

February 23, 2021

The Honorable Rosalyn H. Baker  
Chair, Senate Committee on Commerce and Consumer Protection  
415 South Beretania Street  
Honolulu, HI 96813

**RE: NATIONAL COMMUNITY PHARMACISTS ASSOCIATION SUPPORT OF SB 975**

Dear Chair Baker and members of the Senate Commerce and Consumer Protection Committee:

I am writing to you today on behalf of the National Community Pharmacists Association (NCPA) in support of SB 975 in its introduced version. This bill would address abusive practices conducted in the course of a PBM audit of a pharmacy.

NCPA represents the interest of America's community pharmacists, including the owners of more than 21,000 independent community pharmacies across the United States and 61 independent community pharmacies in Hawaii. These Hawaii pharmacies filled over 3.5 million prescriptions last year, impacting the lives of thousands of patients in your state.

Pharmacists understand that audits are a necessary practice to identify fraud, abuse, and wasteful spending, and they are not opposed to appropriate audits to identify such issues. Current PBM audits of pharmacies, however, are often used as an additional revenue source for the PBM. PBMs routinely target community pharmacies and recoup vast sums of money for nothing more than harmless clerical errors where the correct medication was properly dispensed and no financial harm was incurred. In many instances, the PBM not only recoups the money paid to the pharmacy for the claim in question but also recoups for every refill of that claim, even if all other fills were dispensed without error. Such practices led the Centers for Medicare and Medicaid Services (CMS) to recognize the abusive audit practices occurring within the Part D program. CMS found that pharmacy audits in the Part D program were not focused on identifying fraud and financial harm but on targeting clerical errors that "may be related to the incentives in contingency reimbursement arrangements with claim audit vendors."

Although the bill's provisions are a step in the right direction, amendments in the Senate Health Committee have weakened the bill's protections. I ask that you restore the bill to its introduced version, which includes a two-week notice requirement before an initial audit, a prohibition against conducting audits during the first seven days of the month, and a one-year limit on audits of claims. These provisions protect a pharmacist's ability to continue caring for patients while complying with an audit, and they do not interfere with an auditor's ability to identify instances of fraud, waste, or abuse.

NCPA urges your support for the introduced version of SB 975 because it will establish reasonable standards to ensure that PBM audit abuses are curtailed without undermining the ability to identify fraud or legitimate errors. If you have any questions about the information contained in this letter or wish to discuss the issue in greater detail, please do not hesitate to contact me at [matthew.magner@ncpa.org](mailto:matthew.magner@ncpa.org).

Senator Baker  
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Sincerely,

A handwritten signature in cursive script that reads "Matthew Magner".

Matthew Magner  
Director, State Government Affairs