



October 26, 2015

Allison Benz, R.Ph., M.S.
Director of Professional Services
Texas State Board of Pharmacy
333 Guadalupe Street, Suite 3600
Austin, TX 78701

Re: 22 TAC §291.32 – Personnel; 22 TAC §291.34 – Records

Dear Ms. Benz:

On behalf of our members operating approximately 2,866 chain pharmacies 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 comment on the proposed rule changes under 22 TAC §291.32 and 22 TAC 291.34 that pertain to personnel and recordkeeping requirements for prescription transfers. We appreciate TSBP considering our input on these proposed rule changes.

Under 22 TAC 291.34 (c)(2)(k), the Board has proposed to establish that the duty of transferring or receiving a transfer of original prescription information on behalf of a patient may only be performed by a pharmacist. We are concerned that this proposed rule change would hinder pharmacists’ ability to maximize use of technicians in their individual practice settings. In the retail pharmacy setting, the extent to which pharmacists are able to engage in direct patient care activities is dependent upon pharmacists’ ability to delegate non-judgmental tasks to pharmacy technicians. Given the growing demand for pharmacists’ professional services, we encourage the Board not to adopt rule changes that could impede the provision of these services. As such, we urge the Board not to adopt the proposed addition to 22 TAC 291.34 (c)(2)(k):

(K) transferring or receiving a transfer of original prescription information on behalf of a patient.

Under 22 TAC 291.34 (g)(9), the Board has proposed to require that the transfer of original prescription information be completed within four business hours of a requested transfer. We are concerned that the proposal does not accommodate instances where the initiating or transferring pharmacy may be closed within the allotted four-hour timeframe, or where there are other extenuating circumstances. Moreover, we are concerned with the feasibility of monitoring compliance with this requirement. For this reason, we urge the Board to strike the proposed language from 22 TAC 291.34 (g)(9) that would require prescription transfers to be “completed within four business hours of the request.” However, if the Board is

unwilling to make this change, we then ask the Board to add language to accommodate extenuating circumstances that may impede pharmacy compliance with this requirement by revising 22 TAC 291.34 (g)(9) as follows:

(9) An individual may not refuse to transfer original prescription information to another individual who is acting on behalf of a patient and who is making a request for this information as specified in this subsection. The transfer of original prescription information must be completed within four business hours of the request, **except when the transferring pharmacy is unable to transfer the information subsequent to multiple communication attempts or there are other extenuating circumstances that prevent the transferring pharmacy from completing the transfer within this timeframe.** done in a timely manner

NACDS thanks TSBP for considering our comments 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,

Mary Staples
Regional Director, State Government Affairs