



California State Board of Pharmacy
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Business, Consumer Services and Housing Agency
Department of Consumer Affairs
Gavin Newsom, Governor



**California State Board of Pharmacy
Department of Consumer Affairs
Licensing Committee Meeting Minutes**

Date: July 18, 2022

Location: Pursuant to the provisions of Government Code section 11133, neither a public location nor teleconference locations are provided.

Board Members

Present: Seung Oh, Licensee Member, Chair
Jig Patel, Licensee Member, Vice-Chairperson
India Cameron-Banks, Public Member
Jessi Crowley, Licensee Member

Board Members

Not Present: Jason Weisz, Public Member

Staff Present:

Anne Sodergren, Executive Officer
Eileen Smiley, DCA Staff Counsel
Debbie Damoth, Executive Manager Specialist

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

Chairperson Oh called the meeting to order at approximately 9:02 a.m. As part of the opening announcements, Chairperson Oh reminded everyone that the Board is a consumer protection agency charged with administering and enforcing Pharmacy Law. Department of Consumer Affairs' staff provided instructions for participating in the meeting.

Roll call was taken. Members present: Jig Patel, Licensee Member; Indira Cameron-Banks, Public Member; Jessi Crowley, Licensee Member; and Seung Oh, Licensing Member. A quorum was established.

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

Members of the public were provided the opportunity to provide comment; however, no comments were made.

III. Approval of the April 19, 2022, Licensing Committee Meeting Minutes

Members were provided the opportunity to provide comments on the draft minutes; however, none were provided.

Motion: Approve the January 19, 2022, Licensing Committee meeting minutes.

M/S: **Patel/Cameron-Banks**

Members of the public were provided the opportunity to provide public comments; however, no comments were provided.

Support: 3 Oppose: 0 Abstain: 1 Not Present: 1

Board Member	Vote
Cameron-Banks	Support
Crowley	Abstain
Oh	Support
Patel	Support
Weisz	Not present

IV. Discussion and Consideration and Business and Professions Code section 4111 Related to Ownership Prohibitions of Pharmacy Licensure Including Possible Changes

Chairperson Oh advised Business and Professions Code (BPC) Section 4111 specifies that the Board shall not issue or renew a license to conduct a pharmacy to an individual authorized to prescribe as well as to a person who shares a community or other financial interest with a prescriber. Dr. Oh referenced meeting materials that provided background and historical information. Chairperson Oh noted California is a community property state which generally means property acquired by either spouse during a marriage is presumed to be equally owned by both spouses excluding some exceptions (e.g., prenuptial agreements, etc.).

Chairperson Oh referred to the meeting materials to provide historical information related to the application process and assessment of prescriber ownership prohibition. Dr. Oh noted as the Board became more

adept at evaluating information, it discovered that some representations made by applications were not substantiated by requested information.

Chairperson Oh advised the Committee would review the current provisions included in BPC 4111 and determine if the current provisions are appropriate, or if there is a means by which the legislative intent could be preserved while creating flexibility for an otherwise authorized individual to own or operate a pharmacy. Dr. Oh advised the meeting materials contained possible draft language that demonstrates a possible way to balance the intent of the provisions of BPC 4111 while establishing some flexibility for ownership for individuals seeking to own pharmacies with familial relationships to a prescriber.

Possible amendment to BPC Section 4111

(a) Except as otherwise provided in subdivision (b), (d), or (e), the board shall not issue or renew a license to conduct a pharmacy to any of the following:

(1) A person or persons authorized to prescribe or write a prescription, as specified in Section 4040, in the State of California.

(2) A person or persons with whom a person or persons specified in paragraph (1) shares a community or other financial interest in the permit sought unless both the person or persons specified in paragraph (1) and the person seeking a license to conduct pharmacy provide statements disavowing any community or financial interest on behalf of the person or persons specified in paragraph (1) and transmute any such community property under the Family Law Codes of the State of California into the separate property of the person seeking a license to conduct pharmacy. In addition, the pharmacy seeking a license with an owner specified in paragraph (1) if such license is granted, shall be prohibited from filling any prescriptions, emergency or otherwise issued or prescribed by the person or persons specified in paragraph (1) or another prescriber at the same place of business as the person specified in paragraph (1) if the prescriber owns a greater than 10% interest in the practice issuing the prescription.

(3) Any corporation that is controlled by, or in which 10 percent or more of the stock is owned by a person or persons prohibited from pharmacy ownership by paragraph (1) or (2).

