

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 October 11-12, 2005. The meeting was held at the Board of Pharmacy office, 101 East Capitol, Suite 218, Little Rock, Arkansas.

Tuesday, October 11, 2005

The meeting was called to order by Larry McGinnis, Pharm.D., President. Members present were Buddy Bowden, P.D.; Sharon Capps, R.N.; Bob Dufour, P.D.; Ross Holiman, B.S., H.Ed.; Lenora Newsome, P.D.; Ronnie Norris, P.D; and Benji Post, 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:

Dr. Norris made the motion that the minutes of the August 2005 Board Meeting be approved as presented. Dr. Bowden 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. Bowden 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:

Bruce Bakke	Judy Borchardt	Linda Bowers
Marsha Crader	Mary Davis	Arnold Fox
Jennifer Grove	Ralph Guatelli	Timothy Hadley
Robert Holeman	Mark Hoover	Daniel Katzer
Jetahn Kelley	Leah Kingery	Margery Lillibridge
Steven Lincoln	Chiu-Yu Lok	Michael Malone
Dwayne Mar	Scott Mazza	Todd Morisato
Nancy Pierron	Timothy Plummer	Carl Reeder
Jane Reeves	JoMarie Richardson	Nancy Sanders
Arthur Schneider	Kris Shubert	Summer Troxclair
Brandon Worth		

BOARD ACTION:

Dr. Norris made the motion to approve the above applicants for reciprocity licensure in Arkansas. Dr. Bowden 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. Dr. Campbell told the applicants that since they received their Arkansas license at the end of the biennium, they would be responsible for obtaining the CE hours required for their home state. He said beginning January 1, 2006 they will be responsible for Arkansas' CE requirements.

Ms. Lincourt asked the applicants to please be sure to notify the Board of changes of employment and changes of address. Ms. Whitmore 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.

BOARD ACTION:

Dr. Norris made the motion to approve the following list of ACPE Colleges of Pharmacy that Arkansas will accept for licensure by reciprocity or examination:

ALABAMA

- Auburn University Harrison School of Pharmacy
- Samford University McWhorter School of Pharmacy

ARIZONA

- Midwestern University College of Pharmacy-Glendale
- University of Arizona College of Pharmacy

ARKANSAS

- University of Arkansas for Medical Sciences College of Pharmacy

CALIFORNIA

- Loma Linda University School of Pharmacy
- Thomas J. Long School of Pharmacy & Health Sciences at the University of the Pacific
- Touro University – California College of Pharmacy
- University of California, San Diego Skaggs School of Pharmacy and Pharmaceutical Sciences
- University of California, San Francisco School of Pharmacy
- University of Southern California School of Pharmacy
- Western University of Health Sciences College of Pharmacy

COLORADO

- University of Colorado at Denver and Health Sciences Center School of Pharmacy

CONNECTICUT

- University of Connecticut School of Pharmacy

DISTRICT OF COLUMBIA

- Howard University School of Pharmacy

FLORIDA

- Florida Agricultural and Mechanical University College of Pharmacy and Pharmaceutical Sciences
- Nova Southeastern University College of Pharmacy
- Palm Beach Atlantic University Lloyd L. Gregory School of Pharmacy
- University of Florida College of Pharmacy

GEORGIA

- Mercer University Southern School of Pharmacy
- South University School of Pharmacy
- University of Georgia College of Pharmacy

IDAHO

- Idaho State University College of Pharmacy

ILLINOIS

- Midwestern University Chicago College of Pharmacy
- Southern Illinois University Edwardsville School of Pharmacy
- University of Illinois at Chicago College of Pharmacy

INDIANA

- Butler University College of Pharmacy and Health Sciences

- Purdue University School of Pharmacy and Pharmaceutical Sciences

IOWA

- Drake University College of Pharmacy and Health Sciences
- University of Iowa College of Pharmacy

KANSAS

- University of Kansas School of Pharmacy

KENTUCKY

- University of Kentucky College of Pharmacy

LOUISIANA

- University of Louisiana at Monroe College of Pharmacy
- Xavier University of Louisiana College of Pharmacy

MARYLAND

- University of Maryland School of Pharmacy

MASSACHUSETTS

- Massachusetts College of Pharmacy and Health Sciences School of Pharmacy-Worcester
- Massachusetts College of Pharmacy and Health Sciences School of Pharmacy-Boston
- Northeastern University School of Pharmacy

MICHIGAN

- Ferris State University College of Pharmacy
- University of Michigan College of Pharmacy
- Wayne State University, Eugene Applebaum College of Pharmacy and Health Sciences

MINNESOTA

- University of Minnesota College of Pharmacy

MISSISSIPPI

- University of Mississippi School of Pharmacy

MISSOURI

- St. Louis College of Pharmacy
- University of Missouri-Kansas City School of Pharmacy

MONTANA

- University of Montana College of Health Professions and Biomedical Sciences Skaggs School of Pharmacy

NEBRASKA

- Creighton University Medical Center School of Pharmacy and Health Professions
- University of Nebraska Medical Center College of Pharmacy

NEVADA

- University of Southern Nevada College of Pharmacy

NEW JERSEY

- Rutgers, the State University of New Jersey Ernest Mario School of Pharmacy

NEW MEXICO

- University of New Mexico College of Pharmacy

NEW YORK

- Albany College of Pharmacy
- Long Island University Arnold and Marie Schwartz College of Pharmacy and Health Sciences
- St. John's University College of Pharmacy and Allied Health Professions
- University at Buffalo The State University of New York School of Pharmacy & Pharmaceutical Sciences

NORTH CAROLINA

- Campbell University School of Pharmacy
- University of North Carolina at Chapel Hill School of Pharmacy
- Wingate University School of Pharmacy

NORTH DAKOTA

- North Dakota State University College of Pharmacy

OHIO

- Ohio Northern University College of Pharmacy
- Ohio State University College of Pharmacy
- University of Cincinnati College of Pharmacy
- University of Toledo College of Pharmacy

OKLAHOMA

- Southwestern Oklahoma State University School of Pharmacy
- University of Oklahoma College of Pharmacy

OREGON

- Oregon State University College of Pharmacy

PENNSYLVANIA

- Duquesne University Mylan School of Pharmacy
- Lake Erie College of Osteopathic Medicine, School of Pharmacy
- Nesbitt College of Pharmacy and Nursing at Wilkes University
- Temple University School of Pharmacy
- University of Pittsburgh School of Pharmacy
- University of the Sciences in Philadelphia -Philadelphia College of Pharmacy

PUERTO RICO

- University of Puerto Rico Medical Sciences Campus School of Pharmacy

RHODE ISLAND

- University of Rhode Island College of Pharmacy

SOUTH CAROLINA

- Medical University of South Carolina College of Pharmacy
- University of South Carolina College of Pharmacy

SOUTH DAKOTA

- South Dakota State University College of Pharmacy

TENNESSEE

- University of Tennessee , Memphis College of Pharmacy

TEXAS

- Texas Southern University College of Pharmacy and Health Sciences
- Texas Tech University Health Sciences Center School of Pharmacy
- University of Houston College of Pharmacy
- University of Texas at Austin College of Pharmacy, The

UTAH

- University of Utah College of Pharmacy

VIRGINIA

- Hampton University School of Pharmacy
- Shenandoah University Bernard J. Dunn School of Pharmacy
- University of Appalachia College of Pharmacy
- Virginia Commonwealth University at the Medical College of Virginia Campus School of Pharmacy

WASHINGTON

- University of Washington School of Pharmacy
- Washington State University College of Pharmacy

WEST VIRGINIA

- West Virginia University School of Pharmacy

WISCONSIN

- University of Wisconsin-Madison School of Pharmacy

WYOMING

- University of Wyoming School of Pharmacy

INTERNATIONAL*

- Lebanese American University School of Pharmacy

Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Dennis McDonald, P.D., #6927, and Buy-Rite Pharmacy, #AR19374, 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 the respondent was not represented by counsel.

Mr. Gay called on Ron Ewing, P.D., to testify. Dr. Ewing testified regarding Dr. McDonald's licensure history. He told the Board that Dr. McDonald was the sole owner of Buy-Rite Pharmacy. Dr. Ewing told the Board that in June 2005 he received an anonymous report that Dr. McDonald was in a car accident that resulted in a DUI and other charges. He then he said asked Dr. McDonald if he would submit to a urine test, and he agreed. The

urine test came back positive. Dr. Ewing said he went over the results with Dr. McDonald and asked if he had prescriptions for everything that was positive. He said Dr. McDonald said he may have taken some medication prescribed for his wife, but that he would only take it on the weekend and never when he was working.

Mr. Gay told the Board that the Order and Notice of Hearing should be amended. He said the dates on A-3 and A-5 should be changed from 12/31/2004 to 12/31/2003.

Dr. Ewing said he conducted an audit of the controlled substances that showed up positive on the urine screen, and after discovering substantial losses of III's, IV's, and V's, he audited the Schedule II's. Dr. Ewing said there were no noticeable shortages or overages of C-II's. Dr. Ewing then discussed how drug orders were placed and received in Buy-Rite Pharmacy. He said the orders were checked from the invoice and the invoice was checked marked when the order was checked in. He said there was no indication as to who checked in the order, but that Dr. McDonald said that techs usually checked in the orders for III's, IV's, and V's. Dr. Ewing told the Board that Dr. McDonald would personally check Schedule II's and entered them into stock. He said he only ordered the Schedule II's from one wholesaler.

