

OPEN MINUTES
Missouri Board of Pharmacy
September 24-25, 2008
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 Gary Sobocinski at 8:31 a.m. on September 24, 2008.

Board Members Present

Gary Sobocinski, R.Ph., President
Elaina Wolzak, R.Ph., Vice President
Barbara Bilek, R.Ph., Member
Melissa Graham, R.Ph., Member
Pamela Marshall, R.Ph., Member
James Riddle, R.Ph., Member

Board Members Absent

Anita Parran, Public Member

Staff Present

Tom Glenski, R.Ph., Chief Inspector
Mike Kidd, R.Ph., Inspector
George McConnell, R.Ph., Inspector
Shawn Marshall, R.Ph., Inspector
Steven Smith, R.Ph., Inspector
Frank VanFleet, R.Ph., Inspector
Sid Werges, R.Ph., Inspector
Barbara Wood, R.Ph., Inspector
Tammy Siebert, Executive I

Others Present

Curtis Thompson, Legal Counsel
Visitors as recorded in the visitor register

MOTION TO CLOSE 8:32 AM

At 8:32 a.m. Pam Marshall made a motion, seconded by Barbara Bilek, 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 324.001.8, RSMo. Motion passed, all in favor, none opposed.

MEMBERS OF THE PUBLIC LEFT THE MEETING ROOM AT 8:32 AM.

RETURN TO OPEN

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 9:06 a.m.

MEMBERS OF THE PUBLIC RETURNED TO THE MEETING ROOM.

RESIGNATION OF EXECUTIVE DIRECTOR

President Sobocinski reported that Debra Ringgenberg has resigned her position as Executive Director for the Board.

#A1 Approval of Minutes:

1. December 12-13, 2007 Board Meeting

Discussion was held. **Motion was made by Pam Marshall, seconded by James Riddle, to approve the minutes of the December 12-13, 2007 open session meeting as printed. Motion passed, all in favor, none opposed, Anita Parran absent.**

2. March 26-27, 2008 Retreat Meeting

Discussion was held. **Motion was made by Elaina Wolzak, seconded by Barbara Bilek, to approve the minutes of the March 26-27, 2008 open session retreat meeting as printed. Motion passed, all in favor, none opposed, Anita Parran absent.**

3. June 4, 2008 Conference Call Meeting

Discussion was held. **Motion was made by James Riddle, seconded by Barbara Bilek, to approve the minutes of the June 4, 2008 open session conference call meeting as printed. Motion passed, all in favor, none opposed, Anita Parran absent.**

4. June 17, 2008 Conference Call Meeting

Discussion was held. **Motion was made by Elaina Wolzak, seconded by Melissa Graham, to approve the minutes of the June 17, 2008 open session conference call meeting as printed. Motion passed, all in favor, none opposed, Anita Parran absent.**

5. August 1, 2008 E-Mail Ballot

Discussion was held. **Motion was made by Elaina Wolzak, seconded by Barbara Bilek, to approve the minutes of the August 1, 2008 open session email ballot meeting as printed. Motion passed, all in favor, none opposed, Pam Marshall abstained, Anita Parran absent.**

#A2 Agenda Additions/Corrections – Tom Glenski reported regarding additional handout items for Items #B4, #B5, and #D3, plus new cases at #D6 and #D7.

#A4 Board Member Update to Phone, Address, E-mail, Fax #
Nothing was reported.

#A5 General Administration Report:
President Sobocinski requested that FY08 year end financial report be included in the next agenda.

#A3 Board Member Report
Barbara Bilek reported she and Shawn Marshall recently attended a Region H meeting regarding disaster preparedness in Cameron, Missouri. If anyone is interested, there is a statewide meeting in Jefferson City next week.

Elaina Wolzak reported she attended the Districts 6, 7, and 8 Joint Meeting in Park City, Utah, September 17-20, 2008. Ms. Wolzak reported regarding the district's request for NABP to clarify what qualifies an executive committee member. Districts 6, 7, and 8 will hold a joint meeting again next year with Louisiana being the host state.

Elaina Wolzak and Gary Sobocinski reported that they attended the Missouri Pharmacy Summit meeting September 23, 2008.

#D3 Section 338.260, RSMo – Discussion – The Board reviewed:

- Copy of the statute
- Letter from Michael Morris, Senator Ridgeway's Chief of Staff

The discussion regarding Section 338.260, RSMo, began at 9:30 a.m, and President Sobocinski reported that the meeting is being tape recorded by the Board. Senator Luann Ridgeway introduced herself and provided a verbal presentation to the Board. She and Representative Doug Ervin have requested the Board to rescind the Cease and Desist Warning Letter issued to Justus Drug Store (A Restaurant), and asked that if no change to the statute is initiated, that the Board at least enter into an agreement with Justus to postpone further action until the upcoming legislative session is finished. President Sobocinski opened the floor for comments by members of the public present. Bill Raney spoke and indicated the ACLU is interested in this case. Ron Fitzwater spoke on behalf of the Missouri Pharmacy Association. Dale Smith of PBA Health, Kansas City, MO, and Martin Michel of Key Drug, Poplar Bluff, MO, spoke in favor of Section 338.260 as it is currently written. Senator Ridgeway spoke regarding the possibilities of Justus Drug Store (A Restaurant) going out of business if forced to change their name.

