NACDS NATIONAL ASSOCIATION OF CHAIN DRUG STORES

Statement
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(NACDS)

For

United States Senate
Committee on Commerce,
Science, & Transportation

On

"Bringing Transparency and Accountability to Pharmacy Benefit Managers"

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Introduction

The National Association of Chain Drug Stores (NACDS) appreciates the opportunity to submit a statement for the record for the Senate Committee on Commerce, Science, & Transportation's hearing, "Bringing Transparency and Accountability to Pharmacy Benefit Managers" (PBM) to explore the lack of transparency and guardrails in the prescription drug market which is largely controlled and manipulated by the three largest PBM-insurers and its impact on Americans' access to medications, services, and neighborhood pharmacies.

Retail pharmacies are critical healthcare access destinations for patients and population health. The nation called on pharmacies to deliver COVID-19 testing, vaccination, and other critical preventive care services to communities during the pandemic. Pharmacies seamlessly rose to the challenge, in large part due to more than a decade of pandemic preparedness and collaborative planning. Consider, the nation's pharmacies administered 300 million COVID vaccines, more than 42 million tests, dispensed nearly 7 million antiviral courses, and were the top provider of OTC COVID tests in CMS' demonstration program. Using conservative estimates, pandemic interventions by pharmacists and pharmacy personnel averted >1 million deaths, >8 million hospitalizations, and $450 billion in healthcare costs.[1]

A poll of adults conducted March 4-6, 2022, by Morning Consult and commissioned by NACDS found that retail pharmacies received the highest ratings for ease of access among the destinations tested. Of note, 79 percent of those surveyed also support pharmacists helping patients prevent chronic diseases. America's pharmacies have been dealing with these legacy issues for over a decade and it has been exacerbated by the absence of oversight and understanding of the offensive and competition-eroding practices of PBMs that threaten timely patient access, pharmacy sustainability, and pharmacy's innovative vision to empower patients' total health and wellness.

NACDS applauds Chairwoman Cantwell and Senator Grassley for reintroducing S. 127, the Pharmacy Benefit Manager Transparency Act, and their continued commitment to fight for meaningful reform that will instill increased transparency and accountability for PBM's to help ensure economic viability of pharmacies and increased access to care for the patients they serve.

We look forward to continuing to work with Congress to stop the manipulation by PBM go-betweens that increases patients' medication costs, limits patients' choice of pharmacies, and restricts access to medicines that are right for them.

[1] Grabenstein JD. Essential services: Quantifying the contributions of America's pharmacists in COVID-19 clinical interventions. J Am Pharm Assoc (2003). 2022 Nov-Dec;62(6):1929-1945.e1. doi: 10.1016/j.japh.2022.08.010. Epub 2022 Aug 18. PMID: 36202712; PMCID: PMC9387064.

To that end, please see below NACDS' policy recommendations to increase transparency and ensure comprehensive reform of harmful PBM practices:

I. Help to Preserve Patient Access to Pharmacies by Addressing PBM's Retroactive Pharmacy Fees

Retroactive DIR Fees/Claw backs – Pharmacy access can be undermined when health plans and their middlemen, PBMs, arbitrarily "claw back" fees retroactively from pharmacies weeks or months after a claim has been adjudicated/processed. This manipulation of pharmacy reimbursements may diminish access to care *(e.g., pharmacies being forced to close their doors or pare back hours and healthcare services)* when PBMs are unpredictable, not transparent, and payment falls below a pharmacy's costs to acquire and dispense prescription drugs. Policymakers should consider enacting laws that prohibit payers or PBMs from retroactively reducing and/or denying a processed pharmacy drug claim payment and obligating them to offer predictable and transparent pharmacy reimbursement to better protect pharmacies as viable and reliable access points of care for patient services.

II. Provide Fair and Adequate Payment for Pharmacy Patient Care Services

Reasonable Reimbursement & Rate Floor – Pharmacy access remains at risk when PBMs reimburse pharmacies below the cost to acquire and dispense prescription drugs. Pharmacy reimbursement that falls below the costs to acquire and dispense prescription drugs threatens future sustainability for pharmacies to continue providing valuable medication and pharmacy care services to communities. Policymakers should enact laws to adopt a reimbursement rate floor that requires PBMs to use comprehensive reimbursement models that are no less than the true cost to purchase and dispense prescription drugs to help maintain robust public access to pharmacies.

