



Vermont Association of Chain Drug Stores

On behalf of the approximately 95 chain pharmacies operating in the state of Vermont, the Vermont Association of Chain Drug Stores greatly appreciates the opportunity to provide the Committee our testimony today relative to proposed OPR regulations.

First and foremost, I would like to introduce myself – my name is Michael Duteau and I currently serve as president of the association. I am a licensed pharmacist and have been practicing and advocating for the profession of pharmacy for almost 30 years. From 2005 until 2020, I proudly served as a member of the New York State Board of Pharmacy and I fully understand the challenges facing our profession today as well the unwavering charge of ensuring the safety of our patients. Finally, pharmacy has been a family profession for me – 9 family members are pharmacists, all working in different areas of practice including three in Vermont.

Rather than using my time today to fully dissect the proposed legislation and offer alternative language, I would like to share that we have engaged, as recently as yesterday, in productive dialogue with OPR and the Vermont Board of Pharmacy as we seek to suggest and support legislation that ensures public safety remains everyone's top priority. To be clear, we support further clarification of regulatory expectations but not an imbalanced increase in regulatory burden. Overly subjective language could lead to inconsistent discipline charges as well as unintended consequences, for our pharmacists as well as our patients. We cannot support the existing language due to these concerns; however, we remain committed to finding a solution that supports the best possible outcome for pharmacy and our patients.

Additionally, our members have had a chance to review the findings of the 2020 Vermont Pharmacist Survey. We have identified similar concerns across all areas of practice as well as varying views of the issues and how they should be best resolved. While practice in a community pharmacy setting is different in some respects from the hospital setting, certain essential needs of pharmacists are universal including a meal break. Staffing certainly was mentioned as an issue and yet, is also incredibly subjective, as the individual needs of each pharmacist varies as does the definition of staffing by each pharmacy due to support resources provided, such as technology. We recognize the challenges facing our profession and collectively submit that we are all working hard to best support our pharmacists and our patients. This is a work in progress, however, and industry and regulatory dynamics impact and shape our responses.

With that being said, we need your help. Adapting regulations, as conditions change, is necessary to ensure public safety across all professions. However, the same needs to occur to ensure that communities have access to pharmacies. Today, pharmacy remains the only licensed and regulated profession whose entire survival is contingent upon the sale of a product. Many states have recognized this issue and have expanded the ability of pharmacists to practice at the top of their profession and we need similar action here in Vermont. Declining reimbursement from payors, especially state and federal programs that pay pharmacies at or below costs have contributed to decline in retail pharmacies and, ultimately patient access to important pharmacy services.





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This is not a chain issue or an independent issue, it is a pharmacy issue. According to an October 2019 survey by the National Community Pharmacists Association (NCPA), between June 2018 and June 2019, 2000 retail (chain and independent) pharmacies closed nationally. We have seen the same here in Vermont with chain consolidation as well as the sale or closure of independents at an alarming pace with often no other pharmacy able to fill that void.

Important findings from the NCPA 2019 Survey: Health of Independent Pharmacy

<http://www.ncpa.co/pdf/survey-health-cp.pdf>

- 58% percent of surveyed independent pharmacies said they are somewhat likely or very likely to close their doors in the next two years. Another 19 percent are uncertain.
- 48% of respondents believe economic conditions are so severe that they plan to reduce staff levels within the next year.
- 36% of respondents will consider reducing hours of operation.
- 32% will consider cutting services.

These findings are consistent with what our membership is experiencing, whether you are a grocer, a large national chain, or a small employee owned regional chain. I'm also sure, just like the findings of the Vermont Pharmacist Survey, that conditions created by the COVID-19 global pandemic have only exacerbated the issues, straining our patients, our pharmacists, and our companies doing our best to support them.

In closing, we will work with OPR to develop professional regulations that apply to all pharmacies in a standardized, consistently applied manner that improves the safe practice of pharmacy and protects our patients. **We respectfully request that this process be paused to allow all stakeholders appropriate time to reconvene and collaboratively work on developing the necessary and appropriate standards to ensure the safe practice of pharmacy.**

In a time where local pharmacies have committed to doing everything possible to ensure COVID-19 vaccine access for our community and long-term care patients, we ask that State of Vermont continue to work with pharmacy on ways to expand the services we can provide and the access to care our patients deserve.

Thank you!

Respectfully submitted,

Michael Duteau, R.Ph.

