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Chairwoman Pamela Beidle
Senate Finance Committee
Miller Senate Office Building, 3 East
Annapolis, Maryland 21401

UNFAVORABLE - House Bill 321 – Altering the Definition of Purchaser

Dear Chairwoman Beidle, Vice Chair Hayes, and Members of the Senate Finance Committee:

On behalf of the Pharmaceutical Care Management Association (PCMA), I appreciate the opportunity to comment on HB 321, a bill to amend the statutory definition of purchaser in various sections of the Insurance Statute. 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 289 million Americans with health coverage provided through Fortune 500 large and small employers, labor unions and government programs.

HB 321 was first proposed in a bill as a response to the 2020 decision of the US Supreme Court, commonly referred to as "Rutledge," in which the court was asked to examine whether state regulation of reimbursements to pharmacies was a lawful authority of the state as it pertained to ERISA and self-insured plans. Today, HB 321 seeks to go much further beyond rate regulation. If enacted, it would expose labor unions, local and county governments, and private businesses who insure their employees' benefits – collectively purchasers – to increased regulation of their pharmacy benefits, thus limiting cost control tools and driving up their costs. While the plan would initially bear the cost impact, these increased costs are ultimately passed through to all employees in the form of higher premiums, increased out-of-pocket costs, and reduced benefits

HB 321 strips purchasers of their decision-making authority and flexibility—a foundational principle on which ERISA was built. Congress configured ERISA preemption to prevent conflicting and inconsistent state laws regarding employee benefits. The emergence of such a state law patchwork could make cost-efficient plan administration impossible, particularly for multistate plan sponsors, who would have to vary the substance of their benefit offerings on a state-by-state basis.

There is extensive, growing opposition from the purchasers affected by this bill, as they better assess what these limitations would mean and cost them. At a time of escalating healthcare costs, and employer budget challenges, we should remain focused on allowing flexibility to cost containment tools, not subsidizing one industry over all the others in Maryland.

It is for these considerations of local governments, labor unions, and emplyers in mind, PCMA respectfully requests an unfavorable report on HB 321 but suggests that the committee conduct further diligence into its effect on purchasers, encouraging their involvement in any future study of the issue. I appreciate the opportunity to voice our concerns and am happy to answer any questions you may have.

Sincerely,

Heather R. Cascone