

# South Carolina Board of Pharmacy

## Board Meeting

8:30 a.m., September 22, 2004

Synergy Business Park (formerly Koger Business Park)

110 Centerview Drive, Kingtree Building, Room 108

Columbia, South Carolina

## MINUTES

**Wednesday, September 22, 2004**

Bobby Bradham, R.Ph., Chairman, of Charleston, called the regular meeting of the Board of Pharmacy to order at 8:38 a.m. Other members present included: Terry Lewis, R.Ph, Vice Chairman, of Darlington; David Banks, R.Ph., of Simpsonville; Davis Hook, R.Ph., of West Columbia; Marvin Hyatt, R.Ph., of Rock Hill; Dr. Leo Richardson of Columbia; Dock Henry Rose, R.Ph., of Greer and Allen Toole, R.Ph., of Liberty.

Staff members participating during the meeting included: Lee Ann Bundrick, R.Ph., Administrator; Natalie Cobb, Administrative Assistant; Marilyn Crouch, Program Assistant; Eddie Durant, R.Ph., Temporary Investigator; Sally Green, Administrative Specialist; Tom Porter, R.Ph, Inspector; Ray Trotter, R.Ph Temporary Investigator and Sheila Young, R.Ph., Compliance Manager. LLR employees participating during the meeting included: Sharon Dantzer, Deputy General Counsel; LLR-Office of General Counsel; and Sandra Dickert, Administrative Assistant.

Members of the public attending the meeting included: Nena Auton, Jennifer Baker, Paulette Bentley, Jim Bracewell, Pamela Cain, Manning Culbertson, Esq., Chad Dancy, Kevin Floyd, Paul Fulbright, Jr., Jamie Hinson, Sandra Hoffman, Darryl Mast, Joe Mullinax, Thomas Phillips, Eric Ridings, Scott Padgett, and Marie Vaughn.

### **Meeting Called to Order**

Mr. Bradham announced that this meeting was being held in accordance with Section 30-4-80 of the S. C. Freedom of Information Act by notice mailed to The State Newspaper, Associated Press, WIS-TV and all other requesting persons, organizations, or news media. In addition, notice was posted on the bulletin boards at the two main entrances of the Kingtree Building.

### **Pledge of Allegiance**

All present recited the Pledge of Allegiance.

### **Invocation**

Mr. Hook delivered the invocation.

### **Chairman's Remarks – Bobby Bradham, R.Ph.**

Mr. Bradham had no remarks at this time.

### **Introduction of Board Members and all other persons attending**

The Board members, staff and members of the public introduced themselves.

### **1. Approval of Minutes for the June 16–17, 2004 Meeting**

#### **MOTION**

Mr. Banks moved the minutes of the June 16-17, 2004 meeting be approved. Mr. Hyatt seconded the motion, which carried unanimously.

## 2. **Reciprocity Interviews**

Approval of Candidates: February 2, February 4, February 6, July 14, July 16, August 5, August 11, August 13, August 18, August 19, August 20, August 31, September 1, September 8, September 20 and September 22, 2004

The Board conducted a reciprocity interview from 9:00 a.m. to 9:15 a.m.

### **MOTION**

A motion was made by Mr. Toole to approve the reciprocity candidates of February 2, February 4, February 6, July 14, July 16, August 5, August 11, August 13, August 18, August 19, August 20, August 31, September 1, September 8, September 20, and September 22, 2004. Mr. Hyatt seconded the motion. The motion carried unanimously.

## 3. **Administrator's Report - Lee Ann F. Bundrick, R.Ph.**

Ms. Bundrick briefed the Board on staff's activities since the last Board meeting. She noted that Ms. Sheila Young and Mr. Eddie Durant have received a Tribute for their work on projects. She also noted that Ms. Cobb has resigned from her position effective September 24, 2004.

## 4. **Application Review**

### **A. *Request for Approval of Pharmacy Technician Renewal Application – Marie Vaughn***

On July 8, 2004 the Board's staff received a pharmacy technician renewal application from Marie Vaughn. Ms. Vaughn answered 'yes' to the question, ' Since you last registered with this Board, have you been arrested, charged, indicted or convicted of violation of any Federal, State, or local law?' Ms. Vaughn's explanation revealed that she had been arrested in September 2003 for driving under the influence (DUI), which was alcohol related. (Ms. Vaughn's renewal application, along with her explanation and other pertinent information, is herewith attached and hereby becomes a permanent part of this record retained at the Board office.)

Marie Vaughn appeared before the Board at this time. Ms. Vaughn stated she plead not guilty and has asked for a jury trial. She indicated this is the only time she has been arrested for DUI and that she has not been diagnosed as having an alcohol addiction problem. She presented the members with a letter from her attorney which becomes a permanent part of the record retained at the Board's office.

The Board received Ms. Vaughn's testimony and the statement from her attorney as information and will discuss this matter in executive session at a later time in the meeting.

### **B. *Request for Approval of Pharmacy Technician Renewal Application – Nena Auton***

In June 2004 Nena Auton submitted a renewal application for her pharmacy technician's registration. Ms. Auton answered 'yes' to the question, ' Since you last registered with this Board, have you been arrested, charged, indicted or convicted of violation of any Federal, State, or local law?' Ms. Auton's explanation stated she was arrested for driving under the influence (DUI) on April 10, 2004. The explanation also states that the officer had already attempted to have her driver's license suspended, but that the action was thrown out as a result of an administrative hearing held at the Department of Motor Vehicles on May 12, 2004. (Ms. Auton's renewal application, along with her explanation and other pertinent information, is herewith attached and hereby becomes a permanent part of this record retained at the Board office.)

Nena Auton appeared before the Board at this time.

