

President Robert (Joey) McLaughlin, Jr. called the meeting to order at 9:03 am with Board Members Betty Dennis, Wallace Nelson, Rebecca Chater, Parker Chesson, and Stan Haywood present. Also present were Executive Director Jay Campbell, Board Counsel Clint Pinyan, 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; Alexis Roth, NCPRN; Christine Davis, Cardinal Health NPS; Gene Minton, Drugco Discount Pharmacy; Lazelle Marks, Medical Center Pharmacy; Lisa Collums, Kerr Drug; Tom Readling, Mutual Drug; R. Wes Haynes, UNC/SOP intern; Lori Setzer, CVS; David Catalano, Walgreens; Gray Stewart, GlaxoSmithKline; Danny Seavers, Kerr Drug; Joseph Ponzi, BrooksPierce; Tony Mitchum, Walmart; Andy Bowman, Campbell COP; Dennis H. Penn; Wesley Haltom, CVS; Julie Gleason, InstyMeds; Ed Rickert, InstyMeds; Brad Schraut, InstyMeds; Jason Chou, NCBH; Greg Fox, NCBH; Kris Rusinke, UNC SOP; Tara Venville, UNC SOP; Ian Alcancio, Campbell Univ.; Bill Irvin, CVS; Brenda Maloney, CVS; Ricky Trivette, CVS; Jeremy Matny, Mutual Drugs; Thomas O'Reilly, NCBOP intern; Garrett Roach, NCBOP intern; John Kerr, NC Assoc. of Free Clinics; Davie Waggett, Seashore Drug; Jimmy Jackson, Rite Aid; Andrew Patel, Bi-Lo; Roy Pleasants, Campbell Univ./Duke Univ.; Brenden Portars, Physicians Pharmacy; Danielle Creel, Campbell COP; Kim Creel, Campbell COP; Michael Nnadi, Novant Health; Beth Williams, WFUBMC; John Horne, Parata Systems; and Jacob Rodman, Boss Urgent Care.

#### 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 Board member.

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

#### Minutes of the March 9, 2010 Board Meetings

The members received the March 9, 2010 meeting minutes prior to this meeting for review. It was moved by Dr. Chesson and seconded by Mr. Nelson to accept the Minutes as submitted. The motion passed with no dissenting votes.

#### Drug Donation Rule

Mr. Campbell stated that the proposed rule 21 NCAC 46 .2513 - Drug, Supplies and Medical Device Repository Program - was noticed and a public hearing was held April 19, 2010 at the Board office. Mr. Campbell stated that the Board received two comments in favor of the proposed rule. NC Association of Free Clinics sent comments in favor of the rule with slight changes in wording, with which Board staff agrees. Students from UNC Eshelman School of Pharmacy sent comments in favor of the rule with some suggested changes that Board staff feels cannot be implemented.

On a motion from Dr. Dennis, seconded by Mrs. Chater with no dissenting votes the Board moved to approve the Drug, Supplies and Medical Device Repository Program Rule including the changes suggested by staff and the Association of Free Clinics.

Reinstatement Hearing – RPh. Dennis Penn, license #13325

RPh. Dennis Penn, license #13325, appeared before the Board to request reinstatement of his pharmacist license. Mr. Campbell proceeded with the case and stated that Mr. Penn was requesting a variance in Board policy for reinstatement of pharmacist out of practice more than five years - obtain 1500 hours of internship, pass the Multistate Jurisprudence Exam (MPJE) and the NAPLEX exam. Mr. Penn's pharmacist license went inactive in 1997 for non-renewal. Mr. Penn spoke to the Board about his work history in the pharmacy field since 1997. Mr. Penn requested that the Board variance include taking the MPJE, 500 to 750 internship hours, and obtain the required CE for the time he has been inactive.

On a motion from Ms. Chater, seconded Dr. Dennis with no dissenting votes, the Board moved into closed session to deliberate on the matter. Open session resumed on a motion from Dr. Chesson, seconded by Dr. Dennis, with no dissenting votes. Mr. McLaughlin stated that on a motion from Ms. Chater, seconded by Dr. Dennis with no dissenting votes, the Board would require that Mr. Penn obtain 750 internship hours, take and pass the MPJE and submit proof of CE to the Board's Executive Director before reinstatement of his license.

