

**ALABAMA STATE BOARD OF PHARMACY  
BUSINESS MEETING MINUTES  
October 16, 2019**

President Kenny Sanders called the October 16, 2019, meeting of the Alabama State Board of Pharmacy to order at 9:10 a.m. to conduct necessary business and determined a quorum was present.

The following Board members were present:

Kenny Sanders	President
Ralph E. Sorrell	Vice President
Brenda R. Denson	Treasurer
Chris Phung	Member
Rob Colburn	Member

Other Alabama Board of Pharmacy staff members present were:

Donna C. Yeatman, Executive Secretary	Rhonda Coker
Susan P. Alverson, Ph.D., Dir.-Regulatory Affairs	Lynn Martin
Cristal Anderson, Director of Compliance	Terry Lawrence
Scott Daniel, Asst. Chief Drug Investigator, Legal/Legislative Liaison	Wendy Passmore
	Twalia King

Members of the public present were:

Jim Driskell	Charlie Cook	John Farringer
Julie Lasseigne	Alisa Chamblee	Louise Jones
Angela Dee Thomason	Anna Vanderbleek	Rebekah McCarty
Laura Armistead	Jordan Stoner	Rodney Nguyen
Tommy Cobb	Joe Keating	Kelly Tate
Roland Naseman	Clint Peevy	Audra Clifton
Lauren Paul	Rachel Weaver	Wes Maddox
Laura Matthews	Courtney Whitehead	Bart Bamberg
Kara Latham	Brandi Nichols	Aaron Wolff
Jennifer Robinson	Phillip Rogers	Paula Hudson
Kimberly Witt	Phillip Mason	Tomie Ann Boackle
Dee Thomas	Angela Smith	Mark Todd
Hang Truong	Jessica Cain	Matt Sides
Steve McCormick	Jon Linna	Tyler Dinkelaker
Benjamin Love	Eddie Vanderver	Ian Van Every
Jim Easter		

## **1. MOTION TO ADOPT AGENDA**

President Sanders called for a motion to adopt the agenda. A motion was presented by Mr. Sorrell and seconded by Dr. Denson. A vote was taken and the motion to adopt the agenda passed with aye votes from Mr. Sorrell, Mr. Colburn, Dr. Denson, and Mr. Phung.

## **2. PRESENTATIONS:**

- Clint Peevy with Encompass Health gave a presentation requesting to remove its after-hours remote order entry and change to in-house. After a discussion, the Board determined it best for Encompass Health to further delineate its request and resubmit it in the future. No action was taken.
- Tyler Dinkelaker and Ian Van Every of Lemonaid Health appeared a second time before the Board requesting a nonresident pharmacy permit. A lengthy discussion was held regarding Lemonaid Health's structure and processes. President Sanders called for a motion to approve the request. No motion was made, so the request was not approved.
- Benjamin Love with Kinney Drugs presented the Board with a nonresident application, which should have been a nonresident mail-order pharmacy application in order to mail prescriptions to its patients who spend several months a year in Alabama. After a discussion, a motion was made to approve Kinney Drugs' request for a nonresident permit for the purpose of mailing prescriptions to Alabama. A vote was taken and the motion to approve the nonresident permit of Kinney Drugs was approved unanimously.

## **3. TREASURER'S REPORT:**

Treasurer Brenda Denson presented the treasurer's report. At the fiscal year end September 30, 2019, total revenues were 126 percent of the fiscal year budget. Total expenses were at 104.93 percent of the fiscal year budget. The 4.93% increase over budget was due to improvements and extensive repairs to the building. Dr. Denson commended the Board office for an outstanding job in keeping expenses to a minimum.

A motion was made by Mr. Sorrell and seconded by Mr. Colburn to approve the treasurer's report. A vote was taken and the motion to approve the treasurer's report passed with aye votes from Mr. Sorrell, Mr. Colburn, Mr. Sanders, and Mr. Phung.

## **4. WELLNESS COMMITTEE REPORT**

Mr. Scott Daniel gave the Wellness Committee report. There are currently 129 people in the screening program, which includes individuals with signed monitoring contracts but does not include the number of individuals who choose not to contact the Board after being advised to by investigators or staff.

There are two technicians in residential treatment and one student in treatment. There are three pharmacists in residential treatment. There is one pharmacist who is being held out for six months before being presented to the Board who is not in a halfway house. There is

one pharmacist with an indefinitely suspended license who wants to return to practice. Dr. Garver is working with that person.

The total number of pharmacy professionals identified and worked with in 2019 is 40.

Dr. Garver has met with all licensees returning to work to sign contracts and explain how monitoring works. All returning licensees have been placed in a caduceus, either pharmacy or health professional. Dr. Garver expresses his thanks to the Board for letting him continue to serve recovering pharmacy professionals and extends his thanks and that of recovering pharmacy professionals to the entire staff for making the process seamless.

