



Healthcare Distribution Alliance

PATIENTS MOVE US.

April 19, 2018

Vermont State House
Senate Committee on Finance
115 State Street
Room 6
Montpelier, VT 05633

Re: Healthcare Distribution Alliance (HDA) Letter of Concern Regarding Proposed Opioid Tax Amendment to House Bill (HB) 386

Dear Chairwoman Cummings, Vice Chair MacDonald, and Honorable Members of the Senate Committee on Finance,

On behalf of the Healthcare Distribution Alliance (HDA), I am writing to voice the primary wholesale distributor industry's concern regarding the proposed amendment to House Bill (H) 386. The amendment intends to establish a new tax on medications containing opioid ingredients. HDA members understand the state's need to address treatment options for those affected by the opioid epidemic, and we support comprehensive efforts that bring lasting and effective solutions in prevention and treatment of opioid abuse. However, the proposed amendment is rooted in a fundamental misunderstanding of the pharmaceutical supply chain. The language does not consider pharmaceutical supply chain operations, including what information is – or is not - available at each stage of distribution (.e.g., the geographic destination of the product and other data requested in the amendment, is not available or accessible at each stage of distribution.) The proposal also places companies in the role of a state revenue collection authority. Such a role is inappropriate and outside the scope of authority that a public or private corporation should be granted. Lastly, and perhaps most concerning to the citizens of Vermont, is that the proposal would ultimately add significant costs to necessary and legitimately prescribed medications for many citizens of Vermont. HDA offers this letter to more clearly convey the industry's concerns.

HDA is the national trade association representing the primary pharmaceutical wholesale distribution industry. Primary wholesale distributors represent a vital link within the healthcare supply chain, connecting over 450 pharmacy and healthcare provider settings throughout Vermont to the medications and healthcare products necessary to serve their patients each day. HDA distributor members do not research, develop or manufacture pharmaceuticals. They do not prescribe or dispense medications to patients or have any impact on a patient's pharmacy benefit design. Wholesale distributors' role is to purchase pharmaceutical products from manufacturers, safely and securely store, and finally deliver them to all licensed healthcare providers. HDA members operate 24 hours a day, 365 days a year, shipping approximately 15 million products every day. Simply put, wholesale distributors are logistics experts that ensure pharmacies and hospitals keep their shelves stocked with needed medications. They do not have any direct interaction with the patients ultimately receiving the medications.

HDA and its members are committed to working with all stakeholders to find a workable solution to the national opioid abuse crisis. We do not feel that adding cost through the taxation of a medication that is medically necessary for legitimate patients is the proper way to achieve that goal. However, beyond this initial concern, HDA feels that the proposed amendment raises many issues regarding operational feasibility both for wholesale distributors and the state of Vermont. The following points summarize some of those concerns:

- The proposed amendment would require a pharmaceutical distributor to place a Vermont specific tax on the original purchase order for the product, and then remit the tax collected to the state. What this approach does not consider is that when a distributor makes the original purchase from a manufacturer, they are made in bulk and then sent directly to a regional or national distribution facility. At the time of the original purchase, there is no way for a pharmaceutical distributor to know in advance to which state or to which pharmacy and provider customers the product will ultimately be delivered. Therefore, it would be impossible to accurately calculate the tax in this manner.
- Wholesaler distributors also work with their downstream customers on product returns. H 386 imposes a tax on many products that may ultimately be returned, voiding the sale of those products and further complicating the calculation of the tax.
- As written, the tax would be applied to manufacturers, but would require wholesale distributors to collect the tax and remit payment to the state. Most of HDA's wholesale distribution members do not have a physical location in Vermont, and the language is unclear on how the tax can be levied on companies that are outside of the state.
- Current systems utilized by the wholesale distribution industry do not account for morphine milligram equivalent (MME) dosage for each product. The amount of ingredient subject to the tax will vary from drug to drug, and dosage to dosage of that drug. Wholesalers ship 15 million products every day in the United States, which will make it extremely difficult to calculate the amount of the tax specifically for one state. In addition, because some products have a high amount of milligrams subject to the tax, it must be understood that there are cases in which the tax itself will *significantly* exceed the price of the product itself. Even if those products were exempted from the tax, that process alone imposes another layer of complexity in determining the amount of the tax to be collected solely for Vermont.
- Wholesale distributors do not know what purpose a particular drug may be prescribed for or the identity and medical condition of the patient that will be taking it – nor should they. Opioids have a variety of different uses, even those commonly used for medically-assisted treatment. It is not possible for wholesale distributors to distinguish, and ultimately exempt, opioids used in medication-assisted treatment for substance use disorder. Moreover, implementation of this tax that will almost certainly raise the cost of other pharmaceuticals indirectly for individuals who are not prescribed opioids within the state of Vermont.
- States across the nation, including Vermont, are grappling with the issue of rising drug costs. Implementing this legislation will further exacerbate this problem. Most opioid products subject to this tax are lower cost generic drugs. If this legislation passes, drugs subject to the tax will cost more than the price of the drugs themselves. Despite the language in the bill that attempts to prohibit an increase in the price of drugs subject to this tax there is no way to adequately differentiate between market cost adjustments that raise the price of a product, and “passing on the tax burden.”

HDA members understand and agree that the prescription drug abuse and diversion epidemic is a serious healthcare crisis that threatens both patient safety and the security of the healthcare supply chain. Addressing the opioid abuse epidemic is a complex issue that requires all stakeholders to work together to find comprehensive solutions. However, we feel that the proposed tax does not achieve that goal and, in its current

form, raises many questions as to how it would be administered. Moreover, imposing a tax on pharmaceutical products could ultimately increase the cost of drugs to providers and the public in an environment focused on lowering medication costs. Therefore, we respectfully urge you and your colleagues to oppose this amendment. Please feel free to contact me at bwlowe@hda.org should you have any questions or concerns.

Sincerely,

Bryan Lowe
Director, State Government Affairs
Healthcare Distribution Alliance (HDA)