

Bill as Introduced

SB 147-FN - AS AMENDED BY THE SENATE

03/14/13 0758a

2013 SESSION

13-0961

01/05

SENATE BILL **147-FN**

AN ACT relative to prescription drugs in workers' compensation cases.

SPONSORS: Sen. D'Allesandro, Dist 20

COMMITTEE: Commerce

AMENDED ANALYSIS

This bill requires pharmacies to substitute generic drugs unless the prescribing physician indicates that the brand name drug is medically necessary, provided that in cases where the legend drug is less expensive, the legend drug shall be used.

.....

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 147-FN - AS AMENDED BY THE SENATE

03/14/13 0758s

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to prescription drugs in workers' compensation cases.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 1 New Paragraph; Workers' Compensation; Medical, Hospital, and Remedial Care. Amend
2 RSA 281-A:23 by inserting after paragraph VI the following new paragraph:
3 VII. Pharmacies, including mail-order pharmacies, shall substitute generically equivalent
4 drug products for all legend and non-legend prescriptions unless the prescribing practitioner
5 handwrites "medically necessary" on each paper prescription, uses electronic indications when
6 transmitted electronically, or gives instructions when transmitted orally that the brand name drug
7 product is medically necessary; provided that in cases where the legend drug is less expensive, the
8 legend drug shall be used. Prescription refills shall not require the reissuance of the "medically
9 necessary" indication.
10 2 Effective Date. This act shall take effect January 1, 2014.

SB 147 FISCAL NOTE

AN ACT relative to prescription drugs in workers' compensation cases.

FISCAL IMPACT:

The Department of Labor states this bill, as introduced, will have an indeterminable fiscal impact on state, county, and local expenditures. There will be no fiscal impact on state, county, or local revenue.

METHODOLOGY:

The Department of Labor states this bill will require pharmacies to substitute generic drugs or appropriate over-the-counter alternatives unless the prescribing physician determines a brand name drug is medically necessary. It also requires the Labor Commissioner to establish a pharmacy closed formulary and an appeals process. The Department reports this bill may have a fiscal impact on state, county, and local expenditures but that impact is indeterminable. The Department indicates state expenditures will increase by \$38,388 in FY 2014, \$73,885 in FY 2015, \$77,828 in FY 2016, \$82,010 in FY 2017 because this bill would necessitate a new position to implement this bill and associated rules. The table below breaks down the expenditures related to this new position.

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
Pharmaceutical Services Specialist				
Salary (Labor Grade 25, with annual steps)	(\$22,376)	(\$45,737)	(\$47,746)	(\$49,842)
Benefits	(\$12,512)	(\$26,648)	(\$28,582)	(\$30,668)
Current Expenses	(\$3,500)	(\$1,500)	(\$1,500)	(\$1,500)
TOTAL POSITION COSTS	(\$38,388)	(\$73,885)	(\$77,828)	(\$82,010)

This bill does not contain an appropriation or authorization for any new positions.

SB 147 FISCAL NOTE

AN ACT relative to prescription drugs in workers' compensation cases.

FISCAL IMPACT:

The Department of Labor states this bill, as amended by the Senate (Amendment 2013-0758s), may decrease state, county, and local expenditures by an indeterminable amount in FY 2014 and each fiscal year thereafter. There will be no fiscal impact on state, county, and local revenues.

METHODOLOGY:

The Department of Labor states this bill will require pharmacies to substitute generically equivalent drugs for all legend and non-legend prescriptions, issued to treat injuries covered under worker's compensation claims, unless specified as medically necessary by the prescribing physician. The Department states to the extent the proposed legislation reduces the costs of worker's compensation payouts for medical benefits, self-insured entities including the state as well as some counties and cities would benefit. The Department is unable to estimate to what extent state, county, and local expenditures will decrease in FY 2014 and each fiscal year thereafter as a result of the proposed legislation.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

PUBLIC HEARING ON SB 147-FN

BILL TITLE: relative to prescription drugs in workers' compensation cases.
DATE: April 23, 2013
LOB ROOM: 307 **Time Public Hearing Called to Order:** 1:00 p.m.
Time Adjourned: 1:32 p.m.

(please circle if present)

Committee Members: Reps. A. White, S. Kelly, Coulombe, C. Rice, Weed, J. Schmidt, DiSilvestro,
Andrews, Cahill, Ley, Tanner, Daniels, Burchell, H. Richardson, Infantine, Pellegrino, Flanagan,
Emerick, Sedensky and St. James.

Bill Sponsors: Sen. D'Allesandro, Dist 20

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Sen. Lou D'Allesandro - Prime sponsor of the bill. Requires generic or appropriate OTC unless specified by physician. Cost issue. Concern with abuse of opiates. Another portion was deleted in Senate.

Rep. Weed: Is issue primarily psych. Vs. physid. When it comes to preferring a brand name? ANS: Yes.

