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Good morning Senator Gerratana, Senator Somers, and Representative Steinberg. I would like to express my support for SB 442 AN ACT PROHIBITING PREDATORY PRICING OF PHARMACEUTICALS, SB 445 AN ACT CONCERNING PHARMACEUTICAL PRICE TRANSPARENCY AND DISCLOSURE, and SB 117 AN ACT CONCERNING COMMUNITY BENEFITS PLANS.

SB 442 and SB 445 are another bipartisan collaboration with Senator Fasano. When we all worked on SB 811 in 2015, one large issue that we did not include was prescription drug coverage. It is evident to all that the rights of patients purchasing prescription drugs need to be established and protected.

SB 442 would make predatory pricing of pharmaceuticals a Connecticut Unfair Trade Practice Act (CUTPA) violation. This concept was to increase the ability of the state Attorney General to regulate abusive pricing of pharmaceuticals. The Attorney General, however, has suggested that the passage of an Illinois Brick Repealer (limited to pharmaceuticals) would be more effective than making predatory pricing a CUPTA violation. An Illinois Brick Repealer would grant standing to indirect purchasers of pharmaceuticals in anti-trust cases. I have included language for this and I strongly support passage of an Illinois Brick repealer

SB 445 would increase pharmaceutical price transparency and disclosure and protect patients with prescription drug coverage. . Comptroller Lembo's proposals in SB 925, AN ACT CONCERNING THE COST OF PRESCRIPTION DRUGS AND VALUE-BASED INSURANCE DESIGN contain some similar elements and I plan to work with the Comptroller on these issues.

Among the measures to protect patients that should be included in SB 445 is mandating that if a health insurance plan has a prescription drug co-pay that is a percentage of the cost of the drug, that the copay be calculated off the net price not the retail price. The net price should be calculated not only to include the discount off the retail price that the insurer pays up front but also by the rebate that the insurer gets from the pharmaceutical company for selecting the specific drug. Another common sense action to protect consumers would be to ensure that pharmacists can advise patients on drug costs especially in situations in which the patient's co-pay is actually higher than the cost of the drug. It is my understanding that under certain insurance plans patients can end up paying a co-pay that is higher than the total drug cost and some contracts do not allow pharmacists to raise the issue to the patient. Connecticut law must encourage pharmacists to inform patients when their co-pays are higher than the drug costs. In addition, many PBM contracts include a claw-back provision such that the overpayment by the patient to the pharmacy goes back to the PBM<sup>1</sup>. Both the overpayment and the claw-back should be prohibited. Another patient protection would be disallowing insurers from reimbursing for drugs given in physicians' offices at a percentage of the cost of the drug. The cost of infusions services would seem to be

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<sup>1</sup> <http://www.courant.com/business/hc-drugstores-stay-silent-20170224-story.html>

unrelated to the cost of the drug and it would seem that a flat fee for infusion services would be more rational. Basing the reimbursement on the drug cost would appear to create an incentive for the use of more expensive drugs.

This legislation should also increase transparency in drug pricing especially for the very expensive specialty drugs and for any drug that has a sudden dramatic increase in price. SB 925 has language that does this and there are a number of proposals in other states on this topic. There should be a requirement for the pharmaceutical companies to provide a report with an explanation to the state on extraordinarily expensive drugs and on drugs that see extraordinary price increases. The sunshine alone may well affect corporate behavior.

Any pharmaceutical transparency bill must also address transparency regarding pharmacy benefits managers (PBM). A PBM is an entity (a middleman) that administers the prescription drug coverage of a health insurance plan. These entities negotiate prices off the retail price for the employers that use them. They also receive rebates from the pharmaceutical companies for use of that company's drug. There is debate on whether these entities actually lower drug costs. PBMs should be required to disclose not only the negotiated price paid for the product but also the amount of the rebate from the drug manufacturer (including data at the claims level). I would support including this information for the top 50 drugs on the transparency website.

While the system for pharmaceutical transparency is being designed, I would suggest that the state add to the transparency website on healthcare pricing (created in PA 15-146) information on the state's prescription drug costs (including state

employees, retirees, and DSS) . That information could serve as a valuable initial step on drug pricing for our state while the more complete version is being created.

SB 117 would require hospitals to include in their community benefits plans measures to address social determinants of health. There are already some hospitals that have created innovative plans such as Stamford Hospital's involvement with the Vita Health and Wellness District which addresses housing, nutrition, and healthcare. The idea of hospital community benefits plans was encouraged in the Affordable Care Act and I have been in contact with the SIM (state innovation model) in Connecticut which is interested in working on this issue. Improving the social determinants of health for the surrounding community would improve the quality of life for residents.

Thank you for hearing these important bills.

Illinois Brick Repealer language:

(NEW) In any action brought by the Attorney General under subsection (c) of section 35-32 or section 35-35 of the general statutes, a defendant that sells, distributes, or otherwise disposes of any drug, medicine, or medical device:

- (1) May not assert as a defense that the defendant did not deal directly with the person on whose behalf the action is brought; and
- (2) May prove, as a partial or complete defense against a damage claim, in order to avoid duplicative liability, that all or any part of an alleged overcharge ultimately was passed on to another person by a purchaser or seller in the chain of manufacture, production, or distribution who paid the alleged overcharge.