



**BOARD OF PHARMACY**  
State of North Dakota

John Hoeven, Governor

**OFFICE OF THE EXECUTIVE DIRECTOR**

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Howard C. Anderson, Jr, R.Ph.  
Executive Director

Gary W Dewhirst, R.Ph.  
Hettinger, President  
Rick L. Detwiller, R.Ph.  
Bismarck  
Bonnie J. Thom, R.Ph.  
Granville  
Laurel Haroldson, R.Ph.  
Jamestown  
Gayle D. Ziegler, R.Ph.  
Fargo

William J. Grosz, Sc.D., R.Ph.  
Wahpeton, Treasurer

**INDUSTRY, BUSINESS AND LABOR COMMITTEE  
HOUSE BILL # 1299 – STUDY OF REGULATION AND  
LICENSING OF PHARMACISTS**

Chairman Rick Berg, Members of the Interim Industry, Business and Labor Committee, thank you for the opportunity to appear before you today.

I will attempt to answer your questions as stated in the study requested by House Bill #1299.

When some of the legislators in a couple of your committees discovered that not every pharmacist in the state was in agreement with the way things were done in North Dakota, and the question arose for a study, our Board welcomed the opportunity to look at itself and have you view the operations of the Board, and the requests indicated by House Bill #1299 – as we can all learn something by looking at ourselves and finding out what other people think.

As another example of the prescience of the North Dakota Legislature, in deciding to look at some of this information during the 2007 session, we recently received a request from a reporter with "USA TODAY" who asked 29 questions, many of them very similar to the questions you have in House Bill #1299. I am including a copy of his request, as well as my response to him and his questions.

I realize you all have law books, and know how to use them. However, for ease of reference I am providing some copies of our Pharmacy Practice Act to make it easier to refer to them during my testimony.

The Board of Pharmacy is currently made up of five pharmacists appointed by the Governor for five year terms. Although there are no legislative limits on the number of terms served, the Pharmacists Association, who is responsible for the nominations to the governor, for being sure he has three names to choose from, has enforced an arbitrary limit on themselves of two full five year terms. Occasionally, someone serves the remainder of an un-expired term and then is reappointed for a second five year term and therefore serves more than the normal ten years.

I have included a list of current Board Members and information on past Board Members and their employment history.

Gary W. Dewhirst, R.Ph. is a pharmacist working for Thrifty White Drug in Hettinger, ND. Gary previously owned the store but sold it a few years ago to Thrifty White, after his appointment to the board and has since then been reappointed to the board.

Bonnie J. Thom, R.Ph. worked for Trinity Hospital in Minot, ND, does consulting for several nursing homes, and is a co-owner of Velva Drug with her daughter.

Laurel Haroldson, R.Ph. from Jamestown, ND, works for Walz Pharmacy in Jamestown.

Gayle Ziegler, R.Ph., our most recent appointment to the Board of Pharmacy, is a hospital pharmacist at MeritCare South Campus in Fargo, ND.

Rick L. Detwiller, R. Ph. has managed several independent retail pharmacies in the past and currently manages the sterile products compounding pharmacy and out-patient pharmacy for St. Alexius Medical Center in Bismarck, ND.

Dewey Schlittenhard, R.Ph. served for seven years on the Board of Pharmacy, and currently is the Vice President, Heart/Vascular & Professional Services at St. Alexius Hospital.

Harvey J. Hanel, Pharm.D., R.Ph. was a hospital pharmacist, went on to teach at North Dakota State University College of Pharmacy, worked as a trainer for a small group of retail pharmacies and now is the pharmacist at Workforce, Safety, and Insurance.

David J. Olig, R.Ph. owns and operates Southpointe Pharmacy in a Clinic in Fargo, ND.

Patricia M. Churchill, R. Ph. owned a couple of pharmacies along with her husband, Jim Churchill, R.Ph., and has since sold those pharmacies and works for Thrifty White in Mandan, ND.

Board Appointment is described by NDCC 43-15-03 [page 86] and the term of office by 43-15-04, Board Compensation 43-15-05 and the Organization of the Board in 43-15-06 [page 87]. The Powers of the Board of Pharmacy are listed in 43-15-10 [pages 87-90] and 43-15-12 indicates that the Board of Pharmacy may submit a Biennial Report to the Governor and Secretary of State. I am also including one for you in this packet for your perusal.

The statute goes on to describe the North Dakota Pharmaceutical Association and how it is governed in 43-15-13.1 [page 90]. You will notice that the Association was incorporated on December 14, 1886 and has been in continuous operation since that time.

You can see from the Board Member job descriptions that the Governor has been attentive to the broad spectrum of background and employment of the pharmacists, as well as gender distribution on the Board of Pharmacy. To my

knowledge, this is the second time that the Board has had a majority of women. The first time being in the late 80s to early 90s.