(b) Subdivision (a) shall not preclude the issuance of a permit for an inpatient hospital pharmacy to the owner of the hospital in which it is located.

(c) The board may require any information the board deems is reasonably necessary for the enforcement of this section.

(d) Subdivision (a) shall not preclude the issuance of a new or renewal license for a pharmacy to be owned or owned and operated by a person licensed on or before August 1, 1981, under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and qualified on or before August 1, 1981, under subsection (d) of Section 1310 of Title XIII of the federal Public Health Service Act, as amended, whose ownership includes persons defined pursuant to paragraphs (1) and (2) of subdivision (a).

(e) Subdivision (a) shall not preclude the issuance of a new or renewal license for a pharmacy to be owned or owned and operated by a pharmacist authorized to issue a drug order pursuant to Section 4052.1, 4052.2, or 4052.6.

Chairperson Oh thanked staff for preparing draft language. Members were provided the opportunity to comment.

Chairperson Oh requested Ms. Smiley to explain the documentation that would be required and sufficient for a spouse of a prescriber. Ms. Smiley provided the Board is trying to prepare this for the legislature because there can be different documentation that is required. Ms. Smiley noted this will help to address if the legislature would want to open some of the ownership prohibitions since California is a community property state. Ms. Smiley noted the way the language was drafted is that statements are provided. The legislature could strengthen that by either requiring a specific agreement or something similar. Significant to the proposal is to strengthen the pharmacist's corresponding responsibility to evaluate prescriptions of controlled substances. Ms. Smiley noted a statement about ownership wouldn't consider where a spouse would be looking at the prescription of another spouse or where the independent duties of the pharmacist could get influenced by the marital relationship.

Chairperson Oh summarized the Committee is developing a proposal for the legislature as it is their duty to update and codify. Member Patel commented the language is ready to move forward. Ms. Sodergren

clarified with Member Patel the intent of the motion was to support policy changes as specified. Dr. Crowley inquired about the difference between supporting legislation and supporting policy change. Ms. Sodergren clarified when the Board sponsors legislation, the Board is the primary driver behind the changes in the law.

Chairperson Oh inquired if the Board could seek changes. Ms. Sodergren provided the Board can convey its policy without sponsoring legislation.

Motion: To support policy changes to BPC 4111 as recommended and provided in the meeting materials.

Possible amendment to BPC Section 4111

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(2) A person or persons with whom a person or persons specified in paragraph (1) shares a community or other financial interest in the permit sought unless both the person or persons specified in paragraph (1) and the person seeking a license to conduct pharmacy provide statements disavowing any community or financial interest on behalf of the person or persons specified in paragraph (1) and transmute any such community property under the Family Law Codes of the State of California into the separate property of the person seeking a license to conduct pharmacy. In addition, the pharmacy seeking a license with an owner specified in paragraph (1) if such license is granted, shall be prohibited from filling any prescriptions, emergency or otherwise issued or prescribed by the person or persons specified in paragraph (1) or another prescriber at the same place of business as the person specified in paragraph (1) if the prescriber owns a greater than 10% interest in the practice issuing the prescription.

(3) Any corporation that is controlled by, or in which 10 percent or more of the stock is owned by a person or

persons prohibited from pharmacy ownership by paragraph (1) or (2).

(b) Subdivision (a) shall not preclude the issuance of a permit for an inpatient hospital pharmacy to the owner of the hospital in which it is located.

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(e) Subdivision (a) shall not preclude the issuance of a new or renewal license for a pharmacy to be owned or owned and operated by a pharmacist authorized to issue a drug order pursuant to Section 4052.1, 4052.2, or 4052.6.

M/S: Patel/Crowley

Members of the public were provided the opportunity to provide public comments.

The Committee heard comments from a pharmacist recommending the Board sponsor legislation noting the critical section of the BPC. The commenter noted the Board's intent could be confused if someone else is sponsoring the legislation. The pharmacist noted the policy will be very controversial. The commentator noted that BPC section 4111 subsection (e) states that pharmacists that can prescribe can still own a pharmacy noting the problem created with AB 1533 when all pharmacists were allowed to enter into collaborative agreements. The commentator encouraged the Board to sponsor the legislation and correct BPC section 4111 subsection (e).

Ms. Smiley confirmed Members Patel and Crowley removed the motion and the second of the motion.

Members Crowley and Patel agreed to table the issue until there can be more of a discussion surrounding the issue of proposed changes to BPC 4111 subsection (e) at the next Licensing Committee meeting.

