

Board of Pharmacy

Secretary of State, Office of Professional Regulation
National Life Building, North, Floor 2, Montpelier, VT 05620-3402

Unapproved Minutes Meeting of February 25, 2009

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

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

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

Others present: Kerri Ryan, R.Ph. Marc Comtois, Jennifer Browe, Pharm.D., Renee Kilroy, and Crystal Bo usquet.

2. The Chair called for approval of the Minutes of the January 28th meeting. Mr. Labor made a motion, seconded by Mr. Pease, to approve the Minutes of the January 28, 2009 meeting as submitted. Motion passed unanimously.

3. **Guests:**

- A. At approximately 11:00 A.M., Marc Comtois, Operations Specialist, with Max or National Pharmacy Services Corporation, Jennifer Browe, Pharmacist Manager of Community Health Pharmacy, and Renee Kilroy representing the Northern Counties Health Care, Inc. attended the meeting to discuss the status of their Plainfield site and Phase II of their proposal. Mr. Comtois said proposed legislation has been submitted to give the Board the authority to allow these types of sites and would maintain the Board's ability to approve up to three pilot projects as originally intended. The proposed legislation is specific to cover entities and should be approved very soon since it is part of the budget bill. He said they would include the status of this proposed legislation in its monthly report to the Board.

Mr. Comtois said the final inspection on the Plainfield pilot project site was conducted on February 11th. Inspector Dan Vincent presented photographs of the area including the room, entryway, waiting area, window, audio/visual camera and the Automated Dispensing Unit (ADU). Mr. Comtois said drug samples have been removed from that location that were previously being stored there and are under the control of physicians. He said renovations have been completed so that there is a designated counseling area. He said they are looking at other possible renovations that could further improve the site. The quality of the video link is very good to ensure privacy. He said they are taking steps to remedy the "will call" situation. Mr. Comtois said requiring mandatory counseling for all drugs dispensed to patients would interfere with their business model. He acknowledged that it is less of an issue based on the current volume.

The Board confirmed that it is considering requiring mandatory counseling for any drug dispensed from the ADU. The Board is aware that other states mandate counseling for patients receiving prescriptions from automated dispensing units. The Board agreed that mandatory counseling was necessary at this stage of the process.

Mr. Comtois said they are ready to move toward opening the second site (Phase II) which would be located in Hardwick, Vermont. He said there are six facilities in the Northern Counties Health Care, Inc. of which Hardwick is the largest serving around 6400 patients. He said part of the plan was to get the first site up and running, report on its operation, and then move forward. He explained that he would like to obtain approval from the Board to move forward since it takes four to six weeks to receive the machine once it has been ordered. He acknowledged that there is a retail pharmacy in the area but due to a variety of problems patients want the other options.

3. **Guests** - continued

Ms. Browe said they are still working on the formula. She said they do not have a Schedule III license for the pharmacy located in Colchester. She said the machine and explained the process for scanning, watching the technicians scan the prescriptions and the location receives all scanned prescriptions. She said the ADU, or go through mail order from Colchester, may also be transferred to another pharmacy through an employee of the Plainfield Health Center and two people trained for dispensing one of whom is a

pharmacist in Plainfield but expected that the formula will be carried by Schedule III such as Vicodin. She said the pilot/remote sites. Ms. Browe said she supervises loading, barcoding, labeling, etc. She said the pharmacist is able to see the patients. She said the pharmacist said patients are told that they may pick up their prescriptions or can take it to another pharmacy. She said prescriptions are processed the usual process. Ms. Browe said the pharmacist that she supervises the technician. She said currently there are a nurse. The technician is also trained to load the

in Hardwick. The DEA revises loading. The pharmacist can at the Colchester prescription at the technician. Currently there are an ADU.

The Board noted that the Hydrocodone was listed as a non-controlled substance on the inventory and must be correct. The Board also indicated that written policies, procedures and a technician manual were needed for the technician. The Board agreed that most of the concerns raised if

for the Plainfield site have been satisfied.

ed. The technician.

