



**California State Board of Pharmacy**

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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY

DEPARTMENT OF CONSUMER AFFAIRS

GOVERNOR EDMUND G. BROWN JR.

To: Board Members

Subject: Proposed Regulations to Add or Amend Title 16 California Code of Regulations (CCR) sections 1702, 1702.1, 1702.2, and 1702.5

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**Attachment 1**

Background:

At the July 2013 Board Meeting, the board approved proposed text to amend and/or add Title 16 CCR sections 1702, 1702.1, 1702.2, and 1702.5 related to standardized reporting of convictions and discipline at the time of renewal for pharmacists, pharmacy technicians and designated representatives, as well as require nonresident wholesalers and nonresident pharmacies to report disciplinary actions by other entities at the time of renewal. The 45-day comment period began on August 12, 2016 and ended September 26, 2016 and the Board received a few comments.

At this Meeting

The board will have the opportunity to discuss the future of the regulation and determine what course of action it wishes to pursue. Among its options are:

1. Adopt the regulation as notice for comment on August 12, 2016.
2. Amend the regulation to address the concerns expressed by the stakeholders and notice the modified text for a 15 day comment period.

**The attachment contains:**

1. A copy of the noticed text as approved at the July 2013 Board Meeting.
2. A compilation document of the comments received during the 45-day comment period with Staff Recommendations.
3. The comments received during the 15-day comment period.

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**Staff Recommendation:** Adopt the regulatory language as noticed on August 12, 2016, and delegate to the executive officer the authority to make technical or non-substantive changes as may be required by Office of Administrative Law or the Department of Consumer Affairs to complete the rulemaking file.

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# **Attachment 1**

**Renewal Requirements  
16 CCR §§ 1702, 1702.1,  
1702.2, and 1702.5**

**Renewal Requirements  
16 CCR §§ 1702, 1702.1,  
1702.2, and 1702.5**

**Board Approved Text**

**Noticed on August 12,  
2016**

## Board of Pharmacy

Amend Section 1702 of Article 5 of Division 17 of Title 16 of the California Code of Regulations to read as follows:

### **1702. Pharmacist Renewal Requirements**

(a) A pharmacist applicant for renewal who has not previously submitted fingerprints as a condition of licensure or for whom an electronic record of the licensee's fingerprints does not exist in the Department of Justice's criminal offender record identification database shall successfully complete a state and federal level criminal offender record information search conducted through the Department of Justice by the licensee's or registrant's renewal date ~~that occurs on or after December 7, 2010.~~

(1) A pharmacist shall retain for at least three years as evidence of having complied with subdivision (a) either a receipt showing that he or she has electronically transmitted his or her fingerprint images to the Department of Justice or, for those who did not use an electronic fingerprinting system, a receipt evidencing that his or her fingerprints were recorded and submitted to the Board.

(2) A pharmacist applicant for renewal shall pay the actual cost of compliance with subdivision (a).

(3) As a condition of petitioning the board for reinstatement of a revoked or surrendered license, or for restoration of a retired license, an applicant shall comply with subdivision (a).

(4) The board may waive the requirements of this section for licensees who are actively serving in the United States military. The board may not return a license to active status until the licensee has complied with subdivision (a).

(b) As a condition of renewal, a pharmacist applicant shall disclose on the renewal form whether he or she has been convicted, as defined in Section 490 of the Business and Professions Code, of any violation of the law in this or any other state, the United States, or other country, since his or her last renewal. ~~omitting~~ ~~†~~ ~~Traffic~~ ~~infractions~~ ~~under~~ ~~\$300~~ ~~\$500~~ not involving alcohol, dangerous drugs, or controlled substances do not need to be disclosed.

(c) As a condition of renewal, a pharmacist applicant shall disclose on the renewal form any disciplinary action against any license issued to the applicant by a government agency. For the purposes of this section, "disciplinary action" means an adverse licensure or certification action that resulted in a restriction or penalty being placed on the license, such as revocation, suspension, probation or public reprimand or reproof.

(d) Failure to provide all of the information required by this section renders an application for renewal incomplete and the board shall not renew the license and shall issue the applicant an inactive pharmacist license. An inactive pharmacist license issued pursuant to this section may only be reactivated after compliance is confirmed for all licensure renewal requirements.

Authority: Sections 4001.1 and 4005, Business and Professions Code.

Reference: Sections 490, 4036, 4200.5, 4207, 4301, 4301.5 and 4400, Business and Professions Code; and Sections 11105(b)(10) and 11105(e), Penal Code.

## Board of Pharmacy

Adopt Section 1702.1 of Article 5 of Division 17 of Title 16 of the California Code of Regulations to read as follows:

### **1702. 1 Pharmacy Technician Renewal Requirements**

(a) A pharmacy technician applicant for renewal who has not previously submitted fingerprints as a condition of licensure or for whom an electronic record of the licensee's fingerprints does not exist in the Department of Justice's criminal offender record identification database shall successfully complete a state and federal level criminal offender record information search conducted through the Department of Justice by the licensee's or registrant's renewal date that occurs on or after July 1, 2014.

