



Testimony of

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**“The Role of Pharmacy Benefit Managers in Prescription
Drug Markets, Part II: Not What the Doctor Ordered”**

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Introduction

Good morning, Chairman Comer, Ranking Member Raskin, and other members of the Committee. My name is JC Scott, and I am the President and Chief Executive Officer of the Pharmaceutical Care Management Association (PCMA). PCMA appreciates the opportunity to testify at today's hearing on the role of pharmacy benefit managers. PCMA is the national association representing America's pharmacy benefit companies, which help administer prescription drug plans for more than 275 million Americans with health coverage through public and private employers, labor unions, retiree plans, Medicare, Medicaid, the Federal Employees Health Benefits (FEHB) program, and exchange plans.

PCMA's diverse membership of pharmacy benefit companies work closely with health plans and health insurance issuers to secure lower costs for prescription drugs and achieve better health outcomes. These savings allow employers, government programs, and labor unions to keep offering quality drug benefits to their employees, beneficiaries, and retirees across America – ensuring that premiums are affordable, and patients have choices and access to pharmacies where they can get the drugs they need at a price they can afford.

There is no requirement that any entity use a PBM to administer its prescription drug plan,ⁱ yet health plan sponsors, including employers, voluntarily hire PCMA's member organizations to secure savings and provide choice and specialized expertise on pharmacy benefit design, coverage, and delivery. As the Competitive Enterprise Institute described in a recent report on the role of PBMs:

“Plan sponsors are not required to contract with PBMs. Yet, remarkably, most choose to do so. Over 90 percent of Americans with prescription drug insurance coverage receive benefits through a PBM. The advent, survival, and proliferation of PBMs in the free market suggests they provide value to plan sponsors offering net savings on claims processing, management of drug utilization and prices, and management of pharmacy dispensing costs. Similarly, manufacturers and pharmacies could refuse to negotiate and offer discounts to PBMs, but they continue to deal with PBMs. This suggests that all the actors in the market feel they gain something from dealing with PBMs.”

Choice and flexibility in the market are a foundational principle for effective prescription drug coverage and delivery – and for these savings to occur. Employers and plan sponsors have unique needs and represent unique patient populations. They choose whether to contract with a PBM and what they want out of that service. They choose how to set up their contract and how to pay for the services, and they choose how best to use the savings delivered by their PBM.

When PBMs are not used, it costs plan sponsors, patients, and taxpayers money. For example, the Department of Labor, Office of the Inspector General, recently released a report noting that the Department of Labor overspent \$321.3 million in a six-year span (2015–2020) on prescription drugs for its Federal Employees' Compensation Act (FECA) Program because the Office of Workers' Compensation Programs (OWCP) did not use a PBM.ⁱⁱ

Pharmacy benefit companies lower prescription drug costs for patients and a wide range of health plan sponsors specifically by:

- Negotiating rebates from brand drug companies and discounts from pharmacies to reduce costs for patients, their families, and health plans – saving plan sponsors and patients an

average of \$1,040 per patient per year across the private sector and government programs.ⁱⁱⁱ

- Encouraging the use of more affordable alternatives to brand drugs, such as generics and biosimilars.
- Offering services that benefit patients, such as home delivery, which saves patients time and money while helping them stay on their medications.
- Reducing waste, preventing potentially harmful drug interactions, and improving adherence.
- Providing clinical support in the form of services to patients and internal clinical expertise to support business operations, and assembling clinical experts to evaluate drug therapies and make coverage recommendations to plan sponsors.

Pharmacy benefit companies support a competitive market for prescription drugs and work to generate value for the U.S. health care system. For more than ten years, encouraged by policymakers, the entire health care system has been driving toward paying for value – with value-based arrangements for drugs lagging behind. As prices for new prescription drugs rise higher and higher, innovative pricing arrangements between plan sponsors, PBMs, and manufacturers can better balance the efficacy of the drug and patient outcomes with a reasonable price for access to those therapies. Congress should enable more of these arrangements rather than reversing progress. On the pharmacy side, PBMs are able to drive value by contracting for improvements in generic utilization, patient adherence, medication therapy management, preventing adverse outcomes from drug-drug interactions, and other performance-based measures.

PCMA supports a range of policies that enable value-based payments for prescription drug benefits. Alternatively, policies that prevent employers and other plan sponsors from paying for value or incentivizing optimal performance are misguided – they do nothing to improve patient affordability or improve the competitive market for drugs.

PCMA also encourages policymakers to be wary of unintended consequences. Recently, CMS released its selected drug list for 2026 Medicare price negotiations. PBMs are the private market solution to managing drug costs and are well equipped to harness market competition to lower drug costs. In selecting drugs for negotiation under the Inflation Reduction Act's direct negotiation provision, CMS selected a number of drugs that already have competition that the private market can leverage. CMS will need to be mindful of the effect of these selections on other drugs in the same market, and be sure to provide a clear off-ramp to remove selected drugs to avoid suppressing competition from biosimilar and generic manufacturers.

As an industry, pharmacy benefit companies welcome any opportunity to discuss and advance ways to improve the prescription drug marketplace so patients can better afford their prescription drugs and plan sponsors can continue to offer robust prescription drug benefits. Any attempt at understanding the factors driving drug costs must include an examination of the entire supply chain, including drug companies, large pharmacy collectives known as Pharmacy Services Administrative Organizations (PSAOs), wholesale distributors, employer benefit consultants, pharmacies, plan sponsors, and all others with impact on the cost of prescription drugs to consumers. For instance, there is irrefutable evidence of certain drug companies repeatedly abusing the patent system to keep more affordable alternatives from entering the marketplace, which allows those companies to increase prescription drug prices for far longer than Congress contemplated when it established patent and exclusivity periods.

We encourage the committee to review all of these entities and potential anticompetitive practices as it assesses how to improve the prescription drug market.

Efforts to Lower Drug Costs Should Start with Understanding How Prices Are Set

Efforts to lower drug costs must start with an understanding that prices are set by drug companies. When a drug company sets its initial price, that dictates cost throughout the supply chain, from the wholesaler's negotiation for discounts, to its markups to pharmacies, to pharmacy acquisition costs, to the amount that the insurance plan sponsor and patient ultimately pay.

In addition, the role of wholesalers has been under-scrutinized. The Commonwealth Fund recently released a report noting that drug wholesale distribution is almost exclusively in the hands of three major competitors, and that in the brand drug market they are largely price takers but in the generic market are largely price makers, that is they have significant ability to mark up and set the price of those products to pharmacies. Commonwealth notes that wholesalers also own and operate entities, called pharmacy services administrative organizations, or PSAOs, that negotiate contracts and pharmacy reimbursement rates with PBMs for independent pharmacies.^{iv}

While there are numerous drug supply and payment chain participants, only one is responsible for setting and raising drug prices. Pharmaceutical brand and generic manufacturers always exercise full control over the pricing of their products. Their ability to set and alter them was widely reported earlier this year when insulin manufacturers dramatically decreased the list prices of their products. In March, Lilly reduced its insulin product prices by 70 percent, cutting the list prices of Lispro, Humalog, and Humulin;^v Novo Nordisk lowered the prices of Levemir, Novolin, NovoLog and NovoLog Mix 70/30 by as much as 75 percent;^{vi} and Sanofi cut the list price of Lantus by 78 percent and Apidra by 70 percent.^{vii} Insulin accounted for a significant percentage of rebates in Medicare Part D,^{viii} and not only did PCMA applaud this move, we encouraged other manufacturers to follow suit. Lower list prices for drugs decrease costs throughout the supply chain, lowering the net cost and often patient cost sharing. PCMA will always celebrate lower list prices because PBMs strive for lower drug costs.

For most of this year, there has been a heavy congressional focus on the PBM industry under the expressed intention of solving for high drug prices. Yet, PBMs represent only 6 percent of the drug dollar, with drug companies representing 65%.^{ix} The PBM reform bills under discussion do not actually address drug prices or lower costs. In fact, many proposed policy provisions – under the guise of lowering drug costs – would actually increase costs to employers, taxpayers and patients, while providing a massive financial windfall to big drug companies.

In almost every industry – and especially health care – the most effective way to lower costs is through increased competition. That is why Congress should make sure that the misuse of the patent protections meant to balance rewarding innovation and ensuring affordable access for patients is not blocking competition and keeping prices high.

Pharmacy Benefit Companies Reduce Costs for Employers and Federal Programs

Savings from PBMs benefit health plans, employers, retirees, and patients directly. Pharmacy benefit companies save health plans and their enrollees an average of \$1,040 per person per year.^x

PBMs have an established record of negotiating price concessions in the form of rebates from drug manufacturers (through formularies and other tools) and pharmacies (via networks) to

reduce drug costs. Numerous reports have shown that rebates are not correlated with list prices or price increases. For example, an HHS OIG report from 2019 noted that “Even when brand-name drugs had increases in both unit reimbursement and unit rebates, the increase in rebates was not always the same magnitude as the increase in reimbursement.”^{xi} Another expert analysis found that price increases for rebated and non-rebated drugs were essentially the same,^{xii} and PCMA’s research demonstrates that list prices increases “are not correlated with changes in prescription drug rebates.”^{xiii}

Pharmacy benefit companies will save employers, plan sponsors, and patients a collective \$148 billion annually.^{xiv} Health plan sponsors choose PBMs through a transparent and highly competitive bidding process. With 73 full-service PBMs in the market, including regular new entrants, health plan sponsors have diverse options, allowing them to select the PBM that best meets their unique needs.^{xv}

Employers need choice and flexibility when designing prescription drug benefits that meet the health and affordability needs of unique employee populations. Employers vary dramatically in size, resources, and function, serving diverse populations. No plan sponsor, public or private employer, union, retiree health plan, pension fund, or other health plan is required to hire or use a pharmacy benefit company, but virtually all do. Each of those plan sponsors knows more about their financial resources and plan participants than any other entity, and they need the ability to design plans tailored to the unique needs of their participants. The 10th Circuit Court of Appeals recently upheld the ERISA preemption of state law with respect to employer benefit design in its unanimous ruling in *PCMA v. Mulready*. As health plan sponsors strive to create accessible, affordable benefits that meet the needs of the populations they cover, policymakers should avoid mandates that could increase costs and decrease quality.

Recent findings from the PricewaterhouseCoopers (PwC) 2021 “Health and Well-being Touchstone Survey” of 368 companies explain why employers, including small and mid-sized businesses, voluntarily hire pharmacy benefit companies to help them provide affordable, quality prescription drug coverage for their health plan enrollees.^{xvi} PBMs offer their expertise in pharmacy benefits by recommending formulary design options, and employers decide how their plan will function. The survey states, “To help manage overall drug cost trends, over 80% of employers told us that they continue to look to their pharmacy benefits manager (PBM) for solutions, supported by traditional management strategies,” demonstrating the value employers derive from the advice of their PBM. However, highlighting the importance of employer choice, another survey of employers from the Pharmaceutical Strategies Group shows just 15 percent of survey respondents said their PBM had the most influence on their drug benefit design.^{xvii}

For health plan sponsors, it is important to maintain a competitive market that provides choice among PBMs and the ability to decide how to set up drug benefits to best serve their unique populations. Some may choose a PBM based on its scale and its ability to negotiate deep discounts or manage the risk of price changes. Others choose to hire PBMs based on their innovative care management programs or different levels of service. For small employers, many of whom may struggle to provide health insurance to employees, PBMs both lower drug costs and provide cost predictability, enabling them to stretch their benefit dollars even further.