The North Dakota State Board of Pharmacy has been considering placing a Registered Pharmacy Technician on the Board, as we have been registering them since 1994 and they take a very active part in our practice in North Dakota.

They are WELL trained and many of them are very interested in the practice of pharmacy and it's effect on their patients. It also seems to be standard across the country to have a consumer member on boards, and we could add a consumer member at the same time we are changing the legislation to add a technician. Our Board has been previously reluctant to expand the number of members due to the additional costs of having the additional members. But, our financial position is a little better than it has been in the past, so we could afford to expand the Board and manage just fine. If this committee would be interested, I have included a draft of what the legislation might look like to make these changes, and it could certainly come through this committee if you prefer. (copy enclosed)

Let's talk a little about demographics in pharmacy. You are all familiar with the demographic situation in your various districts. You have a state demographer who is much better with the details of demographics than I. As with most services and industries, the businesses tend to follow the people. As we have seen the populations of Fargo and Bismarck grow, mostly at the expense of the rural areas in North Dakota, pharmacists and pharmacies have also moved to those areas.

Seven years ago, the North Dakota Pharmacists Association and the Board of Pharmacy met and discussed this issue. We devised an alternative called Telepharmacy. This telepharmacy model is somewhat unique in the nation and has become the model which other states have looked to for providing services to their rural areas. I am including a short history, which was written and is available on the telepharmacy website, which is maintained by the North Dakota State University College of Pharmacy, another partner in the A-B-Cs of Pharmacy in North Dakota, being the Association - Board - College. This very important partnership has worked to extend pharmacy services, through telepharmacy, to communities that have lost, or were about to lose their pharmacy. We have also been able to extend services into a few communities that had never had pharmacy services. I will not go into a long discussion about telepharmacy, but suffice it to say that the partnership of the Association - Board - College in North Dakota has served to extend the pharmacy services, with the help of a well trained Registered Pharmacy Technician, to communities who would otherwise not have pharmacy services, primarily due to the demographic shifts. These telepharmacies are all owned by North Dakota Licensed Pharmacists or by companies controlled by those North Dakota Licensed Pharmacists.

The North Dakota State Board of Pharmacy, the North Dakota Pharmacists Association, primarily through it's health systems pharmacists group, and the



North Dakota State University College of Pharmacy have just this year embarked on a significant project to extend pharmacy services to the many rural critical access hospitals who do not currently have full time pharmacists services. Our goal is that every medication order is reviewed by a pharmacist before the medication is administered to the patient. This goal has been demonstrated by research around the country to be in the best interest of the patient, and we want that for every patient in North Dakota.

When the North Dakota Board of Pharmacy considers rules and regulations for the support of the current laws in place, we consider two things. One of those things is the effect those rules and laws will have on patients of North Dakota to provide good quality professional pharmacist services and the access to those services, which we have worked hard to make available both in the large cities and the rural areas.

The North Dakota Board of Pharmacy has been supportive of the laws the legislature passed in 1963 to require that ownership and control of North Dakota pharmacies be in the hands of the licensed professional pharmacist who have taken an oath to serve the patient, so that service to the patient is upper most in the pharmacists' professional life. Discussions with other boards of pharmacy, as we attend meetings around the country, continue to reinforce in our minds that having the professional pharmacist in control of the pharmacies is good for the patients. When regulatory issues arise, we seldom have to fight with non-pharmacist corporate administrations, but deal directly with the pharmacists who are in control of the business and whose primary concern is and always will be their patient's welfare.

Howard C. Anderson, Jr, R.Ph.  
Executive Director



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Jamestown, President  
Gary W. Dewhirst, R.Ph.  
Hettinger, Senior Member  
Rick L. Detwiller, R.Ph.  
Bismarck  
Bonnie J. Thom, R.Ph.

Granville  
Gayle D. Ziegler, R.Ph.  
Fargo  
William J. Grosz, Sc.D., R.Ph.  
Wahpeton, Treasurer

June 30, 2008

Kevin McCoy  
USA TODAY-Editorial Department  
535 Madison Avenue  
New York, NY 10022

Dear Mr. McCoy:

I must say, you have quite an extensive information request. Doing all that information justice, will take several issues of the USA TODAY. If we had many requests like yours we would have to hire an extra person to get all the information to you. Therefore we cannot provide the information free of charge but are charging you by the hour for the temporary help we have on hand plus \$.25 per page of copy as allowed by North Dakota law. We hope you will provide the remittance "soon" just as your request indicated.

In answer to your questions we have provided you with copies of the financial information from the audited financial statements for the last five years. There is a typical list of board members which we publish in our annual report and it has been included.

We typically have just one support staff in the board of pharmacy office, although just this last year we have begun operating the prescription drug monitoring program for North Dakota and we have 1.2 FTE's to operate that program.

