

February 7, 2022

The Honorable Christopher T. Head
Chair, House Health, Welfare and Institutions – Subcommittee #3
Virginia State Capitol Building
Richmond, VA 23219

RE: NATIONAL COMMUNITY PHARMACISTS ASSOCIATION SUPPORT FOR HB 560

Dear Chair Head and members of the House Health, Welfare and Institutions – Subcommittee #3:

I am writing on behalf of the National Community Pharmacists Association in support of HB 560, which would end patient steering and the threat it presents to patient access to community pharmacy services. 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 289 independent community pharmacies in the commonwealth of Virginia.

Patient steering occurs when a pharmacy benefit manager (PBM) either requires a patient to use a particular pharmacy or charges that patient higher cost share amounts for using the pharmacy of the patient’s choice. Patient steering is possible because of PBMs’ outsized role in the pharmacy supply chain. As provider network creators, PBMs can determine which pharmacies a patient must use. PBMs control how much a pharmacy is reimbursed for filling a patient’s prescription and how much the patient pays at the pharmacy counter for that prescription. And many PBMs own their own pharmacies, creating incentives for PBMs to force patients to use those PBM-owned pharmacies.

Patient steering creates a clear conflict of interest, and states nationwide have begun to take notice. The California Task Force on Pharmacy Benefit Management Reporting found that patient steering may create “misaligned incentives” that may lead a PBM to “favor an integrated pharmacy even if competing pharmacies have lower costs.”¹ A similar task force in Minnesota came to the same conclusion, finding “these circumstances present obvious conflict-of-interest concerns” because “a PBM could engage in business practices that steer purchasers and payers to buy a drug from a pharmacy the PBM owns, even if the price of the drug is cheaper at a competing pharmacy.”² A New York Senate committee determined “the strong possibility of a conflict of interest arises,” giving PBMs the “opportunity to manipulate drug dispensing at their mail order pharmacies to enhance their own profits at the expense of plans and its members.”³ Finally, a

¹ California Department of Managed Health Care Task Force on Pharmacy Benefit Management Reporting, *Report to the Legislature 6* (Feb. 2020), <https://www.dmhc.ca.gov/Portals/0/Docs/DO/PharmacyBenefitManagementLegislativeReportAccessible.pdf>.

² *Report of the Minnesota Attorney General’s Advisory Task Force on Lowering Pharmaceutical Drug Prices 44*, (Feb. 2020), https://www.ag.state.mn.us/Office/Communications/2020/docs/DPTF_Feb2020Report.pdf.

³ New York Senate Committee on Investigations and Government Operations, *Final Investigative Report: Pharmacy Benefit Managers in New York 22*, (May 31, 2019), https://www.nysenate.gov/sites/default/files/article/attachment/final_investigatory_report_pharmacy_benefit_managers_in_new_york.pdf.

Wisconsin task force also identified the inherent conflict of interest, finding that “when PBMs own pharmacies, they might favor their own pharmacies, even if other pharmacies have lower costs.”⁴

Patient steering is anticompetitive and hurts both consumers and local community pharmacy businesses in the state. It allows PBMs and their affiliated pharmacies to avoid competition with non-affiliated community pharmacies for patients’ business. According to a 2020 NCPA survey, 79% of respondents said their patients’ prescriptions were transferred to another pharmacy in the previous six months without their patients’ knowledge or consent.⁵ Community pharmacies lost a median of 12 patients during that time period.⁶ With this arrangement, community pharmacies’ reimbursements and patient access are determined by their competitors, restricting those pharmacies’ ability to compete for customers.

Ultimately, patient steering is bad for patients. It allows insurer and PBM conflicts of interest to usurp a patient’s authority to make his or her own healthcare decisions. Patients are forced to make healthcare decisions based on the insurer or PBM’s bottom line, instead of the patient’s own best interests.

Patient steering is an anticompetitive practice that removes patient choice, prevents local health care providers from competing for patients’ business, and increases costs for plan sponsors. HB 560 can put an end to this harmful practice. For these reasons, I urge you to protect Virginia patients and local community pharmacies by supporting HB 560. Thank you for your consideration. If you have any questions about the information in this letter, please feel free to contact me.

Sincerely,



Matthew Magner
Director, State Government Affairs

⁴ *Report of the Governor’s Task Force on Reducing Prescription Drug Prices 21*, (Oct. 2020), <https://oci.wi.gov/Documents/AboutOCI/RxTaskForceFinalReport.pdf>.

⁵ “Patient Steering a Massive Problem for Community Pharmacists, New Survey Shows,” NCPA (Sept. 17, 2020) <https://ncpa.org/newsroom/news-releases/2020/09/17/patient-steering-massive-problem-community-pharmacists-new-survey>.

⁶ *Id.*