



University of Washington Pharmacy Students' Law Project

Presented by Joseph Clifton, PharmD Candidate, Class of 2016

1. Petition for Rulemaking
2. Law Project Report
3. PowerPoint Presentation



Received 3/6/14
PAC



PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE (RCW 34.05.330)

The Office of Financial Management (OFM) has adopted this form for members of the public who wish to petition a state agency to adopt, amend, or repeal an administrative rule (regulation). Full consideration will be given to a petitioner's request.

Sarah Buterbaugh, Charlene Thuser Janie
Davies, Tiffany Siu, Joe Clifton, Drew

Please complete the following: Jacobs, Alyshia Gonder, Alta Bergquist,

PETITIONER'S NAME (PLEASE PRINT)	Ashley Warcolis, Jennifer Wilson, David Lee, Kathy Nguyen	TELEPHONE NUMBER (INCLUDE AREA CODE)	505-228-2236
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STREET ADDRESS	PO BOX NUMBER	CITY	STATE	ZIP CODE
University of Washington School of Pharmacy Attn: Tom Hazlet H375 Health Science Building	357630	Seattle	Washington	98195-7630

AGENCY RESPONSIBLE FOR ADMINISTERING THE RULE
PQAC

Please submit completed and signed form to the "Rules Coordinator" at the appropriate state agency. The agency will contact you within 60 days.

Check all that apply below and explain on the back of this form with examples. Whenever possible, attach suggested language. You may attach other pages if needed.

1. NEW: I am requesting that a new WAC be developed.

I believe a new rule should be developed.

- The subject of this rule is: Prohibit coupon incentives or "gifts" for prescription transfers
- The rule will affect the following people: Consumers, community pharmacies, pharmacists, retail stores with pharmacies
- The need for the rule is: Prohibiting the use of financial awards or benefits for transfers, which incentivize patients to transfer prescriptions from one pharmacy to another, will reduce fragmented care for consumers and promote the establishment of a "pharmacy home." A proper medication history and patient-pharmacist relationship is important to protect patients against adverse drug events.

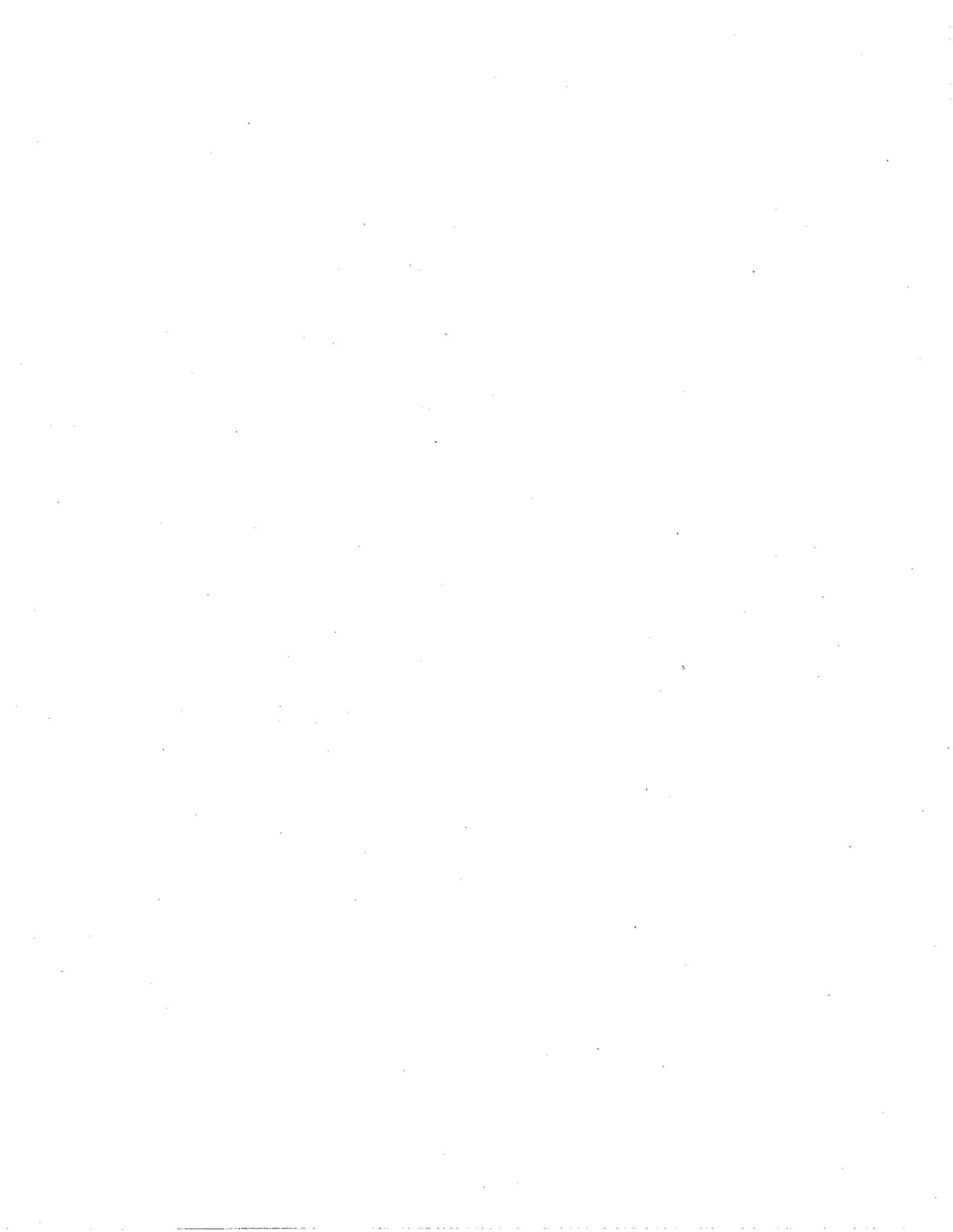
2. AMEND: I am requesting a changing to existing WAC _____

