



May 26, 2009

The Honorable Max Baucus  
Chairman  
Senate Finance Committee  
United States Senate  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member  
Senate Finance Committee  
United States Senate  
Washington, DC 20510

RE: Comments on Finance Policy Options for Financing Comprehensive  
Health Care Reform

Dear Chairman Baucus and Ranking Member Grassley:

The Healthcare Distribution Management Association (HDMA) appreciates this opportunity to provide public comments on the Senate Finance Committee's May 20, 2009 white paper, "Financing Comprehensive Health Care Reform: Proposed Health System Savings and Revenue Options."

HDMA represents primary, full-service healthcare distributors who are responsible for distributing 76 percent of the nation's pharmaceutical supply. Each business day, HDMA member companies deliver more than eight million prescription medicines and healthcare products to more than 145,000 pharmacies, hospitals, nursing homes, clinics, physician offices, government and other providers in all 50 states. This essential public health function is provided with tremendous efficiency, saving the nation's healthcare system nearly \$32 billion each year. Millions of patients depend upon HDMA members to assure a secure, efficient and just-in time supply of medicines for pharmacies and other healthcare providers across the country.

### **Executive Summary**

Financing comprehensive health care reform remains a critical issue for Congress to address in order to obtain meaningful health care reform. HDMA continues to support the use of new technologies and medical innovations to increase efficiency, improve quality and reduce costs. Needed and appropriate investments in prevention and wellness programs, health IT, electronic health records, e-prescribing and interoperability will improve quality of care, reduce costs, decrease or eliminate medical errors and enhance information about the use of pharmaceuticals.

With over a century of experience, HDMA members continue to provide vast efficiencies and cost savings to the healthcare system. We remain supportive of initiatives that encourage the utilization of existing private-sector delivery infrastructure and supply chain management technology that are proven to save billions of dollars to the healthcare system each year. To that extent, we wanted to take this opportunity to bring to your attention an option that, although not included in the Committee's whitepaper, would ensure continued savings to the healthcare system—exclusion of the customary prompt pay discounts extended to wholesalers from the Average Sales Price (ASP) methodology for Medicare Part B drugs.

In addition, we appreciate the opportunity to provide our insights on one of the Administration's revenue options presented in the whitepaper—the repeal of the last-in, first-out (LIFO) method of accounting for inventory and tax, listed on page 38 of the document. LIFO repeal would reverse long-standing tax policy and result in an unprecedented tax increase for pharmaceutical distributors. In addition, we believe the use of LIFO is counter to the Committee's intent to find innovative ways to finance comprehensive healthcare reform in that it could very well lead to increases in cost as businesses that use LIFO look to other sources to replenish lost revenue due to the repeal.

### **I. Exclusion of the Customary Prompt Pay Discounts Extended to Distributors from the Average Sales Price (ASP) Methodology for Medicare Part B Drugs**

Our pharmaceutical distribution system is unique to the United States and provides efficiencies not realized in other countries. Distributors, through streamlined, aggregated ordering and efficient shipping logistics, save the nation's healthcare system nearly \$32 billion each year while operating on very low margins. These efficiencies are even more critical in the specialty market where distributors manage increasingly complex handling and delivery requirements necessary to safeguard and ensure delivery of life-saving medicines to physicians' offices across the nation. These biologics are critical components in the care regime needed by physicians for treatment in diverse areas such as oncology, neurology, dermatology, gastroenterology, hematology, ophthalmology and rheumatology. The specialty distribution system enables manufacturers to realize saving by lowering their administrative cost and eliminating their distribution cost—absent distributors in the supply chain, these cost would likely be passed on to physicians and patients. In addition to these savings, providers also realize a number of benefits directly resulting from a robust distribution system. Distributors provide valuable cost savings and efficiencies to providers; serving as a single point of order and taking on risk for credit, product damage, expiration and loss of product (while it is in the supply chain).

