

KANSAS STATE BOARD OF PHARMACY BOARD MEETING AGENDA

February 8, 2019

Meeting Location: Board of Regents Board Room
1000 SW Jackson, Ste 520
Topeka, KS 66612

Friday, February 8, 2019

Members Present: John Worden, PharmD., President; Jonathan Brunswig, PharmD., Vice-President; Chad Ullom, R.Ph., Investigative Member; Robert Haneke, PharmD; Bill Walden, RPh; and Mike Lonergan, R.Ph.

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 Jones, Compliance Inspector; Jackie Yingling, Assistant Director; Lori Haskett, Assistant Director; Reyne Kenton, K-TRACS Program Manager and Compliance Inspector; Heidi Nelson, Administrative Specialist; Kevin Fowler, JD, General Counsel; Loren Snell, JD, Administrative Law Judge.

Case 18-476 Shahab Esfandiary

- The Board was represented by Mr. Fowler.
- Shahab Esfandiary represented himself and appeared without counsel.
- Mr. Snell swore in Mr. Esfandiary who gave testimony.
- Mr. Snell swore in Gene Hotchkiss who gave testimony.
- The Board entered into closed session for KAPA deliberations and included the Executive Secretary at 9:05 am.
- Dr. Worden reconvened the proceedings at 9:22 am.
- Motion made to dismiss the fine in light of the unique circumstance and enter an official letter of reprimand to be kept in his file. All discipline would be dismissed. (Brunswig/Walden) Motion carries.

Dr. Worden called the open meeting to order at 9:29 am.

2019 NABP Annual Meeting Delegate

The Board appointed Jon Brunswig to be the Board's representative at the 2019 NABP Annual Meeting Delegate.

KU School of Pharmacy Law Class

The Board discussed with Dean Gene Hotchkiss the possibility of the Board of Pharmacy meeting with P1 students in the fall semester. Bill Walden and Mike Lonergan will represent the Board during the law class on April 1.

DEA Exempt Products List

A motion was made to adopt the DEA Exempt Products list (Ullom/Brunswig). Motion carries.

Legislative Session Briefing

There have been no new drugs added to schedules II through V so the KBI and the Board are tabling the controlled substance update for 2019.

The Board is tracking bills including a bill to allow a pharmacist to administer medication to a patient pursuant to a prescription order and provided proponent testimony.

The Board drafted a bill that would have given authority for epinephrine pens in schools, but other stakeholders requested a more complex bill that would include language that hadn't been previously discussed, thus the Board will not be moving forward with the draft bill.

The Board is also tracking a death with dignity bill that would allow a physician to prescribe a drug that would end the patient's life and a pharmacist to dispense and counsel the patient.

The Board was asked for a fiscal note on a death by lethal injection bill. The bill would amend existing law which requires the Department of Corrections to select the substance used to end life. Under the new bill, the Kansas Boards of Pharmacy and Healing Arts would certify that the substance would result in death in a swift and humane manner.

The Board adjourned the open meeting to conduct KAPA proceedings.

Case 18-557 Ronald Riley

- The Board was represented by Mr. Fowler.
- Ron Riley represented himself and appeared without counsel.
- Mr. Snell swore in Mr. Riley who gave testimony.
- The Board entered into closed session for private health information and included the Executive Secretary, the Board's inspector, and Kansas PRN staff at 10:36 am.
- Mr. Snell swore in Kelly Rockers who gave testimony.
- Dr. Worden reconvened the open proceedings at 10:57 am.
- The Board's disciplinary council withdrew the stipulation from consideration.

Recess: The Board recessed at 10:58 am.

Reconvene: The Board reconvened at 11:06 am.

