



**TESTIMONY IN SUPPORT OF H.945, AN ACT TO ENSURE PRESCRIPTION DRUG
COST TRANSPARENCY AND AFFORDABILITY
BEFORE THE JOINT COMMITTEE ON FINANCIAL SERVICES
May 16, 2023**

The Massachusetts Medical Society is a professional association of over 25,000 physicians, residents, and medical students across all clinical disciplines, organizations, and practice settings. The Medical Society is committed to advocating on behalf of patients, to give them a better health care system, and on behalf of physicians, to help them provide the best care possible. In striving for health equity and optimal medical care, the Medical Society passionately endorses legislation that improves affordability and accessibility of health care in the Commonwealth. **For that reason, the Medical Society wishes to be recorded in strong support of H.945, *An Act to ensure prescription drug cost transparency and affordability***, which offers a comprehensive and meaningful approach to ameliorating issues of high and rising costs of prescription drugs.

H.945 seeks to make prescription drugs more affordable, and therefore more available, to patients who need them. The [2023 CHIA Annual Report](#) found that pharmacy spending was the fastest growing service category between 2019-2021, increasing at an annualized rate of 7.5 percent net of rebates, compared to overall health care expenditures, which grew at an annualized rate of 3.2 percent.¹ This increased cost growth not only exceeds the health care cost growth benchmark set by the Health Policy Commission (HPC), but it has done so for several years, without signs of stopping and without an ability by the state to evaluate and assess the drivers of this growth. The resulting prescription drug affordability challenges that patients often face lead to extremely difficult and unjust decisions having to be made. A [2019 MassINC survey](#) found that one in four Massachusetts residents did not fill a prescription because of cost, leading to worsening of their condition.² Twenty-four percent of those who continued to pay for

¹ Annual report on the performance of the Massachusetts Health Care System (March 2023).
<https://www.chiamass.gov/annual-report>

² Princeton Research Associates. WBUR Massachusetts Poll.
http://www.princetonresearchassociates.com/5_19_WBUR-Statewide.pdf

their medications reported needing to cut back in other areas in order to afford their prescription drugs.³ These decisions meant struggling to pay for things such as food, rent, and utilities, which we also know are important to health. This proposed legislation also seeks to make pharmaceutical costs more transparent, which works toward ensuring fairer pricing, leading to cost savings for patients and for the entire health care system. This comprehensive approach to improving drug affordability and oversight will allow the Commonwealth to better understand what is driving prescription drug prices upward, and it will ensure that patients are made aware of their lowest cost options for the medications they are prescribed, improving access to more affordable medications, and thereby leading to increased medication compliance.

This legislation utilizes several mechanisms to achieve those ends. H.945 offers provisions aimed at increasing transparency of pharmaceutical drug pricing and pharmacy benefit managers (PBMs), to shine light on areas with a history of data opacity in the pharmaceutical manufacturing and sales continuum. The HPC's [2018 Cost Trends Report](#) similarly recommended the Commonwealth increase state oversight of PBM pricing and take steps to limit the practice of "spread pricing" to ensure that public dollars are spent efficiently at all points of the drug distribution chains.⁴ PBMs have significant negotiating power over drug prices, but their pricing practices are opaque. H.945 would require PBMs to be licensed and disclose information on pricing, rebates, and reimbursement to pharmacies, mirroring laws in numerous other states that have successfully resulted in significant health care cost savings and improved patient access to medications.⁵ Greater transparency will help ensure that PBMs are negotiating fair prices and passing on savings to consumers. For many years, Massachusetts has benefited from unprecedented levels of transparency for health insurers, hospitals, and physicians through provisions of Chapter 224, leading to dramatic cost growth containment. This proposed legislation would provide analogous levels of transparency to one area of the market that has been driving significant cost increases in the Commonwealth over the past several years: pharmaceutical spending. This transparency would allow the state to better understand and address the causes behind drug price inflation.

³ Princeton Research Associates. WBUR Massachusetts Poll.

http://www.princetonresearchassociates.com/5_19_WBUR-Statewide.pdf

⁴ Health Policy Commission. 2018 Health Care Cost Trends. <https://www.mass.gov/doc/2018-report-on-health-care-cost-trends>

⁵⁵ State Laws Passed to Lower Prescription Drug Costs: 2017–2023. <https://nashp.org/state-drug-pricing-laws-2017-2023/>

H.945 would ensure that information about the price of prescription drugs is made readily available to patients at the pharmacy counter. The Patient Right to Know Drug Prices Act, signed into federal law in 2018, prohibits the use of pharmacy “gag clauses,” which previously prevented pharmacists from sharing information with patients about lower-cost drug options. However, pharmacists in Massachusetts still do not have an affirmative duty to disclose to consumers when less expensive options are available, which can lead to patients paying more than necessary for their medications. H.945 remedies this issue by requiring pharmacists to inform patients if purchasing a prescription at the retail price without insurance would be cheaper than the cost-sharing amount when using insurance. This legislation will empower patients with increased access to information about lower-cost drug options, leading to better health outcomes and lower overall health care costs.

Pharmaceutical companies play a critical role in the health care system, and it is important to hold them accountable for prices or growth on prescription drugs that exceed an alarming threshold. Drug costs need serious action, and this proposal creates a balanced, meaningful intervention for the most concerning cases. H.945 would create accountability mechanisms to lower costs and prevent excessive and unwarranted price increases for prescription drugs, which do not exist under the current pricing system. This bill would require CHIA to gather data on the most expensive drugs and drugs with the steepest price increases, and then refer certain drugs to the HPC for further review. The HPC would then be authorized to conduct an affordability review and a proposed value for the referred drug. If the HPC determines the price is unreasonable or excessive relative to their proposed value, it is required to issue recommendations to make the drug more affordable for patients. These measures will help ensure patients’ access to medications, promote fair competition, and control health care costs.

This legislation will give Massachusetts transparency and data tools to learn how best to mitigate these costs and help our patients access the best health care for them. Specifically, communities of color and low-income communities are amongst the most negatively impacted by the constantly increasing prices of prescription drugs. Chronic conditions, such as diabetes, hypertension, asthma, and cardiovascular conditions, disproportionately affect people of color. Each of these conditions require continual medication to manage and treat effectively; however, the cost of these medications is often prohibitive for many patients. When patients cannot afford these medications, they are at higher risk for severe complications. Accordingly, if we are serious about working to improve health equity, we must take steps toward improving prescription drug affordability in the Commonwealth.

Thank you for your consideration of our comments and for your important work on this pressing topic. The Medical Society respectfully urges a favorable report on **H.945, *An Act to ensure prescription drug cost transparency and affordability.***