AN ACT

SENATE BILL NO. 283

BY SENATOR MILLS

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2	To amend and reenact R.S. 22:1657 and R.S. 44:4.1(B)(11) and to enact R.S. 22:1657.1,
3	relative to pharmacy benefit managers; to provide for internet publication of
4	formularies; to provide for transparency reporting; to provide for certain reportable
5	aggregate data; to provide for internet publication of the transparency report; to
6	provide for definitions; to provide for the duties of the commissioner of insurance
7	relative thereto; to provide for confidentiality; and to provide for related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. R.S. 22:1657 is hereby amended and reenacted and R.S. 22:1657.1 is
10	hereby enacted to read as follows:
11	§1657. Pharmacy benefit managers
12	$\underline{\mathbf{A}}$. A pharmacy benefit manager shall be deemed to be a third-party
13	administrator for purposes of this Part. As such, all provisions of this Part shall apply
14	to pharmacy benefit managers; however, notwithstanding the provisions of R.S.
15	22:1651(F), every pharmacy benefit manager shall be required to be licensed by the
16	commissioner of insurance.
17	B. The commissioner of insurance shall provide a dedicated location on
18	the department's website for pharmacy benefit manager information and links.
19	C. For each of a pharmacy benefit manager's contractual or other
20	relationships with a health benefit plan or health insurance issuer, the
21	pharmacy benefit manager shall provide the department with the health benefit
22	plan's formulary and provide timely notification of formulary changes and
23	product exclusions. The information provided pursuant to this Subsection shall
24	be made available in a centralized location on the department's website in a
25	format that allows for consumer access, including links to pharmacy benefit

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manager	websites.

§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"

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shall also include a health maintenance organization, as defined and licensed

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2	pursuant to Subpart I of Part I of Chapter 2 of this Code.
3	(4) "Rebates" means all rebates, discounts, and other price concessions
4	based on utilization of a prescription drug and paid by the manufacturer or
5	other party other than an enrollee, directly or indirectly, to the pharmacy
6	benefit manager after the claim has been adjudicated at the pharmacy. Rebates
7	shall include a reasonable estimate of any volume-based discount or other
8	discounts.
9	C.(1) Beginning June 1, 2020, and annually thereafter, each licensed
10	pharmacy benefit manager shall submit a transparency report containing data
11	from the prior calendar year to the department. The transparency report shall
12	contain the following information for each of the pharmacy benefit manager's
13	contractual or other relationships with a health benefit plan or health insurance
14	issuer:
15	(a) The aggregate amount of all rebates that the pharmacy benefit
16	manager received from pharmaceutical manufacturers.
17	(b) The aggregate administrative fees that the pharmacy benefit manager
18	received.
19	(c) The aggregate rebates that the pharmacy benefit manager received
20	from pharmaceutical manufacturers and did not pass through to the health
21	benefit plan or health insurance issuer.
22	(d) The highest, lowest, and mean aggregate retained rebate percentage
23	(2) The transparency report shall be made available in a form that does
24	not disclose the identity of a specific health benefit plan, the prices charged for
25	specific drugs or classes of drugs, or the amount of any rebates provided for
26	specific drugs or classes of drugs.
27	(3) Within sixty days of receipt, the Department of Insurance shall
28	publish the transparency report on the department's website in a location
29	designated for pharmacy benefit manager information pursuant to R.S.
30	22:1657(B).

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1	(4) The pharmacy benefit manager and the Department of Insurance
2	shall not publish or disclose any information that would reveal the identity of
3	a specific health benefit plan, the prices charged for a specific drug or class of
4	drugs, or the amount of any rebates provided for a specific drug or class of
5	drugs. Any such information shall be protected from disclosure as confidential
6	and proprietary information and shall not be regarded as a public record
7	pursuant to the Public Records Law.
8	(5) Not more than thirty days after an increase in wholesale acquisition
9	cost of fifty percent or greater for a drug with a wholesale acquisition cost of
10	one hundred dollars or more for a thirty-day supply, a pharmaceutical drug
11	manufacturer shall notify the commissioner of insurance by electronic mail of
12	any such change.
13	Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:
14	§4.1. Exceptions
15	A.
16	* * *
17	B. The legislature further recognizes that there exist exceptions, exemptions,
18	and limitations to the laws pertaining to public records throughout the revised
19	statutes and codes of this state. Therefore, the following exceptions, exemptions, and
20	limitations are hereby continued in effect by incorporation into this Chapter by
21	citation:
22	* * *
23	(11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 571, 572, 572.1,
24	574, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1, 691.10, 691.38,
25	691.56, 732, 752, 753, 771, 834, 972(D), 1008, 1019.2, 1203, 1460, 1464, 1466,
26	1488, 1546, 1559, 1566(D), 1644, 1656, <u>1657.1</u> , 1723, 1796, 1801, 1808.3, 1927,
27	1929, 1983, 1984, 2036, 2045, 2056, 2085, 2091, 2293, 2303
28	* * *
29	Section 3. If any rules or regulations are necessary to effectuate the provisions of this
30	Act, the commissioner of insurance shall promulgate and adopt those rules or regulations in

1	accordance with the Administrative	Procedure Act prior to January 1, 2020.
2	Section 4.(A) This Section	and Section 3 of this Act shall become effective or
3	August 1, 2018.	
4	(B) Sections 1 and 2 of this Act shall become effective on January 1, 2020.	
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	CD	EAVED OF THE HOUSE OF DEDDESENTATIVES
	Sr	EAKER OF THE HOUSE OF REPRESENTATIVES
	G	OVERNOR OF THE STATE OF LOUISIANA
		OVERNOR OF THE STATE OF LOUISIANA
	APPROVED:	

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