April 12, 2022

The Honorable Virginia Lyons
Chair, Senate Committee on Health and Welfare
Vermont State House
115 State Street
Montpelier, VT 05633

RE: NATIONAL COMMUNITY PHARMACISTS ASSOCIATION SUPPORT FOR H. 353

Dear Chair Lyons and members of the Senate Committee on Health and Welfare:

I am writing on behalf of the National Community Pharmacists Association in support of H. 353, which will protect Vermont patients from costly pharmacy benefit manager (PBM) conflicts of interest. 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 22 independent community pharmacies in Vermont.

H. 353 will help protect the patient-pharmacist relationship from undue interference from PBMs. Too often, a patient's ability to choose the best pharmacy provider for them is stripped by their PBM, who forces the patient to use a particular, typically PBM-owned, pharmacy to fill their prescriptions. This anticompetitive practice prevents local community pharmacies from competing for Vermonters' business. According to a 2020 NCPA survey, 79% of responding pharmacists said their patients' prescriptions were transferred to another pharmacy in the previous six months without their patients' knowledge or consent.[1] Community pharmacies lost a median of 12 patients during that time period.[2]

Worse still, this practice is incredibly costly for patients and plan sponsors. As PBMs steer patients to PBM-owned pharmacies, those PBMs are free to reimburse those pharmacies at higher rates than they reimburse non-affiliated pharmacies, as was the case in Florida where a state audit found Medicaid beneficiaries were steered to MCO/PBM-owned pharmacies, which were reimbursed at higher rates than non-affiliated pharmacies for dispensing the same specialty drugs.[3] PBM conflicts of interest raise costs and limit a patient's ability to make healthcare decisions for himself or herself.

H. 353 will help end this harmful practice. Under the bill, patients will have the ability to use the in-network pharmacy of their choice. PBMs will be prohibited from reimbursing their own pharmacies more than a non-affiliated pharmacy. It will prohibit a PBM from requiring a pharmacy to meet arbitrary accreditation requirements before filling prescriptions for patients. And

[1] "Patient Steering a Massive Problem for Community Pharmacists, New Survey Shows," NCPA (Sept. 17, 2020) https://ncpa.org/newsroom/news-releases/2020/09/17/patient-steering-massive-problem-community-pharmacists-new-survey.
[2] *Id.*
[3] Milliman, *Florida Agency for Health Care Administration: Pharmacy Benefit Manager Pricing Practices in Statewide Medicaid Managed Care Program* (Dec. 2020).

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pharmacists will be free from PBM-imposed gag clauses so they can work with patients to find the most cost-effective drug for that patient.

I also urge the committee to reinstate some of the reimbursement transparency provisions from the "introduced" version of the bill. In the "introduced" version, the bill would have required PBMs to reimburse pharmacies a professional dispensing fee that mirrored the dispensing fee in the Medicaid program. The bill would have also prohibited a PBM from using spread pricing, through which the PBM reimburses a pharmacy at one price and charges the plan sponsor a higher price for administering the claim.

Enacting these provisions will remove the incentives for PBMs to engage in opaque reimbursement practices that raise costs for payers and patients. The Medicaid dispensing fee is an evidence-based, objective benchmark that accurately reflects a pharmacy's true cost to dispense a medication, and all plan sponsors and patients, not just Medicaid, should benefit from the increased transparency. West Virginia enacted an almost identical provision last year after realizing that its Medicaid program saved $54 million by adopting a similar dispensing fee benchmark for all Medicaid prescriptions.[4] 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.[5] Adding the reimbursement transparency provisions back into the bill will ensure payers' and patients' health care dollars are actually going towards their care, instead of into PBMs' pockets.

Coupled with protections in existing law, the provisions of H. 353 will protect patient choice from PBM conflicts of interest. And the bill can be strengthened by adding the reimbursement transparency provisions back in. Many other states have passed similar legislation protecting the patient-pharmacy relationship, and that legislation has not resulted in higher health insurance premium costs for patients or payers.[6] H. 353 is pro-patient, pro-pharmacy, and pro-local business. For these reasons, I ask that you favorably report the bill with amendments addressing reimbursement transparency. If you have any questions about the information in this letter, please do not hesitate to contact me.

Sincerely,

Matthew Magner
Director, State Government Affairs

Cc: Aaron DeNamur

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[4] Navigant Consulting, Inc., Pharmacy Savings Report: West Virginia Medicaid 5 (2019), *available at* https://dhhr.wv.gov/bms/News/Pages/West-Virginia-Medicaid-Pharmacy-Savings-Report-is-Now-Available!-.aspx.

[5] 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.

[6] "PBM Reform Has Not Raised Costs for Patients and Payers," NCPA (Mar. 2022), https://ncpa.org/sites/default/files/2022-03/pbm-regulations-one-pager.pdf.