

# 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 7 PSSNY HELPLINE 1-800-632-8822

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The Voice of Pharmacy in the Big Apple

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### PRESIDENT'S MESSAGE



At our October 19th CE program, I introduced to the audience the four NYCPS regional representatives to the PSSNY board; Russell Gellis, Roger Paganelli, John Kranjac and Alex Perchuk. Also present was Bob Single, the current president of our state society, PSSNY. All five of those men were in Albany earlier in the day at the monthly PSSNY board meeting, prior to coming to give reports at our CE. Bob had left from his home in Rochester to Albany that morning, and then down to NYC for our meeting. That's a lot of travelling for one day! And a lot of

dedication!

There are other individuals who devote their time to the profession of pharmacy and our organizations. The chairman of NYCPS, Charles Catalano, and I have spent a great amount of time over the past two years dealing with Operation AMMO, the Departments of Health of both NYS and NYC, the Medicaid Redesign Team, and other issues. The chairman of Rx PAC of NY, Ron Del Gaudio has devoted much time and energy raising funds for our political contributions. There are many others, led by CE Chairman Mike Agovino, whose efforts go into organizing and presenting the excellent monthly CEs that are provided for our membership.

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## PHARMACISTS UNITE!

*Appeal to Our Members, Help us Reach out and Regain those delinquent members and help us grow!!*

My name is John Kranjac. I am the New York City Pharmacists Society (NYCPS) Membership Chairman. I am appealing to all of our members, to review this accompanying list of pharmacists, who were members of NYCPS/PSSNY (The Pharmacists Society of the State of New York - our state society affiliate organization), but have chosen for one reason or another, not to renew their membership for 2011. As you review the list of delinquent members, call anyone you recognize and let them know that this is no time to run away.

Your professional societies, NYCPS/PSSNY, need their membership to continue the tireless fight to save our pharmacy profession.

Make no mistake, this is a CALL

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### PHARMACIST UNITE

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### CHAIRMAN'S REPORT

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## CHAIRMAN'S REPORT

### E-PRESCRIBING FOR CONTROLLED SUBSTANCES NEEDED NOW

As we enter into the age of electronic prescribing our profession is once again at a crossroads. What determines if an e-prescription is valid? Does it contain a required prescriber NPI # for Medicaid to make it a valid RX? Does the e-prescription contain a diagnosis code for which is required to bill a DME or supply item? Has the e-prescription been sent by the prescriber or an authorized agent of the prescriber? Did the prescriber authorize the e-prescription to be transmitted? All e-prescriptions must be transmitted by the prescriber if he does not do the actual sending of the e-script then it must indicate on the e-script that the prescriber authorized an agent to transmit the e-script.

To further complicate the above scenario, if a controlled substance is e-prescribed it is not a valid e-script. No controlled substance can be e-prescribed, no matter what the schedule or the quantity. No emergency supplies are allowed on e-scripts for controlled substances.

Present DEA regulations prevent controlled substances from being e-prescribed. These regulations must be changed otherwise we will be challenged with

dealing with a dual system for prescriptions. E-scripts for non-controlled and written or in some emergency situations oral prescriptions for controlled substances.

The triplicate RX was eliminated in the last decade and replaced with serialized prescription printed on paper that could not be forged. This initiative supported by the Department of Health essentially made all prescriptions blanks printed in New York State to be potentially narcotic prescriptions.

A recent report cited prescription blanks have been stolen from New York Hospitals and these blanks are being used to forge prescriptions for controlled substances. There has been an estimate that over 1 million prescription blanks have been stolen, however the Department of Health has stated that the number prescription blanks stolen is not that high.

Various legislative members have proposed legislation that would require prescribers and pharmacists to check a database of controlled substances. This would help prescriber determine if the patient abusing controlled substances or doctor shopping. Pharmacists would check the database to validate if the prescriber in fact wrote the prescription. This proposed legislation would mandate a prescriber to check the database before prescribing a controlled substance then enter the required information into the database, and then write a prescription. for a pharmacist to check when

*continued on page 21*

## PRESIDENT'S REPORT

*from page 1*

The point that I am trying to bring out to everyone is that there is much dedication and hard work that often goes unrecognized by the membership. All the people who are mentioned above give their best efforts, so that our organization remains vital and alive. It is important for everyone not only to appreciate those efforts, but to understand that others must step up and be willing to take leadership positions. Obviously, those who are now doing that work, will not be here forever; we need "new blood" with the enthusiasm necessary for our organization to thrive.

But, we need to make sure that people are familiar with the structure of NYCPS and PSSNY, and

how they function, before they can be able to take over the reins of leadership. We will all have an opportunity to see how the state society functions when the next PSSNY convention is held in New York City in June of 2012. This will be the first time in my memory (and probably ever) that the PSSNY convention was not to be held at an upstate location, but rather in the home of NYCPS. We are proud to host this event, being held at the LaGuardia Marriott from June 1 through June 4. The convention will feature a one-day trade show on Sunday, June 3, along with many interesting CE courses, meetings of all PSSNY committees and academies, award ceremonies, and the installation of new officers at the Monday banquet.

The convention will provide the opportunity for members to famil-

iarize themselves with the workings of the state society, along with the ability to meet and speak with the leadership of PSSNY. We should utilize the new venue of this convention to bring together all the various ethnic pharmacist organizations, so that we could work together for improved outcomes for our profession/business. There is so much we should be able to accomplish by working together!

Over the next few months, you will be hearing a lot from me about the upcoming convention. I encourage you all to take advantage of the early registration discount that will be provided. Let's show the rest of the state that the real energy and power in independent pharmacy is in the place where they have decided to hold the next convention – NEW YORK CITY.

**Ray Macioci, President**



## TREASURER'S CORNER

### "EMPIRE STATE STRIKES AGAIN"

On October 18, 2011 Governor Andrew Cuomo signed the New York State electronic prescribing bill into law. This is the first step to bring New York State into the modern era of prescription dispensing. It defines the body of the prescription and finally does away with the "DAW" box. It requires that the prescriber simply "inserts an electronic direction to dispense the drug as written". So that is finally cleared up and we now can all accept prescriptions electronically transmitted to our computers legally, with no chance of censure by the state.

Well not actually, it seems that some computer programs are actually showing the words on the electronic transmittal "agent", which of course means the employee of the said prescriber. This is illegal as the only party who has authority to prescribe is the one licensed to prescribe. Similar to the regulation that it must be the doctor who calls in a prescription to a pharmacy, so must it be the prescriber who, by means of an encrypted signature, be the only one to sign and authorize a new prescription. There are computer systems out there that are erroneously placing the

word agent on the electronically transmitted prescriptions. You need to check your system to make sure this is not happening on your e-scripts. Also since we use an intermediary, surescripts, if there is a failure to connect with your prescription computer, usually after four tries, they will generate a secure fax to your fax number. This fax will be similar to the e-script

you can print from your computer, but be aware this, according to New York State regulations does not constitute a valid New York State prescription. It is missing two key elements for a fax a hand written signature of the prescriber and a serialized prescription number. Be aware these two issues can open your pharmacy to fines and or recoupment of funds.

