

(DRAFT/UNAPPROVED)

**VIRGINIA BOARD OF PHARMACY
DRAFT/ MINUTES OF BOARD MEETING**

March 13, 2012
Second Floor
Board Room 2

Perimeter Center
9960 Mayland Drive
Henrico, Virginia 23233-1463

CALL TO ORDER: The meeting was called to order at 9:15 AM.

PRESIDING: Gill B. Abernathy, Chairman

MEMBERS PRESENT: Crady R. Adams
Jody H. Allen
David C. Kozera
Dinny Li
Empsy Munden
Robert M. Rhodes
Ellen B. Shinaberry
Pratt P. Stelly

MEMBERS ABSENT: Brandon K. Yi

STAFF PRESENT: Caroline D. Juran, Executive Director
Cathy M. Reimiers-Day, Deputy Executive Director
J. Samuel Johnson, Jr., Deputy Executive Director
Arne Owens, Chief Deputy Director, DHP
Elaine J. Yeatts, Senior Policy Analyst, DHP
Heather Hurley, Administrative Assistant
Rachel Baer, Assistant Attorney General- arrived approximately 1:30pm

STAFF ABSENT: Howard M. Casway, Senior Assistant Attorney General

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

APPROVAL OF AGENDA: Staff requested that the agenda be amended to include a presentation of information for a possible summary suspension and that it be heard just prior to adjournment. The agenda was approved as amended.

APPROVAL OF MINUTES: The Board reviewed draft minutes for December 14, 2011 (Public Hearing); December 14, 2011 (Full Board Meeting); December 14, 2011 (Panel of the Board, Formal Hearing); January 10, 2012 (Special Conference Committee and Informal Conference Committee); February 14, 2012 (Special Conference Committee and Informal Conference Committee); February 16, 2012 (Regulation Committee for Pharmacist to Pharmacy Technician Ratio); February 16, 2012 (Informal Conference Committee, Pilot Program); and March 6, 2012 (Special Conference Committee and Informal Conference Committee).

MOTION:

The Board voted unanimously to approve the minutes as presented. (motion by Kozera, second by Allen)

PUBLIC COMMENTS:

There were no public comments offered at this time.

DHP DIRECTOR'S REPORT:

Arne Owens, Chief Deputy Director for the Department of Health Professions (DHP), presented the Director's report on behalf of Dianne Reynolds-Cane, M.D., Director of DHP. Mr. Owens reported that all of the bills that were submitted by DHP passed through both houses of the General Assembly.

Mr. Owens also commented that the next DEA-sponsored "Drug Take Back Day" is scheduled to take place on April 28, 2012 and that DHP will assist in promoting the event.

Mr. Owens reported there is a new agency travel policy which is more tightly controlled. A new form for requesting travel authorization has been implemented and all out-of-state travel must be submitted to the Secretary's Office for approval.

Concerning budget issues, Mr. Owens discussed the ongoing case process improvement efforts to reduce costs and improve efficiencies. Many efforts have been implemented and improvements have resulted. Ms. Juran has been assigned the action lead for the case processing effort to consider expanding the offering of pre-hearing consent orders which could reduce costs for both licensees and the agency. It is hoped that more efficiency efforts will be implemented in the next month or two.

LEGISLATION UPDATE:

Ms. Yeatts referenced the legislative report included in the agenda packet and provided a summary of legislation from the 2012 General Assembly Session which may be of possible interest to the Board. She reported that HB 265 passed regarding the Board of Health Professions meeting annually instead of quarterly. She clarified that HB 266 does not impact a pharmacist's ability to administer immunizations. She stated that HB 346 passed allowing nurse practitioners to practice as part of a patient care team. HB347 passed resulting in several changes to the Prescription Monitoring Program which includes a requirement of the dispenser to report the method of payment for the prescription. HB 508 amends provisions regarding the criminalization of synthetic cannabinoids. HB 733 addresses a pharmacist's authority to compound a drug under certain circumstances. HB 1140 passed which places carisoprodol into Schedule IV which is consistent with federal rules. HB 1161 requires the Virginia Department of State Police to enter into a memorandum of understanding to establish participation in a real-time electronic recordkeeping and monitoring system for the sale of ephedrine or related compounds. The bill is effective January 1, 2013. SB 592 proposed placing tramadol into Schedule IV. It passed in the Senate, but died in the House. This bill carried an automatic fiscal impact due to possible cost increases for the correctional system.

