

07-41A-22 An Act Relating to Transparency Related to Drug Costs

[HB 2536](#)

Summary:

Sets transparency and reporting requirements for drug manufacturers, health plans and PBMs. The reporting is triggered by a 40% increase over three years in wholesale acquisition cost (WAC) or 15% increase over one year for a drug with at least \$100 WAC for a 30-day supply. Drug manufacturers must provide detailed reports about what caused the price increase, aggregate R&D costs, and losses of patent exclusivity. The drug price information will be posted on a public website by the Health and Human Services Commission (HHSC). Also requires PBMs to annually disclose aggregated rebates received and passed on to plans and enrollees. Health plans must submit annual reports to TDI, including the names of the 25 most frequently prescribed drugs, percent increase in annual net spending for drugs, the percent increase in premiums attributable to drugs, specialty drugs with utilization management, and the premium reductions attributable to the utilization management. The report will be posted online in a manner that does not disclose proprietary or confidential information.

Status: Signed by the governor on June 14, 2019.

Comments: From the [Houston Chronicle](#) (May 22, 2019)

Texas is poised to unveil some of the country's most aggressive drug-price transparency measures after a bill that consumer advocates had once considered powerless took on new life in the House and passed out of the Senate on Wednesday, with only small concessions made to the pharmaceutical industry.

Not only would the bipartisan legislation force drug companies to account for exorbitant price hikes going forward, but it would also apply retroactively, meaning companies that ratcheted up prices in 2017 and 2018 would have to explain why under the law.

"This legislation serves as a much-needed consumer price check on a complicated industry that, frankly, could do with a lot more transparency," Republican Sen. Kelly Hancock, a sponsor, said in a statement.

Republican Gov. Greg Abbott has also thrown his support behind the measures and appears eager to sign them into law.

Under the bill, companies would be required to turn over information every time the cost of a drug increases more than 15 percent in a year, or more than 40 percent over three years. That's a slightly higher annual threshold than the one the House passed earlier

this month, to much surprise, but is still significantly stronger than lawmakers had originally predicted could ever pass both chambers. A similar bill from Rep. Sarah Davis was killed in committee months ago.

The legislation survived a rush of last-minute lobbying from the pharmaceutical industry, which was caught off guard by the House's earlier decision to reduce the annual threshold from 50 percent to 10 percent, a huge win for consumer advocates. Industry representatives have argued that tightened restrictions will add onerous and potentially harmful reporting requirements for both companies and the state, while doing little to stanch patients' rising out-of-pocket expenses.

In response, both chambers agreed to tack on transparency requirements for other players along the supply chain known as pharmacy benefit managers, which broker drug prices and have been criticized for failing to pass on rebates to patients. Those companies, many of whom are owned by the country's largest health insurers, would have to report every time they withhold such savings.

Though the bill still needs to pass the House again before heading to the governor's desk, Republican Rep. Tom Oliverson, who drafted the original proposal, said he was amenable to the changes by the Senate, at least as he understood them.

The bill "is a solid win for patients in Texas," he said.

Gov. Abbott echoed the sentiment in a tweet Wednesday afternoon, calling the measures "great" for consumers and saying they "should help corral drug prices."

Should the efforts succeed, Texas will join several states already taking action, including Oregon, which has the lowest price increase threshold at 10 percent. Others, including Vermont and Connecticut, have also taken aim at the industry.

Staff Note:

Disposition of Entry:

SSL Committee Meeting: 2021 A

- Include in Volume
- Include as a Note
- Defer consideration:
 - next SSL meeting
 - next SSL cycle
- Reject

Comments/Note to staff: