

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/23/99 S4/8/99

A Bill

Act 1486 of 1999
HOUSE BILL 1989

5 By: Representative Teague
6
7

For An Act To Be Entitled

9 "AN ACT TO REQUIRE EQUITY IN PRESCRIPTION DRUG
10 BENEFITS; AND FOR OTHER PURPOSES."

Subtitle

13 "THE PRESCRIPTION DRUG BENEFIT EQUITY
14 ACT."

15
16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Arkansas Code 17-92-401 is amended to read as follows:
20 "17-92-401. Applicability to out-of-state operations.

21 (a) Any pharmacy operating outside the state which routinely ships,
22 mails, or delivers in any manner a dispensed legend drug into Arkansas shall
23 hold a pharmacy license issued by the Arkansas State Board of Pharmacy, and
24 that part of the pharmacy operation dispensing the prescription for an
25 Arkansas resident shall abide by Arkansas law and regulations of the board.

26 (b)(1) Any pharmacy operating outside the state which routinely ships,
27 mails, or delivers in any manner a dispensed legend drug into Arkansas shall
28 be required to have on staff in the out-of-state pharmacy an Arkansas licensed
29 pharmacist, who shall be designated the pharmacist-in-charge for the Arkansas
30 out-of-state pharmacy license.

31 (2) If the out-of-state pharmacy fails to have on staff an
32 Arkansas licensed pharmacist due to extended illness, death, resignation, or
33 for any other reason, the pharmacy shall, within ten (10) calendar days,
34 notify the Board of Pharmacy of the fact and must, within thirty (30) calendar
35 days, or such additional time at the discretion of the board not to exceed
36 thirty (30) calendar days, either secure the services of an Arkansas licensed

1 pharmacist or cease to operate as a pharmacy in the State of Arkansas.

2 (c) An out-of-state pharmacy which ships, mails, or delivers in any
3 manner a dispensed legend drug into Arkansas shall designate an agent, who is
4 a resident of Arkansas, for service of process and register such agent with
5 the Secretary of State.

6 (d) If under investigation for violation of Chapter 92, Title 17 of the
7 Arkansas Code, an out-of-state pharmacy shall be required to appear before the
8 board to respond to questions concerning such investigation.

9 (e) The board shall have all the powers to enforce this section as are
10 granted to the board under Chapter 92, Title 17 of the Arkansas Code."

11
12 SECTION 2. Chapter 79 of Title 23 of the Arkansas Code is amended by
13 adding the following new section to be numbered by the Arkansas Code Revision
14 Commission:

15 "Prescription Drug Benefits.

16 (a) As used in this section, 'insurance policy' means any individual,
17 group, or blanket policy, contract, or evidence of coverage written, issued,
18 amended, delivered, or renewed in this state, or which provides such insurance
19 for residents of this state, by an insurance company, hospital medical
20 corporation, or health maintenance organization.

21 (b) No insurance company, hospital medical corporation, or health
22 maintenance organization issuing insurance policies in this state shall
23 contract with a pharmacist, pharmacy, pharmacy distributor or wholesale drug
24 distributor, nonresident or otherwise to provide benefits under such insurance
25 policies for the shipment or delivery of a dispensed legend drug into the
26 State of Arkansas, unless such pharmacist, pharmacy or distributor has been
27 granted a license or permit from the Arkansas State Board of Pharmacy to
28 operate in the State of Arkansas.

29 (c)(1) Each insurance policy shall apply the same coinsurance, co-
30 payment and deductible factors to covered drug prescriptions filled by a
31 pharmacy provider who participates in the insurance policy's network if the
32 provider meets the contract's explicit product cost determination.

33 (2) Nothing in this subsection (c) shall be construed to prohibit
34 the insurance policy from applying different coinsurance, copayment and
35 deductible factors between and among generic and brand name drugs.

36 (d) Insurance policies shall not set a limit on the quantity of drugs

1 which an enrollee may obtain at any one time with a prescription, unless such
2 limit is applied uniformly to all pharmacy providers in the insurance policy's
3 network.

4 (e)(1) For the purpose of this subsection (e), 'maintenance drug' means
5 a drug prescribed by a practitioner who is licensed to prescribe drugs and
6 used to treat a medical condition for a period greater than thirty (30) days.

7 (2) Insurance policies shall not insist or mandate any provider
8 to change an enrollee's maintenance drug unless the prescribing provider and
9 enrollee agree to such change.

10 (3) Notwithstanding other provisions of law to the contrary,
11 insurance policies that change an enrollee's maintenance drug without the
12 consent of the provider and enrollee shall be liable to the provider or
13 enrollee or both for any damages resulting from such change.

14 (f) The commissioner shall enforce the provisions of this section and
15 shall impose and collect a penalty of one thousand dollars (\$1,000) for the
16 first violation of this section and a penalty of five thousand dollars
17 (\$5,000) for each subsequent violation of this section. In addition, the
18 commissioner shall have all the powers to enforce this section as are granted
19 to the commissioner elsewhere in the Arkansas Insurance Code, beginning at
20 § 23-60-101.

21 (g) The commissioner shall have all the powers to enforce this section,
22 including, but not limited to, ensuring that the different coinsurance,
23 copayment and deductible factors applicable between and among generic and
24 brand name drugs are reasonable, as are granted to the commissioner elsewhere
25 in the Arkansas Insurance Code, beginning at § 23-60-101."

26
27 SECTION 3. All provisions of this act of a general and permanent nature
28 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
29 Revision Commission shall incorporate the same in the Code.

30
31 SECTION 4. If any provision of this act or the application thereof to
32 any person or circumstance is held invalid, such invalidity shall not affect
33 other provisions or applications of the act which can be given effect without
34 the invalid provision or application, and to this end the provisions of this
35 act are declared to be severable.

36

1 SECTION 5. All laws and parts of laws in conflict with this act are
2 hereby repealed.

3 /s/ Teague

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

APPROVED: 4/15/1999