

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 589 Prescription Drug Price Transparency  
**SPONSOR(S):** Yarborough  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee	11 Y, 0 N	Langston	Poche
2) Health & Human Services Committee	18 Y, 0 N	Langston	Calamas

### SUMMARY ANALYSIS

Spending on prescription drugs has risen sharply in the United States over the past few years. From 2013 to 2015, out-of-pocket costs for prescription drugs rose 20 percent, to an average cost of \$44 per brand name prescription drug. Specialty prescription drug prices are projected to increase 18.7 percent in 2017, accounting for 35 percent of the prescription drug spending trend even though they account for less than one percent of prescriptions.

In Florida, consumers can research prescription drug prices at [www.MyFloridaRx.com](http://www.MyFloridaRx.com) (MyFloridaRx). MyFloridaRx is a joint effort between the Office of the Attorney General (AG) and the Agency for Health Care Administration (AHCA). The website lists the usual and customary prices charged by pharmacies for 150 of the most commonly prescribed brand name drugs and associated generic equivalents.

MyFloridaRx shows price data for retail pharmacies dispensing at least one of the top 150 prescription drugs dispensed to a Medicaid beneficiary. The statute requires participating pharmacies to provide AHCA their prices quarterly, including the usual and customary retail price for a 30-day supply of the prescription drug at a standard dose. Once AHCA receives the data, it is submitted to the AG's office, which maintains the website and updates it monthly.

When a consumer queries MyFloridaRx, search results provide the pharmacy name, address and phone number, the prescription drug name and strength, the most commonly dispensed quantity, and price. These results can be sorted by pharmacy name, zip code, drug name, drug quantity, or price.

HB 589 doubles the number of prescription drugs that must be posted to MyFloridaRx, from 150 to 300. Additionally, the bill codifies the current practice by which prescription drug pricing information is reported to AHCA, from quarterly to monthly. As a result, patients who query MyFloridaRx will have access to pricing information for more prescription drugs.

The bill removes obsolete language referencing deadlines for implementation that have already passed.

The bill does not have a fiscal impact on state or local government.

The bill provides an effective date of upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

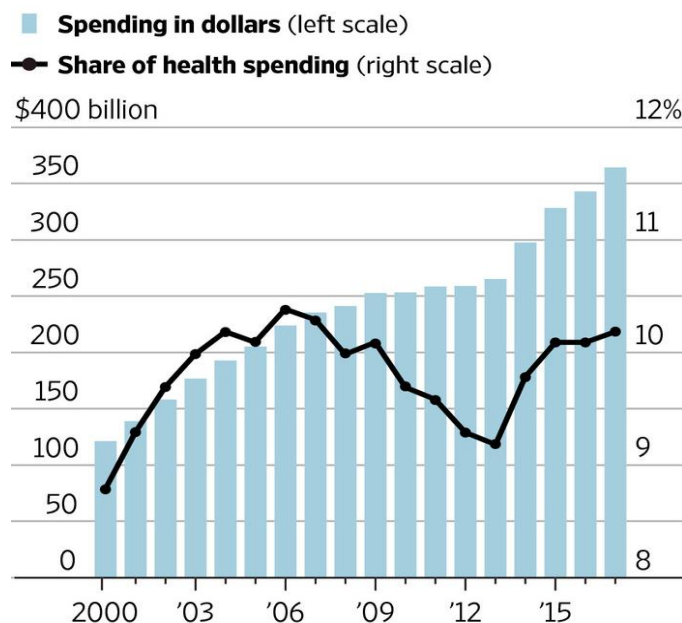
#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Prescription Drug Cost and Pricing

Spending on prescription drugs has risen sharply in the United States over the past few years.<sup>1</sup> From 2013 to 2015, out-of-pocket costs for prescription drugs rose 20 percent,<sup>2</sup> to an average cost of \$44 per brand name prescription drug.<sup>3</sup> Additionally, prescription drug prices increased an average of almost 10 percent from June 2015 to May 2016.<sup>4</sup> Specialty prescription drug prices are projected to increase 18.7 percent in 2017, accounting for 35 percent of the prescription drug spending trend even though they account for less than one percent of prescriptions.<sup>5</sup> Recent increases in prescription drug prices are not only an increase in spending in terms of dollars, but also as a percentage of total healthcare spending.<sup>6</sup>

Prescription Drug Spending as a Share of Health Spending 2000-2017<sup>7</sup>



<sup>1</sup> Ameet Sarpatwari, Jerry Avorn, and Aaron S. Kesselheim, *State Initiatives to Control Medication Costs — Can Transparency Legislation Help?*, N. ENGL. J. MED. 2016; 374:2301-2304 Jun. 16, 2016, <http://www.nejm.org/doi/full/10.1056/NEJMp1605100#t=article> (last visited March 13, 2017).

