

HB279.PDAB_LetterofSupport.pdf

Uploaded by: Andrew York

Position: FAV



MARYLAND
Prescription Drug Affordability Board

16900 Science Drive
Suites 112-114
Bowie, MD 20715
pdab.maryland.gov

January 31, 2023

The Honorable Joseline Peña-Melnyk
Chair, House Health and Government Operations Committee
Room 241, Taylor House Office Building
6 Bladen Street
Annapolis, Maryland 21401-1991

RE: HB 279/SB202 – Prescription Drug Affordability Board - Upper Payment Limits – Letter of Support

Dear Chair Peña-Melnyk:

The Maryland Prescription Drug Affordability Board writes in support of HB 279.

Ensuring that prescription drugs are accessible and affordable remains a top priority for state and federal policy makers. In 2022, six out of ten Americans reported taking prescription drugs. Yet three in ten adults reported not taking their medicines as prescribed because of cost.¹

In creating the first-in-the-nation Prescription Drug Affordability Board, Maryland led the country in devising a new approach to understanding and addressing the problem of drug affordability. This legislation will enable the Prescription Drug Affordability Board to continue its important work to make prescription drugs more affordable for Marylanders through the exploration of Upper Payment Limits.

Thank you for your consideration of this important legislation. If you have any questions, please contact Andrew York at (410) 804-0251 or andrew.york@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew York", is written over a horizontal line.

Andrew York
Executive Director
Maryland Prescription Drug Affordability Board

¹ Hamel L, Lopes L, Kirzinger A, et. al. Public Opinion on Prescription Drugs and Their Prices. Kaiser Family Foundation. October 20, 2022.
<https://www.kff.org/health-costs/poll-finding/public-opinion-on-prescription-drugs-and-their-prices> Last Accessed: 1/31/2023

HB 279_PJC_Favorable_HGO.pdf

Uploaded by: Ashley Black

Position: FAV



Ashley Black, Staff Attorney
Public Justice Center
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Baltimore, Maryland 21201
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blacka@publicjustice.org

HB 279
Prescription Drug Affordability Board – Upper Payment Limits
Hearing of The House Health & Government Operations Committee
February 2, 2023
3:00 PM

SUPPORT

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Health and Benefits Equity Project advocates to protect and expand access to healthcare and safety net services for Marylanders struggling to make ends meet. We support policies and practices that are designed to eliminate economic and racial inequities and enable every Marylander to attain their highest level of health. **PJC strongly supports HB 279**, which would reestablish the Prescription Drug Affordability Board’s authority to set upper payment limits on prescription drug products that are purchased or paid for by or through certain State or local government entities, plans or programs. It would also require the Board to, under certain circumstances draft a plan of action for implementing a process to set upper payment limits for certain prescription drug products.

Many consumers have trouble affording their prescription drugs. Nationwide, approximately 1 in 4 Americans has trouble affording their prescription drugs, even with health insurance.¹ High prescription drug costs are a significant barrier to improving health and maintaining good health for many Marylanders, especially for low-income, under-insured and uninsured consumers and senior consumers with chronic medical conditions. Our healthcare system is not accessible if consumers are put in the position of having to choose between paying for their prescriptions or other necessities, like food and shelter. Without a means to control the increasing costs of prescription drugs, many Marylanders are left unable to follow the treatment recommendations of their physicians and may be at risk of further health complications.

HB 279 would help ensure that Marylanders have access to affordable prescription drugs. The Maryland General Assembly’s groundbreaking passage of the 2019 Prescription Drug Affordability Board law has served as a model for other states and HB 279 seeks to build on this success by strengthening the authority of the Board. HB 279, if passed would restore the Board’s authority to set upper payment limits for certain prescription drugs. The legislation promotes transparency in drug pricing and would help eliminate high prescription drug costs as a barrier to good

¹ Cynthia Cox, *Recent Trends in Prescription Drug Costs*, JAMA Network (2016), <https://jamanetwork.com/journals/jama/fullarticle/2510894>.

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

health for Marylanders. While Maryland has made great strides in ensuring more Marylanders can access timely healthcare, we must ensure that consumers can financially afford to follow their physician's recommendations to attain their highest level of health.

