

# Impact of Large PBMs on Employees:

The Case for Oversight and Accountability by Employers



NATIONAL ASSOCIATION OF  
CHAIN DRUG STORES

# The Rising Cost of Care

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**Nationwide, employers are concerned about the rising cost of care.**

In fact, **more than 4 in 5** American business leaders believe health care costs have gone up in the last year — and 95% say they are concerned costs will go up next year.



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Source:

1. Poll among American business leaders who have responsibility over managing or overseeing health benefits for their organizations, Jan. 2024

# How the PBM Issue Impacts Employer Benefits



**PBMs are supposed to work on behalf of employers** to manage drug spending and ensure access to care for employees. Their partnership with employers was initiated with one goal in mind: to provide the best care and savings to patients.



**Large PBMs generally do not disclose the price they pay** to employers and health plans for drugs, the financial benefit they get from steering employees to their own affiliated pharmacies, the rebates they receive from drug manufacturers, or the incentives they are offering to TPAs, helping to disguise profits and charge employers more.



**Bottom line:** It looks like PBMs are forcing drug manufacturers to offer commissions – and it's at our expense.

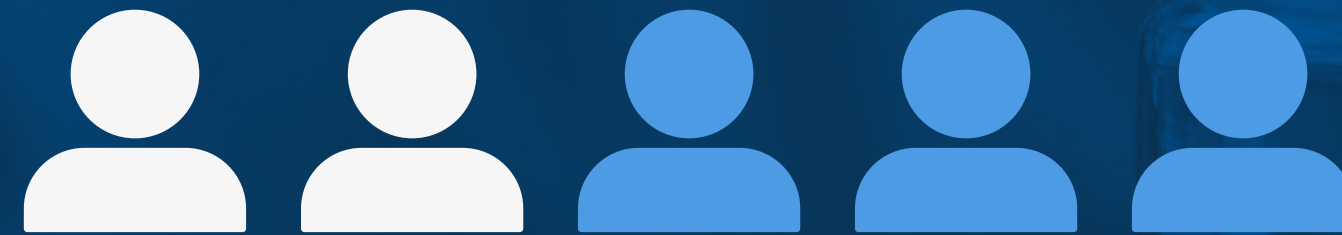
**PBMs have been hiding in the shadows for too long, and it's time employers bring their actions into the light.**



# A Need for Change

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**2 in 5** adults covered by employer sponsored insurance reported difficulty affording medical care, prescription drugs, or premiums.<sup>1</sup>



In 2023, the average annual premium for employer-sponsored health insurance increased by **7%** from the previous year.<sup>2</sup>

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**And the price tag to secure health benefits is only getting higher.**

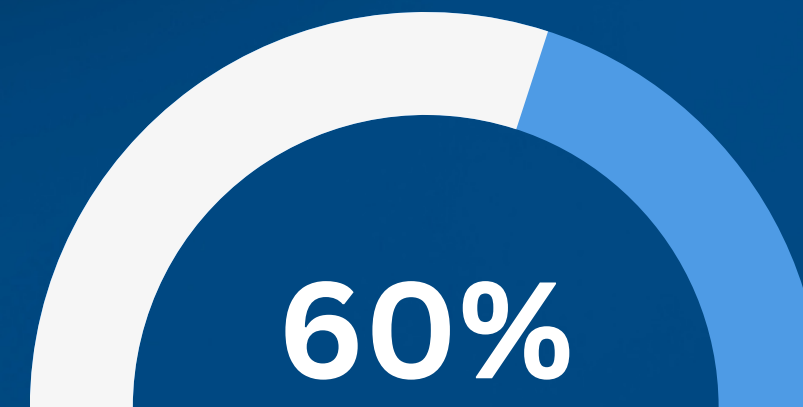
Source:

1. Kaiser Family Foundation/LA Times Survey Of Adults With Employer-Sponsored Insurance, Kaiser Family Foundation (2019)
2. Health Benefits In 2023: *Premiums Increase With Inflation And Employer Coverage In The Wake Of Dobbs*; Claxton, Rae et. al (2023)





- Nearly **2 out of 3** large employers (**64%**) believe PBMs are primarily looking out for their own bottom lines.



