

South Carolina Board of Pharmacy

Synergy Business Park
110 Centerview Drive, Kingstree Building, Room 204
Columbia, South Carolina

March 24, 2010

Meeting Called to Order

Allen Toole, R.Ph., chairman, of Liberty, called the regular meeting of the SC Board of Pharmacy to order at 9:00 a.m. Other Board members participating in the meeting included: *Bobby Bradham, R.Ph., vice chairman, of Charleston; David Banks, R.Ph., of Simpsonville; Dan Bushardt, R.Ph., of Lake City; Addison Livingston, R.Ph., of Swansea; Hugh Mobley, R.Ph., of Lancaster; and Leo Richardson, PhD., of Columbia.

Dock Henry Rose, R.Ph., of Greer, was granted an excused absence.

Staff members participating during the meeting included: Lee Ann Bundrick, R.Ph., Administrator; Rosemary Boguski, R.Ph., Pharmacist Inspector; Marilyn Crouch, Program Assistant, Eddie Durant, R.Ph., Pharmacist Investigator; Joe Newton, R.Ph., Pharmacist Inspector; Clelia Sanders, R.Ph., Pharmacist Inspector; Ernie Shuler, R.Ph., Pharmacist Inspector; and Ray Trotter, R.Ph., Pharmacist Investigator. LLR employees participating during the meeting included: Sharon Dantzler, Deputy General Counsel; Sandra Dickert, Administrative Assistant; Pleas Faglie, Investigator, OIE; Rosalind Bailey-Glover, OLC; Dean Grigg, Hearing Advice Attorney; Pat Hanks, Litigating Attorney; Dwight Hayes, Attorney, OLC; Laura McDaniels, OLC; Jamie Saxon, Hearing Advisor; and Renee Young, OLC.

Members of the public attending the meeting included: James Batson, Paulette Bentley, Sarah Braga, Adrienne Butler, Pam Cain, Donald Carter, Andrew Cassell, Eric Cassell, Herbert Cassell, Mindy Cassell, George Chapman, Carmelo Cinqueonce, Latitica Cobbs, Russell Deuel, Robert Eadie, Diana Harder, Jeff Honea, Charlie McCants, Isaac McFadden, Joe Mullinax, Christy Pettit, Thomas Phillips, Eric Ridings, Frank Sheheen; Lindsey Smith, Carolyn Sojourner, Robert Spires, and Rick Wilson.

Mr. Toole announced that this meeting was being held in accordance with Section 30-4-80 of the S. C. Freedom of Information Act by notice sent 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 board at the main entrance.

Pledge of Allegiance

All present recited the Pledge of Allegiance.

Invocation

Mr. Bushardt delivered the invocation.

Chairman's Remarks – Allen Toole, R.Ph.

Mr. Toole read into record a letter from Representative Bill Sandifer regarding Bill H.4546.

'There seems to be some confusion or misinformation concerning H.4546 which is a resolution introduced allowing certain boards to participate in a four year pilot program providing autonomy to those boards.'

Over the last few months I have become increasingly aware of a number of issues that the Department of Labor, Licensing and Regulation. One of the most common issues brought to my attention is that the boards have very little say so over operations and policies.

It is imperative you and your board members understand that you will be able to make your own choices regarding a number of things. The following are a few of them: where the board has offices, whether it contracts with LLR for certain services, such as information technology, telephones, employees, human resources, insurance, and a number of other activities. There will not be a stipulation that you must or must not contract for facilities or services from LLR or from private sources. Any indication you may have received to the contrary is entirely erroneous.

Thank you for your attention to this matter. Please feel free to contact my office if you have any questions.'

Introduction of Board Members and all other persons attending

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

Approval of Minutes for the January 20, 2010 Meeting

MOTION

Mr. Banks made a motion to accept the minutes of the January 20, 2010 meeting minutes as presented. Mr. Livingston seconded the motion, which carried unanimously.

Approval of Reciprocity Interview Candidates for Licensure:

Dates: January 15, 16, 29, February 2, 6, 9, 12, 16, 19, 27, March 2, 11, 16, 22, 2010

MOTION

Mr. Mobley made a motion to approve the reciprocity candidates. Mr. Bushardt seconded the motion, which carried unanimously.

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

Mrs. Bundrick delivered her report.

Mr. Mobley questioned the directive the agency has received regarding the reduction in funds in addition to the ten percent the agency already remits. He stated he attended the House LCI subcommittee meeting regarding H.4546. He further stated Representative Sandifer received testimony from the agency's director and asked for statistical information. He said he was informed the agency had in excess of \$32,000,000.00 in carry over funds. He finds it odd that the Board will have to cut its budget when it is not funded by appropriations, but funded by license fees and potentially any fines.

Dr Richardson asked Mrs. Bundrick if staff has any vacancies. Mrs. Bundrick replied there is one pharmacist inspector position open. She further stated the Office of Human Resources is receiving applications for the position; however, she does not know if the budget would allow staff to fill that position.

Mr. Mobley stated it would be helpful if the Board could receive a revenue statement to see what funds the Board has generated versus the expenses. He stated the chairman may want to ask for a revenue statement. He noted he also learned during the hearing on H.4546 of some

raises that took place. He said he is not for spending more money but maybe the Board should not be subject to budget cuts when it is generating funds. He also stated they learned during the hearings of raises issues and does not understand how raises took place when the budget is being cut.

Mr. Toole stated he would like to request a revenue statement. Mrs. Bundrick stated she would make that request on Mr. Toole's behalf.

Dr. Richardson asked that Mrs. Bundrick notify the Board whether or not the vacant position would be filled.

