



New Mexico Regulation and Licensing Department
BOARDS AND COMMISSIONS DIVISION
Board of Pharmacy

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www.rld.state.nm.us/pharmacy/asp

June 20 - 21, 2013 Board Meeting Draft Minutes

New Mexico Board of Pharmacy Regular Board Meeting

Location: 5200 Oakland Ave. Suite A, Albuquerque, New Mexico 87113

Meeting Time: 8:00 a.m. – finish same day

Call to Order: The meeting was called to order by the Chairman Richard Mazzoni, R.Ph., at 8:10 a.m.

MEMBERS PRESENT: Richard Mazzoni R.Ph., Chairman
Amy Buesing R.Ph., Member
LuGina Mendez-Harper R.Ph., Member
Danny Cross, R.Ph., Member
Joe Anderson R.Ph., Member
Buffie Saavedra, Public Member
Allen Carrier, Public Member
Anise Yarbrough, Public Member
Chris Woodul R.Ph., Member

STAFF ATTENDING: Larry Loring, Executive Director
Debra Wilhite, Administrative Secretary
Mary Smith, Assistant Attorney General
Ben Kesner, Inspector
Kris Mossberg, Inspector
Cheranne McCracken, Inspector
Adela Padilla, Inspector
Bobby Padilla, Inspector

Thursday June 20, 2013

- 1. 8:10 a.m. Call to Order**
- 2. Roll Call:**

Chairman Richard Mazzoni introduced the newly appointed board member, Chris Woodul from Ruidoso, NM.

Present were Mr. Carrier, Ms. Saavedra, Mr. Anderson, Mr. Danny Cross, Ms. Amy Buesing, Ms. Mendez-Harper, Ms. Anise Yarbrough, Mr. Chris Woodul and the Chairman Mr. Richard Mazzoni.

***The board may go into Executive Session to discuss these items and any other items pursuant to Section 10-15-1H(1), Section 10-15-1H(2) or Section 10-15-1H(7) of the Open Meetings Act. Agenda items may be executed within the two day scheduling period to accommodate hearings.**

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3. Approval of the Agenda:

The agenda was approved as presented.

Motion: Motion was made by Ms. Saavedra, seconded by Ms. Mendez-Harper to approve the agenda as presented, board voted unanimously to pass the motion.

4. Approval of January 2013 Revised and April 2013 Minutes:

The board approved the January 2013 and April 2013 minutes as amended.

Motion: Approve the January 2013 minutes as amended. Motion made by Ms. Buesing, seconded by Mr. Cross, board voted unanimously to pass motion.

Motion: Approve the April 2013 minutes as amended. Motion made by Mr. Cross, seconded by Mr. Anderson, board voted unanimously to pass motion.

5. Applications:

a) Application List:

Ms. Mendez-Harper presented the application list to the board.

Motion: 6 Clinic/Home Health applications all are in order. Motion made by Ms. Mendez-Harper, seconded by Ms. Yarbrough to approve applications, board voted unanimously to pass motion.

Motion: 1 Emergency Medical Services application is in order. Motion made by Ms. Mendez-Harper, seconded by Ms. Buesing to approve the application, board voted unanimously to pass motion.

Motion: 16 Custodial/Nursing Home applications all are in order. Motion made by Ms. Mendez-Harper, seconded by Ms. Yarbrough to approve applications, board voted unanimously to pass motion.

Motion: 5 Pharmacy/Hospital applications all are in order. Motion made by Ms. Harper-Mendez, seconded by Ms. Buesing to approve applications, board voted unanimously to pass motion.

Motion: 23 Non-Resident Pharmacy applications all are in order. Motion made by Ms. Harper-Mendez, seconded by Ms. Yarbrough to approve applications, board voted unanimously to pass motion.

Motion: 22 Wholesale/Broker applications all are in order. Motion made by Ms. Harper-Mendez, seconded by Ms. Buesing to approve applications, board voted unanimously to pass motion.

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b) Pharmacist Clinicians:

Motion: Recommendations and PhC certification approved for Angela Torres and Kevin McDermott, motion made by Ms. Mendez-Harper, seconded by Mr. Anderson, board voted unanimously to pass the motion.

Motion: Renewal and protocols approved for Tamara Brown, John Hutchison, Leslie Ingham, Wm. R. Reeves, April Sherard and Tom White, motion made by Ms. Mendez-Harper, seconded by Mr. Anderson, board voted unanimously to pass the motion.

Motion: Recommendations and prescriptive authority approved for Angela Torres and Frank Latino, and note that Frank Latinos prescriptive authority will include controlled substances, within the scope of practice, motion made by Ms. Mendez-Harper, seconded by Mr. Anderson, board voted unanimously to pass the motion.

