

1-1 By: Bonnen, Frank, Oliverson H.B. No. 4990
 1-2 (Senate Sponsor - Kolkhorst)
 1-3 (In the Senate - Received from the House May 3, 2023;
 1-4 May 12, 2023, read first time and referred to Committee on Health &
 1-5 Human Services; May 21, 2023, reported favorably by the following
 1-6 vote: Yeas 8, Nays 1; May 21, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13		X		
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to the Texas Pharmaceutical Initiative; authorizing fees.
 1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-22 SECTION 1. Subtitle D, Title 10, Government Code, is
 1-23 amended by adding Chapter 2177 to read as follows:

1-24 CHAPTER 2177. TEXAS PHARMACEUTICAL INITIATIVE

1-25 Sec. 2177.001. DEFINITIONS. In this chapter:

1-26 (1) "Board" means the governing board of the
 1-27 initiative.

1-28 (2) "Fund" means the Texas Pharmaceutical Initiative
 1-29 fund.

1-30 (3) "Generic biological product" means a biological
 1-31 product approved pursuant to an application under Section 351(k),
 1-32 Public Health Service Act (42 U.S.C. Section 262(k)).

1-33 (4) "Generic drug" means a prescription drug approved
 1-34 pursuant to an application under Section 505(j), Federal Food,
 1-35 Drug, and Cosmetic Act (21 U.S.C. Section 355(j)).

1-36 (5) "Initiative" means the Texas Pharmaceutical
 1-37 Initiative established under this chapter.

1-38 Sec. 2177.002. TEXAS PHARMACEUTICAL INITIATIVE. (a) The
 1-39 Texas Pharmaceutical Initiative is established to provide
 1-40 cost-effective access to prescription drugs and other medical
 1-41 supplies for:

1-42 (1) employees, dependents, and retirees of public
 1-43 higher education systems and institutions;

1-44 (2) Employees Retirement System of Texas members;

1-45 (3) Teacher Retirement System of Texas members;

1-46 (4) persons confined by the Texas Department of
 1-47 Criminal Justice or the Texas Juvenile Justice Department;

1-48 (5) recipients of medical assistance under Chapter 32,
 1-49 Human Resources Code; and

1-50 (6) enrollees of the child health plan program under
 1-51 Chapter 62, Health and Safety Code.

1-52 (b) A state entity or managed care organization as defined
 1-53 by Chapter 533, Government Code, that provides health benefit plan
 1-54 coverage to individuals described by Subsection (a) as the entity
 1-55 or managed care organization determines appropriate may elect to
 1-56 provide access to prescription drugs and other medical supplies
 1-57 under the initiative.

1-58 Sec. 2177.003. BOARD. (a) The initiative is governed by a
 1-59 board composed of:

1-60 (1) the executive commissioner of the Health and Human
 1-61 Services Commission or the executive commissioner's designee;

