

Friday, August 21, 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....



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Members,

Breaking news out from LDH today is that the Department has requested DOA cancellation of the Medicaid MCO procurement and announced their intent to issue a new RFP. According to LDH's [press release](#), "the previous RFP is now more than two years old and much has changed in the healthcare industry." LDH Secretary Courtney Philips indicated that "the Department has decided that it is in the best interest of the people we serve to issue a new and revised RFP" and stated "we must look ahead to innovative solutions in health care delivery while increasing accountability and addressing health disparities." If the request to withdraw the proposed contracts is approved by DOA, Department will begin development of the first draft of a new RFP and will work toward publishing it next year. You can read the Associated Press story about this [here](#) in which the reporter notes that any decision by the Commissioner of Administration Jay Dardenne was not expected to resolve the issue as it could have been appealed in the court system. We would expect that contracts resulting from the newly issued RFP would not begin any earlier than January of 2022.

HHS Authorizes Pharmacists to Both Order and Administer Vaccines to Children Age 3 and Above for Duration of Public Health Emergency Wednesday, HHS Secretary Azar announced an [amendment](#) to the current public health emergency declaration that pharmacists can both order and administer --and pharmacy interns can administer-- routine immunizations for children age 3 through 18. This is **less restrictive** than current Louisiana law that includes an age floor of 17 for pharmacists to order vaccines other than flu (for which the age floor is age 3). As a reminder, the public health emergency currently extends through approximately October 21 but could be extended.

Not surprisingly, the American Academy of Pediatrics issued a [statement](#) saying this is an "incredibly misguided" idea and the American Academy of Family Physicians said they are opposed as well. HHS' justification for this temporary change includes 1) the reduction over the last several months in children and youth who have received recommended vaccines as a result of the pandemic and 2) the upcoming anticipated busy flu season. Eight requirements must be met:

Dates to Know

- August 27th—Occupational Licensing Review Commission Meeting
- August 28th—Deadline to Apply for CARES Act Provider Relief Fund Payment
- October 6th—U.S. Supreme Court to hear Rutledge vs PCMA
- October 14th—Board of Pharmacy: PBM monitoring advisory council
- October 18th/19th—Virtual NCPA 2020 Annual Convention



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- Vaccine must be FDA-authorized or FDA-licensed.
- Vaccine must be ordered and administered according to ACIP's [standard immunization schedule](#).
- Pharmacist must complete a practical training program training in immunizations of at least 20 hours and that is approved by ACPE.
- Pharmacy technician must complete a practical training program approved by ACPE.
- Pharmacist or pharmacy technician must have current certificate in basic CPR.
- The Pharmacist must complete a minimum of 2 immunization-related CPE hours during each State's licensing period.
- Pharmacist must complete record keeping and reporting requirements for jurisdiction—in our case Louisiana, which requires submitting information to the State Immunization Registry
- Pharmacist must inform “childhood vaccination patients and the adult caregivers who accompany the children” of the importance of well-child visits and make a referral as appropriate.

Deadline to Submit Application for CARES Act Provider Relief Fund Payment is Fast Approaching Providers -- including pharmacists -- have only one week left to submit an application to receive a payment equaling approximately 2% of annual revenue from all payer sources from patient care (and you can choose either tax year 2017, 2018 or 2019 to calculate the 2%). According to the HHS Provider Relief Fund [website](#) these relief funds are for “appropriate expenses, lost revenue due to COVID-19, or to help uninsured Americans get testing and treatment for COVID-19.” As a reminder, this funding is **in addition** to any PPP or FEMA money you may have received for COVID-related reasons.

Many of our members have now completed—or at least started-- the application process. Providers must **register** and begin the application process no later than 10:59 PM our time on Friday August 28. Note providers could still be waiting for validation of their Tax Identification Number to complete the application process. **All providers who register before the deadline will be considered.**

HHS has established a **Provider Support Line** at (866) 569-3522 to answer provider questions. *We have gotten feedback from some of our LIPA members that they got valuable help by calling the Provider Support Line.* LIPA staff called the support line and the representative stated that it is staffed from 7 AM Central to 10 PM Central time Monday through Friday.

