

# WYOMING STATE BOARD OF PHARMACY

Board Meeting June 23-24, 2010

UW Outreach Building

951 North Poplar

Casper, WY

Minutes

## Wednesday June 23, 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>Absent</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
Kara Beech, B.S., CHC	Executive Director, Wyoming Pharmacy Association
George A. Vandel, NCAC II, CAP	Executive Director, Wyoming Professional Assistance Program
Timothy S. Seeley, R.Ph.	Powell Valley Healthcare/Chair, USP 797 Work Group
Christina Andrade, AS, CPhT.	Wyoming Pharmacy Association
Crystal Huntrods	University of Wyoming, School of Pharmacy student
Janna Crumpton	University of Wyoming, School of Pharmacy student

**Call to Order:** President McManus called the meeting to order at 1:01 p.m.

**Review of the April 14-15, 2010 Board meeting minutes:** Mr. Harrop moved to accept the minutes as presented. Ms. Nevins seconded the motion. The minutes were approved with no correction necessary with a 5-0 vote.

**Wyoming Professional Assistance Program quarterly report:** George Vandel, NCAC II, CAP, Executive Director, gave his quarterly report for the second quarter of 2010. WPAP is currently monitoring 74 Wyoming professionals. 5 pharmacists, 1 pharmacy technician, 1 pharmacy student, 1 former pharmacist, 2 dentists, 16 physicians, 3 physician assistants, 30 nurses, 2 APRN's, 1 social worker, 2 veterinarians, 9 attorneys and 1 law student. All the pharmacists are in compliance and the pharmacy

technician has been reported to the board office for non-compliance for 3 positive drug screens. Significant changes at WPAP include a revision of the monitoring agreement, more restrictive use of prescription medication and more accountability for non-compliance. Call waivers are no longer allowed except on a case by case basis. Destinations must be reported 1 week in advance and then the individual is notified of a reporting facility at their destination. WPAP has a new attorney and her name is Amanda Ferguson. Mr. Vandel concluded his report with the announcement of his retirement on August 27, 2010.

**Executive Director's Report:** Mary Walker announced the Board of Pharmacy received the preceptor of the year award from the University of Wyoming, School of Pharmacy. She indicated the award should go to the entire agency since the entire staff is involved with the students in one way or another.

The Prescription Drug Monitoring Program (PDMP) is growing in requests. Wyoming Indian Health Services is now reporting, making them the first in the country to utilize the program. Also, a CIO person has been assigned to the board for the online PDMP project. 2010 is when the program is to be up and running as the pilot.

The new budget is now in place for 2010-2012. It is the same budget as 2007 less 10 percent. The new budget takes effect on July 1, 2010.

Our landlord, Mr. Bagley, sent a letter to the city regarding the front sidewalk and the damage it has received with all the street work. A response indicates the sidewalk will be replaced.

The eprescribing task force met at a Cheyenne Regional Medical Center conference room on June 15, 2010. Many of the rules were looked at by the group and these ideas for changes will be presented later in this meeting during proposed rule changes.

Controlled substance registrants on-line renewals have exceeded our expectations. Some have had difficulty getting on the site and it has been challenging but 36% have renewed on-line this far. Our IT person has left and been replaced. We inquired regarding some charges we received for work on the database which was out of our control and we received credit from IT.

Mary recently gave the following presentations: P4 reflective week, Law Enforcement Coordinating Committee (LECC), Wyoming Medical Society and Wyoming Pharmacy Association.

Mary read a brief letter from the US Attorney. Roughly 200 people attended the meeting in Jackson. Mary Walker, Kelly Rankin, David Wills, the Board of Medicine, the Department of Criminal Investigation and Dr. Burton Toews made presentations and set as a panel for questions. There was a wide variety of questions other than just PDMP questions.

The board office has entered into a five (5) year contract with Sharp for a new copier. We selected a copier with color to utilize when presenting proposed rules and statutes to alleviate the cost of using an outside printing company.

Mary announced the following leave taken: Three (3) days in April, four (4) days in June with none planned for July or August.