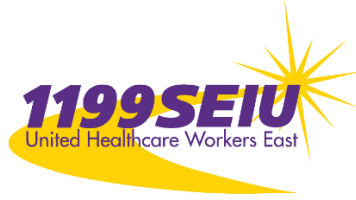
Finally, HB 279 promotes stakeholder involvement by requiring collaboration with the Board's stakeholder council on process implementation. It would also outline clear checks and balances on the Board's authority by putting in place an approval process for the Board's plan of action and an appeals process for individuals aggrieved by an upper payment limit set by the Board. Overall, HB 279 is consistent with Maryland's mission to promote the health of all Marylanders through access to care and community engagement.

For these reasons, the Public Justice Center urges the committee to issue a **FAVORABLE** report for **HB 279** to provide relief to Marylanders who cannot afford rising prescription drug costs. If you have any questions about this testimony, please contact Ashley Black at 410-625-9409 ext. 224 or blacka@publicjustice.org.

SB202HB279 Prescription Drug Affordability Board U

Uploaded by: Brige Dumais

Position: FAV



SB202/HB279: Prescription Drug Affordability Board – Upper Payment Limits
Position: FAVORABLE

To Chair Griffith and Members of the Senate Finance Committee; Chair Pena-Melnyk and Members of the Health & Government Operations Committee:

My name is Ricarra Jones. I'm the Political Director of 1199SEIU United Healthcare Workers East, the largest healthcare workers union in the United States, with over 10,000 members in Maryland/DC. Our union supports SB202/HB279 to reestablish the requirement for a Prescription Drug Affordability Board. We urge your Committees to issue **favorable** reports.

Healthcare workers know firsthand the biggest barrier to accessing health care is whether or not the patient can afford it – this includes not only the initial cost of visiting a healthcare provider, it extends to the patient's ability to afford the medications recommended by that provider. 1199 members have seen patients' health deteriorate due to the patient not being able to afford their medication. The more severe an un or undermedicated patient's condition becomes, the higher their medical bill ultimately will be, and the more difficult their condition becomes to treat. The high cost of healthcare, including expensive prescription drugs, fuels an unjust cycle of poverty and illness that punishes patients for getting sick.

There is an extreme short staffing crisis across the healthcare industry in Maryland, and Maryland has the longest hospital wait-times in the entire country. To address short staffing and ensure patients can receive emergency care quickly there must be a more sustainable patient to worker ratio. The best way to alleviate the burden on overworked and underpaid healthcare workers is to raise their wages; but we also need to ensure that patients are receiving preventative and primary care so they don't end up in the hospital or a Long-Term care facility with a more severe medical condition because the patient could not afford their prescription medications.

Many healthcare workers are patients themselves. One 1199 member shared her story, saying: "I have diabetes, but my insurance does not cover the cost of my medication, and I can't afford to pay for it out of pocket. Because of this, I was not able to take my diabetes medication for four months. Leaving my illness untreated made my health worse and costs me more money later. I've been on the phone with my insurance company over 10 times pleading with them to cover my medication, but they don't care. I'm not able to focus on my health when I have to spend what little free time I have arguing with the insurance company." It is unconscionable that healthcare workers, who care for our loved ones and save lives on the frontlines of the ongoing COVID19 pandemic, are unable to afford their own prescription medications.

Establishing a prescription drug affordability board with the power to cap prescription drug costs will help healthcare workers ensure their patients can afford treatment and will save patient's lives. We urge your Committees to vote **YES** on SB202/HB279: Prescription Drug Affordability Board. Thank you.

In Unity, Ricarra Jones, Political Director, 1199SEIU UHW, ricarra.jones@1199.org

HB0279 Prescription Drug Affordability Board.pdf

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR HB0279
Prescription Drug Affordability Board - Upper Payment Limits

Bill Sponsor: Delegate Cullison

Committee: Health and Government Operations

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of HB0279 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

The cost of prescription drugs for the citizens of Maryland is so completely out of control. Our members were happy to see Maryland create a first in the nation Prescription Drug Affordability Board. It was a bold step forward to stabilize prescription drug costs and keep the drug companies and insurance companies from gouging families across the state as they struggle to afford medications that they rely on to stay healthy and productive. It has been several years since the Board was established, but due to the shortsightedness of the previous Governor, it has been languishing without full funding and without a complete roster of board members. We need the Board to develop a plan for setting upper payment limits on prescription drugs as soon as possible.

