

# Insurance and Real Estate Committee

## JOINT FAVORABLE REPORT

**Bill No.:** HB-7174

**Title:** AN ACT CONCERNING PRESCRIPTION DRUGS.

**Vote Date:** 3/14/2019

**Vote Action:** Joint Favorable

**PH Date:** 2/28/2019

**File No.:**

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### SPONSORS OF BILL:

#### Co-sponsors of HB-7174

Rep. Michael Winkler, 56th Dist.

Rep. Geraldo C. Reyes, 75th Dist.

Rep. Joseph P. Gresko, 121st Dist.

Rep. Ezequiel Santiago, 130th Dist.

Rep. Lucy Dathan, 142nd Dist.

### REASONS FOR BILL:

This bill tries to fix a multitude of issues with pharmaceutical pricing as well as creating a prescription drug program for CT. 1. It requires pharmaceutical manufacturers to send notice to the Insurance Commissioner regarding "pay-for-delay" agreements. 2. It requires health carriers and pharmacy benefits managers to reduce the cost of brand name prescription drugs that are the subject of such agreements. 3. Attempts to lower the cost of medications by requiring the Comptroller to offer qualified private employers the option to purchase prescription drugs for their employees, employees' dependents and retirees through the Comptroller's purchasing authority; 4. It looks to prohibit any health carrier or pharmacy benefits manager from recouping any portion of a claim that such carrier or manager has paid to a pharmacy or pharmacist. 5. The bill will establish a task force to study drug re-importation\*\*.

### RESPONSE FROM ADMINISTRATION/AGENCY:

**Senate President Martin Looney** supports the establishment of a CT Prescription Drug Program allowing the state to leverage its purchasing power offering lower prescription drug prices to citizens of the state. The bill would allow for transparency by pharmaceutical manufacturers regarding pay for delay agreements which contribute to the high price of prescription. The bill prohibits health carriers and pharmacy benefits manager from recouping a portion of a claim that such carrier and manager has paid to the pharmacy. Senator Looney supports the creation of a task force to study drug re-importation\*\*

**Kevin Lembo, Comptroller**, as the largest employer health plan in the state there is the market power to leverage and do more for people in the state. This bill would provide 3 key provisions: 1. The need to exert the states purchasing power to extend discounts to all citizens, 2. extend the state prescription plan to CT private employers and the last provision 3. drug importation analysis.

**Office of the Health Care Advocate, Ted Doolittle, Health Care Advocate**. Supports the bill overall and protects many of the weaknesses in the prescription market causing high drug prices. The Comptroller cautions the General Assembly that by manufacturers will have to adapt to a decrease in demand which would come from the ceiling on prices that HB 7174 would impose. This could push important lifesaving medications off formulary, which would be a negative health care outcome.

#### **NATURE AND SOURCES OF SUPPORT:**

**Ross B. Kristel, MD** supports the bill because he has seen firsthand the consequences of unfair drug prices as the Chief Medical Resident for the Yale Primary Care Residency Program. He has seen many people making choices to not continue their care when they leave the hospital because they can't afford their medications

**David Benoit, Vice President of Patient Care Services at Northeast Pharmacy Service Corporation** would recommend that a compliance audit of the current program be implemented. State Medicaid programs like New York and Ohio have found hundreds of millions of dollars in pharmacy benefit managers claim markups.

**Tom Swan, ED of CT Citizen Action Group, (CCAG)** support the concepts pharmaceutical companies are raised the prices on 409 drugs alone based on a study. The RX industry has spent over 74 billion on stock buy backs that do not benefit a single pension. The pharmaceutical industry spent over 280 million dollars lobbying in 2018 at the National level.

**Universal Health Care Foundation** support the Comptroller's effort to offer an option to municipalities and self-insured companies in CT to allow their employees to purchase prescription drugs at the price negotiated by the state employee plan allows businesses to save. The Foundation supports the discount card that will allow uninsured and under insured individuals who are paying out of pocket to buy them at a lower negotiated price. Section 3 is important to address the pay for delay, taking lower generic drugs off the market. The Foundation cautions there is a need to find a way that the bill can be implemented without inviting a legal challenge.

**Rosemary Klotz, resident New Britain, CT** has experienced medical issues and hardships because her insurance company dropped her medication from their formulary no longer providing any form of the medication she needed.

**AARP Connecticut** believes the bill provides several proposals that will provide a great starting point for conversation about to address high prescription costs. Supports the CT prescription drug program, as well as the "delay to pay" but needs to see more details. Requiring the Comptroller to give qualified private employers the option, would like to know why it is limited to self-insurers. AARP supports a task force to discuss re-importation as long as consumers can be confident that their drugs are safe.

**CPA, Connecticut Pharmacists Association**, supports the bill especially section 5 which concerns the relationship of the pharmacy benefit managers and pharmacists. Pharmacy reimbursement reform is the number one issue for the members of the CTCPA, many of the claw

backs and indirect reimbursements have caused the independent pharmacies in the state to close. CPA would like to see more transparency in drug pricing.

## **NATURE AND SOURCES OF OPPOSITION**

**Michelle Rakebrand, CBIA**, opposes the creation of a government run prescription drug program would disrupt the current prescription drug marketplace and result in further costs.

**Pharma, the Pharmaceutical Research and Manufacturers of America** oppose the bill. Provisions in the bill will lead to patent settlement agreements, intrude on the Federal Trade Commission and federal courts, and raise legal concerns.

**Biotechnology Innovation Organization** opposes the bill stating that it would delay generic patents, slow down and maybe prevent biopharmaceutical industry patents. Believes a solution is to wait for a federal law.

**Edmund Funaro, Jr. Pharmacist and Director of Visels Pharmacy, of New Haven** supports the prohibiting of any health carrier or pharmacy benefits manager from recouping any portion of a claim. Hopes the bill would lighten negative reimbursement pressure from insurers and pharmacy benefit managers due to improper prescription reimbursement caused by outdated generic maximum allowable cost pricing. Edmund states it is hard to stay in business when unable to get proper reimbursements.

**PCMA Pharmaceutical Care Management Association** opposes the bill, specifically the section prohibiting a pharmacy benefits manager from recouping a claim after it has been paid. Page 7, section 181-184, of the bill prohibits certain pay for performance based incentives between pharmacy benefits managers and pharmacies which are new to the pharmacy industry. This is similar to the performance based incentives used in Medicare for Hospital and Doctors. The bill prohibits recoupments in the cases where pharmacy has not met agreed upon performance metrics. Would also prohibit pharmacy benefits managers from retroactively adjusting payment on clean claims submitted by pharmacies based a previously agreed to payments, which could affect current contracts.

\*\* From the NIH about re-importation:

Many Americans buy their drug across the border where drugs are cheaper. Comparatively inexpensive drugs available across the border help Americans relieve the burden of medication costs. Consequently, the volume of reimported drugs entering the US has considerably increased.

Various bills allowing re-importation of drugs have been proposed, but none of them have been implemented as legislation yet. The practice of re-importation is illegal in the US (the legal exceptions are those drugs which are manufactured in the US, and may be reimported by the original manufacturer or if the prescription drug is required for 'emergency medical care') (Creech 2001). The FDA also allows 90-day supply of reimported drugs for personal use (Reichert and Friend 2000).

**Reported by: Terri Reid**

**Date:3.14.19**