

**PHARMACY EXAMINING BOARD
OCTOBER 29, 2008
MEETING MINUTES**

- PRESENT:** Timothy Boehmer, R.Ph.; Jeanne M. Severson R.Ph. (excused at 1:30 p.m.); Jason Walker-Crawford, R.Ph.; Suzette Renwick; Amy Mattila, R.Ph.; Gregory C. Weber, R.Ph.; and Pamela Phillips
- STAFF:** Tom Ryan, Bureau Director; Ruby Jefferson-Moore, DRL Counsel; Amy Childers, Bureau Assistant; and other DRL staff
- GUESTS:** Ashley Liegel, University of Wisconsin School of Pharmacy Student; Jack Monroe, Target; Ted Grabarezyk, University of Wisconsin School of Pharmacy Student; Donna Naundorf, Cardinal Health; Jamie Statz-Paynter, Dean Pharmacy; Mary Swanby, Dean Pharmacy; Michelle Violi, Women's International Pharmacy; Tom Engels, Pharmacy Society of Wisconsin (PSW); Gary Plank, Marshfield Clinic; Routrij Bhatt, CVS Pharmacy; Roger Iverson; Yolanda Tolson, Access Community Health Center (ACHC)

CALL TO ORDER

The Chair, Greg Weber, called the meeting to order at 9:04 a.m. A quorum of 7 members was confirmed.

APPROVAL OF AGENDA

Amendments:

- Item "E" (open session) – Multi-State Pharmacy Jurisprudence Examination (MPJE) Exam Overview
- After Item "E" (open session) – Remote Dispensing Task Force Minutes
- Item "I" (open session) – Comments from Cardinal Health Regarding Sterile Compounding Practices Applicable for Nuclear Pharmacy Practice
- Item "I" (open session) – Correspondence from University of Wisconsin Hospital and Clinics concerning United States Pharmacopeia (USP) 797
- Item "I" (open session) – Correspondence from American Society for Healthcare Engineering of the American Hospital Association (ASHE) and Wisconsin Healthcare Engineering Association (WHEA) concerning United States Pharmacopeia (USP) 797
- After Item "I" (open session) – Remove National Association of Drug Diversion Investigators (NADDI) and Wisconsin Participation – update
- Item "L" (open session) – Remove Variance Report
- After Item "O" (closed session): Re-registration Application Review – Mary S. Mably
- After Item "O" (closed session): Moved Item "Q" Forfeitures Discussion
- After Item "W" (closed session) – Deliberation of Proposed Stipulation, Final Decision and Order in the Matter of Russell Stone R.Ph., Case # 08 PHM 041
- After Item "W" (closed session) – Presentation of Proposed Stipulation and Order in Bonny Kimball, Case # 08 PHM 040

- After Item “W” (closed session) – Presentation of Proposed Stipulation and Order in Steven Ziebell, Case # 07 PHM 051
- After Item “W” (closed session): Administrative Warning in Case # 04 PHM 016
- At End of Agenda (closed session) – DOE Case Closing Report

MOTION: Jeanne Severson moved, seconded by Amy Mattila, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF SEPTEMBER 10, 2008

MOTION: Jason Walker-Crawford moved, seconded by Jeanne Severson, to approve the minutes of September 10, 2008 as published. Motion carried unanimously.

ADMINISTRATIVE REPORT

Tom Ryan introduced Amy Childers as the new Bureau Assistant for the Bureau of Health Professions. Amy introduced herself to the Board.

Greg Weber spoke about the pharmacist continuing education audit. 297 pharmacists were audited for continuing education for the 2006-08 biennium.

2009 Meeting Dates - Board Review for Approval

The Board reviewed its 2009 meeting dates.

MOTION: Tim Boehmer moved, seconded by Suzette Renwick, to approve the proposed 2009 meeting dates. Motion carried unanimously.

Resignation of DRL Attorney William Black

Tom Ryan informed the Board of the resignation of William Black, DRL Counsel. Ruby Jefferson-Moore was introduced as Counsel to the Board for today's meeting.

PRESENTATION OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

DAVID M. SMITH, R.PH.

Attorney James Polewski, Division of Enforcement, appeared before the Board to present the proposed stipulation, final decision and order in the matter of disciplinary proceedings against David M. Smith, R.Ph.

STEVEN SPITZER, R.PH.