Compliance Report

- A. Investigative Review Committee (IRC) Recommendations for dismissals and dismissals with non-disciplinary letters of concern. Review of proposed Temporary Suspension, Relinquishment and Formal Complaint from the IRC:

IRC Report

Mr. Pleas Faglie, OIE, briefed the Board regarding the IRC report.

Dismissals

MOTION

Mr. Livingston made a motion to approve the one case for dismissal. Mr. Mobley seconded the motion, which carried unanimously.

Formal Complaints

MOTION

Mr. Banks made a motion to accept the seven cases for formal complaints. Mr. Bushardt seconded the motion, which carried unanimously.

Letter of Caution

MOTION

Mr. Livingston made a motion the Board accept the two cases for letters of caution. Mr. Banks seconded the motion, which carried unanimously.

Resolution Guidelines Report

Dismissals

MOTION

Mr. Banks made a motion the Board accept the cases for dismissals. Mr. Bushardt seconded the motion, which carried unanimously.

Dismissal with Letter of Concern

MOTION

Mr. Mobley made a motion the Board accept the dismissals with letters of caution. Mr. Bushardt seconded the motion, which carried unanimously.

i. Agreement to Relinquish

- a. Case #: 2009-108
- b. Case #: 2009-109
- c. Case #: 2010-19
- d. Case #: 2010-22
- e. Case #: 2010-26

Mr. Hanks briefed the Board regarding the agreements to relinquish

MOTION

Mr. Mobley made a motion the Board accept the cases involving the Agreements to Relinquish licensure/registration. Mr. Bushardt seconded the motion, which carried unanimously.

A. **Memorandum of Agreement – Donald Carter**

Donald Carter is a licensed pharmacist in Georgia and South Carolina. From February 2009 to June 2009 he was employed as a pharmacist working 60-70 hours solely in Georgia. His employment in Georgia ended in June 2009. He began working in South Carolina for a period before his employer requested his license. It was determined at a later time that Mr. Carter required additional continuing education before his license could be reinstated. His reinstatement application was placed in a pending status and continues in that status at this time.

Mr. Carter's license to practice pharmacy in South Carolina expired on April 30, 2009. He worked at Aiken Drugs for 16 days during an approximate period of July 15, 2009 to August 16, 2009, during which time his license was lapsed. He also worked at Ingate Pharmacy for three days during an approximate period of August 1, 2009 to August 15, 2009, which was also during the time his license was lapsed.

Mr. Carter has submitted an application for reinstatement of his license. He failed to indicate that he had been hospitalized for a condition which could impair his ability to practice pharmacy. He also failed to reveal he had been arrested for DUI in February 2008.

Staff mailed a Notice of Hearing, dated March 15, 2010, to Mr. Carter as well as a Memorandum of Agreement and Stipulations. Mr. Carter has waived his right to a formal hearing and signed the Memorandum of Agreement and Stipulations.

This proceeding was recorded by a court reporter in order to produce a verbatim transcript in accordance with the law.

This matter took place as a closed session hearing.

*Mr. Bradham arrived during the time the Board was in executive session deliberating on Mr. Carter's Memorandum of Agreement.

Return to Public Session

MOTION

Mr. Mobley made a motion the Board return to public session. Mr. Banks seconded the motion, which carried unanimously.

MOTION

Mr. Banks made a motion Mr. Donald B. Carter's license has to be under suspension until he completes the following requirements: five hours of live continuing education, five hours of written or non-live continuing education, in addition to the required continuing education, complete the MPJE and pay a \$100.00 fine. From the point that he completes these items he will be under two years of probation during which time he cannot serve as permit holder or PIC. Mr. Mobley seconded the motion, which carried unanimously.

B. **Request Reinstatement – Robert Henry Eadie**

On June 18, 2008 Robert Henry Eadie appeared before the Board pursuant to an application for reinstatement of his pharmacist license. Mr. Eadie was initially licensed as a pharmacist in 1989, which was immediately placed on probation as a result of an earlier history of substance abuse and prescription fraud. He surrendered his license less than two years later after arrests on drug charges. His license was reinstated in 1994 with conditions. He was unable to practice pharmacy for significant periods of 1995 and 1996 due to a physical illness and a resulting difficulty in obtaining continuing education. He practiced pharmacy from 1996 to 2003 and again surrendered his license after drug charges were brought against him in Tennessee. He enrolled in the Recovery Professionals Program (RPP); however, he was discharged from that program in June 2005 for non-compliance. He re-enrolled in RPP in September 2005 but was again discharged in January 2006. He enrolled again in March 2006. He is currently under medical treatment for pain, including rehabilitation activities and extensive medication. His license has been continuously suspended since September 2003. He last worked as a pharmacist in 2003. He is currently enrolled in RPP and is in compliance with his monitoring agreement. All drug screens have been negative for substances other than those prescribed for him. Mr. Davis Hook and Mr. Dock Henry Rose had recused themselves from participating and voting in the matter.

After analyzing the evidence provided and the circumstances of Mr. Eadie's history of drug abuse, the possibility of his rehabilitation, and the protection of the public, the Board ordered that Mr. Eadie's petition for reinstatement of licensure to practice pharmacy in South Carolina be denied.

This proceeding was recorded by a court reporter in order to produce a verbatim transcript in accordance with the law.

Mr. Eadie and Latecia Cobbs of RPP appeared before the Board to offer testimony regarding his request reinstatement of his pharmacist license.

