

Don't let a pharmacy services agreement reduce your freedom to be flexible!

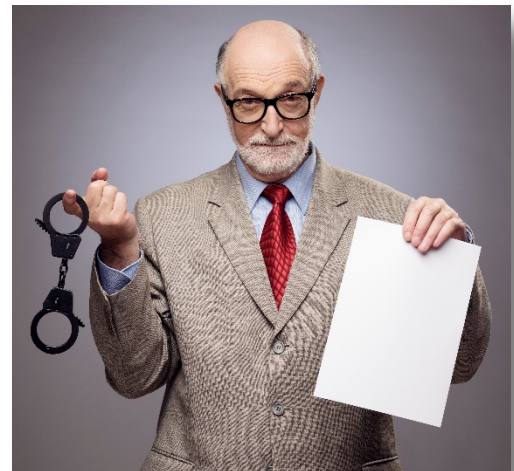
By Melissa Tyler, Associate Corporate Counsel

Vendors and competitors are consolidating. Payment models are shifting. Reimbursement continues to decrease as regulations increase. With a landscape as volatile as this, you must maintain solid footing to be ready for what comes next.

Readiness includes some significant elements; among them is assuring your vendors keep pace with the demands the market is placing on your organization. If they cannot or will not, you need to be prepared to make changes.

Medicare Part A medications is one of the most significant budget line items for post-acute care communities, so your pharmacy services provider may be a vendor you want to evaluate now – or in the near future – to determine if there is a better match for your community. Unfortunately, many communities would like to make the move to a new long-term-care (LTC) pharmacy, but find themselves trapped by their current provider's contract.

Whether you are interested in a change in the next few months or next year, here are some best practices to help you be prepared to switch providers if you find a pharmacy that is better aligned with the needs of your community:



- **Terms:** When reviewing a pharmacy contract, be certain that you understand and agree with all of the terms outlined. These contracts have been proven to be nearly unbreakable, so do not sign an agreement until you are completely comfortable with all of the terms. If possible, involve your attorney in your review of the proposed contract. In addition, consider the impact of the terms beyond the moment. Try not to sacrifice long-term benefits to capture a short-term gain. You want to avoid having to deal with undesirable terms due to a shortsighted decision made years before.
- **Length:** Most pharmacy contracts have a multi-year initial term, which is usually two or three years from the date you sign the new contract. This term is standard in the industry because it provides a way for the pharmacy to recoup some of the capital and human investment required to serve your community; however, the initial term should not exceed three years in today's ever-evolving environment.
 - **Renewal terms:** Nearly all contracts include auto-renewal terms that become effective when the initial term ends; this is how LTC pharmacies lock communities into a longer term. If you do not give the required notice of termination, the pharmacy will extend your contract for the period defined in this section. A renewal term should never exceed one year. Better yet, negotiate a conversion to month-to-month status after the initial term. That will give you the freedom to find a new provider or renegotiate terms based on the current state of the post-acute/long-term-care environment.

- **Notice:** Your pharmacy contract is likely to specify how much time you must allow when notifying your pharmacy that you will not be renewing your contract or exercising its auto-renewal term. Many pharmacy contracts include notice periods that range from 30 days to 90 days; make sure the notice period in your contract does not exceed 60 days.
 - **Myth:** *If you give notice in compliance with the notice terms, your pharmacy may stop servicing your community before your contract expires.* Nearly every state has pharmacy rules that dictate pharmacies must service any prescriptions for people in their care or arrange for another pharmacy to provide the medication. The rules protect patients/residents from losing their prescriptions if a pharmacy goes out of business.

When a pharmacy receives notice, it usually tries harder to retain your business by addressing any issues or working harder to meet any new needs at your community. **Therefore, to keep your options open, you may want to terminate your contract before your next renewal period to ensure you comply with the notice period.** To do this, provide a notification letter stating that, per the contract, you are providing sufficient notice that you will not be exercising the auto-renewal portion of the contract and will consider the contract term to be month-to-month until further notice. Then you have the freedom of time to decide whether you will stay with your current vendor or choose a new pharmacy.

- **Ancillary contracts:** Although pharmacy services contracts will often have an accompanying consultant pharmacy contract, the contract period dates often do not match. Ensure that you are satisfied with the terms of both contracts. In addition, membership in a buying group (GPO) may also extend or alter the terms of your pharmacy contracts. Be sure to locate all pharmacy-related contracts and review them for this issue.

Make time now to review your pharmacy contract

Because your pharmacy services provider plays such an important role in the success of your community, review your current contract situation now so you are fully aware of your obligations and options. Determine when your pharmacy contract will expire and if you are in the initial term or a renewal term.

If you are within six months of the contract expiration or auto-renewal date, submit a cancellation notice to change your contract to month-to-month now. This will put your community in the best position to make the right pharmacy decision based on your needs when your current contract ends.

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