



**State Representative Scott Lipps
State Representative Thomas E. West
Sponsor Testimony – House Bill 63**

Lipps

Chairman Merrin, Vice Chair Manning, Ranking Member Boyd, and members of the House Health Committee, thank you for the opportunity to present sponsor testimony on House Bill 63. House Bill 63 is the same language found in HB 479, which passed unanimously off the house floor in the 132nd GA. Last GA, we started to work on this “PBM” issue, not knowing just how far down the rabbit hole we would go. As we continued our fight towards more affordable drug prices, we learned this issue inside and out. Last year, this legislation lead the Auditor to discover 224.8 million dollars being unfairly taken from taxpayers’ pockets, by spread pricing. The Columbus Dispatch has covered our progress in a dedicated series called Side Effects, and just last week Attorney General Yost is seeking 16 million dollars from the PBM, OptumRx, for overcharging the Bureau of Worker’s Compensation. In addition to the work by our state wide officials, and the media coverage this issue has ignited, we effected massive and important change, without every getting HB 479 across the finish line.

In response to our bill, and the findings of multiple investigations over several months, the Ohio Department of Insurance issued a mid-year rule change. This unprecedented act, banned gag rules and claw backs. We were thrilled at the immediate progress we were seeing.

Just a few months later, the Ohio Department of Medicaid sent out a letter, informing all Managed Care Plans that they must terminate all contracts that engage in spread pricing, in favor of switching to a pass through model. These two rules accomplish everything we set out to do.

At this time, HB 63 bill will simply codify the administrative rules that I have previously discussed. By banning gag rules, we allow the pharmacists to inform their customers of the most affordable payment option for their prescriptions. With gag clauses, PBM's were previously allowed to direct the pharmacy to charge the patient more than the cash price of the drug. I will know let my joint sponsor, Representative West cover the claw backs section of this bill.

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.

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.

As my joint sponsor mentioned – A lot has happened since our first House hearing on this bill in the last General Assembly. PBM's have been feeling the heat for ripping people off at the pharmacy counter. The lack of transparency and the immense profits that PBMs are making at the expense of taxpayers, pharmacies and the state are slowly being revealed. As we uncovered more and more in our research and work with this legislation, we realized we need to examine the issue by peeling layer by layer and that we are only at the first layer of a very, very complex onion. We recognize this bill is a small but critical component of lowering prescription drug prices and ensuring consumers have access to the medications they need.

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. It also passed unanimously out of the House. 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.