Marylanders have no use for drugs that are too expensive. Almost all of our Coalition members struggle with high drug prices. They can't afford the copays. They can't afford to take medications that they need because those medications are priced out of reach.

We want to see the Board fulfill its promise to all Marylanders and we need the legislature to reaffirm their mandate and ensure that they are fully funded and galvanized to reduce prescription drug prices in Maryland. We can't wait any longer to solve this problem.

We support this bill and recommend a **FAVORABLE** report in committee.

Sponsor Testimony HB0279 - PDAB.pdf

Uploaded by: Elizabeth Clayborne, MD, MA Bioethics Adjunct Prof., UMD

Position: FAV

BONNIE CULLISON
Legislative District 19
Montgomery County

Health and Government
Operations Committee

Chair, Insurance and Pharmaceuticals
Subcommittee



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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

**Testimony in Support of HB 279
Prescription Drug Affordability Board - Upper Payment Limits**

Good afternoon, Chairman Peña-Melnyk, Vice Chair Kelly, and honorable members of the committee. Thank you for this opportunity to present HB 279, **Prescription Drug Affordability Board - Upper Payment Limits**. The purpose of this bill is to simply reestablish the Board and enable it to continue its work.

In 2019 this state was a trailblazer when we passed HB768/SB759, which established the Board and identified its roles, including determining a process to evaluate pharmaceutical costs to the state and shine a light on the overly complex drug pricing chain, to look where costs might be inflated. It is important to know that these bills passed in their final form 96—37 and 38—8 in the two chambers, respectively.

That level of support is indicative of the legislature belief that an entity that was focused solely on the pricing chain was essential in policy decisions that affect only the costs of prescription drugs, but also the overall costs of insurance premiums in our state.

While the Board was established in 2019, it was not able to begin to work on all the elements required by the law until the fall of 2022, when the statutorily required stakeholder advisory committee was appointed. From the beginning there were issues of funding and staffing and the pandemic added more distractions and barriers to forward progress.

We had ambitious goals in 2019 and we set December 2022 as the sunset guideline to assess the value of the Board. Doing such an assessment given the delays that were completely out of control of the Board is not reasonable or fair—to the Board, to the legislature or to the Marylanders who would ultimately be the beneficiaries of the work—in the form of lower drug costs.

The sunset date has passed and that requires that we re-establish it and its charges. That is why you see the bill in this form, as opposed to simply changing a date. This bill in no way changes the original charges to the Board; it simply gives us three more years to develop the processes necessary to determine if recommendations of upper payment limits to the General Assembly are warranted.

The reason this is an emergency bill is to assure that the Board's work is not curtailed by the previous sunset. They can restart their work upon the signature of the governor on this bill. Your support is essential to the continuing this Board, which has become a model for other states.

Thank you for your favorable consideration.

2023-02-02 HB 279 (Support).pdf

Uploaded by: Hannibal Kemerer

Position: FAV

ANTHONY G. BROWN
Attorney General



CANDACE MCLAREN LANHAM
Chief of Staff

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STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

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February 2, 2023

TO: The Honorable Joseline Peña-Melnyk
Chair, Health & Government Operations Committee

FROM: Hannibal G. Williams II Kemerer
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: HB 0279 Prescription Drug Affordability Board – Upper Payment Limits
(SUPPORT)

The Office of the Attorney General urges a favorable report on House Bill 278, legislation to reinstate the statutory provisions that sunset on January 1, 2023, because the Board had not yet drafted an Upper Payment Limit (UPL) Action Plan (Health General § 21-2C-13 through 16 (as amended)). The legislation imposes no new obligations—it merely reinstates the statutes that were rendered null and void by the sunset provision (with a change in date to 2026 and one clarification concerning judicial review of UPLs). It will be effective upon enactment.

