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April 12, 2021

Maine Joint Committee on Health Coverage
Insurance, and Financial Services
100 State House Station
Augusta, ME 04333

Dear Legislator,

On Tuesday, April 13, you are scheduled to hear [LD 675](#), “An Act to Protect Maine Consumers from Unsupported Price Increases on Prescription Medicines by Creating an Independent Review Process.” This is a price control bill that will not lower drug prices, could deny Maine citizens access to important medicines, and will likely end up in litigation. On behalf of the 9,498 members and supporters of Council for Citizens Against Government Waste (CCAGW) in Maine, I urge you to oppose this damaging legislation.

LD 675 will hand pharmaceutical pricing decisions over to the Institute for Clinical and Economic Review ([ICER](#)), an organization that has been compared to the United Kingdom’s National Institute for Health and Care Excellence (NICE), which provides guidelines to their government-run, socialistic National Health Service. NICE is not so nice to England’s citizens because it often [denies](#) access to some of the most innovative medicines and procedures to its most vulnerable patients. Under this new regime, the same is likely to occur to residents of Maine.

If the Maine State Tax Assessor finds that a pharmaceutical sold in Maine has an “unsupported price increase” as determined by ICER, a pharmaceutical manufacturer with sales of \$250,000 or more in Maine will be assessed a fine on their sales equal to 80 percent of the difference between the revenue generated by sales within the state and the revenue that would have been generated had it maintained the wholesale acquisition cost (WAC) from the previous calendar year, adjusted for inflation. This price control is based on a faulty premise because the WAC represents the list price, not the price that is negotiated among pharmaceutical companies, insurers, pharmacy benefit manufacturers and pharmacists for the patient.

The legislation also forbids a manufacturer from withdrawing a prescription drug for sale within the state and permits the assessment of a \$500,000 penalty if the Attorney General determines the drug was withdrawn to avoid paying the unsupported price increase penalty. This vague and arbitrary standard will be challenged in court, along with the potential taking of intellectual property in violation of the U.S. Constitution.

CCAGW understands concerns over drug pricing, but the best way to lower drug costs is to encourage increased competition and not implement more price controls because they distort markets and cause shortages. Price controls already exist in Medicaid, the VA, and Medicare

Part D coverage gap. A better way to lower drug costs is for legislators to contact Maine's federal representatives and encourage them to hold the Food and Drug Administration's feet to the fire for faster generic drug approvals, and create an environment that encourages more "me too" drugs that will foster competition among branded pharmaceuticals that are in the same class and still under patent.

Discussions often occur on why drugs in Canada, Europe, and other countries are less expensive. The reason why is their socialistic, government-run healthcare systems utilize price controls and rationing to keep costs down. As a result, they have harmed their nation's biopharmaceutical research and development sector. In the mid-1980s, [Europe led the U.S.](#) in pharmaceutical research and development by 24 percent, but by 2015 they were behind by 40 percent due to implementing price controls.

We encourage Maine's legislators to ask their officials in Washington to implement trade policies that would induce Canada, Europe, and other allies to pay their fair share of U.S. biopharmaceutical research and development and adopt policies that would encourage, not stifle, biopharmaceutical research and development in their countries. Not only would that help our allies' biopharmaceutical companies, it also would lead to the creation of more new, innovative drugs and increase competition, which is a far more effective way to reduce costs.

Again, I urge you to oppose LD 675.

Sincerely,

A handwritten signature in black ink that reads "Tom Schatz". The signature is written in a cursive, slightly slanted style.

cc: Republican Members of the Maine Joint Committee on Health Coverage, Insurance, and Financial Services