Ms. Auton stated she is currently working as a contract employee with Maxor Pharmaceuticals in Columbia. She previously worked at the Palmetto Health Baptist Hospital and has been registered as a pharmacy technician since July 2001. She indicated she has no prior violations as this was her first arrest and she has not been diagnosed or treated for any alcohol related problems.

The Board received Ms. Auton's testimony as information and would make a decision in this matter later in the meeting.

**C. Request for Approval of Pharmacy Technician Renewal Application – Sandra L. Hoffman**

On June 29, 2004 the Board's staff received a pharmacy technician renewal application from Sandra L. Hoffman. Ms. Hoffman answered 'yes' to the question, ' Since you last registered with this Board, have you been arrested, charged, indicted or convicted of violation of any Federal, State, or local law?' Ms. Hoffman's explanation stated that on March 1, 2004 she and a friend drove to an establishment at approximately 12:40 a.m., where they played two games of pool and had two drinks. The establishment closed at 2:00 a.m. at which time they left and stopped for a red light. While waiting for the light to change she was inserting a compact disc into the player and thought her friend stated that the light turned green. She was proceeding through the intersection when she noticed the light was still red. She did not stop and back up, as there was no traffic on the road. She was pulled over by a policeman at which time she was put through a sobriety test. She was arrested for DUI and received a \$500 ticket. She appeared in court on April 14, 2004 at which time the judge reduced the ticket from \$500 to \$200. She received notice from the Department of Motor Vehicles approximately six weeks later indicating her license would be suspended for a period of six months (from June 8, 2004 – December 8, 2004). She has since hired an attorney who is attempting to have the judge recall the ticket. (Ms. Hoffman's renewal application, along with her explanation and other pertinent information, is herewith attached and hereby becomes a permanent part of this record retained at the Board office.)

Sandra Hoffman appeared before the Board at this time.

Ms. Hoffman stated she is currently employed with the Greenville Hospital System and has been a pharmacy technician for approximately 18 years. She further stated she was wrongfully arrested for DUI; and presented a letter from the prosecutor indicating the matter is in the process of being recalled.

The Board received Ms. Hoffman's testimony and documentation as information and will make a decision in this case later in the meeting.

**D. Request for Reinstatement of License– Paul W. Fulbright, Jr.**

A Board Order, dated November 20, 2000, indicates that Paul Fulbright, Jr. was found to have made false claims, statements or representations of a material fact in an application or request for benefits, payments or reimbursements to the SC Department of Health and Human Services (HHS) during an approximate period of March 1995 to June 1995. He plead guilty to the offenses as charged pursuant to a Plea Agreement dated September 26, 1996 and was sentenced to five (5) months of confinement for each count by the Honorable Frank Epps. The order also states that during an approximate period of September 1994 to November 1995 Mr. Fulbright submitted false claims for reimbursements to various insurance carriers involving intravenous therapy. Mr. Fulbright was not convicted pursuant to a September 26, 1996 Plea Agreement which ordered him to pay \$119, 000 to 119 different insurance carriers. The SC

Board of Pharmacy ordered Mr. Fulbright to take and pass the MPJE and complete 45 hours of continuing education, after which time "his license to practice Pharmacy may be reactivated and reinstated for a probationary period of five (5) years" following a) an application submitted to the Board; b) demonstration to the Board evidence of no less than 1,000 of practice under the on-site supervision of a South Carolina licensed pharmacist; and c) payment of the reactivation fee.

Paul Fulbright and Manning Culbertson appeared before the Board at this time. Manning Culbertson, Esq., is representing Mr. Fulbright.

Mr. Culbertson stated Mr. Fulbright has completed all of the Board's requirements from the November 20, 2000 Board order.

Mr. Bradham stated in his review of Mr. Fulbright's documents there was one document signed by Kathy Shuler, a pharmacist, indicating he completed 826 hours from February 16, 2004 through May 21, 2004, and a full document listing 1,000.7 hours, which also lists these particular hours. He noted in reviewing the documents Ms. Shuler indicated he worked approximately 25 hours a week. He indicated the two documents don't seem to agree with one another and note, as an example, the document listing the 1,000 hours had 35 hours during the time period of February 16-19, 2004. However, Ms. Shuler's signed statement indicated he only had 22 hours during that period. He asked Mr. Fulbright to explain the difference.

Mr. Fulbright stated when he submitted the hours the first time the hours were only for one pharmacy and went on to say he completed his internship at two pharmacies. He only submitted hours for Carolina Respiratory Solutions on the first document Mr. Bradham indicated. He went on to say it was an oversight on his part when he was completing the entire reinstatement application and completing affidavits. He continued by saying his intention was to complete the hours from Carolina Respiratory Solutions and Professional Pharmacy of Darlington separately and then add them together. He said that Ms. Shuler is the PIC of Carolina Respiratory and is a staff pharmacist at Professional Pharmacy of Darlington. He indicated he completed hours at both pharmacies, although both facilities are in one location. He completed the forms in the correct version when completing the reinstatement application. He noted he could submit further details if the Board so desired.

Mr. Hook asked Mr. Fulbright if there is a change in his heart that would alter his concept of working in a professional way that would represent the pharmacy profession as a person of integrity. Mr. Fulbright stated he has learned a lot over the past few years and is sorry for the past. He indicated he used to think only about himself but has now learned to appreciate his family, the presence of God in his life, and his community. He has done as much as he could to rectify the wrongs he has done and has paid restitution as required. He has written compliance programs for healthcare organizations and is currently working on regulations to assist in preventing other individuals from doing what he did in the past.

