

State of Louisiana

Pharmacy Benefit Manager (PBM) Monitoring Advisory Council

Commissioner, La. Dept. of Insurance
President, La. State Board of Medical Examiners
President, La. Board of Pharmacy
Attorney General
Director, Public Protection Division, La. Dept. of Justice
Secretary, La. Dept. of Health
President, La. Academy of Physician Assistants {vacancy}
President, La. State Medical Society
President, La. Association of Nurse Practitioners
President, La. Pharmacists Association
President, La. Independent Pharmacies Association
President, National Association of Chain Drug Stores
President, Pharmaceutical Research & Manufacturers of America {vacancy}
President, La. Academy of Medical Psychologists
President, La. Association of Health Plans
President, Prime Therapeutics, *a PBM licensed by the Board of Pharmacy and selected by the Pharmaceutical Care Management Association*
President, La. Association of Business & Industry {vacancy}
Chief Executive Officer, La. Business Group on Health
President, La. AFL-CIO
President, La. Association of Health Underwriters

The advisory council shall provide monitoring of pharmacy benefit managers in Louisiana to advise the legislature, commissioner of insurance, and Board of Pharmacy on the most effective and efficient manner of regulation of pharmacy benefit managers to ensure the protection of the public. The advisory council shall advise on matters that include but are not limited to the licensure and regulation of pharmacy benefit managers set forth in Title 22, Title 37, and Title 40 of the Louisiana Revised Statutes of 1950, applicable rules and regulations of state agencies, and federal laws or rules relative to pharmacy benefit managers. [La. R.S. 40:2869]

Meeting Minutes

October 13, 2021

1 A regular meeting of the council was held on Wednesday, October 13, 2021 in the
2 Poydras Hearing Room at the Department of Insurance, located at 1702 N. Third Street
3 in Baton Rouge, Louisiana.

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5 **1. Call to Order**

6 Mr. Jeffrey Zewe, Chair, called the meeting to order at 10:35 a.m.

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8 **2. Quorum Call**

9 Mr. Zewe asked Mr. Malcolm Broussard to call the roll of members to establish a
10 quorum.

11
12 **Members Present:**

13 Mr. Jeff Zewe (Dept. of Insurance)
14 Mr. Marty McKay (La. Board of Pharmacy)
15 Mr. D. Jeddie Smith, Jr. (La. Attorney General)
16 Ms. Lauren Bailey (La. State Medical Society)
17 Mr. Aurdie Bellard (La. Pharmacists Association)
18 Mr. Randal Johnson (La. Independent Pharmacies Association)
19 Ms. Shelly Dupre (National Association of Chain Drug Stores)
20 Dr. Joseph Comaty (La. Academy of Medical Psychologists)
21 Mr. Jeff Drozda (La. Association of Health Plans)
22 Ms. Diane Davidson (La. Business Group on Health)
23 Mr. Josh Sonnier (Louisiana AFL-CIO)
24 Ms. Kristy Copeland (La. Association of Health Underwriters)

25
26 **Members Absent:**

27 La. State Board of Medical Examiners
28 La. Dept. of Justice – Public Protection Division
29 La. Dept. of Health
30 La. Academy of Physician Assistants
31 La. Association of Nurse Practitioners
32 Pharmaceutical Research & Manufacturers of America
33 Prime Therapeutics, a PBM licensed by the Board of Pharmacy
34 La. Association of Business & Industry

35
36 **Staff Present:**

37 Mr. Malcolm Broussard (La. Board of Pharmacy)
38 Mr. Joseph Fontenot (La. Board of Pharmacy)

39
40 **Guests Present:**

41 Ms. Crystal Carter (La. Pharmacists Association)
42 Mr. J. R. Whaley (Whaley Law Firm)
43 Ms. Lisa Causey (Salim-Beasley, LLC)
44 Mr. Donelson Caffery (La. Independent Pharmacies Association)
45 Mr. Matthew Spradley (Spradley & Spradley)
46 Ms. Cheryl Tolbert (La. Business Group on Health)
47 Ms. Taylor LeDuff (Adams and Reese, LLP)

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49 Mr. Broussard certified 12 of 20 members were present, constituting a quorum for the
50 conduct of official business.

