What have we done for you lately? Here's the lowdown on NCPA's recent advocacy activity — and why it matters.

The coronavirus pandemic dominates the news and much of NCPA’s energy in March and into April

On March 13, President Trump declared a national emergency due to the novel coronavirus outbreak. NCPA sprang into action. Here are some of our advocacy actions related to COVID-19.

Prior to the passage of the Families First Coronavirus Response Act, NCPA helped ensure, through lobbying, letters, correspondence and advocacy with the Department of Labor, that pharmacies were exempted from more stringent FMLA provisions in the act. NCPA also lobbied for swift passage of the CARES Act, which was signed into law on March 27. The Coronavirus Aid, Relief, and Economic Security Act includes important relief for small businesses including emergency grants, a forgivable loan program, and changes to rules for expenses and deductions meant to make it easier for small businesses to keep employees on the payroll and open for business. The legislation helps small business pharmacies’ employees as well, which is important as they are serving on the front lines of care during the pandemic.

As the COVID-19 crisis was escalating, NCPA went into full-court advocacy mode via letters, meetings, conference calls, and other communication with the White House, Congress and key agencies. Here is a summary:
- A letter to Vice President Mike Pence offering the services of community pharmacists as front-line providers, including testing for COVID-19 as availability of diagnostic testing increases.
- Joined in a letter to the FDA with other organizations representing compounding pharmacists, asking them to help us provide urgently needed compounded products.

The CARES Act enhances patient access to self-care products, allowing patients to use their health savings account or flexible spending account for OTC medications and menstrual products.

The act makes small businesses with 500 or fewer employees eligible for emergency grants and a forgivable loan program. There are also changes to rules for expenses and deductions meant to make it easier for small businesses to keep employees on the payroll and open for business. The legislation helps small business pharmacies’ employees as well, which is important as they are serving on the front lines of care during the pandemic.

The NCPA coronavirus information page, on the association’s newly revised website (www.ncpa.org), provides visitors with real-time information as news quickly changes about the global pandemic.
products to patients and fill a critical supply chain need for OTC and prescription products during the crisis.

- Joined in a letter to PCMA asking that PBMs remove barriers during the crisis, such as waiving signatures, suspending audits, and opening formularies.
- Sent letters to CMS Administrator Seema Verma asking that CMS require Part D sponsors and PBMs to temporarily suspend all pharmacy audits during the public health emergency and provide clear guidance stating that Part D sponsors and PBMs are not able to audit pharmacies in the future for any alterations or waivers of Part D sponsor and PBM requirements, including patient signatures as proof of delivery for any medications, made during the emergency period.
- Offered a tele-town hall and webinars on the CARES Act, Families First Coronavirus Response Act, pharmacy testing opportunities, personnel safety, and more. All are available for replay.
- You’ll find details about our COVID-19 advocacy efforts and more on NCPA’s dedicated Coronavirus Information page (www.ncpa.org/coronavirus), which is updated daily.

**SUPREME COURT PBM CASE NOW ON HOLD**

On April 3, the Supreme Court announced that arguments that were scheduled for April 27, including Rutledge v. PCMA, are postponed in keeping with national public health guidance. Depending on prevailing public health guidance, the court will consider rescheduling options later. The court said it will consider rescheduling some cases from the March and April sessions before the end of the term, if circumstances permit in light of public health and safety guidance at that time. The court will consider a range of scheduling options and other alternatives if arguments cannot be held in the courtroom before the end of the term. The court said it will continue to proceed with the resolution of all cases argued this term.

**LETTERS SUPPORT RELIEF FROM DIR FEES, EXPANDED ROLE FOR PHARMACISTS**

Letters were sent to congressional leadership urging them to include provisions in COVID-19 legislation to address pharmacy DIR fees and expand the role of pharmacists during the pandemic. Reps. Raja Krishnamoorthi (D-Ill.), John Rose, (R-Tenn.), Vicente Gonzalez (D-Texas), and Buddy Carter (R-Ga.) led the effort for a temporary pause of pharmacy DIR fees during the COVID-19 public health emergency. The letter was signed by 54 members of the House of Representatives. We thank all NCPA members who stepped up and reached out to their representatives as a whopping 1,966 grassroots messages were sent to 365 House offices in less than 24 hours to support this letter.

Additionally, Carter and 35 House colleagues sent a letter proposing language to provide authority for pharmacist provider status under Medicare Part B to allow pharmacists prescriptive authority and health testing capabilities to address the COVID-19 virus as well as flu, strep, and other minor ailments for the duration of this public health emergency. NCPA will continue working with congressional pharmacy champions to include these provisions in any subsequent legislation to address the COVID-19 pandemic.

**NCPA URGES ENHANCED DISPENSING FEES FOR HOME DELIVERY IN MEDICAID**

In response to the national emergency declaration, NCPA advocated that CMS take steps to remove red tape to allow states more flexibility in amending their Medicaid programs to provide appropriate benefits. CMS has provided a template for states to request an 1135 waiver to amend their state Medicaid plans to battle the disease. One of the benefits highlighted in the template is an adjustment to the professional dispensing fee for home delivery.

