

1 SB227  
2 212711-4  
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

1 SB227

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3  
4 ENROLLED, An Act,

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

1 10A-20-6.16 and 27-21A-23, Code of Alabama 1975, to subject  
2 certain health insurers to the pharmacy benefits manager laws.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

8 "§27-45A-3.

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

11 "(1) CLAIMS PROCESSING SERVICES. The administrative  
12 services performed in connection with the processing and  
13 adjudicating of claims relating to pharmacist services that  
14 include any of the following:

15 "a. Receiving payments for pharmacist services.

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

18 "c. Both paragraphs a. and b.

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

22 "(3) HEALTH BENEFIT PLAN. A policy, contract,  
23 certificate, or agreement entered into, offered, or issued by  
24 a health insurer to provide, deliver, arrange for, pay for, or

1 reimburse any of the costs of physical, mental, or behavioral  
2 health care services.

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

15 "~~(2)~~(5) OTHER PRESCRIPTION DRUG OR DEVICE SERVICES.  
16 Services, other than claims processing services, provided  
17 directly or indirectly, whether in connection with or separate  
18 from claims processing services, including ~~without limitation,~~  
19 but not limited to, any of the following:

20 "a. Negotiating rebates, discounts, or other  
21 financial incentives and arrangements with drug companies.

22 "b. Disbursing or distributing rebates.

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

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

3 "e. Developing formularies.

4 "f. Designing prescription benefit programs.

5 "g. Advertising or promoting services.

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

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

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

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

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

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

3           "2. A healthcare professional licensed in ~~Alabama~~  
4 this state.

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

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

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

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

20           "§27-45A-4.

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

25 ~~To~~

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

4           "a.(1) A nonrefundable fee not to exceed five  
5 hundred dollars (\$500).

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

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

10           "1.a. The name and address of the licensee.

11           "2.b. The name, address, and official position of an  
12 employee who will serve as the primary contact for the  
13 Department of Insurance.

14           "3.c. Any additional contact information deemed  
15 appropriate by the commissioner or reasonably necessary to  
16 verify the information contained in the application.

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

23           "(c) Not later than January 1, 2022, the  
24 commissioner shall adopt rules for licensure of pharmacy

1 benefits managers to operate in this state. The rules shall  
2 establish all of the following:

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

4 "(2) Requirements for licensure.

5 "(3) Reporting requirements.

6 "(4) A fee schedule for a non-refundable application  
7 fee and a nonrefundable license renewal fee, set to allow the  
8 regulation and oversight activities of the department to be  
9 self-supporting.

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

14 "(e) The commissioner may refuse to issue or renew a  
15 license if the commissioner determines that the applicant has  
16 been found to have violated this chapter or the insurance laws  
17 of this state or any other jurisdiction, or has had an  
18 insurance or other certificate of authority or license denied  
19 or revoked for cause by any jurisdiction.

20 ~~"(3)(f) Upon receipt of a completed licensure form~~  
21 ~~and the licensure fee, the commissioner shall issue a~~ Unless  
22 denied licensure pursuant to subsection (e), a person who  
23 meets the requirements of this chapter and rules adopted by  
24 the commissioner shall be issued a pharmacy benefits manager  
25 license. The license may be in paper or electronic form and



1 shall clearly indicate the expiration date of the ~~licensure~~  
2 license. Licenses are nontransferable. Notwithstanding any  
3 provision of law to the contrary, the ~~licensure form~~  
4 application and license shall be public records.

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

13 "(h) A licensee shall inform the commissioner by any  
14 means acceptable to the commissioner of any material change in  
15 the information required by this section or rules adopted  
16 pursuant to this section within 30 days of the change. Failure  
17 to timely inform the commissioner of a change shall result in  
18 a penalty against the licensee in the amount of fifty dollars  
19 (\$50).

20 "(i) The commissioner may suspend or revoke a  
21 license or may impose civil penalties for a violation of this  
22 chapter or the insurance laws of this state or any other  
23 jurisdiction, as determined by the commissioner in accordance  
24 with rules adopted by the commissioner, provided a pharmacy  
25 benefits manager shall have the same rights as insurers to

1 request a hearing in accordance with Sections 27-2-28, et seq.  
2 and to appeal as provided in Section 27-2-32.

3 "(j) Unless surrendered, suspended, or revoked by  
4 the commissioner, a license issued under this section shall  
5 remain valid as long as the pharmacy benefits manager  
6 continues to do business in this state and remains in  
7 compliance with this chapter and applicable rules, including  
8 the payment of an annual license renewal fee as set forth in  
9 subsection (g).

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

22 "(l) (1) Fees collected pursuant to this section  
23 shall be deposited in the State Treasury to the credit of the  
24 Insurance Department Fund.

