

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

**Tuesday, September, 26, 2017**

The Arkansas State Board of Pharmacy met for a regular scheduled Board meeting September 26<sup>th</sup> and 27<sup>th</sup> 2017. 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:**

- \* Thomas Warmack, P.D.
- \* Steve Bryant, P.D.
- \* Debbie Mack, P.D.
- \* Lenora Newsome, P.D.
- \* Becca Mitchell, Pharm.D.
- \* Ken Lancaster, P.D.
- \* Carol Rader, RN.
- \* Amy Fore, MHSA

**Staff present:**

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

**No Members absent.**

The financial report was presented for review.

**BOARD ACTION:**

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

The minutes from the June 2017 Board Meeting were reviewed.

**BOARD ACTION:**

Dr. Newsome made the motion that the minutes of the June 2017 Board Meeting be approved. Dr. Mitchell 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:

|          |           |           |
|----------|-----------|-----------|
| Spencer  | Lee       | Adams     |
| Abigail  | Aleta     | Agatep    |
| Rakesh   | A.        | Akula     |
| Edgardo  |           | Alvira    |
| Tanner   | Christian | Anderson  |
| Samantha | Turia     | Arrington |

|             |           |             |
|-------------|-----------|-------------|
| John        | Casey     | Austin      |
| Nisreen     | I.        | Ayoub       |
| Maria       | Lourdes   | Barton      |
| Carl        | Robert    | Black       |
| Mark        | D.        | Boesen      |
| Hilary      | Charlotte | Burke       |
| Todd        | Charles   | Burnett     |
| Ann         | Elizabeth | Calandro    |
| Laurie      | Ann       | Campbell    |
| Miranda     | Bryan     | Chambers    |
| Catherine   | Rose      | Cirrincione |
| Lindsey     | Beth      | Clevinger   |
| Kathleen    | Louise    | Craig       |
| Dennis      | Michael   | Davis       |
| LeAnna      | Faye      | DeLoache    |
| Amy         | Ku        | Dickerson   |
| Huy         | Tuan      | Diep        |
| Sarah       | Ann       | Dorsey      |
| Katherine   | Diane     | Downing     |
| Lisa        | Lynn      | Dragic      |
| Cindy       | Polk      | Dumas       |
| Jeffrey     | Dale      | Fahrenbruch |
| Cynthia     | Renee     | Fain        |
| Mark        | Stewart   | Fain        |
| Katherine   | Deane     | Fehlig      |
| Tanis       | Jo        | Flinkman    |
| Daniel      | Lester    | French      |
| Rachel      | Deleh     | Gainsbrugh  |
| Christina   | Lynn      | Goans       |
| Steven      | Kent      | Hackleman   |
| Mohab       |           | Haraka      |
| Gregory     | Otto      | Harrington  |
| Lauren      | Anne      | Harrington  |
| Benjamin    | John      | Heiser      |
| Kirstin     | Lynn      | Hess        |
| Shannon     | D.        | Hovdet      |
| Jamalee     | Dawn      | Huntley     |
| Christopher | Derek     | Johnson     |
| Karyne      |           | Joseph      |
| Sarah       | Anne      | Kester      |
| Andrew      |           | Kim         |
| Christy     | deJesus   | Kim         |
| Sohee       |           | Kim         |
| Douglas     | Charles   | Klein       |
| Kristopher  | Van       | Le          |
| Cindy       | Kay       | Leonard     |
| Frances     | Sharon    | Lester      |

|            |          |            |
|------------|----------|------------|
| Allison    | Chih-Yun | Liao       |
| Tammy      |          | Liu        |
| Daniel     | Jay      | Malzone    |
| Sue        | E.       | Martin     |
| Shannon    | Mae      | Matthews   |
| Tamatha    | Ann      | McDowell   |
| Briana     | Goodwin  | Moe        |
| Robiul     | Hossain  | Mostafa    |
| Jeffrey    | John     | Muehlbauer |
| Amy        |          | Nguyen     |
| Son        | Thanh    | Nguyen     |
| Denise     | Smith    | Olusala    |
| Allison    | Kay      | Oswalt     |
| Jared      | Barron   | Otte       |
| Anoop      |          | Paruchuri  |
| Ashwin     | K.       | Patel      |
| Daniel     | John     | Perina     |
| Scott      | Bennett  | Portman    |
| Dana       | S.       | Proctor    |
| Alina      | Alex     | Rodell     |
| Daniel     | Marchall | Rowland    |
| Natalie    | Michelle | Ryan       |
| Saeed      |          | Sadri      |
| Saima      |          | Salahuddin |
| Debra      | Joyce    | Schaller   |
| Dharmindra |          | Seoparson  |
| Paresh     |          | Sheth      |
| Adam       | Michael  | Shoop      |
| Donna      | Michelle | Smith      |
| Heather    | Marie    | Sogn       |
| Courtney   | Hicks    | Stegman    |
| Kayla      | Lyn      | Stewart    |
| Jacob      | Thomas   | Stolz      |
| Noah       | Matthew  | Tennyson   |
| Robert     | Jared    | Thornton   |
| Roshani    | R.       | Vachhani   |
| Lisa       | Imbrogno | Walker     |
| Stacia     | Ann      | Woodcock   |
| Carla      | Ann      | Zeilmann   |
| Megan      | Marie    | Zepplin    |

