



PHARMACY EXAMINING BOARD
Contact: Dan Williams (608) 266-2112
Room 121A, 1400 East Washington Avenue, Madison, WI 53703
October 26, 2017

Notice: The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the action and deliberation of the Board.

AGENDA

11:00 A.M. or Immediately Following the Rules Committee Meeting

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-3)**
- B. Approval of Minutes of September 21, 2017 (4-7)**
- C. Administrative Updates – Discussion and Consideration**
 - 1) Staff Updates
 - 2) Board Member – Term Expiration Date
 - a. Grace Degner – 7/1/2018
 - b. Franklin LaDien – 7/1/2020 (reappointed, not yet confirmed)
 - c. Terry Maves – 7/1/2018
 - d. Thaddeus Schumacher – 7/1/2019
 - e. Kristi Sullivan – 7/1/2020 (reappointed, not yet confirmed)
 - f. Philip Trapskin – 7/1/2021 (reappointed, not yet confirmed)
 - g. Cathy Winters – 7/1/2021 (reappointed, not yet confirmed)
- D. Legislation/Administrative Rule Matters – Discussion and Consideration (8-11)**
 - 1) Phar 1 Relating to Authority and Definitions
 - 2) Update on Legislation and Pending or Possible Rulemaking Projects
- E. Pilot Program Matters – Discussion and Consideration**
- F. Speaking Engagements, Travel, or Public Relations Requests**
 - 1) Travel Report from the District IV NABP Annual Meeting – Toledo, OH – October 1-3, 2017
- G. Informational Items – Discussion and Consideration**
- H. Items Received After Preparation of the Agenda**
 - 1) Introductions, Announcements and Recognition
 - 2) Election of Board Officers
 - 3) Appointment of Board Liaisons
 - 4) Administrative Updates
 - 5) Education and Examination Matters
 - 6) Credentialing Matters
 - 7) Practice Matters

- 8) Legislation/Administrative Rule Matters
- 9) Informational Items
- 10) Disciplinary Matters
- 11) Presentations of Petitions for Summary Suspension
- 12) Petitions for Designation of Hearing Examiner
- 13) Presentation of Proposed Stipulations, Final Decisions and Orders
- 14) Presentation of Proposed Final Decision and Orders
- 15) Presentation of Interim Orders
- 16) Petitions for Re-Hearing
- 17) Petitions for Assessments
- 18) Petitions to Vacate Orders
- 19) Requests for Disciplinary Proceeding Presentations
- 20) Motions
- 21) Petitions
- 22) Appearances from Requests Received or Renewed
- 23) Speaking Engagement(s), Travel, or Public Relations Request(s)
- 24) Division of Legal Services and Compliance (DLSC) Matters
- 25) Prescription Drug Monitoring Program Information
- 26) Consulting with Legal Counsel
- 27) Liaison Report(s)
 - a. Appointed to Controlled Substances Board per Wis. Stats. §15.405(5g): Philip Trapskin
 - b. Continuing Education (CE) and Education and Examinations Liaison: Terry Maves
 - c. Credentialing Liaison(s): Terry Maves, Cathy Winters
 - d. Digest Liaison: Philip Trapskin
 - e. DLSC Liaison: Thaddeus Schumacher, Cathy Winters
 - f. Legislative Liaison: Philip Trapskin, Thaddeus Schumacher, Terry Maves
 - g. Monitoring Liaison(s): Franklin LaDien, Cathy Winters
 - h. PHARM Rep to State Council on Alcohol and Other Drug Abuse (SCAODA): Kristi Sullivan
 - i. Pharmacy Rules Committee: Thaddeus Schumacher, Franklin LaDien, Philip Trapskin
 - j. Professional Assistance Procedure (PAP) Liaison: Franklin LaDien
 - k. Screening Panel: Franklin LaDien, Cathy Winters, Kristi Sullivan
 - l. Pilot Program Report Liaison(s): Philip Trapskin, Cathy Winters

I. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), 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.).

J. **Deliberation on Credentialing Matters (12-40)**

- 1) Mohammad El-barbarawi – Application Review

K. **Deliberation on Division of Legal Services and Compliance (DLSC) Matters**

- 1) **Administrative Warnings**
 - a. 16 PHM 127 – (C.L.R.) **(41-42)**
- 2) **Stipulations, Final Decisions and Orders**
 - a. 16 PHM 161 – (T.J.F.) **(43-48)**
 - b. 16 PHM 133 – (M.S.J.) **(49-55)**
 - c. 16 PHM 140 – (C.P.C.C.) **(56-62)**
- 3) **Case Closings**
 - a. 16 PHM 137 **(63-67)**

b. 16 PHM 189 (68-74)

