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Government of Ontario

**Consultation on
Preferred Provider Networks in the Employer-Sponsored Drug
Insurance Sector
(Proposal Number 24-MOF018)**

**Submitted by:
Neighbourhood Pharmacy Association of Canada**

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**Submitted to
Ministry of Finance**

Executive Summary

The Neighbourhood Pharmacy Association of Canada (Neighbourhood Pharmacies) proudly represents the nation's leading pharmacy organizations, encompassing chain pharmacies, grocery and mass merchandisers with pharmacies, banners, independent pharmacies, and specialty service providers.

We are eager to support the Government's examination of Preferred Pharmacy Networks (PPNs) and commend this initial step in a crucial dialogue.

It is clear that the current healthcare landscape has enabled PPN elements that pose serious risks to patients, disrupt fair competition among pharmacies, and threaten the sustainability of the pharmacy sector. We assert that decisive government intervention is vital to mitigate these risks.

However, we must emphasize that numerous key stakeholders have been overlooked in this preliminary discussion, and their interconnected roles significantly influence the delivery of pharmacy benefits. Any government intervention regarding PPN structures would be misguided without a thorough exploration of the intricate interdependencies among all entities involved in the medication access pathway.

Our submission aims to illuminate these critical interdependencies and highlight the missing stakeholders necessary for an evidence-informed, comprehensive consultative process before any government intervention is determined. We've further identified some of the key element that future policy development should address.

As the national association representing the diverse business models within pharmacy, we are committed to engaging closely with the Ontario Government as it diligently assesses the direct impacts throughout the ecosystem to design effective PPNs. We welcome every opportunity to provide our insights during this evidence-based process and strongly urge the government to understand, evaluate and scrutinize the root causes that threaten the integrity of patient choice. We call upon the government to hold all affected stakeholders accountable as we collectively forge solutions to safeguard informed, safe, effective, and patient-centered care in Ontario and across Canada.

Introduction

The Neighbourhood Pharmacy Association of Canada (Neighbourhood Pharmacies) represents leading pharmacy organizations across the country, including chain pharmacies, grocery and/or mass merchandizers with pharmacies, banners and independent pharmacies, and pharmacies providing specialty services or distribution. In Ontario, we advance the delivery of care through close to 4,900 pharmacies and their teams, that serve as integral community health hubs in urban, suburban, rural, remote and First Nations neighbourhoods.

As the only Canadian association mandated to represent the voice of pharmacy operators, we act in Ontario and across the country to support policy makers with the development of

innovative solutions that allow pharmacies support public health and primary care need in their communities while advocating for a thriving and sustainable pharmacy sector.

We are pleased to contribute to this Ministry of Finance (the 'Ministry') exploration of the elements and impacts of Preferred Pharmacy Networks (PPNs). Through the diversity of our pharmacy membership across the province, we can provide a holistic view that integrates the perspectives of many of the pharmacy models the Ministry has identified in its initial consultation framework.

As the association representing the business of pharmacy, we are unable to share certain details regarding our members business operations that could impact their competitive action and create potential compliance risk under the Competition Act. As a result, we have chosen not to directly answer a number of the consultation questions posed by the Ministry. We feel that the information we have provided at this stage, however, is essential to the next stages of the Ministry's investigation.

Our Understanding of the Consultation

The Ministry has stated that it is "consulting on the role of Preferred Provider Networks (PPNs) in Ontario's employer-sponsored drug insurance sector" to better understand the "role of PPNs in Ontario's pharmacy benefits sector, learn about the advantages and disadvantages of different types of PPNs, and assess if any Government action is required."

As organizations providing healthcare in communities across the country, we fundamentally believe in both the patients right to choose and the need to support fair competition. We congratulate the Ministry on embarking on this important step in unpacking the very complex nature and impacts of PPNs.

It is critical, however, that the Ministry understand the landscape within which pharmacies operate as well as the broad range of interconnected stakeholders whose policies and activities have created the environment which has given rise to PPNs. No policy intervention should be developed without first understanding the full breadth of the landscape, the interdependencies within, the key questions to be addressed, and the impacts of any potential changes on all stakeholders.

