

2020 Regular Session

HOUSE BILL NO. 387

BY REPRESENTATIVE JORDAN

INSURANCE/HEALTH: Provides for the regulation of pharmacy services administrative organizations

1 AN ACT

2 To enact Part X of Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 22:1806.1 through 1806.6, relative to pharmacy services
4 administrative organizations; to define key terms; to require registration and
5 licensing; to provide for notice and disclosure requirements; to provide for
6 accounting procedures and requirements; to provide for contract agreements; to
7 provide for penalties; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part X of Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 22:1806.1 through 1806.6, is hereby enacted to read as follows:

11 PART X. PHARMACY SERVICES ADMINISTRATIVE ORGANIZATIONS

12 §1806.1. Definitions

13 As used in this Part, the following definitions apply:

14 (1) "Department" means the Department of Insurance.

15 (2) "Pharmacy" means a pharmacy operating within the state.

16 (3) "Pharmacy benefit manager" means a person or an entity operating
17 within the state that contracts to administer or manage prescription drug benefits on
18 behalf of any carrier that provides prescription drug benefits to residents of a state.

19 (4)(a) "Pharmacy services administrative organization" means an entity
20 operating within the state that does all of the following:

1 (i) Contracts with pharmacies to conduct business on their behalf with third-
2 party payers.

3 (ii) Provides administrative services to pharmacies and negotiates and enters
4 into contracts with third-party payers or pharmacy benefit managers on behalf of
5 pharmacies.

6 (b) A person or entity shall be deemed a pharmacy services administrative
7 organization pursuant to this Part if the person or entity performs two or more of the
8 following administrative services to pharmacies:

9 (i) Assistance with claims.

10 (ii) Assistance with audits.

11 (iii) Centralized payment.

12 (iv) Certification in specialized care programs.

13 (v) Compliance support.

14 (vi) Setting flat fees for generic drugs.

15 (vii) Assistance with store layout.

16 (viii) Inventory management.

17 (ix) Marketing support.

18 (x) Management and analysis of payment and drug dispensing data.

19 (xi) Provision of resources for retail cash cards.

20 (5) "Pharmacy services administrative organization-pharmacy contract"

21 means a contractual agreement between a pharmacy services administrative
22 organization and a pharmacy by which a pharmacy services administrative
23 organization agrees to negotiate with third-party payers on behalf of a pharmacy.

24 (6)(a) "Third-party payer" means any organization operating within the state
25 that pays or insures health, medical, or prescription drug expenses on behalf of
26 beneficiaries.

27 (b) "Third-party payer" includes but is not limited to plan sponsors,
28 healthcare service plans, health maintenance organizations, or insurers.

1 §1806.2. Pharmacy services administrative organizations; registration and license

2 A. All pharmacy services administrative organizations operating within the
3 state shall be registered and licensed with the Department of Insurance.

4 B. No provision of this Part shall be construed to require a third-party payer
5 to enter into a contract with a pharmacy services administrative organization.

6 §1806.3. Pharmacy services administrative organization; notice and disclosure
7 requirements

8 A. A pharmacy services administrative organization-pharmacy contract shall
9 include a provision that requires the pharmacy services administrative organization
10 to provide to the pharmacy a copy of any contract, amendments, payment schedules,
11 or reimbursement rates within three calendar days after the execution of a contract,
12 or an amendment to a contract, signed on behalf of the pharmacy.

13 B.(1) Each pharmacy services administrative organization shall disclose to
14 the Department of Insurance the extent of any ownership or control of the pharmacy
15 services administrative organization by any parent company, subsidiary, or other
16 organization that does any of the following:

17 (a) Provides pharmacy services.

18 (b) Provides prescription drug or device services.

19 (c) Manufactures, sells, or distributes prescription drugs, biologicals, or
20 medical devices.

21 (2) Each pharmacy services administrative organization shall notify the
22 department in writing within five calendar days of any material change in its
23 ownership or control relating to any company, subsidiary, or other organization as
24 provided for in Paragraph (1) of this Subsection.

25 C.(1)(a) Prior to entering into a pharmacy services administrative
26 organization-pharmacy contract, a pharmacy services administrative organization
27 shall furnish to a pharmacy a written disclosure of ownership or control in order to
28 assist the pharmacy in making an informed decision regarding its relationship with
29 the pharmacy services administrative organization.

