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To: Patented Medicine Prices Review Board

From: The Canadian Health Coalition (CHC)

Thank you for this opportunity to comment on the PMPRB Guidelines Modernization - Discussion Paper - June 2016 prepared by the Patented Medicine Prices Review Board (PMPRB). It is useful to make some general observations and comments before considering the more specific details.

Background

In the late 1980s, the Conservative government under Brian Mulroney passed legislation to reinforce monopoly pricing to pharmaceutical companies for newly approved patented drugs. This monopoly was increased to 20 years in 1992. The Patented Medicine Prices Review Board (PMPRB) was established with the intention of setting high prices for patented drugs. This policy was meant to encourage pharmaceutical companies to invest in research and development in Canada, thereby creating more jobs. The return of jobs for increased prices was a public understanding between the government and pharmaceutical companies, with no consequences for pharmaceutical companies in the event of a failure to invest.

As the PMPRB's Discussion Paper points out, this policy initiative has certainly resulted in high prices. It states: "Canadians pay among the highest patented drug prices in the world". These high prices are obtained by taking the average price for patented drugs in seven countries where investment is high (United States, France. Germany, Italy, Sweden, Switzerland and the UK). These countries include four with higher than average prices and three in the average range. Including the United States in this comparison virtually guarantees high prices, since that country pays more than double the price for patented drugs of any other country. Of 32 OECD countries, Canadians pay more for patented drugs than all but three and in 2014 Canada paid 35% more per capita for patented drugs than the OECD average.

There is no arrangement in this policy approach to distinguish between companies that invest in Canada and those that do not, since the high prices apply to all patented drugs indiscriminately.

The high-price policy has failed to result in increased investment. Indeed, the opposite is true. As the PMPRB points out, investment by pharmaceutical companies in

research and development as a percentage of sales has fallen in Canada from 11.5% in 1998 to 4.5% by 2014, a record low. In the seven countries mentioned above that are used for setting prices in Canada, investment levels on average are more than 20% of sales, five times higher (PMPRB Annual Report 2015, 52). Thus far, there have been no consequences for pharmaceutical companies as a result of their failure to invest and thereby their failure to maintain their side of the agreement.

The CHC appreciates this initiative to discuss drug pricing policy for the future, given almost 30 years of inflated patented drug prices with negative returns.

Health Care Issues

Since 62% of drugs sold in Canada are patented drugs, the impact of this high-price policy on the overall cost of drugs is substantial. Moreover, in Canada the results have been particularly negative. Canada not only pays more for patented prescription medications than 29 of the 32 OECD countries but also does not have a national public drug plan to cover the high costs. In many other OECD countries, the high price of medications is met by government through a public health plan. As a result the subsidy to pharmaceutical companies through high prices is met by government funds, while in Canada much of this burden is born by individuals.

It is estimated that only 30% of Canadians are covered by public plans. These plans vary from one province to another, covering different drugs and requiring different contributions by patients depending upon where they live. Another 60% of Canadians are partially covered by insurance plans in the work place, plans that vary according to where a person works and commonly require both individual contributions to insurance premiums and co-pays at the pharmacy counter. Another 10% of Canadians have no coverage at all.

This means that much of the cost of the high patented drug prices is born by individuals with health problems. The end result is that 22% of all drug expenditures is paid for by individuals out of their own pockets. Moreover, this percentage does not include the substantial contribution made by employees to the cost of their work-based insurance premiums.

An Angus Reid poll in 2015 found that almost one-quarter of Canadians (23%) “did not take medicines as prescribed because of cost”. There are abundant stories of the resulting health problems for the population. We refer the PMPRB to the CHC document “Life Before Pharmacare” for more complete testimony as to the negative impact of the high cost of drugs on the health care of the population. To mention just three personal examples: a retired couple forced to consider selling their home to pay for drugs; an employee with various health issues unable to take early retirement because it would mean losing his work-based drug benefits; a young woman of 23 years old with a debt of $23,000 for her cancer drugs.

As drug prices have risen over the years, individual Canadians, provincial public plans and work based plans have all had difficulty covering those costs. For many individuals it has meant that they cannot afford the drugs prescribed by their doctors. For work-based plans and public plans it has meant increased contributions by individuals and reduced benefits, with the same resulting lack of access to prescription drugs.

