

By: Bonnen, Frank, Oliverson

H.B. No. 4990

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Pharmaceutical Initiative; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle D, Title 10, Government Code, is amended by adding Chapter 2177 to read as follows:

CHAPTER 2177. TEXAS PHARMACEUTICAL INITIATIVE

Sec. 2177.001. DEFINITIONS. In this chapter:

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

(2) "Fund" means the Texas Pharmaceutical Initiative fund.

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

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

(5) "Initiative" means the Texas Pharmaceutical Initiative established under this chapter.

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

(1) employees, dependents, and retirees of public

- 1 higher education systems and institutions;
2 (2) Employees Retirement System of Texas members;
3 (3) Teacher Retirement System of Texas members;
4 (4) persons confined by the Texas Department of
5 Criminal Justice or the Texas Juvenile Justice Department;
6 (5) recipients of medical assistance under Chapter 32,
7 Human Resources Code; and
8 (6) enrollees of the child health plan program under
9 Chapter 62, Health and Safety Code.

10 (b) A state entity or managed care organization as defined
11 by Chapter 533, Government Code, that provides health benefit plan
12 coverage to individuals described by Subsection (a) as the entity
13 or managed care organization determines appropriate may elect to
14 provide access to prescription drugs and other medical supplies
15 under the initiative.

16 Sec. 2177.003. BOARD. (a) The initiative is governed by a
17 board composed of:

18 (1) the executive commissioner of the Health and Human
19 Services Commission or the executive commissioner's designee;

20 (2) the executive director of the Employees Retirement
21 System of Texas or the executive director's designee;

22 (3) the executive director of the Teacher Retirement
23 System of Texas or the executive director's designee;

24 (4) three members appointed by the governor;

25 (5) one member appointed by the governor from a list of
26 three names submitted by the lieutenant governor;

27 (6) one member appointed by the governor from a list of

1 three names submitted by the speaker of the house of
2 representatives; and

3 (7) the chancellor of The University of Texas System,
4 or the chancellor's designee, who serves in an ex-officio capacity.

5 (b) A vacancy on the board shall be filled in the same manner
6 as the original appointment.

7 (c) The appointed board members serve staggered six-year
8 terms.

9 (d) The governor shall designate the presiding officer of
10 the board.

11 (e) A board member serves without compensation but may be
12 reimbursed for travel and other actual and reasonable expenses
13 incurred in the performance of the member's duties on the board.

14 (f) The board is administratively attached to the Health and
15 Human Services Commission.

16 Sec. 2177.004. DUTIES OF BOARD. (a) The board shall:

17 (1) develop and implement the initiative and related
18 programs established by this chapter;

19 (2) establish procedures and policies for the
20 administration of the initiative;

21 (3) establish procedures to document compliance by
22 board members and personnel with applicable laws governing
23 conflicts of interest;

24 (4) ensure that a program or entity created under this
25 chapter meets any applicable licensing or accreditation
26 requirements under state or federal law; and

27 (5) recommend rules necessary to implement this

1 chapter for adoption by the executive commissioner of the Health
2 and Human Services Commission.

3 (b) To carry out the purposes of this chapter the board may:

4 (1) execute contracts and other instruments and
5 conduct all activities the board determines necessary for those
6 purposes;

7 (2) authorize one or more board members to execute
8 contracts and other instruments on behalf of the board;

9 (3) establish a committee or other similar entity to
10 exercise powers delegated by the board and exercise any other
11 administrative duties or powers as the board considers necessary;

12 (4) employ an executive director and necessary
13 personnel to provide administrative support; and

14 (5) award grants to public or private persons to
15 implement the initiative.

16 (c) The board may refrain from establishing a program or
17 entity under this chapter if the board determines that
18 establishment is not feasible with current resources or considering
19 other state-funded programs.

20 (d) A contract or agreement executed under this chapter must
21 comply with Chapter 2254, if applicable.

22 Sec. 2177.005. PHARMACY BENEFIT MANAGER. (a) The board
23 shall contract for a statewide pharmacy benefit manager, as
24 provided by Subchapter H, Chapter 2158, to provide cost-effective
25 prescription drugs through the establishment of a pharmacy network
26 to state entities served by the initiative.

27 (b) The pharmacy benefit manager shall provide pricing

1 transparency, a pass-through of all rebates and fees, and fair and
2 equitable pricing to a pharmacy that participates in the pharmacy
3 benefit manager's pharmacy network.

4 (c) The pharmacy benefit manager shall contract with
5 appropriate persons to:

6 (1) provide an evidence-based benefit design, a prior
7 authorization process, and a new drug review process; and

8 (2) partner with suppliers, pharmaceutical
9 manufacturers, and group purchasing organizations for competitive
10 acquisition of prescription drugs and medical supplies.