Request for Modification of Reinstatement Order – RPh. Rick Trivette, license #11465

RPh. Rick Trivette, license #11465, appeared before the Board to request modification of his May 2007 reinstatement order. Mr. Campbell proceeded with the case and stated that Mr. Trivette was requesting the restriction on working as a pharmacist manager and working no more than a 40 hour work week be lifted. Mr. Campbell also stated that Mr. Trivette has complied with all conditions of his reinstatement order and his NC Pharmacy Recovery Network (PRN) contract. NCPRN supports Mr. Trivette's request for modification and Board staff has no objections. On a motion from Ms. Chater, seconded by Dr. Chesson with no dissenting votes, the Board approved Mr. Trivette's reinstatement order modification request.

A copy of the Modification Order can be found elsewhere in the Minutes and are incorporated by reference herein

Disciplinary Hearing – RPh. Tiana Witcher, license #11664

RPh. Tiana Witcher, license #11664, appeared before the Board in continuation of her March 9, 2010 disciplinary hearing.

The Board adjourned for a break at 11:10 am and resumed open session at 11:23 am.

After presentation of evidence and testimony, Mr. Ponzi stated that Ms. Witcher is a danger to the health and safety of the public and requested that the Board suspend Ms. Witcher's pharmacist license. The Board moved into closed session to deliberate the matter on a motion from Mr. Haywood, seconded by Dr. Chesson with no dissenting votes. Open session resumed

on a motion from Dr. Dennis, seconded by Mrs. Chater with no dissenting votes. Mr. McLaughlin stated that on a motion by Mr. Nelson, seconded by Ms. Chater with no dissenting, the Board would indefinitely suspend Ms. Witcher's pharmacist license and she could not request reinstatement until she has a new NCPRN contract and NCPRN would advocate for her reinstatement of her license.

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

### Financial Report

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

### Open Mike

No one appeared to speak during Open Mike session.

The Board adjourned for lunch at 1:00 pm and resumed open session at 1:30pm.

### Reinstatement Hearing – RPh. Robert Heiser, license #12732

RPh. Robert Heiser, license #12732, appeared before the Board in consideration of his reinstatement application. Mr. Heiser did not renew his license for 2003. Mr. Campbell proceeded with the case and stated that Mr. Heiser had answered "no" to question number six on the reinstatement application that asked if he had ever been disciplined by a Board of Pharmacy. In fact, Mr. Heiser was disciplined by the New York Board of Pharmacy in 2001.

After presentation of evidence and testimony, the Board moved into closed session to deliberate the matter on a motion from Mr. Nelson, seconded by Mrs. Chater with no dissenting votes. Open session resumed on a motion from Mr. Nelson, seconded by Dr. Dennis with no dissenting. Mr. McLaughlin stated that on a motion from Mrs. Chater, seconded by Mr. Nelson with no dissenting votes, the Board would deny Mr. Heiser's reinstatement application and he could not reapply for one year.

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

### Review of Board Policy Statements

At the March 9, 2010 Board meeting, Mr. Campbell presented the current Board policies with proposed changes from staff to the Board for their review and consideration at the April 2010 Board meeting. The Board was in agreement with the changes proposed by staff.

### Appointment of Board Representative to PRN Board

After discussion, it was the consensus of the Board to appoint Joey McLaughlin as Board representative to the NC Pharmacy Recovery Network Board.

#### Advanced Tech Rule

Mr. Campbell stated that the proposed rule 21 NCAC 46 .1418 Advance Pharmacy Technician was noticed and a public hearing was held April, 19, 2010 at the Board office. Mr. Campbell stated that Board staff received 78 comments concerning the rule, 53 in support of the rule and 25 opposed to the rule. Mr. Campbell stated that there were 15 comments in favor of the rule but with an amendment about the accreditation of the technician associate degree. Mr. Campbell stated that nine people spoke at the public hearing, 4 opposed to the rule, 5 in support of the rule, and 2 spoke to the issue of accreditation.

Mr. Campbell stated that Board staff would recommend changing the rule concerning accreditation as recommended during the public hearing. On a motion from Dr. Chesson, seconded by Dr. Dennis on a split decision, the Board moved to approve the rule with the recommended.

