

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

The Arkansas State Board of Pharmacy met for a regular scheduled meeting on June 14-15, 2007. The meeting was held at the Embassy Suites at 3303 Pinnacle Hills Parkway in Rogers, Arkansas.

Thursday – June 14, 2007

The meeting was called to order by Ronnie Norris, P.D., President. Members present were Bob Dufour, P.D.; Buddy Bowden, P.D.; Marilyn Sitzes, P.D.; Lenora Newsome, P.D.; Benji Post, P.D.; Sharon Capps, R.N.; and Ross Holiman, B.S., H. Ed. Staff members present were Charles Campbell, Pharm. D., Executive Director; John Kirtley, Pharm. D., Assistant Director; Margaret Lincourt, Chief Fiscal Officer; Kelly Kendall, Administrative Assistant; Kristi Shirley; and Inspector Ron Ewing, P.D.

BOARD ACTION:

Mr. Holiman made the motion that the minutes of the February 2006 Board Meeting be approved as presented. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

BOARD ACTION:

Dr. Post made the motion that the agency financial report be approved as presented. Dr. Bowden 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:

Edward Alviso, Jr.	Walter Kelso	Jill Schachte
Ami Amin	Mark Kestler	Elenor Selvocki
Stacey Bohn	Wallace Klein	Mark Selvocki
Joe Burns	Nancy Koshko	Vicki Shuburte
Brenda Casaus-Garcia	Michael Lenczynski	Beth Sweeney
Michelle Cruson	Zenia Mehta	Bubba Talbert
John DeHaemers	Whitofrd Morgan	Karen Williams
Laura Garza	Rose Mulligan	Everette Wilson
Gary Griffin	Kristy Prestridge	Siewtiing Wong
Paul Halesey	Dennis Raftery	James Ziolkowski
Karen Harbut	Jennifer Runfolo	

BOARD ACTION:

Mr. Holiman made the motion to approve the above applicants for reciprocity licensure in Arkansas. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

The Board interviewed candidates for Reciprocity whose applications were not completed. The following candidates were present:

David Ballesteros
Noble Clarke, III

Marsha Mathis
Rebecca Michem

Jimmy O'Brian
Elina Tepletsky

BOARD ACTION:

Dr. Newsome made the motion to approve the above applicants for reciprocity licensure in Arkansas pending the completion of the application process. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Dr. Campbell explained the Arkansas continuing education (CE) requirements to the reciprocity applicants. He explained that because this is late in the second half of the biennium, the applicants would not be responsible for CE in the upcoming renewal.

Mrs. Lincourt asked the applicants to please be sure to notify the Board of changes of employment and changes of address. She also asked the applicants to notify her if they were being licensed to satisfy the requirement of a new out-of-state pharmacy application so that these pending pharmacy applications could be released.

Jason McKewen, #PD09481 appeared before the Board requesting that his Agreed Order be changed to a Consent Order. Dr. Light of the Support Group appeared on his behalf and recommended to the Board that the change be made.

BOARD ACTION:

Mr. Holiman made the motion that the Board convert Dr. McKewen's Agreed Order to a Consent Order. Dr. Dufour seconded the motion. The vote for the motion was unanimous.

BOARD ACTION:

Dr. Dufour made the motion to propose regulations to require pharmacists to report abuse of drugs and alcohol by other pharmacists. He suggested that the regulation mimic the current regulation for pharmacy technicians and pharmacy interns. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Terry Perkins, #PD09715 appeared before the Board requesting to be eligible for Pharmacist in Charge and Preceptor. Dr. Kim Light of the Support Group appeared on his behalf and recommended to the Board that the change be made.

BOARD ACTION:

Dr. Post made the motion that Dr. Perkins be allowed to be eligible for Pharmacist in Charge and Preceptor. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

BOARD ACTION:

Dr. Newsome made the motion that Julie Cato be certified as a member of the Support Group Executive Committee. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Dr. Jamie O'Bar appeared before the Board on behalf of National Pharmaceutical Network, Inc. dba Drugs For Less requesting to be open five days a week for ten hours a day and maintain on-call hours on Saturday from 9:00 am to 1:00 pm.

BOARD ACTION:

Dr. Newsome made the motion that the request for Drugs For Less to be open for five days a week for ten hours a day and maintain on-call hours on Saturday from 9:00 am to 1:00 pm be granted. Dr. Post seconded the motion. The vote for the motion was unanimous.

Dr. Charles Campbell gave an update on Closed Door Pharmacies.

Dr. Kirtley gave the Board a staff update stating that Jim Myatt, P.D. had resigned as an Inspector and the Clyde Frazier, P.D. had been named as his replacement. He also mentioned that Margaret Lincourt had announced her retirement and that her replacement would be Robin Morrissey.

