

**PHARMACY EXAMINING BOARD
MEETING MINUTES
DECEMBER 14, 2011**

Present: Tim Boehmer, Charlotte Rasmussen, Thad Schumacher, Jeanne Severson, Jason Walker-Crawford and Greg Weber

Guests: Robert Stevens, Robert Phillips, Nick Van Gompel, Eric Knox, Naomi DeWitt, Ashley Johnson, Megha Desai, John M. Flint, Tim Dine, Doug Engelbert, Phueng Cha, Gary Plank, Gina Besteman, Blake Carley, Kristin Henry, Kurt Holm, Jeff Clinton, F. LaDien, Lee Jastrow, Dustin Robinson, Mara Brooks, Teresa Geier, Donna Nuendorf, Chris Rasch, Paul Baum, Tom Engels, Mike Olmowski, Kelley McDowell and Kim Brown Pokony

Staff: Dan Williams, Executive Director; Lydia Thompson, Legal Counsel; Michelle Solem, Bureau Assistant; and other Department staff

Jason Walker-Crawford, Board Chair, called the meeting to order at 9:03 a.m. A quorum of 6 members was confirmed.

ADOPTION OF AGENDA

Amendments

- Remove the following items:
 - D(2) Elections
 - G(4)(d) Collaborative Drug Therapy Management
- Revise Item L to read Deliberation of other items including any received after printing of agenda
- Revise Items G(6)(f) and L(13) to read Professional Assistance Procedure

MOTION: Jeanne Severson moved, seconded by Greg Weber, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Tim Boehmer moved, seconded by Jeanne Severson, to approve the minutes of October 26, 2011 as published. Motion carried unanimously.

BUREAU DIRECTOR MATTERS

Dan Williams introduced himself as the new executive director of the Pharmacy Examining Board. Tim Boehmer reiterated his concern over the use of “Executive Director” as the title for the position formerly titled “Bureau Director.” The Board discussed the dates available for the February 2012 meeting and decided to have the February meeting on February 9, 2012 as previously scheduled. The Board reviewed the current Board appointments. The screening panel meeting dates for 2012 have not been set. The Board will receive a copy of the screening panel dates once they become available.

**PRESENTATION OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS
BY THE DIVISION OF ENFORCEMENT**

Attorney Jim Polewski from the Division of Enforcement provided a presentation related to the following Stipulation, Final Decision and Order:

1. 11 PHM 030 – Robin L. Block, R.Ph.

VARIANCE REQUESTS AND REPORTS

1. VARIANCE REQUEST – TECH-CHECK-TECH

a. Aurora Health Care

There was a request received from Aurora before the last meeting, but after the agenda deadline so the form requirement was waived.

MOTION: Tim Boehmer moved, seconded by Charlotte Rasmussen, to approve the variance request received amending the facilities that would be included from Aurora Health Care maintaining the standard reporting requirements for January and June. Motion carried Greg Weber recused himself.

2. VARIANCE REQUEST – TECHNICIAN RATIO

a. Morton LTC

Kurt Holm from Morton Pharmacy appeared before the Board and reviewed the request with the Board.

MOTION: Greg Weber moved, seconded by Thad Schumacher, to approve the variance request received from Morton Pharmacy with standard reporting requirements for January and June. Motion carried unanimously.

3. VARIANCE REQUEST – DELIVERY

a. Mallatt Homecare Pharmacy

Mike Flint from Mallatt Homecare Pharmacy appeared before the Board and reviewed the request with the Board.

MOTION: Charlotte Rasmussen moved, seconded by Tim Boehmer, to approve the variance request received from Mallatt Homecare Pharmacy with standard reporting requirements for January and June. Motion carried unanimously.

BOARD DISCUSSION

1. DIVISION OF ENFORCEMENT MATTERS

a. Case Advisor Process and Discipline

This item was resolved at a previous meeting.

