

**Testimony**  
**House Bill 1422 – Department of Human Services**  
**House Human Services Committee**  
**Representative Clara Sue Price, Chairperson**  
**January 24, 2007**

Chairman Price, 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 in opposition of House Bill number 1422.

There is no fiscal note for this bill as the Department has no plans to pursue DUR Board recommendation for prior authorization of any of the drug categories affected by this bill. Even so, the Department is opposed for the following reasons.

First, medications used for mental illnesses accounts for a minimum of 40.7 percent of our drug spend. Four drug classes (see [Attachment A](#)) account for the majority of this spend and they are the top four drug classes for ND Medicaid. It takes the next 22 drug classes to account for the same amount of spend as these first four drug classes. It is not possible to manage pharmacy expenditures without the ability to manage the driving factors of those expenditures.

Second, the most vulnerable patients – the aged and / or disabled – transferred to Medicare Part D and are subjected to prior authorization rules for their prescription drugs. Attempts were made when Medicare Part D was enacted to not allow insurance companies (Part D plans) to prior authorize these medication classes; but these attempts failed due to the associated costs. Part D currently requires that these medication

classes be on the formulary, but Part D plans can require prior authorization.

Third, these restrictions on prior authorization can have some significant unintended consequences. For instance, the Code of Federal Regulations requires that state Medicaid agencies will not cover experimental therapy. However, a physician could choose to use Sprycel® in combination with Gleevec® for a cancer where there is no proof that the combination would be effective as part of an experimental protocol. This therapy could exceed \$100,000 and the Federal government could interpret their regulation to mean that the entire amount would have to be 100 percent state funds with no qualification for Medicaid rebates.

Also, there are times when there is extremely strong evidence favoring the use of one product over another. Please see [Attachment B](#) for an example of this with HIV therapy. If this bill passed, the Department could not safely assure that this medication was used appropriately.

Fourth, there has been a large amount of recent evidence proving that many of the mental illness medications are equally effective. For instance, the CATIE trial has shown that older generic medication is as effective as the newer, more expensive medications for schizophrenia. Information from STAR\*D continues to provide interesting results regarding the treatment of depression. Also, the previous top antidepressants Prozac®, Paxil®, Celexa®, Zoloft®, Remeron®, Wellbutrin® and others are now available generically, plus they have years of experience of use behind them.

Fifth, a consistent concern is that the Medicaid agency would try to change people who are stabilized on a medication to a different medication. Grandfathering can take care of this concern 100 percent, but we must remember, pharmaceutical companies are continuously trying to migrate patients from one medication to another. Recent examples include Celexa® to Lexapro®, Paxil® to Paxil CR®, and Wellbutrin SR® to Wellbutrin XL®. Future examples include Risperdal® to Invega®. Please see [Attachment C](#) for a recent story regarding this issue. Most quotes regarding this practice are found in stockholder meetings and the financial reports from the companies.

Finally, carving out exceptions can be a very slippery slope. There have been attempts in many states to exempt a variety of drug classes and patient classes. We believe the clinicians on the DUR Board are there for a very important purpose and should be trusted to make these types of decisions.

I would be happy to answer any questions the committee would have.