



# The Pharmacist Activist

Volume 19, No. 8 - July 2024

**“Because of the Lord’s great love we are not consumed, for his compassions never fail. They are new every morning, great is your faithfulness.” Lamentations 3: 22-23**

Editorial

## CVS Attacks Independent Pharmacies, But its “Reality” is the Myth!

**C**ould CVS be discovering that its disingenuous excuses and explanations for its toxic workplace environment, mental and physical health concerns of its employees, harmful errors, and anticompetitive and deceptive terms and operations of its PBM (CVS Caremark) are not credible? Is it experiencing pressure from the recent extensive media coverage, investigations of the Federal Trade Commission, and concerns of many legislators regarding its manipulation of the selection, use, distribution, and cost of medications? Whatever the reasons, that could also include numerous others such as lawsuits, its Medicare challenges, allegedly adding diagnoses to obtain extra payments from Medicare, cutting thousands of positions, and revamping of its distribution system, CVS is now aggressively attacking the messengers, specifically the independent pharmacies/pharmacists who are the primary victims of the CVS management’s obsession with economics, policies/restrictions, and metrics.

CVS has recently distributed a 39-page paper titled, “Independent Pharmacies: Myths Versus Reality.” The introduction includes statements such as the following:

“The independent pharmacy lobby pushes for measures that would artificially inflate healthcare costs above competitive

levels while lining its members’ own pockets.”

“Independent pharmacy negotiations are not a story of David versus Goliath. If not for PBMs keeping drug prices in check, independent pharmacies would rip off consumers with even higher prices.”

“Claims that current reimbursement rates to independent pharmacies are unacceptably low – or lower than rates paid to other market participants, including PBM-owned pharmacies – are false.”

“Objective data show that patients and plan sponsors will be the ones faced with rising costs if the persistent demands of the independent pharmacy lobby for higher reimbursement rates are met.”

“Independent pharmacies are not the victims of unfair or discriminatory pricing, as they have alleged to the FTC and others. Instead, independent pharmacies are a driver of higher consumer drug spend to the tune of at least hundreds of millions of dollars annually.”

The Table of Contents for this document is as follows:

<b>Contents</b>	<b>Pharmacy’s Priorities – PBM Reform and Provider Status.....</b>	<b>Page 3</b>
	<b>Response to Change Healthcare .....</b>	<b>Page 4</b>

Visit [www.pharmacistactivist.com](http://www.pharmacistactivist.com) for a FREE subscription

## Introduction

### I. Dire Warnings from Independent Pharmacies Have Been Repeatedly Proven False

- A. Independent Pharmacies Have Sounded the Same False Alarm for Decades
- B. The Number of Independent Pharmacies Has Remained Stable
  1. National Council for Prescription Drug Programs Data
  2. IQVIA Data
  3. NCPA Data
- C. Independent Pharmacy Margins and Shares Have Been Stable and Healthy
  1. NCPA Data Show Independent Pharmacies Maintaining Consistent Margins and Stable Shares Over Time
  2. NCPDP Data Confirm Stable Shares for Independents
  3. Caremark Data Also Confirm Stable Shares for Independents
- D. “Pharmacy Desert” Allegations Are Based on Outdated and Misleading Data

### II. Independent Pharmacies for Years Have Successfully Negotiated High Prices

- A. Joint Selling Groups Run by Fortune 50 Companies Help Independent Pharmacies Negotiate High Prices
- B. Independent Pharmacies Consistently Achieve High Prices
- C. State Audits Confirm Higher Independent Pharmacy Pricing
  1. Ohio Government Audit
  2. Arkansas Government Audit
  3. Florida Government Audit
- D. Independent Pharmacies Have a Long History of Illegal Collusion to Gain Higher Prices

## Conclusion

The statements in the table of contents provide what CVS claims to be the “realities” of the prescription drug marketplace. The text of the paper includes selected examples, statistics, and commentary that CVS uses to attempt to refute what it claims to be the “myths” communicated by independent pharmacists and organizations like the National Community Pharmacists Association (NCPA) that advocate for them. However, independent pharmacists can quickly provide personal experiences and financial data that contradict the CVS allegations. In fact, these experiences including the closure of many independent pharmacies for financial reasons have reached numbers and consequences that have been publicized to the extent that CVS has considered it necessary to publish a document with misleading statements

and data that misrepresent the experiences of independent pharmacists. Indeed, what CVS identifies as the “reality” is actually the “myth.”

