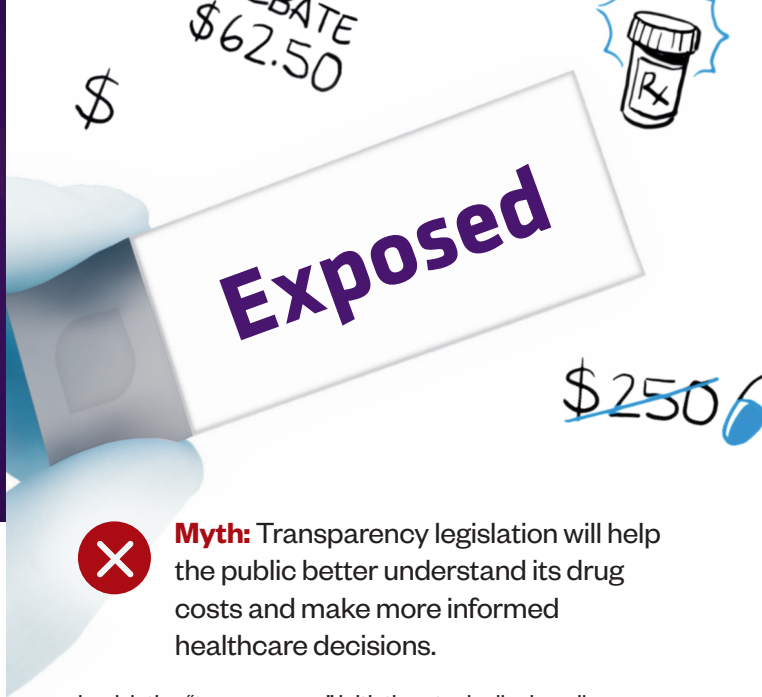


Seeing Through

Drug Pricing “Transparency” Legislation



✗ Myth: Transparency legislation will help the public better understand its drug costs and make more informed healthcare decisions.

Legislative “transparency” initiatives typically describe efforts to give consumers information they can use to make informed decisions. But drug pricing transparency bills are not that kind of legislation. Here, “transparency” refers to the government’s effort to force drug manufacturers to disclose proprietary and competitively sensitive business information in an attempt to coerce companies into restricting the price of their products to artificial, government-set thresholds. This not only undermines free-market competition, but it also seeks to transform our world-leading, innovative biopharmaceutical sector into a risk-averse, price-regulated public utility. Treating the biopharmaceutical industry like a public utility would make young life sciences companies – which are leading the cutting-edge R&D into tomorrow’s cures – unattractive to investors, private companies, and venture capitalists who fund the vast majority of biomedical research.

Real transparency, on the other hand, would help providers and patients get the information they need to make smart clinical decisions and thoughtful choices on health insurance enrollment. Real transparency would help patients understand what medicines are covered by a particular plan and what kind of cost-sharing or out-of-pocket payments are required. Real transparency would examine the entire healthcare sector holistically rather than single out one stakeholder. And it would help patients understand that insurers and pharmacy benefit managers largely determine patients’ out-of-pocket costs, not drug innovators. Current drug pricing “transparency” legislation would accomplish none of these goals.

✓ Reality: Misleading “transparency” legislation won’t do a thing to help patients or lawmakers make informed decisions about healthcare spending.



Myth: Transparency legislation will show the public that drug prices are not justified by development costs and that companies spend less of their profits on research and development than they do on marketing.

Anti-competitive state laws that attempt to treat the biopharmaceutical industry like a public utility – where prices are regulated on a “cost-plus” basis – would be a huge red flag for investors. The biotechnology sector is already among the riskiest for investment. Ninety percent of all new drugs in development do not gain government approval. The profits from a handful of approved drugs must subsidize thousands of research failures for the R&D cycle to sustain itself.

Therefore, forcing companies to itemize their input costs for the development of a particular drug will not lead to a better understanding of any individual drug’s pricing. However, doing so will chill investment in future innovation by signaling an artificial price constraint on the few medicines that secure FDA approval.

The National Institutes of Health (NIH) cannot and would not pick up the slack on medical research if private investors put their money elsewhere. The NIH funds only basic research, not the applied R&D needed to actually create new medicines. In 2015, the NIH spent \$30 billion on basic medical research, whereas the private sector invested \$150 billion globally in applied research to discover and commercialize new treatments and cures. Nearly half of that private investment was right here in America.

U.S. biopharmaceutical companies reinvest 20 cents of every dollar into creating the next generation of treatments and cures. No American industry spends a higher percentage of its sales revenue on R&D than drug companies. In any given year, biopharmaceutical companies spend five times more on R&D than the aerospace industry and more than double that of the software industry.

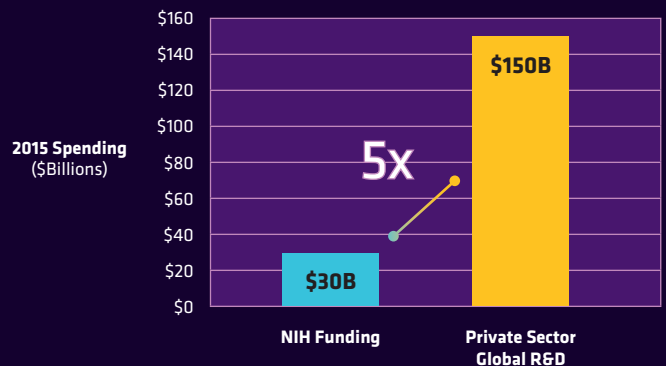
Claims that drug companies spend more on marketing than on R&D have been widely discredited. Such reports are based on cherry-picking a few big companies, undercounting R&D spending, and grossly overstating “marketing” expenses. They ignore the 4,000 small business innovators that make up the heart of the life sciences ecosystem and generate 65 percent of all new drugs. Small firms rely on multinational drug companies to help with development and regulatory approval; global sales and distribution; and the education of more than