Motion: Attach the application lists to the minutes. Motion made by Ms. Mendez-Harper, seconded by Ms. Buesing, board voted unanimously to pass the motion.

6. MTP Report* (Approximately 8:30 a.m.)

The Chairman asked to go into closed session to discuss the MTP report.

Motion: Go into closed session to discuss the MTP report and case presentations. Motion made by Ms. Mendez-Harper, seconded by Ms. Buesing, Ms. Saavedra, Mr. Anderson, Mr. Cross, Ms. Buesing, Ms. Mendez-Harper, Ms. Yarbrough, Mr. Woodul and Chairman Mazzoni voted unanimously to pass the motion. Mr. Carrier was not in the conference room at the time.

The board went back into open session at 9:00 a.m. and the only issue discussed was the MTP report and case presentations.

7. 9:00 a.m. Rule Hearings:

The Chairman opened the rule hearing at 9:03 and took roll call. Present were Mr. Carrier, Mr. Anderson, Mr. Cross, Ms. Buesing, Ms. Yarbrough, Mr. Woodul and Chairman Mazzoni. Chairman Mazzoni stated that Ms. Saavedra and Ms. Mendez-Harper were not in the room at the moment. Also present were Assistant Attorney General, Mary Smith, Executive Director, Larry Loring and Administrative Secretary, Debra Wilhite.

The Chairman entered the notice of hearing as exhibit #1, proposed language for 16.19.4.10 NMAC as exhibit #2, proposed language for 16.19.5.8 NMAC as exhibit #3, proposed language for 16.19.20.53 NMAC as exhibit #4, written comments from Jeff Browning regarding 16.19.20 NMAC as exhibit # 5, NACDS written comments regarding 16.19.20 NMAC as exhibit #6, Consumer Healthcare Products Association written comments as exhibit #7, Brian Sallee written comments as exhibit #8, and sign in sheet as exhibit #9.

a. 16.19.4 NMAC Pharmacists

Add approved CE providers

Motion: Adopt language as amended in 16.19.4.10 NMAC. Motion made by Mr. Cross, seconded by Ms. Saavedra, board voted unanimously to pass the motion.

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16.19.4.10 CONTINUING PHARMACY EDUCATION REQUIREMENTS:

A. Continuing pharmacy education (CPE) shall include study in one or more of the general areas of socioeconomic and legal aspects of health care; the properties and actions of drugs and dosage forms; etiology; characteristics and therapeutics of the disease state, or such other subjects as the board may from time to time approve. Continuing pharmacy education approved in New Mexico shall be limited to programs and activities offered by ~~[an ACPE]~~ **the accreditation council for pharmacy education (ACPE)**, approved provider ~~[or]~~, **programs or courses approved by other state boards of pharmacy and** pharmacy law programs offered by the ~~[N.M.]~~ **New Mexico** board of pharmacy.

B. Continuing pharmacy education, certified as completed by an approved provider will be required of a registered pharmacist who applies for renewal of New Mexico registration as follows: 3.0 CEU (30 contact hours) every two years. Effective January 1, 2013, pharmacist and pharmacist clinician renewal applications shall document.

(1) A minimum of 1.0 CEU (10 contact hours) excluding the law requirement, per renewal period shall be obtained through "live programs" that are approved as such by the ACPE or the accreditation council for continuing medical education (ACCME). Live programs provided by other providers (such as continuing nursing education) may be acceptable based on review and approval of the board.

(2) A minimum of 0.2 CEU (2 contact hours) per renewal period shall be in the area of patient safety as applicable to the practice of pharmacy.

(3) A minimum of 0.2 CEU (2 contact hours) per renewal period shall be in the subject area of pharmacy law offered by the New Mexico board of pharmacy.

(4) Effective January 1, 2015, a minimum of 0.2 CEU (2 contact hours) per renewal period shall be in the area of safe and appropriate use of opioids. An educational program consisting of a minimum of 0.2 CEU (2 contact hours) that addresses both patient safety as applicable to the practice of pharmacy and the safe and appropriate use of opioids will satisfy requirements of Paragraphs (2) and ~~[(3)]~~ **(4)** of Subsection B of this section.

b. 16.19.5 NMAC Internship Training Program

Set registration fee at \$25

Motion: Adopt language as presented in 16.19.5.8 NMAC. Motion made by Mr. Cross, seconded by Mr. Carrier, board voted unanimously to pass the motion.