**NCPA ENCOURAGES USE OF COMPOUNDING PHARMACISTS**

NCPA joined the Alliance for Pharmacy Compounding, American Pharmacists Association, and the National Alliance of State Pharmacy Associations in a letter to FDA urging the agency to help pharmacists provide urgently needed compounded products due to certain OTC and prescription products that are at risk for shortage during the current crisis. NCPA will continue to engage with the FDA to maximize the role of compounding pharmacists.

**CISA RECOGNIZES PHARMACIES AS CRITICAL INFRASTRUCTURE**

The Cybersecurity and Infrastructure Security Agency, part of the Department of Homeland Security, has recognized pharmacies and pharmacy staff as critical infrastructure in a memo identifying essential critical infrastructure workers during the COVID-19 response. NCPA, in official correspondence with CISA, advocated and expressed appreciation for this acknowledgment of the vital role community pharmacies and their staff have
in the ongoing emergency response to COVID-19 and emphasized that community pharmacies need equal access to personal protective equipment to continue contributing to the response effort.

OTHER NEWS

SCHAEFFER INSTITUTE REPORTS ON SHARING POINT-OF-SALE REBATES

The USC Schaeffer Institute issued a report on sharing rebates at the point of sale and the impact that would have on beneficiary cost-sharing in Medicare Part D. The report states that rebates have grown considerably over the last decade and emphasizes that patient cost-sharing is based on the list (pre-rebate) price of drugs, not the net price reflecting negotiated discounts.

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NEWS FROM NCPA

REPS. COLLINS, WELCH LEAD ON TOUGHER MERGER GUIDELINES

Reps. Doug Collins (R-Ga.), ranking member of the House Judiciary Committee, Peter Welch (D-Vt.), and 41 other House members sent a letter to the DOJ’s antitrust division and the FTC voicing concerns regarding vertical mergers, specifically in the health care space. The letter urges the agencies to adopt stricter guidelines for evaluating vertical mergers and to strengthen their approach to vertical merger enforcement, to better promote market competition and protect consumers.

NEW CMS MODEL WOULD REDUCE INSULIN COSTS

CMS announced the new Part D senior savings model, which enables participating Part D enhanced plans to lower Medicare beneficiaries’ out-of-pocket costs for insulin. Part D sponsors participating in the model will offer beneficiaries plan choices that provide broad access to multiple types of insulin, marketed by model-participating pharmaceutical manufacturers, at a maximum $35 copay for a 30-day supply in the deductible, initial coverage, and coverage gap phases of the Part D benefit.

USP GRANTS APPEALS ON <795> AND <797>

The USP Appeals Panel granted appeals on General Chapters <795> and <797> submitted by the Alliance for Pharmacy Compounding, Innovation Compounding, and Wedgewood Pharmacy. The appeals panel remanded these chapters to the Compounding Expert Committee with recommendations for further engagement with regard to issues raised in the appeals, including overly restrictive beyond-use-dates in <797>. The Expert Committee is responsible for determining future modifications, if any. NCPA attended the hearing in January to support these concerns. Due to these appeals, the currently official versions of <795> (last revised in 2014) and <797> (last revised in 2008) remain official.

SURVEY SHOWS COST OF DISPENSING ON THE RISE

What happened: A study, commissioned by NCPA, the National Association of Chain Drug Stores, and the National Association of Specialty Pharmacy, showed the average overall cost of dispensing in 2018 was $12.40 per prescription (up from $10.55 in 2014), and $12.45 for Medicaid prescriptions (up from $10.30 for Medicaid).

Looking ahead: The goal of the study is to give state...
State transfer requirements can lead to easy audit recoupments

The Pharmacy Audit Assistance Service continues to see PBMs go after transferred prescriptions during audits. Transferred prescriptions require more data elements, which increases the likelihood that something could be missed. Missing prescription transfer information can be difficult to appeal, but there are avenues.

Each state has its own requirements for what information needs to be recorded on a transfer. Some states are okay with this information being entered directly into the computer, while others require a handwritten prescription by the receiving pharmacist. Take a moment to review your state requirements or check with your state board of pharmacy to be sure you know all required elements for a transfer in your state.

Commonly missed requirements include:

- Date of issuance/original written date of prescription
- Original number of refills authorized on the prescription
- Date of original dispensing/first fill date
- Transferring pharmacy’s name and full address, not just the telephone number
- Name of both the transferring and receiving pharmacist

PAAS Tips:

- Consider creating a transfer prescription pad with all state-specific requirements, and train employees to fill it out completely each time.
- Remember to use origin code “5” for Transfer/Pharmacy no matter how you received the prescription from the other pharmacy.
- Include any electronic transfer information print-screens you may have when being audited.
- Conduct a self-audit on transfer prescriptions.

By Trenton Thiede, PharmD, MBA PAAS National®, the Pharmacy Audit Assistance Service. For more information, call (888) 870-7227 toll-free or visit www.paasnational.com.

