

GREEN SHEET REDIGEST

HB 244

2021 Regular Session

Turner

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

DIGEST

Proposed law defines "pharmacy services administrative organization", "pharmacy services administrative organization contract", and "clean claim".

Proposed law requires a pharmacy services administrative organization operating within the state of La. to be registered and licensed with the Dept. of Insurance by submission of an application and registration fee to the commissioner of insurance. Requires a pharmacy services administrative organization to file an annual report. Further sets a \$300.00 licensing fee and a \$150.00 annual report filing fee.

Proposed law prohibits a person from acting as a pharmacy services administrative organization in this state without a valid license issued by the commissioner. Requires a pharmacy services administrative organization's application for licensure to include certain documents and pertinent information. Authorizes the commissioner, upon his request, to inspect copies of certain contracts in order to determine qualification for licensure. Further authorizes the commissioner to deny or revoke a license for certain cause.

Proposed law provides for a license to remain valid as long as the pharmacy services administrative organization continues business in this state and remains in compliance with proposed law. Exempts a pharmacy services administrative organization from La. licensure requirements when certain out-of-state conditions apply.

Proposed law requires a pharmacy services administrative organization to notify the commissioner of any material changes in fact or circumstance relative to its license qualification.

Proposed law requires the commissioner to suspend, revoke, or deny the license or a pharmacy services administrative organization, or to impose a fine for violations not in excess of \$500.00 per violation when the pharmacy services administrative organization has failed to timely pay a judgment rendered against it. Further authorizes the commissioner to suspend, revoke, or deny the license or a pharmacy services administrative organization or impose a fine for certain other violations.

Proposed law authorizes the commissioner to access the books and records maintained by a pharmacy services administrative organization for the purposes of examination, audit, and inspection, and authorizes the commissioner to cause an examination of a pharmacy services administrative organization, when deemed necessary. Requires the commissioner to keep any trade secrets contained in books and records confidential; however, the commissioner is authorized to use such information in any proceeding instituted against the pharmacy services administrative organization.

Proposed law requires information provided to the commissioner by a pharmacy services administrative organization and certain terms and contracts between certain parties to remain confidential. This information is not subject to subpoena and is not public information, except it may be provided to insurance departments in other states for certain purposes.

Authorizes the commissioner to adopt rules and regulations necessary to implement proposed law.

Proposed law provides that pharmacy services administrative organization the contracts with a pharmacy to perform activities related to prescription drug benefit or to act as the

pharmacy's agent is obligated to the pharmacy for the duties of care, competence, good faith and fair dealing and loyalty.

Proposed law requires the pharmacy services administrative organization to notify the contracted pharmacy in writing of any activity, policy, or practice that presents a conflict of interest that interferes with the duties imposed in proposed law and prohibits the pharmacy services administrative organization from engaging in any acts, methods, or practices prohibited as unfair trade practices in the La. Insurance Code.

Proposed law creates an exception to present law, Public Records Law (R.S. 44:4.1(B)).

(Adds R.S. 22:1660.1-1660.9)

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.

The House Floor Amendments to the engrossed bill:

1. Set a \$300.00 licensing fee and a \$150.00 annual report filing fee payable by pharmacy services administrative organizations to the commissioner of insurance.
2. Prohibit a person from acting as a pharmacy services administrative organization in this state without a valid license issued by the commissioner. Require a pharmacy services administrative organization's application for licensure to include certain documents and pertinent information.

3. Authorize the commissioner, upon his request, to inspect copies of certain contracts in order to determine qualification for licensure. Authorize the commissioner to deny or revoke a license for certain cause.
4. Provide for a license to remain valid as long as the pharmacy services administrative organization continues business in this state and remains in compliance.
5. Exempt a pharmacy services administrative organization from La. licensure requirements when certain out-of-state conditions apply.
6. Require a pharmacy services administrative organization to notify the commissioner of any material changes in fact or circumstance relative to license qualification.
7. Require a pharmacy services administrative organization to file with the commissioner an annual report for the preceding calendar year. Require the report to meet certain conditions of verification.
8. Require the commissioner to suspend, revoke, or deny the license of a pharmacy services administrative organization, or to impose a fine for violations not in excess of \$500.00 per violation when the pharmacy services administrative organization has failed to timely pay a judgment rendered against it. Authorize the commissioner to suspend, revoke, or deny the license of a pharmacy services administrative organization, or impose a fine for certain other violations.
9. Authorize the commissioner to access the books and records maintained by a pharmacy services administrative organization for the purposes of examination, audit, and inspection, and authorize an examination of the pharmacy services administrative organization when deemed necessary. Require the commissioner to keep any trade secrets contained in such books and records confidential; however, the commissioner is authorized to use such information in any proceeding instituted against the pharmacy services administrative organization.
10. Require information provided to the commissioner by a pharmacy services administrative organization and certain terms and contracts between certain parties to remain confidential. Such information is not subject to subpoena and is not public information, except it may be provided to insurance departments in other states for certain purposes.
11. Provide for exception to present law, Public Records Law, with respect to information provided to the commissioner.
12. Change "a reasonable amount of time" to "five business days" with respect to the amount of time a pharmacy services administrative organization has to remit certain reimbursements to contracted pharmacies.
13. Authorize the commissioner to promulgate and adopt rules in accordance with the APA to implement proposed law.
14. Make technical changes with respect to the title, citations, and exceptions to public records requests (R.S. 44:4.1(B)).

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the reengrossed bill

1. Removes provisions that a pharmacy services administrative organization is not responsible for activities within the purview of a pharmacy benefits manager.

2. Removes specific authority of commissioner to promulgate rules defining the roles and responsibilities of pharmacy benefit managers and pharmacy services administrative organizations.
3. Removes provisions regarding contractual agreements and the receipt and payment of claims.
4. Removes provisions regarding reimbursement of fees.