May 2, 2023

Senator Melissa Wiklund
Chair, Senate Health and Human Services
2107 Minnesota Senate Building
95 University Avenue W
St. Paul, MN 55155

Representative Tina Liebling
Chair, House Health Finance and Policy
477 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Chair Wiklund and Chair Liebling,

The Association for Accessible Medicines (AAM) is the leading trade association for the developers and manufacturers of generic and biosimilar medicines. Generic and biosimilar drugs are used to fill 91% of prescriptions annually in the United States but make up only 18% of total prescription drug spending. Generic drugs are responsible for less than 3% of all healthcare spending, with 93% of generic drugs being available for a co-pay of less than $20 and an average out-of-pocket cost of approximately $6. Minnesota has benefited greatly from the availability of generic drugs, which saved patients in Minnesota $5.3 billion in 2021 alone.

Despite the enormous benefits of generic drugs, the Minnesota legislature is moving forward with new policies that targets the manufacturers that make these affordable and life-saving products available to Minnesotans. The proposals being considered will impose additional requirements on generic manufacturers that are burdensome, vague, unconstitutional, and often contradictory. Further, this legislation will not reduce the cost of prescription drugs for your constituents.

Below are the provisions in SF 2995 that will prove harmful to generic manufacturers:

PRESCRIPTION DRUG PRICE REPORTING; PRICE STABILITY

[**Senate only:** Article 2, Section 29]

This provision prohibits manufacturers from increasing the Wholesale Acquisition Cost (WAC) of a medicine for the next calendar year if it is on a healthcare plan formulary and requires the state to post the WAC set by each manufacturer. This does not recognize the competitive nature of the generic marketplace and does not provide patients or the state information that will allow them to price shop for lower cost medications. The WAC is not reflective of the price paid by a patient; drug wholesalers negotiate with manufacturers and generally purchase drugs at prices significantly below the listed WAC price. This provision ignores the generic drug marketplace, which has successfully reduced the costs patients pay, by requiring the WAC of a drug to be reported on July 31st and requires the manufacturer to maintain that price for a calendar year. Generic drugs are not the cause of increasing drug prices, and this bill only adds to confusion within the marketplace by listing a price that no patient will pay at a pharmacy.

This is not just a price transparency policy. In addition to requiring a manufacturer to maintain a drug's WAC price, this provision prohibits a manufacturer from changing the WAC of a drug that is included on a drug plan formulary during the calendar year. The bill does not allow for changes even if ingredient or distribution costs increase outside of the manufacturers control. It may be possible that generic manufacturers would be unable to comply with this price lock requirement.

Additionally, the language appears to apply the price control to all manufacturers of a particular drug even if only one manufacturer is required to report that drug. Generic drug manufacturers compete with other manufacturer to sell the same product on a national scale. Pricing decisions are not based on rules determined by one state, yet these provisions attempt to establish an unworkable Minnesota-only timeline.

PRESCRIPTION DRUG SUBSTANTIAL PUBLIC INTEREST REPORTING

[**Senate:** Article 2, Sections 15, 22, 23; **House**: Article 3, Sections 7, 14, 15]

These bills would require the state to identify drugs on a quarterly basis that are of a "substantial public interest" and require manufacturers of the identified drugs within that "product family" to report specified information. Generic manufacturers lower prices to compete with other manufacturers of the same product. But these provisions treat manufacturers with substantially lower costs equally with a single manufacturer that increases costs whether that manufacturer retains any market share or is even still producing and selling that drug. This overly broad provision would seemingly require all generic manufacturers of the same product to provide extensive reporting, including those which did not raise the price or may have even reduced the price. Why would the state target generic manufacturers that are saving patients and the state significant funds? This new language was contained in the Minnesota Department of Health budget proposal, and underwent minimal consideration in the committee process, at no point did the Minnesota Department of Health consult with impacted stakeholders – including generic drug manufacturers – to discuss this legislation.

These provisions individually and collectively will harm generic and biosimilar manufacturers' ability to make life-saving medications available to Minnesota patients at an affordable price. We encourage you not to include these provisions in the final committee bills and are happy to provide additional details on these concerns.

Sincerely,

Brett Michelin
Senior Director, State Government Affairs