

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

The Arkansas State Board of Pharmacy met for a regular scheduled meeting on February 8-9, 2005. The meeting was held at the Board of Pharmacy office, 101 East Capitol, Suite 218, Little Rock, Arkansas.

Tuesday, February 8, 2005

The meeting was called to order by Larry McGinnis, Pharm.D., President. Members present were Larry Autry, P.D.; Buddy Bowden, P.D.; Sharon Capps, R.N.; Bob Dufour, P.D.; Ross Holiman, B.S., H.Ed.; Lenora Newsome, P.D.; and Ronnie Norris, P.D. Staff members present were Charles Campbell, Pharm.D., Executive Director; John Kirtley, Pharm.D., Assistant Director; Margaret Lincourt, Chief Fiscal Officer; Lana Whitmore, Administrative Assistant; Ron Ewing, P.D.; Rusty McSpadden, P.D.; and Jim Myatt, P.D.

BOARD ACTION:

Mr. Holiman made the motion that the minutes of the October 2004 Board Meeting and the January 2005 conference call be approved as presented. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

BOARD ACTION:

Dr. Norris made the motion that the agency financial report be approved as presented. Dr. Autry seconded the motion. The vote for the motion was unanimous.

The Board interviewed candidates for Reciprocity. Each applicant was asked the following questions: 1) "Why are you seeking licensure in Arkansas?" 2) "Have you ever been before a licensing board for disciplinary action?" 3) "Do you, or have you ever had a problem with drugs or alcohol?" 4) "In what other states are you licensed?" The following candidates were present:

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|-------------------------|---------------------|------------------------|
| Carol Capps | Keisha McLean-Davis | Shelby Divers |
| Tambra Folsom | Robert Gibbs | Jerry Gilbreath |
| Martin Graboski | Todd Hare | James Horton |
| Randy Jones | Lisa Marsella | Mariana Endeley-Matute |
| Deborah Cooper-McDonald | Loyce Mol | Eric Peters |
| Michael Snieckus | Sarah Stephens | Gener Tejero |
| Lawrence Tom | Gina Whittlesey | |

BOARD ACTION:

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

Dr. Campbell explained, in detail, the Arkansas continuing education (CE) requirements to the reciprocity applicants. He explained the current CE requirements – which are 30 hours of CE of which 12 hours should be

live and related to drug therapy or patient care, and he told the applicants that they would be responsible for obtaining the hours for renewal of their Arkansas pharmacist license.

Dennis Moore, P.D., with White River Medical Center appeared before the Board to update them on the off-site order entry pilot project. Dr. Moore reminded the Board they approved his request for the pilot project between White River Medical Center and Stone County Medical Center in February 2004. He said the most laborious process was implementing the new computer system. Dr. Moore said the remote order process actually started one week ago, and there have been no problems. He said the patient's safety is greater because they went from having a pharmacist on duty from 20 hours per week to 117 hours a week. He said the main adjustment is with having two separate formularies and communicating with different physicians. Dr. Moore said that overall, the project has been very successful and the nurses love it.

Dr. McGinnis gave the Board his remote entry committee report. He said the committee has met several times and he presented the Board with the proposed draft for Regulation 04-05-0004 – Off Site Order Entry. Dr. McGinnis went over the contents of the regulation with the Board. He also said that JCAHO has proposed revisions to the Medication Management Standards to require a hospital pharmacy to make arrangements for this type of system during the hours the pharmacy is closed. The Board discussed what would determine a facility's eligibility for this type of program – whether it be the bed-size of the facility or the census numbers. Dr. Ewing said he thought it would be best if it were based on occupancy. The Board approved the basis of the regulation and asked that the Board staff, along with Dr. McGinnis prepare the regulation for approval in June, but to include some type of bed-size requirement.

Bubba Arnold, P.D., with St. Vincent's Infirmary Pharmacy appeared before the Board to request approval for an off-site order entry pilot project between St. Vincent Doctors Pharmacy and St. Vincent North Pharmacy. He said that St. Vincent North is licensed for 60 beds, but the actual census is between 15 and 40. Dr. Arnold told the Board that the computer system and formularies are the same in both places. He also said that the on-coming pharmacist will review all orders that were processed by the system each morning.

