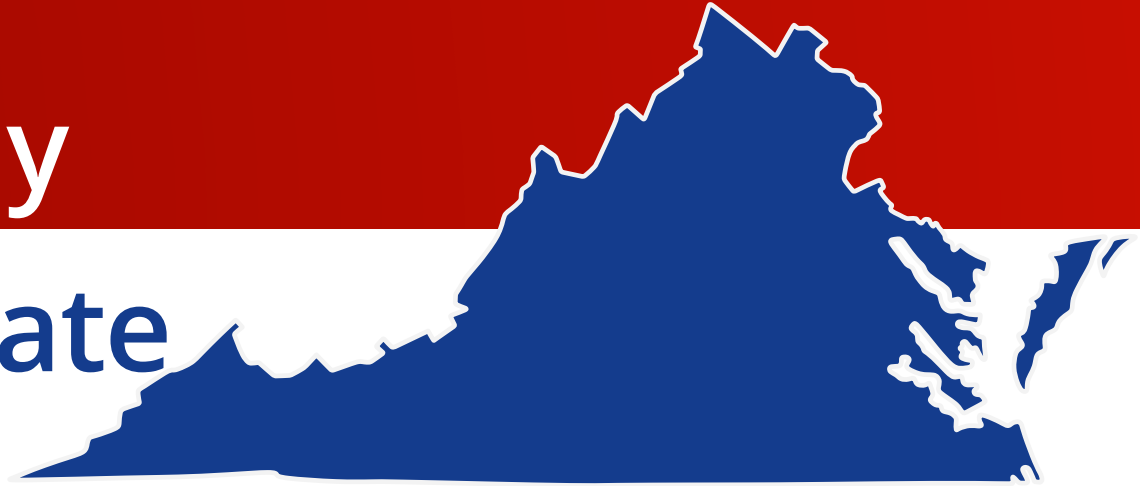


VAHO Leadership Day

2022 Legislative Update



James Lee
Sr. Manager, State Regulation and Policy
Community Oncology Alliance

September 16, 2022



Nationwide Legislative Developments

46 States in Session

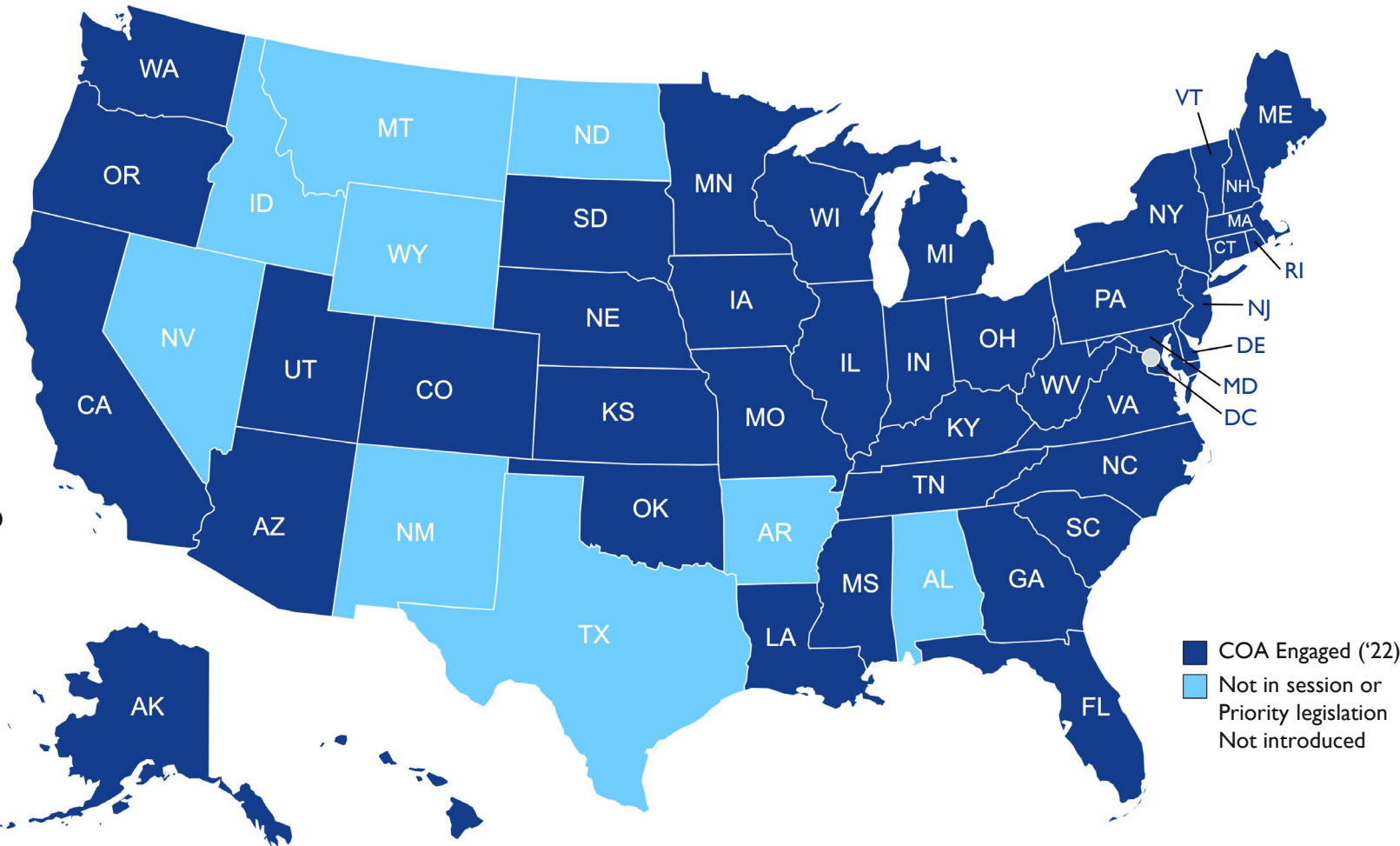
In 2022 41 states introduced bills of relevance to oncology and pharmacy benefit managers.

350+ Industry Bills

300+ bills were introduced with the intention of reforming pharmacy benefit manager practices, while an additional 50+ concerned additional topics of relevance to oncology.

61 Bills Passed

17% of all bills filed were passed in 2022. Total bills passed reflects consolidation and not support. By contrast, U.S. Congress passage rate is between 1- 4%.



Map last updated 09/16/22

Trending State Policy Reform



PBM Licensure

Licensure bills require pharmacy benefit managers to apply for a license to operate in a state. Licensure bills may require a PBM to follow specific requirements and guidelines in order to obtain a license and may institute fees and penalties for PBMs. Licensure bills may also establish revolving funds to continue oversight.



PBM Transparency

Transparency bills vary widely. Some require pharmacy benefit managers to report to a state agency or other regulatory body on an annual or biannual basis, disclosing information concerning rebates, formulary changes, pharmacy ownership information, and contract information. Other bills prohibit PBMs from imposing gag clauses on pharmacists.



Accumulator Adjustment Program Bans

AAP bills require PBMs to recognize copay assistance programs, waivers, and third-party payments for prescriptions as part of a patient's deductible and annual out-of-pocket costs.

States with the Highest Interest in Reform



Massachusetts

- 29 Bills Filed

Issues:

- PBM Transparency
- Anti-steerage
- Maximum Allowable Cost
- Rebate Passthrough
- Accumulator Adjustment Programs



New Jersey

- 28 Bills Filed

Issues:

- PBM Licensure
- PBM Transparency
- Prior Authorization
- Step Therapy
- Accumulator Adjustment Programs



Oklahoma

- 23 Bills Filed

Issues:

- PBM Licensure
- PBM Transparency
- Step Therapy
- Prior Authorization
- Maximum Allowable Cost Lists



Minnesota

- 20 Bills Filed

Issues:

- PBM Licensure
- PBM Transparency
- Anti-steerage
- Maximum Allowable Cost
- Rebate Passthrough