Mr. Bradham suggested Mr. Fulbright submit the remaining documentation to staff. He further stated the Board would make a decision in this matter if the information could be received by the Board prior to the end of the meeting on September 23, 2004.

#### **E. Request for Reinstatement of License – Darryl Mast**

On June 24, 1999 Mr. Darryl Mast entered a Consent Agreement in which he admitted he violated the practice act by unlawfully distributing a quantity of anabolic steroids. The Consent Agreement states that Mr. Mast's license was suspended for an indefinite period and that prior to petitioning the Board for reinstatement, must demonstrate three (3) years of continuous compliance in the following: 1) would not seek, solicit nor accept any employment or derive any financial benefit or control involving the practice of pharmacy, drug manufacturing, distribution of

September 22-23, 2004 SC Board of Pharmacy Page 4

possession of legend or controlled substances in South Carolina during the suspension; 2) shall completely abstain from the consumption of mood-altering substances, including alcohol, except as prescribed by a duly licensed physician for documented legitimate medical reason; 3) shall submit to periodic, unannounced blood and urine alcohol and/or drug analysis; and 4) must have a written contract with and be an active participant in activities of a Board approved aftercare program.

Darryl Mast, Harry Chapman, Esq., and Paulette Bentley, of the Recovering Professionals Program (RPP), appeared before the Board at this time. Harry Chapman, Esq., is representing Mr. Mast. Paulette Bentley, of RPP, appeared on Mr. Mast's behalf.

Mr. Banks recused himself from participating in this matter.

Mr. Chapman stated Mr. Mast is requesting a reinstatement of his pharmacist license. He further stated Mr. Mast is currently in a five-year program with RPP, which he joined in June 2003 and is in a five-year program with Script. He went on to say Mr. Mast has had clean drug tests for the past 18 months and further stated that CVS is requesting that should Mr. Mast do well at the end of 500 hours, they be allowed to submit a letter or a petition with the Board staff, for their determination, that he be allowed to work weekends or relief without supervision.

Ms. Bentley stated Mr. Mast has been doing well in the RPP program and is in full compliance with the program. She went on to say she supports the reinstatement and further stated Mr. Mast had used steroids for a weightlifting contest. She went on to say she has not seen, nor has any other employee with RPP, seen a recurrence of steroid use. She noted the misuse of steroids is not as prevalent as other drugs.

Mr. Bradham asked Mr. Mast why he waited four years from the suspension of his license to enter into the RPP program. Mr. Mast stated he was not emotionally ready to enter the program until 2003. He used that time to pursue other interests because he wanted to see what he really wanted to do.

Mr. Bradham stated the letter from CVS does not indicate that the facility is willing to hire him as an intern and asked if allowing him to serve as an intern is part of the agreement. Mr. Chapman stated Mr. Mast is requesting that his license be reinstated under supervision of a registered pharmacist.

The Board received Mr. Mast's testimony as information and determined it would make a decision in this matter later in the meeting.

#### **5. Pharmacist Duty – Sharon Dantzler, LLR - OGC**

Ms. Dantzler presented an article to the Board, which was published in the *South Carolina Lawyer*. She further stated she is asking for the Board's professional review of the article. She asked that if there were a misrepresentation or misstatement regarding the professional practice of pharmacy she would be happy to write a letter to the editor of the magazine.

#### **6. New Business**

##### **F. MALTAGON Conference 2004 – Bobby Bradham, R.Ph.**

Mr. Bradham stated that MALTAGON conference is a meeting of Boards of Pharmacy of the southeastern states similar to the District III. He indicated that during the April 2004 meeting of NABP he had expressed an interest in joining this association. He asked that any Board member who wishes to attend the conference in October 2004 contact him or Ms. Bundrick.

**G. Review of Pre-printed Prescription Format – Aiken Pulmonary Association**

Mr. Bradham stated the Board also has a request from Pediatric Endocrine Specialty Care as well as the Aiken Pulmonary Association, asking for the Board's review and approval of pre-printed prescription formats. He continued by saying there is language regarding preprinted prescriptions contained in the pharmacy practice act and that as he understands the Board does not have the prerogative of exempting what is contained in the practice act.

Ms. Bundrick stated she and Mr. Hook attended the Pharmacy Coalition meeting on Tuesday, September 21, 2004 and that the preprinted prescription format was one of the hot topics discussed during that meeting. She went on to say that the consensus was that the Board should attempt to work with the Medical Board in that area to see if it could be enforced and if it cannot be enforced the Board should rewrite the statute.

Mr. Hook stated a suggestion had been made during a previous meeting that the medically related Boards meet for discussion similar topics such as the preprinted prescription format.

Ms. Cobb stated she has been receiving complaints almost daily on this topic. She went on to state that pulmonary and ophthalmology offices are frequently asking for review of the pre-printed prescriptions.

Discussion on this matter ensued.

Ms. Bundrick stated she would meet with the Medical Board regarding this issue. She indicated, however, that if the Medical Board would not enforce it, the Board of Pharmacy may have to draft language regarding this matter.

Mr. Bradham stated since the preprinted prescription format is included in the practice act and due to safety issues, the Board is in no position to exempt these entities.

**H. Report on August 1-3, 2004, Biloxi, MS, NABP/AACP District III Annual Meeting – Bobby Bradham, R.Ph.**

Mr. Bradham stated he, along with Mr. Banks, Ms. Bundrick, and Ms. Young attended the District III meeting in Biloxi, Mississippi. He briefed the Board on the meeting.