Mary also relayed the meetings she has had with the compliance officer and the attorney in Casper on April 28<sup>th</sup> and 29<sup>th</sup> and May 26<sup>th</sup> and 27<sup>th</sup>.

Mary explained the Executive Director processes all new Pharmacist and Wholesale Distributor licenses. To date there are 69 pending Pharmacist licenses in various stages of processing. Some of these are out of state applicants and 27 are new graduates. Phyllis Chapman, Senior Office Support Specialist processes all other applications and renewals.

President McManus inquired as to what Ms. Walker's future objectives are. Ms. Walker replied she was working on getting the PDMP on-line. Mary and David Wills had been working with Illinois on the sole source project which seemed to stall due to the desire by the WY CIO office to do a full request for proposal.

***Mr. Harrop moved to proceed forward and finalize the process as a sole source contract. Ms. Nevins seconded the motion. The motion carried with a 5-0 vote.***

Mary also indicated she was also working on changes to some of our rules and statutes and also working on other disciplinary actions.

A conversation ensued regarding what the students do when interning at our office. They give the office a presentation due in their P4 class, many have written articles for the newsletter and there is generally a project just perfect for the intern to work on. The opportunity also allows for the intern to get to really know what the board office does. When possible the interns go on inspections with our compliance officers. Several Board members expressed their wish to see more interns and new pharmacists showing up in the audience at the Board meetings. Mary also explained that when they are doing their rotation in our office they get comfortable enough to call the office once they are out in the pharmacy alone and have questions.

**License Renewal Updates:** Phyllis Chapman reported that of 3154 total controlled substance registrants, 1125 or 36% have renewed on-line, 839 or 27% have renewed on paper and 1190 or 37% have yet to renew as of June 22, 2010. Ms. Nevins requested to know what percentage and what type of licensees have yet to renew. Upon return to the office the following was discovered: 910 still had not renewed. 54% of these were MD's 11.2% were DDS's and 11% were DVM's. A complete copy of the breakdown was e-mailed to each Board member on June 25<sup>th</sup>, 2010.

The revenue report indicates \$45,000.00 from on-line renewals and \$343,285.00 from paper renewals for a total deposit of \$388,285.00 as of April 1, 2010 to June 22, 2010.

**Compliance Officer's Report:** Hank York reported Cheyenne, Laramie and Casper inspections are almost complete and then he will be inspecting Rock Springs and Kemmerer. He has incorporated a new change in the inspection report by having the PIC read rule Chapter 9, Section 4 when they get to the question regarding patient's profile checked for prospective DUR. Hank and Mary and an individual from the Board of Medicine inspected a doctor's office in Cheyenne that has been dispensing prescriptions out of the office. Hank explained the process of how the medications are dispensed. C-II's are not dispensed from the office but are sent from a mail order pharmacy. A lengthy conversation ensued by the entire group on the pros and cons of office dispensing.

Another conversation took place regarding pharmacists-in-charge and the idea of new graduates becoming the PIC without any real experience. Richard indicated he has noticed the younger PIC's do not have enough experience dealing with personnel, time management, scheduling or record keeping.

Richard reported about the check list and how he uses it. Although it is redundant we need to make certain the PIC reads and understands each question before answering it, even if this requires the PIC to lookup and read the rules and regulations indicated on the checklist first. Weak PIC's generally had more problems than the strong PIC's who are more comfortable and who take ownership of the pharmacy. Richard is still finding some licenses not being posted and controlled substance invoices not signed and dated. He started last year having the pharmacy fax the Board notification of discrepancies found by the inspector once they have been corrected. Richard asked the Board to consider self inspections by all pharmacies then the inspectors could use the self inspection to conduct their annual inspection.

**NABP Annual Meeting:** Jennifer Nevins attended the meeting and reported that Wyoming was near the front of the room this year instead of in the back. The table presentations were really good with each having 2 people presenting. The continuing education was pretty good. The topic of immunizations came up often and there are several states that still do not allow it. The delegates approved 10 resolutions at the meeting including national pharmacy practice standards, uniform disciplinary guidelines and communicating the importance of the expanded role of pharmacist immunization services. Due to the financial status of some states, the attendance was down. Jennifer talked of people she saw and spoke to during the conference. The subject of medical marijuana came up and Ms. Nevins indicated there were laws regarding the subject but no one really knows what to do with them. Next year the meeting will be held in San Antonio. The district meeting will be in Albuquerque.

