



TEXAS DEPARTMENT OF STATE HEALTH SERVICES

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DAVID L. LAKEY, M.D.
COMMISSIONER

Dear Certificate of Authority holder:

The Department of State Health Services (department) is sending this letter to provide information to assist your firm in implementation of House Bill 1137, enacted by the 82nd legislature. House Bill 1137 amends Health and Safety Code, Chapter 486 entitled "Over-the-Counter Sales of Ephedrine, Pseudoephedrine, and Norpseudoephedrine." This new law requires that, by January 1, 2012, all firms that hold a Certificate of Authority (certificate) with the department that sell over-the-counter drug products containing ephedrine and/or pseudoephedrine (PSE) shall transmit the information collected at the point of sale to a multi-state, real-time electronic PSE monitoring program, for the purpose of tracking PSE purchases and providing information to prevent illegal sales.

Certificate holders in Texas are currently required to capture certain data regarding PSE sales. House Bill 1137 amended the requirements for data collection. Changes and additions include the following:

- Prerequisites to the sale of PSE products now include the following: identification presented to the retailer must be a government-issued identification; and the retailer must record the date of birth and address of the purchaser, the time of purchase and the type of identification presented by the purchaser, including the identification number.
- Amended limits on the amount of product a retailer can sell. The firm cannot sell more than 3.6grams of PSE within a calendar day or more than 9 grams of PSE within any 30 day time period
- Information collected by the retailer must be transmitted to a real-time electronic monitoring system.
- A retailer cannot complete the sale if the person would obtain more PSE than allowed by law.
- A retailer may apply to the department for a temporary exemption from using a real-time electronic tracking system. This exemption may not exceed 180 days in duration.
- All paper documents created prior to the initiation of a real-time electronic system must be maintained for two years after the date the retailer starts using the electronic tracking system.

- Businesses are required to start using a real-time electronic tracking system by January 1, 2012

The technology provider, Appriss, will provide access to and use of a web-accessed database at no charge to certificate holders in Texas. Although all certificate holders will be required to use the electronic monitoring system to record over-the-counter sales data as of January 1, 2012, please note if your firm does not have an in-store system for capture of an electronic signature verifying the purchase, you will need to continue to keep a manual log of signatures. Data entered in the electronic monitoring system will be stored in a secure, central repository that treats the data collected as if it were data protected under the Health Insurance Portability and Accountability Act. Furthermore, the collected data will be viewable by law enforcement in keeping with the privacy protections provided individuals under Title 21, Code of Federal Regulations, section 1314.45 entitled "Privacy Protections."

During the launching of this project, Appriss will provide training sessions for all firm located throughout the state. Members from Appriss or your corporate office will be contacting you within the next few weeks to provide detailed information to allow you access to the electronic monitoring system and to discuss integration, training and any other related questions.. The department will continue to work with Appriss and Texas firms in implementation of this important program. If you have questions or need additional information, please contact Karen Tannert, at (512) 834-6755 or email Karen.Tannert@dshs.state.tx.us.

Sincerely,



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