V. Discussion, Consideration, and Possible Recommendation to the Board to Approve Draft Regulations to Implement Provisions of Assembly Bill 107 (Chapter 693, Statutes of 2021) Related to Requirements to Issue a Temporary License

Chairperson Oh advised recently enacted legislation requires the Board to issue temporary licenses to practice professions under specified conditions including a background check and passing a California Law and ethics exam. To implement the legislation, the Board must promulgate regulation to define the application requirements. Dr. Oh referenced meeting materials that contained draft regulation language provided to assist with the discussion. Dr. Oh noted meeting materials highlight some areas where the draft regulation language would vary from other areas of pharmacy law, including the requirement to provide the Board with an email address.

Chairperson Oh referred to the language presented on the screen as it was updated by staff and counsel subsequent to the release of the meeting materials to ensure consistency with the underlying statute and to provide additional clarity to the Board's regulated public.

Chairperson Oh highlighted each of the changes contained in the updated language.

- The language now includes 1706.6 (a)(5) which provides a definition of "original licensing entity."
- 1706.6 (b) now includes a listing of each of the individual license types as opposed to a collective reference to "individual license types"
- 1707.6 (b)(3) consolidates language related to licensure verification and good standing.
- 1706.6 (b)(3)(A-E) is new language detailing out the required elements of the license verification.

- 1706.6 (b)(4) expands on the additional disclosure requirements, most notably related to pharmacist actions that would constitute grounds for denial.
- 1706.6 (b)(5) is new language requiring disclosure of any disciplinary action from a regulatory entity.
- 1706.6 (c) language is added to incorporate relevant provisions of statute that detail the content of the CPJE.
- 1706.6 (d) language is added to clarify the provisions under which expiration of the temporary license will occur.

Chairperson Oh thanked counsel's efforts to provide comments back on the draft language to allow for consideration by both the Committee and subsequent review by the Board Meeting to ensure the regulation process will be completed by July 1, 2023.

Chairperson Oh noted comfort with the direction of the language and the provisions included in the new language reviewed. Members were provided the opportunity to provide comment.

Member Patel inquired if pharmacists would still be required to take the CPJE. Chairperson Oh confirmed the CPJE must be taken by the pharmacists.

Member Crowley asked if there was a limit for the number of times a temporary license as military families move often. Ms. Smiley provided there is no limit in the statute or regulations. Ms. Tomaselli concurred and noted if limits were desired, the language would need to be amended to reflect limits but could conflict with AB 107. Dr. Crowley agreed with the updated requirements in the language and didn't think limits were necessary.

Chairperson Oh asked for the reason to have to write out individual license type in the regulation as if there are new license types the regulation would have to be updated. Ms. Tomaselli indicated this factored. Ms. Sodergren noted the licenses were added to ensure the text was sufficiently clear for the Office of Administrative Law.

Motion: Recommend to the Board to approve the proposed addition to Title 16, CCR section 1706.6, Temporary Licenses for Military Spouses/Domestic Partners as revised on July 15, 2022. Initiate

the regular rulemaking process. Delegate to the Executive Officer the authority to make any non-substantive changes and clarifying changes consistent with the Board's policy direction upon recommendation of the control agencies.

Add section 1706.6 to Article 1 of Division 17 of Title 16 of the California Code of Regulations to read as follows: § 1706.6. Temporary Licenses for Military Spouses/Domestic Partners

(a) Definitions: For the purposes of this section, the following definitions shall apply:

(1) "Disciplined" means that the applicant's license was placed on probation, revoked, suspended, reprobated, censured, reprimanded, restricted, limited, or conditioned.

(2) "Jurisdiction" shall mean a California or another state's licensing board or agency, any agency of the federal government, or another country.

(3) "Disciplinary proceeding" shall mean any proceeding or investigation under the authority of the licensing jurisdiction pursuant to which a licensee may be disciplined.

(4) "Good standing" shall mean that the applicant has not been disciplined, is not the subject of an unresolved complaint or review procedure and is not the subject of any unresolved disciplinary proceeding.

(5) Original licensing entity that issued a license to the applicant authorizing the applicant to practice within the same scope for which the applicant seeks a temporary license from the Board.

