

December 13, 2021

Ms. Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chair Khan:

In June of this year, I congratulated you on your confirmation as the Chair of the Federal Trade Commission and shared with you business practices negatively impacting patients and small businesses in the world of prescription drugs. As you may recall, NCPA represents America's community pharmacists, including 19,400 independent community pharmacies who have played a critical role throughout the pandemic by providing critical access to COVID-19 immunizations and therapies. Almost half of all community pharmacies provide long-term care services and play a critical role in ensuring patients have immediate access to medications in both community and long-term care (LTC) settings. Our members dispense nearly 40% of the nation's retail prescriptions and 57% of independent pharmacies service communities that rank high or very high on the CDC's Social Vulnerability Index.

Despite playing this critical role in helping our nation through the COVID-19 pandemic, small business independent pharmacies continue to face unconscionable and anticompetitive practices from pharmacy benefit managers (PBMs) and their vertically integrated health plans. The environment I described in June has only worsened. I will not go into detail again because PBM practices are now being widely reported. However, you can be sure PBMs continue their anticompetitive contracting practices offering only take-it-or-leave-it contracts, and engaging in patient steering and discriminatory reimbursement, including massive "clawbacks" in the form of direct and indirect remuneration (DIR) and generic effective rates (GER) and brand effective rates (BER).

Vertical consolidation has emboldened the actions of Aetna/CVS Health, Cigna/Express Scripts, and UnitedHealthcare/OptumRx, which account for 77% of the health plan pharmacy benefit market.

I write to request that the FTC consider taking immediate action to investigate and adopt rules to address unfair methods of competition by PBMs in these areas. Additionally, I think you will find that using the FTC's 6(b) authority to conduct an industry study of PBMs discriminatory reimbursement practices will be eye-opening in terms of how reimbursement pressures are shuttering small business independent pharmacies.

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Sincerely,

A handwritten signature in black ink, appearing to read "B. Douglas Hoey". The signature is written in a cursive style with a prominent initial "B" and a distinct "Hoey" at the end.

B. Douglas Hoey RPh, MBA
CEO, National Community Pharmacists Association