Dr. Campbell instructed Dr. Moore and Dr. Arnold to send documentation to the Board office throughout the pilot project process. He said they should communicate with each other and send in standardized reports semi-annually.

BOARD ACTION:

Dr. Autry made the motion to temporarily approve Dr. Arnold's request for an off-site order entry pilot project, subject to termination if the project is not successful. Dr. Norris seconded the motion. The vote for the motion was unanimous.

Ken Lancaster, P.D., and John Tipton, P.D., appeared before the Board to discuss the Nursing Home Consultant Regulation. Dr. Campbell told the Board that there are several issues regarding nursing home consultants that need to be reviewed. Dr. Campbell said Dr. Lancaster was written up by a state surveyor because he did not have the list of contents in an ER box, in one of his nursing homes, signed by the Board of Pharmacy. The Board discussed the emergency drug boxes in nursing homes and the current regulation with regard to the contents being reviewed by the executive director. The Board recommended that the regulation be revised to omit the sentence that the executive director review the contents, but if any item is added or a change in the categories is requested, it must be approved.

Dr. Campbell discussed the difference between a consultant pharmacist in charge and a consultant pharmacist at large. He said the consultant pharmacist in charge is to do the majority of the consulting in the facility. Dr. Tipton said that if the pharmacist has the ability to be the consultant at large in the facility then they should have the ability to be in charge or they shouldn't be consulting at all. He said a simple solution would be to assign a consultant permit and omit the in charge or at large. Dr. Tipton also told the Board that when Long Term Care inspects a facility they do not check to see who did the consulting only that the consulting is done. Dr. Campbell then brought up the issue of the maximum number of beds that a consultant is allowed to be in charge of. The current regulation says, "a consultant pharmacist in charge shall not serve in that capacity for nursing homes that exceed 1,500 total certified beds approved by the Office of Long Term Care unless that pharmacist has submitted a written explanation of need and that the request has been approved by the Executive Director of the Board of Pharmacy." Dr. Campbell asked the Board how to determine the "need" to be a consultant for more than 1,500 beds. He said that there are a few pharmacists that need to be contacted because they are over the 1,500 limit and there are several others that are very close. Dr. Campbell told the Board that Ms. Lincourt has worked many hours trying to determine who is the consultant in charge for each home. He said that there are constant changes and the Board staff has no way of knowing who is consulting where unless they are notified by the consultants, and many are not doing that.

BOARD ACTION:

Dr. Dufour made the motion to amend the regulation to require the consultant pharmacist to notify the Board staff of any change in their consultant status of a home within five days. He said anyone who violates the regulation has an option of a Consent Order with a \$300 fine or an appearance before the Board. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

BOARD ACTION:

Dr. Autry made the motion that with regard to exceeding the 1,500 certified bed capacity, to amend Regulation 05-00-0002 (c) from approved by the Executive Director to appear before the Board of Pharmacy for approval by the Board.

Dr. Campbell discussed the fees associated with a consultant becoming the consultant in charge of a facility. Each time a change of consultant in charge takes place a \$70 fee is required for a new permit. He asked the Board if they wanted to continue to charge this amount or waive the fee.

BOARD ACTION:

Dr. Autry made the motion that there will be no additional fees for consultant changes. Dr. Dufour seconded the motion. The vote for the motion was unanimous.

The Board also discussed the renewal fees for consultants. The Board said the consultant should renew his or her consultant permit only, and not pay a renewal fee for each home in which they are a consultant.

Ron Coker, P.D., #5990, appeared before the Board to request the reinstatement of his Arkansas pharmacist license. Dr. Coker apologized to the Board for the disgrace that he caused his profession. He said he is trying to put his past behind him and that he would like the opportunity to once again practice in his chosen profession. He told the Board that since he last appeared before them he has obtained almost 80 hours of continuing education, but he had not contacted the DEA about a waiver. Dr. Campbell told the Board and Dr. Coker that in order for him to practice in a pharmacy that possesses controlled substances, his employer would have to obtain a DEA waiver. Dr. Coker said that even if he could not work in a pharmacy, getting his

pharmacist license would be very meaningful to him and would allow him to be one step closer to putting his life back together.