**Old Business:**

**Long term care prescriptions:** Mary Walker had several handouts in the board packets regarding this topic. One had the DEA definition of an "agent" as "employee". However in another rule the DEA states:

“[a] prescription issued by an individual practitioner may be communicated to a pharmacist by an employee or agent of the individual practitioner.” 21 CFR 1306.03(b). In a letter from the DEA to the Missouri Department of Health it is explained that a practitioner can appoint a position to be the agent as long as it is done in writing. However, this policy applies only to controlled substances in schedules III and IV. Schedule II requires a written prescription signed by the issuing prescriber. There was a conversation about the differences between long term care facilities and hospitals.

**Chapter 17 Sterile Compounding Taskforce letter:** Tim Seeley sent a letter to the board office regarding the acceptance of Chapter 17 by the Governor on November 15, 2009, which will go into effect on January 1, 2012. This letter was sent to the institutional pharmacies with their renewals.

**Office Dispensing, exempt professions:** There was a conversation regarding the Physician Assistant regulation in the Medical Practice Act. Ms. Nevins inquired if we should include nurse practitioners in our statute. Ken Nelson responded by saying he didn't think this was really a problem the Board would want to go into. It was requested of the office staff to have the next intern research what other states are doing with exempted positions. This will be researched and discussed in the September meeting.

**Hearing “continuance to September” WPA Chapter 1:** The board packets all contained Chapter 1 in order for the board members to refresh themselves with the process of a hearing. The hearing has been continued to September 8, 2010. President McManus announced she wanted this to be the last continuance. Ken Nelson told the Board members all they need to do in the hearing was listen, take notes, ask questions and render a decision. They are acting as if they are a jury. Should there be an appeal the Board would not incur any additional charges other than the cost to get all the paperwork together. A conversation came up about possibly needing to recue oneself from the hearing. Mr. Nelson thought it would be fine for the members to know ahead of time who would be appearing at the hearing. Ms. Walker will talk to the board attorney and see what he says.

**Technician-in-Training peritees who complete RPT or intern:** Phyllis Chapman researched this issue when in the April meeting a request came about in a conversation as to what happens to the Technicians-in-Training. Of 1374 total registrants, 33% became Technicians, 35% have expired, 10% dropped from the program, 16% are currently active and 6% became interns.

**ePrescribing/DEA interim final rule/C II prescription changes:** Mary Walker enclosed a letter from the DEA to the University of Wyoming Family Medicine Residency regarding an Interim Final Rule for “Electronic Prescriptions for Controlled Substances”. The rule revises regulations to provide practitioners the option of writing prescriptions for controlled substances electronically. Those who wish to prescribe controlled substances using electronic prescriptions must select software that meets the requirements of the rule. Both the DEA and NABP ultimately say to go by what your state says to do. Mary reported to everyone about the eprescribing task force meeting on June 15<sup>th</sup>, and we brought rule change suggestions to this meeting.

**Terry Carr moved to go to executive session at 4:21. Jennifer Nevins seconded the motion which passed with a 5-0 vote.**

**There was no return to public meeting on this day.**

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<i>Present</i>	Randolph A. (Randy) Harrop, R.Ph.	Board Member
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Kara Beech, B.S., CHC	Executive Director, Wyoming Pharmacy Association
Christina Andrade, AS, CPhT.	Wyoming Pharmacy Association
Timothy S. Seeley, R.Ph.	Powell Valley Healthcare/Chair, USP 797 Work Group
Edward Rickert	Krieg Devault, Partner
Julie Geason, R.Ph.	InstyMeds
Crystal Huntrods	University of Wyoming, School of Pharmacy student
Janna Crumpton	University of Wyoming, School of Pharmacy student

**The public meeting was called to order at 8:00 on Thursday June 24, 2010 by president McManus.**

Mr. Harrop requested an explanation on docket 09-24. In the Order it states the following: "Respondent shall not work alone in any pharmacy and at least one other licensee of Board (pharmacist, pharmacy technician, or technician-in-training) must be present". Mary Walker explained that this particular

respondent was taking controlled substances from the pharmacy and should not be left alone in the future. There was a conversation about pharmacy technicians and technicians-in-training being intimidated by the pharmacist if they were alone in the pharmacy. There was also speculation as to if this would be a problem in smaller communities. As this is a particular case, this respondent has been tested and has been clean for at least one year. Mr. Harrop also asked about relapses. This is referenced in the WPAP contract and indicates possible revocation.

