

(DRAFT/UNAPPROVED)

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

March 12, 2008
Commonwealth Conference Center
Second Floor; Board Room 4

Perimeter Center
9960 Mayland Drive
Richmond, VA 23233-1463

CALL TO ORDER: The meeting was called to order at 9 AM

PRESIDING: Bobby Ison, Chairman

MEMBERS PRESENT: Gill B. Abernathy
John O. Beckner
Willie Brown
Jennifer H. Edwards
David C. Kozera
Michael E. Stredler
Brandon K. Yi

MEMBERS ABSENT: Leo H. Ross
Gerard Dabney

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
Howard M. Casway, Senior Assistant Attorney General
Sandra Whitley Ryals, Deputy Director, DHP
Elaine J. Yeatts, Senior Regulatory Analyst, DHP
Elizabeth M. Revere, Disciplinary Program Specialist
Sharon Davenport, Administrative Assistant

QUORUM: With eight members present, a quorum was established.

APPROVAL OF AGENDA: With no changes to the agenda, the agenda was approved as presented.

APPROVAL OF MINUTES: The Board reviewed draft minutes for December 12, 2008 and February 13, 2008. With no changes to the minutes, the minutes were approved as presented.

PUBLIC COMMENTS: There were no public comments.

FORMAL HEARING:

THOMAS J. O'ROURKE
Pharmacy Technician
Registration # 0230-000150

A formal hearing in the matter of Thomas J. O'Rourke was held to discuss his petition for reinstatement of his pharmacy technician registration that was mandatorily suspended on September 27, 2007, and allegations that he may have violated certain laws or

regulations governing the practice of pharmacy technicians in Virginia.

William Clay Garrett, Assistant Attorney General, prosecuted the case with the assistance of Mykl D. Egan, DHP Adjudication Specialist. Mr. O'Rourke appeared and was not represented by counsel.

Loretta S. Hopson-Bush, DHP Senior Investigator, testified on behalf of the Commonwealth.

Thomas J. O'Rourke testified on his own behalf.

Closed Meeting:

Mr. Kozera moved, and the Board voted unanimously, to enter into closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Thomas J. O'Rourke. Additionally, he moved that Cathy Reiniers-Day, Scotti Russell and Howard Casway attend the closed meeting because their presence was deemed necessary and would aid the Board in its deliberation

Reconvene:

Mr. Kozera 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 meeting were heard, discussed or considered during the closed meeting.

Decision:

Mr. Yi moved, and the Board voted unanimously, to accept the Findings of Fact and Conclusions of Law as proposed by Mr. Garrett, amended by the Board and read by Mr. Casway (Attachment # 1).

Mr. Yi moved, and the Board voted unanimously that Mr. O'Rourke's petition for reinstatement be granted and that he be allowed to renew his pharmacy technician registration.

REPORTS:

- Director of DHP
Sandra Whitley Ryals

Ms. Ryals provided the Board with an update on the budget climate that the state is currently facing including severely limited hiring authority for new or vacant positions and strict limitations on travel. She also briefly discussed progress being made toward meeting the Virginia Performs goals with respect to the 250-day case resolution time. Ms. Ryals discussed some of the actions she had taken to improve efficiencies and better allocate resources including the re-deployment of the compliance unit.

- BHP Report
Jennifer Edwards

Ms. Edwards gave a report on the Board of Health Professions. She stated that Ms. Yeatts had already discussed some of what

BHP was tracking in the legislative update. She also stated that BHP had been working on a tool regarding culturally and linguistically appropriate healthcare-related language and that a link to this tool would soon be on the website. Lastly, Ms. Edwards informed the Board that she had been appointed to the Enforcement Committee of BHP.

- Executive Director's Report
Scotti Russell

Ms. Russell stated that the NABP annual meeting in May would be in Baltimore, MD, this year. She has requested that the Chairman attend as the voting delegate and is waiting for approval. She stated that NABP does have a travel grant for voting delegates that would cover most of the travel costs for the Chairman.

Ms. Russell also introduced Susan Beasecker, who was previously part of the compliance unit and is now working directly for the Board of Pharmacy. She explained that Ms. Beasecker is also doing some compliance work for two other boards, and that those costs are being allocated to those boards.

- Disciplinary Update
Cathy Reiniers-Day

Ms. Reiniers-Day presented the Board's disciplinary caseload report and stated that there were 114 cases at the enforcement level, 137 cases at the probable cause level, 5 cases at the informal conference level, 1 case at the formal hearing level and 53 cases at the APD level. She explained that enforcement had been "blitzing" with their older cases to send them to the boards, therefore, the cases at board level were higher in number, which also led to APD having a high number of cases. It was anticipated that the numbers should level out within the next few months.

