

(FINAL/APPROVED 03/29/2007)

**VIRGINIA BOARD OF PHARMACY
MINUTES OF BOARD MEETING**

January 31, 2007
Fifth Floor
Conference Room 2

Department of Health Professions
6603 West Broad Street
Richmond, Virginia 23230

- CALL TO ORDER:** A meeting of the Board of Pharmacy was called to order at 9:10 a.m.
- PRESIDING:** John O. Beckner, Chairman
- MEMBERS PRESENT:** Gill B. Abernathy
Willie Brown
Jennifer H. Edwards
David C. Kozera
Leo H. Ross
Michael E. Stredler
Brandon K. Yi
- MEMBERS ABSENT:** Bobby Ison
Diane Langhorst
- STAFF PRESENT:** Elizabeth Scott Russell, Executive Director
Cathy M. Reiniers-Day, Deputy Executive Director
Caroline D. Juran, Deputy Executive Director
Ralph Orr, Program Manager, Prescription Monitoring Program
Elaine J. Yeatts, Senior Regulatory Analyst
Howard M. Casway, Senior Assistant Attorney General
Tiffany N. Mallory, Administrative Assistant
- QUORUM:** With eight members of the Board present, a quorum was established.
- Ms. Reiniers-Day read the emergency evacuation procedure for Conference Room 2.
- APPROVAL OF AGENDA:** Mr. Brown moved and the Board voted unanimously to adopt the amended agenda distributed at the meeting.
- APPROVAL OF MINUTES:** The minutes of the September 27, 2006 Board Meeting were approved as presented.

**REPORT OF DHP
DIRECTOR, SANDRA W.
RYALS**

Ms. Ryals provided the Board with an update on several initiatives of the administration to include the Governor's Health Reform Commission, Virginia Performs and the agency's new performance measures, and the agency's participation in the 2-1-1 initiative. She also informed the Board that the agency would be moving from its current location to the former Circuit City headquarters in Henrico County in July or August 2007 as a result of negotiations with Philip Morris USA which wants to take over this building. The agency will be co-locating with several other state agencies in a negotiated lease expected to provide significant savings over the course of the new lease.

PUBLIC COMMENTS:

No public comments were received at this time.

LEGISLATIVE UPDATE:

Ms. Yeatts reviewed legislative actions of the 2007 General Assembly that the Department of Health Professions had been tracking.

**UPDATE ON
REGULATIONS IN
PROCESS:**

Ms. Yeatts presented the board with an overview of all ongoing regulation processes

**PETITION FOR
RULEMAKING-SUTHAR
PARESH, CAVALIER
PHARMACY ON
TELEPHARMACY:**

Mr. Paresh requested that the Board consider promulgating regulations to allow a pharmacist in one pharmacy to supervise a pharmacy technician working in a second pharmacy using technology.

The Board did receive one comment in response to this petition for rulemaking from the Virginia Pharmacist's Association (VPhA). VPhA provided the opinion that the current state of technology in Virginia did not support this concept at this time, and that such technology needed to be thoroughly vetted before even a pilot program should be implemented. It also commented that most likely statutory changes would be needed in order to allow telepharmacy as requested in the petition. The comment went on to differentiate between the situation that generated the trial of telepharmacy in North Dakota where there is a significant problem with access to pharmacy services that is not the case in Virginia, and stated the opinion that if the Board decided to consider this, it should do so because such a change was needed as a benefit to citizens of Virginia and their medical needs rather than for business reasons.

The Board discussed the fact that in order to adequately supervise a second pharmacy, the pharmacist at the first pharmacy would need to continuously monitor the technician by some type of visual monitoring device and did not believe that one pharmacist could adequately supervise the first pharmacy and also provide constant

video surveillance of a second pharmacy. The Board had significant concerns about the potential for dispensing errors and patient safety at both locations under this scenario. It also had concerns that the state of current technology had not been proven to be adequate to allow a pharmacy to operate remotely. If the system went down, then a pharmacy technician would have access to a pharmacy unsupervised. This raised concerns about both drug security as well as patient safety. The Board also did not feel that current pharmacy technician competencies were such that a pharmacy technician could safely work without direct, on-site supervision by a pharmacist. Mr. Casway advised the Board that additionally, there are provisions in statute that would need to be addressed before the Board could move forward with regulations. Mr. Brown moved and the Board voted unanimously to deny Mr. Paresh's petition for rule-making.

