

September 6, 2024

To the Members of the United States Congress:

During the hearing of the U.S. House of Representatives' Committee on Oversight and Accountability on July 23, 2024, entitled, "The Role of Pharmacy Benefit Managers (PBMs) in Prescription Drug Markets Part III: Transparency and Accountability," the CEOs of the three largest PBMs exhibited a tenuous relationship with the truth, and on numerous occasions made assertions that we know to be false from the over 19,000 independent and community pharmacies we represent and from policy research from both sides of the aisle.

We observed notable skepticism from the members of the Committee about the excuses, and at times downright lies, the PBM executives were attempting to feed members about the roles of their organizations in increasing prescription costs and decreasing patient access to health care. This demonstrates that the time is now for Congress to complete work on legislation reforming PBMs, addressing abusive practices, and providing much-needed relief to community pharmacies.

The CEOs of Express Scripts, CVS Caremark, and OptumRx made numerous statements which run counter to what has been published in articles in the [Wall Street Journal](#) and [New York Times](#) as well as reports out of the [Federal Trade Commission](#) and [House Oversight and Accountability Committee](#). Among other assertions, the three CEOs stated that they negotiate with pharmacies rather than offering contracts on a take-it-or-leave-it basis and that they do not steer patients to preferred or affiliated pharmacies.

All three CEOs stated that they have positive relationships with independent pharmacies, and this statement was so egregious that it caused Chairman James Comer (R-KY) to interrupt questioning to remind the witnesses that they were under oath. On August 28, Chairman Comer [wrote](#) to the three CEOs asking them to "correct the record" on their panoply of falsehoods uttered during the hearing, pointing out that their testimony was contrary to the findings in both the Committee's staff report and in the FTC's report.

To bring home the gravity of the situation, Chairman Comer made sure to note that under the law those who are untruthful in Committee testimony under oath run the risk of a fine or five years imprisonment. The Chairman asked that corrections to the record be provided by September 11.

Perhaps the most blatant and pervasive misleading statement during the hearing was that PBMs save health plans and patients money, while costs for patients continue to rise along with PBM revenues, and independent and community pharmacists continue to suffer and close.

News coverage from multiple outlets and the FTC and Oversight Committee reports demonstrate how pharmacy benefit managers prioritize their interests, often at the expense of patients, employers, taxpayers, and community pharmacies, and it underscores the urgent need for Congress to enact robust PBM reform legislation.

Fortunately, there are multiple legislative solutions which would go a long way to holding PBMs accountable, which have already been passed either on the floor or through Committee by one chamber and which await final passage:

- **H.R. 1613, the “Drug Price Transparency in Medicaid Act,”** was passed on the House floor as part of **H.R. 5378, the “Lower Costs, More Transparency Act,”** and would save taxpayers over \$1 billion, while moving Medicaid managed care programs to a fair and transparent reimbursement system.
- **S. 2436 / H.R. 5400, the “Neighborhood Options for Patients Buying Medicines (NO PBMs) Act,”** was passed out of Senate Finance Committee as part of **S. 3430, “Better Mental Health Care, Lower-Cost Drugs, and Extenders Act,”** and would require CMS to define and enforce “reasonable and relevant” Medicare Part D contract terms and create a process for pharmacies to report contract violations.

We thank the leadership of the House Oversight Committee for holding the hearing on July 23 and commend Congress’ continued attention to reform. There is overwhelming bipartisan support for the measures listed above and we urge Congress to finish the fight, finalize PBM reform in the coming months, and rein in harmful PBM tactics. Please contact me, Anne Cassity (Anne.cassity@ncpa.org), Kaite Krell (kaite.krell@ncpa.org), or David Weissman (David.weissman@ncpa.org) with any questions you may have.

Sincerely,



Anne Cassity  
Senior Vice President of Government Affairs  
National Community Pharmacists Association