



Thomas A. Schatz, *President*
1100 Connecticut Ave., N.W., Suite 650
Washington, D.C. 20036
ccagw.org

March 9, 2021

Oklahoma Senate
2300 N Lincoln Blvd.
Oklahoma City, OK 73105

Dear Senator,

You will soon consider a price control bill, [SB 734](#). As you know price controls cause market distortions and never solve the problem they were intended to fix. The legislation would adopt Canadian pharmaceutical prices for drugs sold in Oklahoma. On behalf of the 25,210 members and supporters of the Council for Citizens Against Government Waste (CCAGW) in Oklahoma, I urge you to oppose SB 734.

In the legislative text of SB 734, it states, “The costs to consumers, health plans and the state for prescription drug coverage is higher than the costs in other countries because the prices charged by manufacturers and distributors of drugs in this state are higher.” The reason why is because other countries have socialized medicine systems and adopt price controls and rationing to keep costs low. A February 2018 President’s Council of Economic Advisers [report](#) stated, “foreign, developed nations, that can afford to pay for novel drugs, free-ride by setting drug prices at unfairly low levels, leaving American patients to pay for the innovation that foreign patients enjoy.”

The Oklahoma Office of Management and Enterprises Services would transmit to the insurance commissioner a list of the 250 most costly prescription drugs from the previous year. In turn, the insurance commissioner will publish the list of the 250 drugs that will be subjected to a new reference price that will be calculated by comparing the wholesale acquisition cost (WAC) for the drugs and the price for the drugs in Canada. Using this to determine prices in Oklahoma is a faulty premise because the WAC is a list price, not the price that is negotiated among health insurance plans, pharmacy benefit managers, wholesalers, and pharmaceutical manufacturers.

Not only is it unwise to adopt Canadian price controls for drugs sold in Oklahoma, the legislation also raises significant legal issues. If the insurance commissioner determines that a pharmaceutical company is withdrawing a referenced drug from sale or distribution to avoid the rate limitations, or refuses to negotiate prices “in good faith,” the commissioner can assess a penalty of \$500,000 or the amount of “annual savings determined by the commissioner,” whichever is greater. This vague and arbitrary standard will be challenged in court, along with the “taking” of intellectual property in violation of the U.S. Constitution.

CCAGW has long opposed using price controls to lower drug prices. For example, we strongly objected to President Trump’s effort to adopt a “most favored nation” (MFN) policy that had been a topic of controversy since July 24, 2020. Under the interim rule, the U.S. would be paying no more than the lowest price found in 22 countries, including Canada. It is now being blocked by several U.S. district courts, including a preliminary injunction by the U.S. District Court for Northern District of California

based on the Trump administration's failure to follow standard notice and comment rulemaking procedures.

The reason the United States [leads the world](#) in pharmaceutical research and development and have produced in record time COVID-19 vaccines is because most of pharmaceuticals pricing is still negotiated in a free marketplace. Unfortunately, adopting price controls in government health programs, like those found in Medicaid, the VA drug benefit, and the Medicare Part D coverage gap have helped to distort our marketplace and have done little to bring down drug prices. Adding more price controls will only make matters worse.

A better way to lower drug costs is for legislators to contact Oklahoma'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.

Officials in Washington should also implement trade policies that would require 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 their 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 for the long term.

Again, I urge you to vote against SB 734.

Sincerely,

A handwritten signature in black ink that reads "Thomas Schatz". The signature is written in a cursive style and is contained within a thin black rectangular border.