As we move into the digital age we next are expecting to see the regulations regarding the transmission of controlled e-scripts. The ability to prescribe these drugs electronically is going to be way more complex as we have not only the board of pharmacy the department of health and bureau of narcotic enforcement involved in securing the validity of these e-scripts but also the DEA. I have some doubts as to the effectiveness of our New York State BNE, as revealed by an article on Newsday's front page "UP TO 1.4 MILLION STOLEN RX FORMS". These are the forms we were told we needed to prevent fraudulent prescriptions in New York State. This serialized program was first brought to the my attention about 10

*continued on page 21*

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# SECRETARY'S REPORT



Here we are another month has passed and Governor Cuomo has not signed the AMMO bill into law yet. It appears that the bill has not been submitted for his consideration as of this writing. The good news is that Governor Cuomo has signed two pieces of legislation which have a positive effect on the practice of pharmacy. After significant discussion and deliberations, Governor Cuomo has finally signed legislation which brings the Board of Pharmacy regulations concerning electronic prescribing up to the technology which is available in the 21st century. If you remember electronic prescriptions have gradually evolved from the old days of electronically transmitted secured faxed prescriptions. Today the technology exists for prescribers to submit electronic prescriptions from various devices including many advanced laptop and mini computers as well as I pads. Finally the NYS Education Department will have these technological advances accurately reflected in regulations. Additionally we have learned that the second bill signed into law prohibits insurers and benefit managers from recouping audit money for early refilling of ophthalmic prescriptions. As you can imagine, elderly folks have a difficult time using eye drops. I know that many prescription plans would claim "EARLY REFILL" and demand refunds for those pharmacies that were kind enough to help out the seniors with premature refills based on total drops contained in these 3 ml to 15 ml vials. A bill was prepared and sent to the NY Assembly and NY Senate to prohibit recoveries for such pharmacy dispensings. Governor Cuomo signed this piece

of legislation into law as well. Why is he waiting on the AMMO bill? It is better he waits and deliberates instead of outright rejecting it.

Relating to our AMMO legislation, there was a recent story on radio station WNYC- AM discussing the pros and cons of the legislation. As a service to our members we reprinted the story on our website [www.nycps.org](http://www.nycps.org) (look under latest news) and please post your supportive comment. It is important that we get as many folks who support this progressive legislation send a message to Governor Cuomo in any and every way we can. By posting a positive message on the website of WNYC, it is seen by the world that there is public support for this important legislation. Furthermore we need to demonstrate that the implementation of AMMO will not add to health care costs, but it might help drive some of those costs down.

Regarding the effect AMMO has had on pharmacy and mail order we should note that the state of Pennsylvania has had introduced similar legislation to authorize AMMO style legislation. If AMMO succeeds into enactment in New York, and other jurisdictions take note, New York will once again be looked upon as the progressive state it had been regarded as for many years. Over the past dozen or so years, New York State has lost it's recognition as being an innovator. Remember the smoking ban in restaurants and public places took hold in New York City and then the

entire state. Then other states took note. The issues of food and calorie content was initiated in New York City and eventually went state wide. Now other states are expressing their concern about obesity, healthy food, and issues of diabetes. A recent article in Crain's New York business stated that there are now nearly 5 million individuals living in New York State who are on New York Medicaid. As we try and reign in healthcare costs, individuals including those on New York Medicaid must be aware of the choices they make in what they eat, how they live and how much they physically exercise. All in all the public needs to learn first hand about creating a balanced approach to their personal health and overall welfare.

Let us hope that by the next issues of our newsletter AMMO has been signed into law. In the meantime, leave your supporting comment on the WNYC website (which is accessible from [www.nycps.org](http://www.nycps.org) look for latest news and AMMO).

*Jim Schiffer*

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## Contemplating these activities?

- ▶ Sale of your pharmacy to a key employee?
- ▶ Transfer of pharmacy ownership to a family member?
- ▶ Sale of your prescription files/inventory to a chain?
- ▶ Sale of your pharmacy to an unnamed outside buyer?

If you answered "Yes" to any of these questions, you owe it to yourself to have a confidential, no obligation conversation with one of our associates. In order to proceed effectively with any of these activities, ask yourself:

- Do you know the fair market value of your pharmacy to any or all of the parties mentioned above?
- Are you aware that your pharmacy has different values, depending upon who the prospective purchaser might be?
- Do you understand all the issues, legal, financial and operational, that must be dealt with in order to transfer the ownership of your pharmacy to any of these entities?
- Do you know what kind of documentation is required to satisfy prospective buyers as regards the value of your pharmacy?

## Planning on selling your pharmacy?

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# NEW YORK PHARMACY HONORED WITH NATIONAL DIABETES CARE AWARD

## HEALTH MART HEALTHY LIVING TOUR MAKES STOPS AT EIGHT NEW YORK PHARMACIES

Kings Park Slope Pharmacy, and owner Ron Del Gaudio R. Ph., were recently honored with a Health Mart Diabetes Care Excellence Award for going above



and beyond the call of duty to provide exemplary education, guidance and service to community members managing diabetes. Health Mart, a national network of more than 2,800 independently owned pharmacies, presented this prestigious award as one of 10 to be given to pharmacists across the country.

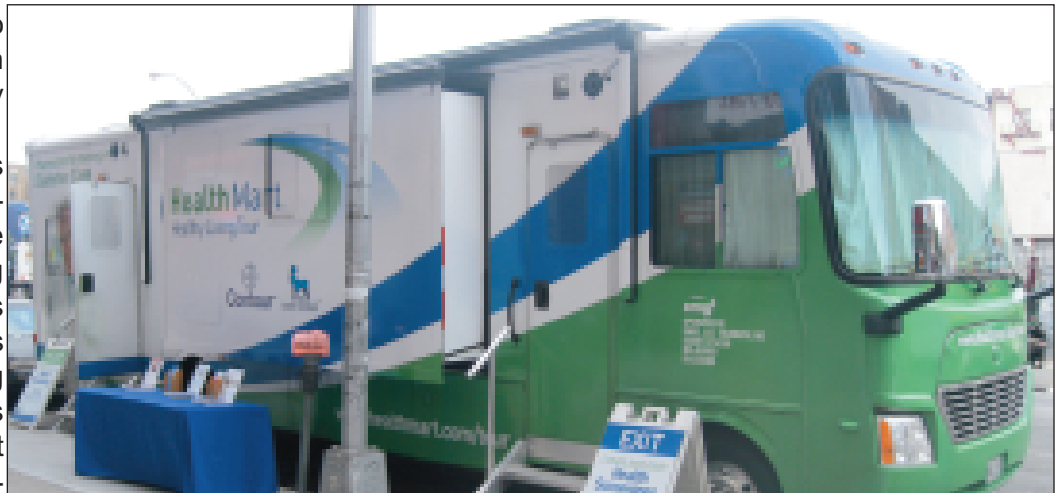
Kings Park Slope Pharmacy is one pharmacy in New York City that truly offers extensive diabetic education to patients, with individual and group classes as well as support groups. The pharmacy's I.D.E.A. Program (Individual Diabetes Education and Awareness Program) has helped educate patients about diabetes, exercise, nutrition and how to control blood sugar. With a steadfast reputation for professional support and technical expertise, Mr. Del Gaudio operates two pharmacies in Brooklyn and one pharmacy in Manhattan.

