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TESTIMONY
Of
CARMEN A. DiCELLO, R.PH.
ON
SENATE BILL 616(PN665)

My name is Carmen A. DiCello, R.Ph. I am Director of Government and Public Affairs for Value Drug Company, a wholesale company based in Altoona, Pennsylvania. Value Drug is owned by independent community pharmacies and represents over 1,200 independent community pharmacists from across the Commonwealth. Value Drug is a advocate not only for independent community pharmacy, but also for the hundreds of thousands of your constituents—our patients—that we serve every day. I am also the owner of two pharmacies in Pottsville, Pennsylvania—the only two remaining independent pharmacies in the Pottsville area.

We are grateful to Majority Chairman Senator Don White, Minority Chairman Senator Mike Stack and the members of the Banking and Insurance Committee for the opportunity to substantiate our strong support for the bipartisan Senate Bill 616 (PN665), introduced by Senator John Rafferty, that amends the “Unfair Insurance Practice Act.”

What will the provisions of SB616(PN665) do?

- **Afford your constituents the FREEDOM TO CHOOSE either mail order distribution or local community pharmacy services.**

- **Protect your constituents from fiscal penalties (i.e., higher co-payments) if they choose a local community pharmacy whose services they have grown to know and trust.**
- **Assure that payors (i.e., employers) are NOT billed by Pharmacy Benefit Managers (PBMs) at rates substantially higher than those paid to pharmacy providers.**
- **Require PBMs to have verifiable transparent accounting systems.**

What will the provisions of SB616(PN665) NOT do?

- **WILL NOT INCREASE COSTS!** In fact, studies have repeatedly confirmed that community pharmacy services are MORE cost-effective. (Please see enclosure: “Mail-order prescription pricing: a critical examination” from the Creighton University Medical Center.)
- **WILL NOT MANDATE** prescription drug benefit plans.
- **WILL NOT** prohibit choice of mail order drug distribution.
- **WILL NOT** prohibit PBMs from using their own wholly owned mail order distributors.

Understanding exactly how PBMs operate and impact health care can be challenging! A Pharmacy Benefit Manager (PBM) is a third party

administrator (“middle man”) of prescription drug benefit plans. They process and pay prescription drug claims. They also develop and maintain the formulary (a list of drugs that are eligible for payment), contract with pharmacy providers and negotiate discounts and rebates with drug manufacturers.

PBMs are an **UNREGULATED** component of the United States health care system. As fiduciaries (a person to whom property or power is entrusted for the benefit of another), PBMs have failed, since prescription drug costs have escalated over the last 15 years at such an unprecedented rate that basic health care is becoming unaffordable. It could be argued that PBMs are weakening our country’s health care system and the national economy in the process. (Please refer to enclosures: “CVS to pay millions to settle drug-cost case” and NCPA’s “Fact Sheet-PBMs.”)

Because pharmacy providers are prohibited by antitrust laws from collectively negotiating, PBMs have successfully exploited antitrust laws to manipulate competitive forces to their advantage (Please see enclosure from Medicine Shoppe: “CVS/CareMark-Action Needed. Call Immediately To Ensure Your Refill Is Covered!”) The network of pharmacy providers is

prohibited from collectively negotiating, so the PBMs enjoy a position unlike any other industry: they are the primary payers to their network of pharmacies AND also a direct competitor (by virtue of their wholly owned mail order distributors) with that same network of providers!

The largest PBMs generate revenues from various sources. These include but are not limited to manufacturer rebates, selling data to the pharmaceutical industry and practices known as spread pricing and repackaging.

Manufacturer Rebates. The ability of PBMs to impact market share of drug products has allowed them to negotiate rebates and discounts with pharmaceutical manufacturers. Lawsuits filed by the federal and state governments have alleged that PBMs have breached their fiduciary duties by secretly retaining rebates and discounts that the PBMs were obliged to pass through to their clients. For example, a large employer may negotiate that 80 percent of all “rebate” money received by the PBM from manufacturers will be rebated to the employer. But the PBM may choose to classify a certain amount of funds received from manufacturers NOT as rebate, but rather as “marketing” or “service” fees. Or the manufacturer may pay a six

or seven figure “fee” in order to make a presentation to the PBM’s formulary committee, which determines which drugs will be included. The “appointment fee” would not be classified as a rebate.

