



# Pharmacy Post

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## WPhA Signs onto Comments to CMS

On January 17th, 47 state pharmacy associations and NASPA joined several national associations and state health-system pharmacy societies in submitting comments regarding the Centers for Medicare and Medicaid Services' request for input on Executive Order #13890, "Protecting and Improving Medicare for our Nation's Seniors." The signing organizations requested CMS include the following changes in agency regulations, programs, and policies to implement the charges outlined in the EO:

### General Recommendations

- Use inclusive provider language in rulemakings, programs, and policies to ensure pharmacist inclusion to support medication optimization and improve patient outcomes.
- Issue a Center for Medicaid & CHIP Services Information Bulletin where payers could utilize pharmacists to better

address needs for patients.

- Attribute and promote significant contributions of pharmacists to health outcomes of Medicare beneficiaries.
- Expand service models utilizing pharmacist-provided patient care services using CMS Center for Medicare and Medicaid Innovation data, including in value-based payment models by employing CMMI's waiver authority.
- Incorporate and/or test an alternative model at CMMI in rural and medically underserved areas/populations focusing on optimizing medication use and health outcomes as part of coordinated care delivery including pharmacists.
- Ensure pharmacists can engage in remote patient monitoring and other telehealth services.

### Specific Recommendations

- Implement a general supervision requirement vs. direct supervision for services delivered by highly trained pharmacists.
- Align Medicare service requirements with the most robust pharmacist state scopes of practice.
- Clarify physicians and other qualified practitioners can bill for "incident to" services provided to Medicare beneficiaries by pharmacists at levels higher than E/M code 99211.
- Address challenges for pharmacists and pharmacies to deliver DSMT services and continuous glucose monitoring services.
- Allow pharmacist-initiated electronic prior authorization. Allow pharmacists to be DATA-waived providers by including as qualified practitioners. From NASPA website

## WPhA New Website

The WPhA Board of Directors has decided to implement a new website and association management system, NeonCRM, is a highly recommended system that many other pharmacy associations are now using. Not only will this be an overall cost reduction, but the overall quality and ease of use will be a great benefit. The transition will be in early February.

## Board of Pharmacy Notice to Adopt New Rules

The Wyoming State Board of Pharmacy has posted a public notice of their intent to Amend Rules. The Chapters that they intend to amend include the Pharmacy Act Rules – Chapter 10 Pharmacy Technician Regulations and the Pharmacy Act Rules – Chapter 16 – Immunization Regulations.

The major changes in Chapter 10 involve the removing of the pharmacist to technician ratio and the prohibition for technician in training permits.

Proposed amendments in Chapter 16 include an incorporation of the CDC's current immunization schedule, updated record keeping requirements, epinephrine requirements and the designation of Basic Life Support as the approved certification.

See the Board of Pharmacy website for further information. WPhA is looking to have a statewide ZOOM meeting to discuss the issue. More information to follow via email and Facebook.

## PHARMACY MARKETING GROUP, INC



## AND THE LAW

By Don. R. McGuire Jr., R.Ph., J.D.

This series, **Pharmacy and the Law**, is presented by Pharmacists Mutual Insurance Company and your State Pharmacy Association through Pharmacy Marketing Group, Inc., a company dedicated to providing quality products and services to the pharmacy community.

## CONTROLLED SUBSTANCES

The opioid crisis has brought a lot of attention to the prescribing and dispensing of opioids. This attention has also extended to the prescribing and dispensing of all controlled substances. I recently attended a seminar which contained a number of sessions on opioids and controlled substances. One of these sessions suggested that every pharmacist should read the DEA's Pharmacist's Manual.<sup>1</sup> That suggestion caused me to ask myself when was the last time I had read it. One human trait is that we tend to forget details over time and our memory becomes a little less sharp. There have been a number of times when I was sure what a contract provision said, only to go back, read the document, and find that what it stated was slightly different from my memory. This same phenomenon applies to the Pharmacist's Manual. The manual is about 80 pages, but it is much more readable than the actual statute and regulations.

