

116TH CONGRESS  
1ST SESSION

# S. 977

To address the high cost of prescription drugs.

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IN THE SENATE OF THE UNITED STATES

APRIL 1, 2019

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

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## A BILL

To address the high cost of prescription drugs.

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 “Transparent Drug  
5 Pricing Act of 2019”.

6 **SEC. 2. PRICE TRANSPARENCY AT PHARMACIES.**

7 Section 1927(g)(2) of the Social Security Act (42  
8 U.S.C. 1396r–8(g)(2)) is amended by adding at the end  
9 the following new subparagraph:

10 “(E) DISCLOSURE OF DRUG PRICES AT  
11 POINT OF SALE.—Beginning January 1, 2022,

1 as part of a State’s drug use review program,  
 2 applicable State law shall require pharmacists  
 3 to disclose to customers, at the point of sale of  
 4 any prescription drug—

5 “(i) the customer’s out-of-pocket cost  
 6 with respect to acquisition of such drug  
 7 under the health plan in which the cus-  
 8 tomer is enrolled, if applicable; and

9 “(ii) the cost to the consumer for ac-  
 10 quisition of the drug without using any  
 11 health plan.”.

12 **SEC. 3. REQUIREMENTS WITH RESPECT TO PRESCRIPTION**  
 13 **DRUG COST-SHARING.**

14 Subpart II of part A of title XXVII of the Public  
 15 Health Service Act (42 U.S.C. 300gg–11 et seq.) is  
 16 amended by adding at the end the following:

17 **“SEC. 2729A. REQUIREMENTS WITH RESPECT TO PRESCRIP-**  
 18 **TION DRUG COST-SHARING.**

19 “(a) CREDIT TOWARDS DEDUCTIBLE.—With respect  
 20 to any enrollee in a health plan or individual or group  
 21 health insurance coverage who pays out-of-pocket for the  
 22 full cost of a prescription drug, the group health plan or  
 23 health insurance issuer offering such health insurance cov-  
 24 erage shall credit the full amount such enrollee paid for

1 such drug towards any deductible under the plan or cov-  
2 erage applicable to prescription drugs.

3 “(b) ESTABLISHMENT OF CO-PAYMENTS FOR CER-  
4 TAIN PRESCRIPTION DRUGS.—

5 “(1) IN GENERAL.—A group health plan or a  
6 health insurance issuer offering group or individual  
7 health insurance coverage shall, not later than 60  
8 days before the first annual open enrollment period  
9 after the date of enactment of the Transparent Drug  
10 Pricing Act of 2019, and 60 days before each annual  
11 open enrollment period thereafter, publish a list of  
12 the co-payment amounts for the applicable plan year  
13 with respect to each prescription drug covered under  
14 the plan or coverage.

15 “(2) PROHIBITION ON CHANGES IN CO-PAY-  
16 MENT AMOUNTS.—A group health plan or health in-  
17 surance issuer described in paragraph (1) may not  
18 change the co-payment amount published in accord-  
19 ance with paragraph (1) until the next plan year.

20 “(3) CALCULATION OF OUT-OF-POCKET  
21 COSTS.—A group health plan or a health insurance  
22 issuer offering group or individual health insurance  
23 coverage shall provide a mechanism that enables en-  
24 rollees in the plan or coverage to determine the pro-  
25 jected total out-of-pocket costs of an enrollee in the

1 plan or coverage for each prescription drug covered  
2 under such plan or coverage.”.

3 **SEC. 4. INTERNATIONAL RETAIL LIST PRICE INDEX.**

4 (a) IN GENERAL.—The retail list price in the United  
5 States for a drug approved under subsection (e) or (j) of  
6 section 505 of the Federal Food, Drug, and Cosmetic Act  
7 (21 U.S.C. 355) or a biological product licensed under  
8 subsection (a) or (k) of section 351 of the Public Health  
9 Service Act (42 U.S.C. 262) may not exceed the lowest  
10 retail list price for the drug among Canada, France, the  
11 United Kingdom, Japan, or Germany.

12 (b) SUNSET.—The requirement under subsection (a)  
13 shall terminate on the date that is 5 years after the date  
14 of enactment of this Act.

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