LDH shared with us today that Louisiana is currently # 2 in the country of overall percentage of Medicaid Provider Relief Fund applications to total eligible providers!!!

OGB Requests to Contract with CVS/Caremark for 2021 PBM Services Last Friday, the Office of Group Benefits (OGB) presented their request for a one-year emergency contract for PBM services by CVS/Caremark to the Joint Legislative Committee on the Budget for consideration. This was the first of two hearings that are required to obtain legislative approval for contracts of this magnitude. As part of their presentation to the Committee, OGB provided CVS/Caremark's proposed contract including the reimbursement schedule for network providers. LIPA has asked several experts to review the contract and we are preparing to provide any feedback we have as to how this would impact independent pharmacies to OGB and the Committee. Southern Scripts has advised us that they did **not** submit a proposal in response to this RFP so they were not one of the four unsuccessful proposers.

Act 124 Prohibition on PBMs Mandating Mail Order We have gotten reports that PBMs are still requiring patients transfer prescriptions to mail order in violation of Act 124. The claim is that the plan is an ERISA plan and therefore not subject to Act 124 but the fact that a plan is self-insured and exempt has historically been challenging to verify. Mandating mail order is one of the Act 124 violations that is in the purview of the Department of Insurance. As an FYI, DOI has been taking as long as four months to complete the investigation of complaints referred to them by our pharmacists.

DOI has stated they do not have the authority to require ERISA plans to include that designation (self- insured) on their insurance ID cards. They **do** have the authority to require fully –insured plans to do so as LA 22:984 states “*Every identification card, membership card, insurance coverage card, or other documentation of coverage issued to any policyholder or health plan participant by a health insurer for a plan that is fully insured shall include the phrase "Fully Insured" prominently displayed on its face.*” *Connecting the Dots.* . . There is no question that Act 124 provisions apply to fully-insured plans. ERISA plans and their PBMs state that they are exempt from Act 124. While “master list” of ERISA health insurance plans does not exist, the insurance ID card is a helpful tool to use in identifying fully-insured plans for which Act 124 most certainly applies.



Continuing Pharmacy Education (CPE) Needs Survey Thanks to all of you who have already completed our CPE Needs Survey. If you have not yet responded you can access it [here](#). We want CPE activities offered by LIPA in the coming year to address those areas that pharmacists and pharmacy technicians consider most relevant to their continuing education needs. LIPA's CPE activities focus primarily on laws, regulations, government (HHS, Medicaid, Medicare, OGB, VA) and pharmacy administrative areas rather than clinical practice. Your "write in" suggestions for additional CPE topics received so far are very much appreciated. These have included USP 800 -handling hazardous drugs, federal advocacy, getting the most out of Amplicare, LIPA-influenced state legislation overview, and activities specific to pharmacy technicians such as use of the ACIP Standard Vaccination Schedule to identify vaccines due.

Louisiana Medicaid Update Bernard LaBas has been named by LDH to represent independent pharmacies on the Medicaid DUR Committee. Both T.J. Woodard and Nikki Hollier are members of the Louisiana Medicaid Pharmacy Advisory Committee. Big changes are ahead for LDH's senior leadership team with impending departure of Undersecretary Cindy Rives. In the current organizational structure, the Medicaid Director reports to the Undersecretary. LDH is readying a major campaign to vaccinate more people for flu in the coming months and has stated that they want independent pharmacies to be part of that plan. They consider you as vital in the statewide delivery of vaccines.

Increasing Access to Vaccines Through Louisiana's Pharmacies Remember that our state law § 22:1218 already stipulates that a pharmacist can administer an influenza immunization to any person seven years of age or older without a prescription or medical order, contingent upon all of the following provisions:

- immunization conforms with most current annual influenza vaccination administration protocol as set forth by CIP/ CDC;
- Report each influenza immunization to the state's Immunization Registry at the time of the immunization or as soon as reasonably practicable thereafter;
- Report all adverse events he or she observes or which are reported to him/her to the Vaccine Adverse Events Reporting System (VAERS), and refer the patient with an adverse event to the influenza immunization for appropriate medical care;
- Maintain for at least two years a record of each influenza immunization administered; and
- Obtain the appropriate credential to administer influenza immunizations from the Board of Pharmacy, as administratively defined, prior to administering any such immunization.

