

ARKANSAS STATE BOARD OF PHARMACY
101 E. Capitol, Suite 218
Little Rock, AR 72201

The Arkansas State Board of Pharmacy met for a board meeting on October 12-13, 2010. The meeting was held at the Arkansas State Board of Pharmacy office at 101 E. Capitol, Ste. 218, Little Rock, AR.

Tuesday, October 12, 2010

The meeting was called to order by Benji Post, P.D., President. Members present were Lenora Newsome, P.D.; Justin Boyd, Pharm.D., MBA; Ronnie Norris, P.D.; Marilyn Sitzes, P.D.; Larry Ross and Ross Holiman, B.S., H. Ed. Staff members present were Charles Campbell, Pharm. D., Executive Director; John Kirtley, Pharm. D., Assistant Director; Inspector Ron Ewing; Inspector Rusty McSpadden; Inspector Clyde Frazier; Erika Gee, staff attorney; Dana Brown, CFO and Kelly Kendall, Administrative Assistant.

The minutes of the June, 2010 meeting were reviewed.

BOARD ACTION:

Mr. Holiman made the motion that the minutes of the June 2010 Board Meeting be approved. Dr. Boyd seconded the motion. The vote for the motion was unanimous.

The financial report was reviewed.

BOARD ACTION:

Mr. Ross made the motion that the financial report be approved. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

The Board interviewed candidates for Reciprocity. Each applicant was asked to complete a questionnaire regarding practice history, type of business and background. The following candidates were present:

Amir, Ahmed
Armstrong, David
Barnett, Casey
Bates, Vanessa
Blunt, Janet
Caputo, Joseph
Casalino, John
Cole, Arnold
Dimaggio, Vincent

DiStefano, Karen
Dowell, Austin
Durham, Martha
Fitch, David
Hadfield-Thomas, Cynthia
Hamilton, John
Hamilton, Stephen
Hesterlee, Pamela
Hinshaw, Bruce

Horak, Matthew
Jackson, Ashley
Jarymovych, Roman
Johnson, Deborah
Jones, Brian
Knych, Jenny
Marinelli, Joseph
Newbaker, Christy
Newbaker, David

Newton, Brian
Niver, Marcy
Patterson, Jeremy
Putrino, Roy

Sitaram, Sneha
Stasiak, John
Sturm, Vera
Thomas, Amanda

Walk, Abraham
Welch, Jill
Zaccarelli, Kelly

BOARD ACTION:

Mr. Holiman made the motion to approve the above applicants for reciprocity.
Dr. Bryant seconded the motion. The vote for the motion was unanimous.

CE requirements for the 12/31/2011 renewal were covered with the newly licensed pharmacists.

The Board interviewed candidates for Reciprocity who have not completed the application process. Each applicant was asked to complete a questionnaire regarding practice history, type of business and background. The following candidates were present:

Boerger, William
Lesebert, Larry

Lupini, Gary
Scutary, Michelle

Silkowski, Elliott
Willhite, Jr., Alton

BOARD ACTION:

Mr. Ross made the motion to approve the above applicants for reciprocity upon successful completion of all the requirements. Dr. Bryant seconded the motion.
The vote for the motion was unanimous.

The Board interviewed Jodi Fabisiak for reciprocity.

BOARD ACTION:

Dr. Post made the motion to approve Dr. Fabisiak's application for reciprocity.
Dr. Boyd seconded the motion. The vote for the motion was unanimous.

The Board interviewed Aaron Stutzman for reciprocity.

BOARD ACTION:

Dr. Norris made the motion to approve Dr. Stutzman for reciprocity and that his Arkansas license be issued under the same conditions that his Nebraska license is currently under. Dr. Sitzes seconded the motion. The vote for the motion was unanimous.

Larry McGinnis appeared before the Board for the Hospital Advisory Committee update.

Dr. James Bolding of the Bearden Pharmacy appeared before the Board requesting a reduced number of hours the facility must be open.

BOARD ACTION:

Dr. Newsome made the motion that Bearden Pharmacy be allowed to be open a minimum of 35 hours a week. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Dean Stephanie Gardner, UAMS College of Pharmacy; Dean Julie Hixson-Wallace, Harding College of Pharmacy and pharmacy students appeared before the board requesting that the 500 additional hours required by the Board be abolished in light of increased school requirements.

BOARD ACTION:

Dr. Boyd made the motion to instruct staff to draft language to abolish the current regulation and present it at the February, 2011 meeting. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

The Student Loan program at UAMS was discussed. It is the will of the Board to defer the \$50,000 payment to UAMS at this time and revisit the issue at the February, 2011 meeting.

