

KANSAS STATE BOARD OF PHARMACY
BOARD MEETING MINUTES
February 19, 2021

Meeting Location: Due to COVID-19, the meeting was held virtually on the Microsoft Teams platform.

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.

Members In Absentia: Cheri Pugh, 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; Kayla Montgomery, Compliance Inspector; Jennifer Donnelly, MPH, K-TRACS Assistant Director & Sr. Epidemiologist; LaTonyua Rice, PharmD, K-TRACS Pharmacist; Gayle Donaldson, K-TRACS Public Information Officer; Jackie Yingling, Assistant Director; Rachel Gardner, Administrative Assistant; Brenda Head, JD, General Counsel; Loren Snell, Office of Administrative Hearings.

Opening

The President called the open meeting to order at 8:35am.

Administrative Proceedings

20-024 Jason Kent

- Mr. Kent appeared in person without counsel, via video conference call.
- The Board was represented by Ms. Head, who had no opening statement.
- The Executive Secretary introduced Mr. Kent's petition for the termination of his one-year license suspension, noting his full compliance with the KsPRN program.
- Mr. Kent echoed a brief statement of petition and thanked the Board for their consideration.
- The Board entered into closed session for KAPA deliberations, to include the Executive Secretary and Judge Snell at 8:49am. (Brunswig/Gatewood)
- The President reconvened the open proceedings at 9:00am.
- A motion was made and seconded to lift Mr. Kent's suspension effective March 10, 2021, requiring his continued compliance with KsPRN and the terms of his Board order moving forward. (Walden/Gatewood) Ms. Strohmeyer abstained from the vote. All others were in favor; motion carries.

Board Discussion

COVID-19 Update

Stability has grown as parties gain more understanding of the distinction between state requirements and federal allowances for vaccinating. The Board has clarified that vaccination sites cannot require anything in exchange for receiving a vaccine (i.e., prescription transfers to pharmacy, insurance, payment, etc.).

- A motion was made and seconded to extend current remote work guidance through the end of June 2021. (Walden/Gatewood) All in favor, motion carries.

Presentation & Request from OptumRx

Carl Black of Optum Rx gave a data presentation to provide the Board with feedback in regard to continuance of the remote work model long-term. Mr. Black's conclusion noted that quality and information security have been maintained, there is maximized utilization of the work force, and improved continuity of care and patient outcomes, all of which are supportive of the expansion of remote work in the future.

Technician CE Audit

Board staff requested the Board's guidance on how to handle this year's audit of continuing education for technicians, following pandemic challenges and what was already a previous delay in audit for several hundred 2018 renewals due to NABP system issues.

- A motion was made and seconded to forego further auditing this year, to send out educational letters to technicians that we were not able to find hours or did not have a profile, and to discuss in autumn the handling of next year's audit. (Strohmeyer/Gatewood) Motion carries.

Misrepresentation on Application

The Board has found that 20-30% of technician applicants do not initially disclose their criminal history upon application. The Board's current policy is to allow these applicants three further opportunities to disclose such, with initial non-disclosure rarely being a disqualifier for licensure. The Executive Secretary proposed a new policy, to include the following: adding specific warning language on the technician application; conducting a public information campaign via newsletter, website, inspections, etc.; updating the Board's sample CQI form to remind pharmacy staff about criminal offense reporting; increasing the stringency of application review moving forward; and allowing initial misrepresentation of criminal history to be a disqualifier for licensure. The members of the Board were in full agreement with the proposed policy.

Recess: The Board recessed at 9:54am.

Reconvene: The Board reconvened at 10:05am

Request from HyVee on Emergency Response Mobile Pharmacy Unit

HyVee provided a letter to the Board requesting permission to utilize mobile pharmacy response units in the event of a disaster or non-operational pharmacy. The Board discussed potential limitations to the program.

- The Executive Secretary will craft a formal guidance document for the Board's consideration at the next meeting.

Request for Reinstatement

Following a request by an individual, not licensed in Kansas for the last 23 years, that the Board waive all fees and requirements for his or her pharmacist reinstatement due to the pandemic, the Board agreed unanimously with the proposed staff response of needing to follow normal reinstatement protocol.

NABP Annual Meeting and Resolutions

The NABP Annual meeting will take place virtually on May 13th & 14th.

- A motion was made and seconded for Dr. Gatewood to act as the Board's voting delegate at all of the voting meetings, with President Brunswig as the alternate, and the Executive Secretary as the second alternate. (Walden/Truong) Motion carries.

Considering Requests for Board Opinions

The Board directed the Executive Secretary to continue to provide staff and attorney feedback to consumers and licensees regarding Board laws, regulations and policies. The Executive Secretary shall determine what issues to bring to the Board's attention to review and consideration for a potential Board opinion.

Third-Party Independent Delivery Services

The Board considered amendments to HB 2280 suggested by KACDS adding language to the definition of "dispensing" in Kansas. The language would add "*additionally a pharmacy may deliver a prescription to a patient by mail, common carrier, personal delivery, or third party delivery to any location requested by the patient*". Mitch DePriest, lobbyist for KACDS, provided background on the amendment language and answered the Board's questions. The Board determined that language around "delivery" needs to first be refined, and that the Board needs to further explore what measures are in place to prevent diversion.

