

OPEN MINUTES
Missouri Board of Pharmacy
April 29-30, 2009
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 James Riddle at 8:32 a.m. on April 29, 2009.

Board Members Present

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

Staff Present

Kimberly Grinston, Executive Director
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., Inspect
Tammy Siebert, Executive I

Others Present

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

#A1 Agenda Additions/Corrections – Kim Grinston reported regarding additional handout information for Item #B6, plus new cases at #DH20, and Item #D3 is scheduled for April 30, 2009, at 8:00 a.m., and the Items #B2 and #B6 hearings have been continued.

#B2 William V. Hanson, #042861, #2008-006913-F1 – The Board reviewed the following:

- Notice of Felony Disciplinary Hearing
- Felony Conviction Complaint

The felony disciplinary hearing scheduled for April 29, 2009, at 2:00 p.m., first case, was continued to a future meeting.

#B6 MED-E-QUIP Locators, Inc., #2003026499, #2008-002633-V1 – The Board reviewed the following:

- Notice of Hearing on Violation of Disciplinary Order
- Complaint
- Notice of Continuance of Hearing on Violation of Disciplinary Order
- Letter from attorney Mary L Reitz received 4/24/09

The violation of discipline hearing scheduled for April 29, 2009, at 3:30 p.m., first case, was continued to a future meeting.

#D3 Introduction of Patricia Churchill and Daryl Hylton, Attorney General's Office

#A2 Approval of Minutes:

1. October 29, 2008 Conference Call Meeting

Discussion was held. **Motion was made by Pam Marshall, seconded by Barbara Bilek, to approve the minutes of the October 29, 2008 open session conference call meeting as printed. Motion passed, all in favor, none opposed.**

2. December 12, 2008 Special Meeting

Discussion was held. **Motion was made by Barbara Bilek, seconded by Anita Parran, to approve the minutes of the December 12, 2008 open session special meeting as printed. Motion passed, all in favor, none opposed.**

3. January 7, 2008 Conference Call Meeting

Discussion was held. **Motion was made by Melissa Graham, seconded by Anita Parran, to approve the minutes of the January 7, 2008 open session conference call meeting as printed. Motion passed, all in favor, none opposed.**

#A3 Board Member Report –

Pam Marshall reported she attended a Forum on Healthcare Safety on April 16, 2008 at St. Louis College of Pharmacy.

Barbara Bilek reported she attended the MSHP/ICHP Conference last weekend. Kim Grinston and Tom Glenski provided a law update at the meeting.

Tom Glenski reported that he also conducted a law program at St. Louis College of Pharmacy and at Heartland Hospital in St. Joseph.

#A4 General Administration Report:

Kim Grinston reported that technician renewals are at 55% complete and the number of those renewing online is increasing.

1. FY09 Financial Summary – Kim Grinston reported the return items listed in red are amounts overpaid to the Division in transferred funds, and are now being returned to the Board. Kim Grinston also reported that Tom Glenski

was eligible to receive a new car this fiscal year, but because the Board has incurred high maintenance costs for another inspector's car, Mr. Glenski allowed the new car to go to the other inspector.

2. Board Statistical Report
3. MSHP audit – letter from MSHP dated 3/31/09 – Kim Grinston reported the Board is scheduled for an audit by MSHP as concerns the use of fingerprints and criminal history reports.
4. Background questions – No materials included
5. Legislative Update
 - a. Controlled substance monitoring
 - b. Controlled substance prescribing
 - c. Veterinary Drugs
 - d. Workforce Planning – Kimberly Grinston reported this bill is very broad and includes pharmacists and provides very broad regulatory authority. We have filed an official objection to the bill with the Division/Department. The Department of Health has agreed to work with us on the legislation.
 - e. Section 338 revisions
 - f. HB945-Cemeteries; Funerals and Funeral Directors; Insurance Dept.
 - g. HB95 – Repeal of 354.535 and replacement

Kim Grinston reported that the Board's legislation, as of last night, had been moved to SB 296 due to problems with the morning after pill legislation on the other bill. Barbara Bilek's "specific pharmacist" language has been added to all of our legislative proposals. Ms. Grinston also reported that the "bleeding disorder" bill requires the Board to establish rules for standards of care; and that the Board's budget has been approved with a \$145,000 reduction, which was criminal history funds that the Board no longer uses due to electronic fingerprint processing. Lastly, Senator Ridgeway's bill is at third reading and will likely pass, which the Board determined to not officially oppose.

