
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 244 Reengrossed

2021 Regular Session

Turner

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

Proposed law defines "pharmacy services administrative organization", "pharmacy services administrative organization contract", and "clean claim".

Proposed law requires a pharmacy services administrative organization operating within the state of La. to be registered and licensed with the Dept. of Insurance by submission of an application and registration fee to the commissioner of insurance. Requires a pharmacy services administrative organization to file an annual report. Further sets a \$300.00 licensing fee and a \$150.00 annual report filing fee.

Proposed law prohibits a person from acting as a pharmacy services administrative organization in this state without a valid license issued by the commissioner. Requires a pharmacy services administrative organization's application for licensure to include certain documents and pertinent information. Authorizes the commissioner, upon his request, to inspect copies of certain contracts in order to determine qualification for licensure. Further authorizes the commissioner to deny or revoke a license for certain cause.

Proposed law provides for a license to remain valid as long as the pharmacy services administrative organization continues business in this state and remains in compliance with proposed law. Exempts a pharmacy services administrative organization from La. licensure requirements when certain out-of-state conditions apply.

Proposed law requires a pharmacy services administrative organization to notify the commissioner of any material changes in fact or circumstance relative to its license qualification.

Proposed law requires the commissioner to suspend, revoke, or deny the license of a pharmacy services administrative organization, or to impose a fine for violations not in excess of \$500.00 per violation when the pharmacy services administrative organization has failed to timely pay a judgment rendered against it. Further authorizes the commissioner to suspend, revoke, or deny the license of a pharmacy services administrative organization or impose a fine for certain other violations.

Proposed law authorizes the commissioner to access the books and records maintained by a pharmacy services administrative organization for the purposes of examination, audit, and

inspection, and authorizes the commissioner to cause an examination of a pharmacy services administrative organization, when deemed necessary. Requires the commissioner to keep any trade secrets contained in books and records confidential; however, the commissioner is authorized to use such information in any proceeding instituted against the pharmacy services administrative organization.

Proposed law requires information provided to the commissioner by a pharmacy services administrative organization and certain terms and contracts between certain parties to remain confidential. Such information is not subject to subpoena and is not public information, except it may be provided to insurance departments in other states for certain purposes.

Proposed law provides that a pharmacy services administrative organization is not responsible for activities solely within the purview of a pharmacy benefits manager. Further requires the commissioner to promulgate rules to define roles and responsibilities solely within the purview of pharmacy benefits managers and pharmacy services administrative organizations.

Proposed law requires a pharmacy services administrative organization to notify a contracted pharmacy in writing of any activity, policy, or practice that presents a conflict of interest. Further prohibits a pharmacy services administrative organization from engaging in any act, method, or practice prohibited by present law provisions of Unfair Trade Practices (R.S. 22:1961 et seq.).

Proposed law prohibits a plan sponsor or pharmacy benefits manager from retroactively reducing payments on clean claims unless certain conditions apply. Provides that if a written agreement exists, retroactive increases in payment to a pharmacy are allowable. Further requires a pharmacy services administrative organization to provide a contracted pharmacy with access to the pharmacy's complete and unredacted contracts upon the pharmacy's request.

Proposed law requires a pharmacy services administrative organization to remit to a contracted pharmacy any reimbursements, including sales and use taxes, received on behalf of a pharmacy within 5 business days after receipt of the reimbursement.

Proposed law prohibits a pharmacy services administrative organization from retaining any portion of reimbursements, including dispensing fees, direct or indirect remuneration fees, sales and use taxes, or any other amount owed to a pharmacy.

Proposed law provides that when a pharmacy services administrative organization has not yet received final payment, retroactive adjustments, or reconciliations from a plan sponsor or pharmacy benefits manager, or funds are being held to pay amounts owed by the pharmacy, proposed law (R.S. 22:1660.5) regarding reimbursement and fees does not apply.

