



2019 Legislative Update

Michael Wright,
Executive Director
512-992-1219
mwright@txrxccouncil.org



June 15, 2019
San Antonio, Texas



The Leading Texas Advocate for Independent Pharmacy



Texas Pharmacy Business Council is the highly successful advocacy arm of American Pharmacies. It was unique in the U.S. as the first full-time, separate advocacy organization for a buying group.



ACPE # 0130-9999-18-153-L03-P&T Conflict of Interest: None

At the completion of this activity, the participant will be able:

- Describe major bills that passed in the 2019 Texas session & their impact on pharmacy;
- Describe major bills that passed in the 2019 NM session & their impact on pharmacy;
- Identify ongoing issues, challenges & priorities for community pharmacy across the nation;
- Identify major bills before Congress that would impact community pharmacy; and
- Discuss the impact of CMS' proposed PBM safe-harbor rule on Medicare D benefits & payments.

TPBC Board of Directors

Chairman

Bruce Rogers, R.Ph., Victoria

Vice Chair

Alton Kanak, R.Ph., Houston

Secretary/Treasurer

Doug Eakman, R.Ph.,
San Angelo

Directors

Lynn Everett, R.Ph., Waco

Ben McNabb, Pharm.D.,
Eastland

Bill Moore, R.Ph., Sinton

Joe Ochoa, R.Ph., Edinburg



TPBC Legislative Team

Executive Director:
Michael Wright

Attorney:
Miguel Rodriguez

Communications:
Chuck Waters

Consultants:
Stephanie Gibson
Denise Rose
Jerry Valdez
Gregg Knaupe



TPBC Guiding Principles

- **Focus on Achievable Goals You Can Build on.**
- **Take a Long-term View:** Alliances & Foundations Built Today Reap Future Cooperation & Success.
- **Always Be Willing to Discuss & Negotiate Differences.**
- Always Honor Your Commitments.
- **Credit Those Who Help** – and Expect Credit for Your Help.
- Advocate the Value of Your Own Objectives & Efforts Rather Than Attacking Others.
- We Are the Advocacy Leader for Texas Independents.
Our Board & Our Members Expect Us to Lead.



We're Fighting for All of You!

TPBC works to advance and defend the interests of all independent pharmacists, not just members of APRx.



New Mexico Legislative Update



Presenter:
Danny Cross, R.Ph.

Vice Chair
New Mexico Pharmacy
Business Council Board

Owner
Southwest Pharmacy,
Advanced Medication
In Carlsbad, NM



NM Pharmacy Business Council

- Formed in December 2015.
- **Like TPBC, is an independent subsidiary funded 100% by American Pharmacies.**
- Governed by 5-Member Board.
- Executive Director: Michael Wright
- Has contract lobbyist in Santa Fe.



2019 New Mexico PBM Reform



Hard Fought and Hard Won

- Two game-changing laws passed with full support of Legislature & Governor
 - PBM Regulatory Act Reforms
 - Pharmacy Audit Reforms
- Initial increase in dispensing fee from NM Human Services Department for Medicaid Managed Care
- **Grow Our Footprint**
- Lead collaboration within the NM independent pharmacy community
- Strengthen investment in NM Independent Pharmacy PAC



New Mexico Board

Chairman

Ashley Seyfarth, Pharm.D.
Bloomfield, NM

Vice Chair

Danny Cross, R.Ph.
Carlsbad, NM

Secretary-Treasurer

David Lansford, R.Ph.
Clovis, NM

Directors

Neal Dungan, R.Ph.
Carlsbad, NM

Harvey McCroskey, R.Ph. Ret.
Santa Fe, NM

Executive Director

Michael Wright
Austin, TX

Lobbyist

Minda McGonagle
Albuquerque, NM



New Mexico Legislative Victory 2019



- New Mexico Pharmacists Association
- NMPhA Independent Community Pharmacy Members
- New Mexico Office of the Superintendent of Insurance
- National Community Pharmacists Association
- **American Pharmacies for funding NMPBC**
- **TPBC for providing guidance & support**

