

December 18, 2009

Memo

To: Senate Council

From: Daniel Wermeling, Pharm.D.
Senator, College of Pharmacy

Re: Follow-up Report on Code of Conduct Addendum

I wish to thank Senate Council members for inviting me to the November 9th meeting to provide a follow-up discussion with regard to the Code of Conduct Addendum negotiations between the College of Pharmacy faculty and University Administration. The purpose of this memo and attachments is in response to Senate Council motion for me to provide a written report that could be provided to the full Senate at a future meeting. This memo can be used as an executive summary. I have attached my August 21, 2009 memo to Senate Council as a full report of our concerns for those interested. The College of Pharmacy specific Code of Conduct, or as we have come to say, the "Footnoted Code of Conduct", is also attached so that members can see the original document and how the matter was resolved temporarily.

Please recall that there were principled reasons for coming to the Senate Council and Senate with our concerns. As we came to learn, the Administration wishes to have a Code of Conduct applied to all 14 colleges in the University, not just the Medical Center colleges. With that in mind I felt it appropriate that my colleagues understand what occurred with the College of Pharmacy faculty so that other colleges could consider how to handle proposed new regulations. Below please find a synopsis of the concerns.

Principles Related Concerns

1. Faculty Governance - It is unclear how UKHealthcare policy can reach into university governance for matters typically reserved for faculty and the Senate, such as writing, lecturing, participating in conferences, etc. Regular faculty recognize ARs and GRs for governance, not UKHealthcare policy.
2. Faculty Jeopardy – The new regulations placed faculty in jeopardy of non-compliance with severe penalties. Policy was written and enacted without an implementation phase, procedures for faculty to follow, and reporting mechanisms.
3. How does the organizational and corporate status of UKHealthcare, with roughly half of the UK fiscal activity, create risk for academic programs through non-compliance with healthcare delivery laws?

Process Related Concerns

1. A Code of Conduct applied to faculty from 2004 yet no regular faculty in the College of Pharmacy were aware of it. Other Colleges' faculty were also likely unaware.
2. The process to develop a revised Code of Conduct Addendum in 2008-09 did not include College of Pharmacy regular faculty.

3. The College of Pharmacy regular faculty became aware of the draft Code of Conduct the first week of June, 2009. The faculty were informed the UK Board of Trustees were to vote on the Code in June for an effective date of July 1, 2009 - this did occur.
4. Attempts to intervene or have College of Pharmacy identified issues managed were rebuffed by University attorneys overseeing the enactment. One memo impugned the integrity of the faculty and stated "the current AR seems to be observed more in its breach than in compliance" with no proof.
5. The College of Pharmacy reported this activity to the Senate Council over the Summer of 2009 to appeal the principles, process and content concerns. It became clear the policy had not been presented to the Senate formally for vetting nor through typical University policy vetting processes.

Content Related Concerns

1. Voluntary faculty were covered by the policy. For the College of Pharmacy there are approximately 400 voluntary faculty who are uncompensated and yet instruct our fourth-year students on clerkship rotations throughout the Commonwealth. Imposition of the policy on non-employees would have had significant negative financial and professional relations issues with pharmacist-instructors around Kentucky.
2. The policy had conflicts with other ARs and GRs and specifically with the College of Pharmacy Practice Plan AR that governs faculty supplemental employment and income.
3. The policy attempts to restrict academic freedoms of association, speaking and lecturing, listening to others speak and publishing. The effect is to over-reach into professional prerogatives of pharmacy faculty and licensed pharmacists and their professional associations and organizations.

The College of Pharmacy faculty were ultimately permitted to write a College of Pharmacy specific Addendum. The results are presented as an attachment to this memo. The document has not been published by the University on the Legal website where the original Code exists, nor is there a reference on the UK Legal site to our footnoted version for Pharmacy faculty. The College has published the footnoted version on its own website.

In summary, I hope I have been able to convey legitimate concerns that have faculty and academic origins. Faculty governance systems appear to be affected by the origination and implementation of the new policy. Elements within the policy directly relate to typical faculty roles and responsibilities including instruction, continuing education, attendance at conferences as a speaker or as a listener, ability to serve as a leader in professional organizations where industry is involved, publication and manuscript generation, administrative reporting and accountability, and mechanisms and sources of supplemental income.

The Senate and faculty are being presented with this information for a couple of reasons. The University administration has stated that it believes that a Code of Conduct should be applied to all 14 Colleges. However, it was proposed by Administration, as a result of this experience, that the Code should be developed through an Administrative Regulation and vetting process. It has also been proposed that a more general document be prepared and that each College would have an ability to create a "footnoted" version to address College specific functions. Other Colleges should have an awareness of our experience and be able to address their own ethical standards and concerns in a positive manner.