While many in Congress have highlighted the market share of larger PBMs as cause to further regulate the industry, there are in fact more than 70 full-service pharmacy benefit companies competing in the marketplace every day – including some that have testified before this Committee – to provide affordable pharmacy benefits to plan sponsors. The PBM market is dynamic, diverse, and growing. In 2019, there were 66 full-service pharmacy benefit companies

active in the market.^{xviii} As of March 2023, there are 73 full-service pharmacy benefit companies in the U.S., with six new PBMs entering the market since 2021.^{xix} In addition to these full-service companies, there are many companies that provide narrower PBM services to customers, with some catering to specific sectors, such as workers' compensation. Preserving the competitiveness of the PBM market is as important as ensuring competitiveness in all other aspects of the prescription drug supply and payment chain.

As a result of all of the factors previously discussed, PBMs have a pro-competitive influence on the prescription drug marketplace, and PBM services provide a significant and measurable benefit for businesses and others providing health insurance, including federal programs like Medicare and Medicaid.^{xx} Without PBMs in the marketplace, those organizations would be left to negotiate drug costs on their own or pay the full costs of these drugs.^{xxi} One economist estimates that without PBMs, employers and other plan sponsors would pay 40 percent more to undertake themselves the services currently provided by pharmacy benefit companies.^{xxii}

Plan sponsors should have the option of determining how they would like to pay the pharmacy benefit company they select for their services. Employers can choose "pass-through" contracting, in which the plan sponsor pays the PBM a fee as well as whatever the pharmacy charges, or "spread pricing." Today, 34% of employers choose "spread pricing,"^{xxiii} which is a risk-based contracting model in which employers choose to let the pharmacy benefit company hold the risk that plan participants may use more expensive pharmacies to fill their prescriptions. In exchange, the pharmacy benefit company may benefit when a patient uses a less expensive pharmacy, and takes a loss when they use costlier pharmacies. These spread pricing arrangements provide cost predictability to plan sponsors while the PBM bears the risk of pricing variability for prescription drugs. While larger employers may select pass-through contracts, as they have the scale to deal with the variability of pharmacy charges, smaller employers may choose spread contracts because of the pricing predictability and savings they derive. Spread pricing is not, as some other stakeholders have described, simply charging the pharmacy one rate and then marking up the price and charging the plan sponsor a higher rate for profit.

Plan sponsors currently hold all of the decision-making authority when it comes to designing and paying for pharmacy benefits, and they should continue to do so because no one understands their situation better. Because each is different and because they are managing increasing health care costs, they need flexibility to manage the careful balance between affordability of the benefit and affordable access to medications within their budget and for their unique population.

Patient cost sharing is an area worthy of careful consideration by plan sponsors because of its direct impact on affordability and access. Historically, PBMs have advocated for "lesser of" logic, in which patient cost-sharing is the lower of the pharmacy charge for the drug or the patient's cost sharing, and were pleased to see it implemented in Medicare Part D. PCMA also supported legislation preventing gag clauses from being inserted into contracts to ensure that pharmacists can always tell patients when the cash price of their drug is lower than their plan's cost sharing. Additionally, PBMs offer programs and tools to help patients find their drug at the best price available to them. Real-time benefit tools (RTBT) provide plan-specific cost sharing information for patients and tell them what their cost will be at different pharmacies. Some PBMs have implemented additional programs to ensure that a patient receives the lowest price available without having to do any research. Under these programs patients are automatically charged that lowest option when they reach the pharmacy counter.

Delinking Destroys the Link Between Performance and Payment

Recent proposals in Congress have suggested prohibiting PBMs from being compensated based on a drug's list price or utilization, thereby ending a pay-for-PBM-performance model that has effectively delivered savings to employers and plan sponsors for years. This drastic change in how PBMs work will cost employers, taxpayers, and patients exorbitantly – and will provide a massive financial windfall for drug companies who are able to avoid discounting their products, keeping what otherwise would be rebates as profit.

University of Chicago Professor of Economics Casey Mulligan published new research findings that argue that pay for performance is a well-proven economic tool. Specifically, the enactment of PBM “delinking” would:

- Significantly increase drug prices, reduce drug utilization, and redistribute billions of dollars annually from patients and taxpayers to pharmacy companies and drug manufacturers.
- Reduce the negotiated rebates and discounts PBMs pass to health plans to lower drug costs for patients and health plans, which could lead plans to raise premiums to finance drug benefits.
- Reduce insurance coverage and appropriate drug utilization as costs for patients rise.^{xxiv}

In addition to these substantial economic harms, delinking PBM compensation from a drug's list price singles out one supply and payment chain participant while all others continue to be paid based on that longstanding standard. Drug companies, wholesalers, pharmacies, and even physicians (in the case of physician-administered drugs) are compensated on a basis that ties back to the list price of a drug.

Drug rebates are used to lower drug costs. When a PBM is able to capitalize on a competitive drug market and negotiate higher rebates, that equates to lower drug costs for patients and plan sponsors. The ability to pay a differential for exceptional performance incents better performance. Preventing PBMs from being rewarded for doing a better job runs counter to the efforts made to shift the health care system toward paying for value. Some current policy proposals even seek to prevent compensation based on covered lives or processed claims, further exacerbating the problem by preventing not only the rewarding of exceptional effectiveness in negotiating lower drug costs but prohibiting rewards for efficiently processing high numbers of claims.

Throughout the U.S. economy people and businesses are incentivized to perform well through the opportunity to benefit from the effects of their labor. Delinking would work in a manner contrary to established economic principles known to produce better outcomes.

Pharmacy Benefit Companies Encourage Competition as the Best Way to Lower Prescription Drug Costs

Pharmacy benefit companies encourage use of the most affordable drugs for patients by providing prescribers with information about less expensive generic alternatives, setting performance standards for pharmacies to encourage generic fills and adherence, and ensuring patients are aware of lower-cost alternatives. Due in large part to these efforts by PBMs, 90 percent of prescriptions are filled with generics.^{xxv} Pharmacy benefit companies also support increased uptake of biosimilars by preferring both the brand and a biosimilar to ensure patients and providers have the incentive to choose lower-cost options and the choice to continue with a drug from which

they may be reluctant to switch. Toward that end, PCMA supports the Biosimilar Red Tape Elimination Act. Last year, PCMA released a policy statement on biosimilars reflective of industry's desire to ensure that biosimilar manufacturers encounter minimal abrasion as they seek to develop affordable biologics. The Biosimilar Red Tape Elimination Act would ameliorate several barriers to biosimilars' adoption including confusion, costs, and delays.

Pharmacy benefit companies offer plan sponsors several programs to keep out-of-pocket costs low and recommend formularies (lists of covered drugs) and cost-sharing incentives to encourage patients to use the most affordable drugs, which are usually generics. However, coverage decisions are ultimately decided by plan sponsors, and treatment decisions are made by physicians and their patients. Generic dispensing has grown over the past decade as more generics have entered the market and patients have responded to health plan designs encouraging their use.^{xxvi} PBMs also employ other tools designed to deliver high-quality drug benefits while bringing down costs.^{xxvii} For many brand drugs, PBMs negotiate directly with drug manufacturers, which compete for formulary placement by offering rebates.^{xxviii} For drugs on a preferred tier of a plan's formulary, patients typically have lower cost sharing.^{xxix} As competing products enter the market, PBMs gain the flexibility to leverage competitor products to negotiate deeper drug discounts for patients and employers.^{xxx}

To enhance competition and enable pharmacy benefit companies to further drive down drug costs, PCMA encourages policymakers to do the following:

1. **Stop patent abuse.** Addressing drug companies' abuses of the patent system that allow them to block competition by extending monopoly pricing well beyond their products' original patent expirations would increase access to lower-cost generics and go a long way toward reducing drug costs for patients and families.
2. **Reserve market exclusivities for true innovation.** Addressing overlong exclusivity periods for biologics and orphan indications will create more competition and lead to lower overall drug costs for patients.
3. **Ensure drugs can compete fairly.** Preventing practices like "shadow pricing" and abuses of the U.S. Food and Drug Administration's citizen petition process will improve the competitive market.
4. **Promote generic and biosimilar competition.** The most effective way to reduce prescription drug costs is to increase competition in the marketplace.

PBMs Support Meaningful, Actionable Transparency to Enhance Market Competition

For the system to work, employers and plan sponsors have to be empowered not only with choice, but with the information they need to make informed choices. At the beginning of the contracting process with the PBM, employers determine what information, disclosures, and audit rights they need. Our industry supports open, transparent exchange of useful information. Our companies comply with the many transparency and disclosure obligations in place at the state and federal levels. But we do not believe the government should dictate private contract terms between two businesses. Employers should make the call on what information they want to receive, and we need to be careful about mandating public disclosure of confidential information that will only invite drug companies to collude and raise drug costs.

Pharmacy benefit companies provide health plans, employer plan sponsors, and consumers with a broad array of accurate, actionable information on price and quality to make efficient purchasing

decisions. As part of their requests for proposals when putting their pharmacy benefits out to bid, PBMs' customers lay out the terms of the transparency and information they want to receive, as well as their audit rights, and those terms are formalized in their contracts.

Transparency that helps patients and payers is necessary across the entire prescription drug chain. Pharmacy benefit companies support and practice actionable transparency that empowers patients, their physicians, those sponsoring health coverage, and policymakers, so that each of these actors can make informed decisions that can lead to lower prescription drug costs. Actionable transparency encourages consumers to shop for coverage that best fits their health needs and budgets, and once covered, use the most cost-effective, highest-value health care goods and services. It enables prescribers and patients to avoid pharmacy-counter surprises and helps ensure that physicians can prescribe drugs that are affordable for patients.

To that end, pharmacy benefit companies provide patients and prescribers with RTBTs. The detailed cost sharing information found in these tools includes information on exactly where the patient is with respect to progressing through a deductible or another benefit phase, what drugs are on the patient's formulary, and, as noted above, exactly what cost sharing a patient should expect for a given drug at the pharmacy. PBMs also provide patients with information on in-network pharmacies, premiums, general cost-sharing, and benefits for their prescription drug coverage.

In recent years, Congress has added more requirements for PBMs to report to federal agencies, as well as public reporting in more aggregated form. In both cases, these laws included appropriate protections for confidential data to avoid facilitating tacit collusion, and PCMA supported that approach. We have also supported legislation that is now law, which provides congressional support agencies, including the Congressional Budget Office (CBO), Government Accountability Office (GAO), Medicare Payment Advisory Commission (MedPAC), and Medicaid and CHIP Payment and Access Commission (MACPAC), with access to Medicare and Medicaid claims-level data to ensure that Congress is able to perform appropriate oversight.