- L. Consulting with Legal Counsel
- M. Deliberation of Items Received After Preparation of Agenda
 - 1) Education and Examination Matters
 - 2) Credentialing Matters
 - 3) Disciplinary Matters
 - 4) Monitoring Matters
 - 5) Professional Assistance Procedure (PAP) Matters
 - 6) Petitions for Summary Suspension
 - 7) Petitions for Designation of Hearing Examiner
 - 8) Stipulations, Final Decisions and Orders
 - 9) Administrative Warnings
 - 10) Review of Administrative Warnings
 - 11) Proposed Final Decisions and Orders
 - 12) Orders Fixing Costs/Matters Related to Costs
 - 13) Case Closings
 - 14) Interim Orders
 - 15) Petitions for Assessments and Evaluations
 - 16) Petitions to Vacate Orders
 - 17) Remedial Education Cases
 - 18) Motions
 - 19) Petitions for Re-Hearing
 - 20) Appearances from Requests Received or Renewed

RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

- N. **Voting on Items Considered or Deliberated upon in Closed Session, if Voting is Appropriate**
- O. Board Meeting Process (Time Allocation, Agenda Items) – Discussion and Consideration
 - 1) Starting times for Rules Committee and Board meetings on November 28, 2017
- P. Board Strategic Planning and its Mission, Vision, and Values – Discussion and Consideration

ADJOURNMENT

The Next Scheduled Meeting is November 28, 2017.

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 1400 East Washington Avenue, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**PHARMACY EXAMINING BOARD
MEETING MINUTES
September 21, 2017**

PRESENT: Grace Degner, Franklin LaDien, Terry Maves, Thaddeus Schumacher, Kristi Sullivan, Philip Trapskin, Cathy Winters

STAFF: Dan Williams, Executive Director; Laura Smith, Bureau Assistant; Sharon Henes, Administrative Rules Coordinator, and other Department staff

CALL TO ORDER

Thaddeus Schumacher, Chair, called the meeting to order at 11:02 a.m. A quorum of seven (7) members was confirmed.

ADOPTION OF AGENDA

MOTION: Philip Trapskin moved, seconded by Franklin LaDien, to adopt the agenda as published. Motion carried unanimously

APPROVAL OF MINUTES OF JULY 20, 2017

MOTION: Philip Trapskin moved, seconded by Sullivan, to approve the minutes of July 20, 2017 as published. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

Adopt CR 16-072 Relating to Medical Oxygen Providers:

MOTION: Terry Maves moved, seconded by Philip Trapskin, to approve the Adoption Order for Clearinghouse Rule 16-072 relating to medical oxygen providers. Motion carried unanimously.

Adopt CR 16-073 Relating to Temperature and Humidity

MOTION: Philip Trapskin moved, seconded by Kristi Sullivan, to approve the Adoption Order for Clearinghouse Rule 16-073 relating to temperature and humidity. Motion carried unanimously.

Update on Legislation and Pending or Possible Rulemaking Projects

MOTION: Cathy Winters moved, seconded by Kristi Sullivan, to authorize the Chair to craft and distribute a letter, based on the draft produced by the Rules Committee and reviewed by the Board. Motion carried unanimously.

PILOT PROGRAM MATTERS

Aurora Health Pilot Program Request

MOTION: Franklin LaDien moved, seconded by Kristi Sullivan, to table the request by Aurora Health to create a pilot program allowing pharmacy technicians to dispense medications on the site of a registered pharmacy, after the

medication has been remotely checked by a pharmacist, until the Board has explicit statutory authority to regulate remote dispensing. Motion carried unanimously.

MOTION: Franklin LaDien moved, seconded by Kristi Sullivan, to send a letter to pharmacies under Pilot Programs who have not complied with required reporting, dismissing them from the program and reinstating rules of practice under general rules. Motion carried unanimously.

MOTION: Franklin LaDien moved, seconded by Kristi Sullivan, to send a letter to pharmacies under pilot programs warning them that late reports in 2018 will result in dismissal from the program. Motion carried unanimously.

SPEAKING ENGAGEMENTS, TRAVEL, OR PUBLIC RELATIONS REQUESTS

MOTION: Kristi Sullivan moved, seconded by Cathy Winters, to delegate Franklin LaDien to represent the Board at the District IV NABP Annual Meeting. Motion carried unanimously.

INFORMATIONAL ITEMS

MOTION: Terry Maves moved, seconded by Krisi Sullivan, to authorize Franklin LaDien to send a letter on behalf of the Board to acknowledge and commend Danielle Laurent, Sarah Sorum, and Eric Buxton. Motion carried unanimously.

CLOSED SESSION

MOTION: Kristi Sullivan moved, seconded by Terry Maves, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), 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.). The Chair read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Franklin LaDien-yes; Terry Maves-yes; Thaddeus Schumacher-yes; Kristi Sullivan-yes; Philip Trapskin-yes; Cathy Winters-yes. Motion carried unanimously.

