Advisory Task Force on Lowering Pharmaceutical Drug Prices
Minutes of Second Meeting
June 18, 2019

The Attorney General's Advisory Task Force on Lowering Pharmaceutical Drug Prices met for the second time on Tuesday, June 18, 2019 from 5:00 to 8:00 p.m. The meeting was held at the Minnesota State Capitol, 75 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, MN 55155, Senate Committee Room G3.

The following members were present in-person: Phu Huynh; Dr. Cody Wiberg; Sen. Matt Little; Sen. Scott Jensen (co-chair); Nicole Smith-Holt (co-chair); Christy Kuehn; Dr. Leonard Snellman; Jessica Braun; Elo Alston; Shirlynn LaChapelle.

The following members were present via telephone: Nazie Eftekhari; Dr. Stephen Schondelmeyer (joined approx. 6:45p.m.).

The following members were absent: Rep. John Lesch; Rose Roach; Rep. Rod Hamilton.

The following Attorney General staff were present: Attorney General Keith Ellison; Willow Fortunoff; Sadaf Rahmani (ex officio); Ben Velzen; Jason Pleggenkuehle; Allison Hustedt; Keaon Dousti.

Meeting Agenda

Task force voted to approve the proposed agenda.

Progress Reports from Working Groups

Update from Dr. Cody Wiberg about Working Group #1 (based on previous meeting minutes)
Update from Christy Kuehn about Working Group #2 (based on previous meeting minutes)
Update from Jessica Braun about Working Group #3 (based on previous meeting minutes)

Remarks from Attorney General Keith Ellison

Attorney General Keith Ellison spoke to the task force and stated that the task force should construct recommendations for legislative and corrective actions that can be taken to lower the cost of pharmaceuticals. Attorney General Ellison stated that the task force should also construct some recommendations that attorneys general across the country can implement to lower the cost of pharmaceuticals, including recommendations for multi-state actions.

Attorney General Ellison stated that the Office has recently filed three drug lawsuits, which include lawsuits against Purdue Pharma, Insys Therapeutics, and manufacturers of generic pharmaceutical drugs.

Attorney General Ellison said that he has been in contact with Elisabeth Rosenthal and invited her to speak to the task force.

General Discussion

Sen. Scott Jensen asked Attorney General Ellison what the Minnesota Attorney General is able to do about direct-to-consumer marketing of pharmaceuticals.

Attorney General Ellison discussed Minn. Stat. § 8.31, subd. 1 and Uniform Deceptive Trade Practices Act.

Review Potential Speakers for Meeting on July 23, 2019

Task force asked, "Is the purpose of speakers for education or to allow stakeholders to provide testimony?" Attorney General Ellison encouraged task force to select speakers to provide education to the task force so they can select recommendations later on in the process to lower the cost of pharmaceutical drugs.

Attorney General Ellison:

- In contact with Elisabeth Ronsenthal to speak to task force. Rosenthal is a physician, NYU professor, and wrote a book titled "An American Sickness" about how healthcare became a big business.
- Wants a speaker to talk about patents.
- Assistant attorneys generals in the Office can provide a briefing about anti-trust and how it impacts drug marketing.

Task force expressed interest in the following speaks for the July 23 meeting:

- Paul Nolette
- Linda Davis
- Carolyn Pare – can speak to employer side of healthcare; Braun commented that many employers are offering high deductible HSA plans, but that many consumers don't have the cash-on-hand to pay for pharmaceuticals every month
- Someone to talk about the 1989 Oregon Medicaid Priorities system

Huynh and Wiberg discussed having a representative from the Association for Accessible Medicine – a trade association for 26 manufacturers of pharmaceutical drugs. Sen. Jensen asked how having a representative from this association speak would benefit the task force. Wiberg responded that having a representative speak depends on if the task force wants input from the industry or strictly educational speakers.

Sen. Little stated that there seems to be three "buckets" of speakers:

1. Attorney general/legal – Paul Nolette, speaker on patent law, attorney general staff to speak on antitrust law
2. Commissioners from DHS and MDH

3. Employer/plan side – may need to select these speakers based on who is available

Sen. Little suggested that the task force should create categories of speakers and have the speakers present in order according to their categories.

