

MINUTES

South Carolina Board of Pharmacy
Board Meeting

8:30 a.m., January 19-20, 2005

Synergy Business Park

110 Centerview Drive, Kingstree Building, Room 111

Columbia, South Carolina

Wednesday, January 19, 2005

Bobby Bradham, R.Ph., chairman, of Charleston, called the regular meeting to order at 8:40 a.m. Other board members participating in the meeting included: David Banks, R. Ph., of Simpsonville; Davis Hook, R.Ph., of West Columbia; Marvin Hyatt, R.Ph. of Rock Hill; Leo Richardson, Ph.D, of Columbia; Dock Henry Rose, R.Ph., of Greer; and Allen Toole, R.Ph., of Liberty.

Terry Lewis, R.Ph., vice chairman, of Darlington, was granted an excused absence.

Staff members participating during the meeting: included: Lee Ann Bundrick, R.Ph., Administrator; Marilyn Crouch, Program Assistant; Sandra Dickert, Administrative 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, Inspector. LLR employee participating during the meeting included: Sharon Dantzler, Deputy General Counsel, Office of General Counsel.

Members of the public attending the meeting included: Jim Bracewell, Andrae Bright, Pam Cain, Kenneth Dandurand, Kim Farrell, Kevin Floyd, Jeff Hambright, Joe Mullinax, Scott Padgett, Neha Patel, Thomas Phillips and Debbie Tapley.

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. Rose delivered the invocation.

Chairman's Remarks - J. Robert Bradham, R.Ph.

Mr. Bradham made no remarks at this time.

Introduction of Board Members and all other persons attending
The board members, staff and members of the public attending the meeting introduced themselves.

1. Approval of Minutes for the November 17, 2004 Meeting

MOTION

Mr. Hyatt moved the Board accept the minutes. Mr. Banks seconded the motion. Mr. Bradham noted one change to page eight. He stated that Mr. Lewis had referred to the Medicare Modernization Act, instead of the Medicaid Modernization Act. The motion was amended to accept the minutes with the noted change.

2. Approval of Reciprocity Interview Candidates for Licensure:

Dates: November 9, 2004, November 10, 2004, November 13, 2004, November 16, 2004, November 22, 2004, December 1, 2004, December 3, 2004, December 16, 2004, December 20, 2004, December 22, 2004, January 6, 2005, January 7, 2005, January 10, 2005, January 11, 2005

MOTION

Mr. Hook moved the Board accept the reciprocity candidates as listed. The motion was seconded by Mr. Banks and carried unanimously.

Mr. Bradham stated most of the reciprocity candidates have accepted the opportunity of completing the interview process in the district in which they would be working. He further stated the members may wish to consider setting aside the extra dates and use only the Board meetings as extra reciprocity opportunities. He indicated the board would discuss this matter later.

Recess

The Board recessed at 8:45 a.m. and reconvened in public session at 10:00 a.m.

Return to Public Session

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

Ms. Bundrick briefed the board members on staff's activities since the last board meeting. During her report, she presented the members with the Statement of Economic Interest, which must be completed and returned to the South Carolina Ethics Commission no later than April 15, 2005.

4. Compliance and Inspectors Report, Sheila Young, R.Ph.

Investigative Review Committee (IRC) Recommendations for dismissals and dismissals with non-disciplinary letters of concern. Review of proposed Temporary Suspension Voluntary Surrender, and Relinquishment and Formal Complaint from the IRC:

Ms. Young briefed the board on the compliance department's activities since the last meeting.

Temporary Suspension

- Case #: 2004-0039

Ms. Dantzler briefed the board on this matter and indicated the case required no action by the board and was being presented as information.

Voluntary Surrender

- Case #: 2004-0046

Ms. Dantzler briefed the board on this case. She indicated the voluntary surrender was presented to the board as information and that no action was required.

Relinquishment of Pharmacy Technician Registration

- Case #: 2004-0043

Ms. Dantzler briefed the board on this case.

MOTION

Mr. Hook made a motion, seconded by Mr. Rose and unanimously carried, that the board accept the agreement to relinquish registration to practice as a pharmacy technician.