The PBM industry also supported legislation enacted in 2018 to empower pharmacists to share information with patients about lower out-of-pocket cost alternatives. As the committee considers the competitiveness of the PBM market, we encourage consideration of the administrative burdens that extensive, unharmonized, duplicative reporting requirements create for smaller PBMs. While larger PBMs may be able to adapt, smaller PBMs may find these new regulations overly burdensome or wholly unworkable, forcing them to either close their doors or consolidate, effectively reducing the competitive market for PBMs. It is also important to note that these added reporting burdens on top of the existing requirements could lead to higher costs for people taking prescription drugs.

As Dr. Joel Zinberg recently wrote, “[PBM] Reporting requirements may be counterproductive and reflect the interests of competitors rather than customers. Moreover, ‘the precise problems and how reporting might improve performance are unclear.’ Reporting requirements, coupled with audits to ensure compliance, will generate administrative costs that will inevitably be passed on to sponsors. More importantly, allowing some PBMs to learn what terms their competitors are offering could facilitate tacit collusion and reduce price competition in the concentrated PBM industry.”^{xxxix}

Utilization Management and Prior Authorization Are Important Tools for Plan Sponsors to Manage Cost While Ensuring Appropriate and Affordable Access for Patients to Prescription Drugs

PBMs work with those providing insurance to encourage patients through formulary design and cost-sharing incentives to use the most affordable drugs, which are usually generics. Generic dispensing has grown over the past decade as more generics have entered the market and patients have responded to health plan designs encouraging their use.^{xxxii} PBMs also employ other tools designed to deliver high-quality drug benefits while bringing down costs.^{xxxiii} As employers and plan sponsors design benefits for their plan participants, they may elect to employ utilization management tools such as prior authorization (PA) to evaluate provider requests for tests, treatments, and procedures against evidence-based guidelines to ensure that patients get appropriate care, at the right time, and in the right setting. Prior authorization programs protect patients and save money. Prior authorization is an important tool to ensure appropriate dispensing and administration of prescription drugs, helping plans assess risks to patients, and protecting against inappropriate utilization and waste.^{xxxiv}

The U.S. Federal Trade Commission and the National Academy of Sciences, Engineering and Medicine (NASEM) have noted cost savings associated with plan prior authorization programs; NASEM noted that without formulary controls, “insurance premiums would rise.”^{xxxv} Prior authorizations can help to reduce not only costs, but medical errors. Prior authorization is used by plan sponsors to improve clinical safety, decrease inappropriate utilization and waste,^{xxxvi} and help ensure appropriate use of high-risk and/or high-cost drugs. In the pharmacy benefit, prior authorization helps ensure the appropriateness of medication prescribed for patients and promotes the most cost-effective therapies.^{xxxvii} Plans and PBMs use prior authorization to:

- Evaluate prescriptions for drugs that are intended for certain age groups or conditions only;
- Ensure drugs used for both cosmetic or therapeutic reasons are being prescribed for therapeutic treatment;
- Monitor drugs that have potentially harmful side effects, dangerous interactions, or risks for abuse or misuse; or
- Alert patients, providers, and plans about drugs that are not covered by insurance but are deemed medically necessary by the prescriber or brand name drugs that have a more affordable generic equivalent.^{xxxviii}

Pharmacy Benefit Companies Support a Robust and Competitive Market for Pharmacies

The structure of a health plan’s provider and participating pharmacy network is among the most important elements of health benefit design. Working with their PBMs, plans exercise careful judgment to construct pharmacy networks that meet beneficiary needs, balancing breadth of coverage, access, quality, and cost-efficiency, often on a multi-jurisdictional basis.

There are many types of pharmacies – retail, specialty, hospital, clinic, home care, mail-order, compounding, and assisted living or long-term care. These pharmacies offer different levels of expertise and services to ensure patients are getting what they need to secure the best health outcomes. In fact, there are more than 60,000 retail pharmacies in the United States, including 23,000 independent community pharmacies. Health plans include a variety of sites of care in their pharmacy networks to promote access, affordability, and value. For example, the right mix of

brick-and-mortar retail, mail, and specialty pharmacies improves adherence to therapy and patient safety.

Pharmacists are skilled health care practitioners who are often more convenient to access than doctors in a hospital, private practice, or other clinical setting. To better contain drug costs and improve access to quality patient care, pharmacy benefit companies support laws and regulations that allow pharmacists to “practice at the top of their license,” based on their specific expertise. Pharmacy benefit companies continue to call on policymakers to enact legislation enabling pharmacists, where appropriate, to perform diagnostic testing, prescribe indicated medication, and administer vaccines to expand access to care, as proposed by the Equitable Community Access to Pharmacist Services Act, cosponsored by Representatives Carter, Harshbarger, Langworthy, and Burlison, and Delegate Norton.

Pharmacies large and small are important partners in delivering care to patients, and where a patient acquires a drug can impact its cost significantly. Pharmacy benefit companies negotiate with pharmacies to establish networks that support consumer choice while offering high quality care at competitive prices. Most pharmacy networks provide patients with a variety of options, allowing them to get the drugs they need where they need them. Policies that restrict pharmacy benefit companies’ ability to develop such networks drive costs up, while well-managed networks offer savings to both plan sponsors and enrollees.

A strong independent pharmacy marketplace is important in ensuring consumer access to health services and prescription drugs. In addition, pharmacy benefit companies need to ensure broad access to rural community pharmacies in order to remain competitive. PBMs would not be able to compete for the business of plan sponsors in rural areas if they did not include robust pharmacy access for their plan enrollees. In addition, both Medicare and TRICARE require explicit convenient access to pharmacies in urban, suburban, and rural areas.

