

2019 Regular Session

HOUSE BILL NO. 432

BY REPRESENTATIVE JORDAN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE/HEALTH: Provides for the regulation of pharmacy services administrative organizations

1 AN ACT

2 To enact Part X of Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 22:1806.1 through 1806.6, relative to pharmacy services  
4 administrative organizations; to define key terms; to require registration and  
5 licensing; to provide for notice and disclosure requirements; to provide for  
6 accounting procedures and requirements; to provide for contract agreements; to  
7 provide for penalties; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part X of Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950,  
10 comprised of R.S. 22:1806.1 through 1806.6, is hereby enacted to read as follows:

11 PART X. PHARMACY SERVICES ADMINISTRATIVE ORGANIZATIONS

12 §1806.1. Definitions

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

14 (1) "Independent pharmacy" means a pharmacy operating within the state  
15 that is under common ownership with not more than two other pharmacies.

16 (2) "Pharmacy benefit manager" means a person or an entity operating  
17 within the state that contracts to administer or manage prescription drug benefits on  
18 behalf of any carrier that provides prescription drug benefits to residents of a state.

19 (3)(a) "Pharmacy services administrative organization" means an entity  
20 operating within the state that does all of the following:

1           (i) Contracts with independent pharmacies to conduct business on their  
2           behalf with third-party payers.

3           (ii) Provides administrative services to pharmacies and negotiates and enter  
4           into contracts with third-party payers or pharmacy benefit managers on behalf of  
5           pharmacies.

6           (b) A person or entity shall be deemed a pharmacy services administrative  
7           organization pursuant to this Part if it performs one or more of the following  
8           administrative services to pharmacies:

9           (i) Assistance with claims.

10          (ii) Assistance with audits.

11          (iii) Centralized payment.

12          (iv) Certification in specialized care programs.

13          (v) Compliance support.

14          (vi) Setting flat fees for generic drugs.

15          (vii) Assistance with store layout.

16          (viii) Inventory management.

17          (ix) Marketing support.

18          (x) Management and analysis of payment and drug dispensing data.

19          (xi) Provision of resources for retail cash cards.

20          (4) "Pharmacy services administrative organization-pharmacy contract"  
21          means a contractual agreement between a pharmacy services administrative  
22          organization and an independent pharmacy by which a pharmacy services  
23          administrative organization agrees to negotiate with third-party payers on behalf of  
24          an independent pharmacy.

25          (5)(a) "Third-party payer" means any organization operating within the state  
26          that pays or insures health, medical, or prescription drug expenses on behalf of  
27          beneficiaries.

28          (b) "Third-party payer" includes but is not limited to plan sponsors,  
29          healthcare service plans, health maintenance organizations, or insurers.

1           (c) "Third-party payer" shall not include a self-funded ERISA plan as  
2           described in 29 U.S.C. §1144(b)(2)(B).

3           §1806.2. Pharmacy services administrative organizations; registration and license

4           A. All pharmacy services administrative organizations operating within the  
5           state shall be registered and licensed with the Department of Insurance.

6           B. No provision of this Part shall be construed to require a third-party payer  
7           to enter into a contract with a pharmacy services administrative organization.

8           §1806.3. Pharmacy services administrative organization; notice and disclosure  
9           requirements

10          A. A pharmacy services administrative organization-pharmacy contract shall  
11          include a provision that requires the pharmacy services administrative organization  
12          to provide to the independent pharmacy a copy of any contract, amendments,  
13          payment schedules, or reimbursement rates within three calendar days after the  
14          execution of a contract, or an amendment to a contract, signed on behalf of the  
15          independent pharmacy.

16          B.(1) Each pharmacy services administrative organization shall disclose to  
17          the Department of Insurance the extent of any ownership or control of the pharmacy  
18          services administrative organization by any parent company, subsidiary, or other  
19          organization that does any of the following:

20                (a) Provides pharmacy services.

21                (b) Provides prescription drug or device services.

22                (c) Manufactures, sells, or distributes prescription drugs, biologicals, or  
23                medical devices.

24          (2) Each pharmacy services administrative organization shall notify the  
25          department in writing within five calendar days of any material change in its  
26          ownership or control relating to any company, subsidiary, or other organization as  
27          provided for in Paragraph (1) of this Subsection.

28          C.(1)(a) Prior to entering into a pharmacy services administrative  
29          organization-pharmacy contract, a pharmacy services administrative organization

1 shall furnish to an independent pharmacy a written disclosure of ownership or  
2 control in order to assist the independent pharmacy in making an informed decision  
3 regarding its relationship with the pharmacy services administrative organization.

4 (b) The disclosure required by Subparagraph (a) of this Paragraph shall  
5 include the extent of any ownership or control by any parent company, subsidiary,  
6 or other organization that does any of the following:

7 (i) Provides pharmacy services.

8 (ii) Provides prescription drug or device services.

