

February 15, 2024

The Honorable Lori Houghton
Chair, House Committee on Health Care
115 State Street
Montpelier, VT 05633-5301

Dear Chair Houghton and Members of the Committee,

I am writing on behalf of the National Community Pharmacists Association (NCPA) in support of the pharmacy related provisions found in H 233, legislation to control drug costs in Vermont, 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 approximately 18 independent community pharmacies in Vermont. These pharmacies employed more than 220 residents and they filled more than 1.1 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.

NCPA strongly supports the use of a transparent cost-based reimbursement methodology. We support HB 233's proposal to use actual acquisition cost for product reimbursement. By doing so, the bill ensures that plan sponsors and payers have more information about how their money is being used by their PBMs. NCPA also supports the use of a professional dispensing fee based on a dispensing survey conducted by the State's Department of Health Access. We encourage the Department to conduct regular cost of dispensing surveys to keep the professional dispensing fee updated and reflective of a pharmacy's cost to dispense.

H 233 will also improve transparency and save money by curtailing spread pricing. Spread pricing can end up costing plan sponsors millions of dollars in overcharges, as officials in Ohio, Kentucky, and other states

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](#)

have found after investigating the PBMs serving state-funded benefit plans.³ This critical transparency provision will ensure health care dollars are actually going towards patient care rather than into PBMs' pockets.

NCPA strongly supports the strong enforcement provisions given to the Commissioner of Financial Regulation in the legislation. Many other states have legislated to reform PBMs, but few have so wisely added strong enforcement provisions to their initial legislation, and, as a result, they are returning to the issue to strengthen their policies.

NCPA offers recommendations to further perfect the bill by ensuring PBM oversight is sustainable. We recommend setting higher licensing fees, a level at which can fund ongoing oversight. Some states simply have higher licensing fees than proposed in H 233, while others (notably West Virginia) set the license fee based on what is needed for oversight. In either approach, we recommend the creation of segregated fund dedicated to PBM oversight to receive the licensing fees. Meanwhile, we support the fine structure proposed in H 233, but similarly recommend the fines be placed in the segregated account dedicated to PBM oversight. Finally, we suggest including language that addresses repeat violations with increasing levels of consequence.

We commend the bill for including charges for examinations, reviews, and investigations of PBMs. We recommend requiring all costs associated with these examinations be paid for by the PBM with no exception. We recommend including in legislation that examinations of PBMs occur at least every two or three years. We also urge adding language that PBMs are required to share all information for these examinations.

We urge you to advance this critical legislation. We wish to thank Representative Cordes for her 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,



Joel Kurzman
Director, State Government Affairs

³Auditor 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.