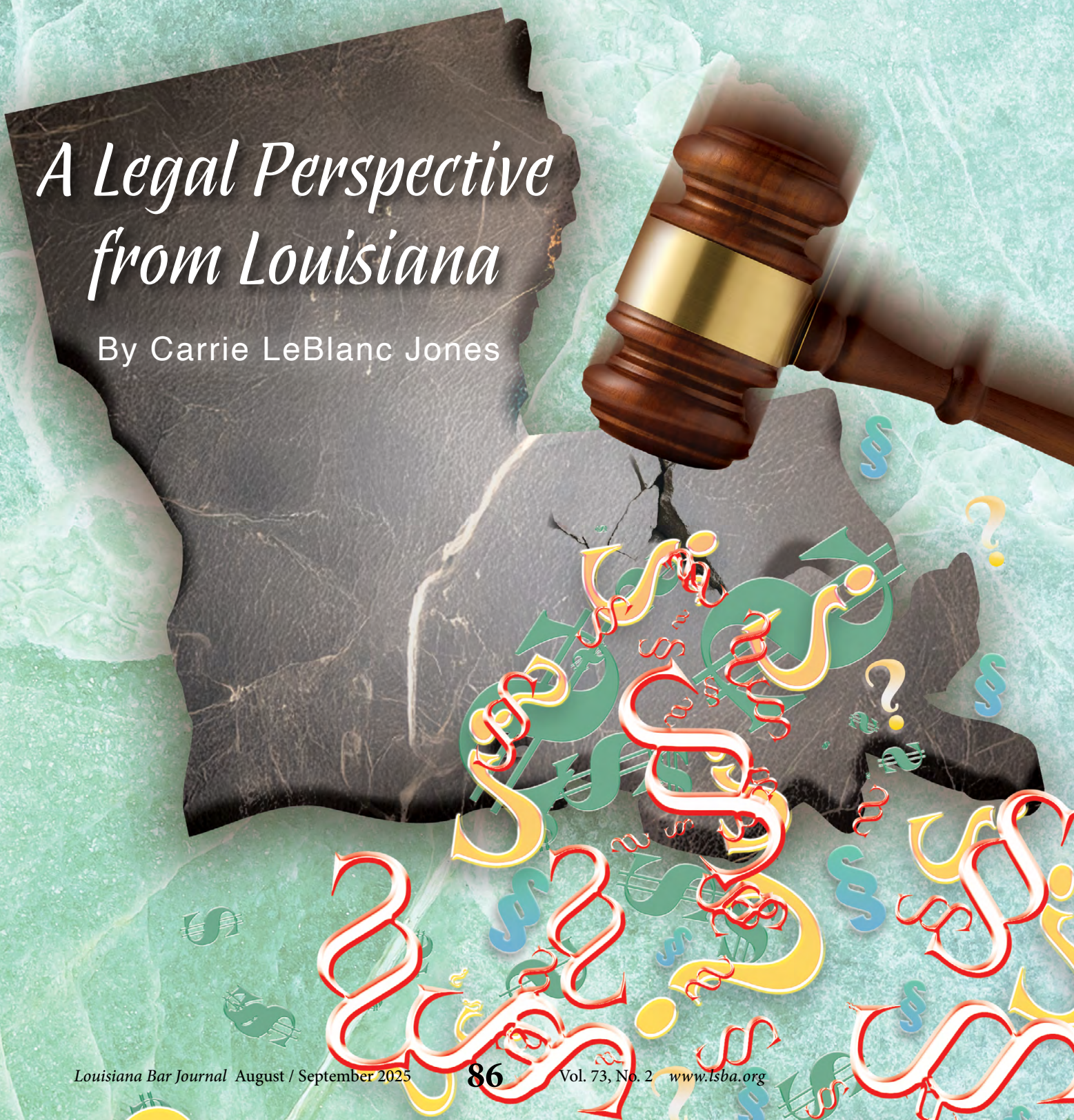
The Role and Regulation of Pharmacy Benefit Managers:

A Legal Perspective from Louisiana

By Carrie LeBlanc Jones



In the face of escalating healthcare and prescription drug costs, Pharmacy Benefit Managers (PBMs) have emerged as one of the most powerful and controversial intermediaries in the U.S. healthcare system. Acting as middlemen between health insurers, drug manufacturers, and pharmacies, PBMs exercise significant authority over which drugs are covered, at what price, and how pharmacies are reimbursed. As scrutiny of PBM practices intensifies nationally, Louisiana has taken steps to regulate the industry, resulting in both legislative reform and high-profile litigation.