Formal Complaints

- Case #: 2004-0011
- Case #: 2004-0025
- Case #: PHB 2004-0001
- Case #: 2004-0030
- Case #: 2004-0031
- Case #: 2004-0042
- Case #: 2004-0078
- Case #: 2004-0108
- Case #: 2004-0109
- Case #: 2004-0110
- Case #: 2004-0113
- Case #: 2004-0114
- Case #: 2004-0115
- Case #: 2004-0116

Ms. Dantzler stated the IRC was recommending the above 14 cases for formal complaints. She further stated the board would be required to take action on these cases at a later date.

MOTION

Mr. Hyatt moved the Board accept the IRCs recommendation regarding the formal complaints. Mr. Banks seconded the motion, which carried unanimously.

Dismissals

Ms. Dantzler stated the IRC was recommending the following cases for dismissal:

2004-0034 2003-0089 2003-0143 2004-0117
2004-0027 2004-0035 2004-0044 2003-0095
2004-0011 2004-0029 2004-0024 2004-0025B
2004-0003

MOTION

Mr. Hook moved the Board accept the IRCs recommendation regarding the dismissals. The motion was seconded by Mr. Rose and unanimously carried.

Dismissals with a Letter of Concern

Ms. Dantzler stated the IRC was recommending the following cases for dismissal with a letter of concern:

2004-0118 2004-0119 2004-0120 2004-0026 2004-0121
2004-0048 2004-0001 2004-0022 2004-0041 2004-0122

MOTION

Mr. Hook made a motion, seconded by Mr. Rose, that the board accept the IRCs recommendation regarding the dismissals with letters of concern. After a brief discussion, the motion carried unanimously. It was noted during the discussion that IRCs recommendation to staff that the language in the letter of concern be changed to reflect that such a letter would be placed in the registrant's file.

A. Request for Approval of Pharmacist Examination Application - Neha Patel

Neha Patel overlooked the requirement of submitting a Notification of Employment form for 2004. She is now submitting a Notification of Employment form for the period of January 1, 2004 through June 24, 2004 for the board's approval and is asking the board to accept the form at this time. She has met all other requirements for licensure within South Carolina and is now employed at the CVS Pharmacy where she served her internship.

Neha Patel appeared before the board at this time and answered questions from the members. She indicated she was unaware that she was required to submit a Notification of Employment form every year if she was employed with the same facility.

The board took Ms. Patel's testimony under advisement and informed Ms. Patel it would make a determination later in the meeting.

B. Request for Approval of Pharmacy Technician Application - Andrae Lashon Bright

Andrae Lashon Bright has submitted, for the board's approval, an application for a pharmacy technician license, however, he is appearing before the board as he has been court-martialed for two specifications of making a false official statement, one specification of assault with intent to commit rape, one specification of sodomy, two specifications of indecent acts and one specification of communicating a threat for an incident approximately four years and eight months ago. He has submitted, for the

board's review, written testimony and letters of recommendations and of his character to disprove the charges. His case is pending in the Court of Appeals.

Andrae Lashon Bright appeared before the board at this time and answered questions from the members. Mr. Bright presented an additional character witness letter from C. Stewart Darby, Ph.D., MPAS, PAC, of the Eau Claire Cooperative Health Centers, Inc. and a stipulation of expected testimony from Dr. Suzanne Kother-Groh. Mr. Bright is currently attending pharmacy technician classes at Midlands Technical College and has been holding steady employment since this incident. He is also on the waiting list to enroll in the radiology program with Midlands Technical College. He joined the military when he was 19 years old and had been in the Army for approximately two years prior to the alleged incident.

Gary Washington appeared before the board as a character witness for Mr. Bright.

The board took Mr. Bright's testimony under advisement and informed Mr. Bright it would make a determination in this matter later in the meeting.

C. Request for Approval of Pharmacy Technician Application - Jeffrey Knox Hambright
Jeffrey Knox Hambright has submitted, for the board's approval, an application for a pharmacy technician license. Mr. Hambright was arrested on March 15, 2003 for driving under the influence of alcohol. The case recently went to trial and he was convicted of driving under the influence, first offense on November 16, 2004. He indicated in his statement that it is not a felony conviction.

Jeffrey Knox Hambright appeared before the board at this time and answered questions from the members. He graduated from high school in 1987 and was injured in an automobile accident in 1995. He has been in the construction/maintenance profession, however, he was granted disability in 2002 due to cerebral palsy. He was accepted into the technician program in August 2004. The 1995 automobile accident was not alcohol related. The 2003 DUI arrest was his first DUI offense. He is currently enrolled in an ADSAP program, which is an eight-week course that meets for two hours one night per week. He presented a letter from Dr. Gail R. Jones, an instructor with Spartanburg Technical College.