It remains important that the independent pharmacy market remain stable and profitable, as it has over the last several years. Data from the National Council for Prescription Drug Programs (NCPDP) shows that over the last ten years, the number of independent retail pharmacies nationwide increased by 1,638 stores or 7.5 percent.^{xxxix} Over the last five years, the number of independent pharmacies has increased 0.5 percent, indicating a stable marketplace. In fact, independent pharmacies’ financials have also been stable. From 2016 to 2020, the average per-prescription gross profit margin for independent pharmacies ranged from 20.8 percent to 21.1 percent, showing little fluctuation.^{xi}

All pharmacies in a network negotiate contracts with the PBM acting on behalf of the plan sponsor, and these typically include performance measures to incentivize better patient service and quality in areas such as generic dispensing, adherence, and patient counseling. By leveraging the power of large pharmacy collectives to negotiate with pharmacy benefit companies on their behalf, independent pharmacies can secure favorable contract terms and, on average, higher reimbursements than chain drugstores.^{xii} PSAOs and PBMs also provide pharmacies with software, such as Pharmacy Quality Solutions’ Electronic Quality Improvement Platform for Plans and Pharmacies (EQuIPP), which allows pharmacies to access their contracted pharmacy measures, track their own performance against those measures, and compare benchmark measures of their contracts across plans and against other pharmacies.

Direct or Indirect Remuneration (DIR) is a term often used to describe payment reconciliations with pharmacies, but the term is specific to the Medicare Part D program. DIR covers both

manufacturer and pharmacy price concessions paid to either a Part D plan sponsor or its contracted PBM, and it includes DIR discounts, rebates, coupons, incentive payments, and other price concessions. On behalf of Part D plan sponsors, PBMs generally enter performance-based contracts with pharmacies under which PBMs design preferred networks that reward contracted pharmacies for helping patients take and stay on their medications. Beyond adherence, payment adjustments typically relate to performance and other value-based patient outcome measures.

Pharmacy DIR is not a retrospective "fee" assessed to pharmacies. Price reconciliations are based on the pharmacy's performance, in accordance with the contract.

Beginning on January 1, 2024, CMS requires that beneficiary cost-sharing in Part D be reduced to account for any pharmacy DIR adjustments. When the rule was proposed, CMS acknowledged that pharmacy reimbursement based on the lowest possible reimbursement would reduce direct pharmacy payments by about \$40 billion over the 2023–2033 period. Pharmacies submitted comments in support of this reduction. Under the new requirements, contracts between PBMs and pharmacies can continue to provide for performance-based payment adjustments, but they must now adhere to increased transparency requirements related to pharmacies' price concessions.

Understanding the Role of PSAOs Is Critical

In understanding how pharmacies contract with PBMs and plans, it is important to understand the role of PSAOs. PSAOs negotiate pharmacy network contracts with PBMs and perform fundamental back-office operations for pharmacies, leveraging their scale in the negotiations. The relationships between large wholesaler-owned PSAOs and independent pharmacies are complex and worthy of examination.

As noted earlier, the largest PSAOs are subsidiaries of the three largest wholesalers, which also typically operate the equivalent of networks of pharmacy franchises, providing branding, organizational support, and back-office support. The significant role large wholesalers play in the prescription drug supply chain and the often-symbiotic relationship wholesalers have with independent pharmacies is just beginning to be explored. Shining a light on this relationship is exposing potential areas of concern, underscoring the need for Congress to examine all players in the supply chain that have a direct impact on the price of prescription drugs. For example, the PSAO marketplace is dominated by the "Big Three" wholesalers, AmerisourceBergen, Cardinal Health, and McKesson. PSAOs operate with no state or federal regulation or oversight, and according to PBM reporting data, negotiate higher rates than PBMs typically pay non-independent retail and chain pharmacies. Approximately 83 percent of independent pharmacies use PSAOs to negotiate favorable contracts with pharmacy benefit companies.^{xlii}

Conclusion

Pharmacy benefit companies exist to reduce drug costs for plan sponsors and, most importantly, for the patients our companies serve. In doing this work, pharmacy benefit companies generate tremendous value for society, estimated at \$145 billion annually,^{xliii} and save plan sponsors and patients an average of \$1,040 per person per year.^{xliiv} Much of this value is generated by the savings pharmacy benefit companies negotiate with pharmaceutical manufacturers and pharmacies. Pharmacy benefit companies also lower prescription drug costs by promoting the use of generic medications, encouraging better pharmacy quality, and offering things like home delivery of medications. Through their work, pharmacy benefit companies lower the cost of health

coverage, reduce drug costs, and support better and more affordable prescription drug access for patients, which means more people can get on and stay on the medications they need. For many years, evidence has shown a return of 10:1 on investments in pharmacy benefit company services for their private sector and government partners.^{xiv} As a result, pharmacy benefit companies will lower the cost of health care by \$1 trillion over the next ten years.^{xvi}

On behalf of the industry, thank you for inviting me to testify. As I have indicated, PCMA welcomes the opportunity to further engage with the committee and looks forward to working collaboratively with Congress and other stakeholders to build on the existing private market framework to address prescription drug affordability challenges and improve functionality for patients.

ⁱ CEI. 2023. <https://cei.org/studies/a-free-market-solution-for-drug-distribution/>.

ⁱⁱ Department of Labor, Office of Inspector General. 2023. <https://www.oig.dol.gov/public/reports/oa/2023/03-23-001-04-431.pdf>.

