

Board of Pharmacy
Secretary of State, Office of Professional Regulation
National Life Building, North, Floor 2, Montpelier, VT 05620-3402
Unapproved Minutes
Meeting of October 28, 2009

1. The meeting was called to order at 9:00 A.M.

Members present: Steven M. Vincent, R.Ph., Chairman; Julie A. Eaton, R.Ph., Vice-Chair; Ann Overton, Secretary; Jeffrey P. Firlik, R.Ph.; Earl W. Pease, Pharm.D.; Emma J. Pudvah and Larry Labor, R.Ph.

OPR Personnel present: Larry S. Novins, Board Counsel; Gregg Meyer, State Prosecuting Attorney, Inspector Daniel Vincent, Carla Preston, Unit Administrator; and Kristy Kemp, Administrative Assistant.

Others present: Kerri Ryan, R.Ph. with CVSP Pharmacists; Anthony Otis, Esq. representing the Vermont Community Retail Pharmacy Coalition; and Dave Flashover, R.Ph. with Rite Aid Pharmacies.

2. The Chair called for approval of the Minutes of the September 23rd meeting. Ms. Eaton made a motion, seconded by Ms. Pudvah, to approve the Minutes of the September 23, 2009 meeting as presented. Motion passed unanimously.

3. **Guests:**

A. The discussion with Director Christopher Winter was tabled to the next meeting.

B. Mary Botter, Executive Director for the Board of Nursing participated via phone to ask for clarification of a few issues from the Board. She explained that she has been receiving numerous questions from Licensed Practical Nurses (LPN) and Registered Nurses (RN) working in physicians' offices who are being asked to renew prescriptions or call pharmacies for refills. These practitioners are aware that they cannot prescribe. Director Botter said these nurses are being authorized to make the decision to refill the prescription.

The Board verified that LPNs and RNs cannot make the decision to renew prescriptions. Written prescriptions, whether given to the patient, faxed or e-prescribed, must be signed by the physician. Refill prescriptions may be called in over the phone or by utilizing refill authorization sheets. When a new prescription is created for the refill prescription, the refill authorization sheet must be signed by the physician whether, written, faxed or e-prescribed. The prescription must contain the prescriber's electronic signature or electronic prescriptions. All prescriptions must be signed by the physician or other authorized prescriber.

Director Botter asked if it would be acceptable if the physician authorizes the refill in the patient's record provided certain criteria are met.

The Board said that that would be acceptable since the nurse would be acting as the agent of the doctor, but the nurse cannot sign the refill prescription. They could call it into a pharmacy. However, the nurse could not sign the refill authorization or the refill prescription for written or e-prescribed prescriptions. The record should reflect that it is the physician's decision to allow for renewal of the prescription under certain conditions.

4. **Hearings/Stipulations *et al.***

a. The Board considered a Stipulation and Consent Order in the matter of **Sharon Szczapa**, Docket Number 2008-105 (RX50-0308). Larry Novins presided for the Board. Gregg Meyer was present for the State. Attorney Meyer stated that the order included a finding of unprofessional conduct.

Attorney Novins noted that according to Title 3V.S administrative penalty without a finding of unprofessional conduct. The statute indicates that the conduct pertains to professional conduct.

.A. 129a(3), as a specific finding to impose an administrative penalty, must be referenced in the statute that defines the administrative duties versus patient care.

Based on the discussion that ensued, Mr. Labor made a motion to deny or reject the Order as submitted. The Board voted 4-1 to deny the Order. The Board met at 10:50 A.M. and adjourned at 10:50 A.M. The question was called and the motion passed. The order has been denied. Mr. Firlik recused himself from this matter. Investigating Member, did not participate in the vote.

motion, seconded by Ms. Pudvah, to deny the Order. The Board voted to go into deliberative session at 9:44 and the motion passed. The order has been denied due to a conflict of interest. Ms. Eaton, did not participate in the vote.

