NCPA®
NATIONAL COMMUNITY PHARMACISTS ASSOCIATION
WWW.NCPA.ORG

October 7, 2024

The Honorable Kamala Harris
Vice President of the United States

Dear Vice President Harris:

As you contemplate your administration's priorities should you win the election this November, we ask for your support of the role community pharmacies play in the health and economic welfare of American citizens.

Community pharmacists are typically the most accessible healthcare providers in our country. These pharmacies are located in urban, suburban, and rural areas and 57% of them are located in areas rated as socially vulnerable population areas. Not only do community pharmacies make sure medicines are used safely, they serve as "health hubs" for their communities often fielding front line questions about health concerns (e.g. "What does this rash look like to you? Do I need to see a doctor?"; "My chest has been hurting, should I see my doctor?" etc). Community pharmacies were critical to our health care infrastructure during the COVID-19 pandemic staying open when other healthcare providers shut down and administering over 300 million vaccinations. Community pharmacies also have a significant economic impact creating jobs for over 200,000 employees. The local pharmacy is an essential part of American life. Yet their existence is threatened by pharmacy benefit managers (PBMs.)

PBMs act as middlemen between drug manufacturers and insurers, taking a significant cut of the over $772 billion spent in the United States in 2023 on prescription drugs while not actually partaking in drug manufacturing, prescribing, or treatment of illness.[1] PBMs not only act as middlemen in the supply chain but have vertically integrated vast swaths of the health care industry under their direct control. CVS Caremark, Express Scripts, and Optum Rx are the three largest PBMs, collectively known as the "Big Three," and are vertically integrated with health care insurers, and pharmacies. They have even started buying clinics. As a result of this consolidation, these large corporate conglomerates now control 80 percent of prescriptions in the United States.[2]

Not only is their share of the market concerning, but the Congressional Budget Office (CBO) testified in a House Committee hearing that consolidation in the health care market has not led to better patient outcomes. This can be seen when PBMs impede patient access to medications though limited formularies and networks, dictating what drugs are covered for

---

[1] https://oversight.house.gov/wp-content/uploads/2024/07/PBM-Report-FINAL-with-Redactions.pdf
[2] https://www.ftc.gov/system/files/ftc_gov/pdf/pharmacy-benefit-managers-staff-report.pdf

100 Daingerfield Road
Alexandria, VA 22314-2888
703.683.8200 PHONE
703.683.3619 FAX

patients and what pharmacies they can use. In many cases, PBMs have steered patients towards preferred pharmacies and mail-order pharmacies which they themselves own, and as the Federal Trade Commission's September complaint against the Big Three points out, frequently towards more expensive name-brand medications in lieu of more affordable generic versions.[3] Such practices not only limit independent pharmacies' reimbursements but also inhibit patients' ability to pay for critical medications.

PBM reform is a broadly bipartisan issue and there has been substantial bicameral interest in action this Congress, with several bills passing out of multiple committees and passing one chamber. Specifically, last December the House of Representatives passed by an overwhelming bipartisan majority the *Lower Costs, More Transparency Act* (H.R. 5378), which would promote a fair and transparent reimbursement system for pharmacies and ban spread pricing in Medicaid managed care programs. This bill not only pays pharmacists fairly, but the CBO estimated that it will save the United States $1.1 billion.

The Senate Finance Committee, with overwhelming bipartisan support, passed two major PBM packages last fall. First, it passed the *Modernizing and Ensuring PBM Accountability Act (*S. 2973), which mirrors the spread pricing language in *Lower Costs, More Transparency Act*. Then the committee unanimously passed the *Better Mental Health Care, Lower-Costs Drugs, and Extenders Act* (S. 3430), which would require the Centers for Medicare & Medicaid Services to define and enforce "reasonable and relevant" Medicare Part D contract terms and create a process for pharmacies to report contract violations. This would put an end to years of bad practices and heinous contract gimmicks like when PBMs pay pharmacies less than what the pharmacy's cost to buy the medications and employ deceptive business practices like *faxing* contracts with tight deadlines that automatically become binding unless the pharmacy staff discover the fax and proactively opt-out in time.

We thank you for already pledging to take on PBMs with your promise to crack down on "abusive practices by pharmaceutical middlemen who squeeze small pharmacies' profits and raise costs for consumers."[4] The Biden-Harris administration's FTC chair, Lina Khan, has taken aim at PBMs in a landmark interim staff report released in July and in the aforementioned action against the Big Three. We look forward to your administration's continued work with the FTC to rein in PBMs' anticompetitive practices.

PBM abuses – on top of other financial headwinds facing community pharmacies including the Change Healthcare cybersecurity attack, Express Scripts' violation of CMS' recent direct and indirect remuneration (DIR) rule for its own profit, and lower reimbursement overall for prescriptions – have led to the net loss of over 300 community pharmacies last year which is a trend continuing in 2024. Many of those closures disproportionately impact low-income Americans, minorities and immigrant communities, rural communities and urban Americans already living in food deserts who now find themselves living in *pharmacy* deserts as well.

---

[3] https://www.ftc.gov/system/files/ftc_gov/pdf/d9437_caremark_rx_zinc_health_services_et_al_part_3_complaint_public_redacted.pdf

[4] https://mailchi.mp/press.kamalaharris.com/vice-president-harris-lays-out-agenda-to-lower-costs-for-american-families

We also have concerns that the Medicare Drug Price Negotiation Program (MDPN) of the Inflation Reduction Act will fail if there are not protections safeguarding community pharmacy. For independent pharmacies to continue to serve patients and dispense these drugs, CMS must require Part D plans and PBMs to pay pharmacies no less than the maximum fair price plus a commensurate dispensing fee when providing these drugs, and CMS should mandate that PBMs cannot assess DIR fees on these drugs.

Also, manufacturers will need to make pharmacies whole with manufacturer refunds no more than 14 days from when the drug was dispensed by paying pharmacies the difference between wholesale acquisition cost (the rate at which pharmacies purchase drugs) and the maximum fair price. As it stands now, pharmacies will likely be waiting over 30 days for the manufacturer refund payments, which is a cash flow killer unsustainable for community pharmacies who need to pay their wholesalers twice every month.

NCPA's analysis of 5,200 community pharmacies to determine the effect of MDPN drugs on community pharmacies found that the average pharmacy will have to float over $27,000 every month waiting to be made whole from manufacturer refund payments. This float will grow larger with more drugs added to the MDPN program each year, resulting in devastating, irreparable impact on pharmacies serving most vulnerable and at-risk patients, especially those serving long-term care facilities.

Independent pharmacies cannot and should not pre-fund the MDPN program, nor was it the intent of Congress that they do so. Without CMS making the necessary changes described above, pharmacies will not be able to dispense these drugs and the MDPN program will fail.

Thank you for your attention to this critical issue. We ask for your assurance to the pharmacy owners of nearly 19,000 community pharmacies, that your administration would crack down on PBM abuses and increase pharmacy access to affordable care and the transparency of the pharmaceutical supply chain for all Americans.

Sincerely,

B. Douglas Hoey, Pharmacist, MBA
Chief Executive Officer
National Community Pharmacists Association

cc: Julie Chávez Rodríguez, campaign manager