

Commonwealth of Virginia
Department of Health Professions
Pharmacy Benefit Manager Workgroup

Wednesday, December 16, 2015

*Perimeter Center, 2nd Floor Conference Center, Board Room 2
Henrico, Virginia*

MINUTES OF THE FINAL MEETING OF THE WORKGROUP
(Draft – Unapproved)

Members Present:

David E. Brown, D.C., Director, Department of Health Professions
John Beckner, RPh, Senior Director, Strategic Initiatives, National Community Pharmacists Association
Geoffrey S. Ferguson, RPh, Pharmacist Lead, Anthem Blue Cross and Blue Shield
Douglas Gray, Executive Director, Virginia Association of Health Plans (left the meeting at 1:30pm)
William L. Harp, MD, Executive Director, Virginia Board of Medicine (left the meeting at 10:00am)
Diana Jordan, Director, Division of Disease Prevention, Virginia Department of Health
Caroline D. Juran, RPh, Executive Director, Virginia Board of Pharmacy
Michael Jurgensen, Senior Vice President, Health Policy & Planning, Medical Society of Virginia
Rusty Maney, RPh, President, Virginia Association of Chain Drug Stores
Jessica S. Mazer, Esq., Assistant Vice President, State Affairs, Pharmaceutical Care Management Association
Timothy S. Musselman, Pharm.D., Executive Director, Virginia Pharmacists Association
Donna Proffitt, RPh, Pharmacy Manager, Virginia Department of Medical Assistance Services
John Sisto, RPh, Senior Director of Regulatory Affairs, Express-Scripts
Van Tompkins, Insurance Policy Advisor to the Commissioner, Virginia Bureau of Insurance (left the meeting at 9:45am and returned at 11:15am)
Kenneth J. Walker, MD, Member and President, Virginia Board of Medicine
Sara Wilson, Director, Virginia Department of Human Resource Management (left the meeting at 1:15pm)

Alternates Participating:

T.C. Jones, IV, Supervisor, COPN, MCHIP & PRA Programs, Office of Licensure and Certification, Virginia Department of Health (left the meeting at 12:10pm)
Cynthia Warriner, RPh, Chairman, Virginia Board of Pharmacy

Members Absent:

Ellen B. Shinaberry, RPh, PharmD, Member, Virginia Board of Pharmacy
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions

Staff Present:

Laura Z. Rothrock, Executive Assistant & Operations Manager, Director's Office, Department of Health Professions

Opening Remarks

Dr. Brown called the meeting to order at 9:06am and welcomed the Workgroup members and the public. He indicated that he would like to correct the agenda: 1) the Draft Report would be discussed; but there would be no formal approval as indicated in the first meeting, since it may be difficult to reach unanimous consensus; 2) a 15 minute break would be taken at the beginning of the meeting to allow members to review the additional written comments which were submitted to the Workgroup for this meeting. He also indicated that the written comments submitted would be discussed if someone raises it as a discussion topic during the meeting.

The additional written comments submitted included:

- Emailed Comments from Workgroup Members on Draft Minutes of November 13, 2015 PBM Meeting
- Email from Carolyn L. Hagee
- Letter to the Workgroup from the National Community Pharmacist's Association
- Comments from John Beckner on the Draft Report of the Workgroup
- Letter from Hunter W. Jamerson on the Draft Report of the Workgroup
- Comments from John Sisto on the Draft Report of the Workgroup
- Letter from the Virginia Pharmacists Association
- Letter from the Medical Society of Virginia
- Comments on the Draft Report of the Workgroup provided by Jessica Mazer on behalf of Pharmaceutical Care Management Association, their members – including Express Scripts and CVS Health, and the Virginia Association of Health Plans
- Letter from Cynthia Warriner, BS, RPh

The meeting adjourned for a break to review the submitted written comments at 9:09am and resumed at 9:24am.

Approval of Agenda

Dr. Brown asked if there were any additional comments concerning the agenda. There being none, the agenda was approved with the changes previously discussed during the meeting.