Rep. Emerick: Active ingredients must be same; issue is binde ingredients.

Rep. Kelly: How does this help over prescribe of opiates? ANS: The generics do not have equal value for resale.

Chris Nicolopoulos, CNA Insurance - Supports the bill. The portion remend in Senate concerns the over prescript. Of opiates. Knew of no opposition to this bill. Estimate a savings of \$1.7M/yr. - 0.8% of total costs. Another \$0.5M/yr. savings to the self insured.

Rep. Kelly: What percent have an adverse reaction to generics? ANS: Don't know. New Hampshire does prescribe more brand name drugs because we lack this statutory preference.

Rep. Weed: Why doesn't state require generics of all employees? ANS: Outside of comp system, it is really free-market determined.

Sally MacFadden, Insurance Department - Supports the bill. New Hampshire Worker's Compensation costs are some of highest premiums in the United States. We pay much higher on medical side - over 10% is on drugs. 61% brand name / 53% brand name nationally. At 34 states

already have similar legislation. This bill will help rein in costs while preserving access to brand name drugs.

Rep. DiSilvestro: No disincentive (even implied) to a physician prescribing a generic? ANS: No. Prescription will be generic unless otherwise.

Rep. Daniels: Can the carrier require "step therapy"? Carrier must be pay. i.e. work up to Lipitor by trying less expensive alternative. ANS: Believe that in Worker's Comp. the insurer company must pay bills as presented. Can require suing an independent medical examiner, but not else.

Rep. Kelly: Why haven't we had this? ANS: Only opposition might be from drug companies seeking profit.

Rep. Flanagan: There is prevention for medical necessity? ANS: Yes.

Mark MacKenzie, NH AFL CIO - Issue of how resolve "dueling doctors" over efficacy or any preference for brand over generic. Thus, could lead to additional litigation and how determine?

Rep. Kelly: How currently resolve between differing physicians? ANS: Usually the treating physician has primary, between, we have pain clinics, etc. If generic is the default, could have litigation.

Rep. Rice: If I continue Workers' Comp. patient and get a prescription, when and where is it written out that I need the brand name? ANS: This is new turf, but by the bill, it would be on the prescription itself. At some point, though, would likely be contested by insurance carrier.

Chris Nicolopoulos - Within Workers' Comp., there is no current oversight like in an HMO – if doctor writes it is medically necessary then it goes. Repeats: Will save dollars but keeps physician option open.

Respectfully submitted,

Rep. Douglas A. Ley
Acting Clerk

HOUSE COMMITTEE ON LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

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Bill Sponsors: Sen. D'Allesandro, Dist 20

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.



SR147

① D'Allesandro (Dix 20 Senate) - prime sponsor.

- requires generics or appropriate OTC ^{unless specified} ~~when~~ by physician.

- cost issue

- concern w/ abuse of opiates

- entire portion was deleted in Senate

Weed Q: Is issue primarily psych. vs. physiol. when it comes to preference a brand name?

D'Al. > yes

[Emerical active ingredients must be same; issue is binder ingredients]

Kelly Q: How does this help over-prescrip. of opiates?

- The generics do not have = value for re-risk.

2 Chris Michalopoulos (lawyer, lobbyist (+A. Inman)) - SUPPORT

> the portion removed in Senate concerns the over-prescrip. of opiates

- know of no opposition to this bill.

- estimate savings of \$1.7M/yr. - 0.8% of total cost

Another \$0.5M/yr. savings to the self-insured

Kelly Q: What % have an adverse reaction to generics? - Don't know.

AH does prescribe more brand name drugs because we lack this statutory preference

Weed Q: Why doesn't State require generics of all employees?

- Outside of corp. system, it's really free-market determinants



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3

Sally McFadden (Insurance Dept) - Support

- NH w.c. costs are some of highest premiums in US. We pay much higher on medical side - over 10% is on drugs.

61% brand-name / 53% brand-name
NH nationally

- @ 34 states already have similar legislation

- This bill will help rein in costs while preserving access to brand-name drugs.

D'Silvestro Q - No disincentive (even implied) to a physician prescribing a generic?

No. - presumption will be generic unless otherwise.

Cost must be pay.

D'Amico Q: Can the center require 'step therapy' - i.e., work up to Lipitor by trying less-expensive alternatives.

A - believe that in w.c., the insurer can't pay bills as presented. Can require seeing an internal medicine, but not else.

Kelly Q: Why haven't we had this?

> A: Only opposition might be from drug cos' scary profit.

Fleischer Q: There is provision for medical necessity? A - Yes.

4. McKenzie (AFL-CIO): Issue of how resolve 'dual doctors' over efficacy or any preference for brand over generic. Thus, could lead to additional litigation + how determine?

Kelly Q: How currently resolve between differing physicians?

