SLS 26RS-247 **ENGROSSED**

2026 Regular Session

SENATE BILL NO. 401

BY SENATOR TALBOT

PHARMACEUTICALS. Provides for a Prescription Drug Affordability Board. (8/1/26)

AN ACT

To amend and reenact R.S. 44:4.1(B)(11), to enact Subpart C-2 of Part II of Chapter 6 of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:1870.10 through 1870.20, and to repeal R.S. 22:1870(B)(5), relative to a Prescription Drug Affordability Board; to provide legislative findings and purpose; to provide for definitions; to establish the Prescription Drug Affordability Board; to provide for membership, powers, and duties of the board; to require drug manufacturers to provide drug pricing information to the board; to require educational or marketing materials for prescription drugs directed to healthcare providers to include price information; to establish the minimum price information content; to authorize enforcement pursuant to the Unfair Trade Practices and Consumer Protection Law; to require reporting when a prescription drug's price increases over a certain amount; to provide for information requests by the board; 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 an annual report; to provide for the authority of the attorney general; to provide for a public records exception; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart C-2 of Part II of Chapter 6 of Title 22 of the Louisiana Revised Statutes of 1950, comprised of R.S. 22:1870.10 through 1870.20, is hereby enacted to read as follows:

SUBPART C-2. Prescription Drug Affordability Board

§1870.10. Legislative findings; purpose

A.(1) The Legislature of Louisiana hereby finds that the costs of prescription drugs have been increasing dramatically without any attributed reason.

(2) The legislature further finds that containing healthcare costs requires containing prescription drug costs.

B. Therefore, the legislature hereby declares, in order to contain prescription drug costs, it is essential to understand the drivers of those costs, as transparency is typically the first step toward cost containment.

§1870.11. Definitions

As used in this Part, the following words have the following meanings unless the context indicates otherwise:

(1) "Average wholesale price" means the wholesale price charged on a specific prescription drug that is assigned by the drug manufacturer and listed in a nationally recognized drug pricing file.

(2) "Board" means the Prescription Drug Affordability Board established pursuant to this Subpart.

(3) "Department" means the Department of Insurance.

(4) "Manufacturer" means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drugs for human use, whether directly or indirectly, by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling, or

distribution of prescription drugs. The term shall not include a wholesale distributor of prescription drugs licensed pursuant to the Louisiana Drug and Device Distributors Act, R.S. 37:3461 et seq., a retailer, or a pharmacist licensed pursuant to the Louisiana Pharmacy Practice Act, R.S. 37:1161 et seq.

(5) "Prescription drug" means a drug as defined in 21 U.S.C. 321.

(6) "Prescription drug marketing" means to provide educational or marketing information or materials regarding a prescription drug in any form including but not limited to all of the following:

(a) Face-to-face meetings.

(b) Physical mailings.

(c) Telephone conversations.

(d) Electronic mail or facsimile.

§1870.12. Prescription Drug Affordability Board

A. The Prescription Drug Affordability Board is hereby established within the Department of Insurance.

B. The board shall consist of the following members:

(1) The commissioner of insurance, or his designee.

(2) The secretary of the Louisiana Department of Health, or his designee.

(3) The president of the Louisiana Board of Pharmacy, or his designee.

(4) Two public members appointed by the governor.

(5) Two public members appointed by the president of the Senate.

(6) Two public members appointed by the speaker of the House of Representatives.

C. The public members shall have a significant healthcare or pharmacy background.

D.(1) Each public member shall serve for a term of five years.

(2) Each public member shall hold office for the term of appointment and until their successor is appointed and qualified.

E. Any vacancy in the membership of the board shall be filled for the

unexpired term in the manner provided for the original appointment. Members shall be eligible for reappointment to the board.

F.(1) The board shall organize as soon as possible after the appointment of its members and shall annually elect a chairperson and vice chairperson from among its members, and a secretary who need not be a member of the board.

(2) The board shall meet at least four times a year and may hold additional meetings as necessary to discharge its duties. The board shall also meet at the call of the chairperson or the commissioner.

G. A majority of the membership of the board shall constitute a quorum for the transaction of board business.

H. Members of the board shall serve without compensation.

I. The department shall provide the board with staff support from existing personnel within the department and meeting facilities as is necessary for the board to carry out its duties.

§1870.13. Critical prescription drug list

A. The board shall develop a list of critical prescription drugs made available in Louisiana for which there is a substantial public interest in understanding the development of pricing for the drugs.

B. In developing the list required by Subsection A of this Section, the board shall consider, at a minimum, all of the following factors:

(1) The cost of the drug to public healthcare programs including but not limited to Medicaid.

(2) The current cost of the drug in the state.

(3) The extent of use of the drug within the state.

(4) The availability and cost of comparable or therapeutically equivalent courses of treatment.

(5) The rate at which the drug is deemed to produce successful outcomes when used to treat the conditions for which it is most commonly prescribed.