- Half of American business leaders and a majority of large employers believe that state and federal policymakers don't pay enough attention to PBM reform.

Source:

1. Poll among American business leaders who have responsibility over managing or overseeing health benefits for their organizations, Jan. 2024

# PBM Profitability

But how did PBMs rise to power over the health benefit system in the first place?

- They charge employers one price for their health benefit plan, reimburse pharmacies at a lower price point and **pocket the profit for themselves.**
- They **retain a significant rebate from pharmaceutical manufacturers**, with an almost \$50 billion increase in money extracted over just four years.<sup>1</sup>
- They operate in a system where members can only access medication **at pharmacies most profitable for the PBM – not most convenient to the employee.**
- They charge various miscellaneous fees, from transaction fees to discount card administration fees, to DIR fees. **These fees add up for employees, but continue to profit PBMs.**

# Essential Reforms for Employers

## ➤ Reasonable Reimbursement:

- Set rate floors for retail pharmacy reimbursement, including dispensing-related services, drug cost, and counseling — to help preserve employees' access to quality pharmacy care.

## ➤ Anti-Steering Reforms:

- Promote fair transactions with retail pharmacies by giving employees the freedom to choose where they access medications.

## ➤ Any Willing Provider:

- Ensure PBMs offer reasonable and relevant plans to any willing retail pharmacy, enhancing access for employers.

## ➤ Eliminating Abusive Audits:

- Stop unwarranted audits and retaliatory actions by PBMs.

## ➤ Rebate Reform:

- Rebate savings should reach the employees rather than creating an additional revenue stream for PBMs.

## ➤ Transparency:

- Provide greater visibility into pricing, rebates, affiliations, and other revenue sources for PBMs.

## ➤ Access to Data:

- Employers having unrestricted access to their claims data so they can make informed decisions.

## ➤ Enhanced Enforcement:

- Encourage strong enforcement of PBM compliance with laws and regulations.

# How Do Employers Fix This Problem?



## Command Transparency

PBMs are **contractually obligated to keep employers up to date** on **HOW** they're spending the money employers pay them for health plans.



## Fight Against Steering

Many PBMs are currently forcing employers into plans that **will benefit the PBM. Employers need to establish the expectation that they are providing employees the most affordable benefits possible** — not the other way around.



# How Do Employers Fix This Problem?



## Find Ways to Improve Services While Keeping Costs the Same

By **routinely auditing the practices of the PBMs** employers contract with, employers can make sure they are fulfilling their obligation while providing the most affordable rates.



## Support Legislative Efforts for PBM Reform

By **supporting legislative efforts for PBM reform** on both state and federal levels, employers can play their part in making sure their PBM is held to transparency standards, and the **employers have the freedom to choose where they access pharmacy services** while getting the most affordable rates.

# Case Study: Tyson Foods



Tyson Foods has become one of the first Fortune 100 companies to stop using their large PBM in efforts to cut spending.



We were going anywhere between **12% to 14%** increases for pharmacy — and on a **\$200 million** spend that's quite a bit.

Renu Chhabra, Tyson Vice President and Head of Global Benefits

By simply shifting away from their large PBM, they saved around **\$26 million**.



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**For years, the federal government thought PBMs were doing the right thing. Now, that trust has evaporated. When will the commercial market *wake up*?**