Uncodified section 9 of Chapter 692 of the Acts of 2019 (HB 768) provided that Section 3 (initially establishing HG § 21-2c-13 through 15) was contingent on a UPL action plan being approved by Legislative Policy Committee (LPC) of the General Assembly or the Governor and the Attorney General by January 1, 2023. If not, section 2 of Act was abrogated and section 3 was null and void.

Under the nullified statutes, the Board's ability to set Upper Payment Limits for prescription drugs was contingent on the Board first determining that UPLs were in the best interest of the State and receiving approval of a draft UPL Action Plan by the LPC or, if the LPC didn't respond in 45 days or declined to approve the Action Plan, approval by the Governor and Attorney General.

Because this is emergency legislation to reinstate the affected statutes, no major substantive changes were made in reproposing these provisions. The UPL Action Plan approval process, while unusual, affords a legislative check on the implementation of public policy and provides multiple paths to obtaining UPL Plan approval.

We urge the Committee to favorably report HB 279.

cc: Committee Members

HB 279 AARP testimony on PDAB Upper Payment Limits

Uploaded by: James Gutman

Position: FAV



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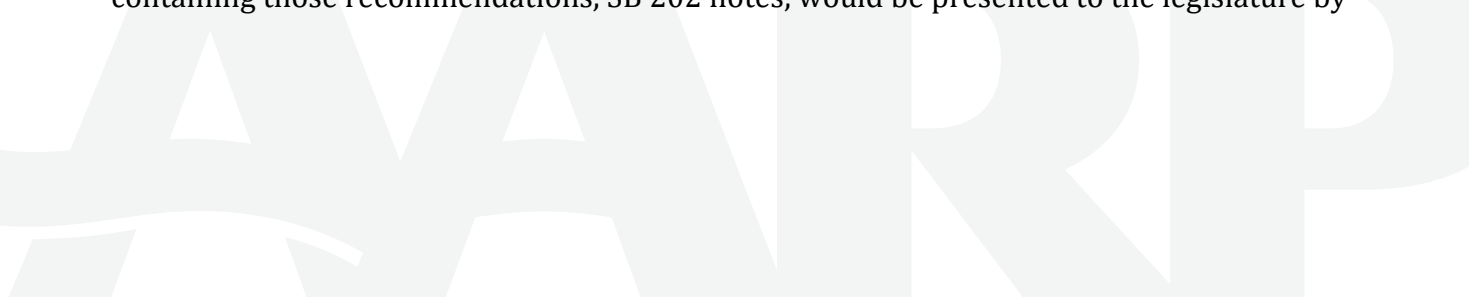
HB 279 Prescription Drug Affordability Board—Upper Payment Limits
House Health and Government Operations Committee
Favorable
February 2, 2023

Good afternoon, Chair Pena-Melnyk and members of the House Health and Government Operations Committee. I am Jim Gutman, a Howard County resident and member of the Executive Council and lead health care advocacy volunteer for AARP Maryland. I also am a member of the Stakeholder Council, representing the public, of the Maryland Prescription Drug Affordability Board (PDAB). And for the past seven open-enrollment seasons, I have been a volunteer Medicare prescription drug plan counselor for the State Health Insurance Assistance Program (SHIP) in Maryland. Before my retirement, for 25 years, I edited and published subscription regulatory and financial newsletters about U.S. health care, including prescription drugs. I am here today representing AARP Maryland and its 866,000 members in support of **HB 279 Prescription Drug Affordability Board – Upper Payment Limits**. We thank Delegate Cullison for introducing it.

AARP is a nonpartisan, nonprofit, nationwide organization that helps people aged 50 and above, strengthens communities and fights for the issues that matter most to families, such as health care, employment and income security, retirement planning, affordable utilities, and protection from financial abuse.

The PDAB has done a lot of excellent work since the Maryland law creating it was enacted in 2019, and it has accomplished the many needed preliminary actions despite having very limited financial resources. It now is preparing to impose the statute-authorized Upper Payment Limits (UPLs) on prescription drugs that present severe affordability challenges for the state- and local-government entities covered in the law. But while it will submit the planned regulations to the Legislative Policy Committee (LPC) as required under the law, there also is a need to codify the criteria it will use to select the Rx drugs that would be subject to UPLs, the entities that would be covered by the UPLs, and how it will make changes in UPLs when needed.

