



# The Perfect Storm of PBM Transparency

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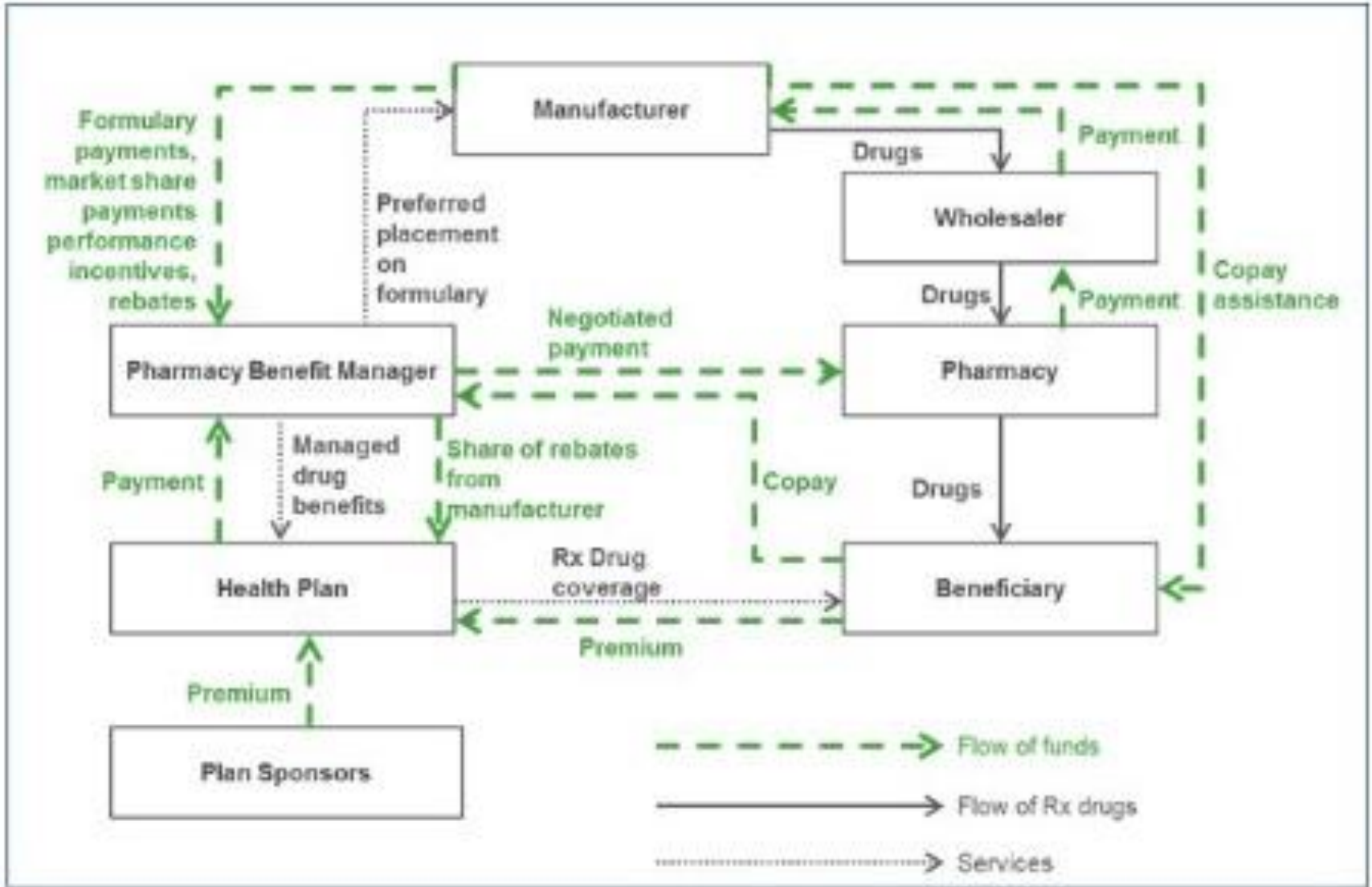
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# Today's Discussion

- How we got here
- Recent efforts to highlight transparency
- Resources and suggestions

