

<b>Act Number:</b>	09-014	
<b>Bill Number:</b>	6379	
<b>Senate Pages:</b>	1430-1431, 1479-1482	<b>6</b>
<b>House Pages:</b>	2017-2022	<b>6</b>
<b>Committee:</b>	Human Services: 1322, 1327- 1328, 1428, 1430-1435, 1646-1650, 1700-1701, 1747-1748, 1782, 1791-1792	<b>22</b>
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**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2009**

**VOL. 52  
PART 5  
1351 - 1666**

md  
SENATE

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April 22, 2009

Regionalism in the State, favorable report of the  
Committee on Planning and Development.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes. Thank you, Mr. President. That item might  
be passed temporarily.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Also there is another  
item to be moved to the Consent Calendar. There is an  
item that came up for today on Senate Agenda Number 3  
from the House of Representatives, which was House  
Bill Number 6739, I ask --

THE CHAIR:

Excuse me, Senator Looney, is it 6379?

SENATOR LOONEY:

6379, House Bill 6379.

THE CHAIR:

Thank you.

SENATOR LOONEY:

I would ask for suspension to take up that item,  
for purposes of moving it to the Consent Calendar.

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THE CHAIR:

There's a motion on suspension. Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Yes. Thank you, Mr. President. I would move to place House Bill 6379 from Senate Agenda Number 3 on the Consent Calendar.

THE CHAIR:

There's a motion on the floor for consent. Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Mr. President.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar page 20, Calendar Number 402, File Number 31, Substitute for House Bill 6193, An Act Concerning the Legislative Commissioners' Recommendations for Technical Revisions to the Labor Statutes, favorable report of the Committee on Labor. The Clerk is possession of an amendment.

THE CHAIR:

Senator Prague.

SENATOR PRAGUE:

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Agenda Number 3, Emergency Certified Bill 6716 and  
House Bill -- correction, 6379.

Turning to the calendar, calendar page 2,  
Calendar Number 475, Senate Resolution Number 19;  
Calendar 476, Senate Resolution Number 20; Calendar  
477, Senate Joint Resolution Number 74.

Calendar page 4, Calendar Number 139, Senate Bill  
854.

Calendar page 6, Calendar 178, Senate Bill 873.

Calendar page 7, Calendar 194, Substitute for  
Senate Bill 756.

Calendar page 8, Calendar 223, Substitute for  
Senate Bill 46.

Calendar page 10, Calendar Number 240, House Bill  
Number 6401.

Calendar page 12, Calendar Number 264, Substitute  
for Senate Bill 1023.

Calendar page 14, Calendar 328, Substitute for  
Senate Bill 814.

Calendar page 19, Calendar Number 400, House Bill  
6351.

Calendar page 20, Calendar Number 402, Substitute  
for House Bill 6193.

Calendar page 21, Calendar 408, House Bill 6322;

Calendar 409, Senate Bill 1013.

Calendar page 23, Calendar 423, Substitute for  
Senate Bill 1010.

Calendar page 27, Calendar 443, Substitute Senate  
Bill 1149; Calendar 447, Senate Bill 673; Calendar  
448, Senate Bill 1029.

Calendar page 30, Calendar 459, House Bill 5138;  
Calendar 461, House Bill 6406; Calendar 462,  
Substitute for House Bill 6537.

Calendar page 39, Calendar Number 81, Substitute  
for Senate Bill 760; Calendar 83, Senate Bill 762;  
Calendar 99, Senate Bill 787.

Calendar page 40, Calendar 119, Substitute for  
Senate Bill 778.

Calendar page 43, Calendar 171, Senate Bill 251.

Calendar page 46, Calendar Number 266, Senate  
Bill Number 382.

Calendar page 51, Calendar Number 356.

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Mr. President, I believe that completes those  
items previously placed on the first Consent Calendar.

The Senate is now voting by roll call on the  
Consent Calendar, will all Senators please return to  
the chamber. The Senate is now voting by roll call on  
the Consent Calendar, will all Senators please return

to the chamber.

THE CHAIR:

The machine is open.

Members, please check the board to see if your vote is properly cast and properly recorded. If all members have voted, the machine will be locked.

Would the Clerk please take a tally.

THE CLERK:

Motion is on adoption of Consent Calendar Number 1. Total number voting, 35; those voting yea, 35; those voting nay, 0; those absent/not voting, 1.

THE CHAIR:

Consent Calendar 1 is passed.

Senator Looney.

SENATOR LOONEY:

Yes. Thank you, Mr. President. Mr. President, the two items that appeared on Senate Agenda Number 3, have just been passed on the Consent Calendar. I would move that the first item from Senate Agenda Number 3, House Bill 6716, the emergency certified bill, I move for immediate transmittal of that item to the Governor.

THE CHAIR:

Motion is for immediate transmittal to the

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Governor, is there objection? Seeing none, so ordered.

SENATOR LOONEY:

And Mr. President, also the second item on Senate Agenda Number 3, the House Bill 6379, I would ask for a suspension for immediate transmittal to the Governor, of that item.

THE CHAIR:

Motion is for suspension, is there objection? Is there objection? Seeing none, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, I would also move that all items referred to various committees today be immediately transmitted to those committees.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, that concludes our business for today. It's our intention to be in session two days next week, Wednesday, April 29th, and then Thursday, April 30th, which is Husky Day, so people should mark that on their calendars also.

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**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2009**

**VOL.52  
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Chamber at ease.

DEPUTY SPEAKER GODFREY:

House will come back to order. Mr. Clerk, would you please call Calendar 414.

THE CLERK:

On page 21, Calendar 414, House Bill Number 6379,  
AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET  
RECOMMENDATIONS CONCERNING MAXIMIZATION OF PHARMACY  
REBATES, favorable report of the Committee on  
Appropriations.

