

Summary of An Act To Promote Transparency and Cost Control of Pharmaceutical Drug Prices (S1048)

The Massachusetts Legislature is currently considering [Senate Bill 1048](#), “An Act to Promote Transparency and Cost Control of Pharmaceutical Drug Prices.” The bill, sponsored by State Senator Mark Montigny, Vice Chair of the Joint Committee on Health Care Financing, would require manufacturers of drugs included in a “critical prescription drug list” to disclose certain information relating to the price of those drugs. The bill would also authorize the Massachusetts Health Policy Commission (HPC) to cap drug prices it determines to be “significantly high.” Similar prescription drug price transparency bills have been filed in a growing number of states, including California, Colorado, New York, North Carolina, Oregon, Pennsylvania, Virginia and Vermont.

Senate Bill 1048 articulates several factors that the HPC must consider in developing the critical prescription drug list. These include the cost of the drug, utilization levels, and the potential impact on the Commonwealth’s health care cost growth benchmark as established by [Chapter 224 of the Acts of 2012](#). Senate Bill 1048, however, does not provide specific measurements or standards by which the HPC would determine if these factors are met, leaving further guidance on this topic to regulation.

For the drugs that are placed on the critical prescription drug list, manufacturers would have to disclose the following cost and price information:

- Total cost of production and approximate cost of production per dose;
- Research and development costs;
- Marketing and advertising costs;
- Prices charged to purchasers outside the United States;
- Prices charged to typical Massachusetts purchasers; and
- True net typical prices charged to prescription drug benefit managers for distribution in Massachusetts.

The bill also provides that information reported by companies would be protected from disclosure under the Massachusetts Public Records Law. Any reported information that the HPC elects to publicly disclose must be “aggregated as to protect the financial, competitive, or proprietary nature of the information.” The HPC must prepare an annual report on prescription drug prices and their impact on overall health care spending.

Senate Bill 1048 would require the HPC to identify drugs which, due to their “significantly high” cost, jeopardize the Commonwealth’s ability to meet the health care cost growth benchmark established under Chapter 224 of the Acts of 2012. Drug prices are determined to be “significantly high” based on (i) the drug’s medical benefits, (ii) the manufacturing and development costs, and (iii) the price charged by the manufacturer for the drug in other countries. The HPC would be authorized to “set the maximum allowable price that the manufacturer can charge” for any drug that is sold for use in the Commonwealth, and that the HPC determines is priced “significantly high.”