

BOARD OF PHARMACY – Unapproved Minutes
Secretary of State, Office of Professional Regulation
23 College Street, Schulmaier Hall, Montpelier, VT 05602
January 23, 2013 at 9:00 A.M.

1. The meeting was called to order at 9:00 a.m.

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

OPR Personnel Present: Larry S. Novins, Board Counsel; Dan Vincent, Inspector; Carla Preston, Case Manager; Ronald Klein RPh, Executive Officer; and Aprille Morrison, Licensing Board Specialist.

Others Present: Hannah O'Neill, Teresa Voci, Josh Plavin MD, Larry Mengadoht, Heidi Goodrich, Bob Frenier, Jon Valsangiacomo, Albert Crease and Carol Frenier.

Mr. Firlik introduced the two new Board members. Mr. James Arisman, Esq. is joining the Board as the new public member. Mr. King Milne, RPh, is joining the Board as the new professional member. The members of the board, Mr. Klein, and Mr. Novins all provided brief biography introductions.

At this time, Mr. Milne, Mr. Arisman and Mr. Novins left the room for a brief conference.

2. The Chair called for approval of the Minutes of the December 5th meeting as presented. Ms. Eaton provided several additions to the minutes, relating to public safety. Ms. Eaton stated public safety does not have jurisdiction over sheriff's offices in the state and would like a statement in the minutes to reflect same. Ms. Eaton stated there should be an addition to the board minutes regarding physician dispensing. The Board wishes to open up a dialogue with the Board of Medical Practice regarding this issue. David Herlihy is the Executive Director of the board. Ms. Eaton asked that addition information be in the minutes concerning the OPR bill. The board members discussed the pharmacy audit bill which was passed in the last session.

At this time Mr. Firlik and Mr. Klein provided a brief overview and report to board members of the meeting they attended at the Federal Food and Drug Administration headquarters in Silver Spring MD. This meeting concerned compounding pharmacies and their regulation and inspection. Mr. Klein and Mr. Firlik also provided answers to questions from congressional committees concerning compounding pharmacies in Vermont. Mr. Klein and Mr. Firlik answered questions from other board members on the extent of inspection of compounding and inspection and the role of the states in this process. Mr. Firlik noted that USP 797 standard was mentioned numerous times in the discussions. Mr. Klein noted that FDA will be providing a training session on inspecting compounding pharmacies most likely in March. Mr. Klein stated it Mr. Dan Vincent, Inspector and himself would attend.

Mr. Arisman, Mr. Milne and Mr. Novins returned to the meeting at this time.

Mr. Firlik called for a motion to approve the minutes of the December 5, 2012 meeting. Ms. Eaton stated she would like Mr. Novins to provide additional information for the minutes. The board will review the revised minutes at their February 27th meeting.

Ms. Eaton pointed out several typo errors and requested their correction.

The board noted the executive officers report which is the second page of the agenda.

3. Hearings/Stipulations et al:

9:15 am – Stipulation and Consent Order re: Drug Store Inc., docket # 2011-512 and Allen Odell, docket # 2011-515. Mr. Labor made a motion seconded by Ms. Eaton to accept the stipulation and consent order. The Motion passed unanimously. Mr. Vincent, being the Investigative Team member, did not participate in the hearing. Mr. Arisman abstained from voting.

9:15 am – Hearing Re.: Karen Rouse, docket # 2012-384. Mr. Novins requested the hearing be continued until the February 27th Board meeting as Ms. Rouse is possibly looking to enter into a stipulation and consent agreement. The Board and Prosecutor, Ed Adrian, agreed to a continuance.

9:15 am – Summary Suspension Re.: Thomas Fortier, docket # 2013-11. Mr. Labor made a motion to summarily suspend Mr. Fortier's pharmacist license. Mr. Vincent seconded the motion. The Board went into deliberative session from 9:47 am to 9:58 am. Motion passed unanimously. Ms. Eaton, as the investigative team member did not participate.

