

# WYOMING STATE BOARD OF PHARMACY

Board Meeting December 10, 2010  
McMurray Park Hotel  
Casper, Wyoming  
Minutes

**Friday, December 10, 2010**

Present/Absent	Board Member	Title
<i>Present</i>	Alison Kay McManus, R.Ph.	Board President
<i>Present</i>	Terry L. Carr, R.Ph.	Board Vice President
<i>Present</i>	Jennifer S. Nevins, R.Ph.	Board Secretary/Treasurer
<i>Present</i>	Robert J. (Rick) Davis, M.D.	Board Member
<i>Absent</i>	John R. McPherson, D.D.S.	Board Member
<i>Present</i>	Randolph A. (Randy) Harrop, R.Ph.	Board Member
<i>Present</i>	Gary W. Norwood, D.V.M.	Board Member
<i>Present</i>	Charles W. Smith	Board Member
<i>Present</i>	Stephanie McAntee, R.P.T.	Board Member, <i>ex-officio</i>

**Guests/Observers:**

Ken F. Nelson, J.D.	Senior Assistant Attorney General
Mary K. Walker, R.Ph.	Executive Director, Wyoming State Board of Pharmacy
Phyllis A. Chapman	Senior Office Support Specialist, Wyoming State Board of Pharmacy
H. Richard Burton, R.Ph.	Inspector/Compliance Officer, Wyoming State Board of Pharmacy
Henry A. "Hank" York, R.Ph.	Inspector/Compliance Officer, Wyoming State Board of Pharmacy
Brenda Upton, PharmD, R.Ph.	Wal-Mart #10-1485, Gillette, Wyoming
Scott Soulek, R.Ph.	Emissary Pharmacy, Casper, Wyoming
Jamie Hornecker, PharmD, R.Ph..	President, Wyoming Pharmacy Association

**Call to Order:** President McManus call the meeting to order at 8:00 a.m.

**Review of the September 8-9 Board meeting minutes:** Mr. Carr requested his name be spelled correctly on page three. Ms. Nevins moved to accept the minutes with the indicated change and Mr. Harrop seconded the motion. This passed with a 6-0 vote.

**Roberts Rules:** Mary Walker included a copy of Robert's Rules at a glance for the board members. These rules assist in the running of a board meeting.

**Wyoming Professional Assistance Program quarterly report:** Monique Peterson-Brown forwarded a quarterly report which was included in each meeting packet. Currently there are 30 Wyoming professionals in the program. That number included 4 pharmacists, 1 pharmacy student and 1 former pharmacist. All have been in compliance for the past quarter with the exception of the pharmacy student. Dr. Norwood spoke on behalf of the WPAP in regards to what type of person they are hoping to find to replace George Vandel.

**Long Term Care:** Scot Soulek from Emissary pharmacy provided copies of a power point presentation. He is requesting the board to allow him to use ServeRx Medication cabinets at some of his location. Some locations would have upwards of 200 medications in them. Since currently only 48 medications are allowed through our rules, per Mary Walker we cannot change this rule at this time. Scot also wants the board to approve a form titled "interchange authorization request". This would allow them to fax a request to change a medication from one brand name and use another instead. This would be less expensive for the patient, for example Nexium® changed to omeprazole. Patients in Long Term Care are more acutely ill now and much time is spent sending messages to prescribers. Mary Walker stated the statutes involved are 33-24-147, 33-24-148 and 33-24-149 and rules and regulations Chapter 2, Section 23. It was suggested Scot check into collaborative practice.

Randy Harrop moved that Mary Walker look into the legality of the machine. Charlie Smith seconded which passed with a 6-0 vote.

**Executive Director's Report:** Mary Walker gave her report beginning with the ePrescribing Task Force which met in October, November and December. The Drug Abuse Advisory Board with representatives of the attorney general, department of health and the board of pharmacy met with legislators to review possible statute changes. Self inspection forms were sent to each pharmacist-in-charge. WPhA, UW faculty and board members have worked on a plan for a leadership training series for current and future PIC's. The online renewal process for pharmacists was enhanced to include the capability to renew the preceptor and immunization licenses at the same time and print one certificate. Ms. Walker updated the board on what office staff has been working on and the recent interns have been working on. Mary and Richard have had several meeting with our attorney Eric Easton since the last meeting.

