

Subject Drug Pricing and Price Increases

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Overview

This bill prohibits drug manufacturers and wholesalers from charging an unconscionable price for an essential prescription drug, requires certain drug price increases for essential prescription drugs to be reported to the Attorney General, and requires the Attorney General to enforce the prohibition on charging unconscionable prices.

Summary

Section	Description
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| 1 | Investigate offenses against provisions of certain designated sections; assist in enforcement.
Amends § 8.31, subd. 1. Directs the attorney general to investigate violations of the prohibition against charging unconscionable prices for prescription drugs. |
| 2 | Forms of disciplinary action.
Amends § 151.071, subd. 1. Allows the Board of Pharmacy to impose a civil penalty not exceeding \$25,000 for each separate violation of section 151.462 (prohibition against charging unconscionable prices). |
| 3 | Grounds for disciplinary action.
Amends § 151.071, subd. 2. Classifies a violation of section 151.462 by a manufacturer or wholesale drug distributor as prohibited conduct and grounds for disciplinary action by the Board of Pharmacy. |
| 4 | Prohibition against charging unconscionable prices for prescription drugs.
Adds § 151.462. |

Subd. 1. Purpose. Provides a purpose statement.

Subd. 2. Definitions. Defines the following terms: essential prescription drug, unconscionable price, health plan company, and wholesale acquisition cost.

Section Description

“Essential prescription drug” is defined as a drug that is prescribed in Minnesota: (1) that is either: (i) covered by MA or a Minnesota Medicare Part D plan; or (ii) has been designated by the commissioner of human services as an essential medicine; and

(2) for which the wholesale acquisition cost in various formats exceeds \$80. The term also includes drug-device combination products.

“Unconscionable price” means a price that: (1) is not justified by the costs of inventing, producing, selling, and distributing the drug and expanding access to the drug; and (2) applies to an essential prescription drug sold to: (i) consumers in Minnesota; (ii) the commissioner of human services for use in a Minnesota public healthcare program; or (iii) a health plan company providing care to Minnesota consumers, and the consumer, commissioner, or health plan company has no meaningful choice about whether to purchase the drug, because there is no comparable drug sold in Minnesota whose price is justified.

Subd. 3. Prohibition. Prohibits a manufacturer or wholesale drug distributor from charging or causing to be charged an unconscionable price for an essential prescription drug. States that it is not a violation for a wholesale drug distributor to increase the price of the drug if this is directly attributable to additional costs imposed by the manufacturer.

Subd. 4. Commissioner of human services; list of essential prescription drugs. Allows the commissioner of human services, in consultation with the DHS formulary committee, to designate essential medicines. Requires the commissioner to maintain a list of all essential prescription drugs on the agency website. Exempts the commissioner from rulemaking under chapter 14 when designating essential medicines and compiling the list of essential prescription drugs.

Subd. 5. Notification of attorney general. Requires the Board of Pharmacy, the commissioner of human services, and health plan companies to notify the Attorney General of any increase, during a one-year period, of 15 percent or more in the price of an essential prescription drug sold in Minnesota.

Subd. 6. Attorney general’s office to confer with drug manufacturer or distributor. Requires the attorney general, in order to bring an action for charging an unconscionable price, to provide the manufacturer or distributor with an opportunity to meet with the attorney general to justify the price of the essential prescription drug.

Section **Description**

Subd. 7. Private right of action. States that any action brought pursuant to section 8.31, subdivision 3a (private remedies and civil action) by a person injured by a violation of this section is for the benefit of the public.

Subd. 8. Severability. States that provisions and parts of provisions of the section, or its effective date, are severable.

Effective date. Provides that the section is effective the day following final enactment and applies retroactively to any prices charged by a manufacturer or distributor for essential prescription drugs sold or distributed in Minnesota on or after July 1, 2014.

5 Appropriation.

Appropriates \$46,000 in fiscal year 2021 from the general fund to the commissioner of human services to implement section 151.462. Sets the base at \$52,000 for fiscal year 2022 and fiscal year 2023, and specifies the amount of federal financial participation.



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