

2018 Regular Session

HOUSE BILL NO. 547

BY REPRESENTATIVE LEBAS

DRUGS/PRESCRIPTION: Prohibits penalties for disclosure by pharmacists of certain prescription drug cost information

1 AN ACT

2 To enact Subpart A-2 of Part III of Chapter 4 of Title 22 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 22:1019.11 through 1019.13, relative to contracts
4 of pharmacists with health insurance issuers and with pharmacy benefit managers;
5 to prohibit certain contract provisions relative to disclosure by a pharmacist of drug
6 cost information; to provide for enforcement of the prohibition; to provide for duties
7 of the commissioner of insurance with respect to the prohibition; to provide for
8 administrative rulemaking; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Subpart A-2 of Part III of Chapter 4 of Title 22 of the Louisiana Revised
11 Statutes of 1950, comprised of R.S. 22:1019.11 through 1019.13, is hereby enacted to read
12 as follows:

13 SUBPART A-2. DISCLOSURE OF DRUG COSTS

14 BY PHARMACISTS

15 §1019.11. Disclosure of drug costs by pharmacists; penalties prohibited

16 A. No health insurance issuer or pharmacy benefit manager shall offer or
17 agree to a contract provision which penalizes a pharmacy or pharmacist for
18 disclosing information to a customer regarding any of the following:

- 19 (1) The cost of a prescription medication to the customer.

1 (2) The availability of any therapeutically equivalent alternative medication
2 or alternative methods of purchasing the prescription medication, including, without
3 limitation, paying a cash price, that are less expensive to the customer than the cost
4 of the prescription medication.

5 B. A contract provision penalizes a pharmacy or pharmacist if it prohibits the
6 disclosure authorized in Subsection A of this Section or disadvantages a pharmacy
7 or pharmacist that makes such a disclosure, including through increased utilization
8 review, reduced payments, or other financial disincentives.

9 C. No health insurance issuer or pharmacy benefit manager shall require an
10 individual to make a payment at the point of sale for a covered prescription
11 medication in an amount in excess of the least of the following amounts:

12 (1) The applicable copayment for the prescription medication.

13 (2) The allowable claim amount for the prescription medication.

14 (3) The amount that an individual would pay for the prescription medication
15 if he purchased the medication without using a health plan or any other source of
16 prescription medication benefits or discounts.

17 §1019.12. Enforcement

18 A. Any provision of a contract that violates the prohibition established in this
19 Subpart shall be void and unenforceable, and shall constitute an unfair trade practice
20 pursuant to the applicable laws of this state. The invalidity or unenforceability of
21 any contract provision pursuant to this Subsection shall not affect any other provision
22 of the contract.

23 B.(1) The commissioner shall enforce the provisions of this Subpart.

24 (2) After receiving a request submitted in the manner prescribed by the
25 department in rule, the commissioner may audit a pharmacy services contract for
26 compliance with the provisions of this Subpart.

- 1 §1019.13. Rulemaking
- 2 The commissioner shall promulgate all rules in accordance with the
- 3 Administrative Procedure Act as are necessary to implement and enforce the
- 4 provisions of this Subpart.

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 547 Original

2018 Regular Session

LeBas

Abstract: Bans the practice known informally as the "gag rule on pharmacists" by prohibiting penalties on pharmacists for disclosure of certain information on the cost of prescription drugs.

Proposed law prohibits health insurers and pharmacy benefit managers from offering or agreeing to a contract provision which penalizes a pharmacy or pharmacist for disclosing information to a customer regarding any of the following:

- (1) The cost of a prescription medication to the customer.
- (2) The availability of any therapeutically equivalent alternative medication or alternative methods of purchasing the prescription medication, including, without limitation, paying a cash price, that are less expensive to the customer than the cost of the prescription medication.

Proposed law establishes that a contract provision penalizes a pharmacy or pharmacist if it prohibits the disclosure authorized in proposed law or disadvantages a pharmacy or pharmacist that makes such a disclosure.

Proposed law prohibits health insurers and pharmacy benefit managers from requiring an individual to make a payment at the point of sale for a covered prescription medication in an amount in excess of the least of the following amounts:

- (1) The applicable copayment for the prescription medication.
- (2) The allowable claim amount for the prescription medication.
- (3) The amount that an individual would pay for the prescription medication if he purchased the medication without using a health plan or any other source of prescription medication benefits or discounts.

Proposed law stipulates that any provision of a contract that violates the prohibition established in proposed law shall be void and unenforceable, and shall constitute an unfair trade practice pursuant to present law.

Proposed law requires the commissioner of insurance to enforce the provisions of proposed law. Provides that after receiving a properly submitted request, the commissioner may audit a pharmacy services contract for compliance with the provisions of proposed law.

(Adds R.S. 22:1019.11-1019.13)