



November 26, 2019

Senator Dan "Blade" Morrish
Louisiana State Senate
119 W. Nezpique Street
Jennings, LA 70546

Representative Tom Oliverson
Texas House of Representatives
Room E2.720
Austin, TX 78768

RE: AHIP Comments on NCOIL Model Act Concerning Prescription Drug Costs

Dear Senator Morrish and Representative Oliverson,

America's Health Insurance Plans (AHIP) appreciates the opportunity to provide comments on the National Council of Insurance Legislators (NCOIL) Model Act Concerning Prescription Drug Costs (Model).ⁱ AHIP shares your goal of helping consumers who are facing rising prescription drug prices and a lack of meaningful and transparent information about these prices.

Discussion of the proposed transparency Model has led to a useful conversation at NCOIL about the burdens that consumers face from skyrocketing drug prices that threaten access to vital treatments. The latest draft of the Model represents a good step toward ensuring real transparency and disclosure of meaningful information. However, we believe that additional steps can and should be taken to enhance an already much-improved draft of the Model.

First, in comments submitted in March 2019, and again in July 2019, we noted that the reporting requirements for manufacturer price increases proposed at that time were unlikely to yield significant data. This conclusion was reached because the thresholds for reporting were set such that even many of the most egregious and unjustified price increases would be excluded from the reporting requirement.

We applaud the decision to address this by amending Section 4(b)(1) to provide a more meaningful threshold for the manufacturer reporting requirement. However, we reiterate that the 15% price increase threshold is still too high and sends a message that drug makers may raise prices up to 14.99% without ever providing any explanation or data demonstrating the reason for such a large increase.

We recommend the threshold for the reporting requirement should be further reduced to require reporting for any increase over 10%. Not only is the 10% threshold reflected in existing state law, but pharmaceutical companies have in recent years publicly pledged to voluntarily abide by a 10% cap on increases.ⁱⁱ Establishing the 10% threshold as part of the Model should presumably be acceptable to those drug makers and provides a higher likelihood that states will receive meaningful information about price increases affecting their residents. That being said, if we really wanted to discourage inappropriate price increases, the model should set a threshold in line with medical CPI, or inflation, so that we bring drug costs in line with other goods and services affecting Americans.

Additionally, we have also suggested that the model should include stronger language concerning data to be supplied by manufacturers upon launch of a drug. We recommended language from Oregon, and we reiterate this recommendation now. It would significantly improve the information available to the public and policymakers about how drug pricing decisions get made. Launch prices have shown to impact market prices for drugs already on the market. Having information on launch prices in advance will enable patients and payers to prepare for such prices and the impact they may have on patient care.

Finally, we have recommended the inclusion of language in section 5 to ensure that the collected data is aggregated so as to not identify information specific to any insurer or PBM. Further, we have noted that though there is language in section 6 which indicates that carriers should not report any information in their reports that would identify specific health benefit plans or prices charged for specific drugs, we do not believe this to be a sufficient safeguard. We believe that additional language should be included in Section 6 to ensure that the report prepared by the Commissioner should only include aggregate data so as not to reveal information about any insurer or PBM. We have provided sample language to achieve this goal.

Reviewing the language in the 30 day materials, it does appear that language related to data aggregation has been included, but it also appears to limit the application of that language to PBMs with fewer than 5 clients. This is concerning because if the data is not aggregated across all reporting PBMs, it may be possible to back into the confidential pricing or discounts negotiated for a specific drug or class of drugs. As such, we would reiterate our request that the aggregation language be made to apply to all PBMs.

Separately, the new language in section 6 referencing PBMs does not make sense, considering that the data being reported is from, and the reporting entity is, the carrier. This language should be amended to remove reference to PBMs, and it should also include the broad aggregation language we had previously recommended.

The discussion around this draft Model has been and should remain focused on one thing: understanding the rising prices of prescription drugs. When prescription drug cost increases are expected to be more than double that of overall medical cost trends in 2020, all stakeholders should agree that merits significant scrutiny. The focus of this effort should be on reducing costs, and that is best achieved by maximizing the scope of price increases that are subject to the Model's reporting requirements.

We appreciate your consideration of our comments. We share the goal of working to ensure prescription drugs are more affordable and accessible for consumers. If you have any questions or want additional information, please contact Leanne Gassaway at (202) 861-6365 or lgassaway@ahip.org.

Sincerely,

Leanne Gassaway
Senior Vice President, State Affairs and Policy
American's Health Insurance Plans

ⁱ AHIP is the national association whose members provide coverage for healthcare and related services, offering health and wellness products in every insurance market, in every state, to individuals, families, small and large businesses as well as Medicaid and Medicare beneficiaries.

ⁱⁱ "US pharma industry holds to price-cap pledge." Pharmaceutical Technology. Retrieved from <https://www.pharmaceutical-technology.com/comment/us-pharma-industry-holds-price-cap-pledge/>. Originally published 2018.