



California State Board of Pharmacy
400 R Street, Suite 4070, Sacramento, CA 95814
Phone (916) 445-5014
Fax (916) 327-6308

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

**STATE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
PUBLIC BOARD MEETING
MINUTES**

DATE: July 25, 26, 2000
TIME: 8:00 a.m. - 5:00 p.m.

LOCATION: The Westgate Hotel
1055 Second Avenue
San Diego, CA 92101

**BOARD MEMBERS
PRESENT:**

Robert Elsner, President
Dr. Steve Litsey, Vice President
Richard Mazzoni
Andrea Zinder (July 25, 2000, only)
John Jones
Dr. Darlene Fujimoto
William Powers
Dr. Donald Gubbins

**BOARD MEMBERS
ABSENT:**

Holly Strom
Caleb Zia

**STAFF
PRESENT:**

Patricia Harris, Executive Officer
Virginia Herold, Assistant Executive Officer
Robert Ratcliff, Supervising Inspector
William Marcus, Deputy Attorney General
LaVonne Powell, Department Legal Counsel
Timothy Black, Inspector
Dennis Ming, Inspector

July 25, 2000

CALL TO ORDER

President Robert Elsner called the meeting to order at 9:00 a.m. on Tuesday, July 25, 2000.

President Elsner introduced new public board member, William Powers. He also introduced new inspectors Tim Black and Dennis Ming.

Richard Mazzoni introduced Bob Grzywacz from the Nevada Board of Pharmacy.

President Elsner stated that it was an honor to be elected president of the Board of Pharmacy and in this capacity, he worked with staff to adjust the committee reports format by separating action items for easy identification. He requested that the board summarize these reports at board meetings.

COMMITTEE REPORTS AND ACTION

COMMUNICATION AND PUBLIC EDUCATION COMMITTEE

Ms. Harris reported that former board member M. Standifer Shreve chaired this committee and efforts to replace her on the committee are underway. Ms. Harris noted that the committee has not met since the last board meeting but work has progressed on the recent publication and distribution of the fourth issue of *Health Notes*, "Care of Children & Adults with Developmental Disabilities," in May 2000. Further, staff is currently working with the UCSF on the fifth edition of *Health Notes* which is tentatively titled "Alternatives Medicines". It is anticipated that this edition will be published by January 1, 2001. She noted that the committee is also planning the sixth edition as a result of the April 1998 summit held for pharmacists with the Payor Program. Tentatively, the topic for this edition is "Pharmacists Care" regarding reimbursement. She added that this ties into the board's strategic plan and the definition of pharmacists' care.

Ms. Harris reported that the board is finalizing the July 2000 issue of *The Script* and it should be distributed before the end of the month.

Ms. Harris stated that since the board's consumer column program, there have been seven columns published in English and four in Spanish. The cumulative readership since January 2000 has increased from 213,453,680 to 222,913,832 as of June 2000.

Ms. Harris announced that the board received permanent funding of \$238,000 to run the public education programs. However, the funding did not include a staff person to coordinate the program. The board will resubmit a budget change proposal for \$80,000 to hire an associate analyst to oversee the Communication and Public Education Committee outreach programs.

Dr. Fujimoto reported that she has received favorable comments from pharmacists regarding the usefulness and relevance of *The Script*. She commended staff on efforts to meet the board's goal of a timely release. Ms. Harris commended Hope Tamraz for staying on target and for a great job in publishing *The Script*.

Ms. Harris reported that during fiscal year 1999/2000, the Department of Finance directed the board to assess the effectiveness of its public education program, as a requirement before any future financial support for the program would be authorized.

The board's consultant surveyed 750 individuals statewide in a telephone survey in March 2000. This survey provides the baseline upon which the board can plan, develop and focus public outreach activities. Later this summer the Communications and Public Education Committee will use this information to develop a plan for public outreach for 2000/01.

The survey collected data in a number of areas involving pharmacy and pharmacists. Among the main (summary) findings: The public generally has a positive view of the quality of pharmacists in California, and believe that pharmacists provide important information, are knowledgeable about medications, are available to patients and treat patients in a confidential manner.

Ms. Harris reported that of those surveyed, nearly 75 percent had never heard of the Board of Pharmacy, but after being advised about the existence of the board and its role, 92 percent thought such an entity was useful or essential to protect the public. Also, of those who indicated they had heard of the board, many believed the board's role is to represent the interests of pharmacists and not consumers. Ms. Harris added that this provides the board with an opportunity for education and noticeable improvement.

Most importantly, those surveyed indicated that the best way to provide them with information is via pamphlets and leaflets available in pharmacies.

Mr. Jones stated that in the past, he also viewed the Board of Pharmacy as an organization that protects the profession instead of an entity that promotes consumer protection. For further public outreach, the board needs to emphasize the consumer protection aspect. A paragraph should be added to all consumer publications describing the purpose of the board, and how to contact us.

Dr. Fujimoto suggested that the board update its "Notice to Consumers" that is required to be posted in pharmacies to communicate the board's position for public outreach and protection.

MOTION: Refer the redesign of the board's poster to the Communication and Public Education Committee.

M/S/C: FUJIMOTO/JONES

SUPPORT: 7 OPPOSE: 0

Ms. Harris noted the editorial corrections to the Proposed Strategic Objectives (2000-01). One correction was noted to revise the Notice to Consumers and adding it to the board's strategic objectives.

Dr. Litsey noted that the board can send a simple message to consumers that will educate them on what they can expect from pharmacists, and questions they should ask when they pick up their prescriptions.

MOTION: Approve the adoption of the strategic goals of the committee.

M/S/C: JONES/MAZONNI

SUPPORT: 7 OPPOSE: 0

LICENSING COMMITTEE

Ms. Harris reported that the Licensing Committee met on June 19, 2000, and she referred the board to the minutes of that meeting.

Ms. Harris referred to the request from Santa Clara Valley Medical Center for a waiver of California Code of Regulations section 1717 (e) that would allow the pharmacy of Santa Clara to deliver medications to its clinics. She reported that the Santa Clara Valley Medical Center included its policies and procedures for this process, including the type of medications that will be provided, the list of clinics and the anticipated number of prescriptions to be filled.

MOTION: Adopt the Licensing Committee's recommendation to grant a waiver of CRC 1717 (e) to Santa Valley Medical Center.

SUPPORT: 7 OPPOSE: 0

Ms. Harris reported that another recommendation from the Licensing Committee was to approve its proposed strategic objectives for 2000-2001. She noted a modification to number eight to revise the Intern Preceptor Manual and the Candidates' Guide. The modification includes a review of the entire intern program and based on the review, the board would proceed with the revision of the manual. The Candidates Guide will be revised based on the board's 1999 job analysis and the new content outline will be used for the first time at the June 2001 examination administration.

MOTION: Approve the Licensing Committee's proposed strategic objectives for 2000-2001.

