

Chair Lyons and Senator Williams,
Thank you again for inviting me to testify in the Senate Health and Welfare Committee yesterday on H 233, An Act Relating To Pharmacy Benefit Managers.

After listening to today's hearing, we were concerned about an amendment proposed by Mr. Hochberg, and announced today by Senator Williams, to change the definition of Maximum Allowable Cost in Section 3602 (6). After reviewing the amendment, the proposed change appears to be substantive and not technical in nature.

As drafted, the proposed amendment would remove the word "multisource" from the definition of "Maximum allowable cost." While this may seem to be a small or technical difference, we believe this change intends to pull brand-name drugs into the state's existing regulations around Maximum Allowable Cost (MAC) lists. This is substantive because today brand name drugs do not appear on MAC lists. Instead, only generic drugs are reimbursed using a MAC price. This is because generic medications are commodities, and have greatly varying prices that are dependent on the number of manufacturers in the market, as well as the cost and availability of ingredients to produce the generic drug. For this reason, Vermont law (as most recently amended by Act 131) regulates the use of MAC lists, how often these lists must be updated, and the appeal rights of pharmacies contesting the MAC price.

Brand drugs, on the other hand, are much more stable as they are manufactured by a single entity. Consequently, the agreed upon contract between a pharmacy and a PBM enumerates the reimbursement for brand medications, usually represented as some percentage of the average wholesale price (AWP) plus a dispensing fee.

By adding brand drugs to the MAC regulation, the bill would apply all the MAC regulations in existing state law to brand drugs, effectively nullifying the contracted reimbursement for brand medications.

Lastly, and much more technical, the amendment also intends to cite a federal statute of "Prescription Drugs," but there is no such definition in the provide reference. There is, however, a definition for "Drug" in [21 U.S.C. § 321](#).

For the reason above, we respectfully request the definition remain intact.

Thank you and please let me know if you need any additional information.

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