

South Carolina Board of Pharmacy

Board Meeting

9:00 a.m., September 16-17, 2009

Synergy Business Park

110 Centerview Drive, Kingtree Building

Columbia, South Carolina

MINUTES

Wednesday, September 16, 2009, Room 108

1. Meeting Called to Order

Allen Toole, R.Ph., chairman, of Liberty, called the regular meeting of the SC Board of Pharmacy to order at 9:05 a.m. Other Board members participating in the meeting included: Bobby Bradham, R.Ph., vice chairman, of Charleston; David Banks, R.Ph., of Simpsonville; Dan Bushardt, R.Ph., of Lake City; Addison Livingston, R.Ph., of Swansea; Hugh Mobley, R.Ph., of Lancaster, Leo Richardson, PhD., of Columbia; and Dock Henry Rose, R.Ph., of Greer.

Staff members participating during the meeting included: Lee Ann Bundrick, R.Ph., Administrator; Rosemary Boguski, R.Ph., Pharmacist Inspector; Marilyn Crouch, Program Assistant; Eddie Durant, R.Ph., Temporary Investigator; Larry Grant, R.Ph., Pharmacist Inspector; Joe Newton, R.Ph., Pharmacist Inspector; and Ernie Shuler, R.Ph., Pharmacist Inspector. LLR employees participating during the meeting included: Sharon Dantzler, Deputy General Counsel, Office of General Counsel; Sandra Dickert, Administrative Assistant; Pat Hanks, Attorney, Office of General Counsel; Dwight Hayes, Office of Licensure and Compliance; and Angela Scott, Administrative Assistant.

Members of the public attending the meeting included: Richard Bailey, Jessica Beasley, Paulette Bentley, Brittany Black, Carmelo Cinqueonce, Ivy Coleman, Sonja Davis, Clayton Jones, David Jones, Kay Knox, Loretta Lambert, Terry Lewis, Edna McCray, Chris McLaurin, Joe Mullinax, Christy Pettit, Thomas Phillips, Eric Ridings, Patrick Runey, Rick Schebert, Fred Schwartz, Frank Sheheen, Shandreika Smith, Whitney Sparks, Robert Spires, Erika Tillery, Nancy Thompson-Brown, Ed Vess, Roger Willms and Rick Wilson.

A. Public Notice

Mr. Toole announced that this meeting was being held in accordance with Section 30-4-80 of the SC Freedom of Information Act by notice sent 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 main entrances of the Kingtree Building.

B. Pledge of Allegiance

All present recited the Pledge of Allegiance.

C. Invocation

Mr. Bushardt delivered the invocation.

2. Chairman's Remarks – Allen Toole, R.Ph.

Mr. Toole made remarks.

3. Introduction of Board Members and all other persons attending

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

4. Approval of Minutes for the June 24-25, 2009 Meeting

Mr. Mobley and Mr. Rose noted corrections to the June 24-25, 2009 meeting minutes.

MOTION

Mr. Rose made a motion the Board approve the minutes as amended. Mr. Mobley seconded the motion, which carried unanimously.

5. Approval of Reciprocity Interview Candidates for Licensure

MOTION

Mr. Bradham made a motion the Board approve the reciprocity candidates for licensure as interviewed. Mr. Bushardt seconded the motion, which carried unanimously.

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

Mrs. Bundrick gave the following report:

Good Morning Mr. Chairman and members of the Board

- I am pleased to announce that the staff had an exhibit booth at the SC Pharmacy Association Annual Convention, June 26-28, 2009 in Myrtle Beach, SC. Our staff attended. I would also like to thank Mr. Carmelo Cinquaonchay and his staff at the association for working with us and making this possible.
- As of this report we have approximately 2,607 active state-certified pharmacy technicians and 4,178 active registered pharmacy technicians. We have 6,524 active licensed pharmacists, 3,497 permitted facilities and 3 Routing Companies.
- The Pharmacist Inspectors have conducted 280 inspections since the last Board Meeting:
 - ◊ Pharmacy Permit Inspections 146
 - ◊ Non-Dispensing Drug Outlet Permit Inspections 103
 - ◊ EMP Permit Inspections 5
 - ◊ Medical Gas/DME Permit Inspections 26
- Of the 280 inspections, 57 New Permits were issued.
- 3 Citations have been issued since the last Board Meeting
- 43 Reciprocity interviews have been conducted since the last Board Meeting. 32 of the 43 reciprocity interviews have been done by Board staff.
- Mr. Bryant would like to apologize for not being able to attend this meeting due to prior work related commitments.
- My staff and/or I have participated in the following meetings since the June meeting:
 - I attended the House of Delegates at the SCPhA Annual Meeting on June 26, 2009

- Ms. Cle Sanders presented a CE Program titled “Board of Pharmacy Compounding Update” at the SCPhA Annual Meeting on June 26, 2009
 - Ms. Cle Sanders, Mr. Ray Trotter, Mr. Eddie Durant and I participated in a meeting with the FDA on July 8, 2009
 - Staff met with FDA on July 15, 2009
 - Compliance Form Meeting on July 17, 2009
 - Web Site Posting Meeting on July 22, 2009
 - Workflow Meeting for the New Computer Software with the agency on July 24, July 27 and August 11, 2009.
 - Mr. Al Toole, Mr. David Banks and I attended a legislative meeting regarding the pharmacy technician bill H3394 on July 28, 2009 at the SC Pharmacy Association
 - I met with Dean Randy Rowan and Assistant Dean Bryan Ziegler with the SC College of Pharmacy on July 29, 2009
 - Mr. Bobby Bradham attended the NABP/AACP District III annual meeting in Lexington, KY August 2-August 4, 2009.
 - Ms. Cle Sanders, Ms. Marilyn Crouch and I met on August 4, 2009 on Work Flow Process.
 - I met with Dr. James Wynn, Dr. William Wynn and Dr. Walt Sowell regarding becoming a preceptor for pharmacy students from South University on August 12, 2009.
 - Mr. Ernie Shuler presented a “Pharmacy Law Update” to Wal-Mart PIC’s in the Walterboro area on August 12, 2009.
 - Mr. Bobby Bradham, Ms. Cle Sanders and I met on August 18, 2009 regarding the SCDMH’s MOA.
 - Mr. Ernie Shuler presented a “Pharmacy Law Update” to Wal-mart PIC’s in the Conway area on August 19, 2009.
 - I met with Mr. Robert Spires on August 19, 2009 regarding the proposed changes to the bill H 3394.
 - Ms. Rosemary Boguski and Mr. Ernie Shuler presented “What Pharmacy Inspectors Look For” at the quarterly meeting of the SC Medical Equipment Association (SCMESA) on August 20, 2009.
 - The Compounding Committee, the Pharmacy Technology Committee, and the Pharmacy Practice Committee met on August 21, 2009. Mr. Hugh Mobley, Mr. David Banks, Bobby Bradham, Mr. Henry Rose and Mr. Addison Livingston were the Board members who participated in these meetings.
 - Mr. Bobby Bradham, Ms. Cle Sanders and I met with Dr. Duane Evertt regarding SCDMH MOA on August 21, 2009.
 - Ms. Beverly Gould and I participated in a conference call with the Governor’s office, DHEC and McKesson regarding the distribution of the H1N1 vaccine and permitting issues on August 26, 2009.
 - Telephone IRC Meeting with Mr. C Turner on August 27, 2009.
 - Ms. Beverly Gould and I participated in a conference call with the CDC regarding the distribution of the H1N1 vaccine on September 9, 2009.
 - The VAWD Committee met on September 15, 2009. Mr. Dan Bushardt and Mr. Addison Livingston from the Board participated in the meeting.
 - I was appointed to NABP’s Task Force on Pharmacy Technician Education and Training, which will be October 6-7, 2009 in Chicago, IL.
- Staff has attended agency, board staff, compliance staff and legal counsel meetings.

- The Board of Pharmacy has continued to serve as a site for pharmacy students on clinical rotations from SC College of Pharmacy – USC Campus. We had Ms. Catherine McAbee the month of July. Ms. Tiffany Lovelace the month of August and Ms. Erika Tillery for the month of September. These students have worked on projects to research information requested by the Board. The projects included remote order entry, oxygen requirements regarding prescriptions, lot #'s and expiration dates along with hydrostatic testing and VAWD/pedigree requirements. Their research has been a valuable resource.
- Chairman Toole has appointed Mr. David Banks to represent the Board and participate in the on site visit with ACPE as it evaluates the Doctor of Pharmacy program at the Presbyterian College School of Pharmacy. The on site visit will take place October 13-15, 2009.
- On September 14, 2009, I interviewed 4 candidates for the Compounding Pharmacist FTE that is posted. On September 15, 2009, I interviewed 1 candidate for the position. One candidate has to reschedule their interview. Once all interviews are finalized, the paperwork will be completed and forwarded to HR.
- Mr. Wilbur Harling and I will be participating in the MPJE State Specific Law Review. This year it is being held October 5-19, 2009 via the Internet.
- The deadline for the 4th Quarter Board of Pharmacy Newsletter to NABP is quickly approaching. If you have any suggestions for articles, please let me know. We have been sending these to you for your review and comments. If anyone is having problems receiving this information, please let me know.
- Also in front of you is a memo regarding the 2009-2010 State Official License Plates. If you are interested all applications must be returned to Ms. Marilyn Crouch in the BOP office by Monday, October 26, 2009. In order for us to meet the deadline downtown.
- Handouts for your review that may be of interest to you include: A letter to Governor Mark Sanford from Mr. Thomas Frieden, Director of CDC regarding expediting permits for the H1N1 flu vaccine distribution centers, a letter from ACPE requesting a Board member to participate in the on site visit when ACPE evaluates the Doctor of Pharmacy program at Presbyterian College School of Pharmacy, a letter from Mr. Kevin Floyd ,President of the SC Association of Chain Drug Stores to Past Chairman Mr. Davis Hook and Ms. Adrienne Youmans regarding the attorney general's opinion on who has the authority to issue licenses and requesting a response, a letter regarding the information for the 2010 State Board license plates, and the budget.
- I would like to thank the Board for their continued support of me and the rest of the staff in the office. We always appreciate the encouragement and support you give us.

I will respectfully answer any questions you may have.

7. Compliance and Inspectors Report

- A. IRC Recommendations for dismissals and dismissals with non-disciplinary letters of concern, Proposed Agreement to Relinquish, Consent Agreements and Cease and Desist Orders

Mr. Bradham gave a report regarding the NABP District III meeting, which was held in Lexington, Kentucky.

i. Agreement to Relinquish

a. Case #: 2009-55

MOTION

Mr. Bradham made a motion the Board approve the agreement to relinquish involving case #2009-55. Mr. Banks seconded the motion, which carried unanimously.

ii. Consent Agreements

a. Case #: 2009-10

MOTION

Mr. Banks made a motion the Board approve the consent agreement involving case #2009-10. Mr. Bradham seconded the motion, which carried unanimously.

b. Case #: 2009-14

MOTION

Mr. Banks made a motion the Board approve the consent agreement involving case #2009-14. Mr. Rose seconded the motion, which carried unanimously.

iii. IRC Report

Mrs. Bundrick reviewed the IRC report with the Board.

MOTION

Mr. Banks made a motion the Board accept the dismissals. Mr. Bradham seconded the motion, which carried unanimously

MOTION

Mr. Rose made a motion the Board accept the IRCs recommendation regarding the case involving formal complaints. Mr. Banks seconded the motion, which carried unanimously

Resolution Guidelines

Consent Agreement

MOTION

Mr. Rose made a motion the Board accept the consent agreement from the resolution guidelines. Mr. Bradham seconded the motion, which carried unanimously.

MOTION

Mr. Bradham made a motion the Board accept. Mr. Rose seconded the motion, which carried unanimously.

Dismissals with Letter of Concern

MOTION

Mr. Bradham made a motion the Board accept the cases involving the dismissals with a letter of concern. Mr. Banks seconded the motion, which carried unanimously.

a. Request for Modification of Order – James Batson, Jr., R.Ph.

On August 25, 2006 James Batson, Jr., R.Ph., entered into a consent agreement with the Board when findings of fact reflected he was disciplined by the Kentucky Board of Pharmacy for being addicted to drugs, which is also a violation of the South Carolina Board of Pharmacy practice

act. Mr. Batson surrendered his license to practice pharmacy within South Carolina on October 10, 2001 after which, in accordance with the consent agreement, the license was reinstated in probationary status contingent upon his compliance with the terms and conditions of the consent agreement. The consent agreement, in part, stated Mr. Batson could not serve as pharmacist-in-charge (PIC) or as a permit holder as long as his license was in probationary status.

In a letter dated July 14, 2009 Mr. Batson states he has been successful in his recovery from drug addiction, has fulfilled the five year agreed order with the Kentucky Board of Pharmacy and has successfully completed three years of the required five year stipulation that he be enrolled with the Recovering Professional Program. He is seeking the Board's approval to modify the consent agreement to allow him to become the Director of Pharmacy (PIC) at the Mary Black Memorial Hospital.

The Board received a letter from Paulette Bentley of RPP, dated July 22, 2009 supporting Mr. Batson's request to become PIC at Mary Black Memorial Hospital.

Mr. Rose made a motion the Board deny his request until such time as Mr. Batson appears before the Board.

Mr. Durant stated it is unclear at this time if Mr. Batson received notification to appear before the Board during this meeting. He further stated RPP is attempting to contact Mr. Batson at this time to see if he could appear during the afternoon session of the meeting.

Mr. Rose withdrew his motion at this time.

b. Request for Modification of Order – Terry Lewis, R.Ph.

