

2025 Regular Session

SENATE BILL NO. 194

BY SENATOR HARRIS

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

HEALTH/ACC INSURANCE. Provides relative to pharmacy benefit managers. (gov sig)

AN ACT

To amend and reenact R.S. 22:1860.2(A), 1863, and 1867(A) and (B) and R.S. 40:2870(A)(4) and (5)(a), and to enact R.S. 22:1657.2, and to repeal R.S. 22:1856(F), relative to pharmacy benefit managers; to provide for certain pharmacy claims fees; to provide for definitions; to provide for prohibition on spread pricing; to provide for prohibited acts, and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1860.2(A), 1863, and 1867(A) and (B) are hereby amended and reenacted and R.S. 22:1657.2 is hereby enacted to read as follows:

§1657.2. Compensation; audits; contract and other requirements

A. As used in this Section:

(1) "Health plan" has the same meaning as the term is defined in R.S. 40:2863(7).

(2) "Insurer" means any health insurance issuer that is subject to state law regulating insurance and offers health insurance coverage, as defined in 42 U.S.C. § 300gg-91, or any state or local governmental employer plan.

(3) "Person" includes a natural person, corporation, mutual company,

1 unincorporated association, partnership, joint venture, limited liability
2 company, trust, estate, foundation, not-for-profit corporation, unincorporated
3 organization, government, or governmental subdivision or agency.

4 (4) "Pharmacy benefit management fee" means a fee that covers the cost
5 of providing one or more pharmacy benefit management services and that does
6 not exceed the value of the service or services actually performed by the
7 pharmacy benefit manager.

8 (5) "Pharmacy benefit management service" means:

9 (a) Negotiating the price of prescription drugs, including negotiating and
10 contracting for direct or indirect rebates, discounts, or other price concessions.

11 (b) Managing any aspect of a prescription drug benefit, including but not
12 limited to the processing and payment of claims for prescription drugs, the
13 performance of drug utilization review, the processing of drug prior
14 authorization requests, the adjudication of appeals or grievances related to the
15 prescription drug benefit, contracting with network pharmacies, controlling the
16 cost of covered prescription drugs, managing or providing data relating to the
17 prescription drug benefit, or the provision of services related thereto.

18 (c) Performing any administrative, managerial, clinical, pricing,
19 financial, reimbursement, data administration or reporting, or billing service.

20 (d) Such other services as the commissioner may define in regulation.

21 (6) "Pharmacy benefit manager" has the same meaning as the term
22 defined in R.S. 22:1641(8) and includes any person, either directly or indirectly,
23 that provides one or more pharmacy benefit management services on behalf of
24 an insurer or health plan, and any agent, contractor, intermediary, affiliate,
25 subsidiary, or related entity of such person who facilitates, provides, directs, or
26 oversees the provision of the pharmacy benefit management services.

27 (7) "Rebate" means:

28 (a) Negotiated price concessions including but not limited to base price
29 concessions, whether described as a rebate or otherwise and reasonable

1 estimates of any price protection rebates and performance-based price
2 concessions that may accrue directly or indirectly to the insurer or health plan,
3 or other party on behalf of the insurer or health plan, including a pharmacy
4 benefit manager, during the coverage year from a manufacturer, dispensing
5 pharmacy, or other party in connection with the dispensing or administration
6 of a prescription drug.

7 (b) Reasonable estimates of any negotiated price concessions, fees, and
8 other administrative costs that are passed through, or are reasonably
9 anticipated to be passed through, to the insurer or health plan and serve to
10 reduce the insurer or health plan's liabilities for a prescription drug.

11 (8) "Related entity" means:

12 (a) Any entity, whether foreign or domestic, that is a member of any
13 controlled group of corporations as defined in section 1563(a) of the Internal
14 Revenue Code, except that fifty percent shall be substituted for eighty percent
15 wherever the latter percentage appears in the code of which a pharmacy benefit
16 manager is a member.

17 (b) Any of the following persons or entities that are treated as a related
18 entity to the extent provided in rules adopted by the commissioner:

19 (i) A person other than a corporation that is treated under the rules as
20 a related entity of a pharmacy benefit manager.

