

March 10, 2015

The Honorable Bill Seitz
The Ohio Senate
Senate Office Building
Columbus, Ohio 43215

Re: PhRMA Supports SB No. 38 Transparency in Private Attorney Contracts Act in Ohio

Dear Senator Seitz:

The Pharmaceutical Research and Manufacturers of America (PhRMA) is pleased to submit comments in support of Ohio SB No. 38 the Transparency in Private Attorney Contract Act. PhRMA represents the country's leading research-based pharmaceutical companies that are devoted to discovering and developing medicines that allow patients to lead longer, healthier and productive lives.

SB No. 38, the Transparency in Private Attorney Contracts Act (TiPAC), is legislation to prevent the abuse of the process by which state government contracts with private contingency fee lawyers. The proposed legislation establishes a transparent process for procuring contracts, defines limitations on earnings from contracted legal work, and states that private attorneys are only utilized in necessary circumstances.

When state litigation is delegated to private attorneys, government lawsuits can be prosecuted on the basis of profitability, not public interest. It is important that the majority of state work be performed by attorneys general office as it is responsible for representing the interests of the state and its residents. Non-transparent litigation through private contingency lawyers can serve as an end-run around the legislative and regulatory process, providing special interest groups with a way to promote their agenda while providing trial lawyers with a profit mechanism. These practices damage public faith in the government and promote state litigation as a way to pursue a political agenda.

Contingency fee lawyers have employed litigation to bypass the legislature and effectively place regulations on industries for pollution, global warming, tobacco usage, and other societal issues when certain groups or attorneys general believe that such industries have not been adequately regulated through legislation or rule making. Examples of this process affecting the pharmaceutical industry include suits regarding drug pricing, marketing practices, and Medicaid cost recovery aimed at regulating the industry and subsidizing state budgets with the monies collected from settlement or judgment.

TiPAC clarifies how and under what terms state governments may enter into contingency fee contracts with private attorneys. Specifically, it calls for a transparent process for contracting for legal services on a contingency basis. It also requires documentation of all hours and expenses. SB No. 38 grants primacy to in-state attorneys in the competitive process and ensures that the Attorney General retains complete control over the course and conduct of any case involving contract legal counsel. It also details measures of transparency to be followed during the contracting process, including the publication of a list of qualified private attorneys on the attorney general's website and annual reports to be delivered to the President of the Senate and the Speaker of the House of Representatives.

SB No. 38 is common-sense policy that will prevent the abuse of contingency fee contracts while maintaining the state's right to utilize such contracts when necessary. This legislation adds significant transparency and accountability to the legal contracting system which will strengthen the system overall. For these reasons, PhRMA supports the passage of SB No. 38.

PhRMA appreciates the opportunity to highlight some of the public policies that we support in the effort to enhance transparency and accountability in legal contracting. Please feel free to contact Saiza Elayda at selayda@phrma.org, if there is any further information we can provide or if you have any questions about our comments.

Respectfully,

A handwritten signature in blue ink, appearing to read "Saiza Elayda".

Saiza Elayda
Director, State Policy