

South Carolina Board of Pharmacy

MINUTES

Board Meeting

8:30 a.m., November 17, 2004

Synergy Business Park, Kingstree Building

110 Centerview Drive Room 108

Columbia, South Carolina

Wednesday, November 17, 2004

Bobby Bradham, R.Ph., Chairman, of Charleston, called the regular meeting of the Board of Pharmacy to order at 8:41 a.m. Other members present included: Terry Lewis, R.Ph, Vice Chairman, of Darlington; David Banks, R.Ph., of Simpsonville; Davis Hook, R.Ph., of West Columbia; Marvin Hyatt, R.Ph., of Rock Hill; Dock Henry Rose, R.Ph., of Greer and Allen Toole, R.Ph., of Liberty.

Dr. Leo Richardson of Columbia, of Columbia, was granted an excused absence.

Staff members participating during the meeting included: Lee Ann Bundrick, R.Ph., Administrator; Marilyn Crouch, Program Assistant; Sandra Dickert, Administrative Assistant; Eddie Durant, R.Ph., Temporary Investigator; Sally Green, Administrative Specialist; Tom Porter, R.Ph, Inspector; Ray Trotter, R.Ph Temporary Investigator and Sheila Young, R.Ph., Compliance Manager. LLR employees participating during the meeting included: Sharon Dantzler, Deputy General Counsel, LLR-Office of General Counsel.

Members of the public attending the meeting included: Hector Alicea, Paulette Bentley, Rosemary Bognski, Jim Bracewell, Priscilla Brantley, Paulette Bentley, Pamela Cain, Gail Daniels, Barrett Duke, Tim Eaddy, Charles Eaton, Samuel Finklea, James Frazier, Warren Hix, Kimberly Jones, Terra Jones, Bruce Lamparelli, Steve Lamparelli, Ann Lewis, Lori Malvern, Teresa McGuirt, Dave Noghrei Nikbakht, John Owen, Scott Padgett, Jenny Patel, Thomas Phillips, Eric Ridings, Nikki Shaw, Dana Tate, and Sue Veer.

Meeting Called to Order

Mr. Bradham announced that this meeting was being held in accordance with Section 30-4-80 of the S. C. Freedom of Information Act by notice mailed to The State Newspaper, Associated Press, WIS-TV and all other requesting persons, organizations, or news media. In addition, notice was posted on the bulletin boards at the two main entrances of the Kingstree Building.

Invocation

Mr. Toole delivered the invocation.

Pledge of Allegiance

All present recited the Pledge of Allegiance.

Chairman's Remarks – Bobby Bradham, R.Ph.

Mr. Bradham welcomed everyone to the meeting.

Introduction of Board Members and all other persons attending

The Board members, staff, and members of the public introduced themselves for the record.

Approval of Minutes for the September 22-23, 2004

Mr. Hook noted a correction to page four. He indicated Mr. Fulbright should complete 45 hours instead of 4.5 hours.

MOTION

Mr. Banks moved the Board approve the minutes as amended. Mr. Hook seconded the motion, which carried unanimously.

Approval of Reciprocity Candidates for Licensure:

September 3, 2004, September 13, 2004, September 22, 2004, October 6, 2004, October 12, 2004, October 15, 2004, October 27, 2004, October 24, 2004, October 26, 2004, November 12, 2004 and November 13, 2004

MOTION

Mr. Hyatt moved the Board approve the reciprocity candidates for licensure. The motion was seconded by Mr. Hook and carried unanimously.

Reciprocity Application Review – Dave Noghrei Nikbakht

On August 4, 2003 the Board received a pharmacist application from Kave Nikbrakht. Mr. Nikbrakht has been licensed in North Carolina for four years. The North Carolina Board of Pharmacy has submitted documentation that there is an outstanding investigation regarding Mr. Nikbakht. Mr. Nikbakht presented a consent order for a warning to the permit holder (Eckerd Drugs). (Mr. Nikbrakht's application and consent order are herewith attached and become a permanent part of the record retained at the Board's office.)

