

Monday April 28th, 2014

Meeting Conference Call Meeting

Agenda - Monday April 28th, 2014 - 8:30 PM
ND Board of Pharmacy Office 1906 East Broadway – Conference Room

CALL – 1-800-423-1988 Under the Name: MARK HARDY
Conference # 1637537

Topic: Article 61-02-01- New Rules being considered
Chapter 61-02-01-18 Continuous Quality Improvement
Attorney General's Opinion on 61-02-01-18 Continuous Quality Improvement –
potential resending of CQI portion of the rule

President Halvorson called the meeting to order via teleconference at 8:38PM.

Present on the teleconference meeting were President Diane Halvorson, RPhTech, Fran Gronberg, Public Member; Laurel Haroldson, RPh; Gary Dewhirst, RPh; Bonnie Thom, RPh; Howard Anderson Jr, RPh, and Executive Director Mark Hardy, PharmD.

Not present on the teleconference were members Shane Wendel, RPh and Gayle Ziegler, RPh.

Executive Director Hardy explained the reason for the meeting and referenced the Attorney General opinion sent via email to the Board Members. Pharmacist Anderson provided the context of a conversation had with the Assistant Attorney General Edward Erickson on the legal issues with the Continuous Quality Improvement portion of the rule and provided options to the Board Members.

The issue is outlined below in a portion of an email received from Mr. Erickson:

Earlier today we discussed proposed new NDAC 61-02-01-18, concerning continuous quality improvement for pharmacies. In my review of the Board's proposed rules for legality, I noticed that this rule included provisions protecting a pharmacy's self-audit and quality control information from subpoenas or court discovery. This provision is much different, legally, from a pharmacist's duties regarding patient confidentiality because the Board's rule would be regulating the courts instead of pharmacists.

These provisions require clear statutory authority. Authority to bind the courts is not contained in the Pharmacy Practice Act. We discussed NDCC chapter 23-34, which provides subpoena and discovery protection for peer reviews for certain institutions and physicians. It had been your intent to have proposed NDAC 61-02-01-18 come under these laws. However, as we discussed, chapter 23-34 does not apply to pharmacies, and this law would have to be amended before the Board could use it as authority for a rule such as proposed NDAC 61-02-01-18.

Board members agreed that we do not want to implement a requirement to collect Quality Related Events with the implications that it could be discoverable.

Board members also recommended the Board look at the statutory changes that could be made during the next session before we move forward with this rule in the future.

It was moved by Pharmacist Dewhirst to rescind the proposed rule in its entirety contained in NDAC 61-02-01-18 related to a continuous quality improvement program. Public Member Gronberg seconded the motion. All member present voted Aye. Motion carried.

It was moved by Pharmacist Thom to adjourn the teleconference meeting. It was seconded by Pharmacist Haroldson. All members present voted Aye. The teleconference ended at 8:55PM

Diane M. Halvorson, RPhTech.
President

Gary W. Dewhirst, R.Ph.
Senior Member

Member
Bonnie J. Thom, R.Ph.

Member
Gayle D. Ziegler, R.Ph.

Member
Laurel A. Haroldson, R.Ph

Member
Shane R. Wendel, R.Ph.

Member
Fran Gronberg

Executive Director
Mark J. Hardy, PharmD