one in four
chronic health

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April 15, 2015

Chair Monnes Anderson,
Members of the Senate Committee on Heath Care
Oregon State Legislature

Re: Opposition to SB 838

Madam Chair, Members of the Committee:

I am writing to share our concerns with SB 838, and the Dash 1 amendment, relating to the Health Evidence Review Commission (HERC), the creation of a Task Force and a prioritized list of prescription drugs.

One in Four Chronic Health understands the impact of prescription drug costs on patients, and insurers, including coordinated care organizations (CCO) and the Oregon Health Authority (OHA). It is our understanding that the role of determining the safety, efficacy and effectiveness of prescription drugs is the responsibility of the Oregon Pharmacy & Therapeutics Committee:

> *Measure and assess the utilization, quality, medical appropriateness, and cost of prescribed medication through evaluation of claims data.*
> *Develop policy recommendations in relation to DUR.*
> *Maintain the Oregon Preferred Drug List.*[1]

We are also very concerned about the proposed membership of the Task Force. With half the membership being given to CCO and insurers, and no specific language to include health care providers (physicians, nurses, physician assistants, pharmacists) we fail to understand how sound science based medical decisions can be made on issues specific to patient care.

We are also concerned that there is no specific language to include patients, nor community based organizations who work on their behalf. This effectively stifles the voice of patients, and their advocates from the discussion about their own care.

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[1] http://pharmacy.oregonstate.edu/drug-policy/oregon-pharmacy-therapeutics-committee/about-committee

We oppose the creation of two lists as described in Section I:

> 3) The commission shall develop and maintain [a list] two lists of health services. One list shall exclude prescription drugs and one list shall be solely composed of the prescription drugs in the Practitioner-Managed Prescription Drug Plan. Each list of services shall be ranked by priority, from the most important to the least important, representing the comparative benefits of each service to the population to be served.[2]

Healthcare is ever evolving and cannot be practiced, or administered, by stagnant lists that restrict, or remove, treatment options. We are also concerned about the medical ethics of such lists, and the ability of patients to access drugs on the excluded list. Will there be a prior authorization procedure or opportunity for providers and patients to seek exemptions? For example if a specific preferred drug is ineffective or the patient has failed therapy.

Finally we are concerned that such lists are not only contrary to the goals of the Triple Aim, but also to Centers for Medicaid and Medicare Services (CMS) laws regarding patient access and potential discrimination.

The recent ruling in February by the U.S. Department of Health and Human Services addresses potential discrimination in formulary design:

> *Benefits Discrimination: Existing rules provide that "an issuer does not provide essential health benefits if its benefit design, or the implementation of its benefit design, discriminates based on an individual's age, expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions." We remind issuers of specific practices may be considered discriminatory, including restricting services based on age when the service may be appropriate for all ages, and placing most or all drugs for a specific condition on a high cost-sharing tier. Our intention is to make plans aware of impermissible benefit designs. We review for these practices when we certify QHPs, and encourage states to do the same.*[3]

Thank you for the opportunity to offer testimony on this issue. We are very willing to continue these conversations around access and the cost of medication. Please feel free to contact me at BJ@1-in-4.org.

Regards,

BJ Cavnor
Executive Director

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[2] https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB838/Introduced

[3] http://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2015-Fact-sheets-items/2015-02-20.html