- b. The Board considered the State's Request for Summary Suspension in the matter of **Rene C. Meyer**, Docket Number 2009-329. Larry Novins presided for the State. Attorney Meyer noted that a hearing was needed. The Board indicated that the State's witness was not needed in this matter. Attorney Meyer said the State's position is that the Respondent admittedly diverted drugs and embezzled from the court system but is unsure of her conditions of release.

Summary Suspension in the matter of **Rene C. Meyer**, Docket Number 2009-329. Gregg Meyer was present for the State. Attorney Meyer noted that a hearing was not needed in this matter. Attorney Meyer admittedly diverted drugs and embezzled from the court system but is unsure of her conditions of release.

Chairman Vincent made a motion, seconded by Ms. Pudvah, to summarily suspend the Respondent's pharmacy technician registration. The Board voted to go into deliberative session at 10:13 A.M. and adjourned at 10:36 A.M. The question was called and the motion passed. The Board voted to grant the summary suspension. Ms. Eaton recused herself from this matter due to a conflict. Mr. Firlik, Investigating Member, did not participate in the vote.

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- c. The Board held a *Default* Hearing in the matter of Larry Novins presided for the Board. Gregg Meyer was present for the State. Based on the information provided, Mr. Firlik made a motion, seconded by Ms. Pudvah, to find the Respondent in default, thus the charges are accepted as true. Mr. Firlik made a motion, seconded by Ms. Pudvah, to revoke the Respondent's pharmacy technician registration. Motion passed. Mr. Labor, Investigating Member, did not participate in the vote.

Katelynne E. Aubut, Docket Number 2009-88. Gregg Meyer was present for the State. Based on the information provided, Mr. Firlik made a motion, seconded by Ms. Pudvah, to find the Respondent in default, thus the charges are accepted as true. Mr. Firlik made a motion, seconded by Ms. Pudvah, to revoke the Respondent's pharmacy technician registration. Motion passed. Mr. Labor, Investigating Member, did not participate in the vote.

- d. The Board held a *Default* Hearing in the matter of (RX30-0109). Larry Novins presided for the Board. Based on the information provided, Mr. Firlik made a motion, seconded by Mr. Pease, to find the Respondent in default, thus the charges are accepted as true. Attorney Meyer said the State is requesting revocation. Ms. Overton made a motion, seconded by Mr. Pease, to revoke the Respondent's pharmacy technician registration. Motion passed. Chairman Vincent, Investigating Member, did not participate in the vote.

Tara L. Dimick, Docket Number 2009-21. Gregg Meyer was present for the State. Based on the information provided, Mr. Firlik made a motion, seconded by Mr. Pease, to find the Respondent in default, thus the charges are accepted as true. Attorney Meyer said the State is requesting revocation. Ms. Overton made a motion, seconded by Mr. Pease, to revoke the Respondent's pharmacy technician registration. Motion passed. Chairman Vincent, Investigating Member, did not participate in the vote.

5. Reports:

Ms. Eaton reported on her attendance at the National Association of Boards of Pharmacy regional meeting. She said topics included changes in the Accreditation Council of Pharmacy Education (ACPE) curriculum to add more experience requirement internships. The ACPE and pharmacy colleges are encouraging boards that still require hours outside the school to change their requirements. She said students are getting an extra 300 hours of experience (IPPE) they will be getting more hours of experience. She said it would be difficult for students to get extra hours when most of them have months.

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Ms. Eaton said the topics discussed included delegating immunizations. She said states were asking if an intern pharmacist could administer vaccines. Based on the definition of an intern pharmacist, they could with the proper training. If the Board did not want interns administering vaccines it would have to specifically prohibit it.

6. Follow-up Cases

The Board reviewed the following cases and took action as indicated. Ms. Overton made a motion, seconded by Ms. Eaton, to grant the requests of Mr. Hollister and Mr. Little to remove the conditions imposed on their licenses. The question was called and the motion passed unanimously.

