

Chapter 1291

H.B. No. 2536

1 AN ACT  
2 relating to transparency related to drug costs.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Subtitle A, Title 6, Health and Safety Code, is  
5 amended by adding Chapter 441 to read as follows:

6 CHAPTER 441. DRUG COST TRANSPARENCY

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 441.0001. DEFINITIONS. In this chapter:

9 (1) "Animal health product" means a medical product  
10 approved and licensed for use in animal or veterinary medicine,  
11 including a pharmaceutical, a biologic, an insecticide, and a  
12 parasiticide.

13 (2) "Pharmaceutical drug manufacturer" means a person  
14 engaged in the business of producing, preparing, propagating,  
15 compounding, converting, processing, packaging, labeling, or  
16 distributing a drug. The term does not include a wholesale  
17 distributor or retailer of prescription drugs or a pharmacist  
18 licensed under Subtitle J, Title 3, Occupations Code.

19 (3) "Prescription drug" and "drug" have the meanings  
20 assigned by Section 551.003, Occupations Code, except that the term  
21 "prescription drug" does not include a device or an animal health  
22 product.

23 (4) "Wholesale acquisition cost" means, with respect  
24 to a drug, the pharmaceutical drug manufacturer's list price for

1 the drug charged to wholesalers or direct purchasers in the United  
2 States, as reported in wholesale price guides or other publications  
3 of drug pricing data. The cost does not include any rebates, prompt  
4 pay or other discounts, or other reductions in price.

5 Sec. 441.0002. DISCLOSURE OF DRUG PRICING INFORMATION. (a)  
6 Not later than the 15th day of each calendar year, a pharmaceutical  
7 drug manufacturer shall submit a report to the executive  
8 commissioner stating the current wholesale acquisition cost  
9 information for the United States Food and Drug  
10 Administration-approved drugs sold in or into this state by that  
11 manufacturer.

12 (b) The executive commissioner shall develop an Internet  
13 website to provide to the general public drug price information  
14 submitted under Subsection (a). The Internet website shall be made  
15 available on the Health and Human Services Commission's Internet  
16 website with a dedicated link that is prominently displayed on the  
17 home page or by a separate easily identifiable Internet address.

18 (c) This subsection applies only to a drug with a wholesale  
19 acquisition cost of at least \$100 for a 30-day supply before the  
20 effective date of an increase described by this subsection. Not  
21 later than the 30th day after the effective date of an increase of  
22 40 percent or more over the preceding three calendar years or 15  
23 percent or more in the preceding calendar year in the wholesale  
24 acquisition cost of a drug to which this subsection applies, a  
25 pharmaceutical drug manufacturer shall submit a report to the  
26 executive commissioner. The report must include the following  
27 information:

- 1           (1) the name of the drug;  
2           (2) whether the drug is a brand name or generic;  
3           (3) the effective date of the change in wholesale  
4 acquisition cost;  
5           (4) aggregate, company-level research and development  
6 costs for the most recent year for which final audit data is  
7 available;  
8           (5) the name of each of the manufacturer's  
9 prescription drugs approved by the United States Food and Drug  
10 Administration in the previous three calendar years;  
11           (6) the name of each of the manufacturer's  
12 prescription drugs that lost patent exclusivity in the United  
13 States in the previous three calendar years; and  
14           (7) a statement regarding the factor or factors that  
15 caused the increase in the wholesale acquisition cost and an  
16 explanation of the role of each factor's impact on the cost.  
17           (d) The quality and types of information and data that a  
18 pharmaceutical drug manufacturer submits to the executive  
19 commissioner under Subsection (c) must be consistent with the  
20 quality and types of information and data that the manufacturer  
21 includes in the manufacturer's annual consolidated report on  
22 Securities and Exchange Commission Form 10-K or any other public  
23 disclosure.  
24           (e) Not later than the 60th day after receipt of the report  
25 submitted under Subsection (c), the executive commissioner shall  
26 publish the report on the Health and Human Services Commission's  
27 Internet website described by Subsection (b)'.

