BILL ANALYSIS

C.S.H.B. 2536
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Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised about the growing prices of prescription drugs. There are concerns that certain actors within the drug supply chain are not required to disclose information regarding the reasons behind increases in drug prices, which leads to a lack of information for the government and the public regarding the root cause behind these increases. C.S.H.B. 2536 seeks to increase transparency related to drug costs by establishing certain reporting requirements for pharmaceutical drug manufacturers, pharmacy benefit managers, and health benefit plan issuers.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill and to the commissioner of insurance in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 2536 amends the Health and Safety Code to require 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 (HHSC) stating the current wholesale acquisition cost information for the FDA-approved drugs sold in or into Texas by that manufacturer. The bill requires the executive commissioner to develop a website to provide to the general public the drug price information and requires that the website be made available on the HHSC website with a dedicated link that is prominently displayed on the home page or by a separate easily identifiable Internet address.

C.S.H.B. 2536 requires a pharmaceutical drug manufacturer to submit a report to the executive commissioner of HHSC not later than the 30th day after the effective date of an increase of 50 percent or more in wholesale acquisition cost of a drug with a wholesale acquisition cost of at least $100 for a 30-day supply. The bill sets out the required contents of the report and a requirement regarding the quality and types of information and data submitted by the manufacturer. The bill requires the executive commissioner to publish the report on the applicable HHSC website not later than the 60th day after receipt of the report.

C.S.H.B. 2536 authorizes the executive commissioner to adopt rules to implement the bill's provisions applicable to pharmaceutical drug manufacturers.

C.S.H.B. 2536 amends the Insurance Code to require each pharmacy benefit manager, not later than February 1 of each year, to file with the commissioner of insurance a report that states for

the immediately preceding calendar year the aggregated rebates, fees, price protection payments, and other payments collected from pharmaceutical drug manufacturers and the aggregated dollar amount of those payments that were passed to health benefit plan issuers and to enrollees at the point of sale of a prescription drug. The bill prohibits the report 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. The bill 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 (TDI) website.

C.S.H.B. 2536 requires a health benefit plan issuer, not later than February 1 of each year, to submit to the commissioner of insurance a report that contains specified information regarding prescription drugs across all plans, including certain information about spending and premium increases and specialty drug utilization management. The bill prohibits the report from disclosing the identity of a specific health benefit plan or the price charged for a specific prescription drug or class of prescription drugs. The bill requires the commissioner, not later than the 60th day after receipt, to publish the report in an appropriate location on the TDI website.

C.S.H.B. 2536 authorizes the commissioner of insurance to adopt rules to implement the bill's provisions applicable to pharmacy benefit managers and health benefit plan issuers.

C.S.H.B. 2536 expressly does not require a pharmaceutical drug manufacturer, pharmacy benefit manager, or health benefit plan issuer to submit a summary report before January 1, 2020.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2536 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include a requirement for a pharmaceutical drug manufacturer to notify the executive commissioner of HHSC if the manufacturer introduces a new prescription drug to market with a wholesale acquisition cost that exceeds the threshold set for a specialty drug under the Medicare Part D program.

The substitute revises the content of the report submitted by a pharmaceutical drug manufacturer regarding an increase of 50 percent or more in wholesale acquisition cost of a drug by changing the year for which aggregate, company-level research and development costs are required to be included from the previous calendar year to the most recent year for which final audit data is available.