Dr. McDonald testified on his own behalf. He said he and his wife own Buy Rite Pharmacy. He said he has two licensed technicians and until July 27, 2005, Jim McMahan, P.D., worked there part time as a relief pharmacist. Dr. McDonald said that he has changed his ordering policies since Dr. Ewing first came into his pharmacy. He said all his orders are now received and processed under the direct supervision of a pharmacist. Dr. McDonald explained that he took some of his wife's medication because of pain in his shoulder, but he has since received cortisone shots. He told the Board that Dr. Ewing requested a second urine screen from him and that the results were negative. Dr. McDonald said he would like to be able to continue to serve his community as a pharmacist and to continue to provide for his family.

BOARD ACTION:

Dr. Bowden made the motion that in the matter of Dennis McDonald, P.D., #6927, and Buy-Rite Pharmacy, #AR19374, Allegations A-1, A-2, A-3, A-4, A-5, A-6, and A-7 were found to be true, and Charges C-1, C-2, C-3, C-4, C-5, C-6, and C-7 were proved. Therefore, Dr. McDonald's pharmacist license is to be suspended for a minimum of one year effective immediately, he must enter into the pharmacy support group, and his reinstatement will be considered only if he reappears before the Board with advocacy from the support group. The pharmacy permit for Buy-Rite pharmacy is revoked effective October 31, 2005. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Jim McMahan, P.D., #6936, 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 the respondent was not represented by counsel.

Mr. Gay called on Ron Ewing, P.D., to testify. Dr. Ewing testified regarding Dr. McMahan's licensure history. He told the Board that Dr. McMahan has been a licensed pharmacist since 1982. Dr. Ewing told the Board that he was conducting an audit for Buy-Rite Pharmacy when he noticed a shortage for Norco. He said he reviewed the patient profile for Dr. McMahan and most of his prescriptions were prescribed by Dr. McMahan's father, who is a retired physician. Dr. Ewing said he asked Dr. McMahan why he was taking Narco and Soma, and he

told him that he had a wreck in the late 1980's which injured his back and then he fell in Harvest Foods Pharmacy and suffered from a crushed disk in his back. He said the medication was prescribed to him from a physician other than his father, but then surgery was discussed and he did not want that so his father prescribed Soma and Vicodian as needed for pain. Dr. Ewing told the Board that Dr. McMahan has been taking Hydrocodone for over ten years. He said he was told by Dr. McMahan that he called his dad every six months to a year and told him that he needed his back pain medications. Dr. Ewing told the Board that he contacted Jim McMahan, M.D. to discuss his son's medications.

Mr. Gay called on Jim McMahan, M.D. Dr. McMahan said he closed his practice in 1999, but continued to see some patients out of his home office. He said he did not renew his DEA license in 2002.

Dr. McMahan testified on his own behalf. He told the Board that he and his dad have a very close relationship, but he did not tell his dad how much pain he was in because he did not want to worry him. He said he has some serious medical problems – a bad back, arthritis, and restless leg syndrome. Dr. McMahan told the Board that he never takes his medication during working hours – only at night so he can get some rest. Dr. McMahan said he does not believe he is addicted to drugs. He told the Board that he was embarrassed to have to appear before them, and that he was sorry. He said that since this investigation has started, he has been seeing a physician other than his dad, and he is not taking as much Hydrocodone that he was taking.

Jim McMahan, M.D., testified on behalf of his son. He said he did not realize that his son was taking that much medication and he felt that he did not realize the severity of his son's pain because his son did not want him to worry. He said that he has always trusted his son and that he still does.

BOARD ACTION:

Dr. Bowden made the motion that in the matter of Jim McMahan, P.D., #6936, Allegations A-1, A-2, A-3, A-4, A-5, and A-6 were found to be true, and Charges C-1, C-2, C-3, and C-4 were proved. Therefore, Dr. McMahan's pharmacist license is to be temporarily suspended until he received advocacy from the pharmacy support group. He is ordered to pay a monetary penalty of \$5,000 within 30 days, re-take the Arkansas Jurisprudence Examination, and is to be placed on probation for five years. The probation period is to begin when his license is reinstated. Dr. Norris seconded the motion. The vote for the motion was unanimous.

Doug Crow, P.D., #6770, and Pharmacy Express, #AR17724, 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 Lisa Mutters, P.D., to testify. Dr. Mutters told the Board that she used to work as a pharmacist at Pharmacy Express. She said that in November 2004 a patient came into the pharmacy and said they did not receive the correct amount of Roxicodone, which is a C-II. Dr. Mutters said she conducted an audit which revealed a big shortage of both Roxicodone and its generic form. She said she contacted Dr. Crow and told him that she found a shortage. She said he told her that he had conducted another audit and everything came out fine. Dr. Mutters told the Board that she became concerned, so she asked another pharmacist to perform the same audit with her and it revealed altered records. Dr. Mutters said she again told Dr. Crow what she discovered and he told her he would do a thorough investigation. She said that changes were made in the

pharmacy to deter employee theft, but she decided to leave the pharmacy in April 2005 because she was uncomfortable with the fact that they never found the person responsible. Dr. Mutters said they had major glitches with the computers in the pharmacy. She said that Prescription Solutions, a company out of Centerton, Arkansas, owned the software. She said it would sometimes loose patient profiles and change single tablet doses and multiply them by 100.

