

Kansas House of Representatives

Dear Representatives,

Thank you for the opportunity to submit this testimony in support of HB2598. We represent three independent pharmacies in Douglas and Johnson Counties, Kansas which employ 30 individuals in a full-time or part-time basis. Last year our pharmacies serviced over 10,000 individual patients, most of whom are Kansas residents.

We wish to voice our support for this bill for many reasons. We are on the front line of providing pharmacy services to Kansas residents and we see, on a daily basis, the unfair practices placed upon retail pharmacies in their quest to provide these services. We would like to point out specific areas of the bill which we highly support.

Sections 1, 2, and 3 provide enforcement of the law and transparency to plan sponsors for the cost of services a PBM provides. It also passes along drug company rebates to the plan sponsors or patients at the point of sale. We feel these sections are important to help lower the overall cost of prescription services to Kansans. We constantly see patients unable to afford their prescriptions because a PBM demands a higher cost drug is used so they reap the financial rewards of a rebate. In this case, a rebate is essentially a kickback. One common occurrence involves a brand name drug that costs \$200 a month but has a generic that costs \$60 a month. A PBM forces us to dispense the \$200 drug because they get a kickback from the manufacturer.

Section 4 is important because it prevents a PBM from charging unnecessary and arbitrary fees to pharmacy providers. In 2019 our three pharmacies had to pay a combined \$400,000 in transaction, participation, and remuneration fees to PBMs. As a comparison, in 2010 we only had to pay \$10,000 for the same types of fees. These fees are adding to the overall cost of prescriptions for Kansans.

Section 5 is important because it provides a minimum network of pharmacy providers based on urban, suburban, and rural population areas. It also prevents PBMs who own their own pharmacy chains to provide preferred pharmacy status only in urban and suburban areas. This will level the playing field for businesses such as ours who must contract with our competitors and give Kansans a choice of providers.

Section 6 is important because it prevents PBMs from monopolizing on their ownership of pharmacy providers. We regularly see patients who are forced to go to a PBM-owned retail pharmacy or PBM-owned mail order pharmacy in order to get covered prescriptions. For instance, the family of JK used one of our pharmacies for years until they were forced to move to a PBM-owned pharmacy. JK is one of more than 100 Kansans who were forced to leave our pharmacy and transfer to a PBM-owned pharmacy in 2020.

This section also prevents PBMs from paying their own pharmacies more for a contracted service than they do a pharmacy in which they do not have ownership interest. This seems obvious but studies have shown it happens frequently. Sections 5 and 6 may keep independent pharmacies in the ownership of Kansas residents. The PBM-owned pharmacies have abused the lack of these rules over time to gobble up privately-owned pharmacies. Last year, over 2,000 pharmacies closed due to these unfair practices. Section 6 also allows pharmacies to deny a service based on the PBM paying less than our cost of a medication. Pharmacies should not be forced by contract to dispense medications at less than our cost.

Section 8 is important because it does not allow a separate set of rules for what the industry calls “specialty drugs.” Specialty drugs are primarily classified as such because of their high cost. Until 2017, we provided “specialty drug” services to many Kansans because of our attention to detail and quality performance. Since then we’ve had to lose many of these patients because of the separate set of rules applied by a PBM. Because life-saving drugs are being handled by out-of-state providers in these cases, Kansans risk drug therapy interruption and corresponding health issues.

Section 9 is important because it allows all pharmacies who choose to participate to enroll as a preferred pharmacy thereby preventing PBMs from monopolizing the market with their corporate-owned pharmacies. It prevents PBMs from co-marketing their plans with their corporate-owned pharmacies which causes confusion. Some plans use deceptive marketing practices such as co-branding the PBM with the retail pharmacy chain they own. We have many patients who have told us they thought they had to go to a chain pharmacy because their insurance card had the chain pharmacy logo on it. Section 9 also prevents PBMs from retroactively denying a successfully adjudicated claim based on factors outside the control of the pharmacy provider. Basically this means that if a PBM authorizes a claim and the pharmacy provides the service, the PBM cannot come back later and refuse payment.

In summary, we fully support HB 2598 and think it is vitally important to the Kansas businesses and residents. Long overdue, it is time to create transparency by regulating PBM practices in our great State of Kansas. Please feel free to contact us with any questions you may have.

Sincerely,

Jeff Sigler, PharmD, Jason Anderson, PharmD, Trenton Scott, PharmD, Dalena Hampton, PharmD, Makenna Greenfield, PharmD, Samantha Landgrebe, PharmD