

**PHARMACY EXAMINING BOARD
MEETING MINUTES
FEBRUARY 9, 2012**

Present: Jeanne Severson, Charlotte Rasmussen, Tim Boehmer, Thad Schumacher and Greg Weber

Not Present: Jason Walker-Crawford

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

Guests: Robert K. Leedham, Jr., Gina Besteman, Paul Baum, Nick Gnad, Chris Rasch, Dan Luce, Franklin LaDien, Judy Warmuth, Emily Sallows, Omar, Elin, Teresa Geier, Kristin Smith, Tom Engels, Eric Knox, John Gates, James Semrad, Robert Phillips, Mary Lynn Driscoll, Jasen Brookshaw and Dennis Kul

Greg Weber, Board Chair, called the meeting to order at 9:07 a.m. A quorum of 5 members was confirmed.

ADOPTION OF AGENDA

Amendments

- Remove Item G(5)(b)
- F(2)(1) – Aurora Butler – page 117 – Pharmacy Plus
- G(a)(4) – Update of SB 371
- L(1)(e) – page numbers should be 331-334
- L(1)(f) – page numbers should be 335-338

MOTION: Tim Boehmer moved, seconded by Jeanne Severson, to adopt the agenda as published in the red folder and amended. Motion carried unanimously.

APPROVAL OF MINUTES

Corrections

- Remove strike through sections of guests
- Remove space between item 5 and 6 on page 5 of the minutes
- Correct typo in the second motion after the PDMP Public Hearing Section
- Revise the last sentence on page 3 of the minutes to read “court order and a concern for the overall expense for this project for the individuals participating in the project.”

MOTION: Tim Boehmer moved, seconded by Charlotte Rasmussen, to approve the minutes of December 14, 2011 as amended. Motion carried unanimously.

EXECUTIVE DIRECTOR MATTERS

Dan Williams responded to the Board’s request for information related to floor plans for remodels and he told the Board that the floor plans are kept on file until a pharmacy officially closes the doors. He also pointed out the screening panel dates that were listed on the agenda.

Mr. Williams asked the members to review the Board Member Guidebook as the annual policy review in addition to completing and submitting the signature page within the next 30 days.

Greg Weber reappointed all members to their current assignments for the 2012 calendar year. He noted that there was a vacancy in the position of NABP Question Writer. He will delay filling that position until a future meeting as it is not necessary until later in the year.

WISCONSIN CRIME ALERT NETWORK (WCAN)

Joe Libowsky, Wisconsin Department of Justice, provided information related to WCAN and how pharmacists might benefit from such a program. Greg Weber asked if it would be possible for the Department to include the WCAN program on the renewal post card. Tim Boehmer asked if the Department could post a link to the WCAN website on the DSPS website to allow easy access for pharmacists and pharmacies.

SUMMARY AND IMPACT OF EXECUTIVE ORDER 50

Sharon Henes provided the Board with an overall description of the administrative rule process and more specifically how that process relates to Executive Order 50.

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

Attorneys from the Division of Enforcement provide presentations related to the following Stipulations, Final Decisions and Orders:

1. 10 PHM 033 – David L. Eichstaedt, R.Ph.
2. 11 PHM 004 – Susan S. Davis, R.Ph.
3. 11 PHM 077 – Louise M. DeVoney, R.Ph.

VARIANCE REPORTS

1. Tech-Check-Tech
 - a. Aurora Pharmacy – noted. Greg Weber recused himself.
2. Remote Dispensing
 - a. Aurora Mayfair – noted.
3. Delivery
 - a. Aurora – Sheboygan – noted.
 - b. Dean – Fish Hatchery – noted.
 - c. Dean – High Point Road – noted.
 - d. Embrace Pharmacy – noted. The Board asked that the following information be included on future reports:
 - i. The number of scripts returned.
 - ii. The number of scripts destroyed.
 - e. QuadMed Pharmacy, LLC – noted.
 - f. Roundy's – noted.
 - g. Chartwell – noted.
 - h. Chartwell – UWHC-AFCH – noted.

Greg Weber recused himself from discussions surrounding Aurora pharmacies. Tim Boehmer recused himself from the discussion surrounding Embrace Pharmacy.

MOTION: Tim Boehmer moved, seconded by Jeanne Severson, to require that variance reports and requests submitted to the Department be signed. Motion carried unanimously.

VARIANCE REQUESTS

1. Delivery
 - a. Chartwell – Amy Roen-Kim appeared before the Board to answer any questions related to the request for an indefinite extension of their variance.

MOTION: Tim Boehmer moved, seconded by Jeanne Severson, to grant the request from Chartwell Pharmacy to extend the variance request indefinitely including standard reporting requirements in January and July. Motion carried unanimously.

b. Agnesian Pharmacy Plus

MOTION: Jeanne Severson moved, seconded by Tim Boehmer, to deny the variance request received from Agnesian Pharmacy Plus. Motion carried unanimously.

c. Aurora Butler – James Semrad and John Gates provided a brief overview of the request.

