



# NYCPS New York City Pharmacists Society

An Affiliate of the Pharmacists Society of the State of New York

## NEW YORK CITY PHARMACISTS SOCIETY

VOLUME 20, ISSUE 9 PSSNY HELPLINE 1-800-632-8822

YEAR END 2011

The Voice of Pharmacy in the Big Apple

www.NYCPS.org

### PRESIDENT'S MESSAGE



I hope that you all had a great holiday season and I wish everyone a happy, healthy and prosperous New Year.

Certainly, you are aware of the fact that the AntiMandatoryMailOrder (AMMO) legislation that NYCPS spearheaded, was signed into law by Governor Cuomo on December 12. All members were sent a special edition update of our newsletter that announced our victory.

The arrival of the New Year brings us many challenges and projects that we hope will result in turning the tide in the favor of independent pharmacy. Our first order

of business is to ascertain what the implications are for AMMO ; i.e. who does it affect, when is it implemented, how will it impact on us and our patients. Another challenge is the movement of many prescriptions out of our pharmacies by the PBMs that are in control of the Medicaid Managed Care programs that were put into effect by New York State starting October, 2011. Each day I get calls from irate pharmacy owners, asking why they are not able to service patients for whom they have filled prescriptions for {in many cases} over 15 to 20 years. The PBMs are claiming that those cases are "specialty drugs" which are to be filled by the "specialty pharmacy network"; when the truth is that those drugs are being swept away from independent phar-

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## ATTENTION NYCPS DELINQUENT MEMBERS OUT THERE!!!

Dear Members of NYCPS:

Please check the mailing label on the cover of your newsletter. If it contains a handwritten D on the cover that means according to the PSSNY office, your payment of 2012 dues has not yet been received. If you made payment within the last week of December or the first week of January, your dues may not have been processed.

However I suspect the bulk of the 180 listed delinquent members may not yet have sent in their payment.

With all of the efforts that your society has made, and the success of the push for AMMO legislation being accomplished (AGAINST STRONG MAIL ORDER PHARMACY OPPOSITION), if your dues are

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### ATTENTION NYCPS DELINQUENT MEMBERS

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### CHAIRMAN'S REPORT

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# CHAIRMAN'S REPORT

## CHALLENGES FOR 2012


The New York City Pharmacists Society had a very memorable 2011. The signing of the AMMO legislation by Governor Cuomo was the needed "Victory" that our profession was seeking. Allowing consumers that have been loyal to your pharmacies to have a choice where to have their prescriptions filled is the key element of the new law.

The new law does not affect all New Yorkers but a majority of them now have a choice. This goal could not have been achieved without the cooperation of the NYCPS and PSSNY leadership and most importantly YOU the members.

Our goal for 2012 should be to recruit all those individuals that are not affected by the new law. To spread

the word that all New Yorkers should have a choice as to where they can have their prescriptions filled. In order for this goal to be accomplished I ask all PSSNY members explain the new law to all their patrons.

I challenge all PSSNY members to contact a pharmacist who is not a member to encourage them to join OUR society. Invite a colleague to our annual Pharmacy Owners Lobby Day, this year to be held on March 7th in Albany.

The signing of the AMMO legislation was proof that a small-dedicated group of individuals can force a change for the betterment of our profession. Our continued success can only be achieved if we increase membership. I put that mission in to the hands of all NYCPS members. While the AMMO legislation did not affect all New Yorkers it does affect ALL New York State Pharmacists. 

**Charles R. Catalano, RPh.**  
**NYCPS Chairman**

## PRESIDENT'S REPORT

*from page 1*

macies to those pharmacies owned by the PBMs, themselves. My anger is over the fact that the PBMs unfairly and underhandedly market to the patients of independent pharmacies with the very information that they collect from us in our normal course of business. Our chairman, Charles Catalano, and I have had many extensive conversations with Medicaid officials, and we will continue to pressure them to challenge the PBM practices. It always seems to be an uphill battle, and we need the support of our membership whenever we ask for it.


Sadly, there have been a rash of pharmacy hold-ups, robberies and break-ins throughout the state, but especially tragic on Long Island. Our sympathy and condolences go to those families and friends affected by those events. Most of those problems revolve around the fact that the perpetrators of these crimes are seeking narcotics and other controlled drugs that pharmacies must keep in stock, for the benefit of legitimate patients. Besides being care-

ful for ourselves and one another, we must seek legislation to increase penalties for crimes targeting pharmacies.

A special meeting is being planned for pharmacy owners on January 25th at the La Guardia Plaza Hotel. At that meeting we will discuss: (1) the impact of the AMMO law (2) "specialty drugs and Medicaid managed care (3) the March 7th Independent Owners Lobby Day (4) Legislative goals for 2012 and political action, and (5) the PSSNY Summer Convention

A project that NYCPS has promoted is having the annual PSSNY convention and trade show held within New York City. As I previously announced, we have been successful in having the convention moved to the La Guardia Marriott Hotel for June 1st thru June 5th. Quite often, I have fielded complaints from pharmacists regarding the state society; usually from people who have little active involvement with organized pharmacy. Well, this is the opportunity for those people and others to witness what goes on in PSSNY, by attending the convention and participating in the meetings that will be held there.

Any and all suggestions for improving how these organizations work, can be made then and there. There is an "early registration discount" for everyone who registers prior to March 1st. That discounted fee of \$175 (discounted from \$250) entitles the registrant to attendance at 2 days of CEs (with refreshments), attendance at Sunday's trade show (with refreshments and exhibitors' promotions), attendance at all PSSNY and NYCPS business and committee meetings, and admission to Monday night's banquet at which the new offices of PSSNY will be installed. In addition, for those folks staying at the hotel, the registration fee includes Sunday morning's "Breakfast of Champions" award breakfast. The convention is being held at a location that is extraordinarily convenient for the NYCPS membership. My expectation is that all members will make an effort to attend and participate.

As you can see, there is a lot on our plate, and it's going to take us all pulling together as a team to be successful. 

**Ray Macioci**  
**PRESIDENT, New York City**  
**Pharmacists Society**



## TREASURER'S CORNER

### TIME FOR ACTION

Hardly a week goes by without an article in the paper or on the news about an oxycodone related criminal story. This past weekend we heard about the death of a law enforcement officer that occurred after a pharmacy armed robbery. In early January our own Senator Chuck Schumer proposed more stringent sentencing guidelines in pharmacy related crimes.

This is a direct result of two heinous crimes on Long Island which are only the cap of the iceberg of opiate abuse. This problem cannot and will not be stopped by adding years onto the sentences of criminals caught threatening pharmacists and their employees. Looking back over a year ago we saw the DEA bust a drug ring using Medicaid patients to obtain the drugs for the street sales. An article recently brought to light a fact the state has gleaned from its records. A shocking 49 percent of Medicaid written prescriptions were filled by possible doctor shopping abusers. It is an attractive method of getting narcotics, as there is no cash outlay to get the product, and there is a ready street market waiting for all they can get.

Strict sentencing alone does not address the problem. We need the prescribers to become actively involved in making sure their patients are part of this abuse cycle.

We have 80,000 prescribers in New York State who can prescribe painkillers. Only a little over 2000 of them have used the Bureau of Narcotics web portal to check if their patients were prescribed narcotics from other sources. They all seem to believe they are the best judges of who is in pain and who is just doing a great acting job.

New York State needs to require the prescribers to register each prescription on a web site which is updated in real time. This is the type of monitoring system already set up in many states. Not hard to do, and considering the amount of money the state is spending to finance the habits of drug abusers, a new way to save money from the Medicaid budget. Forget reimbursement cuts, this would save the state millions, millions it can ill afford to spend with the current fiscal crisis.

