

Kansas State Board of Pharmacy  
Minutes of the June 2011  
Board Meeting

St. Francis Hospital  
Auditorium –2<sup>nd</sup> Floor  
1700 SW 7<sup>th</sup> Street  
Topeka, KS 66606-1690

**Wednesday, June 8, 2011**

**Meeting Called to Order:** President Shirley Arck called the meeting to order at 9:09am.

**Members Present:** Shirley Arck, Pharm. D., President; Jim Garrelts, Pharm. D., Vice-President; Karen Braman, R.Ph.; Michael Coast, R.Ph.; Nancy Kirk, Public Member; David Schoech, R.Ph.; and Frank Whitchurch, R.Ph.

**Staff Present:** Debra Billingsley, Executive Secretary; Jim Kinderknecht, R.Ph., Pharmacy Inspector; Tom Frazier, R.Ph., Pharmacy Inspector; Carly Haynes, R.Ph., Pharmacy Inspector; Melissa Martin, Compliance Inspector; and Reyne Kenton, Compliance Inspector.

**Others Present:** See attached listing.

**Approval of the Agenda:**

A motion was made and seconded to approve the agenda as amended to begin Thursday meeting at 8am. (Braman/Coast). Motion passed.

**Approval of the March 2011 Minutes:**

A motion was made and seconded to approve the minutes as printed. (Schoech/Coast) Motion passed.

**Administrative Proceedings**

- Jane Cowee (1-10968) **Case 06- 23.** Ms. Cowee was not present. A motion was made and seconded to enter executive session to receive privileged information from the CIPP program to protect the privacy rights of Ms. Cowee. The executive session was for 5 minutes with the regular meeting to resume in the same room at 9:22am. The executive session included Sharon Iverson and Board Staff. (Braman/Schoech). Motion passed. Dr. Arck reconvened the meeting at 9:22am. A motion was made and seconded to uphold the probation of December 5, 2011. (Coast/Braman)
- Bohemia Health Spa and Apothecary **Case 10- 56.** Mr. Hesse presented the case to the Board. The word “Apothecary” has been removed.
- Dolores Warnica (14-08630) **Case 10- 92.** Mr. Hesse presented the case. Ms. Warnica was not present. Ms. Warnica’s technician registration was revoked for diversion of a controlled substance by way of an unauthorized prescription. A motion

was made and seconded to revoke Ms. Warnica's registration. (Garrelts/Braman)  
Motion passed.

- Perry Drug, Inc. (2-10204) **Case 10- 103.** Mr. Hesse presented the case. Mr. Perry was present with legal counsel, Aaron Racine. A motion was made and seconded to approve Mr. Hesse's oral settlement proposal with the change in the fine. (Braman/Coast) Motion passed. Mr. Hesse will draw up the Consent Agreement to reflect the changes for Mr. Racine to review and Mr. Perry to sign.

### **Investigative Report – Closed Cases**

The closed cases were presented. There were no questions from the Board about the closed cases. 47 cases have been received since January 1 and this number has increased since the printing of the report. 21 cases remain open. The Board reviewed the diversion charts.

### **Administrative Proceedings**

- Karen Moeder (1-11502) **Case 11-15.** Mr. Hesse presented the case. Ms. Moeder was in attendance. A motion was made and seconded to enter executive session to receive privileged information from the CIPP program to protect the privacy rights of Ms. Moeder. The executive session was for 5 minutes with the regular meeting to resume in the same room at 10:10am. The executive session was to include Sharon Iverson, Ms. Moeder and her family. Dr. Arck reconvened the meeting at 10:10am. A motion was made and seconded to go into executive session for quasi-judicial deliberations at 10:10am to include Ms. Billingsley for 10 minutes. (Schoech/Coast) Motion passed. Dr. Arck reconvened the meeting at 10:20am. A motion was made and seconded to approve the Summary Order. (Coast/Garrelts) Motion passed. Ms. Moeder may return next June to request the suspension be removed.
- Ball Brothers Pharmacy (2-10253) **Case 11-13.** Mr. Hesse presented the case. Butch Ball was present to represent Ball Brothers Pharmacy with council, JD Farris. The Summary Order has been signed, the fine paid and the stipulations are in compliance.

Ms. Braman left the meeting at 10:20 a.m.

