Testimony of the National Academy for State Health Policy Regarding H-7042

Chair Donovan and Members of the Health and Human Services Committee,

My name is Drew Gattine and I am a Senior Policy Consultant for the Center for Prescription Drug Pricing at the National Academy for State Health Policy (NASHP). NASHP is a non-partisan forum of state policy makers that works to develop and promote innovative health care policy solutions at the state level. In 2017 NASHP created its Center for Drug Pricing to focus attention on steps that states can take to tackle the spiraling costs of prescription drugs and the impact they have on consumers, the overall cost of health care and state budgets.

At NASHP we believe that when it comes to health care, the states are a tremendous source of innovative ideas and solutions. We approach our work by engaging and convening state leaders to solve problems. We conduct policy analysis and research and we provide technical assistance to states. NASHP's Center for Drug Pricing develops model legislation for states and provides technical assistance and support to legislators and executive branch leaders who wish to move them forward. When these bills pass, NASHP continues to support states as they are implemented.

NASHP is a non-partisan organization. We recognize state policy reflects the unique situations in each state however, so we do not take positions on legislative proposals. I am here not "for" or "against" the bill, but to share information and to help answer questions.

NASHP created the model bill upon which H-7042 is based.

As we know high drug prices and dramatic annual increases in the price of prescription drugs are a significant driver in the unsustainable cost of health care for Americans. Sometimes price increases can arguably be justified by changes in the market, or an increase in the cost of production or by a reassessment of the clinical value of the product. But in many cases, they are not. Often drug companies charge high prices on life-sustaining products simply because they can and because manufacturers know that in a market that does not effectively regulate price for life saving products that people need, that they can get away with increasing prices at a rate that far exceeds their need to cover increased costs.

States are interested in taking action to stop steep price increases, especially when there is no clinical evidence for the price increases. The annual report prepared by the Institute for Clinical and Economic Research (ICER) represents a credible, unbiased, well informed, freely available basis for this action.

Each year ICER undertakes an assessment of a small number of high-cost drugs that have increased their price far beyond the rate of inflation. ICER then conducts a thorough review of available evidence to determine whether there is any clinical evidence to support those sharp price increases. This process is entirely transparent and documented and manufacturers of the products are invited to participate. ICER's complete methodology is published and available online. https://icer.org/wp-content/uploads/2022/04/ICER_UPI_2022_National_Protocol_041422.pdf

ICER's process also allows interested parties, like states, to nominate drugs for review. For ICER's 2021 report, several states, in an effort coordinated by NASHP, joined together in nominating drugs for ICER's review. This led to the analysis and identification of Enbrel as the number one drug contributing the most to excess spending due to an unsupported price increase.

Once ICER's review is completed it publishes a detailed report documenting the drugs that it has determined have had large price increases without any justifying clinical evidence. In its most recent report, released in December, ICER identified eight drugs that accounted for $1.27 billion in additional US drug spending. Over the past six years, the ICER report has identified over $9.8 billion in price increases that are not justified based on just a small number of high-priced drugs.

	2020 to 2021 Wholesale Acquisition Cost (WAC) Increase	2020 to 2021 Average Net Price Increase	Increase in Drug Spending Due to Net Price Change (in millions)
Humira (Adalimumab)	7.11%	1.95%	$386
Darzalex (Daratumumab)	6.80%	6.18%	$248
Ibrance (Palbociclib)	6.92%	4.45%	$151
Prolia (Denosumab)	7.64%	5.99%	$140
Xifaxan (Rifaxamin)	6.48%	5.83%	$98
Xgeva (Denosumab)	7.53%	7.23%	$97
Perjeta (Pertuzumab)	6.08%	6.07%	$91
Adcetris (Brentuximab Vedotin)	8.69%	8.92%	$63
			Total: $1,247

A copy of the most recent ICER report is available at https://icer.org/wp-content/uploads/2023/04/UPI_2023_Report_121123.pdf

ICER's methodology for identifying unsupported price increases does not involve the use of cost-effectiveness research or the use of Quality-Adjusted Life Years (QALYs).

The bill directs Rhode Island to look at the ICER report as a guide. It puts the manufacturers of this small number of high-priced drugs on notice that if they raise their price above the rate of inflation without new clinical evidence justifying those price increases that they will be penalized. The bill sets the penalty at 80% of the revenue from the drug above the base price plus inflation. Manufacturers are required to report each year of the sales volume and pricing per unit so Rhode Island can determine the penalty.

The bill requires revenues be deposited into a dedicated account to be used by the state to support immunizations . NASHP would be happy to work with this committee and legislative staff to determine a Rhode Island-specific estimate of the financial impact of this bill. Using the drugs identified in most recent ICER report and extrapolating using Rhode Island's percentage of the United States population as a guide, one rough estimate of what this bill would generate in penalties is more than $2.0 million.

As the Committee continues its work on this bill NASHP is available to support your work as necessary. Prior to drafting its latest round of model legislation, NASHP engaged with a team of legal experts to design legally sound approaches that can withstand the inevitable challenges from manufacturers and their allies. In order to support the work of states, NASHP has made our legal analysis available on our website. (https://www.nashp.org/nashps-proposal-for-imposing-penalties-on-excessive-price-increases-for-prescription-drugs/). The NASHP website also contains other materials (Written Q&A, Blog Articles, etc.) that may be useful material for the Committee. Thank you.

Thank you.

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