

The Senate Insurance and Labor Committee offered the following substitute to HB 798:

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:

SECTION 1.

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

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. This term shall not
21 include a hospital health system operating a formulary process or providing a prescription
22 drug program for the benefit of covered individuals including the hospital health system's
23 employees and their dependents.

1 26-4-211.

2 (a) No business entity shall act as or hold itself out to be a pharmacy benefits manager in
3 this state, other than an applicant licensed in this state for the kinds of business for which
4 it is acting as a pharmacy benefits manager, unless such business entity holds a license as
5 a pharmacy benefits manager issued by the Commissioner. The license shall be renewed
6 on an annual basis and in such manner as the Commissioner may prescribe by rule or
7 regulation. Failure to hold such license shall subject the pharmacy benefits manager to the
8 fines and other appropriate penalties as provided in Chapter 2 of Title 33.

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

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

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

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

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

21 (4) Has committed fraudulent or dishonest practices;

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

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

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

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

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

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

35 (e) No licensee whose license has been revoked as prescribed under this Code section shall
36 be entitled to file another application for a license within five years from the effective date
37 of the revocation or, if judicial review of such revocation is sought, within five years from

1 the date of final court order or decree affirming the revocation. The application when filed
 2 may be refused by the Commissioner unless the applicant shows good cause why the
 3 revocation of its license shall not be deemed a bar to the issuance of a new license.

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

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

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

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

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

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

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

25 26-4-212.

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

29 **SECTION 2.**

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