

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

September 21 & 22, 2004  
KU School of Pharmacy  
2056 Malott Hall  
Room 6056  
Lawrence, Kansas 66054

**Tuesday, September 21, 2004**

**MEMBERS PRESENT:** Jeff Thompson, RPh., President; Frank Whitchurch, RPh., Vice President; Merlin McFarland, RPh.; JoAnne Gilstrap, RPh.; Max Heidrick, RPh.; Howard Paul, Public Member.

**STAFF PRESENT:** Debra Billingsley, Executive Secretary; Jim Kinderknecht, RPh., Pharmacy Inspector; LaTonyua Rice, R.Ph., Inspector; Reyne Kenton, Compliance Officer; Melissa Martin, Compliance Officer; Randy Forbes, General Counsel and Karen Hollon, Administrative Officer.

**OTHERS PRESENT:** See attached listing.

**MEETING CALLED TO ORDER:** Jeff Thompson called the meeting to order at 9:00 a.m. Mr. Thompson thanked the School of Pharmacy for hosting the board meeting. Mr. Thompson introduced the KU School of Pharmacy Dean, Dr. Kenneth Audus. Dean Audus welcomed the Board to the school.

**APPROVAL OF AGENDA AND MINUTES:** A motion was made and seconded to approve the amended agenda. The amendment was to move Max Heidrick's report to Tuesday rather than Wednesday and the topic of continuing education was added. (McFarland/Whitchurch). Motion carried 5-0.

A motion was also made to approve the minutes of the June 2004 Board meeting. (McFarland/Whitchurch). Motion carried 5-0.

**COMMITTEE ON IMPAIRED PROVIDER PROGRAM PRESENTATION:** Nancy Corkins appeared on behalf of the Committee on Impaired Providers. Ms. Corkins provided cost increases of the program to the Board. HAPN is using a new testing source that provides both alcohol and drug screening at a cost of \$45 for participants. There is also a \$40 monthly monitoring fee paid by participants. Ms. Corkins introduced Rick Rael to the Board as a past participant of CIPP who now serves on the CIPP committee. Mr. Rael wanted to share his success story as a pharmacist who has recovered from drug and alcohol addiction. The Board asked several questions of Mr. Rael regarding his recovery process. Mr. Rael did state that it was his opinion that if

a person relapsed while in recovery they should start over to secure their sobriety. The Board thanked Mr. Rael for sharing his story.

**KPhA MEMBERSHIP REQUIREMENTS:** John Kiefhaber, Executive Director of KPhA discussed enacting legislation that would mandate membership in KPhA. The requirement would be good for the association and also benefit all pharmacists by providing them with additional services. KPhA currently has 900 pharmacists as members. Mr. Kiefhaber explained that this change would require more study but he wanted to let the Board know that this topic had been discussed at the KPhA meetings.

**RECESS:** The Board took a 5-minute break.

**RECONVENE:** The Board meeting reconvened at 9:50 a.m. with all members present as previously stated.

**DISCUSSION REGARDING RESTRICTIONS ON DRUGS CONTAINING PSEUDOEPHEDRINE:** Kyle Smith, Special Agent with the Kansas Bureau of Investigation, discussed the Oklahoma experience with dealing with the manufacture of methamphetamine. Oklahoma has placed restrictions on the purchase of certain decongestants that contain pseudoephedrine. They did exempt liquid gel caps because they cannot separate those ingredients. The restrictions in Oklahoma include placing products on Schedule V with no labeling requirements, sale by a pharmacist or pharmacy technician, sale must be confirmed by I.D. of purchaser, sale must be logged in verifying purchaser and his/her DOB . The Oklahoma Governor has contacted Governor Sebelius asking her for support. The Attorney General's Office has put together a task force that will ask for legislation in January. The County and District Attorneys Association and the Sheriff's Association are supporting this legislation. It is also receiving support from SRS treatment managers. Mr. Smith requested that the Board support any legislation that is brought regarding this health and safety problem. The Board recommended that they continue to monitor and review any proposed legislation.

**DISCUSSION REGARDING CONTROLLED SUBSTANCE ACT AS IT RELATES TO SCHEDULE I DRUGS:** The Board discussed with Kyle Smith whether the Board needed to propose to the legislature any drugs for scheduling, rescheduling or deletion pursuant to K.S.A. 65-4102. There have been two cases regarding possession of Khat but it does not appear to be a widespread problem. Therefore, the KBI is not requesting any changes at this time.

**COMPOUNDING REGULATIONS:** Jeff Thompson provided Draft 14 of the compounding regulations incorporating all changes that had been discussed previously. The biggest hurdle has been addressing hospitals that don't have a full-time pharmacist. The other problem has been defining "immediate use" and the high-risk implications of the term "immediate use". The Board also discussed quality control issues. Jeff plans to discuss these issues at the NABP District VI meeting the next week and receive their input. The Board expressed their appreciation to Mr. Thompson for his work drafting the compounding regulations.