Since the state can't keep track of its RX prescription blank forms, this would be the answer to assure the legitimacy of the prescription presented to you. There would be an automatic rejection if the prescription was not vetted with the state system. Then the state could easily cross check the data base to track down the abusers and abettors of this opiate epidemic. Let's not put the onus on the pharmacist to be the gate keeper, let's make the prescriber responsible as well.

We look to Albany to get this very serious problem fixed, curbing this growing problem that is effecting all of us. That is the type of legislation that will really matter to us as we go about our jobs every day. We don't need to be or want to be the cops, let's get back to taking care of patients! ☒

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# SECRETARY'S REPORT



We end the year on a very big note of success. As you probably heard by now, Governor Andrew Cuomo signed into law the bill we have come to know as the AMMO legislation. On December 13th, Governor Andrew actually signed two pieces of important legislation. One was the AMMO bill which limits prescription plans from forcing patients of health insurers into using mail order pharmacies, unless their particular health plan has a contract for health services which is negotiated a labor union on behalf of their members or if the health plan is known as an ERISA exempt health plan. (ERISA Exempt health plans are self insured health plans which are generally allowed to be exempt from state oversight).

As we are preparing this newsletter for publication the PSSNY and NYCPS lobbyists are assembling a group of questions and answers as to the impact of AMMO on your particular demographic mix of patients. Additionally, I will be presenting a Continuing Education Program at the PSSNY Mid winter convention on January 21, 2012 in which I will discuss this new legislation and how it will be implemented. At press time, we are still awaiting the details of how and when this law will work. Governor Cuomo has recently merged two huge state agencies, the Department of Insurance and the Department of Banking are now known as the New York State Department of Financial Services. Governor Cuomo explained the purpose of this merger was, "New York State Department of Financial Services, (NYDOFS) was created by combining the New York State Banking and Insurance Departments aims to modernize regulatory oversight of the financial services industry." Over the past 4 or 5 decades the lines of distinction between banking issues and services and insurance issues and services have many times overlapped. As is the case in New Jersey one state agency has oversight over both areas

and pharmacy providers as NYSDOFS interprets and sets policy with regard to AMMO enforcement.

While we can all rejoice in the signing of this legislation, we still need to protect the interests of our patients and of our pharmacy's financial stability. Credit is due to several folks, first Ray Macioci, our NYCPS President who though of this initiative in October 2010, and Ray ran with it. Charles Catalano, NYCPS Chairman of the Board ran right alongside of Ray in promoting AMMO to the state elected officials. Our NYCPS lobbyist Tracey Tress and PSSNY Lobbyist Elizabeth Lasky both worked tirelessly for passage of AMMO in the two houses of the state legislature. Remember that a particular state senator from upstate NY was in touch with the Federal Trade Commission, whom wrote a letter suggesting to Governor Cuomo that he should reject/veto AMMO. We were able to convince Governor Cuomo to ignore such illogical talk. AMMO is not in itself going to be a game changer, but AMMO is a signal that there is now a change in thinking, that bigger is not always better, and the grass roots efforts of NYCPS and PSSNY members statewide is proof of the enactment of AMMO.

Did you know that the big guns such as Medco, Expres Scripts and other PBM's were vocal in their opposition to passage of AMMO? Did you ever think of the lobbying budget that the large PBM's have to play with in terms of convincing state officials that the PBM model is the best investment to turn to in managing pharmacy benefits? PBM's want no disclosure of their margins,

of commerce.

Our concern as pharmacy providers is that the NYDOFS will be sensitive to the concerns and needs of patients

no disclosure of their manufacturer rebates, slotting fees, brand loyalty fees, and other educational and record-keeping incentives. IF we are ever going to level the playing field with the PBM market, we will need disclosure on all of the above referenced issues.

At this crucial time we need all members of NYCPS to reach out to their pharmacists friends and colleagues who are not members of NYCPS /PSSNY and encourage these non members to join our fight and became part of the solution not part of the problem (by being on the sidelines as a non member). If NYCPS was not as strong as it is, we would NEVER have been able to beat back the opponents of this important legislation.


While we wish each other a HAPPY NEW YEAR ask a colleague who is not a member to join, applications appear on page 22 of our newsletter.

Hope to see you at the PSSNY mid winter convention.

For more details see [www.pssny.org](http://www.pssny.org) check on Meetings/Events along the top right hand side of the header.

I wish one and all a Happy and Healthy New Year 2012. ☺

*Jim Schiffer*



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## DO EMPLOYED PHARMACISTS NEED AN INDIVIDUAL PHARMACIST PROFESSIONAL LIABILITY POLICY?

This series, Pharmacy and the Law, is presented by Pharmacists Mutual Insurance Company and the New York City Pharmacists Society through Pharmacy Marketing Group, Inc., a company dedicated to providing quality products and services to the pharmacy community.

Most employed pharmacists believe that their employer's insurance policy protects them in the event of a professional liability claim. This is usually correct. The fact that it is not always correct is reason enough for pharmacists to consider buying their own individual professional liability policy. There are 3 factors, which when considered together, show the need for a pharmacist to obtain their own coverage.

**Control** – The employed pharmacist has no control over the coverage purchased by their employer. During my years as an employed pharmacist, I never saw my employer's policy. I worked on their word that I was covered. I did not know what the coverage limits were, what

services the policy covered or even if employed pharmacists were an insured under the policy. If limits are too low or if the policy doesn't cover immunizations or MTM, the employed pharmacist is potentially left exposed. If this lack of control weren't enough, the employee doesn't know if/when the policy lapses or if the employer fails to pay the premium. The worst time to find out these things is when a claim is staring you in the face. While the typical individual professional liability policy is secondary or excess, it can drop down to provide primary coverage

for the pharmacist when the employer's policy is missing or inapplicable.

**Coverage** - The typical employer's policy only provides the pharmacist with professional liability coverage for "for acts within the scope of their employment." In other words, the pharmacist is only covered while they are at work. For a pharmacist who volunteers at a senior center or a church, provides advice to friends and neighbors, or occasionally moonlights, their primary employer's policy won't cover them in these situations. An individual policy, on the other hand, covers the pharmacist 24 hours a day. This additional

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## *Rx and The Law:*

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protection allows the pharmacist to give back without worrying about their personal exposure.

**Target** - There is one additional concern often expressed by risk managers and employers. That is that the existence of an individual professional liability policy makes the employed pharmacist a target for the plaintiff's attorney. Our experience has shown this not to be true. The trend is that plaintiffs' attorneys are naming the individual pharmacists as defendants many more times today than they were 20 years ago. A good plaintiff's attorney will bring all potentially liable persons into the suit. Most often, this happens even before the existence of the individual policy is known. We have even had cases where the individual policy was not discussed until 2 or 3 years into the litigation process. While I believe this target idea is a myth, even if it is true, it is outweighed by the other considerations above.

The ease of application and low cost of individual professional liability coverage make this choice even easier for the employed pharmacist. It provides an

extra measure of protection over and above that carried by their employer. Individual pharmacist professional liability policies are secondary in nature. However, if there is a problem with the employer's coverage for the employed pharmacist, the pharmacist's individual coverage can provide the missing, and much needed, protection. This is especially important when it comes to the cost of defending lawsuits. Even winning a lawsuit can be expensive. Every pharmacist should take steps to protect their own career and reputation. Some things are not better left to others. 