Mr. Gay called on Nelda Capelle, P.D., to testify. Dr. Capelle discussed the audit she conducted with Dr. Mutters and the changes that had been made in the pharmacy to deter employee theft. She also discussed the problems with the software the pharmacy used.

Mr. Gay called on Rusty McSpadden, P.D., to testify. Dr. McSpadden said he received an anonymous note in the mail regarding the situation at Pharmacy Express. He said he went to the pharmacy and talked to Dr. Capelle. Dr. McSpadden said he left a note for Dr. Crow and listed several items he needed sent to him regarding the investigation. He said he did not receive any communication from Dr. Crow regarding the items he requested. Dr. McSpadden also discussed the audit and the pharmacy's computer system.

Mr. Gay said that in the Order and Notice of Hearing, A-4 should be amended to reflect that DEA and the State Board did receive the DEA 106 report – only the Health Department did not receive it. Also, C-2 should reflect the same amendment regarding the references to A-4.

Mr. O'Quinn called Doug Crow, P.D., to testify. Dr. Crow said he conducted an audit on Roxycodone after he received the report for Dr. Mutters, and the drugs came out okay. He said then he received a call from Dr. Mutters that the prescriptions had been altered and he went through all the C-II hard copies against the information in the computer and found the four prescriptions Dr. Mutters told him about plus one other. Dr. Crow said he conducted an investigation – he required urine screens from all employees and had everyone take a lie detector test, but he never found who was responsible for the alterations. He said he changed the policy and procedures in the pharmacy by having only two technicians that were allowed to count narcotics and he changed all the locks on the pharmacy. Dr. Crow then discussed the problems that he had with the computer system in the pharmacy. Dr. Crow said he still has no explanation for what happened with the altered prescriptions.

Clyde Frazier and George Gadd also testified in this matter.

BOARD ACTION:

Dr. Bowden made the motion that in the matter of Doug Crow, P.D., #6770, and Pharmacy Express, #AR17724, Allegations A-1, A-2, A-3, A-4 (with amendment), and A-5, were found to be true, Allegation A-6 was not found to be true. Charges C-1, C-2 (with amendment), C-3, and C-4 were proved. Therefore, it is ordered that within 45 days, the software used by Pharmacy Express be replaced with a new system that gives full accountability and must be password protected for all functions; at the cost of the permit holder – an independent auditor must be hired to survey the pharmacy and make recommendations to the Board, and the permit holder must comply – with Board approval; a quarterly audit must be sent to the Board staff for two years of all C-II's and any Schedule III through IV for those drug found by the Board to be short in the audit. Dr. Crow's pharmacist license is to be placed on probation for a period of five years effective immediately, and he is ordered to pay a monetary penalty

of \$5,000 within 30 days. Dr. Dufour seconded the motion. Ms. Capps and Dr. Norris voted no. The motion passes six to two.

Keith Larkin, P.D., appeared before the Board to request to operate **MediSav Long Term Care Pharmacy**, a closed door pharmacy, 20 hours per week. Dr. Larkin told the Board that there would be two separate inventories and a stand alone computer for the closed door pharmacy. He said the computers in his retail pharmacy were networked, but the closed door pharmacy's computer would be separate from the network.

BOARD ACTION:

Dr. Newsome made the motion to approve Keith Larkin's request that MediSav Long Term Care Pharmacy be allowed to operate for 20 hours per week. Dr. Dufour seconded the motion. The vote for the motion was unanimous.

Nicholas Willard and Michael Burger, with **Emdeon Prescription Writer System** formerly **WebMD** appeared before the Board to make a visual presentation to the Board highlighting electronic prescribing and security measures incorporated into the process of electronic prescribing to ensure valid electronic signatures for prescriptions. A topic of concern during this discussion was the fact that most pharmacies are not currently set up to receive electronic prescriptions directly to a computer in the pharmacy. Because of this, processing companies that transmit the electronic prescriptions to pharmacies must transmit the prescription to the fax machine in the pharmacy much like a computer generated request for refill authorizations which a computer faxes to a prescriber. After the presentation, the Board discussed whether or not the electronic signature was okay and if it would be interpreted under the Arkansas State Board of Pharmacy electronic transmission regulation or the facsimile regulation. The Board also discussed whether they should approve Emdeon or the business concept. Dr. Dufour said he would like the opportunity to contact individuals who used Emdeon and get their input before a decision was determined.

