

2021 Regular Session

HOUSE BILL NO. 244

BY REPRESENTATIVES TURNER AND JORDAN

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AN ACT

To amend and reenact R.S. 44:4.1(B)(11) and to enact R.S. 22:821(B)(39) and Part III-A of Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:1660.1 through 1660.9, relative to pharmacy services administrative organizations; to provide for definitions; to require licensing and a related fee; to provide grounds for denial, suspension, and revocation of a license; to require submission of an annual report and filing fee; to authorize the commissioner of insurance to examine certain documents; to require maintenance and confidentiality of such documents; to provide for exceptions; to provide for duties and responsibilities; to provide fines for violations; to authorize rulemaking; to modify relative to exceptions to public records requests; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:821(B)(39) and Part III-A of Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950, comprised of R.S. 22:1660.1 through 1660.9, are hereby enacted to read as follows:

§821. Fees

\* \* \*

B. The commissioner shall collect the following fees in advance:

\* \* \*

(39) For pharmacy services administrative organizations:

(a) Licensing fee.....\$300.00

(b) Annual report filing fee.....\$150.00

\* \* \*

1 PART III-A. PHARMACY SERVICES ADMINISTRATIVE ORGANIZATIONS2 §1660.1. Short title; definitions3 A. This Part may be cited as the "Louisiana Pharmacy Services  
4 Administrative Organization Licensing Act".5 B. As used in this Part, the following definitions apply:6 (1) "Pharmacy services administrative organization" means an entity that  
7 provides a contracted pharmacy with administrative, contracting, or payment  
8 services relating to prescription drug benefits.9 (2) "Pharmacy services administrative organization contract" means a  
10 contractual agreement between a pharmacy services administrative organization and  
11 a pharmacy under which a pharmacy services administrative organization agrees to  
12 negotiate with pharmacy benefit managers or third-party payers on behalf of one or  
13 more pharmacies.14 §1660.2. Licensing requirements15 A. No person shall act as, or offer to act as, or hold himself out to be a  
16 pharmacy services administrative organization in this state without a valid license  
17 as a pharmacy services administrative organization issued by the commissioner of  
18 insurance. The commissioner may impose a fine of five hundred dollars per violation  
19 against any person who acts as a pharmacy services administrative organization  
20 without a valid license, and each day shall be considered a separate violation.21 B. Applicants subject to this Section shall pay a licensing fee in an amount  
22 set forth in R.S. 22:821 and shall make an application to the commissioner upon a  
23 form to be furnished by the commissioner. The application shall include or be  
24 accompanied by the following information and documents:25 (1) All basic organizational documents of the pharmacy services  
26 administrative organization, including any articles of incorporation, articles of  
27 association, partnership agreements, trade name certificates, trust agreements,  
28 shareholders' agreements, and other applicable documents and all amendments to  
29 such documents.

1           (2) The bylaws, rules, regulations, or similar documents regulating the  
2           internal affairs of the pharmacy services administrative organization.

3           (3) The names, addresses, official positions, and professional qualifications  
4           of the individuals who are responsible for the conduct of affairs of the pharmacy  
5           services administrative organization, including all members of the board of directors,  
6           board of trustees, executive committee or other governing board or committee, the  
7           principal officers in the case of a corporation or the partners or members in the case  
8           of a partnership or association, shareholders holding directly or indirectly ten percent  
9           or more of the voting securities of the pharmacy services administrative  
10           organization, and any other person who exercises control or influence over the affairs  
11           of the pharmacy services administrative organization.

12           (4) An affidavit signed by the president or other authorized officer stating  
13           that the pharmacy services administrative organization has its latest financial  
14           statement available for inspection by the commissioner.

15           (5) Summary information concerning its business organization and  
16           employees sufficient to fulfill the requirements of this Part.

17           (6) Such other pertinent information as may be required by the  
18           commissioner.

19           C. Upon request by the commissioner, the applicant shall make available for  
20           inspection by the commissioner copies of contracts with pharmacists, pharmacies,  
21           pharmacy benefit managers, or other persons utilizing the services of the pharmacy  
22           services administrative organization in order to determine qualification for licensure.

23           D. The commissioner may refuse to issue a license if the commissioner  
24           determines that the pharmacy services administrative organization, or any individual  
25           responsible for the conduct of affairs of the pharmacy services administrative  
26           organization as defined in this Part, is not competent, trustworthy, financially  
27           responsible or of good personal and business reputation, or has had an insurance or  
28           a pharmacy services administrative organization license denied or revoked for cause  
29           by any state.

1           E. A license issued pursuant to this Section shall remain valid, unless  
2           surrendered, suspended, or revoked by the commissioner, as long as the pharmacy  
3           services administrative organization continues in business in this state and remains  
4           in compliance with this Part.

5           F. A pharmacy services administrative organization is not required to hold  
6           a license as a pharmacy services administrative organization in this state if the  
7           pharmacy services administrative organization meets both of the following  
8           conditions:

9                   (1) The pharmacy services administrative organization has its principal place  
10                  of business in another state.

11                   (2) The pharmacy services administrative organization is not soliciting  
12                  business as a pharmacy services administrative organization in this state.

13           G. On an annual basis, a licensed pharmacy services administrative  
14           organization shall notify the commissioner if there is any material change in fact or  
15           circumstance affecting its qualification for a license in this state. The notice shall  
16           include any documentation as the commissioner may require upon a form to be  
17           furnished by the commissioner.

