

**TESTIMONY OF BOB CAREY  
SUPERINTENDENT  
BUREAU OF INSURANCE  
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
L.D. 1580**

**An Act to Prohibit Pharmacy Benefits Managers from Imposing Certain Fees  
and Pricing**

**Presented by Representative Nutting**

**Before the Joint Standing Committee on Health Coverage,  
Insurance & Financial Services**

**April 29, 2025 at 1:00pm**

Senator Bailey, Representative Mathieson, and members of the Health Coverage, Insurance and Financial Services Committee, I am Bob Carey, Superintendent of the Maine Bureau of Insurance. I am here today to testify neither for nor against LD 1580.

This bill creates a new section in Chapter 56-C (Health Plans That Provide Prescription Drug Benefits)<sup>1</sup> that would limit the manner by which pharmacy benefits managers (PBMs) are compensated for their services and prohibit spread pricing by PBMs.<sup>2</sup> The bill would restrict PBMs from receiving any compensation

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<sup>1</sup> 24-A M.R.S. §§ 4347-4350-E.

<sup>2</sup> The PBM services described in 24-A M.R.S. § 4347(17) include managing the client's prescription drug coverage, including but not limited to processing and paying claims, performing utilization review, processing prior authorizations, adjudicating appeals, contracting with pharmacies, and controlling the cost of covered prescription drugs.

for its services other than a contractually agreed upon fee with the carrier or plan sponsor.

While we support transparent pricing, we are concerned about the potential effect of this bill on Maine's insurance market. To our knowledge, no state has enacted such a sweeping piece of legislation.

Very few will argue that the current manner by which pharmaceutical manufacturers and PBMs contract for the delivery of prescription drugs to people in the US is anything but opaque. Rebates, manufacturer incentive fees, administrative fees, spread pricing, financial incentives for preferential formulary placement and other creative business practices have grown over the years to create a financial model that would make Charles Ponzi blush. This Committee – and policymakers across the country – are rightfully troubled, to put it mildly, about the cost of pharmaceuticals, the way in which drugs are priced, and the lack of transparency in this market.

Unfortunately, we are not convinced that this bill would lower the cost of drugs for Maine people and Maine businesses. In fact, under the current business model, eliminating rebates and other manufacturer fees – which today flow back in part to the carrier or plan sponsor – could increase the cost of drugs.

We are also concerned that the proposal injects the state into a business-to-business transaction and removes pricing options from the market. Carriers already have the ability to contract with PBMs using a straight fee for service arrangement. This bill would prohibit any other contracting arrangement in use today. We urge the Committee to be cautious on this section of the bill.

Spread pricing, which is specifically prohibited, refers to a practice in which a PBM charges the purchaser / carrier more for a given drug than the PBM reimburses the pharmacy for the drug. The Bureau has been supportive of restricting this practice in the past. According to the National Academy for State Health Policy (NASHP), 15 states have enacted laws to prohibit spread pricing: AR, CO, DE, FL, ID, IL, IN, LA, MD, MI, MN, VA, VT, WA, WV.

If the committee moves forward with the bill, we recommend removing the \$1,000 per violation penalty provision or replacing it with a reference to the Bureau's existing enforcement authority under 24-A M.R.S. § 12-A. Section 12-A allows for civil penalties and additional remedies such as cease and desist orders. Thus, the penalty provision of the bill is duplicative.

The bill also contains references to a PBM's client as a "carrier or health plan." A health plan, as defined in 24-A M.R.S. § 4347(10), is a plan for the delivery of health care services offered or administered by a carrier. If the intent is to cover contracts between self-insured plan sponsors and PBMs, the bill should clarify that point.

Various provisions in Chapter 56-C would have to be amended in order to be consistent with this bill. Rule 210 (Standards for Pharmacy Benefits Managers) would also have to be reopened and amended for consistency. The statutes and rule currently regulate the use of spread pricing rather than prohibiting it.

Thank you. I would be happy to answer any questions now or at the work session.