**BOARD ACTION:**

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

Dr. Warmack provided information regarding the Arkansas Pharmacists Association.  
Dr. Kirtley reminded the newly licensed pharmacists that their Arkansas license would

expire on December 31<sup>st</sup> of this year. He also explained Arkansas' continuing education requirements.

**At 11:06 a.m., the Arkansas State Board of Pharmacy held a public hearing at the Arkansas State Board of Pharmacy, 322 South Main Street, Suite 600, Little Rock, AR 72201. The following regulation changes were considered:**

**Regulation 7 – Drug Products/Prescriptions**

Proposed changes will update definitions to match FDA definitions and glossary terms to add terms for biological product, biosimilar, biosimilar product, drug, generic drug, and interchangeable biological product. Changes will also clarify language regarding pharmacists' ability to substitute products that are either generically equivalent, interchangeable biological products or manufacturer authorized generics. Language will be added to show that a pharmacist cannot dispense more of a schedule II narcotic medication than a prescriber can prescribe.

The floor was opened for public comment.

The following appeared before the Board with concerns regarding the regulation:

- Greg Hoke – Biotechnology Innovation Organization
- Scott Smith – Arkansas Medical Society
- Stephen Marmaras – Global Healthy Living Foundation
- Cummins Lue, MD – Arkansas Rheumatology Association

Dr. Kirtley also presented the Board with letters, emails, etc., received by staff from individuals who had concerns about the regulation.

The following appeared before the Board to speak in favor of the regulation:

- Scott Pace – Arkansas Pharmacists Association

Dr. Kirtley presented the Board with letters, emails, etc., the Board received that were in support of the regulation.

**BOARD ACTION:**

Dr. Lancaster made the motion to approve the amendments to Regulation 07 as presented. Dr. Bryant seconded the motion. The vote for the motion was unanimous.

**Regulation 09 – Pharmaceutical Care/Patient Counseling**

Proposed changes will match updated statutes to delete language for the Medications Administration Advisory Committee. It will also match updated statutes removing the limitations on the list of medications that can be administered by pharmacists. It will delete a reference that CPR courses must be accredited by the American Heart Association as it does not make sense.

There was no public comment for or against the proposed amendment to the regulation.

**BOARD ACTION:**

Dr. Mack made the motion to approve the amendment to Regulation 09 as presented. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

The Public Hearing was closed at 12:32 p.m.

Michael Munnerlyn and Jason Derden, representatives from Arkansas Medicaid appeared before the Board to request a waiver which would allow Medicaid to be able to distribute Long Acting Reversible Contraceptives (LARCs) at no cost to performing providers for immediate use for Medicaid patients through a centralized pharmacy contractor – which means the provider will have the LARCs on hand at the patient's initial doctor appointment. This service is requested because research has shown that if the LARC is not on hand during the patient's initial visit, patients have either failed to appear for the next scheduled visit for insertion or they are already pregnant when they return for the insertion visit.

**BOARD ACTION:**

Dr. Newsome made the motion to approve the request for waiver by Medicaid as a pilot program, and they will need to reappear before the Board in February for an update and again in June for a performance review. Dr. Mitchell seconded the motion. The motion passes five in favor, two opposed.

Greg Turner, owner of Stanley Pharmacy Compounding Center, appeared before the Board to discuss obtaining a waiver which would allow him to ship patient specific compounds directly to a clinic for specific patient use for three specific products: lidocaine tetracaine topical anesthetic, cantharidin topical and sublingual immunotherapy.

**BOARD ACTION:**

Dr. Mack made the motion to approve topical anesthetics, cantharidin, and sublingual and subcutaneous immunotherapy products to be sent directly to the prescriber if the prescriber requests them to be sent to his/her office for observation purposes if it is patient specific – requests for any others will need to go to Informal Committee for review. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

An emergency hearing was held for Logan Evans, PT05368 to temporarily suspend his pharmacy technician permit until a formal hearing can be held. Dr. Mack recused herself from the matter.

**BOARD ACTION**

Dr. Bryant made the motion to suspend the pharmacy technician permit of **Logan Evans, PT05368**. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

An emergency hearing was held for Margaret Harmon, PT00628 to temporarily suspend her pharmacy technician permit until a formal hearing can be held.

