

## 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, of a PBM licensed by the Board of Pharmacy and selected by the Louisiana  
affiliate of 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 Governor  
Chair, House Committee on Insurance  
Chair, Senate Committee on Insurance  
Chair, House Committee on Health & Welfare  
Chair, Senate Committee on Health & Welfare

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

July 12, 2023

A regular meeting of the council was held on Wednesday, July 12, 2023 in the Poydras Hearing Room at the Louisiana Department of Insurance (LDI), located at 1702 North Third Street in Baton Rouge, Louisiana 70802.

### 1. *Call to Order*

Chairman Mills called the meeting to order at approximately 10:31 AM.

### 2. *Quorum Call*

Chairman Mills asked Mr. Fontenot to call the roll of members to establish a quorum.

### **Members Present:**

Mr. Frank Opelka (For the Commissioner, Louisiana Dept. of Insurance)  
Mr. Marty R. McKay (President, Louisiana Board of Pharmacy)  
Mr. D. Jeddie Smith, Jr. (For the Louisiana Attorney General)  
Ms. E. Sue Fontenot (For the Secretary, Louisiana Dept. of Health)  
Ms. Lauren Bailey (For the President of the Louisiana State Medical Society) \*  
Dr. Lisa Bayhi (For the President, La. Association of Nurse Practitioners) \*  
Mr. Matthew Cross (For the President, La. Independent Pharmacies Assoc.)  
Dr. K. Chris Rachal (For the President, La. Academy of Medical Psychologists) \*  
Mr. Jeff Drozda (For the President, Louisiana Association of Health Plans)  
Mr. Robert Rieger (For the President of a PBM / Prime Therapeutics / PCMA)  
Ms. Cheryl Tolbert (CEO, Louisiana Business Group on Health)  
Mr. Joshua Sonnier (For the President, Louisiana AFL-CIO)  
Ms. Kristy Copeland (For the President, La. Assoc. of Health Underwriters)  
Senator Kirk Talbot (Chairman of the Senate Committee on Insurance)  
Rep. Chris Turner (For the Chairman, House Committee on Health & Welfare)  
Sen. Fred H. Mills, Jr. (Chairman, Senate Committee on Health & Welfare)  
(\* - participated by electronic means)

### **Members Absent:**

The President of the Louisiana State Board of Medical Examiners  
The Director of the Public Protection Division of the Louisiana Dept. of Justice  
The President of the Louisiana Academy of Physician Assistants  
The President of the Louisiana Pharmacists Association  
The President of the National Association of Chain Drug Stores  
The President of the Pharmaceutical Research & Manufacturers of America  
The President of the Louisiana Association of Business & Industry  
The Governor  
The Chairman of the House Committee on Insurance

### **Staff Present:**

Mr. Joe Fontenot (Executive Director, La. Board of Pharmacy)

## Guests Present:

Christine Peck – Louisiana Senate  
Sarah Perkins – Breazeale, Sachse & Wilson  
Crystal Lewis – Louisiana Department of Insurance  
Nina S. Hunter – Louisiana Department of Insurance  
Robert Barnes – Louisiana Department of Insurance  
Shelley Brown – Louisiana Department of Insurance  
Bruce Ragas – Louisiana Department of Insurance  
Josh Guillory – Louisiana Department of Insurance  
Ian Belsha – Louisiana Department of Insurance  
Lisa Fullington – Louisiana Department of Insurance  
Cathy Prine-Eagle - Merck

Mr. Fontenot certified 16 of 25 members were present, constituting a quorum for the conduct of official business.

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

Chairman Mills noted a couple of minor corrections to the draft minutes and then asked for a motion to accept the draft minutes as amended for the previous meeting held on April 6, 2023. A motion was offered by Mr. Josh Sonnier, seconded by Representative Chris Turner, and then adopted after a unanimous vote of the remaining members in the affirmative declaring the minutes approved as amended.

### 4. *Opportunity for Public Comment*

Chairman Mills solicited public comments from those in attendance, both in person and by electronic means; there were none. Chairman Mills noted a public comment was received by email pursuant to the posted agenda and then read the comment aloud to those in attendance. The email received as public comment on July 10, 2023 follows:

*Dear Mr. Fontenot,*

*This comment is an example of the deceptive and sneaky practice of PBMs. We recently underwent a desk-top audit by a large PBM and passed with flying colors except for 1 prescription - a Flovent inhaler. The PBM would not allow us to process the claim correctly online for a 60-day supply as it was written. The rejection said that the plan only allows for 30 or 90 day supply prescriptions. Well, being that this order would not last 90 days and it was a covered NDC we processed for a 30 day supply. Maybe we should have not filled it for the patient, or made him pay cash, or made him suffer with his COPD, but we filled it for the day-supply that the insurance allowed.*

*Ironically, this auditor billed us back for the prescription and it's refill to a tune of 780\$. The appeal process, we were told, is not possible in this case and so there is no recourse on our part. Patient has the medication, PBM doesn't pay for it, pharmacy gets the screw. You can be next time this patient tries to get it we will tell him that the insurance PBM does not cover the day supply for proper billing. The PBM will save money and the patient will suffer from lack of care. There should be an appeals process with the chance to present evidence to the PBM agent. The PBM should shoulder some responsibility here too.*

*Sincerely,  
J. Scott Vallee  
C & C Drugs, Mandeville, Louisiana 70471  
985-626-0234*

Chairman Mills asked if anyone would want to follow up with Mr. Vallee. Mr. Rieger offered his assistance on behalf of PCMA and Mr. Frank Opelka also offered his assistance on behalf of the Louisiana Department of Insurance.

#### *5. Election of Council Officers*

Chairman Mills conducted the annual election of council officers. He reminded the members the two council officer positions were chair and vice chair and that the incumbent vice chair was Representative Chris Turner. He noted the term of office was one year and the officers would assume their respective positions upon their election. He then solicited nominations for the office of chair. Senator Mills was nominated by Mr. Josh Sonnier and then re-elected by acclamation. Chairman Mills then solicited nominations for the office of vice chair. Representative Turner was nominated by Mr. Josh Sonnier and then re-elected by acclamation.

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

Chairman Mills solicited comments from the members for an open dialogue regarding the agenda item.

Mr. Opelka noted a public hearing on August 21 and 22, 2023 at 10 a.m. which is being held to receive public comments regarding the Blue Cross merger.

Mr. Opelka also noted a few bills in Congress that seek to expand the definition of a self-funded plan for the purposes of preemption.

There were no additional comments regarding this agenda item.

#### *7. Legislative Session Review*

Chairman Mills noted a couple of bills authored by Vice Chairman Turner from the 2023 Regular Session that were enacted, HB 548 and HB 133. Vice Chairman Turner provided an overview for the members regarding House Bill No. 548 (Act 358) which was relative to the 340B drug pricing program. Chairman Mills then called upon Mr. Fontenot for an overview of House Bill No. 133 (Act 14) which was relative to the Prescription Monitoring Program (PMP).

Chairman Mills then reviewed several bills from the 2023 Regular Session.

#### *8. Calendar Notes*

Mr. Fontenot reminded the council members that the one remaining scheduled meeting for calendar year 2023 is October 11 at 10:30 a.m.

#### *9. Adjourn*

Having completed the tasks itemized on the posted agenda, with no further business pending before the council and without objection, Chairman Mills adjourned the meeting at approximately 11:02 a.m.

*Minutes prepared by Joe Fontenot, Executive Director, La. Board of Pharmacy.  
Minutes approved during subsequent meeting of the Council on October 11, 2023*