DEPUTY SPEAKER GODFREY:

The distinguished Chair of the Human Services  
Committee, the gentlewoman from New Haven,  
Representative Toni Walker, but before you proceed, I  
can't see Representative Walker from the Chair. Would  
the people in front of her please move out of the way  
or take their seats. Thank you so much.

REP. WALKER (93rd):

Hi there. That's okay.

DEPUTY SPEAKER GODFREY:

That's much better. Now, I can see you,  
Representative Walker. Please proceed, madam.

REP. WALKER (93rd):

Mr. Speaker, I move acceptance for the joint committee's favorable report and passage of the bill.

DEPUTY SPEAKER GODFREY:

Question is on acceptance and passage. Will you explain the bill please, madam?

REP. WALKER (93rd):

Thank you, Mr. Speaker. Mr. Speaker, the bill before you is a bill that we -- that is required of DSS to bring parity to our reimbursement for pharmacy rebates.

The first section of the bill reflects existing practices and clarifies that DSS must -- may enter into contracts with pharmaceutical manufacturers for supplemental rebates. The second section of the bill talks about the levels required for pharmaceutical and manufacturer rebates under Medicaid part D and supplemental needs. The bill continues to go on and talk about all the CMS requirements that are necessary. As a result, this bill is brought up before us because of the fact that last year, we were told by CMS that we must give back \$3 million because we were not in compliance with the way our statute read.

It is important that we do this bill so that we

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continue to include the pharmaceutical rebates in the future for this year in 2000 -- in 2009, it would be approximately \$6 million. In 2010, it would be approximately \$2 million. I move acceptance of this bill.

DEPUTY SPEAKER GODFREY:

Please proceed.

REP. WALKER (93rd):

Mr. Speaker, the Clerk has an amendment, LCO 5898. I ask that I be granted leave to summarize.

DEPUTY SPEAKER GODFREY:

Clerk is in possession of LCO Number 5898, which will be designated House Amendment Schedule A. Will the Clerk please call.

THE CLERK:

LCO Number 5898, House A, offered by  
Representatives Walker and Gibbons and Senator Doyle.

DEPUTY SPEAKER GODFREY:

The gentlewoman has asked leave of the chamber to summarize. Is there objection? Hearing none, please proceed, Representative Walker.

REP. WALKER (93rd):

Thank you, Mr. Speaker. Mr. Speaker, this also adds on to the list of programs for the pharmaceutical

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rebates, the Connecticut AIDS drug assistance program. I just want to say that the intent of this is that legislation will not change or interfere with the current practice of the way we are funding these programs. It only provides an opportunity for the state to achieve all the rebates that are necessary that are included in the Governor's budget for this year and the next biennium. Thank you, Mr. Speaker. I move acceptance.

DEPUTY SPEAKER GODFREY:

Question is on adoption of House Amendment Schedule A. Will you remark on House Amendment Schedule A? If not, let me try your minds. All those in favor, signify by saying, aye.

REPRESENTATIVES:

Aye.

SPEAKER DONOVAN:

Opposed, nay.

The ayes have it. The amendment is adopted.

Will you remark further on the bill as amended?

The distinguished ranking member of the Human Services Committee, Representative Gibbons.

REP. GIBBONS (150th):

Thank you, Mr. Speaker. I'm glad to see this

bill become before us and I'm glad that the amendment was adopted as well. Ladies and gentlemen of the chamber, we could spend all day, every day, trying to be in -- complaint with federal legislation as it is a moving target. And we certainly do intend to comply, especially when there's money at the end of the rainbow. That's what this will do. So thank you, Mr. Speaker. I urge acceptance of the bill. Bye-bye.

DEPUTY SPEAKER GODFREY:

Thank you, madam. I always wondered what was at the end of the rainbow. I appreciate that.

Will you remark further on the bill as amended? Will you remark further on the bill as amended? If not, staff and guests please come to well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. Members to the chamber. The House is voting by roll call.

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members voted? If so, the machine will be locked. The Clerk will take a tally. The Clerk will announce the tally.

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THE CLERK:

House Bill 6379 as amended by House A.

Total Number Voting 144

Necessary for Passage 73

Those voting Yea 144

Those voting Nay 0

Those absent and not voting 7

DEPUTY SPEAKER GODFREY:

Bill as amended is passed. Representative

Merrill.

REP. MERRILL (54th):

Yes, thank you, Mr. Speaker. I move for the  
immediate transmittal of the last item to the Senate.

DEPUTY SPEAKER GODFREY:

Question is suspension of the rules for immediate  
transmittal. Is there objection? Is there objection?  
Hearing none, it's so ordered.

The Clerk, please call Calendar 398.

THE CLERK:

On page 20, Calendar 398, substitute for House  
Bill Number 6565, AN ACT CONCERNING A POLICY REGARDING  
DISSECTION IN CLASSROOMS, favorable report of the  
Committee on Education.

DEPUTY SPEAKER GODFREY:

**JOINT  
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CLAUDETTE BEAULIEU: Yes. Thank you for your indulgence in taking -- taking us a little bit out of order here. My name is Claudette Beaulieu. I'm the Deputy Commissioner for programs at the Department of Social Services. I'm here on behalf of Commissioner Mike Sarkowski who is out due to surgery. I have a lengthy testimony as you can see.

REP. WALKER: We will indulge you. Go ahead.

CLAUDETTE BEAULIEU: Oh dear.

REP. WALKER: This is very important.

