

Louisiana Independent Pharmacies Association

What's New and What to Watch

LIPA Newsletter:

Bringing you the latest news and information concerning independent pharmacies and the profession at-large....



Merry Christmas to All of Our LIPA Member Pharmacies

As we begin to wind down the calendar year 2021, your staff and leadership at LIPA continue to work on issues on multiple different fronts with a solid foundation of offering our services to empower pharmacies and to help them stay valued and viable in this rapidly changing healthcare world.

We have had new filings in our litigation in federal court this week in our matter, *LIPA vs. Express Scripts*. We will discuss that more particularly in the coming weeks in this newsletter. We are also pleased to see others throughout the nation, including NCPA, American Pharmacies and PUTT, have offered briefs to the Fifth US Circuit Court of Appeal in support of our litigation.

Whether regulatory, legislatively or through the courts, we work on multiple fronts. These activities we must engage in are multi-faceted and at the local, state, and national levels. We explored additional potential activities with lawyers and national experts who presented at our LIPA conference in July. If you were unable to attend the conference, you will be able to reflect on these presentations and obtain CE credit by reviewing our files and participating in that training [see below for more details]. We believe you will find them worthwhile. More will come as we find better ways to protect our pharmacies through some of these pricing schemes the PBMs are using.

You have passed great laws in Louisiana over several years and those laws match those that have been passed in some of our sister states. Congressionally we are seeing many pieces of legislation introduced, and we are working to move forward on those by staying in close contact with our congressional delegation. You can also help by reaching out to those congressmen when they're home on break or by email or telephone calls to their staff and district offices. One issue that we are excited to see and cautiously optimistic about is that the current administrator of CMS, Chiquita

Brooks-LaSure, has committed that CMS will take action to address DIR fees. More about that is included in our newsletter, and we recognize this will be a significant fight that we will need assistance with on all fronts.

Do not forget, as we close out this year and we are looking at the payment of taxes that your occupational license tax one of the first pieces passed by LIPA leaders was an amendment to Louisiana Revised Statute 47:359, which states: "*K. Pharmacy. For each business licensed by the Louisiana State Board of Pharmacy as a pharmacy and eighty percent of gross revenues of the business comes from the filling of prescription drugs, the license shall be one-tenth of one percent of the gross annual sales of the total business activity, with a minimum tax of fifty dollars and a maximum tax of two thousand dollars.*"

Activities have seen our members assist with limiting these taxes even further in your local taxing districts. **Make sure you are not overpaying your taxes on this and sales taxes.** Recall that, along with notifying the PBMs that those businesses are responsible for paying taxes. The provisions of 2019 Act 124 allows: "*Any pharmacist or pharmacy who does not receive sales tax proceeds from a pharmacy benefit manager for any drug, device, or pharmacy service which is subject to sales taxes shall have no responsibility for payment of the taxes if the pharmacist or pharmacy provides written notification to the appropriate taxing authority....*"

From your LIPA board members and staff, we wish you the safest and most joyful Christmas season. We hope that you find warmth and comfort in the company of family and friends and peace in your thoughts and memories.

A Great Christmas Gift for the Independent Pharmacy Community!

The agency [CMS] has continued to study the role that pharmacy price concession fees play in the prescription drug marketplace. CMS agrees that the significant growth in DIR amounts is troubling and is planning to use our administrative authority to issue proposed rulemaking addressing [pharmacy] price concessions and DIR.

—Chiquita Brooks-LaSure

CMS Administrator

We have frequently written about the added difficulty of seeing positive change for community pharmacies when action must be taken at the **federal** level—either through a proverbial “act of Congress” which is very elusive or administrative action by a federal agency such as HHS/CMS that oversees the Medicare Program (or in the case of ERISA and *Rutledge*, by the US Supreme Court). On Tuesday, the CMS Administrator indicated in writing that CMS will be addressing DIR fees at the agency level. Folks, this is huge!

A [story](#) originally in the **Columbus [Ohio] Dispatch** described the Administrator's statement as "a surprise move" and observed that it could result in "the first nationwide crackdown on pharmacy benefit managers." The current state of DIR fees are **not** what CMS had in mind when they began allowing Medicare plans to assess the fees and this week, the Medicare Program regulator finally acknowledged that.

