



March 28, 2013

Honorable Mike Dunleavy, Chair
Senate Labor and Commerce Committee
State Capitol Room 510
Juneau AK, 99801
Senator.Mike.Dunleavy@akleg.gov

Re: Opposition to SB 8.

Dear Senator Dunleavy,

On behalf of Healthcare Cost Management Corporation of Alaska (HCCMCA), I am writing in opposition to SB 8, the Pharmacy Audit bill.

The membership of HCCMCA is comprised of over 35 member health benefit plans in Alaska and the Pacific Northwest. These funds consist of employer-sponsored health benefit plans, including Alaska State, Borough, Municipal and School District sponsored plans, as well as private employer and Taft Hartley health benefit plans. Our member funds represent 72,000 employees and, including their dependents, 171,000 covered lives. More than 40% of these participants live and work in Alaska, representing over 10% of Alaska's Population. Most or all of these funds contract with pharmacy benefits managers (PBMs) as a means to help control their rising drug costs.

The mission of HCCMCA is to "ensure that workers and their families have access to value and quality - based health care benefits and services." In accord with this mission, the topic of SB 8 was addressed at our quarterly board meeting held in Anchorage on March 20, 2013. The board found the bill troublesome, and voted to oppose the legislation.

As you know, healthcare fraud, waste and abuse are a national epidemic. It is estimated to account for 10% of the United States' annual healthcare expenditure, representing approximately \$225 billion every year. Unfortunately, these numbers are growing each year.

In Alaska, the 2011 Milliman report prepared for the Alaska Healthcare Commission found that Alaska's average physician reimbursement rates are 160% of the regional average, and for workers' compensation, the reimbursement rate is 190% of the regional average. Alaska's workers' compensation premium rates are the highest in the United States.

Several years ago, in an effort to hold down Alaska's rising workers' compensation costs, the Alaska legislature funded increases in the division's fraud detection unit. HCCMCA is concerned that this bill, SB 8, sends the opposite message, that Alaska is less concerned

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about Alaska's high and rising costs of health care, and not about detecting and eliminating fraud and abuse.

Indeed, regarding practices of independent pharmacies, a May, 2012, report by the Department of Health and Human Services Office of Inspector General suggests independent pharmacies need more oversight, not less. The inspector general's report said independent pharmacies were eight times more likely than other pharmacies to have questionable billing practices.¹

Against this backdrop, HCCMCA is concerned that SB 8 is not balanced, and it unduly protects the ability of pharmacists to shield their bad actors from scrutiny. For example, Subsection (a)(1) of the bill requires payers to provide advance warning of an audit – even in cases when fraud is suspected – which would give suspects time to tamper with evidence and even avoid detection altogether. Moreover, when mistakes are found, SB 8 prohibits use of extrapolation as an accounting practice, and it further penalizes our plan sponsors by disallowing full reimbursement of our members' costs incurred, plus interest.

The independent drugstore industry, which generates \$93 billion in annual sales from 23,000 stores nationwide, ranks among America's most profitable small business sectors. As such, we believe pharmacists have the independent capacity to structure their contracts with PBMs in such a manner as to adequately protect their interests, and the State of Alaska should not become entangled in a dispute between the National Community Pharmacists Association and the PBMs.

During this period when Alaskans regularly complain about the burden of governmental regulations, as well as the high cost of medical care, this is not the time to add more regulatory restrictions on Alaska's health benefit plans, and their ability to protect themselves against rising medical costs.

SB 8 is unnecessary, and HCCMCA opposes the legislation.

Feel free to contact me if you have any questions.

Sincerely,

Fred G. Brown

Fred G. Brown, Esq.
Executive Director

¹ Gebhart, Fred, "OIG suggests independent pharmacies more prone to fraud, abuse," Drug Topics, August 10, 2012.