



SB 2031: Prescription Drug Price Controls Too Risky for North Dakota Patients

SB 2031 – a Prescription Drug Reference Rate Pilot Program – could have significant and detrimental effects on North Dakota patients. Imposing government price controls on manufacturers risks patient access to prescription drugs and would negatively impact the future of research and development of new drugs.

Government price controls

- SB 2031 requires the Insurance Commissioner to cap the price of prescription medicines based on Canadian prices—therefore setting a government price control.
- If a medicine cannot be purchased at that reference price it will not be available to patients. By reducing the number of medicines available on the market, SB 2031 jeopardizes competition and the normal market forces that are already working to drive down costs.

Threatens access to medications

- SB 2031 would reduce the number and variety of medicines available to patients. Fewer treatment options will result in less adherence and overall worse health outcomes when patients are unable to access the best treatments for them.

Risks to innovation and R&D of lifesaving drugs

- SB 2031 threatens to reduce the amount invested in the research and development (R&D) of new medicines, undermining America's global leadership in biopharmaceutical innovation.
- By setting the price of medicine, North Dakota will be diminishing the incentive for biopharmaceutical companies to invest robustly in R&D.
- It typically takes more than 10 years and over \$2 billion to bring a new drug to market. If companies cannot recoup these costs they may decline to invest in research for more complex and rare conditions.

Discriminatory practices

- By using prices set in other countries like Canada, SB 2031 could also import the cost-effectiveness analyses used to set those prices, which are often highly discriminatory.
- The cost-effectiveness analysis used in many countries relies on Quality Adjusted Life Years (QALYs) to determine which drugs will be covered and for how much. QALYs have been shown to discriminate against people with disabilities by placing a lower value on their lives.

Legal concerns

- The legislation does not provide companies with clear due process. SB 2031 gives the Insurance Commissioner broad discretion to set price controls, and manufacturers are unable to negotiate or object to these determinations. There is no clear way for manufacturers to appeal a penalty from the Insurance Commissioner or Attorney General.
- SB 2031 raises constitutional concerns regarding patent law. SB 2031 would restrict the goal of federal patent law to provide patent holders with the economic value of exclusivity for the life of their patent. Congress has determined this economic reward provides incentive for invention and cannot diminish the value of that reward.