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To: The Honorable Members of the House Insurance Committee

From: Samuel R. Marshall

Re: House Bill 161 – needed transparency in the cost of prescription drugs

The escalating cost of prescription drugs is a problem for government programs, insurers and, most important, the individual patients who depend on these drugs.

The question is what can be done. There's a lot of bipartisan interest across the country. We're pleased to see that in Pennsylvania, there is also bipartisan action in the form of House Bill 161. We support this bill as a practical, market-based reform that will help hold down cost but not the availability or development of expensive but invaluable prescription drugs.

The bill requires that drug companies disclose the costs and profits of their drugs, with the costs including research and development along with marketing and advertising. In a word, it requires "transparency."

There are a number of things government can do to address high costs of any product. You can, as you do with health insurance, spur competition or regulate rates. You can also mandate that consumers buy more of that product, although whatever merits that may have, cost containment is never one of them.

This bill shows a new approach: You can let market forces do their thing by giving the market meaningful information about the underlying costs of the product. EpiPen is a good example. The attention in the market – the public's awareness of EpiPen's costs and profits - has forced the drug company to lower its cost.

Your efforts to curb opioid abuse also show how this bill's transparency requisites would help. Everyone would benefit from learning about the money spent marketing opioids and the profits some drug companies have made peddling these drugs.

Closer to home, you are considering a bill that mandates coverage of "abuse-deterrent" opioids. Transparency would help here, too. I am an agnostic on ADOs: I think mandating coverage of them ignores the real problem -- we prescribe too many opioids. But transparency would enable insurers and consumers to hold down their cost and shed light on why they are so much more expensive than standard opioids.

We'll offer the obvious caveat about transparency: It only works when the parties given the information actually want it and will use it in negotiating prices. We don't want disclosure to foster unmerited mistrust or unfounded populist opprobrium. This isn't about shaming anybody, or about producing data that sounds good but isn't used.

The information disclosed here is information those of us who negotiate with the drug companies need to better and more equally negotiate. And for some perspective, it doesn't subject drug companies to the rate regulation or market competition we face.

Please understand the challenges we already face in our negotiations: We're sitting across from a drug company that has a quasi-monopoly of a drug that is absolutely essential but, from a patient's perspective, is largely paid by someone else. So we're in a tough bargaining position from the outset. This bill gives us a little better footing, without disrupting our policyholders' access to these drugs.

This issue gets portrayed as insurers versus Big Pharma, and that is how we line up in hearings and lobbying efforts. Fortunately, that's not entirely accurate: Insurers and drug companies, along with PBMs, pharmacists and providers, understand consumers need prescription drugs, and we can and should work together to get needed drugs on the market at affordable rates. Of course, that works best when all sides put their cards on the table -- when we are transparent with each other and with consumers.

The problem of expensive prescription drugs isn't going away, and we're open to any and all ideas to address it. We are confident of the fairness and value of the transparency in House Bill 161, and we hope it gets enacted.