Mr. Comtois said the Hardwick site requires new construction but a green light from the Board would allow them to order the unit, obtain the necessary permits, etc. He said it would take a bit more time and that they anticipate

July of this year.

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The Board again expressed concerns about the potential of putting other pharmacies out of business or preventing new pharmacies from surviving in these areas. The Board wants to avoid patients who are not served by the federally qualified health centers having no access to pharmacies in their area. The health centers should not serve patients who are not patients of the clinic.

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Mr. Comtois and the others indicated that they are progressing on construction at the Hardwick site in the

not suppressing competition. He said he would do a monthly report to the Board.

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Based on the information provided and discussion, Mr. Firlik made a motion to approve the preliminary go ahead for the Automated Dispensing Unit located in Hardwick subject to meeting all the requirements. The motion was seconded by Chairman Vincent and passed unanimously.

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

At approximately 10:00 A.M. a hearing was held regarding the preliminary denial of **Humana Inc. d/b/a RightSourceRx**, a non-resident pharmacy from Louisville, Kentucky. The application was preliminarily denied based on disciplinary action taken against the pharmacist manager of this pharmacy in Ohio and Kentucky. Vincent DiMaggio, pharmacist manager, Scott Greenwell, Corporate Officer, and Dennis McAllister, participated by phone for the applicant. Mr. DiMaggio reported that the conduct occurred over 20 years ago and that this licenses have been in good standing since that time. He said among other responsibilities, he has managed pharmacies in Kentucky, Indiana, Florida, Pennsylvania and Virginia. Based on the testimony heard and documents provided, Chairman Vincent made a motion, seconded by Mr. Pease, to reverse the decision to preliminary deny and grant licensure to Humana Inc. d/b/a RightSourceRx. The question was called and the motion passed unanimously.

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5. **Follow-Up Cases :**

- Robert A. Crystal—The Board reviewed Mr. Crystal's reports concerning the dates and locations he worked in Vermont. Mr. Crystal was found to be in compliance with this Order.

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5. **Follow-Up Cases** - continued

- William D. Aimia and Corner Drug Inc.—The Board reviewed the inventories for the past several months and found them satisfactory. The Board found that Mr. Aimia and his pharmacy are in compliance with their Orders.
- Harry's Discount Pharmacy—The Board reviewed the report regarding person employed at the pharmacy and found the facility to be in compliance with its Order.
- Kenneth B. Segreto—The Board reviewed the documentation from Mr. Segreto regarding the results of random drug screens and found him to be in compliance with his Order.
- Donald E. Sprague—The Board reviewed Mr. Sprague's questions about this Order and asked for clarification. In addition, the Board reviewed the February 23, 2009 email from Philip O'Neill regarding his plans for employing Mr. Sprague on a part-time basis. The Board indicated that the intent of the condition regarding supervision for a period of three months would anticipate full-time work (35 hours per week) or at a total of not less than 420 hours. The supervisor's monthly report should cover the supervised period, hours worked and Mr. Sprague's progress. Messrs. Sprague and O'Neill will be notified.

6. **Reports:**

7. **Legislation/Rulemaking:**

The Board discussed a few of the public comments submitted regarding the proposed changes to its Administrative Rules. The Board hopes to finalize its draft proposals at its next meeting and submit them to the APAClerk to begin the formal approval process. A few sections were "reserved" so that the Board could move forward and finalize those changes at a later date. Members will attempt to schedule a work session before the next meeting.

8. **Complaints/Reports of Concluded Investigations**

The Board reviewed the following Reports of Concluded Investigation and voted to accept the Investigative Team's recommendation to close these cases without formal charges. The Investigating Member who was assigned to the case did not participate in the vote.

