california **pharmacists** association

SB 524 (Skinner) - PBMS: PATIENT STEERING

Patient steering is a practice employed by pharmacy benefit managers (PBM) or health plan/insurer owned pharmacies that channels prescriptions to their own wholly owned retail, mail order or specialty pharmacies. In this practice, patients are often given a 30-90 day notice that if they do not switch to the PBMs or plan/insurer's pharmacy, they will be either be required to pay a higher out-of-pocket share of cost or that their prescription will not be filled unless the patient fills their prescription one of their pharmacies or mail order programs.

A federal appeals court has revived a proposed class action by California HIV/AIDS patients alleging that pharmacy benefit manager CVS Caremark discriminated against them by requiring them to use its own specialty pharmacy in order to benefit from in-network rates through their employer-sponsored health plans.

This type of disruption in care is anti-consumer and has negative consequences for patients as it requires them to break existing relationships to continue to receive lifesaving medication. Pharmacists are trusted members of patients' care team and patient steering serves no legitimate healthcare purpose and only serves to increase PBM and health plan/insurer profits.

"79 percent of community pharmacists say their patients' prescriptions were transferred to another pharmacy in the last six months without their patients' knowledge or consent."

National Community Pharmacists Association survey conducted September 8-11, 2020.

INTENT OF LEGISLATION

SB 524 intends to limit the practice of patient steering to established clinical or logistical reasons, rather than financial benefit to the plan, insurer or their agents.

BACKGROUND

While the initial purpose of PBMs was to negotiate contracts on behalf of their health plan clients, these enterprises have evolved into ones in which there is an inherent conflict of interest and lack of transparency in how they operate. PBMs are squarely in the middle of negotiating prices, demanding rebates and driving formulary decisions with all respect to a prescription drug program. This inherent self-dealing is further emphasized when PBMs steer patients to their company-owned mail-order, community and special pharmacies, all of which calls in to question their ability to fairly represent the employers, providers and the patients they serve.

LIMITING PATIENT CHOICE IN ORDER TO INCREASE THEIR PROFIT MARGINS

PBMs use their leverage to steer patients to their company-owned mail-order, community and specialty pharmacies all of which calls in to question their ability to fairly represent the employers, health plans, providers, and the patients they are serving.

A 2017 Senate Business, Professions and Economic Development Committee background paper on PBMs noted that "there are significant potentials for conflicts in the PBM ecosystem because of the asymmetry of pricing information and reach of PBM business" and "PBMs often operate their own mail-order and retail pharmacies, establishing a climate ripe for self-dealing and unfair advantages." California prohibits the potential for these types of conflicts of interest in the practice of medicine, but unfortunately those consumer protections do not apply to the practice of pharmacy.

OTHER STATES
Georgia, Mississippi, Louisiana and Maryland have recently passed anti-steering statutes.

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