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SENATOR
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April 26, 2021

The Hon. Gregory N. Lippe, President
Hon. Board Members
California Board of Pharmacy
2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

RE: SB 362 – Request for Board of Pharmacy Support

Dear President Lippe and Honorable Board Members:

I am writing to respectfully request that the Board of Pharmacy take an official position endorsing my pending legislation, SB 362, which when enacted would prohibit pharmacies from establishing quotas on pharmacists that can interfere with their ability to deliver effective patient care. I have accepted recommendations to amend the bill by removing the provisions regarding pharmacy licensure suspension and revocation for violations.

I am carrying SB 362 because, like you, my highest priority is patient and public protection. After chairing an informational hearing three years ago exploring some of the profit-driven pressures being imposed on your licensees, I have been committed to ensuring that the practice of assigning quotas to pharmacists, which are often directly at odds with the ability of a pharmacist to serve each patient according to that patient's unique needs and the pharmacist's professional judgment, is reformed.

The members of your Board know better than anyone that licensees do not simply count pills. Pharmacists are legally and ethically bound to advise their patients, physicians, and other health practitioners on the selection, dosages, interactions, and side effects of medications, as well as to monitor the health and progress of patients and ensure that they are using their medications safely and effectively.

Acknowledging the training and skill of your licensees, my legislative colleagues have

consistently sought to integrate pharmacists more deeply into the health and well-being of Californians. In recent years, moreover, legislation has charged licensees with ever more complicated duties drawing on the training, judgment, and sensitivities of pharmacists and pharmacy technicians.

Consider a pharmacist's critical role in preventing the abuse of prescription opioids. The Board identifies "red flags" that pharmacists are legally obligated to watch for *before filling any prescription*. These red flags include:

- Irregularities on the face of the prescription itself.
- Nervous patient demeanor.
- The age or presentation of patients (e.g., youthful patients seeking chronic pain medications).
- Multiple patients with the same address.
- Multiple prescriptions for the same patient for duplicate therapy.
- Requests for early refills of prescriptions.
- Prescriptions written for an unusually large quantity of drugs.
- Prescriptions written for duplicative drug therapy.
- Initial prescriptions written for strong opiates.
- Long distances traveled from the patient's home to the prescriber's office or to the pharmacy.
- Irregularities in the prescriber's qualifications in relation to the type of medications prescribed.
- Prescriptions that are written outside of the prescriber's medical specialty.
- Prescriptions for medications with no logical connection to an illness or condition.

On top of this, in 2013, the Governor signed legislation that significantly expanded the scope of practice of pharmacists. To expand access to healthcare, pharmacists are now, without a prescription from a physician, permitted to:

- Vaccinate patients;
- Aid patients in the administration of self-administered hormonal contraception;
- And provide nicotine replacement products.¹

It's important to note that while existing California law prohibits most categories of healthcare providers from being employed by corporations not owned entirely by licensees, Board of

¹ The Board has by regulation promulgated extensive protocols governing each and every of these new duties and each requires judgment, skill, and training tailored to each individual patient. To take one example, for self-administered hormonal contraception, the California Code of Regulations requires a pharmacist to complete the following steps: Ask the patient to use and complete the self-screening tool, review the self-screening answers and clarify responses if needed, measure and record the patient's seated blood pressure if combined hormonal contraceptives are requested or recommended, before furnishing self-administered hormonal contraception, ensure that the patient is appropriately trained in administration of the requested or recommended contraceptive medication, when a self-administered hormonal contraceptive is furnished, provide the patient with appropriate counseling and information on the product furnished, including consultation addressing dosage, effectiveness, sexually transmitted diseases, and safety.

Pharmacy licensees are one of the few licensed healthcare providers who may be employed directly by publicly traded chain pharmacies under significant pressure to show growth in earnings every quarter.

Both investigative news reports, surveys of your licensees, and the Board's enforcement actions² affirm that quotas subordinate patient-centered and quality care. These quotas are established and intended quantitatively to benchmark licensee performance by practices that improve profits and do not measure the quality of attention and care afforded to each patient. As one surveyed pharmacist put it:

"I am more focused on accomplishing those goals than being a pharmacist that can care for patients and what they actually need/want. Instead I feel that my job now is to almost 'sell' patients on vaccinations in order to meet company goals."

Quotas elevate profit-driven business objectives over care for patients. As such, they are incompatible with public protection, my policy efforts and, not least, this Board's mission.

SB 362 will ensure that California's licensed pharmacists have the necessary discretion to determine the sufficient time and care to fill each prescription safely and properly or provide the other critical services for which they are licensed. As mentioned above, I've committed to amending the bill's original provisions regarding pharmacy licensure suspension and revocation for violations in favor of negotiating with the opposition and correlating penalties to those recently proposed in this Board's sunset review legislation.

For all these reasons, I respectfully ask that you join my colleagues and me in the effort to restore to your licensees the freedom to more effectively exercise their professional judgment and take care of their patients by endorsing SB 362.

If you have any questions, please contact Alina Evans in my office at alina.evans@sen.ca.gov.

Sincerely,



Josh Newman
Senator, 29th District

² In 2011, the Board brought to the three District Attorneys' Offices (Riverside, San Diego, and Alameda) information about the three biggest retail chains (CVS, Rite Aid, and Walgreens), failing to properly provide needed personal consultation to prescription drug customers. Working with the Board, the three DA offices conducted an undercover investigation of the consultation practices the major pharmacy chains in California. All three of these major retailers were forced to pay huge fines (CVS--\$658,000; Rite Aid -- \$500,000; Walgreens--\$502,200).