Critical savings and efficiencies, generated by distributors in the healthcare system, are being threatened by current ASP reimbursement methodology. Medicare currently includes prompt pay discounts extended to wholesalers in the ASP methodology, artificially reducing the Medicare payment physicians receive for Part B drugs and threatening the ability of distributors to continue to provide savings and efficiencies described above. As the Finance Committee discusses options to finance comprehensive healthcare reform, it would be a missed opportunity to not fully leverage the efficiencies of distributors in the Part B marketplace.

To that extent, HDMA supports legislation that was introduced in the House of Representatives on March 9, 2009, by Congressmen Gene Green (D-TX) and Ed Whitfield (R-KY) to exclude customary prompt pay discounts from ASP methodology. Customary prompt pay discounts are contractual terms between drug manufacturers and distributors. They reflect the time value of money for distributors, are not often passed on to medical providers and artificially reduce reimbursement.

The current statutory inclusion of distributor prompt pay discounts in the ASP methodology threatens the secure and highly efficient distribution model and will lead to increased costs to Medicare and beneficiaries due to greater inefficiencies in the Part B market place. For example, the current ASP methodology results in reduced reimbursement to community oncology practices, where 84 percent of cancer patients are treated. This artificial reduction in reimbursement compounds challenges faced by patients in their treatment and causes access-to-care issues as the economic realities of Medicare reimbursement threatens the financial viability of patient treatment facilities.

Excluding prompt pay discount from the calculation of ASP is consistent with Congressional intent to match Part B drug reimbursement with prices actually available in the marketplace to physicians and other Part B providers. Furthermore, excluding distributor prompt pay discounts from the ASP methodology is consistent with existing policy and will create greater uniformity among federal healthcare programs, as these terms already are statutorily excluded from the Medicaid Average Manufacturer Price (AMP) methodology. Correcting the ASP reimbursement methodology will continue to allow specialty distributors to perform their important role in driving efficiencies and in providing value through the Part B supply chain. In addition, this correction will go a long way to ensuring physicians continue to be reimbursed properly. As the Committee looks into innovative ways to finance comprehensive healthcare reform, we urge the adoption of the above proposal to ensure demonstrated savings and efficiencies continue.

## **II. Do Not Repeal Last-In First-Out (LIFO)**

HDMA urges members of the Senate Finance Committee not to repeal LIFO. Eliminating LIFO would significantly raise business taxes, threatening economic growth and job creation. Moreover, repeal would be particularly punitive for distributors of prescription medicines and healthcare products across the nation. For example, a 2008 study developed for HDMA by PricewaterhouseCoopers stated that, “repeal of the LIFO election would increase annual federal income liability within the pharmaceutical distribution industry by approximately 58 percent—or *12 times more* than the average industry.” This is particularly challenging in an industry that, according to historical aggregated data, has an exceptionally low net profit margin of only 1.06 percent.

LIFO has been a well-established and recognized accounting method in the U.S. since the 1930s. Many different types of businesses use the LIFO accounting method to value their inventory and for tax reporting. These include manufacturers and distributors of a wide variety of products and range from large public corporations to small family-owned businesses. This practice has been recognized as valid under federal law for decades. Eliminating the ability to elect the LIFO method would have a grossly disproportionate impact upon pharmaceutical distributors that have high volume inventories of high-value medications. Further, its repeal would reverse long-standing tax policy and result in an unprecedented tax increase for businesses that use the LIFO method.

Perhaps the most alarming effect of a potential LIFO repeal is the recapture tax, or retroactive treatment of taxable income based on years of “reserves” that exist only on a company’s balance sheet. In the current economic environment, and at a time where preserving efficiencies in the healthcare system is critical, we urge you to abandon the possibility of LIFO repeal.

### **III. Conclusion**

On behalf of HDMA and our member companies, thank you for the opportunity to provide our comments on “Financing Comprehensive Health Care Reform: Proposed Health System Savings and Revenue Options.” We remain ready to address any questions you may have about the issues, concerns and suggestions discussed above.

Sincerely,



Scott M. Melville  
Senior Vice President, Government Affairs