

Minnesota Board of Pharmacy

SEVEN HUNDRED AND NINETY-NINTH MEETING

At approximately 9:00 a.m., on June 10, 2009, the Minnesota Board of Pharmacy met in Conference Room A, at the University Park Plaza Building, 2829 University Avenue Southeast, Minneapolis, Minnesota, for the purpose of conducting a general business meeting. All members of the Board were in attendance with the exception of Mr. Ikram-UI-Huq. Also in attendance were the Board's Executive Director, Dr. Cody Wiberg; the Board's legal counsel, Ms. Karen Andrews; and Board of Pharmacy staff, Ms. Candice Fleming, Ms. Michele Mattila, Mr. Leslie Kotek, Ms. Karen Olson, and Ms. Patricia Eggers. Mr. Gary Schneider, the Board President, called the meeting to order.

The Board went into a closed session to discuss matters of a quasi-judicial nature.

The first item of a quasi-judicial nature to come before the Board was the case of Mr. Thomas Thompson. Mr. Thompson petitioned the Board to have his license reinstated. Mr. Thompson was present at the meeting. Ms. Andrews and Dr. Wiberg presented the Board with background information on the case and a proposed Stipulation and Consent Order (SCO). The SCO was developed subsequent to a conference held with Mr. Thompson on May 13, 2009. After much discussion, Ms. Kay Hanson moved and Mr. Carleton Crawford seconded that the Board accept the proposed SCO and that Dr. Wiberg be empowered to sign the Order on the Board's behalf. The motion passed.

The second item of a quasi-judicial nature to come before the Board was the case of Mr. Timothy Snyder. Mr. Snyder petitioned to have his license reinstated. Ms. Andrews and Dr. Wiberg presented the Board with background information on the case and a proposed Order to Reinstate License with Conditions. After a discussion, Mr. Carleton Crawford moved and Ms. Kay Hanson seconded that the Board accept the proposed Order. As President, Mr. Gary Schneider will sign the Order on the Board's behalf. The Board requested that Dr. Wiberg state in the recommendations to HPSP that the Board is concerned with Mr. Snyder's chemical, mental, and cognitive health. The motion passed with Dr. Stacey Jassey voting in opposition.

The third item of a quasi-judicial nature to come before the Board was the case of Pro Med, LLC. Ms. Andrews and Dr. Wiberg presented the Board with background information on an order that the state of Missouri issued against the license of Pro Med, LLC. Ms. Andrews also presented a proposed "mirror" order. After some discussion, Mr. Carleton Crawford moved and Mr. James Koppen seconded that the Board accept the proposed order and that Dr. Cody Wiberg be empowered to sign the Order on the Board's behalf. The motion passed.

The Board returned to its open session.

The Board next discussed the minutes of the April 1, 2009 meeting. Mr. Carleton Crawford moved and Ms. Kay Hanson seconded that the minutes of that meeting be approved. The motion passed.

Ms. Karen Bergrud moved and Mr. Carleton Crawford seconded to approve the items on the consent agenda and to approve the consent agenda. The motion passed.

◆ Consent Agenda

○ New Pharmacy Applications

- CVS Pharmacy #7406
8468 Tamarack Bay
Woodbury, MN 55125

Approve
Permanent PIC – Keri A. Hoss
Already inspected – New PIC Craig Oberg

- Hy-Vee Pharmacy
1620 South Cedar Avenue
Owatonna, MN 55060

Approve
Permanent PIC – Jolene Theide
Already inspected

- Medsave Longterm Care Pharmacy
615 Anne Street, Suite B
Bemidji, MN 56601

Approve
Temporary PIC – Richard Chernugal
Pending final inspection and naming of permanent
PIC

○ Variances

- [Variance Committee Report](#) - approve

○ Continuing Education. CEATF Reports for the period
03/11/2009 – 04/07/2009. Approve.

○ Examination Committee

- Exam Candidates Report – approve

Certificate Number	Name	Registration Number
10207	Jennifer Ann Brummer	119584
10208	Kyle Nolan Jones	119586
10217	Nicole Renee Wald	119596
10224	Lavanya Karnati	119603
10232	Jessie Lynn Bawek	119610
10228	John Vianney Deutsch	119606
10233	John Chan Yick	119611
10223	Kefale Teshome Bogale	119602
10227	Ruth Elizabeth Fonder	119605

