

2026 Regular Session

SENATE BILL NO. 387

BY SENATORS BASS AND TALBOT

HEALTH/ACC INSURANCE. Provides relative to pharmacy benefit managers. (1/1/27)

1 AN ACT

2 To amend and reenact R.S. 22:1863 and R.S. 44:4.1(B)(11), to enact R.S. 22:1867.1, and to  
3 repeal R.S. 22:1868.1, relative to pharmacy benefit managers; to provide for  
4 definitions; to provide for a duty to enrollees, health plans, and providers; to provide  
5 for compensation; to provide for a private cause of action; to provide for audits; to  
6 provide for contract and other requirements; to provide for penalties; to provide for  
7 a public records exemption; to provide for an effective date; and to provide for  
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1.R.S. 22:1863 is hereby amended and reenacted and R.S. 22:1867.1 is  
11 hereby enacted to read as follows:

12 §1863. Definitions

13 As used in this Subpart, the following definitions apply:

14 (1) "Drug Shortage List" means a list of drug products posted on the United  
15 States Food and Drug Administration drug shortage website.

16 (2) "Effective rate pricing" means any payment reduction for pharmacist or  
17 pharmacy services by a pharmacy benefit manager under a reconciliation process for

1 direct or indirect remuneration fees, a brand or generic effective rate of  
2 reimbursement, or any other reduction or aggregate reduction of payment.

3 **(3) "Enrollee" means any individual entitled to coverage of healthcare**  
4 **services from a health insurance issuer under a health plan.**

5 ~~(3)~~**(4)** "Health benefit plan", "health plan", "plan", "benefit", or "health  
6 insurance coverage" means services consisting of medical care provided directly  
7 through insurance, reimbursement, or other means, and including items and services  
8 paid for as medical care under any hospital or medical service policy or certificate,  
9 hospital or medical service plan contract, preferred provider organization contract,  
10 or health maintenance organization contract offered by a health insurance issuer.  
11 However, excepted benefits are not included as a "health benefit plan".

12 **(5) "Healthcare service" means an item or service furnished to any**  
13 **individual for the purpose of preventing, diagnosing, alleviating, curing, or**  
14 **healing human illness, injury, or physical disability.**

15 ~~(4)~~**(6)** "Health insurance issuer" means any entity that offers health insurance  
16 coverage through a plan, policy, or certificate of insurance subject to state law that  
17 regulates the business of insurance. "Health insurance issuer" shall also include a  
18 health maintenance organization, as defined and licensed pursuant to Subpart I of  
19 Part I of Chapter 2 of this Code.

20 ~~(5)~~**(7)** "Local pharmacy" means a pharmacy as defined in the North American  
21 Industry Classification System (NAICS) Code 456110, which is domiciled in  
22 Louisiana and has fewer than ten retail outlets under its corporate umbrella.

23 ~~(6)~~**(8)** "Maximum Allowable Cost List" means a listing of the National Drug  
24 Code used by a pharmacy benefit manager setting the maximum allowable cost on  
25 which reimbursement to a pharmacy or pharmacist may be based. "Maximum  
26 Allowable Cost List" shall include any term that a pharmacy benefit manager or a  
27 healthcare insurer may use to establish reimbursement rates for generic and  
28 multi-source brand drugs to a pharmacist or pharmacy for pharmacist services.

29 ~~(7)~~**(9)** "NDC" means the National Drug Code, a numerical identifier assigned

1 to all prescription drugs.

2 (10) "Person" includes a natural person, corporation, mutual company,  
3 unincorporated association, partnership, joint venture, limited liability  
4 company, trust, estate, foundation, not-for-profit corporation, unincorporated  
5 organization, government or governmental subdivision, or agency.

6 ~~(8)~~(11) "Pharmacist" means a licensed pharmacist as defined in R.S. 22:1852.

7 ~~(9)~~(12) "Pharmacist services" means products, goods, or services provided  
8 as a part of the practice of pharmacy as defined in R.S. 22:1852.

9 ~~(10)~~(13) "Pharmacy" means any appropriately licensed place where  
10 prescription drugs are dispensed as defined in R.S. 22:1852.