In general, the high prices set by the PMPRB have led to a lower level of health care for the population at a high personal cost. Also, in order to provide a price advantage to pharmaceutical companies, other businesses that provide drug coverage for their employees have been disadvantaged, forced to pay increasing premiums for drug insurance.

It has been inappropriate to link industrial policy to health care policy, certainly in the Canadian context. To encourage investment in pharmaceutical research and development, the government could have provided direct financial incentives to companies actually making an investment in this country. Instead it was decided to give all pharmaceutical companies high prices on trust, with no assurance of any return. This has proved to be a mistake.

The Future

The CHC urges the PMPRB to seriously consider the cost paid by Canadians in reduced health and well-being as a result of its handling of prices to date. We encourage the PMPRB to consider how to separate health care from industrial policy, with health care as the primary concern.

The CHC therefore offers the following suggestions:

1. Reform the pricing mechanisms.

Pharmaceutical companies have benefitted from 30 years of high prices with negative results for this country. The PMPRB needs to revise future pricing policy, taking into account the losses of this country and the gains of pharmaceutical companies to date. If prices are to continue to be based on comparisons with other countries, then those countries paying the highest prices should be eliminated and new choices should include those countries at the middle and lower end of the price range. Given these considerations, the CHC proposes Australia, Italy, France, Great Britain, Norway, Portugal and the Netherlands as appropriate for price comparison. In addition, it is hard to know what prices are actually paid in other countries because of confidential rebates and discounts. To deal with this issue, Canada should follow the example of Switzerland and set prices substantially below the average public list prices of these countries.

This change in pricing policy should be applied to all patented drugs, not just those receiving new patents going forward.

Drug companies also inflate prices by obtaining patents for me-too drugs, that is drugs that replicate the effect of treatments already on the market. To stem this problem, where generic drugs already provide treatment for an illness, the price of newly patented drugs for the same purpose should be set at the same level as the generic drug, unless there is proof of increased therapeutic benefit.

Currently drug companies may increase their drug prices each year by the average rate of inflation (as determined by the Consumer Price Index). We propose that Canada now follow the example of those countries that protect consumers by not allowing annual increases, and indeed by reviewing and reducing the price of drugs at specified intervals. As the PMPRB points out, the cost of producing drugs commonly decreases over time and price competition should be permitted.

2. Federal government action on drug prices

The policy of monopoly pricing for patented medicines has resulted in negative results: excessively high prices, poorer health and fewer jobs. It is the responsibility of the government to ensure the highest level of public health at reasonable cost. Excessive prices prevent the government from fulfilling this important role and there are three possible ways to deal more fundamentally with this issue. These are not necessarily alternative options and could be used in combination to ensure more reasonable drug prices.

The first is to reverse the 20 years price protection for patent drugs, so that drug prices are protected for a much shorter time frame. The second option is called “compulsory licensing”. This means that if a patented medicine cannot be obtained for Canadians at a reasonable price, the government has the right to mandate companies other than the patent holder to produce the medicine at a lower cost. This process may be invoked by the government when the public interest is compromised. Both Canada and other countries have used this provision in the past.

The third option is to establish a crown corporation to manufacture drugs. Crown corporations currently operate at both the federal and provincial levels to ensure that important services are provided to Canadians, for example SaskTel, Hydro-Quebec and Canada Post. In the past, the Connaught Laboratories operated in this way to produce vaccines for the population.

3. A national public drug plan.

The CHC has for many years recommended a national public drug plan for all Canadians. Such universal coverage would allow for the negotiation of uniform drug prices (both patented and generic) for the entire population. This approach would eliminate the inequality of drug prices and access to drugs that now exists across the

country. It would also result in substantial price reductions to the benefit of both government and the population.

For further information and for references used in this document:

"A National Public Drug Plan For All: Policy Brief", Canadian Health Coalition, January 2016.

"Life Before Pharmacare: Report of the Canadian Health Coalition's Hearings into a Universal Public Drug Plan", Canadian Health Coalition, November 2008.

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