



February 3, 2021

The Honorable Chair Jeb Bradley
Senate Health and Human Services Committee
New Hampshire State Capitol
Concord, NH 03301

RE: SB 97 – An act adopting omnibus legislation relative to health insurance.

Dear Health and Human Services Committee:

On behalf of the Pharmaceutical Care Management Association (PCMA), I am writing you to oppose SB 97, an act adopting omnibus legislation relative to health insurance. PCMA is the national trade association representing pharmacy benefit managers (PBMs), which administer prescription drug plans for millions of Americans with health coverage provided through large and small employers, health plans, labor unions, state and federal employee-benefit plans, and government programs.

PCMA is not aware of any activity that would fall under any of these prohibited acts outlined in the language of SB 97, thus we are unsure of the necessity and urgency of this proposal. PCMA member companies do not restrict nor are we opposed to in-network retail pharmacies offering limited mail or delivery, many have for years. PCMA's comments on specific provisions are as follows:

In Arizona, a law was passed that addresses similar issues that PCMA would instead like to see in this language. Part II, I (a) - The unrestricted nature of this language essentially allows a retail pharmacy to become a mail-order pharmacy while still receiving reimbursement at retail pharmacy rates. This, as an example, the Arizona language uses the term "limited" when referring to a retail pharmacy offering mail delivery, as follows (the full text of the Arizona statute is provided at the end of this testimony):

§ 44-1754.

A. A plan sponsor or pharmacy benefit manager may not prohibit a retail pharmacy from offering as an ancillary service of a pharmacy within the terms of the contract either of the following:

- 1. The limited delivery of prescription drugs by mail or common carrier to a patient.*

Additionally, there are no provisions around mail or delivery to confirm the patient has received the package. States are more lenient on those best practices under conditions driven by the current pandemic, but PCMA suggests policy makers should not establish those practices as permanent by referencing retail pharmacy mail and delivery without conditions.

Part II, I (b) would prevent a PBM from prohibiting an in-network retail pharmacy from charging a shipping or handling fee to an enrollee who requests that a in-network retail pharmacy mail or deliver a prescription drug to the enrollee. Like the previous section, we are not aware that this



is happening. Without a full understanding of an existing problem this section corrects, we cannot comment further on this language in the context of unintended consequences. For these reasons, we respectfully oppose SB 97. We are happy to work with stakeholders on the intent and text of this bill. Please contact me at 202-756-5727 if you have any questions. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Hallemeier".

Sam Hallemeier
Director, State Affairs

Full Text of Arizona provision:

A.R.S. § 44–1754

§ 44–1754. Delivery of prescription drugs; disclosure; exception

A. A plan sponsor or pharmacy benefit manager may not prohibit a retail pharmacy from offering as an ancillary service of a pharmacy within the terms of the contract either of the following:

- 1. The limited delivery of prescription drugs by mail or common carrier to a patient.*
- 2. The hand delivery of prescription drugs to a patient by an employee or contractor of the pharmacy.*

B. A pharmacy may not charge the plan sponsor or pharmacy benefit manager for the delivery of a prescription to a patient pursuant to subsection A of this section unless specifically agreed on by the plan sponsor or pharmacy benefit manager.

C. A pharmacy shall disclose to the patient any fee that will be charged to the patient for the delivery of a prescription drug, including that the fee may not be reimbursable by the plan sponsor or pharmacy benefit manager.

D. This section does not apply to the Arizona health care cost containment system administration and its contractors as defined in § 36–2901 to the extent the services are provided pursuant to title 36, chapter 29 or 34.1