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

© Don R. McGuire Jr., R.Ph., J.D., is General Counsel 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.*



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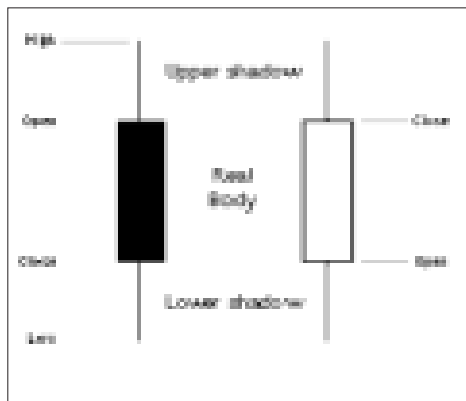
# THE INVESTMENT CORNER

## POINT AND FIGURE CHARTING

There are different types of charting that's been on the investment scene for many years. Such charting systems are the Bar charts, Candlesticks and Point and Figure charting



BAR CHART



CANDLESTICK CHART

Point and figure charting has been around for a long time. Most traders prefer bar or candlestick charting, but I find that point and figure charting is easier to understand. This holds especially true for novice traders. Personally I find it more applicable in exposing stocks that may be starting a new trend, either on the downswing or upswing. This can be an advantage over traditional charting methods, especially looking at it from a different perspective. Point and figure charting takes all the wiggles out of bar and candlestick

charting. This doesn't mean you can't use the other charting methods along with P&F charting. A unique way for technical analysis is to use P&F charting with candlesticks for a confirmation scenario. An example is using the MACD and Stochastic Killer crossover (I mentioned this in my article in the last newsletter) in the bar charting system with the P&F charting.

Whereas the candlestick and Bar charts coordinates are based on price and time, P&F charting is based on price only. Point and Figure charting makes it much easier to see chart patterns because of the concentrated change in price. This is due to the fact that it eliminates small price fluctuations. Without these small price changes it's easier to spot support and resistance areas.

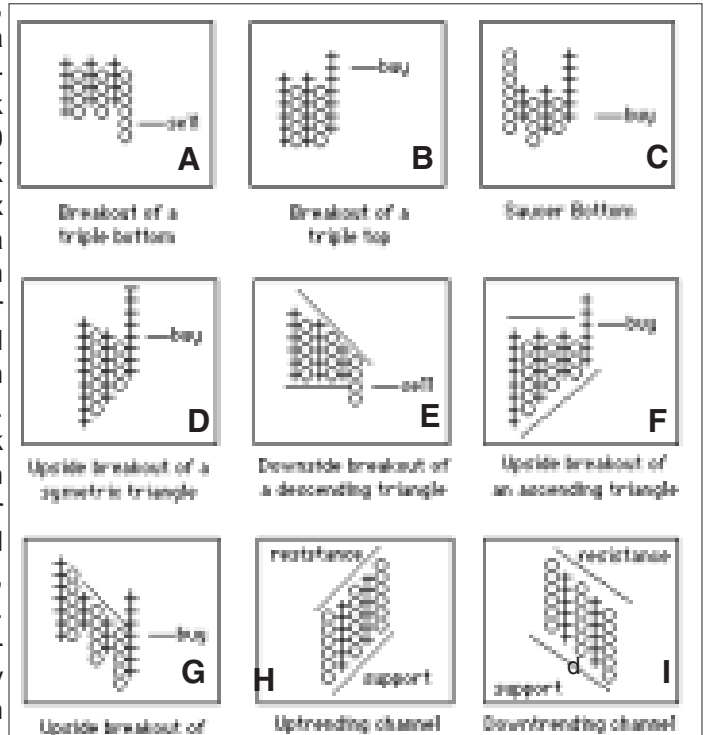
Point and Figure charts are plotted with X's and O's. A column of X's represent an increase in price and a column of O's represent a decrease in stock prices. Each X or O reflects a change in price, which is shown as a box size. As an example each time a stock increases by \$2.00 per share another X is put into a box above it. Each time a stock decrease in value by \$2.00 per share an O is placed below it. As you can see time is irrelevant. So in reality, if a stock fluctuates between \$22.00 and \$23.99 for three months you will only see one box, whether it's an O or X. This is a big difference from the many bars or candles in

their respective charts.

Most P&F charts use the three box reversal, which means a stock must fall by \$3.00 (\$1.00 X 3 = \$3.00) before a new column of O's is charted and indicate a trend reversal. This eliminates all the minor changes in a stock price. It makes the chart look cleaner and more precise. Since stock prices can vary from \$1.00 to \$500 per share, a differential of the box size has to be instituted. When a stock price is between \$5 and \$20, each box represents a \$.50 move, a price between \$20 and \$100 has a \$1.00 box size and a stock between \$100 and \$500 has a \$2.00 box size. It's actually easier to understand the charts than to decipher their construction.

As I mentioned it's much easier to find support and resistance in P&F charts. Look for column of X's where they meet at one level, such as in Charts A, B and F. The horizontal line you see above the three columns of X's (shown as +'s in this demonstration) is a resistance line that was broken. Chart B shows a triple top was broken on the upside which is very bullish for a stock. A quadruple break is even more bullish as shown in chart F. To find support levels look

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# THE NCPA REPORT

## IN MERGER BID, EXPRESS SCRIPTS-MEDCO PRESENT A DECEPTIVE 'PHARMACIST' FRONT

Express Scripts and Medco recently trotted out their staff pharmacists before Congress in full-page ads and in person as the face of their proposed mega-merger, essentially swapping out CEO suits for white coats. It turns out to be another case of the PBM rhetoric not matching the reality.

Several new ESI-Medco ads tout their pharmacist employees in conjunction with a "fly-in" which brought some of the PBMs' pharmacists to Washington along with ESI's chief medical officer, a physician. These are all likely honorable people following orders from the corporate brass. But the notion that the union of Express Scripts and Medco would produce anything close to a company "run" by pharmacists empowered to put patients' health first is much closer to fairy tale than fact.

First, just a few weeks ago, one of the merger's biggest cheerleaders, Medco CEO David Snow, offended virtually the entire pharmacy profession by reportedly touting robots over pharmacists and


denying the contributions of community pharmacists to health care. As The Pharmacist Activist rightly notes, how outraged must some of these PBMs' own pharmacists been! Especially as they themselves may face uncertain employment should this ill-conceived merger pass muster.

Second, when one looks at, for example, Medco's staff makeup, it appears that it is comprised of approximately 90 percent NON-pharmacist employees. So, barely one in 10 of the PBM's employees is a pharmacist. Not surprisingly, the merger partners' respective CEOs are not among them. In comparison, more than 20 percent of community pharmacies' employees are pharmacists. That's according to a conservative reading of the NCPA Digest, the association's annual industry snapshot. Express Scripts' employee and pharmacist employee figures are not readily available online.

Third, beyond the meager number of PBM pharmacist employees, the composition of the senior staff and the allocation of staff compensation speaks volumes with respect to these companies' priorities.

Fifteen out of Medco's 16 upper management employees are non-pharmacists. Express Scripts paid its CEO George Paz \$51 million in 2010 alone. That made him the fifth highest-paid CEO in the country last year! This further suggests where the company's priorities really are: feeding Wall Street's voracious appetite and awarding rich executive compensation packages.

Mr. Paz' compensation alone is nearly equal to that of 5,000 staff pharmacists combined. Put another way an employer sponsoring a plan covering two million lives (with pharmacy benefits administered by ESI) incurs \$1.72 million in costs just for Mr. Paz' compensation. Somehow, one doubts that is what he had in mind when he told Congress that eliminating "waste" was the number one way to reduce health care costs.