HB 279 would do all those things and do them in a clear and fair manner. The bill states that PDAB would need to consider the costs of administering and delivering the drug involved. The legislation also provides the framework that the PDAB will use in deciding on and making recommendations to the General Assembly on whether to extend UPLs to “all purchases and payor reimbursements” for prescription drugs in Maryland. The report containing those recommendations, SB 202 notes, would be presented to the legislature by



December 2026 and be based on the initial Maryland experiences with UPLs, including their effect on purchases of and payor reimbursement for prescription drugs in the state.

The provisions of HB 279 contain significant protections not only for Maryland residents but also for pharmaceutical producers and entities in the prescription drug distribution chain. For instance, the bill clearly states that UPLs would not be applied to prescription drugs that are on FDA's drug-shortage list. The PDAB under HB 279 also would have to monitor the availability of any Rx drug for which it sets a UPL, and reconsider that UPL if a shortage develops.

Moreover, the bill clarifies the procedures to be used if the LPC doesn't approve or fails to act within 45 days on the PDAB's UPL action plan. In such a situation, the PDAB could submit the plan to Maryland's governor and attorney general. The board could not go ahead with new UPLs unless it has approval from either the LPC or from *both* the governor and attorney general. When it gets such approval, the PDAB also would be able to apply the UPLs to entities that act on behalf of state and local government, including prisons, state hospitals, and health clinics at state universities, thereby potentially saving them large amounts of money. It also could, with the same kind of approval, apply the UPLs for drugs bought or paid for by Maryland Medicaid. In any of these cases, the PDAB could take such action only for prescription drugs that have led or will lead to an "affordability challenge."

Given the importance and time sensitivity of the legislation, HB 279 would take effect on the date it's enacted, another big plus for Maryland organizations and residents.

For all these reasons, AARP Maryland requests that the House Health and Government Operations Committee give a favorable report to HB 279. Thanks very much for your time and consideration. If you have questions, please contact Tammy Bresnahan at tbresnahan@aarp.org.

_TESTIMONY .pdf

Uploaded by: Jared Schablein

Position: FAV

TESTIMONY FOR HB0279

Prescription Drug Affordability Board - Upper Payment Limits

Bill Sponsor: Delegate Cullison

Committee: Health and Government Operations

Organization Submitting: Lower Shore Progressive Caucus

Person Submitting: Jared Schablein, Chair

Position: FAVORABLE

I am submitting this testimony in favor of HB0279 on behalf of the Lower Shore Progressive Caucus. The Caucus is a political and activist organization on the Eastern Shore, unaffiliated with any political party, committed to empowering working people by building a Progressive movement on the Lower Eastern Shore.

Maryland residents' prescription drug costs are completely out of control. Our members praised Maryland's creation of the first Prescription Drug Affordability Board in the country. It was a courageous decision to keep prescription drug costs stable and prevent pharma and insurance corporations from ripping off citizens across the state who are already struggling to pay for the prescriptions they need to stay healthy and productive. Although the Board has been in existence for a while, due to the previous Governor's lack of foresight, it has languished without adequate budget and without a full complement of board members. The Board must formulate a strategy as soon as feasible for establishing prescription drug payment ceilings.

Drugs that are exceedingly expensive really aren't necessary for Marylanders. Most of the Coalition's members struggle with expensive drug costs. They are not able to pay the copays. They have been unable to purchase the necessary medications since they are too expensive.

We need the legislature to confirm the Board's mandate and make sure that they are fully financed and motivated to lower prescription drug prices in Maryland if we are to see the Board achieve its commitment to all Marylanders. We must find a solution to this issue right away.

It is for these reasons the Lower Shore Progressive Caucus supports this bill and recommends a **FAVORABLE** report in committee.

Testimony- HB 279 Prescription Drugs-Support-UULM-

Uploaded by: Karen Clark

Position: FAV



Unitarian Universalist Legislative Ministry of Maryland

Shared Voices for Liberal Religious Values in Maryland

Support for HB 279

Prescription Drug Affordability Board – Upper Payment Limits

February 2, 2023 at 3:00 p.m.

