2021 Legislative Update

Michael Wright, VP of Government Affairs

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Michael Wright, VP of Government Affairs

- Executive Director of the Texas/New Mexico Pharmacy Business Councils.
- Works with National & State Organizations to Protect, Defend & Enhance the Business Model of Independent Pharmacy.
- 30+ years as a government relations executive for Hoffman-La Roche, managing regulatory affairs for TX, OK, AR, LA & NM.
American Pharmacies Cornerstones of Value

- Superior Economics
- Technology
- Legislative Advocacy
- Legal Support

ECONOMICS
TECHNOLOGY
ADVOCACY
LEGAL

Multi-State Legislative Advocacy

**Texas**
- HB 1763 PBM Reform
- HB 1919 Anti-Steering

_Texas Pharmacy Business Council_

**New Mexico**
- SB 124 Prompt Pay

_Independent Pharmacy Coalition_

**Arizona**
- SB 1365 Transaction Fees

_TN
- SB 1617 PBM Reform

_Tennessee Pharmacists Association_
- Fix PBM
- Fix Pharmacy
- Fix Tennessee

**Michigan**
- HB 4348 PBM Reform

_American Pharmacies_
Our Government Affairs Commitment

- Miguel Rodriguez, General Counsel
- Chuck Waters, VP of Marketing & Communications
- Consultant Lobbyists:
  - Arizona-1
  - Michigan-3
  - New Mexico-2
  - Texas-5

A Growing National Footprint

States of High Interest/Opportunity

- Florida
- Illinois
- Missouri
- Tennessee
- Wisconsin
TPBC’s Guiding Principles

- Focus on Achievable Goals You Can Build on.
- Always Be Willing to Discuss & Negotiate Differences.
- Credit Those Who Help – and Expect Credit for Your Help.
- We Are the Advocacy Leader for Independents. Our Board & Our Members Expect Us to Lead.

Why You Must Engage!

Your Profession & Business Are Highly Regulated:

- Your Education & Licensing Requirements
- How You Buy, Store & Dispense Products You Sell
- The Stores You Own and Work in
- The Patient Records You Keep
- What You Can or Cannot Do as a Health-care Professional — Now or in the Future
Effective Advocacy: Joe Ochoa


With State Sen. Juan Hinojosa in Austin

We’re Fighting for All of You!

American Pharmacies works to advance and defend the interests of all independent pharmacists, not just members of APRx.
High Court ERISA Ruling: Rutledge v. PCMA

U.S. Supreme Court Ruled Last Year on States’ Authority to Regulate PBMs:

- Issue was whether the Employee Retirement Income Security of 1974 pre-empts states from regulating what PBMs pay pharmacies in employer-sponsored health plans.
- Plans say even though they are not liable as fiduciaries under ERISA, the law shields them from state regulation.
- SCOTUS ruling limited the scope of ERISA protections and stated that ERISA does not apply to plan features such as provider payment amounts.

Amicus brief – PCMA v. Wehbi

- PCMA argued North Dakota’s PBM reform laws were pre-empted under federal ERISA and Medicare Part D law. The case is being heard by the Eighth Circuit Court of Appeals.
- Our brief was filed to help the Eighth Circuit understand the need for state laws regulating the nefarious practices of PBMs.
- The brief was a collaborative effort of APRx, the Alliance for Transparent and Affordable Prescriptions and the Community Oncologist Alliance.
DIR Lawsuit – NCPA v. Becerra

- Lawsuit filed by NCPA to challenge legality of a predatory 2014 ruling adopted by HHS that addresses the capture of discounts that Medicare Part D plan sponsors receive from pharmacies in the form of DIR fees
- APRx member Kare Drug is a named plaintiff in the suit.
- APRx has contributed $10,000 to NCPA’s Legal Defense Fund.

APRx 2021 Legislative Priorities

Pharmacy Benefit Managers

- Anti-Steering
- Retroactive Fees
- Transaction Fee Bans
- Prohibit Self-Dealing
- Audit/MAC Reforms
- Prompt-Pay Reforms
- Mail-Order Constraints
Arizona: Ban on Transaction Fees

SB 1356 by Barto:
Prohibits PBMs in Arizona from holding a pharmacist or pharmacy responsible for a fee for any step or component of, or mechanism related to the adjudication of a claim:

- Adjudicating a pharmacy benefit claim;
- Processing or transmitting a pharmacy benefit claim;
- Developing or managing a claim processing or adjudication network; or
- Participating in a claim processing or claim adjudication network.

