



June 21, 2021

The Honorable Richard Roth, Chair
Senate Business, Professions & Economic Development Committee
State Capitol, Room 2080
Sacramento, CA 95814

**Re: AB 1533 (Business & Professions Committee) Board of Pharmacy Sunset Extension –
OPPOSE UNLESS AMENDED**

Dear Chairman Roth,

The California Retailers Association (CRA) and National Association of Chain Drug Stores (NACDS) write to express our opposition to AB 1533, the Board of Pharmacy sunset bill, unless it is amended to modify and clarify the provisions allowing the California Board of Pharmacy to levy penalties of up to \$1 million on chain pharmacies that would be excessive and disproportionate to the violations in question. As currently written, AB 1533 could have a devastating impact on community pharmacies in California, which will jeopardize access to critical healthcare services and ultimately result in new costs to the State.

CRA's and NACDS' members are supportive of extending the sunset of the Board of Pharmacy, as well as the Board's mission to protect patient safety. We also recognize the Board's enforcement authority, including its authority to cite and fine pharmacies for pharmacy law violations. While we understand the Committee's objective to ensure penalties are meaningful deterrents for violations, the Board's existing cite and fine authority achieves this goal. Currently the Board of Pharmacy imposes fines of up to \$5,000 per violation. AB 1533 proposes to exponentially increase that fine amount to a maximum of \$1 million. This is unprecedented increase could result in pharmacy closures, reducing access to critical pharmacy services throughout the state. Our members take every pharmacy violation and fine seriously and take efforts to avoid similar violations and fines in other stores. Fines at the individual pharmacy level do add up and have a considerable financial impact on our members.

Allowing the Board to bring an action for civil penalties for repeated violations by one or more pharmacies that are part of a chain is an incredibly low threshold. If a single chain pharmacy has repeat violations of a similar nature at the store level, the Board would be authorized to impose significant fines on the entire chain – **from up to \$100,000 for two violations all the way up to \$1 million for four violations**. Violations at one pharmacy in a chain can be common and are usually attributed to local store level leadership, not a reflection of the overall company policies. For this reason, we recommend amending AB 1533 to raise the threshold to allow the Board to cite and fine for repeated violations by either a percentage, e.g. 25 percent of pharmacies, or **ten pharmacies or more** that are part of a chain. If there is a similar violation in ten or more pharmacies, for example, this could be considered a trend that would likely need to be remedied, so the Board's expanded enforcement authority could be impactful.

We also believe that the violation types and fine thresholds and applicability must be clarified. AB 1533 specifies that a second violation would result in a maximum \$100,000 fine. If the same violation was cited

in ten pharmacies, for example, would the maximum fine be \$100,000 for the overall violation trend, or \$100,000 for each violation occurring in each pharmacy for a total of \$1 million? Allowing up to a \$100,000 fine for each violation – regardless of violation type - at each location would significantly harm the growth of retail pharmacy in California and jeopardize access to care. AB 1533 should further differentiate between violations that may be minor or technical in nature, versus violations that could put patients at risk.

In addition, the violation occurrence thresholds over the five-year period are somewhat vague. For example, if three different types of violations occur in five years across different stores that are part of the same chain, are they subject to the escalation in fines pursuant to AB 1533? We urge the committee to clarify that the fine escalation is applicable to violations of a similar nature, and not unrelated violations.

Finally, there are often instances when violations occur at the store-level that are against corporate policy. For this reason, AB 1533 should be amended to include a process for chain pharmacies to appeal and protest the fines levied by the Board of Pharmacy, particularly if they can provide that the violations were contrary to their policies and display a disregard for company policy that resulted in a legal violation.

In this unprecedented time, our members and their pharmacy teams have risen to the challenge and provided millions of COVID-19 tests and vaccinations to patients throughout the country. CRA and NACDS share the Board of Pharmacy's goal to protect patients and are committed to serving Californians in their communities. While the expanded fine authority in AB 1533 is well-intentioned, it must be clarified to ensure our members can continue to operate and meet the demand for critical services.

The California Retailers Association is the only statewide trade association representing all segments of the retail industry including general merchandise, department stores, mass merchandisers, restaurants, convenience stores, supermarkets and grocery stores, chain drug, and specialty retail such as auto, vision, jewelry, hardware and home stores. CRA works on behalf of California's retail industry, which operates over 400,000 retail establishments with a gross domestic product of billions of dollars annually and employs millions of Californians.

For the reasons outlined above, CRA and NACDS oppose AB 1533 unless it is amended as outlined above. Please do not hesitate to contact Jennifer Snyder or Lindsay Gullahorn with Capitol Advocacy at jsnyder@capitoladvocacy.com or lgullahorn@capitoladvocacy.com if you have any questions.

Sincerely,



Rachel Michelin, President
California Retailers Association



Steve C. Anderson, FASAE, CAE, IOM
President & Chief Executive Officer
National Association of Chain Drug Stores

cc: The Honorable Evan Low, Chair, Assembly Business & Professions Committee
Members, Senate Business, Professions & Economic Development Committee
Sarah Mason, Chief Consultant, Senate Business, Professions & Economic Development Committee
Dana Shaker, Consultant, Senate Business, Professions & Economic Development Committee
Kayla Williams, Senate Republican Caucus