



Bioscience Association of North Dakota
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Dear Chairman Lefor, Respected Members of the House of Representatives committee on Industry, Business and Labor,

**The Bioscience Association of North Dakota opposes
North Dakota SB 2170– Canadian Reference Pricing**

Position: BIO ND respectfully opposes SB 2170 that would import Canadian price controls on medications in the United States. Price controls are discriminatory and would jeopardize patient access to innovative biopharmaceuticals, and violate the concept of a “Free Market System,” thereby causing shortages.

It is no secret that both the State and Federal Governments are trying to find ways to reduce the cost of prescription medications. One of the ways that the Government is trying to reduce the cost of prescription medications is to design a wholesale prescription drug importation program for the importation of drugs from Canada. This legislation mischaracterizes importation as a tool to lower drug costs. But three of the biggest reasons not to implement this program is (1) the fact that it will require extensive state resources for the implementation and administration of such a program; (2) it violates the concept of a “Free Market System”; and (3) it can cause life threatening shortages of essential drugs.

In the opinion of the Association, it would require the creation of a whole new bureaucracy to carry out a drug importation program. Such a program would ultimately assign new responsibilities to the State of North Dakota such as designing the program to comply with State and Federal Laws; development of a drug importation list; law enforcement problems such as jurisdictional questions, litigation, and increased costs. It is the Associations belief that such a program will not provide significant savings, achieve appropriate levels of accessor operate efficiently.

North Dakotans are believers in the “Free Market System”. They believe in an economic system based on supply and demand with little or no government control. It contributes to economic growth and transparency. It ensures competitive markets and adequate supply to meet demand. Consumers' voices are heard in that their decisions determine what products or



services are in demand. Supply and demand create competition, which helps ensure that the best goods or services are provided to consumers at a lower price.

The “system” being proposed in SB 2170, is not a “Free Market System”, rather it is the opposite of a market economy — i.e, a "non-market" or "planned" economy — one that is heavily regulated or controlled by the government. The sale of Prescriptions Drugs in this State is going to be controlled by the Insurance Commissioner and enforced by the Insurance Commissioner in collaboration with the Attorney General. Violate the provisions of this act and in specific instances a company can be fined up to \$500,000.00.

The way I interpret this law, let us say, I am the manufacturer of a specific referenced drug, as defined in the act. I determine that I no longer wish to “sell” that drug in our State because the price I am allowed to charge does not cover the cost of my manufacture and distribution costs. If it is determined by the Insurance Commissioner that this constitutes a “. . . purpose of avoiding the impact of the rate limitations set forth in section 19 - 03.7 – 02”, I can be “fined” five hundred thousand dollars or the amount of annual savings determined by the insurance commissioner as described in subsection 4 of section 19 - 03.7 - 04, whichever is greater.

Hardly a “free market system”. I wonder how this would go over if this was “beef cattle” and a law is passed saying beef producers must sell their cattle at a price determined to be fair by the Commissioner of Agriculture? Or they can be fined out of existence.

But one of the greatest drawbacks to this type of system is that it causes “shortages”. As the Canadians themselves found out.

“In 2018 alone, Canadian patients faced shortages for hundreds of medications, including EpiPens, opioid drugs, and treatments for Parkinson's disease, schizophrenia, and depression. In many cases, these shortages can have severe and life-threatening consequences. One of the reasons behind this finding could be related to the lower reimbursement price for generic drugs based on the pan-Canadian tiered pricing framework and provincial price-cap policies. The team also found that markets with a larger proportion of their drugs covered under provincial formularies were more likely to be in shortage.” (**“One quarter of prescription drugs in Canada may be in short supply”**); Published in “Science Daily” Dated, September 1, 2020; Source: University of British Columbia; <https://www.sciencedaily.com/releases/2020/09/200901085306.htm>)

In the Association’s opinion, history has shown that people are going to sell their goods and services in markets where they can get the highest prices. If a manufacturer or distributor can get a higher price for his goods in, say New York rather than North Dakota, he is going to



service that market first and that is going to lead to shortages in other markets. That is why price controls do not work.

We ask for an unfavorable vote on SB 2170.

Richard Glynn
Executive Director
Bioscience Association