18           §1660.3. Annual report; filing fee

19           A. Each pharmacy services administrative organization shall file an annual  
20           report for the preceding calendar year with the commissioner on or before March  
21           first of each year, or within such extension of time as the commissioner may grant  
22           for good cause. The report shall be in the form and contain all information as the  
23           commissioner requires and shall be verified by at least two officers of the pharmacy  
24           services administrative organization.

25           B. The annual report shall include the number of pharmacists or pharmacies  
26           with which the pharmacy services administrative organization has an agreement with  
27           in the state.

28           C. At the time of filing its annual report, the pharmacy services  
29           administrative organization shall pay a filing fee in the amount set forth in R.S.  
30           22:821.

1           §1660.4. Grounds for denial, suspension, or revocation of license

2                   A. The commissioner shall suspend or revoke the license of a pharmacy  
3                   services administrative organization, deny the application for a license, or, in lieu  
4                   thereof, impose a fine for each separate violation not to exceed five hundred dollars  
5                   per violation if the pharmacy services administrative organization has failed to pay  
6                   any judgment rendered against it in this state within sixty days after the judgment has  
7                   become final.

8                   B. The commissioner may suspend or revoke the license of a pharmacy  
9                   services administrative organization, deny the application for a license, or, in lieu  
10                  thereof, impose a fine not to exceed five hundred dollars per violation if the  
11                  commissioner finds that any of the following apply to a pharmacy services  
12                  administrative organization:

13                   (1) Has violated any lawful rule or order of the commissioner or any  
14                   provision of the insurance laws of this state that is within the sole authority of the  
15                   pharmacy services administrative organization.

16                   (2) Has refused to be examined or to produce its accounts, records, and files  
17                   for examination or if any of its officers have refused to give information with respect  
18                   to its affairs or has refused to perform any other legal obligations as to such  
19                   examination, when required by the commissioner.

20                   (3) Is affiliated with or under the same general management or interlocking  
21                   directorship or ownership as another pharmacy services administrative organization  
22                   which unlawfully transacts business in this state without having a license.

23                   (4) At any time fails to meet any qualification for which issuance of the  
24                   license could have been refused had such failure then existed and been known to the  
25                   commissioner.

26                   (5) Has been convicted of, or has entered a plea of guilty or nolo contendere  
27                   to, a felony without regard to whether adjudication was withheld.

28                   (6) Is under suspension or revocation in another state.

29                   (7) Has provided incorrect, misleading, incomplete, or materially false  
30                   information or omitted material information in the license application.

1           C. The commissioner may, in his discretion and without advance notice or  
 2           hearing, immediately suspend the license of any pharmacy services administrative  
 3           organization if the commissioner finds that either of the following circumstances  
 4           exists:

5                     (1) A proceeding for receivership, conservatorship, rehabilitation, or other  
 6                     delinquency proceeding regarding the pharmacy services administrative organization  
 7                     has been commenced in any state.

8                     (2) The financial condition or business practices of the pharmacy services  
 9                     administrative organization otherwise pose an imminent threat to the public health,  
 10                    safety, or welfare of the residents of this state.

11           §1660.5. Maintenance of information; exceptions

12                    The commissioner may access the books and records maintained by a  
 13                    pharmacy services administrative organization for the purposes of examination,  
 14                    audit, and inspection. The commissioner shall keep any trade secrets contained in  
 15                    such books and records confidential; however, the commissioner may use such  
 16                    information in any proceeding instituted against the pharmacy services  
 17                    administrative organization.

18           §1660.6. Examination authority

19                    The commissioner may cause an examination, as prescribed by the provisions  
 20                    of Chapter 8 of this Title, of any pharmacy services administrative organization  
 21                    when in the opinion of the commissioner it is necessary for such an examination to  
 22                    be made.

23           §1660.7. Confidentiality; documents and information; exceptions

24                    Information provided to the commissioner by a pharmacy services  
 25                    administrative organization pursuant to R.S. 22:1660.2(B) and 1660.3, as well as the  
 26                    terms and conditions of any contract between a pharmacy services administrative  
 27                    organization and a pharmacy benefit manager, a pharmacist, or a pharmacy except  
 28                    for the identity of the contracting parties, and such other proprietary information as  
 29                    specifically identified by the pharmacy services administrative organization shall be  
 30                    given confidential treatment, shall not be subject to subpoena, and shall not be made

1           public by the commissioner, the National Association of Insurance Commissioners,  
 2           or any other person, except to the insurance departments of other states or in any  
 3           adjudicatory hearing or court proceeding invoked by the commissioner in accordance  
 4           with the provisions of this Part.

5           §1660.8. Rules and regulations

6                 The commissioner may adopt rules and regulations in accordance with the  
 7           Administrative Procedure Act as are necessary to implement this Part.

8           §1660.9. Duties and responsibilities; nonimposition of liability; rulemaking  
 9                 authority

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

14                B. A pharmacy services administrative organization is not responsible for  
 15           any of the activities that are solely within the purview of a pharmacy benefits  
 16           manager.

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

- 19                   (1) Pharmacy benefits managers.
- 20                   (2) Pharmacy services administrative organizations.

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

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

27           Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:

28           §4.1. Exceptions

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