



**California State Board of Pharmacy**

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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY  
DEPARTMENT OF CONSUMER AFFAIRS  
GOVERNOR EDMUND G. BROWN JR.

**STATE BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
PUBLIC BOARD MEETING  
MINUTES**

**DATE:** June 6, 2018

**LOCATION:** Department of Consumer Affairs – 1<sup>st</sup> Floor Hearing Room  
1625 N. Market Blvd.  
Sacramento, CA 95834

**BOARD MEMBERS  
PRESENT:** Victor Law, Licensee Member, President  
Gregory Lippe, Public Member, Vice President  
Allen Schaad, Licensee Member, Treasurer  
Amy Gutierrez, Licensee Member  
Deborah Veale, Licensee Member  
Ricardo Sanchez, Public Member  
Albert Wong, Licensee Member  
Stanley Weisser, Licensee Member

**BOARD MEMBERS  
NOT PRESENT:** Lavanza Butler, Licensee Member  
Valerie Muñoz, Public Member  
Ryan Brooks, Public Member  
Amjad Khan, Public Member

**STAFF  
PRESENT:** Virginia Herold, Executive Officer  
Anne Sodergren, Assistant Executive Officer  
Laura Freedman, DCA Staff Counsel  
Kelsey Pruden, DCA Staff Counsel  
Laura Hendricks, Staff Analyst  
Kristina Jarvis, Deputy Attorney General

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**Wednesday, June 6, 2018**

**Call to Order**

**8:40 a.m.**

**I. Call to Order, Establishment of Quorum and General Announcements**

President Law called the meeting to order at 8:40 a.m.

Board members present: Victor Law, Amy Gutierrez, Ricardo Sanchez, Deborah Veale, Allen Schaad, Gregory Lippe, Stanley Weisser and Albert Wong.

## **II. Public Comments on Items Not on the Agenda/Agenda Items for Future Meetings**

Victor Law thanked the members for electing him as president of the board. He also thanked Dr. Amy Gutierrez for her work as president of the board. Albert Wong thanked Dr. Gutierrez for her work on sterile compounding and the advancement of the practice of pharmacy. Ricardo Sanchez thanked Dr. Gutierrez for the guidance she provided him as a new public member.

Daniel Martinez asked that the board agendaize a discussion on pharmacy ownership for a future meeting. He explained that when a pharmacy is sold the board issues a new license number to the pharmacy under the new ownership. Mr. Martinez stated that this causes significant delays due to the moratorium on issuing new Medi Cal numbers in the Los Angeles area. President Law asked that this item be placed on the next Licensing Committee meeting agenda.

## **III. Discussion and Consideration of Senate Bill 1298 (Skinner) The Increasing Access to Employment Act**

President Law explained that existing law requires the Department of Justice (DOJ) to maintain state summary criminal history information and requires the Attorney General to furnish every conviction of an offense rendered against an applicant to the board upon request. DOJ is required to provide the board with every conviction for which registration as a sex offender is required, every conviction that occurred within 10 years of the date of the request, or every conviction for which the person was incarcerated within 10 years of the request for information for specified employment purposes.

President Law stated that currently the law requires, when state summary criminal history information is furnished as a result of specified requests, and the information is to be used for employment, licensing, or certification purposes, that the requester furnish the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision.

President Law explained that this bill would:

1. Prohibit the DOJ from releasing the record of convictions that were dismissed pursuant to specified provisions.
2. Reduce that requirement for DOJ to report convictions for which registration as a sex offender is required from 10 years to the prior 7 years, or for which the person was incarcerated or on probation or parole within 7 years of the request be provided.
3. Require the board to furnish a copy of the Criminal Offender Record Information (CORI) to the subject of the request and require the department to allow the subject a reasonable opportunity of not less than five days to challenge the accuracy or completeness of any matter contained in the CORI *prior* to consideration for licensure (rather than providing a copy *after* a denial has been issued).
4. Require the DOJ to make specified corrections prior to furnishing the information to the requester.

President Law reported that this measure was brought to the board to seek input on the policy of the measure. He noted that board staff has significant policy concerns that this measure will negatively impact the board’s ability to thoroughly review and consider criminal arrests and/or convictions of applicants and licensees. The policy being put forth in this measure runs contrary to the board’s consumer protection mandate as well as efforts by the Legislature to strengthen the ability of programs within the DCA to more robustly protect consumers.

President Law stated that currently board staff only denies applications for criminal conviction history when a nexus can be established between the crime and the qualifications, functions, or duties of the business or profession. He added that as part of the licensing decision, mitigation and rehabilitation are considered.

President Law reported that the author states that a criminal conviction history review is a barrier to employment that negatively impacts Californians. Therefore, the author is seeking to remove barriers to these individuals’ ability to gain employment. President Law stated that board staff believes that while this policy may be appropriate for some professionals, it does not appear appropriate for individuals working in health care related fields.

President Law noted that this measure is substantially similar to AB 2138(Chiu/Low), which the board voted to oppose at its May 3, 2018, meeting.

The board agreed with staff’s concerns that this measure will negatively impact the board’s ability to thoroughly review and consider criminal arrests and/or convictions of applicants and licensees.

