



North Carolina Board of Pharmacy

Published to promote compliance of pharmacy and drug law

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Item 2193 – Pharmacy Employers Must Review the Federal Excluded Individuals List

Editor's note: Thank you to Jim Wilson, a Durham-based attorney, who frequently represents pharmacists before the North Carolina Board of Pharmacy and other venues, for submitting this news item.

Before hiring pharmacy personnel, be sure to check the federal Excluded Individuals List, <http://exclusions.oig.hhs.gov/>. Failure to do so can lead to severe problems.

Under federal law, persons found to have committed certain violations of law can be excluded from participation in federal health care programs. State law usually prohibits such persons from participating in state health care programs too. Exclusion from participation means these people cannot be paid with government money for any health care or related services (they still can, if otherwise eligible, be covered as patients by governmental payers).

The federal government takes the position that this means such persons cannot be paid if they “input prescription information for pharmacy billing or who are involved in any way in filling prescriptions for drugs reimbursed, directly or indirectly, by any Federal health care program.”

It seems not to be widely known that this prohibition extends to employers of excluded individuals. The Office of Inspector General (OIG) of the US Department of Health and Human Services explains it as follows:

“Thus, a provider or entity that receives Federal health care funding may only employ an excluded individual in limited situations. Those situations would include instances where the provider is both able to pay the individual exclusively with private funds or from other non-federal funding sources, and where the services furnished by the excluded individual relate solely

to non-federal program patients. In many instances, the practical effect of an OIG exclusion is to preclude employment of an excluded individual in any capacity by a health care provider that receives reimbursement, indirectly or directly, from any Federal health care program.”

Consequences of hiring an excluded individual can be severe. In addition to having to pay back the entire amount received for a service provided by an excluded individual, it is possible for the government to add penalties of up to three times the original amount plus thousands of dollars per claim. The government takes the position that employers have a duty to check the Excluded Individuals List.

As of the writing of this article, there were about 18 pharmacists from North Carolina on the Excluded Individuals List.

Item 2194 – Armed Forces Personnel License Renewal

During the 2009 legislative session, the General Assembly enacted S.L. 2009-458, which requires occupational licensing boards to pass rules to postpone or waive conditions of licensure renewal for members of the armed forces whose licenses are in good standing and who are eligible for an extension of time in which to file an income tax return under federal and North Carolina law (chiefly, armed services personnel deployed overseas for combat and certain other operations). The Board of Pharmacy has long allowed postponements or waivers in these circumstances for members of the armed forces.

The Board of Pharmacy has passed a rule to implement this statute, which will be codified at 21 NCAC 46.1613. At the time of this writing, the rule was awaiting final clearance from the North Carolina Rules Review Commission. The text of the rule may

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be found on page 555 of the October 15, 2009 issue of *North Carolina Register* at www.oah.state.nc.us/rules/register/Volume24Issue08October152009.pdf.

Any pharmacist, technician, dispensing physician, dispensing nurse practitioner, or dispensing physician who is a serving member of the armed forces and has any question about renewal issues should feel free to call Board staff.

Item 2195 – Drug Donation Statute and Implementing Regulations

During the 2009 legislative session, the General Assembly enacted S.L. 2009-423, An Act to Establish the Drug, Supplies, and Medical Device Repository Program in the North Carolina Board of Pharmacy. This statute charges the Board to establish and administer rules that allow the donation of prescription drugs and devices within certain statutory (and to-be-established rule-based) parameters. This statute, which provides long-needed guidance on donation and redispensing of prescription drugs, devices, and medical supplies, was primarily sponsored by Representative Randy Stewart of Nash County, a physical therapist and former member of the North Carolina Board of Physical Therapy Examiners. The text of the statute may be found at www.ncleg.net/Sessions/2009/Bills/House/PDF/H1296v5.pdf.

The Board convened a working group to draft rules to implement the donation statute, and Board staff anticipates that draft rules will be presented to the Board members at the January 19 meeting. If the draft is approved, the proposed rules will be published for commentary and a public hearing will be held at a date to be determined. The proposed rules will appear both in the *North Carolina Register* and on the Board Web site, www.ncbop.org.

Board staff encourages pharmacists, particularly those who provide services through free and charitable clinics, to provide comments on the proposed rules.

Item 2196 – Proposed Rulemaking Concerning Advanced Pharmacy Technicians in the Hospital Practice Setting

At the November 17, 2009 meeting, the Board members approved for publication a proposed rule to create an “Advanced Pharmacy Technician” classification in the acute-care inpatient hospital practice setting. This proposed rule follows on the Board’s support of associate degree programs in pharmacy technology currently implemented at a handful of North Carolina community

colleges, as well as the results of Rule .2510 pilot programs conducted at Broughton State Hospital and Wake Forest University Baptist Medical Center.

By the time of this *Newsletter’s* publication, the proposed rule will have been published for commentary in the *North Carolina Register* and on the Board’s Web site, www.ncbop.org. The thrust of the rule would be to allow technicians who are registered, certified, and holders of an associate degree in pharmacy technology to, in the acute-care inpatient hospital practice setting, validate certain stock-filling and unit-dose prepackaging tasks performed by other technicians. In addition to specifying the qualifications necessary for the advanced pharmacy technician credential, the proposed rule spells out training and supervision requirements for pharmacist managers, as well as certain documentation responsibilities.

Board staff strongly encourages pharmacists, particularly those practicing in the acute-care inpatient hospital setting, to review the proposed rule and provide timely comments.

Item 2197 – Renewal Season Is in Full Swing

Pharmacists, pharmacy permits, technicians, dispensing physicians, dispensing nurse practitioners, and dispensing physician assistants are reminded that the renewal period for licenses, registrations, and permits began November 1, 2009. By the time of this *Newsletter’s* publication, any non-renewing licensee, registrant, or permittee will have entered the 60-day so-called grace period for renewal. Anyone who fails to renew by the end of February is deemed by North Carolina law to be engaged in the unlicensed practice of pharmacy. See NCGS §90-85.17.

The online renewal process should be familiar to all licensees, registrants, and permittees. As a reminder, all renewals must be completed online. No paper renewals will be accepted.

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The *North Carolina Board of Pharmacy News* is published by the North Carolina Board of Pharmacy and the National Association of Boards of Pharmacy Foundation, Inc, to promote compliance of pharmacy and drug law. The opinions and views expressed in this publication do not necessarily reflect the official views, opinions, or policies of the Foundation or the Board unless expressly so stated.

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