

Date of Hearing: March 29, 2022

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Marc Berman, Chair

AB 2194 (Ward) – As Introduced February 15, 2022

SUBJECT: Pharmacists and pharmacy technicians: continuing education: cultural competency.

SUMMARY: Requires pharmacists and pharmacy technicians to complete at least one hour of continuing education through a cultural competency course focused on LGBTQ+ patients.

EXISTING LAW:

- 1) Establishes the Pharmacy Law. (Business and Professions Code (BPC) §§ 4000 *et seq.*)
- 2) Establishes the California State Board of Pharmacy (Board) to administer and enforce the Pharmacy Law, comprised of seven pharmacists and six public members. (BPC § 4002)
- 3) Provides that protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. (BPC § 4001.1)
- 4) Authorizes the Board to adopt rules and regulations as may be necessary for the protection of the public. (BPC § 4005)
- 5) Defines “pharmacy” as an area, place, or premises licensed by the Board in which the profession of pharmacy is practiced and where prescriptions are compounded. (BPC § 4037)
- 6) Defines “pharmacy technician” as an individual who assists a pharmacist in a pharmacy in the performance of their pharmacy-related duties. (BPC § 4038)
- 7) Declares pharmacy practice to be “a dynamic, patient-oriented health service that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use, drug-related therapy, and communication for clinical and consultative purposes” and that “pharmacy practice is continually evolving to include more sophisticated and comprehensive patient care activities.” (BPC § 4050)
- 8) Authorizes a pharmacist to do all of the following, among other permissible activities, as part of their scope of practice:
 - a) Provide consultation, training, and education to patients about drug therapy, disease management, and disease prevention.
 - b) Provide professional information, including clinical or pharmacological information, advice, or consultation to other health care professionals, and participate in multidisciplinary review of patient progress, including appropriate access to medical records.
 - c) Order and interpret tests for the purpose of monitoring and managing the efficacy and toxicity of drug therapies in coordination with the patient’s primary care provider or diagnosing prescriber.

- d) Administer immunizations pursuant to a protocol with a prescriber.
- e) Furnish emergency contraception drug therapy, self-administered hormonal contraceptives, naloxone hydrochloride, HIV preexposure and postexposure prophylaxis, and nicotine replacement products, under certain conditions.
- f) Administer drugs and biological products that have been ordered by a prescriber.

(BPC § 4052)

- 9) Authorizes a pharmacy technician to perform packaging, manipulative, repetitive, or other nondiscretionary tasks only while assisting, and while under the direct supervision and control of, a pharmacist; holds the pharmacist responsible for the duties performed under his or her supervision by a technician. (BPC § 4115(a))
- 10) Limits a pharmacy with only one pharmacist to no more than one pharmacy technician, and states that the total ratio of pharmacy technicians to any additional pharmacist shall not exceed 2:1. (BPC § 4115(f))
- 11) Imposes a maximum penalty of \$2,000 for any person who knowingly violates any of the provisions of the Pharmacy Law, when no other penalty is provided, and in all other instances where a person violates the Pharmacy Law, imposes a maximum penalty of 1,000. (BPC § 4321)
- 12) Authorizes a pharmacist to seek recognition as an advanced practice pharmacist if they meet certain education and training requirements. (BPC § 4210)
- 13) Requires a pharmacist to complete 30 hours of approved courses of continuing pharmacy education every two years in order to have their license renewed. (BPC § 4231)

THIS BILL:

- 1) Defines “cultural competency course” as a cultural competency and humility course that meets the following criteria:
 - a) The course focuses on patients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, or queer, or who question their sexual orientation or gender identity and expression.
 - b) The course is approved from an accreditation agency approved by the Board.
 - c) The course covers recognized health disparities faced by Black, Indigenous, and people of color.
 - d) The course contains elements demonstrating how sexual identity is directly impacted through intersectionality.
- 2) Requires pharmacists to submit proof to the Board that they have completed at least one hour of participation in a cultural competency course as part of their 30 hours of required continuing education as a condition of their biannual license renewal.