**Motion:** Oppose SB 1298.

**M/S:** Lippe/Sanchez

Support: 8    Oppose: 0    Abstain: 0

| Board Member | Support | Oppose | Abstain | Not Present |
|--------------|---------|--------|---------|-------------|
| Brooks       |         |        |         | x           |
| Butler       |         |        |         | x           |
| Gutierrez    | x       |        |         |             |
| Khan         |         |        |         | x           |
| Law          | x       |        |         |             |
| Lippe        | x       |        |         |             |
| Munoz        |         |        |         | x           |
| Sanchez      | x       |        |         |             |
| Schaad       | x       |        |         |             |
| Veale        | x       |        |         |             |
| Weisser      | x       |        |         |             |
| Wong         | x       |        |         |             |

#### **IV. Discussion and Consideration of Senate Bill 1109 (Bates) Controlled Substances: Schedule II Drugs Opioids**

President Law explained that the California Uniform Controlled Substances Act classifies opioids as Schedule II controlled substances and places restrictions on the prescription of those drugs, including prohibiting refills and specifying the requirements of a prescription for these drugs. Additionally, the Business and Professions Code requires the Board of Pharmacy to promulgate regulations that require a standardized, patient-centered, prescription drug label on all prescription medicine dispensed to patients in California.

President Law stated that existing Business and Professions Code requires physicians and surgeons to complete a continuing education course on pain management. Although nurse practitioners, certified nurse midwives and physician assistants have limitations as to their authority to prescribe Schedule II drugs, those that do are subject to continuing education requirements on Schedule II drugs.

President Law reported that current Health and Safety Code statutes requires a school district, charter school, or private school as well as youth sports organizations that elect to offer an athletic program to take specified actions if an athlete is suspected to have sustained a concussion and to obtain a signed concussion and head injury information sheet from the athlete and the parent or guardian before the athlete initiates practice or competition.

President Law explained that this bill would:

1. Require existing continuing education courses for all prescribers to include the risks of addiction and overdose associated with the use of Schedule II controlled substances.
2. Require a warning label on all Schedule II controlled substances prescription bottles on the associated addiction and overdose risks.
3. Require a minor's and a parent's or guardian's signature after a required consultation with a prescriber for any minor receiving an initial opioid prescription.
4. Require an information sheet on the risks of opioids to be signed by a minor athlete and the minor athlete's parent or guardian before participation in organized team sports.

President Law reported that at its May 3, 2018 meeting, the board voted to take an Oppose Unless Amended position on this measure and directed staff to explore other labeling options while preserving the education and consultation provisions of the measure. Since that meeting staff has worked with the author's office to draft the following amendments that would require a pharmacist consultation anytime a controlled substance is dispensed. He noted that in the last amended version of this measure the labeling provision remains unchanged.

President Law reviewed the proposed amendment as provided below:

##### ***Add as section 4076.1.***

- (a) All controlled substances medications dispensed must be accompanied by consultation by a pharmacist licensed by the board consistent with the duty to consult regulations

promulgated by the board. A pharmacist, before dispensing any controlled substances medication to a patient or the patient's agent for the first time, shall provide oral consultation before dispensing the medication. The consultation provided pursuant to this section must include:

- (1) Appropriate, prescribed use of the medication.
  - (2) The importance of following prescribed directions.
  - (3) Adverse effects, common side effects and contraindications, and what action is required if such effects or contraindications occur.
  - (4) Dangers of misuse or addiction.
  - (5) Dangers of pilfering from the household medicine cabinet.
  - (6) Appropriate disposal following completion of therapy.
  - (7) Possible use of opioid reversal agents to prevent overdose.
- (b) The pharmacist is required to initiate the consultation before dispensing the medication to the patient. Any declination of consultation must be made by the patient or patient's agent directly to the pharmacist. When consultation by the pharmacist is declined, the pharmacist shall then advise the patient that he or she is being dispensed a serious drug that can cause adverse effects or addiction if not taken appropriately.

Board member Weisser noted that the labeling requirements remained in the bill despite the board's direction at the last board meeting to staff to work with the author's office to remove the labeling requirements. Ms. Herold explained that she did convey the board's desire to remove the labeling requirement; however, the author has not removed it from the bill. Ms. Herold added that she drafted the proposed amendment using other federal consultation requirements.

Board member Veale stated that the suggested edits provided by board staff would create more work for pharmacists by adding more consultation requirements. Mr. Schaad stated that pharmacists already know how to provide consultations.

Ms. Herold stated that the California Pharmacists Association's lobbyist provided input on the draft amendment. Daniel Martinez responded that he was not aware the CPhA had reviewed the proposed amendment as provided in the meeting materials and stated that CPhA would not support the amendment. A representative from the California Retailers Association also expressed their concern with the proposed amendments as provided in the meeting materials.

Board member Gutierrez stated that pharmacists already provide consultations so this proposed amendment is unnecessary. The board agreed with Dr. Gutierrez.

After discussion, the board decided to keep its Oppose Unless Amended position that it established at the May board meeting. Ms. Herold clarified that the board is still requesting that the author remove the labeling requirement from the bill.

The board recessed for a break at 9:15 a.m. and resumed at 9:30 a.m.

## **V. Petitions for Reinstatement of Licensure or Other Reduction of Penalty**

Administrative Law Judge Erin Koch-Goodman presided over the following petitions for reduction of penalties.

- Vy Khanh Thi Tarr, RPH 64465

The board recessed for a break at 10:15 a.m. and resumed at 10:25 a.m.

- Arutyun Bagdatyan, RPH 72602

Note: Dr. Gutierrez left the meeting at 11:00 a.m.

- Jignesh J. Patel, RPH 59344

The board recessed for a break at 11:40 a.m. and resumed at 11:50 a.m.

Note: Dr. Gutierrez returned to the meeting at 11:48 a.m.

- Kyle Rootsart, RPH 49390

The board recessed for a lunch break at 12:12 p.m. and resumed at 1:15 p.m.

- Sanjay K. Patel, RPH 44261

#### **VI. Closed Session Matters**

The board recessed into closed session at 2:00 p.m.

#### **VII. Reconvene Open Session**

The board reconvened to open session at 3:40 p.m.

President Law adjourned the meeting at 3:45 p.m.