

## CONFERENCE COMMITTEE REPORT

SB 387

2026 Regular Session

Bass

May 29, 2026

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 387 by Senator Bass, recommend the following concerning the Reengrossed bill:

1. That the House Committee Amendments No. 2, 3, 4, 5, and 7 proposed by the House Committee on Insurance and adopted by the House of Representatives on May 5, 2026, be adopted.
2. That the House Committee Amendments No. 1, 6, and 8 proposed by the House Committee on Insurance and adopted by the House of Representatives on May 5, 2026, be rejected.
3. That the following amendments to the reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, line 2, after "1863," delete "and 1865(A)" and insert "1865(A), and the introductory paragraph of 1865(G), R.S. 39:1600.1(A), the introductory paragraph of 1600.1(D), and 1600.1(D)(6),"

AMENDMENT NO. 2

On page 1, line 3, after "22:1868.1" insert "and Section 5 of Act 474 of the 2025 Regular Session"

AMENDMENT NO. 3

On page 1, line 4, after "definitions;" insert "to provide for the costs of implementation and enforcement;"

AMENDMENT NO. 4

On page 1, line 8, after "requirements;" insert "to provide for data sharing;"

AMENDMENT NO. 5

On page 1, line 11, delete "and 1865(A)" and insert "1865(A), and the introductory paragraph of 1865(G)"

AMENDMENT NO. 6

On page 2, line 20, after "**services**" delete the rest of the line and insert "**under the terms of a health benefit plan.**"

AMENDMENT NO. 7

On page 3, line 10, after "umbrella" insert "**, or which is owned and operated by a nonprofit health system, or any affiliated hospital, domiciled in Louisiana**"

AMENDMENT NO. 8

On page 4, line 19, after "person" delete the rest of the line and delete lines 20 through 23 and insert the following:

~~"; either directly or indirectly, that provides one or more pharmacy benefit management services on behalf of an insurer or health plan, and any agent, contractor, intermediary, affiliate, subsidiary, or related entity of such person who facilitates, provides, directs, or oversees the provision of the pharmacy benefit management services~~ **or entity, and any subsidiary, parent, or affiliate of such entity that directly or indirectly facilitates, provides, directs, manages, administers, or oversees the provision of one or more pharmacy benefit management services. The administration or management of a prescription benefits plan includes direct or indirect participation at any stage in the negotiation or determination of prescription drug pricing ultimately assessed to an insurer's or pharmacy benefit manager's client health benefit plan.**"

AMENDMENT NO. 9

On page 5, delete lines 6 through 14 and insert the following:

**"(a) Drug manufacturer price concessions including but not limited to base price concessions, whether described as a rebate or otherwise, and any price protection rebates and performance-based price concessions that may accrue directly or indirectly to the pharmacy benefit manager, health insurance issuer or health plan, or other party on behalf of the health insurance issuer or health plan, including a pharmacy benefit manager, from a manufacturer, dispensing pharmacy, or other party in connection with the dispensing or administration of a prescription drug.**

**(b) Reasonable estimates of any price concessions, fees, and"**

AMENDMENT NO. 10

On page 6, between lines 17 and 18, insert the following:

**"(23) "Net acquisition cost" means the amount paid to acquire a prescription drug after deducting all rebates, price concessions, fee payments, and any other payments or economic benefits received directly or indirectly by the pharmacy benefit manager or any related entity in connection with the selection, placement, or dispensing of that drug, calculated from the perspective of the health benefit plan and not the pharmacy benefit manager."**

AMENDMENT NO. 11

On page 7, between lines 2 and 3, insert the following:

"G. The commissioner may impose a reasonable fee upon pharmacy benefit managers, in accordance with the Administrative Procedure Act, in addition to a license fee and annual report fee, in order to cover the costs of implementation and enforcement of this Section and R.S. 22:1641 through 1657, 1851 through 1864, and 1961 through 1995 **any portion of this Title pertaining to pharmacy benefit management**, including fees to cover the cost of all of the following:

\* \* \*

AMENDMENT NO. 12

On page 7, delete lines 5 through 29 and insert the following:

**"(1) Any pharmacy benefit manager doing business in this state shall act solely for the benefit of the health insurance issuers and health plans for which it provides pharmacy benefit management services and for the enrollees of the plans.**

