State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 3538

03/08/2018 Authored by McDonald and Hornstein
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

A bill for an act

relating to health; requiring cost disclosure for qualifying prescription drugs; requiring a report; proposing coding for new law in Minnesota Statutes, chapter 144.

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

Section 1. **[144.7031] PRESCRIPTION DRUG COST TRANSPARENCY.**

Subdivision 1. **Intent and findings.** It is the intent of the legislature to make pharmaceutical pricing as transparent as possible. To fulfill this goal, the legislature finds that there should be annual cost reporting on the most expensive drugs that would allow policy makers, government agencies, and others to understand costs for these important products.

Subd. 2. **Definitions.** (a) For purposes of this section, the following definitions apply.

(b) "Manufacturer" has the meaning provided in section 151.01, subdivision 14a.

(c) "Wholesale acquisition cost" or "WAC" means the manufacturer's list price for a drug or biological to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, rebates, or reductions in price, for the most recent month for which information is available, as reported in wholesale price guides or other publications of drug or biological pricing data.

Subd. 3. **Cost reporting for qualifying drugs.** (a) Each manufacturer of a prescription drug, made available in Minnesota, that has a wholesale acquisition cost of $10,000 or more annually or per course of treatment, shall file a report with the commissioner as provided in this subdivision on the costs for each qualifying drug.

(b) The report shall include all of the following for each qualifying drug:

(1) the total costs for the production of the drug, including all of the following:

(i) the total research and development costs paid by the manufacturer, and separately the total research and development costs paid by any predecessor in the development of the drug;

(ii) the total costs of clinical trials and other regulatory costs paid by the manufacturer, and separately the total costs of clinical trials and other regulatory costs paid by any predecessor in the development of the drug;

(iii) the total costs for materials, manufacturing, and administration attributable to the drug;

(iv) the total costs paid by any entity other than the manufacturer or predecessor for research and development, including any amount from federal, state, or other governmental programs or any form of subsidies, grants, or other support;

(v) any other costs to acquire the drug, including all or any costs for the purchase of patents, licensing, or acquisition of any corporate entity owning any rights to the drug while in development; and

(vi) the total marketing and advertising costs for the promotion of the drug directly to consumers, including but not limited to costs associated with direct-to-consumer coupons and the amount redeemed, total marketing and advertising costs for promotion of the drug directly or indirectly to prescribers, and any other advertising for the drug;

(2) a cumulative annual history of average wholesale price (AWP) and WAC increases for the drug, expressed as percentages, including the month each increase in each category, AWP and WAC, took effect;

(3) the total profit attributable to the drug as represented in total dollars and as a percentage of the total company profits that were derived from the sale of the drug; and

(4) the total amount of financial assistance the manufacturer has provided through patient prescription assistance programs, if available.

(c) All of the information in paragraph (b) shall be itemized and documented by the manufacturer and audited by a fully independent third-party auditor prior to filing.

(d) No later than May 1, 2019, and each May 1 thereafter, manufacturers shall file the information required by this subdivision annually with the commissioner on a form prescribed by the commissioner.

Subd. 4. **Report to legislature.** No later than August 1, 2019, and each August 1 thereafter, the commissioner shall issue a report annually to the legislature summarizing the information submitted under this section. The commissioner shall also make the report available to the public on the agency Web site.

Subd. 5. **Advisory committee.** The commissioner shall convene an advisory committee to develop the form required by this section. The committee shall include, but is not limited to, representatives of the pharmaceutical industry, health carriers, pharmacy benefit managers, state agencies, consumer advocates, pharmacists, and physicians.

EFFECTIVE DATE. This section is effective the day following final enactment.