



**TO:** The Honorable Shane Pendergrass, Chair  
Members, House Government Operations Committee

**FROM:** Aliyah N. Horton, CAE, Executive Director, 240-688-7808

**DATE:** February 10, 2021

**RE:** SUPPORT – HB 601 – Pharmacy Benefits Managers – Definition of a Purchaser and ERISA

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- Maryland Pharmacists Association (MPhA) urges a favorable report of HB 601.
- Following the U.S. Supreme Court’s recent guidance in *Rutledge v. Pharmaceutical Care Management Association*, 141 S. Ct. 474 (2020), HB 601 is intended to ensure that the state of Maryland has the authority to regulate the relationship between pharmacy benefit managers (PBMs) and pharmacies.
- Specifically, provisions that regulate the relationship between PBMs and pharmacies are not preempted by the Federal Employee Retirement Income Security Act of 1974 (ERISA), unless they are treated differently.
- This legislation specifically removes references to ERISA to ensure that relationship between PBMs and pharmacies are not treated differently regardless of whether their contract is a part of an ERISA-covered plan.
- The legislation is corrective measure to ensure that PBM laws and regulations are consistent in Maryland.
- In past years the Committee has heard the issues raised by pharmacy owners related to PBM practices. The Maryland Insurance Administration was unable to do further investigations or provide any uniform level of enforcement because plans were preempted. This bill ensures the authority is where it should be.
- The state of Maryland’s Attorney General and the Maryland Pharmacists Association were signatories to amicus briefs in support of the position of Rutledge.