RAYMOND J.
SEIGFRIED
STATE REPRESENTATIVE
7TH District

HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

COMMITTEES
Health & Human Development, Vice Chair
Economic Development / Banking / Insurance / Commerce
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Veterans Affairs

Interagency Pharmaceuticals Purchasing Study Group
Meeting Minutes | July 19, 2019
House Hearing Room, 2nd Floor of Legislative Hall (411 Legislative Ave Dover, DE 19901)

Co-Chair Representative Raymond Seigfried called the meeting to order at 1:31pm.

Members present included Co-Chair Seigfried, Representative Michael Smith, Senator Brian Pettyjohn, Victoria Brennan, Dean Stotler, Dr. Marc Richman, Dr. Richard Margolis, Stephen Groff, Matilde Cruz, Faith Rentz, Terry Hollinger, and Trinidad Navarro. Senator Nicole Poore was not present but sent Taylor Hawk as a designee. Dr. Kara Walker was not present. Also present were Carmen Herrera of the Office of Management and Budget, Tony Ward of the Division of Public Health, and Deborah Gottschalk, Esq. of the Division of Research.

Co-Chair Seigfried had all Study Group members go around the table and introduce themselves so that names could be matched with faces.

Co-Chair Seigfried then presented some opening remarks to the Study Group. Please refer to Appendix 1 attached at the end of these minutes. He also passed out and presented handouts to the Study Group, including a copy of House Concurrent Resolution 35 of the 150th General Assembly (HCR 35), two news briefs related to the issue of pharmaceutical costs, and a graphic showing how pharmaceutical costs have changed over the past twenty years. Please refer to Appendices 2-4 attached at the end of these minutes.

Co-Chair Seigfried stated that because there were 14 members of the Study Group, a quorum would be 8 members present.

Co-Chair Seigfried brought to the Study Group's attention Lines 69-70 of HCR 35, which states that "The co-chairs of the Study Group may invite individuals with relevant expertise to participate in Study Group discussions." (Please refer to Appendix 2 attached at the end of these minutes). He said that he was interested in inviting 3 individuals who fit this description to future Study Group meetings; a pharmacist, an individual from the Delaware Health Information Network (DHIN), and an attorney.

Ms. Gottschalk, Esq. offered to participate.

Mr. Ward said that a pharmacist from Cardinal Health, Hooshang Shanehsaz, could be interested in attending. Cardinal Health is an organization that his agency works with.

Mr. Stotler said that caution should be exercised when reaching out to individuals so as to avoid potential conflicts of interest.

411 Legislative Avenue, Legislative Hall, Dover, DE 19901
Office: 302-577-8476 Fax: 302-739-2313
Ray.Seigfried@state.de.us

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A motion was made, seconded, and unanimously approved by all Study Group members present that the Co-Chairs would begin soliciting individuals.

Co-Chair Seigfried then presented some remarks on what catalyzed the creation of HCR 35 and the Interagency Pharmaceuticals Purchasing Study Group. Please refer to Appendix 5 attached at the end of these minutes.

Co-Chair then presented a chart detailing estimated amounts spent on pharmaceuticals by several State entities. Please refer to Appendix 6 attached at the end of these minutes. He then invited the Study Group members associated with the State entities to comment.

Ms. Rentz said that her organization, the Statewide Benefits Office within the Department of Human Resources, administers 2 prescription plans. Their total enrollment is 126,000, with 26,000 being Medicare retirees and approximately 100,000 being active employees and non-Medicare retirees. She added that the organization utilizes Express Scripts as a pharmacy benefit management (PBM) organization, and concluded by saying that she would provide more in-depth knowledge at following Study Group Meetings.

Mr. Groff said that his organization, the Division of Medicaid and Medical Assistance within the Department of Health and Social Services, administers 2 managed care plans for approximately 230,000 individuals. He added that while his organization doesn't have a formulary, it does have a list of preferred prescription drugs.

Co-Chair Seigfried asked Mr. Groff to explain what a formulary was for all Study Group members who were not familiar with the term.

Mr. Groff explained that it is a limitation on what prescription drugs can and cannot be offered. He added that there are rules that determine which entities can have it and how restrictive it can be.

Mr. Hollinger said that his organization, the Delaware Veterans Home, deals primarily with Medicare when it comes to pharmaceuticals and that his organization makes a concentrated effort to use generics whenever possible to keep costs down.

