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December 15, 2019

**Rep. Dominique Jackson**  
Colorado General Assembly  
200 E Colfax, Room 307  
Denver, CO 80203

**Rep. Dylan Roberts**  
Colorado General Assembly  
200 E Colfax, Room 307  
Denver, CO 80203

Dear Rep. Jackson and Rep. Roberts,

On behalf of the Colorado BioScience Association (CBSA), thank you for the opportunity to share our comments on the draft prescription drug price transparency bill. We appreciate your work on this legislation and your thoughtfulness as you seek to gather data and information prior to bill introduction.

CBSA represents over 720 life sciences organizations across Colorado that drive innovations, products, and services to improve and save lives. Our state is the center of bioscience for the Rocky Mountain Region, directly employing 30,000 people and spinning out an average of 20 new bioscience companies each year. Our members play a crucial role in the development of breakthrough technologies and therapies that are leading to reduced health care costs and improved patient outcomes.

While we appreciate your work on this legislation, we have several concerns with the draft bill that are outlined below. We look forward to working with you to address these concerns and to pass legislation that will achieve the goal of lowering out-of-pocket costs for Colorado patients.

### **Sharing Rebates with Patients at Point of Sale**

CBSA is committed to ensuring patients have access to the medicines they need. In our current health care system, however, patients are paying cost-sharing based on the list price of a drug, regardless of the rebates and discounts the insurer or pharmacy benefit manager receives for the drug. This problem has been compounded in recent years by changes in insurance design and the growing market for high-deductible health plans, which expose some patients to the full retail price of a medicine when they pick up their prescription.

To address this growing problem, we urge you to include a requirement for insurers to pass on rebates to patients at the point of sale. Studies have shown that sharing those rebates with the patient taking the medication can significantly reduce out-of-pocket costs, with minimal impact on premiums. An analysis conducted by Milliman in 2017 showed that sharing negotiated rebates with patients at the point of sale could save some commercially insured patients with high deductibles or coinsurance between \$145 and \$800 per year. The same analysis also indicated the impact on premiums would be less than one percent.<sup>1</sup>

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<sup>1</sup> Milliman Analysis commissioned by Pharmaceutical Research and Manufacturers of America. "Point of Sale Rebate Analysis in the Commercial Market: Sharing Rebates May Lower Patient Costs and Likely Has Minimal Impact on Premiums." Bunge, Gomberg, Hunter and Petroske. Washington, DC; October 2017.

While it has been suggested that manufacturer rebates should be used to reduce premiums, we would note that this is what insurers and pharmacy benefit managers claim they are doing now. We need to incorporate a policy that uses rebates to lower out-of-pocket costs for the patients that need those medications.

### **Advance Notice of Price Increases**


CBSA strongly opposes the requirement for manufacturers to provide 90 days advance notice of a price increase to the Commissioner of Insurance and all purchasers. This could have serious unintended consequences for the drug supply chain and the competitive market. Notifications based on cost and future price could incentivize new speculative purchasing and problematic stockpiling that both industry and the federal government have fought to eliminate in recent years. We also have serious concerns that providing advance notice of a price increase to all purchasers would reveal commercially sensitive information that could undermine market competition and as a result, lead to price increases. We urge you to remove the requirement for advance notice or at least reduce the requirement to one day to eliminate the potential for these unintended consequences.

### **Protecting Confidential Information**

While we appreciate language in the bill that is aimed at protecting confidential information, we do not think those provisions are adequate in ensuring sensitive business information is protected from public disclosure. It is imperative that the owner of reported data (health insurer, manufacturer, pharmacy benefit manager, or nonprofit organization) has the authority to determine what information is proprietary and ensure those items are redacted from the information posted on the Division of Insurance website. Additionally, any information reported to the Commissioner of Insurance that is determined to be proprietary must be excluded from a Colorado Open Records Act request. Allowing any member of the public, including competitors, to access sensitive company information undermines every protection in the bill and could ultimately destabilize market competition.

Thank you for the opportunity to share our comments on this legislation. We look forward to continuing this dialogue at the stakeholder meeting on December 16.

Sincerely,



Jennifer Jones Paton  
President & CEO  
Colorado BioScience Association



Emily Roberts  
Vice President  
Colorado BioScience Association