Dr. Jan Hux
President, Diabetes Canada

February 14, 2018

Patented Medicines Consultations
Karen Reynolds, Executive Director, Office of Pharmaceuticals Management Strategies
Strategic Policy Branch, Health Canada
10th Floor, Brooke Claxton Building
70 Colombine Driveway, Tunney's Pasture, Ottawa, ON K1A 0K9

Re: Response to the Patented Medicine Prices Review Board (PMPRB) regulatory proposals

Dear Ms. Reynolds:

Diabetes Canada is the voice of the 11 million people in our country who are living with diabetes or prediabetes. As a national health charity, our mandate is to help those affected live healthy lives, prevent the onset and consequences of the disease, and work to discover a cure. Diabetes Canada is a proud member of the Health Charities Coalition of Canada (HCCC). Attached, please find HCCC's response to the proposed amendments to the *Patented Medicines Regulations*, as outlined in Canada Gazette Part 1, Vol. 151, No. 48 – December 2, 2017. Diabetes Canada supports the points contained therein and shares the coalition's concerns about the regulatory proposals related to medication pricing in Canada. We have also submitted our own response to the proposed amendments under separate cover.

A typical diabetes management regimen includes education, lifestyle interventions and support, with prescription medications being a necessary adjunct to therapy for the majority of Canadians. We know that the cost of medications directly impacts adherence to treatment; many people cannot fill their prescriptions or take their medications as directed because they cannot afford to. For governments, private insurers and individual Canadians,

the cost of medications is a real concern. But the problems in Canada related to medication go beyond pricing. Medication affordability, accessibility and availability must all be in balance to optimize benefits to patients.

We wish to draw your attention to the following four key points concerning the consultation process, as well as the potential impacts and outcomes to patients as a result of the proposed modernization of the *Regulations*:

1. Guiding principles

HCCC's members have identified four guiding principles on access to medications which should inform the federal government's plan to enact changes to the *Patented Medicines Regulations*:

Patient partnerships - Amendments to the *Patented Medicines Regulations* are developed, monitored, and evaluated in partnership with patients to ensure that the right medicine gets to the right patient at the right time in a cost-effective manner.

Quality - Canadians deserve high-quality therapies and services that are appropriate, respect individual choice, and are delivered in a manner that is timely, safe, and effective, according to current evidence.

Equity - All Canadians should have equitable access to a comprehensive range of evidence-based medications to help them meet their health needs, regardless of who they are, the setting they are in or where they live.

Sustainability - The implementation of the *Regulations* should be evidence-based, adequately resourced, cost-effective for individuals, and a sustainable element of the healthcare system that is continuously reviewed, evaluated, and improved upon.

2. Finding the right balance

The mandate of the PMPRB is to protect the interest of Canadian consumers by ensuring that the prices of patented medicines sold in Canada are not excessive. The affordability of medications is important; however, this cannot be considered in isolation of other factors, such as access. We are concerned that the proposed amendments will have a negative effect on the overall length of time for medications to reach Canadian patients. Making a

medication affordable does not improve health outcomes of Canadians if the drug ultimately does not launch in the Canadian market at all.

3. Gaps in pharmacoeconomic assessments for patients

The introduction of new economics-based factors will see the PMPRB utilizing pharmacoeconomic assessments that are used by the Canadian Agency for Drugs and Technologies in Health for the purposes of determining clinical- and cost-effectiveness of a medication. This proposed method, which includes Quality Adjusted Life Year assessments (QALYs), will be used to establish a ceiling price for medications. This is of particular concern to the health charities and to many patient groups, as QALYs do not include all metrics that are important to patients, have not been validated for all diseases, and are not consistent over time.