A - Usually the treating physician has primacy, but now, we have pain clinics, etc. If generic is the default, could have litigation.



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Rice Q: If I enter w.c. patent + get a prescrip, when + where is it written out that I need the brand-name?

> A: This is new text, but by the bill, it would be on the prescrip itself. At some point, though, would likely be contested by ins. carrier.

Nichopoulos resumes: Within w.c., there is no current oversight like in an HMO - if doctor writes it is 'med necessary' then it goes. Reverts: will save \$ but keeps physician option open.

Closed: 1:32 pm



Testimony

FREQUENTLY ASKED QUESTIONS REGARDING PAYROLL CARD LEGISLATION

1. What is a payroll card? Are payroll cards debit cards?

A payroll card is a reloadable prepaid (i.e., stored value) debit card issued to an employee through a national or regional bank, credit union, or savings and loan association *on behalf of an employer*. Payroll cards are debit products. The word "debit" is imprinted on the face of branded payroll cards,¹ and the cards can be used anywhere that the brand's debit cards are accepted.

Each pay day, the payroll card is electronically loaded with the full amount of the employee's net pay. The employee can then use the card to withdraw cash from an ATM or bank teller, make point of sale purchases, receive cash back from point of sale transactions, make purchases by mail, phone or internet and pay bills online. Some programs offer additional features as well.

Payroll cards are "pin" protected like other electronic and "plastic" forms of payment or pre-loaded cards. Branded payroll cards can be used to make both signature- and PIN-based purchases at merchant locations. They also can be used to pay bills and make purchases over the Internet or by telephone, and to make ATM withdrawals. Unbranded payroll cards may be used for cash withdrawals at ATM machines or for transactions at any establishment which has a PIN-pad device, such as purchases at retail outlets, grocery stores and convenience stores. Unbranded payroll cards cannot be used to make purchases or pay bills online or over the telephone.

Payroll cards are intended to complement an employer's direct deposit program. By giving employees the choice between direct deposit and payroll cards, all employees can enjoy the benefits of electronic wage payment. These benefits include increased security and convenience, prompt access to wages regardless of location and the potential for significant cost savings.

2. Who owns the funds in the payroll card account?

Wages are transferred to the payroll card account immediately upon wage payment. At that point, the funds belong to the employee. The employer has no reversionary interest in the funds.

3. Do other states permit purely electronic pay?

Yes. In fact, the laws and/or administrative enforcement positions in more than half of the states allow employers to use electronic wage payment methods as the exclusive means of compensating all or some of their employees.²

4. Are employees charged any fees for using their payroll card?

¹ Branded payroll cards are those bearing the Visa, MasterCard or Discover logo. The vast majority of payroll card today's are branded.

² The laws and/or enforcement positions in the following states expressly permit, or can be interpreted as permitting purely electronic wage payment: Alabama, Arizona, Colorado, Delaware, Indiana, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington and Wisconsin. In addition, employers may implement purely electronic pay for some, but not all employees, in Florida, Iowa and Virginia.

A common misconception regarding payroll cards is that employees incur significant fees when accessing their wages from their payroll card. This simply is not the case. The wage and hour laws require that employees have access to their full wages on payday without discount. This generally means that employees must be able to “cash out” their payroll cards like they would a paper paycheck. In fact, the New Hampshire wage payment statute already requires that employees be provided with at least one free means of withdrawing their account balance each pay period.

Employees with cards bearing the Visa, MasterCard, or Discover logo can walk into any financial institution that issues their brand of card and receive their full wages without fees from the bank teller at least once each pay period. Most programs offer employees several ways to access their wages each pay period including ATM withdrawals, over-the-counter bank teller transactions and purchases with a cash-back option.

A recent study by the Payment Cards Center of the Federal Reserve Bank of Philadelphia revealed that many employees who use payroll cards do so without ever incurring a fee, and those who do incur fees could have avoided them.³ Other studies have shown that when fees are incurred, payroll cards remain one of the cheapest ways for employees to receive their wages.⁴

5. *Are financial institutions required to “cash out” cards issued by other financial institutions?*

All of the major payroll card brands (Visa, MasterCard and Discover) require financial institutions that issue their debit cards to provide employees with their full wages off the card each pay period without cost, even if the card was issued by a different financial institution.

6. *How do employees check the available balance on their payroll cards?*

Employees who receive their wages on a payroll card are able to check their account balance in many different ways. For example, they may call a toll-free customer service number, access the information over a secure internet or intranet, and perform balance inquiries at an ATM. Some programs also offer text and/or e-mail alerts and additional means of helping employees keep track of their account balance. Fees vary from program to program, but there is always at least one way for an employee to check his or her balance for free.

7. *What happens if an employee loses a payroll card or it is stolen? Is there a cost for a replacement card?*

An employee who loses his or her payroll card should call customer service and report the card as lost or stolen. The card will be de-activated and a new card issued with the full remaining card value.