Standardized Performance Measures – A crucial part of comprehensive DIR fee reform is advancing pharmacy quality that improves outcomes for beneficiaries and drives value in care which are essential to controlling costs in the healthcare system. Arbitrary performance measures developed by PBMs assess the performance of the pharmacy without pharmacies' input and create a moving target for pharmacies to show value and improve health outcomes. Measures vary across the various plans and dictate DIR fees (or claw backs at the State level) imposed on pharmacies, as well as help create substantial system dysfunction and unnecessary spending in the Part D program. Policymakers should enact laws to standardize PBM's performance measures for pharmacies to help set achievable goals for pharmacies before signing a contract to promote harmonization in the healthcare system and improvements in health outcomes.

III. Protect Patient Choice of Pharmacies

Specialty – Some PBMs require patients with rare and/or complex diseases to obtain medications deemed "specialty drugs" from designated "specialty pharmacies" or mail-order pharmacies which impedes patient access to their convenient local neighborhood pharmacies where specialty drugs are filled as well. Prescription drugs should not be classified as "specialty drugs" based solely on the cost of the drug or other criteria used to limit patient access and choice—instead, should focus on clinical aspects such as requiring intensive clinical monitoring. Policymakers should enact laws to establish appropriate standards for defining and categorizing specialty drugs to ensure comprehensive and pragmatic patient care and access and prohibit PBMs from steering patients to only specialty pharmacies, including those owned by the PBMs, for their prescription needs.

Mail Order – Medication access and care can be weakened when PBMs manipulate the system by requiring patients to use mail-order pharmacies only. Some plans impose penalties such as higher copays or other financial disincentives for choosing a retail pharmacy instead of a mail-order pharmacy which is often owned by the PBM. Policymakers should support patient choice and access by enacting laws to prohibit PBMs from requiring or steering patients to use mail-order pharmacies.

Any Willing Pharmacy - Due to PBMs' network and contract barriers, pharmacies willing and ready to serve patients may be ineligible to provide important pharmacy services and patients may experience unnecessary delays and interruptions in patient care. Patients should have the choice and flexibility to utilize the pharmacy that best meets their healthcare needs. Policymakers should enact laws that require PBMs and plans to include any pharmacies in their networks if the pharmacy is willing to accept the terms and conditions established by the PBM to help maximize patient outcomes, and cost savings and ensure patient access to any willing pharmacy of their choice.

IV. Enforce Laws to Stop PBM Manipulation and Protect Pharmacies and Patients

Audits – PBMs routinely conduct audits to monitor a pharmacy's performance and reverse or claw back pharmacy payments when there are alleged issues with a particular pharmacy claim. PBM audits interrupt the pharmacy workflow, can extend wait times, and detract attention from the quality-of-care patients receive. Policymakers should enact laws that support fair pharmacy audit practices to ensure timely patient care delivery at community pharmacies and bring efficiency, transparency, and standardization to the PBM audit process.

Oversight Authority – There are growing concerns that pro-pharmacy and pro-patient legislative successes might be undercut if PBMs fail to comply with such laws and/or states fail to fully enforce these laws. Such failure could significantly impact pharmacy reimbursement and overall patient access. Policymakers should establish and enforce laws already on the books to regulate harmful PBM reimbursement practices that may harm

patients and the healthcare system as we know it, especially at the pharmacy counter, and empower state regulators to do the same to enforce PBM transparency and fair and adequate pharmacy reimbursements.

Conclusion

NACDS thanks the Committee for the opportunity to provide our perspective on PBM reform and our support for your tremendous work. We implore you to build on these principles and ensure proper safeguards are established to protect pharmacies and Americans from PBMs leveraging exceptions in policies intended to promote transparency and accountability in the prescription drug market. For questions or further discussion, please contact NACDS' Christie Boutte, Senior Vice President, Reimbursement, Innovation and Advocacy at CBoutte@NACDS.org or 703-837-4211.