



February 21, 2022

The Honorable David W. Osborne
Speaker of the House
Kentucky General Assembly
702 Capital Ave
Annex Room 332
Frankfort, KY 40601

Kentucky House Bill 457 (Rep. Sheldon): AN ACT relating to pharmacy or pharmacist services – SUPPORT

Dear Speaker Osborne:

The American Pharmacists Association (APhA) along with the Kentucky Pharmacists Association (KPhA) writes to urge you to advance House Bill (HB) 457, introduced by Rep. Steve Sheldon with 45 bipartisan cosponsors, out of the House Committee on Committees to protect patients' access to their medications and their trusted healthcare professional, the pharmacist.

APhA is the largest association of pharmacists in the United States advancing the entire pharmacy profession. APhA represents pharmacists in all practice settings, including community pharmacies, hospitals, long-term care facilities, specialty pharmacies, community health centers, physician offices, ambulatory clinics, managed care organizations, hospice settings, and government facilities. Our members strive to improve medication use, advance patient care and enhance public health. In Kentucky, APhA represents pharmacists and students that practice in numerous settings and provide care to many of your constituents. As the voice of pharmacy, APhA leads the profession and equips members for their role as the medication expert in team-based, patient-centered care. APhA inspires, innovates, and creates opportunities for members and pharmacists worldwide to optimize medication use and health for all.

KPhA is the largest professional organization representing pharmacists in the Commonwealth and has been serving its members since 1879. KPhA is the voice of pharmacists from all practice settings concerning education, policy, legislative, and regulatory matters to shape and improve the future of healthcare across Kentucky and the United States.

As a result of the predatory practices of pharmacy benefit managers (PBMs), patients' access to medications from their local pharmacist across the country has declined¹, taxpayer dollars have been funneled into

¹ Rose J, Krishnamoorth R. Why your neighborhood community pharmacy may close. *The Hill*. Available at <https://thehill.com/blogs/congress-blog/healthcare/530477-why-your-neighborhood-community-pharmacy-may-close>

corporate profits², and generationally owned mom and pop pharmacies have been driven out of business³. Appropriate government intervention is necessary to address the misaligned incentives in the PBM industry that prioritize profits over patients. HB457 would address many of the underlying issues that result in harm to patients, taxpayers, and pharmacists.

An important focus of this legislation is on maintaining patient access to their lifesaving medications and their trusted pharmacist. This comes from requirements that PBMs are prohibited from limiting patients to only receive their medications through mail-order pharmacies (often also owned by the PBM⁴) and PBMs are prohibited from steering patients to fill medications at PBM-affiliated pharmacies. In addition to maintaining patient access through network considerations, many PBM practices that undermine the financial sustainability of the local pharmacy are prohibited.

HB 457 would ban lowering reimbursements to community pharmacies through numerous fees, including, but not limited to, “retroactively denying, reducing reimbursement for, or seeking any refunds or recoupments for a claim for pharmacy or pharmacist services,”, setting reimbursement lower than the national average drug acquisition cost (NADAC) to cover prescription drug costs, and prohibiting PBMs’ from paying higher reimbursements to their own pharmacies. This addresses many of the anticompetitive practices that have resulted in the closure of community pharmacies and limited patient access to their medications in underserved communities—where the neighborhood pharmacy may be the only health care provider for miles.

Finally, HB457 creates a system of oversight over PBMs to ensure state law is followed. This is done through the requirement of an annual report being submitted to the Insurance Commissioner annually describing the PBM pharmacy network, creating a PBM advisory council, a pass-through pricing model and requires the PBM to fully disclose sources of revenue and reimbursements, and requiring a PBM follow a fiduciary duty to its clients.

HB457 will take notable steps to protect patients’ access to their medications and their pharmacist.

For these reasons, we support HB457 and respectfully request your support. If you have any questions or require additional information, please don’t hesitate to contact E. Michael Murphy, PharmD APhA Advisor for State Government Affairs by email at mmurphy@aphanet.org.

Sincerely,



² 3 Axis Advisors. Analysis of PBM Spread Pricing in New York Medicaid Managed Care. Available at <http://www.ncpa.co/pdf/state-advoc/new-york-report.pdf>

³ Callahan C. Mom-and-pop pharmacies struggle to hang on. *Times Union*. Available at <https://www.timesunion.com/hudsonvalley/news/article/Mom-and-pop-pharmacies-struggle-to-hang-on-16187714.php>

⁴ Competition, Consolidation, and Evolution in the Pharmacy Market. *The Commonwealth Fund*. Available at <https://www.commonwealthfund.org/publications/issue-briefs/2021/aug/competition-consolidation-evolution-pharmacy-market>

Ilisa BG Bernstein, PharmD, JD, FAPhA

Senior Vice President, Pharmacy Practice and Government Affairs
American Pharmacists Association

cc:

Rep. David Meade

Rep. Derrick Graham

Rep. Angie Hatton

Rep. Joni L. Jenkins

Rep. Chad McCoy

Rep. Suzanne Miles

Rep. Steven Rudy