

116TH CONGRESS
1ST SESSION

H. R. 3327

To amend title XI of the Social Security Act to require that direct-to-consumer television advertisements for prescription drugs and biological products include the list price of such drugs and products, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 18, 2019

Mr. ROONEY of Florida introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XI of the Social Security Act to require that direct-to-consumer television advertisements for prescription drugs and biological products include the list price of such drugs and products, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drug Price Trans-
5 parency for Medicare Patients Act of 2019”.

1 **SEC. 2. REQUIREMENT THAT DIRECT-TO-CONSUMER TELE-**
2 **VISION ADVERTISEMENTS FOR PRESCRIP-**
3 **TION DRUGS AND BIOLOGICAL PRODUCTS IN-**
4 **CLUDE LIST PRICE OF SUCH DRUGS AND**
5 **PRODUCTS.**

6 Part A of title XI of the Social Security Act (42
7 U.S.C. 1301 et seq.) is amended by adding at the end
8 the following new section:

9 **“SEC. 1150C. REQUIREMENT THAT DIRECT-TO-CONSUMER**
10 **TELEVISION ADVERTISEMENTS FOR PRE-**
11 **SCRIPTION DRUGS AND BIOLOGICAL PROD-**
12 **UCTS INCLUDE LIST PRICE OF SUCH DRUGS**
13 **AND PRODUCTS.**

14 “(a) IN GENERAL.—Subject to subsection (b), the
15 Secretary, acting through the Administrator of the Cen-
16 ters for Medicare & Medicaid Services (referred to in this
17 section as the ‘Secretary’), shall require that each direct-
18 to-consumer advertisement on television (including broad-
19 cast, cable, streaming, or satellite media) for a prescrip-
20 tion drug or biological product for which payment is made
21 available under title XVIII or XIX includes a written
22 statement indicating the current list price for a 30-day
23 supply of (or, if determined more appropriate by the Sec-
24 retary, a typical course of treatment with) such drug or
25 product as follows: ‘The list price for a [30-day supply
26 of/typical course of treatment with] [name of prescription

1 drug or biological product] is [current list price]. If you
2 have health insurance that covers drugs, your cost may
3 be different.’. Such statement shall be presented at the
4 end of such an advertisement against a contrasting back-
5 ground for sufficient duration and in a size and style of
6 font that allows such statement to be read easily.

7 “(b) EXCEPTION.—The requirement described in
8 subsection (a) shall not apply with respect to a prescrip-
9 tion drug or biological product that has a current list price
10 less than \$35 per month for a 30-day supply of, or a typi-
11 cal course of treatment with, such drug or product.

12 “(c) IDENTIFICATION OF NONCOMPLIANT DRUGS
13 AND PRODUCTS.—In the case that a direct-to-consumer
14 advertisement described in subsection (a) does not include
15 a written statement as required under such subsection and
16 is not excepted with respect to such statement under sub-
17 section (b), the Secretary shall identify the prescription
18 drug or biological product that is the subject of such ad-
19 vertisement as a drug or product advertised in violation
20 of the requirement of subsection (a). The Secretary shall
21 maintain a public list of all prescription drugs and biologi-
22 cal products identified pursuant to the previous sentence.

23 “(d) DEFINITIONS.—In this section:

24 “(1) CURRENT LIST PRICE.—The term ‘current
25 list price’, with respect to a prescription drug or bio-

1 logical product described in subsection (a) and a di-
2 rect-to-consumer advertisement described in such
3 subsection for such drug or product, means the
4 wholesale acquisition cost (as defined in section
5 1847A(c)(6)) of such drug or product as of the first
6 day of the quarter during which such advertisement
7 is aired or otherwise broadcast.

8 “(2) TYPICAL COURSE OF TREATMENT.—The
9 term ‘typical course of treatment’, with respect to a
10 prescription drug or biological product described in
11 subsection (a) and a direct-to-consumer advertise-
12 ment described in such subsection for such drug or
13 product, means the typical course of treatment asso-
14 ciated with the primary indication addressed in such
15 advertisement for which such drug or product is pre-
16 scribed.”.

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