

Proponents of Drug Price Transparency Bill Lose Cause for Celebration as Author Withdraws the Measure



Earlier this summer, Senator Ed Hernandez (D-West Covina)

[introduced a bill](#) into the California Legislature that would require pharmaceutical companies to justify substantial price bumps. His intention, “shedding light on the reasons precipitating skyrocketing drug prices,” was applauded by many. The bill was approved by the Senate in June.

And earlier this month, the bill met with approval by the state’s Assembly Appropriations Committee, bringing it one important step closer to becoming law.

However, its own author pulled the bill last week after amendments by the Assembly left Hernandez dissatisfied with the direction the measure was taking.

Drug companies would be required to give grounds for pricey meds or price hikes

The way the bill was originally drafted required drug companies to give health insurers and state agencies advance notice when they were planning to raise the cost of a medication more than ten percent. It also stipulated that within 60 days of FDA approval of any medication with a cost of \$10,000 or more for one patient’s treatment, drug makers would provide data that justified the price tag.

“The goal was transparency,” Hernandez said, “making sure drug companies played by the same rules as everyone else in the healthcare industry.”

Pharmaceutical companies and their representatives emphatically opposed the proposal, claiming it placed undue and unfair responsibility on drug companies as causative agents for pricing issues (overlooking distributors, wholesalers, and health plans, for instance). On the flip side, the legislation was widely supported by labor, education, patient, and business groups.

Assembly marks up the bill with its red pen as the author balks

The Assembly’s amendments that led to Hernandez revoking the measure loosened the proposed strictures a bit. One amendment raised the price-reporting ceiling to hikes of more than 25%. Another did away with the stipulation



that would have drug companies give explanations for price bumps and built in a one-year delay for when the reporting would need to begin.

"I would have preferred to see the Legislature tackle the need for pharmaceutical pricing transparency this year," said Assemblywoman Lorena Gonzalez (D-San Diego), chair of the Assembly Appropriations committee, "but I respect Senator Hernández's decision. I believe the amended version of SB 1010 [the bill] would have provided a first-in-the-nation framework this year that could have been built upon in the future."

The bill's author offered reassurance that his decision to withdraw the measure doesn't mean he's abandoning it altogether.

"This is an issue that will not go away," Hernandez said, "and the public demands answers." He stated that he will persist in working on the measure alongside community organizations and health advocates until they "get it right."

Supporters had hailed the measure as a means for combating sharply mounting prescription medication costs, since 30-day advance notices on certain meds would give state purchasers (such as Medi-Cal and the California Public Employees' Retirement System) the tools to more effectively negotiate prices.

Anthony Wright is the executive director of Health Access California, a Sacramento-based health care advocacy group. He confidently predicts which side of the measure California residents will land on if/when the legislation is someday on the ballot. "The voters are with us and will be even more so in the future. Every new high-priced drug or unjustified price spike increases public attention and anger, not to mention contributes to rising health premiums."

For more information/questions regarding any legal matters, please email info@nelsonhardiman.com or call 310.203.2800.