



Ohio's Misleading Rx Ballot Issue is Bad for Business



In November 2017, Ohioans will be asked to vote on a deeply flawed and deceptive ballot issue, the “Ohio Drug Price Relief Act.” The proposed law is bad for business and taxpayers. It imposes artificial price controls, lacks operational guidelines, and if passed, could cause lawsuits and higher costs for taxpayers.

Ohio business and labor groups opposing the issue include the Ohio Manufacturers' Association; the Ohio Chamber of Commerce; BioOhio; the Ohio Nurses Association; Ohio Hospital Association; and ACT Ohio, the group representing Ohio's building and construction trades.

Ohio's business leaders and employers should oppose this risky scheme.

What does the ballot issue propose?

The so-called “Ohio Drug Price Relief Act” is a deceptive and vaguely worded ballot issue (technically called an “initiated statute”) that would impose unworkable contracting requirements for state prescription drug purchases based on prices paid by the U.S. Department of Veterans Affairs (VA).

Who's behind it?

The ballot issue is being promoted by a billion-dollar, California-based non-profit, the AIDS Healthcare Foundation (AHF). Nearly 80% of AHF's revenue comes from pharmacies it owns.¹ AHF's controversial leader, Michael Weinstein, has been accused of using millions of tax-exempt dollars generated by his organization for political purposes wholly unrelated to the mission of his foundation.²



Why does it matter to Ohio employers?

The issue runs counter to free market values and would establish artificial price fixing that could expand to other industries or products in the future. In addition, the majority of Ohioans who use employer-based or private insurance could see higher

prescription drug costs. The promoters of this ballot issue also wrote into it an unprecedented provision to give themselves the right to intervene at taxpayer expense in any legal challenges that may be filed against it if it becomes law. This provision would give the sponsors a blank check to defend any part of the law, and require that their legal fees be reimbursed by taxpayers whether they win or lose. This is an issue for many business leaders who are concerned about lawsuit abuse.³

What happened in California?

An almost identical version of the proposal, Proposition 61 (Prop 61), appeared on the November 2016 California ballot and was defeated. A number of California business organizations opposed Prop 61, including the California Chamber of Commerce, the California Business Roundtable, the California Manufacturers & Technology Association and a number of local chambers and business groups.

In addition to business, more than 20 veterans groups in California opposed Prop 61 along with 200 other groups representing doctors, labor, patient advocates and community groups. Every major California newspaper opposed Prop 61 because of its deep flaws.

VA system is not designed to extend to other programs

Ohio health care experts, including three former Ohio Medicaid directors representing both Republican and Democratic administrations, say that requiring the state to buy drugs at the lowest price paid by the VA would be nearly impossible to implement because, by law, the VA doesn't disclose the lowest price it pays. In addition to the 24% drug discount mandated by Congress, the VA negotiates additional discounts on many prescription drugs. Manufacturers generally agree to provide these additional discounts for veterans in honor of their service to our country. History shows that these additional discounts could be impacted if the ballot issue moves forward, which would increase prescription drug prices for veterans. A number of Ohio veterans' groups, including the Ohio VFW, the American Legion, Department of Ohio; Korean War Veterans Association, Department of Ohio; and the Military Officers Association of America, Ohio Council of Chapters oppose the ballot issue.



Ballot issue is bad for Ohio's growing bioscience sector

According to the Tufts Center for the Study of Drug Development, on average, it costs pharmaceutical companies \$2.6 billion to do the years of research and tests necessary to develop a single new drug.⁴

If states pass laws that seek to extend VA prices on innovative drugs, it would reduce revenues and thus limit future investments in the research and development of new drugs and cures. Limiting investment could cause medical research facilities in Ohio to lose funds for cutting edge research, resulting in lost jobs and fewer treatment advancements.

Importance of Ohio's bioscience sector

According to BioOhio, Ohio is home to groundbreaking research and technology, at businesses and health institutions that support a growing life sciences sector.

According to 2015 data, Ohio has:

2,325	Bioscience Companies
3,115	Bioscience Facilities
70,496	Bioscience Jobs
\$72,260	Average Wage in Bioscience
81 of 88	Ohio Counties are Home to a Bio Company
\$538 Million	Private Investment into Ohio Bioscience Companies to date in 2016
875	Bioscience Patents in 2015
10,179	Bioscience Graduates in 2015, up 58% since 2006
102	Post-Secondary Schools with Bio Programs

¹ Vasquez and Company LLP, "Audited Consolidated Financial Statements and Supplementary Information: AIDS Healthcare Foundation, As of and for the Years ended December 31, 2015 and 2014, with Report of Independent Auditors," accessed May 4, 2017, p. 4, https://www.aidshealth.org/wp-content/uploads/2016/05/AIDS-Healthcare-FS-2015_FINAL-3.pdf.

² Neal Broverman, "World's Largest AIDS Organization Just Flushed Millions Down the Toilet," *The Advocate*, accessed April 21, 2017, <http://www.advocate.com/hiv-aids/2017/3/08/worlds-largest-aids-organization-just-flushed-millions-down-toilet>.

³ The Ohio Drug Price Relief Act – Initiative Text: Ohio Revised Code, Section 194.01, section (G), accessed April 18, 2017, <https://www.sos.state.oh.us/sos/upload/balotboard/2015/2015-07-21-petition.pdf>; Bricker & Eckler LLP, "ODPRA Legal Fees Provision," Memorandum to Ohio Ballot Initiative 2017 Campaign Team, February 23, 2017.

⁴ Tufts Center for the Study of Drug Development, "Tufts CSDD Assessment of Cost to Develop and Win Marketing Approval for a New Drug Now Published," *Tufts University*, accessed May 19, 2017, http://csdd.tufts.edu/news/complete_story/tufts_csdd_rd_cost_study_now_published.