

SENATE COMMITTEE AMENDMENTS

2021 Regular Session

Amendments proposed by Senate Committee on Health and Welfare to Original Senate Bill No. 218 by Senator Fred Mills

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" delete the remainder of the line and delete lines 3 through
3 7 and insert the following:

4 "R.S. 22:1856(B), 1856.1(A), the introductory paragraph of 1856.1(B),
5 1856.1(B)(2)(a), (3)(a), and (4)(a), (D)(1)(b), (E)(5), and (G), the
6 introductory paragraph of 1860.2(A), 1860.3(C) and (D), 1863(2), and
7 1867(A), R.S. 37:1256(B), and the introductory paragraph of R.S.
8 40:2868(A) and 2870(A)(4) and to enact R.S. 22:1856(C)(16) and (17), (G),
9 and (H), 1856.1(H), 1856.2, 1860.3(E) and (F), 1863(10), and 1864(C) and
10 R.S. 40:2864(D) and 2870(A)(21), (22), and (23), relative to the payment of
11 pharmacy claims; to provide for pharmacy audits; to provide for
12 reimbursements; to provide for definitions; to prohibit spread pricing; to
13 provide for pharmacy benefit manager permits; to provide for the duties of
14 pharmacy benefit managers; to provide for prohibited acts; to provide for an
15 effective

16 AMENDMENT NO. 2

17 On page 1, line 10, after "R.S. 22:1856(B)," delete the remainder of the line and delete lines
18 11 and 12 and insert the following:

19 "1856.1(A), the introductory paragraph of 1856.1(B), 1856.1(B)(2)(a), (3)(a),
20 and (4)(a), (D)(1)(b), (E)(5), and (G), the introductory paragraph of
21 1860.2(A), 1860.3(C) and (D), and 1863(2) are hereby amended and
22 reenacted and R.S. 22:1856(C)(16) and (17), (G), and (H), 1856.1(H),
23 1856.2, 1860.3(E) and (F), 1863(10), and 1864(C) are hereby"

24 AMENDMENT NO. 3

25 On page 1, delete lines 16 and 17 and on page 2, delete lines 1 through 6 and insert the
26 following:

27 ~~"B. Health insurance issuers that limit the period of time that a pharmacist or~~
28 ~~pharmacy under contract for delivery of covered benefits has to submit claims for~~
29 ~~payment under R.S. 22:1853 or 1854 shall have the same limited period of time~~
30 ~~following payment of such claims to perform any review or audit for purposes of~~
31 ~~reconsidering the validity of such claims.~~

32 **A pharmacy record audit, reconsideration, or any other review of a**
33 **claim for delivery of covered benefits performed by a health insurance issuer**
34 **or their representative shall be done in accordance with R.S. 22:1856.1.**

35 C. Each remittance advice generated by a health insurance issuer or its agent
36 to a pharmacist or his agent or pharmacy or its agent shall be sent on the date of
37 payment and shall include the following information, clearly identified and totaled
38 for each claim listed:

- 39 * * *
40 **(16) Reimbursement paid to the health insurance issuer.**
41 **(17) Reimbursement paid to the pharmacy.**
42 * * *

43 **G. If, upon investigation, the commissioner finds that a violation has**
44 **occurred, the commissioner shall take appropriate enforcement action which**
45 **may include suspending or revoking a license or imposing a fine. Each violation**
46 **shall be a separate offense.**

1 **H. As used in this Section, "entity" means a managed care company,**
2 **insurance company, third-party payor, or the representative of the managed**
3 **care company including a pharmacy benefit manager, insurance company, or**
4 **third-party payor."**

5 AMENDMENT NO. 4

6 On page 2, delete line 8 and insert the following:

7 "A.**(1)** As used in this Section, "entity" means a managed care company,
8 insurance company, third-party payor, or the representative of the managed care
9 company including a pharmacy benefit manager, insurance company, or third-party
10 payor.

11 **(2) Except for an alleged fraud, willful misrepresentation, or abuse audit**
12 **performed in accordance with R.S. 22:1856.1(G)(2), any entity that limits the**
13 **period of time that a pharmacist or pharmacy under contract for delivery of**
14 **covered benefits has to submit claims for payment pursuant to R.S. 22:1853 or**
15 **1854 shall have the same limited period of time following payment of the claims,**
16 **up to a maximum time period of one year from the date the claim was**
17 **adjudicated, to perform an audit, reconsideration, or any other review of a**
18 **claim."**

19 AMENDMENT NO. 5

20 On page 2, line 14, after "(2)" insert "(a)"

21 AMENDMENT NO. 6

22 On page 2, delete lines 21 through 25 and insert a set of asterisks

23 AMENDMENT NO. 7

24 On page 2, line 26, after "(3)" insert "(a)"

25 AMENDMENT NO. 8

26 On page 3, delete lines 3 through 5 and insert a set of asterisks

27 AMENDMENT NO. 9

28 On page 3, line 28, change "to:" to "to:"

29 AMENDMENT NO. 10

30 On page 3, delete line 29 and on page 4, delete line 1 and insert the following:

31 "(1) Any quality assurance review, as defined by the time period prior to ~~the~~
32 ~~reimbursement by the entity to the pharmacy~~ **dispensing of the prescription.**