3. REPEAL: I am requesting existing WAC _____ be removed.

I believe this rule should be changed or repealed because (check one or more):

- It does not do what it was intended to do.
- It imposes unreasonable costs.
- It is applied differently to public and private parties.
- It is not clear.
- It is no longer needed.
- It is not authorized. The agency has no authority to make this rule.
- It conflicts with another federal, state, or local law or rule. Please list number of the conflicting law or rule, if known:
- It duplicates another federal, state or local law or rule. Please list number of the duplicate law or rule, if known:
- Other (please explain):

PETITIONER'S SIGNATURE	DATE
<i>Joseph C. Clifton Jennifer Wilson Drew Siu Alta Bergquist</i>	3/5/14



Petition to Eliminate Financial Incentives (Coupons) for Prescription Transfers

March 10, 2014

Pharm 543: Group Boston

Alta Bergquist, Sarah Buterbaugh, Joe Clifton, Jamie Davies, Alyshia Gonder, Drew Jacobs, David Lee, Kathy Nguyen, Tiffany Siu, Charlene Tauser, Ashley Warcola, Jennifer Wilson

I. Introduction

Transferring prescriptions unnecessarily for the sole purpose of receiving financial incentives devalues the role of pharmacists as health care providers and, more importantly, increases the probability of errors and poses a significant risk to patient safety. A proper medication history and a patient-pharmacist relationship are critical aspects for creating the best clinical outcomes for patients.

Our solution to this issue is to petition the Washington Pharmacy Quality Assurance Commission to create a new rule, which would ban the practice of pharmacies offering financial incentives for transferred prescriptions. This solution is the best as far as administrative operability, economic and financial possibility, and technical feasibility. It is technically feasible because it will be effective and adequate in reaching our desired outcome, but protects competitive drug pricing and the patient's right to transfer prescriptions. Patients can still receive coupons for choosing a particular pharmacy when filling a new prescription, and pharmacy loyalty programs are still allowed, however this solution holds both the pharmacist and pharmacy liable for financially encouraging unnecessary transfers. Our solution is economically feasible because there is no additional cost of implementation. This rule is also administratively operable because the Washington State Pharmacy Quality Assurance Commission (PQAC) has the authority to enact the rule, and similar rules have been administered in other states.

