

FINAL BILL REPORT

SSB 6088

FULL VETO

Synopsis as Enacted

Brief Description: Establishing a prescription drug affordability board.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Conway, Das, Frockt, Hasegawa, Hunt, Kuderer, Pedersen, Randall, Rolfes, Stanford and Wilson, C.).

Senate Committee on Health & Long Term Care
Senate Committee on Ways & Means
House Committee on Health Care & Wellness
House Committee on Appropriations

Background: In 2003 the Legislature created an evidence-based prescription drug program for state agencies purchasing prescription drugs directly or through reimbursement to pharmacies. The program is part of the Washington Prescription Drug Program (WPDP) and uses a preferred drug list (PDL), which is a list of prescription drug classes having gone through an evidence-based review process to determine their safety, efficacy, and effectiveness.

Washington contracts with the Oregon Health and Science University Center for Evidence-Based Policy to independently review drug classes. Their recommendations are reviewed by the Pharmacy and Therapeutics Committee, an independent group of pharmacists and physicians, which then makes recommendations regarding the drugs on the PDL.

In 2005, the Legislature directed the Health Care Authority (HCA) to establish a prescription drug purchasing consortium. Also part of the WPDP, the Northwest Prescription Drug Consortium allows state agencies, local governments, businesses, labor organizations, and uninsured consumers to pool their purchasing power to purchase prescription drugs at lower prices. The consortium offers access to retail pharmacy discounts, pharmacy benefit management services, rebate management services, and a prescription discount card for uninsured residents.

Statutory authority allows for drug purchasing cost controls including negotiating discounts with manufacturers, central purchasing, volume contracting, and setting maximum prices to be paid.

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.

Summary: Subject to appropriation, the Prescription Drug Affordability Board (Board) is established. The Board consists of five members appointed by the Governor who have expertise in health care economics or clinical medicine. The Board may establish advisory groups of relevant stakeholders. HCA must provide administrative support to the Board and any advisory groups.

The Board must coordinate with and complement the work of HCA, other boards, and work groups related to prescription drug costs and emerging therapies. By May 1, 2021, the Board must provide the Health Care Cost Transparency Board with recommendations for the means and methodologies to establish a cost growth benchmark related to prescription drugs.

By June 30, 2021, and yearly thereafter, the Board must identify:

- brand name prescription drug and biologic products that:
 - are introduced to the market with a wholesale acquisition cost (WAC) of \$30,000 or more per year or course of treatment lasting less than a year; or
 - have a price increase of \$2,000 or more in any 12-month period;
- biosimilar products with a launch WAC that is not at least 15 percent lower than the reference brand biologic product at the time the biosimilar is launched;
- generic drugs with a WAC of \$100 or more for a 30-day supply or less that has increased in price by 200 percent or more in the preceding 12 months;
- any prescription drug or biological products exceeding the relevant benchmark established by the Health Care Cost Transparency Board; and
- any other prescription drug product the Board determines may create excess cost for Washington and patients.

The Board may choose to conduct a cost review of any drug it identifies as meeting the above thresholds. The Board must determine whether the manufacturer's pricing of the prescription drug or biological product substantially exceeds the proposed value of the prescription drug or biological product.

During a review the Board may consider:

- relevant factors contributing to the price paid by Washington for the drug, such as WAC, discounts, and rebates;
- the average patient co-pay or cost sharing for the drug;
- the dollar value of the drug manufacturer's patient assistance programs;
- the price of therapeutic alternatives;
- the amount of public funding received or provided for the development of the drug;
- the manufacturer's research and development costs;
- the portion of direct-to-consumer marketing costs eligible for favorable federal tax treatment;
- the manufacturer's gross and net revenues; and
- any additional factors identified by the Board.

Any information collected by the Board for review purposes is not subject to public disclosure. If, after the cost review, the Board determines the manufacturer's pricing of the prescription drug or biological product does not substantially exceed the proposed value of the prescription drug or biological product, the Board must notify the manufacturer of its determination and must evaluate other ways to mitigate the cost in order to improve patient

access. The Board may engage with the manufacturer and other stakeholders to explore options for mitigating the cost and may issue recommendations on ways to reduce the cost and improve patient access. Recommendations must be posted on HCA's website.

If, after the cost review, the Board determines the manufacturer's pricing of the prescription drug or biological product substantially exceeds the proposed value of the prescription drug or biological product, the Board must request the manufacturer provide further information related to the pricing of the prescription drug or biological product. No later than 90 days after receiving the additional information from the manufacturer, the Board must confidentially issue a determination on whether the manufacturer's pricing still substantially exceeds the Board's proposed value of the prescription drug or biological product and request the manufacturer enter into negotiations to reduce the cost of the prescription drug or biological product. If the manufacturer refuses to enter into negotiations, HCA must post the Board's proposed value on its website.

The data in HCA's prescription drug price transparency report required under chapter 43.71C RCW must be aggregated and not reveal information specific to individual health carriers, pharmacy benefit managers, pharmacy services administrative organizations, or manufacturers, except in the case of single source drugs. Prescription drug price transparency data provided under the chapter may be used only for enumerated and statutorily authorized purposes.

At the request of the Office of the Governor, the Office of the Attorney General, the Board, or a committee or subcommittee of the Legislature with jurisdiction over matters relating to drug transparency, HCA must provide all submitted data and any analysis prepared by HCA. Any information provided must be kept confidential and may not be publicly released. Recipients of this data must follow all rules adopted by HCA regarding appropriate data use and protection and sign a nondisclosure agreement.

Votes on Final Passage:

Senate	28	20	
House	94	3	(House amended)
Senate	31	17	(Senate concurred)