Pharmacists are among the most trusted professionals so this effort to highlight the PBMs' pharmacists is understandable. But when one looks beyond the "spin" it certainly appears that here, too, ESI-Medco is trying to obscure the real competitive problems with this merger. 

**By B. Douglas Hoey, RPh, MBA,  
NCPA CEO**

## Investment Corner:

*from page 10*

where columns O's meet, such as in chart E. Here you see support is broken which is very bearish for the stock.

A buy signal is registered when a column of X's moves higher than a previous column of X's. The idea is that a stock has reached an area of resistance and was able to bypass a level of many sellers, which of course is very bullish. A stock remains as a buy signal until a col-

umn of O's falls below a previous column of O's as shown in chart A. The best way to learn about POINT AND figure patterns is to go to Stockcharts.com, which is free and click on Chart school and type in Point & Figure charts in the search box. You can also enter stock symbols on the home page in the Point & Figure chart window and study the charts.

I hope this has given you a different insight on technical analysis. Point and Figure charting can be a new exciting tool for you, especially if

you're new with technical analysis. Check our website for our next meeting. [www.meetup.com/listmg](http://www.meetup.com/listmg) 

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*JIM SCHIFFER REPORTING...*

# News from Around The Pharmacy World

## YEAR END 2011 EDITION

Note: We are publishing this year end edition of NYCPS in early January to capture all of the year end issues and activities in our profession.

### **Express Scripts / Walgreens War**

Although many folks, me included believed that Walgreens and Express Scripts Inc. (ESI) would be settling their dispute before the end of 2011, the New Year came and went and so did the relationship between ESI and Walgreens. Walgreens is no longer participating in Express Scripts prescription programs except for a few areas of the country where Walgreens was able to negotiate a contract independent of ESI directly with the insured group. Back in October 2011, Blue Cross and Blue Shield of Kansas City announced that Walgreens had entered into an agreement with Express Scripts for Walgreens to continue to be a participating provider in Blue Cross and Blue Shield of Kansas City's prescription drug program even after January 1, 2012 even if Walgreens wishes to discontinue other ESI programs, patients covered by the Blues of Kansas City will continue to be able to utilize the services of the Walgreens chain. It seems Walgreens was able to independently carve out a deal with the Kansas City Blues. Is Walgreens making the right or the wrong move in cutting the cord with ESI? Only time will tell, and maybe Walgreens is crazy like a FOX! After all, as we have grown to understand, January 1st of each year is notorious for pharmaceutical

price increases. As many of the expensive drugs become even more expensive, it is hard to accept reimbursement under your dead net acquisition. However many times when a drug product has recently gone up, you as the "bench pharmacist" must decide to dispense or not to dispense.

Recently I received a call from a local supermarket chain pharmacist who was processing a prescription for Truvuda. The pharmacy computer flashed a message that ESI was underpaying by \$25 below the actual cost of the medication (accounting for a recent price jump). When the pharmacist called ESI, the pharmacist was advised that the price was correct in the system, and there would not be any chance of a retroactive modification to the price. Meanwhile stock analysts, (at least a couple of them) are now predicting that Walgreens and Express Scripts will have to sit down and seriously settle their differences. This analyst predicts that eventually Walgreens and ESI will come to an agreement about patching up their relationship. To quote Barron's of January 16, 2012, "No matter how you slice the profits, Express Scripts and Walgreen will make more money as partners, so it is reasonable to expect they will come to an agreement sooner rather than later." That is the first signal I have seen that someone on the outside predicts that the dispute between these two mega corporations will be resolved. Walgreens has taken extraordinary steps in planning for the break up.

The middle managers have been instructing their pharmacists to call neighboring independent pharmacies with the transfer of an ESI patient's medication. Additionally software has been installed at Walgreens and other chain competitors to quickly make an electronic transfer of existing ESI patients' medication orders which have refills remaining on them.

### **EXPRESS SCRIPTS/ MEDCO MERGER?**

To my surprise Wall Street's financial analysts are still predicting that ESI and Medco will be completed in the 2nd quarter of 2012. That information is surprising especially in light of the congressional hearings and other government investigations which are being conducted over this proposed unholy alliance. Medco shares have been gaining strength as the discussions continue. Opposition to this merger is growing from a varied group of consumer organizations, employer groups and public watchdog groups.

It seems that as time goes on the opposition is snowballing, yet the beat goes on. In the New York City area, the local teachers union did a mailing to their members announcing that they were going to mandate that all maintenance drugs will be obtained via their mail order pharmacy provider effective February 2012. This letter also attempted to quell any complaints about forcing the teachers into receiving medications in the mail. The way that the UFT let-

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# AROUND THE PHARMACY

*from page 12*

ter did this was to make a statement that that most community pharmacies receive many of their [bulk] supplies of medication - -which is then sold to the public - - by delivery from the US Postal Service. What a lie! The PBM for the NY chapter of the United Federation of Teachers is none other than MEDCO.

Those of us in the retail pharmacy settings know that the letter is not accurate as the method of delivery for almost all of our medications is via local delivery from pharmacy wholesalers. Most pharmacies deal with either national or regional wholesalers who have their own team of delivery staff who make the rounds on a daily or twice a day schedule delivering life savings medications in temperature sensitive (when needed) packages. Years ago when the drug manufacturers dealt directly with the mom and pop pharmacies, many folks obtained their supplies of medications via Fedex, United Parcel Service, or other common carriers DIRECTLY from the pharmaceutical manufacturer. Today things have changed drastically with practically every pharmaceutical manufacturer refusing to sell directly to the pharma-

cy. The attempt to sway United Federation of Teachers members away from their natural dislike of mandatory mail order delivery of medications will probably be ineffective. The propaganda which was laid out by the UFT will not be the last salvo in this fight for survival. Speaking of mandatory mail order we have had a victory in the never ending fight against abusive PBM practices. In mid December Governor Cuomo signed the legislation which has been affectingly known as AMMO into law. AMMO stands for Anti-Mandatory Mail Order (Legislation). It seems that the PBM's are getting concerned over AMMO's effect.

Medco appears to be also sending detailed letters to teachers about the needed to recognize that their central fill will become mandatory in February 2012.

## Drug Industry and Related Shenanigans

More fines for the pharmaceutical industry. Last issue I reported on the huge Glaxo Smith Kline fines, now I report on a settlement with Johnson and Johnson's Janssen's division for improper marketing of Risperdal commencing in 2004 and continuing for a number of years which has not been disclosed by the United States Attorney in Philadelphia. J&J has been under the microscope as has

other pharmaceutical manufacturers for all of their marketing of their drugs intended to treat psychotic disorders including schizophrenia. It seems that there is enough evidence for the US Attorney in Philadelphia to bring a civil and criminal action against J&J. The total anticipated fine for these improper marketing issues will exceed \$1 billion. That amount is a

joint federal and state settlement amount. Not every state will be willing to accept their proportion of the settlement and if a particular state wants to opt out, then that state is free and able to sue for their own damages for prescriptions filled and paid for with their state funds which were allegedly improperly ordered for patients who did not suffer from the condition that the FDA had given permission to market Risperdal. The latter is the approach being taken by the State of Texas. Texas thinks they will get their own pound of flesh for the improper marketing techniques used in the Lone Star State for years promoting Risperdal for off label uses. Interestingly, a state investigator for the State of Pennsylvania is a key witness for Texas. In Pennsylvania, the state mental health agency had a pharmacist on staff that was being treated to nice perks by J&J. These issues are becoming a common problem that is occurring all around the pharmacy community. The Pennsylvania investigator, named Jones testified in Texas that, his boss told him to ease off the investigation. Furthermore his boss stated to him, "Stay away from the drug companies. This is a personnel issue. Drug companies write checks to both sides of the aisle. Stay away from it. Stay away from TMAP". TMAP stands for Texas Medication Algorithm Project, which turned out to be a formula which other states used for creating standards of treatment in state paid mental health issues. Jones' boss further explained to Jones that "morally and ethically I was correct, but politically, this was dead." Eventually Jones was transferred off of the Risperdal investigation and it appears the matter in Pennsylvania was swept under the rug. The pharmacist in Pennsylvania was given an 18 month criminal probation sentence for his improper payments from J&J along with a fine of \$3,000 and \$27,000 in Pennsylvania Ethics Commission violations. What is interesting is that Jones tried to be a whistleblower in his home state of Pennsylvania when he discovered these improper relationships and the