Gary Sobocinski questioned Ron Fitzwater regarding Missouri Pharmacy Association's bills. Mr. Fitzwater responded and commented that they had testified in support of Senator Ridgeway's bill.

#D4 Clinical Pharmacist's Expertise – The Board reviewed the following:

- Email received 2/11/2009 regarding revisions to Section 338.010

#D5 Drug Distributor Licensing Requirements – The Board reviewed the following:

- Memorandum from Don Walker with pertinent portion of 20 CSR 2220-5.050

#D6 FDA Acts to Halt Marketing of Certain Unapproved Prescription Narcotic Drugs – The Board reviewed the following:

- FDA News release dated 3/31/09
- FDA Warning Letter dated 3/30/09 to Xanodyne Pharmaceuticals (not licensed in Missouri)

#D8 Reciprocity/Licensure Transfer Candidates – The Board reviewed the following:

- Email communiqué from Regina Divine, Pharmacist Coordinator dated 3/16/09 Kim Grinston reported and discussion was held. Sam Leveritt of Cardinal Health commented that reciprocity would be sufficient. The Board will further discuss this item in closed session in order to get legal advice.

#D9 VA Medical Center, Oncology-MTU (111 ONC) 1660 S Columbian Way, Seattle, Washington 98108 – The Board reviewed the following:

- Intern Training Pharmacy Application – Special Site Discussion was held. **Motion was made by Barbara Bilek, seconded by Elaina Wolzak, to approve this intern training special site application for 500 hours. Motion passed, all in favor, none opposed.**

#D10 US Medical Center for Federal Prisoners, 1900 W Sunshine Street, Springfield, Missouri 65801 – The Board reviewed the following:

- Intern Training Pharmacy Application – Special Site Discussion was held. **Motion was made by Barbara Bilek, seconded by Pam Marshall, to approve this intern training special site application for 500 hours. Motion passed, all in favor, none opposed.**

#D11 Grace Hill Neighborhood Health Center Pharmacy, 1717 Biddle, Saint Louis, Missouri 63106 – The Board reviewed the following:

- Intern Training Pharmacy Application – Special Site Tom Glenski reported that this site is already licensed as a pharmacy with the Board. Discussion was held. **Motion was made by Barbara Bilek, seconded by Pam Marshall, to deny this intern training special site application because it is already licensed with the Board. Motion passed, all in favor, none opposed.**

#D12 Pharmacy and Drug Distributor Renewals with regard to No Tax Due statements – The Board reviewed the following:

- Memorandum from Executive Director dated 4/15/09
- Revised Business Entity State Tax Compliance form (published on web site)

Kim Grinston reported and discussion was held.

#D13 Registration of Fictitious Names – Secretary of State's Office – The Board reviewed the following:

- Notice letter from Robin Carnahan regarding fictitious name filings

Kim Grinston reported that all business fictitious names must be renewed with the Secretary of State's office for a fee of \$7 or they will expire August 28, 2009, and that the Secretary of State's office does not forward returned mail. Curt Thompson reported that the Secretary of State maintains a waiting list for fictitious names, so if your name expires, it becomes available immediately to anyone else.

#D14 Hospital Pharmacy Sub-Committee – The Board reviewed the following:

- Memorandum from Executive Director dated 4/9/09

Kim Grinston reported and discussion was held. Tom Glenski reported that the purpose of the committee is to provide input to the Board regarding hospital settings, changes to regulations, etc., and suggested it be called an advisory committee to include the public rather than a sub-committee of the Board and Board staff only. Further discussion was held. Bert McClary reported that he would support some type of advisory committee on this issue. This item was tabled for further discussion at a future meeting.

#D7 Pharmacy Schools Preceptor/Site Listings Review – The Board reviewed the following:

- UMKC Facility and Preceptor Listing additions 3/23/09
- STLCOP Facility and Preceptor Listing additions 4/7/09

Tom Glenski reported and discussion was held. **Motion was made by Gary Sobocinski, seconded by Barbara Bilek, to approve the UMKC lists as presented. Motion passed, all in favor, none opposed.**

Motion was made by Barbara Bilek, seconded by Melissa Graham, to add VA Medical Center at Pugot Sound, which was previously denied at the January meeting, to UMKC's list. Motion passed, all in favor, none opposed.

Motion was made by Gary Sobocinski, seconded by Barbara Bilek, to approve the STLCOP lists as presented, plus add US Medical Center for Federal Prisoners #D10. Motion passed, all in favor, none opposed.