REGULATIONS:

Ms. Yeatts provided an update of the Board's current regulatory actions. The emergency regulations and Notice of Intended Regulatory Action

(NOIRA) concerning continuous quality improvement programs (CQI) remain in the Governor's Office. The regulations were required to be effective December 20, 2011. The proposed regulations concerning the modifications of requirements for automated dispensing devices may be adopted by the Board later during this meeting. The public comment period concerning the NOIRA for changes to the run-dry requirement for automated counting devices will close April 25, 2012. The final regulations for repackaging in community service boards and behavioral health authorities may be adopted by the Board later during this meeting. The proposed regulations regarding administrative fees for duplicate licenses and verifications remain in the Secretary's Office, as well as the proposed regulations for on-hold prescriptions.

**ADOPTION OF FINAL
REGULATIONS FOR
REPACKAGING IN
COMMUNITY SERVICE
BOARDS AND BEHAVIORAL
HEALTH AUTHORITIES:**

Ms. Yeatts reminded the Board that §54.1-3420.2 requires the Board to promulgate regulations related to an allowance for repackaging drugs in community service boards and behavioral health authorities. Additionally, she reported that the emergency regulations will expire June 18, 2012 and therefore, the Board should adopt final regulations at this meeting. One public comment offered during the recent public comment period was reviewed. To clarify any confusion that may exist regarding the board's requirement, it was stated that §54.1-3420.2 C authorizes the repackaging of a drug in a CSB or BHA for the purpose of assisting a client with self-administration and that the law addresses repackaging of a drug, not administration of a drug. Additionally, Ms. Yeatts indicated that the statement "consistent with subsection B of this section" as found in subdivision C4 of the proposed final regulations needed to be deleted since it had been previously deleted in an exempt regulatory action.

MOTION:

The Board voted unanimously to remove the statement "consistent with subsection B" in subdivision C4 of the proposed final regulations for repackaging in CSB's and BHA's and adopt the proposed final regulations as amended. (motion by Kozera, second by Allen)

**ADOPTION OF PROPOSED
REGULATIONS FOR
AUTOMATED DEVICES FOR
DISPENSING AND
ADMINISTERING OF DRUGS:**

In response to receiving suggested minor edits from Ms. Abernathy in advance of the meeting, Ms. Yeatts provided the Board with a handout for its consideration that staff created which captured suggested changes in bold font. Additionally, Ms. Yeatts indicated that the word "indicating" found in 8a of the handout was a typographical error and should be stricken. The one comment received during the recent public comment period was reviewed, and Ms. Yeatts stated that the Board should adopt proposed regulatory changes to 18VAC110-20-490 during this meeting.

MOTION:

The Board voted unanimously to remove the word "indicating" found in 8a of the handout and adopt the proposed regulatory changes to 18VAC110-20-490 regarding automated devices for dispensing and administering as presented in the handout and amended. (motion by Allen, second by Shinaberry)

PETITION FOR
RULEMAKING

Ms. Yeatts presented to the Board a petition for rulemaking submitted by Louis Kaufman, representative of Robert's Home Medical, which requested that medical equipment suppliers (MES) be allowed to transfer prescriptions from one MES to another. Mr. Kaufman had been informed previously by Board staff that Board regulations do not directly address the ability of an MES to transfer prescriptions to another MES. Mr. Kaufman indicated that for many years as a practice standard medical equipment suppliers have been transferring prescriptions to other medical equipment suppliers in order to meet the patient's needs. He stated that patients frequently require equipment delivery to multiple locations, e.g., patient discharged from hospital in Charlottesville traveling home to Harrisonburg would require a delivery from a MES in Charlottesville for travel home and then subsequent delivery from a MES in Harrisonburg once residing at home. Preventing an MES from transferring prescriptions could negatively impact patient care and place excessive burdens on the patient. Additionally, he reported that the competitive bidding process implemented by CMS appeared to support an MES transferring a prescription to another MES.

