



June 10, 2025

RE: House Bill 229, Establish licensing process, contract requirements for PBMs

Dear Chairwoman Ray, Vice Chairman LaRe, Ranking Member Brent and members of the House General Government Committee,

On behalf of Employers Health Purchasing Corporation (EHPC), we continue to have concerns that House Bill 229 (HB 229), as currently drafted, gives the Ohio Superintendent of Insurance unnecessarily broad authority and threatens the operation and autonomy of self-funded employee benefit plans across the state of Ohio.

EHPC is a group purchasing organization that provides resources and advice to assist employer and union plans in providing access to high-quality health care benefits at a sustainable cost. EHPC represents more than 60 plan sponsors in Ohio including manufacturers, unions, service organizations, retailers, political subdivisions and universities.

In the last five years several states have passed similar laws that give the Superintendent of Insurance the authority to administer a licensing process for pharmacy benefit managers (PBMs) operating within a state. In many cases the Superintendent has gone on to draft broad market conduct rules that seek to regulate PBM behavior but also have the effect of severely limiting the plan design choices available to self-funded plans operating in a state. A licensing regulation is one thing, but we urge this Committee not to allow this licensing law to become a backdoor opportunity to regulate the plan design choices of employers offering benefit plans in the state of Ohio.

As currently drafted, the bill gives the Superintendent broad authority to examine and audit the books and records of PBMs. This broad, unqualified access to the records of PBMs includes access to unredacted health plan data and protected health information of patients. Earlier this year, other states with nearly identical provisions in their PBM licensing laws sought the inclusion of unredacted health plan information from ERISA plan sponsors in their audits, which led to widespread opposition and concern that the scope of these exams was unnecessarily broad to conduct oversight of PBMs operating in the state.

Substantial ambiguity exists as to how this chapter would apply in the context of self-funded employee benefit plans. The current version states that the chapter does not apply to an employer's self-insurance plan to the extent that it conflicts with federal law. More explicit confirmation is needed to clarify that the provisions of this chapter shall not



apply to self-funded public or private employer plans or multiple employer welfare arrangements.

Moreover, the imposition of a state-based fiduciary standard is at odds with ERISA's goal of a uniform scheme of administration for employer-sponsored benefits. A state-based fiduciary standard may increase administrative costs and lead to less flexibility for employers to manage their benefits uniquely tailored to their participants' needs.

Ohio has the unique opportunity to learn from other states that have already passed such overly broad licensing bills. This Committee should exercise extreme caution before swiftly approving an overly broad regulatory framework whose proponents consist primarily of the direct market competitors of PBMs. The downstream effects of these regulatory burdens will be borne by employers sponsoring benefit plans in the state of Ohio.

Sincerely,

A handwritten signature in dark blue ink, reading "Christopher J. Goff".

Christopher Goff, Esq.
Chairman, President and CEO
Employers Health