

OPEN MINUTES
Missouri Board of Pharmacy
November 18, 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 8:02 a.m. on November 18, 2009.

Board Members Present

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

Board Members Absent

Melissa Graham, R.Ph., Member
Elaina Wolzak, R.Ph., Member

Staff Present

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

Staff Absent

Frank VanFleet, R.Ph., Inspector

Others Present

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

MOTION TO CLOSE 8:03 AM

At 8:03 a.m. Gary Sobocinski 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, Melissa Graham and Elaina Wolzak absent.

MEMBERS OF THE PUBLIC LEFT THE MEETING ROOM AT 8:03 AM.

RETURN TO OPEN

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 8:20 a.m.

#A1 Agenda Additions/Corrections

Kim Grinston reported that there are new handout Items #AH11-AH14 and #CH4, plus additional information for Items #A4 and #C3, and that Item #B1 was continued to a future meeting.

#B1 Bruce Ballard, #028642, #2007-004649

- Notice of Disciplinary Hearing
- Complaint filed at the Administrative Hearing Commission 4/7/2009
- Answer filed at the AHC 5/15/09
- Waiver of Hearing, Joint Stipulation of Facts and Conclusions of Law and Request for Consent Order filed at the AHC 9/22/09
- AHC Consent Order entered 9/23/09

Kim Grinston reported that the disciplinary hearing scheduled for 1:30 p.m. today has been continued to a future meeting.

#A2 Approval of Minutes:

1. July 9-10, 2008, Meeting

Discussion was held. Jim Riddle commented that he also attended the NABP meeting in Baltimore, Maryland, and the minutes need to reflect it. **Motion was made by Gary Sobocinski, seconded by Barbara Bilek, to approve the minutes of the July 9-10, 2008, open session meeting with the correction noted herein. Motion passed, all in favor, none opposed, Melissa Graham and Elaina Wolzak absent.**

2. August 21, 2009, Rules Sub-Committee Conference Call Meeting

Discussion was held. **Motion was made by Gary Sobocinski, seconded by Pam Marshall, to approve the minutes of the August 21, 2009, open session Rules Sub-Committee conference call meeting as printed. Motion passed, all in favor, none opposed, Melissa Graham and Elaina Wolzak absent.**

3. September 1, 2009, Conference Call Meeting

Discussion was held. **Motion was made by Pam Marshall, seconded by Gary Sobocinski, to approve the minutes of the September 1, 2009, open session conference call meeting as printed. Motion passed, all in favor, none opposed, Barbara Bilek and Anita Parran abstained, and Melissa Graham and Elaina Wolzak absent.**

4. September 16, 2009, Joint Rules Conference Call Meeting

Discussion was held. **Motion was made by Anita Parran, seconded by Pam Marshall, to approve the minutes of the September 16, 2009, open session Joint Rules conference call meeting as printed. Motion passed, all in favor, none opposed, Melissa Graham and Elaina Wolzak absent.**

5. October 29, 2009, Conference Call Meeting.

Discussion was held. **Motion was made by Gary Sobocinski, seconded by Pam Marshall, to approve the minutes of the October 29, 2009, open session conference call meeting as printed. Motion passed, all in favor, none opposed, Anita Parran abstained, Melissa Graham and Elaina Wolzak absent.**

#A3 Board Member Report

Gary Sobocinski reported that he went to St. Louis College of Pharmacy November 10, 2009, to speak to students regarding impairment and OIG exclusions.

#A4 General Administration Report:

1. September 2009 financial report – Kim Grinston reported. Discussion was held regarding replacement of inspector vehicles. Ms. Grinston reported that it's being discussed to purchase a used car from another Board, which will mean a lower cost and significantly lower miles. Barbara Bilek questioned if the purchase of state cell phones for our inspectors is a possibility; Ms. Grinston reported that it is not likely.

2. 2010 Meeting Dates – Kim Grinston and Tammy Siebert reported. Discussion was held.

#C1 20 CSR 2220-2.175 Well-Being Program

- Final draft of Proposed Rule published 10/1/2009

Kim Grinston reported that no comments were received from the public on this proposed regulation. Discussion was held regarding the bid process and anticipated implementation date. **Motion was made by Barbara Bilek, seconded by Anita Parran, to approve 20 CSR 2220-2.175 Well-Being Program for final order of rulemaking.** Further discussion was held. Gary Sobocinski asked if "possession of alcohol" is appropriate and he suggested deleting "possession or" out of (5)(D)3. Discussion was held and the matter was tabled for further discussion later in the meeting.

#C3 Rule 20 CSR 2220-6.040 Administering by Pharmacist

- Public Comments

Kim Grinston reported and inquired of Board regarding (3)(C) as concerns ACPE program requirements. Discussion was held regarding whether the Board should create a committee of experts to advise the Board on this subject; it was suggested that the Board of Nursing and Board of Healing Arts be given the opportunity to participate in this committee. It was Board consensus to proceed with organizing a committee and get their input before finalizing this regulation.

