

TESTIMONY  
PRESCRIPTION DRUG TRANSPARENCY  
Harrisburg, PA

Senate Banking & Insurance Committee

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Thank you for receiving this testimony on prescription drug price transparency.

For the record, I am Vince Phillips, lobbyist for the PA State Grange, an association that has represented rural Pennsylvanians since 1873. Many of you will know that I served as the lobbyist for the Pennsylvania Association of Health Underwriters from 1998 until retiring from that position July 1<sup>st</sup> of this year. In addition, since I came to PA in 1989, I have represented insurance agents who try to find health insurance plans that will meet people's needs at an affordable cost. As such, I have experience on this issue over time. In researching for this hearing, I ran across an item from 1994 that said that prescription drug prices were leading the charge in terms of health costs. Today, in 2017, it is still true.

Now, I represent prescription consumers, members of the PA State Grange.

The Pennsylvania State Grange welcomes this public dialogue and hopes that the outcome will be of benefit to the health consumer.

First, a general observation on pricing transparency. A study done by Harvard and USC researchers had this conclusion reported in Health Affairs magazine August 2017. It suggests that only 13-percent of Americans engage in consumerism, to seek information about their expected spending before receiving care. Just three percent had compared costs across providers before receiving care. The study also concluded that the majority of Americans believe that price shopping for health care is important but a common barrier to shopping is difficulty in obtaining price information. (*Ateev Mehrotra et al* [Mehrotra@hcp.med.harvard.edu](mailto:Mehrotra@hcp.med.harvard.edu) )

Increased use of Health Savings Accounts adds to the pressure for consumers to shop since they pay a larger deductible under H S As.

### **Obstacles to Transparency**

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I will make some general observations about the difficulties in transparency and consumerism and then key into Senate Bill 637.

**The first obstacle is that this is just plain confusing to the average consumer.** Consumer and employer education is a critical part of addressing the cost issue. Face it, consumers are confused. Talk of formularies, various tier pricing, co-pays, etc. is confusing. It is truly a maze. Sometimes, you think you have it figured out but you really don't.

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One personal example: I went to a walk-in to be treated for bronchitis. I walked out with a prescription for codeine cough syrup. At the CVS, I discovered that this particular syrup was not in the formulary and had to pay a lot more than expected. When I got home, I checked the list and found four codeine cough syrup prescriptions but not the one the doctor prescribed. I think of myself as a reasonable informed health care consumer but, ideally, I should have taken these steps.

I should have anticipated the need for prescription cough syrup before going to the walk-in. I should have checked the prescription the doctor gave me and said 'I don't want that one. I want cough syrup XYZ' after looking the formulary up on my smart phone.

Really? And that brings us to **the second obstacle – the real world does not work that way.** I was sick, went to a doctor, got a prescription, went to a drug store, and paid almost \$20 more than what I expected. When I called the insurer, they pointed me to ample paperwork I could complete to ask for a special reconsideration. Needless to say, I let it go at that. My point is that prescriptions and drug pricing is complex and interactions between insurance company, drug manufacturers, prescribing doctor and price transparency are all factors that related to my personal example.

And of course, no amount of consumerism will protect a person from a manufacturer's decision to increase the price of a monopoly product by 5,000%.

**Another obstacle is access to computers.** It is easy to forget that in this electronic age, there are people who do not use computers and who do not use smart phones. Last weekend at the PA State Grange annual meeting, a 60-ish individual asked me to get him a copy of Act 13 since we were talking about whether or not Marcellus Shale natural gas should be taxed. I offered to send him the link. He simply said that he wanted hard copy. Period. As a follow up, he did have his Internet-literate daughter email me the street address to where I should send it. Understand too that in rural areas, access to the Internet and to cell phone service remains an obstacle. That is why we have legislation such as Senate Bill 740 sponsored by Senator Aument to require utilities to continue land line telephone service. PA State Grange supports that bill.

A CBS News story on August 4, 2017 said that just three percent of people in urban areas lack access to broadband, but in rural areas, 35-percent of people have no access. That's about 22 million Americans. Pennsylvania is predominately a rural state so you see the problem. Any attempts to give consumers comparison tools are important as long as one realizes the difficulties inherent in that effort.

## **Federal Obstacles**

If the goal of legislation is to reduce drug prices, transparency is a way to achieve it, assuming that obstacles such as the ones I mentioned can be overcome. Unfortunately, part of the solution is out of the reach of Pennsylvania lawmakers.

Some say that part of the answer is to reduce the amount of money spent by drug companies on direct to consumer marketing of pharmaceutical products. Drug manufacturers know that this is an effective way to convince consumers to ask for a drug by name to "see if it is right for you." According to a Pew Charitable Trust 2013 study (*Cegedim Strategic Data, 2012 U.S. Pharmaceutical Company Promotion Spending*), \$3.1 billion is spent on direct to consumer advertising, usually via television. This strategy achieves two goals, name recognition and the willingness of doctors to give their patients a drug they requested, assuming no ill effects. Should this type of marketing be curbed?

Pennsylvania may not have jurisdiction since it was action by the Federal Government and the FDA that permitted direct to consumer marketing. Should the Federal Government reverse its decision to allow this marketing? Short of a resolution memorializing the U.S. Congress to do something, I am unsure as to what actions the General Assembly could take.

### **Senate Bill 637**

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This legislation addresses transparency more effectively than just promoting consumerism, no matter how desirable that may be. It establishes a regulatory mechanism to review drug pricing.

Senate Bill 637 makes price components a matter of record: Production costs, Research & Development costs, Clinical trial costs, marketing and advertising costs, etc. It also provides a track record, the cumulative annual history of average wholesale prices and profits.

It does carve out new ground in price oversight in that new responsibilities are placed on drug manufacturers to provide data and it creates responsibility by the government to ramp up its ability to evaluate and process the new flood of data. It is the view of the PA State Grange that the public good is served by compiling this information for regulators and consumers to use.

The original version of the bill evoked considerable opposition from drug manufacturers who resisted any determination that a price increase above twenty-percent is “unreasonable.” If I understand their position correctly, they felt that this amounted to price controls inconsistent with the free enterprise system. Our view is that the public good should also be considered.

Regardless of how that issue turns out in the legislative process turns out, Senate Bill 637 will provide a comparison tool which provides information that can be used by:

- Regulators should the actual curbing of excessive price increases remain in the bill
- Insurance companies that can include lower-priced drugs in their formularies (lower drug pricing means reduced claims costs and less pressure on insurance premiums.
- It also gives insurance companies a negotiating tool should there be an ability to compare pricing from other states that also seek transparency. Although few states have attempted this – California being the exception – Senate Bill 637 may incentivize other states to develop similar mechanisms for transparency.
- Consumer advocates and governmental entities such as the PA Department of Aging which try to educate people to be educated consumers.
- Licensed insurance agents and brokers who can advise clients as to which insurance company formularies may represent the lowest prices for drugs.

Another benefit of Senate Bill 637 is that it will result in a comprehensive list of manufacturers’ patient prescription assistance programs, and what their programs provide in the way of actual assistance. This becomes a resource to everyone, including government agencies such as the Department of Human Services, Health Department, Department of Aging, Department of Drug & Alcohol Abuse Programs, and the Insurance Department as well as consumer and advocacy groups.

The bottom line is that Senate Bill 637 is an important step in seeking transparency, something that will help consumers. Again, I thank the Senate Banking & Insurance Committee for conducting this hearing and I thank Chairman White for sponsoring Senate Bill 637.

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