



February 1, 2022

The Honorable John Hunt
Chairman
New Hampshire House Commerce and Consumer Affairs Standing Committee
165 Sunridge Road
Rindge, NH 03461-5478

New Hampshire House Bill 1580: relative to pharmacy benefits managers – SUPPORT

Dear Chairman Hunt:

The American Pharmacists Association (APhA) supports House Bill (HB) 1580, which will protect patients' access to their medications and their trusted healthcare professional, the pharmacist.

APhA is the largest association of pharmacists in the United States advancing the entire pharmacy profession. APhA represents pharmacists in all practice settings, including community pharmacies, hospitals, long-term care facilities, specialty pharmacies, community health centers, physician offices, ambulatory clinics, managed care organizations, hospice settings, and government facilities. Our members strive to improve medication use, advance patient care and enhance public health. In New Hampshire, APhA represents pharmacists and students that practice in numerous settings and provide care to many of your constituents. As the voice of pharmacy, APhA leads the profession and equips members for their role as the medication expert in team-based, patient-centered care. APhA inspires, innovates, and creates opportunities for members and pharmacists worldwide to optimize medication use and health for all.

As a result of the predatory practices of pharmacy benefit managers (PBMs), patients' access to medications from their local pharmacist across the country has declined¹, taxpayer dollars have been funneled into corporate profits², and generationally owned mom and pop pharmacies have been driven out of business³. Appropriate government intervention is necessary to address the misaligned incentives in the PBM industry that prioritize profits over patients. HB1580 would address many of the underlying issues that result in harm to patients, taxpayers, and pharmacists.

HB1580 would require licensure of PBMs by the New Hampshire Commissioner and importantly creates a system of consequences if PBMs decide not to follow the requirements included in New Hampshire

¹ Rose J, Krishnamoorth R. Why your neighborhood community pharmacy may close. *The Hill*. Available at <https://thehill.com/blogs/congress-blog/healthcare/530477-why-your-neighborhood-community-pharmacy-may-close>

² 3 Axis Advisors. Analysis of PBM Spread Pricing in New York Medicaid Managed Care. Available at <http://www.ncpa.co/pdf/state-advoc/new-york-report.pdf>

³ Callahan C. Mom-and-pop pharmacies struggle to hang on. *Times Union*. Available at <https://www.timesunion.com/hudsonvalley/news/article/Mom-and-pop-pharmacies-struggle-to-hang-on-16187714.php>

statute. This system of accountability, which includes the ability to revoke PBM licensure and conduct an audit at the Commissioners discretion is vital as there have been allegations of PBMs ignoring legal requirements in other states.⁴

An important focus of this legislation is on maintaining patient access to their lifesaving medications and their trusted pharmacist. This comes from requirements that PBMs are prohibited from limiting patients to only receive their medications through mail-order pharmacies (often also owned by the PBM⁵) and maintains that patients have more choice in choosing from which pharmacy and pharmacist they would like to receive their care from. In addition to maintaining patient access through network considerations, many PBM practices that undermine the financial sustainability of the local pharmacy are prohibited. By banning point of sale and retroactive fees, setting reimbursement at the national average drug acquisition cost (NADAC) plus a \$10.49 dispensing fee, banning lower reimbursement on 340B medications, and prohibiting discriminating with reimbursement between pharmacies many of the anticompetitive practices that have resulted in the closure of pharmacies and limited patient access to their medications will be addressed.

HB1580 will take notable steps to protect patients' access to their medications and their pharmacist.

For these reasons, we support HB1580 and respectfully request your "AYE" vote. If you have any questions or require additional information, please don't hesitate to contact E. Michael Murphy, PharmD APhA Advisor for State Government Affairs by email at mmurphy@aphanet.org.

Sincerely,



Ilisa BG Bernstein, PharmD, JD, FAPhA

Senior Vice President, Pharmacy Practice and Government Affairs
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cc:

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⁴ Independent Pharmacies Sue Major Pbm Over Illegal Price Discrimination And Below Cost Reimbursements. MR Cuker Law Firm, LLC. Available at <https://www.cukerlaw.com/independent-pharmacies-sue-major-pbm-over-illegal-price-discrimination-and-below-cost-reimbursements/>

⁵ Competition, Consolidation, and Evolution in the Pharmacy Market. *The Commonwealth Fund*. Available at <https://www.commonwealthfund.org/publications/issue-briefs/2021/aug/competition-consolidation-evolution-pharmacy-market>

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