As discussed with representatives from the Ministry, our association believes these issues are too vast to be addressed in one consultation. We encourage the Ministry to consider not only broadening the range of stakeholders to be consulted but also ensuring there are opportunities to fully consider different stakeholder perspectives together versus in individual siloes. As the last step in the medication access pathway, and one of the only patient-facing entities considered in the consultation so far, pharmacies are well positioned to offer valuable insights to the Ministry regarding the nature of PPNs from the perspective of many business models. And as an association engaging with all stakeholders in the medication access pathway, we are also uniquely able to bring forward important considerations impacting the delivery of pharmacy benefits that are essential to this consultation. This exercise should be the first of many to identify the problem and its root causes and work collaboratively to enable and work actionable solutions for Ontarians.

Context: The Environment in Which Pharmacy Operates

To fully explore the interrelated impacts of PPN design on patient choice, fair competition, and ongoing sustainability of the pharmacy sector it is important to first understand the current reimbursement landscape within which Ontario pharmacies operate.

Ontario's pharmacies depend almost entirely on the funding they receive from both public and private payers in the form of dispensing fees and markups. This funding must cover patient care services, as well as all operations. Pharmacies use this funding to pay their staff (including pharmacists, technicians, assistants and all support positions), acquire and maintain their inventories and operate their facilities (e.g., cover rent, utilities, etc.).

This foundational funding model is precarious, and vulnerable to numerous economic pressures. As drug markup is directly correlated with medication list prices, any healthcare policies that reduce the price of medications will proportionally reduce the funding pharmacies use to support care associated with that drug, regardless of the magnitude of care required. Public and private payers on multiple fronts are imposing policies to “cap” available markups in an attempt to control spending or are imposing formulary changes to switch to lower cost drugs. At the same time, operating costs (e.g., labour, transport, supplies) are all rising. The dispensing fee in Ontario has not increased in over a decade, making it the lowest of any jurisdiction in the country. Due to contract language and regulations, pharmacies cannot pass any revenue losses or increased expenses on to the customer – the patient. To continue to serve their patients, pharmacies of all models are absorbing more losses. As a result, their margins are growing exceptionally thin, and for some this threatens their ability to offer services, retain staff, or even remain open.

At the same time, the provincial Government has identified pharmacies as an increasingly important public health and primary care delivery channel to its vision of “connected care close to home”. This is demonstrated by the province's expansion of pharmacists' scope of practice and their support and funding for minor ailments. Patients too are relying on their pharmacies as central healthcare hubs for their care needs, critical healthcare services that reduce burden on other parts of the health care system. Pharmacies want and need to deliver more patient care that meets the needs of their communities, but to stay viable in an extremely challenging reimbursement landscape they must explore the competitive possibilities of any business tools at their disposal.

This challenging financial environment is the underlying catalyst giving rise to the creation of PPNs. Any future Government intervention regarding the operation of PPNs must be cognizant of these factors and not worsen the pressures placed on pharmacies that constrain their ability to provide patient care to Ontarians every day.

Limitations of the Initial Consultation: Terminology and Definitions

The Ministry has generalized the nature of PPNs according to some very broad terms, such as open, closed, mandatory or voluntary. It is important to understand that there are many more nuances in terms of the medications and associated services that may impact the nature of coverage a patient may obtain from their pharmacy. Rather than focusing “closed PPNs” **we would encourage the Ministry to evaluate the various nuances of PPN design and their impacts on patient choice, fair competition, and sustainable healthcare delivery through the pharmacy channel.**

Limitations of the Initial Consultation: Stakeholder Gaps and Interdependencies

While this initial consultation has identified some important key stakeholders who either influence or are impacted by PPNs, there are some critical gaps and additional considerations we’d like to bring forward. The roles and interdependencies (for example, vertical integration) between all the players in this space and are fundamental context to understanding what any appropriate policy intervention might be, and who it should target.

Specialty Medication Distribution Manufacturers, Distributors, PSPs

We note that the Ministry’s statement that “PPNs are a group of distribution networks” may be conflating how pharmaceuticals are distributed to pharmacies and made accessible to patients. A clearer understanding of the multiple pathways and contributors in this system is essential. In the interest of brevity, our explanation below outlines some high-level considerations regarding the additional key stakeholders involved in the distribution of specialty medications that impact access through pharmacies participating in certain PPNs. **We strongly encourage the Ministry to ensure that all stakeholders who have some level of implementation or decision making in pharmaceutical distribution are involved in the next steps of this dialogue.**