Jan. Meeting With MI Speaker Jason Wentworth
HB 4348: Licensing & Regulation of PBMs in MI

Sponsored by Rep. Julie Calley

- HB 4348 establishes 9 different provisions in the Insurance Code to license and regulate PBMs in Michigan.
- HB 4348 has cleared the Michigan House and is pending approval in the Michigan Senate.
- HB 4348 is the first PBM reform legislation ever introduced in Michigan.

HB 4348 Major Provisions

- Must be Licensed by State
- No retroactive fees
- Prohibits self-dealing
- Anti-steering
- Prohibits Gag Clauses
- Prohibits Clawbacks
- NADAC Reimbursement
- 15-Days Prompt Pay
- Audit Reform

Landmark PBM Reform Bill Passes House on 97-10 Vote

- Detailed Provisions of HB 4348
- Report the Actual Bills
- Get To Our Grassroots Action Center
No legislative agenda can succeed without the involvement of dedicated constituent advocates. We are excited to recognize and honor the APRx members who have been critical contributors to our efforts this year.

**2021 Advocacy Star**

- **Owner of Gateway Pharmacy Group based in Clare, MI.**
- **Longtime involvement in MI pharmacy advocacy efforts.**
- **Highly involved at early stage in helping APRx build advocacy presence in MI.**
- **Relationship and communications with MI House Speaker critical to HB 4348’s filing & advance.**
- **Testified in support of the bill in both House and Senate committees.**
SB 124: NM Prompt-Pay Reforms

SB 124 amended NM Insurance Code to require commercial health plans and agents to:

- Pay a clean claim submitted electronically by an eligible pharmacy within 14 days of receipt. (Claims that are submitted manually remain at 45 days.)
- Notify a pharmacy within 14 days of receipt of an electronic claim of its decision to not pay the submitted claim.
- Effective July 1, 2021.

SB 124: NM Prompt-Pay Reforms

Passage of this Important Legislation:

- Improves cash flow at retail pharmacies during an economically challenging time at no additional cost to patients, health plans or the state.
- Makes pharmacy reimbursement timeframe in commercial plans consistent with that in Medicaid.
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2021 Advocacy Honoree: Ashley Seyfarth

- Owner of Kare Pharmacies in Bloomfield & Aztec, N.M.
- Original board member & current chair of New Mexico Pharmacy Business Council.
- Numerous live-time meetings with Governor, Superintendent of Insurance and Legislators.
- Testimony and interaction with elected leaders instrumental in passage of SB 124 this session.
TPBC’s Unequalled Legislative Track Record
We Have Passed More Bills – 12 – Than Any Other State Pharmacy Advocacy Group in the U.S.

- MAC Reforms: SB 1106, SB 332
- Audit Reforms: SB 2292, HB 1455, HB 1358
- Transaction Fee Ban: SB 94
- Clawback Ban: SB 1076
- Enhanced Penalties for Drug Thefts: HB 1178
- Extensive PBM Reform: HB 1763
- Anti-Steering: HB 1919
- PBM Contracting Transparency: SB 704
- Discount Card Registration: SB 2423

Passing a Bill Is No Easy Task
HB 1763: Protecting Patient & Pharmacy Rights

HB 1763 Sponsors:

- 25 of 31 Texas Senators
- 14 Texas House Members
- Opposed by PCMA, TAHP, CVS, Prime, Express, Centene, TAB, etc.
- Opposed by 51 PBM & health plan lobbyists

HB 1763: Protecting Patient & Pharmacy Rights

- HB1763/SB 528 is identical to CSHB 2817 from 2019, a negotiated bill with 25 Senate sponsors that was supported by every Texas pharmacy group.
- PBMs may not retroactively reduce payments to a pharmacy except as the result of a legitimate audit outcome or unless agreed to by the pharmacy and may not make retroactive reductions a condition of a contract or network participation.
HB 1763: Protecting Patient & Pharmacy Rights

- A PBM may not reimburse a PBM-affiliated pharmacy at a higher rate than it reimburses a non-affiliated pharmacy for providing the same product or service.
- PBMs must provide an easily accessible fee schedule that specifies each service.
- A health plan or PBM may not prohibit a pharmacist or pharmacy belonging to a pharmacy services administration organization (PSAO) from receiving a copy of any contract.

