

OPEN MINUTES
Missouri Board of Pharmacy
February 7-9, 2007
Courtyard by Marriott
3301 LeMone Industrial Boulevard
Columbia, MO 65203

The Missouri Board of Pharmacy met in open session during the times and dates stated in the following minutes. Each item in the minutes is listed in the order it was discussed at the meeting. The regular meeting was called to order by President Doug Lang at 8:33 a.m. on February 7, 2007.

Board Members Present

Doug Lang, R. Ph., President
Pamela Marshall, R. Ph., Vice President
Melissa Graham, R.Ph., Member
Gary Sobocinski, R.Ph., Member
Elaina Wolzak, R.Ph., Member
Anita Parran, Public Member

NOTE: One board member position vacant.

Staff Present

Tom Glenski, R. Ph., Chief Inspector
Tammy Siebert, Executive Assistant

Others Present

Curtis Thompson, Atty.
Susan McCann, BNDD

MOTION TO CLOSE 8:34 AM

Gary Sobocinski made a motion that the Board go into closed session and that all votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 (1), (3), (5), (7), (13) and (14), RSMo, and under Section 620.010.14 (7), RSMo. Seconded by Melissa Graham to go into closed session at 8:34 a.m. Motion passed 5:0:0:0 with roll call vote as follows:

Gary Sobocinski – yes
Pam Marshall – yes

Melissa Graham – yes
Elaina Wolzak – yes

Anita Parran – yes

RETURN TO OPEN 1:35 PM

By motion duly made, seconded, passed and recorded in closed session minutes, the Board went into open session.

#A2 Agenda Additions/Corrections

Tom Glenski reported on various additions and corrections to the open session agenda, including that Items #B2 and #B3 have been continued.

#B2 Frederick G. Dietzler #040265, #2006-000506-V1 – The Board reviewed the following:

- Notice Of Hearing On Violation Of Disciplinary Order
- Complaint
- Entry of appearance, request for continuance and request for discovery from William Wynne received via facsimile transmission 2/1/07
- Notice of Continuance to Wynne dated 2/2/07

#B3 Shawn P. Reidy #041667, #2006-003684-V2 – The Board reviewed the following:

- Notice Of Hearing On Violation Of Disciplinary Order
- Complaint

#B1 Jeffrey C. Barnes #040958, #2004-006460-F1 - The Board reviewed the following:

- Notice Of Felony Disciplinary Hearing
- Complaint

A felony disciplinary hearing was scheduled for February 7, 2007, 1:30 p.m., 1st case on the docket. A court reporter was present and the hearing began at approximately 1:40 p.m. Jeffrey Barnes was present and was represented by attorney Donald Heck. Mr. Heck requested the Board to again review his request for continuance of this felony hearing. Motion was denied based on the wording of Section 338.065. Mr. Heck requested this proceeding be held open until all briefs have been filed and a decision of the Missouri Court of Appeals has been issued. Motion was denied; the issue regarding briefs will be discussed at the conclusion of the hearing. Donald Heck was given thirty (30) days to submit Respondent's Brief, and Robert Angstead was given ten (10) days following receipt of Respondent's Brief to file Petitioner's reply brief. The hearing concluded at 2:59 p.m. and a copy of the transcript is on file with the Board of Pharmacy.

#B4 Walter E. Sewell #042679, #2005-001298-F1 – The Board reviewed the following:

- Notice Of Felony Disciplinary Hearing
- Complaint

A felony disciplinary hearing was scheduled for February 7, 2007, 3:00 p.m., 2nd case on the docket. A court reporter was present and the hearing began at approximately 3:08 p.m. Walter Sewell was not present and was not represented by counsel. The hearing concluded at 3:12 p.m. and a copy of the transcript is on file with the Board of Pharmacy.