The Health Mart Diabetes Care Excellence Award program is a component of the Health Mart Healthy Living Tour, which is on the road this summer raising diabetes awareness by conducting free health screenings across the country, including eight stops at New York pharma-

cies. Aboard the 40-foot mobile screening unit, tour staff can conduct more than 35 screenings per visit, measure blood pressure, blood glucose, total cholesterol and hemoglobin A1C levels. Co-sponsored by Bayer Diabetes Care and Novo Nordisk, the Health Mart Healthy Living Tour will visit more than 90 pharmacies and screen thousands of Americans along the way. The tour aims to raise awareness of the growing diabetes epidemic. The disease affects approximately 25.8 million Americans.

To learn more about the Health Mart Healthy Living Tour, visit:

[http://www.healthmarthealthyliving.com/?utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=emg3PR](http://www.healthmarthealthyliving.com/?utm_source=newsletter&utm_medium=email&utm_campaign=emg3PR)





## CAN I GET SUED FOR THAT?

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.

One of the questions that I get asked a lot is, "Can I get sued for that?" Unfortunately in today's world, I have to answer yes; almost anyone can sue for almost any reason. While there are rules against filing frivolous lawsuits, the filing has to be pretty egregious to be considered frivolous. There are two better questions that get to the heart of what pharmacists really want to know; Do I have exposure for that activity and Do I have coverage for it?

Since the bar is pretty low for the filing of a lawsuit, it is almost a given that you can be sued for any activity. However, that doesn't reflect your exposure in that case.

Filing a suit is quite different from winning a suit. The plaintiff will still have to prove the four elements of negligence in order to win their case. Let's use pharmacist-administered vaccinations as our example. An analysis and evaluation of the pharmacist's duties and possible breaches of those duties is the first step. Was the protocol followed, was the patient a proper recipient under the protocol, was the proper vaccine given, was it given properly, was the patient given proper information about the risks and benefits of the vaccine? If the answer to all of these questions is yes, then the pharmacist's exposure is low. If not, then addi-

tional analysis is needed to see if the breach (or breaches) was the direct cause of the patient's injury. For example, the patient was allergic to eggs, but received the vaccine and suffered an allergic reaction. If this were true, then the pharmacist's exposure is higher.

For any new service, the pharmacist should consider what duties are required for them to provide the service, the possible ways that those duties could be breached, and the possible injuries that could result from that breach. In this way, the pharmacist can evaluate their exposure for providing any new service. As you can see, this is

*continued on page 20*



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# THE INVESTMENT CORNER

## ANATOMY OF A STOCK CHART PART 3

In the last newsletter I discussed MACD as a favorite technical indicator use by chartists to analyze stocks. I'll like to discuss another favorite technical indicator called Stochastics. In fact this is my second favorite after MACD, and I use it quite often. Like many technical indicators Stochastics has flaws, but the trick is to know exactly how it works so that you can detect any discrepancies that can actually be used to your advantage. Such an advantage is most used when combined with other technical indicators. There is a mathematical equation that looks like an Einstein theory, which is

a stock's advance or decline can change direction, which usually precedes the price. It's a great future indicator, and is therefore in the real sense not a lagging indicator. Moving averages of stock prices, as I mentioned in previous articles are lagging indicators, even though they are heavily regarded by chart technicians. The most prominent thing about the stochastic oscillator is that it can reflect overbought or oversold conditions.

Find below the formula to calculate the Basic Stochastics.

There are three different types of the Stochastic Oscillator, Full, Fast or slow.

	Date	High	Low	Highest High (HH)	Lowest Low (LL)	Current Close	14-day Stochastic Oscillator
1	22-Feb-10	121.20	120.30				
2	24-Feb-10	121.40	120.40				
3	25-Feb-10	120.50	120.00				
4	26-Feb-10	121.50	120.00				
5	1-Mar-10	120.17	120.00				
6	2-Mar-10	120.50	120.40				
7	3-Mar-10	121.07	120.00				
8	4-Mar-10	120.60	120.00				
9	5-Mar-10	120.50	120.30				
10	8-Mar-10	120.50	120.10				
11	9-Mar-10	120.20	120.00				
12	10-Mar-10	120.10	120.07				
13	11-Mar-10	121.10	120.07				
14	12-Mar-10	121.10	120.00	124.40	124.00	121.20	70.00
15	15-Mar-10	121.00	120.40	124.40	124.00	121.10	61.00
16	16-Mar-10	120.70	120.00	124.40	124.00	120.00	60.20
17	17-Mar-10	120.70	120.10	124.40	124.00	121.10	60.00
18	18-Mar-10	120.20	120.00	124.40	124.00	121.20	61.70
19	19-Mar-10	120.10	120.10	124.40	124.00	121.00	64.50
20	22-Mar-10	121.10	120.00	124.40	124.00	121.20	74.50
21	23-Mar-10	120.10	120.00	124.40	124.00	120.70	66.00
22	24-Mar-10	120.20	120.00	124.40	124.00	121.00	70.10
23	25-Mar-10	120.00	120.00	124.40	124.00	120.10	70.00
24	26-Mar-10	120.10	120.00	124.40	124.00	120.00	70.00
25	29-Mar-10	120.20	120.00	124.40	124.00	121.00	61.00
26	30-Mar-10	120.00	120.00	124.40	124.00	120.00	60.00
27	31-Mar-10	120.00	120.00	124.40	124.00	121.00	60.00
28	1-Apr-10	120.00	120.00	124.40	124.00	121.00	60.00
29	2-Apr-10	120.10	120.00	124.40	124.00	120.00	60.00
30	5-Apr-10	120.00	120.00	124.40	124.00	120.00	60.00

really very hard to understand. I think you really don't need to know the equation. It's more important to understand how it works.

Stochastics was developed by George Lane around 1955. It is a momentum oscillator that locates the closing price of a stock in relation to its high-low price range over a specified period. A period could be anywhere from a five minute to a month. The stochastic oscillator does not follow price or volume. It follows the momentum or speed of the price. The momentum of

where from 5 minutes to one month). The daily stochastic usually uses 14 days as a time period.

%K is multiplied by 100 to move the decimal point two places.

The default setting is 14 periods, which can be different timeframes.

