

OPEN MINUTES
Missouri Board of Pharmacy

January 27, 2010 – Open Session
St. Louis College of Pharmacy
Cartwright Student Center, Carlisle Room A
4588 Parkview Place
St. Louis, MO

January 28, 2010 – Closed Session
Drury Plaza Hotel
Fourth & Market Streets
2 South Market Street
St. Louis, MO

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 8:37 a.m. on January 27, 2010, at St. Louis College of Pharmacy.

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

Board Members Absent

Anita Parran, Public Member
Elaina Wolzak, R.Ph., 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
Sid Werges, R.Ph., Inspector
Barbara Wood, Inspector
Tammy Siebert, Executive I

Staff Absent

Shawn Marshall, R.Ph., Inspector
Frank VanFleet, R.Ph., Inspector

Others Present

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

MOTION TO CLOSE 8:38 AM

At 8:38 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, Anita Parran and Elaina Wolzak absent.

MEMBERS OF THE PUBLIC LEFT THE MEETING ROOM AT 8:38 AM.

RECONVENE OPEN 9:02 AM

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 9:02 a.m.

MEMBERS OF THE PUBLIC ENTERED THE MEETING ROOM AT 9:02 AM

#A1 Agenda Additions/Corrections

Kim Grinston reported that there are new handout Items #DH13-15, plus additional information for Items #A4, #B3 and #B4, and that Items #B3 and #B4 have been continued to a future meeting.

#B3 Dennis J. Berding, #028754, #2009-003351-V1

- Notice of Hearing on Violation of Disciplinary Order
- Probation Violation Complaint
- Motion for Continuance dated 1/18/10.
- Notice of Continuance dated 1/21/10.

#B4 Craig M. Kimbel, #043358, #2008-000979-F1

- Notice of Felony Disciplinary Hearing
- Felony Conviction Complaint
- Motion for Continuance dated 1/15/10
- Petitioner's Objection to Respondent's Request for Continuance dated 1/15/10
- Respondent's Response to Petitioner's Objection to Respondent's Request for Continuance dated 1/18/10.
- Notice of Continuance dated 1/22/10

#A2 Approval of Minutes:

1. December 16, 2009 conference call meeting

Motion was made by Melissa Graham, seconded by Pam Marshall, to approve the minutes of the December 16, 2009, open session conference call meeting. Motion

passed, all in favor, none opposed, Gary Sobocinski abstained, and Anita Parran and Elaina Wolzak absent.

2. January 2, 2010 email ballot

Motion was made by Barbara Bilek, seconded by Melissa Graham, to approve the minutes of the January 2, 2010, open session email ballot meeting. Motion passed, all in favor, none opposed, Gary Sobocinski and Pam Marshall abstained, and Anita Parran and Elaina Wolzak absent.

#A3 Board Member Report – Nothing reported.

#A4 General Administration Report:

- **November 2009 Financial Report** – Kim Grinston reported regarding the expenditures report and that we have a stable balance for the year.
- **Inspector Territory Updates** – Kim Grinston reported that the Board office has reassigned some of the inspector territories, that we are using zip codes rather than county name, and that the reassignment will provide a better tracking mechanism for inspections and investigations.
- **Legislation Update** – Kim Grinston provided a verbal report with regard to this year's legislative session.

#C1 20 CSR 2220-6.050 Administration of Vaccines Per Protocol

- Proposed language published in Missouri Register
- Memo with attachment from Kim Grinston dated 1/14/2010

Kim Grinston reported that this regulation is here for approval to process for final order of rulemaking. Discussion was held. Tom Glenski reported that (4)(C) limits the certificate programs to Accreditation Council for Pharmacy Education (ACPE). Barbara Bilek suggested that we change “vaccines” to “immunizations”, but Tom Glenski indicated that the statute uses the word “vaccine” which is the reason it's used in the regulation. Doug Lang inquired if nursing and physician continuing education programs could be used; Tom Glenski reported that the Board does not currently accept nursing or physician CE programs for regular CE submissions for renewal of pharmacist licenses. Further discussion was held.

Motion was made by Pam Marshall, seconded by Barbara Bilek, 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 proposed regulation 20 CSR 2220-6.050 Administration of Vaccines Per Protocol, 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, and to approve 20 CSR 2220-6.050 for final order of rulemaking with the addition to (4)(C) of “or a similar health authority or professional body approved by the State Board of Pharmacy”. Motion passed, all in favor, none opposed, Anita Parran and Elaina Wolzak absent.