(b) An applicant for a temporary pharmacist, advanced practice pharmacist, pharmacy technician, designated representative, designated representative-reverse distributor, designated representative-3PL or a designated paramedic license pursuant to section 115.6 of the Business and Professions Code ("Code") shall submit a completed application and meet all of the requirements of this section and section 115.6 of the Code to be eligible for a temporary license. A completed application shall provide the following information:

(1) The applicant's identifying and contact information:

- (A) Applicant's full legal name ((Last Name) (First Name) (Middle Name) and/or (Suffix)),
 - (B) Other name(s) applicant has used or has been known by,
 - (C) Applicant's address of record (The address of record may be a post office box number or other alternate address.),
 - (D) Applicant's physical address, if different than the applicant's address of record,
 - (E) Applicant's email address,
 - (F) Applicant's telephone number,
 - (G) Applicant's Social Security Number or Individual Taxpayer Identification Number, and,
 - (H) Applicant's birthdate (month, day, and year).
- (2) The applicant shall indicate that the applicant is married to, or in a domestic partnership or other legal union with, an active-duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active-duty military orders and shall provide the following documentation with the application:
- (A) Certificate of marriage or certified declaration/registration of domestic partnership filed with the California Secretary of State or other documentary evidence of legal union with an active-duty member of the Armed Forces, and,
 - (B) A copy of the military orders establishing their spouse or partner's duty station in California.
- (3) The applicant shall disclose whether the applicant holds a current, active, and unrestricted license of the same type of license that the applicant is applying for, or comparable authority to practice in another state, district, or territory of the United States and provide written verification from the applicant's original licensing jurisdiction that the applicant's license or other comparable authority ("license") is in good standing in that jurisdiction. The verification shall include all of the following:
- (A) the full legal name of the applicant and any other name(s) the applicant has used or has been known by,

- (B) the license type and number issued to the applicant by the original licensing jurisdiction, and relevant law(s) and regulation(s) under which the license was issued,
 - (C) the name and location of the licensing agency,
 - (D) the issuance and expiration date of the license, and,
 - (E) information showing that the applicant's license is currently in good standing.
- (4) The applicant shall disclose whether the applicant has committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license pursuant to Sections 141, 480, or 490 of the Code, or Sections 4300, 4301, 4311 of the Code, or section 1762 of this Division. For applicants for a temporary pharmacist license, those applicants shall also disclose whether the applicant has committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license pursuant to Sections 4305 or 4306.5 of the Code.
- (5) The applicant shall disclose whether the applicant has been disciplined by a licensing entity in another jurisdiction or is the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.
- (6) The applicant shall submit fingerprints for use by and accessible to the board in conducting criminal history information record checks through the California Department of Justice.
- (7) The applicant shall sign a statement attesting to the fact that the applicant meets all the requirements for the temporary license, and that the information submitted in the application is accurate, to the best of the applicant's knowledge.
- (c) In addition to the above requirements, applicants for a temporary pharmacist license must successfully complete the Board's law and ethics examination designated as the California Practice Standards and Jurisprudence Examination (CPJE) for Pharmacists set forth in Section 4200 of the Code, which tests the applicant's knowledge and proficiency in state and federal laws and provisions of safe

patient care, the items set forth in Section 4200.2 and 4200.3 (d) of the Code.

- (d) Upon issuance of a temporary license in accordance with Section 115.6(a) of the Code, the Board shall provide written notice to the applicant of the following:
- (1) That the temporary license is nonrenewable;
 - (2) That the license expires 12 months after issuance, upon issuance or denial of a standard license, or upon issuance or denial of an expedited license pursuant to Section 115.5 of the Code, whichever occurs first; and,
 - (3) Any holder of a temporary license desiring to continue their licensure or to practice in California after expiration of their temporary license shall apply for and obtain a standard pharmacist, advanced practice pharmacist, pharmacy technician, designated representative, designated representative-reverse distributor, designated representative-3PL or a designated paramedic license, as applicable, in accordance with Sections 4200, 4202, 4210, 4053, 4053.1, 4053.2, and 4202.5 of the Code.

Authority: Sections 115.6 and 4005, Business and Professions Code.

Reference: Section 30, 31, 115.6, 141, 480, 490, 4200, 4300, 4301, 4301.5, 4305, 4306.5, and 4311, Business and Professions Code.

M/S: Crowley/Patel

Ms. Tomaselli noted (a)(5) was missing quotation marks around the definition and the wording "shall mean." Ms. Sodergren provided the nonsubstantive changes would be changed at the staff level.

Members of the public were provided the opportunity to provide public comments. A pharmacist member of the public thanked the Board and commented in support of the regulation. The pharmacist suggested exploring additional avenues for verification of licenses as written verification can be difficult to obtain as well as consider which license is the original license. The pharmacist inquired about members of the family being able to use the provision if the military family member is deployed.

