

FINAL/APPROVED

**VIRGINIA BOARD OF PHARMACY  
MINUTES OF REGULATION COMMITTEE REGARDING PHARMACY WORKING  
CONDITIONS**

May 2, 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 1:05PM.

**PRESIDING:** Jody H. Allen, Committee Chairman

**MEMBERS PRESENT:** Gill B. Abernathy  
David C. Kozera  
Empsy Munden  
Robert M. Rhodes  
Craday Adams

**STAFF PRESENT:** Caroline D. Juran, Executive Director  
J. Samuel Johnson, Jr., Deputy Executive Director  
Howard M. Casway, Senior Assistant Attorney General  
Elaine J. Yeatts, Senior Policy Analyst, DHP

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

The Regulation Committee met to discuss the specific mandates requested by The Pharmacy Alliance and referred to committee for further consideration during the March 13, 2012 full board meeting. Those mandates were: 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 administration; 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-pharmacy employ of the permit holder influencing the professional decision of the pharmacist. Additionally, the Committee discussed a recent petition for rulemaking received on February 22, 2012 regarding working conditions. Specifically it requested regulations similar to West Virginia and North Carolina which require breaks for pharmacists working more than 6 continuous hours and a prohibition against pharmacists working more than 12 continuous hours per day.

**PETITION FOR  
RULEMAKING REGARDING  
PHARMACY WORKING  
CONDITIONS - REQUIRED  
BREAKS AND NUMBER OF  
CONTINUOUS HOURS  
PHARMACIST MAY WORK:**

The Committee first discussed the petition for rulemaking. The public comment period had closed on April 15, 2012. Ms. Yeatts provided a summary of the approximate twenty public comments received. All, but one were completely supportive of the petition.

**MOTION:**

The Committee voted unanimously to recommend to the full Board in June to accept the petition for rulemaking and publish a NOIRA to address pharmacy working conditions such as a requirement that no pharmacist may work more than 12 continuous hours in any 24-hour period or more than 60 hours in any 5-day period and an allowance for pharmacists working more than 6 continuous hours to take a 30-minute uninterrupted break and one additional uninterrupted 15-minute break, with emergency provisions for addressing immediate needs of patients.

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

The Committee then discussed the specific mandate requests received from *The Pharmacy Alliance* and referred to committee for further consideration. Public comment was received from Mr. Bob Garland, pharmacist, who believes Regulation 18VAC110-20-110 addresses the concerns raised by The Pharmacy Alliance. The regulation states that the pharmacist-in-charge (PIC) or the pharmacist on duty shall control all aspects of the practice of pharmacy and that any decision overriding such control of the PIC or other pharmacist on duty shall be deemed the practice of pharmacy and may be grounds for disciplinary action against the pharmacy permit. He stated that the corporations may not clearly understand this regulation. Comment was also received by Ms. Kristen Barratt, pharmacist, who supported the concern for a drive-thru operating when there is only one pharmacist on-duty and no pharmacy technicians. Pursuant to §54.1-100, Board counsel indicated that the promulgation of regulation may require proof that an unregulated practice can harm or endanger the health, safety or welfare of the public; without such proof, the Board may be overreaching in its authority. Through lengthy discussions, concerns were expressed by various members for the current business practices, along with concerns for the Board's ability to lawfully regulate the practices.

**MOTION:**

The Committee voted unanimously to recommend the following to the full Board in June: continue discussions on pharmacy working conditions as needed; encourage *The Pharmacy Alliance* and pharmacists to provide evidence to the Board that the identified practices referred to the Committee can or have created patient harm; and, publish an article in an upcoming Board e-newsletter expressing concern for contemporary practices and restating the relevant sections §54.1-3434 and Regulation 18VAC110-20-110 B which indicate that the pharmacist who signs the pharmacy permit application is in full and actual charge of the pharmacy, that if the owner is not a pharmacist, he shall not abridge the authority of the PIC to exercise professional judgment relating to the dispensing of drugs in accordance with this act and Board regulations, and that the PIC or the pharmacist on duty shall control all aspects of the practice of pharmacy and any decision overriding such control of the PIC or other pharmacist on duty shall be deemed the practice of pharmacy and may be grounds for disciplinary

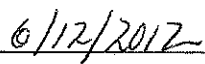
**action against the pharmacy permit.**

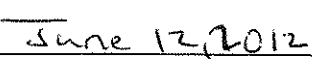
ADJOURN:

With all business concluded, the meeting adjourned at 4:40PM.

  
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Jody H. Allen, Committee Chairman

  
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Caroline D. Juran, Executive Director

  
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Date

  
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Date