



Prescription Drug Affordability Board Puts Health Care Providers “In A Vice”

Senate Bill 21-175 passed out of the House Health & Insurance Committee after nearly five hours of testimony at 12:30 a.m. on Thursday, May 20.

The bill sponsors showed zero interest in considering thoughtful amendments designed to give some comfort to patients who are legitimately worried that approval of the so-called Prescription Drug Affordability Board will mean their medications will disappear from the Colorado marketplace.

The bill moved forward to the House Appropriations Committee on an 8-4 party line vote despite thoughtful, pointed testimony from leaders at Children’s Hospital, SCL Health System, Community Hospital in Grand Junction, and many others representing pharmacies, retailers and businesses. One speaker, a top official at Children’s Hospital, brought a case study demonstrating that state pressure to change the marketplace is simply not an effective tool.



Several who testified hammered home the point that the bill places health care providers in the untenable position of choosing between ensuring their patients receive access to the best available medicine or abiding by the new state law and prescribe outdated treatments. A third option, of course, would be for hospitals and other healthcare providers to break the law in order to save lives.

“Squeezing Providers”

Dr. Alan Miller, Chief Medical Director of Oncology for the SCL Health SLC System, said the PDAB applies pressure in the wrong place.

The bill “tries to level the playing field by making things more affordable for all, but I fear what it will do is level the playing field by making these life-saving and life-altering medications unavailable to all,” he said.

“Those of you who say it will not limit access, I think, are incorrect. ***The intent is to put pressure on PhRMA but instead what you are doing is putting providers in a vice—and squeezing providers.***”

Recent breakthroughs in treatments for the most devastating cancers such as lung cancer and malignant melanoma, he said, have led to “revolutionary” treatments. But Dr. Miller said he is very worried about a key component of the bill, that the new politically-appointed board would establish Upper Payment Limits on certain medications. “If those Upper Payment Limits are instituted below the manufacturer’s price, we will be forced to go back to less effective, more toxic medications,” he warned.

“I address this to the patients and advocates who have eloquently stated their challenges. Something needs to be done regarding the medication burden, but this bill is not it. This bill will make many of those drugs you referenced earlier this evening totally unavailable to you in the state of Colorado and only those who have the resources to travel out of the state to get them will be able to get those medications.”

In closing, Dr. Miller urged to remove the UPL aspect of the bill, keep PDAB in place to work on transparency of drug pricing, or at least exempt certain classes of drugs, such as those for cancer.

Case Study

Zach Zaslow, Senior Director of Government Affairs at Children’s Hospital Colorado, echoed the idea that the bill targets the wrong players in the health care system. “This effectively puts providers in a middle-man role because it regulates the purchasers of prescription drugs rather than the actual prices of the drugs themselves,” he said.

Recent innovations have produced “last, best clinical options” that are saving lives for patients dealing with spinal muscular atrophy and pediatric cancers. “These remarkable drugs are life-saving,” he said, while acknowledging that costs are “dramatic,” sometimes up to \$2 million for a course of treatment.

Recently, he said, Colorado Medicaid tried to put pressure on the manufacturer of one drug by deliberately under-reimbursing for the drug when Children’s Hospital submitted an invoice. The move was “completely unprecedented,” said Zaslow, and left Children’s Hospital holding the bag.

“This decision puts us, the provider, in the middle between a purchaser - the state of CO ... and a manufacturer that won’t negotiate. ***This is not a theoretical, this is***

not a forecast. This is our patients' reality today. If we want our patients to have access to these life-saving medications, we have to pay the difference. It is our only option, to the tune of hundreds of thousands or millions of dollars per year with the cost to us expected to grow in the years ahead."

Added Zaslow: "Colorado Medicaid's cap today on reimbursement isn't reducing drug costs ... it's simply shifting those costs to us, the provider, when we don't make the drugs and we don't control their pricing. We fear the very same thing will happen with this bill."

Zaslow urged lawmakers to add safeguards "to ensure that children and providers don't become stuck in between the board (PDAB) and the drug maker when the UPL is set."

Target the Source

Dr. Thomas Tobin, Chief Medical Officer at Community Hospital in Grand Junction, warned lawmakers to stay out of the dialogue between a doctor and a patient deciding the best options.

"It's critical that we remember not to put anything between the physician and the patient decision on what the right treatment is," he said. "Control prices at the source, not the buyers of the pharmaceuticals that patients need every day."

Colorado Rep. Matt Soper warned that the bill will place doctors in the untenable position of "choosing between facing a penalty or violating their Hippocratic Oath" to provide the best care possible for patients. Soper introduced ten or so amendments that were all shot down by bill sponsors.

And State Rep. Hugh McKean cautioned against the "ever-growing pile of unintended consequences" from the bill. He also said that going after PhRMA right now seems particularly odd timing, considering the "remarkable" work of scientists to find, test and deliver COVID-19 vaccines in record time. And he said government does not have a role in this issue.

"I think government getting involved—is not only complicated, but I think it's wrong. I don't think this is a solution," he said. "We are heading down a road where government says, 'this is what you can make, this is what you can keep.' If this becomes a model, I think we have critically hurt ourselves."

Keep Up the Fight

Despite the intransigence of those legislators voting for this patently flawed bill, we are full speed ahead on fighting to have SB175 either fail or be amended substantially. Join Us!