

SENATE COMMITTEE AMENDMENTS

2025 Regular Session

Amendments proposed by Senate Committee on Insurance to Reengrossed House Bill No. 264 by Representative Echols

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" delete the remainder of the line and delete line 3 and insert
 3 "the Subpart heading of Subpart C-1 of Part II of Chapter 6 of Title 22 of the Louisiana
 4 Revised Statutes of 1950, R.S. 22:1863, 1865 (Section heading), and 1867, R.S. 40:2869(A)
 5 and (B) and 2870(A)(4) and (5)(a), and R.S. 44:4.1(B)(11), to enact R.S. 22:1868, 1869, and
 6 1870 and to repeal R.S. 22:1657.1, 1860.3(E), and R.S. 40:2870(A)(5)(b), relative to
 7 pharmacy"

8 AMENDMENT NO. 2

9 On page 1, line 6, after "programs;" insert "to provide for appeals; to provide for definitions;
 10 to prohibit effective rate pricing and spread pricing; to provide for reporting; to provide for
 11 advisory council membership; to provide for enforcement and effective dates; to prohibit
 12 patient steering;"

13 AMENDMENT NO. 3

14 On page 1, delete lines 9 through 18, delete page 2, and on page 3, delete lines 1 through 16
 15 and insert the following:

16 "Section 1. The Subpart heading of Subpart C-1 of Part II of Chapter 6 of Title 22
 17 of the Louisiana Revised Statutes of 1950, R.S. 22:1863, 1865 (Section heading), and 1867
 18 are hereby amended and reenacted and R.S. 22:1868, 1869, and 1870 are hereby enacted to
 19 read as follows:

20 SUBPART C-1. PHARMACY BENEFIT MANAGERS MANAGER'S
 21 MAINTENANCE AND USE OF MAXIMUM ALLOWABLE COST LISTS FOR
 22 PRESCRIPTION DRUGS

23 §1863. Definitions

24 As used in this Subpart, the following definitions apply:

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

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

31 (3) "Health benefit plan", "health plan", "plan", "benefit", or "health
 32 insurance coverage" means services consisting of medical care provided directly
 33 through insurance, reimbursement, or other means, and including items and services
 34 paid for as medical care under any hospital or medical service policy or certificate,
 35 hospital or medical service plan contract, preferred provider organization contract,
 36 or health maintenance organization contract offered by a health insurance issuer.
 37 However, excepted benefits are not included as a "health benefit plan".

38 (4) "Health insurance issuer" means any entity that offers health insurance
 39 coverage through a plan, policy, or certificate of insurance subject to state law that
 40 regulates the business of insurance. "Health insurance issuer" shall also include a
 41 health maintenance organization, as defined and licensed pursuant to Subpart I of
 42 Part I of Chapter 2 of this Code.

43 (5) "Local pharmacy" means a pharmacy as defined in the North American
 44 Industry Classification System (NAICS) Code 456110, which is domiciled in
 45 Louisiana and has fewer than ten retail outlets under its corporate umbrella.

46 (2)(6) "Maximum Allowable Cost List" means a listing of the National Drug
 47 Code used by a pharmacy benefit manager setting the maximum allowable cost on

1 which reimbursement to a pharmacy or pharmacist may be based. "Maximum
2 Allowable Cost List" shall include any term that a pharmacy benefit manager or a
3 healthcare insurer may use to establish reimbursement rates for generic and
4 multi-source brand drugs to a pharmacist or pharmacy for pharmacist services. ~~The~~
5 ~~term "Maximum Allowable Cost List" shall not include any rate mutually agreed to~~
6 ~~and set forth in writing in the contract between the pharmacy benefit manager and~~
7 ~~the pharmacy or its agent and shall not include the National Average Drug~~
8 ~~Acquisition Cost. A pharmacy benefit manager may use effective rate pricing for a~~
9 ~~pharmacist or pharmacy that is not a local pharmacy or local pharmacist as defined~~
10 ~~in R.S. 46:460.36(A).~~

11 (3) (7) "NDC" means the National Drug Code, a numerical identifier assigned
12 to all prescription drugs.

13 (4) (8) "Pharmacist" means a licensed pharmacist as defined in R.S.
14 22:1852(8).

15 (5) (9) "Pharmacist services" means products, goods, or services provided as
16 a part of the practice of pharmacy as defined in R.S. 22:1852(9).

17 (6) (10) "Pharmacy" means any appropriately licensed place where
18 prescription drugs are dispensed as defined in R.S. 22:1852(10).

