

Health Care Reform Legislation: What is in it for Pharmacy? **August 7, 2009**

Status of Congressional Activity

The U.S. House and Senate are currently considering health care reform legislation which seeks to improve access to, and reduce costs and improve quality of health care. While much remains to be done, significant progress has been made:

- **July:** Four of the five key Committees voted out their versions of a health reform bill.
- **August – September 8:** Annual summer recess.
- **September – October 15:** Senate Finance Committee releases their proposal. House and Senate reconcile their committees' bills. House and Senate vote. Conference Committee reconciles the House and Senate bills into one bill. House and Senate vote on a final health reform proposal.
- **October 15:** President's goal for signing health care reform legislation.

Promote & Defend Your Profession – Don't be left behind!

Several elements of the House and Senate proposals would directly impact pharmacy. The profession must take action NOW to ensure that we are successful. Congress will be looking for cuts. We don't want to be among them. Connect with your Members of Congress and their staff when they are home this month. Don't let the August recess pass by without lending your voice — pharmacy's voice — to the health care reform debate.

- ❖ Visit your Members of Congress District Office.
- ❖ Attend a local town hall meeting.
- ❖ Conduct a pharmacy site visit with your Members of Congress and their staff.
- ❖ Invite your Members of Congress to speak at a special event.
- ❖ Host a PAC event for your Members of Congress.

To stay informed, join APhA's Facebook Fan Page, Twitter, health care reform (HCR) e-community, and advocacy Key Contact Network. Read CEO Tom Menighan's blog and our daily HCR Hub updates on www.pharmacist.com. For additional resources, go to APhA's Government Affairs Web page at www.pharmacist.com/GA.

Key Messages

- Regardless of how you finance or expand coverage, we must improve the quality of care and lower health care costs; and pharmacist-provided medication therapy management services can help to achieve these goals.
- There is a medication use crisis in this country that must be addressed.
- Pharmacists, when provided the opportunity to partner with patients and prescribers to help patients manage their medication therapy, improve health outcomes and reduce overall healthcare costs.
- Policymakers must take advantage of the lessons learned from public and private sector programs and fully optimize the clinical expertise and accessibility of pharmacists to help empower patients to manage their medication therapy.
- There are many elements of current health care reform proposals that affect pharmacy and the patients that they serve. While all are important, our priority is to change how health care is delivered by fully optimizing the skills and expertise of all health professionals, including pharmacists. To accomplish this, policymakers must:

- **Include Pharmacists as Part of Integrated Care Models.** The health care system must take advantage of the specialized knowledge and skills of all professionals working as part of a care team. The incorporation of pharmacists' clinical services is necessary given the nearly universal role of medications in the care of patients with both chronic and acute disease.
- **Include Pharmacists in Payments for Transitional Care Activities.** Pharmacists are medication experts and one of the most readily accessible providers. Medication use is a top reason for hospital readmissions. Pharmacists on the transitional care team can play a major role in preventing these events, as patients are discharged from the hospital.
- **Provide Medication Therapy Management Services.** All health plans must provide a comprehensive pharmacy benefit that covers both medications and pharmacist services that ensure that the use of those medications are fully optimized and achieve therapeutic outcomes.
- **Conduct a Medication Therapy Management Pilot.** As CMS and/or AHRQ are given additional authority and direction to conduct demonstration/pilot projects, legislative proposals should ensure that the clinical role of pharmacists is an element of at least one project.
- **Include Pharmacists in Workforce Strategies.** Assure that all Americans have access to the services of well-educated and trained pharmacists competent to meet specific health care needs of patients by establishing and financing a comprehensive federal health professions workforce strategy.

