February 7, 2018

Representative Mitch Greenlick
Chair, Committee on Health Care
House of Representatives
Oregon State Legislature
900 Court Street, NE
Salem, OR 97301

Re: Oppose HB 4156 (Prescription Drug Formularies)

Dear Chairman Greenlick:

On behalf of the Pharmaceutical Care Management Association (PCMA), we respectfully oppose HB 4156, limiting plans and pharmacy benefit managers' (PBMs) ability to make mid-year formulary changes, and request that the bill not advance out of committee. PCMA is the national trade association for PBMs, which administer prescription drug plans for more than 266 million Americans with health insurance coverage through large and small employers, health insurers, labor unions, and federal and state sponsored programs.

Nationally, PBMs are projected to save health plan sponsors and consumers $654 billion—up to up to 30 percent—on drug benefit costs over the next ten years according to research from Visante.[1] One of the most common and effective ways of achieving savings while ensuring patient access to cost-effective, therapeutically equivalent medicines, is by having some measure of flexibility in formulary during the course of a plan year. HB 4156 would prohibit health plans from making changes to enrollees' cost sharing or from directing patients to more cost-effective alternatives during a plan year.

According to a recent study by the National Academies of Sciences, Engineering and Medicine, "without such formulary controls within pharmacy benefit plans, insurance premiums would rise, potentially also leading to lower enrollment and similar undesired health consequences."[2] The State of Washington Office of Financial Management (OFM) projected the impact of their SB 6147 (2018), a bill similar to HB 4156, on the State's Public Employees Benefit Board Program to be nearly $3 million for the 2019 biennium, increasing to nearly $6 million in the following two biennia.[3]

[1] Pharmacy Benefit Mangers (PBMs): Generating Savings for Plan Sponsors and Consumers, Visante, (February 2016), available at: https://www.pcmanet.org/wp-content/uploads/2016/08/visante-pbm-savings-feb-2016.pdf.
[2] *Making Medicines Affordable: A National Imperative*, National Academies of Sciences, Engineering, and Medicine, available at: https://www.nap.edu/catalog/24946/making-medicines-affordable-a-national-imperative.
[3] Washington State Office of Financial Management, HCA Fiscal Note for SB 6147 (2018), available at: https://fortress.wa.gov/ofm/fnspublic/FNSPublicSearch/Search/6147/65.

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This bill would carry a corresponding impact on private sector plans. In 2017, Milliman analyzed this type of "frozen formulary" legislation for PCMA and found that it would increase payer prescription drug costs in the fully-insured commercial health insurance market by approximately $4.84 billion over five years from 2017 through 2021 on a nationwide basis. According to Milliman's analysis, **the cumulative impact on the commercial health insurance market in the State of Oregon is likely to be $57 million**.[4]

Prices for multi-source drugs can increase significantly at any time and are subject to various market forces completely outside of a plan's control. The ability to make changes to the formulary in response to these market fluctuations is essential so plans can maintain overall cost control, fiscal predictability, and affordability for all plan enrollees. The inability to direct enrollees to less expensive, but therapeutically equivalent alternative medicines, in the face of ever-increasing prices would remove an important cost management tool for health plans. For example, it would force plans to pay for a more expensive brand drug even if a less expensive generic drug, with the same therapeutic equivalency, comes to market.

A similar concern exists for changes in the brand name drug marketplace. Requiring health plans to maintain single-source drugs, despite the availability of more affordable alternatives that treat the same conditions, will remove any incentive for brand manufacturers to offer discounts, knowing that their drug on the formulary cannot be changed during the plan year and therefore no true competition exists. If this bill had been enacted when hepatitis C drugs Sovaldi and Harvoni came to market, health insurers and PBMs would not have had the leverage to negotiate the discounts—around 40%, as publicly reported—on these very expensive drugs in exchange for placement on the formulary as the preferred drug.

In addition, Oregon health plans already have exceptions and appeals processes in place for pharmaceutical coverage denials or patient continuity of care requests.[5] In essence, this bill would allow those processes to be circumvented when a single prescriber determines he or she would prefer to prescribe a more expensive drug when a more affordable alternative exists.

For these reasons, we respectfully request that you not advance HB 4156. Thank you for your attention in this matter.

Sincerely,

April C. Alexander
Assistant Vice President, State Affairs

[4] Milliman, *Estimated Cost of Potential "Frozen Formulary" Legislation*, Prepared for PCMA (Sept. 2017).
[5] See ORS § 743B.250.

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