



california pharmacists association

July 28, 2020

Mr. Greg Lippe
President
California Board of Pharmacy
2720 Gateway Oaks Dr, Ste. 100
Sacramento, CA 95833

Dear Mr. Lippe,

The California Pharmacists Association (CPhA), must regretfully oppose proposed regulation 1708.1 regarding a new requirement to notify the Board of Pharmacy of a temporary closure exceeding three calendar days.

On Wednesday, July 8th, the Board's Licensing Committee held a hearing where this proposed regulation was discussed and considered. Per the Draft Committee minutes that the Meeting Materials provide, the Committee stated, in part, that "*...over the past several years, typically in response to declared disasters, but also in response to construction issues, Board licensed businesses at times must temporarily close. More recently, regrettably, a significant number of pharmacies were damaged or destroyed. In many cases the damages occurred to a number of pharmacies in the same region. Although not required, some facilities notify the Board when temporary closures occur. Such notification allows the Board to maintain a better operational history, albeit in an informal fashion and provides transparency to consumer, licensees and other healthcare practitioners through the Board's website license lookup.*"

While we understand the Board's stated objective, it is not in alignment with the mission of the Board, ". . . protects and promotes the health and safety of Californians by pursuing the highest quality of pharmacist's care and the appropriate use of pharmaceuticals through education, communication, licensing, legislation, regulation, and enforcement."

The commentary made during the Licensing Committee meeting seems to indicate that members of the public would be provided "transparency" by, presumably, having the Board's website reflect that a pharmacy has been closed for at least three days. If a member of the public currently searches for a pharmacy using the Board's website, the only information presented to the public is a name of a pharmacy, any licensed pharmacists associated with the pharmacy and an address of record. Will contact information now be included on the Board's website?

CPhA also has concerns as it relates to the accuracy of said information on the website. What if a pharmacy has reported a temporary closure to the Board, per the regulation, but then was able to open for business immediately afterward? Any delay in the updating of information on website would still show the pharmacy as temporarily closed. The public would then see that and incorrectly assume that the pharmacy is closed. How does that serve that public's interest? Is the Board going to dedicate staff to constant updates to the website of which pharmacy is open and which isn't? If so, what are the cost implications for doing so and will it be borne by licensees?

As we have seen the last several years, pharmacists go above and beyond to continue to serve their communities while in the midst of natural disasters, civil unrest and public health crisis. In the event pharmacy is forced to close due to circumstances beyond the

pharmacists control, there is already a list of issues that must be dealt with immediately, including, but not limited to:

- Notifying patients whose prescriptions were stolen, and with it private health information
- Notifying wholesalers and other suppliers to restock stolen/damaged medication.
- Reporting any controlled substance losses to the Board and the DEA
- Notifying their insurance carrier and submitting claims.
- Notifying their landlords if the pharmacy is leasing a space
- Addressing staffing issues
- Cleaning the pharmacy from broken glass and other materials.
- Dealing with potentially lost records, etc.

Is it truly the mission of the Board to add another requirement to pharmacists which does not align with the Board's responsibility of protecting the public?

Finally, CPhA must reiterate our concern regarding the potential enforcement actions, discipline or otherwise, for failure to comply with this regulation when enacted. While the Chairperson stated that the intent would be to provide this information to the public, and not be punitive, Board Counsel did in fact state that violations could result in citations. Further, other Board members reiterated that same concern that CPhA did and wants the Board to work with pharmacies who are closed beyond the three calendar days.

For these reasons, CPhA must oppose the adoption of aforementioned and respectfully requests that the Board not move forward with the proposed regulation as noted in the Meeting Materials. Should you have any questions about our opposition, please don't hesitate to contact me at dmartinez@cpha.com or at (916) 779-4519. Thank you.

Sincerely,



Danny Martinez
Director, Regulatory Affairs and Policy Development
California Pharmacists Association