



PHARMACEUTICAL CARE MANAGEMENT ASSOCIATION

April 10, 2014

The Honorable Michael Fisher
Chair, House Committee on Health Care
Vermont State House
Montpelier, VT 05633

Re: Opposition to S.252 – “Fisher PBM amendments”

Dear Chairman Fisher:

The Pharmaceutical Care Management Association (PCMA) is submitting this letter of opposition regarding the pharmacy benefit manager (PBM) disclosure requirement amendment to S.B. 252. PCMA is the national association representing America’s PBMs, which administer prescription drug plans for more than 215 million Americans with health coverage provided through Fortune 500 employers, health insurance plans, labor unions, and Medicare Part D.

This amendment requires PBMs to publicly disclose highly confidential and proprietary financial information to the health insurer, Department of Financial Regulation and the Green Mountain Care Board. Further, this amendment does not protect the information as confidential, and therefore such information would be subject the state’s open record laws and retrievable by competitors. The Federal Trade Commission (FTC) has stated that the disclosure of this type of information “may increase the cost of the PBM’s services because it will preclude health plans and PBMs from entering into efficient (*i.e.*, cost-effective) contracts for the administration of pharmacy benefits; and second, they may have the unintended consequence of publicizing proprietary business information in a way that could foster collusion among third parties.”¹ The FTC has also stated that a mandate by law of the disclosure of proprietary financial information would “hold PBMs to a standard that does not apply to other industries.”²

PBMs’ clients are sophisticated purchasers of health care, including health plans, insurers, major employers, unions, the federal government, and state and local governments that rely on PBMs to manage their drug benefit. Based on a client’s Request for Proposals (RFPs), a PBM may offer the client multiple variations of models from the more basic plan to the most comprehensive plan relying on multi-tiered co-payments, formularies developed with physicians and pharmacists, pharmacy networks, mail-service pharmacy, and other similar tools that make drugs more affordable and accessible.

Health plans in Vermont are not asking for government assistance in their private contracts with PBMs. Ultimately, this amendment takes away the ability of health plans and employers to create a pharmacy benefit plan that best suits their needs by requiring certain disclosures be made in all contracts. If a health plan or employer wants certain financial information, they make this a requirement of their bid and negotiate the terms in their contract. State-mandated contract terms on private market agreements would impede the health plans’ and employers’ ability to dictate favorable terms through bid and contract negotiations. This type of burdensome regulation would stifle price and product competition and hurt all parties, including health plans and employers, who want to provide access to high quality, affordable prescription drug benefits to their beneficiaries and employees.

For the above reasons, we urge you not to adopt this amendment. Thank you for your consideration.

Sincerely,

Barbara A. Levy
Vice President and General Counsel

¹ FTC letter to Senator James L. Seward, New York Senate, (March 31, 2009).

² FTC letter to Assemblyman Greg Aghazarian, California State Assembly, (September 3, 2004).