SUPPORT: 7 OPPOSE: 0

Ms. Harris reported on the June 2000 pharmacists examination held June 13 and 14, 2000, at the Convention Center in Oakland. She announced that there were 1065 candidates who sat for the exam. The latest release date for exam results is September 1, 2000.

Ms. Harris stated that the Competency Committee will meet on August 17 and 18, 2000, for its annual meeting. The purpose of this meeting is to focus on the long-term goals of the committee and to review the examination process with the intent of making improvements.

Ms. Harris reported that 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.

John Cronin requested that the board provide a report on the speed exercised by the board in issuing permits.

Ms. Harris responded that staff provides such a report to the Licensing Committee.

Bruce Young, representing California Retailers Association urged the board to grade the exams and distribute results prior to the board's September 1, goal. He stated that the pharmacists' shortage in California has reached almost critical levels for many pharmacies, especially in rural areas.

Ms. Harris noted that the board places a very high priority on releasing the exam results at the earliest possible time and unless there are major, unforeseen problems, will release the exam results in advance of September.

Dave Fong, Senior Vice President, Longs Drugs Stores commented that the board needs to be predictable in terms of releasing exam results because any delays in the process cause pharmacy coverage problems. He noted that in the past, exam results were released by the third week in August and everyone counted on that release date in planning for coverage.

Mr. Fong reported that there is enough information available on the pharmacy personnel shortage and the real issue is whether pharmacy services are being provided and accessible to consumers in the state. He expressed the need to heighten the visibility and urgency to meet the demand for pharmacy services, due to the increase in the number of prescriptions that are now being filled in California. More importantly, the services that consumers expect cannot be guaranteed all of the time. He added that the board needs to take more responsibility to understand statistically where licensees are working because the majority of pharmacists want to work in metropolitan areas. He urged the board to help find solutions for consumers in rural areas.

President Elsner requested that Longs Drug provide recommendations and suggestions to resolve this issue. He noted that this problem existed previously for medical services and local communities took steps to resolve the problem. Part of the solution might include providing incentives to pharmacists who take positions in rural areas.

Mr. Young stated that solutions might include having more pharmacist exams and reciprocity. Schools need to address the issue as well.

Dr. Fujimoto recommended that the pharmacy organizations work together and provide the board with possible solutions.

Mr. Mazzoni referred the board to the Minutes of the June 19, 2000, Licensing Committee and asked what the status of the committee's efforts to draft language for a statutory change to Business and Professions Code section 4118 – Use of Automated Devices/Technology.

Ms. Herold clarified that the committee will draft language for discussion during the October board meeting.

MOTION: Acknowledge the existence of a pharmacist shortage in California and direct the Licensing Committee to work with the industry in an effort to find solutions to the problems.

M/S/C: MAZZONI/GUBBINS

SUPPORT: 7 OPPOSE: 0

Mr. Young thanked the board for its acknowledgment of a pharmacist shortage in California.

Mr. Cronin stated that the manpower issue in pharmacy is very complex and needs to be identified as an imbalance between supply and demand. For example, in San Diego it is very difficult to find relief pharmacists and full-time pharmacists.

Mr. Cronin referred to the minutes of June 19, 2000, Licensing Committee and the Medi-Cal fraud information provided for information. He expressed concern that the public was not invited to see the Fourth Report on UCSF Study to Evaluate Technician Training.

Mr. Cronin referred to item six in the minutes regarding implementation of the "Telephone Medical Advice Service Providers." He asked for clarification of the sentence that reads "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.

Legal Counsel LaVonne Powell clarified that if a pharmacist is acting outside of the non-resident pharmacy and he or she is not registered with the California Board of Pharmacy, the pharmacist cannot treat patients in California. She added that this could be an on-line pharmacy service that contracts with a pharmacist on-line.

John Jones stated that the out-of-state pharmacists giving advice presents a huge enforcement issue for the Board of Pharmacy.

Mr. Marcus stated that this issue is consistent with the board's efforts to require licensure of out-of-state pharmacies.

Mr. Cronin requested information on the job analysis referred to in the minutes as it relates to the pharmacist licensure examination.

Dr. Fujimoto suggested that more complete explanations of these discussions be reflected in the minutes.

Ms. Harris stated that the minutes will be revised to reflect additional information.

President Elsner stated that he has made a request from staff to modify board action in board packets in an effort to get more information to the board and expedite the meetings.

Steve Gray of Kaiser Permanente reemphasized the board's position on the pharmacist shortage and noted that Kaiser does out-of-state recruiting because it has not been able to hire enough pharmacists to meet California's needs. He suggested that the board might want to consider additional exams and to release the results sooner. He also suggested that the board might want to consider testing prior to graduation.

Ms. Herold stated that allowing candidates to take the exam prior to graduation would require a possible regulation/legislation change. She detailed the board's action during release of the exam results and noted that staff does everything possible to release this information as quickly as possible. She noted that staff also provides lists of successful candidates to employers so they can move forward with hiring, and licenses issued to new pharmacists are available through the license verification website within 24 hours.

President Elsner recognized former President Rich Mazzoni for his outstanding service to the board.

ENFORCEMENT COMMITTEE

Dr. Fujimoto referred to the minutes of the June 20, 2000, meeting of the Enforcement Committee. She gave an overview of various matters that the Enforcement Team discussed such as: workload and significant accomplishments, proposed changes to the Disciplinary Guidelines, legislation update, review of comments for cite and fine regulations, request to repeal or modify CCR 1717.3 regarding preprinted, multiple check-off prescription blanks, review of the Strategic Objectives for 2000-2001 and implementation of new regulations regarding the temporary absence of a pharmacist and central refill pharmacies and the revision of evidence procedures.

Dr. Fujimoto reviewed the proposed revisions to the Disciplinary Guidelines. The guidelines were drafted by a subcommittee of several staff and reviewed by the Enforcement Team and Deputy Attorney General William Marcus.

Ms. Harris stated that the Disciplinary Guidelines would be provided at the October board meeting for board comment. These guidelines need to be adopted as regulations, and board action on the regulations is scheduled for January 2001, so there are two more opportunities for board and public comment.

MOTION: Adopt the Disciplinary Guidelines as developed by the Enforcement Committee.

SUPPORT: 7 OPPOSE: 0

Dr. Fujimoto reported that the board has received requests to amend the California Code of Regulations section 1717.3 to authorize pharmacists to dispense more than one dangerous drug from a preprinted, multiple check off prescription blank. In such circumstances the prescriber must have indicated the number of dangerous drugs prescribed on the blank, and the dangerous drugs listed must not include controlled substances.

Dr. Fujimoto referred the board to the background information provided in the board packet. She stated that this resulted partly from a request from Kaiser Permanente and from the Los Angeles County. She added that after considerable discussion, the committee determined that it would recommend modifications to current board regulation regarding pre-printed multiple check-off prescription blanks.