CLAUDETTE BEAULIEU: Okay. Thank you. All right. I don't want to -- this to take too much time but I'll try to find the right balance here. I would like to start off by thanking the Committee for raising two of the Governor's Bills as well as one introduced at the request of Commissioner Mike Sarkowski concerning the child support program. The first bill that I would like to comment on is Senate Bill 843.

This is the bill that lays out most of the Governor's budget recommendations concerning the Department of Social Services. This is a bill that I'm certain you're quite familiar with. This is a bill that tries to resize if you will our spending to bring us more in line with the resources that we have. I will speak to the sections -- this is a very big bill -- I'll speak to the sections that deal with DSS starting with sections one and eight.

Those sections would call for providing noncitizens who have been here less than five years who are currently state-funded for Medicaid. This would currently provide them with only emergency services -- emergency

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Sections 44 and 45 deal with dental limitations restricting dental benefits to adults only in emergency situations. Many states provide no benefits to adults for dental at all. Many other states limit the benefits to certain criteria. Section 61 of Senate Bill 843 would establish a state supplement trust provision. This would allow people who receive social security benefits in combination with a pension to stay in a boarding home if their income over time rises enough because of cost of living increases that it would make them otherwise ineligible for a boarding home.

This is important because we do have people, maybe 25 or 30 people, it's not a lot but we do have a number of people who because of an increase in their social security benefits become income ineligible for the state supplement program and as such they can no longer stay in a group home or a boarding home and their only other alternative is to go into a nursing home at much greater costs to taxpayers. Section 63 of the Governor's Bill would also give the Department of Social Services the ability to have more captious police officers. We currently now have four.

This bill would increase our ability to have -- from four to six. This would enable us to serve outstanding arrest warrants for people who are in contempt of court. I'd like to say a few words about another Governor's Bill, House Bill 6379, an act implementing the Governor's budget recommendations concerning the maximization of pharmacy rebates.

This was introduced at the request of Governor Rell and I thank the Committee for raising this. This would require pharmaceutical manufacturers participating in our -- all of

our DSS pharmacy programs to provide rebates for covered prescription drugs. We get rebates now in the Medicaid program but for other programs such as SAGA or ConnPACE or Charter Oak or Husky B that is not uniform across the board.

The General Assembly passed legislation last year that tried to -- tried to get at the issue of obtaining these rebates which are worth millions of dollars to the state of Connecticut however as we've worked with the pharmacy manufacturers we've run into a number of roadblocks. This bill would address those roadblocks. One of them for example is the fact that every pharmaceutical company wants an individual contract with the state of Connecticut for their drugs.

There are literally thousands of pharmaceutical manufacturers. So this is a very administratively burdensome requirement. This bill would create a certificate type program which they would sign. It would not have to go through the normal contracting process which can take quite awhile and it would basically set out the requirements under which the rebates would be paid.

The third bill that I would like to speak about legislation that was introduced at the request of the Department. Again I thank you for raising this bill. This is House Bill 6543 an act concerning fraternity and support establishment and enforcement of orders in Title 4D child support cases.

My testimony on this is quite lengthy but I will summarize it by saying that the bill is aimed at improving establishment of initial orders of child support, modifications -- streamlining the modification process in a

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break the backs of the whole medical system  
over this one part of medical interpreters.

JAY SICKLICK: I agree with what you're saying. I  
would argue on the congress that we can't  
afford not to.

REP. GIBBONS: Right.

JAY SICLICK: Because I think the quality of care  
that can be provided and the access to care  
outweighs the potential for that cost and down  
the road you could actually be paying more so I  
mean that would be my argument in converse.

REP. GIBBONS: Well we've heard that consistently  
all morning so I guess it's up to us to play a  
King Solomon and figure out what it's -- where  
we're going to put the money. Thank you.

JAY SICKLICK: You're welcome.

REP. GIBBONS: Thank you, Madam Chair.

REP. WALKER: Thank you.

JAY SICKLICK: You're welcome.

REP. WALKER: Next is Marghie Giuliano. How am I  
pronouncing that wrong?

MARGHIE GIULIANO: You're doing very well actually.  
Good afternoon Representative Walker, members  
of the Committee. My name is Marghie Giuliano  
and I'm a pharmacist and Executive Vice  
President of the Connecticut Pharmacists  
Association. We're a professional organization  
that represents more than 1,000 pharmacists in  
this state.

And I'm here today to address the egregious way  
the Governor's budget impacts the profession of

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So again I urge you that these are the types of solutions that we hope that you will -- that you will look to. Now we've -- we've spent some time putting together some savings that we are going to be sharing with the Appropriations Committee and we will certainly share those with you as well.

I want to just comment briefly on HB 6379 which again is about maximizing pharmacy rebates and I wanted to bring this to your attention that what we've seen with just bringing the Husky plan back into the state and moving those drugs into the preferred drugs list we have actually seen that the total savings for the preferred drug list just in 2007 was \$15 million plus, in the first three quarters of 2008 the savings are more than double. That's three quarters of 2008 and it's like \$34 million in savings.

The thing that we -- that disturbs us is when we create these savings for the prescription drug line item, the Governor never applies those savings to our line item and I really think we have to start looking, you know dollar for dollar at what we're doing and what we're saving and is that line item really just growing out of control or are we not applying some of those savings to accurately reflect where we are.

So I just urge you not to continue to cut reimbursements to those who've consistently worked with you to develop creative programs. Instead use our expertise in creating new ways to realize long-term savings through projects that are sustainable. And we look forward to continued dialogue.

Can I just comment on the days supply thing that earlier people were speaking about? When

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10:00 A.M.

a patient has a 30-day supply of medication, currently when they're allowed to come in for a refill they cannot come in before day 23. So in other words they have -- they just can't get it before day 23. This new language says you can't get it before day 25. So they're not given a window of time to get it. They just can't get it earlier than that 25 day. So I just wanted to explain that.

