

# Senate Health and Human Services Committee

*Kyle Baker 271-2609*

**SB 156**, relative to pharmacy pricing.

**Hearing Date:** February 14, 2017

**Time Opened:** 1:00p.m.

**Time Closed:** 1:30 p.m.

**Members of the Committee Present:** Senators Bradley, Avard, Gray, Fuller Clark and Hennessey

**Members of the Committee Absent :** None

**Bill Analysis:** This bill clarifies the process of paying for filling prescriptions for covered persons. The bill also adds authority for the pharmacy board to adopt rules for enforcement of requirements for the price of filling prescriptions.

**Sponsors:**  
Sen. Feltes

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**Who supports the bill:** Sen. Dan Feltes, SD# 15; Matthew Veno, Harvard Pilgrim; Lindsay Nadeau, Cigna; Heidi Kroll, AHIP

**Who opposes the bill:** Rick Newman, NH Independent Pharmacy Association; Fran Wendelboe, NH Independent Pharmacy Association

**Who is neutral on the bill:** Tyler Brannen, NH Insurance Dept.

**Summary of testimony presented in support:**

**Senator Dan Feltes – Senate District 15**

- Prime sponsor of bill
- There was not and is not agreement on these rules regarding usual and customary.
- If agreement is reached, this bill will not be necessary.
- Similar to Senator Soucy's bill (SB 238-FN).
- Pharmacy benefits manager or health carrier shall require a covered person pay the lesser amount charged by the pharmacy, either the provider contracted amount or the persons copayment
- Department has rulemaking authority
- Senator Soucy's bill defines usual and customary price, this bill is more pro-

consumer since consumer will always get lower price, with lines 15-17 being the biggest difference.

- The text of this bill passed house in 2015 as an amendment, and right now there is an ongoing debate on rules at JLCAR

**Matthew Veno –Harvard Pilgrim**

- Supports bill
- The primary issue for us is making sure our patients pay the lowest price possible.
- This bill would put that into statute, this is a pro consumer bill that allows the consumer to benefit from our negotiations and pay the lowest price possible.
- Choice for committee is keeping money in patients pocket or making them spend more money at a pharmacy.

**Summary of testimony presented in opposition:**

**Fran Wendelboe –NH Independent Pharmacies**

- Opposes bill
- This bill completely redefines copay, throws out what usual and customary means
- This bill cannot co-exist with Senator Soucy's bill, because it throws out the definition of usual and customary. There can only be one definition.

**Sen. Bradley**-Independent pharmacies were okay with Sen. Soucy's bill, right?

**Wendelboe**-Yes we were, but we are not okay with this bill because it redefines copay.

**Sen. Fuller Clark**- Do you support the language in this bill?

**Wendelboe**-We do not support the language of this bill because of the copay part, this is Senator Soucy's bill but with the extra definition added.

**Neutral Information Presented:**

**Tyler Brannen – NH Insurance Department**

- Neutral on bill
- Insurance department is in tough spot with regards to rulemaking. Because there is no definition of usual and customary, there are many different interpretations among carriers and providers.
- In 2008 when language was passed regarding usual and customary, the reason for the passage of the bill was so the patient would not be forced to pay the copayment amount if it was higher than charge or allowed price (referenced

handout)

- The goal was to save patient money, not clear they were looking for negotiated price, but rather looking for the charged amount
- In 2016, there was a floor amendment which tried to define usual and customary which was attached to a controlled drugs bill.
- This led to a struggle within insurance department to enforce rules that are not very clear.
- This bill clarifies requirement for insurance companies and the benefits to the patient.

**Sen. Fuller Clark-** Without adopting the language we are looking at in this bill which clarifies the definition of usual and customary, is there is a possibility of the patient paying more?

**Brannen-** Unfortunately yes. Nobody wants the patient to pay the full copay, pharmacies would want to get the charge, and patients would want the negotiated price.

**Sen. Avard-** Would you object to us re-referring this bill?

**Brannen-** No, we are neutral. Though it is unlikely that the differences between the interested parties will be worked out.

**Future Action:** Pending

KRB

Date Hearing Report completed: February 15, 2017