

DRUG PRICING AND TRANSPARENCY

AAFP Position

The American Academy of Family Physicians (AAFP) [advocates](#) for legislation ensuring the availability of effective, safe and affordable medications through policies that provide governmental authority to promote competition and availability, transparency, patient-centric pricing, drug price negotiation and review. The AAFP also [supports](#) affordable generic medications and believes such medications should be readily available for family physicians to prescribe.

Drug Pricing in the United States

The United States spends more on prescription drugs than any other country in the world, accounting for between 9-11 percent of health spending.¹ Almost 50 percent of Americans [reported](#) using at least one prescription drug in the past 30 days, and 77 percent of U.S. adults agreed that prescription drug costs were unreasonable.² Unlike other nations where government plays a role in setting prices, drug prices in the U.S. are largely set by pharmaceutical companies. The high cost of prescription drugs is one of the top health care concerns facing Americans today, yet there is little consensus on strategies to best address this health care priority.³ Most insurance plans, including employer-based coverage, Medicare Part D, and Medicaid, include some form of prescription drug coverage, with various levels of cost sharing for specific drugs. Drug manufacturers, insurance providers, pharmacy benefit managers (PBMs), and providers all play a role in setting the price of medications.

State Strategies to Address Drug Costs

Drug Importation

[Colorado](#), [Florida](#), [Maine](#), [New Mexico](#), and [Vermont](#) have all passed legislation to allow individuals within the U.S. to purchase and import drugs from Canada or other nations where prescription drug prices can often be a fraction of those found in the U.S. Personal importation of drugs from foreign nations is currently illegal under U.S. law, and groups opposed to importation, including drug manufacturers, argue that these drugs would not be subject to the FDA's rigorous safety standards. Any state looking to import drugs from abroad would also need federal approval prior to establishing an importation program. In addition to the five states listed above, [20 states](#) (AZ, CT, HI, IL, IN, KS, MA, MI, MN, MS, MO, NH, NJ, NY, OK, RI, UT, VA, WA, WV) introduced legislation to establish drug importation programs subject to federal approval.

Negotiated Pricing and Price Controls

Some patient advocacy groups have long supported a more direct role for government in the drug pricing debate. Today, drug manufacturers are required to offer significant discounts on the drugs paid by Medicaid, while the Veterans Health Administration can directly negotiate with drug manufacturers to secure even larger discounts. The AAFP is supportive of [legislation](#) that would allow Medicare Part D to negotiate prices with drug manufacturers to lower costs for seniors.

¹ Kamal R, Cox C, McDermott D. (2019). "What are the recent and forecasted trends in prescription drug spending?" *Kaiser Family Foundation*. Web.

² Gupta R, Shah N, Ross J. (2019). "Generic Drugs in the United States: Policies to Address Pricing and Competition." *Wiley*. Web.

³ Palosky C. (2015). "Prescription Drug Costs Remain Atop the Public's National Health Care Agenda, Well Ahead of Affordable Care Act Revisions and Repeal." *Kaiser Family Foundation*. Web.

Efforts in several states, most notably [California's Prop 61](#) and Ohio's [Issue 2](#), have sought to tie drug prices paid by state agencies to those paid by the VA, which is required by federal law to offer prescription drugs approximately 24 percent below that of the drug's list price. Both ballot measures faced fierce opposition from drug manufacturers and were ultimately rejected by voters. In 2017, Maryland passed a law that prohibited generic medication price gouging; however, the law was overturned by a federal court in 2018. In 2019, [Maine](#) and [Maryland](#) passed legislation establishing Prescription Drug Affordability Boards which offer recommendations to help states lower drug spending.

Pharmacy Benefit Managers

PBMs act as middlemen between drug manufacturers and insurers and have been criticized for distributing drugs to their own in-house pharmacies. As a result, states have increasingly been regulating PBMs as part of their efforts to lower prescription drug prices. Currently, 32 states (AL, AK, AR, CA, CT, DE, FL, GA, HI, IA, IL, KS, KY, LA, ME, MD, MN, MS, ND, NH, NM, NY, OR, PA, SC, SD, TN, UT, VT, WA, WV, WY) require PBMs to register or obtain a license prior to operating within that state.⁴ Additionally, 11 states (AR, CA, CT, IA, LA, MN, ND, NY, RI, UT, WA) require PBMs to regularly report rebate data.⁵ Finally, 33 states (AK, AR, AZ, CA, CO, CT, DE, FL, GA, IN, KY, KS, LA, MD, ME, MN, MO, MS, MT, ND, NM, NC, NH, NV, SC, SD, TN, TX, UT, VA, VT, WV, WY) have banned PBMs from inserting "gag clauses" into their pharmacy contracts which prohibit pharmacists from recommending cheaper prescription drugs when they're available.⁶

Drug Cost/Price Hike Transparency

Overall, 37 states (AR, CA, CO, DE, FL, GA, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WI, WY) have passed legislation on generic drug price transparency.⁷ For example, [legislation](#) passed in Texas requires annual reports from pharmaceutical manufacturers including the wholesale acquisition cost of the drug. Colorado's [law](#) requires drug manufacturers to provide the wholesale cost of a drug to the recipient, along with the names of at least three generic drugs from the same therapeutic class, if available. Maine's [law](#) includes a requirement for drug manufacturers to annually report data about drug prices when they increase in cost by over 20 percent to the Maine Health Data Organization.

Cost Sharing and Coupons

Some states have enacted caps on the out-of-pocket amount individuals pay for some prescription drugs. [Colorado](#) and [Illinois](#) cap the cost sharing a covered person is required to pay for prescription insulin drugs to \$100 per 30-day supply. [California](#) extended a previous law that caps cost sharing of a covered outpatient prescription drug at \$250 per 30-day supply and also requires health insurance policies to cover medically necessary drug treatments for HIV and AIDS. [New Jersey's](#) law requires insurers that offer plans in the individual and small employer markets to ensure that at least 25 percent of all plans have drug cost-sharing limits of no more than \$150 for a 30-day supply of a single drug and plans that provide a bronze level of coverage should cap cost-sharing at \$250 for a 30-day supply.

Coupons from drug manufacturers are also being regulated to allow for their use while still applying the total cost of the drug towards patients' cost-sharing. So far, [Arizona](#), [Virginia](#) and [West Virginia](#) are the first and only states to enact laws that restrict insurance companies from excluding drug manufacturer coupons to count towards a patient's cost-sharing maximum or deductible. Other states are likely to follow suit as coupon use is on the rise and the prevalence of copay assistance has grown over time.

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⁴ National Conference of State Legislatures. (2020). "Statewide Prescription Drug Database." Web.

⁵ PBM Watch. (2019). "Pharmacy Benefit Manager Legislation." Web.

⁶ Becker C. (2019). "PBM State Legislation." *National Conference of State Legislatures*. Web.

⁷ National Community Pharmacists Association. (2019). "PBM Reform." Web.