

Kansas State Board of Pharmacy
Minutes of the July 14 & 15, 2016
Board Meeting

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

Thursday, July 14, 2016

Meeting Called to Order: President Chad Ullom called the meeting to order at 9:00am.

Members Present: Chad Ullom, R.Ph., President; John Worden, Pharm. D. Vice President; Jim Garrelts, Pharm. D.; Robert Haneke, Pharm D.; Cheri Pugh, Public Member; and David Schoech, R.Ph., Alternate Investigative Member.
Members Absent: Michael Lonergan, R.Ph., Investigative Member

Staff Present: Alexandra Blasi, JD, MBA, Executive Secretary; Jim Kinderknecht, R.Ph., Licensed Pharmacy Inspector; Carly Haynes, R.Ph., Licensed Pharmacy Inspector; Shelley Rosebrook, R.Ph., Licensed Pharmacy Inspector; Melissa Martin, Compliance Inspector; Reyne Kenton, K-TRACS Program Manager; KariAnn Wootan, Administrative Specialist; Heidi Nelson, Administrative Assistant; Andrea Haddad, Law Clerk; and Randall Forbes, General Counsel.

Others Present: See attached listing.

Public Hearings on Administrative Rules and Regulations

K.A.R. 68-7-10. Pharmacy Based drug distribution system in long-term care facilities; emergency medication kits.

K.A.R. 68-9-2. Automated drug delivery systems in pharmacies.

K.A.R. 68-9-3. Automated drug delivery system to supply drugs for administration in certain facilities.

K.A.R. 68-1-1b. Continuing education for pharmacists.

K.A.R. 68-1-1f. Foreign graduates.

K.A.R. 68-11-3. Fees for registration as a pharmacy technician or pharmacy intern.

K.A.R. 68-5-18. Pharmacy technicians; continuing education.

Mr. Ullom adjourned the regular meeting and opened the public hearing at 9:01am

The Executive Secretary welcomed the public, read a brief statement regarding the principal reasons for adopting the regulation, and gave instructions for the public hearing.

The Executive Secretary provided written comments from ---

- The Joint Committee on Administrative Rules and Regulations (via Kansas Legislative Research Department) from their meeting on June 1, 2016, which included no comments or questions on the proposed regulation.

- Pete Stern on behalf of Kansas Independent Pharmacy Service Corporation (KPSC), regarding K.A.R. 68-5-18 and the continuing education hours required for pharmacy technicians. KPSC agreed that “managing pharmacy” should be a pharmacy located in the State of Kansas.
- Jason Beal, encouraging the Board to allow CE credit to be considered for approval retrospectively in addition to prospectively.
- CVS Health, John Rocchio, Director of Pharmacy Regulatory Affairs, opposing certain language in proposed regulations K.A.R. 68-7-10, 68-9-2 and 68-9-3.

The following people spoke on the regulation change:

- John Rocchio, CVS, spoke to the regulations, K.A.R. 68-7-10, 68-9-2 and 68-9-3, and recommended certain rephrasing or edits as contained in the letter provided to the Board. He requested the Board reconsider proposed language.
- Blake Griese, Alixa Rx, spoke in favor of regulations K.A.R. 68-9-2 and 68-7-10.
- Karen Nishi, Cubex, spoke on K.A.R. 68-9-3. She spoke against the requirement that a Kansas pharmacy be responsible for the automation in long term care facilities and the regulations on which Kansas individuals (pharmacist, intern, technician) can load or stock automated dispensers.

Mr. Ullom closed the public hearing and reconvened the regular meeting at 9:25am. The Board discussed the options and how best to proceed to serve the state’s residents.

A motion was made and seconded to adopt the proposed regulations K.A.R. 68-1-1b, 68-5-18, 68-1-1f, 68-1-1g and 68-11-3. (Worden/Schoech)

Roll call: Dr. Garrelts – Yes, Dr. Haneke – Yes, Ms. Pugh – Yes, Mr. Schoech – Yes, Mr. Ullom – Yes, and Dr. Worden – Yes.

The motion passed. The regulations will become effective 15 days after publication in the Kansas Register.

The Board continued to discuss K.A.R. 68-7-10, 68-9-2, and 68-9-3. The Board has been working on the proposed regulations for many years and allowed several pilot projects. The Board agreed that adopting the regulations may limit some, but declining to adopt the regulations would limit everyone. It was determined that the best interest of the public would be served by accepting the proposed regulations as written, and recommending continued work, improvement and changes based on public comments.

A motion was made and seconded to adopt the proposed regulations K.A.R. 68-7-10, 68-9-2, 68-9-3. (Worden/Garrelts)

Roll call: Dr. Garrelts – Yes, Dr. Haneke – Yes, Ms. Pugh – Yes, Mr. Schoech – Yes, Mr. Ullom – Yes, and Dr. Worden – Yes.

The motion passed. The regulation will become effective 15 days after publication in the Kansas Register

Recess: Mr. Ullom declared a break at 9:46am to reconvene in 15 minutes.

Reconvene Mr. Ullom reconvened the meeting at 10:01am

Board Recognitions

50-year Pharmacists

The Board recognized and approved certificates for pharmacists with an active license for 50 years as of December 31, 2015.

A. Jeffrey Denton	Salina
Sherryl Fitzpatrick	Wichita
William Fitzpatrick	Wichita
Jerry Handley	Eureka
Eugene Heath	Lincoln, NE
Keith Kimerer	Overland Park
James Miller	Hilton Head Island, SC
Derrick Morgan	Kansas City, MO
N. Michael Shanks	Atchinson
Darrel Steinsouer	Wichita
Thomas Todd	Kansas City, MO
Donald Winklepleck	Edmond, OK

Staff Awards

Awards for meritorious service and innovation were presented to several staff members. Congratulations and thanks to the staff for their dedication to the Board of Pharmacy.

Board Member Reappointments

Mike Lonergan and John Worden were reappointed to the Board. Their terms will expire April 30, 2020.

Bowl of Hygeia

Mike Larkin, KPhA, announced that David Schoech won the 2016 Bowl of Hygeia for compiling an outstanding record of public service.

Reports and Updates

1. Board of Pharmacy Financial Report – The Executive Secretary presented the report. Budget balance for FY16 is \$124,047 (primarily from excess salaries/wages due to position vacancies). Additional FY16 purchases: treadmill desk, inspector vehicle, office reconfiguration, TV Monitor for conference room, replacement computers, monitors, printers, tablets as needed. In FY17 the State will begin to transition to performance-based budgeting.
2. FY17 Contracts – Office of Personnel Services (HR) contract cost was reduced from \$6000/year to \$1500/year. Other contracts the Board maintains include: NABP, Office of Administrative Hearings, Appriss, CLEAR, NASCSA, OITS, Lyris, KsPRN, SMART/ASTRA, Attorney Services, Rent on office space, Jayhawk File Express, KBI, INK – Ks.gov, KTAG, MALTAGON, Sprint, KanFocus, and eCash Software Solutions.
3. Travel/Training: The Executive Secretary provided an update on staff training and travel for 2016.
4. Office Reconfiguration – The reconfiguration will provide increased efficiency and provide needed desk space.
5. Staffing – The Executive Secretary is currently interviewing to fill the open Pharmacy Compliance Inspector position for Western Kansas. Once filled, the

office will be back to full staff. During high volume renewal/application months, part-time staff will be added as needed.

6. eLicensing – This has been a big project and the entire staff has put a lot of time and energy into the successful conversion and use of the new system. Next launch will be online applications (not including fingerprinting and background checks). Lyris email listserv will allow faster communication with licensees and registrants. The compliance component is anticipated to launch in October.
7. Inspector Regions – The inspectors have been reassigned to updated regions.
Reports:
Jim Kinderknecht – Thanked the Board for the Meritorious Service Award. Mr. Kinderknecht reported on the NABP Conference in San Diego.
Melissa Martin – Thanked the Board for the Meritorious Service Award.
Carly Haynes – Thanked the Board for the Award and Recognition as Employee of the Quarter. Ms. Haynes reported on the tornado in Eureka and that the pharmacies were safe. The pharmacists, Isaac Boone and Dick Roberts, were appreciative of the Board of Pharmacy’s concern during what could have been a very trying time.
Reyne Kenton – Thanked the Board for the Meritorious Service Award and for the confidence they have shown in promoting her to Program Manager. Ms. Kenton said she was looking forward to the challenge and would be researching ways Kansas could enhance the program and make it more useful.
8. NPLEx Dashboard Report – June 2016
9. Omnicare of Wichita – Omnicell Update May 2016

Board Discussion

1. Regulation Review
 - NABP – EO – Resolution 111-7-15. The Board discussed with the KU representatives, Joe Heidrick and Barb Woods. They had no problem with the increase in hours to 1740 hours from 1500 hours since the students are currently achieving between 1800 to 1840 hours. They oppose the students having to track the hours by clocking in and out. The Board consensus is to change 1500 hours to 1740 hours with no other changes to the regulation. The Executive Secretary will draft the regulation for the Board to review in November and reach out to UMKC, as well.

Recess: Mr. Ullom declared a break at 11:21am to reconvene in 5 minutes.

Reconvene Mr. Ullom reconvened the meeting at 11:29am

2. Legislative Update and 2017 Session Planning
 - PMP Act Updates
 - Andrea Haddad provided a gap analysis on the following PMP topics:
 - Mandatory Registration and/or Access
 - Delegates
 - Notice Requirements - duty to report status change
 - Funding
 - Record Retention

- Advisory Committee Membership – number of members, mandatory members
- K-TRACS prescription reporting
- Enforcement
- Board Consensus
 - Seek buy-in from PMP Advisory Committee, all affected state agencies, and relevant associations
 - Funding – top priority; charge additional fee on top of renewal for licensees/registrants in Kansas with prescribing or dispensing authority; prefer to keep pharmacist fees stable and make Pharmacy funding adjustments; separate PMP fee fund
 - Mandatory registration for all prescribers and dispensers
 - Delegates – define and outline requirements, unlimited
 - Notice Requirements – all registered users should report a change in personal status or any delegate status to Board of Pharmacy within 30 days; work with other state agencies to verify quarterly
 - Record Retention – allow Board of Pharmacy to retain indefinitely; allow deidentified data to be retained as long as useful and secured
 - Advisory Committee Membership – max 19 members, add mandatory APRN (Board of Nursing nomination) and PA (nomination from appropriate organization)
 - Training/Certification – set up program where Board of Pharmacy will train and certify individuals to have access to K-TRACS to run reports for their respective state agency according to set criteria
 - Data Reporting – education, not legislation; best practice is point-of-sale
 - Enforcement – Executive Secretary will draft and present in November

Recess: Mr. Ullom recessed the meeting for lunch at noon to reconvene at 1pm.

Reconvene: Mr. Ullom reconvened the meeting at 1:06pm.

Legislative Update cont.

- Pharmacy Act Amendments: HB 2614 – did not pass.
 - Controlled Substance Act Amendments: Sen Sub for HB 2018 – effective May 26, 2016.
 - Special Session Controlled Substance Bill: SSB2 – U47700. The special session was too short to hear this bill. The Senate Judiciary Committee was surprised the Board did not have any other way to get drugs emergency scheduled. Board may pursue a bill to allow other mechanisms to get the drugs emergency scheduled in the 2017 legislation session.
3. Request to Add Naloxone as a Drug of Concern – Jonalan Smith provided a letter of request. Naloxone is not always dispensed to the user, but to the family

member, and is not always used when dispensed. Information is not captured from EMS or Emergency Departments so there is only a partial patient history. The Board consensus is to take no action at this time.

4. K.A.R. 68-1-1a. – The Executive Secretary recommended updating the regulation to reflect what is occurring and to apply to other registrations. The Board agreed to pursue regulatory updates.

Public Comment – No comments

Board Discussion cont.

5. PMP Advisory Committee Appointments
Roberta Mansfield – APRN
Michael McClintick – DO (Osteopathic Association)
A motion was made and seconded to appoint Dr. Mansfield and Dr. McClintick to the PMP Advisory Committee. (Garrelts/Schoech) Motion passed.
6. CDTM Committee Appointment Candidates
KPhA – Amanda Applegate, PharmD
KCHP – Crystal Burkhardt, PharmD
Board of Pharmacy non-voting Chair – Jim Garrelts, PharmD.
A motion was made and seconded to appoint Dr. Applegate and Dr. Garrelts to the CDTM committee. (Haneke/Pugh) Motion passed.
7. New Forms – The Executive Secretary requested the Board allow the office to return any old forms (along with payment) unprocessed starting August 1, 2016. The Board approved.
8. CLEAR Training for Board Members – The consensus was to pursue scheduling the training for late spring 2017 after new Board members are appointed.
9. CE Audit – Based on previous annual audits, the Executive Secretary recommended auditing anyone who did not complete the required hours in 2014 plus a 10% random sample of remaining pharmacist renewals for 2016. The Board agreed.

Board Member Reports

Jim Garrelts – thanked the office staff for assessing the problems with the new system and working on achieving the solutions necessary, looks forward to renewing next year.

Bob Haneke – commented he had originally had trouble renewing then was able to complete in a timely fashion.

Cheri Pugh – thanked the office for the dedicated work.

David Schoech – commented that opening the portal for renewals 60-days prior to deadline for technicians and all other renewal groups would be good for the office and the people/businesses trying to renew.

Chad Ullom – thanked the Executive Secretary and staff for doing a great job.

John Worden – appreciated the gap analysis provided for the PMP. He requested the same analysis be used to focus on other projects or subjects related to the pharmacy practice act.

Approvals

1. Minutes from April 20 & 21, 2016 Board Meeting – A motion was made and seconded to accept the minutes as presented. (Garrelts/Worden) Motion passed.

2. New Licensees and Registrants since April 11, 2016. A motion was made and seconded to accept the new licensees and registrants. (Worden/Schoech) Motion passed.
3. Stipulation and Consent Orders
 - Case 15-093A – Dillons Pharmacy #95. A motion was made and seconded to accept the Stipulation and Consent Order. (Haneke/Schoech) Motion passed.
4. Summary Orders
 - Case 15-080 Homeland Pharmacy
 - Case 16-024 Janell Jones
 - Case 16-030c Daina Smith
 - Case 16-031 Woods Pharmacy
 - Case 16-057 Danyel Vann
 - Case 16-062 Lisa Vernon
 - Case 16-064 Carrie Newell
 - Case 16-076 Steven Conwell
 - Case 16-077 Tneika Jones
 - Case 16-089 KMart #3358
 - Case 16-113 Ryan Jacobs

A motion was made and seconded to approve the Summary Orders as presented. (Schoech/Haneke) Motion passed.

Executive Session – A motion was made and seconded to enter into executive session for 15 minutes to discuss matters pertaining to security measures in order to protect public safety and to reconvene the meeting at 2:10pm, and to include the Executive Secretary and Mr. Forbes. (Worden/Schoech) Motion passed.
Mr. Ullom reconvened the meeting at 2:10pm

Executive Session – A motion was made and seconded to enter into executive session for 20 minutes with the Board’s attorney to discuss privileged information deemed to be in the attorney-client relationship and to reconvene the meeting at 2:30pm, and to include the Executive Secretary and Mr. Forbes. (Schoech/Haneke) Motion passed.
Mr. Ullom reconvened the meeting at 2:21pm

Executive Session – A motion was made and seconded to enter into executive session for 25 minutes to discuss matters pertaining to personnel in order to protect the privacy of non-elected personnel and to reconvene the meeting at 2:45pm, and to include the Executive Secretary and Mr. Forbes. (Haneke/Schoech) Motion passed.
Mr. Ullom reconvened the meeting at 2:35pm

Adjourn: Mr. Ullom adjourned the meeting at 2:35pm.

Friday, July 15, 2016

Meeting Called to Order: President Chad Ullom called the meeting to order at 8:43am.

Members Present: Chad Ullom, R.Ph., President; John Worden, Pharm. D. Vice President ; Jim Garrelts, Pharm. D.; Robert Haneke, Pharm D.; Cheri Pugh, Public Member; and David Schoech, R.Ph., Alternate Investigative Member.

Members Absent: Michael Lonergan, R.Ph., Investigative Member

Staff Present: Alexandra Blasi, JD, Executive Secretary; Jim Kinderknecht, R.Ph., Licensed Pharmacy Inspector; Carly Haynes, R.Ph., Licensed Pharmacy Inspector; Shelley Rosebrook, R.Ph., Licensed Pharmacy Inspector; Melissa Martin, Compliance Inspector; KariAnn Wootan, Administrative Specialist; Andrea Haddad, Law Clerk; Randall Forbes, General Counsel; and Michelle Tunnell, JD, General Counsel

Others Present: See attached listing.

Administrative Hearing

Case 16-054. Alicia Walker (applicant) – Hearing

- The Board was represented by Mr. Forbes. Ms. Walker was pro se.
- Chad Ullom recused himself as he works for Walgreens
- Ms. Tunnell swore in Ms. Walker.
- The complete packet provided to the Board was entered into evidence.
- The Board heard statements from Mr. Forbes and Ms. Walker. The Board asked Ms. Walker several questions.
- The session was closed for quasi-judicial deliberations.
- Mr. Ullom reconvened the meeting at 8:56am.
- A motion was made and seconded to grant Ms. Walker a technician registration provided she notify the Board office within 10 days if she left Walgreens employment AND to continue treatment for opioid addiction and direct her treatment physician to provide a letter of continued treatment every 6 months for 2 years. (Garrelts/Haneke) Motion passed.

Other Board Discussion and Announcements

Controlled Substance Webinar on August 25, 2016: The project includes representation from KDHE, K-State and the Board of Pharmacy. Flyers will be sent out with information on how to register for the webinar. The subject is controlled substances and the DEA, and is funded by a grant obtained by K-STATE.

PMP Travel. Dr. Twillman, Chair of the PMP Advisory Committee, has been attending many of the conferences and meetings regarding K-TRACS. Routinely the Board has paid, however, Dr. Twillman is not an employee of the State or the Board. The Board consensus was to not continue paying for the travel of PMP advisory committee members.

College Pharmacy, Colorado. College Pharmacy has requested to be released from a probation order issued by the Kansas Board of Pharmacy. The Colorado Board of

Pharmacy has released College Pharmacy from probation in Colorado. The Board agreed.

Administrative Hearing

Case 15-097. Cory Behnke (3-13336) – Hearing, began at 9:10am.

- The Board was represented by Mr. Forbes. Mr. Behnke was pro se.
- Ms. Tunnell swore in Mr. Behnke.
- Mr. Forbes stated that all the evidence was presented at the prior hearing and he had nothing further to add.
- The Board posed several questions to Mr. Behnke.
- The session was closed for quasi-judicial deliberations.
- Mr. Ullom reconvened the meeting at 9:25am.
- A motion was made and seconded to revoke the Intern registration of Mr. Cory Behnke. (Worden/Schoech) Motion passed.

Sedan Pilot Project Application

Doug Baggett, owner of Sedan Pharmacy and Adam Chesler, Telepharm, were present to answer any questions about the proposed pilot project.

The Board consensus was to send the pilot project proposal to the Pilot Project Committee (Carly Haynes and Robert Haneke) for review. The Board recommended providing Mr. Baggett and Mr. Chesler with copies of previous telepharmacy regulations, which were proposed and not enacted by the Board in 2010.

The committee will review the proposed pilot project and send areas of concern and questions to Mr. Baggett and Mr. Chesler for response. The committee will report back to the Board.

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

Reconvene Mr. Ullom reconvened the meeting at 10:10am

Administrative Proceeding

Case 14-100. Steven Stoecker (1-14152) – Stipulation and Consent Agreement

- The Board was represented by Mr. Forbes. Mr. Stoecker was present with counsel, Jim Biggs.
- Mr. Forbes requested the session be closed to receive confidential information
- A motion was made and seconded to close the hearing to receive and discuss records regarding to peer review pursuant to K.S.A. 65-4915 to include Respondent and counsel, Mr. Forbes, Judge Tunnel, the Executive Secretary, and the KsPRN representatives – Kelly Rockers and Ralph Holbrook. (Haneke/Garrelts) Motion passed.
- Quasi-judicial deliberations began at 10:28am
- Hearing reconvened at 10:35am.
- A motion was made and seconded to continue with no modifications the existing order. Mr. Stoecker may request to return to the Board at the second quarterly meeting in 2017, and should give sufficient notice to obtain records and reports from KsPRN. (Haneke/Worden) Motion passed.

Recess: Mr. Ullom declared a break at 10:37am to reconvene at 11:00am.

Reconvene Mr. Ullom reconvened the meeting at 11:13am

Administrative Proceeding

Case 15-247. Jamie Martin (14-17860) – Request for Reconsideration

- The Board was represented by Mr. Forbes. Ms. Walker did not appear.
- Ms. Martin appeared at 11:30am, citing a traffic/travel delay. The Board agreed to continue the hearing to November 3, 2016.

Board Discussion

Pharmacist Case Review – A pharmacist provided information on his/her renewal of enrollment in KsPRN. The Executive Secretary indicated that several Board members had conflicts of interest and she requested the Board allow her to review the case to preserve the remaining Board in case of any requests for hearing/appeal. The Board agreed to allow the Executive Secretary to review the case and take action, as needed.

Board Meetings – The Executive Secretary recommended consolidating quarterly Board meetings to one day and extending to the second day only when necessary. The first day may be a little longer, however the past several meetings have ended early. The preference would be to meet on Thursdays and reserve Friday if the agenda warranted more time. The Board agreed to try a one day schedule.

Recess: Mr. Ullom declared a break at 11:24am.

Reconvene Mr. Worden reconvened the meeting for the strategic planning session at 11:30am.

Strategic Planning

Adjourn: Mr. Worden adjourned the meeting at 1:40pm.