HB 1763: Protecting Patient & Pharmacy Rights

- As permitted by law, PBMs must allow pharmacies to deliver or mail drugs to patients on request and to charge a fee for that service.
- A health plan or PBM may not require a pharmacy to meet accreditation or certification standards that exceed federal/state standards.
- A PBM cannot retaliate against a pharmacy for exercising any right or remedy allowed under this bill.
HB 1919: Steering of Pharmacy Patients by PBMs and Health Plans:

HB 1919 Sponsors:
- Harris, Holland, Lambert, E. Morales, Patterson & Raney
- Schwertner, Buckingham, Hinojosa, Hughes, Lucio, Perry & Springer

A 2020 survey of pharmacies conducted by NCPA found that 79% of respondents reported having patients whose prescriptions were transferred to PBM competitor pharmacies without their knowledge or consent. The median number of patients lost to such “steering” over six months was 12.
HB 1919: Steering of Pharmacy Patients by PBMs & Health Plans:

HB 1919 amends Chapter 1369 of the Texas Insurance Code with the following provisions:

- The bill defines what a PBM-affiliated pharmacy is and the activities that constitute an impermissible referral of a patient, such as ordering or influencing a patient to use a PBM-affiliated pharmacy.
- A PBM cannot transfer or share prescription records containing patient-and/or prescriber-identifiable data with any PBM-affiliated pharmacy.

- A PBM cannot accept from an affiliated pharmacy the transfer of prescription record containing patient-and/or prescriber-identifiable data.
- A PBM is prohibited from attempting to require a patient to select an affiliate pharmacy or influencing a patient to select an affiliated pharmacy through any oral or written communication, including online messaging or any patient-specific advertising, marketing or promotion.
HB 1919: Steering of Pharmacy Patients by PBMs & Health Plans:

- Effective Sept. 1, 2021; the bill applies only to PBM activities on or after Jan. 1, 2022.

Fierce PBM Opposition to HB 1919
No legislative agenda can succeed without the involvement of dedicated constituent advocates. We are excited to recognize and honor the APRx members who have been critical contributors to our efforts this year.

Grassroots Advocacy Stars

2021 Advocacy Awards

2021 Advocacy Honoree: John Hickman

- Owner of Dyer Drug Store in Farmersville, TX
- Chairs the TPBC Advisory Panel
- Highly involved in TPBC’s advocacy efforts for several sessions.
- Testified on HB 1763.
- Highly engaged with state & federal legislators.
- Previous advocacy honoree in 2019.
2021 Advocacy Honoree: Steve Hoffart

- Owner of Magnolia Pharmacy in Magnolia, TX.
- Sec./Treas. of APRx Board; Member of TPBC Board.
- Highly involved in TPBC’s advocacy efforts for several sessions.
- Testified on HB 1763/SB 528 in House & Senate.
- Highly engaged with state & federal legislators.
- Previous advocacy honoree in 2017.

How Can You Get Involved?

Become Politically Active

- Be informed on pharmacy legislative issues.
- Invite Candidate to YOUR Pharmacy or Local Meeting.
- Support election campaign.
- Visit district office.
- Offer to be a resource on pharmacy issues.
- Be prepared to come testify.
- Use our resources & support.
Thank You for Your Dedication

To Your Profession,
Your Career,
Your Patients,
YOUR FUTURE!

CE Evaluation Links

- Thursday https://www.surveymonkey.com/r/VFCHC9M
- Friday https://www.surveymonkey.com/r/7CSZ7SY
- Saturday https://www.surveymonkey.com/r/7YGJT8H

Use “apex” as password/code
EVALUATION LINKS EXPIRE 5 DAYS AFTER EACH CE SESSION