As the Ministry has noted, certain complex medications require specialized handling, administration and monitoring, as well as additional clinical services to ensure effectiveness, safety and stability. For some of these drugs, especially pharmaceutical manufacturers need to follow stringent Health Canada protocols to make these drugs accessible to patients, including Risk Management Programs, ongoing pharmacovigilance, and collection of Real-World Evidence. Manufacturers therefore need assurance that the distributor who handles these medications and the pharmacies who dispense them have the proper infrastructure in place to meet all these requirements. To protect the integrity of the medication and the safety of the patients using them, manufacturers will implement closed distribution networks. **Manufacturers and distributors of specialty medications must be included in this consultation.**

Another key element is the role of Patient Support Program (PSP) providers. Manufacturers of specialty medications establish PSPs to help patients more readily access their medications. These programs provide personalized support and medication management, coordination with healthcare providers, and – of particular concern to this consultation – critical benefits navigation and reimbursement assistance for patients. This can include offering financial assistance or co-pay support, dealing with prior authorization requirements, helping patients submitting claims, and assisting with access to uninsured or underinsured patients who may not

qualify for public or private coverage. **PSP providers play a critical role in helping patients access pharmacy-related benefits and should also be included in any exploration of the impacts of PPNs.**

Payer-Entities: Pharmacy Benefits Managers and Others

The regulatory registry posting made reference to soliciting feedback from “Insurers and related stakeholders in the insurance sector (e.g., third party administrators, pharmacy benefits managers, other intermediaries.)” However, the consultation document itself addressed questions to a much more limited set of stakeholders. We are concerned that no further acknowledgement of the role of some of these Payer-entities has been raised.

A Pharmacy Benefit Manager (PBM) is loosely defined as a third-party provider that serves as an intermediary between insurers and pharmacies. PBMs typically administer prescription drug benefits and process claims on behalf of health plans and most if not, all insurers use PBMs to adjudicate claims. Pharmacies must sign service contracts with PBMs in order to adjudicate claims online for these health plans. The oversight or regulation of PBM business practices and reimbursement structures in Canada is unclear. There is no specific regulatory body governing their activities federally or jurisdictionally, and the insurance industry has clearly stated that they do not represent PBMs.

The increasing scale and ability of PBMs to operate with impunity in the Canadian healthcare system is cause for alarm. Currently, there are a small number of PBMs in Canada, with a handful of prominent players. (Such as Express Scripts Canada). However, some insurance providers have established their own PBMs, providing both insurance coverage and PBM services for the health plans they administer. **A thorough examination of the pharmacy benefits space will be incomplete without carefully assessing the influence and impact PBMs have on the key issues of patient choice, fair competition, and the sustainability of Ontario’s pharmacy sector.**

Beyond PBMs, there is a nebulous array of other entities with influence in the private payer space that should be considered in this consultation, including third party benefits administrators, benefits consultants and the brokers/advisors who make recommendations to drug plan sponsors on plan design, coverage and the establishment of PPNs. The scope of impact these players can have on formulary decisions, reimbursement and benefits coverage is significant, yet the parameters governing their operations are opaque. It is critical that the role and contribution of other stakeholders in the private payer space be assessed.

Vertical Integration

In the context of the pharmacy sector in Canada, vertical integration occurs when a single company owns or controls multiple stages of the pharmaceutical supply chain, including elements of distribution, formulary management, benefits administration, and even pharmacy services in an effort to streamline efficiency and reduce costs. PBMs and insurers in Canada, such as Telus Health, Express Scripts Canada and Greenshield Canada have begun to vertically integrate many of these elements under their own umbrella. In practice, these entities not only establish the payer-directed parameters for PPN operation, but also own the pharmacies dispensing these medications. This creates the potential for conflict of interest between patient-centric medication choices and financial or economic considerations.

Vertically integrated payer-directed pharmacy operations can lead to market dominance that forces smaller community pharmacies to reduce service, curtail hours, or even close, as they

cannot compete while sustaining operations on razor thin margins. This is a reality in the United States, where vertically integrated PBMs now wield a disturbing amount of control over many layers of pharmacy services, adjudication and drug supply, leading to the closure of hundreds of pharmacies, both in urban and rural areas. The term 'pharmacy deserts' has been coined to describe this phenomenon, which has devastating impacts patient access to medications.