PBMs were created to administer pharmacy benefit programs in the 1960s. They functioned as claims processors for insurance companies to help manage prescription drug benefits. The influence of PBMs intensified with the introduction of Medicare Part D in 2006. Over time PBMs morphed from simple processers to vertically integrated powerful entities that negotiate prices with drug manufacturers, determine which drugs are covered under formularies, and set reimbursement rates for pharmacies.

PBMs manage prescription drug benefits for hundreds of millions of Americans. The three largest PBMs – CVS Caremark (part of CVS Health), Express Scripts (part of Cigna), and OptumRx (part of UnitedHealth Group) – control nearly 80% of the market. These PBMs operate using a vertically integrated model that combines insurance, pharmacy services, and PBM functions under one corporate umbrella. The PBMs serve as intermediaries in the pharmaceutical supply chain. Their operations include n**egotiating rebates** with drug manufacturers in exchange for favorable formulary placement, managing formularies by exercising control over the list of drugs covered by insurance plans, and contracting with pharmacies to dispense medications.

PBMs utilize "spread pricing" models, charging a health plan one price but paying the pharmacy a different (usually lower) price. For example, a PBM may charge a health plan $100 for a prescription. Then the PBM pays the pharmacy $70 for the same prescription and keeps the $30 spread. The markup is not reflected in standard reporting, making it difficult to determine how much a health plan is actually paying above cost for the medications.

PBMs also utilize rebates in which drug manufacturers pay rebates to PBMs for favorable formulary placement. In some instances, the rebate is 30-40% of a drug's list price. PBM contracts allow them to keep a portion of the rebate; therefore, the savings are rarely passed onto pharmacy owners, patients, or insurers. Further, PBMs often favor higher-priced brand name drugs for rebates because the calculated percentage of the list price is greater. PBMs are often criticized for prioritizing their profits over patients' ability to access and afford drugs.

The lack of transparency of these operations, particularly in how rebates and reimbursement rates are determined, has raised questions about whether PBMs truly lower drug prices or instead contribute to their inflation. Proponents argue that PBMs lower drug costs by using their bargaining power to negotiate discounts and rebates, enhance patient access through broad pharmacy networks and mail-order options, help manage pharmaceutical spending through tiered formularies and utilization reviews, and provide value to insurers and employers by handling complex drug benefit management efficiently.

There is a growing voice of criticism and concern over PBMs' lack of transparency in pricing and rebates, spread pricing leading to inflated costs for payors, exclusion of lower-cost generics in favor of rebated brand drugs, and conflicts of interest due to vertical integration. Independent pharmacies also complain that PBMs steer patients to their affiliated pharmacies by using unfair reimbursement rates.

Calls for reform are growing louder from both sides of the political aisle. Advocates seek greater transparency in rebate and pricing practices, prohibitions on spread pricing, protections for independent pharmacies, and regulations to ensure that savings are passed on to consumers and payors.

Federal agencies such as the Federal Trade Commission (FTC) have initiated investigations, while Congress has held hearings to explore legislative solutions. While there is bipartisan agreement on the need for PBM reform, there is little agreement on what that reform should look like. The House recently passed a reconciliation bill prohibiting spread pricing in Medicaid and requiring transparency and flat fee payment structures in Medicare Part D. In the absence of true federal reform, several states have stepped in to regulate PBMs.

