

Kansas State Board of Pharmacy
Minutes of the November 29 & 30, 2012
Board Meeting

800 SW Jackson, Lower Level
Conference Room A
Topeka, KS 66612

Thursday, November 29, 2012

Meeting Called to Order: President David Schoech called the meeting to order at 9:06am.

Members Present: David Schoech, R.Ph, President; Bob Haneke, Pharm D, Vice President; Jim Garrelts, Pharm. D; Nancy Kirk, Public Member; Michael Lonergan, R.Ph; Chad Ullom, R.Ph, Investigative Member; and John Worden, Pharm. D.

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

Others Present: See attached listing.

Approval of the Agenda:

A motion was made and seconded to approve the agenda as amended. (Haneke/Worden) Motion passed. Amended items: Budget and LTCE discussions were moved to the afternoon.

Approval of the September 13 & 14, 2012 Minutes:

A motion was made and seconded to approve the minutes as presented. (Haneke/Garrelts) Motion passed.

Board Discussion

Meth Precursor Electronic Logging Legislative Report – Ms. Billingsley presented the report for the legislature to the Board for their approval. The report was attached electronically to the Board agenda. Ms. Billingsley provided the Dashboard information for review.

Renewal of MOU with Appriss/NADDI for NPLEx – The Board discussed the renewal. The MOU would remain in force until the Board chose to terminate or unless Appriss/NADDI would change the program.

A motion was made and seconded to approve the Legislative Report for Meth Precursor Electronic Logging and the MOU. (Haneke/Ullom) Motion passed.

ePA Legislative Report - Mr. Lonergan presented the draft legislative report regarding electronic prior authorizations. A motion was made and seconded to approve the Legislative Report on ePA. (Lonergan/Worden) Motion passed.

KTRACS Update – Ms. Morris updated the Board on KTRACS. Information was electronically attached to the Board agenda.

- KTRACS Statistics
- Top Threshold Patients by Number of Dispensers
- Top Threshold Patients by Number of Prescribers
- PMP Peer Review Sample Results
- Request to be appointed to PMP Advisory Committee – A motion was made and seconded to appoint a midlevel practitioner to the Advisory Committee. (Kirk/Worden) Motion passed.
- Special Projects – MITRE project is a short term project funded through SAMSHA on direct secure email to prescribers. The group size is very small and surveys prescribers. Ms. Morris said the advisory committee is on board with participation in the project. A motion was made and seconded to approve the MITRE project with the contract to include confidentiality and statutory requirements. (Haneke/Garrelts) Motion passed.
- Grants Update – SAMSHA Grant and NASCSA Grant. Walgreens and Via Christi have tentatively agreed to work with KTRACS on various projects.

KHIN & KTRACS Collaboration – Laura McCrary, Executive Director for Kansas Health Information Network, made the presentation to the Board. She discussed providing one portal through KHIN to which authorized users of KTRACS could connect. The advantage would allow providers to log into one system, KHIN, to obtain complete medical information for the patient. Pharmacies would be able to choose to participate. Patients do have the right to opt out of the health information exchange. KHIN could absorb KTRACS as a part of their overall network. Mr. Forbes stated the statute is definite about who is accountable for the prescription monitoring program but can contract with outside vendors to make the system more efficient. The Board tabled the decision until later in the day to obtain other information.

Recess: Mr. Schoech declared a break to reconvene in 10 minutes.

Reconvene: Mr. Schoech reconvened the meeting at 11:05am

Sterile and Non-sterile Compounding – The Board discussed compounding. Discussion information was attached electronically to the Board agenda.

