

1 HB494
2 165383-3
3 By Representative Johnson (R)
4 RFD: Health
5 First Read: 14-APR-15

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8 SYNOPSIS: This bill would authorize the collaborative
9 practice of pharmacy with a collaborating physician
10 through drug therapy management. The bill would
11 define Collaborative Drug Therapy Management
12 Agreements and would authorize the State Board of
13 Pharmacy and the State Board of Medical Examiners
14 to regulate and adopt rules for the practice of
15 collaborative drug therapy management.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To authorize the collaborative practice of drug
22 therapy management; to define drug therapy management
23 agreements; to authorize the State Board of Pharmacy and the
24 State Board of Medical Examiners to regulate and adopt rules
25 for collaborative drug therapy management; and for this
26 purpose to add Article 8 to Chapter 23 of Title 34, Code of
27 Alabama 1975.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Article 8 commencing at Section
3 34-23-200, is added to Chapter 23, Code of Alabama 1975, to
4 read as follows:

5 Article 8 COLLABORATIVE DRUG THERAPY MANAGEMENT
6 §34-23-200.

7 This article shall be known and may be cited as the
8 Collaborative Drug Therapy Management Act.

9 §34-23-201.

10 The Legislature of this state declares that the
11 recognition and regulation of collaborative practices between
12 licensed physicians and pharmacists is essential to protect
13 and maintain the public health and safety through
14 collaborative drug therapy management.

15 §34-23-202.

16 As used in this article, the following terms shall
17 have the following meanings:

18 (1) BOARD OF MEDICAL EXAMINERS. The State Board of
19 Medical Examiners established in Section 34-24-53.

20 (2) BOARD OF PHARMACY. The State Board of Pharmacy
21 established in Section 34-23-90.

22 (3) COLLABORATIVE DRUG THERAPY MANAGEMENT. A
23 practice designed to provide patient care services to achieve
24 optimal medication use and desired patient outcomes through a
25 collaborative relationship between an authorized pharmacist
26 and an authorized physician who enter into a collaborative
27 drug therapy management agreement based on required written

1 protocols approved or exempted in accordance with the
2 requirements of this article.

3 (4) COLLABORATIVE DRUG THERAPY MANAGEMENT AGREEMENT.

4 A written and signed agreement evidencing a formal
5 relationship between an authorized pharmacist and an
6 authorized physician which provides for collaborative drug
7 therapy management for the purpose of conducting medication
8 therapy management activities as authorized by this article
9 and approved by the Board of Medical Examiners and the Board
10 of Pharmacy that shall include required written protocols.

11 (5) JOINT COMMITTEE. The Joint Committee for
12 Collaborative Drug Therapy Management appointed pursuant to
13 this act.

14 (6) PHARMACIST. A pharmacist as defined in
15 subdivision (17) of Section 34-23-1.

16 (7) PHARMACY. A pharmacy as defined in subdivision
17 (18) of Section 34-23-1.

18 (8) PHYSICIAN. A doctor of medicine or a doctor of
19 osteopathy licensed to practice medicine in the State of
20 Alabama.

21 (9) PRESCRIPTION. Any order for drug or medical
22 supplies, written or signed or transmitted by word of mouth,
23 telephone, telegraph, closed circuit television, or other
24 means of communication by a legally competent practitioner,
25 licensed by law to prescribe and administer such drugs and
26 medical supplies intended to be filled, compounded, or
27 dispensed by a pharmacist.

1 (10) PROTOCOL. A written plan signed by the
2 collaborating physician approved in accordance with Sections
3 34-23-205 and 34-23-206 establishing the permissible drug
4 therapy management plans that may be performed by a pharmacist
5 pursuant to a collaborative drug therapy management agreement.
6 §34-23-203.

7 (a) The Joint Committee for Collaborative Drug
8 Therapy Management is created. The committee shall be composed
9 of the following:

10 (1) Three physicians licensed to practice medicine
11 in this state nominated and appointed in accordance with this
12 section.

13 (2) Three pharmacists licensed to practice pharmacy
14 in this state nominated and appointed in accordance with this
15 section.

16 (b) The physician members of the joint committee
17 shall be nominated by the Medical Association of Alabama or
18 its successor organization and, if approved by the Board of
19 Medical Examiners, shall be appointed by the Board of Medical
20 Examiners for three places. One of these members shall be a
21 physician practicing in a primary care setting. All members
22 shall serve three-year terms as set out below. Nominations
23 shall be submitted no less than 90 days prior to the end of
24 the term of the member whose term is expiring. If a nomination
25 is not approved by the Board of Medical Examiners, the Board
26 of Medical Examiners shall request a replacement nominee from
27 the nominating organization.

