

South Carolina Board of Pharmacy

MINUTES

Hearings
8:00 a.m., April 3, 2007
Synergy Business Park
110 Centerview Drive, Kingstree Building, Room 108
Columbia, South Carolina

Tuesday, April 3, 2007

Meeting Called to Order

Marvin Hyatt, Chairman, of Rock Hill, called the meeting to order at 8:07 a.m. Other Board members participating in the meeting included: Dock Henry Rose, Vice Chairman, of Greenville; David Banks, of Simpsonville; Bobby Bradham, of Charleston; Dan Bushardt, of Lake City; Davis Hook, R.Ph., of West Columbia; and Leo Richardson, Ph.D., of Columbia.

Staff members participating in the meeting included: Lee Ann Bundrick, R.Ph., Administrator; Marilyn Crouch, Program Assistant; Linda Moore, R.Ph., Temporary Inspector; Thomas Porter, R.Ph., Inspector; and Clelia Sanders, R.Ph., Inspector. LLR employees participating in the meeting included: Sandra Dickert, Administrative Assistant; Shirley Robinson, Hearing Advice Attorney; and Ken Woodington, Contract Litigating Attorney.

Members of the public attending the meeting included: Desa Ballard, Esq., Carmelo Cinqueonce, Brittany Coleman, Lynn Connelly, R.Ph., George Dawn, R.Ph., Keisha Green, Jack Kyzer, Jacob McElveen, Joe McCullugh, Esq., Hugh Mobley, R.Ph., Jami Owens, Robert Perry, James "Buster" Phillips, R.Ph., Thomas Phillips, R.Ph., Carrie Smoak, Larry Stroud, Ken Whittemoore.

Mr. Hyatt announced the 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. Bradham delivered the invocation.

Pledge of Allegiance

All present recited the Pledge of Allegiance.

Introduction of Board Members, Staff, and Members of the Public

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

Mr. Hyatt turned the meeting over to Mr. Bradham at this time.

Mr. Bradham noted Mr. Toole was unable to attend today's meeting and that Mr. Davis Hook would be late in attending the meeting.

1. Review of SureScript Pilot Project for E-Prescribing – Ken Whittemore, Jr., R.Ph. Mr. Whittemore stated he had attended the Pharmacy Technology Committee meeting approximately six weeks ago. At that time the committee asked he attend a Board meeting to answer any questions the Board members may have in regard to SureScript's pilot project. He further stated he corrected the electronic prescribing form the project is using that is being converted to faxed prescriptions. He went on to say SureScript has agreed to provide the Board on a monthly basis with a list of South Carolina pharmacies that have been activated to receive prescriptions electronically. (A list of pharmacies was provided to the Board at this time.)

Mr. Whittemore stated a pharmacy wishing to receive prescriptions electronically must first work through a certification process, followed by an activation of pharmacies and then the pharmacy with prescribers in their area actually begin exchanging prescriptions electronically. He noted there is a similar process on the prescriber's side.

Mr. Banks stated the Board accepted the modified fax prescription form during the March 14, 2007 Board meeting.

Mr. Whittemore briefed the Board on statistics of electronic prescribing. He noted the electronic prescribing also includes refill prescriptions.

Carmelo Cinqueonce, Executive Director of the S. C. Pharmacy Association, stated there are two identical bills, one in the Senate and one bill in the House, in regard to e-prescribing have been introduced.

Discussion ensued in regard to how the industry could obtain backing for electronic prescribing in South Carolina.

Recess

Mr. Rose moved the Board take a ten-minute recess. Mr. Banks seconded the motion, which carried unanimously.

Return to Public Session

Hearings

2. In the Matter of, George E. Dawn, R.Ph.

This proceeding was recorded by a certified court reporter to provide an official transcript should one be necessary.

3. In the Matter of, James H. Phillips, Jr., R.Ph.

This proceeding was recorded by a certified court reporter to provide an official transcript should one be necessary.

MOTION

Mr. Hook made a motion, seconded by Mr. Banks and unanimously carried, that the Board enter executive session to seek legal advice on this matter.

