

President Rebecca Chater called the meeting to order at 9:00 am with Board Members Dr. Betty Dennis, Dr. Parker Chesson, Robert J. McLaughlin, Jr., Gene Minton, and E. Lazelle Marks present. Also present were Executive Director Jay Campbell, Board Counsel Clint Pinyan, Director of Investigations Karen Matthew, Director of Licensing Debbie Stump, and Director of Operations Kristin Moore. Present as visitors were: Cindy Clark, NCPRN; Tom Readling, NC Mutual; April Sloan, Target; Danny Seavers, Kerr Drug; George Chapman, Wal-Mart; RPh. Scott Lackey; Erich Cain, Campbell University; Thomas Griffin, Pharmerica; Vanessa Williams, CUSOP/Kerr Drug Rotation; Lori Keyser, Omnicare; Stephanie Bullock, PharMerica; Sara Dixon, NCAP/ UNC-SOP; Brenda Maloney, Quarles & Bradly LLC; Bill Mixon, NCBOP Candidate; Bill Cover, Walgreens; RPh. David Waggett; Christine Davis, Cardinal Health; and Tony Mitchum, Wal-mart.

Ethics Statement & Welcome

President Chater 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 Chater welcomed all visitors to the meeting.

Minutes of the March 2011 Board Meetings

The members received the March 15, 2011 meeting minutes prior to this meeting for review. It was moved by Dr. Chesson and seconded by Dr. Dennis to accept the Minutes as submitted. The motion passed with no dissenting votes.

Minutes of the March 29, 2011 Board Meeting

The members received the March 29, 2011 meeting minutes prior to this meeting for review. It was moved by Mr. McLaughlin and seconded by Dr. Chesson to accept the Minutes as submitted. The motion passed with no dissenting votes.

Reinstatement Request – RPh. Scott Lackey, License #10279

RPh. Scott Lackey, license #10279, appeared before the Board to request reinstatement of his license to practice pharmacy. Mr. Campbell proceeded with the case and stated that Mr. Lackey did not renew his pharmacist license for 2011. Mr. Lackey submitted a reinstatement application in March 2011. He stated on the application that in December 2009 he plead guilty to a DUI charge and received a sixty (60) day suspended sentence with twelve (12) months supervised probation, restricted driving privileges, 24hrs community service, and required to attend a substance abuse assessment. The substance abuse assessment showed mild alcohol dependence. Mr. Lackey also stated on his reinstatement application that he was charged with simple assault on a female in October 2009 in which he received a deferred prosecution. Mr. Campbell stated that Mr. Lackey received a consent order in January 2009 in which his license was suspended thirty (30) days/stayed three (3) years with an active seven (7) day suspension for practicing pharmacy in spring of 2007 and 2008 without a license because of non-renewal, violation of the technician ratio, and maintaining inadequate records. Mr. Lackey received another consent order in April 2009 for not meeting the conditions of the January 2009 consent order and his license

was suspended for thirty (30) days. Mr. Lackey, duly sworn, testified on his own behalf and explained the circumstances of the charges. He contacted NC Pharmacy Recovery Network (PRN) but could not receive treatment without an impatient assessment.

On a motion from Mr. Minton, seconded by Dr. Chesson with no dissenting votes, the Board moved into closed session to deliberate the matter. Open session resumed on a motion from Mr. Minton, seconded by Dr. Dennis with no dissenting votes. Mrs. Chater stated that on motion from Mr. Minton, seconded by Mr. McLaughlin on a split decision, the Board would grant Mr. Lackey's reinstatement request with conditions including not working as a pharmacist manager or preceptor, renewing his license by January 1st with no grace period, not working more than forty (40) hours per week, and not working in any pharmacy that he has ownership interest.

A copy of the Order Reinstating License with Conditions can be found elsewhere in the Minutes and is incorporated by reference herein.

Request from PharMerica Regarding Call Center Operations – Stephanie Bullock

Stephanie Bullock, PharMerica, appeared before the Board concerning whether an out-of-state call center would require a North Carolina pharmacy permit to view instate prescription orders and triages the orders to determine whether they would need to go to a North Carolina pharmacy to be processed. After discussion, the Board requested PharMerica to submit a formal proposal to Board staff and the matter would be taken under review.

Legislative Update

H.726, Mandate Use of Controlled Substance Reporting, amends the Controlled Substance Act to require pharmacists to review all controlled substance reporting systems for the proceeding twelve (12) months before dispensing controlled substance medications to patients. After discussion, Board members requested staff make inquiries to the NC Medical Board on their view of the proposed amendment.

S.474, H.656, Require Photo Identification Prior to Dispensing Schedule II Controlled Substances, would require a patient to submit a photo id before receiving controlled substances medications and require pharmacists document the person seeking the controlled substance and keep the information for three (3) years. After discussion, it was the consensus of the Board to have staff draft a letter to highlight the impractical implications to the sponsors of the bill.

