

# 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

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

*1. Call to Order*

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

*2. Quorum Call*

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

**Members Present:**

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

**Members Absent:**

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

**Staff Present:**

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

**Guests Present:**

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

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

### *3. Consideration of Minutes from Previous Meeting*

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

### *4. Opportunity for Public Comment*

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

### *5. Review of Industry Trends and Emerging Issues*

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

### *6. Review of Rulemaking Activity*

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

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

## 7. *Calendar Notes*

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

## 8. *Other Matters*

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

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

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

## 9. *Adjourn*

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

*Minutes prepared by Malcolm Broussard, Executive Director, La. Board of Pharmacy; approved as presented during subsequent meeting of the Council on November 18, 2021.*