



A Network Of
Independently Owned
Pharmacies

Testimony offered on
behalf of:

EPIC PHARMACIES, INC.

IN SUPPORT OF:

SB0690 – Pharmacy Benefits Managers – Definitions of Carrier, ERISA, and Purchaser.

Senate Finance Committee
Hearing: 3/16/22 at 1:00 PM

EPIC Pharmacies, Inc. **SUPPORTS SB0690 – Pharmacy Benefits Managers - Definitions of Carrier, ERISA, and Purchaser.**

Independent pharmacy has been dealing with the repercussions of Federal ERISA laws in Maryland as they related to PBMs for many years. The State and the HGO Committee have always taken the PBM assumption that their unscrupulous business practices were protected by ERISA laws as fact. Finally, Federal cases have made their way through the court system and in 2020, the Supreme Court decided to hear Rutledge v. PCMA. This case was brought by the Arkansas Attorney General in defense of a 2015 law that regulates PBM reimbursement to pharmacies and mandates fair payments for all insurance plans represented by the PBMs. In December of 2020 the court unanimously ruled on behalf of Rutledge and Arkansas. EPIC worked with the Committee in 2021 to remove any mention or implication that ERISA preempted PBM legislation from Maryland law but were discouraged by the committee's reluctance to broadly apply the ruling, choosing to only target reimbursement. Since last session, it has become clear in an opinion from the Maryland Attorney General and a report from the Maryland Insurance Administration that the ruling most certainly should apply to all types of PBM regulation. SB0690 will clean up the Maryland statute and expand the regulation of PBMs to all plans and all sections of the law.

In this Committee, hearings for as long as we can remember, EPIC fought the efforts of PCMA to limit any State law regulating PBMs to a very small percentage of plans. The Supreme Court eliminated the ERISA excuse from this argument and has indicated that all PBM plans are subject to regulation by State Legislatures and committees such as this Finance Committee. SB0690 will allow the State to enforce all current PBM laws in a way that more uniformly regulates the industry and allows for a more level playing field. This will ultimately benefits patients in Maryland.

3/16/2022

SB0690

We thank the committee for all the work they have done in the last two sessions and respectfully ask **your support for SB0690.**

Sincerely,

Dr. Jeffrey B. Sherr, P.D.
MD EPIC PharmPAC/Board Vice Chair
Owner, Apple Discount Drugs
443-235-2401
jeff@apple drugs.com

Dr. Gerard A. Herpel, P.D.
MD EPIC PharmPac & EPIC Board
Owner, Deep Creek Pharmacy
301-616-0130
docjer@deepcreekpharmacy.com