#### **5. APPROVAL OF MINUTES**

A motion was made by Dr. Denson and seconded by Mr. Colburn to approve the business meeting minutes from the September 18, 2019, business meeting. A vote was taken and the motion to approve the business meeting minutes passed unanimously.

A motion was made by Mr. Sorrell and seconded by Dr. Denson to approve the interview minutes from the September 18, 2019, interviews. A vote was taken and the motion to approve the interview minutes passed with aye votes from Mr. Colburn, Mr. Sanders, Dr. Denson, and Mr. Phung.

#### **6. INVESTIGATOR'S REPORT**

In the absence of Chief Investigator Edward R. Braden, Assistant Chief Investigator Scott Daniel was called upon to give the report of activities of investigations and inspections. In September 2019, there were 89 inspections completed and 32 complaints received. Sixteen complaints were completed. Investigators participated in the following meetings during the month: Attorney General's Summit in Montgomery; meeting at the Attorney General's office on an investigation; meeting with the FBI concerning an investigation.

#### **7. SECRETARY'S REPORT**

Donna Yeatman gave the Executive Secretary's report, which consisted of the following:

- The Board of Medical Examiners has requested an Attorney General opinion on the legality of any physician being a party to a collaborative practice agreement. In their opinion, this is in reference to the Medical Licensure Commission being the authority that licenses physicians, not the Board of medical Examiners. In addition, ALBME has concerns about antitrust law in relation to collaborative practice agreements. Ms. Yeatman has communicated with the Attorney General's office and ALBOP's bill sponsors to acquire advice on the next steps to take in this matter.
- The Board office has just received approval from the Greystone Business Authority to put a new sign on the brick monument at the entrance to the Board building.

- The parking lot has been resurfaced. Ms. Yeatman appreciates Peyton Zarzour's assistance with that project.
- A consulting company has been engaged to evaluate the Board's lighting needs in the building and expects to receive bids for that work soon.
- Susan Alverson and Cristal Anderson attended the FDA 50-state meeting from October 9 through October 11. Dr. Alverson gave the following update of the meeting:
  - Dr. Alverson asked if the FDA was planning to integrate the new USP 795, 797, and 800 items into FDA inspections. They said no comments about USP standards would be made and they were not planning to change any inspections.

The National Association of Boards of Pharmacy has received a \$1.6 million grant from the FDA to develop a database of pharmacies, particularly any pharmacy that does compounding. The FDA has been attempting to get states to sign a memorandum of understanding for eight years and the states and FDA have not come to an agreement on the memorandum of understanding. The issue is the FDA would like a stipulation that a pharmacy could not ship more than 50 percent of its business across state lines but would be willing to review individual situations if the memorandum of understanding is signed by that state. Most other states are worried about that stipulation.

Dr. Alverson's impression is the database is going to keep track of the various items in the memorandum of understanding. If a state doesn't sign the memorandum of understanding with the FDA, then the state must go back to you can only ship five percent of the products you compound across state lines, which may be restrictive for some pharmacies.

There was also mention made if state boards didn't arrange for the memorandum of understanding to be signed, then that state board would no longer have access to data that's now available like other state's inspections or VPP inspections. Dr. Alverson is not sure any of that is going to happen. All that is sure at this point is that NABP has received that grant and they're planning to design this program but she can't confirm that any of those rules or restrictions are going to be put in place or how they're going to be put in place. Dr. Alverson did not find any other states' representatives happy about the situation.

Mr. Sorrell and Dr. Alverson discussed the differences between a guidance document and a memorandum of understanding.

- All investigators completed their firearm qualifications this month.

- The Alabama Department of Public Examiners is doing its routine legal audit and it should be completed soon.
- All rule changes discussed and adopted by the Board are listed on the website under the statutes and rules tab.
- Ms. Yeatman thanked Mr. Phung for his participation in the ACPE site visit for Auburn University Harrison School of Pharmacy.
- The Board has received a lot of questions about gabapentin and the change to a schedule V drug effective November 18, 2019. Schedule V narcotics do not have a six-month expiration date so it can continue to be filled, unlike schedule III and IV medications.
- The Board is receiving questions about technician training. The training approved by the Board for technicians is training only. It is not a certification. It does not allow for a three-to-one ratio. It is simply a minimum training requirement for technicians in this state.
- All licensees of the Board must notify the Board within ten days of a change of employment as required by the rules. Please remind all pharmacists and technicians that they are required to send in a change of employment within ten days. Simply noting the employment change on a renewal is insufficient for that requirement.
- The Board heard 16 cases yesterday. There are 24 cases scheduled for November; eight for December; 18 for January; and nine remaining to be scheduled. We have 115 cases that are in process with counsel, which is down from 141 last month. Mr. Ward and his staff have been diligently working to reduce the number of outstanding cases. We have 98 cases that are being actively worked by investigators and two that are pending resolution.

