Maine Lawmakers Can Take Action Now To Address Rising Rx Drug Costs

Action is needed to address rising prescription drug costs in Maine:

- Prices for prescription drugs most commonly used by seniors have increased **10 times faster** than the rate of inflation.¹
- Over $165 million more was spent by Mainers last year (over the previous year) on 25 drugs with the highest increases.²
- **Three out of four Mainers** remain concerned about high prescription drug costs and the majority support policies to address these costs.³

✔ **LD 1117, An Act To Prevent Excessive Prices for Prescription Drugs, as amended with support from bill sponsor Senate President Jackson**

LD 1117 will prevent price gouging of generic and off-patent drugs:

- Manufacturers will be prohibited from imposing excessive price increases on generic and off-patent drugs to be sold or distributed in Maine. An increase is considered excessive if, after accounting for inflation, the wholesale acquisition cost increases by more than 20%.
- The Maine Health Data Organization (MHDO) will notify the Attorney General of an excessive price increase of a generic or off-patent prescription drug. MHDO will provide information about the price and circumstances of the increase to the Attorney General, who will investigate the price increase. If the price increase is determined to be excessive, upon action by the Attorney General, the Superior Court may issue an order to enforce the law.
- Enforcement actions against the manufacturer may include fines, requiring the manufacturer to reduce the price for the prescription drug, as well as return revenue it collected from the excessive price increase back to the individuals, or third-party payors, who paid for the drug.

✔ **LD 675, An Act To Protect Maine Consumers from Unsupported Price Increases on Prescription Medicines, as amended with support from bill sponsor Senator Claxton**

82% of Mainers support enacting a law that penalizes drug manufacturers who increase drug prices without sufficient evidence to justify the increases.⁴

LD 675 increases accountability by penalizing drug manufacturers for unsupported price increases on prescription drugs sold in Maine.

- A price increase is unsupported if there is no, or inadequate, new clinical evidence to support the price increase.

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² https://mhdo.maine.gov/tableau/prescriptionReports.csh.html
⁴ Ibid.
• The Maine Health Data Organization (MHDO) publishes an annual report on prescription drug prices. Maine’s Prescription Drug Affordability Board will use the MHDO report to identify a list up to 12 drugs with unsupported price increases. The Board notify the price increases to the Office of the Treasurer. The Attorney General may take action on behalf of the Treasurer.

• The Superior Court may issue and order to assess a fine for violations of this law that result in unsupported price increases for prescription drugs. An unsupported price increase will be a civil violation for which a fine will be imposed equal to 80% of the difference between the revenue generated by sales within Maine and the revenue that would have been generated if the drug manufacturer had maintained the price from the previous calendar year (adjusted for inflation).

• Revenue generated from the penalty will help to offset enforcement costs of the Attorney General and be used to benefit consumers or offset healthcare costs to consumers.

In 2019, seven drugs sold in the U.S. were identified as having unsupported price increases: Humira, Lyrica, Truvada, Rituxan, Neulasta, Cialis, and Tecfidera. Together, the net unsupported price increases for these drugs in the U.S. totaled $4.8 billion over the previous two years.5

Both bills include safeguards to protect Mainers from drug industry threats and ensure Mainers continue to have access to the prescription drugs they need:

• Manufacturers would not be allowed to withdraw the sale of a prescription drug in Maine without providing 180 days prior notice in writing to the Attorney General.

• Upon petition by the Attorney General, the Superior court may penalize manufacturers if they attempt to avoid penalties for unsupported or excessive price increases by withdrawing a drug from being sold in Maine.

What about legal challenges?

Both bills have been vetted by legal experts and were drafted in a way that makes them different than laws passed in other states, including Maryland, that faced constitutional legal challenges. Maine’s Attorney General says these bills have been drafted to improve upon laws passed in other states.

The Attorney General described the drug industry’s challenges to laws aimed at addressing rising costs as “chronic.” He has said his office is prepared to defend these policies and based on prior experience, is confident if brought to court, his office can defend these bills with minimal risk to Mainers.

During the work session for these bills, the Attorney General talked about other laws recently passed by the legislature in spite of big industries threatening to sue. For example, an internet privacy law recently passed in Maine was the second in the nation. The industry sued, but Maine has prevailed to date. There are other examples of industry lawsuits, including against the Maine Rx Program law, which was challenged by the drug industry all the way to the Supreme Court. Maine also prevailed in that case and has provided prescription drug price discounts to thousands of Mainers as a result.