

**National Community Pharmacists Association (NCPA)
Advocacy Center Update - Week Ending June 17th, 2011**

Please Contact your Members of Congress to support:

**H.R. 1971/S. 1058 (PBM Reform/McMorris Rodgers; Pryor-Moran),
H.R. 1946 (PBM Negotiations/Marino) and
H.R. 1936 (DME Diabetes Exemption/Schock-Welch)**

Senate Pharmacy Caucus Expands: We are pleased to announce that Senator Jon Tester (D-MT) will be the Democratic co-chair of the Senate Pharmacy Caucus, joining Senator Jerry Moran (R-KS). We ask all NCPA Members to ask their Senators to join this Caucus which will promote community pharmacy issues in the Senate.

Resignation of Congressman Weiner: This week Congressman Weiner (D-NY) resigned his seat in the House. He has been a long-standing champion of community pharmacy issues and we thank him for all his support. We wish him well in his new endeavors. With respect to legislation that he had introduced in this Congress, obviously that legislation is no longer active. The only community pharmacy bill that is truly affected by his resignation is H.R. 1839, the Community Pharmacy Fairness Act, which would allow community pharmacies to negotiate with health plans and PBMs. He was the lead sponsor of this bill. The bill has 16 cosponsors including: Reps Aderholt (R-Al), Bauchus (R-Al), Baldwin (D-WI), Barletta (R-PA) Chu (D-CA), Coble (R-NC), Doggett (D-TX), Hinojosa (D-TX), Jones (R-NC), Nadler (D-NY), Owens (D-NY), Paul (R-TX), Ross (D-AR), Roybal-Allard (D-CA), Welch (D-VT) and Wittman (R-VA). If you are represented by one of these Members, please ask them to switch their cosponsorship to H.R. 1946, the bill that was introduced by Rep. Marino (R-PA) that would give independent community pharmacies similar negotiations rights. All the other community pharmacy legislation listed above continues to remain active and viable – and we ask you to continue to keep up the good work in securing cosponsors!

Long Term Care Pharmacy Advocates Sought: NCPA is trying to build a cadre of Members of Congress who can be champions on LTC pharmacy issues. We are planning on doing this by 1) asking NCPA members to host Members of Congress in their LTC pharmacies; and, 2) matching Members of Congress to districts in which there are a significant number of LTC pharmacy locations. NCPA will be soliciting its members in the near future for help with both of these activities.

TRICARE Copayment Freeze Sought by NCPA: This week in the Senate Armed Services Committee markup of the Defense Authorization Act of 2012, Senator Roger Wicker (R-MS) joined Senator Kay Hagan (D-NC) in making the point that choice of pharmacy provider in the TRICARE program is vital and that there should be a copayment freeze. Unfortunately, a copay freeze was not included in the bill that came out of the Senate Armed Services Committee, but we will continue to work with the Senate and the House as the Defense Authorization makes its way through the legislative process to minimize disruption to our patients. In addition to the copay freeze we continue to work on alternatives to save the TRICARE program money other than their preferred choice: mail order dispensing.

Eliminating the Rx Requirement for FSA-reimbursed OTCs: Senator Kay Bailey Hutchison (R-TX) introduced The Patients' Freedom to Choose Act as an amendment to the Economic Development Act currently being considered by the Senate. The Hutchison Amendment would repeal the provision in the 2010 health care law that prohibits individuals from using funds from either Health Savings Accounts (HSAs) or Flexible Spending Accounts (FSAs) to purchase over-the-counter medication without a prescription. We have been working with numerous groups on this issue and sent a letter of support of the amendment this week.

Preserving Our Hometown Independent Pharmacies Act of 2011 (HR. 1946): NCPA continues to meet with Members of the Subcommittee on Intellectual Property, Competition, and the Internet, to urge Chairman Goodlatte (R-VA) to move HR.1946 within the committee. The legislation would provide more leverage to independent pharmacies against PBM contracts. We are meeting Members of the House Judiciary Subcommittee on Intellectual Property, Competition and the Internet to send letters urging a hearing/mark up.

Current sponsors: Reps. Marino [R-PA]-Lead sponsor; Barletta, (R-PA), Coble (R-NC), Ellmers (R-NC), Fortenberry (R-NE), Gohmert (R-TX), Paul (R-TX).

Pharmacy Competition and Consumer Choice Act of 2011 (HR. 1971/S.1058): NCPA continues to meet with all members of the Energy and Commerce (E&C) Committee and will focus initially on the Health Subcommittee. The bill would reform PBM auditing practices and well as require PBMs to disclose more information to pharmacies about contractual reimbursement terms, including MACs. We also plan to meet with the Senate Commerce Committee and Health Education Labor and Pensions Committee regarding our PBM bill (S. 1058/ "Pryor-Moran"). We hope to discuss the prospects of holding a general PBM hearing that would include witnesses from a variety of stakeholders, including PBMs. We will continue to meet with all E&C offices to educate them on the bill and seek co-sponsorship. We will be shortly sending a survey to our members regarding egregious PBM MAC and auditing practices to help us make a strong case for this Federal legislation.