Because Board counsel was unable to attend the meeting due to illness, Ms. Juran indicated that the Board could possibly adopt a guidance document to allow a MES to transfer prescriptions to another MES; however, staff would need to confirm this understanding with Board counsel prior to implementing. If counsel did not agree that the Board could adopt guidance, then the Board could adopt a Notice of Intended Regulatory Action to allow in regulation an MES to transfer prescriptions.

MOTION:

The Board voted unanimously to take one of the following actions: adopt a guidance document, if advised by Board counsel, which would authorize a medical equipment supplier to transfer prescriptions to another medical equipment supplier; the document would be drafted by Board staff and approved by the Board Chairman; or, adopt a Notice of Intended Regulatory Action to allow in regulation an MES to transfer prescriptions, if Board counsel advises that the Board may not authorize such in a guidance document. (motion by Kozera, second by Shinaberry)

UPDATE ON ACTION ITEMS:

**REQUEST TO ELIMINATE
PHARMACY TECHNICIAN
TO PHARMACIST RATIO IN
18VAC110-20-270B**

Jody Allen, Regulation Committee Chairman, reminded the Board that it had received a request during the December 14, 2011 full board meeting to eliminate the current 4:1 pharmacy technician to pharmacist ratio as found in Regulation 18VAC110-20-270. The matter was referred to the Regulation Committee and a committee meeting was subsequently held on February 16, 2012. She reported that the Regulation Committee voted unanimously to recommend the following to the full Board: that it not amend Regulation 18VAC110-20-270 B to eliminate the restriction of a pharmacist not being permitted to supervise more than four persons acting as pharmacy technicians at one time; that the ratio remain the same until further information is received from the upcoming Board of Health Profession's scope of practice review; and, that staff continue to gather

information from other states on their efforts to evaluate ratios. In addition to the full Board's ability to approve or deny the request to eliminate the ratio, Ms. Allen commented that the Board could also consider postponing the decision until the Regulation Committee has had an opportunity to review the report from the upcoming Board of Health Professions' pharmacy scope of practice review.

MOTION:

The Board voted to deny the request to amend Regulation 18VAC110-20-270 B to eliminate the restriction of a pharmacist not being permitted to supervise more than four persons acting as pharmacy technicians at one time. (motion by Stelly, second by Adams; four in favor, five opposed; motion did not carry)

MOTION:

On a second motion, the Board voted to postpone the decision to deny or approve the request to amend Regulation 18VAC110-20-270 B to eliminate the restriction of a pharmacist not being permitted to supervise more than four persons acting as pharmacy technicians at one time until the Regulation Committee has had an opportunity to review the report from the upcoming Board of Health Professions' pharmacy scope of practice review and report its recommendation back to the full Board. (motion by Kozera, second by Adams; six in favor, three opposed)

ACTION ITEM:

Ms. Stelly requested that staff assist the Regulation Committee in its future discussion of ratio by obtaining information on disciplinary action regarding drug diversions during the last year in states that do not have a pharmacy technician to pharmacist ratio.

MISCELLANEOUS:

**REVIEW FOR COMPLIANCE
WALGREENS' MECHANISMS
FOR TRANSFERRING
PRESCRIPTIONS:**

Ms. Juran explained that effective January 1, 2012 Walgreens is no longer participating in Express Scripts and therefore, there was an unusually high demand from patients around that time to transfer prescriptions from Walgreens to pharmacies participating with their insurance company. Walgreens implanted two mechanisms to expedite the transfer process and decrease staff interruptions which could lead to errors. Board staff began receiving calls from pharmacists wanting to know if the TransferSafe and the TransferRx mechanisms used by Walgreens to transfer certain prescriptions were compliant with State laws. After obtaining additional information from Rusty Maney from Walgreens, Ms. Juran reviewed the mechanisms with Board counsel. It was determined in this preliminary review that the mechanisms used to transfer Schedule VI drugs did appear to comply with State laws. Board counsel advised Ms. Juran to have the full Board formally review the mechanisms at its next full Board meeting. Rusty Maney and Al Carter from Walgreens were present at the full Board meeting and answered the Board members' questions regarding the two mechanisms. Mr. Carter stated that the TransferSafe mechanism had been turned off during the last week to further enhance security measures to ensure that pharmacists could only access information while working on-duty at a pharmacy. Mr. Carter indicated that enhancements to the TransferSafe mechanism will not change the process as previously implemented, but will only improve

the security technology. Additionally, Mr. Carter stated that the TransferSafe mechanism is used only to transfer prescriptions of Schedule VI drugs; the TransferRx mechanism is used to transfer prescriptions of drugs in Schedule III – VI. To comply with federal requirements, Mr. Carter stated that the TransferRx mechanism is used to transfer prescriptions for drugs in Schedules III-V only after verbal communication with a pharmacist. When using TransferRx to transfer prescriptions for drugs in Schedules VI, Mr. Carter stated the transfer information is communicated via fax in accordance with 18VAC110-20-360.

