

**KANSAS STATE BOARD OF PHARMACY  
MINUTES OF THE MEETING**

September 12 & 13, 2006  
Hayden Office Building  
212 SW 8<sup>th</sup>  
Conference Room  
Topeka, KS 66612

**Tuesday, September 12, 2006**

**MEMBERS PRESENT:** Max Heidrick, RPh., President; JoAnne Gilstrap, RPh., Vice President; Merlin McFarland, R.Ph., Dr. Shirley Arck, Pharm.D.; Michael Coast, R.Ph, and Howard Paul, Public Member.

**STAFF PRESENT:** Debra Billingsley, Executive Secretary; Jim Kinderknecht, RPh., Pharmacy Inspector; Tom Frazier, R.Ph., Pharmacy Inspector; Melissa Martin, Compliance Officer; and Randall Forbes, General Counsel.

**OTHERS PRESENT:** See attached listing.

**MEETING CALLED TO ORDER:** Max Heidrick called the meeting to order at 9:00 a.m.

**APPROVAL OF AGENDA.** A motion was made and seconded to approve an amended agenda with the addition of an executive session to discuss personnel issues. (Coast/Gilstrap) Motion carried 5-0.

**APPROVAL OF JUNE MINUTES** A motion was made and seconded to approve the June 2006 minutes. (Arck/Coast). Motion carried 5-0.

**PEDIGREE SUMMARY REPORT**

Josh Bolin, the NABP Governmental liason summarized the outcome of the Pedigree and Wholesale Licensure Task Force Meeting that was held on September 11, 2006. Josh facilitated the meeting of approximately 30 attendees. Josh discussed the impact of the PDMA and reviewed the changes that were made to the original draft. He also reviewed the criminal penalties. The changes should make the distribution process tighter and addresses areas that the PDMA does not. The time frames of implementation should be left to the Board as well as making the language flexible enough to deal with future changes that are not contemplated at this time. Josh will work with Randy Forbes and the Executive Director with drafting a bill that notes the changes made by the task force. Another meeting will be scheduled for October or November so that final revisions can be made.

## **TELEPHARMACY**

Mike Coast had reviewed regulations from various states regarding telepharmacy. He also attended the NABP fall conference in 2005 where they had provided education on telepharmacy. It was determined that Kansas does need to have some type of regulation in order to assist underserved areas. Mike specifically suggested that the Board use the Wyoming regulation as a model. He also suggested that the Board use language similar to Ohio in requiring that each system must be bricks and mortar and shall be required to come before the Board for full approval. The regulation should include a provision that provides that telepharmacy may only be used if there is no retail pharmacy within 30 miles of the telepharmacy site. The Board wanted a restriction on narcotic dispensing. The site will be closed if a pharmacist is not on duty at the pharmacy. If the system loses video hookup then it would have to close. The Board would like the Executive Director and Randy Forbes to draft regulations using the Wyoming model and to move forward with submission to the Department of Administration. The Board can review the draft at the December meeting but they would like it to move forward for approval prior to December.

## **INSTITUTIONAL DRUG ROOM REGULATIONS**

The Board reviewed the Institutional Drug Room Regulations in order to make amendments prior to passage. First, the issue of whether a jail could permit a prisoner to bring their own prescription bottle into the jail was addressed. The Department of Corrections advised the Board staff that contraband could make its way into the jail if prisoners were allowed to bring in their own prescriptions. The Board acknowledged the issue of costs to the county but determined that safety would outweigh economics.

The second issue was in regard to institutional drug rooms that dispensed prescriptions on an outpatient basis. A University wanted to know if they could place a blister pack in a plastic bag and label the plastic bag. The Consumer Product Safety Commission advised that their requirements would necessitate a childproof package. Secondly, placing a blister pack in a childproof bottle would be over packaging and it is also illegal. The Board determined that language should be added to the regulation that exempts outpatient institutional drug rooms from having unit dose packaging.

## **PA PRESCRIPTIONS**

The Board staff advised the Board that the Board of Healing Arts had recently interpreted their regulation regarding PA's. The Board of Healing Arts determined that a PA does not have to circle or designate the name of the physician that they are working under. The Board felt that this interpretation was in conflict with the Pharmacy Act and that a letter should be sent advising them of such.

## **EXECUTIVE SESSION**

A motion was made and seconded to go into executive session to discuss personnel issues for a period not to exceed 30 minutes. (Coast/McFarland). Motion carried 5-0.

## **ADMINISTRATIVE HEARINGS**

### **JANE A. COWEE, R.Ph. Case No. 06-23**

The Respondent, Jane Cowee appeared in person. The Board was represented by its attorney, Randall Forbes. A Stipulation and Final Agency Order was provided to the Board for final approval. The proposed discipline in the Stipulation required a 5-year contract with CIPP and includes the typical language that respondent stay in compliance and that CIPP provide information to the Board. The Stipulation provided for an additional penalty of a suspension from April 15, 2006 through December 5, 2006. The Respondent asked the Board if they would use the date that she signed the CIPP contract as the beginning date of the Stipulation. A motion was made and seconded to go into executive session for fifteen (15) minutes to review CIPP information and to deliberate (Paul/McFarland). Motion carried 4-0. The Board reconvened. The Board declined the Respondent's request that the CIPP contract and Stipulation coincide on their beginning dates but advised the Respondent that if CIPP releases her early that she can ask for release of the Stipulation. A motion was made and seconded to accept the Stipulation (Paul/McFarland). Motion carried 4-0.

### **NOEL MCBRIDE Case No. 06-45**

The Respondent, Noel McBride, appeared in person. The Board was represented by its attorney, Randall Forbes. A Stipulation and Final Agency Order was provided to the Board for final approval. The proposed discipline was that the Respondent is prohibited from working as a pharmacist in a pharmacy or other location in which he would be dispensing or administering drugs until further Order of the Board. A motion was made and seconded to go into executive session not to exceed fifteen (15) minutes in order to review CIPP information and to deliberate (Paul/Coast). Motion carried 4-0. The Board reconvened. A motion was made and seconded to accept the Stipulation with the addition that the Respondent be required to enter into a 5-year contract with CIPP and include the typical language that the Respondent stay in compliance and that CIPP provide information to the Board (Paul/Coast). Motion carried 4-0.

**ADJOURN** The Board took a 15 minute recess.

**RECONVENE:** The Board reconvened at 11:00 a.m.

### **PETER FORRESTER, Pharm.D. Case No. 06-38**

The Respondent, Peter Forrester, appeared in person. The Board was represented by its counsel, Randall Forbes. The matter was before the Board after the Investigative member reviewed Mr. Forrester's application and noted that he had been revoked in California for insurance fraud. The license was denied in Kansas and Mr. Forrester was advised that he should get his license reinstated in California in order for Kansas to issue a license. Mr. Forbes provided the Board with a certified copy of the California Board of Pharmacy records. Mr. Forrester advised the Board that he was unable to get reinstated in California because he was required to have two California pharmacists sign affidavits that stated the Respondent was of good moral character. Mr. Forrester advised that he had been gone from California for a number of years and no longer knew any

pharmacists there. A motion was made and seconded to go into executive session to deliberate no more than fifteen (15) minutes (Coast/Arck). Motion carried 4-0. The Board reconvened. A motion was made and seconded that the license denial be upheld and that the Respondent contact California and attempt to get his license reinstated. If that proves impossible and he can show that he made efforts to be reinstated the Board would consider hearing his application. He would have to meet the standards of reinstatement in Kansas (Arck/Coast). Motion carried 4-0.

**ADJOURN:** The Board took a lunch break until 1:30 p.m.

**RECONVENE:** The Board reconvened at 1:30 p.m.

**EXECUTIVE SESSION:**

A motion was made and seconded to adjourn into executive session to discuss personnel matters for a period not to exceed 30 minutes. (McFarland/Gilstrap). Motion carried 5-0.