Attorney Jeanette Lytle, Division of Enforcement, appeared before the Board to present the proposed stipulation, final decision and order in the matter of disciplinary proceedings against Steven Spitzer, R.Ph.

RUSSELL STONE, R.PH.

Attorney Jeanette Lytle, Division of Enforcement, appeared before the Board to present the proposed stipulation, final decision and order in the matter of disciplinary proceedings against Russell Stone, R.Ph.

BONNY KIMBALL, R.PH.

Attorney Jeanette Lytle, Division of Enforcement, appeared before the Board to present the proposed stipulation, final decision and order in the matter of disciplinary proceedings against Bonny Kimball, R.Ph.

**DIVISION OF ENFORCEMENT CASE HANDLING INITIATIVE-ATTORNEY
MICHAEL BERNDT, SUPERVISOR - DIVISION OF
ENFORCEMENT**

Attorney Michael Berndt appeared before the Board to discuss correspondence from Marvin Robinson, DOE Administrator, regarding the Division of Enforcement's case handling initiative.

**Report on Presentation at Pharmacy Society of Wisconsin Technician Educational Forum-
October 18 – Appleton, WI – Amy Mattila**

Amy Mattila participated in the Pharmacy Society of Wisconsin's Technician Educational Forum in Appleton. Amy was one member of a four-person panel, which addressed approximately 200 pharmacy technicians.

**NATIONAL ASSOCIATION OF BOARDS OF PHARMACY (NABP) MULTI-STATE
PHARMACY JURISPRUDENCE EXAMINATION (MPJE) STATE-
SPECIFIC REVIEW MEETING – UPDATE**

Susan Bird appeared before the Board and provided handouts concerning the MPJE State Specific Review. The Board was advised that a remote site would be available the first week in November. The Board discussed dividing exam questions for review and will conduct the review individually. Susan Bird will make necessary arrangements with NABP.

Consideration of Format of Consultation Exam – Susan Bird - Office of Education and Examinations

Susan Bird appeared before the Board to discuss the format of the patient consultation exam. Susan Bird indicated that in her opinion the North American Pharmacist Licensure Examination (NAPLEX) meets all necessary patient consultation criteria. Ruby Jefferson-Moore advised that the Board should make a statement that the exam will no longer be administered in sixty (60) or ninety (90) days. The Board will revisit this discussion at the meeting in December.

MOTION: Tim Boehmer moved, seconded by Jason Walker-Crawford, to draft a scope statement to repeal all rules relating to the practical exam requirement. Motion carried unanimously.

MOTION: Jason Walker-Crawford moved, seconded by Tim Boehmer, to explore the possibility of an emergency rule to repeal all rules relating to the practical exam requirement. Motion carried unanimously.

MOTION: Jeanne Severson moved, seconded by Tim Boehmer, to request the Department to present a transition plan from moving from the oral consultation exam to an alternate exam. Motion carried unanimously.

Credentialing Liaison Report – Jeanne Severson

Jeanne Severson provided a report.

Remote Dispensing Task Force Report and Discussion of Guidelines for Remote Dispensing

Greg Weber stepped in for Jeanne Severson. Amy Mattila summarized the Task Force meeting on October 28, 2008 by outlining the guidelines that were formulated. These guidelines will be used for the variance requests. The Board then reviewed the guidelines and amended as necessary. There was Board consensus that these are requirements for variances and these are subject to change. A copy of the revised guidelines will be sent to Aurora Pharmacy, Inc. and Marshfield Clinic.

**REQUEST FOR ASSISTANCE TO WRITE A REMOTE DISPENSING ARTICLE -
CURT JOHNSON – PHARMACY SOCIETY OF WISCONSIN –
MADISON, WI – BOARD CONSIDERATION**

Greg Weber advised the Board that a request was submitted by Curt Johnson, Editor of the Pharmacy Society of Wisconsin's journal regarding assistance with an article on remote dispensing. This topic will be revisited at the December 3, 2008 meeting.

**PRACTICE QUESTION – REMOTE CONSULTATION – MICHAEL SWANOSKI,
PHARM.D., UNIVERSITY OF MINNESOTA COLLEGE OF
PHARMACY – DULUTH, MN**

The Board discussed a practice question regarding remote consultation and licensing requirements for out of state pharmacists. The Board came to the decision that the out of state pharmacist must have a Wisconsin license. Ruby Jefferson-Moore will respond to Mr. Michael Swanoski concerning this matter.

