



The Maryland State Medical Society

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House Health and Government Operations Committee
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House Bill 321 – *Pharmacy Benefits Managers – Definition of Purchaser and Alteration of Application of Law*
POSITION: SUPPORT

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, supports House Bill 321. This bill extends Maryland’s consumer protection provisions under the laws governing pharmacy benefit managers (PBMs) to self-insured plans that contract with a PBM. These important consumer protections include:

- information on and sales of prescription drugs (§ 15-1611);
- choice of pharmacy by a beneficiary (§ 15-1611.1);
- reimbursement for a pharmaceutical product or pharmacist service (§ 15-1612);
- requirements before entering into a contract (§ 15-1623);
- rebate sharing contract requirements (§ 15-1624);
- audits by PBMs (§ 15-1629); and
- internal review process requirements (§ 15-1630).

Typically, Maryland is limited to regulating only plans in the fully insured market, not ERISA plans. However, the U.S. Supreme Court decision *Rutledge v. Pharmaceutical Care Management Association* addressed the legal issues concerning the regulation of ERISA plans. Following that decision, the Maryland Insurance Administration (MIA) issued a report stating that “it is the view of the MIA that should the legislature determine to apply additional provisions of Title 15, Subtitle 16 to PBMs when providing services to an ERISA plan, ERISA would not preempt the MIA’s enforcement of those laws in that context.”

Over the years, PBMs have increased their role in patient care and are, in essence, determining whether patients receive necessary care through prior authorization and other policies. Three insurance companies own 80% of the PBM market. Maryland enacted the above laws because of the important protections they provide to both pharmacies and consumers. Passing House Bill 321 will significantly benefit consumers and improve healthcare services. If the Maryland General Assembly believed these provisions were necessary for the fully insured market, it should not overlook the opportunity to expand these protections to additional consumers. Therefore, MedChi thinks that, with the increasing role of PBMs in determining the delivery of health care services, further protections for consumers and pharmacies are both appropriate and necessary. We urge a favorable vote on House Bill 321.

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