Medicare Access to Diabetes Supplies Act of 2011 (H.R. 1936): NCPA will meet with Reps. Welch (D-VT) and Schock's (R-IL) staff to discuss next steps and will continue to seek co-sponsors in the House for the MADS Act. Preliminary feedback is positive as the legislation provides for a cost savings and could potentially be added to another legislative vehicle. There are concerns that Congress may be considering including all retail pharmacies in the competitive

bidding program for diabetes test supplies. We will be asking you to reach out to your Member of Congress once we get all the details.

Current Cosponsors: Rep. Schock [R-IL] lead R sponsor; Rep. Welch [D-VT]-lead D sponsor, Bachus (R-AI), Latham (R-IA), Ross (D-AR)

Medicare Part D NPI Legislation to be Introduced Soon: NCPA understands that Senators Coburn (R-OK) and Carper (D-DE) will soon be introducing a fraud, waste and abuse bill that will impact community pharmacies. In particular, a provision in the bill would deny payment for drug claims without the prescriber's NPI number. This policy would be consistent with CMS' intent to require an NPI on Part D drug claims in 2013. We are concerned that some individual providers are using institutional NPI numbers for prescriptions and we are concerned that that practice would continue under the bill's new provisions, resulting in claim rejections. Policymakers seem intent in eliminating the UPIN, DEA, NPI, state license number options, so that there is only one option, the NPI number.

NCPA Meets with CMS on E-Health Records and Pharmacy: NCPA participated in a meeting with the CMS Medicare Part D team regarding activities of the Pharmacy e-HIT Collaborative. The Director of the Collaborative provided information pertaining to the Pharmacist/Pharmacy Provider EHR and a medication management value set that is being developed in order to enable quality measures to demonstrate meaningful use of EHR's.

CMS Update on Part B Referred Claims: CMS recently released a few reminders related to Part B ordered and referred services. DME suppliers may file claims with ordering or referring information, but the DME supplier must be sure that:

- The physician or non-physician practitioner must be enrolled in Medicare or in an opt-out status;
- The NPI used for ordering/referring must be for an individual physician or non-physician practitioner (cannot be an organizational NPI); and
- The physician or non-physician practitioner must be of a specialist type that is eligible to order and refer. Moreover, only Medicare-enrolled individual physicians and non-physician providers of a certain specialist type are eligible to order/refer for Part B and DMEPOS Medicare beneficiary services.

NCPA Ready to Respond to Accounting of Disclosures Proposal: NCPA participated in Confidentiality Coalition conference call to discuss the recently released proposed rule on the Accounting of Disclosures (AOD). This proposed rule would create a new right for a patient to an "access report" which would require covered entities as well as business associates to document each particular person who electronically accesses and views PHI in a "designated record set" and would encompass both "uses" (access by actual CE or BA) as well as "disclosures" (access by someone outside the CA or BA). The intent behind this access report requirement is to allow individuals to learn if specific persons have inappropriately accessed their electronic designated record set information. Comments are due August 1, 2011.

NCPA Attends CDC Clinician Outreach Communication Activity (COCA). COCA is designed to provide two-way communication between clinicians and the CDC about emerging health threats, such as pandemics, natural disasters, and terrorism. The objectives of this meeting were to collaborate with partner organizations to meet their emergency preparedness needs; explore lessons learned from the 2009 H1N1 influenza pandemic and recent public health emergency events to improve CDC communications with healthcare providers. NCPA appreciated the opportunity to share some of the frustrations from members during the H1N1 pandemic with vaccine and Tamiflu supply, and lack of clear communication and clinical guidance. Providing the only pharmacy representation, the message from NCPA was that pharmacists should be routinely included in emergencies or disease control situations. We provide accessible healthcare for every spectrum of the population, and independents can readily respond in an emergency, especially in rural areas.

CDC Report Highlights Pharmacists' Vaccination Role: The number of adult patients vaccinated in the 2010–11 influenza season was approximately 94 million (41%)—an estimated increase of 10 million from the 2006–07 season (38%). The estimated number of doses administered in supermarkets and pharmacies in this timeframe increased substantially, from approximately 6 million in 2006–07 to approximately 17 million in 2010–11.

NCPA Political Activities: This past week, NCPA attended fundraisers and political events for the following Members of Congress: House Agriculture Subcommittee Appropriations Chair Jack Kingston (R-GA); Tuesday Group Membership of Moderate House Republicans; Republican Members of the Illinois Congressional delegation; Deputy House Majority Whip Cathy McMorris Rodgers (R-WA); House Ways and Means Committee Health Subcommittee Chair Wally Herger (R-CA); Senate Pharmacy Caucus Co-Chair Jon Tester (D-MT); and Freshman Representative Jamie Herrera (R-WA).

John M. Coster, Ph.D., R.Ph.
Senior Vice President, Government Affairs
Director, Advocacy Center
National Community Pharmacists Association (NCPA)
100 Daingerfield Road
Alexandria, VA 22314
703-683-8200 X1184 - office
571-214-3936 - cell
john.coster@ncpanet.org