



May 16, 2019

Chairman Kelly Hancock  
Members of the Senate Business and Commerce Committee

**RE: HB 2536 – An Act Relating to Transparency Related to Drug Costs**

Dear Chairman Hancock and Members of Senate Business and Commerce Committee:

The Pharmaceutical Care Management Association (PCMA) appreciates your interest in one of the most critical issues facing policy makers today, the rising costs of prescription drugs. However, on behalf of PCMA and our members, we must respectfully oppose HB 2536.

PCMA is the national association representing America's pharmacy benefit managers (PBMs). PBMs administer prescription drug plans for more than 266 million Americans with health coverage through Fortune 500 companies, health insurers, labor unions, Medicare, Medicaid, and other programs. According to researchers, PBMs hired by plan sponsors to maximize the value of prescription drug benefits, help patients and payers save \$941 per enrollee per year in prescription drug costs,<sup>i</sup> equaling \$654 billion over the next 10 years.<sup>ii</sup> Plan sponsors use these savings to benefit patients by lowering premiums or deductibles.

PCMA is concerned that any legislation passed under the guise of transparency that does not include ALL participants in the drug supply-line is misguided, at best. HB 2536 intentionally or inadvertently also seeks to expose competitively sensitive information. PBMs are transparent to, and aligned with, clients with respect to rebates, in accordance with contractual requirements. Nearly half of large employer plan-sponsors negotiating to receive manufacturer rebates elect to receive 100% of the rebate amounts<sup>iii</sup> and pay administrative fees to the PBM. Other payers negotiate with their PBMs to receive a portion of the rebates. On average, PBMs pass back 90 percent of negotiated rebates from drug manufacturers, which payers use to lower enrollees' and their own health spending.<sup>iv</sup> In fact, some of the largest PBMs pass back 95-98% of rebate dollars.<sup>v</sup>

HB 2536 requires revealing aggregated rebates and other payments. Requiring this proprietary information to be become public assumes the mistaken belief that this type of information would benefit consumers. For example a PBM with only one commercial client in the state reporting even aggregated information would provide competitors information that would likely create an uneven playing field.

The Department of Justice and the FTC issued a report noting that "states should consider the potential costs and benefits of regulating pharmacy benefit transparency" while pointing out that "vigorous competition in the marketplace for PBMs is more likely to arrive at an optimal level of transparency than regulation of those terms."<sup>vi</sup> The FTC has also warned several states that legislation requiring PBM disclosure of negotiated terms could increase

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costs and “undermine the ability of some consumers to obtain the pharmaceuticals and health insurance they need at a price they can afford.”<sup>vii</sup>

It is always the drug manufacturer who decides what the price of a given drug will be. PBMs do not set drug prices—rather, PBMs lower the cost of drug benefits by negotiating price concessions with manufacturers and pharmacies on behalf of our clients. A competitive marketplace, where drug manufacturers are forced to compete is the most valuable tool for driving down the cost of prescription medications.

On behalf of PCMA I appreciate the opportunity to offer comments on HB 2536 and would be happy to answer any questions. I can be reached at 270-454-1773. Thank you for your consideration.

Sincerely,



Melodie Shrader  
Senior Director, State Affairs  
Pharmaceutical Care Management Association

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<sup>i</sup> Visante, Inc. “The Return on Investment (ROI) on PBM Services,” Prepared by Visante on behalf of PCMA, November 2016. <https://www.pcmagnet.org/wp-content/uploads/2016/11/ROI-on-PBM-Services-FINAL.pdf>

<sup>ii</sup> Visante Inc., “Pharmacy Benefit Managers (PBMs): Generating Savings for Plan Sponsors and Consumers,” Prepared for PCMA, February 2016. <https://www.pcmagnet.org/wp-content/uploads/2016/08/visante-pbm-savings-feb-2016.pdf>

<sup>iii</sup> Pharmacy Benefit Management Institute, “PBMI Research Report: Trends in Drug Benefit Design,” 2016.

<sup>iv</sup> Written Testimony of Joanna Shepherd, Ph.D, Emory University for the ERISA Advisory Council Hearing on PBM Compensation and Fee Disclosure, June 19, 2014, Citing J. P. Morgan, “Pharmacy Benefit Management, Takeaways from Our Proprietary PBM Survey,” May 21, 2014.

<sup>v</sup> Morning Consult, “As a PBM and an Employer, We Know Rebates and Innovation Lower Drug Costs,” October 3, 2018

<sup>vi</sup> US Federal Trade Commission & US Department of Justice Antitrust Division, “Improving Health Care: A Dose of Competition,” July 2004.

<sup>vii</sup> Letter from FTC to Rep. Patrick T McHenry, U.S. Congress, (July 15, 2005); Letter from FTC to Assemblyman Greg Aghazarian, California State Assembly, (September 3, 2004)