**BOARD ACTION**

Dr. Bryant made the motion to suspend the pharmacy technician permit of **Margaret Harmon, PT00628**. Dr. Mack seconded the motion. The vote for the motion was unanimous.

An emergency hearing was held for Jason Amaral, PT06432 to temporarily suspend his pharmacy technician permit until a formal hearing can be held.

**BOARD ACTION**

Dr. Mack made the motion to suspend the pharmacy technician permit of **Jason Amaral, PT06432**. Dr. Bryant 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. Newsome made the motion to accept all orders and agreements as presented. Dr. Bryant seconded the motion. The vote for the motion was unanimous.

3:40 – Board adjourns into Executive Session to conduct Dr. Kirtley’s yearly performance evaluation and afterwards will adjourn for the day.

**Wednesday, September, 27, 2017**

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

**Members present:**

- \* Thomas Warmack, P.D.
- \* Steve Bryant, P.D.
- \* Debbie Mack, P.D.
- \* Lenora Newsome, P.D.
- \* Becca Mitchell, Pharm.D.
- \* Ken Lancaster, P.D.
- \* Carol Rader, RN.
- \* Amy Fore, MHSA

**Staff present:**

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

**No Members absent.**

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Whitney Wilson, PT98282**, Case #2017-025. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Charles Moulton. The Board was represented by Luke Daniel. The Respondent was not present.

#### **BOARD ACTION**

Dr. Bryant made the motion that in the matter of **Whitney Wilson, PT98282**, Case #2017-025, the Board finds Allegations A1 – A3 are true, and Charge C1 is proven, therefore her pharmacy technician is revoked. Dr. Lancaster 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 **Alex Harrell, Pharmacy Technician Applicant**, Case #2017-020. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Charles Moulton. The Board was represented by Luke Daniel. The Respondent was not present.

#### **BOARD ACTION**

Dr. Mitchell made the motion that in the matter of **Alex Harrell, Pharmacy Technician Applicant**, Case #2017-020, the Board finds Allegations A1 – A4 are true, and Charge C1 is proven., therefore the application is to be denied. Dr. Mack seconded the motion. The vote for the motion was unanimous.

#### **Discussion Items**

Dr. Kirtley said he received some numbers about biologics and specialty drugs and the percent volume and spend on these drugs for the state system – 0.9% of volume with 42.19% of cost of 130 to 140 million dollars. He explained there is an incredible amount of money involved.

Dr. Kirtley explained to the Board that he received an email from FDA that they are currently inspecting an Arkansas facility. He said this is the second or third time they went in to inspect a facility in Arkansas without notifying the Board of Pharmacy staff that they were going to be there.

Dr. Kirtley and the Board discussed the new medical marijuana law and pharmacists' role with regard to the rule requiring a pharmacist on staff at the dispensaries as a marijuana consultant. Dr. Scott Pace, with the Arkansas Pharmacists Association also joined in on the discussion.

Dr. Kirtley discussed 503B Outsourcer Permits. He explained that currently in Arkansas to be an outsourcing compounder facility registered with the FDA as a 503B, you have to be a pharmacy and you also must have a wholesaler permit. In the 2015 Session, we had legislation pass that would allow us to have a different permit type just for outsourcers or third party logistics providers. Dr. Kirtley explained that there is a large push where other states are dropping the ability for outsourcers to even be a pharmacy

– some states say you can do one or the other but not both. As discussed earlier, ASBP is not always in contact with FDA, and the Board staff is not equipped as CGMP inspectors, as this is not our area of oversight. The Board of Pharmacy is charged with protecting the public health and welfare in the prescription/distribution process, but this is a much higher level of other oversight and inspection. Board staff has come up with a possible resolution, by an addition to our wholesale distributor regulation, that would define the outsourcing facility as a facility at one geographic address location that does the following: engage in compounding sterile drugs for human use, registered with FDA as an outsourcing facility, complies with the requirements of 503B, should be licensed with ASBP as an outsourcer and have an Arkansas licensed pharmacist on staff for a minimum of 32 hours per week, and all compounding should be done under the supervision of a licensed pharmacist. The Board discussed this change and if the Board inspectors would inspect the outsourcing facilities.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Phillip DeMontmollin, Pharmacy Technician Applicant**, Case #2017-034. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Charles Moulton. 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 **Phillip DeMontmollin, Pharmacy Technician Applicant**, Case #2017-034, the Board finds Allegations A1 – A5 are true, and Charge C1 is proven, therefore the application is to be 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 **Terran Wigley, PT01741**, Case #2017-086. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Charles Moulton. The Board was represented by Luke Daniel. The Respondent was not present.