- a. Corner Drug Co. Inc./William Aimi—The Respondents are in compliance with their Orders.
- b. Harry's Discount Pharmacy—The Respondent is in compliance with his order.
- c. Kenneth Segreto—The Board found Mr. Segreto to be in compliance with his order however he is not eligible to have the conditions removed until March of 2010.
- d. Robert Crystal—The Respondent is in compliance with his order.
- e. Thomas DeFranco—The Respondent is in compliance with his order.
- f. Donald Sprague—The Respondent is in compliance with his order. The Board will ask Mr. Sprague to report whether he is working and if so, at what pharmacy.
- g. Gary Illingworth—The Respondent is in compliance with his order.
- h. Steve Hollister—approved for removal of conditions
- i. David Little—approved for removal of conditions

7. Legislation/Rulemaking:

Ms. Eaton mentioned changes needed to Title 18, V. S.A. Section 4606 resubstitution. The Board agreed that prescribers do not write what is required by the statute. Since it is not practical and defined, she suggested a change to require prescribers to write brand necessary, no substitution, or dispense as written (DAW). An explanation on the prescription is not needed. The prescriber must explain to the insurer or provider why no substitution. In addition, Section 4607 should be amended which now requires the "S" noted on the prescription noting the substitution. Current practice is that the name of the drug and what it is being substituted for will be printed on the label. The Board also recommended eliminating the requirement for signage pertaining to substitutions from being posted. Section 4607 was amended to strike (a) in its entirety. Attorney Novins agreed to share these recommended statutory changes with the Department of Health and others for input.

Anthony Otis updated the Board with regard to the Office of Vermont Health Access (OVHA) rules. He said the Coalition objected to the 90-day supply and getting rid of the third copay. He said Phil O'Neil and his attorney also objected to the rule. He said the plan is to try to get it overturned.

8. Complaints/Reports of Concluded Investigations

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

2009-170—The Board reviewed the Report of Concluded Investigation. Mr. Firlik made a motion, seconded by Mr. Pease, to accept the Investigative Team's recommendation and conclude the case without formal prosecution. Motion passed. Chairman Vincent, Investigating Member, did not participate in the vote.

2009-89—The Board reviewed the Report of Concluded Investigation. Ms. Pudvah made a motion, seconded by Mr. Pease, to accept the Investigative Team's recommendation and conclude the case without formal prosecution. Motion passed. Chairman Vincent, Investigating Member, did not participate in the vote.

2009-171—The Board reviewed the Report of Concluded Investigation. Chairman Vincent made a motion, seconded by Ms. Pudvah, to accept the Investigative Team's recommendation and conclude the case without formal prosecution. Motion passed. Ms. Eaton, Investigating Member, did not participate in the vote.

2009-168 and 2009-169—The Board reviewed the Report of Concluded Investigation. Ms. Eaton made a motion, seconded by Chairman Vincent, 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.

9. **Applications for Licensure as a Pharmacist :**

Ms. Eaton made a motion, seconded by Mr. Pease, to approve the following applicants for licensure as pharmacists. Motion passed unanimously.

- Adam C. Cochran, PharmD (Examination)
- Katie E. Dell Angelo, PharmD (Examination)
- Edward M. Grant, PharmD (Endorsement)
- Sommer D. Zarbock, PharmD (Endorsement)
- Amleset Zerai, PharmD (Endorsement)
- Thomas M. Clancy, R.Ph. (Endorsement)

10. **In-State Drug Outlets:**

a. **Albany College of Pharmacy and Health Sciences**, 261 Mountain View Drive, Colchester, Vermont, submitted an application for its new Vermont site for the school. At the September 23 meeting, the Board discussed the newschool location with Salvatore Morana and Dr. Robert Hamilton as well as the results of the inspection and viewed photographs of the site. Chairman Vincent made a motion, seconded by Ms. Overton, to issue a 90-day temporary license. Full licensure is subject to receipt of the additional documentation requested. In response to Inspector Vincent's question, the Board indicated that a second inspection of the site was not needed. The question was called and the motion passed unanimously.

