

Texas Rural Health Association
P.O. Box 2337 Austin, Texas 78768-2337
(512) 472-8921 FAX (512) 472-5694 www.trha.org

Harvey Laas

President

October 15, 2009

Allison Benz, R.Ph., M.S.
Director of Professional Services
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed Rural Hospital Pharmacy Rules

Dear Ms. Benz:

The Texas Rural Health Association is concerned about some rules recently proposed for rural hospital pharmacies and is opposed to certain provisions within the proposed rules. We applaud the Texas State Board of Pharmacy for its efforts to enhance patient safety and care. However, the dynamics of rural health care are so very different than in urban areas, that rules and regulations must be carefully thought through regarding their impact – intended and unintended.

Our concerns and opposition to the rules you have proposed are as follows:

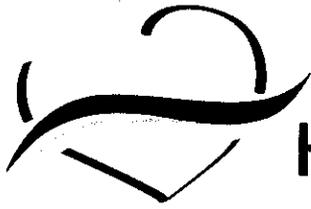
- 1) The TSBP proposal to only allow rural hospital pharmacy technicians to perform expanded duties when one technician is present is overly restrictive. We agree that if three or four technicians are working unsupervised in a rural hospital pharmacy, there might be a need to have more direct supervision. However, a technician that is performing legal duties should be allowed to continue that even when a second technician is present in the pharmacy. We also believe the new state law allows this and the Board of Pharmacy should not restrict this.
- 2) The TSBP proposal to require formal school training for technicians in rural hospitals, hired after June 2011, is not being equally imposed on all hospitals – only rural hospitals. Additional training for technicians performing more advanced duties does seem appropriate, but a requirement that rural hospitals must have technicians with structured school training (while allowing urban hospitals to continue with “on-the-job” training) seems reversed. We have limited knowledge about the availability of this class room training, but most of the locations we are aware of would be impractical for rural areas and would cause a great inconvenience. Most rural pharmacy technicians are from the rural community they work in.
- 3) The TSBP proposal that rural hospitals must have a pharmacy peer review/quality care type program seems worthy; however rural hospitals have very limited resources. They often contract out the medical peer review because they do not have staff, money, or resources. While this would be an ideal scenario, it is also another costly requirement for hospitals. Many of the hospitals struggle financial and much more added expense could lead to more hospital closures in Texas. We also understand you do not currently require this in urban hospitals so this proposal seems discriminatory in nature.

In closing, we ask that you rescind these provisions of the proposed rules. You must consider the unique financial constraints of rural hospitals and the likelihood that medical errors are less likely to occur in these rural hospitals because of low patient volume, a closer patient-provider relationship, and the fact that more acute care is often transferred to larger facilities.

Sincerely,



Rebecca Conditt
Executive Director



Knox County Hospital District

Your Hometown Healthcare Team

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

TX STATE BD
OF PHARMACY

2009 OCT 22 PM 2:21

RECEIVED

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

I am writing to express my concern and opposition to proposed rules for the pharmacy in our local hospital. As a community leader, I know that many small rural hospitals such as ours struggle to keep the doors open. But, it is critical that we have our hospital.

Part of the struggle is dealing with more and more regulations. From my understanding of the proposed pharmacy rules for our hospital, many would be stricter than for urban hospitals. Yet, our small hospitals have less resources and money to comply with such regulations. I also understand that the rural hospitals do not have problems such as you are apparently attempting to address with the proposed new rules.

I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,

Stephen A. Kuehler
CEO
Knox County Hospital District

701 South 5th Street
P.O. Box 608
Knox City, Texas 79529
940.657.3535
940.657.5521 (fax)
knoxfhospital@srcaccess.net

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

I am writing to express my concern and opposition to proposed rules for the pharmacy in our local hospital. As a community leader, I know that many small rural hospitals such as ours struggle to keep the doors open. But, it is critical that we have our hospital.

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I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,

Cliff Jones

Pres. Knox County Hospital

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

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I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,

Shirley Gass
Board of Knox County Hospital
Oct. 28, 2009



Knox County Hospital District

Your Hometown Healthcare Team

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

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I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,

John Allens
Knox County Hospital District
Board of Directors

701 South 5th Street
P.O. Box 608
Knox City, Texas 79529
940.657.3535
940.657.5521 (fax)
knoxhospital@srcaccess.net



HAMILTON HOSPITAL

P.O. Box 158
OLNEY, TEXAS 76374
PHONE: 940-564-5521

October 12, 2009

Allison Benz, R.Ph.M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, TX 78701

RE: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

I am writing to express my concern and opposition to proposed rules for the pharmacy in our local hospital. As a community leader, I know that many small rural hospitals such as ours struggle to keep the doors open. However, it is critical that we have our hospital.

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I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules, which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,

Dale Lovett
Board Chairman
Olney Hamilton Hospital District

DL/gp



County of Knox

Travis C. Floyd
County Judge

OFFICE OF COUNTY JUDGE

P.O. BOX 77
BENJAMIN, TEXAS 79505

Office
(940) 459-2191
Fax (940) 459-2022
E-Mail tfloyd@srcaccess.net

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

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I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,

A handwritten signature in cursive script that reads "Travis C. Floyd".

Travis C. Floyd
Knox County Judge

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

2009-12-01 09:01

TX STATE BOARD
OF PHARMACY

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

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I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,



Charley Hyché
Board Member
Crane Memorial Hospital
1310 S. Alford
Crane, Texas 79731

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

2009 09 28 AM 9: 01

TX STATE BD
OF PHARMACY

Re: Proposed rural hospital pharmacy rules

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I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,



Joe Henderson
Board Vice President
Crane Memorial Hospital
1310 S. Alford
Crane, Texas 79731

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

202001275 AM 9:01

TEXAS STATE BOARD
OF PHARMACY

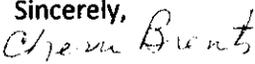
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I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,

Cherri Brents
Board Member
Crane Memorial Hospital
1310 S. Alford
Crane, Texas 79731

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

2014-05-08 09:01

STATE BOARD
OF PHARMACY

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

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I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,



Kim Harrelson
Board Chairman
Crane Memorial Hospital
1310 S. Alford
Crane, Texas 79731

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

2009 OCT 26 PM 2:13

TX STATE BD
OF PHARMACY

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

I am writing to express my concern and opposition to proposed rules for the pharmacy in our local hospital. As a community leader, I know that many small rural hospitals such as ours struggle to keep the doors open. But, it is critical that we have our hospital.

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I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,



Gena Norvell
Board Secretary
Crane Memorial Hospital
1310 S. Alford
Crane, Texas 79731



Martin County Hospital District

610 North Saint Peter Street
P.O. Box 640
Stanton, Texas 79782
(432) 756-3345

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

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I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,

Paul McKinney, CEO

Culberson Hospital

Eisenhower Rd.
I FM 2185
P.O. Box 609
Van Horn, TX. 79855
Telephone: (432) 283-2760
Fax: (432) 283-2581



Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

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I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,

Ladelle Bates
C.E.O. Administrator



SABINE COUNTY HOSPITAL DISTRICT

2301 St. Hwy 83 W; Room 113
P. O. Box 1112
Hemphill, Texas 75948

Phone (409) 787-2214

Fax (409) 787-2231

www.SabineCountyHospitalDistrict.org

October 21, 2009

Allison Benz, R.Ph, M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

Our hospital, like many other rural hospitals, continues to struggle under the burden of regulation.

It is my understanding that pharmacy rules are being proposed that will have a significant financial impact on our hospital with very little affect on patient safety.

The rules as proposed would be much stricter on rural hospitals and impose a greater burden than on larger hospitals, which the rules are intended to address.

I appreciate the diligence of the Texas State Board of Pharmacy to ensure patient safety, but these rules will result in higher costs, additional administration and negligible benefit to our patients.

Please do not hesitate to contact me at 936/275-6206 if I may be of further assistance.

Sincerely,

Phil Yocom, President
Sabine County Hospital District
Board of Directors

Preferred Hospital Leasing Hemphill, Inc.
SABINE COUNTY HOSPITAL

Medical Facility
2301 Highway 83W
PO Box 750
Hemphill, TX 75948
Telephone 409-787-3300
Fax 409-787-1010

Corporate Office
120 W. MacArthur
Suite 121
Shawnee, OK 74804
Telephone 405-878-0202
Fax 405-273-6007

October 19, 2009

Allison Benz, R.Ph, M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

I am writing to express my concern and opposition to proposed rules for the pharmacy in our hospital. As the hospital administrator, I know that many small rural hospitals such as ours struggle to keep the doors open. But, it is critical that we have our hospital.

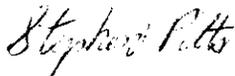
Part of the struggle is dealing with more and more regulations. From my understanding of the proposed pharmacy rules for our hospital, many would be stricter than for urban hospitals. Yet, our small hospitals have less resources and money to comply with such regulations. I also understand that the rural hospitals do not have problems such as you are apparently attempting to address with the proposed new rules.

I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost "and a decrease in patient care" for our rural hospitals is not in the best interest of the public. "Allowing for only 1 technician in a pharmacy would potentially put patient care at risk. Small hospitals need additionally trained staff to cover sick time, vacation time, and weekend coverage. Most importantly, our staff spends time in meetings, helping out in codes, leaving the hospital to get needed medication, etc. Having only one technician leaves the pharmacy unattended and puts other patients at potential risk for not having additional trained pharmacy technicians to help with their pharmaceutical needs.

I must further emphasize that the need for more than one technician does not equate into the need for a full time pharmacist. Our hospital census and acuity level does not require the need of a full time pharmacist. A full time pharmacist would spend most of his day doing technician work, which he did not go to school for, and would be a waste of his expertise. He would get bored with this, quit, and it would create a revolving door for us to be constantly replacing pharmacists. This in its self would also create a patient safety issue as well.

I again appreciate the Texas State Board of Pharmacy's concern for patient safety, but I cannot emphasize enough that I firmly believe that these proposed rules would have a dramatic negative effect on our hospital, many other rural hospitals, and most importantly our patients. "

Sincerely,



Stephen Pitts
Administrator
Sabine County Hospital

GROVER C. WINSLOW, M.D.
2285 WORTH ST., HWY 83W
HEMPHILL, TEXAS 75948
PHONE: 409-787-3520
FAX: 409-787-1423

October 21, 2009

Allison Benz, R.Ph, M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

I am writing to express my concern and opposition to proposed rules for the pharmacy in our hospital. As the Chief of Staff at Sabine County Hospital and an active member of the medical staff for the last 56 years, I know that many small rural hospitals such as ours struggle to keep the doors open. But, it is critical that we have our hospital.

