May 17, 2023

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Massachusetts Biotechnology Council
700 Technology Square, 5th Floor
Cambridge, MA 02139

The Honorable James Murphy
House Chair, Joint Committee on Financial Services
State House, Rm 254
Boston, MA 02139

The Honorable Paul R. Feeney
Senate Chair, Joint Committee on Financial Services
State House, Rm 112
Boston, MA 02139

Re: HB978/SB612, An Act relative to promoting healthcare access and affordability for patients.

Via email lisa.pellegrino@mahouse.gov

Dear Chairmen Murphy and Feeney:

On behalf of MassBio and our 1,600+ members, I ask for your consideration of this written testimony in support of **House Bill 978 /Senate Bill 612, an Act Relative to Promoting Healthcare Access and Affordability for Patients** (the "Bill") that was recently heard during the Joint Committee on Financial Services public hearing on May 16th.

MassBio represents a wide range of member organizations, including biotech companies, teaching hospitals, and academic institutions, the majority of which are directly engaged in cutting-edge research, development, and manufacturing of innovative products that improve the lives of sick people around the world. Below are among the reasons that MassBio urges favorable action by the Committee on the Bill.

Sections 1 & 2

When patients think of insurance coverage, they typically think of reliable access to medications that can help them treat and manage a medical condition. However, insurance companies often create barriers to this access by requiring patients to pay excessive out-of-pocket costs at the pharmacy counter. These out-of-pocket costs, in the form of co-payments and co-insurance, when set unreasonably high, can create barriers to access for patients in need of medications. The Bill would provide two meaningful solutions to alleviate these problems at Sections 1 and 2.

First, Section 1 of the Bill would permanently establish the ability under current law for biopharmaceutical manufacturers to offer co-pay assistance. Prior to 2012, when the current law was enacted, such programs were illegal in Massachusetts. Although the 2012 law permitted co-pay assistance for certain drug products without generic equivalents, it also included a two-year sunset provision, which the Legislature has since been asked to extend numerous times. The sunset requirement has required the Legislature to debate the topic of co-pay assistance on a bi-annual even sometimes annual basis since 2012 – each time causing uncertainly for patients as to the future availability of these critical programs. By passing the Bill, the Legislature would eliminate the sunset and give certainty to patients that they will be able to access co-pay assistance to help them afford rising out-of-pocket costs for necessary medications.

Of note, in 2020, HPC released a study on the impact of co-pay assistance programs on pharmaceutical spending and consumer access to prescription drugs in Massachusetts. The conclusion in the study supports the elimination

of the sunset and the permanent establishment of the law: “Eliminating the availability of coupons at this time – without substantial protections for patient affordability – would likely create serious challenges for many patients in the Commonwealth.”

Section 2 of the Bill would ensure that patients directly benefit from the increasing amount of rebates paid by biopharmaceutical manufacturers to health insurers and PBMs. It would do this by requiring health plans to pass at least 80% of rebates received down to patients in the form of lower payments at the pharmacy counter. The opportunity to lower patient out-of-pocket costs at the pharmacy counter is significant. According to the most recent CHIA Annual Report, total rebates paid by manufacturers to all payers in the Commonwealth in 2021 totaled $3.1 billion – a growth of 23.8% over the amount of rebates paid the previous year. What is clear is that patients should be the first to benefit from this rapidly growing amount of rebate dollars, and Section 2 of the Bill is an important step in making that happen.

Section 3

Finally, we note that a number of transformative therapies, including cell and gene therapies (CGTs), have been approved by FDA in recent years, and many more are under development. CGTs can offer groundbreaking treatment options for patients with conditions that have limited or no treatments available. However, these therapies, many of which have up-front costs that reflect their potentially durable nature and complex delivery mechanisms, can present challenges related to payment and access for Medicaid agencies. Section 3 of the Bill addresses these challenges by enlisting a report by the HPC and the Secretary of EOHHS, in consultation with other stakeholders, on the future of CGTs in Massachusetts, including any barriers to access for MassHealth beneficiaries and vulnerable populations. Among the components of the report would be a projection of the number of CGTs expected to come to market over the next decade, an assessment of whether MassHealth’s current payment methodologies would ensure equitable access to those therapies for MassHealth patients during that period, and proposals for corrective policy solutions to address any identified barriers to access.

Thank you for the opportunity to submit testimony on these critical issues. MassBio is committed to being at the table offering meaningful and impactful solutions to ensure access and affordability for the prescription drugs that patients need to be and stay healthy. We look forward to working with the Chairs and the Committee on these critical issues.

Sincerely,

Kendalle Burlin O’Connell
CEO & President