

Date: December 7, 2015

To: Special Committee on Insurance

From: Jody Reel, Government Affairs Committee Chair  
Kansas Pharmacists Association

Re: Senate Bill 103

Representative Schwab, Senator Longbine and members of the committee thank you for taking time today regarding the important issues embodied in Senate bill 103. I am Jody Reel a pharmacist and pharmacy owner in Sabetha, Kansas. I am appearing here today in my capacity as the chair of the Kansas Pharmacists Association (KPhA) Government Affairs Committee.

During this summer and fall representatives of KPhA and pharmacy benefit management companies have met in an effort to find common ground regarding the provisions of SB 103 as it was introduced. The intent of the original language of Senate bill 103 was bringing transparency and consistency to the pricing of generic drugs by pharmacy benefit managers to pharmacies. The key components of the measure are:

1. Defining which drugs are subject to maximum allowable cost (MAC) reimbursement;
2. When those drugs can be included on the MAC list, for example the drug should be available for purchase in Kansas and not obsolete;
3. A standard for how often the MAC list must be updated by the PBM, and how soon those updates must be applied to reimbursement, to enable pharmacies to know the cost of the product they are selling in a rapidly changing environment;
4. Disclosure by the PBM's of the sources they use to establish their MAC pricing;
5. The establishment of an appeal process for pharmacies that includes what takes place when the pharmacy prevails and also when the appeal is denied; and
6. An enforcement process for the Act.

After several sessions of negotiations both during last year's legislative session and this interim the parties reached consensus and the language you have before you today is that product.

This version includes treatment of those key components above, with the exception of an enforcement provision as follows:

1. Requires PBM's to update the MAC list every 7 business days and apply the updates within 1 business day.
2. Adds language that the drug must be available from a wholesaler in Kansas and that source identified, whether it is for placing a drug on the MAC list, or later in the appeal section, providing the pharmacy with wholesalers where the drug can be purchased.
3. Provides that the PBM establish a process for each network pharmacy provider to readily access the MAC list.
4. Establishes an appeals process that provides
  - a. If the pharmacy prevails it has ability to reverse and rebill and that the resulting changes become effective going forward for all similarly situated pharmacies; and
  - b. If the appeal is denied the PBM provide the appealing pharmacy the National Drug Code number from a national or regional wholesaler operating in Kansas where the drug is generally available for purchase at a price equal to or less than the maximum allowable cost that may be substituted lawfully.
5. This compromise does not contain an enforcement provision for the Act.

While the enforcement provision has been a top priority for the KPhA, we are operating for the time being under good faith and the assurances from the PBM's that they have no intention to frustrate or circumvent the legislative intent of this Act. While you may have heard anecdotally that in other states some PBM's have used other pricing strategies or terminology to circumvent the provisions of laws similar to SB 103, we are confident that the PBM's we have been at the table with would not pursue such a strategy.

Thank you for your time and attention. I would be happy to answer any questions.