#D15 Individual Licensing Rules – The Board reviewed the following:

- Memorandum from Executive Director dated 4/9/09
- Preliminary draft of proposed rule changes for Board review

Kim Grinston reported that the Board office has began review and revision of our pharmacist/intern licensing rules, that a conference call was held with UMKC and STLCOP, and there are plans to create a new chapter within our regulations. Tricia Berry from STLCOP provided general information about the rule revisions and about new ACPE standards that became effective July 1, 2007. Valerie Ruether from UMKC provided additional information about the proposed rule revisions. Kim Grinston reported and requested clarification from the Board on a few issues. Ms. Ruether and Ms. Berry commended that the schools make sure the sites/preceptors are in good standing in other states. Melissa Graham questioned regarding licensure after examination but graduation date not yet available. Kim Grinston reported that a temporary license letter will be issued if all other licensure requirements have been met. Ms. Grinston requested Board direction regarding (D) exemption for approval of special sites between Board meetings. Tricia Berry commented. Barbara Bilek questioned if “federally” accredited should be “nationally” instead. Kim Grinston reported regarding 480 rotation hours, that out-of-state students have to do 1,500 hours of practical

experience, and that revision was proposed to include 1,500 minimum hours within the school curriculum.

Tricia Berry suggested that page 3, line 37, be moved to another paragraph within the rule.

Barbara Bilek commented that page 4, line 43, “disapproved” should be changed to also allow for approvals.

Kim Grinston reported regarding removal of the requirement for providing photos with the applications. It was Board consensus to not require photographs with applications.

Pam Marshall commented that page 4, line 8, “not subject to disciplinary action” should be changed to “not under disciplinary action.”

Kim Grinston and Tom Glenski reported that NAPLEX applicants will be required to meet with the Board just like reciprocity applicants if they fail the exam twice. Pam Marshall suggested the applicant must also provide proof of remedial training or additional hours, refresher courses, etc., if they fail twice. Discussion was held. Kim Grinston is to check with other state boards to see how they address this issue.

Kim Grinston reported regarding page 14, lines 33-39, regarding denial of criminal conviction for reciprocity applicants. Discussion was held. It was Board consensus to delete this language because it’s covered in other areas of our law/regulation. Kim Grinston also questioned the refund of reciprocity fees. It was Board consensus to no longer refund the reciprocity fee.

Kim Grinston reported regarding CE date change to October 31ST. President Riddle questioned each Board member on how they feel on this issue. Pam Marshall suggested renewals be mailed September 1st and keep regulation date the same as currently listed in the regulation. Discussion was held. This matter was tabled for further discussion during the strategic planning meeting.

Valerie Ruether requested that the intern renewal process be added to in these rule provisions.

#D16 Revised Rulebook/Website – The Board reviewed the following:

- Memorandum from Executive Director dated 4/10/09

Kim Grinston reported that the Office of Administration has requested our websites be limited to two clicks; anything more than two clicks will be revised. Ms. Grinston reported a lawbook index will be created and will have links to click to direct you to specific law/regulation cites.

#D17 3rd Medical Group, 3MDSS/SGSD, Pharmacy, 5955 Zeamer Avenue, EAFB, AK 99506 – The Board reviewed the following:

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- Intern Training Pharmacy Application – Special Site Tom Glenski reported. Discussion was held. **Motion was made by Barbara Bilek, seconded by Anita Parran, to approve this intern training special site application for 500 hours. Motion passed, all in favor, none opposed.**

#D18 David Grant Medical Center (60th Medical Group), 101 Bodin Circle, Travis AFB, CA 94535 – The Board reviewed the following:

- Intern Training Pharmacy Application – Special Site Tom Glenski reported. **Motion was made by Barbara Bilek, seconded by Melissa Graham, to approve this intern training special site application for 500 hours. Motion passed, all in favor, none opposed.**

#D19 Disposing of Unused Drugs – Tom Glenski reported and requested Board direction on whether to pursue creating a regulation to address this issue. Pam Marshall commented that it's going to be more work within the pharmacy and a problem for pharmacies to do this service. Gary Sobocinski commented that he feels it's a service that's needed for the public. Bert McClary reported that the Department of Health and Department of Natural Resources have been working with this issue for years, and he feels the public needs this service. It was Board consensus for Tom Glenski to pursue drafting a regulation on this subject.

#D20H Oral Prescription Orders from Long-Term Care Facilities – The Board reviewed the following:

- 2002 letters from DEA and BNDD with regard to oral prescribing authority Additional information regarding recent DEA investigation of violators of federal regulations is available from <http://www.ascp.com/advocacy/federal/dea.cfm> Tom Glenski reported and Bert McClary commented he does not anticipate the Bureau of Narcotics and Dangerous Drugs distributing additional information on this subject. He suggests that Lois Kollmeyer's August 23, 2002, letter is public information and can be distributed. Ron Fitzwater commented regarding ASCP's Q & A makes the problem more confusing and is a big problem also in Iowa.