BOARD ACTION:

Dr. Dufour made the motion to reinstate the pharmacist license of Ron Coker, P.D., #5990, with the provisions that he must work under direct supervision for a period of two weeks, and before he accepts any employment as a pharmacist he must notify the employer, in writing, of his DEA and Medicaid waiver requirements, and send a copy of that letter to the Board office. Dr. Autry seconded the motion. The vote for the motion was unanimous.

BOARD ACTION:

Dr. Autry made the motion to amend Dr. Dufour's previous motion regarding Ron Coker, from two weeks direct supervision to a period of 240 hours under direct supervision. Dr. Dufour seconded the motion. The vote for the motion was unanimous.

James Jones, P.D., #5368, appeared before the Board to request the reinstatement of his Arkansas pharmacist license. Dr. Jones told the Board that the when he last appeared before the Board to request the reinstatement of his license, he was denied because his Texas pharmacist license was on probation. He said he completed his probation in December 2004 and that he has completed his continuing education requirements. He told the Board that he did renew his Texas license because of the cost and that he planned to remain in Arkansas. Dr. Jones told the Board that he has spent the last year teaching, but he wanted to practice pharmacy in the hospital at Camden. Dr. Jones said he has learned his lesson from his past mistakes and would never do anything like that again.

BOARD ACTION:

Dr. Dufour made the motion to reinstate the pharmacist license of James Jones, P.D., #5368, subject that Board staff verify that he is eligible for a Texas license. His license is to be placed on one-year probation, and any violation will result in immediate suspension. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Jim Bomer, P.D., #5312, appeared before the Board in answer to an Order and Notice of Hearing. Dr. McGinnis called the meeting to order and turned the proceedings over to the Hearing Officer, Charlie Molton. Tom Gay, of the Attorney General's Office, represented the Board staff, and Darren O'Quinn represented the respondent.

Mr. Gay called on Ron Ewing, P.D., to testify. Dr. Ewing testified regarding Dr. Bomer's licensure history. He told the Board that Dr. Bomer had retired and that his Arkansas pharmacist license was no longer active. Dr. Ewing told the Board that in April 2003 he was asked by Long Term Care to investigate Arkansas Health Center. He said they employed four pharmacists and one technician. He then he said he and Dr. Bomer discussed Dr. Bomer's procedure for filling prescriptions. Dr. Ewing said he was told by Dr. Bomer that a pharmacist enters the prescription, then either a pharmacist or a technician fills the prescription, and then another pharmacist verifies the prescription.

Next, Mr. Gay called on John Hogan, P.D., to testify. Dr. Hogan said he worked as a pharmacist for Arkansas Health Center. He said that the pharmacists signed the daily log, and that is was usually the next day when they did it. He then discussed the procedure for filling and refilling scripts.

Darren O'Quinn made the motion that the Board dismiss the charges against Dr. Bomer on the grounds that there were no regulations to justify the charges.

BOARD ACTION:

Dr. Norris made the motion to deny Darren O'Quinn's request for dismissal. Ms. Capps seconded the motion. The vote was split four to three, and the motion passed.

Mr. O'Quinn called on Jim Bomer, P.D., to testify.

BOARD ACTION:

Dr. Dufour made the motion that in the matter of Jim Bomer, P.D., #5312, the allegations were true, but there was not enough evidence to find the charges to be proven. Dr. Autry seconded the motion. Ms. Capps abstained from voting, and the motion passed.

Wednesday, February 9, 2005

The meeting was called to order by Larry McGinnis, Pharm.D., President. Members present were Larry Autry, P.D.; Buddy Bowden, P.D.; Sharon Capps, R.N.; Bob Dufour, P.D.; Ross Holiman, B.S., H.Ed.; Lenora Newsome, P.D.; and Ronnie Norris, P.D. Staff members present were Charles Campbell, Pharm.D., Executive Director; John Kirtley, Pharm.D., Assistant Director; Margaret Lincourt, Chief Fiscal Officer; Lana Whitmore, Administrative Assistant; Ron Ewing, P.D.; Rusty McSpadden, P.D.; and Jim Myatt, P.D.

Dr. Kirtley presented the Board with a Consent Order for **Custom Compounding Center, #AR-20273**, and **Mark Shinabery, P.D., #7501**. The order was signed admitting to the charge that the respondent had a prescription order forms printed identifying certain compounded injectable drugs and on the back side had a map with directions to Custom Compounding Center. By signing the order, the respondent has agreed to pay a monetary penalty of \$250 for each violation, for a total of \$500, payable on or before February 28, 2005.