On March 23, 2009 Terry Lewis entered into a consent agreement with the Board following audits conducted by the SC Department of Health and Environmental Control (DHEC) showed a shortage of medications. DHEC found that Mr. Lewis appeared impaired during one of the audits. In accordance with the consent agreement Mr. Lewis' license was reinstated and immediately placed in probationary status contingent upon his compliance with the terms and conditions of the agreement. The consent agreement stated Mr. Lewis could not serve as PIC or permit holder during the five years his license is in probationary status.

On August 7, 2009 the Board received a letter asking to be placed on the agenda for today's meeting to discuss his interest 'in speaking with the board concerning' the PIC clause in the consent agreement.

Mr. Bradham recused himself from participating in the discussion in this matter

Terry Lewis appeared before the Board at this time. Mr. Lewis is asking the Board to allow Mr. Richard Kearse be the pharmacist in charge (PIC) one day per week. He further stated Mr. Kearse is currently working at another location; however, he is not working as a PIC at the other location.

Mr. Toole informed Mr. Lewis the Board would take this matter to executive session.

8. Old Business

B. Legal Opinion on Policies and Procedures – Sharon Dantzler

Mrs. Dantzler stated she would prefer to give legal advice in executive session.

- C. Follow-up Report on Attorney General's Opinion – Hugh Mobley, R.Ph.
 - i. Legal Opinion Regarding Signing Licenses in Relation to Attorney General's Opinion

MOTION

Mr. Rose made a motion the Board enter executive session to hear advice from general counsel. Mr. Mobley seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Bradham made a motion the Board return to public session. Mr. Bushardt seconded the motion, which carried unanimously.

Mr. Toole noted for the record that no official action was taken during executive session.

Mr. Mobley stated during executive session the Board received legal counsel and a report on the Attorney General's opinion and were advised that in their opinion the administrative functions are being done by the Office of Licensure and Compliance (OLC) and that the actual issuance of licenses rests with the Board. He went on to say that in the minutes of the March 12, 2009 meeting and the June 16-17, 2009 meeting there is information which states that employees within OLC actually issue licenses.

MOTION

Mr. Mobley made a motion the Board file a complaint with the agency in regard to the misoperation of the system which recorded and videoed the executive session. Mr. Banks seconded the motion, which carried unanimously.

- c. Request for Modification of Order – Terry Lewis, R.Ph.

Mr. Bradham recused himself from voting in this matter.

MOTION

Mr. Rose made a motion the Board approve the request with the stipulation that staff be in contact with the PIC informing him of his duties and responsibilities, and that Mr. Kearse understand the situation. Mr. Bushardt seconded the motion, which carried with a majority vote. Mr. Livingston and Mr. Mobley voted nay.

9. New Business

- A. Request Response of Letter from SC Association of Chain Drug Stores to the Board of Pharmacy and Director Adrienne Youmans – Thomas Phillips, R.Ph.

On August 10, 2009 the Board received a letter from Kevin Floyd, President of the SC Association of Chain Drug Stores regarding the Attorney General's opinion regarding the issuing of pharmacy, pharmacist, and pharmacy technician licenses.

Mr. Phillips read the letter from Mr. Floyd into the record:

August 5, 2009

*Davis Hook
Chairman, SC BOP
Post Office Box 11927*

*Adrienne R. Youmans
Labor, Licensing & Regulation
Post Office Box 11329*

It has been brought to the attention of the National Association of Chain Drug Stores and the South Carolina Association of Chain Drug Stores that there may be a regulatory disagreement between the SC Department of Labor, Licensing and Regulation and the SC Pharmacy Board, as to the issuance of licenses to pharmacist, pharmacy technicians and the facilities in which they operate.

As of the date of this request (August 5, 2009) it is our understanding that the licenses are issued by the Office of Licensure & Compliance (OLD-Department within LLR) and our companies and professionals have followed all the requirements spelled out in the SC law.

This has led the SC Board of Pharmacy to request the Attorney General provide an opinion as to who has the authority to issue said licenses (see attached).

Conclusion

The Legislature, through the Pharmacy Practices Act, granted specific authority to the Board to issues licenses, issue permits, and register those persons and entities engaged in the practice of pharmacy. However, we found nothing in the Pharmacy Practices Act or any provision in the law generally governing LLR and the regulation of professions and occupations giving similar authority to LLR or a department within LLR. Although, pursuant to section 40-1-50(F), the Board may delegate its authority to issue licenses to LLR, we are not aware of the Board transferring such authority. Therefore, we are of the opinion that while LLR is generally responsible for “administrative, fiscal, investigative, inspection, clerical, secretarial, and license renewal operations . . .” for the Board it does not have authority to issue licenses for the practice of pharmacy, issue permits for facilities dealing with prescription drugs, or register pharmacy technicians as required by law.”

It appears the current position and practice is in conflict with the opinion of the Attorney General and puts members in our organization at a quandary as to how to proceed.

We can envision a situation arising wherein this nebulous concept could place the pharmacist and techs, et al in a most untenable situation and perhaps accused of practicing with an invalid license.

We will be most happy to abide by the final decision as to who possesses the requisite authority; however this appears to us to be a jurisdictional battle between two government entities and the private sector should not be penalized, nor should the private sector have to expend funds for a determination of jurisdiction between two state agencies.

We would most respectfully request that the two agencies resolve this matter. Until we are notified of any changes we will continue as we have been instructed.

A part of this letter is to clarify our official position that is – we will do as instructed by the state and certainly do not possess the requisite intent to violate the provisions of the legislation.

It is our belief that the legislature has determined all licenses for health professionals should be issued by those who are knowledgeable and experienced in the respective professions and this is how the safety, health and welfare of the people of South Carolina should continue to be protected.

We would appreciate your response at the earliest possible time.

Sincerely,

*Kevin C. Floyd
President, SC Association of Chain Drug Stores*

Mr. Phillips asked that the letter become a part of the official record.

The Board indicated that it shares the same concerns as the SC Association of Chain Drug Stores.

Mrs. Dantzler stated the State of South Carolina will stand behind the licenses that have been issued while it continues to work out the differences it can work out. She noted the director is not currently in the office with health problems and is not sure when the association will receive a response.

B. Request Approval of Non-Resident Pharmacy Application – Cantrell Drug Company, James McCarley, Jr.

On April 8, 2009 the Board received a non-resident pharmacy permit application from Cantrell Drug Company, Inc., which is located in Little Rock, Arkansas. The application reflects a yes answer to the question asking, ‘To the best of your knowledge, has the applicant ever been charged, convicted, fined or entered in a plea of guilty or nolo contendere in any criminal prosecution, felony or misdemeanor in South Carolina or any other state, or in a United States court for any offense relating to drugs, narcotics, controlled substances, or alcohol, whether or not a sentence was imposed?’ A letter from James McCarley, Jr., President of Cantrell Drug Company, attached to the application, states the Drug Enforcement Administration (DEA) investigated the company for an alleged violation of Title 21 USC regarding compounded intrathecal pump refills sent to an ordering physician for administration by the physician. The company reached a settlement with DEA in 2004 upon terms set forth in a written agreement. Staff could not approve the application since it reflected a yes answer and notified the company by letter dated April 22, 2009 that a representative from the company must appear before the Board to answer questions from the members.

James McCarley, Jr. appeared before the Board to answer questions from the members.

Mr. McCarley stated in an effort to disclose information he inadvertently placed a check mark on question 2(a). He noted the company has a settlement agreement with DEA and there was a judgment against them in a civil administrative action, not a criminal matter. He noted it was his error. He went on to say the company specializes in sterile products and the incident in question involved spinal injections and spinal infusion pumps. He said the company is a

pharmacy but is now registered with the Drug Enforcement Administration (DEA) as a manufacturer as part of the settlement agreement.

The Board asked that Mr. McCarley meet with Mr. Eddie Durant regarding this matter.

Mr. Livingston explained to Mr. Durant the situation with Cantrell Drug Company and DEA. He stated the Board's question is whether to issue the company a pharmacy permit or a manufacturer permit. The Board is also asking if the company is violating any controlled substance laws since the company has Form 222 records and deal with Schedule II drugs.

Mr. Durant stated when Ms. Boguski sought him out regarding this matter he contacted Mr. Wilbur Harling of DHEC to question him in this matter. He further stated Mr. Harling stated as long as the company is not doing business within the boundaries of South Carolina the company does not have to become registered with DHEC.

MOTION

Mr. Bradham made a motion the Board have Mr. McCarley work through DHEC in South Carolina and DEA on outlining what he is doing and if it is legal with those entities and for fax scripts and adhering with USP <795> sterile compounding and <797>, which is required for compounding pharmacies in South Carolina and after receiving the response to those questions from Mr. McCarley, the Board can act on the request.

Mr. Durant asked that he be allowed to review the consent agreement between the company and the State of Colorado prior to the Board voting on Mr. Bradham's motion. The Board agreed to allow Mr. Durant time to seek answers on this matter.

C. Request Approval of Non-Resident Wholesale/Distributor/Manufacturer Application – Intervet, Inc., David Jones, Legal Director, Nancy Brown, Senior Regulation Specialist, Richard Schubert, Manager of Logistics and Distribution

The Board has received a non-resident wholesale/distributor and/or manufacturer application dated March 13, 2009 from Intervet, Inc. The application reflects yes answers to the questions asking, 'To the Best of your knowledge, has the applicant(s) ever had an application for a drug permit, pharmacy or pharmacist license, permit or certificate or a technician license or registration, denied, refused or revoked in South Carolina or any other state or country?' and 'To the Best of your knowledge, has the applicant(s) ever had disciplinary action taken against you, or a pharmacy or drug distributor facility you owned, or a pharmacy or drug distributor facility where you were employed, by the Board of Pharmacy (or its equivalent) in South Carolina or any other state or country?' A short statement by a company representative reflects that in February 2009 the company entered into a Stipulation and Final Agency Order with the Colorado Board of Pharmacy related to the sale of animal pharmaceutical products by the company without having first registered as an out-of-state wholesaler. The Stipulation and Final Agency Order resolved the matter and Intervet was granted a conditional registration in Colorado. Since the application contained a yes answer(s) and could not be approved at staff level Intervet was notified that a representative must appear before the Board to answer questions from the members.

Mr. David Jones and Ms. Nancy Brown, Regulatory Specialist, appeared before the Board at this time. Mr. Jones stated the company settled a matter with the Colorado Board of Pharmacy in February 2009. In September 2006 during the renewal process the Colorado Board began a new process which required an inspection of the Omaha, Nebraska facility by the Board of Pharmacy. The Nebraska Board did not conduct inspections on veterinary distributors. He

stated it made more sense to pursue VAWD accreditation and apprised the Colorado Board of its decision to seek VAWD accreditation. The company has kept in touch with the Colorado Board of the procedure. The company notified the Colorado Board of its VAWD accreditation, which was received February 5, 2009, which was the same date as the postmark on the letter from the Colorado Board informing the company to cease and desist distribution into that state. The company did cease and desist distribution and instead of appealing the decision agreed to a settlement agreement.

MOTION

Mr. Rose made a motion the Board approve the application. Mr. Banks seconded the motion, which carried unanimously.

D. Request Approval of Non-Resident Wholesale/Distributor/Manufacturer Application – Butler Animal Health Supply, LLC, Kay Knox

On June 3, 2009 the Board received a non-resident wholesale/distributor/manufacturer application from Butler Animal Health Supply, LLC. The application reflects yes answers to the questions asking, 'To the Best of your knowledge, has the applicant(s) ever had an application for a drug permit, pharmacy or pharmacist license, permit or certificate or a technician license or registration, denied, refused or revoked in South Carolina or any other state or country?' and 'To the Best of your knowledge, has the applicant(s) ever had disciplinary action taken against you, or a pharmacy or drug distributor facility you owned, or a pharmacy or drug distributor facility where you were employed, by the Board of Pharmacy (or its equivalent) in South Carolina or any other state or country?' A letter dated July 28, 2009 included with the application states a routine inspection conducted in January 2009 by the Colorado Board of Pharmacy revealed a company branch had received prescription drugs from six entities which were not registered as Out of State Prescription Drug Wholesalers with the Board. The company was issued a Stipulation and Final Agency Order that was signed and returned to the Colorado Board of Pharmacy in July 2009. The application also reflects the company applying for licensure is located in Sandstone, Virginia which is not currently VAWD certified. Since the application contained a yes answer(s) and could not be approved at the staff level, the company was notified by letter dated July 8, 2009 that a representative must appear before the Board to answer questions from the members.

Ms. Kay Knox stated on October 20, 2008 the company was issued a cease and desist order by the State of Colorado for distributing products from the Fort Worth branch to Colorado and were not licensed to do so. An application was immediately file and the company stopped all orders going into Colorado. After the application was submitted there was another issue with Colorado regarding an inspection during which it was discovered the company had received products from vendors who were not licensed to ship products into Colorado. Another cease and desist order was issued for each of those vendors and a settlement agreement was reached. The company is now diligently working to ensure all of their vendors are licensed. A number of the company's VAWD accreditations are up for renewal. The company is VAWD accredited in Ohio, Kentucky, Texas, Oregon, and New York. Accreditation has been applied for in Illinois, Colorado, and Iowa. Accreditation not been applied for the Virginia facility at this time. The company has pending applications with NABP for Utah and California. The company can request that the accreditation process begin immediately if that is the request of the Board.

MOTION

Mr. Bradham made a motion the Board allow the VAWD certified facilities to ship into South Carolina and should the company add VAWD accreditation to the Virginia facility that the facility

be allowed to ship into South Carolina. Mr. Rose seconded the motion, which carried unanimously.

