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May 8, 2020

The Honorable Kurt Daudt
House Minority Leader
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Dear Minority Leader Daudt,

The Council for Citizens Against Government Waste (CCAGW) has been concerned about the “Prescription Drug Price Transparency Act,” [SF 1098](#), for some time. We expressed our objections to the bill while it was being debated in the Minnesota Senate and continue to oppose this bill in the Minnesota House of Representatives. The supposed purpose of the legislation is to provide transparency on drug pricing, but it is nothing more than a fishing expedition that will do nothing to lower the costs of drugs in Minnesota.

It is our understanding the House will consider SF 1098 on Saturday, May 9, 2020. On behalf of the 35,598 members and supporters of CCAGW in Minnesota, I urge you and your Republican colleagues to oppose this legislation. In addition to the policy reasons to reject this bill, the money that would be needed to administer the transparency program should be used to fight COVID-19.

The legislation requires pharmaceutical companies to provide reams of financial data to the commissioner of health within 60 days of a drug price increase that is more than a certain percentage above the wholesale acquisition cost (WAC) from the previous 12-month period or any drug with a WAC of \$100 for a 30-day supply or a course of treatment less than 30 days.

This is a faulty trigger because the WAC is essentially a list price and does not account for rebates, discounts, and other price concessions provided for pharmaceutical distribution. Some of the information is proprietary, which will present additional problems and could affect negotiations among manufacturers, pharmacy benefit managers, and pharmacists.

The Federal Trade Commission (FTC) has acknowledged that disclosure of pricing information could undermine beneficial market forces within the industry, leading to higher rather than lower prices. A July 2, 2015 FTC [policy paper](#), “Price Transparency or TMI,” stated, “But transparency is not universally good. When it goes too far, it can actually harm competition and consumers. Some types of information are not particularly useful to consumers but are of great interest to competitors. We are especially concerned when information disclosures allow competitors to figure out what their rivals are charging, which dampens each competitor’s incentive to offer a low price or increases the likelihood that they can coordinate on higher prices.”

If a manufacturer does not provide the required information in a timely manner, the company could be fined as much as \$10,000 per day of the violation. If anything, this bill will raise drug costs because of the extra accountants, lawyers, and auditors who will be needed to produce the data in a timely manner to avoid civil penalties.

The bill also requires brand name manufacturers to provide the 10 highest prices for the corresponding drug sold in in any country other than the U.S. This is also a faulty premise on which to compare drug prices. Most countries across the globe utilize socialized medicine, which use price controls and rationing to keep costs low. The U.S. [leads](#) the world in biopharmaceutical research and other countries ride on discoveries paid for by U.S. citizens and taxpayers because their socialized health systems have seriously harmed their research.

The price of prescription drugs generates much media attention and controversy, and it is understandable that legislators, government officials, and consumers are expressing their concern.

Supporters of a free market understand that the best approach to lowering prices of any product is an environment that fosters competition and innovation, not more regulation and government intervention. It takes 10 to 12 years and an average of \$2.6 billion to get a new drug through the Food and Drug Administration (FDA) approval process. Minnesota legislators should ask their congressional delegation to continue to hold the FDA's feet to the fire to make sure that generic drugs are approved in a timely manner and the agency continues to adopt modern techniques that streamline and speed up clinical trials and approval processes.

A February 13, 2020 President's Council on Economic Advisers [report](#), "Funding the Global Benefits to Biopharmaceutical Innovation," exposed how countries that use price controls are benefitting from biopharmaceutical research paid for by U.S. taxpayers and consumers. If this free-riding was reduced, the U.S could institute domestic pricing policies that could save \$194 billion a year.

Faster FDA approvals and congressional support of better trade deals that would require U.S. trading partners to pay their fair share of biopharmaceutical research would be a far more effective way to help bring down the price of prescription drugs than passing harmful and counterproductive transparency mandates.

Finally, all the money that would be taken from the pharmaceutical industry under SF 1098 is money that cannot be spent to find treatments and vaccines for COVID-19. Minnesotans, like all Americans, cannot afford to have a single penny wasted on an ineffective and intrusive drug price control scheme.

Again, I continue to urge you and your Republican colleagues to vote against SF 1098.

Sincerely,

Tom Schatz