2. EDUCATION AND EXAMINATION MATTERS

a. Continuing Education FAQ's

The Board reviewed the questions and noted that in instances where it says "subject of a random audit" be changed to read "subject to an audit or investigation." It was also noted that headers reading "Pharmacists Administrative Code" should be revised to read "Pharmacy Administrative Code." The Board discussed item 12 and noted that it should indicate that all of the credits must be completed on or before the date of affirmation.

MOTION: Tim Boehmer moved, seconded by Greg Weber, to approve the Continuing Education FAQs. Motion carried unanimously.

3. CREDENTIALING MATTERS

a. Technician Credentialing

Jason Walker-Crawford indicated that this Board is not able to credential pharmacy technicians without a legislative change. Greg Weber proposed rulemaking related to standards for a pharmacy technician. He suggested that the Board consider setting the minimum age of a technician as 18 and requiring a high school diploma or equivalent. Mr. Weber also suggested that the Board work with the Pharmacy Society of Wisconsin

to initiate the legislative change to enable the Board to require a credential for technicians. Lydia Thompson indicated that the Board does not have regulatory authority for technicians and would not be able to enforce the technicians to comply with these requirements. Ms. Thompson agreed with Greg Weber that the Board could enforce discipline against the managing pharmacist should they violate the requirements related to any pharmacy technician that they supervise.

MOTION: Greg Weber moved, seconded by Thad Schumacher, to request department legal counsel to work with Greg Weber and Jason Walker-Crawford to draft a scope statement to revise PHAR 7.015 to add a minimum age requirement and an educational requirement for pharmacy technicians. Motion carried unanimously.

4. PRACTICE QUESTION MATTERS

a. **Pharmacy Examining Board Practice Question Policy**

The Board discussed the policy that was included in the agenda packet.

MOTION: Thad Schumacher moved, seconded by Greg Weber, to approve the policy as amended and make it effective today and post to the website. Motion carried unanimously.

b. **Review and Discuss NABP e-Profile ID**

Jason Walker-Crawford noted that while the Board does not directly require a NABP ID, it does require that all continuing education courses be approved by ACPE and they do require the NABP ID so the NABP ID is an indirect requirement for Wisconsin practicing pharmacists.

c. **Discussion – Drug Compounding**

See discussion under PHAR 15 – Sterile Pharmaceuticals

5. LEGISLATION/ADMINISTRATIVE RULE MATTERS

a. **Review and Discuss Prescription Drug Monitoring Program (PDMP) Rule Draft**

Chad Zadrazil and Kelli Ka'alele appeared before the Board. They reported that the PDMP workgroup has completed the rule draft and has shared that draft with the stakeholders. It was noted that the Department is obligated to comply with the deadlines that were set forth in the Grant application. The Board was advised that the Department will be scheduling a roundtable discussion related to this program. The Board suggested changes to the rule draft.

Tim Boehmer summarized the changes that the Board agreed to make at the meeting today as follows:

- Added 448.979
- Add “registration” to “DEA numbers”
- Delete “previous 7 days” from definition 26
- Moved language from section 18.03 to 18.04

The Board received comments from the following:

Tom Engels, Pharmacy Society of Wisconsin (PSW), told the Board the PSW would have liked to be part of the stakeholder task force earlier in the process. He noted that PSW has distributed a copy of the rule draft to some of its members and he expects that they will have additional comments for the upcoming public hearing. Two concerns were relayed; that the information should only be made available to law enforcement agencies who have obtained a court order and a concern for the overall expense for this project for the individuals participating in the project.

Arthur Thexton, prosecutor for the Division of Enforcement, told the Board that it is not a requirement to get a court order and the Board has discretion to do away with this requirement. He expressed concern that there is no duty to report when a pharmacy delegate is no longer authorized to access to the information.

Kelli Ka'alele asked the Board to designate a Board member to review the revised documents prior to their submission to the Governor's office, Small Business Review Advisory Council, and the Legislative Review Committee.