Dr. Richman said that his organization, the Department of Correction, is responsible for about 4,500 incarcerated individuals. The principal medical issues include HIV, Hepatitis C, and psychiatric care. He added that he anticipates an increase in the number of Hepatitis C cases because the Department is modifying its screening policies, which would subsequently lead to an increase in its pharmaceutical costs.

Co-Chair Seigfried then presented some policy ideas for consideration that may assist in lowering Delaware's pharmaceutical costs. Please refer to Appendix 7 attached at the end of these minutes. He asked the other Study Group members if they had any comments on the ideas or if they had ideas that weren't presented.

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Mr. Stotler said it's important to note that pharmaceutical agreements that State entities have often include more than just the cost of a prescription drug itself, but also include things like a pharmacist, prescription services, and prescription drug safe storage.

Dr. Margolis suggested that facilitating more interaction and cooperation between pharmacists and prescribing doctors could lead to cost-savings.

Mr. Groff said that it is important to note that in some instances, a name-brand prescription drug may end up being cheaper for a state entity than the generic because of rebates and other discount programs. He added that it's important to distinguish that there is a difference in the State of Delaware / a State entity purchasing pharmaceuticals and an individual citizen purchasing pharmaceuticals.

Co-Chair Seigfried then presented a proposed timeline of future Study Group dates. Please refer to Appendix 8 attached at the end of these minutes.

Ms. Rentz, Ms. Brennen, and Mr. Navarro said that August 16th would not work for them.

A motion was made, seconded, and unanimously approved by all Study Group members present that the proposed timeline of future meetings was acceptable, with the condition that there would not be a Study Group meeting during the month of August.

Mr. Smith proposed that Study Group members use the month of August to independently investigate methods and strategies that other states use to lower pharmaceutical costs and bring what they learned to the next Study Group meeting in September.

Co-Chair Seigfried then opened the floor for public comment.

Seeing nobody signed up for public comment, Co-Chair Seigfried requested a motion to adjourn.

A motion was made, seconded, and unanimously approved by all Study Group members present to adjourn the meeting at 2:17pm.

These minutes respectfully submitted by:

Scott Murphy Eisenhart
Legislative Aide – Representative Raymond Seigfried

411 Legislative Avenue, Legislative Hall, Dover, DE 19901
Office: 302-577-8476 Fax: 302-739-2313
Ray.Seigfried@state.de.us

Appendix 1

Opening Remarks

Here are some statistics based on the Kaiser Foundation to understand why we are here.

- America spends $3.5 trillion or 18% of GDP on healthcare
- Health spending per-person in the US in 2017 was $10,224; 28% higher than Switzerland the next higher per capita spender, higher than the comparable country average $5,280 and higher than
    - Germany
    - Sweden
    - Austria
    - Netherlands
    - France
    - Canada
    - Belgium
    - Japan
    - Australia
    - United Kingdom $4,246
- Pharmaceuticals make up around 10% of US healthcare cost but 21% of employer insurance benefits with an out-of-pocket cost to beneficiaries of $47 billion.
- Types of drugs with the highest out-of-pocket cost include products that treat cancer, multiple sclerosis and rheumatoid arthritis.
- In 2017 US retail prescription drug cost spending was $333 billion.

Appendix 2

SPONSOR: Rep. Seigfried & Sen. Poore
Reps. Bentz, Brady, Kowalko, Mitchell, Osienski; Sens. Ennis, Hansen, McBride, Sokola

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE CONCURRENT RESOLUTION NO. 35

AN ACT ESTABLISHING THE INTERAGENCY PHARMACEUTICALS PURCHASING STUDY GROUP TO REVIEW AND MAKE RECOMMENDATIONS ON HOW TO LEVERAGE THE BULK PURCHASING POWER OF THE STATE TO NEGOTIATE LOWER PRICES.