Regulation E limits cardholder liability in the event that a lost or stolen card is fraudulently used so long as the employee follows certain notice requirements. Moreover, if a lost or stolen card is

³ S. Wilshusen, R. Hunt, J. van Opstal, and R. Schneider, Consumers’ Use of Prepaid Cards: A Transaction-Based Analysis (FRB of Philadelphia Payment Cards Center, August 2012).

⁴ M. Flores, Analysis of Network Branded Pay Cards: Comparative Analysis of Pay Cards to other Payment Options (Bretton Woods, Inc. August 2011); T. Sloane and P. Hewitt, Payroll Cards: 100% Electronic Payments 80% of the Time, Crossing the Market Finish Line (Mercator Advisory Group January 2009).

branded, the brand's zero liability policy also will shield the employee from losses arising from many fraudulent uses.

Fees for card replacement are subject to negotiation between the employer and the payroll card provider, and vary from program to program. Some states require one free replacement card a year.

8. *What consumer protections exist for payroll cards?*

The funds loaded on a payroll card are FDIC-insured.⁵ Payroll cards also are subject to Federal Reserve Regulation E, which includes many important consumer protections.

For example, Regulation E limits cardholder liability when a lost or stolen card is used fraudulently so long as the cardholder reports the lost or stolen card within specified periods after learning of the loss.⁶ It also requires that dispute resolution procedures be available to cardholders and that all terms, conditions and fees be clearly disclosed. In addition, although overdrafts on payroll cards are uncommon, recent revisions to Regulation E prohibit fees for overdrafts without prior consent.

Branded payroll cards provide additional consumer protections in accordance with the established policies of the brand they carry. These protections include "zero liability" for lost or stolen cards used for unauthorized purchases, other purchase protections, and dispute rights.

⁵ See, General Counsel Opinion Number 8 (GC8), 73 Fed. Reg. No. 220, p. 67156 (November 13, 2008). GC No. 8 is available at <http://edocket.access.gpo.gov/2008/pdf/E8-26867.pdf>.

⁶ Employees with branded cards also are protected against most fraudulent uses by the brand's zero cardholder liability policy.



**ANALYSIS OF NEW HAMPSHIRE SENATE BILL 147
AS AMENDED MARCH 14, 2013
PROPOSED TO BE EFFECTIVE JANUARY 1, 2014**

NCCI estimates that the proposal to require pharmacies to substitute generic drugs unless the prescribing physician indicates otherwise, and provided that the generic drug is less expensive, would result in an impact of up to **-0.8% (-\$1.7M¹)** on overall workers compensation costs in New Hampshire.

Note that the maximum impact displayed above assumes that all brand name drugs would be substituted with generic drugs, with no change in reimbursement to generic dispensed drugs. To the extent that the prescribing physician either indicates that the brand name drug is medically necessary or dispensing the brand name drug in their office, fewer savings than indicated above would be realized.

Summary of Proposed Changes

Senate Bill (SB) 147 proposes that pharmacies substitute generic drugs for brand name drugs unless the prescribing physician indicates that the brand name drug is medically necessary, and provided that the generic drug is less expensive. Prescription refills however shall not require the reissuance of the "medically necessary" condition.

Currently, New Hampshire has no pharmaceutical fee schedule. All drugs are currently reimbursed at the full amount of the provider's bill, unless the employer or employer's insurance carrier can show just cause as to why the total amount should not be paid. The current law has no requirement to substitute generic drugs for brand name drugs.

Actuarial Analysis

Pharmaceutical Fees

In New Hampshire, drug costs represent 10.4%² of workers compensation (WC) medical costs. Drug costs dispensed by a non-pharmacy represent 4.8%² of New Hampshire's WC drug costs, or 0.5% (=4.8% x 10.4%) of New Hampshire's total medical costs. Drugs dispensed by a pharmacy represent 9.9% (=10.4% - 0.5%) of New Hampshire's total medical costs.

Brand name and generic drugs represent 62% and 38%, respectively, of total drugs costs when dispensed by a pharmacy.

¹ Overall system costs are based on NAIC Annual Statement data as provided by A.M. Best. The estimated dollar impact is the percent impacts displayed multiplied by A.M. Best 2011 written premium of \$216M for New Hampshire. This figure does not include self-insurance, the policyholder retained portion of deductible policies, or adjustments for subsequent changes in premium levels. The use of premium as the basis for the dollar impact assumes that expenses and other premium adjustments will be affected proportionally to the change in benefit costs. The dollar impact on overall system costs inclusive of self-insurance is estimated to be \$-2.2M where data on self-insurance is approximated using the National Academy of Social Insurance's August 2012 publication "Workers' Compensation: Benefits, Coverages, and Costs, 2010".

² Based on NCCI's Medical Data Call for New Hampshire for Service Year 2011.