MOTION: Tim Boehmer moved, seconded by Charlotte Rasmussen, to approve the amended draft of PDMP rules based on the Board's discussion and to authorize Jeanne Severson to approve the amended rule draft for noticing of economic impact and public hearing. Motion carried unanimously.

b. Review PHAR 15 – Sterile Pharmaceuticals – for Possible Revisions

Tim Boehmer asked legal counsel to review the compounding rules in Minnesota. The Board discussed the need to update PHAR 15. There was discussion surrounding the applicable USP 795 and USP 797 standards and the related equipment that is needed to comply with those standards.

MOTION: Tim Boehmer moved, seconded by Jeanne Severson, to approve the placement of a discussion on the agenda for the next meeting relating to the possible repeal of PHAR 15 and the possible adoption of USP 795 and 797 standards for non-sterile and sterile compounding. Motion carried unanimously.

c. Current and Future Rulemaking and Legislative Initiatives

Greg Weber reviewed the changes that he made to the Current and Future Rulemaking and Legislative Initiatives document.

The Board then added to the list, an item related to revising PHAR 1 to include all chapters and not just chapters 1-16.

d. Department Rules Report

Jason Walker-Crawford noted that there are three rule changes pending. He noted that there were two rules on hold due to the need for other changes that were deemed necessary during the rule revision discussion. The Board asked that they be made aware of any changes to prescriptive authority for any licensee with prescriptive and/or dispensing authority.

6. LIAISON/COMMITTEE REPORTS

a. Reports were received from the following Liaisons

1) Legislative Liaison

Jason Walker-Crawford reviewed the legislative items that were included in the red folder. Lydia Thompson indicated that should this bill pass, there would need to be changes made to other pharmacy rules.

MOTION: Tim Boehmer moved, seconded by Jeanne Severson, to direct the Chair or his designee to draft a letter of support of SB 317. Motion carried unanimously.

Greg Weber provided the Board with updates related to Chapter 450. Tom Engels indicated that PSW is also forming a taskforce to address issues with Chapter 450 and noted that PSW would like to work with the Pharmacy Examining Board throughout this process.

Tom Engels indicated that the Pharmacy Examining Board might also be interested in reviewing the bill related to a letter or statement of condolence or regret. He indicated that this bill prohibits the use of the letter or statement of condolence or regret against the licensee. Mr. Engels noted that the PSW supports the bill and asked the Pharmacy Examining Board to do the same.

- 2) Regulatory Digest Liaison
- 3) Practice Question Liaison
- 4) SCAODA Liaison
- 5) Credentialing Liaison

Tim Boehmer reported that he is working with Amy Booth to develop a standard by which those applicants that fail the exam multiple times are required to develop a program to increase their knowledge base and thereby increase the likelihood of passage.

- 6) Professional Assistance Program Liaison
- 7) NABP Exam Review Volunteer
- 8) Continuing Education Liaison
- 9) Division of Enforcement Liaison

Thad Schumacher indicated that the Division of Enforcement is currently inspecting all new pharmacies and not inspecting the pharmacies that have undergone a remodel. Going forward, Tim Boehmer asked for a floor plan of the remodel be saved and made available at all times for use during any random inspection.

MOTION: Tim Boehmer moved, seconded by Charlotte Rasmussen, to acknowledge and accept the Division of Enforcement's discretionary inspection practice regarding pharmacies undergoing remodels. Motion carried unanimously.

