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TO: The Honorable Joseline A. Pena-Melnyk, Chair
Members, House Health and Government Operations Committee
The Honorable Nicholas R. Kipke

FROM: Danna L. Kauffman
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DATE: February 29, 2024

RE: **SUPPORT** – House Bill 726 – *Pharmacy Benefits Managers – Definitions of Purchaser and Alteration of Application of Law*

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **supports** House Bill 726. Under Chapter 358 of 2021, certain provisions of law governing pharmacy benefits managers (PBMs) applied only to PBMs that provide pharmacy benefits management services on behalf of a carrier. This bill expands the definition and makes the following provisions of the Insurance Article apply to all PBMs, including those providing services on behalf of self-funded plans and insured plans:

- 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);
- pharmacy and therapeutics committee requirements (§ 15-1613);
- audits by PBMs (§ 15-1629); and
- review process requirements (§ 15-1630).

It is important to note that there is a court case *Rutledge v. Pharmaceutical Care Management Association* that addressed the legal issues concerning the regulation of ERISA plans under state laws. The Maryland Insurance Administration (MIA) issued a report following the decision and stated, “Applying that standard to Maryland law, 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." While it could be argued by some that this bill protects pharmacies, MedChi believes that it is a consumer protection bill. Under this bill, patients will benefit from greater MIA oversight. PBMs have an increased role in patient care and are, in essence, determining whether patients receive necessary care through prior authorization and other policies. It is also important to note that 80% of the PBM market is owned by three insurance companies but are not regulated as such.

Therefore, MedChi believes that, with the increasing role that PBMs play in determining the delivery of health care services, additional MIA oversight is appropriate and necessary. We urge a favorable vote.