

January 25, 2023

The Honorable Rob Nosse  
Chair, House Committee on Behavioral Health and Health Care  
900 Court St., NE, H-472  
Salem, OR 97301

Dear Chair Nosse and Members of the Committee:

I am writing to you today on behalf of the National Community Pharmacists Association in support of HB 3012, HB 3013, and HB 3015, which would help control drug costs in Oregon, provide greater protections for patients regarding their prescription drug benefits programs, and establish greater oversight of the pharmacy benefit managers (PBMs) that administer those benefits.

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 90 independent community pharmacies in Oregon. These pharmacies employed more than 1,100 Oregonians and they filled more than 5.5 million prescriptions in 2021.

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 abusive practices which limit patient access, increase drug costs and threaten the viability of small business pharmacies. In combination, the three bills would put a stop some of those opaque practices that are threatening patient access to community pharmacy services and raising costs for patients and plan sponsors.

NCPA strongly supports the PBM transparency provisions of HB 3012. These provisions protect not just patients but payers as well, by prohibiting "spread pricing," in which a PBM reimburses a pharmacy at one price for filling a prescription and charges the plan sponsor a higher price for administering that same prescription. 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> Prohibiting this practice can save plan sponsors millions of dollars.

NCPA also urges your support of HB 3013, which 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

<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](#)

<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/Documents/1/CHFS\\_Medicaid\\_Pharmacy\\_Pricing.pdf](https://chfs.ky.gov/agencies/ohda/Documents/1/CHFS_Medicaid_Pharmacy_Pricing.pdf).

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.

HB 3013 will also bring transparency to prescription drug reimbursements and ensure that PBM-determined reimbursement amounts accurately reflect the true market costs for Oregon pharmacies. The Oregon Average Actual Acquisition Cost (OAAAC) is an objective, evidence-based drug pricing benchmark. By tying the drug ingredient costs to OAAAC 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.

Finally, HB 3015 would prohibit PBM imposed fees and retroactive claim adjustment or "clawbacks." These retroactive clawbacks increase 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. 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. Additionally, these clawbacks put a heavy burden on pharmacies due to the uncertainty of these fees. It's very difficult to run a business when you have little budget predictability. HB 3015 will ensure patients' cost shares more accurately reflect the true cost of their health care services and provide more predictability for pharmacy payments. To date, more than twenty states have passed legislation to protect patients and pharmacies from opaque fees and retroactive clawbacks.

In conclusion, HB 3012, HB 3013, and HB 3015 would protect patients and pharmacies by putting an end to costly, opaque PBM practices. To protect patient access to vital pharmacy services, I respectfully ask you to support these bills. 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 [joel.kurzman@ncpa.org](mailto:joel.kurzman@ncpa.org).

Sincerely,

A handwritten signature in black ink that reads "Joel Kurzman". The signature is written in a cursive, flowing style.

Joel Kurzman  
Director, State Government Affairs