

President Robert (Joey) McLaughlin, Jr. called the meeting to order at 9:05 am with Board Members Betty Dennis, Wallace Nelson, Rebecca Chater and Stan Haywood present. Also present were Executive Director Jay Campbell, Board Counsel Clint Pinyan, Board Investigator Jason Smith, Financial and Administrative Service Director Gail Brantley, Director of Licensing Debbie Stump, IT Manager Thomas Buedel, Financial and Human Resources Analyst Rhonda Jones, Director of Investigations Karen Matthew and Director of Operations Kristin Moore. Present as visitors were: Heidi Barefoot, Target Pharmacy; Cindy Sugg, NCPRN; Mary Christine Parks, NCPRN; Christine Davis, Cardinal Health NPS; Gene Minton, Drugco Discount Pharmacy; Lazelle Marks, Medical Center Pharmacy; Lisa Collums, Kerr Drug; Tom Reading, Mutual Drug; R. Wes Haynes, UNC/SOP intern; Bill Irvin, CVS; Daniel Kin, UNC/SOP intern; Lori Setzer, CVS; Tom Edwards, Wingate SOP; Benjamin Crandall, Campbell COP; David Moody, Walgreens; Sarah Chou, Walgreens/ UNC SOP; David Catalano, Walgreens; Tabitha Walker, CVS; RPh. Peter Wirth; Andy Ellen, NCRMA; Sandeep Patel; Radhika Patani; and Pralhad Khatri.

#### Ethics Statement & Welcome

President McLaughlin read the Ethics Statement regarding any conflicts of interest and/or appearances of conflicts of interest of any Board member. There were no conflicts noted by any Member.

President McLaughlin welcomed all visitors and asked that they introduce themselves to the Board members and state their pharmacy affiliation.

#### Minutes of the January 19, 2010 Board Meetings

The members received the January 19, 2010 meeting minutes prior to this meeting for review. It was moved by Mr. Haywood and seconded by Dr. Dennis to accept the Minutes as submitted. The motion passed with no dissenting votes.

#### Consent Order – RPh. Carolyn Covert – License #07426

RPh. Carolyn Covert, license #07426, appeared before the Board in consideration of a consent order of discipline. Ms. Covert appeared at a prehearing conference January 18, 2010 where she admitted diverting 5 dosages of Hydrocodone, 5 dosages of Naproxen and 2 dosages of Amlodipine for personal use without a prescription. Mr. Haywood recused himself from the matter because he was the prehearing officer. It was the recommendation of Mr. Haywood at the prehearing conference that Ms. Covert's license would be suspended for 14 days and that she would appear before the Board to discuss her conduct. Ms. Covert explained to the Board that she took the medication for back pain during her work day. Mr. Campbell stated that there was no evidence of ongoing substance abuse.

On a motion from Ms. Chater, seconded by Mr. Nelson with no dissenting votes, the Board approved the consent order as presented.

A copy of the consent order can be found elsewhere in the Minutes and are incorporated by reference herein.

Proposed Consent Order of Discipline – RPh. Ehassan Dahir, license #19062

RPh. Ehassan Dahir, license #19062, appeared before the Board, accompanied by his attorney Barry Cobb, in consideration of a proposed consent order of discipline. Mr. Campbell proceeded with the case and stated the stipulations agreed to by Board counsel and Mr. Dahir. Mr. Campbell stated that Mr. Dahir admitted to diverting 5 dosage units of naproxen, 13 dosage units of ibuprofen and 25 dosages of hydrocodone while working part-time at CVS pharmacy. He was terminated from CVS pharmacy and suspended from Rex Hospital where he worked full-time. There were no unexplained shortages reported at Rex Hospital. He was evaluated at the Pavillion Center where it was determined that he did not meet the criteria for substance abuse. Mr. Dahir signed a one (1) year monitoring contract with the NC Pharmacy Recovery Network (PRN). Mr. Dahir has voluntarily not worked as a pharmacist since his suspension from Rex Hospital. Mr. Campbell stated that the proposed consent order would suspend Mr. Dahir's license for thirty (30) days, twenty (20) days deemed served as of the date of the order and ten (10) days active stayed for one year.

After presentation of evidence and testimony, the Board moved to accept the proposed consent order as presented on a motion from Dr. Dennis, seconded by Mr. Nelson with no dissenting votes.

A copy of the consent order can be found elsewhere in the Minutes and are incorporated by reference herein.

