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Coalition of State Rheumatology Organizations

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House Health and Government Operations
240 Taylor House Office Building
Annapolis, Maryland 21401

Concerns re: SB 357 – Prescription Drug Affordability Board

Chair Pena-Melnyk, Vice Chair Cullison and members of the Health and Government Operations Committee

The Coalition of State Rheumatology Organizations (CSRO) would like to express concerns regarding SB 357, which would expand the scope of the existing state Prescription Drug Affordability Board. **While the Senate has amended this legislation, these amendments fail to address our concerns**.

CSRO serves the practicing rheumatologist and is comprised of over 40 state rheumatology societies nationwide with a mission of advocating for excellence in the field of rheumatology and ensuring access to the highest quality of care for the management of rheumatologic and musculoskeletal disease. Rheumatologic disease is systemic and incurable, but innovations in medicine over the last several decades have enabled rheumatologists to better manage these conditions. With access to the right treatment early in the disease, patients can generally delay or even avoid damage to their bones and joints, as well as reduce reliance on pain medications and other ancillary services, thus improving their quality of life.

This legislation would expand the existing Prescription Drug Affordability Board to include all state-regulate health plans. CSRO has been an active participant in the PDAB's public hearings and comment periods, offering feedback on the impact of the PDAB's upper payment limit (UPL) on providers and the patients they care for. We are extremely concerned that none of our recommendations have been acknowledged or adopted by the Board and therefore caution against the expansion of this program until the true ramifications of the Board's activities are demonstrated, evaluated and reviewed.

<u>Physician Administered Medications</u>
As currently approved by the PDAB, the upper payment limit (UPL) caps provider reimbursement for a prescription drug consistent with the rate determined by the Board. It does not, however, require that providers acquire the medication at a rate sufficiently below the UPL to account for acquisition costs to the provider. We have repeatedly expressed these concerns to the PDAB as it is highly problematic for healthcare providers who administer medications directly to patients in outpatient settings, including rheumatologists across the state.

Rheumatologists and other healthcare practices that directly administer medications on an outpatient basis are typically engaged in "buy and bill," whereby the medical practice pre-purchases drugs and bills the health plan for reimbursement once the medication is administered to a patient. Margins for practices engaged in buy and bill are thin. To

maintain the viability of administering drugs in outpatient settings – which are often more cost-effective settings for the payer and safer for immunocompromised patients –reimbursement must account for acquisition costs, such as intake and storage, equipment and preparation, staff, facilities, and spoilage insurance.

Currently, most health plans reimburse providers for the cost of the medication plus an add-on payment at a bundled rate to cover the acquisition costs, making office-based administration economically viable. Unfortunately, the UPL recently adopted by the Board would prevent healthcare providers from collecting this add-on payment, making it untenable for healthcare providers in outpatient settings to administer medications that are subject to the UPL. Reimbursement rates that do not sufficiently compensate for these costs put healthcare practices at risk. If patients are unable to receive their medications in outpatient settings, they will be forced to receive provider administered care in hospital settings, which are more expensive to the payer. **We strongly caution the legislature against expanding the use of the UPL to all state-regulated health plans before the true ramifications of the UPL have been reviewed.**

Acquiring Medications with a UPL

CSRO is also concerned that providers will be unable to source drug products at the UPL rate. Contracting between providers, their group purchasing organizations, wholesalers, and manufacturers is not geographically isolated and is often national in scope. The purchase of a drug product by a wholesaler from a manufacturer likely occurs out of state and would be outside of Maryland's ability to regulate. As a result, it is very likely that the price offered by the wholesaler to the medical practice would be significantly higher than the UPL that physician could bill for that medication. This will impede providers from acquiring these products, resulting in medication shortages and limited patient access. The Board has repeatedly recognized that it has no mechanism to evaluate drug shortages that occur exclusively in Maryland due to the UPL. **We strongly caution the legislature against expanding the Board's authority until an action plan for evaluating drug shortages has been adopted.**

PBM Formulary Manipulation

While the Board has placed a strong emphasis on prices and costs associated with the initial steps in the pharmaceutical supply chain, it is important to note that many pharmacy benefit plans utilize a variety of tactics that undermine the effectiveness of programs created to keep patient costs down, such as copay assistance programs. These pharmacy benefit plans, organized by pharmacy benefit managers (PBMs), contribute significantly to patient out-of-pocket costs, driving unaffordability.

We encourage the legislature to consider the role PBMs play in driving up the cost of prescription medications. If the Board continues to pursue a UPL without any guardrails in place for PBMs, it is likely that these middlemen will manipulate the formularies so that these newly priced drugs are placed on a much higher tier, and therefore less accessible to patients. PBM business practices favor higher priced drugs because they have the potential to profit more off those medications. **We strongly encourage the legislature to consider mechanisms that will ensure that drug placement on the formulary remains consistent even after the Board implements the UPL.**

On behalf of practicing rheumatologists across Maryland, we respectfully request that you **do not advance SB 357**. We thank you for your consideration and are happy to further detail our comments upon request.

Respectfully,

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