

STATEMENT



In Opposition to Colorado House Bill 20-1160
February 9, 2020

Position: The Pharmaceutical Research and Manufacturers of America (PhRMA) opposes Colorado HB1160, the "Colorado Prescription Drug Price Transparency Act of 2020" because it report trade secret information without sufficient confidentiality protections and requires manufacturers to provide advance notice of price increases. While PhRMA appreciates that HB1160 recognizes the importance of using manufacturer rebates to lower patient costs, passing through rebates to patients at the point of sale would ultimately result in lower prescription drug costs for patients.

HB1160 imparts burdensome requirements to produce data that is not related to how much consumers ultimately pay for a medicine.

HB1160 requires manufacturers to report the financial factors and nonfinancial factors used to decide to increase the price of the prescription drug, including an explanation of how the factors drive the increase in the price. Such reporting requirements related to price increases are administratively and legally complex and do not to improve access and affordability for patients.

Public companies, including publicly traded biopharmaceutical firms, already make significant financial disclosures. Specific data reported by biopharmaceutical companies to the federal Securities and Exchange Commission include research & development, manufacturing and related costs, drug pricing and sales information, information on clinical trials and related research, and drug pipeline information.

The confidentiality provisions in HB1160 do not ensure that trade secret information will be protected from public disclosure.

As HB1160 is drafted, PhRMA is concerned that the state could publish a manufacturer's confidential and proprietary trade secrets on the Department of Insurance website. Much of the requested information includes trade secret information that is protected by federal law. The owner of reported information (health insurer, manufacturer, pharmacy benefit manager, or nonprofit organization) is best positioned to assess what information falls within the categories of information in section 24-72-204 (3)(a)(IV), so, the decision to release such sensitive information should not be left up to the Insurance Commissioner. The bill should make clear that the Commissioner will not publish any information deemed by a health insurer, manufacturer, pharmacy benefit management firm, or nonprofit organization to fall within the categories of information in section 24-72-204 (3)(a)(IV). The Federal Trade Commission has

ALL rebates for ALL covered drugs to lower consumer cost sharing at the pharmacy counter. For the Colorado plans analyzed, the study concluded that using all manufacturer rebates to lower patient cost sharing would only increase premiums 0.3% - 1% and could save certain patients between \$300 and over \$1000 annually.⁴

PhRMA represents the country's leading innovative biopharmaceutical research and biotechnology companies, which are devoted to discovering and developing medicines that enable patients to live longer, healthier, and more productive lives. PhRMA is committed to working with Colorado lawmakers, patients, and other health care stakeholders to develop policies that will provide meaningful information to patients about the costs of the medicines and lowers prices for consumers.

⁴ Bunker, Gomberg, Petroske; Milliman. Sharing Pharmaceutical Rebates May Lower Patient Costs in Colorado with Less Than Two Percent Impact to Premium. February 4, 2019.