- Licensing Update
Caroline Juran

Ms. Juran reported that the Board had issued over 575 additional licenses since the last Board meeting in December. She updated the Board on its request from the December meeting to post consent orders authorizing innovative (pilot) programs on the website. She explained that, after researching the subject, this was not possible due to the current layout of the website, but that as an alternative, she posted information pertaining to pilot programs in the frequently asked questions (FAQ) section on the website. The FAQ states that persons may obtain a copy of a consent order authorizing a pilot program by directly contacting the Board office. She then informed the Board that it currently only had one active pilot program, as another pilot program had recently closed. Ms. Juran stated that the annual CE audit was underway. Additionally, she stated that the format used to display Board approved pharmacy technician training programs on the website had changed and that it was now easier for the public to search this list. Lastly, she stated that a workshop had been held recently to review new items for the Virginia Pharmacy Technician Exam. Ms. Juran explained that these workshops are periodically held to create new test items, so as to maintain the security of the exam process.

- PMP Update
Ralph Orr

Mr. Orr reported on 2007 statistics for the Prescription Monitoring Program stating that the program had filled over 22,000 requests in 2007, more than triple the number filled in 2006. Mr. Orr discussed the goals for 2008 to include adding 2,500 new users to the program website, filling 45,000 requests, and having 1,000 healthcare providers complete the program's sponsored online pain management course. Ms. Abernathy suggested adding additional links to the course directly on the Boards of Pharmacy and Medicine websites. Mr. Orr stated that the program is working towards upgrading the program's capabilities by procuring new servers and software which will enable the program to provide 24/7 access to users of the program. While some interagency issues still need to be worked out, it is hoped that this program enhancement will be completed by early summer.

LEGISLATION UPDATE:

Ms. Yeatts provided an update on legislation passed by the 2008 General Assembly that the Department had been tracking. HB85 requires the Board in emergency regulations to establish a drug donation program. HB1128 allows the Board to require up to two hours CE in specific content areas by notifying licensees. There was some discussion that if the Board wants to do this for the 2009 renewal cycle, it will need to make that decision at the September 2008 Board meeting in order to provide notification at renewal time. HB1129 allows the Board to establish expiration dates for licenses in regulation and has an emergency regulation clause. HB1147 and SB405 will have an effect on information that must be obtained from non-resident pharmacies and has a provision requiring a Virginia-licensed PIC. HB1222 shortens the notification requirement for volunteer pharmacists at charitable medical events and will require exempt regulation changes to current regulations.

REGULATION UPDATE:

- Exempt action on reference change to Code section related to assisted living facilities

Ms. Yeatts provided an update on current regulatory processes.

Ms. Yeatts provided an exempt change to 18 VAC 110-20-530, subsection 9, in which a reference to Title 63.1 needs to be changed to 63.2 due to a recodification.

Motion:

A motion was made and passed unanimously to adopt the exempt change to 18 VAC 110-20-530. (motion by Beckner, second by Brown)

- Exempt action related to volunteer pharmacists at charitable events
- HB85 Drug donation program

Ms. Yeatts stated that the Governor had not yet signed this bill, and as such the Board would not be able to take action on this item today.

The Board began discussions of emergency regulations related to the new statutory requirement to establish a drug donation program

in which unused medications that met certain standards and for which integrity of the product could be determined could be donated for re-dispensing to persons that are indigent. The Board reviewed regulations in Maryland which is the only state that allows any drug, other than Schedule II-V, to be returned for such purpose. The Board also reviewed regulations from several other states that had more limited programs, some only accepting from institutional settings, and some only accepting cancer drugs. This will be referred to the committee of the Board that was originally established to explore the issue of drug disposal and a meeting date will be established. John Beckner, Brandon Yi, Jennifer Edwards and Dave Kozera were the Board members assigned to the committee. Other interested entities will be asked to assist the committee to include a representative from DMAS with respect to unused drugs in nursing homes. This same committee will also look at options for establishing drug disposal mechanisms with possibly a recommendation for a pilot project in response to HB86 that was carried over until 2009. The state police and DEQ, at some point, will be asked to assist the committee with this effort.

Action Item:

Staff will coordinate with the committee members and set a meeting date prior to the next Board meeting in June.

- Unprofessional Conduct Regulations

Ms. Yeatts stated that the NOIRA is still under administrative review and had not yet been published, but that the Board could begin work to determine the unprofessional conduct acts to include in the regulations. She suggested that the Board members review the information in the agenda package with respect to other boards' definitions, and e-mail Ms. Russell as to what acts they might want to include.

Action Item:

For the June meeting, staff will provide a draft for the Board to review.

ADJOURN:

With all business concluded, the meeting adjourned at 12:30 PM.

Elizabeth Scott Russell
Executive Director

Bobby Ison, Board Chairman

Date