Ms. Dantzler stated the complaint alleged a dispensing error and the findings of fact were that the pharmacy where Mr. Nikbrakht was the pharmacist on duty has entered a consent order with the North Carolina Board of Pharmacy for dispensing Reglan in tablet instead of liquid form as ordered in the prescription to an infant, who required hospital treatment, but did not have long-term harm. The pharmacist advised that the tablets were dispensed due to the prescription not indicating liquid and that the prescription was picked up in the drive-thru window. There was a lack of information as to whether counseling was offered although there was a conversation with the infant's father. It was noted that the father has limited English language abilities. There was also an indication this consent order does not resolve all of the complaint involving the Eckerd pharmacy, "which is the subject of a separate letter or proceeding. Nothing in this consent order notes affects on the side any issues against the pharmacist involved which issues would be later resolved by the Board."

Mr. Nikbakht stated he was the pharmacist on duty. He further stated the pharmacy always offers counseling.

Mr. Bradham stated the Board would take this testimony as information and would request further information from the North Carolina Board of Pharmacy prior to taking action in this matter.

Administrator's Report – Lee Ann F. Bundrick, R. Ph.

Ms. Bundrick briefed the Board on staff's activities since the September 2004 meeting.

Mr. Jim Bracewell, of the South Carolina Pharmacy Association, briefed the Board regarding a continuing education course regarding medication errors. He noted that the association

contacted the University of Connecticut, which copyrighted the program and received a portion of the program that relates to medication errors. He went on to say the association is licensed to provide the portion that deals with medication errors. The course is a 15-hour on-line, interactive course and at the end of the course the individual would appear at the Board's office for an on-line exam, which would be proctored by staff. He indicated Mr. "C" Turner, the Board's IRC Chairman, has given his endorsement of the course. He went on to say the course would become available January 1, 2005. He continued by saying this portion would be part of another course the association would be offering as a refresher course to those individuals entering the profession after an absence from practicing pharmacy.

Ms. Bundrick noted that this continuing education class would not be available as credit for renewal.

MOTION

Mr. Hook made a motion, seconded by Mr. Lewis and unanimously carried, that the Board accept this proposal.

Application Review

Request for approval of Pharmacy Technician Application – Charles Reed Eaton

On October 12, 2004 the Board received a pharmacy technician application from Charles Reed Eaton. Mr. Eaton plead guilty and was convicted of petty larceny in October 2003.

Charles Eaton appeared before the Board at this time.

Mr. Eaton stated he had been convicted of stealing a car in Georgia and he is currently serving probation, which will end in September 2005. He further stated that his record would be expunged following the end of his probation. He reregistered for the first time since this incident in August 2004.

Mr. Bradham stated the Board would take this testimony as information and would take action on this request before the end of the meeting.

Request for Review of Intern Hours for Approval – Steve Lamparelli

On October 11, 2004 the Board received a request from Steve Lamparelli asking for the Board to appeal its decision in the review of his intern hours. Mr. Lamparelli had applied for registration as a pharmacy intern in South Carolina, where he needed to complete another 500 hours of internship. He failed to submit the Notification of Employment to the Board within the required ten days of employment with a South Carolina pharmacy.

Mr. Bradham recused himself from participating in the discussion of this matter, as he knows Mr. Lamparelli.

Mr. Lewis chaired the meeting during the discussion of this matter.

Mr. Lamparelli appeared before the Board at this time.

Mr. Lamparelli stated he graduated from Purdue University with a Doctorate in Pharmacy. He went on to say he moved to South Carolina to be with his family and is seeking licensure in this state. He noted Indiana accepts all 1,500 hours intern hours during the clinical rotations in the PharmD program, while South Carolina accepts only 1,000 intern hours. He applied for a pharmacy intern license shortly before moving to South Carolina so he could begin logging

hours. He has been working at Walgreen's as a floater between approximately six stores along the coast, but received most of his hours in the Charleston-Summerville area. He failed to submit a notice of employment to the Board at the beginning of the summer within the first ten days of employment. He has completed approximately 800 hours and is asking the Board to accept the accrued hours. He went on to say Indiana did not stress obtaining an intern license during his senior year of school.

Bruce Lamparelli, Steve Lamparelli's father, appeared before the Board at this time and spoke on his son's behalf. He noted that he is currently licensed as a pharmacist in South Carolina.

Mr. Lewis informed Mr. Lamparelli that his testimony would be received as information and the Board would make a decision in this matter before the end of the meeting.

