

February 5, 2024

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

RE: HB 4149 - SUPPORT

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 4149, 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 21,000 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 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 4149 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 licensing, transparency, and reporting provisions of HB 4149. These provisions protect not just patients but payers as well, by limiting "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.³ Prohibiting this practice can save plan sponsors millions of dollars.

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.

HB 4149 will also bring transparency to prescription drug reimbursements and ensure that PBM-determined reimbursement amounts accurately reflect the true market costs for Oregon pharmacies. NCPA strongly supports the use of the Oregon Health Authority (OHA)-determined dispensing fee in the state's managed Medicaid program. We also support the creation of a reimbursement floor in the commercial market. We would urge the OHA and Prescription Drug Affordability Board to use equally transparent and cost-based reimbursement benchmarks, such as the National Average Drug Acquisition Cost benchmark for product reimbursement and a professional dispensing fee determined by cost of dispensing study. The bill's use of a \$10 dispensing fee in the interim is arbitrary but fair for temporary purposes.

The bill also 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 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.

NCPA appreciates the bill's forethought that specific expertise related to PBMs and pharmacy reimbursement is required in the Department of Consumer and Business Services (DCBS). We strongly support this provision and we have recognized similar provisions in other states as a best practice. We urge DCBS to promulgate rules that establish a strong enforcement scheme tied to licensing that includes specific and increasing penalties for repeat violations of any and all PBM laws.

In conclusion, HB 4149 would protect patients and pharmacies by curtailing costly, opaque PBM practices. To protect patient access to vital pharmacy services, I respectfully ask you to support the bill. If you have any questions, please do not hesitate to contact me at joel.kurzman@ncpa.org or (703) 600-1186.

Sincerely,

A handwritten signature in black ink that reads "Joel Kurzman". The signature is written in a cursive style and is positioned above a light gray rectangular background.

Joel Kurzman
Director, State Government Affairs

CC: Members of the House Committee on Behavioral Health and Health Care