

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 21-22, 2007. The meeting was held at the Board of Pharmacy office at 101 East Capitol, Little Rock, Arkansas.

Wednesday – February 21, 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; Ron Ewing, P.D.; Rusty McSpadden, P.D.; and Jim Myatt, P.D.

BOARD ACTION:

Dr. Post made the motion that the minutes of the October 2006 Board Meeting and the minutes of the December 28, 2006 conference call be approved as presented. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

BOARD ACTION:

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

BOARD ACTION:

Dr. Bowden made the motion to approve expense reimbursement for each Board member for performing official board duties at the rate established for state employees by travel regulations. In addition, a stipend of \$85.00 per day shall be paid to the members of the Board for attendance at Board meetings and informal conferences. The Board also requests that the reimbursement for hotel expenses be allowed to exceed the in-state rate. Mr. Holiman seconded the motion.

- Board Committee Meetings
- NABP Annual Meeting
- NABP Fall Conference
- MALTA-GON Meeting
- Arkansas Pharmacists Association Annual Meeting
- District VI – NAPB
- Midwest Conference
- Utah School of Drug Abuse

- Board of Pharmacy Meetings – three regular and any called meeting
- Board of Pharmacy Interim Meetings – as needed
- State Controlled Substance Authority Meeting
- Conference on State Government
- Executive Officer’s Conference – NABP

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:

Shamina Antenucci	Allison Baldwin	William Biggart
Wendy Blackston	Michele Bradshaw	Benjamin Chandler
George Chapman	Ronald Chomiuk	Dane. Coffey
Rodney Franklin	Albert Giordano	Darryl Gould
Michelle Grale	Michael Grindstaff	Jeremy Johnson
Russell Kuchta	Greg Logan	Eric Mangum
David Merritt	Elizabeth Scogin	Cheri Son
Corey Stevens	Norma Theien	Stephen Uhl
Daniel Vandersand	John Walker	Misty Walker
Gregory Webb	John Wierzbicki	

BOARD ACTION:

Dr. Dufour made the motion to approve the above applicants for reciprocity licensure in Arkansas. Dr. Post 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:

Gary Evarts	Julie Hixson-Wallace	Jessica Logan
Dirk Lucas	Gary Millender	Neely Ott

BOARD ACTION:

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

Dr. Kirtley 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 should be live and related to drug therapy or patient care. He explained that since this is the second half of

the biennium, the applicants would be responsible for 15 hours of CE of which 6 should be live.

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 for a new out-of-state pharmacy application so that these pending pharmacy applications could be released.

The Board discussed that the reciprocity questions be sent with the reciprocity applications and completed. They asked to have copies of the completed questionnaires in the Board agenda books.

Dr. Jeremy Johnson appeared before the Board to discuss the business model of Astrup Drug, Inc., dba Smart-Fill, a closed door central fill pharmacy located in Minnesota. All prescriptions filled by Smart-Fill are processed by an affiliate pharmacy located in Arkansas. The Board also saw examples of Smart-Fills pharmacy label and receipt.

BOARD ACTION:

Dr. Dufour made the motion that the Board approve the permit and filling process as presented. Mr. Holiman seconded the motion. The vote on the motion was unanimous.

Dr. Eddie Glover, #PD06232 appeared before the Board to request that U.S. Compounding, #AR20551, a closed door compounding pharmacy, business hours be reduced to less than 40 hours per week.

BOARD ACTION:

Dr. Newsome made the motion that the Board approve the request. Ms. Capps seconded the motion. The vote on the motion was unanimous.

Dr. Julie Hixson-Wallace and Dr. Jeff Mercer appeared before the Board for approval of experiential hours for the new College of Pharmacy at Harding University.

BOARD ACTION:

Dr. Dufour made the motion that the Board approve Harding University's College of Pharmacy experiential hours on par with those of the UAMS College of Pharmacy at 1500, with the provision that they submit a brief overview yearly at the winter meeting reporting the total number of hours the students have gained, including the total number of hours at each site

and a brief description of the curriculum focus. Mr. Holiman seconded the motion. The vote on the motion was unanimous.

