

ARIZONA STATE SENATE

RESEARCH STAFF



TO: MEMBERS OF THE SENATE
HEALTH & HUMAN SERVICES
COMMITTEE

DATE: February 16, 2021

SUBJECT: Strike everything amendment to S.B. 1087, relating to board of pharmacy

CHERIE STONE
LEGISLATIVE RESEARCH ANALYST
HEALTH & HUMAN SERVICES COMMITTEE
Telephone: (602) 926-3171

Purpose

Modifies various requirements relating to the Board of Pharmacy (Board).

Background

The Board regulates the practice of pharmacy and the distribution, sale and storage of prescription medications, prescriptive devices and nonprescription medications. The Board is charged with licensing pharmacists, pharmacy interns, pharmacy technicians and pharmacy technician trainees and issues permits to pharmacies, drug manufacturers, wholesalers, distributors and suppliers in Arizona.

The Board consists of nine Governor-appointed members, including: 1) six pharmacists; 2) two consumer members; and 3) one pharmacy technician. The Board annually elects a Board President and Vice-President from among its membership and selects an Executive Director of the Board (Executive Director), who may also be a Board member. The Executive Director serves at the pleasure of the Board, acts as the executive officer in charge of the Board's office and is tasked with administering Board duties, requirements and rules, under the direction of the Board. Additionally, the Executive Director is required to maintain all Board records, including a register of all licensees and businesses registered with the Board, and may perform any other duties the Board requires (A.R.S. §§ [32-1902](#); [32-1903](#); and [32-1904](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires the Board to:
 - a) only open an investigation if the identifying information is provided or the information provided is sufficient to conduct an investigation;
 - b) only provide notice to applicants, licensees and permittees using information provided through the Board's licensing database.
2. Eliminates the ability of the Board to delegate to the Executive Director the authority to void a license or application and deem related fees forfeited if inaccurate information is provided in an application.
3. Authorizes the Board to issue nondisciplinary civil penalties, as prescribed in Board rule and issued using a Board-approved form, or to delegate such authority to the Executive Director.

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4. Requires the Board to hold a hearing when a licensee or permittee fails to pay a nondisciplinary civil penalty.
5. Establishes and outlines acts or omissions that are not an imminent threat to the public health and safety and that are subject to a nondisciplinary civil penalty, including either of the following:
 - a) failure to submit a remodel application before remodeling a permitted facility; or
 - b) failing to notify the Board of the relocation of a business.
6. Establishes and outlines the following acts or omissions that are not an imminent threat to the public health and safety and that are subject to a nondisciplinary civil penalty when three or more such violations are presented in a complaint to the Board:
 - a) the licensee or permittee fails to update their online profile within 10 days after a change in contact information;
 - b) the licensee fails to update their online profile within 10 days after a change in employment or within 14 days of a change to reflect a new pharmacist in charge;
 - c) the permittee fails to update their online profile to reflect a new designated representative within 10 days after a change;
 - d) the licensee or permittee fails to notify the Board of a new criminal charge, arrest, conviction or other disciplinary action;
 - e) the licensee or permittee fails to renew a license or permit within 60 days after its expiration;
 - f) a new pharmacist in charge fails to conduct controlled substance inventory within 10 days of starting the position;
 - g) the licensee fails to complete required continuing education for licensure renewal;
 - h) a person fails to obtain a permit before shipping item that requires a permit into Arizona; or
 - i) any other violation of statute or Board rule that the Board deems appropriate.
7. Specifies that the Board is required to vacate a license suspension once related reinstatement penalties have been paid.
8. Requires a pharmacist or pharmacy technician who has not renewed their license for two or more renewal cycles to pay the fees for the two most recent renewal cycles and related penalties before the license is reinstated.
9. Permits the Board to issue combination permits for durable medical equipment distributors and suppliers as specified.
10. Establishes a \$200 biennial fee for a durable medical equipment and compressed medical gas distributor permit and a \$100 biennial fee for a durable medical equipment supplier and compressed medical gas supplier permit.
11. Exempts specified licensees from continuing pharmacy education requirements beginning on the date of their initial licensure through the date of their first license renewal.
12. Removes failure to report the administration of a vaccine or emergency medication as an act of unprofessional conduct.

13. Requires designated representatives of full-service wholesale permittees to have a valid fingerprint clearance card and requires that a newly designated representative obtain and submit a fingerprint clearance card prior to representing a permittee.
14. Requires full-service wholesale permittees to maintain a bond as required by federal law, rather than as required by the Board.
15. Removes prescribed employment requirements designated representatives of a full-service wholesale permittees.
16. Requires the Board to maintain the following records as follows:
 - a) a record of dispensing a controlled substance for seven years after the dispense date;
 - b) affidavits for the purpose of an open investigation by law enforcement for two years;
 - c) court orders requesting medical information in the Controlled Substance Prescriptions Monitoring Program (CSPMP) for two years;
 - d) a patient's request of their prescription history for two years; and
 - e) a prescriber report for two years.
17. Permits the Board to determine a fee to provide certain redacted data to public and private entities for research and educational purposes.
18. Allows for the revocation or suspension of a CSPMP registration, or the probation of a registrant, if a registrant:
 - a) dispenses a controlled substance and does not resolve discrepancies submitted to the CSPMP tracking system within 30 days of being notified of the error; or
 - b) dispenses a controlled substance and does not resolve a failed attempt or missing transmission to the CSPMP central database tracking system within 30 days after the occurrence.
19. Requires a medical practitioner, health care facility or pharmacy to report specified information regarding naloxone hydrochloride and other opioid antagonists as outlined.
20. Restricts naloxone hydrochloride or other opioid antagonists from being viewed in a patient utilization report.
21. Modifies the definitions of *notice* and *third-party logistics provider*.
22. Defines *durable medical equipment*, *durable medical equipment supplier* and *durable medical equipment distributor*.
23. Makes technical and conforming changes.
24. Becomes effective on the general effective date.