

VERMONT BOARD OF PHARMACY – Approved Minutes

Secretary of State, Office of Professional Regulation
89 Main Street, 3rd Floor, Montpelier, VT 05620-3402

July 24, 2013 at 9:00 A.M.

1. The meeting was called to order at 9:05 a.m.

Members Present: Mr. Jeffrey Firlik, RPh, Chair; Ms. Julie A. Eaton, RPh, Vice-Chair; Ms. Judith Wernecke, Public Member, Secretary; Mr. Steven M. Vincent, RPh; Mr. James Arisman, Esq., Public Member; and Mr. Larry Labor, RPh

Members Absent: King Milne, RPh

OPR Personnel Present: Mr. Larry S. Novins, Board Counsel; Mr. Ronald Klein RPh, Executive Officer; and Ms. Aprille Morrison, Licensing Board Specialist.

Others Present: Quincy Campbell, Mike Fish, Analesa Muir, Heather Shouldice, Sal Morana, Rita Bagolini (by phone) and Dick Wilcox (by phone)

2. The Chair called for approval of the Minutes of the June 26, 2013 meeting as presented. Mr. Vincent made a motion to approve the minutes. The motion was seconded by Ms. Eaton. Motion passed.

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

9:15 AM – Hearing – John Walters, Docket # 2013-213 – Motion for Continuance granted just prior to meeting.

Mr. Klein presented an order for removal of conditions for Enosburg Pharmacy. Mr. Vincent made a motion to accept the order. The motion was seconded by Mr. Labor. Motion passed.

Mr. Klein presented an order for removal of conditions for Corner Drug Co., Inc. and William Aimi, RPh. Ms. Eaton made a motion to table the request as the Board requires further information regarding inspections. The motion was seconded by Mr. Labor. Motion passed.

5. **Guests:**

10:30 am – Heather Shouldice, VT Association of Chain Drug Stores – Clarification on Act 75. Ms. Shouldice and Mike Fish from Hannaford's Drug Stores addressed the Board regarding the legislative requirements imposed on the Board regarding Act 75. Mr. Novins stated the Board should not be trying to interpret the intent of legislature as regards the additional prescription requirements mandated by the legislation. Ms. Shouldice will contact the chairman of the Senate Judiciary Committee to request a meeting to discuss the intent of the legislature. Ms. Shouldice will also file a petition with the Board of Pharmacy seeking a declaratory judgment on certain applicable parts of the legislation. It is anticipated the Board will take up the petition at its August meeting.

11:00 AM – Sal Morana – Discussion with the Board regarding a proposal to consolidate the drug purchasing for three hospitals. Mr. Morana informed the Board the three hospitals are

looking to consolidate their drug purchasing in order to reduce costs and waste. The Board recommended that they register a separate entity as a distributor.

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

Ms. Preston reported to the Board on the number of cases they currently have. There are 33 cases, nine (9) ready for Investigative Team meeting, one (1) ready for closing, seven (7) are in intake, seven (7) have had charges filed, four (4) are pending hearing, four (4) are under investigation and one (1) is awaiting response.

7. **Legislation/Rulemaking:**

Legislative Updates:

A) Proposals for Statute Amendments:

- The Board discussed amending the statutes to give the Board the ability to require certification of technicians. The Board would like to require any individual who assists in the preparation of a prescription to be nationally certified. The Board discussed the different categories they would like to have for technicians and their transition from non-certified to certified. The Board has agreed they would like to request authority from Legislature to require certification of technicians.
- Mr. Klein addressed the Board regarding the National Precursor Log Exchange (NPLEx) called for in Act 75 passed by the 2013 Vermont General Assembly. This online system monitors the purchase of precursor chemicals and over the counter drugs used in the illegal production of methamphetamine, a Schedule I controlled substance. The system acts to prevent the purchase of excessive quantities of these chemicals and drugs. In small quantities, these over the counter drugs do have legitimate medical uses. It appears that neither the Vermont Prescription Monitoring System (VPMS) nor the Vermont Board of Pharmacy have statutory authority to manage/monitor the implementation and operation of the system. The statutes requiring the implementation and use of the NPLEx are in Department of Health Statutes. Mr. Klein will contact the VT Department of Health to try to get this straightened out and see if the Board of Pharmacy needs to amend their regulations so as to manage the system. Mr. Klein stated it may be appropriate for the Board to request amendments to the statute at the next session of the legislature.
- Definition for collaborative practice: a licensed pharmacist providing certain patient care pursuant to rules adopted by the Board of Pharmacy under a written agreement with a collaborating physician.
- Mr. Novins informed the Board of the additional licensure statuses that he would like to see added to the statutes for all professions. His proposal would allow there to be at least three license statuses, active, inactive (per request) and lapsed/expired. The Board agreed that there should be additional licensure statuses added to statute.
- Ms. Eaton would like Mr. Klein to notify all prescribing Boards (Medical, Naturopathic Physicians & Surgeons, Osteopathic Physicians, Dental Board, Midwives, Optometry and Board of Veterinary Medicine) that according to Act 75 all written or type written prescriptions for Schedule II, III and IV controlled substances must contain the quantity in numeric and written out format.