Executive Session

MOTION

Mr. Bradham made a motion the Board enter executive session to deliberate this matter. Mr. Mobley seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Livingston made a motion the Board come out of executive session. Mr. Mobley seconded the motion, which carried unanimously.

MOTION

Mr. Livingston made a motion the Board deny Mr. Eadie's request. Mr. Mobley seconded the motion, which carried unanimously.

C. Request Modification of Order – James Richard Batson, R.Ph.

According to a consent agreement dated August 25, 2006 James Richard Batson admitted he was licensed to practice pharmacy in South Carolina. He surrendered his license on October 10, 2001. He admitted he was disciplined by the Kentucky Board of Pharmacy for being addicted to drugs which is also a violation of the South Carolina Code. He admitted his conduct constituted a violation of Section 40-43-86 (DD)(5) and 40-1-110 (I)(f). A copy of Mr. Batson's petition for reinstatement to the Board of Kentucky and the Kentucky Order of Reinstatement was presented to the Board at the time of the Board's consideration along with relevant

information from the recovery specialist reporting on his current ability to practice pharmacy with a reasonable degree of skill and safety.

The August 25, 2006 consent agreement mandated Mr. Batson's license be reinstated in a probationary status contingent upon his compliance with the conditions of the consent agreement. Those conditions included, but were not limited to, completely abstaining from the consumption of mood-altering substances, be subject to periodic, unannounced blood and urine alcohol and/or drug analysis, that he have a written contract with and be an active participant of RPP, and that he not practice as a pharmacist-in-charge (PIC) or permit holder.

In a letter dated February 3, 2010 Mr. Batson is requesting the Board modify the consent agreement by removing the stipulation prohibiting him from acting as a PIC.

This proceeding was recorded by a court reporter in order to produce a verbatim transcript in accordance with the law.

James Batson and Paulette Bentley of RPP appeared before the Board and offered testimony.

MOTION

Mr. Bradham made a motion the Board allow Mr. Batson serve as PIC should the opportunity become available. Mr. Banks seconded the motion, which carried unanimously.

Old Business

Mr. Mobley stated during a previous meeting the Board had requested, through a motion that licenses, including wallet cards and permits, which had been sent with the incorrect signatures be resent with correct signatures. The request had been made again during discussion by the Board.

MOTION

Mr. Mobley made a motion, again to reiterate the request of the Board of Pharmacy, to resend licenses of all pharmacists, technicians, permitted facilities with appropriate signatures of the Board as soon as possible or within the next thirty days. The request is to be sent via letter to the department of OLC, the registrants and licensees explaining the situation, and a copy sent to the director of the agency and to Representative William Sandifer, chairman of the House LCI committee. Mr. Banks seconded the motion, which carried unanimously.

New Business

D. Request Approval of Reciprocity Application – Russell Deuel

The Board has received a pharmacist reciprocity application dated October 6, 2008 from Russell Deuel. He was initially licensed as a pharmacist in Arizona in October 1990, in Pennsylvania by license transfer in July 2000 and in New Jersey by license transfer in August 2001. He answered yes to the question asking, 'Have you ever been charged or convicted (including a nolo contendere plea or guilty plea) of a felony or misdemeanor (other than minor traffic offenses) whether or not sentence was imposed, suspended, expunged, or whether you were pardoned from any such offense?' Mr. Deuel states that in Steamboat Springs, Colorado in March 1982 a misdemeanor charge of criminal mischief was dismissed, and that he was fined \$300.00 with \$250.00 suspended and costs of \$38.00 were ordered and paid for a misdemeanor disorderly conduct charge. He was also ordered to spend ten days in jail with all ten days suspended and one year of unsupervised probation. He further states that he was charged with assault in Glendale Arizona in November 1993 and that those charges were also dismissed.

Russell Deuel appeared before the Board and offered testimony. In 1993 a disturbance took place at his house and he was arrested. In 1982 he had been to dinner with a girlfriend while visiting Steamboat Springs, Colorado and when they returned to the room the police were there due rowdy friends the girlfriend's brother had over. He assumed responsibility since the room was in his name. He will be working in Columbia or Charleston. He is a nuclear pharmacist and would like to practice in a hospital pharmacy setting, although he does not have a job lined up at this time.

MOTION

Mr. Banks made a motion to approve his request. Mr. Mobley seconded the motion, which carried unanimously.

E. Request Approval of Non-Resident Pharmacy Application – Chelsea Discount Apothecary Inc. DBA: Concern Care Inc. – Jeff Honea

On February 22, 2010 the Board received a non-resident pharmacy permit application from Chelsea Discount Apothecary, Inc., dba/ Concern Care, Inc. The application reflects Jeff Honea as president of the company. The application also reflects yes answers to the questions asking, 'To the best of your knowledge, has the applicant ever had a permit disciplined, denied, refused or revoked for violations of any pharmacy laws or drug laws in South Carolina or any other state?' and 'Have you ever violated the drug laws, rules, statutes and/or regulations of South Carolina, or any other state or country?' Mr. Honea and Chelsea Apothecary entered into a consent agreement with the Alabama Board of Pharmacy on October 13, 2009 for violating various provisions of the Alabama pharmacy practice act due to failing to maintain required dispensing records, their failure to follow physician directions and/or dispensing drugs with the prescriber's DEA and/or state controlled substances number and/or the addresses of the patient, and dispensing to a physician who did not possess the required authority from the Alabama Board of Medical Examiners to maintain or dispense controlled substances. Mr. Honea was found guilty of violating the provisions of law based on the allegations and his license to practice pharmacy in Alabama was placed on two years of probation from the date of the Order. He was also ordered to pay an administrative fine of \$10,000.00 in two equal installments of \$5,000.00 with the first installment to be paid within thirty days of the effective date of the order and the second installment due within sixty days from the date of the Order. Since Mr. Honea had sold Chelsea the provisions of the consent order related only to him. However, that did not mean that the violations were not committed by Chelsea, 'and to the contrary, Chelsea did commit the alleged violations.'

