

Board of Pharmacy

Final Statement of Reasons

Subject Matter of Proposed Regulation: Fingerprint Submissions for Pharmacy

Title 16 Sections Affected: Add 1702

Updated Information

Initial Statement of Reasons

The Initial Statement of Reasons is included in this rulemaking file. The information contained therein accurately reflects the board's position regarding the adoption of the above section, except as noted below.

Under the Authority and Reference for the specific text, one reference used is section 4400 of the Business and Professions Code. This section was amended via Chapter 270, Statutes 2009 (AB 1071, Emmerson).

Std. 399 Economic and Fiscal Impact Statement

The board reduced the estimated impact to state government from \$35,000 to \$10,000. This reduction is based on the recent implementation of a technology solution that allows for automated responses from the DOJ.

Summary of Comments Received During the 45-Day Comment Period:

The board has received comments from five individuals. Below is a summary of the comments received as well as the board's response to each.

Comments submitted by Lisa Johnson, PharmD

Dr. Johnson states that she is fine with the requirement for pharmacists to resubmit fingerprints, but states that this requirement should apply to all licensees, not just pharmacists.

Board's Response:

The board agrees that this requirement should be expanded to other licensees as well. Board minutes from the October 21-22 meeting reflect the board's intent to pursue a similar requirement for pharmacy technicians and designated representatives after compliance with this regulation change is completed. The board did not consider this requirement for nonpharmacist owners and may wish to in a subsequent rulemaking.

Comment from Eduardo Morin

Dr. Morin states that his original fingerprints are probably fossilized.

Board's Response:

This comment does not appear to be directed to the board for its consideration in the adoption of this rulemaking, but rather is directed to other individuals included in the e-mail string.

Comment submitted by Michael Spencer

Mr. Spencer asked for the background for this proposal.

Board's Response:

The Initial Statement of Reasons provided as part of this rulemaking includes the background for this proposal.

Mr. Spencer asks if individuals would be required to resubmit in electronic format.

Board's Response:

As indicated in the proposed language as well as the Notice and Initial Statement of Reasons, pharmacists would be required to submit fingerprints in an electronic format if they have not done so already. Affected individuals will be notified by the board in advance of the license expiration.

Comment submitted by Peter Forni, Pharm.D.

Dr. Forni's comments indicate that pharmacists previously submitted fingerprints prior to issuance and that he has submitted fingerprints for a number of other reasons.

Board's Response:

Dr. Forni will only be required to resubmit fingerprints if the DOJ does not have a record of an electronic submission on file for the board. The board's agreement with the DOJ prohibits the use of fingerprints submitted for other purposes or for other agencies.

Dr. Forni requests feedback on what is needed and references a January 15 meeting.

Board's Response:

This comment does not appear to be directed to the board for its consideration in the adoption of this rulemaking, but rather is directed to other individuals included in the e-mail string.

Comments from Michael Sillman

Mr. Sillman asks how pharmacist will be informed whether their fingerprints are already on file.

Board's Response:

The board will notify effected pharmacists in writing.

Mr. Sillman asks how a pharmacist will know that fingerprint information has reached the board and will hold up a license renewal.

Board's Response:

The board understands the concern of a delay in processing a renewal. Implementation of this provision and the proposed regulation does not indicate that the processing of a renewal is contingent upon receipt of a DOJ response. Rather, the regulation requires that the submission occur prior to renewal and that a record of the submission be retained for a period of three years.

Local Mandate:

None

Business Impact:

This regulation will not have a significant adverse economic impact on businesses. This determination was based on the absence of testimony indicating adverse economic impact regarding this rulemaking proposal.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to the affected persons than the proposed regulation.