President

Vermont Association of Chain Drug Stores



NCPA SURVEY: Health of Independent Pharmacy

A substantial majority of independent pharmacies rate the current financial health of their businesses as poor, and the main culprits are pharmacy benefit managers (PBMs), multi-billion-dollar middlemen who are bilking them for fees on medicines long after the point of sale, according to a recent survey by the National Community Pharmacists Association (NCPA).

Conducted in October, the survey results show how independent pharmacy owners perceive current and future economic conditions, including pharmacy DIR fees, are impacting their pharmacy business.

This survey was conducted between October 4-14, 2019. 643 independent pharmacy owners participated in the random sample of 5,000 independent community pharmacy owners that were invited to participate in the online survey.

According to the NCPA Digest, between December 2012, the initial year of pharmacy DIR fees, and December 2017 the number of independent community pharmacies decreased by 4.9 percent from 23,029 to 21,909 independent community pharmacies. Not only are pharmacy DIR fees and plummeting prescription reimbursement affecting independent pharmacies, an analysis by the healthcare data and technology company IQVIA shows that between June 2018 and June 2019, 3.3 percent, nearly 2,000, of ALL retail pharmacies closed their doors. Shockingly, on average, AN estimated 10 million consumers lost access to the pharmacy of their choice due to these closings. Additionally, IQVIA's analysis was conducted prior to the bankruptcy declaration by the regional chain Fred's and Walgreens announcing it will close 200 under-performing stores.

The low prescription reimbursement is hitting rural communities especially hard. A study by the Center for Rural Health Policy shows a substantial decrease in the number of independent rural pharmacies, with an acceleration in the decrease between 2007 and 2009, the beginning of Medicare Part D. Key findings from the analysis include:

Over the last 16 years, 1,231 independently owned rural pharmacies (16.1 percent) in the United States have closed. These closures represent, on average, a loss of \$4.3 billion in annual revenue, over 15,000 jobs and millions of dollars in tax revenue gone due to the negative impact of PBM rock bottom prescription reimbursement.

The below-cost prescription rate has created pharmacy deserts in 630 rural communities that had at least one retail (independent, chain, or franchise) pharmacy in March 2003 but had no retail pharmacy in March 2018.

[According to the Division on Aging](#), an agency within the US Department of Health and Human Services, the 65-and-older demographic, typically the most frequent consumer of prescription medications, is one of the fastest growing population segments in the United States. One would expect that trend to make conditions ripe for pharmacy growth. Unfortunately, pharmacy DIR fees and low prescription reimbursement are resulting in fewer pharmacy choices for consumers not more.

Key Findings of the NCPA Survey of Independent Pharmacies:

58% of respondents say based on current prescription reimbursement, they are somewhat likely or very likely to close their doors in the next two years. Another 19 percent are uncertain.

42% and 17% of respondents perceive current economic conditions as somewhat poor or very poor, respectively.

By far, direct and indirect remuneration, known as pharmacy DIR fees imposed by PBMs in the Medicare Part D Program, are the biggest challenge confronting community pharmacy, with 63% of respondents saying just that.

48% of respondents believe economic conditions are so severe that they plan to reduce staff levels within the next year.

36% will consider reducing hours of operation.

32% will consider cutting services.

What Can Be Done:

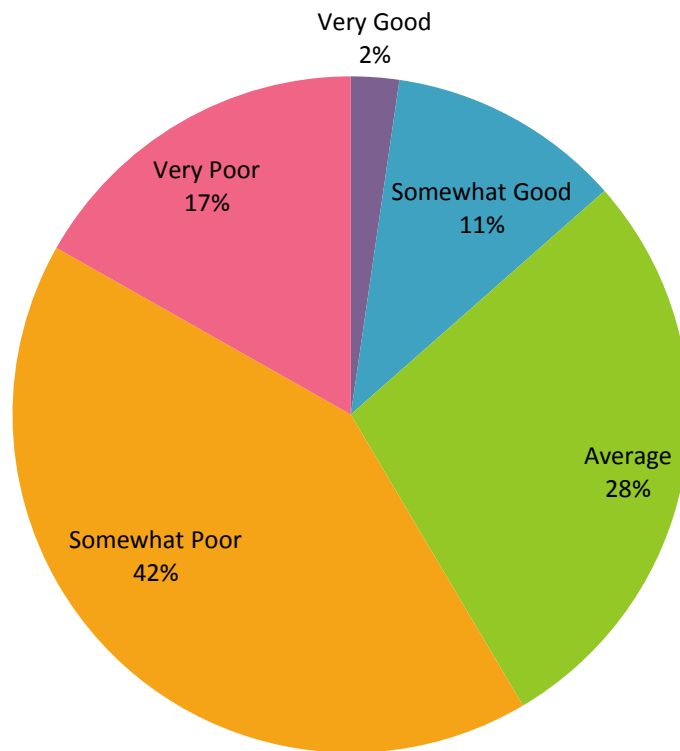
The Centers for Medicare and Medicaid Services (CMS) proposed a rule earlier this year that would have effectively eliminated retroactive pharmacy DIR fees. However, officials in the Trump Administration blocked the proposed rule from becoming final. Congress can act now to include a pharmacy DIR fees fix through legislation.