Mr. Bradham resumed the chairman's position at this time.

Compliance and Inspector's Report, Sheila Young, R.Ph.

IRC Recommendations for dismissals and dismissals with non-disciplinary letters of concern. Review of proposed Consent Orders and Stipulations and Petitions from the Investigative Review Committee (IRC), Pat Hanks, OGC and Charles "C" Turner, R.Ph., IRC Chairman

Ms. Young briefed the Board regarding the activities of the compliance department since the September 2004 meeting.

Ms. Dantzler briefed the Board on the following cases:

Consent Orders

Case #: 2004-0041

Case #: 2004-0061

Jason M. Clark appeared before the Board at this time.

Case #: 2004-0087

Voluntary Surrender

Case #: 2004-0036

The Board took these matters under advisement and determined it would make a decision regarding the cases later in the meeting.

New Business

Proposal of South Carolina Primary Health Care Association – Sue Veer, Ann Lewis and Lori Malvern, MD

The South Carolina Primary Health Care Association has submitted a proposal asking the Board to evaluate and modify provisions in the Pharmacy practice act to eliminate barriers preventing South Carolina residents from receiving prescription medications. The association is requesting that the Board modify Section 40-43-60(I) and/or (K) to include licensed practitioners as defined by Section 40-43-30(45) who are employees of federally funded community health centers. (This proposal is herewith attached and becomes a permanent part of the record retained at the Board's office.)

Ann Lewis, Dana Tate, and Lori Malvern, MD, appeared before the Board at this time.

Ms. Lewis briefed the Board on community health centers and the association's proposal.

Mr. Bracewell stated he had met with the executive director of the Primary Health Care Association after the proposal had been submitted to the Board. He further stated the Pharmacy Association would be submitting an alternate proposal that may resolve the issue.

Mr. Bradham suggested the association research the possibility of obtaining a grant to assist in the problem areas.

Request for Modification of Pilot Project, Pyxis Envoy – Rhonda Lambreth, R.Ph.
Rhonda Lambreth, R.Ph., is petitioning the Board to modify the pilot project of the Pyxis Envoy at the Charleston Nursing and Rehabilitation. (Ms. Lambreth's request is herewith attached and becomes a permanent part of the record at the Board's office.)

Rhonda Lambreth appeared before the Board at this time.

Ms. Lambreth briefed the Board on the Pyxis Envoy system. She stated the Board had approved the Pyxis Envoy System for use in one wing of the facility. She noted that patients are continuously moved from one wing to another and the facility is now requesting that the Board allow the facility to use the Pyxis Envoy system as a central system in the entire facility, which is three wings.

Mr. Bradham stated this information would be taken under advisement and would make a decision on this matter before the end of the meeting.

Emergency Health Powers Act – Samuel Finklea, III, DHEC Attorney
Samuel Finklea, III, Esq., an attorney for the SC Department of Health and Environmental Control (DHEC), appeared before the Board to discuss feedback in regard to modifying the emergency health powers act (Section 44-4-1, et. seq.). (A copy of the Emergency Health Powers Act is herewith attached and becomes a permanent part of this record retained at the Board's office.)

Mr. Finklea stated the agency is obtaining feedback from several entities affected by the emergency health powers act prior to submitting a final draft to the agency's Board in January 2005.

The Board questioned Mr. Finklea in regard to how the modification would affect the Memorandum of Agreement (MOA) between DHEC and the Board of Pharmacy. Mr. Finklea noted during the discussion that some parts of the MOA could be drafted into this regulation.

Pharmacy Technician Affidavit of Experience in a Military Setting – Pam Cain, R.Ph.
In a letter dated November 12, 2004 Pam Cain, R.Ph., Pharmacy Manager, Department of Pharmaceutical Services at Palmetto Health Richland, is seeking the Board's approval, on behalf of Hector J. Alicea, to approve 1,000 of the hours he served as a pharmacy technician in the military. If approved he would immediately be eligible for state certification following completion of the PTCB exam in March 2005.

Pam Cain and Hector Alicea appeared before the Board at this time.

Mr. Alicea stated he has been a pharmacy technician for the past 18 years and was stationed at Fort Jackson from 1995 to 2001, after which he was transferred to Texas. He has performed all kinds of duties as a technician up to the level of supervising other technicians.