Dr. Dufour presented the Board with information concerning Continuous Quality Improvement. Regulations from other states were reviewed and discussed.

Dr. Norris presented the Board with the issue of internet diabetic supply companies faxing physicians soliciting orders after their patients have visited their website.

Representatives from DaVita Rx, LLC, #OS02077 and #OS02093 appeared before the Board requesting a Petition for a declaratory order/waiver of Pharmacy Regulation 04-00-0005 and 07-00-0001(c).

BOARD ACTION:

Dr. Dufour made the motion that the request by DaVita, Rx, LLC asking for a Petition for a declaratory order/waiver of Pharmacy Regulation 04-00-0005 be denied. Dr. Post seconded the motion. The vote for the motion was unanimous.

BOARD ACTION:

Dr. Dufour made the motion that the business model presented by DaVita, Rx, LLC does not comply with Pharmacy Regulations. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

DaVita Rx, LLC withdrew the request for a Petition for a declaratory order/waiver of Pharmacy Regulation 07-00-0001(c).

In the matter of Cliff McQuay, et al. v. Arkansas State Board of Pharmacy, it was decided that it be continued until the October, 2007 Board meeting.

Erika Gee from the Attorney General's office gave an update on the case of LNI and American Novelties. It was decided that the case against American Novelties be dismissed and that Dr. Campbell be appointed to accept or decline any offer from LNI.

Jerry Stephens appeared before the Board on behalf of Rivendell asking for approval to deliver medications to patients in the hospital prior to their release.

BOARD ACTION:

Dr. Dufour made the motion that the request for Rivendell to deliver medications to patients in the hospital prior to their release be denied. Ms. Capps seconded the motion. The motion passed.

Dr. Dufour recommended to staff that a telephone conference be set up between Mr. Tharp of Rivendell, Suzette of Medicaid and Board staff to discuss the matter.

Mili Lopez appeared before the Board requesting a pilot project permit for re-use for the Charitable Christian Medical Clinic.

BOARD ACTION:

Dr. Newsome made the motion that the Board approved the request by the Charitable Christian Medical Clinic for a pilot project permit for re-use. Mr. Holiman seconded the motion. The vote for the motion was unanimous

Changes to Regulation 04-00-0001 – Equipment Specifications were discussed. It was suggested that this regulation be rewritten to bring them up to date and to include exceptions based on the nature of each pharmacy.

BOARD ACTION:

Dr. Bowden made the motion that staff draft proposed regulation changes to Regulation 04-00-0001. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

The Board discussed a request by Professional Drivers Medical Depots (PDMD) to appear before the Board to discuss dispensing of medications from their West Memphis clinic by a PA or practitioner.

The Board discussed which members would appear at the 2007 District Meetings.

Dr. Kirtley discussed Act 432 of 1995 that requires all Providers who give vaccines to persons aged 18 to 22 to provide this information to the Division of Health. He went on

to discuss that there is a web based Immunization registry with which to track these immunizations.

Dr. Kirtley presented an email to the Board from Doug Wilkins of Medi-Quik Pharmacy requesting an exemption from the requirement that a pharmacy technician applicant submit a high school diploma or general education degree in order to become registered.

BOARD ACTION:

Dr. Post made the motion that the Board deny the request by PDMD. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Erika Gee informed the Board of a discrimination suit that has been filed by a staff member and asked if they would like to send a representative to an Equal Employment Opportunities Committee mediation that would take place in the future.

BOARD ACTION:

Dr. Dufour made the motion that staff send a representative to the EEOC mediations. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

The topic of how to handle the sell/change of ownership of facilities was discussed. Mrs. Lincourt presented six different scenarios and asked how the Board would like to proceed with these.

BOARD ACTION:

Dr. Dufour made the motion that in the case of a company leasing a building and its contents, and when 20% of ownership changes hands in a restructuring, that a new application be submitted with a change of ownership fee. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Friday, June 15, 2007

The meeting was called to order by Ronnie Norris, P.D., President. Members present were Bob Dufour, P.D.; Buddy Bowden, P.D.; Marilyn Sitzes, P.D.; Lenora Newsome, P.D.; Benji Post, P.D.; Sharon Capps, R.N.; and Ross Holiman, B.S., H. Ed. Staff members present were Charles Campbell, Pharm. D., Executive Director; John Kirtley, Pharm. D., Assistant Director; Margaret Lincourt, Chief Fiscal Officer; Kelly Kendall, Administrative Assistant; Kristi Shirley; and Inspector Ron Ewing, P.D.

Act 435 of 2007 was discussed. Staff wanted to know what the Board's intent was in relation to waiving the \$35 per year registration fee for technician applicants in charitable clinics. It was decided that staff would conduct a study on how many charitable clinics would be interested, and a report would be made at the October Board meeting.