BOARD ACTION:

Dr. Autry made the motion to accept the Consent Order for Custom Compounding Center, #AR-20273, and Mark Shinabery, P.D., #7501 as presented. Dr. Dufour seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Pharmerica, #AR-20317**, and **Elise Henson, P.D., #7313**. The order was signed admitting to the charge that the respondents allowed a pharmacy technician to work without a registration. By signing the order, Dr. Henson has agreed to pay a monetary penalty of \$500 and respondent Pharmerica has agreed to a monetary penalty of \$1,000, payable on or before February 28, 2005.

BOARD ACTION:

Dr. Autry made the motion to accept the Consent Order for Pharmerica, #AR-20317, and Elise Henson, P.D., #7313 as presented. Dr. Norris seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Ressa Novak, P.D, #9465**, and **Brenda Wadley, #PT89324**. The order was signed admitting to the charge that respondent Novak gave the keys to the pharmacy

to respondent Wadley and allowed her to be present in the pharmacy when there was no pharmacist physically present. By signing the order, Dr. Novak has agreed to pay a monetary penalty of \$500, payable on or before February 28, 2005, and Ms. Wadley is to be placed on probation for a period of 90 days from the date of this Consent Order.

BOARD ACTION:

Dr. Dufour made the motion to accept the Consent Order for Reesa Novak, P.D., #9465 and Brenda Wadley, #PT89324 as presented. Dr. Autry seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Pharmacy Technician Applicant Cullen Anson**. Mr. Anson has been convicted of two DWIs, which he disclosed on his pharmacy technician application. By signing the order, Mr. Anson has agreed to the terms of the order which states, "Applicant may qualify to be registered as a pharmacy technician by obtaining an evaluation, under the direction of the Arkansas Pharmacy Support Group, that he is not addicted.

BOARD ACTION:

Dr. Autry made the motion to accept the Consent Order for Pharmacy Technician Applicant Cullen Anson as presented. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Pharmacy Technician Applicant James Hawkins**. Mr. Hawkins has been convicted of both DWI and DUI, which, on the advice of his attorney, he did not disclose on his pharmacy technician application. By signing the order, Mr. Anson has agreed to the terms of the order which states, "Applicant may qualify to be registered as a pharmacy technician by obtaining an evaluation, under the direction of the Arkansas Pharmacy Support Group, that he is not addicted.

BOARD ACTION:

Dr. Dufour made the motion to accept the Consent Order for Pharmacy Technician Applicant James Hawkins as presented. Dr. Norris seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Pharmacy Technician Applicant Michael Thurber**. Mr. Thurber has been convicted of both possession of a controlled substance and possession of drug paraphernalia, which he disclosed on his pharmacy technician application. By signing the order, Mr. Thurber has agreed to the terms of the order which states, "Applicant may qualify to be registered as a pharmacy technician by obtaining an evaluation, under the direction of the Arkansas Pharmacy Support Group, that he is not addicted.

BOARD ACTION:

Mr. Holiman made the motion to accept the Consent Order for Pharmacy Technician Applicant Michael Thurber as presented. Dr. Norris seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with an Agreed Temporary Order for **Terry Perkins, P.D., #9715**. Dr. Perkins 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. Norris made the motion to accept the Agreed Temporary Order for Terry Perkins, P.D., #9715 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 **Jon Knowles, Pharmacy Technician #PT90004**. Mr. Knowles 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. Autry made the motion to accept the Agreed Temporary Order for Jon Knowles, Pharmacy Technician #PT90004 as presented. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with an Affidavit of Surrender for **Brandi Walters, Pharmacy Technician #88477**. Ms. Walters has admitted to taking controlled substances without the authorization of a practitioner. Dr. Kirtley said that for all intents and purposes, this is a revocation.

BOARD ACTION:

Dr. Dufour made the motion to accept the Affidavit of Surrender for Brandi Walters, Pharmacy Technician #88477 as presented. Dr. Norris seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with an Affidavit of Surrender for **Lindsey Carpenter, Pharmacy Technician #86692**. Ms. Carpenter has admitted to taking controlled substances without the authorization of a practitioner. Dr. Kirtley said that for all intents and purposes, this is a revocation.

