**TESTIMONY BEFORE SENATE HUMAN SERVICES COMMITTEE**
**REGARDING HB 1470**
**MARCH 8, 2005**

**Chairman Lee, members of the committee, I am Dr. Brendan Joyce, Administrator of Pharmacy Services for the Department of Human Services. I appear before you to provide testimony regarding HB 1470.**

**Section 1 includes some minor changes to the appointing process of members of the Drug Utilization Review (DUR) Board and adds a member. The Department hopes that these changes will encourage physicians to agree to serve on the board because we have continuously been short of the 6 physician members since the DUR Board was restructured.**

**Section 2.3 includes language to exempt certain mental health, cancer, and AIDS / HIV drugs from prior authorization (PA). As a reminder, mental health drugs account for nearly 50% of the Medicaid drug expenditures. Also, exemptions from PA are a slippery slope in that it is difficult to define exactly what should be exempted. Overall, most states trust the practicing physicians and pharmacists on the DUR Board to make the appropriate decision.**

**Since HB 1470 passed the House, the Department has already experienced several issues concerning the exemption of drug classes from the PA process. First, a pharmaceutical representative for a new pain medication stated to me that Medicaid could not prior authorize the new drug (if HB 1470 passes) since it is used for cancer patients. This is the type of argument that will become more common if exclusions are allowed. Second, an analysis of the effect of Medicare Part D on ND Medicaid shows that psychiatric medications will account for an even higher percentage of drug expenditures than they do now. The type of medications will shift somewhat as children are the largest users (e.g. attention deficit disorder drugs). Third, as the President's proposed budget includes**

**significant planned savings obtained by changes in Medicaid, the landscape that exists today may not exist in the future. What may appear to be a good idea today may not be as appropriate in the future. Fourth, final rules for Medicare Part D were recently issued, and despite calls for exemptions, the above classes were not exempted from prior authorization. In fact, the Centers for Medicare and Medicaid states that prior authorization may be useful in the case of anti-nausea drugs for cancer patients to ensure that the appropriate plan is billed for the drug (Part B vs. Part D).**

**The Department would prefer to let the DUR Board determine through scientific evidence whether a particular drug or drug class should be exempted from the PA process.**

**We would also suggest the following changes for page two, starting on line 30 "~~an~~ AB-rated generic equivalent drug<u>s</u> for which the cost to the state postrebate is less than the brand name drug<u>s, in the aggregate</u>." As drug rebates are not known in advance, and can and do change from quarter to quarter retrospectively, there will be cases where the generic is cheaper one quarter and more expensive in the next quarter. The Department does not want to cause an undue burden on providers or us to have to continuously monitor and change policies and procedures in this area. This language is similar to federal guidelines on another part of the pharmacy services (Federal Upper Limits).**

**The fiscal note remains $0 because ND Medicaid has not planned on prior authorizing any of the medications in these drug classes in the foreseeable future.**

**I would be happy to answer any questions you may have.**