

**PHARMACY EXAMINING BOARD
JUNE 2, 2010
MEETING MINUTES**

PRESENT: Timothy Boehmer, R.Ph.; Amy Mattila, R.Ph.; Jeanne Severson, R.Ph., Jason Walker-Crawford, R.Ph.; Suzette Renwick; and Gregory C. Weber, R.Ph.

EXCUSED: Pamela Phillips

STAFF: Gail Sumi, Bureau Director; Michele Miller Hayes, DRL Board Counsel; Michelle Solem, Bureau Assistant; and other DRL Staff

GUESTS: Jeff Burkhamer, Brad Shaw, Andy Ruona and Stefan Lindberg, JAT Pharmacy; Gary Plank, Sara Griesbach and Mandy Guo, Marshfield Clinic; Lisa Sobotkiewicz, Target Pharmacy; Eric Knox, Wisconsin Department of Corrections (DOC); Dean Polar, Cardinal Health; Matt Wilson, DVM, Midwest Veterinary Supply; Kurt Holm, Morton Pharmacy; David Halbrooks, Jeff Clinton and A. J. Wilson, Omnicare; Franklin LaDien and Henry Schlipp, Walgreens Pharmacy; Hashim Zaibak, CVS Pharmacy; Don Janczak, Mercy Health Systems; Tom Engels and Dani Liegel, Pharmacy Society of Wisconsin (PSW); Delora Pufall, June Dahl, UW Madison School of Medicine and Public Health, Marisa Stanley, Department of Health Services; Sophia Johnson, UW Hospital and Clinics, Gina Besteman, Women's International Pharmacy; Doug Englebert, Department of Health Services

CALL TO ORDER

Jeanne Severson, Board Chair, called the meeting to order at 9:04 a.m. A quorum of 6 members was confirmed.

APPROVAL OF AGENDA

Amendments:

- Gail Sumi reviewed the documents in the Red folder and told the Board where the items would fall into the existing agenda items.
- Remove the Mercy Health care information from the agenda packet and insert the information included in the red folder
- Insert Ministry Health Application information after page 57.
- Insert letter to UW into practice question section at page 71.
- Insert IPP request into closed session.

MOTION: Jason Walker-Crawford moved, seconded by Gregory Weber, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF APRIL 7, 2010

Corrections:

- Correct affiliation name for Jeremy Levin.
- Capitalize Legislature throughout.

- Correct the third item under “Amendments” to Agenda to include “Screening Panel and add Greg Weber.”
- Capitalize Regulatory Digest throughout.
- Add a period at the end of the Report on PSW Legislative Day Presentation section.
- Insert PHAR in front of the rule notation in the Variance Request Fort HealthCare Section and again in the Prescription Drug Disposal Section under practice questions.
- Remove one of the “facility” references in the Variance Request Ministry Hospice Section.
- Clarify last paragraph under Prescription Drug Monitoring Program Section.
- Include a period at the end of the Administrative Rules section related to CR09-098.
- Note that the RDS Notice form was submitted by the Department and not “to the Department.”
- Remove duplicate notations.
- Note that within the Application Review sections, the overview should be of the “pharmacy model” and not the “model pharmacy.”
- Correct the name of NABP to National Association of Boards of Pharmacy.
- Correct the motion to adjourn to show that Suzette Renwick made the motion.

MOTION: Jason Walker-Crawford moved, seconded by Suzette Renwick, to approve the April 7, 2010 minutes as amended. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS

**MICHAEL F. JENSEN, R.PH.
09 PHM 035**

Attorney Sandra Nowack presented the Proposed Stipulation, Final Decision and Order in the matter of Michael F. Jensen, R.Ph. Deliberation will be in closed session.

ADMINISTRATIVE REPORT

Board Member Update

No update.

DRL Staff Update

No update.

DRL Case Advisor Policy

Jim Parker, Administrator for the Division of Enforcement, briefly outlined the policy by which case advisors must reply to the Department within 14 days of receipt of the completed investigatory report or forfeit the opportunity to provide input to the disposition of the case.