- Care ATC, Inc. – Application consideration. Kim Hutton, MD, presented the information to the Board on behalf of Care ATC. A motion was made and seconded to table the applications until further information can be provided and the questions answered. (Schoech/Coast) Motion passed.

**Recess:** Dr. Arck declared a break to reconvene in 10 minutes.

**Reconvene:** Dr. Arck reconvened the meeting at 11:26am

### **Board Discussion**

CIPP Annual Report and Contract with KPhA – Ms. Billingsley provided information and background for the proposed contract verbiage. The contract will be for a three-year period. Procedures will be developed with input from the Board and the CIPP Committee. Sharon Iverson and Mike Larkin were present to represent CIPP and

KPhA. Ms. Iverson presented the annual report to the Board. The Board reviewed the contract. A motion was made and seconded to accept the contract as presented with the exception to change the word “strive” to “shall” as related to confidentiality. (Coast/Kirk) Motion passed.

**Recess:** Dr. Arck recessed the meeting for lunch at noon to reconvene at 1pm.

**Reconvene:** Dr. Arck reconvened the meeting at 1pm.

First Dosing Issue in Long Term Care Facilities – The Board continued a discussion from the March board meeting. Melissa P. LeBar, R.Ph, Pharm.D, P.I.C. from Heartland Homecare Services in Lawrence provided a letter for the Board’s consideration. Information was also provided by the student intern, Jeneen Garbe, Creighton University Pharm.D. Candidate. Mr. Coast will gather additional information and comments from pharmacists to present for discussion at the September board meeting.

E-Prescribing (Interim Final Rule) – Dr. Arck presented information regarding electronic prescriptions for controlled substances obtained from the NABP convention. The Board discussed which prescriptions may be electronically transmitted. Schedule 2 prescriptions cannot be transmitted electronically until K.S.A. 65-4123 and K.A.R. 68-20-19 are changed.

Medicinal Cannabis – Dr. Jon Hauxwell presented the information to the Board regarding the medicinal benefits of cannabis. Attachments were included on the agenda packets to the Board.

**Recess:** Dr. Arck declared a break to reconvene in 10 minutes.

**Reconvene:** Dr. Arck reconvened the meeting at 2:15pm

Unused Medication Program – Robert Stiles, Bureau of Community Health Systems (KDHE) and Krista Postai, CEO of Community Health Center of SE Kansas made the presentation to the Board. They updated the Board on the current success of the program and future needs.

Budget and Fee Fund Expenditures – Ms. Billingsley discussed with the Board the latest issues with the Budget and Fee Funds. Ms. Billingsley suggested the Board look at possible ways to use the pharmacy fee fund to reduce the balance. She suggested a tuition loan forgiveness plan for new pharmacists who would choose to go into underserved areas of the state. Ms. Billingsley advised that the Board may want to reduce the fees of licenses and registrations to reflect the statutory requirement to only collect the amount needed to operate the agency. Mr. Michael Bennett, Kansas Council of Health System Pharmacists, made a proposal on possible ways to use the pharmacy fee fund. He suggested the funds be used for start-up monies for residency programs or to fund existing residency programs in the State of Kansas. Residency programs need to be created and accredited to be eligible for reimbursement. Mr. Larkin presented KPhA’s proposal for expenditure of the pharmacy fee fund. KPhA would become an ACPE provider for continuing education. Ms. Billingsley advised the Board

that they would have to do an RFP to contract with any outside entity. If the Board is interested in any of the proposals, Ms. Billingsley will have to meet with the Director of the Budget and determine if Budget would be able to consider any of the proposals.

PSE Electronic Logging MOU with KBI and Report on NPLEx Progress – Ms. Billingsley presented the “Memorandum of Understanding Pertaining to the Kansas Electronic Methamphetamine Precursor Logging System”. A motion was made and seconded to approve the MOU with the Kansas Bureau of Investigation as presented. (Coast/Schoech) Motion passed.

Ms. Billingsley shared with the Board an activity report from the system. The report shows the transactions across Kansas for PSE products. A suggestion was made to include in the newsletter the number of stop sales.

Pedigree – Ms. Billingsley said the Federal Government is still working the pedigree process.

Social Media Policy – Ms. Billingsley said several Boards Twitter and are on Facebook. The presentation at NABP was very good and Ms. Billingsley and Dr. Arck gathered many good ideas. The Board will take the suggestion under advisement.

Tour of St. Francis Hospital Pharmacy and Radiopharmacy Facility

**Adjourn:** Dr. Arck adjourned the meeting at 4:55pm.

### **Thursday, June 9, 2011**

**Meeting Called to Order:** President Shirley Arck called the meeting to order at 8:03am.

**Members Present:** Shirley Arck, Pharm. D., President; Jim Garrelts, Pharm. D., Vice-President; Karen Braman, R.Ph.; Michael Coast, R.Ph.; Nancy Kirk, Public Member; David Schoech, R.Ph.; and Frank Whitchurch, R.Ph.

**Staff Present:** Debra Billingsley, Executive Secretary; Jim Kinderknecht, R.Ph., Pharmacy Inspector; Tom Frazier, R.Ph., Pharmacy Inspector; Carly Haynes, R.Ph., Pharmacy Inspector; Melissa Martin, Compliance Officer; Reyne Kenton, Compliance Officer; and Randall Forbes, General Counsel.

**Others Present:** See attached listing.

### **Executive Session:**

A motion was made and seconded to go into executive session for 17 minutes to discuss client/attorney privileged information to begin at 8:03 am and to reconvene the regular meeting at 8:20am in the same room. The executive session is to include Mr. Forbes, Ms. Billingsley and the Board staff. (Coast/Schoech) Motion passed. Dr. Arck reconvened the meeting at 8:25am.

**KTRACS Report** – The report was attached to the agenda packet. Aimee Grubbs was present to answer any questions from the Board. Ms. Billingsley explained to the Board

some of the questions that have been raised by the advisory committee or other groups or agencies. She and Christina Morris met with the US Attorney for Kansas, the Attorney General, the Board of Healing Arts, the Medicaid Fraud Unit of the AG's Office and other interested persons related to access to the PMP.

### **Board Member Reports**

Karen Braman – updated the Board on the Kansas Health Information Exchange Board activities. She attended the KHIE Board meeting after she left the Board of Pharmacy meeting on Wednesday. The governor signed the Kansas Health Information Technology and Exchange legislation on June 1, 2011. The KHIE Board has begun working on policy decisions regarding privacy of, participation in, and access to the Kansas Health Information Exchange. Ms. Braman serves as the chairperson for the KHIE Board and they recently included Christina Morris in the policy committee. Ms. Braman noted that it will be important for the KHIE and the PMP to work collaboratively. Ms. Braman told the Board that it was an honor and a privilege to serve on the Board of Pharmacy and thanked the Board for the opportunity to serve with them.

Frank Whitchurch – thanked the Board for the opportunity to serve and said he would still be attending the meeting albeit on the other side of the table. He said Prescription Solutions is looking at PMP from all sites. Many individuals seeking controlled substances believed mail order pharmacies would be a safe haven and the mail order facilities are trying to intercept those prescriptions. Mr. Whitchurch reported on the activity of the Pharmacy Quality Alliance and their work on the Philadelphia Project. The group is working to establish quality measures in pharmacy. The program dovetails continuous quality improvement. Prescription Solutions has donated almost \$2 million to the unused medications program.

Michael Coast – thanked the Board for looking into the Canadian Drug issue. He will be pulling together LTCF industry pharmacists to discuss the issue of first fills and will bring a proposal to the Board for consideration and a possible regulation change. Mr. Coast said that automation in LTCF is on the horizon.

David Schoech – said NABP is a great organization and well organized. He expressed an interest in the CPE Monitoring Service. A collaborative effort between NABP and ACPE will track pharmacist and pharmacy technician ACPE accredited CPE credits. An individual would need to create an e-profile and obtain a permanent ID number. The capability to track is scheduled for late 2011. Mr. Schoech would like the Board to follow the progress of this program to determine if there would be any costs to the pharmacist or pharmacy technician.

Mr. Schoech thanked Mr. Whitchurch and Ms. Braman for their service to the Board.

Nancy Kirk – told Ms. Braman and Mr. Whitchurch thanks for the time and expertise they had brought to the Board.

