

Fact Sheet: CVS Lawsuits



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Louisiana Department of Justice

Lawsuit 1 – Text Messages

- LUTPA claims
- Texts about HB 358 contained false and misleading statements designed to provoke fear about pharmacy closures, drug access, and employment loss
- Misuse of health related information for political lobbying
- Violation of Louisiana law, public policy, fundamental principles of confidentiality, and trust in pharmacist-patient relationship
- Requested relief – injunction from conduct violative and using any info obtained for a person's personal health needs for CVS's business purposes, restitution for all expenses related to conduct, prosecution costs, civil penalties, misc damages/equitable relief

Lawsuit 2 – PBM Abuse

- LUTPA claims – unfair and deceptive trade practices as well as unfair methods of competition under LSA-R.S. 51:1405; unjust enrichment alternative claim
- Seeking injunctive relief, civil penalties, restitution, any other relief deemed necessary
- Allegations include:
 - Defendants leverage their dominant PBM position to prefer high-rebate, high-price brand drugs over lower cost alternatives
 - Defendants retain rebates, admin fees, and pricing spreads that should benefit payers and patients
 - Defendants' practices distort the drug market and drive up costs
 - Vertical integration with multiple, interlocking stages of pharma supply and reimbursement chain
 - CVS is largest PBM in US, estimated 33-34% share of US prescription claims, more than 2 billion claims annually, covering more individuals than any other
 - 2024 FTC report on PBMs details how they can squeeze independent pharmacies and how dominant PBMs can hike the cost of drugs. Report finds that PBMs wield enormous power over access and affordability of drugs
 - CVS rebate system causes drugs to cost more than they would in a functioning competitive market b/c rebate system creates powerful incentives that artificially inflate prices for brand name drugs – rebates influence formulary placement, not efficacy or price. In a competitive market, PBMs would bid for lowest price, not biggest rebate.
 - CVS does not pass through rebates to plan sponsors or patients

- CVS uses foreign group purchasing organization to negotiate rebates and other financial terms with manufacturers; this makes auditing and regulation difficult
- Requested relief – injunction from any conduct violative of LUTPA, obfuscating or otherwise manipulating prices and payments for drugs; restitution for expenses related to the described practices; prosecution costs; civil penalties; misc damages/other relief

Lawsuit 3 – Harm to Louisiana Independent Pharmacists

- LUTPA claims
- Allegations include:
 - CVS abuses market power to inflict economic harm on independent pharmacists – independents must contract with big three PBMs
 - CVS’ enormous market power allows them to decide reimbursements, which they do without disclosing what they charge/earn through opaque role in drug reimbursement process.
 - CVS’s market power allows them to impose crippling fees on independents
 - Independents cannot decline to deal with CVS b/c of market share
 - Neither consumer nor pharmacy has option to switch to different PBM for better reimbursement rates/lower fees/costs
 - CVS charges pharmacies direct and indirect (DIR) fees. Often applied retroactively as clawbacks; are variable and difficult to calculate or foresee. Force independent pharmacies to operate at net loss.
 - CVS charges pharmacies admin fees that further reduce their reimbursement
 - Contracts are opaque and complex; independent pharmacies do not even have access to complete terms of their contracts with CVS
 - Smaller margins of independent pharmacies make them disproportionately affected by DIR fees...and unlike big box pharmacies, independent pharmacies do not have bargaining power to negotiate terms with PBM
 - CVS uses market power to reimburse independents on a net basis less than chains.
 - According to LIPA, more than 100 pharmacies closed in Louisiana in 2023, which particularly harms rural areas.
 - CVS limits ability of independents to join networks, resulting in higher out-of-network prices and reducing patient choice
 - Engages in spread pricing
 - Threatens to remove independents from their network
- Relief requested – Injunction of conduct violating LUTPA and 22:1860.3, 1867, engaging in obfuscating or manipulating drug prices and payments; restitution, prosecution costs, civil penalties, disgorgement under 51:1408, any other damages/equitable relief