

## Summary of Public Comments: Access to Hepatitis C Treatment

The Louisiana Department of Health received 102 unique comments from a variety of stakeholders within Louisiana and outside of the state. These included patients, their family members, health care professionals, individuals working with the prison population, patient advocacy groups, the business community, the pharmaceutical industry, and other experts.

A substantial majority of the comments (approximately 80 of the 102) received expressed support for one or more of the proposals outlined in the memo. For example, one Louisiana resident described this as “a phenomenal proposal.” Another commenter wrote that these recommendations were “a huge opportunity to eliminate a public health and human rights crisis at a low cost.” In general, individuals working directly with patients were in favor of the recommendations and often brought up their personal experiences with patients who cannot afford treatment in their comments. For example, one physician stated, “I unfortunately must tell patients all too often that while their Hepatitis C now has a cure, their insurance company will not cover treatment for their disease due to the price of the drugs.” Similarly, a community health outreach worker wrote, “It is heartbreaking to walk people through the process of accessing treatments, such as Sovaldi and Harvoni, only for them to be denied access because of the high costs.”

Other comments called attention to the broader benefits to the state of adopting these recommendations to expand Hepatitis C treatment, in addition to the immediate improvement in patients’ health status. For example, an individual who works with young men released from prison wrote, “I think it is a great idea to provide this service to these populations as it will dramatically increase their quality of life. In my experience, young men who are healthy are more able to focus on education, employment, and family, which no[t] only benefits their own lives but also benefits the greater community.” Similarly, some comments brought up the fiscal benefits that adopting the recommendations could have for the state and the overall health care system. As one physician in training wrote, “This medication will not only save individual lives and prevent further disease transmission but also reduce the burden on our health system and save public and private dollars. Please help reduce the barrier for patients to access the important treatment.”

Additionally, 16 submissions stressed the importance of Louisiana’s leadership on these recommendations. One resident wrote, “If the Louisiana DHH is successful in this endeavor, it would provide a landmark precedent for other states, expanding access to HCV treatment and saving countless lives.” Similarly, in a letter published in *The Advocate*, Jeanie Donovan, Senior Policy Analyst for the Louisiana Budget Project, wrote that “this represents an opportunity for the state to work hand-in-hand with the federal government to address a public health epidemic and help people who otherwise would needlessly suffer. It could ease pressure on the state budget, and set a blueprint that other states could then follow.”

Four national groups expressed concerns about the legality of the recommendations, the impact that they would have on research and development, and how they could be implemented. Pharmaceutical Research and Manufacturers of America (PhRMA), the U.S. Chamber of Commerce, and the Eagle Forum argued that the recommendations did not match the original

purpose of 28 U.S.C. §1498 and that the current situation in Louisiana does not justify violating a company's patent. As PhRMA wrote, "Section 1498 does not permit the federal government to disregard patents. Rather, it creates a remedy for the patent holder in the event of governmental infringement by providing for "reasonable and entire compensation" for patent holders whose invention "is used or manufactured by or for the United States." These groups also noted how the current patent system incentivizes investments in research and development that lead to innovative cures and supports economic activity in Louisiana, both of which could be jeopardized if the state were to move forward with the recommendations. PhRMA argued that process of determining reasonable compensation for the drug company, contracting with a generic manufacturer, and obtaining FDA approval for the generic drug could be complex and expensive as well. Finally, The AIDS Institute and PhRMA also encouraged Louisiana to reassess its estimate of the cost of providing Hepatitis C treatment in the current market.

Some submissions also brought up additional issues that they thought the Louisiana Department of Health should consider. For example, a couple of comments suggested that primary care physicians or other providers be able to prescribe treatment, in addition to infectious disease doctors. The AIDS Institute also questioned the legality of Louisiana's current restrictions on accessing treatment through Medicaid. Finally, another comment focused on the importance of having an overall "elimination-oriented strategy" for Hepatitis C and noted that a voluntary deal similar to the one Gilead reached with Australia to link a reduced price to the number of patients treated could be a part of such a strategy.