

## 2019 was a year of exciting triumphs, devastating defeats and things that made us go “hmmm” ...

The last year of the decade was marked by many wins, a few losses and ground - lots of it - taken in the campaign against PBM abuse:

**January** saw the release of the [Pharmacists Society of the State of New York's Spread Pricing Report](#) with its jaw-dropping revelation that New Yorkers had paid more than \$300 million in spread on Medicaid managed care prescriptions in 2018. Fed up with PBM lies, New York City pharmacy owners funded and launched the [FixRx campaign](#) that would go on to inspire similar efforts in [Illinois](#), [Maryland](#), [Wisconsin](#) and Florida.

In **February**, perhaps spurred by intense media scrutiny of PBM business practices and their blame-shifting tactics, President Trump and HHS Secretary Alex Azar proposed to ["fundamentally rewire how we pay for drugs in this system."](#) One day later, [Sec. Azar paid a visit to Chateau Drug and Gifts in Metairie, LA](#) to meet with independent pharmacies and further the conversation. PUTT released the results of our [DIR Fee survey](#) confirming what independent pharmacies already knew: DIR fees had increased by 87% from 2017 to 2018, with average per-store fees moving from \$74,711.34 in 2017 to \$129,613.55 in 2018.

**March** roared in like a directionally-confused lion as states began [proposing Canadian drug importation](#) legislation as a means to offload a serious domestic crisis onto our northern neighbor, because why wouldn't an entire country with a population slightly larger than Florida sell us their meds? New spread pricing investigations in [Illinois](#) and [Kentucky](#) confirmed spread pricing in Medicaid is an actual thing despite what the PBM opposition said, and comedian Hasan Minaj (*Patriot Act*, Netflix) released ["The Drug Pricing" episode](#), hilariously summing up an issue that isn't otherwise very funny. Refusing to be silenced, pharmacy owners rallied at their state capitols in New York, Illinois and Florida.

**April** saw the U.S. [Senate Finance Committee](#) and [House Energy and Commerce](#) drug pricing hearings which provided neither transparency nor clarity, but was true “must see TV” as Georgia Congressman Buddy Carter told PBM executives “your days are numbered.” Meanwhile [Maryland](#) won a years-long, hard-fought battle with the passage of three anti-PBM bills which, among other things, established a ‘Prescription Drug Affordability Board’ to cap drug prices and set payment limits to government-run health benefit plans. On the matter of drug manufacturer rebates, pharmacies and patients flooded HHS with feedback urging the removal of the Safe Harbors protections for PBMs, who claim rebates as revenue. HHS, even blogged in favor of removal, telling the public to not ["buy \(PCMA's\) defense of the status quo"](#).

**May** broke our hearts when the Trump Administration pulled [a last-minute reversal](#) on its proposed rule to rein in PBMs, a move that left independent pharmacies and their patients feeling more than a little betrayed. But May also saw the publication of numerous opinion articles across the U.S. from healthcare providers detailing PBM atrocities committed against patients. As new

information about abusive tactics again came to light, [Arkansas](#), [Illinois](#), and [Iowa](#) all passed anti-PBM legislation, and Georgia became the first state to exploit its own legal loophole with the bold "[Anti-Steering & Transparency Act](#)". The brash new law clamps down on large chain PBM-owned pharmacies to stop PBM self-dealing. Finally, despite efforts by Aetna to enforce silence, a federal judge ruled [the whistleblower suit](#) against their newly acquired corporate counterpart CVS could continue forward.

The dog days of summer came early to **June** as the “do they or don’t they drive up prices” PBM debate raged on, meanwhile independent pharmacies continued to close in unprecedented numbers. But sun shone brightly in [Louisiana](#) as Governor Edwards signed [a series of pro-pharmacy bills](#) introduced by Sen. Fred Mills and Rep. Bernard LeBas - both pharmacists - into law.

