

SB398.MPhA.pdf

Uploaded by: Aliyah Horton

Position: FAV



Date: February 14, 2023

To: The Honorable Melony Griffith, Chair

From: Aliyah N. Horton, FASAE, CAE, Executive Director, MPhA, 240-688-7808

Cc: Senate, Finance Committee

Re: FAVORABLE - SB 398 - Health Insurance - Reimbursement and Use of Specific Pharmacies and Dispensaries - Prohibitions

The Maryland Pharmacists Association (MPhA) urges a **FAVORABLE** report of **SB 398 - Health Insurance - Reimbursement and Use of Specific Pharmacies and Dispensaries – Prohibitions**.

As far back as 1996 MPhA has had a policy advocating for patients to be able to exercise freedom of choice in pharmacy services.

The topic of specialty drugs arises every legislative session and each year the number of medications subject to specialty drug categorization rises. The drugs defined as specialty are not consistent across providers or health plans offered by the same provider. As pharmacists will testify, many of the drugs listed as “specialty” do not require any additional training or handling beyond what a standard pharmacy offers.

Steering by Pharmacy Benefit Managers (PBMS) leaves patients directed away from their “home” or preferred pharmacists and pharmacies toward mail-order or “delivery depots.”

Specialty drugs is a booming business and PBMs are ensuring that their affiliated pharmacies are enjoying the benefits. **In 2017, the top four specialty pharmacies were owned or co-owned by a Pharmacy Benefit Manager (PBM).**ⁱ

It is unfair competition as pharmacy access is restricted by entities with direct competitive and financial interests. This practice negatively impacts community pharmacies with the knowledge, skills, abilities and relationships to best meet the needs of their patients.

MPhA urges a favorable report of SB 398.

MARYLAND PHARMACISTS ASSOCIATION

Founded in 1882, MPhA is the only state-wide professional society representing all practicing pharmacists in Maryland. Our mission is to strengthen the profession of pharmacy, advocate for all Maryland pharmacists and promote excellence in pharmacy practice.

ⁱ Adam J. Fein, The Top 15 Specialty Pharmacies of 2017: PBMS and Payers Still Dominate, DRUG CHANNELS (March, 13, 2008)

Maryland Anti-Steering Coalition Supports SB 398.p

Uploaded by: Allison Rollins

Position: FAV

PATIENTS & PROVIDERS ADVOCATING AGAINST PATIENT PHARMACY STEERING

THE PROBLEM

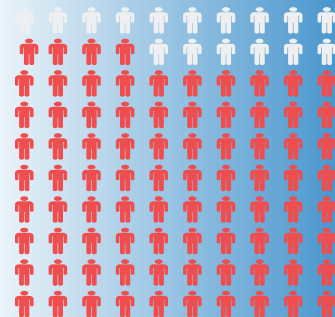
Patient Steering Restricts Access

Patients have long expressed frustration with “steering,” a practice in which an insurer or pharmacy benefit manager (PBM) requires members to fill their prescriptions at a specified specialty or mail-order pharmacy.

Patients required to use a PBM-mandated specialty or mail-order pharmacy often report:

- delays in prescription delivery;
- mix-ups at the PBM-owned pharmacy;
- endless phone tag with PBM representatives; and
- complex bureaucratic red tape. [1]

According to a 2022 survey, 84% of patients oppose health plan and PBM policies that prohibit patients from accessing medications at their pharmacy of choice. [2]




84% of PATIENTS OPPOSE STEERING

THE SITUATION

MD Law Excludes Vulnerable Patients from Anti-Steering Protections

Despite the passage of two important—but incomplete—reform bills, Maryland law continues to incentivize PBMs to engage in harmful and anti-competitive behavior. By allowing exemptions to remain in place while the market continues to condense, more and more chronically ill patients will be excluded from critical anti-steering protections. Specifically, HB 759: Pharmacy Benefit Managers – Pharmacy Choice and HB 601: Pharmacy Benefit Managers – Revisions, both passed in 2019, included anti-steering protections. But these protections came with broad exemptions for specialty pharmacy, mail-order drugs, and drugs dispensed at certain chain pharmacies.