19 (7) (11) "Pharmacy benefit manager" means an entity that administers or
20 manages a pharmacy benefits plan or program has the same meaning as the term
21 defined in R.S. 22:1641(8) and includes any person, either directly or indirectly, that
22 provides one or more pharmacy benefit management services on behalf of an insurer
23 or health plan, and any agent, contractor, intermediary, affiliate, subsidiary, or
24 related entity of such person who facilitates, provides, directs, or oversees the
25 provision of the pharmacy benefit management services.

26 (8) (12) "Pharmacy benefits plan" or "pharmacy benefits program" means a
27 plan or program that pays for, reimburses, covers the cost of, or otherwise provides
28 for pharmacist services to individuals who reside in or are employed in Louisiana.

29 (13) "Rebates" means all rebates, discounts, and other price concessions,
30 based on utilization of a prescription drug and paid by the manufacturer or other
31 party other than an enrollee, directly or indirectly, to the pharmacy benefit manager
32 after the claim has been adjudicated at the pharmacy. Rebates shall include a
33 reasonable estimate of any volume-based discount or other discounts.

34 (14) "Specialty drug" means a drug that meets all of the following criteria:

35 (a) The drug is used to treat and is prescribed for a person with a complex,
36 chronic, or rare medical condition that is progressive, can be debilitating or fatal if
37 left untreated or undertreated, or for which there is no known cure.

38 (b) The drug is not routinely stocked at a majority of pharmacies within this
39 state.

40 (c) The drug has special handling, storage, inventory, or distribution
41 requirements.

42 (d) Patients receiving the drug require complex education and treatment
43 maintenance, such as complex dosing, intensive monitoring, or clinical oversight.

44 (9) (15) "Spread pricing" means any amount charged or claimed by a
45 pharmacy benefit manager charges or claims from a health plan provider or managed
46 care organization for payment of a prescription or for pharmacy services that is
47 different than drug that exceeds the amount paid by the pharmacy benefit manager
48 paid to the pharmacist or pharmacy who filled the prescription or provided the
49 pharmacy services for the dispensing of the prescription drug, minus a pharmacy
50 benefit management fee.

51 * * *

52 §1865. Appeals; maximum allowable costs

53 * * *

54 §1867. Prohibition on spread pricing; notice exception effective rate pricing

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

58 B. ~~The notice issued by a pharmacy benefit manager, or a health insurance~~
59 ~~issuer where the health insurance issuer has agreed to issue the notice, that utilizes~~
60 ~~spread pricing shall be: A pharmacy benefit manager is prohibited from using~~
61 effective rate pricing for a local pharmacy.

1 (1) ~~Required for each health insurance issuer or plan provider in which the~~
 2 ~~pharmacy benefit manager engaged or participated in spread pricing.~~

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

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

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

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

8 C. Any violation of this Section that is committed or performed with such
 9 frequency as to indicate a general business practice shall be subject to the provisions
 10 of the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401 et seq.,
 11 as provided in R.S. 40:2870(B).

12 §1868. Local pharmacy reimbursement; National Average Drug Acquisition Costs;
 13 appeals

14 A.(1) No pharmacy benefit manager or person acting on behalf of a pharmacy
 15 benefit manager shall reimburse a pharmacy or pharmacist in this state an amount
 16 less than the acquisition cost for the covered drug, device, or service. The provisions
 17 of this Section shall apply only to reimbursement for a contracted pharmacist or local
 18 pharmacy.

19 (2) For purposes of this Section, the following definitions shall apply:

20 (a) "Claim payment error" means a pharmacy or pharmacist claim payment
 21 amount that fails to reimburse at or above acquisition cost

22 (b) "Acquisition cost" means the set of National Average Drug Acquisition
 23 Costs, "NADAC", as calculated by the Centers for Medicaid and Medicaid Services
 24 and reflected in the most recently released public file.

25 (c) "Adjustment" means a percentage-based change to the prescription drug
 26 pricing benchmark, such as average wholesale price or national average drug
 27 acquisition cost, applied uniformly across a class of drugs.

28 (d) "Reimbursement formula" means a prescription drug reimbursement
 29 calculation involving an ingredient price, calculated based on a prescription drug
 30 pricing benchmark plus an adjustment factor, and a professional dispensing fee.

31 (3) Notwithstanding any provision of law to the contrary, effective January
 32 1, 2026, a pharmacy benefit manager shall meet all of the following requirements for
 33 claims submitted by any local pharmacy to a pharmacy benefit manager
 34 administering claims on behalf of a health plan, except for the office of group
 35 benefits:

36 (a) Adopt a reimbursement formula using either NADAC as the prescription
 37 drug pricing benchmark or, with prior written approval by the commissioner, an
 38 alternative prescription drug pricing benchmark that results in claim payment errors
 39 that are both comparable to or less than NADAC in terms of frequency and smaller
 40 than NADAC in terms of magnitude.