**I. Patient Assistance Medications, Labeling – Sheila Young, R.Ph.**

Ms. Young stated staff thought the free clinics were in compliance and running well, however, staff has learned that the patient assistance program, the manufacturer sending the medication for the patients, has determined it would no longer label the medications. She further stated that staff's dilemma is that those clinics are permitted with a non-dispensing drug outlet permit and currently have the nurses handwriting labels for the bottles when received from the manufacturer, which is not in compliance. She indicated this is not a problem for the facilities with a regular retail pharmacy permit because the pharmacist is working in that facility. She went on to say that a possible solution is to allow the non-dispensing facilities to have labels printed and have the consultant pharmacist label the medication prior to distribution to patients. She indicated most of the facilities are non-dispensing and that there are approximately 16 facilities in non-compliance.

Ms. Pam Cain stated she believes a lot of the manufacturers are going to the institutional type. Her concern is she is not sure if the free medical clinics are participating in the patient assistance or institutional patient programs.

Mr. Scott Padgett, of Commun-I-Care, stated that he participates in patient assistance programs and the prescriptions are filled at Commun-I-Care pharmacy. He went on to say the free clinics

were funded by a grant by Duke Endowment for the first two years. He noted that this helped fund the Commun-I-Care portion of the program. He continued by saying Commun-I-Care is hoping Blue Cross Blue Shield would provide a grant for assistance in the near future.

Ms. Bundrick questioned the Board as to what address should appear on the label. Mr. Bradham indicated the label should have the free clinic's address.

Mr. Bradham asked that the Board support the committee's recommendation of having the responsible consultant pharmacist, label the patient assistance medication when and if this issue arises. The Board agreed to this recommendation.

### **Executive Session**

At 11:36 a.m. the Board recess for five minutes and entered executive session.

### **Return to Public Session**

Mr. Bradham noted for the record that no motions were made or offered during executive session.

*Marie Vaughn  
Nena Auton  
Sandra L. Hoffman*

#### **MOTION**

Mr. Banks moved the Board reinstate the registrations to Marie Vaughn, Nena Auton and Sandra L. Hoffman, with a letter of concern. Dr. Richardson seconded the motion, which carried unanimously.

*Paul Fulbright*

Mr. Lewis and Mr. Rose recused themselves from voting in this matter.

#### **MOTION**

Mr. Hook made a motion, seconded by Mr. Hyatt and unanimously carried, to reinstate Mr. Paul W. Fulbright, Jr.'s license in probationary status for five years, during which time he cannot serve as PIC, he does need to demonstrate to the Board by payroll records or other substantiary evidence of 1,000 hours he presented because of confusion and that he demonstrate, by certificate, the continuing education audit.

*Darryl Mast*

Mr. Banks recused himself from voting in this matter.

#### **MOTION**

Mr. Lewis moved to reinstate Mr. Mast's license upon demonstration of 1,000 hours of supervision of a licensed pharmacist. For this reinstatement the Board wants to add that since it is a learning and teaching situation and because Mr. Mast has been out of pharmacy for so long he must obtain these hours under the same guidelines and restrictions of an intern, i.e., cannot work over forty (40) hours a week. Mr. Mast would need to continue with his current RPP and PIC restrictions. Mr. Toole seconded the motion, which carried unanimously.

### **LUNCH**

The Board recessed for lunch at 12:15 p.m. and returned to public session at 2:00 p.m.

### **Return to Public Session**

#### **7. Committee Reports**

- Immunization Committee Task Force – Marvin Hyatt, R.Ph.

Mr. Hyatt stated this committee met on July 28, 2004 and noted Ms. Cobb has done a lot of work for the committee. Ms. Cobb stated the committee met with the South Carolina Pharmacy Association on July 28, 2004 and discussed language in regard to allowing pharmacists who meet the Board's requirements to administer vaccinations without a prescription from a physician. (The draft legislation is herewith attached and becomes a permanent part of the record retained at the Board's office.) The committee is asking for the Board's approval to adopt this language so the Board could move forward with submitting the language to the Office of Communication and Governmental Affairs. Since the motion came from a committee no second was needed. The motion carried with a unanimous vote.

Ms. Cobb presented the Board with a copy of an article contained in the *Drug Topic* magazine regarding the "vaccinate and vote" program. She indicated the article contains quotes from Jennifer Baker of the SC Pharmacy Association, a representative from the South Carolina Coalition on Older Adults Organization, as well as herself regarding the effort of pharmacists to administer immunizations.

Ms. Cobb stated that the information and guidelines would need to be relayed to the public. She indicated the Board could utilize the newsletters and the website to make the information available.

- Pharmacy Technology Committee – Terry Lewis, R.Ph.

Mr. Lewis stated the committee met on August 17, 2004 and has completed draft legislation regarding Central Fill. (The draft legislation is herewith attached and hereby becomes a permanent part of this record retained at the Board's office.) The committee is also recommending that the pharmacist-in-charge (PIC) of these facilities should be registered as pharmacists in South Carolina and is submitting the following recommendation for the Board's approval:

*Any facility providing pharmacy services to the State of South Carolina must ensure that, at a minimum, the pharmacist-in-charge complies with Section 40-43-80 of the SC Pharmacy Practice Act.*

Since the motion came from a committee no second was needed. The motion carried with a unanimous vote.

Mr. Lewis stated the committee also reviewed information from the Little River Medical Center. The committee determined that the facility could do Phase One of the proposal, however, the facility could not begin Phase Two until the Board's E-Prescribing Bill has passed through the legislature.

Ms. Bundrick stated NABP is hosting a fall legislative conference in November 2004 and Mr. Hook will hopefully be able to attend the meeting. She noted that one of the topics scheduled to be discussed is the Medicaid Modernization Act, which will go into effect in January 2005. She indicated the Act contains standard language regarding electronic prescribing. She noted she doesn't know if the Board wants to move forward with this language at the current time as there is a good possibility that if everything goes well, it would go into effect by July 1, 2005. If standards are available for the Medicaid Modernization Act on September 1, 2005 the Board may have to change what was just put into law. She indicated the Board should take this information into consideration in determining whether to move forward with the draft legislation.



