

*By electronic submission*

December 17, 2018

The Honorable Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244

Re: *Medicare and Medicaid Programs, Regulation to Require Drug Pricing Transparency, CMS-4187-P*

Dear Administrator Verma,

The National Community Pharmacists Association (NCPA) appreciates the opportunity to comment on the Center for Medicare and Medicaid Services' (CMS) proposal titled *Medicare and Medicaid Programs, Regulation to Require Drug Pricing Transparency, CMS-4187-P* (the "Proposed Rule").<sup>1</sup> NCPA represents America's community pharmacists, including 22,000 independent community pharmacies. Together they represent an \$76 billion healthcare marketplace and employ 250,000 individuals. Our members are small business owners who are among America's most accessible healthcare providers.

NCPA continues to support the administration's goals to lower drug prices, reduce patients' out-of-pocket costs, and increase transparency in healthcare. To this end, community pharmacists understand that the administration achieves these goals when patients are given relevant pricing and cost information about their prescription drugs. For example, earlier this year NCPA was supportive of the administration's successful effort to abolish the usage of so-called gag clauses, provisions that impede a pharmacist's ability to ensure that patients pay the lower cost for drugs, in private and Medicare insurance plans. NCPA applauds the administration's success in abolishing gag clauses and looks forward to supporting the administration on other opportunities to lower drug prices, reduce patients' out-of-pocket costs, and increase transparency in healthcare.

However, NCPA is concerned that the Proposed Rule, which would require the disclosure of the "list price" (the Wholesale Acquisition Cost (WAC)) in drug advertisements, will not support the administration's aforementioned goals.

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<sup>1</sup> 83 Fed. Reg. 52789 (Oct. 18, 2018).

More so, NCPA is concerned that the proposal would deter patients from picking up their needed medications from pharmacies, an unintended consequence that is not currently contemplated under this Proposed Rule.

It is widely understood in the healthcare industry that the list price of a given drug is not the price that the patient will ultimately pay. This is because a patient's prescription drug cost is based on several factors, including a patient's insurance plan and sometimes available manufacturer coupons.

Specifically, a patient's insurance dictates the co-payment a patient will pay, a cost that is not tied to the list price of a product in any way. Further, the list price is not reflective of the costs that a plan pays for a drug because that list price does not include rebates and discounts that the plan and its intermediary negotiate with manufacturers for placement on a plan's formulary.

Community pharmacists spend a great deal of time talking to and educating patients about their health insurance benefit. Based on these interactions, community pharmacists are concerned that a patient may not know that the list price is not what the patient would ultimately pay at the pharmacy counter and may therefore, be deterred from picking up their needed medication. In a healthcare world where emphasis is put on medication adherence, any factor that may discourage a patient from coming into the pharmacy to pick up their medications should be limited. At the very least, CMS should ensure that any consumer advertising makes clear that pricing information does not reflect the pharmacy's price or a patient's out-of-pocket costs.

In addition to educating patients about their health insurance benefits, community pharmacists play a key role in reducing patients' out-of-pocket costs at the pharmacy counter by informing patients of lower cost alternatives, checking for drug interactions, providing product information, or informing the patient about manufacturer coupons available for a medication. These crucial patient services are time consuming, complex, and burdensome. As the Proposed Rule contemplates a larger role for pharmacists in drug pricing counseling, NCPA stresses the need for payment to pharmacists for such crucial services.

More so, NCPA has joined PhRMA and other consumer, patient, and provider groups to develop a new patient affordability platform that will launch in early 2019. The new platform will include resources like an enhanced search tool that would provide medicine-specific public cost and affordability information. NCPA is playing a key role in determining which of these tools are most helpful to patients at the pharmacy counter. NCPA supports these efforts as an alternative to the Proposed Rule for pharmacists to be able to find ways to lower drug prices, reduce out-of-pocket costs for patients, and increase transparency in healthcare.

Finally, NCPA supports alternative efforts to achieve the administration's aforementioned goals, including the insertion of the negotiated price on a patient's Explanation of Benefits (EOB). As mentioned in NCPA's comments to HHS' *Blueprint to Lower Drug Prices and Reduce Out-of-Pocket Costs*, NCPA supports including additional information in EOBs such as rebates and any pharmacy price concessions that the plan or PBM negotiated. Already, there are regulations that require that

a Part D sponsor directly submit a written EOB to enrollees on a monthly basis.<sup>2</sup> Because Part D plans already are required to provide their members with an EOB, this information would be best distributed by the Part D plan sponsor/PBM to prevent confusion for the enrollee.

In conclusion, NCPA appreciates the opportunity to share with you our comments on this Proposed Rule. NCPA looks forward to continuing to work with the administration to lower drug prices, reduce patients' out-of-pocket costs, and increase transparency in healthcare.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronna B. Hauser". The signature is fluid and cursive, with a horizontal line extending from the end.

Ronna B. Hauser, PharmD  
Vice President, Pharmacy Policy and Regulatory Affairs

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<sup>2</sup> See 42 C.F.R. § 423.128.