



April 8, 2021

Dear Chair Liebbling and Members of the House Health Finance & Policy Committee,

The Association for Accessible Medicines (AAM) is the leading trade association for generic and biosimilar manufacturers. AAM's core mission is to improve the lives of patients by advancing timely access to affordable, FDA-approved generic and biosimilar medicines.

AAM is opposed to two provisions impacting generic and biosimilar prescription drugs included in HF 2128, the House omnibus health finance budget bill:

- **Generic Drug Price Gouging (Art 5, Sec 2-6)**

AAM is opposed to this provision because it focuses on drugs that are not driving the increase in costs, has unprecedented requirements for manufacturers and is likely unconstitutional. In 2019 alone, the use of generic and biosimilar drugs saved Minnesota \$4.5 billion and the United States \$313 billion. In fact, generics account for 90% of all U.S. prescriptions but only 20% of costs. This language would disturb the national market for generic medicines which provide tremendous savings to patients and taxpayers but not impact the highest priced drugs.

The thresholds in the bill capture drugs that are relatively inexpensive and not creating cost issues for the healthcare system. This bill specifically targets generic drugs, even though the Kaiser Family Foundation Health System Tracker has found these medications only account for 3% of U.S. healthcare spending. This bill does not focus on the drugs driving up the costs of prescription medications. Also, the provisions regarding requiring an agent or presence in the state and preventing exit from the market are unprecedented requirements for manufacturers selling products in the state, particularly for those that provide the most savings for your constituents.

Finally, this provision is very similar to Maryland law which was found to violate the Dormant Commerce Clause of the U.S. Constitution by the Fourth Circuit Court of Appeals. The U.S. Supreme Court denied review of the Fourth Circuit's decision holding the similar Maryland drug pricing law unconstitutional. Because a state may not regulate commercial transactions that occur wholly outside of its borders the Maryland law was deemed unconstitutional. Like Maryland, most financial transactions related to generic drug prices occur outside of Minnesota.

- **Alternative Biologic Products (Art 5, Sec 9)**

AAM appreciates the stated goals of the bill author, Rep. Schultz, and the bill's proponents of driving cost savings through greater access to biosimilar drugs. Unfortunately, the language in this bill will not create the competition that is needed to create savings from biosimilars. The proposed language that limits plans from having a preference for any product over another (reference/biosimilar/interchangeable) regardless of WAC price won't encourage or even allow payors to incentivize the use of lower cost medicines. As a result, patients won't receive the benefit of accessing lower cost medicines. Also, requiring plans to cover higher-cost brands on the same level as lower-cost biosimilars does not encourage providers to use lower cost biosimilars even if they have a lower net cost from the reference biologic. While we have the same goals of increasing use of



Your Generics & Biosimilars Industry

biosimilars, we do not believe that this language will create the needed competition to result in that outcome. For that reason, AAM is opposed this language, but is eager to continue discussions to reach consensus on how to increase use of biosimilars in the marketplace and provide cost savings to Minnesotans.

Please feel free to contact me at brett.michelin@accessiblemeds.org with any questions.

Sincerely,

Brett Michelin
Senior Director, State Government Affairs
Association for Accessible Medicines