Another conversation regarding suspensions being given all at one time (for example 90 day suspensions) took place. Financially would it not be easier on the individual to take the suspension in parts? It is a burden to the board staff to monitor when the suspension is taken in sections. The Board agreed they preferred respondents doing straight days for suspensions.

**Docket No: 09-06** Susan Thompson: Terry Carr moved to accept the Settlement Agreement. Jennifer Nevins seconded the motion which passed with a 5-0 vote.

**Docket No: 09-26** John Crook: Jennifer Nevins moved to accept the Settlement Agreement with option "a" of the Order. Randy Harrop seconded the motion which passed with a 5-0 vote.

**Docket No: 09-35** Michael Bemis: Randy Harrop moved to accept the Settlement Agreement. Terry Carr seconded the motion which passed with a 5-0 vote.

**Docket No: 09-24** David Klingler: Jennifer Nevins moved to accept the Settlement Agreement with option "a" of the Order. Gary Norwood seconded the motion which passed with a 5-0 vote.

**Docket No: 10-02** Todd Robbins: Terry Carr moved to accept the Settlement Agreement. Jennifer Nevins seconded the motion which passed with a 5-0 vote.

All meeting members entered into a conversation regarding pharmacists-in charge (PIC's). There was a level of concern regarding newly graduated pharmacists becoming the PIC. President McManus pointed out that you have to be licensed for two years before you can get a preceptor license but there is no time frame to become a PIC. Some individuals do not have the personality it takes to be a PIC. Mary Walker indicated that if the Board wanted to stipulate a time frame before becoming a PIC they could add it in the rules.

The problem seems to be the new pharmacists have not been trained in the management aspects of the pharmacy. The students attending the meeting were asked about the management training they receive during the schooling and the answer was very little, 3 credit hours in the 2<sup>nd</sup> semester. Randy Harrop suggested maybe talking to the university and letting them know the level of concern there is about the lack of management training.

Mary Walker stated we would do some research and find out PIC's have been out of school for two years or less.

It was also decided we should send out a mailing questionnaire to all the pharmacies and find out what are the requirements for becoming the PIC at different pharmacies. The same should also be sent to the owners.

**InstyMeds Presentation:** Julie Geason, R.Ph. and Attorney Edward Rickert gave a power point presentation on the dispensing machine. There is a complete set of the presentation in the minute's packet. There was a lengthy conversation of pros and cons of the machine. In the end it was determined Mary Walker would write a letter to them and let them know that right now our rules indicate the 72 hour rule for the amount of medication to be dispensed from emergency rooms. The Board plans to look at the rules in the next year or so and we will revisit the InstyMeds dispensing machine at that time.

**D. New Business:**

The following is just a review and will be revisited in the September meeting.

**\*a Statute 35-7-1030**

The changes were as follows: (a)... without the written or electronic prescription....

(c) ...without a written, oral or electronic prescription....

**\*b Statute 35-7-1014**

The changes were as follows: (b)(xxxii) .... (other name: 2C-t-7), its optical isomers, salts and salts of isomers;

(b)(xxxiv) ....(other name:5-MeO-Dipt) its isomers, salts and salts of isomers.

(f)(viii) .... 1-benzylpiperazine; its optical isomers, salts and salts of isomers.

**\*c Statute 35-7-1016**

(b)(i)(xxv) ~~Benzitramide;~~

Re-number (xxvi) to (xxv)

Re-number (xxvii) to (xxvi)

Re-number (xxviii) to (xxvii)

Add (xxviii) Tapentadol.

Add (d)(v) Lisdexamfetamine, its salts, isomers, and salts of isomers.