- 3) Requires a pharmacy technician to submit proof to the Board that they have completed at least one hour of participation in a cultural competency course as a condition of their biannual license renewal.

FISCAL EFFECT: Unknown; this bill is keyed by the Legislative Counsel.

COMMENTS:

Purpose. This bill is co-sponsored by the **California Pharmacists Association and Equality California**. According to the author:

“Healthcare providers have a responsibility to maintain their knowledge of the most recent advances in healthcare. AB 2194 requires pharmacists and pharmacy technicians to have one hour of continuing pharmacy education (CE) that provides culturally competent care to members of the LGBTQ+ community. This bill will help ensure that pharmacists have the necessary tools to provide care to the LGBTQ+ community.”

Background.

Continuing Education for the Pharmacy Profession. The Board currently regulates over 47,000 pharmacists, 550 advanced practice pharmacists, 6,500 intern pharmacists, and 70,000 pharmacy technicians. Pharmacists are required to earn at least 30 units of continuing education (CE) every two years after their first renewal cycle. Advanced practice pharmacists must earn an additional 10 units. The subject matter is required to be “pertinent to the socioeconomic and legal aspects of health care, the properties and actions of drugs and dosage forms and the etiology, and characteristics and therapeutics of the disease state.”

Pharmacists typically self-certify completion of their CE requirements. The Board conducts random audits of its renewal applicants to ensure compliance with CE. Whenever an audit reveals a deficiency, the Board typically instructs the licensee to obtain the required CE units and issues a citation and fine for misrepresenting completion of CE on the renewal form. For pharmacists who do not comply, their licenses are converted from active to inactive status until a renewal fee is paid and CE is completed. The Board is authorized to make exceptions from these requirements in emergency or hardship cases.

The Board is not responsible for approving CE providers or courses. Two accreditation agencies are responsible for approving continuing education providers and courses: the ACPE and the California Pharmacists Association. CE providers are not audited. Statute does allow the Board to accept CE approved by other healing arts boards if it meets standards of relevance to pharmacy practice. Pharmacists are also eligible to receive CE credit for attending meetings of the Board or its committees. Credit is also awarded for successfully passing the examination administered by the Commission for Certification in Geriatric Pharmacy.

Currently, there are few CE course requirements that pharmacists must take as part of their 30 hours within the Pharmacy Law. However, there is some specificity in both statute and regulations. Section 1732.5(b) in the Board’s regulations requires at least two of the 30 CE hours for a pharmacist license renewal consist of participation in law and ethics courses provided by the Board. Pharmacists who engage in furnishing prescription nicotine replacement products must complete CE specifically on smoking cessation therapy. Pharmacists who initiate or administer vaccinations must complete one hour in CE focused on immunizations and vaccines.

LGBTQ+ Patient Needs. In 2019, SB 159 (Wiener, Chapter 532, Statutes of 2019) was enacted to authorize a pharmacist to furnish preexposure prophylaxis (PrEP) and postexposure prophylaxis (PEP) in under certain conditions. PrEP involves a combination of two antiretroviral medications that significantly reduce the risk of contracting HIV in high-risk individuals, first approved by the federal Food and Drug Administration (FDA) in 2012. The FDA recommends PrEP for HIV-negative gay or bisexual men who have unprotected sex; heterosexual women who regularly have unprotected sex with partners who are at risk of HIV; and individuals who engage in the use of injectable drugs using shared needles. PEP refers broadly to any medication intended to prevent infection from occurring after exposure to a pathogen. One of the first PEP treatments developed during the HIV/AIDS pandemic was azidothymidine or AZT, combined with other antiretroviral medications. An early common use of AZT was to prevent mother-to-child transmission of HIV and treat health care workers exposed to HIV-positive patients.