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## USING SUFFIXES WHERE SUFFIXES DON'T EXIST

Drug name suffixes are confusing enough without coining our own. OPANA (oxymorphone) 10 mg every 4 to 6 hours for moderate to severe pain was prescribed for a patient. On the prescription the physician included the suffix "IR" (e.g., "Opana 10 mg IR") to indicate that the immediate-release product was to be dispensed. Since there is no actual product called "Opana IR", the pharmacy interpreted the prescription as OPANA ER (oxymorphone extended release), which is intended to be administered every 12 hours. It is unknown if

the pharmacist received any computer alerts or drug utilization review (DUR) warnings regarding the high dose. However, it seems clear that neither the pharmacy computer system nor the patient's insurance plan forced a hard stop on the filling of the prescription. The patient's insurance "approved" the prescription and the pharmacy dispensed 45 tablets of Opana ER labeled with instructions to take one tablet every 4- 6 hours. Once home, the patient looked at the prescription label and medication more closely and identified the mistake;

however, the prescription could not be corrected until the next day.

In another event, a physician assistant wrote a prescription for a patient that was misread by a pharmacy technician as VICODIN ES (hydrocodone 7.5 mg, acetaminophen 750 mg). Upon closer examination, the pharmacist thought that the suffix looked more like RS. The pharmacist called the prescriber's office and learned that the physician assistant had used "RS" to indicate "regular strength." Vicodin (hydrocodone 5 mg, acetamino-

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## NEWS AROUND THE WORLD:

FROM PAGE 13

money trail Jones attempted to alert federal prosecutors in his home state to take action against J&J and the parties involved in these payments. Although Jones tried to pursue the case in Pennsylvania, for whatever the reason, the case was not pursued by officials in Pennsylvania. Jones had to travel to Texas to share this information with Texas federal prosecutors in order to get action. This story gives you a small glimpse as to what goes on in the world of off label use, formularies, rebates and other things known as kickbacks in order to sell pharmaceutical products.

In other drug news, Novartis has just announced a huge recall of over the counter and brand name medication. This is the result of a Food and Drug Administration warning to the public that patients should be extra cautious when they are taking any medications, especially today if it is a Novartis product. It seems a production line in a manufacturing plant got some drugs mixed up. The mix up may be between powerful prescription pain drugs

(like Percocet and Percodan) and common over-the-counter medications made at a Novartis manufacturing plant. Some elderly folks who use over the counter Novartis products like Bufferin are panicking that they may have accidentally ingested Percocet instead of an over the counter NSAID. This is really scary stuff, how could this mix up happen?

The issue stems from manufacturing problems at a Lincoln, Neb., facility which triggered a recall in early January 2012 of 1,645 lots of Novartis' over-the-counter drugs, including Excedrin, Bufferin, NoDoz and Gas-X. Novartis has received hundreds of complaints of broken and chipped pills and inconsistent bottle packaging that could cause pills to be mixed up. Consumers are advised to stop using the products and contact the company for a refund. This is similar but much more serious to the McNeil recall of two years ago of the Tylenol family of products. For more information on the Novartis recall, you can find it at: <http://healthland.time.com/2012/01/10/prescription-pain-pills-mixed-with-otc-drugs-from-novartis/#ixzz1j73ey6kY>.

Then Novartis announces a day or two after this recall that they are laying off of nearly 2,000 workers.

Speaking of adverse patient issues, the American Red Cross has been fined by the Food and Drug Administration. The FDA has recently fined the American Red Cross nearly \$9.6 million for sloppy and unsafe blood management practices. This is the second time the American Red Cross has received a multi-million-dollar fine in the last two years. This new FDA fine is the result of inspections at 16 Red Cross blood centers in the 2010 calendar year. These inspections disclosed problems that created risk to blood donors and did allow potentially contaminated blood into our nation's reserve supply of blood. A spokesman for the FDA said that the FDA found no evidence of actual harm to blood recipients and that the FDA remains confident about sources of blood in the U.S. (what else would they say?). However the

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# PAAS REPORT

## CONSEQUENCES OF EMPLOYING ANYONE ON A FEDERAL EXCLUSION LIST

The OIG has the authority to exclude individuals and entities from Federally-funded health care programs pursuant to sections 1128 and 1156 of the Social Security Act and maintains a list of all currently excluded individuals and entities called the List of Excluded Individuals and Entities (LEIE) at [www.exclusions.oig.hhs.gov](http://www.exclusions.oig.hhs.gov). Another list of excluded individuals is the General Services Administration List at [www.epls.gov](http://www.epls.gov). Anyone who hires an individual or entity on the LEIE may be subject to huge civil monetary penalties (CMPs).

Some examples of mandatory exclusions are:

- Medicare or Medicaid fraud
- Patient abuse or neglect
- Felony convictions for other health care related fraud, theft, or other financial misconduct

Felony convictions relating to unlawful manufacture, distribution, prescription or dispensing of controlled substances

While mandatory exclusions seem quite obvious, it's important to realize that less serious permissive exclusions can also result in an individual being added to an exclusion list.

Some examples of permissive exclusions are:

Misdemeanor convictions related to health care fraud other than Medicare or a State health program

Misdemeanor convictions relating to the unlawful manufacture, distribution, prescription, or dispensing of controlled substances

Suspension, revocation or surrender of a license to provide health care for reasons bearing on professional competence or professional performance


Financial integrity – Provision of unnecessary or sub-standard services

Engaging in unlawful kickback arrangements

Defaulting on health education loan or scholarship obligations

To avoid CMP liability, health care entities and pharmacy providers need to routinely (at least annually) check the LEIE to ensure that new hires and current employees are not on the excluded list. No program payment will be made for anything that an excluded person furnishes, orders or prescribes.

One pharmacy improperly entered an employee name that resulted in employment of what was thought to be a "clear" background check that has resulted in an initial recoupment demand of over \$250,000. Another pharmacy was required to pay a CMP of over \$500,000 for employing someone on the list!

PAAS National® recommends more frequent monitoring of exclusion lists and a thorough Fraud, Waste and Abuse Compliance Program including internal auditing, Code of Conduct, Quality Assurance and Policy and Procedures to avoid a financial catastrophe. 



## EARN CASH REWARD FOR CREDIT CARD PICK UP

Every once in a while a business owner swipes a card and an unusual message appears on their terminal screen telling them not to return the card to the customer. The reason for this "pick up" message could be that the credit card was reported stolen or a payment is extremely overdue.