The speaker at the seminar explained that many pharmacists feel their duty is to make sure that a controlled substance prescription isn't forged or altered. While that is true, the duty is much broader. For a controlled substance prescription to be valid, it must be issued for a legitimate medical purpose in the usual course of the prescriber's professional

practice. The law does not require a pharmacist to dispense a questionable prescription. The DEA has provided some red flags that may indicate diversion. Those are discussed in 2018 decision and order.<sup>2</sup> Corresponding Responsibility is a topic that requires its own forum so I won't delve more deeply into it now.

The Pharmacist's Manual contains information on a number of topics. Besides a basic introduction to the Schedules, there is a lot of practical information in the manual. There is a section on the transfer and disposal of controlled substances. This covers transfer to another pharmacy, the original manufacturer, or a reverse distributor. There are numerous reminders to use the triplicate DEA Form 222 to transfer Schedule II substances. Another reason to refresh our memories periodically is that requirements change and if we rely only on our memories, we may not be current. The DEA recently announced the phase out of the triplicate form over the next two years.

The DEA Form 222 is also mentioned in the section of the manual on ordering of controlled substances. Topics here include how to order the Form 222, who is authorized to sign the forms, and what to do if the forms are lost or stolen. The manual also contains useful

<sup>1</sup>  
[https://www.deadiversion.usdoj.gov/pubs/manuals/pharm2/pharm\\_manual.pdf](https://www.deadiversion.usdoj.gov/pubs/manuals/pharm2/pharm_manual.pdf)

<sup>2</sup>  
[https://www.deadiversion.usdoj.gov/fed\\_regs/actions/2018/fr0220\\_4.pdf#search=red%20flag%20diversion](https://www.deadiversion.usdoj.gov/fed_regs/actions/2018/fr0220_4.pdf#search=red%20flag%20diversion)

information on what to do when controlled substances are stolen or lost. The DEA must be notified, in writing, within one business day of the discovery of the theft or loss.

Completion of the DEA Form 106 in this situation can be made easier by using the biennial inventory and prescription records because you can use these records to determine how much product was stolen or lost. There is also an entire section of recordkeeping requirements. While many pharmacies are using a perpetual inventory system today, that does not replace the required biennial inventories. Physical inventories are required for a new registrant (either opening a new pharmacy or taking over an existing one) and for products that are newly added to a schedule.

The manual also contains helpful information for the review and dispensing of controlled substance prescriptions. It provides what information is required to be on the prescription itself and the information required to be on the prescription label. Partial fill situations are addressed as is the dispensing of controlled substances without a prescription. The record of over the counter sales of controlled substances is required to be kept in a bound record book. These types of sales must be made by a pharmacist and cannot be delegated to a non-pharmacist. While the manual contains a lot of practical information, there are some uncommon provisions also. Sometimes these less common situations are problem-prone because we aren't as familiar with the situation. Suppose one of your patients has a valid prescription for a C-IV medication and requests that you send a refill to their vacation home in Bermuda. Can you send that refill to a foreign country? Not unless you are registered with the DEA as an exporter and have obtained the necessary permits or submitted the necessary declarations for export. The pharmacist might assume it is permissible to send the refill because there is a valid prescription on file. This is an example where a seemingly reasonable conclusion is incorrect.

The periodic review of the DEA's Pharmacist's Manual is a good risk management tool. During my years of practice, none of my employers recommended or required that I

review it. My working knowledge of the DEA regulations was what I drew from my pharmacy law class and any updates that I may have read and retained. Given the scrutiny that is currently being given to the dispensing of controlled substances, an annual review of the Pharmacist's Manual is an excellent risk management tool to help the pharmacist and pharmacy avoid a potential problem brought on by foggy memory of the requirements. In addition, a review of your state statutes and regulations should also be done because your state may have more restrictive standards which you are required to follow.

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© Don R. McGuire Jr., R.Ph., J.D., is General Counsel, Senior Vice President, Risk Management & Compliance at Pharmacists Mutual Insurance Company.

*This article discusses general principles of law and risk management. It is not intended as legal advice. Pharmacists should consult their own attorneys and insurance companies for specific advice. Pharmacists should be familiar with policies and procedures of their employers and insurance companies, and act accordingly.*

## Upcoming Events

- March 25-26 - Wyoming Board of Pharmacy  
Cheyenne, Wyoming**  
Board of Medicine Conference Rm  
130 Hobbs Ave Suite A  
TBA
- June 10-11 - Wyoming Board of Pharmacy  
Cheyenne, Wyoming**  
Time and Location to be Announced
- June 12-14 - WPhA/WySHP 103rd Annual  
Convention  
Cheyenne, Wyoming**  
Conference will be held at the  
Historic Plains Hotel in downtown.