B) Rules Amendments and Revisions:

- The Board discussed return of unused drugs from nursing homes to a pharmacy for resale and reimbursement. The Board was under the understanding that this was already allowable under federal regulations as long as the packaging was not tampered with and they were not controlled substances. They were also under the understanding that as long as the medication was under the direction of a licensed professional (nurse, physician, physician assistant or medical assistant) that it could be returned to a pharmacy. Mr. Klein does not know of any federal regulations that allow this. Mr. Klein asked the Board their thoughts regarding a cancer drug repository. The Board felt this was not a discussion they wanted to take up at this time, that there were too many liabilities with retail pharmacies holding these.
- Mr. Vincent brought up the issue of physician dispensing. The Board would like Mr. Klein to have a discussion with the Executive Director of the Board of Medical Practice and appropriate regulation of the practice. It is anticipated both the Board of Medical Practice and the Board of Pharmacy would have regulatory oversight of practitioners who dispense medication as a regular part of their practice. Mr. Vincent would also like to request someone from NABP attend and participate in discussion.
- Mr. Klein asked the Board if they wished to clarify who can be an agent of a practitioner in the transmission of an oral prescription. Ms. Eaton stated that it is currently in the institutional section of the Administrative Rules and states that it currently has to be a Vermont licensed nurse who calls in the prescriptions. This is currently not defined in the retail pharmacy section of the Rules. This will be addressed in the Rule rewrite.
- The Board reviewed the entire set of Administrative Rules Governing the Practice of Pharmacy in Vermont. Numerous rule amendments, additions, deletions, updates, and corrections were proposed. Ms. Eaton made a motion to accept the proposed revisions to the Administrative Rules. Mr. Firlik seconded the motion. Motion passed. The proposed rules have been set for public hearing and discussion at the October 2, 2013 regular meeting of the Board of Pharmacy.

8. Review Applications for licensure:

Mr. Vincent made a motion to approve the following applications for licensure:

Arrow International, Inc. – Olive Branch, MS
Concierge Compounding Pharmaceuticals, Inc. – Henderson, NV
UPS Supply Chain Solutions, Inc. – Durham, NC

Ms. Eaton seconded the motion. Motion passed

Each Board member was given a packet of renewals for screening. They will respond to Mr. Klein with their thoughts on whether or not disciplinary action should be brought.

The Board requested to review the application for remote pharmacy for Kinney Drugs – Arlington, VT. Board office staff had the understanding that Mr. Klein could approve applications for this, however the Board stated as this is still under the pilot project that they must review and approve them. The Board found there were a few additional things needed for this application and requested that Mr. Klein get in touch with Mike Duteau and explain the additional requirements.

9. Executive Officer Report:

Travel – Mr. Klein informed the Board of his upcoming travel requirements for NABP and NASCSA.

Board Member recruitment – Mr. Klein reminded the Board that the terms of two members of the board end in December 2013. Neither member is eligible for reappointment. At renewal time there is a survey that can be completed by licensed pharmacists as to whether they would like to be a Board member. The Office staff will pull the list and send out a mailing informing the interested individuals of the next steps for filing with the Governor's office.

Discussion of Meeting Dates for 2013 – Mr. Klein requested the Board change a couple of their meeting dates for the rest of 2013. The new dates are as follows:

- August 28, 2013
- October 2, 2013
- November 6, 2013
- December 4, 2013

District 1 & 2 NABP meeting – Ms. Eaton, Mr. Vincent, Mr. Firlik and Mr. Klein will be attending this meeting.

10. Pharmacy Technicians: Total number of Active Registered Technicians is **1,688** (1,557 Resident, 131 Non-Resident).

11. Discussion Items:

Request for Waiver or extension of CE requirements – Matthew Urbach and Lauren Urbach. The Board reviewed Matthew and Lauren's requests for waiver or extension of CE requirements and granted them an extension until December 31, 2013 for CE completion. They will not be able to use the CE completed for the 2013 renewal toward the 2015 renewal. Ms. Morrison will contact Matthew and Lauren Urbach and let them know of the Board's decision.

Alison Moore – questions regarding interns. The Board reviewed Ms. Moore's questions regarding interns and noted that with the Administrative Rule revisions that the Board is looking to implement clarifies the preceptor intern ratio.

12. The next meeting is scheduled for **Wednesday, August 28, 2013**, at 9:00 A.M.

13. Ms. Eaton made a motion, seconded by Mr. Vincent, to adjourn at 4:07 p.m. Motion Passed.

Respectfully Submitted:



Judith Wernecke, Secretary

Vermont Board of Pharmacy

A handwritten signature in cursive script that reads "Ronald J. Klein, RPh". The signature is written in dark ink and is positioned above a horizontal line.

Ronald J. Klein, RPh

Executive Officer

Vermont Board of Pharmacy