BOARD ACTION:

Dr. Dufour made the motion to wait until the next day to make a decision on the matter. Dr. Norris seconded the motion. The vote for the motion was unanimous.

Larry Sparks, P.D., appeared before the Board to request to operate **Arkansas Home Medical DBA Air Med Pharmacy**, a closed door pharmacy, 20 hours per week. Dr. Sparks told the Board that the pharmacy doesn't do very much business and it is hard to have a full-time pharmacist. He said he has a phone line for Air Med Pharmacy in his regular retail pharmacy store. Dr. Sparks said he was not sure what the exact hours would be for the closed door facility, but he would notify the Board office of the hours when he sets them.

BOARD ACTION:

Mr. Holiman made the motion to approve Larry Spark's request that Air Med Pharmacy be allowed to operate for 20 hours per week. Dr. Norris seconded the motion. The vote for the motion was unanimous.

Wednesday, October 12, 2005

The meeting was called to order by Larry McGinnis, Pharm.D., President. Members present were Buddy Bowden, P.D.; Sharon Capps, R.N.; Bob Dufour, P.D.; Ross Holiman, B.S., H.Ed.; Lenora Newsome, P.D.; Ronnie Norris, P.D; and Benji Post, 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 discussed with the Board the National Association Board of Pharmacy's altered bylaws which now allows a pharmacist to reciprocate off of a reciprocated license rather than the pharmacist's original license. He said that each state Board is allowed to make the decision as to whether or not they want to participate in this new practice. Dr. Kirtley said that currently all the other states in the southeast region (MALTAGON) other than Texas, did not adopt this procedure. The Board discussed the advantages and disadvantages of this procedure.

BOARD ACTION:

Dr. Norris made the motion to leave the state's requirements regarding reciprocity as it is – which is that a pharmacist must reciprocate to Arkansas from their original license. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley told the Board that **Clarksville Convalescent Center** sent in a list for their emergency box and requested Lanoxin and Furosemide tablets rather than injectables. Dr. Kirtley said he spoke with the Office of Long Term Care and they had no problem with the change. He also told the Board that many nursing homes are requesting to have Albuterol in their ER Boxes. He said it would help decrease hospitalization for respiratory purposes. The Board discussed a new policy which would allow the Board staff to approve Albuterol for ER Boxes.

BOARD ACTION:

Dr. Norris made the motion to allow nursing homes to use Albuterol when requested. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Jackie Baggett, P.D., #5144, 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, Jim Depriest. Tom Gay, of the Attorney General's Office, represented the Board staff, and Darren O'Quinn represented the respondent.

Mr. Gay called Vance Parker, P.D., to testify. Dr. Parker told the Board that he is the pharmacist in charge of Rose Drug, and that Jack Baggett was employed part time at the store. He said he was contacted by Board staff and asked to submit patient profiles for two patients. He said one of the patients was a tech at Rose Drug and the other was her husband. Dr. Parker told the Board that he was informed by other employees that they saw Dr. Baggett drinking wine and beer in the pharmacy.

Mr. Gay called on Jim Myatt, P.D., to testify. Dr. Myatt told the Board that Dr. Baggett had been licensed as a pharmacist in Arkansas since 1964. Dr. Myatt went over patient profiles for two patients. He said that Dr.

Baggett was filing Tramadol for the two patients off of empty bottles. He said the prescriptions were entered into the system as new prescriptions by Dr. Nolen. Dr. Myatt said he interviewed Dr. Nolen and was told that he had no record of either patient. Dr. Myatt said he talked to Dr. Baggett about the situation as Dr. Baggett said he had no explanation for the Tramadol prescriptions.

Mr. Gay called Shelly Koch to testify. Ms. Koch told the Board that she was a pharmacy technician at Rose Drug. She discussed the procedures for processing prescriptions at the pharmacy. Ms. Koch told the Board that she saw a can of beer on the counter in the pharmacy and that she saw Dr. Baggett drinking wine in the pharmacy during business hours.

Mr. Gay called Jennifer Hunter to testify. Ms. Hunter told the Board that that she is employed as a clerk at Rose Drug. Ms. Hunter said she saw Dr. Baggett drinking wine in the pharmacy a couple of times. She said it was at the end of the day, but customers were still in the store.

Mr. O'Quinn called Jackie Baggett, P.D., to testify. Dr. Baggett told the Board that he works part time at Rose Drug, Don's Drug, and Pharmacy Express. He said that a customer gave him some wine at the pharmacy and he took a sip of it to see how it tasted. Dr. Baggett said he is not a big drinker, and he believes the technicians were mistaking the raspberry sparkling water that he likes to drink for wine. Dr. Baggett told the Board that he refilled a prescription for Tramadol for one of the technicians, from an empty bottle from Don's Pharmacy without transferring it. He said he trusted her and believed she needed her medicine. Dr. Baggett told the Board that he later found out she was hooked on drugs, but he did not know it.