4. Reaffirmed commitment to meaningful consultation

HCCC and its members were pleased to provide input to the PMPRB consultation in June 2017. Participation in the consultation was under the premise that all stakeholder feedback would be considered and valued. After submitting a comprehensive list of recommendations in June, we were extremely disappointed that our feedback was summarized into one paragraph in December 2017's Canada Gazette 1 (Vol. 151, No. 48), and that no notable changes were made to the proposed amendments based on the feedback that was provided.

We believe that this is not in keeping with the spirit that was intended, and ask that the Government of Canada commit to:

a) establishing a formal mechanism that meaningfully and continuously engages patient representatives and other key stakeholders in the decision-making and regulatory processes, and
b) ensure that future updates to the *Regulations* be undertaken in a fully transparent manner that clearly details the nature of the changes, provides all relevant information publicly, and allows sufficient time for stakeholder input, discussion, and exchange as part of the decision-making process.

We look forward to a continued dialogue on the affordability, availability and accessibility of medication to Canadians, as a discussion on one of these topics cannot happen without concurrently considering the others.

Thank you.

Sincerely,

Jan Hux, MD, SM, FRCPC
President, Diabetes Canada
416-408-7021
Jan.Hux@diabetes.ca

Health Charities Coalition of Canada
Coalition canadienne des organismes de bienfaisance en santé

Submitted by the Health Charities Coalition of Canada

Regulations Amending the Patented Medicines Regulations

Response to Canada Gazette Part 1, Vol1.151, No.48

Submitted to:
Karen Reynolds
Executive Director
Office of Pharmaceuticals Management Strategies
Strategic Policy Branch, Health Canada
10th Floor, Brooke Claxton Building
70 Colombine Driveway, Tunney's Pasture
Ottawa, Ontario K1A 0K9

February 14, 2018

The Health Charities Coalition of Canada (HCCC) is pleased to provide patient–focused input in response to the Canada Gazette Part 1 (Vol 1.151, No.48). HCCC offers comment on how the proposed changes may impact Canadians living with disease. HCCC hopes to provide input that aims to improve accessibility, affordability and appropriate use of pharmaceuticals for Canadians. The feedback provided herein is consistent with the feedback originally submitted to the Patented Medicines Price Review Board consultation in June 2017.

Since our original feedback was provided, PMPRB has released a *Guidelines Scoping Paper* that is intended to be read in conjunction with the proposed amendments to the Patented Medicine's Regulations, and accompanying Regulatory Impact Analysis Statement (RIAS). The Scoping Paper outlines the proposed framework under which the proposed Regulations of the PMPRB will operate. Disappointingly, many of the concerns that were expressed by HCCC, such as using QALYs to determine economic value, are still featured prominently in the proposed framework. Additionally, new questions and concerns have emerged from the *Guidelines Scoping Paper* around the process and authority to determine what constitutes a high priority drug.

HCCC is supportive of making changes to the Regulations that will bring modernization and will enable our health system to effectively assess and bring into the market new and improved therapies for Canadians. It is our hope that any changes that are made to the Regulations and ensuing guidelines will respond to both the current and future needs of individuals, while balancing the needs of the larger health system.

Of major concern to patient populations, is how the proposed changes will impact patients' abilities to access the drugs that they need to manage/cure their respective disease or condition. Any changes that have the potential to negatively impact the length of time that it takes to launch a new substance on the market in Canada, represents a further delay in patients' journeys to improved health outcomes and this consideration must be weighted appropriately.

HCCC believes that all people living in Canada should have equitable and timely access to necessary prescription medications based on the best possible health outcomes rather than the ability to pay. HCCC is looking for sustainable change to the regulation of pharmaceuticals in Canada. As this is the first time in twenty years that the Regulations will be updated, we want to ensure that the Regulations are revised in a manner that allows for the further evolution of science, technology, and pharmacology. These evolutions will allow for future gains in innovation and discovery, while honoring the mandate of the PMPRB, ensuring that Canadians do not pay excessive prices.

