



Physicians Caring for Texans

June 22, 2011

Don Berwick, MD, MPP
Administrator, Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue S.W.
Washington, DC 20201

Dear Dr. Berwick,

I am writing to you on behalf of more than 45,000 Texas Medical Association (TMA) members respectfully requesting that you defer the June 30, 2011, deadline by which certain physicians must report 10 e-prescriptions to avoid a 1-percent penalty on Medicare allowable charges in 2012. This deadline is causing serious unintended problems to Texas physicians and our patients, some of which are as follows:

- Physicians are rushing into e-prescribing just to avoid the penalty. We have found that some are turning on free or cheap systems, meeting the 10 prescription requirement and then not using the system again. This will forever distort the number of active e-prescribers. We in the TMA and probably other organizations have been using these statistics to measure the amount of resources to devote to e-prescribing adoption. Without good measures, we will be blind to true adoption until October 1, 2012, when the ARRA requirements occur.
- Once a physician has written an e-prescription, the e-prescribing networks will indicate that physician is an active e-prescriber. Pharmacies will then electronically send prescription renewal requests for those e-prescriptions, which will be ignored if the physician only completes the 10 e-prescriptions and never re-enters the e-prescribing system. This will create confusion for patients, physicians, and pharmacies, and possibly lead to unnecessary and dangerous refill delays for some patients.
- The intent of this program is to improve quality and efficiency in the health care system. Some physicians, including those who primarily e-prescribe controlled substances, are prescribing over-the-counter (OTC) medications just to avoid the penalty. This sort of behavior will damage the pharmacy industry as pharmacists try to fill the unnecessary prescriptions.
- Physicians are extremely confused as to why this program was not aligned with the ARRA requirements for e-prescribing by October 1, 2012. The recent CMS proposed e-prescribing exemptions do not accomplish this.

The newly proposed rule is a step in the right direction, but physicians need answers before June 30, 2011, as they are not willing to risk the Medicare payment adjustment.

We strongly recommend that you immediately defer the compliance date for 10 prescriptions to October 1, 2011, AND modify the proposed rule to allow for automatic exemption if a physician attests that he or she intends to achieve Meaningful Use by October 1, 2012. TMA will submit comments on the proposed rule, but given that the comment deadline is after June 30, the damage that we are reporting above will be done by then.

Physicians' e-prescribing adoption is moving forward. SureScripts recently reported that about 34 percent of all office based prescribers are now actively submitting prescriptions electronically. TMA strongly supports e-prescribing, especially from a patient safety perspective, and has done much to support adoption and safe usage, starting with a state-wide summit in 2008 as an effort to bring together stakeholders to resolve industry issues.

TMA strongly encourages you to take a rational approach to this important change in practice behavior and change the June 30, 2011, deadline to avoid damaging the industry's ability to properly manage this process and to avoid harm to patients and the health care system.

We have already discussed this situation with Dr. Daniel Green and, while sympathetic, he is unable to help. We are turning to you as a result.

If you or anyone on your staff needs further information, please feel free to contact us.

Sincerely,

A handwritten signature in black ink, reading "Joseph W. Schneider". The signature is fluid and cursive, with the first name "Joseph" being the most prominent.

Joseph Schneider, MD, MBA
Chair, TMA ad hoc Committee on Health Information Technology