



**Testimony of New Jersey Appleseed Public Interest Law Center
with respect to A-2418 (Prescription Drug Affordability Board)
Before the Assembly Financial Institutions and Insurance Committee
(June 2, 2021)**

Chairman McKeon, Vice-Chair Lampitt and members of the Committee:

Thank you for this opportunity to present testimony to the Committee on this significant bill seeking to regulate the prescription drug market for the first time. I submit this testimony to complement my written testimony submitted during the informational hearing held on May 14, 2021, which included a FAQ informational sheet that answered many of the questions raised about the operation and legal status of a Prescription Drug Affordability Board (“PDAB”). See https://drive.google.com/file/d/10Pq0545cftMB8JVuY63FaBQP4_Y_ajyF/view?usp=sharing

My name is Renée Steinhagen. I am the Executive Director of New Jersey Appleseed Public Interest Law Center (“NJA”), a nonprofit, nonpartisan legal advocacy center based in Newark that has been active in health care reform issues since its inception in 1998. We are a founding member of the New Jersey for Healthcare Coalition, which has been working to bring guaranteed, high-quality, affordable health care to all New Jersey resident, as well as the NJ Affordable Drugs coalition, which was organized in the Fall of 2019. As part of both coalitions, NJA assists coalition members primarily with respect to strategy, policy and legal analysis.

The establishment of a PDAB is a welcome regulatory concept. 56% of New Jersey residents surveyed in the Healthcare Value Hub at Altarum July 2020 Survey believed that government should work on addressing high health care costs, including prescription drugs; 72% of those surveyed believed that health care costs are so high because drug companies charge too much money; and 88%, across party lines favored the establishment of PDABs. Accordingly, a PDAB is good step forward that indicates to consumers that New Jersey legislators are acting on their behalf.

New Jersey, like other U.S. states, has the authority to regulate health care insurers and determine maximum payment levels for healthcare and other **public goods and services in markets with little or no market competition**. Consistent with such authority, the PDAB would build on various regulatory precedents for drugs that have had only a few suppliers, as well as, more generally, the rate-setting conduct of the Board of Public Utilities (“BPU”). New Jersey sets consumer rates for public utilities such as electricity and water because they are important to the public’s well-being and controlled by just a few companies. Similar

New Jersey Appleseed
Public Interest Law Center of New Jersey
50 Park Place, Suite 1025
Newark, New Jersey 07102

Phone: 973.735.0523 Fax: 973-710-4653
Email: renee@njappleseed.org
Website: www.njappleseed.org

considerations are applicable to certain prescription drugs, which people need to maintain their health.

Specifically, as set forth in A-2418, the PDAB would review certain high-cost drugs that create “affordability challenges” for the State health care system as well as high out-of-pocket expenses for patients. Because drug costs involve many complicated issues and affect numerous stakeholders, the PDAB constitutes an appropriate mechanism to bring all the stakeholders together and increase procedural and substantive transparency regarding drug prices.

Let me be clear, this bill does not authorize the PDAB to set an upper payment limit, permit importation of any specific drug or implement any other regulatory policy. It is only after the PDAB conducts certain cost reviews, issues several different reports, including a report that would evaluate the pros and cons of taking any one policy, and this Legislature reviews those reports/recommendations and acts again, that the PDAB may have the authority to regulate any specific drug/or permit importation of those drugs (in accordance with the National Academy for State Health Policy’s (NASHP) model bill).

On the other hand, (let me also be clear) although we in the consumer advocacy community believe that the ability to set upper price limits or permit importation is certain to lower the overall costs of prescription drugs for all, with little or no adverse consequences for consumers, we support this bill as a necessary step to get us to that end. Furthermore, we support the several amendments introduced by the Chairman during the informational hearing that sought to reconcile the PDAB with New Jersey administrative law and practice, and the newly introduced amendment that would require the Legislature to act within 90 days after receiving the PDAB’s recommendations. The Committee must take all steps necessary to ensure that the efforts of the PDAB do not come to naught as a result of legislative inaction, and that the PDAB continues to exist and address the problem of excessive prescription drug prices even if the Legislature rejects any or all of its initial policy recommendations.

Thank you for your consideration.

Respectfully submitted,

/s/Renée Steinhagen
Renée Steinhagen