SafeBiologics
ALLIANCE for SAFE BIOLOGIC MEDICINES

April 8, 2021

The Honorable Tina Liebling
Chair, Minnesota House Health Finance and Policy Committee
Minnesota State Capitol
St. Paul, MN 55155

Re: SF 990/HF 1516

Dear Representative Liebling,

We write 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 of patients, physicians, pharmacists, manufacturers of both innovative and biosimilar medicines, researchers and others who are working together to ensure patient safety is at the forefront of the biosimilars policy discussion. ASBM shares the goal of promoting the use of biosimilars to offer new therapeutic options and reduce health costs for patients.

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 costs, will have unintended negative consequences-including higher drug costs for Minnesota patients.

This is because SF 990/HF 1516 inaccurately presumes that products with lower wholesale acquisition cost (WAC) or "list" price will cost patients and payers less. List price is the price *before* any rebates, discounts, or other price concessions are offered by the manufacturer. In practice, manufacturers of biologics must compete on *net cost* in order to secure a preferred formulary position. In reality, 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, due to negotiated discounts with health plans and PBMs.

The availability of biosimilars currently places downward pressure on net prices by forcing reference product manufacturers to discount their products heavily to compete. By focusing the WAC rather than the true (net) cost of the medicine after rebates and discounts, this language removes the incentive to compete on net prices. Perhaps counterintuitively, this 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 copay 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.

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

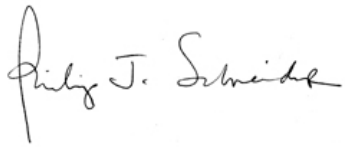
While we share the goal of realizing cost savings through competition between multiple biologic products, as written this bill undermines this goal. It removes current incentives to compete on price and will hurt reduce rather than promote affordability of biologics. Further, it takes a

shortsighted approach that prioritizes short-term savings over the 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 costs are anticipated. We urge the legislature to further study this issue, including how these potential changes to Minnesota Statutes chapter 62W might increase costs to payers and patients, before advancing any legislation.

Sincerely,

Michael S. Reilly, Esq.
Executive Director, Alliance for Safe Biologic Medicines



Philip J. Schneider, MS, FASHP
Advisory Board Chair, Alliance for Safe Biologic Medicines

Cc: Patrick McQuillan, House Health Finance and Policy Committee Administrator
Sen. Carla Nelson
Bailey Strand, Senate HHS Finance and Policy Committee Administrator
Sen. Julie Rosen, Senate Finance Chair