MOTION: Seek amendment of board regulations to permit prescription of more than one drug from preprinted check-off prescription blanks.

SUPPORT: 7 OPPOSE: 0

Dr. Fujimoto advised the board that the Enforcement Committee has revised the Strategic Objectives for 2000-2001. She stated that staff has done a quality job in revising the document, setting examples for change and accepting change.

MOTION: Adopt Enforcement Committee Strategic Objectives for 2000-2001.

SUPPORT: 7 OPPOSE: 0

LEGISLATION AND REGULATION COMMITTEE

Ms. Harris stated that the board packet includes new language for the adoption of California Code of Regulations section 1714.5, which places in regulation a listing of dangerous drugs and devices that can stand outside a pharmacy, a list that previously existed in statute.

Business and Professions Code section 4057 was amended by board-sponsored legislation that took effect January 1, 2000.

In January 2000, the board considered the list of these prescription drugs and devices as part of rulemaking for new section 1714.5.

The board received written comments from Kaiser and the California Society of Health System Pharmacists during the 45-day comment period for the regulation. The board referred the committee to the Licensing Committee for detailed discussion and recommendation of specific prescription drugs and devices.

The meeting was held July 13, 2000. Those in attendance were Steve Gray from Kaiser Permanente, Teri Miller of the California Society of Health System Pharmacists and several board staff, including two inspectors.

The committee developed new language and the chair of the Legislation and Regulation Committee agreed to renote the proposal for a 45-day comment period. She added that depending on the time frame, the committee would bring this back to the board for consideration of adoption in October.

Ms. Harris stated that the Licensing Committee will likely consider language that deals with exemptions for home health agencies and hospices.

MOTION: Approve noticing new language for the adoption of California Code of Regulations section 1714.5, which places in regulation a listing of dangerous drugs and devices that previously existed in statute.

M/S/C: MAZZONI/GUBBINS

SUPPORT: 7 OPPOSE: 0

Procedures for Refill Pharmacy – Adopt Section 1707.4

Ms. Harris stated that this regulation was approved by the Office of Administrative Law and becomes effective July 1, 2000.

This regulation allows a pharmacy to use the services of another pharmacy to prepare refills if the pharmacies have a contract for these services or have common ownership.

Pharmacy Operations During the Temporary Absence of a Pharmacist – Adopt 1714.1

Ms. Harris reported that the Office of Administrative Law approved this regulation and it became effective June 12, 2000.

This regulation permanently establishes the conditions that would allow for the temporary absence of a pharmacist for duty free breaks and meal periods as granted by law. In addition this regulation, under specified circumstances, provides for the uninterrupted operation of the pharmacy by non-pharmacist personnel during these absences. An emergency regulation to permit this was in effect since January 1, 2000.

Legislative Report

1. Board-Sponsored Legislation

Ms. Harris stated that the following information was provided as information.

SB 1339 (Figueroa)

This bill requires pharmacies to develop and implement quality assurance programs to reduce medication errors. The bill also exempts information generated by the quality assurance programs to reduce medication errors. Lastly, the bill requires the board to adopt regulations to implement the program.

The bill passed the Assembly Appropriations Committee. Prior to the hearing before the Assembly Health Committee, the author accepted an amendment from the Consumer Attorneys of California clarifying the discovery exemption. There is no opposition to the bill. The fiscal impact of this bill is \$100,000 to produce a *Health Notes* to licensees about quality assurance programs, statutory and regulatory requirements, and information on error prevention. Should the Governor sign the bill, the board will move forward on a regulation.

Mr. Bruce Young reported that the board has until September 1, 2001 to promulgate regulations for SB1339. He stated that the California Retailers' Association would like to provide input in the development of the regulations because they fought vigorously for this bill.

AB 2018 (Thomson, Runner and Migden)

Ms. Harris stated that this bill has changed substantially since the April board meeting. Amendments were made in an attempt to remove opposition from law enforcement. However, law enforcement remains in opposition. This bill requires the Attorney General's office to choose either the CURES system or the triplicate system on or before July 1, 2003. The bill also removes the limit on the number of triplicates that may be ordered by the prescriber, requires only the signature on a triplicate in the prescriber's hand, permits pharmacies to make technical corrections to a triplicate after consulting with the prescriber and conforms emergency prescription standards to the federal rule. The bill failed passage in the Senate Health and Human Services Committee on 4 – 1 vote with three members of the committee absent. The bill will be reconsidered in August.

President Elsner commended Associate Analyst Paul Riches on his efforts to move this bill forward.

SB 1554 (Senate Business and Professions Committee)

The bill contains language that permits pharmacies to resupply ambulances upon written request from an emergency medical technician.

The bill also makes changes to the Pharmacy Law identified by inspectors to correct erroneous references to categories of licensure and erroneous code section references.

2. Other Bills Impacting the Practice of Pharmacy

Ms. Herold reported that during the Legislation and Regulation Committee's June 16, 2000, meeting, the committee discussed a number of bills and made recommended positions to a number of bills. However, most of the bills have been amended since the meeting. The following items were identified for board action:

AB 1791 (Wiggins) – Epinephrine Auto-Injectors

Permits school districts and county offices of education to provide epinephrine auto-injectors for emergency use to trained school site staff. Existing law does not permit a pharmacy to furnish these dangerous devices to a school district or county office of education. The committee recommends that the board support this bill.

MOTION: Legislative Committee: Support AB 1791 (Wiggins)

SUPPORT: 6 OPPOSE: 0 ABSTAIN: 1

SB 1903 (Speier) – Medical Information

This bill requires additional patient consent for companies to share medical information or data. This bill also permits patients to add an addendum to their records not to exceed 250 words to address any information that the patient believes to be inaccurate or incomplete. However, provisions of this bill can be used by those seeking to divert legitimate drugs into illicit markets to cloud their activity and create doubt in the record. Ms. Herold stated that the committee had concerns about the length of these addenda and whether the information would actually be transferred.

The Committee believes that the bill should be amended to remove the provision permitting patients to include an addendum in their medical record.

MOTION: Legislative Committee: Oppose SB 1903 (Speier) unless amended.

SUPPORT: 6 OPPOSE: 1

Legislation and Regulation - Proposed 2000 – 2001 Strategic Objectives

Ms. Herold referred the board to the committee's Strategic Objective for 2000-2001.

MOTION: Adopt the Legislation and Regulation Committee's Proposed 2000-2001 Strategic Objectives

SUPPORT: 6 OPPOSE: 1

CLOSED SESSION

The board moved into closed session pursuant to section 11126(a) regarding personnel matters to perform the evaluation of the executive officer. Pursuant to Government Code section 11126(c)(3) and 11126(e)(2)(A) to deliberate upon disciplinary cases and to confer with legal counsel regarding the following pending litigation: Doumit v Board of Pharmacy, Sacramento Superior Court Case #98A504499 and Gonzalez v. Board of Pharmacy, Sacramento Superior Court Case #99AS01990.