I am Betty McGarvie Crowley from Silver Spring representing the Unitarian Universalist Legislative Ministry of Maryland (UULM-MD). We are an advocacy organization, with members in 23 UU congregations throughout the state. Since our founding in 2005, health care issues have been a priority, we are an active member of the Health Care for All Coalition and join them in supporting HB 279.

UULM-MD has been a supporter since it was made a public policy issue and were part of the coalition that passed Maryland's pioneer efforts to address the critical problem of overpriced prescription medications. The costs of life saving medications have caused individuals to not take them or ration them. These costs have caused many families to suffer serious financial consequences as major quality of life issues. We are pleased to see the progress made thus far and believe this legislation will enhance and expedite progress in this area.

HB 279 clarifies the intent of the 2019 legislation that established the Prescription Drug Affordability Board and will advance its implementation.

We urge a favorable report of HB 279.

Thank you, Delegate Bonnie Cullison for introducing this legislation, Chair Joseline A. Pena-Melnyk, and the Committee who have been leaders in supporting HB 279.

HB 0279 - Favorable.pdf

Uploaded by: Kenneth Phelps, Jr.

Position: FAV



TESTIMONY IN SUPPORT OF SB0279

Prescription Drug Affordability Board - Upper Payment Limits

FAVORABLE

DATE: January 31, 2023

TO: Delegate Joseline A. Pena-Melnyk, Chair. Delegate Arian B. Kelly, Vice-Chair and members of the Health and Government Operations Committee.

FROM: Rev. Kenneth Phelps, Jr., Co-Director, Maryland Episcopal Public Policy Network

DATE: January 31, 2023

Thank you for this opportunity to testify in support of House Bill 0279. The Episcopal Church supports comprehensive health care and recognizes the need for universal and equitable access for all. Our General Convention urges Episcopalians to advocate for adequate health care, along with nutrition and housing, as human rights that should be provided to all those residing in our nation, including veterans. This advocacy on a number of healthcare policy asks is viewed as a Church ministry and as a way to promote healthy American communities.

The excessive cost of prescription drugs has been a burden on households for far too long and we applaud the Assembly for their actions to date. Now it is time to finish the job. Our citizens should not have to choose between buying food or paying rent or providing child care so that they might support themselves and their families and paying for overpriced prescription medications. The pharmaceutical industry has held our people hostage for far too long and has realized obscene profits in the process. For Jesus, to whom the Church looks for teaching and wisdom, providing care for the sick was an expectation of discipleship, it was a demand of the discipline of love that flowed from the very heart of Love itself. This is a welcomed next step in our progress toward universal coverage for all with all cost barriers removed.

The Diocese of Maryland requests a Favorable report

Testimony on HB 279 Upper Payment Limits 2023.pdf

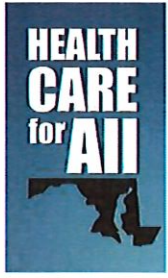
Uploaded by: Vincent DeMarco

Position: FAV



TESTIMONY IN SUPPORT OF HOUSE BILL 279
Prescription Drug Affordability Board – Upper Payment Limits
Before the House Health and Government Operations Committee
By Vincent DeMarco, President, Maryland Health Care For All Coalition
February 2, 2023

Madam Chair and Members of the HGO Committee, on behalf of the over 450 faith, community, labor, business and health care organizations which are part of our Maryland Health Care For All Coalition working to make high cost drugs more affordable for Marylanders, we strongly urge you to support HB 279. This legislation makes clear the intent of the landmark Prescription Drug Affordability Board law which you enacted in 2019 that the PDAB Board, with the approval of the Legislative Policy Committee, has the authority to use upper payment limits to make high cost drugs more affordable for state and local governments in Maryland. We are very pleased with the terrific progress which the PDAB has made under the able leadership of Chair Van Mitchell and we believe that this legislation before you today will help them do their very important and life-saving work. Thank you so much Delegate Cullison for introducing this measure and we thank you, the Committee Chair, and all the Members of this Committee for your leadership on this issue which has made our PDAB legislation a model for other states across the country.