21 (ii) A person or entity that is treated under the rules as affiliated with a
22 pharmacy benefit manager in cases where the pharmacy benefit manager is a
23 person other than a corporation.

24 (9) "Unaffiliated pharmacy" means any dispensing pharmacy that is not
25 fractionally or wholly owned by, or a subsidiary or an affiliate of, a pharmacy
26 benefit manager.

27 B. PBM Compensation

28 (1) A pharmacy benefit manager may negotiate but not retain rebates
29 and fees, and may only derive income from pharmacy benefit management fees

1 for pharmacy benefit management services provided to an insurer or health
2 plan in this state. The amount of any pharmacy benefit management fees shall
3 be set forth in the agreement between the pharmacy benefit manager and the
4 insurer or health plan.

5 (2) Pharmacy benefit management fees charged by or paid to a
6 pharmacy benefit manager by an insurer or health plan shall not be directly or
7 indirectly based or contingent upon:

8 (a) The acquisition cost or any other price metric of a drug.

9 (b) The amount of savings, rebates, or other fees charged, realized, or
10 collected by or generated based on the activity of the pharmacy benefit
11 manager.

12 (c) The amount of premiums, deductibles, or other cost-sharing or fees
13 charged, realized, or collected by the pharmacy benefit manager from patients
14 or other persons on behalf of a patient.

15 (3) Annually by December thirty-first, each pharmacy benefit manager
16 operating in the state shall certify to the commissioner of insurance that it has
17 fully and completely complied with the requirements of this Subsection
18 throughout the prior calendar year. The certification shall be signed by the chief
19 executive officer or chief financial officer of the pharmacy benefit manager.

20 C. PBM Audits

21 (1) The commissioner and any insurer or health plan contracted with a
22 pharmacy benefit manager holding a license issued by the commissioner of
23 insurance may audit the pharmacy benefit manager once per calendar year.
24 This audit right is in addition to, and shall not be construed to limit, any other
25 audit rights authorized by law or contract. As part of any audit, the
26 commissioner of insurance, insurer, or health plan may request information
27 including but not limited to the following:

28 (a) All reimbursement paid to retail pharmacies, on a claim level, for all
29 customers of the pharmacy benefit manager in the state, including drug-specific

1 reimbursement, dispensing fees, all rebates, other fees, ancillary charges,
2 clawbacks, or adjustments to reimbursement.

3 (b) Any difference in reimbursement paid to affiliated pharmacies and
4 unaffiliated pharmacies, including differences in reimbursed ingredient costs
5 and dispensing fees.

6 (c) Historical claims data including ingredient cost, quantity, dispensing
7 fee, sales tax, usual and customary price, channel as either mail or retail,
8 insurer or health plan paid amount, days' supply, the amount paid by the
9 covered individual, formulary tier, acquisition cost, and any administrative fee
10 associated with the claim, as applicable.

11 (d) Aggregate rebate amounts received directly or indirectly from
12 manufacturers including from any other entity affiliated with or related to the
13 pharmacy benefit manager that negotiates or contracts with manufacturers,
14 such as group purchasing organizations and rebate aggregators, by calendar
15 quarter.

16 (2) The pharmacy benefit manager shall provide information pursuant
17 to Paragraph (1) of this Subsection within thirty days of its receipt of any
18 request from the commissioner of insurance, insurer, or health plan.

19 (3) The commissioner of insurance may dictate the form in which the
20 pharmacy benefit manager will provide information in response to an audit
21 under Paragraph (1) of this Subsection.

22 (4) The pharmacy benefit manager shall certify that all information
23 submitted to the commissioner or any insurer or health plan in accordance with
24 this Subsection is accurate and complete in all material respects. The
25 certification shall be signed by the chief executive officer or chief financial
26 officer of the pharmacy benefit manager.