Dr. Dufour made the motion to amend the regulation to accommodate Harding University to the Pharmacy Regulations. Dr. Newsome seconded the motion. The vote on the motion was unanimous.

Dr. Larry McGinnis, #PD06726 appeared before the Board as a member of the Hospital Advisory Committee to report on the "tech-check-tech" program in hospitals. Dr. McGinnis provided information from other states that have put this program in place and offered to gather more information on this program for the next meeting.

Dr. Kirtley presented the Board with a request from Genoa Healthcare for an exemption from state licensure requirements until the June Board meeting when a pharmacist can reciprocate and the facility can become licensed. This facility serves as a closed door pharmacy and has recently been awarded a national clozapine patient assistance program for indigent patients. They would serve approximately 17 patients in Arkansas until the June Board meeting.

BOARD ACTION:

Dr. Dufour made the motion to approve this exemption request until the June meeting when the applicants should reciprocate and obtain an out-of-state pharmacy permit. Dr. Newsome seconded the motion. The vote on the motion was unanimous.

Andy Shaw, P.D., #PD04805 with **City Rexall, #AR02230** appeared before the Board in answer to an Order and Notice of Hearing. Dr. Norris called the meeting to order and turned the proceeding over to the Hearing Officer, Charlie Molton. Nancy Pryor, of the Attorney General's Office, represented the Board staff. The respondent was not represented by counsel.

BOARD ACTION:

Dr. Post made the motion that in the matter of Andy Shaw, P.D., #PD04805, and City Rexall, #AR02230, that Allegations A-1, A-2 and A-3 were found to be true, and that Charges C-1, C-2 and C-3 were proven. Therefore, it is ordered that Dr. Shaw's pharmacist license be placed on probation for one year. City Rexall, #AR02230 is to name a new PIC within 90 days and pay a monetary penalty of \$1000 within 90 days. Dr. Newsome seconded the motion. The motion passed.

Bill Stanley appeared before the Board as counsel for Cliff McQuay and **Cliff McQuay Sales Company, #LC00016** in a case remanded to the Arkansas State Board of Pharmacy. The case was remanded by the Circuit Court because "The findings of fact, conclusions of law and Order issued by the Pharmacy Board are

not definite, certain and are vague in the sense of the exact violations which occurred in this case and the penalty apportionable to each”.

BOARD ACTION:

Mr. Holiman made the motion to take the order under advisement until the June Board meeting. Ms. Capps seconded the motion. The vote on the motion was unanimous.

Gennifer Walker, #PT90198 appeared before the Board in answer to an Order and Notice of Hearing. Dr. Norris called the meeting to order and turned the proceedings over to the Hearing Officer, Charlie Molton. Nancy Pryor, of the Attorney General's Office, represented the Board staff. The respondent was represented by attorney Dale West.

BOARD ACTION:

Dr. Post made the motion that in the matter of Gennifer Walker, #PT91098, that Allegations A-1, A-2 and A-3 were found to be true, and that Charges C-1, C-2, C-3 and C-4 were proven. Therefore, it is ordered that the Board accept the voluntary surrender of Ms. Walker's pharmacy technician license. Ms. Walker is ordered to pay a monetary penalty of \$1,000 per charge, for a total of \$4,000 by June 30, 2008. Dr. Newsome seconded the motion. Dr. Post amended the motion to include that Ms. Walker provide a schedule of assets within 30 days. Dr. Newsome seconded the amendment. The vote on the amendment was unanimous. The vote on the motion, as amended, was unanimous.

Dr. Campbell brought it to the Boards attention that some pharmacists have been dispensing scripts with their hands and this has cause for alarm as a public health risk.

BOARD ACTION:

Dr. Dufour made the motion that the Arkansas Pharmacist Association issue a blast fax, and that the Board issue an advisement in the monthly newsletter stating that this practice is not acceptable and that Inspectors will be told to report this action on inspections. Mr. Holiman seconded the motion. The vote on the motion was unanimous.

