

Friday, March 13, 2020

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....

In this week's issue:

- COVID-19: Public Health Emergency

Members,

We know that the past week has been totally unprecedented for you, your employees, your pharmacies, and your patients as you balance health and safety/the need for social distancing with the need to continue to provide vitally important life-saving medications and health services in your communities. As the week comes to an end, we see Louisiana garnering a great deal of national attention as an emerging virus "hot spot." As front-line responders, you have rapidly transitioned your business model to provide prescriptions and over-the counter medical items and supplies via either drive-thru, curbside pickup, or home delivery. Some of our community pharmacies have dealt with staffing challenges as a result of the unexpected closure of schools and concerns about exposure to COVID-19. Kudos for all the steps you have taken to limit community spread of this deadly virus! When it comes to "essential" businesses, you are at the top of the pyramid. **We encourage you to share your photos on the LIPA Facebook page and Twitter.**

Key sources of COVID-19 information Our information from the state is that their primary source of guidance for Louisiana's healthcare providers is [coronavirus.gov](https://www.coronavirus.gov). Officials have stated that in a worst-case scenario, it could become necessary that a health care worker who is asymptomatic but tests positive, use proper PPE and continue providing care. If you have not already done so, you may want to bookmark this site and check it for updates frequently, along with the Board of Pharmacy's special [webpage](#) specific to the COVID-19 pandemic.

Advisories and additions to Frequently Asked Questions (FAQ) issued by the Board of Pharmacy this week addressed a number of questions arising from this prolonged public health emergency such as pharmacy staffing ratios, verbal orders for Schedule II narcotics, alternatives to face-to-face counseling, and delivery drivers.

Justification for temporary increase in Medicaid dispensing fee Earlier this week, CMS provided states with a pre-printed template that they can use to request Medicaid waivers as a result of the public health emergency. One of the options is an increase in the Medicaid dispensing fee to compensate for the increased costs



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including but not limited to home delivery. We need your feedback on additional costs and changes that you are seeing that impact your cost of dispensing. Since time of is of the essence, we are hoping that CMS may establish a blanket waiver to increase the dispensing fee without the need for a time-consuming “study.” This is something we have communicated to both CMS and our Congressional delegation.

On Wednesday we had a conversation with LDH/Medicaid and requested that they submit a request to CMS to increase the dispensing fee—which according to a just released national survey, is already considerably below the actual cost for dispensing a Medicaid prescription. We also requested that pharmacists be allowed to provide the all FDA approved vaccines, including the forthcoming novel vaccine for COVID-19, for all indicated populations.

Medicaid dispensing fee in La was in need of update even before COVID-19

Based on the just released national 2019 **Cost of Dispensing Study** that was jointly commissioned by NCPA, the National Association of Chain Drug Stores and National Association of Specialty Pharmacy, the current Louisiana Medicaid dispensing fee of \$10.99 is well below the national average for Medicaid which is \$12.45 (up from \$10.30 in 2014). Louisiana’s overall cost of dispensing rate—based on 153 survey responses (representing 12% of the state’s pharmacies--was \$11.84 (**\$11.74** for Medicaid). We suspect that figure understates the actual cost of dispensing and the average would be even higher if the response rate had been better. By far, the biggest driver in the increase has been labor costs. The goal of the study is to give state Medicaid programs, state legislators and governors information they can use to align their programs with the access needs of the most vulnerable patients, and with fairness for pharmacy patient care. An FAQ on the survey can be found [here](#).

SBA Economic Injury Loans available in Louisiana Now that Louisiana has been declared a federal disaster area as a result of the COVID-19 pandemic, small businesses—including pharmacies— that have suffered economic losses can apply for loans through the Small Business Administration (SBA). Characterized as “Economic Injury Loans” up to \$2 million dollars may be borrowed per loan. Depending on the type of organization, the interest rate is either 2.75% or 3.75% interest rate and a maximum 30-year term, with no fees or closing costs. Some requirements are being waived including the need for collateral. More information from a webinar conducted on Thursday by Nexus LA and the Louisiana Technology Park is included in this **Greater Baton Rouge Business Report** [story](#)

CARES Act summary Yesterday afternoon President Trump signed into law the Coronavirus Aid, Relief and Economic Security (CARES) Act. NCPA has created a good summary of the [provisions in the law](#) that can be of great help to community pharmacies. Please taken time to look at the many programs and benefits that are available.

