

May 1, 2023

To: Chair Zack Stephenson and Chair Matt Klein

Re: Support for Prescription Drug Affordability (H17/SF168) in Commerce Omnibus.

Chair Stephenson, Chair Klein, and members of the SF 2774 conference committee,

We write to express our strong support for policy to establish a Prescription Drug Affordability Board (PDAB, House Article 2, Sec. 29-39), and stop price-gouging of the medicines Minnesotans rely on every day (Senate Article 2, Sec 8-13; House Article 2, Section 23-28).

We urge you to move forward the House position on the PDAB. Both the House and Senate bills would create a Prescription Drug Affordability Board, however due to a last minute amendment, the Senate position would prevent the Board from even being able to consider improving affordability for the majority of drugs on the market, in particular carving out the highest cost drugs (lines 22.17-22.20). The impact of this amendment was not well explained on the floor, and we do not believe it reflects the intent of the Senate, nor the best interests of Minnesotans.

First, this language prohibits the PDAB from examining any drug that has been on the market for less than 7 years. This creates an enormous loophole, since companies repeatedly re-release old drugs as “new” in order to extend market exclusivity.

Second, the amendment excludes drugs designated for the treatment of rare diseases from even being considered for affordability review by the Board. Currently [over half of all new drugs on the market receive the FDA’s rare disease “orphan drug” designation](#). This sector is exploding precisely because of [the significant financial rewards for manufacturers](#), including market exclusivity allowing them to be price gouged for decades, even as they grow to treat millions of patients. Unfortunately this is at [great cost to patients, including Minnesotans](#).

- Humira, a treatment for autoimmune diseases, received 5 orphan drug designations and 130 patents while becoming the highest earning drug in the world, earning \$200B over 2 decades at a cost of over \$70,000 a year to many patients.
- The cancer treatment Keytruda costs \$150,000 per year and is projected to replace Humira as the top selling drug product in the world. It has 59 patents so far, and ten orphan designations, the exclusivity for which ended in only in 2022, despite the fact that it is approved to treat 13 cancers and is the top selling cancer drug, with over \$17 Billion in sales and 1 million commercial patients, on track to treat 2 million by 2024.

A Prescription Drug Affordability Board does not address all drugs. The Board would select individual drugs for review, and only set upper payment limits on some of those found to be causing an unaffordability crisis, and only after input from consumers, providers, manufacturers, and other stakeholders. There is no reason to tie the hands of the board and exclude the majority of high cost drugs from review, and every reason not to.

Today, nearly half (45%) of Minnesotans are worried about prescription drug costs, and one in five Minnesotans (21%) has rationed prescription medicine in recent years due to cost (Healthcare Value Hub, Nov. 2020). Prescription drugs account for about 25% of premium costs. We pay a public health toll when our community members can't afford medicine they need, and Minnesotans across the state are paying the price with their lives and livelihoods.

The Prescription Drug Affordability Board will be a watchdog with the authority to set fair upper payment limits for out-of-control prescription drug costs, helping Minnesota patients, payers, purchasers, and providers address the increasing challenge of high cost drugs. The PDAB, alongside with price-gouging regulations, will ensure Minnesotans can afford the medications they need.

These solutions were recommended to the Legislature by the Attorney General's Task Force on Lowering Pharmaceutical Drug Costs. The task force included patients, experts, and a bipartisan group of legislators from the House and Senate. Five states have already enacted similar Prescription Drug Affordability Boards.

As Minnesotans continue to be harmed by out-of-control prescription drug costs, the state has the responsibility to take meaningful action, and broad public support to do so. Eighty-seven percent of Minnesotans support this commonsense action. (Health Care Value Hub, Nov. 2020).

We urge you to stop price-gouging of prescription drugs and pass a Prescription Drug Affordability Board into law this session to lower costs and save lives.

Sincerely,

AARP Minnesota

AFSCME Council 5

Committee to Protect Health Care

ISAIAH

Land Stewardship Project

Main Street Alliance

Minnesota Nurses Association

MN Farmers Union

SEIU Healthcare Minnesota & Iowa

TakeAction Minnesota

We Make MN