

March 29, 2023

The Honorable Melanie Griffith
Chair, Senate Finance Committee
3 East
Miller Senate Office Building
Annapolis, MD 21401

Re: Support for HB 374

Dear Chair Griffith and Members of the Committee:

The National Community Pharmacists Association (NCPA) is pleased to support HB 374, legislation addressing the audit practices of Pharmacy Benefit Management companies (PBMs). NCPA members have long been subject to egregious audit practices by PBMs in Maryland and elsewhere, leading to legislation being successfully enacted in 44 states to address these concerns.

NCPA represents the interest of America's community pharmacists, including the owners of more than 19,400 independent community pharmacies across the United States and more than 330 independent community pharmacies in Maryland. These pharmacies employed more than 4,000 individuals and they filled nearly 21 million prescriptions in 2021, generating more than \$883 million in total sales.

Pharmacists understand that audits are a necessary practice to identify fraud, abuse, and wasteful spending, and they are not opposed to appropriate audits to identify such issues. Current PBM audits of pharmacies, however, are often used as an additional revenue source for the PBM. PBMs routinely target community pharmacies and recoup vast sums of money for nothing more than harmless clerical errors where the correct medication was properly dispensed and no financial harm was incurred. In many instances, the PBM not only recoups the money paid to the pharmacy for the claim in question but also recoups for every refill of that claim, even if all other fills were dispensed without error.

Maryland is not alone in recognizing the need to address abusive audit practices. In their 2014 Final Call Letter, the Centers for Medicare and Medicaid Services (CMS) indicated their recognition of abusive audit practices occurring within the Part D program. CMS found that pharmacy audits in the Part D program were not focused on identifying fraud and financial harm but on targeting clerical errors that "may be related to the incentives in contingency reimbursement arrangements with claim audit vendors."¹

1 <https://www.cms.gov/medicare/health-plans/medicareadvtspeccratestats/downloads/announcement2014.pdf>

Thank you for recognizing the need to enhance protections in Maryland for community pharmacists and pharmacies in the face of unfair PBM practices. We ask your support for HB 374 as amended. Thank you for your consideration. Please don't hesitate to contact me at (703) 600-1186 or joel.kurzman@ncpa.org.

A handwritten signature in black ink that reads "Joel Kurzman". The signature is written in a cursive style and is centered within a light gray rectangular box.

Joel Kurzman
Director, State Government Affairs

2 <https://dhhr.wv.gov/bms/News/Pages/West-Virginia-Medicaid-Pharmacy-Savings-Report-is-Now-Available!-.aspx>

3 <https://www.nd.gov/dhs/info/testimony/2021/house-approp-hr/hb1012-medical-services-overview-expansion-1-14.pdf>

4 <https://lao.ca.gov/reports/2020/4161/Medi-Cal-Budget-021420.pdf>