Testimony of the National Academy for State Health Policy on SB 2170 - Relating to Prescription Drug Costs and to Provide a Penalty

Representative LeFor and Members of the Committee,

My name is Drew Gattine and I am a Senior Policy Fellow at the National Academy for State Health Policy (NASHP). NASHP is a non-partisan forum of state policy makers that works to develop and implement innovative health care policy solutions at the state level. 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.

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 it has on consumers, the overall cost of health care and state budgets. 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.

The original version of bill before the Committee today, SB 2170, is based on one of NASHP's model bills. Because NASHP is not an advocacy organization we do not take a position "for" or "against" a bill but we do stand by to answer questions and provide technical support for sponsors and legislative committees.

I think we are all aware that when compared to citizens of other countries, Americans pay a lot more for prescription drugs and that the rising cost of prescription drugs is a huge driver in the overall annual increase in health care costs that Americans experience routinely. Other countries spend less for the same drugs because they set rates for prescription drugs. In the United States, rate setting is the norm for many health care services. Public programs like Medicaid or Medicare, and commercial payers routinely negotiate rates. But when it comes to prescription drugs, the United States has a very complicated payment and distribution system that begins with prices set by drug manufacturers.

States could undertake to do this rate-setting themselves but the process is complicated and requires up-front investment. Most states don't have the infrastructure to do this analytical work. The good news is that other countries are already doing it and the results of that work are readily and publicly available for states to use.

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Center for State Rx Drug Pricing

This bill directs North Dakota Insurance Commissioner to determine the most expensive drugs dispensed in the state, using a list from the public employee retirement system as the benchmark. This list is then compared to publicly available information from the four most populous Canadian provinces (Ontario, Quebec, British Columbia, and Alberta) and directs that this price becomes the basis of negotiation between the Insurance Commissioner and manufacturers. The bill applies to state entities other than Medicaid, commercial payers and ERISA plans that chose to participate. (Medicaid was excluded in acknowledgement of the unique design of the Medicaid pharmacy benefit that requires states to cover all drugs in exchange for substantial rebates. Including Medicaid would require up-front agreement by the federal government through either a waiver of state plan amendment.)

Referencing North Dakota rates to Canadian rates should lead to significant savings to the state and to commercial payers. Based on Information that NASHP received from ND PERS, using 2020 utilization numbers, referencing the top 25 drugs in terms of spending to the Canadian price as would have resulted in savings of over $22 million to the state. (This does not include the savings that would accrue in the commercial market.) Below are the differences between Canadian prices and prices paid in North Dakota for the top 10 products in terms of total cost utilization in 2020:

Drug Name & Dosage	Condition	Plan Net Package Price	Canadian Reference Rate*	Price Difference	Approximate Savings Off US Prices
Humira (40 mg/0.4 ml)** Package of 2 syringes	Autoimmune Diseases	$7,621.13	$1,193.88	$6,427.24	84%
Stelara (90 mg/ml) Package of 1 syringe	Autoimmune Diseases	$23,091.57	$3,276.91	$19,814.67	86%
Humira Pen (4 mg/0.8 ml) Package of 2 syringes	Autoimmune Diseases	$8,528.45	$1,193.88	$7,334.56	86%
Novolog Flexpen/Novolog FlexTouch (100 u/ml) Package of 5 syringes	Diabetes	$749.24	$31.65	$717.59	96%
Gilenya (0.5 mg) 30 capsules	Multiple Sclerosis	$11,793.41	$535.28	$11,258.13	95%
Enbrel SureClick (50 mg/ml) Package of 1 syringe	Autoimmune Diseases	$7,659.31	$273.05	$7,386.25	96%
Novolog/Novorapid (100 u/ml) 10 ml vial	Diabetes	$864.19	$19.31	$844.88	98%
Victoza (18 mg/3 ml) Package of 3 syringes	Type 2 Diabetes	$898.84	$156.42	$742.42	83%
Cosentyx Pen (150 mg/ml) Package with 2 ml	Autoimmune Diseases	$5,978.13	$1,174.20	$4,803.93	80%
Ozempic (2/1.5 ml) Package of 1 syringe	Type 2 Diabetes	$841.64	$148.25	$693.40	82%

*Currency conversions were done at .76 USD = 1 Canadian Dollar. Canadian prices were found on the Ontario, Quebec, British Columbia, and Alberta formularies.

**Canadian price listed on formularies was not an exact match - price listed is for a 40 mg/0.8 ml pen.

In another state where this bill was also introduced this session, the legislature's fiscal office estimated that referencing to the Canadian rate could generate upwards of $50 million in annual savings for the state employee plan alone for just 20 drugs alone.

http://webserver1.lsb.state.ok.us/cf_pdf/2021-22%20SUPPORT%20DOCUMENTS/impact%20statements/fiscal/senate/SB734%20INT%20FI.PDF

The potential value to North Dakota residents would be the reduction of the cost of prescription drugs and the requirement that any savings, achieved either by health plans or by state payers, be used to benefit consumers. The bill requires that any savings generated by implementing the reference rates, whether generated by state entities or commercial health plans, be used to reduce the health care costs of the people of North Dakota. Lowering the cost of life-saving drugs should increase the ability of people who rely on those drugs to have better access. Pharmacy manufacturers, who continue to make profits in Canada and in other countries with lower prices than the US, will still be left with the necessary revenue to invest in research and development and bring new, innovative, drugs to market. The profits that pharmaceutical manufacurers make in the US by charging more to Americans than they do to the citizens of other countries far exceeds their entire global R&D budget. (This does not even account for the billions of direct government support that pharmacy R&D receives from the National Institute of Health.)

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. NASHP has made our legal analysis available on our website. (https://www.nashp.org/the-national-academy-for-state-health-policys-proposal-for-state-based-international-reference-pricing-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.

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