**UNITED STATES PHARMACOPEIA (USP) 797 REGARDING COMPOUNDING
STERILE PREPARATIONS AND WIS. ADMIN. CODE
PHAR § 15, STERILE PHARMACEUTICALS**

Correspondence from Cardinal Health was distributed to the Board. The Board discussed information in a memorandum written by Wade Rudolph, WHEA Codes & Standards Committee Co-Chair. The Board would like Greg Weber to respond to Mr. Rudolph and request his sources for the information in his correspondence. The Board discussed adopting USP 797 in place of Wis. Admin. Code PHAR § 15. The Board would like to request positions regarding this matter from the following: American Society of Health-System Pharmacists (ASHP), The Joint Commission (TJC), National Home Infusion Association (NHIA) and discuss their positions at a future meeting. Tom Ryan will research other states' USP 797/sterile compounding compliance requirements

DEA DRUG THEFT AND LOSS REPORT(S) – BOARD REVIEW

Noted.

**IMPACT ON WISCONSIN PHARMACY EXAMINING BOARD AND THE
DEPARTMENT OF REGULATION AND LICENSING OF
PROPOSED AMENDMENTS TO 21 CFR PARTS
1300 AND 1306 AND THE CREATION OF
1311 (ELECTRONIC CONTROLLED
SUBSTANCES PRESCRIPTION RULE)**

The Board discussed the letter signed by Greg Weber that was sent to the Drug Enforcement Administration (DEA).

**REQUEST FOR EXTENSION – AURORA ST. LUKE'S MEDICAL
CENTER – BOARD REVIEW OF TECH-CHECK-TECH**

**PERFORMANCE AT AURORA ST. LUKE'S MEDICAL
CENTER AND AURORA BAYCARE
MEDICAL CENTER**

The Board discussed the review of tech-check-tech performance at Aurora St Luke's Medical Center and Aurora BayCare Medical Center.

MOTION: Tim Boehmer moved, seconded by Jeanne Severson, to extend the variance request another 12 months. Motion carried. Abstained: Greg Weber.

DOE Inspection Liaison Report – Greg Weber

Greg Weber gave a report regarding his duties as DOE Inspection Liaison.

Quality Review Council Report – Jason Walker-Crawford

None.

State Council on Alcohol and Other Drug Abuse (SCAODA) Report – Pamela Phillips

Pamela Phillips distributed draft minutes from the SCAODA meeting and noted they will not be approved until December.

Legislative Report

The emergency distribution rule extension has been approved and the permanent rule goes into effect December 1, 2008. The emergency extension covers the gap until December 1, 2008.

Amy Mattila informed the Board of an Attorney General Conference she attended. The topic discussed was prescription drug diversion.

Regulatory Digest – Review of Topics

Greg Weber informed the Board that if there are any topics that they feel should be discussed to bring them to the Board. Greg Weber will email Amy Mattila some topics.

**PHARMACY LAW POWERPOINT PRESENTATION
BOARD REVIEW FOR APPROVAL**

The Board reviewed the Pharmacy Law PowerPoint presentation and made corrections to the document as needed. Jeanne Severson will correct all changes and email the final document to Tom Ryan. Tom Ryan will post the final document to on the DRL website.

MOTION: Tim Boehmer moved, seconded by Jason Walker-Crawford, to approve the amended Pharmacy Law PowerPoint Presentation effective April 1, 2008. Motion carried unanimously.

INFORMATIONAL ITEMS

None.

PUBLIC COMMENTS

No comments were offered.

CLOSED SESSION

MOTION: Tim Boehmer moved, seconded by Amy Mattila, to convene to closed session to deliberate on case(s) following hearing (Wis. Stat. § 19.85 (1)(a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b) and 440.205); to consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll Call Vote: Timothy Boehmer-yes; Suzette Renwick-yes; Jeanne M. Severson-yes; Jason Walker-Crawford-yes; Gregory C. Weber-yes; Pamela Phillips-yes; Amy Mattila-yes. Motion carried unanimously.

The Board convened into Closed Session at 12:55 p.m. to begin discussion on closed session agenda items.

(Jeanne Severson left the meeting at 1:30 p.m.)

RECONVENE TO OPEN SESSION TO HEAR PRESENTATION FROM ATTORNEY KRYSTAL WILLIAMS-OBY ON BEHALF OF NEIL NOESEN

MOTION: Suzette Renwick moved, seconded by Jason Walker-Crawford, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 2:00 p.m.