1 (c) The pharmacist members of the joint committee
2 shall be nominated by the Alabama Pharmacy Association or its
3 successor organization and, if approved shall be appointed by
4 the Board of Pharmacy for three places. One of the pharmacists
5 shall be a pharmacist practicing in an institutional or health
6 system setting. The members shall serve three-year terms as
7 set out below. Nominations shall be submitted no less than 90
8 days prior to the end of the term of the member whose term is
9 expiring. If the nomination is not approved by the Board of
10 Pharmacy, the Board of Pharmacy shall request a replacement
11 nominee from the nominating organization.

12 (d) In order to stagger the terms of office, the
13 Board of Pharmacy and the Board of Medical Examiners shall
14 each appoint to the initial joint committee one member for a
15 term of one year, one member for a term of two years, and one
16 member for a term of three years.

17 (e) If a vacancy occurs on the committee, a
18 successor shall be appointed to serve the unexpired term using
19 the same process in this section.

20 (f) The joint committee shall select one of its
21 members to serve as chair for a one-year term. The office of
22 chair shall alternate between a physician member and a
23 pharmacist member.

24 (g) A members of the joint committee shall serve
25 until his or her successor is approved and appointed by the
26 respective boards.

1 (h) The joint committee shall meet annually or more
2 frequently if requested by the Board of Medical Examiners or
3 the Board of Pharmacy or upon the call of the chair of the
4 joint committee.

5 (i) The Board of Medical Examiners and the Board of
6 Pharmacy shall furnish necessary clerical support for
7 operation of the joint committee. The Board of Pharmacy shall
8 maintain records related to the business of the joint
9 committee.

10 §34-23-204.

11 (a) (1) The joint committee shall be the state
12 authority designated to recommend rules to the Board of
13 Medical Examiners and the Board of Pharmacy for the purpose of
14 regulating the collaborative drug therapy management of
15 physicians and pharmacists. Except for the exemptions provided
16 herein, the joint committee shall recommend to the Board of
17 Medical Examiners and the Board of Pharmacy rules designed to
18 govern the collaboration between physicians and pharmacists.
19 The joint committee shall also recommend model practice
20 protocols to be used for collaborative drug therapy
21 management, subject to approval by both the Board of Medical
22 Examiners and the Board of Pharmacy.

23 (2) The joint committee shall also recommend rules
24 to establish any limit to the number of physicians with which
25 a pharmacist may collaborate subject to exceptions provided in
26 the rules. The joint committee shall also recommend rules that
27 establish the manner in which a collaborating physician may

1 designate a covering physician when the physician is
2 temporarily unavailable as the collaborating physician.

3 (b) Notwithstanding the authority designated to the
4 joint committee, the pharmacy and therapeutics committee or
5 other medical oversight committee of an institution
6 functioning under an Institutional Pharmacy Permit issued by
7 the Board of Pharmacy shall determine the scope and extent of
8 collaborative drug therapy management practices performed by
9 individual pharmacists practicing at the hospital as defined
10 in subdivision (7) of Section 34-23-1. The permitted hospital
11 shall be exempt from filing agreements and protocols through
12 the joint committee. In the absence of a medical oversight
13 committee at a facility functioning under an Institutional
14 Pharmacy Permit issued by the Board of Pharmacy, collaborative
15 drug therapy management practices at that institution shall be
16 governed by this article.

17 §34-23-205.

18 The Board of Medical Examiners shall be the sole
19 state authority designated to establish the qualifications,
20 oversight, and management of those physicians who may be
21 engaged in collaboration with pharmacies or pharmacists, the
22 required protocols for collaboration, and the collaborative
23 drug therapy management agreements. The Board of Medical
24 Examiners may adopt rules to accomplish the purposes of this
25 section in consultation with the joint committee.

26 §34-23-206.

1 The Board of Pharmacy shall be the sole state
2 authority designated to establish the qualifications,
3 oversight, and management of those pharmacists who may be
4 engaged in collaboration with physicians and the collaborative
5 drug therapy management agreements. The Board of Pharmacy may
6 adopt rules to accomplish the purposes of this section in
7 consultation with the joint committee.

8 §34-23-207.

9 (a) An authorized physician and a pharmacist
10 permitted to participate in collaborative drug therapy
11 management pursuant to the rules established under Section
12 34-23-205 and Section 34-23-206 may enter into collaborative
13 drug therapy management agreement with written protocols
14 signed by the collaborating physician and may do all of the
15 following:

16 (1) Order drug therapy-related laboratory tests.

17 (2) Administer drugs.

18 (3) Monitor, renew, and adjust drug regimens to
19 evaluate and improve outcomes of medication use in patients
20 under the physician's care.

21 (4) Follow protocols approved in the manner
22 prescribed by this article.

