

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....



Members,

This week has been a busy one at LIPA as we continue to identify both potential opportunities and threats for independent pharmacies in Louisiana. With the 2021 legislative session fast approaching, a major area of focus has been on differentiating between areas where new state laws may be needed vs. the need for actual enforcement of laws that already exist.

Effective Rate Pricing Violations While Louisiana statutes already prohibit Effective Rate Pricing in Louisiana for local pharmacies (as defined in the statute), a number of LIPA member pharmacies continue to see Effective Rate Pricing adversely impacting their bottom line. Pharmacy Benefit Managers (PBMs) have assured the Department of Insurance that they are complying with Louisiana law and it is the Pharmacy Services Administrative Organization (PSAO) who is non-compliant with the law. At the request of impacted pharmacies, the LIPA Board met on Wednesday afternoon and authorized LIPA, on behalf of our pharmacies to pursue litigation against PSAOs that are using Effective Rate Pricing in reimbursement.

Is Your Pharmacy Being Adversely Impacted by Effective Rate Pricing? LIPA will be initiating legal action on behalf of our member pharmacies who are the parties actually harmed. If you can provide evidence and documentation of Effective Rate Pricing by either the PSAO or PBM and are you are willing to sign on as a plaintiff, please let us know via e-mail—Communication@lipanow.org.

Board of Pharmacy Votes 14-0 to Proceed with PBM Licensing On Wednesday, the Board of Pharmacy—after hearing testimony including from PCMA’s local representative—voted 14-0 to continue with the promulgation of the Rule to license PBMs. The administration regulations to actually operationalize the PBM licensing provision in Act 124—signed into law in 2019—will finally become effective March 20th when the Final Rule is published in the *Louisiana Register*. This is just one example of the challenge in assuring that legislative intent through the enactment of state laws actually becomes a reality. PCMA has attempted to put up one roadblock after another.

Truth Campaign, a national, multi-media offensive aimed at fighting disinformation spread by the PBMs As we continue to partner with NCPA we work together in targeting lawmakers and policy influencers in Washington, DC, and multiple state capitals. We are also targeting pharmacy patients, asking them to join the fight. Here you will find information and tools for community pharmacists to use to amplify the message. You’ll see some of the ads and messages that we are using to launch the campaign. And you’ll find regular updates, like new videos, which we’ll be unveiling soon. The link to one of the versions of this campaign’s video can be found [here](#).

Pharmacist United for Truth and Transparency Zoom Webinar Some PBMs practically print money -- which is why the largest PBMs either own or are owned by insurance companies. You may or may not know the many surprising ways PBMs generate revenue, and what you can do about it!

This coming Tuesday, March 2nd there will be a PUTT live FREE Webinar as our host & Michigan independent pharmacy owner Nathan Mair, and special guest Trevor Daer of Granite Peak Analytics take a deep dive into the web of how traditional PBMs really make their billions.

When: Tuesday, March 2, 2021

Time: 7:00 PM ET / 6:00 PM CT / 4:00 PM PT

Where: Zoom Webinar

Cost: FREE

Registration in Advance is Required

[**Click Here to Register Now!**](#)

Hearing This Week on Ten Cent Provider Fee The long-awaited hearing to consider ESI's motion to dismiss *LIPA vs Express Scripts* was held yesterday (February 25th) before Judge James Cain of the U.S. District Court of Western Louisiana. The suit was filed last summer, after Express Scripts issued a provider update in May 2020 announcing it would not reimburse pharmacies the state's mandatory 10-cent provider fee on Medicare prescriptions. Under state law, if the PBM does not pay the fee, the pharmacy must pay or risk falling out of compliance with state regulation. LIPA vs. Express Scripts seeks to determine the validity of La. R.S. § 46:2625(A)(1), a law requiring in-state and out-of-state pharmacies to collect and remit a 10-cent per prescription "provider fee" to the Louisiana Department of Health (LDH) for every outpatient prescription dispensed in or into the state. LDH allocates the aggregate pharmacy provider fees and other medical provider fees to the State's Medicaid program. Louisiana law further lists this fee as an allowable cost and requires reimbursement. Fees collected by LDH are matched by the federal government, thus helping to fund Louisiana Medicaid. A decision is expected to be rendered by Judge Cain in the coming weeks. As we previously stated, LIPA considers this case to be a "win-win" for our pharmacies: either Express Scripts must pay the ten-cent provider fee, or our pharmacies are not required to pay the ten-cent provider fee.