41 (b) Adopt a reimbursement formula using an adjustment factor that, based on
 42 claims experience data available to the pharmacy benefit manager, is reasonably
 43 expected to result in a claim payment error rate of no more than two percent per drug
 44 as identified by its national drug code.

45 (c) Adopt an appeal process for pharmacists to challenge claim payment
 46 errors that, at a minimum, meets the following requirements:

47 (i) A network pharmacy contract executed by and between a pharmacy
 48 benefit manager and a pharmacy located in Louisiana shall, at a minimum, contain
 49 a provision expressly acknowledging that if a Louisiana pharmacy's reimbursement
 50 for any covered drug or device is less than the pharmacy's acquisition cost for that
 51 drug or device, the pharmacy has the right to appeal that reimbursement and, if
 52 successful, receive additional payment so that the total reimbursement is equal to the
 53 pharmacy's demonstrated acquisition cost. The pharmacy benefit manager shall
 54 direct the pharmacy to the pharmacy benefit manager's electronic and written appeal
 55 locations.

56 (ii) Permit appeals to be filed for a period of fifteen days following the
 57 applicable date of payment.

58 (iii) If an appeal is filed with the pharmacy benefit manager, the pharmacy
 59 must include a written invoice from the wholesaler that includes the drug name,
 60 national drug code number, purchase date, and cost of the drug.

1 (iv) If a claim payment error occurred, the pharmacy benefit manager shall
 2 make an additional payment to the pharmacy to increase the reimbursement amount
 3 to the acquisition cost.

4 (v) If a pharmacy benefit manager determines that a claim payment error did
 5 not occur, it shall provide the pharmacy or pharmacist with an explanation of why
 6 it has upheld the payment, including a specific documentation of the acquisition cost
 7 on the date of service. The explanation shall be provided electronically or in writing
 8 through customary means of communication between the pharmacy benefit manager
 9 and the pharmacy or pharmacist. The explanation shall also include a notice in at
 10 least ten point font stating that, if the pharmacy or pharmacist disagrees with the
 11 decision, the pharmacy or pharmacist may file a complaint with the Department of
 12 Insurance.

13 §1869. Compensation program; review by commissioner; exceptions

14 A. The commissioner may review the compensation program of a pharmacy
 15 benefit manager or person acting on behalf of a pharmacy benefit manager with a
 16 health insurance issuer, pharmacy services administrative organization, pharmacy,
 17 or pharmacist, or any person acting on their behalf, to ensure that the reimbursement
 18 for drugs, devices, and services paid to the pharmacist or pharmacy is fair and
 19 reasonable.

20 B. Information provided to the commissioner pursuant to Subsection A of this
 21 Section and specifically identified as confidential by the pharmacy benefit manager,
 22 including the terms and conditions of any contract and other proprietary information,
 23 shall be confidential and shall not be subject to disclosure. However, the
 24 commissioner may disclose confidential information to insurance departments of
 25 other states or for the purposes of any adjudicatory hearing or court proceeding
 26 invoked by the commissioner in accordance with the provisions of this Part.

27 §1870. Pharmacy benefit manager transparency report; examination by
 28 commissioner

29 A. Each pharmacy benefit manager licensed by the commissioner shall
 30 submit an annual transparency report as a condition of maintaining licensure.

31 B.(1) On March 1 of each year, each licensed pharmacy benefit manager shall
 32 submit a transparency report containing data from the prior calendar year to the
 33 department. The transparency report shall contain the following information for each
 34 of the pharmacy benefit manager's contractual or other relationships with a health
 35 benefit plan or health insurance issuer:

36 (a) The total amount of all rebates that the pharmacy benefit manager
 37 received from pharmaceutical manufacturers.

38 (b) The total amount of all administrative fees that the pharmacy benefit
 39 manager received.

40 (c) The total amount of all negotiated price concessions such as base price
 41 concessions, reasonable estimates of any price protection rebates other than
 42 manufacturer rebates, and performance-based price concessions.

43 (d) The total amount of all rebates passed to enrollees at the point of sale of
 44 a prescription drug.

45 (e) The total amount of all reimbursement paid to network pharmacies in this
 46 state, specifically identified by local pharmacy and non-local pharmacy.

47 (f) Total amount of all specialty drug rebates that the pharmacy benefit
 48 manager received.