Background

Highlights of current proposals (see attached chart for details); House and/or Senate proposals:

- Include medication compliance activities in efforts to reduce hospital readmissions.
- Improve the Medicaid reimbursement formula for generic drug products.
- Require proposed care teams to provide primary care providers support to assist in chronic care management activities such as medication therapy management services and medication reconciliation.
- Require transitional care programs to include medication reconciliation and to develop discharge plans that include MTMS as appropriate
- Exempt certain pharmacy suppliers from Medicare DMEPOS surety bond and accreditation requirements. Deem certain accreditation applications as meeting accreditation requirements.
- Phase-out the Medicare Part D coverage gap (donut hole).
- Require manufacturers to provide a 50% discount for beneficiaries in the donut hole; 100% of the cost of the drug will count towards the patient's true out-of-pocket (TrOOP) costs.
- Repeal the Medicare Part D requirement that pharmacies serving long-term care facilities submit claims within 90-days.
- Establish an MTM grant program for services provided by pharmacists.
- Establish PBM transparency requirements.
- Establish prevention and wellness program grants.
- Provide the Secretary of HHS the discretion to establish reimbursement rates for prescription drugs in a public plan.
- Include schools of pharmacy in quality improvement demonstration programs. Including medication compliance activities when developing and implementing quality incentive payment structures.
- Include pharmacists and pharmacies in the manufacturer/distributor "gift" reporting requirements. Include compounding pharmacies/ists in the definition of "manufacturer".
- Include pharmacists and schools of pharmacy in workforce strategies, including establishing a new loan repayment program that includes pharmacists.

**Pharmacy-Related Provisions of Health Care Reform Proposals
As of August 18, 2009**

Because Congress is far from reaching a consensus, many of these provisions could be changed or not included in a final bill.

Topic	House Energy & Commerce Committee	Senate Health, Education, Labor & Pensions Committee	APhA's Perspective
Drug Information		Section 218. Authorizes the Secretary through the Food and Drug Administration to determine whether the addition of standardized, quantitative summaries of the benefits and risk of drugs in a tabular or drug facts box format or any alternative format to the labeling and print advertising would improve health care decision-making.	APhA generally supports efforts to improve prescription drug information.
Fraud, Waste and Abuse Programs	Title VI. Increases appropriated funding for the Health Care Fraud and Abuse Control account; enhances penalties for fraud, waste, and abuse; expands application of the hardship waiver for OIG exclusions to beneficiaries.		APhA is monitoring.
Hospital Readmission	Section 1151. Hospital readmission prevention provisions that include a summary of medication orders.	Section 216. Creates a payment structure to prevent hospital readmissions by providing increased reimbursement or incentives for improving health outcomes, care coordination, chronic disease management, and medication and care compliance initiatives through comprehensive program for hospital	APhA supports including medication reconciliation and medication compliance activities in efforts to reduce hospitalizations.

Topic	House Energy & Commerce Committee	Senate Health, Education, Labor & Pensions Committee	APhA's Perspective
		discharge planning and post discharge by appropriate health care professionals.	
Immunizations		Section 324. Directs the Secretary to establish a demonstration program to award grants to States to improve the provision of recommended immunizations for children, adolescents, and adults through the use of evidence-based, population-based interventions for high-risk populations.	APhA supports efforts to improve immunization rates and will seek to secure opportunities for pharmacists.
Medicaid Reimbursement Formula for Generic Drug Products – Average Manufacturer Price (AMP)	<p>Section 1741. Sets the generic reimbursement at 130% of the weighted average AMP.</p> <p>Redefines AMP to more accurately reflect retail acquisition costs.</p> <p>Excludes from the AMP calculation:</p> <ul style="list-style-type: none"> • Customary prompt pay discounts to wholesalers. • Bona fide service fees paid by manufacturers. • Reimbursements for recalled, damaged, expired or otherwise unsalable returned goods, including reimbursement for the cost of the goods and any reimbursement of costs associated 		APhA supports most of the proposal. However, we remain concerned with the 130% multiplier. Studies show that 130% of AMP is insufficient to cover a pharmacy's costs associated with dispensing a product and providing the necessary services.