Jeff Honea appeared before the Board and gave testimony.

Ms. Dantzler stated the consent agreement states he had sold the company and that the consent agreement was personal.

Mr. Honea stated he sold the assets (inventory and patient files) of the company to Walgreen's when that company opened in Alabama in April 2008. He never sold the corporation and the corporate entity is still valid in Alabama and now in Florida. He is currently licensed in Alabama. He is fifty percent owner and his wife was the other fifty percent owner. He recently purchased (in January 2010) a compounding pharmacy in Pensacola, Florida. He employs two capable pharmacists and he does not take any active pharmacy role. The pharmacy primarily compound products and does sterile compounding. He is applying for licensure to ship into South Carolina. He does not hold a pharmacist license in Florida and does not practice in Florida. The company holds a retail pharmacy license in Florida only because there are some

local physicians who do injectable compounds may send patients to the pharmacy. He noted there are approximately two to three patients per week, and very rarely have customers walk in. He said the pharmacy does not process insurance claims, which cuts the pharmacy out of 99% of business. He is attempting to obtain licensure in South Carolina and every other state in order to begin marketing.

Mrs. Bundrick stated staff has not yet received the compounding pharmacy's policies and procedures. Mr. Honea stated the company is totally <797> compliant.

Mr. Honea discussed the issue where the pharmacy dispensed without physician direction, not maintaining accurate records, and a physician dispensing without a DEA license number. He noted the pharmacy had a DEA license number on the physician. He stated the physician was operating in-house in a weight loss center. He further stated he and Chelsea sold the clinic products on his order and, at the time, he required the DEA number. When the pharmacy was open the physician's office faxed the prescription to the pharmacy, it was filled. He further stated if the pharmacy was not open the prescription was filled from a lock box. He noted the inventory logs were maintained, however, the state inspector noted the physician working at the clinic at the time did not hold the proper in-house dispensing number even though he had DEA number. He said in another matter it was found he supposedly dispensed a narcotic to an unlicensed physician. He noted the physician's DEA number was in his computer files, however, the number was not written on the prescription.

Mr. Honea stated the company has no control on compounded products once received at the physician's office. He went on to say the pharmacy has a strict protocol that the physician must prove he has a physician-patient relationship. He noted the pharmacy prefers to send the products to the patient.

Mr. Mobley suggested Mr. Honea research the possibility of a contract with physicians regarding compounded products.

MOTION

Mr. Mobley made a motion the Board table the request until staff has reviewed the policies and procedures manual to satisfy the question in regards to the amount of anticipated shipping in South Carolina in the way physician sales are handled in regards to ultimately the patient receiving. Mr. Bradham seconded the motion, which carried unanimously.

F. Request Approval of Intern Hours – Andrew Cassell

On January 5, 2010 the Board received a letter from Andrew Cassell stating he had received a letter from the agency informing him that his pharmacist intern hours for 2009 were denied because the agency did not receive a notification of employment to support the hours. He acquired more than 700 hours of clinical experience in 2009. Mr. Cassell's letter also states the notification of employment form for 2009 was submitted to the agency within the required time period and he is asking the Board accept the intern hours that were denied. Andrew Cassell appeared before the Board and offered testimony. He had submitted all hours; however, when he attempted to submit his hours for 2009 he was informed the hours would not be accepted. He hand delivered the documentation. He is currently a third year pharmacist student.

Andrew Cassell appeared before the Board during the January 2010 Board meeting during which time the Board verified that Mr. Cassell's 2010 Notification of Employment, dated December 24, 2009 was scanned into ReLAES, the agency's database; however, the document was not date stamped. The Board voted to deny Mr. Cassell's request.

The Board has since received a letter, dated January 29, 2010, from Herbert C. Cassell, Jr. of Tyler, Cassell, Jackson, Peace & Silver, L.L.P. Mr. Cassell's letter states he has obtained information which was not previously available that would have a direct impact on the Board's decision. He is asking that the Board reconsider Andrew Cassell's request to approve 700.14 hours.

Andrew Cassell and Herbert C. Cassell, Jr., Esquire, appeared before the Board. Mr. Herbert Cassell presented the Board with documentation regarding Andrew Cassell's intern hours and summarized Andrew Cassell's issue of his intern hours. He noted the documentation included an affidavit from Mrs. Mindy Cassell, Andrew Cassell's mother, as well as a list of the fees paid to the agency. He noted based on the fact that they thought they had probably delivered the documentation in a timely manner, Andrew Cassell began work at Rite Aid Pharmacy. He said it boils to a single issue as to whether the papers were filed in a timely manner. Mrs. Cassell's affidavit states the documentation was filed in a timely manner and that she was in the building on January 6, 2009. He is attempting clear up an administrative matter and is requesting the Board reconsider the decision based on the additional documentation provided.

Mr. Mobley made remarks regarding the hearing before the House of Representatives Labor, Commerce and Industry subcommittee regarding bill H.4546.

MOTION

Mr. Banks made a motion the Board grant Andrew Cassell the 700.14 hours. Mr. Mobley and Mr. Livingston seconded the motion, which carried unanimously.

LUNCH

The Board recessed for lunch at 12:13 p.m. and returned to public session at 2:00 p.m.