MOTION:

The Board voted unanimously that, in concept, the TransferSafe and TransferRx mechanisms as described by Walgreens appears to meet compliance with Regulation 18VAC110-20-360; TransferSafe may be used to transfer prescriptions for drugs in Schedule VI; and TransferRx may be used to transfer prescriptions for drugs in Schedules III-VI, if compliant with federal rules. (motion by Munden, second by Adams)

**PRESENTATION BY
WALGREENS FOR
APPROVAL, IN CONCEPT, OF
NEW STORE LAYOUT:**

Al Carter and Rusty Maney from Walgreens presented a video to the Board showing a new store layout that Walgreens has constructed in other states. Walgreens believes the new layout will allow the pharmacist to be more accessible and have more time to counsel the customers, or assist with any questions that they might have. All phone calls are received by a central fulfillment center located in Florida, thereby decreasing staff distractions. Mr. Carter reported that pharmacists spend approximately 30% of their day fielding telephone calls. The data entry of most prescriptions is also handled remotely by the central fulfillment center in compliance with Regulation 18VAC110-20-276. The store layout physically separates the pharmacist from the area where the drugs are located; however, the pharmacist must enter that area to obtain the Schedule II drugs for the pharmacy technicians. Security cameras are located in the drug storage area and the pharmacist views monitors to supervise the pharmacy technician activity. Walgreens believes the security cameras are deterring drug diversions. Additionally, the pharmacist performs the verification of the accuracy of the dispensed drug by viewing photo images of the vial and the drug within the vial which are captured by the pharmacy technician during the dispensing process. Also, as a quality assurance, the dispensed quantity is weighed by the pharmacy technician to ensure accuracy of the dispensed quantity. The weight is viewed by the pharmacist during the verification process. In response to Board member questions, Mr. Carter indicated the following: only one prescription can be dispensed at a time; each dispensed drug is placed in a separate bag; the pharmacist's computer screen has a privacy filter on it to eliminate customer viewing; counseling has increased from 12% to 40% in stores with the new layout; the first store with this layout opened approximately one year ago; administration of immunizations and patient counseling will occur in the separate room located near the pharmacist's computer terminal; no drugs or paraphernalia will be stored in the separate room as this room is not part of the licensed prescription department; drugs to be administered in the separate room will have already been dispensed to the specific

patient; no drug diversions have occurred as of yet in the stores with the new layout; Indiana, Illinois, New York, and the District of Columbia have approved the new store layout and currently have stores with the new layout located in the area; no state as of yet has denied the approval of the new store layout; and Mr. Carter intends to seek approval from all state Boards of Pharmacy.

MOTION:

The Board voted unanimously that, in concept, the new store layout as described by Walgreens appears to meet compliance with Regulations 18VAC110-20-150, 18VAC110-20-180, and 18VAC110-20-190 regarding physical and security standards, and the use of cameras and monitors for pharmacists on-duty to supervise pharmacy technicians and verify the accuracy of dispensed drugs appears to comply with 18VAC110-20-270. (motion by Munden, second by Stelly)

REQUEST FROM *THE PHARMACY ALLIANCE* TO DISCUSS IMPLEMENTING MANDATES TO ADDRESS "SYSTEM INDUCED ERRORS"

