



**BlueCross BlueShield  
Association**

An Association of Independent  
Blue Cross and Blue Shield Plans

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Senator Dan “Blade” Morrish  
Louisiana State Senate  
119 W. Nezpique Street  
Jennings, LA 70546

Representative Tom Oliverson  
Texas House of Representatives  
Room E2.412  
Austin, TX 78768

**RE: BCBSA Comments on NCOIL Model Act Concerning Prescription Drug Costs**

Dear Senator Morrish and Dr. Oliverson,

The Blue Cross Blue Shield Association (BCBSA) appreciates the opportunity to provide comments on the most recent draft of the National Council of Insurance Legislators (NCOIL) Model Act Concerning Prescription Drug Costs (Model). BCBSA shares your goal of helping consumers who are facing rising prescription drug prices and a lack of meaningful and transparent information about these prices.

BCBSA is a national federation of 36 independent, community-based and locally operated Blue Cross and Blue Shield (BCBS) companies that collectively provide healthcare coverage for one in three Americans. For 90 years, BCBS companies have offered quality healthcare coverage in all markets across America – serving those who purchase coverage on their own as well as those who obtain coverage through an employer, Medicare and Medicaid.

First, in joint comments submitted by BCBSA and AHIP in March 2019, and again in July 2019, we noted that the reporting requirements for manufacturer price increases proposed at that time were unlikely to yield significant data. This conclusion was reached because the thresholds for reporting were set in such a way that even many of the most egregious and unjustified price increases would be excluded from the reporting requirement. We applaud the decision to address this by amending Section 4(b)(1) to provide a more meaningful threshold for the manufacturer reporting requirement. However, we reiterate that the 15 percent price increase threshold is still too high and sends a message that drugmakers may raise prices up to 14.99 percent without ever providing any explanation or data demonstrating the reason for such a large increase.

We recommend the threshold for the reporting requirement should be further reduced to require reporting for any increase over 10 percent over the preceding 12 months, as other states have done. This will increase the likelihood of states receiving data from manufacturers. It will also reduce the likelihood that manufacturers will burden consumers with repeated, smaller price increases (e.g., two 7.49 percent increases in a year) intended to avoid reporting requirements. Currently, all health plans are required to file their rates with state insurance departments, regardless of the size of any rate increase. **Pharmaceutical companies have for years publicly pledged to voluntarily abide by a 10 percent cap on increases and holding them to that promise is an appropriate and reasonable request.**<sup>i</sup>

Next, BCBSA also recommends including stronger language concerning data to be supplied by manufacturers upon launch of a drug, such as what is included in Oregon’s drug transparency

law. This approach would significantly improve the information available to the public and policymakers about how drug pricing decisions get made. Launch prices have shown to impact market prices for drugs already on the market, which means that having information on launch prices in advance will enable patients and payers to prepare for such prices and the impact they may have on patient care.

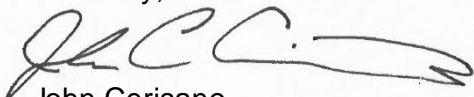
In regards to Section 5, we support the inclusion of language clarifying that any collected data is aggregated so as to not identify information specific to any insurer or PBM. The current version of Section 5 of the Model appears to limit the aggregation protection to PBMs with fewer than 5 clients. This is concerning because if the data is not aggregated across all reporting PBMs, it is possible to back into the confidential pricing or discounts negotiated for a specific drug or class of drugs. As such, we would reiterate our request that the aggregation language be made to apply to all PBMs.

We also note that though there is language in Section 6 which indicates carriers should not report any information in their reports that would identify specific health benefit plans or prices charged for specific drugs, we do not believe the current language provides a sufficient safeguard from this occurring. We believe that additional language should be included in Section 6 to ensure that the report prepared by the Commissioner should only include aggregate data so as not to reveal information about any insurer or PBM. Additionally, inclusion of PBMs in Section 6, which only applies to carriers, appears nongermane and should be removed.

The discussion around this draft Model has been and should remain focused on one thing: understanding the rising prices of prescription drugs. When prescription drug cost increases are expected to be more than double that of overall medical cost trends in 2020, all stakeholders should agree that merits significant scrutiny. The focus of this effort should be on reducing costs, and that is best achieved by maximizing the scope of price increases that are subject to the Model's reporting requirements.

We appreciate your consideration of our comments. We share the goal of working to ensure prescription drugs are more affordable and accessible for consumers. If you have any questions or want additional information, please contact Jeremy Crandall at 202.626.4802 or [jeremy.crandall@bcbsa.com](mailto:jeremy.crandall@bcbsa.com).

Sincerely,



John Cerisano  
Vice President of Federal and State Affairs

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<sup>1</sup> "US pharma industry holds to price-cap pledge." Pharmaceutical Technology. Retrieved from <https://www.pharmaceutical-technology.com/comment/us-pharma-industry-holds-price-cap-pledge/>. Originally published 2018.