11 (14) "Pharmacy benefit management fee" means a fee that covers the  
12 cost of providing one or more pharmacy benefit management services and that  
13 does not exceed the value of the service or services actually performed by the  
14 pharmacy benefit manager.

15 (15) "Pharmacy benefit management service" means any of the  
16 following:

17 (a) Negotiating the price of prescription drugs, including negotiating and  
18 contracting for direct or indirect rebates, discounts, or other price concessions.

19 (b) Managing any aspect of a prescription drug benefit including but not  
20 limited to the processing and payment of claims for prescription drugs, the  
21 performance of drug utilization review, the processing of drug prior  
22 authorization requests, the adjudication of appeals or grievances related to the  
23 prescription drug benefit, contracting with network pharmacies, controlling the  
24 cost of covered prescription drugs, managing or providing data relating to the  
25 prescription drug benefit, or the provision of services related thereto.

26 (c) Performance of any administrative, managerial, clinical, pricing,  
27 financial, reimbursement, data administration or reporting, or billing service.

28 (d) Such other services as the commissioner may define by rule or  
29 regulation.

1           ~~(11)~~**(16)** "Pharmacy benefit manager" has the same meaning as the term  
2 defined in R.S. 22:1641 and includes any person, either directly or indirectly, that  
3 provides one or more pharmacy benefit management services on behalf of an insurer  
4 or health plan, and any agent, contractor, intermediary, affiliate, subsidiary, or  
5 related entity of such person who facilitates, provides, directs, or oversees the  
6 provision of the pharmacy benefit management services.

7           ~~(12)~~**(17)** "Pharmacy benefits plan" or "pharmacy benefits program" means  
8 a plan or program that pays for, reimburses, covers the cost of, or otherwise provides  
9 for pharmacist services to individuals who reside in or are employed in Louisiana.

10           **(18) "Provider" means an individual or entity that furnishes, provides,**  
11 **dispenses, or administers one or more units of a prescription drug.**

12           ~~(13)~~**(19)** "Rebates" means **either of the following:** ~~all rebates, discounts, and~~  
13 ~~other price concessions, based on utilization of a prescription drug and paid by the~~  
14 ~~manufacturer or other party other than an enrollee, directly or indirectly, to the~~  
15 ~~pharmacy benefit manager after the claim has been adjudicated at the pharmacy.~~  
16 Rebates shall include a reasonable estimate, as determined by the commissioner, of  
17 any ~~volume-based discount or other discounts.~~

18           **(a) Negotiated price concessions including but not limited to base price**  
19 **concessions, whether described as a rebate or otherwise, and reasonable**  
20 **estimates of any price protection rebates and performance-based price**  
21 **concessions that may accrue directly or indirectly to the health insurance issuer**  
22 **or health plan, or other party on behalf of the health insurance issuer or health**  
23 **plan, including a pharmacy benefit manager, during the coverage year from a**  
24 **manufacturer, dispensing pharmacy, or other party in connection with the**  
25 **dispensing or administration of a prescription drug.**

26           **(b) Reasonable estimates of any negotiated price concessions, fees, and**  
27 **other administrative costs that are passed through, or are reasonably**  
28 **anticipated to be passed through, to the health insurance issuer or health plan**  
29 **and serve to reduce the health insurance issuer or health plan's liabilities for a**

1 **prescription drug.**

2 **(20) "Related entity" means either of the following:**

3 **(a) Any entity, whether foreign or domestic, that is a member of any**  
4 **controlled group of corporations, as defined in Section 1563(a) of the Internal**  
5 **Revenue Code, except that "fifty percent" shall be substituted for "eighty**  
6 **percent" wherever the latter percentage appears in the code, of which a**  
7 **pharmacy benefit manager is a member.**

8 **(b) Any of the following persons or entities that are treated as a related**  
9 **entity to the extent provided in rules adopted by the commissioner:**

10 **(i) A person other than a corporation that is treated under the rules as**  
11 **a related entity of a pharmacy benefit manager.**

12 **(ii) A person or entity that is treated under the rules as affiliated with a**  
13 **pharmacy benefit manager in cases where the pharmacy benefit manager is a**  
14 **person other than a corporation.**

15 ~~(14)~~**(21)** "Specialty drug" means a drug that meets all of the following  
16 criteria:

17 (a) The drug is used to treat and is prescribed for a person with a complex,  
18 chronic, or rare medical condition that is progressive, can be debilitating or fatal if  
19 left untreated or undertreated, or for which there is no known cure.