**(2) No pharmacy benefit manager, subsidiary, parent, or affiliate of such pharmacy benefit manager, either directly or indirectly, shall engage in any activity which increases the cost of prescription drugs to health insurance issuers, health plans, or enrollees; restricts or impairs access to prescription drugs except as directly required by the design of the health plan; or otherwise interferes with the obligation of the pharmacy benefit manager to act in the best interest of health insurance issuers, health plans, and enrollees.**"

AMENDMENT NO. 13

On page 8, delete lines 1 through 7

AMENDMENT NO. 14

On page 8, line 12, after "**formulary**" insert " **, unless returned to the health insurance issuer or plan sponsor**"

AMENDMENT NO. 15

On page 8, line 17, after "**consumers**" insert "**or lower premiums for enrollees**"

AMENDMENT NO. 16

On page 8, delete lines 18 through 20

AMENDMENT NO. 17

On page 8, line 21, change "**(d)**" to "**(c)**"

AMENDMENT NO. 18

On page 8, delete lines 23 through 25 and insert the following:

**"(4) Notwithstanding any other provision of law to the contrary, upon a determination that a pharmacy benefit manager has violated a provision of this Subsection, the commissioner may impose a fine in the amount of the greater of the cost to the health insurance issuer, health plan, or enrollees or the enrichment to the pharmacy benefit manager and any subsidiaries, parent, or affiliates thereof, plus an additional fine of twenty-five thousand dollars for each and every act or violation, with no aggregate penalty maximum."**

AMENDMENT NO. 19

On page 9, line 29, after "**manager**" delete the rest of the line

AMENDMENT NO. 20

On page 12, line 29, after "**other**" delete "**civil or criminal**"

AMENDMENT NO. 21

On page 13, delete lines 12 through 14 and insert the following:

**"G. The provisions of this Subpart shall apply only to the extent not preempted or otherwise prohibited by federal law. To the extent such conflict exists, the validity of the remainder of this Subpart and the applicability thereof to any other entity, person, or circumstance shall not be affected.**

**H. Pharmacy Technology and Third Party Data Sharing**

**(1) A pharmacy benefit manager, or any affiliate, subsidiary, or agent of a pharmacy benefit manager, shall not directly or indirectly prohibit or restrict a pharmacist or pharmacy from offering, directly or through a third party, services or products to increase transparency, access, and affordability of**

prescription drugs for patients. Such services and products include but are not limited to:

(a) Simplified payment processes, electronic payments, or payment plans.

(b) Adherence support services or communications.

(c) Information regarding patient out-of-pocket costs or alternative medication options.

(d) Electronic transactions that allow the pharmacist or pharmacy to provide patients with price and benefits transparency.

(e) Sharing claims data or other healthcare transaction data of patients with the patient, the patient's healthcare providers, a business associate as that term is defined in 45 CFR 160.103, or any third party authorized by the patient at the time the pharmacist or pharmacy runs the claim or other electronic transaction or at any time thereafter.

(f) Electronic transactions that allow the pharmacist or pharmacy to provide patients with prior authorization support to enable access to the patient's prescription drug.

(g) Any lawful copayment assistance or other out-of-pocket support to patients to lower the costs of their prescription drugs.

(2) A pharmacy benefit manager, or any affiliate, subsidiary, or agent of a pharmacy benefit manager, shall not directly or indirectly:

(a) Audit, investigate, terminate, or threaten to terminate a pharmacist or pharmacy from the pharmacy benefit manager's network as a result of the pharmacist or pharmacy engaging in any activity described in or allowed by Paragraph (1) of this Subsection.

(b) Reduce, rescind, or otherwise claw back any reimbursement payment in whole or in part to a pharmacist or pharmacy for a prescriptions drug's ingredient cost or dispensing fee as a result of the pharmacist or pharmacy engaging in any activity described in or allowed by Paragraph (1) of this Subsection.

(c) Discriminate against or otherwise penalize a pharmacist or pharmacy, including but not limited to decreasing any reimbursement rates or by reclassifying the pharmacist or pharmacy's class of trade as a result of the pharmacist or pharmacy engaging in any activity described in or allowed by Paragraph (1) of this Subsection.

(3) Nothing in this Subsection shall be construed to modify or limit the application of R.S. 40:2870(A)(3) to a pharmacy benefit manager's handling of beneficiary personal health care or contact information. A pharmacy's sharing of claims data or other healthcare transaction data with a business associate, as that term is defined in 45 CFR 160.103, in compliance with the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, shall not constitute a pharmacy benefit manager buying, selling, transferring, or providing personal health care or contact information within the meaning of R.S. 40:2870(A)(3).