Express Scripts was represented at yesterday's hearing by Michael Kimberly, a partner with McDermott, Will & Emery an international law firm from their office in Washington, DC. One of his areas of expertise is "challenging the constitutionality of state legislation." Based on their choice of counsel, it is apparent that Express Scripts intends to appeal any rulings adverse to them. Mr. Kimberly has argued cases before the U.S. Supreme Court six times and was a lead counsel to PCMA in Rutledge vs. PCMA. You may recall the Supreme Court ruled 8-0 in favor of the State of Arkansas and Attorney General Rutledge.

ESI moved to dismiss LIPA's lawsuit, arguing that the Medicare preemption language is clear and that Medicare preempts the state statute requiring the reimbursement.

"Express Scripts used a very broad interpretation of the CMS law to defend their actions, saying Medicare statute preempts them from having to pay the provider fee required by Louisiana state law," said LIPA's attorney J.R. Whaley, principal at Baton Rouge-based Whaley Law Firm. "We believe Medicare statute does not specifically preempt or in any way exempt ESI from its responsibility to pay the provider fee as our state law requires."

LIPA-Branded Pharmacy Discount Card LIPA has been exploring a Pharmacy Discount card that we could make available to our member pharmacies, comparable to Good Rx and Single Care. The goal of the card is not only to maintain access to your current patients but to attract new patients as well. Another plus is that purchases through the card would count as credit toward their prescription deductible. Acceptance of the card would be a decision by each pharmacy. Be on the look for more information and details in the coming weeks.

Software to Support Pharmacy Scheduling LIPA board members whose pharmacies administer vaccines shared this week that one of the greatest areas of need is software that would provide administrative relief in scheduling and managing pharmacy services—first and foremost COVID vaccines but also other vaccines and services for which pharmacies could get reimbursed, such as Medication Therapy Management. The Board authorized LIPA to proceed “with all haste” at identifying such software.

COVID Vaccines for Nursing Home Patients & Employees After 3/31/21 LDH has reached out to LIPA along with the Louisiana Nursing Home Association to plan for vaccine administration for nursing home patients and employees after 3.31.21 when the Pharmacy Partnership for Long Term Care Program with Walgreens and CVS ends. Some patients and staff will have received the first doses on the third and last visit from Walgreens/CVS in March. Going forward, there will be new admissions [we can assume an increasing number will have gotten the vaccine prior to admission]. Of the approximately 265 nursing homes, 112 have an agreement with an MHA-affiliated institutional pharmacy to meet their COVID vaccine needs.

Approximately 150 Nursing Homes in Need of Ongoing COVID Vaccine Arrangement

Does your pharmacy have an existing relationship with a nursing home(s) to provide pharmacy services onsite? If so, **providing vaccines to nursing home patients and employees** is something you are interested in doing, LIPA recommends that you reach out to them as soon as possible. Some of the questions to ask:

1. Have they already arranged for ongoing COVID vaccines for patients and staff beyond the 3rd Walgreens or CVS visit in March?
2. How many patients and employees do they anticipate will need second doses in April (who get first doses when CVS or Walgreens makes their final visit in March)?
3. How many new patients and employees do they project would need COVID vaccines per month?
4. Would it be possible for your pharmacy to provide other vaccines in addition to COVID (e.g., pneumonia, shingles, flu) during monthly onsite visits to first and foremost help get patients immunized but also for volume to make the onsite visits financially viable. Note that this is a suggestion from the state Immunization Director.

LIPA’s Vaccine Coordinator Ruth Kennedy (kennedy@lipa.org or call or text 225.241.143) can let you know if a nursing home is on the list of those who have already partnered with an MHA institutional pharmacy.

LIPA’s “Vaccine Watch” For the week of March, a total of **17, 516** first doses of vaccine are confirmed for independent pharmacies. Most of the 160 total independent pharmacies will be getting the Moderna vaccine but nine pharmacies will be getting Pfizer doses. Because Pfizer vials are now assumed to contain 6 doses, the “math is off” and will not be 100 or multiple of 100. Instead, you will notice amounts like 120, 204, or 240. Yesterday, [the FDA approved Pfizer’s request](#) for a change in policy to revise guidance on their vaccine storage to allow for transporting and storage of up to 14 days in a standard freezer as opposed to an ultra-cold freezer. *We understand the plan is for Morris & Dickson to begin delivering Pfizer vaccine frozen rather than thawed in the near future.*

If you have vaccine needs that are unmet, please do not hesitate to reach out so that we can assist you in communicating your “capacity and vaccine needs” to your [OPH Regional Administrator](#).

COVID Vaccine Billing We know that a number of you continue to have issues with getting the correct reimbursement for the vaccine administration fee. M.J. Terrebonne is our LIPA subject matter expert on billing-related issues. You can e-mail her at terrebonne@lipa.org or call her at 225-953-0897 with specific details. The majority of issues she has seen so far have turned out to claim field input errors. The billing issues have been individualized (including related to billing software) rather than anything “systemic.” Many pharmacies have received correct reimbursement for their Medicare claims from Novitas Solutions.

