

# Labor's 2004 Legislative Priorities

Good Jobs and Healthcare



## California Labor Federation, AFL-CIO

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## AB 1960 (Pavley) and AB 2326 (Corbett) – Making the Prescription Drug Industry Work for Consumers

### Purpose

**AB 1960 (Pavley)** provides important consumer protections by establishing disclosure requirements for Pharmacy Benefit Managers (PBMs). **AB 2326 (Corbett)** creates a “prescription drug report card” for California consumers that identifies the best prescription drugs on the market using balanced, clinically-based research.

### Background

Prescription drug prices have increased at double-digit rates for each of the last eight years, and **prescription drugs are the fastest-growing component of the health care budget.**

Among the forces behind the rising cost of prescription drugs are fundamental conflicts of interest within the pharmaceutical industry, and a lack of reliable information and transparency for consumers. Middlemen drug companies that administer drug benefits for millions of consumers face financial incentives to steer those consumers toward the highest-priced drugs on the market. At

the same time, a lack of reliable, balanced information about which drugs work best prevents consumers and physicians from making informed, cost-conscious choices about prescription drugs.

“Pharmacy Benefit Managers” (PBMs) are middlemen companies that “manage” prescription drug benefits for millions of California consumers. State and local agencies, employers, health insurers, Taft-Hartley trust funds and other health care purchasers contract with PBMs to manage their prescription drug benefits. PBMs negotiate drug prices, develop “preferred drug lists,” and administer prescription drug claims for these client organizations.

**Yet PBMs are more closely tied to drug manufacturers than they are to their own clients.** Drug manufacturers offer PBMs millions in rebates, discounts and other types of volume-based incentives to persuade PBMs to include their drugs on the PBMs “preferred drug list.” PBMs are not required to pass these discounts on to their clients, or even disclose to their clients what kinds of deals they make with drug manufacturers.

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Numerous recent lawsuits have charged that the refusal of PBMs to pass on or disclose these kickbacks has contributed to the escalating costs of prescription drugs. One study estimates that ten percent of the \$161 billion in prescription drug spending in the U.S. went to PBMs in 2002, most of it in the form of financial incentives from manufacturers.

These financial relationships also create an incentive for PBMs to steer consumers toward those drugs that offer the biggest discounts from manufacturers, which are often the most expensive drugs on the market. A March 2003 New York Times article pointed out that Medco had persuaded doctors to switch more than 71,000 prescriptions from Lipitor to Zocor, a more costly drug manufactured by Merck, the former parent company to Medco. An August 2002 Wall Street Journal article pointed out that Advance PCS (another PBM) encouraged doctors to switch from a generic ulcer drug to a brand-name drug that cost 10 times as much and was less effective, according to the FDA.

Reforms are badly needed in the PBM industry to address the conflicts of interest and unethical practices that place the interests of drug manufacturers above the interests of consumers. AB 1960 requires PBMs to

disclose certain information about their relationships with drug manufacturers.

The lack of balanced, reliable information about prescription drug efficacy has also contributed to growing prescription drug costs. The pharmaceutical industry spends millions each year on advertising, marketing and research designed to drive up demand for their newest—and most expensive—drugs. A recent Health Affairs article found that 47 percent of the increase in drug costs is due to higher demand for drugs, and 27 percent is due to consumers switching to more expensive medications.

**Consumers, physicians, and health care purchasers cannot afford to rely on the pharmaceutical industry for information about which prescription drugs work best.** Californians need a reliable, balanced source of information about the effectiveness and cost of prescription drugs.

Several states and other organizations around the country are working to review clinical trials done on a variety of prescription drugs in order to identify which drugs work best for common health conditions. AB 2326 reports these results in a “prescription drug report card” for California consumers, physicians and health care purchasers.

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## What These Bills Do

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**AB 1960 (Pavley)** provides greater transparency in the pharmacy benefits management industry. AB 1960 requires PBMs to register in the state and to disclose information about their relationships with drug manufacturers.

**AB 2326 (Corbett)** creates a "prescription drug report card" in California. This resource would be available for consumers, physicians, and other health care purchasers to identify the most effective prescription drugs for a variety of health conditions.

## Support

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California Labor Federation, AFL-CIO (Sponsor)

California Alliance for Retired Americans (CARA), Consumers' Union, and Senior Action Network – cosponsors on AB 2326

### Other supporters include:

AARP

AIDS Healthcare Foundation

American Federation of State, County and Municipal Employees (AFSCME)

Butcher's Union Local 120

California Public Employees Retirement System

California Public Interest Research Group

California School Employees Association

California Seniors Coalition

Communications Workers of America Local 9423

Communications Workers of America Local 9575

Congress of California Seniors

Consumer Federation of California

Consumers' Union

Graphic Communications Union Local No. 583

Greenlining Institute

Health Access California

Health Care for All - California

Hotel Employees and Restaurant Employees Local No. 49

IBEW Local 340

IBEW Local 551

Laborers' International Union of North America (LIUNA)

Older Women's League of California

Plumbers & Steamfitters Local 484

Riverside Sheriff's Association

Sacramento-Sierra Building & Construction Trades Council

San Mateo County Central Labor Council

Service Employees International Union

Southern California Pipe Trades District Council 16

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Sprinkler Fitters and Apprentices Local  
483

Teamsters Local 481

UFCW Butchers Union Local 120

UFCW Local 839

UFCW Local 1179

United Teachers Los Angeles

Warehouse Processing & Distribution  
Workers' Union Local 26

Western Center on Law and Poverty

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