AKPhA
ALASKA PHARMACY ASSOCIATION

April 1, 2024

Honorable Members of the Alaska State Legislature
House Labor and Commerce Committee

Dear members of the House Labor and Commerce Committee,

Thank you for your careful consideration of HB 226 to rein in the anti-competitive, unfair, and opaque business practices of large PBMs doing business in the State of Alaska, essentially currently unregulated. We listened to the opposition presentations in House Labor and Commerce on March 27th and were disheartened to hear several pieces of misinformation, facts that were mischaracterized, and/or perhaps individuals speaking outside of the depth of their expertise and we wanted to take the time to clarify a few pertinent issues: patient steering, spread pricing, and appropriate reimbursement.

Opponents to Alaskans having the right to choose their pharmacy state that plans save money by supporting the anti-competitive pharmacy benefit manager (PBM) practice of steering patients to the PBM's own mail order pharmacies. They claim these pharmacies are higher quality than local pharmacies and that steering leads to reduced costs, these claims are highly inaccurate. The truth is that PBMs use their market power to steer the flow of prescription commerce out of the State of Alaska to enrich themselves; Alaskan patients and communities are the ones who suffer due to the following impacts.

- **Reduced Choice**: By directing patients to their own mail order pharmacies, PBMs limit patients' options, preventing them from choosing pharmacies that may offer better prices or services. This lack of choice undermines competition in the market.
- **Conflict of Interest**: PBMs own or have financial relationships with these mail order pharmacies. This creates a conflict of interest because they prioritize their own pharmacies over others, even if it's not in the best interest of patients or the healthcare system as a whole.
- **Market Control**: PBMs wield significant market power due to their control over drug pricing and distribution. Steering patients to their own pharmacies consolidates this power and stifles competition from local Alaska pharmacies, leading to higher prices and reduced access to care.
- **Barriers to Entry**: Local Alaska pharmacies may struggle to compete with PBMs' mail order pharmacies, especially because PBMs offer incentives that favor their own pharmacies. This creates barriers to entry for new competitors, further entrenching PBMs' market dominance.
- **Higher Costs**: PBMs use their market leverage to ensure higher reimbursement rates for prescriptions filled at their own pharmacies. This drives up costs for patients and payers, without improving the quality or efficiency of care.
- **Market Distortion**: News reports and industry analyses have highlighted instances where PBMs' reimbursement practices favor their own mail order pharmacies over local pharmacies, raising concerns about fairness, transparency, and competition in the pharmaceutical market. By paying their own pharmacies more than local providers for the same services, PBMs may distort market dynamics, discourage competition, and undermine patient access to affordable, high-quality pharmacy care.

Supporters of PBM's opaque business practices hail spread pricing as an innocent cost-saving measure in their health plans. This is a pernicious falsehood seemingly intended to mislead and confuse legislators. Spread pricing in pharmacy benefit management is not only harmful but also notoriously difficult for

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healthcare plan sponsors to monitor and control. While PBMs claim that spread pricing lowers costs for plan sponsors, the reality is quite different. Here's why:

- **Opaque Pricing Structures**: Spread pricing relies on opaque pricing structures, making it challenging for healthcare plan sponsors to ascertain the true costs of prescription drugs. To uncover the extent of spread pricing, plan sponsors would need to audit both pharmacy claims and PBM contracts, a time-consuming and resource-intensive process.
- **Increased Costs**: Investigations have revealed instances where spread pricing has led to significant increases in costs for healthcare plan sponsors. For example, a 2018 investigation by the Ohio Medicaid Department found that PBMs charged the state significantly more for prescription drugs than they reimbursed pharmacies, resulting in overpayments of over $160 million of dollars. A 2019 study by the Utah State Legislature demonstrated a cost of $8 per prescription being spent on Spread Pricing for their state employee benefit plan. Similar investigations in other states have uncovered widespread discrepancies between what PBMs charge employers compared to what they pay pharmacies, indicating that spread pricing can drive up costs rather than lower them.
- **Undermined Competition**: Spread pricing arrangements can undermine competition in the pharmacy market by creating financial incentives for PBMs to steer patients toward pharmacies where they can maximize their profits through spread margins. This can limit patient choice and reduce the ability of local pharmacies to compete with pharmacies favored by or affiliated with PBMs.
- **Fraudulent Practices**: Investigations into spread pricing have also uncovered instances of fraudulent practices by PBMs. In addition to overcharging healthcare plan sponsors, PBMs have been found to engage in various tactics to inflate spread margins, such as manipulating drug pricing data, misrepresenting pharmacy costs, and concealing rebate arrangements with drug manufacturers. These fraudulent practices not only harm plan sponsors financially but also compromise patient care and trust in the healthcare system.
- **Patient Impact**: Spread pricing can have negative consequences for patients, including higher out-of-pocket costs and reduced access to medications. When PBMs retain a portion of the reimbursement as profit, patients may end up paying more for their prescriptions, particularly those with high deductibles or copayments. This can lead to financial hardship and deter patients from adhering to their prescribed treatment regimens.
- **In conclusion**, spread pricing in PBM contracts is harmful, deceptive, and difficult to detect without thorough auditing and oversight. By obscuring true prescription drug costs, increasing expenses for plan sponsors, undermining competition, and enabling fraudulent practices, spread pricing jeopardizes the affordability and accessibility of healthcare for both plan sponsors and patients. Eliminating spread pricing is essential to address these issues and ensure fair and accountable practices in the pharmacy benefit management industry.

Opponents of requiring a transparent reimbursement model for prescription drugs compared an appropriate dispensing fee with a government-imposed tax on goods, this couldn't be further from reality.
Comparing a fair prescription dispensing fee to a tax on groceries, gas, or hardware oversimplifies the role of pharmacists and ignores the critical healthcare services they provide. Here's why a fair dispensing fee is fundamentally different from a tax on everyday goods:

- **Healthcare Services vs. Retail Transactions**: Pharmacists aren't merely retail vendors selling products; they are essential healthcare providers who play a crucial role in patient care. Unlike groceries, gas, or hardware, which are typically purchased for personal or household use, prescription medications are integral to managing and treating medical conditions. Pharmacists

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provide invaluable clinical expertise, counseling, and medication management services that go far beyond the transactional nature of retail sales.

- **Patient-Centered Care**: Pharmacists are frontline healthcare providers who are uniquely positioned to identify and address medication-related issues, such as drug interactions, contraindications, and adherence challenges. Through services like medication therapy management (MTM) and drug utilization review (DUR), pharmacists help optimize medication regimens, improve patient outcomes, and prevent adverse drug events. This level of personalized care is not analogous to the purchase of groceries or other retail goods.
- **Importance of In-Person Services**: Seeing a pharmacist in person offers numerous benefits for patients, including increased medication adherence rates and improved health outcomes. Research has shown that patients who have regular interactions with pharmacists are more likely to adhere to their prescribed medications, leading to better disease management and reduced healthcare costs. Pharmacists can provide tailored counseling, address patient concerns, and offer support that is not feasible through mail order pharmacy services.
- **Lifesaving Interventions**: Pharmacists frequently encounter discrepancies in prescriptions, dosages, or medication regimens that have the potential to cause harm or even be life-threatening. By performing medication reconciliation and medication therapy management, pharmacists can identify and rectify these issues, ultimately saving lives and preventing adverse drug events. This level of clinical oversight and intervention is a critical aspect of the healthcare services provided by pharmacists and cannot be equated to the sale of everyday goods.
- **In summary**, a fair prescription dispensing fee reflects the value of the comprehensive healthcare services provided by pharmacists, including medication management, counseling, and patient-centered care. Comparing this fee to a tax on groceries, gas, or hardware overlooks the essential role of pharmacists in improving patient outcomes and ensuring the safe and effective use of medications. Patients benefit from in-person pharmacy services, which offer personalized care, medication adherence support, and lifesaving interventions that go beyond the scope of retail transactions.

Local pharmacists and pharmacies are part of our critical healthcare infrastructure. We advocate that the legislature takes immediate necessary action to rein in the unethical, anti-competitive and unfair trade practices that helped CVS Caremark, just one of the "Big 3" PBMs, rake in $357.8 Billion dollars in 2023, boasting to shareholders of a record year with profits over $8.3 Billion dollars. These record profits are being made on the backs of local Alaskan patients, plan sponsors, and pharmacies; trust your local pharmacists, the solution is in HB 226.

Best regards,

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