Disciplinary Hearing – RPh. Ross W. Kendall, license #18240

RPh. Ross Kendall, license #18240, appeared before the Board, accompanied by his attorney Mr. Mike Allen, in consideration of discipline for violating Board rule concerning vaccinating children under 18 years of age. Board attorney Clint Pinyan proceeded with the case and stated that, in 2009, Mr. Kendall admitted to investigation staff that he vaccinated 22 children under 18 years of age, a violation of Board rule .2507. Mr. Kendall admitted to the Board he vaccinated children under 18 years of age because of pressure he felt from parents who were unable to receive the H1N1 vaccine for their children elsewhere during the reported H1N1 pandemic. Mr. Pinyan stated that staff recommends a one (1) year suspension, stayed one (1) year with a thirty (30) day active suspension with conditions.

Dr. Parker Chesson arrived at the meeting at 9:28am.

After presentation of evidence and testimony, the Board moved into closed session to deliberate the matter on a motion Dr. Dennis, seconded by Mrs. Chater with no dissenting votes. Open session resumed on a motion from Mr. Haywood, seconded by Dr. Dennis with no dissenting votes. Mr. McLaughlin stated that on a motion from Dr. Chesson, seconded by Mr. Nelson on a split decision, the Board would suspend Mr. Kendall's license for one (1) year, stayed for one (1) year with thirty (30) days to be served as an active suspension with conditions including not work as pharmacist-manager, not work as preceptor, take and pass the MPJE within six (6) months of the signing of the order and not administering vaccination to patients.

A copy of the Final order can be found elsewhere in the Minutes and are incorporated by reference herein.

#### Open Mike

Andy Ellen, Retail Merchants Association, spoke to the Board concerning pharmacy issues regarding Medicare reimbursements.

Board adjourned for lunch at 12:45 and returned to open session at 1:30pm

#### Reinstatement Hearing – RPh. Celeste Snidow – license #09506

RPh. Celeste Snidow, license #09506, appeared before the Board to request reinstatement of her pharmacist license. Mr. Campbell proceeded with the case and stated that Ms. Snidow voluntarily surrendered her pharmacist license December 7, 2006 after Board staff received a complaint from the NC Pharmacist Recovery Network (PRN) for noncompliance with her PRN contract. Mr. Campbell stated that NCPRN supports Ms. Snidow's reinstatement request with conditions.

After presentation of evidence and testimony, the Board moved into closed session to deliberate the matter on a motion from Dr. Dennis, seconded by Mr. Nelson with no dissenting votes. Board resumed open session on a motion from Dr. Dennis, seconded by Mrs. Chater with no dissenting votes. Mr. McLaughlin stated that on a motion from Mr. Nelson, seconded by Dr. Chesson with no dissenting votes, the Board would grant Ms. Snidow's request for reinstatement with conditions including a new five (5) year PRN contract, take and pass the Multistate Pharmacy Jurisprudence Exam (MPJE) within 3 months, and acquire 600 hours of internship.

A copy of the Reinstatement order can be found elsewhere in the Minutes and are incorporated by reference herein.

The Board adjourned for lunch at 12:40pm and resumed open session at 1:30pm.

#### Open Mike

Mike James updated the Board on various legislative issues.

#### Reinstatement Hearing – RPh. Peter Wirth, license #12015

RPh. Peter Wirth, license #12015, appeared before the Board to request reinstatement of his pharmacist license. Mr. Campbell proceeded with the case and stated that Mr. Wirth was requesting a variance in Board policy for reinstatement of pharmacist out of practice up to five years who must obtain 500 hours of internship, obtain 15 hours of continuing education for each year out of practice, 8 of which must be contact, and pass the Multistate Jurisprudence Exam (MPJE). Mr. Wirth stated that when he let his pharmacist license go inactive in March 2006, Board policy for reinstatement required pharmacist to obtain lapse continuing education hour requirements. When Mr. Wirth contacted the Board in January 2010 regarding reinstatement, Board staff informed Mr. Wirth that the policy had changed and to request a variance, he would

need to appear before the Board. Mr. Wirth stated that he was requesting reinstatement of his license to volunteer at a free clinic.

On a motion from Dr. Dennis, seconded by Mr. Nelson with no dissenting votes, the Board moved into closed session to deliberate on the matter. Open session resumed on a motion from Mr. Haywood, seconded by Mrs. Chater, with no dissenting votes. Mr. McLaughlin stated that on a motion from Dr. Dennis, seconded by Dr. Chesson with no dissenting votes, the Board would require that Mr. Wirth obtain 500 internship hours, take and pass the MPJE and submit proof of CE to the Board's Executive Director before reinstatement of his license.