<sup>2</sup> Troy Parks, *Drug pricing needs transparency, physicians say*, AMA WIRE, Jan. 26, 2017, <https://wire.ama-assn.org/ama-news/drug-pricing-needs-transparency-physicians-say> (last visited March 10, 2017).

<sup>3</sup> 2017 Segal Health Plan Cost Trend Survey, available at, <https://www.segalco.com/media/2716/me-trend-survey-2017.pdf> (last visited March 13, 2017)

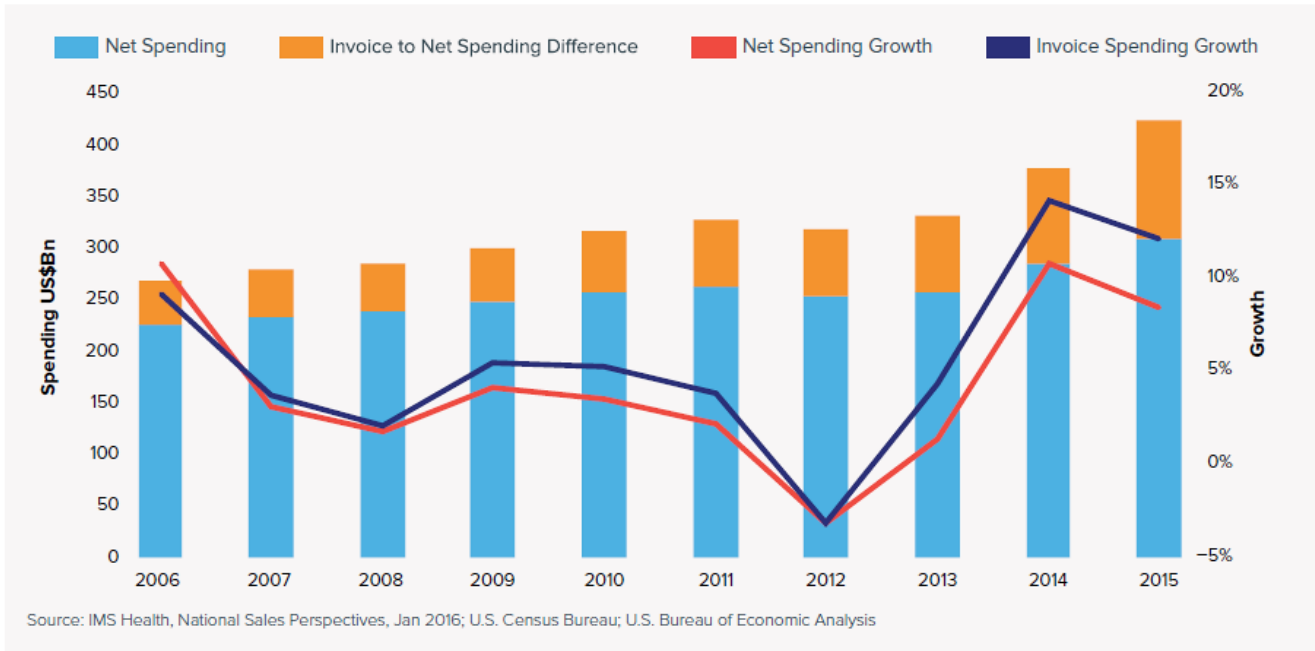
<sup>4</sup> TRUVERIS, *Americans faced double digit increases in prescription drug prices in 2014, according to Truveris National Drug Index*, <https://truveris.com/press-releases/ndi-americans-faced-double-digit-increases-in-prescription-drug-prices-in-2014/> (last visited March 13, 2017)

<sup>5</sup> *Supra*, note 3. Specialty drugs are high-cost prescription medications used to treat complex, chronic conditions and often require special handling and administration.