Attorney John R. Zweig appeared before the Board to represent Department of Regulation & Licensing (DRL) and Attorney Krystal Williams-Oby appeared on behalf of Neil Noesen in the matter of disciplinary proceedings against Neil T. Noesen, R.Ph.

CLOSED SESSION

MOTION: Jason Walker-Crawford moved, seconded by Suzette Renwick, to convene to closed session to deliberate on case(s) following hearing (Wis. Stat. § 19.85 (1)(a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b) and 440.205); to consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll Call Vote: Timothy Boehmer-yes; Suzette Renwick-yes; Jason Walker-Crawford-yes; Gregory C. Weber-yes; Pamela Phillips-yes; Amy Mattila-yes. Motion carried unanimously.

The Board convened into Closed Session at 2:35 p.m. to continue deliberations on closed session items.

**RECONVENE TO OPEN SESSION TO VOTE ON ITEMS
DELIBERATED ON IN CLOSED SESSION**

MOTION: Suzette Renwick moved, seconded by Jason Walker-Crawford, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 4:35 p.m.

**RE-REGISTRATION APPLICATION REVIEW –
DALE H. PRACHT**

MOTION: Jason Walker-Crawford moved, seconded by Pamela Phillips, to approve to reinstate license after successful completion of Multi-State Pharmacy Jurisprudence Examination (MPJE). Motion carried unanimously.

**RE-REGISTRATION APPLICATION REVIEW –
MARY MABLY, R.PH.**

No action was taken on this agenda item.

**DELIBERATION OF STIPULATION, FINAL DECISIONS AND
ORDERS**

CARDINAL HEALTH

MOTION: Tim Boehmer moved, seconded by Amy Mattila, to adopt the stipulation, final decision and order. Motion carried unanimously.

FORFEITURES – DISCUSSION

Michael Berndt appeared before the Board to discuss forfeitures.

**DELIBERATION OF STIPULATION, FINAL DECISION AND ORDER IN THE
MATTER OF DAVID M. SMITH, R.PH.**

MOTION: Jason Walker-Crawford moved, seconded by Suzette Renwick, to adopt the findings of fact, conclusions of law, stipulation and amended final decision and order in the matter of disciplinary proceedings against David M. Smith, R.Ph. Motion carried unanimously.

**DELIBERATION OF STIPULATIONS, FINAL DECISIONS AND ORDERS RECEIVED
IN THE BUREAU AFTER PREPARATION OF THE AGENDA**

RUSSELL STONE, R.PH.

MOTION: Jason Walker-Crawford moved, seconded by Pamela Phillips, to adopt the findings of fact, conclusions of law, stipulation and order in the matter of disciplinary proceedings against Russell Stone, R.Ph. Motion carried unanimously.

**DELIBERATION OF STIPULATION, FINAL DECISION AND ORDER IN THE
MATTER OF STEVEN SPITZER, R.PH.**

MOTION: Tim Boehmer moved, seconded by Suzette Renwick, to adopt the findings of fact, conclusions of law, stipulation and amended final decision and order in the matter of disciplinary proceedings against Steven Spitzer, R.Ph. Motion carried unanimously.

BONNY KIMBALL, R.PH.

MOTION: Jason Walker-Crawford moved, seconded by Tim Boehmer, to adopt the findings of fact, conclusions of law, stipulation and order in the matter of disciplinary proceedings against Bonny Kimball, R.Ph. Motion carried unanimously.

STEVEN ZIEBELL, R.PH

MOTION: Pamela Phillips moved, seconded by Tim Boehmer, to adopt the findings of fact, conclusions of law, stipulation and order in the matter of disciplinary proceedings against Steven Ziebell, R.Ph. Motion carried unanimously.

DELIBERATION OF ADMINISTRATIVE WARNING

04 PHM 007

MOTION: Tim Boehmer moved, seconded by Amy Mattila, to issue the administrative warning in case 04 PHM 007. Motion carried unanimously.

04 PHM 016

MOTION: Tim Boehmer moved, seconded by Jason Walker-Crawford, to issue the administrative warning in case 04 PHM 016. Motion carried unanimously.

