

## FACT SHEET

# SB 17 (Hernandez) Prescription Drug Price Transparency

As amended March 14, 2017

SB 17 (Hernandez), co-sponsored by Health Access California and California Labor Federation, will increase transparency in prescription drug pricing through advance notice and public information about drug pricing. The bill will require 90 days' advance notice of price hikes for most prescription drugs and public information about the reasons for price increases and the impact of drug costs on health insurance premiums.

### Drug Companies Can Charge Whatever They Want for Prescription Drugs

The cost of prescription drugs continues to skyrocket. A recent study found that for the 20 top-selling drugs globally, “R&D [research and development] costs do not explain elevated U.S. drug prices.”<sup>1</sup> Consumers are facing price increases on everything from longtime generics used to treat common conditions such as diabetes, high blood pressure, and high cholesterol to new treatments for diseases such as hepatitis C. Drug companies can increase prices whenever they want and however much they want, while consumers and purchasers have no way of knowing what is driving these costs and how to manage them.

### Escalating Drug Prices Hit Consumers' Health—and Their Pocketbooks

Consumers pay more when drug prices go up, in the form of higher copays, deductibles and other out-of-pocket costs as well as higher insurance premiums. When people are hit with higher drug costs, they are also more likely to skip doctor appointments, tests, or procedures, or not fill their prescriptions.<sup>2</sup>

### Transparency: Advance Notice and Public Information

#### *Advance Notice of 90 Days for Cumulative Price Increases Over 10%*

SB 17 provides 90 days' advance notice of prescription drug prices if the cumulative price increase over the prior three years is more than 10% for drugs priced over the price threshold for Medicare specialty drugs (\$670 for 2017) or is more than 25% for drugs priced under that threshold. The advance notice goes to both public and private purchasers, including CalPERS, Medi-Cal, Corrections, health plans, insurers and pharmacy benefit managers. Looking at cumulative price increases over the prior three years creates an incentive for price increases to fall below 10% for higher cost drugs and 25% for lower cost drugs.

Advance notice is routine in health care, and drug companies should be held to similar standards:

- Health plans and insurers provide purchasers 60 days' advance notice for rate changes.
- Covered California and other health plans offering coverage in the individual market provide a *six-month* advance notice of rate increases through the rate review process.
- Hospitals are required to provide 75 days' advance notice of a contract termination.

Advance notice of 90 days allows purchasers, both public and private, time to adjust formularies, to negotiate price concessions, and to seek other alternatives, including obtaining alternative formulations of drugs for which there are therapeutic equivalents. Many purchasers have drug formulary committees that meet quarterly to review the drug formulary: while some would prefer longer notice, at least 90 days' notice allows time to adjust to price hikes.

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## *Impact on Health Insurance Premiums and Cost Sharing*

SB 17 also requires health plans and insurers to publicly disclose information about the costliest drugs, the most frequently prescribed drugs, and the drugs with the highest cost increases. SB 17 also requires public disclosure, through rate review, of the percentage of the premium attributable to prescription drug costs as well as the year-over-year increase in spending on drugs.

## *Transparency of Drug Pricing Information*

SB 17 requires drug companies to disclose information about drug pricing to the Office of Statewide Health Planning and Development (OSHPD). Since 1982, OSHPD has been the central repository for health care cost and quality data for the State of California, providing detailed cost and quality information on hospitals, nursing homes, and other elements of the health care system. No public agency currently has comparable data on prescription drug costs.

SB 17 would require pharmaceutical manufacturers to provide OSHPD information on:

- Factors used to make the decision to increase a drug's price
- Prior year's marketing budget for the drug
- Information on price increases in the prior five years
- Information on improved clinical efficacy of drug, if any
- Volume of sales
- Other information

California has made information public on costs and quality of health facilities because of the tremendous impact on public and private purchasers. SB 17 will help to fill the gap on prescription drug prices by making information public about pricing decisions and the drivers of drug costs.

## **SB 17 Shines a Light on Drug Pricing and Controls Costs**

Prescription drug prices, for both new and existing drugs, keep climbing year after year, driving up overall health care costs. The unit price of drugs and other health care costs are higher in this country than in other industrialized countries. SB 17 takes a very modest step toward transparency by providing advance notice of price increases and additional information about drug pricing and its impact on health insurance rates.

## **Background: Prescription Drug Prices and Health Care Costs**

- Health care spending in the United States is twice the level of health care spending in other developed countries while life expectancy is often less.<sup>3</sup>
- Since 1980, health care spending in the United States has climbed from about \$1,000 per person to almost \$9,000 per person while the rate of growth in spending in other developed countries has been much more modest.<sup>4</sup> This high health care spending is paid for by individual consumers, employers, taxpayers and other purchasers of health care services and coverage.
- There has been significant growth in spending on prescription drugs. Total prescription drug costs in the United States exceeded \$450 billion, or 16.7% of personal health care spending in 2015, up from \$367 billion or 15.4% of personal health care spending in 2012.<sup>5</sup>
- For persons under age 65, the cost of outpatient prescription drugs amounts to 19% of the premium dollar, and does not account for drugs administered by a health professional such as chemotherapy or in a hospital or other health facility, which further compounds spending on prescription drugs.
- Specialty drug spending rose 30.9% between 2013 and 2014.<sup>6</sup> While specialty drugs accounted for 1% of prescriptions in 2013, these drugs accounted for 25% of prescription drug spending in 2013.<sup>7</sup> Cancer drug prices doubled within the last decade, from an average of \$5,000 per month to an average of \$10,000 per month.<sup>8</sup>

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- The federal government found that 75% of the increase in Medicaid spending on prescription drugs between 2013 and 2014 was due to increases in price.<sup>9</sup>
- Many prescription drugs had increases in unit prices, including Ativan which increased 1,264% between 2014 and 2015. Five other drugs had unit cost increases of more than 300% between 2014 and 2015.<sup>10</sup> From the fourth quarter of 2013 to the second quarter of 2016, Epi-Pen prices increased 15% every other quarter resulting in a 548% increase since 2007.<sup>11</sup> Of the 20 drugs with the highest per unit cost increases in Medicaid, nine were generic drugs and those products had increases ranging from 140% to nearly 500% between 2014 and 2015.<sup>12</sup>
- The State of California spent more than \$4 billion in taxpayer dollars on prescription drugs in fiscal year 2014-15 and this amount did not include prescription drug spending for the over ten million people enrolled in Medi-Cal managed care.<sup>13</sup>
- Despite intense public scrutiny and broad consumer concern about escalating prescription drug costs, prices climbed by 7% in September 2016 alone while overall health care costs climbed only 2.1%, with nondrug costs climbing even more modestly.<sup>14</sup>
- The 2016 Kaiser Health Foundation tracking poll found that 77% of Americans say prescription drug costs are unreasonable; 86% of Americans favor requiring drug companies to release information to the public on how they set drug prices; and 78% support limiting the amount drug companies can charge for high cost drugs for illnesses like cancer or hepatitis.<sup>15</sup>

## Endnotes

<sup>1</sup> Yu, Helms and Bach, <http://healthaffairs.org/blog/2017/03/07/rd-costs-for-pharmaceutical-companies-do-not-explain-elevated-us-drug-prices/>

<sup>2</sup> Consumer Reports Best Buy Drugs National Poll, March 2016. <http://www.consumerreports.org/drugs/as-drug-prices-increase-quality-of-life-goes-down/>

<sup>3</sup> Jeffrey Hoch, Center for Healthcare Policy and Research, University of California, Davis State Prescription Drug Prices, Joint Informational Hearing, May 10, 2016

<sup>4</sup> Hoch, 2016

<sup>5</sup> Andy Slavitt et al, CMS, Updated Medicare and Medicaid Drug Spending Dashboard, November 14, 2016

<sup>6</sup> Hoch, 2016

<sup>7</sup> Sameer Awsare, MD, Kaiser Permanente, Senate Health Committee Informational Hearing, February 4, 2015

<sup>8</sup> Awsare, 2015

<sup>9</sup> Slavitt et al, 2016

<sup>10</sup> Slavitt et al, 2016

<sup>11</sup> Senate Health Informational Hearing on Mylan's EpiPen and Drug Pricing, Background Paper, September 29, 2016

<sup>12</sup> Slavitt et al, 2016

<sup>13</sup> Legislative Analyst Office. Background paper on State Prescription Drug Purchases. Pricing Standards. Initiative Statute.

May 10, 2016

<sup>14</sup> Altarum Institute, November 2016

<sup>15</sup> Kaiser Health Tracking Poll. September 29<sup>th</sup>, 2016

## About Health Access California

Health Access California is the statewide health care consumer advocacy coalition, advocating for the goal of quality, affordable health care for all Californians. We represent consumers in the legislature, at administrative and regulatory agencies, in the media, and at public forums. For more information, please visit [www.health-access.org](http://www.health-access.org).