The Board discussed pharmacists using crush boxes to fit orthotic shoes. As part of this discussion, the Board reviewed language in the pharmacy practice act as well as the Orthotics, Prosthetics and Pedorthics rules for Arkansas. The Board members agreed that they did not see anything in statute or regulations outlining the ability of pharmacists or a pharmacy to mold or shape orthotics other than shoe fitting. In the discussion the Board members also discussed crush boxes and did not think this would be appropriate other than use as a measurement device to determine the size of the foot but not for any fitting or production of other devices. The Board brought up the point that pharmacists may use a hair dryer in preparing the shoes they sell to add a small amount of heat to be sure the sole is in place properly.

BOARD ACTION:

Dr. Boyd made the motion that pharmacists should not use crush boxes outside of these parameters without appropriate Orthotics, Prosthetics and Pedorthics certification and permits from the Arkansas Department of Health. Dr. Sitzes seconded the motion. The vote for the motion was unanimous.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Frederick Mays, Pharmacist Reinstatement Applicant**. Dr. Post called the meeting to order and turned the proceedings over to the Hearing Officer, Charlie Moulton. Erika Gee, of the Attorney General's Office, represented the Board staff. Mr. Mays was not represented by counsel. John Kirtley, Asst. Dir. of the Arkansas State Board of Pharmacy and Mrs. Helen Mays were also present.

BOARD ACTION:

Dr. Norris made the motion that in the matter of Frederick Mays, Pharmacist Reinstatement Applicant, all Allegations were found to be true, and that all Charges were proven. Therefore, it was ordered that Mr. May's application for reinstatement as a pharmacist was denied and that he may reapply for reinstatement of his pharmacist license in Arkansas if he provides written documentation that his North Carolina pharmacist license is reinstated and that the North Carolina Pharmacy Recovery Network or the Arkansas Pharmacy Support Group has agreed to testify in support of his application. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Ms. Brown instructed Board members on how to submit a Statement of Financial Interest.

Dr. Kirtley updated the Board regarding the DEA's stance on nurses in LTC facilities acting as a physician's agent for the purpose of transmitting prescriptions to pharmacies.

Dr. Campbell addressed the issue of Board stipends.

BOARD ACTION:

Mr. Ross made a motion to support Board stipends being raised from \$85 to \$110. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley addressed NABP's Community Pharmacy Accreditation Program.

BOARD ACTION:

Dr. Boyd made the motion that the Board disagrees with requiring community pharmacies to obtain accreditation through programs such as the NABP Community Pharmacy Accreditation Program. Mr. Ross seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley addressed the issue of mandatory national certification for pharmacy technicians.

BOARD ACTION:

Dr. Boyd made the motion that national certification for technicians not be required. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

The meeting was adjourned.

Wednesday, October 13, 2010

The meeting was called to order by Benji Post, P.D., President. Members present were Lenora Newsome, P.D.; Justin Boyd, Pharm.D., MBA; Ronnie Norris, P.D.; Marilyn Sitzes, P.D.; Larry Ross and Ross Holiman, B.S., H. Ed. Staff members present were Charles Campbell, Pharm. D., Executive Director; John Kirtley, Pharm. D., Assistant Director; Inspector Ron Ewing; Inspector Rusty McSpadden; Inspector Clyde Frazier; Erika Gee, staff attorney; Dana Brown, CFO and Kelly Kendall, Administrative Assistant.

Dr. Kim Light appeared before the Board to discuss revising paperwork for the Arkansas Pharmacists Support Group.

The Board halted discussion to continue with the scheduled Public Hearing.

A Public Hearing on Regulation 2 was called to order at 9:50 am.

Regulation 2 – Pharmacists

The proposed changes will allow for consideration of a pharmacist's practice history outside a permitted pharmacy when applying for reciprocity, update language regarding the North American Pharmacist Licensure Examination to reflect changes made by NAPLEX and clarify the period of validity for a score transfer, and update requirements for Board of Pharmacy accreditation of pharmacist continuing education.

There was no public comment against the regulation changes.

BOARD ACTION:

Dr. Boyd made the motion to accept the changes to Regulation 2 as presented. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Regulation 4 – Pharmacy

The proposed changes will clarify that both the pharmacist in charge and the pharmacy permit holder are responsible for the security and accountability of controlled substances, provide guidance on how a pharmacy may provide prescription medications to animals as part of a contractual agreement with a veterinarian, update requirements for the handling of paper prescription orders by a pharmacy when processed and add language requiring hospitals to develop and routinely evaluate Medication Error Reduction Plans to identify medication related errors to increase patient safety in hospitals.

There was no public comment against the regulation changes.

BOARD ACTION:

Dr. Newsome made the motion to accept the changes to Regulation 4 as presented. Dr. Boyd seconded the motion. The vote for the motion was unanimous.

Regulation 7 – Drug Products/Prescriptions

The proposed changes will delete the prohibition on pharmacy compounding for veterinarian office stock.