# A Mess



# Legislative Priorities – Brand Manufacturers








- Historical agenda:
  - ADF opioids
  - Uniform prior authorization forms
  - Prohibit step therapy – Prescriber prevails
- 2017 agenda:
  - **High cost drugs/transparency – shift focus onto PBMs**
  - Frozen formularies
  - Anti-step therapy
- PBM Transparency has been a “go to” for industry opponents for more than a decade



# POTUS & the Rx Benefit

- Trump is not beholden to political protections PhRMA has enjoyed for decades
  - Relations with Congress stressed
- PhRMA is most concerned about
  - Reimportation
  - Direct negotiation
  - Price controls
  - Transparency
- The shame game shows signs of success
- PhRMA is exceptionally well resourced



 **Donald J. Trump**  @realDonaldTrump · 8/14/17   
.[@Merck](#) Pharma is a leader in higher & higher drug prices while at the same time taking jobs out of the U.S. Bring jobs back & LOWER PRICES!  
 14.3K  14.4K  65.6K 

 **Donald J. Trump**  @realDonaldTrump · 8/14/17   
Now that Ken Frazier of Merck Pharma has resigned from President's Manufacturing Council, he will have more time to LOWER RIPOFF DRUG PRICES!  
 53.5K  22.5K  94.3K 

# Infographic Seen Round the World



## THE ENTIRE ECONOMIC STORY OF THE U.S. PHARMACEUTICAL SUPPLY CHAIN



# Drug Makers Setting the Narrative

**GOBOLDLY**



? “ \* | **Let's Talk About Cost**

# Taking it to the Streets

- California
- Ohio
- South Dakota





# Industry's Position has Evolved

- No is always an option
- Sometimes, we must negotiate
  - To whom?
  - What information?
  - What level of detail?
  - How often?
  - Confidentiality?

- **Rationale:**
  - **Should apply to all entities**
  - **FTC has advised against – increases costs and prefers a model**

# California Experience

- ~~(2) The department has received consumer complaints that justify an action under this subdivision in order to protect the safety and interests of consumers.~~
- **Rationale**
  - Suspending a PBM's registration could result in a major disruption to the delivery of pharmacy care for millions of Californians.
  - There is no avenue included in the bill for an appeal by the PBM
  - The information collected by the department from pharmacy benefit managers as required by Part 3 shall be deemed confidential information that shall not be made public by the department, shall not be disclosed to any third party (including any other regulatory agency), and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).
- **Rationale**
  - Clarifies confidentiality

# California Experience

(1) The aggregate ~~acquisition cost~~ amount of payments collected by the pharmacy benefit manager, including rebates and administrative fees, from pharmaceutical manufacturers or labelers based upon utilization of patients covered by purchasers located in the state of California. .

~~(4) The aggregate of rates negotiated by the pharmacy benefit manager with pharmacies with respect to each therapeutic class of drugs.~~

(4) Whether the pharmacy benefit manager receives consideration or economic benefits pursuant to a contract, agreement, or other arrangement with a pharmaceutical manufacturer to exclusively dispense a drug to a purchaser's employees, insureds, or enrollees. ~~(6) Whether the pharmacy benefit manager has a contract, agreement, or other arrangement with a pharmaceutical manufacturer to exclusively dispense or provide a drug to a purchaser's employees or enrollees, and the application of all consideration or economic benefits collected or received pursuant to that arrangement.~~

~~(6) The aggregate of payments made by the pharmacy benefit manager to pharmacies owned or controlled by the pharmacy benefit manager.~~