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## Big-time PBM scrutiny on the way as U.S. Supreme Court agrees to hear Arkansas Case

On Wednesday, January 8, the National Community Pharmacists Association (NCPA) released a statement on a case winding its way through the courts.

“A handful of PBMs that rival the most profitable corporations in the world somehow operate with very little oversight because of confusion over whether federal law preempts the states from regulating them,” said Mustafa Hersi, NCPA's vice president and general counsel. “They have failed entirely to manage the cost of prescription drugs for patients, but they are driving local pharmacies out of business. There is bipartisan agreement in the states that the PBMs must be regulated. Based on what is at stake, we are confident that the Supreme Court will take the case.”

Hersi was right. Two days later, on Friday, January 10, the U.S. Supreme Court agreed to take on *Rutledge v. the Pharmaceutical Care Management Association*. PCMA is the professional association that represents PBMs.

Arkansas Attorney General Leslie Rutledge began an [investigation](#) into PBM practices in the state in 2018, when pharmacists began sounding the alarm about slashed reimbursement rates after the state's largest insurer, Arkansas Blue Cross Blue Shield, changed its network within CVS Caremark's PBM system.

“We received numerous complaints from pharmacists about the manner in which they are paid by PBMs for the cost of prescription drugs,” Jessica Ray, a spokesperson for Rutledge's office, told *Pharmacy Today* in July 2018.

In response, Rutledge's office began investigating whether reduced reimbursement rates and disparate reimbursement across different pharmacies were forbidden under provisions of Arkansas's Deceptive Trade Practices Act. “Depending on what we find, we will aggressively go after the PBMs that violated the law,” Ray said.

Rutledge's investigation concluded that PBMs were in violation of [Act 900](#), which effectively bans PBMs from reimbursing pharmacies below the pharmacies' cost to acquire the medication. Act 900 also includes provisions that mandated the disclosure of PBMs' hidden profit motives to consumers and health plans.

The Eighth Circuit Court of Appeals sided with the PBM lobby in an ensuing lawsuit, blocking Arkansas from enforcing Act 900. The Circuit Court ruled that [ERISA](#), a federal law governing the administration of employee benefits, preempts the state “from restricting controversial business practices that are destroying local pharmacies,” NCPA said in its January 8 statement. The U.S. Solicitor General subsequently filed a brief with SCOTUS that disagreed with the Eighth Circuit's decision. SCOTUS announced its decision to hear the case on Friday, January 10.

Arkansas is hardly the only state fighting back against PBM practices and drastically reduced reimbursement rates. States across the country have passed or are considering legislation allowing state regulation on how PBMs can operate.

“We're pleased with the Supreme Court's decision to hear this case,” said Ilisa Bernstein, PharmD, JD, FAPhA, APhA senior vice president of pharmacy practice and government affairs. “PBM business practices have been putting significant financial strain on pharmacies in the United States by pulling financial resources that were once applied to patient care into unproductive administrative layers and profits for the middlemen. This in turn impacts patient access to the services and patient care delivered by pharmacists every day in communities across the country.” State regulatory oversight plays an important role in curbing PBM's detrimental practices.

## Technician Corner

### **New Year, New Requirements: PTCB Launches New Certification Requirements and Updated Exam**

This is a section of Pharmacy Post dedicated to Pharmacy Technicians; current issues, development ideas, or just general Technician discussion. This edition's information was written by Laura Humphrey in January 2020 and taken from the PTCB Website

WASHINGTON, DC -- With the start of the new year, the Pharmacy Technician Certification Board® (PTCB®), the nation's leading certifying organization for pharmacy technicians, has implemented new eligibility requirements and an updated Pharmacy Technician Certification Exam® (PTCE®) for its Certified Pharmacy Technician (CPhT) Program. The 2020 changes are based on data generated by PTCB's most recent pharmacy Job Task Analysis, reflecting input from more than 40,000 technicians across practice settings, and guidance from the pharmacy community, including employers, educators, and organizations.