Some states are taking action. Ohio has enacted greater oversight over the PBM corporations that contract with the state to manage prescription drug benefits for its Medicaid program and state employees. Other states have taken or are considering similar actions.

Simplifying how prescription drugs are purchased in the U.S. is desperately needed. Prescription drug prices in the U.S. are some of the highest in the world and the U.S. is the country that has become most reliant on PBM corporations managing the prescription drug benefit. The end results have been confusion and higher costs.

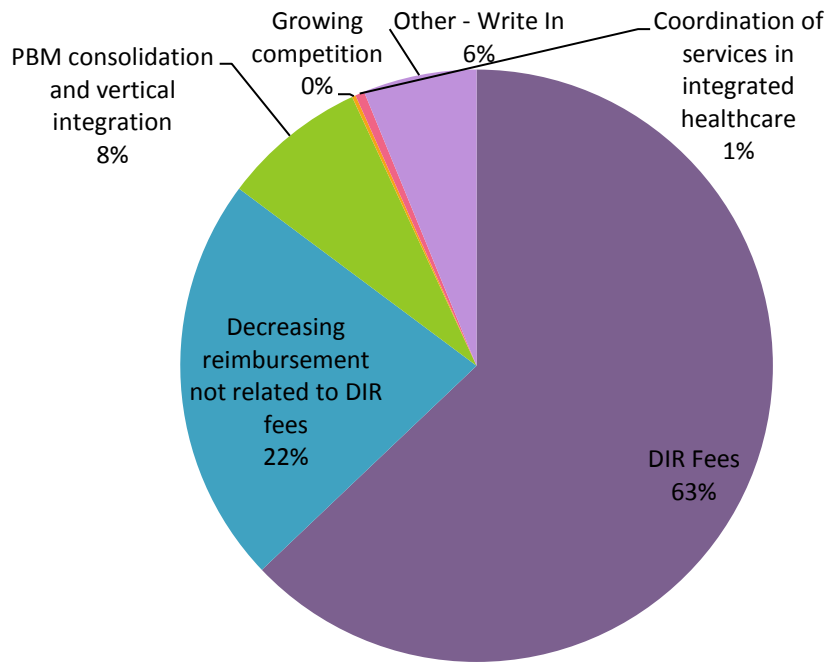
*Founded in 1898, the National Community Pharmacists Association **is the voice for the community pharmacist**, representing 22,000 pharmacies that employ 250,000 individuals nationwide. Community pharmacies are **rooted in the communities where they are located** and are among **America's most accessible health care providers**. To learn more, visit www.ncpanet.org.*

How would you rate the overall financial health of your business?



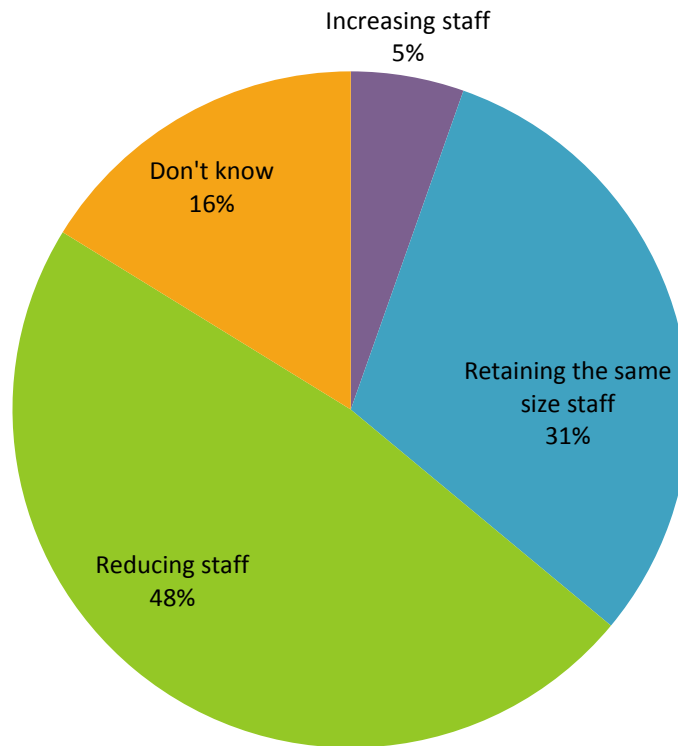
| Value | Percent | Count |
|---------------|---------|-------|
| Very Good | 2.3% | 15 |
| Somewhat Good | 11.2% | 72 |
| Average | 28.0% | 180 |
| Somewhat Poor | 41.7% | 268 |
| Very Poor | 16.8% | 108 |
| | Totals | 643 |

