

March 15, 2021

Senate Human Services Committee
North Dakota Legislature
State Capitol
Bismarck, North Dakota 58505

Re: HB 1032 Prescription Drug Cost Transparency
HB 1033 Biosimilar bill

Dear Chair Lee and Committee Members,

On behalf of CVS Health, I want to express our concurrence with the comments submitted by PCMA:

- In opposition (or amend) to HB 1032, the prescription drug cost transparency bill, and
- In support of HB 1033, the biosimilar bill.

CVS Health is a different kind of health care company. We are a diversified health services company with nearly 300,000 employees united around a common purpose of helping people on their path to better health. In an increasingly connected and digital world, we are meeting people wherever they are and changing health care to meet their needs. Built on a foundation of unmatched community presence, our diversified model engages one in three Americans each year. From our innovative new services at HealthHUB® locations, to transformative programs that help manage chronic conditions, we are making health care more accessible, more affordable, and simply better.

CVS Health has six retail pharmacy outlets in North Dakota, and employs **804** people, including **26** licensed pharmacists who filled **987,000** prescriptions for thousands of North Dakota consumers last year. CVS Health also operates one of the largest PBMs in the country, which manages **3,000,000** prescriptions for North Dakota consumers annually, on behalf of major employers and insurance companies who hire CVS Caremark to control the cost of prescription drugs for their members. It is that effort – to control the cost of drugs for our clients – that brings us to the North Dakota Legislature each session in order to defend the free market principles and tools that allow us to keep the cost of prescription drugs affordable for North Dakota consumers.

CVS Health concurs with the comments, concerns, and suggested amendments offered by PCMA. We are particularly concerned about HB 1032, which allows the Board of Pharmacy (Board) to collect competitively sensitive and proprietary information from PBMs and grants rulemaking authority to implement the bill, both of which would be a glaring and direct conflict of interest for the Board and the pharmacists serving on the Board. Please note that the Federal Trade Commission reviewed similar legislation that allowed Board oversight of PBMs and stated that “[b]ecause pharmacists and PBMs have a competitive, and at times, adversarial relationship, we are concerned that giving the pharmacy board regulatory power over PBMs may create tensions and conflicts of interest for the pharmacy board.”¹ We

¹ Federal Trade Commission, Letter to Representative Mark Formby, Mississippi House of Representatives, March 22, 2011. Available at: https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-staff-letter-honorable-mark-formby-mississippi-house-representatives-concerning-mississippi/110322mississippipbm.pdf



believe that the Department of Insurance would be the appropriate agency for such oversight and that this would make HB 1032 consistent with other states that have similar laws in place. The Board is comprised of active market participants whose access to competitive data is a conflict of interest and would undermine competition in the marketplace.

We urge the Committee to **SUPPORT HB 1033**, and to **OPPOSE or AMEND**, as suggested by **PCMA, HB 1032**. CVS Health supports meaningful and actionable transparency for consumers and clients and does not believe HB 1032 achieves that goal. We look forward to working with the Committee in a manner that was not fully afforded because of COVID-19 restrictions during the interim, so we can help fashion appropriate public policy for the people and businesses of North Dakota.

Sincerely,

A handwritten signature in blue ink, appearing to be "L. Johnson", with a long horizontal line extending to the right.

Larry Johnson
Regional Government Affairs Director
CVS Health