#### **BOARD ACTION**

Dr. Mack made the motion that in the matter of **Terran Wigley, PT01741**, Case #2017-086, the Board finds Allegations A1 – A2 are true, and Charge C1 is proven, therefore her pharmacy technician is revoked. 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 **Emily Diane Dunson, Pharmacy Technician Applicant**, Case #2017-033. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Charles Moulton. 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 **Emily Diane Dunson, Pharmacy Technician Applicant**, Case #2017-033, the Board finds Allegations A1 – A6 are true; however Charge C1 is not proven, as a result the application is to be granted. 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 **Reliable Pharmacy, OS02721**, Case #2017-089. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Charles Moulton. The Board was represented by Luke Daniel. The Respondent was not present.

**BOARD ACTION**

Dr. Newsome made the motion that in the matter of **Reliable Pharmacy, OS02721**, Case #2017-, the Board finds Allegations A1 – A3 are true, and Charges C1 – C6 are proven, as a result, the license is revoked and the Board levies a fine of \$100 day a day for a total of \$41,900. 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 **Keaton Lee Bench, Pharmacy Intern Applicant**, Case #2017-106. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Charles Moulton. The Board was represented by Luke Daniel. The Respondent was not represented by counsel.

**BOARD ACTION**

Dr. Mitchell made the motion that in the matter of **Keaton Bench, Pharmacy Intern Applicant**, Case #2017-106, the Board finds Allegations A1 – A5 to be true and Charge C1 is proven, therefore; the we deny his application for an intern license. Dr. Newsome seconded the motion. The motion passes with a vote of four to three.

A hearing was scheduled in answer to an Order and Notice of Hearing in the matter of **Caleb Cook, Pharmacy Technician Applicant**, Case #2017-090. Dr. Warmack called the hearing to order and turned the proceeding over to the Hearing Officer, Charles Moulton. 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 **Caleb Cook, Pharmacy Technician Applicant**, Case #2017-090, the Board finds Allegations A1 – A5 are true and Charge C1 proven, and that we deny his application. 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 **Heather Williams, PT88325**, Case #2017-024. Dr. Warmack called the hearing to

order and turned the proceeding over to the Hearing Officer, Charles Moulton. The Board was represented by Luke Daniel. The Respondent was not present.

### **BOARD ACTION**

Dr. Bryant made the motion that in the matter of **Heather Williams, PT88325**, Case #2017-024, the Board finds Allegations A1 – A4 are true; Charges C1 – C5 are proven; and therefore her pharmacy technician is revoked. Dr. Newsome seconded the motion. The vote for the motion was unanimous.

### **Discussion Items (con't)**

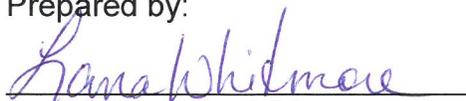
The Board discussed what duties interns can and cannot do in a pharmacy. Dr. Kirtley said this matter was brought up because it has been questioned whether or not an intern can legally make or take a transferred prescription. He said it would be helpful for the Board to define intern duties and/or update the rules on transferred prescriptions. The Board discussed coming up with a policy statement for what interns can and cannot do now, and to look at statute and/or regulation changes for transfers determining that interns can do anything a pharmacist can do under direct supervision.

The Board discussed the regulation changes coming up for review at the legislature.

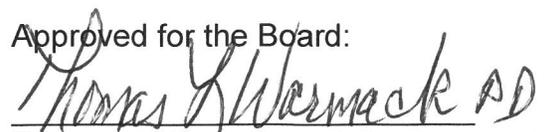
Dr. Kirtley reminded the Board that about a year ago, the Board ordered Board staff to pursue dropping any CE approval other than ACPE. Dr. Kirtley said there have been some reservations regarding having only one available route for CE in Arkansas. The Board discussed other legitimate agencies providing palatable continuing education such as the Arkansas Pharmacist Association as well as the colleges of pharmacy. Dr. Kirtley explained the biggest problem by Board staff is requests submitted for board approved continuing education programs that are not worthy of the number of hours being requested, are simply commercial programs that cannot legally obtain nationally certified CE credit or programs that do not meet CE guidelines. In addition, there is the problem of expecting senior pharmacy students to be considered content experts when applying to teach CE. The Board believes continuing education provided by the Arkansas Pharmacists Association or colleges of pharmacy will allow people to connect more with pharmacy professional experts. The Board instructed staff to proceed with policy that beginning January 1, 2018, the Board of Pharmacy approved continuing education programs will exclude programs taught by pharmacy students and will be limited to programs from the Board, by the Board and programs where the Board of Pharmacy partners with the Arkansas Pharmacists Association or the colleges of pharmacy if they are unable to get ACPE approved credit.

The meeting was adjourned.

Prepared by:

  
Lana Whitmore, CFO

Approved for the Board:

  
Thomas L. Warmack, P.D., President