



**STATE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
LICENSING COMMITTEE MEETING
MINUTES**

DATE: August 22, 2017

LOCATION: Department of Consumer Affairs
First Floor Hearing Room
1747 North Market Blvd.
Sacramento, CA 95834

COMMITTEE MEMBERS PRESENT: Stanley Weisser, Licensee Member, Chairperson
Lavanza Butler, Licensee Member, Vice-Chairperson
Ryan Brooks, Public Member
Ricardo Sanchez, Public Member
Debbie Veale, Licensee Member
Albert Wong, Licensee Member

STAFF MEMBERS PRESENT: Virginia Herold, Executive Officer
Anne Sodergren, Assistant Executive Officer
Joshua Room, Deputy Attorney General
Debi Mitchell, Staff Services Manager
Debbie Damoth, Staff Services Manager

1. Call to Order and Establishment of Quorum

Chairperson Weisser called the meeting to order at 9:00 a.m. Roll call was taken with the following members present: Ryan Brooks, Lavanza Butler, Albert Wong, Debbie Veale, and Stan Weisser. A quorum was established. Member Ricardo Sanchez joined the meeting around 9:05.

2. Public Comment for Items Not on the Agenda, Matters for Future Meetings

Danny Martinez of the California Pharmacist Association (CPhA) advised the committee of proposed regulations being considered by the California Department of Food and Agriculture (CDFA) related to licensing non-medical personnel to sell and dispense restricted livestock drugs. In 2015 Governor Brown signed SB 27 (Hill) to restrict the use of antimicrobial drugs in livestock product as there was growing concern overuse of antimicrobial drugs contributing to a resistance of antibiotic in animals being

administered the antimicrobial drugs and consumers who consumed those animals. SB 27 provides a properly trained medical personnel such as a veterinary technician or pharmacist can responsibly dispense and prescribe these drugs. The effective date of SB 27 is January 1, 2018, and provides CDFA authority to promulgate regulations. CDFA has released regulations that would allow non-medical personnel such as owners of feed stores and online retailers to dispense restricted livestock drugs without the supervision or oversight of a pharmacist. Mr. Martinez expressed CPhA's concern that the proposed regulations might violate pharmacy law and effect pharmacists' statutory responsibility. Mr. Martinez requested the Licensing Committee add to the next committee meeting agenda discussion on these regulations and possible opposition to the proposed regulations. Chairperson Weisser recommended Mr. Martinez provide the same presentation to the Legislation and Regulation Committee as well.

Chairperson Weisser mentioned working with the California Medical Board to address the issue of putting the purpose of the prescription on the label. Executive Officer Virginia Herold indicated the board asked for this item and patient consultation to be added to a future agenda.

3. Discussion and Consideration of Pharmacy Technicians Working in the Community Pharmacy Setting Including:

- a. Changes in Pharmacy Technician Duties
- b. Changes to Create a New License Type of Pharmacy Technician with Expanded Duties, Including Application and Renewal Requirements
- c. Impact of Any Recommended Changes on Prescription Filling and Dispensing in Community Pharmacy Operations, Including Ratios

Chairperson Weisser reviewed agenda item noting this discussion is the start of possibly establishing a new licensing category of advanced technician license in the community setting. The committee discussed the options of having two levels of pharmacy technician, or one level which increased responsibility and/or possibly grandfathering in to this advanced level.

Committee members agreed there is a need for a higher level of a pharmacy technician but indicated it is an evolution and process to develop. It was noted that not all pharmacy technicians may want to pursue the advanced pharmacy technician license. The committee identified the problem that is being solved by adding this new licensing category is to allow the pharmacist to be out in front with the patients to increase patient consultation and public protection. The committee noted it also allows pharmacist to interact with the consumers of California. As the industry has involved and changed, pharmacy technicians must keep up with the industry to ensure the public is protected. Committee members also noted that with increased opioid abuse and advanced pharmacy technician is a good idea for consumer protection.

