Stopping the Pharmaceutical Industry from Keeping Drugs Expensive (SPIKE) Act

In 2016, Medicaid spent $64 billion on prescription drugs, and Medicare spent $127 billion. Under current law, drug manufacturers are not required to publicly report increases in the list price of their drugs, and there is no mechanism to deter them from significantly raising their drug prices over time. It has becomes increasingly apparent that bad actors in the pharmaceutical industry are unreasonably increasing the price of drugs – making once affordable drugs out of reach for millions of Americans. Others within this industry may not take massive increases, but instead steadily increase drug prices year after year. In both cases, patients and taxpayers are on the hook for these price hikes.

This legislation holds drug manufacturers accountable, and aims to protect taxpayers from drug price rip offs. It would require manufacturers to publicly report their justification for significant increases in the list price – and holding drugs that account for high Medicare and Medicaid spending to a stricter standard. While other states have pursued similar legislation, Vermont is the only state with a similar law.

The SPIKE Act:

- Requires the HHS Secretary to notify manufacturers of drugs that meet one of two qualifying tests: 1) The drug is at least $10 per dose and had a price increase of at least 300% over 5 years or 100% over 1 year; and 2) The drug represents the top 50th percentile of net drug spending in the Medicare or Medicaid programs and had a price increase of at least 50% over 5 years or 15% over 1 year. In order to prevent gaming, the Secretary would have the ability to identify a drug with a price increase within a *de minimus* range of the percentages described above.

- Phases in these thresholds so that price increases occurring prior to enactment of the SPIKE Act would not be captured; however, any price increase occurring after enactment of the bill would be potentially captured if significant enough.

- Requires drug manufacturers to submit a timely justification for price increases to the HHS Secretary. This justification could include: individual factors that contributed to the price increase, the percent of total expenditures on research and development derived from federal funds, and the total cost of marketing and advertising the specific drug.

- Requires price justification reports be made publicly available on the Centers for Medicare & Medicaid Services (CMS) website.

- Exempts drug manufacturers from the reporting requirements if the manufacturer subsequently lower the list price of their drug.