The committee would like to proceed tentatively with this language and would make any necessary changes during the November 2004 meeting. The vote would sanction the committee to make changes.

The Board briefly discussed submission of draft legislation and the deadline for submitting bills for pre-filing for the 2005 legislative year. Ms. Dantzler noted the deadline for pre-filed bills is November 1, 2004, however the 2005 legislative session is the first year of a two-year cycle.

The committee is recommending changes to the non-resident wholesale/distributor and/or manufacturer application. Since the motion came from a committee no second was needed. A brief discussion ensued regarding application questions. The motion carried with a unanimous vote.

- Recovering Professional Program Committee – Leo Richardson, PhD.

Dr. Richardson stated this committee met on September 17, 2004 at which time he received the quarterly report. He went on to say there are currently 810 participants in the RPP program, of which 16 are dentists, 147 are medical, 517 are nurses, 92 are pharmacists, 3 are podiatrists, two from veterinary medicine, and one from another board. He noted RPP is establishing support groups for those who are having problems and they are attempting to establish the support groups within a 50-mile radius. He continued by saying support groups have been established in Columbia, Charleston, Lancaster/Rock Hill, Greenville/Spartanburg, and Florence. He said new groups are being established in the Beaufort, Myrtle Beach and Anderson areas. He also stated RPP is attempting to establish a support group in the lower part of the state. He indicated things are going well with the program.

- Compounding Task Force – Davis Hook, R.Ph.

Mr. Hook stated this committee met jointly with the Nuclear Pharmacy Committee regarding USP's Chapter 797. The committee is suggesting the Board continue to use the USP Chapter 797 as a guideline. He noted that Ms. Bundrick and Ms. Cobb have been working with Ms. Baker of the Pharmacy Association to present a program on December 12, 2004.

The committee made a motion the Board accept the following language:

*Because of the importance of this issue and the concerns for the safety of the citizens of South Carolina, the Compounding Task Force asks LLR for adequate resources for the Board support system to effectively monitor compliance of pharmacists with sterile compounding to include efforts in education, awareness of the issue, and training, salary and enforcement resources for the staff. The Task Force is asking the Board, in conjunction with the staff, to evaluate the figures associated with the needs of achieving this measure.*

*The Task Force further asks that the professional pharmacy associations work together legislatively to support this issue and provide assistance with this goal.*

Since the motion came from committee no second was needed. The motion carried unanimously.

Mr. Hook stated the committee also discussed the inspection report and asked Mr. Rose to discuss this document in his report.

Ms. Bundrick stated the committee had asked the participants of the compounding task force and the nuclear pharmacy committee to return comments regarding the inspection report to staff

no later than September 17, 2004 to present to the Board; however, no information has been received as of today.

Ms. Bundrick stated the committee would like to send a letter to USP and to NHIA regarding the Board's concerns with Chapter 797. (These concerns are herewith attached in a letter to Claudia Okeke, U.S. Pharmacopeia (USP) and hereby becomes a permanent part of the record retained at the Board's office.)

She further stated she needs the Board's approval to send this letter. Since the motion came from committee no second was needed. The motion carried unanimously.

- Nuclear Pharmacy Committee – Dock H. Rose, R.Ph.

Mr. Rose stated the nuclear pharmacists are concerned with the clean room provision of Chapter 797 and having to have positive pressure room, which they feel would not be necessary if they weren't using the material. He further stated the nuclear pharmacists feel this would not be a good situation to put material in, even though most of them are using the horizontal flow hood. He indicated that the nuclear pharmacists must use a shield. Mr. Bradham stated all personnel that wear badges are periodically measured. He further stated one of their main concerns was that South Carolina did not make them come under this. He believes USP may give them but they are not appropriate. Mr. Hook noted that item 14 contained in the letter to Ms. Okeke doesn't really address the matter. Mr. Bradham stated item 14 would take care of the matter

Mr. Rose stated nuclear pharmacies that do compounding must also complete the compounding report.

- Pharmacy Technician Committee – Davis Hook, R.Ph. and David Banks, R.Ph.

Mr. Banks stated the Technician Committee is making the following proposal:

*Extended Policy for State-Certification of Pharmacy Technicians*

The Board of Pharmacy has reviewed the situation surrounding the state-certification of pharmacy technicians who were not completely qualified by the end of the application period on June 30, 2004. At their September 2004 Board meeting, the Board established the following policy regarding a one-time extension for state-certification under the transition rules. This is a temporary policy and upon expiration of this event, statutory requirements will be the sole criteria for becoming state-certified.

*Until December 31, 2004, The Board will accept applications and the supporting documentation for pharmacy technician state-certification from those individuals who have not submitted the required information. Those individuals who passed the PTCB exam on July 21, 2004 and those who complete and pass the exam offered in November 2004 may file these applications. Applicants may submit all hours of practical experience obtained on or before December 31, 2004. Those individuals who pass the November 2004 PTCB exam will not receive state-certification until the Board office is notified of the examination results. The three documents required with the application will be as follows:*

- 1) Affidavit of completion of 1500 hours of supervised practice under the supervision of a registered pharmacist.*
- 2) Copy of PTCB certificate, or where appropriate, notice of approval to test in November 2004.*
- 3) Any required documentations for certification/registration not yet submitted.*

Individuals with questions should contact the Board of Pharmacy office, (803) 896-4700.

Since the motion came from committee no second was needed. Mr. Rose seconded the amended motion. The motion carried. Mr. Lewis opposed the motion.

