

119TH CONGRESS
2^D SESSION

S. 3822

To prohibit pharmacy benefit managers, insurers, and prescription drug or medical device wholesalers from being under common ownership with certain medical service providers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2026

Ms. WARREN (for herself and Mr. HAWLEY) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To prohibit pharmacy benefit managers, insurers, and prescription drug or medical device wholesalers from being under common ownership with certain medical service providers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Break Up Big Medi-
5 cine Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Large, vertically integrated health care plat-
2 forms dominate the American health care system.
3 These corporate entities own or control every part of
4 the health care supply chain, including upstream
5 business lines, like health insurance plans, and
6 downstream suppliers, like pharmacies and physi-
7 cians. This is the end result of an unprecedented
8 wave of consolidation.

9 (2) Large, publicly traded insurance conglom-
10 erates have increasingly engaged in aggressive acqui-
11 sition strategies, becoming some of the largest em-
12 ployers of physicians in the country. As of 2023, one
13 conglomerate controls approximately 10 percent of
14 all American physicians, making it the single largest
15 employer of physicians in the nation.

16 (3) More than three-quarters of all American
17 doctors are employed by corporate entities, with
18 independent physicians comprising a small and
19 shrinking share of America's doctors.

20 (4) Large wholesalers of drugs and medical de-
21 vices have similarly engaged in a wave of consolida-
22 tion. The 3 largest drug wholesalers control 98 per-
23 cent of the United States drug distribution market.
24 These conglomerates have also engaged in substan-
25 tial vertical integration, acquiring downstream sup-

1 pliers including specialty medical practices and med-
2 ical supply distributors. Since January 2024, the 3
3 largest drug wholesalers have proposed or completed
4 acquisitions of downstream suppliers worth approxi-
5 mately \$16,000,000,000 and spanning more than
6 1,000 locations across 35 States.

7 (5) Pharmacy benefit managers are corporate
8 entities that determine what drugs will be covered by
9 health plans, what prices patients will pay, and how
10 much pharmacies will be reimbursed. The 3 largest
11 pharmacy benefit managers are each integrated into
12 large, corporate health care platforms. These 3
13 pharmacy benefit managers alone process nearly 80
14 percent of prescription drug claims.

15 (6) Ownership of both upstream and down-
16 stream businesses creates inherent conflicts of inter-
17 est for corporate health care platforms.

18 (A) The Federal Trade Commission has
19 found that vertically integrated pharmacy ben-
20 efit managers have both the ability and incen-
21 tive to steer business to their own affiliated
22 pharmacies, which reduces competition and in-
23 creases prescription drug costs for patients.

24 (B) In the physician market, large insurers
25 have the ability and incentive to steer enrollees

1 to providers owned by the same parent com-
2 pany.

3 (C) Self-preferencing of affiliated phar-
4 macies or physicians may allow large, vertically
5 integrated health conglomerates to evade statu-
6 tory limits on profits known as the Medical
7 Loss Ratio. Gaming of the profit constraint
8 using transfer pricing techniques may allow af-
9 filiated health insurance businesses to hide
10 profits in the unregulated pharmacy or physi-
11 cian business segments, costing enrollees and
12 taxpayers money.

13 (D) Extensive evidence supports claims
14 that private insurers issuing Medicare Advan-
15 tage plans use employed physicians to inten-
16 sively document the medical conditions of their
17 enrollees, generating inflated payments from
18 the Federal Government without improving care
19 quality.

20 (E) In the wholesale drug distribution
21 market, acquisitions of specialty care providers
22 by large wholesalers can create the incentive
23 and ability for the new, vertically integrated
24 company to steer specialists toward prescribing

1 the most lucrative drugs and devices rather
2 than the best treatment for the patient.

