

Testimony on SB 616
Presented to the Senate Banking and Insurance
Committee
June 9, 2009

Presented by Paul Granger, RPh
Pharmacy Services Manager
Nell's Shurfine/AWI

On behalf of Pennsylvania Pharmacy Council
Melanie Horvath, Executive Director
mhorvath@pfma.net

Thank you Chairmen White, Stack and members and staff of the committee for allowing me the opportunity to join in today's discussion regarding Senator Rafferty's SB 616, the mail order bill. My name is Paul Granger, RPh., and I am the Pharmacy Services Manager for Nell's Shurfine/AWI, located in Robesonia.

After listening to the comments made by my colleagues supporting the bill, I have little to add that hasn't already been mentioned. To summarize, the bill -- as Mr. DiCello so aptly noted -- affords Pennsylvania's patients:

- the freedom to choose to buy their prescription drugs from either a mail order service or their local community pharmacy;
- protection from fiscal penalties (such as higher co-pays); and,
- continued access to their community pharmacist, the most trusted healthcare provider.

As for the state's employers, a second major constituency that would be ***positively*** affected by this bill, it will arm them with the information they need to become better consumers of prescription drug benefits program by shedding light on what the PBM – the Pharmacy Benefit Manager – is actually paying the pharmacy for its services and products.

And finally, the bill will require that PBM's have 'verifiable transparent' accounting systems. What does that mean? For me, it's easier to show you what it means than for me to tell me. Please turn to the next page so that we can do this exercise together.

Before we begin, I will tell you that the data I'm about to share with you is unusual. The numbers are from an Ohio lawsuit that the Ohio Teachers Retirement system filed against a PBM in 2001. Even today, it's difficult to find real numbers on how much PBMs pay for drugs and how much they charge the payers – the employers – for them. But just to give you an idea of why it is necessary to require transparency and why mail order is not the answer to controlling the costs of prescription drugs, let's fill in the chart:

PBM Paid	Teachers Billed/Paid

Notes:

The verdict in this case? After Ohio sued the PBM, accusing it of cheating the teachers, the PBM denied the accusation, saying it acted according to their contract. The judge told the jury to disregard the margins on generics because contracts allowed them. Nevertheless, the jury ruled that the PBM should pay the teachers' retirement system \$7.8 million for fraud and for breaching what the jury called its '*fiduciary*' duty. At the time this report was written, the PBM planned to appeal. (A copy of a Wall Street Journal article is included with this testimony for your reference.)

Again, as I mentioned earlier, having this kind of data is unusual and difficult to obtain. But it is this very data that compels me, on behalf of the Pennsylvania Pharmacy Council members, to ask you to support SB 616. Community pharmacists are not seeking special treatment or favors; we are simply seeking the right to compete in the market place.

While Pennsylvania's employers struggle to provide healthcare coverage, PBMs – the middlemen of medicine-- have surreptitiously created a marketplace that is anything but competitive. They are effectively eliminating the competition – the community pharmacy – via their policies and contracts that drive patients to the PBM's own mail order warehouse – which is at best a conflict of interest and at worst a monopoly.

At a time when businesses are eliminating 'middlemen' to become more competitive and viable, our healthcare system continues embracing them, creating a colossal conundrum in an otherwise competitive marketplace.

SB 616 will not only ensure that the marketplace remains viable and open, but it will provide Pennsylvania's patients the right to purchase their drugs from wherever they choose and it will give employers the tools they need to make informed choices when purchasing prescription drug benefits. SB 616 will allow employers to look under the PBM's hood before buying.

I'm happy to respond to your questions.