Specific Comments on New Economics-Based Price Regulatory Factors

HCCC recommends that any current or proposed factors used to regulate excessive medication pricing in Canada should be complementary to the existing regulatory mechanisms, such as the HTA processes. The proposed factors should only be used if they are *complementary* to the HTA evaluation conducted by CADTH, INESSS or other provincial HTA evaluators, not in addition to those processes. **The important role and relevance of HTA reviews should not be duplicated by the PMPRB.**

Each agency involved in the regulation of pharmaceuticals in Canada fulfills a key function and we support the unique role that the PMPRB plays in setting the ceiling price for the sale of patented medicines in Canada. Under the current process, Health Canada is responsible for determining market approval and has oversight for product safety, effectiveness and quality. Health technology assessments (HTAs) are conducted by the Canadian Agency for Drugs and Technologies in Health (CADTH) for most of the country and the Institut national d'excellence en santé et en services sociaux (INESSS) in the province of Québec. They determine the clinical and cost effectiveness of innovative medications and make recommendations about its funding. After those medicines are recommended for reimbursement, the pan-Canadian Pharmaceutical Alliance (pCPA) is responsible for negotiating the cost of the treatment, and finally individual drug plans make the determination about whether or not to list the medication on their formulary. With these roles in mind, **HCCC recommends that no duplication be accepted regarding the respective actions and evaluations followed by each of the various organizations involved in the Canadian medication review and regulation process.** The role of the PMPRB should remain to determine the excessive price of a medication, not to determine the value of a medication for Canadians.

Any changes made to the Regulations should not have a negative effect on the overall length of time for medications to reach Canadian patients. Canadians suffer when they wait too long and/or are denied coverage for new evidence-based medicines to treat their respective conditions or disorders.

Determining pharmacoeconomic value

The notion that pharmacoeconomic assessments can be utilized to assess the excessiveness of a given price may be attractive conceptually. However, the reliance on these comparative cost-effectiveness techniques could be problematic for a number of reasons.

First, the assessment of cost per Quality Adjusted Life Year (QALY) is dependent upon assumptions that can vary broadly, meaning that small adjustments in assumptions could create large variations in the end result. For example, manufacturers often present different assumptions (such as the prevalence of a disease) than those relied upon by CADTH.

In addition, the QALY-based evaluation does not account for some important metrics to patients, such as the frequency of taking the medication and/or the delivery mechanism (oral/injectable etc.), and side effects of taking the medication.

The subjectivity of QALYs is often debated as well. This measure does not always capture all of the benefits of a healthcare intervention, in this case, medicines. Often, it is assumed that all QALYs are representative of the same societal value of quality of life. This risks ignoring the equity concerns of individual patients.[i] In a country and political climate that strives to support the middle class, a utilitarian approach should be closely examined so that patient populations, whether small or large, should not have to sacrifice their own well-being for the greater good of the collective.

Often QALYs do not capture the positive effects that an innovative medication offers to a given patient. For example, a patient who is successfully being treated early and effectively with a medication would be able to return to work and not make as frequent trips to the hospital. Rather

than just the quantitative analyses, the qualitative, lived experience of patients should be taken into consideration in decision-making.

Another area of concern is the impact that this proposed change could have on people with rare diseases. Generally, **QALY analyses do not have favourable outcomes for patients who need rare disease medicines, known as orphan therapies. Using this methodology, orphan therapies are typically found to be "cost-ineffective" and lacking in long-term data on safety and effectiveness relative to other conditions and diseases. These results are mis-leading and reflect a systemic limitation of the methods, rather than the medications. It must be kept in mind that the practice of medicine changes over time.** For example, transplants were met with resistance historically since they were considered "radical" and "expensive," but now they are considered standard practice.[ii] As it is, Canadian patients with rare diseases face disadvantages given that their treatments are often deemed too "expensive" by our current HTA review process. If the PMPRB relies on the same tools, the ceiling price could be expected to be set at a level which could make access and availability even more difficult for patients than is currently the case.