Topic	House Energy & Commerce Committee	Senate Health, Education, Labor & Pensions Committee	APhA's Perspective
	<p>with return goods handling and processing, reverse logistics, and drug destruction.</p> <ul style="list-style-type: none"> • Sales directly to, or rebates, discounts, or other price concessions provided to, pharmacy benefit managers, managed care organizations, health maintenance organizations, insurers, mail order pharmacies that are not open to all members of the public, or long term care providers, provided that these rebates, discounts, or price concessions are not passed through to retail pharmacies. • Sales directly to, or rebates, discounts, or other price concessions provided to, hospitals, clinics, and physicians, unless the drug is an inhalation, infusion, or injectable drug, or unless the Secretary determines, as allowed for in Agency administrative procedures, that it is necessary to include such sales, rebates, discounts, and price concessions in order to obtain an accurate AMP for the drug. <p>The weighted average of brand and</p>		

Topic	House Energy & Commerce Committee	Senate Health, Education, Labor & Pensions Committee	APhA's Perspective
	<p>generic AMP data will be used.</p> <p>AMP data will not be posted on a public website.</p> <p>The new Medicaid FUL benchmark will not be implemented until January 2011—the current benchmark (150% of the lowest published price) will be used until that date.</p>		
Medical Home	<p>Section 1301. Establishes an Accountable Care Organization (ACO) Pilot Program to test different payment incentive models intended to promote accountability, encourage investment in processes that result in high quality and efficient care, and reward providers for high quality and efficient care.</p> <p>The Community-based medical home model must employ community health workers that assist primary care providers in chronic care management activities such as medication therapy management services.</p> <p>ACO's may involve services not currently compensated for by Medicare—such as pharmacist</p>	<p>Section 212. Establishes a grant program to establish a community health teams. Teams must be provided the support necessary for local primary care providers to provide access to pharmacist-delivered medication therapy management services, including medication reconciliation.</p> <p>Health teams must provide 24-hour care management and support during transitions in care settings including a transition care program that provides in site visits from the care coordinator, assists with the development of discharge plans and medication reconciliation upon admission to and discharge from the hospitals, nursing homes, or other institution setting.</p>	<p>APhA strongly supports requiring care teams to have the support necessary to provide medication therapy management (MTM) services; and that transitions-of-care activities focus on medication reconciliation and MTM.</p>

Topic	House Energy & Commerce Committee	Senate Health, Education, Labor & Pensions Committee	APhA's Perspective
	services.	The transition support must also assure that post-discharge plans include medication therapy management, as appropriate.	
Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Program Improvements	<p>Section 1148. Exempts pharmacies that have been enrolled as a pharmacy supplier for at least five years without final adverse judgments rendered against their Medicare Part B supplier status from surety bond requirements.</p> <p>Waives accreditation requirements for pharmacies that supply diabetic testing supplies, canes, and crutches.</p> <p>Deems pharmacies that applied for accreditation by August 1, 2009 to meet the accreditation requirements until final action is taken on the application.</p>		While imperfect, APhA supports these provisions that help to ensure patient access to DMEPOS.
Medicare Part D Coverage Gap	<p>Section 1181. Reduces the charge to patients in the donut hole to 50% while counting 100% of the drug cost towards the patient's true out-of-pocket costs (TrOOP).</p> <p>Section 1182. Starting in 2011 phases-out the Medicare Part D coverage gap (donut hole).</p>		Due to patient confusion and the impact on patients' ability to continue their medication therapy, APhA supports eliminating the donut hole. However, we continue to work to ensure that the proposed program does not create an administrative or financial burden for pharmacists and pharmacies; the discount must not be provided on the backs of pharmacy.

Topic	House Energy & Commerce Committee	Senate Health, Education, Labor & Pensions Committee	APhA's Perspective
Medicare Part D Direct Negotiation	Congresswoman Schakowsky's Amendment. Authorizes the Secretary to negotiate with pharmaceutical manufacturers the prices (including discounts, rebates, and other price concessions) that may be charged to a Medicare Part D prescription drug plan for covered Part D drugs.		Without greater details about how drug products and pharmacist services would be reimbursed, APhA is unable to take a position on this direct negotiation proposal.
Medicare Part D General Improvements	<p>Section 1184. Includes AIDS drug assistance programs and Indian health services in calculating out-of-pocket costs.</p> <p>Section 1185. Permits mid-year changes in enrollment for adverse formulary changes.</p> <p>Section 1191. Expands tele-health services that allow for access to care in underserved communities and may result in the ability of pharmacists and other health care professionals to provide remote "in person" care.</p> <p>Section 1205. Authorizes intelligent assignment of auto-enrolled full-benefit dual-eligibles to maximize the access to necessary prescription drugs while minimizing the costs to the beneficiary.</p>		APhA generally supports these provisions including allowing patients the flexibility necessary to have access to a plan and formulary that best meets their individual medical needs. However, mid-year changes could result in access issues if information related to the plan change is not communicated to pharmacies in a timely manner. Therefore, systems must be in place to ensure all patient information is available to the pharmacist before the patient expects to use their new plan's benefit.