If you receive a pick up card response, which may be displayed as "PICUP" or "PIC UP" on your terminal's display window, or the Authorization Center tells you to take the card, follow the instructions. You may be eligible for a cash reward from your credit card processor for doing so.


To collect your reward, simply cut the card in half directly through the entire account number.

Place the card in an envelope along with your name, merchant number, date of pick up, and your address and mail it to your credit card processor (check your card acceptance guide for the appropriate address).

Call your processor to learn more about pick up requirements. Better yet, why not join the Retail Council and utilize our credit card processing program where you'll have convenient access to our experts who can answer questions about this and many other topics?

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Call Michele or Nicholl of the Council for your free, no-obligation savings analysis at (800) 442-3589. You can learn more about the Retail Council and its programs by visiting [www.retailcouncilnys.com](http://www.retailcouncilnys.com). 

# Adapt, Or Go Home

## Surviving Healthcare Reform: What you should be doing now before it's too late

As national healthcare reform appears imminent, what will be its impact for many of the nation's independently owned drug stores? Rhondalynn Korolak\* shares a great story with a terrific message for each of us.

In 1949, thirteen of sixteen men died battling a relatively small blaze that turned deadly in Mann Gulch. Upon investigating the circumstances of why most of the smoke jumpers died while three lived, Norman Maclean wrote a book entitled *Young Men and Fire*, which is the true story of the smoke jumpers (firefighters who parachute into the back country to fight fires in Montana).

Maclean found some startling facts. Mann Gulch is surrounded by steep canyon walls with the northern slope at a 75% incline. When the wind turned on the smoke jumpers, they were in a race with the fire up those steep walls. Also, most forest fires feed off dry grass, but the north slope of Mann Gulch was mostly tall grass. Unexpectedly, the fire started to spread much faster than anticipated.

knowledge, training and experience.

This might not seem like a hard choice to make, but because they hadn't been trained for such a moment, they had no alternative models for behavior. In moments of uncertainty and danger, clinging to the old "right" way might seem like a good idea, but it is usually deadly.

The three survivors of the blaze were forced to think outside the box and use alternative methods of escaping the fire. Once they figured out they were no longer fighting the fire and instead trying to escape from it, they realized they had to drop all of their useless equipment. One survivor used a technique called the 'escape fire' where he took a match and lit a ring around him so that the fire would "jump" over him. When he tried to suggest

A nationwide healthcare fire is raging and what got you here won't get you there. The people who learn the critical business skills and latest marketing tools necessary to survive and even thrive will be the winners in all this. But, this has always been true. Survivors and successful people are always learning and practicing to improve their game. New circumstances always require new skills and tools... The alternative is suffering and death.

### What you need to do in your pharmacy, right now,

is find new ways to drive sales, growth and profits. Retaining your customers, bringing them in more often, increasing their point-of-purchase sales, driving referrals and testimonials, building iron-clad customer loyalty, and providing the most incredible customer service experience in your community... are your best guarantees of increasing your revenues... short term and long term.

Luckily, it doesn't mean reinventing the wheel, but it does require getting the right skills and tools that give you the adaptability you'll need to thrive in any environment. You're ready to take charge of your business. You've just needed better strategies and tools. This is your opportunity knocking. Check out our 8th annual,

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\*Rhondalynn Korolak is the Managing Director at Imaginering Unlimited.

### A nationwide healthcare fire is raging and what got you here won't get you there.

One of the amazing things the author discovered was that the thirteen who died had carried their tools - heavy poleaxes, saws, shovels, as well as very heavy back packs - while attempting to out run the fire up those steep walls. In other words, the thirteen had run as far as they could with all their equipment, even though that equipment was worse than useless in a race with the fire. Their inability to drop their heavy tools and packs ultimately prevented them from outrunning the fire. To these firefighters, their tools were more than simple objects, they represented who they were, why they were there and what they were trained to do. Dropping their tools meant abandoning their existing

it to the other men they continued running up the steep slope because the 'escape fire' technique had not been part of their training. It was their inability to drop the tools and equipment that weren't working and seek new methods to help them escape that led to the fire fatally engulfing them.

The question is this: What are the poleaxes, shovels and backpacks you're running with? What are the tired, worn out strategies and tools which you are lugging around with you? What existing models of behavior do you need to drop? What existing knowledge, training or experience needs to be abandoned?

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# 2011 LEGAL WAR CHEST UPDATE

For the past six years, The New York City Pharmacists Society has had a Legal War Chest to fund the local battles that we as community pharmacists fight by ourselves day after day. We have fought various battles including some with our elected officials, the OMIG, PBM's, and other foes of community pharmacy. Back in 2008 we were successful in convincing HIP of New York that they should not recover payments made to pharmacies based on allegations of over-payments that went back to 2006. That effort took time and resources of NYCPS. Additionally we have educated elected officials in Albany and New York City about the shortcomings that are affecting both patients and pharmacies the way PBM's make payments to pharmacies. We are fighting for our survival. This fund is separate from the existing PSSNY Legal Defense Fund which is being utilized to fund the ongoing PSSNY Medicaid dispute over their audit practices.

By supporting the NYCPS Legal War Chest, we will be enabled to fight the fight for survival in this dog eat dog health care environment.

Thanks to the generosity of our members this fund continues to grow. We ask for your support during these difficult times for our profession.

As we see the outrageous tactics and actions of the PBM in their contracts, their administration of Medicare Part D and also we see the erosion of our patients due to mandatory mail order contracts and the reduction of our levels of reimbursement due to the newly formed Medicare Part D Contracts. At this time more than ever, we truly need a strong professional voice to fight for our concerns. Please join us in these necessary struggles.

Enclosed we are sharing the Final List for 2010 as well as for 2009 and 2008. See if your name and pharmacy are posted. As we start this New Year 2011 we have plenty of problems to deal with, and we need your help. We will continue to publish past years donations as space permits.—the list is done alphabetically, not in order of receipt or donation amount. (All new contributions will have an asterisk \*).

### Final List of Donations for 2009

Rao Alturi, Atluri/Laconia Pharmacy Inc . . . . .	\$500.	Suni Mandalapu, New Amsterdam Drug Mart . . . . .	\$300
Khalid Amin, Audobon Pharmacy . . . . .	\$300	Murugan Naidu, Rite Choice Pharmacy . . . . .	\$500
Robert Annicharico, Delco Drugs & Specialty Pharmacy . . . . .	\$250	The Paganelli Family, Mt. Carmel Pharmacy . . . . .	\$1,500
Chris Aprile, Thriftway 10th Ave. Drug Corp. . . . .	\$350	Alex Perchuk, STM RX/Thriftway Pharmacy . . . . .	\$350
Samsul Bakar, Kings Bronx Inc . . . . .	\$200	Alex Perchuk, STJ RX/Thriftway Pharmacy . . . . .	\$350
Robert J. Baker, SBC RX/Thriftway Pharmacy . . . . .	\$350	Wendy & John Rossi, Rossi Pharmacy . . . . .	\$200
Robert J. Baker, Thriftway-Kings Highway Pharmacy . . . . .	\$350	Adam Siegel, Parkway Pharmacy . . . . .	\$500
Charles Catalano, C&D Drug Corp. . . . .	\$2,500	Bill Scheer, Scheer Drugs . . . . .	\$500
Joseph M. Ciol, J&C Pharmacy . . . . .	\$350	James Schiffer, Jim & Phil's Family Pharmacy . . . . .	\$100
James Detura, Melrose Pharmacy . . . . .	\$5,000	Russell Sherman, Esco Drug Co,* . . . . .	\$1000
Ray & Dana Eisner, The Charles Pharmacy . . . . .	\$300	Nadira Singh, Thriftway Church Ave. Drug Corp . . . . .	\$350
John Kranjac, Marama Pharmacy . . . . .	\$1,000	Michael Somma, Artis Drugs . . . . .	\$300
Steven Gelwan, Hosp Rx, Thriftway Pharmacy . . . . .	\$350	Robert Spivack, employee of Pathmark Pharmacy . . . . .	\$100
Jagdeesh Gummella, Loisaia Rx Inc. . . . .	\$500	Lesly Thelemaque, Vanderveer/Thriftway Pharmacy . . . . .	\$350
Martin Katz, Scarpa Pharmacy . . . . .	\$250	Yan Vilensky, Thriftway Flatbush Ave. Drug Corp . . . . .	\$350
Dominic Lettieri, Drug Mart Pharmacy Corp. . . . .	\$500	Alex Zatsepilo, Thriftway Foster Ave. Drug Corp. . . . .	\$350
Joseph Locastro, Clinton Apothecary . . . . .	\$200	Gilbert Zuckerman, Kenby Pharmacy . . . . .	\$300
Long Island Pharmacists Society (LIPS) . . . . .	\$3,000	<b>Our war chest total for 2009 . . . . .</b>	<b>\$23,650</b>