#B5 David G. Younker #040072, #2004-003877-F1 – The Board reviewed the following:

- Notice Of Felony Disciplinary Hearing
- Complaint

A felony disciplinary hearing was scheduled for February 7, 2007, 3:00 p.m., 3rd case on the docket. A court reporter was present and the hearing began at approximately 3:14 p.m.

David Younker was not present and was not represented by counsel. The hearing concluded at 3:19 p.m. and a copy of the transcript is on file with the Board of Pharmacy.

COURT REPORTER LEFT THE MEETING ROOM AT 3:21 P.M.

MOTION TO CLOSE 3:21 PM

Pam Marshall made a motion that the Board go into closed session and that all votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021(1), (3), (5), (7), (13), and (14), RSMo, and under Section 620.010.14(7), RSMo. Seconded by Anita Parran to go into closed session at 3:21 p.m. Motion passed 5:0:0:0 with roll call vote as follows:

**Gary Sobocinski – yes
Pam Marshall – yes**

**Melissa Graham – yes
Elaina Wolzak – yes**

Anita Parran – yes

RETURN TO OPEN

THURSDAY, FEBRUARY 8, 2007, 1:35 PM

By motion duly made, seconded, passed and recorded in closed session minutes, the Board went into open session.

#A3 Board Member Report

Tom Glenski reported that he and Frank VanFleet attended the NABP State Specific MPJE Review in Austin, Texas, in January.

#A4 Board Member Update to phone, address, e-mail, fax # - No updates reported.

THE BOARD REVIEWED THE FOLLOWING ITEMS FROM SECTION E THAT DID NOT REQUIRE INDIVIDUAL DISCUSSION OR ACTION.

#E1 Motion Language for New Rules/Amendments

#E2 Expedited Partner Therapy – The Board reviewed the following:

- Memorandum from inspector Mike Kidd dated 1/10/07

RECESSED FOR EVENING 6:30 P.M.

FRIDAY, FEBRUARY 9, 2007 8:30 A.M.

RECONVENE

The meeting reconvened in open session at 8:33 a.m. on Friday, February 9, 2007. All parties were present as previously recorded, except inspectors, plus visitors as indicated in the visitor register.

President Lang introduced the Board's new Executive Director Debra Ringgenberg, who was in attendance for this open session meeting. Her beginning date of employment will be February 28, 2007.

#A5 General Administration Report

1. CE Audit 2006

Tammy Siebert and Doug Lang reported on the pharmacist continuing education audit. Doug Lang reported that he and fellow Board member Melissa Graham were among those audited this year.

2. Form Revisions

Doug Lang and Tammy Siebert reported regarding office staff review and revision of all Board applications and forms due to the Division of Professional Registration's move from the Department of Economic Development to the Department of Insurance, Financial Institutions and Professional Registration.

4. Five Year Fund Balance Projections

Doug Lang and Tammy Siebert reported regarding fund balance report provided in the agenda.

3. Legislation

Doug Lang discussed the GovWatch Bill Status Report, and reported on specific bills the Board is watching and testifying on.

- SB195 – Pharmacists – repeals and revisions of existing statutes.

Doug Lang reported on this pending legislation, and Curt Thompson reported regarding the UPCO Supreme Court decision. President Lang requested Ron Fitzwater of the Missouri Pharmacy Association would change "patient" to "ultimate user" throughout SB195 due to the UPCO decision.

Ron Fitzwater questioned whether the well-being committee would be limited to pharmacists and what the Board's position is. President Lang questioned Mr. Fitzwater on how MPA foresees it operating. Mr. Fitzwater offered that MPA will be able to limit it to pharmacists only. Various language/wordsmithing changes were offered to Mr. Fitzwater. Ron Fitzwater stated MPA expects the burden of the cost, other than start-up costs, to be on the licensees enrolled in the program. **Motion was made by Pam Marshall and seconded by Anita Parran to support changes to SB195 as previously discussed up to the impairment language. All in favor, none opposed.**

Motion was made by Pam Marshall to support changes to SB195/HB545 from 338.380 to include suggested wording revisions previously discussed in this meeting. Motion died for lack of a second.