#D2 Tammy Twait, Department of Health and Human Services, CMS, DMHPO, 601 E 12th Street, Suite 235, Kansas City, Missouri 64106– The Board reviewed:

- Intern Training Pharmacy Application – Special Site

Discussion was held. **Motion was made by Elaina Wolzak, seconded by Barbara Bilek, to approve the Intern Training Special Site Application for 500 hours. Motion passed, all in favor, none opposed, Anita Parran absent.**

#D4 Well-Being Committee Proposed Regulations – The Board reviewed:

- New language concerning the Well-Being Committee.
- Revision to 20 CSR 2220-2.170 Procedure of Impaired Pharmacist
- Revision to 20 CSR 2220-2.700 Pharmacy Technician Registration

Tom Glenski reported and responded to questions by Board members. Discussion was held. As concerns the new Well-Being Committee proposed regulation, Gary Sobocinski suggested that the word “ability” be added to (1)(D) “... is reasonably related to the “ability” to practice pharmacy.” Doug Lang questioned under Well-Being Committee/Contractor Duties (3)(F) whether the word “report” is too ambiguous and should be better clarified. It was general consensus to not make this particular change. As concerns 2.170, Gary Sobocinski asked if “Executive” should be added before “... Director for an applicant...” As concerns 2.700, Pam Marshall questioned whether “are” is correct in (1)(B), and Doug Lang questioned (C)5. and the need to change 4 CSR to 20 CSR. Doug Lang also suggested the word “pending” be deleted from (6).

Motion was made by Elaina Wolzak, seconded by Pam Marshall, that the Missouri Board of Pharmacy, based on 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 new regulation Well-Being Program, is necessary to carry out the purposes of Sections 338.010, 338.140, 338.210, and 338.280, RSMo, authorizing the subject matter of the rule. Motion passed, all in favor, none opposed, Anita Parran absent.

#D5 UMKC and StLCOP Preceptor and Intern Training Site Updates – The Board reviewed:

- UMKC September updates
- StLCOP September updates

Elaina Wolzak reported that ACPE has new regulations for intern training, and the Board may need to look at changing our regulation in the future. **Motion was made by Elaina Wolzak, seconded by Melissa Graham, to approve both lists as presented. Motion passed, all in favor, none opposed, Anita Parran absent.**

#DH7 Request for Special Testing Accommodations – The Board reviewed:

- Application provided by Board office to application for Special Testing Accommodations
- StLCOP Information
- UMKC Information

Tom Glenski reported, and discussion was held. **Motion was made by Elaina Wolzak, seconded by Barbara Bilek, to set Board policy according to whatever special**

accommodations were utilized by the pharmacy school for the student. Motion passed, all in favor, none opposed, Anita Parran absent.

THE FOLLOWING ITEMS WERE REVIEWED IN SECTION E, BUT NO SPECIFIC DISCUSSION/DECISION WAS NECESSARY

#E1 Motion Language for New Rules/Amendments

#E2 Professional Judgment – The Board reviewed:

- Letter from Maurice J. Warner, RPh received 7/14/08

#E3 Proposed Definition of Medicine – The Board reviewed:

- Letter from Tina Steinman, Board of Healing Arts, with attachments received 8/28/08

Elaina Wolzak asked whether “evaluating a patient”, “medical opinion”, or “diagnosis” interferes with the medication therapy management regulation. Use of the words “doctor of medicine” was also questioned. Curt Thompson suggested the language needs clarity as to whom this definition applies, to what practice setting it applies, definition of practice of medicine overlapping with practice of pharmacy, and doctor designation is also being questioned. Elaina Wolzak and Barbara Bilek volunteered to attend the October 7 public hearing. Marty Michel provided a verbal report and suggested it be worded better to not interfere with the practice of pharmacy. Ron Fitzwater also provided a verbal report and stated the Missouri Pharmacy Association would support whatever the Board of Pharmacy provides, and commented MPA had Harvey Tettlebaum review and it was their opinion that this type of change would have a hard time passing through the legislature. A representative from MPA will also attend the public hearing on October 7th. David Overfelt of the Missouri Retailers Association spoke against the language as presented, and commented they would oppose any legislation as it’s presented here. Doug Lang also reported opposition to the language as presented and suggested prescriptive authority under Section 338.010 be added.