Sharon Sorey, Ali Gibson, and Kim Light, Ph.D., also testified regarding this matter.

BOARD ACTION:

Dr. Norris made the motion that in the matter of Jackie Baggett, P.D., #5144, Allegations A-1, A-2, A-3, A-4, and A-5 were found to be true, and Charges C-1, C-2, C-3, C-4, and C-5 were proven. Therefore, Dr. Baggett's pharmacist license is to be temporarily suspended, and that he can reappear before the Board at the next scheduled Board meeting under the following conditions: He must undergo an evaluation and receive a recommendation from the support group, his license will be placed on a 2-year probation period, beginning when the suspension is lifted, any pharmacy in which he works will have to submit quarterly audit reports for all C-II's and any III's, IV's and V's designated by the Board, he is ordered to pay a monetary penalty of \$2,500 within 30 days, and re-take the Arkansas Jurisprudence Examination. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Dufour said he contacted some individuals that use Emdeon (formerly known as WebMD). He said the security seems to be adequate, but there are some commercial pop-ups and messages that may be a concern. He said Emdeon would have to agree to not show pop-ups, which may try to steer the prescriber in a certain direction.

Tom Gay, Darren O'Quinn, and Charlie Campbell discussed the next scheduled licensure hearing with the Board. Dr. Campbell said that much of the testimony from Dr. Baggett's hearing would be the same for the next hearing scheduled for **Melissa Mertin, P.D., #8421**. Mr. O'Quinn said both hearings are regarding much of the same issues and Dr. Mertin is willing to accept the same rulings that Dr. Baggett received. He told the Board this would be her first appearance before the Board.

BOARD ACTION:

Dr. Norris made the motion to propose the same requirements for licensure for Melissa Mertin, P.D., #8421 that Dr. Baggett received. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley discussed the current Disease State Management (DSM) requirements for pharmacists. He said our regulation requires an examination that is currently unavailable. He said there are several pharmacists who want to do patient care in DSM areas, but they are unable to complete the process because of the exam requirement. The board discussed the history of DSM in Arkansas as well as the exact requirements of DSM in Arkansas Pharmacy Regulations. Dr. Dufour then requested Board Staff to draft a proposal for the Board to review later in the meeting to resolve the issues discussed with the current absence of the NABP / NISPC tests for DSM. (this topic was discussed further later on as the last discussion item of the meeting)

Laquita White, P.D. #6999 appeared before the Board with a representative of the Arkansas Pharmacy Support Group, to request her Agreed Order be converted to a Consent Order. Dr. White told the Board that she worked at a pharmacy in Rogers, and began stealing Soma and Darvocet for back and shoulder pain. She said she was also stealing Valium and Xanax. She said she was arrested and fired in April 2004. Kim Light, Ph.D., from the Support Group spoke on behalf of Dr. White. Dr. Light said all charges were dismissed. He said she had attended 12 meetings and went through 18 drug screens – all with negative results. He said Dr. White was a real success case and that the support group advocated the conversion.

BOARD ACTION:

Mr. Holiman made the motion to accept the conversion from an Agreed Order to a Consent Order for Laquita White, P.D., #6999 as presented. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Tim Shulte, P.D. #9725 appeared before the Board with a representative of the Arkansas Pharmacy Support Group, to request his Agreed Order be converted to a Consent Order. Dr. Shulte told the Board that he began taking prescription drugs in 1998. He said his dad was a pharmacist and he stole drugs from his pharmacy. He said he graduated from pharmacy school in 2003, and he moved to Fayetteville to work in the VA Pharmacy. He said he stole drugs from the VA and was fired. Mike Frost, P.D., from the Support Group spoke on behalf of Dr. Shulte. Dr. Frost said Dr. Shulte signed a contract in July 2004. He said he had attended 9 meetings and went through 21 drug screens – all with negative results. Dr. Frost told the Board that the support group advocated the conversion.

BOARD ACTION:

Dr. Dufour made the motion to accept the conversion from an Agreed Order to a Consent Order for Tim Shulte, P.D., #9725 as presented. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Danny Smith, P.D. #6924 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. Smith. He said Dr. Smith contacted the support group in 2001, and attended 7 meetings through 2003. He said he met with the Board in June 2003 and his Agreed Order was converted to a Consent Order and the Board said he must come back before the Board and resign a 5-year contract with the

Support Group. Dr. Light said he had attended 10 meetings and went through 28 drug screens – all with negative results. He said that the support group will allow him to go back to work, but he does have issues with the DEA and must obtain a waiver.

