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OFFICE OF THE ATTORNEY GENERAL

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March 6, 2019

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

From: Hannibal G. Williams II Kemerer  
Chief Counsel for Legislative Affairs, Office of the Attorney General

Re: House Bill 768 - Health - Prescription Drug Affordability Board (SUPPORT)

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The Office of the Attorney General submits the following written testimony in support of House Bill 768. The bill establishes a five-member Prescription Drug Affordability Board (“the Board”) for the purpose of protecting State residents, State and local governments, commercial health plans, health care providers, pharmacies licensed in the State, and other stakeholders within the health care system from excessive costs of prescription drugs. It also creates a twenty-one member Prescription Drug Affordability Stakeholder Council (the “Council”) to provide input to the Board on its decisions.

We strongly support this regulatory effort because the lives and health of Marylanders, and people all over the country, are threatened when the prices of medicine upon which they depend to survive and thrive are raised beyond their ability to pay. According to the February 2019 Kaiser Family Foundation (KFF) Health Tracking Poll on prescription drugs:

Among those currently taking prescription drugs, one-fourth of adults (24 percent) and seniors (23 percent) say it is difficult to afford their prescription drugs including about one in ten (overall and among seniors) saying it is “very difficult.” Certain groups are much more likely to report difficulty affording medication, including those who are spending \$100 or more a month on their prescriptions (58 percent), those who report being in fair or poor health (49 percent), those who take four or more prescription drugs (35 percent), and those with incomes less than \$40,000 annually (35 percent). In addition, three in ten of all adults (29 percent) report not taking their medicines as prescribed at some point in the past

year because of the cost and one in ten (8 percent) say their condition got worse as a result of not taking their prescription as recommended.<sup>1</sup>

Establishing the Board to monitor and oversee prescription drug prices is an important step in helping consumers. Fortunately the proposed board is not an untested idea in Maryland. It is modeled on existing regulatory bodies that review and set prices for critical products like electricity, water, and hospital rates. This legislation would treat prescription drugs in similar fashion and would help people across the state by improving prescription drug affordability.

We believe it is urgent to act now, given that 8 in 10 (79%) respondents to the KFF February tracking poll said the cost of prescription drugs is “unreasonable,” an indicator of serious consumer dissatisfaction with current circumstances,<sup>2</sup> and that the Centers for Medicare and Medicaid Services (CMS) project prescription drug spending to grow an average of 6.1 percent per year for 2020 through 2027.<sup>3</sup>

We thank the sponsor for this legislation which is so important to Maryland consumers across the board. For these reasons, the Office of the Attorney General requests that this Committee return a favorable report on this bill.

cc: Members of the Health and Government Operations Committee

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<sup>1</sup> Ashley Kirzinger et al., *KFF Health Tracking Poll – February 2019: Prescription Drugs*, Henry J. Kaiser Family Foundation (Mar. 1, 2019), <https://www.kff.org/health-costs/poll-finding/kff-health-tracking-poll-february-2019-prescription-drugs/>.

<sup>2</sup> *Id.*

<sup>3</sup> CTR. FOR MEDICARE & MEDICAID SERVICES, NATIONAL HEALTH EXPENDITURE PROJECTIONS 2019-2027 3 (2018), <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/ForecastSummary.pdf>.