

HB 2690 -2 STAFF MEASURE SUMMARY

House Committee On Health Care

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Meeting Dates: 2/19, 4/9

WHAT THE MEASURE DOES:

Defines terms. Requires pharmaceutical manufacturers that advertise a prescription drug to clearly disclose the wholesale price Oregon pharmacists pay for the drug. Establishes civil penalties of up to \$5,000 for violation.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Prohibits an insurer and any entity that contracts with an insurer to manage the pharmacy benefits from restricting a pharmacy or pharmacist from informing an enrollee of the difference between their out-of-pocket cost to acquire a prescription drug with or without their health plan.

REVENUE: May have revenue impact, but no statement yet issued.

FISCAL: May have fiscal impact, but no statement yet issued.

BACKGROUND:

In the United States, pharmaceutical manufacturers advertise and market prescription drugs to consumers, referred to as “direct-to-consumer” (DTC) advertising, using television, print, radio, the Internet, and other forms of media. Ads often describe the product, the disease or condition it treats, as well as potential benefits and risks to consumers. Currently, DTC advertising of prescription drugs does not provide consumers with information about the cost of a drug.

Prescription drug pricing and costs are determined by industry practices, consumer demand, and financial negotiations between pharmaceutical market entities. Common pricing terms include the wholesale acquisition cost, the average wholesale price, average manufacturer price, and maximum allowable cost. The wholesale acquisition cost is the price the wholesaler or other direct purchasers pay the manufacturer, without factoring in any rebates, discounts, or other price reductions. Generally considered the “list” price, this price is set by a manufacturer and publicly reported.

The National Conference of State Legislatures reports that states have sought to regulate the marketing and advertising of pharmaceuticals including DTC advertising. Examples include requiring manufacturers to report gifts to health professionals, disclosure of conflicts of interest among professionals, reporting on DTC advertising, and disclosure of side effects of prescription drugs, among other regulations. House Bill 296 requires pharmaceutical manufacturers to disclose the price of prescription drugs in consumer advertising in Oregon.