



April 4, 2018

Commissioner Allen Kerr  
Arkansas Department of Insurance  
1200 West Third St.  
Little Rock AR 72201-1904  
Delivered via email: [Allen.kerr@arkansas.gov](mailto:Allen.kerr@arkansas.gov)  
c.c. Delivered via email: [Booth.rand@arkansas.gov](mailto:Booth.rand@arkansas.gov)

**RE: SB 2 & HB 1010 Implementation - Pharmacy Benefit Managers**

Dear Commissioner Kerr:

On behalf of the Pharmaceutical Care Management Association (PCMA) I want to thank you, Booth Rand and your staff for your many long hours of dedicated work on what has now become Act 75. As you know, our industry has closely followed the passage of SB2 and HB1010, and now as we move into the critical implementation phase of this legislation, we respectfully submit the following comments and look forward to an open and constructive conversation that will promote market stability while protecting access and affordability for the over 600,000 Arkansans who receive health insurance coverage in the fully insured market.

PCMA is the national association representing pharmacy benefit managers (PBMs), which administer prescription drug plans for more than 266 million Americans with health coverage through large and small employers, health insurers, labor unions, Medicare, Medicaid, and other programs.

As you know, with the enactment of SB 2 and HB 1010 (Act 75), the legislature charged your department with drafting rules to implement the licensure and other provisions that will impact companies providing PBM services to Arkansas health plans. The legislature has outlined a very rapid timeframe for implementation. As is the case with any new regulatory environment, the businesses that operate in this space are concerned about the potential for regulatory uncertainty, which ultimately can cause disruption in the marketplace and confusion for health plan members. As such, PCMA looks forward to working with you as you develop rules to ensure that our member companies can clearly understand the path to compliance.

PCMA has identified several issues that we'd like to discuss with your office as you work to develop rules on such key items including:

- Standards for licensure
- Standards relating to network adequacy;
- Reporting requirements;
- Protections against public disclosure of any confidential materials submitted to the Department; and
- A process for approval of items in Section 1, including fees and programs for credentialing and accreditation, ensuring that patients are able to continue benefitting from the value that credentialing and accreditation programs provide.

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As your department considers standards for licensure for PBMs we understand that you will want and need to collect a certain set of data in order to facilitate communication between the department and the newly licensed entities. PBMs, as you know, are venders in a highly regulated marketplace. We do not collect premiums and are not risk bearing entities. PBMs have no power to make any decisions as to plan policy, interpretations, practices or procedures, but perform certain administrative functions for the regulated entity, the fully insured plans in Arkansas.

We encourage the department to consider a process that will ensure adequate notice of the new rules and adequate time for PBMs to comply with new licensing procedures, including opportunities to cure any deficiencies. We would also encourage a process for all entities currently licensed as a third party administrator seeking a new license under Act 75 to be afforded a safe harbor if they demonstrate a good faith effort to be licensed under the new rules but are unable to meet all the requirements on September 1<sup>st</sup>.

Act 75 requires the department to issue standards for an adequate pharmacy benefits manager network. PCMA would appreciate the opportunity to discuss how these standards would be developed and implemented in coordination with other standards that the health plans are currently subject to.

In addition to the adoption of the network adequacy rules, it is important that any rules adopted take into consideration the potential for manipulation. PBMs that make a good faith effort to contract with pharmacies should not be punished if pharmacies refuse to contract with the PBM in order to entangle the Department in the reimbursement clauses of private contracts. The rules must allow for flexibility when non-market based forces unnecessarily attempt to manipulate the network resulting in a possible disruption of services for the beneficiaries and an increase in cost for the health benefit plan.

Thank you for your consideration of these preliminary comments. We realize that there are many issues to discuss and look forward to starting a dialogue with your office. We will follow up with you in the coming weeks. In the meantime, if you have any questions please free to contact me with questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Melodie Shrader", is written over a light blue horizontal line.

Melodie Shrader  
Senior Director – State Affairs  
270-454-1773

c.c. Booth Rand