

By: Representatives Dortch, Johnson (94th),
Hines, Paden, Banks

To: Drug Policy

HOUSE BILL NO. 784

1 AN ACT TO REQUIRE THE ATTORNEY GENERAL TO COMPILE CERTAIN
 2 LISTS OF PRESCRIPTION DRUGS THAT ARE ESSENTIAL FOR TREATING
 3 DIABETES AND THE WHOLESALE ACQUISITION COST OF EACH SUCH DRUG ON
 4 THE LIST, AND THOSE DRUGS ON THE LIST THAT HAVE BEEN SUBJECT TO AN
 5 INCREASE IN THE WHOLESALE ACQUISITION COST BY A CERTAIN PERCENTAGE
 6 DURING THE PRECEDING CALENDAR YEAR OR YEARS; TO REQUIRE THE
 7 MANUFACTURERS OF DRUGS INCLUDED ON THOSE LISTS AND PHARMACY
 8 BENEFIT MANAGERS TO PROVIDE CERTAIN INFORMATION TO THE ATTORNEY
 9 GENERAL REGARDING THOSE DRUGS, THE COSTS OF THOSE DRUGS, THE
 10 REASONS FOR THE COST INCREASES OF THOSE DRUGS, AND REBATES
 11 RECEIVED BY PHARMACY BENEFIT MANAGERS; TO REQUIRE THE ATTORNEY
 12 GENERAL TO COMPILE A REPORT BASED ON THAT INFORMATION; AND FOR
 13 RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1.** As used in this act, the following terms shall
 16 have the meanings as defined in this section:

17 (a) "Manufacturer" means a person who:

18 (i) Derives, produces, prepares, compounds, mixes,
 19 cultivates, grows or processes any drug or medicine;

20 (ii) Repackages any drug or medicine for the
 21 purposes of resale; or



22 (iii) Produces or makes any devices or appliances
23 that are restricted by federal law to sale by or on the order of a
24 physician.

25 (b) "Pharmacy" means every store or shop licensed by
26 the State Board of Pharmacy where drugs, controlled substances,
27 poisons, medicines or chemicals are stored or possessed, or
28 dispensed or sold at retail, or displayed for sale at retail, or
29 where prescriptions are compounded or dispensed. The term does
30 not include an institutional pharmacy.

31 (c) "Pharmacy benefit manager" has the meaning as
32 defined in Section 73-21-179.

33 (d) "Wholesale acquisition cost" means the
34 manufacturer's list price for a prescription drug to wholesalers
35 or direct purchasers in the United States, not including any
36 discounts, rebates or reductions in price, as reported in
37 wholesale price guides or other publications of drug pricing data.

38 **SECTION 2.** On or before February 1 of each year, the
39 Attorney General shall compile:

40 (a) A list of prescription drugs that the Attorney
41 General determines to be essential for treating diabetes in this
42 state and the wholesale acquisition cost of each such drug on the
43 list. The list must include, without limitation, all forms of
44 insulin and biguanides marketed for sale in this state.

45 (b) A list of prescription drugs described in paragraph
46 (a) of this section that have been subject to an increase in the



47 wholesale acquisition cost of a percentage equal to or greater
48 than:

49 (i) The percentage increase in the Consumer Price
50 Index, Medical Care Component during the immediately preceding
51 calendar year; or

52 (ii) Twice the percentage increase in the Consumer
53 Price Index, Medical Care Component during the immediately
54 preceding two (2) calendar years.

