2026 Regular Session **ACT No. 915** **ENROLLED**

SENATE BILL NO. 401

BY SENATOR TALBOT AND REPRESENTATIVE CHASSION

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 1870.18, 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 drug pricing transparency requirements; to provide for annual report requirements; to provide for reporting requirements of prescription drug price that increases over a certain amount; to provide for manufacturers' obligations; to provide for webpage requirements; to provide for public access to certain drug pricing information; to provide for penalties for violations; to provide for the authority of the attorney general; to provide for 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 1870.18, 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) "Board" means the Prescription Drug Affordability Board established pursuant to this Subpart.

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

(3) "Enrollee" means any individual entitled to coverage of healthcare services.

(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) "Rebate" means either of 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 other costs that are passed through or

are reasonably anticipated to be passed through to the health insurance issuer or health plan and serve to reduce the health insurance issuer or health plan's liabilities for a prescription drug.

(7) "Research and development expenditures" means all costs that a pharmaceutical manufacturer incurs during a calendar year that relate to the research and development of products, processes, or services and includes the costs of research and development of products, processes, or services that the pharmaceutical manufacturer has acquired or obtained via a license.

(8) "Wholesale acquisition cost" or "WAC" has the same meaning as provided in 42 U.S.C. 1395w-3a(c)(6)(B).

§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.

(7) One member of a patient advocacy group, appointed by the commissioner.

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 his 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. A member, or his designee, shall not be an employee of, a board member of, or a consultant to a manufacturer, pharmacy benefit manager, health insurance carrier, health maintenance organization, managed care organization, or wholesale distributor or related trade association.

J. Any conflict of interest, including a financial or personal association, that has the potential to bias or has the appearance of biasing an individual's decision in matters related to the board or the conduct of the board's activities shall be considered and disclosed when appointing members, or a member's designee, to the board.

K. 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. Generic or biosimilar drugs shall be placed on the list only if they have a wholesale acquisition cost of one hundred dollars or more for a unit cost increase of more than two hundred percent during any twelve-month period.

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. By June first of each calendar year, the board shall identify up to ten prescription drugs on which the state spends significant healthcare dollars, after accounting for rebates. The drugs identified shall represent different drug classes and may include generics.

B. For each prescription drug identified pursuant to Subsection A of this Section, the board shall require the drug's manufacturer to report all of the following:

(1) The drug's wholesale acquisition cost increase.

(2) The manufacturer's aggregate company-level research and development and other relevant capital expenditures for the most recent year

for which final audited data is available.

(3) A written description, suitable for public release, of factors that contributed to any reported increase in wholesale acquisition cost for the reporting year.

C. The quality and types of information and data that a drug manufacturer submits to the board under this Section shall be consistent with the quality and types of information and data that the manufacturer includes in the manufacturer's annual consolidated report on Securities and Exchange Commission Form 10-K or any other public disclosure.

D. By December thirty-first of each calendar year, the board shall publish a report on its website based on the information that it receives pursuant to Subsection B of this Section.

E. Information provided to the board pursuant to Subsection B of this Section is exempt from public inspection and copying pursuant to the Public Records Law, R. S. 44:1 et seq.

§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. All information and data obtained by the department pursuant to this Subpart that are not otherwise publicly available are considered to be a trade secret, confidential, and proprietary information. Such information and data are not subject to disclosure pursuant to the Public Records Law, R.S. 44:1 et seq.

B.(1) Information provided to the department, board, or an interested

party pursuant to this Subpart shall, except to the extent it is already in the public domain, be considered trade secret pursuant to the Uniform Trade Secrets Act, R.S. 51:1431 et seq., exempt from disclosure pursuant to the Public Records Law, R. S. 44:1 et seq., and shall not be disclosed directly or indirectly.

(2) Except to provide the general public with wholesale acquisition costs under R.S. 22:1870.18(A)(2) of this Subpart, the department, board, or interested parties and their agents shall not publish or otherwise disclose any information that would allow for the identification of an individual drug, therapeutic class of drugs, or manufacturer; that would reveal the prices of any drug or therapeutic class of drugs; or that has the potential to compromise the financial, competitive, or proprietary nature of any information submitted by the manufacturer pursuant to this Subpart.

