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16 **UNITED STATES DISTRICT COURT**  
17 **EASTERN DISTRICT OF CALIFORNIA**

18 PHARMACEUTICAL RESEARCH AND  
19 MANUFACTURERS OF AMERICA,

20 Plaintiff,

21 v.

22 EDMUND GERALD BROWN, Jr., in his  
23 official capacity as Governor of the State of  
24 California, and

25 ROBERT P. DAVID, in his official capacity as  
26 Director of the California Office of Statewide  
Health Planning and Development,

27 Defendants.  
28

Case No.: 2:17-cv-02573-MCE-KJN

**PLAINTIFF'S REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF OPPOSITION  
TO DEFENDANTS' MOTION TO  
DISMISS**

**REQUEST FOR JUDICIAL NOTICE**

Pursuant to Federal Rule of Evidence 201, Plaintiff Pharmaceutical Research and Manufacturers of America (“PhRMA”) requests that the Court take judicial notice of public government records that are not subject to reasonable dispute and the accuracy of which cannot reasonably be questioned.

Exhibit A is the December 29, 2017 public email notification sent by the Office of Statewide Health Planning and Development (“OSHPD”) announcing that OSHPD had published on its website a list of registered purchasers who must receive 60 days’ notice for any increase in the wholesale acquisition cost of a prescription drug pursuant to California Senate Bill No. 17. *See* Cal. Health & Safety Code §§ 127275, 127277. The notification was sent to all individuals who signed up for notifications on OSHPD’s website. *See* OSHPD, Cost Transparency Rx, <https://www.oshpd.ca.gov/CTRx.html> (“Sign up for CTRx Informational Announcements”). The correspondence constitutes agency records not subject to any reasonable dispute. *See, e.g., Payne v. California*, 2018 WL 835333, at \*2 (E.D. Cal. Feb. 13, 2018) (correspondence with counsel was public and not reasonably disputable); *Torrance Redevelopment Agency v. Solvent Coating Co.*, 763 F. Supp. 1060, 1066 (C.D. Cal.) (“Because Plaintiff is a public agency, its documents, including letters, related to its activities are also public records subject to public disclosure under the California Public Records Act. Therefore, the Court may appropriately take judicial notice of the two letters written by Plaintiff in determining whether the Complaint fails to state a claim for relief.” (internal citation omitted)), *rev’d on different grounds on reconsideration*, 781 F. Supp. 650 (C.D. Cal. 1991). Exhibit A has been redacted to protect attorney-client communications regarding transmittal to counsel.

1 Dated: February 26, 2018

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# **EXHIBIT A**

# **EXHIBIT A**

**TO PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF  
OPPOSITION TO DEFENDANTS' MOTION TO DISMISS**

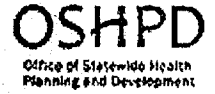
# REDACTED

**From:** OSHPD Information Services Division <[noreply@oshpd.ca.gov](mailto:noreply@oshpd.ca.gov)>  
**Date:** December 29, 2017 at 2:08:15 PM PST  
**To:** <[alisc@phrma.org](mailto:alisc@phrma.org)>  
**Subject: Announcement: Registered Rx Purchaser List Now Available**  
**Reply-To:** "OSHPD Cost Transparency Rx (SB17)" <[ctrx@oshpd.ca.gov](mailto:ctrx@oshpd.ca.gov)>

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## **COST TRANSPARENCY RX (SB 17) – REGISTERED RX PURCHASER LIST**

In accordance with [Senate Bill 17](#) (Chapter 603, Statutes of 2017), a list of specified prescription drug purchasers registered to receive 60-day advance notice of a specified increase in the wholesale acquisition cost (WAC) of a prescription drug from prescription drug manufacturers is now available. Drug manufacturers that are required to notify specified purchasers of a specified prescription drug WAC increase may download the list from the [Cost Transparency Rx Website](#).

OSHPD's Information Services Division plays a key role in creating and maintaining data critical to the study and evaluation of the State's health care delivery systems. From collected health facility and individual patient data, more than 100 reports and data sets on quality, outcomes, financial performance, and utilization are available to the public.

Please visit our website to [view or download other data products](#). You can also find data products from OSHPD and other departments on the [California Health and Human Services Open Data Portal](#).

[Subscribe to our e-mail list](#) to receive announcements when new OSHPD data become available.

### **Office of Statewide Health Planning & Development**

#### **Information Services Division**

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