The next major hurdle is successful billing for the uninsured through HRSA and the Optum Pay portal. Has your pharmacy received actual payment for an uninsured individual yet? If yes, do you have any helpful tips for others? LIPA is getting lots of questions about billing for the uninsured and we provide the links. We are interested in whether our pharmacies are actually receiving payment. As eligibility expands, we can anticipate seeing many more patients who have no public or private insurance. Billing for the uninsured is a topic we are considering offering CPE on. Let us know if you think this would be helpful for you and your team.

In the News:

With J&J coronavirus vaccine approval expected, U.S. will have 3 options. Which is best?

[NOLA.com 02/26/2021](#)

The nation is poised to get a third vaccine against coronavirus, but because at first glance the Johnson & Johnson shot may not be seen as equal to other options, health officials are girding for the question: Which one is best?

If cleared for emergency use, the J&J vaccine would offer a one-dose option that could help speed vaccinations, tamp down a pandemic that has killed more than 500,000 people in the U.S. and stay ahead of a mutating virus.

“I think it’s going to be huge,” said Dr. Virginia Caine, director of the public health department in Marion County, Indiana, which includes Indianapolis. She expects the easier-to-use vaccine will give local officials more flexibility for mobile vaccination clinics or pop-up events.

Biggest coronavirus vaccine allocation to date headed to Louisiana, possibly including J&J doses

[The Advocate 02/25/2021](#)

Louisiana’s mass COVID-19 vaccination effort is getting a proverbial shot in the arm: The state expects its biggest allocation of doses to date next week, the same time a new vaccine produced by Johnson & Johnson could arrive and spur mass vaccination events across the state.

Even without the Johnson & Johnson vaccine, which is expected to receive emergency approval from the feds in the coming days, nearly 98,000 doses of Pfizer and Moderna vaccines are expected to arrive next week, State Health Officer Dr. Joe Kanter said Thursday. That’s the biggest weekly pot of doses the state will receive since the vaccines started rolling out in December.

Could Louisiana's coronavirus rules be loosened next week? John Bel Edwards hints at changes

[The Advocate 02/25/2021](#)

Gov. John Bel Edwards on Thursday indicated he may loosen COVID restrictions on businesses next week, after the state saw drops in cases and hospitalizations in recent weeks.

Edwards, in a town hall with the Advocate, said the state is “certainly doing better” with the pandemic. He noted the share of COVID tests coming back positive has fallen to about 5%, and hospitalizations have dropped by about a third compared to six weeks ago.

“I anticipate based on the data I understand to be accurate...We’ll be making some changes with the proclamation that will become effective next Wednesday,” Edwards said.

Edwards declined to share details of what changes could be made, saying he will review the data with health leaders in the coming days. The latest order expires next Wednesday.

Louisiana gave Ochsner Health 20 percent of all COVID-19 vaccine doses, data shows

[Louisiana Illuminator 02/24/2021](#)

Ochsner Health was the single largest recipient of COVID-19 vaccine from Louisiana during the first nine weeks of distribution, with its facilities getting about 20 percent of all doses given out by the state, according to an analysis done by Louisiana Illuminator of data publicly released by the Louisiana Department of Health.

Ochsner facilities — including pharmacies, hospitals, hospital partners, doctor's offices and clinics — received 142,345 of the 703,600 doses the state gave out in total from Dec. 15 through Feb. 12, according to the health department's data.

Ochsner is likely the largest recipient of vaccine because it is also the largest health care provider in the state — by far. It has facilities in New Orleans, Baton Rouge, Monroe, Shreveport, Lafayette and on the Northshore. It also partners with one of the hospital systems in Southwest Louisiana.

"They request more vaccine than any other provider, and they use it quickly. Because they do have so many hospitals, clinics and pharmacies they end up receiving a larger percentage of the vaccines," wrote Kevin Litten, spokesman for the Louisiana Department of Health, in an email Friday.

How local pharmacies have powered Louisiana's vaccine rollout: 'We're asking a lot of them'

[NOLA.com 02/21/2021](#)

It was three in the afternoon on a Thursday in early February, and pharmacy owner Lisa Carr was getting stressed.

Louisiana Gov. John Bel Edwards had just lowered the coronavirus vaccine eligibility age to 65. At Carr Drugs, a New Orleans pharmacy situated between a coffeehouse and an auto-parts store on the West Bank of the Mississippi River in Algiers, all five phone lines were ringing nonstop.

Between vaccine appointments, Lisa turned to her husband, pharmacist Randy Carr. She wasn't expecting the governor's announcement that day. Pharmacies found out at the same time as everybody else, and she needed a plan to handle the calls.