

House Bill 798 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives Scott of the 153<sup>rd</sup>, Stephens of the 164<sup>th</sup>, Parham of the 141<sup>st</sup>, Carter of the 159<sup>th</sup>, Gardner of the 57<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 4 of Title 26 of the Official Code of Georgia Annotated, the "Georgia  
2 Pharmacy Practice Act," so as to provide for regulation and licensure of pharmacy benefits  
3 managers by the Commissioner of Insurance; to provide for definitions; to provide for license  
4 requirements and filing fees; to provide for requirements and procedures affecting pharmacy  
5 benefits managers; to provide for rules and regulations; to provide for related matters; to  
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 4 of Title 26 of the Official Code of Georgia Annotated, the "Georgia Pharmacy  
10 Practice Act," is amended by adding a new article to read as follows:

11 "ARTICLE 13

12 26-4-210.

13 As used in this article, the term:

14 (1) 'Business entity' means a corporation, association, partnership, sole proprietorship,  
15 limited liability company, limited liability partnership, or other legal entity.

16 (2) 'Commissioner' means the Commissioner of Insurance.

17 (3) 'Pharmacy benefits manager' means a person, business, or other entity that performs  
18 pharmacy benefits management. The term includes a person or entity acting for a  
19 pharmacy benefits manager in a contractual or employment relationship in the  
20 performance of pharmacy benefits management for a covered entity.

21 26-4-211.

22 (a) No business entity shall act as or hold itself out to be a pharmacy benefits manager in  
23 this state, other than an applicant licensed in this state for the kinds of business for which

1 it is acting as a pharmacy benefits manager, unless such business entity holds a license as  
2 a pharmacy benefits manager issued by the Commissioner. The license shall be renewed  
3 on an annual basis and in such manner as the Commissioner may prescribe by rule or  
4 regulation. Failure to hold such license shall subject the pharmacy benefits manager to the  
5 fines and other appropriate penalties as provided in Chapter 2 of Title 33.

6 (b) An application for a pharmacy benefits manager's license or an application for renewal  
7 of such license shall be accompanied by a filing fee to be prescribed by rule or regulation  
8 of the Commissioner.

9 (c) A license may be refused or a license duly issued may be suspended or revoked or the  
10 renewal of such license refused by the Commissioner if the Commissioner finds that the  
11 applicant for or holder of the license:

12 (1) Has intentionally misrepresented or concealed any material fact in the application for  
13 the license;

14 (2) Has obtained or attempted to obtain the license by misrepresentation, concealment,  
15 or other fraud;

16 (3) Has misappropriated, converted to his or her own use, or illegally withheld money  
17 belonging to an insurer or an insured or beneficiary;

18 (4) Has committed fraudulent or dishonest practices;

19 (5) Has materially misrepresented the terms and conditions of insurance policies or  
20 contracts;

21 (6) Has failed to comply with or has violated any proper order, rule, or regulation issued  
22 by the Commissioner;

23 (7) Is not in good faith carrying on business as a pharmacy benefits manager;

24 (8) Has failed to obtain for initial licensure or retain for annual renewal an adequate net  
25 worth as prescribed by order, rule, or regulation of the Commissioner; or

26 (9) Has shown lack of trustworthiness or lack of competence to act as a pharmacy  
27 benefits manager.

28 (d) If the Commissioner moves to suspend, revoke, or nonrenew a license for a pharmacy  
29 benefits manager, the Commissioner shall provide notice of that action to the pharmacy  
30 benefits manager and the pharmacy benefits manager may invoke the right to an  
31 administrative hearing in accordance with Chapter 2 of Title 33.

32 (e) No licensee whose license has been revoked as prescribed under this Code section shall  
33 be entitled to file another application for a license within five years from the effective date  
34 of the revocation or, if judicial review of such revocation is sought, within five years from  
35 the date of final court order or decree affirming the revocation. The application when filed  
36 may be refused by the Commissioner unless the applicant shows good cause why the  
37 revocation of its license shall not be deemed a bar to the issuance of a new license.

1 (f) Appeal from any order or decision of the Commissioner made pursuant to this article  
2 shall be taken as provided in Chapter 2 of Title 33.

3 (g)(1) The Commissioner shall have the authority to issue a probationary license to any  
4 applicant under this article.

5 (2) A probationary license may be issued for a period of not less than three months and  
6 not longer than 12 months and shall be subject to immediate revocation for cause at any  
7 time without a hearing.

8 (3) The Commissioner, at his or her discretion, shall prescribe the terms of probation,  
9 may extend the probationary period, or refuse to grant a license at the end of any  
10 probationary period.

11 (h) The Commissioner may impose, by rule or regulation, additional reasonable  
12 qualifications necessary to obtain a license as a pharmacy benefits manager.

13 (i) A pharmacy benefits manager's license may not be sold or transferred to a nonaffiliated  
14 or otherwise unrelated party. A pharmacy benefits manager may not contract or  
15 subcontract any of its negotiated services to any unlicensed business entity unless a special  
16 authorization is approved by the Commissioner prior to entering into a contracted or  
17 subcontracted arrangement.

18 (j) The Commissioner may, at his or her discretion, assess a penalty or a fine against any  
19 business entity acting as a pharmacy benefits manager without a license for each  
20 transaction in violation of this chapter.

21 (k) A licensed pharmacy benefits manager is not permitted to market or administer any  
22 insurance product not approved in Georgia or that is issued by a nonadmitted insurer or  
23 unauthorized multiple employer self-insured health plan.

24 26-4-212.

25 The Commissioner may promulgate rules and regulations which are necessary to  
26 implement the provisions of this article and to ensure the safe and proper operation of  
27 pharmacy benefits managers of this state."

## 28 SECTION 2.

29 All laws and parts of laws in conflict with this Act are repealed.