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February 21, 2023

Chairwoman Joseline A. Peña-Melnyk
Health and Government Operations Committee
Maryland House of Delegates
241 Taylor House Office Building
6 Bladen Street
Annapolis, MD 21401

Sent by email to joseline.pena.melnyk@house.state.md.us

Dear Chairwoman Peña-Melnyk:

You said to the industry representatives near the end of the hearing on HB 305 that there is a serious problem regarding prior authorization and although I know the health insurance companies and their pharmacy benefit manager partners will mount strong opposition to the bill, thank you for saying this. I left the hearing feeling optimistic for patients.

I was grateful to give remarks supporting HB 305 last week representing the Global Healthy Living Foundation and our constituents in Maryland, where I grew up.

These same battles are going on in legislatures across the country, and while legislation would affect more people if Congress addressed this issue by including ERISA health plans which states can't control, there is much Maryland can do, and your committee is doing it.

You are driving a much larger message to Marylanders, however. Your easy humor, unquestioned control, compassion, and positive and efficient interaction with committee members shares the reality of citizen participation, offering welcome access to your committee microphone. In addition, many of the delegates serving on your committee listening to us would not have had a seat even a short time ago because of their race, sex, sexual orientation or ethnicity, or if they did, they would not have had the encouragement and support or the role model of an inclusive chair.

This inclusivity has a direct effect on speakers at your hearings. It was interesting to see that none of them seemed nervous. We support legislation like this around the U.S., and we see a lot of nervous speakers, most often when a non-native English speaker faces a wall of frowning people behind big desks. Speakers yesterday were able to interact with concerned, compassionate, interested legislators who looked and talked like them. Patient and physician voices were heard, and the speakers knew it.

During my comments, I labeled insurers and pharmacy benefit managers as bullies. As a gay man I know something about bullies, and these people are doing more than just stealing our lunch money. They're requiring us to fight for what medical science has provided and society

believes we deserve – control over our quality of life, and the pursuit of happiness. Insurers and pharmacy benefit managers (PBMs) create this fight at a time when people are least able to engage, a time when they should instead be directing their energy toward wellness and family, a time when the rest of their professional and personal world may be falling apart, a time when many walk away from them, a time when they need help. Rather than help, insurers and their PBM partners force a fight to increase their profits.

Bullies flourish when they perceive weakness, but their representatives found no weakness in your committee. They were, and will be, faced instead with forced fairness where their unsubstantiated claims of “nothing to see here” and “this keeps costs down” are seriously questioned. The reality is many people are being hurt. There is something to see here, and nobody has ever experienced an insurance premium reduction. When they say “cost saving” they actually mean profit enhancing.

Physicians, too, are asked to fight when they are least able, when they should be focused on their patients – not how to navigate the system stacked against them. Everyone, as the committee members pointed out, does this without pay, and nobody testifying was able to recall an instance where prior authorization prevented mistakes or helped a patient get better faster. One physician noted that if he did what PBMs and insurers did to his patient, he would be liable for medical malpractice.

As you continue the legislative process for this important bill, we have policy and advocacy experts in research, patient outreach, government relations, medical affairs and health insurance who regularly work with Congress, state legislators and agencies, and we are ready to help. We have published peer-reviewed papers on the healthcare system. I’ve listed some below with links. Additionally, an [oped in Newsweek](#) supports the current Federal Trade Commission investigation into PBMs.

Our patient advocacy group is led by Steven Newmark who was on the team that successfully argued the Vaccine Act before the Supreme Court in *Bruesewitz v. Wyeth* as well as former General Counsel in Mayor de Blasio’s Public Advocate office, and our policy group is led by Robert Popovian, former Pfizer vice president of government affairs.

Published articles include:

Prior Authorization

Popovian, Robert and Winegarden, Wayne, An Estimate of the Net Benefits from Prior Authorization Policies in the U.S., Vol. 15 No. 4: 833. [Health Science Journal](#), <https://www.itmedicalteam.pl/articles/an-estimate-of-the-net-benefits-from-prior-authorization-policies-in-the-us-106326.html>

Tharp, Louis and Rothblatt, Zoe, Do patients benefit from legislation regulating step therapy? April 12, 2021, Health Economics Policy and Law
<https://www.cambridge.org/core/journals/health-economics-policy-and-law/article/do-patients-benefit-from-legislation-regulating-step-therapy/0A89759AD6ADB88E0BBF1F919D2179C4>



Equity and Access Research

Report: IQVIA Human Data Sciences and Global Healthy Living Foundation: Trends in Vaccine Administration in the United States, [IQVIA Report](https://www.iqvia.com/insights/the-iqvia-institute/reports/trends-in-vaccine-administration-in-the-united-states), January 2023.. <https://www.iqvia.com/insights/the-iqvia-institute/reports/trends-in-vaccine-administration-in-the-united-states>

Robert Popovian, Wayne Winegarden, Esteban Rivera, and Kelly Gavigan, Accessibility of Adult Immunization in Pharmacies Compared to Physician Offices in Low-Income Communities. [Journal of American Pharmacists Association](#). March 30, 2022. [https://www.japha.org/article/S1544-3191\(22\)00094-2/fulltext](https://www.japha.org/article/S1544-3191(22)00094-2/fulltext)

Formulary Exclusions

Popovian, Robert, Sydor, Anne and Pitts Peter. Analysis of the Drug Formulary Exclusions from a Patient's Perspective. [Health Sci J.](#) Vol. 16 No. 3: 937. <https://www.itmedicalteam.pl/articles/analysis-of-drug-formulary-exclusions-from-the-patients-perspective-111155.html>

Rebate Reform

Winegarden, Wayne and Popovian, Robert, Reforming Rebate Contracting will Improve Drug Affordability, Special Issue 2, 006, [Health Science Journal](#), <https://www.itmedicalteam.pl/articles/reforming-rebate-contracting-willimprove-drug-affordability-106259.html>

Drug Pricing and Affordability

Trish, Erin and Van Nuys, Karen and Popovian, Robert, U.S. Consumers Overpay for Generic Drugs, [USC Schaeffer Center for Health Policy Economics](#), May 31, 2022. <https://healthpolicy.usc.edu/research/u-s-consumers-overpay-for-generic-drugs/>

Louis Tharp, FTC Could Put Insurers' Drug Middlemen On A Diet, Newsweek Forum, July 18, 2022, Newsweek <https://www.newsweek.com/healthcare-policy-expert-ftc-could-put-insurers-drug-middlemen-diet-1725109>

We are also assessing the Virginia prior authorization legislation industry representatives suggested could be model legislation for Maryland, and we will forward our patient-centered thoughts to you. I've attached our latest quarterly report. Others are available [here](#). My email is LTHARP@GHLF.ORG and my cell is 845-323-8408. Reach out any time.

Thank you again for all your efforts.

Respectfully,



Louis Tharp
Executive Director
Co-Founder