16.19.5.1 ISSUING AGENCY: Regulation and Licensing Department - Board of Pharmacy, ~~[4650 University Blvd, NE Ste. 400B, Albuquerque, NM 87102, (505) 841-9102]~~ **Albuquerque, NM.**

16.19.5.8 SUMMARY OF OBJECTIVES:

E. Requirements for intern.

(1) Application shall be made to the board on the required application form provided by the board prior to the beginning of internship. An applicant for registration as a pharmacist intern shall have satisfactorily completed not less than 30 semester hours or the equivalent thereof, in a college of pharmacy curriculum accredited by the ACPE and meet other requirements established by regulations of the board.

(2) The intern shall wear the standard identification tag, approved and issued by the board during any pharmacy area employment. A nominal fee is applicable. The intern will be responsible for imprinting his/her name on the identification tag.

(3) The intern shall make such reports and certifications as required under the approved program.

(4) The intern is responsible for the knowledge and observation of the extent of his legal liability and legal restrictions applicable under the federal, state and municipal laws and regulations.

(5) The intern shall be responsible for ascertaining proper certification for himself, completion of all assignments, submittal of all forms, and reports under the approved program. After all assignments have been completed the preceptor will certify the affidavit and verify the completion of all requirements. Internship will not be evaluated or certified by the board until all forms are turned in to the board office in the form of certified affidavits.

(6) Employment and the internship training period are not to be interpreted as being the same. An intern may work in excess of his computed time. A maximum of 48 hours per week, however, shall be considered computed time for the purpose of completing the internship requirement of 1500 hours.

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(7) The intern shall submit, annually, at the time of registration renewal, all completed required forms for the prior year or period of computed time.

(8) Any or all of the training period may be obtained after graduation.

(9) The intern shall notify the board of any change of address, employment or preceptor, in writing, within ten (10) days of such change.

(10) The intern certificate of registration and renewal shall be displayed in the training area where the intern is employed.

(11) The registration shall be renewable under the following conditions:

(a) the intern has received a degree from an ACPE accredited college of pharmacy, but has not completed the required intern hours to take the state board examination; or the intern has not completed the required number of hours and is enrolled as a pharmacy student;

(b) a candidate who has failed the NAPLEX exam ~~and/or~~ **and** the state board jurisprudence examination may renew intern registration to be valid until the next scheduled examination date; provided the renewal does not exceed the period allowed under 16.19.2 NMAC; or

(c) by prior approval or by direction of the board.

(12) The intern registration must be renewed annually on/or before the last day of September. Annual renewal fee is ~~[\$10.00]~~ **\$25.00**.

c. 16.19.20 NMAC Controlled Substances

Require electronic reporting of pseudoephedrine sales

Det. Brian Sallee, Mr. Jose Ramirez and Mr. William Harvey were present to discuss the need for using the PSE electronic reporting web based system provided by HIDTA. Data will be transferred from agent to agent and state to state, with reasonably easy access and the system will be managed as directed from the state boards. The system is scheduled to be up and running by January 2014. It was stated that filing the rule will allow for pharmacies to be on board and have ample time to set up by September 15, 2013. Ms. Wilhite, the Administrative Secretary indicated she would file the rule allowing this timeframe to be adhered to.

Mr. Drew Setter from CHPA was present and discussed the possible obstacles and inability of integrating and/or using the reporting systems already in place within numerous pharmacies throughout our state as well as pharmacies in other states. Written comments were submitted from NACDS also regarding numerous other states throughout the country that have implemented electronic reporting systems and requirements rather than creating a new or different tracking technology.

Mr. Cross thanked Det. Sallee, Mr. Ramirez and Mr. Harvey for the hard work that has been done as this has been implemented to protect the public health and safety, this will accomplish that goal far more than creating a burden on the pharmacies in the state.

Motion: Adopt language as presented in 16.19.20.53 NMAC. Motion made by Mr. Cross, seconded by Ms. Mendez-Harper, board voted unanimously to pass the motion.

16.19.20.53 DISPENSING WITHOUT PRESCRIPTION:

B. Exempt pseudoephedrine product.

(1) Any pseudoephedrine containing product listed as a Schedule V Controlled Substance in Paragraph (2) of Subsection B of 16.19.20.69 NMAC shall be dispensed, sold or distributed only by a licensed pharmacist, pharmacist intern, or a registered pharmacy technician.

(2) Unless pursuant to a valid prescription, a person purchasing, receiving or otherwise acquiring the compound, mixture or preparation shall:

(a) produce a driver's license or other government-issued photo identification showing the date of birth of the persons;

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(b) sign a log after reading the purchaser statement for pseudoephedrine receipt or other program or mechanism indicating the date and time of the transaction, name of the person, address, driver's license number or government issued identification number, name of the pharmacist, pharmacist intern or pharmacy technician conducting the transaction, the product sold and the total quantity, in grams or milligrams, of pseudoephedrine purchased; this log will be only for exempt pseudoephedrine products and shall be kept separate from all other records; the log is to be produced in a way that a customer's personal information is not available to other purchasers;

(c) be limited to no more than 3.6 grams per day or more than a total of 9 grams of a product, mixture or preparation containing pseudoephedrine within a thirty-day period.