Deputy Attorney General (DAG) Joshua Room added from an enforcement perspective, many diversion cases involve the pharmacy technician license category and one of the reasons it is believed to be this way is because there is not much investment by the licensee in the possession of having a pharmacy technician license. Ms. Herold added that it is the board's hope that this will result in an increase of pharmacist consultation and reinforce the value of the pharmacists' role at the pharmacy. Several committee members discussed the need for pharmacies to hire more pharmacists to allow for patient consultation and to improve the working conditions of the pharmacy.

Chairperson Weisser reviewed relevant statutes and regulations including Business and Professions Code (BPC) sections 4038 defining pharmacy technicians and 4115 specifying tasks a pharmacy technician can complete under the direct supervision and control of a pharmacist. Mr. Weisser reviewed California Code of Regulations (CCR) 1793.2 specifying allowable duties performed by a pharmacy technician in most pharmacy settings including: removing the drug or drugs from stock; counting, pouring, or mixing pharmaceuticals; placing the product into a container; affixing the label or labels to the container; and packaging and repackaging.

Mr. Weisser reviewed the proposed language for BPC 4115.6 outlining proposed specified duties for the advanced pharmacy technician as provided in the meeting materials.

Mr. Weisser asked the committee to consider the conclusions of the Frost article provided in the meeting materials where the author concludes the adoption of robust practice policies and procedures, delegation of verbal orders and prescription transfers can be safe and effective, remove undue stress on the pharmacist and free up pharmacist time for higher order clinical care.

Ms. Veale noted in proposed BPC section 4115.6 (a)(3), this includes all prescriptions including controlled substances. Mr. Weisser noted proposed BPC section 4115.6 (b)(3) provides a pharmacist shall provide all new prescriptions and controlled substances prescriptions directly to the patient or patient's agent.

DAG Room provided clarification to the committee that the board did not need specify who completes the first step of tech-check-tech and that if the language indicates the advanced pharmacy technician completes the second step of tech-check-tech, that is sufficient. Ms. Veale indicated she wanted to ensure the language was clear.

Committee member Wong expressed concern for proposed BPC section 4115.6 (a)(3) as well as an advanced pharmacy technician taking a narcotic order. Chairperson Weisser reminded the committee the advanced pharmacy technician would have additional education required and be more invested in their career as an advanced pharmacy technician. It was the committee's hope that this would assist attracting a higher level of professionalism as well as deterring diversion by pharmacy technicians.

Dr. Wong noted his concern with the liability on a pharmacist who would not be able to verify if the new order was taken correctly. Counsel Room explained the board would investigate and in such a case where an advanced pharmacy technician is involved, the liability would be shared with the advanced pharmacy technician and pharmacist. Assistant Executive Officer Anne Sodergren added having the purpose of the medication included in the prescription would assist the pharmacist. Mr. Room clarified that the pharmacist will still have responsibility for all the tasks that cannot be delegated as those tasks are inherent in being a pharmacist.

Ms. Veale inquired if the committee was considering adding the purpose of the drug in the prescription label. Both Mr. Weisser and Ms. Herold indicated the board would work with the California Medical Board to determine the appropriate language that satisfied both entities. Counsel Room recommended requiring an inquiry be made about the purpose to the prescriber's office.

Chairperson Weisser reviewed CCR 1793.2 and indicated the committee was not considering any proposed changes for CCR 1793.2. Mr. Weisser opened the discussion for public comment.

Dr. Nasiba Makarem of Cerritos College commented on proposed BPC section 4115.6 (a)(5) inquiring if it should include transfer and receive prescription to another pharmacy. The committee agreed with Dr. Makarem's suggestion. Dr. Makarem recommended the committee consider including allowing an advanced practice pharmacy technicians the task of consultation for over the counter items. The committee provided this was part of the larger patient consultation discussion.

