

Andrew Sebolt
Director & General Manager
HomeTown Apothecare
4171 S Oceana Dr
New Era, MI 49446

Senator Curt Vanderwall
Chair, Health Policy & Human Services Committee

Subject: HB 4352

Dear Chairman Vanderwall:

I applaud the committee's efforts to create a price-transparent environment in pharmacy. HB 4352 attempts to remove the ongoing "gag clauses" so prevalent in Pharmacy Benefit Manager (PBM) contracts. As the Director and General Manager of HomeTown Apothecare, a PBM, I find the practice of these contractual clauses abhorrent to a patient-centered system of care. While we do not engage in these clauses at Apothecare, I thank the committee for working on a bill that seeks to remove them. A pharmacist has the inherent right and duty to take care of his or her patients, and this includes educating them on a medically appropriate and less expensive drugs than the one they were prescribed if available.

However, HB 4352 may only solve a problem by creating a new one. My concern is found in the closing sentence of Sec 17757:

"A pharmacy or a pharmacist described in this subsection shall not enter into a contract that prohibits the disclosure of the information described in this subsection."

What this addition to the section's language would provide for is the following scenario.

A PBM offers a Contract to Pharmacy A with the "gag clause". Pharmacy A would then have a statutory duty to *not* enter into that contract. Meanwhile, the PBM may then offer the same contract *without* the gag clause to Pharmacy B, who is then free to accept. The result would then be a massive loss to Pharmacy A and their patients as scripts could not be processed under an insurance plan without the PBM.

Rather than making pharmacy the subject of this sentence, I would suggest amended language that places the PBM as the subject, or striking the sentence and adding a new section. For example:

"A Pharmacy Benefits Manager (PBM) shall not offer or enter into a contract with a pharmacy that prohibits the disclosure of the information described in this subsection."

Further, the new section 17757b (1) reads:

"A pharmacy or pharmacist engaged in the business of selling drugs shall not enter into a contract with a pharmacy benefit manager that violates section 26 of the third party administrator act,..."

This section should likewise place the PBM as the subject and proscribe the duty to them of not offering or entering into a contract. For example:

“A Pharmacy Benefit manager shall not offer or enter into a contract with a pharmacist or pharmacy when that contract violates section 26 of the third party administrator act,...”

Thank you Senator Vanderwall and your committee for your kind attention to the patients we serve and for placing them first in your deliberations.

Respectfully submitted,

Andrew Sebolt
Director & General Manager
HomeTown Apothecare