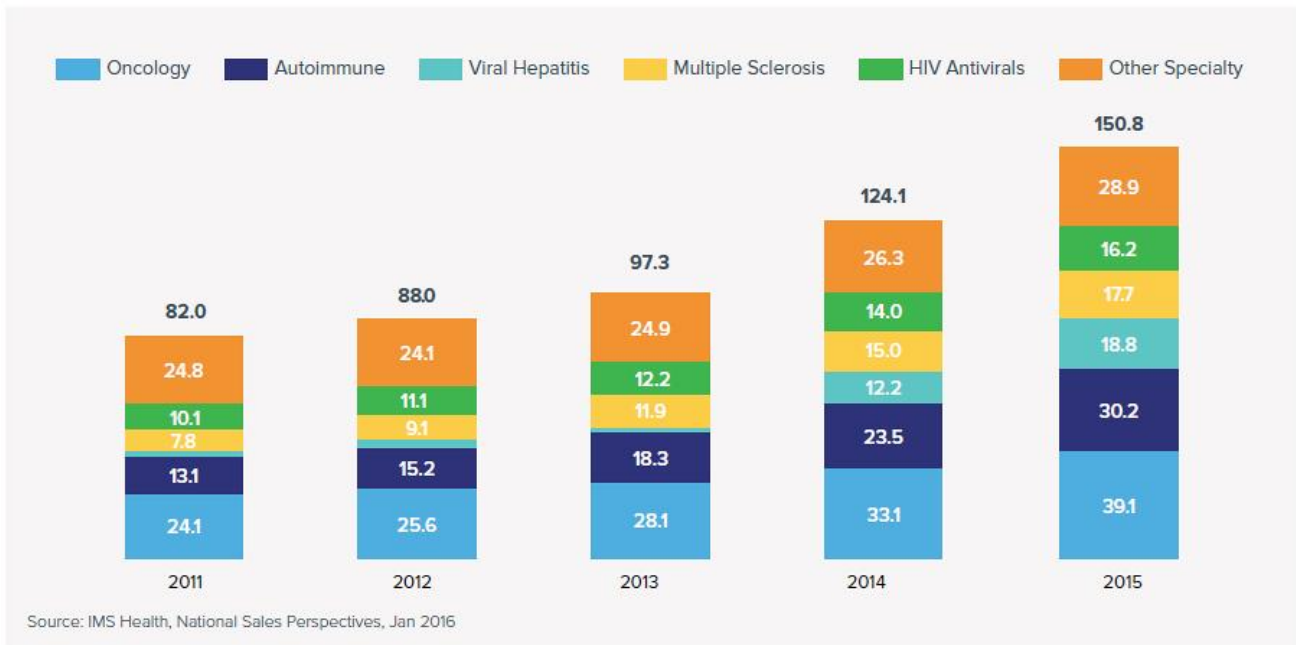
<sup>6</sup> CENTERS FOR MEDICARE AND MEDICAID SERVICES, *National Health Expenditures by Type of Service and Source of Funds: Calendar Years 1960 to 2015*, .zip file available at, <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsHistorical.html> (Last visited March 13, 2017).

<sup>7</sup> Jonathan D. Rockoff, *How Do We Deal With Rising Drug Costs?*, THE WALL STREET JOURNAL, Apr. 10, 2016, <https://www.wsj.com/articles/how-do-we-deal-with-rising-drug-costs-1460340357> (last visited March 13, 2017).

## Total U.S. Spending on Prescription Drugs, 2015<sup>8</sup>



## Total U.S. Spending on Specialty Prescription Drugs, 2015<sup>9</sup>



<sup>8</sup> *Medicines Use and Spending in the U.S. – A Review of 2015 and Outlook to 2020*, QUINTILESIMS, APR. 2016, <http://www.imshealth.com/en/thought-leadership/quintilesims-institute/reports/medicines-use-and-spending-in-the-us-a-review-of-2015-and-outlook-to-2020> (last visited March 13, 2017).

<sup>9</sup> *Id.*

Pharmaceutical companies take into account a number of factors, including the market for the particular prescription drug, the cost of comparative treatments, cost of research and development, the price of the manufacturing and ingredients, and maximization of profits when deciding to set drug price.<sup>10</sup> The costs associated with developing a new prescription drug can be very high. A recent analysis by the Tufts Center for the Study of Drug Development of the average cost to develop and gain marketing approval for a new prescription drug estimated the cost at \$2.558 billion, and noted that when post-approval research and development activities were included, the cost rose to \$2.870 billion.<sup>11</sup> The following factors increased costs of prescription drug development:

- Increased clinical trial complexity;
- Larger clinical trial sizes;
- Higher input costs from the medical sector;
- Changes in protocol design to include efforts to gather health technology assessment information; and
- Testing on comparator drugs to accommodate payer demands for comparative effectiveness data.<sup>12</sup>

