



Healthcare Distribution Alliance

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The Honorable Heather Sanborn, Senate Chair
The Honorable Denise Tepler, House Chair
c/o Christian Ricci Legislative Information Office
100 State House Station
Augusta, ME 04333

April 13, 2021

Healthcare Distribution Alliance (HDA) Testimony in Opposition to LD 686, An Act to Increase Prescription Drug Pricing Transparency

Co-Chairs Sanborn and Tepler, and Members of the Joint Committee on Health Coverage, Insurance, and Financial Services:

On behalf of HDA, I would like to express our opposition to LD 686. As you may recall, we submitted substantial comments on the provisional rules of Chapter 570 (LD 41) out of concern the revised reporting requirements failed to distinguish between the role of wholesale distributors and pharmaceutical manufacturers by including “repackagers” in the definition of a manufacturer.

The addition of “drug product family” further subjects wholesale distributors to reporting requirements that are both out of their scope and overly burdensome. As a reminder, the State of Maine already has full access to publicly available pricing information reported to the Centers for Medicare and Medicaid Services (CMS) that would obviate much of the need for wholesale distributors to report pricing data. The National Average Drug Acquisition Cost (NADAC) data is determined for virtually every drug in the marketplace through a nationwide, pharmacy survey process and is the invoice price pharmacies pay wholesalers for their medication products. This information is not proprietary, is updated weekly and can be immediately available to benchmark pharmaceutical prices in Maine against national drug pricing trends, while at the same time creating a certain level of pricing transparency with very little concern for building out additional data systems, managing various data streams, and contending with numerous confidentiality concerns. In addition to NADAC, each pharmaceutical manufacturer also reports a list price for all products sold in the U.S. This Wholesale Acquisition Cost (WAC), set by the manufacturer of a drug product, is the “list price” that wholesalers are charged for the purchase of all drugs. WAC is reported in various published compendia, such as First DataBank and Medi-Span, that the state already has access to invoice manufacturers under the Medicaid Drug Rebate Program (MDRP) and any supplemental rebate programs. Each WAC is specific to the drug, strength, dosage form, package size, and manufacturer. A manufacturer choosing to increase the published WAC drives marketplace price increases for brand and generic drugs alike. When the WAC of a product is increased by a manufacturer, the pharmaceutical wholesale distributor will likely pay more to purchase the product and in turn downstream customers may pay more to the pharmaceutical wholesale distributor for such product. As both indexes are readily available and searchable by National Drug Code (NDC), officials essentially have all the manufacturer pricing (WAC), wholesale distributor pricing and pharmacy acquisition costs (NADAC) by a simple process of deduction, the margin between the two.

As previously stated, LD 686 dramatically expands the scope of MHDO’s ability to request data from all reporting entities, going far beyond the original intent of transparency reporting in Maine and subjecting wholesale distributors to requirements that increase in complexity. Not only are these reporting provisions cumbersome, but they are costly to every reporting entity and especially to the State of Maine itself.

We join other reporting entities' concerns related to due process as wholesale distributors working to remain in compliance to support MHDO's objectives face the threat of substantial penalties on what can only be described as a moving target.

For these reasons, we are unable to support LD 686 and ask that the committee work with us, MHDO, and all reporting entities to finalize transparency reporting parameters free of confusion for all parties involved.

Thank you,

A handwritten signature in blue ink that reads "Will Dane" with a horizontal line underneath.

Will Dane
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