

Testimony before the Government Administration and Elections Committee  
February 28, 2011

Good afternoon Senator Slossberg and Representative Morin. My name is Margherita Giuliano. I am a pharmacist and Executive Vice President of the Connecticut Pharmacists Association, a professional organization representing close to 1,000 pharmacists in the state.

I am here today to discuss the impact that *SB 1059 An Act Implementing the Recommendations of the Commission on Enhancing Agency Outcomes* will have on pharmacies, the Medicaid patients and the residents in the state of CT. We are strongly opposed to this legislation because it is wrought with too many unknowns. It is exactly for this reason that I ask the committee to insist on more information before passing such sweeping legislation.

Based on what we have read and interpreted, we have several concerns with this legislation:

**Section 283(b)** states that the Comptroller, in consultation with the Commissioner of DSS, will develop a plan to jointly procure prescription drugs.

- First and foremost, the legislature is abdicating its control over the types of medications, reimbursement and other offerings of the prescription drug component of the HUSKY, Medicaid, ConnPACE, Charter Oak and CADAP programs to the Comptroller and DSS commissioner to develop a plan to be negotiated by contract with a PBM. It authorizes the Comptroller to implement the plan, with no further input from the legislature, by July 1, 2012. Even the state employees' union has the right to approve their part of the plan under this proposal, but the legislative voice will be silenced. Over the years, the legislature has intervened many times to rectify problems in the Medicaid and ConnPACE programs with mental health medications, AIDS medications, copayment issues, prior authorization adjudications, reimbursement issues, etc **That will no longer be allowed under this proposal.**
- Keep in mind that the Medicaid population is a very different population than the state employees. Pharmacists take a far more active role in assisting Medicaid patients with managing their medications, and communicating with their medical providers. DSS has a number of systems in place to ensure that Medicaid patients obtain these services. Will a PBM be as concerned about service delivery? Their reimbursement rates certainly don't reflect this concern. Will greater costs ensue for Medicaid because patients are not managing their medications?
- We are also very concerned because the entity that the state is "negotiating" with is being investigated on a federal level by the Federal Trade Commission for alleged anticompetitive activities and by our own Attorney General's office as part of a multi-state consortium. Is this something the legislature is comfortable with?
- If the Medicaid, HUSKY, ConnPACE, CADAP, and Charter Oak programs go to CVS/Caremark to manage, there will be pharmacies that close. A PBM negotiates one contract with the payer (the State) and a different contract with the providers (pharmacies). The State will never know what pharmacies are being reimbursed because our contract will no longer be with the State. If the PBM needs to meet performance levels and guarantees, it will adjust our reimbursements to accomplish this. Independent pharmacies can't negotiate with CVS/Caremark or any other PBM. We don't have the power of the chains to say unequivocally that we will pull our 200 pharmacies out of a network as leverage. **It is also important to remember that CVS/Caremark is a direct competitor to every other pharmacy in this state. What other industry allows its competitor to set its reimbursement?**

**Section 290** of the bill states that the Comptroller shall establish maximum allowable costs to be paid for Medicaid, SAGA, ConnPACE and CADAP generic drugs which shall be equal to actual acquisition costs (AAC).

- From a business perspective, pharmacists are concerned with this reimbursement for generic medications. Even the Centers for Medicare and Medicaid Services (CMS) have recognized that if you plan to reimburse pharmacies at actual acquisition cost, the dispensing fees must be significantly increased.
- It is very unclear how the state will administer this program and determine the AAC.

**Sections 292 and 293** of this bill state that for brand name drugs, pharmacies will be reimbursed *at a rate equal to the actual costs of procurement by the Comptroller for prescription drugs*

- The Comptroller does not purchase drugs; pharmacies do. The state simply reimburses pharmacies for drugs dispensed. The state does not take the risk and expense of purchasing drugs, of storing drugs, dealing with expired drugs and open stock bottles. The state does not have to manage drug recalls.
- It is very unclear how we can ensure that pharmacies will be able to purchase the drugs at the rate that the comptroller negotiates with the PBM.
- While we appreciate and acknowledge that the dispensing fee remains at \$2.90, there are two components to dispensing a prescription: the dispensing fee and the reimbursement cost for the drug. It is important to understand that pharmacies will be taking a more devastating hit on the drug cost side.
  - The dispensing fee does not cover our true cost of dispensing.
  - An independent study done in 2007 by Grant Thornton reported that the actual cost of dispensing for a Medicaid patient in the State of Connecticut is greater than \$12.00. That figure is now 4 years old.
  - Pharmacies accept less because there is some profit on the product cost side
  - The Centers for Medicare and Medicaid Services are considering the development of a national reimbursement based on an approved and transparent methodology. As CMS moves toward a reimbursement to Actual Acquisition Cost or Average Acquisition Cost they have recognized that pharmacy dispensing fees will have to increase dramatically to ensure adequate access.

This proposal will impact jobs in our state. There will be people out of work. I don't believe this is the intention of the legislature but it is most assuredly an outcome. It is important to remember that pharmacies are businesses that pay taxes and employ people. They cannot afford to remain in a program where they lose money filling prescriptions.

The CPA has been very vocal about many of the practices of the PBMs. We cannot understand why we continue to send dollars and jobs out of state. Connecticut is suffering. Our businesses are closing.

However, we do want to be part of the solution and dialogue about our state budget issues. Here are some of our suggestions:

**In Section 299** of this legislation section (1) states that the Commissioner of DSS shall develop and implement a plan to increase by not less than 5% the usage of generic substitute prescription drug products. This is where pharmacists can be your allies. CMS has stated that for the Medicaid program in total, each 1% moved from brand to generic will save the federal government 1 billion dollars. I am not sure what that figure is in Connecticut. Pharmacists are the professionals that can make this happen, but you have to provide incentives. The state of North Carolina has been very successful with this program by sharing back with the pharmacies that perform. **Section 299(2)** is problematic again due to lowering reimbursement. Perhaps the state should look to mandate rebates from the generic manufacturers to increase savings.

**Section 300** also provides opportunities for collaboration with pharmacists to help manage patients that have been identified to be taking high numbers of prescription drugs. Our organization worked with DSS on a Medicaid Transformation grant that demonstrated the value our pharmacist made on appropriate drug utilization.

**Section 302** which seeks to rebalance the state's long-term care nursing home bed ratio can also benefit from the involvement of pharmacists. There are ways that we can collaborate to help the state meet these goals.

**We would strongly recommend that the state consider starting their own PBM or contracting with a completely transparent PBM to handle Medicaid, SAGA, ConnPACE, CADAP, the new Sustinet plans and the State Employee Benefit. This would create jobs for the state of Connecticut. The savings realized would be even greater than those projected. And it wouldn't take too long to put in place.**

This could be a win-win solution. Please consider this recommendation, and please know that the CT pharmacists are ready and willing to come to the table to solve these issues in a productive and pro-active manner.