



April 26, 2018

The Honorable Joann Ginal  
House Health, Insurance, and Environment Committee  
Colorado House of Representatives  
200 E Colfax Avenue  
Denver, CO 80203

**RE: NATIONAL COMMUNITY PHARMACISTS ASSOCIATION OPPOSITION TO HB 18-1358**

Dear Chair Ginal,

I am writing to you today on behalf of the National Community Pharmacists Association (NCPA) in opposition to HB 18-1358, the "Comprehensive Health Care Billing Transparency Act." This bill would impose impossible requirements on Colorado's community pharmacies by requiring them to publicly publish and charge patients drug prices for which they may have no knowledge or control.

NCPA represents the interest of America's community pharmacists, including the owners of more than 22,000 independent community pharmacies across the United States and 143 independent community pharmacies in Colorado. These Colorado pharmacies filled over 8.5 million prescriptions last year, impacting the lives of thousands of patients in your state. They also impacted local Colorado economies by creating more than 500 jobs and generating close to \$466 million in additional sales.

NCPA supports efforts to increase drug pricing transparency to help patients make informed and cost-effective decisions concerning their health care. NCPA has long been an advocate for legislation that removes barriers that prevent pharmacists from helping patients find the most affordable prescription drug options available. However, HB 18-1358's retail drug pricing disclosure requirements do little to remove those barriers and would not provide patients with the information they need to make well-informed health care decisions.

The bill requires that pharmacies not only disclose the drug prices charged to uninsured patients but also the prices insured patients would pay. The pharmacy does not, however, have access to the drug prices for patients using insurance until the point of sale, when the pharmacy benefit manager (PBM), the entity that administers the patient's drug benefit, tells the pharmacy what price to charge pursuant to the patient's insurance plan. The insured price is controlled solely by the PBM, often varies from plan to plan, and may change from day to day without any notice to the pharmacy. Because pharmacies do not have advanced knowledge of the price a patient will be charged, NCPA has significant concerns that the bill's pricing disclosure requirements are vague

and impossible to comply with, thus infringing on pharmacies' due process rights.<sup>1</sup> Moreover, because the bill imposes obligations on pharmacies (business entities), it is not clear how the Board of Pharmacy would discipline noncompliant pharmacies and whether that would have potential licensure implications for individual pharmacists. Finally, the penalties under this legislation could negatively impact patient access if a pharmacy is unable to comply through no fault of its own, but is nonetheless subject to disciplinary action by the Board of Pharmacy.

As previously mentioned, NCPA supports efforts that give patients more information about the cost of their prescription drugs. However, pharmacists do not set the drug prices for the vast majority of patients and do not have the information necessary to disclose as required by this legislation. Because pharmacists would be unable to comply with HB 18-1358's vague provisions, the bill would not help patients get the information they need to make well-informed decisions. Therefore, we urge you to oppose HB 18-1358.

If you have any questions about the information contained in this letter or wish to discuss the issue in greater detail, please do not hesitate to contact me at [matthew.magner@ncpanet.org](mailto:matthew.magner@ncpanet.org) or (703) 600-1186.

Sincerely,



Matthew Magner, JD  
Director, State Government Affairs

cc: Members of the House Health, Insurance, and Environment Committee

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<sup>1</sup> See Leatherwood v. Allbaugh, 861 F.3d 1034 (10th Cir. 2017) (opining that a determination of vagueness requires a court to determine "whether a defendant had adequate notice of proscribed activities").