



December 9, 2022

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

Dear President Oh:

The California Retailers Association and National Association of Chain Drug Stores respectfully request that the Board of Pharmacy clarify SB 362 (Chapter #334, 2021), via answers to a short list of questions, in an effort to provide chain pharmacies the appropriate guidance in order to aid their efforts to comply with the new law.

SB 362 prohibits a chain pharmacy from establishing a quota related to the duties for which a pharmacist or pharmacy technician license is required and from communicating the existence of quotas to individual pharmacists or pharmacy technicians who are employees of the chain community pharmacy. "Quota" is defined in SB 362 as "a fixed number or formula related to the duties for which a pharmacist or pharmacy technician license is required, against which the chain community pharmacy or its agent measures or evaluates the number of times either an **individual pharmacist or pharmacy technician** performs tasks or provides services while on duty." SB 362 does provide exceptions to the use of a quota related to any evaluation or measurement of competence, performance, or quality of care provided to patients of a pharmacist or pharmacy technician and any use of a performance metric required by state or federal regulators.

We understand that there has been Board enforcement activity relative to SB 362, and CRA and NACDS are concerned that there is no clear direction from the Board of Pharmacy to chain pharmacy companies as to what is prohibited and/or authorized relative to the bill, especially as it pertains to the utilization of performance goals and objectives established and communicated by pharmacy companies to their collective pharmacy employees as a whole.

It was clear that the intent of the Legislature in enacting SB 362 was to allow for pharmacy companies to utilize performance goals and objectives for pharmacists and pharmacy technicians. Without the ability to utilize performance goals and objectives, it will become difficult to evaluate and reward pharmacy team members. A possible result of this may be lower salary increases and/or the elimination of bonuses for pharmacists and pharmacy technicians. CRA and NACDS are requesting that the Board of Pharmacy respond to the questions below to provide chain pharmacies with clear guidance as to how chain pharmacies can communicate and promote performance goals and objectives utilized for performance evaluations and to assure a pharmacy meets needed patient services while maintaining the requirements, as well as the intent of SB 362.

The questions are as follows:

1. Does the Board of Pharmacy consider a goal set to give guidance to the pharmacy teams to be a quota even when there are no negative performance consequences for failing to meet that goal?
2. Does the Board consider store level goals not directed toward an individual technician or pharmacist to be a quota?
3. Is a specified goal that does not impact an individual technician or pharmacist but rather the entire pharmacy staff considered a quota?
4. Can you provide examples of what the Board would consider to be a quota?

We appreciate your time and attention to this request.

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