PCMA Testimony SB 2008

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Chairman Harris, Vice Chair Munoz, Republican Spokesperson Syverson, and members of the Senate Committee on Insurance, my name is Melodie Shrader, Vice President of State Affairs for the Pharmaceutical Care Management Association (PCMA). 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 large employers, health insurers, labor unions, and federal and state-sponsored health programs.

In 2019 over 135 million[1] prescription drug claims were processed in Illinois for commercial payers, Medicaid and Medicare. Nearly every one of those claims processed flawlessly within seconds providing access to life saving medications for you constituents on behalf of the employers of Illinois, the state of Illinois and the Medicare program. PCMA members processed 84% of those claims.

PCMA appreciates the opportunity to testify on SB2008 and we look forward to working with the sponsor on the language in this bill. However, at this time, we respectfully oppose SB 2008.

PBM's manage prescription drug benefits on behalf of health insurers, Medicare Part D, large employers and other payers. We are the only entity in the drug supply chain whose role is to reduce costs for our clients, employers, unions plans, and government

sponsored programs and we have concerns that this bill limits our ability to reduces costs and in some cases will in fact requires us to raise costs.

Many of the provisions in the SB2008 were part of a massive PBM law that was highly negotiated and enacted just two years ago in 2019. HB465 was negotiated in good faith with many of the stakeholders. Many of the provisions that are in these bills were provisions that the industry agreed to remove while others were left in HB465. The law just went into effect last July, with some provisions still being implemented by the Department of Insurance. It seems too soon to be re-opening this issue when we do not even have final implementation on the omnibus, negotiated bill that just went into effect.

Over the last five years, PBMs have saved the State of Illinois and taxpayers nearly $340 million. PMB tools will save employers, consumers, and the State $39 Billion over the coming 10 years – all of which will help continue to contain costs for patient affordability, ensure access to medicines, and drive savings in public health programs – lofty goals strongly supported by legislators.

Senate Bill 2008 does not promote health care affordability or accessibility for patients. Instead Senate Bill 2008 will drive up health care spending by over $1 billion annually. This is not hyperbole – increasing dispensing fees and reimbursements while further restricting how PBMs can help control drug costs for insurance coverage as mandated in SB 2008 WILL COST $1 billion in new health care spending in one year.

Those millions will be incurred by your constituents - individuals and families, employers, the State, local governments, unions, and plan payors - all to the benefit of paying pharmacists (chain and independent) higher reimbursements and dispensing fees. This cost is not nominal - just for the dispensing fee increase alone, Medicaid will spend $210 million more dollars in direct payments to pharmacists - in addition to the existing Critical Access Payments ($30 million) already paid.

That is money that is not being spent on ensuring hospitals stay open in critical areas, ensuring access to behavioral health and substance use disorder treatments, improving maternal health…this is instead money that is being spent entirely on increasing provider payments for one sector of the health care sector.

SB2008 will increase insurance premiums for Illinois families, small business and individuals and cause the costs of health care to increase for large employers. Mandating what all private employers that provide health insurance for their employees in Illinois, both big and small, from the mom and pop shops on the corner of every Main Street in every community in the state to the Fortune 500 towers in downtown Chicago, must reimburse a small segment of the business community, is the worst case of government picking winners and losers. But this bill doesn't just do that with reimbursement - it does it with every aspect of the bill. From telling a private business how it should pay for the services it is purchasing for its employees, to where it should purchase those services, restricting the quality it can demand from its vendors and even if and how it is allowed to look for waste, fraud and abuse. By requiring a PBM to take on a fiduciary role, a role federal courts have struck down and the Department of Labor says PBMs cannot function in, this law will force PBMs to make plan design changes that will increase costs without any correlating increases in patient care.

There is nothing in this bill that provides the consumers of Illinois any protections that they do not already have. Federal gag laws and Illinois law already allow a pharmacist to tell a consumer about the lowest cost options available to them. But there are many provisions that could be harmful to the consumer, for example, provisions that outlaw accreditation standards beyond those established by the Illinois Food, Food, Drug and Cosmetic Act. It is common in the health care industry for medical facilities to be required to be accredited. And while not all pharmacies are required to have accreditation, those that handle specialty drugs are often required to be accredited by their contract for the safety of the patients.

