

# California State Senate

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## SB 17 - Drug Pricing Transparency

### Purpose

Sponsored by the California Labor Federation, Health Access California, and UNITED HERE!, this bill will promote transparency in the health care system by requiring drug makers to give prior notice to purchasers before raising prices and requiring health plans to report the proportion of the premiums which is spent on prescription drugs.

### Health care costs

Health care accounts for more than 17% of the U.S. Gross Domestic Product (\$3 trillion or \$9,523 per person) and health care costs continue to consume significantly large percentages of federal, state and personal budgets. Health care continues to grow at higher rates than inflation. In 2013, the U.S. spent far more on health care than other high-income countries. Higher spending is due to multiple factors including greater use of medical technology and higher health care prices, not necessarily more frequent doctor visits or hospital admissions. Rising drug prices certainly have contributed to an uptick in the rate of increase of spending on health care. But depending on what is counted and how it is counted, drug spending may be an even larger problem than many thought. There is very little transparency into the process of pricing drugs, and more information is needed in order to understand the true impact.

### Drug costs

A study published in Health Affairs in December 2015 found that drug spending is growing faster than other health care spending in the U.S. – increasing 12.2% between 2013 and 2014. A Kaiser Family Foundation analysis of data from the Centers for Medicare and Medicaid Services and Truven Health Analytics shows that while drugs account for 10% of U.S. health spending, it represents 19% of the cost of employer insurance benefits. Some speculate that this disparity exists because the \$3 trillion in national spending is a broad catchall which includes hospital care, physician services, drugs, research, administrative costs public health activities, and long-term care. Additionally, some of the people served by Medicare and Medicaid (whose spending is counted in the national totals) require many services not typically used by those covered by employer health plans. Even that 19% figure is understated because while it includes prescriptions that patients fill at pharmacies, it does not include many of the expensive drugs administered in physicians' offices or hospitals. In Medicare, for example, retail prescription drugs represent 13% of overall spending while drugs administered mainly by physicians add an additional 6%.

## **Drug pricing**

Federal regulations prohibit the U.S. government from setting the price of pharmaceuticals, and patents on drugs, in effect, prohibit competition, at least initially. Countries without these restrictions generally buy drugs for a fraction of the U.S. price. Pharmaceutical companies argue that high drug prices are justified because of the enormous cost and risk associated with bringing a drug to market and that payment for current drugs fund future innovation. Developing a new drug costs an average of \$1.2 billion and takes 10 to 15 years. When a new drug provides a cure for a disease, as opposed to only treating symptoms, drug companies claim that a high upfront cost is mitigated by not having to treat symptoms indefinitely. However, critics point to numerous examples of drug companies charging high prices for drugs with only marginal improvements over cheaper alternatives, or astounding increases in pricing for drugs that have been on the market for years.

## **This bill**

### Prior notice of rate increases for prescription drugs

- Requires drug manufacturers to notify purchasers, at least 60 days prior to the planned effective date, if it will be increasing the wholesale acquisition cost (WAC) of a prescription drug that costs more than \$40 by 16% in a 2-year period.
- Requires manufacturers to provide specified information related to price increase to OSHPD, such as a description of factors that led to the decision to increase drug's price, including documentation of increased clinical efficacy of the drug, if any.
- Requires manufacturers to report, within 3 days of release to the market, to OSHPD if it is introducing a prescription drug to market priced above Medicare's specialty drug threshold.
- Requires manufacturers to provide specified information related to the new drug's price to OSHPD within 30 days of that notification, such as the marketing and pricing plans used in the launch of the new drug and the estimated volume of patients that may be prescribe the drug.

### Greater understanding of the costs of prescription drugs for health plans/insurers

- Requires health plans and insurers to annually report specified information to regulators related to the proportion of the premium dollar spent on prescription drugs, the year over year increase in net costs and member costs, the 25 most frequently prescribed medications, most costly drugs by total plan spending, and drugs with the highest year over year increase in net cost.
- Requires regulators to compile this information into a consumer-friendly report that demonstrates the overall impact of drug costs on health care premiums.

## **Contact**

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