Part of the struggle is dealing with more and more regulations. From my understanding of the proposed pharmacy rules for our hospital, many would be stricter than for urban hospitals. Yet, our small hospitals have less resources and money to comply with such regulations. I also understand that the rural hospitals do not have problems such as you are apparently attempting to address with the proposed new rules.

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Sincerely,


Grover Winslow M.D.



Texas Organization of Rural & Community Hospitals

October 26, 2009

Allison Benz, R.Ph., M.S.
Director of Professional Services
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: HB 1924 proposed rules - amendments to §291.72, concerning Definitions, §291.73, concerning Personnel, §291.74, concerning Operational Standards, and §291.75, concerning Records

Dear Ms. Benz:

The Texas Organization of Rural & Community Hospitals (TORCH) represents most of the rural hospitals in Texas. More than 150 hospitals are members of our organization. Half of these rural hospitals are very small with 25 or less beds, and the majority often has an average patient volume of less than 10 patients. These hospitals struggle financially and have extremely limited staff making it challenging to comply with more and more regulatory mandates.

First and foremost, our organization and its member hospitals support all efforts to improve patient safety. However, such efforts by the Pharmacy Board and others should be based on sound data and evidence that patients face probable harm under current regulations and scenarios. There must be a risk versus cost analysis. And, authorized or not, it is our understanding that the operating practice in many rural hospitals over the years included technicians performing expanded duties without a pharmacist present, and this occurred without any evidence of problems.

Additionally, there must be assurances the proposed regulations do not have an unintended consequence of placing such a financial burden on a hospital that it can no longer remain open. You must also consider that limited availability of pharmacists in rural areas. In fact, many of our rural hospitals have only one actively working pharmacist in the community who operates the local retail pharmacy and serves as the supervisory pharmacist for the hospital. We recognize that technology can play a role in enhanced pharmacy coverage but that remains costly and is still in its infancy.

As to the proposed rule changes associated with HB 1924, we have the following comments:

FISCAL IMPACT STATEMENT

...“there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.”

505 E. Huntland Drive
Suite 150
Austin, TX 78752

Mailing Address
P.O. Box 14547
Austin, TX 78761-4547

PH: 512-873-0045
FX: 512-873-0046

www.torchnet.org

TORCH COMMENTS –

1) TORCH disagrees with this statement. These proposed rules could add cost for the some of the hospitals, especially those without a full time pharmacist. Additional cost is likely to result from the areas of additional training, enhanced pharmacist duties, etc. Our records indicate that 99 of these 150 hospitals are owned by local units of government (county, hospital district or hospital authority).

Both counties and hospital districts levy taxes to support the operation of their hospitals and increased operational costs could necessitate increased taxes in order to maintain services.

PERSONNEL

(A) All pharmacy technicians and pharmacy technician trainees shall meet the training requirements specified in §297.6 of this title (relating to Pharmacy Technician and Pharmacy Technician Trainee Training).

(B) In addition to the training requirements specified in subparagraph (A) of this paragraph, pharmacy technicians performing the duties specified in paragraph (2)(C) of this subsection shall complete the following. Training on the:

(i) procedures for verification of the accuracy of actions performed by pharmacy technicians including required documentation.

(ii) duties which may and may not be performed by pharmacy technicians in the absence of a pharmacist; and

(iii) use and operation of a continuous quality improvement program designed to prevent dispensing/distribution errors.

(C) A pharmacy technician initially employed after June 1, 2011, who is performing the duties specified in paragraph (2)(C) of this section shall have completed a board-approved pharmacy technician training program specified in §305.2 of this title (relating to Pharmacy Technician Training Programs).

TORCH COMMENTS –

1) TORCH supports additional training associated with the extra duties that a technician in a rural hospital may perform. The training requirement content needs to be clearly defined and as simple as possible. This would be a great application for on-line training. TORCH would recommend the training be provided by or supervised by the pharmacist-in-charge at the hospital.

2) TORCH is opposed to the language that would require pharmacy techs in a rural hospital performing expanded duties, and hired after June 2011 to receive their training in an ASHP accredited program. This requirement is not imposed on other hospitals. Plus, it is our understanding that there are only approximately 22 public/private schools and one health science center offering this training – few within a reasonable commuting distance of many rural hospitals.

(i) Physically present supervision. The following functions must be performed under the physically present supervision of a pharmacist unless the pharmacy meets the requirements for a rural hospital and has been approved by the board to allow pharmacy technicians to perform the duties specified in §552.1011 of the Texas Pharmacy Act (Act):

TORCH COMMENTS –

1) TORCH agrees that the Pharmacy Board should be notified and issue an approval. However, there is no timeline established for the Board to issue approval. The Board should be required to make a decision and issue their approval within a 30 day period of receiving notice/application from a hospital. Furthermore, the effort and paperwork associated with this process should be simple and accomplished with minimal effort. We would recommend a letter.

(i) A rural hospital may allow a pharmacy technician to perform the duties specified in clause (ii) of this subparagraph when a pharmacist is not on duty, if:

(III) only one pharmacy technician is on duty at a time; and

TORCH COMMENTS –

1) TORCH is opposed to a requirement that expanded duties may only be performed when one technician is present. HB 1924 expressly authorizes rural hospitals meeting the definition to allow techs to perform the expanded duties. There are no statutory provisions limiting that authority based on the number of techs present and any such rule would be in conflict with state law.

OPERATIONAL STANDARDS

(B) The pharmacy may not allow a pharmacy technician to perform the duties specified in §562.1011 of the Act, until the board has reviewed and approved the application and issued an amended license to the pharmacy.

(C) Every two years in conjunction with the application for renewal of the pharmacy license, the pharmacy shall provide updated documentation that the hospital is a rural hospital as specified in subparagraph (A)(v) of this paragraph.

TORCH COMMENTS –

1) TORCH agrees that the Pharmacy Board should be notified and issue an approval. However, there is no timeline established for the Board to issue approval. The Board should be required to make a decision and issue their approval within a 30 day period of receiving notice/application from a hospital. Paperwork and forms associated with this process should be simple.

(D) The pharmacist-in-charge shall develop and implement continuous quality improvement program for the purpose of evaluating the quality of pharmacy services or the competence of personnel and suggest improvements in pharmacy systems to enhance patient care. The continuous quality improvement program shall include a peer review process as specified in Subchapter B, Chapter 564, Occupations Code. The following is applicable for the peer review process.

(i) The peer review committee shall be composed of the pharmacist-in-charge, the pharmacy technician, a nurse or practitioner responsible for verifying the actions of the pharmacy technician. The peer review committee shall meet at least quarterly and shall:

(I) review incident reports of errors;

(II) determine the cause of the error;

(III) make recommendations to correct the problem that caused the error; and

(IV) monitor the changes to determine if the changes have improved the operation of the pharmacy and reduced errors.

(ii) The peer review committee shall maintain a record of all meetings of the peer review committee. Such record shall include the following information:

(I) date of meeting;

(II) location of meeting;

(III) names of persons attending the meeting; and

(IV) description of activities of the committee which may include the following:

(-a-) discussion of any problems in the pharmacy's operation (e.g., work flow, dispensing/distribution process);

(-b-) findings of the committee regarding errors;

(-c-) description of recommendations of the committee; and

(-d-) review of actions or changes relating to individuals, systems, or processes that were made as a result of previous recommendations.

(iii) All proceedings and records of a pharmacy peer review committee are confidential as specified in §564.103 of the Act.

(iv) A hospital's medical peer review committee may perform the functions of the peer review committee as specified in this subparagraph if the committee includes the individuals listed in clause (i) of this subparagraph.

TORCH COMMENTS -

1) The peer review/quality improvement program language references Texas Occupations Code Chapter 564, Subchapter B. Presumably TSBP means Subchapter "C" as "B" pertains to authority to add a fee to licenses for a program to aid impaired pharmacists and pharmacy students. "C" pertains to pharmacy peer review. This is apparently a drafting error in the proposed rules.

2) Pharmacy peer review programs are not required in other hospitals and should not be mandated only to rural hospitals with techs performing the expanded duties.

3) Peer review is already being performed on a de facto basis by the pharmacist-in-charge as part of their review and supervision of the techs. As an alternative to the proposal, the Board could give consideration to clarifying that the proposed peer review action items are the part of the on-going responsibility of the consulting or supervising pharmacist, but not create a structured committee.

4) This is an added burden to rural hospitals that have little personnel and financial resources.

In closing, we would call upon the Board of Pharmacy to find a balance between reasonable patient safety and the resources of small rural hospitals.

Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Pearson', with a long horizontal flourish extending to the right.

David Pearson, MPA, FACHE
President and CEO



TEXAS HOUSE OF REPRESENTATIVES

WAYNE CHRISTIAN
STATE REPRESENTATIVE
DISTRICT 9

October 26, 2009

Allison Benz, R.Ph., M.S
Texas State Board of Pharmacy
William P. Hobby Building, suite 3-600
333 Guadalupe Street
Austin, Texas 78701

Dear Ms. Benz:

The intent of House Bill 1924, which unanimously passed the 81st Texas Legislature earlier this year, was to allow rural hospitals to continue to operate and maintain their pharmacy services in the most efficient manner while ensuring patient safety just as they have done for many years. This legislation was critical to helping rural hospitals stay open and continue serving Texans who live in isolated, rural areas.

As a rural legislator, I am very concerned that the proposed new rules promulgated by the Texas State Board of Pharmacy (the Board) to implement HB 1924 are not consistent with the new law, and, in fact, go beyond what the Legislature directed the Board to do. Here are some items of concern in the proposed rules:

- The expanded duties of pharmacy technicians will only be allowed when there is only one pharmacy technician present in a rural hospital, but will not be allowed when more than one pharmacy technician is present. This restriction is not included in HB 1924.
- The rules propose to implement a quality control/peer review requirement not previously required and not in HB 1924.
- The proposed rules state that pharmacy technicians hired after June 1, 2011, who will perform the duties authorized in HB 1924, must receive their training from an American Society of Health System Pharmacists-accredited school. This is not included in HB 1924.
- Require a pharmacy peer review/quality control program which is really already being done by the consulting pharmacist – but not requiring this for urban hospitals.

I hope that the Board will seriously consider the above items when deliberating at its November 9, meeting. Access to health care in rural Texas is critical and without it, many families and businesses will be forced to move or close. This was not the intent of HB 1924. I hope the Board will not adopt these rules as they are currently proposed.

Sincerely,

Wayne Christian

State Representative

District Office: 204 Houston Street • Center, Texas 75935 • (936) 590-4669
Capitol Office: P.O. Box 2910 • Austin, Texas 78768-2910 • (512) 463-0556 • Email: wayne.christian@house.state.tx.us

LHC LAMB HEALTHCARE CENTER

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October 23, 2009

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

I am writing to express my concern and opposition to proposed rules for the pharmacy in our local hospital. As a CEO, I know that many small rural hospitals such as ours struggle to keep the doors open. But, it is critical that we have our hospital.

