

**KANSAS STATE BOARD OF PHARMACY
MINUTES OF THE MEETING**

**HELD AT: AmeriSuites Meeting Room
6021 SW 6th Avenue
Topeka, KS**

DATE: April 29, 2002

MEMBERS PRESENT: Vicki Schmidt, RPh, President; Max Heidrick, RPh, Vice President; Mike Hurst, RPh; Merlin McFarland, RPh; Lori Moore, RPh; and Dan Upson, DVM

STAFF PRESENT: Susan Linn, Executive Secretary; Jim Kinderknecht, RPh, Pharmacy Inspector; Tom Fraiser, Pharmacy Inspector; Randall Forbes, Board Attorney and Karen Hollon, Public Service Administrator.

OTHERS PRESENT: See attached listing.

MEETING CALLED TO ORDER: President Schmidt called the meeting to order at 8:30 a.m.

New Board Member Welcome and Introductions

Ms. Schmidt welcomed the two new Board members, Frank Whitchurch and Jeff Thompson

APPROVAL OF MINUTES

A motion was made to approve the minutes of the April 29-30, 2002 meeting as amended. (Moore /Hurst). Motion carried.

CONSIDERATION OF STIPULATION and FINAL AGENCY ORDER:

Osco #5182

Mr. Forbes presented the Board with the SFAO for Osco #5182 for their consideration and approval. A motion was made and seconded to approve the SFAO with Osco as a final agency order (Moore/ Upson). Motion carried (4-0). Mr. Heidrick recused himself.

Walgreens #6170

Mr. Forbes presented the Board with the SFAO for Walgreens for their consideration and approval. A motion was made and seconded to approve the SFAO as a final agency order (Hurst/ Moore). Dr. Upson voted against. Motion carried. Mr. Heidrick recused himself.

K-Mart Pharmacy #4171

Mr. Forbes presented the Board with a new agreement with K-Mart to increase the fine from \$1,000 to \$5,000.

Ronald Magathan, R.Ph.

The Board went into executive session for confidentiality issues being presented. Meeting to reconvene in 5 minutes. Mr. Magathan and his wife to be included in the session. Reconvene - President Schmidt reconvened the meeting at 9:17 a.m. Mr. Forbes presented the Board with the SFAO for Mr. Magathan for their consideration and approval. A motion was made and seconded to approve the SFAO with Mr. Magathan as a final agency order. (Upson/Hurst) Motion carried. Mr. Heidrick recused himself.

APPROVAL OF NEW LICENSES AND REGISTRATIONS:

A motion was made and seconded to approve the licenses and registrations issued by the Board Office since the February meeting (Moore/McFarland). Motion carried.

ADMINISTRATIVE ACTIONS

Interns no longer enrolled in Pharmacy school: Mr. Heidrick discussed a situation where an individual was working in a pharmacy and was no longer enrolled in Pharmacy School. The Board decided to discuss the issue at the June Board meeting.

Intern's responsibilities: The Board instructed Ms. Linn to invite KU School of Pharmacy personnel to the June Board meeting to discuss what interns can and can not do.

Waiver of registration – At the November, 2001 Board meeting, Cygnus, Inc. requested an exemption from registration requirement for dispensing the GlucoWatch®, a blood glucose monitoring system. Mr. Forbes reported he had been in discussion with the company and the product contains no drugs. The Board granted the waiver as the product would not constitute the practice of pharmacy.

Innovative Marketing-Accutane Survey – The Board was asked to comment on the legality of whether Roche could have access to patient records at pharmacies to find out whether federal requirements are being met. Mr. Forbes was instructed to communicate Board's concerns about confidentiality of patient records.

Carla Stovall, Attorney General v DVM Enterprises– The Attorney General's office asked whether the Board wished to file an amicus brief on this internet case. The Board decided not to file the brief now. A motion was made to allow Mr. Forbes and Ms. Linn to communicate with the AG's office (Moore/Upson). Motion carried.

INVESTIGATIVE REVIEW OFFICER REPORT

Copies of the report on resolved complaints were handed out to Board members. Mr. Heidrick discussed the issue of incident reports. The Board agreed that all involved personnel should be listed on the incident report with each person's signature and that anything that has a potential for consumer error should be reported to the pharmacist in charge.

ADMINISTRATIVE PROCEEDINGS

The Board asked **Dean Carson, R.Ph.** from Dillons Pharmacy, Junction City, to appear before the Board to clarify what happened concerning a medication error. The Board went into executive session for 15 minutes for the deliberation of quasi-judicial matters in the case. Ms. Schmidt reconvened the meeting at 12:15 p.m. A motion was made to require Dillons' management to send a letter to the Board outlining a review of procedures and implementing any changes as well as an educational process conducted by Dillons to prevent a reoccurrence of this type of error. (Upson/Moore). Motion carried.

