

Kansas State Board of Pharmacy  
Minutes of the February  
Board Meeting

Landon State Office Building  
900 SW Jackson, Ste. 108  
Topeka, KS 66612

**Wednesday, February 10, 2010**

**Meeting Called to Order:** President Karen Braman called the meeting to order at 9:00am.

**Members Present:** Karen Braman, R.Ph.,M.S., President; Michael Coast, R.Ph., Investigative Member; Nancy Kirk, Public Member; David Schoech, R.Ph.; and Frank Whitchurch, R.Ph. Shirley Arck, Pharm. D., Vice-President and Jim Garrelts, Pharm. D. were present via telephone conference.

**Staff Present:** Debra Billingsley, Executive Secretary; Jim Kinderknecht, R.Ph., Pharmacy Inspector; Carly Haynes, R.Ph., Pharmacy Inspector; Melissa Martin, Compliance Officer; Reyne Kenton, Compliance Officer; Christina Morris, Assistant Director, and Randall Forbes, General Counsel.

**Others Present:** See attached listing.

**Approval of the Agenda:**

A motion was made and seconded to approve the agenda. (Schoech/Kirk). Motion passed.

**Approval of the December 2009 Minutes:**

A motion was made and seconded to approve the minutes. (Coast/Schoech) Motion passed.

**Legislative Discussion**

SB 348 (Synthetic marijuana and BZP to Schedule I)

HB 2411 (Synthetic marijuana to Schedule I), and

HB 2451 (BZP and TFMPP to Schedule I) – Ms. Billingsley told the Board that these bills would continue and eventually be combined.

HB 2453 (Criminal Drug Violation) – Ms. Billingsley told the Board this bill concerns the sale of illegal drugs near day care centers.

HB2447 (Advanced Practice Registered Nurse) – Ms. Billingsley said the Board's proposed amendment was given to the Nurse's Association. The proposed amendment would clarify that APRNs could not dispense drugs, except for samples. The bill may get a hearing but most likely will not be worked this year. If the bill is not passed this year, the Nurse's Association will file it again next year.

HB2448 (Pharmacist Immunization) KMS and the Osteopathic Association oppose the bill. KDHE supports the bill. The bill is scheduled to be worked February 16, 2010.

HB2576 (Durable Medical Equipment) Representative Trimmer introduced the bill on behalf of a constituent. As it is written, the bill would have no affect on any of the Board's current DME registrants. The bill would affect distributors by repealing their registration requirement. Currently the bill is not scheduled for a hearing. Dr. Arck stated that each facility should be registered and not just one registration to cover multiple sites since inspections are done on each site and multiple Board members agreed.

SB 249 (Strict Conformity) Mr. Whitchurch and Ms. Billingsley met with Rep. Landwehr. She said she was not going to give the bill a hearing but might conference it. The bill currently has amendments that are not consistent with what the Board originally intended. If those amendments cannot be stripped from the bill then the Board does not want the bill to proceed.

HB 2442 (Kansas streamlining of government) – This bill would not affect the fee funded agencies like the Board of Pharmacy due to an amendment exempting fee boards.

### **Board Discussion**

Budget – Ms. Billingsley reviewed the budget process and Jonathan Tang, Legislative Research Department's, report. Ms. Billingsley is in the process of correcting the errors contained in his report.

A new RFP for Board software will be released by the Dept. of Administration. The cost could reduce if the Board office does not "host" the software, but were to purchase it from a vendor that would host for small government agencies. The Board requested an update on the RFP process at the March meeting.

The need for more office space was discussed with the Division of Budget. Bids were requested for moving the agency to another building with more space and at a lower cost due to the implementation of the PMP program. In FY2011, Landon State Office Building space will be \$17.20 per square foot. The average downtown rate in Topeka is around \$13 per square foot. There is a possibility the move could occur at the beginning of fiscal year 2011 (July 2010). The board would like to look at the top three choices and participate in the decision-making process of selecting a new Board office location. Ms. Billingsley advised that since an RFP has been issued that no discussion may be held regarding the bids.

Fee fund sweeping – Representative O'Neal's case deals with sweeping special fee funds but the case has the potential to help fee funded agencies from being swept. Currently everything is on the table as to budget cuts.