WHEREAS, the cost of prescription drugs continues to increase; and

WHEREAS, the cost of prescription drugs directly impacts State spending on State employee health benefits, Medicaid, long-term care facilities, and corrections; and

WHEREAS, House Joint Resolution No. 7 from the 149th General Assembly required the Secretary of the Department of Health and Social Services to study and plan the means and methods for gathering data to establish an annually established number that will enable a clear conclusion regarding the annual growth of total health care costs in the State of Delaware otherwise known as a "benchmark," including selecting methodologies, determining sources of data, and collecting actuarial certification; and

WHEREAS, in establishing the health care benchmark, the 149th General Assembly found that there is a need to enhance transparency and accountability in health care costs because health care spending in Delaware is higher than the national average and has historically outpaced inflation and the State's economic growth and that the State of Delaware is committed to reducing the total cost of health care for all Delawareans; and

WHEREAS, a major cause of skyrocketing prescription drug prices is bargaining asymmetry, by which the pharmaceutical industry, often wielding monopoly power, is left unchecked, in the absence of a strong counterparty at the bargaining table; and

WHEREAS, establishing a single-purchaser for the highest-cost prescription drugs will move Delaware one step closer to a comprehensive solution for affordable and accessible health care for all; and

WHEREAS, there are opportunities to expand the negotiation and purchase of prescription drugs within existing State programs; and

WHEREAS, other states have created group purchasing consortia and have joined multi-state group purchasing consortia; and

WHEREAS, hospitals in Delaware already have group purchasing agreements to reduce prescription costs; and

23 WHEREAS, the Delaware Medicaid program has contracted with a cooperative multi-state purchasing contract
24 alliance for the procurement of pharmaceutical products, services, and allied supplies since 2005; and
25 WHEREAS, Delaware long-term care facilities have contracted with a multi-state contracting alliance for
26 pharmaceuticals since 2011; and
27 WHEREAS, the Delaware Medicaid program is using a grant from the National Academy for State Health Policy
28 to research benchmark costs for State programs to purchase prescription drugs through a multi-state consortium; and
29 WHEREAS, cost savings achieved by the State could be shared with uninsured Delawareans who need
30 prescription medication; and
31 WHEREAS, by coordinating the purchase of pharmaceuticals by State agencies, the State can leverage the bulk
32 purchasing power of the State to negotiate lower prices; and
33 WHEREAS, lower prices for pharmaceuticals in State contracts will significantly reduce the cost of health care in
34 Delaware with cost savings to Medicaid, State employees group health insurance, long-term care facilities, and the
35 Department of Correction.
36 BE IT RESOLVED by the House of Representatives of the 150th General Assembly of the State of Delaware, the
37 Senate concurring therein, that the Interagency Pharmaceuticals Purchasing Study Group ("Study Group") be created.
38 BE IT FURTHER RESOLVED that the Study Group be established to research and evaluate opportunities to
39 leverage the bulk purchasing of pharmaceuticals in Delaware to negotiate lower prices including inter-agency purchasing
40 contracts and contracts with a multi-state consortium.
41 BE IT FURTHER RESOLVED that the Study Group make recommendations regarding the most beneficial
42 method to leverage the bulk purchasing of pharmaceuticals in Delaware, including the purchases that should be combined,
43 whether to contract with a multi-state consortium, and what legislative changes are necessary to effect the Study Group's
44 recommendations.
45 BE IT FURTHER RESOLVED that the Study Group is comprised of the following members, or a designee
46 appointed by the member serving by virtue of position:
47 (1) A State Representative from the majority caucus, appointed by the Speaker of the House of Representatives,
48 who serves as co-chair.
49 (2) A State Representative from the minority caucus, appointed by the Speaker of the House of Representatives.
50 (3) A State Senator from the majority caucus, appointed by the President Pro Tempore of the Senate, who serves
51 as co-chair.
52 (4) A State Senator from the minority caucus, appointed by the President Pro Tempore of the Senate.

53 (5) Controller General.

54 (6) Secretary, Department of Health & Social Services.

55 (7) Director, Office of Management and Budget.

56 (8) Commissioner, Department of Correction.

57 (9) Secretary, Department of Services for Children, Youth, and their Families.

58 (10) Director, Division of Medicaid and Medical Assistance.

59 (11) Director, Division of Public Health.

60 (12) Secretary, Department of Human Resources.

61 (13) Administrator, Delaware Veterans Home.

62 (14) One member of the State Employee Benefits Committee, appointed by the co-chairs of the State Employee

63 Benefits Committee.

64 BE IT FURTHER RESOLVED that a quorum of the Study Group is a majority of its members.

65 BE IT FURTHER RESOLVED that:

66 (1) Official action by the Study Group, including making findings and recommendations, requires the approval of

67 a quorum of the Study Group.

68 (2) The Study Group may adopt rules necessary for its operation.

