Healthcare Distribution Alliance

HEALTH DELIVERED

January 24, 2024

Joint Committee on Environment and National Resources
100 State House Station
Augusta, Maine 04333-0017

HDA Testimony Requesting Amendments to Maine LD 2021

Senator Brenner, Representative Gramlich and members of the Joint Committee on Environment and Natural Resources:

On behalf of the Healthcare Distribution Alliance (HDA), we greatly appreciate the opportunity to share our perspective about adding clarifying language to Maine LD 2021 and on Maine's Drug-take Back Stewardship Program.

HDA is the national trade association representing healthcare wholesale distributors, the vital link between the nation's pharmaceutical manufacturers and more than 360,000 pharmacies, hospitals, long-term care facilities, clinics and others nationwide- and in Maine, over 1,500 pharmacies and other sites of care across. Healthcare wholesale distributors are unique entities in the supply chain operating 24 hours a day, 365 days a year, shipping approximately 10 million pharmaceutical products across the nation every day. Distributors do not research, develop, manufacture or market pharmaceutical products. Wholesalers also do not prescribe or dispense medications to patients or have any impact on a patient's pharmacy benefit design. Wholesale distributors' role is to serve as the logistical experts who purchase pharmaceutical products from manufacturers, securely store, and safely deliver them to state and federally licensed healthcare providers. Pharmaceutical distribution is a high-volume, high-value, and yet very low margin, industry.

In most cases, our members receive drug products from manufacturers in manufacturer packaging. The products are safely and temporarily stored in secured shelving until a pharmacy places an order with a distributor for a product. Distribution staff then carefully pick each product and place it in a plastic tote to be loaded onto trucks, which pharmacies later return to the distributors. This just-in-time model eliminates not only environmental waste, but the waste of expired and unused medications. Medications which do expire or go unused are in most cases ultimately returned to the manufacturer.

From our perspective, manufacturers are the entity that should be responsible for the disposal of their products, rather than distributors which temporarily own the product and serve the primary role of ensuring that manufacturers' products are safely and efficiently shipped to sites of care. Requiring distributors to take on the cost of disposing of manufacturer products would disproportionally impact the distribution industry, which holds a razor thin net profit margin which averages around 1%. In cases where the manufacturer does not have a presence in the United States, we believe the importer of the product is the most appropriate entity for participation, which aligns with the intent of the legislation. In

order to ensure clarity for both industry compliance and to simplify the collection process for the state, we believe precise language is essential and offer the below amendment language.

Accordingly, we respectfully request the committee consider the following amendments to LD 2021 before favorably reporting the bill:

> *K. "Manufacturer" means:*
> ~~*(1) A person that has legal ownership of the brand of a covered drug sold in or into the State; or*~~
>
> *(1-A) Except as provided in subparagraph (2), a manufacturer of a covered drug that is sold or offered for sale in or into the State; or*
> *(2) If the ~~person to which subparagraph (1) applies~~ manufacturer of a covered drug that is sold or offered for sale in or into the State has no physical presence in the United States and is not a participant in a stewardship program, a person that imports a covered drug into the United States that is ~~branded by the person to which subparagraph (1) applies~~ sold or offered for sale in or into the State.*
>
> *"Manufacturer" does not include a wholesaler that sells or offers for sale in the State at wholesale a covered drug ~~if the covered drug is manufactured by a manufacturer that is a participant in a stewardship program.~~*

Defining “import” by adding “into the United States” to line K(2) as provided above is a small but important clarification designed to close loopholes. We also appreciate the opportunity to open a broader discussion regarding the removal of wholesalers from the enacted statute, in order to ensure the appropriate entity is appropriately responsible for covered drugs.

Thank you for your consideration, and please do contact me for any further discussion at kmemphis@hda.org or 443.375.6541

Sincerely,

Kelly Memphis
Director, State Government Affairs
Healthcare Distribution Alliance