Proposed law authorizes the commissioner to adopt rules in accordance with the APA to implement proposed law.

Proposed law creates an exception to present law, Public Records Law (R.S. 44:4.1(B)).

(Adds R.S. 22:1660.1-1660.11)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Specify for the commissioner's registration fee to not exceed \$300.00.
2. Delete language that would have subjected pharmacy services administrative organizations to present law (R.S. 40:2861 et seq.) regulations for pharmacy benefits managers.
3. Delete language with respect to conflicts of interests, other conduct, and the duty of a fiduciary relationship owed by a pharmacy services administrative organization to a pharmacy.
4. Provide that a pharmacy services administrative organization is not responsible for the activities solely within the purview of a pharmacy benefits manager.
5. Require the commissioner of insurance to promulgate rules to define the roles and responsibilities solely within the purview of pharmacy benefits managers and pharmacy services administrative organizations.
6. Define the term "clean claim" and prohibit a plan sponsor or pharmacy benefits manager from retroactively reducing payments on clean claims unless certain conditions apply; however, if a written agreement exists, retroactive increases in payment to a pharmacy are allowable.
7. Require a pharmacy services administrative organization to provide a contracted pharmacy with access to the pharmacy's complete and unredacted contracts upon the pharmacy's request.
8. Provide that when a pharmacy services administrative organization has not yet received final payment, retroactive adjustments, or reconciliations from a plan sponsor or pharmacy benefits manager, or funds are being held to pay amounts owed by the pharmacy, proposed law (R.S. 22:1660.5) does not apply.
9. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Set a \$300.00 licensing fee and a \$150.00 annual report filing fee payable by pharmacy services administrative organizations to the commissioner of insurance.

2. Prohibit a person from acting as a pharmacy services administrative organization in this state without a valid license issued by the commissioner. Require a pharmacy services administrative organization's application for licensure to include certain documents and pertinent information.
3. Authorize the commissioner, upon his request, to inspect copies of certain contracts in order to determine qualification for licensure. Authorize the commissioner to deny or revoke a license for certain cause.
4. Provide for a license to remain valid as long as the pharmacy services administrative organization continues business in this state and remains in compliance.
5. Exempt a pharmacy services administrative organization from La. licensure requirements when certain out-of-state conditions apply.
6. Require a pharmacy services administrative organization to notify the commissioner of any material changes in fact or circumstance relative to license qualification.
7. Require a pharmacy services administrative organization to file with the commissioner an annual report for the preceding calendar year. Require the report to meet certain conditions of verification.
8. Require the commissioner to suspend, revoke, or deny the license of a pharmacy services administrative organization, or to impose a fine for violations not in excess of \$500.00 per violation when the pharmacy services administrative organization has failed to timely pay a judgment rendered against it. Authorize the commissioner to suspend, revoke, or deny the license of a pharmacy services administrative organization, or impose a fine for certain other violations.
9. Authorize the commissioner to access the books and records maintained by a pharmacy services administrative organization for the purposes of examination, audit, and inspection, and authorize an examination of the pharmacy services administrative organization when deemed necessary. Require the commissioner to keep any trade secrets contained in such books and records confidential; however, the commissioner is authorized to use such information in any proceeding instituted against the pharmacy services administrative organization.
10. Require information provided to the commissioner by a pharmacy services administrative organization and certain terms and contracts between certain parties to remain confidential. Such information is not subject to subpoena and is not public information, except it may be provided to insurance departments in other states for certain purposes.
11. Provide for exception to present law, Public Records Law, with respect to information provided to the commissioner.

12. Change "a reasonable amount to time" to "5 business days" with respect to the amount of time a pharmacy services administrative organization has to remit certain reimbursements to contracted pharmacies.
13. Authorize the commissioner to promulgate and adopt rules in accordance with the APA to implement proposed law.
14. Make technical changes with respect to the title, citations, and exceptions to public records requests (R.S. 44:4.1(B)).