

BOARD OF PHARMACY
Secretary of State, Office of Professional Regulation
National Life Building, North, Floor 2, Montpelier, VT 05620-3402
Approved Minutes
March 28, 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 Earl W. Pease, Pharm.D..

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

OPR Personnel Present: Larry S. Novins, Board Counsel; Edward Adrian, Prosecuting Attorney; Peter Comart, Licensing Administrator; and Dan Vincent, Inspector.

Others Present: Bernard D. Lambek, Esq. of Zalinger Cameron & Lambek, P.C., David Pocius, Esq., Mike Iglinski and Michael Duteau.

2. The Chair called for approval of the Minutes of the February 22nd meeting. Mr. Vincent made a motion, seconded by Mr. Boucher to approve the minutes of the February 22, 2012 meeting as written. Motion passed unanimously.

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

- a. 9:15 a.m. The Board considered a Stipulation and Consent Order in the matter of Southwestern Vermont Medical Center, Docket Number 2011-339. Larry S. Novins presided for the Board. Prosecuting Attorney, Edward Adrian, was present for the State. The Respondents' Attorney, David Pocius, was present. Mr. Vincent made a motion to accept the Stipulation and Consent Order, and Mr. Labor seconded. The Board went into deliberative session at 9:20 A.M. and out at 9:35 A.M. The Board accepted the Stipulation and Consent Order as presented. Emma Pudvah, the Investigating Member, is no longer on the Board and did not participate in the vote.
- b. 9:38 a.m. 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. Mr. Vincent made a motion to accept the Stipulation and Consent Order, and Mr. Boucher seconded. The Board went into deliberative session from 9:48 A.M. to 10:03 A.M. The Board voted to accept the Stipulation and Consent Order as presented. Mr. Labor, Investigating Member, did not participate in the vote.

4. **Guests:**

- a. At 9:05 a.m. Daniel Vincent, Inspector, attended the meeting to discuss a situation where a person wanted to come into a pharmacy for a day to observe. It could be a

student or someone wanting to job shadow. Is that allowable under HIPAA?
Observation is okay, as long as they are not performing any work.

At 10:10 a.m. Dan talked about clinical references. There are some places that still use books, rather than online versions. Online versions are considered more comprehensive.

Issue: Combining in two manufacturer containers. What does Dan tell someone as a reference not to do this? There is no way to show or prove that the medication came from the same lot. Then it is mis-labeled. So the Board advised Dan to prohibit this practice as mis-labelling and inadequate quality assurance.

Dan wants to talk to the board in the future about computer systems and client information, what the technician collects, allergies, health issues, all of which goes in the client record. The Board requested that this go on the agenda at one of the summer meetings.

- b. Michael Duteau came to update the Board about telepharmacy in Barton. It is going well. They changed some of their protocols, especially the offer to counsel. They have a number of customers that decline counseling. They are going to reword the offer so customers are not alarmed when they hear that the pharmacist wants to talk to them. The community is very appreciative of the pharmacy being there. Mike said that two other locations are interested in starting a telepharmacy. Kinney requires that the technicians are nationally certified.
- c. At 11:00 A.M. – Christopher Winters, Director of OPR, attended to provide an update on the Pharmacy Board Executive Director position. The position title is Executive Officer. Chris has completed the RFR that goes to Human Resources for classification and pay grade determination. Chris has already drafted the job description. It will be a Licensing Administrator position and Kristy will be reporting to the new Executive Officer.

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

Carla Preston, Case Manager, was absent.

- a. The Board considered a request for removal of conditions in the matter of Jeffrey Waite, Docket Number M2011-99. Based on the information provided, Mr. Boucher made a motion, seconded by Mr. Vincent, to grant the request for removal of conditions. Motion passed unanimously.
- b. The Board considered a request for removal of conditions in the matter of James Weiden, Docket Number M2010-49. Based on the information provided, Mr. Pease made a motion, seconded by Ms. Wernecke, to grant the request for removal of conditions. Motion passed unanimously.

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

7. **Reports:** (None)

8. **Legislation/Rulemaking:**

- a. Chris updated the board on the prescription monitoring bill. Chris is not sure if it has left the House and made it to the Senate. Chris does not know of any changes to the legislation. Chris will sit in on some of the sessions in the Senate.
- b. 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 Ms. Wernecke, to approve the following applicant for licensure as a pharmacist. Motion passed unanimously.

Paul V. Amato, PharmD (Endorsement)
Bobbi J. Gratton, PharmD (Endorsement)
Sally G. Hogan, R.Ph. (Endorsement)
Joshua J. Scoville, PharmD (Endorsement)
Andrew T. Silvester, PharmD (Endorsement)

Peter P. Kumpf – Needs internship hours approved prior to sending authorization to test to the exam service. Mr. Vincent, made a motion, seconded by the Chair, to approve the CE and approve the applicant for licensure pending their passing the exam.

Matthew Angostopolus – Needs CE review and approval to take MPJE. Mr. Vincent, made a motion, seconded by Mr. Pease, to approve the CE and approve the applicant for licensure pending their passing the exam. Original scores are unavailable, NH lost his exam scores. He must have passed if NH gave him a license.