BOARD ACTION:

Dr. Dufour made the motion to accept the Affidavit of Surrender for Lindsey Carpenter, Pharmacy Technician #86692 as presented. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Michael Renick, P.D. #8906 appeared before the Board with a representative of the Arkansas Pharmacy Support Group, to request his Agreed Order be converted to a Consent Order. Kim Light, Ph.D., from the Support Group spoke on behalf of Dr. Renick and said that he had complied with all of their requirements and that the support group advocated the conversion.

BOARD ACTION:

Dr. Autry made the motion to accept the conversion from an Agreed Order to a Consent Order for Michael Renick, P.D., #8906 as presented. Dr. Norris seconded the motion. The vote for the motion was unanimous.

Dr. Campbell told the Board that DeltaPharma asked for a clarification regarding their temporary permit the Board approved during the January 2005 conference call. He reminded the Board that they granted the temporary permit because the Board staff was unable to obtain a response from the FDA regarding DeltaPharma's response to their warning letter. Tom Gay told the Board that DeltaPharma's attorney asked the Board to clarify the time frame of the temporary permit; for example, if the FDA never responds, when does the

temporary permit become permanent? The Board discussed the advantages of disadvantages of leaving the permit as temporary or converting it to a regular license.

BOARD ACTION:

Dr. Autry made the motion to table the issue until the June 2005 Board meeting, in hopes of receiving a response from FDA. At that time, the Board will consider a date to convert the license, if a response is not received from FDA. Dr. Dufour seconded the motion. The vote for the motion was unanimous.

John McClendon, P.D., #6686 appeared before the Board with a representative of the Arkansas Pharmacy Support Group, to request his Agreed Order be converted to a Consent Order. Kim Light, Ph.D., from the Support Group spoke on behalf of Dr. McClendon and said that he had complied with all of their requirements and that the support group advocated the conversion.

BOARD ACTION:

Dr. Autry made the motion to accept the conversion from an Agreed Order to a Consent Order for John McClendon, P.D., #6686 as presented. Dr. Dufour recused himself from the motion. Dr. Norris seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley and Ms. Lincourt presented the Board with the new nursing home consultant application for approval, as required by Board regulation.

BOARD ACTION:

Dr. Norris made the motion to approve the nursing home consultant application as presented. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Dr. Campbell told the Board that an issue has been raised by DEA regarding pre-dating C-II prescriptions. He said that DEA has come out with an interpretation that practitioners should not pre-date C-II prescriptions, because that is tantamount to authorizing refills. Dr. Dufour said that some pharmacy boards are enforcing the new rule and some are not. Dr. Campbell told the Board that George Gadd, with the local DEA, approves of this new rule and will enforce it. The Board discussed this issue at length. Dr. Autry said he doesn't believe that it is a problem.

Barry Napier, P.D., #7085, appeared before the Board to request permission to be the pharmacist in charge of a pharmacy. Kim Light, Ph.D., from the Pharmacy Support Group, spoke on behalf of Dr. Napier. Dr. Light reminded the Board that Dr. Napier went back to full time work in January 2004. He told the Board that he requires a pharmacist to be back to work full time for a least one year before he would advocate for a pharmacist in charge position, and that Dr. Napier has met that requirement.

BOARD ACTION:

Dr. Autry made the motion to approve Barry Napier's request to be the pharmacist in charge of a pharmacy. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Dr. Campbell presented the Board with an out of state pharmacy application for **AH Pharmacy Services, LLC**. He told the Board that upon reviewing the application, Dr. Kirtley noticed that on the operations section of the application it said they get the order from the wholesalers to process. He said he called the pharmacy and they explained that most of their patients are herd animals (food source), and the prescription ends up at the

pharmacy, but it goes through the wholesaler first. The pharmacy gets paid to label the prescription. Dr. Dufour said he has some serious concerns regarding freedom of choice.

Mike Soo, P.D., owner of **First Choice Respiratory Pharmacy**, appeared before the Board to request a closed door pharmacy be open less than 40 hours per week. Dr. Soo told the Board that the pharmacy would only be for respiratory medications. He said that Medicare reductions have made it almost impossible to employ a 40-hour per week pharmacist, and he would like the hours to be reduced to twenty per week. The Board explained to Dr. Soo that a pharmacy technician could not be present in the pharmacy without a pharmacist present.

