



## State Remedies For Costly Prescription Drugs

BY RICHARD CAUCHI

Physicians and other prescribers write at least [4.45 billion](#) prescriptions per year in the United States. While these medications improve patients' quality of life and even save them, some policymakers are concerned about the costs of certain drugs.

### State Action

As states have tackled the cost of and access to prescription drugs during the past 18 months, two goals are clear: 1) help the patient's pocketbook at the retail counter and 2) open the books on how states spend their health budgets. The result is a rapidly growing stack of new laws that take a variety of approaches to address rising or prohibitive prescription drug costs.

■ **Prohibiting "gag clauses."** State legislators were among the first to spot a limiting feature in some commercial contracts used by pharmacy benefit managers (PBMs). These "gag clauses" can prevent pharmacists from informing customers about lower, alternative costs. State legislatures acted to discourage or ban such clauses, allowing patients to learn they may be able to pay, for example, \$8 out of pocket instead

of \$20 for an insurance co-payment. New state laws typically give a pharmacy or pharmacist "the right" to provide information about the insured's cost share or the lower-cost options available. However, several states banned the clauses in 2017, and an [updated NCSL report](#) shows that 25 states prohibited the practice as of mid-2018.

■ **Enhancing drug price transparency.** Legislators in a half-dozen states [passed laws](#) requiring manufacturers to disclose additional cost and price information for more expensive medicines with unexplained prices or price increases.

Vermont's 2016 law ([S 216](#)), expanded in 2018 ([S 92](#)), requires the state to identify up to 10 state-purchased prescription drugs annually "where the state spends significant health care dollars and for which wholesale acquisition cost (WAC) increased by 50 percent or more over the past five years." A [2018 report](#) by the Vermont attorney general makes public the manufacturer's "justification for the increase in the cost of the drug" and reveals cost strains for both Medicaid and the private insurance market.

California's 2017 law ([SB 17](#)) applies to all brand-name and generic drugs with a WAC of at least \$40 whenever those prices increase more than

### Did You Know?

- At least [74.7 million](#) Americans use three or more prescription drugs in a 30-day period.
- Eighty percent of the U.S. public views prescription drug costs as "unreasonable," while 17 percent say "reasonable," according to a recent [poll](#).
- An influenza drug has a cash price of \$100, but a patient with insurance may pay \$125 because of a "gag clause" that restricts pharmacists from disclosing price options.

