House Health & Insurance
05/19/2021 01:30 PM
SB21-175
Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Beth Utton For Self	In 2013 I was diagnosed with rheumatoid arthritis (RA). Modern medicines for RA are very costly. I have been on multiple medications over the last eight years, the cost of which have run from $30,000 upwards per year. Let's face it, most of us, even with insurance, cannot afford this kind of medical expense for one year, let alone for the rest of our lives. Even with insurance, my out-of-pocket expenses have been substantial. I have managed some of the time due to patient assistance programs offered by the pharmaceutical manufacturers. I am grateful for these programs and I am aware that the patient assistance foundations Big Pharma creates are tax write-offs for them. Pharmaceutical companies claim that the cost of their more expensive medications is due to the research and development involved in developing those medications. Many of the big pharma companies receive federal grants for R&D. Then they are granted patents to "protect" their investment, when in actuality the taxpayers paid for much of that R&D. These patents are granted for way too many years. Then, before the patent expires, the companies make some tweaks to the medication and represent the change as substantial enough to qualify as a new medication, and they obtain a new patent. These patent issues would require federal intervention. In the meantime, many people face bankruptcy due to medical expenses and/or do without the care they need. The Prescription Drug Affordability Review Board is an important step that can be taken by Colorado to curtail exorbitant and unreasonable medication costs for its citizens. I urge you to vote YES on SB21-175. Thank you.
Robert Smith For Colorado Business Group on Health	Dear Madam Chair and Members of the Committee, On behalf of Colorado Business Group on Health (CBGH), I'm writing to express our support for SB21-175, creating a Prescription Drug Affordability Board to tackle excessive prescription drug costs in Colorado. CBGH is a purchaser-led, multi-stakeholder non-profit coalition committed to collaboratively improving the health care value-proposition for all Coloradans and their communities. We focus on empowering employers to improve the quality and affordability of healthcare for all Coloradans. Prescription drugs are a major cost driver in consumer health expenditures and make up over 20% of health

	insurance premium costs. Without a Prescription Drug Affordability Board, Colorado businesses will continue to struggle to offer affordable health coverage to their employees. As health care and insurance costs continue to rise, Colorado businesses need the legislature to take action to bring down prescription drug costs to help ease the pressure on our bottom lines and support our employees. Prescription drugs play an essential role in preventing, managing, and curing diseases – but drugs don't work if people can't afford them. Coloradans pay much higher costs for prescription drugs, often 65-85% more, than consumers in other countries, making them unaffordable for many people. Being able to afford medications helps employees stay healthy, productive, and boosts retention which in turn also helps businesses save money to reinvest in job creation and innovation. The time to act is now! Please take action to reduce prescription drug costs in Colorado and ensure what we are paying is fair and reasonable. We urge you to vote yes on SB21-175 to create a Prescription Drug Affordability Board with the ability to deliver real savings for Coloradans and businesses. Sincerely, Robert Smith, Executive Director Colorado Business Group on Health
Ryne Carney None Alliance for Aging Research	The Alliance for Aging Research is the leading nonprofit organization dedicated to accelerating the pace of scientific discoveries and their application to vastly improve the universal experience of aging and health. We are writing to share our concerns on SB21-175, Prescription Drug Affordability Review Board, to the Health Care & Health Insurance Subcommittee. We appreciate your leadership in trying to address the cost of prescription drugs. Still, we believe that the bill in its current form will make it more difficult for Colorado patients to access their prescribed medications. We fear that by making it illegal for Colorado providers and hospitals to purchase or be reimbursed for drugs at a value exceeding an upper payment limit set by Affordability Review Board, the state will effectively be giving such a Review Board the power to determine the medical treatments available in Colorado. We want to ensure that any reform addressing drug pricing does not come at the cost of inhibiting patient access to their physician-prescribed medicines. Furthermore, we would like to express our appreciation that the bill explicitly bans the Affordability Review Board from considering methods or reports that employ the quality-adjusted life-year (QALY) or similar measures. These types of analyses can be used to limit access to medical treatments for older adults and people with disabilities. Our

	organization wants to ensure that drug pricing reforms cannot discriminate against older adults and other patient stakeholders.
Kathryn Partridge For Boulder Valley Community Action Network, a local chapter of Together Colorado	Greetings and thank you Committee Chair and members for allowing me to testify today. My name is Kathy Partridge. I live in Longmont, and I am a retiree whose husband had worked for the University of Colorado, I am here a member of a congregation which is part of the faith-based organization Together Colorado.. I am here today to testify in support of this bill (SB21-175 to create a Prescription Drug Affordability Board) All Colorado families, regardless of race, income or location in our state, wish to access the medications they need, and to be able to pay their bills. But within the pharmaceutical industry there are those who prioritize skyrocketing profits over the health and safety of families like mine and those in my congregation. This bill will help us by creating a prescription drug affordability board that will reduce the costs of prescription drugs, helping all Colorado families to thrive and survive. Like many families, my family faced surprise prescription cost increases. We was threatened last year with the fear of a sixfold increase in the drug my husband takes to control his asthma, Advair, from $16 to $100 per month. The active ingredients of the new medication were exactly the same as the cheaper one, only the "delivery system" was different. Thankfully, my husband's doctor was willing to change the prescription back to the original formula. He had not known there would be such a difference in cost. It really brought home to us how a sudden excessive expense could disrupt the budget of people on fixed income like ourselves. How would we have absorbed an additional annual $1000? I want to again thank you for your time, and by ask you to support the bill.
Michael Neil For Self	SB 123 Thank you, Chairwoman Lontine and Vice-Chair Caraveo. Thank you esteemed members of House Health and Insurance. My name is Michael Neil and I rise to strongly support SB 21-175 on behalf of CCDC and on behalf of myself and my family. Thank you, Representative Caraveo and Representative Kennedy for bringing this bill. I rise to support the prescription drug affordability review board. I take a number of prescription medications, three of which would be affected significantly by both bills. My Myrbetriq costs $430 and, although I am no longer taking it due to side effects, my Amitiza cost $288.10, since they are not on my formulary. My Motegrity costs $396.53, only because my physician requested prior authorization, which put it on the formulary. Without such authorization, it would cost $476.26. As for my mother, she takes Xiidra, costing $553.33, according to GoodRx. All of

	these costs are for a one month supply. Do the yearly math. While some of our medications are much cheaper, payment for these prescriptions is onerous and painful. While I do not know which medications would specifically be under review by the prescription drug review board, I know that hard-working families cannot afford these costs and also be able to pay rent and get groceries. Thank you very much and I hope you vote aye on SB 175. Thank you for your time.
Carol Pace For AARP Colorado	Madam Chair, Members of the Committee, my name is Carol Pace. I am a volunteer with AARP Colorado. AARP is focused on Coloradans age 50 and above, and has over 673,000 members in the state. Over half of our membership is age 50-64. AARP supports SB21-175, Prescription Drug Affordability Review Board as it stands to protect older Coloradans from financially devastating prescription drug costs. Older adults are reliant upon prescription drugs, and likely to need prescription drugs for medical conditions related to heart disease, osteoarthritis, diabetes, respiratory disease, and cancer. A recent AARP survey found that 3 of 4 adults age 50+ regularly take at least one prescription medication. More than half of seniors take four or more drugs. Research says that some older adults live in greater fear of medical costs than of the illness itself. Prescription drugs represent an increasingly high out-of-pocket expense, more of a problem for many older adults that are on a fixed income. High drug costs affect patient compliance with taking their medications, leading to further and more costly medical problems and as research shows, increased hospitalizations. AARP data and research shows that older adults report splitting pills or taking medications irregularly in order to afford the cost of the medications. High drug costs result in some older adults needing to choose between their medications and other necessities such as housing, utilities, and food on the table for themselves and their families. We ask that the committee support SB 21-175. Respectfully, Carol Pace, AARP volunteer
Hannah Wiberg Against Self	My name is Hannah Wiberg. I live in Denver, Colorado. I have cystic fibrosis and I am very concerned about the implications of SB 21-175. Many cystic fibrosis therapies are very expensive. I am concerned that this bill will block my access to life saving therapies. One of these therapies saved me from a double lung transplant in 2019. I worry for myself and others whose medications may be deemed too expensive, and therefore become unavailable. Please do not approve this legislation as worded.

Good afternoon, Madam Chair and members of the Committee. My name is Angie Vopat-Patton, I live in Denver, and I am a registered nurse in Colorado. I have been working in healthcare since 2014, and as an RN for two years. No matter where I work or what my title is, it is an inescapable reality that exorbitant drug costs often stand between my patients and their quality of life, and have the potential to, quite literally, kill them.

