

Kansas State Board of Pharmacy
Minutes of the April 20 & 21 2016
Board Meeting

University of Kansas School of Pharmacy
2010 Becker Drive, Room 2040
Lawrence, KS 66047

Wednesday, April 20, 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.; and David Schoech, R.Ph., Alternate Investigative Member.

Members Absent: Michael Lonergan, R.Ph., Investigative Member; Cheri Pugh, Public 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; Reyne Kenton, Compliance Inspector; Melissa Martin, Compliance Inspector; Jackie Yingling, KTRACS and assistant director; and Randall Forbes, General Counsel.

Pharmacy Interns or Students on rotation: Rachel Sipe, pharmacy student on rotation at KPhA.

Others Present: See attached listing.

Welcome: The Executive Secretary welcomed all the visitors to the Board Meeting. Shelley Rosebrook was introduced to the Board. Ms. Rosebrook, a pharmacist, is the new Licensed Pharmacy Inspector. New territories will be assigned at a later date.

Reports and Updates

1. Budget - Jackie Yingling presented the Cash Balance Report, Revenue, and Expenditures. The Board was presented with the renewal information for the Board Attorney, Randy Forbes. A motion was made and seconded to approve the Attorney Services Contract with Randy Forbes. (Worden/Garrelts). Motion passed. Mr. Forbes thanked the Board for their confidence in his service. The Executive Secretary told the Board the KTRACS enhancement has been approved and is in the appropriations bill in the Legislature.
2. eLicensing – is on track to launch the renewal portion of the program. The basics of the program will begin in mid-May.
3. TALKOM – Ms. Haynes and Ms. Kenton presented the Board the highpoints of the meeting. Topics included: Self-Inspection, Inspection Reports, PMP funding,

PTCB, Diversion, USP <800>, Continuing Education, and other in common topics.

4. KTRACS and PMP Advisory Committee - The Executive Secretary gave the background on the membership of the Advisory Committee. Van Coble and Max Heidrick were re-nominated by KPhA. Jeff Thompson was re-nominated by KCHP, Kansas Council of Health-System Pharmacists, to the Advisory committee. A motion was made and seconded to accept the nominations to appoint Van Coble, Max Heidrick, and Jeff Thompson to the PMP Advisory Committee. (Haneke/Schoech) Motion passed.
5. NPLEx – The Executive Secretary provided the information – there were no questions.

Presentation- Appriss. Mr. Carl Flansbaum made the presentation to the Board. He demonstrated the patient alert enhancement that the Board is funding with grant dollars. This enhancement would notify the prescriber immediately of his/her patient exceeding the set thresholds upon querying a patient. Ms. Yingling worked with Appriss to make sure the pop-up would not be blocked and the prescriber would receive this timely information. This alert is set to roll out in July 2016. Appriss is trying to gather information needed by the states and making the program a better informative tool. Another enhancement would provide for prescriber scorecards that would compare their prescription writing pattern with others in their field. The enhancements are decided by the state in a turn off/on function.

The Executive Secretary said the most important part of the continued development of the program is the integration with the EHR systems (Electronic Health Record). Currently the Board office is applying for a grant to fund part of this enhancement. Laura McCrary is present representing KHIN. Gateway by Appriss allows other users in the state to access information from KTRACS. This is no cost to the state but is funded by the authorized users of the information. Overall the program helps the prescribers access the information more efficiently.

The contract with Appriss is set to expire and the Board will need to renew the contract or seek another vendor that could provide the same information, functionality and access.

Options: The Executive Secretary gave options to the Board. Seek sole source approval or issue an RFP for proposals. If an RFP is issued then a contract extension would need to be obtained. The Executive Secretary's recommendation is to seek sole source approval on the proposed 5-year contract. Enhancements are tied to additional costs but additional grant funds would be used, and Kansas would continue to benefit from other states' enhancements. Mr. Flansbaum indicated that several large states were joining NABP/Appriss with some very nice enhancements that would become available in the near future.

A motion was made and seconded to seek sole source approval and execute the proposed 5-year contract (Haneke/Schoech). Motion passed.

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

Reconvene Mr. Ullom reconvened the meeting at 10:45am

Legislative Update – The Executive Secretary said none of the pharmacy bills made it above the line. This was true for any agency with Chapter 65 changes. There was no

opposition to the bill. Mr. Forbes said there is federal preemption and therefore federal trumps state. However, the Board will need to find a way to register the 3PLs and other entities in the bill. The Executive Secretary presented updates on the following bills:

1. HB 2614 – Pharmacy Act Amendments
2. HB 2540 / SB 483 – Controlled Substance Act Amendments
3. HB 2677 – Criminal History Inquiries – was not ours and would have limited our ability to check criminal history of any applicant
4. HB 2509 – Board IT Security Budget – will take our IT funds and see how to use it better
5. HB2660 – Fee Fund Transfers – would require notification to all entities that provided money to the fee fund
6. HB 2646 – Vaccinations – would have allowed any vaccination to people over 6 years old.