(3) Pseudoephedrine purchaser statement must state in addition to any federal requirements "I have not purchased more than 3.6 grams today or more than a total of 9 grams of pseudoephedrine as a single entity or in a combination with other medications in the last 30 days. Entering false statements or misrepresentations in this logbook may subject me to criminal penalties."

(4) Prices charged for compounds, mixtures, and preparations that contain pseudoephedrine shall be monitored. The board may adopt rules to prevent unwarranted price increases as a result of compliance with this section.

(5) Pharmacies shall submit the information collected pursuant to Paragraph (2) of Subsection B of 16.19.20.53 NMAC electronically, in a board defined format, to the board or its agents. Pharmacies will submit data every seven (7) days beginning September 15, 2013. Pharmacies may petition the executive director of the board for an alternative method for the submission of the information collected pursuant to this section.

(6) AUTHORITY TO CONTRACT: The board is authorized to contract with another agency of this state or with a private vendor, as necessary, for the collection of the information collected pursuant to Paragraph (2) of Subsection B of 16.19.20.53 NMAC. Any contract shall be bound to comply with the provisions regarding confidentiality of prescription or personal information in 16.19.20.53 NMAC of this regulation and shall be subject to the penalties specified in 16.19.20 NMAC and 16.19.27 NMAC.

8. 10:00 a.m. Walgreens Good Faith Dispensing Policy:

Mr. Rex Sword, Mr. Dwayne Pinon and Ms. Natasha Polster were present from Walgreens to provide a response regarding the correspondence received by NMBOP from Michelle Lujan Grisham. Written comments from the New Mexico Medical Society, Ernest Dole and Brian Starr and their concerns and frustration regarding the implementation of the GFD policy has been met with inconsistency and led to further problems.

Upon lengthy discussion between the board and representatives from Walgreens that covered "red flags" regarding select controlled substances such as oxycodone, methadone and hydromorphone. Red Flags included, does the patient live in the trade area, high doses, high quantities and other documentation requests needed to evaluate and fill prescriptions. Walgreens stated that they have always had the GFD policy. Further discussion of the written comments submitted, opposing the "Good Faith Dispensing" policy, with concerns such as DEA guidelines, misinformation on reasons for the policy, delays in dispensing pain medications, patient withdrawal, alleged time delays of 2-3 days in obtaining required information prior to dispensing, dosage changes, additional prescription requests based on quantity limitations, lack of uniform understanding of company directives by Walgreens pharmacists, decreased quality of patient care, among many other issues.

In conclusion the board received several written comments regarding this issue. The board did not receive an actual copy of the Walgreens Good Faith Dispensing Policy and stated that they would like to view the Walgreen's "Good Faith Dispensing" policies and expressed their concern regarding the messaging from Walgreens pharmacists that these policies were implemented by the New Mexico board of pharmacy. Walgreens indicated they were going to retrain pharmacists to ensure this misperception was not perpetuated.

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A written correspondence received from Congresswoman Michelle Lujan Grisham has asked the board to look into the Walgreens GFD policy and its potential negative impact on patient care. Mary Smith, the boards counsel, Ms. Mendez-Harper and Mr. Cross will work together in responding to Ms. Grisham's concerns and present at the August 2013 board meeting.

9. 11:00 a.m. Disciplinary Hearing:

2012-010 Ron Gonzales – Notice of Hearing 11:00 a.m.

The Chairman opened the hearing at 11:15 and took roll call. Present were Mr. Carrier, Ms. Saavedra, Mr. Anderson, Mr. Cross, Ms. Buesing, Ms. Mendez-Harper Ms. Yarbrough and Mr. Woodul. Respondent Ron Gonzales was not present.

Present was the Administrative Prosecutor Ms. Gloria Lucero for the state and stipulated and entered into record 17 exhibits at which time she asked for a default order due to respondent, Mr. Ron Gonzales not being present.

Witnesses present were Kimberly Harvey, Rodha Denmark and board Inspector, Kris Mossberg.

Testimony by all parties was heard and the Chairman closed the hearing at 11:55 a.m.

Motion made by Ms. Saavedra, seconded by Mr. Anderson to go into closed session, Mr. Carrier, Mr. Cross, Ms. Buesing, Ms. Mendez-Harper, Ms. Yarbrough and Mr. Woodul voted unanimously to pass the motion.

The board went into closed from 11:56 a.m. until 1:42 p.m. to deliberate the Ron Gonzales and Kelly Kemper cases.