Special Thanks to:

- Michael Wright for leadership
- Miguel Rodriguez for legal support
- Chuck Waters for legislative campaign & materials support
- Jennifer-Olsen for PAC & administrative support





Now through 2020

MAINTAIN OUR MOMENTUM

- Continue educating state level policymakers on the consequences of PBM profiteering and exploitation of power
- Provide policy & lobbying leadership on behalf of Independent Pharmacy
- Support NMPPhA on clinical services reimbursement legislation
- Continue emphasis of PBM oversight through regulatory efforts by Office of the Superintendent of Insurance (OSI)
- Advocate for increased budget support for OSI's PBM team
- Focus on Human Services Dept. (Medicaid) dispensing fee
- Be on guard against PBM maneuvers to circumvent compliance



Michigan & Tennessee



Grant Brown



John Gross



Micah Cost

New Mexico Legislature 2021



MAINTAINING TRAJECTORY



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
- How You Get Paid; How Much You Get Paid
- **What You Can or Cannot Do as a Health-care Professional**
— Now or in the Future

Joe Ochoa TPBC Advocacy Honoree

- Testified on HB 1905.
- Numerous calls to legislators during session to support TPBC positions.
- Met with U.S. Rep. Vicente Gonzalez in Washington and persuaded him to sign on as co-sponsor of 5 pharmacy bills!
- TPBC Board Member
- PAC Donor



(Above) Joe Ochoa with U.S. Rep. Vicente Gonzalez in Washington; (R) with State Sen. Juan Hinojosa



Texas Pharmacy
Business Council

The Texas Legislature

Conservative Control
= Greater Fiscal Focus
+ Less Government Spending
+ No New Taxes
+ 2018 Election: 2 D Senators
12 D House

Less Government Spending
= Limited Funds for Social Programs
= Reductions in Health Care
= Decreased Payments to Providers



Texas Pharmacy
Business Council

John Hickman TPBC Advocacy Honoree

- Testified twice on TPBC's HB 2817 and HB 1455.
- Made numerous calls to legislators during session to support TPBC positions.
- Participated in NCPA's April Congressional Fly-In — had multiple visits.
- PAC Donor



(L) John Hickman with U.S. Rep. Van Taylor in Washington; (R) with State Sen. Pat Fallon



John is a repeat winner of TPBC's Advocacy Award

Texas Pharmacy
Business Council

Major Statewide Issues

- Property Tax Cap
- Tax Relief: Property, Sales, Franchise
- Public School Funding
- Harvey
- Child & Protective Services
- Growth of over 30,000 new Texans per month



Texas Pharmacy
Business Council

2019 Pharmacy Priority Issues

- PBM Oversight: Medicaid/Texas Dept. of Insurance
- Opioids — Multiple Bills: PMP expansion, prescribing restrictions, wholesalers
- Physician Dispensing of Aesthetic Drugs/All Drugs
- Telepharmacy Expansion — Cardinal
- Scope of Practice



TPBC HB 1455 — Audits

- PBMs are prohibited from auditing pharmacy claims administered by another health plan or PBM.
- It is not an audit discrepancy if NDC is for a quantity that is a sub-unit or multiple of purchased drug as reflected on the invoice.
- The audited pharmacy claim reflects the correct quantity dispensed.
- Dispensed drug shares all but the last 2 digits of the NDC shown on the invoice.
- Defines all allowable supporting evidence.

TPBC 2019 Priority Issues

- Pharmacy Benefit Managers
- Audit Reforms
- Termination – Networks
- Fees
- Oversight/Registration-Texas Department of Insurance



TPBC HB 1905 — Terminations

Due-process remedy to termination without proper review or finding

- Suspensions from a network over allegations of fraud or malfeasance would be treated same as other reasons, with right to review prior to permanent suspension.
- Written notice & right to review.
- Final determination to resume or terminate within 3 days after the insurer receives the recommendation of the review panel.
- Sections of Insurance law could not be waived, terminated or nullified by contract.

