

**Testimony in support of SB437 on behalf of MedChi  
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Thank you, Mr. Chairman, for the opportunity to testify on this critical legislation to address high drug costs. My name is Elizabeth Wiley – I am a practicing physician here in Maryland and represent Medchi, the Maryland State Medical Society.

Currently, the pharmaceutical market is failing patients and payers. Prescription drug price increases have outpaced other health care costs, increasingly becoming unaffordable for both patients and payers. Skyrocketing drug costs and exorbitant drug prices for life-saving medications now regularly make headlines – whether naloxone (Narcan),<sup>1</sup> epinephrine (EpiPen),<sup>2</sup> insulin and other medications for diabetes,<sup>3</sup> albuterol (ProAir, Ventolin)<sup>4</sup> sofosbuvir (Sovaldi),<sup>5</sup> pyrimethamine (Daraprim)<sup>6</sup> or one of countless other medications. As a prescriber and practicing physician, what is abundantly clear is that individual drug price spikes are not isolated phenomena but symbolic of a systemic crisis of drug affordability<sup>7</sup> with devastating health consequences for Marylanders who rely on these medications. When patients are unable to access medications, prescriptions go unfilled, medications are not taken as prescribed, the result is poorer health outcomes - ultimately translating into unnecessary morbidity and mortality – and increased health care costs resulting from avoidable hospitalizations, ED visits and the development of comorbid conditions.<sup>8</sup>

To address the lack of prescription drug affordability, SB437 introduces transparency into the pharmaceutical market by requiring manufacturers of expensive drugs to report detailed information to justify high prices. While SB437 does not directly decrease the price of drugs, it is a critical first step on the path to lower, fair drug pricing.

**How does transparency lead to lower drug prices?**

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<sup>1</sup> “Price Soars for Key Weapon Against Heroin Overdoses,” *NPR*, Sept. 10, 2015. Available at <http://www.npr.org/sections/health-shots/2015/09/10/439219409/naloxone-price-soars-key-weapon-against-heroin-overdoses>

<sup>2</sup> “Behind the EpiPen Monopoly; Lobbying Muscle, Flailing Competition, Tragic Deaths,” *Kaiser Health News*, Sept. 8, 2016. Available at <http://khn.org/news/behind-the-epipen-monopoly-lobbying-muscle-flailing-competition-and-tragic-deaths/>

<sup>3</sup> “Why treating diabetes keeps getting more expensive,” *Washington Post*, Oct. 31, 2016. Available at [https://www.washingtonpost.com/news/wonk/wp/2016/10/31/why-insulin-prices-have-kept-rising-for-95-years/?utm\\_term=.7081f567822a](https://www.washingtonpost.com/news/wonk/wp/2016/10/31/why-insulin-prices-have-kept-rising-for-95-years/?utm_term=.7081f567822a)

<sup>4</sup> “The Soaring Cost of a Simple Breath,” *New York Times*, Oct. 12, 2013. Available at <http://www.nytimes.com/2013/10/13/us/the-soaring-cost-of-a-simple-breath.html?pagewanted=all>

<sup>5</sup> “High Cost of Sovaldi Hepatitis C Drug Prompts a Call to Void Its Patents,” *New York Times*, May 19, 2015. Available at <http://www.nytimes.com/2015/05/20/business/high-cost-of-hepatitis-c-drug-prompts-a-call-to-void-its-patents.html>

<sup>6</sup> “Drug Goes From \$13.50 a Tablet to \$750, Overnight,” *New York Times*, Sept. 20, 2015. Available at [http://www.nytimes.com/2015/09/21/business/a-huge-overnight-increase-in-a-drugs-price-raises-protests.html?\\_r=1](http://www.nytimes.com/2015/09/21/business/a-huge-overnight-increase-in-a-drugs-price-raises-protests.html?_r=1)

<sup>7</sup> Kesselheim A et al. The High Cost of Prescription Drugs in the United States. *JAMA* 2016;316(8):858-871. Available at <http://jama.jamanetwork.com/article.aspx?articleid=2545691>

<sup>8</sup> Iuga A & McGuire M. Adherence and health care costs. *J Risk Management & Healthcare Policy* 2014;7:35-44. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3934668/>

By requiring public reporting of detailed data elements, this bill would result in lower drug prices by:

- Promoting accountability among manufacturers through public reporting, analyses and public scrutiny of pricing – the underlying premise being that transparency will deter manufacturers from prices that cannot be justified;
- Empowering Maryland consumers, providers and payers with more information to aid in decision-making and/or negotiations;
- Foster free market competition; and
- Enabling enforcement of pricing gouging provisions by the Attorney General under companion bill SB415.

