

May 12, 2015

The Honorable Frederick Upton  
U.S. House of Representatives  
Energy & Commerce Committee Chairman

The Honorable Frank Pallone, Jr.  
U.S. House of Representatives  
Energy & Commerce Committee Ranking Member

RE: Pharmacy Lock-In Provision in 21st Century Cures Legislation

Dear Chairman Upton and Ranking Member Pallone:

Innovatix applauds the House Energy & Commerce Committee for its bipartisan 21st Century Cures legislative draft of April 28. A subsidiary of the Greater New York Hospital Association, Innovatix provides group purchasing services to a national membership of over 26,000 non-acute care providers. We have concerns about Section 3151 of the bill, which creates “safe pharmacy networks” as part of the Prescription Drug Plans (PDP) Safety Program. The policy as written disrupts current safeguards that are already in place for this population and may have unintended negative consequences for the ability of long-term care facilities (LTCFs) to properly monitor and coordinate beneficiaries’ medications. **We believe the pharmacy lock-in policy should not be applied to beneficiaries who reside in a LTCF.**

Of importance, the draft legislation overreaches in its application to long-term care beneficiaries, who are not at high risk of drug abuse. Compared to other Medicare beneficiaries, most beneficiaries in LTCFs are older, frailer, and use a significantly greater number of medications to manage multiple chronic conditions (the average resident is on 8–10 prescriptions). Given the fragile condition and cognitive limitations of most LTCF residents, they are not able to employ common prescription drug abuse practices, such as physician shopping or pharmacy shopping. Furthermore, having the LTCF receive medication from multiple pharmacies at various times may create new opportunities for medication diversion, which the safe pharmacy network policy is trying to prevent.

With regard to access issues for this senior population, it is important to note that a LTCF typically selects a single long-term care pharmacy to maintain uniform dispensing, ordering, and medication management for all of its residents. This relationship allows the LTCF to maintain one point of accountability for all medication-related issues and reduces potential medication abuse and misuse through an integrated, coordinated care model. Under the draft legislation, a Medicare Part D drug benefit sponsor could mandate that a specific pharmacy be used by certain residents (and not others), which directly interferes with a LTCF’s ability to manage the medication needs of all of its residents appropriately. Specifically, the fragmentation would not only be burdensome and inefficient, it would create differential barriers to access; some beneficiaries would receive prescription medications in usual course without delay and others would confront impediments or limitations in accessing needed therapies, which the LTCF would be forced to reconcile. The proposed multi-pharmacy policy could

create a problematic caste system in which some beneficiaries would have unimpeded access to drugs while others would not, leaving the LTCFs in the middle to resolve patient and family complaints.

Finally, the unique needs of LTCF beneficiaries are already recognized by the Centers for Medicare & Medicaid Services (CMS) under existing Medicare Part D policy, which requires pharmacies serving LTCF beneficiaries to meet specific service standards. The CMS requires its participating long-term care pharmacies to provide oversight and management of all medications used by beneficiaries in LTCFs. Additionally, LTCFs must follow strict requirements and regulations for handling and administering narcotics, which are highly vulnerable to abuse. These enhanced services, such as specialized packaging, 24/7 delivery, and drug utilization review also help reduce medication abuse and misuse by LTCF beneficiaries, and notably are effectively much more stringent than the proposed safe pharmacy network requirements in the discussion draft.

Again, we urge you to consider the need for an exemption or carve-out for long term care in the proposed pharmacy lock-in provision. Thank you in advance for your attention to the vital, unique medication needs of long-term care beneficiaries. If you have any additional questions, please contact Shara Siegel, Director of Government Affairs, at [ssiegel@innovatix.com](mailto:ssiegel@innovatix.com) or (212) 901-1264.

Sincerely,



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