Per capita prescription drug spending in the United States exceeds that in all other countries, largely driven by brand-name prescription drug prices that have been increasing in recent years at rates far beyond the consumer price index.<sup>13</sup> Prescription drug sales are larger than the gross domestic product of 15 countries, combined.<sup>14</sup> Additionally, per capita spending on prescription drugs in the United States is more than double that of 19 other industrialized nations and accounts for an estimated 17 percent of overall personal health care services.<sup>15</sup> Depending upon the health issue being treated, the price can be far higher; for example, of the ten prescription drugs costing more than \$30,000 for a 30 day supply, half are used to treat Hepatitis C.<sup>16</sup>

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<sup>10</sup> *Sudden Price Spikes in Off-Patent Prescription Drugs: The Monopoly Business Model that Harms Patients, Taxpayers, and the U.S. Health Care System*, Special Committee On Aging, United States Senate (Dec. 2016), available at, <https://www.collins.senate.gov/sites/default/files/DP%20Report.pdf> (last visited February 17, 2017).

<sup>11</sup> Joseph A. DiMasi, Henry G. Grabowski, and Ronald W. Hansen, *Innovation in the pharmaceutical industry: New estimates of R&D costs*, *Journal of Health Economics*, Volume 47, pp. 20-33 (May 2016).

<sup>12</sup> *Id.*

<sup>13</sup> Aaron S. Kesselheim, Jerry Avorn, and Ameet Sarpatwari, *The High Cost of Prescription Drugs in the United States: Origins and Prospects for Reform*, *JAMA*. 2016;316(8):858-871. doi:10.1001/jama.2016.11237.

<sup>14</sup> Kathlyn Stone, *The Most Expensive Prescription Drugs in the World*, *THE BALANCE*, Aug. 9, 2016, <https://www.thebalance.com/the-8-most-expensive-prescription-drugs-in-the-world-2663232> (last visited February 17, 2017).

<sup>15</sup> *Supra*, note 13

<sup>16</sup> Beth Braverman, *The 20 Most Expensive Prescription Drugs in America*, *THE FISCAL TIMES*, Oct. 17, 2016, <http://www.thefiscaltimes.com/Media/Slideshow/2016/10/17/10-Most-Expensive-Prescription-Drugs-America> (last visited March 10, 2017).

## 20 Most Expensive Drugs in the United States<sup>17</sup>

Drug Name	Cost for 30 day supply	Condition	Manufacturer
1. <b>Sovaldi</b>	\$75,600	Hepatitis C	Gilead Sciences, Inc.
2. <b>Harvoni</b>	\$74,000	Hepatitis C	Gilead Sciences, Inc.
3. <b>Cinryze</b>	\$72,100	Hereditary Angioedema	Shire
4. <b>HP Acthar</b>	\$51,600	Systemic Lupus Erythematosus	Mallinckrodt <sup>18</sup>
5. <b>Daklinza</b>	\$50,700	Hepatitis C	Bristol-Myers Squibb Company
6. <b>Olysio</b>	\$41,800	Hepatitis C	Janssen Therapeutics
7. <b>Orkambi</b>	\$41,200	Cystic Fibrosis	Vertex Pharmaceuticals
8. <b>Cuprime</b>	\$39,800 <sup>19</sup>	Wilson's Disease	Valient
9. <b>Firazyr</b>	\$35,800	Hereditary Angioedema	Shite
10. <b>Viekira Pak</b>	\$34,600	Hepatitis C	AbbVie
11. <b>Kalydeco</b>	\$29,700	Cystic Fibrosis	Vertex Pharmaceuticals
12. <b>Syprine</b>	\$29,300	Wilson's Disease	Valeant Pharmaceuticals
13. <b>Cosentyx</b>	\$29,300	Plaque Psoriasis, Psoriatic Arthritis	Novartis Pharmaceuticals
14. <b>Daraprim</b>	\$26,000	Toxoplasmosis	Turing Pharmaceuticals
15. <b>Kynamro</b>	\$25,300	High Cholesterol	Kastle Therapeutics
16. <b>Pomalyst</b>	\$15,800	Multiple Myeloma	Celgene Corporation
17. <b>Zytiga</b>	\$15,400	Prostate Cancer	Janssen Biotech
18. <b>Jakafi</b>	\$13,200	Myelofibrosis, Polycythemia Vera	Incyte
19. <b>Copaxone</b>	\$12,300	Multiple Sclerosis	Teva Neuroscience
20. <b>Tecfidera</b>	\$10,400	Multiple Sclerosis	Biogen