**ADMINISTRATIVE HEARINGS:**

**RED MESA PHARMACY Case No. 05-68**

The Respondent did not appear. The Board was represented by its counsel, Randall Forbes. Mr. Forbes advised the Board that this matter had been settled in the form of a Consent Agreement. The agreement resulted in the registration being terminated. Red Mesa will cease operation. The pharmacy will be fined \$140. Wilbur Hilst agreed not to apply for a pharmacy registration and to advise the board of any other registrations whereby he might have an ownership interest. He will have no interest in any pharmacy and he signed an affidavit that all contingencies have been met. No action was necessary on the part of the Board.

**JEFFREY RIVERS Case No. 06-64**

The Respondent, Jeffrey Rivers, appeared in person. The Board was represented by its attorney, Randall Forbes. A Stipulation and Final Agency Order was provided to the Board for final approval. The proposed discipline in the Stipulation required a 5-year contract with CIPP and includes the typical language that Respondent stay in compliance and that CIPP provide information to the Board. A motion was made and seconded to go into executive session for fifteen minutes to review the CIPP information and to deliberate (Coast/Arck). Motion carried 4-0. The Board reconvened. A motion was made and seconded to accept the Stipulation (Arck/Paul).

**KATHERINE HAYDEN Case No. 05-27**

The Respondent appeared in person and with her attorney Darin Conklin. The Board appeared through its attorney, Randall Forbes. A Stipulation and Final Agency Order was provided to the Board for final approval. The proposed discipline in the Stipulation was a suspension from June 7, 2005 concluding September 12, 2006. The Stipulation also assessed a fine in the total amount of \$15,000 or providing controlled substances without a prescription - \$5000; Failure to maintain records and maintain inventories in conformance with requirements - \$5000; and Failure to cancel written or emergency

prescriptions listed in schedule II - \$5000. The Respondent would be placed on probation for 60 months whereby she cannot be pharmacist in charge. At the end of the probationary period the Respondent may apply to be a PIC but will be required to take the PIC examination. A motion was made and seconded to adjourn into executive session for no longer than 15 minutes for the purpose of reviewing CIPP related items and for deliberations (Paul/McFarland). The Board reconvened at approximate 2:15 p.m. Tom Frazier was the inspector and he was asked to give a synopsis of the case. Ms. Hayden gave a description of how she was filling prescriptions. A motion was made and seconded to adjourn into executive session no more than 15 minutes for the purpose of further deliberations (Arck/Coast). The Board proposed an adjustment to the stipulation requiring that during probation that the Respondent would follow treatment recommendations of her physician with the proviso that she can change providers if necessary. They would like her treating physician to submit an annual report with the Board. The Board also noted that the pharmacy needs to have a PIC within the next 30 days. A motion was made and seconded to adopt the amended stipulation and agency order (McFarland/Coast). Motion carried 4-0.

**WILLIAM GATLIN Case No. 06-58**

The Respondent, William Gatlin, appeared in person and through his attorney, Steve Schwarm. The Board was represented by its attorney, Randall Forbes. The Board reviewed the new application of the Respondent. The Respondent had a previous felony conviction and the Board reviewed whether to issue a license to the Respondent. A motion was made and seconded to adjourn into executive session not to exceed 15 minutes for the purpose of deliberation (Coast/Arck). Motion carried 4-0. The Board reconvened at 3:00 p.m.. A motion was made and seconded to accept the application and to grant the license( McFarland/Gilstrap). Motion carried 5-0.

**KU HOSPITAL AUTHORITY Case No. 06-14**

Steve Schwarm appeared on behalf of the Respondent. The Board was represented by Randall Forbes. The proposed discipline was a Stipulation assessing a fine in the amount of \$500 for failing to keep controlled substance records for five years. A motion was made and seconded to approve the Stipulation (Arck/Coast). Motion carried 4-0.

**JEFF HODGESON Case No. 03-64 and Case No. 03-65**

Request for Modification of Orders. Jeff Hodgeson appeared in person. He made a request for a modification of his Final Order that was entered in June of 2004. Specifically, the Respondent requested that he be permitted to work an on call shift alone every 5<sup>th</sup> weekend. A motion was made and seconded to adjourn into executive session not to exceed 15 minutes for the purpose of deliberation (McFarland/Arck). Motion carried 4-0. The Board reconvened. A motion was made and seconded to deny the Respondent's request with the understanding that they would reconsider if he had a letter from the CIPP committee agreeing to a change in the CIPP contract (McFarland/Paul). Motion carried 4-0.