I am speaking to you today as a patient advocate in support of SB-175 because every person, regardless of income or insurance coverage should have access to affordable medications. It is my duty to tell you that this is not the reality for many Coloradans, and it is your duty as our elected representatives to do something about it.

Chronic conditions require daily maintenance, and prescription drugs play a critical role to the health of individuals managing these conditions. These kinds of medications are intended to be taken every day, sometimes multiple times a day, and the inability to maintain the regimen as written by their provider can have severe, even fatal consequences. Many patients have multiple chronic conditions and find themselves juggling the cost of numerous medications.

All people with chronic conditions face a never-ending struggle to manage the costs of their treatments, but not everyone with a chronic condition faces the same struggle to afford their life-saving medications. Communities of color, low-income communities, elders on fixed incomes, and individuals with disabilities must navigate these issues with more regularity, and often have poorer outcomes than patients from more affluent, disproportionately white communities due to many levels of inaccessibility, one of which is undeniably, the cost of medications. Many of those without insurance or with insurance that leaves large gaps in their care work in fields that do not compensate them fairly or receive aid that requires them to remain below the poverty line. It is unreasonable to expect that people falling under these categories can figure out the cost on their own.

Almost no patient is safe from price-gouging. Basic drugs that are critical to survival for so many, like insulins, are not affordable to all patients. A person has a right to life-saving medications. Newer drugs and drugs for less common conditions are often more expensive and less covered by insurance, but that doesn't make them any less necessary. A person has a right to afford the treatment their provider prescribes. Sometimes treatments are prescribed for

ease of use, increasing quality of life, and all patients should have equal access to the best possible outcomes.

Patients unable to afford one or several of their medications may ration them, choose between them, or even stop taking them altogether if unable to afford them out of pocket. This can have life-threatening consequences, and these patients are more likely to end up back in the hospital. The best-case scenario here is the individual ends up less physically and financially capable of managing the situation than they were before hospitalization, and I should not have to remind you again of the worst-case scenario.

Prescription drug costs are killing Coloradans. This body needs to protect the people of our state from exploitative drug companies. Supporting SB-175 helps make that possible. Thank you for listening, please vote in favor of SB-175.

AMERICAN SOCIETY OF PLASTIC SURGEONS®
THE PLASTIC SURGERY FOUNDATION™
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MOUNTAIN WEST SOCIETY OF PLASTIC SURGEONS

May 19, 2021

The Honorable Susan Lontine, *Chair*
The Honorable Yadira Caraveo, *Vice Chair*
House Health & Insurance Committee
200 E. Colfax Avenue
Denver, CO 80203

Re: Oppose S.B. 175

Dear Chair Lontine and Vice Chair Caraveo:

On behalf of the Mountain West Society of Plastic Surgeons (MWSPS) and the American Society of Plastic Surgeons (ASPS), we are writing in opposition to S.B. 175. ASPS is the largest association of plastic surgeons in the world, and in conjunction with MWSPS, represents more than 7,000 members and 94 percent of all board-certified plastic surgeons in the United States – including 166 board-certified plastic surgeons in Colorado.

We recognize that the country's drug pricing system needs fixed, and we commend the legislature for recognizing and attacking the problem. Drug prices are too high, and systemic areas where there may be opportunities to route savings to patients are overrun by intermediaries – health insurance companies and pharmacy benefit managers – who instead divert a huge chunk of the health care economy to things totally unrelated to what matters most: the development and clinical delivery of treatments.

Unfortunately, this legislation does not address those intermediaries. That is one of its three critical shortcomings; it chooses to approach the problem by ignoring the least essential part of the delivery continuum and penalizing the entities most essential to patient health: the companies that conceive, construct, and convey critical drugs and the providers that get them to patients. The legislation's second critical shortcoming is that it resorts to price setting to lower patient costs. We would oppose this bill due to that policy choice on principle alone based on its track record in other parts of the American health care delivery system, but we oppose it specifically in the case of S.B. 175 because it will limit the ability of physicians to submit for reimbursement that adequately covers the full cost of all their drugs, including that associated with actually administering them. Along similar lines, we would oppose S.B. 175 based on the provisions giving far too much power to a government board by allowing it to promulgate any rules it sees as necessary for its purposes – lacking any parameters. The bill's third critical shortcoming is that it will render itself unconstitutional as a result of its most serious likely ramification, namely the removal of certain drugs from the Colorado marketplace if the bill overestimates the state of Colorado's ability to persuade manufacturers to accept government-set wholesale price limits.

It's not far-fetched that a manufacturer will choose to limit its business to the other 49 states and rest of the world when faced with (1) government-set prices for their products and (2) a requirement to divulge what has until now been proprietary information as preconditions for continued access to what amounts to less than 1.3 percent of the domestic marketplace. For instance, a possible scenario is the inaccessibility of certain therapeutic options for some state prisoners' medical conditions; this would make the law vulnerable to challenges that it violates the Eighth Amendment's protections against cruel and unusual punishment since it

requires states to give adequate medical care to prisoners in their custody. We assume that the pharmaceutical industry will have both the means and the motivation to bring suit.

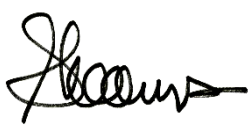
Frankly – and irrespective of any constitutional questions it might raise – the potential scarcity or absence of treatment options in Colorado should be enough of a reason to find a different way to address drug prices for patients. Speaking again to the bill's second shortcoming, a similar scarcity of physician and pharmacy providers could manifest from S.B. 175 because it targets all prescription drugs and providers. Rather than targeting *all* prescription medications and *all* providers in the state for price setting, we believe the legislature should focus instead on prescription drugs that have a disproportionately high actual cost to patients, on prescription drugs that have minimal competition in their therapeutic area, and on providers who egregiously over-utilize. Most critically, though, we believe the legislature should look to the substantial rebates that flow from prescription drug manufacturers to insurers via pharmacy benefit managers as an alternative avenue to improving the affordability of prescription drugs.

There is no discernable appropriate reason those rebates should be a source of profit for payers or their pharmacy benefit managers. The fundamental purpose of the rebates is to improve affordability for the end consumer of the product, and they should be used to lower insurance premiums and patient cost sharing obligations. The legislature should put safeguards in place that require (1) PBMs to send insurers the entirety of revenue earned through any rebates, concessions, or discounts received from drug manufacturers and (2) insurers to spend 100 percent (minus non-payroll, non-marketing administrative costs) directly on premium reduction and patient cost-sharing subsidies. This will directly impact the actual financial experience on our patients/your constituents and does not contain the same potential for substantial disruption or probability of substantial unforeseen consequences that S.B. 175 does.

Simply put, S.B. 175 fails to consider the full scope of this issue and misallocates the burden borne in trying to address it. It incorrectly assumes that the price of a drug is solely determined by manufacturers. It focuses too narrowly on the list price of drugs and ignores the cost-sharing requirements that are set by health plans. It fails to recognize the role that insurers and PBMs play in shifting the resources we invest in health care from productive places (e.g., physician treatment of disease using medicines developed through risk, rigor, and investment) to less productive places (e.g., the net profits of Cigna or OptumRx).

We urge you to oppose S.B. 175 in order to protect the delicate balance of the healthcare system in Colorado. Please do not hesitate to contact Patrick Hermes, Director of Advocacy and Government Relations, at phermes@plasticsurgery.org or (847) 228-3331 with any questions or concerns.

Sincerely,



Joseph Losee, MD, FACS, FAAP
President, American Society of Plastic Surgeons

Jay Agarwal, MD
President, Mountain West Society of Plastic Surgeons

cc: Members, House Health & Insurance Committee

COLORADO
COMMUNITYHEALTHNETWORK
Access for All Colorado

May 19, 2021

Dear Madam Chair and Members of the House Health and Insurance Committee,

Thank you for accepting this written testimony. I am writing in support of Senate Bill 21-175, Prescription Drug Affordability Review Board, on behalf of Colorado Community Health Network, the association for Colorado's Federally Qualified Health Centers, also known as Community Health Centers (CHCs).

Colorado has 20 CHCs with more than 220 clinic sites across the state. CHCs are the health care home to more the 852,000 Coloradans from 62 of the state's 64 counties. Located in high-need urban and rural areas, CHCs provide accessible and affordable primary care including medical, behavioral, and oral health services to all patients regardless of insurance status or ability to pay.

SB21-175 would create a Board to perform affordability reviews of prescription drugs and establish upper payment limits for drugs the Board determines are unaffordable for Colorado consumers. CCHN believes that the creation of this Board through SB21-175 is an important step in making medications more affordable and accessible for the patients that CHCs serve, many who are low-income, uninsured, or underinsured.

On behalf of CCHN and Colorado's CHCs, I urge you to support SB21-175. Thank you for your time, and your support of CHC patients and expanding access to affordable health care.

