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TESTIMONY SUBMITTED REGARDING CONNECTICUT SENATE BILL 1083

COMMITTEE on INSURANCE and REAL ESTATE

Submitted by:

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Mister Chairmen, and members of the Committee, my name is Andrew Friedell and I am Director of Government Affairs for Medco Health Solutions, Inc., which is a leading health care company that is advancing the practice of pharmacy and serving the needs of approximately 65 million people. I would like to thank you for this opportunity to testify today regarding our opposition to Senate Bill 1083. If enforced as written, this bill could actually prevent identification of serious safety issues for some patients and drive up the cost of pharmacy care for employers in the state.

Medco provides clinically driven pharmacy services designed to improve the quality of care and lower total health care costs for private and public employers, health plans, labor unions, government agencies of all sizes, and for individuals served by Medicare Part D Prescription Drug Plans. About one third of the companies on the Fortune 500 list are Medco clients.

Medco provides drug benefits to roughly 18 percent of the Connecticut population. We mail approximately 990,000 prescriptions to state residents annually and we also operate a specialty pharmacy in Vernon, Connecticut.

As drafted, SB1083 currently stipulates that a plan which provides coverage of prescription drugs shall not "require an insured to use, prior to using a brand name prescription drug prescribed by a licensed physician for pain treatment, any alternative brand name prescription drugs or over-the-counter drugs." There is an exemption for therapeutically equivalent generic alternatives.

Pharmacy benefit programs frequently implement a variety of guidelines & programs that are designed to ensure that patients receive clinically appropriate and cost effective therapies. Sometimes, this can involve programs that promote a generic drug or lower-cost brand-name alternative drug before higher cost non-preferred drugs are covered. Because the "treatment of pain" is a very broad description which implicates numerous different conditions and treatments, there are also many important pharmacy

management programs that could be affected by this legislation. Without these programs in place the cost of the benefit will increase while the quality would be reduced.

I'd like to highlight three specific examples of how this bill could result in a more expensive and lower quality drug benefit for patients in Connecticut.

First, NSAIDs or non-steroidal anti-inflammatory drugs such as ibuprofen, naproxen and others are among the most commonly prescribed drugs to treat pain. These drugs are available in a pill form for oral administration at a fairly low cost. However, there are other non-oral formulations in the same class as these drugs (such as topical treatments like a patch or a gel) that are available at a much higher cost. As a result, plans often implement guidelines that require patients to initiate therapy on a lower cost oral formulation of an NSAID, and if treatment is not tolerated or ineffective, then the brand drug is covered. Yet SB1083 would require plans to cover the more costly formulations right away -- without any ability to request that patients and prescribers consider lower cost formulations of these drugs on the initial fill. This could ultimately cause plans to exclude all coverage of higher cost products as there would no longer be a process to assess when lower cost oral NSAIDs might be an option for some patients. In that way, SB1083 could actually result in less coverage of these medications -- an unintended consequence completely at odds with the bill's intent.

Second, it is safe to assume that the "treatment of pain" includes drugs used to treat migraine headaches. In this class of drugs, there are several different options available to prescribers, including brands and generics. There are some higher cost and lower cost options; some options include opioid controlled substances, others are non-controlled substances. Because of these variations in price and potency, some plans choose to implement policies -- based on the best scientific treatment guidelines for these medications -- that call for the patient to initiate therapy on the most clinically safe and cost effective alternatives. In many instances, these guidelines often recommend one of the non-controlled substances (one of the so-called triptan drugs which are available as brands and generic versions) as the gold standard first-line treatment for patients with migraine headaches. But if SB1083 were enacted, plans would be prohibited from implementing this sort of "step therapy" program (i.e., to use a triptan prior to a controlled substance-opioid). In this way, SB1083 could actually have the unintended effect of allowing greater use of controlled substances as well as more expensive drugs within this class.

Finally, it is also common for a plan to implement guidelines -- particularly for drugs used in the treatment of severe pain -- whereby certain drugs may not be covered on an initial fill *for safety reasons*. For example, the Food and Drug Administration instituted a so-called black box warning on the drug fentanyl which cautions that the drug should not be used in opioid non-tolerant patients. To quote from the warning posted on the drug's website: "Deaths occurred as a result of improper patient selection (e.g., use in opioid non-tolerant patients) and/or improper dosing."<sup>1</sup> Under SB1083, if a prescriber wrote an initial prescription for this drug, the plan would be prohibited by state law from implementing these sort of safety guidelines to ensure the patient was opioid tolerant

prior to use of fentanyl-- which are recommended by the FDA as being in the best interest of the patient.

It should be noted that there are avenues through which the patient can obtain coverage of a non-preferred product on the initial fill in the presence of existing coverage review programs. For example, some plans may have coverage determination logic in place that utilizes prescription claims history to identify situations where other preferred alternatives (beyond the exact brand alternative) have been tried first (i.e., claims for these alternatives are in the patient's medication profile). In these circumstances, the coverage review program could immediately adjudicate the non-preferred drug as covered. In situations where the patient's claim history lacks this information, the non-preferred prescription generates a coverage review process. This process often includes other exceptions for covering the non-preferred drug (e.g., for the topical more costly branded NSAID) such as determining whether or not the patient is able to use oral NSAIDs (if they cannot, the non-preferred topical NSAID is covered) or determining if the patient experienced intolerance to treatment with preferred NSAIDs. In situations where none of these exceptions is identified by the coverage review process and a denial of coverage is rendered, an appeals process exists to consider unique circumstances for a patient that could result in coverage approval for the non-preferred drug.

It is also important to point out that because state laws of this sort apply only to fully-insured plans in the state and not to those self-insured plans that are subject to federal rules, SB1083 will disproportionately affect those smaller employers who typically do not have the resources to self-insure. These are the same employers who not only drive job creation but who are also most vulnerable to added health care costs of the sort that would be levied by this bill.

In summary, because this legislation would force plans to cover higher cost alternatives as an initial choice -- if they are to provide coverage of these drugs -- this will accelerate the rate of increase in prescription drug spending. At a time when coverage is eroding, when overall healthcare costs are going up and when employees and retirees' out-of-pocket costs are on the rise, we urge you to oppose legislation of this sort that will further drive up costs. I appreciate the opportunity to submit our concerns with this legislation and I look forward to answering any questions you may have on my testimony.

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<sup>i</sup> [www.actiq.com](http://www.actiq.com)