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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

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DIGEST

SB 41 Engrossed

2019 Regular Session

Mills

Present law provides that pharmacy benefit managers must be licensed by the Louisiana Department of Insurance as third party administrators.

Proposed law requires pharmacy benefit managers to be licensed by the Commissioner of Insurance and permitted by the Louisiana Board of Pharmacy. Proposed law identifies those two agencies collectively as "regulatory bodies". Proposed law requires pharmacy benefit managers to be licensed and permitted and in good standing with both regulatory bodies in order to operate in Louisiana.

Proposed law establishes the Louisiana "Pharmacy Benefit Manager Licensing Law" to provide substantive requirements for obtaining and maintaining a license or permit to operate in Louisiana in order to protect the health, safety, and welfare of our citizens, to regulate the practice of pharmacy and actions that threaten pharmacy access, and to regulate actions that impede medical decisions.

Proposed law defines "maximum allowable cost list" and "spread pricing" and prohibits spread pricing in Louisiana.

Proposed law provides for rulemaking by the Louisiana Board of Pharmacy and provides that the board has the authority and responsibility to assess fees pursuant to present law.

Proposed law provides for creation of a pharmacy benefit manager monitoring advisory council and provides for membership, functions, and authority of the council.

Proposed law provides legislative intent and public health policy findings. Proposed law provides definitions.

Proposed law establishes a duty to the beneficiaries of any pharmacy benefit management plan and to the entities that have entered into a contract with the pharmacy benefit manager.

Proposed law provides general licensing and permitting requirements. Proposed law provides for general applicability.

Proposed law provides for civil fines of up to five thousand dollars for every violation, civil penalties including suspension, revocation, or placement of the license on probation, and criminal prosecution for filing false records.

Proposed law provides a listing of acts or omissions that are deemed unfair and deceptive trade practices. Proposed law provides that commission of any of the unfair and deceptive trade practices shall subject the pharmacy benefit manager to any and all actions, including investigative actions and

private rights of action. Proposed law provides for remedies and penalties under the Unfair Trade Practices and Consumer Protection Law.

Proposed law provides for enforcement of the Pharmacy Benefit Manager Licensing Law. Proposed law authorizes the regulatory bodies to conduct random compliance audits and complaint investigations. Proposed law requires a monthly report of opened complaints to be submitted to the attorney general.

Proposed law grants enforcement authority to the attorney general. Proposed law provides for a review process, administrative hearing, administrative ruling, and penalties that may be assessed by the attorney general. Proposed law provides for the decision of the attorney general to be appealable in accordance with the Louisiana Administrative Procedure Act.

Proposed law provides that nothing in proposed law shall be construed as a limitation on the power of the attorney general to negotiate or enter into a stipulation or consent decree with a pharmacy benefit manager.

Proposed law provides for severability.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 22:1863(2); adds R.S. 22:1863(9) and 1867, R.S. 37:1252-1254, and R.S. 40:2861-2871)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Removes all provisions granting the Louisiana State Board of Medical Examiners authority to regulate pharmacy benefit managers.
2. Defines and clarifies what is considered a "maximum allowable cost list".
3. Defines and prohibits "spread pricing".
4. Provides that a duty is owed to beneficiaries and those contracted with pharmacy benefit managers to act with good faith, honesty, trust, confidence, and candor.
5. Creates the pharmacy benefit manager monitoring advisory council; provides for membership, functions, and authority.
6. Clarifies that the Louisiana Department of Insurance issues a license and the Louisiana Board of Pharmacy issues a permit.

7. Removes certain provisions of legislative intent.
8. Makes technical corrections.