Ms. Braman recognized and thanked Ms. Billingsley's great job in keeping the Board updated during the legislative session.

**Recess:** Ms. Braman declared a break to reconvene in 15 minutes.

**Reconvene:** Ms. Braman reconvened the meeting at 10:12am

PMP Update – Ms. Braman informed the Board that Ms. Morris was watching for grants that were available for the Board and PMP to apply for that could be used to continue

the implementation of PMP. Currently, Ms. Morris is applying for the 2<sup>nd</sup> Harold Rogers grant. The funding would be for another two years and would overlap with the current grant. The PMP director position was posted for two weeks at the end of 2009. Christina Morris, JD, was the only applicant. An interview committee, consisting of two representatives from the PMP Advisory Committee, Dr. Joe Davison and Max Heidrick, Ms. Braman, and Ms. Billingsley, interviewed Ms. Morris for the position. The PMP Advisory Committee recommended that the Board of Pharmacy hire Ms. Morris, based on her educational background (B.S. cum laud, Washburn University and J.D., Washburn University) and many years experience working in the Kansas Board of Pharmacy office, including the last year coordinating the PMP program. The position would be unclassified since it is grant funded, so there is an inherent risk in the position not being maintained indefinitely. The PMP Director will report to Ms. Billingsley and the Board.

A motion was made and seconded to approve the hiring of Christina Morris for the PMP Director position. (Kirk/Schoech) Motion passed.

Ms. Braman serves on the statewide advisory council for Health Information Exchange and updated the Board on her efforts to coordinate the development of the Kansas PMP with a statewide health information exchange organization.

PSE Electronic Logging – The Board reviewed the packet of information containing follow-up information from CHPA (Consumer Healthcare Products Association) requested during the December Board meeting, as well as responses to the RFI issued to Appriss (Methcheck) and Methshield. Ms. Billingsley provided Board members with a side-by-side comparison of each vendor's responses. Ms. Braman pointed out several questions and responses in which the vendor's answers varied considerably. The Board discussed concerns about data security. The Board discussed concerns about Methshield being located in Australia.

Additionally, the Board office reviewed letters received from Representative Merrick and the Kansas Chamber (a joint letter) as well as Wal-Mart and Attorney General Six. The Board also discussed articles published recently in mainstream media regarding state and local efforts to schedule pseudoephedrine; including states and municipalities who have had electronic tracking of pseudoephedrine in place. Kentucky and LA County are looking at scheduling pseudoephedrine because they continue to see an increase in meth labs even though the sales are electronically tracked. Dr. Arck asked if it would not be easier to schedule pseudoephedrine. The Board discussed the current requirement that pseudoephedrine be electronically tracked, and that it is too late in the Legislative to propose scheduling it this year. However, another option would be to implement the tracking system and revisit the issue of scheduling pseudoephedrine if tracking does not have an impact.

Mr. Coast commented that both vendors who responded to the RFI have advantages and disadvantages, however, Appriss may be faster to implement because they already have their system integrated at point of sale with several chain pharmacies. Mr. Schoech stated the problem with either is the integration at the point of sale, especially for independent pharmacies. QS1 is not integrated and that this will cause more work and time for independents using QS1. The Board posed the question back to both companies as to how they have addressed this issue in other states that have implemented tracking statewide; what the process is for integrating at the point of sale

and whether there are any costs associated with the integration to the state, the Board, or pharmacies.

The Board will place this on the March meeting for follow-up and possible decision.

**Other items:**

Changes to C-II prescriptions. The Board briefly discussed the DEA's current stance on changes to C-II prescriptions. The current law prohibits pharmacies from making changes to Schedule II prescriptions.

Agent of the physician. A bill is proposed by ASCP to define the agent of the physician to include a long-term care facility nurse or hospice nurse. Mr. Coast asked that the issue be placed on the March agenda so a letter of support could be finalized and sent to the Kansas congressional delegation.

**Update Matrix – Review of Action Items for the Board**

Ms. Morris reviewed the agenda items requiring action by a specified individual and the date the action is due.

**Adjourn:** Ms. Braman adjourned the meeting at 11:20am.