



# Rising Prescription Drug Costs: A Report on State and Federal Efforts to Contain Costs

March 2018

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## INTRODUCTION

Many states are in the midst of their legislative cycles, with the issue of rising pharmaceutical costs on agendas across the country. Regulators and legislators are concentrating their efforts on ways to contain costs for consumers. To assist those states thinking of tackling this issue in the future, Health Policy News (HPN) has compiled a legislation tracking tool and summary level information to guide states as they craft protections that best fit their end goals. The pending legislation addresses the issue in a variety of ways including additional transparency requirements, bulk or alternative purchasing arrangements, pricing parameters, and state preferred drug lists. This report summarizes a handful of state based efforts as well as pending federal legislation aimed at protecting consumers and increasing access to lower cost prescription drugs. As always, HPN subject matter experts are available if you have questions about how best to start drafting legislation or use existing regulatory power to contain rising prescription drug costs.

## FACTORS INCREASING DRUG COSTS

### Overview

It is projected that between 2016 and 2020 the annual growth rate of prescription drugs will increase between 5 and 8 percent.<sup>1</sup> A recent report put out by the Department of Health and Human Services estimates that US prescription drug spending was around \$457 billion in 2015, or 16.7 percent of overall personal health care services – with \$328 billion (71.9 percent) for retail drugs and \$128 billion (28.1 percent) for non-retail drugs.<sup>2</sup> The impact of rising costs will be felt by consumers both through increased out of pocket drug costs and increased health insurance premiums. The key drivers of the cost increases are not only increased utilization overall but also to increased utilization of higher priced drugs (i.e; Sovaldi, Ocrevus) and an increase in the number of prescriptions per capita.

Retail Expenditures and Prescriptions, 2009 to 2015

	Expenditures Billions \$	Prescriptions Billions
2009*	255.3	3.54
2010	261.2	3.54
2011	276.6	3.57
2012	280.9	3.71
2013	297.1	3.81
2014	329.9	3.92
2015*	356.7	3.95

\* Estimates for 2009 and 2015 are re-weighted to reflect annual figure.

Source: ASPE analysis of IMS Health NPA data from October 2009 to September 2015. Expenditure data are not available for Mail Service of Specialty Mail Service channels.

The table above highlights the increase in both expenditures and the total number of prescriptions between 2009 and 2015 with both steadily increasing during said time period.<sup>3</sup>

Recent coverage of how much control manufacturers have over the access to and the cost of life saving medications has highlighted the need for state cost control measures. The price increases vary based on drug category (i.e. brand name, specialty, generics) although price inflation has impacted all drugs in recent years. Most costly in general, specialty prescription drugs include medications used to treat complex, chronic conditions and commonly

<sup>1</sup> IMS Institute for Healthcare Informatics. November 2015. "Global Medicines Use in 2020: Outlook and Implications."

<sup>2</sup> <https://aspe.hhs.gov/system/files/pdf/187586/Drugspending.pdf>

<sup>3</sup> <https://aspe.hhs.gov/system/files/pdf/187586/Drugspending.pdf>

require special handling or administration. For example, this category includes the high profile, high cost drugs used to treat Hepatitis C (Harvoni and Solvadi).

Brand name prescription drugs are those that are marketed under the brand name of the manufacturer.<sup>4</sup> Non-specialty brand name drugs continue to experience significant price inflation due, in part, to increases in direct-to-consumer marketing and drug rebates. Despite most public attention currently being directed towards specialty drug pricing, non-specialty brand name drugs represented a greater proportion of overall drug price increases than increases for specialty drugs in the most recent year. Another contributing factor to the high costs of prescription drugs, as well as consumer confusion, are discounts or rebates on brand name drugs. As explained above, direct-to-consumer marketing of brand name medications is leading to increased utilization and reliance on manufacturer rebates that offset a portion of the consumer's cost of the brand name medication.

Generally seen as a cost saving method, generic drugs are sold by manufacturers under the generic name. For example, Tylenol is a brand name and acetaminophen is the generic name. Generic drugs are considered a valuable cost saving option, and many carriers identify generic drugs within their formulary to offset the rate impact of drug prices. Unfortunately, even generics are not immune to cost inflation and, in recent years, factors such as consolidation of drug manufacturers contributed to generic drug price increases, with 222 drug groups increasing 100 percent or more between 2013 and 2014.<sup>5</sup>

## Regulatory Reaction

While states wait for the legislation to pass, regulators are finding creative ways to protect consumers – including adding notice requirements for health insurance carriers to alert consumers when out of pocket costs for drug are changing. This can be done with varying degrees of oversight, from simply requiring a notice to be sent to a consumer to creating a formal notice and justification template that issuers are required to file with a state division of insurance prior to any increase going into effect. In addition to these notice requirements, regulators are using consumer protection grant funds to define and more closely scrutinize formulary information to ensure that consumers are paying fair prices for drugs – especially high cost medications that may routinely be relegated to specialty or higher formulary tiers.

## STATE PRESCRIPTION DRUG COST CONTAINMENT EFFORTS

States are approaching legislative intervention in various ways, including increased cost transparency, state drug spending caps, and stricter requirements for pharmacy benefit managers. In addition, the methods utilized put additional pressure on the various players contributing to increased pricing, including pharmacy benefit managers (PBM), pharmacies, drug manufacturers, and health insurance carriers.