Approval of Minutes

The emailed comments by Workgroup members John Beckner, John Sisto and Jessica Mazer related to the minutes of the November 13, 2015 meeting were discussed. The following changes were suggested:

1. A sentence will be added to the end of the first paragraph under item 2 on page 5: “The Workgroup discussed the many reasons why this occurs.”
2. The wording of the beginning of the second paragraph under item 2 on page 5 should read “Mr. Sisto indicated that the PA process is not well understood, and that as a result, manual processing has resulted in some problems. He suggested a technical work group be created....”
3. In the first paragraph under item 3 on page 5 the wording of the first sentence should read “Some on the Workgroup, specifically those....”
4. A sentence will be added to the end of the first paragraph under item 3 on page 5: “PBMs and health plans felt that many items were already addressed in Virginia law.”
5. A sentence will be added at the end of the first paragraph on page 6: “Mr. Jones stated that the OLC does not have a position on whether oversight is necessary.”
6. Under “Next Meeting,” the sentence “It should include definitions of terms such as white-bagging, brown-bagging, specialty drug” will be struck.

A motion was made by Ms. Wilson to approve the minutes with the noted changes, seconded by Mr. Beckner, and the minutes were approved unanimously.

Public Comment

Six individuals addressed the Workgroup: J.T. (Tommy) Thompson, retail/community pharmacist; Betty Prentice, McKenney, Virginia; John Seymour, pharmacist/owner, Orange Pharmacy and Elkton Family Pharmacy; Alexander Macaulay, attorney, Macaulay & Burtch, representing EPIC Pharmacies; Vince Ettare, pharmacist/owner of Rustburg Family Pharmacy; and Otto Wachsmann – pharmacist/owner, Stoney Creek Pharmacy. Workgroup members were given the opportunity to ask questions of the individuals.

Mr. Thompson discussed financial, patient access and pharmacist care issues and the need for regulation of Pharmacy Benefit Managers (PBMs). Ms. Prentice, a patient of Stoney Creek

Pharmacy, spoke of the benefits of having pharmacies in rural communities and the difficulty for senior citizens in her community to drive 45 minutes (60 miles roundtrip) to the next closest pharmacy if Stoney Creek Pharmacy was financially forced to close. Mr. Seymour spoke as a patient advocate and addressed the needs of senior citizens in choosing an appropriate health plan to cover their prescriptions and the need for regulation of PBMs. Mr. Macaulay referenced the Workgroup's Draft Report and that the Virginia Board of Pharmacy does have the authority to receive complaints regarding actions concerning PBMs that constitute the practice of pharmacy and may forward them to other boards (e.g., Medicine and Nursing) as appropriate. Mr. Ettare indicated that PBMs are unregulated, and pharmacies are open to predatory business practices. He also provided examples of patient-related issues and potential patient harm in dealing with PBMs. Mr. Wachsmann provided two letters to Dr. Brown from patients expressing concerns for drug expenses resulting from Medicaid denial of drug coverage and patient confusion with a drug substitution without his knowledge because the originally prescribed drug required prior authorization. The third document provided by Mr. Wachsmann highlighted the costs and reimbursement associated with dispensing a specific drug which resulted in a loss to the pharmacy.

Discussion Topics

The Workgroup members discussed issues brought up during public comment and the topics of white-bagging and brown-bagging, waste involved in mail order, and impact on rural communities.

Discussion of Draft Report

The Workgroup reviewed the report for accuracy and discussed items that should be added, changed or removed. The Workgroup expressed that they would like to review an electronic version of the revised report before DHP submits it to Secretary Hazel. Dr. Brown indicated that the final version of the draft report would be sent to the Workgroup members to ensure that it is accurate. The report will be sent in January 2016, and members will be given 7 to 10 days to review and respond.

The meeting was adjourned at 1:47pm.

Prepared By: Laura Z. Rothrock