BOARD ACTION:

Mr. Dufour made the motion to accept the conversion from an Agreed Order to a Consent Order for Danny Smith, P.D., #6924, with the provision that he gets approval by the Executive Director for any place he works where controlled substances are present. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Derek Smith, with Mitchell Law Firm, appeared before the Board on behalf of Emdeon. Derek addressed Dr. Dufour's concern with the pop-up issue. The Board discussed getting a committee together to address the issues of electronic prescriptions, and not approve just one company. Dr. Dufour said have a representative of Emdeon on the committee.

BOARD ACTION:

Dr. Dufour made the motion that prescriptions generated by computers, PDA's, ... and submitted electronically be interpreted as electronic prescriptions when received by the pharmacy either electronically or via the fax machine and that these electronically generated prescriptions fall under the electronic prescription regulation, not the fax regulation. Mr. Holiman seconded the motion. The vote for the motion is unanimous.

With this decision, the Board decided that electronic prescriptions that are submitted by prescribers electronically and received in a pharmacy on a fax machine, are considered electronic prescriptions and do not require a hand written signature. If there are any questions about the legitimacy of the prescription, it should be treated like a phoned in prescription and the pharmacist must verify it with the prescriber. It is important to note that this process is only for NON-Controlled medications. Currently, the process for controlled substances is being determined by the DEA.

BOARD ACTION:

Ms. Capps made the motion that a committee is to be formed to discuss these issues. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. McGinnis asked if there are mandatory requirements that software companies must adhere to in order to provide services to pharmacies. The Board discussed their concerns with the many computer glitches that were brought up in the Doug Crow hearing.

BOARD ACTION:

Dr. Dufour made the motion that Board staff contact Prescription Solutions – Centerton, Arkansas, and request a list of all pharmacies in Arkansas that utilize their software and have Prescription Solutions appear before the Board at the next scheduled Board meeting. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Campbell told the Board that there is an issue in the office regarding a drug company alleging that their product is being substituted inconsistent with Arkansas substitution laws. The product is non-rated and according to Arkansas law you cannot substitute non-rated products without getting the prescriber's

authorization. He said that Board staff is preparing a notice to be published in the next Board Newsletter stating that because Arkansas is an Orange Book state, un-rated products cannot be substituted, without consent of the prescriber.

Rodney Vance Parker, P.D., #8505, Robert Curtis, P.D., #7872, and Rose Drug , #AR13170, 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, Jim Depriest. Tom Gay, of the Attorney General's Office, represented the Board staff, and Darren O'Quinn represented the respondent.

Mr. Gay called Jim Myatt, P.D., to testify. Dr. Myatt said Dr. Parker called Dr. Campbell and told him he discovered some missing drugs. He said he was assigned to the case and told to request an audit. He said Dr. Parker and Dr. Curtis conducted an audit and submitted a DEA 106 form. He said they were having computer problems, so they did a rebuild and the losses were lower. He said he went to the pharmacy and discovered the back door of the pharmacy was left unlocked during business hours and pharmacy staff used the door to enter and exit the store. He said drug orders were also received at the back door.

Mr. O'Quinn called Vance Parker, P.D., to testify. Dr. Parker told the Board that he has been a pharmacist since 1996. He said he became pharmacist in charge of Rose Drug in 2003. Dr. Parker said he discovered some missing drugs and called the Board to tell them what he discovered. Dr. Parker told the Board that they were using Prescription Solutions software and were having a lot of problems with the computers. He said they have since changed software companies. Dr. Parker said there were some security issues in the pharmacy, but he changed many of the policies, especially with regard to checking in the drugs. Dr. Parker told the Board that he is very embarrassed to be brought in before the Board, and that he tries to always do what is right.

Mr. O'Quinn called on Robert Curtis, P.D., to testify. Dr. Curtis told the Board that he took over as pharmacist in charge for Rose Drug for a short period of time. He discussed the computer and security issues with the Board. Dr. Curtis said he is sorry too, and he never thought he would have to appear in front of the Board.

BOARD ACTION:

Dr. Norris made the motion that in the matter of Rodney Vance Parker, P.D., #8505, Robert Curtis, P.D., #7872, and Rose Drug, #AR13170, Allegations A-1, A-2, A-3, A-4, A-5, and A-6 were found to be true. Charges C-1, C-2, C-3, and C-4 were not proven, Charge C-5 was proven. Therefore, it is ordered that the store permit be fined a monetary penalty of \$5,000 payable within 30 days, the pharmacist in charge should continue with his plans to improve operations in the pharmacy, provide monthly reports to the Board staff, and notify them if there is any problems with the owners of the pharmacy. Dr. Dufour seconded the motion. Ms. Capps voted no. The motion passes seven to one.

Dr. Kirtley presented the Board with an Affidavit of Surrender for **Tom Parker, P.D., #7316**. Dr. Parker has to altering his own prescriptions on a Schedule II substance without the authorization from his prescriber. Dr. Kirtley said that for all intents and purposes, this is a revocation.