The National Academy for State Health Policy's (NASHP) major initiative for the past couple of years has been to raise awareness and develop actionable steps for states to combat growing prescription drug (RX) costs. In 2016 the findings of the RX workgroup were compiled into a preliminary report "[States and the Rising Cost of Pharmaceuticals: A Call to Action](#)." Not only does the report include steps to ensure consumer protection, but it also includes actionable items by regulators and drug purchasing state agencies (Medicaid, corrections, public employees) by which states can leverage their collective buying power to influence the cost of drugs purchased.

The report includes eleven specific innovative ways for states to combat rising costs:

1. Increase price transparency to create public visibility and accountability;
2. Create a public utility model to oversee in-state drug prices;
3. Bulk purchase and distribution of high-priced, broadly-indicated drugs that protect public health;

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<sup>5</sup> Ifrad Islam, Rising Cost Of Drugs: Where Do We Go From Here?, Health Affairs Blog, August 31, 2015.

4. Utilize state unfair trade and consumer protection laws to address high drug prices;
5. Seek the ability to re-import drugs from Canada on a state-by-state basis;
6. Pursue Medicaid waivers and legislative changes to promote greater purchasing flexibility;
7. Enable states to operate as pharmacy benefit managers to broaden their purchasing and negotiating powers;
8. Pursue return on investment pricing and forward financing approaches to allow flexible financing based on long-term, avoided costs;
9. Ensure state participation in Medicare Part D through Employer Group Waiver Plans;
10. Protect consumers against misleading marketing; and
11. Use shareholder activism through state pension funds to influence pharmaceutical company actions.

Model legislation was recently released by the NASHP [Pharmacy Cost Work Group](#). Comprised of state health leaders, clinical professionals, attorneys general, and legislators, this group has spent the past year continuing their work of providing guidance to states on ways to tackle the rising prescription drug costs. Some recent resources for states include the drug rate setting model legislation. This model urges states to establish a drug cost review commission, along with a commission advisory board, to review certain required submissions from an outlined list of brand and generic drug products within certain price triggers parameters. Much like the board established in New York (outlined in more detail below and that was established to review and negotiate on behalf of New York State), the commission would be tasked with determining if “appropriate utilization of a drug is commensurate with its benefit to the system and whether the drug is affordable to State residents.”<sup>6</sup> Additional elements of the NASHP model legislation include drug increase notice and justification requirements – similar to many of the pending bills in states across the country (outlined below). Many states have adopted the same notice/justification parameters in their pending legislation – an increase in cost of more than 10 percent or 10,000 in a 12-month period or the introduction of a brand name high cost medication that costs \$30,000 per year or course of treatment, and generics with a price of \$3,000 or more or a 25 percent increase, or more than \$300 in a 12-month period.

## State Efforts Underway

In addition to the legislative tracking tool developed as a component to this overview report (Appendix A), we have highlighted below a few of the common approaches pending or ongoing in states. First, we highlight a major cost transparency bill tied to efforts to contain and reduce total health spending in Massachusetts. Similarly, in New York, efforts are tied to the Medicaid waiver drug cost spending caps and are outlined in more detail in latter portions of this report. Various states are attempting to define the universe of highest cost drugs or mandating reporting requirements to gather data on high cost drugs. The goal is using data to ensure that consumers have access and the ability to obtain accurate pricing information from pharmacies and their health insurance carriers.

### *Cost Transparency*

#### Massachusetts – [Massachusetts House Bill 3223 Pharmaceutical Cost Transparency](#)

In January 2017, the Massachusetts House filed House Bill 3223, which sets forth a directive requiring the Massachusetts Health Policy Commission (HPC) with the assistance of the Center for Health Information and Analysis (CHIA) to identify annually the 15 prescription drugs on which the state spends significant health care dollars (specifically those for which the price has increased 50 percent over the past five years, or 15 percent in the past year). Moving forward, drug manufacturers would be required to report to HPC each price increase of a prescription drug that will result in an increase in the average manufacturer price of that drug that is equal to 10 percent or more over a 12-month period. This information would be used by the Office of the Attorney General (AG) to contact manufacturers for justification of wholesale acquisition price increases. The AG’s office would produce a

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<sup>6</sup> [https://nashp.org/wp-content/uploads/2017/07/Prescription-Drugs-Rate-Setting\\_Model-Legislation.pdf](https://nashp.org/wp-content/uploads/2017/07/Prescription-Drugs-Rate-Setting_Model-Legislation.pdf)

publicly available, annual report on drug costs and HPC would add drug costs that contribute to cost growth within the Commonwealth's health care system to their annual health cost benchmark hearing.

Florida – [SB 737 An act relating to prescription drug price transparency](#)

This bill requires the Agency for Health Care Administration to collect data on the retail prices for the 300 most frequently prescribed medicines from pharmacies and to post this information on their website and update it monthly.