RX61-0408	RX26-1007
RX64-0408	RX65-0408
RX68-0508	RX69-0508
RX73-0608	RX75-0608
ULP-RX11-0807	APP-RX43-0208
RX01-0808 and RX02-0808	RX07-0808, RX08-0808 and RX09-0808
RX10-0808	RX13-0807
RX54-0308	RX31-1007
RX55-0308	RX58-0408 and RX59-0408
RX49-0308	RX16-0908 and RX17-0908
RX71-0608	

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

Mr. Labor made a motion, seconded by Mr. Pease, to approve the following applicants for licensure as pharmacists. The question was called and the motion passed unanimously.

Gill, Mark A. (Endorsement)

Mcgonigle, Kevin J. (Endorsement)

Mills, Alyssa S. (Endorsement)

Schwartz, Joanna R. (Endorsement)

Stephens, Mark C. (Endorsement)

10. **Drug Outlets:**

The Board reviewed the following applications for drug outlets and took action as indicated.

- a. Pharmacy Network LLC d/b/a/ **Community Health Pharmacy—Pilot Project**, 157 Towne Avenue, Plainfield, VT submitted a new application for its remote location. Initial and Final inspections have been conducted. Based on the results of the inspections, Chairman Vincent made a motion, seconded by Ms. Pudvah, to approve this remote location facility for full licensure. The question was called and the motion passed unanimously.
- b. **Kinney Drugs, Inc. #98**, Route 30, Bomoseen, VT submitted a new application to reflect a change in ownership (formerly Harbor Pharmacy). An inspection will be conducted soon.
- c. Pharmacy Health Services, Inc. d/b/a/ **Marble Works Pharmacy**, 99 Maple Street, Middlebury, VT submitted a new application to reflect a change in ownership. Temporary License is set to expire March 31, 2009. An inspection is required.
- d. Pharmacy Health Services, Inc. d/b/a/ **Marble Works Pharmacy (Vergennes)**, 187 Main Street, Vergennes, VT submitted a new application to reflect a change in ownership. Temporary License is set to expire March 31, 2009. An inspection is required.
- e. Pharmacy Health Services, Inc. d/b/a/ **New England Mail Order Pharmacy**, 111 Maple Street, Middlebury, VT submitted a new application to reflect a change in ownership. Temporary License is set to expire March 31, 2009. An inspection is required.
- f. Rite Aid of Vermont, Inc. d/b/a/ **Rite Aid Pharmacy #2481**, 107 East Main Street, Wilmington, VT submitted a new application to reflect a change in location (formerly Grand Union Shopping Center, 1 East Main Street, Wilmington). Inspector Vincent reported on the inspection he conducted on February 23, 2009. Chairman Vincent made a motion, seconded by Mr. Labor, to approve a Temporary License to expire April 30, 2009. Motion passed unanimously.

Instate Manufacturer/Wholesaler:

- a. **Equinox Compounding Pharmacy LLC**, 34 Ways Lane, Manchester Center, VT, submitted an application for an in-state manufacturer/wholesale distributor. The Board reviewed the information from Cindy Harrington, R.Ph. who clarified that this application is for an in-state manufacturer. The Board has additional questions concerning the manufacturing operations proposed at this facility. Ms. Preston will write to Philip O'Neill and Ms. Harrington for additional information.

11. Change in Pharmacist Manager:

Chairman Vincent made a motion, seconded by Mr. Lab or, to approve the changes in pharmacist managers listed below subject to the receipt of the inventories when necessary. Motion passed unanimously.

- a. **Rite Aid Pharmacy #10334**, (038-3373), located at 263 Court Street, Middlebury, Vermont, changed pharmacist managers from Paul Ronis to Gary Maravalli.
- b. **Rite Aid Pharmacy #10336**, (038-3370), located at 82 Route 15 West, Hardwick, Vermont, changed pharmacist managers from Phillip Hoeppner to Ayman Eltoohy.
- c. **Rite Aid Pharmacy #10308**, (038-3361), located at 1823 VT Route 107, Bethel, Vermont, changed pharmacist managers from Patricia Smith to Kristin Cronan. (Needs inventory)
- d. **Rite Aid Pharmacy #10320**, (038-3364), located at 1 Prince Lane, Bristol, Vermont, changed pharmacist managers from Patricia Bardshart to Theresa Shangraw. (Needs inventory)
- e. **Costco Pharmacy #314**, (038-3117), located at 218 Lower Mountainview Drive, Colchester, Vermont, changed pharmacist managers from Thomas Drougasto Marcie Jorgensen.
- f. **Hannaford Food & Drug #55**, (038-3286), located at 277 Swanton Road, St. Albans, Vermont, changed pharmacist managers from Steven A. Hollister to Jason J. Brower.