4. Guests:

Bob Frenier – Chelsea Health Center request for telepharmacy. Mr. Frenier and three colleagues met with the Board requesting approval for Chelsea Health Center to open a telepharmacy. Mr. Frenier discussed the statistics of the Chelsea area, the remoteness of the area and the need for pharmacy services. Mr. Frenier described the remodel space that will be available to operate a remote pharmacy.

There was an extensive discussion of remote pharmacies and the legislative limitations of the pilot projects.

The Board assured Mr. Frenier that they were working toward finalizing the Remote Pharmacy Rules and would consider Chelsea Health Center's request when able. The Board had the understanding that they could only have three (3) remote pharmacy pilot projects and they currently have three. Mr. Novins clarified that there could be three remote pharmacy pilot projects not including pharmacies that participate with the ADU's (Automated Dispensing Units).

ADU's are currently being used at the Hardwick and Plainfield locations, which are two of the remote pharmacies that were given licensure for the pilot project.

5. Case Manager's Report:

There are 46 cases pending, 19 are pending Investigative Team meetings, 3 are in intake for screening, 1 is awaiting a response from the Respondent, 13 are under investigation, 6 are pending charges, and 4 are pending hearings. Mr. Klein informed the Board that he will be taking over as case manager for the professions he oversees. Training will begin soon.

2011-349 Albert Crease – request for reinstatement of pharmacist license.
Mr. Crease was present for the discussion.

Mr. Novins outlined the process for reinstatement for the board members. He also answered questions from board members about the process. Mr. Comart provided the board with a summary of the case. An Attorney for Mr. Crease outlined the requirements in the board order for reinstatement and that Mr. Crease has met them. Mr. Novins noted that the Investigative team has done the background work as is their duty. Mr. Labor commented on behalf of the I-team that they recommend reinstatement.

Mr. Vincent made a motion to accept Mr. Crease's request for reinstatement. The motion was seconded by Mr. Arisman. The motion passed unanimously. Mr. Labor, being the Investigative Team member, did not participate.

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

7. **Reports:**

Mr. Klein and Mr. Firlik continued to report on the FDA hearing.

Mr. Firlik discussed the requests from the congressional committees and the Vermont Board of Pharmacy response to them.

Mr. Klein and Mr. Firlik answered questions for the House and Senate Committees. They will provide the Board with their responses.

8. **Legislation/Rulemaking:**

The board discussed proposed legislation.

Vermont Pharmacists Association (VPA) proposed legislation. The VPA proposed to add the following wording for legislation regarding patient care:

"Upon Discharging a patient from a long term care facility or hospital inpatient admission, the facility/hospital will fax/communicate discharge prescriptions AND a discharge medication summary to the pharmacy of the patient's choice."

Ms. Eaton explained the purpose of the proposed legislation to the board. Mr. Firlik also explained the effects of this proposed legislation and how it comports with the new health care laws going into effect in the next few years. Mr. Firlik and Mr. Eaton discussed for the board meaningful use initiatives.

Ms. Eaton made a motion to approve Board of Pharmacy support the proposed legislation, and also to request the VPA provide the board with a final draft of the proposed legislation as it works its way through the legislative process.. Mr. Vincent seconded the motion. The motion passed unanimously.

Mr. Klein informed the board of the Office of Professional Regulation (OPR) "housekeeping" bill. Proposed legislation will eliminate temporary wholesale drug distributor registrations and temporary pharmacy technician registrations. Mr. Klein explained there was no longer any need for such status as the board office can review and process applications in a few business days, and the applicants no longer have to wait several weeks for action by the board as has been the case in the past.

Remote Pharmacy Draft Rules – the Board will hold a public hearing at 1:00 pm today, January 23rd.

9. **Review Applications for licensure:**

Ms. Eaton made a motion, seconded by Mr. Labor to approve the below applications for licensure. Motion Passed.

