

March 6, 2018

The Honorable Shane Pendergrass
House Office Building, Room 241
6 Bladen St.
Annapolis, MD 21401
Sent via e-mail: shane.pendergrass@house.state.md.us

Re: Letter of Information HB 1194 / SB 1023 “Health- Drug Cost Review Commission”

Dear Delegate Pendergrass:

I am writing to share MedChi’s collective thoughts on the above-referenced legislation to create a Maryland Health Drug Cost Review Commission.

MedChi, the largest physician organization in Maryland, strongly supports price transparency. Our members are very concerned that drug price increases are harming their patients. According to the *Journal of American Medicine*, from 2013 to 2015 net spending on prescriptions in the United States increased twenty percent.ⁱ MedChi strongly believes pharmaceutical companies, pharmacy benefit managers and insurers need to show greater transparency in drug pricing. MedChi has been working with the AMA to promote drug transparency and more information on that work can be found at <https://truthinrx.org/>.

We applaud the work of the advocates on this issue, and plan to continue to work with the Maryland General Assembly on measures to improve the system, and lower drug costs without doing harm to the Maryland healthcare system. To that end, we have the following specific comments with regard to this specific legislation.

While MedChi strongly supports continued efforts to address transparency in drug pricing and was a key partner in last year’s failed legislative efforts, we prefer the direction and framework of last year’s legislation to the bill before you. MedChi strongly believes that price transparency reporting would help control drug costs and have previously supported notification provisions like those reflected in this legislation, as well as requiring reporting by PBMs and insurers relative to their pricing practices.

While we support transparency requirements, MedChi has several concerns with the creation of a Drug Price Commission. First, we are concerned that if this bill moves forward that there will be a negative impact on Maryland’s currently robust clinical trial activity. According to We Work for Health, Maryland benefits from 1200-1500 clinical trials a year valued at over \$200

million dollars.ⁱⁱ Currently, Maryland is benefitting from major innovative clinical trials in numerous hospitals with many of MedChi members working hard to find new cures. There needs to be unequivocal assurance from the facilities and companies conducting the clinical trials that the legislation will not affect Maryland's ability to continue to attract these activities or we run the risk of these measures being studied in other jurisdictions.

MedChi is also concerned with the possibility that the new Commission could create challenges for the State relative to overlapping or conflicting obligations with the Health Services Cost Review Commission (HSCRC). MedChi is a lead partner with the Administration on the "All Payer Contract" or Maryland Medicare Waiver negotiations. The Medicare All Payer Waiver was recently extended one year as we continue to work on a longer extension. The HSCRC currently regulates and oversees hospital costs, and is tasked with looking at total cost of all healthcare under the new agreement. Right now drug costs related to hospital spending is regulated through the HSCRC, and in fact in Maryland, the federal government has implemented the 340b drug program in Maryland hospitals in a different manner as a result of the Waiver. The proposal seems to ignore this important Maryland feature, and the issue must be resolved before any action can be taken on this measure. The importance of resolution of the potential impact on the 340B program is not limited to hospitals, but also includes community-based providers such as local health departments and federally-qualified health centers.

The dual jurisdiction of the HSCRC and the proposed Drug Price Commission would at best cause confusion, but it also could put our negotiations at risk. The current term sheet of the negotiation has an exogenous factor section that states *"If the State of Maryland enacts legislation that will significantly adversely impact the total cost of care for Medicare, CMS may evaluate the impact on the Model and may require changes to the Agreement to address the adverse impact."*ⁱⁱⁱ While clearly the federal government was thinking of an issue like a major malpractice bill or other costly measure, we need to at least understand the thoughts of the appropriate federal agencies before taking any action that would so directly affect the HSCRC.

MedChi believes drug costs are a major issue facing Marylanders and we need to take action to address the issue of drug pricing transparency. We urge the legislature to continue to work to find an appropriate framework to address drug price transparency from pharmaceutical companies, PBMs and insurers. MedChi does believe there is room for action today as the General Assembly should immediately pass *SB 576/HB 736 – Pharmacy Benefit Managers – Pharmacies and Pharmacists – Information on and Sales of Prescription Drugs*. We would also urge working with the Administration to encourage the HSCRC to use its authority to find private-sector solutions, such as the value-based drug purchasing pilot that MedChi has proposed.

Thank you for the opportunity to comment as we all work together to improve the public health of Maryland.

Sincerely,



Gene M. Ransom, III
Chief Executive Officer

cc: The Honorable Thomas “Mac” Middleton

ⁱ The High Cost of Prescription Drugs in the United States Origins and Prospects for Reform JAMA - <https://phhp-bahealthscience-new.sites.medinfo.ufl.edu/files/2016/09/jsc1600151.pdf>

ⁱⁱ According to the 2013 We Work for Health Industry Impact Study in 2013 Maryland had 1,405 total clinical trials, 25,291 clinical trial participants with \$221.8 million invested in clinical trials.

ⁱⁱⁱ Page 26 Term Sheet Maryland All Payer contract