SENATE BILL REPORT
SB 5586

As of February 16, 2017

Title: An act relating to prescription drug cost transparency.

Brief Description: Addressing prescription drug cost transparency.

Sponsors: Senators Ranker, Rivers, Kuderer, Cleveland, Miloscia, Mullet, Saldaña, Keiser, Conway and Hasegawa.

Brief History:
Committee Activity: Health Care: 2/07/17.

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; 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. 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

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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. HCA and 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 insurance carrier or 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.

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 $10,000 or 10 percent, whichever is less, over a 12-month period; or (3) increases in price by $25,000 or 25 percent, 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 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 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 to 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.

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: The recent epi-pen situation provided an example of the dramatic price increases we see with pharmaceuticals. Drug prices impact our state budget directly with millions of dollars in prescription costs alone. The dramatic impact on the state budget and on household budgets warrants a look at the pricing data. We believe there should be transparency in the drug pricing. The increases in drug costs drive significant increases in health care costs. Our data shows the increased cost is driven by changes in drug pricing not utilization. The first step to controlling drug costs is transparency. Hold these companies accountable and demand information on these huge price increases we see. This bill brings much needed transparency to the complex health care system. There are no affordable options for many drugs and Americans want information on drug pricing. A recent Wall Street Journal article showed employers are spending 19 percent of health care spending on prescription drugs, which is nearing the expense for inpatient hospital costs. While specialty drugs represent about 1 percent of the services, they represent 35 percent of the trend in premiums. Increasing health care costs are largely attributed to rising prescription drug costs. The prescription costs are the main driver behind premium increases.

CON: Manufacturers are only one part of the pharmacy supply chain. The manufacturer data is proprietary information and should not be available to business competitors. Research and development costs cannot be isolated to a single drug, and the costs and development are not linear. This bill could have an undue influence on small companies working on research and development. A recent Congressional Budget Office study suggests that for every dollar spend on prescriptions, other health care expenses are reduced. This bill is focusing only on at the top of the pyramid, but the base of the pyramid is where it starts. It is impossible to separate some of these expenses. While our committee looks forward to controlling rising health care costs, this bill misses the mark. It follows the Vermont model and violates proprietary information. Action should be at the federal level.

Persons Testifying: PRO: Senator Kevin Ranker, Prime Sponsor; Chris Cable, Group Health; Charles Johnson, Community Psychiatric Clinic/ SEIU 1199NW; Katharine Weiss, Washington State Labor Council, AFL-CIO; Mel Sorensen, AHIP; Lonnie Johns-Brown, Office of the Insurance Commissioner.

CON: Jeff Gombosky, Pharmaceutical Research and Manufacturers of America; Melissa Johnson, Life Science Washington; Bill Clarke, BIO (Biotechnology Innovation Organization); Sheri Nelson, Assoc. of WA Business.

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