**ANALYSIS OF NEW HAMPSHIRE SENATE BILL 147
AS AMENDED MARCH 14, 2013
PROPOSED TO BE EFFECTIVE JANUARY 1, 2014**

In order to estimate the upper bound cost impact of requiring pharmacies to substitute generic drugs for brand name drugs, NCCI compared the paid amount of brand name drugs to the expected payment for generic equivalent drugs. NCCI assumed that the difference between the current reimbursement for brand name drugs and the current reimbursement for the equivalent of these drugs that are generic to be a reasonable estimate of the upper bound cost impact due to the proposed rule. Reimbursement for generic drugs was assumed to have no change.

The current and proposed reimbursements for each brand name drug were calculated as follows:

$$\text{Current Cost} = \text{Average price per unit for brand name} \\ \times \text{total units of brand name drug}$$

$$\text{Proposed Cost} = \text{Average price per unit for generic equivalent drug} \\ \times \text{total units of brand name drug}$$

Where:

$$\text{Units} = \text{Total number of pills per prescription}$$

$$\text{Average price per unit} = \text{Total paid divided by total units}$$

The current and proposed reimbursements are summed over all the transaction-level data to obtain total current and total proposed costs. The estimated upper bound impact on drug costs is the ratio of total proposed costs to total current costs.

The upper bound impact on total drug costs due to the above proposal is summarized in the table below:

Dispensed by	Cost Distribution ²	Upper Bound Impact
Non-Pharmacy	4.8%	0.0%
Pharmacy	95.2%	-10.5%
Total Drug Costs	100.0%	-10.0%

The above impact of -10.0% on total drug costs is then multiplied by the New Hampshire percentage of medical costs attributed to prescription drug payments (10.4%²) to arrive at the estimated impact of -1.0% on medical costs. The resulting impact on medical costs is then multiplied by the percentage of New Hampshire benefit costs attributed to medical benefits (76.3%³) to arrive at the upper bound impact on New Hampshire's overall workers compensation system costs of -0.8% (-\$1.7M).

² Based on NCCI's Medical Data Call for New Hampshire for Service Year 2011.
³ Based on Policy Years 2009 and 2010 Financial Call data projected to 1/1/2014.



**ANALYSIS OF NEW HAMPSHIRE SENATE BILL 147
AS AMENDED MARCH 14, 2013
PROPOSED TO BE EFFECTIVE JANUARY 1, 2014**

Summary of Impacts

The estimated upper bound impacts on New Hampshire's workers compensation system due to SB 147 are summarized in the table below:

		Upper Bound Impact
(1)	Impact on Drug Payments in New Hampshire	-10.0%
(2)	Drug Payments as a Percent of Medical Costs in New Hampshire ²	10.4%
(3)	Impact on Medical Costs in New Hampshire Due to Proposed Prescription Drug Fee Schedule = (1) x (2)	-1.0%
(4)	Medical Costs as a Percentage of Overall Workers Compensation Benefit Costs in New Hampshire ³	76.3%
(5)	Total Impact on Overall Workers Compensation System Costs in New Hampshire = (3) x (4)	-0.8%

² Based on NCCI's Medical Data Call for New Hampshire for Service Year 2011.

³ Based on Policy Years 2009 and 2010 Financial Call data projected to 1/1/2014.



What Is Visa Hiding? Majority Shareholders Thwart Effort to Require More Disclosure of Money Spent on ALEC

by [Lisa Graves](#) [1] — January 31, 2013 - 7:08am

Visa's ALEC Agenda Includes Bills to Benefit Whom? Visa

One of the recent ALEC resolutions known to be pushed by Visa through ALEC is an effort to limit state regulation of what are known as "payroll cards." This is a method that some companies and government agencies are being urged to pay their employees with instead of direct deposit to a bank or a paper check that the worker can cash and use without any fees.

At ALEC's November 2011 meeting at the posh Kierland Resort in Scottsdale, Arizona, Visa's state government relations representative (a registered lobbyist), Kate Viar, introduced the measure to try to get state legislators to block efforts to impose extra conditions, beyond what corporations want, on the use of these "reloadable pre-paid cards" that she asserted was one of the "least expensive means" (for whom?) for employees to be paid.

That ALEC resolution was put forward in the aftermath of a legislative fight Visa waged in Connecticut in 2011, for example, where some legislators and outside groups who examined the use of these cards were concerned that workers would be charged fees to access their wages.

For example, after concerns were raised, the Connecticut bill imposed conditions [26] such as that workers must be allowed at least two "free" withdrawals of their wages from the card per week, that they must be able to check their balance for free, and that they not be charged low balance fees while they are employed, and that their wage payroll cards do not expire, even if the credit card company puts an expiration date on the card.

