

April 22, 2016

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

Via email: sunset@sunset.texas.gov

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

Dear Mr. Levine:

On behalf of the National Association of Chain Drug Stores and the Texas Federation of Drug Stores members operating chain pharmacies in the state of Texas, we appreciate the opportunity to comment on the Texas Sunset Advisory Commission ("Commission") staff report on the Texas State Board of Pharmacy ("TSBP"). In particular, our comments will focus on the Commission report recommendations pertaining to the Prescription Monitoring Program (PMP).

- ***Chain pharmacy has concerns with the proposed recommended requirement for pharmacists to search the prescription monitoring program prior to dispensing certain controlled substances.***

As one of its key recommendations for changes to the PMP, the Commission has proposed that TSBP pursue a requirement for pharmacists to search the PMP database before dispensing certain controlled substances. Such a requirement would be problematic, putting pharmacists in the untenable position of second-guessing prescribers and significantly delaying pharmacists' ability to provide care to all of their patients in a timely manner.

As justification for pursuing this requirement, the report cites information from the Prescription Drug Monitoring Program Training and Technical Assistance Center, which inaccurately suggests that 11 states have "mandatory query" requirements for dispensers.¹ In fact, this is not the case. While there are a number of states that have enacted mandates for pharmacists to register for access to their PMP, only 6 states have adopted laws or rules that require pharmacists query the PMP prior to dispensing a controlled substance, and even then, only in very limited and specific circumstances: Maine,² Massachusetts³, New Mexico⁴, North Dakota⁵, Ohio⁶ & Tennessee.⁷

¹ "PDMP Mandatory Query by Prescribers and Dispensers," Prescription Drug Monitoring Program Training and Technical Assistance Center, last modified February 29, 2016, http://www.pdmpassist.org/pdf/Mandatory_Query.pdf.

² 22 MRSA §7253 (2) requires pharmacists to query the PMP for prescriptions for out-of-state patients, from an out-of-state prescriber, where persons pay cash when the patient has prescription insurance on file, or for new prescriptions for benzodiazepines or opioid medications.

³ CMR Title 249 Ch. 9.04 (8) requires pharmacists to query the PMP for hydrocodone-only extended release medications that are not in an abuse deterrent form.

⁴ NMAC 16.19.4.16 (E) requires pharmacists to query the PMP for new opiate prescriptions.

⁵ NDAC 61-12-01-04 requires pharmacists to query the PMP when receiving a new controlled substance prescription issued for the treatment of pain or anxiety.

Notably, the American Medical Association (AMA) urges physicians who prescribe for patients with pain, mental illness or any other condition for which a controlled substance could be prescribed to register for access and use their states' PMPs.⁸ AMA notes that PMP data is an important resource that can help physicians when considering whether to prescribe a controlled substance for a particular patient. Subsequently, 25 states have recently adopted laws or rules that require prescribers to check the PMP prior to prescribing controlled substance prescriptions.⁹ In contrast, only 6 of those states have also adopted laws or rules imposing this requirement on pharmacists (explained above, and applicable only in very limited and specific circumstances.)

This contrast in state policies reflects recognition by policymakers and those in the healthcare community that prescribers, not pharmacists, ultimately have the clinical information necessary to decide whether a particular patient should receive a medication before the prescription is written. Moreover, when prescribers access PMP data prior to issuing a prescription, requiring pharmacists to again query their patients' controlled substance histories would be redundant.

In addition to these concerns, compliance with such a requirement would have immediate and severe implications for patient access to important pharmacy services. Given that there were approximately 36.3 million¹⁰ controlled substance prescriptions dispensed in 2015 by retail pharmacies in Texas and that it can take on average between 2-6 minutes¹¹ to access and run an individual patient report, complying with the mandate would require a collective 1.2-3.6 million additional hours per year in the retail pharmacy setting to run a PMP database report for all controlled substances prescriptions dispensed in Texas.

Chain pharmacy supports the important role that PMPs have in helping to prevent drug abuse and diversion and believe that pharmacists should have access to these programs. However, use of the PMP should be determined by the pharmacist and based on their professional judgment.

Accordingly, we urge the Commission to delete the report recommendation for TSBP to pursue a requirement for pharmacists to search the PMP database before dispensing controlled substances. Instead, we encourage the Commission to add a report recommendation for TSBP to enact laws and rules that will require all Texas pharmacists to register for user access to the PMP. This will ensure that Texas pharmacists are poised to query the PMP when, in their professional judgment, doing so

⁶ OAC 4729-5-20 (D) requires pharmacists to query the PMP for controlled substances when certain triggers are met.

⁷ T. C. A. § 53-10-310 requires pharmacists to query the PMP if the pharmacist is aware or reasonably certain that a person is attempting to obtain controlled medications for fraudulent, illegal, or medically inappropriate purposes.

⁸ Steven J. Stack, MD (2016, February 17). A call to action: Physicians must turn the tide of the opioid epidemic.

http://www.ama-assn.org/ama/ama-wire/post/call-action-physicians-must-turn-tide-of-opioid-epidemic?utm_source=Lyris&utm_medium=email&utm_term=021716&utm_content=opioids&utm_campaign=marketing_campaign-wire_alert

⁹ Research compiled by the National Alliance for Model State Drug Laws (December 2014)

<http://www.namsdl.org/library/99D9A3E8-C13E-3AF4-8746F4333CA2A421/>

Of the 24 states that require prescribers to check the PMP prior to prescribing controlled substance prescriptions, only 4 of those states also require dispenser to check the PMP: NM & OH. (See footnotes 2-5)

¹⁰ PHAST® Prescription Monthly, data drawn April 2016

¹¹ Anecdotally, we have heard from NACDS members that that it can take anywhere between 2-6 minutes to access and run a report on an individual patient from the states' online systems.

would be warranted based on the individual circumstances of a particular patient and their prescription.

- ***Chain pharmacy supports the Commission's recommendation for TSBP to create delegate accounts for pharmacy technicians and the pursuit of program changes to integrate the PMP within pharmacy software systems.***

To increase the likelihood of healthcare providers using the program data, chain pharmacy supports program changes that would serve to ease the administrative burdens that providers experience when accessing data. As discussed above, running reports in the PMP can be a time-consuming process, which can be a deterrent to provider access for busy healthcare professionals. To address this, chain pharmacy supports Texas regulators adopting rules that will allow healthcare providers, such as pharmacists, who have access to the database to identify delegates such as pharmacy technicians to access the program database to run reports on the providers' behalf, which would then be reviewed by providers prior to prescribing or dispensing.

Chain pharmacy also supports program enhancements that can enable integration of PMP data into practitioner workflow. Improving accessibility of PMP data will ultimately serve to ease the administrative burdens that healthcare providers encounter when attempting to access the program and encourage greater use of this resource. To ensure that any program enhancements are workable with the systems and software used by the pharmacy community, we ask the Commission to further recommend that TSBP engage with the pharmacy community should TSBP pursue any such program enhancements.

The Federation and NACDS thank you for consideration of our comments. We welcome the opportunity to further discuss any of these matters with you. Please do not hesitate to contact either of us with any questions. Brad Shields can be reached at (512) 658-1990 or brad2@bradshields.com. Mary Staples can be reached at 817-442-1155 or mstaples@nacds.org.

Sincerely,



Mary Staples
National Association of Chain Drug Stores



Brad T. Shields II
Texas Federation of Drug Stores