

ARKANSAS STATE BOARD OF PHARMACY
322 South Main St., Suite 600
Little Rock, AR 72201

Tuesday, February 27, 2018

The Arkansas State Board of Pharmacy met for a regular scheduled Board meeting on February 27th, 2018. The meeting was held at the Arkansas State Board of Pharmacy office at 322 South Main St., Suite 600, Little Rock, AR.

The meeting was called to order by Tom Warmack, P.D., President.

Members present:

- * Steve Bryant, P.D.
- * Debbie Mack, P.D.
- * Lenora Newsome, P.D.
- * Becca Mitchell, Pharm.D.
- * Ken Lancaster, P.D.
- * Amy Fore, MHSA

Staff present:

- * John Kirtley, Pharm.D., Executive Director
- * Brenda McCrady, P.D, Assistant Director
- * Luke Daniel, General Counsel
- * Kevin Robertson, Pharm.D., Inspector
- * Cindy Fain, P.D., Inspector
- * Lana Whitmore, CFO

Carol Rader, RN was absent.

The minutes from the September 2017 Board Meeting and the November 2017 Emergency Conference Call Meeting were reviewed.

BOARD ACTION:

Dr. Newsome made the motion that the minutes of the September 2017 Board Meeting and the November 2017 Emergency Conference Call Meeting be approved. Dr. Mack seconded the motion. The vote for the motion was unanimous.

Mrs. Whitmore presented the Board with the financial report for review.

BOARD ACTION:

Dr. Mack made the motion to accept the financial report. Dr. Mitchell seconded the motion. The vote for the motion was unanimous.

Mrs. Whitmore presented the Board Member Meeting List and Authority for Expense Reimbursement for Board Members and Stipend Authorization, pursuant to Arkansas Statute 25-16-902 and 25-16-905.

BOARD ACTION:

Dr. Newsome made the motion to approve the Board Member Meeting List and Authority for Expense Reimbursement for Board Members and Stipend Authorization. Dr. Mack seconded the motion. The vote for the motion was unanimous.

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

Damon	Allen	Albert
James	Paul	Ando
Matthew		Baleiko
Jeffrey	Wayne	Brooks
Santos	A.	Camilo
Marianne	Lea	Campbell
George	Chris	Chrysakis
Patricia	Kathleen	Cook
Ruth	S.	Cooper
Nancy	Jawor	Costlow
Jacob	Thomas	Creel
Nancy	E.	Crumbacker
Diane	Carol	Damrau
Heather	Landers	Dilmore
Thomas	Gerard	Dobry
Larry	W.	Douglas
Leslie	Jean	Durham
Fayez		Faraj
Rebecca	Lynn	Farrah
Peter	Duff	Fleck
Brenda	Sue	Fletcher
Christina	Ebune	Fomuso
Bradley	S.	Gilchrist
Justin	Keith	Graves
Charlene	Dianne	Gravgaard
Rachel	Jean	Haggard
Paul	Edward	Harder
Michael	Don	Hearn
Joshua		Heiblum
Bryan	D.	Henderson
Sarah	Anne	Hess
Dewitt	LaShay	Hill
Mark	Wesley	Holland
Thomas	W.	Ireland
Paula	Denise	Jemes
Angela	Beth	Johnson
David	Tyler	Justice
Kimberly	Gandy	Keeney

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Mark	Andrew	Kostelnik
Melissa	Lynn	Krocheski
Sarah	C.	Lane
Eric	Y.	Lee
Erica	Noelle	Leger
Jennifer		Liang
Jenny		Liu
Angela	Andries	Lott
Benjamin		Love
Rehame		Makled
Sharon	S.	Malek
Kristin	Schmidt	Malone
Jerry	Lance	May
Jack	Michael	McGuire
Jellino		McSween
Patrick	David	Meyer
Yeney		Montano
David	Michael	Morse
Amanda	R.	Norvell
Jennifer	Anne	Otto
Amanda	Kay	Owens
Luain	Marie	Packard
Kevin	Eutum	Park
Amar	B.	Patel
Nirali	G.	Patel
Jonathan	Michael	Personius
Natalie		Peterson
Lauren	Natalie	Poteete
Christiana	Marie	Purser
Alina	Alex	Rodell
Michelle	Marie	Rushano
Kathryn	Sue	Ruetz
Yvan	Sanchez	Huamani
Deva	Maria	Sandroni
Aida	Cristina	Scarborough
LeeAnn	Russell	Scheer
Deborah	L.	Schwartz
Janet	Michelle	Settle
Sowjanya		Shakhamoori
Lisa	Marie	Smith
Eric	L.	Sparks
Heather	M.	Sweeso
Faisal	Ali	Syed

