

Patient Right to Know Drug Prices Act S. Bill 2554/HR. Bill 6143

The Senate on 17 SEP overwhelmingly passed a bill that would let pharmacists inform consumers when it's cheaper to buy a drug without insurance, as lawmakers inched closer to delivering the Trump administration a win — albeit a small one — in the effort to lower drug prices. So-called gag clauses prevent a pharmacist from telling consumers when their insurance co-pay is higher than the cash price for a drug. The administration has sought to outlaw the clauses, and its push to do so is one of the few ideas in its drug pricing plan to advance so far in Congress. The Senate passed the Patient Right to Know Act, which bans the use of gag clauses in insurance plans offered in the private market, by a vote of 98-2. A similar bill (S.2553) barring these provisions in Medicare passed the chamber earlier this month. Last week, the House Energy and Commerce Committee advanced its gag-clause bill to the House floor.

Many of Trump's other drug pricing ideas are facing resistance from Republicans. They recently blocked a measure meant to jumpstart an initiative to require the disclosure of drug prices in ads. And House Energy and Commerce Committee Chairman Greg Walden (R-OR) and Senate Finance Committee Chairman Orrin Hatch (R-UT) have urged the White House to use caution before torpedoing the existing system of drug rebates. While the move to eliminate gag clauses has bipartisan support, the gag clause bill almost met a similar fate on Monday. The Senate blocked an amendment to the bill, sponsored by Sen. Mike Lee (R-UT) that would have only banned gag clauses in self-insured employer plans. "Sen. Lee has filed an amendment that would eviscerate (disembowel) our bill," Sen. Susan Collins (R-ME) said, adding that 85 million Americans covered under employer-sponsored and individual market plans would be excluded from protection. Lee said his amendment would allow states to take the lead on banning gag-clauses, while eliminating them in plans that states can't regulate. Twenty-five states have already enacted their own laws banning gag clauses, according to the National Conference of State Legislators.

Trump took to Twitter on Monday to shore up support for the gag clause bill. "I support legislation that will remove gag clauses and urge the Senate to act," Trump tweeted. But the path for getting the legislation to the president's desk is still unclear. The full House still needs to pass either the bills passed by the full Senate, or the House can pass its own bill and then will need to work with the Senate to hammer out the differences between the versions. The Senate's bill also would require biologic and biosimilar makers to alert the Federal Trade Commission when they settle a patent dispute. The notifications are used to monitor so-called pay-for-delay deals. Drug makers are already required to make these disclosures for traditional, small-molecule drugs.