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The Honorable Gretchen Whitmer
Governor of Michigan
P.O. Box 30013
Lansing, MI 48909

RE: Veto Section 1763 in SB 878

Dear Governor Whitmer:

On behalf of the Biotechnology Innovation Organization (BIO) and the Michigan Biosciences Industry Association (MichBio), we respectfully request that you exercise your line-item veto authority to remove Section 1763 from the FY 2026-27 Department of Health and Human Services budget in SB 878.

BIO is the world's largest biotechnology advocacy organization, representing companies, academic institutions, state biotechnology centers, and related organizations across the United States and in more than 30 countries. BIO members are developing innovative therapies that improve and save the lives of patients living with cancer, rare diseases, neurological disorders, autoimmune conditions, and many other serious illnesses.

As you well know, MichBio is Michigan's statewide biosciences industry association, representing more than 250 members across the biopharmaceutical, medical device, diagnostics, health technology, contract research and manufacturing, distribution, and research sectors. MichBio advocates for policies that foster biomedical innovation, improve patient access to lifesaving therapies, strengthen Michigan's life sciences economy, and support the continued growth of the state's innovation ecosystem.

While BIO and MichBio appreciate the Legislature's efforts to ensure the responsible stewardship of Medicaid resources, Section 1763 raises significant concerns regarding patient access, implementation, and the treatment of confidential pricing information.

Section 1763 requires the Medicaid Pharmacy and Therapeutics (P&T) Committee or Drug Utilization Review (DUR) Board to conduct a documented review of a drug's net cost and determine that a drug is both clinically appropriate and cost effective before recommending its inclusion on Michigan's Medicaid Preferred Drug List (PDL).

BIO and MichBio respectfully request that this provision be vetoed for several reasons.

First, the provision creates an additional hurdle for placement on the Preferred Drug List that could delay patient access to medically necessary therapies. Patients with rare diseases, complex chronic conditions, and other serious illnesses often have limited treatment options, and additional evidentiary requirements may slow access to innovative medicines.

From Michigan's perspective, policies that create uncertainty around patient access and reimbursement can also undermine the state's growing biosciences sector. Michigan is home to innovative biotechnology companies developing treatments for cancer, rare diseases, neurological disorders, and other serious conditions. These companies depend upon a predictable policy environment that supports innovation while ensuring patients have timely access to new therapies.

Second, Section 1763 introduces new "cost effective" and "net cost" requirements without defining either term or establishing an implementation framework. The provision provides no methodology for evaluating cost effectiveness, no guidance regarding evidentiary standards, and no direction regarding how these analyses should be incorporated into existing P&T Committee or DUR Board deliberations. This uncertainty creates implementation challenges for the Department and stakeholders alike.

Third, the vague "net cost" requirements raise significant concerns regarding the treatment of confidential pricing information, which may result in the disclosure of proprietary information protected under the Defend Trade Secrets Act[1] (DTSA) and Michigan Uniform Trade Secrets Act[2] (UTSA). Determining a drug's net cost necessarily relies on confidential supplemental Medicaid rebate agreements and other proprietary contracting arrangements between manufacturers and the State. Without clear limits on the disclosure of these confidential rebate amounts and discounts, Section 1763 would compel the disclosure of commercially sensitive information, undermining the safeguards afforded in the DTSA and Michigan UTSA. Section 1763 does not explain how this information will be calculated, reviewed, discussed, or protected throughout the formulary review process.

Finally, while financial stewardship is an important component of Medicaid program administration, clinical decision-making should remain grounded in robust scientific evidence and individualized patient needs. Cost-effectiveness methodologies vary considerably depending on the assumptions and models employed and may fail to fully recognize the long-term clinical value of innovative therapies, particularly treatments for rare diseases and other conditions affecting small patient populations. Furthermore, cost-effectiveness methodologies are often based on the use of quality- adjusted life years (QALYs). The federal government recognizes that QALYs are inherently discriminatory to patients with chronic disease and disability, informed by reports by the National Council on Disability

[1] 18 U.S.C. §§ 1836 et seq

[2] MCL 445.1901 et seq.

(NCD), which "found sufficient evidence of QALYs being discriminatory (or potentially discriminatory) to warrant concern."[3]

BIO and MichBio remain committed to working collaboratively with your Administration, the Michigan Department of Health and Human Services, and other stakeholders to promote a Medicaid program that supports both fiscal responsibility and timely patient access to innovative therapies.

For these reasons, we respectfully request that you exercise your constitutional line-item veto authority to remove Section 1763 from the FY 2026-27 appropriations bill.

Thank you for your consideration. Please do not hesitate to contact us if BIO can provide any additional information.

Sincerely,

Patrick J. Plues
Senior Vice President, State Government Affairs
BIO

Stephen Rapundalo, PhD
President and CEO
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[3] National Council on Disability. (2019, November 6). *Quality-Adjusted Life Years and the devaluation of life with disability*. Bioethics and Disability Report Series.