RESIST & rebuild

CALIFORNIA LABOR FEDERATION 2017

FACT SHEET
SB 17 (Hernandez)
TRANSPARENCY TO PREVENT DRUG COMPANY PRICE GOUGING

Purpose

To allow health care purchasers like CalPERS, union trust funds, and health plans to better manage and control skyrocketing prescription drug prices by requiring drug companies to provide advance notice of price increases that exceed a certain threshold and to require health plans and insurers to disclose how much prescription drug prices drive premium increases.

Background

Drug companies continue to arbitrarily raise prices for prescription drugs, driving up premiums and out-of-pocket costs for Californians. Employers and workers have been hard hit by the steep price increases. Prescription drugs make up 21% of total spending in job-based coverage and are the fastest growing cost-driver in health care spending.

In 2016, all 14 filings submitted by insurers in the large group market reported prescription drug costs were expected to rise at a greater rate than overall medical costs, with increases as high as 18%. Even more revealing, was that price inflation, not utilization, had the greatest increase, showing that price hikes, not increased use of drugs, is driving up the cost of health care.

As consumers pay more in deductibles and co-insurance, they feel the pain of drug prices more acutely. A 2017 study published in the journal *Cancer* found that 10% of cancer patients skipped taking their cancer drugs or rationed medication, and 14% delayed filling a prescription, due to cost. Patients are rationing their own care and risking their lives, due to the prohibitive price of drugs. This happens so frequently that doctors coined the term “financial toxicity” to describe when out-of-pocket costs for drugs interfere with treatment. Life-saving drugs do not work if patients cannot afford them.

Patients with chronic diseases like diabetes or asthma face similarly tough choices when they cannot afford the insulin or inhalers that keep them alive. Frequent price increases have become the norm for a large number of commonly-used drugs. Insulin prices from all three companies that make the drug have skyrocketed 200% in eight years. Doxycycline, a generic antibiotic used to treat everything from bronchitis to acne, went up an unbelievable 9000% in 6 months. These inexplicable price increases for existing drugs, often multiple times a year, are taking a toll on purchasers, patients, and providers.

Congress has investigated a number of arbitrary and outrageous drug price increases over the past year—from Sovaldi to Epipens and insulin. The Congressional reports detail how many price increases for drugs have little relation to improvements in the effectiveness of the drug or to the cost of research and development (R&D). Many price increases, such as Mylan’s steady upward trend for Epipen, were seemingly arbitrary. Others, such as insulin drugs, showed a pattern of three companies raising prices in lock-step.

Why are drug prices going up so dramatically? Drug companies argue that prices include the costs of research and development (R&D) for new medications, which justifies the high prices. However, half of the new drugs approved in the U.S. from 1998 to 2007 resulted from research at universities and biotech firms, not drug companies.

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Drug companies spend 19 times as much on marketing for drugs than they do on R&D. In other cases, companies buy old drugs and jack up the prices as a profit-driven business decision. For example, Horizon bought the pain reliever Vimovo and promptly raised the price 600%, even though Vimovo is the combination of two much cheaper drugs, essentially ibuprofen and Nexium.

It does not have to be this way. Drug prices are generally 60% higher in the U.S. than in five of the largest European countries, and 75% higher than in Japan. Sovaldi costs $84,000 in the U.S., but is over $30,000 less in France and the UK.

The difference between other industrialized countries and the U.S. is that those countries actively regulate pricing for essential drugs. Manufacturers are not allowed to price gouge consumers for excessive profit. Other countries require that pricing is based on transparent, evidence-based standards that keep drugs affordable.

The federal government generally regulates prescription drugs. However, inaction by Congress on this urgent issue has driven over 20 states to introduce legislation for advance notice and disclosure by drug companies. California can take the lead and give purchasers the tools to manage and control prescription drug prices with SB 17.

What This Bill Will Do

SB 17 (Hernandez) is carefully written to give purchasers and policymakers the information needed to craft effective strategies to control costs and manage budgets. The bill takes a two-pronged approach to transparency – it requires disclosure from both health plans and from drug companies with the end-goal of lowering drug prices for all Californians.

SB 17 requires drug companies to give 90-days advance notice to purchasers, including CalPERS, pharmacy benefit managers, health plans, and others, of prescription drug price increases that exceed specified thresholds—basically any excessive price increase.

The drug company will also submit to the purchaser if there have been any improvements to the clinical efficacy of the drug that would justify the price increase. The bill directs drug companies to report specified information on the factors driving the price increase to the Office of Statewide Health Planning and Development (OSHPD) that will be released quarterly to the public and policymakers.

Advance notice gives purchasers the ability to better manage their drug spending by adjusting budgets, negotiating more effectively, changing formularies, finding alternative medications, or other strategies. Advance notice is a powerful tool that has been in used successfully in other areas of the health care industry.

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