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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. 2017

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT-- PRESCRIPTION DRUG REVIEW COMMISSION

Introduced By: Representatives Serpa, Slater, Lima, Costantino, and Fellela

Date Introduced: February 03, 2017

Referred To: House Corporations

It is enacted by the General Assembly as follows:

SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND GOVERNMENT" is hereby amended by adding thereto the following chapter:

CHAPTER 14.7

PRESCRIPTION DRUG REVIEW COMMISSION

42-14.7-1. Prescription drug review commission.

(a) There shall be a prescription drug review commission, hereinafter referred to as the commission. The commission shall consist of: the speaker of the house of representatives, or designee; the president of the senate, or designee; the chairs of the house and senate finance committees or their designees; the co-chairs of the permanent joint committee on health care oversight, or their designees; the director of the department of elder affairs, or designee; and nine (9) members to be appointed by the governor, including two (2) representatives of senior citizens' advocacy organizations, two (2) representatives of disability advocacy organizations, a health care economist from a university or college within the state, two (2) representatives from retail pharmacies, an individual who is a full-time employee of a pharmaceutical manufacturer, and an individual who is a full-time employee of a biotechnology manufacturer.

(b) The commission shall elect a chairperson and a vice-chairperson from among its members.

(c) The commission shall meet annually and shall, not less than annually, submit written

recommendations to the governor regarding changes to the administration, management, eligibility criteria, benefits, funding or any other aspect of the program.

42-14.7-2. Duties.

(a)(1) The commission shall develop a list of critical prescription drugs for which there is a substantial public interest in understanding the development of its pricing.

(2) In developing the list, the commission shall consider the following factors:

(i) The cost of the drug to public health care programs, including the office of health and human services and the health insurance commissioner;

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

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

(iv) Potential impact of the cost of the drug on the state's achievement of the statewide health care cost growth benchmark.

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

(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 country, for a representative set of countries determined by the commission.

(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 commission 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. 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 commission 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 commission 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 commission may include recommendations for actions to lower prescription drug costs and spending across the state while maintaining access to quality health care. The commission's report shall be posted on the commission's website and shall be filed with the house of representatives and senate clerks, the house and senate committees on finance, and the permanent joint committee on health care oversight, each year, prior to the commission's annual cost hearings.

(f)(1) The commission shall identify, using information submitted to the commission those prescription drugs that, due to their cost, jeopardize the state's ability to meet the statewide health care cost growth benchmark, as established by the commission.

(2) In reviewing the data, the commission shall review and consider all data reported to the commission and determine whether the price of the prescription drug is significantly high given:

(i) The prescription drug's medical benefits;

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

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

(g) If the commission determines that a prescription drug is significantly high, then the commission 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 STATE AFFAIRS AND GOVERNMENT-- PRESCRIPTION DRUG REVIEW COMMISSION

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This act would establish a prescription drug review commission to develop a list of critical prescription drugs for which there is a substantial public interest in understanding the development of its pricing.

This act would take effect upon passage.

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