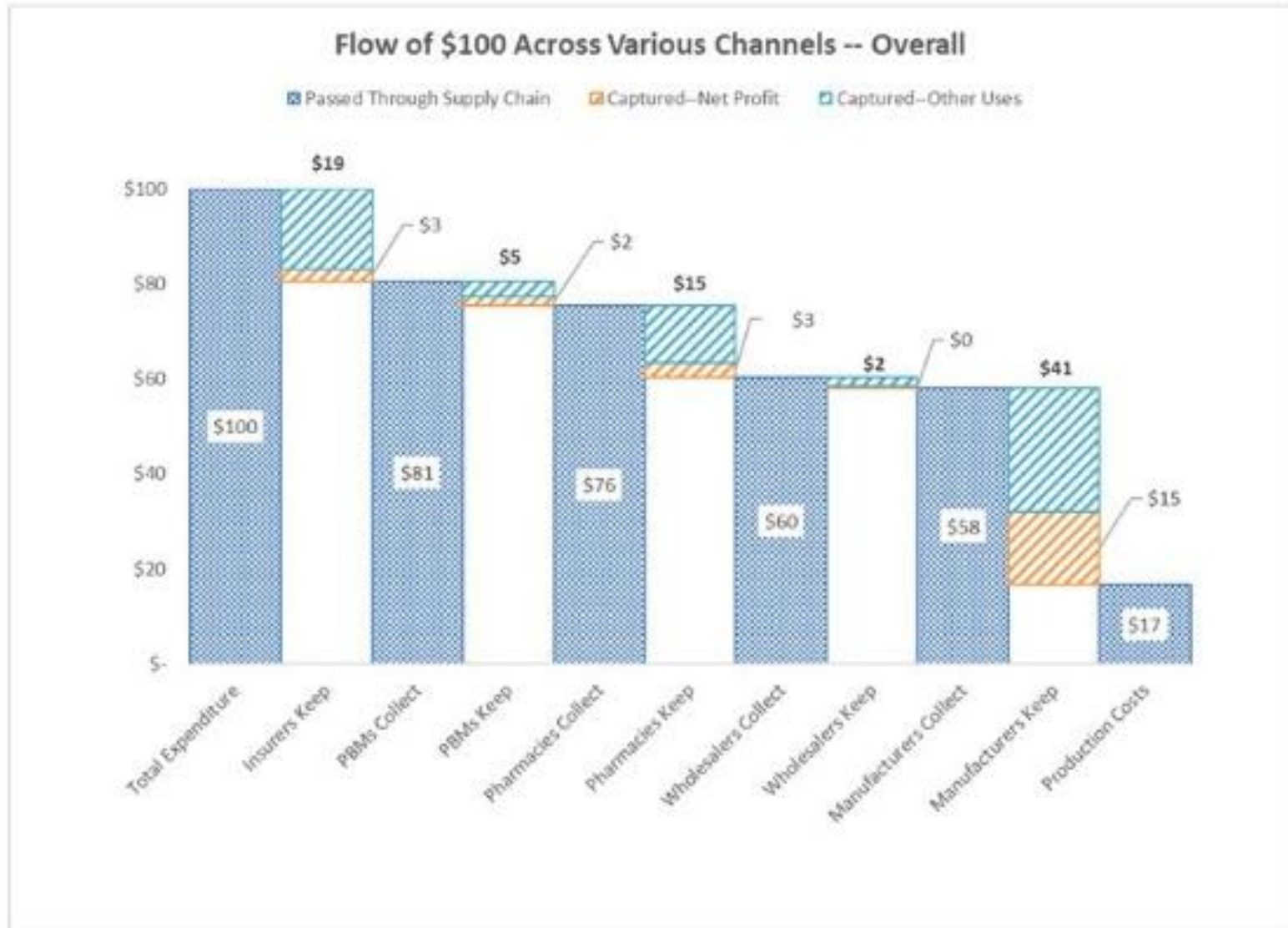
~~(7) The aggregate of payments made by the pharmacy benefit manager to network pharmacies not owned or controlled by the pharmacy benefit manager.~~

~~(8) The aggregate amount of the fees imposed on, or collected from, network pharmacies or other assessments against network pharmacies, and the application of those amounts collected pursuant to the contract with the purchaser.~~

# California Experience

- Rationale
  - Aggregate data is sufficient for State insight into the amount of rebates and other administrative fees
  - FTC states that by mandating “the disclosure of proprietary business information without effective protection, the Bill increases the likelihood of proprietary business information becoming public knowledge. If pharmaceutical manufacturers know the precise details of rebate arrangements offered by their competitors, then tacit collusion among them may be more feasible.”

# The Reality



# Review

- Resources
  - FTC and competition law (Schaefer Center)
  - Health plans and employers are often conflicted
  - PCMA research
  - Sometimes, PhRMA
- Tactics
  - Defeat
  - Pull everyone in the pool
  - Negotiate – multiple negotiated policies exist