New Business (Continued)

H. Request Approval of State Certification Education – Adrienne Butler

On February 12, 2010 the Board received a letter from Adrienne Butler requesting the Board consider her request for state certification. Ms. Butler's letter states that while living in the State of Washington she attended a certified pharmacist technician program. It goes on to state she contacted South Carolina to research what requirements she needed to become a technician and was informed she needed to complete a technician training course followed by the completion of 1,000 hours of training under the supervision of a licensed pharmacist. She submitted her application as a certified pharmacist technician and was denied because she did not attend an accredited course. The program she attended is accredited by ACICS (Accrediting Council for Independent Colleges and Schools). Ms. Butler's letter states she gave the name of her school to the employee she spoke with who verified that South Carolina did recognize that school's pharmacy technician program. She is PTCB nationally certified.

Adrienne Butler appeared before the Board and offered testimony. She stated she attended five modules and an extern in a retail pharmacy. She noted 720 program hours and 160 hours in the extern program. She went on to say she spoke with an employee in South Carolina prior to attending the school and found that she would need an additional 1,000 hours of training under a registered pharmacist. She found out after she completed the 1,000 hours of training her application was rejected because the school was not ACIS accredited. She said she researched the matter and found that the ACIS accreditation is similar to the ASHP accreditation. She regrets she did not write down the employee's name to whom she spoke. She is currently working as a registered pharmacist technician at Wal-Mart.

MOTION

Mr. Bradham made a motion the Board enter executive session to discuss this issue. Mr. Mobley seconded the motion, which carried unanimously.

MOTION

Mr. Bradham made a motion the Board return to public session. Mr. Mobley seconded the motion, which carried unanimously.

Mr. Toole noted for the record that no official action was taken while the Board was in executive session.

MOTION

Mr. Bradham made a motion the Board defer giving Ms. Butler a response until there is action between ACIS and the SC Board of Pharmacy and if there is a required meeting of this and the earliest this can occur is during the June 2010 meeting. Mr. Banks seconded the motion, which carried unanimously.

- I. Approval of 2011 Board Meeting Dates: January 19-20, March 23, June 15-16, September 14-15, and November 16, 2011

MOTION

Mr. Bradham made a motion the Board accept the 2011 Board meeting dates. Mr. Banks seconded the motion, which carried unanimously.

- J. Reports from:

- i. Office of Investigation and Enforcement

Mr. Faglie stated there are currently 40 open cases.

Later in the meeting Mr. Bryant noted the complaint cases include 19 complaints filed since January 1, 2010 and three cases pending board action. He stated these numbers include pharmacists and technicians.

- ii. Office of General Counsel

Mr. Hanks stated the Office of General Counsel currently has 20 open cases (cases regarding hearings/consent agreements) and have processed 21 cases as of today. He noted these numbers do not include the cases which moved through the drug diversion. He said these cases do not move through OGC; however, the cases involve the Agreements to Relinquish.

All citation cases processed except one.

Mr. Bryant stated 19 cases have been opened since January 1, 2010. He further stated one case is considered do not open, three cases are pending Board action, drug related, one case involving fraud and deceit, 26 cases involve unprofessional conduct, three medication errors, 17 cases involve drug violations, no issue found. He noted there are currently 40 open cases.

Mr. Livingston questioned if the number of continuing education hours could be broken out per pharmacists, interns, and pharmacy technicians.

- iii. Office of Licensure and Compliance

Mrs. Bailey-Glover gave the licensure statistics. She stated there have been 37 intern registrations, one certified pharmacist technician registration, 41 pharmacist licenses, two PIC

licenses, and 345 pharmacist technician registrations issued. She said the total number of licenses processed by OLC is approximately 16,000. She further stated there are approximately 200 pending applications which OLC is waiting on additional documentation. She noted some of those applications are less than one year old.

Discussion ensued regarding the type of information which can be extracted regarding licensure.

Mr. Dwight Hayes stated he has made changes to the forms as the Board requested and forwarded the forms to Mrs. Bundrick. Mrs. Bundrick stated she forwarded the forms to the members for their review. Mr. Hayes asked that he be informed of approval as soon as possible. The Board reviewed the forms and gave their approval during the meeting.

Mr. Hayes noted there are number of forms which can be streamlined.

Discussion ensued regarding intern forms. Mr. Mobley suggested adding the sentence at the bottom of the other form 'It is the sole responsibility of the intern to ensure that notification is returned. Lack of knowledge of law will not be accepted as an excuse.' He believes the language is consistent as it states, 'It must be completed and returned to the Board if either occurs.' He noted it takes place ten days at the beginning of new employment and ten days at the end of each and every calendar year. The Board agreed the sentence should include the phrase, 'if each of the following occurs.'

Mr. Mobley stated the Board members have been questioned about the biennial fees. He suggested that pharmacists who are coming into the state with one year left in licensure may want to pay only one year. Discussion regarding prorating fees ensued.

MOTION

Mr. Mobley made a motion in respect to licensure, permitting and registration fees, that if there are 12 months or less toward the next renewal period the applicant, permittee, or registrant be only assessed a fee of one year; however, if it is 12 months and one day longer the applicant, permittee, or registrant be assessed a two year fee. Mr. Livingston seconded the motion, which carried unanimously.

Mr. Bryant presented the members with a website for the Office of Business Services. He stated he is in charge of overseeing the responsibilities of all of the boards and commissions within the agency. He further stated the health and medically related programs have been placed under him. He believes there is one outstanding pharmacist inspector position, which he has asked Mrs. Bundrick to not fill at this time.

