

# SD Board of Pharmacy Meeting Minutes

Wednesday, July 13, 2016 at 4:00 PM

South Dakota Board of Pharmacy Conference Room  
4001 W. Valhalla Blvd., Suite 106  
Sioux Falls, SD 57106

**Board Members and Board Staff Present:** Jeff Nielsen, Executive Director Kari Shanard-Koenders and Beth Windschitl, Senior Secretary

**Board Members and Representatives Attending by Conference Call:** President Diane Dady, Tom Nelson, Lenny Petrik, Lisa Rave, Doug Barnett (Assistant Attorney General)

**Attendees Present:** Mark Smith (Cigna / Tel-Drug)

## A. Call to Order

The meeting was called to order by President Dady at 4:11 PM CST and attendee roll call completed. Diane stated the purpose of the meeting is to discuss a variance request submitted by Cigna / Tel-Drug and render a decision.

## B. Variance Discussion

President Dady requested Mark L. Smith provide a brief synopsis of his professional background and explain the dynamics/parameters of the variance requested by Cigna / Tel-Drug then relinquished the floor.

Board member Jeff Nielsen, an employee of Cigna / Tel-Drug, recused himself from the proceedings/participation to avoid any appearance of impropriety or perceived conflict of interest.

Mr. Smith stated he is employed by Cigna / Tel-Drug and works in the facility located at 2500 East 52<sup>nd</sup> Street North in Sioux Falls, South Dakota. He has been a pharmacist for 27 years, an employee of Cigna / Tel-Drug for 18 years, and has served as a Pharmacist-In-Charge (PIC) for the last two years. Mr. Smith confirmed all attendees received copies of the variance proposal submitted by Cigna / Tel-Drug.

Mr. Smith comes before the Board today to discuss Cigna / Tel-Drug's request for a variance to South Dakota Administrative Rule 20:51:29:20. The variance proposed is a "general" request not specific to any Cigna / Tel-Drug employee and appeals for a Work-At-Home Arrangement for one of Cigna's Pharmacy Certified Technicians. Cigna / Tel-Drug sought this course of action in the best interest of its staff after a recent ADA qualifying event where subsequent employer accommodations failed to meet expectations and provide an employee with sufficient remedies. In addition, Mr. Smith stated Cigna Certified Technicians (CPHT), by job requirements, spend approximately 30 to 40 percent of their work time keying in information that is verified by a pharmacist downstream.

Board Executive Director Shanard-Koenders reminded attendees of the South Dakota Board of Pharmacy's mission statement emphasizing the Board's role and responsibility to protect the health and welfare of South Dakota consumers. She further referenced Administrative Rule 20:51:29:20 Delegation and supervision of technical functions and Definition of Terms 36-11-2 (22) highlighting a pharmacist's role of on-site, direct supervision of pharmacy technicians. She concluded by stating the requested variance would be in complete opposition to the existing statute as it is written.

**ARSD 20:51:29:20. Delegation and supervision of technical functions.** A pharmacist may delegate technical dispensing functions to a pharmacy technician, *but only if the pharmacist is on site supervising the delegated functions performed.* The pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative.

**SDCL 36-11-2. Definitions of terms. Terms used in this chapter mean:**

(22) "Registered pharmacy technician," a person registered by the Board who is employed by a pharmacy to assist licensed pharmacists in the practice of pharmacy by *performing specific tasks delegated by and under the immediate personal supervision and control of a licensed pharmacist,* as permitted by the Board.

Mark Smith indicated technician can log into a phone system for monitoring but direct supervision is not an option.

The Board President opened the floor for questions.

Lisa Rave raised a concern that technicians doing phone work may have the potential to inadvertently counsel patients when there is no pharmacist observing in real time and referred attendees to the list of the tasks a technician can and cannot perform per Administrative Rule **20:51:29:21 Technical functions and 20:51:29:22 Tasks a pharmacy technician may not perform.**

Per the Executive Director, 36:11:10 implies the Board of Pharmacy has authority to grant variances; however, variances are often granted where the variance provides advanced safety features.

President Dady stated, "Granting a variance for something like this opens the door for other requests and creates a slippery slope where a technician has no immediate supervision. The Board is here for the safety of the public. A technician working outside of the direct supervision of a pharmacist is in direct contradiction." Lenny Petrik concurred with Dady and added he would be uncomfortable with granting a variance given the rules as written.

As a Cigna / Tel-Drug PIC, Mark Smith stated he wanted all options tried to assist employee and views having a technician work from home as a solution of last resort. Lisa Rave stated Mr. Smith appears before the Board on behalf of Cigna and technically, in his capacity as Pharmacist in Charge, is representing Cigna pharmacists. She asked him how Cigna pharmacists feel about supporting a situation where technicians work remotely. Mr. Smith stated Cigna is in the early stages of investigation, has not engaged pharmacists in the discussion or solicited opinions regarding the matter, and is looking at the variance as a test case to see if it can even be done. He also reiterated the primary function of technician is keying/data entry and that is reviewed by a pharmacist.

Kari Shanard-Koenders expressed concern, that down the road, the variance may grow into a business model and may become the springboard for employees trying to also work at home.

President Dady asked if there was any additional information to present and asked attendees if there were any outstanding questions to ask. No further discussion on the topic occurred.

Tom Nelson made a motion to deny the variance request. Lenny Petrik seconded the motion. Jeff Nielsen recused himself from the vote. The motion to deny was unanimous. Per President Dady, the variance requested is voted down.

Mark Smith thanked the Board for its consideration of the request.

### **C. Adjourned**

There being no further business Jeff Nielsen made a motion to adjourn. Motion was seconded by Lisa Rave and the meeting adjourned at 4:35 p.m.