TPBC House Bill 2817 — Fees

- PBMs could not assess retroactive fees against a pharmacy except as a result of a legitimate audit outcome.
- Prohibits self-dealing by paying affiliate stores at higher rate.
- PBM must provide access to fee schedules that detail services & payment amounts, including methodology for calculations.
- PBM may not prohibit a pharmacy that belongs to a PSAO from receiving a copy of relevant contract provisions.
- PBM must allow mail-order services to patients upon request.
- PBM may not require pharmacies to meet accreditation standards that exceed federal & state standards to operate.
- Prevention of retaliation for pharmacies exercising their rights under the provisions of this bill.



Pharmacy Legislation That Passed

- HB 3496:** Mandated surety bonds & financial disclosure. TSBP to conduct rulemaking with public comment period.
- HB 3441:** Prohibits health plans, PBMs, insurers from denying reimbursement to a pharmacist for providing a service that is within the scope of the pharmacist's license.
- HB 1757:** Adds "pharmacists" to the list of recognized providers in Texas Insurance Code.



Texas PMP Checks & Reports

- **HB 3284:** Moves effective date for all prescribers & dispensers from September 2019 to March 2020 to report to PMP prior to prescribing & dispensing.
- **HB 2174:** Mandatory E-Prescribing of all CII-CV's January 2021. Limits prescribing for the initial treatment of acute pain to a 10-day supply. Effective September 1, 2019.
- **HB 2088:** TSBP to adopt rules on locations where safe disposal might occur.
- **SB 683:** Pharmacy that does not dispense Schedule IIs within 7 days must report that to TSBP. Prescribers access to prescriber data by those delegated by prescriber.



Pharmacy Legislation That Passed

- **SB 670 – Telemedicine.** Bill amended to allow telepharmacy in all Federally Qualified Health Centers (FQHCs) – 74 in TX.
- **HB 1325 – Hemp Farming Act:** Joint oversight by TDA & DSHS. Hemp-derived cannabinoids not considered controlled substances. Products intended for consumption considered foods. Hemp-derived items with a maximum THC concentration of 0.3% are legal.
- Legalizes hemp cultivation in Texas; state easily has potential to be the leading hemp producer in nation.



Pharmacy Legislation that Died

- **HB 1076** Massive expansion of Telepharmacy latitude. This bill would have allowed for 2,000+ entities to open. Bill advanced by Cardinal Health & supported by TMA, Walgreens, Texas Hospital Association, TOMA
- **HB 1622/HB 434/HB 460** Extensive expansion of physician dispensing.

Federal Legislative & Regulatory Review



Presenter:
Chuck Waters

**Director of Marketing,
Communications &
Member Services**
American Pharmacies

**Director of
Communications**
Texas Pharmacy
Business Council

Pharmacy Legislation that Died HB 3388

Move to NADAC methodology in Medicaid Managed Care with a dispensing fee of \$10.00+ (same as Medicaid FFS). A very good bill. Amended on the Senate floor late in Session to allow HHSC to set fee less than FFS \$10.18 & allow MCOs to encourage value-based payment models and performance-based fees. (Sounds like Medicare DIR....)

TPBC moved to a position of opposition and we are grateful to AIP & IFDS for similar support. Texas Pharmacy Association, Texas Independent Pharmacy Association & Texas True Care supported the bill with no fee floor and the performance-based fee model language. TPBC strongly encouraged the sponsor to not bring the amended bill up for consideration and the bill died at that time.