REGULATION HEARING – Violations Subject to Cite and Fine

President Elsner announced that consistent with the requirements of the Administrative Procedures Act, the board published a notice of regulatory action on May 12, 2000, to permit a 45-day comment period in the matter to amend the board's citation and fine authority. The 45-day comment period closed on June 26, 2000. He added that written or oral testimony may be received today during the board's hearing.

President Elsner stated that this public hearing was a forum to receive comments and not intended for debate or defense of the regulations. He noted that written testimony may be summarized rather than read and the board will give equal consideration to both written and oral testimony. He added that once the testimony is heard, the issue will stand submitted. He asked if there were any questions.

Alan Pope representing Longs Drug Stores referred to a letter he and Orriette Quandt prepared, dated June 12, 2000, that states their opposition to the board's proposal.

Mr. Pope stated that the board's purpose is to educate pharmacists about the law. He added that the cite and fine regulation is a punitive type of measure. He noted that during the public comment period in April, there wasn't a procedure in the proposed regulation for a notice of violation. He added that for first and second offenses there are progressive sanctions for pharmacists who violate the law. He stated that without having some kind of notice provision, Longs Drug Stores opposes this proposed regulation.

Mr. Pope stated that the cite and fine regulation should be limited for quality of practice issues. He added that licensing, consultation, etc., are the primary issues that the cite and fine is currently used for. He added that the proposed cite and fine regulation is overly broad with respect to including all pharmacy law. He noted that the regulation should be limited to those areas of practice that directly involves consumers.

Mr. Pope expressed concern about the regulation process. He added that after the public comment period, the regulation was then sent back to the committee. He had concern that the public comments were not considered because the proposed regulation looked the same. He asked what occurred in the committee hearing. He referred to the minutes of the Organizational Development Committee meeting on page four where it refers to the budget update and a full-time legal position that will permit the board to have an attorney present at committee meetings, board meetings and compliance meetings. It also states that once the expanded cite and fine regulations are in place, the attorney will sit on these hearings. He expressed concern over this method of promulgating regulations and added that the public meeting process is meaningless.

Mr. Pope added that the board needs to consider public comment for regulations that have significant impact on pharmacists. He encouraged the board to reconsider the public comments previously heard and develop a regulation that is more limited and fairer to the profession overall.

President Elsner asked if there were comments from the board regarding Longs' issues with the regulation.

Mr. Jones commented that all public comments were taken into consideration. He noted however, that the board must protect consumers' interests. He stated that he understands the industry's concern but the board is not protecting pharmacists. He added that during a Compliance Committee meeting, there is little the board can do when pharmacists are breaking the law. This regulation will provide the board with an option in its attempt to protect consumers, other than pursuing formal discipline through the Attorney General's office.

Ms. Orriette Quandt representing Longs Drug Stores also referred to the letter dated June 12, 2000, and restated Longs' opposition to the proposed regulation. She stated that she is most concerned with the number of regulations in pharmacy law that the board is proposing to issue cite and fine sanctions against. She added that it is almost impossible for every pharmacist to comply with all pharmacy laws. She noted that pharmacists want to comply with pharmacy law, but the issue becomes interpreting the law and doing things the right way. She referred to the board packet and said it is obvious that the board is not doing routine inspections. She added that routine inspections are important for educating and mentoring pharmacists. She stated that she realizes there are problems when pharmacists come before the SCC or NCC but many times those pharmacists have not been inspected for a long time. She added that this should be considered before the board considers cite and fine.

President Elsner acknowledged Raffi Simonian, former board president and local resident of San Diego, who was in the audience.

John Cronin, California Pharmacists Association, referred to his letter dated June 26, 2000, and stated his opposition to the proposed regulations.

Mr. Cronin stated that the Board of Pharmacy has made, on numerous occasions, commitments to provide educational services for enforcement and they have not seen this. He added that until the board can do this with the licensees and pharmacies, with a full force of inspectors, cite and fine is premature. With regard to specific comments, CPhA believes that there are other alternatives to cite and fine, and that cite and fine is not appropriate.

Mr. Cronin noted that the statement of reasons indicates what the board's attitude is about its enforcement role. He referred to one section that stated: "Referring many of these cases to the AG for administrative hearing is not effective because the licensee can correct the violation prior to hearing, rendering the process mute." He commented that if the violation is corrected, the board has succeeded. He added that many licensees feel that the board's sole purpose is to punish pharmacists. He added that the board is in the Department of Consumer Affairs, not the Department of Justice. The CPhA feels that the board needs to fix the other problems in the enforcement system, get a full force of inspectors, start routine inspections and use the alternatives available to enforce the rules. For, example the board needs to withhold licenses for violations.

Mr. Marcus clarified that the board does not have the authority to withhold renewal of licenses, if conditions were not met. This would be a major violation of due process, putting a pharmacy out of business.

President Elsner referred to a letter dated June 25, 2000, from Steve Gray, Kaiser Permanente, that stated its opposition to the board's proposed regulation.

John Berger, pharmacist, stated that voluntary compliance was formerly used by the board and he noted that he has not heard of this occurring in the last few years. He added that in the past, problems would be corrected after the inspector noted the problems. He stated that cite and fine will be a moneymaking thing and licensees are already afraid of the board. He stated that the board needs to be more timely to file cases within a year after the occurrence and publish these items in the board's newsletter to alert other pharmacists that they cannot do this.

President Elsner asked for further comments. There were none. President Elsner stated that this concludes the regulation hearing.

John Jones stated that as a member of the Enforcement Committee and in support of the inspectors, it is necessary to have some method to make licensees pay attention to state and federal law regarding pharmacy.

Andrea Zinder stated that she supports the proposed regulation of cite and fine and added that she did not feel it would be used in the wrong way.

Dr. Fujimoto stated that many of the board's goals are consistent with this proposal. She added that the board is getting more cases but has changed the way it handles cases. She added that she is supportive of the cite and fine regulation and supports the educational aspect as well. However, cite and fine will get the pharmacists' attention when everything else has failed.

Mr. Marcus stated that the board has eliminated most of the building requirements in favor of a more simplified provision and turned to self-assessment as a primary tool for compliance. Also, *The Script*, in addition to being published more frequently, regularly responds to inquiries about issues of interpretation. He added that this is an educational tool.

Mr. Cronin asked if the board is getting back to routine inspections.

Dr. Fujimoto stated that this is listed on the board's strategic plan and it is a high priority.

MOTION: Adopt the proposed regulations expanding the citation and fine authority.

M/S/C: JONES/MAZZONI

SUPPORT: 7 OPPOSE: 0

RECESS

President Elsner recessed the board meeting at 2:20 p.m. and stated that the meeting would resume on July 26 at 9:00 a.m. He added that the public meeting of the Enforcement Committee would begin at 2:30 p.m.