Update of Board Web Pages on DRL Website

There was some discussion about navigating the FAQ’s and the practice FAQ’s.

The Board also discussed receiving confirmation that the renewal process has been completed. It was also suggested that the size of the renewal form be reduced in order that they could be displayed in the same frame as the initial license.

It was also noted that the Board member information appears to be changing and is inaccurate.

Request to Delegate Screening

Dennie Peterson, Division of Enforcement (DOE), asked the Board to delegate some authority to screen out some specific types of complaints to DOE. The Board asked that DOE furnish a listing of the complaints, by type, that are screened out by DOE.

MOTION: Tim Boehmer moved, seconded by Jason Walker-Crawford, to accept the request to delegate screening of some complaints to the Division of Enforcement complaint intake staff as requested in the June 2 memo from the Division of Enforcement Management Team. Motion carried unanimously.

REPORT ON AND REQUEST FOR SPEAKING ENGAGEMENTS

Report on National Association of Boards of Pharmacy (NABP) 106th Annual Meeting – May 22-25, 2010

Amy Mattila reported that she attended the NABP Annual Meeting. She briefly described the resolutions that passed. She also told the Board that she felt that this was one of the most informative NABP meetings that she had attended.

Report on Presentation to UW Madison DPH-4 Class, April 26, 2010

Jason Walker-Crawford reported that this program was presented to about 30 students and was recorded for the off-site students.

Consideration of Establishing Board Policy Related to Timeliness of Speaking Engagement Requests

Noted.

LEGISLATIVE LIAISON REPORT JASON WALKER-CRAWFORD

Jason Walker-Crawford reported the following:

2009 Wisconsin Act 362

This was signed into law.

Assembly Bill 506

No Report.

Assembly Bill 651

This bill was combined with SB 198 and passed with 2009 Wisconsin Act 142.

Assembly Bill 653

Jason Walker-Crawford noted that this is the bill related to Expedited Partner Therapy (EPT). He suggested that the Board develop a position statement to offer guidance to pharmacies if they choose to participate in the EPT program. Marissa Stanley (Department of Health Services) indicated that a pharmacy may opt out of this program. She also indicated that DHS will be posting the document on their website and asked that the Department and PSW include a link on their websites. She shared some of the questions that DHS has received related to EPT. Jason

Walker-Crawford indicated that he has started to receive questions from practitioners related to EPT. Jason Walker-Crawford volunteered to work with PSW and DHS to clarify the questions and answers.

Senate Bill 180

No Report.

Senate Bill 198

This bill was combined with AB 651 and passed as 2009 Wisconsin Act 142.

Senate Bill 402

The Board was only monitoring this bill.

Assembly Bill 877

This became Act 382 as part of the Medical Examining Board.

**REVIEW AND CONSIDERATION OF REGULATORY DIGEST
GREG WEBER**

Greg Weber reported that he would like to include links to the “Wisconsin Acts” listed in the Digest and would also like to let the public know that those wishing to request that an item be included on the agenda must submit the entire packet to Gail Sumi a minimum 14 working days prior to the Board meeting in question.

MOTION: Jason Walker-Crawford moved, seconded by Amy Mattila, to approve the Regulatory Digest with changes discussed. Motion carried unanimously.

**REVIEW AND UPDATE OF CORRESPONDENCE WITH
US ATTORNEY GENERAL HOLDER REGARDING
LONG TERM CARE FACILITIES AND DEA REGISTRATION**

It was reported that the letter has been written and approved but has not yet been sent.

ADMINISTRATIVE RULES

Gail Sumi indicated that the Department is working on revising different rules for many different Boards. Tim Boehmer asked that the Pharmacy Examining Board be informed of any rule or legislative changes that relate to prescription drugs regardless of the Board making the change.