All of our board members are appointed by the governor and all of them are pharmacists. Our board of pharmacy has recently decided to attempt to expand that to include one registered pharmacy technician and one public member. This has not been through the legislative process, as yet.

Boards members that have served the last five years are as follows with their appointment dates indicated:

Gary W. Dewhirst, R.Ph.	Hettinger	Term expires 2008	Appointed 2001
Bonnie J. Thom, R.Ph.	Granville	Term expires 2009	Appointed 2004
Laurel Haroldson, R.Ph.	Jamestown	Term expires 2010	Appointed 2005
Gayle Ziegler, R.Ph.	Fargo	Term expires 2011	Appointed 2008

Rick L. Detwiller, R. Ph.	Bismarck	Term expires 2012	Appointed 2002
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Other members in past 5 years:

Dewey Schlittenhard, R.Ph.	Bismarck	Resigned 2008	Appointed 2001
Harvey J. Hanel, Pharm.D., R.Ph.	Bismarck	Term expired 2005	Appointed 1995
David J. Olig, R.Ph.	Fargo	Term expired 2004	Appointed 1994
Patricia M. Churchill, R. Ph.	Bismarck	Term expired 2002	Appointed 1992

We do not have their complete employment histories although we can report their current employment.

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Dewey Schlittenhard, R.Ph. served for seven years on the Board of Pharmacy, was appointed when he was the out-patient pharmacy manager for MeritCare Hospital in Fargo, and currently is the vice-president of Ancillary Services at St. Alexius Hospital.

Harvey J. Hanel, Pharm.D., R.Ph. was a hospital pharmacist, went on to teach at North Dakota State University College of Pharmacy, worked as a trainer for a small group of retail pharmacies and now is the pharmacist at Workforce, Safety, and Insurance.

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The terms of board members are typically 5 years unless someone resigns early or moves out of state. The Pharmacist Association, which provides the nominees to the governor, has enforced upon themselves an arbitrary limit of two five-year terms although there is no limit in the statute or rule.

I typically use two or three contract employees to do inspections and investigations, and since we are a small state go myself if that is necessary. All of our investigative staff are pharmacists.

The North Dakota State Board of Pharmacy oversees a total of 235 pharmacies:

Hospital pharmacies=48	Retail pharmacies=170	Tele-pharmacies=17
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As of the date of this letter this is the most current statistics:

Pharmacists-770 ND; 1214 Out-of-state

Interns-369	Technicians-567	Wholesalers-623
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We inspect our pharmacies every year with unannounced inspections, although it is a little difficult to keep it secret when the inspector is in the area, everyone seems to



know. We do send out a pre-inspection report for completion by pharmacies and that is reviewed by the inspector when he arrives over the announced next two or three months.

I have included copies of the board orientation manual relative to conflict of interest issues.

The current executive director is hired by the board of pharmacy. The current executive director of the Board of Pharmacy graduated in 1968 from the NDSU College of Pharmacy, owned and operated a pharmacy in North Dakota and one in Montana, and was also the consultant pharmacist for a small rural hospital. He served on the North Dakota Board of Pharmacy as an appointed member from 1984 to 1994. He served as the executive of the North Dakota Pharmacist Association from 1991 to 1997 when he became the executive director of the North Dakota State Board of Pharmacy.

Board meetings are not typically recorded with audio or video. Minutes are taken and approved at the next meeting by the Board of Pharmacy. Hearings held for disciplinary reasons or rule hearings are typically recorded and the recording is kept for 60 days according to North Dakota law or until the appeal process has run its course. Transcripts are not typically made of these recorded meetings unless specifically requested by one of the participants.

Complainants are always permitted to appear and speak or testify at disciplinary proceedings conducted by the board. They are usually subpoenaed if we have a formal hearing. North Dakota requires that all hearings be run in accordance with the North Dakota Administrative Practices Act.

Recent legislation which the board has helped draft, has supported, and which significantly affect consumers or pharmacies are: the 2007 Prescription Drug Repository Program legislation and legislation to begin a Prescription Drug Monitoring Program for North Dakota. The wholesaler licensing legislation was redone in the 2007 session requiring pedigrees for drug products with the goal of preventing counterfeit or substandard drug products being introduced into the distribution chain. Over the last five years the board has adopted rules and worked on the implementation of those rules to develop 17 Tele-pharmacies in North Dakota to provide pharmacy services to communities which had lost or were about to lose their pharmacy. This rule allows a registered pharmacy technician to be in a small community preparing prescriptions under the computer, audio, and video supervision of the licensed pharmacist who is at a different location. The patient is then consulted by the pharmacist via the audio and video link. We are now currently implementing a Tele-pharmacy-in-Hospitals project which will extend pharmacy services to many of our critical access hospitals currently operating with only one pharmacist, or often a consultant pharmacist, on a part-time basis.