69 (3) The co-chairs of the Study Group may invite individuals with relevant expertise to participate in Study Group

70 discussions.

71 BE IT FURTHER RESOLVED that the co-chairs of this Study Group are responsible for guiding the

72 administration of the Study Group by doing, at a minimum, all of the following:

73 (1) Setting a date, time, and place for the initial organizational meeting.

74 (2) Notifying the individuals listed in lines 47 through 62 of the formation of the Study Group and the need to

75 appoint a member, if applicable.

76 (3) Supervising the preparation and distribution of meeting notices, agendas, minutes, correspondence, and reports

77 of the Study Group.

78 (4) Sending to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the

79 Director of the Division of Research of Legislative Council, after the first meeting of the Study Group, a list of the

80 members of the Study Group and the person who appointed them.

81 (5) Providing meeting notices, agendas, and minutes to the Director of the Division of Research of Legislative

82 Council.

83 (6) Ensuring that the final report of the Study Group is submitted to the President Pro Tempore of the Senate and
84 the Speaker of the House of Representatives, with copies to all members of the General Assembly, the Governor, the
85 Director and the Librarian of the Division of Research of Legislative Council, and the Delaware Public Archives.
86 BE IT FURTHER RESOLVED that the Study Group must hold its first meeting no later than August 1, 2019.
87 BE IT FURTHER RESOLVED that the General Assembly is responsible for providing reasonable and necessary
88 support staff, including a legislative attorney, and materials for the Study Group to carry out its mission.
89 BE IT FURTHER RESOLVED that the co-chairs of the Study Group must compile a report containing a summary
90 of the Study Group's work regarding the issues assigned to it in lines 38 through 44 of this Resolution, including any
91 findings and recommendations, and submit the report to all members of the General Assembly and the Governor no later
92 than December 31, 2019.

SYNOPSIS

This House Concurrent Resolution establishes an Interagency Pharmaceuticals Purchasing Study Group ("Study Group") to coordinate the existing efforts to leverage bulk purchasing to negotiate lower prices and make recommendations to maximize the opportunities to coordinate State-funded pharmaceutical purchases.

Appendix 3

Political pressure not preventing steep drug price hikes, report finds

Alia Paavola - Tuesday, July 9th, 2019

Despite public criticism and bipartisan efforts to lower drug prices, drugmakers have continued to steeply raise them, according to a Wells Fargo analysis cited by *Bloomberg*.

Wells Frargo analysts found that in June, pharma companies raised the prices of 106 medicines by an average of 27 percent. Included in the price hikes was a 909 percent increase for a generic antidiuretic manufactured by a subsidiary of Teva Pharmaceuticals and a 399 percent increase on two drugs made by Epic Pharma.

According to Wells Fargo Analyst David Maris, pharmaceutical companies have been more aggressive with price hikes after a hiatus in criticism.

"To us, it appears now that the criticism from politicians and the president has quieted down, companies are more aggressively and broadly pursuing drug price increases again," he told *Bloomberg*. "We are not so confident that the lull in criticism will continue and could foresee more negative headlines in the coming months."

US judge halts Trump administration rule requiring drug prices in TV ads

Published Mon, Jul 8 2019 6:40 PM EDT

REUTERS

Key Points

- A federal judge on Monday blocked the Trump administration from implementing a new rule that would force pharmaceutical companies to include the wholesale prices of their drugs in television advertising.
- U.S. District Judge Amit Mehta in Washington, D.C., sided with drugmakers Merck & Co, Eli Lilly and Co and Amgen by halting the U.S. Department of Health and Human Services rule from taking effect on Tuesday as planned.
- The rule was originally suggested last May as part of U.S. President Donald Trump's "blueprint" to lower prescription drug costs for U.S. consumers.