(1) A pharmacy technician shall retain for at least three years as evidence of having complied with subdivision (a) either a receipt showing that he or she has electronically transmitted his or her fingerprint images to the Department of Justice or, for those who did not use an electronic fingerprinting system, a receipt evidencing that his or her fingerprints were recorded and submitted to the Board.

(2) A pharmacy technician applicant for renewal shall pay the actual cost of compliance with subdivision (a).

(3) As a condition of petitioning the board for reinstatement of a revoked or surrendered license an applicant shall comply with subdivision (a).

(4) The board may waive the requirements of this section for licensees who are actively serving in the United States military. The board may not return a license to active status until the licensee has complied with subdivision (a).

(b) As a condition of renewal, a pharmacy technician applicant shall disclose on the renewal form whether he or she has been convicted, as defined in Section 490 of the Business and Professions Code, of any violation of the law in this or any other state, the United States, or other country, since his or her last renewal . Traffic infractions under \$500 not involving alcohol, dangerous drugs, or controlled substances do not need to be disclosed.

(c) As a condition of renewal, a pharmacy technician applicant shall disclose on the renewal form any disciplinary action against any license issued to the applicant by a government agency. For the purposes of this section, "disciplinary action" means an adverse licensure or certification action that resulted in a restriction or penalty against the license or certification such as revocation, suspension, probation or public reprimand or reproof.

(d) Failure to provide all of the information required by this section renders an application for renewal incomplete and the board shall not renew the license until the licensee demonstrates compliance with all requirements.

Authority: Sections 4001.1 and 4005, Business and Professions Code.

Reference: Sections 490, 4038, 4115, 4202, 4207, 4301, 4301.5 and 4400, Business and Professions Code; and Sections 11105(b)(10) and 11105(e), Penal Code.

## Board of Pharmacy

Adopt Section 1702.2 of Article 5 of Division 17 of Title 16 of the California Code of Regulations to read as follows:

### **1702. 2 Designated Representative Renewal Requirements**

(a) A designated representative applicant for renewal who has not previously submitted fingerprints as a condition of licensure or for whom an electronic record of the licensee's fingerprints does not exist in the Department of Justice's criminal offender record identification database shall successfully complete a state and federal level criminal offender record information search conducted through the Department of Justice by the licensee's or registrant's renewal date that occurs on or after July 1, 2014.

(1) A designated representative shall retain for at least three years as evidence of having complied with subdivision (a) either a receipt showing that he or she has electronically transmitted his or her fingerprint images to the Department of Justice or, for those who did not use an electronic fingerprinting system, a receipt evidencing that his or her fingerprints were recorded and submitted to the Board.

(2) A designated representative applicant for renewal shall pay the actual cost of compliance with subdivision (a).

(3) As a condition of petitioning the board for reinstatement of a revoked or surrendered license an applicant shall comply with subdivision (a).

(4) The board may waive the requirements of this section for licensees who are actively serving in the United States military. The board may not return a license to active status until the licensee has complied with subdivision (a).

(b) As a condition of renewal, a designated representative applicant shall disclose on the renewal form whether he or she has been convicted, as defined in Section 490 of the Business and Professions Code, of any violation of the law in this or any other state, the United States, or other country, since his or her last renewal. Traffic infractions under \$500 not involving alcohol, dangerous drugs, or controlled substances do not need to be disclosed.

(c) As a condition of renewal, a designated representative applicant shall disclose on the renewal form any disciplinary action against any license issued to the applicant by a government agency. For the purposes of this section, "disciplinary action" means an adverse licensure or certification action that resulted in a restriction or penalty against the license or certification such as revocation, suspension, probation or public reprimand or reproval.

(d) Failure to provide all of the information required by this section renders an application for renewal incomplete and the board shall not renew the license until the licensee demonstrates compliance with all requirements.

Authority : Sections 4001.1 and 4005, Business and Professions Code.

Reference: Sections 490, 4022.5, 4053, 4207, 4301, 4301.5 and 4400, Business and Professions Code; and Sections 11105(b)(10) and 11105(e), Penal Code.

## Board of Pharmacy

Adopt Section 1702.5 of Article 5 of Division 17 of Title 16 of the California Code of Regulations to read as follows:

### **1702.5. Disclosure of Discipline, Renewal, Nonresident Wholesaler or Nonresident Pharmacy.**

(a) As a condition of renewal, an applicant seeking renewal of a license as a nonresident wholesaler or as a nonresident pharmacy shall report to the board any disciplinary action taken by any government agency since the last renewal of the license. An applicant seeking the first renewal of a license as a nonresident wholesaler or a nonresident pharmacy shall report to the board any disciplinary action taken by any government agency since issuance of the license. Failure to provide information required by this section shall render an application for renewal incomplete, and the board shall not renew the license until such time as the information is provided.

(b) For purposes of this section, “disciplinary action” means any adverse licensure or certification action that resulted in a restriction or penalty against the license or certification. Such actions include revocation, suspension, probation or public reprimand or reproval.

Authority: Section 4005, Business and Professions Code.

