

March 31, 2025

The Honorable Lois W. Kolkhorst
Chair, House Committee on Health and Human Services
P.O. Box 12068, Capitol Station
Austin, TX 78711

Dear Chair Kolkhorst and Members of the Committee:

I am writing on behalf of the National Community Pharmacists Association (NCPA) in support of SB 1236, legislation that, among its provisions, addresses the pernicious practice of predatory audits of community pharmacies by Pharmacy Benefit Management companies (PBMs).

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 1,374 independent community pharmacies in Texas. These pharmacies employed nearly 15,000 residents and they filled nearly 82 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.

Pharmacists understand that audits are a necessary practice to identify fraud, abuse, and wasteful spending, and they are not opposed to appropriate audits to identify such issues. Current PBM audits of pharmacies, however, are often used as an additional revenue source for the PBM. PBMs routinely target community pharmacies and recoup vast sums of money for nothing more than harmless clerical errors where the correct medication was properly dispensed and no financial harm was incurred. In many instances, the PBM not only recoups the money paid to the pharmacy for the claim in question but also recoups for every refill of that claim, even if all other fills were dispensed without error.

Texas is not alone in recognizing the need to address abusive audit practices. In their 2014 Final Call Letter, the Centers for Medicare and Medicaid Services (CMS) indicated their recognition of abusive audit practices occurring within the Part D program. CMS found that pharmacy audits in the Part D program were not focused on identifying fraud and financial harm but on targeting clerical errors that

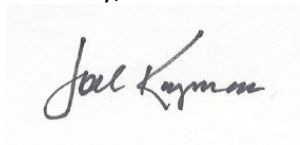
¹ <https://ncpa.org/sites/default/files/2023-01/verical-bus-chart.jpg>

² [Drug Channels: The Top Pharmacy Benefit Managers of 2021: The Big Get Even Bigger](#)

“may be related to the incentives in contingency reimbursement arrangements with claim audit vendors.”³

Thank you for receiving our perspective. We wish to thank Senator Bryan Hughes for introducing 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://www.cms.gov/medicare/health-plans/medicareadvtspeccratestats/downloads/announcement2014.pdf>