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THE SENATE OF MARYLAND
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March 16, 2022

SB 689 Pharmacy Benefit Managers-Prohibited Actions

Chairwoman Kelly, Vice Chair Feldman, and member of the Finance Committee,

Senate Bill 689 is legislation that would prohibit Pharmacy Benefit Managers (PBMs) from engaging in practices that take unfair advantage of independent, community pharmacies. PBMs use their unfair advantage to rack up tremendous revenues and profits. Their superior bargaining position allows them to steer business and offer more favorable terms to pharmacies affiliated with the PBMs. Just recently one PBM, CVS, reported 3rd quarter 2021 revenue in excess of \$39 Billion, and year-to-date revenues of \$153 Billion.

This bill would specifically prohibit the following practices:

- 1) **Spread Pricing:** This occurs when a PBM is paid by the drug plan sponsor at one price, and reimburses the pharmacy for a lesser amount. The PBM pockets the difference even though they never took possession of the drug and/or had nothing to do with the dispensing of the drug. This practice has already been banned in a number of states.
- 2) **Any Willing Pharmacy:** Currently PBMs control which pharmacies may become participants under a drug plan. They have vested interest in only promoting their own affiliated chain pharmacies, to the exclusion of the independent pharmacies. It deprives the consumer the right to have a prescription filled where most convenient. "Any Willing Pharmacy" or one that agrees to the conditions of the plan should be permitted to join the plan. 26 states have already passed some form of "Any Willing Pharmacy" legislation.
- 3) **Copays disparity:** PBMs set the copay that a pharmacy must charge for a prescription. PBMs often set different copay amounts. Copays are often lower at a PBM affiliated pharmacies in order to steer customers.
- 4) **Mail Order Pharmacy Requirements:** PBMs may require that a specific drug be ordered through a mail order pharmacy. Mail order pharmacies are often affiliated or owned by the PBM. This practice steers the consumer to the PBM pharmacies.

Senate Bill 689 would end these predatory practices that harm consumers and independent pharmacies. I urge a favorable report on Senate Bill 689.

