

By: Representatives Yancey, Hale

To: Drug Policy

HOUSE BILL NO. 17

1 AN ACT TO CREATE THE PROTECTING PATIENT ACCESS TO
2 PHYSICIAN-ADMINISTERED DRUGS ACT; TO PROVIDE LEGISLATIVE INTENT;
3 TO DEFINE CERTAIN TERMS RELATING TO THIS ACT; TO PROVIDE FOR
4 PAYMENT TO PARTICIPATING PROVIDERS; TO PROVIDE CERTAIN PENALTIES
5 RELATING TO A VIOLATION OF THIS ACT; TO PROVIDE FOR PATIENT CHOICE
6 IN DISPENSING OF PROVIDER-ADMINISTERED DRUGS; TO AMEND SECTION
7 75-24-5, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE REGULATION
8 OF BUSINESS FOR CONSUMER PROTECTION, TO CONFORM TO THE PROVISIONS
9 OF THIS ACT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** This act may be known and shall be cited as the
12 "Protecting Patient Access to Physician-Administered Drugs Act".

13 **SECTION 2.** The purpose and intent of the Protecting Patient
14 Access to Physician-Administered Drugs Act is to ensure patient
15 access to physician-administered drugs and related services
16 furnished to persons covered under a health insurance contract.

17 This act shall ensure that health insurance issuers do not
18 interfere with patients' freedom of choice with respect to
19 providers furnishing physician-administered drugs and ensure that
20 patients receive safe and effective drug therapies.



SECTION 3.

(1) As used in this act, the following words have the meanings as defined in this section unless the context clearly indicates otherwise:

(a) "Covered person" means a policyholder, subscriber, enrollee, member, or individual covered by a health insurance plan.

(b) "Health insurance issuer" has the same meaning as defined in Section 41-149-3.

(c) "Health insurance plan" has the same meaning as defined in Section 73-21-153.

(d) "Participating provider" means a physician, hospital, pharmacy, pharmacist, dentist, nurse, chiropractor, optometrist, or other provider of health care services licensed or certified by the state, that has entered into an agreement with a health insurance issuer or pharmacy benefit manager to provide services, products, or supplies to a patient enrolled in a health insurance plan. "Participating provider" includes any clinic, hospital outpatient department, or pharmacy under the common ownership or control of the participating provider.

(e) "Pharmacy benefit manager" has the same meaning as defined in Section 73-21-153.

(f) "Physician-administered drug" means any prescription drug, other than a vaccine, that requires administration by a provider and is not approved as a self-administered drug.



SECTION 4.

(1) A health insurance issuer, pharmacy benefit manager, or the agent of either shall not:

(a) Refuse to authorize, approve, or pay a participating provider for providing covered physician-administered drugs and related covered services to covered persons; or

(b) Require a covered person to pay any penalty or additional fee not otherwise applicable to cost-sharing amounts payable by the covered person as designated within the benefit plan to obtain the physician-administered drug when provided by a participating provider.

(2) All provider agreements are hereby construed to include a provision that requires that when all criteria for medical necessity are met, that the drug and its administration will be payable irrespective of whether the participating provider obtains physician-administered drugs from a pharmacy that is not a participating provider in the health insurance issuer's network. The drug supplied shall meet the supply chain security controls and chain of distribution set by the federal Drug Supply Chain Security Act.

(3) The payment to a participating provider shall be at the rate set forth in the health insurance issuer's agreement with the participating provider applicable to such drugs, or if no such rate is included in the agreement, then at the wholesale acquisition cost.



(4) Any provision of a contract that is contrary to any provision of this act shall be null, void, and unenforceable in this state.

SECTION 5. The commission of any act prohibited by this act is considered a violation of the Consumer Protection Act, Sections 75-24-1 through 75-24-29, and subjects the violator to any and all actions, including investigative demands, private actions, remedies, and penalties, provided for in those sections. A violation occurs each time a prohibited act is committed.

SECTION 6. Section 75-24-5, Mississippi Code of 1972, is amended as follows:

75-24-5. (1) Unfair methods of competition affecting commerce and unfair or deceptive trade practices in or affecting commerce are prohibited. Action may be brought under Section 75-24-5(1) only under the provisions of Section 75-24-9.

(2) Without limiting the scope of subsection (1) of this section, the following unfair methods of competition and unfair or deceptive trade practices or acts in the conduct of any trade or commerce are hereby prohibited:

- (a) Passing off goods or services as those of another;
- (b) Misrepresentation of the source, sponsorship, approval, or certification of goods or services;
- (c) Misrepresentation of affiliation, connection, or association with, or certification by another;



(d) Misrepresentation of designations of geographic origin in connection with goods or services;

(e) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have;

(f) Representing that goods are original or new if they are reconditioned, reclaimed, used, or secondhand;

(g) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;

(h) Disparaging the goods, services, or business of another by false or misleading representation of fact;

(i) Advertising goods or services with intent not to sell them as advertised;

(j) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

(k) Misrepresentations of fact concerning the reasons for, existence of, or amounts of price reductions;

(l) Advertising by or on behalf of any licensed or regulated health care professional which does not specifically describe the license or qualifications of the licensed or regulated health care professional;



(m) Charging an increased premium for reinstating a motor vehicle insurance policy that was cancelled or suspended by the insured solely for the reason that he was transferred out of this state while serving in the United States Armed Forces or on active duty in the National Guard or United States Armed Forces Reserve. It is also an unfair practice for an insurer to charge an increased premium for a new motor vehicle insurance policy if the applicant for coverage or his covered dependents were previously insured with a different insurer and canceled that policy solely for the reason that he was transferred out of this state while serving in the United States Armed Forces or on active duty in the National Guard or United States Armed Forces Reserve. For purposes of determining premiums, an insurer shall consider such persons as having maintained continuous coverage. The provisions of this paragraph (m) shall apply only to such instances when the insured does not drive the vehicle during the period of cancellation or suspension of his policy;

(n) Violating the provisions of Section 75-24-8;

(o) Violating the provisions of Section 73-3-38;

(p) Violating any of the provisions of Title 41, Chapter 149, Mississippi Code of 1972; and

(q) Violating any of the provisions of Title 45, Chapter 38, Mississippi Code of 1972.

(r) Violating any of the provisions of Sections 1 through 5 of this act.



145 **SECTION 7.** This act shall take effect and be in force from
146 and after its passage.