**KRISTINA M. GALVIN Case No. 06-46**

The Respondent, Kristina M. Galvin, appeared in person and with her employer, Kathy W. Steele, R.Ph. The matter was before the Board after the Investigative member reviewed the Respondent's application and noted that she had been convicted of a 3<sup>rd</sup> of subsequent DUI. Mr. Forbes provided the Board with four documents that had been filed in Shawnee County including a Driving Under the Influence a 3<sup>rd</sup> or subsequent time. The convictions were the basis for the denial of the pharmacy technician registration. The Respondent provided copies of her outpatient treatment and documents from her probation officer. A motion was made and seconded to approve the registration along with encouraging the Respondent to attend AA ( Paul/McFarland). Motion carried 4-0.

**JAY PARKER Case No. 06-32 and Case No. 06-32A**

The Respondent, Jay Parker, appeared in person and with his attorney, J. Richard Lake. The Board was represented by its attorney, Randall Forbes. The facts are the same in each case and it was agreed that they will be accomplished together. A hearing was held in the matter. Mr. Parker advised that he was not contesting count 3 (intentionally falsifying records and prescriptions and count 6 (misrepresentation on a claim form) and that he had agreed to enter a guilty plea in Jefferson County to one count of fraudulent writings. He had also agreed to pay restitution to Medicare in the amount of \$75,000. A motion was made and seconded to adjourn into executive session (Coast/Arck). Motion carried 4-0. The Board reconvened at 5:30 p.m. A motion was made to find the Respondent guilty of Counts 1 through 6 and to assess a fine of \$4000 per count payable within 30 days. The Respondent was also ordered to pay expenses up to \$10,000. The licensee was revoked and the pharmacy licensed revoked. The Respondent was ordered to sell or destroy all drugs within two weeks (Paul/Arck). Motion carried 4-0.

**RAY PERRENOUD CASE NO. 06-67**

This matter was continued until December.

**JAMES P. REILLY CASE NO. 06-48**

The Respondent, James P. Reilly, did not appear but he was represented by Darin Conklin. The proposed discipline was a Stipulation whereby the Respondent would be monitored by CIPP for a period of one year. A motion was made and seconded to accept the Stipulation as written (Paul/Coast). Motion carried 4-0.

**WALGREENS Case No. 06-34**

The Board reviewed a Summary Order whereby the Respondent was assessed a fine in the amount of \$500 for failure to register a technician. A motion was made and seconded to accept the Order as Final (McFarland/Coast). Motion carried 3-0. Howard Paul abstained.

**WALGREENS Case No. 06-40**

The Board reviewed a Summary Order whereby the Respondent was assessed a fine in the amount of \$500 for failure to register a technician. A motion was made and seconded to accept the Order as Final (Coast/McFarland). Motion carried 3-0. Howard Paul abstained.

**DOROTHY C. SMITH Case No. 06-68**

The Board reviewed a Summary Order whereby the Respondent was revoked for drug diversion. A motion was made and seconded to accept the Order as Final (Coast/Arck). Motion carried 3-0. Merlin McFarland abstained.

**DIGHTON DRUG Case No. 06-62**

The Board reviewed a Summary Order whereby the Respondent was assessed a fine in the amount of \$500 for failure to register a technician. A motion was made and seconded to accept the Order as Final. (Arck/Coast). Motion carried 4-0.

**CVS PHARMACY Case NO. 06-42**

The Board reviewed a Summary Order whereby the Respondent was assessed a fine in the amount of \$500 for failure to register a technician. A motion was made and seconded to accept the Order as Final (Arck/Coast). Motion carried 4-0.

**TARGET PHARMACY Case No. 06-41**

The Board reviewed a Summary Order whereby the Respondent was assessed a fine in the amount of \$500 for failure to register a technician. A motion was made and seconded to accept the Order as Final (Arck/Coast). Motion carried 4-0.