Mr. Bryant stated the agency, during last fiscal year, was directed by the General Assembly to remit over \$9,800,000 back to the General Assembly. He further stated he believes the Senate will have the agency remit more than that amount this year.

Mr. Mobley asked that the Board be provided with the budget information on a monthly basis.

Mr. Bryant stated he has informed the administrators to provide any financial information to the members and has asked that the minutes reflect that the members have been given that information.

Mr. Bryant stated he has asked that all agendas include reports from OLC, OIE, and OGC. He further stated he has asked that these offices give the members this information should the members have specific questions about cases.

K. Key Boxes – Lee Ann Bundrick, R.Ph.

Mrs. Bundrick stated she met with Mr. John Reich, the State Fire Marshal regarding key boxes or lock boxes after he received a letter from Mr. Scott Miller, the Irmo Fire Marshal. She further stated this matter was brought to the Board several years ago and at time the Board's concern was the security of the pharmacy, who had access to the lock boxes, and those types of issues. She said some of the fire departments do require pharmacies to have lock boxes and some of the fire departments do not require the pharmacies to have lock boxes. She noted there is a pharmacy in Irmo which would not allow the fire department to install a lock box. She learned from the state fire marshal that if a lock box is installed it is connected to the security/alarm system and that the alarm would sound if an individual attempted to get into the lock box as if an individual is attempting to break into the pharmacy to steal pharmaceuticals. She said the concern is not having a lock box if a fire truck goes to the pharmacy it cannot leave until the site is clear, which results in the salary of four personnel and \$1,000,000.00 of equipment. She noted if it is a ladder which responds to the alarm there is a cost of \$475,000 of equipment and the salary of four personnel that must wait until the site is clear.

Mrs. Bundrick stated the matter was brought to the Board for its consideration that the lock boxes in some cases be considered if the fire marshal or the fire department in some towns or cities request that the pharmacies utilize them if they are connect through the alarm system the pharmacy should be okay. She does not know if the lock boxes were tied into the security system when the matter was brought before the Board few years back.

The matter was for the Board's information so if staff is contacted by a pharmacy staff could say the Board discussed this issue and agreed that it should be okay with it if it is tied into the security system.

L. Wallet Cards for Interns

Mr. Mobley stated wallet cards for interns was discussed during a committee meeting. He asked OLC if interns are receiving wallet cards. Ms. Renee Young, of OLC, replied affirmatively.

Mr. Mobley stated the Board had requested that interns receive wallet cards. He noted the interns would need a wall license and a wallet card for portability.

M. Out-of-State Intern Licensing

Mr. Mobley stated there was a request from a graduate working a residency program regarding out-of-state intern licensing. He further stated the individual obtained over 500 hours of training and has requested a graduate intern license until she sits for the Board's exam in South Carolina. The letter goes on to state that the request was denied because she completed her intern hours out of state and is ineligible to become an intern.

Discussion ensued in regard to whom intern licenses are issued and how graduates were handled. Mrs. Bundrick stated a meeting was held between Mrs. Dantzler, Mr. Christian, Mr. Bryant and herself during which it was discussed that the intern certificates would be issued to those individuals who were in that predicament.

Discussion ensued regarding individuals who graduate from an out-of state college, obtains licensure in the other state, but chooses to complete a residency in South Carolina, must have licensure in South Carolina. Not all states are like South Carolina and do not assist the pharmacy students in obtaining the required additional 500 hours of training. Those individuals, in essence, would need an intern license to obtain the remaining 500 hours of training. Those individuals cannot obtain licensure by score transfer because they do not have the required 500 hours and are unable to obtain an intern license.

Executive Session

MOTION

Mr. Mobley made a motion the Board enter executive session for legal advice. Mr. Livingston seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Mobley made a motion the Board return to public session. Mr. Livingston seconded the motion, which carried unanimously.

Mr. Toole noted for the record that no official action was taken during executive session.

N. Subpoenas

Mrs. Bundrick asked that this matter be deferred to the June 2010 meeting. She noted Mr. Rose had asked that this matter be placed on the agenda.

Committee Reports

• Technician – David Banks, R.Ph., Al Toole, R.Ph., Dan Bushardt, R.Ph.

Mr. Banks stated the committee met on March 9, 2010. The committee accepted the minutes from the previous committee meeting. He further stated Ms. Lori Steppe, of the SC Technical Schools System brought to the attention of the committee that the technical school system is attempting to approve a process where some of the technician hours could be counted like some of the pharmacist's hours going through school. He noted the committee approved the form Ms. Steppe presented. He said the form is now moving through the review process for board approval during a later meeting.

Mr. Banks stated the committee discussed the pharmacy technician bill 3394. He further stated the committee discussed a retailer's request that technicians complete the prescription bag process. He noted the committee denied that request.

Mr. Banks stated it was brought to the committee's attention OLC is responsible for checking renewals; however, that office has not been checking for national certification maintenance and that several state certified technicians have renewed their registrations but have not renewed the national certification. He further stated the committee made a motion the Board require OLC check for PTCB certification upon renewal. No second was needed. The motion carried unanimously.

Mr. Banks stated he does not know if not checking for the PTCB certification is wide spread. He noted some states, such as Texas, do not require that the PTCB certification be maintained.

Mr. Mobley asked if OLC has a method of monitoring orders and updating the system. Mrs. Bundrick stated it is her understanding that OLC is responsible for monitoring orders and

updating the licensure system when individuals are released from the order or have completed the mandates contained within the orders.

