



June 3, 2025

VIA EMAIL

Hon. Sharon A. Ray
Chair
Ohio General Government Committee
Ohio Statehouse
215 W. Broad Street
Columbus, OH 43215

Testimony of the Independent Pharmacy Cooperative in Support of HB 229 (Rep. Kellie Deeter)
Establishing Licensing Requirements and Contract Requirements for Pharmacy Benefits
Managers (PBMs).

Dear Chair Ray, Vice- Chair LeRe, Ranking Member Brent and Members of the Ohio House General Government Committee:

I am John Covello, Director of Government Relations for the Independent Pharmacy Cooperative (IPC) and I am submitting this written testimony **IN FAVOR OF HB 229**, sponsored by House Representative Deeter to create an Ohio statutory licensure process requirement under the Ohio Department of Insurance (DOI) for Pharmacy Benefit Managers (PBMs) prescription benefit plans. HB 229 also creates new contractual agreements for transparency between their contracts and pharmacy benefit plan sponsor, most importantly identify conflicts of interest to the plan sponsors by the PBMs. Finally, HB 229 provides much needed regulation of PBM regulation to ensure pharmacy patients access to all Ohioans and prohibits pernicious hidden retroactive fees that come at the expense of plan sponsors, pharmacy patients and their pharmacy providers all for the financial benefit of the PBMs.

The Independent Pharmacy Cooperative (IPC) is a national trade group representing the interest of over 2200 independent pharmacy store owners in all 50 states and the District of Columbia, including 50 independent community pharmacies in Ohi. We also operate a wholesale drug warehouse serving another 5000 independent pharmacies. Many of our member pharmacies reside in rural, urban and other underserved and economically disadvantaged parts of the country. These pharmacies continue to accept the responsibility of being the first point and often only source for delivering health care in their local communities. As a part of our services to members, we engage in Government Relations on both a Federal and State level to actively participate in public policy advocacy on issues affecting pharmacies. It is in this capacity that we are submitting this testimony.

IPC commands State Rep. Deeter for her sponsorship of HB 229 and her leadership in seeking to protect Ohio's prescription drug benefit marketplace, prescription patients' and their access to their pharmacy providers, and the ultimately plan sponsors paying for these benefits.

IPC has worked with the Ohio Pharmacists Association (OPA) and other Ohio pharmacy provider groups for more than a decade advocating for many Ohio legislative and regulatory reforms to PBM operations. Since 2016, in many ways Ohio has been a national leader of exposing PBM abuses that are harmful to pharmacies – especially community independent pharmacies - but also disrupted

pharmacy patient access to their drug therapy care with hidden cost to patients and plan sponsors. The record has well documented PBM abuses in Ohio's Medicaid managed care program, Workers Compensation program and many private sector prescription drug benefit programs. The DeWine administration, The Ohio Department of Medicaid, Ohio State Auditor and the Ohio Attorney General all there be to be commended for their actions and policy reforms to punish PBM for their abuses and reform Ohio's Medicaid managed care prescription drug coverage program to protect pharmacy benefits access for patients, provide cost-base, net savings reimbursement to pharmacies that protected taxpayers. Ohio Medicaid managed care PBM reforms have documented how to save pharmacy access for patients with greater than expected cost savings for Ohio taxpayers.

Ohio's insurance laws have in many ways kept up the national reforms pivoting in the commercial market space PBM abuses. HB 229 adds the necessary tools to Ohio's PBM insurance statutes to provide ODI with the proper statutory powers to fully relate PBM operations in Ohio, assess them to pay for this regulatory oversight and enforce penalties for non-compliance with these marketplace and patient protections.

This bill will bring Ohio into the position with an overwhelming majority of states in the last five years that have formally enacted PBM licensing authority under their state insurance statutes. This action has been accelerated since the 2020 U.S. Supreme Court Rutledge decision determining that states were not pre-empted under Federal ERISA law from enacting state economic regulations laws governing PBM economic contractual practices in their states. As the attached map illustrates, as of today 34 states in all regions of the country have adopted formal PBM licensure laws with enforcement powers in their insurance statutes to be in line with their marketplace and consumer protection licensing laws for other lines of insurance. Five other states have a form of certification with enforcement powers that act in effect as licensing of PBM's.

HB229 falls fully in line with this overwhelming trend in other states and by replacing Ohio's current PBM certification process with the full array of licensure powers and tools to ODI to ensure the PBM's comply in Ohio with a number of PBM economic and process regulations and statute. This bill will allow ODI to fully protect Ohioans from PBM abuses in lines with the actions taken by ODM and the Ohio's Attorney General. It will also provide the ODI with laws to act as strong deterrence on PBM's to change their abusive practices that only benefit them financially at the expense of everyone else in the drug benefit coverage system.

The contractual agreement provisions of HB 229 are also important new statutory requirements on PBM's to provide long overdue transparent disclosure contractual terms that PBM's opaquely do not reveal to plan sponsors, covered patients or pharmacy providers. As the US Federal Trade Commission reports have documented¹, HB 229 new requirements over PBM conflicts of interest disclosures are important tools for regulators to have as these are areas ripe for abuses that create financial windfalls for PBMs often unbeknownst to plan sponsors. And they come at a cost from those sponsors patients cost share and pharmacies net reimbursement for these services.

¹ <https://www.ftc.gov/news-events/news/press-releases/2024/07/ftc-releases-interim-staff-report-prescription-drug-middlemen>

HB 229's Sections dealing with fair reimbursement and prohibitions on retroactive fees address key problems facing Ohio and every other state: growing number of pharmacy deserts in communities - especially rural communities - caused by PBM abusive contract terms. These economically onerous terms of paying pharmacies less than the cost a fully serving a patients' prescription needs and often imposing hidden post-claim "claw back" fees leading to pharmacy closures. Just as harmful, these onerous economic terms for local pharmacies often make it impossible to provide access to every prescription drug needed by their patients. That has had a real impact on limiting patient prescription drug access at a pharmacy of their choice. The result is the PBMs utilize these tactics to enrich themselves by either steering these patients to their own pharmacies and/or mail order operations where they will pay themselves higher reimbursement rates than they're independent pharmacy competitors.

Since the Rutledge decision there is a growing trend of more and more states prohibiting these practices. With many of the states around Ohio - especially West Virginia and Kentucky - leading the way and not only prohibiting these PBM hidden profit tactics but moving to mandate more transparent cost base reimbursement of claims that get passed through to the planned sponsors in a transparent fashion. Actions taken by states of Tennessee² and West Virginia³ who have these robust regulatory statutes governing PBM's operations have documented these abuses and taken regulatory actions against PBM's.

IPC urges this committee to report favorably HB 229 so Ohio can join the other states in the region in adopting a strong PBM licensure statute and strengthen Ohio's existing economic regulation laws to provide even more marketplace, patients', pharmacy providers' and plan sponsors' protections from PBM abuses that jeopardize patient prescription drug access while eliminating PBM economic abuses for their own financial gain.

I am happy to make myself available to provide any additional information to this committee and answer any questions Committee members may have about my testimony. Please feel free to contact me by either by email (john.covello@ipcrx.com) or by phone (608-733-6180).

Respectfully submitted,



John Covello
Director of Government Relations
Independent Pharmacy Cooperative

Attachment

² <https://www.tn.gov/content/dam/tn/commerce/documents/insurance/companyexam/ExpressScriptsAdminLLC%20-%20ORDER04102025.pdf>

³ <https://www.wvinsurance.gov/LinkClick.aspx?fileticket=nbpX5wE-DIU%3d&tabid=915&portalid=0&mid=6895>