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**SENATE FLOOR AMENDMENTS**

2019 Regular Session

Amendments proposed by Senator Mills to Engrossed Senate Bill No. 41 by Senator Mills

AMENDMENT NO. 1

On page 2, delete lines 5 through 20 and insert the following:

"(2) "Maximum Allowable Cost List" means a listing of the National Drug Code used by a pharmacy benefit manager setting the maximum allowable cost on which reimbursement to a pharmacy or pharmacist may be based. **"Maximum Allowable Cost List" shall include any term that a pharmacy benefit manager or a healthcare insurer may use to establish reimbursement rates for generic and multi-source brand drugs to a pharmacist or pharmacy for pharmacist services. The term "Maximum Allowable Cost List" shall not include any rate mutually agreed to and set forth in writing in the contract between the pharmacy benefit manager and the pharmacy. However, this definition shall not be interpreted to preclude a pharmacy benefit manager from establishing effective rate pricing for a pharmacist or pharmacy that is not a local pharmacy or local pharmacist as defined in R.S. 46:460.36(A)(3)."**

AMENDMENT NO. 2On page 2, line 24, delete "**in excess of**" and insert "**different than**"AMENDMENT NO. 3On page 2, line 28, after "**spread pricing**" insert "**; notice exception**"AMENDMENT NO. 4On page 2, line 29, at the beginning of the line, insert "**A.**"AMENDMENT NO. 5On page 3, line 1, after "**state**" insert "**unless the pharmacy benefit manager provides written notice as provided in Subsection B of this Section**"AMENDMENT NO. 6

On page 3, between lines 1 and 2 insert the following:

**B. The notice issued by a pharmacy benefit manager, or a health insurance issuer where the health insurance issuer has agreed to issue the notice, that utilizes spread pricing shall be:**

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

**(2) Delivered to the policyholder.**

**(3) Provided at least biannually.**

**(4) The aggregate amount of spread pricing charged by the pharmacy benefit manager during the period.**

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

**C. Any violation of this Section that is committed or performed with such frequency as to indicate a general business practice shall be subject to the provisions of the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401 et seq."**

AMENDMENT NO. 7On page 3, line 12, after "**manager**" delete "**shall also be**" and insert "**may be but is not**"

1 AMENDMENT NO. 8

2 On page 3, line 14, after "**more**" delete "**of the**"

3 AMENDMENT NO. 9

4 On page 5, between lines 22 and 23, insert the following:

5 "**C. Failure of a pharmacy benefit manager to satisfy the duties established in this**  
6 **Section shall not create a separate or independent cause of action nor shall it be**  
7 **construed to prohibit any cause of action established by or recognized in federal or**  
8 **state law.**"

9 AMENDMENT NO. 10

10 On page 7, line 3, after "**permitting**" delete the remainder of the line

11 AMENDMENT NO. 11

12 On page 7, line 4, delete "**shall**" and insert "**may**"

13 AMENDMENT NO. 12

14 On page 8, delete line 29 and on page 9, delete lines 1 through 20

15 AMENDMENT NO. 13

16 On page 10, between lines 17 and 18, insert the following:

17 "**(17) The president of the Louisiana Association of Business and Industry.**  
18 **(18) The chief executive officer of the Louisiana Business Group on Health.**  
19 **(19) The president of America's Health Insurance Plans.**  
20 **(20) The president of the Louisiana AFL-CIO.**  
21 **(21) The president of the Louisiana Association of Health Underwriters.**"

22 AMENDMENT NO. 14

23 On page 10, line 29, after "**commissioner**" insert "**and the board of pharmacy**"

24 AMENDMENT NO. 15

25 On page 11, line 16, after "**The**" delete "**authority of the**" and after "**shall**" delete the  
26 remainder of the line and insert "**advise on matters that include but are not limited**"

27 AMENDMENT NO. 16

28 On page 11, line 17, delete "**matters involving**"

29 AMENDMENT NO. 17

30 On page 11, line 19, after "**applicable rules**" insert "**and regulations of state agencies**"

31 AMENDMENT NO. 18

32 On page 12, delete lines 4 through 9 and insert the following:

33 "**(4) Conduct or participate in "spread pricing" as defined in R.S. 22:1863(9) without**  
34 **providing the notice required by R.S. 22:1867.**"