Thank you,

Alice Steiner
Senior Manager, Policy & Advocacy
Colorado Community Health Network

To: Representatives Chris Kennedy and Yadira Caraveo
cc: Members of the House Health and Insurance Committee

I am writing to express my concerns with Senate Bill 21-175, the Prescription Drug Affordability Review Board, and the unintended consequences it could have on seniors in our state, due to the upper payment limit (UPL), provision of the bill.

As expressed to members in the Senate and the Sponsors of the bill; we worry that the bill as written could have a devastating effect on seniors and their access to drugs. We want to clarify first that federal law preempts states' ability to regulate many types of health insurance. A state cannot regulate Medicare plans, regulated under the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) or self-funded employer-sponsored health plans regulated under The Employee Retirement Income Security Act of 1974 (ERISA).

We understand that SB-175 would allow for these plans to opt ***into*** the UPL, but even if the UPL didn't apply to Part B, doctors who administer the drugs, would still have to forego purchasing the drug for ANY patient, if they accnot acquire it from the seller at the UPL price. This could lead to possible access issues for seniors- with similar arguments for Part D drugs, if pharmacies can't buy at the UPL price, they won't be able to lawfully stock the drugs for seniors' use.

While we understand the intention of the bill, we believe the unintended consequences have not been worked out. Therefore, we are asking you to remove the UPL from the bill entirely. If that is not possible, we are asking that you exempt seniors from the bill in a way that ensures pharmacies, doctors and hospitals can lawfully buy the drugs needed, above the UPL, in the event they are dispensing drugs to seniors.

Thank You,

Eileen Doherty, MS
Executive Director
Colorado Gerontological Society
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Senioranswers.org

May 17, 2021

Re: SB 21-175

To whom it may concern,

The Colorado Business Roundtable (COBRT) engages with elected leaders, business and nonprofit leaders, and other strategic allies to improve the business climate in our state. We are unapologetic cheerleaders for the businesses and leaders who drive innovation, create jobs and provide opportunity for all Coloradans.

There is no better example of innovation than the development of the COVID-19 vaccination. Thanks to the efforts of the pharmaceutical industry and our healthcare system, Colorado and the nation is beginning to move past the pandemic and focus on economic recovery.

The last thing we need is government intrusion on this industry in the form of a review board overseen by politicians. Like so many industries, the healthcare industry is recovering after quite literally saving our lives. Onerous regulation is not the answer.

On behalf of the Colorado Business Roundtable, I urge a no vote on SB 21-175. The Colorado Business Roundtable believes the private sector is the force for innovation and creative solutions in healthcare.

Debbie Brown

Debbie Brown
President
Colorado Business Roundtable
720 280-0511 / dbrown@cobrt.com

COLORADO ARTHRITIS
ASSOCIATES

STUART S. KASSAN, MD, FACP, MACR
A PROFESSIONAL CORPORATION
CERTIFIED BY THE AMERICAN BOARD OF INTERNAL MEDICINE AND RHEUMATOLOGY
HEATHER M. BERENS, MD, PhD
CERTIFIED BY THE AMERICAN BOARD OF INTERNAL MEDICINE AND RHEUMATOLOGY
HEATHER FINLAYSON, MS, PA-C
MARY STULTS, MS, PA-C

Chairwoman Lontine House Health and Insurance committee,

My name is Dr. Stuart S. Kassan, and I am a practicing rheumatologist in Lakewood Colorado. I am also the President of Colorado Arthritis Associate. I have been serving patients in Colorado for over 40 years and have seen how new treatments for autoimmune diseases, including rheumatoid arthritis, lupus, myositis and psoriatic arthritis, etc. can and have significantly improved the quality of life for my patients who would otherwise be left to suffer from a debilitating painful disease.

While I support efforts to lower the cost of prescription medicine for patients, I believe Senate Bill 175 will instead risk access to medications all together, possibly for patients I am currently treating. The bill allows a 5-member board to set an upper payment limit (UPL) for a broad range of medicines, which could include those I prescribe to my patients. If I, or the pharmacy serving my patients are unable to buy a drug at the UPL price, we cannot acquire the drug at all, and our patients will be forced to go without. This bill could put providers in an impossible position: break the law, or let your patients go without the medicine they so desperately need.

I applaud the intent of this bill: to lower costs for patients. Unfortunately, I do not believe the bill will achieve that goal either. Even if a provider, hospital or pharmacy can acquire a drug at the UPL price, health plans and PBM's are exempt from having to negotiate a reimbursement at the UPL price. As a result, patients could still be paying an exorbitant cost that their insurance assigns as their cost share responsibility.

Furthermore, provider's that directly administer drugs in an office or outpatient facility purchase medicine through a "buy and bill" process. This process requires a medical practice to buy a drug prior to it being provided to a patient, and request insurer reimbursement after it is administered. This means, we may buy a drug prior to knowing who will receive it. This patient could be covered by Medicare, the VA, or any other form of private or public insurance. Regardless, if providers cannot acquire the drug at the UPL, all Colorado patients could lose access, not just those with state regulated insurance.

Due to the multiple concerns stated above, I ask that you vote to remove the Board's authority to set a UPL, and instead allow for a recommendation that all purchasers of drugs can voluntarily choose to adopt. This will align requirements of those who purchase a drug with insurers who reimburse for a drug and state agencies. Please do not risk a medicine becoming unavailable to Colorado patients, in an attempt to make that medicine more affordable.

Thank you for your thoughtful consideration of these concerns.

Stuart S. Kassan, MD, FACP, MACR
Distinguished Clinical Professor
University of Colorado School of Medicine

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ICAMRL
Intersocietal Commission for the Accreditation of Magnetic Resonance Laboratories

Accredited Magnetic Resonance Facility

Hello Representatives Caraveo and Kennedy,

I'm writing today with about my concerns with your bill SB 175, which would create a board with the authority to implement upper payment limits on drugs and stand in the way of my son Maxwell- and life changing drugs.

I wrote an op-ed for Colorado Politics explaining my concerns, that you may have read and I'm including the link here: https://www.coloradopolitics.com/opinion/opinion-legislation-endangers-those-with-rare-diseases/article_7e913fa8-86d5-11eb-9613-e317638dbf22.html

My son, Maxwell has SLC6A1, a disease so rare it doesn't even have a name, so it is referred to by its genetic code. **There are currently no treatments available-**and that's why I set out over 3 years ago to forge a path. Maxwell's future depends on access to expensive drugs and the ability for researchers to conduct pain staining research and find a cure.

Recently, we obtained access to an FDA approved drug that costs $700,000 a year that may help relieve symptoms for Maxwell. This lifesaving medicine is not available in other country do to "fair pricing "laws. And under this bill, we might not have access to it as well.

I understand, the Senate sponsors added an amendment to "consider orphan drugs status" when deciding which drugs should be subject to the upper payment limit, but this this in no way ensures orphan drugs are ***exempt*** from a UPL. Which is the only way to ensure patients like Maxwell, with these rare diseases do not experience access issues from these drugs. The board would still have the authority to "consider" orphan drug status, and then mandate a UPL anyway.

Additionally, many rare disease patients use prescriptions and therapies- not created for their conditions- or not created for any rare disease at all- thus even with an orphan drug exemption many rare patients would be forced to suffer additional access issues- as expensive non rare disease medications may relieve their symptoms.

In closing, this bill while well-meaning is proposed without consideration to the unintended consequences of patients with rare diseases. SB 175 could prevent access to today's treatments, so please remove barriers to care—***by allowing*** those with rare diseases and conditions access to all known treatments without an upper payment limit--- **or you may force rare disease patients to leave Colorado for states with laws that are more welcoming.**

Aside for accessing current treatments, the upper payment limit could prevent the ability of our researchers from developing tomorrow's treatments- from one mom- who's racing for a cure for my son – the consequences could be tragic.

Please exempt those with rare diseases from this bill and remove the upper payment limit component as well.

Best regards,

Amber

Amber N. Freed
Founder, CEO & Mother
Milestones for Maxwell & SLC6A1 Connect
2019 RARE Champion of Hope Nominee
Read my Story Here
GoFundMe
www.SLC6A1Connect.org

Afreed@SLC6A1Connect.org

(303) 907-8038

Written Testimony, Colorado Senate Bill 21-175
Submitted by Jennifer Churchfield, Co-Chair, Front Range PharmaLogic
May 19, 2021

Chair Susan Lontine, Vice-Chair Caraveo and Members of the Committee:

Thank you for the opportunity to submit this testimony on Senate Bill 175. My role as Co-Chair of Front Range PharmaLogic is to engage with the community on fighting for access to affordable life-saving medicines.

Front Range PharmaLogic opposes Senate Bill 175 for numerous reasons, and we testified as such in March at the Senate Health and Insurance Committee.