The committee is also proposing:

*Those individuals who obtain their initial pharmacy technician registration after February 1 of each year shall be exempt from obtaining the necessary CE Credits for their first renewal.*

*This does not include those individuals who have reinstated a lapsed pharmacy technician registration.*

Since the motion came from committee no second was needed. The motion carried unanimously.

The committee then discussed lapsed registrations and is making the following recommendation:

*Individuals who are reinstating a lapsed pharmacy technician registration must submit 10 hours of CE, four of which must be live, with their reinstatement application.*

Since the motion came from committee no second was needed. The motion carried unanimously.

The committee discussed the number of individual enrolled in the technician program and is encouraging recruitment.

The committee discussed reciprocity guidelines feels that the statute clarifies what is needed. Ms. Bundrick suggested she and Mr. Bradham review this information to bring before the Board.

The Committee discussed the possibility of including pharmacy technicians in the RPP program. It was noted that all technicians would have to be included in the program, not just certified technicians. However, there is not currently a significant interest among the pharmacy technicians with the Academy of Pharmacy Technicians to pursue at this time.

The committee is recommending a \$10 late fee be implemented effective June 1. Additional fees and/or sanctions shall be included after the expiration of the license. Since the motion came from committee no second was needed. The motion carried unanimously.

- Legislative Committee – Davis Hook, R.Ph.

Mr. Hook stated the Board has already discussed several of the legislative issues. He went on to say the transfer law is on the Governor's desk waiting his signature. He further stated if the bill is vetoed, the Board must resubmit the bill; however, if he does not sign the bill it would become law on or around January 12, 2004. He briefed the Board on the language drafted for electronic prescribing, central fill, sterile compounding, and intern requirements. He went on to say language for continuing education is currently being drafted.

- Medication Errors – Al Toole, R.Ph.

Mr. Toole had no report.

- Pharmacy Benefit Management (PBM) – Marvin Hyatt, R.Ph.

Mr. Hyatt had no report.

Mr. Bracewell stated a seminar regarding pharmacy benefit management would be conducted in November 2004 with key legislative individuals. He indicated the association plans to submit legislation on this matter in January 2005. He further stated the legislation would probably be modeled after the South Dakota law.

- NABP/AACP District III Planning Committee – To be Held August 2007

Ms. Bundrick stated she learned shortly after the District III committee meeting in Biloxi, Mississippi that South Carolina would host the District III meeting in August 2007. It is her understanding that the 2006 conference would be held in Puerto Rico. She noted that Mr. Peter Edwards had obtained a video from the Charleston Visitors Center. She would like to form the committee and begin looking at dates and accommodations. Mr. Bradham has been appointed to the committee.

- Detention Center Committee – Bobby Bradham, R.Ph.

Ms. Young met on several occasions with the jail administrators. She and Ms. Bundrick conducted a seminar during which 41 detention centers attended. She further stated that with the Board's new guidelines several of the detention centers have chosen to only have patient specific medications, so that they would not have to be permitted by the Board or the Department of Health and Environmental Control (DHEC). She noted that would eliminate approximately eight of the centers. She said that she currently has 32 of the 43 detention centers permitted by the Board of Pharmacy.

Ms. Bundrick stated she and Ms. Young have been asked to make an educational presentation to the non-licensed health care professionals during the annual conference in March 2005 or June 2005.

## **8. Discussion Topics**

### ***J. Technicians' Mandatory 4 Hours of Live CE – Al Toole, R.Ph. and David Banks, R.Ph.***

Mr. Toole stated he feels that those pharmacists in rural areas would like to complete continuing education by Internet.

Mr. Banks stated this topic was discussed in the technician committee, however, there is not a lot the Board could do with the current statute.

Ms. Bundrick stated she had recommended the committee wait approximately one year before making any changes to continuing education.

Discussion on this topic ensued.

### ***K. IRC Recommendation, Non-Resident Permit Requirements – Lee Ann F. Bundrick, R.Ph.***

Ms. Bundrick stated she had mentioned this topic earlier. She further stated the Technology Committee had discussed whether or not the PIC at a non-resident pharmacy needed to be licensed in South Carolina. She went on to say the committee's conclusion was the statute needed to be reviewed and not single out central fill. She noted that Mr. "C" Turner, the IRC Chairman, is recommending that the PIC of non-resident permits be licensed. She indicated this would include mail order, Internet, and central fill, if the legislation is passed. She went on

to say if the Board approves this recommendation, the legislative committee would have to submit draft language. The IRC's proposal is:

*The Investigative Review Committee recommends a revision to the South Carolina Pharmacy Practice Act requiring applicants for non-resident pharmacy permits that the pharmacist in charge of the facility obtain a South Carolina Pharmacist license.*

Since the motion came from committee, no second was needed. The motion carried unanimously.

#### **Public Comments**

There were no public comments made during this meeting.

#### **Recess**

The Board recessed the meeting at 4:02 p.m.

# South Carolina Board of Pharmacy

## Board Meeting

08:30 a.m., September 23, 2004

Synergy Business Park

110 Centerview Drive, Kingstree Building, Room 108

Columbia, South Carolina

## MINUTES

**Thursday, September 23, 2004**

Bobby Bradham, R.Ph., Chairman, of Charleston, called the regular meeting of the Board of Pharmacy to order at 8:36 a.m. Other members present included: Terry Lewis, R.Ph, Vice Chairman, of Darlington; David Banks, R.Ph., of Simpsonville; Davis Hook, R.Ph., of West Columbia; Marvin Hyatt, R.Ph., of Rock Hill; Dock Henry Rose, R.Ph., of Greer and Allen Toole, R.Ph., of Liberty.