The state affiliate of the AFL-CIO labor union opposed the bill as initially introduced for not protecting workers' rights to have access to their wages without additional fees, and the state affiliation of grocers opposed the bill because credit and debit card processing companies, like Visa, were exacting fees for every transaction which amounted to roughly 44 cents or more for every grocery store bill paid by a credit or debit card, taking revenue from strapped grocery stores for "inter-bank fees." Visa asserted that the bill was essential for workers who are "under-banked," that is, do not have checking accounts, although such workers can often cash checks without any bank fees.

In CMD's views, such fees operate like a largely unregulated corporate tax on other businesses, which are often passed on to consumers. Visa, which is the largest retail electronic payments network in the world, reported revenue of \$9.1 billion in 2011 on fees from over \$4 trillion in transactions. Its net income was over \$3.6 billion after expenses, which included total compensation of its CEO, Joseph Saunders, of more than \$11 million [27] in 2011.

ALEC's Agenda Would Bar Limits on ATM Fees and Interest Rates

Beyond this recent example, CMD has exposed how ALEC's legislative effort to protect companies like Visa includes "model" bills to bar legislators from imposing any limit on the interest (or usury) rates that can be charged on credit as well as bills to block the people's representatives from putting any limit on ATM fees imposed by banks to get access to consumer's cash. (These bills are available below.) Visa does not actually issue credit cards or debit cards; it allows its name to be used by banks and takes fees from transactions.

Some other corporate funders of ALEC that would benefit from such bills have dropped out of ALEC, unlike Visa. These include both Wells Fargo and Bank of America, at the end of 2012, bringing to 41 the total number of for-profit companies that have announced they have left ALEC since ALECexposed.org was launched and since CMD helped connect the dots [28] between ALEC and the proliferation of so-called "Stand Your Ground" laws like the one initially cited to protect Trayvon Martin's killer from arrest as well as efforts to make it harder for Americans to vote [29].

Bank of America's BankAmericard was actually the predecessor of Visa, which has long used a logo that echoed BofA's blue, white, and gold theme. But unlike its predecessor company, Visa appears to be standing by ALEC.

This is not the first controversy to come Visa's way. Almost a decade ago, it settled an antitrust lawsuit brought by retailers like Wal-Mart, another long-time ALEC member that stopped funding ALEC last year. In that case, Visa and MasterCard settled the claims for over \$3 billion. Last year, the two companies also reached a \$6 billion settlement in a case about the rates charged for credit card versus debit card transactions, and Visa continues to do battle in the EU over its decision to stop credit card transactions from funding WikiLeaks, even though Iceland issued a decision requiring that transactions be permitted through its Icelandic affiliate on the grounds of protecting freedom of expression.

SB 95 “*Relative to choice of pharmacy under workers’ compensation.*” This started off with several different points but as passed it was narrowed down to just the sentence that “an injured employee has the right to choose his or her own pharmacy or pharmacist for purposes of medicines required under workers’ compensation.” The bill was originally presented and is still being pushed by Injured Workers Pharmacy. That was passed, so presumably, the House Labor Committee will take it up. Mr. Callahan is of the belief that the injured worker already has the choice of pharmacy. Attorney Jenkins indicated managed care does not address pharmacy but does say medical provider and in essence, pharmacy is included in that but it does not explicitly state pharmacy in the statutes. Ms. Crouch indicated that in practice now is that carriers have pharmacy benefit management programs that provide for the injured employee to get their medications without any out-of-pocket expense but they need to go through the pharmacy benefit management program to get their medications. There is nothing now currently in the statute that says that one has to use the carrier’s or the employer’s pharmacy benefit management program but in practice, if they do, then they can get their medication and do not have to pay for it and submit the receipt and get reimbursement. So for all the discussions about it to say that they can choose their own pharmacy, but to the employee’s standpoint, it does open them up to potentially out-of-pocket expenses having to submit receipts, wait for reimbursement, and the carrier has up to 30 days to make reimbursement. Ms. Mitchell indicated that even under pharmacy benefit management, most of the pharmacies are in the PBM, so they would still be able to choose, but Injured Workers Pharmacy is not in those PBMs. Mr. Callahan indicated that this is just simply clarifying that the injured worker does have the right to choose their pharmacy. Attorney Jenkins concluded that this bill will be coming from the Senate and going to House Labor Committee.

SB 147 “*Relative to prescription drugs in workers’ compensation cases.*” This bill says that unless medically necessary as directed by the doctor, the pharmacies shall substitute generically equivalent drugs or the legend if it is cheaper. Ms. Stone indicated that she would not be in support of this if not for the fact that the brand name medication would still be available to the injured worker if medically necessary. Ms. Stone made the motion that the Council sends a letter in support of SB 147 to the House Labor Committee. Ms. Crouch and Mr. Callahan seconded the motion. *The motion was passed unanimously.*

New Business - None.

