4/25 2:35P

Chapter No. 541
13/HR40/R1886SG
gg / p

HOUSE BILL NO. 777

Originated in House _____ Clerk

HOUSE BILL NO. 777

AN ACT TO AMEND SECTIONS 73-21-83, 73-21-91, 73-21-157 AND 73-21-159, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALERS ON STATUTES RELATING TO THE LICENSURE OF PHARMACY BENEFIT MANAGERS; TO AMEND SECTION 73-21-153, MISSISSIPPI CODE OF 1972, TO CONFORM THE DEFINITIONS OF PHARMACY BENEFIT MANAGER AND PLAN IN THE PHARMACY BENEFIT PROMPT PAY ACT TO THE DEFINITIONS IN THE PHARMACY AUDIT INTEGRITY ACT, WITH CERTAIN EXEMPTIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-21-83, Mississippi Code of 1972, is amended as follows:

73-21-83. (1) The board shall be responsible for the control and regulation of the practice of pharmacy, to include the regulation of pharmacy externs or interns and pharmacist technicians, in this state, the regulation of the wholesaler distribution of drugs and devices as defined in Section 73-21-73, the distribution of sample drugs or devices by manufacturer's distributors as defined in Section 73-21-73 by persons other than the original manufacturer or distributor in this state and the

regulation of pharmacy benefit managers as defined in Section 73-21-153.

(2) A license for the practice of pharmacy shall be obtained by all persons prior to their engaging in the practice of pharmacy. However, the provisions of this chapter shall not apply to physicians, dentists, veterinarians, osteopaths or other practitioners of the healing arts who are licensed under the laws of the State of Mississippi and are authorized to dispense and administer prescription drugs in the course of their professional practice.

(3) The initial licensure fee shall be set by the board but shall not exceed Two Hundred Dollars ($200.00), except the initial licensure fee for pharmacy benefit managers shall be set by the board but shall not exceed Five Hundred Dollars ($500.00).

(4) All students actively enrolled in a professional school of pharmacy accredited by the American Council on Pharmaceutical Education who are making satisfactory progress toward graduation and who act as an extern or intern under the direct supervision of a pharmacist in a location permitted by the Board of Pharmacy must obtain a pharmacy student registration prior to engaging in such activity. The student registration fee shall be set by the board but shall not exceed One Hundred Dollars ($100.00).

(5) All persons licensed to practice pharmacy prior to July 1, 1991, by the State Board of Pharmacy under Section 73-21-89

shall continue to be licensed under the provisions of Section 73-21-91.

(6) This section shall stand repealed on July 1, 2016.

SECTION 2. Section 73-21-91, Mississippi Code of 1972, is amended as follows:

73-21-91. (1) Every pharmacist shall renew his license annually. To renew his license, a pharmacist shall:

(a) Submit an application for renewal on the form prescribed by the board;

(b) Submit satisfactory evidence of the completion in the last licensure period of such continuing education units as shall be required by the board, but in no case less than one (1) continuing education unit in the last licensure period;

(c) (i) Pay any renewal fees as required by the board, not to exceed One Hundred Dollars ($100.00) for each annual licensing period, provided that the board may add a surcharge of not more than Five Dollars ($5.00) to a license renewal fee to fund a program to aid impaired pharmacists or pharmacy students. Any pharmacist license renewal received postmarked after December 31 of the renewal period will be returned and a Fifty Dollar ($50.00) late renewal fee will be assessed before renewal.

(ii) The license fee for a pharmacy benefit manager shall be set by the board, but shall not exceed Five Hundred Dollars ($500.00). Any license renewal received postmarked after December 31 of the renewal period will be

returned and a Five Hundred Dollar ($500.00) late renewal fee will be assessed before renewal.

(2) Any pharmacist who has defaulted in license renewal may be reinstated within two (2) years upon payment of renewal fees in arrears and presentation of evidence of the required continuing education. Any pharmacist defaulting in license renewal for a period in excess of two (2) years shall be required to successfully complete the examination given by the board pursuant to Section 73-21-85 before being eligible for reinstatement as a pharmacist in Mississippi, or shall be required to appear before the board to be examined for his competence and knowledge of the practice of pharmacy, and may be required to submit evidence of continuing education. If the person is found fit by the board to practice pharmacy in this state, the board may reinstate his license to practice pharmacy upon payment of all renewal fees in arrears.

(3) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

(4) This section shall stand repealed on July 1, 2016.

SECTION 3. Section 73-21-153, Mississippi Code of 1972, is amended as follows:

73-21-153. For purposes of Sections 73-21-151 through 73-21-159, the following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Board" means the State Board of Pharmacy.

(b) "Commissioner" means the Mississippi Commissioner of Insurance.

(c) "Day" means a calendar day, unless otherwise defined or limited.

(d) "Electronic claim" means the transmission of data for purposes of payment of covered prescription drugs, other products and supplies, and pharmacist services in an electronic data format specified by a pharmacy benefit manager and approved by the department.

(e) "Electronic adjudication" means the process of electronically receiving, reviewing and accepting or rejecting an electronic claim.

(f) "Enrollee" means an individual who has been enrolled in a pharmacy benefit management plan.