However, we are even more passionate in our opposition after seeing the most recent amendments that exclude the state Department of Corrections and guarantee the state's 17,000 inmates have access to every prescription drug on the market. Frankly, the prisoner carve-out is an affront to every other Colorado patient whose life-saving medicines may end up being compromised by this bill. We see this carve-out as a bald-faced admission that the bill would create massive legal liability for the state because without the carve-out, the bill would compromise access to life-saving drugs for those under state's care. We are stunned that the state would protect itself but let every other Coloradan suffer under the impacts of this bill.

Doctors, hospitals, patient groups and other experts have all testified before the state legislature confirming that the medicines possibly subject to compromised access by the UPL include those that treat rare genetic diseases, certain forms of cancer, HIV, asthma, rheumatoid arthritis, and many others – and that without access to these medicines, Coloradans will suffer. Yet you turn a blind eye to them while protecting those in the state's prison system and others under state care. Those who the state is responsible for deserve uncompromised access to life-saving medicines, but so does every other Coloradan.

We also oppose Senate Bill 175 because of the "all but zero" impact the bill will have on the lives of millions of Coloradans who rely on life-saving medicines. The bill calls for the proposed 5-member Board to review prescriptions written in Colorado and set an Upper Payment Limit (UPL) for only 12 medications per year in the first three years. It also would make it illegal for doctors, hospitals, clinics and health insurers to pay more than the price set by the politically appointed board. These lackluster policies result in another layer of bureaucracy, wasting over a million dollars in taxpayer money, while not lowering the price of prescriptions for the average Coloradan at the pharmacy counter - it's truly mind-bending!

The patient, business and community groups we work with are concerned and confused. Which is why we have encouraged those we collaborate with to push for carve-outs for the treatments that they and their families rely on. If a carve out to protect prisoners and others under state care

is OK, then certainly cancer patients, seniors, the LGBTQ community, the underserved and others deserve carve outs for the drugs they need.

Seeing the glaring and irreparable harm this bill will cause Coloradans, I respectfully request you oppose Senate Bill 175.

About Front Range PharmaLogic and West Slope PharmaLogic
Front Range PharmaLogic and West Slope PharmaLogic are citizen-based groups that believe in supporting an innovative biopharmaceutical industry that focuses on access to life saving medicines, safety and patient needs. Front Range PharmaLogic: https://www.facebook.com/FRPharmalogic West Slope PharmaLogic: https://www.facebook.com/WestSlopePharmaLogic

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Health District
OF NORTHERN LARIMER COUNTY
120 Bristlecone Drive, Fort Collins, CO 80524
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info@healthdistrict.org www.healthdistrict.org

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Madam chair and members of the House Health and Insurance Committee,

Thank you for the opportunity to submit written comment. The Health District of Northern Larimer County is a Fort Collins-based special district that has a mission of improving the health of our community through direct care and through collaboration with community partners to create broader change. **The Board of Directors of the Health District is in <u>strong support</u> of SB21-175, which creates the Colorado prescription drug affordability review board to perform affordability reviews of prescription drugs and establish upper payment limits for those prescription drugs the board determines are unaffordable for Colorado consumers.**

According to the Colorado Health Institute's 2019 Colorado Health Access Survey, 10.8 percent of Coloradans don't fill the medicines they are prescribed because they cost too much. Excessive prescription costs interfere with Coloradans' ability to afford the medications they need to live healthy, prosperous lives. In 2019, abandonment rates were less than 5 percent when the prescription carries no out-of-pocket cost, but it rises to 45 percent when the cost is over $125. When the cost is over $500, the abandonment rates reach 60 percent. The more expensive prescriptions are, the less likely patients can afford them, which leads to poor health outcomes. Coloradans are being priced out of the medications they need.

The United States' total pharmaceutical expenditures are more than double the average of comparative spending in all the other 11 countries of the Organization for Economic Cooperation and Development. Between 2017 and 2026, U.S. prescription drug spending is projected to increase more than 6 percent each year. In 2019, out-of-pocket patient prescription costs totaled $82 billion.

In the 2019 Community Health Survey conducted by the Health District of Northern Larimer County, 55.1 percent of Larimer County residents reported taking or using more than one prescription drug at least once a week. Remaining consistent in comparison to the 2013 and 2016 Community Health Surveys, 9.7 percent of adult Larimer County residents reported being unable to have a prescription filled because they could not afford it during the preceding two years. This rate is much higher among those who reported being uninsured, as 22.1 percent couldn't afford to fill a prescription. People who live in households with incomes between 186 and 400 percent of the Federal Poverty Level, but whose incomes don't qualify them for Medicaid, are particularly hard hit; for example, in Larimer County, about 19.1 percent of those who fall in that category were unable to fill a prescription due to cost.

It's time Colorado join other innovative states by passing SB21-175. Creating the Colorado Prescription Drug Affordability Review Board is key to ensure Coloradans are not priced out of the medications they need.

The Health District of Northern Larimer County strongly urges you to vote 'yes' on SB21-175.

Good afternoon Madam chair and members of the committee. My name is Holly Stewart. I live in Loveland and work in Fort Collins, self-employed as the owner of a financial services company I started on my own in 2014. As an American, a mother and business owner, I never imagined that one day I would be in Facebook groups learning how to ration my insulin or depending on insulin samples from my doctor - yet here I am along with thousands of fellow Coloradans.

In 2019, I went into Diabetic Ketoacidosis, also known as a DKA, twice within the span of a couple months. This is a life-threatening condition that requires immediate medical attention. After two hospital stays, I learned that I had been misdiagnosed with Type 2 Diabetes for over 20 years. Doctors had been giving me drugs to treat Type 2 when I actually needed insulin.

I was uninsured at the time I was hospitalized because the monthly premiums were unaffordable for me. Those two hospital visits ended up costing me $75,000. After a year and a half of negotiating, I was finally able to bring the cost down to $25,000 and put myself on a payment plan. During the negotiation process I had to explain that if I had to pay the full amount I would go bankrupt, I would lose the business I had worked so hard to build, I would no longer be able to help my children pay for college, and I would probably lose my house. Even with the cost reduction, I was still making huge payments of $2,500 a month, which is more than my house payment. The only way I was able to pay this was by using credit cards, so even now I am still paying medical bills. This is not working - medical debt just ends up taking on a different form, causing an accumulation of more and more debt.

Because insurance is unaffordable for me, I pay out-of-pocket for insulin. The insulin that works best for my body is $700/vial. I keep two generic types on hand but they cause side effects that prevent me from working, and these are still unaffordable at $330 and $180 per vial.
The cost is so high that I have to rely on free samples from the doctor, and I have to ration those.

Drugs don't work if people can't afford them. I am proof of that. High drug costs are difficult to incorporate into my monthly budget and prevent me from regularly taking my insulin. Nonadherence due to unaffordability causes me to fall ill and miss work. When I miss work, I get even further behind on paying off my medical debt.

The cost of health care that will help me manage my diabetes and keep me healthy would be a premium close to $1000/month and insulin costs $700 a vial. How this system is allowed to continue baffles me, it is far too expensive for the average Coloradan.

No Coloradan should have to live in fear of financial ruin or be unable to live a healthy life because of drug costs. The creation of a drug affordability board is an essential first step to hold drug companies accountable and fix this broken system. Now is the time for our leaders to take action to ensure all Coloradans can afford the drugs they need to stay healthy or even alive. I respectfully urge your support for SB21-175. We must create a Prescription Drug Affordability Board and create upper payment limits to control unaffordable drug costs. Thank you.

COLORADO FOUNDATION FOR
UNIVERSAL HEALTH CARE

James R. Potter
Legislative Coordinator
Colorado Foundation for Universal Health Care
1111 Red Feather Road
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May 17, 2021

House Health & Insurance Committee
Colorado General Assembly
Denver, Colorado

Re: **SENATE BILL 21-175**

Dear Chairman Lontine, Vice Chair Caraveo and Members of the Committee:

The Colorado Foundation for Universal Health Care, a nonprofit, nonpartisan organization striving to improve health care for all Coloradans, urges you to support SB21-175.

We know that pharmaceuticals are one of the major cost drivers in our current health care system because Big Pharma has a stranglehold on drug prices with its unbridled monopoly power and its outsized political influence which shields it from any reasonable constraints. This bill will start to change that dynamic by bringing drug price increases to the light of day, analyze the drivers of those increases and enable us to protect Coloradans from outrageous scalping while still permitting reasonable profits.

