



California State Board of Pharmacy

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www.pharmacy.ca.gov

Business, Consumer Services and Housing Agency

Department of Consumer Affairs

Gavin Newsom, Governor



July 26, 2024

NOTIFICATION OF PROPOSED EMERGENCY REGULATORY ACTION

Subject: Independent HIV Preexposure Prophylaxis Furnishing

The California State Board of Pharmacy (Board) is proposing an emergency action to amend section 1747 related to the independent initiation and furnishing of HIV preexposure prophylaxis (PrEP) and HIV postexposure prophylaxis (PEP). Business and Professions Code section 4052.02 provides authority for a pharmacist to initiate and furnish HIV preexposure prophylaxis under specified conditions. This section of the law was recently amended [Senate Bill 339 (Wiener, Chapter 1, Statutes of 2024)] and requires the Board to adopt emergency regulations by October 31, 2024, to implement the provisions in accordance with CDC guidelines. Additionally, the Board is required to consult with the Medical Board of California in developing the regulations.

The proposed regulation would establish the requirement that documentation of preexposure prophylaxis furnished and services provided shall be maintained in patient records, in the record system maintained by the pharmacy, for a minimum of three years from the date when the preexposure prophylaxis was furnished.

Government Code section 11346.1(a)(2) requires that, at least five working days prior to the submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency action to OAL, OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

Upon filing, OAL will have ten calendar days within which to review and make a decision on the proposed emergency action. If the proposed emergency action is approved, OAL will file the regulations with the Secretary of State, and the emergency regulations will become effective for one hundred and eighty (180) days. Within the 180-day effective period, the Board will proceed with a regular rulemaking action to make the regulatory change permanent, including a public comment period. The emergency regulations will remain in effect during this rulemaking action.

Attached to this notice is the specific regulatory language of the Board's proposed emergency action and the Finding of Emergency.

You may also review the proposed regulatory language and Finding of Emergency on the Board's website at the following address:

https://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml.

The Board plans to file the Emergency Rulemaking Package with OAL at least five (5) working days from the date of this notice. If you would like to make comments on the Finding of Emergency or the Proposed Emergency Regulation Text, both the Board and OAL must receive the comments within five (5) calendar days after notice of the filing of the Emergency Rulemaking Package is posted on OAL's website. Responding to the comments at this point in the process is strictly at the Board's discretion.

Comments should be sent simultaneously to:

Name: Lori Martinez
Address: 2720 Gateway Oaks Drive, Ste. 100
Sacramento, CA 95833
Fax No.: (916) 574-8618
E-Mail Address: PharmacyRulemaking@dca.ca.gov

AND

Name: Office of Administrative Law
Address: 300 Capitol Mall, Suite 1250
Sacramento, CA 95814
Fax No.: (916) 323-6826
E-Mail Address: staff@oal.ca.gov

The comment must state that it is about an emergency rulemaking action currently under OAL review and include the topic of the emergency rulemaking.

If you have any questions regarding this proposed emergency action, please contact Lori Martinez at (916) 518-3100 or PharmacyRulemaking@dca.ca.gov.