3 (7) Pursuant to its powers under article I, sec-
4 tion 8, of the United States Constitution, Congress
5 has the ability to create any law necessary and ap-
6 propriate to regulate interstate commerce. Large,
7 national health conglomerates operate across state
8 lines and engage in intrastate activities that sub-
9 stantially relate to interstate commerce. Congress in-
10 tends to regulate these corporate health care plat-
11 forms in the public interest.

12 (8) In order to eliminate the conflicts of inter-
13 est described in paragraphs (1) through (7) and re-
14 store competition to the marketplace, the Federal
15 Government should—

16 (A) protect patients, physicians, phar-
17 macies, and taxpayers by structurally sepa-
18 rating vertically integrated health conglom-
19 erates;

20 (B) require parent companies that own an
21 insurer or pharmacy benefit manager to divest
22 any medical providers they either directly own
23 or control through management service organi-
24 zations;

1 (C) require parent companies that own a
 2 prescription drug or medical device wholesaler
 3 to divest any medical provider or management
 4 service organizations they own;

5 (D) enable Federal agencies, State attor-
 6 neys general, and private citizens to bring civil
 7 actions to enforce the structural separation of
 8 these companies; and

9 (E) grant the Federal Trade Commission
 10 and Department of Justice additional authority
 11 to review and block future actions that would
 12 harm the public interest by re-creating the con-
 13 flicts of interest described above.

14 **SEC. 3. PROHIBITIONS RELATING TO ANTICOMPETITIVE**
 15 **OWNERSHIP AND CONTRACTS.**

16 (a) PROHIBITION ON CERTAIN COMMON OWNER-
 17 SHIP.—

18 (1) INVOLVING AN INSURANCE COMPANY OR
 19 PHARMACY BENEFIT MANAGER.—

20 (A) IN GENERAL.—It shall be unlawful for
 21 any person to both—

22 (i) directly or indirectly own, operate,
 23 control, or direct the operation of the
 24 whole or any part of—

25 (I) a provider; or

1 (II) a management services orga-
2 nization; and

3 (ii) directly or indirectly own, operate,
4 or control the whole or any part of—

5 (I) an insurance company; and

6 (II) a pharmacy benefit manager.

7 (B) DIVESTMENT.—Not later than 1 year
8 after the date of enactment of this Act, any
9 person in violation of subparagraph (A) shall
10 divest one of the following:

11 (i) All entities described in subpara-
12 graph (A)(i).

13 (ii) All entities described in subpara-
14 graph (A)(ii).

15 (2) INVOLVING A WHOLESALER.—

16 (A) IN GENERAL.—It shall be unlawful for
17 any person to both—

18 (i) directly or indirectly own, operate,
19 control, or direct the operation of the
20 whole or any part of a provider or manage-
21 ment services organization; and

22 (ii) directly or indirectly own, operate,
23 or control the whole or any part of a pre-
24 scription drug or medical device wholesaler.

1 (B) DIVESTMENT.—Not later than 1 year
2 after the date of enactment of this Act, any
3 person in violation of subparagraph (A) shall
4 divest one of the following:

5 (i) All entities described in subpara-
6 graph (A)(i).

7 (ii) All entities described in subpara-
8 graph (A)(ii).

9 (b) ANTITRUST ENFORCEMENT.—

10 (1) IN GENERAL.—Both the Federal Trade
11 Commission and the Assistant Attorney General in
12 charge of the Antitrust Division shall have jurisdic-
13 tion, jointly or separately, to enforce this section.

14 (2) PENALTIES FOR FAILURE TO DIVEST.—

15 (A) GUIDANCE.—Not later than 30 days
16 after the date of enactment of this Act, the
17 Chair of the Federal Trade Commission and the
18 Assistant Attorney General in charge of the
19 Antitrust Division shall issue guidance speci-
20 fying milestones for divestment within the dead-
21 line under subsection (a).