### Prescription Drug Price Transparency in Florida

#### *MyFloridaRx*

MyFloridaRx is a joint effort between the Office of the Attorney General (AG) and the Agency for Health Care Administration (AHCA) that lists the usual and customary prices of 150 of the most commonly prescribed brand name drugs and associated generic equivalents.<sup>20</sup> Prescription drug prices are reported for a 30-day supply at a standard dose.<sup>21</sup> The data must be reported for each prescription drug by pharmacy and by metropolitan statistical area or region and updated quarterly.<sup>22</sup> AHCA receives the data and submits it to the AG's office; AG staff maintains the website and updates it monthly.<sup>23</sup>

<sup>17</sup> Id.

<sup>18</sup> Under the initial manufacturer, Questcor, the price increased to more than \$28,000 a vial from \$40 in the decade leading up to when it was acquired by Mallinckrodt. Andrew Pollack and Chad Bray, *Mallinckrodt Pharmaceuticals to Buy Questcor for \$5.6 Billion*, THE NEW YORK TIMES, Apr. 7, 2014, [https://dealbook.nytimes.com/2014/04/07/mallinckrodt-to-buy-californias-questcor-for-5-6-billion/?\\_r=0](https://dealbook.nytimes.com/2014/04/07/mallinckrodt-to-buy-californias-questcor-for-5-6-billion/?_r=0) (last visited March 13, 2017).

<sup>19</sup> According to statistics released by the Senate Special Committee on Aging, the drug's price rose by a staggering 5,786% in a little more than five years following the company's acquisition of Aton Pharma in 2010. The price of Cuprimine over the past ten years has risen from \$93 to \$26,188.64, with a 300% increase in the month of July 2015 alone. Zachary Brennan, *Senate Committee Offers Inside Look at the Rise and Fall of Valeant Pharmaceuticals*, REGULATORY AFFAIRS PROFESSIONAL SOCIETY, May 9, 2016, <http://raps.org/Regulatory-Focus/News/2016/05/09/24897/Senate-Committee-Offers-Inside-Look-at-the-Rise-and-Fall-of-Valeant-Pharmaceuticals/#sthash.LfFt9C1R.dpuf> (last visited March 13, 2017).

<sup>20</sup> S. 408.062(1)(h), F.S., requires AHCA to report data on the retail prices charged by pharmacies for the 100 most frequently prescribed medicines.

<sup>21</sup> S. 408.062(1)(h), F.S.

<sup>22</sup> Id.

<sup>23</sup> Presentation by Molly McKinstry, Agency for Health Care Administration, and Cindy Rutledge, Office of the Attorney General, *MyFloridaRx: Prescription Drug Pricing Website*, presentation to the Health Innovation Subcommittee, Feb. 8, 2017, slide 3. (On file with Health Innovation Subcommittee staff).

MyFloridaRX allows consumers to search available prescription drugs by selecting a county, selecting one or all cities within that county, and then selecting the drug.<sup>24</sup> The results provide the pharmacy name, address and phone number, the prescription drug name and strength, the most commonly dispensed quantity, and price. Results can be sorted by pharmacy name, zip code, prescription drug name, quantity, or price.<sup>25</sup> Depending on the selected prescription drug, it may be available at a number of pharmacies, or just a few, and the price may vary greatly or not at all.

**Example Prescription Drug Price Comparison<sup>26</sup>**  
**ProAir HFA 90mcg Inhaler**

City (County)	Lowest Price	Highest Price	% Diff
Monticello (Jefferson County)	\$69.99	\$70.99	1.4%
Niceville (Okaloosa County)	\$63.74	\$70.99	11.4%
Okeechobee (Okeechobee County)	\$64.05	\$349.25	445.3%
Belle Glade (Palm Beach County)	\$69.99	\$74.14	5.9%
West Palm Beach (Palm Beach County)	\$59.98	\$74.99	25.0%
Jacksonville (Duval County)	\$62.25	\$108.10	73.7%

MyFloridaRX shows only retail pharmacies dispensing at least one prescription drug to a Medicaid beneficiary. Therefore, the retail pharmacies appearing on the website are those that dispensed at least one of the top 150 posted prescription drugs to someone using Medicaid assistance to purchase that medication.<sup>27</sup> Participating pharmacies provide the state with all pricing levels, including the “usual and customary” retail price.<sup>28</sup>