Which of the following is the biggest business challenge your pharmacy faces?



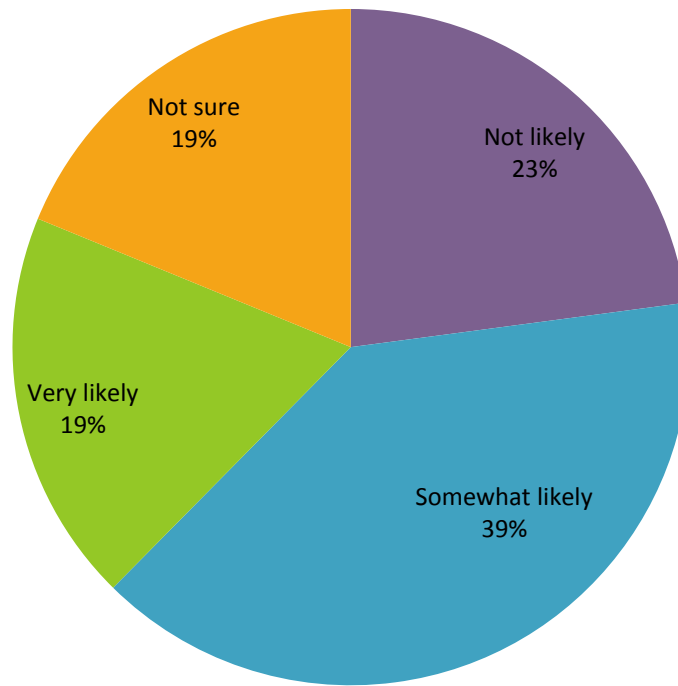
| Value | Percent | Count |
|---|---------|-------|
| DIR Fees | 62.9% | 404 |
| Decreasing reimbursement not related to DIR fees | 22.3% | 143 |
| PBM consolidation and vertical integration | 7.9% | 51 |
| Growing competition | 0.2% | 1 |
| Coordination of services in integrated healthcare | 0.5% | 3 |
| Other - Write In | 6.2% | 40 |
| | Totals | 642 |

In the next year, do you anticipate?



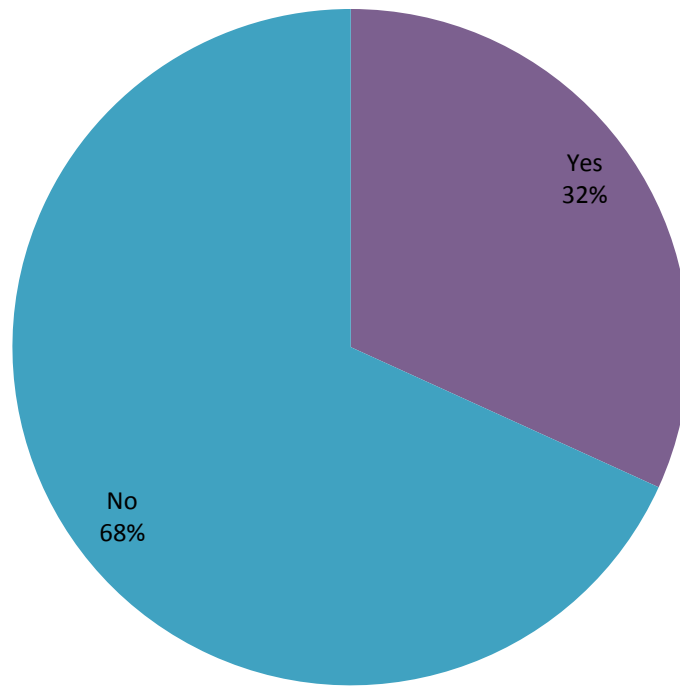
| Value | Percent | Count |
|-------------------------------|---------|-------|
| Increasing staff | 5.4% | 35 |
| Retaining the same size staff | 30.6% | 197 |
| Reducing staff | 47.7% | 307 |
| Don't know | 16.2% | 104 |
| | Totals | 643 |

Based on the impact of pharmacy DIR fees on Rx reimbursement, how likely are you to close your business within the next two years?



