



May 20, 2024

**Via Electronic Delivery**

The Honorable Dick Durbin  
Chairman  
Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Lindsey Graham  
Ranking Member  
Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Durbin and Ranking Member Graham:

Safeguarding the American free-market system, particularly as it pertains to healthcare, is a vital component of our nation's success. This will be evident during the committee's hearing: [Ensuring Affordable & Accessible Medications: Examining Competition in the Prescription Drug Market](#). As members of the Coalition Against Socialized Medicine (CASM), leveraging market forces to reduce costs and improve quality in the healthcare market is critical to each of our organizations and is a unifying policy area that brings us together.

Equally important is the innovation found in American healthcare. It is no surprise that the United States is the global leader in developing new drug treatments, given the incentives our system provides to encourage research, testing and development. We are distressed to see the Biden Administration's attempt to gut many of those incentives with its plan to misinterpret the Bayh-Dole Act to employ the law's "[march-in](#)" provisions.

Unsupported by the legislative history of Bayh-Dole, the Biden proposal would allow the government to seize certain drug patents. This new regulatory power, conjured from the hopes and dreams of the Left, would set an alarming precedent and ultimately undermine the incentives for risk-taking and capital investment to develop new drug treatments. While doing little to lower drug prices, this heavy-handed approach will disincentivize public-private collaboration, which has been instrumental in the creation of many vital medications.

If members of Congress want to reduce the costs of healthcare for most Americans, they should examine the anti-competitive rent-seeking of pharmacy benefit managers (PBMs). The [practices](#) of these corporate middlemen lead to higher prices at the counter, while parent companies pocket what are essentially kickbacks. Just three companies that own and operate PBMs now control [80 percent](#) of the healthcare market.

Some members of Congress rightly shifted their lines of inquiry toward scrutinizing healthcare monopolies during UnitedHealth CEO Andrew Witty's testimonies earlier this month regarding the recent cyberattack on United subsidiary Change Healthcare. During the Senate Committee on Finance [hearing](#) and the House Committee on Energy and Commerce's Oversight Subcommittee [hearing](#), lawmakers such as Rep. Buddy Carter (R-GA) and Rep. John Joyce (R-PA) [highlighted](#) the increased

consolidation and “clear conflicts of interest” evident in healthcare giants like UnitedHealth Group’s, business model and practices.

PBMs were also brought up by members in February during the Senate Committee on Health, Education, Labor, and Pensions (HELP) hearing titled: [Why Does the United States Pay, by Far, the Highest Prices in the World for Prescription Drugs?](#) During the discussion, Senator Bill Cassidy (R-LA) highlighted the perverse incentives that exist throughout the healthcare system, and Senator Roger Marshall (R-KS) pointed out that the system is “so non-transparent, we don’t know where this money is going.” Free-market transparency reforms on these giants are necessary to ensure the integrity of our healthcare system. Yet AARP, which claims to advocate for seniors and “lower drug costs,” remains quiet on the issue and maintains its \$7 billion partnership with UnitedHealth, the parent company of PBM giant OptumRx.

Congress should shift its focus to PBMs and make them the central focus of healthcare inquiry and legislation. Protecting competition in the U.S. drug market is essential to preserving our healthcare market and economy. Proposals to undermine the patent system—the key driver of innovation—have the wrong target. Lawmakers must look into the anti-competitive practices of PBMs to ensure the drug market is competitive and fair. The U.S. healthcare system depends on it.

Sincerely,

A handwritten signature in black ink that reads "Andrew M. Langer". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Andrew Langer  
Executive Director  
Coalition Against Socialized Medicine (CASM)