

**Statement by Michael D. Hogue, PharmD, FAPhA, FNAP, APhA Executive Vice
President and CEO. American Pharmacists Association
Open meeting of the Federal Trade Commission (FTC)
Considerations for a second interim staff report highlighting additional staff
findings from the Commission's 6(b) study on the contracting practices of
pharmacy benefit managers, or PBMs
Tuesday, January 14, 2025**

I AM MICHAEL HOGUE, CEO OF THE AMERICAN PHARMACISTS ASSOCIATION, REPRESENTING OUR NATION'S OVER 300,000 PHARMACISTS AT EVERY SITE OF CARE AND MILLIONS OF PATIENTS ACROSS THE COUNTRY.

I WANT TO THANK THE FTC FOR THE OPPORTUNITY TO COMMENT TODAY IN SUPPORT OF ISSUING A SECOND INTERIM STAFF REPORT HIGHLIGHTING FINDINGS FROM THE COMMISSON'S 6(b) STUDY ON THE CONTRACTING PRACTICES OF PBMS THAT WILL EXPAND ON THE STAFF'S INITIAL FINDINGS REGARDING SPECIALTY DRUGS.

THE FTC'S [FIRST INTERIM REPORT](#) FROM A 2-YEAR INVESTIGATION FOUND THE VERTICALLY INTEGRATED PBMS OFFER UNFAIR CONTRACT TERMS THAT DO NOT EVEN COVER THE ACQUISITION COSTS OF MEDICATIONS AND THAT THE LARGE PBMS HAVE THE ABILITY AND INCENTIVE TO PREFER THEIR OWN AFFILIATED PHARMACIES, CREATING CONFLICTS OF INTEREST WHILE ALSO INCREASING PRESCRIPTION DRUG COSTS FOR PATIENTS.

THE COMMISSIONER REQUESTED ADDITIONAL INFORMATION TO BRING TO YOUR ATTENTION AS YOU ISSUE A POSSIBLE SECOND REPORT. WE BELIEVE THAT THE COMMISSION ALSO NEEDS TO ADDRESS THE ISSUE OF HEALTH CARE INSURANCE BROKERS AND THE KICKBACKS THEY RECEIVE FROM PBMS FOR SECURING BUSINESS. THE LEGALITY AND APPROPRIATENESS OF THESE FINANCIAL ARRANGEMENTS HAVE NOT BEEN FULLY INVESTIGATED OR ILLUMINATED, ADD SIGNIFICANTLY TO THE

COST OF HEALTH CARE, AND MAY BE USED AS A TACTIC TO FURTHER RESTRICT TRADE IN THE EMPLOYER-PURCHASED INSURANCE MARKET, INCLUDING PBM SELECTION BY NOT PRESENTING EMPLOYERS WITH THE BROADEST RANGE OF OPTIONS FOR BENEFIT MANAGEMENT SUCH AS WITH SMALLER TRANSPARENT PBMS.

THE PBM INDUSTRY CREATED THE TERM “SPECIALTY DRUGS.” THIS IS NOT A TERM CREATED BY FDA, CONGRESS, OR ANY REGULATORY BODY BUT A TERM CREATED BY THE PBM INDUSTRY TO STEER DRUGS BASED ON REBATE POTENTIAL AND COST TO A LIMITED DISTRIBUTION NETWORK. TO PROVE THE POINT, EXAMINE THE SPECIALTY DRUG LIST FOR FIVE PBMS AND YOU WILL DISCOVER FIVE DIFFERENT LISTS. WHAT QUALIFIES AS A SPECIALTY DRUG FOR ONE MAY OR MAY NOT BE ON SOMEONE ELSE’S LIST. IT ALL DEPENDS UPON REBATES AND KICKBACKS. THIS IS DESIGNED TO LOCK OUT THE PATIENT’S CHOICE OF GETTING THEIR MEDICINES FROM THEIR LOCAL PHARMACIST.

WHILE IT IS VITAL FOR THE FTC TO ISSUE A SECOND INTERIM PBM REPORT, WE ALREADY HAVE MOUNTAINS OF DATA FROM MEDICAID AND COMMERCIAL PLANS ON PBMS’ ANTICOMPETITIVE AND DECEPTIVE TRADE PRACTICES THAT TARGET PATIENTS WITH CHRONIC CONDITIONS AND FORCE THEM TO USE PBM-OWNED SPECIALTY, MAIL-ORDER, AND NETWORK PHARMACIES. WE STRONGLY URGE THE FTC TO TAKE ADDITIONAL ACTIONS TO RESTORE COMPETITION TO THE BROKEN PBM MARKETPLACE.

THANK YOU.