

# TEXAS DEPARTMENT OF PUBLIC SAFETY

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January 4, 2007

Ms. Gay Dodson, R.Ph.  
Executive Director  
Texas State Board of Pharmacy  
William P. Hobby Building, Tower 3, Suite 600  
333 Guadalupe Street  
Austin, Texas 78701

Dear Ms. Dodson:

In an effort to clarify the Texas Department of Public Safety's position concerning whether the date of issuance of a prescription for a Schedule II controlled substance could be changed or modified beyond the seventh day. I requested the department's legal counsel to review the Texas Health and Safety Code and the Texas Administrative Code. As a result of counsel's research, no provision was located allowing or permitting for such a change beyond the seventh day of the prescription's original issuance.

It is the department's opinion that additional language is needed in the current statute to permit the modification or allow for the change. In addition, an administrative rule proposal which coincides with the change of law would be necessary. The department is willing to draft proposed legislation creating this additional language with input from Texas State Board of Pharmacy. If legislation addressing this issue is unsuccessful, the department will attempt to seek an opinion from the Attorney General's Office.

In the interim and absent extreme abuse, the department would not take criminal or administrative action against the pharmacist, if prior to filling the Schedule II prescription the pharmacist contacts the prescribing physician and obtains authorization. The filling pharmacist must document his request and the doctor's authorization, including the time and date, on the back of the Schedule II prescription form. It is the department's requirement that under no circumstance will a Schedule II prescription be filled after 21 days from the original date the prescription was issued.

Sincerely,

Thomas A. Davis, Jr.  
Director

TADJr:GRS:TG:JH:cw

cc: Chief Kent W. Mawyer, Criminal Law Enforcement Division  
Commander James Brubaker, Narcotics Service