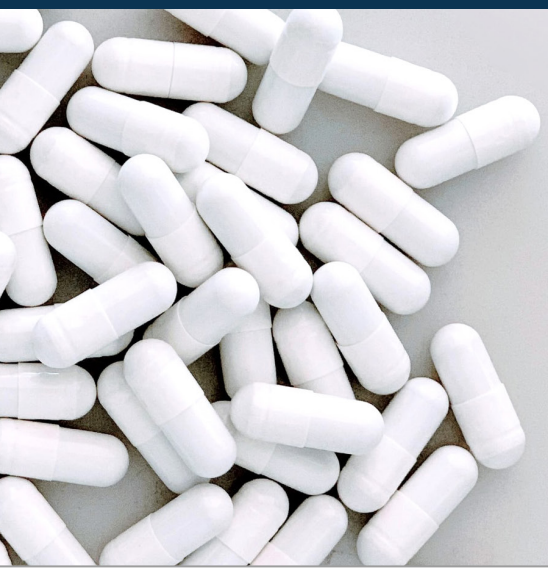
STATE OF WISCONSIN

GOVERNOR'S TASK FORCE ON
REDUCING PRESCRIPTION DRUG PRICES



Executive Summary of the Governor's Task Force on Reducing Prescription Drug Prices

October 2020

On August 20, 2019, Governor Tony Evers signed Executive Order #39, creating the Governor's Task Force on Reducing Prescription Drug Prices (Task Force).

Indicating prescription drugs are estimated to cost Wisconsin residents over $1.3 billion in 2019, the Executive Order requires the following:

The Task Force shall advise and assist the Governor in addressing excessive prescription drug prices and the financial burden that prescription drug prices place on Wisconsin residents. The Task Force shall do the following:

a. Gather and analyze data and information relating to the development, pricing, distribution, and purchasing of prescription drugs.
b. Review actions already taken by Wisconsin and other states to reduce prescription drug prices.
c. Identify opportunities to coordinate with other states and the federal government.
d. Recommend potential actions, which may include legislative, legal, regulatory, or community-based strategies, that can be taken to reduce prescription drug prices in Wisconsin.

Chaired by the Office of the Commissioner of Insurance (OCI) Deputy Commissioner, Nathan Houdek, the Task Force met eight times between November 2019 and August 2020. The Task Force heard presentations from each entity of the prescription drug supply chain to gain an understanding of each entity's role and the impact their practices have on the prices consumers ultimately pay for their medications. Recognizing that manufacturers set the initial sales price of their drugs and there are few state levers to impact that "list price," Mr. Houdek focused the Task Force on identifying practices within the supply chain where the state could effectuate change after the list price is set.

The recommendations and policy options compiled in this report represent varying levels of consensus and discussion by Task Force members, as described under each tier below. The recommendations and policy options are intended to provide initial direction to guide state action in creating building blocks to a strong foundation in addressing high prescription drug costs.

Assembly Bill 114/Senate Bill 100

The Task Force recommends the provisions in 2019 AB 114/SB 100, as amended by ASA 1, move forward in the next legislative session. Below is a list of the issues addressed in the bills and the specific recommendations.

Require pharmacy benefit managers (PBMs) to annually submit a report to OCI reflecting rebates received from manufacturers.

Require PBMs to either hold an Employee Benefit Plan Administrator (EBPA) license or a newly created PBM license.

Prohibit gag clauses in PBM contracts with pharmacists.

Ensure PBMs charge the lowest price available to the enrollee, at the point of sale (the cost either under the enrollee's health plan or purchased without, whichever is lower).

Prohibit PBMs from retroactively denying or reducing a pharmacist's claim after adjudication, unless certain circumstances apply.

Establish requirements PBMs must adhere to when conducting audits of pharmacists and pharmacies.

Tier 1: Task Force Recommendations; Majority Task Force Member Support

There were several recommendations where a majority of the Task Force, after weighing the pros and cons of each, determined the recommended action to be a positive step toward reducing prescription drug prices. In some cases, the recommendation has a more direct impact on pricing and in others, a greater level of transparency is offered that will help inform future discussions. Those recommendations are listed below.