E. Request Approval of Non-Resident Wholesale/Distributor/Manufacturer Application – Timothy Talcott

i. Smith's Medical ASD, Inc., Keene, NH

The Board received a non-resident wholesale/distributor and/or manufacturer application dated April 30, 2009 from Smith's Medical ASD, which is located in Keene, New Hampshire. The application reflects yes answers to the questions asking, 'To the Best of your knowledge, has the applicant(s) ever had an application for a drug permit, pharmacy or pharmacist license, permit or certificate or a technician license or registration, denied, refused or revoked in South Carolina or any other state or country?' and 'To the Best of your knowledge, has the applicant(s) ever had disciplinary action taken against you, or a pharmacy or drug distributor facility you owned, or a pharmacy or drug distributor facility where you were employed, by the Board of Pharmacy (or its equivalent) in South Carolina or any other state or country?'

Mr. Timothy Talcott stated the company was issued a fine in 2004 by the State of California because the company was not a designated representative, which was immediately corrected and the fine was paid. In October 2007 the State of Florida informed the company the pedigree paper was not accurate. The company attempted to locate the problem with the State of Florida for approximately three months, the fine from Florida was never received and the matter was resolved. The company manufactures pain management kits containing one to eight different drugs. The State of Florida wants each of the drugs contained in the kits to be identified by its name on the packing list. He noted this facility is VAWD accredited.

ii. Smith's Medical MD, Inc., St. Paul, MN

On June 1, 2009 the Board received a non-resident wholesale/distributor and/or manufacturer application from Smith's Medical MD, located in St. Paul, Minnesota. The application reflects a yes answer to the question asking, 'To the best of your knowledge, has the applicant(s) ever had a permit disciplined, denied, refused, or revoked for violations of any pharmacy laws, drug laws in South Carolina or any other state?'

Mr. Timothy Talcott stated the St. Paul, Minnesota location failed to renew the permit with the State of Alabama on time. The facility attempted to renew the permit on line as a result of the on line renewal process being down. The facility was issued a fine, which was paid and the renewal was completed. He noted this facility is not currently VAWD accredited.

MOTION

Mr. Mobley made a motion the Board approve the applications. Mr. Bushardt seconded the motion, which carried unanimously.

F. Request Approval of Reciprocity Application – Joseph Giglietta

On December 22, 2008 the Board received a reciprocity pharmacist application from Joseph Giglietta. Mr. Giglietta answered yes to the question asking, 'Has your pharmacist license in any jurisdiction ever been revoked, suspended, restricted, terminated, or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?' Mr. Giglietta is/was licensed in New York. He was ordered to pay a fine for due to unsanitary and/or inoperable equipment found during an inspection by the New York Board of Pharmacy. He also answered yes to the question asking, 'Have you ever had any application for initial licensure, renewal licensure, or licensure by transfer denied by any licensing authority whether in

pharmacy or any other profession?' Mr. Giglietta failed the Rhode Island stated pharmacy license exam.

Joseph Giglietta did not appear during this meeting.

G. Request Approval Pharmacy Technician Registration Application – Shandreika Smith

On July 21, 2009 the Board received a pharmacy technician registration application from Shandreika Smith. The application reflects a yes answer to the question asking, "Have you ever been convicted of any criminal or civil charges (other than a minor traffic ticket? Is there any legal action pending against you or are you currently on probation for any charges or legal action?' Ms. Smith was arrested and charged with assault and battery in January 2006.

Ms. Smith has never had problems in her place(s) of employment. She is currently working as a cashier at Walgreens, which would like to hire her as a pharmacy technician.

MOTION

Mr. Banks made a motion the Board approve Ms. Smith's application. Mr. Rose seconded the motion, which carried unanimously.

H. Request Approval of Non-Resident Wholesale/Distributor/Manufacturer Application – Medicis, The Dermatology Company, Seth Rodner

On July 30, 2009 the Board received a non-resident wholesale/distributor and/or manufacturer application from Medicis, The Dermatology Company. The application reflects yes answers to the following questions, "To the best of your knowledge, has the applicant(s) ever been charged, convicted, fined, or entered in a plea of guilty or nolo contendere in any criminal prosecution, felony or misdemeanor, in South Carolina or any other state, or in a United States court for any offense relating to drugs, narcotics, controlled substances, or alcohol, whether or not a sentence was imposed?; for any offense involved the practice of pharmacy, or relating to acts committed within a pharmacy or drug distributor setting or incident to pharmacy practice, whether or not a sentence was imposed?; for any offense involving fraud, dishonesty, or an act of violence (i.e., Medicaid fraud, theft of money or drugs, or robbery), whether or not a sentence was imposed?; for any offense involving moral turpitude whether or not a sentence was imposed (if you are unsure, check "yes")?"; 'Have you ever had disciplinary action taken against you, or a pharmacy or drug distributor facility you owned, or a pharmacy or drug distributor facility where you were employed, by the Board of Pharmacy (or its equivalent) in South Carolina or any other state or country?'; 'Have you ever violated the drug laws, rules, statutes and/or regulations of South Carolina, or any other state or country or the United States?' On or about October 12, 2006 Medicis Pharmaceutical Corporation resolved a government investigation into the alleged off-label promotion of Loprox. The corporation entered into a non-prosecution agreement with the US Attorney's Office for the District of Kansas, a False Claims Act Settlement Agreement with the US Department of Justice and multiple state Attorneys General on or about April 25, 2007, and a Corporate Integrity Agreement with the Office of Inspector General of the US Department of Health and Human Services on or about April 25, 2007.

MOTION

Mr. Bradham made a motion the Board approve the application. Mr. Banks seconded the motion, which carried unanimously.

I. Update Presbyterian College, School of Pharmacy, Dr. Cliff Fuhrman and Dean Stull

Dr. Cliff Fuhrman and Dean Stull appeared before the Board at this time. Mr. Stull stated the school's intent is to have 32 faculty members which allow for approximately 320 students in the program. The program will begin in August 2010, with a class of 75 to 80 students and approximately 15 staff members. The school has a facility in downtown Clinton, which is approximately 55,000 square feet. The school plans to have a very practical and application oriented program for the students. The Southern Association of Colleges and Schools has granted approval to Presbyterian College for a site visit in the autumn of 2010 after the program has taken students. The Association has tentatively approved the school as being in compliance. The Accreditation Council for Pharmacy Education has granted approval to the school for a site visit in October 2009.

Dr. Fuhrman presented the members with a copy of the Doctor of Pharmacy curriculum. He briefed the members on the curriculum.

Dr. Fuhrman and Mr. Stull noted that the school and the lab are currently a stand alone school.

Mr. Stull briefed the Board regarding his professional background. He stated Mr. Rufus Sadler has provided valuable input in the program.

Dr. Fuhrman and Mr. Stull noted that the lab is a stand alone lab within an integrated lab.

Lunch

MOTION

Mr. Rose made a motion the Board adjourn for lunch. Mr. Bushardt seconded the motion, which carried unanimously.

The Board recessed for lunch at 12:38 p.m.

Return to Public Session

The Board returned to public session at 2:03 p.m.

Presentation by Robert Spires

Mr. Robert Spires presented the members with a flier in regard to the second annual Technology and Automation Seminar, which is scheduled for October 13, 2009 at the Embassy Suites Hotel. He briefed the members regarding what will be happening during the seminar.

