



California State Board of Pharmacy

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STATE AND CONSUMER SERVICES AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
GRAY DAVIS, GOVERNOR

LICENSING COMMITTEE MEETING MINUTES

Amended
June 19, 2000

PRESENT: Holly Strom, Chair
Donald Gubbins, Board Member
Patricia Harris, Executive Officer
Virginia Herold, Assistant Executive Officer
Robert Ratcliff, Supervising Inspector
Ruta Arellano, Exam Coordinator
LaVonne Powell, Legal Counsel

The meeting was called to order at 9:00 a.m.

A. OLD BUSINESS

1. Report on Application/Licensing Statistics

A copy of the May application/licensing statistics was provided; however, the report was not discussed.

2. Use of Automated Devices/Technology

The committee members discussed the need for expansion of the board's authority to address requests to use automated devices beyond waivers for demonstration projects. One significant issue is facilitation of patient care in remote areas through use of technology solutions such as an automated remote pharmacy. It was agreed that the pharmacist should be the professional in control of the drugs.

ACTION: Committee will draft language for a statutory change to B&P Code section 4118.

3. Recommendation to Board Regarding Pharmacist Manpower Issues

The committee members discussed the information gathered at the two forums. They determined that reciprocity is being addressed with the completion of the board's regularly scheduled job analysis and its planned review of the NABPLEX.

With regard to technician ratio issues, the committee noted that the board's Quality Assurance Program legislation addresses concerns regarding error rate problems if errors are attributed to pharmacy personnel. At this time, the committee acknowledges the issue of pharmacist shortage and will continue to review the issue and seek statutory or regulatory changes where feasible to address this problem.

4. Status of Job Analysis on California Pharmacist Licensure Examination

The board's 1999 job analysis has been completed and the new content outline will be used for the first time for the June 2001 examination administration.

5. Review of Comments on Proposed Regulation Section 1714.5

There will be a meeting of the commentators (Kaiser and CSHP) and board staff to work out a draft proposal to amend the language as noticed.

6. Fourth Report on UCSF Study to Evaluate Technician Training

Peter Ambrose of UCSF School of Pharmacy (UCSF) provided the board with the fourth status report on an experimental program to evaluate pharmacy technician performance checking unit-dose cassettes in a hospital setting. The program is being sponsored by UCSF in conjunction with Long Beach Memorial Medical Center.

In phase two of the study, audits of the accuracy rates for the participants were conducted for three months. The target for accuracy was 99.8% and each participating technician achieved this rate.

This item was for information only. No discussion took place at the meeting.

7 Project Timeline for Review of NABPLEX

The board's review of the NABPLEX will begin when the NABP completes its review of the exam. The board will use the services of the DCA Office of Examination Resources. A status report will be provided at the next meeting.

B. NEW BUSINESS

1. Licensure of Pharmacies on Indian Reservations

Staff Counsel LaVonne Powell advised the committee members of the most recent events in the matter of the Hoopa Tribe's request to operate a pharmacy on tribal land without employing a California-licensed pharmacist. This pharmacy plans to service patient on and off the reservation. It also want to operate through a memo of understanding with the board and without a California licensed pharmacist-in-charge. Ms. Powell stated that the request for a memorandum of understanding and to operate without a California license is not consistent with California Pharmacy Law.

2. Licensure of Limited Liability Companies as Owners of Board-Licensed Sites

It has been staff counsel's advice that the board could not license limited liability companies (LLCs). At one time the board considered sponsoring legislation that would authorize LLCs to own facilities; however, because of the controversial nature of the proposal, the board decided not to pursue the legislation.

Based on previous legal analyses, the board has not licensed facilities that are owned by LLCs. However, Staff Counsel LaVonne Powell advised the committee that in a recent court decision the definitions of vocation and license were made clear. Ms. Powell stated that the pharmacy license is a hybrid of a business license and a professional license (site permit and RPh) because a licensed pharmacy is where the profession of pharmacy is practiced. (B&P Code section 4037)

Because of this recent decision, the board may want to reconsider its position. The committee requested that Ms. Powell provide a written legal analysis on the matter for the committee's consideration.

3. Medi-Cal Fraud – Pharmacy Licensure

An LA Times article dated May 30, 2000, focused on the losing battle being waged against criminals who are committing fraud in the Medi-Cal program. According to J. Alan Cates, head of the governor's Medi-Cal Fraud Prevention Program, a disturbing new trend in fraud includes suspect pharmacies in neighborhoods that were once home to many medical supply shops.

This item was for information only. No discussion took place at the meeting.

4. Request for Waiver of 1717(e) for Delivery of Medications to Mental Health Clinics

The committee members discussed the requests received from Santa Clara Valley Medical Center and Rite Aid Store #5687 regarding delivery of medications and the possible need for a board-granted waiver for depoting drugs.

The committee determined that input from Robert Erter of Rite Aid would be sought by Executive Officer Patty Harris in order to clarify whether this is a delivery or depoting situation and also the number of prescriptions that are being transported. It appears that a waiver may not be needed.

With regard to the Santa Clara Valley Medical Center, the committee determined that an inquiry should be made to determine if the procedures listed in the correspondence are current. If the procedures listed accurately reflect what happens with the prescriptions, the committee will recommend to the board to grant a waiver for depoting drugs.

ACTION: Seek information to clarify procedures at the Santa Clara Valley Medical Center. Absent significant information that would put a granting a waiver in doubt, the committee recommends to the board to grant Santa Clara Valley Medical Center a waiver to depot prescription medications.

5. Licensure of Out-of-state Pharmacists Who Provide Clinical/Cognitive Services

The committee members discussed whether an out-of-state pharmacist must have a California board-issued license to provide cognitive services to patients in California. The conclusion was that a California license is needed.

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6. Implementation of “Telephone Medical Advice Service Providers”

Assembly Bill 285 (Chapter 535, Statutes of 1999), which became effective January 1, 2000, requires telephone medical advice services to be registered with the Department of Consumer Affairs (DCA). To qualify for registration, the business entities providing telephone medical advice services must meet requirements that pertain to: appropriate licensure of staff providing services for the state within which they provide services, California registration for nurses providing the services, the quality of service being provided and maintenance of records relating to the services.

The committee discussed pending legislation and proposed amendments that would limit the advice to triage (i.e., intervention on a presenting problem). Since pharmacists are not in the legislation, they are not required to be registered. However, in order for pharmacists to provide cognitive services and are not part of a non-resident pharmacy, the pharmacist must be licensed in California. They noted that California board-licensed pharmacists should be allowed to give advice without being listed in the legislation.

ACTION: The committee member will watch the amendments to the legislation and report to the board at its July 2000 meeting.

7. Review of Strategic Planning Goals for 2000-2001

The committee members reviewed and discussed the board’s Strategic Plan objectives for the licensing section. The objectives listed for action in 2000 and 2001 were verified.

8. Revision of the Intern/Preceptor Manual

Assistant Executive Officer Virginia Herold reported that the last full revision of the Intern/Preceptor manual was completed in 1993 and an updated version was printed in 1995. We are currently out of stock.

The committee members discussed how the next edition would be edited and whom should be included to assure that the manual reflects current practice.

9. Prescriber Dispensing

The committee members discussed the correspondence received from Joseph Grasela regarding prescriber dispensing. The committee concluded that regardless of what it might be called, dispensing by a prescriber is not prohibited. While pharmacy law authorizes prescriber dispensing, it does not authorize a group of physicians to administer and dispense from a common stock.

The meeting adjourned at 11:45 a.m.