

Insurance and Real Estate Committee

Raised S.B. No. 14

An Act Concerning Pharmacy Audits and Electronic Funds Transfer Payments to Pharmacies

Senator Crisco, Representative Megna and the Distinguished Members of the Insurance and Real Estate Committee

My name is Edward Schreiner. I am a resident of 36 Pineridge Drive, Oakville, Ct. As a registered pharmacist, I have owned and operated Stoll's Pharmacy in Waterbury, Ct since 1988. I am also the Chairman of the Board of Directors for Northeast Pharmacy Service Corporation, a group purchasing organization (buying group) with approximately 275 participating community pharmacies throughout New England including the majority of independent pharmacies in Connecticut.

I am here today to voice my support for Raised Bill No. 14: An Act Concerning Pharmacy Audits and Electronic Funds Transfer Payments to Pharmacies. All pharmacies participating in third party drug plans operate under a written agreement with the plan sponsor and/or pharmacy benefit manager (PBM) that administer their pharmacy benefit. Over the years, health plan sponsors and PBMs have unilaterally created and enforced pharmacy audit programs and fund payments to their pharmacy network providers. Pharmacies have little or no negotiating leverage with respect to these contract provisions.

Impact of Electronic Fund Transfers (EFT)

Managing cash flow is the key to the success or failure of community pharmacies and all small businesses. When receiving payment by check, PBMs reimburse local community pharmacies anywhere from four to eight weeks after the prescription is filled. We most commonly pay our suppliers on terms of 15 to 30 days. This dichotomy between paying our bills and receiving reimbursement for our services puts a great strain on cash flow. It is critical that pharmacies receive regularly scheduled payments from PBMs in a predictable reliable manner.

Payments received by check are anything but predictable or reliable. I have received checks from other pharmacies stuffed in the envelope containing my check. I have had checks delivered to my neighbors address. Calling a PBM to inquire after missing payments is often time consuming and met with inadequate explanation or resolution. I had one check held for over 6 months by a PBM because the total amount due was under \$100. When we realized the payment was missing, it took 3 long phone calls to get the PBM to admit that their internal policy was to hold small checks because it was too expensive to mail them. I was finally able to get them to release the payment when I learned that the one plan they were processing claims for in my area was no longer their client.

CMS requires PBMs to offer EFT payments for all prescriptions paid for under Medicare Part D yet many PBMs still refuse to extend EFT payment to commercial programs. Electronic banking is commonplace in today's society and online bill paying is much preferred over the traditional printing and mailing of paper checks by most people. It makes sense that a secure, reliable, inexpensive, and weather-proof EFT payments procedure is a much more efficient process than mailed checks. This bill

provides the business-friendly option of EFT for Connecticut's pharmacies but does not prevent PBMs from mailing checks to those that prefer them.

Pharmacy Audits

Pharmacy audits were originally intended to detect and deter fraud, waste and abuse involved with third party prescription drug programs. While many audits continue to be fair and reasonable, the frequency of unfair audits has grown tremendously over the years.

In many instances PBMs pay auditors a percentage of their findings as their fee for performing the audits. This practice incentivizes the auditor to create as many "findings" as possible so as to increase their own financial gain. When recoveries are made, there is no guarantee that this money is reported and returned to the health plan that paid the claim originally. In this case the audit becomes another revenue stream for the PBM. These two issues create a powerful incentive for auditors and PBMs to perform abusive audits that recover legitimate payments made to pharmacies for services rendered and drugs consumed by patients, often in the name of "fraud" where no fraud has occurred.

Every PBM has their own set of audit requirements. PBMs often decide what a "legitimate" prescription is and use self-defined criteria that may be applicable in other states, but have no foundation in Connecticut's general statutes. Pharmacies must comply with numerous variations of audit and appeals practices by different health plans. This variation forces pharmacies to spend numerous hours and thousands of dollars in employee salaries to address audits in an effort to keep revenue they are legitimately owed. Pharmacies need at least two weeks' notice of the audit and should be provided information about the claims to be audited. This time is necessary to gather the required documentation to substantiate the claim in a calm and orderly manner without abusive pressure from auditors to present this information in the abbreviated time frame of an on-site audit.

Frequently, pharmacies are subject to recoupment of payments due to clerical, computer, or recordkeeping errors that have nothing to do with fraud and do not result in financial harm to the PBM, the health plan or the plan beneficiary. Abusive audits recoup thousands of dollars from Connecticut pharmacies every year even when the correct medication is dispensed to the correct patient for the correct price.

As a result of abusive audits, twenty states have implemented legislation governing pharmacy audits according to the National Community Pharmacists Association. Raised Bill No 14 sets reasonable, consistent standards for pharmacy audits, based upon Connecticut General Statutes. Passage of this legislation would ensure that pharmacy audits focus on ferreting out fraud, waste and abuse while protecting Connecticut's pharmacies from abuses based upon minor technicalities within the current audit system operated by PBMs and health plans. In conclusion, I strongly urge you to support passage of Raised Bill No 14.

Edward R. Schreiner Jr., R.Ph.
36 Pineridge Drive
Oakville, CT 06779