#### Mandatory Counseling Discussion

At the March 2010 Board meeting, Board member Stan Haywood requested that staff place a mandatory counseling topic on the April 2010 agenda for discussion. After discussion from Board members and guest, the Board moved to have Mr. Campbell draft, for the May 2010 Board meeting, a proposed rule for mandatory counseling on certain target drugs, on a motion from Dr. Dennis, seconded by Mrs. Chater with no dissenting votes.

#### Kiosk-Based Dispensing Systems and Dispensing Physicians

Julie Geason, Ed Rickert, and Brad Schraut, representing Insty Meds Corp., appeared before the Board to present a kiosk-based dispensing system for possible use in dispensing physicians' offices. Insty Meds Corp. questioned the Board on whether dispensing physicians would need a variance in Board rules to allow the use of the system.

After discussion, the Board stated they would take the matter under advisement.

#### Proposed Prehearing Conference Schedule

Mr. Campbell presented a proposed prehearing conference schedule to the Board. After discussion and a slight change in the schedule, it was the consensus of the Board to approve the schedule with changes.

#### Proposed Repeal Rule .1204, Office of the Board

Mr. Campbell stated that Rule .1204, Office of the Board, was written to include the Post Office Box address that the Board ceased using as of March 1, 2010. Mr. Campbell proposed repealing the rule. It was moved by Mrs. Chater, seconded by Dr. Dennis with no dissenting votes, for staff to begin procedures to have the rule repealed.

### Complimentary Board Meeting Space – Embassy Suites/Board Retreat

Director of Operations Kristin Moore won a complimentary meeting space at the new Embassy Suites in Raleigh, NC. Mr. Campbell asked Board members to decide by the May 2010 Board meeting if they would like to use the meeting space for a Board retreat and what dates they would like to have the meeting.

### Election Updates

Mr. Campbell updated the Board on the progress of the election for the Southeastern Board seat presently held by Joey McLaughlin.

Karen Matthew updated the Board on the DME election to be held June 2010.

### Investigative Statistics

Karen Matthew, Director of Investigations presented the investigative statistics for March 2010.

### Consent Agenda

Following a review of the consent agenda, it was moved by Dr. Dennis, seconded by Dr. Chesson, to approve the consent agenda as presented. The motion carried with no dissenting votes. The following items were approved.

#### **Consent Agenda**

##### **Staff Issue Letter of Warning**

Wal-Mart Pharmacy, permit #09313, was subject of a prehearing conference held March 8, 2010, heard by Mrs. Chater, regarding allegations of taking inadequate steps to insure that controlled substances were secure and failure to maintain an adequate system of inventory which resulted in diversion. Recommendation: **Staff Issue Letter of Warning to permit.**

##### **Staff Issue Letters of Caution, Concern, No Action and Consent Order**

RPh. Ashley E. Bowden, license #17540, D.L. Creasman, license #05153, Technician Jonna Chappel, registration #01191, and Wal-Mart Pharmacy, permit #07958, were subjects of a prehearing conference held March 8, 2010, heard by Mrs. Chater, regarding allegations of several dispensing errors by RPh. Bowden. Recommendation: **Letter of Caution to Technician Chappel; Letter of Concern to RPh. Creasman; Letter of No Action to Wal-Mart pharmacy and 1 day suspension, stayed 1 year with conditions to RPh. Bowden.**

##### **Staff Issue a Letter of Warning and Consent Order**

RPh. Robert Johnson, license #18063, and CVS Pharmacy, permit #06789, were subjects of a prehearing conference held March 8, 2010, heard by Mrs. Chater, regarding allegations of a

dispensing error and unapproved technician:pharmacist ratio. Recommendation: **Staff Issue Letter of Warning to RPh. Johnson and Consent Order of Reprimand to permit.**

### **Consent Order**

RPh. Kwame Boateng, license #17166, and Rite Aid Corporation, permit #09804, were subjects of a prehearing conference held March 8, 2010, heard by Mrs. Chater, regarding allegations of four dispensing errors to the same patient for the same prescriptions. Recommendation: **Consent Order of Reprimand to RPh. Boateng and permit.**

RPh. William B. Cheek, license #07868, RPh. Michael V. Rogers, license #06864, and Nature's Pharmacy, permit #06491, were subjects of a prehearing conference held March 8, 2010, heard by Mrs. Chater, regarding allegations of dispensing compounded medications without a prescription on more than 100 occasions. Recommendation: **1 day active suspension to RPh. Cheek, RPh. Rogers, and permit.**