12. Non-Resident Drug Outlets:

Ms. Pudvah made a motion, seconded by Mr. Pease, to approve the following non-resident drug outlets for licensure. Motion passed unanimously.

- a. Cardinal Health 414, LLC, 27 Smith Road, Woburn, MA.
- b. Remedi Healthcare, 8264 West State Route 41, Covington, OH.

13. Wholesale Drug Outlets:

Mr. Laborn made a motion, seconded by Mr. Pease, to approve the following wholesale distributors for licensure based on their completed applications. Motion passed unanimously.

- a. Graceway Pharmaceuticals, LLC, 891 Mountain View Road, Piney Flats, TN.
- b. Oncall Pharmaceutical Services, LLC, 5100 N. Federal Highway #100, Ft. Lauderdale, FL.
- c. Pharmacy Buying Association, 1825 NW Vivion Road, Riverside, MO.
- d. Skin Medica, Inc., 5909 Sea Lion Place, Carlsbad, CA.
- e. Sklar Corporation, 889 S. Matlack Street, West Chester, PA.
- d. UPS Supply Chain Solutions, 1645 Satellite Blvd., Duluth, GA.
- e. UPS Supply Chain Solutions, 4990 Aircenter Circle, Reno, NV.
- f. Walgreen Eastern Co., Inc., 80 International Drive, Windsor, CT.
- g. Norwich Pharmaceuticals Inc., 6826 State Highway 12, North Norwich, NY.
- h. GAVIS Pharmaceuticals LLC, 400 Campus Drive, Somerset, NJ.
- i. Smiths Medical ASD, Inc., 25 Production Avenue, Keene, NH.
- j. Walgreen Co., 15998 Walgreens Drive, Jupiter, FL.
- k. Fenwal International Inc., Route 122, San German, PR.

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

- a. The Board reviewed the February 2, 2009 letter regarding their remodeling plans. An inspection is required upon completion of the remodeling. Members Vincent and Labor will join the inspector for this inspection.
- b. The Board reviewed and noted the notices from non-resident pharmacies and wholesalers that are no longer shipping products to Vermont.

15. **Continuing Professional Education Requests:**

Chairman Vincent made a motion, seconded by Ms. Pudvah, to approve the following continuing professional education requests as indicated. Motion passed unanimously.

- a. **“Vermont DUR Board Meeting”** submitted by Andrew Miller, R.Ph., requested approval for two and a half hours of live (didactic) continuing professional education credit which was offered on October 14, 2008. The approval number issued was CE327(L)-0209.
- b. **“Hemodialysis Patients: How to Expect the Unexpected”** submitted by Rhonda Howard with North Country Hospital, requested approval for two hours of live (didactic) continuing professional education credit which was offered on February 18, 2009. The approval number issued was CE328(L)-0209.
- c. **“5th Annual Don Leigh Memorial CME Conference”** submitted by the University of Vermont, requested approval for four hours of live (didactic) continuing professional education credit which was offered on February 7, 2009. The approval number issued was CE329(L)-0209.
- c. **“Taking Charge: Being in Balance”** submitted by Dennis Aman, R.Ph., requesting approval for ten hours of live (didactic) continuing professional education credit which will be offered on March 4th, 11th, 18th, 25th and April 1st of 2009. The approval number issued was CE331(L)-0209.
- d. **“2009 Vermont AHEC Geriatrics Conference”** submitted by the University of Vermont, requested approval for six and a half hours of live (didactic) continuing professional education credit which will be offered on April 7, 2009. The approval number issued was CE330(L)-0209.
- e. **“Vermont DUR Board Meeting”** submitted by Andrew Miller, R.Ph., requested approval for two and a half hours of live (didactic) continuing professional education credit which was offered on January 13, 2009. The approval number issued was CE326(L)-0209.

