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Good afternoon, Senator Bailey, Representative Mathieson, and distinguished members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services. I am Representative Bob Nutting, and I am proud to represent the citizens of Starks, Mercer, Smithfield, Oakland, and a part of Sidney in the beautiful Belgrade Lakes Region of Central Maine. I am here today to present **LD 1580, "An Act to Prohibit Pharmacy Benefits Managers from Imposing Certain Fees and Pricing"**.

Before my retirement about seven years ago, I was a Licensed Maine Pharmacist. During my forty years of practice, I worked in hospitals, independent pharmacies, and large chain pharmacies from Lubec to Rangeley.

We likely can all agree that Mainers are paying too much for prescription drugs and that there is no one single cause for this problem. My bill addresses a problem with Pharmacy Benefit Managers (PBMs) that many see as one cause of high prescription prices.

First, I'd like to give you just a few definitions:

Manufacturers or drug companies supply the drugs.

Wholesalers warehouse drugs from many manufacturers and deliver them to pharmacies and hospitals.

List prices are those set by the manufacturer.

Net prices are those that the manufacturer receives after discounts and/or rebates, etc.

PBMs are the middlemen between manufacturers and insurance companies that design and administer prescription insurance coverage.

The Federal Trade Commission has recently released two detailed reports examining PBMs and their impact on prescription drug affordability. I will quote a couple of paragraphs from a report last July:

PBMs are at the center of the complex pharmaceutical distribution chain that delivers a wide variety of medicines from manufacturers to patients. PBMs serve as middlemen, negotiating the terms and conditions for access to prescription drugs for hundreds of millions of Americans. Due to decades of mergers and acquisitions, the three largest PBMs now manage nearly 80 percent of all prescriptions filled in the United States. They are also vertically integrated, serving as health plans and pharmacists, and playing other roles in the drug supply chain as well. As a result, they wield enormous power and influence over patients' access to drugs and the prices they pay. This can have dire consequences for Americans, with nearly three in ten surveyed Americans reporting rationing or even skipping doses of their prescribed medicines due to high costs.

PBMs also exert substantial influence over independent pharmacies, who struggle to navigate contractual terms imposed by PBMs that they find confusing, unfair, arbitrary, and harmful to their businesses. Between 2013 and 2022, about ten percent of independent retail pharmacies in rural America closed. Closures of local pharmacies affect not only small business owners and their employees, but also their patients. In some rural and medically underserved areas, local community pharmacies are the main healthcare option for Americans, who depend on them to get a flu shot, an EpiPen, or other lifesaving medicines.

PBMs are often paid, not based on a fee for their service, but based on the price of the medicine. . .even the list price of the medicine. This creates the perverse incentive that higher list prices are beneficial to the PBM and tempts them to leave lower priced drugs out of a formulary.

LD 1580 would reform the PBM compensation model in two ways. First, it would require a PBM's compensation to be fee-based, outlined in their contract with the insurer. This bill would prevent fees from being tied to drug prices, rebates, premiums, or patient cost-sharing, removing financial incentives that encourage PBMs to prioritize higher-priced drugs for profit rather than lower-cost options that benefit Mainers.
Second, this bill would prohibit the PBM practice of spread pricing. Spread pricing enables PBMs to profit from the difference between the amount they reimburse pharmacies for a medicine and the amount they charge their clients. Spread pricing has been a target for reform across the country, with at least 23 states banning the practice in the Medicaid and/or commercial market. The Center for Medicare and Medicaid Services has also taken action to limit spread pricing. Other states and Congress are also considering legislation that would delink PBM compensation from a drug's list price.

We need to take a hard look at how PBMs make their money. Changing the PBM compensation structure to remove the incentive to prefer expensive drugs will lower costs for patients, employers, and the state of Maine.

I ask you to support LD 1580 and I am happy to answer questions.

Robert W. Nutting
State Representative

District 66 Oakland, Mercer, Smithfield, Starks & Sidney (part)