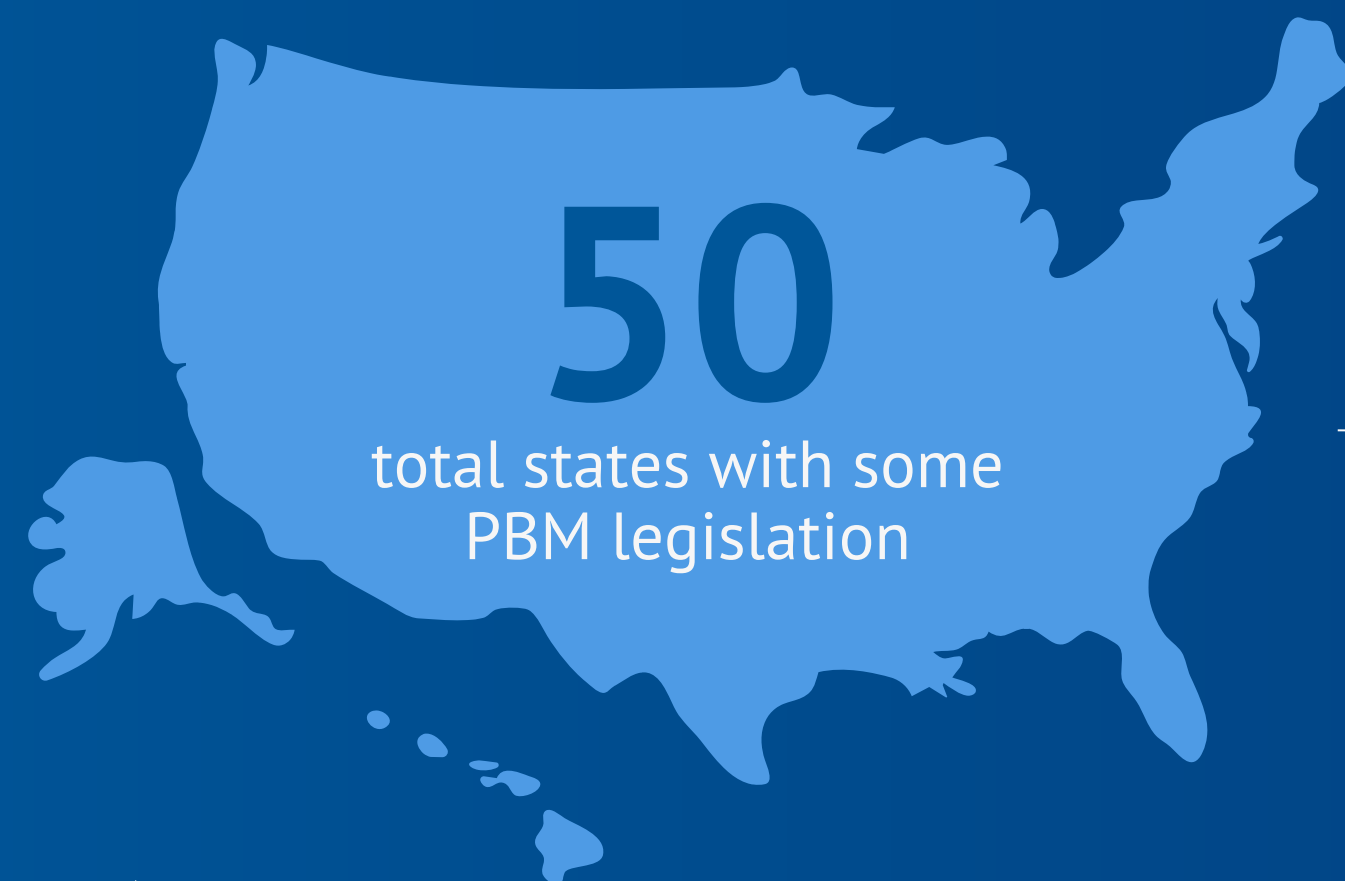
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# Relationship Between Insurers, PBMs, Specialty Pharmacies, and Providers