16. **Intern/Preceptor application(s)**

Mr. Labor made a motion, seconded by Ms. Pudvah, to approve the following applications as indicated. Motion passed unanimously.

- a. Christina N. Sheehan—submitted Intern’s Evaluation of Internship Period and Preceptor’s Affidavit of Internship Hours and was approved for the 328 hours she earned during the period of October 31, 2008 through December 31, 2008 while working at Wal-Mart Pharmacy, 282 Berlin Mall Road, Berlin, Vermont. In addition, she submitted Intern’s Evaluation of Internship Period and Preceptor’s Affidavit of Internship Hours and was approved for the 166 hours she earned during the period of September 6, 2008 through October 18, 2008 while working at Rite Aid Pharmacy #10329, 355 North Main Street, Barre, Vermont.
- b. Ayman El tookhy—was approved as a Preceptor.
- c. Anil K. Vinjamuri—was approved as an Intern.

16. **Intern/Preceptor application(s)** - continued

d. Larry L. Springsteen—was approved as an Intern.
e. Melvin F. Stein—was approved as a Preceptor.

17. **Pharmacy Technicians:** Total number of Active Registered Technicians is **1,498** (1257 Resident, 241 Non-Resident).

18. **Newsletter Topics!**

Topics for the next issue of the Newsletter will include the DEA's updated requirements for reporting the theft of Loss of Controlled Substances which requires registrants to include the National Drug Code (NDC). The paper version of the DEA Form 106 became obsolete as of October 28, 2008. The Board will also provide an update as to the statutes of the proposed rules and anticipate a timeline. An update regarding the Department of Health's prescription monitoring plan may be included as well. Mr. Pease agreed to draft an article regarding wireless alarm systems. Ms. Eaton had drafted reminders about registration requirements for technicians and interns. Efforts will be made to submit an April 2009 issue but if not possible, this information would be included in the June 2009 issue.

19. **Miscellaneous Correspondence**

- a. The Board reviewed the December 29, 2008 email from Veterinarian Anne Bazilwich concerning veterinarians filling prescriptions for clients that were written by other veterinarians. The matter was discussed at length. The Board noted that the process described was dispensing however it was unclear as to how or why the California issue mentioned came about or whether it applied to Vermont. The Administrative Rules covering the practice of pharmacy do not address this issue. The Board will refer the matter back to the Board of Veterinary Medicine for action if deemed necessary by that profession.
- b. The Board reviewed and noted miscellaneous information.
- c. The Board reviewed and discussed the February 2, 2009 email from Margaret Caudill-Slosberg concerning pharmacists' ability to write/sign prescription orders. The Board noted that the response would vary by institution. A pharmacist's permission to write orders is generally sanctioned or approved by a "medical staff" committee such as the P&T Committee or in the Medical Staff Bylaws. Protocols and orders set and approved by a committee structure by an individual hospital.

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

- a. The Board reviewed and noted NABP correspondence.

21. **Public Comment**

Comments from guests were addressed above.

22. **Other Business Introduced**

The Board indicated that it would like to accept the offer for an in-person demonstration regarding USP797 regulations. In addition, For Health Technologies, Inc. offered the Board a free demonstration of their software which the Board indicated would be helpful in understanding the use of telepharmacy application to support providing pharmacy care to critical access hospitals. Ms. Preston will contact these organizations to see if they would be available for the April meeting.

23. The next meeting is scheduled for **Wednesday, March 25, 2009** at 9:00 AM.

Meetings in 2009 are scheduled as follows: **April 22nd; May 27th; June 24th; July 22nd; August 26th; September 23rd; October 28th; and December 2nd.**

24. There being no further business, the meeting was adjourned at 3:00 PM.

Respectfully submitted,

Carla Preston, Unit Administrator
Office of Professional Regulation