

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

SENATE RESOLUTION

RESPECTFULLY REQUESTING THE RHODE ISLAND CONGRESSIONAL DELEGATION TO URGE THE UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS TO PROTECT PHARMACY ACCESS FOR THOSE WHO SERVE OR HAVE SERVED IN THE ARMED FORCES

Introduced By: Senators Ujifusa, Murray, Miller, Bell, Lauria, Zurier, Mack, Acosta, Felag, and DiPalma

Date Introduced: March 07, 2023

Referred To: Senate Special Legislation and Veterans Affairs

1 WHEREAS, TRICARE is the Department of Defense (DoD) health care program
2 administered by the Defense Health Agency (DHA) by means of the Military Health System for
3 approximately 9.5 million Military and their families; and

4 WHEREAS, Part of the TRICARE health care program is the TRICARE Pharmacy
5 Benefits Program, authorized under 10 U.S.C. § 1074g and 32 C.F.R. 199.21; and

6 WHEREAS, The TRICARE Pharmacy Benefits Program enables members of the U.S.
7 Military and their families to receive pharmacy benefits from not only military treatment
8 facilities, but also a network of civilian providers and pharmacies, including independent provider
9 practices, located in their own communities; and

10 WHEREAS, DHA outsources the administration of the TRICARE Pharmacy Benefits
11 Program to a private corporation, currently Express Scripts, which is the second largest Pharmacy
12 Benefits Manager (PBM) in the nation by market share, managing approximately 25 percent of
13 all covered prescription drug claims; and

14 WHEREAS, Express Scripts, which is owned by the insurer Cigna, owns a mail order
15 retail pharmacy, Accredo Health Inc., which operates Accredo Specialty Pharmacy; and

16 WHEREAS, In 2022, DHA awarded Express Scripts a multi-year contract to serve as the
17 sole PBM to administer the pharmacy benefit offered to TRICARE beneficiaries after a bidding
18 process that involved only two submitted proposals; and

1 WHEREAS, In order to participate as a network provider in the TRICARE Pharmacy
2 Benefits Program, providers must first have a contract with Express Scripts; and

3 WHEREAS, Express Scripts' duty to its shareholders is to maximize profits from the
4 DHA contract and this can conflict with the goal of providing the highest-quality health care to
5 the Military; and

6 WHEREAS, In late July 2022, Express Scripts sent providers across the nation a new
7 TRICARE contract/network agreement for contract year 2023; and

8 WHEREAS, Express Scripts required providers to execute and return the contract within
9 15 days of receipt, otherwise the providers were deemed to have declined participation for the
10 entirety of contract year 2023; and

11 WHEREAS, Express Scripts has sent letters directly to Military personnel informing
12 them that as of October 24, 2022, they will no longer be able to get their medications from their
13 regular pharmacy provider. That includes Military patients with cancer who typically receive
14 their oral chemotherapy and related drugs at the point-of-care from their oncologists; and

15 WHEREAS, In these same letters, Express Scripts directed TRICARE Military patients
16 with cancer to Accredo Health Group, which is a specialty pharmacy owned by Express Scripts
17 that provides mail order services only; and

18 WHEREAS, In addition to Express Scripts' efforts to limit patient choice and steer
19 patients towards its wholly-owned pharmacy, the new TRICARE contract contains unreasonably
20 low rates that are below pharmacists' acquisition cost and/or otherwise unsustainable for both
21 brand and generic prescription drugs; and

22 WHEREAS, Express Scripts is, in effect, forcing providers who wish to continue serving
23 TRICARE patients to operate at a guaranteed loss and shifting the insurance risk from Express
24 Scripts to the providers; and

25 WHEREAS, As a result of these reimbursement terms, about 15,000+ providers from
26 across the nation, including a substantial percentage of community oncology and urology
27 providers, were no longer be able to serve TRICARE Military beneficiaries effective October 24,
28 2022; and

29 WHEREAS, There are countless horror stories documenting that patients with cancer and
30 other serious diseases face delays, higher costs, and denials when subjected to receiving their
31 medications through the mail; and

32 WHEREAS, Express Scripts is creating pharmacy "deserts" and is forcing Military to get
33 their drugs not from their local provider of choice, but from Express Scripts via the mail; and

34 WHEREAS, The lack of oversight over Express Scripts' provider network is precluding

1 TRICARE Military patients with cancer from having access to a sufficient geographic
2 distribution of providers and violating TRICARE cancer patients' rights to an adequate network
3 of providers with the capabilities to address their health care needs; now, therefore be it

4 RESOLVED, That this Senate of the State of Rhode Island hereby respectfully requests
5 Senator Reed, Senator Whitehouse, Congressman Cicilline and Congressman Magaziner to urge
6 the Under Secretary of Defense for Personnel and Readiness Gilbert Cisneros to protect
7 pharmacy access for those who serve or have served in the armed forces, and work to ensure:

8 1. Better monitoring of current and future retail pharmacy participation in the TRICARE
9 Pharmacy program;

10 2. Expansion of the TRICARE network of pharmacies and care providers so there is
11 improved access to in-person pharmacy services for TRICARE beneficiaries; and

12 3. PBM practices and finances do not discriminate against independent pharmacies; and
13 be it further

14 RESOLVED, That the Secretary of State be and hereby is authorized and directed to
15 transmit duly certified copies of this resolution to the Clerk of the United States House of
16 Representatives, the Clerk of the United States Senate, and to members of the Rhode Island
17 Congressional Delegation.

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