9 (iii) Manufactures, sells, or distributes prescription drugs, biologicals, or  
10 medical devices.

11 (2) Any pharmacy services administrative organization-pharmacy contract  
12 shall provide that the pharmacy services administrative organization shall notify the  
13 independent pharmacy in writing within five calendar days of any material change  
14 in its ownership or control related to any company, subsidiary, or other organization  
15 as provided for in Paragraph (1) of this Subsection.

16 D.(1)(a) Prior to entering into a contract with a third-party payer, a pharmacy  
17 services administrative organization shall furnish to a pharmacy benefit manager or  
18 third-party payer a written disclosure of ownership or control in order to assist the  
19 pharmacy benefit manager or third-party payer in making an informed decision  
20 regarding its relationship with the pharmacy services administrative organization and  
21 the independent pharmacy or pharmacies for which the pharmacy services  
22 administrative organization is negotiating.

23 (b) This disclosure required by Subparagraph (a) of this Paragraph shall  
24 include the extent of any ownership or control by any parent company, subsidiary,  
25 or other organization that provides:

26 (i) Provides pharmacy services.

27 (ii) Provides prescription drug or device services.

28 (iii) Manufactures, sells, or distributes prescription drugs, biologicals, or  
29 medical devices.

1           (2) Any pharmacy services administrative organization contract with a  
2           third-party payer shall provide that the pharmacy services administrative  
3           organization shall notify the third-party payer in writing within five calendar days  
4           of any material change in its ownership or control related to any company,  
5           subsidiary, or other organization as provided for in Paragraph (1) of this Subsection.

6           §1806.4. Accounting; audits; remittance

7           A. Any contract between a pharmacy benefit manager and a pharmacy  
8           services administrative organization, pursuant to which the pharmacy benefit  
9           manager has the right or obligation to conduct audits of independent pharmacies,  
10           shall contain specific language that permits the pharmacy benefit manager to obtain  
11           information from the pharmacy services administrative organization in connection  
12           with the pharmacy benefit manager's audit of an independent pharmacy.

13           B.(1) The pharmacy services administrative organization-pharmacy contract  
14           shall provide that all remittances for claims submitted by a pharmacy benefit  
15           manager or third-party payer on behalf of a pharmacy to the pharmacy services  
16           administrative organization shall be passed through by the pharmacy services  
17           administrative organization to the independent pharmacy within a reasonable amount  
18           of time, established in the pharmacy services administrative organization-pharmacy  
19           contract, after receipt of the remittance by the pharmacy services administrative  
20           organization from a pharmacy benefit manager or third-party payer.

21           (2) Notwithstanding any provision in the pharmacy services administrative  
22           organization-pharmacy contract, for purposes of R.S. 22 1853 and 1854, a third-party  
23           payer or pharmacy benefit manager's payment to a pharmacy services administrative  
24           organization is deemed to be payment to the pharmacy on whose behalf the  
25           pharmacy services administrative organization has contracted.

26           C. A pharmacy services administrative organization that provides, accepts,  
27           or processes a discount, concession, or product voucher, to reduce, directly or  
28           indirectly, a covered person's out-of-pocket expense for the order, dispensing,  
29           substitution, sale, or purchase of a prescription drug shall provide to the Department

1 of Insurance an annual report, available for public audit, that includes both of the  
2 following:

3 (1) An aggregated total of all the transactions, by independent pharmacy.

4 (2) An aggregated total of any payments received by the pharmacy services  
5 administrative organization itself for providing, processing, or accepting any  
6 discount, concession, or product voucher on behalf of an independent pharmacy.

7 §1806.5. Wholesale and pharmacy services administrative organization services in  
8 a single pharmacy services administrative organization contract; appeals

9 A. A pharmacy services administrative organization that owns or is owned  
10 by, in whole or in part, any entity that manufactures, sells, or distributes prescription  
11 drugs, biologicals, or medical devices shall not, as a condition of entering into a  
12 pharmacy services administrative organization-pharmacy contract, require that the  
13 independent pharmacy purchase any drugs or medical devices from the entity with  
14 which the pharmacy services administrative organization has an ownership interest,  
15 or an entity with an ownership interest in the pharmacy services administrative  
16 organization.

17 B. A pharmacy services administrative organization that owns or is owned  
18 by, in whole or in part, any entity that manufactures, sells, or distributes prescription  
19 drugs, biologicals, or medical devices shall disclose to the Department of Insurance  
20 any agreement with an independent pharmacy in which the independent pharmacy  
21 purchases prescription drugs, biologicals, or medical devices from the pharmacy  
22 services administrative organization or any entity that owns or is owned by, in whole  
23 or in part, the pharmacy services administrative organization.

24 C.(1) The pharmacy services administrative organization-pharmacy contract  
25 shall require that in the event of a dispute between an independent pharmacy and a  
26 pharmacy benefit manager or third-party payer, the pharmacy services administrative  
27 organization shall ensure and facilitate timely communication from the independent  
28 pharmacy to the third-party payer.

