**Heather R. Cascone**
Assistant VP, State Affairs
(202) 744-8416
hcascone@pcmanet.org

March 29, 2021

Chairwoman Delores G. Kelley
Vice Chair Brian J. Feldman
Senate Finance Committee
Miller Senate Office Building, 3 East
Annapolis, Maryland 21401

***House Bill 601 – Altering the Definition of Purchaser***

Dear Chairwoman Kelley, Vice Chair Feldman, and Members of the Senate Finance Committee:

On behalf of the Pharmaceutical Care Management Association (PCMA), I appreciate the opportunity to provide comments on the House-amended version of HB 601, a bill to amend the statutory definition of purchaser in various sections of the Insurance Statute (15-1601 through 15-1633). I respectfully request an unfavorable report on the bill.

PCMA is the national trade association representing America's Pharmacy Benefit Managers (PBMs), which administer outpatient prescription drug plans for more than 266 million Americans with health coverage provided through Fortune 500 large and small employers, labor unions and government programs. PBMs are projected to save payers over $34.7 billion through the next decade -- $962 per patient per year – as a result of tools such as negotiating price discounts with drug manufacturers, establishing and managing pharmacy networks, in addition to disease management and adherence programs for patients.

HB 601 is a response to the recent December 2020 decision of the US Supreme Court commonly referred to as "Rutledge," in which the court was asked to examine whether an Arkansas law regarding Maximum Allowable Cost ("MAC") reimbursements to pharmacies was preempted by federal ERISA statute, or in other words, whether ERISA plans were exempt from the state's MAC law. Ultimately, the court held that the Arkansas law is not preempted by ERISA, because the MAC-specific law in question was simply a "rate regulation," which is something states have the authority to regulate, even if it impacts a plan's costs.

In fact, the Court acknowledged that the law in question could raise costs for ERISA plans and that those plans could pay more for prescription benefits in Arkansas as a result, as compared to other states. Additionally, the Court implied that states are still not allowed to force employer plans to structure benefits in a specific way, and that a law that increases costs so much for employers that the employer must restructure its benefits may run into trouble with the federal law.

It is with these cost considerations for employers and local governments in mind that we respectfully oppose HB 601. I appreciate the opportunity to voice our concerns and am happy to answer any questions you may have.

Sincerely,

Heather R. Cascone