Dr. Campbell addressed the issue of pharmacists smoking in the pharmacy while filling prescriptions.

Dr. Campbell addressed the issue of a pharmacist that refused to process a patient's prescription at 5:59, when the facility closed at 6:00. He went on to explain that the facility had no rules that stated a pharmacist has to stay past 6:00 and wait on customers. The Board viewed this as unprofessional conduct and instructed Board staff to draft a letter stating this to the pharmacist.

Thursday – February 22, 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; Ron Ewing, P.D.; Rusty McSpadden, P.D.; and Jim Myatt, P.D.

A report was made by Susan Hiland of Wal-Mart and Dan Luce of Walgreen's updating the Remote Entry Pilot Project.

BOARD ACTION:

Dr. Post made the motion for Board staff to revise the regulations for a vote in June. Mr. Holiman seconded the motion. The vote on the motion was unanimous.

Mr. Luce requested that Walgreen's be allowed to add more stores to the pilot project.

BOARD ACTION:

Dr. Bowden made the motion to expand the pilot program to 16 stores for each organization. Dr. Newsome seconded the motion. The vote on the motion was unanimous.

Dr. Campbell discussed medication errors and the *Institute of Medicine* report and asked what was the will of the Board on how to respond to the public on this report.

BOARD ACTION:

Dr. Dufour made the motion that Board staff draft proposed regulations for Continuous Quality Improvement (CQI) stating that the Pharmacist in Charge (PIC) be in charge of recording medication errors and documenting store meetings on this subject. Mr. Holiman seconded the motion. The vote on the motion was unanimous.

Dr. Dufour then made the motion to direct Board staff to call an informal conference if any medication errors are recognized by staff to cause harm to a patient, and that the pharmacist or pharmacy technician be brought before the Board. Dr. Bowden seconded the motion. The vote on the motion was unanimous.

A Public Hearing on Regulations 4, 8 and 9 was called to order at 9:37 am.

Regulation 4 – Pharmacy

The proposed changes will help to explain the chain of responsibility for individual pharmacists involved in the prescription filling process.

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

BOARD ACTION:

Dr. Post made the motion to accept the amendment to Regulation 4 as presented. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Regulation 8 – Wholesale Distribution

The proposed changes will add language in the regulation to allow for the issuance of a limited use wholesale distributor license for entities that only engage in the wholesale distribution of medical gas.

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

BOARD ACTION:

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

Regulation 9 – Pharmaceutical Care/Patient Counseling

The proposed changes will require that CPR or BCLS certification for pharmacists giving immunizations must contain a live component where proficiency is tested.

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

BOARD ACTION:

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

The Public Hearing on Regulations was concluded at 9:47 am.

Dr. Kirtley presented the Board with an Agreed Temporary Order for **Jana Marie Miller, #PT84429**. Ms. Miller 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. Newsome made the motion to accept the Agreed Temporary Order for Jana Marie Miller, #PT84429 as presented. Dr. Bowden seconded the

motion. The vote for the motion passed. Dr. Dufour recused himself from the vote.

Dr. Kirtley presented the Board with an Agreed Temporary Order for **Kimi Matthews, #PN02637**. Ms. Matthews 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:

Mr. Holiman made the motion to accept the Agreed Temporary Order for Kimi Matthews, #PN02637 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 **John Cash, #PD07844**. Dr. Cash 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 John Cash, #PD07844 as presented. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Michael David Parr, PD, #PD07627** and **University of Arkansas Hospital, #HP00284**. The order was signed admitting the charge that Dr. Parr permitted Richard Keech, Jr. and Jamel Crumblin to work as pharmacy technicians after April 1, 2006 until November 2, 2006, during which time Mr. Keech, Jr. and Mr. Crumblin did not hold current registrations as pharmacy technicians and did not have current permits on display at the pharmacy. By signing the order, Dr. Parr has agreed to pay a monetary penalty of \$1,000 to the Board by March 31, 2007. UAMS has agreed to pay a monetary penalty of \$2,000 to the Board by March 31, 2007.