Allow for modifications to account for real world evidence

Real world evidence can be defined as data used for decision making that are not collected in conventional controlled randomized trials.[iii] The heterogeneity of current pharmacoeconomic methodologies that are typically relied upon by decision-makers which make integrating patient-reported outcomes in the real world challenging. Randomized control clinical trials are an important aspect of measuring efficacy in limited populations however, they are conducted in an idealized environment and may not factor in important real-life considerations such as compliance, adherence, and convenience. As a result, **any changes made to the Regulations should allow for a flexible framework that would permit the integration of real life evidence as an integral part of the assessment.**

HCCC Recommendation(s)

- HCCC recommends that any factors that are used to regulate excessive medication pricing in Canada should be complementary to the existing regulatory mechanisms, such as HTA processes. The important role and relevance of HTA reviews should not be duplicated by the PMPRB.
- Any changes made to the Regulations should not have a negative effect on the overall length of time for medications to reach Canadian patients.
- The Regulations should include provisions to ensure that Canadians with rare diseases are not further disadvantaged.
- Any changes made to the Regulations should allow for a flexible framework that would permit the integration of real life evidence as an integral part of the assessment.

The size of market for the medicines in Canada and in countries other than Canada

HCCC is concerned about the limited focus on the size of market use in determining whether a medication is priced excessively. The size of market is an important consideration for those launching a new active substance (NAS) in Canada. However, the needs of patients should also be considered, given that they are the primary consumers of the product. Patients' needs and choice must be considered in addition to the analysis of the market in this consultation.

Many Canadians face barriers in accessing the therapies they need. Any analysis of the market by PMPRB must consider that a given medication may not meet the needs of all patients living with that respective disease or disorder.

See the example below from the Multiple Sclerosis Society of Canada:

> *"There is no 'standard' MS medication. Although several MS medications have similar mechanisms of action, dosing and administration are not the same and therefore the options available to people are selected based on tolerance, known (expected) side-effects, lifestyle choices, disease course and cost. It is common for one treatment to work well in one individual, and fail in another.*
>
> *Health Canada has approved eleven drugs to treat relapsing forms of MS, collectively referred to as disease-modifying therapies, or DMTs. The annual cost of DMTs range from approximately $16,000 to $30,000 for first-line therapies, and $50,000 or more, for second or third line therapies. The vast majority of these drugs are included on provincial, territorial and federal formularies, overseen by 'special' or 'exceptional access' drug programs that require a case-by-case approval for reimbursement due to their high cost. Certain criteria must be met in order for a specific patient to be eligible for public reimbursement or coverage of these drugs."* [iv]

The above example highlights the diverse needs of patients in Canada. There may be more than one treatment in one class that could prove to be the optimal choice for a patient. Moreover, there are often situations which require the patient to switch from one therapy to another when the first no longer offers the same results. Ensuring a range of effective choices are available is vital.

It is unclear how the size of market will be taken into account when determining excessive pricing. In comparing other market sizes, is the proposal only to examine countries that are listed as comparator countries or to expand beyond? How will factors such as prevalence and cost effectiveness weigh in the determination of pricing? In absence of a clear understanding of the proposal to examine market size, we are unable to provide additional feedback on this new factor.

HCCC Recommendation(s)

- In addition to market size considerations, the needs of patients should be taken into account.
- Any analysis of the market by PMPRB must consider that one medication may not meet the needs of all patients living with that respective disease or disorder.

Amending the list of countries used for international price comparisons

With respect to the schedule of comparator countries, HCCC makes the following recommendations:

First, **that any amendments to the Regulations must be evaluated in advance to ensure that their inclusion will not delay launch times in Canada.** According to a National Prescription Drug Utilization Information System analysis of the PMPRB7 (France, Germany, Italy, Sweden, Switzerland, United Kingdom, and the United States), Canada's weighted average lag time - the number of months from the first launch in any of the markets analyzed to the launch in a particular country – was eight months and the median was 11 months. This result was similar to Switzerland and shorter than France and Italy, but longer than in the US, the UK, Sweden and Germany.[v] Clearly then, Canada is not currently an international leader regarding market launch times.