It was the consensus of the Board to work with Ron Fitzwater in the future, but concern exists regarding costs associated with the well-being program.

- HB339 – Wholesale distributors of prescription drugs – repeals and revisions of existing statutes.

Doug Lang provided a verbal report about this bill and his testimony for informational purposes at the hearing on February 5, 2007.

#D1 United Pharmacal Co., (application received 8/23/01, pending as of 12/21/01), P.O. Box 969, 3795 Pear, St. Joseph, MO 64502, #163-01-18 aka #2000-002554 (Glenski) –

The Board reviewed the following:

- Supreme Court opinion on this case handed down 12/19/06

#D2 20 CSR 2220-2.010 Pharmacy Standards of Operation – The Board reviewed the following:

- Proposed language for revision to regulation.

Tom Glenski reported on this proposed revision. Discussion was held and the following suggestions were offered:

1) Move (P) to (O), and renumber the current (O) to (P).

2) Clarify to be “written” requirement; the Board had originally requested 10 days when this was discussed at the retreat meeting. Board consensus to leave it as 15 days written notification.

Motion was made by Gary Sobocinski that the Missouri Board of Pharmacy, based upon reasonably available empirical data including an assessment of the effectiveness and costs both to the state and to any private or public person or entity affected, hereby finds that the proposed amendment, with revisions as discussed, to 20 CSR 2220-2.010 Pharmacy Standards of Operation is necessary to carry out the purposes of Section 338.010, 338.140, 338.210, 338.240, and 338.280, RSMo, authorizing the subject matter of the rule. Seconded by Melissa Graham. Motion passed, all in favor, none opposed.

#D3 20 CSR 2220-2.030 Educational and Licensing Requirements – The Board reviewed the following:

- Proposed language for revision to correct previous errors

Tom Glenski reported on this proposed revision.

Motion was made by Gary Sobocinski that the Missouri Board of Pharmacy, based upon reasonably available empirical data including an assessment of the effectiveness and costs both to the state and to any private or public person or entity affected, hereby finds that the proposed amendment to 20 CSR 2220-2.030 Educational and Licensing Requirements is necessary to carry out the purposes of Section 338.010, 338.140, 338.210, 338.240, and 338.280, RSMo, authorizing the subject matter of the rule. Seconded by Pam Marshall. Motion passed, all in favor, none opposed.

#D4 20 CSR 2220-2.200 Sterile Pharmaceuticals – The Board reviewed the following:

- Proposed language for revision to regulation

Tom Glenski reported on this proposed revision. Denis Wormington of Central Admixture Pharmacy Services, Inc., addressed the Board regarding the proposed revision. He inquired

if “24-hour supply” meant a “24-hour course of therapy”. It was the consensus of the Board that was what was intended. He also suggested to change “(FDA) as a manufacturer...” to “(FDA) as a drug manufacturer...” Mr. Wormington also commented for the Board’s consideration that the words “as a manufacturer” in the sentence may work against the interest of the public. Gary Sobocinski suggested that “as a manufacturer” be deleted from this sentence. Gary Sobocinski requested that “or” be added between items (16)(A) and (B).

Motion was made by Anita Parran that the Missouri Board of Pharmacy, based upon reasonably available empirical data including an assessment of the effectiveness and costs both to the state and to any private or public person or entity affected, hereby finds that the proposed amendment, with revisions as discussed, to 20 CSR 2220-2.200 Sterile Pharmaceuticals is necessary to carry out the purposes of Section 338.010, 338.140, 338.210, 338.240, and 338.280, RSMo, authorizing the subject matter of the rule. Seconded by Elaina Wolzak. Motion passed, all in favor, none opposed.

#D5 20 CSR 2220-2.450 Fingerprinting Requirements – The Board reviewed the following:

- Draft of proposed language for revision to fingerprinting requirements rule

Tom Glenski reported on this proposed revision.