#C2 20 CSR 2220-6.055 Non-Dispensing Activities

- Proposed language published in Missouri Register
- Memo from Tom Glenski dated 1/14/10

Kim Grinston reported that there were no comments received for this proposed regulation. Discussion was held. Doug Lang questioned if (1)(R) prohibits a doctor from calling in a prescription to an unlicensed location. Discussion was held.

Motion was made by Barbara Bilek, seconded 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 proposed regulation 20 CSR 2220-6.055 Non-Dispensing Activities, 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, and to approve 20 CSR 2220-6.055 for final order of rulemaking. Motion passed, all in favor, none opposed, Anita Parran and Elaina Wolzak absent.

#D2 UMKC School of Pharmacy

- Updates to approved listings for consideration

Tom Glenski reported he found no problems with the lists. **Motion was made by Barbara Bilek, seconded by Gary Sobocinski, to approve the UMKC site/preceptor lists as presented. All in favor, none opposed, Anita Parran and Elaina Wolzak absent.**

#D3 Discussion Regarding Board of Pharmacy Fund -Connie Clarkston, DPR

Kim Grinston and Curt Thompson reported about legislation proposing a sweep of \$50,000 from the Board's fund. Ron Fitzwater reported that traditionally the Missouri Pharmacy Association has opposed a sweep of the Board's fund, but they would not go against the Board's decision.

#D1 St. Louis College of Pharmacy – Annual Meeting

- Proposed preceptor/site listings for 2010

Tricia Berry and Wendy Duncan present on behalf of STLCOP for its annual meeting with the Board. Gary Sobocinski inquired if previously unlicensed facilities will be reconciled to see if they have become licensed. Ms. Berry responded yes, and reported that Regina Divine had recently found several duplicate entries that have been corrected. Barbara Bilek commented that the Walgreens in Ft. Myers, Florida, may not be a good site for intern training; her mother lives there and this pharmacy is chaotic and dirty. Ms. Berry thanked her for the information and will watch for derogatory comments. Pam Marshall asked if Imran Pharmacy, #005995, is a Missouri pharmacy and not an Illinois-licensed pharmacy. It was determined the list should be changed to reflect that it is a Missouri facility. Tricia Berry reported about various changes to their experiential programs, the addition of more options for students. Ms. Berry inquired about the status of the licensing rule amendments. Kim Grinston reported that they had been postponed due to NABP guideline changes, processing of the Board's well-being contract, and that they will be revisited later.

Motion was made by Pam Marshall, seconded by Gary Sobocinski, to approve the STLCOP site/preceptor lists as presented, with the exception of the issues noted above. All in favor, none opposed, Anita Parran and Elaina Wolzak absent.

#D4 Review of 338.059/Sequential Numbering Requirements

- Section 338.059 RSMo

Kim Grinston and Tom Glenski reported. Gary Sobocinski reported that a change would require a statutory revision. It was Board consensus to send a letter indicating the Board can't make a change because it's in statute.

#D5 Multi-Med Dispensing

- Rule change proposal submitted by Missouri Pharmacy Association
- 20 CSR 2220-2.145 Minimum Standards for Multi-Med Dispensing

Mike Stephens from Stephens Pharmacy in Bolivar, Missouri, presented to the Board on this subject. Gary Sobocinski and Barbara Bilek asked for USP scientific data and ISMP information to support his suggested changes. He responded that he did not have any, but will pursue and provide to the Board.

#D6 UMKC School of Pharmacy, Drug Information Center, Columbia Satellite Campus, 813 Lewis Hall, 701 S Fifth Street, Columbia, Missouri 65211

- Intern Training Pharmacy Application – Special Site

Tom Glenski reported. **Motion was made by Gary Sobocinski, seconded by Pam Marshall, to approve this intern training special site application for 500 hours. All in favor, none opposed, Anita Parran and Elaina Wolzak absent.**

#D7 VA North Texas Health Care System, 4500 S Lancaster Building 7, R#119A, Dallas, Texas 75063

- Intern Training Pharmacy Application – Special Site

Tom Glenski reported. **Motion was made by Pam Marshall, seconded by Barbara Bilek, to approve this intern training special site application for 500 hours. All in favor, none opposed, Anita Parran and Elaina Wolzak absent.**