Rick Hudson, #PD06431 and Liz Blankenship gave an update on the Multi-Dose Bubble Pack Pilot Project.

BOARD ACTION:

Dr. Dufour made the motion that a waiver be granted to Rick Hudson for an undetermined period of time; that the Board draft proposed regulations regarding Multi-Dose Packaging; and have staff Inspectors visit the facility and report their findings at the next meeting. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

A Public Hearing on Regulations 1,2,4 and 9 was called to order at 9:32 am.

Regulation 1 – General Operations

The proposed changes will update language regarding technician permit fees related to the restricted charitable clinic pharmacy technician's permit that may be issued pursuant to Board Regulation 04-03-0004 (f).

There was no public comment for or against the regulation change.

BOARD ACTION:

Mr. Holiman made the motion to accept the amendment to Regulation 1 as presented. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Regulation 2 – Pharmacists

The proposed changes will clarify the Board of Pharmacy's ability to approve of colleges of pharmacy for internship training both in state and out of state and will also amend language to allow dean(s) from colleges of pharmacy located in Arkansas to participate in the Arkansas Tripartite Committee on Continuing Pharmacy Education.

There was no public comment for or against the regulation change.

BOARD ACTION:

Dr. Newsome made the motion to accept the amendment to Regulation 1 as presented. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Regulation 4 – Pharmacy

The proposed changes will clarify the guidelines for the re-use of medications in nursing homes and will also add language to allow for and regulate off-site order entry in retail pharmacies located in Arkansas. Changes will also update the expiration date for the pilot program permits for donated prescription medications and allow for a limited use technician permit for these facilities.

There was no public comment for or against the regulation change.

BOARD ACTION:

Dr. Post made the motion to accept the amendment to Regulation 1 as presented. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Regulation 9 – Pharmaceutical Care/Patient Counseling

The proposed changes will clarify the ability of licensed interns to administer immunizations under the direct supervision of a Pharmacist certified to give immunizations.

Pharmacy student Eric Crumbaugh spoke in favor of the regulation change.

Senator Percy Malone spoke in favor of the regulation change.

BOARD ACTION:

Dr. Bowden made the motion to accept the amendment to Regulation 1 as presented. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

The Public Hearing on Regulations was concluded at 9:48 am.

Dr. Kirtley presented the Board with an Agreed Temporary Order for **Michelle McElyea, #PT88754**. Ms. McElyea signed the order, and agreed not to practice as a pharmacy technician in Arkansas or be physically present in the prescription department of a pharmacy until approved by the Board.

BOARD ACTION:

Dr. Post made the motion to accept the Agreed Temporary Order for Michelle McElyea, #PT88754 as presented. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with an Agreed Temporary Order for **Ashlee McFarland, #PT92112**. Ms. McFarland signed the order, and agreed not to practice as a pharmacy technician in Arkansas or be physically present in the prescription department of a pharmacy until approved by the Board.

BOARD ACTION:

Ms. Capps made the motion to accept the Agreed Temporary Order for Ashlee McFarland, #PT92112 as presented. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with an Agreed Temporary Order for **Barlow Miller, III, #PD05949**. Dr. Miller signed the order, and agreed not to practice as a pharmacist in Arkansas or be physically present in the prescription department of a pharmacy until approved by the Board.

BOARD ACTION:

Dr. Newsome made the motion to accept the Agreed Temporary Order for Barlow Miller, III, #PD05949 as presented. Dr. Post seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the board with an Agreed Temporary Order for **Tawanna Wright, #PT84144**. Ms. Wright signed the order, and agreed not to practice as a pharmacy technician and shall not be physically present in a prescription department in any pharmacy in the state of Arkansas until ordered by the Board.

BOARD ACTION:

Dr. Post made the motion to accept the Agreed Temporary Order for Tawanna Wright, #PT84144 as presented. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Willow Creek ICF/MR and Keith Larkin, #PD06249**. The order was signed admitting the charge that Dr. Larkin failed to renew his nursing home consultant permit for the calendar year beginning January 1, 2007 and worked as a consultant until the issuance of a valid Arkansas nursing home consultant permit on April 13, 2007. By signing the order, Dr. Larkin has agreed to pay \$500 to the Board by August 15, 2007

BOARD ACTION:

Dr. Post made the motion to accept the Consent Order for Keith Larkin, #PD06249 as presented. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Brazil ICF/MR and Keith Larkin, #PD06249**. The order was signed admitting the charge that Dr. Larkin failed to renew his nursing home consultant permit for the calendar year beginning January 1, 2007 and worked as a consultant until the issuance of a valid Arkansas nursing home consultant permit on April 13, 2007. By signing the order, Dr. Larkin has agreed to pay \$500 to the Board by August 15, 2007

BOARD ACTION:

Dr. Newsome made the motion to accept the Consent Order for Keith Larkin, #PD06249 as presented. Ms. Capps seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Woodcrest ICF/MR**. The order was signed admitting the charge that Woodcrest ICF/MR failed to renew their nursing home consultant permit for the calendar year beginning January 1, 2007 and continued operations until the issuance of a valid Arkansas nursing home consultant permit on April 13, 2007. By signing the order, Woodcrest ICF/MR has agreed to pay \$500 to the Board by August 15, 2007

BOARD ACTION:

Dr. Post made the motion to accept the Consent Order for Woodcrest ICF/MR as presented. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Smith Drug Store, #AR11140**. The order was signed admitting the charge that Smith Drug Store permitted a pharmacist to practice pharmacy without a valid license approximately 28 separate days in April, May, June, July, August and September of 2006. By signing the order, Smith Drug Store has agreed to pay \$750 within 30 days of the date of the execution of this Order.

BOARD ACTION:

Dr. Post made the motion to accept the Consent Order for Smith Drug Store #AR11140 as presented. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Amy Gibbons, #PD09843**. The order was signed admitting the charge that Dr. Gibbons practiced as a nursing home consultant without being licensed by the Board on multiple occasions. By signing the order, Dr. Gibbons has agreed to pay \$500 within 30 days of the date of the execution of this Order.

BOARD ACTION:

Dr. Newsome made the motion to accept the Consent Order for Amy Gibbons, #PD09843 as presented. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Patricia Brock, #PD06234**. The order was signed admitting the charge that Dr. Brock practiced as a pharmacist from January 1, 2006 to October 30, 2006 during which time she did not hold a current license. By signing the order, Dr. Brock has agreed to pay a monetary penalty of \$750 within 30 days of the date of the execution of this Order.

BOARD ACTION:

Dr. Newsome made the motion to accept the Consent Order for Patricia Brock, #PD06234 as presented. Dr. Post seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Nancy Zumwalt, #PT 91828, Gary Lewis, #PD05910 and Holly's Health Mart, #AR17926**. The order was signed admitting the charge that Dr. Lewis permitted Nancy Zumwalt to work as pharmacy technician during which time she did not hold a current registration. By signing the

order, Ms. Zumwalt has agreed to be placed on probation for one year, Dr. Lewis has agreed to pay a monetary penalty of \$500 to the Board by July 30, 2007, and Holly's Health Mart has agreed to pay a monetary penalty of \$1,000 to the Board by July 30, 2007.

BOARD ACTION:

Dr. Dufour made the motion to accept the Consent Order for Nancy Zumwalt, #PT91828, Gary Lewis, #PD05910 and Holly's Health Mart, #AR17926 as presented. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with an Affidavit of Surrender for **Amber Wilbanks, #PT84586**. The affidavit was signed stating

BOARD ACTION:

Dr. Newsome made the motion to accept the Affidavit of Surrender for Amber Wilbanks, #PT84586 as presented. Dr. Post seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with an Affidavit of Surrender for **Andy Shaw, #PD04805**.

BOARD ACTION:

Dr. Post made the motion to accept the Affidavit of Surrender for Andy Shaw, #PD04805 as presented. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Fred Harris appeared before the Board to discuss Institutional Pharmacies. It was suggested that there be a definition added to the Regulation that defines "correctional facility" and that there be a fee waiver for Change of PIC, if required.

BOARD ACTION:

Dr. Dufour made the motion to approve the suggested changes to the Institutional Pharmacy Regulation. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

A committee was appointed for Disease State Management. The members will be Dr. Newsome, Dean Sykes, Dr. Stephanie Gardner, Fred Harris, Jeff Price, Justin Boyd.

Mrs. Lincourt presented the Board with proposed regulation changes to Regulation 5 – Long-Term-Care Facilities.

BOARD ACTION:

Dr. Dufour made the motion to approve the regulation changes as presented. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

BOARD ACTION:

Dr. Bowden made the motion that the following Board officers be elected: Dr. Dufour, President; Dr. Newsome, Vice-President and Dr. Post, Secretary. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Garry Enderlin, #PD06672 appeared before the Board representing the Advisory Committee for Hospital Pharmacies regarding the Intern/Preceptor relationship in regard to recording experiential hours.

BOARD ACTION:

Dr. Post made the motion that changes be made to Regulation 02-000-01 – Internship/Clerkship to show that Interns may receive hours through any authorized facility, under a licensed preceptor, and that only the first 500 hours must be recorded. The PIC of the facility is ultimately responsible for signing off on all paperwork in regards to Intern hours. Dr. Dufour seconded the motion. The vote for the motion was unanimous.

The meeting was adjourned.

Prepared By:

Approved for the Board:

Kelly Kendall

Bob Dufour, P.D., President