HCCC's second recommendation is **that the PMPRB ensure any changes to the schedule of comparator countries does not affect Canada's launch standing internationally**. Canada's health care standards are quite high. As such, any countries included in the schedule should have a similar standard of health care as Canada. Also, as part of the comparison and analysis process, patient access should be considered as a key factor. Given that many patients receive innovative medicines in Canada through clinical trials, **policymakers should consult international comparator countries and consider the impact of the changes on access to clinical trial medications** and international differences in clinical trial performance on launch dates.

HCCC's final suggestion is to recommend **that selected comparator countries should have comparable health systems overall to Canada's.** In that regard, the following system elements should be considered: language, price, general medical practices, and systems regulations. These suggestions could be a frame of analysis when considering the list of countries which could be reasonably compared to Canada. For example, ensuring that the sources of information and language used in the analysis are comparable (i.e., the same price list), or how medicines are prescribed and distributed to patients. Ideally then, any analysis of relevant comparator countries would take account of how medications reach patients, which includes the considerations of affordability, access, and appropriate prescribing.

HCCC Recommendation(s)

- Any amendments to the Regulations must be evaluated in advance to ensure that their inclusion will not delay market launches in Canada.
- The PMPRB should ensure that any changes to the schedule of comparator countries does not affect Canada's launch standing internationally.
- Policymakers should consult international comparator countries and consider the impact of the changes on access to clinical trial medications.
- Selected comparator countries should have comparable health systems overall to Canada's.

Providing information related to third party rebates

It is unclear to HCCC what role the reporting of manufacturer rebates is intended to have on the PMPRB pricing review process, or the rationale behind requiring such reporting, so it is difficult to

comment precisely on the proposal. The practice of manufacturers offering confidential financial concessions to public payers in the context of national product negotiations has resulted in improved access to publicly funded medications in recent years. The concern is that new reporting requirements could potentially motivate those manufacturers to desist from doing so, or reducing the value of those concessions. **Before introducing such a reporting requirement, it would be important to establish what the implications of that action might be on the marketplace, and care must be taken to ensure that it does not result in less access to needed medications for patients.**

HCCC Recommendation(s)

- Prior to the inclusion of reported third party rebates, it is important to consider how this potential requirement may impact access to medicines for patients.

Additional Commentary: Principles of Patient Engagement and Representation

Patient Partnerships

A major change in the healthcare environment has been the move to integrate patient partnerships as a key component of healthcare reforms. In the report "Unleashing Innovation: Excellent Healthcare for Canada," special emphasis is given to patient partnerships and public empowerment.[vi] Patients bring a "lived experience" to the table and are uniquely positioned to provide input and solutions from the perspective of the end-user. Increasingly, patient partnerships are being developed and applied at the individual, organizational and system levels. **HCCC recommends that the PMPRB establish a formal mechanism for meaningfully and continuously engaging patient representatives in its decision making and regulatory processes to ensure patient voice, choice, and representation.**

HCCC Recommendation(s)

- That the PMPRB establish a formal mechanism for meaningfully and continuously engaging patient representatives in its decision making and regulatory processes to ensure patient voice, choice, and representation.

Transparency

Patient groups are pleased to provide input into this important consultation regarding proposed changes to the Regulations. These proposed changes will impact patients' lives. These proposed Amendments to the Regulations will have an effect on the medicines that patients' are taking, either through direct costs or through the availability and access to medicines. The public release of pertinent data and evidence collected by the Government of Canada related to the assessment and determination of the proposed factors, such as; the criteria and rationale for inclusion of the selection of proposed countries, as well as, evaluations of international practices, would enhance meaningful engagement in this consultation. **It is recommended that the Government of Canada provide patients with relevant knowledge to help them make informed decisions**

regarding input into future submissions before any changes are made. Additionally, the Government of Canada is encouraged to communicate to Canadians a greater understanding of how these changes will play into a larger federal government roadmap for making prescription medications more affordable, accessible, and appropriately prescribed.