Review and Discuss Outline of Draft Report

Section II

- Section C
  - Add "employers"
  - List contributors in alphabetical order
  - Change 5 from "physicians" to "prescribers"
- Section D
  - Add what is not there and should be there in terms of federal/state laws and regulation; "holes" in federal and state laws and regulations; add "enforcement" angle, not just legislative angle; part of the problem is enforcement of current laws
- Section E
  - Potential picks for case studies:
    - Case Study #1 (brand name) – Spinraza, Opdivo, Qsymia (combo of Topamax and weight loss drug phentermine)
    - Case Study #2 (generic)
    - Case Study #3 (biosimilar) – Humira
    - Case Study #4 (manufacturer business model) – Basaglar, Humalog
  - Possibly add Martin Shkreli – When older generics become unprofitable, manufacturers stop making them until only one or two drugs are left. Someone like Shkreli buys up the rights to those remaining one or two drugs and then jacks up the price because there are no other manufacturers out there.
  - Put together three to four paragraphs for each drug included in the case studies for the report
  - Attorney General Ellison recommended keeping a running tab on additional drugs that can be included as case studies in the report; more ideas for this section may develop over the next several months
- Section F
  - Add "seniors"
  - Add those with high deductible HSA plans to under-insured Minnesotans

Section III

- Add "marketing" as a sub-point

- Add sub-point about "patients/providers/payers lack information about comparative effectiveness of drugs at time when critical healthcare decisions are made"
- Letter E
    - Discuss shadow pricing and include a graphic/table; for example, when one insulin price goes up, others go down
    - Look to Attorney General's Office to inspect the importation of drugs
    - Wiberg stated that he has expertise on the topic of "parallel importation" which could be included
- Letter D
    - Discuss the artificial increase in list prices where PBMs will accept a high list price because of a rebate that will come to them later
- Letter G
    - Discuss provider involvement
    - Discuss transparency when becoming a consultant, for example, providers getting lucrative consultant deals and telling primary care providers why using supplement Rx is good for patients, however providers does not know the individual is a hired consultant; providers can make hundreds of thousands of dollars on these deals
        - This may go under new "marketing" sub-point

Section IV

None

Section V

None

Section VI

Add recommendations for consumers based in Minnesota

General Discussion

Dr. Snellman asked the task force, "Do we want to hear from an economist about overall impact on State economy instead of just impact on individuals?"

Attorney General Ellison added that it would be informative to know how the escalation of drug prices has impacted the overall family budget and that an economist may be able to tell us this.

Insulin Discussion

Task force discussed that patient advocates and/or organizations sometimes take funding from pharmaceutical companies.

Task force discussed the Alec Smith Emergency Insulin Act

- Senate may not have received all of the information they needed on the price of the program
- Eligibility criteria, sustainability of the program, get update projections from MDH about how many Minnesota are on insulin and need emergency program; need network of pharmacies to participate – most pharmacies in the State participate in MA
- About half of those eligible for MA/MNCare are not enrolled
- Attorney General Ellison asked if there was something in the different versions of this bill that cannot be compromised on
  - Sen. Jensen wants broader eligibility to cover everyone who needs the program.
  - Sen. Little stated that no one wants less broad eligibility and the logistics are not the issue; the fundamental argument is funding – who pays for this program? Taxpayers should not have to pay to buy insulin at the price it is; Manufacturers caused the problem and should be held accountable and pay
- Short-term solution is passing this bill, the long-term solution is regulating prices of pharmaceuticals

Public Testimonies

- P.T. – auditing drug pricing using general accounting principles
- M.S. – son has Type 1 diabetes; when he was diagnosed in 2009, a vial cost $35; the same vial today costs $233; her son goes through one vial every 10 days so they are looking at a monthly cost of $700, not including other added costs of managing diabetes; she was diagnosed with breast cancer and paid $900-$1800 per treatment "cocktail"; one drug cost $2,500 for a 30-day supply; the cancer drugs were so expensive that they extended the cost of cancer over her lifespan; one cancer drug affected her pancreas and she now has diabetes.
- S.G. – diagnosed with Type 1 diabetes when she was 8; now had it for 50 years; her son also has Type 1 diabetes and is turning 26 in two weeks; concerned that he now has to make sure he has a job with good insurance because he cannot rely on his family's insurance; the technology is there to manage diabetes, but it's discouraging that price prohibits patients from being able to access this technology
- A.P. – recognizes that coupons are part of the problem, but are an unfortunate solution; oftentimes the only solutions to high drug costs are coupons and patient assistance programs at this time; can a type of program like the Ryan White HIV/AIDS Program be used for other types of pharmaceuticals; from an economic perspective, do we want to focus on up-front prevention vs. down-the-road (i.e. smoking)
- Q.N. – many middle-income families do not qualify for patient assistance programs, but are still unable to afford insulin, for example, those with high deductible plans
- L.B. – need affordable insulin

- A.J. – need overhaul of healthcare system from multi-payer to single payer