

OPEN MINUTES
Missouri Board of Pharmacy
July 15-16, 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 8:34 a.m. on July 15, 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
Steven Smith, R.Ph., Inspector
Frank VanFleet, R.Ph., Inspector
Sid Werges, R.Ph., Inspector
Barbara Wood, Inspector
Tammy Siebert, Executive I

Staff Absent

Shawn Marshall, R.Ph., Inspector

Others Present

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

MOTION TO CLOSE 8:35 AM

At 8:35 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 8:35 AM.

RETURN TO OPEN

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 9:18 a.m.

MEMBERS OF THE PUBLIC RETURNED TO THE MEETING ROOM AT 9:18 AM

#A1 Agenda Additions/Corrections – Tom Glenski reported that the enclosures for Items #D2 and #D3 were inadvertently reversed.

#A2 Approval of Minutes:

1. February 11, 2009 Conference Call Meeting

Discussion was held. **Motion was made by Barbara Bilek, seconded by Melissa Graham, to approve the minutes of the February 11, 2009, open session conference call meeting as printed. Motion passed, all in favor, none opposed.**

2. February 25, 2009 Conference Call Meeting

Discussion was held and Barbara Bilek commented that #4 Legislation, b) HB513, on page 4 be revised to state "...accommodate pharmacists practicing in a hospital setting." **Motion was made by Pam Marshall, seconded by Anita Parran, to approve the minutes of the February 25, 2009, open session conference call meeting as printed, with the revision noted herein. Motion passed, all in favor, none opposed.**

3. March 5, 2009 Conference Call Meeting

Discussion was held. **Motion was made by Barbara Bilek, seconded by Anita Parran, to approve the minutes of the March 5, 2009, open session conference call meeting as printed. Motion passed, all in favor, none opposed.**

4. May 19, 2009 Email Ballot Meeting

Discussion was held. **Motion was made by Barbara Bilek, seconded by Melissa Graham, to approve the minutes of the May 19, 2009, open session email ballot meeting as printed. Motion passed, all in favor, none opposed.**

#A3 Board Member Report

Kim Grinston reported that she attended a DEA meeting in Nashville, Tennessee, June 2-4, 2009.

Tom Glenski reported that he and Kim Grinston conducted a law presentation at the MPA Annual Meeting in June.

Kim Grinston also reported regarding her and Frank VanFleet's attendance at the controlled substance task force meeting in June in Jefferson City.

#A4 General Administration Report:

1. Legislative update

a. SB296 re: 338.010 “the practice of pharmacy”

Kim Grinston reported that the Governor signed the Board’s SB296, and it will become effective August 28, 2009. Senator Ridgeway’s bill was also signed by the Governor and will also have an effective date of August 28, 2009.

b. HB0191 re: Section 1. 1. “Big Government Get Off My Back Act”

Kim Grinston reported regarding this legislation and how it affects our rules that involve small business, and that the Division of Professional Registration has been given a “D” grade concerning involvement in the Small Business Regulatory Fairness Board (SBRFB). Ms. Grinston reported that she’s requested the SBRFB email distribution list so the Board members can email any proposed rule amendments, rather than mailing information direct to every licensee.

c. Controlled substance bills

3. 2009 Legislative Implementation Worksheet

4. Board Statistical Report – Kim Grinston reported that this is the first year we’ve experienced a decline in technician renewals.

5. NABP – District 4 Meeting Agenda – Kim Grinston inquired if any Board members were interested in attending the District 4 NABP/AACP meeting. Because it’s being held in Missouri this year, she has offered our assistance with meeting preparations.

6. Veterinary Drugs – Kim Grinston reported that the Veterinary Medical Board has requested our Board to officially support the proposed veterinary language. She has not yet received the drafted language, and it was the Board’s consensus to not make a decision as to sponsorship without first reviewing the proposed language.

7. Strategic Planning Updates

8. Pharmacy Executive Order – Draft Language – Kim Grinston reported.

#B1 MED-E-QUIP Locators, Inc., #2003026499, #2008-002633-V1 – The Board reviewed:

- Notice of Hearing on Violation of Disciplinary Order
- Probation Violation Complaint
- Letter with attachments from Lanette Gooch received July 1, 2009
- Notice of Continuance on Hearing on Violation of Disciplinary Order

Probation Violation hearing scheduled for July 15, 2009, 1:30 p.m., 1st case, has been continued to a future meeting.