States with the Highest Interest in Reform



Massachusetts

- 29 Bills Filed

Passage Rate:

0 %



New Jersey

- 28 Bills Filed

Passage Rate:

0 %



Oklahoma

- 23 Bills Filed

Passage Rate:

17 %



Minnesota

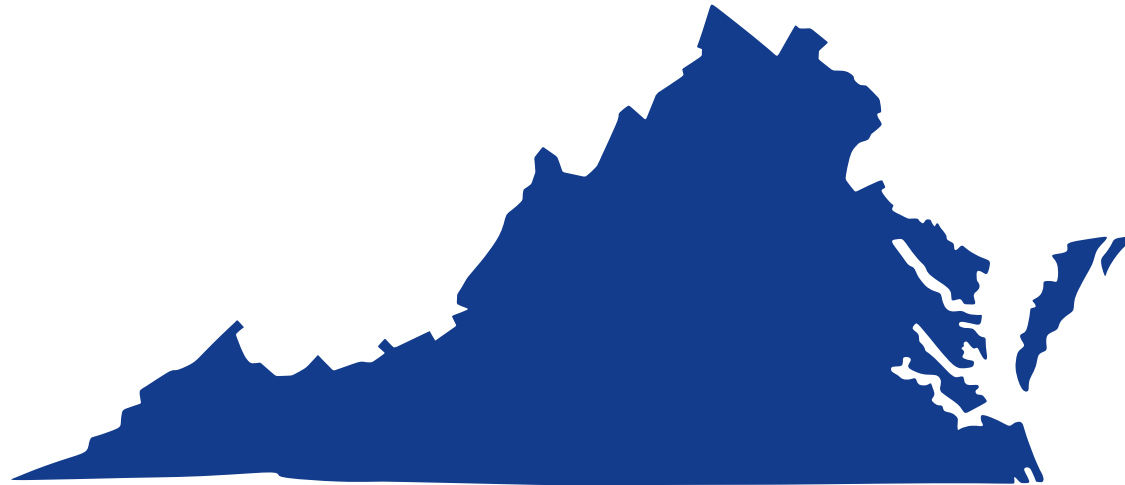
- 20 Bills Filed

Passage Rate:

0 %

State of the Commonwealth

Virginia



Issues:

Prior Authorization • Copay Accumulators • PBM Anti-steerage • PBM Transparency • PBM 340B Abuse

State of the Commonwealth



Issues:

Prior Authorization • Copay Accumulators • PBM Anti-steerage • PBM Transparency • PBM 340B Abuse

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Issues:

