

SB 298

State Board of Pharmacy-Pharmacy Closure-Notice to Customers

Position of: **Independent Pharmacies of MD (IPMD)**

Position: **FAVORABLE WITH AMENDMENTS**

WHAT THE BILL DOES:

The bill requires that the owner of a pharmacy post a notice of an anticipated closure of a pharmacy at least 30 days before closure, or by mail at least 14 days to each customer that has a current or authorized refill on file with the pharmacy.

WHY THE BILL SHOULD BE AMENDED:

In most cases, pharmacies close as a result of a sale to another pharmacy. As a part of that sale, the pharmacy will transfer prescriptions to the acquiring pharmacy. The sale price reflects the amount of revenue generated by the pharmacy, as well as future revenues. In the case of independent pharmacies, most of its revenue is generated through prescriptions, so any impact on the number of prescriptions to be transferred will have a significant impact on the sales price.

In most sales contracts for the business, there will be a “true-up” or some other process that will adjust the initial contract sales price to a price at the time of closing to reflect actual revenues at that time. If the pharmacy loses 5 % or 10% of its prescriptions, e.g., between the signing of the contract and the time of closing, there will likely be a contract adjustment and a corresponding reduction of the sales price.

IPMD does not object to the concept of notice to a consumer that a pharmacy is closing, and notice that its prescriptions will be transferred. But independent pharmacies, in particular, are under financial stress. So, the time for that notice should be reasonable so that the pharmacy does

not potentially suffer a substantial loss in the value of its operation just before closing of the sale. IPMD believes that a 10-day posted notice requirement at the closing pharmacy would be sufficient, and would allow customers who want to move their prescriptions before closure the opportunity to do so. And a mail notice option by the selling pharmacy is unnecessary and should be eliminated; the acquiring pharmacy has the incentive to, and will, notify its new customers of the transfers in order to retain their business. We believe that these amendments correctly balance the interests of the closing pharmacy and its customers.

PROPOSED AMENDMENTS:

Change the time limit for a posted notice from 30 days to 10 days.

Eliminate any mailing notice option, (or, in the alternative, specify that any mailing notice is to be done by the acquiring pharmacy).

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