

Mt. Vernon Pharmacy

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Prescription and Over the Counter Medications * Prescription Counseling * Diabetes Supplies * Vaccinations

IN SUPPORT OF:

HB0357 – Pharmacy Benefits Managers – Definitions of Carrier, ERISA, and Purchaser

SENATE FINANCE COMMITTEE

Hearing: 3/29/2023 at 1:00 PM

Mt. Vernon Pharmacy offers its **SUPPORT of HB0357 – Pharmacy Benefits Managers – Definitions of Carrier, ERISA, and Purchaser, as amended in the House, without further amendments.**

Pharmacy bills and laws take many years to pass involving many, many compromises. When those initial bills were passed can you guess what the PBMs and PCMA argued. Each and every piece of PBM legislation in every state has historically had two opposing arguments by PCMA, the trade group for PBMs.

Argument 1: What you want to legislate is “plan design” and your laws don’t affect self-insured payers. Everything is plan design. Every dotted “l” and crossed “t” is plan design. And though independent pharmacy argued against such nonsense, PCMA clung to the plan design argument. If self-insured plans were blind-sided by the Supreme Court Rutledge decision that said PBM legislation is absolutely not plan design and subject to state legislation, it is the fault of bad advice by consultants, lobbyists, and attorneys that acted as parakeets for what the self-insured payers wanted to hear.

Argument 2: What you want to legislate will raise prices for payers and plans. There has not been one piece of current legislation, past or present, where PCMA has not claimed the sky will fall because of increased expense to payers. Some notable pieces of already passed legislation that were supposed to bankrupt payers:

- Maryland original Pharmacy Audit laws passed in 2008
- Language mandating that pharmacies be paid by ACH rather than paper checks.
- Pharmacy MAC appeal language giving pharmacies a way to appeal payments under the pharmacy’s cost for generic drug reimbursement.
- Laws mandating PBM’s give timely notice of contract changes to pharmacies
- Laws removing gag clauses by PBM’s: allowing pharmacies to disclose to a patient a less expensive alternative to what was originally prescribed or what might be preferred on a PBM formulary
- Laws removing gag clause by PBM’s that were used to charge patients high copays at the pharmacy counter and then the PBM would claw those funds back from the patient by recouping those inflated copays back from the pharmacy.

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The fiscal note lists the areas of Maryland Law that will be affected by this bill. I challenge any of the opponents to identify what specifically will raise costs for plans, and to quantify that increase by showing how the laws originally raised cost when originally enacted.

The PBM industry has been for the most part unregulated in this country, and that industry has abused that lack of regulation. The three largest PBMs' are number 4,5 and 12 on the Fortune 100 list. It is very profitable to not be regulated. A quick google search of state and federal lawsuits against PBMs will display that abuse.

While on Google, do a search for, "What are the causes of increased prescription costs for payers/ insurers." I challenge you to find any listing that says the source of rising drug costs are the result of pro pharmacy PBM legislation.

And sure, I could certainly fill prescriptions cheaper without any pharmacy regulation. Dispensing prescription drugs without a pharmacist on staff in my pharmacy would save a boat load of money. But that is not a valid excuse and does not make it right. This same holds true for regulating these entities that have such a profound impact on the lives of your constituents and patients.

I thank the Committee for all the effort you have expended in working through PBM legislation in the past and **respectfully ask your favorable support on HB0357, as amended in the House, without further amendments.**

Should the Committee require any additional information, please contact me or Dennis F. Rasmussen, dfr@rasmussengrp.net or 410-821-4445.

Respectfully,



Steve Wiener, RPh
EPIC Legislative Committee
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