The board determined it would take Mr. Hambright's testimony under advisement and would make a determination before the meeting ended.

5. New Business

D. NABP's 101st Annual Meeting, May 21-25, 2005 in New Orleans, LA - Select Delegate and Alternate Delegate

NABP will be holding its 101st annual meeting in New Orleans, Louisiana, May 21-25, 2005.

Mr. Bradham stated he would be attending the meeting and asked the other members

who would like to attend this meeting. Mr. Banks, Mr. Hooks, Mr. Rose and Dr. Richardson expressed an interest in attending this meeting.

MOTION

Mr. Hook nominated Mr. Bradham to serve as the Board's delegate. Mr. Banks seconded the motion, which carried unanimously.

MOTION

Mr. Hook nominated Mr. Banks serve as the alternate delegate. The motion was seconded by Mr. Rose and unanimously carried.

Recess

The Board took a ten-minute recess at 11:10 a.m. and returned to public session at 11:20 a.m.

Return to Public Session

E. Proposal for Tele-pharmacy for After Hours Pharmacy -

MedNovations, Kenneth Dandurand. R.Ph., MS

MedNovations is requesting the board's approval to register as a non-resident pharmacy. The company is proposing nonresident telepharmacy practice via a licensed telepharmacy in Maryland for South Carolina hospitals that do not cover 24 hours per day. Client hospitals would send medication orders through a secure facsimile line or scanning technology to a MedNovations pharmacist. The pharmacist would then log on to the hospital's information system via virtual private network (VPN). After review, orders are electronically entered by a MedNovations pharmacist in Maryland and sent to the South Carolina hospital.

Kenneth Dandurand, R.Ph., president and co-founder of MedNovations, appeared before the board at this time and made a presentation to the board on this proposal.

The Board took the presentation as information and informed Mr. Dandurand it would consider this request and make a determination later in the meeting.

F. Reciprocity Guidelines for Florida and California

The members were presented with a survey from California in their agendas. Ms. Bundrick presented the members with information regarding internship hours regarding Uyen Pham and Ronica Sojourner. Ms. Bundrick stated the Florida Board of Pharmacy no longer maintains internship hours.

Discussion of Florida intern hours ensued. Ms. Dantzler noted that in some states the students would have to provide the board with a different form of proof since they would not be able to provide a board certified report of those hours. The board reviewed Policy #073, which deals with intern hours.

MOTION

Mr. Banks moved the Board reciprocate with the State of Florida and the State of California as the Board does with other states. Mr. Hyatt seconded the motion, which carried unanimously.

G. Renewals for Non-Resident Pharmacies and Wholesale Distributors for ReLaes computer system

Ms. Bundrick stated when staff goes to the new computer system (RELAES), pharmacists, pharmacies technicians and other entities would be able to renew licenses on-line. However, the non-resident pharmacies and wholesale distributors are required to submit certified copies of information from the state in which they are licensed. She indicated staff would prefer these entities not renew on-line since certified documents are required.

The board determined these two type of entities would not be allowed to renew on-line, however, as technology develops the board could always reevaluate this determination.

LUNCH

The board recessed for lunch at 12:17 p.m. and reconvened in public session at 2:02 p.m.

Return to Public Session

6. Committee Reports

- Immunization Task Force - Marvin Hyatt, R.Ph. and Dock H. Rose, R.Ph.

This committee had no report, however, Mr. Hyatt stated the committee would continue to work with the SC Pharmacy Association.

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

Mr. Lewis was not present to speak on behalf of the committee. Ms. Bundrick stated this committee had not met since the last board meeting, however, she hopes the committee would meet in February 2005.

- Recovering Professional Program Committee - Leo Richardson, Ph.D.

Ms. Crouch stated she attended the November 19, 2004 RPP meeting, however, not much information was divulged.

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

Mr. Hook stated the committee met on January 7, 2005. He further stated the committee discussed national and state issues, which may affect pharmacists. He also stated that the committee has indicated that compounding pharmacies should not compound commercial products. He noted that the compounding program presented in December 2004 by the Association was outstanding. He indicated that some pharmacies were concerned that proposed legislation would be so restrictive it would put some businesses, including smaller hospitals, out of business. The committee reassured those concerned that since Chapter 797 was still a work in progress and the board has no intent to adhere to every aspect. He noted that the committee reviewed a draft of the sterile compounding inspection form and that the committee has been sent a revised draft for comments due by February 1, 2005 for presentation to the board at its March 16, 2005

meeting.

