

Board of Pharmacy
Secretary of State, Office of Professional Regulation
National Life Building, North, Floor 2, Montpelier, VT 05620-3402
Unapproved Minutes
Meeting of July 21, 2010

1. The meeting was called to order at 9:06 A.M.

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

OPR Personnel present: Larry S. Novins, Board Counsel; Carla Preston, Unit Administrator, and Kristy Kemp, Administrative Assistant.

Others present: Anthony Otis, Esq., representing the Vermont Community Retail Pharmacy Coalition.

2. The Chair called for approval of the Minutes of the June 23rd meeting. On page 2, item B, the fourth sentence of the first paragraph was amended to read: The wholesalers have assured the manufacturers that any products sold are sold to a legitimate customer. On page 3, item D, the third sentence of the second paragraph was amended to read: Medications cannot be taken back from any group that has left the control of the pharmacy, or a licensed health professional when a patient resides in a licensed health facility. Ms. Pudvah made a motion, seconded by Mr. Pease, to approve the Minutes of the June 23, 2010 meeting as corrected. Motion passed unanimously.

3. **Guests:**

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

5. **Reports:**

The Board briefly revisited its initial inspection process. Chairman Vincent mentioned recent discussions with Chief Investigator, Amy Carlson, concerning hospital inspections. They are working with Karen McBride at Fletcher Allen Health Care. These matters will be discussed further at future meetings.

6. **Follow-up Cases**

7. **Legislation/Rulemaking:**

The Board discussed legislative changes to propose for the next session, such as establishing fees for initial and renewal of registered telepharmacy pharmacists. The Board agreed that the fees should be the same as they are for licensed pharmacists.

Ms. Eaton raised the issue of counseling requirements and changes in wording over the past few re-writes of the rules. The matter was discussed with Larry Novins, Board Counsel. In the end, the Board concluded that in every situation (new or refill prescription) the offer to counsel has to be made to the patient but does not have to be made by the pharmacist. A patient's refusal for counseling must be documented. The Board will include this information in an upcoming Newsletter and clarify it further in the next rulemaking process.

Ms. Kemp indicated that she had received questions about Rule 9.34 concerning the requirement that vaccination records must be permanently maintained. The Board agreed to revisit that provision in its next re-write of the rules.

8. Complaints/Reports of Concluded Investigations

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

2009-279 - The Board reviewed the Report of Concluded Investigation. Mr. Pease made a motion, seconded by Ms. Pudvah, 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.

2009-126 - The Board reviewed the Report of Concluded Investigation. Ms. Eaton 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.

2009-333 - The Board reviewed the Report of Concluded Investigation. Mr. Eaton made a motion, seconded by Ms. Pudvah, 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.

2009-368 - The Board reviewed the Report of Concluded Investigation. Mr. Pease made a motion, seconded by Ms. Pudvah, 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.

2009-157 - The Board reviewed the Report of Concluded Investigation. Chairman Vincent made a motion, seconded by Ms. Eaton, to accept the Investigative Team's recommendation and conclude the case without formal prosecution. Motion passed. Mr. Labor, Investigating Member, was not present.

9. Applications for Licensure as Pharmacists:

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

Peter J. Davey, Jr., PharmD (Endorsement)
Megan A. Jensen, PharmD (Examination)
Benjamin J. Love, PharmD (Examination)
Jaclyn C. Sanborn, PharmD (Examination)
Brian P. Van Epps, PharmD (Examination)
Lance J. Strzegowski, R.Ph. (Endorsement)
Mindy K. Sussdorff, R.Ph. (Endorsement)

Applications for Registration of Out of State Telepharmacy Pharmacists:

Ms. Pudvah made a motion, seconded by Mr. Pease, to approve the following applicants for registration as Registered Telepharmacy Pharmacists. Motion passed unanimously.

Lorraine A. Cunningham, R.Ph.
Kelly S. Kim, PharmD

10. In-State Drug Outlets:

The Board reviewed the following applications for in-state pharmacies and took action as indicated.