#B2 William V. Hansen, #042861, #2008-006913-F1 - The Board reviewed:

- Notice of Hearing on Violation of Disciplinary Order
- Felony Conviction Complaint

Felony disciplinary hearing scheduled for July 15, 2009, 1:30 p.m., 2nd case, has been continued to a future meeting.

#B5 Kristina Stark, #2002022650, #2009-002977-V1 - The Board reviewed:

- Notice of Hearing on Violation of Disciplinary Order
- Probation Violation Complaint

Probation Violation hearing scheduled for July 15, 2009, 2:00 p.m., 2nd case, has been continued to a future meeting.

#D1 Rule Considerations - The Board reviewed:

- MTM Rules & Immunization & Non-Dispensing Rules
- Kim Grinston's 7/7/09 memorandum on Revised Licensing Rules

Licensing Rules

Kim Grinston reported regarding the revised licensing rules and asked the Board for clarification on the following questions:

1) Should an intern be limited to 40 hours per week? Discussion was held. Sam Leveritt of Cardinal Health suggested that a flexible schedule could be beneficial, and very possibly in the nuclear pharmacy field. **Motion was made by Barbara Bilek, seconded by Pam Marshall, for intern hours not to exceed 48 hours per week. Motion passed, all in favor, except Elaina Wolzak and Gary Sobocinski opposed.**

2) Should a pharmacist be allowed to elect inactive status at a time other than renewal? Kim Grinston reported and discussion was held. It was Board consensus to not change the regulation—inactive status can only be elected at renewal time.

3) Should foreign graduates be required to receive their FPGEC prior to being allowed to earn their 1500 intern hours? Kim Grinston reported and discussion was held. Doug Lang suggested to check the NABP Model to see if Missouri is in line with the model standards. It was Board consensus to make no change, except Pam Marshall was opposed.

4) Additional training required for applicant that fails exam two times? Kim Grinston reported and discussion was held. Gary Sobocinski suggested that definitive proof be required of additional training if an applicant fails the exams two times. Kim Grinston will contact NABP for additional information for future consideration by the Board.

MTM Rules & Immunization & Non-Dispensing Rules

Kim Grinston reported regarding revisions made to 20 CSR 2220-6.040 to incorporate provisions of SB296. Tom Glenski reported that 20 CSR 2220-6.050 requires Board of Healing Arts involvement in the rulemaking process, so if we are to proceed as an emergency rule, we will need to act fast. Discussion was held concerning the change in recordkeeping requirements about where the prescription is maintained, specifically for pharmacists that travel extensively or work in free clinics and not associated with a particular pharmacy. Pam Marshall commented that the records should be maintained at the pharmacy where dispensed. Elaina Wolzak questioned if the 50-mile requirement is still feasible, and suggested it be addressed with the Board of Healing Arts. Susan McCann commented that a public health emergency situation might be an exception to be address in the regulation, and Pam Marshall suggested office staff check other states' language about the 50-mile issue. Doug Lang suggested that "prescription" be changed to "medication order", and Tom Glenski reported that the existing statute would contradict the suggestion.

Barbara Bilek asked regarding 20 CSR 2220-6.055(1) and if testing environments should be included in the non-dispensing activities. It was consensus that this could be considered under (N) Manage/review information systems.

Elaina Wolzak asked if it's necessary to amend a protocol when a separate address is added, see 20 CSR 2220-6.050(5)(A)10.

It was Board consensus to process these rules as emergency rules, and that revisions as discussed will be returned to the Board before finalizing.

Kim Grinston reported that the Medication Therapy Services regulations will be put on hold, pending completion of the regulations discussed here.

