April 26, 2021

Senator Michelle R. Benson
3109 Minnesota Senate Bldg.
St. Paul, MN 55155

Re: SF 990 / HF 1516 Language

Dear Senator Benson,

On behalf of Alliance for Safe Biologic Medicines (ASBM) and the countless stakeholders that we represent, we are writing to you to share our concerns regarding language in the House Omnibus Bill; related to **SF 990 / HF 1516**, "A bill for an act relating to health; allowing pharmacy and provider choice related to the prescribing and dispensing of biological products; requiring a report."

ASBM is an organization comprised of diverse healthcare organizations and individuals representing patients, physicians, pharmacists, biopharmaceutical manufacturers of both originator and biosimilar products, researchers and others who are working together to ensure patient safety is at the forefront of the biosimilars policy discussion. ASBM believes in promoting the use of biosimilars with the goal of offering new therapeutic options and reducing healthcare costs for patients.

Given the current global healthcare crisis in which Minnesota residents and others throughout the world are experiencing hardship in dealing with the COVID-19 pandemic, individuals already struggling to manage their chronic and rare medical conditions are now facing additional challenges in covering the cost of their medication and accessing appropriate healthcare. It is our view that SF 990 / HF 1516 and/or similar language in the House Omnibus Bill, while intended to promote competition and lower prices, may result in unintended negative consequences such as actually increasing drug costs for Minnesota patients.

The legislation assumes that products with lower wholesale acquisition cost (WAC) or "list" price translates into lower costs for healthcare payers and patients. However, list price is the price *before* any rebates, discounts, or other price concessions are offered by the drug manufacturer. In practice, manufacturers of biologics must compete on *net cost* in order to secure a preferred formulary position, but due to negotiated discounts with health plans and PBMs, the *net price* of a reference product may end up being substantially lower than the net price of a biosimilar with a lower WAC/list price.

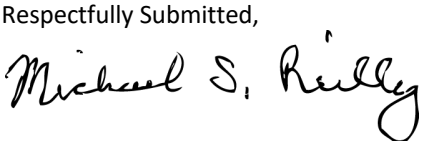
The availability of biosimilars currently places downward pressure on net prices by forcing reference product manufacturers to discount their products heavily in order to compete. By focusing on the WAC rather than the true (net) cost of the medicine after rebates and discounts, the bill's language removes the incentive to compete on net prices. We believe that this is counterintuitive to the intent of the legislation and will result in higher rather than lower costs for Minnesota patients. For example, if a biosimilar has a lower WAC but a higher net cost, a patient out-of-pocket cost-sharing of equal size (e.g., 20%) would result in a higher out-of-pocket cost for the patient than he or she would have paid for the discounted product.

We believe that this bill will place *upward* rather than downward pressure on WACs/list prices overall and result in actually increasing patient costs over time. Currently, payers have the ability to use medical management and formulary tools to negotiate costs well below the WAC, however, by requiring health plans to cover *all* approved products in a class (regardless of net cost), it effectively creates an incentive for *all manufacturers* to raise their prices.

While we strongly support legislation that is written with the goal of realizing cost savings through competition between multiple biologic products, we believe that SF 990 / HF 1516 undermines this objective by removing current incentives to compete on price and will reduce rather than promote affordability of biologics. Furthermore, it takes a shortsighted approach that prioritizes short-term savings over long-term cost reductions that result from competition.

The bill's directive that the Commissioner of Health monitor and report on its effects on net costs at the end of 2023 is an implicit acknowledgement that such unintended effects on net expenditures are anticipated. Prior to advancing any legislation, we urge the legislature to further study this important issue, including how these potential changes to Minnesota Statutes chapter 62W may result in increasing costs to both healthcare payers and patients, and to work with various stakeholders such as ASBM to promote policies that advance innovation while reducing overall treatment costs.

Respectfully Submitted,



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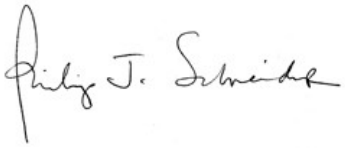

Philip J. Schneider, MS, FASHP
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cc: Senate Members