- a. **Johnson's Harvest Pharmacy LLC**, located at 18 Clark Avenue, Johnson, Vermont, submitted an Application for License to Conduct an In-State Pharmacy (Retail Drug Outlet). Initial inspection is required.
- b. Montpelier Pharmacy, Inc., d/b/a **Brattleboro Pharmacy**, 413 Canal Street, Brattleboro, Vermont, submitted an Application for License to Conduct an In-State Pharmacy (Retail Drug Outlet). Further documentation and initial Inspection is required.
- c. Montpelier Pharmacy, Inc. d/b/a **Montpelier Pharmacy**, located at 69 Main Street, Montpelier, Vermont, submitted an Application for License to Conduct an In-State Pharmacy (Retail Drug Outlet) to reflect a change in ownership. An inspection is required.
- d. Montpelier Pharmacy, Inc. d/b/a **Waterbury Pharmacy**, located at 149 South Main Street, Waterbury, Vermont, submitted an Application for License to Conduct an In-State Pharmacy (Retail Drug Outlet). Additional documentation is needed and an initial inspection is required.
- e. Martin's Food of South Burlington, Inc. d/b/a **Hannaford Supermarket & Pharmacy**, located at 141 Hannaford Square, Bennington, Vermont, submitted an Application for License to Conduct an In-State Pharmacy (Retail Drug Outlet). An inspection is required.
- f. NCS Healthcare of Vermont, Inc., d/b/a **Omnicare of Vermont**, located at 113 Acorn Lane, Colchester, Vermont, submitted an application to change their designation from a retail pharmacy to an institutional long term care pharmacy. Based on the completed application, Ms. Eaton made a motion, seconded by Chairman Vincent, to approve this pharmacy for the new institutional long term care pharmacy credential. Motion passed unanimously.
- g. Vermont CVS Pharmacy, LLC, d/b/a **CVS/Pharmacy #1052**, located at 7 Essex Way, Essex Junction, Vermont, submitted an Application for License to Conduct an In-State Pharmacy (Retail Drug Outlet). An inspection is required.
- h. Kevin F. Mee d/b/a **KFM Medical Supplies and Equipment**, located at 13 Sonia Drive, Rutland, Vermont, submitted an Application for an in-state Wholesale Distributor (broker). Mr. Mee submitted the revised wholesaler application. Ms. Eaton made a motion, seconded by Chairman Vincent, to approve this wholesaler application pending receipt of a written statement that there will be no storage of prescription drugs at this location. Motion passed unanimously.

11. **Change in Pharmacist Managers:**

Ms. Pudvah made a motion, seconded by Mr. Pease, to approve the changes in pharmacist managers for items "b" and "c." Item "a" was tabled for more information. The question was called and the motion passed unanimously.

- a. **Kinney Drugs, Inc. #23**, (038-2052), located at 97 Morrisville Plaza, Morrisville, Vermont, changed pharmacist managers from Stephen G. Sopchak to Karen Eisenbiegler. The Board found these applications incomplete. They will be notified of documents needed.
- b. **The Pharmacy-Northshire, LLC**, (038-3388), located at 34 Ways Lane, Manchester Center, Vermont, changed pharmacist managers from Thomas R. Reif to Ronald A. Innacone.
- c. **Equinox Compounding Pharmacy LLC**, (038-3389), located at 34 Ways Lane, Manchester Center, Vermont, changed pharmacist managers from Michael R. Iglinski to Thomas R. Reif.

12. Non-Resident Pharmacies:

Several non-resident pharmacy applications with no record of prior disciplinary actions were approved for licensure since the last meeting based on their completed applications. Based on the information provided, Ms. Eaton made a motion, seconded by Ms. Wernecke, to formally approve those non-resident pharmacies for licensure. Motion passed unanimously.

13. Non-Resident Wholesaler/Manufacturer Drug Outlets:

Several non-resident wholesale distributor applications with no record of prior disciplinary actions were approved since the last meeting based on their completed applications. Based on the information provided, Ms. Eaton made a motion, seconded by Ms. Wernecke, to formally approve those non-resident pharmacies for licensure. Motion passed unanimously.

The Board reviewed applications with prior disciplinary actions and concluded that verifications of good standing from the jurisdiction(s) in which the disciplined occurred was also needed before acting on them.

The Board asked that in addition to obtaining verification of licensure standing from the jurisdiction in which products would be shipped to Vermont, that verifications be submitted from any jurisdiction that took disciplinary action against the applicant. If the non-resident wholesaler has obtained Verified-Accredited Wholesale Distributors (VAWD) certification, separate verifications from each jurisdiction may not be necessary.

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

The Board reviewed and noted the following:

- a. McGregor's Medicine on Time Pharmacy, (038-3337), submitted a notification of change in hours of operations. The pharmacy will no longer be open on Sundays.
- b. National Logistics Services, d/b/a NLS Animal Health, (039-1137), located at 140 Plum Industrial Park, Pittsburgh, PA, submitted a request to inactivate their Vermont wholesale drug outlet license.
- c. National Logistics Services, d/b/a NLS Animal Health, (039-1138), located at 80 Mainline Drive, Westfield, MA, submitted a request to inactivate their Vermont wholesale drug outlet license.
- d. UCB Inc., (039-183), located at 167 Business Center Drive, Birmingham, AL, submitted a request to inactivate their Vermont wholesale drug outlet license.
- e. Universal Footcare Products, Inc., (039-1066), located at 300 Wainwright Drive, Northbrook, IL, submitted a request to inactivate their Vermont wholesale drug outlet license.
- f. US Bioservices, (036-372), located at 2525 Perimeter Place Drive, Nashville, TN, submitted a request to inactivate their Vermont non-resident pharmacy license.