#D2 Patrick Allen, Walgreens District Office, 940 S Frontage Road, Suite 1900, Woodridge, Illinois, 60517 - The Board reviewed:

- Intern Training Pharmacy Application – Special Site

Discussion was held. **Motion was made by Elaina Wolzak, seconded by Barbara Bilek, to approve this special site application for 500 hours. Motion passed, all in favor, none opposed.**

#D3 Institute for the Certification of Pharmacy Technicians (ICPT), 2536 S Old Hwy 94, Ste 214, St. Charles, MO 63303 - The Board reviewed:

- Intern Training Pharmacy Application – Special Site

Discussion was held. **Motion was made by Gary Sobocinski, seconded by Barbara Bilek, to approve this special site application for 500 hours. Motion passed, all in favor, none opposed.**

#D8 Vaccinations and Immunizations - The Board reviewed:

- Report from the MPA Annual Meeting June 18, 2009

#D9 Pharmacy Schools Preceptor/Site Listings Review - The Board reviewed:

- UMKC Facility and Preceptor Listing additions 7/1/09
- StLCOP Facility and Preceptor Listing additions 6/18/09
- StLCOP Facility and Preceptor Listing additions 7/2/09

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

#D6 Pharmacy Technicians - The Board reviewed:

- Survey results summary - technician sitting on other state boards
- A possible proposed listing of technician duties based on information learned from other states

Kim Grinston reported that information will be emailed to Board members regarding technician survey results.

#D10 Criminal History Background Questions on Application Forms - The Board reviewed:

- Kim Grinston's memo with attachments (reviewed in strategic planning – April)
- Technician registration instructions and application form currently on the Board web site

Kim Grinston reported and discussion was held. James Riddle inquired if “ever been indicted, charged...” should be changed, and Ms. Grinston responded that it is both helpful and sometimes provides extra unneeded information. President Riddle and Gary Sobocinski asked regarding SIS matters, and suggested SES be included on the instruction sheet. Susan McCann asked if drug court cases have been a reporting issue. **Motion was made by Barbara Bilek, seconded by Pam Marshall, to approve revisions to the Board's criminal history questions as printed. Motion passed, all in favor, none opposed.**

#DH11 Strategic National Stockpile – Presentation by Sue Heisler, DHSS - The Board reviewed:

- SNS final rule language

Mark Buxton was present instead of Sue Heisler, and made a presentation at 11:35 a.m. Susan McCann also provided information.

#D4 Election of Board Officers

a) President

Barbara Bilek nominated James Riddle for President, nomination seconded by Pam Marshall. Nomination passed, all in favor, none opposed, James Riddle abstained.

b) Vice-President

Pam Marshall nominated Barbara Bilek for Vice-President, nomination seconded by Melissa Graham. Nomination passed, all in favor, none opposed, Barbara Bilek abstained.

#D5 Pharmacy and Drug Distributor Applications and Renewal Applications -

The Board reviewed:

- Proposed revisions to language on application forms pursuant to legislative changes

#D7 Out-of-state Drug Distributor Licensing - The Board reviewed:

- 338.333 RSMo
- 338.337 RSMo
- 338.340 RSMo
- 20 CSR 2220-2.050

#DH13 Drug Distributor Applications and Renewals - The Board reviewed:

- Proposed revisions to renewal applications to be mailed approximately 8/1/09
- Proposed revisions to Out of State Manufacturer registration application

Kim Grinston reported that at the 4/09 meeting the Board decided to require drug distributors to hold a license in their home state to be licensed as a drug distributor in Missouri. There were concerns about this and Items D5, D7, and DH13 are here for discussion on this subject. Lowell Pearson of Husch Blackwell reported that North Carolina does not have a wholesale license requirement, but that his clients would obtain a license in North Carolina if it was available. Tom Glenski asked if Mr. Pearson's clients were licensed in the states where they are located and where they ship from. Mr. Pearson responded that he thought so, but would need to get confirmation.

Kim Grinston asked who could submit a DD or pharmacy application. Must it be a corporate officer? Discussion was held. **Motion was made by Barbara Bilek, seconded by Anita Parran, to require a corporate officer to sign applications and renewals, including change of name, change of location and out-of-business forms. Motion passed, all in favor, none opposed.** Elaina Wolzak suggested that a newsletter e-alert be sent regarding this change.

Kim Grinston also reported that SB296 information had been incorporated into the drug distributor applications regarding licensure in foreign jurisdictions.