The committee made the following motion:

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. Mr. Banks asked that the board defer action on this motion to a later time.

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

Mr. Rose stated the committee has not met since the last meeting. He further stated the committee is waiting to hear what exemptions USP Chapter 797 would grant to nuclear pharmacies.

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

Mr. Banks stated the committee has not met, however, it would be meeting in February 2005.

- Legislative Committee -Davis Hook, R.Ph.

Mr. Hook briefed the board on the changes to the proposed legislation regarding electronic prescriptions. The committee moved the board approve the changes to the proposed legislation regarding electronic legislation. (The proposed legislation, with changes, is herewith attached and becomes a permanent part of the record retained at the board's office.)

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

Mr. Hook briefed the board on the proposed changes the committee is recommending the board approve with regard to the changes in the proposed legislation regarding intern hours. (The proposed legislation with the changes is herewith attached and becomes a permanent part of this record retained at the board's office.)

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

Mr. Hook briefed the board on the proposed changes the committee is recommending to the proposed legislation regarding pharmacists administering immunizations. Since these changes clarified wording, no action was needed on the changes to this proposed legislation. (The proposed legislation with the changes is herewith attached and becomes a permanent part of this record retained at the board's office.)

· Medication Errors Committee - Al Toole, R.Ph.

This committee had no report.

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

Mr. Hyatt stated Mr. Bracewell and the SC Pharmacy Association is handling this matter.

· NABP/AACP District III Planning Committee

Ms. Bundrick stated Mr. Peter Edwards and Mr. Bracewell have agreed to serve on the committee. Mr. Bradham asked that Mr. Hyatt serve on this committee. Ms. Bundrick stated she does not know if the committee would meet prior to the March 2005 board meeting, however, it would meet prior to the June 2005 board meeting.

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

Mr. Bradham stated there is one additional facility to inspect and permit. Ms. Young stated the committee would be developing a program for detention center personnel who deal with medication. She further stated the committee had offered assistance in educating personnel on how to administer medications or assist the inmates with taking medication. Discussion ensued on the detention centers and the free medical clinics.

Ms. Dantzer introduced the members to Mr. Marvin Frierson, who will be one of the board's litigating attorneys.

Executive Session

MOTION

Mr. Banks moved the board enter executive session. Mr. Rose seconded the motion, which carried unanimously.

Return to Public Session

Mr. Bradham noted for the record that no motions were made or offered while the board was in executive session.

Neha Patel

MOTION

Mr. Hyatt moved the Board accept Ms. Patel's request with a letter of concern. Mr. Banks seconded the motion, which carried unanimously.

Andrae Lashon Bright

MOTION

Mr. Hook moved the Board accept Mr. Bright's application for pharmacy technician, place him on one year probation conditional that at the first renewal of registration he submit, at his expense, a SLED report, to ensure the board that he has no other violations. The motion was seconded by Mr. Banks and unanimously carried.

Jeffrey Knox Hambright

MOTION

Mr. Rose made a motion, seconded by Mr. Banks and unanimously carried, that the Board conditionally approve Mr. Hambright's request pending receipt of a SLED inquiry at his expense and, if that report is clean other than the DUI the board grant his request; however, should the report not be clean, the application be denied and he must submit another SLED report, at his expense at the first renewal of registration.

Proposal for Tele-pharmacy for After Hours Pharmacy - MedNovations, Kenneth Dandurand, R.Ph., MS

MOTION

Mr. Toole moved the board approve this request with two requirements: that the Pharmacist In Charge be licensed in SC and that the application be for a non resident pharmacy permit. Mr. Rose seconded the motion, which carried unanimously.

7. Discussion Topics

Mr. Rose stated he had read an article in the last NABP newsletter regarding litigation involving a technician or a nurse and the panel was making the determination based on testimony from a physician. He went on to say the article indicated the testimony should be at the same professional level. He noted that in reality the pharmacist should not determine what is normal for a technician in practice due to other litigation involving disciplines in medicine in a similar situation.

Mr. Hook stated central fill is an issue that would not go away and the board would need to answer all questions in this matter. He went on to say the board would have to deal with this matter in the future.