27 (5) The commissioner and any insurer or health plan contracted with a
28 pharmacy benefit manager holding a license issued by the commissioner shall
29 not directly or indirectly publish or otherwise disclose any confidential,

proprietary information, including but not limited to any information that would reveal the identity of a specific health plan or manufacturer, the price charged for a specific drug or class of drugs, for the amount of any rebates provided for a specific drug or class of drugs, or that would otherwise have the potential to compromise the financial, competitive, or proprietary nature of the information. Any such information shall be protected from disclosure as confidential and proprietary information, and shall not be regarded as a public record under the Public Records Law. The commissioner and any insurer or health plan contracted with a pharmacy benefit manager holding a license issued by the department shall impose the confidentiality protections and requirements of this Paragraph on any agent or downstream third party that may receive or have access to this information.

D. PBM Contract and Other Requirements

A pharmacy benefit manager contract with an insurer or health plan entered into, amended, extended, or renewed on or after January 1, 2026, shall:

(1) Specify all forms of revenue, including pharmacy benefit management fees, to be paid by the insurer or health plan to the pharmacy benefit manager.

(2) Acknowledge that spread pricing is not permitted in accordance with R.S. 22:1867.

E. In addition to any other civil or criminal penalty authorized by law, a violation of this Section shall be punishable by the commissioner through a civil monetary penalty not to exceed one thousand dollars per claim.

F. In implementing the requirements of this Section, the state shall only regulate a pharmacy benefit manager or insurer to the extent permissible under applicable law.

* * *

§1860.2. Certain pharmacy claims fees prohibited

A. A health insurance issuer or a pharmacy benefit manager shall not directly

or indirectly charge or hold a pharmacist or pharmacy responsible for any fee ~~related to a claim that is any of the following:~~

~~(1) Not apparent at the time of claim processing.~~

~~(2) Not reported on the remittance advice of an adjudicated claim.~~

~~(3) After the initial claim is adjudicated.~~

* * *

§1863. Definitions

As used in this Subpart, the following definitions apply:

(1) "Drug Shortage List" means a list of drug products posted on the United States Food and Drug Administration drug shortage website.

(2) "Effective Rate Pricing" means any payment reduction for pharmacist or pharmacy services by a pharmacy benefit manager under a reconciliation process for direct or indirect remuneration fees, a brand or generic effective rate of reimbursement, or any other reduction or aggregate reduction of payment.

~~(2)(3) "Maximum Allowable Cost List" means a listing of the National Drug Code used by a pharmacy benefit manager setting the maximum allowable cost on which reimbursement to a pharmacy or pharmacist may be based. "Maximum Allowable Cost List" shall include any term that a pharmacy benefit manager or a healthcare insurer may use to establish reimbursement rates for generic and multi-source brand drugs to a pharmacist or pharmacy for pharmacist services. The term "Maximum Allowable Cost List" shall not include any rate mutually agreed to and set forth in writing in the contract between the pharmacy benefit manager and the pharmacy or its agent and shall not include the National Average Drug Acquisition Cost. A pharmacy benefit manager may use effective rate pricing for a pharmacist or pharmacy that is not a local pharmacy or local pharmacist as defined in R.S. 46:460.36(A).~~

~~(3)(4)~~ **(4)** "NDC" means the National Drug Code, a numerical identifier assigned to all prescription drugs.

(4)(5) "Pharmacist" means a licensed pharmacist as defined in R.S. 22:1852(8).

(5)(6) "Pharmacist services" means products, goods, or services provided as a part of the practice of pharmacy as defined in R.S. 22:1852(9).

(6)(7) "Pharmacy" means any appropriately licensed place where prescription drugs are dispensed as defined in R.S. 22:1852(10).

(7)(8) "Pharmacy benefit manager" means an entity that administers or manages a pharmacy benefits plan or program.

(8)(9) "Pharmacy benefits plan" or "pharmacy benefits program" means a plan or program that pays for, reimburses, covers the cost of, or otherwise provides for pharmacist services to individuals who reside in or are employed in Louisiana.