1        (f) The executive commissioner may adopt rules to implement  
2 this section.

3        SECTION 2. Chapter 1369, Insurance Code, is amended by  
4 adding Subchapter K to read as follows:

5                SUBCHAPTER K. PRESCRIPTION DRUG COST TRANSPARENCY

6                Sec. 1369.501. DEFINITIONS. In this subchapter:

7                (1) "Animal health product" means a medical product  
8 approved and licensed for use in animal or veterinary medicine,  
9 including a pharmaceutical, a biologic, an insecticide, and a  
10 parasiticide.

11                (2) "Health benefit plan" means an individual,  
12 blanket, or group plan, policy, or contract for health care  
13 services issued or delivered by a health benefit plan issuer in this  
14 state.

15                (3) "Health benefit plan issuer" means an insurance  
16 company, a health maintenance organization, or a hospital and  
17 medical service corporation.

18                (4) "Pharmaceutical drug manufacturer" means a person  
19 engaged in the business of producing, preparing, propagating,  
20 compounding, converting, processing, packaging, labeling, or  
21 distributing a prescription drug. The term does not include a  
22 wholesale distributor or retailer of prescription drugs or a  
23 pharmacist licensed under Subtitle J, Title 3, Occupations Code.

24                (5) "Pharmacy benefit manager" has the meaning  
25 assigned by Section 4151.151.

26                (6) "Prescription drug" has the meaning assigned by  
27 Section 551.003, Occupations Code, except that the term

1 "prescription drug" does not include a device or an animal health  
2 product.

3 (7) "Rebate" means a discount or concession that  
4 affects the price of a prescription drug to a pharmacy benefit  
5 manager or health benefit plan issuer for a prescription drug  
6 manufactured by the pharmaceutical drug manufacturer.

7 (8) "Specialty drug" means a prescription drug covered  
8 under Medicare Part D that exceeds the specialty tier cost  
9 threshold established by the Centers for Medicare and Medicaid  
10 Services.

11 (9) "Utilization management" means a set of formal  
12 techniques designed to monitor the use of, or evaluate the medical  
13 necessity, appropriateness, efficacy, or efficiency of, health  
14 care services, procedures, or settings.

15 Sec. 1369.502. PHARMACY BENEFIT MANAGER INFORMATION. (a)  
16 Not later than February 1 of each year, each pharmacy benefit  
17 manager shall file a report with the commissioner. The report must  
18 state for the immediately preceding calendar year:

19 (1) the aggregated rebates, fees, price protection  
20 payments, and any other payments collected from pharmaceutical drug  
21 manufacturers; and

22 (2) the aggregated dollar amount of rebates, fees,  
23 price protection payments, and any other payments collected from  
24 pharmaceutical drug manufacturers that were:

25 (A) passed to:

26 (i) health benefit plan issuers; or

27 (ii) enrollees at the point of sale of a

1 prescription drug; or

2 (B) retained as revenue by the pharmacy benefit  
3 manager.

4 (a-1) Notwithstanding Subsection (a), the report due not  
5 later than February 1, 2020, under that subsection must state the  
6 required information for the immediately preceding three calendar  
7 years in addition to stating the required information for the  
8 preceding calendar year. This subsection expires September 1,  
9 2021.

10 (b) A report submitted by a pharmacy benefit manager may not  
11 disclose the identity of a specific health benefit plan or  
12 enrollee, the price charged for a specific prescription drug or  
13 class of prescription drugs, or the amount of any rebate or fee  
14 provided for a specific prescription drug or class of prescription  
15 drugs.

16 (c) Not later than May 1 of each year, the commissioner  
17 shall publish the aggregated data from all reports for that year  
18 required by this section in an appropriate location on the  
19 department's Internet website. The combined aggregated data from  
20 the reports must be published in a manner that does not disclose or  
21 tend to disclose proprietary or confidential information of any  
22 pharmacy benefit manager.

