March 3, 2023

The Honorable Mark Gordon
Governor, State of Wyoming
200 West 24th Street
Cheyenne, WY 82002

Dear Governor Gordon:

On behalf of the National Community Pharmacists Association (NCPA), I am writing to urge your signing into law of SF 151, legislation that would control drug costs in Wyoming, provide greater protections for patients regarding their prescription drug benefits programs, and establish greater transparency and 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 46 independent community pharmacies in Wyoming. These pharmacies employed more than 560 residents and they filled nearly 3 million prescriptions in 2021. On the heels of two recent independent pharmacy store closures in Wyoming, this legislation is more critical than ever.

Community pharmacists have long known that opaque PBM practices not only hamper a patient’s ability to obtain pharmacy services from the trusted community pharmacist of their choice, but these 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 market1, the three largest PBM’s control 80% of the prescription drug market2 giving them the power to engage in abusive practices which limit patient access, increase drug costs and threaten the viability of small business pharmacies. SF 151 would stop some of these opaque practices that threaten patient access to community pharmacy services and raise costs for patients and plan sponsors.

SF 151 improves transparency in several key regards. From the patient perspective, the bill addresses 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 ability to make their own healthcare choices by steering the patient to a PBM-owned or affiliated pharmacy, often a mail order pharmacy. The PBM is then free to reimburse its own pharmacy at higher rates than other pharmacies, thereby

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1 https://ncpa.org/sites/default/files/2023-01/verical-bus-chart.jpg
2 Drug Channels: The Top Pharmacy Benefit Managers of 2021: The Big Get Even Bigger
forcing patients and plan sponsors to pay higher costs to the PBM. SF 151 would control this conflict of interest by prohibiting a PBM from reimbursing non-affiliated pharmacies at lower rates than the PBM’s owned or affiliated pharmacies and steering patients with various incentives.

SF 151 also improves transparency by prohibiting 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 arbitrarily take 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, SF 151 will ensure patients’ cost shares more accurately reflect the true cost of their health care services. At the same time, pharmacists will be subjected less to arbitrary fees that make doing business extremely difficult.

Transparency is also improved by SF 151’s prohibition of spread pricing. 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. This critical transparency provision will ensure payers’ and patients’ health care dollars are actually going towards their care, instead of into PBMs’ pockets.

Last and certainly not least, SF 151 enhances transparency by ensuring contract information is shared appropriately. Allowing access to the contract enables an independent pharmacist to utilize the services of a pharmacy services administrative organization, allowing the pharmacist to focus on patient care. More critically, the bill ensures contracts can be shared appropriately with the Insurance Commissioner and other officials who are authorized to address issues of compliance.

To these ends, NCPA strongly supports the bill’s oversight provisions under the authority of the Insurance Commissioner. We support the provisions enabling the Insurance Commissioner to investigate PBMs and to promulgate rules for implementing the law. As you may know, copious state legislation has been enacted around the country only to be circumvented and, in some cases, ignored altogether without fear of penalty. To these ends, we strongly support the

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appropriations provisions for the Department of Insurance to develop PBM-specific expertise to make possible the enforcement of laws and regulations.

In conclusion, SF 151 would protect patients and pharmacies by putting an end to costly, opaque PBM practices. To protect patient access to vital pharmacy services, I urge you to sign the bill into law. If you have any questions, please do not hesitate to contact me at (703) 600-1186 or joel.kurzman@ncpa.org. Thank you.

Sincerely,

Joel Kurzman
Director, State Government Affairs