### Final Donations as of December 2010

Mike Agovino, Sedgwick Pharmacy . . . . .	\$250	Syed Muzaffar, Prospect Ave. Pharmacy Inc. . . . .	\$300
Khalid Amin, Audobon Pharmacy . . . . .	\$350	Thomas Pelizza, Kinray . . . . .	\$500
Narsinh Desai, Leroy Pharmacy . . . . .	\$500	Peter Patel, Mott Pharmacy & Surgical* . . . . .	\$500
Jim Detura, Melrose Pharmacy . . . . .	\$5,000	Stewart Rahr, Kinray . . . . .	\$5,000
Roy and Dana Eisner, The Charles Pharmacy and Surgical . . . . .	\$300	James Schiffer, Jim & Phil's Family Pharmacy . . . . .	\$200
Keith Diamond, Dermer Pharmacy and Surgical . . . . .	\$525	William Scheer, Scheer Drugs . . . . .	\$200
Michael Ferri, Kings HealthMart Pharmacy . . . . .	\$350	Hasmukh Shah, Marin Pharmacy . . . . .	\$250
Jagdeesh Gummella, Loisaia Rx Inc . . . . .	\$500	Jeffrey Smith, Kinray . . . . .	\$500.
Dominick Letteri, Drug Mart Pharmacy . . . . .	\$1,500	Frank Wong, Rx Center . . . . .	\$2,000
Vincent Mazzamuto, Sedgwick Pharmacy . . . . .	\$250	<b>Final Total as of December 31, 2010 . . . . .</b>	<b>\$18,975</b>

### Final Donations as of December 2011

Dominick Amendola- Salzman Chemists . . . . .	\$100	Dominick Lettieri, Drug Mart Pharmacy . . . . .	\$1,500
Anil Maddukuri, Bronx Pharmacy . . . . .	\$100	William Mantell, Variety/ Brothers Drug Corp . . . . .	\$125
Jim Detura, Melrose Pharmacy . . . . .	\$5,000	Michael Morelli, Arrow Pharmacy . . . . .	\$1,000
Jack Eaton, S Bros Pharmacy . . . . .	\$125	Naveen Parupalli Green Van Pharmacy . . . . .	\$100
Ray & Dava Eisner, The Charles Pharmacy . . . . .	\$300	Mohammed Patel, Oak Park Pharmacy . . . . .	\$500
Anton Fallah, Best Care Pharmacy . . . . .	\$300	Bill Scheer, Scheer Drugs . . . . .	\$1,000
Michael Ferri, Kings Health Mart Manhattan . . . . .	\$300	Jim Schiffer (formerly Jim & Phil's Family Pharmacy) . . . . .	\$200
Michael Ferri, Kings Health Mart Manhattan (2nd donation) . . . . .	\$200	Russell Sherman, Esco Drug Co . . . . .	\$300
Gerald Gold s Bros Pharmacy . . . . .	\$125	Sam Schwartz, Variety/ Brothers Drug Corp . . . . .	\$125
Peter Lau, Confucius Pharmacy . . . . .	\$300	<b>Final List of 2011 Donations for 2011 . . . . .</b>	<b>\$11,750</b>
Myeongha (Peter) Jo, Super Value Drug . . . . .	\$200		

## 2011 LEGAL WAR CHEST COUPON

The NYCPS Board of Directors appreciates the vote of confidence from our colleagues who have been making these contributions. Thanks you for this sup-

port! Can we count on you to join us in this fight to survive in 2011? If you have not already done so, please send in your contribution with the coupon below.

Yes, count me in; I want to contribute to the New York City Legal War Chest!

Name \_\_\_\_\_

Pharmacy \_\_\_\_\_ Donation Amount \_\_\_\_\_

Address \_\_\_\_\_

City, State \_\_\_\_\_

Please send to: NYCPS Legal War Chest c/o Mr. William Scheer • 77 Louis Drive • Farmingdale, NY 11735

## NEWS AROUND THE WORLD:

FROM PAGE 16

FDA spokeswoman Patricia El-Hinnawy added, problems at the Red Cross, which supplies 40 percent of the nation's blood, are worrisome. "FDA cannot definitively say there was never any danger to the blood supply since the violations can create conditions that could lead to potential safety consequences," said El-Hinnawy.

The violations were outlined in a 32-page letter sent Jan. 13 to J. Chris Hrouda, executive vice president of Biomedical Services for the Red Cross. They describe a blood collection system plagued with poorly trained staff and inadequate record-keeping where donated blood was mishandled or misplaced and, in some cases, potentially infected blood was transfused into patients.

"American Red Cross has known of these continuing problems and has failed to take adequate steps to correct them," added Evelyn Bonnin, who is the director of FDA's Baltimore District.

Nevertheless, a Red Cross spokeswoman offered that the problems were primarily centered on an inspection at a Philadelphia site conducted 15 months ago and since that inspection, the American Red Cross has since addressed many of the issues.

Medicare Issues

### MEDICARE PART D

The operation of the Medicare Part D Prescription Drugs is getting tricky. Many elderly folks do not know that a Prescription Drug Plan is permitted to offer two

tiered copayment structure for pharmacy participation. Generally speaking, it seems that Walgreens appears to be taking a more aggressive approach to the reduced reimbursement of the Medicare Part D World. There are "Preferred Pharmacies" and non preferred pharmacies. While a patient will get their generic drugs from a Walgreens pharmacy at a zero copayment, that same medication may cost up to a \$7 copayment at CVS and or RiteAid Pharmacy, as well as the copayment which the mom and pop pharmacies will ask of these patients. While Walgreens walked from dealing with Express Scripts, they quietly had this special treatment of Medicare Part D patients.

CVS Caremark has recently settled for a measly \$5 total million refund to affected patients, as a result of a Federal Trade Commission investigation into the pricing of Rx America's Medicare Part D Prescription Drug Program pricing methodology. It seems that the RxAmerica Medicare Part D program for 2007 -2008 had improperly inflated the prices by up to 1000% of some Rx products dispensed to patients on the RxAmerica Part D Rx program. While refunds are expected CVS Caremark dodged a major bullet, but how many times will this happen before some regulatory agency will come down on them with a real penalty? It never ceases to amaze me how the big companies get away with a wrist slap.