J. Request Approval of Reciprocity Application – Frederick Schwartz

On April 24, 2009 the Board received a reciprocity pharmacist application from Frederick Schwartz. Mr. Schwartz's application reflects a yes answer to the question asking, 'Has your pharmacist license in any jurisdiction ever been revoked, suspended, restricted, terminated, or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?' Mr. Schwartz's license was disciplined by the North Carolina Board of Pharmacy for two infractions of administering unauthorized medications to a family member. He appeared before the North Carolina Board of Pharmacy on January 15, 2007 at which time his license was suspended for three days, but the suspension was stayed. He is now in good standing with the Board. The North Carolina Board of Pharmacy notified the Indiana Board of Pharmacy of the disciplinary action, when Mr. Schwartz renewed his license with that Board.

Mr. Schwartz stated he administered one-half of a pain pill to his daughter when she was 16 years old for pain. He further stated his daughter's physician reported him to the North Carolina Board of Pharmacy. He said his daughter's physician later placed her on birth control pills, after which she underwent surgery on a kidney.

MOTION

Mr. Rose made a motion the Board accept Mr. Schwartz's application. Dr. Richardson seconded the motion, which carried unanimously.

K. Request Approval of Pharmacy Intern Application – Clayton Jones

On May 20, 2009 the Board received a pharmacy intern application from Clayton Jones. Mr. Jones' application reflects he answered yes to the question asking, 'Have you ever been convicted of any criminal or civil charges (other than a minor traffic ticket)? Is there any legal action pending against you or are you currently on probation for any charges or legal action?' Mr. Jones' explanation states he chose pharmacy as his career field while he was in the military. He was selected to become a pharmacy instructor during which time he began relationships with students. The court martial proceeding in January 2002 resulted in a federal felony conviction.

Mr. Jones stated in 1999 he was a pharmacy instructor while he was in the military. During that time he entered into relationships with a student who was separated from her husband. Due to the relationship, he was charged with fraternization, adultery, and unprofessional relationship, which resulted in a court martial and a felony conviction. He has not been in trouble since that time and has been employed as a pharmacy technician with the VA hospitals. He has been accepted into pharmacy school.

MOTION

Mr. Bradham made a motion the Board approve Mr. Jones' pharmacy intern application. Mr. Rose seconded the motion, which carried unanimously.

L. Request Approval of Pharmacy Technician Registration Application – Edna McCray

On May 29, 2009 the Board received a pharmacy technician registration application from Edna McCray. Ms. McCray answered yes to the question asking, 'Have you ever been convicted of any criminal or civil charges (other than a minor traffic ticket)? Is there any legal action pending against you or are you currently on probation for any charges or legal action?' Ms. McCray was charged with assault and battery with intent to kill following an argument. She was ordered to serve three years probation, complete community service and to take anger management classes. Since she was a full time student and held a part-time job the judge withdrew the community service requirement. She has completed her probation and the anger management classes.

Ms. McCray stated in her senior year of high school a relative was having complications with her boyfriend at school. The principal asked her to assist her relative leaving school to ensure the boyfriend did not bother the relative. After arriving at home from school she and her relative had errands to do. When they arrived home from the errands the boyfriend began aggravating the relative. Ms. McCray attempted to walk away from the situation, however, the situation escalated and after the boyfriend hit her on the head with a bottle, she stabbed him two to three times with a steak knife. She has not been in trouble since that time.

MOTION

Mr. Rose made a motion the Board approve Ms. McCray's pharmacy technician registration. Mr. Bushardt seconded the motion. which carried unanimously.

M. Request Approval of Intern Hours – Enab Moawad

In October 2008 the Board received a pharmacy intern application from Enab Moawad. In a letter dated August 19, 2009 Mr. Moawad states he began his intern hours on October 30, 2008 and has been employed with the Rite Aid Pharmacy in Surfside Beach. He sent an employment notification to the Board within the required ten days of beginning his employment and by the end of December 2008 had submitted a record of his intern hours. He did not submit an employment verification by the beginning of the new year since he was still employed at the same location. He has now completed 1,500 hours. He is seeking the Board's approval of these hours to fulfill his internship.

Mr. Moawad stated he began his intern hours on October 30, 2008 and has been employed with the Rite Aid Pharmacy in Surfside Beach. He sent an employment notification to the Board within the required ten days of beginning his employment and by the end of December 2008 had submitted a record of his intern hours. He did not submit an employment verification by the beginning of the new year since he was still employed at the same location. He has completed approximately 150 hours since the beginning of 2009.

Mrs. Bundrick stated the Board has never allowed intern hours to count if proper documentation had not been submitted to the office.

MOTION

Mr. Bradham made a motion the Board accept those hours where he has followed procedure correctly but the hours in which the procedure was not followed be denied. Mr. Livingston seconded the motion, which carried unanimously.

N. Dispensing Tamiflu to College Students – Lee Ann Bundrick, R.Ph.

On September 3, 2009 the Board received an email from Davis Hook requesting advice regarding the dispensing of Tamiflu to college students. The email states Mr. Hook has a consulting client who has a non-dispensing pharmacy permit. 'It appears that DHEC will provide H1N1 vaccine and Tamiflu for students of this college that has been diligent in following the guidelines for the permit that they hold. The question is if a waiver or special exemption could be granted to allow the distribution of the Tamiflu to the students that the Student Health Center services.' The Student Health Center employs a nurse practitioner with prescriptive authority on a limited basis and also employs two full-time nurses. Mr. Hook has no knowledge of the Student Health Center dispensing any take home medications in the past.

Mrs. Bundrick briefed the Board regarding Mr. Hook's email concerning a non-dispensing drug outlet permit. She stated his question is if a waiver or special exemption can be granted to allow the distribution of Tamiflu in student centers. She noted granting part of this would be in concert with the distribution of Tamiflu through DHEC's MOA of protocol. In calls with the CDC, McKesson and the Governor's Office, schools would be used as some of the sites where the medications would be distributed.

Mr. Mobley asked Mrs. Bundrick if it would be done carte blanche this year or in a state of emergency. Mrs. Bundrick stated that would be the main question.

MOTION

Mr. Rose made a motion the Board table the matter until the Board Chairman consults with general counsel, the Board Administrator and DHEC regarding the protocol for Tamiflu for the State and that the chairman make a determination in the matter. Mr. Banks seconded the motion, which carried unanimously.

- O. Protocol for Immunizations – Bobby Bradham, R.Ph.
 - i. Immunization Bill H.3393

Mr. Bradham asked that this matter be deferred to executive session.

- P. Request Remote Order Entry – Lake Norman Regional Medical Center, Roger Willms

On August 10, 2009 the Board received a non-resident pharmacy permit application from Lake Norman Regional Medical Center. The facility is requesting Board approval of remote order entry.