Statutorily limit the copay an insurer can charge for a month's supply of insulin.

Require additional transparency and reporting for prescription drug supply chain entities to better understand the drivers of high-cost prescription drugs and inform future policymaking.

Increase the number of Department of Justice consumer protection and anti-trust attorneys focused on improper pharmaceutical industry practices.

Increase the annual appropriation for free and charitable clinics, dedicating a portion of the funding to pharmacy, to expand access.

Develop a statewide, medication repository with a centralized prescription drug inventory in Wisconsin, or collaborate with an existing medication repository program in another state.

Tier 1: Task Force Recommendations; Majority Task Force Member Support (continued)

Support efforts by the Wisconsin Association of Free and Charitable Clinics and other stakeholders to remove barriers that unnecessarily prohibit the Wisconsin Drug Repository Program from accepting prescription drug donations from other states.

Allow one-third of continuing education requirements for pharmacists to be dedicated towards volunteerism.

Ensure that Federally Qualified Health Centers, Critical Access Hospitals, and Ryan White HIV/AIDS programs participating in the 340B drug discount program are able to reinvest savings from drug purchases into patient care and support activities.

Create a public sector prescription drug purchasing entity, initially for government purchasers as a means to leverage purchasing power and other cost-saving opportunities that may be available.

Require Pharmacy Services Administration Organizations (PSAO) executing agreements with pharmacists in Wisconsin to be registered or hold a state license.

Explore and support efforts to improve physician access to real-time patient pharmacy benefit information in electronic medical records (EMRs) to allow physicians to consider out-of-pocket costs when prescribing medications. Also, explore access to the total drug cost so that decisions can be made that may save costs at a system level.

Advocate for federal regulatory changes to address practices that delay the market entry of affordable generic equivalents and other market practices identified as drivers of prescription drug unaffordability.

Tier 2: Policy Options for Consideration

The following are policy proposals that have been raised and discussed, to some extent, throughout the work of the Task Force since the first meeting in November 2019. These proposals are not necessarily Task Force recommendations; however, these proposals may merit further discussion and consideration outside of the work of the Task Force. Also, of note, at least one Task Force member expressed support for each of these proposals, while others have expressed concern or opposition. Including these proposals is important for meeting the requirement to summarize the work of the Task Force, as directed by Executive Order #39.

Require insurers to apply manufacturer prescription discounts utilized by consumers to deductibles and annual maximum out-of-pocket costs, if no generic exists or where a generic exists but the beneficiary obtained access to the prescribed drug after undergoing prior authorization, step therapy, or the insurer's exceptions and appeals process.

Create a prescription drug affordability/accountability review board to establish prescription drug spending targets for public sector entities and explore establishing price limits.

Tier 2: Policy Options for Consideration (continued)

Allow wholesale importation of prescription medication from Canada.

Encourage providers and insurers to adopt, as a best business practice, the administration of specialty drugs at the lowest-cost setting available, taking into account specific patient needs, the drug, and clinical appropriateness to ensure patient safety.

Develop best practice guidelines for PBM business practices.

Enhance public awareness of pharmaceutical manufacturer patient assistance programs.

Tier 3: Issues Raised but Not Thoroughly Discussed/Recent Additions

The following are policy proposals that were raised by Task Force members for potential consideration. However, the Task Force did not have time to extensively discuss these items, therefore they are being included with the acknowledgment that more analysis would be needed to determine if they merit favorable consideration.

Licensure and regulation of pharmaceutical sales representatives.

Additional regulatory oversight (licensure or regulation) of PBM brokers and consultants.

Require PBMs to act as a fiduciary on behalf of their plan sponsors.

At free and charitable clinics, consider expanding pharmacist responsibilities, implementing telepharmacy services, and making it easier to allow remote dispensing sites, in particular, for onsite inspections.

Allow the state Department of Justice (DOJ) to have direct Civil Investigative Demand (CID) authority for anti-trust cases without seeking court authority each time.

Additional restrictions on improper prescription drug marketing and advertising practices.

Create an insulin safety net program.

Create a value-based pilot project for diabetes medications.