#D8 2010 Survey of Pharmacy Law - ITEM MOVED TO ITEM #E5

#DH13 Brian E. Fingerson, 202 Bellemeade Rd, Louisville, KY 40222

- Intern Training Special Site Application

Tom Glenski reported and indicated he wasn't sure what the intern is going to do. **Motion was made by Pam Marshall, seconded by Barbara Bilek, to approve this intern training special site application for 500 hours. Motion passed, Barbara Bilek, Pam Marshall and Melissa Graham in favor, Gary Sobocinski opposed, Anita Parran and Elaina Wolzak absent.**

#DH14 Debbie Hinnen, ARNP, BC-ADM, CDE, FAAN, Mid America Diabetes Associates, 200 S. Hillside, Wichita, KS 67211

- Intern Training Special Site Application

Tom Glenski reported. **Motion was made by Barbara Bilek, seconded by Gary Sobocinski, to deny this intern training special site application because the preceptor is not a licensed pharmacist. All in favor, none opposed, Anita Parran and Elaina Wolzak absent.**

#D9 Pharmacy Technician Duties/Credentialing

- Memo from Kim Grinston dated 1/14/2010 with attachments
- Technician information from 2010 Survey on Pharmacy Law

Kim Grinston reported that NABP has implemented a task force to look at this matter. Bert McClary reported that hospitals are very interested in this issue, and he would like the Board to not wait till the NABP guidelines are finalized. Doug Lang spoke as a representative of MSHP and indicated that MSHP is moving forward with implementing a list of technician duties, standard training/education, etc. for technicians, and he encouraged the Board to also pursue.

#D10 Well-Being Committee Discussion

- Memo from Kim Grinston dated 1/14/2010

Kim Grinston reported that she and Gary Sobocinski attended a meeting in St. Louis sponsored by the Missouri Board of Nursing concerning what to think about as we set up a well-being committee, write regulations, prepare the request for bid proposal, etc. Ms. Grinston asked for clarification of what the Board's mission/goal is for its well-being committee—is it to assist licensees or to protect the public? She also asked which of our professions does the Board want to include in the program? It was Board consensus that its mission is to protect the public. Gary Sobocinski commented that voluntary participants should be treated the same as disciplinary participants. Pam Marshall asked if the appropriation we've received will be removed from our budget. Kim Grinston commented that it could be in jeopardy if we don't show sufficient progress toward implementing our program. Gary Sobocinski suggested that the initial program begin with a defined group of disciplined licenses only. Kim Grinston reported that additional information will be provided to the Board regarding relapse issues before a decision is made on that issue.

#D11 Accreditation Council for Pharmacy Education (ACPE)

- Request for volunteer(s) to participate in evaluating the program for continued accreditation status, received 1/15/2010

It was suggested that we ask Anita Parran if she is able to volunteer. Barbara Bilek said she is willing but is not sure she will be allowed because she's a UMKC graduate.

#D12 Upcoming Meetings – Call for Volunteers

1. Missouri Society of Health System Pharmacists (Joint Meeting)
April 8-10, 2010, Overland Park, Kansas
2. MPA Legislative Day, Capital Plaza Hotel, Jefferson City
April 14, 2010, 7:30 a.m. - 5:00 p.m.
3. NABP Annual Meeting, Anaheim, CA, May 22-25, 2010

4. MPA Annual Meeting, Branson, MO, June 9-13, 2010
5. NABP District VI Annual Meeting (Joint meeting with districts VII and VIII)
New Orleans, LA, September 30-October 2, 2010

Kim Grinston reported that there are several upcoming meetings, and asked that individuals let Tammy Siebert know if they are interested in attending.

#DH15 Open Forum Discussion – Suggested Statutory/Regulation Amendments

The Board welcomed public comment regarding suggested statute/regulation amendments in preparation for the upcoming Strategic Planning Meeting.

1. Bert McClary requested that the technician issues mentioned previously in this meeting be considered.
2. Doug Lang also requested the technician issues be considered, as well as medication therapy management. He also asked that continuing education, patient counseling and greater clarity under utilization review, USP sterile product; e-prescribing, and the Board's authority in inpatient settings be considered.
3. Sam Leveritt of Cardinal Health requested that the technician issues be considered, all nuclear pharmacies need to be licensed as drug distributors, and a nuclear pharmacy inspection checklist.