Louisiana joined a growing national movement to regulate PBMs more aggressively. At the forefront of these efforts is **Act 124 of the 2021 Regular Session**, codified at **La. R.S. 22:1867 et seq.**, which imposed significant oversight and transparency requirements on PBMs operating in the state. The legislation was a response to mounting concerns from independent pharmacists, consumer advocates, and public sector payors about opaque pricing practices, predatory reimbursement rates, and a perceived misalignment of incentives between PBMs and patients. Louisiana's regulatory stance reflects a broader trend toward asserting state-level control despite federal preemption arguments raised by PBMs under ERISA and Medicare Part D frameworks.

In 2024, Louisiana enacted Act 768 of the Regular Session (originally introduced as SB 444 by Senator Katrina Jackson-Andrews, D-Monroe), effective Jan. 1, 2025. Act 768 requires PBMs to reimburse pharmacies no less than their acquisition cost of a covered drug, device, or service. The law applies to pharmacies and pharmacists that do not own more than five shares or 5% interest in a pharmaceutical wholesale group purchasing organization or vendor. The law requires PBMs to provide information to the Louisiana Commissioner of Insurance to resolve reimbursement complaints. In sum, Act 768 protects pharmacies from

being reimbursed by PBMs at a loss and increases transparency by requiring PBMs to proactively provide information to the Department of Insurance.

More recently, Louisiana passed HB 264, Act 474 (2025 Regular Session) by Representative Mike Echols, R-Monroe. Among other things, the PBM Reform Act:

► Prohibits steering of patients to PBM affiliated pharmacies without the patients' consent,

► Creates a stringent definition for "specialty drugs,"

► Requires an acquisition-based reimbursement, including a dispensing fee for local pharmacies and a pathway to challenge the reimbursement,

► Bans all fees charged to pharmacists,

► Bans spread pricing, and

► Prohibits PBMs from retaining rebates.

In sum, the bill requires PBMs to be more transparent about their practices with state regulators and to pass more prescription savings on to consumers.

An attempt to prohibit PBM ownership of pharmacies in Louisiana surfaced in the eleventh hour of the 2025 Regular Session. HB 358, by Representative Dustin Miller, D-Opelousas, started as a relatively benign bill authorizing pharmacy technicians to work remotely; it sailed through the legislative session with minimal attention. However, a Conference Committee amendment on June 11, 2025, took an aggressive stance against PBMs and sought to ban PBMs from owning or operating pharmacies in Louisiana starting in 2027. This prohibition drew a lot of attention to the PBM issue along with fierce industry resistance. CVS responded with a huge lobbying effort that included a mass fear mongering text message to many Louisianians. On June 11, 2025, the Louisiana House of Representatives unanimously voted in favor of the amendment prohibiting PBMs from owning pharmacies in Louisiana in an effort to create guardrails to protect Louisianians against the PBM vertical integration business model. However, the bill died on the Senate floor as the legislative session drew to an end on June 12, 2025.

Governor Landry threatened to call for a special session to address PBM reform; however, in a press conference on June 24, 2025, the governor stated that he was exploring the laws currently in place and whether the issue could be addressed executively.

Additionally, the CVS text message campaign sparked a backlash from elected officials. Governor Landry called the campaign "unethical and manipulative" and asked the state Attorney General to investigate whether CVS had improperly used private patient data to lobby against the legislation. In a press conference on June 24, 2025, Attorney General Liz Murrill announced, "Today, I have filed multiple lawsuits against CVS Health Corp, CaremarkPCS Health, LLC, and their affiliated entities for unfair, deceptive, and unlawful practices that have harmed Louisiana patients and independent pharmacies. I believe CVS used their customers' personal information that was given to them to fill their prescription, to lobby for their own corporate interests against pending legislation in the State Legislature. PBMs are not managing the costs of drugs – they are driving the price up! CVS and other PBMs continue to hide behind various confidentiality clauses to cover up the way they are manipulating drug prices – it's wrong and unlawful. CVS will have to account for its actions."

As the pharmaceutical market becomes increasingly complex and consolidated, understanding the legal and regulatory framework surrounding PBMs is essential. Louisiana has taken important steps toward ensuring transparency and fairness through both legislation and litigation. As reforms continue to unfold, attorneys and policymakers will play a critical role in shaping the future of drug pricing and access in Louisiana and across the nation.

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