

General Law Committee
February 25, 2014
RB 5261: AAC The Unfair Sales Practices Act
And Counterfeit Commodities.

Thank you for allowing us to provide testimony in support of RB 5261: AAC The Unfair Sales Practices Act And Counterfeit Commodities. We would like to thank the General Law Committee for looking at this issue and The Department of Consumer Protection for requesting this bill.

Allergan is a global multispecialty healthcare company headquartered in Irvine California with a sales and marketing presence in over 100 countries.

Allergan applauds the efforts of the committee to introduce RB 5261. This is a great start to address counterfeit substances. In addition to this bill language, we would suggest amendments to include prohibition of illegally imported drugs and devices. This illegal practice, which is driven globally by criminal syndicates, violates Federal and State law and places medical professionals in danger of losing their medical license or litigation if a patient suffers injury from using these illegally imported products.

How does this happen? As is common practice, pharmaceutical companies ship their products all over the globe. Some foreign governments have the ability to apply cost controls to the sale of these products, thus selling them for a cost far below the market dictated price. When these products are delivered to a medical professional wholesaler, they are then being re-sold – in many cases to organized crime – and thus leaving the secure supply chain of custody. Once in the hands of these unscrupulous actors, they are being shipped back to a remote a location often times without the safety precautions that are provided by drug companies and are required by the FDA. Once secured at an undisclosed location, they are being illegally imported into the United States, many times through a “Canadian Pharmacy.”

Why is this a concern? First and foremost, the aforementioned practice violates several Federal and State laws -and as has happened - could subject a medical professional to prosecution and/or loss of their medical license. Patient safety is also an enormous concern. The FDA places several specific requirements on pharmaceutical companies to ensure that the public is going to receive products that are safe to ingest/inject. By removing these products from the chain of custody, there is little assurance that these products have not been tampered with or adulterated in some manner.

In the last several months, we have witnessed these illegal actors going to great lengths in an attempt to make their business practices look legitimate. This includes using counterfeit packaging, false advertising and in some cases actually hiring a sales staff to visit medical professionals.

As a result, the Food and Drug Administration (“FDA”) and Department of Justice (“DOJ”) have started to track down these illegal actors. There have been instances where illegal importing companies have been raided and have had their operations destroyed. More importantly, law enforcement is also investigating medical professionals and as a result several indictments have been issued against those who have shown a blatant disregard for the law.

Allergan believes that this bill goes a long way towards addressing this illegal activity.