As far as Medicare Advantage plans there is quite a bit of mergers and acquisition taking place. Health Spring which is a large Medicare Advantage player located in Franklin, Tennessee which is being acquired by Cigna Corp. Cigna has not had much to do with Medicare Advantage programs but is interested in growing that segment of their business. Then you have United Health purchasing XL Health another Medicare Advantage insurer with an emphasis on Special Needs Patients. It seems that United Health paid a real premium for the XL Health and the rational is probably that United Health wants to expand this area of their insurance portfolio as dual eligible patients may be pushed into some mandatory managed care program to better manage their spiraling health care costs. As the government attempts to reign in drug and health care costs for the very sick and very poor (the dual eligible population), there will be an attempt to shift this population to a mandatory managed care environment. Wait and see if I am correct.

Did you know that while the big talk is moving Medicaid patients to managed care that as of January 1, 2012, the state of Connecticut has eliminated the entire Managed care program from their Medicaid operation? Connecticut health officials claim that the managed care programs never lived up to their stated goals of improving patient care while lowering costs. Attention Governor Cuomo did you hear that?

Folks hope you had a Happy and Healthy New Year. This final 2011 issue of the NYCPS newsletter is now complete. ☺

**Jim Schiffer**

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AN OPEN LETTER TO THE EDITOR OF NYCPS:

## HEALTH CARE FRAUD IS TO PHARMACY WHAT WMD'S WERE TO IRAQ

You'll remember Colin Powell's speech in 2003 purporting Saddam Hussein had weapons of mass destruction. His presentation, though credible was based on intelligence we now know was baseless.

The cost of the ensuing conflict in human lives is currently over 4500 US men and women, and tens of thousands of Iraqis.

The New York State 2012 budget for Medicaid is \$52.6 billion (NYS Adopted Budget 2012-2013; Page 68). The Fiscal Year 2011 caseload was 4.8 million (NYS Budget page 69) New Yorkers, nearly one-quarter of the populace.

In the Executive Summary of the 2010 Annual Report from OMIG, James Cox, Acting Medicaid Inspector General stated: "Approximately \$454 million in improper Medicaid payments were recovered as a result of OMIG's program integrity activities". I noticed the change in language from "fraud" to improper payment recovery. OMIG is not getting soft; the reality of the program's complexity has become evident. It couldn't all be fraud if every case wasn't referred to the Attorney General's Office for prosecution.

New York State Controller Tom


DiNapoli, quoted in the NY Times in December 2009 concluded the program had paid out millions for a variety of claims, the word fraud was notably absent from the news article. His earlier comments echoed the 10% fraud we've all heard. Has he come to know the reality we deal with everyday?

In February 2010 State Senator Dean Skellos, (R) 9th District announced the creation of a New York State Senate Republican Task Force on Medicaid Fraud. Senator Skelos believes Medicaid fraud in New York State is costing taxpayers billions. Did Senator Skellos read the current OMIG Annual report? I wonder if he did? If Senator Skellos was as informed as OMIG and DiNapoli, the task force would be renamed, quickly.

It will cost \$25 million to fund the OMIG office this year (NYS Budget page T-114), not including long-term costs for pensions, etcetera, to recover (possibly) another \$450 million dollars. In an interview with Medicaid Compliance News in February 2010, James Sheehan, past MIG, admitted it would probably be hard to meet the 2011 budget for recovery "especially in light of the efforts New York is making to prevent overpayments in the

first place". Even Sheehan knew the focus on fraud was mis-guided, and damaged our relationships and reputations.

Please do the math on this with me. The Medicaid program will cost 52.6 billion dollars. OMIG will recover 450 million dollars, minus the cost of recovery, 25 million dollars. But let's just look at the big dollars; 450 million is less than one percent of the 52.6 billion. It is barely a rounding error. If the rhetoric was looked at carefully, the damage to the relationship between Medicaid providers and New York State would have been avoided, and more importantly, the real work could have begun years ago. We need to fix the program. We need a single payer system. We need the Senate, Assembly, the Governor, OMIG and Medicaid to work with pharmacy to find a solution. We need to stop looking for the boogeyman. Is the focus on fraud doing anyone any good?

I know some out there are defrauding the system, but when OMIG has carefully and understandably re-worded recovery as improper payments, I know the whole truth is out there. What if Collin Powell had done his homework? 

*Respectfully submitted,  
Robert J. Hopkins, RPh*

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# Using Suffixes Where Suffixes Don't Exist:

*continued from page 14*

phen 500 mg) was subsequently dispensed. Because numerous brand and generic combinations of hydrocodone and acetaminophen products are available, there is a large potential for confusion.

Adding a suffix when a suffix is not part of the name can lead to misinterpretation. To minimize the risk of confusion, avoid using non-existent suffixes. If you don't recognize a suffix written on a prescription, verify the intended medication with the prescriber. When giving or repeating back verbal orders, practitioners always should use the full words "extended release" or "sustained release," not abbreviations. Involving patients also may help; practitioners should alert patients to possible confusion between the various formulations and suffixes.

# ATTENTION NYCPS Delinquent

## Members Out There!!!:


*from page 20*

not paid, please call PSSNY at 800 632 8822 to make payment arrangements.

TO those of you that have a VD listed on the label that means you are VERY DELINQUENT and your dues were never paid for 2011 nor 2012.

I appeal to those 75 folks who have failed to make payment for dues from 2011 forward to also reconsider your status and rejoin the organization.

NYCPS and PSSNY accomplished a huge success in the passage of AMMO legislation in NYS. It was done by the efforts and hard work of a handful of pharmacist for the entire profession in New York State.

Say thank you to your pharmacy leaders by paying your dues. After all it is a very small price to pay to help your profession. 

**Thank you,  
Bill Scheer, NYCPS Treasurer**

### MEMBERSHIP APPLICATION—NEW YORK CITY PHARMACISTS SOCIETY

111 Broadway, Suite 2002, New York, NY 10006



NAME _____	DATE OF BIRTH _____
HOME ADDRESS _____	
HOME PHONE _____	E-MAIL _____
HOME CITY _____	HOME STATE _____
BUSINESS NAME _____	BUS. PHONE ( ) _____
BUSINESS ADDRESS _____	BUS. FAX ( ) _____
BUSINESS CITY _____	BUSINESS STATE _____
FAX NUMBER ( ) _____	PHARMACY SCHOOL _____

Do you want your correspondence sent to:  HOME  BUSINESS

- CHECK ONE:
- ACTIVE OWNER MEMBER (MUST HAVE A DEGREE IN PHARMACY).....\$400.00
  - ACTIVE NON-OWNER MEMBER (MUST HAVE A DEGREE IN PHARMACY).....\$325.00
  - ASSOCIATE MEMBER (NON-PHARMACIST).....\$275.00
  - RETIREES.....\$250.50
  - STUDENT — EXPECTED DATE OF GRADUATION \_\_\_\_\_ \$10.00

DUES \_\_\_\_\_

I WOULD LIKE TO ADD \_\_\_\_\_ (at least \$50.00) TO THE POLITICAL ACTION COMMITTEE. P.A.C. (VOLUNTARY) \_\_\_\_\_

I WOULD LIKE TO ADD \_\_\_\_\_ (sugg. \$100.00) TO THE LEGAL WAR CHEST FUND L.W.C (voluntary) \_\_\_\_\_

TOTAL \_\_\_\_\_

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DUES AUTOMATICALLY INCLUDES MEMBERSHIP IN THE PHARMACISTS SOCIETY OF THE STATE OF NEW YORK

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