#### *Pharmacy Benefit Managers*

Vermont – [Vermont Act 54 \(S.139\) An Act relating to healthcare](#) – signed into law June 2015

This bill includes provisions designed to set drug cost standards for pharmacy benefit managers (PBM), including for those drugs that a PBM establishes a maximum allowable cost. The maximum allowable cost (the cost) is defined as the per unit drug product reimbursement amount, excluding dispensing fees, for a group of equivalent multisource generic prescription drugs. They must make available the cost, the source used to determine it, and an appeal process for pharmacies to appeal the cost, as well as update the cost on a weekly basis.

Connecticut – [SB 445 An Act Concerning Contracts between a Pharmacy and Pharmacy Benefit Manager](#) – signed into law July 2017

As of January 2018, pharmacists in Connecticut must provide a disclosure to consumers that contains:

- The cost of the prescription medication;
- Availability of any therapeutically equivalent alternative medications; and
- Alternative methods of purchasing the prescription medication, including, but not limited to, paying a cash price, that are less expensive than the cost of the prescription medication to the individual.

Additionally, consumers obtaining covered prescription medication must not be required to pay an amount greater than the lesser of the applicable copayment for such prescription medication or the allowable claim amount for the prescription medication, or the amount an individual would pay for the prescription medication if the individual purchased the prescription medication without using a health benefit plan.

#### *Drug Manufacturer Disclosure Requirements*

Illinois – [Illinois HB 239 An Act concerning health](#)

Illinois House Bill 239, currently pending with the Rules Committee, would require manufacturers of brand name or generic prescription drugs to notify state purchasers, health insurers, health care service plan providers, pharmacy benefit managers, and the General Assembly of specified increases in drug prices at least 60 days before such increase and the cost of the specified new prescription drugs (specifically those that cost \$10,000 or more annually or per course of treatment) within three days of FDA approval. The standards set forth in the bill require notice if a drug is set to increase more than 10 percent during a 12-month period or more than \$10,000 in a 12-month period. The Illinois General Assembly is directed to hold an annual hearing on overall price increases, emerging trends, decreases in drug spending, and the impact of RX drug spending on health care affordability and premiums.

#### *Drug Cost Caps*

New York – [New York A03007B- Budget Bill](#) - signed into law in April 2017

New York recently passed legislation to contain drug cost spending by establishing a statutory limit on annual growth. With a phased-in approach, New York seeks to set forth annual growth limitations by closely examining the cost of drugs and referring certain high cost medications to a drug utilization board that will not only examine the true cost to the state, but will also negotiate with manufacturers regarding pricing and rebates.

## FEDERAL PRESCRIPTION DRUG COST CONTAINMENT EFFORTS

### Key Pending Legislation

Several key pieces of legislation are pending at the federal level that mirror some of the effort underway at the state level.

One such effort, [The Affordable and Safe Prescription Drug Importation Act \(S. 469\)](#) seeks to allow Americans to take advantage of safe and affordable medications available in Canada by allowing importation of drugs.<sup>7</sup> Specifically, the act instructs the Secretary of Health and Human Services “to issue regulations allowing wholesalers, licensed U.S. pharmacies, and individuals to import qualifying prescription drugs manufactured at FDA-inspected facilities from licensed Canadian sellers.” In accompanying documents, the sponsors of this bill cite the overwhelming support for regulations allowing importation of drugs, with 71 percent of Americans in favor of such actions.<sup>8</sup>

The [Creates Act \(S. 3056\)](#), originally introduced in 2016 and revised in 2017, aims to increase drug price competition by making it easier for medicines whose patents have expired to be sold as less expensive generic versions. This act seeks to remove barriers to competition by shortening the time a drug can remain on patent and opening up the market by allowing for generic drugs to enter the market sooner than is currently allowable.<sup>9</sup> With changes in US patent law evolving at a rapid pace, passage of this bill could pave the way for dramatic change as a large number of patents are set to expire in the coming years. It is anticipated that there will be legal battles in future years with contested patent rights, but it is expected that relaxing the requirements around exclusivity as well as upcoming loss of exclusivity for many brand, biologic, and biosimilar drugs will result in generic and less expensive biosimilar therapies becoming available in the next five years. This bill could help accelerate the positive impact that changes in patent law are likely to have on drug pricing.

## OTHER COST CONTAINMENT EFFORTS

### Use of the Courts to Provide Access to Fair Priced Pharmaceuticals

Many states have begun actively using the courts as a method to attempt to protect consumers from skyrocketing costs, as well as to contain state spending on drugs, with only a few key cases highlighted below.

It is estimated that in 2016 Massachusetts paid \$160 million for Hepatitis C medication for MassHealth members, and commercial carriers had paid over \$100 million between 2014 and 2016 for the same. In 2016, Massachusetts Attorney General Maura Healy led the way in efforts to combat high cost drugs and challenge manufacturer Gilead Sciences over the cost of the Hepatitis C combination drug Epclusa, which combines the high profile drug Sovaldi with Daklinza, which carry with them a price tag of \$84,000 and \$63,000 respectively. Attorney General Healey threatened to sue Gilead, claiming the pricing of the drug Epclusa (list price \$75,000) violated the state’s Consumer Protection Act. Gilead Science and the state reached an agreement that went into effect on August 1<sup>st</sup> and included drug rebates for some consumers affected by the chronic disease. Gilead’s treatment will be the exclusive therapy for about 80 percent of MassHealth members, and the agreement also includes rebates for the older medications which would have been used in 20 percent of the previous treatment of MassHealth members. The Centers for