The board has been supportive of several pieces of legislation which the legislature has enacted. The North Dakota legislature is very responsive to good ideas whether they come from us or from others. I have enclosed copies of the referenced laws and rules. The board of pharmacy has made a decision to move forward with some specific pharmacy regulations along the line of USP795 and 797. We need to be sensitive that

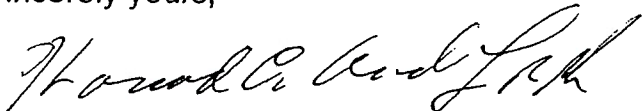
we do not force rural hospitals out of business or make regulations so strict that small communities lose services.

There have been no significant initiatives regulating pharmacies proposed, that have not been adopted.

Conflict of interest policies are always challenging in a small state where we all know each other and all do business with each other. The standard in North Dakota is that whenever a potential conflict arises that conflict should be publicly disclosed and is recorded in the minutes and then the balance of the board determines whether that board member should vote on that particular issue. We like to err on the side of getting everyone's input and allowing them to vote once the disclosure has been made public.

The board's entire budget is funded by license fees collected from our licensees whether pharmacies, wholesalers, pharmacists, technicians, interns, etc.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Howard C. Anderson, Jr.", written in black ink.

Howard C. Anderson, Jr., R.Ph.  
Executive Director

HCA/pk  
Enclosures



**CHAPTER 61-01-01  
ORGANIZATION OF BOARD**

**Section  
61-01-01-01**

**Pharmacy**

**Organization of Board of**

**61-01-01-01. Organization of Board of Pharmacy.**

1. **History and functions.** The 1890 legislative assembly passed pharmacy practice legislation codified as North Dakota Century Code Chapter 43-15. This chapter requires the governor to appoint a state board of pharmacy. The board is responsible for examining and licensing applicants for licensure as pharmacists, for issuing permits to operate pharmacies, and for regulating and controlling the dispensing of prescription drugs and the practice of pharmacy for the protection of the health, welfare and safety of the citizens of the state.
2. **Board membership.** The board consists of five members appointed by the governor upon recommendation of the North Dakota Pharmaceutical Association. The board members must be licensed pharmacists and members of the Pharmaceutical Association. Board members serve five-year terms, with one term expiring each year.
3. **Executive Director.** The executive director of the board is appointed by the board, and is responsible for administration of the activities of the board.
4. **Inquiries.** Inquiries regarding the board may be addressed to the executive director:

State Board of Pharmacy  
PO Box 1354  
Bismarck, North Dakota 58502-1354

**History:** Amended effective August 1, 1983.

**General Authority:** NDCC 28-32-02.1

**Law Implemented:** NDCC 28-32-02.1

# **MISSION STATEMENT FOR THE PROFESSION OF PHARMACY IN NORTH DAKOTA**

## **THE MISSION**

Pharmacy in North Dakota exists as a force in society for the safe, rational, and cost effective use of pharmaceuticals and medical devices. Through the provision of pharmaceutical care, the profession is responsible for the appropriate use of medications and devices to achieve optimal therapeutic outcomes. The profession endeavors to enhance the pharmacist's ability to provide pharmaceutical care as primary health care provider and to further the public's recognition of the profession's value.

## **WE VALUE**

### *SERVICE*

Pharmacy is a service profession. The philosophy of pharmaceutical care focuses on the patient as the beneficiary of pharmacists' activities. The responsible provision of pharmaceutical therapy for the purpose of achieving definite outcomes is intended to improve patient's quality of life.

### *ETHICS*

Our profession acknowledges and pursues the highest ethical standards in all endeavors. Honesty and integrity guide all interactions with patients, other healthcare practitioners, and the general public.

### *PROFESSIONAL COMPETENCE*

Our profession requires that pharmacists possess the knowledge and skills to practice pharmacy as contemporarily defined.

## **WE ENVISION**

A profession that is recognized as primary healthcare provider capable of responding to society's healthcare needs.

