

2018 Regular Session

SENATE BILL NO. 241

BY SENATOR MORRELL

PHARMACEUTICALS. Provides relative to pharmacist communication with patients.
(8/1/18)

1 AN ACT

2 To amend and reenact R.S. 22:1657 and to enact R.S. 37:1219, relative to pharmacist
3 communication with patients; to provide for cost options regarding prescription
4 drugs; to provide for immunity; to provide for prohibited contract clauses; and to
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1657 is hereby amended and reenacted to read as follows:

8 §1657. Pharmacy benefit managers

9 A. A pharmacy benefit manager shall be deemed to be a third-party
10 administrator for purposes of this Part. As such, all provisions of this Part shall apply
11 to pharmacy benefit managers; however, notwithstanding the provisions of R.S.
12 22:1651(F), every pharmacy benefit manager shall be required to be licensed by the
13 commissioner of insurance.

14 **B.(1) No pharmacy benefit manager or other entity that administers**
15 **prescription drug benefits in Louisiana shall prohibit by contract a pharmacy**
16 **or pharmacist from informing a patient of all relevant options when acquiring**
17 **their prescription medication, including but not limited to the cost and clinical**

1 efficacy of a more affordable alternative if one is available and the ability to pay
 2 cash if a cash payment for the same drug is less than an insurance copayment
 3 or deductible payment amount.

4 (2) On or after August 1, 2018, any contract provision prohibiting the
 5 communication provided for in this Subsection shall be severable from the
 6 contract and considered null and void and not enforceable in Louisiana.

7 Section 2. R.S. 37:1219 is hereby enacted to read as follows:

8 **§1219. Affordable alternative options to prescription drugs**

9 A. Pharmacists may provide sufficient information to a patient to allow
 10 him an opportunity to consider all relevant options when acquiring prescription
 11 medication, including but not limited to the cost and clinical efficacy of a more
 12 affordable alternative if one is available and the ability to pay cash if a cash
 13 payment for the same drug is less than an insurance copayment or deductible
 14 payment amount.

15 B. Failure to comply with this Section shall not constitute a violation of
 16 a pharmacist's standard of care regarding the patient. No pharmacist shall be
 17 penalized by the board or any third party for failure to comply with the
 18 provisions of this Section.

19 C.(1) No pharmacy or pharmacist shall be bound to terms of a contract
 20 with a pharmacy benefit manager or other entity that administers prescription
 21 drug benefits that prevent disclosure of the information provided for in this
 22 Section.

23 (2) On or after August 1, 2018, any contract provision prohibiting the
 24 communication provided for in this Section shall be severable from the contract
 25 and considered null and void and not enforceable in Louisiana.

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

insurance. Proposed law prohibits pharmacy benefit managers licensed in Louisiana from imposing "gag orders" by contract on pharmacies or pharmacists which prevent them from informing the patient of cheaper alternatives when filling their prescription drug. Proposed law prohibits such provisions in contracts and retroactively makes null and void any such provisions in place on August 1, 2018.

Proposed law authorizes pharmacists to inform patients that a cheaper alternative may be available, including cash payment if a cash payment is cheaper than the patient's insurance copayment or deductible amount. Proposed law provides immunity for a pharmacist who does not provide the information to a patient.

Effective August 1, 2018.

(Amends R.S. 22:1657; adds R.S. 37:1219)