*Usual and Customary Price*

AHCA is required to reimburse Medicaid providers in accordance with state and federal law.<sup>29</sup> Medicaid reimbursement methodologies differ based upon what type of services or goods are being provided; however, these methodologies often include a prohibition against reimbursement in excess of the provider’s “usual and customary” rate for the service or good. Typically, the reimbursement is the amount billed by the provider, the provider’s usual and customary charge, or the Medicaid maximum allowable fee, whichever is less.<sup>30</sup>

In order to receive payment from AHCA, a provider must certify that the service or good has been completely furnished to the Medicaid recipient and that the amount billed does not exceed the provider’s usual and customary charge.<sup>31</sup> The term “usual and customary” is not defined in Florida law,<sup>32</sup> but in the context of prescription drugs, it is understood to mean the average charge to all other customers in any quarter for the same prescription drug, quantity, and strength.<sup>33</sup> This price, however, is self-reported and may vary from the price charged at the time a medication is dispensed.<sup>34</sup>

<sup>24</sup> Rx Drug Price Finder, MYFLORIDARX, <http://myfloridarx.com/rx.nsf/finder> (last visited March 13, 2017).

<sup>25</sup> Id.

<sup>26</sup> *Supra*, note 23, slide 10.

<sup>27</sup> *Frequently Asked Questions - FAQs*, MYFLORIDARX, <http://www.myfloridarx.com/RX.nsf/pages/FAQs> (last visited March 13, 2017).

<sup>28</sup> Id.

<sup>29</sup> S. 409.908, F.S. Requirements for reimbursement are established according to methodologies set forth in AHCA’s administrative rules and in policy manuals and handbooks incorporated by reference.

<sup>30</sup> Id.; see also ss. 409.912(8)(a), F.S.; 409.9128(5), F.S.; and 409.967, F.S.; 42 C.F.R. 447.512; Florida Medicaid Provider General Handbook, as incorporated in Rule 59G-5.020, F.A.C.; and Florida Medicaid Prescribed Drug Services Handbook, as incorporated in Rule 59G-4.250, F.A.C.

<sup>31</sup> Id.

<sup>32</sup> Usual and customary is identified as a payment methodology in chapters 394, 400, 409, 440, 627, 641, and 817; however, the term is not defined.

<sup>33</sup> *Supra*, note 23, slide 3.

<sup>34</sup> Id.

## National Trends in Prescription Drug Price Transparency Laws

Policymakers at the state and federal levels are working to improve prescription drug price transparency. The United States Congress has recognized that prescription drug price transparency could provide useful information to address the issue.<sup>35</sup> Similarly, a workgroup of the National Academy for State Health Policy suggests that promoting greater transparency in prescription drug pricing and payment may help to address rising prescription drug costs.<sup>36</sup> In an effort to increase price transparency, the workgroup recommended pricing documentation for select high-priced drugs, justification for price increases above a specific threshold, and disclosures of price discounts and rebates.<sup>37</sup>

### *Federal Trends*

During the 114th Congress in 2016, proposed federal legislation required prescription drug manufacturers to justify certain price increases in a report to the Department of Health and Human Services (HHS). The Fair Accountability and Innovative Research Drug Pricing Act of 2016 (the FAIR Act)<sup>38</sup> required manufacturers to notify HHS and submit a transparency and justification report 30 days before a price increase of more than 10 percent during a 12-month period was implemented. Manufacturers also had to justify each price increase that took place during the year.<sup>39</sup> The FAIR Act imposed a \$100,000 daily penalty on manufacturers that failed to submit a report.<sup>40</sup>

Other proposed legislation created an interagency drug price review board to collect data on drug and device prices and manufacturing costs and, if necessary, take enforcement action against manufacturers that charge consumers excessive prices.<sup>41</sup> The Prescription Drug and Medical Device Price Review Board Act of 2016 (the Act) created a board to review reports of each manufacturer of prescription drugs or medical devices sold in the United States and prescribe a formula for determining whether the average manufacturer price for a drug or device over an annual quarter is an excessive price.<sup>42</sup> The Act imposed civil penalties and reduced patent terms for manufacturers found to be charging excessive prices for prescription drugs or devices.<sup>43</sup>

Neither of these legislative proposals became law. However, the current Congress has proposed similar legislation. In January 2017, the Lower Drug Costs through Competition Act was filed in the House of Representatives.<sup>44</sup> The bill amends the Federal Food, Drug, and Cosmetic Act by revising review and approval provisions of certain generic drug applications or supplements to generic drug applications for certain drugs.<sup>45</sup> The House Energy and Commerce Committee is expected to take up this legislation as part of its effort to increase transparency around the backlog of generic drug applications and promote increased generic drug development to address high prescription drug prices.<sup>46</sup>

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<sup>35</sup> *Supra*, note 1.

