

**KANSAS STATE BOARD OF PHARMACY**  
**BOARD MEETING MINUTES**  
**October 19, 2022**

**Meeting Location:**

Kansas Board of Healing Arts Conference Room  
800 SW Jackson, Lower Level  
Topeka, KS 66612

**Members Present:** Jonathan Brunswig, PharmD., President; Bill Walden, R.Ph., Vice President; Terica Gatewood, PharmD., Inv. Member; Tiffany Strohmeier, PharmD.; Andrew Truong, PharmD.; Erick Axcell, PharmD.; Lucinda Noches-Talbert, Public Member

**Staff Present:** Alexandra Blasi, JD, MBA, Executive Secretary; Melissa Martin, Compliance Inspector; Ashley Smith, Public Service Administrator II; Tammy Brown, Administrative Assistant; Brenda Head, JD, General Counsel; Loren Snell, Administrative Law Judge, Office of Administrative Hearings.

**OPEN MEETING**

At 8:36 am, the President called the open meeting.

**ADMINISTRATIVE PROCEEDINGS**

*21-086 and 21-088 Active Lifestyle Pharmacy*

- The Board was represented by Ms. Brenda Head.
- Ms. Diane Bellquist represented Active Lifestyle Pharmacy
- Judge Snell explained the administrative hearings process and guidelines.
- No opening statement from Ms. Head.
- Ms. Bellquist provided an opening statement.
- Ms. Head called forth Ms. Melissa Martin, pharmacy compliance inspector and investigator for the Kansas Board of Pharmacy, who was sworn in and gave her testimony.
- Ms. Bellquist cross-examined Ms. Martin.
- Ms. Head redirected questions for Ms. Martin.
- The Board questioned Ms. Martin.
- Ms. Head called forth the Executive Secretary, who was sworn in and gave her testimony.
- Ms. Bellquist cross-examined the Executive Secretary.
- Ms. Bellquist called forth Mr. Arkenberg, former PIC of Active Lifestyle Pharmacy, who was sworn in and gave his testimony.
- Ms. Head cross-examined Mr. Arkenberg.
- Ms. Bellquist redirected questions for Mr. Arkenberg.
- Ms. Head redirected questions for Mr. Arkenberg.
- The Board questioned Mr. Arkenberg.
- Ms. Bellquist called forth, Ms. Jihan Gallegos, Pharmacist-in-charge of Active Lifestyle Pharmacy, who was sworn in and gave her testimony.
- Ms. Head cross-examined Ms. Gallegos.
- Ms. Bellquist redirected questions for Ms. Gallegos.

- The Board questioned Ms. Gallegos.
- Ms. Bellquist had follow-up questions for Ms. Gallegos.
- Ms. Bellquist called forth Ms. Fawn Lickteig, compliance officer and pharmacy technician for Active Lifestyle Pharmacy, who was sworn in and gave her testimony.
- Ms. Head cross-examined Ms. Lickteig.
- The Board questioned Ms. Lickteig.
- Ms. Bellquist redirected questions for Ms. Lickteig.
- Ms. Bellquist called forth Mr. Jacob Lickteig, owner of Active Lifestyle Pharmacy, who was sworn in and gave his testimony.
- Ms. Head cross-examined Mr. Lickteig.
- Ms. Bellquist redirected questions for Mr. Lickteig.
- The Board questioned Mr. Lickteig.
- Ms. Head redirected questions for Mr. Lickteig.
- Ms. Head provided a closing statement to the Board.
- Ms. Bellquist provided a closing statement to the Board.
- Judge Snell concluded the evidentiary portion of the hearing and indicated that the Board would reconvene for deliberations and a determination in the matter on October 20, 2022 at 8:30am.