The CVS paper about independent pharmacies was developed by the Dechert law firm. No CVS executives or other personnel are identified in the paper although there is no hesitancy to identify and discredit specific independent pharmacists and groups representing independent pharmacists. It must be assumed that this attack on independent pharmacists was approved at the highest executive level of CVS. CVS employs thousands of capable, dedicated pharmacists but I can’t imagine that any of them agree with the company’s attack on the independent pharmacies/pharmacists that represent the foundation of the profession of pharmacy, as well as the community practice base upon which CVS was founded and grew. If there are any pharmacists employed in upper-level management positions in CVS, I have to believe that they have no authority or influence on corporate decisions. It is ironic that CVS uses data and information from pharmacy organizations and others to attempt to support its attack while continuing to refuse to provide data or other pertinent information regarding its operations and finances.

The title of the CVS/Dechert paper refers to “Pharmacies.” However, the vast majority of independent pharmacies are owned by pharmacists, and the attack on them must be viewed as an attack on our profession and all pharmacists, including those with responsibilities that are essentially invisible and unknown to the public. Some pharmacy leaders have strongly criticized the CVS attack whereas some others cling to a hope that the entire profession can work together to achieve important goals of expanding the professional roles of pharmacists and improve drug therapy outcomes for patients. I have been a strong advocate for strong and unified actions of our profession to achieve these goals and have been pleased to observe some positive accomplishments in these directions. However, progress of the profession of pharmacy has been undermined and compromised by CVS. The self-serving, economically-motivated, and anticompetitive policies of its management are antithetical to the goals of the profession of pharmacy. Errors, patient harm, lawsuits and rapid turnover of pharmacists and other employees are costs of doing business. It does not care about patient safety or the physical and mental health of its pharmacists who are the company’s strongest critics.

Most legislators and consumers view CVS as a pharmacy organization, and the differences of opinion as an intra-party battle that fragments and weakens pharmacy’s pursuit of its professional goals. However, CVS has exploited

and damaged the profession of pharmacy including its own pharmacist employees. Although it employs more pharmacists than any other company, it must not be viewed as an organization that represents the interest and goals of pharmacists and the safety of its customers. Pharmacy leaders must respond strongly to the CVS attack, and clearly articulate the goals of the profession and the realities of the challenges in achieving them in the face of the CVS myths and policies. A clear distinction between the markedly different priorities of the profession and CVS must be communicated to decision-makers, legislators, and the public if our support for attainment of our professional goals is to be achieved.

A key question is how CVS and other PBMs can possibly

claim that they are reducing/containing the cost of medications when the overwhelming belief is that the costs of medications are too high. Our professional organizations, boards of pharmacy, and colleges of pharmacy should sever/reject any working relationship with CVS including grants for educational programs, support for meetings and other initiatives, scholarships, and use of CVS stores as IPPE and APPE practice sites. CVS will not change for the better as evidenced by its attack on our profession. Its policies and goals are contradictory to the goals of the profession of pharmacy, and any appearance of a working relationship compromises and harms attainment of our goals.

Daniel A. Hussar  
DanH@pharmacistactivist.com

## Pharmacy's Priorities – PBM Reform and Provider Status

It wasn't that long ago that the PBMs were unknown and invisible middlemen whose role was evident only to pharmacists and others involved in the provision of medications. CVS Caremark, Express Scripts, and OptumRx, each of which is associated with one of the largest health insurance companies, have a role in an estimated 80% of prescriptions that are dispensed. It is not an exaggeration to suggest that these PBMs wield more control over the selection, distribution, use, and cost of medications than prescribers, pharmacists, pharmaceutical companies, and government agencies. A cascade of recent events, however, has greatly increased the awareness of the dominant role and consequences they impose with respect to medications. Extensive media coverage of the activities and abuses of the PBMs, lawsuits, federal and state legislative initiatives, and a decision of the Supreme Court of the United States have widely publicized the concerns regarding PBMs. However, the size, resources, and political influence of the largest PBMs and the Pharmaceutical Care Management Association (PCMA) that represents them, have thwarted and evaded impactful change.

