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February 13, 2024

Senator Pamela Beidle
Chair, Senate Finance Committee
3E Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Re: S.B. 541 - Maryland Online Data Privacy Act of 2024

Dear Chair Beidle,

On behalf of the Consumer Healthcare Products Association (CHPA), the Washington, D.C. based national trade organization representing the leading manufacturers of over-the-counter (OTC) medicines, dietary supplements, and consumer medical devices, thank you for the opportunity to comment on S.B. 541. Unfortunately, I'm writing to express opposition to this bill as currently drafted. Although we do not object to the overall goal of the bill, which aims to empower consumers to have greater authority over their personal data, we do hold reservations about its compatibility with current federal regulations pertaining to controlled substances. Given the potential clash between these laws, we are against S.B. 541 unless it undergoes amendments to accommodate the existing federal obligations regarding data collection.

Controlled Substances Act

The Controlled Substances Act (CSA), also referred to as the Comprehensive Drug Abuse Prevention and Control Act, was enacted by Congress in 1970 with the aim of regulating the production, distribution, and utilization of controlled substances. As per 21 U.S.C. Section 830 of this Act, individuals or entities involved in transactions concerning listed chemicals (such as pharmacies selling allergy medications containing ephedrine or pseudoephedrine) are obligated to gather and retain identifiable personal records pertaining to these transactions and to share the data with law enforcement as required. Unfortunately, this bill does not provide an exemption for such transactions from its privacy provisions.

Amendment Recommendations

To avoid potential conflict with already existing federal law, CHPA recommends the following amendment to S.B. 541 on page 14, line 22 as item (13):

[\(13\) Personal data collected and used for purposes of the federal policy under the Controlled Substances Act Section on the Regulation of Listed Chemicals under 21 U.S.C. SEC. 830.](#)

Conclusion

CHPA and its members are committed to safeguarding the privacy of our customers' data. We commend the Senate Finance Committee for taking on this important issue, but unfortunately, we cannot support this bill in its current form. We look forward to continued dialogue with the hope we can come to an equitable resolution.

Respectfully submitted,

A handwritten signature in blue ink that reads "Carlos I. Gutiérrez". The signature is written in a cursive style with a large, stylized "G" at the end.

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Cc: Members of the Senate Finance Committee