To this end, I would like to highlight a few key elements of the data reporting framework this bill would establish and why they are important. At the outset, I want to emphasize that this framework must be comprehensive to enable patients, payers and policy-makers alike to better understand why drug prices are as high as they are and why the current market is failing patients.

- (1) **Definition of an Expensive Drug:** SB437 defines an expensive drug as a drug that costs \$2500 or more per year or per course of treatment (wholesale acquisition cost). This definition includes approximately half of the 400 best selling drugs and establishes a cost threshold at which a manufacturer is accountable to justify the cost of the medication. It is important to note a manufacturer who chooses to price his or her medication below this threshold and does not increase the price of this drug by more than 10% in any given year would not be subject to any of the reporting requirements in this legislation.
- (2) **Research & Development Costs:** SB437 would require reporting of research and development costs. R&D investments by manufacturers should be translated into fair drug prices. However, without transparency, it is not possible for payers or patients to determine whether drug prices are justified. Thus, this legislation would enable fair valuation of research investments – both public and private – and establish benchmarks to assess whether a price is reasonable.
- (3) **Manufacturing & Marketing Costs:** SB437 requires reporting of manufacturing and marketing costs. These data would provide critical insight into how industry allocates resources and, for example would hold manufacturers accountable for how much money is spent on advertising compared to investments in R&D. With an estimated nine out of ten of large pharmaceutical manufacturers spending more on marketing compared to research,<sup>9</sup> these data may provide critical insight into industry's commitment to innovation.
- (4) **Profit Margins:** SB437 would compel reporting of revenue and profits associated with the sale of an expensive drug. In 2016, while the lack of affordability of drugs threatens the health of Maryland citizens and contributes to a daunting state budget

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<sup>9</sup> Institute for Health and Socio-Economic Policy. The Prioritization of Marketing & Sales in the Pharmaceutical Industry 2016. Available at [http://nurses.3cdn.net/e74ab9a3e937fe5646\\_afm6bh0u9.pdf](http://nurses.3cdn.net/e74ab9a3e937fe5646_afm6bh0u9.pdf)

- crisis, pharmaceutical companies achieved a net profit margin of 55%, ranking higher than major banks (23%) and investment managers (29%).<sup>10</sup>
- (5) **Intellectual Property & Regulatory Costs:** SB437 requires disclosure of intellectual property rights and associated regulatory exclusivity to provide information about when more affordable generic medications may be able to enter the market and ensure disclosure of extensions in intellectual property protections and any “pay-for-delay” agreements, which prevent generic competition in the market.
  - (6) **Comparative Effectiveness:** Patients and payers should not be subject to exorbitant prices for drugs that do not offer significant improvements over existing treatment options. SB437 requires manufacturers to report information regarding an expensive drug’s efficacy in relation to alternatives to ensure the most efficient allocation of Maryland healthcare resources by patients, providers and payers alike.

Finally, SB437 holds drug manufacturers accountable by mandating that manufacturers provide notice of drug price increases and justification. Retail prices for brand-name drugs increased 130 times faster than inflation in 2015,<sup>11</sup> while prices for many generic drugs saw a similar rates of increase. For example, albuterol, often prescribed as a potentially life-saving “rescue inhaler” for patients with asthma, and doxycycline, a critical antibiotic to treat some types of infections including MRSA, which increased by 4,000% and 8,000% respectively between 2013-2014.<sup>12</sup>

With 75% of Marylanders personally concerned about drug pricing and one in four Americans reporting difficulty in affording medications,<sup>13</sup> urgent action is needed to address the affordability of life-saving prescription drugs and protect the health of Maryland citizens. By promoting pharmaceutical manufacturer accountability and transparency, SB437 is a critical first step to ensuring Marylanders have access to affordable life-saving medications and would establish Maryland as a leader in addressing the growing crisis of prescription drug costs.

MedChi urges a favorable report.

Thank you.

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<sup>10</sup> Chen, L. "The Most Profitable Industries In 2016." *Forbes*. December 21, 2015. <http://www.forbes.com/sites/liyanchen/2015/12/21/the-most-profitable-industries-in-2016/#4bdac5e07a8b>.

<sup>11</sup> Purvis LS, Stephen. Trends in Retail Prices of Brand-Name Prescriptions Widely Used by Older Americans. *AARP Public Policy Research Report* December 2016

<sup>12</sup> Sanders B. Ranking Member Cummings and Chairman Sanders Investigate Staggering Price Increases for Generic Drugs. 2014

<sup>13</sup> Cox C et al. Recent Trends in Prescription Drug Costs. *JAMA* 2016; 315((13):1326. Available at <http://jamanetwork.com/journals/jama/fullarticle/2510894>