CONSIDER CLOSING CASES

07 PHM 054

MOTION: Jason Walker-Crawford moved, seconded by Amy Mattila, to close case 07 PHM 054 for insufficient evidence. Motion carried unanimously.

07 PHM 072

MOTION: Tim Boehmer moved, seconded by Amy Mattila, to close case 07 PHM 072 for no violation. Motion carried unanimously.

05 PHM 024

MOTION: Tim Boehmer moved, seconded by Suzette Renwick, to close case 05 PHM 024 for no violation. Motion carried unanimously.

04 PHM 007

MOTION: Tim Boehmer moved, seconded by Amy Mattila, to close case 04 PHM 007 for prosecutorial discretion (P2). Motion carried unanimously.

04 PHM 016

MOTION: Tim Boehmer moved, seconded by Pamela Phillips, to close case 04 PHM 016 for insufficient evidence. Motion carried unanimously.

**CONSULTATION EXAMINATION SCENARIOS – BOARD REVIEW FOR
APPROVAL – SUSAN BIRD, OFFICE OF EDUCATION
AND EXAMINATION**

MOTION: Tim Boehmer moved, seconded by Amy Mattila, to approve the scenarios for the consultation exam as presented. Motion carried unanimously.

MONITORING

**ROGER G. IVERSON, R.PH.
REQUESTING STAY**

Roger Iverson appeared before the Board to request a three (3) month stay of suspension.

MOTION: Jeanne Severson moved, seconded by Suzette Renwick, to grant the request for three-month stay of suspension in the matter of Roger G.

Iverson, R.Ph. The Board in its discretion may restore respondent's license to full, unlimited status only upon petition by respondent after completion of five (5) years of practice of pharmacy subsequent to this stay of suspension. Motion carried unanimously.

**DALTON L. HOLMEN, R.PH.
REQUESTING FULL LICENSURE**

Sharon Henes distributed to the Board correspondence from Attorney John D. Hyland on behalf of Dalton L. Holmen. Dalton L. Holmen appeared before the Board to request full licensure.

MOTION: Jason Walker-Crawford moved, seconded by Pamela Phillips, to remove the suspension and to limit the license for an indefinite period of time in the matter of Dalton L. Holmen, R.Ph. Mr. Holmen must remain in active psychotherapy, under a psychiatrist's care, continue in a substance abuse program with quarterly reports to the Board by the therapist and appear annually before the Board upon request. Motion carried unanimously.

MARTIN LUTHER KING (MLK) HERITAGE CLINIC

Sharon Henes appeared before the Board to discuss the MLK Heritage Clinic's request for stay of suspension.

MOTION: Jason Walker-Crawford moved, seconded by Tim Boehmer, to grant the request for a stay of suspension in the matter of MLK Heritage Clinic for ninety (90) days and direct the Department Monitor to request additional information from the Pharmacy Monitor. Motion carried unanimously.

Monitoring Liaison Report – Jeanne Severson

None.

Division of Enforcement – Meeting with Individual Board Members

None.

Division of Enforcement – Case Status Reports and Case Closings

None.

**DELIBERATION ON VARIANCE ON REMAND – NEIL NOESEN V. STATE OF
WISCONSIN DEPARTMENT OF REGULATION AND LICENSING
PHARMACY EXAMINING BOARD, LS0310091 PHM
ATTORNEY KRYSTAL WILLIAMS-OBY,
KINGDOM LEGAL SERVICES, INC.**

Attorney John R. Zweig appeared before the Board to represent Department of Regulation & Licensing (DRL) and Attorney Krystal Williams-Oby appeared on behalf of Neil Noesen.

MOTION: Suzette Renwick moved, seconded by Tim Boehmer, to approve the amended final decision and order following remand in the matter of disciplinary proceedings against Neil T. Noesen, R.Ph. Motion carried unanimously.

MOTION: Tim Boehmer moved, seconded by Suzette Renwick, to delegate signature authority to the Department of Regulation and Licensing to sign the final decision. Motion carried unanimously

Consulting with Legal Counsel

None.

VALIDATION OF EXAM SCORES

MOTION: Tim Boehmer moved, seconded by Jason Walker-Crawford, to validate the exam scores. Motion carried unanimously.

ADJOURNMENT

MOTION: Tim Boehmer moved, seconded by Jason Walker-Crawford, to adjourn. Motion carried unanimously.

The meeting adjourned at 4:45 p.m.

NEXT MEETING: 3 DECEMBER 2008