10:32 AM  
05/06/08  
Cash Basis

# ND State Board of Pharmacy

## Profit & Loss Budget Overview

July 2008 through June 2009

	Jul '08 - Jun 09
Ordinary Income/Expense	
Income	
Address Change	50.00
CERTIFICATES	
Duplicate/Replace Certificate	500.00
Original	1,500.00
Total CERTIFICATES	2,000.00
EXAMINATION FEES	4,000.00
HOUR CERTIFICATION	1,500.00
INTEREST	
CHECKING	1,000.00
Interest on CDs	33,000.00
Total INTEREST	34,000.00
Internship	
Board Share	4,000.00
Total Internship	4,000.00
Late Fee	10,000.00
LAWBOOKS/LISTS/DISKS	1,500.00
PHARMACISTS	
Activated License	600.00
Active	73,000.00
In-Active	6,000.00
Out-of-State	43,000.00
Total PHARMACISTS	122,600.00
PHARMACY PERMITS	106,000.00
RE-IMBURSEMENTS	0.00
RECIPROCITY FEES	2,500.00
TECHNICIAN	
Board share	9,000.00
New Technicians	2,500.00
Tech-In-Training	1,000.00
Total TECHNICIAN	12,500.00
WHOLESALEERS	100,000.00
Total Income	400,650.00
Miscellaneous Income	
NSF Replacement Payments	0.00
Re-imbursement	0.00
Stupid Tax	0.00
Total Miscellaneous Income	0.00
Total Income	400,650.00
Expense	
Caligraphy on Certificates	600.00
COMPLIANCE	35,000.00
COPIES/COPIER	3,000.00
Database Hosting Fee	22,000.00
DUES	2,000.00
EDUCATIONAL FUNDING	
Access/WorkforceStudy	0.00
NODAK Pharmacist	3,600.00
Pharm-Assist Committee	800.00
Sponsorship/Support	11,000.00
Total EDUCATIONAL FUNDING	15,400.00
Equipment Replacement	3,000.00
EXAMINATIONS	7,000.00



# NORTH DAKOTA STATE BOARD OF PHARMACY

## STATEMENTS OF REVENUES AND EXPENSES FOR THE YEARS ENDED JUNE 30, 2007 AND 2006

REVENUES	<u>2007</u>	<u>2006</u>
Pharmacist's license	\$ 122,540	\$ 122,435
Pharmacy permits	105,275	109,900
Wholesale drug license	111,950	102,150
Internship	5,280	5,410
Technician registration	12,478	11,183
Miscellaneous fees and reimbursements	24,472	26,917
Interest	<u>31,557</u>	<u>24,891</u>
Total revenues	<u>413,552</u>	<u>402,886</u>
<b>EXPENSES</b>		
Executive director salary	82,122	82,414
Travel and meetings	35,347	40,022
Secretarial salaries	37,258	32,872
Compliance and investigation	13,184	14,840
Education funding	17,969	24,137
Legal and audit	5,682	9,789
Insurance		
Health and Life	14,064	13,832
Liability	1,389	1,289
Retirement plan	10,588	10,270
Payroll taxes	8,982	8,717
Printing	3,209	9,818
Depreciation	9,597	12,130
Office supplies and postage	10,057	10,968
Rent	7,425	8,775
Examinations	4,552	5,265
Dues and Subscriptions	1,859	1,446
Data base hosting fee	3,772	2,306
Telephone	1,767	1,801
Rule hearings/publication	2,133	1,820
Miscellaneous	<u>9,544</u>	<u>11,413</u>
Total expenses	<u>280,500</u>	<u>303,924</u>
<b>REVENUES OVER EXPENSES</b>	\$ <u><u>133,052</u></u>	\$ <u><u>98,962</u></u>

# NORTH DAKOTA STATE BOARD OF PHARMACY

## STATEMENTS OF REVENUES AND EXPENSES FOR THE YEARS ENDED JUNE 30, 2005 AND 2004

	<u>2005</u>	<u>2004</u>
<b>REVENUES</b>		
Pharmacist's license	\$ 105,255	\$ 100,560
Pharmacy permits	101,150	95,350
Wholesale drug license	96,750	91,650
Internship	3,740	3,220
Technician registration	11,518	10,885
Miscellaneous fees and reimbursements	21,315	26,221
Interest	<u>12,668</u>	<u>12,899</u>
Total revenues	<u>352,396</u>	<u>340,785</u>
<b>EXPENSES</b>		
Executive director salary	78,577	76,220
Travel and meetings	43,221	32,942
Secretarial salaries	32,052	30,623
Compliance and investigation	13,085	10,669
Education funding	26,115	25,182
Legal and audit	7,222	4,613
Insurance		
Health and Life	12,218	12,218
Liability	450	2,142
Retirement plan	9,930	9,744
Vacation pay	6,763	-
Payroll taxes	8,528	8,175
Printing	699	8,520
Depreciation	11,811	7,328
Office supplies and postage	9,251	8,029
Rent	6,567	3,575
Examinations	2,449	4,368
Dues and Subscriptions	1,993	1,743
Data base hosting fee	380	1,140
Telephone	1,464	1,697
Rule hearings/publication	1,794	1,794
Treasurer stipend and expense	-	1,185
Miscellaneous	<u>4,268</u>	<u>4,915</u>
Total expenses	<u>278,837</u>	<u>256,822</u>
<b>REVENUES OVER EXPENSES</b>	<u>\$ 73,559</u>	<u>\$ 83,963</u>

