

# Drug Pricing Transparency Act of 2016

HB 16-1102 - Rep. Ginal and Sens. Newell and Roberts

## Background

In today's health care system, prescription drugs play an essential role in preventing, managing, and curing diseases around the world. However, consumers and payers alike are grappling with skyrocketing price tags for medications that treat diseases like rheumatoid arthritis, multiple sclerosis, cancer, and Hepatitis C. While many of these new drugs represent important breakthroughs in treatments for patients, the prices for these drugs threaten access, affordability, and future innovation and are unsustainable in the long-term. The prices for these medications are already impacting state budgets across the nation and driving up premiums for consumers and purchasers of health coverage. Spending on specialty drugs is expected to more than quadruple from \$87 billion in 2012 to \$400 billion in 2020. This high level of both private and public spending highlights the need for increased transparency about how drugs are priced to ensure taxpayers, consumers, purchasers, and policymakers can make informed decisions to ensure long-term affordability in our health care system.

## Colorado's Drug Pricing Transparency Act of 2016

The Drug Pricing Transparency Act of 2016 requires pharmaceutical manufacturers to report certain pricing data in order to provide taxpayers, consumers, and policymakers with insight into cost centers associated with drug development and availability. Specifically, the bill requires each pharmaceutical manufacturer of a drug that is priced at or above \$50,000 per treatment or per year to provide a one-time report on cost information to the Colorado Commission on Affordable Health Care, including but not limited to:

- Total research and development costs paid by the manufacturer or any predecessor manufacturer in the development of the drug;
- Total marketing and advertising costs;
- Total cost for materials and manufacturing;
- Total costs paid by government sources in the development of the drug, including subsidies and grants;
- Cumulative history of the average wholesale price for the drug;
- Total profit attributable to the drug; and
- Total amount of financial assistance the manufacturer provided through patient prescription assistance programs.

## Frequently Asked Questions

*Q: What is the purpose of transparency in drug pricing? Will it actually have any effect on drug prices?*

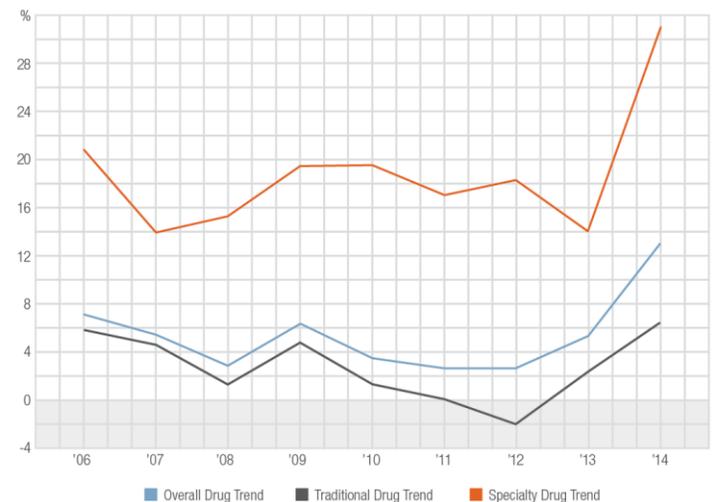
A: This is a first step toward providing policymakers, consumers, payers, and employers, all of whom bear the costs of high-priced drugs, with the information that is needed to ensure we are able to maintain an accessible and sustainable health care system for all Coloradans.

*Q: Isn't your ultimate goal simply to regulate drug prices?*

A: NO. There is NOTHING about regulation of drug prices in the bill. Transparency in drug pricing would allow market forces to work to potentially lower drug prices. The public and media outcry that came about after venture capitalist Martin Shkreli purchased the infection treatment Daraprim and raised the price 5000% (for no reason other than increased profits) forced him to reconsider and bring down the price, without any government regulation. Additionally, given the impact many of these high-priced drugs have on the

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Medicaid portion of the state budget, policymakers need this information as they continue to seek policy solutions that ensure an affordable and accessible system for everyone.

*Q: Shouldn't we let the free market and competition work?*

A: There is no free market when it comes to pharmaceuticals. The regulatory framework around the pharmaceuticals effectively prohibits true competition. For example, drug companies often hold an exclusive patent on a drug for many years preventing generics or similar drugs from entering the market. If anything, transparency into drug pricing should fuel the free market and support healthy competition among manufacturers, which is a benefit to the public. This bill just offers reasonable public transparency on pricing that other health care sectors offer and keeps the existing free market structure in place.

*Q: Isn't this information proprietary/confidential?*

A: The bill does not require pharmaceutical manufacturers to reveal proprietary negotiated prices, rebates, or discounts offered to their customers. Instead it simply asks for the public average wholesale price. Additionally, in order to meet "trade secret" status, information must derive economic value from the fact that it is not known and cannot be put to use by others. For example, the bill does not require the manufacturer to reveal findings of a clinical trial; it simply asks for the total amount of money spent on those clinical trials, which is not information that would benefit a competitor.

*Q: What is the Colorado Commission on Affordable Health Care?*

A: Also known as the Cost Commission, the Commission on Affordable Health Care is a legislatively created, 12-member body whose charge is to identify, analyze, and make recommendations on cost drivers in the health care system.

*Q: Why is the reporting price threshold set at \$50,000 per treatment or per year? Why not lower?*

A: In order to allow the Cost Commission the ability to complete a thoughtful analysis by December 1, 2016, without a significant fiscal impact, it was necessary to initially limit the number of drugs included in the reporting. If the Commission sees the value in the information for these ultra high-priced drugs, the Commission could recommend that the information be collected for drugs below the \$50,000 price threshold as well.

*Q: How does the general public feel about drug pricing transparency?*

A: According to a poll of voters in Iowa, Nevada, New Hampshire, and South Carolina, 7 in 10 support requiring drug companies to publish research and development, marketing and sales costs for their drugs.

*Q: Do other countries have high drug prices like we do in the U.S.?*

A: In many instances, other countries pay much less for pharmaceutical drugs. For example, when sofosbuvir (curative Hepatitis C treatment) first came out on the market, Gilead priced it at \$84,000 per treatment in the U.S. However, Gilead negotiated a \$900 course of treatment for 91 countries around the world.

### Supporting Organizations



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