

116TH CONGRESS
1ST SESSION

S. 1664

To require reporting on prescription drug expenditures under group health plans and on prescription drug price changes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23 (legislative day, MAY 22), 2019

Mr. SCOTT of Florida (for himself, Ms. COLLINS, and Mr. GARDNER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To require reporting on prescription drug expenditures under group health plans and on prescription drug price changes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prescription Drug
5 Price Reporting Act”.

6 **SEC. 2. PRESCRIPTION DRUG PRICE REPORTING REQUIRE-**
7 **MENTS.**

8 (a) SUBMISSION OF DATA.—

1 (1) IN GENERAL.—Each manufacturer of a pre-
2 scription drug shall submit to the Secretary, elec-
3 tronically, in such manner as the Secretary may re-
4 quire, by April 1 of each year, a list of each such
5 drug that is marketed in the United States and,
6 with respect to each such drug, all of the following
7 information with respect to the previous year:

8 (A) Each applicable National Drug Code
9 (or J-Code).

10 (B) Brand name.

11 (C) Generic name and chemical name, as
12 applicable.

13 (D) Therapeutic class or classes, as appli-
14 cable.

15 (E) Current wholesale acquisition cost per
16 30-day supply or typical course of treatment.

17 (F) Average wholesale acquisition cost for
18 the drug per 30-day supply or typical course of
19 treatment during the previous calendar year, or,
20 in the case of a drug that has been marketed
21 for only a portion of such year, during the por-
22 tion of time in such year that the drug was
23 marketed.

24 (G) Average net price per 30-day supply or
25 typical course of treatment, during the previous

1 calendar year, or, in the case of a drug that has
2 been marketed for only a portion of such year,
3 during the portion of time in such year that the
4 drug was marketed, taking into account all dis-
5 counts, rebates, and other fees or payments to
6 health insurance plans or pharmacy benefit
7 managers with respect to sales of the drug to
8 individuals covered by such a plan.

9 (H) Total rebates and other payments to
10 health insurance plans or pharmacy benefit
11 managers, per 30-day supply or typical course
12 of treatment, with respect to individuals covered
13 by such a plan, during the previous calendar
14 year, or, in the case of a drug that has been
15 marketed for only a portion of such calendar
16 year, during the portion of time in such cal-
17 endar year that the drug was marketed.

18 (2) TIMELINE FOR INITIAL SUBMISSION.—

19 (A) DRUGS MARKETED BEFORE DECEM-
20 BER 31, 2020.—Each manufacturer of a pre-
21 scription drug that is marketed at any time
22 during calendar year 2020, shall submit to the
23 Secretary, not later than April 1, 2021—

24 (i) the information required under
25 paragraph (1); and

1 (ii) in addition to the information re-
2 quired under subparagraphs (F), (G), and
3 (H) of paragraph (1), such average whole-
4 sale acquisition cost, average net price, and
5 total rebates and other payments, de-
6 scribed in each of such subparagraphs, re-
7 spectively, with respect to the calendar
8 year immediately preceding the calendar
9 year for which such information is required
10 to be reported under such subparagraphs
11 (F), (G), and (H).

12 (B) SUBSEQUENTLY MARKETED DRUGS.—
13 With respect to a prescription drug that is first
14 marketed after December 31, 2020, each manu-
15 facturer of such a drug shall submit the infor-
16 mation required under subparagraphs (A)
17 through (E) of paragraph (1) not later than 60
18 days after the date on which the drug is first
19 marketed, and shall submit annual reports of
20 all of the information required under paragraph
21 (1) beginning on the first annual reporting date
22 that is more than 30 days after the date on
23 which the drug is first marketed.

24 (b) ADVANCE NOTIFICATION OF PRESCRIPTION
25 DRUG PRICING CHANGES.—

1 (1) IN GENERAL.—Each manufacturer of a pre-
2 scription drug shall report to the Secretary, elec-
3 tronically, in such manner as the Secretary may re-
4 quire, any increase or decrease in the wholesale ac-
5 quisition cost of a prescription drug not later than
6 30 days prior to the date on which the price change
7 takes effect.

8 (2) CONTENT.—A price change report under
9 paragraph (1) shall include—

10 (A) the information required under sub-
11 paragraphs (A), (B), (C), (D), and (F) of sub-
12 section (a)(1);

13 (B) the wholesale acquisition cost per 30-
14 day supply or typical course of treatment imme-
15 diately prior to the price change;

16 (C) the new wholesale acquisition cost per
17 30-day supply or typical course of treatment,
18 when the change takes effect; and

19 (D) financial and non-financial factors the
20 manufacturer took into consideration when
21 making the price change, including any changes
22 or improvements to the drug.

23 (c) PUBLIC DATABASE.—

24 (1) IN GENERAL.—The Secretary shall establish
25 an internet-based system to post prescription drug

1 information reported under subsection (a) and price
2 change reports required under subsection (b).

3 (2) CONSUMER SUBSCRIPTION OPTIONS.—The
4 system established under paragraph (1) shall enable
5 consumers to subscribe to price change notifica-
6 tions—

7 (A) for—

8 (i) all drugs;

9 (ii) a particular drug; or

10 (iii) a particular therapeutic class of
11 drugs; and

12 (B) that are limited to price changes that
13 are at or over a specified amount.

14 (3) TIMING.—The prescription drug informa-
15 tion reported under subsection (a) shall be made
16 publicly available not later than 30 days after being
17 reported to the Secretary. Price change reports re-
18 quired under subsection (b) shall be made publically
19 available no later than 5 business days after submis-
20 sion to the Secretary.

21 (d) PRIVACY PROTECTIONS.—The information sub-
22 mitted under subparagraphs (A) through (F) of subsection
23 (a)(1) and paragraph (2)(A)(ii) shall be publicly available
24 through the database established under subsection (c). No
25 other information submitted to the Secretary pursuant to

1 subsection (a) or (b) that is proprietary, confidential, or
2 trade secret information shall be included in such data-
3 base.

4 (e) DEFINITIONS.—For purposes of this section—

5 (1) the term “manufacturer” has the meaning
6 given such term in section 581 of the Federal Food,
7 Drug, and Cosmetic Act (21 U.S.C. 360eee);

8 (2) the term “prescription drug” means a drug
9 approved section 505 of the Federal Food, Drug,
10 and Cosmetic Act (21 U.S.C. 355) or a biological
11 product licensed under section 351 of the Public
12 Health Service Act (42 U.S.C. 262) that is subject
13 to section 503(b)(1) of the Federal Food, Drug, and
14 Cosmetic Act (21 U.S.C. 353(b)(1));

15 (3) the term “Secretary” means the Secretary
16 of Health and Human Services; and

17 (4) the term “wholesale acquisition cost” has
18 the meaning given such term in section
19 1847A(c)(6)(B) of the Social Security Act (42
20 U.S.C. 1395w–3a (c)(6)(B)).

21 (f) PREEMPTION.—Effective on the date that the
22 public database under subsection (b)(3) first becomes
23 operational, no State or political subdivision of a State
24 may establish or continue in effect any law requiring the

- 1 manufacturer to report or make public prescription drug
- 2 pricing information.