Dr. Leo Richardson, of Columbia, was granted an excused absence.

Staff members participating during the meeting included: Lee Ann Bundrick, R.Ph., Administrator; Natalie Cobb, Administrative Assistant; Marilyn Crouch, Program Assistant; Eddie Durant, R.Ph., Temporary Investigator; Tom Porter, R.Ph, Inspector; Ray Trotter, R.Ph Temporary Investigator and Sheila Young, R.Ph., Compliance Manager. LLR employees participating during the meeting included: Sharon Dantzler, Deputy General Counsel; LLR-Office of General Counsel; and Sandra Dickert, Administrative Assistant.

Members of the public attending the meeting included: Chad Dancy, Jami Hinson, Thomas Phillips, and Eric Ridings.

### Meeting Called To Order

Mr. Bradham announced that this meeting was being held in accordance with Section 30-4-80 of the S. C. Freedom of Information Act by notice mailed to The State Newspaper, Associated Press, WIS-TV and all other requesting persons, organizations, or news media. In addition, notice was posted on the bulletin boards at the two main entrances of the Kingstree Building.

### Pledge of Allegiance

All present recited the Pledge of Allegiance.

### Invocation

Mr. Banks delivered the invocation.

### Chairman's Remarks – Bobby Bradham, R.Ph.

Mr. Bradham made no remarks at this time.

### Signing of Licenses

Mr. Bradham stated the Board would sign licenses later in the day.

## 9. Old Business

### *L. Review and Approve Board Policies and Procedures*

Ms. Bundrick presented the members with staff's changes to Policies and Procedures. The Board reviewed the Policies and Procedures. Mr. Lewis suggested the policies and procedures that indicate, "he" read "he or she".

Policy #051

**MOTION**

Mr. Lewis moved Policy #051 be amended to state:

*Upon receipt of written reason(s), the Chairman of the Board will decide whether to deny the request or refer to the full Board for consideration.*

Mr. Hyatt seconded the motion, which carried unanimously.

Policy #060

Staff reviewed Policy #060 and included the current policy and the proposed language for this policy for the Board's review.

**MOTION**

Mr. Bradham moved the word 'approved' be changed to 'considered' in the last sentence of the proposed language. Policy #060 now reads:

*Applicants who are seeking initial pharmacist licensure in South Carolina have one year from the date of passing both examinations (NABPLEX & MPJE) to complete the practical experience requirement. If an applicant does not complete the practical experience requirement within that year they must provide a written explanation to the Board to be reviewed and considered at the next Board meeting.*

Mr. Banks seconded the motion, which carried unanimously.

Policy #066

A discussion ensued on whether or not Policy #066 should be deleted. Ms. Bundrick and Mr. Bradham felt the policy should remain until legislation has passed regarding electronic signatures. Mr. Bradham stated the language regarding electronic signatures would supersede this policy.

It was noted during the discussion that the second sentence of the first paragraph should read:

*The pharmacist must use his or her professional judgment in accepting and may refuse or check with the practitioner if any doubt exists regarding the prescription's validity.*

Policy #073

Staff reviewed policy #073 and is offering, for the Board's review, the following change to the last sentence:

*Any deviations or special requests will still be ~~approved~~ considered by the Board on a case by case basis.*

Mr. Bradham moved the Board accept staff's recommendation that 'approved' be changed to 'considered'. Mr. Rose seconded the motion, which carried. Unanimously.

Policy #076

**MOTION**

Mr. Lewis made a motion, seconded by Mr. Hyatt and unanimously carried, that the Board delete policy #076.

Policy #092

Policy #092 states, "A practitioner not licensed in South Carolina cannot legally write a prescription within South Carolina."

Discussion on the policy ensued.

**MOTION**

A motion was made by Mr. Lewis that the Board delete #092 and refer to professional judgment. Mr. Hyatt seconded the motion. Mr. Toole seconded the motion. The motion carried unanimously.

Policy #116

Staff is recommending Policy #116 be rewritten to indicate excluded technicians from the requirement to register with the Board since statute requires all technicians be registered. Staff is suggesting the Board strike language after Section 40-43-82(A).

**MOTION**

Mr. Hyatt moved to strike the language following Section 40-43-82(A) and approve language suggested by staff. Mr. Rose seconded the motion, which carried unanimously.

Policy #116 now reads:

*Students from Board recognized Pharmacy Technician Programs actively participating in a clinical pharmacy rotation are exempt from §40-43-86(B)(4)(b).*

**Recess**

The Board recessed at 9:45 a.m. to conduct one reciprocity interview.

**Return to Public Session**

The Board returned to public session at 10:19 a.m. and resumed discussion of the Policies and Procedures.

Policy #122

**MOTION**

Mr. Rose made a motion, seconded by Mr. Banks and carried, to change the vote from 'unanimous' to 'majority'.

Policy #123

Mr. Bradham noted a grammatical correction to policy #123 (1). He indicated the phrase on line three should read 'practice of pharmacy' instead of 'practice to pharmacy.'

Policy #126

Staff is recommending the Board delete #126 since it is addressed in statute.

**MOTION**

Mr. Hyatt seconded the motion, which carried unanimously.

Policy #136

**MOTION**

Mr. Banks made a motion, seconded by Mr. Hyatt and unanimously carried, the Board changes the renewal date of June 30 to July 1. The motion was seconded by Mr. Rose and carried unanimously.



Policy #139

Staff reviewed policy #139 and is making the following revision:

*Pursuant to Section 40-43-110(D) pharmacist licenses not renewed by May 1 are considered lapsed. Reinstatement of a lapsed license must be granted upon evidence satisfactory to the Board that all requirements have been met. The reinstated license may be subject to disciplinary action for failure to renew the license within the prescribed period, and where appropriate, practice during the period that the license has lapsed.*

The rest of Policy #139 remains the same.