Looking ahead to Phase 4” Congressional action in response to coronavirus We know how important it is that our members get some relief from Medicare DIR fees and other PBM actions that are administratively burdensome such as



audits and random contract amendments. We have communicated with our Louisiana Congressional delegation the importance of either Congress or HHS/CMS taking action to limit PBM actions that could have an adverse impact on pharmacies who are dealing with a myriad of issues and unable to focus on audits and amendments and trying to reconcile DIR callbacks. We encourage you to do so as well. A

The ERISA question: *Rutledge v PCMA* At this point we do not know to what extent the Supreme Court’s calendar for late April will be rescheduled. Originally scheduled for April 27th, the date for oral arguments in *Rutledge v PCMA* could be pushed back. PCMA submitted a 50 page response—plus a 7 page appendix—which provide a preview of their defense.





Drive-thru Pharmacy Reduces Infection Risks at Shreveport VA

[Bossier Press-Tribune](#)

Beginning Wednesday, Veterans served at the Overton Brooks VA Medical Center (Shreveport VA) will have access to their pharmacy without leaving their cars. This new drive-through pharmacy is open daily from 8 a.m. – 4 p.m.

“A drive-through pharmacy will allow us to continue to serve the Veterans without risking the possible spread of the COVID-19 virus. Most of our staff will be able to remain inside the medical center while still meeting the needs of the Veteran,” said Scott Fisher, Chief of Pharmacy.

This new process is designed to keep Veterans safe from the COVID-19 pandemic affecting millions of people worldwide. Veterans must use the drive-through pharmacy as it provides easier access to services at the Shreveport VA.

The drive-through tent is equipped with computers and staffed by pharmacists and allows vehicles to enter, and the occupant never leaves the car. Appropriate social distancing is never violated.

“This will hopefully keep our vulnerable Veteran population and our staff safe by not having unnecessary foot traffic inside the medical center,” added Fisher.

Coronavirus Spread In Louisiana Becoming 2nd Fastest In Nation

[Avovelles Today](#)

It’s official. The United States on Thursday eclipsed China, Italy, and 170 other countries for the most cases of Coronavirus. The U.S. is now zooming past 85,000 cases and 1,000 deaths. This makes Louisiana Governor John Bel Edwards mad, very mad, because skyrocketing Coronavirus cases in Louisiana are putting the state almost in the lead for the outbreak. He’s not happy that many Louisianans are still refusing to stay home.

“If you will do what is within your power to slow the spread of this virus,” he admonished to Louisianans via television at a Thursday press conference, “to slow the spread of this disease, we won’t need to surge [at medical facilities] as much or as fast. You literally have the power within yourself to save lives.

It could be your own. It could be your spouse’s, your parents, your next-door neighbor, but you have it within your power to save lives if you will simply minimize the contact you have with other people.”

The governor is angry because Louisiana’s numbers per capita show the virus spreading like wildfire, mostly in the New Orleans area where Mardi Gras attracted over a million revelers from around the world. While they partied for the month of February, the Coronavirus Pandemic was exploding in China and Italy.

“We can avoid it,” lamented Edwards. “It is entirely within our power to avoid it but we’ve got to have more compliance.”

Compliance being: stay at home and keep your distance.

The governor is upset over the 28% rise in one day of cases and deaths. As of noon Thursday, Louisiana COVID-19 cases soared to 2,305 spread across 53 out of 64 parishes.

Eighty-three Louisianans have died, the last one again in New Orleans but this time, a 17-year-old.

Orleans Parish overwhelmingly leads the state with 1,000 cases and 46 deaths.

Jefferson Parish next door is second with 458 cases and 12 deaths.

Then the virus jumps north to Caddo Parish’s 115 cases and 1 death.

The capitol city of Baton Rouge is now fourth with 4 deaths out of 105 cases.

Baton Rouge Mayor Sharon Weston Broome and civic leaders opened an emergency warehouse while pleading for medical supplies.

Further alarming, next door Ascension Parish suddenly has the highest rate of infection with nearly 100 cases.

“The curve we are on today is not promising,” the governor said.

“Why would you want to take the chance on bringing it home? While we left essential businesses open so you could go to the grocery store, the pharmacy, the bank, the gas station, you don’t have to go every day.”

