

# HEALTH AND HUMAN SERVICES

Resolution HHS-18-25

## A RESOLUTION ON ENHANCING COMPETITION IN THE GENERIC MARKET

WHEREAS, medicines are among the most powerful tools used to treat, cure, and prevent illness, and are one of the medical interventions that decrease in cost over time;

WHEREAS, after a limited time of patent protection, innovator medicines become generic medicines, which provide the same clinical benefits at substantial cost savings;

WHEREAS, a 2016 U.S. Government Accountability Office (GAO) report found that, among all generic drugs paid for by the Medicare Part D program, prices fell 59 percent from 2010 to 2015;

WHEREAS, the price of generic medicines that entered the market between 2011 and 2013 fell 79 percent within 12 months compared to only 44 percent for generics that entered the market between 2002 and 2004;

WHEREAS, in the 2016 GAO report found that of the generic drugs that were on the market for the entire five year time period analyzed, 22 percent had at least one price increase of 100 percent or more; however, the report noted that these increases “still may not result in a very high price because the beginning price was relatively low”;

WHEREAS, in 2016 the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation (ASPE) issued a brief on generic drug trends, that stated “overall generic drug prices are decreasing even if trends for specific drugs may differ”;

WHEREAS, ASPE noted that “spikes” in generic drug prices “apply to relatively small segments of the market”; and

WHEREAS, generic drug price spikes can be attributed to “small markets with limited entry; the impact of mergers, acquisitions, and market exits; the ability to obtain new market exclusivities; and distribution activities.”

THEREFORE, BE IT RESOLVED, that the National Black Caucus of State Legislators (NBCSL) recognizes that competition in the generics market drives prices down, and when there is little or no competition, an environment for higher generic drug prices can potentially be created;

BE IT FURTHER RESOLVED, that to improve the affordability of medicines, market factors that enable generic drug price spikes must be corrected, including FDA increasing the number and speed of generic approvals, giving priority review to Abbreviated New Drug Applications

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(ANDAs) for medicines with limited competition, and making information available regarding which generic medicines have limited or no competition in the marketplace; and

BE IT FINALLY RESOLVED, that the NBCSL send a copy of this resolution to the President of the United States, the Vice President of the United States, members of Congress, and other federal and state government officials as appropriate.

**SPONSOR: Senator Donne Trotter (IL)**

**Committee of Jurisdiction: Health and Human Services Policy Committee**

**Certified by Committee Chair(s): Representative John Richard C. King (SC) and Representative Toni Rose (TX)**

**Ratified in Plenary Session: Ratification Date is December 2, 2017**

**Ratification is certified by: Representative Gregory W. Porter (IN), President**