October 24, 2016

Senator Orrin Hatch
Economic Development Task Force (Task Force)
United States

Mr. José B. Carrión III
President, Financial Oversight and Management Board
Puerto Rico

Dear Senator Hatch & Mr. Carrión III:

On behalf of the Puerto Rico Community Pharmacies Association, *AFCPR* for its Spanish acronym, we hereby reaffirm our interest in providing assistance to the Task Force in its assignment of identifying ways and means of providing Puerto Rico equitable access to the federal health care programs.

The Puerto Rico's healthcare system depends to a large degree of the federal healthcare programs and their related funds. Approximately, 60% of our population is enrolled in Medicare or Medicaid and in 2013 Puerto Rico's health spending was of $11,937 million.[1] Hence, Puerto Rico's equitable access to federal health care programs is not only just, it is also vital to improve the health of our inhabitants and to stabilize a significant segment of our economy.

On July 22, 2016, *AFCPR* and other important health related entities, jointly signed a letter to the Task Force proposing various important changes to the current federal health programs' rules and regulations. We hereby reiterate that petition and strongly request the Task Force to consider the proposals therein stated, among them, the following:

(i) Puerto Rico's parity in Medicaid's/Medicare's federal funding matching levels.

(ii) End the exclusion of the territories from the Part D Low- Income Subsidy program. As stated on the July 22, 2016 letter, said exclusion limits access to prescription drugs for hundreds of thousands of beneficiaries, which leads to a reduced medication adherence and costlier heal care services in the long run.

[1] Puerto Rico Health Department, *Informe de Salud la Salud en Puerto Rico,* 2014.

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Community pharmacies, which have characterized by mainly and efficiently serving the beneficiaries of the public health programs, have also seen their capacity to operate as a *going concern* greatly affected. Among the causes, the unjust practices by Pharmacy Benefit Managers, also known as PBMs, which manage the prescription drug benefits on behalf of insurance companies and Part D Plans, among others. PBMs' unjust practices have created local and global concerns, as they directly and significantly increase the cost of medications. For example: (i) "profit spreads", this is, they pay for drug at one price but invoice the health plan a higher price; (ii) blurring of definitions of "brand drugs" and" generic drugs" to suit their financial interests, such as improperly classifying drugs, charging brand, prices for generic products, retaining rebates for brand drugs by calling them generics, and misstating a payer's generic drug utilization rate; (iii) they keep secret the information taken into consideration to establish the Maximum Allowable Cost (MAC) lists used to reimburse pharmacies for dispensed generic drugs, which usually result in a reimbursement much lower that the real cost of the dispensed drug[2], affecting the operation of community pharmacies.

States like Arkansas, Connecticut, Iowa, Kansas, Maryland, Mississippi, South Dakota, Vermont, have approved legislation either to require transparency from PBMs and/or imposing licensing or registry requirements upon them. At the federal level, H.R. 244 (MAC Transparency Act) is still pending approval and, once approved, will, among others, amend Part D of Medicare to require the disclosure to pharmacies of the sources used to make any update in the prescription drug pricing standard or, if not available, the disclosure of all individual drug prices to be so updated in advance of their use for the reimbursement of claims.

Local efforts to approve legislation aimed to regulate PBMs have been, up to now, unfruitful (i.e., P. del S. 1372). However, the approval of said legislation is crucial to ban and/or deter PBM's' unjust practices that unnecessarily and unjustifiably increase the cost of medications, jeopardize the economic stability of local community pharmacies and, most egregiously of all, hinder the access and adherence to medical treatment. Thus, we hereby kindly request the Task Force to consider recommending the approval of legislation to locally regulate PBMs.

The Task Force should also consider how unreasonably high utilities costs and local tax, laboral, and permits laws impose burdensome requirements that directly impact the sustainability of local small business, such as community pharmacies, which are the core of our local economy. For example, (i) the imposition of continuous annual taxes upon inventory, even if not sold and even if taxes were paid for the same inventory the year before; (ii) unequal treatment among pharmacies and hospitals, taking into consideration that the purchase of medical equipment by hospital is tax exempt, while the purchase of the same equipment by pharmacies is not; (iii) numerous, repetitive and onerous licensing requirements to operate a pharmacy; (iv) laboral requirements, such as the mandatory payment of bonuses; (v) unequal treatment among small business and large retail chain

[2] National Community Pharmacists Association, *Pharmacy Benefit Management Manual,* www.ncpanet.org.

stores in the granting of construction permits. Thus, several issues should be addressed in order to promote local small businesses and the economic growth and stability they provide.

We greatly appreciate the opportunity to present our recommendations and kindly request they be taken into consideration as part of the Task Force's agenda.

Kind regards,

Idalia Bonilla
President

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