BOARD ACTION:

Mr. Holiman made the motion to accept the Affidavit of Surrender for Tom Parker, P.D., #7316 as presented. Dr. Dufour seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with an Affidavit of Surrender for **Patsy Craft, Pharmacy Technician #90035**. Ms. Craft has admitted to stealing a purse from the inventory of her employer, Super D. Dr. Kirtley said that for all intents and purposes, this is a revocation.

BOARD ACTION:

Ms. Capps made the motion to accept the Affidavit of Surrender for Patsy Craft, Pharmacy Technician #90035 as presented. Mr. Holiman seconded the motion. Dr. Dufour voted no. The motion passes seven to one.

Dr. Kirtley presented the Board with an Affidavit of Surrender for **Angela Braux, Pharmacy Technician #80505**. Ms. Braux has admitted to possessing and using marijuana. Dr. Kirtley said that for all intents and purposes, this is a revocation.

BOARD ACTION:

Dr. Norris made the motion to accept the Affidavit of Surrender for Angela Braux, Pharmacy Technician #80505 as presented. Dr. Newsome seconded the motion. Dr. Dufour voted no. The motion passes seven to one.

Ms. Lincourt provided the Board with a list of proposed fee schedules for mailing lists available online. Ms. Lincourt explained that the Board Staff currently processes any requests for mailing lists and that making them available via the internet would help to decrease the burden of this task on Board Staff and would also clarify what is available. The online lists would be processed through INA as required by Arkansas Law. The proposed fee schedules have been set up to cover the expenses incurred by INA to process mailing list requests.

BOARD ACTION:

Dr. Norris made the motion to approve the mailing list fee schedule. Mr. Holiman seconded the motion. The vote for the motion was unanimous.

Ms. Lincourt also discussed the fees for this biennium online renewals. She told the Board that the convenience fee for pharmacists is \$5.50 per person and \$11.00 for pharmacies. She said the goal was to encourage everyone to renew online and asked the Board if the convenience fee could be absorbed by the agency to encourage early renewals.

BOARD ACTION:

Dr. Dufour made the motion that the renewal fee be the same for online and paper renewals. Dr. Bowden seconded the motion. The vote for the motion was unanimous.

Ms. Lincourt told the Board that she was contacted by a pharmacy technician applicant who did not have a high school diploma. Ms. Lincourt said the applicant was 60 years old and had been licensed as a technician in another state for over 8 years. She asked the Board if the high school diploma/GED requirement could be waived for this individual. The Board discussed the issue and said it may pose problems in the future regarding high school students who wished to apply as a tech. The Board said they would not waive the requirement and the applicant should obtain the GED and then apply as a tech.

Dr. Kirtley told the Board that he has received a request that an Arkansas pharmacist, who is the current Arkansas pharmacist for an out of state pharmacy, be allowed to be the Arkansas pharmacist in charge for a pharmacy located next door to the one that is currently licensed and work there less than 10 hours per week. The Board discussed the minimum number of hours that should be required for an Arkansas pharmacist in an out of state pharmacy.

BOARD ACTION:

Dr. Dufour made the motion that an Arkansas pharmacist in charge for an out of state pharmacy must be required to work at least 50 percent of the number of hours the pharmacy is open, with a maximum number of required hours of 20. Dr. Norris seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with an Agreed Temporary Order for **Donna Gilmer, P.D., #7172**. Dr. Gilmer 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 Donna Gilmer, P.D., #7172 as presented. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with a Consent Order for **Don Baggett, P.D., #5665**. The order was signed admitting to the charge that he failed to keep pseudoephedrine products in the restricted pharmacy area of the store. By signing the order, Dr. Baggett has agreed to pay a monetary penalty of \$500, payable within 30 days of the date of the Consent Order.

BOARD ACTION:

Dr. Dufour made the motion to accept the Consent Order for Don Baggett, P.D., #5665 as presented. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

BOARD ACTION:

Dr. Dufour made the motion that in lieu of the absence of nationally recognized exams to test for competency standards in areas of disease state management, the Arkansas Tripartite Committee on Continuing Pharmacy Education shall examine continuing education courses and / or other educational courses and tests such as certificate training programs based on their ability to satisfactorily address a pharmacist's competency in specific areas of disease management for the disease states addressed by Board Regulation 09-01-0002 –AREAS OF PRACTICE IN DISEASE STATE MANAGEMENT. The Tripartite Committee shall determine appropriate guidelines for the approval of programs to satisfy Board Regulation 09-01-0003 – which outlines the criteria which would enable a pharmacist to practice Disease State Management in Arkansas. Furthermore the Tripartite Committee may approve specific programs that pharmacists can complete to satisfy this requirement for each of the 4 disease states listed in Board Regulation 09-01-0002. Ms. Capps 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