



## Report of the Committee on Constitution and Bylaws

### Members Present:

Cynthia L.W. Warriner (VA), *chair*; Michael Blaire (AZ); Geoffrey Christ (DE); Stephanie A. Hernandez (MA); Bradley A. Miller (TX).

### Others Present:

Gary W. Dewhirst, *Executive Committee liaison*; Carmen A. Catizone, Melissa Madigan, Eileen Lewalski, Lisa Janso, and Maureen Schanck, *NABP staff*.

The 2018-2019 Committee on Constitution and Bylaws met via teleconference on April 8, 2019.

### Review of the Committee Charge

Chairperson Warriner reviewed the committee charge as stated in the NABP Constitution and Bylaws. No additions or changes were proposed. Therefore, the charge reads as follows:

#### Article VI – Amendments

##### Section 1.

- (a) The Committee on Constitution and Bylaws shall consist of five (5) members appointed annually by the President. The President shall designate a Chairperson from the Committee members who shall preside at the Committee meetings.
- (b) It shall be the duty of the Committee on Constitution and Bylaws to review any proposed amendments to the Constitution and Bylaws, to suggest changes, if any, to such amendments, and to make a Committee recommendation of “pass,” “not pass,” or “no recommendation” to each such proposed amendment.
- (c) Any active member board, the Executive Committee, or the Committee on Constitution and Bylaws may propose amendments to the Constitution and Bylaws of the Association.

##### Section 2.

- (a) Proposed amendments to this Constitution shall be in writing and delivered to the Executive Director/Secretary of the Association not more than ninety (90), nor less than forty-five (45), days prior to the Annual Meeting. Each such proposed amendment shall be delivered by the Executive Director/Secretary to the Committee on Constitution and Bylaws no less than five (5) days before the Committee on Constitution and Bylaws is convened.

- (b) Amendments to the Constitution proposed by the Committee on Constitution and Bylaws shall be in writing and delivered to the Executive Director/Secretary not less than thirty-five (35) days prior to the Annual Meeting.

### Section 3.

- (a) The Executive Director/Secretary shall forward all proposed amendments to each board of pharmacy not less than thirty (30) days before the Annual Meeting of the Association.
- (b) Proposed amendments so received shall be presented at any session of the Annual Meeting. Such amendments shall be presented for consideration at the next succeeding Annual Meeting and for adoption shall require an affirmative vote of two-thirds (2/3) of the total number of active member boards of the Association.

## Bylaws Article VI

### Section 1. Proposed Amendments

- (a) Proposed amendments to the Bylaws shall be in writing and delivered to the Executive Director/Secretary of the Association not more than ninety (90), nor less than forty-five (45), days prior to the Annual Meeting. Each such proposed amendment shall be delivered by the Executive Director/Secretary to the Committee on Constitution and Bylaws no less than five (5) days before the Committee on Constitution and Bylaws is convened.
- (b) It shall be the duty of the Committee on Constitution and Bylaws to review any proposed amendments to the Bylaws, to suggest changes, if any, to such amendments, and to make a committee recommendation to each such proposed amendment.
- (c) Amendments to the Bylaws proposed by the Committee on Constitution and Bylaws shall be in writing and delivered to the Executive Director/Secretary not less than thirty-five (35) days prior to the Annual Meeting.
- (d) The Executive Director/Secretary shall forward all proposed amendments to members of the Executive Committee and all active and associate member boards not less than thirty (30) days prior to the Annual Meeting.

### Section 2. Amendment Voting

Any such proposed amendment received in accordance with Section 1 of this Article shall be presented at any session of the Annual Meeting, exclusive of the last session. At any subsequent session of that Annual Meeting, said proposed amendment may be adopted by an affirmative vote of a majority of the total number of active member boards of the Association. Any proposed amendment which shall not receive the vote required herein for adoption must be re-submitted in accordance with Section 1 of this Article before receiving further consideration at a subsequent Annual Meeting.

## **Review of Previous Reports and Background Information**

Chairperson Warriner reviewed with committee members the 2017-2018 Committee on Constitution and Bylaws report and the recommendations within.

## **Proposed Constitutional Technical Amendment Set**

Chairperson Warriner reviewed with committee members the proposed technical amendments to the Constitution submitted by the Executive Committee, which were presented at the NABP 114<sup>th</sup> Annual Meeting held on May 5-8, 2018, in Denver, CO, and will be discussed and voted on at the NABP 115<sup>th</sup> Annual Meeting to be held on May 16-18, 2019, in Minneapolis, MN.