Shortly after the governor’s press conference, Super Bowl winning quarterback Drew Brees and his wife Brittany committed \$5 million to the State of Louisiana for much needed supplies and meals. Friday morning, after an upbeat live interview with Brees on NBC’s Today Show, anchor Hoda Kotb, who spent much of her career in New Orleans, broke down on live television and was unable to continue for more than a minute afterward.

The message is slowly sinking in. Thousands of Louisianans are complying with Governor Edwards’ wishes and they are sheltering in place with their children now going into the third week.

“It’s a little crazy,” says Danielle Porche, a Baton Rouge realtor with 2 kids, 8-year-old Evangeline and 4-year-old Jules. “When they’re not studying, they like to reverse roles and be the parents. But not only so far. Jules is big on disciplining and likes to roar like a tiger. ‘You kids do what I tell you to do,’ he yells.” Out of the mouths of babes, and governors.

“Stay home,” says Governor Edwards. “The life you’re saving is mostly likely your own.”

Walmart Was Almost Charged Criminally Over Opioids. Trump Appointees Killed the Indictment.

[ProPublica](#)

On a Tuesday just before Halloween in 2018, a group of federal prosecutors and agents from Texas arrived in Washington. For almost two years, they’d been investigating the opioid dispensing practices of Walmart, the largest company in the world. They had amassed what they viewed as highly damning



evidence only to face a major obstacle: top Trump appointees at the Department of Justice.

The prosecution team had come to Washington to try to save its case. Joe Brown, the U.S. attorney for the Eastern District of Texas, led the group, which included Heather Rattan, an over-20-year veteran of the office who had spent much of her career prosecuting members of drug cartels.

They first went to the Drug Enforcement Administration's headquarters to meet the acting administrator, Uttam Dhillon. There Rattan laid out the evidence. Opioids dispensed by Walmart pharmacies in Texas had killed customers who had overdosed. The pharmacists who dispensed those opioids had told the company they didn't want to fill the prescriptions because they were coming from doctors who were running pill mills. They pleaded for help and guidance from Walmart's corporate office.

Investigators had obtained records of similar cries for help from Walmart pharmacists all over the country: from Maine, North Carolina, Kansas and Washington, and other states. They reported hundreds of thousands of suspicious or inappropriate opioid prescriptions. One Walmart employee warned about a Florida doctor who had a "list of patients from Kentucky that have been visiting pharmacies in all of central Wisconsin recently." That doctor had sent patients to Walmarts in more than 30 other states.

In response to these alarms, Walmart compliance officials did not take corporate-wide action to halt the flow of opioids. Instead, they repeatedly admonished pharmacists that they could not cut off any doctor entirely. They could only evaluate each prescription on an individual basis. And they went further. An opioid compliance manager told an executive in an email, gathered during the inquiry and viewed by ProPublica, that Walmart's focus should be on "driving sales."

After they finished their presentation, Dhillon sat back in his chair and exclaimed, "Jesus Christ," according to five people familiar with the investigation. "Why aren't we talking about this as a criminal case?"

That's precisely what had occurred seven months earlier: Rattan had informed Walmart that she was preparing to indict the corporation for violating the Controlled Substances Act. Indictments of Fortune 500 companies are unheard of, let alone of one with \$500 billion in annual revenue and over 2 million employees. But Rattan, with support from her boss Brown, believed the evidence justified such an unprecedented step.

Before the Texas prosecutors could file their case, however, Walmart escalated concerns to high-ranking officials at the DOJ, who then intervened. Brown was ordered to stand down. On Aug. 31, 2018, Trump officials officially informed Walmart that the DOJ would decline to prosecute the company, according to a [letter](#) from Walmart's lawyer that lays out the chronology of the case.."

But the Texas prosecutors hadn't given up. Now, two months later, they still thought they had a chance to bring the then-deputy attorney general, Rod Rosenstein, and other top officials around. After the first presentation at the DEA offices that day, the Texas group — now accompanied by the DEA's Dhillon — caravanned over to the DOJ.

They filed into a big, bright conference room, where they were received by Rosenstein and a collection of political appointees and career staff. Rattan and her team were given a half-hour to make their presentation. She explained that dispensing opioids without a legitimate medical purpose is legally akin to dealing heroin. Criminal law says if a person or entity is willfully blind or deliberately ignorant, they are as liable as if they had acted intentionally. Once Walmart's headquarters knew its pharmacists were raising alarms about suspicious prescriptions, but the compliance department continued to allow — even push — them to fill them, well, that made the company guilty, the Texas prosecutors contended.



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