**REVIEW OF CURRENT AND FUTURE RULEMAKING
AND LEGISLATIVE INITIATIVES**

Representative Barca sent an e-mail recommending a change to PHAR 7.09(3) that would allow Pharmacies to place an automated dispensing system in a jail or prison which have licensed medical personnel who oversee administration of prescription medication to inmates.

David Halbrooks, Attorney for Omnicare, explained the need for the rule change suggested by Representative Barca. Jeff Clinton, Pharmacist in Charge, Omnicare-Milwaukee, explained that they would like to be able to expand to the jail system in Milwaukee County.

Ms. Severson indicated that this is a rule that the Board will be reviewing. Ms. Sumi indicated that the process by which rules are written and enacted or revised is a timely process.

The Board reviewed the current rule making progress that was submitted by Gregory Weber. It was noted that the first three items will be removed. The Board also noted that the items related to the recently issued scope statements will be moved up in the process. Michele Miller Hayes asked that the name change for ACPE be included on the next agenda so that the Board can approve ACPE as an approved course offering in order that the rules can be changed without needing to revise the statutes because it only appears in places where it also states "or approved by the Board". Item # 5 under current rulemaking will be removed to reflect that internship will become practice experience introductory or advanced. Item # 6 will move to #1 and become a top priority.

Mr. Weber added that the clean-up of PHAR 7.09 will be changed to be a review. He will revise the list per the discussion and have an updated list for the next meeting.

Jeanne asked that we include PHAR 15 and PHAR 7.09 and have a copy of the related Minnesota rules on the next agenda.

VARIANCE REQUESTS

MORTON PHARMACY TECHNICIAN RATIO

MOTION: Jason Walker-Crawford moved, seconded by Tim Boehmer, to revoke variance for license 8866 and issue identical variance for license 9008 to 539 Jackson Street with the continuation of reporting. Motion carried unanimously.

MERCY HEALTH SYSTEM PHARMACIST FINAL CHECK

MOTION: Jason Walker-Crawford moved, seconded by Timothy Boehmer, to grant the variance PHAR 7.01 (d) for license 3923-042 Mercy Health System with an accuracy of 99.8% and a pharmacist check of 10% of robot dispensed prescriptions with reports due in July and January of each year with the first report in January 2011. Motion carried. Gregory Weber abstained.

MINISTRY HOSPICE

MOTION: Timothy Boehmer moved, seconded by Suzette Renwick, to authorize Legal Counsel to write a letter indicating that the Pharmacy Examining Board does not have the authority under PHAR 7.09 to grant this variance. Motion carried unanimously.

APPLICATIONS

JAT PHARMACY, LLC

Jeff Burkhamer, Stephan Lindberg, Andy Ruona, Brad Shaw, and Matt Wilson introduced themselves to the Board. They described their business models by reading prepared statements to the Board. They also described the Humane Meds business model. Deliberation will be in closed session.

DELORA PUFALL

Delora Pufall appeared in front of the Board and explained the issues that she has been experiencing while attempting to return to Wisconsin to practice. She has been unable to sit for the Foreign Education Equivalency Exam. She asked the Board to accept her credits from Northland College and the Australian program as equivalent education. Deliberation will be in closed session.

EDUCATION AND EXAMINATION ISSUES

Gary Plank, Corporate Director of Pharmacy Services Marshfield Clinic, asked the Board to recognize the Pharmacy Technician Certification Preparatory Course as “training program approved by the Board” to meet the requirements of PHAR 7.095.

This is a course that Marshfield Clinic has been offering and has already been approved by [Accreditation Council for Pharmacy Education \(ACPE\)](#) as a practice based activity. This course would have 20 hours of contact time along with a posttest. This course will be available to those that missed the class through the Marshfield intranet within the 6 months following the initial offering of the course. Marshfield Clinic representatives noted that of those taking the course more than 50% scored better than 70% correct and the threshold for certification is 80%. Everyone that has passed this course also passed the Certified Pharmacy Technician exam.

Gary Plank asked the Board to determine what items would be considered requirements for approval of the course. This item will be discussed in closed session.

