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March 22, 2022

Rep. Steve Elkins  
Minnesota House of Representatives  
House District 49B  
515 State Office Building  
Saint Paul, MN 55155

**Re: AHIP Comments on HF 58 (Prescription Drug Prices; Formulary Changes)**

Dear Representative Elkins:

America's Health Insurance Plans<sup>1</sup> (AHIP) appreciates this opportunity to provide comments on [HF 58](#), requiring the filing of health plan prescription drug formularies.

We applaud your desire to address health care costs for all Minnesotans, especially with respect to drug costs. It is imperative that we work together to corral healthcare spending by managing drug prices. However, we do have concerns with some elements of this legislation, particularly those that limit flexibility and formulary design.

Prescription drugs represent the largest segment of the premium dollar.<sup>1</sup> The Centers for Medicare and Medicaid Services projects that spending for retail prescription drugs will be the fastest growing health category, outpacing other health spending.<sup>2</sup> The key drivers of cost growth are ever-increasing launch prices for new drugs and astronomical increases on older medications already around for decades. One report notes that price hikes on existing medications accounted for 100% of revenue growth for seven of the largest drug makers in 2016.<sup>3</sup>

Given this background, AHIP and its members are concerned that HF 58's restrictions that limit formulary changes due to prescription drug cost increases during a coverage year reduce measures health insurance providers and ultimately health care purchasers, such as employers, use to ensure patients' physical and financial well-being. The proposed bill is likely to have the unintended consequence of increasing healthcare costs for all Minnesotans. Most importantly, it does not address the crux of the problem – the prices set by drug manufacturers.

***Formulary Changes Are Necessary to Keep Patients Safe and Provide Greater Options to Consumers***

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<sup>1</sup> AHIP, "Where Does Your Health Care Dollar Go?" <https://www.ahip.org/health-care-dollar/>; May 2018.

<sup>2</sup> Gigi Cuckler et al., "[National Health Expenditure Projections, 2017-2027](#)"; Health Affairs 37(3); March 2018.

<sup>3</sup> Vamil Divan et al., "[Global Pharma and Biotech: Exploring Future US Pricing Pressure](#)"; Credit Suisse Equity Research, Pharmaceuticals & Biotechnology; April 2017.

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Employers and health insurance providers use various utilization protocols and methods to ensure that patients receive safe, effective, timely and cost-efficient care, such as formulary benefit design. Proposals that limit or take away such management tools stifle the flexibility and innovation which currently allows employers and health insurance providers to provide value to consumers.

Health insurance providers use nationally recognized care criteria, the input of clinical experts who serve on our pharmacy and therapeutics committee, and consideration of the latest medical evidence and literature reviews to create and manage formularies.

Formularies often require updates during the plan year and prior to the renewal date due to circumstances this proposed bill does not take into consideration. These may include:

- Adding management processes due to new usage warnings based on clinical evidence,
- The release of new generic or brand-name prescription drugs; or
- FDA notices to discontinue the use of a drug that is to be pulled from the market.

Employers and purchasers of health care need flexibility to react to changes in the market to adapt to new information about the efficacy and safety of both new and old prescription drugs. And equally important, health insurance providers need flexibility to foster competition amongst drug manufacturers to control costs.

### ***Formulary Changes Allow for Insurance Providers to Manage Healthcare Costs for Everyone***

Formulary development and management reflects the financial activity of drug manufacturers. While copays and deductibles for health plans are locked in, manufacturers are free to increase the prices of their drugs whenever they want, as much as they want. Allowing health insurance providers the flexibility to react to changes in drug pricing, the introduction of new drugs, and evolving clinical evidence allows for both short- and long-term savings for all Minnesotans.

When a generic drug that is deemed clinically equivalent enters the market or when a less expensive brand name competitor drug is released, carriers should be allowed to move the more expensive brand name drug to a higher cost tier. This would help incentivize patients to choose the less expensive, but clinically equivalent medication.

Restricting changes to formularies, like the ones included in HF 58, is likely to discourage brand manufacturers from negotiating discounts on expensive brand drugs because they know they would be protected from competition for formulary placement during the plan year. Stripping away any mechanisms that serve to control drug costs eliminates the ability of health insurance providers to accurately project expenditures.

***Restricting Formulary Changes Protects Drug Companies More Than It Protects Minnesotans***

HF 58 protects drug companies and their pricing behaviors first, not patients, and distracts from the real problem of underlying drug prices.

This proposed bill eliminates any incentive brand manufacturers would have to offer discounts or rebates or to ever lower list prices because they know health plans would be prohibited from making formulary changes in response to price hikes. The lack of transparency behind drug pricing and the ability for drug manufacturers to increase prices yearly create much uncertainty for plans when it comes to rate setting and exacerbates premium increases. This black box of drug pricing is the problem we should be trying to solve.

If drug companies are allowed to continue to raise prices whenever they want by as much as they want, taxpayers, large and small employers, and consumers suffer the consequences. We need to come together to understand why drug prices go up in the middle of the year, multiple times a year, and how to solve that issue so that everyone can afford to pay for medications, whether they take them or not.

Thank you for taking our concerns into consideration. AHIP and its members stand ready to work with you to improve access to care and appreciate the opportunity to provide comments on this bill and look forward to continued discussions with you on this important issue.

If you have any questions about the concerns raised in this letter, please contact me at [jkeepes@ahip.org](mailto:jkeepes@ahip.org) or (202) 400-0928.

Sincerely,



Joshua D. Keepes, J.D.  
America's Health Insurance Plans

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<sup>i</sup> AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and coverage more affordable and accessible for everyone. Visit [www.ahip.org](http://www.ahip.org) to learn how working together, we are Guiding Greater Health.