Statement of the
American College of Physicians
to the U.S. Energy and Commerce Health Subcommittee Hearing
on
"An Examination of How Reining in PBMs Will Drive Competition and Lower Costs for Patients"
February 26, 2025

The American College of Physicians (ACP) is pleased to provide comments in response to the House Energy and Commerce Health Subcommittee's hearing on "*An Examination of How Reining in PBMs Will Drive Competition and Lower Costs for Patients*." We thank Chairman Carter and Ranking Member DeGette for holding this hearing to explore bipartisan policies that would drive down the rising costs of prescription drugs for patients by examining Pharmacy Benefit Managers (PBMs) business practices. With the continued rise in costs of prescription drugs, patients and physicians need reliable and timely information on medication pricing so that they can ensure patients' access to treatment. Our recommendations, outlined below, are consistent with ACP's policy to increase the accessibility and affordability of prescription drugs. These policy solutions include improving price transparency practices in PBMs and providing more oversight of PBM mergers and acquisitions to promote market competition.

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. Additionally, internal medicine is the specialty with the largest number of active physicians specializing in primary care, with 120,342 internal medicine physicians being identified as specializing in primary care in 2021.

Lower the Costs of Prescription Drugs by Reforming PBMs

PBMs administer prescription drug coverage for more than 266 million Americans in private and public health plans, making them the principal purchasers of prescription drugs in the United States. While they are supposed to help make prescription drugs more affordable, the reality is that prescription drug prices continue to rise. Prescription drug prices have increased by more than 10 percent per year for each of the top 20 brand-name drugs prescribed to American seniors, and PBMs negotiate rebates from those higher prices.

As outlined in an ACP policy position paper on the costs of prescription drugs, the U.S. spends more on prescription drugs than other high-income countries, with average annual spending of $1,443 per

capita on pharmaceutical drugs and $1,026 per capita on retail prescription drugs. As physicians, we utilize prescription drugs as fundamental tools in patient care, helping us to improve health outcomes. Unfortunately, we have seen firsthand how high prescription drug prices can hinder access to life-saving treatments for our patients. Patients face difficult decisions on whether to spend their money on prescription drugs or pay for other necessities such as groceries, utilities, transportation, etc. Many find themselves resorting to cutting back and/or skipping doses of their medications, which can lead to serious health complications. It is estimated that medication non-adherence results in increased hospitalization and mortality rates and costs the U.S. health care system anywhere from $100-$300 billion a year.

As a country, we cannot continue to go down this costly trajectory. We need sound policy solutions to prevent unjustified drug pricing increases to protect patients' access to care. Legislation is needed to address the lack of transparency and accountability with PBMs. The contracts negotiated between health plans and PBMs, which include fees and shares of rebates, are all kept confidential. ACP supports policies that would ensure that the rebates and other savings that PBMs claim to negotiate are really being used to help lower prescription drug costs for patients. Further, we need more clarity on how PBMs determine the price and cost of prescription drugs.

ACP has written several letters and statements in support legislation to drive down the costs of prescription drugs, several of which focus on PBM reform. We remain steadfast in our commitment to supporting legislation that will improve transparency, accountability and competition regarding the business practices of PBMs. We have supported several pieces of legislation in the last Congress that would have reformed PBMs, and we urge the Energy and Commerce Health Subcommittee to bring forth these bipartisan policy solutions in the 119th Congress.

Support for The Lower Costs, More Transparency Act

ACP supports pricing transparency by health care organizations. We supported the passage of the Lower Costs, More Transparency Act, which passed the House in the 118th Congress. We support its reintroduction and passage in this Congress. The legislation contains price publication requirements for PBMs, as well as for hospitals, ambulatory surgical centers, imaging services, clinical laboratories, and health insurers. With respect to PBMs, the legislation requires PBMs to semi-annually provide employers with detailed data on prescription drug spending, including the acquisition cost of drugs, total out-of-pocket spending, formulary placement rationale, and aggregate rebate information. ACP supports transparency of reliable and valid price information, expected out-of-pocket costs, and quality data that allows consumers, physicians, payers, and other stakeholders to compare and assess medical services and products in a meaningful way. Health plans and health care facilities should clearly communicate to a consumer whether a provider or clinician is in-network or out-of-network and the estimated out-of-pocket payment responsibilities of the consumer. In our letter of support, we recommended that payers, plans, and other health care organizations develop patient-targeted health care value decision-making tools that are written for patients at all levels of health literacy that make

price, estimated out-of-pocket cost, and quality data available to consumers. This information should be communicated in an easy-to-understand way.

