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(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend title XVIII of the Social Security Act to prohibit the Secretary of Health and Human Services from entering into contracts with PDP sponsors of prescription drug plans that have a contract with certain pharmacy benefits managers.

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**IN THE HOUSE OF REPRESENTATIVES**

Ms. TENNEY introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend title XVIII of the Social Security Act to prohibit the Secretary of Health and Human Services from entering into contracts with PDP sponsors of prescription drug plans that have a contract with certain pharmacy benefits managers.

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 “Ensuring PBM Com-  
5       petition Act”.

1 **SEC. 2. PROHIBITING THE SECRETARY OF HEALTH AND**  
2 **HUMAN SERVICES FROM ENTERING INTO**  
3 **CONTRACTS WITH PDP SPONSORS OF PRE-**  
4 **SCRIPTION DRUG PLANS THAT HAVE A CON-**  
5 **TRACT WITH CERTAIN PHARMACY BENEFITS**  
6 **MANAGERS.**

7 Section 1860D–12(b) of the Social Security Act (42  
8 U.S.C. 1395w–112(b)) is amended by adding at the end  
9 the following new paragraph:

10 “(9) PROHIBITION ON ENTERING INTO CON-  
11 TRACTS WITH PDP SPONSORS THAT HAVE A CON-  
12 TRACT WITH A CERTAIN PHARMACY BENEFITS MAN-  
13 AGERS.—

14 “(A) IN GENERAL.—Subject to subpara-  
15 graph (B), beginning on the date that is 5  
16 years after the date of enactment of this para-  
17 graph, the Secretary shall not enter into, or  
18 renew, a contract with a PDP sponsor for the  
19 offering of a prescription drug plan in a PDP  
20 region for a year if such sponsor has a contract  
21 for such year with a pharmacy benefits man-  
22 ager that, directly or indirectly, or through one  
23 or more intermediaries, owns, controls, or oth-  
24 erwise has a financial interest in, a pharmacy.

25 “(B) AUTHORITY TO DELAY REQUIRE-  
26 MENT.—The Secretary may delay the require-

1           ment in subparagraph (A) by not more than 2  
2           years.

3           “(C) PHARMACY BENEFITS MANAGER DE-  
4           FINED.—For purposes of this paragraph, the  
5           term ‘pharmacy benefits manager’ means any  
6           entity (or any affiliate, subsidiary, or agent of  
7           such entity) that, pursuant to an agreement  
8           with a PDP sponsor, either directly or through  
9           an intermediary acts as a price negotiator or  
10          group purchaser on behalf of such sponsor, or  
11          manages the prescription drug benefits provided  
12          by such sponsor, including the processing and  
13          paying claims for covered part D drugs, per-  
14          forming drug utilization review, processing drug  
15          prior authorization requests, adjudicating ap-  
16          peals or grievances related to covered part D  
17          drugs, contracting with network pharmacies,  
18          controlling the cost of such drugs, or providing  
19          any services related to managing such drug  
20          benefits.”.