REP. WALKER: Thank you because we were very confused. We were trying to figure that out and we were trying to understand the limitations that they're putting on people.

MARGHIE GIULIANO: It's really just that they can't get it earlier.

REP. WALKER: Oh. Okay. All right. Any questions? Yes, Representative Gibbons.

REP. GIBBONS: Thank you. Just to comment if I may please, Madam Chairman. Didn't we cut the dispensing fee for the pharmacists recently?

MARGHIE GIULIANO: Yes, I think it was just --

REP. GIBBONS: Three years ago? Four years ago? Something like that?

MARGHIE GIULIANO: -- right before. Yeah. It's usually every three years.

REP. GIBBONS: Well -- there's -- I see no need.

MARGHIE GIULIANO: And I will just comment that our -- our current \$3.15 dispensing fee.

REP. GIBBONS: Yeah.

MARGHIE GIULIANO: A national study was done which was, you know done by an independent group, I

think it was Grant Thornton actually did this study and they determined that the actual cost of dispensing when you, you know looked into all the overhead, et cetera for Medicaid in the state of Connecticut is well over \$12. So we're not even, I mean we're not even there. And as I stated before we have not had a fee increase, even a cost of living increase since 1989.

That's 20 years of giving and we -- we really have always come up with creative solutions to help save money in the line item. And again I -- I really urge you to try and at least look at the numbers comparatively speaking because we do bring these savings it just never is reflected in our line item.

REP. GIBBONS: Well thank you for bringing that to our attention. I'm afraid that the savings just get dumped into the general budget --

MARGHIE GIULIANO: Exactly.

REP. GIBBONS: And we (inaudible) made those savings and we don't give them back to the areas where they incurred so we're looking at everything but you've made very valid points and we've been through all the discussions on cutting the fees for the pharmacists and I think it's going to stop. So thank you.

MARGHIE GIULIANO: Thank you.

REP. GIBBONS: Thank you, Madam Chair.

REP. WALKER: Thank you. Representative Abercrombie.

REP. ABERCROMBIE: Thank you, Madam Chair. Hi. I would just like to make a comment. You know, I think that we do not thank the pharmacists

enough for all the work that they've done. I don't think as a state we and our seniors would have been able to navigate through Medicare Part D.

I know even myself trying to help my mother, it was easier for her to walk into the pharmacy, show them what she has and to see what plan she should get on. So I think the time has come for us to step up to the plate and to help the pharmacists. In your proposals here did you give us -- we haven't had a -- I haven't had a chance to read all of your testimony -- have you given us some recommendations as to how we can work together on some of these issues and get some long-term solutions?

MARGHIE GIULIANO: Actually we -- we do have a list of potential savings that I have not included in my testimony but we will be sharing with you --

REP. ABERCROMBIE: Okay.

MARGHIE GIULIANO: -- very shortly. So you will get a list of some of the solutions that, you know that we've identified. And just to your point about you know the Medicare Part D and everything else, I mean pharmacists really can help save money with the whole Medicare D and ConnPACE program. You know, this is what we do.

We are medication experts. And it's not just about finding the right plan but you know we're talking about issues of benchmark plans and -- and formulary wrap-arounds. These things can happen in a safe way if you allow pharmacists to get involved and to really work through patients' medication profiles to determine what plan is best for them.

I mean we don't have to steer them into one particular but give them a choice of two or three that will help save money and keep them you know in good -- in good health as well. So I think there's a lot of opportunities and we will definitely share the proposals that we have for some sustainable savings.

REP. ABERCROMBIE: Yeah I think it's important anything that you do pass on to the Appropriations that you pass onto us also because it works hand in hand and then we can go to some of the Chairs of the Appropriations and say you know these are some good ideas that we're supporting on this Committee.

Do you -- just a follow-up question -- do pharmacists work with the insurance companies at all as far as like the amount of -- amount of prescriptions, the time wise that -- the time allowed to get for example three months worth versus one month, do you work on any of that with them or is this totally left up to the insurance companies?

MARGHIE GIULIANO: Basically they hand us -- well we don't even get contracts really anymore I don't think. I mean I think they just push all this down on us and we're basically told when we fill a prescription whether or not it's allowed. So we don't -- we don't really have any say in any contracts with any insurer and that's a huge concern as well. It always has been.

REP. ABERCROMBIE: Well thank you.

MARGHIE GIULIANO: You're welcome.

REP. ABERCROMBIE: I appreciate all the help and my mother appreciates all the help.

MARGHIE GIULIANO: We're glad to do it. That's what we're here for so thank you so much.

REP. ABERCROMBIE: Thank you.

REP. WALKER: I just have one question.

MARGHIE GIULIANO: Sure.

REP. WALKER: Do we have a pharmacist on the Medicaid Managed Care Council? No.

MARGHIE GIULIANO: I don't --

REP. WALKER: No.

MARGHIE GIULIANO: We should.

REP. WALKER: We should. I just -- it just dawned on me. I will have to look into that.

MARGHIE GIULIANO: We do have them on the PDL.

REP. WALKER: Yeah but the Medicaid Managed Council --

MARGHIE GIULIANO: Yeah.

REP. WALKER: I think we need to. Okay. Thank you very much.

MARGHIE GIULIANO: Thank you.

REP. WALKER: Thank you for your testimony.

MARGHIE GIULIANO: Thank you.

REP. WALKER: Joe Stango. No. He's coming -- how much later? Lud Spinelli and after Mr. Spinelli Sherry Linton and then Steven Becker.



