



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
 Public Board Meeting Minutes**

Date: December 14, 2018

Location: University of Southern California – Orange County Center
 590 North Vermont Avenue
 Los Angeles, CA 90004

Board Members Present: Victor Law, Licensee Member, President
 Gregory Lippe, Public Member, Vice President
 Ricardo Sanchez, Public Member
 Albert Wong, Licensee Member
 Stanley Weisser, Licensee Member
 Maria Serpa, Licensee Member
 Shirley Kim, Public Member
 Allen Schaad, Licensee Member
 Deborah Veale, Licensee Member

Board Members Not Present: Lavanza Butler, Licensee Member
 Valerie Muñoz, Public Member
 Amjad Khan, Public Member
 Ryan Brooks, Public Member

Staff Present: Virginia Herold, Executive Officer
 Anne Sodergren, Assistant Executive Officer
 Laura Freedman, DCA Staff Counsel
 Kelsey Pruden, DCA Staff Counsel
 Desiree Tulleners, Deputy Attorney General

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

President Law called the meeting to order at 9:05 a.m. Roll call was taken, and a quorum was established. Board members present: Maria Serpa, Ricardo Sanchez, Gregory Lippe, Victor Law, Deborah Veale, Stanley Weisser and Albert Wong.

Note: Shirley Kim and Allen Schaad arrived at 9:10 a.m.

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

Daniel Martinez representing CPhA asked the board to consider creating a peer review committee to review enforcement cases and help expedite the process. The board asked that this be placed on the agenda for the next Enforcement Committee Meeting.

Pharmacist Robert Stein asked the board to agendize a discussion on 1717(e) and allowing a pharmacy to forward an electronic prescription to another pharmacy. Ms. Sodergren noted that this was already on the agenda for the next Enforcement Committee Meeting.

III. Recognition and Celebration of Pharmacists Licensed in California for 50 Years

There were no 50-year pharmacists in attendance.

IV. Discussion and Consideration of Board's Fund and Proposal to Amend California Code of Regulations, Title 16, Section 1749, Fee Schedule

President Law explained that in November 2015, the Department of Consumer Affairs completed an analysis of the board's fund condition and fee structure. This analysis was initiated at the request of the board and done in partnership with the board. The intent of the analysis was to determine the sustainability of the board's fund and to ensure that the board was collecting sufficient revenue to fully reimburse the board for the cost of regulating those individuals and businesses within its jurisdiction. As indicated in the report, the goal of the analysis was to zero base the board's budget down to the services behind processing each initial and renewal application.

President Law reported that the conclusions of the analysis found that the current level of fees was not sufficient to keep the board's fund solvent and that fees needed to be adjusted to reflect the actual cost to the board to provide service and process each license type. As part of the recommendations from this analysis it was suggested that the set new fee ceilings be set at a rate that would allow the board the flexibility to adjust fees through the regulatory process and maintain the fund's solvency through the next ten years.

President Law stated that after review and consideration of the findings of the analysis, the board pursued a statutory change in 2016 as part of its Sunset Review process to recast its fees. He noted that this recasting resulted in new statutory maximum fees.

President Law explained that the board's new fee structure took effect on July 1, 2017, but not all fees were increased at that time. Specifically of the board's 118 fees, seven application fees and 14 renewal fees were increased. Three applications fees were reduced.

President Law stated that it is important to note that since completion of the fee analysis

there have been major budget adjustments impacting the board. Although final budget figures for FY 2017/18 are not available, preliminary numbers suggest that overall the board's expenditures have increased 30% since FY 2014/15, the largest areas of expenditure growth being a 31% increase in personnel expenses and a 62% increase in pro rata (including statewide pro rata and DCA pro rata).

President Law reported that board staff worked with Vice-President Lippe to assess the current state of the board's fund and determine what, if any, action is necessary. It was recommended that an adjustment to the board's fees is necessary to ensure the solvency of the board's fund.

