

Testimony to Banking & Insurance Committee
Senator Don White, Chairman

MAIL ORDER BILL SB 616

On behalf of PARD an Association of Community Pharmacies, I would like to thank you for the opportunity to testify this morning.

The purpose of today's testimony is to ask that you consider SB 616. This bill offers the people of our commonwealth freedom of choice.

The way things stand today people are often not given the choice of who fills their prescription medications. We want to be clear that we are not opposed to mail order pharmacy, however we are opposed to mail order pharmacy being mandatory.

Patients have lost the freedom of choice to use the pharmacy they want. Studies have shown over and over that the vast majority of people DON'T want to use mail order pharmacy providers.

What has evolved are companies like MEDCO, CVS/Caremark and Express Scripts that have been able to manipulate the system to gain extremely large profits. Webster defines collusion as a secret understanding between 2 or more parties to gain something illegally. The marriage of the PBMs to the mail order Pharmacies is the most perfect example of collusion. Most PBMs like MEDCO, CVS/Caremark and Express Scripts have started their own mail order pharmacies or have bought existing mail order factories. They then funnel as much business as possible using any means, to their own mail order companies.

The PBMs control where prescriptions are filled, which cuts out the competition. The PBM's design programs where patients are either forced to use or coerced to use mail order by being charged higher co pays if they chose to go to their local community retail pharmacy. The mail order pharmacy/PBM will give a 3 month supply while only charging a 2 month co pay. Retail community pharmacies are not given this same opportunity by the PBMs which create an unfair advantage against the retail community pharmacies.

Not only do the PBM's charge patients a higher co pay if they choose to use their community retail pharmacy but the PBM's are now targeting patients via information gained by what many feel goes against HIPPA regulation by mailing patients solicitations once a patient has had prescriptions filled at their local community retail pharmacy.

Many members of PARD have been approached by their customers and have been very upset. These customers have brought to their community pharmacist letters from CVS/Caremark and others which they have never heard of, soliciting their business. We have copies of these solicitations on file at the PARD offices. These customers question how their protected health information could be used in this manner.

We find it puzzling that in 2004 CVS Pharmacy went on record as not supporting mandatory mail order by refusing to serve any Insurance Plan that offered any mandatory mail order component. Today CVS/Caremark is a major provider of mandatory mail order programs.

Ladies and Gentleman, in any other arena these mail order companies and PBMs would probably be indicted, but because there is no oversight by anyone, these activities not only continue, but thrive. It is the perfect business model. In the end the free marketplace and normal competition is destroyed leading to increases in the cost for pharmacy services.

The proponents of mandatory Mail Order Pharmacy, some of which are the same group of PBMs testifying today, have been forced to pay hundreds of millions of dollars in fines to state and local governments, unions, the federal government and other plan sponsors. They have been charged with such things as fraud, kickbacks, short counting pills, overbilling, inflating drug costs fraudulently, drug switching, diversion of rebates that belonged to the plan sponsor, accepting bribes from the pharmaceutical industry yet no one has ever gone to jail. Business goes on as usual and the thievery continues. It is obvious that their illegal profits more than cover their fines.

Additionally, to help you understand the breadth and consequence of these overbillings many PBM/Mail order Pharmacies utilize more expensive medications through select formularies. This results in higher costs to plan sponsors as well as higher rebates to the PBM's. The worst effect of these high cost medications is it throws our senior citizens who utilize Medicare Part-D into the donut hole much sooner than if they had used less expensive drugs.

Senators, what more can we show you to convince you that what you hear from the mail order industry might not be true?

It is time for someone to take responsibility for this out-of-control industry. SB 616 will help return the marketplace to normal, allows the patient to use the pharmacy of their choice and institute some much needed controls on the mail order industry. Please give it your serious consideration.

Thank you,

Robert Schreiber, R.PH.
PARD