At this time I am employing three consulting pharmacist to monitor our pharmacy on a part-time basis; however, most of our labor is performed by three certified pharmacy techs. Employing a full time pharmacist would severely impact our financial stability.

Part of the struggle is dealing with more and more regulations. From my understanding of the proposed pharmacy rules for our hospital, many would be stricter than for urban hospitals. Yet, our small hospitals have less resources and money to comply with such regulations. I also understand that the rural hospitals do not have problems such as you are apparently attempting to address with the proposed new rules.

I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,



Jo Nell Wischkaemper, CEO

Comanche County *Medical Center*



October 26, 2009

Allison Benz, R.P.H., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street Suite 3-600
Austin, TX 78701

Re: Proposed Pharmacy Board Rules concerning HB 1924

Dear Ms. Benz,

First of all, I want to commend the Board for the job that it does in protecting patients and overseeing pharmacy operations and guidelines in the State. The reason for this letter is to express my hospital's concern over proposed rules for rural hospitals after the passage of HB 1924.

A little background on my facility...Comanche County Medical Center is a 38 bed rural hospital with a level IV trauma center. Our pharmacy serves our hospital district which includes a full service hospital (including IV Therapy), hospice program, home health, an EMS, and a rural health clinic. Through our pharmacy we also process employee prescriptions as an employee benefit. The hospital here, like many rural hospitals is operating with a negative margin and to help make up that margin, the hospital is supported with public tax funds. Without the funds, the hospital probably would not be in existence.

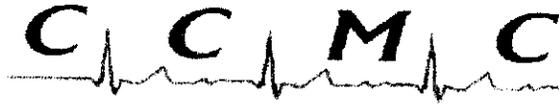
Overall, most of the proposed rules can be complied with, but two in particular can and will have a major impact on my facility and on many other hospitals throughout the State.

Accredited Pharmacy Tech School Requirement

This requirement would create a big hardship for rural hospitals. On the occasion that we lose a pharmacy tech, we normally take a LVN from the hospital's Med/Surg unit and train them in the pharmacy department under the supervision of our part-time pharmacist and other experienced techs. This helps us immediately even though the "tech in training" is limited on what she can do on her own.

Requiring us to send someone to an "accredited" school or program would be much more costly and take more time to get help. While this type of program works great for the tech who gives plenty of notice (like when the employee is retiring), but far majority of turnover in this position leaves the hospital with very little notice. Usually, an accredited school or program is not located near most rural areas which requires a hospital to take a productive employee out of work, pay for the school, the lodging, the meals, etc. to get her license.

Comanche County *Medical Center*



The on the job or “real-world” training program has produced some very good pharmacy techs for us and I would be willing to bet many other hospitals in the State. Based on my experience with “on the job” personnel vs. school taught personnel, the “on the job” trained personnel will out perform the school taught in every way.

Limitation of one pharmacy tech with the expanded duties

We have tried on several occasions to hire a full-time pharmacist, but honestly based on current market conditions and the state of the healthcare system, it has been cost prohibitive. In addition, based on our experience, to attract a pharmacist we must offer above market rates to get anyone to talk to us and when we mention that the facility has a hospice program, then most pharmacists tell us they do not want the liability and walk away. We are very lucky to have a pharmacist who works for us five days a week, several hours each day. Based on our volume, we have up to four pharmacy techs (also LVNs), who do the day-to-day processing in the department under the supervision of our pharmacist.

If the proposed rules go through I would imagine that the demand for pharmacists would increase and so would the costs associated with attracting one (as almost every rural hospital would be forced into hiring one). If we could not successfully recruit one, then we would be forced to cut back the services offered to the community.

Quality Control/Peer Review

While I do not have as much problem with the requirement of a quality control/peer review process (because we already use a pharmacy and therapeutics committee) to address quality control, I wonder why a rural facility is specifically required to have one when much larger hospitals are not required to do so. It is definitely in both the patient’s and the hospital’s best interests to accurately dispense drugs, so I am not sure why this needs to be specifically spelled out for only rural hospitals. It appears this should be an all or nothing issue (required for all hospitals or none of them).

Conclusion

When all is said and done, I know the Pharmacy Board must do what it thinks is best to protect the public and as a hospital, we must abide by those rules. Under the current healthcare environment, over sixty percent of hospitals are now operating with a negative margin. In Washington even more cuts are being proposed. If the rules that you are proposing are passed, the increased costs of complying with the regulations or in the hiring of a full-time pharmacist may be enough with the other issues to force many of the rural hospitals out of business. If that occurs, how does that really affect the health of the people in those areas? I think it would be safe to say, very negatively....

Comanche County *Medical Center*



I am asking or should I say, pleading, please increase the number of allowed pharmacy techs with the expanded capabilities to a maximum of five (or simply remove the stipulation). As far as the accredited pharmacy tech school issue, while I do believe in getting a proper education, in this case a combination of on the job training and a tech passing their test, should be enough.

I plan on attending the public hearing with my pharmacist and my Ancillary Director and any of us would be glad to answer any specifics on our situation and the impact of the proposed rules on our facility.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Storey', written in a cursive style.

Kevin Storey
Chief Executive Officer
Ph: 254-879-4900 Ext. 4800
Fax: 254-879-4990
E-mail: kstorey@comanchecmc.com

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P.O. Box 2910
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ROB ORR
HOUSE OF REPRESENTATIVES
DISTRICT 58

October 26, 2009

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
William P. Hobby Building, Suite 3-600
333 Guadalupe Street
Austin, TX 78701

RE: Rules proposed to implement HB 1924 (Heflin/Seliger)

Dear Ms. Benz:

As a legislator who represents both rural and suburban areas of Texas, I am very concerned that the new rules promulgated by the Texas State Board of Pharmacy (TSBP) to implement House Bill 1924 are not consistent with the new law, and, in fact, go beyond what the Legislature directed the TSBP to do.

The intent of HB 1924, which was passed unanimously passed by the 81st Legislature, was to allow rural hospitals to continue to operate and maintain their pharmacy services in the most efficient manner while ensuring patient safety just as they have done for many years. This legislation was critical to helping rural hospitals stay open and continue serving Texans who live in isolated, rural areas. In fact, HB 1924 will directly impact the Goodall-Witcher Hospital in Clifton which is located within my legislative district. In visiting with the hospital's CEO, he confirmed my beliefs that these rules will create another hardship for rural hospitals. As you know, many of our rural medical facilities are struggling to continue providing medical care to much of our state. It was not the intent of the Legislature to cause these much needed facilities additional problems.

Some of the items of concern in the proposed rules are:

- The expanded duties of pharmacy technicians will only be allowed when there is only one pharmacy technician present in a rural hospital, but will not be allowed when more than one pharmacy technician is present. This restriction is not included in HB 1924.
- The rules propose to implement a quality control/peer review requirement not previously required and not in HB 1924.

- The proposed rules state that pharmacy technicians hired after June 1, 2011, who will perform the duties authorized in HB 1924, must receive their training from an American Society of Health System Pharmacists-accredited school. This is also not included in HB 19024.
- Require a pharmacy peer review/quality control program which is really already being done by the consulting pharmacist -- but not requiring this for urban hospitals.

I urge the Board to seriously consider these items during the upcoming November 9, meeting. Access to health care in rural Texas is critical and without it, many families and businesses will be forced to move or close. This was not the intent of HB 1924. I hope the Board will not adopt these rules as they are currently proposed.

If I can be of additional assistance, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Orr", written in a cursive style.

Representative Rob Orr

cc: Clarence Fields, CEO, Goodall-Witcher Hospital



STATE OF TEXAS

Limestone County

DANIEL BURKEEN
County Judge

254-729-3810
FAX: 254-729-2643
daniel.burkeen@co.limestone.tx.us

P. O. Box 469
200 W. State St., Suite 101
Groesbeck, Texas 76642

October 19, 2009

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

I am writing to express my concern and opposition to proposed rules for the pharmacy in our local hospital. As a community leader, I know that many small rural hospitals such as ours struggle to keep the doors open. But, it is critical that we have our hospital.

Part of the struggle is dealing with more and more regulations. From my understanding of the proposed pharmacy rules for our hospital, many would be stricter than for urban hospitals. Yet, our small hospitals have less resources and money to comply with such regulations. I also understand that the rural hospitals do not have problems such as you are apparently attempting to address with the proposed new rules.

I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,

Daniel Burkeen, County Judge
Limestone County

2009-10-28 09:06

Rep. Bonnen

(512)463-8414 >>

5123058082 P 1/1

DENNIS BONNEN

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HOUSE OF REPRESENTATIVES
Committees: Chair, Land and Resource Management · Elections

October 26, 2009

Ms. Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
William P. Hobby Building, Ste. 3-600
Austin, TX 78701

Re: Rules proposed to implement HB 1924 (Heflin/Seliger)

Dear Ms. Benz:

The intent of HB 1924, which unanimously passed the 81st Texas Legislature earlier this year, was to allow rural hospitals to continue to operate and maintain their pharmacy services in the most efficient manner while ensuring patient safety just as they have done for many years. This legislation was critical to helping rural hospitals stay open and continue serving Texans who live in isolated, rural areas.

As a rural legislator, I am very concerned that the proposed new rules promulgated by the Texas State Board of Pharmacy (the Board) to implement HB 1924 are not consistent with the new law, and, in fact, go beyond what the Legislature directed the Board to do. Here are some items of concern in the proposed rules:

- The expanded duties of pharmacy technicians will only be allowed when there is only one pharmacy technician present in a rural hospital, but will not be allowed when more than one pharmacy technician is present. This restriction is not included in HB 1924.
- The rules propose to implement a quality control/peer review requirement not previously required and not in HB 1924.
- The proposed rules state that pharmacy technicians hired after June 1, 2011, who will perform the duties authorized in HB 1924, must receive their training from an American Society of Health System Pharmacists-accredited school. This is not included in HB 1924.
- Require a pharmacy peer review/quality control program which is really already being done by the consulting pharmacist -- but not requiring this for urban hospitals.

I hope that the board will seriously consider the above items when deliberating at its November 9 meeting. Access to health care in Texas is critical and without it, many families and businesses will be forced to move or close. This was not the intent of HB 1924. I hope the Board will not adopt these rules as they are currently proposed.

Sincerely,

Dennis Bonnen

Dennis Bonnen - District 25



DISTRICT 25 BRAZORIA (PART)



October 23, 2009

Allison Benz, R.Ph., M.S.
Director of Professional Services
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Dear Ms. Benz:

I am the Chief Executive Officer of Gonzales Healthcare Systems which operates Memorial Hospital, a 35-bed hospital in a small rural community in south central Texas. As such, the rules that being proposed for rural hospital pharmacies will pose very significant problems for our facility.