ⁱⁱⁱ Visante. 2023. <https://www.pcmagnet.org/wp-content/uploads/2023/01/The-Return-on-Investment-ROI-on-PBM-Services-January-2023.pdf>.

^{iv} Commonwealth. 2022. <https://www.commonwealthfund.org/publications/issue-briefs/2022/jul/impact-pharmaceutical-wholesalers-drug-spending>.

^v Lilly. 2023. <https://investor.lilly.com/news-releases/news-release-details/lilly-cuts-insulin-prices-70-and-caps-patient-insulin-out-pocket>.

^{vi} Novo Nordisk. 2023. <https://www.novonordisk.com/news-and-media/latest-news/lowering-us-list-prices-of-several-products.html>.

^{vii} Sanofi. 2023. <https://www.sanofi.com/en/media-room/press-releases/2023/2023-03-16-20-06-43-2629188>.

^{viii} William B. Feldman, et al. 2020. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7042836/>.

^{ix} PCMA. 2023. <https://www.pcmagnet.org/wp-content/uploads/2023/04/Share-of-the-Drug-Dollar.pdf>.

^x Visante. 2023. <https://www.pcmagnet.org/wp-content/uploads/2023/01/The-Return-on-Investment-ROI-on-PBM-Services-January-2023.pdf>.

^{xi} OIG. 2019. [https://oig.hhs.gov/oei/reports/oei-03-19-](https://oig.hhs.gov/oei/reports/oei-03-19-00010.asp#:~:text=Although%20rebates%20substantially%20reduced%20the.in%202015%20than%20in%202011)

[00010.asp#:~:text=Although%20rebates%20substantially%20reduced%20the.in%202015%20than%20in%202011](https://oig.hhs.gov/oei/reports/oei-03-19-00010.asp#:~:text=Although%20rebates%20substantially%20reduced%20the.in%202015%20than%20in%202011).

^{xii} Brill. 2022. https://www.affordableprescriptiondrugs.org/app/uploads/2022/02/CAPD-Brill-Report_FINAL.pdf.

^{xiii} PCMA. 2022. https://www.pcmagnet.org/wp-content/uploads/2022/04/Price-Increases-Not-Correlated-with-Rebate-Changes_2016-20.pdf.

^{xiv} Mulligan. 2022. <https://www.nber.org/papers/w30231>.

^{xv} PCMA. 2021. <https://www.pcmagnet.org/wp-content/uploads/2021/04/PBM-Landscape-2021.pdf>.

^{xvi} PricewaterhouseCoopers. 2021. [Health and Well-being Touchstone Survey](https://www.pwc.com/us/en/healthcare/health-and-well-being/touchstone-survey).

^{xvii} PSG. 2022. Customer Satisfaction Report. <https://www.psgconsults.com/research>.

^{xviii} PCMA. The PBM Marketplace Is Highly Competitive. March 2019. <https://www.pcmagnet.org/wp-content/uploads/2019/04/Competitive-PBM-Marketplace.pdf>.

^{xix} PCMA. 2023. <https://www.pcmagnet.org/the-pbm-marketplace-is-more-competitive-not-less/>.

^{xx} Lawton Robert Burns. What History Tells Us About Your Prescription Costs and the New 'Bad Boys' of Health Care. 2023. <https://thehill.com/opinion/healthcare/3869127-what-history-tells-us-about-your-prescription-costs-and-the-new-bad-boys-of-health-care/>.

^{xxi} Mulligan. 2022. <https://www.nber.org/papers/w30231>.

^{xxii} Ibid.

^{xxiii} PSG. Trends in Drug Benefit Design Report. 2023. <https://www.psgconsults.com/research>.

^{xxiv} Mulligan. 2023. <https://www.nber.org/papers/w31667>.

^{xxv} AAM. 2021. <https://accessiblemeds.org/sites/default/files/2021-10/AAM-2021-US-Generic-Biosimilar-Medicines-Savings-Report-web.pdf>.

^{xxvii} Pharmacy Benefit Management Institute (PBMI). 2020. https://www.pcmagnet.org/wp-content/uploads/2021/01/Solving-America%E2%80%99s-High-Drug-Cost-Problem_whitepaper_FINAL2.pdf. PBMI. 2017. www.pbmi.com/research. PBMI. 2016.

^{xxviii} Foley Hoag. 2019. <https://foleyhoag.com/publications/ebooks-and-white-papers/2019/march/the-history-of-rebates-in-the-drug-supply-chain>.

^{xxix} CBO. 2020. <https://www.cbo.gov/system/files/2022-01/57050-Rx-Spending.pdf>.

^{xxx} Ibid.

^{xxxi} CEI. 2023. <https://cei.org/studies/a-free-market-solution-for-drug-distribution/>.

^{xxxii} U.S. Food and Drug Administration (FDA). Generic Drugs. February 5, 2021. <https://www.fda.gov/drugs/buying-using-medicine-safely/generic-drugs>.

^{xxxiii} Pharmacy Benefit Management Institute. Solving America's High Drug Cost Problem: Prevent Drug Company Tactics That Increase Costs and Undermine Clinical Quality. 2020. https://www.pcmagnet.org/wp-content/uploads/2021/01/Solving-America%E2%80%99s-High-Drug-Cost-Problem_whitepaper_FINAL2.pdf. Pharmacy Benefit Management Institute. 2017 Trends in Specialty Drug Benefits. 2017. www.pbmi.com/research. Pharmacy Benefit Management Institute. 2016 Trends in Drug Benefit Design. 2016. www.pbmi.com/research.

^{xxxiv} GoodRx. 2020. What Is Prior Authorization? A Look at the Process and Tips for Approval.