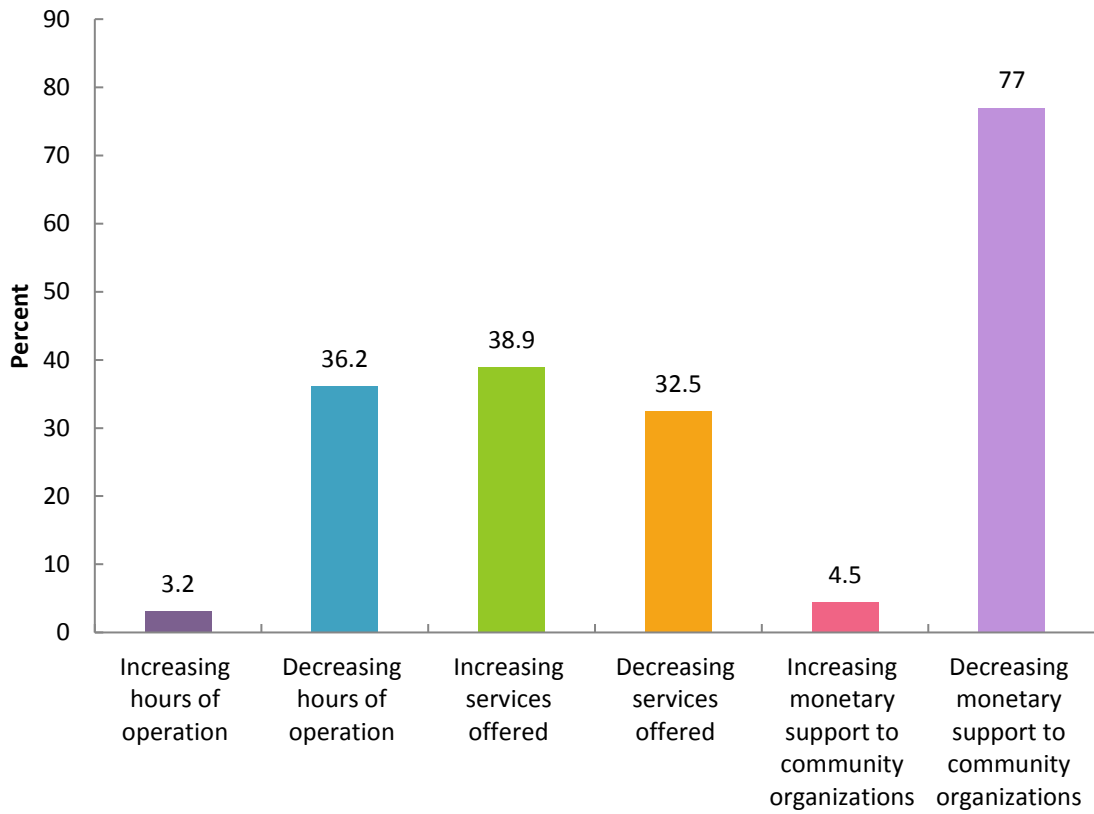
| Value | Percent | Count |
|-----------------|---------|-------|
| Not likely | 22.9% | 147 |
| Somewhat likely | 39.5% | 254 |
| Very likely | 18.8% | 121 |
| Not sure | 18.8% | 121 |
| | Totals | 643 |

Have you recently been outside of terms with your wholesaler (behind on your wholesaler payment) this year?



| Value | Percent | Count |
|-------|---------|-------|
| Yes | 31.8% | 204 |
| No | 68.2% | 437 |
| | Totals | 641 |

In the next year, do you anticipate (pick all that apply):



| Value | Percent | Count |
|--|---------|-------|
| Increasing hours of operation | 3.2% | 20 |
| Decreasing hours of operation | 36.2% | 226 |
| Increasing services offered | 38.9% | 243 |
| Decreasing services offered | 32.5% | 203 |
| Increasing monetary support to community organizations | 4.5% | 28 |
| Decreasing monetary support to community organizations | 77.0% | 481 |