1199SEIU
United Healthcare Workers East
Maryland Division

AARP Real Possibilities in

Maryland

MARYLAND ACADEMY OF
FAMILY PHYSICIANS

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CAMPAIGN**
OF MARYLAND

The Arc
Maryland

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primary care coalition

**MARYLAND
Association of
COUNTIES**

MedChi **ADVOCATES**
FOR CHILDREN AND YOUTH
The Maryland State Medical Society

**Maryland
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(MDPHA.org)

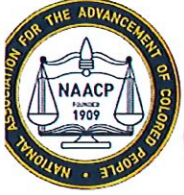
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3



Maryland Legislative Agenda for Women



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JOTF **JOB OPPORTUNITIES TASK FORCE**
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**CHESAPEAKE
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**THE EPISCOPAL DIOCESE
OF MARYLAND**

**Jews UNITED
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THINK JEWISH. ACT LOCALLY.

YP-CDN
Young Professionals
Chronic Disease Network
Baltimore Chapter

amsa
American Medical Student Associati



**Disability
Rights
Maryland**

MaCCRA
The Voice of CCRC Residents

MRSPA
MARYLAND RETIRED SCHOOL PERSONNEL ASSOCIATION

DHHS
MONTGOMERY COUNTY
Department of Health
and Human Services

**WOMEN'S ALLIANCE FOR
DEMOCRACY & JUSTICE**

**PHARMACISTS UNITED FOR
LIFE AND TRANSPARENCY**



**DO
THE MOST
GOOD**

CASA
SOMEONE CARES



COLLECTIVE EMPOWERMENT GROUP INC

BCASCO
Baltimore County Association of Senior Citizens

F.A.C.E.
ADDICTION MARYLAND
FAMILY ADVOCATES COALITION FOR

**HEALTH DEPARTMENT
BALTIMORE MARYLAND**

**DISABILI
SUPPO**

6 - HB 279 - HGO - MDH - LOC.docx (1) (1).pdf

Uploaded by: State of Maryland (MD)

Position: UNF



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Acting Secretary

February 2, 2023

The Honorable Joseline A. Peña-Melnyk
Chair, House Health and Government Operations Committee
241 House Office Building
Annapolis, MD 21401-1991

RE: HB 279 – Prescription Drug Affordability Board – Upper Payment Limits – Letter of Concern

Dear Chair Peña-Melnyk and Committee Members:

The Maryland Department of Health (MDH) respectfully submits this letter of concern on House Bill (HB) 279 – Prescription Drug Affordability Board – Upper Payment Limits. HB 279 re-establishes the requirement that the Prescription Drug Affordability Board (the Board) draft a plan of action for implementing upper payment limits for prescription drug products that are determined to lead to an affordability challenge for certain payers, including the Medical Assistance Program. HB 279 amends the authority under Health – General §21-2C-13 for the Board to draft and implement a plan of action to set upper payment limits. This legislation is an emergency measure and will be enacted immediately upon passage by the General Assembly.

The federal government sets a federal upper payment limit for drugs covered through the Fee-For-Service (FFS) program. Medicaid managed care organizations (MCOs) are exempt from the federal upper limit requirements and have greater discretion regarding negotiation of rates with their providers, either directly or through a pharmacy benefit manager. MCO reimbursement rates for drugs may thus be higher or lower than the rates paid by the FFS program.

If an approved plan of action by the Board does not comply with the federal upper payment limit requirements, the State's federal matching funds for those drugs will be at risk. Costs for any drugs purchased out of compliance with the federal requirements will need to be covered with 100% state general funds. MDH may realize savings of an indeterminate amount as a result of the bill; however, it may also lead to a negative impact on MCOs' ability to negotiate rates with vendors increasing costs paid by the State through capitation rates.

MDH met with the bill sponsor and appreciates the sponsor's willingness to discuss these concerns. We are open to continuing conversations about this bill with the bill sponsor. If you have any questions, please contact Megan Peters, Acting Director of Governmental Affairs, at megan.peters@maryland.gov or (410) 260-3190.

Sincerely,

Laura Herrera Scott, M.D., M.P.H.
Acting Secretary