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Business, Consumer Services and Housing Agency  
Department of Consumer Affairs  
Gavin Newsom, Governor



## **COMMUNICATION AND PUBLIC EDUCATION COMMITTEE**

Ricardo Sanchez, Public Member, Chairperson  
Jason Weisz, Public Member, Vice Chairperson  
Jose De La Paz, Public Member  
Shirley Kim, Public Member  
Kula Koenig, Public Member  
Nicole Thibeau, Licensee Member

**a. Call to Order and Establishment of Quorum**

**b. Public Comment for Items Not on the Agenda; Matters for Future Meetings**

*The committee may not discuss or act on any matter raised during the public comment section that is not included on this agenda, except to place the matter on a future meeting agenda. [Government Code sections 11125 & 11125.7(a)]*

**c. Review of Educational Materials Regarding How to File a Complaint under SB 362 and General Whistleblower Protections Under California Law**

Background

Senate Bill 362, which took effect January 1, 2022, prohibits a community chain pharmacy:

- Using a quota to evaluate the performance of a pharmacist or pharmacy technician.
- Communicating the existence of such a quota to its pharmacists and pharmacy technicians.

In addition, SB 362 authorizes the Board to take enforcement action against a pharmacy that violates provisions of the bill.

During Board and committee meetings, members asked about a complaint process and whistleblower protections for licensees alleging violations of SB 362. The Board requested the development of educational materials for licensees to implement the law, including a complaint process and whistleblower protections.

At Today's Meeting

Staff has identified existing materials that could be leveraged as resources for filing complaints and whistleblower protections.

1. **Filing complaints:** The Board has several resources for consumer complaints, including a [brochure](#) and [online complaint form](#). These resources could be revised to include sections for licensee complaints related to SB 362 or adapted to create separate forms for SB 362 complaints. Staff has drafted sample text in italic below for a possible brochure related to quota complaints:

### ***Do You Have a Complaint about a Pharmacy Performance Quota?***

*California law prohibits a chain community pharmacy from setting certain types of quotas related to the duties of a pharmacist or pharmacy technician.*

*Business and Professions Code section 4113.7 forbids a pharmacy from setting – which is defined as “a fixed number or formula” – regarding the duties of a pharmacist or pharmacy technician related to:*

- *Prescriptions filled.*
- *Services rendered to patients.*
- *Programs offered to patients.*
- *Revenue obtained.*

*In addition, Business and Professions Code section 4317 authorizes the California State Board of Pharmacy to take action against a pharmacy for violations of BPC section 4113.7.*

*If you believe a community chain pharmacy has established quotas for pharmacists or pharmacy technicians in violation of BPC section 4113.7, you may file a complaint to be investigated by the Board of Pharmacy. To file a complaint, ...*

2. **Whistleblower protections:** Although SB 362 does not include whistleblower protections, California law provides general protections for employees alleging employer violations of laws or regulations. For example, a sample [workplace notice regarding whistleblower protections](#) published by the state Division of Labor Standards Enforcement discusses protections for employees and advises that information about possible violations be reported to the state Attorney General’s Whistleblower Hotline. The committee could direct staff to identify resources regarding whistleblower protections in the communication of the complaint process for licensees who file complaints related to SB 362.

Staff welcome questions, comments, and direction from the committee regarding these suggestions for educational materials to implement SB 362.

#### **d. Update on Communication and Public Education Activities by Staff**

##### **1. The Script**

Staff is working on the next edition of the Script, which will include articles on new pharmacy laws for 2022, a new CURES data collection vendor, and tips for preventing drug diversion in pharmacies. Publication is expected in January or February.

## **2. Projects Under Development**

Staff met with the DCA Office of Information Services (OIS) in December to explain the Board's interest in devising an online, interactive process for pharmacy self-assessment to replace the current paperwork process. At the recommendation of OIS, staff will be working with DCA's Organizational Improvement Office (OIO). A meeting is scheduled for the week of January 10. A verbal update will be provided during the meeting.

## **3. Staff Outreach**

Staff and inspectors participated in Webex training for pharmacists on prescription drug abuse and diversion on November 16. A total of 254 licensees attended the event.

Additional outreach activities:

- October 6: Executive Officer Anne Sodergren provided a presentation on Pharmacy Law updates to the Sacramento Valley Pharmacists Association.
- October 30: Ms. Sodergren provided a presentation on updates to Pharmacy Law to the California Pharmacists Association.
- November 3: Ms. Sodergren provided a presentation on Pharmacy Law updates and Board activities at the California Society of Health Systems Pharmacists annual meeting. President Oh, Vice-President Serpa, Supervising Inspector Tony Ngondara and Executive Officer Anne Sodergren also answered questions from licensees at the event.
- December 4: Mr. Ngondara and Ms. Sodergren answered questions at the Indian Pharmacists Association meeting.
- December 15: Ms. Sodergren participated in a webinar discussing e-prescribing requirements hosted by the California Society of Health Systems Pharmacists.

## **4. News Media**

Staff responded to news media inquiries listed in **Attachment 1**.

### **e. Future Meeting Dates**

Additional meetings for the Communication and Public Education Committee in 2022:

- Tuesday, April 26.
- Tuesday, July 19.
- Tuesday, October 25.

**Adjournment**

**Upon Conclusion of Business**

# **Attachment 1**

**News Media Inquiries**

### **News Media Inquiries**

Board staff responded to the following news media inquiries received June 1 through December, 31, 2021:

- June 25, 2021: Angelica LaVito, Bloomberg News, regarding Enforcement Committee informational meeting on white bagging.
- July 11, 2021: Michael Joe, Point Reyes Light, regarding disciplinary action against RPH Zsuzanna Biran and West Marin Pharmacy.
- November 4, 2021: Renee Santos, CBS 13 (Sacramento), regarding complaint about pharmacist vaccinating minor without parental consent.
- November 10, 2021: Ed Silverman, STAT, regarding status of Board accusation against OptumRx, case no. 6638.
- December 9, 2021: Brooks Jarosz, Fox 2 (Oakland), regarding complaints about billing errors related to COVID-19 vaccinations.