

Insurance and Real Estate Committee JOINT FAVORABLE REPORT

Bill No.: HB-5384

Title: AN ACT CONCERNING PRESCRIPTION DRUG COSTS.

Vote Date: 3/20/2018

Vote Action: Joint Favorable Substitute

PH Date: 3/6/2018

File No.:

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SPONSORS OF BILL:

Rep. Sean Scanlon, 98th Dist.

Rep. Mary M. Mushinsky, 85th Dist.

Sen. Martin M. Looney, 11th Dist.

Rep. Jason Rojas, 9th Dist.

Rep. Kim Rose, 118th Dist.

Rep. Michelle L. Cook, 65th Dist.

Rep. Linda M. Gentile, 104th Dist.

Rep. Philip L. Young, 120th Dist.

Sen. Ted Kennedy, 12th Dist.

Rep. Jeff Currey, 11th Dist.

Rep. James M. Albis, 99th Dist.

REASONS FOR BILL:

To bill intends to impose additional disclosure and reporting requirements on pharmacy benefits managers, health carriers, pharmaceutical manufacturers, the Office of Health Strategy and the Insurance Department concerning prescription drug rebates and the cost of prescription drugs. The proposal would allow for the collection of needed pricing and rebate information to better inform the State of current prescription drug pricing trends.

Substitute Language:

While the substitute bill preserves many of the underlying concepts, as well as the majority of the original provisions outlined in the raised bill, it includes the following changes:

PBMs operating in Connecticut are required to submit annual financial reports to the Office of Health Strategy, including required information on prescription drug rebates and administrative fees, rather than to the insurance commissioner.

Section 6 subdivision (d) requires each sponsor to submit to the office, written notice informing the office that the sponsor has filed with the Federal Food and Drug Administration:

- A new drug application or biologic license application for a pipeline drug not later than sixty days after the sponsor's receipt of an action date by the FDA
- An abbreviated new drug application for a generic drug not later than sixty days after such sponsor filed for such application
- A biologics license application for a biosimilar drug not later than sixty days after such sponsor's receipt of an action date from the FDA

Section 6 subdivision (e) requires the state to conduct an impact study considering the net cost of such drugs or those critical to public health. The list should include prescription drugs from different therapeutic classes of drugs and not less than one generic prescription drug. The office should not list drugs under this subdivision unless the WAC, less all rebates paid to the state, increased by not less than 25% from the previous calendar year.

Section 6 subdivision (g) also states that the office, annual, shall post the information outline above in section 6.

Section 6 subdivisions (l) and (m) also state that the Commissioner of Public Health may impose a penalty of not more than \$15,000 for a violation of section 6 and the Commissioner of Public Health may adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of the section.

RESPONSE FROM ADMINISTRATION/AGENCY:

Sen. Leonard Fasano, 34th Dist., submitted testimony in support of the bill, stating that the bill seeks to gather relevant information from all sources involved in the high costs of drugs; information crucial for policy-makers. The testimony also highlighted the importance of understanding the factors contributing to prescription drug costs.

State of Connecticut Insurance Department submitted testimony opposing Sections 1, 2, 3, and 6 and provided a technical comment to Section 4. The testimony stated that the Department does not have direct regulatory authority over PBMs. The Department also stated that it already collected and published data outline in Section 2 and does not have the expertise to implement Section 3. The testimony recommended the removal of pharmacy rebates from health carriers' rate filings. This would result in no reduction to pharmacy claims and an increase in existing overall premiums to consumers of 3-4%.

State Comptroller Kevin Lembo, submitted testimony in support of the bill stating that it would accomplish the following: the Office of Health Policy would have authority to request a justification of any price increases of drugs that have increase in price by over 25%, PBMs would have to disclose the total amount of rebates received from manufacturers, and consumers would get immediate relief at the pharmacy by paying the post-rebate costs instead of the drug's list price. The testimony also stated that this bill provides the opportunity for states to investigate increasing drug prices while also providing a platform for manufacturers to demonstrate the reason for the prices of their products.

