

June 8, 2018

The Honorable Kevin Cahill
Chairman, Health, Long-Term Care & Health Retirement Issues Committee
National Council of Insurance Legislators
2317 Route 34, Suite 2B
Manasquan, NJ 08736
Via email to William Melofchik, NCOIL Legislative Director

RE: NCOIL Draft Pharmacy Benefits Manager Licensure and Regulation Model Act

Dear Chairman Cahill:

The Pharmaceutical Research and Manufacturers of America (PhRMA) supports the draft Pharmacy Benefits Manager Licensure and Registration Model Act that would place comprehensive licensure and oversight of PBMs operating in states, which could lead to better patient protections.

Under the draft model act, a PBM would be required to provide an adequate and accessible PBM network for health benefits plans, and require an appropriate number of network pharmacies to have a physical location in the service area versus allowing mail order to count as an adequate network. It would also allow for reimbursement of valuable pharmacy services that help the patients achieve improved health outcomes and ultimately lowers costs for the patients, plans, and the state. A state's Insurance Commissioner would have discretion under this model to enact additional protections and parameters around the network adequacy requirements, if necessary.

Included in the draft model act provisions are requirements that pharmacists be allowed to share important information with patients or government entities, removing the current "gag clause" that prohibits pharmacists from doing so currently. Patients deserve to have truthful and accurate information, and this draft model act would provide patients with important decision-making information at the point of sale. In addition, the draft model act would prohibit PBMs from using untrue or misleading solicitations.

Newly released PBM data show medicine spending is growing at the slowest rate in years. After accounting for discounts and rebates negotiated with biopharmaceutical companies, PBMs report that medicine spending growth in 2017 was in the low single digits or slightly negative. Express Scripts reported spending on medicines grew just 1.5%, which is the smallest increase since they tracked spending data 25 years ago.¹ This information is important because it begs

¹ "Express Scripts 2017 Drug Trend Report." Express Scripts. <http://lab.express-scripts.com/lab/drug-trend-report>. Accessed June 7, 2018.

the question as to where savings go. The Berkley Research Group found brand biopharmaceuticals retained just 63 percent of the list price for brand medicines and the rest is rebated back to PBMs, insurers and others in the supply chain.² These discounts and rebates create a savings of more than \$193M in manufacturer rebates that is not always shared with patients who face rising out-of-pocket costs when they go to the pharmacy to get their medicines filled. This legislation is a good start to ensure that state insurance regulators can provide appropriate oversight over PBMs and that patients are not able to share in the savings generated from manufacturer rebates and discounts.

For these reasons, PhRMA strongly encourages NCOIL to adopt the draft Pharmacy Benefits Manager Licensure and Regulations Model Act.

Sincerely,

A handwritten signature in blue ink, appearing to read "Saiza Elayda".

Saiza Elayda, JD
Director, State Policy
PhRMA

² Vandervelde, A and Blalock, E. (January 2017) *The Pharmaceutical Supply Chain: Gross Expenditures Realized by Stakeholders*. Berkley Research Group. https://www.thinkbrg.com/media/publication/863_Vandervelde_PhRMA-January-2017_WEB-FINAL.pdf. Accessed June 7, 2018.