1 (b) The disclosure required by Subparagraph (a) of this Paragraph shall
2 include the extent of any ownership or control by any parent company, subsidiary,
3 or other organization that does any of the following:

- 4 (i) Provides pharmacy services.
- 5 (ii) Provides prescription drug or device services.
- 6 (iii) Manufactures, sells, or distributes prescription drugs, biologicals, or
7 medical devices.

8 (2) Any pharmacy services administrative organization-pharmacy contract
9 shall require that the pharmacy services administrative organization notify the
10 pharmacy in writing within five calendar days of any material change in its
11 ownership or control related to any company, subsidiary, or other organization as
12 provided for in Paragraph (1) of this Subsection.

13 D.(1)(a) Prior to entering into a contract with a third-party payer, a pharmacy
14 services administrative organization shall furnish to the pharmacy benefit manager
15 or third-party payer a written disclosure of ownership or control in order to assist the
16 pharmacy benefit manager or third-party payer in making an informed decision
17 regarding its relationship with the pharmacy services administrative organization and
18 the pharmacy or pharmacies for which the pharmacy services administrative
19 organization is negotiating.

20 (b) The disclosure required by Subparagraph (a) of this Paragraph shall
21 include the extent of any ownership or control by any parent company, subsidiary,
22 or other organization that does any of the following:

- 23 (i) Provides pharmacy services.
- 24 (ii) Provides prescription drug or device services.
- 25 (iii) Manufactures, sells, or distributes prescription drugs, biologicals, or
26 medical devices.

27 (2) Any pharmacy services administrative organization contract with a
28 third-party payer shall require that the pharmacy services administrative organization
29 notify the third-party payer in writing within five calendar days of any material

1 change in its ownership or control related to any company, subsidiary, or other
2 organization as provided for in Paragraph (1) of this Subsection.

3 §1806.4. Accounting; remittance

4 A.(1) The pharmacy services administrative organization-pharmacy contract
5 shall provide that all remittances for claims submitted by a pharmacy benefit
6 manager or third-party payer on behalf of a pharmacy to the pharmacy services
7 administrative organization shall be passed through by the pharmacy services
8 administrative organization to the pharmacy within a reasonable amount of time,
9 established in the pharmacy services administrative organization-pharmacy contract,
10 after receipt of the remittance by the pharmacy services administrative organization
11 from a pharmacy benefit manager or third-party payer.

12 (2) Notwithstanding any provision in the pharmacy services administrative
13 organization-pharmacy contract, for purposes of R.S. 22:1853 and 1854, a third-party
14 payer or pharmacy benefit manager's payment to a pharmacy services administrative
15 organization is deemed to be payment to the pharmacy on whose behalf the
16 pharmacy services administrative organization has contracted.

17 B. A pharmacy services administrative organization that provides, accepts,
18 or processes a discount, concession, or product voucher, to reduce, directly or
19 indirectly, a covered person's out-of-pocket expense for the order, dispensing,
20 substitution, sale, or purchase of a prescription drug shall provide to the Department
21 of Insurance an annual report, available for public audit, that includes both of the
22 following:

23 (1) An aggregated total of all the transactions by a pharmacy.

24 (2) An aggregated total of any payments received by the pharmacy services
25 administrative organization itself for providing, processing, or accepting any
26 discount, concession, or product voucher on behalf of a pharmacy.

27 §1806.5. Wholesale and pharmacy services administrative organization services in
28 a single pharmacy services administrative organization contract; appeals

1 A. A pharmacy services administrative organization that owns or is owned
2 by, in whole or in part, any entity that manufactures, sells, or distributes prescription
3 drugs, biologicals, or medical devices shall not, as a condition of entering into a
4 pharmacy services administrative organization-pharmacy contract, require that the
5 pharmacy purchase any drugs or medical devices from the entity with which the
6 pharmacy services administrative organization has an ownership interest, or an entity
7 with an ownership interest in the pharmacy services administrative organization.

8 B. A pharmacy services administrative organization that owns or is owned
9 by, in whole or in part, any entity that manufactures, sells, or distributes prescription
10 drugs, biologicals, or medical devices shall disclose to the Department of Insurance
11 any agreement with a pharmacy in which the pharmacy purchases prescription drugs,
12 biologicals, or medical devices from the pharmacy services administrative
13 organization or any entity that owns or is owned by, in whole or in part, the
14 pharmacy services administrative organization.

15 C.(1) The pharmacy services administrative organization-pharmacy contract
16 shall require that in the event of a dispute between a pharmacy and a pharmacy
17 benefit manager or third-party payer, the pharmacy services administrative
18 organization shall ensure and facilitate timely communication from the pharmacy to
19 the third-party payer.

