



Nov. 12, 2019

Ms. Wendy Passmore
Operations Manager
Alabama Board of Pharmacy
111 Village Street
Birmingham AL 35242
Via email: wpassmore@albop.com

Re: Proposed Amendments to Rule No. 680-X-2-.14: The Role of Technicians in Pharmacies in Alabama

Dear Ms. Passmore:

I am writing to provide the Pharmaceutical Care Management Association (PCMA) response on the Board of Pharmacy's (BOP) proposed amendments to Rule No. 680-X-2.14, regarding the role of technicians in pharmacies. PCMA is the national trade association representing pharmacy benefit managers (PBMs), which manage prescription drug benefits for large employers, health insurance carriers, labor trusts, government programs, and other payers. Some PBMs also own and operate mail service pharmacies that would be impacted by this rule. We appreciate the opportunity to provide comment on the proposed amendment.

The Alabama BOP has issued proposed changes to its existing rule on the use of technicians in pharmacies in Alabama, which governs pharmacy-technician ratios for pharmacies based in Alabama. The BOP's proposed changes would expand these requirements to any pharmacy who possesses a pharmacy permit or pharmacy service permit pursuant to the pharmacy practices act, meaning that these standards would apply to non-resident pharmacies.

It has been longstanding policy that non-resident pharmacies are not subject to the pharmacy tech ratios and other standards that apply to in-state pharmacies. Non-resident pharmacies are licensed by and subject to the rules of their home states, and to this point, the BOP has interpreted the statute to allow compliance with home state licensure rules sufficient. The BOP, through the attempt to amend this rule, is attempting to adopt a significant policy change, not clarify existing law. This new policy change is not supported or authorized by new legislation and there has been no showing that consumer safety justifies this change.

In addition, this policy change establishes standards that do not make sense in a mail order business and will effectively make it impossible for mail order pharmacies to comply, signaling that this could be a veiled attempt to block competition from mail order pharmacies and protect business for in-state pharmacies. The U.S. Federal Trade Commission indicates that "[a]ntitrust issues may arise where an unsupervised board takes actions that restrict market entry or restrain rivalry."¹ Though mail order pharmacies do not dispense all types of drugs, they provide

¹ FTC Staff Guidance on Active Supervision of State Regulatory Boards Controlled by Market Participants, available at: https://www.ftc.gov/system/files/attachments/competition-policy-guidance/active_supervision_of_state_boards.pdf.



safe and extremely convenient access to chronic medications. The use of mail order is part of a benefit design that payers choose for their enrollees because of reduced costs and excellent safety records. Restricting or eliminating mail order in Alabama will be at the expense of Alabama employers and consumers.

This policy change is not supported by legislation, it inhibits competition, there is no evidence of a consumer safety issue necessitating the change, and it will increase the costs of covering a pharmacy benefit. It is for these reasons that PCMA objects to this proposed rule change. Please contact me at 202-756-5743 if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "April C. Alexander". The signature is written in a cursive style with a prominent initial "A".

April C. Alexander
Vice President, State Legislative and Regulatory Affairs