**ADJOURNMENT:**

A motion was made and seconded to adjourn the meeting until 9:00 a.m. Wednesday, September 13, 2006. (Arck/Coast). Motion carried 5-0.

**Wednesday, September 13, 2006**

**MEMBERS PRESENT:** Max Heidrick, R.Ph., President; JoAnne Gilstrap, R.Ph., Vice-President; Merlin McFarland, R.Ph.; Dr. Shirley Arck, Pharm.D.; Michael Coast, R.Ph.; and Howard Paul, Public Member.

**STAFF PRESENT:** Debra Billingsley, Executive Director; Jim Kinderknecht, R.Ph., Pharmacy Inspector; Tom Frazier, R.Ph., Pharmacy Inspector; Melissa Martin, Compliance Officer; and Randall Forbes, General Counsel.

**OTHERS PRESENT:** See Attached listing

**MEETING CALLED TO ORDER:**

President Max Heidrick called the meeting to order at 9:00 a.m.

**INSTITUTUTE FOR THE CERTIFICATION OF PHARMACY TECHNICIANS  
Kenneth W. Schafermeyer, R.Ph., Ph.D.**

Dr. Schafermeyer provided the Board with additional information that had been requested at the June Board meeting regarding the Exam for the Certification of Pharmacy Technicians (ExCPT). The state of Connecticut has now approved ExCPT on the grounds that it is psychometrically sound and equivalent to the PTCB. Dr. Schafermeyer

also provided copies of the independent audit that was done by Danna Hammer, R.Ph., Ph.D. The Board discussed the costs of the tests and the requirements.

The Board received a letter from Brian M. Meyer, M.B.A., the Director of Government Affairs Division of the American Society of Health-System Pharmacists along with attachments including a memorandum from Mary A. Dickson, Assoc. Executive Director of NABP endorsing the PCTB. ASHP expressed opposition to the ExCPT based on policy adopted by the Board of Directors. Jim Lichauer, R.Ph. and Kirk Starr R.Ph. were also present at the meeting representing the Kansas Society of Health-System Pharmacists. They reiterated that the Board should not approve the ExCPT until the Board conducts a comprehensive review of the ICPT certification process.

A motion was made and seconded that the Board approve the PCTB and the ICPT as certification bodies of pharmacy technician national certification (McFarland/Paul). Motion carried 5-0.

### **STAFF REPORTS**

The Executive Director advised the Board that the Board of Nursing and the Board of Healing Arts had conducted a joint meeting on September 11, 2006. Reyne Kenton had attended the meeting portion that related to proposed legislation that would require fingerprinting and criminal history record checks of their licensees. The Board of Pharmacy will follow this legislation.

The Board had received a request for interpretation of a regulation regarding the requirement that each registered pharmacy have a current copy of the Kansas Pharmacy Practice Act. (KAR 68-2-12a). The question was whether a hard copy of the law book was required. This issue was discussed at the Midwest Pharmacy Conference and Iowa is requiring a hard copy. The regulation states that the library shall be either immediately accessed by computer or printed therefore the Board interprets this to mean that a pharmacy does not have to have a hard copy if they have the law book readily accessible on the Internet and can bring it up during an inspection.

### **BOARD REPORTS**

Max Heidrick provided the Board with copies of a bill that is going to be submitted for the 2007 legislative session by the Board of Healing Arts. The bill will amend K.S.A. 65-2837a and will delete the language that requires a prescription order for any amphetamine or sympathomimetic to indicate in the licensee's or mid level practitioner's own handwriting the diagnosis. The diagnosis will still be required but it won't have to be in the practitioner's own hand-writing. The Board of Pharmacy supports the legislation and will follow the bill during the session.

### **PUBLIC HEARING ON PROPOSED REGULATIONS**

President Max Heidrick called the public hearing to order at 10:00 a.m. on Wednesday, September 13, 2006 at the Conference Room of the Hayden Office Building, 212 SW 8<sup>th</sup> Street, Topeka, Kansas. A sixty-day notice was published in the *Kansas Register*, on July 13, 2006 and this constitutes the public comment period for the following proposed regulation changes.

**K.A.R. 68-1-1b. Continuing Education Unit.** No comments were received during the public comment period and none were received during the public hearing. President Heidrick declared the public hearing on K.A.R. 68-1-1b closed.

President Max Heidrick called the Board meeting to order. A motion was made and seconded to adopt K.A.R. 68-1-1b as a permanent regulation (Arck/Coast). A roll call vote was held with Paul, Coast, McFarland, Gilstrap, and Arck voting Aye. Motion carried. The regulation will become effective fifteen days after publication.

**K.A.R. 68-1-1f. Foreign Graduates.** President Max Heidrick closed the Board meeting and called the public hearing to order. No comments were received during the public comment period and none were received during the public hearing. President Heidrick declared the public hearing on K.A.R. 68-1-1f closed.

President Max Heidrick called the Board meeting to order. A motion was made and seconded to adopt K.A.R. 68-1-1f as a permanent regulation (Coast/Arck). A roll call vote was held with Paul, Coast, McFarland, Gilstrap and Arck voting Aye. Motion carried. The regulation will become effective fifteen days after publication.

**K.A.R. 68-1-1g. Internet-based TOEFL.** President Max Heidrick closed the Board meeting and called the public hearing to order. No comments were received during the public comment period and none were received during the public hearing. President Heidrick declared the public hearing on K.A.R. 68-1-1g closed.

President Max Heidrick called the Board meeting to order. A motion was made and seconded to adopt K.A.R. 68-1-1g as a permanent regulation (Coast/Arck). A roll call vote was held with Paul, Coast, McFarland, Gilstrap, and Arck voting Aye. Motion carried. The regulation will become effective fifteen days after publication.

**K.A.R. 68-11-1. Fees for examination and licensure as a pharmacist.** President Max Heidrick closed the Board meeting and called the public hearing to order. Randy Forbes advised the Board that the Joint Committee commented that the fiscal note was revenue neutral. No comments were received during the public comment period and none received during the public hearing. President Heidrick declared the public hearing on K.A.R. 68-11-1 closed.

President Max Heidrick called the Board meeting to order. A motion was made and seconded to adopt K.A.R. 68-11-1 as a permanent regulation (Arck/Coast). A roll call vote was held with Paul, Coast, McFarland, Gilstrap and Arck voting Aye. Motion carried. The regulation will become effective fifteen days after publication.

**K.A.R. 68-1-1d. Approved schools.** President Max Heidrick closed the Board meeting and called the public hearing to order. No comments were received during the public comment period and none were received during the public hearing. President Heidrick declared the public hearing on K.A.R. 68-1-1d closed.

President Max Heidrick called the Board meeting to order. A motion was made and seconded to adopt K.A.R. 68-1-1d as a permanent regulation (Arck/Gilstrap). A roll call vote was held with Paul, Coast, McFarland, Gilstrap and Arck voting Aye. Motion carried. The regulation will become effective fifteen days after publication.

### **GENOA HEALTHCARE**

Bill Schommer, R.Ph. of Genoa Healthcare and Pete Zevenbergen of Wyandot Community Mental Health requested permission to stock and dispense samples labeled for physicians out of the pharmacy. The Board reviewed the Prescription Drug Marketing Act of 1987 regarding drug samples in hospital pharmacies. The Board approved the request so long as the pharmacy properly documented the relationship with the FDA. Drug samples must be stored separately from the rest of the pharmacy stock. The accountability and recordkeeping must be maintained in accordance with PDMA requirements and no samples may be offered for sale by the pharmacy.

### **DISCUSSION REGARDING PHARMACY TECHNICIAN REGULATION**

#### **K.A.R. 68-5-16**

The Board made a few changes to K.A.R. 68-5-16 so that it will change the ratio of pharmacy technicians to pharmacists in the prescription area to three to one if no less than two of the technicians have a current certification issued by the PTCB or a current registration issued by an organization that has been approved by the Board and has been determined to have a standard of training not below that of PTCB. The Board has officially approved both PTCB and ICTB certification. The Board would like this regulation approved as soon as possible.

