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Public Citizen Testimony re: Vermont H.866 – “An act relating to prescription drug manufacturer cost transparency”

Delivered by Steven Knievel before the House Committee on Health Care of the Vermont House of Representatives, April 5, 2016

I thank the committee for granting me the opportunity to present Public Citizen’s views on this important legislation.

Before that, however, I’ll tell you a little bit about Public Citizen and our [access to medicines program](#) in particular.

[Public Citizen](#) is a national, 501(c)3 nonprofit advocacy organization founded in 1971 to represent consumer interests in Congress, the executive branch and the courts. We have 400,000 members and supporters. Public Citizen’s Access to Medicines Program works with partners worldwide to improve health outcomes through use of pharmaceutical cost-lowering measures, including generic competition.

While our work most often focuses on international and national policies, we have been monitoring with great interest the state-level efforts to address the growing problem of pharmaceutical companies charging exorbitant prices for its products, which can lead to the rationing of treatment, and indeed, to otherwise preventable suffering and death.

Allow me to share some facts that I believe provide important context to the prescription drug transparency bill being considered by this committee:

The United States spends more on prescription drugs than any other country on the planet. [A recent report](#) from the Department of Health and Human Services estimates that in 2015, as a country we spent \$457 billion on prescription drugs. Relatedly, the U.S. routinely spends more than its wealthy country counterparts for the exact same medicines, sometimes much more. For example, Public Citizen just joined 10 other NGOs in [calling for the NIH to exercise its statutory authority](#) to lower the price of a prostate cancer treatment priced two-to-four times as high in the U.S. as in other high-income countries, such as the UK, Canada and Germany.

Unfortunately, a large drain on our bank accounts and our public coffers aren’t the only consequences of exorbitant prices charged by the pharmaceutical industry. In 2014, [19% of Americans did not fill their prescriptions for financial reasons](#).

Doubtlessly, members of the committee are familiar with controversies surrounding the new direct-acting antiretrovirals for hepatitis C treatment that came on the market beginning in December 2013. The high prices charged by Gilead, among others, for what seems to be an

actual cure, and the responses of different payers, both public and private, has kept it out of reach of many who need it.

In Vermont's Medicaid program, for example, before being granted access to sofosbuvir (brand name Sovaldi), [patients must meet strict preauthorization criteria](#). One such criterion is a requirement for a patient's level of liver fibrosis to be F3 or F4. What that translates to in real-world terms is patients needing to already be very sick before they gain access to treatment, and less-sick patients essentially being told that they need to wait for their livers to be further damaged before they will be cured.

Meanwhile, as patients are getting sicker and denied access to treatment, Gilead, which has been at the forefront of companies operating in the HCV space, has made [more than \\$23 billion dollars in just the first 25 months](#) of selling its HCV products in the U.S. To be clear, that is strictly from its U.S. sales of HCV products.

I hope that context shows why efforts like that of this committee and this bill are so important.

The U.S. government provides exclusive, monopolistic marketing privileges to pharmaceutical companies. All of us fund pharmaceutical research and development through the [roughly 30 billion taxpayer dollars invested in the National Institutes of Health annually](#). And even further, the U.S. government subsidizes pharmaceutical product development through [paying up to 50% of clinical trial costs for certain medicines](#).

In our view, under these circumstances, it is completely unreasonable for the pharmaceutical industry to balk at the modest disclosure requirements being proposed by this committee.

Under the current information disparity between policymakers and industry, companies have obfuscated and alluded to figures from industry-funded studies to justify or at the very least undermine resistance to the high prices companies charge U.S. payers and patients for medicines.

Directly to that point, just last month the CEO of pharmaceutical company Eli Lilly penned an [op-ed for the Wall Street Journal](#) arguing against precisely the kind of policy measure being considered in H.866. To illustrate why such a measure is unnecessary, Lilly's CEO claims, "Averages are easy enough to come by—a new academic study in the Journal of Health Economics says it takes about \$2.6 billion in R&D investment per new medicine launched."

That sentence is a case in point of why policymakers in Vermont and other states calling for similar measures are absolutely right to demand greater transparency from the industry. Lilly expects readers of the op-ed to take [the \\$2.6 billion number at face value](#), just as the industry was largely successful in convincing policymakers to take it at its word with the previous industry-funded estimate provided by Professor DiMasi that relied on proprietary industry data. FYI that previous industry funded estimate released in 2003 estimated the cost of developing a new drug at [\\$802 million](#).

Constituents in Vermont and around the country are demanding action from policymakers to address the high medicine prices charged by pharmaceutical companies. A [poll from the Kaiser](#)

[Family Foundation released last October](#) asked respondents what issue should be the top health care priority for the President and Congress. The number one item cumulatively and for each group polled – democrats, republicans and independents – was making sure high-cost drugs are affordable to those who need them. To illustrate further, 73% of republicans said this should be a top health care priority. Only 58% of republicans said the same of repealing the ACA.

A [poll from Kaiser a few months earlier](#) released in August of last year showed overwhelmingly favorable views from voters towards requiring greater transparency from prescription drug companies. Such a policy was favored across partisan lines by 90%, 84% and 82% of democrats, independents and republicans, respectively.

Public Citizen joins the public in calling for such transparency, and encourages this committee and its colleagues to support passage of H.866. We and our loved ones can't afford to take the industry at its word each time it unveils a new claim in support of high prices. The more policymakers know about the costs of drug development, the better they will be able to evaluate the soundness and validity of pharma's claims and the more informed will be the policies they advance to rein-in monopoly prices.

If passed, H.866 will shine a light on an opaque industry and represent an important step for policymakers towards helping people in Vermont and around the country gain access to the medicines they need at an affordable price.