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Before the Health and Government Operations Committee of the Maryland House of Delegates
In Support of House Bill 631, February 23, 2017

Chairman Pendergrass and Members of the Health and Government Operations Committee:

Thank you for this opportunity to testify in support of House Bill 631, which would give the Maryland Attorney General's office critically needed authority to take legal action to stop price gouging by prescription drug corporations.

The affordability of lifesaving medications has been a subject of my concern as a health economist. The cost of taking many drugs or high-priced specialty drugs makes them practically inaccessible to one in four patients in the United States and exhibits tremendous financial burden to providers and public insurance payers. Meanwhile, Wall Street executives who have overtaken generic drug manufacturers have pocketed absurd profits on 40-year-old generics like the antibiotic doxycycline for Lyme disease, which increased 9200-percent in the last 2 years, or albendazole for “pinworm” which increased 2000-percent as well. Because of these concerns, here are several facts that directly support the existing structure of HB 631 in comparison to proposed amendments by others:

- First, a $250 threshold on a single drug is too high. The average social security income is $1,431 per-person, and many can hardly afford 18% of their income on one drug, let alone the multitudes they may take for chronic disease management. At $250/month, a Medicare Part D beneficiary would go through their deductible in one month for one drug, enter the coverage gap (i.e. “donut hole”) in three months, and likely pay out-of-pocket for the cost of a single drug the remainder of the year. For this reason, drug price increases above as little as 1% of monthly social security income can impact affordability. In addition, keep in mind that 4% of uninsured patients live on less than $2 per day, and would have to pay entirely out-of-pocket for disease management. A price increase above $8-10 per month for a prescription drug is beyond the reach of many indigent people living in urban Baltimore City.
- Second, following $250 increased cost of treatment, keep in mind that “30-day supply” is a vague term since patient dosages vary by age, body weight, disease severity, etc. SKUs or per-pill costs represent the smallest replicable units of measurement between all drugs.
- Third, monitoring small shifts in prices in short amounts of time is an emerging behavior exhibited by generic manufacturers alleged to have committed price gouging. For instance, EpiPen has increased its price 50% every two years for the last five years, leaving us where we are today. A threshold of 100% every year would not trigger the alarm for EpiPen. Since there is no true threshold for relative increase in price gouging, calibrating the time-lapse price increase to EpiPen seems most logical, that is, 50% over two years.
- Fourth, this bill should be used to monitor all drugs, including biologics, that have begun losing patent protection or exclusive market rights. In the face of little competition, a pharmaceutical manufacturer has minimal incentive to lower its price. Should price gouging commit for either class of drugs, it could quickly affect the health system costs to patients, payers and providers.

In conclusion, generics manufacturers should be held accountable when prices increase beyond a reasonable amount. HB 631 gives the Attorney General’s office the ability to better scrutinize whether price increases are the result of market fluctuations or egregious acts. I support House Bill 631 as written with its current thresholds for scrutiny to ensure that no price gouging goes unnoticed. As the real costs of generic drugs undergo some long-needed reevaluation, we should remember not just the means but the original ends of the Hatch-Waxman U.S. generic drug policy: which is wider and fairer access to essential medicines for all.