Emna	Dalinda	Tamzali
Veasna		Ting
Kelly	Corpstein	Todd
Justin	Byran	Usery
Jeffrey	Robert	Williams
Bradley		Wilson
Catherine		Wisniewski
Charmaine	Latasha	Wonsom
Lauren	Hodges	Yancy
Andrew	Radford	York
Vivian	Li	Young
Bhairavi		Youngblood
Heena		Zaveri

BOARD ACTION:

Dr. Mack made the motion to approve the above applicants for reciprocity. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Warmack provided information regarding the Arkansas Pharmacists Association, and Dr. Kirtley explained Arkansas' continuing education requirements to the reciprocity applicants.

Dr. McCrady told the Board that Erika Gee, an attorney for Genoa, met with the Board's Informal Review Committee in October 2017, regarding a phantom pharmacist in charge issue and a pick-up station issue. Dr. McCrady said the phantom pharmacist in charge issue was resolved; however, the pick-up station issue as well as the penalty phase was tabled until this meeting in February and a waiver was granted to allow the practice to continue until today. Ms. Gee was present to discuss the situation and answer questions by Board members. Jim Brader, an attorney with DHS, was also present to provide information to the Board regarding the process which Genoa was practicing and to answer questions.

BOARD ACTION:

Dr. Bryant made the motion to fine Genoa, a QoI Healthcare Company, LLC, \$83,000 to be split between the three facilities by its prescriptions. Dr. Newsome seconded the motion. Dr. Mack opposed. The vote for the motion passes.

BOARD ACTION:

Dr. Bryant made the motion to extend the current waiver for RSPMI facilities to accept those meds until the June Board meeting. Dr. Mack seconded the motion. The vote for the motion was unanimous.

A representative from Fred's Pharmacies appeared before the Board to provide an update to the Board on their work load balancing and off site order review between their pharmacies within the State of Arkansas. They appeared before the Informal

Committee in April 2017, and were granted approval and implemented the process in July 2017. The representative went over the policy and procedures changes with the Board and requested that the process be allowed to continue in the State of Arkansas.

BOARD ACTION:

Dr. Newsome made the motion to approve the continuation of this process. Dr. Mack seconded the motion. The vote for the motion was unanimous.

David Cobb and Eric Force appeared before the Board to request that Baptist Little Rock be allowed to implement the Tech-Check-Tech pilot program which was approved for Baptist North Little Rock three years ago.

BOARD ACTION:

Dr. Bryant made the motion to approve the request. Dr. Mitchell seconded the motion. The vote for the motion was unanimous.

A representative from Baptist North Little Rock appeared before the Board to give their annual Tech-Check-Tech pilot project update.

BOARD ACTION:

Dr. Bryant made the motion to allow the Tech-Check-Tech pilot project to continue indefinitely with no more reports to the Board. Board inspectors will monitor the system as part of regular inspections, and they are now allowed to use pharmacy interns in the program. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

A representative from St. Bernard's appeared before the Board to give their annual Tech-Check-Tech pilot project update.

BOARD ACTION:

Dr. Bryant made the motion to allow the Tech-Check-Tech pilot project to continue indefinitely with no more reports to the Board. Board inspectors will monitor the system as part of regular inspections, and they are now allowed to use pharmacy interns in the program. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Erica Jones with cueSHIFT and Percy Malone with Allcare appeared before the Board to request approval to use a software program called cueSHIFT in his pharmacies.

BOARD ACTION:

Dr. Bryant made the motion to approve cueSHIFT Electronic Medical Record to interface with pharmacies. Dr. Mack seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with proposed changes to the Long Term Care Facilities Regulation pertaining to Emergency Kits in these facilities.

BOARD ACTION:

Dr. Bryant made the motion to pursue regulation which allows easier adjustments to stocking the medications that are needed on weekends and at night – it needs to be flexible so that it can be changed over time as needed. Dr. Lancaster seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley requested David Norsworthy, President of Arkansas Healthcare Association and Angie Norman with UAMS and Arkansas Healthcare Association to present the list of medications which were developed for approval by the Board to be carried in the homes.