Pharmacy Law Class Presentation

The Kansas Board of Pharmacy attended the law class session with Barb Woods. The presentation began at 11a.m. in Ms. Woods' classroom. The public attendees were invited to attend if they desired.

Recess: Mr. Ullom recessed the meeting for lunch at 11:55.

Reconvene: Mr. Ullom reconvened the meeting at 12:46pm.

Inspector Reports

Reyne Kenton – Ms. Kenton discussed the signature pad as a format to offer to counsel. Several stores now have the customer use the point of sale signature box to ask if the patient was counseled. The Board consensus was this was not an appropriate way to offer to counsel. The discussion led to who could offer and the Board reconfirmed that only a pharmacist could offer to counsel.

Melissa Martin – Ms. Martin informed the Board new questions had been completed and submitted to NABP for the MPJE. Since not many regulations had changed in the last year there were minimal changes needed in the test questions.

Welcome from KU – Gene Hotchkiss welcomed the Board to KU School of Pharmacy.

Board Discussion

1. KPhA Annual meeting - Request for a Board Member – Bob Haneke and David Schoech have volunteered to represent the Board.
2. Office Hours: Early hours are very quiet. Later hours have more calls. The office would like to shift hours to 8:30am - 5:00pm. Board consensus was to change the hours to meet the needs of the public.
3. NABP – Proposed changes in constitution. The Board gave the Executive Secretary input on the proposed changes so she may represent the Board during the voting session of the NABP meeting in May.

Public Comment – Matt Morrison – Gibson Pharmacy, Dodge City.

Regarding: Long term care orders and prescriber signatures

Many times the order comes from the home with only the nurses' signature.

1. Needed to find out if the prescriber must sign or if agent can sign
 2. Can prescriber make a long term care nurse an agent
- Nurses have been taking verbal/phone orders. The nurse then transcribes the order to the MAR. The MAR is sent to the pharmacy for the pharmacy to fill the prescriptions and return to the LTCF
- The Board consensus is to have the prescriber designate agents at the facility or the prescriber can call the pharmacy directly.

Presentation – TelePharm

Adam Chesler made the presentation on behalf of TelePharm. TelePharm has the potential to place access to medications closer to the patients in rural areas. They increase internet access in smaller communities; pharmacists are not needed to staff pharmacies or clinics. Technicians staff the facility with a pharmacist available over the internet. Access to a pharmacy increases patients' compliance. Potential for diversion is limited by perpetual inventories. Pharmacists are clinical and provide services remotely to the pharmacies staffed by only technicians. The pharmacists can be located anywhere. They say Kansas has 60 pharmacy deserts as defined by patients more than 10 miles in any direction from a pharmacy. This group only sets up the connectivity, not the personnel. They do not fill compounded prescriptions at this time. Rules from other states would be similar to North Dakota where a pharmacist cannot remotely verify more than 350 prescriptions per day.

Board Discussion

1. Rural Health Systems Dispensing - Sabetha
Dr. James Longabaugh spoke on behalf of Sabetha. Jerry Slaughter spoke to the issue of hospitals dispensing prescriptions to patients who did not have a connection to the hospital. The local prescriber wanted to be able to call in a prescription for a limited amount of drug for the prescriber's patient when the local pharmacy was closed. The patient would be able to pick up the prescription from the hospital. The Board discussed the issue.
The Executive Secretary, Dr. Garrelts, and Dr. Worden will work on the guidance document for the Board to consider.

Regulation Review

1. Automation – The Board reviewed the proposed regulations. Board consensus was to proceed to publish for public hearing for the July 2016 meeting.
2. Pharmacist Continuing Education –The Executive Secretary gave the statistics on what other states require. The Board reviewed the proposed regulations. The consensus was to change the time requirement to submit state approved CE to the office to 60 days. The consensus was to proceed to publish for a public hearing in July 2016.
3. Exam Scores – Publish for public hearing in July 2016
4. Fees – Publish for public hearing in July 2016
5. Pharmacy Technician – The Executive Secretary explained that the continuing education requirement would not be implemented until the October 2017 renewals. Board consensus was to proceed to publish the continuing education regulation for public hearing for the July 2016 meeting. Regarding certification, the Attorney General wants the specific tests identified in the regulation. The

Board discussed how to address the issue of a technician unable to pass the certification test.