We felt a glimmer of hope in **July** as the Senate Finance Committee passed the “[Prescription Drug Pricing Reduction Act](#)”, bipartisan legislation that would require PBMs to publish yearly reports on rebates, discounts, and price concessions, including amounts passed on to taxpayers. Unfortunately, this would be one of the last times in 2019 for mass bipartisan efforts at the federal level in the battle for PBM reform.

**August** brought on the heat - literally. An [Arizona postal worker’s mail truck-cooked steak](#) led to a rash of stories focused on mandatory mail-order and the effectiveness of medications exposed to extreme temperatures during delivery. Patients and physician groups got involved, becoming demonstrably vocal over PBM tactics that overturn doctors orders in favor of alleged “cost savings”. Illinois experienced a true grassroots win with the [passage of HB 465](#), which protects pharmacies from unethical fees and payment clawbacks imposed by PBMs. PUTT made its debut at the [National Council of State Legislatures](#), speaking directly with at least 35 state legislators and sharing evidence and data with another 40 or so legislative staff members. PUTT also met legislators at the [American Legislative Exchange Council](#) in Austin, and brought state legislators, pharmacy owners, doctors and patients from across the nation together to discuss urgently needed PBM reform policy at [PUTT’s 2019 Political Summit](#).

**In September**, the August momentum continued. Senators Grassley and Wyden spearheaded a [bipartisan letter campaign](#) to CMS and the White House in an effort to push through the previously abandoned federal DIR fee reform initiatives and states like New York, Kansas, Kentucky, and Wisconsin all continued to put forth legislation in an effort to combat PBM abuses in their home states. The cliffhanger that was the CVS-Aetna merger came to an end when [Judge Richard Leon finally gave the go-ahead](#) for CVS, owner of retail and mail order pharmacies, a PBM and in-store health clinics, to also own a major health insurer despite the protests of doctors, patient groups, consumers and pharmacies across the country.

**October** brought further clarity on the opacity of PBM tactics with learning and networking opportunities at the annual NCPA conference and states like Michigan and Indiana upped their efforts in attempting to pass new anti-PBM legislation by pushing to move to fee-for-service models. Unfortunately, harsh realities were spotlighted on state legislation in a University of

Southern California study which pointed out that “[fewer than 5% of the drug-pricing laws passed by states over the past few years would result in new information about drug pricing.](#)” Nevertheless, independent pharmacy persevered.

**November** brought with it [The Public Disclosure of Drug Discounts Act](#), unanimously passed by the US House in an effort to require CMS to make public information about drug discounts, rebates, and other payments that involve PBMs and prescription drugs. Healthcare and prescription drug pricing swiftly became a lynchpin topic of the impending mid-term elections and patient horror stories choosing between groceries or prescriptions became a mainstay of news outlet reporting. [California](#) released its intent to move to a fee-for-service model for its Medi-Cal beneficiaries beginning in January of 2021, and many more states continued to move forward with deep-dive audits into their state Medicare system PBM expenditures.

**December** is not yet over, but so far we’ve seen the damning results of the Kentucky state audit on PBM spread-pricing, a [positive ruling by SCOTUS](#) in favor of Arkansas’ ability to be heard by the Supreme Court in their fight against PBMs, and a major push from many states for bill signings and formal hearings as we move closer to the end of 2019 legislative sessions and into the hope-filled arena that a new year brings. As we write this, [New York is awaiting Governor Andrew Cuomo’s signature](#) on what is potentially the most aggressive anti-PBM legislation to date in the U.S. and the first woman legislator to take on the PBMs at the state level - Florida Representative Jackie Toledo - [announced new legislation that would protect Floridians](#) from further damages at the hands of PBMs.

In spite of the constant misinformation campaigns by PCMA and the PBM lobby, we encourage our members to take heart: **independent pharmacy continues persevere**. We are gathering strength in number and momentum as the new year (let’s call 2020 “the year of clear vision and action”) approaches. Our ability to band together at the grassroots level keeps us strong as we continue to fight for what’s right for our patients, our businesses and our profession in 2020. As Mark Twain once said, “It’s not the size of the dog in the fight, it’s the size of the fight in the dog!”

Go PUTTbulls!