The best case scenario would be if the rule was passed by the Commission. In this case, a time frame would likely be given to companies to discontinue the use of transfer coupons. There

would also be a penalty put in place for violating the rule which would most likely entail a fine or affect the pharmacy's license. The worst case scenario would be if the rule was not passed, in which financial incentives for transferring prescriptions would continue, both hindering patient safety and negatively affecting the value and view of the pharmacy profession. Another undesirable scenario that may occur is that the rule will be passed by the Commission, but there will be push-back or claims that the rule impedes business competition and the free market. However, the Commission has the responsibility to enact the rule despite concerns of lost business because of the threat to patient safety. We believe, however, companies will be more likely to respect the importance of the rule for patient safety and stand by it as advocates for their patients. A partial implementation of this rule would be unfeasible, because it would unfairly affect business practice. If some pharmacies are prohibited from financially incentivizing prescription transfers, then all pharmacies should be prohibited in order to maintain the intent of the rule.

The proposed rule could negatively impact consumers financially, which is the main possible undesirable outcome. Some consumers may rely on the financial incentives (e.g., grocery credit) to help ease the strain of a fixed budget. However, this highlights the fact that incentives for transferring prescriptions have encouraged patients to take unnecessary risks. While this may be an undesirable outcome, it is also a clear reason to pass this rule. We firmly believe that pharmacists and pharmacies have the professional responsibility to promote patient safety and to stand by business practices that protect patients from harm.

II. Problem definition

Pharmacies have been using coupons or "gifts" to encourage consumers to transfer prescriptions to their pharmacy since at least 1987. In 1987, Pharmacist Today published an

article titled, "Coupons: are they good promotions for pharmacy?" The act of using coupons as an incentive to transfer prescription for business purposes has been questioned ever since.¹ Over the years many states have taken the initiative to ban or discourage the use of prescription transfer coupons. In 2008, the California State Board of Pharmacy attempted to ban incentive practices but they were not successful in doing so.² In 2010, the Alabama State Board of Pharmacy discussed Arkansas's new law which prohibited financial incentives for transfer prescriptions.³

Along with Alabama, in November of 2011, the Kentucky State Board of Pharmacy also discussed how other states have been enacting laws to prohibit a pharmacist from offering financial incentives to transfer prescriptions.⁴ Recently in 2013, Oregon won the Fred T. Mahaffey Award for making provisions to "prohibit the outlet (pharmacy) from incenting or inducing the transfer of a prescription absent professional rationale" and other provisions that will protect the health, safety, and welfare of patients.⁵

Many changes in the economy have contributed to widespread incentives for transferring prescriptions from one pharmacy to another. Shrinking profit margins on prescription sales has caused many corporate companies to add these incentives to bring in more business. These monetary incentives for transferring prescriptions may cause patients to transfer their prescription only for the incentives themselves. The amount of time the pharmacist spends transferring the same prescription back and forth for coupons devalues the services that

¹ Fleming, Marc, Poorva Nemlekar, Carolyn Brown, and Cantu Roxanne. "Exploratory Study of Community Pharmacists' Perceptions about New or Transferred Prescription Incentives." *Journal of American Pharmacists Association*. N.p., Sept. 2012. Web. 27 Nov. 2013. <<http://japha.org/article.aspx?articleid=1363588>>.

² "California State Board of Pharmacy Meeting minutes." Web. 24 Oct. 2013. <http://www.pharmacy.ca.gov/meetings/minutes/2008/08_jan_enf.pdf>.

³ "Alabama Board of Pharmacy Meeting Notes." Web. 24 Oct. 2013. <<http://www.albop.com/boardminutes/082510Meeting.pdf>>.

⁴ "Kentucky Board of Pharmacy Meeting Minutes" Web. 24 Oct. 2013. <<http://pharmacy.ky.gov/nr/rdonlyres/bd9cbf97-071f-45e5-888c-4343f14f36a9/0/minutesnovember452011.pdf>>.

⁵ "Oregon Board of Pharmacy Receives NABP Award." *Oregon Board of Pharmacy*. (06): 2013. Web. 10 Mar. 2014. <http://www.thelundreport.org/resource/oregon_board_of_pharmacy_receives_nabp_award>.

pharmacists can provide. In addition, not having a full medication list (which often occurs when only one transfer is needed for a coupon) sets limitations to what pharmacists can do to protect against adverse drug interactions. The problem is also linked to the increase in workload and decreased staffing of pharmacies because of the changing economy. Transferring prescriptions takes additional time and energy, and when this occurs unnecessarily it decreases efficiency. The recession has made the use of coupons, and ways to financially save, more appealing to consumers in general.