It is important to understand the balance of influence wielded by all these payer-related groups in the establishment of PPN parameters. While it is true that pharmacies have the choice of deciding whether they will participate in a PPN, the reality is pharmacies typically have little to no involvement in the establishment of the financial terms and conditions. Payer entities and their customers hold the majority of influence in this equation. Pharmacies and pharmacy professionals are already highly and transparently regulated. PPNs are a business practice created by payors so further imposing regulations on pharmacy professionals is inappropriate and puts them at a professional disadvantage. The role of pharmacy professionals is to provide care to patients, in no way do they dictate who pays for that patient's medications. Yet there is little clarity on what, if any, regulatory oversight exists to govern payer entities like PBMs. **While it is premature to determine what level of intervention may be required in this space, we would strongly encourage the Ministry to ensure any policy framework targets the stakeholders with the greatest influence on PPN design and the negative impacts to patients and the pharmacies that care for them as described below.**

Negative Impacts of PPN Design

We agree that elements of PPN design have negative impacts on patients, the competitive pharmacy landscape, and the ongoing sustainability of Ontario's pharmacy sector. Pharmacies who choose to participate in PPNs established by payers generally must accept terms that reduce the level of reimbursement they will receive from the payer per prescription, sometimes to a level where the pharmacies acquisition costs are higher than the reimbursement.

Impacts on Patient Choice:

Pharmacies who are already facing significant financial and other pressures on their ability to maintain their operations and may not have alternative business lines that can balance out reduced fees required for PPN participation will be financially unable to participate, even if invited to. As a consequence, PPNs may comprise a small number or limited diversity of pharmacies.

This places significant limits on informed and autonomous patient choice. A patient's freedom to choose depends on their financial ability to pay for the drug or service, their physical or virtual access to the pharmacy they wish to use, and their awareness of the clinical expertise and service a pharmacy team is able to provide. If a patient's chosen pharmacy cannot participate in the PPN established by the patient's drug plan administrator, some or all of the cost of that patient's prescriptions will not be reimbursed. The patient will either have to pay out of pocket for some or all of the cost of the medication, accept a higher copay, or worst case will have to find a pharmacy that does belong to that PPN to obtain their medications. A pharmacy belonging to the PPN may not be geographically accessible to the patient, further limiting the patient's choice in how to access their care and services.

PPN arrangements can also impact more than just high-cost specialty medications, with unintended consequences for patients. Our member pharmacies have provided us with reports of insurance claims for medications for chronic disease such as diabetes or high cholesterol, that do not meet the definition of a specialty medication, yet were denied at the patient's regular community pharmacy that did not belong to that PPN.

Elements of PPN design can ultimately prevent patients from accessing care that is convenient, close to home and delivered by the pharmacy professionals with whom they may already have trusted relationships, and who are well versed in their unique needs.

Impacts on the Pharmacy Competitiveness and Sustainability

Putting pharmacies in a position of accepting reductions to their reimbursement to be able to continue to compete diminishes the overall value of the care and services pharmacy teams provide. This encourages pharmacies to drive their dispensing fees and/or margins even lower as they compete against one another to gain a larger share of the market (i.e., customers and patients) through these arrangements. This is not a sustainable model for many models of pharmacy business, who cannot pass this loss of revenue on to their patients. Commoditizing the value of the very real clinical services pharmacy professionals provide and diminishing the worth of their medication therapy management skills and expertise results in a "race to the bottom."

Pharmacies who do not belong to PPNs can be further impacted by PPN arrangements in unexpected ways. A common scenario occurs when a patient presents at their pharmacy of choice with a prescription for a new, possibly complex, medication that can only be dispensed by pharmacies belonging to the PPN. The patient's regular pharmacy team can find themselves in the position of explaining to the patient why they cannot dispense the medication yet still answering all the patient's questions about their condition and medication regimen; only to have patient ultimately fill the prescription at an in-network pharmacy. Not only does this cause disruption, inconvenience and dismay to the patient, but the counselling and support provided by the non PPN pharmacy team is completely uncompensated.

Options for Government Intervention

Our members agree that doing nothing is not an option, otherwise patient access to care and medications through their pharmacies will continue to erode. PPN design that limits patient choice, prevents equitable competition, devalues pharmacy services and threatens the ongoing economic sustainability of the provinces pharmacy sector cannot be left unchecked. **We believe that a Government intervention is necessary to develop an appropriate framework that governs PPN parameters and activities.**

Regarding some of the options suggested by the Ministry, we do not believe that further regulating pharmacy or pharmacy professionals will achieve the required outcomes. All pharmacy professionals in any jurisdiction are bound by their professional codes of ethics and standards of practice that are all rooted in the concept of patient-focused care. Pharmacy professionals practicing in any pharmacy model ensure their patients are fully informed on all their care and treatment options, that proposed care and treatment options are always in the best interests of the patient, and above all that patients are free to choose their treatment and fill their medications at any pharmacy of their choice. **Instead, any intervention should target the**

stakeholders with the greatest influence on PPN design and the negative impacts to patients and the pharmacies that care for them.