BOARD ACTION:

Dr. Bryant made the motion to continue the process, gather up any suggested changes to be brought back and presented to the Board at the June Board Meeting along with the potential regulation change. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Kathryn Griffin from the governor's office appeared before the Board to discuss Crisis Stabilization Units, and the implementation of Act 423 of 2017. Dr. Kirtley told the Board that Arkansas does not have crisis stabilization units currently. He explained this Act was developed to ensure the creation of these units. Dr. Kirtley said the units are used for individuals who are experiencing a behavioral health crisis and/or detained by law enforcement that do not necessarily need to be put in the jail where they won't receive psychiatric care. This Act provides procedures which allow them to be put in a facility where there is oversight by people that are experts in behavioral health. The Act will allow for four facilities across the state which will have sixteen or fewer beds and individuals will be placed there for three to four days instead of putting them in jail. The Act was created in part to create jail diversion and is part of a comprehensive justice to help eliminate overcrowding. These facilities have a need for acute meds and will need an emergency kit similar to inpatient hospice facilities without a hospital permit and emergency kits in long term care facilities. The first facility is set to open March 1, 2018. Ms. Griffin presented the Board with a list of stock medications for emergency needs. Dr. Kirtley explained that the Board can approve the list and adopt by policy – leading up to a new regulation in the same section as long term care facilities. The Board discussed the different drugs on the list and which would be appropriate for the facility.

BOARD ACTION:

Dr. Bryant made the motion to approve the list of stock medications to be used for emergency needs. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley reminded the Board that staff was asked to prepare a list of what was considered to be intern duties currently, what changes should be made, and to consider changing transfer duties from licensed pharmacist only to allow transfers to be done by fax and to allow interns to have a role in that process. The Board was presented with a list of the duties an intern can perform along with the potential changes which would allow technicians and interns to verify transferred non-controlled prescriptions by fax (waiting on verification by DEA on controlled prescriptions which would be for interns only). Dr. Kirtley asked the Board for direction on pursuing regulation changes and/or adoption of procedure by policy.

BOARD ACTION:

Dr. Newsome made the motion to authorize board staff to give endorsements to students once they have received their training to administer drugs no matter what year they are in. Ms. Fore seconded the motion. The vote for the motion was unanimous.

BOARD ACTION:

Dr. Newsome made the motion for board staff to proceed with pursuing available avenues to allow pharmacies to exchange faxes and let technicians validate the faxes for transfers on non-controlled drugs, and let interns validate all transfers DEA would allow so long as a pharmacist is on either the giving or receiving end on any transfer. Ms. Fore seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley said in the 2015 Legislative Session the Board of Pharmacy received statutory authority where the Board could permit outsourcers under our Wholesaler Regulation. This would allow us to have a separate outsourcer permit where they must have an Arkansas pharmacist on staff to supervise; however, if they are not preparing patient specific drugs, they do not have to have a pharmacy permit. This shows these facilities still have to abide by FDA 503B regulations, but it will eliminate the obstacle where the facility has to hold a pharmacy permit in addition to their duties as an outsourcer. This will benefit both in state and out of state facilities since many states do not allow these facilities to hold a pharmacy permit which, right now, prohibits them from obtaining an Arkansas permit. Dr. Kirtley provided the Board with an amendment to the current Wholesale Distribution Regulation and requested Board direction.

BOARD ACTION:

Dr. Newsome made the motion to pursue a change for the Wholesale Distribution Regulation. Dr. Mack seconded the motion. The vote for the motion was unanimous.

Discussion Items

Division of Medical Services – Long-Acting Reversible Contraceptive (LARC) Waiver Update. Medicaid has not received final approval for the LARC program and will update the Board again in June.

Mrs. Whitmore presented the Board with the Board of Pharmacy's Controlled Self-Assessment Plan.

BOARD ACTION:

Dr. Mitchell made the motion to approve the Controlled Self-Assessment Plan as presented. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. Kirtley presented the Board with the Authorization to Conduct Board of Pharmacy Oversight Activities form for the Board's new inspector, Cindy Fain. This form is to be signed by the Board president and provides Dr. Fain with the authority to enter pharmacies and review records on behalf of the Board.

BOARD ACTION:

Dr. Mack made the motion to accept the Authorization to Conduct Board of Pharmacy Oversight Activities form as presented, through June 30, 2018. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

Dr. McCrady presented the Board with Consent Orders, Consent Agreements, Probation Consent Orders, Probation Orders, and Voluntary Surrender and/or Voluntary Agreements and Orders of Surrender of License.

BOARD ACTION:

Dr. Mack made the motion to approve and accept all orders and agreements as presented. Dr. Mitchell seconded the motion. The vote for the motion was unanimous.