51
52 *3. Consideration of Minutes from Previous Meeting*

53 Mr. Zewe asked if there were any corrections to be made to the draft minutes of the
54 previous meeting on July 7, 2021 which had been circulated to the members. Mr.
55 Johnson questioned the wording of the minutes relative to the discussion concerning SB
56 218 and the potential for misinterpretation. Mr. Zewe indicated the minutes reflected his
57 own comments. Vice Chair Drozda motioned for approval of the minutes as presented.
58 Hearing no objections, Mr. Zewe declared the minutes were approved as presented.

59
60 *4. Opportunity for Public Comment*

61 Mr. Zewe solicited general public comments about non-agenda matters; there were
62 none.

63
64 *5. Review of Industry Trends and Emerging Issues*

65 Mr. Zewe solicited comments for this standing agenda topic. Mr. Randal Johnson
66 expressed his organization's appreciation for Emergency Rule 47 issued by the Dept. of
67 Insurance on Sept. 25, 2021 in the aftermath of Hurricane Ida. Mr. Johnson informed
68 the council a number of his member pharmacies had not fully recovered from the storm
69 and were still without full communication capabilities. Further, some pharmacies were
70 still having difficulty responding timely to requests for records during pharmacy audits
71 conducted by PBMs. In reply to questioning from Mr. Drozda, Mr. Johnson indicated he
72 was not aware of any waivers of audits by PBMs, nor was he prepared to identify any
73 specific pharmacies or PBMs at issue. Mr. Johnson did indicate some complaints had
74 been filed with PBMs about their auditing procedures. Ms. Copeland indicated her
75 organization had not received any complaints from their members or clients concerning
76 an inability to get their prescription medications. Ms. Bailey asked Mr. Johnson whether
77 any of his member pharmacies had requested extensions of time on records audits from
78 PBMs and if so whether any of those requests had been denied. Mr. Johnson replied
79 he was aware some pharmacies had requested extensions but he was not aware
80 whether those requests had been granted or not.

81
82 *6. Review of Rulemaking Activity*

83 Mr. Zewe informed the members the Board of Pharmacy had promulgated its rule
84 relative to the licensing and regulation of pharmacy benefit managers. Mr. Broussard
85 reported the Board of Pharmacy's Application Review Committee approved the
86 issuance of PBM permits to seven applicants during their October 6 meeting. The same
87 committee is scheduled to meet again on December 7 to consider at least two and
88 possibly seven additional applications for the PBM permit.

89
90 Mr. Zewe reminded the members of the department's Bulletin 2021-06 issued August
91 17, 2021 which solicits input from interested stakeholders regarding roles and
92 responsibilities solely within the purview of pharmacy benefit managers (PBMs) and
93 pharmacy services administrative organizations (PSAOs), as directed by Act 192 of the
94 2021 Legislature. He indicated the deadline for receipt of stakeholder input is
95 November 1, 2021.

96

97 **7. Calendar Notes**

98 Mr. Zewe reminded the members of their meeting schedule preference: 10:30 a.m. on
99 the second Wednesday of the first month of the calendar quarter. He then proposed the
100 following meeting dates for Calendar Year 2022: January 12, April 13, July 13, and
101 October 12. There were no requests for amendment at that time.

102

103 **8. Other Matters**

104 Mr. Zewe reported efforts underway at the National Association of Insurance
105 Commissioners (NAIC) to develop a model rule for licensing of PBMs. He participated
106 in the task force which advocated for a licensing procedure that did not include any
107 substantial regulatory component. The proposal ultimately failed to pass the
108 association's executive committee; a common complaint heard there was insufficiency.
109 He reported the task force was currently developing a white paper on the topic.

110

111 Mr. Sonnier requested an opportunity to discuss SB 218 from the 2021 legislative
112 session relative to PBMs. Mr. Johnson indicated he was not prepared to discuss that
113 topic that day. He did offer to meet with anyone at any other time to discuss potential
114 PBM-related legislation. Ms. Davidson suggested the conversation should take place
115 within council meetings and not separately, and recalled the legislative request for the
116 council to engage in that discussion before the next legislative session. Mr. Zewe
117 requested Mr. Johnson advise him whenever his organization was prepared to discuss
118 PBM-related legislation; further, he left open the possibility for an additional meeting of
119 the council for that topic.

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121 Mr. Zewe asked if there were any other matters for the council's consideration that day;
122 none were requested.

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124 **9. Adjourn**

125 Having completed the tasks itemized on the posted agenda, with no further business
126 pending before the council, and without objection, Mr. Zewe adjourned the meeting at
127 11:07 a.m.

128

129 *Minutes prepared by Malcolm Broussard, Executive Director, La. Board of Pharmacy*