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

4           "~~§27-45A-5.~~

5           "~~(a) A pharmacy or pharmacist may provide a covered~~  
6 ~~person with information regarding the amount of the covered~~  
7 ~~person's cost share for a prescription drug. Neither a~~  
8 ~~pharmacy nor a pharmacist shall be proscribed by a pharmacy~~  
9 ~~benefits manager from discussing any such information or for~~  
10 ~~selling a more affordable alternative to the covered person if~~  
11 ~~such an alternative is available.~~

12           "~~(b) A health benefit plan that covers prescription~~  
13 ~~drugs may not include a provision that requires an enrollee to~~  
14 ~~make a payment for a prescription drug at the point of sale in~~  
15 ~~an amount that exceeds the lesser of: (1) the contracted~~  
16 ~~co-payment amount; or (2) the amount an individual would pay~~  
17 ~~for a prescription if that individual were paying with cash.~~

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

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

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

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

3           "(a) The commissioner may adopt rules necessary to  
4 implement this chapter.

5           "(b) The powers and duties set forth in this chapter  
6 shall be in addition to all other authority of the  
7 commissioner.

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

10          "(d) (1) The commissioner may examine or audit any  
11 books and records of a pharmacy benefits manager providing  
12 claims processing services or other prescription drug or  
13 device services for a health benefit plan as may be deemed  
14 relevant and necessary by the commissioner to determine  
15 compliance with this chapter.

16          "(2) Examinations conducted by the commissioner  
17 shall be pursuant to the same examination authority of the  
18 commissioner relative to insurers as provided in Chapter 2,  
19 including, but not limited to, the confidentiality of  
20 documents and information submitted as provided in Section  
21 27-2-24; examination expenses shall be processed in accordance  
22 with Section 27-2-25; and pharmacy benefits managers shall  
23 have the same rights as insurers to request a hearing in  
24 accordance with Sections 27-2-28, et seq., and to appeal as  
25 provided in Section 27-2-32.

1           ~~"(e) The commissioner's examination expenses shall~~  
2 ~~be collected from pharmacy benefits managers in the same~~  
3 ~~manner as those collected from insurers.~~

4           ~~"§27-45A-6.~~

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

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

12           ~~"(c) The fees collected pursuant to this chapter~~  
13 ~~shall be deposited in the State Treasury to the credit of the~~  
14 ~~Insurance Department Fund. Any civil fine or penalty collected~~  
15 ~~shall be deposited in the State Treasury to the credit of the~~  
16 ~~State General Fund.~~

17           ~~"(a) Nothing in this chapter is intended or shall be~~  
18 ~~construed to do any of the following:~~

19           ~~"(1) Be in conflict with existing relevant federal~~  
20 ~~law.~~

21           ~~"(2) Apply to any specialty drug.~~

22           ~~"(3) Impact the ability of a hospital to mandate its~~  
23 ~~employees use of a hospital-owned pharmacy.~~

24           ~~"(b) The following provisions shall not apply to the~~  
25 ~~administration by a person of any term, including prescription~~

1 drug benefits, of a self-funded health benefit plan that is  
2 governed by the federal Employee Retirement Income Security  
3 Act of 1974, 29 U.S.C. §1001 et. seq.:

4 "(1) Subdivisions (1) and (5) of Sections 27-45A-8.

5 "(2) Subdivisions (2), (3), (6), and (7) of Section  
6 27-45A-10."

7 "§27-45A-7.

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

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

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

18 [RESERVED]

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

22 §27-45A-8.

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

1           (1) Require a covered individual, as a condition of  
2 payment or reimbursement, to purchase pharmacist services,  
3 including, but not limited to, prescription drugs, exclusively  
4 through a mail-order pharmacy or pharmacy benefits manager  
5 affiliate.

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

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

22           (4)a. Use a covered individual's pharmacy services  
23 data collected pursuant to the provision of claims processing  
24 services for the purpose of soliciting, marketing, or

1 referring the covered individual to a mail-order pharmacy or  
2 PBM affiliate.

3 b. This subdivision shall not limit a health benefit  
4 plan's use of pharmacy services data for the purpose of  
5 administering the health benefit plan.

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

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

18 a. The contracted cost share amount.

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

21 §27-45A-9.

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

24 (b) If requested by a client under subsection (d), a  
25 pharmacy benefits manager shall prepare an annual report by



1 June 1 which discloses all of the following with respect to  
2 that client:

3 a. The aggregate amount of all rebates that the  
4 pharmacy benefits manager received from pharmaceutical  
5 manufacturers on behalf of the client.

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

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

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

24 (d) A pharmacy benefits manager shall annually  
25 notify all its clients in a timely manner that a report

1 described in subsection (b) will be made available to the  
2 client by the pharmacy benefits manager if requested by the  
3 client.

4 §27-45A-10.

5 A pharmacy benefits manager may not do any of the  
6 following:

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

12 (2) Deny a pharmacy or pharmacist the right to  
13 participate as a contract provider if the pharmacy or  
14 pharmacist meets and agrees to the terms and conditions,  
15 including reimbursements, in the pharmacy benefits manager's  
16 contract.