BOARD ACTION:

Dr. Dufour made the motion to approve Mike Soo's request for a 20-hour per week pharmacy with the stipulation that the pharmacy be open five days per week with a 24-hour patient line available. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Brad White, president of **Morrilton Respiratory Care, Inc.**, appeared before the Board to request a pharmacy license with less than 40 hours per week. Mr. White told the Board that he owns a DME company that provides updraft machines, but because of patient needs he would like to also open a respiratory pharmacy. He said that because of recent Medicare cuts that it would not be financially feasible for this type of pharmacy to be open 40 hours per week. Mr. White said he would like to have the pharmacy open three hours per week at the beginning and the hours would be raised as needed. After much discussion, the Board said they were uncomfortable approving a pharmacy to be open less than 20 hours per week.

Buck Stevens, R.Ph., and Dan Rameriez, with **Rx.com** appeared before the Board to discuss their pharmacy operation procedures. Dr. Stevens said their model has a central fill front end merged with a mail order backend which will allow local pharmacies to compete with the large mail order pharmacies. He told the Board that Rx.com will only serve as a fulfillment agent for the local pharmacy. He said that the prescription ownership, the prescription, the payment, and the relationship with the patient will remain with the local pharmacy. This process will allow the patient to order 90-day prescriptions from the local pharmacy rather than mail order pharmacies. Dr. Stevens told the Board that Rx.com has applied for an out of state pharmacy permit with Arkansas. He said that currently Arkansas law requires order from a central fill pharmacy to be delivered to the local pharmacy rather than the patient. He also said that, in some states, Rx.com ships the prescription directly to the patient, but that it is up to the pharmacist as to where the prescription is sent. He said he would like to see the Arkansas State Board of Pharmacy amend the central fill regulation to allow the prescription to be sent to the patient. Dr. Stevens and Mr. Rameriez both stated that they believe this process is the next step that will allow community pharmacies to compete with mail order pharmacies.

BOARD ACTION:

Dr. Dufour made the motion to direct the Board staff to make two separate amendments to the central fill regulation that allows central fill pharmacies to ship prescriptions directly to patients. One draft should include language regarding controlled substances and where those prescriptions are sent, and the other draft should be silent with regard to controlled substances. Dr. Autry seconded the motion. The vote for the motion was unanimous.

Dr. McGinnis appointed Bob Dufour as chairman of a committee to clear up the language in the regulations with regard to dispensing and verifying pharmacist, and the legality of the pharmacist in charge being totally

responsible for the any prescription that leaves the pharmacy. He said Dr. Kirtley shall be on the committee along with any others that Dr. Dufour and Dr. Kirtley appoint.

Dr. Campbell gave the Board an update on the current legislative session. He said that our Pseudo Bill looks like it will pass, which will be huge for the Board office. He said we will still license List I chemical suppliers for liquids, etc. Dr. Campbell told the Board that the Mahoney Bill went in today and will probably pass. He reminded the Board that the nursing home patients' drugs will go to indigent charitable clinic permits, and regulations needed to be promulgated for the June Board meeting. The staff will need to send the draft to the Board before June if it's going to be available when the bill becomes a law. Dr. Campbell said there is a charitable clinic in Fort Smith like the one in El Dorado, and more charitable clinics are likely to be coming this way.

Randy Davidson, P.D., #8363, appeared before the Board to ask that his probationary status in Arkansas be eliminated in order to reciprocate to Texas. Dr. Davidson told the Board that he has been offered a nuclear pharmacist position by a company in Texas, but that he cannot reciprocate while his Arkansas license is on probation. Kim Light, from the Pharmacy Support Group, said that Dr. Davidson is under a support group contract for three more years, but they would be happy to work with the Texas Pharmacy Support Group. Gene Shipley, Dr. Davidson's potential employer in Texas, also spoke on behalf of Dr. Davidson.

BOARD ACTION:

Dr. Dufour made the motion that the attorney on record draft language to resend the probation status of Randy Davidson, P.D., #8363. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Ronnie Norris, P.D., gave the Board the committee report on telepharmacy. Dr. Norris reminded the Board that telepharmacy originated on the west coast where people were driving 60 miles to get their prescriptions. He said that telepharmacy is essentially a vending machine, loaded with prescription medications, hooked up to a computer. He said the patient would be counseled through a video teleconference.