**RECESS:** The Board took a 10-minute break.

**RECONVENE:** The Board reconvened at 11:45 with all members present as previously stated.

**GEORGE SAGHBENE # 1-10709**

Mr. Saghbene appeared pro se. Marty Snyder, Assistant Attorney General represented the Board. Respondent was charged with providing patient with partial prescription but billing for full amount; changing strength of medication without verification from physician; failure to counsel; and failure to advise physician that he couldn't fill prescription within 72 hours. A motion was made to accept the consent agreement (Heidrick/Whitchurch). Motion carried 5-0.

**RECESS:** Lunch

**RECONVENE:** The Board reconvened at 1:00 p.m. with all members present as previously stated.

**WALGREENS PRESENTATION:** Dan Luce of Walgreens discussed Walgreen's Central Fill and Central Processing Technology. Mr. Luce expressed the he wanted to make sure they were complying with Kansas pharmacy rules and regulations and to address any Board concerns early on. Virtual imaging systems project (VISIONS) would image the prescription in a queue that could be worked on at the store and at another location. This is now in pilot in Florida and Wisconsin. Mr. Luce provided information regarding the audit trail in this system. The system can track which stores have a heavy caseload that would move them to a priority position of receiving help from a store with less volume. The Board expressed concerns that this would cross-state lines and could create potential licensing issues but Walgreens has no plans at this time to cross-state lines. The hard copy will still stay at the store where the prescription is dropped off.

**CLINICAL PHARMACY PROVIDER:** The Board discussed the Medicaid Clinical Pharmacist Practitioner Services Coverage Act of 2004. HB 4724 amends Medicare to provide for coverage of authorized clinical pharmacist practitioner (CPP) designation. The Board discussed that this term is not used in Kansas's law and there was concern that this could prevent a pharmacist in Kansas from obtaining reimbursement. The Board will continue to monitor this bill.

**PRESCRIPTION DRUG PEDIGREE:** The Board discussed the NABP model language regarding drug pedigrees used to combat counterfeit drugs. In 2003 counterfeit Lipitor tablets were repackaged in Nebraska and distributed primarily in Missouri. The Board suggested having the Executive Secretary look at Colorado and other states to see what they have done regarding implementing statutes that relate to drug pedigrees.

**DRUG REPOSITORY PROGRAM:** Debra Billingsley informed the Board that Representative Tom Sloan of Lawrence was interested in making it possible to return

drugs into the system for reuse. Rep. Sloan had a bill last year and he would like the Board to review it and give suggestions on the language and restrictions. The Board agreed to review the bill and to assist Rep. Sloan.

**TELEPHARMACY:** Frank Whitchurch reported that the telepharmacy task force had a meeting in Hays to discuss the impact that telepharmacy would have on pharmacies. John Kiefhaber advised the Board that it would be helpful to the underserved. Underserved does not necessarily mean rural areas but could also be urban areas. The Board discussed whether telepharmacy would enhance public health. The Board will continue to study the demographics to determine if there is a need. The Board directed Debra Billingsley to get communication from other states like North Dakota and to look at whether a pilot program would be useful in Kansas.

**RECESS:** The Board took a 5-minute break.

**RECONVENE:** The Board reconvened at 2:35 p.m. with all members present as previously stated.

**PHARMACY APPRENTICESHIP PROGRAM:** Michelle McAfee, from the Kansas Registered Apprenticeship Program, made a presentation on the pharmacy apprenticeship program. It set out the advantages to employers in using the apprenticeship program for pharmacy technicians.

**CONTINUING EDUCATION:** The Board discussed requiring a percentage of the continuing education units be live and a portion of the continuing education units be on the topic of ethics. KU School of Pharmacy could be used as a resource as well as the KPhA. The Board decided to review this again at a later date.

**BOARD REPORTS – Max Heidrick:** Mr. Heidrick commented that he was impressed with the staff's presentation at the KPhA convention in Wichita. Mr. Heidrick suggested reviewing the regulation regarding refills of maintenance drugs on weekends when the prescription has expired and the physician is unavailable. He suggested looking at the language of the regulation in Colorado. Mr. Heidrick would also like to pursue legislation for stiffer sentences regarding pharmacy burglaries and robberies so that the offender is not put back on the streets to rob again. Mr. Heidrick requested information regarding the documentation the inspectors require to show compliance that the pharmacist has conducted an annual review of technician training. The Board decided to discuss issue at the next board meeting.

**ADJOURNMENT:** The Board adjourned the meeting to meet with the pharmacy students at 3:30 and will reconvene the meeting at 9:00 a.m., September 22, 2004.

**Wednesday, September 22, 2004**

**MEMBERS PRESENT:** Jeff Thompson, RPh., President; Frank Whitchurch, RPh., Vice President; Merlin McFarland, RPh.; JoAnne Gilstrap, RPh. and Howard Paul, Public Member.