Drugco Discount Pharmacy, permit #05053, agreed to a consent order regarding allegations of taking inadequate steps to insure that controlled substances were secure and failure to maintain an adequate system of inventory which resulted in diversion of 136,000 units of various controlled substances. Recommendation: **5 day suspension/ stayed 1 year with conditions to permit.**

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

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

- 1) Walgreens Pharmacy Gastonia NC, Permit # 07813 Trisha Reaves Pharm. Mgr., App. /3/2010
- 2) Rite Aid Pharmacy Fayetteville NC, Permit # 09643 Carla S Marshall Pharm. Mgr., App. 3/3/2010
- 3) CVS Pharmacy Fayetteville NC, Permit # 06622 Brandon Smith Pharm. Mgr., App. 3/3/2010
- 4) Wal-Mart Pharmacy Spruce Pine NC, Permit # 08014 Melissa Hill Rosenberger Pharm. Mgr., App. 3/3/2010
- 5) Walgreens Pharmacy Concord NC, Permit # 08470 Hal David Nguyen Pharm. Mgr., App. 3/16/2010
- 6) CVS Pharmacy Kannapolis NC, Permit # 06689 Anthony Clodfelter Pharm. Mgr., App. 3/16/2010
- 7) CVS Pharmacy Statesville NC, Permit 06789 Robert Johnson Pharm. Mgr., App. 3/16/2010
- 8) Kerr Drug Richlands NC, Permit # 06844 Christina Nunemacher Pharm. Mgr., App. 3/16/2010
- 9) Sentry Drug Lincolnton NC, Permit # 04270 Benjamin Michael Cooper Pharm. Mgr. App. 3/24/2010
- 10) Wal-Mart Pharmacy Morganton NC, Permit # 07992 S. Adair Lowery Pharm. Mgr. App. 3/24/2010
- 11) Rite Aid Pharmacy Charlotte NC, Permit # 09615 Kelly Ann Miller Pharm. Mgr. App. 3/24/2010
- 12) Rite Aid Pharmacy Fayetteville NC, Permit # 09643 Carla S Marshall Pharm. Mgr. App. 3/24/2010
- 13) Kerr Drug Pittsboro NC, Permit # 06501 Christopher John Hawk Pharm. Mgr. App. 3/24/2010
- 14) Rite Aid Pharmacy Wilmington NC, Permit # 09783 Cheryl Renee Yaccarino Pharm. Mgr. App. 3/24/2010
- 15) CVS Pharmacy Statesville NC, Permit # 06789 Robert Johnson Pharm. Mgr. App. 3/30/2010
- 16) Rite Aid Pharmacy Dunn NC, Permit # 09631 Louis T Kermon, Jr., Pharm. Mgr. App. 3/30/2010
- 17) Rite Aid Pharmacy Pinehurst NC, Permit # 09728 Bradley S Weaver Pharm. Mgr. App. 3/30/2010
- 18) Target Pharmacy Charlotte NC, Permit # 09267 Sheri L Zallar Pharm. Mgr. App. 3/30/2010

- 19) Wal-Mart Pharmacy Greenville NC, Permit # 07968 Patricia L Hernandez Pharm. Mgr. App. 3/30/2010
- 20) Wal-Mart Pharmacy Marion NC, Permit # 07987 Julie M Pollard Pharm. Mgr. App. 3/30/2010
- 21) Walgreens Pharmacy Greenville NC, Permit # 07841 Himanshu Patel Pharm. Mgr. App. 3/30/2010
- 22) CVS Pharmacy Leland NC, Permit # 06702 Mechelle Caison Pharm. Mgr. App. 3/30/2010
- 23) Wal-Mart Pharmacy Waynesville NC, Permit # 07951 Jennifer Bodnar Pharm. Mgr. App. 3/30/2010
- 24) Wendell Drug Co. Wendell NC, Permit # 08044 Ellen Rose Adams Bryan Pharm. Mgr. App. 3/30/2010

**CPP Applicants**

RPh. Kristin Laurie Alvstad, license #18430

There being no further business, on a motion from Dr. Dennis, seconded by Mrs. Chater with no dissenting votes, the meeting adjourned at 4:50 p.m.

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Robert J. McLaughlin, Jr., President

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Betty Dennis., Vice President

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Gene Minton

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J. Parker Chesson, Jr.

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Lazelle Marks

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Rebecca W. Chater