

KANSAS STATE BOARD OF PHARMACY
BOARD MEETING MINUTES
April 1, 2021

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

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

Members Present: Jonathan Brunswig, PharmD., President; Bill Walden, RPh., Vice President; Terica Gatewood, PharmD., Inv. Member; Tiffany Strohmeier, PharmD.; Andrew Truong, PharmD.; Erick Axcell, PharmD.; 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; Reyne Kenton, K-TRACS Program Manager; LaTonyua Rice, PharmD, K-TRACS Pharmacist; Gayle Donaldson, K-TRACS Public Information Officer; Jackie Yingling, Assistant Director; Rachel Gardner, Administrative Assistant; Jeanine Brizendine, Administrative Assistant; Brenda Head, JD, General Counsel; Loren Snell, Office of Administrative Hearings.

Opening

The Executive Secretary gave a welcome and noted guiding principles for virtual participants at 8:29am.

Administrative Proceedings

21-026 Drionna Carouthers

- The Board was represented by Ms. Head, who gave no opening statement.
- Ms. Carouthers appeared in person without counsel via video conference call, offered no opening statement, and had no objection to Board Exhibits then entered as evidence.
- Pages 1-3 of Ms. Carouthers' Exhibits were also admitted as evidence, following no Board objection.
- Judge Snell swore in the Board's Executive Secretary, Ms. Alexandra Blasi, who provided testimony.
- Judge Snell swore in Ms. Carouthers, who provided her testimony.
- Judge Snell swore in Ms. Carouthers' Pharmacist-in-Charge, Mr. Carl Black, who also appeared in person via video conference call, to give his testimony concerning the character of Ms. Carouthers.
- The Board entered into closed session for KAPA deliberations at 8:53am. (Walden/Truong)
- The President reconvened the open proceedings at 9:00am.
- A motion was made and seconded to grant technician registration subject to a disciplinary fine of \$200 for having failed to respond to a lawful request of the Board. (Walden/Pugh) Motion carries.

Opening (cont.)

The President called the meeting to order at 9:03am.

Board Discussion

COVID-19 Updates

- Guidance: The Board will revisit its remote work guidance at its June meeting. The Board may be dealing with COVID-19 guidance until June 2022, as the federal Emergency Declaration looks to be continuing through this year with a 6-month ramp down to follow. The Executive Secretary highlighted a recent 7th amendment to the PREP Act, allowing those who in the past 5 years retired, surrendered, etc. in good standing to vaccinate in unrestricted settings like mass vaccination sites.
- Vaccinations by Nurses in Pharmacy: Confusion has appeared around the PREP Act's authorization of nurses to administer the COVID-19 vaccine independently. Pharmacies want to recruit these nurses, but the pharmacy setting requires proper delegation of authority to administer vaccines owned and dispensed by the pharmacy. Board discussion concluded that the Executive Secretary will piece together a special application for restricted technician registration, available to any nurse properly and currently licensed to vaccinate under the Kansas Board of Nursing. These restricted technician registrations will be issued under a new prefix number for ease of identification, will end effectively with expiration of the Emergency Declaration, and will be exempt from technician ratios pursuant to guidance previously issued concerning vaccinating technicians. Individuals will still have to meet all PREP Act requirements for administering vaccinations.
- Walgreens Request for Waiver of Technician Ratio: Following a request from Walgreens for the temporary expansion of the pharmacist ratio for 53 of their Kansas locations, testimony from Ms. Lorri Walmsley, Mr. Chad Ullom, and Ms. Trista Voos on their behalf, and extensive discussion, the Board determined not to take action on the request.

Recess: The Board recessed at 9:46am.

Reconvene: The Board reconvened at 9:57am.

Board Discussion (cont.)

Independent Third-Party Delivery Services

Ms. Lorri Walmsley of Walgreens presented the retail perspective on using independent third-party services to deliver a patient's medication, and noted that the couriers are more-or-less contracted on the patient's behalf. She detailed that Walgreens prepares tamper-evident packaging, that name and address are the only visible identifiers, and that courier services currently exclude compounded meds, controlled substances, reconstituted products, and refrigerated or frozen products.

Guidance Document on Mobile Pharmacy Unit

The Board reviewed a draft guidance document to allow mobile disaster recovery pharmacy units, as requested by HyVee and discussed in the February meeting. The allowance would pertain to Kansas-registered pharmacies where the pharmacy is unable to operate at its registered location and would involve notification and inspection processes prior to deployment and before the mobile unit is removed from its temporary site. A motion was made and seconded to approve the guidance document with the following amendment: *The Pharmacist-in-Charge shall conduct a Controlled Substance inventory after deployment but before dispensing occurs, within 24 hours of discontinuation, and no less than every 30 days while operational.* (Truong/Gatewood). Motion carries.