PRACTICE QUESTIONS

Review practice questions answered by Legal Counsel or Practice Question Liaison

Michele Miller Hayes indicated that practice questions related to oxygen come up frequently. Mr. Boehmer asked that he be copied to all responses to practice questions. The Board discussed the length of time that pharmacists are allowed to fill prescriptions for controlled substances. The Board also discussed that practitioners are able to e-prescribe if the software program that they are using provides for that method of prescribing and that for the e-prescriptions all other DEA requirements are met.

DOE INSPECTION LIAISON REPORT AMY MATTILA

No report at this time.

CREDENTIALING LIAISON REPORT TIMOTHY BOEHMER

No report at this time.

**QUALITY REVIEW COUNCIL REPORT
JEANNE SEVERSON**

No report at this time.

**REVIEW AND CONSIDERATION OF ITEMS RELATED TO THE
PRESCRIPTION DRUG MONITORING PROGRAM (PDMP)
FOR FUTURE WISCONSIN PDMP RULEMAKING**

Cody Wiberg explained the Minnesota program to the Board using the PowerPoint Presentation that was included in the agenda packet.

Garry Moreland answered questions from the Board related to the Illinois program.

Tom Engels, PSW Vice President of Public Affairs, told the Board that the PSW worked with the Legislature to write the bill. He also noted that the PSW believes that the process for data collection should be seamless while not impeding the patient's access to prescription medication. They believe that pharmacist providers should not be required to transmit data but rather the system retrieve data at designated intervals. Authorized practitioners should be able to query the database of specific persons who are or are contemplating becoming a patient and carefully controlled to comply with state and federal confidentiality laws. Mr. Engels also indicated that PSW ask that pharmacists not be required to check the database prior to filling the prescription and allow for the sharing of data with other states. They also asked that the ongoing costs to licensees and taxpayers be considered when determining the system to be used to comply with the Legislation.

Discussion on How to Structure the PDMP Work for Future Meetings

Jeanne Severson asked that this item be a standing agenda item. Ms. Sumi indicated that she is researching funding sources. She also indicated that the Department is in the process of lining up a grant writer for this process. Mr. Boehmer asked if the reporting requirement also applies to veterinarians. That prompted a discussion surrounding the requirement for all persons with prescription writing or dispensing authority. Ms. Sumi will check with the alliance to see if there are any other states that would be interested in sharing their program by way of a presentation to this Board. Ms. Sumi will attempt to find additional speakers, from within the alliance, which would be willing to share their program with the Board. There was a great deal of discussion surrounding the formation of a taskforce or advisory committee that would include representatives from the various professions that would be affected by this Legislation. The taskforce should include representatives from each profession with prescriptive authority. It was suggested that the associated boards be informed that they will be asked for feedback related to this process. The Board asked for a copy of the questions that are being asked on the grant applications along with the successful grants to aid in drafting the Wisconsin grant application.

**NATIONAL ASSOCIATION OF BOARDS OF PHARMACY
COMMITTEE ON LAW ENFORCEMENT/LEGISLATION MEETING
AMY MATTILA**

Amy Mattila reported that the committee has concluded its work. This item will be removed from future agendas.

**DRUG ENFORCEMENT ADMINISTRATION
MONTHLY DRUG THEFT AND LOSS REPORTS.**

Noted.

INFORMATIONAL ITEMS

PUBLIC COMMENTS

A member of the gallery asked about e-prescribing and if there been a review of PHAR. 7.08 as it relates to that issue.

CLOSED SESSION

MOTION: Jason Walker-Crawford moved, seconded by Suzette Renwick, to convene to closed session to deliberate on case(s) following hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b) and 440.205); to consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll Call Vote: Timothy Boehmer-yes; Suzette Renwick-yes; Jason Walker-Crawford-yes; Gregory C. Weber-yes; Jeanne Severson-yes; Amy Mattila - yes. Motion carried unanimously.

Open session recessed at 3:21 p.m.