22 (B) PENALTIES.—

23 (i) IN GENERAL.—For any person
24 that does not comply with the milestones
25 specified under subparagraph (A), the

1 Chair of the Federal Trade Commission or
2 the Assistant Attorney General in charge
3 of the Antitrust Division shall cause 10
4 percent of the profits of the person to be
5 transferred into escrow on a monthly basis,
6 to be—

7 (I) returned to the person if di-
8 vestment occurs by the deadline under
9 subsection (a); or

10 (II) deposited into the fund de-
11 scribed in subsection (e)(7) if divest-
12 ment does not occur by the deadline
13 under subsection (a).

14 (C) TRUSTEE.—If divestiture does not
15 occur by the deadline under subsection (a), a
16 divestiture trustee shall oversee the divestiture
17 required under that paragraph. The divestiture
18 trustee shall have the authority to sell the enti-
19 ty to which the divestiture requirement applies.

20 (e) CIVIL ACTIONS.—

21 (1) IN GENERAL.—When the Inspector General
22 of the Department of Health and Human Services,
23 the Assistant Attorney General in charge of the
24 Antitrust Division of the Department of Justice, the
25 Federal Trade Commission, or an attorney general

1 of a State has reason to believe that a person is in
2 violation of subsection (a), such Inspector General,
3 Assistant Attorney General, Federal Trade Commis-
4 sion or attorney general of a State may bring a civil
5 action in an appropriate district court of the United
6 States.

7 (2) PRIVATE RIGHT OF ACTION.—

8 (A) IN GENERAL.—An individual alleging
9 damages as a result of a violation of this Act
10 may bring a civil action in any court of com-
11 petent jurisdiction, State or Federal.

12 (B) RELIEF.—In a civil action brought
13 under subparagraph (A) in which the plaintiff
14 prevails, the court may award—

15 (i) treble damages;

16 (ii) reasonable attorney's fees and liti-
17 gation costs; and

18 (iii) any other relief, including equi-
19 table or declaratory relief, that the court
20 determines appropriate.

21 (3) ACTIONS BY STATE ATTORNEYS GEN-
22 ERAL.—If the attorney general of a State has reason
23 to believe that an interest of the residents of the
24 State has been or is being threatened or adversely
25 affected by a practice that violates subsection (a),

1 the attorney general of the State may, as parens
2 patriae, bring a civil action on behalf of the resi-
3 dents of the State in an appropriate district court of
4 the United States to obtain appropriate relief, in-
5 cluding monetary damages.

6 (4) INJUNCTIVE AND EQUITABLE RELIEF.—In
7 any action described in paragraph (1), (2), or (3),
8 the applicable court, on a finding that a person is
9 in violation of subsection (a), shall issue an order re-
10 quiring such person—

11 (A) to cease and desist from such violation,
12 and, if applicable, divest an entity of such per-
13 son in accordance with paragraph (1)(B) or
14 paragraph (2)(B) of such subsection (a), as ap-
15 plicable; and

16 (B) to disgorge any revenue received from
17 an entity subject to divestment in accordance
18 with such subsection (a) for the period of such
19 violation.

20 (5) OTHER RELIEF.—In addition to any relief
21 obtained under paragraph (1), (2), (3), or (4), the
22 court may grant any other equitable relief necessary
23 to redress and prevent recurrence of the violation.

24 (6) RIGHT TO JURY TRIAL.—Either party, upon
25 request, shall have the right to a jury trial.

1 (7) DEPOSIT.—Any revenue disgorged pursuant
2 to an action under paragraph (1) shall be deposited
3 in a fund created by the Federal Trade Commission
4 and distributed by the Federal Trade Commission to
5 be put to use in the interest of serving the health
6 care needs of the harmed community, including con-
7 sumers overcharged for medical services at vertically
8 integrated health care conglomerates.

9 (d) FTC AND DOJ REVIEW.—

10 (1) REPORTING REQUIRED.—Any divestment of
11 an entity required under subsection (a) shall be re-
12 ported to the Federal Trade Commission and the
13 Assistant Attorney General in charge of the Anti-
14 trust Division of the Department of Justice under
15 section 7A of the Clayton Act (15 U.S.C. 18a) with-
16 out respect to the thresholds under subsection (a)(2)
17 of that section.