See Notes to Financial Statements

**NORTH DAKOTA STATE BOARD OF PHARMACY**  
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# NORTH DAKOTA STATE BOARD OF PHARMACY

## BOARD ORGANIZATION

### OFFICERS OF THE BOARD

#### President

Laurel Haroldson, R.Ph.  
Jamestown

#### Treasurer

William J. Grosz, Sc.D., R. Ph.  
Wahpeton

#### Executive Director

Howard C. Anderson, Jr., R. Ph.  
Turtle Lake

### MEMBERS OF THE BOARD

Gary W. Dewhirst, R. Ph.  
Hettinger

Term expires May 2008

Bonnie J. Thom, R. Ph.  
Granville

Term expires May 2009

Laurel Haroldson, R. Ph.  
Jamestown

Term expires May 2010

DuWayne Schlittenhard, R. Ph.  
Bismarck

Term expires May 2011

Rick L. Detwiller, R. Ph.  
Bismarck

Term expires May 2012

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Fargo

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MEMBERS OF THE BOARD

David J. Olig, R.Ph.  
Fargo

Term expires May 8, 2004

Harvey J. Hanel, Pharm. D., R.Ph.  
Bismarck

Term expires May 8, 2005

DuWayne Schlittenhard, R.Ph.  
Fargo

Term expires May 8, 2006

Rick L. Detwiller, R. Ph.  
Bismarck

Term expires May 8, 2007

Gary W. Dewhirst, R.Ph.  
Hettinger

Term expires May 8, 2008



A NARRATIVE ON THE HISTORY OF THE DEVELOPMENT OF  
TELEPHARMACY IN NORTH DAKOTA  
FROM THE BOARD OF PHARMACY'S PERSPECTIVE  
RECORDED BY EXCERPTS FROM BOARD MINUTES

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*The topic of telepharmacy was first broached at the January 3-5, 2000, at the North Dakota State Board of Pharmacy meeting— Marvin Malmberg, R.Ph., President*

Galen Jordre, R.Ph., Executive Vice President of the North Dakota Pharmaceutical Association (NDPhA) was present to discuss some rural pharmacy initiatives, which some northern Minnesota Pharmacists have been working on. This scenario encompasses a video computer link between a remote dispensing site and a central pharmacy. A technician would be available at the remote site to prepare the prescription under the video review of the central pharmacist. The patient would also be present at the remote site to be counseled by the pharmacist before receiving the medication. This program is in pilot design in Minnesota and might work in North Dakota as well. Also discussed was the possibility that trained Pharmacy Technicians in North Dakota might serve to supervise the pharmacy during the time the Pharmacist might be gone from the pharmacy for short periods. There are several scenarios, such as supervising the pharmacy but not actually dispensing any medications until the Pharmacist returns or in the alternative, Pharmacy Technicians actually handing out the medications and keeping a log which would allow the Pharmacist to contact the patient by telephone immediately upon their return or as soon as possible to be sure that all the information that the patient needs is provided.

Board Members condescended to Executive Director Anderson preparing some satellite rules and Technician enabling rules for the Board's review at a future meeting and perhaps open discussion at the NDPhA Convention.

*Our next exposure to telepharmacy came at our May 15-18, 2000, meeting, Marvin Malmberg, R.Ph., President*

Pharmacist (Gary) Boehler presented a proposal for a Telepharmacy model, which could be used in the rural areas of ND to continue to make pharmacy services available to communities, which cannot replace their local pharmacist upon retirement.

Pharmacist Karen Fink of Jamestown Hospital asked that the board look at opportunities to support rural hospitals via a telepharmacy link.

Galen Jordre, Executive Vice President of the ND Pharmaceutical Association supported the concept of serving rural communities when possible.

The concept focused around a computer link with a main pharmacy staffed in the traditional manner and a computer, video and audio link with a remote site. The remote site would use the CPU at the main pharmacy and would be staffed by a registered

technician with one year or more of experience who would have inventory at the rural site and prepare the prescription while supervised via the video link. Once the pharmacist at the central site okays the prescription the counseling would be done by the pharmacist via the video and audio link. The consecutive prescription numbers and all prescription records would be maintained at the central pharmacy. Controlled Substances records would also be maintained at the Central Pharmacy.

It was moved by Pharmacist David Olig and seconded by Pharmacist Gary Dewhirst that the Board of Pharmacy do whatever is necessary to make the telepharmacy model happen. A pilot project of up to five sites is envisioned. All Board Members voted aye – motion carried.