BOARD ACTION:

Ms. Capps made the motion to accept the Consent Order for Michael David Parr, PD, #PD07627 and UAMS, #HP00284 as presented. Dr. Dufour seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Ricardo A. Acosta, PD, #PD09313** and **Walgreens Drug Store #5260, #AR20191**. The order was signed admitting the charge that Dr. Acosta permitted Amber Tisdale and Wendy Eck to work as pharmacy technicians in August 2006, during which time Ms. Tisdale and Ms. Eck did not hold current registrations as pharmacy technicians and did not have current permits on display at the pharmacy. By signing the order, Dr. Acosta has agreed to pay \$1,000 to the board by March 31, 2007.

Walgreens #5260 has agreed to pay a monetary penalty of \$2,000 to the Board by March 31, 2007.

BOARD ACTION:

Mr. Holiman made the motion to accept the Consent Order for Ricardo A. Acosta, PD, #PD09313 and Walgreens Drug Store #5260, #AR20191 as presented. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the board with the recommendations from the February 13, 2007 Informal Committee review. The Consent Order for **Ed Henley, PD, #PD05197** and **Bruce Drug, #AR06101** was signed admitting to delivering certain prescription drugs to patients without the authorization of a practitioner. The drugs were identified as prescription only, non-controlled drugs except Coldcough HC Liq which is a prescription only, Class III Controlled Substance. By signing the order, Dr. Henley has agreed to pay \$2,000 to the Board by June 1, 2007, and his pharmacist license is to be placed on probation for one year. Dr. Henley has also agreed to read the Arkansas State Board of Pharmacy Laws and Regulations and the Drug Enforcement Administration Pharmacist's Manual and provide written confirmation to the Board that each has been read by June 1, 2007. Bruce Drug, #AR06101 has agreed to pay a monetary penalty of \$5,000 the Board by June 1, 2007.

BOARD ACTION:

Mr. Holiman made the motion to accept the Consent Order for Ed Henley, PD, #PD05197 and Bruce Drug, #AR06101 as presented. Dr. Sitzes seconded the motion. The vote for the motion passed. Dr. Post recused himself from the vote.

The Consent Order for **Benny Post, PD, #PD04537** was signed admitting to delivering certain prescription drugs to patients without the authorization of a practitioner. The drugs were identified as prescription only, non-controlled drugs except Coldcough HC Liq which is a prescription only, Class III Controlled Substance. By signing the order, Dr. Post has agreed to his pharmacist license being placed on probation for six months.

BOARD ACTION:

Mr. Holiman made the motion to accept the Consent Order for Benny Post, PD, #PD04537 as presented. Dr. Sitzes seconded the motion. The vote for the motion passed. Dr. Post recused himself from the vote.

Kenny Trantham, #PD07021 appeared before the Board to request that he be allowed to be a PIC.

BOARD ACTION:

Dr. Newsome made the motion that the Board approve Dr. Trantham's request. Dr. Sitzes seconded the motion. The vote for the motion was unanimous.

Julie Cason, #PD08375 appeared before the Board to request that she be allowed to be a PIC and a preceptor.

BOARD ACTION:

Ms. Capps made the motion that the Board approve Dr. Cason's request. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Dr. Kim Light appeared before the Board at their request from the October, 2006 Board meeting to discuss a possible budget for the Support Group.

BOARD ACTION:

Dr. Newsome made the motion to provide the Support Group with a computer, and to pursue legislation to provide compensation to the Support Group in the next biennium. Ms. Capps seconded the motion. The vote for the motion was unanimous.

Dr. Campbell discussed with the Board that Representative Dickinson is interested in placing the drug Tramadol in the CS IV category. The Board said that they would support this action and would support Dr. Light pursuing this action.

The Multi-Dose Bubble pack discussion was moved to the June, 2007 meeting so that there would be more information for discussion.