Return to Public Session

Mr. Bradham noted for the record that no motions were offered or made during executive session.

MOTION

Mr. Bushardt, moved in the matter of George Dawn, that the Board impose a \$500 fine payable in 180 days, that he take the MPJE in 180 days and that he pay up to \$5,000 in administrative, investigative, and prosecution costs. Mr. Banks seconded the motion, which carried unanimously.

MOTION

Mr. Bushardt made a motion, seconded by Mr. Hook and unanimously carried, that Mr. Phillips be fined \$500 payable within 180 days, that he take the MPJE in 180 days and that he pay up to \$10,000 in recovery costs toward the administrative, investigative and prosecution of the case.

4. Proposed Regulation on the FQHC

Mr. Bradham stated the proposed regulation in regard to the federally qualified health centers include:

1. The FQHC must obtain a permit from the SC Board of Pharmacy annually.
2. The FQHC must file self inspection reports monthly to the SC Board of Pharmacy which would include traditional safety issues as it relates to medications on premises.
3. The FQHC must have a consultant pharmacist to make an on-site inspection visit quarterly.
4. The licensed practitioner of the FQHC may dispense medication or devices provided compliance with existing labeling of prescriptions and counseling for patient requirements are fulfilled.
5. Patient assistance program medications and samples are to be dispensed in the same manner above to protect the public safety.

Mr. Bradham stated a meeting with the FQHC has been scheduled for April 24, 2007.

Mr. Banks asked if Senator Ronnie Cromer has been made aware of the Board's proposal. Mr. Bradham replied Senator Cromer has been made aware of the proposal and that he is looking for an element of compromise in the matter.

Mrs. Bundrick stated she has spoken with Lathran Woodard who informed her they have hired a pharmacist. She does not know if the pharmacist would be consulting with patients. She went on to say Ms. Woodard does not understand some of the language in the regulation and does not know how to explain it to the primary health care association.

Mrs. Bundrick stated the primary issue was getting the medication to the patient due to the distance the patient lived from the pharmacy. She noted some of the patients live 30 miles from the facility and could not afford to drive to the pharmacy to obtain the medication.

Mr. Cinqueonce stated the federally qualified health clinics are hoping the Board would issue the facilities a permit based on an exemption if they could prove a patient's access is a true issue.

Mr. Bradham stated several patient assistance programs now issue a drug card that would entitle a patient to go to a pharmacy of his/her choice and receive medication at no charge or for a nominal charge depending on the patient's income. He further stated a good number of assistance programs also have a contract nationwide with a mail order operation that mails medication directly to the patient, in most cases a three month supply. He went on to say a third mode of operation is to mail the medication to the entity that precipitated the PAP application, such as MUSC. He noted some mailed the medication directly to the pharmacy or to the patient's physician, who signed the form. He went on to say one entity mailed the patient a coupon containing instructions and the patient could take the coupon to the pharmacy of his/her choice.

Mr. Hyatt stated the Target and Wal-Mart pharmacies in his area are participating in 340-B.

5. Review Proposed Language Regarding Controlled Substances

Mrs. Bundrick briefed the Board on the language on the two bills regarding controlled substances filed on behalf of the SC Department of Health and Environmental Control.

6. Review Bill S.126 – Refusal to Fill Prescription Based on Ethical, Moral or Religious Grounds

Mrs. Bundrick briefed the Board on Bill S.126. She stated the Senate subcommittee asked that it be placed under the Board of Pharmacy instead of under the abortion bill.

Mr. Bradham stated adding more detail would only cloud the issue.

Mr. Cinqueonce stated he has spoken with Senator Bryant and that he is aware of the language. He doesn't believe Senator Bryant would put forth much effort in advancing the bill.

Mrs. Bundrick stated she would testify there is language in the Board's practice act giving the pharmacist the right to refuse to fill prescriptions.

Mr. Bradham stated the Board met with the attorneys for Mr. Dawn and Mr. Phillips and have agreed to hold the second half of the hearings on August 23-24, 2007.

Adjournment

The April 3, 2007 meeting of the S. C. Board of Pharmacy adjourned at 11:57 a.m.