



Annual Meeting & Exposition | Nashville, TN | March 16-19

**LEADING OUR COMMUNITIES
IN PATIENT CARE**

**American Pharmacists Association
House of Delegates – Nashville, TN**

**To be completed by the Office of
the Secretary of the House of
Delegates**

Item No.: 5

Date received: 1/26/18

Time received: 5:33PM (EST)

NEW BUSINESS

(To be submitted and introduced by Delegates only)

Introduced by: Betsy Elswick and L Douglas Reid
(Name)

1/26/2018 Texas House Delegation and Texas Pharmacy Association
(Date) **(Organization)**

Subject: Pharmacist's permissive language related to medication cost

Motion: Move to adopt the following policy statement:

APhA opposes language included in contractual agreements between pharmacy benefits manager (PBM) and pharmacy that prohibit or limit a pharmacist's ability to communicate information to patients pertaining to the cost of and access to medications.

Background:

On October 17, 2017, Thomas Menighan, Executive Vice President and Chief Executive Officer of the American Pharmacists Association, provided testimony before the U.S. Senate Committee on health, Education, Labor & Pensions. In his remarks, Mr. Menighan stated:

“As the organization representing pharmacists in all practice settings, APhA has been, and is, a strong supporter of policies which increase patients' access to affordable and cost-effective medicines. Decisions along the entire drug supply chain impact patients' medication costs, including arrangements between manufacturers, wholesalers, insurers, and pharmacy benefit managers, or PBMs. Because of these upstream stakeholder policies, for most patients, pharmacists have limited options to impact patients' final drug costs.”¹

Pharmacists increasingly cite concerns about contractual agreements that prohibit them about speaking to their patients about the out-of-pocket cost of a drug versus a health carrier's reimbursement rates. Effective October 1, 2017, the state of Connecticut passed Senate Bill 45 pertaining to contracts between a pharmacy and a pharmacy benefits manager.² This legislation was enacted to provide permissive, non-punitive language to

allow pharmacists to disclose information related to the costs of medications to their patients/purchasers. The language does NOT require cost information to be disseminated. Rather, it leaves the communication at the pharmacist's discretion to assist patients in making informed decisions about their health care.

According to Connecticut's recently enacted legislation:

“On and after October 1, 2017, no contract entered into between a health care provider, or any agent or vendor retained by the health care provider to provide data or analytical service to evaluate and manage health care services provided to the health carrier's plan participants, and a health carrier shall contain a provision prohibiting disclosure of (1) billed or allowed amounts, reimbursement rates or out-of-pocket costs, or (2) any data to the all-payer claims database program established under section 38a-1091. Information described in subdivisions (1) and (2) of this subsection may be used to assist consumers and institutional purchasers in making informed decisions regarding their health care and informed choices among health care providers and allow comparisons between prices paid by various health carriers to health care providers.”²

In addition to Connecticut, there are currently four other states (Georgia, Louisiana, Maine, and North Dakota) who have passed similar legislation that forbid PBMs from including in contractual agreements wording / language that prohibits the pharmacist from disclosing when out-of-pocket costs for a medication may be less than the traditional copayment. Maryland is also currently considering passing similar legislation.³

While APhA has policy related to the access to and affordability of medications to patients, policy does not exist related to so-called “gag orders” that restrict the pharmacist from voluntarily communicating cost information with the patient or purchaser of prescription medications. This additional proposed policy statement would strengthen APhA's ability to advocate for our patients' access to affordable medications and provide statements that serve to protect pharmacists in their ability to communicate fully with their patients. (See addendum of Menighan's testimony for APhA House of Delegates Policy Statements Related to Drug Pricing.¹)

Sources:

1. The United States Senate. Written testimony of Thomas E. Menighan, BSP Pharm, MBA, ScD (Hon), FAPhA, Executive Vice president and CEO, American Pharmacists Association. <https://www.help.senate.gov/imo/media/doc/Menighan.pdf>, Oct. 2017. Accessed 8 November 2017.
2. Connecticut General Assembly. Senate Bill 445. <https://www.cga.ct.gov/2017/ACT/pa/2017PA-00241-R00SB-00445-PA.htm>, Jul. 2017. Accessed 8 November 2017.
3. King, R. “Maryland to fight pharmacist ‘gag rule’ on drug costs.” <http://www.washingtonexaminer.com/maryland-to-fight-pharmacist-gag-rule-on-drug-costs/article/2645019>. Accessed January 23, 2018.

Current APhA Policy & Bylaws:

2013, 2001, 1994 Pharmacist-Patient-Prescriber-Payer Responsibilities in Appropriate Drug Use

1. APhA advocates the following guidelines for pharmacist-patient-prescriber-payer responsibilities in appropriate drug use:

(a) Pharmacists' Responsibilities

- o Serve as a drug information resource;
- o Provide primary care;

o Collaborate with the prescriber and patient in the design of cost-effective treatment regimens that produce beneficial outcomes;

o Identify formulary or generic products as a means to reduce costs;

- o Intervene on behalf of the patient to identify alternate therapies;
- o Educate the patient about the treatment regimen and expectations, and verify the patient's understanding;
- o Identify, prevent, resolve, and report drug-related problems;
- o Document and communicate pharmaceutical care activities;
- o Monitor drug therapy in collaboration with the patient and prescriber to ensure compliance and assess therapeutic outcomes;
- o Maintain an accurate and efficient drug distribution system; and
- o Maintain proficiency through continuing education.

(b) Patients' Responsibilities

- o Assume a responsibility for wellness;
- o Understand the coverage policies of their benefit plan;
- o Share complete information with providers, including demographics and payment mechanism(s);
- o Share complete information regarding medical history, lifestyle, diet, use of prescription and over-the-counter medications, and other substances;
- o Participate in the design of the treatment regimen;
- o Understand the treatment regimen and expected outcomes;
- o Adhere to the treatment regimen; and
- o Alert prescribers and pharmacists to possible drug-related problems or changes in health status.

(c) Prescribers' Responsibilities

- o Assess and diagnose the patient;
- o Share pertinent information in collaboration with the pharmacist and patient in the design of cost-effective treatment regimens that produce beneficial outcomes;
- o Clearly communicate the treatment plan and its intended outcomes to the patient directly or in collaboration with the pharmacist;
- o Remain alert to the possible occurrence of drug-related problems and initiate needed changes in therapy;
- o Collaborate with the patient and the pharmacist in drug therapy monitoring; and
- o Maintain proficiency through continuing medical education.

(d) Payers' Responsibilities

- o Determine the objectives and desired benefits of pharmacy service;
- o Design the coverage with patient and provider input using products and services to produce beneficial outcomes;
- o Contract with providers on the basis of outcomes and efficient use of resources;
- o Adopt efficient, clear, and uniform administrative processes;
- o Communicate requirements of compensation for levels of care;
- o Educate patients and providers about current eligibility and benefit information;
- o Expediently process payments; and
- o Be responsive to advances in contemporary practice.

(Am Pharm NS34(6):57 June 1994)(JAPhA NS41(5):Suppl.1:S9 September/October 2001)(Reviewed 2008)(Reviewed 2010)(Reviewed 2011)(Reviewed 2012)(JAPhA 53(4):367 July/August 2013)

****Phone numbers will only be used by the New Business Review Committee in case there are questions for the delegate who submitted the New Business Item Content.**

New Business Items are due to the Speaker of the House by **February 14, 2018** (30 days prior to the start of the first House session). Consideration of urgent items can be presented with a suspension of the House Rules at the session where New Business will be acted upon. Please submit New Business Items to the Speaker of the House via email at hod@aphanet.org.