

August 7, 2014

The Honorable Fred Upton  
Energy and Commerce Committee  
Washington, DC 20515

The Honorable Henry Waxman  
Energy and Commerce Committee  
Washington, DC 20515

The Honorable Dave Camp  
Ways and Means Committee  
Washington, DC 20515

The Honorable Sander Levin  
House Ways and Means Committee  
Washington, DC 20515

Dear Chairman Upton, Ranking Member Waxman, Chairman Camp and Ranking Member Levin:

In May we wrote to respectfully request that your committees carefully examine and ultimately consider H.R. 4577, Ensuring Seniors Access to Local Pharmacies Act of 2014. The bill was introduced by Reps. Morgan Griffith (VA) and Peter Welch (VT) and it would allow independent community pharmacists to at least have the opportunity to compete in Part D Preferred Pharmacy Networks if:

- One or more of their stores are located in a health professional shortage area;
- One or more of their stores are located in a medically underserved population; and
- If they can meet terms and conditions that are comparable to those of in-network pharmacies.

Since introduction the bill has garnered significant support and we wanted to formally update you as you all travel around your congressional districts over the August Congressional Work Period. As of today it has 56 cosponsors including twelve members of the Energy and Commerce Committee and two full committee chairmen. We have been encouraging all of our members to request meetings with their Member of Congress and staff to educate them on these networks.

Over the last four years Part D Preferred Pharmacy Networks have greatly expanded and independent community pharmacists have been blocked from participating. Most stakeholders would agree that Part D has been a success but with any law comes unintended consequences and we know that Congress did not intend to create access problems for Medicare patients who depend on the face-to-face counseling services that these small business pharmacies have offered to them for so many years.

In January, CMS released a proposed Part D Rule that included findings on Preferred Networks, stating that “Any Willing Pharmacy” should be able to participate if they can meet the terms and conditions that other preferred pharmacies agree to. *CMS also found that in some cases preferred networks were not even saving the federal government money.*

Unfortunately, the CMS proposed rule was quite expansive and included many other provisions not related to retail pharmacy that drew broad opposition from a large group of industry stakeholders and many in Congress. On March 10<sup>th</sup> CMS announced that they would not finalize several provisions of the rule, including their proposal on preferred networks. We were obviously disappointed with this

decision, and believe it is time for Congress to closely examine the Part D Preferred Pharmacy Network problems that exist.

Again we respectfully request that you schedule an oversight hearing after the Congressional Work Period has concluded to examine ways to ensure that small business owner pharmacies have the same opportunities to compete in the Medicare Part D program as do larger, corporate pharmacies. We will be actively working to engage our members on this crucial issue during August in hopes to build more support for H.R. 4577. Thank you for your leadership on the House Energy and Commerce and Ways and Means Committees. We very much appreciate your consideration of our request and hope that you have a productive work period back home.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Douglas Hoey". The signature is fluid and cursive, with the first name "B." and last name "Hoey" clearly distinguishable.

B. Douglas Hoey, R.Ph., M.B.A  
NCPA Chief Executive Officer