

January 30, 2026

Ms. Jolie Matthews

Submitted via electronic mail: jmatthews@naic.org

RE: NAIC Pharmacy Benefit Management (D) Working Group Draft Pharmacy Benefit Manager (PBM) Examination Standards

Dear Ms. Matthews:

The National Community Pharmacists Association (NCPA) appreciates the opportunity to share feedback to the Pharmacy Benefit Licensure and Regulation Guidelines for Regulators. We believe this drafting process is a potential watershed moment in our more than twenty-year history of advocating regulation, oversight, and enforcement of PBMs in defense of our members in the face of egregious PBM business practices. NCPA represents the interest of America's community pharmacists, including the owners of more than 18,900 independent community pharmacies across the United States.

NCPA commends the PBM Working Group and NAIC staff for their initial effort to draft standards to examine PBMs. Our starting position is to be highly supportive of the draft. We offer feedback below on select standards pertaining to the relationship between PBMs and pharmacies. We offer the perspective as refinement to an excellent first draft. That said, a critical element that is missing and applicable to all standards is the need to enforce regulation and to have consequences for PBMs not meeting these standards. For this, we share again our Best Practice for PBM Regulation Enforcement.

As relates to Qualifications of Examiners per chapter 14 of the Market Regulation Handbook, NCPA believes special attention is merited for the examiners of PBMs. We strongly recommend that being a pharmacist with independent retail experience be considered an essential qualification for those examining PBMs. Pharmacists are uniquely qualified to understand pharmacy operations, the relationship and dynamics between PBMs and pharmacies, and the impact of policy on patient care.

NCPA appreciates Standard #3 pertaining to pricing and methodologies and effective rate reconciliation and offers perspective for potential enhancement. The standard should expect PBMs to detail how the rate is calculated to the pharmacy. A pharmacy should always be able to find out what the contracted effective rate is, what plans are covered by the effective rate contract, and what the pharmacy's current effective rate calculation is. Is the pharmacy owed money? Does the pharmacy owe money? The standard should hold PBMs responsible for reimbursing pharmacies within a margin of error. There is no reason for claims to be paid in drastically different amounts from month to month or for a PBM to claim that they reimbursed a pharmacy incorrectly six months later. As our members believe effective rate true-ups should take place quarterly, we encourage the standard to include such a timeline.

NCPA strongly supports Standard #4 concerning transparency and enabling a pharmacy to understand the dispensing fee amount for each claim. We appreciate the attention to detail in the draft's proposed review of procedures and criteria. We urge the inclusion of evaluation criteria that a dispensing fee at least resembles a pharmacy's cost to dispense per the state's Medicaid fee-for-service program, which is a data-driven figure associated with the cost of operating a pharmacy. Nominal dispensing fees reflect the potential that medicines are not being dispensed to patients that need them (especially in states where pharmacists are authorized to decline to dispense medications when reimbursed below cost) and are likely to create patient access issues. We strongly support the draft standard's recognition that PBMs should not favor affiliated pharmacies over non-affiliated pharmacies.

In Standard #3 between PBMs and pharmacies pertaining to dispute resolution, we urge the Working Group to consider the importance of implementing the resolved complaint to all similarly situated claims from other pharmacies. We also recommend addressing anti-retaliation measures. Pharmacies regularly receive audits and other punitive measures after submitting complaints. We believe examiners should engage this standard with a keen understanding of this reality and incorporate an expectation against retaliation into the standard.

NCPA strongly supports Standard #1 pertaining to Pharmacy Claims. Drafters are correct in citing how regulators are challenged to get claims data. Drafters are also correct to seek documentation to demonstrate PBMs are providing sufficient information about their claims payment methodology. Drafters are asking all the right questions in Standard #1. NCPA's feedback is there needs to be greater clarity about enforcement and specificity about consequences when this standard is not met.

NCPA supports the Standards pertaining to network adequacy, offering perspective on Standard #2. We support the drafter's contemplation of how to receive the information in a format that is helpful for the regulator (as in a spreadsheet) rather than letting the PBM choose the format. We also urge caution against relying on state maps or geo-mapping of pharmacy locations. For example, PBMs regularly cherry pick data to suggest there are more independent pharmacies than there are by using NCPDP data that can be duplicative with multiple NPIs at one location. We recommend including a standardized methodology for any mapping or geo-mapping PBMs may be asked to provide.

Drafters are also asking the right questions in Standard #2 for network adequacy related to pharmacy reimbursement. NCPA particularly supports the consistent application of reimbursement levels among all pharmacies in each network and the expectation for clarity about the professional dispensing fee for each network. Drafters are correct to help examiners identify networks comprised solely of affiliated pharmacies and/or mail order pharmacies and to understand if there are differing reimbursement rates. For additional consideration in the standards related to network adequacy, what are the PBM policies for terminating a pharmacy from a network? What are the parameters for a pharmacy seeking to be readmitted?

We appreciate Standard #3 pertaining to a reasonable and easily accessible dispute resolution process. We urge the inclusion of the expectation that resolutions in favor of a pharmacy be applied to all similarly

situated claims at other pharmacies. We also urge inclusion of language addressing PBM retaliation, such as punitive audits. The retaliation concern applies to many other standards as well, especially Standard #4 related to complaints, grievances, and appeals.

NCPA supports the Standards for complaints, grievances, and appeals. That said, we urge the standards to include greater detail about the register for documenting complaints, grievances, and appeals. We urge the NAIC to standardize a PBM complaint form accordingly (and appreciate the steps taken to date) such that complaint information can be aggregated, studied, and acted upon. PBMs' egregious business practices cross state lines and this obfuscation is used to their advantage at the expense of pharmacies and patients.

We also support the Standard related to pharmacy audit practices and offer additional perspective. We believe the standard should include expectation that PBMs allow pharmacies to withdraw and resubmit claims within a certain number of days after a preliminary audit is delivered. While state law may or may not address extrapolation, we believe the standard should set an expectation that extrapolation should not be used as an auditing technique. We support the drafter's concept that information be collected in a format that is helpful to regulators rather than letting the PBM send information in its own format.

We also urge the Standard to address recoupment. In addition to asking about the dollar amounts in an audit, there should be information provided regarding how dollars are recouped. Does the PBM expect a check? Or do they withhold payment until audit results are satisfied? If payment is withheld, is it the entire payment? Recoupments as a percentage of each payment such that the pharmacy still has some cash for operations? More broadly, who and how are the recoupments determined? What are the PBM policies regarding recoupment commissions?

Finally, we appreciate careful language about identifying trends about which pharmacies are selected for audits. As shared previously in our comments, PBMs wield audits as a threat and often deploy them in retaliation to a pharmacy voicing concerns or submitting complaints. As such, we believe predatory and retaliatory audits should be specifically called out in the Standard.

Thank you again for the opportunity to provide feedback on these draft Standards. While we have focused on the Standards for the relationship between PBMs and pharmacies, we also appreciate the other draft standards, most notably the use of spread pricing. If you have any questions, please don't hesitate to contact me at joel.kurzman@ncpa.org or (703) 600-1186. Thank you.

Respectfully,



Joel Kurzman
Director, State Government Affairs