COUNCIL for CITIZENS AGAINST GOVERNMENT WASTE

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Oregon Joint Ways and Means Committee
900 Court St NE
Salem, OR 97301

Dear Legislator,

You will soon consider a price control bill, SB 844, for pharmaceuticals sold in Oregon. On behalf of the 32,510 members and supporters of the Council for Citizens Against Government Waste (CCAGW) in Oregon, I urge you to oppose this legislation.

SB 844 would create the Prescription Drug Affordability Board, a new agency that will review prescription drugs with an introductory wholesale acquisition cost (WAC) above certain price thresholds for both brand name and generic drugs. The board will conduct an "affordability review" and has the authority to "impose an upper payment limit on a prescription drug" sold in Oregon. The bill also establishes the Prescription Drug Affordability Stakeholder Council with up to 23 members appointed by the legislature and the governor to assist the board in carrying out its duties.

Establishing an upper payment limit is a price control and basing it on the WAC is a faulty premise. The WAC is not what a patient would pay as it does not take into consideration the substantial discounts that private insurers, pharmacy benefit managers, pharmacies, and other stakeholders negotiate to lower prices for their customers.

CCAGW is also concerned that if this legislation should become law, Oregonians may not have access to some of the most innovative drugs being produced if the board and a biopharmaceutical company could not reach agreement on a price. The board sounds uncomfortably close to England's National Institute for Health and Care Excellence (NICE), which is not so nice. It is known for rationing care and news stories are commonplace about denying access to new therapies and using a quality-adjusted life year (QALY) to help determine whether a patient's QALY score is high enough to receive a new therapy. The Oregon Prescription Drug Affordability Board may choose to follow the recommendations of groups like the Institute for Clinical and Economic Review, which believes QALY should be used to determine if a drug is worth the price for the treatment. Patient groups, like the Alliance for Aging Research, find that by using QALY, "Sick and older patients are more likely to be denied access to medications that could help improve their condition or quality of life."

Other countries that use government-run healthcare and price controls also deny access to innovative therapies. Galen Institute Senior Fellow Doug Badger discussed these issues in a March 2019 analysis, "Examination of International Drug Pricing Policies in Selected Countries Shows Prevalent Government Control over Pricing and Restrictions on Access." For example,

American citizens got access to 89 percent of the 290 new active substances that became available between 2011 and 2018. But French citizens only got access to 48 percent, German citizens got access to 62 percent, and Japanese citizens got access to 50 percent. If one must battle cancer, the place to be is the United States because patients got access to 96 percent of all new oncology drugs, while the French got access to 66 percent, the Germans got access to 73 percent, and the Japanese got access to 54 percent.

Price controls are destructive and never fix the problem they were intended to address. Anyone who was driving a car or has studied the wage and price controls implemented during the 1970s remembers the disruption they caused in all sectors of the economy, especially the long lines for gasoline. The U.S. pharmaceutical market already has too many too many price controls that have caused distortions, including the Medicaid rebate, the 340B program, the coverage gap in Medicare Part D, and the VA drug benefit. If the federal and state governments continue to go down this path, the U.S. will lose its world leadership in biopharmaceuticals.

A better way to lower drug costs is for legislators to contact Oregon's federal representatives and encourage them to make sure the Food and Drug Administration efficiently increases the speed of its generic drug approvals and creates 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. In addition, Congress and the administration should, through better negotiations on trade deals, get countries that could afford to contribute more to biopharmaceutical research to do so, instead of free-riding on U.S. investment as was discussed in a March 2020 Council of Economic Advisers report, "Funding the Global Benefits to Biopharmaceutical Innovation." As stated in the report, "Reducing foreign price controls would increase profits and innovation, thereby leading to greater competition and lower prices for U.S. patients."

Again, I urge you to vote against SB 844.

Sincerely,