18 (2) TOLLING OF DIVESTMENT PERIOD DURING
19 REVIEW.—The divestment period under subsection
20 (a) shall be tolled during the pendency of any wait-
21 ing period required under section 7A of the Clayton
22 Act (15 U.S.C. 18a).

23 (3) REVIEW OF EFFECT OF DIVESTITURE.—
24 With respect to each divestiture undertaken pursu-
25 ant to subsection (a), in addition to any applicable

1 review under section 7A of the Clayton Act (15
2 U.S.C. 18a), the Federal Trade Commission and the
3 Assistant Attorney General in charge of the Anti-
4 trust Division of the Department of Justice shall re-
5 view the effect on competition, financial viability,
6 and the public interest—

7 (A) of the divestiture; and

8 (B) of the subsequent acquisition of the di-
9 vested entity by the acquiring person.

10 (4) BLOCKING OF ACTIONS.—The Federal
11 Trade Commission and the Assistant Attorney Gen-
12 eral in charge of the Antitrust Division of the De-
13 partment of Justice, jointly or separately, may bring
14 a civil action in any court of competent jurisdiction
15 to block any action that would harm competition to
16 the detriment of the public interest with respect to
17 the conflicts of interest described in subsection (a).

18 (e) RULEMAKING AUTHORITY.—The Federal Trade
19 Commission shall promulgate rules to carry out this sec-
20 tion. Such rules shall not diminish any obligation under
21 this section.

22 (f) REPORTS REQUIRED.—The Chair of the Federal
23 Trade Commission and the Assistant Attorney General in
24 charge of the Antitrust Division of the Department of Jus-
25 tice shall submit to the appropriate congressional commit-

1 tees quarterly reports on compliance with this Act, includ-
2 ing the status of any divestitures required under this Act.

3 (g) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion shall be construed to limit the authority of the Fed-
5 eral Trade Commission, the Inspector General of the De-
6 partment of Justice, the Department of Health and
7 Human Services, or the attorney general of a State under
8 any other provision of law.

9 (h) SEVERABILITY.—If any provision of this Act or
10 the application thereof to any person or circumstance is
11 held invalid, the remainder of this Act, or the application
12 of that provision to persons or circumstances other than
13 those as to which it is held invalid, shall not be affected
14 thereby.

15 (i) DEFINITIONS.—In this section:

16 (1) DRUG; DEVICE.—The terms “drug” and
17 “device” have the meanings given those terms, re-
18 spectively, in section 201 of the Federal Food, Drug,
19 and Cosmetic Act (21 U.S.C. 321).

20 (2) HEALTH PLAN.—The term “health plan”
21 means any public or private health insurance plan.

22 (3) MANAGEMENT SERVICES ORGANIZATION.—
23 The term “management services organization”
24 means an entity that has entered into an agreement
25 with a provider to furnish services to such provider,

1 including services relating to payroll, human re-
2 sources, employment screening, payer contracting,
3 billing and collection, coding, information technology
4 services, patient scheduling, property or equipment
5 leasing, and administrative or business services that
6 do not constitute the practice of medicine.

7 (4) PERSON.—The term “person” has the
8 meaning given the term in section 8 of the Sherman
9 Act (15 U.S.C. 7).

10 (5) PHARMACY BENEFIT MANAGER.—The term
11 “pharmacy benefit manager” means any person,
12 business, or other entity, such as a third-party ad-
13 ministrator, regardless of whether such person, busi-
14 ness, or entity identifies itself as a pharmacy benefit
15 manager, that, either directly or indirectly through
16 an intermediary (including an affiliate, subsidiary,
17 or agent) or an arrangement with a third party—

18 (A) acts as a negotiator of prices, rebates,
19 fees, or discounts for prescription drugs on be-
20 half of a health plan or health plan sponsor;

