SLS 26RS-245 **ORIGINAL**

2026 Regular Session

SENATE BILL NO. 368

BY SENATORS BASS AND TALBOT

PHARMACEUTICALS. Provides for prescription drug pricing. (8/1/26)

AN ACT

To amend and reenact R.S. 22:1870.1, to enact R.S. 22:1870.2, and to repeal R.S. 22:1870(B)(5), relative to prescription drug pricing; to require reporting when a prescription drug's price increases over a certain amount; to provide for information requests by the commissioner of insurance and secretary of the Louisiana Department of Health; to provide for public access to certain drug pricing information; to provide for penalties for violations; to provide for audits of reporting entities; to provide for a joint annual report; to provide for definitions; to provide for authority of the attorney general; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1870.1 is hereby amended and reenacted and R.S. 22:1870.2 is hereby enacted to read as follows:

§1870.1. Enforcement; Pharmacy Benefit Manager Enforcement Fund; creation

A. The commissioner shall enforce the provisions of this ~~Section~~ **Subpart** with all of the powers and authority vested in him pursuant to this Title.

B. Any act or combination of acts prohibited by this ~~Section~~ **Subpart** shall be considered an unfair method of competition and unfair practice or act in

accordance with the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401 et seq.

C.(1) The attorney general shall have independent authority to investigate, enforce, and contract with outside counsel for purposes of enforcing violations of this ~~Section.~~ **Subpart.** Upon a finding that a pharmacy benefit manager has violated any provision of this ~~Section,~~ **Subpart,** the attorney general may seek restitution to the state and treble damages under civil action, and shall be entitled to an award of attorney fees.

(2)(a) The Pharmacy Benefit Manager Enforcement Fund, hereafter referred to as the "fund", is created in the state treasury as a special fund. Any monies collected pursuant to a violation of this ~~Section~~ **Subpart** or violation of any provision of law regulating the practice of pharmacy benefit managers shall be deposited into the fund. The monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund and interest earned on the investment of monies in the fund shall be credited to the fund.

(b) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, all monies received by the state pursuant to a civil award granted or settlement under the provisions of this ~~Section~~ **Subpart** shall be deposited into the fund and used for the following purposes:

(i) Subject to legislative appropriation, monies in the fund shall be used first to fund the commissioner of insurance and attorney general's expenditures necessary to carry out the provisions of this ~~Section.~~ **Subpart.**

(ii) At the conclusion of each fiscal year, any unexpended monies shall be returned to the policyholders in accordance with a program designed by the attorney general and commissioner.

§1870.2. Prescription drug pricing transparency

A.(1) A pharmaceutical drug manufacturer shall notify the commissioner

and the secretary of the Louisiana Department of Health no later than thirty days after any of the following occur:

(a) The wholesale acquisition drug cost of a brand name drug increases by more than the percentage change from the preceding year in the prescription drug component of the Consumer Price Index of the United States Department of Labor, Bureau of Labor Statistics per pricing unit during any twelve-month period.

(b) The wholesale acquisition drug cost of a generic or biosimilar drug increases by more than the percentage change from the preceding year in the prescription drug component of the Consumer Price Index of the United States Department of Labor, Bureau of Labor Statistics per pricing unit during any twelve-month period.

(c) A new drug is introduced for distribution in the state that has a wholesale acquisition cost greater than the amount that causes the drug to be considered a specialty drug under the Medicare Part D program.

(2) For any prescription drug reported pursuant to Paragraph (1) of this Subsection, the manufacturer shall report to the commissioner and secretary the following information about the drug:

(a) An explanation of the increase, including whether it was in response to any rebate, other incentive or inducement, including discounts, or formulary requirement.

(b) The total cost of production and approximate cost of production per pricing unit.

(c) Research and development costs of the drug including but not limited to all of the following:

(i) Research and development costs that are paid with public funds.

(ii) After-tax research and development costs paid by the manufacturer.

(iii) Research and development costs paid by third parties.

(iv) Marketing and advertising costs for the drug, apportioned by

marketing activities that are directed to consumers, marketing activities that are directed to prescribers, and the total cost of all marketing and advertising that is directed primarily to Louisiana consumers and prescribers.

B. No later than thirty days after receipt of a notice provided for in Subsection A of this Section, the commissioner and secretary shall jointly request pricing component data per pricing unit for the prescription drug from each reporting entity.

C. No later than sixty days from the date of receiving a request from the commissioner and secretary, a reporting entity shall notify the commissioner and secretary of pricing component data per pricing unit of the prescription drug.

D. Each reporting entity that submits a notification or report pursuant to this Section shall submit with the notification or report a signed written certification of the notification's or report's accuracy.

E. The commissioner and secretary shall make the information provided for in Subsections A and C of this Section publicly accessible on the website of both the Department of Insurance and the Louisiana Department of Health.

