



1600 20th Street, NW • Washington, D.C. 20009 • 202/588-1000 • [www.citizen.org](http://www.citizen.org)

## Written Testimony regarding Connecticut's HB 5384 as proposed

Justin Mendoza, MPH

Public Citizen's Access to Medicines Program

March 6, 2018

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 more than 400,000 members and supporters, including nearly 20,000 in the state of Connecticut. Public Citizen's Access to Medicines Program works with partners worldwide to improve health outcomes by lowering the price of medicines through legal and legislative means.

The United States spends more on prescription drugs than any other country. In 2015 alone, the Department of Health and Human Services estimated that the U.S. spent \$457 billion.<sup>1</sup> The federal government reserves only very limited powers to negotiate lower drug prices, despite the fact that Medicare Part D alone represents approximately 9 percent of total global prescription drug spending.<sup>2</sup>

Nearly one in five American adults aged 55 and older report skipping doses or not filling a prescription within the last 12 months.<sup>3</sup> This is unacceptable. Advance notice and public scrutiny of prescription drug corporations' price hikes and rationale will be an important first step towards controlling drug prices.

Public Citizen supports prescription drug transparency as an objective in controlling health care costs in Connecticut. In January, the Connecticut Health Cost Commission proposed administrative changes which would provide greater transparency of prescription drug prices in the state.<sup>4</sup> Its recommendations required granular information be reported to the Connecticut Insurance Department (CID) and for the impact of price increases to be compiled into a public report. Public Citizen supported this recommendation and others in written testimony on January 15, 2018.

---

<sup>1</sup> U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. *Observations on Trends in Prescription Drug Spending*. March 2016: <https://aspe.hhs.gov/pdf-report/observations-trends-prescription-drug-spending>

<sup>2</sup> For ratio calculation, see *The Good, The Bad and the Ugly of the tRump Administration's Drug Pricing Measures from its FY 2019 Budget Proposal*. Public Citizen. Feb. 19 2018: <https://www.citizen.org/sites/default/files/good-bad-ugly-trump-fy19-budget-prescription-drug-pricing.pdf>

<sup>3</sup> Steven G Morgan and Lee, A. *Cost-related non-adherence to prescribed medicines among older adults: a cross-sectional analysis of a survey in 11 developed countries*. *BMJ Open*. 2017; 7(1): e014287. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5293866/>

<sup>4</sup> See e.g. *Recommendations on Pharmaceutical Cost Containment Strategies*. Health Care Cabinet. Feb. 15, 2018: <http://portal.ct.gov/-/media/Office-of-the-Lt-Governor/Healthcare-Cabinet/2018-Meetings/Cabinet-Final-Report-on-Rx-Strategies---2-15-2018.pdf?la=en>

The current bill in question (HB 5384) includes a prescription drug transparency section. This section appears to include language in the spirit of the Commission's recommendation, albeit limited in scope and practice. HB 5384 sets an inappropriately high 25 percent threshold for annual prescription drug price increases before a manufacturer is required to report additional information. Further, the final list of prescription drugs for which more information is required is limited to 10. These parameters set a very narrow scope for the impact of HB 5384's prescription drug price transparency aims.

Recent polls show that 86 percent of Americans support transparency measures that require drug companies release information on how they set drug prices.<sup>5</sup> With public support so high, many states are approaching prescription drug pricing transparency. Legislation in California in 2017 passed with a reporting threshold based on a 16 percent price increase over two years,<sup>6</sup> Colorado is considering a bill with a 10 percent annual threshold over two years<sup>7</sup> and Oregon is deliberating a bill with a 10 percent annual threshold.<sup>8</sup> The 25 percent annual price increase reporting threshold as currently written in HB 5384 is the most restrictive of each of these proposals.

In 2016, four of the world's top 29 pharmaceutical corporations pledged to keep price increases below ten percent annually.<sup>9</sup> Even this modest restraint on price increases was beyond what most pharmaceutical CEOs were willing to promise. The industry will not regulate itself and the current drafting of HB 5384 allows prescription drug corporations too much room to spike prices without requiring transparency.

Public Citizen offers a few critiques on the reporting requirements listed in the bill. The required reporting from insurers would be helpful in determining the larger impact on consumer's costs for premiums, co-payments, and co-insurance with highly priced medicines. Reporting from Prescription Benefit Managers would help shine a light on how negotiated rebates affect consumers' cost-sharing.

Reporting from prescription drug corporations could help to assess the reasoning for annual price increases provide lawmakers with information for further action to curb high drug prices and price spikes. HB 5384 would be strengthened by required reporting of prescription drug marketing costs. Further, the reporting of research and development costs in aggregate, as is written in the bill, will provide some insight on pharmaceutical research, but more discrete data down to the cost of clinical trials conducted, by product and by clinical trial phase, would provide more detailed insight for public scrutiny.

---

<sup>5</sup> See: Kaiser Health Poll Tracking, Key Findings September 2016: <https://www.kff.org/health-reform/report/kaiser-health-tracking-poll-september-2016/>

<sup>6</sup> Health care: prescription drug costs, California Chapter 603 § 127677 (a) Available here: <https://legiscan.com/CA/text/SB17/id/1652122>

<sup>7</sup> House Bill 16-1260, A Bill for an Act Concerning Prescription Drug Price Transparency. Sec. 101. Available here: [http://extras.denverpost.com/app/bill-tracker/bills/2018a/hb\\_18-1260/](http://extras.denverpost.com/app/bill-tracker/bills/2018a/hb_18-1260/)

<sup>8</sup> House Bill 4005, See Section 2(2)(b). Available here: <https://olis.leg.state.or.us/liz/2018R1/Downloads/MeasureDocument/HB4005/B-Engrossed>

<sup>9</sup> Large Majority of Prescription Drug Corporation CEOs Will Not Commit to Limiting Price Increases: A Survey of the Top Pharmaceutical Company CEOs Showed Lack of Interest in Lowering Prices. Public Citizen. April 11, 2017: <https://www.citizen.org/sites/default/files/prescription-drug-corporation-ceo-price-survey.pdf>

The Connecticut Health Cost Commission's recommendations included many laudable provisions to bring more transparency to the prescription drug market. In particular, Public Citizen supports the first of the Commission's priority recommendations: to "Identify and investigate potential abuse in the pricing of both brand and generic drugs by creating a new Drug Review Board (DRB) and empowering it to investigate drug pricing decisions by manufacturers, both launch prices and price increases, with the purpose of determining if the prices are sufficiently unjustified in comparison to market norms and/or clinical value that it puts patient health at risk and therefore warrants referral to the Attorney General to pursue the manufacturer for a potential unfair trade practice violation."

However, HB 5384 does not include any language empowering the Attorney General to take action against prescription drug price gouging. We advise the Connecticut legislature to consider adding provisions to HB 5384 that follow the Commission's primary legislative recommendation.

Public Citizen also encourages lawmakers to work with consumer advocacy organizations in Connecticut as well as other key stakeholders to craft and advance legislation enabling the Commission's proposed "Drug Review Board" to take action against price gouging corporations.

While action is needed at the federal level to tackle the abuse of patents and other government-granted monopolies and pursue other reforms to rein in high drug prices, the state of Connecticut is well positioned to enact solutions that will increase the public's understanding of the impact of high drug prices. HB 5384 would be a valuable start on that process, but should be bolstered by further efforts to make medicines more affordable, including taking on prescription drug price gouging.