One of the proposed rules will only allow rural hospital pharmacy technicians to perform expanded duties when one technician is present. This rule is very restrictive and I don't believe this is the intent of HB 1924.

The proposed rules also require that rural hospitals (with technicians performing expanded duties) have a pharmacy quality control/peer review program in place. This is not required of the larger urban hospitals and will place an undue burden on rural hospitals.

Finally, the proposed rules will require that technicians hired after June 2011 to perform expanded duties have training from an accredited school. Again, this is not required by the urban hospital and will make it even more difficult for rural hospitals to find technicians with this type of training.

I urge you to consider my comments as the Board moves toward finalizing these rules.

Sincerely,

Chuck Norris
Chief Executive Officer

CN:jkI

Electra Memorial Hospital
Electra Hospital District



1207 S. Bailey • (940) 495-3981 • FAX (940) 495-4137
P.O. Box 1112 • Electra, Texas 76360-1112

October 23, 2009

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

This letter is to express my concern and opposition to the proposed rules for the pharmacy in our critical access hospital associated with the passage of HB 1924:

- The provisions about expanded duties not being performed if more than one pharmacy technician is on duty are not logical and contrary to HB 1924. HB 1924 expressly allows hospitals to allow technicians to perform expanded duties regardless of how many technicians are on duty.
- The requirement that pharmacy technicians hired after June 2011, who will be performing expanded duties in rural hospitals, must have received training from an ASHP accredited school extends well beyond the intent of HB 1924 and is discriminatory as other pharmacy technicians do not have this requirement. Additionally, this training is limited in rural areas and will be costly.
- Peer review is already being performed by the pharmacist-in-charge as a part of their review and supervision of pharmacy technicians. The quality control/peer review requirement is not required in other hospitals and should not be mandated only to rural hospitals with technicians performing expanded duties.

HB 1924 was passed by the Texas Legislature to allow small, rural hospitals to continue using pharmacy technicians without the direct supervision of a pharmacist, an operating practice allowed in rural hospital pharmacies for years without problems. Adoption of these rules only adds unnecessary regulations and costs for our hospital and we respectfully request that the Pharmacy Board not adopt these proposed rules.

Sincerely,


Jan Reed
CEO/Administrator



Cuero Community Hospital

DIRECTORS:
AMY CRAIN
CHARLES W. PAPACEK
J. MIKE WHEAT
JIM CONRAD
RICHARD WEBER

2550 NORTH ESPLANADE • CUERO, TEXAS 77954 • PHONE (361) 275-6191 • FAX (361) 275-3999

DARRYL STEFKA, R.Ph.,M.S. - Administrator

October 26, 2009

Allison Benz, R.Ph.M.S.
Director of Professional Services
Texas State Board of Pharmacy
333 Guadalupe Street
Suite 3-600
Austin, Texas 78701

Dear Ms. Benz:

Cuero Community Hospital is a 49-bed hospital in Cuero, Texas. We would like to thank you for the opportunity to voice our comments regarding the proposed Texas State Board of Pharmacy Rules related to Pharmacy Technicians and House Bill 1924. Please know our primary focus is on patient safety as is yours. Important information regarding our views is that we are "independent" meaning we are not managed through an outside "pharmacy contract company." We wish to express these comments concerning the pharmacy rules being proposed for rural hospitals:

- 1. The proposed rules only allow rural hospital technicians to perform expanded duties when one technician is present. When two technicians are present, neither can perform expanded duties.***

Comment: We do not believe this was the true intent of HB 1924. If one or two technicians are working together in the absence of a pharmacist, each should be performing the duties and procedures that he/she is capable of doing under current law. When medications are delivered to the floor, the nurse double checks the medications to verify accuracy. These procedural steps have been followed by rural hospitals without any major problems as the TSBP newsletters have reflected. This does not need to change nor does it deserve extra regulation.

- 2. The proposed rule would require rural hospitals where technicians perform expanded duties to have a pharmacy quality control/peer review process.***

Comment: Quality Control is already a part of our day-to-day duties. It appears, however, the wording of this rule singles out rural hospitals where technicians perform expanded duties and is not a requirement of larger hospitals. If this becomes a requirement for small, rural hospitals, it should be a requirement of all hospitals.

- 3. The proposed rule states that pharmacy technicians hired after June 2011 by rural hospitals to perform expanded duties must have training from an accredited school or program.***

Comment: We feel that this would be a tremendous burden to rural hospitals. The 22-accredited programs are not located near many of the rural hospitals. This would prove to be difficult and costly for hospitals and individuals wanting to become pharmacy technicians. On-the-job training has worked well. Technicians take a standardized test to become certified, go through background checks to become registered, perform in-house competency testing, and a technician training manual is maintained. In addition, our technicians at Cuero Community Hospital are all licensed vocational nurses.

Again, thank you for allowing Cuero Community Hospital to express our views and comments on this subject in order to keep our patients safe in rural Texas. History precedes itself in the fact that we have an excellent technician training program, low medication error rate, and set high standards for our hospital.

Respectfully submitted,

A handwritten signature in cursive script that reads "Darryl Stefka".

Darryl Stefka, R.Ph., M.S.
Administrator



The Senate of The State of Texas

Senator Craig Estes

District 30

October 28, 2009

Wilson Benjamin Fry, R.Ph., President
Texas State Board of Pharmacy
333 Guadalupe Street, Ste. 3-600
Austin, TX 78701

Dear Mr. Fry:

I am writing this letter to express to you my concerns regarding new rules proposed by the Texas State Board of Pharmacy relating to rural hospital pharmacy technicians.

Specifically, I am troubled about the proposed rules that would prevent expanded pharmacy technician duties if there is more than one pharmacy technician on duty at a time, eliminate certification through on-the-job-training, and the requirement for peer review and increased record keeping.

I have many rural hospitals in my district, and I believe these rules, if adopted, will unnecessarily burden the already strained resources of rural hospitals.

I strongly urge the Texas State Board of Pharmacy to reject these proposed rules and allow rural hospitals to continue to deliver quality health care using the proven current methods. Please feel free to contact me if you have any questions on this or other issues.

Sincerely,

A handwritten signature in black ink that reads "Craig Estes".

Craig Estes

CE:dh

cc: Gay Dodson, R.Ph., Executive Director/Secretary

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WICHITA FALLS DISTRICT OFFICE:
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Wichita Falls, Texas 76301
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Fax: 940-689-0194



2009-10-29 13:38

Sen. Hegar

(512)475-3736 >>

5123058082 P 2/3

COMMITTEES:
SUNSET ADVISORY COMMISSION, CHAIR
GOVERNMENT ORGANIZATION, VICE-CHAIR
CRIMINAL JUSTICE
NOMINATIONS



COMMITTEES:
NATURAL RESOURCES
AGRICULTURE & RURAL AFFAIRS

SENATOR GLENN HEGAR
DISTRICT 18

October 28, 2009

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
William P. Hobby Building, Ste. 3-600
333 Guadalupe Street
Austin, Texas 78701

RE: Rules proposed to implement House Bill 1924 (Heflin/Seliger)

Dear Ms. Benz:

Thank you for your service to the Texas State Board of Pharmacy, and to our great state. I write today to share my concerns about proposed changes to the Texas Administrative Code and the Board's implementation of House Bill 1924. More specifically, I am concerned that many of the measures currently being considered by the Board would hinder rural Texans' access to medical attention and quality healthcare.

The Texas Legislature unanimously passed House Bill 1924 earlier this year. The intent of House Bill 1924 was to allow rural hospitals to continue to operate and maintain their pharmacy services in the most efficient manner while ensuring patient safety, just as they have done for many years. This legislation was critical to helping rural hospitals stay open and continue serving Texans who live in rural areas.

As the State Senator of a largely rural district, I am extremely concerned about the proposed new rules promulgated by the Texas State Board of Pharmacy (the Board) to implement House Bill 1924. Many of these proposed rules do not fulfill the legislative intent of House Bill 1924 and go beyond what the Legislature directed the Board to do. These proposals also place financial constraints on small rural hospitals and fail to acknowledge the reality that there is a shortage of full-time pharmacists in most rural areas. Most detrimentally, the ultimate result of the proposed measures will be diminished access to care in rural areas.

Such limitations on access to care may be justified in limited circumstances where patient safety is at issue. In this context, however, the Board has been unable to produce reliable data showing that current practices in rural hospitals, which were codified in House Bill 1924, result in patient harm.

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KATY, TEXAS 77492
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2009-10-29 13:38

Sen. Hegar

(512)475-3736 >>

5123058082 P 3/3

Therefore, I respectfully request that the Board reconsider its proposed rules and that the Board include input from rural healthcare providers and their representatives in future discussions about the implementation of this legislation. Most importantly, I ask the Board to please keep in mind the legislative intent of House Bill 1924, which is improved access to healthcare in rural Texas.

Thank you in advance for your time and consideration. If I can be of any assistance with this or any other matter, please do not hesitate to contact me.

Sincerely,



Senator Glenn Hegar

Oct. 30. 2009 3:36PM

No. 0333 P. 2



TEXAS HOSPITAL ASSOCIATION

October 30, 2009

Allison Benz, R.Ph., M.S.
Director of Professional Services
Texas State Board of Pharmacy
333 Guadalupe Street
Suite 3-600
Austin, Texas 78701

via hand delivery and fax

RE: Proposed rural hospital pharmacy rules, published in the Oct. 2, 2009 *Texas Register* (34 Tex Reg 6796-6799)

Dear Ms. Benz,

On behalf of the Texas Hospital Association, I am providing these comments in opposition to the Texas State Board of Pharmacy's proposed rural hospital pharmacy rules, published in the Oct. 2, 2009, *Texas Register*. These proposals would implement the provisions of House Bill 1924, authored by Rep. Joe Heflin (D-Crosbyton) and sponsored by Sen. Kel Seliger (R-Amarillo). Some of the proposed rules, however, are in conflict with the intent of H.B. 1924. H.B. 1924 was passed in the 81st legislative session to allow many rural hospitals of 75 beds or less to continue using pharmacy technicians without on-site or electronic monitoring by a pharmacist. H.B. 1924 also places in statute the continued authority of nurses and practitioners in a rural hospital of 75 beds or less to remove drugs from the pharmacy when it is closed.

THA appreciates the efforts of the TSBP to develop rules that balance public welfare with access to health care. This balance is particularly challenging in rural Texas, where many hospitals face a shortage of hospital pharmacists. In THA's view, the proposed rules, if implemented, would create burdens for rural hospitals that were not intended by H.B. 1924.

