

March 31, 2025

The Honorable Barry Usher
Chair, Senate Judiciary Committee
6900 S. Frontage Road
Billings, Montana 59101-6220

RE: HB 740 – NCPA supports

Dear Chair Usher and Members of the Committee:

I am writing on behalf of the National Community Pharmacists Association (NCPA) in support of HB 740, which would help control drug costs in Montana, 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 nearly 19,000 independent community pharmacies across the United States and approximately 91 independent community pharmacies in Montana. These pharmacies employed nearly 1,000 residents and they filled more than 5.4 million prescriptions in 2023.

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 the National Average Drug Acquisition Cost (NADAC) benchmark as the foundation for drug product reimbursement for independent pharmacies. While not perfect, NADAC is an average that is determined by a monthly nationwide survey, which usually makes its reimbursement fair and reasonable to community pharmacies. Montana would join leaders West Virginia, Tennessee, and Kentucky in creating reimbursement regiments based on NADAC that sustain independent community pharmacies. We also support the proposed dispensing fee of \$15 for independent pharmacies, as well as the use of indexing to keep the professional dispensing fee updated. In combination, these provisions would create adequate reimbursement for independent pharmacies in Montana.

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](#)

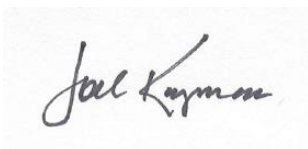
NCPA points out a potential difference between what's proposed in HB 740 and what is enacted in the three above-mentioned states. Those states legislated enforcement authority for the Department of Insurance, which were followed by robust rulemaking processes to implement. Similar legislation in other states often specify penalties for noncompliance, such as fines that are calculated per claim of violation. With these clear parameters, we have seen Departments of Insurance take substantive enforcement actions against under-reimbursement. NCPA offers its Best Practices for Enforcement of PBM Regulation as a resource to stakeholders in Montana.³

We strongly support the language prohibiting PBMs from requiring or coercing a patient to use a pharmacy that is owned by or affiliated with a PBM. This is a practice known as patient steering. 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. This provision in HB 740 will save employers money by outlawing patient steering.

NCPA would like to briefly mention other provisions in the bill which we appreciate and support. HB 740 is wise to consider the role of discount cards, which PBMs often employ to avoid being subject to regulation. Strengthening audit protections is sound policy, as PBMs often weaponize audits to claw back money and/or to retaliate against concerns expressed by pharmacies about contract violations. Speaking of clawbacks, HB 740 is smart to address to the practice of effective rate contracting, which is a tool PBMs use to extract revenue from pharmacies.

Thank you for receiving our perspective. We urge you to advance this critical legislation. We wish to thank Representative Marta Bertoglio for her sponsorship of 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, flowing style.

Joel Kurzman
Director, State Government Affairs

³ <https://ncpa.org/sites/default/files/2024-07/ncpa-best-practices-pbm-enforcement.pdf>