Moving forward, **HCCC recommends that any updates to the Regulations be undertaken in a fully transparent manner** that; clearly details the nature of the changes, provides all relevant information, includes patients, provides sufficient time for stakeholder input and ensures the continuity of the regulatory approach for patients during the next twenty years.

HCCC Recommendation(s)

- That the Government of Canada provide patients with relevant knowledge to help them make informed decisions regarding input into future submissions before any changes are made.
- Updates to the Regulations must be undertaken in a fully transparent manner.

Conclusion

Canadians deserve high-quality therapies and services that are appropriate for patient needs, respect an individual's choice, and are delivered in a manner that is timely, safe and effective according to the most current evidence available. The review of the PMPRB Regulations is an important part of updating Canada's healthcare system.

The Health Charities Coalition of Canada is pleased to provide comment, and looks forward to continued discussion on the availability and access to medicines for Canadians as one discussion cannot happen in isolation of the other. We would be pleased to meet with you to further discuss any of our recommendations.

Contact:
Connie Côté
CEO
Health Charities Coalition of Canada
ccote@healthcharities.ca

About the Health Charities Coalition of Canada

The Health Charities Coalition of Canada (HCCC) is a member-based organization comprised of national health charities which represents the voice of Canadians, patients and caregivers by advocating for enhanced health policy and increased investment in health research. HCCC strives to ensure that the federal government and policy makers look to the Coalition and its members for timely advice and leadership on major health issues of concern to Canadians; and that they

recognize the expertise, commitment, and contributions of health charities in improving the health and well-being of Canadians.

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[i] Whitehead, S. J. & A. Shehzad. (2010). "Health outcomes in economic evaluation: the QALY and utilities," *British Medical Bulletin.* 96: 5-21. DOI:10.1093/bmb/ldq033

[ii] Hyry, H.I. et. Al. (2014). "Limits on use of health economic assessments for rare diseases," *International Journal of Medicine,* 107 (3): 241-245. doi: 10.1093/qjmed/hcu016. Retrieved from: https://academic.oup.com/qjmed/article/107/3/241/1570371/Limits-on-use-of-health-economic-assessments-for

[iii] Garrison, L.P. et. Al. (2007). "Using real world data for coverage and payment decisions: the ISPOR real world data task force report," *International Society for Pharmaeconomics and Outcomes Research*. Retrieved from: https://www.ispor.org/workpaper/RWD_TF/RWTFManuscript.pdf

[iv] Multiple Sclerosis Society of Canada. (2016). *Feedback submitted to the Patented Medicines Price Review Board from the Multiple Sclerosis Society of Canada related to Excessive Drug Pricing in Canada.* Retrieved from: http://www.pmprb-cepmb.gc.ca/CMFiles/Consultations/Rethinking_the_Guidelines_2016/Submission_MS_Society_of_Canada_Oct_2016.pdf

[v] Patented Medicine Prices Review Board. (April 2017). *Meds Entry Watch, 2015.* Canada: Ottawa. ISSN 2560-6204, p. 11. Retrieved from: http://www.pmprb-cepmb.gc.ca/view.asp?ccid=1307

[vi] Health Canada. (July 2015). *Unleashing Innovation: Excellence for Healthcare in Canada, Report on Advisory Panel on Healthcare Innovation.* Canada: Ottawa. Retrieved from: https://www.canada.ca/content/dam/canada/health-canada/migration/healthy-canadians/publications/health-system-systeme-sante/report-healthcare-innovation-rapport-soins/alt/report-healthcare-innovation-rapport-soins-eng.pdf