Ms. Cain stated there is a national website where individuals may contact them regarding technician positions. She went on to say she explains the registration process, refers them to the website and has, on occasion, mailed the Affidavit of Experience form. She further stated the individuals, who are all graduates of an accredited program and are PTCB, do not understand why their hours do not count and ask why they must work additional hours in South Carolina to become state certified.

Mr. John Owen stated the military is downsizing, which includes the medical missions. He went on to say the Navy would soon be releasing 1,000 hospital corpsmen, which would include technicians and that the pharmacy boards would soon be flooded with technician applications.

Ms. Cain noted that the military program is AHSP accredited. Ms. Bundrick noted that Mr. Wilcox began this program.

The Board took this information under advisement for a determination to be made later in this meeting.

Report on NABP Fall 2004 Legislative Conference held November 11-14, 2004 in St. Petersburg, Florida – Davis Hook, R.Ph.

Mr. Hook briefed the Board on the NABP Fall 2004 legislative conference. (Mr. Hook's report is herewith attached and becomes a permanent part of this record retained at the Board's office.)

Old Business

Review Policy and Procedure #137

Ms. Bundrick stated she believes Mr. Hook spoke about this in his report from the fall 2004 legislative conference. She indicated the Board wanted to discuss in regard to implementing Chapter 797. She indicated the Policy indicates January 2005.

A brief discussion ensued.

MOTION

Mr. Hook moved the Board change the date to January 2006. The motion was seconded by Mr. Rose and unanimously carried.

Patient Assistance Medications, Labeling

Mr. Hook stated the Board would have to make a decision in this matter. He further stated he has spoken with an individual regarding this matter and did not know how to answer the questions. He went on to say the Board would need to determine whether it would accept the position favorably or reluctantly stand firm whether it wants pharmacists involved with the free medical clinics. He noted there are seven of the clinics that hold non-dispensing permits, which require a consulting pharmacist. He believes the essential request was a process for the free medical clinics, without a pharmacist involved, to dispense medications.

Mr. Hook volunteered to visit this facility with Mr. Scott Padgett and Ms. Young.

Executive Session

MOTION

Mr. Rose moved the Board enter executive session. Mr. Lewis seconded the motion, which carried unanimously.

Lunch

The Board recessed for lunch at 12:00 p.m. and returned to public session at 3:03 p.m.

Return to Public Session

Mr. Bradham noted for the record that no motions were made and no votes were taken during executive session.

Signing of Licenses

The Board signed licenses for new licensees.

Request for approval of Pharmacy Technician Application – Charles Reed Eaton

MOTION

Mr. Toole moved the Board deny this request until his record is clear after which he may reappear before the Board. Mr. Hyatt seconded the motion, which carried unanimously.

Request for Review of Intern Hours for Approval – Steve Lamparelli

Mr. Bradham recused himself from voting in this matter.

MOTION

Mr. Hyatt made a motion, seconded by Mr. Banks and unanimously carried, the Board approve the request with a letter of concern.

Mr. Bradham resumed chairmanship at this time.

Consent Orders

2004-0061

MOTION

Mr. Rose moved the Board grant reinstatement with the stipulations from the consent order. Mr. Toole seconded the motion, which carried unanimously.

Consent Orders

2004-0041 and 2004-0087

Voluntary Surrender

2004-0036

MOTION

Mr. Hook made a motion, seconded by Mr. Lewis and unanimously carried, that the Board accept the IRC's recommendation regarding these two consent orders and the voluntary surrender.

Request for Modification of Pilot Project, Pyxis Envoy

MOTION

Mr. Banks moved the Board extend the pilot project to the whole center as opposed to just the one wing. Mr. Hyatt seconded the motion, which carried unanimously. The Board asked that the facility appear before the Board after six months, which would be the June 2005 Board meeting.

Pharmacy Technician Affidavit of Experience in a Military Setting

MOTION

Mr. Hook moved that pharmacy technicians who present themselves for registration to the South Carolina Board of Pharmacy present an affidavit of experience from the military setting signed by their supervising pharmacist, identified by his license number and state of registration, to culminate the requirements for their experience. The motion was seconded by Mr. Hyatt and unanimously carried.