#A4 General Administration Report:

4. **Lawbook** – Kim Grinston reported that a pdf of the Board's lawbook will be posted to the website soon.
5. **MTM Working Group** – Kim Grinston reported that a MTM working group meeting will be held 2/4/10.

Sam Leveritt questioned if the Board's conference calls are open to the public. Ms. Grinston responded that only open session calls are open to the public, and if a conference call meeting contains open and closed items, the individual is required to appear at the Board office to participate in the call.

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

#E3 Licensees presently under discipline

#E4 NAPLEX Blueprint

- Memo and blueprint from NABP

#E5 2010 Survey of Pharmacy Law

- NABP Publication

RETURN TO CLOSED 12:16 PM

At 12:16 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, Anita Parran and Elaina Wolzak absent.

MEMBERS OF THE PUBLIC LEFT THE MEETING ROOM.

RECONVENE OPEN 1:36 PM

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 1:36 p.m.

MEMBERS OF THE PUBLIC, INCLUDING SEVERAL STUDENTS, ENTERED THE MEETING ROOM.

#B1 Bruce Ballard, #028642, #09-0471 PH

- 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

A disciplinary hearing was scheduled for January 27, 2010, at 1:30 p.m., first case on the docket. A court reporter was present and the hearing began at 1:40 p.m. The Board was represented by Loretta Schouten, and Bruce Ballard was present and represented by E. Dudley Smith. The hearing concluded at approximately 3:11 p.m. A copy of the transcript is on file with the Board of Pharmacy.

#B6 Steven H. Alvey, #045332, #2009-001614-V2

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

A violation of disciplinary hearing was scheduled for January 27, 2010, at 2:30 p.m., first case on the docket. A court reporter was present and the hearing began at 1:40 p.m. The Board was represented by Loretta Schouten, and Steven Alvey was present and represented by Terry Allen. The hearing concluded at approximately 4:13 p.m. A copy of the transcript is on file with the Board of Pharmacy.

RETURN TO CLOSED 4:28 PM

At 4:28 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, Anita Parran and Elaina Wolzak absent.

MEMBERS OF THE PUBLIC LEFT THE MEETING ROOM.

THURSDAY, JANUARY 28, 2010

RECONVENE OPEN 12:06 PM

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 12:06 p.m. on Thursday, January 28, 2010, at Drury Plaza Hotel.

#B2 Cristina D. Gray, #044185, #09-0201 PH

- Notice of Disciplinary Hearing
- Hearing date change request received 1/12/2010
- Notice of Continuance
- Order of Circuit Court of Cole County remanding case to the Board for consideration of additional evidence
- Request for Review of The Settlement Agreement Before the Administrative Hearing Commission
- Settlement Order

A disciplinary hearing was scheduled for January 28, 2010, at 1:30 p.m., second 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 Cristina Gray was present and represented by Steve Schanker. The hearing concluded at approximately 2:08 p.m. A copy of the transcript is on file with the Board of Pharmacy.

#D3 Discussion Regarding Board of Pharmacy Fund -Connie Clarkston, DPR

Connie Clarkston, Division Director of Budget and Legislation; Jane Rackers, Division Director; and Grady Martin, Department of Insurance, Financial Institutions and Professional Registration presented to the Board at 2:08 p.m. regarding the proposed sweep of Board funds. Questions by Board members, and the parties left the meeting room at 2:51 p.m.

RETURN TO CLOSED 2:51 PM

At 2:51 p.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, Anita Parran and Elaina Wolzak absent.

RECONVENE OPEN 4:06 PM

By motion duly made, seconded, passed and recorded in closed session minutes, the Board returned to open session at 4:06 p.m.

MOTION TO ADJOURN 4:07 PM

At approximately 4:07 p.m., motion was made by Melissa Graham, seconded by Pam Marshall, to adjourn the January 27-28, 2010, meeting. Motion passed, all in favor, none opposed, Anita Parran and Elaina Wolzak absent.

Due to inclement weather, President Riddle and Gary Sobocinski traveled home and did not attend dinner.

KIMBERLY A. GRINSTON
EXECUTIVE DIRECTOR

DATE APPROVED: 11/16/11