

(Opening)

Good Afternoon Madam Chair Pena-Melnyk, Madam Vice Chair Cullison, and members of the Health and Government Operations committee.

I am Senator Arthur Ellis representing the 28th Legislative District of Maryland, Charles County.

I am here today to present **Senate Bill 805, Maryland Medical Assistance Program and Health Insurance – Required Coverage for Biomarker Testing.**

The purpose of this bill is to require the Maryland Medical Assistance Program and certain insurers, nonprofit health service plans, health maintenance organizations, and managed care organizations to provide coverage for biomarker testing that is supported by medical and scientific evidence and to establish requirements for deductibles, copayments, coinsurance, and utilization review for biomarker testing.

“Biomarker” means a characteristic that is objectively measured and evaluated as an indicator of normal biological processes, pathogenic processes, or pharmacologic responses to a specific therapeutic intervention, including known gene-drug interactions for medications being considered for use or already being administered and includes gene mutations, characteristics of genes, or protein expression. “Biomarker testing” is the analysis of a patient’s tissue, blood, or other biospecimen for the presence of a biomarker.

Coverage of biomarker testing must include testing (1) cleared or approved by the U.S. Food and Drug Administration (FDA); (2) required or recommended for an FDA-approved drug to ensure the insured or enrollee is

a good candidate for the drug treatment. Coverage must be provided in a manner that limits disruptions in care, including the need for multiple biopsies or biospecimen samples.

Senate Bill 805 requires the Maryland Medical Assistance Program and private insurance carriers to provide coverage for biomarker testing that is supported by medical and scientific evidence. It also establishes utilization review for biomarker testing to create a standard for accessing this technology that improves treatment outcomes and saves money in the health care system.

SB 805 is an important piece of legislation that is critical for ensuring that detection of cancers and other diseases can be found more expeditiously, particularly in Black women and men. Despite evidence demonstrating the effectiveness of biomarker testing and targeted therapy, not all individuals currently benefit equitably from these advances. There are notable racial, ethnic, and socioeconomic disparities in access and utilization of these advancements in care. These disparities in access and use of medically necessary biomarker testing and targeted therapy can potentially widen existing disparities in patient survival. The national Black Caucus of State Legislators adopted resolutions recognizing the importance of biomarker testing in advancing health equity and reducing disparities.

I'm also so pleased to tell you that the advocates and the carriers have agreed to a few amendments that make this bill technically sufficient and meaningful to the people of Maryland. Madam Chair, I want you to know that we did the hard work before the hearing to come before you with the amendments we've all agreed to and I've requested.

The amendments we agreed to with the carriers do three things:

- 1) One adds a definition and makes a clarifying amendment regarding the allowed purpose of a biomarker test;
- 2) The second eliminates one of the 6 criteria listed in the bill regarding the tests to be covered; and
- 3) The third eliminates the creation of a separate prior authorization standard.

In addition to these compromise amendments, the Maryland Legislative Black Caucus is requesting two additional amendments:

- 1) One directs the Office of Minority Health & Health Disparities to convene a workgroup to develop an outreach plan to educate communities negatively impacted by health disparities about biomarkers and biomarker testing; and
- 2) One directs the Maryland Health Care Commission to report on the impact of providing access to biomarker testing to individuals based on race, gender, age, and public or private insurance. I also want to thank MHCC for working collaboratively with me, the Black Caucus and our other stakeholders.

HOWEVER, I would also like to express my extreme disappointment with the letter submitted by the Maryland Health Department and their noted absence from this hearing today. It is perplexing to see such a difference between what's in a fiscal note and what's in their written testimony. Private insurance carriers see the value of medically necessary biomarker testing – see that it saves money and helps improve health outcomes. There's no acknowledgement by the Health Department of the cost savings – not to mention the impact on people's health and lives – when someone gets more appropriate treatment for their condition. How is it fair that you and I can have the best that science offers, but we deny it to those living in poverty? I

hope the Department is watching this bill hearing today and is able to follow up with me, the Black Caucus and this committee.

Four states have already enacted this law: Arizona, Illinois, Louisiana, and Rhode Island. If we are serious about saving lives, especially Black lives that have been impacted by cancer and other diseases more than any other race, I respectfully ask that Maryland join the aforementioned States by passing Senate Bill 805.

In terms of the State Fiscal Effect, the Maryland Department of Health (MDH) advises that it is in the process of implementing Medicaid coverage of biomarker testing for cancer treatment. Under the bill, Medicaid, subject to the limitations of the State budget and as permitted by federal law, must provide coverage for biomarker testing for all diseases and conditions (if the use of the testing is supported by medical and scientific evidence).

The Department of Legislative Services notes that coverage of biomarker testing is likely offset by savings (or cost avoidance) as the tests are intended to diagnose, treat, and manage diseases and conditions; facilitate the use of more effective and targeted health care treatments; and help avoid use of therapies that may be unsafe or ineffective for specific patients.

(Closing)

Thank you to Chair Pena-Melnyk and Vice Chair Cullison for the opportunity to present **Senate Bill 805, Maryland Medical Assistance Program and Health Insurance – Required Coverage for Biomarker Testing** and I ask for your favorable report.