HR 1035: Prescription Drug Price Transparency Act

Introduced 2/7/2019 by Reps. Doug Collins (R-Ga.) & David Loebsack (D-Iowa)

- Would encourage greater use of generic drugs and would incentivize pharmacists to actively promote generics.
- Would establish transparency in MAC pricing & reimbursement calculation.
- Would establish effective appeals process to contest below-cost payments.
- Would protect patient choice of pharmacy.
- Would prohibit PBMs from requiring or incentivizing patients to use mail order & specialty pharmacies they own.
- **NO HEARING, NO MOVEMENT**

S. 988 / HR 803: Improving Transparency and Accuracy in Medicare Part D Drug Spending Act

HR 803 filed 1/25/19 by Reps. Peter Welch (D-VT) & Morgan Griffith (R-VA) 18 co-sponsors, including Reps. Vicente Gonzalez and Lloyd Doggett of TX
 S 988 introduced 4/2/2019 by Sen. Shelley Moore Caputo, (R-WVA) 6 co-sponsors, including Sen. Marsha Blackburn of TN

- Would prohibit Medicare Part D plan sponsors/PBMs from retroactively reducing payment on clean claims submitted by pharmacies.
- HR 803 referred to Energy & Commerce, Ways & Means; referred to Subcommittee on Health on 2/12/2019
- S 988 referred to Senate Finance
- **NO HEARING, NO MOVEMENT ON EITHER BILL**

Senate Finance Chairs in Since 2000

Max Baucus	Democrat	Montana	2001–2003
Chuck Grassley	Republican	Iowa	2003–2007
Max Baucus	Democrat	Montana	2007–2014
Ron Wyden	Democrat	Oregon	2014–2015
Orrin Hatch	Republican	Utah	2015–2019
Chuck Grassley	Republican	Iowa	2019–Present

NO HEARINGS, NO MOVEMENT

S.109 — Pharmacy & Medically Underserved Areas Enhancement Act

Filed 1/12/17 by Sen. Chuck Grassley (R-IA)
55 cosponsors (!), including Reps. Gary Peters & Debbie Stabenow of MI and Tom Udall of NM

- Would make pharmacist-provided services reimbursable under Medicare Part B if provided in areas of the country that HRSA defines as medically underserved areas (MUAs), medically underserved populations (MUPs), or health professional shortage areas (HPSAs).
- Referred to Senate Finance
- **NEVER A HEARING, NEVER ANY MOVEMENT**

House Ways & Means Chairs Since 2000

Bill Thomas	Republican	CA	2001	2007
Charles Rangel	Democrat	NY	2007	2010
Pete Stark	Democrat	CA	2010	2010
Sander Levin	Democrat	MI	2010	2011
Dave Camp	Republican	MI	2011	2015
Paul Ryan	Republican	WI	2015	2015
Kevin Brady	Republican	TX	2015	2019
Richard Neal	Democrat	MA	2019	Present

NO HEARINGS, NO MOVEMENT

House Energy & Commerce Chairs Since 2000

Bill Thomas	Republican	CA	2001	2007
Charles Rangel	Democrat	NY	2007	2010
Pete Stark	Democrat	CA	2010	2010
Sander Levin	Democrat	MI	2010	2011
Dave Camp	Republican	MI	2011	2015
Paul Ryan	Republican	WI	2015	2015
Kevin Brady	Republican	TX	2015	2019
Richard Neal	Democrat	MA	2019	Present

NO HEARINGS, NO MOVEMENT



House Ways & Means Chairs in 21st Century

“Insanity is doing the same thing over and over again and expecting different results.”

SAME RESULT = NO HEARINGS, NO MOVEMENT

Obstacles: Powerful PBM Lobby | Huge Campaign Donations
Complexity of Issues | Major Distractions
Reduced Constituent Access

State Legislators Are Far More Accessible to Constituents, But Congress is Largely a Lobbyist’s Game. Federal Leaders are Remotely Located & Always Distracted in Washington. Writing Letters & Visits to D.C. are Rarely Effective.

BUILDING & MAINTAINING HOME-BASED RELATIONSHIPS IS CRITICAL TO FUTURE SUCCESS. SEE YOUR REP. AT HOME AWAY FROM THE CIRCUS!