Sen. Martin M. Looney, 11th Dist., submitted testimony in support of the bill. The testimony acknowledged that while the bill does not include the creation of a Drug Review Board, it takes the needed first steps in increasing prescription drug pricing transparency.

Sen. Heather Somers, 18th Dist., submitted testimony in support of the bill along with Sen. Leonard Fasano, 34th Dist.

NATURE AND SOURCES OF SUPPORT:

AARP Connecticut, supported testimony in support of the bill citing that according to AARP research, retail prices of 268 widely used brand name prescription drugs increased by 15.5 percent in 2015. AARP also noted that there is currently no way of understanding how the launch prices of the medicines have been decided.

David Balto, submitted testimony in support of the bill while highlighting the role PBMs play in contributing to high costs of prescription drugs. The testimony stated that “transparency is necessary for consumers to evaluate products carefully, to make informed choices, and to secure the full range of services they desire”. The testimony cited that the profits of Express Scripts and CVS Caremark have increased by around 800% from \$900 million to approximately \$8 billion.

Margherita Giuliano, Connecticut Pharmacists Association, submitted testimony in support of the bill, citing the need to better understand the prices paid to the state, pharmacy, and PBM, as often there is a lack of knowledge surrounding the gap between the cost of the medication and the reimbursement the pharmacy has received.

Jennifer Herz, Director of Government Affairs (East), Boehringer Ingelheim, submitted testimony appreciating the efforts of the Committee and its “holistic approach to ensure patients understand the role of each party involved in the drug supply chain”.

Laura Hoch, Manager of Advocacy, National Multiple Sclerosis Society, submitted testimony supporting the bill, citing that around one-third of branded medications increased by 20% in price 2015. The testimony also cited that in 2004, the average wholesale price of available MS disease-modifying therapies was around \$16,000 while the price in 2017 was around \$83,688. The testimony argued that this increase in price has made it increasingly difficult for many afford their medications, particularly when their health plans have co-insurance payments of up to 40%. The testimony also stated that 40% of the over 8,500 the Society surveyed, said that they had some or great difficulty paying for their medication while 16% had to put their medication charges on a credit card because of a lack of funds.

Amy Kapczynski, Professor of Law, Yale Law School, submitted testimony in support of the bill along with a set of recommendations which included adopting provisions similar to those passed in California. The testimony also included the recommendation of including a 10% threshold and the inclusion of a penalty for those that fail to comply with the requirements outlined in the bill.

Ross Kristal, MD, submitted testimony in support of the bill while highlighting a recent survey that concluded 1 in 7 people do not fill their prescriptions as a result of the cost. The same

study found over 300 instances when the price of a generic drug has a sudden increase of over 100%. The testimony also included the recommendation to lower the threshold and remove the 10-drug limitation.

Victoria Loo, Intern, Universal Health Care Foundation CT, Student, Yale School of Public Health, submitted testimony in support of the bill along with the recommendation that a Drug Review Board be established to investigate potential pricing abuses and make referrals to the Attorney General. The testimony also made a recommendation for a lower price threshold.

Justin Mendoza, MPH, Public Citizen's Access to Medicines Program, submitted testimony in support of the bill. The testimony made two recommendations, including the creation of a Drug Review Board and the inclusion of language empowering the Attorney General to take action against prescription drug price gouging.

David Mitchell, Patients for Affordable Drug Now, submitted testimony in support of the bill with additional recommendations. The testimony included the following recommendations: that manufacturers be required to report when the WAC increases by more than double the rate of inflation in the state and that manufacturers of all prescription drugs, rather than the 10 most expensive, that pass the double rate of inflation be required to report information. The testimony also included the recommendation of a penalty for those that fail to justify significant price increases.