The need for this bill is clear. Our own Coloradao Health Care Policy and Financing Department issued a study in December, 2019 entitled ***Reducing Prescription Drug Costs in Colorado,*** stating that,

> The profit margins among pharmaceutical manufacturers is higher than that of carmakers, oil and gas, or media. In 2014, the world's largest drug manufacturer, US-based Pfizer, made a 42% margin. When total revenues for the top ten pharmaceutical companies range from $24 to $81 billion in 2018, these high margins are making an impact on overall health spending. These staggering numbers are an illustration of the difference between the price of drugs and the cost, underscoring the opportunity to lower prescription drug prices to the benefit of consumers, employers, union trusts and other payers.

Similarly, the U.S. House Ways and Means Committee Staff issued a report in September, 2019 entitled ***A Painful Pill to Swallow: U.S. vs. International Prescription Drug Prices*** in which it stated that "Of the 19 companies that manufacture multiple drugs in our sample, most manufacturers priced their drugs in the U.S. at about 200 to 400 percent of the list prices in other countries" -- and this is the average with many drugs priced much higher than that.

Another report entitled ***MANUFACTURED CRISIS: How Devastating Drug Price Increases Are Harming America's Seniors*** by the US Senate Homeland Security and Governmental Affairs Committee, Minority Office, in 2018 concluded that

> In 2015, the top 20 most-prescribed brand-name drugs in Medicare Part D were Advair, Diskus, Crestor, Januvia, Lantus/Lantus Solostar, Lyrica, Nexium, Nitrostat, Novolog, Premarin, Proair HFA, Restasis, Spiriva Handihaler, Symbicort, Synthroid, Tamiflu, Ventolin HFA, Voltaren Gel, Xarelto, Zetia, and Zostavax.

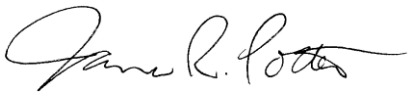
• Prices increased for each of these drugs in the last five years. On average, prices for these drugs increased 12% every year for the last five years—approximately ten times higher than the average annual rate of inflation.9, 10
• Twelve of these drugs (60%) had their prices increased by over 50% in the five-year period. Thirty-five percent—or six of the 20—had prices increases of over 100%. In one case, the average wholesale acquisition cost for a single drug increased by 477% over a five-year period.

The toll on Coloradans of outrageous drug price increases was described in the 2019 HCPF report: "…10.8 percent of Coloradans did not fill a prescription due to cost in 2019, with variations by geographic area; for example in Pueblo, it was 18.3 percent. Patients not taking their medication may experience worse overall health, and increased health care utilization on services such as emergency room visits and hospitalizations, further driving up the cost of health care."

Moreover, increases in drug prices have a disparate impact, not only on the elderly, who typically take more medications than younger people, but also on Black, Latinx, and other people of color when compared to whites. Black people have twice the rate of hypertension and twice the mortality rate from diabetes. Latinx people have twice the rate of diabetes of whites and are more likely to experience preventable diabetes-related kidney failure and vision loss. Native Americans have lower life expectancy and are also disproportionately burdened with heart disease, diabetes and chronic respiratory problems. Inflated drug prices increase racial and ethnic inequality by imposing extra burdens on these communities which substantially reduces their life expectancy while increasing lifetime morbidity. These communities are more likely to ration their medications because of cost.

This bill will unmask the hidden mechanisms of drug price increases, subject them to public scrutiny, and enable Coloradans to obtain financial relief from ever-spiraling drug prices that have nothing to do with the cost of manufacturing these vital drugs. We ask your support for this bill.

Yours truly,



James R. Potter

610 10th Street NW, Ste 300
Washington, DC 20001

May 16, 2021

Vice Chairwoman Yadira Caraveo
200 E Colfax
RM 307
Denver, CO 80203

Dear Vice Chairwoman Caraveo,

The Infusion Providers Alliance (IPA) is the leading voice for in-office and freestanding ambulatory infusion care, representing more than 870 community-based, non-hospital providers across the United States. Our members are committed to preserving the integrity of the provider-patient relationship in a manner that delivers exceptional care to patients and value to the health care system. Our facilities are major access points of care for patients with complex and chronic health conditions, including a host of auto-immune conditions such as rheumatoid arthritis, Crohn's disease, ulcerative colitis well as many other rare diseases. The convenience and exceptional patient experience in our facilities keeps these patients' adherent to their medications and reduces flare ups and emergency hospital admissions.

We are writing to express concerns regarding CO Senate Bill 175, the Prescription Drug Affordability Review Board. This five-member, un-elected board would have the authority to set arbitrary price caps through an upper payment limit (UPL) on prescription medications. While we agree on the need to lower prescription drug prices for patients at the pharmacy counter, we believe SB 175 would lead to unintended consequences by threatening patient access to critically needed medicines for Coloradans. This policy also sets a dangerous precedent for leaving the door open for discriminatory price caps on medicine.

Our primary concern is patients being able to obtain the medicines they need when they need them. While imposing a UPL may seem to be a straightforward solution to the concerns about drug affordability, the bill could threaten the availability of medicines in our state. Several members of the pharmaceutical supply chain inside and outside of Colorado have also expressed concerns about patients' ability to access to medicines if they are required by law to adhere to a UPL. If a UPL should be imposed on a medicine, and a pharmacy or dispensing provider cannot buy a drug for the state-ordered UPL rate, they cannot stock or sell it and the medicine will not be available to patients. Furthermore, if a payor cannot successfully negotiate to obtain the therapy at the state-prescribed UPL, this could also result in a drug no longer being covered. Finally, if a dispensing provider or a hospital must purchase the drug at a loss because it buys from an out of state entity but can only be reimbursed the state's UPL, this could lead to access issues for the patients we treat.

Finally, we are concerned that this legislation has been developed without a true stakeholder process. It is important for the full patient community, providers, hospitals, pharmacies, the Bioscience community, and other members of the pharmaceutical supply chain to be a part of the solution. Conversations about the value of treatments and cures, what is truly driving costs for patients, and comprehensive

discussions around the pharmaceutical supply chain, should have all experts providing input, so the unintended consequences mentioned above can be avoided.

We respectfully ask for your consideration of our concerns with the upper payment limit (UPL) authorized by SB 175 and ask that the bill be amended to remove that authority.

Sincerely,

Infusion Providers Alliance
610 10th Street NW, Ste. 300
Washington, DC 20001
Leadership@infusionprovidersalliance.org

Dear Representatives Caraveo and Kennedy,

I am reaching out to you, the house sponsors of SB 175, as you and your colleagues consider Senate Bill 175, the Prescription Drug Affordability Review Board. As written, this bill will limit my ability—and that of my colleagues—to ensure our patients receive the medicine they require.

I am coming to you as a dermatologist and I am a board member of Colorado Dermatologic Society, which represents dermatologists from around Colorado.

As a physician, my primary concern with this bill is that, if it passes, the legislation will result in patients being unable to receive their needed medications at the pharmacy. For instance, under the upper payment limit (UPL), if the dispensing pharmacy cannot purchase a drug at the state's determined rate, it cannot be lawfully stocked, sold and available to patients.

Please consider removing the UPL. Many of the drugs we prescribe are newer (e.g. biologics for psoriasis and atopic dermatitis) and are subject to the UPL because they carry a higher cost. However, the impact of these drugs in terms of health care expenditure saved by keeping the sickest patients out of hospitals as well as achieving early control of an otherwise debilitating disease is well documented. If a UPL was placed on such therapies, we may in the future be forced into prescribing less-optimal medicines that, in the long-run, lead to adverse outcomes, including but not limited to increased secondary cardiovascular disease and bacterial, viral, and fungal infections.

If you are unwilling to remove the UPL, please include an amendment *to exempt all dermatologic medications and therapies from the upper payment limit*, both provider-administered drugs and those filled at the pharmacies.

We sincerely appreciate your consideration.

Respectfully,

Geoffrey F.S. Lim, MD
Legislative Trustee, Colorado Dermatologic Society

Mark Spiecker, President & Founder of STAQ Pharma
Opposition Testimony - SB21-175, Prescription Drug Affordability Review Board
House Health & Insurance Committee
May 19, 2021

Thank you, Madam Chair and Members of the Committee. My name is Mark Spiecker, I am the President and Founder of STAQ Pharma. STAQ is a pharmaceutical manufacturing facility in Denver that makes compounded medications in pre-filled syringes for surgical procedures. We have responded to the Pandemic by ramping up supply of critical medications for Hospitals across the state of Colorado to assist in the ventilation of COVID patients as a result of worldwide shortages.

I am here today in opposition to Senate Bill 175. Throughout my career, I have been involved in the healthcare sector, and I have had the privilege to be part of Colorado's growing life sciences community, as former Chair of the CBSA and as an entrepreneur starting and funding 4 companies, most recently Sharklet Technologies where we used textures inspired by the skin of sharks to control micro-organisms on surfaces to reduce infections.