#DH12 Small Business Regulatory Fairness Board Training - The Board reviewed:

- SBRFB Web Site information
- Sample of Small Business Impact Statement

Kim Grinston reported that the Board members are required to take SBRFB training.

County Health Departments

Susan McCann publicly thanked the Board staff for their work in licensing the county health departments as drug distributors so quickly, so that the swine flu vaccine could be distributed. Kim Grinston commented that Don Walker was instrumental in getting it accomplished.

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

#E1 National Prescription Drug Threat Assessment - The Board reviewed:

- DEA Publication April 2009

#E2 Narcotic Forgeries - The Board reviewed:

- Emails received from Gregory Cummins, D.O.

Kim Grinston reported that this individual has contacted several agencies, and is here for informational purposes only, unless the Board thinks additional follow up is needed. Discussion was held, and it was Board consensus that we send a thank-you letter and ask that we be kept advised. Doug Lang commented that the legislature should be made aware that the Prescription Drug Monitoring Program has not yet been implemented and also requires prescriber reporting of such incidents.

Legislation

President Riddle asked the Board for any additional legislative initiatives for the upcoming session. Kimberly Grinston commented that the Division has requested cleanup language be proposed in this session.

MOTION TO CLOSE 12:30 PM

At 12:30 p.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.

BREAK 2:04 – 2:12 P.M.

COURT REPORTER AND MEMBERS OF THE PUBLIC ENTERED THE MEETING ROOM AT 2:04 PM.

#B3 Pamela “Jill” Mitchell, #028287, #2007-006522 - The Board reviewed:

- 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 July 15, 2009, at 1:30 p.m., third case on the docket. A court reporter was present and the hearing began at 2:12 p.m. The Board was represented by Daryl Hylton, and Pamela Jill Mitchell was present without counsel. The hearing concluded at approximately 2:25 p.m. A copy of the transcript is on file with the Board of Pharmacy.

#B4 William Pollard, #044098, #2008-006917-V1 - The Board reviewed:

- Notice of Hearing on Violation of Disciplinary Order
- Probation Violation Complaint

A violation of discipline hearing was scheduled for July 15, 2009, at 2:00 p.m., first case on the docket. A court reporter was present and the hearing began at 2:32 p.m. The Board was represented by Loretta Schouten, and William Pollard was not present and was not represented by counsel. The hearing concluded at approximately 2:39 p.m. A copy of the transcript is on file with the Board of Pharmacy.

MOTION TO CLOSE 2:46 PM

At 2:46 p.m. Barbara Bilek made a motion, seconded by Melissa Graham, 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.

COURT REPORTER AND MEMBERS OF THE PUBLIC LEFT THE MEETING ROOM AT 2:46 PM.

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 8:15 p.m.

#D7 Out-of-state Drug Distributor

Discussion was held. **Motion was made by Barbara Bilek, seconded by Anita Parran, to draft a statutory revision to allow drug distributors to be licensed in Missouri if they are licensed in the state from where they are shipping drugs or if they provide proof that a license is not required in that state. Motion passed, all in favor, none opposed.**

RECESSED FOR THE EVENING AT 8:15 P.M.

RECONVENED OPEN

THURSDAY, JULY 16, 2009

The Board reconvened in open session at 8:30 a.m. on Thursday, July 16, 2009. All Board members were present as previously recorded, plus all staff and Curt Thompson.

MOTION TO CLOSE 8:31 AM

At 8:31 a.m. Barbara Bilek made a motion, seconded by Melissa Graham, 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.

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 2:08 p.m.

#A4 General Administration Report:

2. Proposed meeting dates 2010

Discussion was held regarding conducting a meeting at each of the Missouri schools of pharmacy--they will be given the option to select which meeting they prefer to host. It was Board consensus to approve the proposed 2010 meeting dates, to hold the annual strategic planning meeting in April, and for conference calls to be changed to the Tuesday morning before each conference call date.

MOTION TO ADJOURN 2:20 PM

At approximately 2:20 p.m., motion was made by Anita Parran, seconded by Barbara Bilek, to adjourn the July 15-16, 2009, meeting. Motion passed, all in favor, none opposed.

KIMBERLY A. GRINSTON
EXECUTIVE DIRECTOR

DATE APPROVED: 6/30/11