
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 893 Session of
2015

INTRODUCED BY WHITE, MENSCH, RAFFERTY, ALLOWAY, YUDICHAK AND
TARTAGLIONE, JUNE 16, 2015

REFERRED TO BANKING AND INSURANCE, JUNE 16, 2015

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," in health and accident insurance,
12 establishing the Pharmaceutical Transparency Commission and
13 providing for its powers and duties.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The act of May 17, 1921 (P.L.682, No.284), known
17 as The Insurance Company Law of 1921, is amended by adding a
18 section to read:

19 Section 635.7. Pharmaceutical Transparency Commission.--(a)
20 The Insurance Department shall oversee the Pharmaceutical
21 Transparency Commission, which commission is hereby established.

22 The commission shall consist of:

23 (1) The Insurance Commissioner.

1 (2) The Secretary of Health.

2 (3) The Secretary of Human Services.

3 (4) A pharmacist designated by the Pennsylvania Pharmacists
4 Association.

5 (5) A consumer advocate designated by the Leukemia and
6 Lymphoma Society.

7 (6) A physician designated by the Pennsylvania Medical
8 Society.

9 (7) An insurance industry representative designated by the
10 Pennsylvania Association of Health Underwriters.

11 (b) The commission shall have the following powers and
12 duties:

13 (1) Hold quarterly meetings.

14 (2) Review pharmaceutical retail pricing and determine
15 whether those prices are reasonably related to the costs set
16 forth in subsection (c)(1)(i)(A), (B), (C), (D) and (E). Prices
17 in excess of twenty per centum (20%) of those costs shall be
18 presumed to not be in reasonable relation to those costs. Absent
19 a finding by the commission that such prices are nonetheless
20 reasonable, an insurer shall not be required to pay the price of
21 any prescription medication exceeding twenty per centum (20%) of
22 those costs.

23 (3) Assess an annual fee on pharmaceutical manufacturers to
24 provide for the commission's activities.

25 (4) Determine reasonable reimbursement to hospitals, health
26 care providers and physicians for costs associated with the
27 dispensing of medication.

28 (c) (1) Each manufacturer of prescription medication shall
29 report annually to the commission by March 31 the following for
30 each prescription medication that is delivered for treatment in

1 this Commonwealth:

2 (i) Total costs derived in the production of the
3 prescription medication, including the following:

4 (A) The total research and development costs paid by the
5 manufacturer and, separately, the total research and development
6 costs paid by any predecessor in the development of the drug.

7 (B) The total costs of clinical trials and other regulatory
8 costs paid by the manufacturer and, separately, the total costs
9 of clinical trials and other regulatory costs paid by any
10 predecessor in the development of the drug.

11 (C) The total costs for materials, manufacturing and
12 administration attributable to the drug.

13 (D) The total costs paid by any entity other than the
14 manufacturer or predecessor for research and development,
15 including any amount from Federal, State or other governmental
16 programs or any form of subsidies, grants or other support.

17 (E) Any other costs to acquire the drug, including costs for
18 the purchase of patents, licensing or acquisition of any
19 corporate entity owning any rights to the drug while in
20 development or all of such costs.

21 (F) The total marketing and advertising costs for the
22 promotion of the drug directly to consumers, including, but not
23 limited to, costs associated with direct-to-consumer coupons and
24 amount redeemed, total marketing and advertising costs for
25 promotion of the drug directly or indirectly to prescribers and
26 any other advertising for the drug.

27 (ii) A cumulative annual history of average wholesale price
28 and weighted average cost increases for the drug, expressed as
29 percentages, including the months each increase in the
30 categories of average wholesale price and weighted average cost

1 took effect.

2 (iii) The total profit attributable to the drug as
3 represented in total dollars and represented as a percentage of
4 the total company profits that were derived from the sale of the
5 drug.

6 (iv) A description of the manufacturer's patient
7 prescription assistance program, including, but not limited to,
8 the total amount of financial assistance provided, the total
9 amount of financial assistance provided to Pennsylvania
10 residents, the average amount of assistance per Pennsylvania
11 resident and for each drug and the parameters and qualifications
12 for any patient prescription assistance program.

13 (v) Total profit as represented in total dollars and a
14 percentage of total company profit derived from the sale of each
15 prescription medication.

16 (2) In the event a company fails to report information for a
17 drug required by this section, an insurer shall not be required
18 to reimburse the pharmaceutical manufacturer for that drug.

19 (d) All of the information in subsection (c) shall be
20 itemized and documented by the manufacturer and audited by a
21 fully independent third-party auditor prior to filing.

22 (e) The commission, in conjunction with the Insurance
23 Department, shall report annually to the General Assembly and
24 post on the department's publicly accessible Internet website
25 the information reported under this section.

26 Section 2. This act shall take effect in 60 days.