PBM steering practices are particularly detrimental to patients who face complex, chronic, and/or life-threatening illnesses and require highly sensitive specialty medications. For this patient population, timely access to treatment is critical to ensure the best possible health outcomes. Maryland is one of 18 states that have passed anti-steering legislation in the past; however, we are the only state to fully exclude all specialty drugs and mandatory mail order policies from anti-steering protections.

 **18 STATES** [4] have passed or enacted legislation to protect patient choice and limit harmful pharmacy steering mandates.



Market consolidation amongst the nation's largest health insurers and PBMs further enables insurers to steer patients to their affiliated pharmacies for greater profit. By 2020, just 3 PBMs processed nearly 80% of prescriptions nationwide. [3]

THE SOLUTION

Targeted Legislation Extending Anti-Steering Protections to All Maryland Patients

The Maryland General Assembly must strengthen current anti-steering laws by repealing exceptions for specialty and mail-order drugs, thereby enabling patients with complex or chronic conditions like cancer, arthritis, lupus, and multiple sclerosis to obtain their medication from the pharmacy of their choice in a timely manner. Doing so will also increase treatment plan adherence, reduce potential waste, minimize delays, and improve overall clinical outcomes.

 **SB 398**
HB 650

ACT NOW: Support Senator Clarence Lam, MD's bill SB 398
HB 650 sponsored by Delegate Steven Johnson.

Patients & Providers Advocating Against Patient Pharmacy Steering

This Message Is Supported By The Undersigned Organizations:



1. <https://hme-business.com/articles/2022/03/03/steering.aspx>
2. <https://pbmabuses.org/horror-stories/>
3. <https://www.drugchannels.net/2021/04/the-top-pharmacy-benefit-managers-pbms.html>
4. Examples:
 - a. Alabama: <http://alisondb.legislature.state.al.us/alison/CodeOfAlabama/1975/27-45-3.htm>
 - b. Georgia: <https://www.legis.ga.gov/api/legislation/document/20192020/180927>
 - c. Kentucky: <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=49885>
 - d. Louisiana: <https://legis.la.gov/Legis/law.aspx?d=1147622>
 - e. Minnesota: <https://www.revisor.mn.gov/statutes/cite/62W.07>
 - f. Mississippi: <https://www.sos.ms.gov/acproposed/00018765b.pdf>
 - g. North Dakota: <https://www.ndlegis.gov/cencode/t19c02-1.pdf#nameddest=19-02p1-16p2>
 - h. Pennsylvania: <https://www.legis.state.pa.us/cfdocs/Legis/LI/uconsCheck.cfm?txtType=HTM&yr=2020&sessInd=0&smthLwInd=0&act=0120>

SB0398 Use of Specific Pharmacies FAV.pdf

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0398
Health Insurance - Reimbursement and Use of Specific Pharmacies and
Dispensaries - Prohibitions

Bill Sponsor: Senator Lam

Committee: Finance

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0398 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of individuals and grassroots groups with members in every district in the state. We have over 30,000 members across the state.

Our health care system, particularly the provision of prescription drugs, is full of corruption and price gouging. The big health care providers prey upon their members by moving certain drugs around in their formulary to achieve greater profits, forcing members to use certain drugs by removing options from the formulary, and ensuring that prescriptions can only be purchased from in-network, or participating pharmacies.

None of this benefits the residents in Maryland. It is designed to benefit the insurance companies and health care providers only.

Our members thank Senator Lam for bringing this bill and ensuring that insurance companies and health care providers cannot force members to get their prescriptions from certain suppliers. We applaud this effort and strongly support this bill. Now, if we could just stop the price gouging and the formulary games....

The Maryland Legislative Coalition supports this bill and we recommend a **FAVORABLE** report in Committee.

ARAPC Testimony 2023 - Support - Senate Bill 398 -

Uploaded by: Daniel Shattuck

Position: FAV

ARTHRITIS AND RHEUMATISM ASSOCIATES, P.C.