11. **Change in Pharmacist Manager:**

Mr. Firlik made a motion, seconded by Ms. Eaton, to approve the changes in pharmacist managers in items a through c as indicated below. The question was called and the motion passed unanimously.

a. **Costco Pharmacy #314**, (038-3117), located at 218 Lower Mountain View Drive, Colchester, Vermont, changed pharmacist managers from Marcie B. Jorgensen to Christine Dutil.

b. **McGregor's Medicine on Time Pharmacy**, (038-3337), located at 321 Main Street, Winooski, Vermont, changed pharmacist managers from Cheryl H. Smith to Michele Kartschoke.

c. **Rite Aid Pharmacy #10320**, (038-3364), located at 1 Prince Lane, Bristol, Vermont, changed pharmacist managers from Theresa L. Shangraw to Gary Maravalli.

d. **Rite Aid Pharmacy #10337**, (038-3372), located at 412 Broad Street, Lyndonville, Vermont, submitted an application for change in pharmacist manager from Elaine Marie Nicol-Cash to Robert C. Charlier. Mr. Firlik made a motion, seconded by Ms. Pudvah, to approve the change in pharmacist manager pending receipt of a signed copy of the inventory. Motion passed unanimously.

12. Non-Resident Pharmacies:

Ms. Eaton made a motion, seconded by Ms. Pudvah, to approve the following non-resident pharmacies for licensure based on their completed applications. Motion passed unanimously.

- a. **Covance Specialty Pharmacy, LLC**, 500 Eagles Landing, Lakeland, FL.
- b. **Leiter's Pharmacy**, 1700 Park Avenue, San Jose, CA.
- c. **Prescription Dispensing Labs, Inc.**, 19230 Stone Oak Parkway, San Antonio, TX.
- d. **QPharma, Inc. dba QPharmacy**, 46 Horsehill Road, Cedar Knolls, NJ (pending receipt of an additional affirmation)

13. Non-Resident Wholesaler/Manufacturer Drug Outlets:

Mr. Firlik made a motion, seconded by Ms. Eaton, to approve the following non-resident wholesale distributors and/or manufacturers for licensure based on their completed applications. Motion passed unanimously.

- a. **Centurion Medical Products Corporation**, 3600 Cobb International Boulevard, Kennesaw, GA.
- b. **Promotech Logistics Solutions LLC** (formerly Tri-State Hospital Supply Corporation), 25 Madison Road, Totowa, NJ.
- c. **QPharma, Inc.**, 46 Horsehill Road, Cedar Knolls, NJ (Approved pending receipt of additional information).
- d. **Diplomat Specialty Pharmacy**, 2029 S. Elms Road, Swartz Creek, MI.
- e. **Clipper Distributing Co., LLC**, 1302 S. 59th Street, St. Joseph, MO.
- f. **Just Packaging, Inc.**, 450 Oak Tree Avenue, South Plainfield, NJ.
- g. **Cedardale Distributors, LLC**, 620 Gotham Parkway, Carlstadt, NJ.
- h. **Curtis Pharma, Inc.**, 68 Cummings Park, Woburn, MA.

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

GeriCare Pharmacy (038-3319), 1852 Station A, Rutland, Vermont – The Board reviewed the notification from this pharmacy of its permanent closure effective on September 1, 2009.

15. Continuing Pharmacy Education Requests:

Mr. Firlik made a motion, seconded by Ms. Eaton, to approve the following continuing pharmacy education requests as indicated. The question was called and the motion passed unanimously.

- a. **“Clostridium Difficile,”** submitted by Shawna Barito with Fletcher Allen Health Care, was approved for one (1) hour of live (didactic) continuing pharmacy education credit. The lecture will be held on November 17, 2009. The approval number issued is CPE007(L)-1009.
- b. **“OVHA Vermont DUR Board Meeting,”** submitted by Andrew Miller, was approved for two (2) hours of live (didactic) continuing pharmacy education credit. The meeting was held on June 9, 2009. The approval number issued is CPE008(L)-1009.

16. Intern/Preceptor application(s)

Chairman Vincent made a motion, seconded by Mr. Firlik, to accept completed preceptor applications and the Intern applications listed below as indicated. Motion passed unanimously.