(4) Any contract provision between a pharmacy benefit manager and a pharmacist or pharmacy that conflicts with this Subsection shall be severable from the contract and considered void and unenforceable in this state.

(5) A violation of this Subsection is subject to the penalties provided in this Section."

#### AMENDMENT NO. 22

On page 15, delete lines 21 through 23 and insert the following:

"G. The provisions of this Subpart shall apply only to the extent not preempted or otherwise prohibited by federal law. To the extent such conflict exists, the validity of the remainder of this Subpart and the applicability thereof to any other entity, person, or circumstance shall not be affected."

#### AMENDMENT NO. 23

On page 15, between lines 23 and 24, insert the following:

"Section 2. R.S. 39:1600.1(A), the introductory paragraph of 1600.1(D), and 1600.1(D)(6) are hereby amended and reenacted to read as follows:

§1600.1. Procurement of pharmacy benefit manager services by reverse auction

A.(1) This section shall be known and may be cited as the "Louisiana Competitive Pharmacy Benefit Managers Act".

**(2) It is recommended to conduct the initial PBM reverse auction no later than July 1, 2028. Terms of any contract for pharmacy benefit services awarded through the initial reverse auction process may become effective at commencement of the new plan year beginning January 1, 2029.**

**(3) It is recommended that PBM reverse auctions be conducted in accordance with the provisions of this Chapter at a frequency of no less than once every five years.**

\* \* \*

D. ~~Contracts~~ **It is recommended that contracts** for pharmacy benefit manager services obtained through reverse auction shall comply with the following:

\* \* \*

(6)(a) With technical assistance and support provided by the technology platform provider, the division of administration shall specify the terms of the participant bidding agreement which shall not be modified except by specific consent of the division of administration.

**(b) It is recommended that the participant bidding agreement require qualified bidders in the PBM reverse auction process, both full service PBMs and carve-out service providers, to comply with the terms and provisions of all PBM regulations in Title 22 of the Louisiana Revised Statutes of 1950.**

**(c) It is recommended that qualified specialty carve-out prescription drug service providers compete with full service PBMs on the basis of price and any other appropriate criteria for award of a specialty drug contract over multiple rounds of dynamically competitive reverse auction bidding.**

**(d) It is recommended that qualified generic carve-out prescription drug service providers compete with full service PBMs on the basis of price and any other appropriate criteria for award of a generic drug contract over multiple rounds of dynamically competitive reverse auction bidding.**

**(e) The PBM reverse auction process may result in award of multiple or hybrid contracts to full service and carve-out prescription service providers if such award is determined to be of higher value to the state.**

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AMENDMENT NO. 24

On page 15, at the beginning of line 24, change "Section 2." to "Section 3."

AMENDMENT NO. 25

On page 16, delete lines 11 through 16 and insert the following:

"Section 4. R.S. 22:1868.1 and Section 5 of Act 474 of the 2025 Regular Session are hereby repealed in their entirety.

Section 5. Sections 1 through 4 and 6 through 8 of this Act shall take effect and become enforceable only if Section 4 of the Act which originated as Senate Bill No. 401 of the 2026 Regular Session of the Legislature is enacted and becomes effective.

Section 6. The provisions of this Act amending and reenacting R.S. 22:1856.1 and 1865 and enacting 1867.1(C) and 1867.1(E) and (F), shall become effective upon signature of the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, these provisions of this Act shall become effective on the day following such approval.

Section 7. The provisions of this Act amending and reenacting R.S. 22:1863 and enacting 1867.1(A)(1), (2), and (4) and (D) shall become effective on January 1, 2027.

Section 8. The provisions of this Act amending and reenacting R.S. 39:1600.1(A) the introductory paragraph of 1600.1(D) and 1600.1(D)(6) and enacting 1867.1(A)(3) and (B) and 1868.2 shall become effective on January 1, 2028."

Respectfully submitted,

Senators:

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Senator Adam Bass

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Senator Kirk Talbot

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Senator Jimmy Harris

Representatives:

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Representative Michael "Gabe" Firment

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Representative Christopher Turner

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Representative Dustin Miller

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The legislative 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)]

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## CONFERENCE COMMITTEE REPORT DIGEST

SB 387

2026 Regular Session

Bass

### Keyword and summary of the bill as proposed by the Conference Committee

HEALTH/ACC INSURANCE. Provides relative to pharmacy benefit managers

#### Report adopts House amendments to:

1. Clarify that pharmacy benefit manager service fees may be assessed only on a per-prescription or per-event basis.
2. Authorize the commissioner of insurance to share confidential pharmacy benefit manager information with a Prescription Drug Affordability Board established pursuant to present law and proposed law.
3. Refine formulary language to require that comparable drugs be offered within the same formulary tier and cost-sharing structure.
4. Make technical changes.