The Board once again discussed the out of state pharmacy application for **AH Pharmacy**, and the freedom of choice issue.

BOARD ACTION:

Mr. Holiman made the motion to approve the out of state pharmacy application for AH Pharmacy. Dr. Norris seconded the motion. The vote for the motion was four to three against the approval of the application. The motion failed.

BOARD ACTION:

Dr. Dufour made the motion to request that a representative from AH Pharmacy appear before the Board at the next Board meeting. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley discussed continuing education requirements for active duty military personnel in foreign countries. The Board said they could make it up whenever they get back.

Dr. Kirtley told the Board that there are some DME companies that are printing their company name and address on prescription pads. He said the DME regulation does not prohibit this practice like the pharmacy regulations prohibit it.

BOARD ACTION:

Dr. Newsome made the motion to amend the DME regulation to prohibit distributing prescription pads displaying the company's name and/or address. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley discussed affirmative obligation report criminal convictions. He presented the Board with a copy of the Arkansas Real Estate Commission's regulation, which requires their licensees to report criminal convictions. The Board discussed the benefits of requiring licensees to report criminal convictions, and the time frame in which they should be reported.

BOARD ACTION:

Dr. Autry made the motion to include language in the regulations to include a criminal conviction must be reported within five days. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley told the Board that some issues have been raised concerning the security requirements for DME companies, especially those smaller companies that only carry oxygen and are not at risk for theft. The Board discussed exempting the security requirements, but said certain items like nitrous oxide should remain secured.

BOARD ACTION:

Dr. Autry made the motion to proceed with regulation changes that would exempt medical gas security requirements, with the exception of nitrous. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Several representatives from **Dollar General** appeared before the Board to request an Arkansas List I Chemical permit for three of their locations. James Romaker told the Board that the company implemented a policy to keep any straight pseudo products in a glass case under lock and key. He said they were notified by the DEA that they needed to be licensed in Arkansas, and at that time pulled their pseudo products off the shelf.

BOARD ACTION:

Dr. Dufour made the motion to approve Dollar General's applications with the stipulation that the company provide the Board staff with a product list every quarter. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Ms. Lincourt gave the Board an update on the GL Suite software conversion. She said there has been a few bumps along the way, but that everyone was working hard on renewals and would sort out a few minor problems once the renewal period has ended. Ms. Lincourt said that she plans to get together with the five other agencies that were in the initial group to work on on-line renewals and license verification.

Ms. Lincourt also brought up the time-line for renewals. She said most licenses expire on December 31 of every other year. Currently, staff sends out renewals on December 1, but that only leaves one month before the

license expires and the office is flooded with mail. She said this year she would like to get the renewals ready after the October Board meeting and mail them on November 1. The Board agreed with this plan.

Dr. Campbell discussed patient counseling on previously taken prescription medications. He asked if a patient has been taking a medication for a year, and the prescription expires, does the pharmacist counsel on the new prescription if it is the same medication? The Board said to keep the regulation as it is and always counsel on a new prescription.

John Gilliam, with **Anderson Wholesale Company**, appeared before the Board to request an Arkansas List I Chemical permit for four locations in Arkansas. Mr. Gilliam told the Board that his company has been in business since 1949. He said he was notified in 2003, by the DEA, that he needed to be licensed by the Arkansas State Board of Pharmacy. Dr. Campbell told Mr. Gilliam that if was granted Board approval, all of his facilities would have to have adequate security and be climate controlled.

BOARD ACTION:

Dr. Autry made the motion to approve the List I Chemical applications for Anderson Wholesale Company, provided that they are inspected by the Board inspectors and meet the storage and security requirements set out in Board regulations. Ms. Capps seconded the motion. The vote for the motion was unanimous.

Dr. Campbell presented the Board with an Agreed Order for another pharmacist.

BOARD ACTION:

Mr. Holiman made a motion to approve the Agreed Order pending it being signed and approved by the pharmacist and attorney. Dr. Norris seconded the motion. The vote for the motion was unanimous.

The meeting was adjourned.

Prepared By:

Approved for the Board:

Lana Whitmore

Larry McGinnis, Pharm.D., President