Topic	House Energy & Commerce Committee	Senate Health, Education, Labor & Pensions Committee	APhA's Perspective
	<p>Section 1222. Establishes a grant program to improve communication between providers and Medicare beneficiaries.</p>		
<p>Medicare Part D Long-Term Care Pharmacy Claim Deadlines</p>	<p>Section 1183. Repeals current law (scheduled to begin 1/1/2010) requiring pharmacies located in or contracting with long-term care facilities to submit claims to a Part D sponsor no less than 30 days and no more than 90 days.</p>		<p>APhA supports this proposal.</p>
<p>Medication Therapy Management (MTM) Grant Program</p>	<p>Congressman Butterfield's Amendment. Same as the Senate proposal.</p>	<p>Section 213. Provides grants to eligible entities to implement medication management services (MTMS) provided by licensed pharmacists, as a collaborative, multidisciplinary, inter-professional approach to the treatment of chronic diseases for targeted individuals, to improve the quality of care and reduce overall cost in the treatment of such diseases.</p> <p>Services are based upon the Core Elements of an MTM Service Model 2.0 and include assessing a patient's medication therapy, developing an action plan, working with the rest of the care team to implement the action plan, monitoring the patient, and</p>	<p>APhA strongly supports this proposal. <u>It is our top priority in health reform.</u></p> <p>We remain concerned with the start date of May 2010 as it may be too ambitious of a timeline to ensure appropriate preparation and program structure.</p> <p>The legislation does not provide specific fees for pharmacists MTM services. APhA recommends the development of a fee schedule that accounts for the time and resources necessary for pharmacist to perform MTM.</p> <p>Because these provisions will</p>

Topic	House Energy & Commerce Committee	Senate Health, Education, Labor & Pensions Committee	APhA's Perspective
		<p>providing education and training to enhance the understanding and appropriate use of the medications by the patient.</p> <p>The services are provided to targeted individuals who: take 4 or more prescribed medications; take any 'high risk' medications; have 2 or more chronic diseases; or have undergone a transition of care, or other factors, as determined by the Secretary, that are likely to create a high risk of medication-related problems.</p> <p>Directs the Secretary of Health and Human Services to consult with experts in medication therapy management, to develop interdisciplinary care management programs through.</p>	<p>potentially help a broader array of individuals to receive access to MTM than the current Medicare Part D MTM benefit, this program could result in even greater success rates than the Medicare Part D benefit.</p> <p>Furthermore, the legislation is a positive development for pharmacists because Medicare Part D does not currently require MTM to be performed by a licensed pharmacist.</p>
Pain Care	Congresswoman Capps' Amendment. Similar to Senate proposal though education provisions were dropped.	<p>Senator Hatch Amendment. Requires the Secretary of Health and Human Services to work with the Institute of Medicine to convene a Conference on Pain.</p> <p>Requires the Director of National Institutes of Health to continue and expand, through the Pain Consortium, an aggressive program of basic and</p>	APhA supports these provisions.

Topic	House Energy & Commerce Committee	Senate Health, Education, Labor & Pensions Committee	APhA's Perspective
		<p>clinical research on the causes of and potential treatments for pain.</p> <p>Requires the Secretary to establish the Interagency Pain Research Coordinating Committee.</p> <p>Allows the Secretary to provide for education and training to health care professionals in pain care.</p> <p>Requires the Secretary to establish and implement a national pain care education outreach and awareness campaign to educate consumers, patients, their families, and other caregivers.</p>	
PBM Transparency	Congressmen Weiner and Ross Amendment. Increases the PBM transparency by requiring disclosure of PBM's pricing and practices to the Commissioner.		APhA supports the concept of transparency.
Prevention and Wellness Programs		Title III. Establishes grant programs from the Centers for Disease Control to create smoking cessation programs and a demonstration program to award state grants to increase immunization rates.	Building on the successes that pharmacists have had with immunizations, APhA encourages these programs to take advantage of the pharmacists' accessibility and clinical skills to implement any new prevention and wellness programs.
Preventive Services	Section 1305. Eliminates cost-sharing for Medicare preventive services,		APhA supports this measure.