**License Renewal Updates:** Phyllis Chapman reported that of the 1179 active and inactive pharmacists, 466 have renewed on line and 88 have renewed on paper. This leaves 625 to renew by December 31<sup>st</sup>. Of the 592 active and inactive technicians, 181 have renewed on line and only 13 on paper. This leaves 398 left to renew by December 31<sup>st</sup>. 385 Controlled substance registrants have still not renewed their licenses.

**Compliance Officers Report:** Richard Burton began his report announcing he has completed all of his inspections. He is still finding the same things not being done correctly in the pharmacies. Licenses are not being posted correctly. We have opened 43 investigations this year and 18 are now closed. Mr. Burton also believes the self-inspections are really going to help the PIC's. Mr. Burton announced that an Insty-meds machine was going to be used in Cody soon. A lengthy conversation ensued over how to regulate these machines and who would be regulated. Mary Walker read the following statutes to the group:

WYO. STAT. ANN. § 33-24-124, Persons deemed practicing pharmacy.

Any person shall be deemed to be practicing pharmacy within the meaning of this act who provides collaborative pharmaceutical care or prepares, or compounds, or processes, or packages, or repackages, or labels, or dispenses, or sells, or offers for sale, at retail or in connection with operation of a health-care facility, any dangerous drugs, medicines, poisons, chemicals, narcotics, or prescriptions, which are identified as such in accordance with this act.

WYO. STAT. ANN. § 33-24-129, Exempted professions.

This act [§§ 33-24-101 through 33-24-301] does not apply to physicians, dentists, veterinarians, podiatrists, optometrists or osteopaths licensed by law to practice their professions within this state or to persons authorized by federal law and state law to treat sick or injured persons in Wyoming and to use controlled substances in the course of treatment.

Patient safety and how to regulate the machine was the main focus of the conversation because of our mission to protect the public. Mary Walker will add this topic to the agenda for the Board of Medicine.

Mr. Carr made a motion for Mary Walker to follow up on labeling and the machines for patient safety regulations. Ms. Nevins seconded the motion. Mr. Smith amended the motion to have Ms. Walker discuss her findings with our attorney. Mr. Harrop seconded the amended motion which passed with a 6-0 vote.

Hank York reported his inspections for 2010 were also completed. Mr. York announced he had 4 new pharmacies in his areas. He also said there are now 10 radiopharmacies in the United States. There is one in Casper now (PharmaLogic) and there will be one in Montana January 2<sup>nd</sup>. He described his inspection of PharmaLogic. The inspection went well and there were no violations per the nuclear regulatory commission.

**District 6, 7, 8 Meeting, Albuquerque, New Mexico:** Kay McManus and Jennifer Nevins attended this meeting. President McManus announced she learned a lot of valuable information. She also stated she would like to see everyone be able to attend one of these meetings. She said the “quota conversation” for community pharmacies came up again. Ms. Nevins agreed there was a lot of valuable information and it was a great opportunity to network. The ePrescribing information was very important and necessary for the ePrescribing task force. The next meeting will be held in Seattle, October 4-6, 2011.

**Standard Setting/AWARxE at NABP, September 20-23 in Chicago:** President McManus attended this meeting. Pharmacists from different states attended this meeting discussing the types of problem they are running into. Kay also said that NABP will have the capability to monitor each PDMP in order to gather information to share between states using a central hub. The cost is not known. Kay also announced that NABP is raising the cut score on the MPJE. She explained how the questions are written and gathered. Mary added there are 90 questions of which 15 are being calibrated and the rest of them count. There is a new examination (PARE) for remediation and boards of pharmacy can assign it for disciplinary actions. Coupons for transferred prescriptions are a safety issue. Also, fourteen states have now legalized medical marijuana.

**Citizen Advocacy Center, November 11-12, 2010 in Washington, DC:** Charlie Smith attended this meeting and he explained it is designed for the public members to teach them their role as a board member. Mr. Smith stated scope of practice issues will be the heart of future health care issues. The question is who can do what to whom? When there are scope of practice battles, everyone loses. He stated we need to have evidence based regulation because we are regulators playing an active role of promoting quality care and remedial care. Regulations tend to be reactive, investigation based, and protectionist. Effective regulation should enhance not inhibit good practice. He stated we need to be careful who we support and that our decisions to expand the scope of practice for a particular board should be science based decisions. Charlie completed his report by stating as the public member it is his role to “stir the pot”.

