



Steven C. Anderson, FASAE, CAE, IOM

President & Chief Executive Officer

March 1, 2024

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Biden:

The National Association of Chain Drug Stores (NACDS) commends your administration for the listening session scheduled for Monday about reforms to address the harmful tactics of market-dominant pharmaceutical benefit middlemen known as PBMs. NACDS also calls on your administration and Congress for immediate federal action to confront PBM tactics. PBM reforms already are long overdue, urgently needed, and widely supported. They also are the subject of a cynical attempt by PBMs to stall reforms so they can perpetuate their practices that harm all Americans, communities, and pharmacies of diverse types and sizes.

At the listening session, your administration no doubt will hear the well-established facts about the immediate need for reform of pharmaceutical benefit manipulation. Market-dominant PBMs inflate the amount that Americans pay for prescription drugs; dictate the medications that Americans can obtain despite a doctor's prescribed medication therapy; deprive Americans the ability to choose their trusted pharmacy; and diminish pharmacy access for entire communities by contributing to the forced closure of pharmacies through predatory tactics. These harms to Americans, communities, and pharmacies occur as these market-dominant PBMs profit egregiously – some estimates project PBM-industry revenues increasing from \$200 billion at the beginning of this decade to \$800 billion at its end.

As your administration's listening session explores reform opportunities, it is imperative to recognize and confront immediately the PBMs' strategy of obfuscating, complicating, and running out the clock on reforms. It is time to put a stop to their stalling tactics that only are perpetuating their harmful practices, examples of which include – but are not limited to – the following:

- Your administration wrote to PBMs and plans in December 2023 to urge PBMs to work with pharmacies amid increasing concerns about PBM practices that threaten pharmacies' sustainability and impede access to care. The PBMs and plan are not listening. For example, as of January 2024 the harmful and aggressive tactics of some PBMs affecting Americans and pharmacies seem to have gotten even worse. Many of our members report that some PBMs now are reimbursing pharmacies even further below the pharmacies' cost for the prescriptions they fill – especially in Medicare.
- As articulated well by U.S. Senator Chuck Grassley last week, the PBMs also apparently are stonewalling the PBM study underway by the Federal Trade Commission – leading him to call for action to ensure the PBMs provide the requested information and leading him to call for immediate

Senate votes on reform.

- Also regarding the FTC study, the PBM industry continues to advocate against reform by citing documents that the FTC has warned against using for such purposes as they may no longer accurately reflect market conditions. This is consistent with the PBM industry's prior statements that they did not intend to adhere to the FTC's warning.
- None of this is surprising, as PBM industry representatives can be heard in state capitals indicating that they intend to comply only with some percentage of new PBM reform laws enacted in various states. It is not surprising that in February 39 state attorneys general urged the swift enactment of new federal reforms.

Given the harmful impacts of PBM tactics and given PBMs' stall tactics, NACDS calls on your administration to take immediate action based on the authorities already within its power, and to lend vigorous encouragement and support for immediate Congressional action on reforms that have overwhelming and bipartisan support.

In the 118th Congress, four committees in the U.S. Senate and four committees in the U.S. House of Representatives have taken action on PBM reform, including advancing legislation, conducting oversight investigations, and holding hearings. The full House has passed important aspects of reform. Bipartisan, thoroughly developed, and meaningful reforms are ready to go in Congress, and they need to be enacted without further delay.

In addition, the Centers for Medicare & Medicaid Services (CMS) currently have the authority to enforce "any willing provider" protections to help ensure reasonable, predictable and transparent reimbursement to pharmacies. CMS also has the authority to implement standardized, relevant, and predictable pharmacy performance measures that are essential to prevent abuses of direct and indirect remuneration (DIR) fees.

President Biden, thank you for the additional step of conducting Monday's listening session on PBM reform. It is the sincere hope and dire need of Americans and of their pharmacies that your administration and the Congress will act immediately to confront PBMs' harmful practices, to stop PBM's stalling tactics, and to put into place the reforms that are widely supported on a bipartisan basis.

Sincerely,



Steven C. Anderson, FASAE, CAE, IOM
President and Chief Executive Officer

CC: Senate Majority Leader Chuck Schumer; Senate Minority Leader Mitch McConnell;
Speaker of the House of Representatives Mike Johnson; House of Representatives Minority Leader
Hakeem Jeffries