There was no public comment against the regulation changes.

BOARD ACTION:

Dr. Boyd made the motion to accept the changes to Regulation 7 as presented. Dr. Norris seconded the motion. The vote for the motion was unanimous.

The Public Hearing was called to a close at 10:05 am.

The Board rejoined the APSG new paperwork discussion.

BOARD ACTION:

Mr. Ross made the motion that a Board Impairment Committee be formed of 3 professionals and one public member to discuss Consent Orders for the APSG. Dr. Norris seconded the motion. The vote for the motion was unanimous.

The Board Impairment Committee will consist of Dr. Newsome, Dr. Boyd, Dr. Post and one public member.

The Board discussed possible new forms for the APSG. These include a Preliminary Consent Order, Probation Consent Order, APSG Pharmacist Recovery Contract and Release of Medical Records agreement.

BOARD ACTION:

Mr. Holiman made the motion that the Board accept these new forms. Dr. Boyd seconded the motion. The vote for the motion was unanimous.

Waylon Bullock appeared before the Board requesting to become a Preceptor/Pharmacist-in-Charge. Dr. Kim Light of the APSG appeared on his behalf.

BOARD ACTION:

Mr. Holiman made the motion to approve the request. Dr. Norris seconded the motion. The vote for the motion was unanimous.

Blake Richardson appeared before the Board requesting to return to work. Dr. Kim Light of the APSG appeared on his behalf.

BOARD ACTION:

Dr. Newsome made the motion that Dr. Richardson sign a lifetime Consent Order and that he be allowed to return to work for 20 hours per week for the purposes of completing the practice after inactivity requirement and that any increase in work hours be approved by the APSG executive committee. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Dr. Light presented the Board with the new members of the APSG Executive Committee. This committee consists of Mike Renick, William Bond, Dennis Bean, Johnny Porter and Matt Waymack. Two alternate members are DeShawn Robinson and Jeneen McPherson.

BOARD ACTION:

Dr. Newsome made the motion to accept the new members and alternates with the understanding that the alternates do not have a vote on committee matters. Dr. Norris seconded the motion. The vote for the motion was unanimous.

Representatives of the East Arkansas Family Health Center appeared before the Board for an operations update.

Dr. Kirtley presented the Board with Agreed Orders for the following licensees:

- **Jana Leigh Ellis, #PD10867**
- **Glenn W. Stanley, #PD06047**
- **Nanetta F. Turner, #PT90314**
- **Monica S. Chavez, #PT90238**

By signing the Agreed Temporary Order, each licensee has agreed not to practice as a pharmacy technician/pharmacist in Arkansas, or be physically present in the

prescription department in any pharmacy in the state of Arkansas until ordered by the Board.

BOARD ACTION:

Mr. Ross made the motion to accept the Agreed Temporary Orders for each licensee. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Agreement for **USA Drug #1003, #AR20059**. By signing the Consent Agreement, Respondent USA Drug has agreed to be placed on one year probation and pay a monetary penalty of \$1,000 to be received on or before October 1, 2010.

BOARD ACTION:

Dr. Norris made the motion for the Board to accept the Consent Agreements for each licensee. Mr. Ross seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with the issue of a Walgreens floating pharmacy technician that worked several locations without a current registration. He presented the board with a proposal of a \$5,000 fine for Walgreens and one year of probation for the technician.

BOARD ACTION:

Dr. Newsome made the motion to accept those terms and have the Consent Agreements presented at the February, 2011 meeting. Dr. Boyd seconded the motion. The vote for the motion was unanimous.

Mrs. Gee presented the Board with an update on recouping fines from Landmark Pharmacies. The Board will revisit this issue at the February, 2011 meeting and receive further direction from counsel.

Dr. Kirtley reported on the Prescription Drug Take Back Program. 5,407 pounds were returned. This is estimated to be 7 to 9 million doses. The reporting of amounts is not yet complete.

Dr. Kirtley presented the Board with a Medical Board regulation requiring physicians to obtain a second opinion before refilling ADHD prescriptions. The Medical Board is seeking input from the ASBP. It is the will of the Board that there be no input on this matter.

Inspector Clyde Frazier presented the Board with the CE Audit findings. 22 pharmacists were non-compliant for \$5,875 in fines and a total of 247.5 hours total to be submitted with 127.5 of those hours required to be live. One pharmacist did not comply with requirements.

It is the direction of the Board to have the non-compliant pharmacist appear at an informal conference prior to the February, 2011 meeting.

The Board discussed the CE approval process and agreed to discuss it again at the February, 2011 meeting.

The next Board meeting is scheduled for February 8-9, 2011 at the ASBP office.

The meeting was adjourned.

Approved for the Board:

Kelly Kendall, Administrative Assistant

Benji Post, P.D., President