CONSIDERATION OF STIPULATION and FINAL AGENCY ORDER

Pam Stoddard, R.Ph. Mr. Forbes presented the Board with the SFAO for Ms. Stoddard for their consideration and approval. A motion was made and seconded to adopt the stipulation and enter the final agency order proposed (Hurst/Upson). Motion carried. Mr. Heidrick recused himself.

12:30 p.m. Lunch recess

2:00 p.m. Back in session

CONFERENCE HEARING

Corey Penner, R.Ph. met with the Board to come to an agreement concerning his ability to practice as a pharmacist. The Board went into executive session for 30 minutes for issues related to confidential information. The session included; Mr. Phillips, Mr. Penner, Mr. Schwarm, Mr. Gilmore, Dr. Carder, Ms. Linn and Mr. Forbes. (Moore/Hurst). Reconvene – Ms. Schmidt reconvened the meeting at 2:30p.m. A motion was made and seconded to go back into executive session until 3:15 p.m. for issues related to confidential information (Moore/McFarland). Mr. Forbes and Ms. Linn included in session. Reconvene - President Schmidt reconvened the meeting at 3:25 p.m. A motion was made and seconded to go into executive session until 4:20 p.m. for the deliberation of quasi-judicial matters (Heidrick/Upson). Mr. Forbes to be included. Reconvene- Ms. Schmidt reconvened the meeting. Ms. Schmidt made a motion consisting of: Mr. Penner to continue practicing, maintain his agreement with CIPP, will not be a PIC and must work with another person 18 years or older. The motion was not seconded. Motion died. A motion was made and seconded to go into executive session for 10 minutes for the deliberation of quasi-judicial matter (Moore/Upson). Reconvene - President Schmidt reconvened the meeting at 5:10 p.m. A motion was made by the Board to continue the same agreement as the February 2002 consent agreement to be in effect until the first regularly scheduled meeting after August 1, 2002. (Moore/Hurst). Motion carried. Mr. Phillips was instructed to do an addendum to the consent agreement.

ADMINISTRATIVE ACTIONS

Mr. Phillips asked the Board to delegate the authority for Mr. Heidrick to appoint a prehearing officer for a case. A motion was made for the Board president to appoint a prehearing officer as long as the Board has current disciplinary counsel (Upson/Moore) Motion carries.

Mr. Phillips reported on the Parson's lawsuit. The Board went on record not supporting any settlement agreement of the case.

COMMITTEE on IMPAIRED PHARMACY PRACTICE

Jenith Hoover presented the proposed FY 2003 budget. Ms. Hoover explained that the contract request was the same as last year, although mileage reimbursement was updated.

Adjournment

Ms. Schmidt adjourned the meeting at 5:45

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STAFF PRESENT: Susan Linn, Executive Secretary; Jim Kinderknecht, RPh, Pharmacy Inspector; Randall Forbes, Board Attorney and Karen Hollon, Public Service Administrator.

OTHERS PRESENT: See attached listing.

MEETING CALLED TO ORDER: President Schmidt called the meeting to order at 10:00 a.m.

PHARMACY INSPECTOR ISSUES:

Ms. Linn reported on the raise in the inspector's salary. The Board discussed the non-pharmacist position. The Board agreed to contract with the Dept. of Personnel Services for recruitment (Hurst/Heidrick). A motion was made to go into executive session to discuss personnel issues for 10 minutes. Board reconvened at 10:15 a.m.

BOARD REPORTS

Dr. Upson spoke about his appreciation for Lori and Vickie's work on the Board and that they will be missed.

Mr. Hurst reported on his experience at the KSHP meeting. Mr. Hurst was glad the relationship with KphA has been reestablished.

Mr. Heidrick thanked Vicki and LORI for their work on the Board.

Ms. Moore thanked other Board members for the six years on the Board.

Mr. McFarland thanked Vicki and Lori for the help on the Board. He spoke about his concerns with the technician credentialing and appreciated Mr. Forbes work on the issue.

Ms. Schmidt spoke about her appreciation with her time on the Board. The Board has progressed and made a lot of changes. She encouraged Board members to get involved in NABP.

GENERAL COUNSEL REPORT

Mr. Forbes spoke about the frustrations with the credentialing process. Suggested to Board that the next opportunity would be to approach Clyde Graber, at KDHE and then the legislature.

STAFF REPORT

Ms. Linn reported on the Board's legislation, SB 482. The bill is currently in a conference committee. Ms. Linn presented a budget report to the Board. The Board instructed Ms. Linn to give them a report that compares monthly expenditures against budget.

Mr. Kinderknecht asked the Board to clarify whether pharmacies are still required to keep all the daily records if they have electronic backup. The Board agreed that the

records could be destroyed if the records have been stored electronically. Mr. Kinderknecht also informed the Board of Canadian pharmacies advertising in local papers.

A motion was made to go into executive session for personnel matters for thirty minutes. (Moore/Upson). At 2:20 the Board went back into executive session for an additional thirty minutes.

ADJOURNMENT

Ms. Schmidt adjourned the meeting at 3:02 p.m