

1 HB364
2 190214-2
3 By Representative Sells
4 RFD: Health
5 First Read: 01-FEB-18

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8 SYNOPSIS: Under existing law, certain specified
9 federally qualified health care centers are
10 authorized to compound and dispense prescriptions,
11 excluding controlled substances, at one location
12 and courier the medication to clinics for patient
13 pick-up.

14 This bill would allow any entity that meets
15 the definition of a federally qualified health
16 center under the Social Security Act to compound
17 and dispense prescriptions, excluding controlled
18 substances, at one location and courier the
19 medication to clinics for patient pick-up.
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21 A BILL
22 TO BE ENTITLED
23 AN ACT
24

25 Relating to prescription drugs; to amend Section
26 34-23-70, Code of Alabama 1975, as amended by Act 2017-422 of
27 the 2017 Regular Session, to allow an entity that meets the

1 definition of a federally qualified health center under the
2 Social Security Act to compound and dispense prescriptions,
3 excluding controlled substances, at one location and courier
4 the medication to clinics for patient pick-up.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 34-23-70, Code of Alabama 1975,
7 as amended by Act 2017-422 of the 2017 Regular Session, is
8 amended to read as follows:

9 "§34-23-70.

10 "(a) Every pharmacy when opened for business shall
11 be under the personal supervision of a duly licensed
12 pharmacist who shall have personal supervision of not more
13 than one pharmacy at the same time. During temporary absences
14 of the licensed pharmacist, not to exceed three hours daily or
15 more than one and one-half hours at any one time, nor more
16 than one week for temporary illness, the prescription
17 department shall be closed, and no prescriptions are to be
18 filled. During the temporary absence of a pharmacist, a sign
19 shall be placed on the prescription counter in a prominent
20 location easily seen by the public stating, "Prescription
21 Department Closed, No Pharmacist on Duty."

22 "(b) The permit issued to each pharmacist by the
23 board and the licensure certificates issued to the licensed
24 pharmacist employed by each pharmacy must be prominently and
25 conspicuously displayed in the pharmacy. The name of the
26 licensed pharmacist on duty must be conspicuously displayed in

1 the prescription department in a place readily observable by
2 the public.

3 "(c) (1) No licensed pharmacist or pharmacy operating
4 within this state shall accept for refund purposes or
5 otherwise any unused portion of any dispensed prescription.

6 "(2) The prohibition in subdivision (1) shall not
7 apply to any unused or expired dispensed medication returned
8 solely for the purpose of destruction in compliance with
9 applicable law or rules of the board.

10 "(d) The sale of poisons is restricted to the
11 immediate supervision of a licensed pharmacist, and such
12 poison shall not be displayed in a pharmacy in such a manner
13 that a customer may obtain possession of such poisons when
14 standing in an area allocated for customer use. No sale of a
15 poison shall be made or delivered to any minor under 12 years
16 of age or to any person known to be of unsound mind or under
17 the influence of alcohol.

18 "(e) No pharmacy shall authorize any person, firm,
19 or business establishment to serve as a pick-up station or
20 intermediary for the purpose of having prescriptions filled or
21 delivered, whether for profit or gratuitously. Except with
22 respect to controlled substances, ~~the following federally~~
23 ~~qualified health care centers are~~ any facility recognized as a
24 federally-qualified health center, as defined in 42 U.S.C.
25 §1396d(1) (2) (B), operating health care practices and providing
26 pharmacy services in the state is expressly exempt from this
27 subsection. ~~Birmingham Health Care, Inc., Central Alabama~~

1 ~~Comprehensive Health, Inc., Health Services, Inc., Family~~
2 ~~Oriented Primary Health Care Clinic/Mobile County Health~~
3 ~~Department, Franklin Primary Health Center, Quality of Life~~
4 ~~Health Services, Inc., and Whatley Health Services, Inc.~~ Each
5 ~~named~~ eligible federally qualified health center is authorized
6 to fill certain prescriptions at one location and deliver
7 medications to clinics for patient pick-up subject to the
8 review of the board.