While CMS may now be on board with reigning in PBMs, we can expect strong pushback from the PBMs. The article includes this quote: *"On the surface, it's certainly a positive that CMS has awoken and realized that the 91,500% increase in DIR fees from 2010 to 2019 more than suggests that there is a problem. However, what they intend to do about it will only be clear when the agency releases a proposed rule. And if they intend to do anything meaningful, the PBMs will fight it in the courts. Their business model is a house of cards and if DIR fees are taken away, or even moderated, the house of cards will come tumbling down."*

Dramatic Increase in Positive COVID Cases in Louisiana Since Last Week

The daily number of new COVID cases in Louisiana has tripled over the past week. LDH has paused daily updates to their COVID dashboard until after Christmas but they reported 2,835 new cases on Thursday, December 23rd. You can see at this [link](#) the parishes with the highest COVID rates. The big change since last week is New Orleans area parishes are now at **high** risk for community spread. The state is focusing on the critical importance of not only being fully vaccinated but boosters for people eligible (six months elapsed since their 2nd dose of mRNA vaccine or 1st dose of J&J).

Feds Pause Shipments of Two of the Three Approved Monoclonal Antibody Treatments

On Thursday, LDH [announced](#) that the federal government has paused any further shipments of REGEN –COV and bamlanivimab/ etesevimab. Consequently, that the State is pausing offering MAB treatments (infusions) at LDH-run treatment sites throughout the state.

The **only** MAB that has been shown to be effective against the Omicron COVID variant is sotrovimab and Louisiana will be receiving just 228 doses this week and it will be shipped to the following hospitals: North Oaks, Hammond; Oschner on Jefferson Hwy, New Orleans; Our Lady of the Lake, Baton Rouge; St. Francis Medical Center, Monroe; University Medical Center, New Orleans, and Lake Charles Memorial Hospital, Lake Charles. The supply of sotrovimab—which must be administered by infusion—is expected to increase in January.

Emergency Use Authorization (EAU) Granted for Two Oral Antivirals This Week

This week saw FDA approval of not one but two **oral** antivirals for treatment of COVID. Pfizer's [Paxlovid](#) received EUA approval on Wednesday December 22nd. Merck's [Molnupiravir](#) received EUA approval on Thursday, December 23rd.

Both of these medications will require a prescription, which relieves pharmacists of responsibility for screening and assessments of who is/is not eligible.

LIPA has worked very closely with LDH in standing up close to 200 community pharmacy locations across the state who are "ready to receive" and dispense these and other oral antivirals for treatment of COIVD. While the oral antivirals could be shipped as early as this weekend, the most recent information is that only the largest parishes will receive an allocation in Week 1. The minimum shipment for pharmacies selected by LDH will be 20 courses of treatments. The course of treatment for both is 5 days.

If you have not yet let LIPA know of your interest in receiving and dispensing oral antivirals [they are being provided by the federal government at no cost to the pharmacy] you can still request to enroll. Send an email to vaccines@lipa.org with Pharmacy Name, Address, Phone #, Primary Contact, E-mail Address (that is frequently monitored since this is where the CDC activation email will be sent) and the days/times you are open to receive delivery.

LDH Emphasizes Their Expectations for COVID Boosters for Nursing Homes Residents & Staff

Heads up that if you provide COVID vaccines at one or more nursing homes, they may be reaching out to you. With the huge increase in positive COVID cases including in nursing homes, LDH has expressed concerns regarding the number of nursing homes that are reporting **very low numbers** for residents (and employees) who have had a COVID booster dose. In fact, LDH's Nursing Home COVID Report dated 12/14/21 shows 60 nursing homes with 5% or fewer residents having received a booster. On Thursday, LDH sent out a memo to nursing homes who are reporting low booster percentage rates asking them to arrange for boosters to be given for their residents and employees as soon as possible but no later than 1/15/22. The memo instructs them to contact LIPA if they need assistance in locating a vaccine provider.