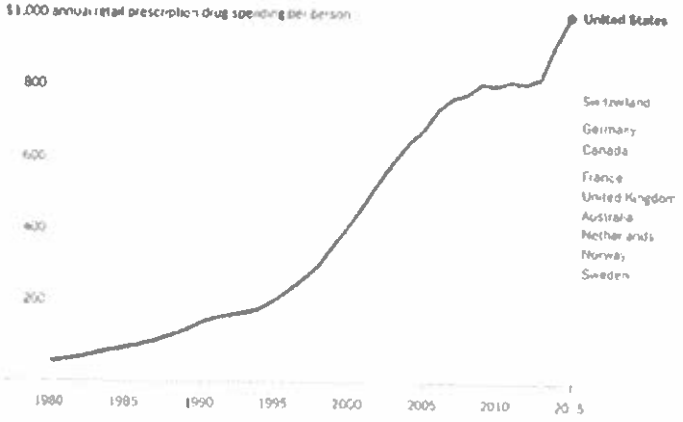
Appendix 4

HEALTH | FINANCE

Why Are Drug Costs So High? Problem Traces to 1990s

American Drug Spending Takes Off

Pharmaceutical spending in the United States has risen faster than it has in other advanced nations



Source: The Commonwealth Fund

Data is adjusted for the relative purchasing power of different currencies

THE NEW YORK TIMES

Appendix 5

HCR 35 Interagency Pharmaceutical Purchasing Study Group

Background and Statement of Problem

Pharmaceuticals make up a large expenditure of the total state budget. Currently the purchase and contracting of pharmaceuticals are performed by several departments separately. The cost for pharmaceuticals continue to increase. According to the Kaiser Foundation specialty branded drugs increased by 57% since 2014 and biologics increase at an alarming high cost. This increase in overall cost exist as an unsustainable condition for Delaware.

Goal and Process

The first goal is to understand the current arrangements of contracting and or purchasing of pharmaceuticals. Secondly, establish a baseline profile through the use of an inventory data base of pharmaceuticals and agreements that currently exist and benchmark against other state arrangements. Thirdly, explore current options to reduce medication prices and select the most effective option. Discover any legislation needed to support this goal. Finally where possible use clinical intervention in the formulary to reduce the number of medication products in each class.

Timing

The co-chairs of the Study Group must compile a report containing a summary of the Study Group's work regarding the issues assigned to it in lines 38 through 44 of this Resolution, including any findings and recommendations, and submit the report to all members of the General Assembly and the Governor no later than December 31, 2019.

Appendix 6

Pharmaceutical Spend by Area

Fiscal Year	Employee Health Faith Rentz 242-6725	Medicaid Steve Groff 824-6852	Long-Term-Care Dava Newman 255-9358	Corrections Marc Richman 857-5236	Total
FY 18	193,563,961	85,048,852	866,651	$12,868m	
FY 19	215,387,090	73,942,939	629,267	$13,110m	
FY 20	226,966,541	159,583,062	720,000	$13,100m	$400,369,603
Total				$39,078m	

Appendix 7

Cost Reduction Options

Option	Federal or State Option	Positive	Negative
Import pharmaceuticals from Canada	State Utah, Vermont	Assumption that most pharmaceutical are lower cost	Chain-of-custody Logistics Legal issue international law Border tax tariffs
Executive Order price index through the use of "Favored Nations-Clause"	Federal	Price set at lowest level charged to any other nation	How is this verified? Logistics
Transparency, disclose the list price of pharmaceuticals	Federal	Require Pharma to include the list prices of their products	Courts over-ruled this option
Eliminate drug rebates that are provided to insurance companies and PBM to lower drug price	State Ohio	Reduction directly to patient but many already go directly to patient	Insurance companies may increase price as pass through
Tax drug companies on price increase over a certain %	State NY	May provide funding to those in need	Companies may pass cost on to consumer
Takeover by Federal Government to produce critical drugs and control manufacture and price	Federal	Control of drug production and price	Can Federal Government obtain the skill to make this happen?
FDA perform a true cost benefit of medication and only approve those with a positive benefit	Federal	Consumer focused and motivates Pharma to reduce price relative to current market	Require federal legislation
Negotiate with Pharma	State Oregon, Washington California	Economies of scale free market VA system already does this with great success	If we do not have volume we may not be successful

Appendix 8

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Interagency Pharmaceuticals Purchasing Study Group

As Established by HCR 35 of the 150th General Assembly

Proposed Future Meetings Schedule

•Friday August 16th
Department description of current state for purchasing or arranging pharmaceutical contracts

•Friday September 20th
Up-date on progress with options to reduce pharmaceutical prices

•Friday October 18th
Review first draft of report

•Friday November 15th
Finalize draft report

411 Legislative Avenue, Legislative Hall, Dover, DE 19901
Office: 302-577-8416 Fax: 302-739-2313
Ray.Seigfried@state.de.us