ENFORCEMENT COMMITTEE PUBLIC MEETING

Dr. Fujimoto, Chairperson of the Enforcement Committee, called the public meeting of the Enforcement Committee to order at 2:30 p.m. She introduced Board Member John Jones as the other member of the Enforcement Committee. She commended Supervising Inspector Robert Ratcliff for his work as the board's supervising inspector. She commended staff and board members on a job well done and acknowledged the accommodating efforts to move the practice of pharmacy ahead and also to support and prevent negative outcomes for consumers and patients.

Prescription Expiration Dates

Supervising Inspector Ratcliff gave a presentation on prescription expiration dates. The purpose of the discussion is to determine the board's policy on expiration dates and advising its licensees. He stated that the date on the prescription label refers to the effectiveness of that drug. He explained that the date is the one set by the manufacturer on the original container, although pharmacists could shorten the expiration date based on their professional judgment. This includes considerations such as the nature of the drug, the container in which it is packaged, expected storage conditions or the length of therapy.

He added that the USP stresses using an appropriate container and providing patient consultation. He stated that the USP "light and tight" containers should be used in compliance of 1717(a) and professional judgment should be used to determine the expiration date. He added that during compliance inspections, inspectors will ask pharmacists about the criteria used to establish the expiration date. Further, the board, in efforts to protect consumers, will look at whether pharmacists are using expired medications.

Some of the audience expressed concern that patients may self-medicate themselves to treat another illness if more than a one-year expiration date has been placed on the medication. It was also noted that the USP recommends a one-year beyond use date.

Steve Gray representing Kaiser Permanente, stated that there is a lot of confusion in dealing with expiration dates. He added that schools of pharmacy are stressing not using old medication to treat new symptoms. Consumers have complained about the arbitrary short expiration dates and the inability to continue to use the prescription and having to buy another prescription.

Dr. Fujimoto stated that the board's focus should be that pharmacists should not dispense expired medications because of legal requirements and FDA standards or possible harm to the patient.

Patient Confidentiality Issues – Presentation of Enforcement Examples

Dr. Fujimoto commented that patient confidentiality is an important issue that has been addressed by the Legislature and the board. The board published an article in *The Script*. She asked for comments.

Mr. Ratcliff thanked Mr. Marcus for his article titled "Confidentiality of Pharmacy Information" written for the April 2000 edition of *The Script*. He stated that consumers have privacy rights, under California and federal law and this refers to medical information maintained by board licensees. Mr. Ratcliff stated

that he is often asked what action should be taken when a subpoena is issued. The board's response is that the pharmacy needs to call its attorney to make sure that the pharmacy complies with a lawful subpoena.

Mr. Ratcliff noted that there are many aspects to issues of confidentiality and this includes disclosing dispensing histories. For example, parents may seek information regarding their minor child, yet there are some prohibitions against disclosure. Spouses involved in divorce or other litigation sometimes seek prescription records of the spouse, or may attempt to pick up medication waiting for the spouse.

Mr. Ratcliff stated that pharmacists must be certain that the spouse is the true agent for the patient, and if the pharmacist is uncertain about this, the pharmacist should call the patient.

Prescriber Dispensing

Dr. Fujimoto distributed a draft of the "Compliance Guideline for Prescriber Dispensing." This document provides an overview of the authority of prescribers to dispense prescription medication to patients, the overlap with pharmacy practice and regulatory authority of agencies. The board receives many inquiries regarding these issues.

Generally, California law authorizes individual practitioners to dispense to their own patients, but nothing in pharmacy law authorizes a group of physicians to order supplies and dispense communally from the supplies to group patients (there are exceptions for certain clinics licensed by the board).

A prescriber cannot own a pharmacy, but seemingly is permitted to charge a dispensing fee for providing drugs to the prescriber's own patients. A prescriber cannot offer or advertise an "open shop" and "drugstore" to the public, as opposed to his or her own patients, and not to use the words "Pharmacy" or "drugstore."

Prohibitions in California pharmacy law bar prescriber ownership of pharmacies, but permit a physician to dispense medications to his or her own patients if the physician owns the drug stock. Violations involving prescriber ownership of pharmacies, prescriber dispensing from commingled stock or drug wholesaler sales to prescriber groups that do not possess a clinic permit, are all examples of violations of pharmacy law that may be enforced by the Board of Pharmacy.

Alleged violations of law involving whether a prescriber is improperly charging (or charging an improper amount) for dispensing drugs to his or her own patients are the purview of the prescriber's licensing board.

The board will review the guidelines at a future board meeting. Once approved it will be distributed to the public, published in *The Script* and shared with the Medical Board of California.

Overview of Enforcement Process – Anonymous Complaints

Supervising Inspector Ratcliff provided a presentation on the board's complaint process. He stated that complaints are received from the public, governmental agencies, and other sources. He added that anonymous complaints often do not include supporting documentation and the board often must close the case due to the lack of information. He noted that complaint forms are available on the board's website and can be completed and mailed to the board.

Supervising Inspector Ratcliff explained that the board has four teams that investigate complaints based on the nature of the complaint. The mediation team requests information on many complaints that are eventually mediated or investigated by an inspector team for all of the background information that has been submitted. The Probation/Pharmacists Recovery Team handles all complaints dealing with probationers or diversion for self-use by pharmacists or technicians. The board's Drug Diversion/Fraud Fraud Team investigates drug diversion cases and fraud.

The Compliance Team handles most consumer complaints and violations regarding security, sanitation and counseling or complaints that cannot be resolved by the mediation team and require an inspector to make a site visit. The team has the responsibility to prove the violation. If the violations cannot be proved, the case is closed for insufficient evidence. The report, with documentation, is submitted to the supervising inspector for final review. It is then sent to the executive officer.

Mr. Cronin of the California Pharmacists Association expressed concern that he heard of a number of complaints from pharmacists who initiated complaints, only to be named in the accusation and he felt that they should be immune from prosecution. Dr Fujimoto stated that without knowing the specifics of the case, it is difficult to respond to this concern. However, there must be evidence that the pharmacist was involved with the activity, or that as pharmacist-in-charge, should have known of the activity.

Self-Assessment Form – Request for Suggested Revisions to the Form and Law Changes for Future Considerations.

Dr. Fujimoto explained that pharmacy law requires that pharmacies complete the self-assessment form every odd year. The board is in the process of updating it and requested suggestions for improvement.

Mr. Gray of Kaiser Permanente encouraged the Enforcement Committee and the board to develop guidelines, similar to the disciplinary guidelines, to be used by the board's committees for the expanded cite and fine authority being pursued in board regulations.

Dr. Fujimoto thanked everyone for his or her participation in the meeting, which she adjourned at 4:40 p.m.

July 26, 2000

President Elsner called the Board Meeting to order at 9:00 a.m.