- Reciprocity Candidates Report - approve

Certificate Number	Name	Registration Number
10213	Angela M Maas	119591
10218	Lanet Elaine Hightower	119597
10222	Jatin H Patel	119601
10226	Jill L Shipley	114200
10209	Visai Lor	119587
10219	Mary B Southard	119598
10220	Ronald A Bailey	119599
10221	Debra J Skaar	119600
10210	Michael Jesse Verdugo	119588
10231	Madhuri Kanuri	119609
10212	Melissa Odorzynski	119590
10225	Ryan John Attwood	119604
10216	James Raymond Rieth	119594
10215	Shaniqua T Rayford	119593
10229	Mohammad Badreldean Ateya	119607
10230	Thomas Allan Krier	119608
10234	Roy D Katz	119612
10235	David A Russell	119613
10211	Vivian B Codjoe	119589
10214	Karen Jean Fisher	119592

The Board reviewed the remaining agenda for this meeting. Mr. Carleton Crawford moved and Dr. Stacey Jassey seconded that the remaining agenda be approved. The motion passed.

The Board next reviewed proposed revisions to the guidelines for off-site, after regular hours, hospital pharmacy services. The Board Surveyors present explained the rationale for the proposed changes. After much discussion, Ms. Kay Hanson moved and Dr. Stacey Jassey seconded that the revised guidelines be approved for use by the Surveyors. The motion passed.

The Board next turned its attention to additional new pharmacy applications it has received since the last meeting.

- Walgreen's Pharmacy #11250
3913 W. Old Shakopee Road
Bloomington, MN 55437

Approve
Temporary Pharmacist-in-charge Tim Affeldt
Pending final inspection and naming of permanent
PIC

- Walgreen's Pharmacy #12434
2499 Highway 7
Excelsior, MN 55331

Approve
Temporary Pharmacist-in-charge Tim Affeldt
Pending final inspection and naming of permanent
PIC

- Walgreen's Pharmacy #12592
326 W. Lincoln Avenue
Fergus Falls, MN 56537

Approve
Permanent Pharmacist-in-charge Darren Golden
Already inspected

- Walgreen's Pharmacy #11835
7200 Cedar Lake Road
St. Louis Park, MN 55426

Approve
Temporary Pharmacist-in-charge Tim Affeldt
Already inspected – New PIC Manisha Besterwitch

After a discussion, Ms. Karen Bergrud moved and Mr. Carleton Crawford seconded that the applications be approved. Dr. Stacey Jassey abstained.

The Board next turned its attention to new nonresidential pharmacy applications it has received since the last meeting.

- Professional Pharmacy Associates
105 Western Avenue, Suite 3
Waupaca, WI 54981

Rx Consultants
105 Western Avenue, Suite 3
Waupaca, WI 54981

Mr. Matthew Sanger and Mr. Dennis Malone were present at the meeting to represent these two pharmacies. After a discussion, Ms. Karen Bergrud moved and Mr. James Koppen seconded that the applications for these two new pharmacies be approved and that any necessary variances be approved for one year. The motion passed.

- E-Pharmacy Direct
801 Page Drive
Fargo, ND 58103

Ms. Shelley Johnsen, Mr. George Hill, and Ms. Ann Rathke were present at the meeting to represent this pharmacy. After a lengthy discussion, Mr. Jim Koppen moved and Dr. Stacey Jassey seconded that the application for a new pharmacy and for the related variance requests be denied. The motion passed.

The Board next turned its attention to variances that the Variance Committee deferred to the Board:

◆ Rochester Methodist Hospital (RMH) Variances

- Renewal of variance to Minnesota Rules 6800.7400 to allow use of Pyxis Connect Scanning technology to do order entry between RMH and St. Mary's Hospital.

Variance Committee recommendation – approve for 2 years.

- Renewal of variance to rules Minnesota Rules 6800.6300 and 6800.6500, subp. 3 to allow use of Pyxis-Profile for sub-acute care beds in Mayo's Charter House.

Variance Committee recommendation – approve for 2 years.

- Renewal of variance to Minnesota Rules 6800.7520 allowing two pharmacy technicians to process waste/excess controlled substances.

Variance Committee recommendation – approve for 2 years.

- New variance to Minnesota Rules 6800.3200 to allow use of Talyst Autopack technology for prepackaging unit doses.

Variance Committee recommendation – approve for 1 year.

After some discussion, Mr. Carleton Crawford moved and Ms. Kay Hanson seconded to approve the variances per the Variance Committee recommendations. The motion passed with Ms. Karen Bergrud abstaining.

- ◆ University of Minnesota Veterinary Medical Center Pharmacy. Renewal of variance to Minnesota Rules 6800.7520 and 6800.0910 to allow veterinary staff access to a portion of the pharmacy after hours to allow pick up of already certified prescriptions.

After a lengthy discussion, Mr. Carleton Crawford moved and Mr. Jim Koppen seconded that the variance be denied. The motion passed.