49 (g) The total number of other services provided by the pharmacy benefit
 50 manager or its affiliates or subsidiaries in addition to prescription drugs. The total
 51 amount reported shall include identification of the service, the number of services
 52 provided, by whom they were provided, and the dollar amount relative to the
 53 provision of the services.

54 (h) The complete corporate vertical integration structure of all components
 55 related to the pharmacy benefit manager including the insurer, pharmacy benefit
 56 manager, group purchasing organization, manufacturer, wholesale distributor, special
 57 or mail order pharmacy, retail or long term care pharmacy, and provider.

58 (2) The transparency report shall be made available in a form that does not
 59 disclose the identity of a specific health benefit plan, the prices charged for specific

1 drugs or classes of drugs, or the amount of any rebates provided for specific drugs
 2 or classes of drugs.

3 (3) Within sixty days of receipt, the Department of Insurance shall publish
 4 the transparency report on the department's website in a location designated for
 5 pharmacy benefit manager information.

6 (4) The pharmacy benefit manager and the Department of Insurance shall not
 7 publish or disclose any information that would reveal the identity of a specific health
 8 benefit plan, the prices charged for a specific drug or class of drugs, or the amount
 9 of any rebates provided for a specific drug or class of drugs. Any such information
 10 shall be protected from disclosure as confidential and proprietary information and
 11 shall not be regarded as a public record pursuant to the Public Records Law.

12 (5) Not more than thirty days after an increase in wholesale acquisition cost
 13 of fifty percent or greater for a drug with a wholesale acquisition cost of one hundred
 14 dollars or more for a thirty-day supply, a pharmaceutical drug manufacturer shall
 15 notify the commissioner by electronic mail of any such change.

16 C.(1) The commissioner may examine the books or records of a pharmacy
 17 benefit manager to determine the accuracy of the transparency report.

18 (2) This Section does not limit the power of the commissioner to examine
 19 or audit the books or records of a pharmacy benefit manager.

20 Section 2. R.S. 40:2869(A) and (B) and 2870(A)(4) and (5)(a) are hereby
 21 amended and reenacted to read as follows:

22 §2869. Pharmacy benefit manager monitoring advisory council; membership;
 23 functions

24 A. There is hereby created within the Department of Insurance a pharmacy
 25 benefit manager monitoring advisory council, referred to hereafter in this Chapter
 26 as the "advisory council", that shall consist of the following members, ~~each of whom~~
 27 ~~may appoint a designee:~~

28 (1) The commissioner of the Department of Insurance, or his designee from
 29 the department.

30 ~~(2) The president of the Louisiana State Board of Medical Examiners:~~

31 ~~(3) The president of the Louisiana Board of Pharmacy.~~

32 ~~(4) (2) The attorney general, or her designee from the department.~~

33 ~~(5) The director of the public protection division of the Department of~~
 34 ~~Justice:~~

35 ~~(6) (3) The secretary of the Louisiana Department of Health, or his designee~~
 36 ~~from the department.~~

37 ~~(7) The president of the Louisiana Academy of Physician Assistants:~~

38 ~~(8) The president of the Louisiana State Medical Society:~~

39 ~~(9) The president of the Louisiana Association of Nurse Practitioners:~~

40 ~~(10) (4) The president of A pharmacist who works for a chain drug store~~
 41 ~~appointed by the Louisiana Pharmacists Association.~~

42 ~~(11) (5) The president of An independent pharmacist appointed by the~~
 43 ~~Louisiana Independent Pharmacies Association.~~

44 ~~(12) The president of the National Association of Chain Drug Stores:~~

45 ~~(13) (6) The president of the Pharmaceutical Research and Manufacturers of~~
 46 ~~America, or his designee.~~

47 ~~(14) The president of the Louisiana Academy of Medical Psychologists:~~

48 ~~(15) (7) The president of the Louisiana Association of Health Plans, or his~~
 49 ~~designee.~~

50 ~~(16) (8) The president An employee of a pharmacy benefit manager licensed~~
 51 ~~by the Louisiana Board of Pharmacy, selected by the Louisiana affiliate of the~~
 52 ~~Pharmaceutical Care Management Association from a list of interested and qualified~~
 53 ~~individuals. The employee shall have responsibility for and experience in daily~~
 54 ~~administrative functions of the business practices of the pharmacy benefit manager.~~

55 ~~(17) The president of the Louisiana Association of Business and Industry:~~

56 ~~(18) The chief executive officer of the Louisiana Business Group on Health:~~

57 ~~(19) The president of the Louisiana AFL-CIO:~~

58 ~~(20) The president of the Louisiana Association of Health Underwriters:~~

59 ~~(21) (9) The governor, or his designee from the office of the governor.~~

1 Section 6. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval."