

Prescription Drug Pricing Transparency Laws

Summary

At least five states — California, Louisiana, Maryland, Nevada, and Vermont — have prescription drug pricing transparency laws, which generally require pharmaceutical companies, drug manufacturers, or both to disclose the wholesale acquisition price of prescription drugs to the state's regulatory authority. The "wholesale acquisition price" is the manufacturer's list price, excluding any discounts, rebates, or price reductions.

Prescription drug pricing transparency laws may also (1) require the manufacturer of any drug whose price increases above a certain threshold to justify the price increase and (2) allow the state's attorney general or regulatory authority to take action against a pharmaceutical company or drug manufacturer for an excessive price increase.

The laws may apply to prescription drugs purchased through state aid programs (e.g. Medicaid), on the open market (i.e., through an individual's insurance), or both. Some states, like Idaho and Pennsylvania, apply the laws only to prescription drugs provided through state aid programs.

Prescription Drug Pricing Legislation in Connecticut

Connecticut does not have a prescription drug pricing transparency law, but is among several states that introduced such legislation in 2017. These include Massachusetts, New York, Tennessee, and Washington.

In Connecticut, [SB 925 \(2017\)](#) would have, among other things, required drug manufacturers to notify the insurance commissioner if they:

1. sold or distributed a brand name or generic prescription drug with an initial annual aggregate wholesale acquisition cost of at least \$30,000 or \$3,000, respectively or
2. increased the aggregate wholesale acquisition cost of a drug sold or distributed in the state by more than 10% or \$10,000 for brand-name drugs and by more than 25% or \$300 for generic drugs.

Additionally, (1) manufacturers would be required to annually submit to the commissioner price concession information (i.e., the concessions provided to pharmacy benefit managers) and (2) the commissioner would be required to annually report to the Insurance and Real Estate Committee on the cost trends of prescription drugs sold or distributed in Connecticut.

The bill did not pass.

Prescription Drug Pricing Transparency Laws in Select States

California

In 2017, California passed [SB 17](#), which, among other things, requires a manufacturer of a prescription drug with a wholesale acquisition cost of more than \$40 to notify certain purchasers (e.g., health plans) if the cost increases by more than 16% over a two-year period. The notice must be sent 60 days before the increase and explain whether the increase is due to a change or improvement in the drug. California's Office of Statewide Health Planning and Development must publish the notices on its website.

“There is a noticeable uptick among state legislatures and state governments in terms of what kind of role states can play in addressing the cost of prescription drugs and access.”

- Richard Cauchi, health program director at the National Conference of State Legislatures (NCSL), quoted in the Washington Post (“[Absent federal action, states take the lead on curbing drug costs](#)” September 29, 2017).

Louisiana

State law requires any manufacturer or marketer advertising a prescription drug to provide the drug's wholesale acquisition cost to the Louisiana Board of Pharmacy, which must publish it on the board's website ([La. Rev. Stat. Ann. § 40:2255.11](#))

Maryland

State law prohibits manufacturers from unconscionably increasing the price of certain prescription drugs (e.g., selling the drug at a price not justified by the cost of producing it). The Maryland Medical Assistance Program may notify the state attorney general (AG) if prescription drugs costing more than \$80 for a course of treatment or a 30-day supply increase 50% or more in price. The AG may (1) require manufacturers of these drugs to disclose pricing and other information and justify the price increases and (2) petition the court to restore certain payments and provide relief ([MD Code Ann., Health-Gen §§ 2-801 et seq.](#)).

Nevada

[SB 539](#), § 3.8 (2017) requires the Health and Human Services Department to compile a list of drugs that increased in price equal to or greater than the Consumer Price Index-Medical Care (CPI-Medical Care) from the prior year or twice the CPI-Medical Care over the last two years. Manufacturers of listed drugs must submit information and justification for the price increases. The department may take administrative action against manufacturers failing to submit information.

Vermont

Under Vermont law, the Green Mountain Care Board (a health insurance regulatory board) must identify drugs that increased in price (1) 50% or more over the past five years, or (2) 15% or more over the past year. The AG may (1) require the manufacturer of identified drugs to justify the price increase and (2) bring a class action suit for injunctive relief, costs, and attorney's fees ([VT Stat. Ann. Tit. 18 § 4635](#)).

Learn
More

NCSL [Prescription Drug State Database](#)
[Connecticut SB 925](#)

OLR Report [2016-R-0134](#), “State Laws Limiting Prescription Drug Cost Sharing”