Frances Padilla, President, Universal Health Care Foundation of Connecticut, submitted testimony in support of the bill along with a set of recommendations. The testimony included a proposal to pass along the full rebate mentioned in Section 6 to the patient when they are paying out-of-pocket. The testimony also recommended that language similar to that passed in California be adopted, which sets a reporting threshold of price increases of 16% over a 2-year period, or a threshold of 10% a year for any drug that has a price of more than \$100 as done in Oregon. The testimony also recommends power be given to the Attorney General to take action against instances of price gouging.

Ann Pratt, Director of Organizing for CT Citizen Action Group, submitted testimony in support of the bill while urging the Committee to include stronger language regarding the price increase threshold and cited the 10-16% threshold passed in California and Oregon. The testimony also recommended that the bill require companies to pass along the entire rebate to consumers instead of the current "majority" outlined in Section 6.

Stacey Zimmerman, Service Employees International Union Connecticut State Council, submitted testimony in support of the bill along with the recommendation to lower the threshold outlined in Sections 3 and 4, modeled after the language in legislation passed on California and Oregon. The testimony also included the recommendation to empower the Attorney General to take actions against instances of price gouging.

Jennifer Sherr, MD, PhD, Associate Professor, Pediatrics (Endocrinology), Yale University School of Medicine

Robin Comey

Falisha Gilman, MD

Velandy Manohar, MD

Arlene Murphy

Dianet Nieves Segui, University of Connecticut School of Social Work

Rebecca Vitale, MD

Samantha Willner, Yale School of Public Health

The above submitted testimony support the bill and detailed personal experiences with the increase of various prescription medications, ranging from those to treat severe allergic reactions, asthma, or manage type I diabetes and other chronic conditions.

NATURE AND SOURCES OF OPPOSITION:

April Alexander, Pharmaceutical Care Management Association, submitted testimony in opposition to the bill stating that the state does not have the authority to directly or indirectly interfere with key matters of health plan administration. The testimony also stated that the bill would interfere with the competitive market place, impacting PBM's ability effectively negotiate drug prices.

John Blair, Connecticut Business & Industry Association, submitted testimony expressing concern regarding Section 6 of the bill as "segregating this one component of healthcare costs...can distort the full spectrum overall healthcare costs".

Heather Cascone, Express Scripts, submitted testimony stating that the bill could unintentionally increase costs for consumers by requiring the disclosure of sensitive drug rebate information. The submitted testimony expressed concern the ability to maintain confidentiality of the requested information, risking the sharing of sensitive information.

Deborah Chernoff, Public Policy Director – SEIU District 1199, submitted testimony noting the need for stronger transparency legislation to respond to price gouging by pharmaceutical manufacturers. The testimony also suggested that measures be taken to implement the Connecticut Healthcare Cabinet's recommendation to establish a Drug Review Board to investigate drug pricing abuses. The submitted testimony also recommended empowering the Attorney General to act against instances of price gouging.

ConnectiCare, Inc & Affiliates, submitted testimony expressing concerns regarding Section 6 and its impact on PBMs' ability to pass through rebates. The submitted testimony also stated ConnectiCare calculations show an increase pharmacy spending by 3 to 4%.

Connecticut Hospital Association, submitted testimony requesting the deletion of Subdivision (1) of subsection (a) of Section 2.

Connecticut Association of Health Plans, submitted testimony stating concerns that Section 6 would distract from the “real issues that are driving up costs and, in fact, may do more harm than good if enacted by inadvertently raising premiums”. The submitted testimony also cited that these provisions only apply to the fully-insured market, which includes less than 35% of the state’s population.

The Pharmaceutical Research and Manufacturers of America, submitted testimony offering a few comments regarding the bill. The testimony recognized that “this legislation correctly recognizes the role of other supply chain entities in prescription drug costs” and highlighted the importance of drug innovation to help control health care spending in the long run.

Stephen R. Smith, MD, MPH, Connecticut Health Advancement and Research Trust, professor emeritus, Warren Alpert Medical School of Brown University submitted testimony opposing the bill, stating a drug pricing review board is necessary.

Reported by: Chloe Chepigin

Date: April 5, 2018