

BOARD OF PHARMACY
Secretary of State, Office of Professional Regulation
National Life Building, North, Floor 2, Montpelier, VT 05620-3402
Approved Minutes
February 22, 2012 at 9:00 A.M.

1. The meeting was called to order at 9:08 a.m.

Members Present: Julie A. Eaton, R.Ph., Chair; Judith Wernecke; Larry Labor, R.Ph.; Steven M. Vincent, R.Ph.; Conrad Boucher and Jeffrey P. Firlik, R.Ph., Vice-Chair.

Members Absent: Earl W. Pease, Pharm.D.

OPR Personnel Present: Larry S. Novins, Board Counsel; Edward Adrian, 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.

2. The Chair called for approval of the Minutes of the January 25th meeting. Mr. Vincent made a motion, seconded by Mr. Labor, to approve the minutes of the January 25, 2012 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, Edward Adrian, was present for the State. The Respondents' Attorney, Bernard D. Lambek, was present. The Board went into deliberative session from 9:24 A.M. to 9:55 A.M. and again from 10:00 A.M. to 10:17 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 Arthur Wernick, Docket Number 2010-585. Larry S. Novins presided for the Board. Prosecuting Attorney, Edward Adrian, was present for the State. The Respondent was not present. The Board went into deliberative session at 10:35 A.M. and out at 10:59 A.M. The Board rejected the Stipulation and Consent Order as presented. The Prosecuting Attorney indicated that the case would be dismissed. The Chair, Investigating Member, did not participate in the vote.

4. **Guests:**

Daniel Vincent, Inspector, attended to obtain clarification about certain Board regulations. Inspector Vincent also reported that the Office is still in the process of drafting an inspection format for in-state wholesalers and institutional pharmacies. Once a format has been drafted, it will be shared with the Board.

5. Case Manager's Report:

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

There are currently 86 cases. 18 are ready for closing, 4 pending investigative team meetings, 45 are currently under investigation, and charges have been filed or a hearing has been scheduled for 19.

The Board considered a request for removal of conditions in the matter of Kinney Drugs, Inc. #11, Docket Number M2011-35. Based on the information provided, Mr. Firlik 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. Mr. Vincent recused from voting on this request.

6. COMPLAINTS, review of Reports of Concluded Investigation:

The Board reviewed the following Reports of Concluded Investigations and took action as indicated.

- a. 2011-350 - The Board reviewed the Report of Concluded Investigation. Mr. Vincent made a motion, seconded by Mr. Firlik, to accept the Investigative Team's recommendation and conclude the case without formal prosecution. Motion passed. Mr. Labor, Investigating Member, did not participate in the vote.
- b. 2011-182, 2011-183, 2011-184 and 2011-185 - The Board reviewed the Report of Concluded Investigation. Mr. Vincent made a motion, seconded by Mr. Firlik, to accept the Investigative Team's recommendation and conclude the case without formal prosecution. Motion passed. Mr. Labor, Investigating Member, did not participate in the vote.
- c. 2011-338 - The Board reviewed the Report of Concluded Investigation. Mr. Firlik made a motion, seconded by the Chair, to accept the Investigative Team's recommendation and conclude the case without formal prosecution. Motion passed. Ms. Wernecke, Investigating Member, did not participate in the vote.
- d. 2011-34, 2011-38 and 2011-39 - The Board reviewed the Report of Concluded Investigation. Mr. Labor made a motion, seconded by Mr. Boucher, to accept the Investigative Team's recommendation and conclude the case without formal prosecution. Motion passed. The Chair, Investigating Member, did not participate in the vote.
- e. 2011-340 - The Board reviewed the Report of Concluded Investigation. Mr. Firlik made a motion, seconded by Mr. Vincent, to reject the Investigative Team's recommendation to conclude the case without formal prosecution. Motion passed. Emma Pudvah was the Investigative Team Member. Ms. Wernecke recused from voting on this case.
- f. 2011-491 - The Board reviewed the Report of Concluded Investigation. The Chair made a motion, seconded by Mr. Labor, to reject the Investigative Team's recommendation to conclude the case without formal prosecution. Motion passed. Ms. Wernecke, Investigating Member, did not participate in the vote. Mr. Firlik recused from voting on this case.

7. **Reports: (None)**

8. **Legislation/Rulemaking:**

A few of the Board Members have been working with Board Counsel to draft Administrative Rules for Remote Pharmacies. The Members will continue to work on the draft and will share it with the full Board once it is completed.

9. **Review Applications for licensure as a Pharmacist:**

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

Brandon M. Cigana, PharmD (Endorsement)

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

11. **In-State Drug Outlets (pharmacies; wholesalers, manufacturers, etc.): (None)**

12. **Change in Pharmacist Manager:**

The Chair made a motion, seconded by Mr. Firlik, to approve the following changes in pharmacist managers. Motion passed unanimously.

