

**Concerning wholesale importation of prescription pharmaceutical products from Canada  
for resale to Colorado residents.**

Proposed Senate Bill SB19-005 will establish the “Colorado Wholesale Importation of Prescription Drugs Act” which is to design, and if approved, implement a program to import prescription pharmaceutical products from Canada to Colorado. As the costs for needed prescription drugs continue to rise, the bill aims to create a cost-saving alternative for Colorado consumers. The bill asks for an appropriation of \$1.36 million to create a plan that ensures safety, quality, and cost savings for consumers. Once created, federal law requires the design to be submitted for approval by the Secretary of the United States Department of Health and Human Services. Pending approval the plan will be implemented allowing the importation of Canadian pharmaceutical products.

The United States is reported to have higher prescription drug prices for the same medications than Canada. When comparing twenty popular brand name prescriptions in 2018, it showed American drug companies charged on average seventy percent higher than Canadian companies for the same prescription (Pharmacy Checker, 2018). And in 2016, a survey showed 47 percent of Americans failed to fill prescriptions due to cost, compared to only 10 percent in Canada (Sarnak 2017).

Currently, Canada regulates brand name medication prices through Canada’s Patented Medicine Prices Review Board, which ensures lower prescription prices (Menon 2001). Bill SB19-005 intends to utilize Canada’s monitoring of brand name prescription prices in order to bring down costs for Colorado consumers by importing the same drugs for cheaper.

America's pharmaceutical market is currently faced with market failure due to high market concentration, patents, and asymmetric information. Highly concentrated markets lead to an increase in monopoly power, which allows for inefficiencies harmful to the consumer. According to the Department of Justice, the pharmaceutical industry is highly concentrated as defined by the relevant market definition (Abdela & Steinbaum 2018). Therefore U.S. pharmaceutical companies are able to exercise disproportionate power over prescription drugs for profit. These high levels of concentration are a major cause of market failure affecting consumers directly through high prices. Due to this fact, government intervention is warranted in order to bring down prices.

Patents prohibit arbitrage, meaning there are no other sellers to offer differing prices, creating the monopolization of a product. Monopolization is harmful to consumers by allowing sellers to set price without competition leading to inflated prices. However, within the pharmaceutical market it is dangerous, due to the inelastic demand of products. Inelastic demand means only a small percentage of demand changes when price fluctuates, so no matter the price, a consumer's demand for a needed prescription seldom changes. This gives the producer of the patented prescription unchecked market power. Resulting in the possibility that consumers may respond to higher prices by failing to obtain recommended medication or by obtaining them illegally.

Market failure due to asymmetric information is caused by the shortage of information consumers have concerning treatment costs and possible alternatives. Pharmacies have vast knowledge over different types, brands, and prices unavailable to the average consumer. The asymmetrical level of information classifies the pharmaceutical side of healthcare a market failure. Making different pharmaceutical brands and prices known helps inform consumers of

alternative choices. The bill will address the asymmetry of information by making different prices for medications known to consumers.

Various externalities arise from the inability to afford needed medications, such as non-pecuniary externalities, are not definable within a market. A non-pecuniary externality arises when individuals with contagious illnesses are deprived of appropriate medicine. Lack of treatment prolongs illness and endangers public health. For example in 2018, one person spread the contagious disease of measles to 58 people in New York City (Thompson 2018). The public was put at risk because a single person failed to obtain recommended treatment. The non-pecuniary externality of needing more publicly-funded treatments is an unfortunate consequence of failure to follow prescribed treatment plans.

Similarly, someone unable to afford HIV treatment risks infecting others. If the disease spreads, the newly infected has acquired the non-pecuniary externality. Furthermore, without treatment, the HIV infection has a high probability to advance into AIDS, and the individual will encounter even higher medical costs (U.S. National Library of Medicine 2018). If unable to afford these costs, the individual can fund treatment through subsidies, another non-pecuniary externality to society.

If subsidies are not an option and people don't want to go without medication they may choose to purchase it illegally. The U.S. Drug Enforcement Agency warns about online prescriptions being unacceptable medical care with the potential to be the wrong drug, adulterated, expired, inaccurate dosage, and coming with no directions or warnings (DEA).

In 1972 the cost of insulin was \$1.49. Today it costs an upward of \$335 per bottle, not adjusted for inflation (Lopex 2019). This increase in price for a lifesaving medicine has the potential to cause those in need to look elsewhere for insulin, such as ordering the same insulin

online illegally for \$68.25 (Lopez 2019). Yet, ordering online illegally is unregulated and risks the use of unsafe medications. In 2016, eight percent of Americans admitted to importing drugs illegally in a survey. However, this number is projected to be skewed due to the unwillingness to admit to breaking the law and struggling to pay for medication (Bluth 2016).

Since 2007 the FDA has increased its investigation of counterfeit medications following the discovery of online selling of misbranded cancer drugs (Gurnon 2016). The unregulated drugs were found to contain no active ingredients, and being used as a scam to profit off of cancer patients. In 2011, the FDA reported illegal online orders for Ambien, Xanax, Lexapro, and Ativan to be filled with Haldol, an antipsychotic drug. Buyers' use of the incorrect drug led to needed emergency medical attention (Gurnon 2016). Offering lower pharmaceutical drug prices reduces the need to illegally purchase drugs online, avoiding the associated risks.

If passed, Senate Bill SB19-005 will generate a plan of how to bring in Canadian pharmaceuticals in a safe and cost-effective manner. Currently, Canada regulates the price of brand-name patented prescriptions, allowing the same drug from the U.S. to be sold for less (Menon 2001). By utilizing Canada's pharmaceutical marketplace, Colorado consumers will be able to purchase the same drugs for less. In turn this will open up the market, and decrease the high concentration by bringing in competition. Providing lower prices for consumers by forcing American pharmaceutical companies to reduce their prices in order to stay competitive in the market. In turn, Colorado consumers will be able to obtain prescription drugs at a lower cost than otherwise available.

The bill addresses the issue of asymmetric information by informing consumers of various prescription drug options for the same or comparable medication. The established outreach and marketing plan will inform the public of imported prescriptions and their associated

costs, reducing the issue of asymmetric information regarding prescription drug prices. Although price transparency alone will not benefit Colorado consumers unless variations of price are available, which in practice will be offered through the importation of Canadian pharmaceutical drugs.

Making prescription drugs more readily available to Colorado consumers by offering lower prices minimizes non-pecuniary externalities. It safeguards public health by reducing the risk of spreading contagious diseases, lessens society's burden of covering more intensive treatment, and provides a safe alternative to ordering prescriptions illegally. For these reasons SB19-005 should be passed.

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