**MOTION**

Mr. Lewis moved the Board accept the proposed change. Mr. Hook seconded the motion, which carried unanimously.

Policy #141

Mr. Bradham noted one grammatical change to policy #141. He indicated 'maintains' in item (1) should read 'maintain'.

**M. MUSC MOA for Information and Signing**

The Board received, as information, the MUSC MOA. Mr. Bradham noted the MOA was approved during the June 2004 meeting.

**10. Compliance and Inspectors Report - Sheila Young, R.Ph.**

*IRC Recommendations for dismissals and dismissals with non-disciplinary letters of concern. Review of proposed Consent Orders and Stipulations and Petitions from the Investigative Review Committee, (IRC)*

Ms. Young briefed the Board on the activities of the compliance department since the June 2004 Board meeting.

Ms. Bundrick introduced Mr. Ken Woodington, Esq., who will be assisting the Board during Mr. Pat Hanks' absence.

**Dismissals**

The IRC is recommending the following cases to the Board for dismissals.

2004-0008	2003-0034
2004-0040	2003-0089
2004-0053	2004-007

**MOTION**

Mr. Hook moved the Board accept the IRC's recommendation regarding the dismissals on cases. Mr. Banks seconded the motion, which carried unanimously.

**Dismissals with Non-Disciplinary Letters of Concern**

The IRC is recommending the following cases for dismissal with non-disciplinary letters of concern.

2003-0129	2004-0080	2004-0048
2004-0049	2004-0046	2004-0062

**MOTION**

A motion was made by Mr. Banks to accept the IRC's recommendation on the dismissals with non-disciplinary letters of concern. Mr. Hyatt seconded the motion. The motion carried unanimously.

- Consent Orders  
Case #: 2003-0108

**MOTION**

Mr. Lewis made a motion, seconded by Mr. Hook and unanimously carried, to accept the IRC's recommendation regarding the consent order on case #2003-0108.

Case #: 2003-0123

**MOTION**

Mr. Hyatt moved the Board accept the IRC's recommendation on case #2003-0123. Mr. Rose seconded the motion, which carried unanimously.

Case #: 2003-0125

**MOTION**

Mr. Hook moved to accept the IRC's recommendation regarding case #2003-0125. The motion was seconded by Mr. Banks and carried.

Case #: 2004-0041

**MOTION**

Mr. Hook moved the Board accept the IRC's recommendation. Mr. Hyatt seconded the motion, which carried unanimously.

Case #: 2004-0059

**MOTION**

A motion was made by Mr. Hyatt to accept the IRC's recommendation. Mr. Lewis seconded the motion, which carried unanimously.

Case #: 2004-0063

**MOTION**

Mr. Hyatt made motion, seconded by Mr. Hook and unanimously carried, the Board accept the IRC's recommendation.

Case #: 2004-0067

**MOTION**

Mr. Banks moved the Board accept the IRC's recommendation. The motion was seconded by Mr. Hook and unanimously carried.

Case #: 2004-0071

**MOTION**

Mr. Hyatt moved the Board accept the IRC's recommendation. Mr. Rose seconded the motion, which carried unanimously.

Case #: 2004-0076

**MOTION**

Mr. Hook moved the Board accept the IRC's recommendation. Mr. Hyatt seconded the motion, which carried unanimously.

Case #: 2004-0082

**MOTION**

A motion was made by Mr. Banks that the Board accept the IRC's recommendation. Mr. Hook seconded the motion. The motion carried unanimously.

- Voluntary Surrender  
Case #: 2004-0078  
Case #: 2004-0083  
Case #: 2004-0103

**MOTION**

Mr. Hook made a motion seconded by Mr. Banks and unanimously carried, that the Board accept the IRC's recommendation.

- Formal Complaints  
Case #: 2004-0030  
Case #: 2004-0041  
Case #: 2004-0071  
Case #: 2004-0071  
Case #: 2004-0076  
Case #: 2004-0083/2004-4 PHB  
Case #: 2004-0087  
Case #: 2004-0104

**MOTION**

Mr. Hyatt moved the Board accept the IRC's recommendation. Mr. Lewis seconded the motion, which carried unanimously.

- Private Agreement

Mr. Bradham recused himself from participating in this matter. He turned the meeting over to Mr. Lewis at this time.

**MOTION**

Mr. Hyatt moved to accept the IRC's recommendation regarding the private agreement. Mr. Rose seconded the motion, which carried unanimously.

Mr. Bradham resumed chairmanship at this time.

**Executive Session**

**MOTION**

Mr. Banks moved the Board enter executive session. Mr. Hook seconded the motion, which carried unanimously.

**LUNCH**

The Board recessed for lunch at 12:30 p.m. and resumed public session at 2:00 p.m.

Mr. Bradham noted for the record that no motions were made and no votes were taken during executive session.

**11. *In the matter of Ashley Paige Stowers, PhT***

This matter was recorded by a certified court reporter should a verbatim transcript be needed for the record.

Mr. Banks recused himself from voting in this matter.

**MOTION**

Mr. Hook moved the Board revoke Ms. Stowers' registration permanently. The motion was seconded by Mr. Hyatt and unanimously carried.

**12. *In the matter of Pamela B Seeby Kelley, PhT***

**MOTION**

Mr. Banks made a motion, seconded by Mr. Hyatt and unanimously carried, that the Board revoke Ms. Kelley's registration permanently.

**Adjournment**

The September 23, 2004 meeting of the SC Board of Pharmacy adjourned at 2:26 p.m.