- ◆ First Choice Pharmacy of Gaylord, Minnesota. Renewal of variance to operate at remote tele-pharmacy in Henderson, MN. Variance Committee recommendation – approve on condition that all data entry for all new prescriptions is done only by a pharmacist, who will also conduct a DUR.

After some discussion, Ms. Karen Bergrud moved and Mr. Carleton Crawford seconded that the variance be approved. The motion passed.

- ◆ St. Olaf Pharmacy, Austin. Renewal of variance allowing the operation of a remote tele-pharmacy site in Leroy, MN. Variance requests expansion to include providing services to patients whose prescriptions are issued by providers other than the Leroy Clinic provider. Committee recommendation – approve for one year on condition there is no expansion to non-clinic patients from Leroy.

After some discussion, Mr. James Koppen moved and Ms. Kay Hanson seconded that the board accept the recommendations of the variance committee. The motion passed with Ms. Karen Bergrud abstaining.

- ◆ Variances to preceptors qualification rule due to the fact that they do not have the 4000 hour requirement
 - Emily Eben
 - Katie Hiscock
 - David Salo

After some discussion, Dr. Stacey Jassey moved and Mr. Carleton Crawford seconded to deny the requests. The motion passed.

- ◆ Intern: preceptor ratio rule

Dr. Wiberg presented the Board with background information concerning this issue and with the following staff recommendation:

- Staff recommends that the Board go on record as clarifying the interpretation of existing rules to mean that there is a 1:1 intern: preceptor ratio so that a preceptor may not have more than one assigned intern at any one time without requesting a variance from the Board. However, since the Board is in the process of adopting a rule change that would modify the ratio to 2:1, staff further recommends that the Board direct Board staff to automatically approve variance requests that ask for permission to use a 2:1 ratio.

After some discussion, Ms. Karen Bergrud moved and Mr. Carleton Crawford seconded that the staff recommendation be adopted. The motion passed.

- ◆ Variance Committee – proposed change in role and name.

After some discussion, Mr. Carleton Crawford moved and Ms. Kay Hanson seconded that the Board change the name of the Variance Committee to the Variance and Policy Committee and to change the role of the Committee to include reviewing policies and procedures submitted by licensees.

Dr. Wiberg next presented the Board with information regarding *The Pharmacist's Letter* preceptor continuing education programs and a Power-Pak continuing education for preceptors (REDUCING PRESCRIPTION MEDICATION ERRORS: What You Need To Know and What Your Patients Should Be Told). After much discussion, Mr. James Koppen moved and Ms. Karen Bergrud seconded that the programs be approved as acceptable for meeting the preceptor CE requirement. The motion passed.

Ms. Karen Bergrud next presented the Board with an update on the Executive Director Evaluation Committee report. Since Dr. Wiberg is not currently eligible for a salary increase or achievement award, No action was taken at this time.

Dr. Wiberg and Ms. Patricia Eggers next gave an update on the 2010-2011 Budget. No action was taken at this time.

Dr. Wiberg next gave the Board an update on legislative issues.

In regards to changes made to Minnesota Statutes §151.37, which allow a licensed practitioner to “prescribe a legend drug, without reference to a specific patient, by directing a . . . pharmacist according to section 151.01, subdivision 27, to adhere to a particular practice guideline or protocol when treating patients whose condition falls within such guideline or protocol, and when such guideline or protocol specifies the circumstances under which the legend drug is to be prescribed and administered”, Dr. Wiberg presented the Board with the following staff recommendation:

Staff recommends that, on an interim basis, the Board adopt the following guideline:

“If a pharmacist working per a protocol (as authorized in Minnesota Statutes 151.01, subd. 27) uses a prescription form, a faxed prescription, or an electronic prescription, the pharmacist should indicate the name of the authorized prescriber who developed the protocol, the name of the pharmacist who is implementing the protocol, and indicate that the prescription is generated per protocol. As an example, the pharmacist might sign a prescription generated per a warfarin monitoring protocol as follows:

Ole Olson, R.Ph. per warfarin protocol with Ingrid Ingridstottir, MD

Pharmacists should not fill a prescription signed by a pharmacist unless there is an indication on the prescription that the pharmacist signing the prescription is authorized to do so per protocol. As with all prescriptions, pharmacists should verify any prescription if there is a question as to its validity”.

After some discussion, Ms. Kay Hanson moved and Mr. Carleton Crawford seconded that the board accept the staff recommendation. The motion passed.

Dr. Wiberg next presented the Board with information concerning a new section of law, Minnesota Statutes § 62Q.676, which reads:

“[62Q.676] MEDICATION THERAPY MANAGEMENT.