21 (B) contracts with pharmacies to create
22 pharmacy networks and designs and manages
23 such networks; or

24 (C) manages or administers the prescrip-
25 tion drug benefits provided by a health plan, in-

1 including the processing and payment of claims
2 for prescription drugs, arranging alternative ac-
3 cess to or funding for prescription drugs, the
4 performance of utilization management services,
5 including drug utilization review, the processing
6 of drug prior authorization requests, the adju-
7 dication of appeals or grievances related to the
8 prescription drug benefit, contracting with net-
9 work pharmacies, controlling the cost of covered
10 prescription drugs, or the provision of related
11 services.

12 (6) PRESCRIPTION DRUG.—The term “prescrip-
13 tion drug” means a drug approved under section
14 505 of the Federal Food, Drug, and Cosmetic Act
15 (21 U.S.C. 355) that is subject to section 503(b)(1)
16 of such Act (21 U.S.C. 353(b)(1)).

17 (7) PRESCRIPTION DRUG OR MEDICAL DEVICE
18 WHOLESALER.—The term “prescription drug or
19 medical device wholesaler”—

20 (A) means a person engaged in wholesale
21 distribution of a prescription drug or a device;
22 and

23 (B) includes a parent (direct or indirect)
24 of, a subsidiary (direct or indirect, and partial
25 or complete) of, and any entity under the com-

1 mon control or ownership of a person described
2 in subparagraph (A).

3 (8) PROVIDER.—The term “provider” means a
4 practitioner or entity the National Provider Institute
5 registration of which has 1 or more taxonomy codes
6 under the National Uniform Claim Committee (or
7 subsequent organization), including any in-patient or
8 outpatient pharmacy, physician practice, ambulatory
9 surgery center, urgent care center, post-acute care
10 facility, home-health provider, or hospital.

11 (9) WHOLESALE DISTRIBUTION.—The term
12 “wholesale distribution”—

13 (A) means a person engaged in the sale,
14 purchase, trade, delivery, handling, storage or
15 receipt of a drug or device by a person other
16 than the consumer or patient; and

17 (B) does not include—

18 (i) dispensing of a drug or device to a
19 consumer or patient by a person having a
20 valid license under State law to do so;

21 (ii) purchase, handling, storage, re-
22 ceipt, or other acquisition of a drug or de-
23 vice by a person having a valid license
24 under State law to dispense or administer
25 drugs or devices or, a hospital, pharmacy,

1 or other health care entity, for use by such
2 person, hospital, pharmacy, or other health
3 care entity;

4 (iii) sale, purchase, trade, delivery,
5 handling, storage, or receipt of a drug or
6 device by a person holding an application
7 approved under section 505 or 515 of the
8 Federal Food, Drug, and Cosmetic Act (21
9 U.S.C. 355, 360e) or section 351 of the
10 Public Health Service Act (42 U.S.C. 262)
11 for such drug or device, a co-licensed part-
12 ner of any person described in this clause,
13 or an affiliate of any person described in
14 this clause;

15 (iv) possession by, receipt by, or
16 transfer to a—

17 (I) third-party logistics provider
18 that provides or coordinates
19 warehousing or other logistics services
20 in interstate commerce; or

21 (II) repackager who owns or op-
22 erates an establishment that repacks
23 and relabels drugs or devices for fur-
24 ther sale or distribution, provided that
25 such third-party logistics provider or

1 repackager does not take ownership of
2 the drug or device;

3 (v) possession by, receipt by, or trans-
4 fer to a common carrier that transports a
5 drug or device, provided that the common
6 carrier does not take ownership of the
7 drug;

8 (vi) intracompany transfer of any
9 drug or device by an entity described in
10 clause (i), (ii), or (iii), including transfers
11 between affiliates thereof, or warehousing
12 by such person incidental to such
13 intracompany transfer; or

14 (vii) returns or reverse distribution by
15 any person described in clause (i), (ii),
16 (iii), (iv), or (v).

○