

Ohio House Government Accountability and Oversight Committee

House Bill 479 Proponent Testimony

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Chairman Blessing, Vice Chair Reineke, Ranking Member Clyde, and members of the Government Accountability and Oversight Committee, my name is Dr. Robert Levin and I am the president of the Alliance for Transparent and Affordable Prescriptions (ATAP). On behalf of ATAP, thank you for the opportunity to present proponent testimony today in support of House Bill 479, a bill that seeks to ensure Ohio patients do not pay any more than they must for their prescription medications by increasing transparency and accountability for pharmacy benefit managers (PBMs).

The Alliance for Transparent and Affordable Prescriptions (ATAP) consists of nineteen patient and provider groups who are concerned about the role PBMs play in the rising cost of drugs and reduced patient access to affordable treatment. PBMs are third-party entities that are hired by insurers and health plan sponsors to manage and administer prescription drug benefit plans. They essentially act as middlemen between insurers, drug manufacturers, and pharmacies and thus have a uniquely central role in the drug market, handling everything from setting patient copayment amounts to determining which drugs are covered by which health plans.

Among other functions, PBMs use their intermediary position to negotiate rebates and retroactive discounts with pharmaceutical manufacturers in exchange for including the manufacturer's drug on the PBM's tiered formulary, or the list of approved drugs that the PBM will cover in full or part. A drug's tier placement determines the level of coverage it will receive and therefore how much it will cost patients out-of-pocket and what restrictions are placed on it. PBMs claim to pass a portion of the rebates and discounts they get from manufacturers back to the insurers to help drive down costs for patients, but due to the opaque nature of their contracts, most of these funds appear to go to their bottom line. Unfortunately, there is very little transparency surrounding PBMs and their role within the delivery system, nor are there any requirements to pass negotiated savings onto payers or patients.

By imposing restrictions on PBMs regarding cost, HB 479 will help ensure Ohio patients do not pay any more than they must for the medications they need. Although patients often assume that their copayment amount will be less than the retail ("cash") price of a drug, this is not always the case. Unfortunately, pharmacists are often prohibited by PBMs from telling customers about lower cost options, and are sometimes even obligated to charge a customer the full, applicable cost-share amount even if the retail price for the drug is less. If a pharmacist is obligated to charge this higher price, the PBM may then collect as revenue the difference between a patient's cost-share and the lower retail price.

HB 479 seeks to address these practices by prohibiting PBMs from requiring patients from paying a cost-sharing amount greater than what an uninsured person would have paid or the net reimbursement to the

pharmacy. This ensures that regardless of any copay gimmicks, the patient will pay the lowest possible amount at the pharmacy counter. It further prohibits PBMs from retroactively adjusting pharmacy claims except in the case of errors discovered in a pharmacy audit. Moreover, the bill also takes aim at gag clauses, eliminating PBM prohibitions on pharmacists to inform their customers of a lower cost alternative for their prescription and whether their cost-sharing obligation exceeds the retail price of their prescription if not using their insurance.

I am aware that the Ohio Department of Insurance issued a bulletin on April 4 prohibiting insurers and PBMs from using gag clauses and from charging consumers more for their prescriptions than what it would otherwise cost without insurance coverage. While ATAP applauds ODI for taking this important action, it does not negate in any way the important need to enact HB 479, and in fact serves as validation that there is a problem with current PBM practices. Not only does HB 479 prohibit all non-audit-based retroactive claim adjustments—something that was not covered by the bulletin—but it also permanently codifies these consumer protections.

In sum, HB 479 will provide added accountability for PBMs operating in Ohio and will go a long way in bringing about a level of transparency to the PBM industry. ATAP therefore strongly urges the Committee to support this legislation and vote in favor of the bill following its upcoming hearing.

PBMs have a significant impact on patients and their ability to obtain the medications they need in a timely and affordable manner, and yet very little is known about their role. This bill is an important first step towards lifting the veil of secrecy from the complex and opaque PBM industry and bringing about a more transparent, patient-centered drug delivery system in the United States. ATAP has been working tirelessly to educate state lawmakers on this issue and the importance of regulating and imposing transparency on PBMs through state legislation, and looks forward to working with the Ohio legislature to help provide information and insight into the problematic practices of PBMs.

Thank you for the opportunity to provide testimony.