

March 21, 2025

The Honorable Caroline Menjivar
Chair, Senate Committee on Health
1021 O Street, Room 3310
Sacramento, CA 95814

SB 41 - Pharmacy benefit managers – NCPA supports

Dear Chair Menjivar, Vice Chair Valladares, and Members of the Committee:

The National Community Pharmacists Association is pleased to **support SB 41**, legislation seeking to address some of the many egregious business practices of Pharmacy Benefits Management (PBM) companies.

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 1,829 independent community pharmacies in the State of California. These pharmacies employed nearly 20,000 Californians and they filled nearly 110 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 supports the licensing of PBMs with appropriate oversight and enforcement authority. Approximately half of states have opted for the more rigorous licensing oversight as opposed to registration. We recommend a substantive licensing fee that will sustain a robust enforcement scheme. And although most states have passed legislation to address some of the most egregious PBM business practices, many states are now revisiting their laws to add stronger enforcement provisions. We appreciate the attention given to enforcement in the bill, while noting there are opportunities to strengthen oversight. We offer our Best Practices for PBM Enforcement issue brief as a resource.³ NCPA urges stronger and more specific enforcement provisions in the bill and looks forward to robust rulemaking to implement the law when enacted.

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

On a similar note, we support the provision to require the Department of Insurance to establish procedures for receiving, investigating, tracking, and publicly reporting consumer complaints against PBMs. Per our Best Practices, NCPA urges the additional requirement to create a PBM-specific complaint form that can be used by pharmacies. Without these resources, we have found that consumers and pharmacies are less likely to put their complaints on the record when submitting to a more generic consumer complaint form. When these concerns are not on the record, detrimental PBM practices are allowed to fester.

NCPA strongly supports the bill's use of the National Average Drug Acquisition Cost (NADAC) benchmark as a floor for product reimbursement. 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. We also support the use of a survey-based dispensing fee per the state's Medicaid fee-for-service methodology. We urge regular cost of dispensing surveys to keep the professional dispensing fee updated and reflective of a pharmacy's cost to dispense. Additionally, it is imperative these provisions be enforced with a fine structure that follows states such as West Virginia. Such language appears to be lacking in the bill. Clarification is needed.

NCPA strongly supports SB 41's provisions to address wasteful spread pricing by requiring passthrough pricing. These provisions will improve transparency and save money. 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.⁴ A 2024 groundbreaking study from Washington State identified potentially rampant spread pricing in the commercial market.⁵ Meanwhile, reports abound about the spread pricing identified in state Medicaid programs.⁶ In short, these transparency provisions will ensure payers' and patients' health care dollars are actually going towards their care, instead of into PBMs' pockets.

We also support SB 41's prohibition of reimbursing pharmacies less if they are not owned or affiliated with a PBM. This will have added the benefit of disincentivizing 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. NCPA would welcome additional focus on prohibiting patient steering in the bill.

We urge you to advance SB 41. We appreciate Senator Wiener's leadership on this legislation. Thank you for receiving our perspective. If you have any questions or if I can be of assistance, please don't hesitate to contact me at joel.kurzman@ncpa.org or (703) 600-1186.

Respectfully,

⁴Auditor 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.

⁵ <https://www.3axisadvisors.com/projects/2024/6/25/understanding-drug-pricing-from-divergent-perspectives-state-of-washington-prescription-drug-pricing-analysis-jh92>

⁶ <https://ncpa.org/sites/default/files/2025-01/Medicaid%20Managed%20Care%20Reforms%201-1-25.pdf>

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A handwritten signature in black ink, reading "Joel Kurzman". The signature is written in a cursive style with a large, stylized "J" and "K".

Joel Kurzman

Director, State Government Affairs