

2021 Regular Session

HOUSE BILL NO. 244

BY REPRESENTATIVES TURNER AND JORDAN

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

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

1 AN ACT

2 To enact Part III-A of Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 22:1660.1 through 1660.6, relative to pharmacy services
4 administrative organizations; to provide for definitions; to require registration and
5 licensing; to provide for duties and responsibilities; to provide for contractual
6 agreements; to provide for fee reimbursement; to authorize rulemaking; to provide
7 for penalties; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part III-A of Chapter 5 of Title 22 of the Louisiana Revised Statutes of
10 1950, comprised of R.S. 22:1660.1 through 1660.6, is hereby enacted to read as follows:

11 PART III-A. PHARMACY SERVICES ADMINISTRATIVE ORGANIZATIONS

12 §1660.1. Short title; definitions

13 A. This Part may be cited as the "Louisiana Pharmacy Services
14 Administrative Organization Licensing Act".

15 B. As used in this Part, the following definitions apply:

16 (1) "Pharmacy services administrative organization" means an entity that
17 provides a contracted pharmacy with administrative, contracting, or payment
18 services relating to prescription drug benefits.

19 (2) "Pharmacy services administrative organization contract" means a
20 contractual agreement between a pharmacy services administrative organization and

1 a pharmacy under which a pharmacy services administrative organization agrees to
2 negotiate with pharmacy benefit managers or third-party payers on behalf of one or
3 more pharmacies.

4 §1660.2. Licensing requirements; prohibitions

5 A. Every pharmacy services administrative organization that does business
6 in this state or provides a contracted pharmacy with administrative, contracting, or
7 payment services relating to prescription drug benefits shall be registered and
8 licensed by the Department of Insurance.

9 B. An applicant for registration shall file with the commissioner of insurance
10 an application on a form provided by the commissioner and shall pay to the
11 commissioner a registration fee set by the commissioner not to exceed three hundred
12 dollars.

13 C. A pharmacy services administrative organization that is not registered and
14 licensed by the commissioner shall not enter into an agreement or contract with a
15 pharmacy in this state.

16 §1660.3. Duties and responsibilities; nonimposition of liability; rulemaking
17 authority

18 A. A pharmacy services administrative organization that contracts with a
19 pharmacy to perform any activity related to prescription drug benefits or to act as the
20 pharmacy's agent is obligated to that pharmacy for the duties of care, competence,
21 good faith and fair dealing, and loyalty.

22 B. A pharmacy services administrative organization is not responsible for
23 any of the activities that are solely within the purview of a pharmacy benefits
24 manager.

25 C. The commissioner of insurance shall promulgate rules that define the
26 roles and responsibilities solely within the purview of both of the following:

27 (1) Pharmacy benefits managers.

28 (2) Pharmacy services administrative organizations.

1 D. A pharmacy services administrative organization shall notify the
2 contracted pharmacy in writing of any activity, policy, or practice that presents a
3 conflict of interest that interferes with the duties imposed by this Section.

4 E. A pharmacy services administrative organization shall not engage in any
5 acts, methods, or practices prohibited by Part IV of Chapter 7 of Title 22 of the
6 Louisiana Revised Statutes of 1950.

7 §1660.4. Contractual agreements; receipt and payment of claims

8 A. After the receipt of a clean claim by a pharmacy, the plan sponsor, or an
9 agent of the plan sponsor such as a pharmacy benefits manager, shall not
10 retroactively reduce payment on the claim, either directly or indirectly, through
11 aggregated effective rates or otherwise except in situations where a claim is found
12 not to be a clean claim during the course of a routine audit as permitted pursuant to
13 written agreements between the plan sponsor and the pharmacy. For purposes of this
14 Section, "clean claim" has the same meaning provided for in R.S. 22:1188.1.

