May 2, 2019

The Honorable Kurt Schrader (D-OR)  The Honorable Buddy Carter (R-GA)
2431 Rayburn HOB  2432 Rayburn HOB
Washington, DC 20515  Washington, DC 20515

Dear Representatives Schrader and Carter:

The National Business Group on Health (Business Group) writes in strong support of your bipartisan bill (H.R. 938 - BLOCKING Act of 2019) that would amend the Federal Food, Drug, and Cosmetic Act to prevent first-to-file (FTF) generic prescription drug manufacturers from blocking competition by other manufacturers. If enacted, your bill would accelerate generics to market, boost competition and help reduce prescription drug prices for all payers.

Current law rewards generic prescription drug creation by granting FTF generic manufacturers a 180-day exclusivity period, which precludes competition until the FDA approves the drug for market launch and during the exclusivity period. The exclusivity period begins when a FTF manufacturer launches its product. Your bill would start the exclusivity period on the earlier of the launch of a FTF generic drug or when all the following conditions are met:

- The entry of another generic competitor is delayed solely by the FTF exclusivity period;
- At least 30 months have passed since the FTF manufacturer applied;
- There is not ongoing patent litigation for the FTF manufacturer’s product; and
- The above 3 conditions have been met, but the FDA still hasn’t given final approval to the FTF product.

The National Business Group on Health, representing 441 primarily large employers (including 74 of the Fortune 100) who voluntarily provide health benefits and other health programs to over 55 million American employees, retirees, and their families, strongly supports federal action to promote sustainable, affordable pricing for prescription drugs as indicated in our Public Policy Brief. Enacting the BLOCKING Act would speed market entry of lower-cost generic competitors and discourage anticompetitive behavior by some FTF manufacturers.

Again, the National Business Group on Health appreciates your efforts to enact H.R.938. Please contact me or Steven Wojcik, the National Business Group on Health’s Vice President of Public Policy, at (202) 558-3012, if you would like to discuss our comments in more detail.
Sincerely,

Brian J. Marcotte  
President and CEO

CC: The Honorable Nancy Pelosi (D-CA), Speaker, U.S. House of Representatives  
The Honorable Kevin McCarthy (R-CA), Minority Leader, U.S. House of Representatives