The article, "Exploratory Study of Community Pharmacists' Perceptions about New or Transferred Prescription Incentives," by Marc Fleming discusses the pharmacists' viewpoint of promotional coupons or incentives for prescription transfers. These coupons were created mainly to drive sales and increase customer loyalty. In this case, the risks may outweigh that benefit. According to the article, patients who continuously use these incentives usually end up with incomplete medication histories as well as medication related problems. As a result, this may put the patient at risk for inadequate medication safety screenings. Prescription transfers may be helpful in certain situations but if taken advantage of, they can increase the odds of human error as most prescription transfers in retail settings are transferred verbally. Employers place these financial incentives on transferred prescriptions with the hopes of obtaining higher sales with a higher volume of incoming patients. According to the article, Fleming found in his study that most pharmacists believed that the patients who transferred their medications to receive a coupon will mostly likely transfer again to another pharmacy. In the long run, this will not increase sales

or increase customer loyalty, but ultimately will create fragmented care, result in an incomplete and scattered patient medical history, and put a patient at risk for adverse events.⁶

III. Stakeholders and Viewpoints

The table below outlines the stakeholders, assessment of their positions, and who they represent. Overall, stakeholders in support of the petition include American Pharmacists Association (APhA), National Community Pharmacists Association (NCPA), Washington State Pharmacy Association (WSPA) Technicians Academy, and Target Pharmacy. APhA represents the profession of pharmacy as a national organization, as well as APhA Academy of Student Pharmacists (APhA-ASP) which represent the United States chapter in the International Pharmaceutical Students' Federation (IPSF). National Association of Chain Drug Stores (NACDS) and Washington Advocates for Patient Safety hold positions that are unsupportive of the petition.

<u>Stakeholder</u>	<u>Position</u>	<u>Representing</u>	<u>Statement</u>
American Pharmacists Association (APhA)	+	Pharmacists	"APhA advocates the elimination of coupons, rebates, discounts, and other incentives provided to patients that promote the transfer of prescriptions between competitors." ⁷

⁶ Fleming, Marc, Poorva Nemlekar, Carolyn Brown, and Cantu Roxanne. "Exploratory Study of Community Pharmacists' Perceptions about New or Transferred Prescription Incentives." *Journal of American Pharmacists Association*, Sept. 2012. Web. 27 Nov. 2013. <<http://japha.org/article.aspx?articleid=1363588>>.

⁷ American Pharmacists Association. "APhA House of Delegates policy manual 1963-2011." *Current adopted APhA policy statements 1963-2011*. 13 Aug. 2012. *American Pharmacists Association*. Web. 14 Nov. 2013. <https://www.pharmacist.com/sites/default/files/files/HOD_APhA_Policy_Manual_0.pdf>

National Community Pharmacists Association (NCPA)	+	Independent Pharmacies	<p>Unofficial statement from John Norton, Director of Public Relations⁸:</p> <p>NCPA has “always believed a patient is best served by going to one pharmacy, [which] allows a relationship to develop...which opens up the possibility of greater adherence.”</p> <p>“The playing field should be level.”</p>
National Association of Chain Drug Stores (NACDS)	-	Chain Drug Stores	<p>Letter to Oregon Board of Pharmacy:</p> <p>□ “As a matter of common business practice, companies utilize incentives and inducements to gain patronage. Nothing in this practice is harmful to patients’ health or welfare.”⁹</p>
Washington State Pharmacy Association (WSPA) Technicians Academy	+	Pharmacy technicians in Washington State	<p>Opinion from board member¹⁰:</p> <ul style="list-style-type: none"> - Transfers for discounts interrupt and take time away from patient care - Coupons often lead to refilling unnecessary prescriptions just for grocery discounts
Target Pharmacy	+	Corporate, Chain Pharmacies	<p>Unofficial statement from Joseph Ennesser, Healthcare Market Leader¹¹</p> <p>“Although the transfer of coupons drove sales, they did not drive loyalty to the company.”</p>
Washington Advocates for Patient Safety	-	Patients	<p>“In theory, we do not see that these offers or transfer coupons are in themselves a risk to patient safety.”¹²</p> <ul style="list-style-type: none"> - Burden of patient safety during a transfer falls on the pharmacist

IV. Other State Regulations

⁸ Norton, John. Email interview. 28 Feb. 2014.