Shane Desselle offered to the committee additional surveys available substantiating the increase commitment of pharmacy technicians to the profession as well as the longevity and higher quality of work life when they have more education, duties and certification. Studies provide that pharmacy technicians who provide these additional services do so at a rate of safety as if performed by a pharmacist. Evidence also suggest even greater efficiency is gained as a result. The committee expressed interest in these studies.

Laura Churns of Albertsons requested the committee consider adding to the duties in proposed BPC 4115.6 to include the advanced pharmacy technician can do the technical task of administering an immunization. Ms. Churns indicated Albertsons is doing this with 38 technicians administering immunizations and have delivered 1,000 shots with zero complaints and incidents since April 2017. The committee expressed interest in this being added to the proposed language.

Members of the public commented on experiences as pharmacy technicians in California and outside of California.

Chairperson Weisser commented that by shifting some of the tasks away from the pharmacist, it is the legal expectation that the pharmacist will hand the medication to the patient and provide an opportunity to the pharmacist to consult. Mr. Weisser continued he didn't understand the resistance of pharmacists to act in a professional, appropriate, and legal way for their patients.

Lorri Walmsley of Walgreens suggested adding the tasks of accept new verbal prescriptions, refills and transfer to the role of a regular pharmacy technician and many other states allow for this and is proven to be safe and effective.

Mr. Weisser and Ms. Butler expressed concerned with a pharmacy technician taking a new prescription order over the phone from a prescriber's office. Mr. Weisser indicated he was more comfortable with an advanced pharmacy technician taking refills or transfers. Dr. Wong stated he wanted the pharmacist to be able to check the work of the pharmacy technician.

Paul Sabatini of UC Davis and Cal Regional in Yuba City requested clarification if the proposed BPC 4115.6 included all control substance levels or just C3-5. The committee clarified as written the proposal allowed for all levels of controlled substances.

Michelle Revis of CPhA inquired who makes the determination if a pharmacist's professional judgement is required in the proposed language BPC 4115.6 (a)(3). Mr. Weisser advised this was written to allow for the advanced pharmacy technician to make the determination at the time of taking the order on the phone or the prescriber's office to request to speak with a pharmacist.

Van Duong recommended having the prescriptions being recorded so there is a mechanism in place to

allow for the pharmacist to check the work. Ms. Duong recommended limiting controlled refills to a pharmacist.

The committee took a break from 10:36 am to 10:53 am.

Dr. Makarem recommend amending proposed BPC 4115.6 (a)(4) be written to allow for an advanced pharmacy technician to accept a refill that has elapsed in the system to a new prescription.

Chairperson Weisser reminded the committee in June 2016, the committee considered the duties of a pharmacy technician. Subsequently, the committee held a summit focused on the role of pharmacy technicians in various settings. The summit provided the committee with the opportunity to learn about the functions pharmacy technicians perform in various states and practice settings. The committee focused on how proposed changes would ultimately benefit consumers, including making pharmacists more available to engage in more direct patient care activities.

During the July 2017 committee meeting, the committee reviewed comparisons of pharmacy technician duties in other states. The committee discussed the practical implications of a tech-check-tech model in the community pharmacy setting including questions about the liability to the pharmacist when supervising the activities. Counsel noted that creating a new license type of technicians who check the work of technicians and who have a defined scope of duties, could address this concern as the responsibility would be shared.

The committee also spoke about the need to strengthen the educational requirements if pharmacy technicians are going to perform expanded duties. The committee noted the need to consider the full picture when assessing changes to pharmacy technician duties, as it could impact ratio considerations and most importantly, how this could impact patient care. The committee ultimately requested that board staff work with the committee chair to draft a proposal focusing on the community pharmacy setting first.

Chairperson Weisser began the discussion by reviewing the proposed language to define advanced pharmacy technician.

MOTION: Pursue statutory changes to add the definition of an advanced pharmacy technician by adding BPC section 4038.5 as proposed in the meeting materials.

