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What Motivates States to Act?

- Healthcare paid by public dollars

- Balanced budget requirements

- Market dynamics / Insurance rate review

- States as "Laboratories of Experimentation"
  - ACA
  - Children's health
  - Medical health parity
  - "Gag clauses"

- Public / Business outcry

Why States Take on Rx?

- Rx price increases rapid and unpredictable
- Specialty drugs, biologics, immunotherapy = costs will continue to rise
- 21st Century Cures -> Fast Tracking
- State Medicaid Spending
  - 25% 2016; 14% in 2015
  - CMS predicts 6% growth 2016-2025
  - PT. D “claw back”
- No federal consensus on action despite President’s “Blueprint”
  - States can’t wait on Feds
    - E.g. 28 states enacted “gag clauses” before Congress did
- Disruption
- Rx issues cross the partisan divide

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NASHP's Center for State Rx Pricing

- Laura and John Arnold Support
- Pharmacy Cost Work Group
- Model legislative, legal resources, track emerging activity, other technical assistance
  https://nashp.org/center-for-state-rx-drug-pricing/
- Diverse state engagement – Every State Has Introduced Rx Legislation

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How Are States Approaching Rx Costs?

- 2018 Session: 171 Bills

- 28 States Passed 45 New Laws:
  - PBMs – 99 Bills (33 laws in 20 states)
  - Transparency – 26 Bills (7 laws: OR, VT, ME, NH, CT, CA*, NV*)
  - Importation – 9 Bills (1 law: VT)
  - Price Gouging – 13 Bills (1 law: MD*)
  - Rate Setting – 3 Bills: MD, NJ, MN
  - Volume Purchasing – 4 Bills

(*= enacted in 2017)

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How Are States Approaching Rx Costs?

2019 Session: 158 Bills Filed in 36 states

- PBMs – 72 bills
- Transparency – 27 bills
- Importation – 22 bills (CO, CT, FL, IL, IN, MN, MO, NM, OK, OR, UT, WV, WY)
- Price Gouging – 4 bills (IN, NJ, VA)
- Rate Setting – 11 bills (CT, IL, MA, MD, MN, MO, NJ, OR)
- Study – 2 bills (IN, NH)
- Coupons – 6 bills (ID, KY, NH, NJ, RI, WV)
- Volume Purchasing – 3 bills (CT, NV, OR)
- Other – 11 bills

*as of 2/20/2019

Medicaid Alternative Payment Models

- Oklahoma
  - OK Medicaid has entered into three separate APMs directly w/ drug manufacturers (first-in-nation)
  - State and manufacturer agree upon outcome(s) to measure
  - Additional rebates are based on performance against agreed-upon measure
  - Example: As adherence targets are met- which result in greater usage, sales and outcomes- the price the state pays for the drug decreases

- Colorado
  - Colorado is surveying physicians to determine their actual acquisition cost (AAC) for physician administered drugs (PADs)
  - Results will be used to design a more transparent APM based on average acquisition cost (2019)

Lessons Learned

- Rx Pricing -> Strong bipartisan interest
- Transparency needed across supply chain
- Strong industry opposition – lobbying and courts
  - Patient Advocacy – (Kaiser, 2015) 14 companies contributed $116M to patient groups vs. $63M in reported lobbying
- States undeterred
  - Public / Policymaker education
  - Laboratories of experimentation – “Try Try Again”
- States inform and need federal action
  - GAG clauses / Transparency / Importation
  - ERISA
  - Patent protection
  - Dormant commerce clause

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