Support: 4 Oppose: 0 Abstain: 0 Not Present: 1

Board Member	Vote
Cameron-Banks	Support
Crowley	Support
Oh	Support
Patel	Support
Weisz	Not present

VI. Discussion and Consideration of Current Pharmacy Technician Authorized Duties, Current Pharmacist to Pharmacy Technician Ratio and Possible Changes

Chairperson Oh advised the Committee would continue the discussion on pharmacy technicians, including authorized duties, technician ratios and possible changes.

Chairperson Oh referenced relevant laws detailed in meeting materials. Dr. Oh summarized in April the Committee convened a Pharmacy Technician Summit where the Committee discussed the results of the listening sessions and surveys, information at the national level, and research on various related topics. Dr. Oh referenced meeting materials where consensus was reached in some areas including possible new duties for pharmacy technicians such as the authority to administer vaccinations, authority to receive verbal prescriptions and transfers, and authority to perform some aspects of CLIA waived testing. Dr. Oh suggested the Committee continue the discussion by considering the policy questions detailed in the report and displayed on the meeting slides.

Policy Question #1: As there appears to be general agreement about potential expanded duties, is it appropriate to request that staff develop possible statutory language for future review by the Committee?

Chairperson Oh noted agreement from members.

Member Crowley indicated hesitancy as more discussion needs to be done to discuss roles and evaluate the outcome of the Medication Error Reduction and Workforce Committee.

Member Patel commented issues had been discussed in prior meetings starting with one subject at a time. Member Patel provided the example of

vaccines where other vaccinations could be added to the COVID vaccine as pharmacy technicians showed interest in adding this task. Member Patel indicated this could be a small step to move forward. Dr. Crowley recommended providing specific guidance to staff on what language to develop. The Committee decided to table the first question and circle back around after completing the other policy questions.

Policy Question #2: Should the expanded duties include authority to administer epinephrine as it relates to vaccines?

Chairperson Oh advised the DCA Director's waiver does include a provision for administering epinephrine. Members discussed the waiver being a good place to start with a pharmacist being immediately available as a safeguard and an emergency protocol response as well as training and continuing education. The DCA Director's waiver currently allows for pharmacy technicians to administer the COVID-19 and epinephrine with requirements of supervising pharmacist maintaining direct supervision and control, the pharmacy technician is certified in basic CPR, six hours of practical training that is approved by ACPE including hands-on injection technique, and the recognition and treatment of emergency reactions to vaccines.

Policy Question #3: If administration of vaccines is included in the statutory proposal, should minimum training requirements be specified similar to the provisions of the current DCA waiver?

Members discussed including an attestation by a registered pharmacist that the pharmacy technician was able to complete the duties to give more comfort that the pharmacy technician can do the duties. Members discussed the possible need to add various pharmacy technician duties to the attestation provided the pharmacist worked directly with the pharmacy technician or the pharmacist-in-charge (PIC). Members also discussed the need for minimum training requirements, certification and continuing education for COVID and intermuscular vaccines with the ability to provide epinephrine when needed for emergency.

The Committee reached a consensus that based on the training requirements in the current DCA Director's Waiver is appropriate with consensus to adding in a continuing education requirement ongoing learning on vaccines with audit-based model or a question on the self-assessment form. The Committee decided to defer the attestation to later.

Member Crowley expressed desire for certification being required for pharmacy technicians providing vaccines as well as an understanding that giving vaccines is a voluntary duty for pharmacy technicians.

Policy Question #4: If administration of vaccines is included in the statutory proposal, should an increase in the ratio be specified similar to the provisions of the current DCA waiver?

Members discussed and agreed having a change in the ratio when a pharmacy technician is exclusively engaged in immunizations was warranted. Members agreed a pharmacist has another pharmacy technician available to assist the pharmacist in regular duties if a pharmacy technician is exclusively providing immunizations. Some members expressed concern that staffing is based on the number of prescriptions filled and doesn't factor in the labor-intensive patient care services that are provided at the pharmacy. Members agreed on changing the ratio when there is a pharmacy technician providing immunization services to one pharmacist to two pharmacy technicians.

Member Crowley requested clarification on BPC section 4115 of what is considered direct supervision of a pharmacist as the section states a pharmacy technicians can do duties under the direct supervision of a pharmacist. Ms. Smiley advised direct supervision is defined by the BCP code and means the pharmacist is on the premises at all times and is fully aware of all activities performed by a pharmacy technician or an intern pharmacist.

