STATEMENT

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In Opposition to Pennsylvania Senate Bill 637 (SB 637)

Position: The Pharmaceutical Research and Manufacturers of America (PhRMA), respectfully opposes SB 637, legislation that would require prescription drug manufacturers to report proprietary information. The transparency provisions in SB 637 will not help patients and could threaten access to needed prescription medications and the innovation of future treatments.

Discussions about the cost and affordability of medicines are important. No patient should have to worry about whether they can afford the health care they need, however; the amendments proposed by the bill sponsor still have provisions that would be harmful to innovative biopharmaceutical companies. While PhRMA participated in two stakeholder meetings with the bill sponsor, these modifications do nothing to address the concerns we raised including the disclosure of proprietary data and the harmful impact this could have on costs and innovation.

Proposals for disruptive data disclosure requirements are anticompetitive, would produce misleading information, and could lead to increased costs.

Much of the information that SB 637 would require to be disclosed is considered protected, confidential corporate information; and this information falls under federal protections for trade secrets and includes information that could substantially impact market competition. Requiring companies to disclose confidential commercial information and trade secrets about drugs under development would potentially harm innovation and decrease incentives for long-term investments in biomedical research to the detriment of patients, society, and the economy.

Companies already report extensive information on costs, sales, clinical trials, and total research and development (R&D) expenditures. Neither HHS nor FDA is permitted to disclose this type of information, even if requested.

SB 637 focuses on the costs of approved medicines and ignores a large portion of drug discovery and development. Requiring information on production and distribution costs for individual products also may not be feasible, as R&D is a long-term process and manufacturers pursue research efforts that include many failures before the development of one FDA approved drug. Accounting for these related discovery costs could be nearly impossible. Additionally, the collection of requested information could result in misleading data or assumptions because it does not take into account the cost of failures.

The manufacturing reporting requirements in the proposed bill would not help patients and would likely drive up administrative costs and potentially disclose proprietary information.

The intent of the legislation is misguided. If the intent is to help patients better understand drugs costs, the manufacturing reporting requirements will in no way serve that educational purpose. The manufacturing reporting section of this legislation does nothing to address how much consumers ultimately pay for a medicine; an amount determined by insurers not biopharmaceutical companies.

Recent data show that insurers are increasingly requiring patients to pay exorbitant out-of-pocket costs to access the medicines they need, far more than other health care services covered by an enrollee's health

plan. This is contrary to the purpose of insurance—to spread the costs of health care utilization so that patients can access affordable needed care, including medicines.

A recent IMS report found the number of plans with a deductible for medicines doubled from 2012 to 2015. That means a patient who previously could go to the pharmacy on January 1 and pay co-pay for a medicine, instead is forced to meet a deductible before insurance covers the medicine. In 2013, Americans spent more than $200 billion to support administrative costs of insurance including sales commissions, dividends, and other health plan costs.[1] Today, a patient pays only about 5% for out-of-pocket hospital costs but 20% or more for their medicines. Additionally, insurers are increasing utilization management techniques to aggressively restrict a patient's use of medicine.

The legislation does not account for the value provided by innovative therapies.

It is important to remember that advances in medicine help control health care spending. Greater patient access to prescription medicines means fewer doctor visits and hospital stays and a decrease in costly medical procedures, all of which translate into lower health care costs overall. Furthermore, medicines are the *only* part of the health care system where costs decrease over time. When brand name medicines face brand competition, or when they lose their patent protection and generic drugs become available, prices drop, often significantly. Today, nationally nearly 90% of all medicines dispensed in the United States are generic and cost pennies on the dollar.

The biopharmaceutical industry is committed to working with Pennsylvania lawmakers, patients, doctors, and other health care stakeholders to pursue policies that promote innovation and help ensure consumers have access to needed medicines. However, SB 637 is not the way to accomplish this important goal and, therefore, PhRMA respectfully urges lawmakers to oppose this bill.

[1] PhRMA analysis of CMS data, available at http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/Tables.zip