(3) The department, board, and interested third parties shall impose the confidentiality protections of this Subpart on any third party that may receive or otherwise have access to this 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 this state 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. Prescription drug pricing transparency; annual report; webpage requirements and publications; penalty and enforcement

A.(1) Not later than January fifteenth of each calendar year, a pharmaceutical drug manufacturer shall submit a report to the department stating the current wholesale acquisition cost information for the United States Food and Drug Administration-approved prescription drugs sold in or into this state by that manufacturer.

(2) The department shall develop a webpage that provides the general public with prescription drug price information submitted pursuant to this Section. The webpage shall be made available on the department's website with a dedicated link that is prominently displayed on the home page or by a separate easily identifiable webpage address.

B.(1) This Section applies only to prescription drugs with a wholesale acquisition cost of at least one hundred dollars for a thirty-day supply before the effective date of an increase described by this Section.

(2) Not later than the thirtieth day after the effective date of an increase of forty percent or more over the preceding three calendar years or fifteen percent or more in the preceding calendar year in the wholesale acquisition cost of a prescription drug to which this Section applies, a pharmaceutical drug manufacturer shall submit a report to the commissioner. The report shall include all of the following information:

(a) The name of the prescription drug.

(b) Whether the prescription drug is a brand name or generic.

(c) The effective date of the change in wholesale acquisition cost.

(d) A statement regarding the factor or factors that caused the increase in the wholesale acquisition cost and an explanation of the role of each factor's impact on the cost.

(3) If, during a calendar year, a prescription drug with a wholesale acquisition cost of at least one hundred dollars for a thirty-day supply increases in price by forty percent or more over the preceding three calendar years or fifteen percent or more in the preceding calendar year in the wholesale acquisition cost of the prescription drug, the pharmaceutical drug manufacturer shall include in the annual report submitted pursuant to this Section all of the following information:

(a) Aggregate, company-level research and development costs for the most recent year for which final audit data is available.

(b) The name of each of the manufacturer's prescription drugs approved by the United States Food and Drug Administration in the previous three calendar years.

(c) The name of each of the manufacturer's prescription drugs that lost patent exclusivity in the United States in the previous three calendar years.

(4) A manufacturer's obligations pursuant to this Subsection shall be fully satisfied by the submission of information and data that a manufacturer includes in the manufacturer's annual consolidated report on Securities and Exchange Commission Form 10-K or any other public disclosure.

C. Not later than the sixtieth day after receipt of the report submitted, the department shall publish the cost increase information required pursuant to this Section on the department's webpage for prescription drug price information.

D.(1) If the department determines that a pharmaceutical drug manufacturer failed to submit a report, or failed to submit the report in the manner prescribed by Subsection B of this Section and the rules adopted pursuant to this Section, the department shall provide written notice of the failure to the manufacturer.

(2) On receipt of notice described by this Subsection, a pharmaceutical drug manufacturer shall submit a report that does all of the following:

(a) Complies with Subsection B of this Section and rules adopted

pursuant to this Section.

(b) Addresses all issues raised in the notice.

(3) The department may not assess an administrative penalty pursuant to this Subsection against a pharmaceutical drug manufacturer that submits to the department the required report, as applicable, on or before the forty-fifth day after the date the manufacturer receives notice pursuant to this Section.

E.(1) The department may assess an administrative penalty against a manufacturer that violates this Section or rules pursuant to this Subsection.

(2) In determining the amount of the penalty, the department shall consider all of the following:

(a) The manufacturer's previous violations.

(b) The seriousness of the violation.

(c) The manufacturer's demonstrated good faith.

(d) Any other matters as justice may require.

(3) The penalty may not exceed one thousand dollars a day for each violation.

(4) Each day a violation continues may be considered a separate violation.

(5) The enforcement of the penalty may be stayed during the time the order is under judicial review if the manufacturer pays the penalty to the clerk of the court or files a security bond with the court in the amount of the penalty.

(6) The attorney general may sue to collect the penalty. Money collected pursuant to this Section shall be deposited in the state treasury and may be appropriated only to the department for the purposes of administering this Section.

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, **1870.14, 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. The provisions of Sections 1, 2, and 3 of this Act shall take effect and become enforceable on January 1, 2027, only if Section 7 of the Act which originated as Senate Bill No. 387 of the 2026 Regular Session of the Legislature is enacted and becomes effective.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____