

The Patients Before Monopolies (PBM) Act

Sen. Warren, Sen. Hawley, Rep. Harshbarger, and Rep. Auchincloss

Over the past decade, pharmacy benefit managers (PBMs) – once little-known middlemen – have morphed into giant, vertically-integrated health care conglomerates that exercise control over nearly every link in the drug coverage and delivery chain. Today, the three largest PBMs – CVS Caremark, Express Scripts, and Optum Rx – [manage 80% of prescription drug claims](#). These PBMs are each owned by a [parent company](#)—CVS Health, Cigna, and UnitedHealth Group, respectively—that also owns one of the [five largest health insurers](#) and a massive retail, mail-order, and/or specialty pharmacy chain.

These health care giants have successfully manipulated the drug delivery chain to enrich themselves and squash competition. This is particularly concerning when the same parent company owns a PBM – the entity that determines coverage, sets rates, and pays for pharmacy services – and the pharmacy that provides those services. According to [two recent](#) Federal Trade Commission (FTC) investigations, the largest PBMs have exploited this market advantage to funnel prescriptions to their affiliated pharmacy chains, while using anti-competitive tactics to sideline competing pharmacies. This has contributed to the closure of [more than 3,700](#) independent pharmacies since 2019 – and [almost three](#) closures per day in the first quarter of 2025 – many of which serve rural and underserved areas. Meanwhile, federal and state audits have revealed that the largest PBMs, which are integrated with the largest health insurers, massively overpay their affiliated pharmacy chains – with markups in some cases as high as [38,000 percent](#) on expensive, specialty drugs, raising costs for patients, employers and taxpayers.

The Patients Before Monopolies (PBM) Act will address this unacceptable conflict of interest, which allows corporate giants to put profits over the interests of patients, taxpayers, employers, and independent pharmacies. The legislation will:

- Prohibit a parent company of a PBM or an insurer from owning a pharmacy business;
- Require that a parent company in violation of the PBM Act divest its pharmacy business within one year of the bill's enactment;
- Create automatic penalties if a company fails to divest in a timely manner, including disgorgement of profits and forced sales of assets in the event of noncompliance;
- Enable the FTC, Department of Health and Human Services, Antitrust Division of the Department of Justice, and state attorneys general to bring lawsuits requiring violators of the PBM Act to divest their pharmacy business and disgorge any revenue received during the period of such violation;
- Enable private parties, including independent pharmacists, to bring lawsuits against violators of the bill, and secure treble damages in successful lawsuits;
- Direct the FTC to distribute any revenue raised by penalties to harmed communities, including consumers overcharged at vertically integrated pharmacies; and
- Allow the FTC and DOJ to review and block future actions that would recreate the anticompetitive conditions addressed by the bill or harm the public interest.

There is clear precedent for government prohibitions on joint ownership to protect consumers and promote competition, including in the [railroad](#) and [banking](#) industries. Following the introduction of this bill in the 118th Congress, Arkansas and Tennessee passed [state laws](#) to structurally separate PBMs from pharmacies, and 39 state and territory attorneys general [urged Congress](#) to do the same.