(g) "Health insurance plan" means benefits consisting of prescription drugs, other products and supplies, and pharmacist services provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as prescription drugs, other products and supplies, and pharmacist services under any hospital or medical service policy or certificate, hospital or medical service plan contract, preferred provider organization agreement, or health maintenance organization contract offered by a health insurance issuer, unless preempted as an employee benefit plan under the Employee

Retirement Income Security Act of 1974. However, "health insurance coverage" shall not include benefits due under the workers compensation laws of this or any other state.

(h) "Pharmacy benefit manager" * * * shall have the same definition as provided in Section 73-21-179. However, through June 30, 2014, the term "pharmacy benefit manager" shall not include an insurance company that provides an integrated health benefit plan and that does not separately contract for pharmacy benefit management services. From and after July 1, 2014, the term "pharmacy benefit manager" shall not include an insurance company unless the insurance company is providing services as a pharmacy benefit manager as defined in Section 73-21-179, in which case the insurance company shall be subject to Sections 73-21-151 through 73-21-159 only for those pharmacy benefit manager services. In addition, the term "pharmacy benefit manager" shall not include the pharmacy benefit manager of the Mississippi State and School Employees Health Insurance Plan or the Mississippi Division of Medicaid or its contractors when performing pharmacy benefit manager services for the Division of Medicaid * * *.

(i) "Pharmacy benefit management plan" * * * shall have the same definition as provided in Section 73-21-179.

(j) "Pharmacist," "pharmacist services" and "pharmacy" or "pharmacies" shall have the same definitions as provided in Section 73-21-73.

(k) "Uniform claim form" means a form prescribed by rule by the State Board of Pharmacy * * *; * * * however, * * * for purposes of Sections 73-21-151 through 73-21-159, the board shall adopt the same definition or rule where the State Department of Insurance has adopted a rule covering the same type of claim. The board may modify the terminology of the rule and form when necessary to comply with the provisions of Sections 73-21-151 through 73-21-159.

(l) "Plan sponsors" means the employers, insurance companies, unions and health maintenance organizations that contract with a pharmacy benefit manager for delivery of prescription services.

SECTION 4. Section 73-21-157, Mississippi Code of 1972, is amended as follows:

73-21-157. (1) Before beginning to do business as a pharmacy benefit manager, a pharmacy benefit manager shall obtain a license to do business from the board. To obtain a license, the applicant shall submit an application to the board on a form to be prescribed by the board.

(2) Each pharmacy benefit manager providing pharmacy management benefit plans in this state shall file a statement with the board annually by March 1 or within sixty (60) days of the end of its fiscal year if not a calendar year. The statement shall be verified by at least two (2) principal officers and shall cover

the preceding calendar year or the immediately preceding fiscal year of the pharmacy benefit manager.

(3) The statement shall be on forms prescribed by the board and shall include:

(a) A financial statement of the organization, including its balance sheet and income statement for the preceding year; and

(b) Any other information relating to the operations of the pharmacy benefit manager required by the board under this section.

However, no pharmacy benefit manager shall be required to disclose proprietary information of any kind to the board.

(4) If the pharmacy benefit manager is audited annually by an independent certified public accountant, a copy of the certified audit report shall be filed annually with the board by June 30 or within thirty (30) days of the report being final.

(5) The board may extend the time prescribed for any pharmacy benefit manager for filing annual statements or other reports or exhibits of any kind for good cause shown. However, the board shall not extend the time for filing annual statements beyond sixty (60) days after the time prescribed by subsection (1) of this section. The board may waive the requirements for filing financial information for the pharmacy benefit manager if an affiliate of the pharmacy benefit manager is already required to file such information under current law with the Commissioner of

Insurance and allow the pharmacy benefit manager to file a copy of documents containing such information with the board in lieu of the statement required by this section.

(6) The expense of administering this section shall be assessed annually by the board against all pharmacy benefit managers operating in this state.

(7) This section shall stand repealed on July 1, 2016.

SECTION 5. Section 73-21-159, Mississippi Code of 1972, is amended as follows:

73-21-159. (1) In lieu of or in addition to making its own financial examination of a pharmacy benefit manager, the board may accept the report of a financial examination of other persons responsible for the pharmacy benefit manager under the laws of another state certified by the applicable official of such other state.

(2) The board shall coordinate financial examinations of a pharmacy benefit manager that provides pharmacy management benefit plans in this state to ensure an appropriate level of regulatory oversight and to avoid any undue duplication of effort or regulation. The pharmacy benefit manager being examined shall pay the cost of the examination. The cost of the examination shall be deposited in a special fund that shall provide all expenses for the licensing, supervision and examination of all pharmacy benefit managers subject to regulation under Sections 73-21-71 through 73-21-129 and Sections 73-21-151 through 73-21-159.

(3) The board may provide a copy of the financial examination to the person or entity who provides or operates the health insurance plan or to a pharmacist or pharmacy.

(4) The board is authorized to hire independent financial consultants to conduct financial examinations of a pharmacy benefit manager and to expend funds collected under this section to pay the costs of such examinations.

(5) This section shall stand repealed on July 1, 2016.

SECTION 6. This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 29, 2013

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 2, 2013

Tate Reeves

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

2:35pm
4-25-13