

California

2016 LAWBOOK FOR PHARMACY

The Pharmacy Law (Business and Professions Code 4000 et seq.)

Excerpts from the Business and Professions Code

Board of Pharmacy Regulations (California Code of Regulations Title 16 Section 1700 et seq.)

Excerpts from the California Uniform Controlled Substances Act (Health and Safety Code 11000 et seq.)

Excerpts from the Confidentiality of Medical Information Act (Civil Code 56 et seq.)

4115. Pharmacy Technician: Activities Permitted; Required Supervision; Activities Limited to Pharmacist; Registration; Requirements for Registration; Ratio

(f) (1) A pharmacy with only one pharmacist shall have no more than one pharmacy technician performing the tasks specified in subdivision (a). The ratio of pharmacy technicians performing the tasks specified in subdivision (a) to any additional pharmacist shall not exceed 2:1, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117. This ratio is applicable to all practice settings, except for an inpatient of a licensed health facility, a patient of a licensed home health agency, as specified in paragraph (2), an inmate of a correctional facility of the Department of Corrections and Rehabilitation, and for a person receiving treatment in a facility operated by the State Department of State Hospitals, the State Department of Developmental Services, or the Department of Veterans Affairs.

(2) The board may adopt regulations establishing the ratio of pharmacy technicians performing the tasks specified in subdivision (a) to pharmacists applicable to the filling of prescriptions of an inpatient of a licensed health facility and for a patient of a licensed home health agency. Any ratio established by the board pursuant to this subdivision shall allow, at a minimum, at least one pharmacy technician for a single pharmacist in a pharmacy and two pharmacy technicians for each additional pharmacist, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117.

(3) A pharmacist scheduled to supervise a second pharmacy technician may refuse to supervise a second pharmacy technician if the pharmacist determines, in the exercise of his or her professional judgment, that permitting the second pharmacy technician to be on duty would interfere with the effective performance of the pharmacist's responsibilities under this chapter. A pharmacist assigned to supervise a second pharmacy technician shall notify the pharmacist in charge in writing of his or her determination, specifying the circumstances of concern with respect to the pharmacy or the pharmacy technician that have led to the determination, within a reasonable period, but not to exceed 24 hours, after the posting of the relevant schedule. No entity employing a pharmacist may discharge, discipline, or otherwise discriminate against any pharmacist in the terms and conditions of employment for exercising or attempting to exercise in good faith the right established pursuant to this paragraph.

1793.7. Requirements for Pharmacies Employing Pharmacy Technicians.

(f) For the preparation of a prescription for an inpatient of a licensed health facility and for a

patient of a licensed home health agency, the ratio shall not be less than one pharmacist on duty for a total of two pharmacy technicians on duty. Pursuant to Business and Professions Code section 4115(g)(1), this ratio shall not apply to the preparation of a prescription for an inmate of a correctional facility of the Department of the Youth Authority or the Department of Corrections, or for a person receiving treatment in a facility operated by the State Department of Mental Health, the State Department of Developmental Services, or the Department of Veterans Affairs.

NORTH CAROLINA ADMINISTRATIVE CODE Board of Pharmacy---Pharmacy Rules

21 NCAC 46 .2512 PHARMACIST WORK CONDITIONS

A permit holder shall not require a pharmacist to work longer than 12 continuous hours per work day. A pharmacist working longer than six continuous hours per work day shall be allowed during that time period to take a 30 minute meal break and one additional 15 minute break.

CHAPTER 90 MEDICINE AND ALLIED OCCUPATIONS Article 4A. North Carolina Pharmacy Practice Act.

§ 90-85.15A. Pharmacy technicians.

(c) Supervision. – A pharmacist may not supervise more than two pharmacy technicians unless the pharmacist-manager receives written approval from the Board. The Board may not allow a pharmacist to supervise more than two pharmacy technicians unless the additional pharmacy technicians are certified pharmacy technicians. The Board must respond to a request from a pharmacist-manager to allow a pharmacist to supervise more than two pharmacy technicians within 60 days of the date it received the request. The Board must respond to the request in one of three ways:

- * (1) Approval of the request. □
- * (2) Approval of the request as amended by the Board. □
- * (3) Disapproval of the request. A disapproval of a request must include a reasonable

The following link is a survey of pharmacists, pharmacy management, and pharmacy technicians done by the Washington State Department of Health talking about the working conditions in retail and hospital pharmacies.

<http://www.doh.wa.gov/Portals/1/Documents/2300/2014/690290.pdf>

The following is an excerpt from a newsletter talking about the number of prescriptions/hour a pharmacist can be safely responsible for. Keep in mind this is 20 year old data and the

responsibilities/requirements of a pharmacist have greatly increased:

North Carolina

Board of Pharmacy

July 1997 Newsletter

Item 935 - Prescription Error Policy At the regular March meeting of the North Carolina Board of Pharmacy, the members discussed the Board's policy on dispensing errors in relation to pharmacist workload. By consensus, the members decided to handle prescription dispensing errors in the following manner. Reports of prescription dispensing errors will be investigated in due course and, if probable cause is determined, a hearing or pre-hearing conference will be scheduled. If the error occurred at a location where more than 150 prescriptions per pharmacist per day were filled on the date of the error, both the pharmacist and the permit will be cited for the disciplinary proceeding. Each case would be considered individually on the facts involved.

Everyone should be aware that the Board would presume under these circumstances that if a sanction is issued, both the pharmacist and the permit should receive the same penalty. For example, if the Board issued a seven-day active suspension of the pharmacist's license to practice, then a seven-day suspension of the permit would also be issued.

In arriving at the 150-prescriptions-per-pharmacist-per-day threshold, the Board used information presented at the National Association of Boards of Pharmacy (NABP) Health Law Officers Conference in Savannah, Georgia in November 1996. Experts on this program gave a range of not more than 10 to 20 prescriptions per hour as established levels for safe dispensing. A vice president for one national chain store stated that its standard was five minutes per prescription for technical functions only, which did not include patient counseling and prospective drug utilization review. Their standard, then, would be something less than 12 prescriptions per hour.

Application of this data to work schedules leads to the derivation of the ISO-prescription threshold. It is common for pharmacists to split a 12-hour schedule, with one pharmacist working 9 a.m. to 3 p.m. and another from 3 to 9 p.m. This is a relatively short shift and, using the lower number of 10 prescriptions per hour (6 hours x 10 prescriptions per hour), produces a 60-prescription figure. Other pharmacists work a 12-hour shift and, using the higher number of 20 prescriptions per hour (12 hours x 20 prescriptions per hour), yields a 240-prescription figure. Averaging these two results $(60+240)/2$ produces the ISO-prescription threshold.

This is a further delineation of the Board's intent in adopting rule .1811, which states: "Pharmacists shall not dispense and permit holders shall not allow a pharmacist to dispense prescription drugs at such a rate per hour or per day as to pose a danger to the public health or safety." Input from pharmacists was obtained from Item 895 in the October 1996 Board Newsletter. Almost 40 responses were obtained from this item and the 150-prescriptions-per-day figure was often mentioned.

Permit holders should note this 150-prescription-per-pharmacist threshold. It is not a limit or a quota. Pharmacists should not adopt the attitude that they will walk away from their responsibilities once this level is achieved. This policy is intended to address the health and safety issues inherent in high-volume dispensing and to signal management to re-examine its

situation as workloads increase. It also sends a message to ownership that it has a responsibility for reasonable employee scheduling and can share in the consequences of high-volume dispensing which produces errors.