Ongoing Business/Discussions

Mr. Callahan pointed out for clarification that Senator Sanborn will be joining the Council as representative from the Senate, although he is not present at today’s meeting.

Ms. Schwab reports she has Travelers coming up with regard to managed care. Their current certification expires in May and they will be on the Agenda for the April 26, 2013 WCAC meeting.

Adjourn – 11:40

Mr. Callahan asked everyone present if they had any further questions or comments. As there were none, he motioned to adjourn the meeting.

The next Workers’ Compensation Advisory Council meeting is scheduled for Friday, April 26, 2013 at 10:30 to 11:00 a.m. in Room 307 at the Legislative Office Building.

COMMISSIONERS
Robert R. Scott
Martin P. Honigberg

EXECUTIVE DIRECTOR
D. Howland

STATE OF NEW HAMPSHIRE



PUBLIC UTILITIES COMMISSION

21 S. Fruit St., Suite 10
Concord, N.H. 03301-2429

SB 147
125668

TDD Access: Relay NH
1-800-735-2964

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October 31, 2014

Governor Maggie Hassan
Terie Norelli, Speaker of the House
Chuck Morse, Senate President
Members of the Energy and Natural Resources Committee
Members of the Science, Technology and Energy Committee
Karen Wadsworth, House Clerk
Tammy L. Wright, Senate Clerk

RE: SB 417 - Chapter 149 of the Laws of 2014

Attached please find the New Hampshire Public Utilities Commission's report of its findings and recommendations relative to the most effective and appropriate means to provide customers with information explaining the system benefits charge, the renewable portfolio standard requirements, and the regional greenhouse gas initiative.

The Commission has directed the electric utilities to work with Commission Staff to develop educational materials for customers consistent with this report.

Sincerely,

Handwritten signature of Robert R. Scott in black ink.

Robert R. Scott
Commissioner

Handwritten signature of Martin P. Honigberg in black ink.

Martin P. Honigberg
Commissioner

Attachment

RECEIVED
NOV 03 2014

SUMMARY:

SB 417, which became Chapter 149 of the Laws of 2014, directed the Public Utilities Commission to “convene the electric utilities to determine the most effective and appropriate means to provide customers with information explaining the system benefits charge, the renewable portfolio standard requirements, and the regional greenhouse gas initiative.” The legislation called for the Commission to bring the utilities together within 30 days of the effective date of the act. That date was June 16, 2014, and the next day, June 17, the Commission convened an initial meeting of the utilities.

The Commission and the utilities considered two approaches for providing information to customers. The first approach was to utilize a short message on bills to create awareness of the programs. The second approach relied instead on periodic bill inserts or newsletters to provide general information on the programs. Both approaches would direct customers to a website for more specific data and information.

The Commission finds the latter proposal to be the most effective and appropriate means for informing customers, and has directed the utilities to work with Commission Staff to develop educational material on the three programs.

FINDINGS:

Each utility looked at its ability to include a short message on its bills to create awareness of the programs. While two utilities could do so, the location of the message was not ideal. In one instance, the message would be included with, and possibly lost in, other messages provided on the bill. In the other instance, the message would appear on the last page of the bill where it was not likely to be noticed by customers. For the other two utilities, including a short message on bills would require reprogramming of the utilities’ customer information systems, imposing costs on those utilities. For all utilities, space on bills is limited, so the message considered for inclusion on bills could only direct customers to a website address for more information about the system benefits charge programs, the renewable portfolio standard, and the regional greenhouse gas initiative. It would not be able to explain the programs in any meaningful way.

The four electric utilities currently employ periodic bill inserts or newsletters to communicate with customers. The frequency of the bill inserts or newsletters ranges from monthly to quarterly. Sufficient space is available within the bill inserts and newsletters to allow for an overview of the system benefits charge programs, the renewable portfolio standard requirements, and the regional greenhouse gas initiative. An overview of the programs in a bill insert or newsletter would build awareness of the programs while also including discussions of the programs and how they work. The bill inserts or newsletters would also direct customers to the utilities’ and the Commission’s websites where more detailed information would be provided about what these programs do, how they are administered and, for the system benefits charge programs, how customers can participate.

RECOMMENDATIONS:

The system benefits charge programs, the renewable portfolio standard requirements, and the regional greenhouse gas initiative are not programs that lend themselves to short messages or explanations. Given the limited effectiveness of any message that could be provided on utility bills, the Commission does not recommend that the electric utilities undertake the expense of bill programming changes to accommodate a message about the programs on utility bills. More meaningful information can be provided to customers through utility bill inserts and newsletters, and on utility websites. The Commission can also include further information on its website to aid customer understanding of these programs.

Accordingly, the Commission has directed the electric utilities to work with Commission Staff to develop consistent information for inclusion in utility bill inserts and newsletters and that the utilities provide such information in a bill insert or newsletter no less than twice a year. The bill inserts and newsletters would provide an overview of the system benefits charge programs, the renewable portfolio standard requirements and the regional greenhouse gas initiative. To ensure consistency of information, utilities should also work with Commission Staff to create information for the utilities' websites that would provide further information on these programs.