11 Sec. 2177.006. DISTRIBUTION OF PRESCRIPTION DRUGS AND
12 MEDICAL SUPPLIES. (a) The board shall establish and implement a
13 central service center and an associated network of satellite
14 distribution facilities to provide prescription drugs and medical
15 supplies to individuals described by Section 2177.002 for state
16 entities that elect to participate in the initiative. The center
17 must:

18 (1) be constructed to withstand extreme weather
19 conditions, natural disasters, and power outages;

20 (2) be capable of providing disaster preparedness and
21 response resources statewide; and

22 (3) include a mail order pharmacy and specialty
23 pharmacy.

24 (b) The central service center may assess an inventory
25 storage charge, transaction fees, or other fees on persons
26 obtaining prescription drugs and medical supplies from the center
27 to support the center's distribution and other operational costs,

1 including overhead and margin.

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

5 Sec. 2177.007. PHARMACEUTICAL ADVANCED PREPARATION
6 FACILITY. (a) The board shall establish a pharmaceutical advanced
7 preparation facility to serve as an outsourcing facility in
8 compliance with Section 503B, Federal Food, Drug, and Cosmetic Act
9 (21 U.S.C. Section 353b), to:

10 (1) manufacture and provide compounded drugs;

11 (2) provide chimeric antigen receptor T-cell
12 treatment and other gene therapies, including precision medicine;
13 and

14 (3) provide advanced laboratories for quality
15 control, preparation, and compounding of drugs in support of
16 innovative therapeutics and drug research.

17 (b) The pharmaceutical advanced preparation facility shall
18 be operated by an organization established by the board that is
19 exempt from federal income taxation under Section 501(a), Internal
20 Revenue Code of 1986, by being listed as an exempt entity under
21 Section 501(c)(3) of that code.

22 (c) The pharmaceutical advanced preparation facility may
23 charge fees to persons to whom the facility provides drugs,
24 treatment, supplies, or other services to support the operational
25 costs of the facility, including overhead and margin.

26 Sec. 2177.008. ADVANCED HEALTH CARE COST AND CLAIMS
27 ANALYTIC SERVICES. (a) The board shall contract with a person to

1 provide advanced health care claims analytics software to support
2 the programs and entities created by this chapter and to support
3 population health research.

4 (b) The board shall develop criteria for the evaluation of
5 applications or proposals submitted by a person seeking to contract
6 with the board under this section.

7 Sec. 2177.009. GENERIC BIOLOGICAL PRODUCT AND GENERIC DRUG
8 MANUFACTURING FACILITY. (a) The board may enter into an agreement
9 with a person to establish a facility that manufactures generic
10 biological products and generic drugs in compliance with any
11 requirements of the federal Food and Drug Administration. In
12 entering into the agreement, the board shall prioritize savings and
13 access to affordable medications.

14 (b) The board shall develop criteria for the evaluation of
15 applications or proposals submitted by a person seeking to contract
16 with the board under this section.

17 Sec. 2177.010. CONFIDENTIALITY OF CERTAIN INFORMATION. Any
18 information received by the board, a program or entity created by
19 this chapter, a state entity participating in the initiative, or a
20 contractor or agent of the board that if directly or indirectly
21 disclosed is likely to compromise the financial, competitive, or
22 proprietary nature of the information, is confidential and not
23 subject to disclosure under Chapter 552.

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

27 (b) The fund consists of:

1 (1) money from gifts, grants, and donations to the
2 fund;

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

5 (3) interest, dividends, and other income of the fund.

6 (c) The board may only use money in the fund to carry out the
7 purposes of this chapter.

8 (d) The board shall develop procedures for administration
9 and approval of expenditures of the fund.

10 Sec. 2177.012. FUNDING. The board may accept gifts,
11 grants, and donations from any public or private source for the
12 purpose of carrying out this chapter.

13 Sec. 2177.013. ANNUAL REPORT. Not later than December 31 of
14 each year, the board shall submit to the legislature a written
15 report on:

16 (1) the activities and objectives of the initiative;

17 (2) any cost savings for state entities that
18 participate in the initiative; and

19 (3) any recommendations for legislative or other
20 action.

21 Sec. 2177.014. SUNSET PROVISION. The board and the
22 initiative established under this chapter are subject to Chapter
23 325, Government Code (Texas Sunset Act). Unless continued in
24 existence as provided by that chapter, the board and the initiative
25 are abolished and this chapter expires September 1, 2035.

26 SECTION 2. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2023.