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House Health Information Meeting on Prescription Drug Affordability Board (PDAB)

Good morning Chairman Frankel, Chairwoman Rapp, and members of the House Health Committee. I am Christopher Molineaux, President and CEO of Life Sciences Pennsylvania. Thank you for the opportunity to participate in today's informational meeting.

Life Sciences Pennsylvania represents more than 900 members, including small biotech companies, medical device and diagnostic makers, pharmaceutical manufacturers, patient advocacy organizations, academic research institutions, investment firms with R&D-based portfolios and myriad service providers related to the development of groundbreaking therapies, cures, and technologies.

Life Sciences PA recognizes the rising cost of healthcare in the United States must be addressed. However, the price of prescription medicines, or to be more precise the out-of-pockets costs patients pay for those medicines, is a complex issue. Biopharmaceutical companies do not sell their medicines to patients; they do not set the price at the pharmaceutical counter; and they play no role in setting consumers' out-of-pocket costs.

Life Sciences Pennsylvania believes the Prescription Drug Affordability Board legislation – at least previous versions of it – focused squarely on biopharmaceutical companies while ignoring other actors in the medicine supply chain.

The cost borne by patients is the byproduct of many different actors in that supply chain. Manufacturers are a part of that equation, but their prominence in that equation continues to decrease. The Berkeley Research Group published a study that found 2020 marked the first year where nonmanufacturer

stakeholders – Pharmacy Benefit Mangers (PBMs), health plans, hospitals, the government, pharmacies, and others received the majority of total spending on brand medicines.

In 2021, the cost of prescription medicines again accounted for approximately 10 to 14% of nationwide healthcare costs – a number that has remained consistent for almost 50 years, while in 2022 the net price of medicines dropped for the fifth consecutive year. I will add that the medicines and technologies our member organizations develop often keep patients out of the costliest components of our healthcare system – inpatient and outpatient care. Additionally, they often help patients avoid surgery, an area of high cost and one that can negatively affect the quality of life for patients.

Regarding the process of getting a medicine to a patient: Biopharmaceuticals companies sell to wholesalers at a small discount to their list price. Wholesalers then sell it to the pharmacy, who subsequently sell it to the patient. If this were a "normal product," like potato chips, that would be the end of the transaction.

However, what the patient pays at the pharmacy is the result of a proprietary negotiation process between the patient's insurer, a pharmacy benefits manager (PBM), whom the insurer hires, and the biopharmaceutical companies. Those companies work with the PBMs because they want to ensure their medicines are accessible via a formulary. PBMs negotiate rebates that it will receive from the biopharmaceutical company at varying levels. They may pass some or all those rebates along to the health insurance provider. Three large PBMs, Express Scripts (owned by Cigna), Caremark (owned by CVS Health) and OptumRx (owned by United Health Group) control approximately 80% of the market. The PBM also negotiates with the pharmacy over the reimbursement for medicines and dispensing fees. Those negotiations/cost determine what the patient's out of pocket costs will be.

In essence, the out-of-pocket costs the patient pays has virtually nothing to do with the list price of the medicine, and more to do with what the insurer decides to cover, and how much of the PBM rebate will be passed-on to the consumer – if any.

In response to this situation we should look to the example of West Virginia, which in April 2021 became the first state to enact legislation requiring manufacturer rebates to be passed through to the consumer. This is the type of measure worth considering as a viable and effective means to reduce consumers' out-of-pocket drug expenses. Additionally, one component of the federal *Inflation Reduction Act* we were supportive of is the $2,000 cap on out-of-pocket costs in Part D – that single move is expected to save Medicare beneficiaries more than can be expected from the negotiation rebate and inflation penalty combined.

As I noted earlier, the cost of prescription medicines has remained relatively constant as a total percentage of overall health care spending, but what has changed significantly is insurance benefit design. From the institution of Medicare Part D to the Affordable Care Act, and many other policy changes before and after, there have been many developments to make care more affordable and accessible. However, as insurers have felt more of that squeeze, they have had to look for other revenue streams to bolster their bottom line. Given how the pricing/rebate system is perversely-designed, higher list prices benefit every component in that supply chain – except for the end user, the patient.

Life Sciences Pennsylvania feels Prescription Drug Affordability Boards – as previously introduced – puts the onus squarely on the biopharmaceutical companies – those that are investing in the science and

manufacturing of bringing a new medicine to market and ignores the many other actors I just outlined. In fact, the biopharmaceutical industry regularly invests more of its revenues in R&D than any other industry. As a recent Congressional Budget Office report highlights, for many years the number averaged around 20 percent, but over the course of the COVID pandemic that number exceeded 25 percent.

I do think it's helpful to remind the Committee of what occurs at our members organizations prior to this complicated reimbursement process:

Pennsylvania has more than 3,000 life sciences establishments. Of those 3,000 entities, about 67% of them employ 10 people or fewer as documented in a 2022 study that was conducted by KPMG. This community is predominantly start-up in nature and is very fragile as it can take significant time and resources to bring a new medicine to market. The likelihood of success in our industry is low – almost 90 percent of the new drug applications filed with the FDA fail to receive approval.

As it turns out, human biology is still very complicated. Even as we have seen significant strides made in curing disease – Hepatitis C therapies have cure rates above 90%, the U.S. death rate for HIV & AIDS has fallen nearly 85% and cancer death rates in the U.S. have fallen 23% - we know there are still millions of patients around the world with unmet medical needs. These companies, both small and large, and the people they employ are working hard to find groundbreaking therapies and cures for patients. Science is incremental and many companies will work tirelessly for the better part of a decade only to find they must start all over again – and all the resources they just poured into their work are sunk costs. Even with those odds, the United States, thanks to its scientific leadership, dogged persistence and (perhaps

most important) its free-market system, is the undisputed leader in innovation, producing 57% of all new medicines in the world.

Life Sciences Pennsylvania believes this Committee should focus its attention on legislation that examines the entirety of the prescription medicine pricing supply chain rather than picking winners and losers in this complex process.

Thank you again for your time and consideration.

I am happy to answer any questions.