*(A brief recess was taken from 10:54 a.m. to 11:05 a.m.)*

## **8. ATTORNEY'S REPORT**

Mr. Ward only has items for executive session.

## **9. OLD BUSINESS**

- Proposed Amended Rule 680-X-2-.36, Continuing Education for Pharmacist. The purpose was to clarify continuing education for pharmacists that is required for renewal. The Board received two oppositions to this amendment submitted in writing. After a discussion, Dr. Denson made a motion to approve Amended Rule 680-X-2-.36. A vote was taken and the motion passed unanimously. The Board members asked Ms. Yeatman to monitor if pharmacists are obtaining a majority of CME versus CE throughout the year and report back to the Board if the amount of CME obtained is disproportionate to CE.

- Proposed Amended Rule 680-X-1-.01, Organization. The purpose was to correct the address for the location of the Board office and clarify that three of the Board members are appointed by the Governor and two are elected. No oppositions to this amendment have been submitted in writing. Mr. Colburn made a motion to approve Amended Rule 680-X-1-.01. A vote was taken and the motion passed unanimously.
- Proposed New Rule 680-X-2-.44, Collaborative Practice. The purpose is to allow a cooperative working arrangement between a physician and a pharmacist for better patient medication management. The public hearing on this rule will be November 20, 2019, at 9:00 a.m.
- Proposed Amended Rule 680-X-3-.3, Time and Method of Payment; Renewal and Non-Disciplinary Penalty for Late Renewal of Controlled Substances Permit. The purpose is to correct wording to coincide with FDA Drug Quality and Security Act. The public hearing on this rule will be November 20, 2019, at 9:00 a.m.
- Proposed Amended Rule 680-X-2-.14, the Role of Technicians in Pharmacies in Alabama. The purpose is to make consistent the role of technicians, resident and nonresident, for Alabama permit holders. The public hearing on this rule will be November 20, 2019, at 9:00 a.m.

## **10. NEW BUSINESS**

- Proposal of an amendment to Rule 680-X-2-.33 to ensure that there is a valid patient-physician relationship for all prescriptions. A motion was made by Dr. Denson and seconded by Mr. Phung to begin the rulemaking process for the amendment to Rule 680-X-2-.33. A vote was taken and the motion passed with aye votes from Mr. Sorrell, Mr. Colburn, Mr. Sanders, and Mr. Phung.
- Ms. Yeatman began a discussion regarding medical marijuana. The Board office has received numerous calls requesting the Board's position on medical marijuana. There is a committee that was established after the legislative session ended that is discussing medical marijuana in the state of Alabama. Ms. Yeatman's response is that the Board has no comment at this time because it has not been discussed. There is a pharmacist on that committee on medical marijuana. Ms. Yeatman expects there to be more discussions in the future and would like Board members to be aware of this issue. Ms. Yeatman has contacted the committee chair and ask that ALBOP be made aware of any steps they make.
- Ms. Louise Jones announced the Alabama Pharmacy Association will be sending an email survey of all pharmacists by November 1. The survey asks questions regarding work conditions, status of pharmacy, patient safety and how it is being impacted, and some of the practices in the profession. She encouraged everyone to take the survey

and to spread the word to other pharmacists to take it as well. APA will share the results of the survey with ALBOP.

- Mr. Sorrell requested the dates for the January 2020 meeting be changed. The hearings will be held January 28, 2020, and the Board business meeting will be held January 29, 2020.

**11. EXECUTIVE SESSION**

A motion was made by Mr. Sorrell and seconded by Dr. Denson to retire to executive session for the purposes of discussing the qualifications and competency of those regulated by the Board. An individual voice vote was taken and the motion to retire to executive session passed unanimously. The recess for executive session began at 11:45 a.m.

**12. RETURN FROM EXECUTIVE SESSION**

At 12:38 p.m., the Board resumed its public meeting status. Mr. Sorrell was not present for deliberations or voting due to illness.


**13. MOTIONS ON CASES**

A motion was made by Dr. Denson and seconded by Mr. Phung to refer to a federal enforcement agency on case number 18-001. A vote was taken and the motion to refer to a federal enforcement agency passed with aye votes from Mr. Colburn, Dr. Denson, and Mr. Phung.

A motion was made by Dr. Denson and seconded by Mr. Phung to take no action on case numbers 19-0082, 19-0177, and 19-0132. A vote was taken and the motion to take no action passed with aye votes from Mr. Colburn, Mr. Sanders, Dr. Denson, and Mr. Phung.

**14. ADJOURN**

The meeting was adjourned at 12:41 p.m.

  
C. Kenneth Sanders, President

  
Donna C. Yeatman, Executive Secretary

  
Date