

# MedChi

*The Maryland State Medical Society*

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TO: The Honorable Thomas Mac Middleton, Chairman  
Members, Senate Finance Committee  
The Honorable Kathy Klausmeier

FROM: Joseph A. Schwartz, III  
Pamela Metz Kasemeyer  
J. Steven Wise

DATE: March 5, 2013

RE: **OPPOSE** – Senate Bill 247 – *Workers’ Compensation – Payment for Physician – Dispensed Prescriptions - Limitations*

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The Maryland State Medical Society (MedChi), which represents over 7,500 Maryland physicians and their patients, opposes Senate Bill 247.

Senate Bill 247 provides that a workers’ compensation employer or insurer may not be required to pay for prescription medicines dispensed by a physician to an injured employee unless the medication is dispensed within 72-hours of the injury and then such reimbursement will be limited to a 30-day supply of the particular medication. If enacted, this bill would effectively end physician dispensing of medications to injured workers and would provide the single exception to the longstanding Maryland rule that employers and their insurers are required to pay for medical bills arising from injuries to workers on the job.

At the present time, licensed Maryland physicians who obtain a “dispensing” permit from the Maryland Board of Physicians (MBOP) are allowed to dispense medications to their patients at the time of the office visit for treatment and therapy. The MBOP has issued 1,442 dispensing permits to Maryland doctors. This proposal is apparently predicated on the notion that physicians charge “too much” for the medications so that one way to control these costs is to outlaw their payment.

The Workers’ Compensation Insurance Industry maintains that physicians charge too much for the medications and they point to a report of the Workers’ Compensation Research Institute (WCRI) to substantiate their case. WCRI is an organization whose membership is composed principally of large employers and insurance companies. Companies pay up to \$220,000 for membership. See, [www.wcrinet.org](http://www.wcrinet.org).

A recent WCRI report (March of 2010) concluded that physicians who dispense drugs charge more “per pill” than pharmacies. Undoubtedly, this is true since physicians do not buy large quantities of drugs from original manufacturers, but rather, rely upon “re-packagers” who provide the medicines in pre-packaged, normal prescription sizes (30-days, etc.). The cost “per pill” to physicians is higher than that paid by large chain store pharmacies.

However, buried in the WCRI report at page 25 is Table R1A which compared cost, pricing and utilization of prescription drugs in workers’ compensation cases by “dispensing point” (either a doctor’s office or a pharmacy). Table R1A showed that, while Maryland doctors charge more “per pill” than Maryland pharmacies, the same Maryland doctors dispense far fewer pills and that the pharmaceutical cost per claim was substantially less when doctors dispensed the medicine. Table R1A demonstrated the following:

	Physician Dispensed	Pharmacy Dispensed
Avg. Pills/Claim	183	344
Avg. Price Per Pill	\$1.71	\$1.19
Rx Price Per Claim	\$255	\$445

In sum, the WCRI Report indicates that physicians dispense substantially less pills per claim than doctors who write a prescription and send the patient to a pharmacy. The savings per claim are dramatic (\$255 per claim versus \$445 per claim). The 2010 WCRI Report collected information on 5,821 workers’ comp claims in Maryland where the claim involved greater than 7 days of lost time.

In July 2011 the WCRI Report was updated and covered 27,493 Maryland claims with greater than 7 days of lost time. The 2011 update revealed the same disparity between claims where physicians had dispensed medications as opposed to medicines being dispensed by a pharmacy. The physician dispensed medicine price per claim was \$340 as opposed to the \$698 cost of medications where there was a pharmacy dispensing as indicated below.

	Physician Dispensed	Pharmacy Dispensed
Avg. Pills/Claim	215	520
Avg. Price Per Pill	\$1.79	\$1.40
Rx Price Per Claim	\$340	\$698

The real losers if this bill passes will be the injured workers who now are able to go to their doctor’s office and receive treatment as well as their medications without out of pocket fees. This bill will mandate that those injured individuals will now have to go to a pharmacy with the following possible results: (1) They will pay out of pocket for medications at the

pharmacy or, unable to pay cash, they will have to leave without the medications; (2) the pharmacy may indicate that the medications will not be available until their workers' comp coverage can be substantiated; (3) The pharmacist may not dispense the medication until the authorized agents at the insurance company understand the rationale for each specific medication as it relates to the claim. This requires additional communication with the medical office until the authorized agent is educated and satisfied. All of these outcomes are in direct contrast to best medical practices for patients.

Physician dispensing guarantees that injured patients receive medications when needed and that their recovery begins immediately. Unfilled prescriptions (nationally, over 30% are never filled) mean that an injured worker does not begin his or her recovery. There are no unfilled Rx's when physician is allowed to dispense medicine at the time of treatment.

According to the National Community Pharmacy Association, 1/3<sup>rd</sup> of the prescriptions written, never get filled. *See*, "Enhancing Prescription Medication Adherence; a National Action Plan; National Council on Patient Information and Education," (August 2007). If this legislation is passed, the non-compliance by injured workers will increase as they will not be able to receive their medications at their treating doctor's office but will have to convince the pharmacy the claim will be paid by a workers' compensation insurer or pay out-of-pocket for the prescription. The doctor who now dispenses to a workers' compensation patient knows that there is coverage not only for treatment and therapy of the patient but for the medications being dispensed so that the patient leaves the doctor's office with the appropriate medication.

MedChi believes that the Workers' Compensation insurance industry's own claims data provides the most compelling reason to reject this legislation. Doctor dispensing means less pills and substantially less cost per claim. MedChi urges an unfavorable report

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