

February 6, 2018

To: Representative Mitch Greenlick, Chair
House Committee on Health Care

Fr: Cynthia Laubacher, Senior Director
Express Scripts Holding Company

Re: House Bill 4103: Pharmacy Benefit Managers
Hearing Date: Friday, February 9, 2018

Thank you for the opportunity to provide comments on House Bill 4103. Express Scripts is a pharmacy benefit manager whose Oregon-based clients include health plans, public agencies, labor trusts, and large employers covering over 196,000 Oregonians. We have the following concerns with this proposal.

First, HB 4103 will increase prescription drug costs for patients and payers in the state of Oregon. The Federal Trade Commission (FTC) reinforced these basic concepts in a letter to New York in 2011, which essentially states that reducing the effectiveness of pharmacy network contracts would result in increased costs to consumers and plan sponsors. In the words of FTC:

“By restricting a health plan’s ability to offer favorable treatment to a low cost mail order pharmacy, the Bill undercuts pharmacies’ incentives to bid aggressively for a share of that health plan’s business. Reducing those incentives is likely to raise the prices that consumers pay for the prescription drugs that their health plans cover. Some cost increases may be passed on to plan beneficiaries in the form of higher out-of-pocket prices.”¹

A cost analysis conducted by CMS in 2013 compared mail-service pharmacies to retail pharmacies in Medicare Part D. The agency found that costs at mail-service pharmacies were 16% less than retail pharmacies across all drugs examined.² Many studies have also shown improved patient adherence to prescription regimens with mail-service pharmacies³

Second, it is important to understand that clients design and control the benefit they provide to their members, including cost share structures for services, how retail and mail pharmacies are reimbursed, and whether they want to receive all or some part of the rebates earned. While focused on PBMs, HB

¹ Letter to NY State Senator James Seward from the Federal Trade Commission’s Office of Policy Planning, Bureau of Competition, and Bureau of Economics. Response to request for comments on the likely competitive effects of New York Assembly Bill 5502-B, August 8, 2011.

² North Star Opinion Research, “Key Findings from the Survey of Oncologists, Neurologists, Rheumatologists, Nephrologists, and Infectious Disease Specialists Regarding Access to Specialty Medications, November 6-20, 2013.

³Part D Claims Analysis: Negotiated Pricing Between General Mail Order and Retail Pharmacies. Centers for Medicare and Medicaid Services, December 2013. <https://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovGenIn/Downloads/Negotiated-Pricing-Between-General-Mail-Order-and-Retail-PharmaciesDec92013.pdf>
Schmittiel et al., “Safety and Effectiveness of Mail Order Pharmacy Use in Diabetes,” Am J Manag Care. 2013;19(11):882-887.

4103 in fact undermines Oregon plans, employers, labor health benefit trusts and others by imposing restrictions and requirements on how they choose to manage their costs and benefits. This is even more concerning as clients struggle to manage ever-increasing costs for specialty drugs, many of which are priced by the manufacturer at \$100,000 or more.

Third, the bill seeks to prohibit PBMs from requiring pharmacies in the network from being subject to any accreditation or credentialing requirements beyond those required by the State Board of Pharmacy. Board of Pharmacy regulations set the basis for the practice of pharmacy, including requirements for licensing individuals (pharmacists), and facilities (pharmacies). Board requirements are the minimum standards for basic pharmacy services. Credentialing and accreditation validate the ability of the pharmacy to provide services as required by health plans and payors. An analogy is the requirement for hospitals to be licensed by the Department of Health, but also to be accredited by the Joint Commission for Healthcare Organization, which is required for Medicare/Medicaid payments.

Credentialing is the process by which an organization obtains, verifies, and assesses a pharmacy's qualifications to provide patient care. PBMs and health plans typically require evidence including: state licensure, current Federal DEA license, current pharmacy malpractice insurance, description of pharmacy services, hours and types of drugs regularly stocked, photos with GPS location to prove the pharmacy is legitimate. Express Scripts contracts with over 65,000 retail pharmacies across the country. Every day we receive requests from these pharmacies requesting to be in our networks. Credentialing allows us to protect the integrity of the network and ensure that patients have access to legitimate pharmacies in their area.

Accreditation is about protecting patients. Accreditation from a national body such as URAC or VIPPS demonstrates high standards and best practices, including for patient care, proper drug handling and distribution, and home delivery of medications. Accreditation assesses best practices for:

- Use of evidence based practices and clinical decision support programs
- Patient counseling and benefits coordination
- Patient outcomes and quality of care
- Many other clinical and patient care factors
- Accreditation is an essential tool for demonstrating high expertise in caring for patients and being desirable network partners for insurers and PBMs

Express Scripts is committed to providing our members with medications in the safest, most cost-effective way for both the patient and the plan. For these reasons, we respectfully oppose HB 4103 and request that it be held in committee. Thank you for your consideration of our concerns.