⁹ Houchen, Lis. Letter. 24 May 2012.

¹⁰ Name withheld upon request. Phone interview. 27 Feb. 2014.

¹¹ Ennesser, Joseph. Email interview. 3 Feb. 2014.

¹² Yu, Yanling. Email interview. 23 Jan. 2014.

Many other states have pharmacy agency rules that address the use of coupons on prescriptions in general. Arkansas limits discounts on prescription drugs unless there is equal access to the discount.¹³ Because Title 42 of the United States Code (USC) prevents the use of coupons, or grocery credit, for transferring or filling a prescription under a federal insurance or payment program (they consider it a kick-back), transfer coupons are essentially not legal in Arkansas, as they would never be equally available.¹⁴ Interestingly, senior citizen discounts are exclusively exempt from the Arkansas definition of unprofessional conduct. Under New Jersey Administrative Code (NJAC), the State Board of Pharmacy considers “the distribution of premiums or rebates of any kind whatsoever in connection with the sale of drugs and medications,” to be “grossly unprofessional conduct,” and subject to disciplinary action against the offending pharmacist’s license.¹⁵ This regulation also excludes financial incentives to “any person who is 60 years of age or older,” and excludes, “trading stamps and similar devices.” New York also has a regulation within the definition of unprofessional conduct for any professional, which restricts giving any incentive outside a reduction in price for a professional service or product. The definition of unprofessional conduct includes, “advertising or soliciting not in the public interest” including, “offers, bonuses, or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product.”¹⁶

While banning the use of all coupons and discounts for prescriptions seems like a feasible option, it does not address that many discounts, such as those that are part of a pharmacy loyalty

¹³ Arkansas State Board of Pharmacy Regulation #02-04-0002: Defining Unprofessional or Dishonorable Conduct, Definition

¹⁴ Title 42 of the United States Code, sections 320a-7b, reads “prohibits the offer of any remuneration directly or indirectly, overtly or covertly, in cash or in kind to induce a person to order a service or item for which payment may be made wholly or partially under a Federal health care program (e.g., Medicare, Medicaid, Medi-Cal). Anyone violating this code may be guilty of a felony and subject to a fine or imprisonment or both.”

¹⁵ New Jersey Administrative Code (NJAC) 45:14-65 Refusal of application for examination, suspension, revocation of certificate; procedure. Section 26 e.

¹⁶ New York Codes, Rules, and Regulations (NYCRR) 29.1.12 Unprofessional Conduct, General Provisions

program, can encourage the establishment of a “pharmacy home,” or the use of one pharmacy. Furthermore, banning the use of coupons to entice a consumer to a pharmacy to fill a new prescription, does not carry the same risk of harm to patient safety as inducing transfers due to rebates offered specifically for the transfer of a prescription. We do not want to prevent safe competitive business practices. However, the regulations enacted in Arkansas, New York, and New Jersey, speak to the feasibility of a regulation to limit coupon use within a pharmacy. Oregon and Alabama set a better precedent for our proposed solution, as they have passed legislation specific to preventing the transfer of prescriptions for financial incentives. Their regulations are exactly parallel to the rule we propose for Washington.

Alabama passed the following regulation under their pharmacist code of professional conduct, which became effective on June 6th, 2011, “(h) a pharmacist and a pharmacy should never offer or participate in the offering of a financial award or benefit, not related to competitive retail pricing of any drug, to induce or encourage any individual to transfer a prescription from one pharmacy to another.”¹⁷ Perhaps the strongest evidence in support of our solution, is a rule recently enacted by the Oregon State Board of Pharmacy, within a division of their rules titled “Operation of Pharmacies (Ambulatory and Residential Drug Outlets)” which states: “the State Board of Pharmacy may impose one or more of the following penalties which includes: suspend, revoke, or restrict the license of an outlet or may impose a civil penalty upon the outlet upon the following grounds: (5) incenting or inducing the transfer of a prescription absent professional rationale.”¹⁸