Per-shift limitation on number of pharmacy technicians performing certain duties without direct supervision [22 TAC § 291.73(e)(2)(C)(i)(iii)]

This provision would limit the number of pharmacy technicians performing certain duties without direct pharmacist supervision to one pharmacy technician per shift. Those duties relate to: entering medication orders and drug distribution information; preparing, packaging or labeling prescription drugs if a nurse or practitioner verifies the accuracy; filling a medication cart; distributing routine orders for stock supplies to patient care areas; and accessing and restocking automated medication cabinets. The bill contains no such limitation. THA recommends that it be deleted.

Application to the pharmacy board by hospital [22 TAC § 291.74(a)(14)]

This provision would require a Class C (Institutional) pharmacy that proposes to allow a pharmacy technician to perform the tasks permitted by H.B. 1924 to apply to the pharmacy board. The bill contains no such application requirement. THA recommends that the rule be revised simply to require a rural hospital to notify the pharmacy board that it intends for its pharmacy technicians to perform those duties allowed by H.B. 1924.

Oct. 30. 2009 3:36PM

No. 0333 P. 3

Extra training for pharmacy technicians to perform those duties allowed by H.B. 1924 [22 TAC § 291.73(e)(1), (e)(2)(C)(i)(D)-(b-)]

These provisions would require extensive board-approved training in accuracy verification, scope of duties and continuous quality improvement. THA recommends that this training be easily accessible (via online or other distance learning), simple and targeted in scope.

Pharmacy technicians hired after June 2011 who will perform duties under H.B. 1924 [22 TAC § 291.73(e)(1)(C)]

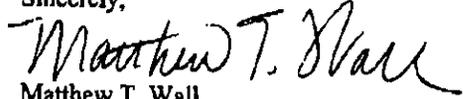
The proposed rules would require that pharmacy technicians hired after June 2011, who will be performing the duties contemplated under H.B. 1924, must have received pharmacy technician training from an American Society of Health System Pharmacists-accredited school. In THA's view, this requirement exceeds the intent of H.B. 1924 and is inappropriate. The pharmacy board does not currently require any other pharmacy technicians to receive their training in an ASHP-accredited school. Moreover, this training can be costly and is in limited availability for rural areas. To apply this requirement only to pharmacy technicians working in rural hospitals would significantly impede the number of those hospitals that can participate. THA recommends its deletion.

Mandatory pharmacy peer review committee [22 TAC § 291.74(e)(3)(D), (e)(3)(D)(i)]

These provisions, when read together, clearly imply that a rural hospital has to have a pharmacy peer review committee. The proposed rules would require that this committee be composed of the pharmacist-in-charge, the pharmacy technician, a nurse or practitioner responsible for verifying the actions of the pharmacy technician, and that it meet quarterly. The bill contains no such requirements. Quite often, pharmacy peer review is performed as part of a hospital's quality improvement program, under the protections of the hospital medical committee privilege and/or the medical peer review committee privilege. In many rural hospital pharmacies, consulting pharmacists already perform the pharmacy peer review role. Moreover, the Pharmacy Act itself provides for optional, not mandatory, pharmacy peer review (see Sec. 564.102(a), which provides that a pharmacy peer review committee "may be established"). As these were not included within H.B. 1924, THA recommends that the pharmacy peer review provisions of the proposed rules be deleted. Finally, there appears to be a drafting error in the second sentence of proposed 22 TAC § 291.74(e)(3)(D): "Subchapter B" should be corrected to read "Subchapter C" regarding pharmacy peer review.

I appreciate the opportunity to provide these comments. Please contact me at 512/465-1538 or mwall@tha.org if you have questions.

Sincerely,



Matthew T. Wall
Associate General Counsel



RECEIVED

2011 JUN 09 PM 1:47

BETTY BROWN
STATE REPRESENTATIVE
DISTRICT 4

P.O. BOX 2910
AUSTIN, TX 78768-2910
(512) 463-0458
FAX: (512) 463-2040
betty.brown@house.state.tx.us

108 S. PINKERTON, STE. 105
ATHENS, TX 75751
(903) 675-9500
FAX: (903) 677-6773
TOLL FREE: 1-877-946-7700

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
William P. Hobby Building, suite 3-600
333 Guadalupe Street
Austin, Texas 78701

Dear Ms. Benz:

The intent of House Bill 1924, which unanimously passed the 81st Texas Legislature earlier this year, was to allow rural hospitals to continue to operate and maintain their pharmacy services in the most efficient manner while ensuring patient safety just as they have done for many years. This legislation was critical to helping rural hospitals stay open and continue serving Texans who live in isolated, rural areas.

As a rural legislator, I am very concerned that the proposed new rules promulgated by the Texas State Board of Pharmacy (the Board) to implement HB 1924 are not consistent with the new law, and, in fact, go beyond what the Legislature directed the Board to do. Here are some items of concern in the proposed rules:

- The expanded duties of pharmacy technicians will only be allowed when there is only one pharmacy technician present in a rural hospital, but will not be allowed when more than one pharmacy technician is present. This restriction is not included in HB 1924.
- The rules propose to implement a quality control/peer review requirement not previously required and not in HB 1924.
- The proposed rules state that pharmacy technicians hired after June 1, 2011, who will perform the duties authorized in HB 1924, must receive their training from an American Society of Health System Pharmacists-accredited school. This is not included in HB 1924.
- Require a pharmacy peer review/quality control program which is really already being done by the consulting pharmacist – but not requiring this for urban hospitals.

I hope that the Board will seriously consider the above items when deliberating at its November 9, meeting. Access to health care in rural Texas is critical and without it, many families and businesses will be forced to move or close. This was not the intent of HB 1924. I hope the Board will not adopt these rules as they are currently proposed.

Sincerely,

A handwritten signature in cursive script that reads "Betty Brown".

Betty Brown

The State of Texas
House of Representatives

RECEIVED



2009 OCT 30 PM 1:10

CAPITOL OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
512-463-0650
FAX: 512-463-0575

Mark Homer
DISTRICT 3

TX STATE BD
OF PHARMACY

DISTRICT OFFICE:
1849 LAMAR AVE.
PARIS, TEXAS 75460
903-784-0977
FAX: 903-739-8411

October 28, 2009

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
William P. Hobby Building, Suite 3-600
333 Guadalupe Street
Austin, Texas 78701

Re: House Bill 1924 Implementation

Dear Ms. Benz:

It has recently been brought to my attention that House Bill 1924 will be discussed in your upcoming meeting, and that the State Board of Pharmacy (Board) is proposing changes that are not consistent with the new law.

As a rural legislator, I know first-hand the difficulties our small hospitals face in order to provide needed medical care and services to its patients. The fact is that with the limited resources and funds available to these hospitals, your propositions will cause unnecessary burdens. Particular items of concern include:

- Limiting the duties of our pharmacy technicians
- Training regulations for rural pharmacy technicians
- Pharmacy peer review systems for rural hospitals

In closing, I sincerely hope that the Board will reconsider their choice to implement harsher rules and restrictions on our small Texas hospitals. It is vital to our communities that they stay open, and the propositions you are making will only make this more difficult to do. If the legislative intent of this bill is not clear enough, I am sure that many rural members will join with me in introducing legislation next session to clarify the misinterpretations your Board has with HB 1924.

Should you have any questions please feel free to contact my Capitol office at (512) 463-0650. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Mark Homer".

Mark Homer, State Representative



Lavaca Medical Center

1400 North Texana Street
Hallettsville, Texas 77964-2099
(361) 798-3671

RECEIVED
OCT 30 PM 1:50
TEXAS STATE BOARD
OF PHARMACY

October 26, 2009

W. Benjamin Fry, R.Ph., FIACP, FACA, President
Gay Dodson, R.Ph, Executive Director
Texas State Board of Pharmacy
William P. Hobby Building, Suite 3-600
333 Guadalupe Street
Austin, TX 78701

Re: TSBP Proposed Rules concerning House Bill 1924

Dear President Fry and Director Dodson,

We have reviewed the referenced proposed rules as they attempt to clarify the intent of HB1924. We are aware that you have received many requests to reconsider various elements of the rules, and would like to add our voiced comments for you to consider. We ALL are focused in providing the best possible and safest possible care to the patients in Rural Texas. In attempting to satisfy the guidelines of HB1924 and to also create reasonable, workable, and affordable TSBP rules, there seems to be a loss of focus on the reality of life in "small, rural Texas hospitals". You cannot use a broad brush to paint rules that will work for all hospitals, but must use common sense and add the question: "What is Broken about Rural Hospital Pharmacy?" I am unaware of any gross problems with the performance or safety of Pharmacy Services provided during the past years. The current system works well, so we should only fine tune the system as directed by HB1924 with a concerned and common sense approach, not in an antagonistic tone.

Comments and suggestions to portions of the proposed rules are listed below.

- 1) The rule concerning a Pharmacy Tech being only able to perform expanded duties when "only 1 Tech is present" is obviously a misprint or mistake. This appears to directly counter the wording and intention of HB 1924. This restriction should be removed entirely, but the remainder of the rule is reasonable.
- 2) The rule concerning additional Tech training contains a requirement that Techs hired after June 1, 2011, is very unreasonable for Rural Hospitals. Most, if not all, of the available schools are in urban areas and would create a significant hardship for persons wanting to pursue a career as a Tech in a rural setting. The wages do not warrant nor make it realistic to pursue. It appears that the rural Techs are being targeted by the TSBP rule. It would make more common sense to make training fall under the supervision of the Pharmacist In Charge of the facility and empower the Pharmacist to create proper training to ensure compliance with the expanded duties. This portion of the rule needs to be removed entirely unless the TSBP will require ALL Techs hired after the 2011 date be subject to the same rules.

LAVACA MEDICAL CENTER
Your Hospital Today and in the Future
(1977 - 2009)

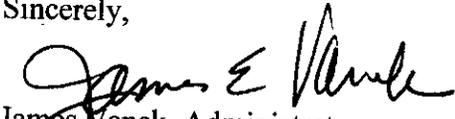
- 3) The rule concerning Quality Control / Peer Review appears again to be targeted only at Rural Hospitals. Although this appears to be a generally good idea to promote patient safety and reinforce best practices, we see no reason for it to only be applied to Rural Hospitals. If the TSBP chooses to pursue this requirement, it should be applicable to ALL Pharmacies in Texas. This rule warrants further discussion in future TSBP meetings, but should be removed from the current rule proposals.

- 4) The rule concerning Licensing and Notice appears to fall out of the scope of HB1924 also. If the above three items are amended as we recommend, there is no need for this rule. We think the Pharmacy renewal application will suffice with minor form changes to notify the TSBP with data concerning Techs who are allowed expanded duties. Again this would be a required duty of the Pharmacist in Charge of the facility.

In closing, we appreciate the focus of the Board to promote patient safety in Texas. We remain dedicated to that same goal at Lavaca Medical Center. The old adage, "If it isn't broke, don't need to fix it" would hold true in this case. Common sense revision of some historical Pharmacy practices is justifiable, but it should be done in a cooperative and reasonable manner, looking at all aspects of Rural Hospital Pharmacy.