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

24 (4) Prohibit a pharmacist or pharmacy from providing  
25 a covered individual specific information on the amount of the

1 covered individual's cost share for the covered individual's  
2 prescription drug and the clinical efficacy of a more  
3 affordable alternative drug if one is available, or penalize a  
4 pharmacist or pharmacy for disclosing this information to a  
5 covered individual or for selling to a covered individual a  
6 more affordable alternative if one is available.

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

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

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

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

21 (6) Charge or hold a pharmacist or pharmacy  
22 responsible for a fee or penalty relating to an audit  
23 conducted pursuant to The Pharmacy Audit Integrity Act,  
24 Article 8 of Chapter 23 of Title 34, provided this prohibition

1 does not restrict recoupments made in accordance with the  
2 Pharmacy Audit Integrity Act.

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

8 (8) Except for a drug reimbursed, directly or  
9 indirectly, by the Medicaid program, vary the amount a  
10 pharmacy benefits manager reimburses an entity for a drug,  
11 including each and every prescription medication that is  
12 eligible for specialty tier placement by the Centers for  
13 Medicare and Medicaid Services pursuant to 42 C.F.R. §  
14 423.560, regardless of any provision of law to the contrary,  
15 on the basis of whether:

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

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

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

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

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

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

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

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

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

13           (11) Penalize or retaliate against a pharmacist or  
14 pharmacy for exercising rights under this chapter or the  
15 Pharmacy Audit Integrity Act.

16           §27-45A-11.

17           A pharmacy benefits manager may not knowingly make a  
18 material misrepresentation to a covered individual,  
19 pharmacist, or pharmacy.

20           §27-45A-12.

21           A pharmacist or pharmacy that participates in a  
22 health benefit plan's pharmacy network shall process a  
23 prescription drug using the pharmacy benefits of the covered  
24 individual if failure to do so will result in a higher  
25 out-of-pocket cost to the covered individual.

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

3           "§10A-20-6.16.

4           "(a) No statute of this state applying to insurance  
5 companies shall be applicable to any corporation organized  
6 under this article and amendments thereto or to any contract  
7 made by the corporation; except the corporation shall be  
8 subject to the following:

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

11           "(2) Chapter 55 of Title 27.

12           "(3) Article 2 and Article 3 of Chapter 19 of Title  
13 27.

14           "(4) Section 27-1-17.

15           "(5) Chapter 56 of Title 27.

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

18           "(7) Chapter 54 of Title 27.

19           "(8) Chapter 57 of Title 27.

20           "(9) Chapter 58 of Title 27.

21           "(10) Chapter 59 of Title 27.

22           "(11) Chapter 54A of Title 27.

23           "(12) Chapter 12A of Title 27.

24           "(13) Chapter 2B of Title 27.

25           "(14) Chapter 29 of Title 27.

1           "(15) Chapter 62 of Title 27.

2           "(16) Chapter 45A of Title 27.

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

8           "§27-21A-23.

9           "(a) Except as otherwise provided in this chapter,  
10 provisions of the insurance law and provisions of health care  
11 service plan laws shall not be applicable to any health  
12 maintenance organization granted a certificate of authority  
13 under this chapter. This provision shall not apply to an  
14 insurer or health care service plan licensed and regulated  
15 pursuant to the insurance law or the health care service plan  
16 laws of this state except with respect to its health  
17 maintenance organization activities authorized and regulated  
18 pursuant to this chapter.

19           "(b) Solicitation of enrollees by a health  
20 maintenance organization granted a certificate of authority  
21 shall not be construed to violate any provision of law  
22 relating to solicitation or advertising by health  
23 professionals.

24           "(c) Any health maintenance organization authorized  
25 under this chapter shall not be deemed to be practicing

1 medicine and shall be exempt from the provisions of Section  
2 34-24-310, et seq., relating to the practice of medicine.

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

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

12 "(f) Notwithstanding the provisions of subsection  
13 (a), a health maintenance organization shall be subject to all  
14 of the following:

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

16 "(2) Chapter 56.

17 "(3) Chapter 54.

18 "(4) Chapter 57.

19 "(5) Chapter 58.

20 "(6) Chapter 59.

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

23 "(8) Chapter 12A.

24 "(9) Chapter 54A.

25 "(10) Chapter 2B.



1           "(11) Chapter 29.

2           "(12) Chapter 62.

3           "(13) Chapter 45A."

4           Section 4. Commencing January 1, 2022, a pharmacy  
5           benefits manager licensed by the commissioner prior to January  
6           1, 2022, shall submit an application for a new license in  
7           accordance with subsections (d) of Section 27-45A-4, Code of  
8           Alabama 1975. The pharmacy benefits manager's previous license  
9           shall expire on the date the commissioner issues a new license  
10          or April 1, 2022, whichever occurs earlier.

11          Section 5. This act shall become effective July 1,  
12          2021, following its passage and approval by the Governor, or  
13          its otherwise becoming law, and shall apply to pharmacy  
14          benefits manager contracts on and after October 1, 2021.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB227

Senate 08-APR-21

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,  
Secretary.

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House of Representatives  
Amended and passed 29-APR-21

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Senate concurred in House amendment 29-APR-21

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By: Senator Butler