	CVSHealth	Elevance Health	BlueCross BlueShield	CENTENE Corporation	Cigna	Humana	UNITEDHEALTH GROUP
INSURER	<ul style="list-style-type: none"><li>• <b>Aetna</b></li></ul>	<ul style="list-style-type: none"><li>• Anthem</li></ul>	<ul style="list-style-type: none"><li>• <b>BlueCross BlueShield</b></li></ul>	<ul style="list-style-type: none"><li>• Medicaid</li><li>• <b>Wellcare</b></li><li>• Ambetter.</li></ul>	<ul style="list-style-type: none"><li>• <b>Cigna</b></li></ul>	<ul style="list-style-type: none"><li>• <b>Humana</b></li></ul>	<ul style="list-style-type: none"><li>• United Healthcare</li></ul>
PBM	<ul style="list-style-type: none"><li>• <b>CVS</b> Caremark</li><li>• <b>Zinc</b></li></ul>	<ul style="list-style-type: none"><li>• <b>CarelonRx</b> (IngenioRx)</li></ul>	<ul style="list-style-type: none"><li>• <b>PRIME</b> THERAPEUTICS</li></ul>	<ul style="list-style-type: none"><li>• <b>Envolve</b> Pharmacy Solutions</li></ul>	<ul style="list-style-type: none"><li>• EXPRESS SCRIPTS</li><li>• <b>Ascent</b></li></ul>	<ul style="list-style-type: none"><li>• <b>Humana</b> Pharmacy Solutions</li></ul>	<ul style="list-style-type: none"><li>• <b>OPTUMRx</b></li><li>• EMISAR</li></ul>
SPECIALTY PHARMACY	<ul style="list-style-type: none"><li>• <b>CVS</b> Specialty</li></ul>	<ul style="list-style-type: none"><li>• <b>CVS</b> Specialty</li><li>• <b>BioPlus</b></li></ul>	<ul style="list-style-type: none"><li>• <b>AllianceRx</b></li><li>• <i>Accredo</i></li></ul>	<ul style="list-style-type: none"><li>• AcariaHealth</li></ul>	<ul style="list-style-type: none"><li>• <i>Accredo</i></li></ul>	<ul style="list-style-type: none"><li>• <b>CenterWell</b></li></ul>	<ul style="list-style-type: none"><li>• <b>OPTUM</b> Specialty Pharmacy</li></ul>
PROVIDER SERVICES	<ul style="list-style-type: none"><li>• <b>CVS</b> Minute Clinic</li><li>• <b>Health HUB</b></li><li>• <b>SignifyHealth</b></li></ul>	<ul style="list-style-type: none"><li>• <b>CareMore HEALTH</b></li><li>• <i>Aspire</i> Health</li></ul>		<ul style="list-style-type: none"><li>• USMM</li><li>• <b>Community</b> Medical Group</li></ul>	<ul style="list-style-type: none"><li>• <b>EVERNORTH</b> Care Group</li><li>• Alegis Care</li><li>• <b>MDLIVE</b></li><li>• VillageMD</li></ul>	<ul style="list-style-type: none"><li>• CONVIVA</li><li>• <b>CenterWell</b> Senior Primary Care</li><li>• <b>CenterWell</b> Home Health</li></ul>	<ul style="list-style-type: none"><li>• <b>OPTUM</b> Care</li></ul>

# PBM Issues in the States



- 43 states with legislation prohibiting gag clauses on pharmacies
- 21 states with legislation prohibiting clawbacks
- 17 states with legislation requiring PBMs to report rebate or other information to the state

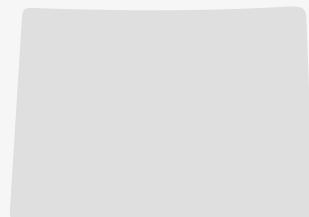
## IN THE NEWS:




The Florida Legislature **unanimously passed SB 1550** on May 2, 2023 and it was signed into law by Gov. Ron DeSantis the next day. He declared it “the most comprehensive legislation in Florida History to increase accountability and transparency for prescription drug costs.”



**SB 1137 was heard** in Texas’ Senate Health Services Committee, maintaining laws passed last session continue to protect patients and pharmacies to all PBMs operating in the Lone Star State.