#### Reinstatement Hearing – RPh. Julius David Bullard, license #07199

RPh. Julius David Bullard, license #07199, appeared before the Board to request reinstatement of his pharmacist license. Mr. Campbell proceeded with the case and stated that Mr. Bullard was requesting a variance in Board policy for reinstatement of pharmacist out of practice more than five years who must obtain 1500 hours experience and pass the NAPLEX and the Multistate Jurisprudence Exam (MPJE). Mr. Campbell stated that Mr. Bullard's pharmacist license went inactive in March 1996. Mr. Bullard has kept his Maryland license active and he has obtained the required CE for the Maryland Board of Pharmacy, but he has not been practicing pharmacy.

On a motion from Dr. Chesson, seconded by Mr. Nelson with no dissenting votes, the Board moved into closed session to deliberate the matter. Open session resumed on a motion from Dr. Chesson, seconded by Mr. Haywood with no dissenting votes. Mr. McLaughlin stated that on a motion from Mr. Nelson, seconded by Dr. Chesson on a split decision, the Board would require that Mr. Bullard receive 1000 internship hours, take and pass the MPJE, and submit continuing education hours to the Board's Executive Director before reinstatement of his license.

#### Licensure Eligibility Rule .1317 and Foreign Graduates

Mr. Campbell brought an issue of licensure eligibility for foreign graduates to the Board for guidance. Mr. Campbell stated that under North Carolina law, a "graduate of an approved school or college of pharmacy" – for purposes of licensure eligibility – is a "person who has received an undergraduate professional degree in pharmacy from an approved school or college of pharmacy, or a person who has graduated from a foreign professional school of pharmacy and has successfully completed the Foreign Pharmacy Graduate Equivalency Examination offered by the National Association of Boards of Pharmacy and the Test of English as a Foreign Language." 21 N.C.A.C 46.1317 (3). Per North Carolina law, a post-baccalaureate Pharm.D degree consisting of less than a full four-year curriculum conferred upon a student holding an undergraduate degree from a foreign pharmacy school is not a qualifying "undergraduate professional degree in pharmacy" for licensure. Mr. Campbell stated that staff is aware of three (3) ACPE accredited schools of Pharmacy in the country that were conferring a shortened post-baccalaureate Pharm.D degree to foreign graduates. Mr. Campbell stated that these applicants have been denied licensure by staff on the basis of rule. Mr. Campbell requested guidance from the Board on whether to continue denying these applications, whether the Board gives a different interpretation of the rule, or whether to explore amending the rule. Board agreed with staff's interpretation of the rule and it was the recommendation of the Board that staff contact National Association of Boards of Pharmacy (NABP) for a resolution on the issue.

Proposed Rule Required by S.L. 2009-125 Concerning Escrow Account

Mr. Campbell stated that there is a provision in statutes that if the Board does not file certain reports by the date stipulated by the statute the Board can not spend funds until the reports are filed. Mr. Campbell presented a proposed rule to form an escrow account to deposit funds that the Board are not able to spend if certain reports are not filed by the date stipulated by statutes. It was moved by Dr. Chesson, seconded by Dr. Dennis with no dissenting votes, to authorize staff to publish the proposed rule as presented.

Board Election – Southeastern District Seat

Mr. Campbell stated that there is one petition from a pharmacist in the Southeastern district presented to staff to run against Mr. McLaughlin for Southeastern District seat in May/June 2010.

Report from Pharmacy Leaders' Forum

Mr. Campbell stated that the Pharmacy Leaders' Forum was a success in spite of the bad weather. Mr. Campbell stated that there have been suggestions of moving the Leader's Forum to a different time of the year to avoid weather issues. It was the consensus of the Board that Dr. Dennis and Mr. Campbell would check into an alternative time of the year to hold the forum.

NABP District III update

Mr. Campbell stated that Board staff would send out a save-the-date letter for the District III meeting to be held in August 2010 to all District III Schools of Pharmacy and Boards of Pharmacy in the next week.

Financial Report

Gail Brantley, Financial and Administrative Service Director, presented the January 2010 financial statistics to the Board

Investigative Statistics

Karen Matthew, Director of Investigations presented the investigative statistics for December 2009 and January 2010.