F. The failure of any reporting entity to provide information required by this Section shall be considered an unfair method of competition and unfair practice or act in accordance with the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401 et seq. In addition to any enforcement actions taken by the commissioner as authorized pursuant to this Title, the commissioner and secretary shall refer any reporting entity that fails to provide a notification or report required by this Section to the attorney general.

G. The Department of Insurance and the Louisiana Department of Health may audit the data submitted by a reporting entity pursuant to this Section. The reporting entity shall pay for the costs of the audit.

H. By January first of each year, the commissioner and secretary shall produce a joint annual report and submit the report to the governor, the

president of the Senate, and the speaker of the House of Representatives. The report shall include all of the following:

(1) Information developed from the disclosures received pursuant to this Section on trends in the cost of prescription drugs, analysis of manufacturer prices and price increases, the major components of prescription drug pricing along the supply chain and the impacts on insurance premiums and cost sharing, and any other information the commissioner and secretary determine is relevant to providing greater consumer awareness of the factors contributing to the cost of prescription drugs in the state.

(2) Information identifying the twenty-five costliest drugs in the state, the twenty-five most frequently prescribed drugs in the state, and the twenty-five drugs with the highest year-over-year cost increases.

I. For purposes of this Section, the following definitions shall apply:

(1) "Affiliated manufacturer" means a drug or biological product manufacturer that, either directly or indirectly through one or more intermediaries:

(a) Has an investment or ownership interest in a pharmacy benefit manager licensed by the commissioner.

(b) Shares common ownership with a pharmacy benefit manager licensed by the commissioner.

(c) Has an investor or a holder of an ownership interest in a pharmacy benefit manager licensed by the commissioner.

(2) "Prescription drug" or "drug" means a drug that is required by any applicable federal or state law or regulation to be dispensed or delivered pursuant only to a prescription drug order, or is restricted to use by practitioners only and includes biological products. The term is limited to prescription drugs and biological products intended for human use.

(3) "Reporting entity" means a manufacturer, affiliated manufacturer, group purchasing organization, rebate aggregator, wholesale drug distributor,

pharmacy benefits manager, and any other entity in the supply chain between the manufacturer and pharmacy.

(4) "Secretary" means the secretary of the Louisiana Department of Health.

Section 2. R.S. 22:1870(B)(5) is hereby repealed.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, 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)]

DIGEST

SB 368 Original 2026 Regular Session Bass

Present law provides for the enforcement of present law relative to pharmacy and pharmacist claims by the commissioner of insurance and the attorney general. Proposed law retains present law but makes technical changes.

Proposed law requires a pharmaceutical drug manufacturer to notify the commissioner of insurance and the secretary of the La. Dept. of Health (LDH) no later than 30 days after either of the following occur:

(1) The wholesale acquisition drug cost of a brand name drug, generic, or biosimilar drug increases by more than the percentage change from the preceding year in the prescription drug component of the Consumer Price Index of the U.S. Dept. of Labor, Bureau of Labor Statistics per pricing unit during any 12-month period.

(2) A new drug is introduced for distribution in the state that has a wholesale acquisition cost greater than the amount that causes the drug to be considered a specialty drug under the Medicare Part D program.

Proposed law provides that the manufacturer shall also report to the commissioner and secretary an explanation of the increase, including whether it was in response to any rebate, other incentive or inducement, including discounts, or formulary requirement and certain other cost information.

Proposed law requires, no later than 30 days after receipt of a price increase notice, the commissioner and secretary to jointly request pricing component data per pricing unit for the prescription drug from each reporting entity. Proposed law further requires, no later than 60 days from the date of receiving the request, a reporting entity is to notify the commissioner and secretary of pricing component data per pricing unit of the prescription drug.

Proposed law provides that the pricing and cost information are to be publicly accessible on the websites of both the Dept. of Insurance and LDH.

Proposed law provides that failure of a reporting entity to provide information is an unfair method of competition and unfair practice or act, and the commissioner and secretary shall refer any reporting entity that fails to provide a notification or report to the attorney general.

Proposed law allows the commissioner and secretary to audit the data submitted by a reporting entity.

Proposed law provides for a joint annual report by the commissioner and secretary to the governor, the president of the Senate, and the speaker of the House of Representatives.

Present law requires a pharmaceutical drug manufacturer to provide notice not later than 30 days after increasing the wholesale acquisition drug cost of a brand name drug by more than 15% per wholesale acquisition cost unit during any 12-month period, or generic or biosimilar drug with a significant price increase as defined by the commissioner, or introducing a new drug for distribution when the wholesale acquisition cost is greater than the amount that causes the drug to be considered a specialty drug under the Medicare Part D program.

Proposed law repeals present law.

Effective August 1, 2026.

(Amends R.S. 22:1870.1; adds R.S. 22:1870.2; repeals R.S. 22:1870(B)(5))