

April 13, 2021

The Honorable Napoleon Harris, III  
Chair, Senate Insurance Committee  
Illinois State Capitol  
Springfield, IL 62756

**RE: NATIONAL COMMUNITY PHARMACISTS ASSOCIATION SUPPORT OF SB 2008**

Dear Chair Harris and members of the Insurance Committee:

My name is Matt Magner, and I would like to thank you for giving me the opportunity to speak on behalf of the National Community Pharmacists Association in support of SB 2008 and the accompanying Senate Amendment #1. This bill will bring transparency to prescription drug benefit programs and protect patient access to community pharmacy services in Illinois.

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 544 independent community pharmacies in Illinois. These Illinois pharmacies filled over 31 million prescriptions last year, impacting the lives of thousands of patients in your state.

SB 2008 would address a lack of transparency in pharmacy benefit programs that have had a severe impact on patient access to pharmacy services across the nation and in Illinois specifically. A study by the Rural Policy Research Institute found that under-reimbursements led to the closure of 1,231 independent pharmacies in rural areas between 2003 and 2018. As a result, 630 rural communities nationwide that had at least one retail pharmacy in 2003 had **zero** retail pharmacies in 2018.<sup>1</sup> The situation is no better in urban areas; between 2009 and 2015, 1 in 8 pharmacies closed as a result of under reimbursements, disproportionately affecting independent pharmacies and low-income neighborhoods. Illinois has lost more than 23% of its independent pharmacies over the past 10 years; that's 164 pharmacies. Studies have concluded that pharmacy closures "are associated with nonadherence to prescription medications, and declines in adherence are worse in patients using independent pharmacies that subsequently closed."<sup>2</sup>

The provisions in SB 2008, all of which are identical or similar to provisions that have been successfully implemented in other states, would address the issues that are causing these pharmacy closures and threatening patient health in Illinois.

SB 2008 would bring more transparency to PBM reimbursement practices, thereby protecting patient access to community pharmacy services. The bill would ensure that PBM-determined reimbursement amounts accurately reflect the true market costs for Illinois pharmacies. By

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<sup>1</sup> Abiodun Salako, Fred Ullrich & Keith Mueller, *Update: Independently Owned Pharmacy Closures in Rural America, 2003-2018*, RUPRI Center for Rural Health Policy Analysis, July 2018, Rural Policy Brief No. 2018-2, available at <https://rupri.public-health.uiowa.edu/publications/policybriefs/2018/2018%20Pharmacy%20Closures.pdf>.

<sup>2</sup> Jenny S. Guadamuz, G. Caleb Alexander, Shannon N. Zenk & Dima M. Qato, *Assessment of Pharmacy Closures in the United States From 2009 Through 2015*, JAMA Internal Medicine, Oct. 21, 2019, [www.jamainternalmedicine.com](http://www.jamainternalmedicine.com).

expanding the definition of “maximum allowable cost,” the bill would update existing laws to account for the change in PBM reimbursement practices that include other methodologies, such as generic effective rate; similar changes have already been implemented in Arkansas, Indiana, Louisiana, Maryland, and New Jersey.

SB 2008 would also put an end to unfair audit practices that serve as an additional revenue source for PBMs with no benefit to patients. 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. However, 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. By enacting SB 2008, Illinois would join 42 other states that have established reasonable standards to ensure that PBM audit abuses are curtailed without undermining the ability to identify fraud or legitimate errors.

SB 2008 would put a stop to some of the opaque practices that are raising patients’ out-of-pocket costs. Gag clauses and copay clawbacks have prevented pharmacists from informing patients about lower cost alternatives at the pharmacy counter. By enacting this bill, Illinois would join 36 other states that have prevented gag clauses and copay clawbacks, thereby allowing pharmacists to work with patients to make the best, most cost-efficient healthcare decisions for that patient.

SB 2008 would also prohibit retroactive clawbacks 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 a “transaction fee.” 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, SB 2008 will ensure patients’ cost shares more accurately reflect the true cost of their health care services. Currently, 17 states have similar prohibitions against PBM transaction fees.

This bill also addresses PBM conflicts of interest that can supersede a patient’s ability to make his or her own healthcare decisions. It is not uncommon for a PBM to usurp a patient’s authority to make his or her own healthcare decisions by requiring the patient to utilize a PBM-owned pharmacy, often a mail-order pharmacy. The PBM is then free to reimburse its pharmacy at higher rates than other pharmacies, thereby forcing patients and plan sponsors to pay higher costs to the PBM.

Under this bill, a PBM would be prohibited from creating arbitrarily narrow networks and from steering patients to a PBM-owned pharmacy. By requiring a PBM to contract with any pharmacy that is willing to accept the PBM’s conditions of network participation, the bill will encourage pharmacies to compete for patients’ business, instead of having PBMs making the decision for those patients. Similar provisions have already been enacted in 27 states, and 28 states also protect patients from being forced to use mail-order pharmacies, much like SB 2008 would do.

This bill would ensure a patient's choice of pharmacy is left to the patient and is informed by what's in the patient's best interest, instead of what's in the PBM's best interest.

For these reasons, NCPA respectfully requests your support of SB 2008. Similar legislation has protected patients in other states, and I am confident this bill will do the same for Illinois patients. 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) or (703) 600-1186.

Sincerely,

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

Matthew Magner  
Director, State Government Affairs