The board went back into open session and the only issues discussed were the Ron Gonzales and Kelly Kemper cases.

Motion: Disciplinary action against Ron Gonzalez will include non-application for custodial care license from the board of pharmacy for a period of 20 years, a \$1000.00 fine for operating a custodial care facility without a license from the board of pharmacy, a \$1000.00 fine for inappropriate record keeping for ordering, administration and maintenance and disposal of drugs for each of the six patients named in the hearing, investigative costs of which and all to be paid within 90 days from the date served to Ron Gonzales. Motion made by Ms. Mendez-Harper, seconded by Mr. Anderson, board voted unanimously to pass the motion.

10. Public and Professional Requests/Waiver Petitions:

a. Joanne Ruppen - 2011-032 Requesting release from voluntary restriction:

Ms. Ruppen was present until the board went into closed session at 11:55 a.m. The board went back into open session at 1:45 p.m. at which time she was not present. Ms. Ruppen's restrictions will be lifted on 6/28/13 as stated in the order.

b. Angela DiPaolo – Waiver request minimum standards 16.19.11.8 NMAC:

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Ms. Angela DiPaolo was present and asked the board to allow the inclusion of C2-C5 controlled substances and at least C3-C5 in the EKIT that will be placed at their facility by Albuquerque Pharmacy. She stated due to the nature of the residents served it is necessary to have certain pain, anxiety and sleep medications readily available. The only people that will have access to the medications are licensed nurses and the system will be closely monitored and will only allow certain individuals at any given time and the on-call pharmacist who must approve access at any time after hours and weekends.

Mr. Loring stated his concerns regarding the DEA allowing C2's. Mr. Cross stated that a better solution would be for the facility to be licensed as an LTCF.

Motion: Approve the waiver for one year for schedules 2-5 with the use of the advanced monitoring technology and will maintain a nurse, they will explore licensing as a LTCF, motion made by Mr. Cross, seconded by Ms. Buesing, the board voted unanimously to pass the motion.

- c. Jeff Schwaner - Sun Healthcare formulary request:** Mr. Schwaner is requesting of the board to allow the addition of vaccines listed to the formulary in order to serve the residents of the SunBridge Health nursing facilities in New Mexico. Those vaccines would be Pneumococcal, Diphtheria, Tetanus, Pertussis vaccines or combination.

Motion: Approve the waiver for two years to allow the inclusion of the following drugs listed to those in 16.19.11.8 B(6)(a), for two years, motion made by Mr. Cross, seconded by Mr. Carrier, board voted unanimously to pass the motion.

- d. George Gonzales, R.Ph. and Dr. Maggi Gallaher, MD, MPH - Public Health Department Clinic Waiver 16.19.10.11:** Mr. Gonzales was present and asked the board to waive the consultant pharmacist from visiting clinics bi-monthly to every six months.

Motion: Approve the waiver for five years to allow consultant pharmacist to visit the DOH clinics every six months and to conduct remote chart reviews, motion made by Mr. Cross, seconded by Mr. Carrier, Ms. Saavedra voted yes, Mr. Anderson voted yes, Ms. Mendez-Harper voted yes, Ms. Yarbrough voted yes, Mr. Woodul voted yes, and Ms. Buesing voted no. The motion was passed.

- e. Jeffrey A. Clark – Request for Reciprocity 16.19.3 NMAC, Sections 8, 9, and 13:** The board called Mr. Clark to initiate a teleconference twice, and both times the line was busy. Mr. Loring stated that he would check the number provided.

- f. Joshua (Smith) Blevins IN2865 – 2011-035 Requesting reinstatement of license:** Joshua (Smith) Blevins was discussed during case presentations in closed session.

Motion: **Issue NCA to deny request** for case 2011-035. Motion made by Ms. Mendez-Harper, seconded by Mr. Cross, board voted unanimously to pass the motion.

- g. Satoko Chiba - Request to waive some or all intern hours:** Ms. Satoko Chiba

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was present and asked the board to approve 720 hours of pharmacy technician and internship based on previous experience from the University of Arizona.

Motion: Approve the waiver for 720 hours of internship based on the documentation provided from the University of Arizona towards the boards' requirements of 16.19.5.7.G.(3) NMAC, for a period of two years, motion made by Mr. Anderson, seconded by Ms. Mendez-Harper, board voted unanimously to pass the motion.

- h. Douglas Scribner - Waiver to provide sterile product training 16.19.6.11 NMAC:** Mr. Scribner was present and asked the board to renew BOP waiver 2011-001, waiving 16.19.6.11C(2) NMAC i and ii, to accept the CNM Pharmacy Technician Programs' sterile product training in lieu of the training requirements within this section, which allows CNM students to mix sterile products while completing the experiential portions of the program. This program assures pharmacist preceptors that CNM students have completed basic and advanced training in aseptic compounding prior to doing so in the clinical environment and promotes patient safety.