Chairperson Warriner noted that the Executive Committee proposed the technical amendment set to the NABP Constitution to provide clarification to the existing language and eliminate outdated terminology.

By stating “interstate and interjurisdictional transfer in pharmacist licensure” in Article II and “transferring licensure both into and out of the state or jurisdiction” in Article III, Section 1(c), it is not only inclusive of jurisdictions within the United States, but also any international jurisdictions that comply with the NABP Constitution and Bylaws.

In Article III, Section 1(a), the Executive Committee proposed to change “provinces of the Dominion of Canada” to “Canadian provinces and territories” to be consistent with the terminology used in Canada.

In Article III, Section 1(e), the definition of an affiliated member was revised to clarify that the individual will continue to be an affiliated member of NABP so long as the individual has not been convicted of “a felony” or violation of pharmacy laws. Chairperson Warriner indicated that the proposed amendment removes “an offense involving moral turpitude” and replaces it with “a felony,” as “felony” is more clearly defined. She further clarified that the reference to violation of liquor and drug laws was removed as such violations may not impact the pharmacist’s license or be enforced by the board.

### **RECOMMENDATION:**

#### **Article II — Purpose**

The purpose of the Association is to provide for interstate and interjurisdictional transfer in pharmacist licensure, based upon a uniform minimum standard of pharmacist education and uniform legislation; and to improve the standards of pharmacist education, licensure, and practice by cooperating with State, National, and International Governmental Agencies and Associations having similar objectives.

#### **Article III — Membership, Definitions, Voting, and Districts**

##### **Section 1.**

(a) The members of this Association shall be the boards of pharmacy (or similar pharmacy licensing agency) of the individual States, the District of Columbia, the Territories and Commonwealths of the United States, the individual Canadian provinces and territories ~~provinces of the Dominion of Canada~~, and such other jurisdictions that apply to join the Association and are approved, from time to time, by the Executive Committee. The

members shall consist of active and associate members.

- (b) Applications for membership shall be submitted to the Executive Director/Secretary. New member boards may be admitted to the Association at any meeting of the Executive Committee by an affirmative vote of two-thirds (2/3) of the total members of the Executive Committee entitled to vote.
- (c) Active member boards shall be those member boards that have formally approved the Constitution and Bylaws of the Association, and that require the use of the NABP Clearinghouse for all candidates for the purpose of transferring licensure both into and out of the state or jurisdiction as provided by the Bylaws of this Association.
- (d) Associate member boards shall be those member boards not classified as active member boards.
- (e) Any individual who is a member or administrative officer of an active or associate member board of the Association shall be an affiliated member of the Association NABP Constitution and Bylaws and shall continue to be an affiliated member hereof, although such person is no longer actively participating on such board, so long as such person has not been convicted of ~~a felony or an offense involving moral turpitude~~ or violation of pharmacy, liquor, or drug laws and so long as such board is a member in good standing with this Association.
- (f) The term “administrative officer” shall be defined as an individual hired, appointed, or elected to serve as the chief executive officer or executive director of a board of pharmacy and who shall be responsible for the day-to-day performance and supervision of the administrative duties and functions for which the board is responsible. Each board shall have only one administrative officer for the purposes of eligibility to serve on the NABP Executive Committee.

### **Proposed Bylaws Technical Amendment Set**

Chairperson Warriner reviewed with committee members the proposed technical amendments to the Bylaws submitted by the Executive Committee, which are to be presented, discussed, and voted on at the NABP 115<sup>th</sup> Annual Meeting to be held on May 16-18, 2019, in Minneapolis, MN. She noted that the Executive Committee proposed the technical amendment set to the NABP Bylaws to provide clarification to the language and eliminate outdated processes.

In Article II, Section 1, the Executive Committee proposed to update the individuals whose disciplinary information should be reported to the NABP Clearinghouse to pharmacists “and other persons licensed/registered to engage or assist in the practice of pharmacy.” This clarification includes individuals such as pharmacy technicians who are licensed/registered by the boards of pharmacy.

