

**United States House of Representatives
Committee on Energy and Commerce
Subcommittee on Commerce, Manufacturing and Trade
Hearing on “Prescription Drug Diversion: Combating the Scourge”
March 1, 2012**

Chairwoman Bono Mack, Vice-Chairwoman Blackburn, Ranking Member Butterfield and Members of the Subcommittee, my name is Joe Harmison and I am a pharmacist, owner of DFW Prescriptions and past president of the National Community Pharmacists Association (NCPA). NCPA appreciates the opportunity to share the community pharmacy perspective regarding issues relating to the dangers of prescription drug diversion and crime against pharmacies. NCPA represents America’s community pharmacists, including the owners of more than 23,000 community pharmacies, pharmacy franchises and chains. Together, they employ over 300,000 individuals including 62,400 pharmacists, and dispense nearly half of the nation’s retail prescription medications.

Importance of access to effective pain treatments for appropriate patients

Community pharmacists recognize the importance of addressing the serious problem of prescription drug diversion and abuse. According to the Drug Enforcement Administration (DEA), more than 6 million Americans are currently abusing prescription drugs, which is more than the number of Americans abusing cocaine, heroin, hallucinogens and inhalants combined. NCPA encourages community pharmacists to commit themselves to supporting national and local efforts to prevent the abuse of both prescription and non-prescription drugs, at the same time recognizing that Congress should not diminish access to effective pain treatments for people who need them.

According to statistics from the Centers for Disease Control and Prevention, pain is a serious and costly public health issue, impacting 76.5 million Americans. Community pharmacists play an integral role in assuring that these patients have timely access to controlled substances and in the process provide vital counseling to ensure that these medications are not misused, abused or diverted. The fact that nearly 70 percent of prescription drug abusers obtain unused prescription drugs from the family medicine cabinet or friends, should serve as a vital reminder that efforts to curb abuse and diversion must be focused in part on proper disposal of these products. NCPA eagerly awaits regulations from the DEA that will pave the pathway for increased opportunities for patients to dispose of unused controlled substances. Many of our pharmacies serve as drop off points for patients for unused or unwanted medications – however, we cannot by law take back controlled substances.

Role of the community pharmacist and prescribers in efforts to prevent drug diversion

Community pharmacists hold in high regard their corresponding responsibility, per the Controlled Substances Act, to exercise sound professional judgment when making a determination about the legitimacy of a controlled substance prescription. We are proud of the fact that most independent community pharmacies have strong, long-lasting, face-to-face, personal relationships with their patients. This in fact serves as a deterrent to abuse because we know our patients, making it easier for us to detect a doctor shopper just looking for more controlled substances. Accordingly, we support efforts to educate pharmacists regarding how to effectively fulfill their role in decreasing prescription drug misuse, abuse and diversion.

At the same we time, we support a more systems-based approach to controlling abuse and diversion. Everyone needs to be involved: patient, pharmacist, wholesaler, manufacturer, and prescriber.

For example, there are proposals that would require prescribers to obtain additional education or certification on understanding addiction to and abuse of controlled substances and their appropriate and safe use. In addition., we think that fewer large quantities of pain medications should be prescribed and dispensed in the first place. Patients should be encouraged to take advantage of periodic programs that allow them to return controlled substances to law enforcement.

We support efforts to decrease prescription drug misuse, abuse and diversion include appropriately structured FDA Risk Evaluation and Mitigation Strategies (REMS), prescription drug monitoring programs (PDMPs), and electronic prescribing, which can help to alleviate some of the problems with drug diversion once systems are in compliance with DEA requirements. In fact, NCPA is playing an active role in the “Enhancing Access to PDMPs Project”, managed by the Office of the National Coordinator, and supports the goal of using health information technology to increase timely access to PDMP data.

Pharmacies believe that PDMPs can be more effective as they move toward real-time reporting systems and integration into pharmacy workflow processes. However, today’s PDMP systems are not able to detect doctor shopping because of lags in data reporting. Having said this, community pharmacies are concerned that they would be put in the position of serving as “police man” once they check the database and see that a person has in fact had multiple prescriptions filled for controlled substances. There are cases where legitimate prescriptions would otherwise be blocked from dispensing based on PDMP data alone. The pharmacists’ judgment in these situations must be protected.

Proper PBM Edits Needed to Assist with Prevention of Diversion and Abuse

In addition to efforts to better educate prescribers, pharmacy benefit managers (PBMs) should be more accountable for monitoring patient use of controlled substances and preventing drug diversion.

