SENATE BILL REPORT
SB 5020

As of January 22, 2021

Title: An act relating to assessing a penalty on unsupported prescription drug price increases to protect the safety, health, and economic well-being of Washington residents.

Brief Description: Assessing a penalty on unsupported prescription drug price increases to protect the safety, health, and economic well-being of Washington residents.

Sponsors: Senators Keiser, Robinson, Conway, Das, Hasegawa, Kuderer, Lovelett, Rolfes, Stanford, Van De Wege and Wilson, C..

Brief History:
Committee Activity: Health & Long Term Care: 1/22/21.

Brief Summary of Bill

- Requires the Health Care Authority to assess a penalty against a drug manufacturer on revenue generated from a price increase on a prescription drug that is not supported by clinical evidence.
- Prohibits manufacturers from withdrawing a drug from the market to avoid paying the penalty.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Staff: Greg Attanasio (786-7410)

Background: Prescription Drug Purchasing Consortium. In 2005, the Legislature directed Health Care Authority (HCA) to establish a prescription drug purchasing consortium. In addition to state agencies, the consortium may include, on a voluntary basis, local government, private entities, labor organizations, and individuals without insurance, or who are underinsured for prescription drug coverage. State purchased health care services purchased through health carriers and health maintenance organizations are exempted from

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participating 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.

Prescription Drug Price Transparency Legislation. In 2019, the Legislature enacted legislation requiring health carriers, prescription drug manufacturers, pharmacy benefit managers (PBMs), and pharmacy service administration organizations (PSAOs) to report certain drug pricing information to HCA, which HCA would then use to publish an annual report.

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. 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: Identified drugs are drugs identified by the Institute for Clinical and Economic Review as having a price increase for which there is no, or inadequate, new clinical evidence to support the price increase. Within 60 days of publication of the institute's annual unsupported price increase report, HCA must notify the manufacturers of each identified drug.

HCA may assess a penalty against a manufacturer of an identified drug of 80 percent of the difference between the revenue generated by sales of the drug within the state and the revenue that would have been generated if the manufacturer had maintained the wholesale acquisition cost from the previous calendar year, if the manufacturer:

- has at least $250,000 in total annual sales within the state in the calendar year for which the tax is assessed; and
- is required to report the identified drug to HCA under the drug price transparency law.

Any manufacturer notified by HCA, must submit the following information:

- the total amount of sales of the drug with the state;
- the total amount of units sold of the drug within the state;
- the current wholesale acquisition cost of the drug;
- the wholesale acquisition cost of the drug during the previous calendar year;
- a calculation of the penalty owed; and
- any other information HCA deems necessary.

All revenue collected pursuant to the penalty must be deposited into the foundational public services account.

A manufacturer or distributor may not withdraw an identified drug from the market for the purpose of avoiding the penalty. The authority must assess a penalty of $500,000 per identified drug on any entity that it determines has withdrawn an identified drug from the state in violation of this act.

Appropriation: None.

Fiscal Note: Requested on January 16, 2021.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: October 1, 2021

Staff Summary of Public Testimony: PRO: Manufacturers often raise drug prices when that increase is not supported by new evidence. These unsupported price increases drive health care costs. There is a need to act now on increasing drug prices.

CON: A Quality Adjusted Life Years (QALY) standard used to judge efficacy of a drug is inappropriate because it does not accurately evaluate to benefit of the drug. The Institute for Clinical and Economic Review does not consider non-clinical factors for prices and does not conduct a full economic review when evaluating drug prices. Their evaluations should not be used to determine if drug prices are justified. This bill is a price control bill and relies on information from an unregulated group. Price controls have been found to be unconstitutional and reduce access to life saving drugs. The bill does not provide due process rights for manufacturers. The Institute for Clinical and Economic Review does not incorporate patient voices and patient groups do not support the bill. Price controls affect building trades associated with pharmaceutical industry and threaten jobs.

OTHER: The Institute for Clinical and Economic Review is an independent nonpartisan organization and QALY is not used to evaluate the price increase of a drug.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Chris Bandoli, Association of Washington Healthcare Plans; Marcia Stedman, Health Care for All-Washington.

CON: Devin Wakefield; Brian Warren, Biotechnology Innovation Organization; Donna Steward, Pharmaceutical Research and Manufacturers of America; Siri Vaeth, Cystic Fibrosis Research Inc.; Sarah B Tompkins, citizen; Lee Newgent, PILMA; Adrienne Shapiro, Axis Advocacy; Michael Transue, Oregon Biosciences Association.

OTHER: Sarah Emond, Institute for Clinical and Economic Review; Drew Gattine, National Academy for State Health Policy; Rick Hughes, Ray's General Store and

Pharmacy.

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