Chairperson Oh requested confirmation of the DCA waiver. Ms. Sodergren confirmed both the pharmacist and the pharmacy technician need to be engaged exclusively and initiating COVID vaccines. Dr. Oh confirmed the Committee is looking to increasing the ratio to one pharmacist to two pharmacy technicians when one of the pharmacy technicians is exclusively engaged in vaccine administrations but the pharmacist is not. The Committee agreed there needs to be two pharmacy technicians rather than additional pharmacy staff.

Policy Question #5: Are there other potential expanded duties where additional training requirements should be specified?

Chairperson Oh inquired how the Board approached SB 409 as a possible way to mirror for pharmacy technicians for testing. Ms. Sodergren provided the approach for SB 409 was to defer to the policies and procedures of the pharmacy specific to many aspects of CLIA-waived testing. Ms. Sodergren provided if the Committee is comfortable, the approach taken in SB 409 can be reviewed to see if it is appropriate or if another approach should be considered. Dr. Oh indicated being comfortable with mirroring SB 409 and the waiver.

Member Patel confirmed training for immunization, verbal prescriptions/transfers and point of care testing. Mr. Patel noted due to variances in point of care testing by manufacturers would lend to general guidance for hygiene, PPE, etc. and be like immunization so that the trainings for immunization would suffice for point of care testing.

Member Crowley recommended with expanded roles looking to national certification such as PTCB or ACPE rather than one-time certification with continuing education with additional training.

Member Cameron-Banks stated as a consumer, it seems training should be specified and inquired what was the Board's scope and authority to make a policy proposal regarding the types of training and education. Ms. Smiley advised the authority is tied to statutory proposal so that the underlying statute needs to be changed and use general rulemaking authority to expand based on how the proposal was written. Ms. Sodergren added the legislature has given the Board the authority to regulate pharmacy technicians and appears to be within the scope. Ms. Sodergren read the current waiver as an example of how it could be adapted to this policy issue.

Ms. Sodergren inquired if the Committee was comfortable with the waiver and specifying to training and noted the certification was an outstanding issue. Member Crowley noted the waiver was good for the short term but wouldn't feel comfortable long term without requiring national certification. Dr. Oh stated it was reasonable to require national certification to allow someone to immunize.

Policy Question #6: Should a PIC be required to authorize use of the expanded duties?

Chairperson Oh noted agreement and support requiring the PIC be required to authorize. Member Crowley agreed with Dr. Oh as the liability rests with the PIC. Dr. Crowley wanted to ensure the PIC is the ultimate decision maker and there is no pressure on the PIC from the employer to sign someone off.

Member Patel inquired if a PIC is deciding who is qualified the onerous is on the PIC and the PIC's license but also may present a situation where a qualified pharmacy technician is unable to perform expanded duties as the PIC hasn't provided approval. Dr. Oh provided the PICs need to be empowered to decide what is appropriate for the PIC's store. Mr. Patel expressed concern for the consumer will be hurt by pharmacy technicians being limited by the PIC. Dr. Oh asked the staff to consider circumstances where a pharmacy technician doesn't have a PIC or home store and how the proof would be provided in that case. Member Crowley reiterated the PIC should be the one to authorize the pharmacy technician providing expanded duties noting if that is not considered, the liability structure should be evaluated. Dr. Crowley noted the PIC in a chain pharmacy doesn't have the autonomy to hire/fire/transfer staff as it is done by a supervisory or district level. In response to Member Patel, Ms. Smiley noted the jurisdiction does not exist and the statute would have to be amended.

Member Cameron-Banks inquired if the policy issue is that the PIC should be required to authorize or whether nobody should be requires to authorize the use of expanded duties for pharmacy technicians. Ms. Cameron-Banks noted based on the different practice settings/scenarios of how pharmacy technicians work there are no alternatives. Dr. Crowley provided another alternative could allow for any pharmacist to authorize. Member Patel agreed with Dr. Crowley.

Ms. Sodergren advised the law currently states that pharmacy technicians can do certain duties and inquired if that was an appropriate response for expanded duties or if the expanded duties should be verified. Dr. Oh provided historical background as the Board frequently heard people were forced to do things and these questions were being considered to see if it should go back to the pharmacy level with the PIC approving instead of a corporation. Ms. Cameron-Banks agreed in giving control back to the individuals who will be personally liable and making sure the pharmacy technician is qualified to do what they need to do to ensure consumer protection.

Policy Question #7: As part of its discussion on ratios, should the Committee consider if establishment of a ratio is appropriate for unlicensed individuals working in the pharmacy (e.g., clerk typists)?

