2018 -- H 7042

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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- PHARMACIES

Introduced By: Representatives Regunberg, Carson, Amore, Serpa, and McLaughlin

Date Introduced: January 03, 2018

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS" is hereby amended by adding thereto the following chapter:

CHAPTER 19.3

PHARMACEUTICAL COST TRANSPARENCY

5-19.3-1. Definitions.

As used in this chapter:

(1) "Board" means the state board of pharmacy created pursuant to §5-19.1-3.

(2) "Department" means the Rhode Island department of health.

(3) "Manufacturer" means a person or entity licensed to manufacture legend drugs pursuant to §5-19.1-12.

(4) "Prescription drug" means a drug as defined in 21 U.S.C. §321. The term also includes a biological product as defined in the "Public Health Service Act," 42 U.S.C. §262.

5-19.3-2. Board to develop list of critical prescription drugs.

(a) The board, in consultation with the department, shall develop a list of critical prescription drugs for which there is a substantial public interest in understanding the development of its pricing. In developing the list, the board shall consider the following factors:

(1) The cost of the drug to public health care programs, including Medicaid and HealthSource RI;

(2) The current cost of the drug in the state;

(3) The extent of utilization of the drug within the state; and

(4) The potential impact of the cost of the drug on the overall health of the state's population.

(b) For each prescription drug that the board places on the critical prescription drug list pursuant to subsection (a) of this section, the board shall require the manufacturers of said prescription drug to report the following information to the board:

(1) Total cost of production, and approximate cost of production per dose;

(2) Research and development costs of the drug, including:

(i) Research and development costs that are paid with public funds;

(ii) After-tax research and development costs paid by the manufacturer; and

(iii) Research and development costs paid by third parties;

(4) Marketing and advertising costs for the drug, apportioned by marketing activities that are directed to consumers, marketing activities that are directed to prescribers, and the total cost of all marketing and advertising that is directed primarily to Rhode Island consumers and prescribers;

(5) The prices for the drug that are charged to purchasers outside the United States, by country, for a representative set of countries determined by the board;

(6) Prices charged to typical Rhode Island purchasers, including, but not limited to, pharmacies, pharmacy chains, pharmacy wholesalers, or other direct purchasers; and

(7) True net typical prices charged to prescription drug benefit managers for distribution in Rhode Island, net of any rebates or other payments from the manufacturer to the pharmacy benefit manager and the pharmacy benefit manager to the manufacturer.

(c) The board shall promulgate regulations to further define and enforce the provisions of this section, which may include monetary penalties for failure to comply with the requirements of this section.

(d) Information reported pursuant to subsection (b) of this section shall not be considered a public record under chapter 2 of title 38, "access to public records." Any and all public reporting of information submitted pursuant to subsection (b) of this section shall be aggregated as to protect the financial, competitive, or proprietary nature of the information.

(e) The board, with the assistance of the department, shall prepare an annual report on prescription drug prices and their role in overall health care spending in the state based on the data submitted to the board pursuant to subsection (b) of this section and in conformance with the provisions of subsection (d) of this section. As part of the report, the board may include recommendations for actions to lower prescription drug costs and spending across the state while

maintaining access to quality health care. The board's report shall be posted on the board's website and shall be filed with the clerks of the house of representatives and the senate, each year on or before January 1 commencing with the first report due January 1, 2019.

5-19.3-3. Identification of high cost drugs.

(a) The board shall identify, using information submitted to the board pursuant to §5-19.3-2, those prescription drugs that due to their cost, jeopardize the state's ability to meet needs of the state's population for that drug. In reviewing the data, the board shall review and consider all data reported to the board and the department and determine whether the price of the prescription drug is significantly high given:

(1) The prescription drug's medical benefits;

(2) The cost to develop and manufacture the prescription drug; and

(3) The prices charged by the manufacturer in other countries.

(b) If the board determines that the cost of a prescription drug is so high that it jeopardizes the state's ability to meet the needs of the state's population for that drug, then the board may set the maximum allowable price that the manufacturer can charge for that prescription drug that is sold for use in the state.

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- PHARMACIES

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This act would direct the state board of pharmacy, in collaboration with the Rhode Island department of health, to annually develop a list of critical prescription drugs for which there is a substantial public interest in understanding the development of the drugs' price. The act would also authorize the board to obtain certain information from manufacturers of the critical prescription drugs. The act would also allow the commission to set the maximum allowable price that a manufacturer can charge for a prescription drug if the commission determines that the cost of a prescription drug is significantly high.

This act would take effect upon passage.

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