**Fast Stochastic Calculation:**

Fast %K = %K Basic Calculation (as above)

Fast %D = 3 period SMA of Fast %K (example of daily= 3 day simple moving average of the fast % K)

**Slow Stochastic Calculation:**

Slow %K = Fast %K smoothed with a 3-period Simple Moving Average

Slow %D = 3-period SMA of Slow %K

**Full Stochastic Calculation**

Full %K = Fast %K smoothed with X period SMA X could equal anywhere from 5 minutes to two months.

Full %D = X-period SMA of Full %K

In the box are the calculations for the basic stochastic. Note that the calculation doesn't start until the 14th day, because it's based on 14 days of numbers.

The stochastic on a chart reflects lines going across the graph from 0 to 100.

The lower range for the graph will show 0-20 and the higher range shows 80-100.

The basic premise of this will show the stochastic in the upper range when the stock price is in a strong uptrend and it's in a down trend when the prices are in the lower range. In other words the momentum is strong when the stochastic indicator is going up and the momentum is weak when the indicator is going down. A good example is a rocket that takes off. As the rocket goes higher the gravity of the earth decreases the momentum when eventually it reverses and starts going down. The stochastic reflects two lines, the percent K line and the percent D line. The percent D line is the moving average of the % K line which tends to smooth out the percent K line so that it does not show erratic behavior which could confuse the trader.

I prefer the Slow Stochastic, simply because it smoothes out the oscillator so it doesn't become erratic as the Fast stochastics does. Most technical analysts when they say stochastics they are referring to slow stochastics.

**Basic Stochastic Calculation:**

%K = (Current closing price - Lowest price Low) / (Highest High - Lowest Low x 100

Lowest Low = Lowest low for the look back period (could be any-

where from 5 minutes to one month). Because of limited space I will continue this article in the next newsletter. I will discuss topics such as how Stochastics can be used with other indicators to reflect a better trading strategy.

Happy Investing

*James A. De Franco, R.Ph.  
Executive Director NYCPS  
Organizer*

*Long Island Stock Traders Meetup Group  
www.meetup.com/listmg*



# THE NCPA REPORT

## **PBM INDUSTRY REFORMS CAN REDUCE WASTEFUL HEALTH CARE SPENDING, PROTECT PATIENT CHOICE OF PHARMACY**

American businessman Victor Kiam best described the small business owners' mindset by declaring, "An entrepreneur assumes the risk and is dedicated and committed to the success of whatever he or she undertakes." However, external forces can occasionally constrain even the most astute entrepreneur, as is the case with independent community pharmacy owners. These same forces needlessly inflate prescription drug costs for employers and health plan sponsors, while undermining patient choice and health outcomes.

Pharmacy benefit managers (PBMs) are hired by employers, government agencies, health insurance plans and unions to administer prescription drug plans. They morphed over time from simple claim adjudicators to gigantic drug middlemen operating a byzantine drug delivery system that benefits them at the expense of others. They reap windfall profits simply for processing claims and operating mail order pharmacies. In 2009, the three largest PBMs – CVS Caremark (which includes the CVS pharmacy retail chain), Medco Health Solutions, and Express Scripts – made \$6.4 billion, \$1.1 billion and \$776 million respectively in profits. By contrast, independent pharmacies operate off of slim profit margins that are driven by prescription drug reimbursement. Despite the rising cost of many medicines, these rates have been declining for years.

Local pharmacists have a Hobson's choice: accept onerous, non-negotiable contract terms dictated by PBMs or lose access to both new and long-term patients. When the contracts are signed community pharmacies are dragged into a profit-draining, bureaucratic abyss. If they have the temerity to complain, PBMs can often freely void the contract. U.S. Representatives Anthony Weiner (D-NY) and Jerry Moran (R-KS) introduced H.R. 5234, the PBM Audit Reform and Transparency Act of 2010; a bipartisan-supported bill designed to tackle some of the most egregious practices of the PBM industry. Its passage is a must.

Why should patients and health plan sponsors care? This is a case-study of how conflicts-of-interests can distort the free-market as PBMs are both business partners and competitors of community pharmacies. This occurs because PBMs routinely push patients away from community pharmacies to the mail order pharmacies they own, even when it's more expensive to the PBM's client, the health plan sponsor. H.R. 5234 would prevent PBMs from mandating patients use a specific pharmacy if they have an ownership stake in it, and from providing patients with incentives that are only available to specific pharmacies they own.

President Ronald Reagan once said, "Trust, but verify." Plan sponsors should adopt this philosophy when dealing with PBMs who claim to cut costs, but are unwilling or unable to disclose certain financial information to substantiate that assertion. In a breakthrough, the Patient Protection and Affordable

Care Act health insurance exchanges that will be operational in 2014 require limited PBM disclosure of certain financial information in annual reports to the Secretary of Health and Human Services. Consequently, plan sponsors will be able to make more informed decisions. PBM transparency models are already being pursued through various public (i.e. U.S. Department of Defense) and private sector (i.e. The Lear Corporation) plans, which have achieved significant savings. H.R. 5234 makes PBM transparency universal, ergo one would expect that more savings can be achieved for everybody.

Clearly, there's an appropriate role for oversight of pharmacists and other health care providers to guard against waste, fraud and abuse. However, PBMs never miss a chance to exploit an opportunity. They conduct seemingly predatory audits of community pharmacies, penalizing community pharmacies on mere technicalities to recoup the full cost of a drug and the dispensing fee, even when the patient receives their medication properly and as prescribed by a doctor. These overly-aggressive audits generate an additional revenue stream for PBMs, who pocket the money instead of returning or sharing it with plan sponsors. H.R. 5234 also attempts to rein in the runaway PBM audit locomotive.

The PBM industry is resolutely against H.R. 5234. They have been sitting in the catbird's seat, as their profits have increased fivefold over the past decade, and will jealously guard the status quo. NCPA will not rest until H.R. 5234 becomes the law of land. We owe it to our members, patients, and plan sponsors.

*By Douglas Hoey, RPh, National  
Community Pharmacists Association  
Executive Vice President and CEO*



*JIM SCHIFFER REPORTING...*

# News from Around The Pharmacy World

## OCTOBER 2011 EDITION

### Medicaid Reimbursement Battle enters the United States Supreme Court

It has been a long time coming but on Monday October 3, 2011 the United States Supreme Court heard the arguments both pro and con for the pharmacists and other affected health care providers of California in their fight against constant reductions in reimbursement from the State of California in Medicaid rates of reimbursement, California Medicaid is known as "MediCal". Going back several years when Governor Schwarzenegger attempted to unilaterally reduce MediCal payments to all providers by 10% a group of pharmacists from the San Francisco Bay area banded together with patient advocacy groups and filed a lawsuit to stop these cuts. The State of California appealed to the court claiming that the state had no money. Interestingly the cuts as bad as they were hit hospitals in somewhat of a worse way than these cuts affected pharmacies. Pharmacies can claim they do not have the medication if they find the cost of the drug is way more expensive than the reimbursement. However, hospitals do not have that luxury.

