COMMUNITY ACCESS NATIONAL NETWORK

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February 3, 2025

VIA Electronic Mail

Colorado General Assembly
Joint Budget Committee

RE: Funding for the Prescription Drug Affordability Board

Honorable Chair Senator Bridges, Vice Chair Representative Bird, and Members of the Colorado Joint Budget Committee,

The **Community Access National Network (CANN)** is a 501(c)(3) national nonprofit organization focusing on public policy issues relating to HIV/AIDS and viral hepatitis. CANN's mission is to define, promote, and improve access to healthcare services and support for people living with HIV/AIDS and/or viral hepatitis through advocacy, education, and networking.

Today, we write concerning funding levels for the Prescription Drug Affordability Board (PDAB).

We are staunch supporters of any endeavor dedicated to the betterment of patient's lives and sustaining and extending public health programs, like Medicaid and AIDS Drug Assistance Programs, especially regarding healthcare access and affordability. Unfortunately, over $2 million in taxpayer dollars have already been spent on the PDAB without achieving any savings for patients or the state on prescription drugs. Moreover, continuing external analysis reveals that the current mechanisms of the Board are not an effective way to achieve the desired goals.

Unfortunately, for almost two years, CANN has urged the staff to meaningfully investigate issues such as the adverse effects of an upper payment limit (UPL) on the 340 B program, the possible need for additional appropriations because of losses incurred, and the problematic selection of metrics used to identify drugs for affordability review. Indeed, much of the information CANN has requested and perspectives offered have come to fruition on reporting and oversight in other states and federally. **While CANN does hold some exceptional expertise, we are not possessors of crystal balls. Directly, we have been engaging the Board and staff in good faith to highlight the unintended but largely predictable consequences of imposing an "upper payment limit" - including but not limited to increased costs to both the state of Colorado and patients in the state**. **Regardless of the evidence, this effort continues to fall on deaf ears.**

We appreciate that as a part of statutory requirements, a cost-benefit analysis is finally being performed as of the beginning of this year. But this occurred only after multiple stakeholders petitioned the request and long after informal urging for the same had been refused - all while seeking budgetary extensions to continue working in a fashion that refuses to face the reality of these analyses.

Recent information from the Federal Trade Commission (FTC), as part of reporting and administrative complaints filed, indicates that pharmacy benefit managers (PBM) activities are the major driving factor of prescription drug unaffordability. The first investigation delineated how PBMs manipulate the list prices of drugs, driving them higher to extract more profit. Despite drug manufacturers' attempts to offer lower-priced identical drugs to PBMs to include on formularies, PBMs utilize more expensive options. PBMs also manipulate formulary design, which is predatory against patients financially. This corrupts the data and metrics the Board uses for their affordability reviews. Nonetheless, some of these metrics, like "Wholesale Acquisition Cost" (WAC), are statutorily required to be reviewed - regardless of their weight on saving anyone any money and their propensity to be manipulated by PBMs for PBM profiteering.

A second report by the FTC defines how PBMs likewise grossly inflate the prices of generic medications. Many generic drugs are what the Board would examine regarding "therapeutic alternatives." This report also described how PBMs manipulate pharmacy networks and even engage in pharmacy steering. These activities increase patient costs, adversely affect access, and undermine the financial stability of pharmacies. A UPL does not address any of these problems.

Again, despite the availability of these reports, national coverage of these reports, and CANN's explicit urging for both staff and Board members to consider their implications on the direction of the Board's efforts with a UPL - the Board and staff continue proceeding forward, rather than offering such reflections or any relevant recommendations to the legislature in the Board's statutorily mandated, annual report.

An independent analysis conducted by Oregon's PDAB through consulting firm Stauffer-Meyer found that a UPL would require additional appropriations due to the potential loss of revenue from reduced rebate dollars or risk adversely affecting the Medicaid program as well as entities dependent upon 340B program revenues to serve vulnerable populations, like federally qualified health centers and the state's SDAP. Moreover, a recent *New York Times* article explains the negative impact of the Inflation Reduction Act's insulin cap on entities such as FQHCs and how it increased out-of-pocket costs for patients. A UPL would operate in the same manner as the insulin price cap.

If the Joint Budget Commission wants to be the most effective at saving Colorado money and improving drug affordability for patients, other avenues should be explored. Two examples are examining oversight for the managed care organizations (MCOs) of the Medicaid program and PBM reform. Specifically, about MCOs and Medicaid, the issue has been well evidenced by Indiana's discovery of $1 BILLION worth of fraud and abuse by that state's MCOs. Additional oversight from both the legislature and auditory activities from regulators would well serve the state's budget concerns and likely improve access and affordability of care. Similarly, overall PBM reform stands to offer patients and employers similar savings and increased access to care. Upper payment limits are not the solution. Time and funding spent on issues that, as evidenced by multiple parties, more effectively head toward positive outcomes is the better way to serve Coloradans.

As always, and as we have with the Board and staff, CANN stands ready and happy to engage Colorado legislators on this and any other issue of public health or healthcare policy. Our CEO, Jen Laws, can be reached by email at Jen@tiicann.org or by phone at 313-333-8534 and our entire team stands ready to serve the patient interests of Coloradans.

Respectfully submitted,

Sincerely,
Ranier Simons
Director of State Policy, PDABs
Community Access National Network (CANN)

On behalf of
Jen Laws
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Community Access National Network