April 4, 2018

Chairman Joseph M. McNamara
House Health, Education and Welfare Committee
Rhode Island State Capitol
Providence RI 02903

RE: HB 7700 - Pharmacy Benefit Managers

Dear Chairman McNamara:

I write today to respectfully oppose HB 7700, relating to pharmacy benefit managers. The Pharmaceutical Care Management Association 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.

HB 7700 prohibits the use of language in PBM-pharmacy contracts that restricts certain communications between pharmacists and patients, and prohibits PBMs from issuing ID cards with a logo or name of a pharmacy.

PCMA supports the patient paying the lowest amount at the pharmacy counter, and opposes the use of "gag order" contract provisions that prevent in any way a pharmacist from discussing relevant information with a patient–the copay, therapeutic alternatives, over the counter options, and other items that are relevant to a patient's decision about their treatment. In all Medicare Part D plans, patients pay the lesser of their plan's cost-sharing amount or the cash price of the drug (also known as the "usual and customary price") at the pharmacy counter, and as an industry, PCMA member companies support this policy in the commercial market. Health plan members should always pay the best price–be that their copay or the pharmacy's cash price.

However, PCMA opposes the language in 27-20.8(d). The intent of this section is unclear, but it appears to link the adjudication of the patient's copay to the amount a pharmacy is reimbursed for a claim. These two items are entirely separate—the pharmacy reimbursement is contractual between the pharmacy and the PBM or health plan, and can vary after the patient leaves the pharmacy counter. It is not possible to link these to payments, nor should they be linked. A pharmacy's reimbursement can change (positively or negatively) based on the results of an audit, a maximum allowable cost pricing appeal, or operation of a performance-based contract provision. All of these adjustments can happen weeks if not months after the member has paid their copay. Additionally, PBMs are required to accept paper claims from members. In these cases, the pharmacy is paid cash from the member and the member is reimbursed weeks after they have left the pharmacy.

PCMA is also opposed to 27-20.8(e). This section of the bill prohibits transaction fees, which are a component of a pharmacy-PBM contract. Transaction fees are pennies (or fraction of pennies) per claim fee charged to the pharmacy when they submit claims electronically. These fees support PBM services that are used every day by the pharmacy – the pharmacy help desk, the provider website, the maximum allowable cost appeal process and website.

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Finally, PCMA opposes 27-20.8-2(f) because it appears to be targeted at those PBMs that have an affiliation with and share a name with a specific retail pharmacy chain, and there has been no rationale for this provision. Health plans decide what will be on the ID cards they provide their members in accordance with Rhode Island insurance rules and regulations and may prefer, in the design of their health plan benefits to include this information to patients. For member convenience, the plan manual and other disclosures provide details on a plan provider network, including physician, hospital, pharmacy, and other services. It is inappropriate to eliminate a health plan's ability to provide the information on its ID card that the plan chooses to be relevant to its members.

Thank you for your consideration. Please contact me at 202-756-5743 if you have any questions about our comments.

Sincerely,

April C. Alexander
Assistant Vice President, State Affairs

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