1 AMENDMENT NO. 19

2 On page 12, line 10, after "**(5)**" insert "**(a)**" and after "**steering**" delete the remainder of the  
3 line and delete lines 11 through 17 and insert "**to a pharmacy in which the pharmacy**  
4 **benefit manager maintains an ownership interest or control, without making a written**  
5 **disclosure and receiving acknowledgment from the patient. The disclosure required by**  
6 **this Paragraph shall provide notice that the pharmacy benefit manager has an**  
7 **ownership interest in the pharmacy, and that the patient has the right under the law**  
8 **to use any alternate pharmacy that they choose. The pharmacy benefit manager is**  
9 **prohibited from retaliation or further attempts to influence the patient, or treat the**  
10 **patient or the patient's claim any differently if the patient chooses to use the alternate**  
11 **pharmacy.**

12 **(b) The provisions of this Paragraph shall not apply to employers, unions, associations,**  
13 **or other persons who employ, own, operate, control, or contract directly with a**  
14 **pharmacy or pharmacist for the purpose of managing or controlling prescription costs**  
15 **paid for the benefit of an employee or member or those covered by the employee or**  
16 **member's plan, or when the persons contract with a pharmacy benefit manager to**  
17 **steer employees or members to pharmacists or pharmacies which the person owns,**  
18 **operates, or controls."**

19 AMENDMENT NO. 20

20 On page 12, line 22, after "**manager.**" delete the remainder of the line

21 AMENDMENT NO. 21

22 On page 12, line 23, at the beginning of the line, insert "**(a) For purposes of this Section**  
23 **\"inducement\" means**"

24 AMENDMENT NO. 22

25 On page 12, between lines 24 and 25, insert the following:

26 **(b) The provisions of this Paragraph shall not apply to employers, unions, associations,**  
27 **or other persons who employ, own, operate, control, or contract directly with a**  
28 **pharmacy or pharmacist for the purpose of managing or controlling prescription costs**  
29 **paid for the benefit of an employee or member or those covered by the employee or**  
30 **member's plan, or when the persons contract with a pharmacy benefit manager to**  
31 **steer employees or members to pharmacists or pharmacies which the person owns,**  
32 **operates, or controls."**

33 AMENDMENT NO. 23

34 On page 12, line 27, after "**manager**" delete the remainder of the line and delete lines 28 and  
35 29, and on page 13, delete lines 1 through 3 and insert "**as authorized by R.S. 22:1856.1.**"

36 AMENDMENT NO. 24

37 On page 13, delete lines 4 through 7 and insert the following:

38 **(8) Fail to reimburse a local pharmacist or local pharmacy, as defined in R.S.**  
39 **46:460.36(A)(3), an amount that is not greater than or equal to the amount it**  
40 **reimburses chain pharmacies, mail-order pharmacies, specialty pharmacies or**  
41 **affiliates of the pharmacy benefit manager for the same drug or device or for the same**  
42 **pharmacy service in this state."**

43 AMENDMENT NO. 25

44 On page 13, delete lines 8 through 24

1 AMENDMENT NO. 26

2 On page 13, delete lines 28 and 29, and on page 14, delete line 1

3 AMENDMENT NO. 27

4 On page 14, line 2, delete "**(b)**" and insert "**(a)**"

5 AMENDMENT NO. 28

6 On page 14, line 8, delete "**(c)**" and insert "**(b)**"

7 AMENDMENT NO. 29

8 On page 14, line 15, after "**pharmacies**" delete "**. All remittance advice must be**" and after  
9 "**R.S. 22:1856**" insert a ":" and delete the remainder of the line and delete lines 16 and 17

10 AMENDMENT NO. 30

11 On page 14, delete lines 21 and 22 and insert "**(a) A pharmacy benefit**"

12 AMENDMENT NO. 31

13 On page 14, line 28, after "**service**" insert "**or charge or pay anyone a fee or surcharge for**  
14 **paying any sales tax or remitting any sales tax proceeds to a pharmacist or pharmacy**  
15 **if that fee or surcharge would be imposed directly or indirectly on the pharmacist or**  
16 **pharmacy**"

17 AMENDMENT NO. 32

18 On page 15, between lines 9 and 10, insert the following:

19 "**(e) State or local sales taxes and other applicable state imposed taxes or fees shall be**  
20 **considered as part of the allowable cost and shall be included in the claim submitted**  
21 **by a pharmacist or pharmacy.**"