- The Executive Secretary will report back to the House Health Committee that the Board has no consensus at this time. Additionally, the Board will invite a presentation on third-party delivery services at the next meeting.

Recess: The Board recessed at 11:32am.

Reconvene: The Board reconvened at 11:42am.

Reports

Board Member Reports

- Vice President Walden initiated dialogue on pharmacies denying the transfer of prescriptions, and the conclusion was cited that patient verification, in some form or another, *can* be required first.
- Dr. Strohmeyer requested pharmacy representation at the upcoming House Committee Hearing on medical marijuana. Following discussion, the Executive Secretary will include in her upcoming testimony for HB 2184 the importance of pharmacist involvement in dispensing.
- The President voiced concerns that some CII prescriptions coming through SureScripts show up as "approved" refills, and contain the same prescription number as the original script. It was discussed that this results from an "approval" check box in the SureScripts system that allows prescribers to "approve" script images only, which would not be visible in the case of Board or DEA audits. The Executive Secretary will include an article in the June newsletter educating that C-II refills must be new prescriptions rather than refill approvals.

Approvals

Minutes and New Licensees & Registrants

A motion was made and seconded to approve minutes from the 2020 meetings on October 22nd, November 6th, and December 10th, and all new licensees and registrants since December 1, 2020. (Strohmeyer/Truong) Motion carries.

Stipulations & Consent Agreements

A motion was made and seconded to approve Stipulation & Consent Agreements as presented for cases 20-248 and 20-295. (Walden/Truong) Motion carries.

Recess: The Board recessed for lunch at 12:13pm.

Reconvene: The Board reconvened at 1:01pm.

Public Comment

Kristen Villa with the University of Kansas questioned if the Board had concerns regarding student-to-supervisor ratios being top-heavy in the remote setting. The Board members unanimously agreed that it will continue guidance concerning technician ratios, but that the PREP Act is silent on further ratios, and thus the scenario of concern is currently allowable under the PREP Act.

Reports (cont.)

Pilot Project

Doug Baggett, owner of Myers Pharmacy, presented an updated on the ongoing telepharmacy pilot project. Jessica Adams, Manager of Regulatory Affairs with TelePharm, also provided information to the Board.

- A motion was made and seconded to continue the Myers Pilot Project until the June Board meeting, at which time it will again be reviewed. (Truong/Gatewood) Motion carries.

Director Report

ePrescribing Waiver Process: The ePrescribing waiver follows from the mandate in K.S.A. 65-16,128 for the electronic prescribing of controlled substance opioids in Kansas, beginning July 1st, 2021. Prescribers can request a six-month, renewable waiver under mitigating circumstances. The Board has two processes: one for issuing waivers to prescribers and one for pharmacist verification of issued waivers. There is no waiver of federal requirements. Waivers will expire June 30th and December 31st each year to simplify internal tracking. Information was provided in the December and March newsletters, in addition to a page on the Board's website.

Fiscal Report: The Board is operating under budget for FY 2021. Additional revenues and keeping expenditures to a minimum will stretch funds and delay fee increases until absolutely necessary.

Budget Update: The Division of Budget received the Board's budget, which was adjusted based on the changes in K-TRACS funding. There was great feedback in the Senate Government Ethics Committee hearing where it was approved, and it was thereafter soon approved by Senate Way and Means. The House Social Services Committee then heard the budget, struck transfers from the Boards of Nursing and Healing Arts, added \$145,000 in State General Funding.

Legislative Update: The Executive Secretary provided an overview of the bills introduced in the House and Senate pertaining to the Board, healthcare, controlled substances, and pharmacy practice.

Staff Overview: The Executive Secretary provided a staff overview.

Recess: The Board recessed at 2:27pm.

Reconvene: The Board reconvened at 2:39pm.

Annual Report:

The Executive Secretary gave the annual update of the Board's overall accomplishments and goals. This year's presentation, entitled *Undercover Boss: Masked Edition*, was so themed due to the further insight the past pandemic year gave the Executive Secretary into the tasks and skills required daily by staff to successfully carry out the Board of Pharmacy operations. Items of note included: new options and forms for facilities following the DSCSA expansion; transparency in providing information and timelines to consumers; the addition of *Team Time* for the staff; and a routine of self-assessment, reevaluation, benchmarking, and flexibility. Conclusions were as follows: customer service is difficult; managing the complexity offered by expanded choice requires more time; information empowers employees to

manage expectations; great employees self-develop processes which complement agency procedures; employees appreciate support; for creativity to thrive and feedback to arrive, cultivate an environment where it is safe for such; and set goals towards achievement of the end purpose, not the in-between process.

Executive Session

A motion was made and seconded at 3:19pm 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 3:45pm. (Walden/Gatewood) Motion carries.

Reconvene: The open meeting was called back to order at 3:48pm.

A motion was made and seconded at 3:48pm to enter once more 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 to resume the open meeting at 4:00pm. (Strohmeyer/Gatewood) Motion carries.

Reconvene: The open meeting was called back to order at 3:59pm.

The Executive Secretary noted that the next Board meeting will be held on Thursday, April 1st, 2021, and is anticipated to involve the Board members meeting in-person and the public joining virtually.

Adjourn: A motion was made and seconded to adjourn the meeting at 4:01pm. (Gatewood/Truong) Motion carries.