9 "(f) No prescription blank supplied by a pharmacy or
10 pharmacist to a practitioner shall bear the imprint thereon of
11 the name or address of any pharmacy or bear the name or
12 address of any person registered under this chapter.

13 "(g) (1) No person shall fill or compound a
14 prescription or drug order in an institution unless he or she
15 is a duly licensed pharmacist or otherwise permitted to do so
16 under this chapter. The act of filling or compounding
17 prescriptions or drug orders in an institution shall be as
18 defined in the rules ~~and regulations~~ adopted by the board.

19 "(2) However, such rules ~~and regulations~~ shall not
20 apply to the reading, interpreting, and writing or verifying
21 the writing of adequate directions as are necessary to assure
22 patient's understanding of the prescriber's intentions by a
23 duly qualified nurse practicing his or her profession in a
24 licensed hospital or similar institution.

25 "~~(h)~~ (3) Nothing in this chapter shall authorize the
26 board to promulgate or to enforce any rule ~~or regulation~~ which
27 governs, regulates, or restricts the professional practice of

1 a physician licensed to practice medicine in this state. No
2 provision of this chapter, or any rule promulgated under the
3 authority of this chapter, shall be interpreted to amend,
4 alter, or modify Section 34-23-11.

5 ~~"(i)~~ (h) Only a licensed pharmacist or registered
6 intern may accept an oral prescription of any nature. Upon so
7 accepting such oral prescription, it must immediately be
8 reduced to writing, and only a licensed pharmacist or an
9 intern supervised by a licensed pharmacist may prepare a copy
10 of a prescription or read a prescription to any person for
11 purposes of providing reference concerning treatment of the
12 person or animal for whom the prescription was written; and,
13 when the copy is given, a notation shall be made upon the
14 prescription that a copy has been given, the date given, and
15 to whom given.

16 ~~"(j)~~ (i) If a prescription is refilled, a record of
17 the date upon which the prescription is refilled must appear
18 on the prescription or in a permanent prescription record
19 book. On prescriptions which may be refilled, written or oral
20 authorization must be received before refilling unless the
21 number of refills is indicated on the original prescription.
22 Those prescriptions marked "refill prn" or equivalent
23 designation shall be refilled only in quantities commensurate
24 with the dosage scheduled.

25 ~~"(k)~~ (j) Each prescription must be written in a
26 manner so that it can be compounded by any registered
27 pharmacist. The coding of any prescription is in violation of

1 this chapter. No prescription shall be written in any
2 characters, figures, or ciphers, other than in the English or
3 Latin language, generally in use among medical and
4 pharmaceutical practitioners.

5 ~~"(l)~~(k) A prescription file or files shall be kept
6 by every pharmacy for a period of not less than two years in
7 which the original of every prescription compounded or
8 dispensed shall be filed in the order of compounding with
9 number and date of dispensing placed on each prescription.
10 Each pharmacy shall produce any prescription file whenever
11 legally required to do so. Such prescription file shall at all
12 times be open for inspection by the prescriber, the board, or
13 its investigators.

14 ~~"(m)~~(l) All drugs or drug preparations bearing upon
15 the package the words, "caution, federal law prohibits
16 dispensing without prescription" or words to the same effect,
17 otherwise known as legend drugs, shall be stored within the
18 confines of the prescription department or the prescription
19 department storage room of each pharmacy. Such drugs shall be
20 sold or dispensed only on the prescription of a licensed
21 practitioner authorized to prescribe such drugs and shall not
22 be sold or dispensed as a refilled prescription except upon
23 the express authorization of the prescriber. This shall not be
24 construed to prohibit return to authorized suppliers or sale
25 or transfer to others licensed to possess legend drugs.

26 ~~"(n)~~(m) Any person who violates this section shall
27 be guilty of a misdemeanor."

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.