Mr. Willms briefed the Board regarding the request. He noted the Lake Norman Regional Medical Center is attempting to assist the South Carolina facilities, which are fairly small. The facility is headquartered in Lake Norman region/Mooresville, North Carolina. The pharmacists involved in the request are licensed in both North Carolina and South Carolina.

Mrs. Bundrick stated the matter is before the Board as a result of the controversy surrounding the policy and procedure regarding remote order entry.

MOTION

Mr. Banks made a motion the Board approve the request. Mr. Bushardt seconded the motion, which carried unanimously.

- Q. Request Approval of Non-Resident Wholesale/Distributor/Manufacturer – Xttrium Laboratories, Inc. – Joe Scalise, Director of QA & RA, Mike Lippner, VP of Finance

On August 5, 2009 the Board received a non-resident wholesale/distributor and/or manufacturer application from Xttrium Laboratories. The application reflects yes answers to the questions asking, 'To the best of your knowledge, has the applicant(s) ever had a permit disciplined, denied, refused, or revoked for violations of any pharmacy laws, drug laws, in South Carolina or any other state?' and 'Have you ever had disciplinary action taken against you, or a pharmacy or drug distributor facility you owned, or a pharmacy or drug distributor facility where you were employed, by the Board of Pharmacy (or its equivalent) in South Carolina or any other state or country?' In June 2007 Xttrium Laboratories entered into a consent agreement with the Missouri Board of Pharmacy for violations noted during inspections conducted between March 8, 2004 and April 5, 2004 by the Food and Drug Administration (FDA). Xttrium Laboratories entered into a consent order in April 2009 with the Alabama Board of Pharmacy for engaging in activities as a manufacturer/wholesaler/distributor without first renewing licensure.

This matter was deferred to the November 18, 2009 meeting.

Executive Session

MOTION

Mr. Rose made a motion the Board enter executive session to avoid disruption of the meeting. Mr. Bradham seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Mobley made a motion the Board return to public session. Mr. Bushardt seconded the motion, which carried unanimously.

Mr. Toole noted for the record that no official action was taken during executive session.

MOTION

Mr. Rose made a motion the Board amend Policy and Procedure #138 to include under #2: The administering pharmacist shall have an order or protocol from a licensed practitioner or such order or protocol from the SC Department of Health and Environmental Control. Mr. Mobley seconded the motion, which carried unanimously.

Mr. Mobley stated the Board encourages pharmacists to get involved in the immunizations within the state, particularly to get involved in the legislation process that is taking place to change the statute. In addition the Board supports what is being done within the state to convert some of the potential issues with the pandemic flu.

Mr. Mobley stated the Customer Care Center is an attempt to alleviate some of the communications problem.

A. Update on Customer Care Center – Connie Huffstetler

Mrs. Huffstetler briefed the Board regarding the customer care center. She noted Mr. Mobley has visited the customer care center and asked that she appear before the Board to update the members on that area. She noted the customer care center is receiving approximately 10,130 calls per day. The customer care center began taking calls for the Nursing Board on August 11th. October 1st is a tentative date for the customer care center to begin receiving calls for the Pharmacy Board. The director has approved a part-time position to assist the call center during the lunch time. Joi Middleton, Karen Duval and Mrs. Huffstetler met with Mrs. Bundrick regarding the pharmacy program and will receive one-on-one training with Beverly Gould and pharmacy staff. She said the ReLAES system has a field which allows comments where the call center is making comments and is notifying Mr. Christian of the comments which he may need to know about. Mr. Mobley suggested the customer care center also notify Mrs. Bundrick of the comments made in the field in ReLAES. She discussed the response time to calls.

10. Committee Reports

A. Pharmacy Technician – David Banks, R.Ph., Al Toole, R.Ph., Dan Bushardt, R.Ph.

This committee had no report.

B. Compounding– Hugh Mobley, R.Ph., Bobby Bradham, R.Ph.

Mr. Mobley stated the Compounding Committee met on August 21, 2009. He further stated OTC compounding was discussed during the meeting. He noted when the Board determined to set OTC compounding aside it inadvertently took away some remedies and formulations away from consumers. He noted the committee's concern was that a large quantity was not being compounded and placing it on the shelves. He said the committee wanted to ensure a way the pharmacist could track the compounded product. The committee made a motion the Board reinstate Policy and Procedure #133 with the following changes:

#2 to read: Compounded product should be made on a patient-specific need and kept behind the pharmacy counter, under supervision of the pharmacist.

And to add an additional item to read: 5. Records of products provided to patients must be readily retrievable manner.

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

Mr. Mobley stated the committee discussed producing a list of medications and/or types of non-sterile compounding that could be compounded in a pharmacy that does not meet all of USP 795 recommendations. The list would also include medications which must be done in a non-sterile compounding pharmacy.

Mr. Mobley stated Keith Albert discussed the expiration dates on Flavor RX. He noted no final decision was made regarding the use of flavorings being added to commercial products being documented as compounded products.

Mr. Mobley stated the committee also discussed physical therapy clinics which do not have a full time physician and how these clinics should be handled with non-dispensing drug outlet permits.

C. Legislative – Al Toole, R.Ph., Bobby Bradham, R.Ph., Dr. Richardson, Hugh Mobley, R.Ph.

This committee had no report.

D. Medication Errors – Dan Bushardt, R.Ph., Dr. Richardson

This committee had no report

E. Nuclear Pharmacy – Dock H. Rose, R.Ph., Bobby Bradham, R.Ph. Hugh Mobley, R.Ph.

This committee did not meet. Mr. Rose stated the Committee has an agreement with the nuclear pharmacies. He noted Mrs. Sanders is attempting to inspect all of the nuclear pharmacies to ensure the facilities are in compliance with the agreement.

F. Pharmacy Practice – Dock H. Rose, R.Ph., David Banks, R.Ph., Hugh Mobley, R.Ph.

Mr. Rose stated the Pharmacy Practice Act Committee met on August 21, 2009.

The committee discussed medical gases expiration and hydrostatic testing.

Mr. Mobley made a motion the committee recommend that the full Board create a new policy that would require prescriptions, which would need to be renewed every two years, that the testing be the manufacturer's responsibility and lot and expiration numbers be visible on tanks. The motion was seconded by Mr. Newton and carried unanimously. Since the motion came from committee, no second was needed. The motion carried unanimously.

The committee also discussed non-dispensing drug outlet permits for physician practices owned by hospitals or corporations.

Mr. Rose asked the Committee members to review the definitions in the practice act.

The committee is making the following recommendations:

1. Only a practitioner's prescription can be used to order oxygen. A CMN (certificate of medical necessity) can no longer be considered a prescription. A Practitioner's prescription should contain the standard information including but limited to the flow rate and the length of therapy.
2. Since the FDA requires that oxygen tanks be hydrostatically tested, and since the DOT (Department of Transportation) has regulations concerning hydrostatic testing, the supplier shall no longer be required to have documentation of hydrostatic testing.
3. The responsibility of providing lot numbers and expiration dates shall be placed on the manufacturers of oxygen. The expiration date cannot be coded into the lot number.