The following Applicants were approved as Interns

Leah F. Barbuto
Kayla M. Manahan
Jeffrey M. Stone

Samantha L. LeBlanc
Amir Mohammadaghahi

The following were applicants were approved as Preceptors

Julie M. Baker
Carl P. Eisenbiegler
Danielle M. Fougere
Grant Nolan
Craig Robbins

Christine S. Dutil
Karen L. Eisenbiegler
Michelle Kartschoke
Eric D. Prong

The following applicants were approved for a change of Preceptor and/or Employment

Tarek M. El-Assar

Manu Malik

17. **Pharmacy Technicians:** Total number of Active Registered Technicians is **1,125** (1056 Resident, 69 Non-Resident).

18. **Newsletter Topics!**

The Board voted to include articles covering long term care pharmacies, new definition of institutional pharmacies and a notice to pharmacists offering the services to contact the Office for the new application and/or requirements. In addition, significant changes to the Rules will be highlighted and information re the shortage from Tamiflu and how the FDA is handling the issue.

19. **Miscellaneous Correspondence**

- a. The Board discussed the application requirements for Community Based Long Term Care Pharmacies. A revised application will be created.
- b. The Board discussed Rule 2.9 Registration for Telepharmacy Across State Lines and Rule 2.10 Telepharmacy Disclosure Requirements. An application will be created for this registration.
- c. The Board reviewed the letter from a foreign pharmacist applicant who has the Foreign Pharmacy Graduate Examination Committee (FPGEC) and asked if an internship at a Canadian pharmaceutical manufacturer organization would be acceptable. The Board indicated that internship hours in research and development is not pharmacy practice, thus would not meet the requirements.

20. **National Association of Boards of Pharmacy (NABP) Correspondence:**

- a. The Board reviewed and noted miscellaneous NABP correspondence.

21. **Public Comment**

Comments from guests were addressed above.

22. **Other Business Introduced**

Chairman Vincent said he has had inquiries from pharmacists regarding the basic life support training requirements set forth in Rule 9.34, specifically whether the training without the cardiac portion is acceptable. He asked if pharmacists are covered to administer vaccines with the basic life support certification, which is just Cardiopulmonary Resuscitation (CPR). The matter was discussed at length.

Mr. Firlik explained that the Red Cross and American Heart Association used different terms for the completion of the course. The definitions by these organizations and what was covered were reviewed.

Anthony Otis said he needs clarification as to whether the automated external defibrillator (AED) training is required as part of the training. He said he interpreted the rule that as of October 1st the additional AED (cardiac portion) training is required and that prior to the rules going into effect, basic training was fine.

In the end, the Board agreed to clarify the training requirements for pharmacists to give immunizations. In addition to an accredited training course on immunizations, pharmacists must maintain current training in Basic Cardiac Life Support. Certification by the American Heart Association in “Basic Cardiac Life Support” or certification by the Red Cross in “Basic Life Support” satisfies the requirements for Rule 9.34. Other programs covering the same subject matter covered by the American Heart Association “Basic Cardiac Life Support (BCLS)” or by the Red Cross “Basic Life Support (BLS)” are acceptable. Note: Training on the use of an automated external defibrillator (AED) is now required part of BCLS or BLS. This training is required even if your pharmacy does not have an AED.

The Board agreed to do a mailing to all in-state pharmacies, post this information on its website, and include this interpretation in its next issue of the eNewsletter.

Later in the meeting, Attorney Otis reported that he contacted Rob Levin regarding the training in Vermont for the courses required for pharmacists to immunize (Rule 9.34). He said if people did not want the AED (cardiology defibrillator) as part of training, the Red Cross calls it CPR. He said he would report to the group she represents that the AED portion of the training is required to give immunizations.

23. The next meeting of the Board is scheduled for **Wednesday, December 2, 2009.** Meetings in 2010 are scheduled as follows: January 27th, February 24th, March 24th, April 28th, May 26th, June 23rd, July 28th, August 25th, September 22nd, October 27th and December 1st.

24. There being no further business, the meeting was adjourned at 2:18 PM.

Respectfully submitted,

Carla Preston, Unit Administrator
Office of Professional Regulation