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<sup>7</sup> <https://aspe.hhs.gov/system/files/pdf/187586/Drugspending.pdf>

<sup>8</sup> According to a September 29, 2016 poll by the Kaiser Family Foundation, 71 percent of Americans favor allowing Americans to buy prescription drugs imported from Canada - <https://khn.org/news/poll-finds-majority-of-americans-want-restraints-on-drug-prices/>

<sup>9</sup> <https://www.leahy.senate.gov/imo/media/doc/CREATES%20Act%20-%20Press%20Background%20Materials%20updated%204.24.17.pdf>

Medicare and Medicaid Services (CMS) praised this deal and its outcome is encouraging as states struggle to keep up with the rising cost of Hepatitis C treatment.<sup>10</sup>

New York State recently filed suit against the Capital District Physician's Health Plan (CDPHP) for refusals to pay for Hepatitis C drugs unless patients had an advanced stage of the disease, such as moderate or severe liver scarring. In the denial of claims for drugs to treat Hepatitis C, including Harvoni and Solvadi, which can range in price from \$50,000 to \$90,000 prior to rebates and discounts, the suit alleged the health plan failed to cite price as a reason for not approving the drug. Prior to the filing of the suit, New York sent subpoenas to 16 commercial health insurers to put pressure on issuers to ease restrictive coverage requirements, with failure to act as the cause of the suit against CDPHP.

Other states have followed the lead of Massachusetts and New York, with a 2017 lawsuit filed by 45 state attorneys general and the District of Columbia, alleging that generic drug manufacturers engaged in a price fixing conspiracy, dividing consumers amongst themselves. This suit was filed against 18 companies and subsidiaries for 15 medicines, targeting two individuals – one at Mylan NV and the second at Emcure Pharmaceuticals. Additionally, the suit alleged that the companies colluded on price increases in advance, contributing to the soaring costs of generic drugs in recent years. For example, the suit alleges that for one drug in particular, delayed-release Doxycycline, the price rose from \$20 for 500 tablets to \$1,849 between October 2013 and May 2014.<sup>11</sup> The Justice Department continues to probe the allegations with additional potential defendants likely to be added to the suit as more details of the drug price fixing scheme emerge.

## Section 1115 Medicaid Waivers as a Vehicle to Address Drug Costs

Section 1115 Medicaid Waivers are also emerging as a potential vehicle to rein in prescription drug costs within state Medicaid programs, with interest being demonstrated at both the federal and state levels. Leveraging Section 1115 Waivers to address rising drug costs was a notable feature of the federal administration's recent budget proposal.<sup>12</sup> And, even prior to the budget proposal, two states approached CMS with requests for additional flexibility to limit drug coverage with the goal of reining spending on prescription drugs within their Medicaid programs.

### *Federal Proposal for 1115 Waiver Flexibility*

The federal administration's 2019 budget<sup>13</sup> proposes providing five states with Medicaid demonstration authority to test "drug coverage and financing reforms." The administration indicated that it would allow selected states to create state-specific prescription drug formularies for their Medicaid programs as long as the states also institute an appeals process to provide access to excluded drugs based on medical needs. Participating states could also negotiate drug prices.

### *Massachusetts' Section 1115 Medicaid Waiver Request*

In September of 2017, Massachusetts submitted a Section 1115 Waiver Amendment request<sup>14</sup> seeking additional flexibility to implement a demonstration that includes two major policy changes that would align Medicaid with common commercial insurance practices aimed at reducing spending on prescription drugs. The waiver is still pending under federal review.

First, Massachusetts seeks to implement a more limited, closed prescription drug formulary. The state is seeking to move away from the requirement that states must generally cover all drugs for which the manufacturer provides

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<sup>10</sup> Additional information on the actions of the office of Attorney General Healey can be found here:

January 22, 2016 letter to Gilead: <http://www.mass.gov/ago/docs/policy/2016/letter-to-gilead-1-22-16.pdf>

<sup>11</sup> <https://www.courthousenews.com/wp-content/uploads/2017/10/pharma-cac.pdf>

<sup>12</sup> <https://www.whitehouse.gov/wp-content/uploads/2018/02/budget-fy2019.pdf>.

<sup>13</sup> Available at <https://www.whitehouse.gov/wp-content/uploads/2018/02/budget-fy2019.pdf>. Addendum available at <https://www.whitehouse.gov/wp-content/uploads/2018/02/Addendum-to-the-FY-2019-Budget.pdf>.

<sup>14</sup> Available at <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ma/ma-masshealth-pa3.pdf>

a federal Medicaid rebate.<sup>15</sup> Massachusetts is seeking to limit coverage to as few as one drug per therapeutic class, with coverage decisions being made based on clinical efficacy and cost. Specifically, the state says it will continue to ensure “robust access” to medically necessary drugs by making coverage decisions based on which drugs meet the clinical needs of the vast majority of its members, as well as cost-effectiveness. The state believes that concentrating and guaranteeing volume for a limited set of drugs will provide it with greater negotiating leverage and allow it to secure larger supplemental rebates.

