

2009 SENATE HUMAN SERVICES .

SCR 4023

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4023

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 2-10-09

Recorder Job Number: 9088, 9123

Committee Clerk Signature

*Mary K. Monson*

Minutes:

**Senator J. Lee** opened the hearing on SCR 4023 supporting efforts to make prescription drugs more affordable and urging the Congress of the United States to take the necessary actions to improve access to affordable prescription drugs for all Americans.

**Senator J. Lee** called for testimony in favor of SCR 4023. With the sponsors not available and no others testifying in favor, she moved on to opposing testimony, telling everyone that when the sponsors arrived they would be able to testify.

**Joel Gilbertson** (PhRMA) testified in opposition to SCR 4023. Attachment #1

**Senator Heckaman** asked how many different kinds of drugs went off patent.

**Mr. Gilbertson** couldn't answer.

**Senator J. Lee** made the point that at one time there was some concern about the quality of generic, but now they are identical to the previous brand drug.

**Senator Aaron Krauter** (District 31) spoke in support of SCR 4023. Attachment #3.

**Cindy Sheldon** (Health Ins. Director/ND Insurance Department) said the Ins. Dept. was neutral on SCR 4023. She spoke about their program, Prescription Connection for ND, which connects individuals with free and discounted prescription drugs. Most of the time it is directly from the pharmaceutical manufacturer. The program primarily serves the non insured and the

underinsured. Recently the program has started to assist Medicare beneficiaries that fall into the donut hole or coverage gap – the period of time after individuals have spent \$2700 in prescription drug costs. Attachment #2

**Senator Dever** thought if they opened the border with Canada and allowed people to buy prescriptions and if there were complications there would be problems with consumer protection and liability issues.

**Senator J. Lee** pointed out that in Canada they can't charge any more for a new drug in a class than what is currently charged for the highest priced one in that class right now. That fowls up the ability to introduce any new drug into the Canadian healthcare system. There is so much regulation of the prices in drugs and medical care in Canada that contributes to the complexity of the issue of pricing. She also addressed the quality of the drugs.

With no other testimony, the hearing on SCR 4023 was closed and the committee recessed.

### **Job #9123**

The committee reconvened to discuss SCR 4023.

Senator Erbele moved a **Do Not Pass**.

Second by **Senator Dever**.

Discussion that it creates more problems than it solves.

Roll call vote 4-1-1(Senator Marcellais). **Motion carried**.

**Carrier is Senator Erbele**.

Date: 2-10-09

Roll Call Vote #: \_\_\_\_\_

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO. SCR 4023**

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Sen. Erbele Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman		✓
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais		
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 4 No 1

Absent 1

Floor Assignment Senator Erbele

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
February 11, 2009 8:13 a.m.

**Module No: SR-27-2339**  
**Carrier: Erbele**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SCR 4023: Human Services Committee (Sen. J. Lee, Chairman) recommends DO NOT PASS (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SCR 4023 was placed on the Eleventh order on the calendar.**

2009 TESTIMONY

SCR 4023

#1

# Response to Senate Concurrent Resolution 4023 Presented on behalf of PhRMA by Joel Gilbertson

February 10, 2009

## Drug Spending – North Dakota

- **Generic substitution rates are expected to exceed 70% between 2009 and 2012 as more brand name drugs go off patent.** North Dakota is already receiving the benefit of increased generic availability and its current policies to promote generics. This resolution will only be focused on less than 30% of all drugs sold. *At this level, brands are only being used where there are no generics available.*
- **In 2006, 62.6% of all prescription drugs in North Dakota Medicaid were for generic drugs. (According to Health Affairs – January 2008).** 2006 is the most current publicly available data, but state legislators could likely request the ND Medicaid program to perform its own assessment of current generic v. brand prescribing patterns.
- **Both ND's Medicaid program and every health insurer operating in the state utilize strict drug formularies and utilization controls.** These types of formulary and utilization controls include mandatory generic use, therapeutic substitution for drugs in the same class and refusal to cover numerous medications.
- **\$13 billion of patented drugs went off patent in 2005 and 2006 with another \$15 billion or so expected in the next 18 months.** North Dakota will receive the benefit of these new generics without making any changes to existing policy.
- **All generics were once branded, research-based discoveries. Generics tend to be lower cost because their manufacturers have had to put in zero dollars or effort into discovering any of these patient medical cures.** Without the ability to market new discoveries, millions of patients would likely not have access to new and better medicines.