**K.S.A. 74-1608 regarding meetings and notices** needs to be amended during the 2007 legislative session. The statute requires that the Board meet at least one time a year for the purpose of examining applicants for licensure. This language needs to be deleted.

### **DISCUSSION REGARDING CONTINUING EDUCATION REQUIREMENTS**

This discussion was continued from the June meeting. Thee Board reviewed what other states are doing as it applies to continuing education and the requirements for Board approval. A motion was made and seconded that the Board will no longer accept any program that is not ACPE approved (Coast/Arck). Motion carried 4-0.

The Board reviewed a request by the Commission for Certification In Geriatric Pharmacy asking that their examination be given CE approval. The Board denied the request.

## **ADJOURNMENT**

The Board took a lunch break until 1:15 p.m.

## **RECONVENE**

The Board reconvened at 1:15 p.m.

## **ADJOURN**

A motion was made and seconded to adjourn into executive session for no more than 30 minutes to discuss personnel issues (Coast/Paul). Motion carried 4-0.

## **RECONVENE**

The Board reconvened at 1:45 p.m.

## **BUDGET**

The Executive Director reviewed the 2007 budget requests. The Board would like to meet with the new budget analyst at the December Board meeting. The Director discussed the software situation. The Board will just get SQL and continue to use Access at this time. SQL will support the data base and organize it and will support replication. The Board discussed asking for an additional \$5000 for CIPP and will ask for an additional vehicle. The Board also needs additional personnel as they have been asked to provide more duties with various federal law mandates.

## **UPDATE ON REGULATIONS**

**K.A.R. 68-20-23 Limit on amount of controlled substances dispensed.** The Board reviewed the draft and changed the amount to a 93 day supply so that there can be three-30 day supplies.

**K.A.R. 68-7-11 and K.A.R. 68-7-12** are the drafts regarding the requirement that an inventory be done whenever there is a change of PIC. The Board reviewed the drafts and approved them.

The Board reviewed Colorado language that would make a pharmacist responsible to ensure that a prescription has been issued for a legitimate medical purpose. A pharmacist shall not dispense if the drug was issued on the basis of an internet-based questionnaire, and internet-based consultation, or a telephonic consultation, all without a valid preexisting patient-practitioner relationship. The staff can proceed with this regulation.

The Board suggested that if the Wholesale Licensure Act does not require it that a provision be added that requires pharmacies to purchase only from licensed entities. The Board discussed finding pharmacies in Kansas that were ordering off of the Internet from companies that were not licensed in Kansas.

The Board reviewed Indiana's statute and regulation related to durable medical equipment. The Board recommended that this type of language be drafted along with the Wholesale Licensure Act.

The Cancer Drug Repository Regulations KAR 68-16-1 through K.A.R. 68-16-9 are scheduled for public hearing at 8:00 a.m. on October 20, 2006.

The Compounding Regulations are awaiting a copy of the USP 797 and a copy of the Standard for Laminar Hood Cabinets. The Board office has ordered the information and should have it available in the near future. Once these are provided the regulation should be able to go to the Attorney General.

K.A.R. 68-7-19 Transfer of a refillable prescription between pharmacies was reviewed by the Attorney General's Office and returned for amendment.

## **BOARD MEMBER REPORTS**

### **Meeting Locations**

The Board reviewed the options for hotels and meeting rooms in Topeka. It was determined that if the Hayden Office Building was available that the Board would use this location.

### **Sudafed Issue**

The Board staff recommended that the Board seek a legislative change to the Sudafed law so that it conforms to federal law regarding the amount a patient may purchase. The Board also discussed asking that liquids and gels be placed behind the counter as a schedule V. Otherwise, the Board would request that the legislature require all retailers to be registered and the fee should be raised to \$25. The KBI indicated that they would support whatever changes the Board found necessary.

### **Plan B Information**

The Board reviewed information that was put out by the FDA regarding prescribing information for Plan B. The Board staff will continue to collect information so that the Board can have a good understanding of what the federal requirements are.

