

BOARD OF PHARMACY
Secretary of State, Office of Professional Regulation
National Life Building, North, Floor 2, Montpelier, VT 05620-3402
Approved Minutes
January 25, 2012 at 9:00 A.M.

1. The meeting was called to order at 9:00 a.m.

Members Present: Julie A. Eaton, R.Ph., Chair; Judith Wernecke; Earl W. Pease, Pharm.D.; Larry Labor, R.Ph.; Steven M. Vincent, R.Ph. and Conrad Boucher.

Members Absent: Jeffrey P. Firlik, R.Ph., Vice-Chair

OPR Personnel Present: Larry S. Novins, Board Counsel; S. Lauren Hibbert, Prosecuting Attorney; Peter Comart, Licensing Administrator; Carla Preston, Case Manager; Dan Vincent, Inspector and Kristy Pirie, Licensing Board Specialist.

Others Present: Bernard D. Lambek, Esq. of Zalinger Cameron & Lambek, P.C.; Mike Kyle, President of Bandana Trading Inc.

2. The Chair called for approval of the Minutes of the December 7th meeting. Mr. Vincent made a motion, seconded by Mr. Labor, to approve the minutes of the December 7, 2011 meeting as written. Motion passed unanimously.

3. **Hearings/Stipulations *et al.***

- a. The Board considered a Stipulation and Consent Order in the matter of M. Jacklynn Estes and Rite Aid Pharmacy #10320, Docket Numbers 2010-587, 2010-588, 2011-311, 2011-488, 2011-489, 2011-302 and 2011-171. Larry S. Novins presided for the Board. Prosecuting Attorney, S. Lauren Hibbert, was present for the State. The Respondents' Attorney was present. The Board went into deliberative session at 9:31 A.M. and out at 9:55 A.M. The Board voted to reject the Stipulation and Consent Order as presented. Mr. Labor, Investigating Member, did not participate in the vote.
- b. The Board considered a Stipulation and Consent Order in the matter of Marble Works Pharmacy, Docket Number 2011-337. Larry S. Novins presided for the Board. Prosecuting Attorney, S. Lauren Hibbert, was present for the State. The Respondent was not present. The Board voted to go into deliberative session at 10:01 A.M. and out at 10:07 A.M. Mr. Vincent made a motion, seconded by the Chair, to accept the Stipulation and Consent Order as presented. Motion passed. Ms. Wernecke, Investigating Member, did not participate in the vote.
- c. The Board considered a Stipulation and Consent Order in the matter of Southwestern Vermont Medical Center Pharmacy, Docket Numbers 2011-339. Larry S. Novins presided for the Board. Prosecuting Attorney, S. Lauren Hibbert, was present for the State. The Respondent was not present. The Board went into deliberative session at 10:16 A.M. and out at 10:23 A.M. The Board voted to reject the Stipulation and Consent Order as presented. Emma Pudvah, was the Investigating Member.

- d. The Board considered a Stipulation and Consent Order in the matter of Arthur Wernick, Docket Number 2010-585. Larry S. Novins presided for the Board. Prosecuting Attorney, S. Lauren Hibbert, was present for the State. The Respondent was not present. The Board went into deliberative session at 10:30 A.M. and out at 10:43 A.M. The Board rejected the Stipulation and Consent Order as presented. The Chair, Investigating Member, did not participate in the vote.
- e. A hearing was held in the matter of Bandana Trading Inc., Docket Number 2011-595. Larry S. Novins presided for the Board. Prosecuting Attorney, S. Lauren Hibbert, was present for the State. The Respondent's President/Owner, Mike Kyle, was present by phone. The Board voted to go into deliberative session at 11:42 A.M. and out at 11:55 A.M. A written decision will be issued. Mr. Pease, Investigating Member, did not participate in the vote.

4. **Guests:**

Daniel Vincent, Inspector, attended to obtain clarification on certain Board regulations pertaining to inspections.

Christopher Winters, Director of OPR attended to provide the Board with an update on the proposed Executive Director position for the Board of Pharmacy.

5. **Case Manager's Report:**

Carla Preston, Case Manager, reported on current and follow-up cases.

There are currently 72 cases. 15 are ready for closing, 8 pending investigative team meetings, 29 are currently under investigation, charges have been filed or a hearing has been scheduled for 11 of the cases and 9 are pending charges to be filed.

The Board considered a request for removal of conditions in the matter of Cynthia J. Koch, Docket Number M2009-83. Based on the information provided, Mr. Vincent made a motion, seconded by Mr. Labor, to grant the request for removal of conditions. Motion passed unanimously. The Chair, Investigating Member, did not participate in the vote.

The Board considered a request for removal of conditions in the matter of Steven A. Simpson, Docket Number M2011-34 (2010-132). Based on the information provided, Mr. Labor made a motion, seconded by Mr. Boucher, to grant the request for removal of conditions. Motion passed unanimously. The Chair, Investigating Member, did not participate in the vote.

