



FOR THE RECORD

Statement
on
“Legislative Hearing on 21st Century Cures”

Senior Care Pharmacy Coalition
805 Fifteenth Street, NW
Suite 615
Washington, DC 20005

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House Committee on Energy & Commerce
Subcommittee on Health

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I. Introduction

Established in 2014, the Senior Care Pharmacy Coalition (SCPC) is the national association for independent long-term care (LTC) pharmacies. Our members provide care and services to patients in long-term care facilities in more than 40 states and serve patients in approximately 350,000 beds across the country. The SCPC advocates for public policies that protect patients, improve the quality of healthcare across a shifting care continuum, and strengthen the economic viability of independent LTC pharmacies crucial to and their ability to serve medically-compromised seniors.

LTC pharmacies—sometimes called “closed door” or “institutional” pharmacies—are a distinct subset within the pharmacy community. All skilled nursing facilities (SNFs) and many assisted living facilities (ALFs) contract with a single LTC pharmacy to provide prescription drugs and an array of consulting pharmacy and care planning services required by Medicare, Medicaid, state licensure laws, and professional standards.

Requirements imposed on LTC pharmacies are significantly more stringent than those imposed on retail pharmacies. These include intensive pharmacist involvement in medication and patient care management, which is crucial to the continuity of care and to the quality of care that patients receive. The average LTC facility resident takes between 11 and 13 medications each day. Prescriptions change frequently, particularly within 30 days of admission to a facility and any time a resident undergoes a significant change in condition. The level of pharmacist involvement and oversight, combined with the fragile physical state of LTC facility patients, provide little opportunity for these patients to “pharmacy shop” or “physician shop” in an attempt to abuse prescription drugs.

II. PDP Drug Safety Program

The SCPC supports the Committee’s goals of improving Medicare Part D through fraud and abuse prevention efforts and of reducing prescription drug abuse and diversion among Part D beneficiaries. However, we are concerned that the PDP Drug Safety Program established in section 3151 does not recognize the specialized capacity of LTC pharmacies to prevent potential abuse of controlled substances. Due to the substantial differences between retail and LTC pharmacies, the provision as drafted would pose significant quality of care and compliance issues for both LTC pharmacies and LTC facilities, particularly SNFs. More importantly, section 3151 inadvertently could prevent or delay patient access to needed medications and could undermine Medicare beneficiary choice in selection of a LTC facility.

LTC pharmacies already provide greater oversight of prescription drug dispensing and usage than section 3151 would require, and are in a unique position to ensure the integrity of the Part D program. As contracted pharmacies servicing LTC facilities, our members’ pharmacists already have oversight of patients’ entire drug regimens. The statutory and regulatory requirements imposed by Medicare on LTC pharmacies—as well as the methods of packaging, dispensing, and tracking medications and monitoring usage in LTC facilities—mean that **LTC pharmacies**

already satisfy higher standards than those section 3151 would impose on pharmacies in any safe pharmacy network. These requirements include, but are not limited to:

- Extensive pharmacy operations and prescription services;
- Around-the-clock delivery;
- Twenty-four hour on-call pharmacists, including many pharmacies that open and staffed 24 hours a day, seven days a week;
- Emergency medications;
- Specialized packaging;
- Comprehensive inventory; and
- Capacity to comply with the reporting requirements necessary to provide these services.

In addition, Medicare and Medicaid Conditions of Participation for LTC facilities require that the pharmacy provide oversight and management of all medications for each patient receiving care and services in the facility. Of particular note with respect to narcotics, which undoubtedly will be determined to be highly susceptible to abuse:

- LTC pharmacists and licensed LTC facility staff use count sheets to track every dose of narcotics prescribed and administered;
- LTC pharmacists and licensed LTC facility staff conduct regular narcotic audits to ensure compliance; and
- Orders and reorders of narcotics are handled by LTC pharmacists and licensed facility staff, not the Medicare beneficiaries themselves.

A comparison of these requirements with those of the safe pharmacy networks demonstrates that LTC pharmacies already provide greater oversight and protection than those proposed under the PDP Drug Safety Program.

The typical LTC facility resident, moreover, is ill-equipped to engage in the type of physician-shopping or pharmacy-shopping that creates substantial risk of substance abuse or diversion. He or she typically suffers from multiple chronic conditions, often is in the midst of intensive rehabilitation therapy, has impairments in multiple activities of daily living and suffers from cognitive impairments. Moreover, patients do not handle their own prescriptions; rather, licensed or certified facility staff administer each dose on every medication directly to each individual patients. This patient population simply is not likely to abuse or divert controlled substances.

The SCPC is concerned that the section 3151 does not require PDPs to include LTC pharmacies in their “safe pharmacy networks.” Were it to include such a requirement, however, there is no guarantee that the LTC pharmacy contracting with the LTC facility would be in the safe pharmacy network or that the LTC pharmacy included in the safe pharmacy network would be able to service the LTC facility the patient selects. If no LTC pharmacy contracting with a particular LTC facility is part of the relevant safe pharmacy network, a Part D beneficiary residing in that LTC facility may not be able to access needed medications because no pharmacy in the network legally would be able to provide medications to patients in that facility. This could subject these Part D beneficiaries to delay or denial of needed medications, serious

medical complications and increased overall costs to the Medicare program, particularly the risk of an increase in unnecessary hospital admissions and readmissions.

The SCPC also fears that the PDP Drug Safety Program could severely limit Medicare beneficiary choice in selecting LTC facilities. Patients consider a variety of factors when choosing a SNF or ALF. However, it is their choice to make—not the choice of their PDP. Under the provision as written, once a PDP chooses the pharmacy members of its safe pharmacy network, it also effectively determines the beneficiary’s choice of LTC facility if the beneficiary is required to participate in a safe pharmacy network.

III. Preventing prescription drug abuse while protecting LTC facility residents

The SCPC urges the Committee to exempt Part D beneficiaries receiving care in LTC facilities from the lock-in provision.

Since the inception of Medicare Part D, the Centers for Medicare and Medicaid Services (CMS) has recognized the national practice of a single SNF facility contracting with a single LTC pharmacy to best assure quality of care.¹ An exemption for LTC facility patients ensures that nursing home residents, who already receive all their prescription drugs from a single pharmacy, are not inadvertently prevented from access to needed medications when they transition into or out of the LTC facility or reside there but require changes in medications based on changes in the individual’s condition. This simple, no-cost and non-controversial clarification will ensure that LTC facility residents, who already are well protected from prescription drug abuse through the use of a single pharmacy for their facility, are not adversely affected by the provision.

We look forward to working with the Committee and with other interested parties to seek effective ways to combat fraud and abuse within the Medicare program while protecting beneficiary access to needed medications in LTC facilities.

¹ While Medicare beneficiaries receiving care and services in SNFs and other LTC facilities maintain the freedom to choose pharmacies, they overwhelmingly choose not to do so in SNFs and frequently choose not to do so in ALFs.