The state proposal includes an exceptions process via which beneficiaries could gain access to coverage for non-formulary drugs that are medically necessary based on the following criteria:

- Adverse drug reactions;
- Drug interactions; and
- Specific clinical needs.

Massachusetts also seeks permission to do its own drug reviews and to exclude from its formulary prescription drugs with limited or inadequate clinical efficacy in order to avoid high costs for ineffective treatments. The review would be done in conjunction with the state’s medical school and would be based on enumerated guidelines. Drugs could be excluded if one or more of the following conditions are met:

- Primary endpoints in clinical trials have not been achieved;
- Only surrogate endpoints have been reported;
- Clinical benefits have not been assessed; and/or
- The drug provides no incremental clinical benefit within its therapeutic class compared to existing alternatives.

Access could be requested through the exceptions process outlined above.

In addition to implementing a closed formulary, Massachusetts has proposed to implement a limited specialty pharmacy network. The state is seeking to procure a “high-quality, cost-effective” specialty pharmacy network via which beneficiaries would access specialty drugs. The network would provide access via brick and mortar locations as well as mail order or home delivery as needed. The state has committed to designing the network to ensure safeguards, including protections for its homeless population.

#### *Arizona’s Proposals for Flexibility Related to Prescription Drug Prices*

Following the lead of Massachusetts, Arizona submitted an informal request<sup>16</sup> to discuss a number of potential Medicaid policy changes with CMS in November of 2017. The state intends to follow up with a formal waiver request as “necessary and appropriate.”

Among the proposals included is a request to implement a more limited, closed prescription drug formulary. The state is proposing to limit coverage to two prescription drugs per category, though access could be limited to only one drug per category if one of the following conditions were met:

- Only one drug is available in a given category; or
- Only two drugs are available in a given category and one of the drugs is clinically superior to the other, consistent with Medicare Part D requirements.

In developing its formulary, the state would exclude a prescription drug if its Pharmacy and Therapeutics Committee determines that the drug does not have significant, clinically meaningful therapeutic advantage over a covered alternative in regards to safety, effectiveness, or clinical outcomes.

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<sup>15</sup> Under [SSA 1927\(d\)\(4\)\(C\)](#), States may only exclude coverage for prescription drugs for which they are offered a rebate if, with respect to the treatment of a specific disease or condition, there is no “significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome” of the prescription drug as compared to other covered drugs and the state provides a public, written explanation of the basis for the exclusion.

<sup>16</sup> Available at [https://www.azahcccs.gov/shared/Downloads/News/FlexibilitiesLetterFinal\\_11172017.pdf](https://www.azahcccs.gov/shared/Downloads/News/FlexibilitiesLetterFinal_11172017.pdf)

The state also seeks permission to exclude coverage of breakthrough prescription drugs for which a manufacturer provides a rebate until market prices are “consistent with reasonable fiscal administration” and there is “sufficient data” to demonstrate cost-effectiveness of the prescription drug.

## Next Steps

With persistent demands from the public to increase transparency and provide insights on drug pricing and costs, the rising costs of prescription drugs have risen to the forefront of health policy initiatives. Subject matter experts at Health Policy News will be closely monitoring advances related to state and federal legislation, as well as Medicaid waiver approvals that include prescription drug pricing provisions. Just last week, Oregon signed [HB4500](#) into law, after three years of attempts to achieve bipartisan and industry support.<sup>17</sup> HB 4500 requires, among other items, that drug manufacturers disclose “development costs, advertising and marketing costs, profits for the drug and whether generic drug alternatives are available, as well as what the drug costs in other countries for any drug with price increases of 10 percent or more.”<sup>18</sup> It is helpful to have as a guide for other states carefully crafted legislation achieved with bipartisan support that advances consumer protection, while balancing the concerns of industry and other stakeholders. Our goal at HPN is to provide resources and sites that allow state health policy makers and regulators to assess the options and make decisions that best serve their constituents. As always, you can contact us at [healthpolicynews@pcqus.com](mailto:healthpolicynews@pcqus.com) for more information on any of the state and federal methods outlined in the report.

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<sup>17</sup> <https://affordablernow.org/news-release-march-13/>