#CH4 Medication Therapy Services - No enclosures.

Kim Grinston reported that the committee formed as noted in Item #C3 can also be utilized for the MTS rules. It was Board consensus to proceed as long as the participants are qualified and able to speak about both subjects. Ms. Grinston reported that she is working with language Debi Ringgenberg drafted, language Bert McClary provided, and that she and Tom Glenski have begun to draft the regulation. Discussion was held, and it was Board consensus that a separate working group be organized to review implementation of this rule.

#D1 Pharmacy Schools Preceptor/Site Listings Review

- UMKC Facility and Preceptor Listing additions 10/7/09

Discussion was held. **Motion was made by Barbara Bilek, seconded by Pam Marshall, to approve the UMKC Facility and Preceptor Listing as printed. Motion passed, all in favor, none opposed, Melissa Graham and Elaina Wolzak absent.**

- StLCOP Facility and Preceptor Listing additions 10/13/09

Discussion was held. **Motion was made by Barbara Bilek, seconded by Pam Marshall, to approve the minutes of the STLCOP Facility and Preceptor Listing as printed. Motion passed, all in favor, none opposed, Melissa Graham and Elaina Wolzak absent.**

#D2 Argus Health Systems, 1300 Washington Street, Kansas City, MO 64105

- Intern Training Pharmacy Application – Special Site (renewal of certificate 663028)

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, Melissa Graham and Elaina Wolzak absent.**

#D3 Jackson County Free Health Clinic, 17421 Medical Center Parkway, Independence, MO 64057

- 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, Melissa Graham and Elaina Wolzak absent.**

#D4 Jackson County Free Health Clinic, Falmouth, Jamaica (Elective APPE rotation in Public Health), 17421 Medical Center Parkway, Independence, MO 64057

- 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, Melissa Graham and Elaina Wolzak absent.**

#D5 MedZou Community Health Clinic, 400 Wilkes Street, Columbia MO 65201

- 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, Melissa Graham and Elaina Wolzak absent.**

#D6 Paul G. Perniciaro, 2209 Sycamore Drive, Chesterfield, MO 63017

- Intern Training Pharmacy Application – Special Site (renewal of certificate 663301)

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

#D7 Jennifer Santee/Truman Medical Ctr-Lakewood Outpatient Clinic, 7900 Lees Summit Road, Kansas City, MO 64139

- Intern Training Pharmacy Application – Special Site

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

#D8 UMKC School of Pharmacy – Peru Site, 32 N Cedar Lake Dr W, Columbia, MO 65203

- Intern Training Pharmacy Application – Special Site

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

#D9 Sections 338.333, 338.335 and 338.337 - RSMo

- Draft of revisions to statutory language submitted by Jorgen Schlemeier

Kim Grinston reported and discussion was held. Kim Grinston reported that the language presented covers both drug and device distributors, but that it should be limited to devices only throughout the whole statute revision. Clarification also needs to be inserted that it applies to ownership matters, not contractual situations. Tom Glenski commented that it should pertain to U.S. products only, and that it may have an impact on the Board's licensee counts. Kim Grinston reported that d. needs to be cleaned up and there's currently nothing in the language regarding liability. Kim Grinston will provide comments to Jorgen Schlemeier and will request that a final draft be given to the Board for review before it's filed.

#D10 Collaborative Practice Rules

- Final Draft of CPA Rule 20CSR2150-5.100 Collaborative Practice
- Michael Boeger's email transmission dated 11/3/09

Kim Grinston reported and discussion was held. President Riddle and Barbara Bilek provided comments.

#D11 20 CSR 2220-5.030(2)(E)

- Copy of this rule

Kim Grinston reported and discussion was held regarding the manager-in-charge is not required to be physically onsite, but must be there regularly and engaged in the business. Discussion was held, and it was suggested that the drug distributor advisory committee review and provide feedback concerning necessary changes.

#D12 20 CSR 2220-2.085 Electronic Transmission of Prescription Data

- Email communiqué with attachment from Christian Tadrus, received 11/4/09

Tom Glenski reported, indicating that 20 CSR 2220-2.018 may need to be revised. Discussion was held, and it was Board consensus to continue to monitor to see if a pattern establishes a need to change the rule.

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

#E1 Motion Language for New Rules/Amendments

#E2 Board Licensee Statistics

Gary Sobocinski commented that this is the first time pharmacists are over 8,000.

#E3 Licensees Presently Under Discipline

#E4 Board of Pharmacy Inspection Handout

Anita Parran complimented Board staff on preparation of this document. It was Board consensus that it be posted to the Board's website.

Kim Grinston also reported that she's in the process of doing a thorough review of our inspection process and implementation of a tracking system through the Division's licensing system, which may require assignment of specific zip codes to inspectors. Barbara Bilek cautioned that a rush to get old inspections completed by the end of the year not result in substandard inspections.