Again, thank you for your consideration and deliberation on these issues.

Sincerely,


James Vanek, Administrator


Mike Hoelscher, RPh
Pharmacist In Charge

cc: Allison Benz, RPh (TSBP)

Oct 30 09 12:12p

Mike Click

8066371779

p.2

BROWNFIELD REGIONAL MEDICAL CENTER

Member Hospital
Texas Organization of
Rural & Community
Hospitals
American Hospital Association
Texas Hospital Association

705 EAST FELT
BROWNFIELD, TEXAS 79316

Area Code 806
TELEPHONE 637-3551
FAX 637-1779

October 29, 2009

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street
Suite 3-600
Austin, Texas 78701

Dear Ms. Benz,

I am writing from the perspective of a rural healthcare facility and as a resident of rural West Texas regarding the proposed rules further restricting our rural facilities. Being involved in a rural facility as a charge nurse, nursing director and hospital administrator over the past 37 years, I've grown to appreciate the conscientious and resourceful approach to managing patient care and safety. I am concerned about more restrictive and unnecessary regulations that make operations in a rural facility cost prohibitive.

In addressing rural facility capabilities and function in the overall healthcare delivery system, it is a proven fact that our facilities are greatly needed, both in high and low population areas. Rural facilities continue to play a major contributing role in care and stabilization of trauma, cardiovascular emergencies, stroke care as well as other life threatening emergencies where victims would be hours away from tertiary care.

The rural hospitals continue to provide general medical and surgical care to their service areas. Without this support, the large urban, tertiary facilities would remain on diversion for the lack of staffed beds. I have witnessed the rural facilities adopting and implementing systems voluntarily to improve their medication administration procedures, focusing on patient safety and hospital staff accuracy.

In addressing specific proposed rules, first of all I do not understand the reasoning behind the one pharmacy tech present verses the two pharmacy techs present in the absence of the pharmacist. How could one technician making independent decisions be safer and more accurate than having two technicians consulting and coordinating their activities and decision processes? I agree that a pharmacist review and scrutinize very closely any activities performed in his/her absence and review closely the skills, knowledge and accuracy of the pharmacy technicians.

I further believe that adequate training be required along with documented continuing education and skills performance. To place stricter rules and requirements for a rural facility over a large urban hospital is totally discriminatory. Have the large urban facilities proven to have fewer errors, less infection rates, or proven improved overall patient care? The pharmacy

Oct 30 09 12:12p

Mike Click

8066371779

p.3

technician programs have proven to produce conscientious and cautious technicians who focus on accuracy and "doing things right".

Again, tight peer review and quality control programs are vital for ensuring accuracy and preventing errors. To set higher standards and restrictions for rural hospitals versus urban hospitals is discriminatory and in turn sets the rural facilities up for failure. We embrace any standard that will improve patient care and outcome, whether those standards are regulation or proven procedure.

My request is that more consideration be given to this matter and if possible, allow input from the rural facilities to assist in making improvements if and where needed. Thank you for your consideration and assistance in this matter.

Sincerely,



Mike Click, RN, CEO

Cc: Don McBeth, TORCH Advocacy Dept.



Stamford Memorial Hospital

Rick DeFoore, CEO

October 30, 2009

Allison Benz, R.Ph. M.S.
Texas State Board of Pharmacy
333 Guadalupe Street - Suite 3-600
Austin, Texas 78701

via Fax (512) 305-8082

Dear Ms Benz,

I'm writing today to voice my concern that the State Board of Pharmacy is proposing rules which are discriminatory to rural hospitals and will create added expenses for this rural hospital. The single most costly person on my payroll is our consulting pharmacist. She comes here for 5-6 hours weekly to review the activities our techs perform and monitor process, controls and documentation. This 25 bed hospital averages only 3 inpatients per day. We are extremely financially fragile, and yet serve 12000 clinic patients, 2500 outpatients and 250 inpatients per year.

The proposed rules are very concerning and would be very costly to us. The proposed rule which will require techs hired after June 2011 have formal school training, will be very costly because it will require us to have additional staff (to cover when one is training) and will cause undue financial stress. Additionally, the cost of a formally trained tech will be considerably higher than the LVN/tech we currently utilize. Additionally the rule which would require a pharmacy peer review/quality control program is unnecessary and duplicative. This work is really already being done by the consulting pharmacist. Additionally, I understand that this is not required for urban hospitals.

Our hospital has operated with pharmacy Techs trained on the job and under the supervision of a consulting pharmacist for years without incident. HB 1924 simply created law for what we have been doing for years. These additional rules your board is proposing are unnecessary, duplicative, cumbersome and costly. Please reconsider your proposed rules.

Thank You for your consideration,

Rick DeFoore

1601 Columbia
Stamford, Texas 79553

rdefoore@stamfordmemorialhospital.com

Office: 325.773.4709
Fax: 325.773.3781

10/29/2009 THU 16:24 FAX

002/002

October 28, 2009



Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street
Suite 3-600
Austin, Texas 78701
Fax (512) 305-8082

Re: H.B. 1924 and Rule Changes Affecting Rural Hospitals
Open Records Act Request

Dear Ms. Benz:

I wish to voice opposition to the proposed rule changes regarding pharmacy techs performing duties without pharmacist supervision. I completely concur the arguments presented by the Texas Organization of Rural and Community Hospitals (TORCH) and so will not waste your time in repetition.

I would appreciate having the Board of Pharmacy make the evidence known to me and the public that current rural hospital practices that will be affected by the rule changes are significant to the medication error rate at their facilities, because in eighteen years of rural hospital administration, I have never seen medication errors attributed to the lack of direct pharmacist supervision. If you need it more formally put, please consider this a request under the Open Records Act for all Board documents pertaining to the promulgation of said rules. Electronic formats will be appreciated.

Sincerely,

James E. Buckner
Administrator

1025 Garner Field Road
Uvalde, TX 78801



Ph: (830) 278-6251
Fax: (830) 278-3756

OCT. 29. 2009 4:14PM LHC8063853998

NO. 9093 P. 2

LAMB HEALTHCARE CENTER
1500 S. SUNSET
LITTLEFIELD, TEXAS 79339
(806) 385-6411
FAX (806) 385-3998

October 29, 2009

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Dear Ms. Benz:

I am a consultant pharmacist at Lamb Healthcare Center, in Littlefield, Texas. We are classified as a rural hospital. I am writing in response to the State Board of Pharmacy proposed rules, associated with HB 1924 regarding the duties of pharmacy technicians without the direct supervision of a pharmacist.

Let me first describe our work place and how we operate our pharmacy. We have three pharmacy technicians who are also LVN's. Two days a week all three work, three days two work and one works the weekend alone. We are responsible for every drug in the hospital, which includes the pharmacy itself, OB, ER, and one nursing station. Every morning we must restock all floor stock and fill the orders from overnight. We have a double or triple check on all orders filled.

We have a computer program into which all orders are entered. On a busy day that could be as much as 190 new orders. One technician is assigned this task daily. This includes all orders PO, IV, IM, etc. Before we print the fill list, this is double checked by a second technician to eliminate errors. From this we print a "fill list" to use to fill the cart which is exchanged every 24 hours.

One technician fills the list using the fill list - then when completed, another technician goes back over each patient's drawer and double checks the fillings. We are extremely fortunate in that I work directly across the street from the hospital in a retail independent pharmacy and go in daily - including weekends. I have two other pharmacists which help me and one of us pharmacists rechecks all orders entered into the computer. We have been doing this for quite some time, and in the last 3 quarters of 2009, we had one drug error attributed to the pharmacy.

On the other hand, nursing has had a record number of medication errors this year. We have had a high turnover of nurses, and went most of the year without a permanent director of nursing, which contributed to the number of errors.

OCT. 29. 2009 4:14PM

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NO. 9093 P. 3

How in the world do you think any of this could take place with only one technician? That one technician would be kept busy enough just taking care of the floor stock, charges, checking for out of date drugs, ordering, and answering questions. She could not take care of the filling of orders. So, who does that? Do you have one or more of the nurses coming and going out of the pharmacy all day and have no double check of anything?? I have stressed to my technicians that we have to be careful - extremely careful - in filling orders. It seems that whatever we send to the nurses, they give - so if we send the wrong drug or wrong strength - it will be given.

We keep a record of how many unit doses are sent to the patients each day. That ranges from 190 on a slow day to 400 on a busy day. How in the world can one pharmacy technician supervise this?? We get by on the weekends because these are always the slowest days - and all that technician does is patient care and floor stock. None of the pharmacy maintenance jobs are done during that time, because one person can't do it all.

I invite any or all of you to come to our hospital and see our pharmacy and how it works. We are proud of the fact that we have such few errors. We strive to protect the patients and provide excellent care. We work as a team with the nurses and doctors - and it works well. If this ruling passes, we will have total chaos and every opportunity for multiple medication errors and serious implications for the patients.

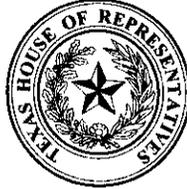
I beg you to rethink this ruling. We may be "Rural" but we operate a very efficient pharmacy here. I thought our whole purpose and goal was to protect and serve the patient and be instrumental in getting the patient well and capable of going home or being discharged as soon as possible - to decrease length of stay. What this is setting up is prolonged stays due to lack of proper care due to errors in treatment. I don't think Medicare or private insurance looks favorably at this type situation.

Thank you for your time, and again, I would ask you to allow us to supervise more than one technician at a time. This isn't the case in any other pharmacy setting, and would discriminate against us because we are rural. If there were no rural hospitals, we would have a great over-load on the regional hospitals in Lubbock. They fill up and can't take new patients at various times - and how much more often would that be if not for us rural hospitals taking some of the less critical patients? This affects medical care and availability for the whole area. Please act wisely.

Sincerely,



Kay Campbell, R.Ph



Texas House of Representatives

October 30, 2009

Allison Benz, R.Ph., M.S
Texas State Board of Pharmacy
William P. Hobby Building, suite 3-600
333 Guadalupe Street
Austin, Texas 78701

Re: Rules proposed to implement HB 1924 (Heflin/Seliger)

Dear Ms. Benz:

The proposed rules before the State Board of Pharmacy that are in response to House Bill 1924 are concerning to us. As elected officials, many of whom represent the rural areas these rules will most heavily impact, we are very familiar with the damage that might be done if these are passed as currently written. The purpose of HB 1924, passed unanimously earlier this year, was to allow rural hospitals to continue to operate and maintain their pharmacy services in the most efficient manner while ensuring patient safety just as they have done for many years. This legislation was critical to helping rural hospitals stay open and continue serving Texans who live in isolated, rural areas.

