January 27, 2021

Chairman Andy Zay
Members of the Senate Insurance and Financial Institutions Committee

RE: SB 131-Disclosures Related to Prescription Drugs

Dear Chairman Zay and Members of the Senate Insurance and Financial Institutions Committee:

The Pharmaceutical Care Management Association (PCMA) appreciates your interest in one of the most critical issues facing policy makers today, the rising cost of prescription drugs. On behalf of PCMA and our members who administer prescription drug benefits for millions of Hoosiers, we must respectfully oppose SB 131.

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 provided by large and small employers, health insurers, labor unions, and federal and state-sponsored health programs.

As written, SB 131 creates an unnecessary layer of administrative burden and requires the disclosure of information that would raise the cost of administering prescription drug benefits and ultimately increase costs for employers and consumers.

SB 131 requires a health plan to provide a covered individual the wholesale acquisition cost (WAC) of a prescription drug that was dispensed or administered to that covered individual. This information would not benefit consumers and would likely lead to confusion. The WAC does not reflect the actual cost of the drug sold to the wholesaler and pharmacy, or the covered individual's cost-share. A covered individual may confuse this notice with an explanation of benefits and may think they owe that amount of money to pay for the drug. With more than 80 million prescriptions dispensed in Indiana in 2019, this legislation would require additional administrative resources for the tens of millions of notifications that must be sent to beneficiaries with no clear benefit. Drug manufacturers post WAC and WAC increases on the internet, so sending millions of notices to covered individuals is unhelpful and unnecessary.

SB 131 also requires health plans provide written notice to a covered individual of the amount of the rebate that the plan would receive if it exceeds 15% of WAC. Requiring that this information be subject to written notice on prescriptions that are dispensed creates an unnecessary layer of administrative burden with no clear value for consumers. As mentioned above, a covered individual may confuse this notice with an amount they have to pay. Moreover, this requirement runs the risk of disclosing confidential and proprietary information by putting rebate information in the public domain where drug manufacturers can access it. Manufacturers could raise drug prices based on their knowledge of a competitor's information. Or they could reduce all rebates below the 15% threshold, so such information wouldn't need to be reported. The Federal Trade Commission (FTC) has long warned that requiring PBM disclosure of negotiated terms could increase costs and "undermine the ability of some consumers to obtain the pharmaceuticals and

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health insurance they need at a price they can afford."[1] This also requires potentially reporting information on millions of prescription drug claims with no benefit to consumers. Information on cost-sharing and drug alternatives are currently available to covered individuals under the terms of their health plan.

In fact, the fiscal analysis performed on SB 131 notes that, **"Ultimately, the impact will depend on administrative decisions, yet could be significant" and "an increase in cost may be mitigated with adjustments to other benefits employee compensation packages, or through the division of premium costs between the state and state employees."[2]** Additionally, just last year the Indiana General Assembly passed comprehensive legislation which achieves a similar level of transparency sought after in SB 131, including the reporting of aggregated prescription drug rebate data.

The PBM industry supports transparency for patients, providers, and clients that equips them with actionable information that leads to lower drug costs, such as the adoption of real-time benefit tools. However, SB 131 does not achieve this goal and would ultimately lead to less competition and higher drug costs.

On behalf of PCMA, I appreciate the opportunity to offer comments on SB 131 and would be happy to answer any questions of the Committee.

Sincerely,

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Pharmaceutical Care Management Association
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[1] 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).
[2] http://iga.in.gov/legislative/2021/bills/senate/131#document-a76586c0