Executive Officer Sodergren provided background on the ratio discussion. Ms. Sodergren advised the current law establishes a ratio for pharmacist to pharmacy technician and pharmacist to pharmacy technician but there is no ratio for unlicensed personnel working in a pharmacy. Ms. Sodergren noted some duties in a pharmacy do not require a licensed individual to do some of the functions but the functions need to be done under the direct supervision and control of a pharmacist. Ms. Sodergren noted the listening sessions indicated it may be appropriate or helpful to increase the ratio. Ms. Sodergren advised several years ago, the Licensing Committee was considering developing a new licensing program as an advanced pharmacy technician and as a precursor to the new program there was agreement with the Board at that time that the ratio would be more appropriate at one pharmacist to two pharmacy technicians (1:2) in a community pharmacy. Ms. Sodergren advised the current law allows for one pharmacist to one pharmacy technician in a community pharmacy. If there are more than one pharmacist working, the ratio can increase to 1:2 for each subsequent pharmacist working.

Member Crowley added many staffing issues are due to the staffing models used by current chains and not providing enough support staff for labor-intensive patient care services. Dr. Crowley didn't have a strong feeling on changing the ratio for clerks as pharmacy clerks are generally poorly trained unless they are on a path to become a pharmacy technician. Dr. Crowley noted the clerks do not provide much support to the pharmacist. Dr. Crowley felt it wasn't appropriate to expand the technician ratio generally.

Member Patel spoke in favor of increasing the ratio from one pharmacist to two pharmacy technicians but not in favor of setting numbers for the unlicensed individuals being in a pharmacy as the PIC should decide. Member Patel spoke in favor of focusing the discussion on ratios for licensed individuals.

Chairperson Oh commented that while the California ratio is viewed as conservative there is no ratio for unlicensed pharmacy personnel. Dr. Oh noted the Committee did not reach a consensus on ratios and would probably need to be discussed later.

Policy Question #1: As there appears to be general agreement about potential expanded duties, is it appropriate to request that staff develop possible statutory language for future review by the Committee?

Chairperson Oh revisited policy question #1 to determine if the Committee had the required element for drafting a legislative proposal and sought comments from Members. Member Patel spoke in support and encouraged staff to start developing. Member Crowley commented noting consensus was not reached in directing staff and spoke in support of more discussion. Member Cameron-Banks inquired as to what the contents of the proposal would be.

Ms. Sodergren offered to draft a proposal with the understanding there were policy questions still outstanding where consensus had not been reached. Dr. Oh directed staff to develop a draft proposal for future Committee consideration and discussion.

Members of the public were provided the opportunity to comment.

A pharmacist who was employed as a PIC from Ralphs from Burbank commented about opening possibility of pharmacy technicians vaccinating presenting concern in several areas. The PIC noted concern if the ratio was not expanded that it would be difficult to oversee a pharmacy technician who was immunizing. The PIC addressed concerns on the type of training a pharmacy technician would be getting to immunize as the onerous would fall upon the pharmacist.

A representative from UFCW Western States Council commented that in addition to an increase in the ratio, there must be a minimum staffing ratio as there is not appropriate staffing at the current ratio. The commenter continued pharmacists need to be appropriately staffed to provide services in addition to prescriptions and added there needs to be strong anti-retaliation language. If the PIC doesn't feel comfortable with the staff on hand to expand duties that the burden should be on the employer to say retaliation didn't happen when the PIC decided not to expand the duties. The commenter also encouraged the Committee to discuss liability structure so the PIC isn't liable when things happen outside of the PIC's control and noted the chains aren't enforcing SB 1442.

A representative from CCAP commented disappointment that the discussion is only on vaccinations and ratio as many settings (e.g., closed-door, long-term care, etc.) being left out. The commentor expressed an interest in changing ratios for all settings and agreed with the PIC from Ralph's comments as well as Member Crowley that pharmacy technicians should be certified and require continuing education.

A pharmacist provided their recollection of the history of pharmacy technicians and direct supervision/control in California. The pharmacist noted in BPC 4115 (f)(3) the pharmacist can object working with a pharmacy technician when the schedule is posted. The pharmacist has authority when they go to lunch too. The pharmacist spoke in support discussing ratio to give the pharmacist what they need especially with vaccinations.

A representative of CVS Health commented in support of minimum flooring and increase in ratios.

VII. Discussion and Consideration of Committee's Strategic Plan Objectives

Chairperson Oh provided the Board's strategic plan includes nine strategic objectives for this Committee and referenced meeting materials detailing both the objectives and status updates. Dr. Oh stated all strategic objectives were still appropriate and commended Executive Officer Sodergren and staff on working on objectives.

