



April 24, 2023

The Honorable Paul Renner  
Speaker of the House  
420 The Capitol  
402 South Monroe Street  
Tallahassee, FL 32399-1300

Dear Speaker Renner:

We are writing on behalf of the National Community Pharmacists Association (NCPA) and the American Pharmacists Association (APhA) in support of HB 1509, the nation's most rigorous and comprehensive legislation to address the egregious business practices of Pharmacy Benefit Management companies to date. We thank Representative Chaney for her leadership, as well as Representatives Bartleman, Caruso, and Massullo for co-introducing the bill.

NCPA represents the interest of America's community pharmacists, including the owners of more than 19,400 independent community pharmacies across the United States and approximately 1,175 independent community pharmacies in the State of Florida. These pharmacies employed more than 14,450 residents and they filled over 74 million prescriptions in 2021.

APhA is the largest association of pharmacists in the United States advancing the entire pharmacy profession. APhA represents pharmacists in all practice settings, including but not limited to 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.

Community pharmacists have long known that opaque PBM practices not only hamper patients' ability to obtain pharmacy services from their trusted community pharmacists, but those practices can also lead to higher drug costs for both patients and plan sponsors. Due to the massive consolidation and vertical integration in the health insurance market<sup>1</sup>, the three largest PBM's control 80% of the prescription drug market<sup>2</sup> giving them the power to engage in

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<sup>1</sup> <https://ncpa.org/sites/default/files/2023-01/verical-bus-chart.jpg>

<sup>2</sup> [Drug Channels: The Top Pharmacy Benefit Managers of 2021: The Big Get Even Bigger](#)

abusive practices which limit patient access, increase drug costs and threaten the viability of small business pharmacies.

HB 1509 will improve transparency with its requirement for pass-through drug pricing and prohibiting the use of spread pricing. Spread pricing can end up costing plan sponsors millions of dollars in overcharges, as officials in Ohio, Kentucky, and other states have found after investigating the PBMs serving state-funded benefit plans.<sup>3</sup> These critical transparency provisions will ensure payers' and patients' health care dollars are actually going towards their care, instead of into PBMs' pockets.

The bill also contains important provisions that protect patient choice, empowering patients to make their own healthcare decisions free from a PBM's conflict of interest. It is not uncommon for a PBM to require patients to utilize a PBM-owned or affiliated pharmacy, often a mail-order pharmacy. The PBM is then free to reimburse its pharmacy at higher rates, thereby forcing patients and plan sponsors to pay higher costs to the PBM. HB 1509 prohibits PBMs from steering a patient to a PBM-owned or affiliated pharmacy or mail order, preventing the PBM from charging artificially higher rates. These provisions ensure a patient can choose a pharmacy that's in the patient's best interest, not just what's in the PBM's best interest.

We also support the prohibition on accreditation standards, which are often applied arbitrarily in PBM contracts. State boards of pharmacy are charged with protecting the health and well-being of the citizens in their state. When PBMs start making decisions regarding who can practice and how they can practice, they are stepping into the domain of the state board of pharmacy and restricting access to otherwise qualified pharmacists. This has negative consequences on patient access to care and patient choice.

HB 1509 would also prohibit retroactive fees that end up increasing out-of-pocket costs for patients. When a PBM has reimbursed a pharmacy for filling a prescription, it is not uncommon for the PBM to claw back a portion of the reimbursement days, weeks, or even months later, and often under the guise of effective rate reconciliations or "transaction fees." However, a patient's cost share is not similarly retroactively adjusted. This means that a patient's cost share is based on an arbitrarily inflated figure. By prohibiting retroactive claim reductions, HB 1509 will ensure patients' cost shares more accurately reflect the true cost of their health care services.

We support the bill's comprehensive provisions for establishing an administrative appeals process. We appreciate the clarity of timelines and procedure. It is excellent policy to have instances of corrected underpayment apply to all similarly situated pharmacists and pharmacies

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<sup>3</sup> Auditor of State of Ohio, *Auditor's Report: Pharmacy Benefit Managers Take Fees of 31% on Generic Drugs Worth \$208M in One-Year Period*, (Aug. 16, 2018) <https://ohioauditor.gov/news/pressreleases/Details/5042>. Kentucky Department for Medicaid Services, *Medicaid Pharmacy Pricing: Opening the Black Box* 5, 8 (Feb. 19, 2019), [https://chfs.ky.gov/agencies/ohda/Documents1/CHFS\\_Medicaid\\_Pharmacy\\_Pricing.pdf](https://chfs.ky.gov/agencies/ohda/Documents1/CHFS_Medicaid_Pharmacy_Pricing.pdf).

subject to the same applicable pricing information. We commend the author for these provisions.

Last but certainly not least, NCPA and APhA strongly support the underlying wisdom of HB 1509's enforcement provisions. As you know, many other states have legislated without adequate enforcement, leading to the need to revisit issues thought to be settled. We applaud the strong authority granted to Commissioner of Insurance Regulation, both for examining PBMs at least biennially (at the expense of the PBMs) and for issuing fines. We also commend the bill's foresight to include adequate appropriations to ensure effective implementation.

In conclusion, we urge you to advance this critical legislation. If you have any questions, please do not hesitate to contact us at [joel.kurzman@ncpa.org](mailto:joel.kurzman@ncpa.org) and [mmurphy@aphanet.org](mailto:mmurphy@aphanet.org).

Sincerely,

A handwritten signature in black ink that reads "Joel Kurzman". The signature is written in a cursive style with a clear, legible font.

Joel Kurzman  
NCPA Director, State Government Affairs

A handwritten signature in black ink that reads "Michael Baxter". The signature is written in a cursive style with a clear, legible font.

Michael Baxter  
APhA Acting Head of Government Affairs