THE FOLLOWING ITEMS WERE REVIEWED IN SECTION E, WHICH REQUIRED NO ACTION OR DISCUSSION.

#E1 Motion Language for New Rules/Amendments

#E2 Sharps Compliance, Inc. – The Board reviewed the following:

- Presentation regarding unwanted medication disposal options Kim Grinston reported that the Board office will respond.

#A4 General Administration Report:

2. Board Statistical Report – Kim Grinston reported regarding the number of inspections and investigations conducted by our Board inspectors.

#D1 Introduction of Jane Rackers, Division Director

Kim Grinston introduced Jane Rackers as Professional Registration's new Division Director; Ms. Rackers presented her employment background to the Board, and reported that Board appointments are a big issue within the Division at this time.

#D2 Introduction of Travis Ford, Media Director, DIFP

Jane Rackers introduced Travis Ford as the Department's expert in press and public relations.

RECESS FOR LUNCH 12:22 -1:30 PM

#B1 Jonathan Poynter, #2003010532, #2008-006426-V1 – The Board reviewed the following:

- Notice of Hearing on Violation of Disciplinary Order
- Probation Violation Complaint
- Motion to Dismiss
- Petitioner's Opposition to Motion to Dismiss
- Order

A violation of discipline hearing was scheduled for April 29, 2009, at 1:30 p.m., first case on the docket. A court reporter was present and the hearing began at 1:30 p.m. The Board was represented by Loretta Schouten, and Jonathan Poynter was present and was represented by Harvey Tettlebaum. The hearing concluded at approximately 1:55 p.m. A copy of the transcript is on file with the Board of Pharmacy.

#B3 Cristina D. Gray, #044185, #09-0201 PH – The Board reviewed the following:

- Notice of Disciplinary Hearing
- Request for Review of The Settlement Agreement Before the Administrative Hearing Commission
- Settlement Order

A disciplinary hearing was scheduled for April 29, 2009, at 2:00 p.m., second case on the docket. A court reporter was present and the hearing began at 1:56 p.m. The Board was represented by Loretta Schouten, and Cristina Gray was not present and was not represented by counsel. The hearing concluded at approximately 2:00 p.m. A copy of the transcript is on file with the Board of Pharmacy.

MOTION TO CLOSE 2:00 PM

At 2:00 p.m. Gary Sobocinski made a motion, seconded by Anita Parran, 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.

RETURN TO OPEN

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 2:50 p.m.

MEMBERS OF THE PUBLIC ENTERED THE MEETING ROOM.

#B4 Michael Plein, #028950, #08-1667 PH – The Board reviewed the following:

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

A disciplinary hearing was scheduled for April 29, 2009, at 2:45 p.m., first case on the docket. A court reporter was present and the hearing began at 3:05 p.m. The Board was represented by Kevin Hall of the Attorney General's Office, and Michael Plein was present without counsel. The hearing concluded at approximately 3:35 p.m. A copy of the transcript is on file with the Board of Pharmacy.

#B5 Jefferson McIntire, #042760, #08-1827 PH – The Board reviewed the following:

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

A disciplinary hearing was scheduled for April 29, 2009, at 2:45 p.m., second case on the docket. A court reporter was present and the hearing began at 3:37 p.m. The Board was represented by Edwin Frownfelter of the Attorney General's Office, and Jefferson McIntire was not present but was represented by his mother/guardian Yvonne Freda McIntire without counsel. The hearing concluded at approximately 4:00 p.m. A copy of the transcript is on file with the Board of Pharmacy.

MOTION TO CLOSE 4:03 PM

At 4:03 p.m. Barbara Bilek made a motion, seconded by Gary Sobocinski, 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.

THE COURT REPORTER AND MEMBERS OF THE PUBLIC LEFT THE MEETING ROOM AT 4:03 PM

THURSDAY, APRIL 30, 2009
RETURN TO OPEN

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session on Thursday, April 30, 2009, at 9:01 p.m.

MOTION TO ADJOURN

At approximately 9:02 p.m., motion was made by Gary Sobocinski, seconded by Anita Parran, to adjourn the April 29-30, 2009, meeting. Motion passed, all in favor, none opposed.

KIMBERLY A GRINSTON
EXECUTIVE DIRECTOR

DATE APPROVED: 6/30/11