



Testimony offered on behalf of:
EPIC PHARMACIES, INC.

IN SUPPORT of:
HB 885 – Pharmacy Benefits Managers - Duties and Obligations

House Health and Government Operations Committee
Hearing 2/27 at 1:00 PM

EPIC Pharmacies **SUPPORTS HB 885** – Pharmacy Benefits Managers – Duties and Obligations.

HB 885 establishes that a Pharmacy Benefits Manager (PBM) has a duty and an obligation to the beneficiary and the purchaser to perform all pharmacy benefits management services:

- with care, skill, prudence, diligence, and professionalism, and
- primarily in the best interests of the beneficiary and the purchaser.

A PBM is a business entity that administers and manages prescription drug benefit plans for employers and purchasers. Under current law, a PBM must register with the Maryland Insurance Administration prior to providing pharmacy benefits management services. The State Insurance Commissioner is authorized to examine the affairs, transactions, accounts, and records of a registered PBM at the PBM’s expense. A PBM is prohibited from shipping, mailing, or delivering prescription drugs or devices to a person in the State through a non-resident pharmacy unless the non-resident pharmacy holds a non-resident pharmacy permit issued by the Maryland State Board of Pharmacy.

If the Commissioner examines a PBM’s business activities and determines that a PBM has violated any provision of the law or administrative regulations (COMAR), he possesses the authority under law and regulation to remedy such violations. The Commissioner may order a PBM to:

- cease and desist;
- take specific affirmative corrective action;
- make restitution of money, property, or assets; or
- pay a fine in an amount determined by the Commissioner.

In addition to any other enforcement action taken by the Commissioner, the Commissioner may impose a civil penalty of up to \$10,000 for each violation of the subtitle.

Some States require PBMs to act as a fiduciary. A fiduciary is a person or entity who holds a legal or ethical responsibility to act in the best interests of their clients. At the time of this testimony, one State—Nevada—had implemented a law requiring that a PBM has a fiduciary duty and at least four other States are currently considering it. These States are Kansas, Georgia, Minnesota and Maryland.

Nevada’s law specifies that a PBM has a fiduciary duty to a third party with which it has entered into a contract to manage that party’s pharmacy benefits plan. This means the PBM must act in the best interest of the pharmacies or consumers it serves rather than a health plan.

EPIC Pharmacies respectfully requests the Committee to render a **FAVORABLE Report on HB 855**.

Sincerely,

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