



February 5, 2024

Dear Members of the Senate Commerce and Labor Committee:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, we are writing to express our strong opposition to SB 274, a bill establishing a prescription drug "affordability" board. Despite well-meaning legislative intent and the importance of prescription drug affordability, Virginia patients and taxpayers will not be well-served. Should this bill become law, prescription drugs will become less, not more, affordable. Before the committee deliberates, NTU urges you to consider the following fiscal policy observations.

SB 274 aims to reduce prescription drug costs by creating a five-member prescription drug affordability board tasked with reviewing drug costs and establishing an upper payment limit (UPL) on drugs deemed too costly. The UPL would apply to any entity in the state that administers drugs directly to patients, e.g., health insurers, health care providers, hospitals, clinics, and pharmacy benefit managers. The legislature would essentially dictate price controls by requiring the drug pricing board to set arbitrary upper payment limits. Notably, the fiscal impact statement mentions it is unclear what type of impact will be had on the Department of Medical Assistance Services, which drugs are subject to the UPL, or how pharmacy rebates will be affected.

History has proven that price controls on any commodity produce unintended but consistently negative consequences. As it relates to prescription drugs, the consequences will be fewer dollars spent on the research and development of innovative cures and treatments and reduced patient access to life-saving drugs. SB 274 fails to consider the negative impact of manipulating economic structure through regulatory provisions or legislative decrees. If lawmakers elect to cap prescription drug prices subjectively, Virginians will have fewer prescription drug choices.

Additionally, taxpayers will be denied savings from drugs that could prevent more expensive treatments in government healthcare programs. The U.S. Congressional Budget Office has documented how innovator drugs, even those initially expensive for government health programs, yield long-term savings for taxpayers by replacing more expensive treatments such as surgeries and long hospital stays.

SB 274 incorrectly assumes that drug prices are solely determined by drug manufacturers. This legislation blatantly ignores the multiple stakeholders involved and the complex system used to determine what consumers ultimately pay for medications and overlooks the role of consumer drug coverage. For example, pharmacy benefit managers determine the terms of drug coverage

for medications and then influence which prescription drugs are included on formularies based on rebates and discounts.

The stated purpose of this legislation is to lower prescription drug prices and reduce out-of-pocket costs for Virginia patients. NTU shares these goals and recognizes the challenges faced by patients and taxpayers. To the extent public officials wish to examine policy responses that could positively affect prescription drug prices, many pro-patient, pro-taxpayer options exist. These include federal 340B program reforms, a regulatory climate conducive to value-based purchasing, stronger, more permanent tax provisions for research and development costs, and rebate reform prioritizing innovation. With this committee's leadership and direction, Virginia lawmakers can play a vital role in ensuring that patients and taxpayers come first in discussing such options.

We hope you stand with the patients and taxpayers of Virginia and oppose SB 274. Thank you for your time and consideration of NTU's comments. Please reach out should you have any questions.

Sincerely,

Jessica Ward  
Senior Director of State Affairs