Mr. Bradham stated that he had discussed with Mr. Lewis the possibility of the technology committee modifying the Texas legislation regarding central fill for South Carolina.

Ms. Bundrick stated the board has legislation regarding central fill. Ms. Young indicated there is confusion among the pharmacists regarding the central fill legislation.

Public Comments

There were no public comments made during the January 19, 2005 meeting.

Adjournment

The January 19, 2005 meeting adjourned at 3:45 p.m.

South Carolina Board of Pharmacy

MINUTES

Board meeting

8:30 a.m., January 19-20, 2005

Synergy Business Park

110 Centerview Drive, Kingstree Building, Room 108

Columbia, South Carolina

Thursday, January 20, 2005

Bobby Bradham, R.Ph., chairman, of Charleston, called the regular meeting to order at 9:00 a.m. Other board members participating in the meeting included: David Banks, R. Ph., of Simpsonville; Davis Hook, R.Ph., of West Columbia; Marvin Hyatt, R.Ph. of Rock Hill; Leo Richardson, Ph.D, of Columbia; Dock Henry Rose, R.Ph., of Greer; and Allen Toole, R.Ph., of Liberty.

Terry Lewis, R.Ph., vice chairman, of Darlington, was granted an excused absence.

Staff members participating during the meeting: included: Marilyn Crouch, Program Assistant; Sandra Dickert, Administrative 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, Inspector. LLR employees participating during the meeting included: Marcy Lamar, Advising Attorney, Ken Woodington, Litigating Attorney, LLR-Office of General Counsel.

Members of the public attending the meeting included: Jim Bracewell, Ray Burns, Karen Butterson, George Hausler, Mary Lynn Hausler, Stephanie Hendrix, Kaushik Kotecha, Janet Leveque, Linda Moore, Stephanie Payne, Frank Sheheen and Cynthia Wallace.

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. Hook delivered the invocation.

Chairman's Remarks - J. Robert Bradham, R.Ph.

Mr. Bradham made no remarks at this time.

HEARINGS

In the matter of, Stephanie Hendrix

This matter was recorded by a court reporter to provide a full transcript of the proceedings, should such a transcript be necessary.

MOTION

Dr. Richardson moved the board deny Ms. Hendrix the ability to continue as a technician and in order to regain registration as technician she must complete the 2005 certification requirements which includes attending a technical college technician program, successfully passing the PTCB exam again, she may then submit 1,000 of experience after which she may appeal to the board to be granted registration as a state certified technician. Mr. Hook seconded the motion, which carried unanimously.

In the matter of, Ray Burns, PharmD

This matter was recorded by a court reporter to provide a full transcript of the proceedings, should such a transcript be necessary.

MOTION

Mr. Banks moved the board require Mr. Burns complete 15 hours of continuing education more attuned to the practice of pharmacy in addition to the required 15 hours of continuing education to be submitted, of which two hours must be in pharmacy law, he be fined \$1,000, and that he be placed on probation for one year. The motion was seconded by Mr. Hyatt and unanimously carried.

In the matter of, George Leroy Hausler

This matter was recorded by a court reporter to provide a full transcript of the proceedings, should such a transcript be necessary.

Mr. Banks recused himself from participating in this matter.

MOTION

Mr. Hook made a motion, seconded by Mr. Hyatt and unanimously carried, that the license be reinstated, that he be placed in probationary status for five years, that he continue to be active in RPP during that five years, that he be issued a \$500 fine to be paid within one year, that he complete all of the statutory requirements for reinstatement, and that he not serve as PIC or permit holder during that time.

In the matter of, Vitalaire Healthcare and Stephanie Payne

This matter was recorded by a court reporter to provide a full transcript of the proceedings, should such a transcript be necessary.

MOTION

Mr. Hook made a motion that the board dismiss the fine and issue a letter of concern. The motion was seconded by Mr. Hyatt and carried with a majority vote. Mr. Toole voted nay.

In the matter of, Cynthia Dewitt Wallace

This matter was recorded by a court reporter to provide a full transcript of the proceedings, should such a transcript be necessary.

MOTION

Mr. Toole moved the board deny Ms. Wallace's application. Mr. Rose seconded the motion, which carried unanimously.

Adjournment

There being no further business to be discussed by the board at this time, Mr. Bradham declared the meeting adjourned at 1:20 p.m.