Motion: Approve the waiver for five years contingent upon Mr. Scribner administering the program for those 5 years. Motion made by Mr. Cross, seconded by Ms. Yarbrough, Mr. Carrier voted yes, Ms. Saavedra voted yes, Mr. Anderson voted yes, Ms. Mendez-Harper voted yes, Ms. Yarbrough voted yes, and Mr. Woodul voted yes, vote was unanimous to pass the motion.

11. Committee Reports:

Pharmacist Practice Committee:

Meeting Minutes of NM Board of Pharmacy: Pharmacy Practice Committee

June 11, 2013 5:30 – 6:57 PM Via telephone conference call

Present: LuGina Mendez-Harper, Kristina Wittstrom, Dale Tinker, Adela Padilla, Traci White, Ernest Dole, Frances Lovett

Guest: Andrew Bustos, Walgreen's Pharmacies

Not present: Jennifer Ortega, Joe Anderson

Agenda Items and Actions

I. June Board Notices

Pending Board notices were reviewed for comment

- a. 16.19.4.10 CPE

Explanation of changes were provided. No comments

- b. 16.19.5.9 Intern Fees

Explanation of correction was provided. No comments.

- c. 16.19.20.53 Dispensing without prescription

Explanation provided. Comments included concerns for electronic tracking of data submitted on manual (hard copy) records of independent pharmacies. Board staff advised independent pharmacies can reach out to executive director for compliance options.

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II. Walgreen's Good Faith Dispensing (GFD) Policy

A Bustos of Walgreen's presented a brief overview of Walgreen's goals and rationale for the GFD. EDole opinioned that the corporate policy does (and has) resulted in delay of dispensing of patient medications and that such activity could result in patient harm. After some discussion, the Committee represents that it is not certain that consideration of this policy falls within the committee charge. The Committee is willing to comment on this policy if so directed by the Board. The Committee recommends that the Board consider potential aspects of patient safety when reviewing this policy

III Pharmacy practice independent of a licensed pharmacy

The proposed language was reviewed and found to assume that a drug product is involved. The question of pharmacist responsibility, independent of a licensed pharmacy, when **no** drug product is involved (e.g., seeing patient as a provider, providing medication review and evaluation) was raised. FLOvett, JOrtega and LHarper will work to expand the language to include responsibilities when **no** drug product is involved. Motion tabled until June 18, 2013.

III. Pharmacist medication administration

The proposed language was reviewed. Question 1: under what circumstances are New Mexico licensed pharmacists authorized to administer medications? After group discussion, the matter is tabled until specific details can be provided. Question 2: can the aspects of pharmacist's training, professional development and documentation of competency be condensed into a single item (from references in items 1,2 and 5) to improve clarity of expectations?

IV. Compounding Sterile Products independent of licensed pharmacy

This is a topic currently being addressed by the Sterile Preparations Committee. KWittstrom will verify that this is addressed in the Sterile Preparations Committee final report to the Board. No other action taken.

Meeting adjourned at 6:57 PM

Next meeting by conference call scheduled for June 18, 2013 at 5:30 PM

Submitted by KWittstrom June 12, 2013

Board of Pharmacy/BAOM Education Committee: Mr. Anderson stated that he asked Dr. Barbara Maddoux to provide minutes from their last meeting. However, she did provide the educational requirements for Injection Therapy which was discussed and finalized at the April 2013 board meeting.

Sterile Products Committee: FYI, no action taken

Meeting Minutes
Sterile Compounding Committee
Advisory to the NM Board of Pharmacy

Tuesday June 4, 2013 2:00- 5:00 PM
NM Board of Pharmacy Conference Room

Members present: Amy Buesing, Board Member and Co-Chair, Kristina Wittstrom, Co-Chair; Catherine Cone, Tammy Johnstone, Adela Padilla, Teri Rolan (by speaker phone), Phil Saucedo, Christina Kim, Scott Roach

Guests: Amy Zarick and Jimmy Ma, Pharmacy Interns

Prior to the work session, the group again discussed the purpose of the proposed supplemental guidelines in order to provide clarification to the BOP and the Board's attorney. The intent of the guideline document is to provide supplemental information to the individual practitioner with the goal of augmenting understanding and compliance

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with the USP 797 standards. It was noted by the group and validated by Larry Loring that regulations are enforceable by the NMBOP inspectors and guidelines are not enforceable. The group will review the corresponding NMBOP regulations for potential revision and updates after completion of the supplemental guidelines.