President's Report

President Elsner stated that since taking office as board president on June 1, 2000, he has had the opportunity to witness the June pharmacist's licensure examination. He noted that he attended the Department of Consumer Affairs Enforcement Workshop in Southern California and met with CPhA's executive committee.

He reported that he would be meeting with the Marin County Pharmaceutical Association in the near future.

ORGANIZATIONAL DEVELOPMENT COMMITTEE

Dr. Litsey reported that the Organizational Development Committee met on June 15, 2000. He referred to the following recommendations made by the committee:

1. Approval of 2000-2001 Board Meeting Dates

MOTION: Adopt proposed board meeting dates for 2001 as follows:

January 24, 25, 2001	Los Angeles or Orange County
April 25, 26, 2001	Sacramento
July 25, 26, 2001	San Diego
October 17, 18, 2001	San Francisco

SUPPORT: 6 OPPOSE: 0

2. Amendment to Board Member Policy and Procedure Manual

Dr. Litsey stated that an augment to the board's Policy and Procedure Manual for Board Members is needed to cover the following situation: Some office conferences are scheduled so that two board members can hear appeals of citations and fines issued by the board's supervising inspectors for unlicensed activity. Sometimes, (for convenience and efficiency), these meetings are scheduled on the same day, but at different times, as compliance committee meetings. However, it is important that to comply with the Public Meetings Act, if an office conference is held with three members present, this meeting must be an open meeting, and must be noticed 10 days before the meeting with an agenda. If this has not occurred, the office conference cannot occur. If one or two board members attend the office conference, the meeting is not required to be a public meeting.

MOTION: Update the Policy and Procedure Manual for Board Members: add a section titled "Office Conferences for Appeals of Citations and Fines" to specify when these meetings are public meetings and require advance public notice.

SUPPORT: 6 OPPOSE: 0

3. Proposed Strategic Objectives (2000-2001)

Dr. Litsey reported that the strategic plan update for the Organizational Development Committee for 2000/01 are:

- Expand the board's space to meet its operational needs
- Pursue budget change proposals to meet identified program needs
- Reorganize the board's management structure to oversee board programs and staff
- Pursue regulatory changes regarding declaratory letters and conflict of interest for inspectors

Dr. Litsey noted that the proposed strategic goal number 4 would provide clarity as to when the board's correspondence is considered to be declaratory of pharmacy law. Also, he noted that inspectors are not required to file conflict of interest statements with the Fair Political

Practices Commission. He added that all board members, the executive officer, the assistant executive officer and supervising inspectors are required to file. However, an inspector's duties in the field are widely discretionary in nature and will determine whether any enforcement action is taken. As such, the inspectors need to be added to also file conflict of interest statements.

MOTION: Approve the proposed strategic objectives for 2000-2001.

SUPPORT: 6 OPPOSE: 0

4. Executive Officer's Position Reclassification

Dr. Litsey reported that the Department of Consumer Affairs recently examined the classifications of all departmental executive officers to determine whether the current classification is appropriate for the complexity of the board. This request followed several reclassification requests by smaller boards to upgrade the positions of their executive officers, and the Department of Personnel Administration asked for a full assessment of all executive officers' duties. The department's assessment is that the executive officer of the Board of Pharmacy was designated at below the appropriate level, and suggested an upgrade for the board's executive officer position from level K to level J. There would be a corresponding increase in salary from \$78,204 - \$84,576 to \$81,984- \$88,656.

President Elsner reported that during the closed session of the previous day's board meeting, the board performed the annual performance evaluation for the executive officer and found her exceedingly competent in fulfilling her duties to the board. He added that each board member commented that Ms. Harris communicates very well with the board and carries out the policies of the board. She understands the separation of policy and implementation and is doing an outstanding job. He further added that it is a unanimous feeling that the board is fortunate to have Ms. Harris as the executive officer.

MOTION: Approve the executive officer reclassification to upgrade the classification of the board's executive officer position, in accordance with a proposal from the Department of Consumer Affairs, from level K to level J, with a corresponding change in salary of \$78,204-\$84,576 to \$81,984-\$88,656 annually.

SUPPORT: 6 OPPOSE: 0

5. Approval of 2000-2001 Strategic Plan

Dr. Litsey reported that each committee report at this meeting has included the proposed strategic objectives for the coming year. He noted that the board needs to ratify the full strategic plan by formally incorporating the approved strategic objectives for each of the five committees.

MOTION: Approve the board's 2000/01 Strategic Plan, incorporating the strategic goals approved by the board during each committee report of this meeting.

SUPPORT: 6 OPPOSE: 0

6. Modify proposed budget change proposals for 2001/02.

Dr. Litsey reported that the proposed budget realignment proposal, which is forecast to be needed once all inspector positions are filled and there are no salary savings from this line item to redirect to other functions, is premature. The board has not filled all of its inspector positions, and while the augment will be eventually needed, the Department of Finance would not approve the realignment proposal until all inspector positions are filled. The proposal can be pursued next year after all inspector positions are filled.

The Organizational Development Committee believes it is appropriate to seek a full-time legal counsel position dedicated solely to the board. The position would be created in the department's Legal Office, but the duties would be solely dedicated to the board. This will permit the board to have an attorney present at all committee meetings (board committees and compliance committee meetings) and once the expanded cite and fine regulations are in place, to sit through these hearings. Additionally, the attorney will become adept at responding to complex legal questions that routinely arise in the administration of pharmacy law and responding to correspondence, assist with evaluation of complex corporate structures identified in application documents, and generally assist with law impacting the board regarding public records, public meetings and the Administrative Procedures Act. Funding for the position will be about \$100,000 (including benefits) annually.

MOTION: Postpone work on the budget realignment proposal, and develop a budget change proposal for a full-time staff counsel for the board to be housed in the Department of Consumer Affairs Legal Office.

SUPPORT: 6 OPPOSE: 0

Acknowledgement of Analyst Linda Alderman for her work in establishing the board's website.

Dr. Litsey reported that in May, the board activated its website. The website has been developed over the last year essentially through the efforts of Linda Alderman, a board staff services analyst. She initially worked with the department on the design, layout and composition, but when the department was no longer able to provide the expertise level desired, Ms. Alderman learned the information herself. On the website, all board publications are available on-line, as are minutes of board meetings, board applications and instructions, and some questions and answers about the application process or license class. License verification is possible through a link to the Department of Consumer Affairs' website.

Since its activation, the board began receiving e-mail inquiries seeking information about pharmacy law and applications and these are being routed to the appropriate staff (this may grow into a sizeable workload). And despite the diversity of information already available on the website, development of additional components is planned and is in the purview of the Communications and Public Education Committee.

MOTION: Commend Board Analyst Linda Alderman for her work in establishing the board's website.

