AN ACT

To amend and reenact R.S. 22:1657 and R.S. 44:4.1(B)(11) and to enact R.S. 22:1657.1, relative to pharmacy benefit managers; to provide for internet publication of formularies; to provide for transparency reporting; to provide for certain reportable aggregate data; to provide for internet publication of the transparency report; to provide for definitions; to provide for the duties of the commissioner of insurance relative thereto; to provide for confidentiality; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1.  R.S. 22:1657 is hereby amended and reenacted and R.S. 22:1657.1 is hereby enacted to read as follows:

§1657. Pharmacy benefit managers

A. A pharmacy benefit manager shall be deemed to be a third-party administrator for purposes of this Part. As such, all provisions of this Part shall apply to pharmacy benefit managers; however, notwithstanding the provisions of R.S. 22:1651(F), every pharmacy benefit manager shall be required to be licensed by the commissioner of insurance.

B. The commissioner of insurance shall provide a dedicated location on the department's website for pharmacy benefit manager information and links.

C. For each of a pharmacy benefit manager's contractual or other relationships with a health benefit plan or health insurance issuer, the pharmacy benefit manager shall provide the department with the health benefit plan's formulary and provide timely notification of formulary changes and product exclusions. The information provided pursuant to this Subsection shall be made available in a centralized location on the department's website in a format that allows for consumer access, including links to pharmacy benefit

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§1657.1. Pharmacy benefit manager rebate transparency report

A. Each pharmacy benefit manager licensed by the commissioner of insurance shall submit an annual transparency report as a condition of maintaining licensure.

B. As used in this Section, the following definitions shall apply:

(1) "Aggregate retained rebate percentage" means the percentage calculated for each prescription drug for which a pharmacy benefit manager receives rebates under a particular health benefit plan expressed without disclosing any identifying information regarding the health benefit plan, prescription drug, or therapeutic class. The percentage shall be calculated by dividing the aggregate rebates that the pharmacy benefit manager received during the prior calendar year from a pharmaceutical manufacturer related to utilization of the manufacturer's prescription drug by health benefit plan enrollees that did not pass through to the health benefit plan or health insurance issuer by the aggregate rebates that the pharmacy benefit manager received during the prior calendar year from a pharmaceutical manufacturer related to utilization of the manufacturer's prescription drug by health benefit plan enrollees.

(2) "Health benefit plan", "plan", "benefit", or "health insurance coverage" means services consisting of medical care provided directly through insurance, reimbursement, or other means, and including items and services paid for as medical care under any hospital or medical service policy or certificate, hospital or medical service plan contract, preferred provider organization contract, or health maintenance organization contract offered by a health insurance issuer. However, excepted benefits are not included as a "health benefit plan".

(3) "Health insurance issuer" means any entity that offers health insurance coverage through a plan, policy, or certificate of insurance subject to state law that regulates the business of insurance. "Health insurance issuer"
shall also include a health maintenance organization, as defined and licensed pursuant to Subpart I of Part I of Chapter 2 of this Code.

(4) "Rebates" means all rebates, discounts, and other price concessions, based on utilization of a prescription drug and paid by the manufacturer or other party other than an enrollee, directly or indirectly, to the pharmacy benefit manager after the claim has been adjudicated at the pharmacy. Rebates shall include a reasonable estimate of any volume-based discount or other discounts.

C.(1) Beginning June 1, 2020, and annually thereafter, each licensed pharmacy benefit manager shall submit a transparency report containing data from the prior calendar year to the department. The transparency report shall contain the following information for each of the pharmacy benefit manager's contractual or other relationships with a health benefit plan or health insurance issuer:

(a) The aggregate amount of all rebates that the pharmacy benefit manager received from pharmaceutical manufacturers.

(b) The aggregate administrative fees that the pharmacy benefit manager received.

(c) The aggregate rebates that the pharmacy benefit manager received from pharmaceutical manufacturers and did not pass through to the health benefit plan or health insurance issuer.

(d) The highest, lowest, and mean aggregate retained rebate percentage.

(2) The transparency report shall be made available in a form that does not disclose the identity of a specific health benefit plan, the prices charged for specific drugs or classes of drugs, or the amount of any rebates provided for specific drugs or classes of drugs.

(3) Within sixty days of receipt, the Department of Insurance shall publish the transparency report on the department’s website in a location designated for pharmacy benefit manager information pursuant to R.S. 22:1657(B).
(4) The pharmacy benefit manager and the Department of Insurance shall not publish or disclose any information that would reveal the identity of a specific health benefit plan, the prices charged for a specific drug or class of drugs, or the amount of any rebates provided for a specific drug or class of drugs. Any such information shall be protected from disclosure as confidential and proprietary information and shall not be regarded as a public record pursuant to the Public Records Law.

(5) Not more than thirty days after an increase in wholesale acquisition cost of fifty percent or greater for a drug with a wholesale acquisition cost of one hundred dollars or more for a thirty-day supply, a pharmaceutical drug manufacturer shall notify the commissioner of insurance by electronic mail of any such change.

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

§4.1. Exceptions

A.

B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation:

(11) R.S. 22:2, 14, 31, 42.1, 88, 244, 265, 265, 461, 550.7, 571, 572, 572.1, 574, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1, 691.10, 691.38, 691.56, 732, 752, 753, 771, 834, 972(D), 1008, 1019.2, 1203, 1460, 1464, 1468, 1488, 1546, 1559, 1566(D), 1644, 1656, 1657.1, 1657, 1723, 1796, 1801, 1808.3, 1927, 1929, 1983, 1984, 2036, 2045, 2056, 2085, 2091, 2293, 2303

Section 3. If any rules or regulations are necessary to effectuate the provisions of this Act, the commissioner of insurance shall promulgate and adopt those rules or regulations in
accredance with the Administrative Procedure Act prior to January 1, 2020.

Section 4.(A) This Section and Section 3 of this Act shall become effective on
August 1, 2018.

(B) Sections 1 and 2 of this Act shall become effective on January 1, 2020.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____________

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