Community Pharmacies Participating as *Shot for \$100* Locations Have Provided ~ 3K First Doses of COVID s in Just 3 Weeks

In response to LIPA's question regarding the possibility of extension of *Shot for \$100* beyond 12/31/21, LDH advised that they will be pausing the program after 12/31 to take inventory of

remaining cards and do something “more targeted.” LIPA leadership will be talking with LDH senior leaders next week regarding the value that community pharmacies have brought in incentivizing COVID vaccines in persons who may otherwise have remained unvaccinated.

For our 60+ *Shot for \$100* locations, we will let you know, as soon as we have a better idea of what to expect after Friday, 12/31.21. Our community pharmacies have done an **amazing job** and we are thankful for your patience and cooperation with our *Shot for \$100* team working together to get people vaccinated.

Louisiana Medicaid Pharmacy Issues

LDH advised LIPA that their contractor Myers and Stauffer reports just a 72% survey response rate from the independent pharmacies and a 98.5% response rate from the chain pharmacies to the 2021 cost of dispensing survey. You will recall that responses were due in mid-November. Medicaid Deputy Director Michael Boutte indicated LIPA can expect to receive a listing of the independent pharmacies that have **not** responded to the dispensing cost survey in order to assist LDH by reaching out to these pharmacies. We expect to get that after the holiday.

Medicaid reports they have finalized their policies for reimbursement for pediatric vaccine counseling as well as administration of oral anti-virals for treatment of COVID. Medicaid MCOs will be required to follow the policies for reimbursement that are established for fee-for-service. We will have more information in next week’s newsletter regarding this as well as the criteria for billing Medicaid for the in-home COVID vaccine fee (\$32.60 statewide).

Provider Relief Fund Reporting Period 2 Opens January 1st

Providers who received a payment from the Provider Relief Fund (PRF) between 7/1/20 and 12/31/20 have until 12/31/21 to spend the funds. Any funds not spent by then will need to be returned. The portal for online reporting on how funds were spent will open on 1/1/22 and the deadline for submitting the required report for this period is 3/31/22. Here is the link to the PRF webpage on [Reporting](#). Note the links on the right side of the webpage including Allowable Expenses and Frequently Asked Questions.

If You Run Short of COVID Vaccine . . .

. . . check with us! While LIPA does not administer COVID vaccines, we are enrolled with the Louisiana Immunization Program as a **redistribution site** and may be able to help. We have access to LINKS, and we order and store Moderna & both Pfizer vaccines that we can transfer out and get to you.

CPE Credit for July LIPA Meeting Presentations Now Available

LIPA has created three separate CPE activities using videos of presentations at the July 2021 LIPA meeting in Covington. Pharmacists to earn up to 4.25 hours of Continuing Pharmacy Education. For those of you who have already completed your CPE requirements for 2021, you can complete and earn credit for these three Activities anytime between now and December 31 of **2022**. Here are the links to see the announcement, register, and view the video. Upon completion of the evaluation/learning assessment, your CPE credit will be automatically uploaded to CPE Monitor. This CPE is offered at no charge to LIPA member pharmacies and their employees. The code you will need to enter to claim credit is **777**.

The Business of Community Pharmacy Benjamin Jolley 1.25 CE Hours

In Pursuit of Greater Transparency in the Prescription Drug Marketplace Mark Blum and Fred Mills 1.25 CE Hours

Legal Considerations for Community Pharmacy Owners Mark Cuker, Connor McCabe, Donelson Caffery 1.75 CE Hours

Reenroll as a Louisiana Medicaid Provider if You Haven't Done So

Pharmacy providers enrolled as Louisiana Medicaid as of 6/30/21 should have received an e-mail/invite—and in some cases, Second Notices/invites have already gone out—advising them to reenroll through the Louisiana Medicaid Provider Enrollment Portal no later than March 31, 2022. While March 31st may seem a long way off, we encourage you to go to the Louisiana Medicaid Provider Enrollment Portal and re-enroll immediately. Currently, we understand it can take up to three weeks to process provider re-enrollments. Providers who have not reenrolled by the March 31st deadline will have their claims denied by both Louisiana Medicaid and Medicaid MCOs. We have been told there will be no grace period or retroactive payments for providers who miss the reenrollment deadline. For more information, see the [Informational Flyer](#).