

2017 Regular Session

HOUSE BILL NO. 592

BY REPRESENTATIVES TALBOT, BARRAS, DAVIS, AND LANCE HARRIS

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

WORKERS COMPENSATION: Provides for the creation of a workers' compensation pharmacy formulary

1 AN ACT

2 To amend and reenact R.S. 23:1203.1(B), (D)(introductory paragraph), (H), (I), (J)(1), (L),
3 and (M)(1), relative to workers' compensation; to provide for the promulgation of a
4 pharmacy formulary; to provide criteria for promulgation of the formulary; to
5 provide for certain automatic updates; to provide a variance for issues not
6 specifically addressed in the formulary; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 23:1203.1(B), (D)(introductory paragraph), (H), (I), (J)(1), (L), and
9 (M)(1) are hereby amended and reenacted to read as follows:

10 §1203.1. Definitions; medical treatment schedule; pharmacy formulary; medical
11 advisory council

12 * * *

13 B.(1) The director shall, through the office of workers' compensation
14 administration, promulgate rules in accordance with the Administrative Procedure
15 Act, R.S. 49:950 et seq., to establish a medical treatment schedule and a pharmacy
16 formulary.

17 ~~(1) Such rules shall be promulgated no later than January 1, 2011.~~

18 (2) ~~The~~ Both the medical treatment schedule and the pharmacy formulary
19 shall meet the criteria established in this Section. ~~and~~ The medical treatment

1 schedule shall be organized in an interdisciplinary manner by particular regions of
2 the body and organ systems.

3 (3) The content of the pharmacy formulary shall be the most recent version
4 of the Workers' Compensation Drug Formulary of the Official Disability Guidelines
5 Appendix A: Treatment in Workers' Comp, published by the Work Loss Data
6 Institute along with the associated supporting evidence, studies, and applicable
7 portions of the guidelines specific to the drugs listed in Appendix A.

8 (4) The rules and regulations necessary to establish a pharmacy formulary
9 shall be promulgated and the formulary adopted by January 1, 2018.

10 (5) In workers' compensation claims in which the injury takes place on or
11 after January 1, 2018, the pharmacy formulary shall be utilized for all drugs
12 prescribed or dispensed for outpatient use.

13 (6) In workers' compensation claims in which the injury takes place prior
14 to January 1, 2018, the pharmacy formulary shall be utilized for all refills and new
15 prescriptions prescribed or dispensed for outpatient use on and after July 1, 2018.

16 * * *

17 D. The medical treatment schedule and the pharmacy formulary shall be
18 based on guidelines which shall meet all of the following criteria:

19 * * *

20 H.(1) The director, with the assistance of the medical advisory council, is
21 authorized to review and update the medical treatment schedule ~~no less often than~~
22 at least once every two years. Such Any updates shall be made by ~~rules promulgated~~
23 ~~in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.~~
24 administrative rule. In no event shall the The schedule shall not contain multiple
25 ~~guidelines covering the same aspects~~ that address the same aspect of the same
26 medical condition ~~which are simultaneously in force.~~

27 (2) The pharmacy formulary shall be automatically updated with the most
28 recent version of the Workers' Compensation Drug Formulary of the Official
29 Disability Guidelines Appendix A: Treatment in Workers' Comp, published by the

1 Work Loss Data Institute along with the associated supporting evidence, studies, and
2 applicable portions of the guidelines specific to the drugs listed in Appendix A. The
3 director and the medical advisory council shall obtain a list identifying any updates
4 to the formulary.

5 I. After the promulgation of the medical treatment schedule and the
6 pharmacy formulary, throughout this Chapter, and notwithstanding any provision of
7 law to the contrary, medical care, services, and treatment due, pursuant to R.S.
8 23:1203 et seq., by the employer to the employee shall mean care, services, and
9 treatment in accordance with the medical treatment schedule or the pharmacy
10 formulary. Medical care, services, and treatment that ~~varies~~ vary from the
11 promulgated medical treatment schedule or the pharmacy formulary shall also be due
12 by the employer when it is demonstrated to the medical director of the office by a
13 preponderance of the scientific medical evidence, that a variance from the medical
14 treatment schedule or the pharmacy formulary is reasonably required to cure or
15 relieve the injured worker from the effects of the injury or occupational disease given
16 the circumstances.