Even though many prescriptions that may be associated with efforts to divert are paid for in cash, there are many that go through the third party insurance adjudication process. From the time the prescriber chooses a medication to the time that it is dispensed, PBMs should provide more information to health care professionals that can help us make better decisions, such as providing the complete patient medication profile, and when or where other prescriptions for these products have been filled. There might even be a way to connect PBM systems into PDMP systems to allow such information to be available to the prescriber and the pharmacist in real time.

PBMs should also be held accountable for the fact that they dispense large quantities of controlled substances through the mail. Oftentimes, certain medications that are prescribed will not work for a patient, a patient only needs a few doses, or the patient expires, which can mean these large quantities can go to waste. Having these large quantities of controlled substances sitting around patients' homes does not serve the public interest.

In fact, a recent report from the U.S. Government Accountability Office found evidence of significant "doctor shopping" in Medicare Part D, with 170,000 beneficiaries receiving prescription drugs prescribed by five or more medical practitioners for frequently abused classes of drugs. PBMs, through their claim processing role, are potentially in a better position to detect and prevent doctor shopping through claim level edits.

NCPA members are very aware of controls currently in place to address overutilization of drug therapies, as pharmacists address a multitude of these edits in their daily practice. Regarding these claim-level edits, NCPA encourages efforts to ensure that existing PBM edits in place are improved.

For example, refill-too-soon edit logic should be expanded to include review of claims for multiple prescribers and pharmacies, as this will give the pharmacist a better picture of where patients may be filling other prescriptions.

In sum, PBM's should provide more robust information to both pharmacists as well as prescribers, which is made more possible with the expanded use of electronic prescribing, but should not be the deciding factor in whether a prescription is ultimately dispensed or not.

Preventing Pharmacy Crime

Equally important to preventing doctor shopping and drug diversion fueled by prescription drug abuse are stronger efforts to crack down on pharmacy crime. There were 686 armed robberies of pharmacies in 2010 and over 1,800 pharmacies nationwide have been robbed in recent years. In fact, armed robberies of pharmacies rose 81% between 2006 and 2010. Unfortunately, some of these incidents resulted in senseless deaths. The Committee is probably already all too aware of the number of high profile pharmacy murders in the last two years, including two highly publicized pharmacy murders in New York.

Pharmacies, particularly, small, independent community pharmacies are sitting ducks for burglaries and armed robberies. Unlike chain drug stores, small, independent community pharmacies do not have the resources to hire security personnel or purchase expensive security systems or safes. Pharmacy crime has become such an epidemic that extraordinary preventive measures are now required, but such preventative measures are also extraordinarily expensive. For my pharmacy alone I have spent over twenty-thousand dollars to install security measures that are in response to three burglaries of my store.

The hearing today is a good first step to address increasing prevention and prosecution of pharmacy crime. However, more action is needed now. Accordingly, NCPA recommends the following legislative initiatives to address the scourge of pharmacy crime across the United States:

- Increase federal funding to be set aside to promote more federal prosecution of pharmacy crime. All too often, prosecution of pharmacy crime is left to thin and overstretched local law enforcement.
- Provide funding to federal and state law enforcement to better communicate and coordinate prosecution of pharmacy crime. NCPA is concerned that all too often the respective federal, state and local law enforcement agencies are unaware of what the other is doing.
- Provide tax incentives for pharmacies to adopt safety and crime prevention measures. More specifically, allow pharmacies to take an upfront deduction for purchases of security measures instead of spreading out the tax deduction over a period of years, as is now required.
- Pass legislation to shut down pill mills, which are encouraging addiction, creating a thriving black market for narcotic drugs and fueling desperate criminals to rob pharmacies. NCPA was pleased to note that DEA data illustrates a 97% decrease in oxycodone purchases by doctors in Florida from 2010 to 2011, following implementation of new state laws in 2011.
- Amend the law to require mandatory minimum sentences for robberies and burglaries involving controlled substances.
- Allow pharmacies to have access to forfeiture money from prescription drug crimes and to use such funds to enhance pharmacy security systems and invest in deterrence measures.

In conclusion

NCPA is committed to working with Members of Congress and state and local law enforcement officials to combat the inappropriate use and diversion of prescription drugs and is committed to working towards sensible solutions. We need a system-wide approach to address this issue. Thank you for your time and for the opportunity for us to share the viewpoints of independent community pharmacy.