

## FROM THE NAIC CONSUMER REPRESENTATIVES

December 1, 2025

To: Joylynn Fix, Chair, Pharmacy Benefit Management (D) Working Group

RE: Consumer Representatives' Comments on "Draft Pharmacy Benefit Manager Licensure and Regulation Guidelines for Regulators"

On behalf of the undersigned Consumer Representatives to the National Association of Insurance Commissioners (NAIC), we write to voice our strong support of the draft "**Pharmacy Benefit Manager Licensure and Regulation Guidelines for Regulators**" document that has been proposed by the Pharmacy Benefit Management (D) Working Group. After consideration of the suggested changes that we are proposing, along with others, we support its adoption.

After urging the NAIC to address the issue of licensure and regulation of Pharmaceutical Benefit Managers (PBMs) for several years, we are pleased that the NAIC has moved forward with these comprehensive PBM licensure and regulation guidelines, as was recommended in the NAIC PBM White Paper. States that are regulating PBMs, which are almost all by now, will find them useful as they seek to carry out their state laws. It will also be helpful for the regulated entities to have consistent definitions, requirements and data requests across the states. PBMs have a profound impact on prescription drug access and affordability, and increased regulation is needed due to this impact and the opaqueness of their operations, which until now has gone largely unregulated.

We do have a couple of suggestions that we urge you to adopt as you consider the draft:

- 1) In order to increase clarity in the **Licensing Requirement** section, we propose adding the words "the aggregate amount of all" in **Section 5G(3)** so that it reads: "Report **the aggregate amount of all** rebates and other payments received in the preceding year from pharmaceutical manufacturers, for each health plan with which the pharmacy benefit manager is contracted, using a form or process prescribed by the commissioner."
- 2) We recommend PBMs also disclose ownership relationships within the health care ecosystem, such as specialty pharmacies, in order to bring more transparency to practices like pharmacy-steering and to shine a light on favorable terms PBM-owned entities might receive relative to other entities.
- 3) To ensure compliance with the court ruling regarding accumulator adjustment programs, we propose adding "or on behalf of" after "paid by" in **Gag Clauses and Other Pharmacy Benefit Manager Prohibited Practices Section 6E(2)** "Any amount paid by **or on behalf of a** covered person under this subsection shall be attributable toward any deductible or, to the extent consistent with section 2707 of the Public Health Service Act, the annual out-of-pocket maximums under the covered person's health benefit plan."
- 4) While collection of utilization management data may fall outside the scope of this document, we think it is important to have more transparency around certain practices that are clearly

driven by rebates. For example, one of the Congressional PBM reform proposals would require PBMs to disclose when they require an enrollee to step through a higher list price reference product before accessing a lower price biosimilar or generic.

We thank you for your consideration of these suggested edits and look forward to providing continued consumer perspectives as this important work moves forward.

If you have any questions or comments, please feel free to contact Carl Schmid, HIV+Hepatitis Policy Institute at [cschmid@hivhep.org](mailto:cschmid@hivhep.org).

Thank you very much.

Sincerely,

Theresa Alban  
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