

3/30/2021

HB0601



A Network Of
Independently Owned
Pharmacies

Testimony offered on behalf of:
EPIC PHARMACIES, INC.

IN SUPPORT OF:
HB0601 – Pharmacy Benefits Managers – Revisions, as Amended

Senate Finance Committee
Hearing: 3/30/2021 at 1:00 PM

EPIC Pharmacies, Inc. **SUPPORTS HB0601** – Pharmacy Benefits Managers - Definition of Purchaser and ERISA, as amended by the House.

We have been following federal ERISA lawsuits related to PBMs for the last several years as they made their way through the court system and were encouraged in 2020 when the Supreme Court decided to hear Rutledge v. PCMA. This case was brought by the Arkansas Attorney General in defense of a 2015 law that regulates PBM reimbursement to pharmacies and mandates fair payments for all insurance plans represented by the PBMs. When the case was postponed in April due to the pandemic, we never thought we would have a ruling prior to the 2021 legislative session. I, and the collective pharmacy community, were surprised when the Court quickly returned a unanimous decision in December on behalf of Rutledge and the State of Arkansas.

In this Committee and Subcommittee hearings for as long as we can remember, we have heard from PCMA that any State law regulating PBMs is preempted by ERISA and therefore only represents the fully insured marketplace. The Supreme Court once and for all eliminated this argument and has indicated that all PBM plans are subject to regulation by State Legislatures and committees such as this one. HB0601 is a simple bill that eliminates the mention of ERISA in the definition of a purchaser and therefore cleans up Maryland law to eliminate any reference to or limitations based on this federal statute. We believe this will allow the State to enforce all current PBM laws in a way that more uniformly regulates the industry and allows for a more level playing field which ultimately benefits patients.

I thank the Committee for all the work they have done in the last several years and respectfully request a favorable report on HB0601, as amended by the House.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian M. Hose".

Brian M. Hose, PharmD
EPIC PharmPAC Chairman
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