## CONNECTICUT PHARMACISTS ASSOCIATION

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Testimony before the Human Services Committee  
Tuesday  
March 3, 2009

Re: **SB 843 AAC The Governor's Budget**  
**HB 6379 AA Implementing the Governor's Budget Recommendations Concerning**  
**Maximization of Pharmacy Rebates**

Good afternoon Senator Doyle and Representative Walker. My name is Margherita Giuliano. I am a pharmacist and Executive Vice President of the Connecticut Pharmacists Association. The Connecticut Pharmacists Association is a professional organization representing more than 1000 pharmacists in the state.

I am here today to address yet again the egregious way the budget impacts the profession of pharmacy in our state. Pharmacists have worked with DSS and state legislators over the past twenty years to identify programs to help save money. We – single-handedly- implemented Medicare Part D – and many of our pharmacies have never fully recovered from that government program. We have been with you every step of the way helping to implement prior authorizations, preferred drug lists and providing coordination of benefits without any reimbursement for these services. And we have not received an increase in fees – even a cost of living increase since 1989. Even when the state had a budget surplus, our fees were cut! I challenge you to find one other provider who has been treated as poorly as pharmacists have been. And yet here we are again today – looking to save money off the backs of pharmacy and the patients we serve. The Governor's budget hits broad and deep. A decrease in AWP, a decrease in our dispensing fee, a decrease in MAC reimbursement – and the twice failed implementation of co-pays to our most indigent citizens are her solution. These cuts are not long term solutions and they come on the heels of the Federal government requiring pharmacists to implement expensive POS systems to accommodate HSA's as well as surety bonds and accreditations to be able to participate in some of the federal programs. Pharmacies cannot continue to pay the price to implement state and federal programs without proper reimbursement. At some point patient safety will be affected.

The Federal stimulus plan provides \$1.3 billion dollars directly to Medicaid in the State of Connecticut. I urge you to think outside the box and spend some of this money to improve the quality of care for this population. Study after study has shown that when pharmacists are actually involved in managing our patient's medications we have a positive impact on total healthcare costs. We have asked that a pilot project be implemented with selected ConnPACE recipients to demonstrate this value. Perhaps this can be done in a subset of our most vulnerable Medicaid patients as well.

Our pharmacists have also made recommendations to seek waivers to re-distribute medications from nursing homes that would normally just be destroyed. To be able to reuse these medications either for other residents of the same nursing home or by

redistributing to other state paid patients could potentially save a lot of money and improve our environment at the same time. These are the types of solutions we would have hoped the Governor would have suggested.

**With regard of HB 6379**, we are more than willing to work with DSS and members of this committee to identify ways that the state can maximize pharmacy rebates. We have seen what happened with the Preferred Drug List in one year because the state brought Husky back into the fee for service program. The total savings for the PDL in 2007 were \$15,165,085. In the first three quarters of 2008, the savings are already more than double at \$34,339,220. The Governor and the legislature should be applying these rebates – at least on paper – directly to the prescription drug line item. That is the only way to evaluate what is happening with prescription drugs.

Don't continue to cut reimbursements to those who have consistently worked with you to develop creative programs. Instead, use our expertise in creating new ways to realize long-term savings through projects that are sustainable. We look forward to the continued dialogue.

#### **Cost of Dispensing Study:**

In January, 2007 a "cost of dispensing" study was done by Grant Thornton – a global consulting firm. They found that the cost of dispensing a prescription in a pharmacy is \$11.59. To dispense that same prescription to a Medicaid patient costs \$12.34. As you can see we are grossly underpaid even at the current fee. The study demonstrated that it takes 3 to 4 minutes longer to fill a Medicaid or Medicare Part D prescription than it does for private payers due to the coordination of benefits, prior authorizations and other necessary steps to provide the service. It also takes an average of 18.7 days to get paid. Pharmacies cannot continue to "float" money for the state.

#### **Chronological Timetable of Pharmacy Reimbursements**

I have supplied you with a chronological timetable of pharmacy reimbursements since 1978. In 2009, pharmacies have a reimbursement well below our 1981 payment. The inflationary cost of doing business increases each year (electricity, employees, bottles, labels, computers). Minimum wage has increased dramatically in the past 24 years.

#### **Why the State Plan Costs Pharmacies More to Administer than the Private Plans**

- The patients in our state Medicaid program are the most fragile. They are the elderly, they have language barriers and emotional issues. They are in group homes or assisted living facilities. Taking care of them takes time. You don't see this population in the "private" world where we deal with the working public. Pharmacists do special services for the Medicaid/state population. They do special packaging and delivery. They have to be compliant with all state policies. I can only assume that the Governor thinks that pharmacies will continue to participate in the state programs with these cuts and without an increase in reimbursement.
- In government programs, pharmacies are placed in the role of benefit coordinator and are actually put at risk if they fail. If a patient doesn't tell the pharmacist they have Medicare or some other insurance and the pharmacist in good faith, bills Medicaid, the money is recouped at later date.

- We have to deal with “spend down” issues in state programs. The state can go into a pharmacy and tell them a year and a half later that the person should have been on Medicaid and the pharmacy is expected to refund money to the patient and then back bill Medicaid. This is not asked by private payors.
- In private insurance, if there is a co-pay, patients **MUST** pay or pharmacists don't dispense the medications. This is not true with state plans. Pharmacies have to absorb that unpaid co-pay.