HIGHEST RATE OF R&D REINVESTMENT OF ANY AMERICAN INDUSTRY

RANK	INDUSTRY	R&D SPEND
1	Biopharmaceuticals	21.3%
2	Semiconductors	18.4%
3	Electronic Production Equipment	17.6%
4	Internet Software/Services	17.4%
5	Packaged Software	14.3%
6	Computer Communications	13.7%
7	Computer Peripherals	11.7%
8	Internet Retail	10.4%
9	Electronic Equipment/Instruments	9.8%
10	Medical Specialties	7.0%

Source: Factset, BIO Industry Analysis, June 2016

PRIVATE SECTOR R&D DWARFS NIH FUNDING



Source: NIH.gov: <https://report.nih.gov/fundingfacts/fundingfacts.aspx>, Factset, EvaluatePharma, 2015

10 million doctors around the world about new medicines, their indications, interactions, and side effects. In discredited studies, all sales, distribution, and educational activities are lumped together as “marketing” expenses.



Reality: Among all American industries, the biopharmaceutical industry ranks first in R&D, both as a percentage of sales and in total dollars invested. Drug pricing determinations reflect not just the development cost of that one drug, but the imperative to subsidize the 90 percent of projects that fail.



Myth: Transparency legislation will help bring down the prices that patients pay for their prescription drugs.

If you walk into a pharmacy, everyone pays the same price for a bottle of aspirin. Not so with prescription drugs. Biopharmaceutical companies set a drug's list price, akin to the sticker price at a car dealership that very few actually pay. Media reports on the rising cost of drugs almost always focus solely on list prices, as do drug pricing "transparency" bills. But this is not what a drug company actually makes or what a patient pays. According to a 2017 study, branded biopharmaceutical companies kept just 47 percent of total U.S. spending on prescription drugs in 2015. Much of the remainder is kept as profit by middlemen in the drug delivery system – insurers, pharmacy benefit managers (PBMs), pharmacies and wholesalers.

Insurance companies hire PBMs to negotiate with manufacturers to determine what medicines are covered by the insurer. The insurer is responsible for determining whether a patient pays a modest co-pay or a percentage of the drug's list price. Different insurers can require wildly different cost sharing for the same medicine. Increasingly, insurers and PBMs are shifting more costs onto patients for the medicines their doctors prescribe. For instance, some patients may be asked to pay 50 percent or more of the list price for an expensive life-saving medicine rather than a reasonable \$20 co-pay – even when the insurer or PBM is paying much less than list price for the drug. As a result of these negative insurance trends, patients often believe a medicine's costs have gone up when what has really changed is the insurer's shifting of costs onto them. Indeed, the cost-sharing that patients must pay for medicines is deliberately and disproportionately high: on average, insurers require patients to pay a cost-sharing percentage that is five times higher for drugs than it is for hospital care.

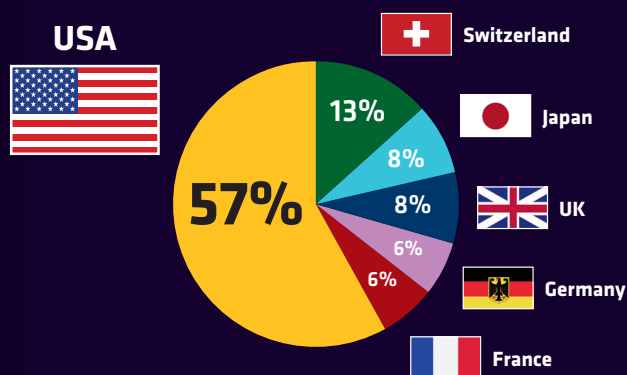


Reality: Insurance companies and their PBMs – not biopharmaceutical companies – determine what patients pay for medicines, and insurers are increasingly shifting drug costs to their beneficiaries. "Transparency" legislation does not address insurance cost-shifting to patients.

Free-Market Competition Has Made Us a Global Leader

America's unique, market-driven system allows U.S. biopharmaceutical companies to produce more new medicines than the rest of the world combined. If we adopt price controls or restrictions favored in countries with socialized medicine, we can expect to get the lower level of innovation found in these countries.

WHERE ARE NEW DRUGS COMING FROM?



So-called transparency laws force companies to behave like a government entity rather than a private enterprise. Instead of undermining competition, the best way to lower drug prices is to promote competition. When new therapies are approved, they often can help to quickly lower prices across an entire drug class. Additionally, once patents expire, the United States has a special system that incentivizes the production of copies, known as generics, which drive down prices massively. Today, 9 out of 10 prescriptions filled in America are for generic, low-cost drugs. Competitive markets are the foundation of the world's most successful economies. It is precisely because the biopharmaceutical industry's products can mean the difference between life and death that we shouldn't abandon this conviction when it comes to medical innovation. The willingness of federal and state governments to let the free market guide our system has made us the undisputed global leader in biomedical innovation – supporting 4 ½ million high-paying American jobs and benefiting hundreds of millions of patients in the United States and around the world.

Scientists can now isolate
and repair defective genes in
our bodies and train the immune
system to attack cancer cells and
leave healthy cells alone.

The human race has reached
the doorstep of a transformative
era of curative medicine. The only
thing that can stop us is anti-
innovation public policy, now being
sold under the popular banner
of “transparency.”



**How are drug
prices determined?**

**Follow the pill
and find out.**

www.bio.org/pill

