BILL ANALYSIS

Senate Research Center

H.B. 2536
By: Oliverson; Blanco (Hancock)
Business & Commerce
5/20/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2536 amends current law relating to transparency related to drug costs.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 441.002, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 2 (Section 1369.504, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 6, Health and Safety Code, by adding Chapter 441, as follows:

CHAPTER 441. DRUG COST TRANSPARENCY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 441.0001. DEFINITIONS. Defines "animal health product," "pharmaceutical drug manufacturer," "prescription drug," "drug," and "wholesale acquisition cost."

Sec. 441.0002. DISCLOSURE OF DRUG PRICING INFORMATION. (a) Requires a pharmaceutical drug manufacturer, not later than the 15th day of each calendar year, to submit a report to the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) stating the current wholesale acquisition cost information for the United States Food and Drug Administration-approved (FDA) drugs sold in or into this state by that manufacturer.

(b) Requires the executive commissioner to develop an Internet website to provide to the general public drug price information submitted under Subsection (a). Requires the Internet website to be made available on HHSC's Internet website with a dedicated link that is prominently displayed on the home page or by a separate easily identifiable Internet address.

(c) Provides that this subsection applies only to a drug with a wholesale acquisition cost of at least $100 for a 30-day supply before the effective date of an increase described by this subsection. Requires a pharmaceutical drug manufacturer, not later than the 30th day after the effective date of an increase of 40 percent or more over the preceding five calendar years or 10 percent or more in the preceding 12 months in the wholesale acquisition cost of a drug to which this subsection applies, to submit a report to the executive commissioner. Requires the report to include the following information:

(1) the name of the drug;

(2) whether the drug is a brand name or generic;

(3) the effective date of the change in wholesale acquisition cost;

(4) aggregate, company-level research and development costs for the most recent year for which final audit data is available;

(5) the name of each of the manufacturer's prescription drugs approved by the FDA in the previous five calendar years;

(6) the name of each of the manufacturer's prescription drugs that lost patent exclusivity in the United States in the previous five calendar years;

(7) all factors that caused the increase in the wholesale acquisition cost;

(8) the percentage of the total increase in the wholesale acquisition cost that is attributable to each factor listed in Subdivision (7); and

(9) an explanation of the role of each factor listed in Subdivision (7) in contributing to the increase in the wholesale acquisition cost.

(d) Requires the quality and types of information and data that a pharmaceutical drug manufacturer submits to the executive commissioner under Subsection (c) to be consistent with the quality and types of information and data that the manufacturer includes in the manufacturer's annual consolidated report on Securities and Exchange Commission Form 10-K or any other public disclosure.

(e) Requires the executive commissioner, not later than the 60th day after receipt of the report submitted under Subsection (c), to publish the report on HHSC's Internet website described by Subsection (b).

(f) Authorizes the executive commissioner to adopt rules to implement this section.

SECTION 2. Amends Chapter 1369, Insurance Code, by adding Subchapter K, as follows:

SUBCHAPTER K. PRESCRIPTION DRUG COST TRANSPARENCY

Sec. 1369.501. DEFINITIONS. Defines "animal health product," "health benefit plan," "health benefit plan issuer," "pharmaceutical drug manufacturer," "pharmacy benefit manager," "prescription drug," "rebate," "specialty drug," and "utilization management."

Sec. 1369.502. PHARMACY BENEFIT MANAGER INFORMATION. (a) Requires each pharmacy benefit manager, not later than February 1 of each year, to file a report with the commissioner of insurance (commissioner). Requires the report to state for the immediately preceding calendar year:

(1) the aggregated rebates, fees, price protection payments, and any other payments collected from pharmaceutical drug manufacturers; and

(2) the aggregated dollar amount of rebates, fees, price protection payments, and any other payments collected from pharmaceutical drug manufacturers that were:

(A) passed to health benefit plan issuers or to enrollees at the point of sale of a prescription drug; or

(B) retained as revenue by the pharmacy benefit manager.

(b) Prohibits a report submitted by a pharmacy benefit manager from disclosing the identity of a specific health benefit plan or enrollee, the price charged for a specific prescription drug or class of prescription drugs, or the amount of any rebate or fee provided for a specific prescription drug or class of prescription drugs.

(c) Requires the commissioner, not later than the 60th day after receipt, to publish the report in an appropriate location on the Texas Department of Insurance's (TDI) Internet website.

Sec. 1369.503. HEALTH BENEFIT PLAN ISSUER INFORMATION. (a) Requires each health benefit plan issuer, not later than February 1 of each year, to submit to the commissioner a report that states for the immediately preceding calendar year:

(1) the names of the 25 most frequently prescribed prescription drugs across all plans;

(2) the percent increase in annual net spending for prescription drugs across all plans;

(3) the percent increase in premiums that were attributable to prescription drugs across all plans;

(4) the percentage of specialty drugs with utilization management requirements across all plans; and

(5) the premium reductions that were attributable to specialty drug utilization management.

(b) Prohibits a report submitted by a health benefit plan issuer from disclosing the identity of a specific health benefit plan or the price charged for a specific prescription drug or class of prescription drugs.

(c) Requires the commissioner, not later than the 60th day after receipt, to publish the report in an appropriate location on TDI's Internet website.

Sec. 1369.504. RULES. Authorizes the commissioner to adopt rules to implement this subchapter.

SECTION 3. Provides that, notwithstanding Chapter 441, Health and Safety Code, as added by this Act, and Subchapter K, Chapter 1369, Insurance Code, as added by this Act, a pharmaceutical drug manufacturer, pharmacy benefit manager, or health benefit plan issuer is not required to submit a summary report as required by Chapter 441, Health and Safety Code, as added by this Act, or Subchapter K, Chapter 1369, Insurance Code, as added by this Act, as applicable, before January 1, 2020.

SECTION 4. Effective date: September 1, 2019.