SUBJECT: Senate Bill 398 - Health Insurance - Reimbursement and Use of Specific Pharmacies and Dispensaries - Prohibitions
COMMITTEE: Senate Finance Committee
The Honorable Melony Griffith, Chairwoman
DATE: Wednesday, February 15, 2023
POSITION: FAVORABLE

Arthritis and Rheumatism Associates, P.C. is dedicated to the diagnosis and treatment of persons with disorders of the joints, muscles, tendons, and other connective tissue. Our practice integrates excellent medical care with comprehensive services. We maintain a full-service laboratory, x-ray facilities, a physical therapy division, seven centers for the diagnosis and treatment of osteoporosis and seven infusion centers.

Senate Bill 398 as introduced specifies that certain entities are not precluded from recommending, rather than requiring, a specialty drug be obtained through a certain pharmacy or dispensary; providing that certain entities may not prohibit a subscriber, member, or beneficiary from choosing to obtain a certain specialty drug from a pharmacy or dispensary that meets certain requirements.

Specifically, the bill is aimed to ensure patient access to prescription drugs through the physician dispenser or pharmacy of their choice. This is critical to continuity and efficient care and treatment. Maryland licensed physicians are allowed to personally dispense prescription drugs. A physician may dispense Medicare-covered prescription or nonprescription drugs where he or she is authorized by the State to dispense such drugs as part of his or her physician's license.

Commercial payers have implemented policies that prevent and or limit physician dispensing of drugs to their patients. Commercial payers are limiting access to their networks and pharmacy networks in particular to the detriment of a physician's ability to dispense prescriptions to their patients.

It is of the highest urgency during this time of economic uncertainty and public health emergency that payers avoid policies that prevent patients from accessing needed prescription drugs dispensed directly from their physician.

Senate Bill 398 will strengthen current anti-steering laws by repealing existing exceptions for specialty and mail order drugs as well adding provisions that emphasize the importance of patient choice. It will enable patients with complex or chronic conditions like cancer, arthritis, lupus, multiple sclerosis, and more to obtain their medication from the pharmacy of their choice in a timely manner. Patients should be able to choose the most convenient location to receive their medication, whether that's a local independent pharmacy near their home or from their physician's office.

Senate Bill 398 will increase treatment plan adherence, reduce potential waste, and minimize delays-improving overall clinical outcomes. For these reasons we ask for a favorable report.

For More Information Contact: Barbara Brocato and Dan Shattuck 410-269-1503, barbara@bmbassoc.com

SB0398_FAV_MedChi_HI - Reimb. & Use Spec. Pharmaci

Uploaded by: Danna Kauffman

Position: FAV

MedChi

The Maryland State Medical Society

1211 Cathedral Street
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Fax: 410.547.0915

1.800.492.1056

www.medchi.org

TO: The Honorable Melony Griffith, Chair
Members, Senate Finance Committee
The Honorable Clarence K. Lam

FROM: Danna L. Kauffman
Pamela Metz Kasemeyer
J. Steven Wise
Andrew G. Vetter
Christine K. Krone
410-244-7000

DATE: February 15, 2023

RE: **SUPPORT** – Senate Bill 398 – *Health Insurance – Reimbursement and Use of Specific Pharmacies and Dispensaries – Prohibitions*

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **supports** Senate Bill 398. Senate Bill 398, among other provisions, allows a patient to obtain medications, including specialty drugs, from the pharmacy or dispensary of his/her choice (provided that the pharmacy or dispensary agrees to the term and conditions in the contract) and prohibits a patient from having to use a mail order pharmacy.

For patients with chronic and/or life-threatening conditions, timely access to treatment is critical to avoid medical complications. Patients who are required by a pharmacy benefit manager (PBM) to use specialty or mail-order pharmacies often report delays in prescription delivery which, in turn, results in treatment delays. Through years of training and experience in their chosen specialty, physicians are well-informed on the medications that they prescribe to their patients and can advise their patients accordingly. Given that Senate Bill 398 would require a pharmacy or dispensary that wished to be used by a patient to meet the terms and conditions (including costs) of that PBM, this is simply about patient choice and access.

MedChi urges a favorable vote on Senate Bill 398 to provide patients with the flexibility to obtain their medications at the venue that they believe will provide them with better care and quality outcomes, which will ultimately benefit the health care system at-large.