#C2 20 CSR 2220-2.700 Pharmacy Technician Registration

- Final draft of Proposed Amendment published 10/1/2009

NO COMMENTS RECEIVED BY THE BOARD

Discussion was held. Curt Thompson provided proposed language, and Kim Grinston provided revised language for (5)(D)3. "Each impaired licensee shall abstain from the possession or consumption of illegal drugs and shall abstain from the consumption or illegal possession of alcohol, if the licensee's impairment includes alcohol impairment, or is required by the well-being committee." Further discussion was held. Doug Lang commented that (5)(D)2. should be changed to include prescription drugs and not just controlled substances. It was Board consensus to table a decision on this matter till after it is discussed in closed session.

MOTION TO CLOSE 11:17 AM

At 11:17 a.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

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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, Melissa Graham and Elaina Wolzak absent.

PAM MARSHALL AND MEMBERS OF THE PUBLIC LEFT THE MEETING ROOM AT 11:17 AM.

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 1:29 p.m.

#B2 Jill Diane Williams, #2001007711, 2008-007384-F1

- Notice of Felony Disciplinary Hearing
- Felony Conviction Complaint

A felony disciplinary hearing was scheduled for November 18, 2009, at 1:30 p.m., second case on the docket. A court reporter was present and the hearing began at 1:45 p.m. The Board was represented by Loretta Schouten, and Jill D. Williams was not present and was not represented by counsel. The hearing concluded at approximately 1:52 p.m. A copy of the transcript is on file with the Board of Pharmacy.

#C1 20 CSR 2220-2.175 Well-Being Program

Kim Grinston reported that the Purpose of this regulation should be changed to indicate Section 338.380 instead of 338.080; (5)(D)2. should be changed to include legend drugs and not just controlled substances, and (5)(D)3. should be changed to read "Each impaired licensee shall abstain from the possession or consumption of illegal drugs, the illegal possession of alcohol, or the consumption of alcohol." **Motion was made by Barbara Bilek, seconded 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, entity or small business affected, hereby finds that proposed regulation 20 CSR 2220-2.175 Well-Being Program, is necessary to carry out the purposes of Section 338.010, 338.140, 338.210 and 338.280, RSMo, authorizing the subject matter of the rule. Motion passed, all in favor, none opposed, Melissa Graham and Elaina Wolzak absent.**

#C2 20 CSR 2220-2.700 Pharmacy Technician Registration

Motion was made by Barbara Bilek, seconded 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, entity or small business affected, hereby finds that the proposed amendment to 20 CSR 2220-2.700 Pharmacy Technician Registration, is necessary to carry out the purposes of Section 338.010, 338.140, 338.210 and 338.280, RSMo, authorizing the subject matter of the rule. Motion passed, all in favor, none opposed, Melissa Graham and Elaina Wolzak absent.

#B3 Donald M. Hinson, #029716, #2008-002070

- Notice of Disciplinary Hearing
- Complaint and Request for Expedited Hearing
- Preliminary Decision
- Respondent's Petition and Request for Full Hearing Before the Administrative Hearing Commission
- Answer of Respondent Donald M Hinson to Petitioner's Complaint
- Memorandum of Withdrawal of Respondent's Request and Petition for Full Hearing
- Memorandum filed 6/12/09
- Decision rendered 7/21/09

A disciplinary hearing was scheduled for November 18, 2009, at 2:00 p.m., first case on the docket. A court reporter was present and the hearing began at 2:00 p.m. The Board was represented by Loretta Schouten, and Donald Hinson was not present and was not represented by counsel. The hearing concluded at approximately 2:05 p.m. A copy of the transcript is on file with the Board of Pharmacy.

#B4 Sinks Pharmacy, #2005000323, #2008-004397

- Notice of Disciplinary Hearing
- Settlement Agreement Between Missouri Board of Pharmacy and Sinks Pharmacy #2005000323

A disciplinary hearing was scheduled for November 18, 2009, at 2:00 p.m., second case on the docket. A court reporter was present and the hearing began at 2:13 p.m. The Board was represented by Daryl Hylton, and Sandra Mitchell was present for Sinks Pharmacy and was represented by Johnny Richardson. The hearing concluded at approximately 4:07 p.m. A copy of the transcript is on file with the Board of Pharmacy.

MOTION TO CLOSE 4:22 PM

At 4:22 p.m. Barbara Bilek made a motion, seconded by Pam Marshall, 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, Melissa Graham and Elaina Wolzak absent.

ALL MEMBERS OF THE PUBLIC LEFT THE MEETING ROOM AT 4:22 PM.

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 8:09 p.m.

MOTION TO ADJOURN 8:10 PM

At approximately 8:10 p.m., motion was made by Pam Marshall, seconded by Anita Parran, to adjourn the November 18, 2009, meeting. Motion passed, all in favor, none opposed, Elaina Wolzak, Melissa Graham and James Riddle absent.

KIMBERLY A. GRINSTON
EXECUTIVE DIRECTOR

DATE APPROVED: 6/30/11