

Think NCPA's advocacy efforts don't affect you? Think again...



Getting results from Congress, federal agencies, state legislatures, and the courts takes strategy and patience. Throughout that process, it's critical for you to be informed and engaged. These select examples help illustrate the benefits of NCPA advocacy efforts, both recently and in previous past years.

2018-PRESENT:

- The U.S. Supreme Court heard oral arguments in *Rutledge v. PCMA* on whether ERISA supersedes state law to regulate pharmacy benefit managers (PBMs). The case, is a challenge by the state of Arkansas to a ruling in the Eight Circuit that invalidated a state PBM law. 45 states and the District of Columbia filed a friend of the court brief supporting Arkansas' position. A decision is expected by June 30, 2021.
- NCPA advocacy resulted in Tricare reversing onerous audits. Due to efforts from NCPA, along with industry partners APC and PAAS, Tricare instructed that pharmacies need only show proof of a valid prescription to recover funds recouped by ESI which will result in some pharmacies recovering over \$100,000 in wrongfully recouped funds by ESI.
- Due to the efforts of NCPA and other allies, FDA postponed enforcement of provisions of the DSCSA that were set to take effect on November 27, 2020 for three years. These provisions will now take effect in 2023.
- Worked with 40 states in 2020 on legislation regarding Medicaid Managed Care reform, PBM regulation and pharmacist scope of practice issues.
- NCPA advocacy is leading to changes to USP chapters utilizing beyond use dates (BUDs).
- NCPA secured provisions in Senate Finance Committee legislation addressing pharmacy DIR fees and retroactive clawbacks in a larger legislative package addressing drug pricing.
- The U.S. House of Representatives unanimously passed two NCPA supported bills, H.R. 1781, the Payment Commission Data Act, sponsored by Rep. Buddy Carter (R-Ga.) and H.R. 2115, the Public Disclosure of Drug Discounts Act, sponsored by Reps. Reps. Abigail Spanberger (D-Va.), Jodey Arrington (R-Texas), and Brendan Boyle (D-Pa.),
- Senate Finance Committee Ranking Member Sen. Ron Wyden (D-Ore.) visited Grants Pass Pharmacy, owned by NCPA member and President-elect Michele Belcher in May 2019. He subsequently visited an additional six community pharmacies throughout the state in August 2019
- Secured Health and Human Services Secretary Alex Azar to speak at the 2019 Congressional Pharmacy Fly-in
- Sec. Azar visited Chateau Pharmacy in Metairie, La. and Spartan Pharmacy in Pittsburgh, Pa. within a six month period
- Influenced introduction of bipartisan legislation addressing the top legislative priorities of NCPA members: Pharmacy DIR fees, generic pricing transparency, and allowing community pharmacies to participate in Medicare Part D preferred pharmacy networks; and preserving patient access to compounded medications.
- The West Virginia Bureau for Medical Services released a report showing net savings of \$54.4 million to the state Medicaid program for the first year after carving out prescription drug benefits from Medicaid managed care, while paying pharmacies an additional \$122 million in dispensing fees. Subsequent studies in Pa., Ohio, Ky., La., N.Y., Mich. And Va. also found that PBMs retain an excessive amount of taxpayer dollars in Medicaid Managed Care programs.
- Influenced the approval of model PBM regulation and licensure legislation by the National Conference of Insurance Legislators.
- Secured inclusion of a TRICARE Acquisition Cost Parity Pilot Program for Retail Pharmacy in the FY 2017 National Defense Authorization Act.
- President Trump signed into law two pieces of NCPA supported legislation, S. 2553, the Know the Lowest Price Act of 2018, and S. 2554, the Patient Right to Know Drug Prices Act, which prohibit so-called pharmacist "gag clauses" in Medicare and private health plans. NCPA was invited to the bill signings at the White House.
- Represented community pharmacy at the White House as President Trump signed opioid relief legislation into law, which included changes sought by NCPA, including ensuring that patient choice of pharmacy is respected and exempting long-term care from electronic prescribing for controlled substances.

- **Influenced inclusion of proposed PBM transparency reforms** in Trump administration plan for lowering prescription drug prices.
- **In a four-month period, testified three times before House Energy & Commerce subcommittees** on issues ranging from the drug supply chain to the opioid epidemic to FDA implementation of the Drug Quality and Security Act.
- **Advocated successfully for appointment of Rep. Buddy Carter (R-GA), a pharmacist, to the House Energy and Commerce Committee,** where most pharmacy-related legislation is considered.

2016-2017

- **Influenced CMS' release of a groundbreaking analysis** of impact of Part D DIR fees on patients.
- **Filed lawsuit against State of Washington over its arbitrarily low and improperly promulgated dispensing fee** for pharmacies in the state Medicaid program.
- **NCPA's The PBM Story: What They Say, What They Do, and What Can Be Done About It** was widely quoted in news media and referenced by policymakers.
- **Influenced the inclusion of MAC provisions in the National Defense Authorization Act** passed in November 2017.
- **Consulted on the Ensuring Patient Access and Effective Drug Enforcement Act,** legislation ensuring patient access to appropriate controlled substances that was signed into law.
- **Supported the states of Iowa, Arkansas, and North Dakota in defending lawsuits by PCMA** challenging each state's MAC law.
- **Influenced CMS' final AMP rule, requiring a revised process to ensure FULs are not lower than community pharmacies' acquisition costs** and requiring states to consider ingredient cost reimbursement and professional dispensing fee reimbursement when proposing reimbursement changes in Medicaid.

NCPA Clout Cited by Congress, Media

“There are many trade associations that tread very carefully out of fear of antagonizing people or organizations they may need later. The National Community Pharmacists Association is not one of them. **When NCPA finds something it doesn't like—which it often does in managed care—the group has been known to shout that from the rooftops, or at least through the media.**”

—*Medicare Advantage News, Jan. 2015*

- **Influenced introduction of legislation in Congress** that would allow pharmacists to be reimbursed for patient services under Medicare in underserved areas.
- **Influenced Medicare's on-record statement about harmful impact of retroactive pharmacy DIR fees** on patients and taxpayers.
- **Won reversal of a cumbersome DEA Registrant Renewal Policy** that could have triggered audit implications for pharmacies and decreased patient access to controlled substances.
- **Spurred the opening of more Medicare Part D “preferred pharmacy” networks** to allow participation of independent pharmacies via bipartisan federal legislation and aggressive lobbying.
- **Blocked mandatory mail order in Medicare and the health plans offered through exchanges established by the Affordable Care Act.**
- Influenced Medicare to require that PBMs regularly update MAC pricing to reflect market costs.

PRIOR TO 2013:

- **Grew NCPA PAC into the largest and most successful pharmacy association PAC in America.** In 2015- 2016, we achieved a 92% success rate in helping elect pro-pharmacy candidates.
- **Saved the average pharmacy \$100,000 in 2008 alone** by facilitating passage of “prompt payment” requirements.

2013-2015

- **Saved every retail pharmacy outlet in the U.S. \$70,438 — or \$4.015 billion in total** — as a result of a joint Medicaid AMP lawsuit, which produced a court injunction.
- **Banned proration of dispensing fees on “short-cycle” prescriptions for LTC pharmacies.**
- **Lobbied successfully for inclusion in legislation of language clarifying congressional intent** — and reining in FDA overreach — on several compounding regulations implementing the Drug Quality and Security Act.
- **Influenced FDA to allow traditional compounding pharmacies to continue to repackage non-sterile drug products** for use in long-term care facilities.