20 (2) The pharmacy services administrative organization-pharmacy contract
21 shall require the pharmacy services administrative organization to forward any and
22 all notices of appeals from the pharmacy to the pharmacy benefit manager or
23 third-party payer in a timely manner.

24 (3) In connection with any appeal pursuant to R.S. 22:1865 or similar
25 process, a third-party payer or pharmacy benefit manager's notice or provision of
26 information to a pharmacy services administrative organization is deemed to be
27 notice or provision of information to the pharmacy on whose behalf the pharmacy
28 services administrative organization has contracted.

1 §1806.6. Penalties

2 Any violations of this Part that are committed or performed with such

3 frequency as to indicate a general business practice shall be subject to the provisions

4 of the Unfair Trade Practices Act, R.S. 22:1964 et seq.

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 387 Original 2020 Regular Session Jordan

Abstract: Provides for the licensing and regulation of pharmacy services administrative organizations.

Proposed law defines "department", "pharmacy", "pharmacy benefit manager", "pharmacy services administrative organization", "pharmacy services administrative organization-pharmacy contract", and "third-party payer".

Proposed law requires all pharmacy services administrative organizations operating within the state to be registered and licensed with the Dept. of Insurance.

Proposed law requires a pharmacy services administrative organization to provide to the pharmacy a copy of any contract, amendments, payment schedules, or reimbursement rates within three calendar days after the execution of a contract, or an amendment to a contract, signed on behalf of the pharmacy.

Proposed law requires each pharmacy services administrative organization to disclose to the Dept. of Insurance the extent of any ownership or control of the pharmacy services administrative organization by any parent company, subsidiary, or other organization that provides pharmacy services, prescription drug or device services, or manufactures, sells, or distributes prescription drugs, biologicals, or medical devices.

Proposed law requires a pharmacy services administrative organization, prior to entering into a pharmacy services administrative organization-pharmacy contract, to furnish to a pharmacy a written disclosure of ownership or control in order to assist the pharmacy in making an informed decision regarding its relationship with the pharmacy services administrative organization.

Proposed law requires a pharmacy services administrative organization, prior to entering into a contract with a third-party payer, to furnish to a pharmacy benefit manager or third-party payer a written disclosure of ownership or control in order to assist the pharmacy benefit manager or third-party payer in making an informed decision regarding its relationship with the pharmacy services administrative organization and the pharmacy or pharmacies for which the pharmacy services administrative organization is negotiating.

Proposed law requires all remittances for claims submitted by a pharmacy benefit manager or third-party payer on behalf of a pharmacy to the pharmacy services administrative organization to be passed through by the pharmacy services administrative organization to the pharmacy within a reasonable amount of time after receipt of the remittance by the pharmacy services administrative organization from a pharmacy benefit manager or third-party payer.

Proposed law requires a pharmacy services administrative organization that provides, accepts, or processes a discount, concession, or product voucher, to reduce, directly or indirectly, a covered person's out-of-pocket expense for the order, dispensing, substitution, sale, or purchase of a prescription drug to provide to the Dept. of Insurance an annual report, available for public audit, that includes both of the following:

- (1) An aggregated total of all the transactions by a pharmacy.
- (2) An aggregated total of any payments received by the pharmacy services administrative organization itself for providing, processing, or accepting any discount, concession, or product voucher on behalf of a pharmacy.

Proposed law prohibits a pharmacy services administrative organization that owns or is owned by any entity that manufactures, sells, or distributes prescription drugs, biologicals, or medical devices from requiring that the pharmacy purchase any drugs or medical devices from the entity with which the pharmacy services administrative organization has an ownership interest, or an entity with an ownership interest in the pharmacy services administrative organization.

Proposed law requires a pharmacy services administrative organization that owns or is owned by any entity that manufactures, sells, or distributes prescription drugs, biologicals, or medical devices to disclose to the Dept. of Insurance any agreement with a pharmacy in which the pharmacy purchases prescription drugs, biologicals, or medical devices from the pharmacy services administrative organization or any entity that owns or is owned by the pharmacy services administrative organization.

Proposed law sets forth provisions relative to timely communication that must be included in a pharmacy services administrative organization-pharmacy contract.

Proposed law provides that any violations that are committed or performed with such frequency as to indicate a general business practice shall be subject to the provisions of the Unfair Trade Practices Act.

(Adds R.S. 22:1806.1-1806.6)