<sup>18</sup> <https://olis.leg.state.or.us/liz/2018R1/Measures/Overview/HB4005>

## APPENDIX A: RECENT STATE LEGISLATIVE EFFORTS RELATED TO PRESCRIPTION DRUG COSTS

Recent State Legislative Efforts Related to Prescription Drug Costs				
States	Name of Bill	Issues Covered	Summary	Link
California	Senate Bill No. 17	Transparency	This act would require the health care service plans/insurers when reporting rate information to the Department of Managed Health Care (DMHC) or the Department of Insurance (DOI) to also provide specified cost information relating to pharmaceuticals. DMHC/DOI would then have to create a report covering the impact of rates on overall healthcare costs and hold a public hearing.	<a href="https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB17">https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB17</a>
California	AB 265	Monitoring Distributors	This act would prohibit distributors from offering reductions in costs or other cost-sharing means to individuals based on their insurer or health care service plan.	<a href="https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB265">https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB265</a>
California	AB 29	Pharmacy Benefit Managers	This act would build on the current requirements placed on Pharmacy Benefit Managers (PBMs) to disclose information relating to maximum allowable cost of a drug, and would require PBMs to inform the purchaser of any income expected to come from the manufacturer.	<a href="https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB29">https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB29</a>
California	AB 904	Cost Management	This act seeks to mitigate high drug costs by directing the legislature to address high prescription drug costs and placing cost sharing caps on c30 day supplies of certain covered prescription drugs.	<a href="https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB904">https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB904</a>
Maryland	HB631 Public Health - Essential Off-Patent or Generic Drugs - Price Gouging - Prohibition	Monitoring Distributors	This act would ban manufacturers or distributors from engaging in price gouging in the sale of generic drugs.	<a href="http://mgaleg.maryland.gov/webmga/frmMain.aspx?pid=billpage&amp;stab=01&amp;id=HB0631&amp;tab=subject3&amp;ys=2017rs">http://mgaleg.maryland.gov/webmga/frmMain.aspx?pid=billpage&amp;stab=01&amp;id=HB0631&amp;tab=subject3&amp;ys=2017rs</a>
Maryland	1273 Pharmacists - Substitution and Dispensing of Biological Products	Drug Substitution	This act would allow pharmacist to substitute drugs of the same therapeutic equivalence for generic drugs. Must inform the patient of such switch and the cost associated with the change.	<a href="http://mgaleg.maryland.gov/webmga/frmMain.aspx?pid=billpage&amp;stab=01&amp;id=HB1273&amp;tab=subject3&amp;ys=2017RS">http://mgaleg.maryland.gov/webmga/frmMain.aspx?pid=billpage&amp;stab=01&amp;id=HB1273&amp;tab=subject3&amp;ys=2017RS</a>

Recent State Legislative Efforts Related to Prescription Drug Costs				
States	Name of Bill	Issues Covered	Summary	Link
Maryland	SB437 Maryland Health Insurance Coverage Protection Commission - Review of Drug Transparency and Notification Laws and Initiatives	Transparency/ Reporting	This act would task the Maryland Health Insurance Coverage Protection Commission to review drug transparency laws to inform future policy.	<a href="http://mgaleg.maryland.gov/webmga/frmMain.aspx?pid=billpage&amp;stab=03&amp;id=SB0437&amp;tab=subject3&amp;ys=2017rs">http://mgaleg.maryland.gov/webmga/frmMain.aspx?pid=billpage&amp;stab=03&amp;id=SB0437&amp;tab=subject3&amp;ys=2017rs</a>
Nevada	SB539 Revises provisions relating to prescription drugs.	Transparency/ Pharmacy Benefit Managers	This act would require Dept. of Health and Human Services to create lists of prescriptions used to treat diabetes and a list of PBMs who are allowed to distribute such drugs.	<a href="https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/5822/Overview">https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/5822/Overview</a>
Utah	H.B 163 Prescription Drug Importation Program	Volume Purchasing and importation	This act would require the Dept. of Health to create a wholesale Canadian prescription drug importation program.	<a href="https://le.utah.gov/~2018/bills/static/HB0163.html">https://le.utah.gov/~2018/bills/static/HB0163.html</a>
New York	A02653	Cost Management	This act would require reimbursements and coverage for the purchase of pharmaceuticals via mail.	<a href="http://www.nyasembly.gov/leg/?default_fld=&amp;leg_video=&amp;bn=A02653&amp;term=2017&amp;Summary=Y&amp;Actions=Y">http://www.nyasembly.gov/leg/?default_fld=&amp;leg_video=&amp;bn=A02653&amp;term=2017&amp;Summary=Y&amp;Actions=Y</a>
New York	S03999	Transparency in advertising	This act requires the Commissioner of Health to perform a cost/benefit analysis of how much money is spent on advertising of pharmaceuticals.	<a href="http://www.nyasembly.gov/leg/?default_fld=&amp;leg_video=&amp;bn=S03999&amp;term=2017&amp;Summary=Y&amp;Actions=Y">http://www.nyasembly.gov/leg/?default_fld=&amp;leg_video=&amp;bn=S03999&amp;term=2017&amp;Summary=Y&amp;Actions=Y</a>
New York	"A00700 An act to amend the social services law and the public	Consumer Protections	This act restores the "prescriber prevails" principle, a part of the procedural protections of the Preferred Drug Program for consumer protection relating to prescription drug coverage, and adds these protections to Family Health Plus and Child Health Plus.	<a href="http://www.nyasembly.gov/leg/?default_fld=&amp;leg_video=&amp;bn=A00700&amp;term=2017&amp;Summary=Y&amp;Actions=Y&amp;Memo=Y&amp;Text=Y">http://www.nyasembly.gov/leg/?default_fld=&amp;leg_video=&amp;bn=A00700&amp;term=2017&amp;Summary=Y&amp;Actions=Y&amp;Memo=Y&amp;Text=Y</a>
New York	"A2939 An act to amend the public health law, in relation to	Transparency/ reporting	This act requires the reporting of drug costs and utilization to increase transparency of pharmaceutical costs and their impact on healthcare costs, as well as to inform policy decisions relating to coverage, consumer protection and affordability.	<a href="http://www.nyasembly.gov/leg/?default_fld=&amp;leg_video=&amp;bn=A02939&amp;term=2017&amp;Summary=Y&amp;Actions=Y&amp;Memo=Y">http://www.nyasembly.gov/leg/?default_fld=&amp;leg_video=&amp;bn=A02939&amp;term=2017&amp;Summary=Y&amp;Actions=Y&amp;Memo=Y</a>