55 **SECTION 3.** On or before April 1 of each year, the
56 manufacturer of a prescription drug that appears on the most
57 current list compiled by the Attorney General under paragraph (a)
58 of Section 2 of this act shall prepare and submit to the Attorney
59 General, in the form prescribed by the Attorney General, a report
60 which must include:

61 (a) The costs of producing the drug;

62 (b) The total administrative expenditures relating to
63 the drug, including marketing and advertising costs;

64 (c) The profit that the manufacturer has earned from
65 the drug and the percentage of the manufacturer's total profit for
66 the period during which the manufacturer has marketed the drug for
67 sale that is attributable to the drug;

68 (d) The total amount of financial assistance that the
69 manufacturer has provided through any patient prescription
70 assistance program;



71 (e) The cost associated with coupons provided directly
72 to consumers and for programs to assist consumers in paying
73 copayments, and the cost to the manufacturer attributable to the
74 redemption of those coupons and the use of those programs;

75 (f) The wholesale acquisition cost of the drug;

76 (g) A history of any increases in the wholesale
77 acquisition cost of the drug over the five (5) years immediately
78 preceding the date on which the report is submitted, including the
79 amount of each such increase expressed as a percentage of the
80 total wholesale acquisition cost of the drug, the month and year
81 in which each increase became effective and any explanation for
82 the increase;

83 (h) The aggregate amount of all rebates that the
84 manufacturer has provided to pharmacy benefit managers for sales
85 of the drug within this state; and

86 (i) Any additional information prescribed by regulation
87 of the Attorney General for the purpose of analyzing the cost of
88 prescription drugs that appear on the list compiled under
89 paragraph (a) of Section 2 of this act, trends in those costs and
90 rebates available for such drugs.

91 **SECTION 4.** On or before April 1 of a year in which a drug is
92 included on the list compiled under paragraph (b) of Section 2 of
93 this act, the manufacturer of the drug shall submit to the
94 Attorney General a report describing the reasons for the increase



95 in the wholesale acquisition cost of the drug described in that
96 paragraph. The report must include, without limitation:

97 (a) A list of each factor that has contributed to the
98 increase;

99 (b) The percentage of the total increase that is
100 attributable to each factor;

101 (c) An explanation of the role of each factor in the
102 increase; and

103 (d) Any other information prescribed by regulation by
104 the Attorney General.

105 **SECTION 5.** (1) Except as otherwise provided in subsection
106 (2) of this section, on or before April 1 of each year, a pharmacy
107 benefit manager shall submit to the Attorney General a report
108 which includes:

109 (a) The total amount of all rebates that the pharmacy
110 benefit manager negotiated with manufacturers during the
111 immediately preceding calendar year for prescription drugs
112 included on the list compiled by the Attorney General under
113 paragraph (a) of Section 2 of this act;

114 (b) The total amount of all rebates described in
115 paragraph (a) that were retained by the pharmacy benefit manager;
116 and

117 (c) The total amount of all rebates described in
118 paragraph (a) that were negotiated for purchases of such drugs for
119 use by:



120 (i) Recipients of Medicare;
121 (ii) Recipients of Medicaid;
122 (iii) Persons covered by third parties that are
123 governmental entities that are not described in subparagraph (i)
124 or (ii) of this paragraph;
125 (iv) Persons covered by third parties that are not
126 governmental entities; and
127 (v) Persons covered by a plan described in
128 subsection (2) of this section to the extent required by a
129 contract entered into under subsection (3) of this section.

130 (2) Except as otherwise provided in subsection (3) of this
131 section, the requirements of this section do not apply to the
132 coverage of prescription drugs under a plan that is subject to the
133 Employee Retirement Income Security Act of 1974 or any information
134 relating to that coverage.

135 (3) A plan described in subsection (2) of this section may,
136 by contract, require a pharmacy benefit manager that manages the
137 coverage of prescription drugs under the plan to comply with the
138 requirements of this section.

139 **SECTION 6.** On or before June 1 of each year, the Attorney
140 General shall analyze the information submitted under Sections 3,
141 4 and 5 of this act and compile a report on the price of the
142 prescription drugs that appear on the most current lists compiled
143 by the Attorney General under Section 2 of this act, the reasons
144 for any increases in those prices and the effect of those prices



145 on overall spending on prescription drugs in this state. The
146 report may include, without limitation, opportunities for persons
147 and entities in this state to lower the cost of drugs for the
148 treatment of diabetes while maintaining access to those drugs.

149 **SECTION 7.** This act shall take effect and be in force from
150 and after July 1, 2018.

