

## Oppose H 353

**H 353 only increases the costs of prescription drugs for Vermont families and employers.**

### H 353 Would Inappropriately Classify PBMs as Fiduciaries

- A fiduciary is generally a person who holds a legal or ethical relationship of trust with another party, such as a financial advisor or an asset manager. State and federal law (including ERISA) govern certain fiduciary relationships and generally require the fiduciary to act for the sole benefit and interest of the beneficiary
- According to the Department of Labor (DOL), PBMs “who have no power to make any decisions as to plan policy, interpretations, practices or procedures, but who perform [certain] administrative functions for an employee benefit plan...are not fiduciaries of the plan.”
- **If Vermont implements a PBM fiduciary mandate, projected drug costs for fully insured employers and commercial health plans would increase by \$87 million in the state over the next ten years.**

### H 353 Removes Choice in the Healthcare Marketplace

- H 353 imposes a one-size-fits-all contract mandate on insurers and employers in the private marketplace by requiring 100% rebate pass-through and prohibits spread pricing.
- A business spread pricing contract option allows employers to choose a contract that provides predictability in budgeting. A choice that should be left to the employer that is paying for the benefit.
- Many clients choose a spread pricing arrangement because it provides clients with more certainty in their pharmacy costs and allows them to budget in a more predictable manner. **Reducing options in the marketplace that health plans and employers are currently choosing takes away flexibility in contracting that lower health care costs for them and the consumers of Vermont.**

### H 353 Would Increase Costs by Eliminating Pharmacy Networks and Affiliated Lines of Business

- Pharmacies compete on service, convenience and quality to attract consumers within a particular plan. By building networks of pharmacies, PBMs are able to provide patients with convenient access to prescriptions at discounted rates.
- Today, nearly half of all employer sponsored plans use preferred pharmacy networks H 353 would strip away this ability to exercise competition in the marketplace to contain costs. Proponents of the bill will claim that these types of arrangements hurt pharmacy access. On the contrary, patients have access to more pharmacies than ever before. **In fact, the total number of pharmacies in Vermont has stayed relatively the same with 127 to 126 in the last ten years.**

### H 353 Pharmacy Audits Page

- Pharmacy audits are a critical tool used by PBMs to ensure that patients are receiving high-quality and proficient service from network pharmacies. PBM audits ensure that pharmacies are complying with Board of Pharmacy rules, posting required signage, and properly storing drugs, all of which bolster patient safety.
- In addition to serving as a safeguard to patient safety, audits are also designed to prevent and detect fraud, waste, and abuse. **H 353 would limit the ability of PBMs to protect patients and to contain prescription drug costs by avoiding fraud, waste, and abuse.**