### **Internet Pharmacies**

The Board reviewed information that has been reported in the National Clearinghouse on Internet Prescribing. The clearinghouse has adopted two policies that address issues related to medical practice on the Internet. The policies are related to health care professionals utilizing the Internet in their practices.

**Max Heidrick** suggested that the newsletter or Board website provide information regarding OIG exclusions as many pharmacists may not understand what that entails.

**Howard Paul** attended the NACDS Meeting. He encouraged others to attend the meeting next year as it was very educational. He brought back information that will be used by the Board staff.

**Michael Coast** advised that he noticed that several one day surgery centers were changing their requirements and letting patients stay for 3-4 days. The Board discussed this and determined that if a single day surgery center does this that they need to notify the Board so that they can be reclassified. They would meet the requirements of a medical care facility and would need to follow those regulations.

**Merlin McFarland** requested guidance on the requirements of medication that is packaged as a multiple dose package and whether these items can be returned for credit from the Nursing Home. He was referring to systems such as medication on time. The answer is no. These items cannot be put back into stock after they have been commingled with other drugs. This would be a safety risk to patients with allergies. K.A.R. 68-12-2 clearly states that returns must be unit-dose systems that contain only one medication and in which the drug has not reach the patient and is still intact.

Merlin McFarland indicated that many LTCF's have asked to have a new label made for unit dose packages without having the pharmacist affix the label. They have asked that several labels be sent over to the LTCF so that an employee can put the label on the medication. The law requires a pharmacist to do a final check of a label so it should not be sent to the LTCF for someone else to affix to the prescription. Any mistake would be the liability of the pharmacist.

Another issue was over labeling of unit dose packaging. It was determined that unit dose packaging expires after a year. Merlin provided the Board with an issue paper on Beyond Use Dating of Repackaged Oral Solids and Guidance from the HHS, the FDA, and CDER.

Merlin also stated that many of the pharmacies dealing with LTCF's are questioning whether they can accept a return of a resident's unused controlled substance. There is no provision in the Controlled Substance Act for a DEA registrant to acquire controlled substances from a non-registered registrant. Most LTCF's are not registered with the DEA and act in a custodial capacity, holding controlled substances that belong to a resident.

Merlin McFarland reported that he and Frank Whitchurch met and discussed how to classify the different pharmacy practice areas. They will continue to work toward drafting a regulation that will set out specific practice classifications or categories.

**JoAnne Gilstrap** requested that the Board seek a legislative change of K.S.A. 74-1606(a) which requires an annual election of officers in June. The change should reflect that elections be held annually but not necessarily in June. The Board members terms expire right before June and the statutory deadline conflicts with reappointments.

**Shirley Arck** commended Melissa Martin on the job she did regarding a patient that was having problems with payment reimbursements. Melissa went above and beyond to see that the pharmacy was able to reimburse the patient.

Shirley also noted that she would like to see the Board start compounding training as the regulation is going to be passed in the near future. The Board members would like to participate in the training.

### **STAFF REPORTS**

The Executive Director received a request for direction regarding whether prefilled flushes could be treated as supply items since the FDA had recently reclassified them. The Board said that since they are still labeled and dispensed they would continue to be treated as legend drugs.

The Board was notified by the Governor's Office on September 13 that JoAnne Gilstrap had been reappointed to a second term on the Board. The Executive Director made the announcement and everyone congratulated Ms. Gilstrap.

### **INVESTIGATIVE REPORT**

**Presented by JoAnne Gilstrap, Vice President/Investigative Member**

JoAnne Gilstrap reviewed the cases that had been closed. A motion was made and seconded to accept the recommendations as stated (Paul/Coast). Motion carried 3-0.

### **APPROVAL OF NEW LICENSES AND REGISTRATIONS**

A motion was made and seconded to approve the new pharmacists licenses and pharmacy registrations. (Gilstrap/Arck) Motion carried 4-0. Howard Paul recused himself from voting on any Walgreens and Michael Coast recused himself regarding the Minneola Pharmacy.

**ADJOURNMENT:** The Board adjourned at 4:15 p.m.

