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Proposed Legislative Changes to Get More Value from Ontario's Drug System

Toronto – April 13, 2006 – Recognizing that the rising costs of prescription drugs and inefficiencies in the current drug system are eroding the long-term sustainability of the province's publicly funded drug programs, Ontario's Minister of Health and Long-Term Care, George Smitherman, announced today the provincial government's proposed *Bill 102, Transparent Drug System for Patients Act, 2006*. Bill 102 follows the extensive, system-wide review conducted by the Ministry's Drug System Secretariat (DSS), and incorporates the necessary legislative changes required to implement the drug system strategies recommended by the DSS.

"The escalating costs of our drug system are threatening its very sustainability," said Smitherman in his House Statement. The Ontario Drug Benefit (ODB) Program currently spends \$3.5 billion annually. "And it's not just government feeling the heat. Employers in the province have also been experiencing dramatic increases; they now spend \$2.6 billion a year."


The government's plan strives to improve the drug system by:

1. Ensuring better value for money
2. Improving patient access to medications
3. Promote the appropriate use of medications
4. Invest in innovative health system research
5. Strengthening drug system transparency and accountability

Among the several proposed legislative changes are the following:

- **Interchangeability and Off-Formulary Interchangeability** – In order for a pharmacist to automatically dispense a lower-cost generic version of a brand name product, it must be deemed "interchangeable". To date, legislation has dictated that drugs need to have the *same active ingredients* and be in the *same dosage form* in order to be considered interchangeable with one other. However, Bill 102 would allow the pharmacist to dispense an interchangeable product that contains a drug or drugs in the same amounts of the *same or similar active ingredients* in the *same or similar dosage form* as the prescribed product. Thus, Apotex Inc.'s less expensive Apo®-Omeprazole 20mg capsule, which contains omeprazole magnesium, could then be considered interchangeable with AstraZeneca's Losec® 20mg (omeprazole) sustained-release tablet and dispensed instead.

Furthermore, current legislation considers a product interchangeable in Ontario only if it is listed on the ODB formulary. Generic versions of brand products that are not listed (i.e. "Off-Formulary") are not interchangeable, requiring the pharmacist to obtain a substitute written or verbal prescription from the physician to dispense the lower-cost version. This became an issue earlier this year when the union-negotiated Canadian Auto Workers' plan announced it would only cover the cost of the lowest-priced generic version of a product, regardless of its official interchangeability status. With the intention of the DSS to make more generic drugs interchangeable and benefit cash-paying



consumers, employer benefit plans, and the government via less expensive alternatives, it is expected that the new legislation will permit off-formulary interchangeability and savings to both ODB and private plans.

- **Secondary Payer** – The legislation proposes that ODB become the second-in-line payer for working seniors with private insurance coverage. If passed, this would present employers with additional benefits costs for those employees working past the age of 65 – a trend likely to grow as the working population ages and companies attempt to retain the experience and expertise of senior employees.
- **Partnership Agreements & Competitive Agreements for Brand Drugs** – Amendments to the Ontario Drug Benefit Act (ODBA) would require manufacturers to agree to a drug benefit price for products listed in the formulary and prohibit them from charging more than the listed price to pharmacies. Employer-sponsored plans could benefit from these negotiated drug prices for brand-name products.
- **Generic Pricing Rule & Competitive Agreements** – To further reduce drug costs, the legislation would set the reimbursement price of generic drugs at a fixed percentage – 50% – of the reimbursement price of the equivalent brand-name product. At the moment, the first generic product to market can be priced at a maximum of 70% of the cost of the brand product, with subsequent generics priced a maximum of 90% of the cost of the first generic.
- **Change pharmacy reimbursement structure** – In order to “better reflect the cost of dispensing drugs to Ontario Drug Benefit recipients”, the new legislation increases the dispensing fee for all community pharmacies to \$7.00 (from \$6.54 per prescription) and decreases the mark-up to 8% with a \$25.00 cap (from the current 10% allowable mark-up with no cap). Furthermore, the proposed changes clearly indicate the removal of any promotional allowances that generic manufacturers pay to pharmacies to carry their products.
- **Pay pharmacists for professional services** – Proposed changes recognize the value of pharmacists as front-line healthcare providers for patients and would introduce reimbursement for specific services that pharmacists provide to patients that fall outside of the traditional dispensing role (e.g. more comprehensive medication management services for patients).

With the exception of the section updating the definition of interchangeability which would come into force upon Royal Assent, the rest of the Bill 102 would come into effect on October 1, 2006.