The group worked through, discussed, clarified and proof read the following sections of the draft supplemental guidelines:

1. Personnel Training, Assessment and Documentation
2. Risk Levels of CSP
3. Beyond Use Dating
4. Single and Multiple Dose Containers
5. Environmental Sampling Testing
6. Hazardous CSP

Next meeting date to be determined by Doodle Poll to be sent by ABuesing
Submitted June 7, 2013 by KWittstrom

12. Executive Director's Report* (may be heard at any time during the two day meeting)

Motion made by Ms. Saavedra, seconded by Mr. Anderson to go into closed session, Mr. Cross, Ms. Buesing, Ms. Mendez-Harper, Ms. Yarbrough and Mr. Woodul voted unanimously to pass the motion. Mr. Carrier was not in the conference room for vote.

a. Case presentations:

Ben Kesner:	2013-033/NCA	2013-038/table	2013-006/DR
Bobby Padilla:	2013-035/AL	2013-036/close-DA	
Larry Loring:	2011-040/close-DA	2011-071/close	
Adela Padilla:	2011-056/close-DA	2013-031/NCA	
Kris Mossberg:	2013-017/NCA 2013-032/close	2013-025/table 2013-034/close-DA	2013-028/close-DA
Cheranne McCracken:	2013-016/VS	2013-026/NCA	2013-019/VS

NCA = Notice of Contemplated Action
VS = Voluntary Surrender
DR = Default Revocation
AL = Advisory Letter

Motion: **Close cases** 2013-036, 2011-040, 2011-071, 2011-056, 2013-028, 2013-032, 2013-034. Motion made by Ms. Mendez-Harper, seconded by Mr. Anderson, board voted unanimously to pass the motion.

Motion: **Table cases** 2013-038 and 2013-025. Motion made by Ms. Mendez-Harper, seconded by Mr. Cross, board voted unanimously to pass the motion.

Motion: **Accept voluntary surrender** case 2013-016. Motion made by Ms. Mendez-Harper, seconded by Mr. Carrier, board voted unanimously to pass the motion.

***The board may go into Executive Session to discuss these items and any other items pursuant to Section 10-15-1H(1), Section 10-15-1H(2) or Section 10-15-1H(7) of the Open Meetings Act. Agenda items may be executed within the two day scheduling period to accommodate hearings.**

H(1) are licensing matters, H(2) is limited to personnel matters, H(7) is pending or threatened litigation.

Motion: **Issue and advisory letter** to 2013-035. Motion made by Ms. Mendez-Harper, seconded by Mr. Cross, board voted unanimously to pass the motion.

Motion: **Issue NCA to revoke w/pre-settlement agreement to surrender** case 2013-031. Motion made by Ms. Saavedra, seconded by Ms. Mendez-Harper, board voted unanimously to pass the motion.

Motion: **Issue NCA to revoke w/pre-settlement agreement to surrender** case 2013-026. Motion made by Ms. Mendez-Harper, seconded by Mr. Carrier, board voted unanimously to pass the motion.

Motion: **Issue NCA w/pre-settlement agreement** to the pharmacist in charge, case 2013-017. Motion made by Ms. Mendez-Harper, seconded by Ms. Saavedra, board voted unanimously to pass the motion.

Motion: **Issue NCA w/pre-settlement agreement** case 2013-033. Motion made by Ms. Mendez-Harper, seconded by Mr. Anderson, board voted unanimously to pass the motion.

b. Stipulated or Settlement Agreements/Surrenders/Default Hearings and Orders*:

- 2012-060 Srikanth Ponnada RP7444 - Stipulated Agreement
- 2013-019 Crucita Zafiro PT8646 - Voluntary Surrender
- 2012-042 Dorothy Lewis PT4421 - Default Revocation
- 2013-006 Boyd Shomour PT8291 - Default Revocation
- 2011-051 Wal-Mart Pharmacy #80829 - Stipulated Agreement

Motion: **Accept stipulated agreements, surrenders, defaults and orders** as presented. Motion made by Ms. Mendez-Harper, seconded by Mr. Cross, board voted unanimously to pass the motion.

c. Emily Jerry Foundation:

Mr. Christopher Jerry from the Emily Jerry Foundation was present stating his opposition to the change of the pharmacy technician rule 16.19.22 NMAC regarding the ratio changing from the previous four technicians to one pharmacist ratio. As of 6/29/13 the ratio is to be determined by the pharmacist in charge. Mr. Jerry asked the board to reconsider implementing the ratio back to its original 4-1 ratio.

d. NMAG Rx Drug Abuse Summit:

Mr. Loring, Mr. Mazzone and Ms. Buesing attended the summit. Mr. Loring stated the presentations went well and had a good turnout, also that he is waiting for the AGO to summarize all the responses that were gathered during the summit. Mr. Mazzone stated that the AGO did a great job putting on the summit and that the presentation Mr. Loring gave on the PMP was well received. He also stated that there were break out groups that talked about concerns and issues, they had great questions and the time was well spent. Ms. Buesing stated that attendees were law enforcement, medical personnel, physicians, pharmacists and medical workers.

