

KANSAS STATE BOARD OF PHARMACY
BOARD MEETING MINUTES
December 2, 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.

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); 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.

The Executive Secretary gave details on rules for virtual open meetings and informed participants of the public comment period.

OPEN MEETING

At 8:31, the President called the open meeting to order.

BOARD DISCUSSION

COVID Updates

- The Board agreed to extend remote work privileges through the end of April 2022
- The Board agreed to grant requesting nurses a temporary, limited pharmacy technician registration to provide immunizations under the supervision of the pharmacy and supervising pharmacist. The Board extended this registration through April 2022.
- The Board agreed to end the waiver of any facility application or renewal requirements beginning in January 2022.
- The Board discussed drafting a statement supporting the pharmacist exercise of professional judgment and the importance of this step as a necessary check and balance and the final step in dispensing medications to patients.

2022 Legislative Session

The Executive Secretary provided an update on anticipated 2022 legislation, including the Board's K-TRACS bills (HB 2253 and SB 168) and Controlled Substance Act updates (S Sub for HB 2262).

Recess: The President called a recess at 9:34am.

Reconvene: The President called the open meeting back to order at 9:45am.

Whitebagging

Karen Braman, Kansas Hospital Association, was recognized by the Board to provide an update on whitebagging and the effect on hospital pharmacies. KHA visited with the Insurance Department and was asked to pass along to the Board that any complaints related to this issue and insurance coverage should be passed on to the Insurance Department. The Board's Executive Secretary also gave an overview of possible next steps, including drafting a Board regulation or amended regulation.

Administrative Proceedings

21-111 Austin Rice

- Mr. Rice appeared in person without counsel, via the virtual interface.
- The Board was represented by Ms. Brenda Head.
- Judge Snell explained the administrative hearing process and virtual guidelines for Mr. Rice.
- Ms. Head requested that Board Exhibits 1-4 be admitted as evidence, with Exhibits 1 and 2 being sealed, and such was done by Judge Snell following no objections from Mr. Rice.
- Ms. Head called Linda Blasi, who appeared virtually and was sworn in and gave her testimony.
- Mr. Rice had no questions for Ms. Blasi.
- Ms. Head called the Executive Secretary, who was sworn in and gave her testimony.
- Mr. Rice had no questions for the Executive Secretary.
- Mr. Rice wished to testify on his behalf, and he was sworn in and gave testimony.
- Ms. Head cross-examined Mr. Rice.
- The Board questioned Mr. Rice.
- Mr. Rice called a witness on his behalf, Johnny Graves.
- Ms. Head made formal objection to this witness because he was not named timely as required by the Board's Notice of Hearing.
- Judge Snell noted the objection but allowed Mr. Graves to testify and give the Board the opportunity to determine the amount of weight to give to Mr. Graves' testimony given the objection.
- Judge Snell asked Mr. Rice if he wanted to request the hearing be closed due to any protected health information that might be shared in Mr. Graves' testimony. Mr. Rice declined.
- Mr. Graves was sworn in and provided testimony.
- Ms. Head had no questions for Mr. Graves.
- The Board questioned Mr. Graves.
- A motion was made and seconded at 10:34am to enter into closed KAPA deliberations, to include Judge Snell and the Executive Secretary. (Stohmeyer/Axcell) Motion carries.
- The President reconvened the open proceedings at 10:52am.
- A motion was made and seconded to uphold the Summary Order and deny Mr. Rice's application. (Noches-Talbert/Axcell) Motion carries. Gatewood and Truong abstain.

BOARD DISCUSSION

Board Meeting Dates

2022 has similar dates since worked well this past year – February 18th, April 6th, June 2nd, August 25th, October 20th, December 1st.

Action Items

The Board staff plans to launch a survey for pharmacists on workplace conditions which may related to the protection of the public in early January.

2021 Officer Elections

A motion was made and seconded to elect as President – Mr. Brunswig, and as Vice President – Mr. Walden. (Gatewood/Strohmeier). Motion passed.

A motion was made and seconded to elect as Investigative Member – Ms. Gatewood. (Axcell/Strohmeier). Motion passed.

A motion was made and seconded to elect as Alt Investigative Member – Ms. Strohmeier. (Truong/Gatewood) Motion passed.

Recess: The President called a recess at 11:23am.

Reconvene: The President called the open meeting back to order at 11:31am.

Regulations

The Board reviewed the draft telepharmacy regulations, which were being viewed for the first time. The Board discussed the mileage requirements and patient access to pharmacy services.

Recess: The President called a recess at 12:06pm.

Reconvene: The President called the open meeting back to order at 1:00pm.

Public Comment

Alicia Palombo commended the Board on discussion of telepharmacy regulations and indicated Idaho and Washington had less restrictive language and she would be happy to provide that.

BOARD DISCUSSION

Regulations

The Board continued discussion of telepharmacy regulations. The Board voted 4 to 3 to strike the mileage restriction language and waiver language. The Board finalized a draft to send to stakeholders for review.

Recess: The President called a recess at 2:46pm.

Reconvene: The President called the open meeting back to order at 2:59pm.

Board Policy Statement on Pharmacist Exercise of Professional Judgement

The Board finalized a Statement on the Exercise of Pharmacist Professional Judgment. Motion was made and seconded to adopt the Policy Statement. (Gatewood/Truong) Motion carries.

Approvals

New Licensees & Registrants –

K-TRACS Advisory Committee Appointment –

A motion was made and seconded to approve new Licensees & Registrants since October 4, 2021, and to re-appoint Dr. Michael McClintick to the K-TRACS Advisory Committee. (Truong/Noches-Talbert) Motion passed.

Reports

K-TRACS

The K-TRACS Assistant Director, Jennifer Donnelly, provided an overview of the K-TRACS program progress over the past 3 years. Since Ms. Donnelly is leaving, Gayle Donaldson has been selected as her replacement.

Attorney

Ms. Head attended the Compliance Officer and Legal Forum at the National Association of Board's of Pharmacy last week.

Approvals

Stipulation & Consent Agreements –

- Motions were made and seconded to approve Stipulation & Consent Agreements as presented for cases 21-013, 21-051, and 21-091 (Strohmeyer/Axcell). Motions passed.

Minutes and New Licensees & Registrants

- A motion was made and seconded to approve the minutes from the Board meeting on October 13, 2021. (Axcell/Truong) Motion carries.

Director Report

The Executive Secretary provided an overview on renewals of the ePrescribing waivers.

Compliance Report

The Director of Compliance provided statistics and information on current compliance issues, and introduced pharmacist Christy Seufert as the new SE Kansas inspector. Ms. Haynes also served as the Board's representative as the accreditation visit for the University of Kansas School of Pharmacy in November 2021.

Director Report cont.

The Executive Secretary inquired to NABP about tracking of pharmacist credentialing but they do not track this information. She also provided an update on Retail Dealer renewals and the first ADDS renewal. The Executive Secretary reported that the eLicense / NABP integration is complete. She indicated Dr. Norman is not an active Medicare provider, which has impacted the Statewide Immunization Protocol, and since Dr. Norman's departure we are now looking for another physician in KDHE to authorize it. The Executive Secretary provided an update on staffing and organization structure, as well as recent promotions, changes in duties, and new hires.

EXECUTIVE SESSION

A motion was made and seconded at 4:35pm 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 be reopened for adjournment at 4:50pm. (Walden/Strohmeyer). Motion carries.

Reconvene: The President reopened the meeting to the public at 4:50pm.

Adjourn: The meeting was adjourned at 4:50pm.