

SENATE BILL NO. 282

BY SENATORS MILLS AND BARROW

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(11) and to enact R.S. 22:976, relative to prescription
3 drug pricing; to provide for confidentiality; to provide for disclosure; to provide for
4 information available to the commissioner of insurance; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:976 is hereby enacted to read as follows:

8 **§976. Disclosure of prescription drug consumer cost burden; certification**

9 **A. As used in this Section:**

10 **(1) "Excess consumer cost burden" means an amount charged to an**
11 **enrollee for a covered prescription drug that is greater than the amount that an**
12 **enrollee's health insurance issuer pays, or would pay absent the enrollee cost**
13 **sharing, after accounting for an issuer's estimate of at least fifty percent of**
14 **future rebate payments for that enrollee's actual point of sale prescription drug**
15 **claim.**

16 **(2) "Health benefit plan", "plan", "benefit", or "health insurance**
17 **coverage" means services consisting of medical care provided directly through**
18 **insurance, reimbursement, or other means, and including items and services**
19 **paid for as medical care under any hospital or medical service policy or**
20 **certificate, hospital or medical service plan contract, preferred provider**
21 **organization contract, or health maintenance organization contract offered by**
22 **a health insurance issuer. However, excepted benefits are not included as a**
23 **"health benefit plan".**

24 **(3) "Health insurance issuer" means any entity that offers health**
25 **insurance coverage through a plan, policy, or certificate of insurance subject to**

1 state law that regulates the business of insurance. "Health insurance issuer"
2 shall also include a health maintenance organization, as defined and licensed
3 pursuant to Subpart I of Part I of Chapter 2 of this Code. "Health insurance
4 issuer" shall not include the Office of Group Benefits.

5 **(4) "Rebates" means both of the following:**

6 **(a) Negotiated price concessions, including but not limited to base**
7 **rebates and reasonable estimates of any price protection rebates and**
8 **performance-based rebates that may accrue directly or indirectly to the health**
9 **insurance issuer as a result of point of sale prescription drug claims processing**
10 **during the coverage year from a manufacturer, dispensing pharmacy, or other**
11 **party to the transaction.**

12 **(b) Reasonable estimates of any fees and other administrative costs that**
13 **are passed through to the health insurance issuer as a result of point of sale**
14 **prescription drug claims processing and serve to reduce the health insurance**
15 **issuer's prescription drug liabilities for the coverage year.**

16 **B. In the case of a health insurance issuer that offers or renews a health**
17 **benefit plan for sale in the state on or after January 1, 2020, if the health**
18 **insurance issuer may charge enrollees cost-sharing amounts that may result in**
19 **an excess consumer cost burden for covered prescription drugs, the health**
20 **insurance issuer shall disclose to enrollees and prospective enrollees the fact**
21 **that enrollees may be subject to an excess consumer cost burden. The notice**
22 **shall be provided in the coverage agreement, formulary, or preferred drug**
23 **guide issued by the health plan.**

24 **C. A health insurance issuer that offers or renews a health benefit plan**
25 **for sale in the state on or after January 1, 2020, shall annually make available**
26 **to the commissioner of insurance information regarding the value of rebates**
27 **expressed as a percentage that the health insurance issuer made available to**
28 **enrollees at the point of sale.**

29 **D. In complying with the provisions of this Section a health insurance**
30 **issuer shall not publish or otherwise reveal information regarding the actual**

1 amount of rebates the health insurance issuer receives, including but not limited
 2 to information regarding the amount of rebates it receives on a product,
 3 manufacturer, or pharmacy specific basis. Such information is a trade secret,
 4 is not a public record as defined in R.S. 44:1 et seq., and shall not be disclosed
 5 directly or indirectly. A health insurance issuer shall impose the confidentiality
 6 protections of this Section on any third parties or vendors with which it
 7 contracts that may receive or have access to rebate information.

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

9 §4.1. Exceptions

10 * * *

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

16 * * *

17 (11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 571, 572, 572.1,
 18 574, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1, 691.10, 691.38,
 19 691.56, 732, 752, 753, 771, 834, 972(D), **976**, 1008, 1019.2, 1203, 1460, 1464, 1466,
 20 1488, 1546, 1559, 1566(D), 1644, 1656, 1723, 1796, 1801, 1808.3, 1927, 1929,
 21 1983, 1984, 2036, 2045, 2056, 2085, 2091, 2293, 2303

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PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____