President Law stated that the board delayed action on the issue at its October Board Meeting and requested that board staff work with Mr. Lippe to provide additional information on the proposed fee increase. Further, the board requested historical fee information as well as a comparison with the fees assessed by the Medical Board.

President Law reported that the board's current application fee for a sterile compounding application is \$1,325 and under this proposal, the fee would increase to \$1,855. By comparison, according to the NABP, an inspection for purposes of the Verified Pharmacy Program ranges from \$3,000 to \$3,500. Further, according to JACHO, a survey costs about \$3,020 for their on-sight survey.

President Law noted that as requested board staff also reviewed fees for other healing arts boards for comparison. The table below provides comparisons between the board's proposed fees for pharmacists and similar fees for physicians and dentists.

Fee Comparison	Exam	License	Renewal
Pharmacist (as proposed)	\$ 272.50	\$ 205	\$ 432.50
Physician	\$ 491	\$ 416.50 or \$ 808	\$ 820
Dentist	\$ 525	\$ 100 or \$ 283	\$ 650

President Law explained that the below table provides fee comparison information for some of the board's proposed site licenses with licenses issued by the California Department of Public Health. He also noted that the full fee schedule for licenses issued by the California Department of Public Health was provided in the meeting materials.

Fee Comparison	Application	Renewal
Sterile Compounding (as proposed)	\$ 2,305	\$ 1,855
Pharmacy (as proposed)	\$ 545	\$ 797.50
Clinic (as proposed)	\$ 545	\$ 342
CDPH Hospital	\$500/bed	\$ 500/bed
CDPH Surgical Clinics	\$ 5,136	\$ 5,136
CDPH Primary Care Clinic	\$ 1,483	\$ 1,483

President Law stated that as indicated in October, the board’s budget has a structural imbalance that must be addressed. The below table that details the projected impact such a change would have on the board’s fund should the new fees take effect January 1, 2020.

Fiscal Year	Fund Balance	Months in Reserve
2018/2019*	\$8,164,000	3.3
2019/2020	\$7,242,000	2.9
2020/2021	\$8,746,000	3.4
2021/2022	\$9,568,000	3.6

*This figure includes increased projected revenue generated by new licensing programs and other sources.

President Law noted that meeting that timeframe is an aggressive schedule as the rulemaking process can at times be extended. He also noted that the DCA Budget Office agrees with the board’s assessment that a fee increase is necessary, and that action must be taken quickly to ensure the financial viability of the board. Ms. Herold reviewed a letter prepared by the DCA Budget Office which outlined their assessment that the fee increase is necessary. Note: this letter was provided in the board meeting materials.

President Law stated that the board must again consider a conservative approach to raising fees. Staff and Vice-President Lippe recommend that the board consider:

1. Raising fees to their statutory maximum levels for all sterile compounding and outsourcing facilities.
2. Raising all other fees to the midway point between the statutory minimum and maximum level.
3. Initiating a new fee analysis to determine a long-term sustainable fee structure.

Board member Stanley Weisser asked why the proposal only increases the sterile compounding and outsourcing facility licenses to the maximum and raises the other fees to the midway point. Executive Officer Virginia Herold explained that the board wanted to be sensitive to the financial impact raising all the fees to the maximum may have on its licensees and therefore the proposal takes a conservative approach.

Mr. Weisser agreed that the board must be sensitive to the impact this will have on its licensees but noted that the proposal doesn’t fix the structural imbalance. He stated that the board should take a more aggressive approach in making the board financially stable.

Ms. Sodergren reported that in order for the board to have the new fees in place by January

1, 2020, the board would need to approve the language at this meeting and board staff would work with the department and agency to expedite the review process.

Ms. Sodergren explained that the current maximum fees were established based on a fee analysis. The fee analysis calculated the appropriate fee ranges based on the cost to deliver services for each license type.

The board asked how much additional funds the board would receive if it raised the fees to the statutory maximum for all licensee types. Ms. Sodergren stated that staff would have to run the numbers, but it would generate approximately eight million in additional revenue.

President Law noted that if the board raises the renewal fees for pharmacists it would only cost pharmacists an additional twenty dollars every two years.

