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Pharmacists Endorse Bill to Maintain Seniors' Pharmacy Access, Reduce Abusive Audit Practices

Alexandria, Va. (Mar 20, 2012) – The [National Community Pharmacists Association](#) (NCPA) today endorsed The Medicare Pharmacy Transparency and Fair Audit Act, H.R. 4215, legislation to help safeguard patient access to independent community pharmacists and to address abusive pharmacy auditing practices, while allowing legitimate anti-fraud oversight to continue.

“Pharmacists are among the most-trusted professionals in America today and patients have expressed a particular preference for utilizing the services of independent community pharmacists,” said NCPA CEO B. Douglas Hoey, RPh, MBA. “This legislation would help ensure that local pharmacists can continue providing expert medication counseling and other pharmacy services to help seniors get the most out of their medication therapy.”

The bill, introduced by Rep. [Cathy McMorris Rodgers](#) (R-Wash.), would address two primary threats to the ability of community pharmacies to continue serving seniors enrolled in the Medicare prescription drug program, also known as Part D.

First, the legislation would give local pharmacists some basic insight into one “black box” of pharmacy reimbursement – a part D plan’s “maximum allowable cost” or MAC. Currently, independent pharmacies must evaluate take-it-or-leave-it contract offers from part D plans or pharmacy benefit managers (PBMs) that leave pharmacists in the dark as to how reimbursement caps, or MACs, are determined for many common generic medications. As a result, independent pharmacies are increasingly – and without warning – reimbursed at rates that fluctuate and fail to cover either the pharmacy’s cost of dispensing or its cost of acquiring that particular drug.

Second, Rep. McMorris Rodgers' proposal would address abusive pharmacy audits by part D plan sponsors (or their designees). Presently, community pharmacists are forced to take time away from serving patients in order to grapple with a patchwork system of part D auditing requirements. Auditors routinely recoup large sums from pharmacies over narrow technical or clerical issues.

Specific provisions of Rep. McMorris Rodgers' legislation would:

- **Increase transparency in setting pharmacy reimbursement.** Part D plan sponsors would inform pharmacies about the methodology and resources utilized for setting the Maximum Allowable Costs or MAC reimbursement limits. Part D plan sponsors would also be required to update pricing information on such lists no less than weekly to more closely reflect changes in drug costs, and establish a process for timely notification to pharmacies of pricing updates. Recent drug shortages have exacerbated the "MAC" problem; when a drug's production declines or ceases the pharmacy's acquisition costs skyrocket while MACs remain frozen or are updated belatedly to reflect market changes.
- **Allow oversight for fraud, not abusive pharmacy audits.** Legitimate anti-fraud efforts could continue, but pharmacies would not be subjected to record-keeping requirements that exceed federal or state law. In addition, approved prescription claims could not be overturned due to clerical errors unless the auditor could demonstrate both the pharmacy's intent to commit fraud and that the error increased costs to the plan. In addition, any recouped payments would have to be fully passed through to the part D plan sponsor – not pocketed by middlemen, such as PBMs.

An August 2011 survey of 1,850 community pharmacists conducted by NCPA illustrates the need for the reforms embodied by H.R. 4215. Among that survey's findings:

- Sixty-two percent of pharmacists considered the audit requirements to be completely inconsistent from one health plan to another; 48 percent of pharmacists reported auditors asking them to justify claims that are two years old or older; and, of the pharmacists who report having appealed a PBM audit, 81 percent describe that process as burdensome and unsatisfactory;
- 98 percent said PBM record keeping requirements go beyond state and federal law and that even minor, incidental instances of noncompliance are harshly penalized by auditors;

- Nearly all (91 percent) community pharmacists reported receiving little or no information justifying how PBMs arrive at reimbursement rates for generic drugs and how often the prices will be updated to reflect a pharmacy's cost;
- Seventy-one percent of pharmacists tried to use the PBM's appeals process when they believed that the reimbursement caps, or MACs, did not reflect the pharmacy's costs; and
- When asked how PBM reimbursement and auditing practices affect pharmacists' ability to provide patient care and remain in business, 97 percent said it was a significant or very significant factor.

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