6. **COMPLAINTS, review of Reports of Concluded Investigation:** (None)

7. **Reports:** (None)

8. **Legislation/Rulemaking:**

The Board discussed the proposed legislative Bill H.171 Health; unused prescription drugs and medical supplies. The Board does not agree with the assumption that there is a problem with

soon-to-be outdated drugs. The Board also feels that it lacks the resources and expertise to create such a program.

The Board discussed the proposed legislative Bill S.242 Health; possession and control of regulated drugs; prescription; pharmacy. Although the Board supports the goal of this legislation, it is unable to support this bill as drafted.

The Board tabled drafting Administrative Rules for Remote Pharmacies.

9. Review Applications for licensure as a Pharmacist:

Mr. Labor made a motion, seconded by Mr. Vincent, to approve the following applicants for licensure as a pharmacist. Motion passed unanimously.

Derek M. Caraccia, PharmD (Endorsement)
Lawrence E. Hillelson, PharmD (Examination)
Behnaz Khatami, PharmD (Endorsement)
Mark J. Mercurio, R.Ph. (Endorsement)
Paul O. Nosa-Oviasu, R.Ph. (Endorsement)
Priya I. Patel, PharmD (Examination)
Emily E. Sutton, PharmD (Endorsement)

Cindy S. Finch (Reinstatement) - The Board reviewed Ms. Finch's application for reinstatement. Based upon the documentation submitted, The Chair made a motion, seconded by Mr. Pease, to approve Ms. Finch's application pending passage of the MPJE for Vermont. Motion passed.

10. Review Applications for licensure as an Out of State Registered Telepharmacist: (None)

11. In-State Drug Outlets (pharmacies, wholesalers, manufacturers, etc.):

The following In-State Drug Outlet was discussed. Board action is not required at this time.

- a. Pharmacy Network, LLC, **d/b/a Community Health Pharmacy**, 4 Slapp Hill, Hardwick, VT, submitted an application for a new remote pharmacy pilot project. The facility has successfully passed its initial inspection. A temporary license has been issued and is set to expire on January 31, 2012. A second inspection was performed on June 14, 2011. Affidavit of adequate drug supply and proof of DEA registration is required. The pharmacy submitted a plan to relocate the consultation area which was approved by the Board on October 25, 2011. Based upon a successful final inspection of the relocated consultation area, Mr. Vincent made a motion, seconded by Mr. Boucher, to approve the application for full licensure. Motion passed.

12. Change in Pharmacist Manager:

Mr. Vincent made a motion, seconded by Mr. Labor, to approve the following changes in pharmacist managers. Motion passed unanimously.

- a. **CVS/Pharmacy #337**, (038-58082), located at 8 Kocher Drive, Bennington, Vermont, submitted an application for change in pharmacist manager from Stephanie R. Clayton to Constance B. Taylor-Rosa.
- b. **Kinney Drugs, Inc. #93**, (038-3356), located at 957 Memorial Drive, Saint Johnsbury, Vermont, submitted an application for change in pharmacist manager from Stephanie A. Ibey to Brian A. Chapin. (A copy of the signed inventory is required)
- c. **Shaw's, D/b/a Osco Pharmacy #7515-411**, (038-3316), located at 66 Mountain View Drive, Colchester, Vermont, submitted an application for change in pharmacist manager from Idalia E. Rychlik to Elizabeth R. Brown-Higdon.
- d. **Rite Aid Pharmacy #10329**, (038-3358), located at 355 North Main Street, Barre, Vermont, submitted an application for change in pharmacist manager from Kate L. Maxfield to Manojkumar M Desai.
- e. **Rite Aid Pharmacy #10326**, (038-3382), located at 30 Shelburne Shopping Park, Shelburne, Vermont, submitted an application for change in pharmacist manager from Rajendra B. Vaghasiya to Kate L. Maxfield.
- f. **Rite Aid Pharmacy #10334**, (038-3373), located at 263 Court Street, Middlebury, Vermont, submitted an application for change in pharmacist manager from Shane M. Louis to Linda L. Bhatia.

The Chair made a motion, seconded by Mr. Vincent, to approve the following change in pharmacist manager pending an explanation as to why the outgoing pharmacist was unable to sign the application or inventory. Motion passed unanimously.

Shaw's, D/b/a Osco Pharmacy #7518-414, (038-3332), located at 71 Boxwood Street, Williston, Vermont, submitted an application for change in pharmacist manager from Paul R. Carroll to Maureen S. Shannon.

The Chair made a motion, seconded by Mr. Labor, to approve the following change in pharmacist manager pending receipt of the drug inventory. Motion passed unanimously.

Kinney Drugs, Inc. #105, (038-77454-RPPP), located at 16 Church Street, Barton, Vermont, submitted an application for change in pharmacist manager from Stephanie A. Ibey to Brian A. Chapin.

13. **Non-Resident Pharmacies:**

The Board reviewed the non-resident pharmacy applications with no record of prior disciplinary action that were approved since the last meeting based on their completed applications. The Board found no issues.

The Board reviewed the following applications for licensure as a non-resident drug outlet. Based on the information provided, Mr. Vincent made a motion, seconded by Mr. Labor, to approve the following applications for licensure. Motion passed unanimously.

