CHRISTOPHER GARDNER

Schenectady County Attorney

MR. GARDNER: Thank you, Mr. Chairman.

I want to thank you for giving me the opportunity to testify before the State Senate Aging Committee to discuss Schenectady County's Canadian Prescription Drug Program, and try to explain how our experience as a county may provide some guidance for the State of New York as it seeks to reduce its healthcare costs in such a way that would be both progressive and effective.

When I became County Attorney in January 1, 2004, I was asked by the new leadership of the Legislature, Susan Savage, new Chair of the Legislature, Judy D'Agostino, the new Chair of the Labor and Civil Service Committee, and Philip Fields, the new Chair of the Ways and Means Committee, to try to bring to a conclusion negotiations with the county's three bargaining units; CSEA, 1199 and Counsel 82, which have dragged on the prior year without any agreement being reached. The negotiations were bogged down.

At the same time, I was asked to try to do a complete review of our health insurance expenditures in an effort to save money.

January 2004, there was new leadership in our County

Legislature. There was an opportunity for new ideas and a fresh approach to take hold, just as there is today here in Albany, and in Washington.

As the new County Negotiator, I reviewed the proposals that the County had already placed on the table. I reviewed those which CSEA had on the table, and it was clear that the sticking point was health insurance. That's where most of the money was.

The County was seeking numerous give-backs on health insurance, and CSEA and the other unions were resisting those in an effort to protect their health insurance. But the unions, and CSEA in particular, also stated that it would be willing to take a serious look at a Canadian drug proposal if the County were to offer one.

I reviewed the issue, quantified the savings, and determined that if we purchased our drugs from Canada, the savings that we would obtain from that would exceed all the savings we could achieve if all of our proposals for the give-backs were agreed to by the Union. The rest became relatively simple.

CSEA settled, 1199 settled, Counsel 82 settled, and each new contract had the new Canadian Drug Program, the first in New York State, and one of the first in the country.

Prior to January 2004, we did not have an agent of

record to help us with health insurance that ended early in 2004 when we retained Benetech to assist us on health care issues, and they were involved deeply in the negotiation and implementation of this Canadian Drug Program. Their assistance has been invaluable in implementing the program and improving it on a continuous basis.

Our cost savings have been tremendous. Discounts of 30 percent, 40 percent, 50 percent, 60 percent and more, have been achieved on many brand name drugs resulting in several million dollars in savings over the four-year period.

Beginning in 2004, CSEA and management employees, who are in our self-funded health insurance plan, were given this opportunity to purchase Canadian drugs. During the course of 2005, the 1199 and Counsel 82 Unit members also began this program. Overall, about 60 percent of our active employees, about 660, and 95 percent of our retirees, 712, are involved in this program with their families. The remaining employees and retirees have HMO options from MVP and CDPHP, which do not have the Canadian drug program.

How much money has Schenectady County saved?

One methodology would be the train comparison. Most health care professionals estimate that the cost of prescription drugs has escalated at approximately 12

percent a year. That is due in part to brand-name drug inflation, and in part due to the increased number of prescriptions written on new drugs. If we look at Schenectady County's actually expenditures, in 2005, our first year with the program, our total expenditures were about $4.9 million. In 2008, they were $5,149,000. Using this comparison to, like I said, 12 percent trend expenditures, we saved approximately $6 million in the first four years of this experiment.

Using our drug-to-drug class comparisons, our costs have been roughly the same. If you extrapolate the State of New York, I think you can see that a good deal of the budget issues could be resolved, probably amicably, with the unions.

The bottom line is this; our prescription drug costs have nearly flat lined. In 2006, the cost increase was 1.77 percent. In 2007, it was a little bit more, 4.19 percent. In 2008, we actually had a cost decrease of .6 percent. The total cumulative four-year period, the increase was 5.36 percent. The average rate of increase is 1.79 percent.

In 2008, the cost reduction trend is continuing. January and February of 2009, our drug costs are actually down 5 percent from the same comparable period in 2008.

Additionally, these savings are actually understated

by about $400,000 per year since they do not include $350,000 in Medicare Part D subsidies, or $50,000 in rebates we get from our U.S. drug buy.

Overall, about 30 percent of our drug purchases are from Canada, from CanaRx, and about 70 percent is from our U.S. Pharmacy Benefit Manager, Express Scripts. We have a separate formulary for our Medicare eligible population, which takes into consideration the 28 percent Medicare subsidy. Our Medicare eligible formulary is a little bit smaller than our non-Medicare formulary, since a few, there are a few drugs that do not provide a large enough savings to overcome the 28 percent subsidy. We update our formulary at least once per year. We work on that with CSEA on a continuing basis. We use a mathematical formula right now to actually implement it, taking into consideration every single cost.

We do not, with CanaRx, as our Canadian PM, import any generic drugs. U.S. generic prices are highly competitive with world prices. Non-maintenance medications come from our local pharmacies.

Additionally, our program is 100 percent voluntary. However, if a maintenance medication is available, in Canada, and an individual chooses not to participate, that individual will be charged a $60 incentive co-pay for either a 90-day mail order supply or a 30-day pharmacy

supply. We found that the prior $20 incentive co-pay was a bit too low to get employees and retirees to choose the lowest cost option. Previously, with the $20 incentive co-pay, we had 30 percent of the individuals were getting penalty co-pays. When we raised it to $60, it reduced that to 12 percent, so that's worked well for us too.

The co-pay from Canada is zero. So the employees who play by the rules have no out-of-cost expenditures, out-of-pocket expenditures.

One objection that's been raised that there are two pharmacy benefit managers, which allegedly make it impossible to track an individual's medication. This is a false concern. CanaRx constantly monitors the individual's total drug purchases and utilizes the databases, forms and phone calls to achieve this goal.

As far as the legality, we believe that our program is legal under the FDA's Regulatory Procedure's Manual, Chapter 9, which permits the FDA to allow drug importation for personal use. Schenectady County does not import drugs for our nursing home or our correctional facility, or for our health department, since such uses would not fall within the FDA personal use exception.

At a time when the State is looking at difficult cuts in health care, education and other important services, we believe that the Schenectady County model provides a

progressive alternative. I'm sure that the State's labor unions would be open to the Canadian alternative.

Just a little bit of background, I worked for Counsel 82 for 23 years, I was general counsel for 15 years. I was general counsel in 1990 and 1991 during the fiscal crisis at that time. I think, I wish we had the Canadian alternative on the table at that time, we probably could have avoided a lot of heartache for the State and different unions.

I am sure that the State's EPIC Program could be restructured to us at cost. It would be helpful to get some further cooperation from the Federal Government as far as permitting the foreign purchases to count against the Medicare Care Part D subsidy in the donut hole.

Part of President Obama's platform was to further expand the importation of more prescription drugs. It is one thing for Schenectady County to step forward. But if New York State would, were to take this bold step, and to pass this legislation, this would help further President Obama's agenda and encourage formal recognition of drug importation as a legitimate cost-saving tool. And perhaps even as an interim step towards price regulation of prescription drugs in the United States. We are the only country in the world that does not regulate the price of prescription drugs.

It is only used by using these cost-saving measures that Schenectady County is able to continue many progressive programs, such as keeping our nursing home open. I'm sure the same holds true for our nation and our state, and this has been a real boon for Schenectady County. The employees love the program, the unions have been extremely cooperative, and I think it provides a good alternative for the State at a critical time.