- 1.1 Evaluate, and change in appropriate, legal requirements for authorized duties that can occur outside of a pharmacy to reflect the dynamic nature of the practice of pharmacy.
Status: The board sponsored legislation to make permanent provisions for remote work for pharmacists currently being performed via a broad waiver. The legislation was controversial and did not move forward.
- 1.2 Consider and pursue necessary changes in the law regarding various pharmacy practice settings to ensure variances in the practice are appropriate.
- 1.3 Explore, and pursue changes in law as appropriate, for authorized duties of a pharmacy technician and potential expansion based on other jurisdictions to expand authorized duties.
Status: The Committee convened listening sessions and released surveys soliciting feedback from licensees on potential changes to

pharmacy technician authorities. The Committee continues its evaluation of the results of the information received.

- 1.4 Determine if application requires for a pharmacist-in-charge (PIC) are appropriate to ensure sufficient knowledge, skills, and abilities for individuals seeking to serve as a PIC.
Status: October 2021, Board approved development of regulations to establish minimum requirements for pharmacists seeking to serve as a PIC. Further, development of a training program is underway.
- 1.5 Engage with the California Division of Occupational Safety and Health (Cal/OSHA) on pharmacy working conditions to ensure sufficient resources and appropriate conditions exists to facilitate safe patient care.
Status: The Medication Error Reduction and Workforce Committee continues its assessment of working conditions and medication errors.
- 1.6 Consider results, and change laws as appropriate, regarding the Office of Professional Examination Services audit of the California Multi-State Jurisprudence Pharmacy Examination and pharmacy law requirements to ensure exams are relevant.
Status: January 2022, Board receives results of audit conducted by OPES, which concludes that OPES does not recommend use of the MPJE as it would be inconsistent with Business and Professions Code section 139.
Status: Results of the audit performed by OPES was released
- 1.7 Decrease licensing processing items to improve customer service and support applicants and licensees.
Status: July 1, 2022, Board secures authority to hire two additional staff to assist with the processing of site applications.
- 1.8 Streamline the licensing process to improve efficiency and staff performance.
- 1.9 Migrate the entire licensing process online to promote timeliness, reduce staff workload, and provide better customer service.
Status: Business Process Mapping for cashiering and licensing related functions completed.

Members were provided the opportunity to comment. Member Crowley spoke in support of all objectives especially the application for the PIC.

Members of the public were provided the opportunity to comment; however, no comments were provided.

VIII. Licensing Statistics

Chairperson Oh referenced meeting materials containing licensing statistics including the year-end and three-year comparison licensing data. Dr. Oh noted the data indicates a 4 percent overall growth in the receipt of applications for initial license with the most significant increase in the number of pharmacy technician applications as well as a slight increase in overall exam applications (exam and retake combined). Dr. Oh added it was interesting that there was a large drop in the number of intern applications received over the three-year period.

Chairperson Oh reported an overall decline in the number of site applications received and an overall growth in pharmacy applications received when combining chain and nonchain application received; however, looking at the data separately, there was about a 13 percent decrease in nonchain pharmacy applications received. Dr. Oh also noted increases in several of the Board's nonresident business licenses include nonresident pharmacy applications, nonresident sterile compounding applications and nonresident third-party logistics providers. Dr. Oh advised there was a significant increase in the number of temporary applications received for the three-year period, including a 16 percent increase in the number of temporary pharmacy applications received. Dr. Oh reported staff have previously identified this growth as one of the contributing factors for site licensing processing times. Included in the recent budget is additional staff resources to assist with the workload associated with this growth.

Chairperson Oh noted an appeared significant drop in the denial of applications for individual licenses assuming that was, at least in part, attributed to changes in the law that preclude the Board from considering some past arrest and conviction information.

Chairperson Oh noted it was interesting that has been a 20 percent increase in the number of chain pharmacies discontinuing business while there has been a 33 percent decrease in other pharmacies discontinuing business. Dr. Oh advised the Board's overall licensee population remains about the same.

Members were provided the opportunity to provide comment; however, no comments were provided.

Members of the public were provided the opportunity to provide comment. Members heard comments echoing the UFCW representative's comment regarding the ratio and stressed the importance of addressing pharmacists working alone before expanding pharmacy technician duties. Members also heard comments about licensing processing times and a recommendation for the Board to monitor the number of intern pharmacists and pharmacy technicians are licensed.

IX. Future Committee Dates

Chairperson Oh advised the next meeting was scheduled for October 18, 2022.

X. Adjournment

The meeting adjourned at 11:23 p.m.