While I commend the bill sponsors on their goal to improve the affordability of medicines, I am concerned that capping reimbursement for prescription drugs in the state of Colorado could have downstream effects on the early and development stage companies in our ecosystem and the availability of new medicines for the people of Colorado.

In 2007-2010 it was nearly impossible to raise money for anything BioScience related due to concerns over FDA approval. No significant investors wanted to invest due to regulatory uncertainty, severely constraining growth in Bioscience – this got resolved but even still, once your drug or device is approved, you then have to work with CMS on reimbursement. You then negotiate with insurance companies / GPOs / PBMs / Distributors / IDN's and others for reimbursement, eventually receiving ½ of what the consumer actually pays for that medication. If Colorado imposes price constraints on top of all that work that has been already done it will create regulatory uncertainty for investors and devastate our ability to raise money to begin these ventures in the first place.

These are the same ventures that you just invested another $10 million into through the Advanced Industries Grant Program. And while we are grateful, the next set of investors will be asked to invest in something that you are not sure you can get reimbursed for at a rate that will recover your investment. These investors are not going to invest.

We are living in a time right now, with the pandemic, that more than ever investments in science and research have yielded unprecedented results in a vaccine. Additionally, new therapies that cure not just treat genetic disorders are coming out over the next decade are even more striking – Providing opportunities for countless patients to not only survive but thrive as productive members of society.

In addition to crippling our ability to fund Colorado Life Science Companies, and speaking as a Patient that takes medicine, SB 175 could also stimulate a flurry of patients fleeing to other states to seek coverage where the state does not limit their ability to get necessary medicines – similar to the days of people moving to states without limits on pre-existing conditions so that they can get treatment, before the days of the Affordable Care Act.

I remain strongly opposed to SB 175 and request that you reconsider taking this drastic action that will result in unintended consequences to Patients and potentially destroying the chances of our Colorado life science community to fund our companies and continue the development and commercialization of life saving therapies.

Michael Lee
613 Westcliff Drive
Lafayette, CO 80026
303-302-2502
rmichaellee@hotmail.com

May 17, 2021

Re: Written Testimony on Senate Bill 175

I am writing to express my strong concerns with Senate Bill 175. I understand the need for prescription drug affordability, but as the parent of a child with a rare and fatal disease I am extremely concerned that the proposed Colorado prescription drug affordability review board will not understand the issues related to rare disease drug development and pricing, resulting in denial of access to life saving drugs and discouraging the development of new drugs for patients with rare diseases.

My fourteen year old son Christopher was diagnosed with Duchenne muscular dystrophy in 2008. Duchenne affects approximately 1 in every 5,000 male births. It is a genetic disorder caused by a mutation in the gene that codes for an essential protein for muscle strength and protection. Most boys with Duchenne lose the ability to walk by their early teens, lose the use of their arms by their late teens and don't survive their twenties. When Christopher was diagnosed in 2008, my wife and I were devastated when the doctor explained this and told us there is no treatment or cure. We found hope in the few clinical trials for Duchenne treatments that were taking place at that time and the promising research for future treatments. We thought that within ten years, before Christopher lost the ability to walk, there would surely be a treatment available for him.

Today, over 12 years later, we are still waiting for a treatment to save Christopher's life. He is losing the ability to walk and now uses a wheelchair much of the time. There have been a few drug approvals for Duchenne, but to date the drugs approved only target mutations in a specific part of the gene and therefore only help a small percentage of boys with Duchenne. Christopher is not a candidate for those drugs, but was fortunate to participate in a clinic trial for a potential treatment beginning in September 2017. For over two years we traveled to a trial site in Phoenix every six weeks for injections, evaluation and muscle function testing. The challenge with Duchenne is that after age 6, boys with Duchenne begin to decline in muscle function, making it difficult to evaluate if a drug is working. It is difficult to develop meaningful clinical endpoints when improvement in muscle function may not be possible. Instead, a reduction in the rate of decline or stabilization of function is considered a success. Adding to this challenge is the fact that boys with Duchenne decline at varying rates, so it is difficult to see similar results among patients and to establish a baseline or control to compare against.

Within a few months of starting the clinical trial, the rate of decline in Christopher's timed tests indicated that he was more stable. He was still declining, but at a slower rate. Despite the overall stabilization we saw in Christopher, the sponsor, Roche, terminated the trial in November 2019 because the trial failed to demonstrate clinical benefit. A trial for a similar drug by Pfizer was terminated the year before due to similar results. Unfortunately, this has been a common outcome for clinical trials for Duchenne. In many instances of terminated Duchenne trials, the experts in Duchenne believe it was not necessarily the drug that failed, but could be the design of the trial and the selection of outcome measures that failed. While many individual patients may see a reduction in the rate of decline or even stabilization during a clinical trial, it's extremely difficult to measure this in a population of patients that are all declining at varying rates. In spite of this challenge and the high rate of failure, we are grateful that many companies, from small biotechs to big pharmaceutical companies, are continuing to develop potential treatments for Duchenne.

Given the high cost of drug development, small patient population and the challenge of clinical trial design, the drug development process for Duchenne and many other rare diseases is extremely risky. I am very concerned that the proposed prescription drug affordability review board may not fully understand the high cost and financial risk of rare disease drug development and the corresponding need for drug prices that take into account both the risk and the limited market for drugs developed for small patient populations. I am afraid that a well-meaning bill like Senate Bill 175 could have the unintended consequence of not only denying life saving drugs to patients living with rare and fatal diseases, like my son Christopher, but will also discourage innovation and investment in the development and approval of new drugs for rare diseases. For this reason I oppose Senate Bill 175.

If this bill does move forward, I believe it is critical to include amendments related to rare disease that would **ensure that orphan drugs and any drugs used for the treatment of rare disease are exempted from the upper payment limit**:

- The Senate included an amendment for the Board to "consider" rare diseases and their "orphan drug status" when deciding which drugs should be subject to the upper payment limit, however, this in no way goes far enough to ensure orphan drugs are exempt from an upper payment limit. **Exempting orphan drugs from an upper payment limit is the only way to ensure patients with these rare diseases do not experience access issues to these drugs.** As the board could still review, and choose anyway to continue with a upper payment limit on these drugs.
- I am also still concerned that as additional therapies – perhaps originally intended for other diseases – when they come available, may become subject to the upper payment limit unless this legislation clearly exempts medications to treat rare diseases- and specifically Muscular Dystrophy.

- If this bill does move forward, **please strengthen the rare disease amendment exempting all orphan drugs, and exempting (any and all current and future drugs and therapies) for Muscular Dystrophy** from being reviewed by the proposed prescription drug affordability board and exempting them from being subjected to the upper payment limit.

Thank you,

Michael Lee

SB21-175 -Prescription Drug Affordability Review Board

Thank you, to all members of the committee for allowing me to share my experience with you today. My name is Jessica Leitch and I am a Youth Advisory Board Member with Young Invincibles.

Prescription drug prices have been drastically increasing over the years, and we, as consumers, shouldn't be inhibited from taking necessary prescription drugs due to costs.

A few years ago, I started taking Fluoxetine for my depression. For many years I was prescribed 20 mg /day of this medication. It cost me about $45 for a 3-month supply, which was a manageable price for a college student and part-time worker. After being on Fluoxetine for a couple years, my provider and I decided to increase my dose to 40mg /day. My provider called my pharmacy to order the new prescription, and everything seemed to be going smoothly.

Later that day, I went to pick up my new meds, I was shocked when I was told the cost was nearly $250 for the 3-month supply. There was no way I could afford that, and I had no idea what to do.

After lengthy discussions with my pharmacist and provider, I learned the dramatic change in pricing was caused by the fact that when my dosage increased, the form of the pill changed from a tablet to a capsule. Despite it being the exact same medication, the change in form of the pill triggered a drastic change in price. This was particularly anxiety inducing as I was on my last day of my current medication, and I needed this new prescription by the end of the day.

The fluctuating prices in prescription costs puts an undue burden on the consumer. For individuals who are already dealing with clinical depression or other forms of serious mental illness, this uncertainty further negatively affects our mental health. It is not okay for anyone to be surprised by the cost of medication that is essential to their well-being.

Additionally, I was fortunate enough to have the option to change the form of the pill I was taking and, thus, lower the price of my medications. Others are not so lucky. Sometimes surprises in prescription drug costs are the difference between an individual being able to afford their medication or groceries for that month. Had I been unable to lower the cost that day, I would have gone that month without my depression medication. No one should be forced to choose between their mental or physical health or paying their bills due to the costs of a necessary prescription. We need to lower the cost of these drugs. One vital avenue to achieve this is by establishing a Prescription Drug Affordability Review Board in Colorado. Today, I ask for your **yes** vote on SB21-175.