**PETITION FOR
RULEMAKING-DONALD
BLEVINS ON
REQUIREMENTS FOR
CONTINUED
COMPETENCY FOR
PHARMACY
TECHNICIANS:**

Mr. Blevin requested that the Board consider removing the CE requirement in regulation for pharmacy technicians because currently there is little CE available that is specifically designed for pharmacy technicians. The petition stated that pharmacy technicians currently had access primarily to CE for pharmacists that was too complex for most pharmacy technicians to comprehend. Ms. Russell stated that she had just received communication from ACPE who is revising standards for pharmacy CE providers. By January 2008, CE providers will be required to code all CE programs as to whether the program is content appropriate for pharmacists, pharmacy technicians, or both. This should resolve the problem identified by Mr. Blevins within a year. It was also noted in discussion that there is live CE currently offered specifically for pharmacy technicians by the associations in Virginia, but it was acknowledged that there is not much self-study CE available that meets requirements. Mr. Casway advised that the statute does require the Board to promulgate regulations establishing continuing competency requirements for pharmacy technicians, so he did not think that the Board could completely remove the requirement. Mr. Ross moved and the Board voted unanimously to deny Mr. Blevin's petition for rule-making.

**JOHN D. KALVELAGE-
REQUEST CONCERNING
COMPLIANCE
PACKAGING:**

Mr. Kalvelage represents a compliance packaging product in which all of a patient's medications for a given time administration are placed in a tear-off blister pack on a card. The card would be labeled with full labeling requirements including patient name, prescriber name, name of drugs and full directions for use for each, and a description of each drug. The individual blisters have the patient name, name of each drug in the blister and the date and time of administration for that blister's contents. Mr. Kalvelage, on behalf of the long-term care facilities that he serves, requested

that the facilities be allowed to tear off the appropriate doses and provide only those doses to patients going away on pass from the facility provided they also provide some other document with the doses that provides any missing labeling information such as the MD name, pharmacy name and phone number. Mr. Stredler moved and the Board voted unanimously to adopt a guidance document in principle to interpret that the tear off doses labeled with the patient name, directions for administration, and each drug name constituted substantial compliance with labeling requirements provided other required labeling information accompanied the torn off blisters.

**APPROVAL FOR AN
INCREASE IN COST OF
THE PHARMACY
TECHNICIAN EXAM:**

Ms. Russell stated that the contractor responsible for the development and administration of the Board's pharmacy technician examination requested that the Board allow a \$10 increase in the cost of the examination from the current cost of \$55 to \$65. Ms. Russell stated that the contract is eligible for one more annual renewal on February 2, 2007, and that the contract could be amended at this time to include the fee increase. The contractor stated that the examination is not currently supporting itself. Mr. Ross moved and the Board voted unanimously to increase the pharmacy technician examination fee to \$65.

**INTERPRETATION OF
§54.1-3408.01 (A) (i)
CONCERNING CHART
ORDERS AT OUTPATIENT
PHARMACIES**

Ms. Russell stated that Board staff frequently receive questions as to whether a chart order written as discharge orders for a patient could be used as a legitimate prescription by a community pharmacy to fill discharge medications, as it contains multiple prescriptions written on one order form. Section 54.1-3408.01 (A) (i) allows multiple prescriptions per blank for chart orders for patients in hospitals. Ms. Russell asked the Board to consider an interpretation of this statute as to whether a discharge order containing multiple prescriptions on one blank, if written when the patient was in a hospital, could then be filled by a community pharmacy. There was a significant amount of discussion as to what actually constituted a chart order for discharge prescriptions versus just a listing of all medications when a patient is discharged, and how a community pharmacist would be able to tell the difference. The Board was amenable to allowing this provided there was sufficient guidance for pharmacists to be able to ensure that they actually had authority to fill from the chart order. Mr. Stredler moved and the Board voted unanimously for staff to draft a guidance document to be presented at the March Board meeting for further discussion.