And let's not forget immunizations other than influenza that R.S. 22:1318.1 also allows pharmacists to administer, with the following caveats:

- Pharmacist may administer to an individual age seventeen or older an immunization or a vaccine without a patient-specific prescription or medical order if the immunization or the vaccine is administered in conformance with the most current immunization administration protocol as set forth by CDC/ACIP
- Pharmacist shall also inform the individual that the administration of an immunization or vaccine under this Section is not to be construed as being in lieu of an annual checkup with the individual's primary care or family physician
- Pharmacist shall report each immunization to the Louisiana Department of Health, office of public health's Louisiana Immunization Network for Kids Statewide at the time of the immunization or as soon as reasonably practicable thereafter, as this is the official state vaccination record
- Pharmacist shall report all adverse events he observes or which are reported to him to the Vaccine Adverse Events Reporting System, the cooperative program of the United States Centers for Disease Control and Prevention and the United States Food and Drug Administration for vaccine safety, or its successor program; and further, the pharmacist shall refer the patient with an adverse event to an immunization for appropriate medical care
- Pharmacist shall maintain for at least two years a record of each immunization administered
- Pharmacist shall obtain the appropriate credentials to administer immunizations from the board, as administratively defined, prior to administering any such immunization
- Pharmacist shall request the name of a patient's primary care provider prior to the administering of any immunization. If the patient identifies such primary care provider to the pharmacist, the pharmacist shall notify the primary care provider, by written or electronic communication, as soon as reasonably possible thereafter that the immunization was administered.



Pharmacists: Are you ready to help get Louisianans immunized? What can LIPA do to help you? Do you or some of you pharmacists need to complete the required continuing education to become a certified immunizer? You may wish to consider offering vaccines in alternative settings, such as curbside/parking lot for added convenience and social distancing and advertise that you are doing so. *Any additional costs for supplies and equipment would be a valid of CARES Act Provider Relief Fund payments.*

One action you can take now is to make certain that you are included in the CDC's online **Vaccine Finder**. You can register [here](#) and doing so if free . If you have previously registered, check [here](#) to make certain that your information shown for your pharmacy is still current and whether you can make updates.

LIPA Rally in Washington D.C. on October 6. LIPA is organizing a rally in Washington DC. to be held at or near the U.S. Supreme Court the morning of October 6. This is the date that the Court will hear oral arguments in the case *Rutledge vs. PCMA* which is of paramount importance to our pharmacists and will address ERISA applicability. The LIPA Board and other stakeholders believe that this event is one highly visible way that we can demonstrate to Supreme Court justices and others “inside the Beltway” the importance of this issue and their ultimate decision [which will actually be issued at a later date]. We aim to bring attention to the implications for that decision on patients continuing to have convenient access to the pharmacy services critical to their health and well-being, with pharmacies remaining open in their community to serve their needs. While we are still working on the logistics for this public gathering, we are reaffirming the rally **will** take place. Our goal is to create a powerful visual with pharmacists in white coats and to bring awareness to the harm that pharmacies are experiencing. We encourage all of our members to make their travel plans now and join us.

We Saw it in the News (or on Twitter!)

- We know that there is a high level of interest among our pharmacies in COVID antigen testing. Louisiana is one of the ten states involved in the “antigen test compact” with the Rockefeller Foundation. Other states are Arkansas, Maryland, Massachusetts, Michigan, North Carolina, Rhode Island, Ohio, Utah, and Virginia.
- STAT News reporter Helen Brasswell [reported](#) this week on concerns that COVID vaccine trials have not enrolled sufficient numbers of children and pregnant women to assess that they are safe for these populations.
- Louisiana paid \$5.4B in unemployment benefits (state & federal) from March 22 through Aug. 11. In all of 2019, it paid out \$153M.