The proposed amendment in Article II, Section 2(a), clarifies that in addition to utilizing the NABP Clearinghouse to process licensure transfer requests, active member boards must also “submit licensure and disciplinary data to the NABP Clearinghouse database.” Additionally, Article II, Section 2(a) v and vi, were proposed to be removed because they were considered outdated and the removal of such items provides a more objective evaluation of the applicant.

Lastly, it was proposed that Article III be removed as the process outlined in this article no longer exists due to technology and process updates.

## **RECOMMENDATION:**

### **Article II**

#### **Section 1. Definition and Operation of the NABP Clearinghouse**

Active member boards shall utilize NABP to process requests for transfer of licensure. The NABP Clearinghouse shall serve as a national database of educational, competence, licensure, and disciplinary information on pharmacists licensed by the boards and other persons licensed/registered to engage or assist in the practice of pharmacy in determining the acceptability and qualifications of candidates requesting the transfer of examination scores and licenses into their jurisdictions.

#### **Section 2. NABP Clearinghouse Participation and Licensure Transfer Requirements**

- (a) Active member boards shall utilize the NABP Clearinghouse to process requests for the transfer of licensure and submit licensure and disciplinary data to the NABP Clearinghouse database in accordance with the following requirements:
- (i) The applicant has:
    - (1) graduated from an accredited pharmacy degree program approved by the board; or
    - (2) graduated from a foreign college of pharmacy, completed a transcript verification program, taken and passed a pharmacy degree equivalency exam program, and completed a process of communication ability testing as defined under the board's regulations so that the board is assured that the applicant meets standards necessary to protect the public health and safety.
  - (ii) The applicant has passed a competence assessment examination approved by the board at the initial time of licensure. That applicant, if examined after June 1, 1979, passed the National Association of Boards of Pharmacy Licensure Examination (NABPLEX) or the North American Pharmacist Licensure Examination (NAPLEX).
  - (iii) The applicant has a license in good standing from an active member board.
  - (iv) The applicant demonstrates that at least 1,500 hours, or if licensed after January 1, 2012, at least 1,740 hours of practical pharmacy experience under the instruction of a licensed pharmacist have been acquired.
  - ~~(v) The applicant has the capacity to safely engage in the practice of pharmacy with reasonable skill and competence.~~
  - ~~(vi) The applicant is of good moral character and temperate habits, and does not engage in the unlawful use of drugs.~~
  - ~~(vii)~~(v) The applicant's total practical pharmacy experience, and experience in the practice after licensure, is at least equivalent to the practical pharmacy experience required in the state into which the applicant is seeking to transfer the license.
- (b) An application which has not been completed and submitted to the board of the state into which the applicant seeks licensure within one (1) year after the date on which it is issued shall be null and void.

- (c) A candidate shall not be deemed ineligible to be licensed because the continuing education requirements of the state into which the candidate is applying for transfer of licensure have not been met.
- (d) Active member boards shall not maintain or adopt additional requirements that unfairly impede the licensure transfer process. However, any active member board may require a pharmacist who applies for a transfer of license to be examined on the laws and/or appear before that board for the purpose of being interviewed on current pharmacy practice.
- (e) No active member board shall temporarily or permanently discontinue use of the NABP Clearinghouse or refuse or unreasonably delay processing of transfer applications, except upon sixty (60) days written notice to the Executive Director/Secretary of the Association at the office of the Association. The Executive Director/Secretary shall notify all active member boards of the receipt of any such notice.

### **Article III**

#### **Section 1. Transfer Application**

~~It shall be the duty of the Executive Director/Secretary to prepare the necessary transfer application, subject to the approval of the Executive Committee, and furnish them to applicants upon payment of the applicable fee.~~

#### **Section 2. Application Instructions; Other Information**

~~It shall be the duty of the Executive Director/Secretary to furnish each applicant with complete instructions as to the method of completing the NABP application, filing it with the board of pharmacy to which the applicant is applying, and all other matters of information with which prospective applicants should be familiar.~~

#### **Section 3. Investigation, Information**

~~It shall be the duty of the Executive Director/Secretary to make investigations and furnish information in regard to applicants to the board of pharmacy.~~

### **FINAL RECOMMENDATION:**

**A motion was made and passed to recommend "Pass" on the Proposed Technical Amendment Sets to the Constitution and Bylaws. (Motion by Blaire, Second by Miller)**

The committee unanimously supported the passage of the proposed amendment sets.