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May 24, 2022

Honorable Lina M. Khan  
Chair, Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, D.C. 20580

*Submitted Electronically*

Re: Solicitation for Public Comments on the Business Practices of Pharmacy Benefit Managers and their Impact on Independent Pharmacies and Consumers

Dear Chair Khan:

The Louisiana Independent Pharmacies Association (LIPA) represents over 400 independent, community pharmacies across Louisiana. LIPA continually communicates with its pharmacy members in an effort to assist with concerns ranging from audit issues to negative reimbursements. Because the pharmacies must interact Pharmacy Benefit Managers (PBMs) in the course of serving their patients, we are keenly aware of the unfair and deceptive business practices PBMs engage in and the harm that results to patients and the small businesses in Louisiana who serve them.

PBMs emerged in the late 1960s as intermediaries to process prescription drug claims. By the 1980s their electronic transactions continued in an unregulated manner. This reasonable purpose has evolved into a market largely consolidated to three unregulated middlemen that obscure their role in the pharmaceutical supply chain and hide their impact on the cost of prescription drugs.

Ostensibly, PBMs negotiate price discounts with drug manufactures to lower drug costs and insurance premiums for patients. However, these "discounts" are highly confidential, making it impossible to determine the net cost of prescription medication. This charade is exposed by the ever-growing gap between the list-price and the net-price, after rebates and other reductions, of brand name drugs. The Drug Channels Institute describes this as the "Gross-to-Net Bubble."<sup>1</sup>

PBMs receive rebates from drug manufacturers that should pass to the payer to cover the prescription drug claims of their beneficiaries. This should benefit the patient, but instead, via a practice known as "spread pricing," PBMs manipulate both sides of the prescription drug supply chain. On one hand, PBMs force manufacturers to offer ever-increasing incentives to ensure certain drugs are included on the drug formulary, and on the other hand, PBMs offer take-it-or-leave-it contracts to independent pharmacies or their representatives that reimburse them below their cost of acquisition. Because they are unregulated, the spread is pure profit to the PBM earned on the backs of pharmacies and patients.

Independent pharmacies are the first to see this cost, as they are required to pay more to stock their shelves and contractually obligated to accept lower reimbursements at the point of adjudication. As costs grow and reimbursements shrink, independent pharmacies are in grave danger of failing,

<sup>1</sup> *Warped Incentives Update: The Gross-To-Net Bubble Exceeded \$200 Billion in 2021*, Drug Channels Institute, March 22, 2022 (<https://www.drugchannels.net/2022/03/warped-incentives-update-gross-to-net.html>)



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which would leave many areas in Louisiana, especially rural Louisiana, without adequate access to patient care.

There is a dire need for transparency in the prescription drug payment model that the FTC can provide. Transparency would allow all costs and inputs to be considered so plans, pharmacies, and patients could make responsible decisions. Currently, the United States is an outlier regarding prescription drug prices and neither private companies nor public entities are saved from the onslaught of increasing prescription drug prices. Even one of the oldest drugs on the market, insulin, is negatively impacted by PBM practices.

Research from the PBM Accountability Project<sup>2</sup> found that between 2017 and 2019, PBMs shifted their business model away from depending on retained rebates and focused more on revenue collected through administrative fees and their affiliated mail order pharmacies. Uncoincidentally, PBMs' gross profit increased by \$3 billion during the same time period.

These are not occasional occurrences but are a core tenant of the PBM business model, and one that likely could not withstand the scrutiny that would come with transparency or responsible regulation. Patients in Louisiana and across the nation are in peril if they cannot access or afford necessary prescription drugs to maintain their health. Hurricane Ida exposed this vulnerability last fall.

Seemingly every area of the country has recently been impacted by natural disasters, including hurricanes, flooding, and wildfires. Hurricane Ida caused significant damage across large portions of Louisiana and interrupted mail deliveries for weeks. Despite national coverage<sup>3</sup> and thousands of people being displaced, PBMs continued to mail prescription drugs through their wholly owned mail-order pharmacies, leading to tremendous waste and increased costs. Although PBMs allege mail-order pharmacies save costs, they eliminate the person-to-person interaction a patient receives at the community, independent pharmacy.

If the unfair trade practices used by PBMs continue unabated, patients will almost assuredly lose access to the most accessible healthcare provider in their community. Independent pharmacies will be forced to close their doors; victims of negative reimbursements and a market controlled by unregulated middlemen. Louisiana and other rural states will see an increase in pharmacy deserts and patients without access to care. These deserts will lead to increased healthcare costs for everyone – patients, plans, and governments.

Sincerely,



Randal Johnson, President

<sup>2</sup> PBM Accountability Project. (2021). Pbmaccountability.Org. [https://7f0edfbb-d1c0-491c-a980-f6efff91f8f6.filesusr.com/ugd/b11210\\_264612f6b98e47b3a8502054f66bb2a1.pdf?index=true](https://7f0edfbb-d1c0-491c-a980-f6efff91f8f6.filesusr.com/ugd/b11210_264612f6b98e47b3a8502054f66bb2a1.pdf?index=true)

<sup>3</sup> Hurricane Idea's Damage Tall Could Top \$95 Billion, Making it the 7th Costliest Hurricane since 2000, CNBC, September 8, 2022 (<https://www.cnbc.com/2021/09/08/hurricane-idas-damage-tally-could-top-95-billion-making-it-7th-costliest-hurricane-since-2000-.html>)