Proposed Elimination of Safe Harbor for Medicare Part D Rebates

- Proposed Rule Published by CMS Commissioner Azar in February 2019.
- Would Eliminate Safe Harbor for Pharmaceutical Manufacturer Rebates that Currently Go to PBMs & Part D Plan Sponsors.
- Would require that Rebates be Applied to Beneficiary Costs to Reduce POS Payment With Lower Co-pays.
- True-up to Pharmacies to Bring Reimbursement in Line With Actual Acquisition Cost.
- Would Eliminate DIR Fees as We Currently Know Them.
- Originally to Take Effect Jan. 1, 2020



Proposed Elimination of Safe Harbor for Medicare Part D Rebates

- Change of Plans Announced in April.
- CMS Switching to Voluntary Two-Year Trial Period for Plan Years 2020 & 2021
- Participation By Plans Is VOLUNTARY During Trial Period
- Decision About Permanence of Rule to Be Made After Two-Year Trial Period.
- TPBC Submitted Written Comments to CMS.
- Disappointed in Delay, But 1/1/2020 Start Date Was Unrealistic Because of Inadequate Prep Time.



How Can You Get Involved? Become Politically Active

- Be Informed on Pharmacy Legislative Issues.
- Invite Candidate to YOUR Pharmacy or Local Meeting.
- Support His/Her Election Campaign.
- Visit District Office.
- Offer to Be a Resource on Pharmacy Issues.
- Be Prepared to Come to Austin to Testify.



Join Our Grassroots Network!

TPBC needs your support, starting with your relationships with elected leaders. Your involvement is vital:

- Testify on key issues
- Call/email/visit elected officials
- Leverage relationships to influence outcomes



TEXAS PHARMACY BUSINESS COUNCIL
IT TAKES AN ARMY TO WIN A WAR!
Join TPBC Grassroots Contact Network
and Help to Fight for Your Business & Your Patients!

There are more than 100,000 pharmacists in the United States. As the largest health care profession, we have the potential to influence public policy. However, we are often isolated from each other. The Texas Pharmacy Business Council is the largest pharmacy trade organization in the state. We have a proven grassroots contact network that can help you reach out to your elected officials. We can help you:

- Call your elected officials about the issues that affect your business.
- Write your elected officials about the issues that affect your business.
- Testify at public hearings on the issues that affect your business.
- Meet with your elected officials to discuss the issues that affect your business.

Join the network today. There is no charge. For more information and to join the network, please visit www.txrxccouncil.org.

Please print clearly.

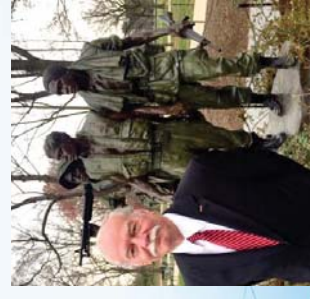
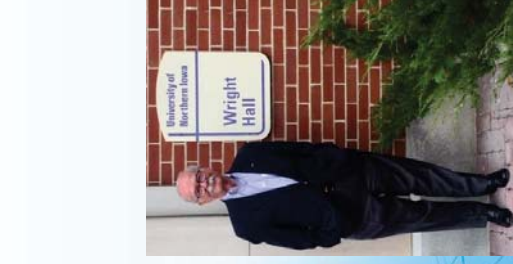
Name: _____ Pharmacy Name: _____
 Address: _____ City: _____ State: _____ Zip: _____
 Primary Phone: _____ Representative Phone: _____ FAX: _____
 Primary Email: _____
 Do You contribute to RFP/RA? YES NO (Please send us an RFP/RA contribution form)
 Please indicate below any elected Texas leaders with whom you have personal and/or professional relationships.
 State Senator: _____ US Representative: _____
 County Commissioner: _____ US Representative: _____
 State Representative: _____ US Representative: _____
 What independent pharmacy issues are most important to you? _____
 Comments? _____

APRx Reception Saturday June 15, 5:30 p.m.

Saturday, June 15
River Bend Pavilion (Indoors)
Guest Speaker & Honoree:
State Rep. Todd Hunter
Rep. Hunter will be presented with TPBC's Champion of Texas Pharmacy Award.



A Year of 50's: 1969-2019



Thank You for Your Dedication

To Your Profession,

Your Career,

Your Patients,

YOUR FUTURE!

