

BOARD MEMBERS

Dennis Lewis, President
John J. Bernabei, Vice President
Vicky Skaff, Secretary
*Everett Frazier **
*Chuck Jones**
Sam Kapourales
Kim Knuckles
*(*Public Member)*



www.wvbop.com

STAFF

David E. Potters,
Executive Director &
General Counsel

Betty Jo Payne,
Asst. Executive Director

Michael L. Goff
CSMP Administrator

Office

2310 Kanawha Blvd. East
Charleston, WV 25311

Phone

(304) 558-0558
(304) 558-0572 (fax)

MINUTES OF THE WEST VIRGINIA BOARD OF PHARMACY
CHARLESTON, WEST VIRGINIA, FEBRUARY 23, 2017

The Board convened in the Board Office Conference Room, 2310 Kanawha Boulevard, East, Charleston, West Virginia, at 10:00 a.m., on Wednesday, February 15, 2017, with President Dennis Lewis presiding. Present at the meeting in person were Board members: Vicky Skaff and Chuck Jones; the following Board members were present by teleconference on speakerphone: President Lewis, John J. Bernabei, Everett Frazier, and Kim Knuckles. Sam Kapourales was unable to attend. Staff present in the office were Executive Director and General Counsel Dave Potters, Assistant Executive Director Betty Jo Payne. Staff present on the conference call were Board Inspectors, Buck Selby, Roger Shallis, and Don Klamut; and Board Investigators Fred Wagoner and David Lucas.

Members of the public attending the meeting Chris Weikle of LGCR Government Solutions representing Rite Aid and Pfizer, Matt DiLoreto of HDA, and Sherrie Armstrong with Thomas, Combs and Spann, PLLC Attorneys at Law.

Mr. Lewis stated that a quorum was present, and noted that proper notice of this meeting had been filed with the Secretary of State and posted on the Board's website. The Agenda was also posted on the Board's website and made available through the Office. Mr. Lewis opened the meeting with prayer.

First, the Board addressed public comments received to the changes to Legislative Rule 15 CSR 7 including changes for high school students in high school pharmacy technician training programs to be eligible for registration as PTTs. Only one comment was received from the students at Fayette Institute of Technology thanking the Board for the action it took to allow them to obtain experiential education as PTTs. As such, the Board made no modifications or changes to the rule. Vicky Skaff made a motion to approve the response to public comments and file the rule with the Secretary of State and Legislative Rulemaking Review Committee with no modifications or changes, seconded by Chuck Jones. All in favor, with no votes against, motion passed.

Next, the Board reviewed the first draft of changes to Legislative Rule 15 CSR 2 regarding suspicious order reporting. The changes largely incorporate a Virginia-style rule that wholesalers report when they cut off a pharmacy or other registrant from service due to suspicious order reporting. The rule expands on it by requiring them to also report if they refuse

to serve a pharmacy or other registrant due to suspicious orders. Finally, it would require wholesalers with no suspicious order reports to file a zero report, and identify the person making the decision for reporting and the parameters for the finding of a suspicious order report. Vicky Skaff made a motion to proceed forward with the changes as drafted and to circulate them to stakeholders for input, seconded by Chuck Jones. Mrs. Skaff indicated she likes the form that Virginia uses for cessation of services due to suspicions orders. All in favor with no votes against, motion carried. President Lewis then indicated that he would like to communicate to the Legislature what we are working on with these rules revisions. Matt DiLoreto from HDA then spoke to say that HDA is ready to work on this project as a resource for the wholesalers, and would seek their input.

The Board then took up the discussion of the CSMP Advisory Committee recommendation that prescribers be required to check the CSMP prior to prescribing any controlled substances. Discussion centered on the technology in its current form and that it is not yet fully built into the workflow of the prescribers. President Lewis also indicated that he had spoken to prescriber and pharmacy stakeholders, and that this may be too broad of a requirement at this time to get passed in the Legislature, and that something more doable may be to require a prescriber to check the CSMP before writing a new prescription for a Schedule II controlled drug that the patient had not previously had. The natural question will then be will pharmacies also be required to check. JJ Bernabei made the point that prescribers are already required to check any time they prescribe for chronic, nonmalignant, non-terminal pain, and are able to voluntarily check more often than the law requires in their judgment. He, too, iterated a concern that it is too cumbersome at this time to check on every prescription or a controlled substance and it would affect patient access. Kim Knuckles agreed concerning the law already in place, and that we currently have no way of knowing from the system who is and who is not complying on a global basis (we can only check in a specific investigation on whether a prescriber has run a report or not); thus, she is not in favor of adding more restrictions at this time. Motion was made by President Lewis that the Board consider taking no action at this time given the state of the technology and future advancement goals, seconded by Mrs. Skaff. All in favor with no votes against, motion carried. Chuck Jones asked that this decision be communicated to the Advisory Committee.

Next, the Board addressed the request of the Attorney General's Office for input on whether to reschedule gabapentin (currently unscheduled), pregabalin (currently a CV), and benzodiazepines (currently CIV's) all to CIII. President Lewis and Everett Frazier discussed their concerns that making gabapentin a controlled drug would cause problems with patient access, and that the Board should stay with its recommendation that it be a drug of concern. With regard to pregabalin, Vicky Skaff expressed that she would not have a problem with making it a drug of concern as well. Mrs. Skaff also expressed a desire to see data on pregabalin being abused or involved in overdoses. President Lewis and JJ Bernabei discussed that with them already being scheduled, they saw less of a patient access issue with moving pregabalin (which is similar in use to gabapentin) and benzodiazepines to Schedule III. Kim Knuckles agreed with there being no such issue with such a move. A motion was made by Mr. Bernabei to respond to the Attorney General that the Board would support a move of pregabalin and benzodiazepines to Schedule III, but to keep the recommendation that gabapentin be made a drug of concern for monitoring in the CSMP, seconded by Kim Knuckles. All in favor with no votes against, motion carried.

In announcements, President Lewis indicated that the Legislature is discussing better use of data in the CSMP, and that one potential such use would be to allow employers of prescribers

to have access to check on the behavior of those employee prescribers. Mr. Potters then announced that he had received a Notice of Intent to File Suit against the Board and him up to the levels of insurance coverage in the various wholesale litigation being brought by several counties and cities. The Board will have to wait until it gets the actual suit to see the allegations. Mr. Potters has forwarded the Notice to BRIM for insurance coverage and defense.

Motion was made by Kim Knuckles to adjourn, seconded by JJ Bernabei. President Dennis Lewis declared the meeting adjourned.

Adjourn.

Dennis Lewis, President
West Virginia Board of Pharmacy