



April 26, 2013

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 Changes under 22 TAC §291.34

Dear Ms. Benz:

On behalf of the approximately 2,798 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 rules under 22 TAC §291.34 pertaining to community pharmacy records. While we are generally supportive of the proposed rule changes, there are two issues under the rules that we ask TSBP to further address:

Auto-Refill Programs

Under 22 TAC §291.34 (a)(8)(F), TSBP has proposed new language outlining the parameters for auto-refill programs implemented and employed by community pharmacies, including limitations on which medications can be dispensed in this manner. TSBP has proposed to establish that no controlled substance prescription be dispensed by an auto-refill program. Chain pharmacy strongly supports appropriate monitoring and dispensing of controlled substances, especially given the ongoing problems with prescription drug abuse in our country. However, we are concerned that while well-intended, the proposed prohibition against dispensing any controlled substance prescription by an auto-refill program would not be warranted in all instances. For example, there are certain controlled substance prescriptions commonly taken as maintenance medications by epileptics and individuals with neuropathic pain that have a relatively low potential for abuse. In these cases, it would not be inappropriate to dispense these prescriptions through an auto-refill program. For this reason, we ask the Board to consider revising 22 TAC §291.34 (a)(8)(F) to allow pharmacists to exercise professional judgment with respect to whether a certain controlled substance prescription would be appropriately dispensed by an auto-refill program.

(8) [(7)] Refills.

(F) Auto-Refill Programs. A pharmacy may use a program that automatically refills prescriptions that have existing refills available in order to improve patient compliance with and adherence to

prescribed medication therapy. The following is applicable in order to enroll patients into an auto-refill program.

...

(iii) Prescription refills for controlled substances may **not** be dispensed by an auto-refill program ***if a pharmacist determines in his or her professional judgment, dispensing a controlled substance prescription by an auto-refill program would be appropriate in that circumstance.***

Prescription Transfers

Under 22 TAC §291.34 (g), TSBP has proposed to renumber and revise requirements for prescription transfers. Notably, the proposed rule would omit provisions in current rules that now allow pharmacy interns to participate in prescription transfers. As an alternative, we ask TSBP to instead consider the approach taken by numerous other states, allowing interns under the supervision of a pharmacist to participate in the prescription transfer process. To accomplish this, we suggest the following changes to 22 TAC §291.34 (g):

(g) Transfer of prescription drug order information. For the purpose of initial or refill dispensing, the transfer of original prescription drug order information is permissible between pharmacies, subject to the following requirements.

...

(3) The transfer is communicated ***directly between pharmacists*** orally by telephone or via facsimile or as authorized in paragraph (8)(E) of this subsection ***by one pharmacist to another pharmacist or a pharmacist intern, or by a pharmacist intern under the supervision of a pharmacist to another pharmacist.*** A transfer completed as authorized in paragraph (8)(E) of this subsection may be initiated by a pharmacy technician or pharmacy technician trainee acting under the direct supervision of a pharmacist.

...

(5) The pharmacist ***or pharmacist intern*** transferring the prescription drug order information shall ensure the following occurs:

...

(B) the following information is recorded on the reverse of the invalidated prescription drug order or stored with the invalidated prescription drug order in the data processing system:

...

(ii) the name of the pharmacist ***or pharmacist intern*** receiving the prescription drug order information;

(iii) the name of the pharmacist ***or pharmacist intern*** transferring the prescription drug order information; and ...

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NACDS appreciates TSBP considering our input on this rulemaking. 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,

A handwritten signature in black ink that reads "Mary Staples". The signature is written in a cursive, flowing style.

Mary Staples
Regional Director, State Government Affairs