
SENATE BILL 5586

State of Washington

65th Legislature

2017 Regular Session

By Senators Ranker, Rivers, Kuderer, Cleveland, Miloscia, Mullet, Saldaña, Keiser, Conway, and Hasegawa

Read first time 01/30/17. Referred to Committee on Health Care.

1 AN ACT Relating to prescription drug cost transparency; adding a
2 new chapter to Title 43 RCW; creating a new section; and prescribing
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) The cost of prescription drugs has been increasing
7 dramatically, and this increase impacts consumer access to
8 prescription drugs.

9 (2) Containing health care costs requires containing prescription
10 drug costs.

11 (3) To contain prescription drug costs, it is essential to
12 understand the drivers and impacts of those costs, as transparency is
13 typically the first step toward cost containment and greater consumer
14 access to needed prescription drugs.

15 NEW SECTION. **Sec. 2.** (1) "Covered manufacturer" means a person,
16 corporation, or other entity engaged in the manufacture of
17 prescription drugs sold in or into Washington state.

18 (2) "Data organization" means an organization selected by the
19 office under section 3 of this act to collect, verify, and summarize
20 prescription drug pricing data.

1 (3) "Health care provider," "health plan," and "issuer" mean the
2 same as in RCW 48.43.005.

3 (4) "Office" means the office of financial management.

4 (5) "Pharmacy benefit manager" means the same as in RCW
5 19.340.010.

6 (6) "Prescription drug" means a drug regulated under chapter
7 69.41 or 69.50 RCW. It includes generic, brand name, and specialty
8 drugs, as well as biological products.

9 (7) "Wholesale acquisition cost" or "price" mean, with respect to
10 a prescription drug, the manufacturer's list price for the drug to
11 wholesalers or direct purchasers in the United States, excluding any
12 discounts, rebates, or reductions in price, for the most recent month
13 for which the information is available, as reported in wholesale
14 price guides or other publications of prescription drug pricing.

15 NEW SECTION. **Sec. 3.** The office shall use a competitive
16 procurement process in accordance with chapter 39.26 RCW to select a
17 data organization to collect, verify, and summarize the prescription
18 drug pricing data provided by issuers and manufacturers under
19 sections 4 and 5 of this act.

20 NEW SECTION. **Sec. 4.** (1) By March 1st of each year, an issuer
21 must submit to the data organization the following prescription drug
22 cost and utilization data for the previous calendar year:

23 (a) The twenty-five prescription drugs most frequently prescribed
24 by health care providers participating in the issuer's network;

25 (b) The twenty-five costliest prescription drugs by total health
26 plan spending, and the issuer's total spend for each of these
27 prescription drugs;

28 (c) The twenty-five drugs with the highest year-over-year
29 increase in prescription drug spending, and the percentages of the
30 increases for each of these prescription drugs; and

31 (d) A summary analysis of the impact of prescription drug costs
32 on health plan premiums or on spending per medical assistance
33 enrollee under chapter 74.09 RCW, as applicable, disaggregated by the
34 state medicaid program, public employees' benefits board programs,
35 and the individual, small group, and large group markets.

36 (2) An employer-sponsored self-funded health plan or a Taft-
37 Hartley trust health plan may voluntarily provide the data described
38 in subsection (1) of this section to the data organization.

1 (3) The office may assess a fine of up to one thousand dollars
2 per day for failure to comply with the requirements of this section.
3 The assessment of a fine under this subsection is subject to review
4 under the administrative procedure act, chapter 34.05 RCW. Fines
5 collected under this section must be deposited in the medicaid fraud
6 penalty account created in RCW 74.09.215.

7 NEW SECTION. **Sec. 5.** (1) For purposes of this section:

8 (a) "Covered drug" means any prescription drug that: (i) A
9 covered manufacturer intends to introduce to the market at a
10 wholesale acquisition cost of ten thousand dollars or more for a
11 course of treatment or a twelve-month period, whichever period is
12 longer; (ii) increases in price by ten percent or ten thousand
13 dollars, whichever is less, over a twelve-month period; or (iii)
14 increases in price by twenty-five percent or twenty-five thousand
15 dollars, whichever is less, over a thirty-six-month period.

16 (b) "Qualifying price increase" means a price increase described
17 in (a)(ii) or (iii) of this subsection.