Since the motion came from committee no second was needed. The motion carried with a majority vote. Mr. Banks abstained from voting.

G. Pharmacy Technology – Bobby Bradham, R.Ph., Dan Bushardt, R.Ph., David Banks, R.Ph.

Mr. Bradham stated the committee met on August 21, 2009 and discussed remote order entry procedure for long term care facilities. The committee heard a presentation from CVS regarding a centralized call center. The members expressed concern over the fact that the call center is currently headquartered in Rhode Island and would be subject to the Rhode Island laws. Mr. Bradham believes CVS has a call center in one state. There is no recommendation from the committee regarding the CVS call center at this time.

H. Recovering Professional Program – Dr. Richardson

Dr. Richardson stated the committee met on September 11, 2009 and asked Mr. Wilson to discuss the highlights of the meeting. He asked Mr. Wilson to discuss the drug diversion team.

Mr. Wilson stated the agency is having the individual quickly contact RPP to begin obtaining services. RPP has taken in 156 individuals related to the pharmacy profession. RPP has seen a reduction in services.

I. VAWD – Dan Bushardt, R.Ph., Al Toole, R.Ph.

The committee met on September 15, 2009 during which time the committee changed the committee's name to Medication Integrity Committee.

The committee made a motion to draft a regulation requiring a surety bond in the amount of \$100,000, background check and have a *designated* person responsible, prior to permitting wholesale distributors, in and out of state. No seconded was needed since the motion came from committee. The motion carried unanimously.

The committee is recommending the Board review the pedigree laws prior to the January 2010 meeting.

J. Continuing Education – David Banks, R.Ph.

This committee has not met since the June 2009 meeting.

11. Discussion Topics

MOTION

Mr. Bradham made a motion that the Board in no way by signing these licenses sanctions the process by which the licenses have been issued as the process by which the Board is attempting to work out and are objecting to some of the processes that these licenses are being issued. Mr. Rose seconded the motion, which carried unanimously.

Mr. Banks noted the Board objected to the recording of the executive sessions during this meeting.

Mrs. Bundrick stated Mr. Batson states he did not receive notice to appear before the Board during this meeting.

MOTION

Mr. Banks made a motion the Board defer the James Batson matter to the November 18, 2009 meeting. Mr. Rose seconded the motion, which carried unanimously.

12. Public Comments

No public comments were made during this meeting.

13. Adjournment

MOTION

There being no further business to be discussed at this time, Mr. Mobley made a motion the meeting be adjourned. Mr. Bushardt seconded the motion, which carried unanimously.

The September 16, 2009 meeting adjourned at 4:40 p.m.

South Carolina Board of Pharmacy

Board Meeting

9:00 a.m., September 17, 2009
Synergy Business Park
110 Centerview Drive, Kingtree Building
Columbia, South Carolina

Thursday, September 17, 2009 Room 108

1. Meeting Called to Order

A. Public Notice

Allen Toole, R.Ph., chairman, of Liberty, called the regular meeting of the SC Board of Pharmacy to order at 9:10 a.m. Other Board members participating in the meeting included: Bobby Bradham, R.Ph., vice chairman, of Charleston; David Banks, R.Ph., of Simpsonville; Dan Bushardt, R.Ph., of Lake City; Addison Livingston, R.Ph., of Swansea; Hugh Mobley, R.Ph., of Lancaster, Leo Richardson, PhD., of Columbia; and Dock Henry Rose, R.Ph., of Greer.

Staff members participating during the meeting included: Lee Ann Bundrick, R.Ph., Administrator; Rosemary Boguski, R.Ph., Pharmacist Inspector; Marilyn Crouch, Program Assistant; Eddie Durant, R.Ph., Temporary Investigator; Larry Grant, R.Ph., Pharmacist Inspector; Joe Newton, R.Ph., Pharmacist Inspector; and Ernie Shuler, R.Ph., Pharmacist Inspector. LLR employees participating during the meeting included: Sandra Dickert, Administrative Assistant; Pat Hanks, Attorney, Office of General Counsel; and Eddy Lane, Hearing Advice Attorney.

Members of the public attending the meeting included: Erin Blackmon, Carmelo Cinqueonce, Loretta Lambert, Joe Mullinax, Christy Pettit, Patrick Runey, and Leon Thomas.

Mr. Toole announced that this meeting was being held in accordance with Section 30-4-80 of the SC Freedom of Information Act by notice sent 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 main entrances of the Kingtree Building.

Invocation

Mr. Bradham delivered the invocation.

Pledge of Allegiance

All present recited the Pledge of Allegiance.

Introduction of Board Members and all other persons attending

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

MOTION

Mr. Banks made a motion the video and/or audio during executive session from the September 16, 2009 meeting be erased from the Internet and if that is not possible erase the whole audio/video. He amended the motion to state the video and/or audio during executive session from the September 16, 2009 meeting and the June 24-25, 2009 meeting be erased from the Internet and if that is not possible erase the whole audio/video. Mr. Mobley seconded the motion, which carried unanimously.

2. Chairman's Remarks – Allen Toole, R.Ph.

Mr. Toole stated the Board's purpose is to protect the health and safety of the public. He thanked everyone for attending the meeting.

3. Hearing

A. MOA, Leon Thomas, Jr., R.Ph.

This proceeding was recorded by a court reporter in order to produced a verbatim transcript should on be needed in accordance with the law.

Executive Session

MOTION

Mr. Mobley made a motion the Board enter executive session to seek legal advice. Mr. Rose seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Mobley made a motion the Board return to public session. Mr. Banks seconded the motion, which carried unanimously.

Mr. Toole noted for the record that no official action was taken during executive session.

MOTION

Mr. Banks made a motion the Board permanently revoke Mr. Thomas' license concerning the allegations surrounding he intentionally, knowingly violated the regulation of this Board by unlawfully possessing and ordering various quantities and strengths of Class II narcotics, that he did not store the CII's correctly, that he engaged to deceive and defraud the public, he did not keep accurate records of all the drugs received or dispensed, and, in general, was reckless, in the practice of pharmacy. Mr. Rose seconded the motion, which carried unanimously.

Ms. Lane, the hearing advice attorney, noted for the record that Mr. Thomas did not return to the meeting once the Board resumed public session.

Mr. Toole stated the matter of the approval of a non-resident pharmacy application for Cantrell Drug Company has been deferred to the November 18, 2009 meeting.

MOTION

Mr. Bradham made a motion the Board return to executive session to discuss personnel issues. Mr. Mobley seconded the motion, which carried unanimously.

MOTION

Mr. Mobley made a motion the Board insert an article in the Board's newsletter and in the SC Pharmacy Association's *Small Doses* newsletter regarding third party auditor inspecting pharmacies. Mr. Banks seconded the motion, which carried unanimously.

Adjournment

MOTION

Mr. Bradham made a motion the meeting be adjourned. Mr. Banks seconded the motion, which carried unanimously.

The September 17, 2009 meeting of the SC Board of Pharmacy adjourned at 3:45 p.m.