Priscilla Gale addressed the Board on behalf of *The Pharmacy Alliance* with concerns of working conditions in the pharmacy which may contribute to prescription errors. Ms. Gale explained that it was not right to hold the pharmacists accountable for errors and not the facility permit holders. Her concerns were related to long work hours, lack of meal times or breaks, not enough staff, loud music being played in the store and corporate policies that were distracting and increase errors. There was also discussion of corporate standards in which prescriptions were guaranteed within a certain length of time. To assist the Board in its discussion, Ms. Juran commented that several of the nine issues referenced in the email from The Pharmacy Alliance on page 85 of the agenda packet had recently been discussed or addressed by this Board. Specifically, #1, the prohibition of guaranteeing a dispensed prescription to be ready in a specific period of time had been discussed at a recent full Board meeting and Board counsel had advised that prohibiting this business practice could be construed as a possible violation of the Federal Trade Commission; #2 and #3 regarding restrictions on the number of hours a pharmacist may continuously work and mandatory meal breaks will be discussed at the June board meeting at the conclusion of the public comment period for a recently received petition for rulemaking; #7 and #8 regarding the reporting of medication errors has recently been addressed in statute and the development of the CQI regulations currently awaiting the Governor's signature; and #9 regarding a prohibition in influencing a pharmacist's decision regarding the practice of pharmacy is already addressed in Regulation 18VAC110-20-110B. Therefore, Ms. Juran recommended that the Board may want to focus its discussion on the other items listed.

ACTION ITEM:

Ms. Shinaberry recommended, and the full Board supported, that the following issues be referred to the Regulation Committee for further consideration: prohibition of any guarantee or advertisement that promotes how fast prescriptions will be dispensed; requirement that drive-thru windows be closed when there is no pharmacy technician support in the prescription department; prohibition against mandatory corporate production metrics or quotas regarding prescription dispensing or immunization

administrations; requirement that other timed metrics regarding the phone, drive-thru, or cash register may only be imposed on pharmacy technicians and not pharmacists; and, prohibition of any non-pharmacist employ of the permit holder influencing the professional decision of the pharmacist. Staff was directed to research these subjects and provide information to the Regulation Committee to aid its discussion.

ACTION ITEM:

Because Board counsel was unable to attend the meeting, Mr. Adams agreed to table until the June Board meeting his request on the agenda to discuss the length of time associated with and access to final orders.

REPORTS:

**BOARD OF HEALTH
PROFESSIONS:**

Robbie Rhodes, member of the Board of Health Professions, reported to the Board of Pharmacy the latest information concerning the Board of Health Professions. The Regulatory Research Committee and the full Board met on February 14, 2012. The Board of Health Professions voted that licensure is appropriate for Medical Laboratory Scientists and Medical Laboratory Technicians. Also, the committee's study of the Nurse Practitioner's scope of practice is currently being revised to reflect the significant changes resulting from HB 346. The committee is also moving forward with the Pharmacy review and will be researching team delivery within the context of how "patient care team" is defined in HB 346. Staff will give an update of the progress of the Pharmacy review at the May committee meeting. Lactation consultants may be submitting an application to the Board of Health Professions for review to determine if the profession needs to be regulated. The Virginia Perfusion Society requested that a study be initiated to regulate Perfusionists and the Board voted to table consideration of the request until the level of urgency can be ascertained by staff, given the Board's current workload. Delegate Dr. Christopher Stolle is expected to request the Department to conduct a study of options for accepting military training and experience as satisfying requirements for licensure, certification or registration as a health care provider. Mr. Rhodes also stated that the next full Board meeting of the Board of Health Professions is scheduled for May 8, 2012.

LICENSURE PROGRAM:

Mr. Johnson reported that the Board issued 939 licenses and registrations for the period of December 1, 2011 through February 29, 2012, including 132 pharmacists, 111 pharmacy interns, and 488 pharmacy technicians. In January 2012, the Board began receiving applications for pharmacy technician registration exclusively online eliminating the need for paper applications. Inspectors performed 281 facility inspections including 116 routine inspections of pharmacies: 31 resulted in no deficiency, 31 with deficiencies, and 54 with deficiencies and a consent order. There are currently two active innovative (pilot) programs. One additional pilot program is being reviewed for renewal and two new pilot programs were approved.

DISCIPLINARY PROGRAM:

Ms. Reiniers-Day provided the Board with the Open Disciplinary Case Report comparing the case stages between September 19, 2011,

December 12, 2011, and March 12, 2012. Current open cases are 45 at the investigation stage; 73 at the probable cause stage; 11 at the administrative proceedings division stage; 8 at the informal stage; 3 at the formal stage; and 92 at the pending closure stage.