RECONVENE TO OPEN SESSION

MOTION: Jason Walker-Crawford moved, seconded by Suzette Renwick, to reconvene into open session at 5:37 p.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED/DELIBERATED IN CLOSED SESSION

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

09 PHM 035

MICHAEL F. JENSEN, R.P.H.

MOTION: Tim Boehmer moved, seconded by Suzette Renwick, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of Michael F. Jensen, R.Ph. Motion carried. Gregory Weber recused himself.

CASE CLOSINGS

09 PHM 064

MOTION: Jason Walker-Crawford moved, seconded by Suzette Renwick, to close case 09 PHM 064 for no violation. Motion carried. Gregory Weber recused himself.

07 PHM 065

MOTION: Timothy Boehmer moved, seconded by Amy Mattila, to close case 07 PHM 065 for insufficient evidence. Motion carried. Gregory Weber recused himself.

09 PHM 056

MOTION: Suzette Renwick moved, seconded by Jason Walker-Crawford, to close case 09 PHM 056 based on IPP disposition. Motion carried unanimously.

MONITORING

**SCOTT ISAACSON, R.PH.
REQUESTING REINSTATEMENT OF LICENSURE**

MOTION: Tim Boehmer moved, seconded by Amy Mattila, to deny Scott Isaacson's request to reinstate licensure until he has a full AODA assessment and subsequent counseling based on the recommendation of the AODA counselor at a frequency of not less than twice per month and a fitness to practice statement from a licensed AODA professional. Mr. Isaacson must also submit clean drug screens for 6 months at a frequency of 96 times per year at which time he could re-petition the Board for limited licensure at the December 2010 Pharmacy Examining Board meeting. Motion carried. Suzette Renwick opposed.

**BONNIE KIMBALL, R.PH.
REQUESTING PIC HOURS**

MOTION: Jason Walker-Crawford moved, seconded by Gregory Weber, to deny Bonnie Kimball's request for 20 PIC hours and a reduction in drug screens to 75 times per year based on non-compliance of the order dated April 20, 2010. Motion carried unanimously.

**ROBERT J. KUNDE, R.PH.
REQUESTING MODIFICATIONS**

MOTION: Jason Walker-Crawford moved, seconded by Amy Mattila, to grant Robert J. Kunde's request for a continuous stay and 32 PIC hours. Motion carried unanimously.

APPLICATION REVIEW

**CECILE E. BIANCO
RE-REGISTRATION APPLICATION REVIEW**

MOTION: Suzette Renwick moved, seconded by Amy Mattila, to grant reinstatement to Cecile Bianco upon successful completion of the MPJE. Motion carried unanimously.

**JAMES A. LAUGHLIN
RE-REGISTRATION APPLICATION REVIEW**

MOTION: Suzette Renwick moved, seconded by Tim Boehmer, to grant reinstatement to James A. Laughlin upon successful completion of the MPJE. Motion carried. Amy Mattila recused herself.

**STEPHEN M. OTIS
ENDORSEMENT APPLICATION REVIEW**

MOTION: Jason Walker-Crawford moved, seconded by Amy Mattila, to deny request for endorsement application of Stephen M. Otis. Motion carried unanimously.

**JAT PHARMACY, LLC.
APPLICATION REVIEW**

MOTION: Jason Walker-Crawford moved, seconded by Suzette Renwick, to approve the application of JAT Pharmacy. Motion carried. Tim Boehmer abstained.

**DELORA PUFALL
REQUEST RELATED TO NAPLEX EXAM**

MOTION: Jason Walker-Crawford moved, seconded by Suzette Renwick, to deny the request to sit for the NAPLEX exam to Delora Pufall. Motion carried. Amy Mattila recused herself.

**M.V.Z.
LICENSE SURRENDER**

MOTION: Suzette Renwick moved, seconded by Gregory Weber, to accept license surrender of M.V.Z. Motion carried unanimously.

ADJOURNMENT

MOTION: Jason Walker-Crawford, seconded by Tim Boehmer, to adjourn the meeting at 5:43 p.m. Motion carried unanimously.