33 AMENDMENT NO. 11

34 On page 4, line 2, delete "**an**" and insert "(2) An"

35
36 AMENDMENT NO. 12

37 On page 4, line 9, after "**shall**" delete the remainder of the line and delete lines 10 and 11 and
38 insert the following:

39 **"suspend or revoke the license of the entity or, in lieu thereof, impose a**
40 **fine.**

1 **§1856.2. Pharmacy record auditors; testing**
2 **No individual shall perform an audit on behalf of an entity pursuant to**
3 **R.S. 22:1856.1 or any other provision of this Subpart unless the individual has**
4 **passed an examination which tests the knowledge of the individual concerning**
5 **pharmacy record audits and the insurance laws and regulations of this state.**
6 **Examinations shall be developed and conducted in accordance with the rules**
7 **and regulations promulgated by the commissioner of insurance.**

8 * * *

9 §1860.2. Certain pharmacy claims fees prohibited
10 A. A health insurance issuer, ~~or a~~ **pharmacy benefit manager, or pharmacy**
11 **services administrative organization** shall not directly or indirectly charge or hold
12 a pharmacist or pharmacy responsible for any fee related to a claim that is any of the
13 following:"

14 AMENDMENT NO. 13

15 On page 5, line 1, after "in" insert "**the unfair trade practices provisions of the Louisiana**
16 **Insurance Code, R.S. 22:1961 et seq., or**"

17 AMENDMENT NO. 14

18 On page 5, line 15, after "include" delete the remainder of the line and delete lines 16 and
19 17 and insert "any rate mutually agreed to and set forth in writing in the contract between
20 the pharmacy benefit manager and the pharmacy or its agent and shall not include the
21 National Average Drug"

22 AMENDMENT NO. 15

23 On page 5, between lines 20 and 21, insert the following:

24 "* * *

25 **(10) "Specialty drug" means a prescription drug that is not available for**
26 **order or purchase by a retail pharmacy or long-term care pharmacy, requires**
27 **special storage, and has distribution or inventory limitations not available at a**
28 **retail pharmacy or long-term care pharmacy.**

29 §1864. Requirements for use of the National Drug Code by a pharmacy
30 benefit manager

31 * * *

32 **C. A pharmacy benefits manager under contract with a health insurance**
33 **issuer shall use a single maximum amount to be paid by the health insurance**
34 **issuer to a pharmacy for a generic drug or a brand name drug that has at least**
35 **one generic alternative available. A health insurance issuer or pharmacy**
36 **benefits manager under contract with a health insurance issuer shall use the**
37 **same maximum allowable cost list for each pharmacy.**

38 AMENDMENT NO. 16

39 On page 5, line 23, after "manager" insert "**or pharmacy services administrative**
40 **organization**"

41 AMENDMENT NO. 17

42 On page 6, line 7, after "Section 3." delete the remainder of the line and delete line 8 and
43 insert the following:

44 "The introductory paragraph of R.S. 40:2868(A) and 2870(A)(4) are hereby amended and
45 reenacted and R.S. 40:2864(D) and 2870(A)(21), (22), and (23) are hereby enacted to read
46 as"

1 AMENDMENT NO. 18

2 On page 6, delete lines 11 through 18 and insert a set of asterisks

3 AMENDMENT NO. 19

4 On page 6, line 19, change "B." to "D."

5 AMENDMENT NO. 20

6 On page 6, delete lines 23 through 29

7 AMENDMENT NO. 21

8 On page 7, line 14, delete "or reimburse a pharmacy" and delete lines 15 and 16 and insert
9 a period

10 AMENDMENT NO. 22

11 On page 7, between lines 20 and 21, insert the following:

12 **"(22) Prohibit a pharmacy or pharmacist from offering and providing**
13 **delivery services to a covered individual as an ancillary service of the pharmacy.**
14 **(23) Reimburse a pharmacy or pharmacist in this state an amount less**
15 **than the amount that the pharmacy benefit manager was paid by the health**
16 **plan provider for the same claim."**

17 AMENDMENT NO. 23

18 On page 7, delete lines 21 and 22 and insert the following:

19 "Section 4. Provisions of this Act shall not invalidate or impede the
20 enforcement of contracts existing at the time of the effective date between
21 pharmacy benefit managers and health insurance issuers or pharmacies. No
22 new agreements or extensions of existing agreements between a pharmacy
23 benefit manager and a health insurance issuer allowing for spread pricing
24 shall be entered into after January 1, 2022.

25 Section 5. The provisions of R.S. 22:1856.1, as enacted by this Act,
26 shall become effective on July 1, 2022.

27 Section 6. The provisions of R.S. 22:1856(C), as enacted by this Act,
28 shall become effective on January 1, 2023.

29 AMENDMENT NO. 24

30 On page 7, line 23, delete "Section 5. This" and insert the following:

31 "Section 7. Except as provided in Sections 5 and 6 of this Act, the
32 provisions of this"