**Recess:** The President called a recess at 10:48 am.

**Reconvene:** The President called the open meeting back to order at 11:02 am.

**Recess:** The President called a recess at 12:26 pm.

**Reconvene:** The President called the open meeting back to order at 1:15 pm.

**Recess:** The President called a recess at 2:21 pm.

**Reconvene:** The President called the open meeting back to order at 2:35 pm.

**Recess:** The President called a recess at 3:59 pm.

**Reconvene:** The President called the open meeting back to order at 4:09 pm.

**Adjourn:** A motion to adjourn was made and seconded at 5:34 pm. (Walden/Gatewood) All in favor. Motion carries.

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**Meeting Location:**

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Topeka, KS 66612

**Members Present:** Jonathan Brunswig, PharmD., President; Bill Walden, R.Ph., Vice President; Terica Gatewood, PharmD., Inv. Member; Tiffany Strohmeier, 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; Jason Syring, R.Ph., Licensed Pharmacy Inspector; Melissa Martin, Compliance Inspector; Christy Seufert, Licensed Pharmacy Inspector; Gayle Donaldson, K-TRACS Assistant Director; Jackie Yingling, Assistant Director; Ashley Smith, Public Service Administrator; Tammy Brown, Administrative Assistant; Bradford DeYoung, Attorney; Vanessa Rine, K-TRACS; Brenda Head, JD, General Counsel; Loren Snell, Administrative Law Judge, Office of Administrative Hearings I.

**OPEN MEETING**

At 8:32 am, the President called the open meeting.

**ADMINISTRATIVE PROCEEDINGS**

*21-086 and 21-088 Active Lifestyle Pharmacy*

- At 8:32 am, the President closed the open meeting for KAPA deliberations that excluded Dr. Gatewood, Ms. Head, and the Executive Secretary (Truong/ Walden). All in favor, motion carries.
- The President called the open meeting back to order at 10:35 am.
- A motion was made and seconded to revoke the pharmacy registration (Walden). Motion fails.
- A motion was made and seconded to do the following (Truong/Strohmeier):
  - Approve License renewal under a probation status for 5 years
  - Failure to have complete VAR forms required by the protocol- Fine: \$50,000
  - Failure to Report to KTracs in timely manner- Fine: \$10,000
  - Failure to report to WebIZ per protocol- Fine: \$10,000
  - Prescriptions processed without Pharmacist present- Fine: \$25,000
  - Unsupervised access to pharmacy. Fine: \$4,000
  - Failure to submit documentation in a timely manner. Fine: \$1,000
  - Improper record keeping of incident reports and CQI reports: Fine: \$3,000
  - In compliance with 65-1627(b), recoup of costs associated with investigation.
  - S320 must be filled out for ownership within 10 days
  - Monthly Self Inspections reported to Board office
  - Quarterly on-site Board inspections at the expense of pharmacy
  - Annual appearance of owner to the board
  - Current PIC must stay in place. If PIC is changed owner must appear in front of Board.

- Current Policy and Procedure Manual submitted to the Board within 10 days. Current Policy and Procedure Manual must include internal audits and corrective measures to correct identified problems.
- All information about break in and appropriate forms must be presented to the Board office within 10 days if not already done so.
- Present current DEA registration indicating proof of ownership, power of attorney documentation, coordinator, and registrant information.
- Payment plan for fines determined by Board Investigative Member and/or Executive Secretary
- Owner must demonstrate knowledge of Kansas Pharmacy Act Regulations and Policies as determined by inspector
- All in favor. Oppose (Walden). Abstained (Gatewood). Motion carries.

### **APPROVALS**

A motion was made and seconded to approve the August 25, 2022 meeting minutes, and the new licensees and registrants since August 15, 2022. (Walden/Gatewood) Motion carries.

Stipulation and Consent Agreements

- 22-047 Thao Tran
  - A motion was made and seconded to approve the Stipulation and Consent Agreement. (Axcell/Strohmeyer). All in favor. Abstained (Truong) Motion carries.
- 21-052 Mark Taylor
  - A motion was made and seconded to approve the Stipulation and Consent Agreement. (Truong/Strohmeyer). All in favor. Motion carried.

### **BOARD DISCUSSION**

*Covid-19 Update*

- No new update.
- Covid-19 extensions will be reviewed at the December 1<sup>st</sup> Board meeting.

*Draft Regulations*

- *PIC Exam and CE Requirements*
  - The Attorney General's office says the Board does not have authority for a pharmacist in charge exam. The Board discussed incorporating the PIC exam somewhere else in the process. The Board agreed by consensus that the PIC certification should be updated to include all PIC exam question elements with initials and signature.
- Regulations have been through Attorney General's Office. Almost half of the regulations have been double stamped.
- The Special Legislative Medical Marijuana meeting was held October 12<sup>th</sup> and 19<sup>th</sup>; the Board did not provide an opinion on legalization but did provide testimony on elements related to the Board and K-TRACS operations that should be included if legislation is passed.