Board member Gregory Lippe asked how long it would take to conduct a new fee analysis. Ms. Sodergren stated it would take at least a year to complete the project.

Ms. Veale stated that she would support raising the fees to the maximum in order to better address the board's fund imbalance.

Board member Maria Serpa stated that she agrees that the board need to raise its fees to the maximum, however, the board should still be sensitive to the financial impact it will have on its licensees. The board agreed with the need for sensitivity and asked that staff work on a newsletter article explaining the need to raise the board's fees.

Daniel Martinez the thanked the board for delaying the vote at the October board meeting. He expressed the concerns that CPhA has with the board raising its fees, stating that the board should be looking for ways to improve efficiencies rather than raising its fees.

Board member Allen Schaad agreed that the board should always be looking to improve efficiencies. The board encouraged stakeholders to work with the board and its staff to find ways to improve efficiencies. Mr. Martinez stated that the board should look for ways to improve efficiencies in its enforcement program and again recommended creating a peer-review committee to review enforcement cases.

Ms. Veale stated that the board is working on a business modernization project that will improve many of the board's processes. However, it does not change the fact that the board is facing a fund imbalance that must be addressed to keep the board viable.

Mr. Weisser stated that at some point every organization must address increased operational costs and noted that CPhA recently increased its membership fees. It was also noted that the board does not have control over many of its operational costs such as prorata and personnel costs related to bargaining unit agreements.

Board member Wong stated that the board is working to provide additional services to its licensees such as the “ask the inspector” program, webinars and in-person educational events.

Board member Ricardo Sanchez stated that he has served on other regulatory boards and in his experience the Board of Pharmacy is an extremely dynamic board and its staff and board members work very hard and are dedicated to its mission.

The board thanked Mr. Martinez for his comments and committed to continue to work with stakeholders to improve the board’s operations and the increase the services it provides to its licensees. President Law also noted that the board has not, and will not, be looking to increase its citation and fines in order to increase the board’s revenue.

A pharmacist suggested that the board consider having chain pharmacies pay higher fees than independent pharmacies. Ms. Veale stated that the board’s fees are currently calculated based on the cost to process the application or renewal. She added that when the next fee analysis is conducted perhaps this option could be considered.

Motion: Initiate the formal rulemaking process to amend the text of Title 16 Section 1749 to raise the board’s fees to their current statutory maximum and authorize the Executive Officer to make any clarifying changes consistent with the board’s policy to the rulemaking package and provide a 45-day public comment period. Direct staff to initiate a new fee analysis to determine the zero-based costs similar to the fee analysis that was completed by the DCA.

M/S: Lippe/Schaad

Support: 9 Oppose: 0 Abstain: 0

Board Member	Support	Oppose	Abstain	Not Present
Brooks				x
Butler				x
Khan				x
Kim	x			
Law	x			
Lippe	x			
Munoz				x
Sanchez	x			
Schaad	x			
Serpa	x			
Veale	x			
Weisser				x
Wong	x			

The board recessed for a break at 10:10 a.m. and resumed at 10:24 a.m.

President Law announced that Anne Sodergren would be serving as the Interim Executive Officer when Ms. Herold retires at the end of the year.

V. Petitions for Reinstatement of Licensure, Early Termination, or Other Reduction of Penalty

Administrative Law Judge Howard Cohen presided over the following petitions for reduction of penalties.

- Orlando Hernandez, RPH 37523

The board recessed for a break at 11:08 a.m. and resumed at 11:16 a.m.

- Philip Ohlson, RPH 41078
- Complete Infusion Care, PHY 53829 & LSC 100883 and Ali Pourmola RPH 48035

The board recessed for a break at 12:15 p.m. and resumed at 12:21 p.m.

- Frozan Seddiqi, TCH 17509

VI. Closed Session Matters

The board recessed to closed session at 12:40 p.m.

VII. Reconvene Open Session

The board returned to open session at 1:22 p.m. President Law adjourned the meeting at 1:23 p.m.