NABP 106<sup>th</sup> Annual Meeting Update

Mr. Campbell reminded the Board that the NABP 106<sup>th</sup> Annual Meeting would be held May 22-25, 2010 in Anaheim, CA. Mr. Campbell stated Mr. McLaughlin would not be able to attend the meeting and a new delegate would need to be chosen by the Board. It was the consensus of the Board that Dr. Chesson would be the delegate for the Board and Mr. Campbell would serve as the alternate delegate.

Consent Agenda

Following a review of the consent agenda, it was moved by Dr. Dennis, seconded by Mr. Nelson, to approve the consent agenda as presented. The motion carried with no dissenting votes. The following items were approved. Mr. Haywood requested that Board staff place Tech Ratio issues on the agenda for the March 2010 meeting for discussion.

### **Consent Agenda**

#### **Consent Order**

RPh. Lyle Stuart Booker, license #08008, was subject of a prehearing conference held January 18, 2010, heard by Mr. Haywood, regarding allegations of lack of documentation for 2006 continuing education (CE) hours for 2007 CE Audit. In 2008, Mr. Booker agreed to obtain 25 hours CE for 2009 renewal. 2009 Audit showed Mr. Booker lacked .25 total hours and short 6 live continuing education hours agreed to by RPh Booker: Recommendation 3 days active suspension and 3 days active suspension stayed indefinitely with conditions.

A copy of the consent order can be found elsewhere in the Minutes and are incorporated by reference herein.

#### **Candidates Licensed by Exam and Reciprocity in 2009**

A list of candidates licensed in 2009 can be found elsewhere in the Minutes and are incorporated by reference herein.

#### **Increase in Pharmacists to Technician Ratio**

- 1) Rite Aid Monroe NC Permit # 09714 Donald G Cameron RPh App. 1/21/2010
- 2) Rite Aid Rock Mount NC Permit # 09752 Stephen Daniel Ward RPh App. 1/21/2010
- 3) CVS Pharmacy Wilmington NC Permit # 06817 Dale Autry RPh App. 1/21/2010
- 4) Rite Aid Monroe NC Permit # 09715 Peter Barbera RPh App. 1/21/2010
- 5) CVS Pharmacy Raleigh NC Permit # 06752 Brad Johnson App. 1/21/2010
- 6) CVS Pharmacy Fayetteville NC Permit # 06627 Rita Mashburn RPh App. 1/21/2010
- 7) Rite Aid Garner NC Permit # 09650 Nagakishore Edupuganti RPh App. 1/21/2010
- 8) CVS Pharmacy Rolesville NC Permit # 06763 Hong Huynh Rph App. 1/21/2010
- 9) Rite Aid Fayetteville NC Permit # 09644 Ryan Hancher RPh App. 1/21/2010
- 10) CVS Pharmacy Morrisville NC Permit # 09463 Lavanya Desair RPh App. 1/21/2010
- 11) Rite Aid Fayetteville NC Permit # 09645 Lisa Baker RPh App. 1/21/2010
- 12) CVS Pharmacy Jacksonville NC Permit # 06687 Frank Hawkins RPh App. 1/21/2010
- 13) Rite Aid Charlotte NC Permit # 09607 Michael Rea RPh App. 1/21/2010
- 14) Rite Aid Laurinburg NC Permit # 09704 Marc J Christiansen RPh App. 2/3/2010
- 15) CVS Pharmacy Raleigh NC Permit # 10417 Heather S Payne RPh App. 2/3/2010
- 16) Walgreens Charlotte NC Permit # 09925 Phillip Truong RPh App. 2/3/2010
- 17) Rite Aid Hickory NC Permit # 09681 Edward Taylor RPh App. 2/3/2010
- 18) Rite Aid Charlotte NC Permit # 09609 Mark Sheppard RPh App. 2/3/2010

19) Rite Aid Charlotte NC Permit # 09606 Diane Ficarro RPh App. 2/3/2010

Closed Session

On a motion from Mr. Nelson, seconded by Dr. Dennis with no dissenting votes, the Board moved into closed session to discuss Board business.

Open session resumed on a motion from Mr. Nelson, seconded by Dr. Chesson with no dissenting votes. There being no further business, on a motion from Dr. Dennis, seconded by Mrs. Chater with no dissenting votes, the meeting adjourned at 4:08 p.m.

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Robert J. McLaughlin, Jr., President

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Betty Dennis., Vice President

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Wallace E. Nelson

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J. Parker Chesson, Jr.

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Stan Haywood

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Rebecca W. Chater