It has been suggested by some stakeholders that emulating the province of Quebec, which has enacted a number of regulatory parameters that collectively prohibit insurers and pharmacy proprietors from establishing PPNs, might be one solution. (See Box 1 for more information.) **While we encourage the Ministry to review and evaluate the impact of these regulatory processes on patient choice, a careful understanding of all of the unique elements of pharmacy practice and legislation in Quebec should be taken into account before drawing any conclusions.**

‘Any Willing Provider’ (AWP) legislation that prevents insurers from excluding providers who meet the terms and conditions of network membership, would, on the surface, appear to provide a short-term resolution to some of the issues of patient choice. However, as we have demonstrated earlier, this would require some additional level of protection or transparency to ensure that terms and conditions are fair and reasonable and can be financially met by all pharmacies seeking to serve their patients. **In the longer term, however, even AWP legislation would not address the critical issue of pharmacies being driven to undercut the value of their care and services in an effort to stay competitive while remaining financially viable.**

Addressing the root causes giving rise to an environment which precipitates the establishment of PPN arrangements is also critical. Ontario’s pharmacies are continually in the precarious position of delivering publicly funded healthcare through private business models. Sustaining Ontarians’ access to medications and care through appropriate funding and reimbursement is the cornerstone of supporting healthcare delivery through the community pharmacy channel. **While this is beyond the scope of the Ministry’s initial consultation, we urge the Government to consider a larger multipronged evidence-informed review of the funding and reimbursement model in Ontario with a goal of enabling a viable pharmacy sector to meet the Ontario governments health and economic objectives.**

Box 1

In Quebec, the **Act Respecting Prescription Drug Insurance** unequivocally states that “No group insurance contract or employee benefit plan may restrict a beneficiary’s freedom to choose a pharmacist.” Further, the **Act Respecting Health Services and Social Services** ensures that “every person is entitled to choose the professional or the institution from whom or which he wishes to receive health services or social services”. Also in Quebec, all pharmacies must be owned by a pharmacist licensed/registered with the Ordre des Pharmaciens du Quebec, and that owner is further required to be a member of the Association des Pharmaciens Propriétaires du Quebec. In this way, the proprietors of the pharmacy – that is, those making business decisions – are accountable to the standards of practice and code of ethics regulating pharmacy professionals in the province.

To enable a healthcare system that supports patient choice, safe and effective quality care and fosters a thriving pharmacy landscape where pharmacies can equitably compete on the value of their care, we recommend a regulatory or policy framework that enables **intelligent PPN design**. This policy framework should have the following goals:

1. Protects informed and autonomous patient choice with respect to medication access, care, location, provider and format or delivery of care (e.g. in person, virtual, mail order).
2. Supports the ability of pharmacies to sustain the delivery of convenient and accessible care that best meets the needs of their patient populations through fair competition based on service rather than price
3. Ensures that pharmacies and their patients are not ultimately responsible absorbing funding losses as a result of cost-containment measures in other parts of the system
4. Recognizes the value and cost to deliver pharmacy services, and supports the future development of alternative models of service funding that are not directly tied to the cost of medication
5. Holds all stakeholders in the medication access pathway accountable to the same standards of ensuring patient care, fair competition, and supporting sustainable access to medications and care through the pharmacy channel.

At this juncture, it is premature to prescribe a specific regulatory framework or intervention, before the interdependencies between all the relevant stakeholders in the vertical integration of drug distribution, formulary and plan decisions, benefits coverage and administration, and pharmacy services have been thoroughly evaluated.

We urge the Ministry to broaden its consultation process to include, and investigate, the influence of many of the stakeholders we have identified in this preliminary response. An assessment of the interdependencies among pharmacies, payers and payer entities, distributors, manufacturers - as well as patients and prescribers – is essential to drive a solution that will enable informed patient choice, and safe and effective quality care.

We see an opportunity to serve as a catalyst towards solution-oriented dialogue in this complex but critically important area. To that end, **we are ready to engage in any opportunity to expand further on the impacts and interdependencies noted in this preliminary response**, and strongly urge the government to examine and comprehend the root causes that threaten the integrity of patient choice. We call upon the government to hold all affected stakeholders accountable as we collectively forge solutions to safeguard informed, safe, effective, and patient-centered care in Ontario and across Canada.