*Status and Anticipated Public Hearings*

- Part 1: The Executive Secretary discussed mental health and impaired providers privacy to recovery. The license applications for pharmacists, interns, and technicians have been updated to provide privacy for those individuals who are seeking recovery.
- Part 2: Impaired provider program models focus on abstinence from drugs. The healthcare community is trying to encourage people to utilize MAT. The Executive Secretary has asked the Committee on Impaired Pharmacy Practice (CIPP) to add this to their agenda for a discussion item related to the KsPRN program. The Board members discussed allowing impaired providers to utilize MAT medications in recovery.

#### *Additional Discussion on Pharmacist Workplace Conditions*

- Mr. DeYoung presented on solutions for the pharmacist workplace conditions concerns.
- The Board discussed the pharmacy technician ratio, wages, and certified/non-certified pharmacy technician roles.
- The Board discussed reformatting the CQI process.

#### *Filling Non-resident Prescriptions for “Other” Providers*

- The Board’s attorney is doing research to provide a guidance memo for Kansas.

#### *Follow-up Discussion on Inspection Approvals*

- The compliance team attended the NCDQS training and provided questions to NCDQS. Questions included conflict of interest and fraud/alteration of reports. The Director of Compliance discussed the NCDQS training and gave examples of differences between the Boards inspection and NCDQS inspection.
- The Director of Compliance recommended to the board to approve the NCDQS inspection for nonresident supply chain facilities, this excludes devices, that are not inspected by their home state. This inspection will be reviewed at the Board meeting annually.
- A motion was made and seconded to accept NCDQS inspections for facilities, excluding devices if the facility’s home state does not inspect (Walden/Gatewood). All in favor, motion carries.

**Recess:** The President called a recess at 12:00 pm.

**Reconvene:** The President called the open meeting back to order at 12:48 pm.

### **Reports**

#### *Budget and Financial*

- The Assistant Director provided the Board with a fiscal presentation and the budget narrative for fiscal year 2023-2025.

#### *Attorney-*

- None.

#### *Board Members-*

- The Board asked if there is anything the Board can do to rectify or regulate that a pharmacist must be part owner of a pharmacy. The Executive Secretary discussed that would be a challenging business model , especially for corporate chains. The Executive Secretary did mention that with regulation updates that regulations are holding the pharmacy owners or pharmacist in charge responsible.
- Collaborative Drug Therapy Management Committee
  - The committee is focusing on the flu protocol first.

- The next meeting is November 17<sup>th</sup>, 2022.
- District 678 Meeting
  - Discussion items included continuing education and pharmacist workplace conditions.
- MALTAGON
  - Discussion items included compliance and inspections.

*Compliance*

- The Director of Compliance discussed having pharmacies complete self-assessments to know more about compliance.

*CE Audit*

- 65 Pharmacists are non-compliant with the 2022 continuing education audit.

*Director*

- Tri-Regulator symposium
- K-TRACS presented at the KPhA annual meeting.
- Dr. Norman withdrew his authorization on the statewide immunization protocol and messaging was sent to all Kansas pharmacists with recommendations.

**PUBLIC COMMENT**

None.

**Recess:** The President called a recess at 2:02 pm.

**Reconvene:** The President called the open meeting back to order at 2:12 pm.

**EXECUTIVE SESSION**

A motion was made and seconded (Axcell/Gatewood) at 3:39 pm to enter into executive session to discuss attorney-client privileged matters per K.S.A. 75-4319, to include the Board's attorney, Executive Secretary, Direct of Compliance, and the Pharmacy Inspector Martin and to be reopened to the public at 4:00 pm. All in favor. Motion carries.

**EXECUTIVE SESSION**

A motion was made and seconded (Axcell/Gatewood) at 3:39 pm to enter into executive session to discuss personnel matters of non-elected personnel per K.S.A. 75-4319, to include the Board's attorney and Executive Secretary, and to be reopened to the public at 4:20 pm. All in favor. Motion carries.

**Adjourn:** A motion to adjourn was made and seconded at 4:22 pm. (Strohmeier/Gatewood) All in favor. Motion carries.