

By: Bonnen

H.B. No. 4990

A BILL TO BE ENTITLED

AN ACT

relating to the creation, management, and administration of the Texas Pharmaceutical Initiative.

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

SECTION 1. Subtitle D, Title 10, Government Code, is amended by adding Chapter 2177 to read as follows:

CHAPTER 2177. TEXAS PHARMACEUTICAL INITIATIVE

Sec. 2177.001. DEFINITIONS. In this chapter:

(1) "Initiative" means the Texas Pharmaceutical Initiative established in Sec. 2177.002.

(2) "Board" means the governing board established in Sec. 2177.003.

Sec. 2177.002. TEXAS PHARMACEUTICAL INITIATIVE; ESTABLISHMENT. The Texas Pharmaceutical Initiative is established to provide cost effective prescription drug access for employees, dependents, and retirees of public higher education systems and institutions, Employees Retirement System of Texas members, Teacher Retirement System of Texas members, persons confined by the Texas Department of Criminal Justice or the Texas Juvenile

Justice Department, recipients of medical assistance, enrollees of the child health plan program, and other public, non-profit, and for-profit entities.

Sec. 2177.003. GOVERNING BOARD. (a) The initiative shall be governed by a board that consists of:

(1) the commissioner of the Texas Health and Human Services Commission, or their designee;

(2) the executive director of the Employees Retirement System of Texas, or their designee;

(3) the executive director of the Teacher Retirement System of Texas, or their designee;

(4) three members appointed by the governor;

(5) one member appointed by the governor from a list of three names submitted by the lieutenant governor;

(6) one member appointed by the governor from a list of three names submitted by the speaker of the house of representatives; and

(6) the chancellor of the University of Texas System, or the chancellor's designee, in an ex-officio capacity.

(b) A vacancy on the board shall be filled in the same manner as the original appointment.

(c) The board is administratively attached to the Health and Human Services Commission.

(d) The governor shall select the presiding officer of the board.

Sec. 2177.004. GENERAL DUTIES. (a) The board established under SECTION 2177.003 shall:

(1) develop and implement the initiative and related programs established in this chapter;

(2) establish procedures and policies for the administration of the board;

(3) establish procedures to document compliance by board members and staff with applicable laws governing conflicts of interest; and

(4) adopt all necessary rules to implement this chapter.

(b) The board may:

(1) execute all contracts and other documents, adopt all proceedings, and conduct all activities determined by the board to be necessary to carry out the purposes of this chapter. The board may authorize one or more members of the board to execute contracts and other documents on behalf of the board; and

(2) establish and create any committees or other entities the board may deem necessary to exercise the powers provided in this act. The board may delegate to such committees or other entities administrative duties and other powers as the

board may deem necessary;

(3) hire a chief executive officer and employ necessary staff to provide administrative support;

(4) make grants to provide funds to public or private persons to implement the Texas Pharmaceutical Initiative.

(c) the board is required to implement a provision of this chapter only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the board may, but is not required to, implement a provision of this chapter.

Sec. 2177.005. TRANSPARENT PHARMACY BENEFIT MANAGER. (a) The board shall establish and implement a statewide transparent pharmacy benefit manager to provide cost-effective prescription drugs to entities and organizations served by the Initiative, [except for the Medicaid managed care program under Chapter 533.](#)

(b) The pharmacy benefit manager shall provide pricing transparency, pass-through of all rebates and fees, and fair and equitable pricing to any pharmacy that chooses to participate in the pharmacy benefit manager's pharmacy network.

(c) The pharmacy benefit manager shall contract with appropriate entities to:

(1) provide evidence-based benefit design, prior authorization, and new drug review; and

(2) partner with suppliers, pharmaceutical manufacturers, and group purchasing organizations for competitive drug acquisition.

(d) The pharmacy benefit manager may charge fees for startup, enrollment, and ongoing management to support operational costs, program development, and expansion.

Sec. 2177.006. CENTRAL SERVICE CENTER AND SATELLITE DISTRIBUTION FACILITIES. (a) The board shall establish and implement a central service center and associated network of satellite distribution facilities to provide pharmacy and medical supplies in support of Texas public higher education systems and institutions, the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas Department of Criminal Justice, the Texas Juvenile Justice Department, and other public, non-profit, and for-profit entities. The center shall:

(1) be constructed to withstand severe weather, natural disasters, and power outages, and shall be capable of supporting disaster preparedness and relief statewide; and

(2) include a mail order pharmacy and specialty pharmacy.

(b) The center may assess a stock carrying charge, transaction fees, or other fees to support distribution and other operational costs, including overhead and margin.

(c) The mail order and specialty pharmacy may receive payment for dispensing prescription drugs and may assess dispensing, delivery, and handling fees.

Sec. 2177.007 PHARMACEUTICAL ADVANCED PREPARATION FACILITY.

(a) The board shall establish a pharmaceutical advanced preparation facility to provide Food and Drug Administration approved 503B compounding, manufacturing, CAR-T and other gene therapies, precision medicine, and advanced labs for quality control, preparation and compounding in support of innovative therapeutics and drug research.

(b) The facility shall be operated by a 501 c(3) established by the board.

(c) The facility may charge fees for drug preparation, manufacturing, CAR-T, gene therapy, and 503B compounding to support operational costs, including overhead and margin.

Sec. 2177.008 ADVANCED HEALTH CARE COST AND CLAIMS ANALYTIC SERVICES. (a) The board shall contract to provide advanced health care cost and claims analytic services to support the transparent pharmacy benefit manager, mail order and specialty pharmacies, central service center, and pharmaceutical advanced preparation facility established in this chapter, and to support population health and research.

Sec. 2177.009 GENERIC DRUG MANUFACTURING FACILITY. (a) The

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board may enter into an agreement to establish a facility providing for the manufacturing of generic drugs. In entering into an agreement, the board shall prioritize savings and access to affordable medications.

Sec. 2177.010 TEXAS PHARMACY INITIATIVE FUND. (a) The Texas Pharmaceutical Initiative Fund is created as a trust fund outside the treasury with the comptroller. The fund consists of money from:

(1) gifts, grants, or donations to the executive committee; and

(2) any other source appropriated or designated by the legislature.

(b) The board may utilize the fund for the purpose of carrying out this chapter.

(c) The board shall develop procedures for administration and approval of expenditures through the fund.

Sec. 2177.011. GIFTS, GRANTS, AND DONATIONS. The board may accept on behalf of the initiative gifts, grants, or donations from any public or private source for the purpose of carrying out this chapter.

Sec. 2177.012. ANNUAL REPORT. Not later than December 31 of each year, the board shall submit to the Texas Legislature a written report that outlines:

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- (1) the activities and objectives of the initiative;
- (2) cost savings derived by state entities as a result of participation in the initiative; and
- (3) any legislative recommendations.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by SECTION 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.