V. Language of Proposed Law

¹⁷ Alabama BOP Rule: 680-X-2-.22. Code of Professional Conduct

¹⁸ Oregon Administrative Rules (OAR) 855-041-1170: Division 41: Operation of Pharmacies (Ambulatory and Residential Drug Outlets): Grounds of Discipline

Considering all of the aforementioned concerns and other state laws, we propose to create a rule that would ban the practice of pharmacies offering financial incentives for transfer prescriptions. In doing so, we anticipate a shift towards programs that promote a “pharmacy home” and a reduction in use of multiple pharmacies in order to help prevent harm to patients.

Our proposed wording is as follows: *“A pharmacist and/or pharmacy should never financially incentivize or induce the transfer of a prescription, not related to the competitive pricing of drugs.”* We would leave it up to the Washington Pharmacy Quality Assurance Commission’s expertise as to where to place the rule, whether within the existing definition of unprofessional conduct, in a separate category outlining pharmacy business practices, or elsewhere.

VI. Alternatives to Proposed Rule and Evaluation

There are five alternatives to our proposed rule that address the problem of incentivizing the transfer of a prescription. They include banning prescription transfers all together, transferring the entire patient profile with a transferred prescription, recommending the establishment of a limit to the number of transfer coupons for patients, banning pharmacies from offering any type of financial incentive, or doing nothing at all.

Banning prescription transfers all together would create an unnecessary inconvenience for patients. While it would eliminate the excessive transfer of prescriptions, it would also create a barrier to patient care since there are legitimate reasons a prescription may need to be transferred. This could lower accessibility to medications and create a situation where patients may discontinue necessary medications because they are away from home. Also, it would greatly inconvenience travelers, as they would have to bring a hard copy prescription with them or obtain a vacation supply of medication before their vacation. Many insurance plans do not allow

early refills for travel situations, or many do not allow refills for more than one month a time. Banning transfers all together also takes away a patient's autonomy to move their patronage where they choose. The unfeasibility of limiting the number of prescription transfers is evidenced by a regulation in Ohio, which was passed in January of 2011, limiting prescription transfers to one-time only. It was reversed just two months later, in March of 2011.

Another alternative would be to transfer the entire patient profile, including every prescription, every time. Currently prescriptions, not transferred within the same system/chain, are typically transferred by phone or fax. It would not be feasible to transfer every prescription for a patient over the phone, or by fax, and where it is possible, it could lead to substantial errors. Thus the only way in which this alternative would be feasible would be to develop an electronic system that could integrate different pharmacy systems and make them into a more universal network that is able to cross-communicate. Unfortunately, implementation of this solution would require significant time and funding. Furthermore it may be impossible to integrate different programs into an electronic system able to transfer all the data between the different pharmacies. Additionally, an interface between any two programs would require an IT team for maintenance. Likewise, the adoption of a universal electronic pharmacy system is equally unfeasible. It would not only place a financial hardship on independent pharmacy owners who would likely not be able to afford it, but it would create a monopoly at odds with the U.S.'s capitalist economy. Although a program like this may greatly enhance patient care, it is not a realistic alternative at this time. Another means of transferring whole patient profiles would be to adopt a data sharing system in which data centers store and let a single pharmacy borrow the patient's information at one time. This would also be financially costly, difficult to keep secure, and would create further barriers to providing care. If information in a patient's profile is

outdated or incorrect, it may be less likely to be updated if pharmacies don't verify all information.

A recommendation could be issued to companies to limit the number of transfer coupons given to a specific patient. Practically speaking, someone would likely need to form guidelines about a reasonable transfer limit that would take into account the needs of various patient populations. This approach would likely be an ineffective solution because it would create a situation where recommendations would not be enforceable because they are considered voluntary. Any company looking for a competitive edge (and who isn't) might choose to completely disregard these recommendations.

Banning pharmacies from offering any type of financial incentive for prescriptions would eliminate unsafe incentives. Unfortunately, it would also prevent pharmacies from honoring manufacturer coupons and similar cost mitigating offers that help patients afford their medications. This could potentially prevent patients from obtaining necessary, high cost medications through patient assistance programs and act as a barrier to patient care.

