SPONSOR: Sen. Seigfried & Sen. Townsend & Rep. Minor-Brown
Sens. Buckson, Hansen, Pinkney, Sokola, Walsh, Wilson;
Reps. Hilovsky, Osienski

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE JOINT RESOLUTION NO. 7
AS AMENDED BY
HOUSE AMENDMENT NO. 1

DIRECTING THE STATE EMPLOYEE BENEFITS COMMITTEE AND THE SECRETARY OF HUMAN RESOURCES TO ENGAGE WITH INDEPENDENT CONSULTANTS AND OTHER SUPPLY CHAIN TACTICS FOR COST CONTAINMENT OF PRESCRIPTION DRUGS FOR STATE EMPLOYEES AND RETIREES' INSURANCE PROGRAMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

WHEREAS, the General Assembly is aware of the challenges facing members of the State Employee Benefits Committee (SEBC) for their work to provide cost containment for pharmaceuticals provided to thousands of current and retired employees of the State; and

WHEREAS, the SEBC provides prescription drug plans with pharmacy benefit managers (PBMs) that administer the drug benefit, which includes negotiating discounts with manufacturer's rebates and establishing drug formularies, which are lists of drugs covered in the prescription drug plan; and

WHEREAS, the State relies on the PBM to design a formulary that is offered to state employees and retirees; and

WHEREAS, most PBMs have not been transparent in sharing their revenue sources from manufacturer's rebates, administrative, educational, or clinical fees; and

WHEREAS, the State continues to question its overall cost of pharmaceuticals.

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 153rd General Assembly of the State of Delaware, with approval of the Governor, that the SEBC shall consider the following strategies and policies, consistent with applicable State and federal law, when negotiating for pharmaceuticals to achieve better outcomes:

1. The SEBC should own and control all necessary pharmaceutical data for transparency and cost containment. The State should obtain data in the form of real-time point-of-sale pricing. This will arm the State with in-depth knowledge to prevent PBM's abusive practices.

2. An independent Pharmacy and Therapeutics Committee (P&T Committee) should provide benefit by working solely on behalf of the SEBC to develop a formulary designed to provide an ongoing review of all the

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medications contracted by the SEBC. An independent formulary consultant should be paid based on their ability to provide drugs at the lowest cost and recommend generic medications at a lower price when there is no therapeutic advantage to using a brand name.

3. Any negotiation strategy to reduce drug costs, like reverse auctions, transparent committees, or other supply chain tactics should be used on the part of the formulary best suited for such action. The longer-term strategy should be to own the pharmaceutical database that will provide knowledge on cost containment.

4. An interstate compact to negotiate directly with drug manufacturers for high-end priced drugs, which would leverage economies of scale to achieve lower costs and could provide a consumer offering to all Delawareans.

5. The State should pay no higher price for all drugs negotiated by Medicare.

6. PBMs working with the State should disclose their complete administrative expense for all pharmaceutical drugs contracted.

7. The SEBC should request a PBM to bid based on the lowest pricing source for each pharmaceutical drug, not on the average wholesale price of a pharmaceutical drug.

8. The SEBC should be entitled to all agreements between the PBM and the pharmaceutical manufacturing company pertaining to any drugs contracted on behalf of the SEBC. Agreements between the PBM and the SEBC may be kept confidential, if needed.

9. The State should have the right to audit anything it believes is needed for transparency and clarity. The SEBC should contract with an outside consultant to perform the audit.

BE IT FURTHER RESOLVED that by August 1, 2026, the SEBC shall prepare a report summarizing any difficulties the agency has in implementing any of the policies in this Joint Resolution that prevent the SEBC from carrying out its underlying goal of providing better, cost-effective health care to residents of this State. The SEBC shall submit the report to the Governor; the President Pro Tempore of the Senate and Speaker of the House of Representatives, for distribution to all members of the General Assembly; the Director and the Librarian of the Division of Legislative Services; and the Public Archives.

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