

October 19, 2021

The Honorable Marcus McEntire
Chair, House Interim Study Committee on SB 821 Pharmacy Benefit Management
2300 N Lincoln Blvd.
State Capitol Building
Oklahoma City, OK 73105

RE: NATIONAL COMMUNITY PHARMACISTS ASSOCIATION COMMENTS ON PATIENT STEERING

Dear Chair McEntire and members of the Interim Study Committee:

My name is Matthew Magner, and I am the Director of State Government Affairs for the National Community Pharmacists Association. Thank you for the opportunity to provide insights into the issue of patient steering and its impact on the pharmacy-patient relationship. NCPA represents the interest of America's community pharmacists, including the owners of more than 19,400 independent community pharmacies across the United States and 344 independent community pharmacies in Oklahoma.

Pharmacy benefit managers (PBMs) have an outsized role in the pharmacy supply chain. PBMs determine which pharmacies patients may choose by creating provider networks, determine which drugs patients can be prescribed by creating drug formularies, and determine how much patients pay at the pharmacy counter for their medications. As one government investigation found, with their unique position in the pharmacy supply chain, "PBMs often employ controversial utilization and management tools to generate revenue for themselves in a way that is detrimental to health plan sponsors, patients, and pharmacies."¹

One such tool is patient steering, in which an PBM will either require a patient to use a particular pharmacy or charge higher cost shares to utilize the in-network pharmacy of the patient's choice. This practice allows PBMs and their affiliated pharmacies to avoid competition with non-affiliated community pharmacies for patients' business. According to a 2020 NCPA survey, 79% of respondents said their patients' prescriptions were transferred to another pharmacy in the previous six months without their patients' knowledge or consent.² Community pharmacies lost a median of 12 patients during that time period.³ With this arrangement, community pharmacies' reimbursements and patient access are determined by their competitors, restricting those pharmacies' ability to compete for customers.

NCPA is not the only organization that is aware of the disastrous impact patient steering can have. The problem of patient steering has been investigated by government officials in states across the

¹ New York Senate Committee on Investigations and Government Operations, *Final Investigative Report: Pharmacy Benefit Managers in New York*, (May 31, 2019), available at https://www.nysenate.gov/sites/default/files/article/attachment/final_investigatory_report_pharmacy_benefit_managers_in_new_york.pdf.

² "Patient Steering a Massive Problem for Community Pharmacists, New Survey Shows," NCPA (Sept. 17, 2020) <https://ncpa.org/newsroom/news-releases/2020/09/17/patient-steering-massive-problem-community-pharmacists-new-survey>.

³ *Id.*

nation. Reports released by the states of California, Minnesota, New York, and Wisconsin have expressed concerns over the practice of PBMs steering patients to PBM-owned pharmacies.⁴

Not only is patient steering anticompetitive, but it also allows insurer and PBM conflicts of interest to usurp a patient's authority to make his or her own healthcare decisions. It forces patients to make healthcare decisions based on the insurer or PBM's bottom line, instead of the patient's own best interests.

Although patient steering is bad for patient choice, it is incredibly lucrative for insurers and PBMs, particularly those that own specialty pharmacies. In 2020, the top four specialty pharmacies were all fully or partially owned by one of the largest PBMs.⁵ Those four pharmacies accounted for "75% of total prescription revenues from pharmacy-dispensed specialty drugs."⁶

This arrangement has led to higher costs for plan sponsors, as PBMs can steer patients to PBM-owned pharmacies and reimburse those pharmacies at higher rates. An audit of Florida's Medicaid managed care program found Medicaid beneficiaries were steered to MCO/PBM-owned pharmacies, which were reimbursed at higher rates than non-affiliated pharmacies for dispensing the same specialty drugs.⁷ And an analysis of reimbursement rates in Arkansas found that a particular PBM reimbursed its own retail pharmacies an average of \$63 more per prescription compared to independent pharmacies across the top 200 prescribed drugs.

Patient steering is an anticompetitive practice that removes patient choice, prevents local health care providers from competing for patients' business, and increases costs for plan sponsors. It is important that the Oklahoma State Legislature enact legislation that addresses the harms caused by this practice. By doing so, Oklahoma would join Alabama, Georgia, Louisiana, Mississippi, Tennessee, Texas, and others, all of which have protected patient choice by enacting pro-patient choice legislation. Thank you for your time, and I'm happy to answer any questions you have.

Sincerely,



Matthew Magner
Director, State Government Affairs

⁴ <https://www.dmhc.ca.gov/Portals/0/Docs/DO/PharmacyBenefitManagementLegislativeReportAccessible.pdf>.
https://www.ag.state.mn.us/Office/Communications/2020/docs/DPTF_Feb2020Report.pdf.
https://www.nysenate.gov/sites/default/files/article/attachment/final_investigatory_report_pharmacy_benefit_managers_in_new_york.pdf.
<https://oci.wi.gov/Documents/AboutOCI/RxTaskForceFinalReport.pdf>.

⁵ Adam J. Fein, "DCI's Top 15 Specialty Pharmacies of 2020: PBMs Expand Amid the Shakeout – While Walgreen's Outlook Dims," DRUG CHANNELS (May 4, 2021) <https://www.drugchannels.net/2021/05/dcis-top-15-specialty-pharmacies-of.html>.

⁶ *Id.*

⁷ Milliman, *Florida Agency for Health Care Administration: Pharmacy Benefit Manager Pricing Practices in Statewide Medicaid Managed Care Program* (Dec. 2020).