

FINAL/APPROVED

**VIRGINIA BOARD OF PHARMACY  
MINUTES OF WORKGROUP REGARDING UNPROFESSIONAL CONDUCT – PHARMACY  
WORKING CONDITIONS**

January 18, 2022

Perimeter Center  
9960 Mayland Drive  
Henrico, Virginia 23233-1463

CALL TO ORDER:

A Workgroup Regarding Unprofessional Conduct – Pharmacy Working Conditions was called to order at 11:05AM. In accordance with § 2.2-3708.2 of the Code of Virginia, Bryan Lowe participated via phone from his residence in Pennsylvania due to a personal matter involving the cancellation of his flight. Bryan Lowe’s virtual participation was approved by the Committee Chairman and a quorum of the workgroup was physically present for the meeting.

PRESIDING:

Cheryl Nelson, PharmD, Chairman

MEMBERS PRESENT:

Glen Bolyard, Jr., RPh  
Dale St.Clair, PharmD  
Kristopher Ratliff, DPh  
Patricia Richards-Spruill, RPh  
Bryan Lowe, Virginia Association of Chain Drug Stores (participated via phone)  
John Beckner, RPh, National Community Pharmacists Association  
Cindy Warriner, BS, RPh, Virginia Pharmacists Association

STAFF PRESENT:

Caroline D. Juran, RPh, Executive Director  
Ellen B. Shinaberry, PharmD, Deputy Executive Director  
Ryan Logan, RPh, Deputy Executive Director  
Beth O’Halloran, RPh, Deputy Executive Director  
Elaine J. Yeatts, Senior Policy Analyst, DHP  
Erin Barrett, J.D., Senior Policy Analyst, DHP  
James Rutkowski, J.D., Assistant Attorney General  
Barbara Allison-Bryan, MD, Chief Deputy, DHP  
Sorayah Haden, Executive Assistant

QUORUM:

With seven members physically present and one participating via phone, a quorum was established.

PHARMACISTS AWARDED  
1-HOUR OF LIVE OR REAL  
TIME INTERACTIVE  
CONTINUATION  
EDUCATION FOR

John Beckner, RPh  
Patricia Richards-Spruill, RPh

ATTENDING:

APPROVAL OF AGENDA:

Ms. Warriner requested that "BS, RPh" be inserted after her name on page 1 of the agenda packet. She also provided handouts for the Workgroup's consideration. Copies were made and offered to all participants and the public. An electronic copy was emailed to Mr. Lowe.

MOTION

The workgroup voted unanimously to adopt the agenda as presented and amended by inserting "BS, RPh" after Cindy Warriner's name on page 1 and to provide copies of Ms. Warriner's handouts to all participating. (Warriner, Beckner)

PUBLIC COMMENT:

Pharmacist Karen Winslow, representing VPhA, presented public comment on behalf of Christina Barrille. Barrille expects the conversation of the workgroup will be "just the beginning." She requests the Board review recent pharmacy investigations in regards to the pharmacy working conditions. She advocated for pharmacies having adequate staffing and safeguards.

Dr. Winslow then provided her personal comment explaining how she left her previous pharmacy due to the poor working conditions and feeling unsafe. She acknowledged the many public commenters at the December board meeting and sympathized with their frustration of asking for additional pharmacy technician hours and never getting the assistance.

AGENDA ITEMS:

Chairman Nelson provided an overview of the information included in the agenda packet. She reminded the group that at the December meeting, there was much discussion regarding whether the board should include the language at the top of page 4 of the agenda packet in the periodic review under "unprofessional conduct". There were several points made during the December discussion. One point centered on whether the language was needed at all since 54.1-3316 (13) of the Code of Virginia appears to give the Board sufficient authority to act on concerns with current pharmacy working conditions. A second point was that the language was necessary and should be included in the periodic review, and a third point of discussion focused on whether the language was too broad or subjective and if the language could be revised to be more specific. The board ultimately voted to include the language in the periodic review for consideration, but to also convene a workgroup to further address the subject. She stated the goal of the workgroup meeting was to focus on the language at the top of page 4 of the agenda packet and offer a recommendation back to the full board for its consideration. She opened the floor to discussion asking members to comment if they believed the language at the

top of page 4 adequately addresses concerns with current working conditions or if it is too subjective to enforce. If too subjective, how would the members revise the language; and, are there other issues that need to be addressed that are not included in the language?

DISCUSSION:

Warriner commented that additional wording is needed for better understanding by the frontline workers. She stated that the American Pharmacists Association Well-Being Index Report ranked Virginia 20<sup>th</sup> in State Distress Percent in May 2020 and that it now ranks Virginia 12<sup>th</sup> in the country for distress.

Patricia Richards-Spruill stepped out of the room briefly for an emergency phone call. Discussion continued.

There was a shared consensus amongst the committee that additional language in regulation would be beneficial to address current working conditions.

Warriner stated that the layers of review in the current inspection and disciplinary process can remove subjectivity.

St.Clair commented that it may be difficult for an inspector to identify sufficient staffing during inspections.

Kristopher Ratliff does not think it is realistic for the Board to look at dispensing errors to assess the working environment of a pharmacy because errors are under-represented in additional handouts. Cindy Warriner believes layers of the process can remain subjective to the reader.

Ratliff commented that it is not sufficient to assess an environment based on dispensing errors as errors are underreported.

