



December 9, 2022

The Honorable Seung Oh, President  
California State Board of Pharmacy  
2720 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833

**Re: implementation of AB 852 (Chpt. 518, 2022) Related to Electronic Prescribing**

Dear President Oh:

The California Retailers Association (CRA) and National Association of Chain Drug Stores (NACDS) are writing to seek clarification from the Board of Pharmacy related to implementation of AB 852 (Chpt. 518, 2022), which revises requirements originally enacted under AB 2789 (Wood, Ch. 438, Statutes of 2018) pertaining to electronic prescription transmission ("e-prescribing"). Specifically, we ask the Board to address how pharmacies can be compliant with Business & Professions Code Section 688(b)(2), which specifies that pharmacies cannot refuse an electronic prescription from an electronic prescription vendor on the basis that the prescription is incompatible with the pharmacy's software.

First, we would like to thank the Board for its work with the Legislature in clarifying Business and Professions Code Section 688(g) related to requirements for the transfer or forwarding of Schedule II-V controlled substances between pharmacies. The clarification will ensure pharmacies do not run afoul of AB 2789 by specifying that pharmacies do not have to transfer undispensed prescriptions if doing so would violate any state or federal law or is not supported by the current National Council for Prescription Drug Programs SCRIPT Standard.

Notwithstanding the clarification relating to the transfer of medications, CRA and NACDS have significant implementation concerns with respect to Section 688(b)(2), which prohibits pharmacies from refusing an electronic prescription from an electronic prescription vendor on the basis that the prescription is incompatible with the pharmacy's software. In order to accept electronic prescriptions from new vendors that enter the market, pharmacies must upgrade their systems to ensure compatibility, which is a complex, lengthy process.

Of particular concern, AB 852 requires pharmacies to accept electronic prescriptions without advance notice and minus the lead time necessary to build out system capabilities both internally and with external system vendors to accommodate this. The process for readying a pharmacy system to accept electronic prescriptions from new vendors is complicated and includes activities such as negotiating and implementing a contract with vendors, verifying that all involved parties are operating in compliance with all federal and state requirements related to e-prescribing (including for controlled substance prescriptions) and making pharmacy systems changes to achieve interoperability (which may further involve work with additional vendor(s)). This process takes several months or longer, so it seems impossible for pharmacies to immediately accept electronic prescriptions from new vendors in real time.

Because of the complexity of this process, pharmacies are at significant risk of being unable to comply with AB 852 when it goes into effect on January 1, 2023. We understand that the Board plans to release FAQs related to compliance, and given that January 1 is quickly approaching, **we respectfully request clarity in these FAQs relating to how pharmacies can be compliant with BPC Section 688(b) given the impossible real time logistical constraints outlined above, and request that the board use discretion in its enforcement of Section 688(b) for at least one year given the ambiguities outlined above.**

The California Retailers Association is the only statewide trade association representing all segments of the retail industry including general merchandise, department stores, mass merchandisers, online marketplaces, convenience stores, supermarkets and grocery stores, chain drug, and specialty retail such as auto, vision, jewelry, hardware, and home stores. Our members include national chains as well as independent retailers from across California. California retail is the state's largest industry, operating in over 505,000 retail stores which accounts for over 25 percent of California's jobs with a combined \$542 billion on the state's GDP.

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' 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 healthcare affordability. NACDS members also include more than 900 supplier partners and over 70 international members representing 21 countries. Please visit [NACDS.org](http://NACDS.org).

Please do not hesitate to contact Jennifer Snyder or Lindsay Gullahorn with Capitol Advocacy at [jsnyder@capitoladvocacy.com](mailto:jsnyder@capitoladvocacy.com) or [lgullahorn@capitoladvocacy.com](mailto:lgullahorn@capitoladvocacy.com) if you have any questions.

Sincerely,



Rachel Michelin  
President & CEO  
California Retailers Association



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

cc: Anne Sodergren, Executive Officer, Board of Pharmacy