**\*d Statute 35-7-1018**

(e)(iii) ....milligrams of dihydrocodeinone (hydrododone)....

(e)(iv) ....milligrams of dihydrocodeinone (hydrododone) .....

Add the following:

(lx) Boldine (androsta-1, 4-diene-3, 17-dione)

(lxi) Desoxymethyltestosterone (17 [alpha]-methyl-5 [alpha]-androst- 2-en-17 [beta]-ol)(a.k.a., madol)

(lxii) 19-nor-4, 9 (10) –androstadienedione (estrtra-4, 9 (10)- diene- 3, 17-dione)

Renumber (lx) to (lxiii)

**\*e Statute 35-7-1020**

Add (c)(lii) Fospropofol)

Add (f)(iii) Carisoprodol

Add (f)(iv) tramadol

**\*f Statute 35-7-1022**

Add (f)(e) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

- (i) Lacosamide [ (R) -2-acetomido-N-benzyl-3-methoxy-propionamide]
- (ii) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]

Remove the following:

(c) Any compound, mixture or preparation containing pregabalin [ (S)-3- (aminomethyl)-5-methylhexanoic acid], including its salts, isomers and salts of isomers.

**\*g Statute 35-7-1024**

(a) Every person who manufactures distributes or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance within this state, must obtain ~~annually~~ biannually, on or before July 1, a registration issued by the board in accordance with its rules. Any registrant who fails to renew his registration by ~~September 30~~ July 1 of each ~~calendar~~ renewal year shall be charged a late fee in the amount of ~~forty dollars (\$40.00)~~ one hundred dollars (\$100.00). If the failure to renew continues past ~~December 31~~ September 30 of the

~~calendar~~ renewal year, the registration shall be cancelled and the bureau notified for cancellation of the registrant's federal registration.

**\*h. WPA Chapter 5 Poisons**

Okay to remove the entire chapter.

**\*I Chapter 6 CSA**

The Act was distributed at the meeting with some proposed changes. There were some minor changes made which will be presented again at the next meeting. It was also decided to remove the sections in the Act that are not being used and renumber the entire Act.

President McManus requested the staff to research what's left in Schedule V and also find out what the federal act contains.

**2. Pharmacists Scope of Practice, finger stick blood tests:** There was a group discussion regarding this topic. It was a concern among the group as to the training necessary to provide this service and how would the Board know training took place. Randy Harrop stated that we may want to define it differently than finger sticking. He suggested we research and see what other states do.

**\*3. Budget (B-11 process):** Mary Walker explained the B-11 process to request more funds for unforeseen costs than have been incurred. Money was requested due to statute changes and increase in background checks, programming costs for the Technician online renewals, credit card assessment charges and an increase in postage. The total requested was \$15,700 to cover these costs.

***Randy Harrop moved to accept the B-11. Terry Carr seconded the motion which passes with a 5-0 vote.***

**E. Informational Items:**

**1. Upcoming meetings:**

- a. New Board Member Training, August 5, 2010, Laramie County Community College, Cheyenne, Charlie Smith and Stephanie McAntee will attend.
- b. District 6, 7, 6 Meeting, September 28-October 1, Albuquerque, New Mexico, Kay McManus, Jennifer Nevins, Terry Carr and Randy Harrop will attend. They will make their own reservations and then will be reimbursed.
- c. Board of Pharmacy Meeting and hearing, September 8-9, Hilton Garden Inn, Laramie. There will be dinner on September 8<sup>th</sup> at the V Bar Ranch.
- d. NABP training, July 21-22, Chicago, Phyllis Chapman will attend.

MPJE meeting, August 12<sup>th</sup>, McMurray Park, Casper. Kay McManus, Jennifer Nevins, Terry Carr, Richard Burton and Mary Walker will attend.

**2. Articles:**

\*a Scope of Practice, letter to AMA

\*b Internet Pharmacy Advertisers/VIPPS accreditation

**Jennifer Nevins moved to adjourn the meeting at 11:45. Randy Harrop seconded the motion which passed with a 5-0 vote.**

Respectfully submitted on July 14, 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