#### Report rejects House amendments which would have:

1. Defined "net acquisition cost".
2. Delayed implementation of proposed law by one year.
3. Established a phase-in by applying proposed law to new plans starting January 1, 2028, and requiring existing plans to comply by renewal, no later than January 1, 2029.

#### Report amends the bill to:

1. Clarify the definition of "enrollee".
2. Add nonprofit health systems owned and operated in this state to the definition of "local pharmacy".
3. Change the definition of "pharmacy benefit manager" to include the corporate vertical structure of the PBM.
4. Change the definition of "rebate" to include all drug manufacturer price concessions, whether negotiated or not.
5. Define "net acquisition cost".
6. Authorize the commissioner of insurance to recover costs of implementation and enforcement of any portion of the Louisiana Insurance Code pertaining to pharmacy benefit management.
7. Change duties owed to health insurance issuers and health plans by pharmacy benefit managers.
8. Allow a pharmacy benefit manager to obtain a rebate only if the rebate is returned to the health plan or plan sponsor.

9. Authorize the commissioner of insurance to impose fines with no aggregate maximum for violations of proposed law.
10. Prohibit pharmacy benefit managers from restricting pharmacy use of third party services.
11. Provide recommendations for the division of administration to use in the PBM reverse auction process.
12. Provide for retroactive application of the professional dispensing fee requirements.
13. Provide for effective dates.
14. Make technical changes.

### **Digest of the bill as proposed by the Conference Committee**

Present law provides for definitions.

Proposed law retains present law and adds definitions for "enrollee", "healthcare service", "person", "pharmacy benefit management fee", "pharmacy benefit management service", "provider", and "related entity". Proposed law also amends the definition for "rebates".

Proposed law provides for a PBM's duties owed to health insurance issuers and health plans.

Proposed law provides for PBM compensation through pharmacy benefit manager flat dollar fees and flat dollar performance bonus and prohibits a PBM from retaining rebates and fees.

Proposed law allows the commissioner of insurance and any health insurance issuer or health plan contracted with a PBM to audit the PBM once per calendar year, including the books and records from any entity in the PBM's vertical corporate structure. Proposed law further provides for information that may be requested as part of the audit and provides for the protection of confidential and proprietary information through a public records exemption.

Proposed law requires PBM contracts to specify all forms of revenue to be paid by the health insurance issuer or health plan to the pharmacy benefit manager and to acknowledge that spread pricing is not permitted.

Proposed law provides that, in addition to any other penalty authorized by law, a violation of proposed law is punishable by the commissioner through a civil monetary penalty of \$25,000 for each and every act or violation, with no aggregate penalty maximum.

Proposed law further provides that if a violation is not corrected within 30 days after notice of the violation is received by the PBM, the commissioner must suspend or revoke the pharmacy benefit manager's license.

Proposed law authorizes the commissioner of insurance to recover costs of implementation and enforcement of any portion of the Louisiana Insurance Code pertaining to pharmacy benefit management.

Proposed law is to be implemented to regulate a pharmacy benefit manager or health insurance issuer only to the extent permissible under applicable federal law.

Present law allows a PBM to audit pharmacy claims. Proposed law limits the audit to claims filed within the 12 months prior to the start of the audit.

Proposed law allows a pharmacy to submit a consolidated appeal to a PBM of substantially similar claims.

Proposed law prohibits a PBM from using its formulary to obtain inducements, favor certain drugs over substantially similar drugs with a lower cost, charge more than the PBM's net acquisition cost of a drug, or ban the use of certain pharmacies by an insured.

Proposed law provides for a 60-day continuity of care for an enrollee when a formulary is changed and removes a drug prescribed to an enrollee.

Present law allows the division of administration to conduct a reverse auction to procure the services of a PBM to administer certain benefits provided by the Office of Group Benefits. Proposed law retains present law but makes recommendations for best practices.

Provides for various effective dates of proposed law.

(Amends R.S. 22:1856.1(B)(2)(a), 1863, 1865(A), 1865(G)(intro. para.), R.S. 39:1600.1(A), (D)(intro. para.), and (D)(6), and R.S. 44:4.1(B)(11); adds R.S. 22:1867.1 and 1868.2; repeals R.S.22:1868.1 and Section 5 of Act 474 of the 2025 RS)