



## Written Testimony

### **S.B. No. 442 AN ACT PROHIBITING PREDATORY PRICING OF PHARMACEUTICALS.**

### **S.B. No. 445 AN ACT CONCERNING PHARMACEUTICAL PRICE TRANSPARENCY AND DISCLOSURE.**

May 6, 2017

We want to thank this committee for raising the important issues of pharmaceutical pricing and claw backs, and highlighting the need for transparency in prescriptive drug pricing. Physicians have long been concerned with the growing cost of pharmaceuticals and the inability of our patients to secure the medications they need; especially those on limited, fixed incomes. Recent articles have shed light on the shameful truth that our patients sometimes pay co-pays for generic drugs that are higher than the actual cost of the medication. This is criminal. Even worse, our patients believe that their insurance policy is getting them favorable prices on these low-cost medications and are not informed of the actual cost of these drugs due to payor dictated gag orders.

Pharmacists, like physicians cannot negotiate terms of their contracts with insurers who often carve out RX services with Pharmacy Benefit Managers (PBM). This heavy handed "take it or leave it" situation forces them to accept contracts with gag orders that limit what they can tell patients. These gag order clauses prevent them from informing our patients that many inexpensive generic medications are actually cheaper to purchase outright than use their policy coverage with hefty co-pays. The insurance industry calls this a "claw back" and sadly the extra money goes into the pockets of the benefit management company.

Many physicians believe that if these claw backs were outlawed and patients were given the information and allowed to choose the cheaper option they would have more disposable income for other medications and other needs. This is especially true with the elderly population who often find themselves living on very small fixed incomes. The financial pressures of the cost of medications force many to move out of Connecticut as they can no longer afford the high cost of living in our state. Some may argue that many of these claw backs are as little as \$2 a prescription and should not be a burden on most households, but imagine the difference even a \$2 claw back on 5 -10 prescriptions a month could make in the lives of these individuals - and couples. This could prevent forcing them to choose between medications and food – a sad choice that is all too common for geriatric patients. Now consider that some of these claw backs are as much as \$30 a

prescription! The profits reaped by these PBMs can be hundreds of millions of dollars over time, all at the cost of someone's health!

Who are these Pharmacy Benefit managers (PBM) and how do they operate? They are the industry middlemen who reap huge profits, yet provide little to actually enhance healthcare. They process prescriptions for patients (insurers) and large employers that create their own self insurance plans, determine which drugs are covered and which are not and then "negotiate" with manufacturers on one end and pharmacies on the other. When a RX comes in and the patient pays the pharmacy the co-pay, the pharmacy keeps the price of the drug - and a small profit for dispensing it - and the remainder is sent (clawed back) to the PBM. Ironically, the PBMs sometimes claim that they keep manufacturers honest by such practices!

Physicians were gratified when Bloomberg removed the cloak of secrecy surrounding the profits from claw backs and exposed the growing profitability the PBMs that use them. They reported over 16 lawsuits filed since October of 2016, now making their way through the courts on this very issue. Allegations in these cases include defrauding patients through racketeering, breach of contract, and violation of insurance laws.

In closing, if claw backs happen in just 10% of the prescriptions filled each year (as estimated by some pharmacists) it could

amount to billions of health care dollars which could go back into our patient's pockets. Just as importantly, it could dramatically help society get a better picture of the true costs of healthcare; helping all patients and providers deal with these rising costs.

Thank you for bringing additional light to this troubling practice of price gouging.