Unfortunately, the rules that have been proposed for your consideration are not consistent with either the language or intent of HB 1924, and go far beyond what we in the Legislature directed the Texas Board of Pharmacy to do. The components that cause us the most concern are as follows:

- The expanded duties of pharmacy technicians will only be allowed when there is only one pharmacy technician present in a rural hospital, but will not be allowed when more than one pharmacy technician is present. This restriction is not included in HB 1924.
- The rules propose to implement a quality control/peer review requirement not previously required and not in HB 1924.
- The proposed rules state that pharmacy technicians hired after June 1, 2011, who will perform the duties authorized in HB 1924, must receive their training from an American Society of Health System Pharmacists-accredited school. This is not included in HB 1924.
- Require a pharmacy peer review/quality control program which is really already being done by the consulting pharmacist - but not requiring this for urban hospitals.

These rules are discriminatory to rural hospitals and will create added expenses for rural hospital which are already financially fragile. Of greater concern though is that in their unreasonableness, these rules will effectively deny care to the people we represent. The goal of this legislation and other successful bills like it is to make greatest use of the medical resources we have available. These rules effectively nullify our efforts in the legislature to provide safe, local health care for our constituent's.

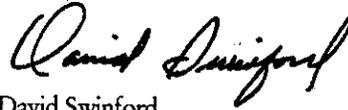
October 30, 2009

It is our sincerest hope that the Board will seriously consider the above items when considering these rules. Access to health care in rural Texas is critical and without it, many families and businesses will be forced to move or close. This was not the intent of HB 1924. We encourage the Board to re-draft the rules to be more consistent with HB 1924, and help us take care of rural Texas.

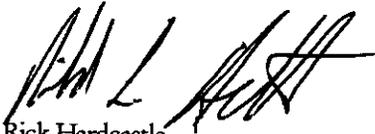
Sincerely,



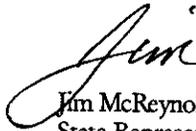
Warren Chisum
Chairman, Rural Caucus
State Representative, District 88



David Swinford
State Representative, District 87



Rick Hardcastle
State Representative, District 68



Jim McReynolds
State Representative, District 12



Jim Jackson
State Representative, District 115

Electra Memorial Hospital
Electra Hospital District



October 28, 2009

1207 S. Bailey • (940) 495-3981 • FAX (940) 495-4137
P.O. Box 1112 • Electra, Texas 76360-1112

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

As a pharmacist working as a consultant in a small, rural hospital, I would like to express my concerns and opposition to the proposed rules for rural hospital pharmacies associated with the passage of HB 1924:

- The provisions about expanded duties not being performed if more than one pharmacy technician is on duty are not logical and contrary to HB 1924. HB 1924 expressly allows hospitals to allow technicians to perform expanded duties regardless of how many technicians are on duty.
- The requirement that pharmacy technicians hired after June 2011, who will be performing expanded duties in rural hospitals, must have received training from an ASHP accredited school extends well beyond the intent of HB 1924 and is discriminatory as other pharmacy technicians do not have this requirement. Additionally, this training is limited in rural areas and will be costly.
- Peer review is already being performed by the pharmacist-in-charge as a part of our review and supervision of pharmacy technicians. The quality control/peer review requirement is not required in other hospitals and should not be mandated only to rural hospitals with technicians performing expanded duties.

HB 1924 was passed by the Texas Legislature to allow small, rural hospitals to continue using pharmacy technicians without the direct supervision of a pharmacist, an operating practice allowed in rural hospital pharmacies for years without problems. Adoption of these rules only adds unnecessary regulations and costs for rural hospitals and I respectfully request that the Pharmacy Board not adopt these proposed rules.

Sincerely,

Chris Jolly, R.Ph.

TEXAS HOUSE of REPRESENTATIVES



CAPITOL OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0331 PHONE
(512) 499-3978 FAX

DISTRICT OFFICE:
36 WEST BEAUREGARD
SUITE 517
SAN ANGELO, TX 76903
(325) 658-7313 PHONE
(325) 659-3762 FAX

Drew Darby

DISTRICT 72

COKE • MITCHELL • SCURRY • TOM GREEN

October 30, 2009

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
William P. Hobby Building, Suite 3-600
333 Guadalupe Street
Austin, TX 78701

RE: Rules proposed to implement HB 1924 (Heflin/Seliger)

Dear Ms. Benz,

The intent of House Bill 1924, which unanimously passed the 81st Texas Legislature earlier this year, was to allow rural hospitals to continue to operate and maintain their pharmacy services in the most efficient manner while ensuring patient safety just as they have done for many years. This legislation was critical to helping rural hospitals stay open and continue serving Texans who live in isolated, rural areas.

As a rural legislator, I am very concerned that the proposed new rules promulgated by the Texas State Board of Pharmacy (the Board) to implement HB 1924 are not consistent with the new law, and, in fact, go beyond what the Legislature directed the Board to do. Here are some items of concern in the proposed rules:

- The expanded duties of pharmacy technicians will only be allowed when there is only one pharmacy technician present in a rural hospital, but will not be allowed when more than one pharmacy technician is present. This restriction is not included in HB 1924
- The rules propose to implement a quality control/peer review requirement not previously required and not in HB 1924.
- The proposed rules state that pharmacy technicians hired after June 1, 2011, who will perform the duties authorized in HB 1924, must receive their training from an American Society of Health System Pharmacists- accredited school. This is not included in HB 1924.
- Require a pharmacy peer review/quality control program which is really already being done by the consulting pharmacist - but not requiring this for urban hospitals.

I hope that the Board will seriously consider the above items when deliberating at its November 9, meeting. Access to health care in rural Texas is critical and without it, many families and businesses, will be forced to move or close. This was not the intent of HB 1924. I hope the Board will not adopt these rules as they are currently proposed.

Sincerely,

A handwritten signature in black ink, appearing to read "Drew Darby". The signature is written in a cursive style with a large, sweeping initial "D" and a stylized "y" ending.

Drew Darby

Katie Garrett
P. O. Box 242
Smiley, Texas 78159

October 23, 2009

Allison Benz, R.Ph., M.S.
Director of Professional Services
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Dear Ms. Benz:

I serve on the Governing Board of Gonzales Healthcare Systems. We are a tax-based hospital district providing services to a small rural community in south central Texas. I am concerned that the rules that are being proposed for rural hospital pharmacies would pose a significant problem for our facility.

The proposed rule that would allow rural hospital pharmacy technicians to perform expanded duties when one technician is present, would be very restrictive and I don't believe this is the intent of HB 1924.

The proposed rules also require that rural hospitals (with technicians performing expanded duties) have a pharmacy quality control/peer review program in place. This is not required of the larger urban hospitals and would place an undue burden on rural hospitals.

Finally, the proposed rules will require that technicians hired after June 2011 to perform expanded duties have training from an accredited school. This is not required by the urban hospital and would make it even more difficult for rural hospitals to find technicians with this type of training.

I ask that you consider my comments as the Board moves toward finalizing these rules.

Sincerely,



Katie Garrett



CHILDRESS REGIONAL MEDICAL CENTER

PO Box 1030 Childress, Tx 79201 Phone: 940-937-9178 Fax: 940-937-9128

October 28, 2009

Allison Benz, R.PH., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Rural Hospital Pharmacy Rules

Dear Ms. Benz:

This letter requests that the board reconsider proposed rule changes that will make rural hospital pharmacies more difficult to staff and operate.

CRMC is fortunate to be able to staff a fulltime pharmacist to manage pharmacy operations for patients. Not all rurals are that fortunate. Hiring enough pharmacists to cover operations 24/7 is cost-prohibitive, even if we could find pharmacists to hire.

In rural hospitals, it is a necessity to supplement pharmacist staffing with pharmacy technicians. We currently staff 3 fulltime certified pharmacy technicians. All have demonstrated competency by passing certification requirements and operating under the scrutiny of the pharmacist. Prohibiting technicians to perform duties without pharmacist supervision when more than one is present is counterproductive.

Allowing urban hospital pharmacy technicians to work with only on-the-job training while requiring rural hospital pharmacy technicians to have formal training can only be described as discriminatory. It is also discriminatory to require rural hospitals to conduct pharmacy peer review but not require it for urban hospitals.

Complying with the proposed rules would be extremely problematic for almost every rural hospital in the state. It could be cost-prohibitive and eventually be one more factor that would contribute to closure of more rural hospitals.

If I could offer any additional insight into the difficulties facing rural hospital pharmacists and pharmacy operations, please contact me at the address or phone number or I can be reached by e-mail at jmh@childresshospital.com

Sincerely,

John Henderson, CEO



HEMPHILL COUNTY HOSPITAL

1020 S. 4th • Canadian, Texas 79014 • (806)323-6422

10-29-09

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz,

Patient safety is paramount in rural hospitals and we are no different. As a 26-bed hospital in a rural area, we do not have the problems present in metropolitan hospitals yet we are being treated the same as the metros simply because we are healthcare providers. There is something wrong with that mentality and I have thought so throughout my 21 years in rural healthcare administration. From what I read, the proposed rural pharmacy hospital rules are further evidence of that.

Patient safety is not what is at issue. Rural healthcare survival is, on the other hand. Unnecessary, onerous regulations continue to raise the cost of healthcare in the rural areas where our patient base is so much smaller, the payer mix much more limited and the profit margin non-existent. Expecting rural hospitals to have Pharmacists on staff is not realistic. It won't happen. Limiting what pharmacy techs and nurses can do, especially when it has not been a problem in the past is far too punitive. Someday I would like to see our State and Federal bureaucracies looking at ways in which they can assist rural hospitals to survive rather than trying to kill us off. That would be a unique concept.

Very sincerely,

Robert W. Ezzell
Robert W. Ezzell, Administrator

Only A Heartbeat Away

Miller Farms
4003 CR 284
Harwood, Texas 78632

October 23, 2009

Allison Benz, R.Ph., M.S.
Director of Professional Services
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Dear Ms. Benz:

I serve as a Director of the Governing Board of Gonzales Healthcare Systems. We are a tax-based hospital district providing services to a small rural community in south central Texas. I am concerned that the rules that are being proposed for rural hospital pharmacies would pose a significant problem for our facility.

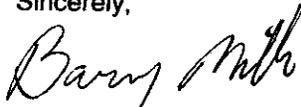
One of the proposed rules, allowing rural hospital pharmacy technicians to perform expanded duties when one technician is present, would be very restrictive and I don't believe this is the intent of HB 1924.

The proposed rules also require that rural hospitals (with technicians performing expanded duties) have a pharmacy quality control/peer review program in place. This is not required of the larger urban hospitals and will place an undue burden on rural hospitals.

Finally, the proposed rules will require that technicians hired after June 2011 to perform expanded duties have training from an accredited school. Again, this is not required by the urban hospital and will make it even more difficult for rural hospitals to find technicians with this type of training.