<sup>36</sup> *States and the Rising Cost of Pharmaceuticals: A Call to Action*, NATIONAL ACADEMY FOR STATE HEALTH POLICY WORK GROUP, Oct. 2016, available at, <http://nashp.org/wp-content/uploads/2016/10/Rx-Paper.pdf> (last visited March 13, 2017).

<sup>37</sup> *Id.*

<sup>38</sup> Fair Accountability and Innovative Research Drug Pricing Act of 2016, S. 3335 114th Cong. (Sept. 15, 2016), available at, <https://www.congress.gov/114/bills/s/3335/BILLS-114s3335is.pdf> (last visited February 17, 2017).

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Prescription Drug and Medical Device Price Review Board Act of 2016, H.R. 6501 114th Cong. (Dec. 8, 2016), available at, <https://www.congress.gov/bill/114th-congress/house-bill/6501/text> (last visited March 13, 2017).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> Lower Drug Costs through Competition Act, H.R. 749 114th Cong. (Jan. 30, 2017), available at, <https://www.congress.gov/bill/115th-congress/house-bill/749/text> (last visited March 13, 2017).

<sup>45</sup> *Id.*

<sup>46</sup> *U.S. House panel to take up bill to spur generic drug development*, REUTERS, Feb. 2, 2017, <http://www.reuters.com/article/us-usa-congress-genericdrugs-idUSKBN15H21B> (Last visited March 13, 2017).

## State Trends

State legislation proposing prescription drug manufacturer transparency and pricing requirements was filed in at least 16 states<sup>47</sup> during the 2015–2016 legislative sessions.<sup>48</sup> Common elements included imposing annual reporting requirements on manufacturers of higher-cost drugs,<sup>49</sup> imposing a cap on prices determined to be excessive, and establishing drug review boards or programs to review drug prices.<sup>50</sup>

In 2016, Vermont passed a law requiring the Attorney General to identify and report on up to 15 state-purchased prescription drugs on which the state spends a significant amount and for which the wholesale acquisition cost has increased by 50 percent or more over the past five years or 15 percent or more over the past 12 months.<sup>51</sup> The law requires drug manufacturers to provide a justification for the increase in the wholesale acquisition cost of the drug and provides fines for failure to do so of up to \$10,000. The law also requires insurers to provide information about the State Health Benefit Exchange plan's drug formularies. The first report was published on December 1, 2016,<sup>52</sup> and identified ten drugs<sup>53</sup> subject to the new law.<sup>54</sup> In the report, manufacturers identified a number of factors they consider in making pricing decisions, including the economic value to patients given the effectiveness of the drug compared to other drugs in the same class, investments made in creating the drug, including in research and development, and the risks associated with manufacturing the drug.<sup>55</sup>

A ballot initiative in California, the California Drug Price Relief Act, (Proposition 61), which appeared on the 2016 ballot, proposed to cap the amount that any state agency could pay for prescription drugs at

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<sup>47</sup> Legislation was introduced in California, Colorado, Louisiana, Massachusetts, Minnesota, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, Washington and West Virginia.

<sup>48</sup> National Conference of State Legislatures, Richard Cauchi, *2015-2016 State Legislation to Require Prescription Drug Cost and Price Transparency*, Nov. 7, 2016, [https://comm.ncsl.org/productfiles/83403539/2015-16\\_Leg\\_Cost\\_Trans\\_PresDrugs.pdf](https://comm.ncsl.org/productfiles/83403539/2015-16_Leg_Cost_Trans_PresDrugs.pdf) (last visited March 13, 2017).

<sup>49</sup> *Id.*; see, e.g., S 7686, New York State Senate, <https://www.nysenate.gov/legislation/bills/2015/s7686/amendment/original> (last visited March 13, 2017); and SB 1010, California Senate, February 11, 2016, [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB1010](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1010) (last visited March 10, 2017). New York SB 7686, which sought to require drug manufacturers to file an annual report on costs for prescription drugs with a price of \$1,000 or more for a 30 day supply or an increased price within a 3-month period of 3 times the consumer price index. The report required detailed statistics on fifteen segments of actual costs including research, clinical trials, production, marketing, direct-to-consumer advertising, and prescriber education, and required the state to make that information available online. Similarly, California SB 1010 would have required health plans to report detailed information on prescription drug costs, such as the most prescribed and most costly medicines, to the Department of Managed Health Care and Department of Insurance, which would then compile specified reported information into a consumer-friendly report addressing the overall impact of drug costs on health care premiums. Under SB 1010, drug manufacturers would have had to notify specified state purchasers, health plans, and health insurers, at least 60 days prior to the planned effective date, if the wholesale acquisition cost of a prescription drug was increasing by more than 10% during any 12-month period or if a prescription drug was being introduced to market that has a wholesale acquisition cost \$10,000 or more annually or per course of treatment, and justify that cost.

