

# SENATE BILL REPORT

## SB 6088

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As Reported by Senate Committee On:  
Health & Long Term Care, January 29, 2020

**Title:** An act relating to establishing a prescription drug affordability board.

**Brief Description:** Establishing a prescription drug affordability board.

**Sponsors:** Senators Keiser, Conway, Das, Frockt, Hasegawa, Hunt, Kuderer, Pedersen, Randall, Rolfes, Stanford and Wilson, C.

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/17/20, 1/29/20 [DP-WM, w/oRec].

**Brief Summary of Bill**

- Establishes the prescription drug affordability board (board).
- Requires the board to identify prescription drugs priced above a certain threshold.
- Authorizes the board to conduct cost reviews of drugs and set upper payment limits for state purchasers.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Randall, Vice Chair; Conway, Dhingra, Frockt, Keiser and Van De Wege.

**Minority Report:** That it be referred without recommendation.

Signed by Senator O'Ban, Ranking Member.

**Staff:** Greg Attanasio (786-7410)

**Background:** In 2003 the Legislature created an evidence-based prescription drug program for state agencies purchasing prescription drugs directly or through reimbursement to pharmacies. The program is part of the Washington Prescription Drug Program (WPDP) and uses a preferred drug list (PDL), which is a list of prescription drug classes having gone

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through an evidence-based review process to determine their safety, efficacy, and effectiveness.

Washington contracts with the Oregon Health and Science University Center for Evidence-Based Policy to independently review drug classes. Their recommendations are reviewed by the Pharmacy and Therapeutics Committee, an independent group of pharmacists and physicians, which then makes recommendations regarding the drugs on the PDL.

In 2005, the Legislature directed the Health Care Authority (HCA) to establish a prescription drug purchasing consortium. Also part of the WPDP, the Northwest Prescription Drug Consortium allows state agencies, local governments, businesses, labor organizations, and uninsured consumers to pool their purchasing power to purchase prescription drugs at lower prices. The consortium offers access to retail pharmacy discounts, pharmacy benefit management services, rebate management services, and a prescription discount card for uninsured residents.

Statutory authority allows for drug purchasing cost controls including negotiating discounts with manufacturers, central purchasing, volume contracting, and setting maximum prices to be paid.

**Summary of Bill:** The prescription drug affordability board is established with five members who have expertise in health care economics or clinical medicine appointed by the governor. By June 30, 2021, and yearly thereafter, the board must identify:

- brand name prescription drugs introduced costing \$30,000 or more per year, or course of treatment, or have a price increase of \$3,000 or more in any 12-month period;
- biosimilar products with a price less than 15 percent below the reference brand price; and
- generic drugs costing \$100 or more for a 30-day supply or less that have increased in price by 200 percent or more in the last 12 months.

The board may choose to conduct a cost review of any drug it identifies as meeting the above thresholds. Cost reviews must determine if the drug has led or will lead to excess costs, defined as costs exceeding therapeutic benefit relative to other treatments or are not sustainable to the health care system over a 10-year period. Reviews should consider:

- the price of the drug, including discounts, rebates, and other price concessions;
- cost sharing for patients;
- the dollar value of manufacturer patient assistance programs;
- the price of therapeutic alternatives; and
- any other relevant factors determined by the board.

If the board is unable to make a determination based on the above factors, the board may also consider the manufacturer's research and development costs, direct-to-consumer marketing costs, and gross and net revenue from the most recent year.

The board must establish a process for setting upper payment limits for drugs it determines will lead to excess costs for the state or patients. The payment limits will apply to all state purchasers. When setting payment limits, the board must consider the cost of delivering and administering the drug to patients and any other relevant factors.

The process must allow for suspension of the payment limit if a drug is placed on the Food and Drug Administration's drug shortage list, and the board may suspend the payment limit if there is a drug shortage within Washington. Any entity affected by a board decision may request an appeal in accordance with the Administrative Procedure Act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Residents are facing a crisis on drug affordability. Americans pay the highest prices among all countries. The purpose is to make sure the prices are justifiable and reasonable. Other countries are already doing this type of work and it keeps prices down.

CON: The bill will not lower patient costs because it does not address out of pocket costs. Manufacturers operate patient assistance programs to help with costs. The bill is premature given that the drug transparency bill is not fully implemented. The bill fails to look at all the components of the market. Many patients would not be able to access drugs if the state could not negotiate down to the price cap.

OTHER: Carriers approve of most aspects of the bill, but cannot support price setting policies. It is a good intention but does not help in practice.

**Persons Testifying:** PRO: Senator Karen Keiser, Prime Sponsor; Dr. Sherry Weinberg, Physicians for a National Health Plan; Cathy MacCaul, AARP.

CON: Cliff Webster, Pharmaceutical Research & Manufacturers of America; Brian Warren, Biotechnology Innovation Organization.

OTHER: Chris Bandoli, Association of Washington Healthcare Plans; Mel Sorensen, America's Health Insurance Plans.

**Persons Signed In To Testify But Not Testifying:** No one.