22 AMENDMENT NO. 33

23 On page 15, line 11, after "**days**" insert "**for a prescription of at least a thirty-day supply**"

24 AMENDMENT NO. 34

25 On page 15, line 12, after "**beneficiary**" delete the remainder of the line and delete lines 13  
26 and 14 and insert "**to follow a plan's step therapy protocol if the prescribed drug is on**  
27 **the health plan's prescription drug formulary, the beneficiary has tried the step**  
28 **therapy required prescription drug while under his current or previous health plan,**  
29 **and the provider has submitted a justification and supporting clinical documentation**  
30 **that such prescription drug was discontinued due to lack of efficacy or effectiveness,**  
31 **diminished effect, or an adverse effect or event.**"

32 AMENDMENT NO. 35

33 On page 15, delete lines 15 through 17 and insert the following:

34 "**(16) Delay a decision on a request for authorization to dispense a prescription drug for**  
35 **more than seventy-two hours, or twenty-four hours in exigent circumstances in which**  
36 **the patient, in the opinion of the prescribing provider, pharmacy, or pharmacist**  
37 **submitting the authorization request, is suffering from a health condition that may**  
38 **seriously jeopardize the patient's life, health, or ability to regain maximum function.**  
39 **A request for authorization shall include relevant data or appropriate documentation**  
40 **to render a decision on a request for authorization.**"

1 AMENDMENT NO. 36

2 On page 15, line 24, after "act" insert ", except as otherwise provided for in this Section,"

3 AMENDMENT NO. 37

4 On page 16, line 4, after "without" delete the remainder of the line and delete lines 5 through  
5 7 and insert "being registered with and in good standing with the Louisiana secretary  
6 of state to do business in Louisiana or without being licensed by and in good standing  
7 with the commissioner of insurance, as provided by this Chapter."

8 AMENDMENT NO. 38

9 On page 16, delete lines 8 through 12 and insert the following:

10 "B. The commission of any of the acts or any combination of acts prohibited by this  
11 Section shall be considered an unfair method of competition and unfair practice or act  
12 in accordance with the Unfair Trade Practices and Consumer Protection Law, R.S.  
13 51:1401 et seq., if the violations are committed or performed with such frequency as  
14 to indicate a general business practice. Notwithstanding any provision of law to the  
15 contrary, the private right of action created by R.S. 51:1409 shall not apply to this  
16 Section."

17 AMENDMENT NO. 39

18 On page 16, line 14, after "committed." delete the remainder of the line and delete line 15

19 AMENDMENT NO. 40

20 On page 16, line 16, after "without" delete the remainder of the line and delete lines 17 and  
21 18 and insert "being registered with and in good standing with the secretary of state to  
22 do business in Louisiana or without being licensed by and in good standing with the  
23 commissioner of insurance, as provided by this Chapter shall be considered a separate"

24 AMENDMENT NO. 41

25 On page 16, between lines 19 and 20 insert the following:

26 "C.(1) Nothing in this Section shall be construed to interfere or violate a consumer's  
27 right to know where the consumer may have access to the lowest cost drugs, whether  
28 a consumer is utilizing insurance or other third-party reimbursement or not.  
29 (2) Nothing in this Section shall be construed to interfere with the requirement that  
30 consumers receive notice of changes to pharmacy networks, such as the inclusion of  
31 new pharmacies, or removal of existing pharmacies from networks."

32 AMENDMENT NO. 42

33 On page 17, line 12, after "complaints" insert "received against pharmacy benefit  
34 managers"

35 AMENDMENT NO. 43

36 On page 17, line 14, after "complaints" insert "received against pharmacy benefit  
37 managers"

38 AMENDMENT NO. 44

39 On page 17, delete lines 19 and 20

1 AMENDMENT NO. 45

2 On page 17, line 21, delete "**(3)**" and insert "**(2)**"

3 AMENDMENT NO. 46

4 On page 17, delete lines 22 and 23

5 AMENDMENT NO. 47

6 On page 18, delete line 29 and on page 19, delete line 1

7 AMENDMENT NO. 48

8 On page 19, line 2, delete "**(b)**" and insert "**(a)**"

9 AMENDMENT NO. 49

10 On page 19, line 4, delete "**(c)**" and insert "**(b)**"

11 AMENDMENT NO. 50

12 On page 19, delete lines 19 through 23 and insert the following:

13 "Section 5. The provisions of R.S. 40:2869, as enacted by this Act, shall become effective  
14 on August 1, 2019.

15 Section 6. Except as provided in Section 5 of this Act, the provisions of this Act shall  
16 become effective on July 1, 2020."