COMMITTEE TO PROTECT
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www.committeetoprotect.org

Dear Chairwoman Lontine and members of the committee,

As physicians and health care professionals practicing in Colorado, we urge the Colorado General Assembly to pass SB 175 establishing a Prescription Drug Affordability Board. This important health care legislation, approved by the Senate Committee on Health and Human Services in March, can help bring costs down by as much as 75 percent for high-cost prescription drugs at a time when Colorado families are struggling to afford health care.

In 2020, prices for 500 prescription drugs went up on average at twice the rate of inflation, and in January 2021, pharmaceutical companies further raised the prices of hundreds of drugs, all of them more than the rate of inflation. Medications that patients need to enjoy a decent quality of life, manage a chronic illness and even to stay alive are becoming increasingly unaffordable. While heart disease is the deadliest killer in the United States, too many people are skipping life-saving heart medications because of cost. Strokes and lower respiratory diseases like emphysema and COPD are among the top 5 deadliest diseases, yet patients with COPD spend $6,200 more each year in medical costs compared with other patients.

Because of the high costs of prescription drugs, in 2019, one in 10 Coloradans didn't take their medications as prescribed. With the COVID-19 pandemic, the affordability situation has worsened: Nationally, nearly 40% of patients report difficulty affording their medications as we prescribed. Asthma patients who rely on a more affordable rescue inhaler, albuterol on a daily or near-daily basis should also be on a preventive steroid inhaler, the cheapest of which is still $260 a month using drug coupons from GoodRx. The list of crucial medications that are becoming more expensive is long.

As a result, physicians spend more and more time helping our patients find medications that they can afford. Many of us are all too familiar with stories of our patients going to their pharmacy not knowing what a prescription will cost or if it will be covered by insurance. For these patients, their out-of-pocket costs can seem to suddenly and mysteriously go up, causing a prescription drug that they've been using for months to no longer be affordable. We have all been on the other end of the phone call when our

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patients express their shock and sometimes fear, especially if a medication they need can make the difference between life and death.

No patient should be turned away from their pharmacy because they can't afford the medicines they need. No patient should have to live with the fear that they're not going to be able to afford prescription medicines. Letting drug companies set prices has sent many patients with chronic illnesses into downward spirals of declining health and wellbeing.

The industry claims that setting upper payment limits would jeopardize access for medications because drug makers could refuse to sell their products in Colorado, but that wouldn't happen. To be sure, there is ample opportunity in the process for industry to make their case if a payment limit would threaten access. Furthermore, there would still be a robust market in the state for the medications.

Clearly, the status quo of allowing prescription drug costs to continue rising, unchecked, every year is unsustainable for our patients, who are also the constituents you represent. And drug corporations are not likely to rein in the high costs of their medications anytime soon unless we make them.

Please pass SB 175 establishing the Prescription Drug Affordability Board and help protect the health and save the lives of our fellow Coloradans.

Thank you,

Dianne Ansari-Winn, MD, Anesthesiology (Denver, CO)

Julie Ansell, MD, Family Medicine (Boulder, CO)

David Baez, MD, Internal Medicine (Aurora, CO)

Randall Buzan, MD, Psychiatry (Englewood, CO)

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Steven Chae, MD, Family Practice (Centennial, CO)

Lauri Costello, MD, Family Medicine (Durango, CO)

Tibor Engel, MD, ObGyn (Denver, CO)

Dana Greene, MD, Family Medicine (Leadville, CO)

Mallory Harling, MD, ObGyn (Glenwood Springs, CO 81601, CO)

Ronald Harmon, MD, Anesthesiology (Aurora, CO)

Herb Jacobs, MD, Holistic & ObGyn (Denver, CO)

Joseph Kay, MD, Adult Congenital Cardiology (Denver, CO)

Helen Kilzer, MD, Retired Hospice Palliative Care (Fort Collins, CO)

Elizabeth Kinney, MD, Family Practice (Alamosa, CO)

Jerry Kopelman, MD, ObGyn (Englewood, CO)

Monroe Levine, MD, Orthopedic Surgery (Westminster, CO)

Kristen Nordenholz, MD, MSc, Emergency Medicine (Denver, CO)

Tracy Paeschke, MD, Cardiology (Colorado Springs, CO)

Claudia Panzer, MD, Endocrinology (Denver, CO)

Kurt Peters, MD, Psychiatry (Colorado Springs, CO)

Catherine Ryan, MD, ObGyn (Boulder, CO)

Kelly Sennholz, MD, Emergency (Edgewater, CO)

Stanley Siefer, MD, Retired Emergency Medicine (Denver, CO)

Clifford Watts, MD, Retired Emergency Medicine (Longmont, CO)

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Barbara Weis, DNP, FNP-C, Family Medicine (Golden, CO)

Biotechnology Innovation Organization

May 18, 2021

The Honorable Susan Lontine, Chair
House Health & Insurance Committee
State Capitol, 200 E Colfax
Denver, CO 80203

Dear Representative Lontine and Members of the Committee:

The Biotechnology Innovation Organization (BIO) respectfully opposes SB21-175, which would create a Prescription Drug Affordability Board tasked with reviewing prescription drug costs and setting upper payment limits for specified prescription drugs. Government price controls like those proposed by this bill are an especially drastic action with unpredictable consequences. While the intent of this bill is to lower drug prices, we fear SB21-175 will fail to bring down costs for consumers or institutions and instead disincentivize development of new therapeutic breakthroughs.

This bill will not lower prescription drug costs for patients because it does not address out-of-pocket costs. Patients pay a given price when they visit a pharmacy based on what their health insurer determines—it is for this reason why two patients will pay a different price for the same drug. Out-of-pocket costs have been rising for patients as a result of decisions made by health insurers. SB21-175 does not address the price patients pay out-of-pocket and will therefore not directly impact patient affordability for prescription medications.

This bill also provides no clear path for lowering prescription drug costs for public or private payers or the healthcare system overall. While it tasks the board with establishing a process for setting upper payment limits for certain medications, the bill utilizes arbitrary measures for the selection of such medications and prescribes no process for setting this "limit." The price control scheme in SB21-175 is designed around the premise that prescription drug costs have ballooned out of control or are increasing at an unsustainable rate. Yet prescription drugs, including inpatient medicines, have and continue to make up about 14% of national health expenditures—both in the past and projected for the next decade.[1] And medicine spending on a per-patient-per-year basis, adjusted for inflation, grew by less than 1% between 2009 and 2018.[2]

Unfortunately, artificial price controls only serve to disincentivize biopharmaceutical companies from developing new, more effective therapies. Economists have estimated that government price controls can have a significant, damaging effect on the development pipeline. For example, one study found that an artificial 50% decrease in prices could reduce the number of drugs in the development pipeline by as much as 24%,[3] while another

[1] Roehrig, Charles. *Projections of the Prescription Drug Share of National Health Expenditures Including Non-Retail*. June 2019.
[2] IVQIA Institute for Human Data Science. *Medicine Use and Spending in the U.S.: A Review of 2018 and Outlook to 2023*. May 2019.
[3] Maloney, Michael T. and Civan, Abdulkadir. *The Effect of Price on Pharmaceutical R&D* (June 1, 2007). Available at SSRN: https://ssrn.com/abstract=995175 or http://dx.doi.org/10.2139/ssrn.995175

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study found investment in new Phase I research would fall by nearly 60%,[4] decreasing the hopes of patients who are seeking new cures and treatments.

Price controls will dampen investment and would not allow companies to adequately establish prices that will provide a return on investment. The average biopharmaceutical costs $2.6 billion to bring from research and development to market.[5] Small and mid-sized innovative, therapeutic biotechnology companies who make up most of BIO's membership are responsible for more than 72% of all "late-stage" pipeline activity.[6] They sacrifice millions of dollars, often for decades before ever turning a profit, if at all. In fact, 92% of publicly traded therapeutic biotechnology companies, and 97% of private firms, operate with no profit.[7] Out of thousands of compounds only one will receive approval. The overall probability that a drug or compound that enters clinical testing will be approved is estimated to be less than 12%.[8] Only five out of 5,000 compounds become viable marketed products. Pricing must also account for the 4,995 failures before the company discovers that successful drug compound.

Proposals such as these target the most innovative medicines, disproportionately impacting patients with diseases where there is high unmet need and where low-cost treatment options are not available (e.g. rare diseases), running counter to the aims of personalized medicine, and availability of new treatments. Further troubling, the arbitrary nature of upper payment limits ignores the value that an innovative therapy can have to an individual patient—especially one who may have no other recourse—or the societal impact innovative technologies can have, including increased productivity and decreased overall healthcare costs (e.g., due to fewer hospitalizations, surgical interventions, and physicians' office visits).

For these reasons, we respectfully urge your no vote on SB21-175. If you have any questions, please do not hesitate to contact me to discuss this further.

