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ORDINANCE

WHEREAS, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including the power to regulate for the protection ofthe public health, safety, morals, and welfare; and

WHEREAS, soaring prescription drug prices continue to capture headlines and wallets nationally and locally; and

WHEREAS, retail prices for prescription drugs outpace every commonly used measure of inflation; and

WHEREAS, prices increased at eight times the rate of inflation for 30 prescription drugs analyzed by the Wall Street Journal, with an average price hike of 76% from 2010 to 2014; and

WHEREAS, the unpredictability of new, high cost drug launches and significant price increases for older drugs can strain the ability of state agencies, private payers and consumers to manage their budgets and access treatments; and

WHEREAS, the state of Nevada has enacted legislation to increase price transparency among pharmaceutical companies by requiring that they report on the production and marketing expenses of new drugs or drugs increasing in price; and

WHEREAS, in Illinois, the 2017 introduction of House Bill 0239, seeks to accomplish same; and

WHEREAS, local municipalities have joined the fight against pharmaceutical companies by involving the judicial branch in various lawsuits; and

WHEREAS, one example of municipal involvement is Rockford, Illinois who sued Mallinckrodt Ard, Inc. after a thorough analysis of their health plan showed that just one drug accounted for 2.5% of their total program budget; and

WHEREAS, Rockford discovered that Mallinckrodt Ard, Inc. had purchased the only competitor at ten times the selling price to, in effect, create a monopoly on the sale of Achtar, a drug used to treat infantile

spasms; and

WHEREAS, Providence, Rhode Island sued the generic drug makers of Doxycycline and Digoxin and the antibiotic has since been involved in a price-fixing case brought by 20 state's attorneys; and

WHEREAS, the Southeastern Pennsylvania Transportation Authority filed a lawsuit in federal court in Philadelphia that Gilead is engaging in "price gouging" by charging $1,000 a pill, or $84,000 for a standard 12 week treatment; and

WHEREAS, U.S. Representative Jan Schakowsky oflllinois and U.S. Senator John McCain unveiled the Fair Accountability & Innovative Research Drug Pricing Act of 2017, which would require drug makers to give warning of some price increases and to justify the prices; and

WHEREAS, the Fair Accountability & Innovative Research Drug Pricing Act of 2017 would direct manufacturers to notify the U.S. Department of Health & Human Services at least 30 days before raising prices on certain drugs that cost at least $100 a month by more than 10 percent a year or 25 percent over three years and justify the increase by disclosing certain research costs, net profits, and marketing expenses; and

WHEREAS, as Senator McCain stated, "The American people should not be forced to choose between filling a prescription and making their monthly mortgage payment. This legislation would bring much-needed transparency;" and

WHEREAS, the lawmakers have enlisted influential supporters including AARP, the AFL-CIO and the National Multiple Sclerosis Society; and

WHEREAS, Illinois U.S. Senator Richard Durbin has joined others in proposing the Improving Access to Affordable Prescriptions Drug Act, which seeks to increase drug cost transparency and accountability; and

WHEREAS, the City of Chicago joined the public outcry against these companies and practices by adopting an ordinance requiring pharmaceutical representatives to obtain a license, abide to a set of reporting requirements, and participate in at least five hours of professional education in ethics, pharmacology, and regulations; and

WHEREAS, the City of Chicago, a steward of public funds that provide health care coverage to tens of thousands of its employees and retirees, and a public body charged with a duty to safeguard all of its residents from potentially predatory practices within its jurisdiction, has more than a vested interest in this matter; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Chapter 2-112 of the Municipal Code of Chicago is hereby amended by adding Section 2-112-

285 as follows:

2-112-285, Prescription Drug Price Review Board

The Commissioner of the Department of Public Health shall establish a Prescription Drug Price Review Board, the rules, regulations, and composition of which shall be subject to City Council

approval. The Commissioner's and Prescription Drug Price Review Board's duties shall include the following:

a) review trend anomalies in the list price of medications dispensed or prescribed through its services directly or through its public and private partnerships;

b) publish an annual report highlighting prescription drug pricing trends within the City of Chicago and where the data suggests the need for legislative, administrative, or other policy changes with said report being placed on file with the City Council Committee on Finance on a semi-annual basis and presented at a City Council Committee on Finance hearing at least once in a calendar year;

c) promulgate public advisory opinions concerning specific drugs, drug classes, or drug manufacturers that satisfy its standards for egregious pricing practices to its facilities, partners, website, and the City's Benefits Management Division;

d) establish a "Pharmaceutical Price Watch Hotline" via phone, email, internet portal, social media outlets, or other generally available method of communication, as the Commissioner designates, to accept notifications and information about pharmaceutical price increases from the public;

e) effectuate and enforce the provisions of Chapter 7-25.

