



**State Representative Scott Lipps**  
**State Representative Thomas E. West**  
**Sponsor Testimony – House Bill 479**

**Lipps**

Chairman Blessing, Vice Chair Reineke, Ranking Member Clyde, and members of the House Government Accountability and Oversight Committee, thank you for the opportunity to present sponsor testimony on House Bill 479, bipartisan legislation that will increase access to affordable prescription drugs by increasing price transparency and ensuring a fair payment process for pharmacies and patients. This bill largely seeks to reduce the administrative burden placed on pharmacists by Pharmacy Benefit Managers (also known as PBMs), which act as third-party intermediaries between pharmacies and insurers.

We are all aware the action is needed to address rising prescription drug prices. 6 in 10 Americans consider lowering drug prices to be a “top priority”. While I felt Issue 2 was flawed and would have made matters worse, I do believe that our constituents sent us all a clear message that the status quo for managing drug prices just isn’t going to cut it anymore. Prescription drug pricing and its supply chain is complex and needs to be scrutinized. Rep. West and I are here today to talk about several drug pricing issues that we can and must address.

First, this bill will combat unnecessary price inflation and increase price transparency by requiring that patients are informed of the most affordable payment option for their prescriptions. This will limit the amount that a Pharmacy Benefit Manager (PBM), health plan issuer, or other administrator may charge a patient covered under a prescription benefit plan for a prescription drug. This amount must be the lesser of (1) the amount an uninsured person would have paid for the drug or (2) the net reimbursement paid to the pharmacy for the drug. This represents a simple, commonsense solution that will increase price transparency for pharmacy patients like veterans and seniors for whom every dollar counts.

Second, our legislation prohibits “gag orders” that many PBMs require in their contracts with pharmacies, which forbid pharmacists from informing patients of the cheapest method of purchasing their prescriptions. This ensures that pharmacies are no longer required to collect copayment from insured customers that are greater than the limits established by this bill. Should a copayment exceed the price of a drug without insurance, the pharmacist must inform the patient. Currently, many pharmacists are, by a strictly enforced contracts with PBMs, banned from explaining to the consumer that the price has been inflated and that a better price might be

available. Pharmacists want nothing more than to support their patients by helping them get the medication they need, and this proposal will take a step in the right direction by allowing them to inform patients of their best option.

### **West**

Finally, our legislation aims to address the issue of “clawbacks” by prohibiting PBMs from retroactively adjusting a pharmacy’s reimbursement rate. Many of you may have heard from pharmacists in your district who are operating at a loss because PBMs can retroactively lower the amount reimbursed to pharmacies, which results in unpredictability at the pharmacy, but more importantly, rushes patients into coverage gaps and unnecessarily increases their out-of-pocket expenses for their medications. While clawbacks are bad for pharmacies and patients alike, we have taken special care with the language to ensure that takebacks as a result of errors in billing or cases of fraud, waste, and abuse are protected. This balanced approach gives payers the tools they need to prevent waste, but also ensures patients and pharmacies are not victims of deceptive practices that carry significant cost.

A recent analysis by a mid-sized pharmacy chain in Ohio found hundreds of clawbacks in the last three months. Most clawbacks are relatively small, ranging from a few cents to \$5-7, but there are many transactions where patients are overcharged by more than \$20. Some of the most egregious clawbacks occur in Medicare Part D, where overinflated co-pays not only pinch patient’s wallets, but they also race patients into different deductible phases, which has been found to cost taxpayers billions of dollars. Ohio’s small business owners, like pharmacies, need to know that they can be a trusted resource for their customers and not be pushed fiscally underwater by corporate bully practices such as clawbacks. Drastic clawbacks, when combined with difficult economic conditions, can endanger the financial stability of independent pharmacies. We cannot risk allowing cities and counties in Ohio to become pharmacy deserts.

This bill currently has a strong, bi-partisan group of co-sponsors and a diverse coalition of organizations in support, including the Ohio Pharmacists Association, the Cleveland Clinic, the National Alliance on Mental Illness, the National Multiple Sclerosis Society, the Arthritis Foundation, the Cancer Support Community of Central Ohio, the Epilepsy Foundation of Dayton, the Ohio State University Wexner Medical Center, the Alliance for Transparent & Affordable Prescriptions, the Ohio Association of Rheumatology, and many more. I hope that you will join this coalition in recognizing the importance of this issue. We thank them for their support, thank you for the opportunity to speak today, and look forward to taking your questions.