### **Patient Safety Jeopardized Due to Drug Importation**

An exhaustive HHS Report on Prescription Drug Importation, authorized by Congress and completed late in 2004, found that: "In sum, this report finds that American consumers currently purchasing drugs from overseas are currently doing so at significant risk."

An FDA report, Combating Counterfeit Drugs: A Report of the Food and Drug Administration, also completed in 2004, noted that: "In some countries, more than half of the drug supply may consist of counterfeit drugs. For example, recent reports have detailed that more than 50% of antimalarials in Africa are believed to be counterfeit."

In 2005 testimony before Congress, the Government Accounting Office stated: "With regard to safety, the FDA officials told us that they cannot assure the public of the safety and quality of drugs purchased from foreign sources that are largely outside the U.S. regulatory system. Consistent with these concerns, in June 2004, we reported that a sample of drugs purchased from some foreign-based Internet pharmacies posed safety risks for consumers."

## **Importation Savings are Negligible FDA Approved Drugs are Available at Low Cost or No Cost**

On September 19<sup>th</sup>, 2006, the Illinois Auditor General released his state-sponsored audit of a foreign website distributing drugs to Illinois residents after 19 months in operation. Rather than saving the state of Illinois a windfall from importing prescription drugs, the Auditor General found that the program instead cost Illinois taxpayers over \$1 million and reached only 4,000 people. While importation was hailed by some as a means to save money, analysis of actual data continues to show that this is not the case.

In 2004, the respected Congressional Budget Office (CBO) examined the likely economic effects of drug importation: "On the basis of its evaluation of proposals to date, CBO has concluded that permitting the importation of foreign-distributed prescription drugs would produce at most a modest reduction in prescription drug spending in the United States," suggesting that the savings might be 1%.

PhRMA and the biopharmaceutical industry are committed to working with the FDA and other agencies to keep America's drug supply safe. We are equally committed to ensuring that every American has access to quality medicines. In April 2005, PhRMA established the Partnership for Prescription Assistance ([www.pparx.com](http://www.pparx.com)), which offers a single point of access to more than 475 public and private patient assistance programs, including more than 180 programs offered by pharmaceutical companies. PPARx brings together America's pharmaceutical companies, doctors, other health care providers, patient advocacy organizations, and community groups to help qualifying patients who lack prescription coverage get the medicines they need through the public or private program that is right for them. Many will get them free or nearly free. Since PPARx was created, more than 5 million Americans have been matched to a patient assistance program.

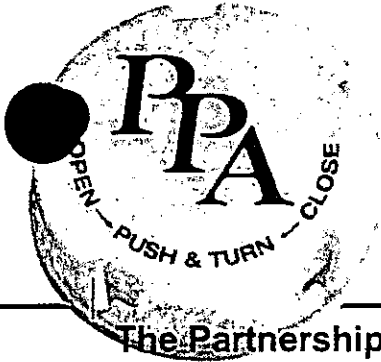
### **Legal Concerns and Potential Liability for Public Entities**

In addition to safety concerns, the FDA indicates that states and/or other entities that encourage, act, or even cause illegal importation run afoul of the Federal Food, Drug, and Cosmetic Act ("FDCA"). FDCA violations have already triggered Department of Justice enforcement actions.

As a practical matter, FDA believes that, "it is extremely unlikely that any program in [a state or municipality] could ensure that all of the applicable legal requirements are met." The costs to a state associated with attempting to create and maintain a program that could oversee the distribution of foreign drugs to its residents, often on an individual basis, would likely be so substantial that a state would be unable to adequately protect against all possible civil and criminal violations.



# PPA FACT SHEET



## The Partnership for Prescription Assistance (PPA)

- The PPA helps uninsured and financially struggling patients who lack prescription coverage get access to prescription assistance programs that offer medicines for free or nearly free.
- The PPA is free, confidential, and it is easy for patients to find programs for which they may be eligible to apply.
- Offers a single point of access to information on 475 public and private patient assistance programs, including nearly 200 programs offered by pharmaceutical companies.
- PPA member programs offer more than 2,500 brand-name medicines, including a wide range of generics.
- Helps patients contact government programs such as Medicaid and Medicare.
- More than 40 of the assistance programs focus on the medication and health care needs of children.
- Informs patients about free health care clinics in their communities.
- Assists patients with chronic disease in learning about the types of new medicines in development that may help them.

## Helping Millions of Patients

- Since its launch in April 2005, the Partnership for Prescription Assistance (PPA) has helped connect nearly 5 million people to patient assistance programs that may meet their needs.
- The patients helped through the PPA join the millions of other patients who have contacted individual pharmaceutical company programs directly over the years.

