



TEXAS Pharmacy Association

*Advancing the Practice of Pharmacy to Enhance the Delivery of
Quality Health Care to All Texans*

April 26, 2016

Submitted Via email: sunset@sunset.texas.gov

Ken Levine
Director
Sunset Advisory Commission
PO Box 13066
Austin, TX 78711

*RE: Texas Sunset Advisory Commission Staff Report
On the Texas State Board of Pharmacy*

Dear Mr. Levine,

The Texas Pharmacy Association (TPA) has been the leading professional pharmacy organization in Texas since its founding in 1879. As the state's largest pharmacy organization, TPA represents pharmacists and pharmacy technicians practicing in all areas of pharmacy including community, hospitals, long-term care facilities, education, manufacturing and distribution. Our core mission is "*advancing the practice of pharmacy to enhance the delivery of quality health care to all Texans.*"

On behalf of the nearly 32,000 pharmacists and 61,000 pharmacy technicians, TPA appreciates the opportunity to comment on the **Texas Sunset Advisory Commission Staff Report on the Texas State Board of Pharmacy (TSBP)**. Please see our remarks below based on the Sunset Commission staff recommendations:

Sunset Report Issue 1

Texas Lacks Key Tools Needed to Ensure Safe Dispensing of Dangerous, Highly Addictive Drugs to Patients

Recommendation 1.1

Beginning in 2018, require pharmacists to search the Prescription Monitoring Program Database before dispensing certain controlled substances.

TPA agrees that more effective steps must be pursued to address abuses and misuses of highly addictive controlled substances in Texas and nationwide. Increased participation and better utilization of the Texas Prescription Monitoring Program (PMP) is part of the answer. Unfortunately, the number of pharmacists and physicians voluntarily participating in the current PMP is unacceptably low.

Many believe that the Texas Program initially was developed as a law enforcement tool. It did not and still does not adequately consider the workflow constraints of providers – especially retail pharmacists. When the DPS-run and developed system is replaced by the TSBP-run and developed program on September 1, 2016, that no longer will be the case. The replacement program has been designed to meet the needs of Texas providers - pharmacists and physicians. As a result, utilization will increase.

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Though the recommendation for mandated participation may initially appear to be a common sense, first step, other factors must be considered. There were more than 11.0 million controlled substance prescriptions dispensed in 2015 in Texas. Considering this volume of dispensed drugs, limiting the ability of a pharmacist to utilize their professional judgement will result in unintended consequences. Mandatory review of every applicable prescription will create an unnecessary and intrusionary standard for the pharmacist and will limit the pharmacist from considering other practical reasons why such a search is not necessary - reasons such as the patient's medical history, previous relationship with the pharmacist and/or pharmacy, or the pharmacist's prior discussions with the patient's prescriber.

If a mandate is unavoidable, then TPA suggests that providers only be required to register with TSBP. Mandated use should only be considered after the new system is given a chance to work, and even then, mandate use should be phased-in. The TSBP must be given full authority to manage utilization of the PMP by pharmacists and physicians and others in lieu of a mandated across the board participation through statutes.

Lastly, as Sunset notes in the report, the role of all prescribers also is a critical part of monitoring prescription drug abuse in the state. TPA is concerned that if a pharmacist is obligated to review all prescription orders to determine their appropriateness and/or validity, the pharmacist would be placed in a problematic position of second guessing the prescribing healthcare provider and alienating the relationship with the patient. Thus, Sunset should ensure that a pharmacist is statutorily-assured complete legal authority to do so as well as any necessary liability protections.

TPA believes that only through a collaborative effort and through the determination of shared responsibilities between patients, physicians, pharmacists, manufactures and wholesalers can this epidemic be resolved. Our pharmacists are committed to working alongside each of these groups to resolve this critical issue.

Recommendation 1.2

Require pharmacists to enter dispensing information in the Prescription Monitoring Program database within one business day of dispensing controlled substances

Having the most current dispensing information regarding of highly addictive drugs such as Vicodin, Xanax and OxyContin in the PMP is very important. TPA also acknowledges that it is highly unlikely that prescribers along with dispensing pharmacies would enter dispensing information "within one business day" unless mandated by laws and regulations. Unfortunately, such a mandate would require that significant additional resources be dedicated to this requirement. Health care and health care professionals are not able to absorb additional mandates which bring higher expenses and no change in reimbursements.

