HDA

POSITION STATEMENT

Opposition to Provisions of LD 675

POSITION: The Healthcare Distribution Alliance (HDA) respectfully opposes LD 675 as it misconstrues the pharmaceutical supply chain and the role of Wholesale Distributors.

Wholesale Distributors Role in the Supply Chain

- HDA members work around the clock to ship nearly 15 million healthcare products (medicines, medical supplies, durable medical equipment, etc.) to pharmacies, hospitals, and other healthcare providers daily to keep them stocked with the medications and products they need to treat and serve patients.
- In their role as a wholesale distributor, HDA members do not manufacture, market, prescribe or dispense medicines, nor do they set the list price of prescription drugs, set third party payor reimbursement or coverage for prescription drugs, influence prescribing patterns, or determine patient-benefit designs.
- A wholesale distributor is responsible for fulfilling pharmacy customer orders — they merely get product to the pharmacy shelves. Wholesale distributors have no insight into patient-level data, the price the patient pays, nor are they privy to how products are dispensed at the patient-level by the pharmacy.
- Manufacturers (pharmaceutical, biologic, generic, etc.) set the Wholesale Acquisition Cost (WAC) price for their products. Pharmaceutical wholesale distributors are not privy to how such WAC pricing decisions are made. Wholesale distributors purchase pharmaceutical products based on the WAC.
- Third party payors and their pharmacy benefit manager agents set reimbursement for drugs dispensed to the health plan members. Such reimbursement formulas may be based on WAC or other metrics set by manufacturers; wholesale distributors are not privy to these reimbursement formulas.
- For the distribution services they provide, pharmaceutical wholesale distributors charge manufacturers a service fee that is not passed along to the subsequent purchaser. These service fees typically underwrite the cost of warehousing, ordering, special product handling services and transporting products to the thousands of ship-to points each distributor serves every day.
- Due to these efficiencies, HDA member companies generate between $33 and $53 billion in estimated cost savings each year to our nation's healthcare system.

Supply Chain Operations Conflict with LD 675

- The stated intent behind the legislation is to assess a penalty on unsupported prescription drug price increases; however, the legislation places an unjustified penalty on the wholesale distributor for the direct actions of another supply chain entity (specifically pharmaceutical manufacturers).
- Wholesale distributors must abide by a manufacturer's contractual restrictions related to distribution of its drug products, including a manufacturer's instructions not to sell a drug product in a certain state.
- The removal of a product from the market would be at the discretion of the manufacturer, therefore the legislation is attempting to penalize the wholesale distributor for actions that lie outside of its control. Note that the only mention of wholesale distributors is in the penalty provisions of LD 675.

Request for Consideration

- HDA requests the term "distributor" be removed entirely from LD 675, §2037:
    1. **Withdrawal from sale prohibited.** It is a violation of this chapter for any prescription drug manufacturer ~~or distributor~~ of an identified prescription drug to withdraw that prescription drug from sale or distribution within this State for the purpose of avoiding the fine set forth in section 2036.
    2. **Notice required.** A prescription drug manufacturer who intends to withdraw an identified prescription drug from sale or distribution within the State must provide 180 days' prior notice to the Attorney General of the withdrawal in order to avoid violation of section 2036, subsection 1.
    3. **Penalty**. The Attorney General shall assess a penalty of $500,000 on any entity, including any manufacturer ~~or distributor~~ of an identified prescription drug, that it determines has withdrawn an identified prescription drug from sale or distribution in this State in violation of this section.

  Alternatively, we request LD 675, §2037 be amended to include the following language to ensure wholesale distributors are not penalized for the actions of another supply chain entity:
    4. "A wholesale distributor that removes a product from the market as a direct result of an action taken by a manufacturer shall be exempt from any penalty under this section."