Emergency Health Powers Act

MOTION

Mr. Hook moved the Board leave the MOA separate from the Emergency Health Powers Act. Mr. Hyatt seconded the motion, which carried unanimously.

Committee Reports

Immunization Task Force – Marvin Hyatt, R.Ph. and Dock H. Rose, R.Ph.

This committee had no report.

Pharmacy Technology Committee – Terry Lewis, R.Ph.

This committee had no report. Ms. Bundrick stated she had been waiting on DHEC's approval of their language regarding the Medicare Modernization Act and asked if the Board wanted to move forward with the tentative language. Mr. Lewis stated the committee would move forward once DHEC finalizes their regulation.

Recovering Professional Program Committee – Leo Richardson, Ph.D.

This committee had no report, however, it was noted that a meeting is scheduled for November 19, 2004. Ms. Bundrick noted RPP would be moving under DAODAS and that Mr. Jack White is no longer executive director. Mr. Bradham stated he has asked Mr. Lewis to become involved with this committee.

Compounding Task Force – Davis Hook, R.Ph.

Mr. Hook stated the task force hasn't met as it was waiting on information regarding Chapter 797.

Nuclear Pharmacy – Dock H. Rose, R.Ph.

Mr. Rose stated he had e-mailed the committee members regarding the information on Chapter 797 prior to the regional rallies and asked the committee members if they wanted to meet; however, no one wanted to meet at that time.

Pharmacy Technician Committee – Davis Hook, R.Ph., David Banks, R.Ph.

Mr. Banks stated this committee would probably meet prior to the next meeting.

Legislative Committee – Davis Hook, R.Ph.

Mr. Hook stated the committee hasn't met, however, he briefed the Board on the legislative matters on behalf of the association. He noted that the transfer bill has not been signed. Mr. Bradham stated there has been some indication that the Governor would veto the transfer bill because of "legislation tagging", although it is not official that he would be vetoing the bill. Mr. Hook noted that the DHEC drug monitoring legislation did not pass, however, DHEC plans to resubmit the bill during the 2005 legislative year. He went on to say the PBM transparency legislation is being proposed as well as the Board of Pharmacy practice act revision, central fill, e-prescribing and immunization. He noted that the Pharmacy Association is aware of the legislation being proposed. He went on to say there is some concern on the state level and the federal level regarding the drug importation legislation. He indicated the association is prepared

to address those issues. He noted that the association is closely watching the nurse practice act revision as it relates to pharmacy.

Medication Errors – Al Toole, R.Ph.

This committee had no report.

Pharmacy Benefit Management (PBM) -Marvin Hyatt, R.Ph.

This committee had no report

NABP/AACP District III Planning Committee

Ms. Bundrick received a letter on November 8, 2004, from the secretary/treasurer of District III, which indicated Puerto Rico would not be hosting 2006. Mr. Bradham stated the Board would need to submit the advertising materials during the August 2005 District III meeting. Mr. Bradham asked Ms. Bundrick to contact Peter Edwards.

Detention Center Committee – Bobby Bradham, R.Ph.

This committee had no report.

Mid year meeting of ASHP

Mr. Bradham stated the mid year meeting of ASHP would be held in Orlando, Florida, December 3-8 2004. He further stated the 340B Coalition and the University Health Consortium (UHC) would also be meeting during that time. He said on December 6, 2004 he would be representing the South Carolina Board of Pharmacy at a meeting of the Board of Pharmacy members attending the UHC meeting. He noted Ms. Bundrick also received an invitation to this meeting.

Mr. Hook stated he presented an idea to the coalition regarding the establishment of a category of drugs that were transitioned from RX to OTC. He indicated the category would require being dispensed or sold from the pharmacy department. He further stated the coalition did not think this would be a good idea. He indicated he discovered during the fall conference meeting that several states are dealing with this proposal and it seems to be supported by NABP. He asked the Board if they felt the legislative committee should review this category. Mr. Bradham stated how the other states fare would be a good indication on whether or not the Board should proceed with legislation on this category.

Public Comments

There were no public comments made during the November 17, 2004 meeting.

Adjournment

There being no further business to be discussed by the Board at this time, the meeting adjourned at 3:30 P.M.