

22:1660.8, R.S. 22:1660.9(C) and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2300 (September 2022).

§18505. Definitions

Pharmacy Benefit Manager—a person, business, or other entity and any wholly or partially owned or controlled subsidiary of such entity that either directly or through an intermediary manages or administers the prescription drug and device portion of one or more health benefit plans on behalf of a third party, including insurers, plan sponsors, insurance companies, unions, and health maintenance organizations, in accordance with a pharmacy benefit management plan. The management or administration of a plan may include but is not limited to review, processing of drug prior authorization requests, adjudication of appeals and grievances related to the prescription drug benefit, contracting with network pharmacies, and controlling the cost of covered prescription drugs.

Pharmacy Services Administrative Organization—an entity that provides a contracted pharmacy with administrative, contracting, or payment services relating to prescription drug benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1641(8), R.S. 22:1655, R.S. 22:1660.1(B)(1), R.S. 22:1660.8, R.S. 22:1660.9(C) and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2300 (September 2022).

§18507. Roles and Responsibilities of Pharmacy Benefit Managers

A. The roles and responsibilities solely within the purview of pharmacy benefit managers are as follows:

1. administering prescription drug plans for health plan sponsors;
2. formulary and benefit design support and management;
3. establishing reimbursement rates and making payments on behalf of health plan sponsors;
4. establishing and managing pharmacy networks to ensure network adequacy on behalf of health plans;
5. performing drug utilization management;
6. administering disease management and drug adherence programs; and
7. negotiating rebates and discounts from drug manufacturers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1641(8), R.S. 22:1655, R.S. 22:1660.1(B)(1), R.S. 22:1660.8, R.S. 22:1660.9(C) and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2300 (September 2022).

§18509. Roles and Responsibilities of Pharmacy Services Administrative Organizations

A. The roles and responsibilities solely within the purview of pharmacy services administrative organizations are as follows:

1. negotiating contracts, drug reimbursement rates, payments, and audit terms on behalf of pharmacy clients with pharmacy benefit managers;
2. billing and collecting payments from payers on behalf of pharmacies;
3. using contractual agreements to develop networks of member pharmacies. These agreements generally authorize pharmacy services administrative organizations to interact with third-party payers and pharmacy benefit managers;
4. negotiating access for pharmacies to networks and patients;
5. facilitating the purchase of prescription drugs and other medical products from drug manufacturers and providing for delivery to pharmacies for dispensing; and
6. assisting pharmacy clients with business strategy, pricing appeals, claims reconciliation, and certification and credentialing requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1641(8), R.S. 22:1655, R.S. 22:1660.1(B)(1), R.S. 22:1660.8, R.S. 22:1660.9(C) and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2300 (September 2022).

§18511. Effective Date

A. This regulation shall become effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1641(8), R.S. 22:1655, R.S. 22:1660.1(B)(1), R.S. 22:1660.8, R.S. 22:1660.9(C) and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2300 (September 2022).

Chapter 187. Regulation 123— Producer Responsibility for Bail Bond Collateral

§18701. Authority

A. This regulation is promulgated on behalf of the Department of Insurance by the Commissioner of Insurance pursuant to the authority granted under Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1542, 22:1547, 22:1554, 22:1562, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2985 (December 2022).

§18703. Purpose

A. The purpose of this regulation is to establish and identify the responsibilities of an insurance producer licensed for the line of bail bonds with respect to collateral accepted and held by the producer pursuant to a written bail bond collateral agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1542, 22:1547, 22:1554, 22:1562, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2985 (December 2022).

§18705. Scope and Applicability

A. Regulation 123 sets forth requirements related to bail bond collateral agreements and identifies the responsibilities of a bail bond producer with respect to any collateral received as part of a bail bond transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1542, 22:1547, 22:1554, 22:1562, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2985 (December 2022).

§18707. Severability

A. The provisions of this Subpart are severable. If any provision or item of this Subpart, or application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of this Subpart which are to be given effect without the invalid provision, item, or application of the Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 22:2, 22:11, 22:1542, 22:1547, 22:1554, 22:1562, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2986 (December 2022).

§18709. Definitions

A. These terms when used in this Chapter shall have the following meanings.

Bail—the security given by a person to assure a defendant's appearance before the proper criminal court whenever required.

Bail Bond Producer—any person, corporation, or partnership which holds an insurance license and has a contract and an appointment from an insurer licensed and authorized to provide surety in Louisiana.

Bail Bond Transaction—a transaction between a bail bond producer or agency and defendant or person on behalf of defendant to secure collateral, premiums, and fees for securing the release of a defendant and guaranteeing a set sum of money to the court if the defendant fails to appear in criminal court when required. Furthermore, a bail bond transaction includes the solicitation and inducement, preliminary negotiation, and effectuation of a contract of surety insurance and matters related thereto, all in connection with the defendant's release.

Collateral—anything of value, including money, personal property, or real property, which is accepted by a bail bond producer as security against potential losses arising from a contract of surety and is utilized as part of a bail bond transaction.

Commissioner—the Louisiana Commissioner of Insurance.