Jay Simmons – The Board needs more information to review CE review and approval to take the MPJE. The Board did not approve the CE because he did not meet the requirement of rule 2.13 B. Is he active in another state? Need that information. His license has lapsed for more than 5 years, so he has to practice as an intern 200 hours and he needs to pass the MPJE. Needs an intern license application. Mr. Boucher made a motion, seconded by Mr. Labor, to approve the CE and approve the applicant for licensure pending their passing the exam. He would need CE's for all the renewal periods since 1999.

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

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

- a. Kinney Drugs, Inc., **D/b/a Kinney Drugs, Inc. #107**, located at 47 Executive Drive, Shelburne, Vermont, submitted an application for a new retail pharmacy. Application materials and scaled drawing must be reviewed and approved by the Board before an initial inspection can occur. Dan contacted them has not heard back from them. Based upon the information provided, the Chair made a motion, seconded by Mr. Vincent, to approve the facility for an initial inspection.

12. **Change in Pharmacist Manager: (None)**

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

- a. **Diabetic Care Rx, LLC** – 37-15 23rd Avenue, Astoria, NY.
- b. **MedfusionRx, LLC** – 5511 Highway 280, Suite 301, Birmingham, AL.

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

- a. **Hi-Tech Pharmacal Co., Inc.** – 13 Edison Street East, Amityville, NY.
- b. **RxC Acquisition Company, D/b/a RxCrossroads Third Party Logistics Division** – 1001 Cheri Way, Suite 100, Louisville, KY.

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. Pease, to approve the following continuing pharmacy education requests. Motion passed unanimously.

- a. **“Pharmacy and Therapeutics Committee Meeting”** submitted by Erica Counter with Fletcher Allen Health Care, requesting approval for one (1) live (didactic) continuing pharmacy education credit. The lecture and discussion was held on March 9, 2012. The Board issued approval number CPE026(L)-0328.
- b. **“Rapid Sequence Intubation – An Update”** 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 April 19, 2012. The Board issued approval number CPE027(L)-0328.

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

18. **Pharmacy Technicians:** Total number of Active Registered Technicians is **1, 287** (1,201 Resident, 86 Non-Resident).

19. **Newsletter Topics!**

20. **Miscellaneous Correspondence:**
 - a. The Board reviewed the March 1, 2012 email from Nick Masino, Esq., regarding electronic prescribing of controlled substances. The Board follows federal guidelines.
 - b. The Board reviewed the March 5, 2012 email from Dan Manz with the Vermont Office of Public Health Preparedness and EMS, regarding the Vermont Department of Health participating in the Strategic National Stockpile (SNS) Program. The Board indicated that as long as a physician is responsible, registration with the Board of Pharmacy is not required.
 - c. The Board reviewed the March 9, 2012 email from Michele Mercer regarding prescriptions for oxygen. The Board confirmed that it does not regulate the distribution of oxygen.
 - d. The Board reviewed the March 15, 2012 email from Jocelyn DePaolis-Thivierge, R.Ph, with Montpelier Pharmacy, Inc.; the March 19, 2012 email from Aaron Sapp, R.Ph, with SUPERVALU; and the March 20, 2012 email from Marcie Jorgensen, Pharm.D., with Costco Pharmacy, regarding administering Zostavax to patients age 50 and up. CDC recommendations must be followed unless there is an active collaborative practice agreement between a specific physician and pharmacist that allows otherwise.
 - e. The Board reviewed the March 12, 2012 email from Heather Cronan regarding regulations for the preparation, administration and dispensing of IV chemotherapy. Ms. Cronan was referred to Part 12 of the Board's Administrative Rules.
 - f. The Board reviewed the March 22, 2012 email from Molly Moulton regarding the ability for Advanced Practice Registered Nurses (APRN's) to enter into collaborative practice agreements with pharmacists. The Board indicated that this is allowable as long as the APRN has prescriptive authority.
 - g. The Board reviewed the March 20, 2012 email from Ryan Bushey regarding what items a pharmacist can change on a Schedule II controlled substance prescription. The Board indicated that as long as the prescribing physician provides verbal authorization directly to the pharmacist, a pharmacist can amend all but the following on a prescription: patient's name, name of drug and the physician's signature. The date, if omitted, can be entered. All changes as authorized directly by the prescribing physician must be documented on the hard copy of the prescription. The Board suggested that Mr. Bushey contact the DEA for its interpretation as it may differ and disciplinary action may be taken against those that do not adhere to its regulations

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:**

The Board wants to express its gratitude to Secretary Condos for the support for the new Executive Officer position.

24. The next meeting is scheduled for **Wednesday, April 25, 2012** at 9:00 A.M.

The meeting dates for 2012 are as follows: May 30th, June 27th, July 25th, August 22nd, September 26th, October 24th and December 5th.

25. There being no further business, the meeting was adjourned at 2:16 P.M.

Respectfully submitted,



Judith Wernecke, Secretary
Vermont Board of Pharmacy