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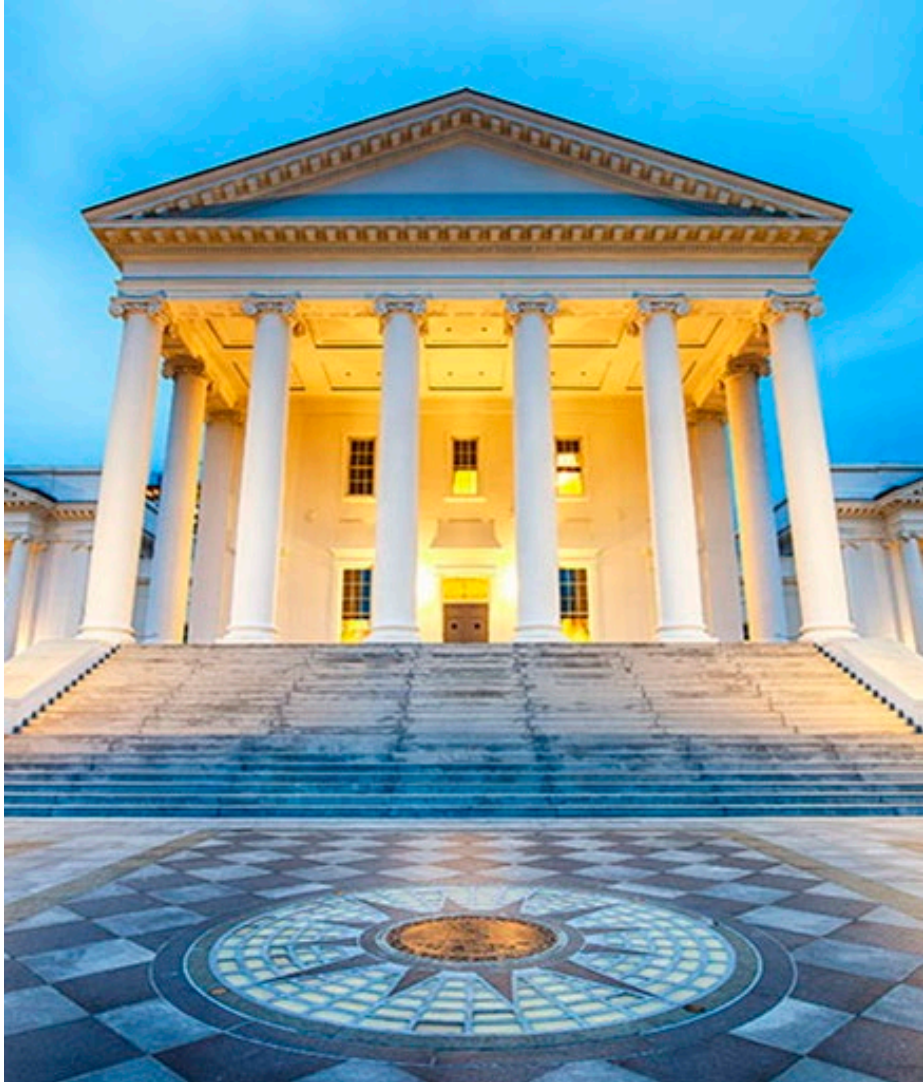
State of the Commonwealth



Senate Bill 428 : HB 360 | Prior Authorization

- Primary Author:
 - Senator Dr. Siobhan Dunnivant (R – Henrico County)
- Intention:
 - Simplify the prior authorization process and provide patients and providers with real-time data of the cost of medication based on a patient's health plan.
- How it works:
 - The bill requires insurers and PBMs to establish an online system for prior authorization and prohibits the imposition of any fees associated with the submission of a prior authorization request.
 - Establishes a work group to recommend simplification of prior auth process. The work group's findings will be reported to the Chairmen of the Senate Committee on Commerce and Labor and the House Committee on Commerce and Energy by November 1, 2022.

State of the Commonwealth



Senate Bill 433 : 1081 | Copay Accumulators

- Primary Author:
 - Senator Dr. Siobhan Dunnavant (R – Henrico County)
- Intention:
 - Amend the commonwealth’s ban on the use of accumulator adjustment programs to comply with federal law. Accumulator adjustment programs are form of utilization management used by PBMs to prevent patients from utilizing copay assistance waivers.
- How it works:
 - The bill updates existing law to fall in line with federal IRS policy which requires high deductible health plans with health savings accounts to satisfy the patient’s minimum deductible before copay assistance is accepted as part of a patient’s cost-sharing, unless these items or services qualify as preventative care under federal policy.