(9)(10) "Spread pricing" means any amount **charged or claimed by** a pharmacy benefit manager ~~charges or claims from a health plan provider or managed care organization for payment of a prescription or for pharmacy services that is different than~~ **drug that exceeds** the amount **paid by** the pharmacy benefit manager ~~paid to the pharmacist or pharmacy who filled the prescription or provided the pharmacy services~~ **for the dispensing of the prescription drug, minus a pharmacy benefit management fee.**

* * *

§1867. Prohibition on spread pricing; ~~notice exception~~ **effective rate pricing**

A. A pharmacy benefit manager is prohibited from conducting or participating in spread pricing in this state ~~unless the pharmacy benefit manager provides written notice as provided in Subsection B of this Section.~~

B. ~~The notice issued by a pharmacy benefit manager, or a health insurance issuer where the health insurance issuer has agreed to issue the notice, that utilizes spread pricing shall be:~~ **A pharmacy benefit manager is prohibited from using Effective Rate Pricing for a local pharmacy or local pharmacist as defined in R.S. 46:460.36(A).**

~~(1) Required for each health insurance issuer or plan provider in which the~~

~~pharmacy benefit manager engaged or participated in spread pricing.~~

~~(2) Delivered to the policy holder.~~

~~(3) Provided at least biannually.~~

~~(4) Indicative of the aggregate amount of spread pricing charged by the pharmacy benefit manager during the period.~~

~~(5) Written in plain, simple, and understandable English.~~

* * *

Section 2. R.S. 40:2870(A)(4) and (5)(a) are hereby amended and reenacted to read as follows:

§2870. Prohibited acts; unfair and deceptive trade practices

A. A pharmacy benefit manager in Louisiana shall not:

* * *

(4) Conduct or participate in **Effective Rate Pricing or** spread pricing ~~as defined in R.S. 22:1863(9) without providing the notice required by R.S. 22:1867.~~

(5)(a) Directly or indirectly engage in patient steering to a pharmacy in which the pharmacy benefit manager maintains an ownership interest or control ~~without making a written disclosure and receiving acknowledgment from the patient. The disclosure required by this Paragraph shall provide notice that the pharmacy benefit manager has an ownership interest in or control of the pharmacy, and that the patient has the right under the law to use any alternate pharmacy that they choose. The~~ pharmacy benefit manager is prohibited from retaliation or further attempts to influence the patient, or treat the patient or the patient's claim any differently if the patient chooses to use the alternate pharmacy.

* * *

Section 3. R.S. 22:1856(F) is hereby repealed.

Section 4. This Act shall become effective upon signature by 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, this Act shall become

1 effective on the day following such approval.

The original 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)]

	DIGEST	
SB 194 Original	2025 Regular Session	Harris

Proposed law provides that a pharmacy benefit manager may negotiate but not retain rebates and fees, and may only derive income from pharmacy benefit management fees for pharmacy benefit management services provided to an insurer or health plan in this state.

Proposed law provides for audits of a pharmacy benefit manager by the commissioner of insurance and any insurer or health plan contracted with a pharmacy benefit manager holding a license issued by the commissioner once per calendar year.

Proposed law requires the pharmacy benefit manager to provide information pursuant to proposed law within 30 days of receipt of any request from the commissioner and any insurer or health plan.

Proposed law requires that the pharmacy benefit manager certify that all information submitted to the commissioner, or any insurer or health plan pursuant to proposed law is accurate and complete in all material respects.

Proposed law provides that a pharmacy benefit manager that has a contract with an insurer or health plan entered into, amended, extended, or renewed on or after January 1, 2026, must specify all forms of revenue, including pharmacy benefit management fees, to be paid by the insurer or health plan to the pharmacy benefit manager and acknowledge that spread pricing is not permitted in accordance with proposed law.

Proposed law mandates the state only regulate a pharmacy benefit manager or insurer to the extent permissible under applicable law.

Present law provides for definitions.

Proposed law retains present law and adds the definition of "Effective Rate Pricing" which means any payment reduction for pharmacist or pharmacy services by a pharmacy benefit manager under a reconciliation process for direct or indirect remuneration fees, a brand or generic effective rate of reimbursement, or any other reduction or aggregate reduction of payment.

Proposed law prohibits a pharmacy benefit manager from using Effective Rate Pricing for a local pharmacy or local pharmacist as defined in present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 22:1860.2(A), 1863, and 1867(A) and (B) and R.S. 40:2870(A)(4) and (5)(a); adds R.S. 22:1657.2; and repeals R.S. 22:1856(F))