The governor's budget is onerous to pharmacy. We have always been the easy target of the administration. We had hoped for change. Unfortunately it got worse. The proposals directly impact pharmacy. They include:

1. Reduce the Average Wholesale Price (AWP) paid to the pharmacies: The AWP is a benchmark number used to approximate the price a pharmacy pays for a drug. The current estimate is AWP – 14%. Legislators have sought a reduction in AWP as a means of getting at the cost of the drug. Unfortunately, reducing the AWP does not address the rising costs of prescription drugs, it merely takes money away from the pharmacy. **Continued reductions to pharmacy will cause an access issue and a safety issue.**
2. Decrease in State MAC Reimbursement by 10%: In June 2002, the state instituted a Maximum Allowable Cost (MAC) pricing on certain generic drugs. There are certain drugs on the list that pharmacists can't purchase at the price the state will reimburse them at. Pharmacies are losing money on these items. The current budget proposal looks to decrease reimbursement for MAC drugs by another 10%.
3. Decrease in the dispensing fee paid to pharmacies: The dispensing fee paid to pharmacists was cut from \$4.10 to \$3.85 as a result of the June 2002 session. In June 2003, the dispensing fee was further reduced to \$3.60. In October 2003 a special session cut our fee to \$3.50. In July 2004, in **spite of a budget surplus**, pharmacists were cut again to \$3.15. In this budget, the Governor is looking for another \$1.00 cut in our already inappropriate dispensing fee. As stated above, it costs over \$12.00 to dispense a Medicaid prescription.
4. Implementation of a co-pay for Medicaid recipients: Co-pays have been implemented before. The only thing a co-pay does is shift the burden from the state right back to the pharmacy. With the new proposed cut to dispensing fees and the implementation of co-pays, pharmacies will be filling prescriptions for basically nothing. Federal law prohibits the pharmacist (or any other healthcare provider) from denying the patient their medication if they can't afford to pay. In private industry the patient doesn't get the medication without paying the co-pay. The way co-pays in Medicaid work is that patients pay the co-pay only if they can afford it.
5. Preferred Drug List: This concept was passed as part of the February 2003 budget and required that DSS have the list in place by July 1, 2003. A preferred drug list is similar to a formulary in the sense that if you want to be on the list you have to give the state a larger rebate. This is a significant way to actually affect the rising

cost of the product. It has been extremely effective. Members of our association volunteer their time to review and make recommendations to have drugs added to the PDL. **Although the state has saved significant money, this is never directly reflected against the prescription drug line item. This really is not a fair way to represent the growth in the prescription drug line item.**

6. Prior authorization (a program that CPA strongly supported) has saved the state millions of dollars. This program is working smoothly in part because the pharmacists are giving their time to make phone calls and make sure patients are being taken care of appropriately.
7. Review the list of OTC prescriptions for covered drugs. I would urge you to have pharmacists review this list with you before making changes. If you take an OTC drug off this list, **patients will urge prescribers to write for the more expensive prescription medications so they won't have to absorb the cost of the OTC.** This would actually end up costing the state more money. We have seen this happen in the past.

This latest budget proposed by the governor is difficult to accept. Independent pharmacies cannot sustain their businesses with these cuts. We cannot continue to provide all the services we do when our revenue stream continues to dwindle. Yes, drug therapy is expensive. But it is also cost effective in keeping people out of hospitals and at work where they can be productive. The population is getting older and they require more medications. The prescription drug line item is not just about the product. There is so much more than just getting the drug to the patient. It is about taking the proper medication - **and** - taking the medication properly. It is about limiting any adverse drug events and ensuring that the patient is compliant in taking their medications. It is about working with other healthcare providers to care for at-risk patients. To keep pecking away at pharmacy will destroy the infrastructure that is not only critical to this fragile population, but to every resident in the State of Connecticut.

**Connecticut Pharmacists Association  
Reimbursement and Administrative Tracking  
Chronological**

**Changes in reimbursement from the state:**

July 13, 1978	\$2.52 walk-in; \$2.10 nursing home
September 12, 1980	\$2.77 walk-in; \$2.31 nursing home
December 3, 1981	\$3.11 walk-in; \$2.59 nursing home
November 1, 1985	\$3.55 walk-in; \$3.11 nursing home
August 8, 1989	AWP - 8%
January 1, 1991	AWP - 8% + \$4.10* (*first time for a universal fee)
1/1/91 - 12/31/94 OBRA freeze on pharmacy reimbursements	
August 1, 1995	AFDC moved to Managed Care (fees decreased)
November 1, 1995	AWP -12% + \$4.10
November 15, 1997	\$1.00 Co-pay
September 1, 2002	AWP - 12% + \$3.85
2003 Session	AWP - 12% + \$3.60 & \$1.00 co-pay
October 1, 2003	AWP - 12% + \$3.30
November 1, 2003	Medicaid Co-pay increased to \$1.50
July 1, 2004	AWP -12% + \$3.15
October 1, 2005	AWP -14% + \$3.15
January 1, 2006	Medicare Part D implemented - fees decrease
February, 2008	Husky A & B "carved out" - back in fee for service

**Additional duties to pharmacists from the state:**

2001 Legislative Session	- Prior Authorization Legislation Passed - Generic Substitution Mandatory (Brand Medically Necessary)
July 1, 2002	- Quality Assurance - State MAC list established - Voluntary Mail-order for state assistance patients (not yet implemented) - State may contract with "an established entity" to purchase drugs through the lowest price available (not yet implemented)
February 4, 2003	- MAC list implemented
June 18, 2003	- Prior Authorization for prescriptions over \$500
July 16, 2003	- Prior Authorization for Brand Medically Necessary prescriptions with a Class-A generic alternative - Prior Authorization for early refills (<75%)
December 2004	- Preferred Drug List Implemented (PPIs)

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**HUMAN  
SERVICES  
PART 6  
1678 - 1984**

**2009**



STATE OF CONNECTICUT  
OFFICE OF POLICY AND MANAGEMENT

TESTIMONY PRESENTED TO THE HUMAN SERVICES COMMITTEE  
March 3, 2009

Robert L. Genuario  
Secretary  
Office of Policy and Management

Testimony Supporting House Bill No. 6379

AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS CONCERNING  
MAXIMIZATION OF PHARMACY REBATES

Senator Doyle, Representative Serra and distinguished members of the Human Services Committee, thank you for the opportunity to offer testimony on House Bill No. 6379, An Act Implementing the Governor's Budget Recommendations Concerning Maximization of Pharmacy Rebates.