**EXECUTIVE DIRECTOR'S
REPORT:**

Ms. Juran reported to the Board that she had contacted the Virginia Department of Health in order to increase awareness of the Medical Reserve Corp. An article is to be published regarding this issue in the May newsletter.

Ms. Juran gave an update on the percentages for completing the online workforce survey for the quarter of October through December 2011. The stats are as follows: Pharmacy Technicians are at 92.03% while Pharmacists are at 91.45%. Dr. Elizabeth Carter believes her staff should be able to provide a summary of the workforce surveys at the June full Board meeting.

Ralph Orr has requested that the Board be informed that the grace period for the recent regulatory changes has expired. Currently, all pharmacies must be reporting their dispensing data to the PMP within seven days of dispensing using the ASAP 4.1 version. Mr. Orr has been promoting these changes over the past year, but the Board of Pharmacy will be placing a reminder of this change in the July newsletter. Additionally, Virginia is now participating in the PMP interoperability with Ohio, Indiana, Connecticut and Michigan.

Ms. Juran stated she will be attending the NABP Annual Meeting this year, being held in Philadelphia May 19th through May 22nd. Former board member, Leo Ross, will be attending the meeting, and she hopes current members of the Board will be able to attend as well.

Ms. Juran reported that interviews for the Board's Compliance Officer position were held this past week. There were seven strong candidates interviewed and a hiring offer will be extended in the very near future. Additionally, Heather Wright, assumed in January the position of Administrative Assistant III for Licensing. The position was previously held by Gloria Williams prior to her December retirement. Ms. Wright previously worked in the Board of Nursing.

Scott Arnott, Pharmacy Inspector for the northern Virginia region, has announced he is retiring as of July 2, 2012. Mr. Arnott has been an inspector with DHP for ten years, and has brought a wealth of knowledge to the agency. He previously worked for thirty years as Assistant Director and later Director of Pharmacy Services at Virginia Hospital Center in Arlington. Mr. Arnott has been an asset to the Board of Pharmacy as well as the agency, and he will be greatly missed. The Enforcement Division will likely begin recruiting efforts in the near future.

NEW BUSINESS:

There was no new business.

Ms. Rachel Baer, Assistant Attorney General, arrived at approximately 1:30 p.m.

SUMMARY SUSPENSION:

SHANNON C. WHITE
Pharmacy Technician
Registration Number:
0230-017782

Corie Tillman Wolf, Assistant Attorney General, presented a summary of the evidence in the case for the Board to consider a summary suspension. Mykl D. Egan, DHP Adjudication Specialist, was also present.

MOTION FOR CLOSED MEETING:

The Board voted unanimously to convene a closed meeting pursuant to § 2.2-3711.A.27 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of a possible summary suspension and that Caroline D. Juran, Cathy Reiniers-Day, and Eusebia Joyner attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. (motion by Kozera, second by Adams)

MOTION TO CERTIFY THE PURPOSE OF THE CLOSED MEETING:

The Board voted unanimously that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting. (motion by Kozera, second by Adams)

MOTION:

The Board voted unanimously in favor of the motion that, according to the evidence presented, the continued practice by Shannon C. White as a pharmacy technician poses a substantial danger to the public; and therefore, the registration of Shannon C. White to practice as a pharmacy technician be summarily suspended and that a Consent Order be offered to Ms. White for the suspension of her registration for not less than two years in lieu of a hearing. (motion by Adams, second by Kozera)

ADJOURN:

With all business concluded, the board meeting adjourned at 1:45pm.

Gill Abernathy, Board Chairman

Caroline D. Juran, Executive Director

Date

Date

**VIRGINIA BOARD OF PHARMACY
FORMAL HEARING MINUTES**

Tuesday, March 13, 2012
Commonwealth Conference Center
Second Floor
Board Room 2

Department of Health Professions
Perimeter Center
9960 Mayland Drive
Henrico, Virginia 23233

Orders/Consent Orders referred to in these minutes are available upon request

CALL TO ORDER:

A meeting of a panel of the Board of Pharmacy ("Board") was called to order at 2:10 p.m.