1           (2) The pharmacy services administrative organization-pharmacy contract  
2           shall require the pharmacy services administrative organization to forward any and  
3           all notices of appeals from the independent pharmacy to the pharmacy benefit  
4           manager or third-party payer in a timely manner.

5           (3) In connection with any appeal pursuant to R.S. 22:1865 or similar  
6           process, a third-party payer or pharmacy benefit manager's notice or provision of  
7           information to a pharmacy services administrative organization is deemed to be  
8           notice or provision of information to the pharmacy on whose behalf the pharmacy  
9           services administrative organization has contracted.

10           §1806.6. Penalties

11           Any violations of this Part that are committed or performed with such  
12           frequency as to indicate a general business practice shall be subject to the provisions  
13           of the Unfair Trade Practices Act, R.S. 22:1964 et seq.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, 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)]

HB 432 Original

2019 Regular Session

Jordan

**Abstract:** Provides for the licensing and regulation of pharmacy services administrative organizations.

Proposed law defines "independent pharmacy", "pharmacy benefit manager", "pharmacy services administrative organization", "pharmacy services administrative organization-pharmacy contract", and "third-party payer".

Proposed law requires all pharmacy services administrative organizations operating within the state to be registered and licensed with the Dept. of Insurance.

Proposed law requires a pharmacy services administrative organization to provide to the independent pharmacy a copy of any contract, amendments, payment schedules, or reimbursement rates within three calendar days after the execution of a contract, or an amendment to a contract, signed on behalf of the independent pharmacy.

Proposed law requires each pharmacy services administrative organization to disclose to the Dept. of Insurance the extent of any ownership or control of the pharmacy services administrative organization by any parent company, subsidiary, or other organization that provides pharmacy services or prescription drug or device services or manufactures, sells, or distributes prescription drugs, biologicals, or medical devices.

Proposed law requires a pharmacy services administrative organization, prior to entering into a pharmacy services administrative organization-pharmacy contract, to furnish to an

independent pharmacy a written disclosure of ownership or control in order to assist the independent pharmacy in making an informed decision regarding its relationship with the pharmacy services administrative organization.

Proposed law requires a pharmacy services administrative organization, prior to entering into a contract with a third-party payer, to furnish to a pharmacy benefit manager or third-party payer a written disclosure of ownership or control in order to assist the pharmacy benefit manager or third-party payer in making an informed decision regarding its relationship with the pharmacy services administrative organization and the independent pharmacy or pharmacies for which the pharmacy services administrative organization is negotiating.

Proposed law requires any contract between a pharmacy benefit manager and a pharmacy services administrative organization, pursuant to which the pharmacy benefit manager has the right or obligation to conduct audits of independent pharmacies, to contain specific language that permits the pharmacy benefit manager to obtain information from the pharmacy services administrative organization in connection with the pharmacy benefit manager's audit of an independent pharmacy.

Proposed law requires all remittances for claims submitted by a pharmacy benefit manager or third-party payer on behalf of a pharmacy to the pharmacy services administrative organization to be passed through by the pharmacy services administrative organization to the independent pharmacy within a reasonable amount of time after receipt of the remittance by the pharmacy services administrative organization from a pharmacy benefit manager or third-party payer.

Proposed law requires a pharmacy services administrative organization that provides, accepts, or processes a discount, concession, or product voucher, to reduce, directly or indirectly, a covered person's out-of-pocket expense for the order, dispensing, substitution, sale, or purchase of a prescription drug to provide to the Dept. of Insurance an annual report, available for public audit, that includes both of the following:

- (1) An aggregated total of all the transactions, by independent pharmacy.
- (2) An aggregated total of any payments received by the pharmacy services administrative organization itself for providing, processing, or accepting any discount, concession, or product voucher on behalf of an independent pharmacy.

Proposed law prohibits a pharmacy services administrative organization that owns or is owned by any entity that manufactures, sells, or distributes prescription drugs, biologicals, or medical devices from requiring that the independent pharmacy purchase any drugs or medical devices from the entity with which the pharmacy services administrative organization has an ownership interest, or an entity with an ownership interest in the pharmacy services administrative organization.

Proposed law requires a pharmacy services administrative organization that owns or is owned by any entity that manufactures, sells, or distributes prescription drugs, biologicals, or medical devices to disclose to the Dept. of Insurance any agreement with an independent pharmacy in which the independent pharmacy purchases prescription drugs, biologicals, or medical devices from the pharmacy services administrative organization or any entity that owns or is owned by, the pharmacy services administrative organization.

Proposed law sets forth provisions relative to timely communication that must be included in a pharmacy services administrative organization-pharmacy contract.

Proposed law provides that any violations that are committed or performed with such frequency as to indicate a general business practice shall be subject to the provisions of the Unfair Trade Practices Act.

(Adds R.S. 22:1806.1-1806.6)