November 20, 2009

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

Subject: Community Pharmacy Views on Patient Protection and Affordable Care Act Provisions

Dear Senator Reid:

As the Senate begins to debate its health care reform bill, the National Community Pharmacists Association (NCPA) is writing to provide you with our views on the Patient Protection and Affordable Care Act. NCPA represents the owners and operators of 22,700 independent community pharmacies in the United States. Our members, who are small business owners, are located primarily in urban and rural areas. Our members dispense approximately 40 percent of all prescriptions in the United States, including prescriptions for a significant number of Medicare and Medicaid patients.

NCPA is fortunate that many of our top health care reform priorities are included in the legislation that you have developed. We are also fortunate that many of these proposals have had strong bipartisan Congressional support. Like other health care professionals and small businesses, we do have concerns with some provisions of the bill. However, this comprehensive reform bill represents the best opportunity to address many of community pharmacy’s top professional and economic priorities. We ask that any final bill presented to the President include these priorities:

Support for Reforms of Medicaid Generic Drug Pharmacy Reimbursement (AMP Fix)

The bill would make significant and important changes to the Federal Upper Limit (FUL) AMP-based pharmacy reimbursement system for generic medications. For example, the bill appropriately redefines AMP, sets FULs only on products that have three sources of supply, and uses a weighted average AMP as the basis of the FUL. The bill also set Medicaid pharmacy generic reimbursement at “no less than 175% of the weighted average AMP.” We ask that you strongly defend these Senate provisions in conference. We are particularly grateful for Senator Baucus’s strong leadership and support for making these changes in the Medicaid pharmacy payment system.
We do ask, however, that you work with us to identify additional resources that might be used to ensure sufficient Medicaid generic drug reimbursement for independent and small pharmacies beyond 175% of the weighted average AMP. For example, we pledge to work with you and states to increase the Medicaid pharmacy generic dispensing rate so that those savings might be partially used to pay for additional reimbursement for independent and small pharmacies. These pharmacies typically serve a higher volume of Medicaid patients, and tend to be located in urban and rural areas. Additional reimbursement would ensure that these pharmacies are able to remain viable and provide the quality of care patients expect and deserve.

**Support for Pharmacy Benefit Manager (PBM) Translucency in Health Exchanges**

We strongly support provisions in the legislation that would require transparency for pharmacy benefit managers (PBMs), such as CVS/Caremark and Medco, that contract with health plans operating in insurance exchanges and Medicare P plans. We appreciate all the work that Senator Cantwell has done to help include these provisions in the bill. These provisions establish an important initial Federal framework for the regulation of these unregulated entities, which can be further built on in the future. PBM transparency in this market is important because plans need to know whether PBMs are negotiating lower prices from manufacturers, and if those savings are being passed through to the plan and patients, or pocketed by the PBMs.

**Support for Regulatory Relief for Pharmacists to Provide DME to Medicare Beneficiaries**

We strongly support the provisions in the Senate bill that exempt pharmacies from DME accreditation if their total DME billings are 5 percent or less of total prescription sales. Without an exemption, thousands of independent community pharmacies will not be able to continue participating in the DME program and provide their patients with needed health care items such as diabetes testing supplies.

**Support for Inclusion of Pharmacist-Delivered Medication Therapy Management Services**

We appreciate the fact that the bill envisions an expanded patient care role for pharmacists in new health care system models. We are eager to take on these new challenges and strongly support these provisions. These new responsibilities will help assure more appropriate use of prescription medications, especially for those patients who have chronic illnesses. These include pharmacist roles in accountable care organizations, medical homes, “transitions of care” teams, and medication reconciliation activities. We are particularly grateful to Senator Mikulski for her support of a Medication Therapy Management (MTM) grant program that is included in the bill. MTM is important because it can help reduce the estimated $290 billion in health care expenditures that result from inappropriate medication use or non compliance with taking medications.
Application of Prompt Pay Requirements to Medicare Part D Brand Name Discount Program

We appreciate that the bill clarifies that the new MIPPA “prompt pay” provisions included in 1860D-12 (b)(4) apply to payments from the Third Party Administrator (TPA) to pharmacies under this new discount program. We want to make sure that the TPA pays pharmacies under the same deadlines that plans have to meet for covered Part D drugs that are dispensed during coverage periods.

Use of a Pharmacy Benefit Administrator – not a PBM – for Community Health Insurance Option

While the CBO estimates that only a small number of Americans would initially be enrolled, NCPA remains concerned about the lack of specificity in the bill regarding how payment rates for pharmacy services would be set under the Community Health Insurance Option. For example, we believe that the bill should specify that the payments to pharmacies should include reimbursement for the pharmacy’s cost of obtaining and managing drug product inventory, as well as dispensing medications, based on annual “cost of dispensing” surveys.

We also ask that the bill be clarified such that a pharmacy benefits administrator (PBA) rather than a pharmacy benefits manager (PBM) would be used to administer the drug benefit. Finally, the benefit should be structured so that there are no incentives for patients to use mail order pharmacy. Evidence suggests that mail order pharmacies use more expensive brand name drugs than generics; encourage the dispensing of larger quantities of medications which cause wastage; and often do not deliver medications on time for patients.

Mr. Leader, we thank you and community pharmacy’s friends and allies again in the Senate for their support. We want to work with you to assure that pharmacy’s priorities are addressed so that we can help serve our patients. We do believe that some improvements can be made to the bill and want to work with you on that during Senate consideration of the bill, as well as during the conference committee process. We thank you again for your support of community pharmacists.

Sincerely,

Bruce T. Roberts
Executive Vice President and CEO

CC: Members of the United States Senate