H.606, Sheriff and Deputy Sheriff Inspection of Prescription Records and Access to the Controlled Substances Reporting System, would allow a sheriff or a designated deputy sheriff engaged in an investigation to have access to controlled substances reporting system and access to pharmacy records. After discussion, Mr. Campbell stated that he would keep monitoring the progress of the bill.

H.444, S.246, Expand Pharmacists' Immunizing Authority, would allow pharmacist to administer all vaccinations to patients 14 years old and older and by prescription to patients 7 to 14 years of age. After discussion, Board members requested Mr. Campbell to draft a letter of support to the sponsors of the bill.

H.644, Establish Pharmacy Audit Rights, establishes audit rights for pharmacist and standards for recoupment of claims. After discussion, Board members requested that staff draft a letter of support to the sponsors of the bill.

S. 112, To Disapprove 21 NCAC 46. 1418, disapproves of Supervision of Unit Dose Medication System rule. Mr. Campbell stated that there has been no change and the bill still sits in committee. The Board heard comments from a number of pharmacists concerning this matter.

21 NCAC 46.1417, Remote Medication Order Processing Services

Mr. Campbell presented a draft on proposed rule change to 21 NCAC 46.1417, Remote Medication Order Processing Services. Staff recommended and it was the consensus of the Board to present the draft to the Task Force on Long Term Care and Hospital Rules for their review.

Open Mike

No one spoke during the Open Mike session of the Board Meeting.

Board Election Update

Director of Operations Kristin Moore updated the Board Members on the elections for the Northern and Western District Board seats currently held by Dr. Dennis and Mrs. Chater. Voting began April 11, 2011 and will run through May 15, 2011. The votes will be tallied at 10:00am on May 16, 2011 at the Board office.

DME Election Update

Karen Matthew, Director of Investigations, updated the Board on the DME Election that will be held in June 2011.

Investigative Statistics

Karen Matthew presented the investigative statistics for March 2011.

Invitation from North Carolina Nursing Board to Education Session on Drug Diversion

The North Carolina Nursing Board extended an invitation to NC Board of Pharmacy to participate in an Education Session on drug diversion on Wednesday, May 18, 2011 at NC Board of Nursing office from 5:30pm to 7:00pm.

National Association of Boards of Pharmacy Annual Meeting, May 21 – 24, San Antonio, TX

Mr. Campbell presented several proposed resolutions for their review before the National Association of Boards of Pharmacy (NABP) Annual Meeting. He requested that if Board members had comments on any of the proposed resolutions to let him know and he will convey it to NABP.

Financials

Gail Brantley, Financial and Administrative Service Director, presented the March 2011 financial statistics to the Board. On a motion from Mr. Minton, seconded by Mr. McLaughlin with no dissenting votes, the Board approved a resolution to list the Board's authorized signers as Jay Campbell, Kristin Moore and Gail Brantley.

The Board adjourned for lunch at 12:10pm and resumed open session at 1:15pm.

Concerns Regarding Substitution of Auto Injectable Epinephrine – Allergy & Asthma Network/Mothers of Asthmatics

Nancy Sanders and Sandra Fusco-Walker, Allergy & Asthma Network/Mothers of Asthmatics, appeared before the Board to request that the Board recommend to all pharmacists to dispense auto injectable epinephrine as prescribed without substitution. After discussion, it was the consensus of the Board to take the matter under advisement.

Increase to Technician to Pharmacist Ratio Request

Mr. Campbell presented Request for Increase in Technician to Pharmacist Ratio application from CVS Pharmacy, permit #10813, for an increase of 6 to 1 and an application from United Pharmacy Services, permit #08790, for an increase of 5 to 1. After discussion, it was the consensus of the Board to deny both applications at this time and have the pharmacies appear before the Board to explain the request if they wish to pursue the application further.

Consent Agenda

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

Prehearing Conferences

Staff Issues Letters of No Action and Warning

Timothy H. Clark, license #12114, and Health Innovations Pharmacy, Inc., permit #07705, were subjects of a prehearing conference held March 14, 2011, heard by Dr. Dennis, regarding allegations of allowing unregistered technician to perform duties of a technician, not maintaining the required prescription records, maintaining eleven (11) bottles of expired medications and six (6) bottles of misbranded prescription drugs, filling prescriptions that did not show the patient's full name and address, and maintaining an inadequate pseudoephedrine log. Recommendation: **Staff Issues a Letter of Warning** to RPh. Clark and **Staff Issues a Letter of No Action** to permit.

Staff Issues a Letter of Caution

Ingles Pharmacy, permit #09243, was subject of a prehearing conference held March 14, 2011, heard by Dr. Dennis, regarding allegation of failing to provide adequate security

and inventory control system to detect and prevent diversion of controlled substances. Recommendation: **Staff Issues a Letter of Caution** to permit.