- a. **Injured Workers Pharmacy, LLC** – 300 Federal Street, Andover, MA..
- b. **MJW Corporation, D/b/a Aiken Compounding Pharmacy** – 110 Price Avenue, Aiken, SC.
- c. **Roadrunner Pharmacy, Inc.** – 711 E. Carefree Highway, Phoenix, Az.
- d. **University Rx Specialists, D/b/a University Compounding Pharmacy** – 1875 Third Avenue, San Diego, CA.

14. **Non-Resident Wholesaler/Manufacturer Drug Outlets:**

The Board reviewed the non-resident wholesaler/manufacturer applications with no record of prior disciplinary action that were approved since the last meeting based on their completed applications. The Board found no issues.

The Board reviewed the following applications for licensure as a non-resident drug outlet. Based on the information provided, Mr. Labor made a motion, seconded by Mr. Vincent, to approve the following applications for licensure. Motion passed unanimously.

- a. **UPS Supply Chain Solutions, Inc.** – 1840 Outer Loop Road, Louisville, KY 40219.

15. **Drug Outlet remodeling, closures, changes in Officers/Directors, hours of operation, etc.:**

(None)

16. **Continuing Pharmacy Education Requests:**

The Chair made a motion, seconded by Mr. Vincent, to approve the following continuing pharmacy education requests. Motion passed unanimously.

- a. **“Update on Antiretroviral Therapy for HIV”** submitted by Erica Counter with Fletcher Allen Health Care, requesting approval for one (1) live (didactic) continuing pharmacy education credit. The lecture was held on January 17, 2012. The Board issued approval number CPE-021(L)-0125
- b. **“Update on Opioids and Pain Management for Inpatients”** submitted by Erica Counter with Fletcher Allen Health Care, requesting approval for one (1) live (didactic) continuing pharmacy education credit. The lecture will be held on February 21, 2012. The Board issued approval number CPE022(L)-0125

17. **Intern/Preceptor application(s):** (None)

18. **Pharmacy Technicians:** Total number of Active Registered Technicians is **1, 244** (1,163 Resident, 81 Non-Resident).

19. **Newsletter Topics!**

The Board noted that Articles for the March Newsletter were due before January 30th. Mr. Boucher will prepare a brief bio and the Chair will work on a reminders section.

20. Miscellaneous Correspondence:

- a. The Board reviewed the letter from Peter P. Kumpf regarding the internship hour requirement. Given Mr. Kumpf's years of experience in the practice of pharmacy in South Africa, the Board agreed that he would only need to practice as an intern for 500 hours in order to satisfy the internship hour requirement for licensure.
- b. The Board reviewed the December 16, 2011 email from Becky Senesac regarding prescription requirements. Ms. Senesac asked if it is a requirement to indicate the route of administration (by mouth or PO) on a script. The Board stated that this is required under Rule 9.1.
- c. The Board reviewed the December 20, 2011 email from Al Carter regarding pharmacists administering Zostivax vaccinations to patients over the age of 50. This is not allowed under Rule 3.4, unless the pharmacist is enrolled in a collaborative practice agreement with a physician that allows them to do so.
- d. The Board reviewed the December 23, 2011 email from James Cobb regarding pharmacy to pharmacy exchange of non-schedule drugs. Mr. Cobb was referred to Rule 8.19(e)
- e. The Board reviewed the January 6th and January 10th emails from Arlene Colligon regarding animal healthcare products and regulations on substitution of such products. Ms. Colligon asked that given the FDA does not list veterinary drugs in the Orange Book, is a pharmacist is permitted to exercise their discretion to substitute the Product for the Reference Product in the absence of any limitation on substitution from the prescribing veterinarian. The Board indicated that pharmacists must follow the Orange Book. If a drug is not listed, pharmacists must contact the prescriber to see if substitution is okay.
- f. The Board reviewed the January 9, 2012 email from Jay Bogdan regarding filling and dispensing of a deceased prescribing practitioners prescription. Mr. Bogdan asked how long after a prescribing practitioner is deceased, may a pharmacy fill and dispense a prescription written by the deceased. The Board stated that the pharmacy could dispense up to a 90 day supply. Further clarification may be found under Rule 9.3.
- g. The Board reviewed the January 10th email from Michael Carroll regarding pharmacy protocols. A response will be sent to Mr. Carroll referring him to the Rules pertaining to collaborative practice.
- h. The Board reviewed the January 11th email from Shirley Harrison regarding Walgreens Transfer Safe RX system. A response will be sent to Ms. Harrison referring her to the Rules regarding transfers.

21. National Association of Boards of Pharmacy (NABP) Correspondence:

- a. The Board reviewed various documents from the NABP.

22. Public Comment: (None)

23. Other Business Introduced: (None)

24. The next meeting is scheduled for **Wednesday, February 22, 2012** at 9:00 A.M.

The meeting dates for 2012 are as follows: March 28th, April 25th, May 23rd, June 27th, July 25th, August 22nd, September 26th, October 24th and December 5th.

25. There being no further business, the meeting was adjourned at 3:42 P.M.

Respectfully submitted,



Judith Wernecke, Secretary
Vermont Board of Pharmacy