

June 9, 2021

The Honorable William Bush  
Chair, House Economic Development/Banking/Insurance & Commerce Committee  
411 Legislative Avenue  
Dover, DE 19901

**RE: NATIONAL COMMUNITY PHARMACISTS ASSOCIATION SUPPORT OF HB 219**

Dear Chair Bush and members of the House Economic Development/Banking/Insurance & Commerce Committee:

I am writing on behalf of the National Community Pharmacists Association in support of HB 219. This bill will bring transparency to prescription drug benefit programs and protect patients from pharmacy benefit managers' (PBMs') conflicts of interest in Delaware.

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 38 independent community pharmacies in Delaware. These Delaware pharmacies filled over 2 million prescriptions last year, impacting the lives of thousands of patients in your state.

HB 219 would limit the PBM conflicts of interest that limit patient choice and raise out-of-pocket costs. It is not uncommon for a PBM to usurp a patient's authority to make his or her own healthcare decisions by steering the patient to 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. The bill would control this conflict of interest by prohibiting a PBM from reimbursing non-affiliated pharmacies at lower rates than the PBM's affiliated pharmacies.

The bill also protects patient choice by prohibiting PBMs from creating arbitrarily narrow preferred networks. By requiring a PBM to contract with any pharmacy that is willing to accept the PBM's conditions of network participation and establishing network adequacy standards, the bill will encourage pharmacies to compete for patients' business, instead of having PBMs making the decision for those patients. 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.

Not only will the bill protect patient choice, but it will also bring transparency to prescription drug reimbursements and ensure that PBM-determined reimbursement amounts accurately reflect the true market costs for Delaware pharmacies. The National Average Drug Acquisition Cost (NADAC) is an objective, evidence-based drug pricing benchmark. By tying the drug ingredient costs to NADAC and prohibiting "spread pricing," the bill would ensure that plan sponsors and payers have more information about how their money is being used by their PBMs.

Additionally, HB 219 would hold PBMs accountable for their reimbursement practices by allowing pharmacies to decline to dispense when the reimbursement amount does not meet their

acquisition costs. This will allow pharmacies to prevent frequent under-water reimbursements from keeping them from serving their communities. The bill, however, requires the pharmacy to provide a list of pharmacies that “may provide the pharmacy goods or services.” A pharmacy is unlikely to know what goods or services its competitor “may provide” or whether a specific patient’s PBM has included the competitor in the network. For these reasons, we ask the committee to amend line 117 to read “(2) Provide the patient with a list of pharmacies in the area.”

HB 219 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 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 219 will ensure patients’ cost shares more accurately reflect the true cost of their health care services.

For these reasons, NCPA respectfully requests your support of HB 219 with the requested amendment to line 117. Similar legislation has protected patients in other states, and I am confident this bill will do the same for Delaware 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,



Matthew Magner  
Director, State Government Affairs