URAC is an independent, national quality benchmarking organization focused on improving the care delivered to patients through accreditation, certification, and measurement. In a letter to policy makers on a similar issue URAC, President and CEO Shawn Griffin said, “Given the complexity of specialty medication and the potential for serious side effects, pharmacies must deploy specific competences in a reliable manner to promote and document positive clinical outcomes. URAC specialty pharmacy accreditation is structured around the idea that all pharmacies dispensing specialty drugs must do more than focus on the right patient, the right drug, at the right time. URAC believes the pharmacy should be focused on delivering the right results for patients. Those pharmacies that have achieved URAC specialty pharmacy accreditation have demonstrated their ability to safely dispense and effectively manage the care of patients who require increasingly complex medications. Commercial payers and their pharmacy benefit managers often seek to ensure that pharmacies within their networks are meeting industry standards by requiring accreditation.”[2]

Every industry is concerned about fraud, waste and abuse, especially industries built on a cost-plus system. The inflationary consequences of cost-based reimbursement systems are well known. For many years, the federal government relied heavily on cost-based procurement for defense contracts, only to discover that this approach resulted in large cost over-runs because defense contractors knew their costs would be reimbursed – which is exactly what SB 2008 does. It guarantees a pharmacy will be reimbursed a pseudo-invoice price plus a guaranteed known profit margin, similar to government cost based procurement systems, and it is likely to have a number of specific undesirable consequences, including: increased spending on prescription drugs and costs to employers and other plan sponsors paying for the pharmacy benefits; reduced market competition at the wholesaler and manufacturer level; increased use of off-invoice discounting, thereby decreasing transparency of pharmaceutical pricing and reducing

pricing competition; guaranteed profits for pharmacies, irrespective of their actual efficiency or ability to deliver value-based care; and reduced patient welfare.

And on top of that can you imagine a defense contract that also limited the ability to audit? But SB2008 includes additional restrictions on audits, limiting the PBMs ability to discover fraud, waste and abuse.

So how much will this bill cost? The mandate that requires all Illinois businesses to pay pharmacies NADAC plus $8.85 will cause prescription drug costs to soar. Enacting just this one component of the bill will cost over $500 million in increased dispensing fee spending in the first year alone, a 300% increase for Illinois patients, employers, labor unions, and health plans.[3] It is also estimated that the same mandate for Medicaid will cost the state $210 million the first year. And a 2019 study projected that a fiduciary mandate in Illinois would cost fully insured employers and commercial health plans $2.5 billion dollars over the next 10 years.[4]

Independent pharmacists have presented this legislation repeatedly over the last six years, claiming that they will close because of PBM practices. Instead, the number of independent pharmacies nationwide has increased by 449 new pharmacies in the last year alone. Since 2011, 2,645 more independent pharmacists opened in the country – that number growing – not declining - despite PBM practices.

Furthermore, your constituents have already contributed $30 million in taxpayer funds to Critical Access Pharmacy subsidies over the last three years to qualifying independent pharmacies specifically to increase their Medicaid reimbursements with managed care.

Just two years ago, with this same bill, PCMA negotiated several provisions in good faith to institute state licensure and regulations, establish maximum allowable cost guidelines, add transparency to PBM practices, and ensure patients received lower costs when available. Most of the provisions in today's SB 2008 were just negotiated in

a new law effective this year and being implemented now. SB 2008 comes again to revert those negotiated provisions before they have even been reviewed for their impact on patients and health care costs.

In the spirit of further negotiations, PCMA has offered alternative language to address pharmacists' concerns with audit guidelines, PBM transparency, transparency and regulation of PSAO contracts with pharmacies, and 340b pharmacies. We cannot, though, agree on provisions that will drastically increase health care costs on your constituents – your families and small businesses who have already been struggling over the last year to just stay open.

SB 2008 asks you to vote for a bill that will raise health care costs by over $1 billion without one step towards bringing down the high costs of prescription drugs for anyone. Not one of your constituents will see cheaper drugs because of SB 2008. Your constituents WILL see higher insurance premiums with support of SB 2008.

[1] Number of Retail Prescription Drugs Filled at Pharmacies by Payer | KFF
[2] Testimony of Shawn Griffin, MD – President and CEO, URAC, Maine Joint Legislative Committee on Health Coverage, Insurance and Financial Services Public Hearing on Prescription Drugs, Pricing, Transparency, April 16, 2019
[3] PCMA estimate of costs based on the Kaiser Family Foundation 2019 Number of Retail Prescription Drugs Filled with a $8.85 Medicaid Fe-For-Service Dispensing Fee
[4] "Increased Costs Associated With Proposed State Legislation Impacting PBM Tools," Visante, January 2019

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