"PTCB is focused solely on advancing medication safety, and we rely on data and input from pharmacy professionals to guide the direction of our program updates," said PTCB Executive Director and CEO William Schimmel. "With the 2020 changes, PTCB reaffirms our commitment to ensuring that PTCB's CPhT Program advances patient care. Pharmacists can trust that technicians who earn PTCB credentials have demonstrated current knowledge that is critical to performing their jobs safely in today's pharmacy workplace."

The 2020 modifications now in effect require aspiring CPhTs to either complete a PTCB-Recognized Education/Training Program or have equivalent work experience before they take the PTCE. More than 1,400 PTCB-recognized programs are now available, including all pharmacy technician programs accredited by the American Society of Health-System Pharmacists/Accreditation Council for Pharmacy Education (ASHP/ACPE) or by the Accrediting Bureau of Health Education Schools (ABHES), as well as non-accredited programs that comply with PTCB's curriculum requirements.

"PTCB's new requirement for completion of recognized education and training strengthens patient care and advances medication safety in pharmacy. It ensures that PTCB CPhTs are held to a consistent and rigorous professional standard," said Nicole Barriera, CPhT, Pharmacy Technician Department Chair and Program Director at Pikes Peak Community College in Colorado Springs, CO. "The role of the technician is critical to safe pharmacy practice. The 2020 requirements will help ensure competency and accuracy in skills and tasks that directly affect patients."

The alternate work experience eligibility pathway is available to experienced technicians who are not in a position to enroll in education/training. They must complete at least 500 work hours and fulfill certain knowledge requirements before applying for certification.

The content of the updated PTCE reflects data on roles and responsibilities collected from the Job Task Analysis. Instead of the previous exam's nine knowledge domains, the new PTCE categorizes knowledge into four domains: medications, federal requirements, patient safety and quality assurance, and order entry and processing.

The new requirements and modifications to the PTCE are part of a suite of PTCB initiatives that also include new credential programs for CPhTs in advanced roles. "PTCB's CPhT Certification is fundamental across practice settings and is also the foundation for those who choose to advance their careers," said Schimmel. In 2019, PTCB introduced Assessment-Based Certificate Programs in Technician Product Verification (TPV) and Medication History, and this year plans to launch three more -- Hazardous Drug Management, Controlled Substances Diversion Prevention, and Billing and Reimbursement -- for a total of five.

Active CPhTs who complete at least four certificates, including TPV and/or Medication History, or three certificates and PTCB's Compounded Sterile Preparation Technician® (CSPT®) Certification, and have 3 years of work experience, will be eligible to earn an Advanced CPhT Certification (CPhT-Adv) in the future.

Building a career ladder for pharmacy technicians is part of advancing safety and patient care," said Schimmel. "Recognizing CPhTs for their advanced responsibilities rewards their dedication to patient care, and reinforces efficiency and safe medication practices."





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email: [director@wpha.net](mailto:director@wpha.net)

Phone: 307-331-0371



## Seeking Award Nominations for our Annual Awards Banquet

The WPhA Board is seeking nominations for the numerous awards that are presented at our Annual Convention Banquet, Saturday, June 13th. Many of these awards have national sponsors, so it is important that we are able to select our recipients in a timely manner. We are asking that all nominations be submitted by March 31, 2020. With the transition in our website, the process may be somewhat different than in the past. Please contact Craig Frederick if you are interested in submitting a nomination for an award. Award winners are not required to attend the convention but we greatly encourage it so that others in the profession can celebrate the recognition. The awards that WPhA is seeking nominations include:

- Bowl of Hygeia — awarded to a pharmacist with community service oriented involvement along with their pharmacy careers.
- Excellence in Innovation — awarded to a pharmacist that is practicing pharmacy in ways that are innovative and transforming pharmacy practice.
- Distinguished Young Pharmacist Award — awarded to a pharmacist within 10 years of their graduation from pharmacy school that is practicing pharmacy at an exemplary level.
- WPhA Pharmacist of the Year— awarded to pharmacist in the state that is deserving to be recognized for their practice and dedication to the pharmacy profession.
- WPhA Pharmacy Tech of the Year — awarded to a pharmacy technician that is performing to a high-standard and is deserving of be recognized for their efforts.
- WPhA Student of the Year — Awarded to a University of Wyoming School of Pharmacy Student who expresses great leadership qualities, positive character, and a passion for pharmacy.