Proposed Addition of BPC 4038.5 - Definition

“Advanced Pharmacy Technician” means an individual licensed by the board who is authorized to perform technical pharmacy tasks as authorized in Section 4115.6.

M/S: Veale/Sanchez

Support: 6 Oppose: 0 Abstain: 0

Chairperson Weisser advised the committee, a draft proposal for developing the duties of an advanced pharmacy technicians was developed with consultation from the committee chair and consistent with the committee’s direction to provide a framework that could be used to implement in the community pharmacy setting.

The committee discussed the merits of an advanced pharmacy technician taking the prescription of a controlled substance. The committee discussed the option of requiring the prescription be called in and recorded but it was determined the forgery could still be called in. The committee determined they didn't want to require the prescribers to call in their prescriptions. Many committee members expressed the advanced pharmacy technician must be able to accept prescriptions of controlled substances. Some committee members expressed concern that the pharmacist needs to be able to verify the prescription taken by an advanced pharmacy technician.

Dr. Desselle commented research points to the fact that advanced level pharmacy technicians that have been further educated and certified are more committed and record a higher level of efficacy.

Several members of the public commented on the discussion and expressed desire to postpone the discussion on the duties and review at the holistic level. Chairperson Weisser noted that the board has discussed these topics at multiple meetings and as well as at the pharmacy technician summit and had hoped for more participation during these meetings.

Members of the public commented on concerns about advanced pharmacy technicians taking controlled substances prescriptions and offered as a solution additional training being require for advanced pharmacy technician as well as administering the technical portion of immunizations.

MOTION: Pursue statutory changes to add the duties of an advanced pharmacy technician by adding BPC section 4115.6(a) as proposed in the meeting materials with the additional changes.

Proposed 4115.6 - Specified Duties

(a) In a community pharmacy, a licensed advanced pharmacy technician may:

- (1) Verify the accuracy of the typed prescription label before the final check by a pharmacist.
- (2) Verify the accuracy of the filling of a prescription including confirmation that the medication and quantity included on the label is accurately filled on drug orders that previously have been reviewed and approved by a pharmacist.
- (3) Accept new prescription orders from a prescriber's office unless the prescription order requires the professional judgement of a pharmacist and to require inquiry to be made on the purpose by the advanced pharmacy technician taking the prescription from the prescriber or physician's office.
- (4) Accept refill authorizations from a prescriber's office unless the prescription order requires the professional judgement of a pharmacist.
- (5) Transfer a prescription to another pharmacy.
- (6) Receive a transfer prescription from another pharmacy.
- (7) Technical administration of vaccine.

M/S: Veale/Sanchez

Support: 4 Oppose: 2 Abstain: 0

Chairperson Weisser reviewed the proposed language for BPC 4115.6 (b) regarding specified duties for advanced pharmacy technicians.

Committee members discussed that by adding the option of advanced pharmacy technicians, the advanced pharmacy technician could be an additional resource available to the pharmacists to help free up time for patient consultation. There was concern discussed among members that this won't necessarily help with complaints of inadequate staffing.

Ms. Veale commented she would like BPC section 4115.6 (b)(5) removed as that is the pharmacists' discretion. Mr. Weisser commented he was not comfortable with removing BPC section 4115.6 (b)(5).

Multiple members of the public commented on support to remove BPC section 4115.6 (b)(5) and discussing the ratio issue at a later time. The committee noted that the ratio discussion will need to be added to a future agenda.

MOTION: Pursue statutory changes to add the duties of an advanced pharmacy technician by adding BPC section 4115.6(b)(1)-(4) as proposed in the meeting materials with the removal of 4115.6(b)(5).