*After the May 2000 Board meeting, Executive Director Howard Anderson revised the Telepharmacy Rules and the next discussion occurred at the November 2, 2000, Board meeting. Pharmacist Patricia Churchill is President.*

Executive Director Anderson presented the second revision of the Draft Tele-Pharmacy Rules. The first Draft revision had been published in the September 2000, Volume XIII, Issue No. 5 (page 11), with the intention of soliciting as much input as possible before the rules proceeded to hearing. The original Draft had also been sent to Mr. John Walstad, Code Reviser of the ND Legislative Council, for his review and suggestions. His comments and suggestions have been incorporated in this second draft. Pharmacists Lance Mohl and Bradley Morrison from Minot attended to express interest in the telepharmacy model and express concern that an investment in a telepharmacy would not be unduly terminated or that once an investment was made, five years might expire without any action. Assurance from the Board was that if the project was working out satisfactorily, the Board would develop a more permanent rule long before the five years were up. Pharmacist Al Schwindt voiced his wishes that the Tele-Pharmacy model be available for hospitals to use when patients are not located in an area which is not convenient to them to come directly to the pharmacy window. Pharmacist Schwindt also expressed his desire that we look for a telepharmacy assist in some of our rural hospitals, where the consultant or employed pharmacist may not be available full time and this could be supplemented by a telepharmacy consultation from a hospital that is staffed 24-hours a day.

Executive Director Anderson indicated that we wanted to keep these rules focused on helping to assist rural pharmacies that are closing, about to close or communities that have lost pharmacy services. It may be advisable to draft a section of this rule specifically for hospital pharmacies or to have a separate section in the Hospital Pharmacy Regulations that address telepharmacy in hospitals.

Pharmacist Dewhirst summarized the feeling of the group, that the weekly visits by the pharmacist were not necessary as long as a monthly inspection was done by visit. It was felt that a weekly visit to the rural site might be too onerous and might impede the ability of some of the central pharmacies to service rural sites.

There was considerable discussion about what constituted a service area and what areas would be allowed telepharmacies. The Board generally felt that Tele-pharmacy is not the first choice in pharmacy services. But, is an attempt to provide some limited pharmacy services to rural areas which would have nothing but mail-order otherwise.

It was the consensus of the group that the Board of Pharmacy should determine the service area on a case-by-case basis and that the Board's determination should be final in this regard.

Pharmacist Olig expressed, "This is not about *convenience* but about *access*."

Mr. David Peske of the North Dakota Medical Association was present and suggested we change the word "Ok" in Operations 4. to "approve." He also suggested that a statement be inserted somewhere in the rule to point out - "*the Board shall be the determiner of the project.*"

Some discussion followed about which classes of pharmacy permits could have telepharmacies. This will be explored, delineating the pharmacy permit classes that could be allowed to have telepharmacies.

The next step in the process was a telepharmacy rule hearing, which was held at our January 8-11, 2001 meeting. This was the first session in which Dan Halvorson and Alexander Black of IsoRx became involved and gave a presentation to the Board. Pharmacist Larry Taylor, proprietor of Maddock Drug, was present and helped to arrange the IsoRx presentation. You will see in the minutes that Pharmacist Taylor was intimately interested in telepharmacy and looking at the possibility of establishing the first telepharmacy site in North Dakota. *Pharmacist Patricia Churchill is President.*

## TELEPHARMACY RULE HEARING

At 1:00 PM President Churchill called the Tele-Pharmacy Hearing to Order as advertised. The meeting began with the demonstration by Dan Halvorson and Alexander Black of IsoRx Inc. (4130 Linden Ave, Ste 305 Dayton OH 45432 telephone (937)254-9980) Mr. Black and Mr. Halvorson had computer hardware and software set up and a video display that demonstrated how the audio and video link would work in a telepharmacy situation. Their system worked over regular telephone lines, though this required the audio and video feeds to be on separate lines. Their system would allow for a picture of the prescription, medication dispensed and the original bottle to be stored in the computer by the prescription number for future access. The pharmacy technician could then enter the data, prepare the prescription under the supervision of the pharmacist on the other end of the audio/video link and the patient could be consulted before the medication was dispensed.

Galen Jordre, executive vice president of the ND Pharmaceutical Association, asked the question about the qualifications of the pharmacy technicians. Discussion followed. The



intention is that the pharmacy technician would have one year of dispensing experience after registration as a pharmacy technician.

Pharmacist David Weber was present as an observer and had no comments.

Pharmacist Larry Taylor, owner of Maddock Drug, expressed that he thought the telepharmacy rule was needed and that he thought it can work. He has been in conversations with IsoRx Inc. and was the individual who arranged the demonstration for the Board. He indicated that he was the only pharmacist in his county (Benson) and it was 40 miles to the next pharmacy, that there were 500 people in the city, with 600 in the outlying area. He also indicated that he would like to see the Rule developed so that the central pharmacy could move. That means that the pharmacist, when he is at the telepharmacy, could then operate as the central pharmacy and the original home pharmacy could be the satellite pharmacy with the technician remaining there. Neither the Board members nor any of the others present had a problem with operating in this manner. In fact, this will allow the pharmacist to visit the remote sites on a weekly basis, while keeping all of the service intact.

