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To: The Honorable Shane E. Pendergrass
Chair, Health and Government Operations Committee

From: Patricia F. O'Connor, Health Education and Advocacy Unit

Re: House Bill 170 (Cancer Drugs – Physician Dispensing and Coverage):
Information

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) submits information relevant to House Bill 170 which would allow physicians to dispense oral cancer drugs by mail order to their patients or patients of their practice group. A patient-centric focus and evidence-based decision making about these issues are essential to protecting consumers who require oncology care in Maryland.¹

Impartial physician judgment is an important consumer protection

Consumers rely on the impartial judgment of physicians to order medically appropriate and necessary treatment for them. In an ethics opinion, the American Medical Association (AMA) stated: "The practice of medicine, and its embodiment in the clinical encounter between a patient and a physician, is fundamentally a moral activity that arises from the imperative to care for patients and to alleviate suffering. The relationship between a patient and a physician is based on trust, which gives rise to physicians' ethical responsibility to place patients' welfare above the physician's own

¹ A 2019 article described market dynamics at odds with a patient-centric focus: "Cancer treatment has never been cheap. But the cost of oncology drugs in the U.S. has become jaw-dropping, and where there are big dollars, business interests compete. And in the world of oncology, that "battle ground" is between cancer doctors and pharmacy benefit managers."
<https://www.marketplace.org/2019/07/29/the-battle-over-who-gets-to-sell-pills-for-cancer-treatment/>

self-interest or obligations to others[.]” Code of Medical Ethics Opinion 1.1.1, <https://www.ama-assn.org/delivering-care/ethics/patient-physician-relationships>.

A disciplinary panel of the Maryland Board of Physicians (“the Board”) may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee is found guilty of immoral or unprofessional conduct in the practice of medicine. Md. Code Ann., Health Occ. § 14-404(a)(3)(i)-(ii). The Board and its disciplinary panels may consider the AMA’s Principles of Ethics, but the principles are not binding on the Board or the disciplinary panels. COMAR 10.32.02.16 (Ethics). In an ethics opinion specifically addressing drug prescriptions, the AMA stated: “In keeping with physicians’ ethical responsibility to hold the patient’s interests as paramount, in their role as prescribers and dispensers of drugs and devices, physicians should [p]rescribe drugs, devices, and other treatments based solely on medical considerations, patient need, and reasonable expectations of effectiveness for the particular patient [and a]void direct or indirect influence of financial interests on prescribing decisions[.]” Code of Medical Ethics Opinion 9.6.6, <https://www.ama-assn.org/delivering-care/ethics/prescribing-dispensing-drugs-devices>

Cancer treatment decisions require impartial judgment about all options

The bill would allow physician mail order dispensing of oral cancer drugs. However, in addition to surgery and radiation therapy, oncology treatment options typically include periods of watchful waiting; infusions of standard chemotherapeutic agents with long established risks and benefits; and oral cancer drugs, including novel or newer oral cancer drugs with less established risk/benefit profiles. At stake are the potential for a cure, as well as the patient’s quality of life and extension of life, when a cure is not possible. Cancer patients understandably report being overwhelmed by treatment decisions and often depend on their oncologists’ judgments about the best plan of treatment.

An *Oncology* journal article entitled “Decision Making Criteria in Oncology,” stated: “Due to a variety of cancers, healthcare systems, treatment options, and individual factors, a plethora of different criteria are being implemented in routine clinical decision making in oncology. This has been demonstrated in decision making analyses of clinical experts. For example, treatment algorithms for the first-line systemic therapy for metastatic clear cell renal cell carcinoma from 11 international experts were analyzed and up to 6 different treatment options were identified for the same specific presentation of the disease. ... When oncologists and patients are confronted with multiple decision options, their choice is influenced by several factors extending beyond rational or analytical decision making models.” <https://www.karger.com/Article/FullText/492272> (emphasis added).

Legislators cannot verify competing claims about drug costs without full data

Requiring full data transparency about oral oncology drug costs and profits from oncologists and PBMs would be an important first step in ensuring affordability and accessibility for Maryland consumers without undue risk of unintended consequences.

In closing, we urge the General Assembly to act with caution to ensure that allowing physician mail order dispensing of oral cancer drugs will not affect the medical advice that oncology patients receive. We thank the Committee for considering this information.

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