Allison-Bryan recommended language allowing pharmacists to be involved in staffing decisions and development of quotas.

Beckner commented that pharmacists not having a voice is contributing to burnout.

Beckner commented that independent pharmacies are more likely to have in-house pharmacists involved in the scheduling than chain pharmacies. Lowe stated Walgreens authorizes pharmacist and technicians to reach out regarding staffing and are actively recruiting

staff with a budget that is as high as its ever been.

Bolyard commented that District Leaders do not have control over staffing and that it's based previous numbers and projections. Nothing is done with staffing suggestions.

St. Clair discussed limiting staffing collaboration to the Pharmacist-In-Charge (PIC). He recommended implementing a staffing request form similar to Oklahoma which was referenced in Warriner's handouts. He stated they could be maintained in the pharmacy for inspector review.

Ratliff reminded the group that current regulation requires the PIC or pharmacist on duty to control all aspects of the practice of pharmacy.

Richards-Spruill commented that the profession is going to start losing good pharmacists if something is not done. She recommended that a staffing form should be in an electronic format.

Warriner recommended the Board issue a Statement similar to Missouri's that was included her handouts.

**MOTION:**

**The workgroup voted unanimously to recommend to the full board that it adopt a Notice of Intended Regulatory Action at the March board meeting that would include language for unprofessional conduct akin to:**

- **Failure to provide a working environment for all pharmacy personnel that protects the health, safety, and welfare of a patient including:**
  - **Sufficient personnel to prevent fatigue, distraction or other conditions that interfere with a pharmacist's ability to practice with reasonable competency and safety or creates an environment that jeopardizes patient care;**
  - **Appropriate opportunities for uninterrupted rest periods and meal breaks;**
  - **Adequate time for a pharmacist to complete professional duties and responsibility including:**
    - **Drug utilization review;**
    - **Immunization;**
    - **Testing;**
    - **Counseling;**
    - **Verification of the accuracy of a prescription;**
    - **All other duties required in Chapters 33 and 34 and Regulations Governing the Practice of Pharmacy**
  - **Introducing external factors such as productivity or**

production quotas or other programs to the extent that they interfere with the ability to provide appropriate professional services to the public.

- Failure to take appropriate action regarding safety and welfare on issue escalated by staff practicing at this location. (motion by St.Clair, seconded by Richards-Spruill)

**MOTION:**

The workgroup voted unanimously to recommend to the full Board that it amend 18VAC110-20-110(B) to change “six” to “eight” such that it would read “...and shall allow at least eight hours of off-time between consecutive shifts.” (motion by Ratliff, seconded by Beckner)

**MOTION:**

The workgroup voted unanimously to recommend to the full Board to adopt regulation akin to Oklahoma Section 535:15-3-16:

- In order to ensure adequate staffing levels a staffing form shall be available in each pharmacy. A copy of this form, when executed, shall be given to the immediate supervisor and a copy must remain in the pharmacy for Board inspection.
- Such form shall include the following:
  - Date and time the inadequate staffing occurred;
  - Number of prescriptions filled during this time frame;
  - Summary of events; and
  - Any comments or suggestions.
- Such forms are not to be sent to the Board.
- Pharmacy personnel shall complete the form when:
  - Personnel is concerned regarding staffing due to:
    - Inadequate number of support persons; or
    - Excessive workload.
- Completing the form may enable management to make a better decision concerning staffing.
- If the PIC believes the situation warrants earlier Board review, the PIC shall inform the Board.
- Each pharmacy shall review completed staffing reports and address any issues listed, documenting any corrective action taken or justification for inaction to assure continual self-improvement. If the issue is not staffing-related, measures taken to address the issue should be described.
- Each pharmacy shall retain completed staffing reports until reviewed and released by the Board. Such reports requiring further review may be held by the Board and may become part of an investigation.
- Pharmacy personnel shall not be subject to discipline by the employing pharmacy for completing a staffing report in good faith. (motion by Warriner, seconded by Beckner)

**MOTION:**

The workgroup voted unanimously to recommend to the full Board that it develop a form similar to the Oklahoma staffing form that could be completed optionally by pharmacy personnel prior to a regulatory requirement mandating use of the form. (motion by

Warriner, seconded by Ratliff)

**MOTION:**

The workgroup voted unanimously to recommend to the full Board that it draft a Guidance Document to be sent as a standalone email and in the Board e-newsletter that frames the Board's concern with current working conditions, interprets relevant laws and regulations, encourages complaints to be filed for possible violations, and encourages use of a Board-prepared optional staffing form. Two weeks following this notification, the Board should send an email to licensees encouraging participation in the APhA wellness survey. (motion by Ratliff, seconded by Warriner)

Bolyard requested an update on processing times for pharmacy technician trainee applications. Juran and Logan indicated that they do not exceed 30 days as suggested, but may be around 15-20 days. Juran stated that she recently reminded VACDS membership that a registration is not required when onboarding a new employee didactically. Registration is only required prior to performing duties of a pharmacy technician in the pharmacy.

**ADJOURN:**

With all business completed, the meeting was adjourned at 2:50PM.

  
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CHERYL NELSON,  
CHAIRMAN

3-15-22  
DATE

  
\_\_\_\_\_  
Caroline D. Juran, Executive Director

3/15/2022  
DATE