Hospitals, under federal law, must be willing to provide care to all Medicaid patients under a fed-

eral law known as EMTALA. What does EMTALA mean? The Emergency Medical Treatment and Active Labor Act (EMTALA) is a federal law, passed by Congress and signed into law by President Reagan in 1986 as part of the Consolidated Omnibus Budget Reconciliation Act (COBRA). EMTALA requires hospitals and ambulance services to provide care to anyone needing emergency healthcare treatment regardless of citizenship, legal status or ability to pay. The law does not provide for any guarantee or means of hospital or ambulance service reimbursement. Hospitals who are participating are only permitted to transfer /relocate or discharge patients needing emergency treatment only under the patient's own informed consent, after the patient has been stabilized, or when the patient condition requires transfer to a hospital better equipped to administer the treatment. What hospitals must abide by EMTALA? Any hospital that accepts Medicare and or Medicaid for payment. Which means practically speaking that includes every hospital in the United States. The significance of the EMTALA law and the California planned reduction in payments by Medicaid (known as MediCal in California) means that hospitals cannot

refuse Medicaid (MediCal) patients but the hospitals will be partially absorbing the cost of treatment and care of these patients, and such cost absorption is improper, and unfair, but is it illegal? The hospitals will be forced to subsidize the care of MediCal patients and may have to make up the loss by charging more to private insurance patients, (if such patients insurance is willing to pay the additional fee.)

So the question being presented to the United States Supreme Court is the following: Does a state Medicaid agency have the unilateral right to reduce payments to providers based strictly on the states poor economic condition, or do the providers have a right to demand a minimum fair rate of payment for the services provided? That question is being pondered by the 9 justices of the United States Supreme Court. Just because California pharmacists brought this front and center, it does not mean the decision by the US Supreme Court will not have shock waves in all 50 state capitals. Attorney Lynn Carmen of the California Pharmacists Defense Fund has been leading this charge for several years. The

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# AROUND THE PHARMACY

FROM PAGE 12

decision of the US Supreme Court should be announced sometime in the late spring of 2012. In a follow up message after the oral arguments were heard on Monday October 3, 2011 from Mr. Carman, he informed me that the members of the Supreme Court seemed interested and concerned about the action of the State of California as well as the support given by the federal Department of Health and Human Services in support of California's reductions in payments. The bottom line however will not be determined until sometime in the spring when the Court renders its decision. I expect a mixed answer with some way of demanding modification to the action of the attempt of California to unilaterally reduce provider's reimbursement. I do not expect a total victory, as I have been disappointed too many times by the way the courts and the system functions. Sometimes I wonder if the system just protects government interests.

## Industry News

The hot spot for drug industry growth appears to be Japan. Industry analysts calculate that the Japanese market is growing rapidly, in part due to the aging population and the accompanying need for medications. Analysts forecast that Japan spends about \$100 billion annually in pharmaceutical purchases which is second only to the United States which spends about \$250 billion annually on such pharmaceuticals. Pfizer like the other international pharmaceutical manufacturers has increased their investment in sales force, advertising and professional promotion of drugs like Lyrica. Japan allows direct to consumer ads as does the United States. In a recent story in the Wall Street Journal, a Japanese medical doctor was interviewed how he has noticed a shift in the patient requests for specific drugs for their ailments. An issue which he credits Pfizer's increased presence in the marketplace and their very public direct to consumer advertising. Pfizer has company in Japan from Eli Lilly, Merck and Novartis.

already big so you just have to get your share. The eye for growth in pharmaceuticals is now overseas as the patents on many profitable drugs are expiring here in the United States and the manufacturer's research pipelines are running somewhat dry. Interestingly advertising and marketing in Japan have increased significantly. With price controls in many European countries, the pharmaceutical manufacturers have turned their attention to Japan. Will it affect their stock prices affirmatively? Nobody can answer that question.

Pfizer is also in a patent battle over Viagra. Teva Pharmaceuticals had planned to introduce a generic form of Vitamin V (Viagra) but Pfizer launched a suit to block such generic competition in late June. The federal court trial is not yet calendared but when it is, the trial will be held in Norfolk Virginia. You may not recall how Viagra was developed, but Viagra as a drug for erectile dysfunction, was not the original intent of the research on the early stages of drug development of "sildenafil". The drug was being researched for heart related pulmonary hypertension. However when the male patients in the research studies took the sildenafil as part of the research protocol, many gentlemen noticed spontaneous erections. So Pfizer capitalized on this rather significant side effect and it became the new use of the drug under the name Viagra. It changed the entire marketing concept for the product. I bet you didn't know that Pfizer also markets Viagra under another brand name, "Revatio" which is used to treat pulmonary hypertension, the original subject of early research of the compound sildenafil.



While we are on the subject of Teva, which has grown to be a

China and India both have significantly larger populations but they both lack the quality of the medical institutions and have other road blocks which hurt international pharmaceutical manufacturers from competing and gathering market share. As one analyst put it, China you have to grow the market, and in Japan it is

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# MEDICATION SAFETY • PREVENTING ERRORS



By the Institute for Safe Medication Practices  
 Have you experienced a medication error or close call? Report such incidents in confidence to the USP—ISMP Medication Errors Reporting (MER) Program at 1-800-fail-safe to activate an alert system that reaches manufacturers, the medical community, and FDA. Your information may also be published anonymously to alert professional colleagues.

## AMBIGUOUS EXPIRATION DATES CONTRIBUTE TO CONFUSION AND ERRORS

Ambiguous expressions of expiration dates by manufacturers on drug products can and do lead to confusion and medication errors. In a report submitted to the ISMP National Medication Errors Reporting Program (ISMP MERP), an ambiguous expiration date contributed to a 3-year old patient receiving an expired dose of polio vaccine. Sanofi pasteur's vial of poliovirus vaccine inactivated was labeled with an expiration date of "14NOV08," a format common in other countries. The nurse who administered the vaccine read and documented the expiration date as

11/8/14 rather than 11/14/08. Thankfully, the child experienced no adverse effects although revaccination will likely be required. The practice site that reported this error does not know how this vial remained in stock. They have a process to regularly check stock for expired products. For some reason, perhaps due to the ambiguous expiration date, the vial was not identified as being expired.

