Pharmacy benefit managers (PBMs) are corporate middlemen contractors between plan sponsors, pharmacies and patients. However, PBMs are neither regulated nor transparent. They make large profits by steering patients to the drugs on which they make the most money on manufacturer rebates, and often hide these profits from plan sponsors, increasing drug costs for patients and plans.

Unchecked Pharmacy Benefit Managers’ (PBMs) Practices Hurt Patients: In the name of cost savings, PBMs use tools that drive patients from their local pharmacies to PBM owned pharmacies, denying them choice. PBMs make large profits on the drugs they dispense through steering patients to their own pharmacies, which drive costs higher and is contrary to their original stated mission.

Pharmacy Negotiations Can Provide Leverage: Independent community pharmacists can join buying groups, called Pharmacy Services Administration Organization (PSAO), to negotiate the purchase price of prescription medications. However, through an irony of antitrust law, small independent community pharmacists cannot work together to negotiate with the PBMs for fair contract terms for their services.

The intent of antitrust law is to prevent monopolies and near-monopolies, which dominate an industry by holding all the bargaining power. An exemption in antitrust law, if granted, would protect the interests of small pharmacies and the patients they serve against the combined-and overwhelming bargaining power of PBMs and prescription drug plans. A recent GAO report on PSAOs, The Number, Role, and Ownership of Pharmacy Services Administrative Organizations (GAO-13-176), further confirms the lack of leverage that these groups have when negotiating contracts with the giant PBMs and the need for this legislation. The report found that “PSAO’s ability to negotiate reimbursement rates has also decreased over time. Over half of the PSAOs we spoke with reported having little success in modifying certain contract terms as a result of negotiations. This may be due to PBMs’ use of standard contract terms and the dominant market share of the largest PBMs. Many PBM contracts contain standard terms and conditions that are largely nonnegotiable.”

Legislation:
- Allows independent pharmacies representing less than 10% market share of a prescription drug plan region, to approach the leverage that much larger chain pharmacies have when negotiating their third-party contracts. By allowing a narrow exemption to antitrust law, this bill levels the playing field.
- Only allows independents to form negotiating entities representing no larger than 25% of all retail pharmacies in a Medicare Part D prescription drug plan region.
- Includes a sunset clause of 5 years.
- Mandates a GAO study to be issued 6 months before sunset to examine the law’s impact.

Thank you for your support of community pharmacy!
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