Healthcare Distribution Alliance

HEALTH DELIVERED

March 6, 2024

Honorable Representative Donovan, Chair
Honorable Representative Giraldo, Vice Chair
Honorable Representative Potter, Vice Chair
House Health and Human Services Committee
Rhode Island State House
82 Smith St, Providence, RI 02903

HDA Opposition to H.5620- Drug Pricing Legislation

Dear Chair Donovan, Vice Chair Giraldo, Vice Chair Potter, and Honorable Members of the Human Services Committee:

On behalf of the Healthcare Distribution Alliance (HDA), the national trade association representing the nation's primary pharmaceutical wholesale distributors, I am writing to respectfully share our opposition and concerns with **H.5620**, legislation regarding drug prices increases. HDA supports the goals of the legislation to make drug prices more transparent and affordable for Rhode Island patients. **However, the legislation as currently drafted does not accurately reflect how the drug supply chain operates, and we urge that the committee not advance this legislation as currently drafted.**

HDA members serve as the vital link between the nation's pharmaceutical manufacturers and over 360,000 pharmacies, hospitals, long-term care facilities, clinics, and others nationwide. HDA members work around the clock to ship nearly 10 million pharmaceutical products daily, keeping these sites of care stocked with the medications and products they need to treat and serve patients. In Rhode Island, our members serve around 830 sites of care.

Distributors are unlike any other supply chain participant. Their key role is to transport medicine and other pharmaceutical products from manufacturers to patients while ensuring the supply chain is fully secure and operating efficiently. Distributors' core business is not manufacturing, conducting clinical trials nor do they prescribe medicines, influence prescribing patterns, dispense medications to patients, determine dispensing fees, set pharmacies' reimbursement, partake in patients' healthcare benefit designs, or set the Wholesale Acquisition Cost (WAC) of medications.

Because manufacturers bring products to market, and exclusively set the WAC list price of drugs, HDA is concerned with the inclusion of distributors in the penalties section of this bill. Were a manufacturer to opt to remove a drug from market or simply not supply it to wholesalers for distribution in Rhode Island, distributors would not have the authority or capacity to alter that decision yet would inappropriately be subject to the stipulated $500,000 penalty as a result of manufacturer actions. This is further illustrated within the bill by the fact that processes for addressing aggrievements are laid out for manufacturers, but not for distributors. **We would request distributors be struck from this bill as follows:**

(c) Prohibition on withdrawal of prescription drugs for sale.

(1) It shall be a prohibition of this chapter for any manufacturer or ~~distributor~~ of an identified drug to withdraw that drug from sale or distribution within this state for the purpose of

avoiding the penalty set forth in this section.
(2) Any manufacturer who intends to withdraw an identified drug from sale or distribution from within the state in order to avoid a penalty as described in this section shall provide a notice of withdrawal in writing to the board of pharmacy and to the attorney general at a minimum of one hundred eighty (180) days prior to such withdrawal.
(3) The attorney general shall assess a penalty of five hundred thousand dollars ($500,000) on any entity, including any manufacturer ~~or distributor~~ of an identified drug, that it determines has withdrawn an identified drug from distribution or sale in the state in violation of this section.

Additionally, HDA is concerned that "manufacturer" is not defined in this legislation. In order to avoid supply chain disruptions and ensure patient access to essential medications, precision is key when regulating the supply chain. Manufacturers set WAC list price and are the best entity to provide information to the state regarding drug price increases, including being able to provide insights into any clinical evidence tied to a drug price increase. Distributors do not set or change WAC prices, and they do not conduct clinical trials. **Therefore, HDA requests the Committee consider add definitions that clarify that "manufacturer" to ensure that distributors are not unintentionally and inappropriately caught in the reporting scope of this bill, as follows:**

> "Manufacturer" means a pharmaceutical, biological product, or medical device manufacturer or any other person who is engaged in the production, preparation, propagation, compounding, processing, marketing, and packaging of prescribed products. The term does not include a wholesale distributor, a retailer, or a pharmacist.

In summary, because this bill does not precisely reflect supply chain in its scope and definitions, and because pricing limits such as this policy can threaten patient access, HDA does oppose this bill at this time, and respectfully requests the committee not advance H.5620. Thank you for your time and consideration of our concerns. Please contact Kelly Memphis at (443) 375-6541 or at kmemphis@hda.org if you have any questions or would like to discuss this further.

Sincerely,

Kelly Memphis

Kelly Memphis

Director, State Government Affairs
Healthcare Distribution Alliance