

HOUSE BILL REPORT

HB 2710

As Passed House:
February 17, 2020

Title: An act relating to modifying the uses, disclosure, and requirement dates of prescription drug price transparency data.

Brief Description: Modifying the uses, disclosure, and requirement dates of prescription drug price transparency data.

Sponsors: Representatives Robinson, Tarleton, Cody, Tharinger and Ormsby.

Brief History:

Committee Activity:

Health Care & Wellness: 1/29/20, 2/4/20 [DP].

Floor Activity:

Passed House: 2/17/20, 56-42.

Brief Summary of Bill

- Modifies reporting timelines of prescription drug price data for health carriers, drug manufacturers, pharmacy benefit managers, and pharmacy service administration organizations.
- Allows the Health Care Authority to publish certain price increase data submitted by prescription drug manufacturers.
- Allows the Office of the Governor, the Office of the Attorney General, and legislative committees to obtain submitted prescription drug price data through a nondisclosure agreement.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 9 members: Representatives Cody, Chair; Macri, Vice Chair; Chopp, Davis, Riccelli, Robinson, Stonier, Thai and Tharinger.

Minority Report: Do not pass. Signed by 4 members: Representatives Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; DeBolt and Maycumber.

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.

Minority Report: Without recommendation. Signed by 2 members: Representatives Chambers and Harris.

Staff: Kim Weidenaar (786-7120).

Background:

In 2019 enacted legislation required health carriers, prescription drug manufacturers, pharmacy benefit managers (PBMs), and pharmacy service administration organizations (PSAOs) to report certain drug pricing information to the Health Care Authority (HCA), which the HCA would then use to publish an annual report. Currently, by March 1 of each year, a PBM must provide the HCA with information from the previous calendar year regarding all drug discounts, negotiated prices, reimbursements, terms, and fees. Beginning October 1, 2019, and yearly thereafter, health carriers, prescription drug manufacturers, and PSAOs must provide the HCA with certain information regarding the costs, expenses, rebates, and increases of prescription drugs. In September 2019, the HCA announced that drug manufacturers and PBMs were not expected to submit data in 2019 and that no fines would be issued.

Beginning October 1, 2019, a drug manufacturer must notify the HCA of a qualifying price increase of a covered drug at least 60 days prior to the planned effective date of the increase for drugs. If 60 days' notice is not possible for a price increase of a generic drug, the notice should be made as soon as the increase is known. By December 1, 2020, the HCA must provide recommendations on how to provide advance notice of price increases to purchasers consistent with state and federal law.

The HCA must compile the information collected from health carriers, PBMs, drug manufacturers, and PSAOs and prepare an annual report for the Legislature demonstrating the overall impact of drug costs on health care premiums. Beginning January 1, 2021, the HCA must publish the report annually on its website. The data in the report must be aggregated and not reveal information specific to individual health carriers, PBMs, PSAOs, prescription drugs, classes of prescription drugs, or manufacturers. The data collected is not subject to public disclosure. Upon the request of a legislator, the HCA must provide all data submitted under the act and any analysis prepared by the HCA. Any information provided must be kept confidential within the Legislature and may not be publicly released.

Summary of Bill:

Reporting and notice requirement timelines for health carriers, drug manufacturers, and PSAOs are moved back to October 1, 2020. Reporting requirements for PBMs begin March 1, 2021.

The HCA may make qualifying price increase data submitted by drug manufacturers publicly available on the HCA's website.

The data in the HCA's report must be aggregated and not reveal information specific to individual health carriers, PBMs, PSAOs, or manufacturers, except in the case of single

source drugs. The data received may only be used for enumerated and statutorily authorized purposes.

Upon the request of the Office of the Governor, the Office of the Attorney General, or a committee or subcommittee of the Legislature with jurisdiction over matters relating to drug transparency, the HCA must provide all submitted data and any analysis prepared by the HCA. Any information provided must be kept confidential and may not be publicly released. Recipients of this data must follow all rules adopted by the HCA regarding appropriate data use and protection and sign a nondisclosure agreement that includes acknowledgments that the recipient is solely responsible for any liability arising from misuse of the data, that the recipient does not have any conflicts under the Ethics in Public Service Act that would prevent them from accessing or using the data, and that any violations of the nondisclosure agreement may result in losing the right to access or use the data.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) As House Bill 1224 was negotiated at the end of session last year, some mistakes were made which made it difficult for the HCA to implement the bill. This bill cleans up those errors. This new language gives the HCA more flexibility, allows the HCA to post advance notice of price increases, and to report on the impacts of specific drugs on insurance premiums. There was a lot of work over the interim to look at the bill that passed last year to see what needed amending. This bill is very important and fixes everything that needed to be fixed. The HCA is on track to meet the new October 2020 deadline.

This bill provides consumers with advance notice of price increases. Drug price transparency legislation adds scrutiny to encourage drug manufacturers to think about setting high prices and increasing prices. So far there are 12 states that have passed drug transparency laws and Washington could be lucky 13. These efforts are an important building block towards lower prices.

(Opposed) The issue of providing advanced notice of price increases is currently being litigated in California, Nevada, and Oregon. This information can lead to signaling. The Federal Trade Commission has noted that signaling can have an adverse impact on the price. Other manufacturers could take advantage of this advance notice.

Persons Testifying: (In support) Representative Robinson, prime sponsor; Joanna Grist, AARP; Judy Zerzan, Health Care Authority; Chris Bandoli, Association of Washington Healthcare Plans; and Michael Temple, Pharmaceutical Care Management Association.

(Opposed) Jeff Gombosky, Pharmaceutical Research and Manufacturers of America.

Persons Signed In To Testify But Not Testifying: None.