October 12, 2015

Hon. Matthew Baker
Chairman, House Health Committee
Pennsylvania House of Representatives
P.O. Box 202068
Harrisburg, PA 17120-2068

Dear Chairman Baker,

On behalf of the more than 22,000 members of the Pennsylvania Institute of Certified Public Accountants (PICPA), I am writing to you regarding House Bill 946 which you have sponsored. Your bill provides for the Pharmacy Audit Integrity Act which would protect Pennsylvania pharmacies from unfair auditing practices. This legislation would codify specific procedures to be used when auditing pharmacy records. I would like to clarify the intended purpose of the legislation, as it appears that this bill seeks to establish “agreed-upon procedures” (AUPs) as opposed to setting the parameters for audits.

First and foremost, the definition of “audit” and “auditing entity” are confusing given the profession’s definition of an audit under Generally Accepted Auditing Standards. HB 946 defines “audit” as “a review…conducted by an auditing entity.” In the CPA profession a review has a specific meaning in professional standards; it means a limited assurance engagement, as opposed to an audit, which is a reasonable assurance engagement. Audits provide the highest level of assurance. This language would have to be reworked for clarification. It should also be noted that an AUP provides no level of assurance and would not require a CPA to perform the engagement.

An AUP serves the sole purpose of evaluating the condition of certain accounting records. There is no representation made as to the sufficiency of the procedures used to maintain those records. This form of engagement is designed to perform only the AUP requested by the client. Again, if this is the desired goal of the legislation, the language needs to be reworked as to eliminate confusion as to whether HB 946 is setting forth guidelines for an audit, a review or an AUP.

Additionally, “auditing entity” is defined as “a person, company or government entity that performs an audit.” While this language is not untrue, the definition reads that almost anyone can perform an audit. Under state law, audits fall into the category of attest engagements which must be performed by a CPA operating within a CPA firm. Therefore, the definition under HB 946 would require language providing for qualifications.

Further confusion of whether you are seeking to provide procedural guidance for audits, reviews or AUPs is created by subsection 11 under procedures. This prohibits the auditing entity from using “extrapolation,” a common auditing technique whereby the auditor uses a mathematical formula that takes the audit results from a small sample and projects those results over a much larger sample. This decreases the auditing costs and is a standard practice in performing audits. Furthermore, by restricting the audit to 100 prescription records and allowing the pharmacy to negotiate with the Pharmacy Benefit Managers (PBMs), the pharmacy may be able to influence which prescriptions are to be “audited,” skewing the results and rendering the “audit” useless.

Sincerely,

[Signature]
The procedures also dictate that “an audit must be conducted applying only the applicable Federal or Pennsylvania laws and regulations.” This does not include professional standards set forth by several standard setting entities, begging the question as to whether or not a CPA auditor would even be able to accept the engagement outlined in HB 946.

Finally, I should mention that audit guides have historically been issued by the Pennsylvania Bureau of Audits or other regulatory agencies, and are used to help define specific audit details. Including those details in legislation adds to the complexity and limits the flexibility to change the guidance or process improvements that may be desirable due to a change in circumstance, standards or technology.

We are very interested in working with you and your staff as the bill moves forward through the legislative process to ensure that bill meets your goals, while working within the vast landscape of standards, regulations and laws regarding audits. Please feel free to contact me at your earliest convenience at (717) 232-1821 or pelacra@picpa.org.

Sincerely,

Peter N. Calcara, CAE
Vice President—Government Relations

cc: Rep. Flo Fabrizio, Democratic Chairman—House Health Committee