

1 State of Arkansas As Engrossed: H2/24/25 H2/26/25

2 95th General Assembly

A Bill

3 Regular Session, 2025

HOUSE BILL 1442

4

5 By: Representative Achor

6 By: Senators D. Wallace, C. Penzo

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For An Act To Be Entitled

9 AN ACT TO SET RESTRICTIONS ON PHARMACY CONTRACTING
10 AND CONFLICTS OF INTEREST; TO ESTABLISH
11 PHARMACEUTICAL PATIENT FREEDOM OF CHOICE; AND FOR
12 OTHER PURPOSES.

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Subtitle

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17 TO SET RESTRICTIONS ON PHARMACY
18 CONTRACTING AND CONFLICTS OF INTEREST;
19 AND TO ESTABLISH PHARMACEUTICAL PATIENT
20 FREEDOM OF CHOICE.

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

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SECTION 1. Arkansas Code Title 17, Chapter 92, Subchapter 4, is amended to add an additional section to read as follows:

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

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(a) It is the intent of the General Assembly to preserve patient access, to improve quality of care outcomes, and to prevent anti-competitive patient steering for pharmacy care services.

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(b) As used in this section, "parent entity" means a federally qualified health center, a Federally Qualified Health Center Look-Alike, or a for-profit, nonprofit, tax-exempt, or governmentally funded hospital that has a direct or indirect interest or ownership in a licensed pharmacy permit for the sale at retail of drugs and medicines.

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(c) A parent entity shall not:

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(1) Financially incentivize a patient or plan beneficiary to



1 obtain a pharmacist's services from a pharmacy with terms that are not
2 offered equally at other network pharmacies;

3 (2)(A) Allow a pharmacy to be a limited provider of pharmacist's
4 services through the use of a network design that limits the number of
5 providers in said network.

6 (B) The Arkansas State Board of Pharmacy may exempt a
7 parent entity from subdivision (c)(2)(A) of this section on a per-pharmacy-
8 contract basis if the parent entity demonstrates a verified net financial
9 loss for the proposed contract; or

10 (3) Limit a patient's freedom of choice through financial
11 incentives.

12 (d) Upon receiving a complaint involving a violation of subsection (c)
13 of this section, the board shall investigate the complaint and schedule a
14 hearing within thirty (30) business days of receipt of the complaint.

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

17 (f) Market-based cash pricing of a drug or medication delinked from
18 any program assistance, contract, or network agreement of a drug or
19 medication is not a financial incentive under this section.

20 (g)(1) A parent entity that owns pharmacies and offers prospective
21 cash savings plans through the 340B Drug Pricing Program shall allow other
22 network pharmacies to participate in the prospective cash savings plan.

23 (2) A parent entity is exempt from subdivision (g)(1) of this
24 section on a per-pharmacy-contract basis if the board finds that the parent
25 entity demonstrates a violation of terms or conditions of the 340B Drug
26 Pricing Program prospective cash savings plan by the contracted pharmacy.

27 (3) A parent entity is exempt from subdivision (g)(1) of this
28 section on a per-pharmacy contract basis if the prospective cash savings plan
29 offered through the 340B Drug Pricing Program is solely a cost recovery model
30 that does not include any dispensing or patient management fees and limits
31 the amount charged to the patient not to exceed the 340B Drug Pricing Program
32 acquisition cost plus itemizable administration or processing fees.

33 (h) A prospective cash savings plan offered through the 340B Drug
34 Pricing Program that is solely a cost recovery model that does not include
35 any dispensing or patient management fees and limits the amount charged to
36 the patient not to exceed the 340B Drug Pricing Program acquisition cost plus

1 itemizable administration or processing fees is not a financial incentive
2 under this section.

3 (i) A patient assistance program that utilizes or maximizes
4 pharmaceutical manufacturer cost or payment assistance for patients who have
5 opted in to participate in the patient assistance program is not a financial
6 incentive under this section.

7 (j) The board shall determine if there has been any violation of this
8 section during the inspections conducted by the board.

9 (k)(1) The board may issue temporary exemptions to this section on a
10 per-permit-holder basis to specific limited distribution or specialty item
11 drugs or to promote, preserve, and protect the public health, safety, and
12 welfare through the effective regulation of the aspects of the drug delivery
13 system.

14 (2) The board may promulgate rules to implement subdivision
15 (k)(1) of this section.

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17 SECTION 2. Arkansas Code Title 23, Chapter 99, is amended to add an
18 additional subchapter to read as follows:

19 Subchapter 19 – Pharmaceutical Patient Freedom of Choice

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21 23-99-1901. Legislative intent.

22 It is the intent of the General Assembly to provide a right to freedom
23 of choice in selecting prescriptions or pharmaceutical supplies and services
24 from a pharmacy of the patient or responsible party.

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26 23-99-1902. Definition.

27 As used in this subchapter, “pharmacy treatment plan” means a plan of
28 care for choice in preferred pharmacy, change of pharmacy, or choice of
29 multiple pharmacies depending on a patient’s health conditions, needs, and
30 preferences.

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32 23-99-1903. Pharmaceutical patient freedom of choice.

33 (a) A patient or his or her responsible party shall have freedom of
34 choice of pharmacy or pharmacy treatment plan by any permit holder of the
35 Arkansas State Board of Pharmacy.

36 (b) A patient may make a selection of pharmacy or pharmacy treatment

1 plan only when the patient or his or her responsible party is fully informed
2 of his or her freedom of choice.

3 (c) Any permit holder of the board shall not participate in any plan,
4 agreement, or arrangement that eliminates or detrimentally affects the
5 traditional relationship of physician, patient, pharmacist, and the patient's
6 freedom of choice of professional services.

7 (d)(1) If a for-profit, nonprofit, tax exempt, or governmentally
8 funded hospital, federally qualified health center, or a Federally Qualified
9 Health Center Look-Alike that has direct or indirect interest in a permit
10 holder of the board and a patient is receiving prescriptions issued by
11 prescribers providing services in or for the hospital, emergency room, health
12 system clinic, or any other associated health system facilities for the
13 permit holder, the permit holder shall document the patient's choice of
14 pharmacy or pharmacy treatment plan.

15 (2) The permit holder under subdivision (d)(1) of this section
16 shall maintain:

17 (A) Documentation of the patient's choice of pharmacy or
18 pharmacy treatment plan in the patient's medical record, pharmacy management
19 system, or files; and

20 (B) Policies and procedures that document how the
21 patient's freedom of choice of pharmacy or pharmacy treatment plan is
22 maintained.

23 (e) A patient may choose or change the provider pharmacy at any time.

24 (f) The board may review documentation, policies, and procedures
25 required under this section for the permit holders of the board during an
26 inspection by the board.

27 (g) A patient assistance program that utilizes or maximizes
28 pharmaceutical manufacturer cost or payment assistance for patients who have
29 opted in to participate in the patient assistance program is not a violation
30 of patient freedom of choice under this section.

31 (h)(1) The board may issue temporary exemptions to this section on a
32 per-permit-holder basis to specific limited distribution or specialty item
33 drugs or to promote, preserve, and protect the public health, safety, and
34 welfare through the effective regulation of the aspects of the drug delivery
35 system.

36 (2) The board may promulgate rules to implement subdivision

1 (h)(1) of this section.

2 /s/Achor

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