The federal Centers for Medicare and Medicaid Services (CMS) clarified last year that the Department of Social Services cannot require pharmaceutical manufacturers to provide rebates on non-formulary drugs under Medicare Part D based on existing federal Medicaid rebate agreements. As a result, the department was forced to return approximately \$3 million in non-formulary rebates. To ensure that DSS could continue to obtain manufacturers' rebates, P.A. 08-1 allowed for the continuation of rebates at the Medicaid level by establishing separate provider agreements with manufacturers similar to the agreements in place under ConnPACE. Based on more recent guidance from CMS, however, DSS is only allowed to require rebates at the Medicaid level for federally qualified state pharmacy assistance programs (i.e., ConnPACE and State Administered General Assistance (SAGA)). Manufacturer rebates for non-federally qualified programs (i.e., HUSKY B and the Charter Oak Health Plan, as well as the portion of the Medicare Part D Supplemental Needs Fund serving persons dually eligible for Medicare and Medicaid) must be at the lower levels stated in this bill.

This bill makes the following changes:

**Section 1.** This section reflects existing practice and clarifies that DSS may enter into contracts with pharmaceutical manufacturers for supplemental rebates.

**Section 2.** This section of the bill clarifies the rebate levels that can be required of pharmacy manufacturers under the Medicare Part D Supplemental Needs Fund based on recent guidance provided by CMS.

Section 3. This section is needed to ensure continuation of rebates under DSS' pharmacy carve-out. DSS is responsible for administering the pharmacy benefit under HUSKY A, HUSKY B, SAGA and the Charter Oak Health Plan. Net savings continue to be assumed in the budget based on the expectation that DSS will be able to maximize the level of rebates received from the pharmaceutical manufacturers. For the pharmacy carve-out to be successful, it is critical that this legislation be in place to ensure that manufacturers are required to pay rebates at the levels allowed by the federal government for claims beginning February 1, 2008, which is the effective date of the pharmacy carve-out.

In summary this legislation is required to implement the Governor's budget which is predicated on receipt of these rebates. Without passage of this bill, an estimated \$6.2 million is at risk in FY 09, which includes retroactive periods, and approximately \$2.9 million in FY 10 and \$2.0 million in FY 11 would need to be added to DSS' budget

I would like to again thank the committee for the opportunity to present this written testimony. I respectfully request the Committee support this bill and, as always, my staff and I are available at your convenience to answer any questions you may have about this bill.

STATE OF CONNECTICUT  
HUMAN SERVICES COMMITTEE

SB 843, AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET  
RECOMMENDATIONS CONCERNING SOCIAL SERVICES

HB 6379, AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET  
RECOMMENDATIONS CONCERNING MAXIMIZATION OF PHARMACY  
REBATES

March 3, 2009

**Statement of the American Society of Consultant Pharmacists**

Rep. Walker, Sen. Doyle and members of the Human Services Committee, thank you for the opportunity to speak with you today. My name is Larry Sobel and I am testifying today as the President Emeritus of the American Society of Consultant Pharmacists (ASCP).

ASCP empowers pharmacists to enhance quality of care for over 30,000 of the state's most frail citizens through the appropriate use of medication. Our expertise lies in geriatric pharmacotherapy and the unique medication related needs of seniors and long-term care residents and we are patient-centered advocates for seniors at risk for medication related problems. In essence, we ensure that patients in Connecticut's nursing homes, group homes and other long-term care settings are getting the appropriate medication and care that they deserve.

The Governor's proposed budget for the Department of Social Services proposes severe cuts to pharmacy within the state. These proposed changes lessen the reimbursement rates to pharmacists, lessen the dispensing fees to pharmacists, eliminate coverage for most over-the-counter drugs under Medicaid and offer several other troubling initiatives. For example, eliminated access to Benzodiazepines (Valium, Ativan) will just shift those costs to more expensive alternatives which are covered.

In sum, the following cuts to pharmacy were included in the Governor's proposed budget:

- AWP reimbursement to AWP -15% (from minus 14%)
- Dispense fees to \$2.15 (from \$3.15)
- MAC: AWP - 50% (from AWP minus 40%)
- Co-pays for Medicaid services (capped at \$20 per month for pharmacy services)
- Discontinue payment for non-formulary drugs under Medicare Part D
- Eliminate coverage of most OTC drugs under Medicaid
- Put mental health related drugs on Preferred Drug List
- Require Prior Authorization for high cost drugs

- Tighten early refill criteria under DSS pharmacy programs

These proposed cuts would be devastating to an industry that has been continuously cut from the state budget for the past decade and has not had a fee increase in over 20 years. Coupled with the increasing cost of doing business within the state, these cuts would put a severe financial strain on many pharmacies. Pharmacists are still the most easily accessible health care professional. However, with fewer dollars there are fewer professionals and therefore fewer services.

I thank you for your time and attention and would be happy to entertain any questions at this time.

Thank you.



T13



## Testimony Before the Human Services Committee

S. B. No. 843 AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS CONCERNING SOCIAL SERVICES.

H. B. No. 6379 AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS CONCERNING MAXIMIZATION OF PHARMACY REBATES.

H. B. No. 6543 (RAISED) AN ACT CONCERNING PATERNITY AND SUPPORT ESTABLISHMENT AND ENFORCEMENT OF ORDERS IN TITLE IV-D CHILD SUPPORT CASES.

