

AMENDMENT
OFFERED BY MR. ROSE OF TENNESSEE

At the end of title II, add the following new section:

1 **SEC. _____. ESTABLISHING THE OFFICE OF THE INSPEC-**
2 **TOR GENERAL FOR PHARMACY BENEFIT**
3 **MANAGERS.**

4 (a) ESTABLISHMENT OF THE OFFICE OF THE IN-
5 SPECTOR GENERAL FOR PHARMACY BENEFIT MAN-
6 AGERS.—

7 (1) ESTABLISHMENT.—There is hereby estab-
8 lished within the Department of Health and Human
9 Services an independent office to be known as the
10 Office of the Inspector General for Pharmacy Ben-
11 efit Managers (hereinafter in this section referred to
12 as the “PBM Inspector General”).

13 (2) APPOINTMENT.—The PBM Inspector Gen-
14 eral shall be appointed by the President, by and with
15 the advice and consent of the Senate, and shall exer-
16 cise the duties and responsibilities described in this
17 section.

18 (3) INDEPENDENCE.—The PBM Inspector
19 General shall operate independently of the Office of
20 Inspector General of the Department of Health and

1 Human Services and any other Inspector General es-
2 tablished by law. Nothing in this section shall be
3 construed to limit, interfere with, or supersede the
4 existing or future authority of any other Inspector
5 General to investigate pharmacy benefit managers
6 (PBMs) or entities affiliated therewith.

7 (b) DUTIES AND POWERS.—

8 (1) OVERSIGHT OF PBMS.—The PBM Inspector
9 General shall have jurisdiction to audit, investigate,
10 and oversee all activities of any pharmacy benefit
11 manager.

12 (2) AUTHORITY TO COMPEL INFORMATION.—
13 The PBM Inspector General shall have the authority
14 to require, by subpoena or other lawful process, the
15 production of any records, contracts, communica-
16 tions, data sets, algorithms, email communications,
17 electronic messages, text messages, or any other cor-
18 respondence or digital record, regardless of medium,
19 that the Inspector General deems necessary to carry
20 out oversight responsibilities.

21 (3) DOCUMENT RETENTION.—Each PBM sub-
22 ject to this section shall maintain, preserve, and
23 make available to the PBM Inspector General com-
24 plete and unaltered copies of all communications, in-
25 cluding emails, internal memoranda, text messages,

1 digital chat records, and any other written or elec-
2 tronic correspondence, for a period of not less than
3 10 years from the date of generation.

4 (4) TIMELINESS OF RESPONSE.—PBMs shall
5 comply with any document or information request of
6 the PBM Inspector General not later than 10 busi-
7 ness days after receipt, unless a shorter period is
8 specified for urgent investigative purposes or ex-
9 tended for good cause shown and approved in writ-
10 ing by the PBM Inspector General.

11 (5) CIVIL PENALTIES.—Any PBM or respon-
12 sible officer, director, or agent thereof that—

13 (A) fails to comply with a lawful request
14 from the PBM Inspector General for informa-
15 tion or documents;

16 (B) knowingly submits false or misleading
17 information; or

18 (C) obstructs, delays, or otherwise inter-
19 feres with any audit, investigation, or inquiry
20 conducted under this section, shall be subject to
21 a civil penalty not less than \$50,000 per day of
22 violation, to be assessed by the PBM Inspector
23 General and enforced by the Attorney General
24 in a civil action.

1 (6) PUBLIC REPORTING.—The PBM Inspector
2 General shall issue semiannual public reports to
3 Congress summarizing oversight activities, major
4 findings, enforcement actions, and recommendations
5 for administrative or legislative reforms.

6 (c) COOPERATION WITH OTHER IGS AND AGEN-
7 CIES.—

8 (1) COORDINATION.—The PBM Inspector Gen-
9 eral shall coordinate, as appropriate, with the In-
10 spectors General of other Federal agencies exercising
11 oversight authority over Federal programs affected
12 by PBM activities.

13 (2) NONINTERFERENCE.—Nothing in this sec-
14 tion shall be construed to restrict or diminish the ju-
15 risdiction, powers, or functions of any other Inspec-
16 tor General, or to grant exclusive jurisdiction to the
17 PBM Inspector General over any matter otherwise
18 subject to investigation by another Inspector Gen-
19 eral.

20 (d) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated such sums as may be
22 necessary to carry out the provisions of this section, in-
23 cluding sufficient funding to ensure the independence,
24 staffing, and technological capacity of the PBM Inspector

- 1 General to exercise full oversight authority consistent with
- 2 this section.