Reference: Sections 4112, 4161, 4300, and 4301, Business and Professions Code



**Renewal Requirements  
16 CCR §§ 1702, 1702.1,  
1702.2, and 1702.5**

**45-day Comment Compilation w/  
Recommendations  
Comment Period Closed  
September 26, 2016**

Code Section	Commenter	Comment	Staff Recommendations
1702(b)	Ray Vrabel	Mr. Vrabel requested that the \$500 limit be removed. He indicated that traffic infractions should not be reported unless they involve alcohol, dangerous drugs, or controlled substances. He indicated red light infractions could be over \$500 and are not a crime so they should not be investigated. Additionally, Mr. Vrabel expressed concern about the unnecessary reporting and staff workload.	Reject Comment. Current regulation language is \$500. It was mistakenly indicated as a change in the proposed language. The Board has not experienced a substantial increase in workload due to the \$500 reporting requirement since it was implemented in 2010.
1702(b)	Robert Stein	Dr. Stein requested that the language in (b) be modified to specify "traffic fine." He indicated that different court jurisdictions charge varying fees and taxed and could make a traffic violation total over \$500 when the actual fine was less.	Reject Comment. Staff agree that a minor offense could lead to a fine in excess of \$500 in California; however, this may not be the case in other States. Additionally, the Board has not experienced a substantial increase in workload due to the \$500 reporting requirement.

**Renewal Requirements  
16 CCR §§ 1702, 1702.1,  
1702.2, and 1702.5**

**45-day Comments  
Comment Period Closed  
September 26, 2016**

## Martinez, Lori@DCA

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**From:** Robert Stein <Robert\_Stein@kgi.edu>  
**Sent:** Tuesday, August 16, 2016 10:19 AM  
**To:** Trinchera, Katrina@DCA  
**Subject:** Comment on Proposed 16 CCR 1702

Hi Katrina,

My comment surrounds the change in threshold for disclosure of traffic infractions.

There is too much ambiguity in the language, "Traffic infractions under \$500 not involving alcohol, dangerous drugs, or controlled substances do not need to be disclosed." The reason for this is the variability of user fees associated with traffic tickets in various jurisdictions. Therefore, the amount actually paid for a violation may be many times the statutory FINE established for that violation.

I therefore respectfully recommend that 1702 specifically refer to a ***fine*** of less than \$500, as defined in the Motor Vehicle Code Section 42000.1 et seq, rather than the arbitrary amount that a violator will pay depending on the local jurisdiction's piling on fees and "penalty assessments."

Thanks for your consideration.

**Robert L. Stein**, Pharm.D., J.D.  
*Professor of Practice for Pharmacy Law & Ethics*



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"The future isn't what it used to be." – Y. Berra

**Martinez, Lori@DCA**

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**From:** Rayburn Vrabel <rbvrabel@yahoo.com>  
**Sent:** Tuesday, August 23, 2016 5:04 PM  
**To:** Trinchera, Katrina@DCA  
**Subject:** \*Comment\* CA Board of Pharmacy Proposed Action in Relation to Renewal Requirements

Contact Person: Katrina Trinchera  
Agency Name: California State Board of Pharmacy  
Address: 1625 North Market Blvd, Suite N 219, Sacramento, CA 95834

Katrina,

I would like to recommend the following modification to this recommended Board action:

Amend Section 1702 of Article 1 of Division 17 of Title 16 of the California Code of Regulations to read as follows:

Section 1702(b):

\* Currently reads: Traffic infractions under \$500 not involving alcohol, dangerous drugs, or controlled substances do not need to be disclosed.

\* Recommendation: **Delete "under \$500"**, to read "Traffic infractions not involving alcohol, dangerous drugs, or controlled substances do not need to be disclosed."

\* Rationale: Red light camera infractions are already \$500 and they will probably increase, along with other types of infraction fines in the future. Since driving infractions are not considered a crime, why bother putting a dollar threshold in the regulation, which in the future may result in what today would be considered unnecessary reporting?

Please let me know if you have any questions. Thanks...

Ray  
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Ray Vrabel

Cell: (619) 417-8564

Sent from my iPad...

**Martinez, Lori@DCA**

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**From:** Rayburn Vrael <rbvrael@yahoo.com>  
**Sent:** Saturday, September 24, 2016 8:58 AM  
**To:** Trinchera, Katrina@DCA  
**Subject:** Comment on Regulation: Renewals requirements  
**Attachments:** 1702\_pt.pdf; ATT00001.txt

Board,

The dollar amount (currently \$500) on a traffic infraction is set too low. Currently, red-light infraction or car-pool lane infractions are very close to toss skiing and like everything else, they will probably increase faster than inflation.

I would suggest that you set a "trigger" at least double the current amount to avoid unnecessary reporting and staff investigation. That is, unless someone is looking for work.

I would rather have staff investigate real problems, not inflated traffic infractions...

[http://www.pharmacy.ca.gov/laws\\_regs/1702\\_pt.pdf](http://www.pharmacy.ca.gov/laws_regs/1702_pt.pdf)

ATT00001.txt

Ray

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Ray Vrabel

cell: (619) 417-8564

Sent from my iPad...