17 J.(1) After a medical provider has submitted to the payor the request for
18 authorization and the information required by Chapter 27 of Title 40 of the Louisiana
19 Administrative Code, ~~Title 40, Chapter 27~~, the payor shall notify the medical
20 provider of ~~their~~ any action on the request within five business days of receipt of the
21 request. If any dispute arises ~~after January 1, 2011~~, as to whether the recommended
22 care, services, or treatment is in accordance with the medical treatment schedule or
23 pharmacy formulary or whether a variance from the medical treatment schedule or
24 pharmacy formulary is reasonably required as contemplated in Subsection I of this
25 Section, any aggrieved party shall file, within fifteen calendar days, an appeal with
26 the office of workers' compensation administration medical director or associate
27 medical director on a form promulgated by the director. The medical director or
28 associate medical director shall render a decision as soon as is practicable, but ~~in no~~
29 ~~event~~, not more than thirty calendar days from the date of filing.

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L.(1) It is the intent of the legislature that, with the establishment and enforcement of the medical treatment schedule and the pharmacy formulary, medical and surgical treatment, hospital care, and other ~~health care~~ healthcare provider services shall be delivered in an efficient and timely manner to injured employees.

(2) Notwithstanding any other provision of law or pharmacy formulary rules or regulations to the contrary, any prior authorization of a pharmacy or any other healthcare provider dispensing drugs, regardless of the classification or the lack of classification of any individual drug, shall be in accordance with the provisions of R.S. 23:1142. Nothing related to the pharmacy formulary or associated rules or regulations shall alter any mutual consent requirements or the right to a choice of pharmacy pursuant to this Title.

M.(1) With regard to all treatment not covered by the medical treatment schedule or the pharmacy formulary promulgated in accordance with this Section, all medical care, services, and treatment shall be in accordance with the guidelines set forth in Subsection D of this Section.

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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 592 Reengrossed 2017 Regular Session Talbot

Abstract: Provides for the creation of a pharmacy formulary for the treatment of injured workers in workers' compensation claims.

Present law requires the development of medical treatment guidelines for workers' compensation claims and requires a process for office of workers' compensation administration to review and promulgate rules and regulations to ensure proper care for the injured worker.

Proposed law retains present law and expands it by requiring the establishment of a pharmacy formulary.

Proposed law requires that the applicable rules be promulgated and the pharmacy formulary adopted by Jan. 1, 2018.

Proposed law requires that for claims in which the date of injury takes place on or after Jan. 1, 2018, the pharmacy formulary shall be utilized; and that for claims in which the date of injury takes place prior to Jan. 1, 2018, the pharmacy formulary shall be utilized on and after July 1, 2018.

Proposed law requires that the promulgation of the pharmacy formulary use the same criteria as used for the development of the medical treatment guidelines.

Proposed law provides that the formulary shall be, and shall be updated with, the most recent version of the Official Disability Guidelines, Appendix A; Treatment in Workers' Comp, along with the associated supported evidence, studies, and parts of the guidelines specific to Appendix A.

Proposed law provides that any prior authorization of a pharmacy or healthcare provider dispensing drugs, regardless of classification or lack of classification, shall be in accordance with the provisions of present law (R.S. 23:1142).

Present law provides that if the treatment required by the injured worker is not sufficiently addressed by the medical treatment guidelines, that the employer may demonstrate by preponderance of the scientific medical evidence that a variance is necessary. Proposed law retains present law and further requires that the pharmacy formulary will also be subject to a variance pursuant to the procedures in present law.

(Amends R.S. 23:1203.1(B), (D)(intro. para.), (H), (I), (J)(1), (L), and (M)(1))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the original bill:

1. Provide that in addition to the formulary being developed and updated with the Official Disability Guidelines, Appendix A; Treatment in Workers' Comp, the accompanying supporting evidence and associated studies shall be included.
2. Provide that proposed law is enacted notwithstanding any other law or pharmacy formulary rule or regulation to the contrary.
3. Clarify that prior authorization for drugs as allowed by present law is a pharmacy or any other healthcare provider dispensing the drugs as provided in present law.
4. Change the choice of pharmacy from the discretion of the injured worker to as provided in present law.

The House Floor Amendments to the engrossed bill:

1. Clarify that portions of the guidelines specific to Appendix A shall be taken into consideration in addition to the supporting evidence and studies specified in proposed law.
2. Clarify that drugs, regardless of classification or lack of classification, shall be dispensed in accordance with present law.
3. Make technical changes.