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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. 2016

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- OFFICE OF HEALTH AND HUMAN SERVICES

Introduced By: Representatives Fellela, Azzinaro, Serpa, Ucci, and Messier

Date Introduced: March 03, 2016

Referred To: House Corporations

(Attorney General)

It is enacted by the General Assembly as follows:

SECTION 1. Chapter 42-7.2 of the General Laws entitled "Office of Health and Human Services" is hereby amended by adding thereto the following section:

42-7.2-21. Transparency and cost control of pharmaceutical drug prices. -- (a) The executive office of health and human services ("EOHHS") 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 EOHHS shall consider the following factors:

(1) The cost of the drug to public health care programs, including those administered by the EOHHS;

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

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

(4) Potential impact of the cost of the drug on the state's achievement of cost-effective statewide health care.

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

(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.

(3) 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;

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

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

(6) 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 EOHHS 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. 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 EOHHS 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 EOHHS 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 EOHHS may include recommendations for actions to lower prescription drug costs and spending across the state while maintaining access to and quality health care. The EOHHS's report shall be posted on the EOHHS's website and shall be filed with the speaker of the house of representatives and the president of the senate.

(f) The EOHHS shall identify, using the information submitted to the EOHHS, those prescription drugs that due to their cost, jeopardize the state's ability to meet the achievement of cost-effective statewide health care. In reviewing the data, the EOHHS shall review and consider all data reported to the EOHHS 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.

(g) If the EOHHS determines that a prescription drug is significantly high, then the EOHHS 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 on January 1, 2017.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- OFFICE OF HEALTH AND HUMAN SERVICES

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This act would require the Executive Office of Health and Human Services ("EOHHS") to create a critical prescription drug list where there is a substantial public interest in understanding the development of its pricing. If a prescription drug is placed on the critical prescription drug list, the manufacture of such prescription drug must report certain information to EOHHS.

This act would take effect on January 1, 2017.

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