Proposed 4115.6 - Specified Duties

(b) A community pharmacy may use the services of an advanced pharmacy technician if all the following conditions are met:

- (1) The duties are done under the supervision of a pharmacist and shall be specified in the pharmacy's policies and procedures.
- (2) The pharmacist-in-charge is responsible for ongoing evaluation of the accuracy of the duties performed by personnel as authorized in subdivision (a).
- (3) A pharmacist shall provide all new prescriptions and controlled substances prescriptions directly to the patient or patient's agent and provide patient information consistent with the provisions of Section 4052 (a) (8).
- (4) An electronic record that identifies personnel responsible for the preparation and dispensing of the prescription.

M/S: Veale/Butler

Support: 6 Oppose: 0 Abstain: 0

Angie Manetti from CRA provided the committee with an update on AB 1589 that it is a 2-year bill and will be subject to the 2-year bill deadline in approximately January/February 2018.

The committee took a break for lunch from 12:12 pm to 12:48 pm.

Chairperson Weisser reviewed the proposed language for BPC 4115.6 (b) regarding licensing requirements for advanced pharmacy technicians.

Ms. Sodergren provided clarification that 3,000 hours was determined to be the equivalent of two years of work as 1,500 hours is the standard equivalent of one year of work used by the board for experience as pharmacist interns and advanced practice pharmacists. The committee discussed the incentive for becoming an advanced pharmacy technician will be driven by the market.

Chairperson Weisser introduced Nasiba Makarem, PharmD and Program Director of Cerritos College to provide the committee with an overview of Cerritos College's pharmacy technician certificate and

associate degree.

Dr. Makarem addressed the committee and provided the committee with Cerritos' two programs. Cerritos offers two routes: the certificate program consisting of 30 units; and the associate degree consisting of 60 units including the general education required for the associate degree.

Chairperson Weisser asked Dr. Makarem to provide an overview of the classes needed for the associate degree at Cerritos College. Dr. Makarem informed the committee the associate degree program included the following three types of classes:

- (1) Basic Overview of Pharmacy: pharmacy calculations; pharmacy practice class including laws and regulations; hands on simulated lab where they type prescriptions; soft skills including ethics, resume writing, communication, and medication reconciliation; institutional, long-term, etc.
- (2) Technical: sterile compounding; outpatient compounding, over-the-counter (OTC); 2 sets of pharmacology (requires prerequisite of anatomy and physiology or medical terminology)
- (3) Clinical: apply their education and train.

Dr. Makarem indicated programs at Santa Ana and Foothill are similar to Cerritos' program. Dr. Makarem provided typically students are encouraged by their employers to pursue additional education.

Chairperson Weisser asked Dr. Makarem if an advanced pharmacy technician could take an order and if there are enough spaces available for earning the associate degree. Dr. Makarem stated she believed an advanced pharmacy technician could take an order and the community colleges are working on increasing programs to allow for more people to obtain their associate degree. Ms. Veale asked Dr. Makarem if the general education portion of the degree was important. Dr. Makarem stated the general education was vital to communication, taking orders and relating to patients.

Angie Manetti of CRA expressed concerns requiring general education for the associate degree for an advanced pharmacy technician as well as access issues for the degree and making multiple pathways available. The committee discussed various options of splitting out the possible pathways for licensure as an advanced pharmacy technician.

MOTION: Pursue statutory changes to add the licensing requirements of an advanced pharmacy technician by adding BPC section 4211 as proposed in the meeting materials.

Proposed BCP 4211 (Licensing Requirement)

The board may issue an advanced pharmacy technician license to an individual who meets all the following requirements:

- (a) (1) Holds an active pharmacy technician license issued pursuant to this chapter that is in good standing,
 - (2) Possesses a certification issued by a pharmacy technician certifying program as specified in board regulation.
 - (3) Has obtained a minimum of an associate's degree in pharmacy technology.
 - (4) Has obtained 3,000 hours of experience in a pharmacy performing the duties of a licensed pharmacy technician.
- (b) As an alternative to the requirements in subdivision (a), has graduated from a school of pharmacy recognized by the board.

(c) A license issued pursuant to this section shall be valid for two years, coterminous with the licensee's pharmacy technician license.