Motion was made by Gary Sobocinski that the Missouri Board of Pharmacy, based upon reasonably available empirical data including an assessment of the effectiveness and costs both to the state and to any private or public person or entity affected, hereby finds that the proposed amendment to 20 CSR 2220-2.450 Fingerprinting Requirements is necessary to carry out the purposes of Section 338.010, 338.140, 338.210, 338.240, and 338.280, RSMo, authorizing the subject matter of the rule. Seconded by Pam Marshall. Motion passed, all in favor, none opposed.

#D6 20 CSR 2220-4.010 General Fees – The Board reviewed the following:

- Proposed language for additions to fees charged by the Board.

Tom Glenski reported on this proposed revision.

Motion was made by Gary Sobocinski that the Missouri Board of Pharmacy, based upon reasonably available empirical data including an assessment of the effectiveness and costs both to the state and to any private or public person or entity affected, hereby finds that the proposed amendment to 20 CSR 2220-4.010 General Fees is necessary to carry out the purposes of Section 338.010, 338.140, 338.210, 338.240, and 338.280, RSMo, authorizing the subject matter of the rule. Seconded by Melissa Graham. Motion passed, all in favor, none opposed.

#D7 20 CSR 2220-5.030 Definitions and Standards for Drug Wholesale and Pharmacy Distributors – The Board reviewed the following:

- Proposed language for revision to regulation

Tom Glenski reported on this proposed revision.

Motion was made by Elaina Wolzak that the Missouri Board of Pharmacy, based upon reasonably available empirical data including an assessment of the effectiveness and costs both to the state and to any private or public person or entity affected, hereby finds that the proposed amendment to 20 CSR 2220-5.030 Definitions and Standards for Drug Wholesale and Pharmacy Distributors is necessary to carry out the purposes of Sections 338.010, 338.140, and 338.330 through 338.360, RSMo, authorizing the subject matter of the rule. Seconded by Melissa Graham. Motion passed, all in favor, none opposed.

#D8 20 CSR 2220-5.070 Standards of Operation for Medical Gas Distributors – The Board reviewed the following:

- Proposed language for revision to Medical Gas Regulations.

Tom Glenski reported on this proposed revision.

Motion was made by Gary Sobocinski that the Missouri Board of Pharmacy, based upon reasonably available empirical data including an assessment of the effectiveness and costs both to the state and to any private or public person or entity affected, hereby finds that the proposed amendment to 20 CSR 2220-5.070 Standards of Operation for Medical Gas Distributors is necessary to carry out the purposes of Sections 338.010, 338.140, and 338.330 through 338.360, RSMo, authorizing the subject matter of the rule. Seconded by Elaina Wolzak. Motion passed, all in favor, none opposed.

#DH9 20 CSR 2220-2.100 Continuing Pharmacy Education – The Board reviewed the following:

- Proposed language for amendment/revision to existing regulation

Tom Glenski reported on this proposed revision.

Motion was made by Pam Marshall that the Missouri Board of Pharmacy, based upon reasonably available empirical data including an assessment of the effectiveness and costs both to the state and to any private or public person or entity affected, hereby finds that the proposed amendment to 20 CSR 2220-2.100 Continuing Pharmacy Education is necessary to carry out the purposes of Section 338.010, 338.140, 338.210, 338.240, and 338.280, RSMo, authorizing the subject matter of the rule. Seconded by Melissa Graham. Motion passed, all in favor, none opposed.

MOTION TO ADJOURN OPEN MEETING 11:05 AM

At approximately 11:05 a.m., motion was made by Pam Marshall and seconded by Elaina Wolzak to adjourn the February 7-9, 2007 meeting. Motion passed 5:0:0:0.

DEBRA C. RINGGENBERG, R.Ph.
EXECUTIVE DIRECTOR

DATE APPROVED: 12/12/07