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TESTIMONY OF ERIC A. CIOPPA

SUPERINTENDENT OF INSURANCE

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Neither for nor Against L.D. 1706

"An Act To Require Appropriate Coverage of and Cost-sharing for Generic Drugs and Biosimilars"

Presented by Senator Troy Jackson

Before the Joint Standing Committee on Health Coverage, Insurance & Financial Services

May 20, 2021 at 11:00 a.m.

Senator Sanborn, Representative Tepler, and members of the Committee, I am Superintendent of Insurance Eric Cioppa. I am here today to testify neither for nor against L.D. 1706.

This bill would add a provision to the Health Plan Improvement Act requiring carriers' tiered prescription drug formularies to contain a tier for generic drugs or biosimilars separate from the tier(s) for branded drugs.[1] The generic or

[1] The bill requires both a "generic tier" and a "biosimilar tier," but defines them in a manner that permits them to be the same tier.

biosimilar tier must include each generic drug that has an equivalent branded drug on the branded drug tier(s), and at least one biosimilar for each branded biological product. The bill would also require that cost-sharing for a generic drug or biosimilar be meaningfully lower than the cost of the equivalent branded drug. The bill would prevent carriers from imposing any prior authorization, step therapy or other limitations that would make it more difficult to obtain access to the generic/biosimilar over the branded drug.

The Bureau has several technical concerns with LD 1706. First, the bill would forbid carriers from putting any brand-name drugs in any of their "meaningfully lower" pricing tiers. Carriers may never want to do this, but I question whether it should it be prohibited if they did. Also, the bill would define "meaningfully lower" as an amount "that significantly incentivizes an enrollee of a health plan to use a generic drug or biosimilar instead of an equivalent branded drug." I support steps to lower the effects that prescription drug costs have on health plans but question how disputes over the "meaningfulness" of an incentive will be resolved.

The exemption for a plan that does not use a tiered formulary could also be problematic. If a carrier charged a uniformly prohibitive copay/coinsurance

percentage across the board for all drugs, it would satisfy the requirements of the bill but would not provide affordable coverage for that carrier's enrollees.

It's also not clear why a meaningfully lower coinsurance percentage for generics and biosimilars is required. Even if the percentage is the same, the cost sharing will be meaningfully lower as long as the underlying drug price is lower.

I am unaware of any complaints related to the issue of generics and biosimilars.

Thank you, I would be glad to answer any questions now or at the work session.