- a. **Coscto Pharmacy #314**, (038-3117), located at 218 Lower Mountain View Drive, Colchester, Vermont, submitted an application for change in pharmacist manager from Jill M. Lowrey to Marcie B. Jorgensen.
- b. **Marble Works Vergennes, D/b/a Marble Works Pharmacy**, (038-3399), located at 187 Main Street, Vergennes, Vermont, submitted an application for change in pharmacist manager from Margaret L. Pierce to Margaret M. Moore.
- c. **Pharmalogic LTD**, (038-3193), located at 9 Krupp Drive, Williston, Vermont, submitted an application for change in pharmacist manager from Thomas F. DeFranco to Richard P. Sucease.

Mr. Firlik made a motion, seconded by the Chair, to approve the following change in pharmacist manager pending clarification on the reasoning for the previous managers' inability to sign off on the inventory and application.

- d. **Rite Aid Pharmacy #4272**, (038-3278), located at 1024 North Avenue, Burlington, Vermont, submitted an application for change in pharmacist manager from Robert C. Charlier to Michael B. Windisch.

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. Labor made a motion, seconded by Mr. Boucher, to approve the following applications for licensure. Motion passed unanimously.

- a. **Kash N' Karry Food Stores, Inc., D/b/a DA – Prescriptions Direct #1993** – 1804 Jim Johnson Road, Plant City, FL.
- b. **MAH Pharmacy, LLC, D/b/a Meds at Home** – 6225 Annie Oakley Drive, Suite 300, Las Vegas, NV.

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, Ms. Wernecke made a motion, seconded by Mr. Vincent, to approve the following applications for licensure. Motion passed unanimously.

- a. **AmerisourceBergen Drug Corporation** – 1325 West Stricker Avenue, Sacramento, CA.
- b. **Fagron** – 2400 Pilot Knob Road, St. Paul, MN.

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

(None)

16. **Continuing Pharmacy Education Requests:**

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

- a. **“Clinical Pearls: Lithium & Smart Text for IVents”** 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 February 2, 2012. The Board issued approval number CPE023(L)-0222.
- b. **“Vermont Geriatrics Conference”** submitted by Natalie Remillard with the University of Vermont, requesting approval for seven and one half (7.5) live (didactic) continuing pharmacy education credit. The lecture will be held on April 17, 2012. The Board issued approval number CPE024(L)-0222.

- c. **“Multiple Myeloma”** 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 March 20, 2012. The Board issued approval number CPE025(L)-0222.

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

18. **Pharmacy Technicians:** Total number of Active Registered Technicians is **1, 266** (1,182 Resident, 84 Non-Resident).

19. **Newsletter Topics!**

20. **Miscellaneous Correspondence:**

- a. The Board reviewed the January 27, 2012 email from Alexandre Celius regarding the distribution of biological products. The Board indicated that the distribution of biological products, such as human tissue, human cells and cellular and tissue based products, is not regulated by the Board of Pharmacy.
- b. The Board reviewed the February 07, 2012 email from Matthew Thomas regarding an Antimicrobial Stewardship Program (ASP) that the Vermont Department of Health is planning. As part of the ASP, the Department of Health would like to engage the State's pharmacies by providing them with educational material on a post card, with information from the CDC about proper use of antibiotics. The hope is that the pharmacies will pass the information along to consumers who are picking up a prescription for an antibiotic. The Board indicated that it found no issues with the materials presented; however the Department of Health should be aware that some of the corporate offices of some of the chain pharmacies may not allow such practice to occur. The Department of Health should contact the pharmacies to verify their policies.
- c. The Board reviewed the February 08, 2012 email from Danny Anderson regarding Rapid Diagnostic Testing (RDT) in Vermont. The Board indicated that performing RDT is not part of its Pharmacy Practice Act. It further confirmed that a pharmacist is allowed to perform RDT if it is under a collaborative practice agreement that authorizes them to do so.
- d. The Board reviewed the February 15, 2012 email from Stephanie Clark regarding Settlement reporting provisions in Vermont. The Board stated that currently there are no requirements for employers to report settlements involving pharmacy matters; however it is the duty of the employer to notify the Board of any unprofessional conduct.

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, March 28, 2012** at 9:00 A.M.

The meeting dates for 2012 are as follows: 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 2:29 P.M.

Respectfully submitted,

A handwritten signature in cursive script, reading "Judith Wernecke", is written over a horizontal line.

Judith Wernecke, Secretary
Vermont Board of Pharmacy