2-1 (2) the executive director of the Employees Retirement
2-2 System of Texas or the executive director's designee;
2-3 (3) the executive director of the Teacher Retirement
2-4 System of Texas or the executive director's designee;
2-5 (4) three members appointed by the governor;
2-6 (5) one member appointed by the governor from a list of
2-7 three names submitted by the lieutenant governor;
2-8 (6) one member appointed by the governor from a list of
2-9 three names submitted by the speaker of the house of
2-10 representatives; and
2-11 (7) the chancellor of The University of Texas System,
2-12 or the chancellor's designee, who serves in an ex-officio capacity.
2-13 (b) A vacancy on the board shall be filled in the same manner
2-14 as the original appointment.
2-15 (c) The appointed board members serve staggered six-year
2-16 terms.
2-17 (d) The governor shall designate the presiding officer of
2-18 the board.
2-19 (e) A board member serves without compensation but may be
2-20 reimbursed for travel and other actual and reasonable expenses
2-21 incurred in the performance of the member's duties on the board.
2-22 (f) The board is administratively attached to the Health and
2-23 Human Services Commission.
2-24 Sec. 2177.004. DUTIES OF BOARD. (a) The board shall:
2-25 (1) develop and implement the initiative and related
2-26 programs established by this chapter;
2-27 (2) establish procedures and policies for the
2-28 administration of the initiative;
2-29 (3) establish procedures to document compliance by
2-30 board members and personnel with applicable laws governing
2-31 conflicts of interest;
2-32 (4) ensure that a program or entity created under this
2-33 chapter meets any applicable licensing or accreditation
2-34 requirements under state or federal law; and
2-35 (5) recommend rules necessary to implement this
2-36 chapter for adoption by the executive commissioner of the Health
2-37 and Human Services Commission.
2-38 (b) To carry out the purposes of this chapter the board may:
2-39 (1) execute contracts and other instruments and
2-40 conduct all activities the board determines necessary for those
2-41 purposes;
2-42 (2) authorize one or more board members to execute
2-43 contracts and other instruments on behalf of the board;
2-44 (3) establish a committee or other similar entity to
2-45 exercise powers delegated by the board and exercise any other
2-46 administrative duties or powers as the board considers necessary;
2-47 (4) employ an executive director and necessary
2-48 personnel to provide administrative support; and
2-49 (5) award grants to public or private persons to
2-50 implement the initiative.
2-51 (c) The board may refrain from establishing a program or
2-52 entity under this chapter if the board determines that
2-53 establishment is not feasible with current resources or considering
2-54 other state-funded programs.
2-55 (d) A contract or agreement executed under this chapter must
2-56 comply with Chapter 2254, if applicable.
2-57 Sec. 2177.005. PHARMACY BENEFIT MANAGER. (a) The board
2-58 shall contract for a statewide pharmacy benefit manager, as
2-59 provided by Subchapter H, Chapter 2158, to provide cost-effective
2-60 prescription drugs through the establishment of a pharmacy network
2-61 to state entities served by the initiative.
2-62 (b) The pharmacy benefit manager shall provide pricing
2-63 transparency, a pass-through of all rebates and fees, and fair and
2-64 equitable pricing to a pharmacy that participates in the pharmacy
2-65 benefit manager's pharmacy network.
2-66 (c) The pharmacy benefit manager shall contract with
2-67 appropriate persons to:
2-68 (1) provide an evidence-based benefit design, a prior
2-69 authorization process, and a new drug review process; and

3-1 (2) partner with suppliers, pharmaceutical
 3-2 manufacturers, and group purchasing organizations for competitive
 3-3 acquisition of prescription drugs and medical supplies.

3-4 Sec. 2177.006. DISTRIBUTION OF PRESCRIPTION DRUGS AND
 3-5 MEDICAL SUPPLIES. (a) The board shall establish and implement a
 3-6 central service center and an associated network of satellite
 3-7 distribution facilities to provide prescription drugs and medical
 3-8 supplies to individuals described by Section 2177.002 for state
 3-9 entities that elect to participate in the initiative. The center
 3-10 must:

3-11 (1) be constructed to withstand extreme weather
 3-12 conditions, natural disasters, and power outages;

3-13 (2) be capable of providing disaster preparedness and
 3-14 response resources statewide; and

3-15 (3) include a mail order pharmacy and specialty
 3-16 pharmacy.

3-17 (b) The central service center may assess an inventory
 3-18 storage charge, transaction fees, or other fees on persons
 3-19 obtaining prescription drugs and medical supplies from the center
 3-20 to support the center's distribution and other operational costs,
 3-21 including overhead and margin.

3-22 (c) The mail order and specialty pharmacy established in the
 3-23 central service center may assess delivery and handling fees on
 3-24 persons receiving prescription drugs from the pharmacy.

3-25 Sec. 2177.007. PHARMACEUTICAL ADVANCED PREPARATION
 3-26 FACILITY. (a) The board shall establish a pharmaceutical advanced
 3-27 preparation facility to serve as an outsourcing facility in
 3-28 compliance with Section 503B, Federal Food, Drug, and Cosmetic Act
 3-29 (21 U.S.C. Section 353b), to:

3-30 (1) manufacture and provide compounded drugs;

3-31 (2) provide chimeric antigen receptor T-cell
 3-32 treatment and other gene therapies, including precision medicine;
 3-33 and

3-34 (3) provide advanced laboratories for quality
 3-35 control, preparation, and compounding of drugs in support of
 3-36 innovative therapeutics and drug research.