18 (2) Beginning October 1, 2017, a covered manufacturer must report
19 the following data for each covered drug to the data organization:

20 (a) The itemized cost for production and sales, including annual
21 manufacturing costs, annual marketing and advertising costs, total
22 research and development costs, total costs of clinical trials and
23 regulation, and total cost for acquisition for the drug;

24 (b) The covered drug's pricing history in the United States and
25 Canada for the previous five years, if applicable. The covered drug's
26 pricing history in Canada must include, if applicable, the
27 manufacturer's price for the drug to wholesalers or direct purchasers
28 in Canada, excluding any discounts, rebates, or reductions in price,
29 as published in prescription drug pricing publications;

30 (c) The total financial assistance given by the manufacturer
31 through assistance programs, rebates, and coupons;

32 (d) The covered manufacturer's total profit attributable to the
33 covered drug; and

34 (e) A justification of the price level for a covered drug
35 identified under subsection (1)(a)(i) of this section or a price
36 increase for a covered drug identified under subsection (1)(a)(ii) or
37 (iii) of this section.

38 (3) A covered manufacturer must report the information required
39 by subsection (2) of this section no later than sixty days in advance

1 of: (a) The introduction of a covered drug, as defined in subsection
2 (1)(a)(i) of this section, to the market; or (b) a qualifying price
3 increase for a covered drug, as defined in subsection (1)(a)(ii) or
4 (iii) of this section.

5 (4) The data submitted under this section must be made publicly
6 available on the office's web site.

7 (5) The office may assess a fine of up to one thousand dollars
8 per day for failure to comply with the requirements of this section.
9 The assessment of a fine under this subsection is subject to review
10 under the administrative procedure act, chapter 34.05 RCW. Fines
11 collected under this section must be deposited in the medicaid fraud
12 penalty account created in RCW 74.09.215.

13 NEW SECTION. **Sec. 6.** The data organization must compile the
14 data submitted by issuers and manufacturers under sections 4 and 5 of
15 this act and prepare an annual report for the public and the
16 legislature summarizing the data.

17 (1) The report must:

18 (a) Identify overall spending on prescription drugs and
19 prescription drug spending by issuer;

20 (b) Identify the twenty-five most frequently prescribed
21 prescription drugs;

22 (c) Identify the twenty-five costliest prescription drugs, as
23 reported by issuers under section 4 of this act, with the information
24 disaggregated by the state medicaid program, public employees'
25 benefits board programs, and the individual, small group, and large
26 group markets;

27 (d) Indicate, for the prescription drugs identified under
28 subsections (1)(b) and (c) of this section, which of those
29 prescription drugs were reported to the data organization under
30 section 5 of this act;

31 (e) Identify the twenty-five prescription drugs with the greatest
32 price increases during the previous calendar year;

33 (f) Identify the minimum, maximum, and average price increases
34 for the prescription drugs identified under sections 4 and 5 of this
35 act, expressed as a percentage;

36 (g) Summarize the following data reported under section 5 of this
37 act: The manufacturer name, prescription drug name, price increase or
38 introduced price, pricing history in Canada, cost for acquisition of

1 the prescription drug, and total profit attributable to the
2 prescription drug; and

3 (h) Demonstrate the impact of prescription drug costs on health
4 insurance premiums, both overall and separately for the state
5 medicaid program, public employees' benefits board programs, and the
6 individual, small group, and large group markets.

7 (2) By November 15, 2018, and November 15th annually thereafter,
8 the data organization must provide the report to the office and the
9 joint select committee on health care oversight established in RCW
10 44.82.010. The office must also post the report on its web site.
11 Within three months of receiving the data organization's report, the
12 joint select committee on health care oversight must hold a public
13 meeting to receive a briefing from the data organization and to
14 consider the reasons for changes in rates, benefits, and cost-sharing
15 in the health insurance market. Following the expiration of the joint
16 select committee, the health care committees of the legislature must
17 receive the report from the data organization and hold the required
18 public meeting.

19 NEW SECTION. **Sec. 7.** The office may adopt any rules necessary
20 to implement the requirements of this chapter.

21 NEW SECTION. **Sec. 8.** Sections 2 through 7 of this act
22 constitute a new chapter in Title 43 RCW.

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