The efficacy of PrEP diminishes significantly if it is not taken consistently. The CDC urges individuals who are on PrEP to take the drug every single day and see a health care provider every three months. Because missing a dose of PrEP can jeopardize its effectiveness in preventing HIV, supporters of SB 159 expanded the scope of practice of pharmacists to increase the availability and accessibility of the drug, which could previously only be obtained with a prescription from a health provider such as a physician and surgeon.

The CDC recommends using PEP in emergency situations, beginning within 72 hours after a recent possible exposure to HIV. Use of PEP can help prevent an HIV infection following exposure through unprotected sex, needle sharing, or other activities prone to causing infection. A full course of PEP consists of one pill a day for a 28-day regimen. Patients who are regularly exposed to these emergency scenarios are encouraged to instead begin using PrEP.

Similarly to PrEP, PEP was previously only available with a prescription. Safeguards in the bill required a pharmacist to confirm that the patient meets the CDC's clinical criteria, offer to provide HIV testing, counsel the patient on the use of PEP and its potential side effects, and notify the patient's primary care provider of the treatment. The author of SB 159 argued that expanding access to the drug was critical to ensuring its availability to individuals in crisis, particularly those in at-risk communities.

With many pharmacists now providing critical HIV prevention care, advocates both within the pharmacy profession and within the LGBTQ+ community have observed an urgent need to improve cultural competency for pharmacists to better understand the needs of their LGBTQ+ patients. This bill would achieve that goal by requiring CE specifically in LGBTQ+ cultural competency for both pharmacists and pharmacy technicians. Doing so would arguably go beyond furthering the pharmacy profession's administration of PrEP/PEP but would ensure that an important patient population with unique pharmacy needs is better understood by the health professionals who serve them.

Prior Related Legislation. AB 465 (Nazarian, Chapter 167, Statutes of 2021) requires the prelicensing education courses for professional fiduciaries to include at least one hour of instruction in cultural competency and at least 2 hours of instruction in ethics, cultural competency, or both every year as a condition of license renewal or restoration.

SB 159 (Wiener, Chapter 532, Statutes of 2019) authorized a pharmacist to furnish preexposure prophylaxis (PrEP) and postexposure prophylaxis (PEP) under certain conditions.

ARGUMENTS IN SUPPORT:

The **California Pharmacists Association** (CPhA) is co-sponsoring this bill. CPhA explains that “in 2019, CPhA sponsored SB 159 (Wiener) (Chapter 532, 2019), which granted pharmacists the authority to initiate and furnish HIV preexposure prophylaxis (PrEP) and postexposure prophylaxis (PEP). The legislature agreed that pharmacists have the proper education and training to provide this life-saving medication. However, we understand of equal importance is the ability to provide care to the LBTQ+ community with cultural humility.”

Equality California (EQCA) is also co-sponsoring this bill. According to EQCA, “AB 2194 is the next step in addressing the role that pharmacists play in closing health gaps for marginalized communities in California. Pharmacists and technicians provide critical services, particularly for patients who may not feel safe consulting a physician.” EQCA argues that “ensuring that pharmacists and technicians have a strong foundation in how to provide affirming and inclusive care to LGBTQ+ patients will expand access to care and help to reduce the disparities in health and well-being that LGBTQ+ people continue to face.”

ARGUMENTS IN OPPOSITION:

None on file.

IMPLEMENTATION ISSUES:

Currently, licensed pharmacists are required to take CE courses, with some specificity as to their content. However, licensed pharmacy technicians are not required to complete any CE. Pharmacy technicians who choose to obtain a voluntary certification through a certifying organization may be required to take continued training as part of their recertification requirements; however, the Board does not currently monitor or receive proof of that training. As this bill continues through the legislative process, the author may wish to consider whether there are administrative implications to requiring the Board to begin enforcing compliance of CE requirements for pharmacy technicians and whether these potential implementation challenges are sufficiently justified by the policy merits of the bill.

REGISTERED SUPPORT:

California Pharmacists Association (*Co-Sponsor*)

Equality California (*Co-Sponsor*)

APLA Health

Desert AIDS Project

Los Angeles LGBT Center

REGISTERED OPPOSITION:

None on file.

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