Veterinary Drug Reference

Upon the request to require veterinary drug reference guides in all pharmacies, the Board has answered that, by nature, any pharmacy providing drugs to a veterinarian has related reference guides on hand.

Reports

Attorney Report - None.

Recess: At 10:53am, a motion was made and seconded to take a brief recess and resuming into executive session to discuss matters of attorney-client privilege to include the Board's attorney and Executive Secretary, and to reconvene the open meeting at 11:15am. (Walden/Truong) Motion carries.

Reconvene: The open meeting was called back to order at 11:14am.

Approvals

Stipulation & Consent Agreements

A motion was made and seconded to approve Stipulation & Consent Agreements as presented for cases 19-341, 20-256, and 20-293. (Strohmeyer/Axcell) Motion carries.

Minutes and New Licensees & Registrants

A motion was made and seconded to approve minutes from the Board meeting on February 19th, 2021, and all new licensees and registrants since February 8, 2021. (Strohmeyer/Gatewood) Motion carries.

Reports (cont.)

Director Report

Legislation: The Board's Executive Secretary provided an update concerning the 2021 Kansas legislative session so far. The Board introduced three bills: HB 2280 concerning updates to the Pharmacy Practice Act, HB 2253 concerning updates to the Prescription Monitoring Program Act, and SB 298 concerning updates to the Kansas Controlled Substance Act.

Recess: The Board recessed for lunch at 12:05pm.

Reconvene: The Board reconvened at 1:00pm.

Public Comment

None.

Board Discussion (cont.)

Independent Third-Party Delivery Services (cont.)

John DiFiore and Zack Woody of StatimRx presented the perspective of independent contractors on the issue. Highlighted was the fact that independent contractors may provide further data, safety, tracking, and customer support features than even larger retail resources could offer on their own. StatimRx's national delivery network is predominantly made up of local, regional carriers. The company requires customizable background checks and insurance policy standards, offers options for tracking and client questions, requires electronic point-of-delivery confirmation, and performs twice-yearly safety audits on vehicles. If drugs are diverted, quality assurance standards at the company level vary based on client needs, but on the local courier level, management steps in to figure out where the drug went and make sure the patient requesting delivery has their needs met. Everyone is tracked, and each contract is written so that if product handling initiatives are breached, they're handled quickly. Board requirements can be written into any contract operating under the Board, allowing the Board to regulate the pharmacy itself and not the detailed process. It could be in a contract's language that, if in breach of contract, the pharmacy would be required to report the breach to the Board. As mail deliveries increased during the pandemic, Dr. Gatewood proposed that the Board look into the percentage of loss experienced throughout that time. Though concerns about safety of the public were voiced, there is some support for the increased patient accessibility. The Board was in agreement to begin looking at

other state regulations and having the related dialogue, so they might be equipped once implementation becomes necessary.

Reports (cont.)

Director Report (cont.)

Committees:

- FDA MOU - The newly-formed subcommittee work group will begin holding regular and in-depth meetings to put together a report for the Board containing strong recommendations for how the Board may wish to proceed when the now-final version of the MOU will become effective.
- Compounding – Committee on hold due to USP appeals and delayed implementation.
- CE Review – The team continues to meet bimonthly.

NABP: Upcoming is the annual meeting, to be held virtually.

Budget: The Executive Secretary provided an update on the current version of the House and Senate budgets for the Board of Pharmacy, as well as affected funds. The legislature is also considering K-TRACS transfers from the new Opioid Settlement Litigation Fund of approximately \$200,000 per year as funds may become available.

Staff & Board Members:

The June meeting is recommended to be in-person. Prior to the September Board meeting, the Executive Secretary wishes to organize a Board member reunion to recognize the service of Drs. John Worden and Mike Lonergan who retired from the Board mid-pandemic. After nearly eight years of serving as the Board's Public Member from May 2013 through April 2021, Ms. Cherie Pugh has completed her time in the role. As a show of gratitude for her outstanding service, the Board presented Ms. Pugh with a commemorative plaque and the representative mortar & pestle. The Board and its upcoming Public Member, Lucinda Noches-Talbert, who will take up the mantle beginning in May, became acquainted with one another. Ms. Noches-Talbert has been a resident of Kansas for 30 years, resides in Kansas City, and is honored to be the Board's public member.

Recess: The Board recessed at 2:09pm.

Reconvene: The Board reconvened at 2:24pm.

A motion was made and seconded at 2:24pm 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 3:10pm for adjournment thereafter. (Walden/Truong) Motion carries.

Reconvene: The open meeting was called back to order at 3:11pm.

Adjourn: Motion to adjourn made and seconded at 3:11pm. (Strohmeier/Gatewood) Motion carries.