



February 9, 2023

The Honorable Chairman Dick Durbin  
Senate Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office  
Washington, DC 20510

The Honorable Ranking Member Lindsey Graham  
Senate Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

**Re:** Markup of legislation related to Pharmacy Benefit Manufacturer and manufacturers' practices that negatively impact the approval of affordable prescription drugs.

Dear Chairman Durbin and Ranking Member Graham:

The American Society of Health-System Pharmacists (ASHP) applauds the Senate Judiciary Committee on its consideration of legislation that will curb questionable pharmacy benefit manufacturer (PBM) practices and address abuses of the drug patent and approval process. ASHP is the collective voice of pharmacists who serve as patient care providers in hospitals, health systems, ambulatory clinics, and other health care settings spanning the full spectrum of medication use. Our 60,000 members include pharmacists, student pharmacists, and pharmacy technicians. For 80 years, ASHP has been at the forefront of efforts to improve medication use and enhance patient safety.

ASHP supports the Prescription Pricing for the People Act of 2023, which will curb anticompetitive PBM behavior. Large PBMs control over 85% of the market share across all health plans and engage in a variety of abusive behaviors that ultimately increase patients' health care costs, decrease the quality of care, and threaten the financial viability of pharmacy providers. Specifically, PBMs engage in discriminatory arrangements that favor their corporate-owned pharmacies, such as forcing healthcare providers to submit to drug distribution models known as white bagging and brown bagging, which allow insurers, rather than the patient's pharmacist and healthcare provider, to determine when, where, and how drugs are purchased, prepared, and administered to patients. This practice undermines hospitals' safety protections and jeopardizes patient care. PBMs also selectively underpay safety-net providers that participate in the 340B drug pricing program by targeted price concessions from providers participating in the 340B program. This adversely impacts the underserved populations the 340B program is meant to serve. PBMs also impose direct and indirect remuneration (DIR) fees on pharmacies based on opaque factors that are often not in the control of pharmacies, resulting in net reimbursement below the actual acquisition cost of the dispensed drug. This practice directly impacts patients because PBMs charge patients inflated cost sharing calculated based on the initial pharmacy payment, rather than the reduced payment, net of DIR fees. The Prescription Pricing for the People

Act of 2023 directs the FTC to pull back the curtain on these practices and enables Congress to take informed legislative action to ensure affordable and unincumbered patient access to lifesaving drugs.

ASHP also supports the Interagency Patent Coordination and Improvement Act of 2023, the Stop STALLING Act, the Preserve Access to Affordable Generics and Biosimilars Act, and Affordable Prescriptions for Patients Act of 2023. These four bills seek to address inefficiencies in the patent and FDA drug approval process that can be manipulated to artificially stymie competition and elevate the cost of prescription drugs to patients, and decreasing access to affordable therapeutically equivalent prescription drugs. We support the Interagency Patent Coordination and Improvement Act of 2023's intent to foster greater communication between the Patent and Trademark Office (PTO) and the Food and Drug Administration (FDA) to streamline a product's exclusivity and patent. We also support the Stop Stalling Act's intent to halt the inappropriate use of the FDA's citizen's petition process. ASPH also supports the Preserve Access to Affordable Generics and Biosimilars Act intent to halt unacceptable settlements that slow the approval of safe and effective generic drugs. ASHP also supports the Affordable Prescription for Patients Act of 2023's intent to halt manufacturer product hopping which artificially inflates drug prices and undermines innovation.

ASHP thanks the Committee for its work on these issues. We look forward to continuing to work with the Committee to ensure access to safe and affordable prescription drugs. If you have questions or if ASHP can assist the Committee in any way, please contact Frank Kolb at [fkolb@ashp.org](mailto:fkolb@ashp.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Kraus', with a stylized, wavy underline.

Tom Kraus  
American Society of Health-System Pharmacists