Staff Issues Letters of No Action and Consent Order

Melynn Roberts, license #11194, Carla Kennedy, license #07777, and Iredell Memorial Hospital, Inc., permit #02410, were subjects of a prehearing conference held March 14, 2011, heard by Dr. Dennis, regarding allegations of dispensing ten (10) times the prescribed amount of acetadote to a patient who overdosed on drugs. Recommendation: **Staff Issues Letters of No Action** to RPh. Kennedy and permit. **Consent Order of Reprimand** to RPh. Roberts.

Staff Issues Letter of No Action, Caution, Warning, and Consent Order

RPh. Jewel A. Freeman, license #10249; RPh. Christine F. Burch, license #18870; RPh. Michael J. Graham, license #12151; RPh. Priscilla S. Waymouth, license #16189; RPh. Michael O. Gum, license #16727; and Presbyterian Hospital Pharmacy, permit #00932, were subjects of a prehearing conference held March 14, 2011, heard by Dr. Dennis, regarding allegations of dispensing 9% sodium chloride base solution instead of a .9% sodium chloride base solution to a pediatric oncology patient who subsequently died. Recommendation: **Staff Issues Letters of No Action** to RPh. Waymouth, RPh. Gum and permit. **Staff Issues a Letter of Caution** to RPh. Graham. **Staff Issues a Letter of Warning** to RPh. Burch. **Consent Order of Reprimand** to RPh. Freeman.

Consent Orders

Aeroflow, Inc., DME permit #00554, was subject of a prehearing conference held June 14, 2010, heard by Mr. McLaughlin, regarding allegations of failure to properly document patient counseling with respect to the use of oxygen equipment in that no orientation checklist or any documentation on patient counseling was undertaken as required. Recommendation: **Consent Order of Reprimand** to permit.

Wilmington Island DME, Inc., was subject of a prehearing conference held April 18, 2011, on the consent of the parties, regarding an application for out-of-state DME permit. Wilmington Island DME admits to shipping prescription devices into North Carolina without a permit between August 2009 and December 2010. Recommendation: **Grant permit which is hereby indefinitely suspended/stayed ten (10) years with conditions.**

Pine Pharmacy and Home Care Products Center, Inc. was subject of a prehearing conference held April 18, 2011, on the consent of the parties, regarding an application for an out-of-state pharmacy permit. Pine Pharmacy and Home Care Products, Inc. admits to shipping prescriptions into North Carolina without a permit between November 2009 and November 2010. Recommendation: **Grant permit which is hereby indefinitely suspended/stayed ten (10) years with conditions.**

Increase in Pharmacist to Technician Ratio

- 1.) Rite Aid Pharmacy Wilson Permit # 09791, Venkat Velmineti RPh App. 3/22/2011
- 2.) CMC Rx Pavilion Concord Permit # 09822, Evan Frasure RPh App. 3/22/2011
- 3.) Walmart Pharmacy New Bern Permit # 07995, Umesh Kumar Chaudhary RPh App. 3/22/2011
- 4.) CVS Pharmacy Lenoir Permit # 10908, Roger E Baker RPh App. 3/22/2011
- 5.) Kerr Drug Pittsboro Permit # 06501, Christopher J Hawk RPh App. 4/6/2011
- 6.) Servant Pharmacy of Raleigh Raleigh Permit # 10294, Michelle Ames RPh App. 4/6/2011
- 7.) Thomas Drug Store Wilson Permit # 04464, William C Rose, Jr. RPh App. 4/6/2011
- 8.) CVS Pharmacy Lexington Permit # 10767, John Phillip Seats RPh App. 4/6/2011
- 9.) Costco Pharmacy Charlotte Permit # 07792, Christian P Bost RPh App. 4/6/2011
- 10.) Walmart Pharmacy Greensboro Permit # 07967, William Verrinder RPh App. 4/6/2011
- 11.) CVS Pharmacy Charlotte Permit 10424, Elizabeth Young RPh App. 4/6/2011

CPP Applicants

RPh. Donald Nuzum, License #17587

RPh. Amy Denise Sauls, License #13577

Closed Session

On a motion from Dr. Chesson, seconded by Mr. Minton with no dissenting votes, the Board moved into closed session to discuss possible summary suspensions. Open session resumed on a motion from Mr. McLaughlin, seconded by Mr. Marks with no dissenting votes. Mrs. Chater stated that Technician Ray Robinson, registration #27971, and Technician Sandra Honeycutt Sessions, registration #04812, were summarily suspended.

There being no further business, on a motion from Dr. Chesson, seconded by Mr. Marks with no dissenting votes, the meeting adjourned at 1:47 pm.

Rebecca W. Chater, President

Betty Dennis., Vice President

Gene Minton

J. Parker Chesson, Jr.

Lazelle Marks

Robert J. McLaughlin, Jr.