**NASCSA, October 18-21, 2010, Charleston, SC:** Mary Walker attended this meeting and reported there were amazing speakers with up to date information. They had five sessions on ePrescribing. For many states law enforcement attends this meeting. Ms. Walker explained that Massachusetts has already been testing the ePrescribing. Users do not like the idea of having to use the thumb drive (token) for the ePrescribing because they do not like having to carry it around. So far one million prescriptions have gone through the testing phase. Mary also stated there are federal grants to help with ePrescribing and PDMP programs.

**PMP Center of Excellence:** The PMP Center of Excellence wrote an article using the Wyoming PDMP. The article explains exactly how sending notices to prescribers about possible doctor shoppers has increased the number of reports requested, and decreased the number of doctor shoppers in Wyoming. Mary Walker stated this article was discussed on Capitol Hill with House of Representative members who are concerned about prescription drug abuse. There was a concern about us using the word "profile" in the article so the word "history" was used.

**PDMP example, use by law enforcement:** Mary Walker explained a news article titled "Cheyenne man pleads guilty in girlfriend's death". A Cheyenne girl died at the local hospital from fentanyl overdose. By using the prescription drug monitoring program, law enforcement was able to track down and arrest the person supplying the drug on the streets. Several arrests were made by using the program. States that do not have this program are still going from pharmacy to pharmacy to get the information provided by the program.

**Long term care prescriptions/agents:** On October 6, 2010 the DEA issued a policy statement authorizing DEA-registered prescribers to appoint agents for the transmission of controlled substance prescriptions. DEA regulations state that all prescriptions must be issued by a registered prescriber, but the "employee or agent" of a prescriber may communicate the prescriber's prescription to a pharmacist. The policy does not permit an agent of the prescriber to orally communicate emergency C-II prescriptions to a pharmacist. To qualify as an agent of the prescriber, there must be a formal written appointment of the agent by the prescriber. It is recommended that the original signed agency agreement be retained by the practitioner during the agreement and for a reasonable time after termination or revocation.

**InstyMed:** Mary Walker stated she has received a series of e-mails from these individuals. They inquired about the 72 hour supply and if it applies to them. Mary Walker e-mailed them a copy of the board Rules and regulations Chapter 12, Section 13. A conversation ensued regarding the Instymed machines and the 72 hour rule. The board suggested we uphold the 72 hour rule.

**Newsletter articles on Self Inspections, early refills, etc:** Mary Walker provided a copy of the articles that would be coming out in the next newsletter.

**National Drug Take Back Day, September 25, 2010:** This program was such a success the state is planning another one. Lovall and Casper now have permanent places for drop offs.

**Phenylpropanolamine for veterinary use:** In a previous meeting it was asked if this drug was still in use. The board office intern Jessica Fonseca did a research paper on this and found that the drug is still in use but by veterinarians only for incontinence in dogs.

## **Rules/Statute Revisions Proposed:**

### **Chapter 2, Wyoming Pharmacy Act**

**Section 10:** Terry Carr moved to accept the proposed changes however, he wants to revisit the word “faxing” at a later date. Jennifer Nevins seconded the motion which passed with a 5-1 vote.

**Section 4:** Terry Carr moved to add the definition of an intern into section 4 from chapter 3 as (ff) and renumber the rest of the section. Randy Harrop seconded the motion which passed with a 6-0 vote.

**Section 4, page 2-4:** Add (E) The pharmacist is teaching the use of a testing device,

**Section 29:** Jennifer Nevins moved to accept the additions and proposed changes in this section. Randy Harrop seconded the motion which passed with a 6-0 vote.

**Section 35:** Jennifer Nevins moved to accept the proposed changes, Randy Harrop seconded the motion which passed with a 6-0 vote.

This was a lengthy conversation regarding the difference between an electronic signature and a digital signature.

**Jennifer Nevins made a motion to go to executive session at 11:55 a.m., Terry Carr seconded the motion.**

**President McManus returned to public meeting at 12:45 p.m.**

**Docket No: 10-12** James Schick: Randy Harrop moved to accept the Settlement Agreement. Rick Davis seconded the motion which passed with a 6-0 vote.

