

January 12, 2011

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
United States House of Representatives
2347 Rayburn House Office Building
Washington, DC 20515

Subject: Regulations Negatively Impacting Independent Community Pharmacy

Dear Chairman Issa:

Thank you for the opportunity to submit our views on existing and proposed regulations that have negatively impacted the independent community pharmacy industry, as well as our suggestions on reforming these regulations.

As background, NCPA represents the interests of America's community pharmacists, including the owners of more than 23,000 independent community pharmacies, pharmacy franchises, and chains. Together they represent a \$93 billion health-care marketplace, have more than 315,000 employees including 62,400 pharmacists, and dispense over 41% of all retail prescriptions. NCPA members are the primary providers of drugs and pharmaceutical supplies to millions of Americans.

Per your request, NCPA is most concerned about the negative impacts of the following regulations:

Imposing Competitive Bidding for Diabetic Testing Supplies on Independent Community Pharmacies

Future CMS regulations, pursuant to the new health care reform law, will either require independent community pharmacies to participate in competitive bidding for diabetic testing supplies and other products or impose aggressive competitive bidding pricing on independent community pharmacies.

Pending these future regulations, upcoming intermediate regulations will prohibit independent community pharmacies from providing delivery of diabetic testing supplies to homebound beneficiaries. Medicare patients with diabetes rely on convenient access to community pharmacies and homebound patients rely on home delivery by their independent community pharmacist to obtain diabetes testing supplies. However, competitive bidding threatens access to these supplies for patients that obtain them from local neighborhood pharmacies and through home delivery from these trusted pharmacies.

NCPA supports a permanent exemption for independent pharmacies from competitive bidding, as well as authorization to continue providing home delivery outside of the competitive bidding program. Because small independent pharmacies do not get the discounts that large mail order or chain pharmacies do, if they are not permanently excluded from the competitive bidding program and are not authorized to provide home delivery, this will mean that they will likely drop out of the program, reducing Medicare beneficiaries' access to these supplies.

Burdensome IRS 1099 Reporting Requirements

NCPA supports bipartisan calls for the repeal of the new IRS 1099 reporting requirements on businesses that purchase goods and services (\$600 or more) from corporations. These new expanded requirements will result in significant additional paperwork for small businesses, such as independent community pharmacies. Independent community pharmacies anticipate having to file an additional 100 to 200 new Form 1099's under the new law and regulations. To impose this new significant paperwork burden upon small business independent pharmacies only serves to divert resources away from patients and improving health outcomes, and instead directs those resources of time, money and effort toward bureaucratic tax requirements.

Reduced Access to OTC Medicines through Flexible Spending Accounts (FSA)

NCPA supports policies that encourage the use of over the counter (OTC) medications. For that reason, we are concerned with the new healthcare law's provision and IRS regulations, which prohibit consumers from using their pre-tax flexible spending accounts (FSAs) to pay for OTC medicines unless the patient has a prescription. This new requirement will make it more difficult for consumers to access lower-cost OTCs and will possibly discourage them from purchasing such OTC medicines, thereby having a negative impact on independent community pharmacy OTC sales.

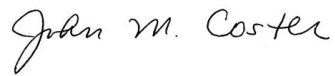
Access to the 340B Drug Discount Program by Insured Patients

NCPA supports reforms to the 340B program to assure that these 340B medications, which are required by law to be sold at a significant discount by the manufacturer to Federally-funded clinics and certain disproportionate share hospitals, are used only for the intended populations: uninsured and underinsured Americans.

Within the 340B program, the existing definition of the term "patient" allows certain insured patients to receive low-cost 340B drugs. These insured patients represent significant profits because the 340B entity purchases the drugs from the manufacturers at low cost 340B prices and will receive the same level of reimbursement from insurers as they would have received if the drugs were not purchased at 340B prices. Independent community pharmacies are losing insured patients to 340B entities because the entities are luring patients away through co-pay discounts. We seek to define the term "patient" to include only patients that do not have prescription drug insurance.

NCPA appreciates the opportunity to demonstrate the regulatory burdens faced by independent community pharmacies, as well as the opportunity to propose suggestions and solutions to eliminate these burdens. We appreciate your effort and interest and please do not hesitate to have your staff contact me by email at john.coster@ncpanet.org, or by telephone at (703) 600-1184, if you have any questions. Thank you for your interest in independent community retail pharmacy and the patients that we serve.

Sincerely,

A handwritten signature in black ink that reads "John M. Coster". The signature is written in a cursive, slightly slanted style.

John Coster, Ph.D., R.Ph.
Senior Vice President, Government Affairs

cc: The Honorable Elijah Cummings