## Who Is The PPA?

- The PPA is sponsored by America's pharmaceutical research companies.
- These pharmaceutical research companies are working with doctors, pharmacists, other health care providers, patient advocacy organizations and community groups to educate patients about the PPA.
- More than 1,300 leading national, state and local organizations have joined forces with the PPA.
- The groups behind the PPA include the largest and most influential in health care. They include the American Academy of Family Physicians, American Cancer Society, American College of Emergency Physicians, Easter Seals, National Association of Chain Drug Stores, United Way and the Urban League.

## National Outreach

- The PPA launched state-based chapters in all 50 states, Washington, D.C. and Puerto Rico.
- The PPA has two "Help is Here Express" buses traveling across the country, stopping in all 50 states and more than 2,000 cities to educate low-income and uninsured patients about drug assistance programs.
- Montel Williams joined forces as the national PPA spokesman in January 2006.
- Mayte Prida was named PPA spokeswoman for Hispanic outreach efforts in June 2006.
- Both Montel Williams and Mayte Prida participate in "Help is Here Express" events around the country and also appear in PPA advertising campaigns and public service announcements.

## Web Site

- A user-friendly Web site ([www.pparx.org](http://www.pparx.org)) enables patients to find programs for which they may be eligible to apply.
- The PPA has dedicated a website to make it easier for patients to learn about help available for children, ([kids.pparx.org](http://kids.pparx.org)).
- Patients can download and print out patient assistance program applications immediately.

## Toll-free Phone Number

- Patients can call toll free (1-888-4PPA-NOW) to talk with a trained specialist who will guide them through the application process.
- The call centers accept calls in English, Spanish and approximately 150 other languages.



## **Prescription Connection. A really bright idea!**



Prescription Connection for North Dakota is a program of the North Dakota Insurance Department that connects kids and families with free and discounted prescription drugs.

To receive more information or to sign up for the program, please call 1-888-575-6611 or visit our website at [www.rxconnectnd.org](http://www.rxconnectnd.org).

*"Prescription Connection for ND assists citizens of all ages in acquiring prescriptions that might otherwise be unattainable."*



Each individual pharmaceutical company has its own eligibility criteria. The criteria may include one or more of the following:

- ☼ Income & asset guidelines
- ☼ Citizenship status
- ☼ Veterans benefits status
- ☼ Prescription benefits currently received through other programs.

If rising costs are making it more difficult for you to purchase your medications, please call Prescription Connection for ND to find out if we can help connect you to low-cost prescription drugs.

**1-888-575-6611**

**[www.rxconnectnd.org](http://www.rxconnectnd.org)**

**NORTH  
DAKOTA**

*a program of the  
North Dakota  
Insurance Department*

**Prescription  
Connection**  
*for North Dakota*

**A program offered through the ND Insurance Department  
Jim Poolman — Commissioner**

**Senator Aaron Krauter**  
**Testimony in support of SCR 4023**  
**February 10, 2009**

SCR 4023 is a resolution that tells Congress that the people of North Dakota are not happy with paying the highest costs for prescription drugs in the world and urges them to do what they can to find ways to reduce those costs. The resolution urges Congress to improve access to more affordable prescription drugs. I know resident North Dakotans who travel to Canada to buy their prescriptions. They tell me they are the exact same drugs but priced at half or more what they pay in the U.S. Also I know individuals who spend their winter months in Texas and frequently travel across from El Paso to Juarez, Mexico. Now I know this may be illegal, but it is happening. Too often, people are cutting their pills in half, going days without taking their medication, or simply not filing their prescriptions. It is unacceptable, in the greatest nation in the world, that people (often seniors) are not getting the proper healthcare because they can't afford their medication.

I feel it is important at this point to reiterate that prescription drugs cost more in the United States than in any other nation in the world. In looking at a list of the 100 top campaign contributors from 1998 – 2008, I noticed that three of the largest 100 donors are drug manufacturing companies. The list contains Pfizer at \$12,805,848; GlaxoSmithKline at \$9,580,990; and Bristol-Myers Squib at \$7,219,205. That means three individual companies are in the same conversation as nationwide groups in terms of the dollars they are spending to influence public policy. This concerns me and many North Dakotans. Another problem is that these companies are influencing a public policy that allows them to sell their prescription drugs to the American public at the highest prices in the world.

These are troubling ideas. This resolution is simply a statement of the people of North Dakota that we are concerned about the fact that Americans pay more for prescription drugs than any other nation and that we want Congress to look at the issue and determine how those prices can be reduced. I urge your support for this resolution.