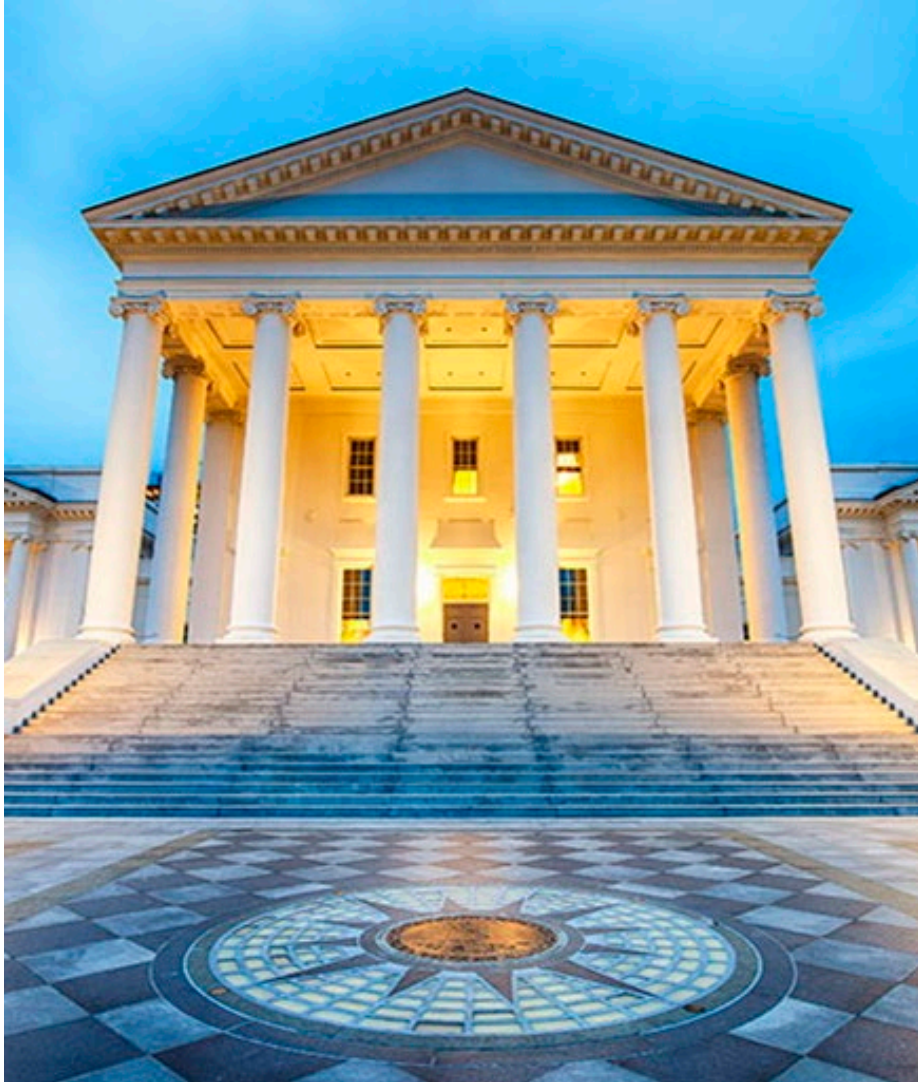
State of the Commonwealth



Senate Bill 359 | PBM Transparency

- Primary Author:
 - Senator Richard Stuart (R – Westmoreland County)
- Intention:
 - Amends the reporting frequency for pharmacy benefit managers from quarterly to annually as requested by the State Corporations Commission Bureau of Insurance.
- How it works:
 - Current Virginia law requires insurers and pharmacy benefit managers to report to the Virginia Commissioner of Insurance on the aggregate amount of rebates received, rebates distributed to plans, and rebates passed on to patients at the point of sale that reduced the patient's applicable cost-sharing amount.

State of the Commonwealth



House Bill 1162 | 340B PBM Abuse

- **Primary Author:**
 - Delegate Otto Wachsmann (R – Counties of Brunswick, Greenville, Lunenburg (part), Southampton, and Sussex)
- **Intention:**
 - Prevents pharmacy benefit managers from abusing the 340B drug pricing program meant to benefit underserved communities and community health centers.
- **How it works:**
 - Prohibits PBMs from imposing discriminatory practices on 340B entities by contract. These practices include exclusions, unique terms, lower reimbursement rates, or other conditions not imposed on other network pharmacies. The bill also prohibits a carrier or PBM from interfering in a covered individual's right to choose a 340B contract pharmacy or 340B covered entity.

What to Expect in 2023



Pharmacy Benefit Manager Anti-Steerage

Prohibition on patient steerage to PBM owned facilities and the promotion of a patient's freedom to choose where they obtain their prescriptions.

