

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1300

By: Representative L. Johnson

For An Act To Be Entitled

AN ACT TO AMEND THE PROHIBITION ON NONPROFIT, TAX EXEMPT, OR GOVERNMENTALLY-FUNDED HOSPITALS FROM HOLDING A LICENSED PHARMACY PERMIT FOR THE SALE AT RETAIL OF DRUGS; TO SET RESTRICTIONS ON PHARMACY CONTRACTING AND CONFLICTS OF INTEREST; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE PROHIBITION ON NONPROFIT, TAX EXEMPT, OR GOVERNMENTALLY-FUNDED HOSPITALS FROM HOLDING A LICENSED PHARMACY PERMIT FOR THE SALE AT RETAIL OF DRUGS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-92-607 is amended to read as follows:

17-92-607. ~~Unlawful for hospital to hold licensed pharmacy permit—~~
Exceptions Hospital holding a retail pharmacy permit.

(a) ~~(1) It shall be unlawful for any nonprofit, tax exempt, or governmentally funded~~ a hospital to acquire direct or indirect interest in or otherwise hold directly or indirectly ~~a~~ more than one (1) licensed pharmacy permit pursuant to the provisions of § 17-92-405, for the sale at retail of drugs and medicines.

(2) A healthcare organization licensed as a hospital may hold one (1) retail pharmacy permit at each location licensed as a hospital.

~~(b) However, nothing contained in this section shall be construed to~~



~~prohibit any hospital having a direct or indirect interest in or otherwise holding either directly or indirectly a permit before March 28, 1975, from continuing to have an interest in or holding the permit. Nothing contained in this section shall be construed to prohibit any hospital so holding a permit before March 28, 1975, from receiving a renewal of the permit.~~

(b)(1) A hospital that only provides inpatient services and emergency medical care that has a minimum average daily inpatient census of twenty-five (25) patients is eligible under subsection (a) of this section for a retail pharmacy permit.

(2) A hospital that does not meet the description in subdivision (b)(1) of this section is not eligible for a retail pharmacy permit under § 17-92-405 for the sale at retail of drugs and medicines.

(c) A retail pharmacy permit for a hospital shall be:

(1) On the campus of the hospital that offers emergency medical care services; and

(2) Within two hundred fifty yards (250 yds.) of the facility that is licensed as a hospital.

(d) The retail pharmacy permit may be at the physical location of the current hospital pharmacy.

(e) A healthcare organization that has a retail pharmacy permit under this section shall provide an option for access to emergency medications twenty-four (24) hours per day and seven (7) days per week, according to organizational policy.

(f) A hospital is not eligible to apply for a retail pharmacy permit if an existing retail pharmacy:

(1) Is currently located on a hospital's physical campus or within two hundred fifty (250) yards of the hospital's physical campus; and

(2) Provides an option for access to emergency medications twenty-four (24) hours per day and seven (7) days per week, according to the pharmacy's organizational policy.

SECTION 2. Arkansas Code Title 17, Chapter 92, Subchapter 4, is amended to add an additional section to read as follows:

17-92-414. Prohibition of pharmacy contracting - Conflicts of interest - Pharmacy permit holder responsibilities.

(a) As used in this section, "parent entity" means a person, company,

or other entity that has a direct or indirect interest or ownership in a licensed pharmacy permit for the sale at retail of drugs and medicines.

(b) A holder of a pharmacy permit for the sale at retail of drugs and medicines shall not enter into a contract with a parent entity that does any of the following:

(1) Financially incentivizes a patient or plan beneficiaries to obtain a pharmacist's services from the pharmacy with terms that are not offered equally at other network pharmacies;

(2) Provides the pharmacy a reimbursement amount that is higher than rates paid to other pharmacies in the state;

(3) Allows the pharmacy to be a limited provider of pharmacist's services through the use of a network design that limits the number of providers in said network;

(4) Limits a patient's freedom of choice through financial incentives; or

(5) Does any other activity that is deemed to create an anticompetitive advantage or interferes with patient freedom of choice as determined by the Arkansas State Board of Pharmacy.

(c)(1) Upon receiving a complaint involving a violation of subsection (b) of this section, the board shall investigate the complaint and schedule a hearing within thirty (30) business days.

(2) Upon a finding of fact by the board that a violation of this section has occurred, the board shall immediately terminate the pharmacy permit of the entity that perpetrated the violation.

(d) A violation of this section is also a violation of the Unfair Practices Act, § 4-75-201 et seq.

(e) Market-based cash pricing of a drug or medication is not a financial incentive under this section.

(f) An entity that owns pharmacies and offers prospective cash savings plans through the 340B Drug Pricing Program shall allow other network pharmacies to participate in the prospective cash savings plan.

(g) The board shall review for any violation of this section during the inspections conducted by the board.