## Do you have research that you would like to share?

The Annual Convention is a great place to share your research projects with other members of the pharmacy profession. We know you have put hours and hours of time and effort into your research so show-it-off! We will find a place to display your work or give you a few minutes to describe it in a presentation. We encourage anyone, of any practice or experience to share your work. Discounts to the conference are available for those willing to participate. Contact Craig Frederick at [director@wpha.net](mailto:director@wpha.net) or 307-331-0371 if you are interested.

## 2020 WPhA Resolution Form

The Wyoming Pharmacy Association Bylaws can be found at [www.wpha.net](http://www.wpha.net) under the **About WPhA Tab**. If you would like to see changes to the bylaws or policy position, please complete form and send to [director@wpha.net](mailto:director@wpha.net) **by May 31, 2020**.

Resolution by: \_\_\_\_\_ Date: \_\_\_\_\_

Title of Resolution: \_\_\_\_\_

Resolution: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Reason for Resolution: \_\_\_\_\_

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## APhA-ASP Student Chapter Update

WPhA supports the APhA-ASP student chapter at the University of Wyoming School of Pharmacy. Each year an auction is held at the annual convention in order to raise money for the student chapter. WPhA was able to help send twenty students to the APhA-ASP Region 5 Midyear Regional Meeting (MRM) held in Iowa City, Iowa. The Wyoming chapter, despite being the longest journey brought the most students to the event. Collaboration and networking allowed the chapter to learn from the other chapters in the area in hopes to improve the chapter. A policy involving the use of PDMPs to monitor opioid abuse was presented and passed by the delegation. Not only was it an awesome opportunity, but a fun time.



**Policy VP and WPhA representative Kevin Page approaches the microphone to speak in favor of the chapter policy. WPhA members helped the students draft the policy.**

**Twenty students from Wyoming School of Pharmacy grouped together for an epic picture. What is left to say besides GO POKES!!**



## WPhA Mission Statement/ Vision Statement

### Mission Statement:

The mission of the Wyoming Pharmacy Association is to advance the practice and profession of pharmacy through education, understanding, and promotion.

### Vision Statement:

Wyoming pharmacists and technicians are recognized for their significant contributions to the health care field. They are caring and competent individuals who improve the use of medications, assure the safety of drug therapy, and enhance health-related quality of life

## Join WPhA Today!

- Be a part of an association working to promote the pharmacy profession.
- The association works on legislative issues geared to protecting and growing our profession.
- Members receive discounts to all WPhA sponsored events.
- Receive timely information affecting pharmacy.
- The association works to help educate and further the roles and usage of pharmacy technicians.
- WPhA strongly supports pharmacy and pharmacy technician students; the future of our profession.

*We invite you to take an active role in working to  
better pharmacy in Wyoming.*

***JOIN the Wyoming Pharmacy Association TO-  
DAY!***

### Wyoming Pharmacy Association Membership Ap- plication

or JOIN on-line at [www.wpha.net](http://www.wpha.net) and click on the  
membership tab.

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone (h) \_\_\_\_\_ (w) \_\_\_\_\_

Email (required) \_\_\_\_\_

Place of Business \_\_\_\_\_

Circle all that apply:

Academia

Retail Pharmacy

Health-Systems Pharmacy

Home Health Care

Pharmacy

Other: (please specify) \_\_\_\_\_

**If you would like to be involved in the  
following group, please check below:**

\_\_\_\_\_ Wyoming Society of Health-Systems Pharmacy

(no additional membership if required to belong to WySHP)

### Type of Membership

☐ Active Pharmacist ..... \$140

☐ Retired or Out-of-State Pharmacist ..... \$ 50

☐ Pharmacy Technician ..... \$ 25

☐ Pharmacy or technician Student..... \$ 10

☐ Donation to Student

Fund .....\$ \_\_\_\_\_

### Total

Amount .....\$ \_\_\_\_\_

• **Make checks payable to:** Wyoming Pharmacy  
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