- House Bill 560 | PBM Anti-Steerage
- House Bill 943 | PBM Anti-Steerage

Ban on White Bagging Mandates

Multiple COA members have been in communication with the governor's office and members of the general assembly concerning a potential white bagging proposal.

- Conversations are ongoing.

What to Expect in 2023



House Bill 560 | PBM Anti-Steerage House Bill 943 | PBM Anti-Steerage

- Intention:
 - Prevent patient steerage to pharmacy benefit manager facilities.
- How it works:
 - Patients must be allowed to fill a prescription at a pharmacy of their choice, whether mail or retail, without penalty or added fees.
 - PBMs must disclose to the carrier in contract if the PBM retains all or a greater portion of a drug manufacturer's rebate amount or any additional direct or indirect remuneration from any third party for drugs dispensed through the PBM-owned mail order pharmacy than the PBM does for drugs dispensed through a retail community pharmacy.

COA's Legislative Leadership Program

October 23 – 24 in Washington DC

COA's Legislative Leadership Program empowers practice representatives to engage in state policy with lawmakers. Participants of the program gain an understanding of the state legislative process, determine their level of interest in legislative engagement, and begin a roadmap for their practice to become engaged.

- Hear from peers involved in state policy work across the country
- Undergo a crash course on state government, the policy making process, and regulatory bodies taught by government relations professionals and attorneys engaged in this work
- Learn how to develop policy priorities and set realistic goals for state engagement
- Receive a custom briefing on the state of oncology policy in your state





COA's Legislative Tracking Tool: COApharmacy.com

MyCOA LOGOUT

COMMUNITY ONCOLOGY PHARMACY ASSOCIATION

About Resources Membership Events Studies & Publications

COMMUNITY ONCOLOGY PHARMACY ASSOCIATION

A Community for Pharmacists in Oncology.

Supporting and Advocating for Independent Oncology Pharmacies.



COA's Legislative Tracking Tool: COApharmacy.com

The screenshot displays the COApharmacy.com website interface. At the top left is the COA logo (Community Oncology Pharmacy Association). The navigation menu includes ABOUT, RESOURCES, MEMBERSHIP, EVENTS, and STUDIES & PUBLICATIONS. The main content area features a map of the United States where states are color-coded: red for 'PBM Regulation' and blue for other issues. A list of legislative issues is provided on the right, with 'PBM Regulation' highlighted in red.

Issue
Drug Pricing and Cost Containment
Fair Pharmacy Audit
Home Infusion
Maximum Allowable Cost
PBM Regulation
Prior Authorization or Step Therapy
Prompt Pay Laws
Rebate Pass Through (RPT)
Repository Programs
Spread Pricing



COA's Legislative Tracking Tool: COApharmacy.com

The screenshot shows the COApharmacy.com website interface. At the top, there is a navigation bar with 'LAWS' and 'MYCOA' links. Below this is the COA logo and a main navigation menu with 'ABOUT', 'RESOURCES', 'MEMBERSHIP', 'EVENTS', and 'STUDIES & PUBLICATIONS'. The main content area features a blue header for 'Virginia' with a map of the state and the text 'Oncology Pharmacy Laws, Regulations, and Pending Legislation'. A red button labeled 'File a Board of Pharmacy Complaint' is prominently displayed. Below this is a section titled 'Virginia Enacted / Passed' which contains a table of legislative items.

ISSUE	SUMMARY	PRACTICAL NOTE	BILL OR STATUTE	
Prompt Pay Laws	Every provider contract entered into by a carrier shall cont...	PBMs fall under the br...	§ 38.2-3407.15. Ethics a...	View More
White or Brown Bagging	A pharmacy may deliver a dispensed prescription drug or...	While the Board of Ph...	18VAC110-20-275	View More
Any Willing Provider	Insurers, HMOs and PPOs shall establish terms and condit...	While these sections ...	Va. Code Ann. § 38.2-3...	View More
DIR Fees and Clawbacks	No provider contract between a health carrier or its PBM ...	While this law does n...	VA ST § 38.2-3407.15:4...	View More

Let's Keep in Touch

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