It was Board consensus for the Board office to send the Board of Healing Arts a letter, copied to MPA, stating its concerns, and confirming that Elaina Wolzak and Barbara Bilek will attend the public hearing on October 7th.

#D1 James Steven Leeder (unlicensed), 2401 Gillham Road, Kansas City, Missouri 64108 – The Board reviewed:

- Intern Training Pharmacy Application – Special Site

Discussion was held. **Motion was made by James Riddle, seconded by Pam Marshall, to deny this special site application because no pharmacist is listed on the application. Motion passed, all in favor, none opposed, Anita Parran absent.**

#DH6 Continuing Education Audit – Discussion (no enclosures)

Tom Glenski provided a verbal report indicating that pharmacist renewals were held and mailed after the fee increase effective date, and now many licensees are reporting they did not have their CE prior to August 31st. Audit letters are scheduled to be sent early

November; inspectors plan to come to the Board office to review CE submissions. Further discussion will be held in closed session when legal counsel can be provided. Comments from the public were requested. Doug Lang commented this is the third time the Board has audited CE, word has been published, CE is a professional responsibility, and that there should be no excuse for not doing CE. Sam Leveritt of Cardinal Health suggested the dates coincide with renewal the dates. Ron Fitzwater reported that MPA has published at least two notices in their electronic newsletter and has also offered information throughout the year. **Motion was made by Elaina Wolzak, seconded by Melissa Graham, to table this matter for further discussion. Motion passed, all in favor, none opposed, Anita Parran absent.**

MOTION TO CLOSE 11:25 AM

At 11:25 a.m. Melissa Graham made a motion, seconded by Barbara Bilek, 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. Motion passed, all in favor, none opposed, Anita Parran absent.

RETURN TO OPEN

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 1:25 p.m.

MEMBERS OF THE PUBLIC RETURNED TO THE MEETING ROOM.

#B1 Jacqueline (Barishman) Griffin, #2000162592, AHC case #08-1225 PH – The Board reviewed:

- Notice of Disciplinary Hearing
- Complaint
- Joint Statement of Facts and Conclusions of Law Between State Board of Pharmacy and Jacqueline Griffin, R.PH.
- Consent Order

A disciplinary hearing was scheduled for September 24, 2008, at 1:30 p.m., first case on the docket. A court reporter was present and the hearing began at 1:35 p.m. The Board was represented by Joi Cunningham of the Attorney General's Office, and Ms. Griffin was present and represented by Sam Alton. The hearing concluded at approximately 1:54 p.m. A copy of the transcript is on file with the Board of Pharmacy.

#B2 William L. Pollard, Jr., #044098, AHC case #07-1425 PH – The Board reviewed:

- Notice of Disciplinary Hearing
- Complaint
- Answer to Complaint

- Joint Motion for Consent Order, Joint Stipulation of Facts and Conclusions of Law and Waiver of Hearing Before the Administrative Hearing Commission
- Consent Order

A disciplinary hearing was scheduled for September 24, 2008, at 1:30 p.m., second case on the docket. A court reporter was present and the hearing began at 2:55 p.m. The Board was represented by Glen Webb of the Attorney General's Office, and Mr. Pollard was present and represented by Jami Cox. The hearing concluded at approximately 4:20 p.m. A copy of the transcript is on file with the Board of Pharmacy.

#B3 Steven H. Alvey, #045332, #2008-001900-V1 – The Board reviewed:

- Notice of Hearing on Violation of Disciplinary Order
- Complaint

The violation of discipline hearing scheduled for September 24, 2008, 3:00 p.m., first case on the docket, was cancelled pending completion of settlement documentation.

#B4 Martin J. Hinterlong, #042595, #2004-004487-V1 – The Board reviewed:

- Notice of Hearing on Violation of Disciplinary Order
- Complaint
- Transcript of the July 9, 2008 hearing with exhibits

The violation of discipline hearing scheduled for September 25, 2008, 9:00 a.m., first case on the docket, was continued.

#B5 The Medicine Shoppe, #005448, #2005-000979-V1 – The Board reviewed:

- Notice of Hearing on Violation of Disciplinary Order
- Complaint

The violation of discipline hearing scheduled for September 25, 2008, 9:00 a.m., second case on the docket, was continued.

MOTION TO CLOSE 4:38 PM

At 4:38 p.m. Melissa Graham made a motion, seconded by Elaina Wolzak, 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. Motion passed, all in favor, none opposed, Anita Parran absent.

RETURN TO OPEN ON SEPTEMBER 25, 2008

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 11:41 a.m. on Thursday, September 25, 2008.

MOTION TO ADJOURN

At approximately 11:41 a.m., motion was made by Gary Sobocinski, seconded by Barbara Bilek, to adjourn the September 24-25, 2008, meeting. Motion passed, all in favor, none opposed.

KIMBERLY A. GRINSTON
EXECUTIVE DIRECTOR

DATE APPROVED: 4/21/2011