

By: Rushing

To: Public Health and
Welfare

HOUSE BILL NO. 1345

1 AN ACT TO PROVIDE THAT, AS A CONDITION OF A PHARMACY'S
2 PARTICIPATION IN THE MEDICAID PROGRAM, THE PHARMACY MUST CHARGE
3 MEDICARE BENEFICIARIES A PRICE FOR PRESCRIPTION DRUGS THAT DOES
4 NOT EXCEED THE MEDICAID REIMBURSEMENT RATE TO THE PHARMACY FOR
5 THOSE PRESCRIPTION DRUGS AND AN AMOUNT SET BY THE DIVISION OF
6 MEDICAID TO COVER ELECTRONIC TRANSMISSION CHARGES; TO PROVIDE
7 THAT, AS A CONDITION OF RECEIVING A PERMIT TO OPERATE, ANY
8 PHARMACY IN THIS STATE THAT DOES NOT PARTICIPATE IN THE MEDICAID
9 PROGRAM MUST CHARGE MEDICARE BENEFICIARIES A PRICE FOR
10 PRESCRIPTION DRUGS THAT IS NOT MORE THAN 10% ABOVE THE PHARMACY'S
11 WHOLESALE PRICE FOR THOSE PRESCRIPTION DRUGS; TO AMEND SECTION
12 73-21-105, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
13 PROVISION; AND FOR RELATED PURPOSES.

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

15 SECTION 1. (1) As a condition of a pharmacy's participation
16 in the Medicaid program, the pharmacy shall charge Medicare
17 beneficiaries a price for prescription drugs that does not exceed
18 the Medicaid reimbursement rate to the pharmacy for those
19 prescription drugs and an amount set by the Division of Medicaid
20 to cover electronic transmission charges, upon the presentation of
21 a valid prescription for the patient and the patient's Medicare
22 card. However, Medicare beneficiaries shall not be allowed to use
23 the Medicaid reimbursement rate for over-the-counter medications
24 or compounded prescriptions.

25 (2) The Division of Medicaid shall provide a mechanism to
26 calculate and transmit the price to the pharmacy, but shall not
27 apply the Medicaid drug utilization review process for purposes of
28 this section.

29 (3) The Division of Medicaid shall monitor pharmacy
30 participation with the requirements of subsection (1) of this
31 section and report to the Legislature annually on that

32 participation. The report shall include, but shall not be limited
33 to, information on any pharmacies that discontinue participation
34 in the Medicaid program, and the reasons given for the
35 discontinuance.

36 (4) If prescription drugs are added to the scope of benefits
37 available under the federal Medicare program, the Legislative
38 Budget Office shall report that fact to the appropriate committees
39 of the Legislature. It is the intent of the Legislature to
40 evaluate the need to continue the implementation of this section
41 under those circumstances.

42 SECTION 2. (1) As a condition of receiving a permit to
43 operate, any pharmacy in this state that does not participate in
44 the Medicaid program shall charge Medicare beneficiaries a price
45 for prescription drugs that is not more than ten percent (10%)
46 above the pharmacy's wholesale price for those prescription drugs,
47 upon presentation of a valid prescription for the patient and the
48 patient's Medicare card. However, Medicare beneficiaries shall
49 not be allowed to use the price required by this subsection for
50 over-the-counter medications or compounded prescriptions.

51 (2) The State Board of Pharmacy shall monitor pharmacy
52 compliance with the requirements of subsection (1) of this section
53 and report to the Legislature annually on that compliance.

54 (3) If prescription drugs are added to the scope of benefits
55 available under the federal Medicare program, the Legislative
56 Budget Office shall report that fact to the appropriate committees
57 of the Legislature. It is the intent of the Legislature to
58 evaluate the need to continue the implementation of this section
59 under those circumstances.