23 (b) Notwithstanding the collaborative drug therapy
24 management authority set forth in this article or as otherwise
25 permitted by law, a collaborating pharmacist is not authorized
26 to independently prescribe.

1 (c) Any physician or pharmacist who is denied the
2 authorization to participate in a collaborative drug therapy
3 management agreement pursuant to this article shall be
4 entitled to a fair hearing before the joint committee. In the
5 event the joint committee cannot resolve the appeal of the
6 denial by a majority vote, the applicant shall have the right
7 to a final review to an appeals committee comprised of the
8 president of the Board of Medical Examiners, the president of
9 the Board of Pharmacy, and the State Health Officer. The
10 appeals committee shall issue a final and binding ruling.

11 §34-23-208.

12 To ensure the protection of the public's health and
13 general welfare, a pharmacy or pharmacist may continue to
14 administer immunizations for the general population through a
15 collaborative drug therapy management agreement with a
16 physician under written protocols signed by the physician. The
17 agreements shall not be required to be submitted to the joint
18 committee for review or approval. A pharmacist, at the
19 direction of the medical officer of the Department of Public
20 Health, may issue prescriptions for other infectious disease
21 therapies the Alabama Department of Public Health determines
22 necessary to prevent or mitigate disease outbreaks. Nothing in
23 this article shall prohibit a pharmacist from responding
24 during times of state-declared public health emergencies
25 declared by the Governor.

26 §34-23-209.

1 The following acts shall constitute grounds for the
2 termination by the Board of Pharmacy of a pharmacist's
3 qualification or authority to engage in a collaborative
4 pharmacy practice pursuant to this article and for the
5 termination of the approval of the Board of Medical Examiners
6 of the collaborating practice of a physician pursuant to this
7 article, or both:

8 (1) Prescribing in violation of this article or the
9 rules of the Board of Medical Examiners.

10 (2) For a pharmacist to engage in any act or render
11 any services not authorized in a protocol provided for
12 pursuant to this article or for a physician to require or to
13 knowingly permit or condone the unauthorized act.

14 (3) Failure on the part of a pharmacist to maintain
15 current permits or licensure, or both, with the Board of
16 Pharmacy or failure of a physician to maintain current
17 licensure with the Board of Medical Examiners or Medical
18 Licensure Commission.

19 (4) The commission of any act by a pharmacist which
20 would constitute a violation of Section 34-23-33 or any act by
21 a physician which would constitute a violation of Section
22 34-24-360.

23 §34-23-210.

24 The Board of Pharmacy or Board of Medical Examiners
25 may initiate appropriate disciplinary actions against a
26 pharmacist or physician, respectively, for violations of
27 Section 34-23-207. Before either board takes disciplinary

1 action, the appropriate board shall give notice to the
2 licensee of the proposed action and an opportunity for a
3 hearing before the respective board. All hearings shall be
4 governed by the Alabama Administrative Procedure Act.

5 §34-23-211.

6 No person shall engage in collaborative drug therapy
7 management in any of the acts or functions described in this
8 article and the rules adopted under this article in this state
9 unless that person is authorized by the Board of Pharmacy and
10 is practicing in collaboration with a physician authorized by
11 the Board of Medical Examiners following written protocols
12 signed by the collaborating physician which have been approved
13 in accordance with this article or has been exempted from the
14 requirement of practicing in collaboration with a physician
15 following protocols established under Section 34-23-204,
16 34-23-205, 34-23-206, or 34-23-208, as appropriate.

17 §34-23-212.

18 In addition to the powers and duties otherwise
19 expressed in this article, the Board of Medical Examiners and
20 the Board of Pharmacy may commence and maintain in their own
21 names in any circuit court having jurisdiction of any person
22 within this state who is unlawfully engaging in collaborative
23 drug therapy management in the nature of quo warranto as
24 provided for in Section 6-6-590, et seq., to order the person
25 to cease and desist from continuing to engage in collaborative
26 drug therapy management within this state, and jurisdiction is
27 conferred upon the circuit courts of this state to hear and

1 determine the cases. The boards may commence and maintain the
2 actions without the filing of bond or security and without the
3 order or direction of a circuit judge. An injunction shall be
4 issued upon proof that the person is now engaged in
5 collaborative drug therapy management in violation of this
6 article without requiring proof of actual damage sustained by
7 any person. In any case of violation of any injunction issued
8 under this section, the court or any judge thereof may
9 summarily try and punish the offender for contempt of court.
10 Injunctive proceedings as authorized in this section shall be
11 in addition to, and not in lieu of, all penalties and other
12 remedies prescribed by law.

13 Section 2. All laws or parts of laws which conflict
14 with this act are repealed.

15 Section 3. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.