(6) Any other objectively quantifiable factors as the board determines to

be relevant to evaluating the significance of the availability of the drug in Louisiana.

C. The board may also consider recommendations for drugs to be included in the list submitted by government agencies, members of the public, and professional organizations representing the pharmaceutical industry, healthcare practitioners, pharmaceutical manufacturers, managed care plans, prescription drug benefit managers, and other insurers.

D. The list developed pursuant to this Section shall be reviewed and updated by the board at least once every three years.

§1870.14. Manufacturer reporting

A. For each prescription drug that the board places on the critical prescription drug list pursuant to R.S. 22:1870.13, the board shall require the manufacturer of the drug to report the following information to the board:

(1) Total cost of production and approximate cost of production per dose.

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

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

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

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

(3) 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.

(4) The prices for the drug that are charged to purchasers outside the United States, by country, for a representative set of countries determined by the board.

(5)(a) Prices charged to typical Louisiana purchasers including but not limited to all of the following:

(i) Local pharmacies, as defined in R.S. 22:1863.

(ii) Pharmacy chains.

(iii) Pharmacy wholesalers.

(iv) Other direct purchasers.

(b) True net-typical prices charged to prescription drug benefit managers for distribution in Louisiana, net of any rebates or other payments from the manufacturer to the pharmacy benefit manager and the pharmacy benefit manager to the manufacturer.

§1870.15. Rulemaking; enforcement

A. The commissioner, on behalf of the board, shall adopt, pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., any rules and regulations necessary to implement the provisions of this Subpart.

B. The failure of a manufacturer to provide the information required by this Subpart shall constitute a prohibited practice under the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401 et seq., and shall be subject to the enforcement provisions of that Chapter.

§1870.16. Confidentiality

A. Information reported to the board pursuant to R.S. 22:1870.14 shall not be deemed to be a public or government record. The information shall be kept confidential and shall be exempt from disclosure.

B. Any public reporting of information submitted pursuant to R.S. 22:1870.14 shall be aggregated to protect the financial, competitive, or proprietary nature of the information.

§1870.17. Report to the legislature

A.(1) The board shall prepare an annual report on prescription drug prices and their role in overall healthcare spending in the state based on the data submitted to the board pursuant to R.S. 22:1870.14 and in accordance with R.S. 22:1870.16.

(2) The board shall identify and include in the report a list of those

prescription drugs that have a cost in Louisiana that is excessively high when compared with the cost of the drug in other states and countries and when compared with the overall cost of researching, developing, and producing the drug in light of the number of years the drug has been made available for distribution.

(3) The board may include in the report recommendations for actions to lower prescription drug costs and spending across the state while maintaining access to and the quality of health care.

B. The board shall submit the report to the House and Senate committees on insurance no later than sixty days prior to the start of the regular legislative session. The board shall also make the report publicly available on the website of the Department of Insurance and the Louisiana Department of Health.

§1870.18. Disclosure of prescription drug price information; educational or marketing materials; minimum content; violations

A. Any person engaging in any form of prescription drug marketing directly to a healthcare provider with the intent that the provider may prescribe the drug for use by his patients shall include price information in the materials.

B. The price information required by Subsection A of this Section shall include, at a minimum, all of the following:

(1) The date that the educational or marketing materials were prepared.

(2) The name of the drug and of the current manufacturer.

(3)(a) The average wholesale price of a thirty-day supply of the drug described in the materials as of the date the educational or marketing materials were prepared.

(b) If the described drug is designed to be administered for a duration of therapy of less than thirty days, the proposed duration and average wholesale price for that period of time as of the date the educational or marketing materials were prepared.

(c) The disclosure of the average wholesale price shall account for each

labeled indication and reflect any differences as a result of different strengths and dosage forms approved for sale.

(4) The date that the drug was first marketed in the United States and the average wholesale price as of that date.

(5) The average wholesale price on each date that the price of the drug has changed since the drug was first marketed in the United States.

C.(1) The disclosures required by this Section shall be made on a form and in a manner prescribed by the commissioner.

(2) The completed form shall be provided to the healthcare provider at the same time and in the same manner as any other marketing materials provided to the provider. If the marketing activities are performed telephonically, then the form shall be sent to the healthcare provider by mail or electronically within one business day of the marketing activity.

D. A violation of any provision of this Section shall constitute a prohibited practice under the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401 et seq., and shall be subject to the enforcement provisions of that Chapter.

E. The commissioner shall adopt, pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., any rules and regulations necessary to implement and enforce the provisions of this Section.

§1870.19. Prescription drug pricing transparency

A.(1) A pharmaceutical drug manufacturer shall notify the board 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 one hundred dollars from the preceding year or two hundred dollars total 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 board 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 board shall 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 board, a reporting entity shall notify the board 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 information provided for in Subsections A and C of this Section shall be made 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 on behalf of the board 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 Subpart. The reporting entity shall pay for the costs of the audit.