Mr. Banks stated the committee also discussed EXCPT test. He further stated the Board has determined it would no longer accept the EXCPT test as a testing mechanism for the pharmacy technicians. He said it is being perceived that those students now have no means of renewal because the Board is no longer accepting that test. He asked the Board how that will now be handled.

Mr. Bradham spoke with Carmen Catizone of NABP while attending a recent meeting during which time Mr. Catizone asked him to call. He further stated he called Mr. Catizone this week. He said the EXCPT exam has been sold to a new entity which is now working in concert with NABP to establish an independent council. He noted the parties met just before Christmas at which time it was determined that one entity that was originally part of the original Except exam will no longer be a part of that deliberation due to some employee difficulty. He went on to say the new entity that purchased the EXCPT exam is now meeting with NABP and is setting up an independent council to administer the exam. He noted the new entity is seeking to have their exam psychometrically equivalent to the PTCB exam. He said another meeting would be held shortly. He stated the entity, which he believes is St. Louis has asked that this be deferred to September 2010 so they can make changes to the exam in order to become psychometrically equivalent and meet other qualifications similar to the PTCB exam. He has spoken with individuals in Louisiana and Kentucky, which are two other states who have the new entity on a waiting list to approve the exam wanting the same thing to be done. He said Mr. Catizone's recommendation, based on the Board's concern, asking if they allowed to take the exam only after they move through an approved program. He recommended the Board table this matter at this time.

- Compounding – Hugh Mobley, R.Ph., Bobby Bradham, R.Ph., Addison Livingston, R.Ph.

Mr. Mobley stated the committee discussed a facility's request regarding hospice compounding and comfort kits. He further stated the discussion included sending the controlled drugs to the Department of Health and Environmental Control (DHEC), Bureau of Drug Control for permitting of the facility in order for the facility to provide those to facility. He went on to say the committee discussed USB 11.63 which requires comments on quality assurance and pharmacy compounding.

Mr. Mobley said the committee thought changes to the inspection report had to be done by this meeting; however, the individuals involved with the health systems pharmacies have asked to be involved. He asked that a representative from the committee meet with a representative from the health system pharmacies and staff to work out details on the compounding inspection form. Mr. Robert Spires stated he has contacted Jimmy Walker of the Hospital Association in an attempt to set up a meeting. He further stated he would like for the meeting to happen prior to the next compounding committee meeting. Mr. Mobley suggested the meeting be set for April 13, 2010.

Mr. Mobley stated the committee briefly discussed magic mouthwash and the general feeling was for the inspectors to use their professional judgment.

- Legislative – Al Toole, R.Ph., Bobby Bradham, R.Ph., Dr. Richardson, Hugh Mobley, R.Ph.

Mr. Toole stated the central fill bill did not pass; however, it was recommended the Board attempt to move the legislation through again or have a member of the legislature attach the legislation to another bill.

Mr. Bradham stated the Board chose the statutory route because amendments were made when going through the practice act. He noted there was such a significant change that the regulatory route was chosen. He noted there are now 49 states with central fill and South Carolina is the only state without central fill. He said in an attempt to satisfy everyone's displeasure on a portion of the bill was addressed and that PBMs have confused the bill. He noted central fill did not allow mail order. He said central fill and mail order are two different things and that South Carolina has mail order.

The committee made a motion the Board move the central fill bill through the statutory route. Since the motion came from committee no second was needed. The motion carried unanimously.

Mr. Cinqueonce stated a subcommittee hearing was held regarding the immunization bill after which debate on the bill was adjourned. He noted new opposition has come from the nursing community. He further stated a meeting was held on March 18, 2010 with the nursing and medical communities to hear their concerns. He said the association is looking at making further revisions in an attempt to address those concerns and that it would probably be the last round. He went on to say he thinks both communities would both be satisfied with allowing a pharmacist to administer an influenza vaccine only with an order from a physician pursuant to protocol from the Board of Pharmacy and the Board of Medical Examiners and possibly the Board of Nursing. He stated the immunizations would be administered to individuals 18 years of age or older.

Mr. Cinqueonce noted the House of Representative is in furlough the next two weeks. He noted the second meeting of the stakeholders within the next couple of weeks.

Mr. Cinqueonce discussed the medical and nursing communities questioned a pharmacist's existing authority to administer vaccines pursuant to an existing collaborative pharmacy agreement. He stated according to the statute a pharmacist can administer vaccines pursuant to a collaborative pharmacy agreement. He noted the association may be able to clarify this matter in a revision of the immunization bill, which may be beneficial.

Mr. Toole stated the committee also discussed the PBM bill, which has not moved.

Mr. Toole stated the committee also discussed pseudoephedrine. He further stated the Sheriff's Association wants electronic logs of pseudoephedrine purchases. He noted the Board was asking for an alternative route for the smaller pharmacies to keep records and allow them to opt out.

Mrs. Bundrick noted language has been amended to state that the Board of Pharmacy will not grant the waivers since the Board does not have jurisdiction of over-the-counter medications. She went on to say there would be several exemptions.

Mr. Toole stated bill H.4546 is now before legislature. The committee made a motion that the Board make a formal motion to support the bill. Since the motion came from committee no second was needed. The motion carried unanimously.

Mr. Toole stated the committee is requesting the horse drug compound be repealed from the veterinary bill and placed in pharmacy since compounding already in practice act.

- Nuclear – Dock H. Rose, R.Ph., Bobby Bradham, R.Ph. Hugh Mobley, R.Ph.

This committee had no report.

- Practice – Dock H. Rose, R.Ph., David Banks, R.Ph., Hugh Mobley, R.Ph.