15 B. Subsection A of this Section does not prohibit any retroactive increase in
16 payment to a pharmacy pursuant to a written agreement between a plan sponsor, or
17 an agent of the plan sponsor such as a pharmacy benefits manager, and a pharmacy,
18 or an agent of a pharmacy such as a pharmacy services administrative organization.

19 C. Upon request by a contracted pharmacy, a pharmacy services
20 administrative organization shall provide the pharmacy access to complete and
21 unredacted contracts executed on its behalf within a reasonable time frame.

22 §1660.5. Reimbursement; fees

23 A. A pharmacy services administrative organization shall remit to a
24 contracted pharmacy any reimbursements, including sales and use taxes, received on
25 behalf of the pharmacy within a reasonable amount of time after receipt of the
26 reimbursement.

27 B. A pharmacy services administrative organization shall not retain any
28 portion of reimbursements, including dispensing fees, direct or indirect remuneration
29 fees, sales and use taxes, or any other amount owed to the pharmacy.

Proposed law requires a pharmacy services administrative organization to notify a contracted pharmacy in writing of any activity, policy, or practice that presents a conflict of interest. Further prohibits a pharmacy services administrative organization from engaging in any act, method, or practice prohibited by present law provisions of Unfair Trade Practices (R.S. 22:1961 et seq.).

Proposed law prohibits a plan sponsor or pharmacy benefits manager from retroactively reducing payments on clean claims unless certain conditions apply. Provides that if a written agreement exists, retroactive increases in payment to a pharmacy are allowable. Further requires a pharmacy services administrative organization to provide a contracted pharmacy with access to the pharmacy's complete and unredacted contracts upon the pharmacy's request.

Proposed law requires a pharmacy services administrative organization to remit to a contracted pharmacy any reimbursements, including sales and use taxes, received on behalf of a pharmacy within a reasonable amount of time after receipt of the reimbursement.

Proposed law prohibits a pharmacy services administrative organization from retaining any portion of reimbursements, including dispensing fees, direct or indirect remuneration fees, sales and use taxes, or any other amount owed to a pharmacy.

Proposed law provides that when a pharmacy services administrative organization has not yet received final payment, retroactive adjustments, or reconciliations from a plan sponsor or pharmacy benefits manager, or funds are being held to pay amounts owed by the pharmacy, proposed law (R.S. 22:1660.5) regarding reimbursement and fees does not apply.

Proposed law authorizes the commissioner of insurance, in accordance with the Louisiana Insurance Code or the APA, to suspend, revoke, or place on probation the license of a pharmacy services administrative organization if such organization is determined by the commissioner to have violated any provision of proposed law.

(Adds R.S. 22:1660.1-1660.6)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Specify for the commissioner's registration fee to not exceed \$300.00.
2. Delete language that would have subjected pharmacy services administrative organizations to present law (R.S. 40:2861 et seq.) regulations for pharmacy benefits managers.
3. Delete language with respect to conflicts of interests, other conduct, and the duty of a fiduciary relationship owed by a pharmacy services administrative organization to a pharmacy.
4. Provide that a pharmacy services administrative organization is not responsible for the activities solely within the purview of a pharmacy benefits manager.
5. Require the commissioner of insurance to promulgate rules to define the roles and responsibilities solely within the purview of pharmacy benefits managers and pharmacy services administrative organizations.
6. Define the term "clean claim" and prohibit a plan sponsor or pharmacy benefits manager from retroactively reducing payments on clean claims unless certain

conditions apply; however, if a written agreement exists, retroactive increases in payment to a pharmacy are allowable.

7. Require a pharmacy services administrative organization to provide a contracted pharmacy with access to the pharmacy's complete and unredacted contracts upon the pharmacy's request.
8. Provide that when a pharmacy services administrative organization has not yet received final payment, retroactive adjustments, or reconciliations from a plan sponsor or pharmacy benefits manager, or funds are being held to pay amounts owed by the pharmacy, proposed law (R.S. 22:1660.5) does not apply.
9. Make technical changes.