SUPPORT: 6 OPPOSE: 0

Executive Officer's Report

Personnel Update

Ms. Harris reported that three new employees have joined the board's Sacramento Office since the last meeting as follows:

- Candy Place is the executive office's management services technician, who provides support to board members and to Patricia Harris and Virginia Herold. Ms. Place held a similar position with the board about six years ago. Ms. Place transferred to us from the Trade and Commerce Agency.
- Eleonor Steiner has joined the board as the management services technician who compiles background information on candidates with criminal backgrounds. Ms. Steiner formerly worked for the Board of Dental Examiners.
- Anna Lopez has joined the board as a limited-term management services technician in the Complaint Unit. Ms. Lopez formerly worked for the State Lottery Commission.

Ms. Harris reported that two new inspectors have been hired and began work for the board on June 26, 2000. Both of the new inspectors live in Southern California.

- Dennis Ming has worked as a pharmacist for over 30 years, principally in the hospital setting. He also had been vice dean of pharmacy professional services at the University of California, Irvine, and a clinical professor of pharmacy at the University of California, San Francisco. Dr. Ming is also a reserve police officer in the City of Orange Police Department.
- Tim Black, who has worked as a pharmacist for over 20 years in community practice settings. Dr. Black has served as staff pharmacist, pharmacist-in-charge and most recently managed six pharmacies as a pharmacy service manager for Kaiser Foundation Hospitals. In addition, Dr. Black possesses a MBA.

The board has 12.5 of its 19.5 inspector positions filled, plus Inspector William Wislosky continues to work for the board part time.

Ms. Harris reported that she and Supervising Inspector Ratcliff participated in qualification assessment interviews for new inspector candidates the last week in June. There were over 50 candidates scheduled, and more than 30 were interviewed during three days of interviews in Los Angeles and two days in Sacramento. Significant effort is going into identifying new candidates from which inspectors will be hired. Those who qualify at the top of the inspector list will be scheduled for interviews with the supervising inspectors and the three inspector team leads later this summer.

Ms. Harris added that some of the candidates commented that they became aware of the open inspector position through *The Script*. She commended Hope Tamraz for her efforts to advertise more prominently in the board's newsletter.

The board also has one supervising inspector position vacant. In June the department compiled a new list of qualified individuals for supervising inspector. Ms. Harris and Ms. Herold participated in the

qualification interviews, along with a pharmacist-manager from the Department of Corrections, and a manager from the Department of Consumer Affairs. Interviews for the supervising inspector position will be scheduled later this summer.

Specialized Training

Ms. Harris acknowledged Dr. Fujimoto for her efforts to provide specialized training to all staff in June.

- Effective Listening (provided by Pfizer, through the efforts of Board Member Darlene Fujimoto)
- Sexual Harassment Awareness Training (provided by the Department of Consumer Affairs)

Annual Assessments

Ms. Harris reported that within the next few months, all staff will undergo annual assessments and individual development conferences with herself, Virginia Herold, Karen Cates or Robert Ratcliff. These assessments are important to staff development and organizational effectiveness, and are worth the considerable investment in time required to perform.

BUDGET REPORT

1. 1999/00 Budget Year

Ms. Harris stated that final budget figures for the year are not available until August, so the figures are projected.

Revenue Projected: \$5,629,445

The board decreased fees effective July 1, reducing annual revenue by an estimated \$1,125,125. The projected revenue for the year is comprised of \$4,963,893 in revenue from licensing fees and \$446,538 in interest. During the first 11 months of the year, revenue has been higher (about 15 percent) than projected.

The board has also collected \$134,266 in cost recovery this year as of May 31, 2000 and \$53,750 in fines through the citation and fine program.

Expenditures Projected: \$6,389,131

The board was authorized \$5,874,009 in baseline expenditures. The board also received supplemental funding for:

- CURES -- \$466,345 (which was encumbered to fund the CURES program for another two years from the original CURES appropriation in 1996; this funding will run out December 31, 2001)
- Y2K -- \$382,283 (to replace outdated programs and hardware modifications needed)

AG Deficiency Update

The board's AG deficiency for 1999/00 was estimated for the full year to be \$308,909 (which is 60 percent more than the board's initial AG funding of \$521,091). Total spending for the year is projected at \$830,000 (\$677,780 was actually spent through April 30).

The increase in expenditures is principally due to the increased number of cases transferred to the AG's Office for discipline, reflecting a shift in focus of board inspectors over the last few years to pursue and complete the most serious cases, even though we have had inspector vacancies. Part of the deficiency is also needed to augment the board's defense in three civil cases.

The Board was able to redirect unspent money from other budget items to cover the AG deficiency.

Fund Condition \$9,483,007

At estimated levels of expenditure and revenue generation, the board is estimated to have had at least 17.6 months in reserve in its contingency fund on June 30, 2000.

2. 2000/01 Budget Year

This fiscal year began July 1, 2000, with a signed state budget.

Expected Revenue: \$6,528,135

Revenue for the year is expected to be comprised of \$4,860,985 in licensing fees, \$454,150 in interest and \$1,213,000 as the final repayment of the 1991/92 money transferred to the state's General Fund.

Projected Expenditure Baseline: \$6,214,000

The department's budget office projects expenditures for the year at \$6,214,000. This figure includes augmentations for:

- \$238,000 for ongoing funding of the public education program (but without any staff to perform these functions),
- \$45,000 for staff training and development (without any staff to coordinate training requests and perform other basic personnel functions), and
- 75,000 for a half-time inspector position created to oversee implementation AB 1545 regarding the ability of nurse practitioners and physician assistants to sign for drug samples.

We also received \$260,000 to fund construction and equipment costs for the expanded office space. Of this \$143,000 is for increased rent (this is an ongoing expense that has been added to our budget) and a one-time augment of \$117,000 was provided for construction and equipment costs.

In addition to these items, the department submitted budget change proposals on behalf of all departmental entities to authorize expenditures for various functions; the board's share of these are:

- \$62,000 for one year for the board to report data to the Health Integrity Data Bank from 1996 to present
- \$37,000 for increased workers' compensation rates
- \$3,000 to the department for board-member training
- \$29,000 for a 6 percent increase in the hourly rate charged by the Attorney General's Office (the rate, effective July 1, 2000, is \$106 per hour)

President Elsner expressed frustration over the current situation with Attorney General office's funding. He stated that the board must move forward with complaints and process these cases. He added that when the board goes over budget in this area, it is only an indication that the board is doing its job.

Dr. Fujimoto agreed and asked how can the board get the type of AG funding the board needs. She expressed concern that with the addition of new inspectors and the technician program, there may be limited funds to redirect to cover AG expenses.

Ms. Herold stated that for the last two years, the board has been over budget concerning the AG's office. Because of that, the board is building a clear case for an increase in the AG funding and it is clear that the board has a growing workload. She added that the Department of Finance requires extraordinary evidence before it approves any increase and must be convinced that every AG case is a priority case and needs to be prosecute.

Ms. Powell stated that it is not just a matter of prioritizing cases, it is a matter that involves licensees having to wait for decisions on cases.