Recent State Legislative Efforts Related to Prescription Drug Costs				
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New York	A03007B	Cost Management	The act works to monitor and manage Medicaid's drug costs. This act requires that the department and division of budget review drug costs on a quarterly basis and if the director finds that the total projected expenditures surpass the annual growth limitation, (also established in this bill) then the drug is to be reviewed by the Drug Utilization Review Board (also established in this bill).	<a href="http://www.nyasembly.gov/leg/?default_fid=&amp;leg_video=&amp;bn=A03007&amp;term=2017&amp;Summary=Y&amp;Actions=Y&amp;Memo=Y">http://www.nyasembly.gov/leg/?default_fid=&amp;leg_video=&amp;bn=A03007&amp;term=2017&amp;Summary=Y&amp;Actions=Y&amp;Memo=Y</a>
Massachusetts	Bill H.1228	Transparency	This act would require a list of critical pharmaceutical drugs and explanations relative to their pricing, their impact on Commonwealth consumers and the overall healthcare costs. Insurers who sell these critical pharmaceuticals must also create a report relative to pricing and impact.	<a href="https://malegislature.gov/Bills/190/H1228">https://malegislature.gov/Bills/190/H1228</a>
Massachusetts	Bill H.2983	Volume Purchasing/ Monitoring Distributors	This act prohibits Massachusetts or any state agency from entering into an agreement with a manufacturer over a prescription drug unless purchasing said drug is set to a price ceiling established by the Dept. of Veterans Affairs.	<a href="https://malegislature.gov/Bills/190/H2983">https://malegislature.gov/Bills/190/H2983</a>
Massachusetts	HB 3223 To Promote Transparency in Prescription Drug Prices	Transparency	This act would enable the Health Policy Commission and the Center for Health Information and Analysis to report on the 15 prescription drugs on which the state spends a large amount of money annually and for which the prices have increased by either 50 percent or more over the last 5 years or 15 percent within the last year.	<a href="https://legiscan.com/MA/text/H3223/id/1566257">https://legiscan.com/MA/text/H3223/id/1566257</a>
Massachusetts	HB 491 Relative to Transparency and Access in Healthcare	Transparency	This bill would require manufacturers selling prescription drugs in Massachusetts which have seen an increase of 15 percent or more in the last 12 months to submit a report on costs of research, production, distribution and impact of increases in cost.	<a href="https://legiscan.com/MA/bill/H491/2017">https://legiscan.com/MA/bill/H491/2017</a>

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States	Name of Bill	Issues Covered	Summary	Link
Vermont	Act No. 54 (S.139). Health; health care reform; health insurance; Green Mountain Care Board; Medicaid; Vermont Health Benefit Exchange; Department of Financial Regulation; pharmacy benefit managers; hospitals; medical malpractice	Pharmacy Benefit Managers	This act would require PBM to fulfill certain requirements for each drug for which the PBM has determined a maximum allowable costs. The PBM must: create and maintain, an—easy to read—list containing all drugs and their corresponding maximum allowable cost as well as the justification for said cost, and establish and respond to an administrative appeals process.	<a href="https://legislature.vermont.gov/bill/status/2016/S.139">https://legislature.vermont.gov/bill/status/2016/S.139</a>
Connecticut	HB 5930 AN ACT MODERATING THE RISE IN MEDICATION PRICES.	Cost Management	This act is intended to regulate drug costs by creating a PBM position and a list of pharmaceuticals covered for purchasing.	<a href="https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&amp;bill_num=HB5930&amp;which_year=2017">https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&amp;bill_num=HB5930&amp;which_year=2017</a>
Connecticut	HB7118 AN ACT CONCERNING BIOLOGICAL PRODUCTS	Drug Substitution	This act would allow pharmacists to substitute drugs of the same therapeutic equivalence for generic drugs with notice requirements to the patient of such switch.	<a href="https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&amp;bill_num=HB0718&amp;which_year=2017">https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&amp;bill_num=HB0718&amp;which_year=2017</a>
Connecticut	SB 445 An act Concerning Contracts Between a Pharmacy and a Pharmacy Benefit Manager	Monitoring distributors/ Pharmacy Benefit Managers	This act would require the Pharmacy/ PBM to disclose information relating to the cost of the drug, the existence of equivalent generic drugs, or other payment methods that would financially benefit the consumer. It also places cost limits on the price of the drug.	<a href="https://www.cga.ct.gov/asp/CGABillStatus/cgabillstatus.asp?selBillType=Bill&amp;bill_num=SB445">https://www.cga.ct.gov/asp/CGABillStatus/cgabillstatus.asp?selBillType=Bill&amp;bill_num=SB445</a>
Connecticut	SB 737 An Act Concerning Prescription Drug Cost Transparency	Transparency	This act would require the manufacturer to create a report of all costs associated with the testing, production, marketing and selling of a drug.	<a href="https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&amp;bill_num=SB00737&amp;which_year=2017">https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&amp;bill_num=SB00737&amp;which_year=2017</a>
Florida	HB589 Prescription Drug Price Transparency	Transparency	This act would require the Health Care Administration Agency to report on the 300 most prescribed drugs.	<a href="https://www.flsenate.gov/Session/Bill/2017/589/?Tab=BillHistory">https://www.flsenate.gov/Session/Bill/2017/589/?Tab=BillHistory</a>