PRESIDING:

Gill B. Abernathy

MEMBERS PRESENT:

Crady Adams
Jody H. Allen
David C. Kozera
Dinny Li
Empsy Munden
Robert M. Rhodes
Ellen Shinaberry
Pratt P. Stelly

STAFF PRESENT:

Caroline Juran, Executive Director
Cathy M. Reiniers-Day, Deputy Executive Director
Eusebia L. Joyner, Disciplinary Program Specialist
Rachel Baer, Assistant Attorney General
Corie E. Tillman Wolf, Assistant Attorney General
Wayne T. Halbleib, Senior Assistant Attorney General
Mykl Egan, DHP Adjudication Specialist

QUORUM:

With nine members of the Board present, a panel was established.

KWADWO A. BEKOE
Pharmacist Reinstatement Applicant
License # 0202-208457

Mr. Bekoe appeared to discuss his petition to reinstate his pharmacist license and to review allegations that he may have violated certain laws and regulations governing the practice of pharmacy in Virginia as stated in the January 31, 2012, Notice.

Corie E. Tillman Wolf, Assistant Attorney General, prosecuted the case with the assistance of Mykl D. Egan, DHP Adjudication Specialist.

Patricia Sheehan, DHP Senior Investigator, testified on behalf of the Commonwealth.

Kwadwo A. Bekoe was represented by Hunter W. Jemerson, Esquire, and testified on his own behalf.

Closed Meeting:

Upon a motion by Mr. Kozera and duly seconded by Mr. Adams, the board voted 9-0, to convene a closed meeting pursuant to § 2.2-3711(A)(27) of the Code of Virginia ("Code"), for the purpose of deliberation to reach a decision in the matter of Kwadwo A. Bekoe. Additionally, he moved that Caroline Juran, Cathy Reiniers-Day, Eusebia Joyner and Rachel Baer attend the closed meeting.

Reconvene:

Having certified that the matters discussed in the preceding closed meeting met the requirements of § 2.2-3712 of the Code, the board re-convened in open meeting and announced the decision.

Decision:

Upon a motion by Ms. Allen and duly seconded by Ms. Stelly, the board voted 9-0 to accept the Findings of Fact and Conclusions of Law as proposed by Ms. Wolf, amended by the board and read by Ms. Baer.

Upon a motion by Ms. Allen and duly seconded by Mr. Rhodes, the board voted 9-0 that the Board grant the application of Kwadwo Bekoe for reinstatement of his pharmacist license.

Ms. Shinaberry, Ms. Allen, Mr. Rhodes and Mr. Adams departed at 3:30 p.m.

JAMES Q. UNDERWOOD
Pharmacist Reinstatement Applicant
License # 0202-006303

Mr. Underwood appeared to discuss his application for reinstatement of his pharmacist license and to review allegations that he may have violated certain laws and regulations governing the practice of pharmacy in Virginia as stated in the October 19, 2011, Notice.

Wayne T. Halbleib, Senior Assistant Attorney General, prosecuted the case with the assistance of Mykl D. Egan, DHP Adjudication Specialist.

Vicky Fox, DHP Senior Investigator, testified on behalf of the Commonwealth.

James Q. Underwood testified on his own behalf.

Closed Meeting:

Upon a motion by Mr. Kozera and duly seconded by Mr. Adams, the board voted 5-0, to convene a closed meeting pursuant to § 2.2-3711(A)(27) of the Code of Virginia ("Code"), for the purpose of deliberation to reach a decision in the matter of James Q. Underwood. Additionally, he moved that Caroline Juran, Cathy Reiniers-Day and Rachel Baer attend the closed meeting.

Reconvene:

Having certified that the matters discussed in the preceding closed meeting met the requirements of § 2.2-3712 of the Code, the board re-convened in open meeting and announced the decision.

Decision:

Upon a motion by Ms. Munden and duly seconded by Mr. Kozera, the board voted 5-0 to accept the Findings of Fact and Conclusions of Law as proposed by Mr. Halbleib, amended by the board and read by Ms. Baer.

Upon a motion by Ms. Munden and duly seconded by Ms. Stelly, the board voted 5-0 that the Board deny the application of James Q. Underwood for reinstatement of his pharmacist license and that his license be continued on indefinite suspension for not less than two years.

Adjourn:

With all business concluded, the meeting adjourned at 6:20 p.m.

Gill B. Abernathy, Chairman

Cathy M. Reiniers-Day
Deputy Executive Director

Date

Date