***The board may go into Executive Session to discuss these items and any other items pursuant to Section 10-15-1H(1), Section 10-15-1H(2) or Section 10-15-1H(7) of the Open Meetings Act. Agenda items may be executed within the two day scheduling period to accommodate hearings.**

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e. NM Healthcare Work force Work Group/HB 19:

Mr. Loring stated that the requirements of HB19 regarding boards supplying and collecting core essential data set at the time of new licensure or licensure renewal, pertaining to licensed health care providers will have to be implemented per statute. He also stated that technology and ways to verify the survey information has been completed by licensees that renew online as well as licensees that mail in their applications will have to be worked out. Mr. Loring stated that he will provide proposed language for 16.19.4 NMAC at the August 2013 board meeting.

f. Main Street Family Pharmacy-Newbern, TN:

Mr. Loring stated that this is a compounding pharmacy licensed with the board that was discovered to have shipped contaminated sterile products to Roswell. He informed the board that a case will be assigned and brought back to the board.

g. NABP Annual Meeting summary:

Mr. Loring, Mr. Mazzoni and Ms. Mendez-Harper attended the annual NABP meeting.

Mr. Mazzoni spoke about a presentation that was given by Giny Herold from the California board that he felt was both informative and frightening regarding grey and black market wholesaling and the stream of contaminated counterfeit product that ends up in legitimate wholesalers' inventory. He stated he would like the board to initiate a rule change that would require all new wholesalers and existing wholesale licensees to be VAWD (verified accredited wholesale distributor) certified. The certification is administered by the NABP and can be accessed on the NABP website.

Mr. Mazzoni asked Ms. Herold to attend the August board meeting in Ruidoso as he believes that our board here in New Mexico would benefit greatly from her presentation. Ms. Wilhite, the Administrative Secretary stated that she has had contact with her and has placed her on the agenda for August.

Ms. Mendez-Harper discussed the NABP Prescription Medication Distribution for Resale – The 5% Rule resolution. This resolution urges stated boards of pharmacy to eliminate "five percent" rules which allow for the transfer, distribution, and sale of prescription drugs between pharmacies for resale or the transfer between pharmacies to wholesalers for resale, or from pharmacists to practitioners for resale. This resolution does not apply to pharmacists transferring medications for emergency medical reasons, in response to public health needs, or individual patient needs. Ms. Mendez-Harper would like the board staff to evaluate our rules regarding this issue to see if rule changes are recommended, so that they may be considered by the board.

h. Deliberation and Action 2012-064 Kelly Kemper:

The board went into closed from 11:56 a.m. until 1:42 p.m. to deliberate the Ron Gonzales and Kelly Kemper cases.

Motion made by Ms. Saavedra, seconded by Mr. Anderson to go into closed session, Mr. Carrier, Mr. Cross, Ms. Buesing, Ms. Mendez-Harper, Ms. Yarbrough and Mr. Woodul voted unanimously to pass the motion.

***The board may go into Executive Session to discuss these items and any other items pursuant to Section 10-15-1H(1), Section 10-15-1H(2) or Section 10-15-1H(7) of the Open Meetings Act. Agenda items may be executed within the two day scheduling period to accommodate hearings.**

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The board went back into open session and the only issues discussed were the Ron Gonzales and Kelly Kemper cases.

Motion: Disciplinary action against Kelly Kemper's license will be a three (3) year revocation, to commence when filed with the board, payment of hearing and investigation costs within ninety (90) days. Ms. Kemper may re-apply after the revocation period, motion made by Ms. Mendez-Harper, seconded by Ms. Buesing, Mr. Carrier, Ms. Saavedra, Mr. Anderson, Mr. Cross, and Ms. Yarbrough, to pass the motion. Mr. Woodul abstained from the vote.

Motion: Adjourn meeting 6/20/13 at 6:18 p.m. Motion made by Mr. Cross, seconded by Mr. Anderson, board voted unanimously to pass motion.

Adjourn meeting 6/20/13 at 6:18 p.m.

***The board may go into Executive Session to discuss these items and any other items pursuant to Section 10-15-1H(1), Section 10-15-1H(2) or Section 10-15-1H(7) of the Open Meetings Act. Agenda items may be executed within the two day scheduling period to accommodate hearings.**

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July 17, 2013

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