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Illinois	HB239 Drug Manufacturer Disclosures	Transparency	This would require manufacturers to notify consumers, insurers, health plans, and other interested parties on the increase of drug costs at least 60 days prior to the increase, hold a public hearing related to increase in costs, and notify consumers of possible dependency issues related to the drug. The act also imposes penalties with failure to comply.	<a href="http://www.ilga.gov/legislation/BillStatus.asp?DocNum=239&amp;GAID=14&amp;DocTypeID=HB&amp;LegId=99222&amp;SessionID=91">http://www.ilga.gov/legislation/BillStatus.asp?DocNum=239&amp;GAID=14&amp;DocTypeID=HB&amp;LegId=99222&amp;SessionID=91</a>
Illinois	HR 88	Federal Govt.	This resolution places pressure on the federal government to monitor increased drug cost and to mitigate out-of-pocket expenses for prescription drugs.	<a href="http://ilga.gov/legislation/BillStatus.asp?DocNum=88&amp;GAID=14&amp;DocTypeID=HR&amp;LegId=102364&amp;SessionID=91&amp;GA=100">http://ilga.gov/legislation/BillStatus.asp?DocNum=88&amp;GAID=14&amp;DocTypeID=HR&amp;LegId=102364&amp;SessionID=91&amp;GA=100</a>
Hawaii	HB 1444 Relating to Pharmacy Benefit Managers	Pharmacy Benefit Managers	This act would place requirements on PBMs and require them to register with the Insurance Commissioner in order to reduce drug costs.	<a href="https://legiscan.com/HI/text/HB1444/id/1481274">https://legiscan.com/HI/text/HB1444/id/1481274</a>
Kansas	HB 2300 Enacting the RX Transparency Act	Transparency/ Pharmacy Benefit Managers	This act would require PBMs to carry out a fiduciary role and to disclose information relating to the financial benefits they gain from working with the distributor.	<a href="http://www.kslegislature.org/li/b2017_18/measures/hb2300/">http://www.kslegislature.org/li/b2017_18/measures/hb2300/</a>
Georgia	HB 276 The Pharmacy Patient Fair Practices Act	Pharmacy Benefit Managers	This act relates to the regulation of PBMs by the Commissioner of Insurance.	<a href="http://www.legis.ga.gov/Legislation/en-US/display/20172018/HB/276">http://www.legis.ga.gov/Legislation/en-US/display/20172018/HB/276</a>
Indiana	HB1150	Transparency	This act would require manufacturers distributing under the Medicaid program to report on any drug where the annual wholesale cost is at least \$10,000.	<a href="https://iga.in.gov/legislative/2017/bills/house/1150">https://iga.in.gov/legislative/2017/bills/house/1150</a>
Louisiana	HB 436	Transparency	This act requires the establishment of the Prescription Drug Review Committee to monitor and ensure that manufacturers provide information relating to drug prices and provide educational/marketing materials for providers.	<a href="https://www.legis.la.gov/legis/BillInfo.aspx?i=231935">https://www.legis.la.gov/legis/BillInfo.aspx?i=231935</a>

Recent State Legislative Efforts Related to Prescription Drug Costs				
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Louisiana	SB 59	Transparency / Volume Purchasing	This act would require manufactures who engage in marketing to disclose information relating to the wholesale costs and would create penalties for those who fail to do so.	<a href="https://www.legis.la.gov/legis/BillInfo.aspx?i=231577">https://www.legis.la.gov/legis/BillInfo.aspx?i=231577</a>
Louisiana	HR 181	Transparency/ reporting	This act requests that the Louisiana Dept. of Health study and review the prescription drug prices in the medical assistance program, which would then be used to inform policy decisions.	<a href="https://legiscan.com/LA/bill/HR181/2017">https://legiscan.com/LA/bill/HR181/2017</a>
Maine	LD 1406 SP 484 An Act to Promote Prescription Drug Price Transparency	Transparency	This act would require the Attorney General to compile a list annually of qualifying prescription drugs and their associated cost increases and require reporting by drug manufacturers.	<a href="https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0484&amp;item=1&amp;snum=128">https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0484&amp;item=1&amp;snum=128</a>
Maine	LD 6 SP 10 An Act to Prohibit Insurance Carriers from Charging Enrollees for Prescription Drugs in Amounts That Exceed the Drugs' Costs	Carrier Monitoring	This act prohibits carriers from retrospectively adjusting payment on claims submitted by pharmacies.	<a href="https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0010&amp;item=1&amp;snum=128">https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0010&amp;item=1&amp;snum=128</a>



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