- NABP Alert -
 1. Compounding Cover Memo
 2. State Board of Pharmacy Action Plan – Compounding Pharmacy
 3. Save the Date – Compounding – NABP Action Plan Webinar
 4. Attachment A – Iowa Consultancy Services Agreement 2013
 5. Attachment B – Copy of Non-Resident Pharmacies by State-City
 6. Attachment C – Non-Resident Pharmacy Requirement
- HELP Compounding Letter to KBOP – CC'd Recipients List
- Congress Commerce & Energy Committee – Letter to KBOP
- Mississippi Board of Pharmacy CMS Letter
- Compounding – Checklist
- 5th Circuit Rules that FDA May Regulate Compounded Drugs as “New Drugs”

- HELP Question KSPHA Response
 - Letter to Vets
 - NABP Good Compounding Practices
 - NABP Model Rules for Sterile Pharmaceuticals
 - NABP Response-Compounding Questions for Stakeholders HELP 02Nov2012
- Ms. Billingsley will attend the meeting with the FDA on December 19, 2012. She will respond to all the questions for all the different congressional committees as the requests are received. The Board suggested that the responses sent to the HELP Committee be forwarded to the Kansas Senate delegation. NABP will receive a copy so they can add it to the compiled response for all state boards.

Kansas Compounding Proposed Regulations

- KAR 68-13-2
- KAR 68-13-3
- KAR 68-13-4

The Board discussed the proposed regulations. The Board will have a public hearing after they return from the AG's office and the appropriate notice is given. Consensus was to be proactive and to obtain more training for the current inspectors and add another inspector.

Recess: Mr. Schoech declared a break for lunch to reconvene at 1pm.

Reconvene: Mr. Schoech reconvened the meeting at 1:04pm

Board Discussion

Discussion on PDMP – Josh Bolin, NABP, led the discussion. Mr. Bolin shared information from PMP InterConnect. Ron Hatfield, Appriss, demonstrated the program for the Board and explained how the process would function. NABP has offered to enter into a Memorandum of Understanding with Kansas Board of Pharmacy to provide the PMP software for free for 3 years. The contract with HID expires June 30, 2013. Ms. Morris suggested the Board review the MOU upon receipt and if acceptable then sign the agreement. Once the MOU is in place with NABP the data can be transferred from the present vendor to NABP. The Board will schedule a meeting in December to review and approve if appropriate. Remaining with HID will be an expense to the Board as the grant funds are no longer available for maintenance of the program. The salaries for the KTRACS employees will need to find a source of funding. The grants covering their office expenses travel and salaries will end within the next year. The Board has no funding available within the budget without Legislative intervention. NABP may later offer unrestricted grants to states if funding becomes secure in their program. Those grants could then be used to fund the KTRACS expenses.

CIPP Proposal for pharmacy students – Ms. Billingsley presented Mr. Scherich's request to the Board. Kyle Scherich requested the Board pay for the students' drug screening. Mr. Scherich made the request to the CIPP committee. The CIPP committee did not agree because some of the treatment is taking responsibility for personal actions, an investment in their own recovery. The Board consensus was sympathetic to the students but the overall agreement was similar to the CIPP committee.

APRN (ARNP) Draft Bill – electronically attached to the Board agenda. Board consensus was not to support the change in the definition of practitioner to include APRN(ARNP).

LTCF Automation Regulation Update – the information was electronically attached to the Board agenda.

- July 2012 Minutes
- Pilot Project Application
- CMS Right to Choose
- DEA ADS Registration Applications
- DEA Requirements
- DEA Registration Process
- Licensure and Board Oversight Message
- CMS Issue Final Rule of Status of LTC Consultant Pharmacists

Pharmacy Budget – FY13, FY 14, FY 15 – Ms. Billingsley presented the information.

- DA 405 Narrative
- KAR 68-11-1 10% Reduction
- KAR 68-11-2 10% Reduction
- Division of Budget Recommendations – did not cut any of the proposed budgets but did suggest the Board cut the fees 50%. The reduction would require the Board to spend down the pharmacy fee fund. The Governor's comments will not be given until after the State of the State Address.
- KAR 68-11-1 50% Reduction
- KAR 68-11-2 50% Reduction
- 531 FY 2014 Budget Tracking
- Mark Woods, St. Luke's, made a presentation to the Board concerning the pharmacy fee fund. Funding is needed to fund residency training programs for pharmacists in hospitals especially the small and rural communities. Economic development and the Commerce department would be a possible source of support. Mr. Woods wanted to know how his groups could help move this along in the legislature for the ability to access the pharmacy fee fund for programs approved by the Board. The Appropriations and Ways & Means are the committees to address. John Small will be their lobbyist.

The Board would like to add another pharmacist inspector with all necessary equipment and increase training opportunities for the current inspector staff.

E-Prescribing C-II Prescriptions – There are some regulations that need to be changed to allow C-II to be electronically sent from prescriber to pharmacy. Ms. Billingsley said she would not prevent them from electronically sending the prescriptions now if they were compliant with the DEA since the Board had intended to make the changes. She also knows that some will not do so until all the necessary regulations permit the electronic prescriptions.

Executive Director Report – Ms. Billingsley presented the information.

- Interactive Executive Director Meeting – NABP is working on licensing software for the Boards. Other discussion concerned the 5% distributing rule, distributors in name only, brokers and all this leads to concerns over pedigree issues.
- 4 State FDA Meeting Attendees and Report – The meeting was not geared to pharmacy.
- Foreign Graduate Requirements and Nebraska Law Change – The Board consensus is if the reciprocal pharmacist is coming in from a state that does not require intern hours the prospective pharmacist must first obtain the 1500 hours before they can be licensed.

Recess: Mr. Schoech declared a break to reconvene in 15 minutes.

Reconvene: Mr. Schoech reconvened the meeting at 3:23pm

Staff Reports

Carly Haynes – encouraged the Board to read some other states board minutes. Very interesting what others are doing with discipline. As example, Oklahoma requires anyone in their Impaired Provider Program to be in compliance for 12 months before approaching the Board for modifications to the suspension. If the pharmacist relapses the time begins anew. Several new continuing educations have been release addressing errors in the pharmacy. They are: “Minimize Prescription Errors and Maximize Patient Safety”2 hours from *Powerpak* and “Medication Errors and Prevention Strategies” 2 hours from *America’s Pharmacist*.

Jim Kinderknecht – reported on the many phone calls received due to all the DEA interpretation changes.

Melissa Martin – told the Board of a recent visit to Optum Rx to review the process of final verification of a prescription. Mr. Kinderknecht, Ms. Haynes, and Ms. Billingsley were also in attendance.

Board Member Reports

Jim Garrelts – introduced his guest and resident, Lauren Shreckengosh, Pharm D.

Bob Haneke – told the Board the Pilot Project committee recently met concerning a request from a pharmacist for a retail telepharmacy. The consensus of the Board was for the pilot projects to attempt to stay within the proposed regulations but definitely within current regulations.

Nancy Kirk – requested the Board change the dates of the March meeting due to a conflict in scheduling. A motion was made and seconded to move the March meeting to March 28th and 29th in Lawrence. (Haneke/Lonergan) Motion passed.

David Schoech – attended the NABP Interactive Member Forum. The meeting focused on several key discussions. The training and education of staff and inspectors was a high priority especially relating to sterile compounding. The DEA is looking at restructuring Schedules 3, 4 and 5. Schedule 3 will become more like Schedule 2.

Schedule 2 will be prescriber only - in that prescribers will not be allowed to have an agent process the prescription. Mr. Schoech said he is proud of the staff and the job they have been doing for quite some time. Mr. Schoech attended the NABP District Meeting with Ms. Billingsley. The meeting next year will be a combined regional meeting and will be in Colorado.

Chad Ullom – commented on the progress of investigations by Board staff.

John Worden – asked if the Board was investigating options for electronic disciplinary databases. The Board discussed options and possibilities. Ms. Billingsley said NABP already provides portal access for NAPLEX and MPJE scores; NAPLEX and MPJE history and clearinghouse on individuals. They are expanding to provide a facility clearinghouse and disciplinary alerts. This should all be available electronically this spring.

KHIN & KTRACS Collaboration – The Board directed Ms. Morris to request a proposal from KHIN for phase 1 with the option of eventually looking at all prescriptions. At this point, all pharmacists are permitted to voluntarily participate in KHIN if they so choose and to provide their prescription information. The Board is interested in the cost associated with any collaboration and the legality of collaborating on prescriptions that exceed the KTRACS statutory authority.

Approval of New Pharmacists and New Registrants

A motion was made and seconded to approve the new licenses and registrations. (Haneke/Ullom) Motion passed.

Adjourn: Mr. Schoech adjourned the meeting at 4:25pm.

Friday, November 30, 2012

Meeting Called to Order: President David Schoech called the meeting to order at 9:00am.

Members Present: David Schoech, R.Ph., President; Bob Haneke, Pharm D., Vice President; Jim Garrelts, Pharm. D.; Nancy Kirk, Public Member; Michael Lonergan, Pharm. D.; Chad Ullom, R.Ph., Investigative Member; and John Worden, Pharm. D.

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; Doug Taylor, Compliance Counsel; Christina Morris, PDMP Director, and Randall Forbes, General Counsel.

Others Present: See attached listing.

Board Discussion

Revisit KHIN, NABP and KTRACS decision and clarification for Ms. Morris. – Ms. Morris requested the Board clarify their consensus in regards to KHIN's interaction with

KTRACS. The Board consensus was to have Mr. Forbes review the MOU with NABP when received and have a meeting/phone conference in December to hopefully approve. The approval will allow the timely transfer from the current vendor to NABP before the year ends. KHIN will be able to use a screen shot only and not be able to store the data. The Board directed Ms. Morris to ask KHIN what the data is worth to them and that currently the connection will be info only, patient specific screen shots of the KTRACS data. The Board desires to work with them, if possible, financially and legally. Mr. Forbes said there are actually two proposals – one for just scheduled, which KTRACS has now, and the second would be for non-scheduled, which would take legislative action.

Administrative Proceedings and other Administrative Matters

- Constance King - **Case 12-13.** Request for Reinstatement of License. Ms. King was present without counsel. Mr. Taylor presented the case on behalf of the Board. A motion was made and seconded to go into executive session for quasi-judicial deliberations at 9:38am to include Mr. Forbes, Board Counsel. (Worden/Ullom) Motion passed. Mr. Schoech reconvened the meeting at 9:56am. Mr. Forbes addressed Ms. King. Ms. King will need to provide documentation to fulfill the requirements of the original agreement. Mr. Forbes encouraged her to read the original agreement and if needed find someone who could explain to her what she must provide. The Board gave Ms. King the choice to either receive a Board ruling today or allow her to present the necessary documentation at a later date. Ms. King chose to gather the necessary documents and present at a later date. A motion was made and seconded to continue the case at a future date. (Worden/Garrelts) Motion passed. Ms. King will advise the Board when she is ready to proceed.
- Lori Dillehay (1-13365) **Case 07-39.** Request for Modification of Order. Ms. Dillehay was present without counsel. Mr. Taylor requested the Board enter executive session to receive protected information from CIPP. A motion was made and seconded to enter executive session for 15 minutes to discuss privileged information to include Mike Larkin, KPhA, Vicki Whitaker, KPRN, Mr. Forbes, Ms. Billingsley, Melissa Martin and Mr. Taylor to return to open session at 10:20am. (Haneke/Worden) Motion passed. Mr. Schoech reconvened the meeting at 10:23am. A motion was made to extend the executive session for 15 minutes. (Haneke/Worden) Motion passed. Mr. Schoech reconvened the meeting at 10:32am. A motion was made and seconded to go into executive session for quasi-judicial deliberations at 10:33am to include Mr. Forbes, Board Counsel. (Haneke/Lonergan) Motion passed. Mr. Schoech reconvened the meeting at 10:39am. A motion was made and seconded to lift the restriction for dispensing from the stipulation for Ms. Dillehay. (Garrelts/Ullom) Motion passed. The Board requested Ms. Dillehay inform the Board when she becomes employed.
- James Reilly and Sheila Connolly– Follow up from the September Board Meeting. Richard Barrows was not in attendance. The pharmacists made a presentation to the Board to comply with the Board Order approved in September. The Board

asked the pharmacists to share their analysis with Walgreens and to be proactive and tell others what they have learned.

Recess: Mr. Schoech declared a break to reconvene in 15 minutes.

Reconvene: Mr. Schoech reconvened the meeting at 11am

- Dana Sanders (3-05698) **Case 12-04.** Petition to Revoke Intern License. Ms. Sanders was not in attendance. Mr. Taylor requested the Board enter executive session to receive protected information from CIPP. A motion was made and seconded to enter executive session for 20 minutes to discuss privileged information to include Mike Larkin, KPhA, Vicki Whitaker, KPRN, Mr. Forbes, Ms. Billingsley, and Mr. Taylor to return to open session at 11:27am. (Haneke/Ullom) Motion passed. Mr. Schoech reconvened the meeting at 11:27am. A motion was made and seconded to revoke Dana Sanders intern license based on her failure to comply with the CIPP agreement and therefore violate the Board stipulation. (Haneke/Worden) Motion passed.
- Alicia Bobbett (1-14486) **Case 09-82.** Continuation and Review of Diversionary Agreement. Ms. Bobbett was not present. Mr. Taylor presented the case to the Board. Ms. Bobbett has met the stipulations as required. A motion was made and seconded to accept the information and remove the probation from Ms. Bobbett's license to practice pharmacy. (Kirk/Ullom) Motion passed 6-1(Schoech).

The Board requested Mr. Taylor to verbally communicate to any pharmacist, who has a case that the Board expects them to appear at the meeting.

Approval of Consent Agreements:

- Mary Richardson – the information has not been received from Missouri due to a rescheduling of her case. A motion was made and seconded to continue Mary Richardson's case until the information is received from Missouri. (Lonergan/Haneke) Motion passed.
- Ralph Reppond () **Case 12-155.** Consent Agreement. Mr. Reppond desired to reciprocate to Kansas while his Missouri license had been disciplined. The Consent Agreement mirrors the agreement in Missouri. See order for details. Mr. Reppond was not present. Mr. Taylor presented the case and recommended the Board accept the Consent Agreement with Mr. Reppond. A motion was made and seconded to accept the Consent Agreement with Mr. Reppond. (Worden/Garrelts) Motion passed.
- New England Compounding Center (22-02071) **Case 12-181.** Consent Agreement and Surrender of Registration. NECC was not present. Mr. Taylor presented the case and recommended the Board accept the Consent Agreement with NECC. A motion was made and seconded to accept the Consent Agreement with NECC to surrender their non-resident pharmacy registration. (Garrelts/Ullom) Motion passed.

Mr. Garrelts inquired as to the status of Ameridose. The office is watching Massachusetts and other states for any action against Ameridose. Ohio may revoke and Kansas could use that action to take action as well. A motion was made and seconded to open an investigation on Ameridose and pursue Board action quickly if necessary. (Garrelts/Worden) Motion passed.

Notification of Summary Orders

- Daina Dorsey (applicant) Case **12-105**. Application for registration denied.– See order for detail.
- Lori Morrison (14-08431) Case 12-147. Revoked – See order for details.
- Cari DiMercurio (1-15369) Case 12-154. Civil fine. – See order for details.

Investigative Member Report – Closed Cases

Mr. Ullom presented the closed cases and asked for any questions. A motion was made and seconded to accept the closed cases. (Haneke/Lonergan) Motion passed.

Adjourn: Mr. Schoech adjourned the meeting at 12:08pm.