**Docket No 10-23a** Monique Domingue: Terry Carr moved to accept the Settlement Agreement. Rick Davis seconded the motion which passed with a 6-0 vote.

**Docket No. 10-23b** Walgreens Pharmacy: Gary Norwood moved to accept the Settlement Agreement. Terry Carr seconded the motion which passed with a 6-0 vote.

**Docket No. 10-38a** Charles Thorne: Jennifer Nevins moved to accept the Settlement Agreement. Charlie Smith seconded the motion which passed with a 6-0 vote.

**Docket No. 10-38c** Jennifer Smith: Terry Carr moved to accept the Settlement Agreement. Rick Davis seconded the motion which passed with a 6-0 vote.

There was a conversation as to what is a reasonable time for early refills. It was agreed that 6 days for early refills was reasonable for a 30 day supply. Richard Burton and Hank York both stated they reviewed this at each pharmacy they inspected. They recommend pharmacist judgment, common sense, and document.

**Chapter 3, WPA:** Terry Carr moved to accept chapter 3 with the proposed changes including Section 5 (f) increasing the pharmacy interns from 2 to 3 that a preceptor may supervise. Randy Harrop seconded the motion. After a lengthy conversation regarding preceptors Gary Norwood amended the motion to remove

Section 5 proposed (h) (i) and (j). Charlie Smith seconded the amended motion which passed with a 5-1 vote.

**Chapter 4, CSA:** Terry Carr moved to accept this chapter with the proposed changes. Jennifer Nevins seconded the motion which passed with a 6-0 vote.

**Chapter 6, CSA:** Gary Norwood moved to accept this chapter with the proposed changes. Terry Carr seconded the motion which passed with a 6-0 vote.

**Chapter 8, CSA:** Terry Carr moved to accept this chapter with the proposed changes. Jennifer Nevins seconded the motion which passed with a 6-0 vote.

**Randy Harrop moved to move forward on rule making. Gary Norwood seconded the motion which passed with a 6-0 vote.**

**Legislative Update:** Mary Walker announced that our bill sponsors are Keith Gingery of Jackson and Tony Ross of Cheyenne. Ms. Walker believes there will probably be quite a few bills in the legislature that will have to do with the board.

**Collaborative Practice Committee:** Jennifer Nevins reported on the collaborative practice meeting that was held on November 23, 2010. Each of the collaborative practices were asked to add two statement to the referral/order form in order to comply with rules. A request from Torrington for retail pharmacists to use therapeutic substitution (not generic substitution) was reviewed. It was determined to be not legal in Wyoming under Chapter 2, Section 23. Anna Wilkins, MD will replace Andrea Thornton, MD on the committee.

**Action: post pharmacist exam scores on the NABP website?** There was a brief conversation regarding the website and confidentiality. It was determined that candidates can only view their own scores.

**Terry Carr moved to allow the candidates to have access to their scores on-line. Randy Harrop seconded the motion which passed with a 6-0 vote.**

**Action: NASCSA grant, should we apply?** President McManus said it would be a good idea to apply for the grants.

**Jennifer Nevins moved to pursue the grants. Terry Carr seconded the motion which passed with a 6-0 vote.**

**Action: UW preceptor development, should we accept stipend?** Mary Walker suggested we decline this because it takes the money from the students and gives it to the preceptors.

**Charlie Smith moved to decline the stipend. Terry Carr seconded the motion which passed with a 6-0 vote.**

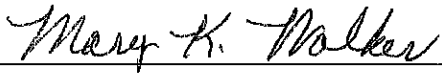
**Mental Health and Substance Abuse Conference on February 8-11, 2011.** Mary Walker asked if a board member would be available to speak for about 15 minutes at this conference at the TA Ranch near Buffalo. Richard Burton volunteered to represent the board.

Randy Harrop moved to adjourn the meeting at 2:05 p.m., Jennifer Nevis seconded the motion which passed with a 6-0 vote.


Respectfully submitted on December 27, 2010:

Notes by Phyllis Chapman, Senior Office Support Specialist.

Respectfully submitted and reviewed:

  
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Mary Walker, R.Ph.  
Executive Director

Minutes approved and entered into record:

  
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Alison Kay McManus, R.Ph.  
Board President