



OHIO PHARMACISTS ASSOCIATION

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June 27, 2025

Dear Governor DeWine,

The Ohio Pharmacists Association humbly calls your attention to a provision added to House Bill 96 during conference committee. One item is definitional and the other implementary. Please find the cited below with our concerns following:

Within Sec 3959.01 of the passed version of House Bill 96 (lines 90898-90900):

(C) "Actual acquisition cost" means the amount that a drug wholesaler charges a pharmacy for a drug product as listed on the pharmacy's billing invoice.

Within Sec 3959.111 of the passed version of House Bill 96 (lines 91077-91103):

(C) Except as otherwise provided in division (E) of this section, a pharmacy benefit manager shall reimburse an Ohio pharmacy for drug products dispensed on or after the ninetyfirst day following the effective date of this amendment not less than either of the following amounts:

(1) The amount that the pharmacy benefit manager reimburses an affiliated pharmacy for providing the same drug product;

(2) A drug product reimbursement not less than the Ohio pharmacy's actual acquisition cost for the drug dispensed.

(D) An Ohio pharmacy may decline to provide a drug product to an individual or pharmacy benefit manager if the Ohio pharmacy would be paid less than the amount required by division (C) of this section.

(E) (1) Divisions (C) and (D) of this section do not apply to the extent that those divisions conflict with a contract or agreement entered into before the effective date of this amendment except that, if such a contract or agreement is amended or renewed after the effective date of this amendment, the contract or agreement shall conform to the requirements of those divisions. Division (C) of this section does not prohibit a pharmacy benefit manager from paying drug product

reimbursements in excess of the amounts required by that division.

(2) Divisions (C) and (D) of this section do not apply with respect to the state pharmacy benefit manager selected pursuant to section 5167.24 of the Revised Code.

Of most importance, there is no dispensing fee contained anywhere in the legislation before you. As defined, pharmacy benefit managers would only be required to pay the pharmacy what the pharmacy paid for the drug. It would reason one of two possible scenarios would occur should this provision become law. I present them in order of likelihood:

- 1.) Pharmacy benefit managers would apply the law leaving pharmacies with no profit or ability to pay their fixed costs of maintaining their business. As written, the provision is not a floor, but a fixed rate, with zero dispensing fee. While this provision does resolve the selling of drugs at a loss issue, it also removes any profitability from the remaining book of business. Given today's environment, it seems highly unlikely pharmacy benefit managers would comply with the law that all medications are paid at pharmacy invoiced price and then add an additional meaningful payment to the pharmacy through a dispensing fee that is not required. This would result in nearly every pharmacy in the state of Ohio going bankrupt in a matter of months, if not weeks. Patients losing access to medications would have a catastrophic impact upon Ohio.
- 2.) Inversely and using the defined term *Actual acquisition cost* and the requirement upon the pharmacy benefit manager to pay for drugs *as listed on the pharmacy billing invoice*, we are deeply concerned the market will respond by inflating drug costs. Because there is no dispensing fee required and using the drug cost definition as written, drug wholesalers could inflate the invoice price then supply a pharmacy with a rebate on the purchase. In this scenario, a pharmacy would be billed for a drug at \$150.00 and the pharmacy benefit manager would be mandated to pay that amount. Later, the wholesaler would rebate the pharmacy \$50.00. The billing invoice price and the ultimate price paid can be two separate prices. The pharmacy benefit manager is mandated to pay the invoiced amount while the wholesale and pharmacy become unjustly enriched at the expense of the market. This unforeseen response would cause a significant and immediate increase in the cost of medication in Ohio. While it would resolve the financial issues pharmacies face, it is the exact opposite policy direction we wish to pursue as a remedy. Increasing drug costs would be detrimental to all Ohioans and businesses who purchase pharmacy benefits and prescription medications.

While well intended and appreciated by the Ohio Pharmacists Association, the General Assembly has unknowingly brought before you legislation that would only cause Ohioans irreversible harm in access to medications on which they rely and/or cause a significant increase in drug cost to the pharmacy market. Any consideration in removing the cited provisions from House Bill 96 prior to signing would at least maintain the status quo rather than cause enhanced degradation of Ohio's pharmacy market. I am open to any further discussion you may wish to have on this or any other matter.

Most respectfully,

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

David E. Burke, R.Ph, MBA
Executive Director
Ohio Pharmacists Association