Fund Condition: \$8,526,140

At the above projected revenue and expenditure levels, the board will have approximately 17.5 months remaining in its reserve on June 30, 2001. The fund reserve is projected to decrease to 14.7 months at the end of 2001/02 if revenue and expenditures remain constant.

3. Additional Budget Issues

Budget Change Proposals for 2000/01 and 2001/02

At the last board meeting, the board approved the development of budget change proposals (BCPs) to augment future budgets for specific functions. These BCPs are described below.

1. BCPs for 2000/01 (to be pursued as a "current year" augment)

Attorney General's Office – Approximately a \$250,000 requested augment to obtain increased AG funding to work the record number of board cases awaiting board action.

2. Budget Change Proposals for 2001/00

Enforcement:

Consumer Complaint/Mediation Unit -- \$202,000 requested augment

- Establish an 800 phone number for consumers to contact the board and add one office technician to provide support to existing 5-person staff [two of which are currently temporary (limited-term for 2 years) employees] -- \$82,000
- Make permanent the two staff services analyst positions currently filled as temporary, limited term positions -- \$120,000

Citation and Fine Program -- \$118,000 requested augment

- Create one staff services analyst and one clerical position for the proposed expansion in the site and fine program (triggered by a regulation scheduled for hearing at the July 2000 board meeting to cite and fine for all violations of pharmacy law). The clerical position will also be needed to perform the workload related to the program.

Attorney General's Office – \$250,000 requested augment

- Obtain increased AG funding on an ongoing basis for future budget years.

Licensing:

- Add one office technician position to assist with processing applications for individual licenses (the pharmacist, pharmacy technician, foreign graduate and intern programs for audit control, and to back up during periods of high workload) -- \$58,000 augment requested
- Establish as a permanent position the office technician position for the wholesaler desk currently filled limited term basis -- \$58,000 augment requested
- Establish one office technician position for keeping current pharmacist-in-charge transactions required for all pharmacies -- \$58,000 augment requested

Communication and Public Education:

- Establish an associate analyst position to oversee the public education program -- \$78,000 requested

Organizational Development:

- Budget realignment to reflect actual expenditures (in addition to increased AG funding, recognizing that full employment in all inspector positions will eliminate salary savings that have been redirected in prior years to fund other items in the budget, e.g., travel) – estimated \$200,000 requested.

The Organizational Development Committee recommended under the Organization Development Committee report to withdraw the proposal for one year, because this realignment proposal is premature until all inspector positions are actually filled.

A new budget change proposal recommended for development is to establish in the department's Legal Office, one full-time attorney position dedicated solely to the Board of Pharmacy. This will permit the board to have an attorney present at all committee meetings (board committees and compliance committee meetings) and once the expanded cite and fine regulations are in place, to sit through these hearings as well. Additionally the attorney will become adept at responding to complex legal questions that routinely arise in the administration of pharmacy law and responding to correspondence, assist with complex corporate structures identified in application documents, and generally assist with law regarding public records, public meetings and the Administrative Procedures Act. Funding for the position will be about \$100,000 (including benefits) annually. *The Organizational Development Committee in its action list for the board has recommended this proposal to the board for approval for development.*

Funding for these proposals

According to estimates prepared by the department for the last board meeting: the board's fund condition at the end of 1999/00 is projected to be 17.6 months or \$9.5 million (which was before the revised – higher -- revenue figures for this quarter were added in). By the end of 2000/01, the board will still have approximately 17.5 months of expenditures in its fund.

If all these proposals are approved, this would increase expenditures by \$904,000 annually. Adding in the increased expenditures for ongoing rent, will increase board expenditures annually by about \$1 million. This will reduce the board's fund to about 10.5 months at the end of 2001/02, and to 6.2 months at the end of 2002/03. However, absent from these fund condition estimates is likely to be increased revenue from cost recovery and cite and fine authority (cost recovery and cite and fine fees are never built into the revenue projections for the year, although they are reported to the board as "projected revenue" for the year once they are actually collected).

The Communications Team

Sandi Moeckly reported that the Communication Team (TCT) has held 23 team meetings to date. A total of 35 issues have been brought to the TCT. All but three of these issues have been resolved. These remaining issues are being resolved through the TCT process.

She added that since the last TCT report to the board, the TCT has drafted procedural guidelines for the team. These guidelines are specify term limits; classification of members; how issues are related to management and/or staff; how resolution is communicated back to the person with the issue; TCT involvement in quarterly staff meetings.

The TCT has also developed a Mission Statement:

To respectively promote effective communications between all Board of Pharmacy staff; to improve the performance of the organization as a whole, and work together as a team.

On June 21, 2000, the TCT facilitated the quarterly staff meeting. At this meeting it was necessary to hold a special election to replace Inspector Brenda Barnard as a member of the TCT who was reducing her employment timebase. All staff elected a new inspector to the TCT, Robert Grimm, who will complete Dr. Bernard's term.

Ms. Moeckly explained that staff can submit issues to the TCT through the suggestion box, anonymously, personally or by e-mail. Meetings are held monthly, or more often if needed. After the meeting, the team representative will take a list of the issues to management. If the problems are resolved, the team member reports back to the employee. For personnel matters, the TCT is not able to intervene.

Internal Audit

Ms. Harris reported that the Department of Consumer Affairs is conducting an internal audit review of the board as part of its periodic assessment of all departmental entities. The department is pilot testing a new process with the board. She advised the board that the report would be distributed once prepared.

APPROVAL OF MINUTES

Full Board Minutes – April 12, 13, 2000

MOTION: Approve the minutes as corrected.

M/S/C: JONES/MAZZONI

SUPPORT: 6 OPPOSE: 0

Southern Compliance Committee Minutes – February 22, 2000

MOTION: Approve the minutes as corrected.

M/S/C: JONES/MAZZONI

SUPPORT: 6 OPPOSE: 0

Southern Compliance Committee Minutes – May 16, 2000

MOTION: Approve the minutes as submitted.

M/S/C: JONES/MAZZONI

SUPPORT: 6 OPPOSE: 0

Northern Compliance Committee Minutes – May 2, 2000

MOTION: Approve the minutes as submitted.

M/S/C: MAZZONI/JONES

SUPPORT: 6 OPPOSE: 0

FUTURE BUSINESS

Dr. Fujimoto discussed how the board might appeal to pharmacists to attend more board meetings. She added that the board meetings could be tied into association meetings and board speakers could make presentation and hold a question and answer session.

President Elsner introduced Lynn Morris, Deputy Director, Board Relations for the Department of Consumer Affairs who attended the meeting.

ADJOURNMENT

There being no new business, President Elsner adjourned the meeting at 9:50 a.m.

CLOSED SESSION

The board moved into closed session pursuant to Government Code section 11126(c)(3) to consider the Petition for Reinstatement.