

Senator Donna Bailey, Chair

Representative Kristi Mathieson, Chair

Members of the Committee on Health Coverage, Insurance, and Financial Services

***BE Testimony in SUPPORT of LD 1580 – An Act Regarding the Interactions of Pharmacy Benefit Managers and 340B Entities and Reimbursements to Pharmacies***

Dear Senator Bailey, Representative Mathieson, and Members of the Health Coverage, Insurance, and Financial Services Committee,

My name is Steve Maki, and I am a pharmacist and owner of Spruce Mountain Pharmacy in Jay. I have been practicing pharmacy for over 25 years, with the last 15 years spent as the owner and pharmacist of my independent community pharmacy. I am submitting this testimony in support of LD 1580, as community pharmacies across Maine rely on fair, reasonable and equitable reimbursements to continue providing essential pharmaceutical care to patients and constituents.

I regret to be able to attend the committee hearing in person. I hope this testimony conveys my deep commitment to my pharmacy and the communities my pharmacy serves.

**The Role and Value of Community Pharmacies in Maine**

As a past president of the Maine Pharmacy Association, I had the opportunity to travel across the state, speaking with owners, pharmacists, pharmacy technicians, support staff, and customers. I was consistently inspired by the high-quality pharmaceutical care provided by community pharmacies.

Community pharmacies offer:

- Quicker access to prescription medications and essential healthcare services.
- Education to help patients achieve the best health outcomes from their medications.
- Guidance on over-the-counter medications and healthcare products.
- Health screenings, including diabetes education, blood pressure monitoring, and medication reviews.
- Medication management support, including adherence programs and compliance packaging.
- Access to medical equipment and supplies, such as mobility aids, blood pressure monitors, diabetes testing equipment, wound care supplies, and more.

Community pharmacies serve as easily accessible healthcare hubs, often providing care without an appointment. During the COVID-19 crisis, pharmacies stepped up to vaccinate Maine residents while continuing to serve as essential healthcare providers.

Unfortunately, the broken pharmacy reimbursement model has made it increasingly difficult for independent pharmacies to operate sustainably. This legislation would improve transparency and accountability, addressing long-standing concerns with Pharmacy Benefit Managers (PBMs).

There are a multitude of ways the unregulated activities of the PBM's influence the cost of pharmaceutical care in Maine.

- PBMs act as middlemen, driving up costs

PBMs influence drug pricing, prior authorization processes, and pharmacy reimbursements – often prioritizing profits over patient care. Maine saw this firsthand when state employees switched PBMs from Express Scripts to Capitol RX. I challenge the committee to examine whether this change resulted in meaningful cost savings.

- PBMs restrict patient choice

PBMs control which pharmacies participate in prescription drug plan networks, often excluding community pharmacies that refuse unfair contractual terms. These contracts are designed to financially burden independent pharmacies, discouraging participation. Spruce Mountain Pharmacy is a willing participant but we have opted out of certain PBM networks due to their damaging financial impact. PBMs typically refuse contract renegotiation, forcing pharmacies into "take it or leave it" agreements that limit patient access to local pharmacies.

- PBMs determine reimbursement rates

PBMs dictate how much pharmacies get paid for their services – sometimes forcing plan beneficiaries to use PBM-owned mail-order pharmacies or preferred retail chains. Additionally, PBMs influence drug formularies, accepting manufacturer rebates in exchange for preferred medication placements, ultimately leading to higher out-of-pocket costs for patients.

- Underpayment endangers pharmacy viability

The greatest challenge facing community pharmacies is underwater reimbursements, dictated by non-transparent and outdated Maximum Allowable Cost (MAC) lists. Many prescriptions filled at community pharmacies like mine are reimbursed below the cost to acquire the medication. If this pattern continues unchecked, many pharmacies will close, worsening pharmacy deserts and restricting patient access to care.

Of course, to exert this power over patients and pharmacies, yet remain largely unregulated in the state of Maine, below is another example of the abusive practice that LD 1580 seeks to address:

Spread pricing:

This pricing model is a common approach employed by pharmacy benefit managers (PBMs). Under the spread pricing system, the PBM negotiates rebates with drug manufacturers and secures “discounts” or low-cost reimbursements from pharmacies (sometimes at or below acquisition cost). The PBM then charges insurance carriers a negotiated price for prescription drugs while reimbursing pharmacies at a different, often lower rate. The difference between these two prices, known as the “spread,” constitutes the PBM's profit, which is not disclosed to either the insurance carriers or the pharmacies. This raises concerns about transparency and accountability, prompting questions about how the money is distributed and whether it genuinely supports pharmaceutical care for the patients we serve. Additionally, there is the issue of high-priced medications becoming “preferred” products, as PBMs may

prioritize drugs that generate higher rebates from manufacturers, ultimately leading to elevated costs for consumers and potentially limiting patients' access to necessary care.

#### The Urgency of Legislative Action

PBMs claim this legislation is unnecessary, arguing that states have no authority to regulate the industry. However, the Supreme Court unanimously ruled in *Rutledge v. PCMA* (2020) that states can regulate PBMs.

I urge the committee to do further research by reviewing the Federal Trade Commission (FTC) Interim Staff Report on PBM Practices (July 2024), which presents a compelling case for industry reform:

FTC Interim Staff Report on PBM Practices - <https://www.ftc.gov/news-events/news/press-releases/2024/07/ftc-releases-interim-staff-report-prescription-drug-middlemen>

#### Final Thoughts

I appreciate the committee's time and attention to LD 1580. Passing this legislation will send a clear message that Maine supports fair reimbursements and transparency in pharmacy benefit management.

Please feel free to reach out if I can provide further assistance.

Respectfully submitted,

David Maki, PPh

Green Mountain Pharmacy

Box 1469  
Farmington, ME 04739

Phone: (207) 853-0000