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Massachusetts Senate Bill Draws Heated Debate

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As drug companies face a wave of drug pricing disclosure legislation in states across the country, a controversial Massachusetts bill is causing some of the most heated debate. Senate Bill 1048, sponsored by state Senator Mark C. Montigny, would develop a list of “critical” prescription drugs for which manufacturers must report specific information. The bill is the first in the nation to propose a cap on certain prices, authorizing the Massachusetts Health Policy Commission (HPC) to cap drug prices determined to be “significantly high.”

The HPC would also have the responsibility to create the critical prescription drug list, as determined by information disclosed by manufacturers. These factors include production, research and development, marketing and advertising costs, and various prices charged.

Senator Montigny, a New Bedford Democrat, has long been a critic of high drug prices. At a hearing before the Joint Committee on Health Care Financing held on April 11, 2016, he emphasized the need for transparency in health care access and pricing. Montigny stated, “We have the mandate from the vast majority of the public saying essentially, we have the right to know what is there when we purchase a drug.”

Many consumers, health insurers, and lawmakers support Montigny’s efforts, citing the need for transparency in tackling the increasing costs of pharmaceutical drugs. The bill has 17 co-sponsors across the House and Senate, including Representatives Lori Ehrlich and Marjorie Decker, who voiced their support during the hearing. “There are people with limited income who are still paying more than they can afford to just pay monthly drug costs,” stated Rep. Decker, a Cambridge Democrat.

Representatives from the MA Association of Health Plans, Health Care for All and American College of Physicians were just a few of the organizations that spoke in favor of Montigny’s bill, describing the proposal as an important step in improving the industry’s transparency and accountability. “It’s nearly impossible for policy makers, regulators, and regular consumers to know the true markup on drug prices,” stated Lynn Quincy, Associate Director of Health Policy for the national consumer advocacy group Consumers Union.

On the other side of the debate, pharmaceutical and biotechnology officials declared the bill would only increase development costs and damage investments in the industry. Drug companies argue that drugs are not the principal drivers of health care costs, citing how only 3.2 percent of MassHealth spending in 2014 was on drugs. “It is important to understand there is no formula for drug pricing,” stated Priscilla VanderVeer, a representative from national pharmaceutical trade organization PhRMA. VanderVeer cited how the bill will not lower out-of-pocket-costs for consumers, as these depend on insurance coverage.

Opponents of the bill also emphasized the debilitating effects S.1048 would have on investments in the biotechnology industry, which are crucial for clinical research and product development. Jonathan Fleming, CEO of the 25-person Cambridge biotech company Q-State Biosciences, detailed how the success of biotech companies depends on investment. If the government destroys incentives to invest in high-risk research—such as repeatedly failing, but necessary, research for the treatment of rare diseases—these companies will not succeed, thus deeming the bill a “nightmare.” “Please do not support a bill that puts all investments in our future at risk,” he implored of the Committee.

A recent report conducted by the Pioneer Institute contributes to the views of bill opponents, holding that disclosure mandates would increase administrative costs and subsequently reduce development. Alternatively, the report

recommends that lawmakers should promote competition in the prescription drug marketplace and in the health care industry, including more clinics and urgent care centers.

As discussion moves forward, Montigny has stated proponents of the bill are considering alternative measures to control costs rather than the cap on drug prices. While House Speaker Robert DeLeo and Senate President Stan Rosenberg have not committed to any of the bill's specifics, both agree the issue of drug pricing needs to be addressed.

Following the hearing, Governor Charlie Baker said he is considering working with the Massachusetts Congressional delegation to pressure the Obama Administration to speed up the approval process for generic drugs. According to the governor, it takes 48 months for the FDA to approve a new generic drug for use, with over 4,000 generics awaiting approval. This affects not only consumers, but hinders competition on prices in the generic market.

The Senate bill, S. 1048 is titled An Act to promote transparency and cost control of pharmaceutical drug prices. The full text is available at <https://malegislature.gov/Bills/189/Senate/S1048>

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