

ACT No. 161

2019 Regular Session

HOUSE BILL NO. 433

BY REPRESENTATIVE LEBAS AND SENATOR MILLS

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

1 amount shall be calculated on a per-unit basis using the same generic product
2 identifier or generic code number.

3 B.(1) Any pharmacy or pharmacist who has a contract, either directly or
4 through a pharmacy services administration organization, with a pharmacy benefit
5 manager administering any type of drug or pharmacy benefit plan to provide covered
6 drugs, devices, or services at a contractual reimbursement rate may decline to
7 provide a covered drug, device, or service if the pharmacy or pharmacist will be or
8 is paid less than the acquisition cost for the covered drug, device, or service.

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

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

19 C. The commission of any act prohibited by this Section shall be considered
20 an unfair method of competition and unfair practice or act which shall subject the
21 violation to any and all actions, including investigative demands, private actions,
22 remedies, and penalties, provided for in the Unfair Trade Practices and Consumer
23 Protection Law, R.S. 51:1401 et seq.

24 D. Any provision of a contract that is contrary to any provision of this
25 Section shall be null, void, and unenforceable in this state.

26 Section 2. R.S. 37:1219(D) through (F) are hereby enacted to read as follows:

27 §1219. Affordable alternative options to prescription drugs

28 * * *

29 D.(1) Any pharmacy or pharmacist who has a contract, either directly or
30 through a pharmacy services administration organization, with a pharmacy benefit

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

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

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

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

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

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

26 Section 4. This Act shall become effective upon signature by the governor or, if not
 27 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____