Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

HB 1541

Brief Description: Addressing prescription drug cost transparency.

Sponsors: Representatives Robinson, Johnson, Harris, McBride, Doglio, Wylie, Peterson, Cody, Stonier, Frame, Sawyer, Macri, Sells, Orwall, Jinkins, Senn, Tharinger, Stanford, Riccelli, Fitzgibbon, Ormsby, Gregerson, Hudgins, Ortiz-Self, Ryu, Farrell, Tarleton, Pollet, Clibborn, Fey, Kilduff, Reeves, Kagi, Chapman, Pellicciotti, Bergquist, Goodman, Lovick and Slatter.

Brief Summary of Bill

- Requires issuers and drug manufacturers to report certain prescription drug pricing data to a data organization contracted by the Office of Financial Management (OFM).
- Requires the data organization to summarize the prescription drug pricing data and provide reports to the Legislature and the OFM.

Hearing Date: 2/1/17

Staff: Alexa Silver (786-7190).

Background:

Prescription Drug Purchasing Consortium.
Pursuant to statute, the Health Care Authority (HCA) established a prescription drug purchasing consortium. State-purchased health care programs must purchase prescription drugs through the consortium, and local governments, private entities, labor organizations, and uninsured and underinsured residents may voluntarily participate in the consortium. In 2006 Washington and Oregon formed the Northwest Prescription Drug Consortium (Northwest Consortium) to expand their purchasing power. The Northwest Consortium offers access to retail pharmacy discounts, pharmacy benefit management services, rebate management services, and a prescription discount card for uninsured residents.

All-Payer Health Care Claims Database.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The OFM is directed by statute to establish an all-payer health care claims database to support transparent public reporting of health care information. Last July the OFM selected a lead organization and data vendor to coordinate and manage the database. The database will collect claims data from the Medicaid program, Public Employees' Benefits Board programs, all health carriers, third-party administrators, and Department of Labor and Industries programs. Claim files submitted to the database will include pharmacy claims.

State Agency Work on Prescription Drug Costs.
Last year, two agencies reviewed issues related to prescription drug costs. The Department of Health convened a task force to evaluate factors contributing to out-of-pocket costs for patients, including prescription drug cost trends. The HCA and the Office of Financial Management (OFM) prepared a report on prescription drug costs and potential purchasing strategies at the request of legislators. The report describes increases in state agency spending on prescription drugs in recent years, current cost drivers, strategies to slow the rate of prescription drug spending, and policy options.

Summary of Bill:

The Office of Financial Management (OFM) must use a competitive procurement process to select a data organization to collect, verify, and summarize prescription drug pricing data provided by issuers and drug manufacturers. "Prescription drugs" include generic, brand name, and specialty drugs, as well as biological products.

Issuer Data.
By March 1st of each year, an issuer must submit the following prescription drug cost and utilization data for the previous calendar year to the data organization:

- the 25 prescription drugs most frequently prescribed by in-network providers;
- the 25 costliest prescription drugs by total health plan spending, and the issuer's total spend for each of these prescription drugs;
- the 25 drugs with the highest year-over-year increase in prescription drug spending, and the percentages of the increases for each of these drugs; and
- a summary analysis of the impact of prescription drug costs on health plan premiums or on spending per medical assistance enrollee, disaggregated by the state Medicaid program, Public Employees' Benefits Board programs, and the individual, small group, and large group markets.

Employer-sponsored self-funded health plans and Taft-Hartley trust health plans may voluntarily provide this data.

Manufacturer Data.
Beginning October 1, 2017, drug manufacturers that sell prescription drugs in or into Washington must submit the following data regarding each "covered drug":

- the itemized cost for production and sales, including annual manufacturing costs, annual marketing and advertising costs, total research and development costs, total costs of clinical trials and regulation, and total cost for acquisition for the drug;
- the drug's pricing history in the United States and Canada for the previous five years. The drug's pricing history in Canada must include the manufacturer's price for the drug to

wholesalers and direct purchasers in Canada, excluding any discounts, rebates, or reductions in price, as published in prescription drug pricing publications;
- the total financial assistance given by the manufacturer through assistance programs, rebates, and coupons;
- the manufacturer's total profit attributable to the covered drug; and
- a justification of the introductory price level or qualifying price increase for a covered drug.

The manufacturer must report the data no later than 60 days in advance of a qualifying price increase or introduction of a drug to the market. The OFM must make the reported data publicly available on its website.

A "covered drug" is a prescription drug that: (1) a manufacturer intends to introduce at a wholesale acquisition cost of $10,000 or more for a course of treatment or 12-month period, whichever is longer; (2) increases in price by 10 percent or $10,000, whichever is less, over a 12-month period; or (3) increases in price by 25 percent or $25,000, whichever is less, over a 36-month period. "Wholesale acquisition cost" and "price" mean the manufacturer's list price for the drug to wholesalers or direct purchasers in the United States, excluding discounts, rebates, or reductions in price, for the most recent month for which the information is available, as reported in wholesale price guides or other publications of prescription drug pricing.

Data Organization Reports.
The data organization contracted by the OFM must compile the data submitted by issuers and manufacturers and prepare an annual report summarizing the data. The report must:
- identify overall spending on prescription drugs and prescription drug spending by issuer;
- identify the 25 most frequently prescribed prescription drugs;
- identify the 25 costliest prescription drugs, disaggregated by program or market segment;
- indicate, for the most frequently prescribed and costliest drugs, which were included in a manufacturer's report to the data organization;
- identify the 25 prescription drugs with the greatest price increases during the previous calendar year;
- identify the minimum, maximum, and average price increases for the prescription drugs identified by issuers and manufacturers, expressed as a percentage;
- summarize the following data reported by manufacturers: the manufacturer name, prescription drug name, price increase or introduced price, pricing history in Canada, cost for acquisition, and total profit attributable to the drug; and
- demonstrate the impact of prescription drug costs on health insurance premiums, both overall and separately by program or market segment.

By November 15, 2018, and annually thereafter, the data organization must provide the report to the OFM and the Joint Select Committee on Health Care Oversight (Committee). The OFM must post the report on its website. Within three months of receiving the report, the Committee must hold a public meeting to receive a briefing from the data organization and to consider the reasons for changes in rates, benefits, and cost-sharing in the health insurance market.

Enforcement.
The OFM may assess a fine of up to $1000 per day if an issuer or manufacturer fails to comply with these requirements. Assessment of a fine is subject to review under the Administrative

Procedures Act. Fines must be deposited in the Medicaid Fraud Penalty Account. The OFM may adopt rules necessary to implement the requirements of the bill.

Appropriation: None.

Fiscal Note: Requested on January 23, 2017.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.