



NATIONAL ASSOCIATION OF
CHAIN DRUG STORES

September 2, 2021

Seung Oh, President
California Board of Pharmacy
2720 Gateway Oaks Drive
Sacramento, CA 95814

Re: Board of Pharmacy FAQs Regarding Electronic Data Transmission Prescriptions

Dear President Oh,

The California Retailers Association (CRA) and National Association of Chain Drug Stores (NACDS) are providing comments related to the implementation of AB 2789 (Wood, Chpt. 438, 2019), which requires all prescribers to have the capability to transmit prescriptions electronically (“e-prescribe”) by 2022, with some exceptions. The use of e-prescribing greatly enhances the safety and security of the prescribing process, which is why CRA and NACDS strongly support policies, such as AB 2789, that mandate adoption of this beneficial practice.

The California Retailers Association is the only statewide trade association representing all segments of the retail industry including general merchandise, department stores, mass merchandisers, restaurants, convenience stores, supermarkets and grocery stores, chain drug, and specialty retail such as auto, vision, jewelry, hardware, and home stores. CRA works on behalf of California’s retail industry, which operates over 400,000 retail establishments with a gross domestic product of billions of dollars annually and employs millions of Californians.

The National Association of Chain Drug Stores represents traditional drug stores, supermarkets and mass merchants with pharmacies. Chains operate over 40,000 pharmacies, and NACDS’ over 80 chain member companies include regional chains, with a minimum of four stores, and national companies. Chains employ nearly 3 million individuals, including 155,000 pharmacists. They fill over 3 billion prescriptions yearly, and help patients use medicines correctly and safely, while offering innovative services that improve patient health and health care affordability.

CRA and NACDS appreciate the Board’s direction in drafting FAQs to educate licensees on the new requirements under AB 2789, and the discussion on this issue during the July 28, 2021, board meeting. As we verbally conveyed at the meeting, CRA and NACDS have a concern regarding FAQ #5, which addresses requirements for the transfer or forwarding of Schedule II-V controlled substances between pharmacies. Referring to Business and Professions Code Section 688(g), FAQ #5 specifies that upon the request of a patient, a pharmacy that receives an electronic prescription from a prescriber that has not yet been dispensed must transfer that prescription to another pharmacy. While CRA and NACDS are not opposed to this requirement on principle, we are concerned that due to a confluence of factors outside of the control of pharmacies, compliance with this requirement for all controlled substance prescriptions would be unworkable.

The current National Council for Prescription Drug Programs (NCPDP) telecommunication standard that facilitates the transmission of electronic prescription information does not yet accommodate the transfer or forwarding of Schedule II-V controlled substance prescriptions; existing NCPDP standards only enable the transfer of **non-controlled** substances between pharmacies. While NCPDP is currently working to update the standard by expanding the existing transfer transaction (RxTransfer) to accommodate for the transfer of controlled substances, the updated standard won't be implemented until 2025 at the earliest. This creates a potential gap of at least three years between when AB 2789 goes into effect in 2022 and when pharmacy systems will be able to support the electronic transfer of unfilled controlled substances prescriptions between pharmacies.

While there was testimony from certain stakeholders at the July 28 board meeting suggesting pharmacies might be able to comply with the transfer requirement outlined in FAQ #5 by verbally transferring prescriptions, this is still not a broadly applicable workaround due to federal Drug Enforcement Administration (DEA) restrictions.¹ Specifically, in recent policy communications with the chain pharmacy community, DEA made clear that the only acceptable method of transferring unfilled schedule II controlled substances prescriptions is electronically.

Considering these factors, it is not feasible for pharmacies to transfer schedule II prescriptions in accordance with DEA requirements until the NCPDP standard is updated. We therefore support the Board's decision at the July 28 board meeting to add additional verbiage to FAQ #5 specifying that the Board is examining the issue to provide further clarification. January 1, 2022 is quickly approaching, so we urge clarification from the Board on this matter prior to that date. We encourage the Board to reach out if we can provide further information or assistance in these efforts. Please do not hesitate to contact Jennifer Snyder or Lindsay Gullahorn with Capitol Advocacy at jsnyder@capitoladvocacy.com or lgullahorn@capitoladvocacy.com if you have any questions.

Sincerely,



Rachel Michelin, President
California Retailers Association



Steve C. Anderson, FASAE, CAE, IOM
President & Chief Executive Officer
National Association of Chain Drug Stores

cc: Members, Board of Pharmacy
Anne Sodergren, Executive Officer, Board of Pharmacy

¹ Arnold, James (Drug Enforcement Administration, Diversion Control Division, Springfield, VA). Letter to: Kevin Nicholson (National Association of Chain Drug Stores, Arlington, VA). 2017 October 6.