

May 1, 2023

The Honorable Bernie Sanders
Chairman, U.S. Senate Committee on
Health, Education, Labor, and Pensions
428 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Bill Cassidy, M.D.
Ranking Member, U.S. Senate Committee
on Health, Education, Labor, and Pensions
455 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Cassidy:

On behalf of the pharmacy community, we are writing regarding S. 1339, the *Pharmacy Benefit Manager Reform Act*, which is scheduled for a vote in the Senate HELP Committee. America's pharmacies have been sounding the alarm and advocating to address unfair market practices conducted by PBMs for decades. We are appreciative of all congressional efforts to rein in abusive practices that harm patients and the pharmacies that serve them. However, we have serious concerns that the draft for consideration by the committee will have the unintended consequence of negatively impacting the ability of states to retain their regulatory authority over PBMs. We urge the committee to include language that clearly protects states' authority to have meaningful oversight of PBMs.

Over the last 10 years, states have passed laws reinforcing their ability to regulate PBMs after long-fought battles in court, including the United States Supreme Court (*Rutledge v. PCMA*). Congress passing laws that could nullify these victories or lead to additional litigation, burying states in lawsuits, is a major concern for states, pharmacists, pharmacies, and patients.

We have strong concerns that the bill has no express provision governing non-preemption. We recommend the legislation include the following or similar language stating that: Nothing in this Act shall be construed to preempt State laws more protective of health plans, patients, pharmacists, and pharmacies in their interactions with pharmacy benefit managers.

As stated earlier, we appreciate the Senate HELP Committee's efforts to address PBM reform and improve the bill, but we want to make sure it is not done at the expense of all that has been achieved by the states. We look forward to working with the committee and the Senate to ensure that reform is done in a comprehensive manner that actually reins in the unfair practices of PBMs that harm patients, pharmacists, pharmacies, and payers.

Sincerely,

National Community Pharmacists Association
American Pharmacists Association
FMI – The Food Industry Association
National Association of Chain Drug Stores
National Association of Specialty Pharmacy
National Grocers Association