H. By January first of each year, the board shall produce an 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 Subpart 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 board determines 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.

§1870.20. Termination

The provisions of this Subpart shall terminate on June 30, 2028.

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

§4.1. Exceptions

* * *

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

citation:

* * *

(11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 550.22, 550.29, 550.30, 571, 572, 572.1, 572.2, 574, 601.3, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1, 691.10, 691.38, 691.56, 732, 752, 753, 771, 834, 972(D), 976, 1008, 1019.2, 1203, 1460, 1464, 1466, 1483.1. 1488, 1546, 1559, 1566(D), 1644, 1656, 1657.1, 1660.7, 1723, 1796, 1801, 1808.3, 1869, **1870.16,** 1927, 1929, 1983, 1984, 2036, 2045, 2056, 2085, 2091, 2293, 2303, 2508

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Section 3. R.S. 22:1870(B)(5) is hereby repealed.

Section 4. This Act shall take effect and become operative if and when the Act which originated as Senate Bill No. 387 of this 2026 Regular Session of the Legislature is enacted and becomes effective. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the date that Senate Bill No. 387 becomes effective.

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 401 Engrossed 2026 Regular Session Talbot

Proposed law defines "average wholesale price", "board", "department", "manufacturer", "prescription drug", and "prescription drug marketing".

Proposed law establishes the Prescription Drug Affordability Board within the Dept. of Insurance, consisting of the following members:

(1) The commissioner of insurance or his designee.

(2) The secretary of the La. Dept. of Health or his designee.

(3) The president of the La. Board of Pharmacy or his designee.

(4) Two public members appointed by the governor.

(5) Two public members appointed by the president of the Senate.

(6) Two public members appointed by the speaker of the House of Representatives.

Proposed law requires the public members to have a significant health care or pharmacy

background and provides that each shall serve for a term of five years.

Proposed law requires the board to develop a list of critical prescription drugs made available in La., for which there is a substantial public interest in understanding the development of pricing for the drugs.

Proposed law requires the manufacturer of each prescription drug that the board places on the critical prescription drug list to report the following information to the board:

(1) Total cost of production and approximate cost of production per dose.

(2) Research and development costs of the drug.

(3) 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 La. consumers and prescribers.

(4) The prices for the drug that are charged to purchasers outside the U.S., by country, for a representative set of countries determined by the committee.

(5) Prices charged to typical La. purchasers.

Proposed law provides that failure of a manufacturer to provide the required information is a prohibited practice under the Unfair Trade Practices and Consumer Protection Law.

Proposed law requires information reported to the board to be kept confidential and prohibits the disclosure of the information as a public record. Further requires any public reporting of information to be aggregated to protect the financial, competitive, or proprietary nature of the information.

Proposed law requires the board to prepare an annual report on prescription drug prices and their role in overall healthcare spending in the state based on the data submitted to the board. Further requires the board to include in the report a list of those prescription drugs that have a cost in La. that is excessively high when compared with the cost of the drug in other states and countries and when compared with the overall cost of researching, developing, and producing the drug in light of the number of years the drug has been made available for distribution.

Proposed law requires any person engaging in any form of prescription drug marketing directly to a healthcare provider with the intent that the provider may prescribe the drug for use by his patients to include, at a minimum, the following price information in the materials:

(1) The date that the educational or marketing materials were prepared.

(2) The name of the drug and of the current manufacturer.

(3) The average wholesale price of a 30-day supply of the drug described in the materials, or if the described drug is designed to be administered for a duration of therapy of less than 30 days, the proposed duration and average wholesale price for that period of time.

(4) The date that the drug was first marketed in the U.S. and the average wholesale price as of that date.

(5) The average wholesale price on each date that the price of the drug has changed since the drug was first marketed in the U.S.

Proposed law requires the completed form to be provided to the healthcare provider at the same time and in the same manner as any other marketing materials provided to the provider. Further provides, if the marketing activities are performed telephonically, the form to be sent to the healthcare provider by mail or electronically within one business day of the marketing activity.

A violation of proposed law constitutes a prohibited practice under the Unfair Trade Practices and Consumer Protection Law.

Effective August 1, 2026.

(Amends R.S. 44:4.1(B)(11); adds R.S. 22:1870.10-1870.20; repeals R.S. 22:1870(B)(5))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Require notification when the wholesale acquisition cost of a name brand drug increases by more than the CPI during any 12-month period.

2. Require notification when the wholesale acquisition cost of a generic drug increases by more than $100, or by $200 total, in any 12-month period.

3. Require an explanation for the increase in price, including specified information about factors that make up the price.

4. Require the reported information be made publicly available.

5. Require an annual report.

6. Sunset the board on June 30, 2028.

7. Repeal present law requiring notice of a more than 15% increase in the cost of a brand name drug.

8. Make proposed law effective when SB 387 is enacted.

9. Make technical changes.