20 (b) The drug is not routinely stocked at a majority of pharmacies within this  
21 state.

22 (c) The drug has special handling, storage, inventory, or distribution  
23 requirements.

24 (d) Patients receiving the drug require complex education and treatment  
25 maintenance, such as complex dosing, intensive monitoring, or clinical oversight.

26 ~~(15)~~**(22)** "Spread pricing" means any amount charged or claimed by a  
27 pharmacy benefit manager for a prescription drug that exceeds the amount paid by  
28 the pharmacy benefit manager to the pharmacist or pharmacy for the dispensing of  
29 the prescription drug, minus a pharmacy benefit management fee.



1 pharmacy benefit manager in a manner that is adequate to identify all instances  
2 of spread pricing and to disclose all conflicts of interest to providers.

3 (2) Where there is a conflict between the pharmacy benefit manager  
4 duties owed in accordance with this Section, the pharmacy benefit manager  
5 duty owed to an enrollee shall be primary over the duty owed to any other  
6 party, and the pharmacy benefit manager duty owed to a provider shall be  
7 primary over the duty owed to a health plan.

8 (3) A person who is aggrieved by a violation of this Section may bring a  
9 civil action before a state court of competent jurisdiction against a pharmacy  
10 benefit manager.

#### 11 B. PBM Compensation

12 (1) A pharmacy benefit manager may negotiate but shall not retain  
13 rebates and fees, and shall only derive income from pharmacy benefit  
14 management fees for pharmacy benefit management services provided to a  
15 health insurance issuer or health plan in this state. The amount of any  
16 pharmacy benefit management fees shall be set forth in the agreement between  
17 the pharmacy benefit manager and the health insurance issuer or health plan.

18 (2) Pharmacy benefit management fees charged by or paid to a  
19 pharmacy benefit manager from a health insurance issuer or health plan shall  
20 not be directly or indirectly based or contingent upon any of the following:

21 (a) The acquisition cost or any other price metric of a drug.

22 (b) The amount of savings, rebates, or other fees charged, realized, or  
23 collected by or generated based on the activity of the pharmacy benefit  
24 manager.

25 (c) The amount of premiums, deductibles, or other cost-sharing or fees  
26 charged, realized, or collected by the pharmacy benefit manager from patients  
27 or other persons on behalf of a patient.

28 (3) Annually by December 31, each pharmacy benefit manager operating  
29 in the state shall certify to the commissioner that it has fully and completely

1 complied with the requirements of this Subsection throughout the prior  
2 calendar year. The certification shall be signed by the chief executive officer or  
3 chief financial officer of the pharmacy benefit manager.

4 C. PBM Audits

5 (1) The commissioner and any health insurance issuer or health plan  
6 contracted with a pharmacy benefit manager holding a license issued by the  
7 commissioner may audit the pharmacy benefit manager once per calendar year.  
8 This audit right is in addition to, and shall not be construed to limit, any other  
9 audit rights authorized by law or contract. As part of any audit, the  
10 commissioner, health insurance issuer, or health plan may request information  
11 including but not limited to the any of following:

12 (a) All reimbursement paid to retail pharmacies, on a claim level, for all  
13 customers of the pharmacy benefit manager in the state, including drug-specific  
14 reimbursement, dispensing fees, all rebates, other fees, ancillary charges,  
15 clawbacks, or adjustments to reimbursement.

16 (b) Any difference in reimbursement paid to affiliated pharmacies and  
17 unaffiliated pharmacies, including differences in reimbursed ingredient costs  
18 and dispensing fees.