Fiduciary—a person who holds a thing in trust for another, such as a trustee; a person holding the character of a trustee, or a character analogous to that of a trustee, with respect to the trust and confidence involved in it and the scrupulous good faith and candor which it requires; a person having the duty, created by his undertaking, to act primarily for another's benefit in matters connected with such undertaking.

Forfeiture—the issuance of a judgment of bond forfeiture resulting from a defendant's failure to appear in court when required or to otherwise comply with any court ordered conditions of release as contemplated in the Code of Criminal Procedure.

Insurance Producer—a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, and includes all persons or business entities otherwise referred to in Title 22 of the Louisiana Insurance Code as insurance agent or agent, or insurance broker or broker, or insurance solicitor or solicitor, or surplus lines broker.

Surety—an insurer licensed and authorized to provide surety in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1542, 22:1547, 22:1554, 22:1562, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2986 (December 2022).

§18711. Necessity of a Written Agreement for Collateral

A. All agreements concerning collateral must be in writing.

B. Written collateral agreements shall not contain any provision that is contrary to the requirements of this regulation or to those set forth in any law in Louisiana regarding bail bonds.

C. Written collateral agreements must include the full name of the person pledging the collateral, the full name of the defendant to be released, an accurate and sufficiently detailed description of the collateral, the bond amount, the power of attorney number, and such other information as necessary to specify the bail bond related to the collateral agreement.

D. A copy of the written collateral agreement and a written receipt for the collateral shall be provided to the person offering the collateral at the time of the transaction.

E. Written collateral agreements must also contain assurances that the collateral will not be used by the bail

bond producer or surety for personal benefit or gain and that the collateral will be returned in the same condition as pledged.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1542, 22:1547, 22:1554, 22:1562, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2986 (December 2022).

§18713. Requirements for Collateral

A. A bail bond producer or surety that accepts collateral as security for a bail bond shall comply with all of the following requirements:

1. For a bail bond producer or surety to accept collateral, the person pledging the collateral must have voluntarily pledged it at the time of the bail bond transaction and execution of the written collateral agreement. The intent to pledge collateral to secure the defendant's release must be clearly stated and verified by the signature of the person pledging the collateral.

2. The collateral shall be received and held in the surety's name by the bail bond producer or surety in a fiduciary capacity.

3. The collateral must be reasonable in relation to the face amount of the bond, and the collateral's value must be determined before the collateral agreement is executed.

4. The bail bond producer or surety shall keep and maintain collateral separate and apart from any other funds or assets.

5. It shall be a prohibited act pursuant to R.S. 22:1562 for any bail bond producer or surety to use any collateral for personal benefit or gain, or to fail to return the collateral to the person pledging it in the same condition as received by the bail bond producer or surety.

6. The bail bond producer or surety shall provide the person pledging the collateral a written receipt for the collateral received. The written receipt must include a detailed and specific description of the collateral, the full name of the person pledging the collateral, the full name of the defendant, the date of the bond, the approximate value of any non-cash collateral, and the specific amount of cash or other collateral.

7. If the parties to the collateral agreement subsequently agree to substitute other things of value as collateral, the substitution must be reflected in a new written collateral agreement, and the bail bond producer or surety must issue a new written receipt to the person pledging the substituted collateral.

8. The bail bond producer or surety shall return the collateral to the person who pledged the collateral not more than 30 days after the bail obligation is discharged in accordance with article 331 of the Code of Criminal Procedure.

B. If a forfeiture of the bail bond occurs, the bail bond producer or surety shall provide the person who pledged the collateral 10 days written notice from the date that a judgment of bond forfeiture is signed of the bail bond producer or surety's intent to take possession of the collateral deposit to satisfy the forfeiture. The notice shall be sent by certified mail, return receipt requested, to the last known address of the person who pledged the collateral. If the collateral received by a bail bond producer is in excess of the bail forfeited, the bail bond producer or surety shall return the excess to the person who pledged the collateral within 30 days from the date a judgment of bond forfeiture is satisfied, less any verifiable and appropriate administrative expenses specifically provided for in Section 18715 below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1542, 22:1547, 22:1554, 22:1562, C.Cr.P. art 311, et seq, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2986 (December 2022).

§18715. Deductions from Collateral

A. Only the premium amounts, fees, and expenses authorized pursuant to R.S. 22:1443, or as otherwise permitted in accordance with applicable state law, shall be recoverable by any bail bond producer or surety. No fee or other charge of any nature shall be deducted from the collateral due or charged in association with the storage or keeping of the collateral by the bail bond producer or surety.

B. A documented and itemized list of any such fees or expenses shall be given to the person who pledged the collateral. A copy of such documentation and itemization shall also be available to the Commissioner upon his request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1542, 22:1547, 22:1554, 22:1562, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2987 (December 2022).

§18717. Violations

A. Failure to comply with the provisions of this regulation may be determined by the Commissioner to be a violation of R.S. 22:1562, and the violator shall be subject to penalties pursuant to R.S. 22:1554.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1542, 22:1547, 22:1554, 22:1562, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2987 (December 2022).

§18719. Effective Date

A. This regulation shall become effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1542, 22:1547, 22:1554, 22:1562, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2987 (December

2022).