Case 18-612 Elisabeth Gossman

- The Board was represented by Mr. Fowler.
- Elisabeth Gossman represented herself and appeared without counsel.
- Mr. Snell swore in Ms. Gossman who gave testimony.
- Mr. Snell swore in Jody Gossman who gave testimony.
- The Board entered into closed session for KAPA deliberations and included the Executive Secretary at 11:27 am.
- Dr. Worden reconvened the proceedings at 11:39 am.
- Motion made to approve the recommendation of probationary status for two years on technician renewal and intern application and must successfully complete the diversion. (Walden/Brunswick) Motion carries.

Dr. Worden called the open meeting back to order at 11:42 am.

Board Discussion

Review of Comments on draft K.A.R. 68-5-16

The Board received numerous comments in response to proposed changes to K.A.R. 68-5-16.

Comments were varied and ranged from approval of the changes to 6:1; request for consideration of 4:1; and request that the Board leave the regulation as is.

Dr. Worden requested that the Board offer their thoughts after reviewing the comments that were submitted. Mr. Ullom pointed out that pharmacy is the only profession that is told how much help they can have. Mr. Walden reminded the Board that if the regulation allows for 6:1 it doesn't mean that you have to use the full six technicians. He was not opposed to the waiver option. Dr. Brunswig sees both sides of the issue. He requested more information about the waiver process. The Executive Secretary provided potential logistics. Ms. Haynes expressed the concern of the inspectors on the amount of people that would potentially be allowed in a pharmacy at one time. Dr. Haneke agreed that more people in a pharmacy could lead to chaos. Mr. Lonergan shared that he was leaning toward a 6:1 ratio and worried that the waiver would turn into a rubber-stamp situation. Dr. Worden explained the waiver as a 'standard of care' provision where it varies from practice setting to practice setting. The waiver would allow individual sites to expand with permission of the Board.

Rather than a vote, Dr. Worden requested that the Board offer their current position on the ratio. Mr. Ullom was in favor of the 6:1 but would approve the 4:1 with a waiver if needed; Mr. Walden also preferred 6:1 but would be okay with 4:1; Mr. Haneke favored the 4:1 with a waiver approved by the Board; Dr. Brunswig preferred the 4:1 as well with strict criteria for the waiver; Dr. Worden was in favor of a 4:1 regulation change with a waiver for up to 6:1; and Mr. Lonergan preferred 6:1 but with no more than two non-certified technicians.

Dr. Worden requested that the next Board meeting include criteria for a waiver and possible discussion with the inspectors.

Recess: The Board recessed at 12:20 pm.

Reconvene: The Board reconvened at 1:00 pm.

Public Comment

The Board heard public comment from technician April Kitterman and pharmacist Mike Bellesine from El Dorado True Care Pharmacy in Emporia.

Reports

Pilot Project – Myers Family Center

Doug Baggett submitted a report on the telepharmacy pilot project. He stated that it has been very successful. He also requested some modifications to the pilot project to continue to expand the services offered.

The Executive Secretary requested that the reports continue to be more detailed and come monthly.

Board Member Reports

Mr. Walden attended the NABP Board Member Forum along with Dr. Brunswig.

Dr. Haneke expressed regret that he was unable to attend the meeting in person.

Board Discussion cont.

Regulations for Consideration

The Governor's Substance Use Disorder Task Force recommended regulations be written for mandatory registration of prescribers and pharmacists in K-TRACS and the Advisory Committee will be reviewing the proposed regulatory language. Additionally, regulations on sharing information from K-TRACS with other states will be updated to expand the entities beyond just states to include the St. Louis County initiative, Indian Health System, and Military and Veterans Health Systems.

Split Prescriptions for LTC

The Director of Compliance requested that the Board provide guidance on the practice of splitting prescriptions for long term care facilities that are short on inventory.

The Board requested that they receive comments from facilities on current practice.

Request for Board guidance on CBD and marijuana in medical care facilities

Requests have been made for guidance on handling CBD and marijuana that is brought in to a medical care facility by a patient receiving care. Part of the issue is CMS and federal law are in conflict. The Executive Secretary is not sure that the Board is in the position to offer any guidance or opinion at this time.