Our profession has sought provider status for pharmacists for many years, but without success. Provider status would facilitate the expansion of the professional roles of pharmacists and payment for the services provided. The attainment of provider status is intertwined with the goals of PBM reform, and legislative proposals currently being actively considered provide an unprecedented opportunity. There

is a greatly increased awareness of the public and legislators of the impact of pharmacy closures (both independent and chain), the increasing number of pharmacy deserts, and the increased challenges for many patients to obtain needed medications. The anticompetitive and egregious policies and terms of the PBMs have been exposed and widely publicized, leading to investigations and potential actions of the FTC and legislators. The high costs of medications are recognized as unsustainable and legislative actions have been approved and initiated. Organizations of pharmacists are working together in their advocacy for legislative proposals and securing bipartisan sponsorship and support. There has been extensive media coverage of the issues that are of the greatest concern for pharmacists and the public. Consumers such as Loretta Boesing (uniteforsafemedications.com) have been strong advocates for medication safety and the opportunity for patients to use the pharmacy they choose. Although only several months remain in the current legislative session, there has not been a better previous opportunity to have legislative changes approved and enacted for the purposes of improving medication safety and increasing the opportunities for pharmacists to assure positive therapeutic outcomes for patients.

Individual pharmacists in all areas of responsibility must support the efforts of our professional associations, must become knowledgeable regarding the specifics of the legislative proposals (e.g., at websites of the American Pharmacists Asso-

ciation and National Community Pharmacists Association), and personally contact our legislators and urge their support.

We should anticipate strong opposition from the large PBMs and organizations of physicians which resist expanded roles for pharmacists and other health professionals, and be prepared to refute their arguments. However, pharmacy has the

strongest and most compelling reasons for achieving changes that are important for the health and safety of the public, as well as for the future of our profession. We must seize the opportunity!

Daniel A. Hussar  
DanH@pharmacistactivist.com

## Response to Change Healthcare

In the previous issue of *The Pharmacist Activist*, I voiced concerns regarding the consequences of the cyber attack against Change Healthcare and the resulting chaos and expense experienced by pharmacists, patients, and others. Congratulations to the NCPA for providing leadership in filing a class action lawsuit against the involved companies.

“NCPA Leads Retail Pharmacy in a Class Action Suit Against Change Healthcare, UnitedHealth Group, and Optum for Data Breach and Losses,” is the title of the NCPA news release on July 22, 2024. Excerpts from the release are noted below.

“The National Community Pharmacists Association, along with dozens of providers from multiple states, filed a class action lawsuit late Friday against UnitedHealth Group and its subsidiaries Change Healthcare and Optum, for losses resulting from the massive cyber-attack earlier this year.”

“NCPA and the other plaintiffs say Change failed to take reasonable precautions against a catastrophic breach; mislead them about its network security; and caused massive financial losses for health care providers who were never reimbursed for services, and who incurred huge expenses trying to work around the downed system.”

“UnitedHealth Group and its subsidiaries need to be held accountable for their lax security measures and for their failure to provide our members with adequate support and assurances to alleviate the financial losses our members suf-

fered,” said NCPA CEO B. Douglas Hoey.

“Not only did Change, Optum, and UnitedHealth fail to adequately protect data for millions of patients, but when they discovered the breach, they shut the entire system down without providing a workable alternative, leaving thousands of pharmacies without any way to process claims.”

“Because Defendants disconnected the Change Platform, many healthcare providers lost their primary (and in some cases the only) source of claims processing for their patients and did not receive payment....In addition to the losses from not being paid, many pharmacies had to take out loans or deplete their reserves to buy expensive new software.”

Pharmacists are held accountable by PBMs and others when audits show errors or omissions, and there is no reason why Change, Optum, and UnitedHealth should not be held accountable for the failure of its systems and policies to provide the expected protection against such catastrophic breaches. One would expect that UnitedHealth would provide compensation for pharmacists and others who experienced large costs because of a failure over which they had no control. However, such assistance has not been provided. Although litigation is expensive and may take years to resolve, it is important that our profession take the strongest possible actions. Our entire profession should support NCPA and the other plaintiffs!

Daniel A. Hussar  
DanH@pharmacistactivist.com

### Free Subscription

Go to [www.pharmacistactivist.com](http://www.pharmacistactivist.com) to sign-up for a FREE subscription.

*The Pharmacist Activist* will be provided FREE via e-mail to interested pharmacists and pharmacy students who request a complimentary subscription by signing-up online at:

[www.pharmacistactivist.com](http://www.pharmacistactivist.com)

**Author/Editor/Publisher** – Daniel A. Hussar, Ph.D.  
Dean Emeritus and Remington Professor Emeritus at  
Philadelphia College of Pharmacy  
**Assistant Editor** – Suzanne F. Hussar, B.Sc. (Pharmacy)

The Pharmacist Activist, 1 Boulder Creek Lane, Newtown Square, PA 19073  
E-mail: [info@pharmacistactivist.com](mailto:info@pharmacistactivist.com)

*Distribution/Design Services provided by Jeff Zajac*