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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

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DIGEST

SB 41 Original

2019 Regular Session

Mills

Present law provides that pharmacy benefit managers must be licensed by the Louisiana Department of Insurance as third party administrators.

Proposed law establishes the Louisiana "Pharmacy Benefit Manager Licensing Law" to provide substantive requirements for obtaining and maintaining licensure to operate in Louisiana in order to protect the health, safety, and welfare of our citizens, to regulate the practice of pharmacy and actions that threaten pharmacy access, and to regulate the practice of medicine and actions that impede medical decisions.

Proposed law requires pharmacy benefit managers to be licensed by the Commissioner of Insurance and the Louisiana State Board of Medical Examiners and to be licensed and permitted by the Louisiana Board of Pharmacy. Proposed law identifies those three agencies collectively as "regulatory bodies". Proposed law requires pharmacy benefit managers to be licensed and permitted and in good standing with all three regulatory bodies in order to operate in Louisiana.

Proposed law provides for rulemaking by the Louisiana Board of Pharmacy and the Louisiana State Board of Medical Examiners and proposed law provides both boards with fee assessment authority in the amount of \$500 for an initial license, \$500.00 for an annual renewal, and \$500 for annual reporting.

Proposed law provides for regulation by the Louisiana Board of Pharmacy relative to prohibited actions on prescription drugs and regulation by the Louisiana State Board of Medical Examiners relative to prohibited actions on prescriptive authority of those drugs.

Proposed law provides legislative intent and public health policy findings. Proposed law provides definitions.

Proposed law establishes a fiduciary duty to the beneficiaries of any pharmacy benefit management plan and to the pharmacists and pharmacies who provide pharmacy services to those beneficiaries.

Proposed law provides general licensing and permitting requirements. Proposed law provides for general applicability.

Proposed law provides for civil fines of up to five thousand dollars for every violation, civil penalties including suspension, revocation, or placement of the license on probation, and criminal prosecution for filing false records.

Proposed law provides a listing of acts or omissions that are deemed unfair and deceptive trade

practices. Proposed law provides that commission of any of the unfair and deceptive trade practices shall subject the pharmacy benefit manager to any and all actions, including investigative actions and private rights of action. Proposed law provides for remedies and penalties under the Unfair Trade Practices and Consumer Protection Law.

Proposed law provides for enforcement of the Pharmacy Benefit Manager Licensing Law. Proposed law authorizes the regulatory bodies to conduct random compliance audits and complaint investigations. Proposed law requires a monthly report of opened complaints to be submitted to the attorney general.

Proposed law grants enforcement authority to the attorney general. Proposed law provides for a review process, administrative hearing, administrative ruling, and penalties that may be assessed by the attorney general. Proposed law provides for the decision of the attorney general to be appealable in accordance with the Louisiana Administrative Procedure Act.

Proposed law provides that nothing in proposed law shall be construed as a limitation on the power of the attorney general to negotiate or enter into a stipulation or consent decree with a pharmacy benefit manager.

Proposed law provides for severability.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 22:1657(B); adds R.S. 37:1252 through 1254 and 1360.121 through 1360.123, and R.S. 40:2861 through 2871)