MOTION: Tim Boehmer moved, seconded by Charlotte Rasmussen, to grant the delivery variance request from Aurora Pharmacy with standard reporting requirements in January and July. Motion carried. Greg Weber recused himself.

d. Meriter Outpatient – Nicholas Gnadl provided a brief overview of the request and answered questions from the Board.

MOTION: Jeanne Severson moved, seconded by Tim Boehmer, to grant the delivery variance request received from Meriter Outpatient with standard reporting requirements in January and July. Motion carried unanimously.

BOARD DISCUSSION

1. **PRACTICE QUESTION MATTERS**

- a. The Board asked that the Pharmacy Examining Board's Practice Question Policy be included as a link in the Regulatory Digest.

2. **LEGISLATION/ADMINISTRATIVE RULE MATTERS**

- a) Review and Discuss Proposed Rule Change Wis. Admin. Code s. PHAR 7.01(1)(e). The Board suggested that the rule be modified to allow the prescription to be delivered to a location of the patient's choosing and asked the Department to draft a scope statement to begin the rule making process to change the rule.

MOTION: Tim Boehmer moved, seconded by Thad Schumacher, to direct staff to draft a scope statement regarding PHAR 7.01(1)(e) in consultation with the chair. Motion carried unanimously.

- b) Discussion Related to Wis. Admin. Code s. PHAR 7.055(1)(1) – Dan Luce, former Board member, addressed the Board to relay the intent of a previous Board decision as to providing interns the same opportunities as licensed pharmacists with the caveat that the intern must be under the direct supervision of a pharmacist. Current Board members made statements that interns should be allowed to transfer prescriptions under the direct supervision of a licensed pharmacist. Mr. Luce asked the Board to address the technology aspect of transferring prescriptions between pharmacies without shared ownership should the Board find it necessary to revise PHAR 7.055(1)(1). Lydia Thompson also suggested a change of statute to mirror the federal definitions.
- c) Prescription Drug Monitoring Program (PDMP) – Chad Zadrazil appeared before the Board and provided an update relative to the development of the PDMP. He reviewed the comments that were received at the recent roundtable discussion and discussed the funding of the program after the initial roll out of the program. Chad indicated that the grant funds that were received by the Board are being used for the initial process and indicated the possibility of several other funding sources including, but not limited to, program or general fund revenues or licensing fees.

The Board thanked Chad Zadrazil for his efforts. Mr. Zadrazil indicated that he is forming the RFP (request for proposal) committee to assist in the procurement process related to the requirements for data submission.

MOTION: Tim Boehmer moved, seconded by Thad Schumacher, to designate Jeanne Severson as the Pharmacy Examining Board appointee to the PDMP IT Vendor Request for Proposal Evaluation Committee.

- d) The Board reviewed the summary of laws related to Compounding and Sterile Pharmaceuticals. The Board discussed updating PHAR 15 to provide for Compounding Sterile and Non-Sterile pharmaceuticals. It was suggested that the Board review the Minnesota statutes and rules and to review USP Ch. 795 and 797 as a starting point.

MOTION: Tim Boehmer moved, seconded by Jeanne Severson, to direct staff to draft a scope statement to repeal PHAR 15 and include a Chapter to address sterile and non-sterile compounding. Motion carried unanimously.

Greg Weber appointed Tim Boehmer as liaison to work with Board legal counsel in preparing the scope statement.

- e) Review and Discuss Current and Future Rule-making Initiatives
Greg Weber noted the changes that were included in this document. Tim Boehmer asked that a future discussion involving the use of technology in writing and transferring prescriptions be added.

3. LIAISON/COMMITTEE REPORTS

a. Legislative Liaison

Greg Weber provided the Board with an update related to the bills before the legislature that may have an impact on the practice of pharmacy. It was noted that the letter of support of 2011 SB 317 has not yet been written but that Greg Weber would proceed according to the Board's previous decision to support that bill. Tom Engels, Pharmacy Society of Wisconsin, indicated that there is a regulatory bill that the Department was going to introduce. It will address variances, clarifying ounces and grams where needed and the licensing of oxygen distributors. Several members of the Board expressed concern over not being included in discussions regarding changes to any statutes relative to the practice of pharmacy

b. Regulatory Digest

Greg Weber indicated that he will be adding the WCAN reference, Scope Statement information, and practice question policy information to the Digest as it was submitted in the red folder.

MOTION: Thad Schumacher moved, seconded by Tim Boehmer, to direct the Department to review the Regulatory Digest as submitted and amended at the meeting for publication. Motion carried unanimously.

c. SCAODA

Charlotte Rasmussen indicated that she has received a publication from SCAODA. She indicated that she was unable to attend the last meeting.