23 Sec. 1369.503. HEALTH BENEFIT PLAN ISSUER INFORMATION. (a)  
24 Not later than February 1 of each year, each health benefit plan  
25 issuer shall submit to the commissioner a report that states for the  
26 immediately preceding calendar year:

27 (1) the names of the 25 most frequently prescribed

1 prescription drugs across all plans;

2 (2) the percent increase in annual net spending for  
3 prescription drugs across all plans;

4 (3) the percent increase in premiums that were  
5 attributable to prescription drugs across all plans;

6 (4) the percentage of specialty drugs with utilization  
7 management requirements across all plans; and

8 (5) the premium reductions that were attributable to  
9 specialty drug utilization management.

10 (b) A report submitted by a health benefit plan issuer may  
11 not disclose the identity of a specific health benefit plan or the  
12 price charged for a specific prescription drug or class of  
13 prescription drugs.

14 (c) Not later than May 1 of each year, the commissioner  
15 shall publish the aggregated data from all reports for that year  
16 required by this section in an appropriate location on the  
17 department's Internet website. The combined aggregated data from  
18 the reports must be published in a manner that does not disclose or  
19 tend to disclose proprietary or confidential information of any  
20 health benefit plan issuer.

21 Sec. 1369.504. RULES. The commissioner may adopt rules to  
22 implement this subchapter.

23 SECTION 3. Notwithstanding Chapter 441, Health and Safety  
24 Code, as added by this Act, and Subchapter K, Chapter 1369,  
25 Insurance Code, as added by this Act, a pharmaceutical drug  
26 manufacturer, pharmacy benefit manager, or health benefit plan  
27 issuer is not required to submit a summary report as required by

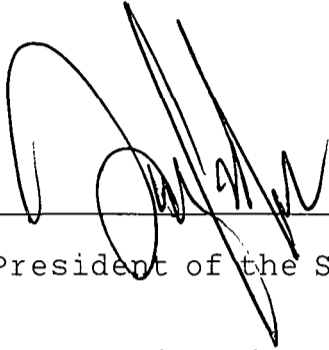
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1 Chapter 441, Health and Safety Code, as added by this Act, or  
2 Subchapter K, Chapter 1369, Insurance Code, as added by this Act, as  
3 applicable, before January 1, 2020.

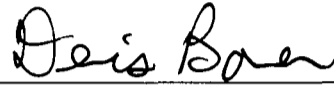
4 SECTION 4. This Act takes effect September 1, 2019.



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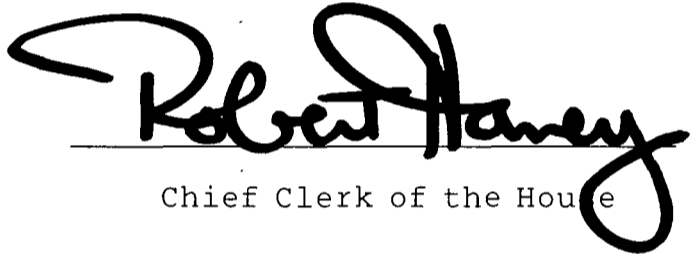


President of the Senate



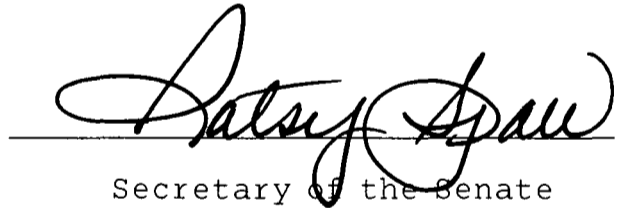
Speaker of the House

I certify that H.B. No. 2536 was passed by the House on May 10, 2019, by the following vote: Yeas 134, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2536 on May 24, 2019, by the following vote: Yeas 142, Nays 0, 2 present, not voting.



Chief Clerk of the House

I certify that H.B. No. 2536 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 27, Nays 4.



Secretary of the Senate

APPROVED: 6-13-2019

Date



Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10:00 AM O'CLOCK

JUN 14 2019



Secretary of State