- 10) Monitoring Liaison

7. SPEAKING ENGAGEMENT, TRAVEL, PUBLIC RELATIONS REQUESTS

a. **Report from ACPE accreditation Review of UW-Madison School of Pharmacy**

Tim Boehmer reported that the process was very detailed and he was impressed with the procedure that was used. He noted that he has received a complete report along with a summary report. He explained the process and noted that he felt reassured that ACPE is doing what the Board expects them to do with regard to 'credentialing' of the schools.

b. **Request by Pharmacy Society of Wisconsin for Pharmacy Examining Board Member Presentation at Legislative Day on March 8, 2012.**

Jason Walker-Crawford and Thad Schumacher indicated that they were planning on attending Legislative Day in Madison on March 8, 2012. Jeanne Severson indicated that she may also attend. Jason Walker-Crawford also indicated that he would like Board legal counsel to review the presentation and attend Legislative Day if at all possible.

MOTION: Charlotte Rasmussen moved, seconded by Tim Boehmer, to nominate Jason Walker-Crawford as the delegate and Thad Schumacher as the alternate to represent the Board at Legislative Day in Madison on March 8, 2012. Motion carried unanimously.

INFORMATIONAL ITEMS

The Board received the following articles for information only:

- DEA Issues Clarification on Electronic Prescribing of Controlled Substances.
- Chemicals in "Bath Salts" Now Under Federal Control and Regulation

- States Try More Aggressive Rx Opioid Controls
- Yellow Jug Old Drugs Program
- Florida Doctors Can Now Check Patients' Pill Use Before Prescribing
- Prescription Painkiller Overdoses at Epidemic Levels

PUBLIC COMMENTS

Tom Engels told the Board that he will pass along the practice question policy to PSW's members. He also requested that the Board pass along the PDMP stakeholder meeting agenda once it becomes available and asked that any time public comments will be taken during a potential meeting, that it would be noted on the agenda so that PSW members are able to prepare and provide comments in a timely manner.

CLOSED SESSION

MOTION: Jason Walker-Crawford moved, seconded by Charlotte Rasmussen, to convene to closed session to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.). Roll Call Vote: Tim Boehmer - yes; Charlotte Rasmussen - yes; Thad Schumacher - yes; Jeanne Severson - yes; Jason Walker-Crawford - yes; and Greg Weber – yes. Motion carried unanimously. Open session recessed at 3:07 p.m.

RECONVENE TO OPEN SESSION

MOTION: Charlotte Rasmussen moved, seconded by Greg Weber, to reconvene in open session at 3:37 p.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED/DELIBERATED IN CLOSED SESSION

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

11 PHM 030

ROBIN L. BLOCK, R.PH.

MOTION: Jeanne Severson moved, seconded by Tim Boehmer, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of 11 PHM 030 – Robin L. Block, R.Ph. Motion carried unanimously.

CASE CLOSINGS

MOTION: Charlotte Rasmussen moved, seconded by Thad Schumacher, to close case 11 PHM 025 according to the recommendations by the Division of Enforcement. Motion carried unanimously.

MOTION: Jeanne Severson moved, seconded by Tim Boehmer, to close case 11 PHM 028 according to the recommendations by the Division of Enforcement. Motion carried unanimously.

MOTION: Jeanne Severson moved, seconded by Thad Schumacher, to close case 11 PHM 040 according to the recommendations by the Division of Enforcement. Motion carried unanimously.

ADMINISTRATIVE WARNINGS

MOTION: Tim Boehmer moved, seconded by Charlotte Rasmussen, to issue the Administrative Warning in the matter of 11 PHM 045. Motion carried unanimously.

PDMP PUBLIC HEARING

MOTION: Thad Schumacher moved, seconded by Charlotte Rasmussen, to designate February 27 as the date of the public hearing for PDMP rules with February 29, 2012 as the alternate date. Motion carried unanimously.

MOTION: Thad Schumacher moved, seconded by Tim Boehmer, to approve the amended draft of PDMP rules based on the Board's discussion and to authorize Jeanne Severson to approve the amended rule draft for economic impact and submission to Governor's office. Motion carried unanimously.

ADJOURNMENT

MOTION: Thad Schumacher moved, seconded by Jeanne Severson, to adjourn the meeting at 3:59 p.m. Motion carried unanimously.