Jim Garrelts – said he had not expected to see an end to the pharmacists' shortage but recently they actually had seen multiple applications for one position. Via Christi has required all technicians to become nationally certified. Via Christi made the requirement

a step on the ladder and do offer a monetary incentive. Mr. Garrelts expressed a desire for the Board to pursue collaborative practice. Mr. Garrelts asked Ms. Braman if the HIE was working with the Medical Society of Sedgwick County. Ms. Braman said the MSSC was very much involved and HIE is working with Jon Rosell. Mr. Garrelts thanked Ms. Braman and Mr. Whitchurch and said the Board would miss their presence.

Shirley Arck – said she learned a lot at NABP and would encourage any Board member to attend. Dr. Arck presented service plaques to Mr. Whitchurch and Ms. Braman.

### **KTRACS Report**

**MOU with NABP** – The Board discussed the MOU between the Board and NABP for the PMP Interconnect system services. A motion was made and seconded to approve the MOU with NABP. (Schoech/Coast) Motion passed.

**Regulations** - The Board reviewed the changes proposed in the KTRACS regulations. They were to add additional fields to the software to collect name of the person picking up each controlled substance prescription and their relationship to the patient, add the name of the animal and species to prescriptions for pets, and to add additional pet identifiers. The Board agreed with the changes conceptually and the KTRACS Director will work on regulation language. The Board also wanted further discussion on the issue of an identifying number for animals.

### **Staff Reports**

Reyne Kenton – thanked Mr. Whitchurch and Ms. Braman for serving as Board Members.

Melissa Martin – reported that she, Reyne and Carly had completed the MPJE question writing task. The questions must be written in a very specific format and that it helps when working as a team.

Debra Billingsley – thanked Ms. Braman for chairing the PMP advisory committee. The Department of Commerce had inquired if they could be of service in Telepharmacy to rural areas of Kansas. Many rural areas do not have broad band that would be needed to participate in telepharmacy. Ms. Braman said most hospital have the required internet service provided through KAN-ED. Ms. Billingsley said she had received many inquiries from State legislators about telepharmacy. She will be working to address the concerns of Senator Schmidt for retail telepharmacy. Ms. Billingsley said NABP is offering efficiency review and analysis of State Board offices and that she plans to invite them to come to Kansas. NABP has changed the procedure in retrieving scores on the NABPLEX and MPJE and this has made the process quicker and easier saving time and effort in the office. Students are also the benefit with faster turn around on test scores. She informed the Board of a case the Federal Trade Commission filed against the North Carolina Dental Board. The case could jeopardize the state's right to file a cease and desist if it is perceived as a restraint of trade of a practice not regulated by the Board. The FTC claims the cease and desist letter interferes with free trade. Ms. Billingsley thanked the inspectors for the work on the MPJE and drafting of the questions. Ms. Billingsley informed the Board of a slight hold up of the CV sample regulations. She will be working to correct the reference and will try to have it ready for a public hearing at the special meeting.

E-prescribing – The Board staff will provide further information to the Board related to whether any entities have been certified for e-prescribing.

**Approval of New Pharmacists and New Registrants**

A motion was made and seconded to approve the new licenses and registrations. (Coast/Braman) Motion passed.

**Recess:** Dr. Arck declared a break to reconvene in 15 minutes.

**Reconvene:** Dr. Arck reconvened the meeting at 10:10am

**Executive Session:**

A motion was made and seconded to go into executive session for 30 minutes to discuss personnel matters to begin at 10:15am and to reconvene the regular meeting at 10:45am in the same room. The executive session is to include Mr. Forbes.

(Coast/Kirk) Motion passed. Dr. Arck reconvened the meeting at 10:45am. A motion was made and seconded to extend the executive session for 15 minutes and to reconvene the regular meeting at 11am. (Coast/Schoech) Motion passed. Dr. Arck reconvened the meeting at 11am. A motion was made and seconded to extend the executive session for 15 minutes and to reconvene the regular meeting at 11:15am. (Coast/Schoech) Motion passed.

Dr. Arck reconvened the meeting at 11:15am.

A motion was made and seconded to adopt a policy directing the pharmacy inspectors and compliance inspectors to make all requests to access information from the prescription monitoring program to the executive secretary of the Board. (Braman/Kirk) Motion passed

**Adjourn:** Dr. Arck adjourned the meeting at 11:27am.