



Re: HB 2185-4

Chair Monnes Anderson, Members of the Committee

My name is Kevin Russell testifying on behalf of the Oregon Pharmacy Coalition which represents Oregon's two pharmacy associations in legislative matters. We strongly support HB 2185-4.

Consolidation of PBMs has created an oligopoly on the pharmacy market. PBMs dictate rebates to manufacturers and payments to pharmacies. A pharmacy cannot stay in business without the customers which come with the major PBMs. Even large bargaining groups have lost their power to bargain with PBMs. A pharmacy either signs non-negotiable contracts or loses their customers. PBMs have abused this power by not only slashing reimbursement rates but are actively trying to disadvantage pharmacies in their network so that patients must go to their PBM owned pharmacies. This is an enormous and unregulated conflict of interest. We need PBM regulation to protect our community pharmacies and the patients who rely on them.

Some PBMs prevent pharmacies from mailing or delivering to their own patients so their mail order pharmacies can capture the business. They take away profitable prescriptions by inappropriately labeling them as specialty drugs and mandating patients use their pharmacy. They create barriers to allowing pharmacies to become specialty pharmacies in their network by requiring duplicative and expensive accreditation requirements and huge network participation fees, all but eliminating Oregon pharmacies from serving our own patients in our communities.

PBMs also now charge DIR fees (direct and indirect remuneration fees). The original purpose of this program, allowed by CMS, is for both transparency of PBM fees collected from pharmacies and to allow remuneration (payment for services) to pharmacies who improved patient outcomes for key metrics. Instead, PBMs have used the program punitively to take away more money from pharmacies in fees, less if they do a really good job improving patient outcomes. According to the National Community Pharmacists Association, community pharmacies now pay 1.5-3.5% of their revenue in DIR fees. This is not payment for services.

What is worse is that often these fees are assessed retroactively, often 6 months or more after claims are paid pharmacies will be billed for thousands of dollars in unexpected fees. It is too late at that point to identify and act on fee determinates or challenge claim payments. A pharmacy has no idea what the true reimbursement is at the time a prescription is filled. This bill will eliminate retroactive fees. All fees must be assessed at the time of claim adjudication.

HB 2185 with -4 amendment, establishes some basic fair practices:

- Allows patients the option to use a local pharmacy instead of mandating mail order

- Allows local Oregon pharmacies to mail or deliver to their patients
- Defines which types of drugs may be labeled as specialty drugs (very liberal)
- Establishes reasonable accreditation and participation requirements for specialty pharmacies
- Allows Oregon long term care pharmacies the ability to dispense needed urgent drugs to fragile patients in nursing homes
- Prevents PBMs from paying 340B pharmacies differently from other similar pharmacies in their networks
- Creates rules and enforcement provisions requiring PBMs to pay pharmacies, at minimum, their acquisition price for a drug
- Eliminates retroactive additional charges

These changes will have a minimal to zero fiscal impact to the state or insurers. To clarify, this bill does not prevent insurers from having a mail order component to their benefit, it just cannot be exclusive. Allowing patients to fill prescriptions at a community pharmacy may actually help healthcare costs as there is much wasted expense in the PBM mail order systems for medications which are billed and shipped but not used by patients.

In conclusion, pharmacies and patients need protection from abuses in the mostly unregulated PBM industry. None of these provisions will hurt insurers, patients, or fair practicing PBMs. The pharmacists of Oregon request passage of HB 2185-4.

Sincerely,

Kevin Russell RPH, MBA, BCACP  
Legislative Chair  
Oregon State Pharmacy Association

For inquiries, please contact our legislative representatives Bill Cross or Nicholina Terzieff