

2019 Regular Session

HOUSE BILL NO. 433

BY REPRESENTATIVE LEBAS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PHARMACISTS: Authorizes a pharmacist to decline to dispense a covered prescription drug if the coverage provider reimburses the pharmacy in an amount less than the drug's acquisition cost

1 AN ACT

2 To amend and reenact R.S. 22:1860.3 and to enact R.S. 37:1219(D) through (F), relative to
3 business practices of pharmacists, pharmacies, and pharmacy benefit managers; to
4 provide relative to pharmacies which contract with pharmacy benefit managers to
5 provide covered drugs, devices, and services; to authorize pharmacists to decline to
6 provide covered drugs, devices, or services in certain cases; to require pharmacists
7 to communicate certain information to customers in such cases; to deem certain acts
8 as prohibited under the Unfair Trade Practices and Consumer Protection Law; to
9 provide for validity and enforceability of certain pharmacy contracts; and to provide
10 for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 22:1860.3 is hereby amended and reenacted to read as follows:

13 §1860.3. Reimbursements

14 A. A pharmacy benefit manager or person acting on behalf of a pharmacy
15 benefit manager shall not reimburse a pharmacy or pharmacist in this state an
16 amount less than the amount that the pharmacy benefit manager reimburses an
17 affiliate of the pharmacy benefit manager for providing the same services. The
18 amount shall be calculated on a per-unit basis using the same generic product
19 identifier or generic code number.

1 drugs, devices, or services at a contractual reimbursement rate may decline to
2 provide a covered drug, device, or service if the pharmacy or pharmacist will be or
3 is paid less than the acquisition cost for the covered drug, device, or service.

4 (2) If the pharmacy or pharmacist declines to provide the drug, device, or
5 service as authorized in this Subsection, then the pharmacy or pharmacist shall
6 provide the customer with adequate information as to where the prescription for the
7 drug, device, or service may be filled.

8 (3) No pharmacy benefit manager, pharmacy services administration
9 organization, or any person acting for or on behalf of a pharmacy benefit manager
10 or pharmacy services administration organization shall cancel any contract with the
11 pharmacy or pharmacist, sue for breach of contract, use the decision to decline as a
12 cause for not renewing the contract, or retaliate against or penalize the pharmacy or
13 pharmacist in any way.

14 E. The commission of any act prohibited by this Section shall be considered
15 an unfair method of competition and unfair practice or act which shall subject the
16 violator to any and all actions, including investigative demands and private actions,
17 remedies, and penalties, provided for in the Unfair Trade Practices and Consumer
18 Protection Law, R.S. 51:1401 et seq.

19 F. Any provision of a contract that is contrary to any provision of this
20 Section shall be null, void, and unenforceable in this state.

21 Section 3. If any provision or item of this Act or the application thereof is held
22 invalid, such invalidity shall not affect other provisions, items, or applications of this Act
23 which can be given effect without the invalid provisions, items, or applications, and to this
24 end the provisions of this Act are hereby declared severable in accordance with R.S. 24:175.

25 Section 4. This Act shall become effective upon signature by the governor or, if not
26 signed by the governor, upon expiration of the time for bills to become law without signature
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become
29 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 433 Original

2019 Regular Session

LeBas

Abstract: Authorizes a pharmacist to decline to dispense a covered drug, device, or service if the coverage provider reimburses the pharmacy in an amount less than the acquisition cost of drug, device, or service.

Proposed law authorizes any pharmacy or pharmacist who has a contract with a pharmacy benefit manager (PBM) administering any type of drug or pharmacy benefit plan to decline to provide a covered drug, device, or service if the pharmacy or pharmacist will be or is paid less than the acquisition cost for the covered drug, device, or service.

Proposed law provides that if the pharmacy or pharmacist declines to provide a drug, device, or service as authorized in proposed law, then the pharmacy or pharmacist shall provide the customer with adequate information as to where the prescription for the drug, device, or service may be filled.

Proposed law prohibits a PBM from canceling a contract with the pharmacy or pharmacist, suing for breach of contract, using the decision to decline as a cause for not renewing the contract, or retaliating against or penalizing the pharmacy or pharmacist in any way.

Proposed law provides that the commission of any act prohibited by proposed law shall be considered an unfair method of competition and unfair practice or act which shall subject the violator to any and all actions provided for in present law known as the Unfair Trade Practices and Consumer Protection Law (R.S. 51:1401 et seq.). Provides that any provision of a contract that is contrary to proposed law shall be null, void, and unenforceable.

Proposed law proposes to enact its provisions in the La. Insurance Code (Title 22 of present law) and in the La. Pharmacy Practice Act (Ch. 14 of Title 37 of present law).

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

(Amends R.S. 22:1860.3; Adds R.S. 37:1219(D)-(F))