Mr. Daniel asked the Board for clarification regarding the motion made earlier in the matter of Genoa, a Qol Healthcare Company, LLC. The motion was made to levy an \$83,000 fine, however it was not determined if it was a disciplinary or a non-disciplinary matter.

BOARD ACTION:

Dr. Newsome made the motion that in the matter of Genoa, a Qol Healthcare Company, LLC, the finding is to be a disciplinary matter. Ms. Fore seconded the motion. The vote for the motion was unanimous.

Emergency Hearings

The Board conducted an emergency hearing in the matter of Stevelle B. Reed, PT07143.

BOARD ACTION:

Dr. Mitchell made the motion to suspend the pharmacy technician permit of Stevelle B. Reed, PT07143 until a hearing can be conducted during the June Board meeting. Dr. Mack seconded the motion. The vote for the motion was unanimous.

The Board conducted an emergency hearing in the matter of Sarah R. Harrell, PT06806.

BOARD ACTION:

Dr. Mack made the motion to suspend the pharmacy technician permit of Sarah R. Harrell, PT06806 until a hearing can be conducted during the June Board meeting. Dr. Lancaster seconded the motion. The vote for the motion was unanimous.

Wednesday, February 28, 2018

The meeting was called to order by Tom Warmack, P.D., President.

Members present:

- * Steve Bryant, P.D.
- * Debbie Mack, P.D.
- * Lenora Newsome, P.D.
- * Becca Mitchell, Pharm.D.
- * Ken Lancaster, P.D.
- * Amy Fore, MHSA

Staff present:

- * John Kirtley, Pharm.D., Executive Director
- * Brenda McCrady, P.D, Assistant Director
- * Luke Daniel, General Counsel
- * Kevin Robertson, Pharm.D., Inspector
- * Rusty McSpadden, P.D., Inspector
- * Cindy Fain, P.D., Inspector
- * Lana Whitmore, CFO

Carol Rader was not present.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Rachel Turner, Pharmacy Technician Applicant**, Case #2018-010. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Dara Hall. The Board was represented by Luke Daniel. The Respondent was not represented by counsel.

BOARD ACTION

Dr. Newsome made the motion that in the matter of **Rachel Turner, Pharmacy Technician Applicant**, Case #2018-010, the Board finds Allegations A1 – A4

are true, applicable Laws and Regulations L1 – L4 are true, and Charge C1 is proven; however, in light of testimony and information her pharmacy technician application is approved. Dr. Bryant seconded the motion. The vote for the motion was unanimous.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Christen Ra'Mon Smith, Pharmacy Technician Applicant**, Case #2017-099. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Dara Hall. The Board was represented by Luke Daniel. The Respondent was not represented by counsel.

BOARD ACTION

Dr. Newsome made the motion that in the matter of **Christen Ra'Mon Smith, Pharmacy Technician Applicant**, Case #2017-099, the Board finds Allegations A1 – A8 are true, applicable Laws and Regulations L1 – L4 are true, and Charge C1 is proven; therefore the pharmacy technician application is denied. Dr. Bryant seconded the motion. The vote for the motion was unanimous.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Margaret Ann Harmon, PT00628**, Case #2017-107. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Dara Hall. The Board was represented by Luke Daniel. The Respondent was not present for the hearing.

BOARD ACTION

Dr. Newsome made the motion that in the matter of **Margaret Ann Harmon, PT00628**, Case #2017-107, the Board finds Allegations A1 – A6 are true and Charges C1 – C5 are proven; therefore the Board moves to revoke her pharmacy technician permit. Dr. Mitchell seconded the motion. The vote for the motion was unanimous.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Bobby Conn-Abernathy, PT96766**, Case #2017-117. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Dara Hall. The Board was represented by Luke Daniel. The Respondent was not present for the hearing.

BOARD ACTION

Dr. Bryant made the motion that in the matter of **Bobby Conn-Abernathy, PT96766**, Case #2017-117, the Board finds Allegations A1 – A4 are true, applicable Laws and Regulation L1 – L4 are true, and Charge C1 is proven; therefore the pharmacy technician permit is revoked. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Jason Phillip Amaral, PT06432**, Case #2017-120. Dr. Warmack called the hearing to

order and turned the proceeding over to the Hearing Officer, Dara Hall. The Board was represented by Luke Daniel. The Respondent was not present for the hearing.