Westbury Pharmacy – Richmond, VA (Non-Resident Pharmacy)

Linde Gas North America LLC d/b/a Life Gas – Marlborough, MA (Wholesale Distributor)
Linde Gas North America LLC d/b/a Life Gas – Twinsburg, OH (Wholesale Distributor)
Linde Gas North America LLC d/b/a Life Gas – Wallingford, CT (Wholesale Distributor)
Linde Gas North America LLC d/b/a Life Gas – Cohoes, NY (Wholesale Distributor)
Applying Enterprises, LLC d/b/a Denton Prescription Shop–Denton, TX (Non-Resident Pharmacy)

The Board reviewed the remote pharmacy application for Kinney Drugs, Inc. #110 located in Chelsea, VT. After clarification from Mr. Novins that the Board could accept an additional remote pharmacy pilot project, Ms. Eaton made a motion to approve the application for licensure. The motion was seconded by Mr. Vincent. Motion passed.

The following applications were tabled for additional information:

Diabetic Care Rx, LLC d/b/a DCRX Infusion – Sunrise, FL (Non-Resident Pharmacy)
Drug Depot, Inc. d/b/a APS Pharmacy – Palm Harbor, FL (Non-Resident Pharmacy)
Liberty Medical Supply, Inc. – Port St. Lucie, FL (Change of Ownership for Non-Resident Pharmacy)

The Non-Resident Pharmacy application for A & A Drug Company d/b/a Sav-Rx Pharmacy located in Fremont, NE was reviewed by the Board. The Board requested Mr. Klein issue a preliminary denial to the company citing the issue of discipline and current probation in Nebraska.

10. **Executive Officer:**

- a. A question came to Mr. Klein regarding interns and immunizations. Can an Intern immunize under the direct supervision of a Pharmacist? The Board stated that under the current requirements for collaborative practice agreements an Intern can immunize under the direct supervision of a pharmacist only if that intern is also listed on the collaborative practice agreement by name or if the customer/patient has specific prescription for the immunization.
- b. Mr. Klein requested clarification from the Board regarding immunizations that were submitted by prescription, specifically Zostavax(sp?) prescriptions for persons between the ages of 50-59. The Board stated that Pharmacists must follow the CDC guidelines on immunizations and therefore a Pharmacist may not administer a vaccination, even by prescription, to an individual that is not within the CDC's guidelines.

11. **Pharmacy Technicians:** Total number of Active Registered Technicians is **1,555** (1,439 Resident, 116 Non-Resident).

12. **Newsletter Topics:**

- a. Prompt reporting from Pharmacies of Pharmacists being terminated from their positions. Cite Rule 6.3 h
- b. Collaborative Practice Agreements – the Collaborative Practice agreement must state the pharmacists name on the agreement for it to be valid. There can not be blanket agreements for larger (chain store) companies.
- c. Notification of development of Remote Pharmacy Rules

13. Miscellaneous Correspondence:

a. Northwestern Medical Center – E-mail. Northwestern Medical Center was checking to see whether they could provide prepackaged medication to women at a support group they are holding. The Board stated that the medical center could not do this as it does not follow the Rules for prescription chain of custody. Mr. Klein will respond.

b. Citizen Advocacy Center – membership request. The Board declined a membership to this organization.

c. Emily Jerry Foundation – Pharmacy technician certification. The Board received a letter from the Emily Jerry Foundation regarding Vermont's current requirements for pharmacy technician registration. The Foundation would like to see stricter requirements for technician licensure. The Board is currently working on draft rules for stricter requirements on pharmacy technicians. Mr. Klein will forward the draft language, that the Board is looking to implement for Pharmacy Technicians, to the foundation.

d. Workplace conditions and staffing – The Board would like to invite the supervisors of the chain pharmacies currently located in Vermont to the next Board meeting to discuss this topic.

14. Other Business Introduced

a. Mr. Klein requested the Board move their October Board meeting date from October 23rd to October 30th. The Board agreed to the move of the date of the meeting.

15. The next meeting is scheduled for **Wednesday, February 27, 2013**, at 9:00 A.M.

16. Mr. Vincent made a motion, seconded by Mr. Arisman, to adjourn at 3:43 p.m. Motion Passed.

Respectfully Submitted:

Judith Wernecke, Secretary
Vermont Board of Pharmacy

Ronald J. Klein, RPh
Executive Officer
Vermont Board of Pharmacy