Spread Pricing. Simply stated, contracts that include this practice allow PBMs to reimburse pharmacy providers at a rate substantially LOWER than the rate charged to the payor (i.e., employer). The PBM profits from the difference or “the spread” in pricing.

Although specific dollar amounts vary among studies, the average amount nationally is considerable. (Please refer to enclosure: “Examining the value of pharmacy benefit management companies.”)

Repackaging. A PBM that owns its own mail order distributor AND holds a repacker’s license may purchase very large containers of a medication directly from the manufacturer at a substantial discount and repack it into smaller containers. This allows the repackaged product to be identified by a new National drug code (NDC) number. (Think of an NDC as similar to a person’s social security number—no two individuals have the same one.) Each NDC number must have a corresponding average wholesale price (AWP) for that particular NDC. Since there are NO RULES for determining

what the AWP will be for the newly-established NDC of the repackaged product, it can be set at ANY LEVEL. Consequently, AWP IS NOT A FIXED COST!

Although "percent off AWP" discounts offered by mail order distributors may APPEAR to be substantially greater than what community pharmacies can offer, THE COST BASIS IS SIGNIFICANTLY INFLATED, because of the ability to manipulate costs at their discretion. Mail order distributors need only apply this practice to the right 20 percent of drugs dispensed in order to maximize profits while maintaining the illusion of lower costs.

The myth that mail order saves money compared to local community pharmacies is further proliferated by outside consultants retained by employers BUT who receive referral and residual commissions from the mail order distributors.

The dispensing of generic medications is another issue that has relevance to SB616(PN665). (Please refer to enclosure: "Evaluating the Costs of Brand-name and Generic Prescriptions Dispensed by Mail Versus Retail.") When prices for brand-name and generic prescriptions are combined, any

differences between mail order distributors and community retail pharmacies virtually disappear.

Obviously, the major portion of this testimony is devoted to the single issue that will ultimately determine the fate of SB616(PN665)—MONEY. While we have provided information that dispels the “mail order is cheaper” myth, we are also compelled to present additional information that has more subtle but NO LESS IMPORTANT fiscal impact.

- **Medication waste and damage caused by exposure to temperature extremes add to the costs of mail order distribution.**
- **Local community pharmacies provide VITAL SERVICES that CANNOT be provided by mail order distributors: same-day delivery of life-sustaining medications and medications to treat acute illnesses, 24/7/365 emergency service, special packaging of monthly medications into daily doses, compounding of specially-formulated medications.**
- **Local community pharmacists’ face-to-face interventions can reduce problems associated with improper medication use. (Please see enclosure: “Fewer drug problems with pharmacists’ help.”)**

- **Pennsylvania licensed community pharmacies are compliant with Pennsylvania laws and regulations as a result of periodic unannounced inspections. Who from Pennsylvania inspects mail order distributors located outside of the Commonwealth?**
- **Local community pharmacies are a KEYSTONE of the Commonwealth's SMALL BUSINESS COMMUNITY! We are employers of your constituents. We provide a tax base in our respective communities and throughout the Commonwealth.**

Finally, may I proudly refer you to the enclosure "Pharmacists Shine in Ethics Rating: Gallup." It is through our sustained high level of service to your constituents—our patients—and our extensive contributions to our communities that this honor is hard-earned. I invite you to visit my pharmacies for just one hour in order that you may gain valuable insight into the many reason why the continued viability of local community pharmacies is critical to the FISCAL HEALTH AND WELL-BEING of the Commonwealth.

We respectfully urge members of this Committee to vote Senate Bill 616 (PN665) out of committee and to VOTE YES TO THE FREEDOM TO

CHOOSE whichever pharmacy your constituents deem best suits their individual needs.

Thank you for your attention to and consideration of these issues. It would be my privilege to address any concerns or answer any questions.

Respectfully submitted,

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