<https://www.goodrx.com/insurance/health-insurance/prior-authorization-what-you-need-to-know>. Visante. 2020. Increased Costs Associated with State Legislation Impacting PBM Tools. <https://www.pcmagnet.org/wp-content/uploads/2020/04/Visante-Study-on-the-Increased-Costs-Associated-With-State-Legislation-Impacting-PBM-Tools-April-2020.pdf>. PA Can Generate 50% Savings for Targeted Drugs or Categories (p. 8), and Multiple Studies Find Savings in PA Programs (p. 17). Visante. 2020.

<https://www.pcmamet.org/wp-content/uploads/2020/04/Visante-Study-on-the-Increased-Costs-Associated-With-State-Legislation-Impacting-PBM-Tools-April-2020.pdf>.

ⁱⁱⁱ Visante, p. 9.

^{iv} Jensen, P., MD (2011). Challenges and Opportunities Facing Medical Education. *Trans Am Clin Climatol Assoc.*, 122, 48–58. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3116346/#:~:text=It%20is%20estimated%20that%20the,0.2%20years%E2%80%94ust%2073%20days>.

^v Mikulic, M. (n.d.). Prescription Drug Expenditure in the U.S. Statista, 2023. <https://www.statista.com/statistics/184914/prescription-drug-expenditures-in-the-us-since-1960/>.

^{vi} Berry K. Prior Authorization. Presentation to Health Information Technology Advisory Committee Office of the National Coordinator for Health Information Technology. March 2019.

^{vii} Visante. 2020. <https://www.pcmamet.org/wp-content/uploads/2020/04/Visante-Study-on-the-Increased-Costs-Associated-With-State-Legislation-Impacting-PBM-Tools-April-2020.pdf>, p.9.

^{viii} Reporting on a Study of an EPA Initiative That Began in January 2020. AHIP. 2019. Presentation to the Health Information Technology Advisory Committee, Office of the National Coordinator for Health Information Technology. https://www.healthit.gov/sites/default/files/facas/2019-03-20_Public_and_Private_Payer_Perspective_AHIP_Kate_Berry.pdf.

^{ix} 2020 Electronic Prior Authorization Report. Cover My Meds, 2020.

https://assets.ctfassets.net/2in405srp47m/4uzia8m4YQy3mBplpyBuqF/9af9cefa63bba76566aa3e8595751e45/CMM_36664_ePAExecutiveSummary_Digital.pdf.

^x PCMA. 2023. Patient Care. <https://www.pcmamet.org/patient-care/>. *Journal of the American Pharmacists Association*. 2022. Evaluation of the Fact Prior Authorization Technology Highway. (The article indicates that there was a reduction in time to process PA requests due to using electronic PA (18 hours to 5.7 hours), and a drop in the number of phone calls and faxes it took to resolve the PA request.) <https://www.sciencedirect.com/science/article/abs/pii/S1544319122002394?dgcid=coauthor>.

^{xi} AHIP. 2022. Effective Gold Carding Programs Are Based on Evidence and Value for Patients.

https://www.ahip.org/documents/202207-AHIP_1P_Gold_Carding_Survey_Results.pdf.

^{xxxvi} Visante (citing PBMI). 2023. PBMs: Generating Savings for Plan Sponsors and Consumers. 2023, p. 19.

<https://www.pcmamet.org/wp-content/uploads/2023/01/Pharmacy-Benefit-Managers-PBMs-Generating-Savings-for-Plan-Sponsors-and-Consumers-January-2023.pdf>.

^{xxxvii} GoodRx. 2022. What Is Prior Authorization? A Look at the Process and Tips for Approval.

<https://www.goodrx.com/insurance/health-insurance/prior-authorization-what-you-need-to-know>.

^{xxxviii} *Ibid.*, Visante p. 8

^{xxxix} PCMA. 2023. <https://www.pcmamet.org/the-independent-pharmacy-marketplace-is-stable-2023/>.

^{xl} Drug Channels. 2022. <https://www.drugchannels.net/2022/02/five-things-to-know-about-state-of.html>.

^{xli} Health Evaluations. 2021. https://www.pcmamet.org/wp-content/uploads/2021/01/PSAO-Report_Health-Evaluations.pdf. See also Milliman. 2020.

https://cdn.ymaws.com/www.floridapharmacy.org/resource/resmgr/docs_2021_legislative_session/milliman_report.pdf; Ohio

Medicaid. 2018. <https://www.gongwer-oh.com/public/130/pbmedacted.pdf>; Ohio Department of Medicaid. 2019.

https://medicaid.ohio.gov/wps/wcm/connect/gov/2ef5a8b4-0f15-4ef4-8883-11fd6238e101/ODM-HDS-Summary.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_K9I401S01H7F40QBNJU3SO1F56-2ef5a8b4-0f15-4ef4-8883-11fd6238e101-nAkMJJ4.

^{xlii} Health Evaluations. 2021. https://www.pcmamet.org/wp-content/uploads/2021/01/PSAO-Report_Health-Evaluations.pdf.

^{xliii} Casey Mulligan. 2022. <https://www.nber.org/papers/w30231>.

^{xliv} Visante. 2023. <https://www.pcmamet.org/wp-content/uploads/2023/01/Pharmacy-Benefit-Managers-PBMs-Generating-Savings-for-Plan-Sponsors-and-Consumers-January-2023.pdf>.

^{xlv} Visante. 2023. <https://www.pcmamet.org/wp-content/uploads/2023/01/The-Return-on-Investment-ROI-on-PBM-Services-January-2023.pdf>.

^{xlvi} *ibid.*