**EXECUTIVE DIRECTOR'S
REPORT:**

- **RETREAT UPDATE:** Ms. Russell stated that the retreat would be held on March 28 and the full Board meeting on March 29, but that the retreat would be held here at the Board offices. In reviewing costs of holding the retreat in Williamsburg or another location outside of Richmond, it was determined that it would cost the Board approximately an additional \$1500 over the cost of holding it in Richmond because of the cost of having department staff on travel status to include lodging, mileage and meals. She stated that she and Mr. Beckner would be meeting soon to put the agenda together, but that the Board would discuss the issues of drug disposal and dispensing errors, as well as ways to streamline the disciplinary processes to meet the new agency performance standards.

- **REVENUE AND EXPENDITURE ANALYSIS** Ms. Russell presented a letter from the Director of DHP stating that the Board's revenues and expenditures were in line and that there is no current need for any fee changes.

- **ACPE REQUEST UACP SITE VISIT:** Mr. Beckner moved and the Board voted unanimously to have Elizabeth Scott Russell participate with the Accreditation Council for Pharmacy Education (ACPE) site visit to the University of Appalachia College of Pharmacy on April 24-26, 2007, to evaluate the Doctor of Pharmacy program.

- **REPORT ON THE DISCIPLINARY PROGRAM** Ms. Reiniers-Day gave a report concerning the Board's disciplinary caseload and stated that 271 cases were at enforcement level, 33 at APD level, 46 at the Board level, 12 at informal level and five at formal level.

- **REPORT ON LICENSING, INSPECTIONS, NEWSLETTERS AND THE WEBSITE** Ms. Juran provided an update on licensure statistics indicating that the Board had issued over 850 additional licenses since the September meeting. This figure included 540 new pharmacy technician registrations. She also reported that the renewal cycle was successful and that over 20,000 licensees had renewed appropriately. Approximately 95% of the pharmacists and pharmacy technicians had renewed online. She then mentioned that she had received the 2006 inspection statistics which indicated that 1,129 inspections had been performed for the Board during 2006. Additionally, she reported that the next newsletter was set for publishing on February 1, 2007. Over 10,000 alert emails were planned to be sent that day alerting licensees of the new publication. Regarding the website, she plans to organize the guidance documents in a more user-friendly manner. Lastly, she mentioned that she had recently presented a continuing education program at the VCU School of Pharmacy and was currently preparing a presentation for the Virginia Pharmacists

Association's mid-year meeting in February 2007.

- **REPORT ON ALL CURRENT PILOT PROGRAMS**

Ms. Juran provided a report on all current and pending pilot programs.

- **REPORT ON THE PRESCRIPTION MONITORING PROGRAM**

Mr. Orr provided 2006 statistics on the prescription monitoring program and gave an update on program activities. There were 1,393,816 records on Jan 1, 2006 and the program ended 2006 with 8,183,138 prescription records. Additionally, 6,333 requests were fulfilled in 2006 compared to 1791 in 2005. Users of the program also increased after the expansion date from 278 registered users at the end of June to 608 users at the end of the year.

Mr. Orr reported that the reporting of dispensing data has improved for in-state pharmacies and dispensing physicians. The program is still having some difficulty with non-resident pharmacy reporting but improvements are starting to be seen in that area also.

He updated the Board on the status of providing prescriber notification reports. These are reports to prescribers about their patients that have obtained covered substances from an established number of multiple prescribers and pharmacies within a given time frame. The first set of these reports, over 200 letters, will be sent out February 2, 2007.

CONSENT ORDER PRESENTATION:

Closed Meeting:

Ms. Abernathy moved, and the Board voted unanimously, to enter into closed session pursuant to § 2.2-3711(A)(28) of the Code of Virginia for the purpose of deliberation to reach a decision regarding a consent order. Additionally, she moved that Scotti Russell, Cathy Reiniers-Day, Tiffany Mallory and Howard Casway attend the closed meeting.

Reconvene:

Mr. Stredler moved, and the Board voted unanimously, that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed session were heard, discussed or considered during the closed meeting.

Mr. Kozera moved, and the Board voted unanimously, to accept the consent order signed by Ronald M. Douglas.

ADJOURN:

With all business concluded, the meeting adjourned at 12:57 p.m.

Elizabeth Scott Russell
Executive Director

John O. Beckner, Board Chair

Date