<sup>50</sup> See, e.g., A 762, New Jersey Assembly, Nov. 16, 2015, available at [http://www.njleg.state.nj.us/2014/Bills/A5000/4722\\_11.PDF](http://www.njleg.state.nj.us/2014/Bills/A5000/4722_11.PDF) (last visited March 13, 2017). New Jersey A. 762 sought to establish the Prescription Drug Review Commission that would develop a list of prescription drugs for which there was substantial public interest in understanding the development of pricing for the drugs and require the manufacturer of the drug to report on total costs for the drug, research and development costs, marketing cost, price for the drug in other countries, and the net typical price charged to pharmacy benefit managers.

<sup>51</sup> 18 V.S.A. s. 4631a.

<sup>52</sup> *Report of Attorney General to the Legislature Regarding Pharmaceutical Cost Transparency Pursuant to 18 V.S.A. § 4635*, Vermont Attorney General's Office, Dec. 1, 2016, available at <http://ago.vermont.gov/assets/files/Consumer/AGO%20Report%20-%20Pharma%20Cost%20Transparency.pdf> (last visited March 13, 2017).

<sup>53</sup> *Drug List Per Act 165*, Vermont Attorney General's Office, available at <http://ago.vermont.gov/assets/files/Consumer/Drug%20List%20Per%20Act%20165.pdf> (last visited March 13, 2017).

<sup>54</sup> *Supra*, note 52.

<sup>55</sup> *Id.*



the cost paid by the U.S. Department of Veterans Affairs.<sup>56</sup> The initiative was rejected with 54 percent of voters opposed to the initiative.<sup>57</sup> There is a similar ballot initiative slated for the November 2017 general election in Ohio.<sup>58</sup>

### Effect of the Bill

Current law requires MyFloridaRx to list the top 100 most frequently prescribed drugs, although the website provides the top 150 most frequently prescribed drugs. HB 589 doubles the number of prescription drugs to be listed on the website to 300. Additionally, the bill codifies the current practice of monthly reporting of prescription drug pricing information to AHCA.

Consumers who query MyFloridaRx will have access to more pricing information for more prescription drugs as a result of the bill. Better-informed consumers can find and purchase lower-priced prescription drugs, thereby changing market demand and likely lowering overall prices. As retail pharmacies realize what their competitors are charging for the same prescription drug, prices will likely stabilize at the median price.

The bill also removes obsolete language referencing deadlines for implementing s. 408.062(1)(h), Fla. Stat., which have already passed.

The bill provides an effective date of upon becoming a law.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 408.062, F.S., relating to research, analyses, studies, and reports.

**Section 2:** Provides an effective date of upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

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<sup>56</sup> *California Proposition 61, Drug Price Standards (2016)*, BALLOTPEdia, [https://ballotpedia.org/California\\_Proposition\\_61\\_Drug\\_Price\\_Standards\\_\(2016\)](https://ballotpedia.org/California_Proposition_61_Drug_Price_Standards_(2016)) (last visited March 13, 2017)

<sup>57</sup> *California Proposition 61 – Drug Price Standards Initiative – Results: Rejected*, THE NEW YORK TIMES, Dec. 13, 2016, <http://www.nytimes.com/elections/results/california-ballot-measure-61-state-agency-drug-prices> (last visited March 13, 2017).

<sup>58</sup> The measure is nearly identical to Proposition 61. *Drug price reduction campaign will return to Ohio in 2017*, THE COLUMBUS DISPATCH, Aug. 16, 2016, <http://www.dispatch.com/content/stories/local/2016/08/16/drug-price-reduction-campaign-will-return-to-ohio-in-2017.html> (last visited March 13, 2017).

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Consumers will have access to the usual and customary retail prices for 300 of the most frequently dispensed prescription drugs, which will help them make informed financial decisions on prescription drug purchases.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES