

KANSAS STATE BOARD OF PHARMACY
BOARD MEETING MINUTES
June 2 & 3, 2021

Meeting Location: Board of Healing Arts Conference Room
800 SW Jackson, Lower Level
Topeka, KS 66612

Due to COVID-19, public access was granted virtual-only, via the Microsoft Teams platform.

Day 1 - Wednesday, June 2, 2021

Members Present: Jonathan Brunswig, PharmD., President; Bill Walden, RPh., Vice President; Terica Gatewood, PharmD., Inv. Member; Tiffany Strohmeier, PharmD.; Andrew Truong, PharmD. (virtual); Erick Axcell, PharmD.; Lucinda Noches-Talbert, Public 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 (virtual); LaTonyua Rice, PharmD, K-TRACS Pharmacist (virtual); Gayle Donaldson, K-TRACS Public Information Officer (virtual); Nikki Aronhalt, RN, K-TRACS Program Specialist (virtual); Jackie Yingling, Assistant Director; Linda Blasi, LMSW, Public Service Administrator; Jeanine Brizendine, Sr. Administrative Assistant (virtual); Rachel Gardner, Administrative Assistant; Brenda Head, JD, General Counsel; Loren Snell, Administrative Law Judge, Office of Administrative Hearings.

Opening

At 12:17pm, the Executive Secretary gave a brief welcome and stated guiding principles for the virtual participants. Also noted was the removal of the *CVS Pilot Project Request* item from the meeting agenda, as more time is needed for the submission of the related application. The President called the open meeting to order at 12:20pm.

Approvals

Stipulation & Consent Agreements, Minutes, and New Licensees & Registrants

- Motions were made and seconded to approve stipulation & consent agreements as presented for cases 20-228 (Gatewood/Axcell) and 20-230 (Gatewood/Axcell). Motions carried.
- A motion was made and seconded to approve minutes from the Board meeting on April 1, 2021. (Strohmeier/Gatewood) Motion carries.
- A motion was made and seconded to approve new licensees since March 18, 2021, and new registrants since March 25, 2021. (Walden/Strohmeier) Motion carries.

Recess: The Board recessed at 12:47pm.

Reconvene: The Board reconvened at 1:00pm.

Executive Session

At motion was made and seconded at 1:02pm to enter into executive session per K.S.A. 75-4319(b)(1) to discuss matters of non-elected personnel, to include the Board's attorney and Executive Secretary, and to resume the open meeting at 1:25pm. (Walden/Gatewood) Motion carries.

Reconvene: The President called the open meeting back to order at 1:28pm.

Administrative Proceedings

21-010 Scott Bauer

- Mr. Bauer did not appear for his 1:00pm hearing.
- Following a recommendation by the Executive Secretary for such, a motion was made and seconded to issue a Default Order denying Mr. Bauer's registration, based on his failure to appear before the Board. (Walden/Gatewood) Motion carries.

21-055 Coleen Berscheidt

- Ms. Coleen Berscheidt appeared in person without counsel, via video conference call.
- The Board was represented by Ms. Brenda Head, who offered up Exhibits 1-7. Following no objection from Ms. Berscheidt, these exhibits were entered into the record by Judge Snell.
- Ms. Head called Ms. Alexandra Blasi, the Board's Executive Secretary, to give her testimony.
- Ms. Blasi was sworn in and gave her testimony, questioned by neither the Board nor Ms. Berscheidt.
- Ms. Berscheidt was sworn in, and gave her testimony, to which Ms. Head had no questions. Mr. Walden questioned if Ms. Berscheidt has work lined up and is simply waiting on her registration.
- Ms. Head and Ms. Berscheidt each and separately gave brief closing statements.
- At 1:50pm, the Board entered into closed session for KAPA deliberations.
- The President reconvened the open proceedings at 1:58pm.
- A motion was made and seconded to deny Ms. Berscheidt's application for technician registration. (Walden/Axcell) Ms. Noches-Talbert abstained from the vote, as she was present only for partial presentation of the evidence. Motion carries.

The Executive Secretary welcomed Ms. Noches-Talbert to her first in-person meeting as the Board's new public member. Introductions were made.

Recess: The Board recessed at 2:10pm.

Reconvene: The Board reconvened at 2:17pm.

Administrative Proceedings (cont.)

21-003 Amy Kamrath

- Ms. Kamrath did not appear for her hearing.
- The Board was represented by Ms. Brenda Head, who offered Exhibits 1-11. Judge Snell reviewed these exhibits and, finding them to be relevant, entered them as evidence.
- Ms. Kamrath had previously provided two documents as exhibits which, following no objection from Ms. Head and in the interest of due process, were entered as Exhibits A & B.
- Judge Snell swore in Ms. Blasi, who gave testimony and identified exhibits.
- Judge Snell questioned Ms. Blasi as to whether clearer photos existed of the incident in question. Ms. Blasi noted that those presented as exhibits were the only photos provided to the Board, but that both Ms. Kamrath and those around her had admitted the issue was ongoing and that Ms. Kamrath had not followed pharmacy policies and procedures regarding masking on multiple occasions.
- Judge Snell questioned if Ms. Kamrath had raised the issue of her own health concerns, to which Ms. Blasi noted yes.
- Judge Snell questioned if Ms. Kamrath had also stated opposition to the policy of her employer, to which Ms. Blasi noted yes.

- Mr. Brunswig questioned if other complaints had been filed against Ms. Kamrath, to which Ms. Blasi noted no, only similar complaints regarding other licensees had been filed.
- Ms. Head gave a closing statement.
- Judge Snell questioned if there were other discipline recommendations besides a \$500 fine and one-year probation. Ms. Head noted that this recommendation was offered by the investigative committee before the hearing, and is now no longer on the table for the Board to decide.
- At 2:35pm, the Board entered into closed session for KAPA deliberations. Ms. Gatewood recused herself from this closed session.
- The President reconvened the open proceedings at 2:56pm.
- A motion was made and seconded for Ms. Kamrath's pharmacist license to be suspended for a period of one year and immediately thereafter placed on a one-year probationary period, and that Ms. Kamrath pay the Board a fine of \$1,000 within 90 days of service of such order. (Axcell/Truong) Dr. Gatewood abstained from the vote; all others in favor. Motion carries.

Recess: The Board recessed at 2:58pm.

Reconvene: The Board reconvened at 3:05pm.

KOMA/KORA Training

Ms. Head gave a summary of the Kansas Open Meetings Act relative to the Board's activities and its submissions to the Kansas Open Records Act. Ms. Head provided comprehensive training on the Board's activities, requirements under the law, and certain prohibitions. Ms. Head's training for the Board also included such items as the violation penalization process, how most issues surround executive session, and how the Board must take caution when communicating via email, during group dinners, and at any gathering of a majority, as well as in looking to respond to any questions coming from outside the agency.

Adjourn: Motion to adjourn for the day was made & seconded at 3:45pm. (Strohmeyer/Gatewood) Motion carries.

Day 2 - Thursday, June 3, 2021

Members Present: Jonathan Brunswig, PharmD., President; Bill Walden, RPh., Vice President; Terica Gatewood, PharmD., Inv. Member; Tiffany Strohmeyer, PharmD.; Andrew Truong, PharmD.; Erick Axcell, PharmD.; Lucinda Noches-Talbert, Public 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 (virtual); LaTonyua Rice, PharmD, K-TRACS Pharmacist (virtual); Gayle Donaldson, K-TRACS Public Information Officer (virtual); Nikki Aronhalt, RN, K-TRACS Program Specialist (virtual); Jackie Yingling, Assistant Director; Linda Blasi, LMSW, Public Service Administrator; Rachel Gardner, Administrative Assistant; Brenda Head, JD, General Counsel

Opening

At 8:35am, the Executive Secretary gave a welcome and stated guiding principles for virtual participants. The President called the open meeting to order at 8:37am.

Board Discussion

COVID-19 Updates

- Remote Work Extension: Discussion was had regarding consideration for the benefits of permanent remote work, and the need for long-term updates to rules and regulations. Carl Black of OptumRx expressed to the Board that, with proper limits legislated, he would highly encourage the practice of pharmacy's utilization of remote work beyond the pandemic. A motion was made and seconded to extend the current remote work guidance through December 31, 2021 due to the pandemic. (Gatewood/Walden) Motion carries. The Board discussed surveying PICs to determine the utilization and success of remote work during the pandemic for the Board's further consideration.
- Agency Operations: Following guidance issued by the State of Kansas on the reopening of its agencies to the public, the Board was in agreement that its staff office will reopen to the public on this June 14th, with protections in place and masks required for unvaccinated persons. The Board deferred to the Executive Secretary to make adjustments as needed consistent with State and Local orders and guidance.
- Nurses as Technicians: Though the Board outlined in the June meeting an allowance for nurses wishing to vaccinate in the pharmacy setting to apply under a restricted technician license, the Board has seen no use of such, and so opined not to extend this allowance past its expiration.

Pilot Project

SB 238 was approved by both chambers, signed by the Governor, and authorizes the new telepharmacy section of the Pharmacy Practice Act. Regulations must be adopted by the Board by January 1, 2023. The mileage restriction and the maximum on number of prescriptions were both stricken from the language, meaning the Board *can*, but is no longer *required to*, adopt regulations on these topics. The Executive Secretary reviewed the administrative rulemaking process with the Board.

- A motion was made and seconded to approve the Meyers Pilot Project as a permanent telepharmacy project. (Walden/Gatewood) Motion carries. Board staff will notify the Project of this, and that they are to check back in with the Board once rules and regulations are written into law.
- The Board nominated Dr. Strohmeyer and Dr. Axcell to serve on the Pilot Project Committee for any future pilot applications.

Pharmacist Administration of Medications KSA 65-16, 129

This has been on the books for a couple of years and reads: "A pharmacist may administer to a patient a medication that is determined to be safe for the patient to administer themselves." KSA 65-16, 129 does not require compliance with manufacturer packaging or instructions. In discussion, the Board understands this to indicate that, unless a prescriber specifically instructs that the prescription not be administered by a pharmacist, the pharmacist may administer the injectable medication to the patient. The Executive Secretary recommended that a newsletter article go out capturing this discussion and offering the definitive guideline that professional judgement is to be used based on knowledge and training.

DEA Exempt Anabolic Steroids List & DEA Exempt Prescription Products List

A motion was made and seconded to approve as presented the updated list of DEA Exempt Anabolic Steroids dated November 5, 2020 as well as the updated list of DEA Exempt Prescription Products dated March 11, 2021 as presented. (Gatewood/Axcell) Motion carries. The lists will be posted on the Board's website as a guidance document.

Recess: The Board recessed at 9:43am.

Reconvene: The Board reconvened at 9:57am.

Reports

KsPRN Program Update

Mr. Aaron Dunkle introduced a new 10-hour-per-week contract with Ms. Stephanie Hicks, who has been a licensed social worker since 2008. Her role will be to review current case files and look for suggestions to monitoring and travel, as well as to review the whole program and give feedback on administration and implementation. This contracted role stems from prior participants having indicated that, though successful, the program was not as helpful as it could have been had a program staff person been professionally trained to make alternative care decisions rather than a simple administrator. Ms. Hicks is also helping to revamp the consumer website and steer transitions from the referral program to more individualized opportunities. She will make decisions alongside the CIPP Committee.

Attorney Report – None.

Board Member Reports

- Ms. Gatewood was the Board's official voting delegate at the NABP Annual meeting. Two resolutions passed and two proposed changes to the bylaws did not. There was a MAT presentation which encouraged naloxone protocols such as the Board has implemented, and a presentation on drug importation that looked at how Colorado is handling such. There is a task force up and running to protect pharmacist working conditions. Many states are looking to adopt post-pandemic rules and regulations. The NABP task force or committee interest deadline is June 4th.
- Mr. Walden questioned if the Board is prepared for the July 1st rollout of the electronic prescribing mandate. The Executive Secretary listed: countless hours of staff discussion; meetings with stakeholders; newsletters and notifications to healthcare providers; hurdles identified; solutions created, including a web page and articles noting the waiver form; countless prescribers already utilizing the waiver, and; the responsibility to validate not falling to the Board. Board staff process the received credentialing info and location of prescribing, and update the waiver list which is available on the Board website. The Board and staff discussed methods to protect the identity of waived prescribers from the public and will pursue further research on this matter.

Recess: The Board recessed at 10:56am.

Reconvene: The Board reconvened at 11:04am.

Reports (cont.)

Director Report

Committee Reports -

- **KDHE Request:** The Kansas Department of Health and Environment has requested the Board nominate two individuals for consideration of the vacant pharmacist position on the Kansas Medicaid Drug Utilization Review Committee. The Board agreed to move forward in soliciting applications from the pharmacist community, and review such for final selection. The application will need to specify consideration of medication assisted therapy for substance recovery.
- **K-TRACS Advisory Committee:** A motion was made and seconded to approve David Schoech, R.Ph., to continue as the Board's representative member on the K-TRACS Advisory Committee. (Walden/Gatewood) Motion carries. The Board has the authority to appoint other members to supplement the committee.
- **FDA MOU:** NABP is requesting delayed implementation of the FDA MOU until October 2022 due to the additional work required by Boards during the pandemic.

- **Budget Committee:** The legislature and Governor approved the Board's submitted budget for FY 2022 and FY 2023 without modification. K-TRACS will receive \$200,000 in annual opioid litigation settlement funds beginning July 1, 2021 if funds are available.
- **CE Committee:** Continuing to meet regularly.
- There is a call for ACPE nominations.
- State newsletters are getting a major update, including an interior link to the national newsletter.
- District 6/7/8 is August 29th-31st. The Executive Secretary will attend and there is an opportunity for 1-2 Board members to also participate.
- MALTAGON will be held October 17th-20th in Gulf Shores, Alabama. The Executive Secretary, several compliance staff, and Dr. Strohmeyer will attend.

2021 Legislative Session Review

- The Executive Secretary provided an overview of SB 238 updates to the Pharmacy Practice Act which were effective upon publication in the Kansas register. As the K-TRACS and Controlled Substance bills were not passed by either chamber, these will be priorities for next year's session.
- The Executive Secretary provided an overview of other relevant healthcare bills during the 2021 legislative session, including the medical marijuana bill which did not pass the Senate. The Executive Secretary also discussed HB 2066, which becomes effective July 1, 2021.

Staffing -

The new pharmacist position was approved, as well as a part-time administrative assistant position. The Legislature did not approve cost of living adjustments for staff for the second year in a row. The Executive Secretary also briefly discussed revival of the state internship program, and a new partnership with Prof. Kristin Villa at the School of Pharmacy for her students to participate in Board projects.

Recess: The Board recessed for lunch at 12:10pm.

Reconvene: The President called the open meeting back to order at 1:07pm.

Public Comment

None.

Strategic Planning

The Executive Secretary highlighted the Board's five-year goals beginning in FY 2021. The Board had set these goals prior to COVID, which then necessitated that different items take priority. The Board needs to review its pursuit of these and whether new goals need to be added to maintain consistency with the practice as it moves forward from the pandemic. The Board members each felt that inspectors should report at every meeting. The Board added pandemic debriefing as one of its strategic plan goals, to evaluate the changes COVID has brought and the impacts of those changes on every facet of the agency. The Board also agreed that the strategic goals convert to a three-year plan, rather than the planned five years. Several items discussed for addition were expansion of technician duties, further continuing education class options (ie, law), and legislative education for the Board and for those in the pharmacy profession. As an objective, the Board wishes an emphasis on collaboration and education, especially concerning legislators. Under its protection goal, the Board would like to incorporate both licensees and consumers.

- Workplace safety has become a hot topic, as research is showing that those corporations who don't furnish workplace safety measures for their pharmacy personnel beget mitigation errors, patient

safety concerns, etc. which subsequently become Board business. The Executive Secretary had asked member states' opinions on this issue, and provided responses from NABP. The issue will also receive a panel discussion at MALTAGON, where the Board's Executive Secretary is slated to answer for how the matter will be handled in Kansas. An email survey for Kansas licensed pharmacists, similar to one succinctly and successfully conducted by the state of Tennessee, may be the Board's starting place for feedback on this issue. The Board was in agreement to take up this issue, beginning with a survey distributed to pharmacists who live or practice in the State of Kansas.

- Regarding the definition of "patient delivery," the Board was in agreement to learn more so that they may look into creating rules and regulations around this.
- Of highest COVID interest are remote work/indirect supervision and administration of immunizations outside of pharmacists/interns. With any potential changes the Board sees, it must consider whether such changes are its duty to take up or should be reserved for the industry.

The Board discussed the need to examine technician duties, as well as the concept of remote versus in-person supervision and remote versus in-person pharmacy activities (non-dispensing). The Board agreed that technicians should be able to transfer certain orders and directed staff to work on adjustments to relevant regulations.

Brief discussion returned about holding a future Board meeting off campus. Kristin Villa with KU School of Pharmacy noted her full support of asking pharmacy students to attend a Board meeting, but that incentives need to come not only from the classroom but also possibly by instituting a licensing or CE requirement. The Executive Secretary noted the uptick in meeting attendees since the start of virtual Board meetings, and that with most meetings involving no public comment, listening in on Board meetings may be the key educational component. The Board was in full agreement that, for meetings, one longer day will be preferred over two shorter days, though discussion was then had around the future opportunity to engage in a two-day retreat-style meeting to learn more about one another, participate in team building activities, and build the circle of understanding.

Adjourn: A motion to adjourn was made and seconded at 2:53pm. (Walden/Strohmeyer) Motion carries.