6. Compounding – Dr. Worden provided the Board with the information on the redraft of the regulations. The Board will try to proceed with approval even knowing we will need to start again with the coming federal changes.

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

Reconvene Mr. Ullom reconvened the meeting at 3:50pm

Board Discussion (continued)

2. DEA Exemption List – A motion was made and seconded to accept the DEA Exemption List. (Schoech/Garrelts) Motion passed.
3. Point of Care Testing – Providing a point of care testing would require a CLIA waiver.
4. Pharmacies Reporting Discipline in Other States – States are disciplining from other states for not reporting other discipline. The office will concentrate on the big issues and the impact on Kansans when notified or when discovered.
5. K.A.R. 68-7-20 – Shared Services. The proposed scenario is a pharmacy in name only with all the work being performed by an off-site and typically out of state pharmacy. The Board consensus was the scenario was not the intent of the law. The Board requested the office work on a proposal to clarify the intent of the regulation.

Board Member Reports

Jim Garrelts – gave the Board statistics on inspection requirements. Dr. Garrelts asked a question about how preceptors are designated. Preceptors must have 2 years of pharmacy practice and can request their license be changed to reflect the preceptor status.

David Schoech – asked if the Board office tracks if a pharmacist is certified to administer immunizations. The Executive Secretary stated the new e-licensing software would have the capability to track.

John Worden – informed the Board that USP <800> would take effect in June 2018. He asked if the new licensing software will be able to track which pharmacies perform sterile and / or nonsterile compounding. The new software will be able to track the compounders and whether it is sterile or nonsterile.

Executive Session – Personnel Matters

A motion was made and seconded to enter into executive session for 10 minutes to discuss personnel matter pursuant to K.S.A. 75-4319 in order to protect the identity of nonelected personnel and to reconvene the meeting in the Board room at 4:35pm to include the Executive Secretary and Mr. Forbes. (Haneke/Garrelts) Motion passed.

Mr. Ullom reconvened the meeting at 4:42pm

Executive Session – Security Matters

A motion was made and seconded to enter into executive session for 18 minutes to discuss matters pertaining to security measures pursuant to K.S.A. 75-4319(2)(13) in order to protect public safety and to reconvene the meeting in the Board room at 5:00pm to include the Executive Secretary and Mr. Forbes. (Garrelts/Schoech) Motion passed.

Mr. Ullom reconvened the meeting at 4:47pm

Adjourn: A motion was made and seconded to adjourn the meeting. (Schoech/Haneke) Motion passed. Mr. Ullom adjourned the meeting at 4:48pm.

Thursday, April 21, 2016

Meeting Called to Order: President Chad Ullom called the meeting to order at 8:30am.

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

Members Absent: Cheri Pugh, Public 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; Reyne Kenton, Compliance Inspector; Melissa Martin, Compliance Inspector; Randall Forbes, JD, General Counsel; and Michele Tunnell, JD, General Counsel.

Others Present: See attached listing.

Public Hearings on Administrative Rules and Regulations K.A.R. 68-7-22. Collaborative practice

Mr. Ullom adjourned the regular meeting and opened the public hearing at 8:32am

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.

Mr. Ullom asked for public comment.

The Executive Secretary provided letters from ---

- The Joint Committee on Administrative Rules and Regulations (via Kansas Legislative Research Department) from their meeting on March 22, 2016, which included no comments or questions on the proposed regulation.
- KPhA on behalf of their membership.
- Lis Houchen on behalf of NACDS, National Association of Chain Drug Stores.
- Balls Foods.

The following people spoke on the regulation change:

- Lis Houchen, representing NACDS
- Chanda Small, R.Ph. – she requested the Board allow the collaborative practice protocol be for any patient whether or not the patient was currently the protocol physician's patient. She gave statistics to support as many consumers have no primary care physician.
- Tomson George, pharmacist from Illinois and representing Walgreens requested the collaborative practice be used to allow pharmacists to dispense naloxone to any patient similar to the vaccination protocol.
- Lindsey Hogg – spoke in favor of accepting the current proposed regulation and evaluating changes after placed into practice. She is a member of the Collaborative Practice Committee and uses CPAs in practice.

The Board made additional comments:

Dr. Garrelts – reminded the Board the committee had talked to numerous pharmacists and physicians in drafting the proposed regulations and suggested the Board proceed in their adoption.

Dr. Haneke has been involved with collaborative practice since 1990 and stated the regulations were not designed to inhibit current practice. The proposed regulations are designed to be for a pharmacist to work with a specific physician and his/her patients. He suggested the Board proceed in accepting the proposed regulations. Dr. Garrelts reminded the Board and public that a pharmacist cannot independently prescribe.

Dr. Worden said this is a start and the profession needs to work on the Federal and State level in pursuing provider status.

Mr. Ullom closed the public hearing and reconvened the regular meeting at 8:46am.

A motion was made and seconded to adopt the proposed regulation. (Haneke/Schoech)

Roll call: Dr. Garrelts – Yes, Dr. Haneke – Yes, Mr. Lonergan – 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.

President Ullom thanked Dr. Garrelts for chairing the committee and bringing the involved stakeholders into agreement and the successful passage of the collaborative practice regulations.

Approvals

1. Minutes from February 4-5, 2016 – A motion was made and seconded to approve the minutes as printed. (Haneke/Garrelts) Motion passed.
2. New Licensees and Registrants – A motion was made and seconded to approve the new licenses and registrations. (Haneke/Lonergan) Motion passed.
3. Continuing Education – The Board discussed the programs.

Where there is dispute with hours of credit accept the consensus of the reviewers. A motion was made and seconded to approve the continuing education as presented minus the last item, the lecture series. (Schoech/Haneke) Motion passed. The Board declines to approve the lecture series.

Dr. Haneke proposes doing away with Board approved and return to accepting ACPE approved only. Barb Woods agreed with Dr. Haneke that ACPE is the standard even though KU has given up their ability to approve ACPE credits. Mr. Forbes spoke to the legal issue as to what the statutes allow. The Executive Secretary reminded the Board that seeking ACPE approval is very expensive and will limit what the Board could pursue. Mr. Larkin said keeping state approved is a benefit to the licensees. Ms. Woods said there are essentially no standards for submission of continuing education for state approval. The Board will look into setting standards to help applicants determine the minimum standards. The Board consensus was to revert to the CE Committee reviewing and approving/denying continuing education courses in an open meeting setting. Notices of the meetings will be posted on the Board website.

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

Reconvene Mr. Ullom reconvened the meeting at 9:39am

Administrative Hearings / Proceedings

Case 15-181 John Kollhoff (1-13927) – Hearing

- The Board was represented by Mr. Forbes. Mr. Kollhoff was pro se.
- Ms. Blasi served as a witness for the Board.
- Mr. Kollhoff objected to Exhibits 2, 3, 5, and 6; requested that the hearing officer admit a copy of a page from the Board's website and a copy of a statute.
- The hearing officer admitted Exhibits 1, 2, 3, 4, 6.
- The hearing officer requested Respondent brief the issue of law he was arguing before the Board. Respondent's brief due June 21, 2016. Mr. Forbes' response due July 21, 2016. The hearing officer will submit to the Board for review and questions at a subsequent hearing and/or deliberation.
- The hearing officer closed the hearing at 10:47am.

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

Reconvene Mr. Ullom reconvened the meeting at 11:00 AM

Case 14-034 David K. Neil (1-09830) – Hearing

- The Board was represented by Mr. Forbes. Mr. Neil was pro se.
- A motion was made and seconded to close the hearing at 11:05 AM to receive and discuss records regarding peer review pursuant to K.S.A. 65-4915 to include Respondent, Respondent's wife, Mr. Forbes, the Executive Secretary, the

KsPRN representatives – Kelly Rockers, Mike Larkin, and Ralph Holbrook. (Haneke/Schoech) Motion passed. Hearing reconvened at 11:24 AM.

- The Board agreed to allow Mr. Neil to surrender his license during the pending disciplinary action, with the understanding that he may have to report such surrender on future licensure applications.

Stipulation/Consent Orders

1. Case 15-044 Bruce Ballard. Motion was made and seconded to accept the Stipulation and Consent Order. (Worden/Garrelts) Motion passed.
2. Case 15-090 Enclara Pharmacia. Motion was made and seconded to accept the Stipulation and Consent Order. (Worden/Schoech) Motion passed.

Summary Orders

- 15-250 Patrick Moloney
- 15-251 Imad Numair
- 15-252 Option Care
- 16-008 Jeffrey Scott
- 16-013 Pamela Johnson
- 16-015 Derek Stearns
- 16-016 Carla Gray
- 16-017 Tanisha McCreight
- 16-025 Traci White
- 16-027 Crystal Whitebear
- 16-038 Laquita Lewis

Motion to approve all summary orders (Worden/Schoech). Motion passed.

Executive Secretary Report

The Executive Secretary told the Board of the upcoming KPSC meeting on May 1, 2016. She gave a short calendar on the roll out of the e-Licensing software beginning May 20. The website is undergoing a makeover to simplify use. The applications are being revamped to allow for online submission.

Adjourn: Mr. Ullom thanked the Board for a good meeting and adjourned the meeting at 11:45am.