

April 25, 2023

The Honorable Larry Potts
Senior Chairman, House Health Committee
300 N. Salisbury Street, Room 307B1
Raleigh, North Carolina 27603-5925

Dear Senior Chairman Potts and Members of the Committee,

I am writing on behalf of the National Community Pharmacists Association (NCPA) in support of HB 246, which would help control drug costs in North Carolina, provide transparency for patients and employers 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 nearly 600 independent community pharmacies in North Carolina. These pharmacies employed more than 7,300 residents and they filled approximately 38 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 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.

HB 246's prohibition of spread pricing will improve transparency. 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.³ This critical transparency provision will ensure payers' and patients' health care dollars are actually going towards their care, instead of into PBMs' pockets.

HB 246 would also prohibit retroactive fees 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

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](#)

³ 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/Documents1/CHFS_Medicaid_Pharmacy_Pricing.pdf.

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

HB 246 also contains important provisions that protect patient choice, empowering patients to make their own healthcare decisions free from a PBM’s conflict of interest. It is not uncommon for a PBM to require patients to utilize a PBM-owned or affiliated pharmacy, often a mail-order pharmacy. The PBM is then free to reimburse its pharmacy at higher rates, thereby forcing patients and plan sponsors to pay higher costs to the PBM. HB 246 prohibits PBMs from steering a patient to a PBM-owned or affiliated pharmacy, preventing the PBM from charging artificially higher rates. These provisions ensure a patient can choose a pharmacy that’s in the patient’s best interest, not just what’s in the PBM’s best interest.

Finally, NCPA strongly supports the bill’s use of a cost-based reimbursement floor based on a state’s Medicaid fee-for-service methodology. We support HB 246’s proposal to use the National Drug Average Acquisition Cost benchmark (NADAC), an objective, evidence-based drug pricing benchmark updated on a weekly basis. By tying the drug ingredient costs to NADAC, the bill would ensure that plan sponsors and payers have more information about how their money is being used by their PBMs, avoiding spread pricing. NCPA also supports the use of a professional dispensing fee from a recent cost of dispensing survey conducted by the State’s Department of Health and Human Services (DHHS). We encourage DHHS to conduct regular cost of dispensing surveys to keep the professional dispensing fee updated and reflective of a pharmacy’s cost to dispense.

We urge you to advance this critical legislation. We wish to thank Representative Sasser for his leadership on the bill. If you have any questions, please do not hesitate to contact me at (703) 600-1186 or joel.kurzman@ncpa.org.

Sincerely,

A handwritten signature in black ink that reads "Joel Kurzman". The signature is written in a cursive style and is positioned above the printed name and title.

Joel Kurzman
Director, State Government Affairs