SENATE FLOOR AMENDMENTS

2019 Regular Session

Amendments proposed by Senator Claitor to Engrossed Senate Bill No. 41 by Senator Mills

1 AMENDMENT NO. 1

- 2 On page 1, line 2, after "1867" delete the comma "," and delete the remainder of the line and
- 3 delete lines 3 through 5 insert "and Subpart P of Part III of Chapter 4 of Title 22 of the
- 4 Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:1260.41 through 1260.49,
- 5 relative to"

6 AMENDMENT NO. 2

7 On page 1, delete lines 9 through 14, and insert "provide"

8 AMENDMENT NO. 3

9 On page 1, line 17, after "reenacted and" insert "Subpart P of Part III of Chapter 4 of Title

10 22 of the Louisiana Revised Statutes of 1950, comprised of R.S. 22:1260.41 through

11 1260.49, and"

12 AMENDMENT NO. 4

13 On page 2, between lines 1 and 2 insert the following:

"SUBPART P. REGULATION OF PHARMACY BENEFIT MANAGERS
§1260.41. Legislative intent and public health policy
It is the intent of the legislature that the purpose of this Subpart is to
license, permit, and monitor pharmacy benefit managers to provide for the
effective control and regulation of their activities, maintain and enforce order
regarding the prescribing, dispensing, marketing, selling, managing, and use of
prescription drugs in this state, and to protect the health, safety, and general
welfare of the citizens and residents of this state.
§1260.42. Short title
This Subpart shall be known and may be cited as the "Pharmacy Benefit
Manager Licensing Law".
§1260.43. Definitions
As used in this Subpart, the following definitions shall apply:
(1)"Beneficiary" means a person who resides or is employed in this state
and is covered or is eligible to be covered by a health plan.
(2)"Commissioner of insurance" means the Louisiana commissioner of
insurance.
(3) "Department of Insurance" means the Louisiana Department of
Insurance.
(4) "Health plan" means an individual or group plan or program,
whether commercial, self-insured, or mandated or sponsored by any federal,
state, or local government, which is established by contract, certificate, law,
plan, policy, subscriber agreement, or by any other method and which is
entered into, issued, or offered for the purpose of arranging for, delivering,
paying for, providing, or reimbursing any of the costs of health or medical care,
including pharmacy services, drugs, or devices.
(5) "Pharmacy benefit management plan" or "pharmacy benefits
program" means a plan or program that pays for, reimburses, covers the cost
of, or otherwise provides for pharmacist services, drugs, or devices to
individuals who reside in or are employed in Louisiana.
(6) "Pharmacy benefit manager" or "PBM" means any person or
business who administers the prescription drug or device program of one or

1	more health plans on behalf of a third party in accordance with a pharmacy
2	<u>benefit program. This term includes any agent or representative of a pharmacy</u>
3	benefit manager hired or contracted by the pharmacy benefit manager to assist
4	in the administering of the drug program and any wholly or partially owned or
5	controlled subsidiary of a pharmacy benefit manager.
6	§1260.44. Duties of pharmacy benefit managers
7	A. A pharmacy benefit manager shall owe the beneficiaries of any
8	pharmacy benefit management plan administered by the pharmacy benefit
9	manager and to the entities that have entered into a contract with the pharmacy
10	benefit manager the duties of good faith, honesty, trust, confidence, and candor.
10	B. The standard for the fulfillment of a pharmacy benefit manager's
11	duties shall be to act with a high degree of care, skill, prudence, and diligence
12	required of a reasonable and prudent person with substantial experience and
13	
	expertise in the management of pharmacy benefit management programs and
15	payment of claims.
16	§1260.45. General licensing requirements
17	A. Every pharmacy benefit manager that does business in this state or
18	pays for benefits to a beneficiary through a pharmacy benefit management plan
19	shall be licensed as required by this Subpart.
20	B. No license shall be issued to a pharmacy benefit manager who has not
21	registered with the Louisiana secretary of state to conduct business within the
22	state.
23	C. Each license shall be valid only for the applicant listed on the
24	application.
25	D. A pharmacy benefit manager license is not transferable.
26	(1) No license shall be subject to sale, assignment or other transfer,
27	voluntary or involuntary.
28	(2) In the event the ownership of the pharmacy benefit manager changes
29	by fifty percent or more after the initial issuance of the license, the ownership
30	will be deemed sufficiently different as to require a new pharmacy benefit
31	manager license.
32	(3) The continued operation of a pharmacy benefit manager under a
33	license issued pursuant to this Subpart after its ownership has changed by fifty
34	percent or more shall constitute sufficient basis for finding that the pharmacy
35	benefit manager is operating in this state without a valid license in violation of
36	this Subpart.
37	§1260.46. General applicability
38	A. The licensure and regulation requirements set forth pursuant to this
39	Subpart shall apply generally to any pharmacy benefit manager regardless of
40	plan or benefit financing.
41	B. Nothing in this Subpart shall be construed to require coverage of any
42	specific drug in any health plan, but shall apply once a drug is covered or
43	included on a health plan formulary.
44	§1260.47. Pharmacy benefit manager; regulation by commissioner of
44 45	insurance; applicability of the Louisiana Insurance Code
4 <i>3</i> 46	
	A. Every pharmacy benefit manager that does business in this state shall
47	be licensed as required by the Louisiana Insurance Code.
48	B. Every pharmacy benefit manager licensed by the commissioner of
49	insurance shall abide by the provisions of the Louisiana Insurance Code and the
50	rules and regulations of the insurance commissioner and the Department of
51	Insurance regarding the pharmacy benefit manager's business regulated by the
52	commissioner of insurance.
53	§1260.48. Pharmacy benefit manager; regulation; functions; subject to
54	licensure
55	A. A pharmacy benefit manager shall obtain and maintain a license
56	from the Department of Insurance if the pharmacy benefit manager
57	administers, develops, maintains, performs, or provides one or more of the
58	following pharmacy services in this state or that affects one or more
59	beneficiaries of a pharmacy benefit management plan administered by the
60	pharmacy benefit manager:

2 coverage. 3 (2) Disease management programs. A "disease management program means a program adopted to guide and care for beneficiaries with chron health problems to improve the quality of healthcare provided to them an prevent future need for medical resources by using an integrat comprehensive approach. (3) Drug formularies. A "drug formulary" means a list of prescripti medications or pharmaceutical products developed and approved by ea health plan that may be dispensed to a beneficiary through participati pharmacies. Drug formulary may also be referred to as a "preferred drug list" "prior authorization list", or "pharmacopeia". (4) Drug regimen reviews. A "drug regimen review" means third-pan review of all medications a beneficiary is currently using, whether prescrib or over the counter, and administerd by any method. (5) Prescription drug management programs. A "prescription dr management program" means a program developed and designed to administ the prescription drug benefit as part of a health plan, and as part of su administration a PBM may contract with pharmacies for implementation a dispensing drugs in accordance with the program. (6) Processing of prior authorization requests. "Processing of pri authorization request" means making a determination regarding payme coverage based on an advance approval request submitted by a physician other healthcare provider to the beneficiary. (7) Quality care dosing services. "Quality care dosing services" mea electronically checking prescription medications before they are filled at (1 trecommendations of the Food and Drug Administration (FDA) and others. (8) Step therapy procedures. A "step therapy procedure" mea protocols and policies that establish a specific sequen	2 3 4 5 6 7 8	(2) Disease management programs. A "disease management program" means a program adopted to guide and care for beneficiaries with chronic health problems to improve the quality of healthcare provided to them and prevent future need for medical resources by using an integrated comprehensive approach. (3) Drug formularies. A "drug formulary" means a list of prescription medications or pharmaceutical products developed and approved by each health plan that may be dispensed to a beneficiary through participating pharmacies. Drug formulary may also be referred to as a "preferred drug list", "prior authorization list", or "pharmacopeia".
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		D. If any pharmacy benefit manager administers, develops, maintains,
		performs, or provides one or more of the services listed in this Section in this
	56	state or that affects one or more beneficiaries of a plan administered by the
		pharmacy benefit manager after filing an attestation without first obtaining a
		license from the Department of Insurance may be subject to any or all of the
59 <u>following penalties:</u>		
60 (1) A civil fine of up to five thousand dollars per violation, with each d		(1) A civil fine of up to five thousand dollars per violation, with each day
	61	the violation occurs being a separate violation.

1	(2) Suspension or revocation of the license, or both, issued by the Board
2	of Pharmacy.
2 3 4	(3) Placement of the license on probation.
4	(4) Criminal prosecution under R.S. 14:133(A)(3) for filing false public
5	<u>records.</u>
6	§1260.49. Investigations; interagency cooperation
7	The Department of Insurance shall have the authority to inquire with
8	and make requests of other state agencies and boards when an investigation of
9	a pharmacy benefit manager necessitates additional expertise. The department
10	may employ memorandums of understanding, cooperative endeavor
11	agreements, and other appropriate means between such entities to effectuate
12 13	this Section.
15	
14	AMENDMENT NO. 5
15	On page 3, delete line 29 and delete pages 4 through 18 in their entirety and on page 19
16	delete line 1 through 14
10	
17	AMENDMENT NO. 6
18	On page 19, line 15, change "Section 4." to "Section 2."
19	AMENDMENT NO. 7
20	On page 19, line 19, delete lines 19 through 23 and insert in lieu thereof:

21 "Section 3. The provisions of this Act shall become effective July 1,
2020."