Medicaid programs, state legislators, and governors information they can use to align their programs with the access needs of the most vulnerable patients, and with fairness for pharmacy patient care.

PPOK LAUNCHES A SOFT CHALLENGE

Pharmacy Providers of Oklahoma launched the “Fiduciary Challenge” on its website in support of NCPA’s Legislative and Legal Defense Fund and promoted it across all their social media channels. Similar to the “Ice Bucket Challenge,” PPOk’s CEO John Crumly recorded himself challenging community pharmacy leaders and his own employees and customers to place nine large marshmallows (one for each Supreme Court Justice) in their mouth and say “Fiduciary Responsibility,” which PBMs cannot say even without a mouthful of marshmallows. If the challenged person can’t say “Fiduciary Responsibility” then they have to donate at least $20 to NCPA’s LDF. Many pharmacy leaders accepted the challenge. Thank you!
IN THE STATES

NCPA ADDRESSES PATIENT ACCESS CONCERNS

NCPA CEO Douglas Hoey reached out to three influential organizations that represent state policymakers to outline how obstacles imposed by health plans and PBMs are threatening patient access to pharmacy services during the COVID-19 crisis. In letters drafted to the National Governors Association, the National Council of Insurance Legislators, and the National Association of Insurance Commissioners, NCPA called on the organizations to address these issues by requiring PBMs in their states to suspend all pharmacy audits, update MAC lists and other benchmarks more frequently, and ease restrictions on patient choice of pharmacy.

STATE EMERGENCY MODEL LANGUAGE ADDRESSES AUDITS AND REIMBURSEMENTS

In response to PBMs conducting unacceptable audits during this time of crisis, NCPA drafted model audit language to be used for an executive order or other regulatory order. This model language addresses audits conducted during the period of declared emergency and future audits that may have a look back period during the declared emergency. Additionally, NCPA has distributed model language addressing network adequacy issues, and PBM reimbursements. In collaboration with CPESN, NCPA created a document for states to use when applying to CMS for 1135 waivers to reimburse enhanced dispensing fees to cover home delivery services in state Medicaid programs.

VIRGINIA PROHIBITS SPREAD PRICING

What happened: Virginia Gov. Ralph Northam (D) signed HB 1290, which prohibits the use of spread pricing in the commonwealth. What it does: Also requires PBMs to become licensed with the commonwealth, prohibits adjudication fees, prohibits PBMs from reimbursing their own pharmacies at higher rates than other pharmacies, and contains other protections for patients, pharmacies, and plan sponsors. Thanks to: Delegate and pharmacist Keith Hodges (R), who sponsored the bill.

INDIANA ASSEMBLY PASSES PBM REGULATIONS

What happened: The Indiana General Assembly passed SB 241, a PBM regulation bill. What it does: Under the bill, PBMs would be prohibited from retroactively adjusting claim amount, establishing arbitrary pharmacy accreditation requirements, and reimbursing PBM-owned pharmacies at more favorable rates. Result: The bill was signed by Gov. Eric Holcomb (R) and goes into effect Jan. 1, 2021.

KENTUCKY PASSES MEDICAID MANAGED CARE REFORM

What happened: The Kentucky Legislature passed SB 50, which reforms the prescription drug benefit in the commonwealth’s Medicaid managed care program. Details: Under the bill, the state would contract with a single PBM to administer MMC benefits, and the Medicaid department would be responsible for establishing reimbursement methodologies and dispensing fees. The bill contains additional protections for pharmacies and Medicaid beneficiaries. Result: The bill was signed by Gov. Andy Beshear (D) and goes into effect July 1, 2020.

WEST VIRGINIA PASSES PHARMACIST PROVIDER STATUS BILL

What happened: West Virginia Gov. Jim Justice (R) signed WV SB 787, a bill that authorizes paid benefits for pharmacist-provided health care services. Details: Paid benefits will be provided to pharmacists for care rendered within the pharmacist’s scope of practice if the benefits would be paid if performed by another health care provider. Support: NCPA signed on to a joint letter of support for this bill with the American Pharmacists Association, American Society of Health System Pharmacists, National Association of Chain Drug Stores, and the National Alliance of State Pharmacy Associations, championing this legislation which recognizes pharmacists as part of the health care team.

NCPA SUPPORTS AMENDMENTS TO N.Y. IMMUNIZER LAWS

What happened: NCPA submitted a letter of support to Gov. Andrew Cuomo (D) and New York lawmakers urging support of the provisions in the executive budget amending New York’s immunizer laws. What it does: Under the amendments, certified pharmacists in the New York would be authorized to provide all CDC-recommended vaccines to adults.

NCPA ON THE ROAD

Just prior to the pandemic, Matt Magner, NCPA’s director of state government affairs, presented a CE session during an event hosted by the Ohio Marshall County Pharmacists Association in Wheeling, W.Va. Pharmacists from West Virginia, Ohio, and Pennsylvania attended the event.

Information is current as of April 10, 2020. Check out NCPA’s email news service qAM for daily updates.