I urge you to consider my comments as the Board moves toward finalizing these rules.

Sincerely,


Barry Miller



October 19, 2009

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

I am writing to express my concern and opposition to proposed rules for the pharmacy in our local hospital. As a community leader, I know that many small rural hospitals such as ours struggle to keep the doors open. But, it is critical that we have our hospital.

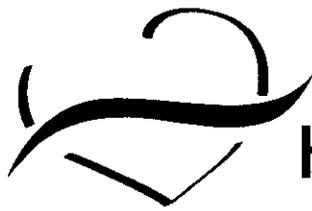
Part of the struggle is dealing with more and more regulations. From my understanding of the proposed pharmacy rules for our hospital, many would be stricter than for urban hospitals. Yet, our small hospitals have less resources and money to comply with such regulations. I also understand that the rural hospitals do not have problems such as you are apparently attempting to address with the proposed new rules.

I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,

A handwritten signature in black ink, appearing to read "Erle Powell", written over a horizontal line.

Erle Powell, Chairman
Board of Directors
Coryell Memorial Healthcare System



Knox County Hospital District

Your Hometown Healthcare Team

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

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Sincerely,

Knox County Hospital District
Board of Directors

701 South 5th Street
P.O. Box 608
Knox City, Texas 79529
940.657.3535
940.657.5521 (fax)
knoxhospital@srcaccess.net



1700 Cogdell Blvd., Snyder, Texas 79549
325 573-6374

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

Dear Ms. Benz:

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I appreciate the efforts of the Texas State Board of Pharmacy to ensure patient safety, but unnecessary rules which lead to more cost for our rural hospitals is not in the best interest of the public.

Sincerely,

A handwritten signature in black ink that reads 'W. Evan Moore, FACHE'.

W. Evan Moore, FACHE, CEO
D. M. Cogdell Memorial Hospital



Knox County Hospital District

Your Hometown Healthcare Team

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed rural hospital pharmacy rules

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I am writing to express my concern and opposition to proposed rules for the pharmacy in our local hospital. As a community leader, I know that many small rural hospitals such as ours struggle to keep the doors open. But, it is critical that we have our hospital.

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Sincerely,

Knox County Hospital District
Board of Directors

701 South 5th Street
P.O. Box 608
Knox City, Texas 79529
940.657.3535
940.657.5521 (fax)
knoxhospital@srcaccess.net



October 15, 2009

Allison Benz, R. Ph.
Director of Professional Services
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Re: Proposed TSBP Rules related to Pharmacy Technicians

Dear Ms. Benz:

Rice Medical Center is a Critical Access Hospital located in Eagle Lake, Texas. The hospital employs one pharmacy technician, who is supervised by a registered pharmacist through a management contract with an outside company. Like many rural hospitals, we would be unable to find (even if we could afford) a full-time registered pharmacist, which is why we contract with an outside company for supervisory oversight of our pharmacy technician.

We have reviewed the Texas State Board of Pharmacy's proposed rules related to pharmacy technicians and wish to record the following strong objections:

1. The rules require that expanded duties performed by a pharmacy technician can be performed only when one tech is present—meaning when two techs are present neither can perform the expanded duties.

Where is the logic in that requirement? HB 1924 expressly allows hospital pharmacy technicians to perform the expanded duties regardless of how many techs are present. This rule contradicts the legislative intent of HB 1924.

2. After June 2011, new pharmacy technicians hired by rural hospitals and performing expanded duties must have received their technical training from an accredited school or program. On Job Training (OJT) will no longer be permitted for the pharmacy technicians.

This proposed ruling is discriminatory toward rural hospital pharmacy technicians in that no other pharmacy technicians are required to be trained in an accredited program. Furthermore, this additional training is costly and limited to approximately 22 certified programs, most of which are located in urban areas.

A reasonable alternative might be to require ALL pharmacy technicians performing the expanded duties (regardless of their location) to have a year of experience and then to be required to pass the PTCB national certification exam. That would make it fair for everyone.

3. The rules require a quality control/peer review process to be in place for rural hospital pharmacies where technicians perform expanded duties—even though other hospitals are not required to do this.

Although our hospital can most likely comply with this regulation (through our contracted pharmacy service), this again is discriminatory toward rural hospitals and their pharmacy technicians. Peer review is already being performed by the pharmacist in charge as a part of their normal review and supervision of pharmacy technicians. This is an unnecessary burden and an additional expense that rural hospitals should not have to incur.

On the issue of quality and patient safety, Rice Medical Center shares in TSBP's concerns that our patients medication administration needs are of paramount importance. We have attached the hospital's six (6) year history of medication error rates. As you can see, our medication error rates are very low. In most quarters, they are only a fraction of 1%. Obviously, our current system must work effectively, or we would not be able to achieve such exceptional medication administration outcomes.

In summary, Rice Medical Center believes that TSBP's proposed new rules, and in particular the three specific ones cited, are contrary to the legislative intent of HB 1924, which was to protect rural hospitals from overly rigid rules by allowing the use of pharmacy techs in an expanded role and ensuring that nurses could continue to remove drugs from the pharmacy when it was closed. One of the three rules referenced (number 1) is illogical, and the other two are discriminatory toward rural hospital pharmacies and pharmacy technicians with expanded duties. In addition, all three rules are unnecessary and stringent requirements which add to the cost and staffing expense of rural hospitals without enhancing quality of care, while not requiring the same or similar treatment of pharmacy technicians in urban settings. We can see no justification for such restrictive requirements, particularly in view of our excellent track record of medication administration to our patients, and we strongly recommend that the Texas State Board of Pharmacy consider our feedback along with that of other rural hospitals in developing reasonable alternative regulations.

Sincerely Yours,



Richard Hoeth, FACHE
Chief Executive Officer

cc. Attachment



**RICE MEDICAL CENTER
Eagle Lake, Texas
Six Year History of Medication Error Rates for RMC**

2004

**First Quarter-0.037%
Second Quarter-0.14%
Third Quarter-0.14%
Fourth Quarter-0.069%**

2005

**First Quarter-0.10%
Second Quarter-0.22%
Third Quarter-0.12%
Fourth Quarter-0.06%**

2006

**First Quarter-0.06%
Second Quarter-0.12%
Third Quarter-0.17%
Fourth Quarter-0.06%**

2007

**First Quarter-0.12%
Second Quarter-0.22%
Third Quarter-0.082%
Fourth Quarter-0.14%**

2008

**First Quarter-0.08%
Second Quarter-0.09%
Third Quarter-0.16%
Fourth Quarter-0.13%**

2009 (YTD)

**First Quarter-0.08%
Second Quarter-0.01%
Third Quarter-0.10%**

Stella Neboh, R.Ph.
Winkler County Memorial Hospital
821 Jeffee Drive
Kermit, TX 79745

October 30, 2009

Allison Benz, R.Ph., M.S.
Director of Professional Services
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3-600
Austin, Texas 78701

Dear Ms. Benz,

I am writing you this letter to express my concern over the new pharmacy rules included in CSH1924. I am currently the pharmacist in charge for the above mentioned hospital. Our hospital is the central hospital for a very small rural town and surrounded small rural communities. Winkler County Memorial Hospital is based in Kermit, TX with a population of around 5,000 people. We are struggling to keep the hospital open and these new pharmacy rules will be very detrimental to our success. The three rules that will definitely hurt our hospital are as follows:

- ❖ The proposed rules only allow rural hospital technicians to perform expanded duties when one tech is present. This is too restrictive and not the intent of HB 1924.
- ❖ The proposed rules require rural hospital (with techs performing expanded duties) have a pharmacy quality control/peer review program in place. This not required of larger urban hospitals and is a burden on rural hospitals.
- ❖ The proposed rules require that techs hired after June 2011 by rural hospitals to perform expanded duties have training from an accredited school. This is not being required by urban hospitals and it will be difficult for rural hospitals to find techs with this training.

Kermit is a small town and having these rules will continue to have problems hiring Registered Pharmacy Technicians. This new rule by the Board of Pharmacy will completely shut the hospital down. Our patient daily census averages about zero to two patients a day and the hospital cannot afford to pay a full time pharmacist to conduct the day to day operations as required by the pharmacy laws.

I am writing to join my other colleagues in opposing this piece of legislation and hope you can help. Please feel free to contact me at anytime for questions. My cell phone number is 432-599-0364 and my email is stellaneboh@gmail.com.

Sincerely



Stella Neboh, R.Ph.

Texas House of Representatives



CAPITOL OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0628
FAX: (512) 463-3644

DISTRICT OFFICE:
6407 SOUTH US HWY 377
STEPHENVILLE, TEXAS 76401
(254) 968-3535
FAX: (254) 968-6903

STATE REPRESENTATIVE

Sid Miller
DISTRICT 59

Allison Benz, R.Ph., M.S.
Texas State Board of Pharmacy
William P. Hobby Building, suite 3-600
333 Guadalupe Street
Austin, Texas 78701

Re: Rules proposed to implement HB 1924 (Heflin/Seliger)

Dear Ms. Benz:

The intent of House Bill 1924, which unanimously passed the 81st Texas Legislature earlier this year, was to allow rural hospitals to continue to operate and maintain their pharmacy services in the most efficient manner while ensuring patient safety just as they have done for many years. This legislation was critical to helping rural hospitals stay open and continue serving Texans who live in isolated, rural areas.

As a rural legislator, I am very concerned that the proposed new rules promulgated by the Texas State Board of Pharmacy (the Board) to implement HB 1924 are not consistent with the new law, and, in fact, go beyond what the Legislature directed the Board to do. Here are some items of concern in the proposed rules:

- The expanded duties of pharmacy technicians will only be allowed when there is only one pharmacy technician present in a rural hospital, but will not be allowed when more than one pharmacy technician is present. This restriction is not included in HB 1924.
- The rules propose to implement a quality control/peer review requirement not previously required and not in HB 1924.
- The proposed rules state that pharmacy technicians hired after June 1, 2011, who will perform the duties authorized in HB 1924, must receive their training from an American Society of Health System Pharmacists-accredited school. This is not included in HB 1924.
- Require a pharmacy peer review/quality control program which is really already being done by the consulting pharmacist – but not requiring this for urban hospitals.

I hope that the Board will seriously consider the above items when deliberating at its November 9, meeting. Access to health care in rural Texas is critical and without it, many families and businesses will be forced to move or close. This was not the intent of HB 1924. I hope the Board will not adopt these rules as they are currently proposed.

Sincerely,

A handwritten signature in black ink, appearing to read "Sid Miller", written over a horizontal line.

CHAIRMAN, COMMITTEE ON AGRICULTURE & LIVESTOCK
MEMBER, COMMITTEE ON CIVIL PRACTICES