

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

June 6 & 7, 2006  
Pozez Education Building  
1505 SW 8th  
Topeka, KS

**Tuesday, June 6, 2006**

**MEMBERS PRESENT:** Merlin McFarland, RPh., President; JoAnne Gilstrap, RPh., Vice President; Dr. Shirley Arck, RPh.; and Michael Coast, R.Ph.

**STAFF PRESENT:** Debra Billingsley, Executive Secretary; Jim Kinderknecht, RPh., Pharmacy Inspector; Reyne Kenton, Compliance Officer; Randall Forbes, General Counsel and Karen Hollon, Administrative Officer.

**OTHERS PRESENT:** See attached listing.

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

**APPROVAL OF AGENDA.** A motion was made and seconded to approve an amended agenda by moving the election of officers to Wednesday, June 7, 2006. (Coast/Gilstrap) Motion carried 3-0.

**APPROVAL OF MARCH MINUTES** A motion was made and seconded to approve the March 2006 minutes. (Arck/Coast). Motion carried 3-0.

**CIPP SUMMARY REPORT AND BUDGET REVIEW:**

The Board was introduced to Mike Larkin, the Interim Executive Director of the Kansas Pharmacists Association (KPhA). Jenith Hoover, Associate Executive Director of KPhA provided the annual summary report for FY 2006 for KPhA's Committee on Impaired Pharmacy Practice. The Committee contracts with Heart of America Professional Network (HAPN), a consortium of referral and recovery programs for healthcare professionals. This is the 18<sup>th</sup> year that the CIPP program has been in place. The Board reviewed the 2006 budget and referral statistics as well as the proposed budget for 2007. The Board recommended that the Executive Secretary of the Board and KPhA provide information to the legislature this summer about the CIPP program regarding its benefits to the profession of pharmacy and its public safety aspects.

**DISCUSSION REGARDING PRESCRIPTION REFILLS KAR 68-7-19**

The Board reviewed proposed regulatory language in order to amend KAR 68-7-19. The proposed amendment clarifies that interns can transfer noncontrolled substances. The

transferring pharmacy shall record on the face of the prescription the full name of the supervising pharmacist and intern to which the prescription is transferred and the full name of the supervising pharmacist and intern transferring the prescription.

The Board also clarified that K.S.A. 65-1656 (a)(5) requires transfers of controlled substances in schedules III, IV, and V to be in compliance with 21 CFR 1306.25. Transfers of original prescriptions for a controlled substance in Schedules III, IV, or V for the purpose of refill dispensing is permissible between pharmacies on a one-time basis only. However, pharmacies electronically sharing a real-time, on-line database may transfer up to the maximum refills permitted by law and the prescriber's authorization.

### **DISCUSSION REGARDING CONTROLLED SUBSTANCE INVENTORY REQUIREMENTS**

The Board determined that the Kansas Pharmacy Practice Act Regulations should be amended adding language that states that upon the change of a pharmacist in charge (or physician if an institutional drug room) in a retail pharmacy, hospital pharmacy or institutional drug room that an inventory of all controlled substances be taken within seventy-two hours. A second inventory should be conducted when the new pharmacist in charge begins working. A transfer of ownership of the pharmacy shall also trigger an inventory of all controlled substances. The Board directed the General Counsel to draft regulatory language implementing these inventory requirements.

### **DISCUSSION REGARDING LIMITATIONS ON CII QUANTITIES**

There was discussion by the Board to limit the quantity of Schedule II through V controlled substances that can be dispensed at any one time. It was determined that the limitation should be a ninety-day supply at any one time. The Board's Counsel will determine whether this action can be taken by changing the Pharmacy Act regulations or whether the issue will need to be addressed by the legislature.

### **ADJOURNMENT:**

The board adjourned for ten minutes.

### **RECONVENE**

The Board reconvened at 10:40 a.m.

### **DISCUSSION REGARDING PEDIGREE STUDY**

The Board reviewed the legislature's mandate that the Board of Pharmacy conduct a study on the issue of licensing wholesale drug distributors and the use of pedigree for prescription drugs and the penalty aspects for violation of any pedigree requirements. The results of the study shall be completed and presented along with a licensing and pedigree plan and recommendations for licensing and pedigree legislation no later than January 15, 2007. A motion was made and seconded that Max Heidrick chair a licensing and pedigree committee. Further, the Board will work with NABP so that they can assist the Board in drafting statutory language requiring the licensing of wholesale drug distributors.

## **DISCUSSION REGARDING PHARMACY CLASSIFICATIONS**

Merlin McFarland and Frank Whitchurch will work toward drafting statutory and regulatory language, which will classify the different pharmacy practice areas. The Executive Secretary will collect and provide information as it relates to classifications used by other states. Merlin and Frank will meet June 21 in Emporia at 9:00.

## **DISCUSSION REGARDING AGENCY SOFTWARE**

The Executive Secretary reported to the Board that the software vendor that the Board signed a contract with had withdrawn. The vendor indicated that their bid was based on time and management and the package would only meet 30-40 percent of the function needs of the agency. The Board, along with the Nursing Board and the Board of Cosmetology will put out a new request for bids and try to do an expedited review. The money that has been encumbered by the Agency will be carried over to the 2007 budget.

**RECESS:** The Board recessed for lunch until 1:00 p.m.

**RECONVENE:** The Board reconvened at 1:00 p.m.

## **ADMINISTRATIVE PROCEEDINGS:**

### **LORIE DILLEHAY CASE NO. 05-39**

The Respondent appeared in person and with counsel, Jessica Travis, Attorney at Law. The Board appeared through its attorney, Randall Forbes. A proposed stipulation was discussed with the Respondent. The Board recessed this case so that the Respondent could speak with her attorney.

### **CVS PHARMACY CASE NO. 05-48**

Kelly Davis, R.Ph., District Manager and Oren Peacock, R.Ph., Governmental Relations appeared on behalf of CVS Pharmacy. The Board appeared through its counsel Randall Forbes. The proposed discipline was a Stipulation, which provided a fine in the amount of \$500 for failure to complete an incident report.

### **CVS PHARMACY CASE NO. 06-03**

Kelly Davis, R.Ph., District Manager and Oren Peacock, R.Ph., Governmental Relations appeared on behalf of CVS Pharmacy. The Board appeared through its counsel Randall Forbes. The proposed discipline was a Stipulation, which provided for a fine in the amount of \$2,380 for operating a pharmacy for a period in excess of 30 days without a pharmacist in charge.

### **CVS PHARMACY CASE NO. 06-42**

Kelly Davis, R.Ph., District Manager and Oren Peacock, R.Ph., Governmental Relations appeared on behalf of CVS Pharmacy. The Board reviewed a Summary Order that was issued to the Respondent, which provided a fine in the amount of \$500 for permitting a pharmacy technician to function in the prescription area without being registered. A motion was made and seconded to accept the Stipulations in Case No. 05-48 and Case

No. 06-03 and to approve the Agency Order in Case No. 06-42. (Arck/Coast) Motion carried 2-0.

**LORIE DILLEHAY CASE NO. 05-39**

The Board reconvened Case No. 05-39 and a motion was made and seconded to table the case until the September Board meeting. (Coast/Gilstrap). Motion carried 3-0.

**BRISCOE DRUG CASE NO. 05-65**

The Respondent did not appear. The Board was represented by its attorney, Randall Forbes. The proposed discipline was a Stipulation which provided a fine of \$1000 for having an unaccounted inventory shortage of Hydrocodone/Guaifenesin 5/100mg syrup and 193 tablets of Hydrocodone/Apap. The Respondent was also ordered to install and maintain an operating alarm system and to adopt and enforce a procedure that requires each person receiving any narcotics being delivered to sign his or her name on the incoming invoice receipt. A motion was made and seconded to accept the Stipulation. (Coast/Arck). Motion carried 2-0.

**ALLEGRE DRUG CASE NO. 05-65A**

The Respondent did not appear. The Board was represented by its attorney, Randall Forbes. The proposed discipline was a Stipulation which provided a fine of \$1000 for having an unaccounted inventory shortage of Hydrocodone/Guaifenesin 5/100mg syrup and 3007 tablets of Hydrocodone/Apap. The Respondent was also ordered to install and maintain and operating alarm system and to adopt and enforce a procedure that requires each person receiving any narcotics being delivered to sign his or her name on the incoming invoice receipt. A motion was made and seconded to accept the Stipulation. (Coast/Arck). Motion carried 2-0.

**KYLE ALBRIGHT CASE NO. 05-60**

The Respondent did not appear. The Board was represented by its attorney, Randall Forbes. The proposed discipline was a Stipulation which provided a fine of \$5000 for filling prescriptions for himself and his wife that had not been authorized by a practitioner or a mid-level practitioner. A motion was made and seconded to accept the Stipulation (Arck/Coast). Motion carried 2-0.

**ASHER PHARMACY CASE NO. 06-33**

The Board reviewed a Summary Order that was issued to the Respondent which provided a fine in the amount of \$500 for permitting a pharmacy technician to function in the prescription area without being registered. A motion was made and seconded to accept the Agency Order. (Arck/Coast) Motion carried 2-0.

**HYYEE PHARMACY CASE NO. 06-25**

The Board reviewed a Summary Order that was issued to the Respondent which provided a fine in the amount of \$500 for permitting a pharmacy technician to function in the prescription area without being registered. A motion was made and seconded to accept the Agency Order. (Coast/Arck) Motion carried 2-0.

## **INVESTIGATIVE REPORT**

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

The Board reviewed closed cases.

## **BUDGET**

The Board discussed their 2007 budget. The Board requested that a supplemental amount of money be requested to fund CIPP with an additional \$5000 grant.

## **LEGISLATIVE UPDATE**

The Board reviewed a legislative update of the 2006 legislative session.

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

A motion was made and seconded to approve the new pharmacists licenses and pharmacy registrations. (Coast/Arck) Motion carried 3-0.

## **STAFF REPORTS**

**Debra Billingsley** reported that the Tripartite met on May 31, 2006. KU is going through ACPE accreditation and will be doing a yearlong self-study. ACPE has set new standards, which include 300 additional experiential hours for students during the first three years of pharmacy school. Preceptors will also be credentialed by 2007 and will have to complete a set amount of continuing education hours relating to preceptors. These changes may require regulatory amendments to the Pharmacy Act and Regulations.

The Executive Director attended the KPhA Board of Directors Meeting on the morning of June 4, 2006. KPhA and KPSC are having their annual meeting on September 30 and October 1, 2006 in Topeka. They would like the Board to do a panel on Sunday. They have also requested that the Board provide a pharmacy technician discussion on Saturday.

The Midwest Pharmacy Conference will be July 26-28, 2006 in Kansas City, Missouri. They plan to have a presentation and tour of ScriptPro and hold a discussion on telepharmacy.

**Jim Kinderknecht** provided the Board with a request for guidance regarding specialty pharmacies shipping directly to the patient. The patient then takes the medication to the hospital, clinic or a home infusion company so that the medication can be prepared and administered. There was concern about administering this medication when there is no indication that the medication was stored properly or obtained from a reliable wholesaler. The Board discussed this issue at length. Jim Kinderknecht will see if he can get further information regarding the exact problem and its magnitude.

## **ADJOURNMENT:**

A motion was made and seconded to adjourn the meeting until 9:00 a.m. Wednesday, June 7, 2006. (Arck/Coast). Motion carried 3-0.

**Wednesday, June 7, 2006**

**MEMBERS PRESENT:** Merlin McFarland, R.Ph., President; JoAnne Gilstrap, R.Ph., Vice-President; Dr. Shirley Arck, R.Ph., and Michael Coast, R.Ph.

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

**OTHERS PRESENT:** See Attached listing

**MEETING CALLED TO ORDER:**

Merlin McFarland called the meeting to order at 9:00 a.m.

**ELECTION OF OFFICERS**

A Motion was made and seconded to elect JoAnne Gilstrap, R.Ph. as Vice-President of the Board of Pharmacy for 2007/2008. (Coast/Arck) Motion carried 3-0. A motion was made to elect Max Heidrick, R.Ph. as President of the Board of Pharmacy for 2007/2008. (Coast/McFarland) Motion carried 3-0.

**INSTITUTUTE FOR THE CERTIFICATION OF PHARMACY TECHNICIANS**

**Kenneth W. Schafermeyer, R.Ph., Ph.D.**

Dr. Schafermeyer provided the Board with information regarding the Exam for the Certification of Pharmacy Technicians. He requested that ExCPT be approved by the Kansas Board as an alternative to the PTCB. Dr. Schafermeyer gave the history of ExCPT, the advantages to having a choice of tests, he addressed security issues, and provided information regarding the exam content.

Craig Campbell, representing the Kansas Society of Health System Pharmacists (KSHP), requested that before the Board approve ExCPT that they obtain materials that were provided to the State of Connecticut by ICPT. He also asked that an independent person review the test for psychometric soundness.

During the discussion the Board determined that the proposed regulation KAR 68-5-16 required approval of training and not certification training. The Board requested that their legal counsel make appropriate changes and clarify that it is “certification” training that is being reviewed by the board.

The Board tabled this matter and determined that they would seek additional information from PTCB and from ICPT regarding each examination.

**SURESCRIPTS PRESENTATION**

**Ken Whittemore, Jr., R.Ph., MBA**

The Board was given a PowerPoint presentation on electronic prescribing by Ken Whittemore, Jr., Vice President of Professional and Regulatory Affairs of SureScripts.

## **BOARD REPORTS**

**Shirley Arck, Pharm.D.** thanked the inspectors for all of the hard work they provided the Board.

**JoAnne Gilstrap, R.Ph.** thanked Merlin McFarland, R.Ph. for serving as President this past year. She commended him for his service to the Board of Pharmacy.

Ms. Gilstrap discussed the issue of Continuing Education approval and whether the Board should review the 120-day requirement in the regulation, which states that all requests, must be submitted at least 4 months in advance. The Board discussed this issue and asked that it be set on the September Board agenda.

Ms. Gilstrap stated that she felt that something should be put in the newsletter reminding pharmacies that technicians will need to be registered by October 31.

**Mike Coast, R.Ph.** reported that he would be working on the telepharmacy issue. He attended the educational seminar at the NABP fall meeting and will be incorporating that information into some regulatory type language for Kansas.

**Merlin McFarland, R.Ph.** Merlin reported that he had attended a legislative trip to Washington D.C. with other Kansas pharmacists to discuss the Medicare prescription drug program.

Mr. McFarland advised that he would like to propose some legislative changes for the future. One would be to increase the subsistence of all board members in the state. Statutorily board members can receive \$35 a day per diem. Mr. McFarland also thought it would be good to increase the number of board members and to extend the term limits so that the Kansas Board has an opportunity to participate in national board issues.

There was also discussion that the immunization law should be changed or expanded to include persons under the age of 18.

Lastly, Mr. McFarland thought that with the increase in Board duties with pedigree issues that they might need to explore whether to expand board staff. We might also need someone with criminal experience as an investigator if we are to conduct background checks.

## **EXECUTIVE SESSION**

A motion was made and seconded to go into Executive Session to discuss personnel issues for ten minutes until 2 minutes after 12:00. (Arck/Coast) Motion carried 3-0.

## **RECONVENE**

The Board reconvened at 2 minutes after 12:00.

**PHARMACY CALENDAR/MEETING INFORMATION**

The Board reviewed the calendar of events for the rest of the year.

**ADJOURNMENT:** The Board adjourned at 12:05 p.m.