60 SECTION 3. Section 73-21-105, Mississippi Code of 1972, is
61 amended as follows:

62 73-21-105. (1) Every facility/business that shall engage in
63 the wholesale distribution of prescription drugs, to include
64 without limitation, manufacturing in this state, distribution into
65 this state, or selling or offering to sell in this state, or
66 distribution from or within this state, shall register biennially
67 with the Mississippi State Board of Pharmacy by applying for a
68 permit on a form supplied by the board and accompanied by a fee as

69 set by subsection (4) of this section. The Pharmacy Board shall
70 by regulation determine the classification of permit(s) that shall
71 be required.

72 (2) Every business/facility/pharmacy located in this state
73 that engages in or proposes to engage in the dispensing and
74 delivery of prescription drugs to consumers shall register with
75 the Mississippi State Board of Pharmacy by applying for a permit
76 on a form supplied by the board and accompanied by a fee as set by
77 subsection (4) of this section. The Pharmacy Board shall by
78 regulation determine the classification of permit(s) that shall be
79 required. A business/facility/pharmacy described in this
80 subsection must comply with Section 2 of this act as a condition
81 of receiving a permit from the board under this section.

82 (3) The board shall establish by rule or regulation the
83 criteria which each business shall meet to qualify for a permit in
84 each classification. The board shall issue a permit to any
85 applicant who meets the criteria as established. The board may
86 issue various types of permits with varying restrictions to
87 businesses where the board deems it necessary by reason of the
88 type of activities conducted by the business requesting a permit.

89 (4) The board shall specify by rule or regulation the
90 registration procedures to be followed, including, but not limited
91 to, specification of forms for use in applying for such permits
92 and times, places and fees for filing such applications. However,
93 the biennial fee for an original or renewal permit shall not
94 exceed Three Hundred Dollars (\$300.00).

95 (5) Applications for permits shall include the following
96 information about the proposed business:

97 (a) Ownership;

98 (b) Location;

99 (c) Identity of the responsible person or pharmacist

100 licensed to practice in the state, who shall be the pharmacist in
101 charge of the pharmacy, where one is required by this chapter, and

102 such further information as the board may deem necessary.

103 (6) Permits issued by the board pursuant to this section
104 shall not be transferable or assignable.

105 (7) The board shall specify by rule or regulation minimum
106 standards for the responsibility in the conduct of any
107 business/facility and/or pharmacy that has been issued a permit.
108 The board is specifically authorized to require that the portion
109 of the facility located in this state to which a pharmacy permit
110 applies be operated only under the direct supervision of no less
111 than one (1) pharmacist licensed to practice in this state, and to
112 provide such other special requirements as deemed necessary.
113 Nothing in this subsection shall be construed to prevent any
114 person from owning a pharmacy.

115 (8) All businesses permitted by the board shall report to
116 the board the occurrence of any of the following changes:

117 (a) Permanent closing;

118 (b) Change of ownership, management, location or
119 pharmacist in charge;

120 (c) Any and all other matters and occurrences as the
121 board may require by rule or regulation.

122 (9) Disasters, accidents and emergencies which may affect
123 the strength, purity or labeling of drugs, medications, devices or
124 other materials used in the diagnosis or the treatment of injury,
125 illness and disease shall be immediately reported to the board.

126 (10) No business that is required to obtain a permit shall
127 be operated until a permit has been issued for such business by
128 the board. Any person, firm or corporation violating any of the
129 provisions of this section shall be guilty of a misdemeanor and,
130 upon conviction thereof, shall be punished by a fine of not less
131 than One Hundred Dollars (\$100.00) nor more than One Thousand
132 Dollars (\$1,000.00), or imprisonment in the county jail for not
133 less than thirty (30) days nor more than ninety (90) days, or by
134 both such fine and imprisonment. However, the provisions of this

135 chapter shall not apply to physicians, dentists, veterinarians,
136 osteopaths or other practitioners of the healing arts who are
137 licensed under the laws of the State of Mississippi and are
138 authorized to dispense and administer prescription drugs in the
139 course of their professional practice.

140 SECTION 3. This act shall take effect and be in force from
141 and after July 1, 2000.