



February 13, 2024

Joint Committee on Health Coverage, Insurance and Financial Services
U.S. Pain Foundation Testimony

Dear Chairpersons Bailey and Perry and Honorable Members of the Committee:

The U.S. Pain Foundation is pleased to provide testimony in support of LD2096, An Act to Ensure Access to Nonopioid, Nonnarcotic Medication for Acute Pain Relief. The U.S. Pain Foundation is a national 501(c)(3) organization for people who live with chronic pain from a myriad of diseases, conditions, and serious injuries. Our mission is to connect, support, educate, and advocate for those living with chronic pain, as well as their caregivers and health care providers.

LD2096 proposes to require commercial payers in Maine to cover novel, non-opioid medications for acute pain as soon as they are approved by the federal Food and Drug Administration (FDA) regardless of whether they have been reviewed for inclusion on a preferred drug list or a carrier's prescription drug formulary. Payers would not be permitted to establish utilization management requirements such as prior authorization, step therapy or quantity and frequency limits that would be more restrictive than the least restrictive utilization management techniques applied to opioid medications.

While the bill would apply to medication approved for acute pain, the only difference between acute and chronic pain is how long it lasts – less than 3 months for acute pain and more than 3 months and in most cases for years or a lifetime for chronic pain. The same medications are used for acute and chronic pain and even if the FDA approves a drug for acute pain, physicians are likely to prescribe the medication off label for chronic pain.

Pain, whether acute or chronic is ubiquitous in the U.S. Pain is the most common reason Americans access the health care system resulting in 115 million emergency department visits per year.¹ In April, 2023, the CDC reported that 51.6 million or 20.9% of the U.S. population experienced chronic pain and 17.1 million or 6.9% of U.S. adults experienced high-impact chronic pain.² High-impact chronic pain is pain that interferes with one's ability to function on a daily basis. This translates to approximately 230,000 ME residents with chronic pain and 76,000 with high-impact chronic pain. High-impact chronic pain devastates a person's quality of life, negatively affecting all aspects of daily functioning including sleep, work, social activities and relationships.

Despite the enormous burden and ubiquity of acute and chronic pain in the U.S., the reality is that we have a paucity of effective treatment options. Up until 2018 when Congress dramatically increased the budget for pain research at the National Institutes for Health, the U.S. had invested so little in the field that we still do not understand the basic neurobiological mechanism of pain in the human body. Consequently, except for migraine, there have been no novel therapeutics for pain in more than a decade.

BIO, the biotechnology trade association released a report in February, 2023 on the development of pain therapeutics that concluded that pain had one of the highest clinical trial failure rates of any major disease category. One of the key takeaways from the report is that clinical success in pain drug development is extremely difficult with only a .7% probability of FDA approval compared with a 6.5% success rate for novel drug programs across all diseases.

Medications are one category among several categories of treatments that help to reduce pain. The 2019 Congressionally-mandated, highly respected HHS Pain Management Best Practices Report identified five broad

¹ <https://www.pharmacytimes.com/view/acute-pain-management-in-the-general-population>

² <https://www.cdc.gov/mmwr/volumes/72/wr/pdfs/mm7215-H.pdf>



treatment categories: medications, restorative approaches like physical and occupational therapy, interventional treatments like nerve blocks and implanted spinal cord stimulators, behavioral approaches like cognitive behavioral therapy and mindfulness meditation and complementary and integrative approaches like acupuncture and yoga.

However, for the most severe pain, medication is an essential and indispensable element in controlling the pain. The reason so many pain sufferers relied on opioid medications is because they are the most effective pain treatment we have. Besides opioids there is acetaminophen, non-steroidal anti-inflammatories and certain medications developed for other purposes that are prescribed off-label for pain such as anti-seizure medication and anti-depressants.

In the context of the opioid crisis, many pain sufferers, especially those with severe chronic pain are struggling to adequately control it. Those who were maintained on stable doses of opioid pain medication have been tapered off their medication due to concerns about diversion and misuse and to doctors' fear of scrutiny for prescribing. At the U.S. Pain Foundation, we hear daily from patients who have been forced off their opioid medication and have not found other effective substitutes or cannot afford other options not covered by their insurance. Many pain patients have been dropped from care completely and are having difficulty finding a doctor to treat them. Primary care practices do not want to take on chronic pain patients. Doctors simply do not know what to offer pain patients and do not have the time it takes to properly manage their conditions.

For the first time in a decade, later this year, we anticipate that a new medication for pain will be approved by the FDA. Americans struggling with the debilitating effects of daily relentless pain will be able to try a new medication that the FDA has found to be effective in clinical trials. Although the first indication approved by the FDA is anticipated to be for acute pain, it is expected that the medication will work for those with chronic pain. Given the dearth of other effective options for millions of Americans, we expect that physicians will try the medication on those with chronic pain as soon as it becomes available.

LD2096 proposes to make this new non-opioid treatment option available to pain patients as soon as it is approved without the usual coverage barriers and hurdles payers employ to restrict access. We believe pain patients, many of whom have been forced off opioid medication that was helping them live a functional life, deserve to have this new medication available to them.

We strongly support LD2096 and are grateful to President Troy Jackson and the co-sponsors of this bill for their commitment to aid Maine residents affected by pain. Please feel free to contact me if you have questions that I can answer for you. We thank the Committee for considering our views on this matter and respectfully request that you report this bill favorably out of Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Cindy Steinberg", written in a cursive style.

Cindy Steinberg
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CC: The Honorable Troy Jackson, The Honorable Stover, The Honorable Stewart, The Honorable Vitelli, The Honorable Arata, the Honorable Crafts, The Honorable Dodge and the Honorable Milliken