SECTION 2. Title 7 of the Municipal Code of Chicago is hereby amended by inserting a new Chapter 7-25, as follows:

7-25-010. Short Title.

This Section shall be cited as the "Chicago Drug Pricing Transparency Ordinance" 7-25-015.

Definitions.

For purposes of this Section, the following terms will have the following meanings:

a) "Brand-Name Drug" is a prescription drug approved under 21 USC § 355(b) or 42 USC § 262.

b) "Generic Drug" is a prescription drug approved under 21 USC § 355(j).

c) "Commissioner" shall refer to the Commissioner of the City of Chicago's Department of Public Health.

d) "Health care professional" means any physician or other health care practitioner who is licensed to provide health care services or to prescribe pharmaceutical or biologic products.

e) "Manufacturer" is an entity engaged in producing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling a brand-name or generic drug, but does not include an entity that is engaged in the preparation and dispensing of a brand-name or generic drug pursuant to a prescription.

f) "Pharmaceutical" means a medication that may legally be dispensed only with a valid prescription from a health care professional.

g) "Wholesale Acquisition Cost" or "WAC" is the manufacturer list or catalogue price for a brand-name or generic drug available to wholesalers or direct purchasers in the United States, before application of discounts, rebates, or reductions in price (for the most recent month for which information is available as reported in wholesale price guides or other publications of drug or biological pricing data).

7-25-020. Price Increase and Launch Price Notification and Justification

(a) A manufacturer of a pharmaceutical that is lawfully sold or offered for lawful sale in the City

of Chicago shall notify the City of Chicago, through its Department of Public Health

Commissioner, of the following:

1) for a brand-name drug:
   a) a Wholesale Acquisition Cost ("WAC") increase of ten percent (10%) or more, or

   b) a twelve-month period WAC increase of $10,000 or more, or

   c) an introduction to market of a pharmaceutical that has a twelve-month WAC of $30,000 or more or

2) for a generic drug:

   a) a WAC increase of twenty five percent (25% or more), or

   b) a twelve-month period WAC increase of $300 or more, or

   c) an introduction to market of a pharmaceutical that has a twelve-month WAC of $3,000 or more

The notices shall be provided in writing at least ninety (90) days prior to the planned effective date of the increase or introduction and shall include a justification as detailed in paragraph (b) of this Section and any

other requirements as the Commissioner may set forth by rule or regulation.

(b) Justification for the proposed price or price increase shall include documents and information to substantiate the manufacturer's selection of the launch price or price increase, including but not limited to research, materials, manufacturing, administrative expenses, life cycle management, market competition and context, manufacturer revenue and loss data, and estimated value and cost-effectiveness of the product.

7-25-025. Certification and Penalties.

Required notices and reporting under this ordinance shall be certified as accurate by the reporting entity. A manufacturer that fails to comply with the requirements of this Section shall be subject to a fine of up to $500 per day.

7-25-030. Public Reporting.

The Commissioner shall publicly post, in a manner and form set forth by rules and regulations that he or she shall promulgate, manufacturer price increase or launch notifications, justification documents, and an annual listing identifying manufacturers found in the year prior to have violated the provisions of this Chapter and listing the pharmaceuticals that were the subject of the violation.

SECTION 3. Severability.

The provisions of this Ordinance are declared to be separate and severable. The invalidity of any provision of this Ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this Ordinance, or the validity of its application to other persons or circumstances.

SECTION 4. Effective Date.

This ordinance shall be in full force and effect 180 days after its passage and approval.

Edward M. Burke Alderman, 14th Ward