



OHIO PHARMACISTS ASSOCIATION

2674 Federated Blvd., Columbus, OH 43235 • Phone: (614) 389-3236 • Fax: (614) 389-4582

Testimony for HB 63

Antonio Ciaccia

Director of Government & Public Affairs, Ohio Pharmacists Association

Chairman Merrin, Vice Chair Manning, Ranking Member Boyd, and members of the House Health Committee, my name is Antonio Ciaccia, Director of Government & Public Affairs for the Ohio Pharmacists Association (OPA). I thank you for the opportunity to give our support for HB 63, the Prescription Drug Co-Pay Integrity Act being championed by Representatives Scott Lipps and Thomas West. The content of this legislation was replicated from HB 479 in the previous General Assembly, where it passed the House unanimously but ran out of time before the close of the year.

As an organization representing Ohio pharmacists from a variety of practice settings, our members know all too well some of the warped incentives that exist in the pharmaceutical supply chain, and furthermore how those warped incentives manifest themselves into high prices at the pharmacy counter.

As someone who has spent my entire life around the pharmacist profession, I can tell you that much like all health care providers, the pharmacist-patient relationship is one that at its core is predicated on trust. Pharmacists across the state do everything in their power to ensure that patients are receiving the most appropriate and optimal drug therapy to help manage their chronic diseases, stay on a healthy pathway, and minimize their health care costs. Patients trust their pharmacist to ultimately have their backs, and pharmacists take that responsibility incredibly seriously.

For that reason, I was alarmed when I learned of practices that were beginning to stand in the way of that sacred pharmacist-patient relationship. At OPA, we had a growing number of reports from pharmacists that some pharmacy benefit managers (PBMs) – who act as the administrative middleman between the health plan and the pharmacy – were directing pharmacists to charge patients elevated drug co-pays that exceeded the rates that a patient would pay if they otherwise did not have insurance. Then once the pharmacy collected the inflated co-pay, the PBM later “clawed back” the overcharged amount.

Making matters even worse, those pharmacists informed us that there was language in their contracts that explicitly forbid them from disclosing to the patient that the medications would be cheaper if the patient didn’t use their insurance.

Here’s an example of how this works. This is an actual claim from an Ohio pharmacy chain:

For a medication used to treat severe vitamin deficiency, the pharmacy’s cash price was \$92. The pharmacy processed the claim and was told to charge the patient \$115.19. The PBM later performed at \$55.47 clawback. So in the end, the patient was overcharged \$23.19, the pharmacy lost \$32.28, and the PBM pocketed it all.

And again, while this was occurring, the pharmacist was prohibited in their contract from blowing the whistle on the charade, and helping the patient find a cheaper alternative method of payment.

Keep in mind that every extra dime that patient has to spend on their prescriptions increases the likelihood that they forego the medications altogether. In pharmacy, we refer to this as prescription abandonment. Prescription abandonment and overall medication nonadherence is a huge contributor to hospital readmissions.

While this issue is first and foremost a consumer transparency issue, we also have concerns with some of the possible legal ramifications of these practices. There are now more than a dozen lawsuits nationally that are aimed at these practices, and unfortunately, we have now seen pharmacies dragged into those lawsuits for their involvement. This is the unfortunate reality of largely non-negotiable contracts that pharmacies must enter into with PBMs in order to get access to their patients.

The one-sided nature of the PBM-pharmacy relationship is one of many reasons why the White House Council of Economic Advisers issued a thorough report last year calling for decreasing the concentration of the PBM marketplace, where three PBMs account for an estimated 85% of the entire patient market.

With the rising costs of prescription drugs a growing concern for all of us, we believe it's important to take a holistic assessment of the contributors to those high prices across the entire supply chain. PBM clawbacks are just one of many gimmicks that unnecessarily raise out-of-pocket costs, and through HB 63, we can finally rid the practice for good.

We would like to thank the *Columbus Dispatch*, *Dayton Daily News*, *Akron Beacon Journal*, WCPO Cincinnati, 10TV Columbus, WOIO 19 Cleveland, ABC6 Columbus, and NBC4 Columbus for highlighting and exposing these practices here in Ohio. The media's sunlight on this issue has helped create the exigency needed for positive change, and we applaud Representatives Lipps and West for their leadership in fighting for lower drug prices for Ohioans.

Thanks to the growing attention to these issues, last year the Ohio Department of Insurance (ODI) announced in a special bulletin that stated that any PBM and/or health insurer is prohibited from engaging in each of the following practices:

1. Prohibiting any person, directly or indirectly, from informing, by any means, an individual about less expensive ways to purchase prescription drugs that may also be available under any insurance policy or benefit plan.
2. Requiring cost-sharing in an amount, or directing a pharmacy to collect cost-sharing in an amount, greater than the amount an individual would pay for the prescription drug if the drug were purchased without coverage under a health benefit plan.

We thank ODI for their philosophical endorsement of these types of reforms, and we urge this committee to advance the legislation necessary to codify ODI's edict. Additionally, HB 63 will ensure that Ohio law prohibits any patient from having to pay a co-pay that is any higher than the pharmacy's cash price or any higher than the negotiated price. This will make certain that a patient gets any discount that has been leveraged by the PBM or insurer on their behalf.

Throughout our work on this issue, we have amassed a huge coalition of supporters that continues to grow. As of this writing, those supporters include:

Academy of Medicine of Cleveland & Northern Ohio (AMCNO)
Alliance for Transparent & Affordable Prescriptions (ATAP)

American Cancer Society Cancer Action Network (ACS CAN)
American College of Rheumatology (ACR)
American Pharmacy Cooperative, Inc. (APCI)
American Pharmacy Services Corporation (APSC)
Arthritis Foundation
Cancer Support Community of Central Ohio (CSCCO)
Cleveland Clinic
Coalition of State Rheumatology Organizations (CSRO)
Discount Drug Mart
Epilepsy Foundation Greater Dayton Region
Global Healthy Living Foundation (GHLF)
Immune Deficiency Foundation (IDF)
Independent Pharmacy Cooperative (IPC)
Mental Health America of Franklin County (MHAFC)
MetroHealth
National Alliance on Mental Illness Ohio (NAMI Ohio)
National Community Pharmacists Association (NCPA)
National Multiple Sclerosis Society (NMSS)
National Psoriasis Foundation (NPF)
Ohio Academy of Family Physicians (OAFP)
Ohio Association of Ambulatory Surgery Centers (OAASC)
Ohio Association of Rheumatology (OAR)
Ohio Bleeding Disorders Council (OBDC)
Ohio Chapter of the National Association of Pediatric Nurse Practitioners (Ohio NAPNAP)
Ohio Council of Behavioral Health & Family Services Providers
Ohio Dermatological Association (ODA)
Ohio Foot & Ankle Medical Association (OHFAMA)
Ohio Hematology Oncology Society (OHOS)
Ohio Osteopathic Association (OOA)
Ohio Psychiatric Physicians Association (OPPA)
Ohio State Medical Association (OSMA)
Ohio State University (OSU) Wexner Medical Center
Patients for Affordable Drugs (P4AD)
U.S. Pain Foundation
Universal Health Care Action Network of Ohio (UHCAN Ohio)

In summary, PBM co-pay clawbacks are confusing at best, and deceptive at worst. Pharmacists should not be silent pawns in drug pricing shell games, and they should be free to discuss all options for the patient at the pharmacy counter – including whether or not there are ways to save money on their needed medications.

Thank you for the opportunity to give our support for HB 63, and I'll happily answer any questions you may have.

Antonio Ciaccia

Ohio Pharmacists Association

aciaccia@ohiopharmacists.org