19 (c) Historical claims data including ingredient cost, quantity, dispensing  
20 fee, sales tax, usual and customary price, channel such as mail or retail, health  
21 insurance issuer or health plan paid amount, days' supply, the amount paid by  
22 the covered individual, formulary tier, acquisition cost, and any administrative  
23 fee associated with the claim, as applicable.

24 (d) Aggregate rebate amounts received directly or indirectly from  
25 manufacturers, including from any other entity affiliated with or related to the  
26 pharmacy benefit manager that negotiates or contracts with manufacturers,  
27 such as group purchasing organizations and rebate aggregators, by calendar  
28 quarter.

29 (2) The pharmacy benefit manager shall provide information pursuant

1 to Paragraph (1) of this Subsection no later than thirty days of its receipt of any  
2 request from the commissioner, health insurance issuer, or health plan.

3 (3) The commissioner may dictate the form in which the pharmacy  
4 benefit manager will provide information in response to an audit pursuant to  
5 Paragraph (1) of this Subsection.

6 (4) The pharmacy benefit manager shall certify that all information  
7 submitted to the commissioner or any health insurance issuer or health plan in  
8 accordance with this Subsection is accurate and complete in all material  
9 respects. The certification shall be signed by the chief executive officer or chief  
10 financial officer of the pharmacy benefit manager.

11 (5) The commissioner and any health insurance issuer or health plan  
12 contracted with a pharmacy benefit manager holding a license issued by the  
13 commissioner shall not directly or indirectly publish or otherwise disclose any  
14 confidential, proprietary information, including but not limited to any  
15 information that would reveal the identity of a specific health plan or  
16 manufacturer, the price charged for a specific drug or class of drugs, the  
17 amount of any rebates provided for a specific drug or class of drugs, or that  
18 would otherwise have the potential to compromise the financial, competitive, or  
19 proprietary nature of the information. Any such information shall be protected  
20 as confidential and proprietary information, and is not a public record and is  
21 exempt from disclosure pursuant to the Public Records Law, R.S. 44:4.1 et seq.  
22 The commissioner and any health insurance issuer or health plan contracted  
23 with a pharmacy benefit manager holding a license issued by the commissioner  
24 shall impose the confidentiality protections and requirements of this Paragraph  
25 on any agent or downstream third party that may receive or have access to this  
26 information.

27 D. PBM Contract and Other Requirements

28 (1) A pharmacy benefit manager contract with a health insurance issuer  
29 or health plan entered into, amended, extended, or renewed on or after January

1 **1, 2027, shall do both of the following:**

2 **(a) Specify all forms of revenue, including pharmacy benefit**  
3 **management fees, to be paid by the health insurance issuer or health plan to the**  
4 **pharmacy benefit manager.**

5 **(b) Acknowledge that spread pricing is not permitted in accordance with**  
6 **R.S. 22:1867.**

7 **E.(1) In addition to any other civil or criminal penalty authorized by law,**  
8 **a violation of this Section shall be punishable by the commissioner through a**  
9 **civil monetary penalty of twenty-five thousand dollars for each and every act**  
10 **or violation, with no aggregate penalty maximum.**

11 **(2) If a violation for which the commissioner has imposed a fine in**  
12 **accordance with this Subsection is not corrected within thirty days after notice**  
13 **of the violation is received by the pharmacy benefit manager, the commissioner**  
14 **shall suspend or revoke the pharmacy benefit manager's license in accordance**  
15 **with R.S. 49:977.3.**

16 **F. In implementing the requirements of this Section, the state shall**  
17 **regulate a pharmacy benefit manager or health insurance issuer only to the**  
18 **extent permissible under applicable law.**

19 Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:

20 §4.1. Exceptions

21 \* \* \*

22 B. The legislature further recognizes that there exist exceptions, exemptions,  
23 and limitations to the laws pertaining to public records throughout the revised  
24 statutes and codes of this state. Therefore, the following exceptions, exemptions, and  
25 limitations are hereby continued in effect by incorporation into this Chapter by  
26 citation:

27 \* \* \*

28 (11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 550.22, 550.29,  
29 550.30, 571, 572, 572.1, 572.2, 574, 601.3, 618, 639, 691.4, 691.5, 691.6, 691.7,

