

Vermont Pharmaceutical Cost Transparency

April 14, 2016

The Disclosure Requirements Could Lead to Higher Rather Than Lower Prices and These Requirements Take Advantage of Special Populations.

- Congress allows for special pricing for veterans (VA pricing) and certain indigent populations (340b). Revealing these special prices could chill the incentive to give better pricing to certain protected populations and lead to higher prices for these patients. In fact, many of the prices negotiated by VA that are outside or below the public Federal Supply Schedule are confidential, and required to be so by the VA, not by the manufacturer.
- Revealing competitor pricing, or the perception that such information could be revealed even in the aggregate in the Green Mountain Care Board's report, could lead to disincentives for deeper discounts and rebates.
- Disclosing such proprietary information, even in the aggregate only chills the ability of insurers and PBMs to negotiate drug pricing. In fact, the Federal Trade Commission has indicated that disclosure of proprietary information would not lead to lower prices but would likely lead to increased prices.
- Further, even if revealed in aggregate on a product class basis, such disclosure of competitive information could implicate federal antitrust laws.
- Simply put, revealing competitors' pricing and discount information removes incentives to provide discounts in the marketplace. In a letter to the New York legislature in 2009, the Federal Trade Commission's (FTC) Office of Policy and Planning, Bureau of Competition and Bureau of Economics cautioned that disclosure of similar information would jeopardize the competitive market and remove incentives to provide discounts and additional rebates and "...may increase pharmaceutical prices".

Manufacturers Often Sell Their Product Out-of-State to a Wholesaler, Which Ultimately Sells The Product to a Pharmacy, Hospital, Physician etc.

- Manufacturers do not sell directly to most Vermont pharmacies, physician practices, etc. and in many cases then are not privy to the final price paid in Vermont.
- Requiring spending on DTC to Vermont is very difficult given that the State is part of a larger media market. Further, Vermont already requires significant Vermont-specific disclosures from pharmaceutical manufacturers related to marketing and product promotion.
- Distilling Research and Development costs for a specific product, even if only for the past 7 years, would be nearly impossible to procure. Because research and development is iterative, builds off of learning from countless failures (only 12% of medicines that make it to clinical trials receive FDA approval), fulfilling the requirements of this legislation will be onerous, if not impossible, and will add to the cost of a company doing business.
- Interactions with physicians and prescribers are already reportable under Vermont and federal law.