Request for Board guidance on 340B in FQHC

The Board received a request to approve placement of a 340B in a Federally Qualified Health Clinic. The Board requested that the issue be passed along to the attorney to draft a response.

Attorney RFP

The contract for legal counsel expires at the end of June. The Board must do a request for proposal (RFP). The Executive Secretary has partnered with the Board of Examiners in Optometry to draft this document.

Dr. Worden said the Board would prefer to retain counsel and authorized the Executive Secretary to serve as the Board's representative on the RFP.

KsPRN

Kelly Rockers provided an update on the KsPRN program and their partnership with the Board for assistance for impaired providers.

K-TRACS Report

Ms. Haskett, Ms. Kenton, and Ms. Donnelly presented an update on the funding needs for K-TRACS and the annual program update. They provided threshold numbers and an overview of efforts being made to educate legislators on the program.

The Executive Secretary reported that we have received an amazing round of support from the legislature for the program itself, but there has been very little support for funding to come from the state general fund.

Legislative Briefing, cont.:

The regular Board of Pharmacy budget is moving forward.

The Executive Secretary was able to preview a Medical Cannabis bill and provide feedback.

The bill includes the Board of Pharmacy in oversight of the dispensaries and associated rules and regulations. Mr. Brunswig requested to be notified of any hearings for the bill.

Compliance Briefing

The Executive Secretary provided compliance numbers for 2015-2018 showing the increase in the number of applications or renewals received with criminal history or discipline.

Committee Reports

- The Collaborative Drug Therapy Management Committee is working on a statewide immunization protocol.
- The Technician Task Force is waiting on the technician ratio discussion to be completed before meeting again. The Executive Secretary plans to have additional regulatory language drafted by staff since the Task Force has been well consulted on current topics.
- Dr. Worden asked Joanna Robinson to chair the Compounding Committee and they are looking at USP 797 updates and new regulations for USP 800.

- The Automation Committee has not met recently but the regulations were updated. A broader telepharmacy discussion would probably include them along with the Pilot Project Committee as telepharmacy would require statutory change.
- The CE Review Committee continues to meet to look at individual non-ACPE approved courses.
- The PMP Advisory Committee approved guidance for K-TRACS data review and referrals in January 2019.
- Tripartite Quarterly Meetings will be held with representatives from the Board, Kansas Pharmacists Association, and the University of Kansas School of Pharmacy. Dr Brunswig, the Executive Secretary, and the Director of Compliance will be the Board's representatives. Dr. Worden requested that the Board ask its attorney to draft an agreement that would allow the Board to provide the school with any background or rap back information for current and admitted students.

Discipline & Fines

Mr. Walden as the Investigative Member has reviewed the final guidelines and gave his approval.

Director's Report

The Employee Handbook has been finalized after approval by the Department of Administration & the attorney.

The Board was provided with the completed task list from 2018 and the list for 2019.

The Executive Secretary provided a musical overview of her position and responsibilities.

Approvals*

A motion was made and seconded to approve the Stipulations & Consent Agreements (Brunswig/Walden). Motion carries.

A motion was made and seconded to approve the Minutes of the November 27, 2018 & January 4, 2019 Board Meetings and New Licensees & Registrants (Ullom/Brunswig). Motion passed.

Recess: The Board recessed at 3:05 pm.

Reconvene: The Board reconvened at 3:15 pm.

Executive Session

A motion was made and seconded at 3:15 pm to enter into executive session per K.S.A. 75-4319(b) to discuss personnel matters of nonelected personnel to reconvene at 3:45 pm and to include the Executive Secretary (Ullom/Lonergan). Motion passed.

A motion was made and seconded at 3:45 pm to enter into executive session per K.S.A. 75-4319(b) to discuss personnel matters of nonelected personnel to reconvene at 4:00 pm and to include the Executive Secretary (Brunswig/Lonergan). Motion passed.

Dr. Worden reconvened the meeting at 4:00 pm.

Adjourn: Dr. Worden adjourned the meeting at 4:00 pm.