

SENATE BILL NO. 191

BY SENATORS CLOUD, BARROW, BERNARD, BOUDREAUX, CONNICK, CORTEZ, FIELDS, FOIL, HENSGENS, JACKSON, LAMBERT, MCMATH, MILLIGAN, FRED MILLS, ROBERT MILLS, PEACOCK, PETERSON, PRICE, SMITH, TALBOT AND WHITE AND REPRESENTATIVES BROWN, BUTLER, CARRIER, WILFORD CARTER, DESHOTEL, EDMONDS, HARRIS, HORTON, MIKE JOHNSON, STAGNI, THOMPSON, WILLARD AND WRIGHT

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

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AN ACT

To enact Subpart A-3 of Part III of Chapter 4 of Title 22 of the Louisiana Revised Statutes of 1950, comprised of R.S. 22:1020.51 through 1020.53, relative to provider-administered drugs; to provide for legislative intent; to provide for definitions; to provide for access; to provide for payment to participating health care providers; to provide with respect to penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart A-3 of Part III of Chapter 4 of Title 22 of the Louisiana Revised Statutes of 1950, comprised of R.S. 22:1020.51 through 1020.53, is hereby enacted to read as follows:

**SUBPART A-3. PROTECTING PATIENT ACCESS TO
PHYSICIAN-ADMINISTERED MEDICATIONS**

§1020.51. Purpose and intent

The purpose and intent of this Part is to ensure patient access to physician-administered drugs and related services furnished to persons covered under a health insurance contract. This Part shall ensure that health insurance

1 issuers do not interfere with patients' freedom of choice with respect to
2 providers furnishing physician-administered drugs and ensure that patients
3 receive safe and effective drug therapies.

4 §1020.52. Definitions

5 For purposes of this Part, the following words shall have the following
6 meanings:

7 (1) "Covered person" shall have the same meaning as provided in R.S.
8 22:1019.1.

9 (2) "Health insurance issuer" shall have the same meaning as provided
10 in R.S. 22:1019.1.

11 (3) "Participating provider" shall have the same meaning as provided
12 in R.S. 22:1019.1. For purposes of this Subpart, "participating provider" shall
13 include any clinic, hospital outpatient department, or pharmacy under the
14 common ownership or control of the participating provider.

15 (4) "Physician-administered drug" means any prescription drug, as
16 defined in R.S. 22:1060.1, other than a vaccine, that requires administration by
17 a provider and is not approved as a self-administered drug.

18 §1020.53. Physician-administered drugs; access; payment

19 A.(1) A health insurance issuer, pharmacy benefit manager, or their
20 agent shall not refuse to authorize, approve, or pay a participating provider for
21 providing covered physician-administered drugs and related services to covered
22 persons. A health insurance issuer shall not condition, deny, restrict, refuse to
23 authorize or approve, or reduce payment to a participating provider for a
24 physician-administered drug when all criteria for medical necessity are met,
25 because the participating provider obtains physician-administered drugs from
26 a pharmacy that is not a participating provider in the health insurance issuer's
27 network. The drug supplied shall meet the supply chain security controls and
28 chain of distribution set by the federal Drug Supply Chain Security Act,
29 Pub. L. 113-54, as amended. The payment shall be at the rate set forth in the
30 health insurance issuer's agreement with the participating provider applicable

1 to such drugs, or if no such rate is included in the agreement, then at the
2 wholesale acquisition cost. A health insurance issuer, pharmacy benefit
3 manager, or their agent, shall not require a covered person to pay an additional
4 fee, or any other increased cost-sharing amount in addition to applicable cost-
5 sharing amounts payable by the covered person as designated within the benefit
6 plan to obtain the physician-administered drug when provided by a
7 participating provider. However, nothing in this Subpart shall prohibit a health
8 insurance issuer or its agent from establishing differing copayments or other
9 cost-sharing amounts within the benefit plan for covered persons who acquire
10 physician-administered drugs from other providers. Nothing in this Subpart
11 shall prohibit a health insurance issuer or its agent from refusing to authorize
12 or approve, or from denying coverage of a physician-administered drug based
13 upon failure to satisfy medical necessity criteria. For purposes of this Section,
14 the location of receiving the physician-administered drug shall not be included
15 in the medical necessity criteria.

16 (2) Nothing in this Section shall prohibit a health insurance issuer from
17 establishing specialty care centers of excellence based on nationally established,
18 objective quality measures, to be utilized by covered persons focused on specific
19 drugs or types of drugs to impact the safety, quality, affordability, and expertise
20 of treatment.

21 B. The commission of any act prohibited by this Part shall be considered
22 an unfair method of competition and unfair practice or act which shall subject
23 the violator to any and all actions, including investigative demands, private
24 actions, remedies, and penalties, provided for in the Unfair Trade Practices and
25 Consumer Protection Law.

26 C. Any provision of a contract that is contrary to any provision of this
27 Part shall be null, void, and unenforceable in this state.

28 Section 2. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____