H. B. No. 6524 (RAISED) AN ACT CONCERNING MANAGED CARE FOR CERTAIN MEDICAID BENEFICIARIES.

H. B. No. 6610 (RAISED) AN ACT CONCERNING MEDICAID INCOME LIMITS FOR AGED, BLIND AND DISABLED PERSONS.

H. B. No. 6544 (RAISED) AN ACT SIMPLIFYING PROCEDURES FOR EARLY CARE AND EARLY EDUCATION FACILITIES

H. B. No. 6526 (RAISED) AN ACT CONCERNING ACTIVITIES OF THE COUNCIL THAT MONITORS THE TEMPORARY FAMILY ASSISTANCE PROGRAM AND EMPLOYMENT SERVICES PROGRAM.

S. B. No. 989 (RAISED) AN ACT CONCERNING THE ALZHEIMER'S RESPITE CARE PROGRAM.

S. B. No. 1060 (RAISED) AN ACT ESTABLISHING AN ACCOUNT FOR THE BENEFIT OF SUPPORTED LIVING IN GROUPS HOMES

*Claudette Beaulieu*  
*Deputy Commissioner for Programs*  
*March 3, 2009*

made them ineligible for AABD. This change will enable them to remain in a boarding home and avoid nursing home placement. It is anticipated that this change will affect approximately 25 residents each year, and result in a savings to the state of \$918,153 in FY10 and \$1.2 million in FY11.

#### **Section 62 – Medication Administration Revisions**

The Governor recommends requiring that residential care homes and boarding homes have individual employees certified so that they can provide medication administration to their residents. Nurses will still be required to administer all injections. This proposal provides additional funds for training, liability insurance, supervision and other implementation costs and results in a net savings under the Medicaid program. This proposal has a net savings of \$1.5 million in FY10 and \$2.9 million in FY11.

#### **Section 63 - Increase Capias Mittimus Officers**

The governor proposes legislation to increase the number of capias mittimus sworn police officers allowed under statute from four to six. This proposal is expected to result in a revenue gain of \$85,000 due to increased child support collections that offset state public assistance costs. From January 1, 2003 through December 31, 2008, a backlog of almost 5,000 unserved capias mittimus orders in family child support matters has accumulated.

In conclusion, the fiscal crisis presents clear challenges, but Governor Rell's proposed budget responds to those challenges by ensuring that critical health and human services are preserved while also respecting the fiscal limitations confronting the state. The reductions proposed in the budget are tempered by significant investments in serving additional Connecticut residents through the most critical health care and social service programs, and by new initiatives designed to help those affected by the economic downturn.

The level of resources provided in the budget for all of the health and human services agencies demonstrates an extraordinary commitment to maintaining services for those in need, despite the challenges facing Connecticut's economy.

#### **H. B. NO. 6379 AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS CONCERNING MAXIMIZATION OF PHARMACY REBATES.**

Introduced at the request of Governor Rell, this legislation will require pharmaceutical manufacturers participating in DSS pharmacy assistance programs to provide rebates for covered prescription drugs.

The bill fast tracks the implementation of additional rebates by relieving DSS of administratively burdensome drug rebate contracting requirements by eliminating the need to enter into individual contracts for each program with each pharmaceutical labeler. It may be of interest to the committee to know that there are thousands of

labelers and without this legislation DSS would have to contract individually with each manufacturer for each program, to achieve the scope of rebates that were anticipated when DSS moved forward with the pharmacy carve-out and that have been assumed in the Governor's budget. Indeed, upon adoption, DSS will have clear authority to move forward with invoicing and collecting rebates on all drugs covered under all of our programs.

For the committee's information, please note the following circumstances under which DSS currently collects rebates. We collect rebates on all drugs we cover under the Medicaid program (which includes HUSKY A) where a federal rebate agreement is in place. DSS also receives supplemental rebates for these programs as well, based on the Department's Preferred Drug List. We also collect regular rebate from manufacturers who participate and have a signed rebate agreement under our ConnPACE program. CADAP has a limited formulary and for those drugs, we do collect rebate.

For SAGA we are currently collecting minimal rebate for drugs covered under that program. Prior to the SAGA program going into managed care, we required the manufacturers to have a separate rebate agreement with us in order to cover their drugs (similar to ConnPACE). Once SAGA was included under managed care, some of those manufacturers terminated those contracts and some did not (we, the state, did not terminate any agreements). Now that SAGA is back in-house, we are working with the manufacturers to either re-initiate their old contracts or ask that they sign a new contract. This is taking some time. We currently do not collect supplemental rebate for the SAGA program at this time, but we intend to do so. For Charter Oak and HUSKY B, we are collecting neither regular rebate nor supplemental rebate as pharmaceutical manufacturers are requesting individual contracts to do so. For Medicare Part D non-formulary drugs that we pay for, we are only collecting rebate for those drugs under the ConnPACE program, not under Medicaid for the dual eligibles.

This legislation would clearly outline for the pharmaceutical manufacturers exactly what their responsibility would be in order for their drugs to be covered and paid for by DSS and we urge your support.

*Legislation Introduced at Request of the Department*

**H. B. No. 6543 (Raised) An Act Concerning Paternity And Support Establishment And Enforcement Of Orders In Title Iv-D Child Support Cases**

**This bill would improve ESTABLISHMENT & MODIFICATION of support orders in the following ways.**

**FIRST**, the bill would exempt the child support agency from proving "neglect or refusal to support" as a pre-condition for a support order in a Title IV-D case. The existing language occasionally has made order establishment problematic in cases in which a child support order is required due to the custodial party's participation in the child support program, but the noncustodial parent cannot be shown specifically to have