

ACT No. 192

2021 Regular Session

HOUSE BILL NO. 244

BY REPRESENTATIVES TURNER AND JORDAN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

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 directorate 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

29 * * *

