

**CMS INEQUITABLY FORCES REDUNDANT AND UNNECESSARY
SURETY BOND UPON COMMUNITY PHARMACY**
Inappropriate Medicare Mandate will Restrict Patient Access

Congress should act to adjust part of a recent CMS final rule that inequitably and illogically applies an unnecessary restriction upon the ability of community pharmacies to provide their patients with valuable Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) and related services.

Community pharmacists are subject to oversight and regulation both as state-licensed medical professionals and as state-licensed businesses. These regulations already carry civil and criminal sanctions for violations. When exempting other medical professionals from the surety bond requirement, CMS stresses their “training and expertise” and state regulation and potential loss of state licensure – skills that pharmacists likewise have, and conditions under which they also operate.

The unnecessary CMS surety bond requirement unfairly targets community pharmacists:

- Community pharmacists are the only licensed medical professionals who provide more than a minimal amount of DMEPOS, that must meet the new CMS surety bond requirements.
- In the January 2 final rule (effective March 4), CMS **exempted** the following medical professionals:

Physicians	Occupational Therapists	Physician Assistants
Physical Therapists	Nurse Practitioners	Clinical Nurse Specialists
Certified Nurse-Midwives	Clinical Social Workers	Registered Dietitians
Nutritional Professionals	Clinical Psychologists	Prosthetists
Orthotists	Certified Registered Nurse Anesthetists	
- As it did in the accreditation rule, where it exempted almost the exact same list of medical professionals, CMS offers no valid reason why state-licensed pharmacists should not be exempted.

CMS’ recently-issued final rule requires some current DMEPOS suppliers to obtain a \$50,000 surety bond by October 2, costing community pharmacies \$1,500 annually:

- CMS: the surety bond will cause one-fourth of DMEPOS suppliers to drop out of the program.
- All pharmacists must meet these expenses simply to obtain a Part B supplier number so that they can continue to help their patients with their DMEPOS needs.
- Only 6% -8% of an average independent pharmacy’s gross annual sales come from DMEPOS. With the low margin on those supplies, the 3 year cost of at least \$7,000 to \$8,500 to meet all surety bond and accreditation cost mandates will force many independent pharmacists out of the program.

The CMS requirement will hurt patient access:

- DMEPOS provided by pharmacists includes: diabetes test supplies, canes, walkers, wheelchairs, portable commodes, compression hose, mastectomy prosthetics, neck and body orthotics, wound care, and other products and services vital for patients.
- Community pharmacists are the trusted, primary source for beneficiaries to receive DMEPOS supplies, counsel, and training on the effective use of DMEPOS to achieve the best health outcomes.
- Beneficiaries in underserved areas will be forced to travel dozens of additional miles for supplies and expert advice previously obtained closer to home.
- Ironically, the new CMS DMEPOS regulations will pressure Medicare patients towards mail order and Internet operations, where fraud might be most prevalent.

CMS should expel and prosecute fraudulent suppliers instead of imposing unnecessary costs upon legitimate, licensed medical professionals that are protecting patients’ continued access to quality care. Congress should exempt pharmacies from the surety bond requirement.