Another ISMP MERP reporter identified that the product LYSINE+, an over-the-counter cold sore treatment, uses an obscure method for listing its expiration

date. In fact, if you look at the package, you probably won't see anything that appears to be a date. The manufacturer, Quantum, Inc. ([www.quantumhealth.com](http://www.quantumhealth.com)), explained that a code on the package, such as "9A07" means that the product expires in January 2012. How's that you ask? Well "9" means that it was made in 2009 and "A" means that it was made in January. We asked about 07 but the person we spoke with at the company said they did not know what that portion of the code meant. She said that product label-

*continued on page 21*

Financials | IAS Shrinking Margins | Pseudoephedrine Tracking  
 Customer Loyalty | OTC Inventory Audits | Transaction Security  
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# A RENEWED SENSE OF URGENCY: PROTECTION FROM PHARMACY CRIMES

On April 19th the White House announced a program to combat prescription drug abuse, and the accompanying press release included this troubling excerpt:

Prescription drug abuse is our Nation's fastest-growing drug problem. The number of people who have unintentionally overdosed on prescription drugs now exceeds the number who overdosed during the crack cocaine epidemic of the 1980's and the black tar heroin epidemic of the 1970's combined. In 2007, approximately 27,000 people died from unintentional drug overdoses, driven mostly by prescription drugs. Additionally, according to the Substance Abuse and Mental Health Services Administration, the number of Americans in 2009 aged 12 and older currently abusing pain relievers has increased by 20 percent since 2002. Further, visits by individuals to hospital emergency rooms involving the misuse or abuse of pharmaceutical drugs have doubled over the past five years.

While a litany of statistics can be cited, the recent murders at Haven Pharmacy in Medford, New York and at Brunswick Avenue Pharmacy in Trenton, New Jersey serve as painful reminders of how extreme the criminal demand for prescription drug abuse has become. The suspected shooter at Haven Pharmacy has been apprehended and indicted. Unfortunately, as we go to press the Brunswick Avenue Pharmacy shooter remains at-large. The reward for information has grown from \$1,000 to over \$10,000 thanks in part to Purdue Pharma's RxPatrol, which NCPA has partnered with for years to better track pharmacy crimes. Our thoughts and prayers go out to the families of the victims.

Take a moment and go to the

Protect Your Pharmacy Now! section of the NCPA website and use the Security Checklist to measure your business' strengths and weaknesses. While it is impossible to guard against every contingency, you want to position yourself to be a less inviting target to criminals and increase your ability to help law enforcement after the fact, should a robbery or burglary occur. The tips and discounts for security items such as video surveillance systems are invaluable. As an example of the helpful tips you can find on the site, commit yourself to making a plan to "REACT" in case of a crime against your pharmacy. The acronym comes from RxPatrol, which stand for:

#### **Remain Calm**

- Comply with suspect
- Do not resist
- End encounter as soon as possible

#### **Eye Witness**

- Make a mental note of suspect description

#### **Activate Alarm**

- Activate robbery alarm as soon as it is safe to do so
- Lock doors after suspect(s) exit

#### **Call Police**

- Notify police as soon as possible
- Provide brief description of suspect and mode and direction of travel
- Provide additional details as necessary

#### **Take Charge**

- Protect the crime scene
- Keep customers calm
- Avoid witness collaboration
- Assist police with investigation

We are also closely monitoring and assisting in legislative and regulatory efforts that will impact pharmacies at the federal and state level to

limit prescription drug abuse and pharmacy crimes. Also we continue to work closely with law enforcement. From a legislative standpoint, we are now analyzing Senator Charles Schumer's (D-NY) recently introduced bill intended to crack down on prescription drug abuse and pharmacy crimes. If enacted the bill would require doctors to undergo special training before they could prescribe powerful drugs like oxycodone and vicodin. It would also double criminal penalties to a maximum of 20 years in prison for robbing pharmacies to steal pills, or transporting and selling them. We will keep you abreast of any developments and let you know how you can assist when the need arises for the voice of independent pharmacy.

***B. Douglas Hoey, PD, MBA, NCPA  
Executive Vice President and CEO***

## **NOTICE TO MEMBERSHIP**

OUR JOINT NYCPS/ PSSNY DUES WILL BE RAISED AS A RESULT OF PSSNY RAISING THEIR SHARE OF THE DUES STRUCTURE WHICH WILL BE EFFECTIVE  
JANUARY 1, 2012

THE FOLLOWING SCHEDULE WILL APPLY AND WILL BE EFFECTIVE WITH ALL RENEWALS TAKING EFFECTIVE  
JANUARY 1, 2012 OR LATER:

PHARMACIST OWNERS \$400  
PHARMACIST NON OWNERS \$325  
RETIRED PHARMACISTS \$250  
NON PHARMACISTS ASSOCIATE MEMBERS \$275

## NEWS AROUND THE WORLD:

FROM PAGE 13

generic and a brand name pharmaceutical company, the proposed acquisition by Teva of Cephalon has recently been approved by the Federal Trade Commission, provided Teva surrenders the marketing of a couple of new generic pharmaceuticals. Cephalon is famous for their Provigil and now Nuvigil products to keep those who suffer from sleeping sickness awake. Cephalon also is the owner of the brand name pain lolly pop Actiq as one of their products as well. All of these products will soon be part of the ever growing Teva family of products.

### Medicare Part D for 2012

Changes are already upon us for the 2012 year of Medicare Part D. If you did not already notice it, the open enrollment period has been changed to commence October 15th and now run only through December 7th. After that date, open enrollment is closed for 2012 unless you get an override due to a

particular health care issue which is considered valid to override the deadline. Aetna and CVS Caremark have joined hands to have a jointly managed Part D Prescription benefit for the coming 2012 year. You may recall that some time ago Aetna and CVS Caremark announced their joint management of the Aetna Prescription program as well as CVS Caremark managing the Aetna Pharmacy formulary. There are other changes in the Part D program. The Donut Hole continues to shrink with a larger percentage of the brand name drugs being covered as well as the generic drugs. Additionally the Centers for Medicare and Medicaid Services has modified the criteria for plans to have multiple types of Part D contracts for patients. The CMS folks are discouraging more than two separate Part D plans per insurance company, and are trying to encourage simplification to the process. Remember the elderly have enough issues with understanding these technical terms let alone make an annual determination of which plan

best suits their needs.

### Dr Conrad Murray and the late Michael Jackson

We have heard quite a bit about the medical care which the late Michael Jackson ("MJ") received from Dr. Conrad Murray. It seems that the doctor was on premises to help give MJ an opportunity to sleep. We have all heard that Ambien and even Lunesta only work for a short period of time. Now we see that MJ had real problems getting to sleep and it was probably more mind over matter for the late king of pop rock. Many folks speculate that MJ suffered a traumatic effect when that Pepsi commercial went wrong and his hair went on fire. That incident took place on January 27, 1984. As a result of the pyrotechnic prob-



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We write the "script" for insuring the Independent Pharmacy

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# PHARMACISTS UNITE!:

from page 1

TO ARMS and the TIME TO ACT IS NOW!

Dark forces called PBMs (Pharmacy Benefit Managers - to those of you who are asleep) seek to cut BOTH INDEPENDENT AND CHAIN PHARMACISTS OUT of the healthcare team. This threat is growing exponentially each day, as the PBMs increase in power, due to such things as the huge shift to managed care by NYS Medicaid.

