May 16, 2019

Chairman Kelly Hancock
Members of the Senate Business & Commerce Committee

Re: HB2099 – An Act Relating to Modification of Certain Prescription Drug Benefits and Coverage Offered by Certain Health Benefit Plans.

Chairman Hancock and Members of the Committee:

On behalf of the Pharmaceutical Care Management Association (PCMA) we must respectfully oppose HB 2099. Texas already has some of the strongest patient protections in the country. HB2099 extends beyond the negotiated 2017 patient protection legislation and adds profit protections for brand name drug manufactures at the expense of consumers and payers. HB2099 will increase the health care costs for employers and Texas residents in the form of higher health insurance premiums and higher drug prices.

The role of a Pharmacy Benefit Manager (PBM) is to help insurers and other payers provide their members access to safe, effective and affordable medications. Pricing in the drug market is volatile, and there are few tools to incent drug manufacturers to reduce prices. Formulary placement and encouragement to use lower-cost generics and brand alternatives are among those tools. HB2099 threatens these cost saving mechanisms.

PCMA is the national association representing America's pharmacy benefit managers (PBMs), which administer prescription drug plans for more than 266 million Americans with health coverage provided through Fortune 500 employers, health insurance plans, labor unions, state and federal employee-benefit plans, and Medicare.

According to the Federal Trade Commission (FTC), "large PBMs and small or insurer-owned PBMs have used step-therapy and prior authorization programs to *lower prescription drug costs* and *increase formulary compliance."* The FTC also found that "prior authorization often involves a clinical justification for the use of drugs that are prone to misuse or are especially costly."[1]

On the surface, a "frozen formulary" appears to aid patients, but in reality, limiting a drug formulary is a protectionist provision that encourages a brand drug manufacturer to get a

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[1] Federal Trade Commission, "Pharmacy Benefit Managers: Ownership of Mail-Order Pharmacies," August 2005, available at http://ftc.gov/reports/index.htm#2005. [Emphasis added].

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patient “stabilized” on a drug and then demand that patient continue on that therapy when there may be equally effective but more affordable alternatives.

By mandating coverage for specific drugs—regardless of the availability of effective, more affordable alternatives, including the availability of a generic—this bill will increase health care costs for employers and individuals in the form of higher health insurance premiums and higher drug prices. In fact, “frozen formulary” provisions, like those contained in HB 2099 could cost Texas patients and payers $403 million between 2017-2021.[2]

In closing, we thank you for the opportunity to provide input. Please feel free to contact me at 270-454-1773 with any questions.

Sincerely,

Melodie Shrader
Senior Director - State Affairs

[2] “Estimated Cost of Potential ‘Frozen Formulary’ Legislation, Fully-Insured Commercial Payer Impact, 2017-2021,” Milliman, Sept. 2017

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