Voting Sheets

HOUSE COMMITTEE ON LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

EXECUTIVE SESSION on SB 147-FN

BILL TITLE: relative to prescription drugs in workers' compensation cases.

DATE: April 24, 2013

LOB ROOM: 307

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Weed

Seconded by Rep. Cahill

Vote: 18-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Linda A. DiSilvestro, Clerk

HOUSE COMMITTEE ON LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

EXECUTIVE SESSION on SB 147-FN

BILL TITLE: relative to prescription drugs in workers' compensation cases.

DATE: 4/24/13

LOB ROOM: 307

Amendments:

Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. *Weed*

Seconded by Rep. *Cohee*

Vote: *18-0* (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: *18/0*

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Linda A. DiSilvestro, Clerk



2013 SESSION

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

Bill #: 147 Title: prescription drugs in worker's compensation cases
PH Date: 4/23/13 Exec Session Date: 4/24/13
Motion: OTP Amendment #: _____

MEMBER	YEAS	NAYS
White, Andrew A, Chairman	✓	
Kelly, Sally H, V Chairman	✓	
Weed, Charles F	✓	
Rice, Chip L	✓	
Coulombe, Gary M	✓	
Andrews, Christopher R <u>Goaley, J</u>	✓	
Cahill, Michael D	✓	
DiSilvestro, Linda A, Clerk	✓	
Ley, Douglas A	✓	
Schmidt, Janice E	✓	
Tanner, Linda L <u>Bartlet, C</u>	✓	
Daniels, Gary L,	✓	
Infantine, William J,	—	
Richardson, Herbert D	✓	
Pellegrino, Tony J	—	
Sedensky, John B,	✓	
Flanagan, Jack B	✓	
Burchell, Richard B	✓	
Emerick, J. Tracy	✓	
St.James, Kevin P	✓	
TOTAL VOTE:	18	0

Committee Report

CONSENT CALENDAR

May 1, 2013

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on LABOR, INDUSTRIAL AND
REHABILITATIVE SERVICES to which was referred
SB147-FN,**

**AN ACT relative to prescription drugs in workers'
compensation cases. Having considered the same,
report the same with the recommendation that the bill
OUGHT TO PASS.**

Rep. Charles F Weed

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES
Bill Number:	SB147-FN
Title:	relative to prescription drugs in workers' compensation cases.
Date:	May 1, 2013
Consent Calendar:	YES
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

The Committee agreed with the merit of this bill and notes that the Workers Compensation Advisory Council unanimously endorsed this legislation. The Committee hearing and deliberation discussed the requirements and regulation of generics are such that active ingredients and amounts are largely identical to brand name drugs. Some were aware of contraindications caused by binders and coloring agents which when discovered to be problematic for a patient leads to prescription of brand name medications.

Vote 18-0.

Rep. Charles F Weed
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

SB147-FN, relative to prescription drugs in workers' compensation cases. **OUGHT TO PASS.**

Rep. Charles F Weed for LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES. The Committee agreed with the merit of this bill and notes that the Workers Compensation Advisory Council unanimously endorsed this legislation. The Committee hearing and deliberation discussed the requirements and regulation of generics are such that active ingredients and amounts are largely identical to brand name drugs. Some were aware of contraindications caused by binders and coloring agents which when discovered to be problematic for a patient leads to prescription of brand name medications. **Vote 18-0.**

Original: House Clerk

Cc: Committee Bill File

The Committee agreed with the merit of this bill and notes that the Workers Compensation Advisory Council unanimously endorsed this legislation. The Committee hearing and deliberation discussed the requirements and regulation of generics are such that active ingredients and amounts are largely identical to brand name drugs. Some were aware of contraindications caused by binders and coloring agents which when discovered to be problematic for a patient leads to prescription of brand name medications.

COMMITTEE REPORT

COMMITTEE: Labor, Industrial + Rehabilitative Services

BILL NUMBER: # SB 147

TITLE: _____

DATE: 4/24/2013 CONSENT CALENDAR: YES NO

OUGHT TO PASS

OUGHT TO PASS W/ AMENDMENT

INEXPEDIENT TO LEGISLATE

INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

The ~~Indust~~ Industrial + Rehab Services committee agreed with the merit of this bill and votes that the Workers Compensation Advisory Council unambiguously endorsed this legislation. The committee hearing and deliberation disclosed the requirements and regulation of generics are such that active ingredients and amounts are largely identical to brand name drugs. Some were aware of ~~some~~ contraindications caused by binders and coloring agents, which when discovered, leads to prescription of brand names.

COMMITTEE VOTE: 18-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Charles F. York
For the Committee

WEED