June 11, 2012

Centers for Medicare & Medicaid Services
Attention: CMS–4157–FC
Mail Stop C4–26–05
7500 Security Boulevard
Baltimore, MD 21244–1850

[Submitted online at: http://www.regulations.gov]

Re: Independence of Long Term Care Consultant Pharmacists [File Code CMS–4157–FC]

Dear Sir/Madam:

The American Pharmacists Association (APhA) appreciates the opportunity to comment on the Centers for Medicare & Medicaid Services (CMS) request for input on the Independence of Long Term Care Consultant Pharmacists provision included in the final rule implementing revisions to Medicare in 2013, published on April 12, 2012 (77 FR 22072). APhA, founded in 1852 as the American Pharmaceutical Association, represents more than 62,000 pharmacists, pharmaceutical scientists, student pharmacists, pharmacy technicians, and others interested in improving medication use and advancing patient care. APhA members provide care in all practice settings, including community pharmacies, hospitals, long term care (LTC) facilities, community health centers, managed care organizations, hospice settings and the uniformed services. Our comments reflect the views of pharmacists practicing across the spectrum of health and patient care settings.

CMS’ efforts to gather additional information related to LTC facility activities, pharmacy services, and business arrangement is a positive step towards ensuring a thorough understanding of all possible factors and contributors related to potential overprescribing and inappropriate medication use in LTC facilities.⁠¹ It is important to differentiate traditional and responsible consultant pharmacist services from the potential inappropriate activities and conflicts of interest discussed in the notice. APhA appreciates CMS acknowledging these issues are larger in scope than the services consultant pharmacists provide to LTC patients. To this end, we offer comments on the provisions related to enhancing medication management (including conflicts of interest) and increasing transparency.

Enhancing Medication Management and the Effectiveness of Medication Review
APhA supports efforts to improve medication management and review in LTC facilities. Furthermore, we are pleased that CMS acknowledged in the notice its improved understanding of the other parties

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¹ As outlined in the April 12, 2012 Federal Register notice on pages 22104 and 22107.
and factors that may lead to overprescribing and inappropriate drug use. APhA recognizes improvements can be explored to address potential conflicts of interest and/or business arrangements in these settings that may lead to such concerns.

Related to CMS’ concerns about potential conflicts of interest with medication management in LTC settings, as outlined in our December 12, 2011 comments, APhA supports an independent payment model concept for LTC consultant pharmacists. Consultant pharmacists working in an independent capacity should be able to receive payment for patient care services separate from the dispensing/delivery of medications. Such an independent model could be important for Medicare patients receiving pharmacist-provided services, including medication therapy management, in LTC facilities and other settings. Furthermore, APhA continues to support efforts to clarify that the delivery of services provided by consultant pharmacists also be independent from business arrangements that pharmacy benefit managers or manufacturers may have with a LTC dispensing pharmacy. We offer to work with CMS and other LTC pharmacy stakeholders as next steps and solutions are considered on this subject.

**Increasing Transparency**

APhA supports efforts to improve transparency that leads to improved patient and public health. We appreciate CMS’ interest in gathering additional information to improve transparency related to potential conflicts of interest involving LTC facilities, consultant pharmacists, and LTC pharmacies as stated in the notice. As information is gathered and solutions are considered, we recommend CMS ensure potential requirements are uniform to the extent possible and apply to others that may have potential conflicts of interest. Moreover, we encourage CMS to recognize that some information is proprietary and should not be subject to disclosure requirements. We caution that if disclosure requirements are too strict and/or burdensome, health care providers may reconsider their participation with LTC facilities.

Additionally, we recognize CMS’ focus to improve transparency through metrics that could measure the adequacy and appropriateness of a LTC facility’s medication management program, potential for overutilization and inappropriate medication use, and other medication issues. APhA is committed to working with the Pharmacy Quality Alliance (PQA) as it considers development of metrics and measures for such issues. We encourage CMS to work with PQA as it proceeds with this process.

Finally, related to increasing transparency efforts, we appreciate CMS’ recommendation that the LTC industry voluntarily adopt changes focused on:

- Separate contracting for LTC consulting services from dispensing and other pharmacy services;
- Payment by LTC facilities of a fair market rate for consultant pharmacist services;
- Disclosure by the consultant pharmacists to the LTC facility of any potential conflicts of interest or the execution by the consultant pharmacist of an integrity agreement to increase transparency

While there are uncertainties and details that remain to be worked out, we look forward to working with CMS and other stakeholders as discussions evolve.

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2 Available online at: http://www.pharmacist.com/AM/Template.cfm?Section=Government_Affairs&template=/CM/ContentDisplay.cfm&ContentID=27431
Conclusion
In conclusion, APhA appreciates CMS’ efforts to improve medication use and patient safety in LTC facilities. We recognize additional fact finding will be needed to improve transparency related to prescribing, dispensing, and consulting activities in LTC facilities. Again, we encourage CMS to continue to differentiate traditional and responsible consultant pharmacist services from the potential inappropriate activities and conflicts of interest discussed in the notice.

APhA looks forward to working with CMS on this important issue. Please contact Marcie Bough, PharmD, Senior Director of Government Affairs at mbough@aphanet.org or by phone at (202) 429-7538.

Sincerely,

Thomas E. Menighan, BSPharm, MBA, ScD (Hon), FAPhA
Executive Vice President and CEO

cc:   Brian Gallagher, BSPharm, JD, Senior Vice President, Government Affairs
      Marcie Bough, PharmD, Senior Director, Government Affairs