SENATE BILL REPORT
SB 5995

As of January 16, 2018

Title: An act relating to protecting consumers and purchasers from excessive increases in generic prescription drug prices.

Brief Description: Protecting consumers and purchasers from excessive increases in generic prescription drug prices.

Sponsors: Senators Keiser, Pedersen, Rolfes, Van De Wege, Liias, Hunt, Conway, Chase, Saldaña, Kuderer and Hasegawa.

Brief History:
Committee Activity: Health & Long Term Care: 1/16/18.

Brief Summary of Bill

- Establishes a price increase notification form that must be submitted to the Office of the Insurance Commissioner (OIC) and the Health Care Authority (HCA) by drug manufacturers when the cost of their generic drug increases by 100 percent or greater.
- Permits health plans to require prior authorization for any drugs that have price increase notification forms submitted.
- Authorizes HCA's prescription drug program to determine if the price increase is excessive and refer matters to the attorney general.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Staff: LeighBeth Merrick (786-7445)

Background: HCA's Prescription Drug Program (PDP) produces a preferred drug list which is used by state agencies that purchase prescription drugs directly or through reimbursement to pharmacies. The prescription drugs and drug classes that are listed have undergone an evidence-based review of their safety, efficacy, and effectiveness.

Health plans may require health care providers to receive prior authorization for certain items and services before delivering the item or service to the client. Health plans use prior

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authorization to determine if the service or item is a benefit and meets the requirements for medical necessity, clinical appropriateness, level of care, or effectiveness.

The Consumer Protection Act (CPA) authorizes the Attorney General's Office to take action against unfair methods of competition and unfair or deceptive practices in the conduct of any trade or commerce.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): The PDP must produce a price increase notification form (form) for drug manufacturers to use when the price of their generic drug increases by 100 percent or greater. Drug manufacturers must submit the form to the OIC and PDP at least 30-days before the price increase takes effect. The form does not need to be submitted for drugs that are priced less than $25 for a 30-day supply.

In the form, the drug manufacturer must disclose the existing drug price, the new price, any material changes that resulted in the price increase, if the drug is a sole source drug, and changes to the drug manufacturer's corporate structure within the last two years.

Once the PDP and OIC receive the completed form, they must notify all of the health plans operating in Washington State that they may require prior authorization for the drug. The prior authorization requirement may go into effect on the date of the price increase and continue until the PDP determines if the price increase is excessive. If the PDP determines that the price increase is not excessive, then the option for requiring prior authorization ends. If the PDP determines that the price increase is excessive, then the option for requiring prior authorization remains until the PDP determines otherwise or the drug manufacturer successfully appeals the decision.

The PDP determines if the price increase is excessive based on the information provided in the form as well as cost of the drug compared to equivalent drugs, the Food and Drug Administration's assessment of the drug, known market factors contributing to the price increase, and changes in the prevalence or severity of the conditions the drug is approved to treat.

Within 30 days of receiving an excessive price increase determination by the PDP, the drug manufacturer may file a notice with the Office of Administrative Hearings. If the drug manufacturer does not prevail in the appeal or does not file an appeal, the PDP must refer the matter to the Attorney General's Office to take action under the CPA.

Appropriation: None.

Fiscal Note: Requested on January 8, 2018

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 on Proposed Substitute: PRO: Other states are implementing similar measures. Increases to generic drug price prices are purely financially driven and have little to do with health care delivery.

CON: Generic drugs represent 89 percent of prescription drugs dispensed but only 26 percent of the drug spending. Generic drugs save all payers and this bill does not address the real source of prescription spending.

OTHER: The prior authorization piece is counter to the intent of the bill. Prior authorization is highly burdensome for physicians but doesn't have any impact to the drug manufacturer. We appreciate that the pre-authorization section is optional and not a requirement.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor.

CON: Chris Bowlin, Association for Accessible Medicine.

OTHER: Lonnie Johns-Brown, Office of the Insurance Commissioner; Katie Kolan, Washington State Medical Association; Meg Jones, Association of Washington Healthcare Plans.

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