California State Board of Pharmacy
2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833
Phone: (916) 518-3100 Fax: (916) 574-8618
www.pharmacy.ca.gov

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

To: Board Members

Agenda Item VII. Discussion and Possible Action related to Proposed Amendment of California Code of Regulations, Title 16, Section 1749 Related to Fees, Including Review of Comments Received During the 15-Day Comment Period

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Relevant Law:
Business and Professions Code (BPC) Section 4400 establishes the statutory ranges for various fees to be assessed by the Board. Further, this section establishes a requirement for the Board to maintain a reserve in the Board's fund of approximately one year's operating expenditures. California Code of Regulations (CCR), Title 16, Section 1749 establishes the current fee schedule for the Board.

Background:
In October 2022, the Board received a fee audit report conducted by Capitol Accounting Partners, LLC. The report summarized existing fee-setting processes and offered recommendations, including regular fee adjustments, to account for cost-of-living changes and other operational cost increases. The Board subsequently pursued SB 816 (2023), which updated its statutory fee structure effective January 1, 2025. Corresponding regulatory amendments to CCR section 1749 also became effective January 1, 2025.

Updated budget projections presented at the January 2026 Board meeting identified significant increases in operating costs from FY 2022/23 to FY 2026/27, including increased DCA pro rata, statewide pro rata, and personnel services. Anticipated revenue losses related to pharmacy closures and ADDS licensure changes further contributed to the projected structural imbalance.

At the March 2026 Board meeting, DCA reported the findings of its fee analysis determining that the Board was again not recovering the full cost of services. The Board approved proposed regulatory text including proposed fee modifications to restore the Board's fund balance to the statutorily required level of a one-year reserve. As required by the Administrative Procedure Act (APA), Board staff released the proposed text for a 45-day comment period on July 31, 2026, and the comment period ended on September 14, 2026. Several comments were received during the comment period.

At the September 2026 Board meeting, the Board reviewed the comments and voted to amend the text in response to the comments received and Board staff recommendations.

Board staff released the revised text for a 15-day comment period on September 17, 2026. The comment period ended on October 2, 2026. A total of four comments were received.

Provided with this memo are the following attachments:

1. Modified text released for the 15-day public comment period.
2. Board staff-prepared summarized comments with recommended comment responses.
3. Comments received during the 15-day public comment period.
4. The original noticed text and comments received during the 45-day comment period.

At this Meeting:

During the meeting, members will have an opportunity to review the comments received, and staff-recommended responses to the comments. The Board will have the opportunity to discuss the rulemaking and adopt the text as noticed for the modified 15-day comment period. Should members agree, provided below is possible motion language.

Possible Adoption Language: Accept the Board staff's recommended comment responses and modified regulation text [either as presented or consistent with the Board's discussion]. Authorize the Executive Officer to take all steps necessary to complete the rulemaking process and adopt the proposed regulation text at Section 1749. Further, delegate to the Executive Officer the authority to make technical or nonsubstantive changes as may be required by the Control agencies to complete the rulemaking file.