SB0398.LOS.pdf

Uploaded by: Heather Forsyth

Position: FAV

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OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

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410-576-6513

February 14, 2023

TO: The Honorable Melony Griffith, Chair
Senate Finance Committee

FROM: Office of the Attorney General, Health Education and Advocacy Unit

RE: SB0398 – Reimbursement and Use of Specific Pharmacies and
Dispensaries

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) supports SB 398 which amends the ability of insurers to require a subscriber or member to obtain a covered specialty drug from a designated pharmacy or dispensary and instead allows the insurer to recommend where to obtain the covered specialty drug, leaving the ultimate selection up to the member. In addition, it prohibits the insurer from denying or limiting the claim from a non-recommended dispenser if the chosen dispenser meets the requirements imposed on recommended dispensers. The bill also requires the insurer to allow the selected pharmacy or dispensary to participate as a contract provider if it agrees to meet the issuer's contract terms.

Maryland is one of many states that have enacted legislation in recent years to curb prescription drug reimbursement practices by PBMs that make money on the spread between the rates at which they reimburse pharmacies and the drug prices they charge health plans, among other ways. This bill continues our State's effort to support consumer choice and improve specialty drug access while providing greater opportunities for cost-savings for treatments of complex medical conditions.

We urge the Committee to give SB 398 a favorable report.

cc: Sponsors, clarence.lam@senate.state.md.us and brian.feldman@senate.state.md.us

HDA Support of SB 398 Prohibiting White Bagging 2.

Uploaded by: Sherry Nickerson

Position: FAV

February 2023

**HDA Support of SB 398
Reimbursement and Use of Specific Pharmacies and Dispensaries – Prohibitions**

To whom it may concern:

On behalf of the Healthcare Distribution Alliance (HDA), representing the nation's primary healthcare distributors, I am writing to encourage your support of SB 398, legislation that is attempting to control the practice of "white bagging", a practice which disrupts patient care and is increasingly being required by insurers and pharmacy benefit managers (PBMs).

HDA's distributor members serve as the critical logistics provider within the healthcare supply chain, who keep the healthcare supply chain functioning efficiently and securely every day. HDA members work 24 hours a day, 365 days a year to ensure approximately 10 million healthcare products per day, including specialty drugs, are safely delivered to more than 180,000 providers across the country.

As referenced above, the practice of "white bagging" is an arrangement between insurance companies and designated specialty pharmacies that they contract with, or own themselves, to ship physician-administered medications directly to sites of care (i.e., hospitals, clinics, doctors' offices) after they have been prescribed by the attending physician. Most U.S. hospitals and physician offices maintain inventories of medications their patients need which can be immediately available when the patient arrives for treatment based on that patient's real-time needs. When a patient's insurance provider interjects and stipulates the drug prescribed by their attending physician and available at the site of care must instead be dispensed and shipped from an off-site specialty pharmacy, this practice has the potential to delay access to treatments.

While delaying treatment is burdensome on the patient as well as the physician providing care, white bagging practices introduce additional concerns as well. Such concerns include ensuring the proper storage and handling of these products which in turn may increase provider liability. The creation of increased drug waste due to the product being specified for a specific beneficiary. Most notably for many patients, the process of "white bagging" may increase costs to the patient as well due to treatment typically being switched from a patient's medical benefit to his/her pharmacy benefit which often includes higher cost-sharing responsibilities.

Complex drug therapies for rare diseases require timely access and enhanced physician oversight of storage, dosing, and administration. Patients trust their doctors to care for them. A sensible policy

like this one which supports physicians delivering timely access and safe administration of medically necessary drugs should be supported. Please contact me at kmemphis@hda.org with any questions.

Thank you,

A handwritten signature in blue ink that reads "Kelly Memphis".