ACP policy also supports transparency in the pricing, cost, and comparative value of all pharmaceutical products. Therefore, we advocate for improved transparency, standards, and guidelines for PBMs, including a ban on "gag clauses." PBMs are for-profit companies that act as intermediaries for health insurers, self-insured employers, union health plans, Medicare Part D prescription drug benefit plans, and government purchasers in the selection, purchase, and distribution of pharmaceutical products for more than half the U.S. population. ACP believes 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.

The continued lack of transparency from PBMs and insurers can hinder how patients, physicians, and others view the drug supply chain and can make it difficult to identify whether a particular entity is inappropriately driving up drug prices. This lack of transparency can also prevent viable policy solutions from being identified and further delay reforms that would help to rein in spending on prescription drugs. ACP believes health plans, PBMs, and pharmaceutical manufacturers should report the amount paid for prescription drugs, aggregate number of rebates, and nonproprietary pricing information to HHS and make it publicly available. Any disclosure mandate should be structured in a way that deidentifies negotiated rebates with specific companies and protects confidential information that could be considered trade secrets or could have the effect of increasing prices.

Support for Oversight of PBMs Mergers and Acquisitions

ACP policy urges more stringent oversight of PBM mergers and 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 much of the market share continue to wield leverage with pharmaceutical companies. While approximately 60 PBMs operate in the United States, consolidation has resulted in three of them (CVS Caremark, OptumRx, and Express Scripts) representing as much as 85 percent of the market share. As the market continues to consolidate, companies like Amazon are becoming market disrupters by selling prescription drugs and medical devices directly to consumers, in the belief that eliminating the middleman will result in cost savings. Some insurance companies have decided to end their relationship with PBMs indefinitely and create their own in-house PBMs. For example, Anthem ended its relationship with Express Scripts and developed its own pharmacy benefit management arm, called IngenioRx.

In the U.S. pharmaceutical market, where competition and consumer choice should be cornerstones of a healthy market system, consolidation that limits these factors can create scenarios in which PBMs are not motivated to bargain with manufacturers to keep drug costs down. In addition, PBMs have been criticized for "clawbacks," which occur when patient copayments or coinsurance are set at a rate that is higher than the acquisition cost of the drug for the insurer. A study published by JAMA showed that in 2013, patients overpaid for their prescriptions by at least $2.00 twenty-three percent of the time,

with an average overpayment of $7.69 and total overpayments of $135 million. With the increased visibility and criticism of PBMs, lawsuits, including class action lawsuits, have been filed against PBMs claiming illegal pricing schemes, violations of anti-kickback statutes, and other misconduct. As consolidation continues, agreements between PBMs, insurers and other entities should undergo strict review for both antitrust implications and effects on other aspects of the drug supply chain, such as generic and biosimilar market entry.

Support for The Modernizing and Ensuring PBM Accountability (MEPA) Act

ACP supports the Modernizing and Ensuring PBM Accountability (MEPA) Act, which 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 HHS. The legislation would require PBMs 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.

The MEPA Act would 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. We urge 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.

Further, we favor measures to increase transparency and data collection regarding vertical integration and consolidation in the health care industry. Importantly, the MEPA Act requires the HHS Office of Inspector General (OIG) to investigate the effect 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 would be required to submit a report with its findings to Congress within a specified timeframe.

Conclusion

ACP commends the Energy and Commerce Health Subcommittee for its commitment to driving down the costs of prescription drugs in this country. We urge you to continue to work together in a bipartisan manner to advance reforms to improve transparency, increase accountability and market competition in the PBM industry in order to lower prescription drug costs. If you have any further questions or if you need additional information from ACP, please contact Vy Oxman at 202-261-4515 (voxman@acponline.org).