Mr. Bradham stated the committee met and approved the February 9, 2010 minutes. He further stated the committee addressed a request from one entity regarding the prescription bagging process, which was addressed by Mr. Banks under the Pharmacy Technician Committee report. He further stated the committee discussed that process is a clerical duty and not a technician duty. He said the committee discussed Policy and Procedure #140 in light of the bagging request.

Mr. Bradham stated the committee discussed the South Carolina disaster team. He said if the governor declares a disaster the Board of Pharmacy would be notified where the mobile unit would be located. He said there is no pharmacy permit could be issued for a mobile unit.

Mr. Mobley stated the unit is in McClellanville but could be moved any where in the state. He noted they are doing a good job. He further stated the permit was issued to the location of the trailer. He noted the suppliers usually like to send medication shipments to the location of the permit, which is not the address of the trailer.

Ms. Dantzler stated the most efficient way is to recognize that the DHEC medical emergency plan, which is pre-approved for emergency response should the Governor declare an emergency. She further stated this agency keeps the physical response, i.e., fire, and DHEC keeps the medical emergency responses. She went on to say if it is written correctly within DHEC plan, then although the Board has issued the permit correctly for the home location that permit is allowed to float, not according to our statute but according to DHEC's legislatively backup emergency response plan. She said if she is looking for the cleanest way to this, she would have it inserted into the DHEC emergency response plan.

Ms. Dantzler stated that once the Board has confirmed where it is that Ms. Bundrick obtain a copy of the reference plan and keep it for the permanent file. She further stated during time of declared emergency the medication shipments could be shipped if it is in procedure correctly, they can accept shipments at their declared, assigned temporary location. She noted the committee and the Board have discussed what this agency can do. She said the next question is can DHEC, under its emergency plan, give Mr. Copeland what he needs and is looking for.

- Technology – Bobby Bradham, R.Ph., Dan Bushardt, R.Ph., David Banks, R.Ph.

Mr. Bradham stated the committee discussed the central fill bill, which had not yet met its death.

Mr. Banks stated he received an email recently asking if a pharmacist must have a pass code to go into the script pro machine to give permission for a prescription to be filled. He further stated there may be some confusion.

Discussion on the script pro machines ensued.

- Recovering Professional Program – Dr. Leo Richardson

Dr. Richardson attended the RPP meeting on March 14, 2010. RPPs quarterly report from October 1, 2009 through December 31, 2010 notes there are 37 pharmacists participating in the RPP program. He also stated the meeting was held in LRADACs new building on Colonial Drive in Columbia.

- Medication Integrity Committee – Dan Bushardt, R.Ph., Al Toole, R.Ph., Addison Livingston, R.Ph.

This committee had no report.

- iii. Formal Accusation
 - a. Case #: 2008-62

MOTION

Mr. Banks made a motion the Board approve the formal accusation. Mr. Bushardt seconded the motion, which carried unanimously.

- iii. Consent Agreement
 - a. Case #: 2009-81

MOTION

Mr. Banks made a motion the Board approve the consent agreement. Mr. Mobley seconded the motion, which carried unanimously.

Dr. Richardson left the meeting at 4:20 p.m.

G. Request Approval of Technician Registration Application – Isaac McFadden

The Board has received a pharmacist technician registration application dated November 13, 2009 from Isaac McFadden. Mr. McFadden answered yes to the question asking, 'Have you ever been convicted of any criminal or civil charges (other than a minor traffic ticket)?' 'Is there any legal action pending against you or are you currently on probation for any charges or legal action?' Mr. McFadden has been arrested and convicted of unlawful carrying of a weapon and controlled substance violations. Mr. McFadden was scheduled to appear during the January 20, 2010 meeting; however, he asked that his application be deferred to this meeting.

Mr. McFadden appeared before the Board during this meeting and offered testimony. He was arrested on two occasions for controlled substance violations., although his criminal history report reflects four arrests for controlled substance violations. He is working on having a DUI charge expunged.

Executive Session

MOTION

Mr. Livingston made a motion the Board enter executive session to seek legal advice. Mr. Bradham seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Livingston made a motion the Board return to public session. Mr. Bushardt seconded the motion, which carried unanimously.

Mr. Toole noted for the record that no official action was taken during executive session.

MOTION

Mr. Bradham made a motion the Board deny Mr. McFadden's request. Mr. Mobley seconded the motion, which carried unanimously.

Out of State Intern Licensing (Continued)

Mr. Mobley asked Mrs. Bundrick to contact the individual and inform him the licensee must pursue regular licensing procedures.

MOTION

Mr. Mobley made a motion, based on the Board's interpretation of the statute, as long as a potential person is pursuing education or continuing to pursue educational opportunities whether that be residencies or graduate school and if that person meets the regular requirements without any yes answers that person be granted an intern certificate in a timely manner in order to be able to comply and complete requirements associated with the program they are in. Mr. Livingston seconded the motion. Discussion ensued. The motion carried unanimously.

Discussion ensued regarding reciprocity and residency programs in South Carolina. Mr. Bradham stated he would obtain the list of pharmacist residencies and assist Mrs. Bundrick in drafting a letter to those individuals addressing the urgency of what they need to do regarding reciprocity.

Discussion Topics

There were no discussion topics for this meeting.

Public Comments

No public comments were made during this meeting.

Adjournment

MOTION

There being no further business to be discussed at this time, Mr. Banks made a motion the meeting be adjourned. Mr. Bushardt seconded the motion, which carried unanimously.

The March 24, 2010 meeting of the SC Board of Pharmacy meeting adjourned at 5:35 p.m.