Topic	House Energy & Commerce Committee	Senate Health, Education, Labor & Pensions Committee	APhA's Perspective
Cost-Sharing	including: diabetes outpatient self-management training services; diabetes screening tests; and certain vaccinations.		
Public Plan	<p>Section 223. Provides the Secretary discretion to set reimbursement rates for prescription drugs.</p> <p>Section 225. Conditions for provider participation in the public plan network would be up to standards developed by the Secretary of HHS.</p>		<p>Because of pharmacy's experience with the Centers for Medicare and Medicaid Services in setting and ensuring adequate payment rates under Medicaid, APhA is concerned with this provision.</p> <p>APhA recommends adding an "any willing pharmacy" provision to ensure that any pharmacy that is willing to participate in the plan and accepts the payment rates can do so.</p>
Quality		<p>Section 220. Establishes a demonstration program to integrate quality improvement and patient safety training into clinical education of health professionals. Entities eligible for the demonstration program include schools of pharmacy.</p> <p>Section 2707. Directs Health insurers to develop and implement a reimbursement structure for making payments to health care providers that provides incentives for the provision of high quality health care in a manner</p>	APhA supports these provisions.

Topic	House Energy & Commerce Committee	Senate Health, Education, Labor & Pensions Committee	APhA's Perspective
		that includes the implementation of case management, care coordination, chronic disease management, and medication and care compliance activities that includes the use of the medical home as defined in section 212 of the Act.	
“Sunshine” Reporting Requirements	<p>Section 1451. Measures physician (and other health care providers (including pharmacists and pharmacies) financial relationships with manufacturers and distributors of drugs, devices, or supplies covered by Medicare, Medicaid and Children’s Health Insurance Program.</p> <p>Defines manufacturers as an entity engaged in various activities, including compounding.</p>		APhA opposes including compounding pharmacies and pharmacists in the definition of manufacturer. APhA is working with the International Academy of Compounding Pharmacists to exempt compounding pharmacists and pharmacies from this reporting requirement.
Workforce Strategies	<p>Congressman Braley’s Amendment to Section 2211. Establishes a new program, similar to the National Health Service Corps (which does not include pharmacists) to offer loan repayments to frontline health care providers including pharmacists who agree to serve 2 years in a scarcity area.</p>	<p>Section 411. Establishes a Commission to look at various workforce issues, including current workforce supply and distribution, and health care workforce education and training. The section defines health care workforce as all health care providers with direct patient care and support responsibilities including pharmacist. The section also includes “clinical pharmacist” in its definition</p>	<p>APhA generally supports these provisions and strongly supports the House proposal to create a new loan repayment program for which pharmacists would be eligible.</p> <p>In the Senate proposal, APhA is concerned with the reference to “clinical” when listing pharmacists in the definition of health professionals. Clinical pharmacist is too limiting and does not reflect</p>

Topic	House Energy & Commerce Committee	Senate Health, Education, Labor & Pensions Committee	APhA's Perspective
		<p>of health professionals.</p> <p>Section 431. Authorizes the Secretary to award grants or enter into contracts with entities that operate a geriatric education center. The center shall use the funds to offer courses that focus on geriatrics, chronic care management, and long-term care that provide supplemental training for faculty members in health profession schools including schools with programs in pharmacy.</p> <p>Directs the Secretary to provide grants or contract with individuals to foster greater interest among health care providers in entering the fields of geriatrics, long-term care, and chronic care management. Eligible individuals include pharmacists.</p> <p>Section 453. Provides Area Health Education Centers grant monies to distribute to entities that initiate health care workforce educational programs. The grant money must be used for several things including conducting and participating in interdisciplinary training that involves various practitioners including pharmacists.</p>	<p>the workforce section. APhA also recommends adding “pharmacy” to the list of schools in the definition of health Professionals.</p>