Kelly Memphis
Director, State Government Affairs
Healthcare Distribution Alliance

7 - SB 398 - FIN - PHARM - LOS.pdf

Uploaded by: State of Maryland (MD)

Position: FAV



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

MARYLAND BOARD OF PHARMACY

Jennifer L. Hardesty, PharmD, FASCP, Board President — Deena Speights-Napata, MA, Executive Director

February 15, 2023

The Honorable Melony Griffith
Chair, Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401-1991

RE: Senate Bill 398 – Health Insurance – Reimbursement and Use of Specific Pharmacies and Dispensaries – Prohibitions

Dear Chairwoman Griffith and Committee Members:

The Maryland Board of Pharmacy (Board) respectfully submits this letter of support for Senate Bill (SB) 398 – Health Insurance – Reimbursement and Use of Specific Pharmacies and Dispensaries – Prohibitions.

Pursuant to SB 398, a covered entity would be permitted to recommend, rather than require, obtaining a covered specialty drug from a designated pharmacy, other authorized source, or pharmacy affiliated with the covered entity. § 15-847(d)(1). Additionally, SB 398 includes “dispensary” as a new location from which a patient may obtain a covered specialty drug. § 15-847(d)(1). SB 398 would prevent a covered entity from prohibiting a subscriber, member, or beneficiary from independently selecting which pharmacy or dispensary they patronize to obtain a covered specialty drug, provided the selected location meets minimum requirements. § 15-847(d)(3). SB 398 would prevent a covered entity from prohibiting or limiting a pharmacy or dispensary that was independently selected by a covered entity’s subscriber, member, or beneficiary, but not recommended by the covered entity, from participating in a plan, policy, or contract offered by the covered entity on terms identical to those extended to a pharmacy or dispensary recommended by the covered entity. § 15-847(d)(3)(i). SB 398 would prevent a covered entity from denying a pharmacy or dispensary that was independently selected by a subscriber, member, or beneficiary, but not recommended by the covered entity, the right to participate as a contract provider under the covered entity’s plan, policy, or contract if the pharmacy or dispensary (i) agrees to provide pharmacy services that meet the terms and requirements of the covered entity’s plan, policy, or contract and (ii) any other terms and requirements of the covered entity. § 15-847(d)(3)(ii). SB 398 removes the statutory exception permitting a requirement that a beneficiary fill a prescription at a pharmacy or entity designated as a preferred location by their pharmacy benefits manager. § 15-1611.1.

SB 398 would prevent a pharmacy benefits manager from (1) reimbursing a pharmacy or pharmacist for a (i) specialty drug or (ii) mail order drug, or (2) issuing a reimbursement to a chain pharmacy with more than fifteen stores or a pharmacist who is an employee of the chain pharmacy in an amount less than the amount that the pharmacy benefits manager reimburses itself or an affiliate for providing the same product or service. § 15-1612.

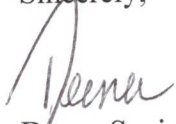
As “dispensary” is not defined in SB 398 or Md. Code Ann., Insurance § 15-847(a)(2), the Board recommends that SB 398 be amended to clearly define “dispensary.”

The Board supports eliminating barriers which prevent a patient from accessing a specialty drug at their preferred pharmacy. SB 398 would ensure that a patient is not forced to select a pharmacy based on their pharmacy benefits manager’s preference, but rather their own. SB 398 would eliminate pharmacy selection based solely on affiliation with the patient’s pharmacy benefits manager, as a pharmacy benefits manager would no longer be permitted to limit its plans and policies to preselected pharmacy locations. SB 398’s requirement that a pharmacy benefits manager extend identical business terms to all pharmacy-applicants seeking plan participation increases the likelihood that a patient makes healthcare choices based on desired outcomes, rather than financial variables. SB 398 increases patient access and choice regarding pathways from which a specialty drug may be obtained, which may increase drug therapy adherence and lead to improved health outcomes. SB 398 would facilitate continuity of drug utilization review by a knowledgeable pharmacist who has developed a beneficial relationship with a patient leading to improvement under a treatment plan. SB 398 would help maintain a direct pharmacist-patient relationship that is supportive of a patient’s health improvement and maintenance.

The Board respectfully requests a favorable report on SB 398.

If you would like to discuss this further, please do not hesitate to contact Deena Speights-Napata, MA, Executive Director at deena.speights-napata@maryland.gov or (410) 764-4753.

Sincerely,



Deena Speights-Napata, MA
Executive Director