

SB 844 A STAFF MEASURE SUMMARY

Senate Committee On Health Care

Action Date: 04/07/21

Action: Do pass with amendments and requesting referral to Ways and Means. (Printed A-Engrossed.)

Vote: 3-2-0-0

Yeas: 3 - Beyer, Manning Jr, Patterson

Nays: 2 - Heard, Knopp

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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Meeting Dates: 3/22, 3/24, 4/5, 4/7

WHAT THE MEASURE DOES:

Establishes Prescription Drug Affordability Board (Board) in Department of Consumer and Business Services (DCBS) to review prices for prescription drug products. Specifies membership and duties of Board. Establishes Prescription Drug Affordability Stakeholder Council (Council) to provide stakeholder input to Board. Specifies membership of Council. Specifies cost and affordability review criteria based on drug category. Requires Board to establish upper payment limit for drugs that are expected to create affordability challenges for health systems and patients in Oregon or health inequities for communities of color. Allows payers to opt out of the upper payment limit for specific drugs to allow the payer to negotiate with a manufacturer for the cost of the drug. Requires Board to prescribe a simple process for a payer to opt out. Prohibits health care providers from billing for an amount that exceeds upper limit established by Board. Allows person aggrieved by Board decision to request contested case hearing. Requires Board to establish and assess fees against manufacturers of prescription drug products sold in Oregon for costs of carrying out duties of Board. Allows DCBS Director to go to court to stop violations. Requires Board to report annually to Legislative Assembly on Board reviews and price trends. Requires Board to conduct annual review of United States generic drug market. Appropriates an unspecified amount from General Fund and requires Board to reimburse appropriation by June 30, 2023.

ISSUES DISCUSSED:

- Maryland's Prescription Drug Affordability Board
- Payment limit considerations and application
- Potential impact of upper payment limits on innovative drug development and access to drugs
- House Bill 4005 (2018) and Oregon's Prescription Drug Price Transparency program
- Use of fees assessed on pharmaceutical manufacturers
- Influence of pharmacy benefit manufacturers and health insurers on cost of drugs

EFFECT OF AMENDMENT:

Clarifies Board's authority to compel compliance with subpoenas. Adds three additional representatives to the Council. Clarifies Board's responsibility to access prescription drug pricing information. Clarifies process for establishing, and application of, upper payment limits. Substitutes DCBS Director for Attorney General as person responsible for seeking remedy for violations.

BACKGROUND:

According to a 2021 RAND report, prescription drug prices in the United States average 2.56 times those seen in 32 other nations. The disparity is especially prevalent for brand-name drugs where prices in the United States average 3.44 times those in comparison nations. In 2018, the Legislative Assembly passed House Bill 4005, the Prescription Drug Price Transparency Act, which requires pharmaceutical manufacturers and insurers to report

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specified prescription drug cost and price information. In 2019, Maryland became the first state to establish a Prescription Drug Affordability Board (PDAB). The PDAB takes inspiration from states' regulation of consumer payment rates for essential services, such as clean drinking water, safe and consistent electricity, and public transportation, where states act to ensure that these necessary services are affordable to the public. Seven other states (Arizona, Colorado, Minnesota, New Jersey, New Mexico, Rhode Island, and Virginia) are currently considering establishing PDABs.

Senate Bill 844 A establishes a Prescription Drug Affordability Board in Oregon to review prescription drug prices and establish upper payments for specified categories of drugs.