Finally, we could simply choose to do nothing and hope that these unsafe business practices fade away on their own. Though it is possible that transfer incentive coupons will be eliminated by the market, it is highly unlikely in a sector with shrinking profit margins and the need for increased prescription volume to sustain business. As long as these incentive coupons elicit a continuous transfer of patient data they will lead to an increased risk of error, contribute to unnecessary time and cost commitments, and increase the probability of errors which risk patient safety. By doing nothing, we are putting patients at risk for medication errors that may lead to serious health consequences.

VII. Conclusions

By banning the use of coupons incentivizing the transfer of prescriptions between pharmacies, we intend to improve patient safety by removing a source of possible medication-related errors. In doing so, we anticipate a shift towards programs that promote a “pharmacy home” and a reduction in the fragmentation of pharmacy care which should help prevent harm to patients.

Petition to Eliminate Prescription Transfer Coupons/Rebates

Originally served to PQAC on 3/6/2014
University of Washington School of Pharmacy
Pharm 543: Pharmacy Law and Ethics

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Our Aim in Washington State

Mission Statement

The mission of the Pharmacy Quality Assurance Commission is to promote public health and safety by establishing the highest standards in the practice of pharmacy and to advocate for patient safety through effective communication with the public, profession, Department of Health, Governor, and the Legislature.

Vision Statement

The Washington State Pharmacy Quality Assurance Commission leads in creating a climate for the patient-focused practice of pharmacy as an integral part of an accessible, quality-based health care system. As a result, the citizens of Washington State:

- Are well informed about medications;
- Take responsibility for their health;
- Utilize pharmacists and other health care providers appropriately; and
- Experience the highest level of health and wellness

Problem Definition

- Prescription transfer coupons:
 - encourage fragmentation of patient care
 - increase the probability of errors
 - create incomplete patient profiles
 - increase overall risk to patient safety
- Prohibiting transfer coupons will:
 - promote a “pharmacy home”
 - protect patients against adverse drug events
- Arkansas, Alabama, Oregon, New York, New Jersey, and Ohio all have regulations that ban or discourage prescription transfer incentives

Stakeholders and Viewpoints

American Pharmacists Association (APhA) –

- “APhA advocates the elimination of coupons, rebates, discounts, and other incentives provided to patients that promote the transfer of prescriptions between competitors.”

National Community Pharmacists Association (NCPA) –

Unofficial statement from John Norton, Director of Public Relations

- NCPA has “always believed a patient is best served by going to one pharmacy” → “allows a relationship to develop between a patient and pharmacists on familiarity and trust, which opens up the possibility of greater adherence”
- “the incentives you talk about would seem to suggest that the most likely culprits would be [pharmacies] like CVS, which through their PBM, try to steer patients to use their retail pharmacy through financial incentives”
- “the playing field should be level”

Stakeholders and Viewpoints

Washington State Pharmacy Association (WSPA) Technicians Academy –

Opinion from board member, point-of-view technician

- Questions what is happening to the profession – poor pharmacist overwhelmed and doing transfers all day – pharmacist on the other line feels abused BUT corporate wants to see more numbers
- Verbally transferring prescription → hoping the original prescription is transcribed correctly, lacking other medical information, fill history → unable to provide optimum patient care
- Transfers just for discounts interrupt and take time away from patient care
- Refilling unnecessary medications for discounts on groceries – ex. Transfer muscle relaxant to QFC → unnecessary medications around the home are potential hazards to children or other people who may take the medications
- The technician wants to see this exact subject changed soon

Stakeholders and Viewpoints

Target –

Unofficial statement from Joseph Ennesser, Healthcare Market Leader

- “Although the transfer coupons drove sales, they did not drive loyalty to the company.”

National Association of Chain Drug Stores (NACDS) –

- “As a matter of common business practice, companies utilize incentives and inducements to gain patronage. Nothing in this practice is harmful to patients’ health or welfare.”

Washington Advocates for Patient Safety –

- “In theory, we do not see that these offers or transfer coupons are in themselves a risk to patient safety. If all the records from one pharmacy are transferred to the next pharmacy so that all allergies and other drug interactions are known, any good pharmacist can and should be able to provide safe service to patients.”

