Healthcare Distribution Alliance

PATIENTS MOVE US.

February 15, 2022

Honorable Senator Sanborn
CC: The Committee on Health Coverage, Insurance and Financial Services
100 State House Station
Augusta, ME 04333

Re: Healthcare Distribution Alliance (HDA) Opposition to SP 520 and LD 1636

Chair Sanborn and Members of the Committee on Health Coverage, Insurance and Financial Services:

The Healthcare Distribution Alliance (HDA) offers this letter to respectfully shre our opposition to SP 520 and LD 1636, relating to prescription drug costs. HDA is the national trade association representing healthcare wholesale distributors — the vital link between the nation's pharmaceutical and healthcare manufacturers and more than 180,000 pharmacies, hospitals, and other healthcare settings nationwide. On behalf of HDA, I would like to express our opposition to SP 520 and LD 1636 which do not accurately reflect the complexity of the pharmaceutical supply chain.

Distributors are unlike any other supply chain participants – their core business **does not involve manufacturing, marketing, prescribing or dispensing medicines, nor do they set the list price of prescription drugs, influence prescribing patterns or determine patient-benefit design.** Their key role is to serve as a conduit for medicines to travel from manufacturer to the provider while making sure the supply chain is fully secure, fully functional, and as efficient as possible. Due to these efficiencies, HDA member companies generate between *$33 and $53 billion in estimated cost savings each year* to our nation's healthcare system.[1]

A wholesale distributor is responsible for fulfilling pharmacy customer orders. **Wholesale distributors have no insight into patient-level data, the price the patient pays, nor are they privy to how products are dispensed at the patient-level by the pharmacy.** At the time of the purchase from the wholesale distributor, a retail pharmacy is unaware of which patient would receive the medication and what coverage that individual would have, the wholesaler would not be able to differentiate when or how to sell the product at the proposed referenced rate upon the sale to the pharmacy. Simply put, a wholesale distributor has no insight into the patient, and they have no impact on what that patient pays at the pharmacy counter.

Furthermore, the determination not to sell a product to a state would fall outside of the wholesale distributor's authority, this determination would occur at the direction of the manufacturer who could impose such conditions on the sale of the product to the wholesaler. Wholesale distributors should not

[1] The Role of Distributors in the US Health Care Industry Report; https://www.hda.org/resources/the-role-of-distributors-in-the-us-health-care-industry

be subject to the penalty provided within Subsection 8 since they are acting at the direction of the manufacturer.

Based on the reasons stated above, HDA requests the term "distributor" be removed entirely from Subsection 8 of the legislation:

> **8. Prohibition on withdrawal of referenced drugs for sale.** The following provisions govern the withdrawal of a referenced drug.
> A. It is a violation of this section for any manufacturer ~~or distributor~~ of a referenced drug to withdraw that drug from sale or distribution within this State for the purpose of avoiding the effect of the rate limitations set forth in subsection 2.
> B. Any manufacturer that intends to withdraw a referenced drug from sale or distribution from within the State shall provide a notice of withdrawal in writing to the Superintendent of Insurance and to the Attorney General 180 days prior to such withdrawal.
> C. The Superintendent of Insurance shall assess a penalty of $500,000 on any entity, including any manufacturer ~~or distributor~~ of a referenced drug, that the superintendent determines has withdrawn a referenced drug from distribution or sale in the State in violation of paragraphs A or B.

Otherwise, we request the inclusion of the below amendment added on Subsection 8 to ensure wholesale distributors are not penalized for actions that lie outside of their control and are at the direction of another supply chain entity:

> *D. "A wholesale distributor that removes a product from the market as a direct result of an action taken by a manufacturer shall be exempt from any penalty under this section"*

Similar proposals to this legislation have been considered in states during previous legislative sessions, including Washington and North Dakota, and each state abandoned these efforts due to the concerns and unintended consequences that could result from this type of proposal and the overall burden it could place on the healthcare supply chain. We ask that the Maine legislature consider these concerns and similarly not advance these bills.

Ultimately, the services provided by the pharmaceutical wholesale distribution industry result in benefits to healthcare providers, patients and consumers while also making the U.S. pharmaceutical supply chain one of the safest and most efficient in the world. The industry has accomplished these objectives without impacting the overall cost of prescription drugs. Due to the reasons stated above, HDA stands in opposition to SB 520 and LD 1636 and we request the committee consider removing wholesale distributors from Section 8 of the bill or incorporating the amendment above.

Thank you,

Kelly Memphis
Director, State Government Affairs
Healthcare Distribution Alliance
KMemphis@hda.org

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Healthcare Distribution Alliance
LD 1636

Please see the Healthcare Distribution Alliance's attached letter sharing our respectful opposition to LD 1636 and SP 520. Our letter outlines the burden and unseen consequences this bill would place on the healthcare supply chain. Additionally, should the bill move forward, our letter outlines an essential amendment request to remove distributors from section 8 of the bill, allowing it to more accurately reflect the realities of the healthcare delivery system.

Thank you,
Kelly Memphis
Director, State Government Affairs
Healthcare Distribution Alliance