M/S: Wong/Butler

Support: 4 Oppose: 2 Abstain: 0

Chairperson Weisser reviewed the proposed language for BPC 4234 regarding continuing education renewal requirements for advanced pharmacy technicians.

MOTION: Pursue statutory changes to add the continuing education and renewal requirements of an advanced pharmacy technician by adding BPC section 4234 as proposed in the meeting materials.

Proposed BPC 4234 (CE/Renewal Requirement)

An advanced pharmacy technician shall complete 20 hours of continuing education each renewal cycle including a minimum of two hours of education in medication error prevention and two hours of board sponsored law and ethics education. A licensee must also maintain certification as specified in Section 4211 (a)(2).

M/S: Wong/Sanchez

Support: 6 Oppose: 0 Abstain: 0

4. Discussion and Consideration of Pharmacy Technicians Working in a Closed-Door Pharmacy Setting, Which Provide Pharmacy Services for Patients of Skilled Nursing and Long-Term Care Facilities

Chairperson Weisser provided an overview of the long-term care facility environment to the committee and explained the purpose of the discussion is to see what pharmacy technicians can do in a closed-door pharmacy setting to assist the pharmacists in providing additional patient care.

DAG Room clarified closed-door pharmacies are issued community pharmacy permits by the board and do not have a separate license type. Ms. Sodergren clarified that in a closed-door pharmacy there is different patient interaction and this discussion provides the committee the opportunity to determine if there are different requirements required for the closed-door pharmacies.

Mr. Weisser provided an example of a patient discharged from the hospital to a skilled nursing facility who is served by a closed-door pharmacy and posed to the committee who is providing the patient with their required patient consultation. Mr. Weisser noted that the closed-door pharmacy typically contracts with the skilled nursing facility and thereby does not provide patient consultation. The patient at a skilled nursing facility is considered the patient of the facility and not that of the closed-door pharmacy.

Art Whitney commented on his experience in the long-term care environment where the pharmacy is the contracted pharmacy for that facility. Based on federal and state rules, the closed-door pharmacy provides services to that facility but not the patient as the patient is a patient of the skilled nursing facility. Mr. Whitney clarified that the closed-door pharmacy provides pharmacy services to the facility with certain requirements by state and federal laws throughout the patient's stay and at discharge. By

contract, closed-door pharmacies do not participate in the non-institutionalized pharmacy population. Mr. Weisser expressed his concern for the patient discharged from a skilled nursing facility.

DAG Room asked if a pharmacy technician would be able to provide assistance to the pharmacist. Mr. Weisser explained there is a lot of work when a patient is added at a closed-door pharmacy. Mr. Whitney confirmed the amount of work is higher for each patient than in a retail community pharmacy setting. Ms. Duong commented it might help patient care if there are additional people to help in meeting time requirements for late admits to the skilled nursing facility.

Gary Lauren of the County of San Mateo noted that long-term care requires additional work and ratios need to be reviewed. Mr. Lauren commented the ratio should be like that of a hospital or institution.

Mr. Weisser expressed his concern if there is information available at the point of discharge for patients serviced by closed-door pharmacies after being discharged from skilled nursing facilities. If closed-door pharmacies could have advanced pharmacy technicians, the patient might benefit in this scenario for possible patient consultation.

Ms. Herold mention the committee didn't address what happens to the pharmacy technician license if an advanced pharmacy technician license is obtained. DAG Room recommended treating it like an intern license where it is a requirement to apply for licensure and the license is cancelled. DAG Room commented BPC 4112 (c) is omitted by implication.

5. Future Committee Meeting Dates

The committee reviewed the remaining meeting dates for 2017 including a date to be determined in September 19, 2017, and October 23, 2017. The dates for 2018 are as follows:

- January 16, 2018
- April 19, 2018
- June 26, 2018
- September 26, 2018

The meeting adjourned at 2:42 pm.