



State Advocates
Working Together
to Bridge the Gaps
in Chronic Care

HIV + HEP
POLICY INSTITUTE



the FOUNDATION for
PERIPHERAL NEUROPATHY®
DEDICATED to REVERSING the IRREVERSIBLE



February XX, 2021

RE: SB 5020 (Letter of Concern)

Dear Senators,

Our organizations are dedicated to improving access to quality, affordable, and equitable healthcare. Like you, we are frustrated by how much people are paying for their prescription medications and rising out-of-pocket costs. As patient advocates, we are looking for solutions that will make prescription drugs affordable. However, legislative solutions should aim to lower out-of-pocket costs for patients while also protecting them from discrimination and preserving their access to necessary and often life-saving medication.

Unfortunately, Senate Bill 5020 proposes to lower costs by allowing a third-party organization (the Institute for Clinical and Economic Review, or “ICER”) and the Health Care Authority to make value judgments about patients’ quality of life. These policies often discriminate against individuals who are older or have chronic conditions or disabilities. In fact, the National Council on Disability (NCD) released a [report](#) in 2019 that found evidence of these practices being discriminatory. The NCD made several alternative recommendations to determine value of medications and treatments such as:

- Value judgements (QALY) should be prohibited by Medicaid and Medicare.
- The Department of Health and Human Services (HHS), Office for Civil Rights (OCR), and Department of Justice (DOJ) Civil Rights Division should jointly issue guidance clarifying that the ADA applies to coverage programs that states operate such as Medicaid.
- OCR should issue guidance clarifying that insurance programs jointly run by the Federal Government and the States, such as Medicaid, should not rely on cost effectiveness research or reports that gather input from the public on health preferences that do not include the input of people with disabilities and chronic illnesses.

Although we do not support many of the provisions in SB 5020, we believe there are other policy proposals to lower costs worthy your consideration, such as:

Eliminate Drug Rebates or Pass the Savings to Patients

On average, pharmaceutical companies rebate about 40 percent of a medicine’s list price back to health insurance companies and pharmacy benefit managers. Right now, these rebates and discounts are not reaching patients at the pharmacy counter. They stay with the health insurers and pharmacy benefit managers. If insurance companies and pharmacy benefit managers do not pay the full price for medicines, patients shouldn’t have to either. These rebates and discounts should be shared with patients at the pharmacy counter or used to lower patient premiums. Rebates play a role in increasing drug prices and reducing or eliminating rebates could result in lower list prices and more importantly reduced out-of-pocket expenditures.

Directly Address Patient Out-of-Pocket Costs

Patients’ out-of-pocket costs for prescription drugs have continued to rise creating critical access and affordability challenges for those with chronic conditions. Patients are facing rising and unpredictable

cost-sharing requirements in the form of deductibles and co-insurance. Repeated studies have verified that high OOP costs are a significant barrier to treatment and often lead to skipped doses or outright abandonment of treatment. An alternative legislative policy idea that helps patients would be to ensure non-discrimination by prohibiting plan designs that discriminate against individuals based on health status or claims experience.

Increase Accessibility of Biosimilars

Biosimilars are biologic medicines approved by the FDA as highly similar to the original biologic medicine such that they work in the same way and have no clinically meaningful difference in safety or efficacy. Like generics for traditional medicines, biosimilars may offer lower-cost choices for patients who take biologic medicines.

According to research by Pacific Research Institute, Washington could save as much as \$43.87 million to nearly \$125 million annually in healthcare savings, if biosimilars' market share increased to 25% or up to 75% of the market, respectively. However, these savings have not been realized as formulary restrictions continue to be a barrier, and the current rebate structure remains an obstacle. Public policies play a critical role in fostering increased access in the biosimilars market. Improved access includes the assurance of affordable out-of-pocket costs for patients. FDA approved drugs should be accessible to patients, and the decision on which medically appropriate course of treatment should rest with the patient and the physician based on each patient's unique needs.

We share your desire to lower health care costs for all Washingtonians and urge you to re-think the approach in SB 5020. There are better legislative solutions that will directly reduce prescription costs for patients. Should you have any questions, please contact either Liz Helms at lizh@chroniccarealliance.org or Carl Schmid at cschmid@hivhep.org.

Sincerely,

Chronic Care Policy Alliance
HIV + Hepatitis Policy Institute
Neuropathy Action Foundation
American College of Private Physicians
The Foundation for Peripheral Neuropathy
International Foundation for Autoimmune & Autoinflammatory Arthritis (AiArthritis)