Current State Regulations

Oregon –

OAR 855-041-1170: Division 41: Operation of Pharmacies (Ambulatory and Residential Drug Outlets)
Grounds for Discipline. Effective Feb, 2012.

“The State Board of Pharmacy may impose one or more of the following penalties which includes: **suspend, revoke, or restrict the license of an outlet or may impose a civil penalty upon the outlet** upon the following grounds:

(5) Inciting or inducing the transfer of a prescription absent professional rationale.”

Alabama –

Alabama BOP Rule: 680-X-2-.22. Effective June, 2011. Amended Jan., 2012

Code of Professional Conduct

“(h) A pharmacist and a pharmacy should never offer or participate in the offering a financial award or benefit, not related to competitive retail pricing of any drug, to induce or encourage any individual to transfer a prescription from one pharmacy to another.”

Arkansas –

02-04: Defining Unprofessional or Dishonorable Conduct. Amended June, 2003.

02-04-0002—Definition

“**Unprofessional or dishonorable conduct by a pharmacist** shall mean, among other things, but not limited to:

(l) The distribution, promotion, or advertising of premiums, rebates, coupons, amounts off, etc., on prescription drugs unless the offer is given to all patients purchasing prescriptions in the same time period. Senior Citizen discounts shall not be considered a violation of this section.”

New York –

NYCRR 29.1.12 **Unprofessional Conduct**, General Provisions. Effective Oct., 2011.

12. “i. Advertising or soliciting not in the public interest shall include, but not be limited to, advertising or soliciting that:
e. offers bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product.”

New Jersey –

NJAC 45:14-65 Refusal of application for examination, suspension, revocation of certificate; procedure.

Updated July, 2011.

26. ... “the following acts are hereby declared to constitute **grossly unprofessional conduct [of pharmacists]** for the purpose of this act:

e. The distribution of premiums or rebates of any kind whatsoever in connection with the sale of drugs and medications provided, however, that trading stamps and similar devices shall not be considered to be rebates for the purposes of this act and provided further that discounts, premiums and rebates may be provided in connection with the sale of drugs and medications to any person who is 60 years of age or older.”

Ohio – passed a regulation limiting prescription transfers to one-time only (effective 1/1/11; reversed 3/2011)

The Purpose of the Proposal

The proposed rule aims to:

- Decrease fragmentation of care and encourage a "pharmacy home"
 - Advocate for patient safety including decreasing the probability of adverse drug events
 - Maintain accessible health care
 - Utilize pharmacists appropriately to provide top-of-the-license care
 - Establish the highest standards in the practice of pharmacy
-
- Original petition language: "A pharmacist and/or pharmacy should never financially incentivize or induce the transfer of a prescription, not related to the competitive pricing of drugs."

A Second Version of the Proposal

- Our proposed law will be an addition to WAC 246-869-090 "Prescription Transfer" as shown:
- The transfer of original prescription information for a non-controlled substance legend drug for the purpose of refill dispensing is permissible between pharmacies subject to the following requirements:
- (1-4 contain the Who, How, Refills, and Audit Trails respectively)
- (5) "Pharmacies cannot participate in the offering of a financial award or benefit, unrelated to competitive pricing of drugs, to encourage the transfer of prescriptions from one pharmacy to another."

Alternative Solutions and Evaluation

1. Choose to Ban Prescription Transfers all Together
 - Inconvenient for patients
 - Barrier to patient care
 - Lowers accessibility to medications
2. Transferring the entire patient profile with all prescription transfers
 - Difficult to integrate different programs into an interoperable systems able to transfer data between themselves
 - Implementation requires significant time and funding

Alternative Solutions and Evaluation

3. Issue a recommendation for companies to limit the number of transfer coupons given to a specific patient
 - Without a mandate, companies may simply ignore this recommendation if it puts them at a competitive disadvantage
4. Ban pharmacies from offering any type of financial incentive for prescriptions
 - This would prevent pharmacies from honoring manufacturer coupons and similar cost mitigating offers

Alternative Solutions and Evaluation

5. Do Nothing

- Continual transfer of patient data will lead to increasing risk of error
- Continual transfer of patient data will contribute to unnecessary time and cost commitments

Questions



