



October 26, 2023

The Honorable Ron Wyden
Chairman, Senate Finance Committee
United States Senate
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member, Senate Finance Committee
United States Senate
Washington, DC 20510

Dear Chairman Wyden and Ranking Member Crapo:

On behalf of the American College of Physicians (ACP), I am writing to share our support for S. 2973, the Modernizing and Ensuring PBM Accountability (MEPA) Act, and to offer recommendations for improving transparency, accountability, and competition in pharmacy benefit manager (PBM) practices to reduce the price of prescription drugs for our patients.

ACP is the largest medical specialty organization and the second largest physician membership society in the United States. ACP members include 161,000 internal medicine physicians, related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge, clinical expertise, and compassion to the preventive, diagnostic, and therapeutic care of adults across the spectrum from health to complex illness.

Prices of prescription drugs have [increased](#) by more than 10 percent per year for each of the top 20 brand-name drugs prescribed to seniors, and PBMs negotiate rebates from those higher prices. Increased transparency is needed on the part of PBMs and health plans to provide greater understanding of drug prices, help patients make informed decisions, and support a more sustainable health care system. PBMs need greater transparency in order to reduce confusion about how they work and make decisions about formularies and the amount of money they take in and the savings actually passed on to consumers.

We support your efforts to improve transparency regarding the business practices of PBMs including how they determine the price and cost of prescription drugs. The MEPA Act would set out new requirements for PBMs to annually report drug prices and other information to Part D plan sponsors and to the Secretary of Health and Human Services (HHS). PBMs would be required to include information related to several categories, such as information related to covered Part D drugs, drug dispensing, drug costs and pricing, generic and biosimilar formulary placement, PBM affiliates, financial arrangements with consultants, and potential PBM conflicts of interest.

S. 2973 would also require PBMs or their affiliates to provide Part D plans with a written explanation of contracts or arrangements with a drug manufacturer (or affiliate) that makes rebates, discounts, payments, or other financial incentives related the drug manufacturer's drug(s) contingent upon coverage, formulary placement, or utilization management conditions on other prescription drugs.

ACP supports the availability of accurate, understandable, and actionable information on the price of prescription medication. ACP urges health plans to make this information available to physicians and patients at the point of prescribing to facilitate informed decision making about clinically appropriate and cost-conscious care.

We favor measures to increase transparency and data collection regarding vertical integration and consolidation in the health care industry. Importantly, S. 2973 would require the HHS Office of Inspector General (OIG) to investigate the impact of vertical integration between Part D plans, PBMs, and pharmacies including effects on beneficiary out-of-pocket costs and Medicare spending under the Part D program. The OIG must submit a report with its findings to Congress within a specified timeframe.

ACP [policy](#) also urges more stringent oversight of PBM mergers/acquisitions. The consolidation of the PBM market raises concerns about potential antitrust issues and has been shown to [increase prices](#) for patients. Although many smaller regional PBMs exist, the large national PBMs that take up the vast majority of the market share continue to wield leverage with pharmaceutical companies. As consolidation continues, agreements between PBMs, insurers and other entities should undergo strict review for both antitrust implications and effects on other aspects of drug supply chain, such as generic and biosimilar market entry.

We urge you to include S. 652, the *Safe Step Act of 2023*, as part of any legislative effort to reform PBMs. This legislation would amend the Employee Retirement Income Security Act 3 (ERISA) to require group health plans to provide an exception process for the administering of prescription drugs in their step therapy protocols. While the *Safe Step Act* does not ban step therapy protocols, it places reasonable limits on their use and creates a clear process for patients and doctors to seek exceptions to the step therapy requirements and accelerates approval, when necessary, for needed medications. Patients and their physicians would benefit greatly from requiring insurers to implement a clear and transparent process for when either party requests an exception to a step therapy protocol. We are pleased that this Senate HELP Committee included S. 652 in their version of PBM reform legislation earlier this year and urge you to include it in a final PBM reform bill.

S.652 is necessary because PBMs and group health insurers have developed a series of price management tools to curb the rising cost of prescription drugs that can delay and potentially hinder patient care. Among these, step therapy policies, commonly called "fail-first" policies, require patients to be initiated on lower priced medications before being approved for originally prescribed medications. Carriers can also change coverage in an attempt to force

patients off their current therapies for cost reasons, a practice known as nonmedical drug switching.

We urge you to continue to advance reforms to improve transparency and increase accountability in the PBM industry. Should you have any questions regarding this letter, please do not hesitate to contact Brian Buckley, Senior Associate Legislative Affairs, at bbuckley@acponline.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Omar Atiq". The signature is written in a cursive, slightly slanted style.

Omar T. Atiq, MD, MACP
President