BOARD ACTION

Dr. Mitchell made the motion that in the matter of **Jason Phillip Amaral, PT06432**, Case #2017-120, the Board finds Allegations A1 – A7 are true and Charges C1 – C6 are proven; therefore the Board moves to revoke his pharmacy technician permit. Dr. Mack seconded the motion. The vote for the motion was unanimous.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Logan Chandler Evans, PT05368**, Case #2017-096. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Dara Hall. The Board was represented by Luke Daniel. The Respondent was not present for the hearing. Dr. Debbie Mack recused herself from this hearing.

BOARD ACTION

Dr. Newsome made the motion that in the matter of **Logan Chandler Evans, PT05368**, Case #2017-096, the Board finds Allegations A1 – A5 are true and Charges C1 – C4 are proven; therefore the Board moves to revoke his pharmacy technician permit. Dr. Bryant seconded the motion. The vote for the motion was unanimous.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Gregory Nesdahl, Pharmacy Technician Applicant**, Case #2017-152. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Dara Hall. The Board was represented by Luke Daniel. The Respondent was not represented by counsel.

BOARD ACTION

Dr. Bryant made the motion that in the matter of **Gregory Nesdahl, Pharmacy Technician Applicant**, Case #2017-152, the board allows the applicant to withdraw his pharmacy technician application. Dr. Lancaster seconded the motion. The vote for the motion was four against the motion three for the motion. The motion fails.

BOARD ACTION

Dr. Newsome made the motion that in the matter of **Gregory Nesdahl, Pharmacy Technician Applicant**, Case #2017-152, the Board finds Allegations A1 – A12 are true, applicable Laws and Regulations L1 – L4 are true, and Charge C1 is proven; therefore the application is denied. Dr. Mitchell seconded the motion. The vote for the motion passes four to two.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Tonya Latise Lee, Pharmacy Technician Applicant**, Case #2017-148. Dr. Warmack

called the hearing to order and turned the proceeding over to the Hearing Officer, Dara Hall. The Board was represented by Luke Daniel. The Respondent was not represented by counsel.

BOARD ACTION

Dr. Lancaster made the motion that in the matter of **Tonya Latise Lee, Pharmacy Technician Applicant**, Case #2017-148, the Board finds Allegations A1 – A5 are true, Laws and Regulations L1 – L4 apply, and Charge C1 is proven; however, her pharmacy technician application is approved. Dr. Bryant seconded the motion. The vote for the motion was unanimous.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Vital Systems of Oklahoma, Applicant**, Case #2017-081. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Dara Hall. The Board was represented by Luke Daniel. A representative for the Respondent was not present.

BOARD ACTION

Dr. Mitchell made the motion that in the matter of **Vital Systems of Oklahoma, Applicant**, Case #2017-081, the Board finds Allegations A1 – A5 are true and Charge C1 is proven; therefore the Application for a Permit to Operate as an Out-of-State Pharmacy in Arkansas is denied. Dr. Bryant seconded the motion. The vote for the motion was unanimous.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Script Shop Miami, LLC, OS02740**, Case #2017-056. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Dara Hall. The Board was represented by Luke Daniel. A representative for the Respondent was not present.

BOARD ACTION

Dr. Newsome made the motion that in the matter of **Script Shop Miami, LLC, OS02740**, Case #2017-056, the Board finds Allegations A1 is true and Charges C1 – C3 are proven; therefore the license is to be revoked and that we levy a fine of \$2,500 for not having an Arkansas pharmacist in charge in place. Dr. Mack seconded the motion. The vote for the motion was unanimous.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Kisha Lanae Pimelton, Pharmacy Technician Applicant**, Case #2017-151. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Dara Hall. The Board was represented by Luke Daniel. The Respondent was not present.

BOARD ACTION

Dr. Bryant made the motion that in the matter of **Kisha Lanae Pimelton, Pharmacy Technician Applicant**, Case #2017-151, the Board finds Allegations

A1 – A9 are true and Charge C1 is proven; therefore the pharmacy technician application is denied. Dr. Mack seconded the motion. The vote for the motion was unanimous.

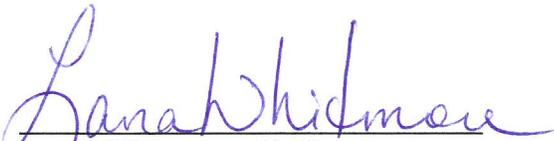
The Board discussed the upcoming Board meetings and potential date conflicts.

BOARD ACTION:

Dr. Mitchell made the motion to set the June Board meeting for June 5-6, 2018, and the move the October Board meeting to September 26-27, 2018. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

The meeting was adjourned.

Prepared by:


Lana Whitmore, CFO

Approved for the Board:


Thomas L. Warmack, P.D., President