3-37 (b) The pharmaceutical advanced preparation facility shall
 3-38 be operated by an organization established by the board that is
 3-39 exempt from federal income taxation under Section 501(a), Internal
 3-40 Revenue Code of 1986, by being listed as an exempt entity under
 3-41 Section 501(c)(3) of that code.

3-42 (c) The pharmaceutical advanced preparation facility may
 3-43 charge fees to persons to whom the facility provides drugs,
 3-44 treatment, supplies, or other services to support the operational
 3-45 costs of the facility, including overhead and margin.

3-46 Sec. 2177.008. ADVANCED HEALTH CARE COST AND CLAIMS
 3-47 ANALYTIC SERVICES. (a) The board shall contract with a person to
 3-48 provide advanced health care claims analytics software to support
 3-49 the programs and entities created by this chapter and to support
 3-50 population health research.

3-51 (b) The board shall develop criteria for the evaluation of
 3-52 applications or proposals submitted by a person seeking to contract
 3-53 with the board under this section.

3-54 Sec. 2177.009. GENERIC BIOLOGICAL PRODUCT AND GENERIC DRUG
 3-55 MANUFACTURING FACILITY. (a) The board may enter into an agreement
 3-56 with a person to establish a facility that manufactures generic
 3-57 biological products and generic drugs in compliance with any
 3-58 requirements of the federal Food and Drug Administration. In
 3-59 entering into the agreement, the board shall prioritize savings and
 3-60 access to affordable medications.

3-61 (b) The board shall develop criteria for the evaluation of
 3-62 applications or proposals submitted by a person seeking to contract
 3-63 with the board under this section.

3-64 Sec. 2177.010. CONFIDENTIALITY OF CERTAIN INFORMATION. Any
 3-65 information received by the board, a program or entity created by
 3-66 this chapter, a state entity participating in the initiative, or a
 3-67 contractor or agent of the board that if directly or indirectly
 3-68 disclosed is likely to compromise the financial, competitive, or
 3-69 proprietary nature of the information, is confidential and not

4-1 subject to disclosure under Chapter 552.

4-2 Sec. 2177.011. TEXAS PHARMACEUTICAL INITIATIVE FUND. (a)
4-3 The Texas Pharmaceutical Initiative fund is created as a trust fund
4-4 to be held by the comptroller outside the state treasury.

4-5 (b) The fund consists of:
4-6 (1) money from gifts, grants, and donations to the
4-7 fund;

4-8 (2) any additional legislative appropriations of
4-9 money for the purposes of the fund; and

4-10 (3) interest, dividends, and other income of the fund.

4-11 (c) The board may only use money in the fund to carry out the
4-12 purposes of this chapter.

4-13 (d) The board shall develop procedures for administration
4-14 and approval of expenditures of the fund.

4-15 Sec. 2177.012. FUNDING. The board may accept gifts,
4-16 grants, and donations from any public or private source for the
4-17 purpose of carrying out this chapter.

4-18 Sec. 2177.013. ANNUAL REPORT. Not later than December 31 of
4-19 each year, the board shall submit to the legislature a written
4-20 report on:

4-21 (1) the activities and objectives of the initiative;

4-22 (2) any cost savings for state entities that
4-23 participate in the initiative; and

4-24 (3) any recommendations for legislative or other
4-25 action.

4-26 Sec. 2177.014. SUNSET PROVISION. The board and the
4-27 initiative established under this chapter are subject to Chapter
4-28 325, Government Code (Texas Sunset Act). Unless continued in
4-29 existence as provided by that chapter, the board and the initiative
4-30 are abolished and this chapter expires September 1, 2035.

4-31 SECTION 2. This Act takes effect immediately if it receives
4-32 a vote of two-thirds of all the members elected to each house, as
4-33 provided by Section 39, Article III, Texas Constitution. If this
4-34 Act does not receive the vote necessary for immediate effect, this
4-35 Act takes effect September 1, 2023.

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