



STATE OF WISCONSIN

**GOVERNOR'S TASK FORCE ON
REDUCING PRESCRIPTION DRUG PRICES**

Policy Discussion: Overview

Overview

This document highlights recommendations and other policy options anticipated to be included in the September Task Force report to the Governor and serves as a framework for that report. Recommendations and other policy options for consideration will be divided into the AB 114/SB 100 provisions and three additional tiers, representing the varying levels of Task Force support expressed at meetings. The final report will include additional explanation for each recommendation, as well as the rationale for pursuing each. There will also be references to other state laws or descriptions of the possible direction(s) recommendations may take; offered as a means to help conceptualize the recommendations. The final report will not include proposed legislative language or specific detail related to operationalizing each recommendation. To ensure all viewpoints are reflected and appropriately acknowledged, comment letters from interested parties and the public will be included in the appendix of the report. Task Force members are also welcome to submit additional comments for inclusion with the report.

The charge of this Task Force, as outlined in Executive Order #39

- *The Task Force shall advise and assist the Governor in addressing excessive prescription drug prices and the financial burden that prescription drug prices place on Wisconsin residents. The Task Force shall do the following:*
 - *Gather and analyze data and information relating to the development, pricing, distribution, and purchasing of prescription drugs.*
 - *Review actions already taken by Wisconsin and other states to reduce prescription drug prices.*
 - *Identify opportunities to coordinate with other states and the federal government.*
 - *Recommend potential actions, which may include legislative, legal, regulatory, or community-based strategies, that can be taken to reduce prescription drug prices in Wisconsin.*
 - *The Task Force shall issue a report to the Governor on or before December 31 of each year summarizing the work completed by the Task Force and recommending potential action items to reduce the price of prescription drugs in Wisconsin.*

Policy Discussion: Policy Proposals with Majority Support

The following are policy proposals that will likely be included as recommendations in the report to the Governor based on discussions to-date and on majority support of Task Force members.

- Major provisions included in 2019 AB 114/SB 100 (as amended)
 - Pharmacy Benefit Manager (PBM) rebate transparency
 - PBM licensure
 - Prohibition on gag clauses
 - Lowest cost at point-of-sale
 - Prohibition on retroactive claim reduction
 - PBM auditing requirements and restrictions
- Advocate for federal regulatory changes to address practices that delay the market entry of affordable generic equivalents and other market practices identified as drivers of prescription drug unaffordability
- Create a public sector prescription drug purchasing entity to coordinate and leverage the buying power of state agencies and other public sector purchasers (building off the work of the state Pharmacy Cost Study Committee)
 - This entity could explore other potential partnerships with a focus on helping Wisconsin residents access lower-cost prescription medications. One option would be to explore the creation of a prescription drug discount card program to offer access to discounted prescription medications for all eligible Wisconsin residents (similar to the Northwest Prescription Drug Consortium). Another option would be to consider a partnership with an organization like CivicaRx to directly purchase lower-cost medications.
- Explore and support efforts to improve physician access to real-time patient pharmacy benefit information to allow physicians to take out-of-pocket costs into consideration when prescribing medications
- Establish a co-pay cap for insulin
- Additional transparency and reporting requirements for prescription drug supply chain entities to better understand the drivers of high-cost prescription drugs and inform future policymaking

Policy Discussion: Policy Proposals with Majority Support

- **Additional regulatory oversight (including potential licensure or registration) of Pharmacy Services Administrative Organizations (PSAOs)**
- **Enhance consumer protection oversight and hire more anti-trust attorneys to focus on improper pharmaceutical industry practices**
- **Enhance support for Wisconsin's free & charitable clinics & pharmacies (FCCPs)**
 - **Provide additional state funding for FCCPs (consider requiring a percentage of settlement funds from pharmaceutical industry lawsuits to be directed to FCCPs)**
 - **Create a centralized repository for donated medications and improve real-time inventory coordination across the statewide FCCP network**
 - **Allow interstate transfer ability so FCCPs can accept donated and approved medications from other states**
 - **Allow a percentage of continuing education requirements for pharmacists to be dedicated towards volunteerism to provide additional staff support for FCCPs**
- **Ensure that Federally Qualified Health Centers and Ryan White HIV/AIDS programs participating in the 340B drug discount program are able to reinvest savings from drug purchases into patient care and support activities**

Other Policy Options for Consideration

The following are policy proposals that have been raised and discussed, to some extent, throughout the work of the Task Force since the first meeting in November 2019. These proposals are not necessarily Task Force recommendations; however, these proposals may merit further discussion and consideration outside of the work of the Task Force. Also, of note, at least one Task Force member has expressed support for each of these proposals, while others have expressed concern or opposition. Including these proposals is also important for meeting the requirement to summarize the work of the Task Force, as directed by Executive Order #39.

- **Require that manufacturer prescription drug discount coupon payments be applied to deductibles and annual maximum out-of-pocket costs, if no generic exists or where a generic exists but the beneficiary obtained access to the prescribed drug after undergoing prior authorization, step therapy, or the insurer's exceptions and appeals process. Also require insurers to include a consumer disclosure with plan information making it clear the circumstances under which a manufacturer coupon applies to plan deductibles and the annual limitation on cost sharing.**
- **Create a prescription drug affordability/accountability review board to establish prescription drug spending targets for public sector entities**
- **Allow importation of prescription medication from Canada or other approved countries**
- **Focus administration of specialty drugs on lower-cost settings**
- **Additional reporting and oversight of the federal 340B drug discount program**
- **Develop best practice guidelines for PBM business practices**
- **Enhance public awareness of pharmaceutical manufacturer patient assistance programs**

Issues Raised but Not Thoroughly Discussed/Recent Additions

The following are policy proposals that were raised by Task Force members for potential consideration. However, the Task Force did not have time to discuss these items, so they are being included with acknowledgement that more analysis would be needed to determine if they merit favorable consideration.

- **Licensure and regulation of pharmaceutical sales representatives**
- **Additional disclosure for physicians and other health care providers that accept gifts or honoraria from pharmaceutical companies**
- **Additional regulatory oversight (licensure or regulation) of PBM brokers and consultants**
- **Require PBMs to act as a fiduciary on behalf of their plan sponsors**
- **Permanent expansion of pharmacist responsibilities for free & charitable clinics consistent with the expansion allowed during the COVID pandemic. Also consider telepharmacy and making it easier to allow remote dispensing sites for free & charitable clinics, in particular the frequency of onsite inspections and the required location of the pharmacist**
- **Allow the state Department of Justice (DOJ) to have direct Civil Investigative Demand authority without seeking court authority each time**
- **Create a dedicated health care fraud division within DOJ**
- **Additional restrictions on improper prescription drug marketing and advertising practices**
- **Create an insulin safety net program**
- **Create a value-based pilot project for diabetes medications**