



Canadian Life & Health
Insurance Association
Association canadienne des
compagnies d'assurances
de personnes

Submission to the
**PATENTED MEDICINES PRICING REVIEW
BOARD - DRAFT GUIDELINES**

December 5, 2022



OVERVIEW

The Canadian Life and Health Insurance Association (CLHIA) is pleased to provide the views of its members to the Patented Medicines Pricing Review Board (PMPRB) for consideration regarding the draft Guidelines, which define the processes for review of drug pricing for patented drugs approved in Canada.

OVERVIEW OF SUBMISSION

1. The insurance industry strongly supports the work of the PMPRB to ensure that prescription drug prices are not excessive. We feel that this work has only become more urgent as inflation has eroded the ability of Canadians to afford basic necessities, compounding the harm caused by lifesaving treatments that are priced higher than in many comparable countries in the Organization for Economic Co-operation and Development (OECD).

We applaud the introduction of the PMPRB-11 as part of the amendments to the *Patented Medicines Regulations* that came into effect on July 1st of this year. The new list removes outlier countries as comparators and adds new countries with pharmaceutical markets better aligned with Canada's and that should provide a more representative pricing sample.

That said, the PMPRB will need to regularly review drug prices over their lifecycles to ensure drug prices do not become excessive over time, particularly in the case of reviews that examined new drugs with no comparators.

2. With respect to the Guidelines themselves, we applaud the streamlined approach that should help expedite investigations and make outcomes clearer. However, our industry has some suggestions around the complaint process, the remedy for excessive pricing and the Domestic Therapeutic Class Comparison (dTCC) test.

3. Our industry would request that PMPRB initiate steps to include the insurance industry, as a representative of plan sponsors and members, when considering remedies to excessive pricing.

WHO WE ARE

The CLHIA is a voluntary association whose member companies account for 99 per cent the life and health insurance business in Canada.



**Protecting 29 million
Canadians**

26 million with drug, dental and other health benefits

22 million with life insurance averaging \$228,000 per insured

12 million with disability income protection



**\$97 billion in payments
to Canadians**

\$46 billion in annuities

\$37 billion in health and disability claims

\$14 billion in life insurance policies



\$8.2 billion in tax contributions

- \$1.3 billion in corporate income tax
- \$1.3 billion in payroll and other taxes
- \$1.7 billion in premium tax
- \$3.9 billion in retail sales tax



Investing in Canadians

- \$1 trillion in total invested assets
- 91% held in long-term investments

Life and health insurers play a key role in providing financial security to Canadians. Additionally, the industry makes a significant contribution to the economy, employing over 158,000 Canadians in high value, professional jobs (as employees or independent agents). The industry is also a major investor in domestic assets and contributes significant revenue through taxes to the federal and provincial governments.

Support for affordable prescription medicines

Canadian life and health insurers provide 27 million Canadians with access to a wide range of health services and prescription drugs, including rare disease drugs, through supplementary health plans. In 2021 insurers paid out more than \$13.4 billion in coverage for prescription drugs in Canada, while in 2020, \$650 million was paid for rare disease drugs to 15,000 Canadians. Canadians pay some of the highest prescription drug costs in the world—our drug prices are third highest among OECD countries.

CRITERIA THAT MAY TRIGGER AN INVESTIGATION

The Guidelines make clear that the submission of a complaint from an industry stakeholder is one of the mechanisms triggering an investigation. Information on the PMPRB’s website indicates the information to be included in a complaint and that complaints will remain confidential.

However, it is our suggestion that certain information about a complaint should be public (e.g. that one or more complaints have been received regarding the list price of drug X) to enhance transparency, but that other information should remain non-public to ensure that legitimate complaints aren’t discouraged. Further, the guidance with respect to complaints on the PMPRB’s website should be updated to make it clearer that organizations will have their identities protected to the extent possible as the current guidance references the *Privacy Act*, which may not protect complainants that are organizations.

We see the complaints process as a crucial element needed to ensure that new and existing drugs are priced at non-excessive levels. A clear process that protects complainants will encourage stakeholders to identify potential situations of excessive pricing, enhancing the PMPRB’s ability to meet its mandate.

DOMESTIC THERAPEUTIC CLASS COMPARISON

Our industry suggests that the Domestic Therapeutic Class Comparison (dTCC) review be transparent and published publicly for each new drug reviewed. Our understanding is that it can be



complicated in identifying dTCCs when new drugs have not been approved by many countries at the time of Canada's review and when it truly represents a new treatment.

Stakeholders will be better informed through a transparent process as to the decisions made by the PMPRB for drugs with a dTCC.

UNDERTAKINGS AND EXCESSIVE PRICE HEARINGS - REMEDIES

In the past, remedies for a finding of excessive drug pricing have typically involved reducing the price to a non-excessive level and having the relevant patentholder pay the excessive amount received to the Receiver General for Canada. Yet, this payment to the Receiver General does not assist those that have actually incurred the excessive pricing, resulting in carriers, benefit plan sponsors, and plan members shouldering these excess costs. There is currently no mechanism in place for the Federal Government to distribute any amounts awarded to these impacted groups.

Given the foregoing, the CLHIA requests that the PMPRB consider exercising its discretion under paragraph 83(2)(a) of the *Patent Act* (Canada) in the future, and ordering that companies found to have excessively priced a drug to reduce the price to such extent and for such period as results in all payers, the plan member, benefit plan sponsor, insurer and/or industry pool (Quebec Drug Insurance Pooling Corporation, Canadian Drug Insurance Pooling Corporation) being reimbursed proportionate to the total excess paid.

GENERAL COMMENTS

In addition to the specific comments on the proposed Guidelines made above, we continue to support a 'lifecycle' approach to monitoring drug prices including annual monitoring, as well as an openness to addressing major market changes such as when new indications for use are approved.

We'd also ask that the proposed Guidelines provide some clarity around prioritization of reviews for existing drugs when a review is triggered.

CONCLUSION

We would like to take this opportunity to thank you for your consideration of the views of the Canadian life and health insurance industry. Should you have questions regarding any of our comments, you may contact Joan Weir, Vice-President, Group Benefits at jweir@clhia.ca.

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