



2023

INDEPENDENT COMMUNITY PHARMACY LEGISLATIVE PRIORITIES

NCPA's Senate Legislative Agenda

Pro-Patient, Pro-Pharmacist

Comprehensive PBM reform in Medicare Part D and Medicaid managed care

The Senate Finance Committee advanced two bipartisan PBM reform packages in 2023 under the leadership of Chairman Ron Wyden (D-Ore.) and Ranking Member Mike Crapo (R-Idaho). S. 2973, the *Modernizing and Ensuring PBM Accountability (MEPA) Act*, which was advanced in July 2023, brings transparency to PBMs and their influence on drug prices, while reining in anticompetitive PBM practices in Medicare Part D and Medicaid managed care. The bill also delinks PBM compensation from the cost of medications, ensuring PBMs no longer benefit from increasing list prices and rebates. Key NCPA priorities included are:

- S. 1038, the *Drug Price Transparency in Medicaid Act*, introduced by Sens. Peter Welch (D-Vt.) and Roger Marshall (R-Kan.), which prohibits the use of spread pricing in Medicaid managed care programs and would move to a fair and transparent pharmacy reimbursement system based on average acquisition costs plus the state's Medicaid fee-for-service dispensing fee. It requires all pharmacies to respond to the National Average Drug Acquisition Costs (NADAC) survey.
- S. 2052, the *Protect Patients Access to Pharmacies Act*, introduced by Sens. Jon Tester (D-Mont.), Shelley Moore Capito (R-W.Va.), Sherrod Brown (D-Ohio), and James Lankford (R-Okla.), which requires standardized pharmacy performance measures and greater claim-level transparency in Medicare Part D.
- S. 2405, the *Strengthening Pharmacy Access for Seniors Act*, introduced by Sens. John Thune (R-S.D.), Sherrod Brown (D-Ohio), John Barrasso (R-Wyo.), and Debbie Stabenow (D-Mich.), which requires PBMs to disclose criteria used to classify specialty drugs and prevents patient steering to PBM-affiliated specialty pharmacies in Medicare Part D.

In November, the committee advanced S. 3430 the *Better Mental Health Care, Lower-Cost Drugs, and Extenders Act*. The legislation further reins in harmful PBM practices in Medicare Part D while recognizing the need to protect essential pharmacies. The "essential retail pharmacies" designation it establishes would require preferred networks to include up to 80 percent of independent pharmacies in medically underserved areas and create a mandatory reimbursement floor. The legislation also creates a new NADAC and reporting requirement specific to PBM-affiliated mail-order and specialty pharmacies. A top NCPA priority included is:

- S. 2436, the *Neighborhood Options for Patients Buying Medicines (NO PBMs) Act*, introduced by Sens. Joe Manchin (D-W.Va.) and Marsha Blackburn (R-Tenn.), which requires CMS to define and enforce "reasonable and relevant" Medicare Part D contract terms. It also would create a process for pharmacies to report contract violations and give CMS tools to oversee and enforce reasonable and relevant contract requirements.

PBM transparency for plan sponsors and consumers

S. 127, the *Pharmacy Benefit Manager Transparency Act*, would increase drug pricing transparency for employers and plan sponsors and hold PBMs accountable for anticompetitive practices that drive up the costs of prescription drugs at the expense of consumers. The legislation, sponsored by Sens. Maria Cantwell (D-Wash.) and Chuck Grassley (R-Iowa), would ban deceptive, unfair pricing schemes; prohibit spread pricing and arbitrary clawbacks of payments made to pharmacies; and require PBMs to report to the Federal Trade Commission (FTC) how much money they make through spread pricing and pharmacy fees. The legislation also clarifies the enforcement authority of the FTC and state attorneys general to prohibit unfair or deceptive business practices that PBM-insurers use against community pharmacies.



Founded in 1898, the National Community Pharmacists Association is the voice for the community pharmacist, representing over 19,400 pharmacies that employ more than 230,000 individuals nationwide. Community pharmacies are rooted in the communities where they are located and are among America's most accessible health care providers. For more information visit [ncpa.org](https://www.ncpa.org).