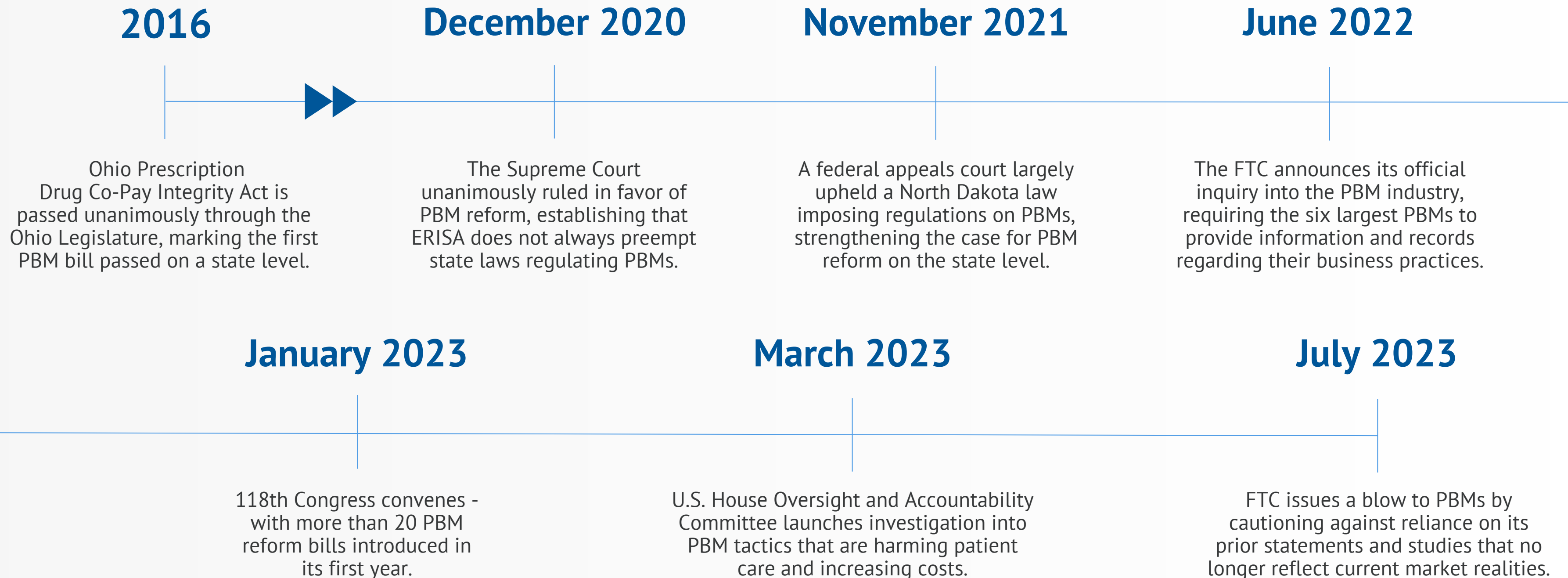
**HB 23-1225 was signed** into Colorado law on May 10, 2023, eliminating drug-pricing mark-ups and creating transparency for employers on pricing factors that impact what they pay for their employee prescription drug benefit under their contract with their PBM.



Minnesota **passed SF 2744** establishing a Prescription Drug Affordability Board (PDAB) and Prescription Drug Affordability Advisory Council (PDAAAC) to regulate pricing on prescription drugs.

# PBM Reform Through the Years

All **50 states** have enacted some PBM legislation.





# Does PBM Reform Impact ERISA?

The answer is a resounding **NO**.



The federal Employee Retirement Income Security ACT (ERISA) sometimes **preempts state laws that impact a range of employee benefits**, including those related to health insurance.



In 2020, the U.S. Supreme Court unanimously ruled in *Rutledge v. Pharmaceutical Care Management Association* that **states can pursue PBM reform legislation without conflicting with federal ERISA laws**.



The reality is that state lawmakers are careful to craft PBM reform legislation in a way that **empowers patients and employers, but does not dictate how plans should be structured**.

# What's Next?

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- ▶▶ Across the nation, a growing number of states and Congress are considering PBM reform efforts.
  - ▶▶ The Federal Trade Commission is continuing its investigation into predatory practices by PBMs.
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**Ultimately, it's clear that change is coming and that change has the potential to provide employers and their employees with convenient and affordable prescription drugs.**