

April 24, 2023

The Honorable Jerome Zeringue
Chairman, House Appropriations Committee
900 North 3rd Street
Baton Rouge, LA 70804

Dear Chairman Zeringue and Members of the Committee,

I am writing on behalf of the National Community Pharmacists Association (NCPA) in support of HB 529, which would help control drug costs in Louisiana, provide transparency for patients and the Office of Group Benefits 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 over 450 independent community pharmacies in Louisiana. These pharmacies employed more than 5,500 residents and they filled nearly 29 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 529'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 529 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 529 will ensure patients’ cost shares more accurately reflect the true cost of their health care services.

HB 529 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 529 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 the state’s Medicaid fee-for-service methodology, just as Louisiana does with its Medicaid Managed Care program. Currently, a federal proposal requiring all state Medicaid managed care programs to adopt an identical reimbursement model as proposed in HB 529, has been estimated to save the federal government/taxpayers \$1 billion over 10 years.⁴ As such, we support HB 529’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 the Office of Group Benefits, the plan sponsor, has more information about how their money is being used by the PBM, avoiding spread pricing and other games. 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.

We urge you to advance this critical legislation. We wish to thank Representative Edmonds 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 with a clear, legible font.

Joel Kurzman
Director, State Government Affairs

⁴ <https://www.finance.senate.gov/imo/media/doc/2020-03-13%20PDPR-A-SFC%20CBO%20Table.pdf>