15. Continuing Pharmacy Education Requests:

16. Intern/Preceptor application(s)

Amir Mohammadaghaei – The Board reviewed Mr. Mohammadaghaei's Intern's Evaluation of Internship Period and Preceptor's Affidavit of Internship Hours regarding the 519.50 hours he earned from July 20, 2009 to April 24, 2010 while working at Rite Aid Pharmacy #4272 with Mahnaz Khorrani as his preceptor. The Board noted that Mr. Mohammadaghaei's intern registration was issued on October 28, 2009; therefore any hours earned prior to that date will not be counted. Ms. Eaton made a motion, seconded by Mr. Pease, to approve the **268.91** internship hours Mr. Mohammadaghaei has earned since he registered with the Board. Motion passed unanimously.

Christopher A. Saunders – The Board reviewed Mr. Saunders' Intern's Evaluation of Internship Period and Preceptor's Affidavit of Internship Hours regarding the 702 hours he earned from May 9, 2008 to August 6, 2009 while working at Springfield Pharmacy with Lester Peck as his preceptor. Ms. Eaton made a motion, seconded by Mr. Pease, to approve the **702** internship hours Mr. Saunders has earned. Motion passed unanimously.

Patrick L. Plas – The Board reviewed Mr. Plas' Intern's Evaluation of Internship Period and Preceptor's Affidavit of Internship Hours regarding the 344 hours he earned from May 17, 2010 to July 16, 2010 while working at Fletcher Allen Health Care Pharmacy with Robert Emery as his preceptor. Ms. Eaton made a motion, seconded by Mr. Pease, to approve the **344** internship hours Mr. Plas has earned. Motion passed unanimously.

17. **Pharmacy Technicians:** Total number of Active Registered Technicians is **1, 366** (1262 Resident, 104 Non-Resident).

18. **Newsletter Topics!**

Topics for the September issue of the Board of Pharmacy's Newsletter include, Ms. Wernecke's biography, 2010 Legislative updates regarding 18 V.S.A. § 4606 and 4607, electronic prescribing of controlled substances, signage requirements, complaint process, counseling requirements, etc.

19. **Miscellaneous Correspondence**

- a. The Board reviewed the July 6, 2010 Email from Dr. William Grass concerning automatic refill requests sent from the pharmacy directly to his practice. The patient calls the refill line to initiate the refill request. The Board appreciates his concerns about diversion risks but noted that these refill requests must be acted upon by him or his office in order to be processed for renewal. The pharmacist would not know that the patient has requested a refill which is automatically sent to the physician for refill authorization.
- b. The Board reviewed the July 8, 2010 Email from Dr. Lee Emerson concerning Suboxone refills. He turned in his DEA certification to prescribe Suboxone at the end of June and is concerned that his patients' refill prescriptions would abruptly stop before obtaining a new provider. He indicated that Chris Paquette from the Drug Enforcement Administration said the refills prescriptions would be honored after June 30th. Dr. Emerson wanted assurances from the Board that they would be filled. The Board noted that it cannot give such assurances. The Board will request a legal opinion from Mr. Paquette.
- c. The Board reviewed the July 1, 2010 Email from James Heal with Grace Cottage Hospital regarding a follow-up concerning the "Sharps Takeaway Environmental Return System." The Board indicated that law enforcement may conduct reclamation of dispensed patient medications in Vermont. They assume possession and are responsible for the reverse distribution. Licensed pharmacies cannot take back any dispensed product no longer in their possession.
- d. The Board reviewed the July 2, 2010 Email from Michael Leake with Price Chopper Pharmacies concerning the distinction between an electronic prescription as being both written and unwritten. The Board clarified that pursuant to 18 V.S.A. § 4606, written means handwritten. Unwritten includes oral and electronic prescriptions. An oral prescription requires specific direction that substitution is not allowed. In an electronic prescription, there must be a typewritten notice that substitution is not allowed.

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

- a. The Board discussed upcoming meetings and workshops which should have a representative from the Vermont Board.
- b. The Board reviewed and noted miscellaneous NABP correspondence.

21. **Public Comment**

22. **Other Business Introduced**

23. The next meeting of the Board is scheduled for **Wednesday, August 25, 2010**. Meeting dates for 2010 are as follows: September 22nd, October 27th and December 1st.
24. There being no further business, the meeting was adjourned at 11:47 AM.

Respectfully submitted,

Kristy Kemp, Administrative Assistant
Office of Professional Regulation