**ABSENT:** Max Heidrick, RPh.

**STAFF PRESENT:** Debra Billingsley, Executive Secretary; Jim Kinderknecht, RPh., Pharmacy Inspector; LaTonya Rice, R.Ph., Pharmacy Inspector; Reyne Kenton, Compliance Officer; Melissa Martin, Compliance Officer; Randy Forbes, General Counsel and Karen Hollon, Administrative Officer.

**OTHERS PRESENT:** See attached listing.

**MEETING CALLED TO ORDER:** Jeff Thompson called the meeting to order at 9:00 a.m.

**DISCUSSION REGARDING DEPARTMENT OF REVENUE REQUEST FOR SOCIAL SECURITY NUMBERS:** The Board discussed the Department of Revenue's request for a list of licensees and their social security numbers. KDOR is planning on using the information for statistical purposes only in order to gain insight about the rate of Kansas tax compliance. Randy Forbes reviewed the statutes and indicated that pursuant to K.S.A. 74-139 the agency is required to provide KDOR with this information. Revenue did advise that they would be seeking legislative authority to require tax clearance of licensees before a license can be renewed. The Board also discussed the request by the Office of Healthcare Information for social security numbers. They were using the information to assist SRS with child support enforcement. Ms. Billingsley had requested that the Office of Healthcare Information provide legal authority. They gave a few pieces of information and Randy Forbes reviewed them. He advised the Board that they had not provided anything to say that the agency is required to give social security numbers to OHI. The Board asked Ms. Billingsley to obtain more information and talk about this issue again at the December meeting.

**INVESTIGATIVE REPORT:** Frank Whitchurch thanked the staff for a good job on putting the closed cases together. Mr. Whitchurch discussed with the Board the current status of investigative cases.

The Board decided to extend the December board meeting through December 2<sup>nd</sup> and make it a 3-day board meeting should it become necessary.

**MAIL ORDER PHARMACIES:** This issue will be discussed at a later board meeting because it is still under research

**BOARD REPORTS:**

Merlin McFarland reported that the board staff were doing a good job.

Howard Paul reported that he went to the NACDS convention in August/September and encouraged the other board members to go next time. Mr. Paul suggested that the Board think about whether they want to raise fees if there is a shortfall and to put it on the agenda.

A motion was made and seconded to go into Executive Session to discuss the Executive Director position for 10 minutes and return at 10:00 a.m. (Howard/Whitchurch). Motion carried 4-0.

Jeff Thompson discussed changing the way hospital complaints are handled. He requested that the investigative member review all risk management reports that the Board office receives.

JoAnne Gilstrap suggested putting information regarding the closed cases in the newsletter as helpful information to the pharmacists. Ms. Gilstrap commented about a letter complimenting the office staff on the quick and efficient work from the office and thanked the staff for a good job.

Frank Whitchurch commented on a thank you the office received regarding Jim Kinderknecht. Mr. Whitchurch stated that the office is doing a good job of caring about the complainants' problems.

Debra Billingsley discussed the budget sweep. Ms. Billingsley stated that the office submitted an agency enhancement for the budget package in order to purchase a new computer software program. DISC has advised the Board that the software we are currently using will no longer receive support. They suggested purchasing new software or the agency would have to go back to using paper reports. The other request was for extra funds to cover the expenses and purchases of the cars. There is a concern of being in the negative, which would require a raise in fees. Ms. Billingsley stated she would have more information at the next board meeting.

Jim Kinderknecht discussed a closed case regarding brand exchange. Mr. Kinderknecht reported that since he has been back out doing inspections that he is impressed with the compliance with counter signed computer-generated prescriptions.

LaTonyua Rice stated she was a speaker at the Kansas Hospital Association on Risk Management and also spoke on the panel at the KPhA Meeting. Ms. Rice reported that she had participated in the 2004 MPJE review with NABP. Ms. Rice discussed with the Board a Wal-Mart policy regarding forged prescriptions. Wal-Mart told the pharmacists they can't call the police. JoAnne Gilstrap commented that it was because of a lot of false arrests and that it was a liability issue. The Board discussed that there is nothing in the law that would require a pharmacy to report a forgery to the police.

Melissa Martin reported that she went to the Midwest Pharmacy Luncheon. Ms. Martin asked the Board to review their decision regarding pharmacy intern/student transfers and the Board recalled that it was decided that interns/students could do the transfers.

**APPROVAL OF NEW LICENSES/REGISTRATIONS:** A motion made and seconded to approve the new pharmacist licenses and pharmacy registrations (Paul/Whitchurch). Howard Paul asked that he be recused on any license involving Walgreens pharmacies. Motion carried 4-0.

**ADJOURNMENT:** The Board adjourned the Board meeting at 10:30 a.m.