Sincerely,

Brian Warren
Director, State Government Affairs

[4] Vernon, John A., and Thomas A. Abbott, "The Cost of US Pharmaceutical Price Reductions: A financial simulation model of R&D Decisions," *NBER Working Paper*. NBER, February 2005. https://www.nber.org/papers/w11114.pdf Accessed: April 18, 2019.
[5] DiMasi, JA, et al., Innovation in the pharmaceutical industry: New estimates of R&D costs. Journal of Health Economics. February 12, 2016.
[6] "The Changing Landscape of Research and Development: Innovation, Drivers of Change, and Evolution of Clinical Trial Productivity," IQVIA Report, April 2019.
[7] Ibid.
[8] Biopharmaceutical Research and Development, The Process Behind New Medicines. PhRMA, 2015. http://phrma-docs.phrma.org/sites/default/files/pdf/rd_brochure_022307.pdf

Re: Opposition to SB21-175

Dear Members of the Committee:

My name is Rose Femia Pugliese and as mother to a child with significant medical needs, I am opposed to SB21-175.

My child has a rare condition that requires constant treatment and care. I am so grateful to have access to innovative medical treatments to aid her with her medical needs, although the medication is very expensive. By implementing a Prescription Drug Affordability Review Board, an appointed group of strangers would be making decisions on what medications would be accessible to patients, like my child. I understand the desire to lower prescription costs; my child's injection costs approximately $24,000 per shot.

My cousin in Italy has a child with the same disorder as mine. However, his child does not have access to the same medications and treatment as my child because the government has decided that his child cannot have this medication. While this rare condition is not life-threatening to our children, it has serious and significant impacts on their lives.

Doctors should have the ability to prescribe medications that they feel are medically necessary for our children. A Prescription Drug Affordability Review Board should have no right to make these determinations for our children.

This past year has shown us all the importance of access to necessary medical treatments. We cannot implement a policy that will restrict access of medications and treatments to our families. Additionally, potential cures that are currently in trial or are still in the early stages of research, could soon save even more lives in Colorado, especially the lives of children.

Medical decisions should be made by our doctors, not appointed officials. I ask as a mother that you all vote "No" on SB21-175.

Thank you for the opportunity to submit this testimony. I hope you will continue to consider families like mine when reviewing any legislation that impacts patient care in Colorado.

Respectfully,

Rose Femia Pugliese
Colorado Springs

My name is Aimee Millensifer, I am a Colorado Native & have lived in Denver my entire life. I received my Bachelor of Science in Accounting from CU Denver & am self-employed.

The rising cost of living in my city paired with sky-high medical bills, insurance premiums and prescription costs, causes worry that I will soon be unable to afford to live in Colorado or afford medical costs - the state my family has called home for over 100 years.

I was diagnosed with a gastrointestinal ailment in the last year after being chronically ill for 3 years. I was also told by my specialist that the insurance company would not allow her to prescribe the approved & proven brand named antibiotic costing $2,700 for a two-week supply, which I would possibly need multiple doses of. Instead, the doctor recommended I take multiple unproven tests that would have cost me thousands of dollars. I eventually obtained this medicine, Generic, from a Canadian Pharmacy for $89 including shipping which I find appalling. All this bureaucracy has delayed my healing.

You would think paying $840 in monthly premiums would cover the costs of the medicine I need to heal. I am tired of Insurance Companies deciding what medicines I am allowed to take based on cost, instead of what will heal me.

I am considering not carrying health insurance in the future as by the time I reach the age for Medicare, if it's even available, I will have spent over $180,000 in just 9 years.

The original ACA, the way it was written, was fantastic and could have done so much, but it was gutted by lobbyists, corporations and our leaders.

Coloradans need access to more affordable medicines, allowing doctors to make the decisions for the most appropriate medicine for the patient, not CEOs making $17 million per year of a non-profit insurance company.

Holding pharmaceutical & insurance companies accountable has to happen now as their idea of self-regulating prescription costs is about their profit and bottom line rather than having integrity, compassion and doing the right thing! Our US Government has delayed these actions for decades at the cost of Americans and their Health & Pocket Books. I thank you for your time and urge the committee to vote yes on SB175.

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SCLERODERMA FOUNDATION
SUPPORT · EDUCATION · RESEARCH
ROCKY MOUNTAIN CHAPTER

Dear Representatives Caraveo and Kennedy,

As the House sponsors of SB 175, which would create a prescription drug affordability board, please keep in mind how important access to breakthrough medications is for Coloradans. I'm writing today on behalf of the Scleroderma Foundation, Rocky Mountain Chapter. Scleroderma, a rare autoimmune connective tissue disorder – **has no cure or drugs of its own.**

We understand the Senate included an amendment for the board to "consider" orphan drugs status when deciding which drugs should be subject to the upper payment limit, but this in no way ensures orphan drugs are ***exempt*** from a UPL, which is the only way to ensure patients with these rare diseases do not experience access issues. The board would still have the authority to "consider" orphan drug status, and then mandate a UPL anyway.

Additionally, I am still concerned, because Scleroderma as mentioned above has no individualized drugs- using those developed for other autoimmune diseases and new therapies as well, that have showed great promise. And this is what concerns us, as additional drugs and therapies become available- that may be helpful to those with Scleroderma, they may be subject to an upper payment limit, **unless this legislation clearly exempts *all* medications now and, in the future, to treat those with Scleroderma.**

In closing, we are still very much concerned with the upper payment limit provision of this bill, and the access issues it can result in. But if you are unwilling to remove it from the bill, please don't gamble the health and well-being of those with rare diseases and conditions and include an amendment to allow patients with Scleroderma to access all drugs and therapies known to improve their condition, ***without*** being subject to an upper payment limit.

Thank you for your consideration,

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Testimony on SB 21-175 (Rx Affordability Board)

Chairperson Lontine and distinguished members of the Committee, my name is Stan Gelb, from Longmont, CO. I am a concerned citizen writing on my own behalf **in support** of SB 21-175.

Some years ago my wonderful wife developed rheumatoid arthritis (RA). She quickly went from being a mighty mountaineer, easily capable of climbing to the top of many of Colorado's highest summits, to someone who struggled just to walk around the block.

Fortunately, after multiple efforts, her physician was able to identify prescription drugs that could make a huge difference in managing her RA, and she was able to progress to the point of again being able to resume most of her activities, and mostly lead a normal life.

But these prescription drugs – called biologics – cost thousands of dollars. Our very modest retirement income could never have handled the cost. Only through a patient assistance program have we managed to not exhaust all of our savings.

No one in Colorado should have to deal with such financial challenges on top of all the medical issues RA brings on. Pharmaceutical companies should not be allowed to maximize their profits on the backs of Colorado's sick, injured, and disabled. SB 21-175 is a good start to minimizing such terrible difficulties for the many residents who depend on prescription medications to maintain a decent quality of life.

I urge you to vote YES on SB 21-175.

Stan Gelb

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House Health & Insurance Committee Hearing
SB21-175 Prescription Drug Affordability Review Board
Wednesday, May 19, 2021

Chairperson Lontine and distinguished members of the Committee; my name is Ingrid Moore, from Longmont. I'm a concerned citizen writing on my own behalf **in support of Senate Bill 21-175***.*

I strongly support this bill and urge all members of the committee to vote Yes.

Until there is a change in the federal law to allow Medicare to negotiate prices with pharmaceutical companies, some way to provide pricing relief is needed; yes for everyone, but also including Medicare patients.

I have been on both Medicare Supplement and Medicare Advantage Part D plans. Most plans of either type only cover certain drugs. The rest are paid for out of pocket. The ones that are always priced in Tier 4 – the highest pricing tier – are asthma, cancer treatment and organ transplant immune suppression drugs. Other drugs that usually pertain to older people, such as eye drops for glaucoma, are also in Tier 4.

Unfortunately, these are all drugs my husband and I now use or needed in the past (e.g., cancer drugs).

Medicare patients are hostage to whichever Part D plans do cover these drugs. If you need the drug to survive you have no choice but to choose one of those plans, regardless of co-pays, annual deductible, or out-of-pocket limits. For drugs under affordable Medicare Part D plans, the deductible is IN ADDITION to the deductible for medical expenses. One plan I looked into had a Part D deductible of $4800/yr, before paying for any medications. Medical deductibles were separate.

As long as the federal government is subsidizing the pharmaceutical industry (allegedly to defray costs of research) and as long as this industry spends billions on unnecessary consumer advertising, I think it's fair to ask them to limit their profits on the most critical drugs people need for survival.

Thank you for your time and attention to this very important issue. I respectfully urge you to please vote Yes on this bill.

Ingrid Moore
Longmont, Colorado
19 May, 2021