SLS 17RS-308 **ORIGINAL**

2017 Regular Session

SENATE BILL NO. 59

BY SENATORS MILLS, JOHNS, MORRISH AND GARY SMITH

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

HEALTH CARE. Provides relative to prescription drug price information. (gov sig)

AN ACT

To enact R.S. 37:1741.1, relative to prescription drug price information; to provide for disclosure of certain information; to provide for a form; to provide for penalties; to provide for rulemaking authority; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1741.1 is hereby enacted to read as follows:

**§1741.1. Disclosure of prescription drug price information; minimum content; violations**

**A. When a pharmaceutical marketer engages in any form of prescription drug marketing directly to a prescriber, his designee, or any member of his staff, the marketer shall disclose the average wholesale price, hereinafter referred to as "AWP", of any drugs being marketed for each indication, customarily referred to as "labeled indication", approved by the United States Food and Drug Administration. Disclosure shall include the AWP for a thirty-day supply of the drugs. If a drug is designed to be administered for a duration of therapy of less than thirty days, the duration and AWP for that period of**

**time shall be disclosed. For purposes of this Section, "prescription drug marketing" shall include in-person meetings, mailings, telephonic conversations, video conferencing, and electronic mail activities with prescribers.**

**B. The Louisiana Department of Health shall develop a form to be used by pharmaceutical marketers to comply with the disclosure requirements of this Section. The form shall include:**

**(1) The name of the drug and the current manufacturer.**

**(2) The most recent AWP as of the date presented to the prescriber. The disclosure of the AWP shall account for each labeled indication and reflect any differences as a result of different strengths and dosage forms approved for sale.**

**(3) The date that the product was first marketed in the United States and the AWP as of that date.**

**(4) The AWP on each date that the price of the product changed to include the date and the AWP on that date.**

**(5) The name of the pharmaceutical marketer, name of the prescriber, date the form was completed, and the date the marketer engaged in prescription drug marketing with the prescriber, his designee, or his staff.**

**C. The completed form shall be provided to the prescriber at the same time and in the same manner as any other marketing materials provided to the prescriber. If marketing activities are performed telephonically, such form shall be described verbally by the marketer during the call and shall be sent to the prescriber by mail or electronically within one business day of the marketing activity.**

**D. A violation of any provision of this Section shall constitute a prohibited practice under the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401 et seq., and shall be subject to the enforcement provisions provided therein.**

**E. For purposes of this Section:**

**(1) "Average wholesale price" or "AWP" means the wholesale price charged on a specific prescription drug that is assigned by the drug manufacturer and listed in a nationally recognized drug pricing file.**

**(2) "Pharmaceutical marketer" means a person who, while employed by or under contract to represent a pharmaceutical manufacturing company or other pharmaceutical distributor, engages in marketing activities of prescription drugs.**

**(3) "Prescription drug" means a pharmaceutical drug that legally requires a prescription to be dispensed.**

**(4) "Prescriber" means a physician or any other person authorized to prescribe prescription drugs or any other person on their staff who receives prescription drug marketing materials.**

**F. The Louisiana Department of Health shall promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section. The form required by this Section shall be made available on the department's website.**

Section 2. 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 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

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DIGEST

SB 59 Original 2017 Regular Session Mills

Proposed law requires pharmaceutical drug marketers to present a prescriber with a completed form disclosing current and historical drug pricing information when they are marketing the drug to the prescriber or the prescribers staff. Proposed law provides for penalties for failure to comply with production of the form and provides for rulemaking authority.

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

(Adds R.S. 37:1741.1)