PHYSICIANS RESEARCH INSTITUTE
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July 9, 2018

Mr. Thomas B. Considine
CEO
NCOIL National Office
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Manasquan, New Jersey 08736

Sent by Facsimile
and
First Class Mail

Dear Mr. Considine:

The Physicians Research Institute (PRI) opposes the NCOIL "Model Act on Workers' Compensation Repackaged Pharmaceutical Reimbursement Rates (Proposed Amendments as of 2-23-18) ("model bill")" related to physician dispensing.

Specifically, PRI objects to that provision which effectively ends physician dispensing by providing that a doctor may only prescribe a seven day fill assuming the doctor treats the patient within seven days of injury. This means that a pain management doctor would be unable to continually provide medicine to a workers' compensation patient with chronic pain and would be required to send that patient to a pharmacy. This is similar to a law in Pennsylvania, but even more draconian. The Chair of your Workers' Compensation Committee is the Pennsylvania legislator who promoted the Pennsylvania law.

The November 2017 minutes of your Workers Compensation Committee indicate that 2 witnesses testified, one being a representative of the Workers' Compensation Research Institute (WCRI) and the other being the president of a consortium of Pharmacy Benefit Managers (PBMs) which stand to economically benefit from requiring all medicines to be dispensed by a pharmacy.

PRI was created (www.physiciansresearchinstitute.org) to examine the work product of groups such as WCRI which produce apparently well documented and unbiased reports which, when examined carefully, proved to be anything but unbiased and which are, in turn, used by its insurance company members to promote changes to state laws. Insurance companies pay up to $220,000 per year in WCRI dues, https://www.wcrinet.org/ .

PRI was most interested in the WCRI study presented to your Committee at the November meeting. That "study" covered a number of states including Maryland and essentially

"documented" that physician dispensing was a significant portion of workers' compensation dispensing in each state.

The problem with that "study" is that it was fundamentally in error with respect to Maryland and PRI believes that the same error applies to the other states in the study. In its 2017 Report, WCRI maintained that Maryland physician dispensing in 2014 constituted 38% of all dispensing and consumed 40% of monies spent on dispensed medicine. However, this was a substantial amendment from their original version which claimed that physician dispensing constituted 40% of all prescriptions, consumed 55% of monies paid for prescriptions and was increasing. While WCRI had "amended" Maryland's statistics by 2017, it did not indicate that its analysis had been determined to be fatally flawed.

The Maryland Workers' Compensation Commission did its own study and determined that the actual percentage was 15.7% (not 40%) and that it was decreasing (not increasing). Because of the Maryland Workers' Compensation Commission conclusions, the legislature declared a two-year moratorium on bills restricting physician dispensing that now has reached four years (2015, 2016, 2017 and 2018 Sessions).

Thus the Maryland fight originally generated by WCRI "studies" in 2011 was ended in January 2015 with the discovery of WCRI's fundamentally misleading conclusions[i] which were created by limiting sample size and ignoring whole classes of cases. See Insurance Funded Studies on PRI website: http://www.physiciansresearchinstitute.org/insurance-funded-research

PRI was created by state medical societies and a substantial majority of those societies are now members of PRI. Several of those state medical society members proposed the recent Resolution adopted by the American Medical Association (AMA) at its June 2018 Annual Meeting. That Resolution was directed at the NCOIL "model bill" but was expanded to include all legislative or regulatory attempts to limit physician dispensing. The AMA Resolution reads as follows:

(30) RESOLUTION 245 – OPPOSING NCOIL ATTEMPTS TO STOP PHYSICIAN DISPENSING

Madam Speaker, your Reference Committee recommends that Policy H-120.990 be amended by addition to read as follows:

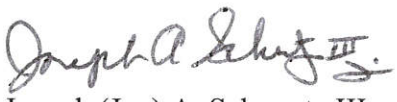
Physician Dispensing H-120.990
Our AMA supports the physician's right to dispense drugs and devices when it is in the best interest of the patient and consistent with AMA's ethical guidelines.

Our AMA oppose legislative and other efforts that are in conflict with AMA policies concerning patient access to physician-dispensed drugs and devices.

Notably, there were no witnesses invited by your Committee representing patients, treating doctors, labor unions or claimants' lawyers. When those groups are heard, most of these insurance company bills are voted down.

PRI believes that this "model bill" is fatally deficient.

Very truly yours



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cc: Daniel Blaney-Koen, American Medical Association

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[i] PRI is not surprised by WCRI's manipulation of data. Earlier in the Maryland legislative debate, the state medical society had pointed out that WCRI reports (March 2010 and July 2011) covering 34,000 claims had shown that - while physicians charge substantially more "per pill"- they dispensed far fewer pills per claim with the result that there was considerable savings resulting from physician dispensing on a per claim basis ($255 v. $445 in 2010; $340 v. $698 in 2011). **The only metric which would affect the cost of workers' compensation insurance is the "per claim" information.**

When presented with this information from WCRI itself, the Maryland legislature turned down insurance company bills aimed at physician dispensing. **WCRI then did a predictable thing: It deleted "pill counts" from its later reports because that information completely undermined the result it desired.**