4. SPEAKING ENGAGEMENT, TRAVEL, PUBLIC RELATIONS REQUESTS

- a. Request by UW-Madison School of Pharmacy for a member of the PEB to speak to the DPH4 Class.

MOTION: Jeanne Severson moved, seconded by Charlotte Rasmussen, to nominate Thad Schumacher as the delegate to represent the Board and speak to a DPH4 class at the University of Wisconsin-Madison School of Pharmacy on a date to be determined. Motion carried unanimously.

- b. Request from WNA to speak at “Nurses Day at the Capital” on March 6, 2012.

MOTION: Thad Schumacher moved, seconded by Jeanne Severson, to respectfully decline the request. Motion carried unanimously.

- c. Attendance at the NABP Annual Meeting May 19-22, 2012 in Philadelphia, PA.

MOTION: Tim Boehmer moved, seconded by Jeanne Severson, to nominate Jason Walker-Crawford as the delegate and Greg Weber as the alternate to represent the Board at the NABP Annual Meeting in Philadelphia, PA, May 19-22, 2012 . Motion carried unanimously.

- d. Request from PSW for PEB member to Participate in the Pharmacy Practice Review Committee.

MOTION: Jeanne Severson moved, seconded by Charlotte Rasmussen, to nominate Thad Schumacher as the delegate to represent the Board on the PSW Pharmacy Practice Review of Wisconsin Practice Act Committee. Motion carried unanimously.

- e. Request from PSW for PEB Member or DSPTS to provide an update on the development of the PDMP.

MOTION: Tim Boehmer moved, seconded by Charlotte Rasmussen, to nominate Jeanne Severson as the speaker and Greg Weber as the alternate to present the Board at the PSW Annual Educational Conference in Madison, WI on April 25, 2012. Motion carried unanimously.

INFORMATIONAL ITEMS

Noted.

PUBLIC COMMENTS

The Board received comments from Omar Elin regarding remote dispensing.

CLOSED SESSION

MOTION: Thad Schumacher moved, seconded by Tim Boehmer, 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: Charlotte Rasmussen - yes; Tim Boehmer - yes; Thad Schumacher - yes; Jeanne Severson - yes; Greg Weber - yes. Motion carried unanimously. Open session recessed at 1:25 p.m.

MOTION: Tim Boehmer moved, seconded by Thad Schumacher, to reconvene into open session at 3:02 p.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED/DELIBERATED IN CLOSED SESSION

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

MOTION: Tim Boehmer moved, seconded by Jeanne Severson, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of 10 PHM 033 – David L. Eichstaedt, R.Ph. Motion carried unanimously.

MOTION: Tim Boehmer moved, seconded by Thad Schumacher, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, contingent upon corrections of scrivener's errors in paragraphs 2 and 4 of the Order section, and inclusion of language regarding the terms for violating the Final Decision and Order, in the matter of disciplinary proceedings against Susan S. Davis, R.Ph. (11 PHM 004).

MOTION: Jeanne Severson moved, seconded by Tim Boehmer, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, contingent upon corrections of scrivener's errors in paragraph 1 of the Conclusions of Law, in the matter of disciplinary proceedings against Louise M. DeVoney, R. Ph. (11 PHM 077).

CASE CLOSINGS

MOTION: Tim Boehmer moved, seconded by Charlotte Rasmussen, to close the following cases according to the recommendations by the Division of Enforcement:

- a. 10 PHM 033
- b. 10 PHM 072
- c. 11 PHM 029
- d. 11 PHM 048
- e. 11 PHM 053
- f. 11 PHM 058

Motion carried. Greg Weber recused himself from deliberation and voting relative to the following cases: 11 PHM 029, 11 PHM 053 and 11 PHM 058.

ADMINISTRATIVE WARNINGS

MOTION: Tim Boehmer moved, seconded by Jeanne Severson, to issue the Administrative Warnings in the matters of 10 PHM 072 and 11 PHM 053. Motion carried. Greg Weber recused himself from deliberation and voting on case 11 PHM 053.

MONITORING

MOTION: Tim Boehmer moved, seconded by Charlotte Rasmussen, to grant a suspension of licensure with an automatic stay in the matter of Scott D. Isaacson upon receipt of application and appropriate fees and issue a standard impairment which includes 48 urine screens and one hair test per year with 0 PIC hours, submission of quarterly therapy reports and twice weekly AA/NA meeting attendance. Motion carried unanimously.

PDMP

Dan Williams confirmed with the Board that the March 9, 2012 meeting will be held via teleconference and that the only issue for the agenda is discussion of the public comments relative to the public hearing addressing the rule promulgation for the Prescription Drug Monitoring Program.

ADJOURNMENT

MOTION: Jeanne Severson moved, seconded by Tim Boehmer, to adjourn the meeting at 3:13 p.m. Motion carried unanimously.