

Board of Pharmacy
Initial Statement of Reasons

Subject Matter of Proposed Regulation: Address Change Notification

Section Affected: California Code of Regulations (CCR), Title 16, Division 17, Amend Section 1704

Hearing Date: None unless requested, see Notice of Proposed Action

Background

The Board of Pharmacy (board) is a state agency vested with the authority to regulate the pharmacy industry, including pharmacies, hospital pharmacies, clinics, wholesalers, third-party logistics providers, and outsourcing facilities. The board's mandate and its mission is to protect the public. Business and Professions Code (BPC) section 4001.1.

Problems Addressed

Existing pharmacy law requires a licensed facility to join the board's email notification list within 60 days of obtaining a license or at the time of license renewal and to update the facility's email address with the board's notification list within 30 days of a change in the facility's email address (BPC § 4013). Additionally, existing pharmacy law requires that each pharmacist, intern pharmacist, pharmacy technician, designated representative, and designated representative-3PL licensed in California join the board's email notification list within 60 days of obtaining a license or at the time of license renewal and to update the licensee's email address with the board's notification list within 30 days of a change in the licensee's email address. This notification list is an automated listserv. The primary purpose of the listserv is to send licensees, and other interested parties who provide an email address, automated mass email alerts regarding general board information such as meetings, notices, important information, and product recalls. As it is a listserv generating automated emails, the board does not have direct access to obtain specific licensee email addresses for the purpose of direct communication to the licensee via email.

Currently, the board does not require applicants to provide an email address, which can result in a delay in communication to applicants as the board must send communication to applicants via United States Postal Service mail. Sending communication to applicants via mail can result in numerous delays due to mail delivery times and lost or misdelivered mail. Currently, most applicants for licensure provide an email address when submitting their application. Additionally, most licensees provide an email address when submitting their renewal applications; however, applicants and licensees are not required to provide the email address or keep it current with the board. In order to increase communication efficiency, this proposal will require that each applicant and person holding a certificate, license, permit, registration or exemption to practice, who has an electronic mail (email) address, to provide the board with the email address and maintain a current email address, if any. Additionally, the proposal will require the

individual to notify the board of any change in their email address within 30 days of the change. This requirement is consistent with the 30-day address change notification in subdivision (a) as well as BPC 4013.

Anticipated Benefits of the Proposed Regulations

The proposed regulatory action will continue to provide consumer protection per the board's mandates, which affects the protection of public health and safety. This means the pharmacy's license to practice is not affected, or discontinued because of the lack of communication, or mail getting lost. Ultimately, this benefits the health and welfare of California residents.

By requiring applicants and licensees to provide and maintain their electronic mail address with the board, the board can email application deficiency notices, renewal notices, and renewal deficiency notices to applicants and licensees. This will eliminate postal delays and reduce the possibility of notices being lost in the mail or misdelivered. If an applicant or licensee does not have an electronic mail address, the applicant and licensee would not have to provide one to the board.

Specific Purpose of Proposed Changes and Rationale

The section heading for BPC section 1704 is amended to read "Providing Addresses," which increases clarity that the regulation includes requirements to provide addresses to the board and not simply about changing an address.

The subdivision letter (a) was added to the first section for clarity and for proper formatting with the addition of subdivision (b).

Subdivision (b) adds the requirement for each applicant or person holding a certificate, license, permit, registration or exemption to practice, who has an electronic mail address to provide the board with the electronic mail address and the requirement that they maintain a current electronic mail address on file with the board, if they have one. Additionally, it adds the requirement that the individual notify the board of any change in their email address within 30 days of the change. The 30-day timeframe was selected as it is consistent with the address change notification requirement in subdivision (a) as well as BPC 4013. The board determined that communication through email is an efficient way to communicate with applicants and licensees regarding both application status, license status, and information impacting the practice of pharmacy in California. Further, the board determined that electronic mail addresses can be confidentially maintained by the board and would be exempt from disclosure under a public records act request. The board also recognized that not every applicant or licensee may have an electronic mail address, so the board determined that should the applicant or licensee not have one, they do not need to provide one.

Underlying Data

1. Relevant Meeting Materials and Minutes from Board Meeting held July 29-30, 2020

2. Relevant Meeting Materials and Minutes from Board Licensing Committee Meeting held July 8, 2020

Business Impact

The board made a determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses and/or employees. This initial determination is based on the absence of testimony to that effect during the development of the proposed regulation, which occurred over several months in numerous board and committee meetings.

The board determined that electronic mail addresses are often free to obtain from numerous online companies and providing the electronic mail address to the board is as simple as writing it on an application when applying for a license or submitting a renewal application. Additionally, most facility applicants and licensees already provide an email address to the board as it is an effective method of communication.

Economic Impact Assessment:

The board has determined that:

- (1) this proposal will not create jobs within California;
- (2) this proposal will not eliminate jobs within California;
- (3) this proposal will not create new businesses within California;
- (4) this proposal will not eliminate existing businesses within California;
- (5) this proposal will not expand businesses currently doing business in the State of California.

The board determined that this proposal will not create or eliminate jobs or businesses or expand existing businesses. The proposal establishes the requirement for applicants and licensees to provide and maintain an electronic mail address, which does not create, expand, or eliminate jobs or businesses.

The regulatory proposal would ensure continued consumer protection per the Board of Pharmacy mandate. This means the pharmacy's license to practice is not affected, or discontinued because of the lack of communication, or mail getting lost. By joining the board's email notification list, this will ensure that important updates are received timely. Additionally, both licensed pharmacist and interested parties that signed up for the notification listserv will receive timely information such as prescription recalls and alerts which protect the public. Ultimately, benefits the health and welfare of California residents.

The Board determined that this proposed regulatory action will not impact worker's safety, or the state's environment.

Fiscal Impact Assessment:

The proposed regulations may result in an increase in reports of new email address or email address changes to the board. The board receives approximately 12,000 address change reports per year, of which approximately 120 are related to email address changes.

An Office Technician typically takes five minutes to process a change of email address at a cost of approximately \$1.80 per update, which would result in total costs of \$220 to update 120 email addresses per year.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment. Applicants and licensees can obtain a free email address from numerous online companies, include Microsoft, Yahoo, and Google. Additionally, internet access is available at public libraries for free, should they not have an internet-enabled device.

Consideration of Alternatives

The board has initially determined that no reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

The board considered language identifying possible enforcement action should the person holding the certificate, license, permit, or registration not provide or maintain their electronic mail address. The board determined that because not everyone may have an electronic mail address, enforcement action may not be appropriate and removed that language from the proposed text.