



June 17, 2022

The Honorable Charles Grassley  
135 Hart Senate Office Building  
Washington, DC 20510

The Honorable Maria Cantwell  
511 Hart Senate Office Building  
Washington, DC 20510

Dear Senators Grassley and Cantwell,

The American Pharmacists Association (APhA) writes to offer our support for the *Pharmacy Benefit Manager Transparency Act of 2022* (S. 4293). We thank you for your ongoing leadership to increase drug pricing transparency and hold pharmacy benefit managers (PBMs) accountable.

APhA is the only organization advancing the entire pharmacy profession. Our expert staff, and strong volunteer leadership, including many experienced pharmacists, allow us to deliver vital leadership to help pharmacists, pharmaceutical scientists, student pharmacists and pharmacy technicians find success and satisfaction in their work, while advocating for changes that benefit them, their patients, and their communities.

Our organization has long had policy supporting the pharmaceutical industry's adoption of a "transparent pricing" system which would eliminate hidden discounts, free goods, and other subtle economic devices,<sup>1</sup> like rebates between manufacturers and PBMs.

As you know, the PBM marketplace is highly concentrated with ample and growing evidence that vertical integration of PBMs in the healthcare space has led to increases in purchasers' and patients' drug prices through price discrimination, utilization of harmful retroactive direct and indirect remuneration (DIR) fees, and other "clawback" mechanisms on pharmacies, use of "list prices," "spread pricing," and "patient steering," for brand, generic and specialty drugs and to PBM-affiliated pharmacies.

The *Pharmacy Benefit Manager Transparency Act of 2022* would go a long way towards addressing PBMs' anticompetitive business practices that are putting many independent pharmacies out of business and creating "pharmacy deserts" in minority and underserved communities, where the neighborhood pharmacy may be the only health care provider for miles.<sup>2</sup> Your bill also makes it illegal for PBMs to engage in "spread pricing" where PBMs charge health plans more for a prescription drug than they reimburse a pharmacy, and then pocket the difference, with

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<sup>1</sup> APhA. House of Delegates. Current Adopted Policy Statements 1963-2017 (JAPhA NS8:362 July 1968) (JAPhA NS44(5):551 September/October 2004) (Reviewed 2006)(Reviewed 2011)(Reviewed 2016). Available at:

<https://www.pharmacist.com/sites/default/files/files/16898%20CURRENT%20ADOPTED%20POLICY%20MANUAL%20-%20FINAL.pdf>

<sup>2</sup> Guadamuz, Jenny. Et. al. Fewer Pharmacies In Black And Hispanic/Latino Neighborhoods Compared With White Or Diverse Neighborhoods, 2007–15. Health Affairs. May 2021, available at: <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2020.01699>

many patients’ experiencing increases in health insurance premiums to cover these costs. We appreciate that the bill would prohibit PBMs from clawing back payments made to pharmacies, or arbitrarily, unfairly, or deceptively increasing fees or lowering reimbursements to offset reimbursement changes in federally-funded health plans,<sup>3</sup> unless it passes on all rebates and provides full and complete disclosure of fees, markups, and discounts the PBM charges or imposes on health plans and pharmacies.<sup>4</sup> Such transparency would assist the Federal Trade Commission (FTC) to take action, along with state attorneys general to stop unfair and deceptive PBM business practices.

We look forward to continuing to work with you, the FTC and our state attorneys general to return competition to the PBM and healthcare marketplace in order to protect our nation’s community pharmacies, our patients and promote healthcare equity in rural and underserved communities. Thank you, again, for your leadership and efforts to increase transparency of PBM practices for pharmacies and patients.

Sincerely,



Alicia Kerry J. Mica  
Senior Lobbyist

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<sup>3</sup> For example, PBMs use of “escalator clauses” in contracts to offset CMS’ recent final rule to end retroactive DIR fees in Part D plans, beginning in 2024. See, <https://public-inspection.federalregister.gov/2022-09375.pdf>

<sup>4</sup> APhA respectfully requests removing the exemption for passing along 100 percent of rebates to health plans or payers as this provision does not guarantee plans and payers will pass these “savings” onto patients or ensure adequate pharmacy reimbursement.