



NATIONAL ASSOCIATION OF
CHAIN DRUG STORES

November 4, 2010

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 Rules 22 TAC §291.32

Dear Ms. Benz:

On behalf of the approximately 2,720 chain pharmacies operating in the state of Texas, the National Association of Chain Drug Stores (“NACDS”) thanks the Texas State Board of Pharmacy (“TSBP”) for the opportunity to submit comments on proposed revisions to 22 TAC §291.32 pertaining to requirements for pharmacists conducting electronic verification of prescriptions from a site other than the pharmacy. We appreciate the TSBP’s continued consideration of our input on this matter.

413 North Lee Street
P.O. Box 1417-D49
Alexandria, Virginia
22313-1480

Under 22 TAC §291.32 (c)(1)(D)(iii)(II), TSBP has proposed language identifying the various scenarios under which a pharmacist may electronically verify the data entry of prescription information entered into a data processing system by a pharmacy technician. Among the permitted scenarios, the proposed rule would allow a “pharmacist employed by a Class E pharmacy and [that] has entered into a written contract or agreement which outlines the services to be provided and the responsibilities and accountabilities of the pharmacist” to conduct electronic verification. While we commend TSBP for working to implement rules to explicitly permit this practice, we are concerned that the language in (c)(1)(D)(iii)(II)(-b-) would require that every pharmacist in a Class E pharmacy sign a written contract or agreement in order to perform electronic data entry verification.

The proposed rule revision is more restrictive than what is currently required of pharmacists conducting electronic verification of data entry in Class E pharmacies under the rule pertaining to central fill and processing (22 TAC §291.123). Under 22 TAC §291.123, a pharmacist, regardless of whether the pharmacist is licensed in Texas or in another state, working at an off-site location may engage in activities pertaining to data entry in a central processing scenario, which we interpret to be inclusive of electronic verification of data entry of pharmacy technicians. Notably, the existing rule does not require pharmacists engaging in this practice in Class E pharmacies to have individual contracts or agreements with the pharmacies that they are serving in this capacity. Under the central fill and processing rules, the agreement is between pharmacies; there is no corresponding requirement that individual pharmacists enter into agreements as well. Thus, layering on an additional requirement for each pharmacist in a Class E pharmacy engaging in electronic verification of data entry to sign a written contract or agreement

(703) 549-3001

Fax (703) 836-4869

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would be inconsistent with this rule. Accordingly, we ask TSBP to further amend the language in 22 TAC §291.32 (c)(1)(D)(iii)(II)(-b) as follows to address this inconsistency:

(c)(1)(D)(iii)(II) the pharmacist electronically conducting the verification is either a:

...

~~(-b-) pharmacist employed by a Class E pharmacy and has entered into a written contract or agreement which outlines the services to be provided and the responsibilities and accountabilities of the pharmacist that is performing Centralized Prescription Drug or Medication Order Processing in compliance with the provisions of §291.123 of this title;~~

NACDS thanks TSBP for considering our comments on this issue. Please do not hesitate to contact me with any questions or for further assistance. I can be reached at: 817-442-1155 or mstaples@nacds.org.

Sincerely,



Mary Staples
Regional Director, State Government Affairs