The Board convened into Closed Session at 1:53 p.m.

RECONVENE TO OPEN SESSION

MOTION: Franklin LaDien moved, seconded by Philip Trapskin, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 2:29 p.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

MOTION: Terry Maves moved, seconded by Franklin LaDien, to affirm all motions made in closed session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

**DELIBERATION ON DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC)
MATTERS**

Administrative Warning

16 PHM 163 – (M.P.)

MOTION: Terry Maves moved, seconded by Franklin LaDien, to issue an Administrative Warning in the matter of DLSC case number 16 PHM 163. Motion carried unanimously.

Proposed Stipulations, Final Decisions and Orders

16 PHM 159 (W.P.N., LLC)

MOTION: Philip Trapskin moved, seconded by Franklin LaDien, to accept the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Wells Pharmacy Network, DLSC case number 16 PHM 159. Motion carried unanimously.

16 PHM 163 (J.E.M.)

MOTION: Philip Trapskin moved, seconded by Franklin LaDien, to accept the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against James E. McCullough, R.Ph., DLSC case number 16 PHM 163. Motion carried unanimously.

15 PHM 020 (J.R.)

MOTION: Philip Trapskin moved, seconded by Terry Maves, to accept the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Jin Ryu, R.Ph., DLSC case number 15 PHM 020. Motion carried unanimously.

Case Closings

17 PHM 028

MOTION: Terry Maves moved, seconded by Kristi Sullivan, to table DLSC case number 17 PHM 028 and refer it to the Division of Legal Services and Compliance for reassessment. Motion carried unanimously.

16 PHM 049

MOTION: Terry Maves moved, seconded by Philip Trapskin, to close DLSC case number 16 PHM 049 for Insufficient Evidence. Motion carried unanimously.

(Kristi Sullivan left the meeting at 2:11 p.m.; she participated in discussion but not in voting on Closed Session matters.)

ADJOURNMENT

MOTION: Terry Maves moved, seconded by Grace Degner, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:31 p.m.

DRAFT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Laura Smith, on behalf of Sharon Henes		2) Date When Request Submitted: 10/17/17 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting										
3) Name of Board, Committee, Council, Sections: Pharmacy Examining Board												
4) Meeting Date: 10/26/17	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative and Administrative Rule Matters 1. Phar 1 Relating to Authority and Definitions										
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (<u>Fill out Board Appearance Request</u>) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A										
10) Describe the issue and action that should be addressed: Review attached rule draft.												
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 35%;">11) Signature of person making this request</td> <td style="width: 30%; text-align: center;">Authorization</td> <td style="width: 35%; text-align: right;">Date</td> </tr> <tr> <td style="border-top: 1px solid black;">Supervisor (if required)</td> <td></td> <td style="border-top: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td colspan="3" style="border-top: 1px solid black;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table>				11) Signature of person making this request	Authorization	Date	Supervisor (if required)		Date	Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date		
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Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.												

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PHARMACY EXAMINING BOARD
PHARMACY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Pharmacy Examining Board to amend Phar 1.01 and Phar 1.02 (intro.) relating to authority and definitions.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 450.03 (2) (b), Stats.

Statutory authority: s. 15.08 (5) (b), Stats.

Explanation of agency authority:

The examining board shall promulgate rules for its own guidance and for the guidance of the profession to which it pertains and define an enforce professional conduct and unethical practices not inconsistent with the law relating to the particular profession. {s. 15.08 (5) (b), Stats.}

Related statute or rule: n/a

Plain language analysis:

Currently the authority and definition sections indicate the authority and definitions apply to chapters Phar 1 to 16. Chapter Phar 17 Pharmacy Internship was created in 2002 and that rulemaking order inadvertently did not expand the authority and definitions to include ch. Phar 17. This rule clarifies the authority and definition extend to ch. 17.

Summary of, and comparison with, existing or proposed federal regulation: None

Comparison with rules in adjacent states:

Illinois: Illinois requires approved educational programs to contain an externship and clerkship experience.

Iowa: Iowa has administrative rules governing pharmacist internships.

Michigan: Michigan has administrative rules governing pharmacist internships.

Minnesota: Minnesota has administrative rules governing pharmacist internships.

Summary of factual data and analytical methodologies:

This rule is for clarification that the authority and definitions apply to all of the Pharmacy Code chapters.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held on * to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Phar 1.10 and 1.02 (intro.) are amended to read:

Phar 1.01 Authority. Rules in chs. Phar 1 to ~~46~~ 17 are adopted under authority of ss. 15.08 (5) (b), 227.11 (2), Stats, and ch. 450, Stats.

Phar 1.02 Definitions. As used in chs. Phar 1 to ~~46~~ 17:

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
