SENATE BILL REPORT
2SHB 1541

As of March 27, 2017

Title: An act relating to prescription drug cost transparency.

Brief Description: Addressing prescription drug cost transparency.

Sponsors: House Committee on Appropriations (originally sponsored by 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 History: Passed House: 3/06/17, 52-46.
Committee Activity: Health Care: 3/27/17.

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.

SENATE COMMITTEE ON HEALTH CARE

Staff: Mich'l Needham (786-7442)

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.

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.

All-Payer Health Care Claims Database. 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, 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 taskforce to evaluate factors contributing to out-of-pocket costs for patients, including prescription drug cost trends. The HCA and the 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: 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, and the issuer's total spending for these drugs;
- the 25 costliest prescription drugs by total health plan spending, and the issuer's total spending for each of these 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;
- enrollee spending on prescription drugs; and
- a summary analysis of the impact of prescription drug costs, as compared to other health care 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 length of time the drug has been on the market, and whether the drug is generic or brand name;
- the drug's pricing history in the United States for the previous five years;
- the total financial assistance given by the manufacturer through assistance programs, rebates, and coupons; and
- an economic justification of the price increase.

The manufacturer must report the data at least 60 days in advance of a qualifying price increase. OFM must make the reported data publicly available on its website.

A covered drug is a prescription drug that increases in price by: (1) 10 percent or $10,000, whichever is less, over a 12-month period; or (2) 25 percent or $25,000, whichever is less, over a 36-month period. Price means 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 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 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 certain data reported by manufacturers; and
- demonstrate the impact of prescription drug costs, as compared to other health care 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 OFM and the Joint Select Committee on Health Care Oversight (Committee). 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 consider the reasons for changes in rates, benefits, and cost-sharing in the health insurance market.

Enforcement. OFM may assess a fine of up to $1,000 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. OFM may adopt rules necessary to implement the requirements of the bill.

Health Care Authority Report. By November 15, 2018, the HCA must provide the Legislature with an update regarding its review of, and any efforts to implement, value-based purchasing and return on investment pricing strategies for prescription drugs. HCA must also provide any recommendations for improving transparency with respect to comparing drug prices with value metrics.

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. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony: PRO: Affordability of prescription drugs is a primary issue. The prescription drugs are outpacing all other medical inflation and fast approaching the share of premium costs that inpatient hospital costs represent. Prescription drug costs have increased at 27 percent, and specialty spending has increased over 60 percent. The Senate budget indicated there is a real interest in focusing on prescription drug costs and we believe this is a study bill that will provide data for decision makers. We believe transparency is a critical step to help lower the cost of drugs. This will help tell us what we should know about the price of prescriptions, and as a recent poll showed, lowering prescription drug costs is among the top priorities of consumers. Prescription drug costs are a national priority for carriers. The rapid increases in prescription drug costs are on the fastest slope of increase, approaching in-patient hospital costs.

CON: There are many holes in pricing transparency in the drug supply chain. There are many other participants in the drug supply chain and this focuses on only one area. Some prescription drug costs have been reduced over time, as products become generics or as competition lowers the costs. We believe the focus should be on the out-of-pocket costs for patients not the pricing by manufacturer. Patients don't pay manufacturers, they pay their insurance plan and their cost-sharing varies by plan. The patient out-of-pocket costs taskforce had a broader focus and different strategies. As a trade association, we do not support requiring any manufacturer to reveal proprietary business practices. Creating another database is problematic. We believe there will be federal action on drug pricing and the state should pause while that develops.

Persons Testifying: PRO: Katharine Weiss, Washington State Labor Council, AFL-CIO; Scott Plack, Kaiser Permanente; David Knutson, Association of Washington Health Plans; Mel Sorensen, America's Health Insurance Plans.

CON: Jeff Gombosky, Pharmaceutical Research and Manufacturers of America; Sheri Nelson, Assoc of WA Business; Brian Warren, BIO (Biotechnology Innovation Organization); Bill Clarke, BIO (Biotechnology Innovation Organization).

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