

By: Kolkhorst

S.B. No. 2402

A BILL TO BE ENTITLED

AN ACT

relating to the creation, management, and administration of the Texas Pharmaceutical Initiative.

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) "Initiative" means the Texas Pharmaceutical Initiative established in Sec. 2177.002.

(2) "Board" means the governing board established in Sec. 2177.003.

Sec. 2177.002. TEXAS PHARMACEUTICAL INITIATIVE; ESTABLISHMENT. The Texas Pharmaceutical Initiative is established to provide cost effective prescription drug access for employees, dependents, and retirees of public higher education systems and institutions, Employees Retirement System of Texas members, Teacher Retirement System of Texas members, persons confined by the Texas Department of Criminal Justice or the Texas Juvenile Justice Department, recipients of medical assistance, enrollees of the child health plan program, and other public, non-profit, and for-profit entities.

Sec. 2177.003. GOVERNING BOARD.(a) The initiative shall be governed by a board that consists of:

1 (1) the commissioner of the Texas Health and Human
2 Services Commission, or their designee;

3 (2) the executive director of the Employees Retirement
4 System of Texas, or their designee;

5 (3) the executive director of the Teacher Retirement
6 System of Texas, or their designee;

7 (4) three members appointed by the governor;

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

10 (6) one member appointed by the governor from a list of
11 three names submitted by the speaker of the house of
12 representatives; and

13 (6) the chancellor of the University of Texas System,
14 or the chancellor's designee, in an ex-officio capacity.

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

17 (c) The board is administratively attached to the Health and
18 Human Services Commission.

19 (d) The governor shall select the presiding officer of the
20 board.

21 Sec. 2177.004. GENERAL DUTIES. (a) The board established
22 under SECTION 2177.003 shall:

23 (1) develop and implement the initiative and related
24 programs established in this chapter;

25 (2) establish procedures and policies for the
26 administration of the board;

27 (3) establish procedures to document compliance by

1 board members and staff with applicable laws governing conflicts of
2 interest; and

3 (4) adopt all necessary rules to implement this
4 chapter.

5 (b) The board may:

6 (1) execute all contracts and other documents, adopt
7 all proceedings, and conduct all activities determined by the board
8 to be necessary to carry out the purposes of this chapter. The
9 board may authorize one or more members of the board to execute
10 contracts and other documents on behalf of the board; and

11 (2) establish and create any committees or other
12 entities the board may deem necessary to exercise the powers
13 provided in this act. The board may delegate to such committees or
14 other entities administrative duties and other powers as the board
15 may deem necessary;

16 (3) hire a chief executive officer and employ
17 necessary staff to provide administrative support;

18 (4) make grants to provide funds to public or private
19 persons to implement the Texas Pharmaceutical Initiative.

20 (c) the board is required to implement a provision of this
21 chapter only if the legislature appropriates money specifically for
22 that purpose. If the legislature does not appropriate money
23 specifically for that purpose, the board may, but is not required
24 to, implement a provision of this chapter.

25 Sec. 2177.005. TRANSPARENT PHARMACY BENEFIT MANAGER.

26 (a) The board shall establish and implement a statewide
27 transparent pharmacy benefit manager to provide cost-effective

1 prescription drugs to entities and organizations served by the
2 Initiative.

3 (b) The pharmacy benefit manager shall provide pricing
4 transparency, pass-through of all rebates and fees, and fair and
5 equitable pricing to any pharmacy that chooses to participate in
6 the pharmacy benefit manager's pharmacy network.

7 (c) The pharmacy benefit manager shall contract with
8 appropriate entities to:

9 (1) provide evidence-based benefit design, prior
10 authorization, and new drug review; and

11 (2) partner with suppliers, pharmaceutical
12 manufacturers, and group purchasing organizations for competitive
13 drug acquisition.

14 (d) The pharmacy benefit manager may charge fees for
15 startup, enrollment, and ongoing management to support operational
16 costs, program development, and expansion.

17 Sec. 2177.006. CENTRAL SERVICE CENTER AND SATELLITE
18 DISTRIBUTION FACILITIES. (a) The board shall establish and
19 implement a central service center and associated network of
20 satellite distribution facilities to provide pharmacy and medical
21 supplies in support of Texas public higher education systems and
22 institutions, the Employees Retirement System of Texas, the Teacher
23 Retirement System of Texas, the Texas Department of Criminal
24 Justice, the Texas Juvenile Justice Department, and other public,
25 non-profit, and for-profit entities. The center shall:

26 (1) be constructed to withstand severe weather,
27 natural disasters, and power outages, and shall be capable of

1 supporting disaster preparedness and relief statewide; and

2 (2) include a mail order pharmacy and specialty
3 pharmacy.

4 (b) The center may assess a stock carrying charge,
5 transaction fees, or other fees to support distribution and other
6 operational costs, including overhead and margin.

7 (c) The mail order and specialty pharmacy may receive
8 payment for dispensing prescription drugs and may assess
9 dispensing, delivery, and handling fees.

10 Sec. 2177.007 PHARMACEUTICAL ADVANCED PREPARATION
11 FACILITY. (a) The board shall establish a pharmaceutical advanced
12 preparation facility to provide Food and Drug Administration
13 approved 503B compounding, manufacturing, CAR-T and other gene
14 therapies, precision medicine, and advanced labs for quality
15 control, preparation and compounding in support of innovative
16 therapeutics and drug research.

17 (b) The facility shall be operated by a 501 c(3) established
18 by the board.

19 (c) The facility may charge fees for drug preparation,
20 manufacturing, CAR-T, gene therapy, and 503B compounding to support
21 operational costs, including overhead and margin.

22 Sec. 2177.008 ADVANCED HEALTH CARE COST AND CLAIMS ANALYTIC
23 SERVICES. (a) The board shall contract to provide advanced health
24 care cost and claims analytic services to support the transparent
25 pharmacy benefit manager, mail order and specialty pharmacies,
26 central service center, and pharmaceutical advanced preparation
27 facility established in this chapter, and to support population

1 health and research.

2 Sec. 2177.009 GENERIC DRUG MANUFACTURING FACILITY.

3 (a) The board may enter into an agreement to establish a facility
4 providing for the manufacturing of generic drugs. In entering into
5 an agreement, the board shall prioritize savings and access to
6 affordable medications.

7 Sec. 2177.010 TEXAS PHARMACY INITIATIVE FUND. (a) The
8 Texas Pharmaceutical Initiative Fund is created as a trust fund
9 outside the treasury with the comptroller. The fund consists of
10 money from:

11 (1) gifts, grants, or donations to the executive
12 committee; and

13 (2) any other source appropriated or designated by the
14 legislature.

15 (b) The board may utilize the fund for the purpose of
16 carrying out this chapter.

17 (c) The board shall develop procedures for administration
18 and approval of expenditures through the fund.

19 Sec. 2177.011. GIFTS, GRANTS, AND DONATIONS. The board may
20 accept on behalf of the initiative gifts, grants, or donations from
21 any public or private source for the purpose of carrying out this
22 chapter.

23 Sec. 2177.012. ANNUAL REPORT. Not later than December 31 of
24 each year, the board shall submit to the Texas Legislature a written
25 report that outlines:

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

27 (2) cost savings derived by state entities as a result

1 of participation in the initiative; and

2 (3) any legislative recommendations.

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