It was the consensus that the remote pharmacy could serve as the central site if all other provisions of the Rule were in place.

Pharmacist Rick Detwiller indicated that with the present Rule, the 1,250 square foot physical requirements might cause some restraints in situations where a community had a practitioner clinic but wanted the telepharmacy services. In some of those instances it may be expense to build new construction, but there may be less space than the 1,250 square feet available in a clinic site. He expressed an interest that the option for the Board to make variations in the building standards be included in the rule.

Executive Director Anderson asked; If we allow telepharmacies in rural health clinics, we will inevitably get the question of whether we will allow a nurse in those rural health clinics to dispense. Upon polling those present at the hearing, all present indicated that we should not allow dispensing by a nurse. Certainly, Nurse Practitioners and Physician Assistance who are authorized to prescribe and dispense could perform that task, if medication was available to them. However, their dispensing would be on behalf of their medical services in the clinic and not for the pharmacy.

Ken Strandberg, director of the Pharmacy Technician Program at Wahpeton, stated that he felt the minimum technician requirements should include graduation from an accredited technician program, before registration or allowing telepharmacy services by that technician. He also indicated that a VA Study suggested that Technicians were the source of some medication dispensing errors. Pharmacists do not catch all errors and multitasking increases the potential for errors.

Executive Director Anderson expressed that we would not want to make this overly restrictive, as finding technicians in some of these rural areas could be very difficult to begin with. Technicians who have proven themselves capable of preparing the final

prescription for dispensing and in whom the pharmacist has confidence, should not be precluded simple because they have not been through a formal technician program.

It was agreed that should a technician not be a graduate of a formal technician program (ASHP Accredited), they -- the Pharmacist/Pharmacy -- would need to apply to the Board, giving specifics such as the technician's experience. The rule will say that they had to be a graduate of an approved program, or apply specifically to the Board for approval. It was moved by Pharmacist Dewhirst and seconded by Pharmacist Hanel, to approve the rule as drafted, based on the changes recommended today -- pending the Attorney General's approval as to the legality and the expiration of the comment period will be open for another thirty days. On vote by roll call, all Board Members voted aye -- the motion carried. The rule will be adopted pending the Attorney General's approval as to the legality and the expiration of the thirty day comment period.

*Subsequently at the Board of Pharmacy's April 17-18, 2002, meeting -- Pharmacist David Olig, President.*

Plans were presented for a Telepharmacy in Killdeer, North Dakota. After review of the plans it was moved by Pharmacist Schlittenhard and seconded by Pharmacist Churchill to approve the Pharmacy Design Plans, pending full application for the Class K Pharmacy Permit to the Board. Four board members voted aye -- nays none -- motion carried.

Plans were reviewed for a Telepharmacy in Rolette, North Dakota, to be established by Larry Taylor, PharmD of Maddock. It was moved by Pharmacist Hanel and seconded by Pharmacist Churchill to approve the Pharmacy Design Plans, pending full Application for the Class K Pharmacy Permit. Four board members voted aye -- nays none -- motion carried.

*This marks the first approval of a telepharmacy by the Board of Pharmacy in North Dakota.*

Howard Anderson  
Executive Director  
North Dakota Board of Pharmacy  
February 2006

Sixty-First  
Legislative Assembly  
of North Dakota

Introduced by

A BILL for an Act to create and amend 43-15-03 of the North Dakota Century Code, relating to the expansion of the Board of Pharmacy and 43-15-04 – Term of Office.

**43-15-03. Board of pharmacy - Appointment - Qualifications.**

The state board of pharmacy shall consist of ~~five~~ seven members appointed by the governor. Five of the members must be licensed pharmacists appointed upon the recommendation of the North Dakota pharmaceutical association. ~~The persons appointed must be licensed pharmacists and must be members of such association.~~ One member must be a North Dakota registered pharmacy technician appointed by the governor upon the recommendation by the Northland Association of Pharmacy Technicians and must be a member of such association. A public member must be appointed by the governor, be of at least twenty-one years of age and be unaffiliated with any group or profession that provides or regulates healthcare in any form.

**43-15-04. State board of pharmacy - Term of office - Vacancies.**

The members of the board must be appointed for terms of five years each, with the terms of office of the five pharmacists so arranged that one term only expires on the eighth day of May of each year. The term of office of the registered pharmacy technician and the public member will expire on the eighth day of May in the fifth year after their appointment. Each member of the board shall qualify by taking the oath required of civil officers and shall hold office until a successor is appointed and qualified. The governor shall fill any vacancy by appointment for the unexpired term.