

BOARD OF PHARMACY

Final Statement of Reasons

Subject Matter of Proposed Regulations: Pharmacist Identification, Pharmacy Self-Assessment, Pharmacist Candidates, Continuing Education, Fees, Partial Filling of Schedule II Prescriptions

Title 16 Sections Affected: 1706.2, 1712, 1715, 1717, 1719, 1720, 1720.1, 1725, 1726, 1727, 1728, 1732, 1732.05, 1732.1, 1732.2, 1732.3, 1732.4, 1732.5, 1732.6, 1732.7, 1745, 1749, 1750

Hearing Date: None

Updated Information:

The board makes the following corrections or modifications to the Initial Statement of Reasons:

- As initially noticed (under “Specific Purpose of the Proposed Changes”) the board stated:
“Proposed amendments to section 1717 is amended (sic) to make technical corrections and to relocate the provisions of subdivision (e) to section 1712.” However, this is inaccurate; the board made technical amendments to section 1717, but did not relocate provisions of subdivision (e) to section 1712. The board notes that the corrected reference for section 1717 is: “Proposed amendments to section 1717 are to make technical corrections.”
- Section 1715.5 was initially noticed for repeal in this rulemaking. However, the board determined it was premature to repeal this section until the Department of Justice is able to develop its own specific requirements for pharmacies to submit data to the Controlled Substances Utilization and Evaluation System (CURES). As such, the proposed repeal of this section was removed from the rulemaking during action by the board on January 19, 2005. This change was noticed during the subsequent 15-day comment period in February 2005.
- Section 1720.1: The board relocated a section of 1719 initially noticed as targeted for repeal into section 1720.1. This change was approved by the board during its January 19, 2005 meeting and noticed for a 15-day comment period in February. The change requires that candidates certified by the Foreign Graduate Equivalency Committee before January 1, 1998, to

also provide the board with a specific Test of Spoken English score. This modification was necessary because the Foreign Graduate Equivalency Committee did not require Test of Spoken English scores for all candidates it certified before 1998. The modification to section 1720.1 assures that foreign-educated pharmacists have attained a specific score on the Test of Spoken English before they can be determined eligible to take the California pharmacist licensure examinations.

The board also corrected a reference to the Foreign Pharmacist Graduate Equivalency Committee that was initially noticed as Foreign Pharmacist Graduate Examination Committee. This change was modified by the board during the January 19, 2005 Board Meeting and released during the subsequent 15-day comment period in February.

- Section 1732.05: The board made a technical amendment to subdivision (b)(7) to correct an obviously incorrect sentence. The corrected provision provides that an accreditation agency must: "Verify completion of a specific continuing education course by an individual pharmacist upon request of the board " (before it had read "upon request of this article"). The correction was modified by the board during the January 19, 2005 Board Meeting and released during the subsequent 15-day comment period in February.
- Section 1745: The board made two technical corrections to this section during the January 19, 2005 Board Meeting. Both were made in response to written comments received during the initial notice period, and the amended language was released during the subsequent 15-day comment period in February.
 1. The board added to subsection (c) "pursuant to subsection (a)" to clarify a reference in 1745(c).
 2. The board also removed "triplicate" from 1745(c)(2). SB 151 (Burton, Chapter 406, Statutes of 2003) changed requirements for prescribing and dispensing controlled substances. One change was to eliminate the three-part (or triplicate) prescription form requirement for Schedule II controlled drugs. In this section, the board is eliminating an obsolete reference to "triplicate."

Summary of Comments Received During the 45-Day Comment Period (November 12, 2004 to December 27, 2004)

The board received two comments during the initial notice period. The board received a comment that the clarity of section 1745(c) would be improved if it contained a reference that the provisions pertain only to section 1745(a). The board agreed.

Another comment was received from a board employee who noted that the word “triplicate” remained in section 1745(c)(2). This oversight was corrected and noticed for 15 days.

As a result, the board took the following actions during the January 19, 2005 Board Meeting and released the changes for a 15-day comment period I February 2005:

1. The board added to subsection (c) “pursuant to subsection (a)” to clarify a reference in 1745(c).
2. The board also removed “triplicate” from 1745(c)(2). SB 151 (Burton, Chapter 406, Statutes of 2003) changed requirements for prescribing and dispensing controlled substances. One change was to eliminate the three-part (or triplicate) prescription form requirement for Schedule II controlled drugs. In this section, the board is eliminating an obsolete reference to “triplicate.”

There were no other comments received.

Summary of Comments Received During the First 15-Day Comment Period:

There were no comments received during the 15-day comment period in February 2005.

Local Mandate:

None.

Business Impact:

This regulation will not have a significant adverse economic impact on businesses. This determination is based on the absence of testimony indicating adverse economic impact regarding these rulemaking proposals at the informational hearings held by the board and during the comment periods.

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 and less burdensome to affected private persons than the proposed regulation.

Addendum to the Final Statement of Reasons
15-Day Notice

Updated Information: The board makes the following addition to the Final Statement of Reasons:

In adopting this rulemaking the board incorporated by reference two documents in section 1715, the "Community Pharmacy & Hospital Outpatient Pharmacy Self-Assessment" form 17M-13 (Rev 1/05), and the "Hospital Pharmacy Self-Assessment" form 17M-14 (Rev 1/05).

Numbering 28 and 24 pages respectively, the board believes that it would be cumbersome, unduly expensive and otherwise impractical to publish these documents in the California Code of Regulations. The board has numerous forms. None has been published before.

The board made these documents available throughout the rulemaking. The initial statement of reasons and notice were mailed to those on the board's mailing list accompanied by the exact language and the two self assessment forms. These self-assessment forms were placed on the board's Web site, where they have remained since November 2004 when they were initially noticed.