy.

(14) Take retaliatory action against, or impose any penalty on, a pharmacist or pharmacy who declines to dispense a drug to a covered individual under subdivision (13), including cancellation or nonrenewal of a contract, or suit for breach of contract."

"§27-45A-13

(a) Notwithstanding any other provision of this chapter or any form of a contract to the contrary, with respect to an ~~independent~~unaffiliated pharmacy, a pharmacy benefits manager, directly or through an affiliate or a contracted third party, may not do any of the following:

(1) Reimburse for dispensing a prescription drug in an amount that is less than the Medicaid reimbursement rate.

(2) Impose a fee or otherwise adjust or lower the reimbursement of a drug at the time the claim is adjudicated, or after the claim is adjudicated, that in any way reduces the amount of reimbursement for the drug as regulated pursuant to subdivision (1).

(3) Increase a covered individual's cost-sharing percentage or ratio at or after the point of sale by raising the deductible, copayment, or coinsurance, or by requiring any other out-of-pocket payment as a means to recoup the dispensing cost portion of the reimbursement required pursuant to subdivision (1).

(4) Reject payment of a claim for a drug that is submitted by an ~~independent~~unaffiliated pharmacy when the drug is available to a covered individual at a different in-network pharmacy; provided, however, if the drug is dispensed by the different in-network pharmacy, the pharmacy benefits manager shall pay the ~~independent~~unaffiliated pharmacy a surcharge equal to the reimbursement that would have been paid pursuant to subdivision (1) had the ~~independent~~unaffiliated pharmacy dispensed the drug.

(b) A health benefit plan that covers individuals who are public employees and that reimburses ~~independent~~unaffiliated pharmacies for dispensing prescription drugs during its plan year in an aggregate amount that is higher than would otherwise be calculated using the rate set in subdivision (a)(1), upon proof of the same submitted to the commissioner, shall be exempt from this section.

Section 2. This act shall become effective on June 1, 2026.