A pharmacy benefit manager that provides prescription drug services must make available medication therapy management services for enrollees taking four or more prescriptions to treat or prevent two or more chronic medical conditions. For purposes of this section, "medication therapy management" means the provision of the following pharmaceutical care services by, or under the

supervision of, a licensed pharmacist to optimize the therapeutic outcomes of the patient's medications:

- (1) performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events;
- (2) communicating essential information to the patient's other primary care providers; and
- (3) providing verbal education and training designed to enhance patient understanding and appropriate use of the patient's medications.

Nothing in this section shall be construed to expand or modify the scope of practice of the pharmacist as defined in section 151.01, subdivision 27”.

Dr. Wiberg presented the Board with the following staff recommendation in regards to this new section of law:

“Staff recommends that the Board go on record as interpreting the “or under the supervision of” clause to refer only to registered pharmacy interns and that other individuals working under the supervision of a pharmacist may not provide medication therapy management services”.

After some discussion, Mr. Jim Koppen moved and Ms. Karen Bergrud seconded that the Board accept the staff recommendation. The motion passed.

Dr. Wiberg next gave the Board an update on the proposed rule changes. No action was taken at this time.

Dr. Wiberg next gave the Board an update on the controlled substance rule change. No action was taken at this time.

Dr. Wiberg next gave the Board an update on the Controlled Substances Prescription Electronic Reporting System. No action was taken at this time.

Dr. Wiberg next brought to the board information on Board membership in Alliance of States with Prescription Monitoring Programs and the National Association of State Controlled Substances Authorities. After some discussion, Ms. Kay Hanson moved and Dr. Stacey Jassey seconded that the Board pay for membership in the Alliance of States with Prescription Monitoring Programs. The motion passed

Dr. Wiberg next informed the Board about a change to the Frequently Asked Questions portion of the U.S. Drug Enforcement Administration’s website, which is as follows:

“Question: What changes may a pharmacist make to a prescription written for a controlled substance in schedule II?”

Answer: On November 19, 2007, the DEA published in the Federal Register (FR) the Final Rule entitled *Issuance of Multiple Prescriptions for Schedule II Controlled Substances* (72 FR 64921). In the preamble to that Rule, DEA stated that "the essential elements of the [schedule II] prescription written by the practitioner (such as the name of the controlled substance, strength, dosage form, and quantity prescribed)...may not be modified orally."

The instructions contained in the Rule's preamble are in opposition to DEA's previous policy which permitted the same changes a pharmacist may make to schedules III-V controlled substance prescriptions after oral consultation with the prescriber. DEA recognizes the resultant confusion regarding this conflict and plans to resolve this matter through a future rulemaking. Until that time, pharmacists are instructed to adhere to state regulations or policy regarding those changes that a pharmacist may make to a schedule II prescription after oral consultation with the prescriber".

After some discussion, Ms. Kay Hanson moved and Mr. Carleton Crawford seconded that the Board adopt as policy the staff recommendation that the Board continue to take the position that all the changes previously permitted by the DEA can still be made. The motion passed.

Dr. Wiberg next discussed attendance at the NABP/AACP District V meeting in Omaha, Nebraska on August 6-8, 2009. After some discussion, Ms. Kay Hanson moved and Dr. Stacey Jassey seconded that the Board authorize payment of the expenses for Board members, the Executive Director and one Surveyor to attend, provided that out-of-state travel is still permitted by the state of Minnesota. The motion passed.

Dr. Wiberg, Ms. Hanson, Ms. Bergrud, and Dr. Jassey next provided the Board with information about the proceedings of the NABP Annual Meeting. No action was taken at this time.

Dr. Wiberg next informed the Board about an e-mail he received from Mr. Kurt Kulschar. The Board deducted 10% for each month that his internship hours were submitted late and Mr. Kulschar is requesting that the hours be reinstated. After a brief discussion, Mr. Carleton Crawford moved and Ms. Stacey Jassey seconded to deny Mr. Kulschar's request. The motion passed.

At this time Mr. Carleton Crawford moved and Ms. Karen Bergrud seconded that the Board express its gratitude to Mr. Byron Opstad, who is retiring from his position as a Board Surveyor for his many years of dedicated service to the Board of Pharmacy and the citizen's of the State of Minnesota. The motion passed.

There being no further business requiring action by the Board, Ms. Karen Hanson moved to adjourn the meeting. The motion occurred at approximately 1:25 pm. Mr. James Koppen seconded the motion. The motion passed.

PRESIDENT

EXECUTIVE DIRECTOR