The Board discussed the expiration of the re-use of medications pilot program.

BOARD ACTION:

Dr. Bowden made the motion that Board staff draft proposed regulation changes to allow unopened and unused medications in nursing homes to be returned to the providing pharmacy for reuse in nursing homes if 1) the medication is returned within 72 hours of receipt by the home, 2) the medication has not been outside the chain of custody of health care professionals and 3) the medication in full and unopened cards or unit dose boxes or liquids or injectables if the seal has not been opened. Ms. Capps seconded the motion. The vote for the motion was unanimous.

Betty Jones, R.Ph. of Fresenius USA Manufacturing appeared before the Board to discuss a proposed business plan to locate a wholesale distributor adjacent to a pharmacy in Maumelle. The two operations will be separate. The Board found that this business plan complied with Arkansas law.

The Christian Community Care Clinic of Benton, AR appeared before the Board requesting an application for a Permit for Pilot Program for Donated Prescription Medication.

BOARD ACTION:

Dr. Post made the motion to approve the application for the Christian Community Care Clinic of Benton. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Eric Crumbaugh, #PI20086 appeared before the Board on behalf of UAMS College of Pharmacy students requesting that Interns be allowed to administer immunizations under a qualified, licensed preceptor certified to administer immunizations once the educational requirements have been met.

BOARD ACTION:

Dr. Dufour made the motion that students be allowed to perform immunizations under qualified, licensed preceptors certified to administer immunizations once the requirements are met. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Campbell discussed the possibility of creating legislation that would waive technician registration fees and criminal background check fees for pharmacy technicians volunteering in charitable clinics. The Board expressed that they are not against the bill.

Jeremy Darr appeared before the Board requesting that **North Central I.V. & Respiratory Specialists, #AR20370**, a closed door compounding pharmacy, be allowed to be open 20 hours a week.

BOARD ACTION:

Mr. Holiman made the motion that the Board approve the hours of Monday through Tuesday, 8 am to 4 pm and Wednesday, 8 am to 12 noon. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Leo Hauser, Dean Sykes and Mark Riley appeared before the Board to discuss the Pharma legislation and the Regulatory Authority legislation on Pedigree. The options posed to the Board were to 1) support the Pharma proposed legislation, 2) support the interim study referred legislation giving the Board broad regulatory authority, or 3) to recommend that the legislature take no action on the pedigree issue until the federal injunction is resolved.

BOARD ACTION:

Dr. Dufour made the motion to recommend that the legislature take no action on the pedigree issue until the federal injunction is resolved. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Mark Riley of the Arkansas Pharmacist Association spoke on the proposed bill related to dental and physician dispensing prescription drugs. The APA is opposed to this bill.

The discussion regarding mobile veterinary wholesalers was tabled until the June, 2007 meeting.

The cost of performing an audit of inventory versus a quarterly inventory for Jackie Baggett was discussed.

BOARD ACTION:

Dr. Dufour made the motion that the requirement of a quarterly audit be changed to a quarterly inventory. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley discussed Clinical Intervention Group (CIG). CIG is a clinical pharmacist consulting firm located in Glendale, CA that provides in depth patient care plan development and member/physician consultation. It was discussed that the requirements in California do not match the requirements in Arkansas. The Board advised staff to notify this company that their business model would constitute the practice of pharmacy in Arkansas and that they would need to become licensed appropriately to work with Arkansas patients in this manner.

The Board discussed the topic of Shared Pharmacy Services and decided to form a committee to examine and address Shared Pharmacy Services and the requirements in Arkansas. Ms. Lincourt, Dr. Kirtley, Dr. Post and Dean Sykes will be members of this committee.

Dr. Newsome was selected as the delegate to the NABP meeting in Oregon May 19 – 22, 2007.

2008 conference dates and Board travel will be discussed at the June, 2007 meeting in Rogers, AR.

The meeting was adjourned.

Prepared By:

Approved for the Board:

Kelly Kendall

Ronnie Norris, P.D., President