Action must be taken to prevent the elimination of the pharmacist from the healthcare team. Open your eyes and look around. The big are getting bigger (Express Scripts attempting to merge with Medco) in an attempt to crush us. DON'T LET THIS HAPPEN! Be a part of the change, the solution. We must do it TOGETHER, as a powerful, united pharmacy force! Join the fight by encouraging all of your professional colleagues to become a member of NYCPS/PSSNY. If you are already a member, that is great, but we still need your help to grow! Please reach out and get a friend to join, or continue to help with a donation (one-time or recurring) to the PSSNY PAC (Political Action Committee) Fund, which helps to get the attention of our politicians to assist us with our concerns. PSSNY is the professional State Society of Pharmacists, charged with the task of improving the profession of pharmacy FOR ALL PHARMACISTS IN NYS. Put aside selfish concerns and differences, focus on our similarities as pharmacists, and join together as an unstoppable force!

PLEEEAZZE don't let anyone use pathetic excuses like "these are tough economic times", as a reason not to join. I am in the same boat as all of you, probably worse. I am having a very tough time of it - dealing with pharmacy audits, falling back on paying my wholesalers and being pulled and torn in at least a million different direc-

tions, BUT I am still a NYCPS/PSSNY member, I serve as the NYCPS Queens regional representative on the PSSNY Board of Directors, I contribute \$100 to the PAC Fund each and every month via an automatic credit card payment and volunteer hundreds of hours of my time, worth thousands of dollars, because I WANT TO SUPPORT MY PROFESSION AND HELP ALL OF MY FELLOW PHARMACISTS IN NEW YORK STATE! If you can't, or won't, contribute time to help your profession and yourself, at the very least kick up the relatively small amount needed to become a member and join PSSNY! Membership is for a full 12 months, includes many benefits such as professional discounts, free CEs, a wealth of information and help, and only costs about a dollar a day.

I direct this plea to the chain pharmacists of NYS - you too have no excuses not to be NYCPS/PSSNY members as well, as our current President is Mr. Bob Single, an intelligent, articulate individual, who also happens to be a chain pharmacist!

Higher salaries, better reimbursements, better job opportunities, better workplace conditions, reduced audits, reduced stress - these are all possible BY WORKING TOGETHER AS A UNIFIED PHARMACY GROUP.

**BE A PART OF THE SOLUTION! BECOME A NYCPS/PSSNY MEMBER NOW!**

Please also remember, this is a pharmacist society, not a pharmacy society, so EACH PHARMACIST should be a member, not just one per pharmacy.

Call or email me any time to discuss.  
Respectfully submitted,

**John Kranjac, R.Ph.**  
**PSSNY and NYCPS Board Member**  
**646-221-6263 - cellular**  
**johnkranjac@gmail.com - email**

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## CHECK YOUR CREDIT CARD PROCESSING STATEMENTS REGULARLY

Did you know if you participate in the Retail Council's Credit Card Processing Program you can review your account as often as you choose online instead of waiting to receive your statement in the mail each month? Checking your account frequently really pays off, as the following example demonstrates.

In a regular review of his credit card account, a Retail Council processing program participant noticed he was missing \$7,000, a full day's worth of transactions. He immediately called one of the Retail Council's in-house credit card processing experts, Michele Coons, who helped him resolve his problem and get his money. What was the key to success here? This business owner regularly reviews his processing account online and compares them to his income ledger to make sure everything matches up.

For those NYCPS members in the Retail Council's processing program, we review your statements periodically in search of errors through our Watchdog Program. However, you should make a practice of checking statements frequently too. The Retail Council's Merchant Services Team suggests reviewing your account at

least monthly, if not weekly, to be sure there are no errors. Our free online service through Global Payments Direct, Inc. makes checking your account convenient and easily accessible.

Another tip to prevent processing errors: You should always run a test transaction with your credit card processing company whenever you get your terminal programmed or reprogrammed to be sure it is working properly.

Call Michele or Nicholl in the Retail Council's Merchant Services Department at (800) 442-3589 if you are interested in checking your account online; they will get you registered for this service. Michele and Nicholl would also be happy to answer any questions about your credit card processing statements or terminal reprogramming.

If you haven't considered joining the Retail Council's processing program, why not allow us to do a free, no-obligation savings analysis?

We're typically able to save businesses money on this expense and no other processor offers the added protection of a periodic review of statements like the Retail Council does through our Watchdog Program.

For a nominal dues payment, your membership in the Retail Council is a great complement to the continuing education and other services you receive through NYCPS and PSSNY. In addition to our competitive credit card processing service, the Council also has a great workers' compensation program, which can save pharmacies up to 50 percent or more on this mandatory insurance. More than 170 independent pharmacies in New York State are already participants because the savings is difficult to beat!


You can learn more about the Retail Council and its programs by visiting [www.retailcouncilnys.com](http://www.retailcouncilnys.com) or by calling us at (800) 442-3589.

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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, Loisaida 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 Zatsopil, 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 31, 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, Loisaida 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>

## List of Donations as of September 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	Bill Scheer, Scheer Drugs * . . . . .	\$1,000
Anton Fallah, Best Care Pharmacy . . . . .	\$300	Jim Schiffer (formerly Jim & Phil's Family Pharmacy) . . . . .	\$200
Michael Ferri, Kings Health Mart Manhattan . . . . .	\$300	Russell Sherman, Esco Drug Co . . . . .	\$300
Gerald Gold S Bros Pharmacy . . . . .	\$125	Sam Scwhartz, Variety/ Brothers Drug Corp . . . . .	\$125
Peter Lau, Confucius Pharmacy . . . . .	\$300		
Myeongha (Peter) Jo, Super Value Drug* . . . . .	\$200	<b>Total for 2011 as of November 2011 . . . . .</b>	<b>\$11,050</b>

## 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 \_\_\_\_\_

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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

lems, Michael Jackson received emergency hospital treatment for serious second degree burns to his head as his hair caught fire. This freak filming accident occurred as he singing his hit "Billie Jean" and taping it for the Pepsi Cola commercial in Los Angeles. "It will take a few weeks to determine the hair loss" is what a plastic surgeon assigned to MJ stated. As you look back over 27 years from this incident we wonder if this is what triggered MJ's downhill medical issues? The entertainment company running MJ's tours hired Dr. Murray to help MJ get through the long hours in preparation for his huge concert tour. Who would have imagined that this doctor would have given out propofol so freely? How many others both prescribers and patients alike are abusing this non controlled anesthetic agent? What about the pharmacists/pharmacies that serviced MJ and company what about counseling? What about making sure that the prescriptions were being properly used and not abused? We have not heard much about this aspect of the death of MJ, but as we had previously learned with the deaths of Anna Nicole Smith and Heath Ledger, the stars and those of fame seem to have problems that the remainder of society must cope with and not have the notarity that comes

with stardom. It was reported in the Associated Press that a local California pharmacy had filed a lawsuit against Michael Jackson for not paying for his prescriptions. How much are we talking about? Over \$100,000 was allegedly owed to this pharmacy, I do not know the outcome but that is quite a bit of money to be allowing on a house charge account. There is a growing concern about the improper use of controlled substances in the United States. If most of these illicit products coming from the mail order facilities or are these products creeping out of our pharmacies? Will Dr. Murray loose his medical license? Or will he just get a slap on the wrists? Pharmacists of America wake up and take responsibility for the proper treatment of your patients. Do not serve as a rubber stamp for the drug habits of your patient base. Counsel the patients and especially be watchful of the patients who are presenting prescriptions for controlled drugs. Did you know that more folks are dying every year from drug overdoses than they are in automobile accidents? We have a growing drug problem in this country and we need a coordinated effort by both local, and federal officials to crack down on this epidemic.