However, by expanding the ability of pharmacy technicians to have a greater role in the Texas PMP, as noted in **Recommendation 1.4**, would be a welcome step in assisting pharmacists. Nevertheless, TPA currently opposes the "within one business day" requirement.

Recommendation 1.3

Authorize the board to send push notifications and to set related thresholds.

TPA is neutral regarding this Sunset recommendation.

Recommendation 1.4

Direct the board to create delegate accounts for pharmacy technicians, work to integrate the program with pharmacy Software Systems, and trend data on dispensing publicly available.

As noted previously, TPA supports this PMP-related recommendation to allow greater role for pharmacy technicians.

Sunset Report Issue 2

Key Elements of the Texas State Board of Pharmacy's Statutes Do Not Conform to Common Licensing Standards.

Recommendation 2.1

Require the board to create a system of graduated penalties for late renewal of pharmacy technician registration.

Recommendation 2.2

Authorize the board to deny renewal applications for licensees and registrants who are non-compliant with an existing board order.

Recommendation 2.3

Direct the board to remove burdensome requirements that pharmacy licensure renewal forms be notarized.

Recommendation 2.4

Direct the board to query the national disciplinary database before license renewal.

TPA supports each of the four recommendations under Issues 2.

Sunset Report Issue 3

The State Has a Continuing Need to Regulate the Practice of Pharmacy

Recommendation 3.1

Continue the Texas State Board of Pharmacy for 12 years.

TPA strongly supports continuation of the Agency not only because of the important role it serves in “promoting, preserving, and protecting the public health, safety and welfare by fostering provisions of quality pharmaceutical care to the citizens of Texas,” but because it meets its expectations in a professional and cooperative manner.

Recommendation 3.2

The board should develop and implement succession plans to prepare for impending retirements.

This Sunset recommendation is vital to assure that the Agency's ability to be adequately staffed and maintain its high-level regulatory efforts in protecting the public. TPA suggests that staffing needs be evaluated to include timeline and fiscal impact. TSBP needs a planned budget increase that can attract quality and experienced staff, reduce turn-overs, draw the interests of qualified candidates to fill the retiring executive director position, establish a new position of associate executive director, and afford salary adjustments for existing staff commensurate with similar governmental positions.

Other Recommendations

Apply the standard Sunset across-the-board requirement for the board to develop a policy regarding negotiated rulemaking and alternative dispute resolution.

TPA endorses this requirement, but believes that to a great extent, interested parties already are given adequate opportunities to be involved in rulemaking. TPA commends TSBP and for their partnership with our organization and Texas pharmacy professionals to better serve all Texans.

TPA Suggested Recommendations

One of the roles of the Sunset Commission is to review the governmental unit in question and determine if its contributions have value and if so, how the “job” could be done better. Included within that analysis is its ability and preparation to deal with current AND future demands. To assure that TSBP continues reviewing its role in the future – especially new issues to address - it is appropriate that the Sunset Commission include related recommendations for the Agency to have earnest discussions and deliberations about its possible expanded or contracted role in the future. Though this premise is similar to interim legislative studies, most findings and conclusions from this effort would/could be incorporated in its strategic plan and/or future legislative needs. Therefore, TPA suggests that two new and non-standard recommendations be include in the staff Sunset Report:

The changing role of pharmacies and pharmacists in the future.

TPA suggests that Sunset include a directive to the TSBP to adjust its strategic plan to better prepare the Agency for the pending and/or possible changes in the business and profession of pharmacy in the near future. The strategic plan also should include efforts to identify measures in Texas within the practice of pharmacy that could increase access to care and affordability of health care services.

The Challenges of the Workplace and Patient Safety

TPA suggests that Sunset include a directive to the TSBP to conduct a review of workplace challenges facing the profession of pharmacy and their potential impact on patient safety.

In closing, TPA commends the staff of the Texas Sunset Commission for a comprehensive and well written report. Thank you for the opportunity to provide comments and should you have any questions regarding our comments, please feel free to contact TPA’s Justin Hudman at 512/615-9147. Again, thank you.

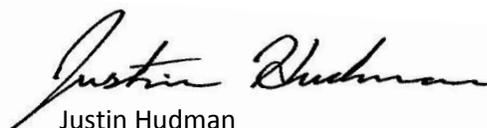
Sincerely,



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Joe A. DaSilva, CAE, FACHE
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cc: Members, Texas Sunset Advisory Commission
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