Until next month, let us hope that AMMO gets signed into New York law!

**Jim Schiffer**

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## RX AND THE LAW:

from page 9

more in depth than merely asking if you can be sued if you administer vaccines.

The second important question is whether there is insurance coverage for the activity in question. Insurance policies typically provide two types of coverage; loss coverage and defense coverage. Loss coverage is the portion of the policy that covers the damages exposure that we have already discussed. This is obviously very important to have for any activity that a pharmacist performs. Equally important is the defense coverage. This is the portion of the policy that pays for defense attorneys, expert witnesses, court reporter fees, etc. Defense coverage is available in two forms. In one version, the defense costs are included in the

loss coverage limit. In this version, if \$50,000 is spent on defense costs, then only \$950,000 of a \$1 million limit is left to pay a loss. This becomes very important in a case that is long and expensive to defend. In the other version, the defense coverage is separate from the loss coverage and doesn't erode the loss limits. In either case, if the loss is covered, the defense coverage provides for the defense of the suit, no matter how frivolous or low the exposure might be. Because of the high cost of legal services, the defense coverage can be an important asset for any pharmacist to have. Even defending a frivolous suit could cost thousands of dollars.

Can a pharmacist be sued for a given activity? The answer is almost certainly yes. But that should not stop a pharmacist from providing inventive, progressive

patient care. A more in-depth analysis of the true exposure is required along with verification of insurance coverage for that exposure. There may be activities that are determined to be too risky, but that shouldn't stop pharmacists from continually striving to provide the best possible care for their patients.

© 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.*

## *Ambiguous expiration dates:*

*continued from page 14*

ing mentions that Lysine+ has a shelf-life of 3 years. So "9A07" means that the expiration date is January 2012. Thankfully, the company reported that it has changed from this dating method to an actual expiration date.

According to the US Pharmacopeia's USP/NF, all labels

of official drug, nutritional, and dietary supplement products must display an expiration date that can be read by an ordinary individual. However, reading it and understanding it are two different things. For US products, there is no standard for the way expiration dates have to be expressed, thus, as above, people do not always understand what is printed. One standard that could be followed is

ISO 8601 (Data elements and interchange formats—Information interchange— Representation of dates and times). The ISO 8601 standard dictates expiration dates be expressed as "YYYY-MM-DD" (e.g., 2010-06-30), "YYYYMMDD" (e.g., 20100630), or "YYYY-MM" (e.g., 2010-06).

It is time for manufacturers and FDA to standardize how expiration dates are expressed.

## **TREASURER'S CORNER:**

*continued from page 4*

years ago when the BNE brought the idea to PSSNY, and I as an officer of PSSNY sat in on discussions asking our opinion of a program such as serialized prescriptions. We of course voiced our concerns about giving criminals the ability to do forge any type of drug if they were to steal a pad.

Our concerns were dismissed as not probable, they were going to have a data base of all stolen blanks and be able to find the culprits quickly and prevent criminals from trafficking in these blanks. Well in hindsight it hasn't worked out that way. I know of two or three instances just in my practice where pads were stolen from private offices and not discovered or reported for months. The Newsday article has a memo dated July 2011 from the Department of Health stating that they were aware of the problem since 2008, yet as end recipients of these prescriptions we were not made aware of the problem. When a reporter asked PSSNY executive Director Craig Burrigge about the problem, he called BNE to ask them if there was a problem and they denied any such problem. This is

the agency we are going to trust to set the rules of the e-scribing of narcotic and dangerous drugs should be have any confidence in their ability to have a handle on it? There needs to be in place a series of checks starting with the prescriber that will in real time let us know if this patient was seen by a doctor and that the doctor has checked to see in the database that this patient has not received similar prescriptions from other prescribers and is doctor shopping. Let's face it , the ability to hack into computer systems has already proven, and the criminals adapt to new technology quickly. We need the powers that be in the state to install as many safeguards as possible into any e-scribing system. We are already suffering from a constant deluge of phony narcotic prescriptions, as we not see on real New York State blanks , we don't need to give criminals another pass like the serialized blanks to make a quick buck. Shame on the Department of Health and the Bureau of Narcotic Enforcement for being asleep at the wheel! Let's get it right this time.

**Bill Scheer**

©2011 **Bill Scheer**

## **CHAIRMAN'S REPORT:**

*continued from page 3*

presented with a written prescription.

I suggest that when the prescriber checks the database and then determines that a controlled substance is needed the new prescription is sent to the database monitored by the Department of Health. If the prescription passes through all the checks and balances set up by the DOH then the controlled prescription be converted to an e-script and sent to the phar-

macy of the patient's choice. This would eliminate the need for a written prescription for a controlled substance. The pharmacist would no longer be placed in a precarious situation to determine if the prescription presented is in fact a valid document.

My suggestion obviously needs a lot of work and input is required by the NY State Department of Education, The State Board of Pharmacy, Bureau of Narcotic Enforcement, Department of Health and the Medical Society and of course the DEA. Ray Macioci and I

have initially spoken to the Attorney General's office and significant New York State Senators about the e prescribing of controlled substances. NYCPS wants to play an important role in the constantly changing environment in which the pharmacy practice is regulated. This proposal would prohibit controlled substances from being written on the serialized prescription blank thus eliminating the temptation for theft.

**Charles R. Catalano**  
**NYCPS Chairman**

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## UPDATE ON ELECTRONIC PRESCRIBING IN NEW YORK STATE:

On October 18, 2011, Governor Cuomo signed a law (which took effect immediately) which defines an electronic prescription.

In light of this development, Arnold & Marie Schwartz College of Pharmacy's Office of Continuing Pharmaceutical Education Director Joseph Bova, R.Ph. has developed a free, 15 Minute CE for all interested pharmacists to participate in online. The direct website is : <http://liu.rxschool.com>. You can also access it at: [www.liu.edu/pharmce](http://www.liu.edu/pharmce)

Enter the portal. Click on "here" at this message: Please click on <http://liu.rxschool.com/> to see the offering of CE programs.

In order to take part in this free 15 minute CE, first you must register and create an account as a pharmacist on the website. Once you create an account, go to catalog and select distance ce; select the course; click on continue with lesson...then click on the link to view. The user can then return, take the quiz and evaluation and print a statement of credit.

We thank Mr. Bova and Arnold & Marie Schwartz College of Pharmacy for this free learning experience.

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