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**BOARD OF REGISTRATION IN PHARMACY
PHARMACY BOARD MEETING MINUTES
TUESDAY, JANUARY 08, 2002
239 CAUSEWAY STREET, ROOM 206
BOSTON, MASSACHUSETTS 02114**

AGENDA ITEMS

The meeting was called to order by President Harold B. Sparr at 9:30 a.m.

The following Board members were present: Harold B. Sparr, R.Ph., MS, President, Donna M. Horn, R.Ph., Secretary, Dan Sullivan, R.Ph., Karen M. Ryle, R.Ph., James T. DeVita, R.Ph., Dr. Robert P. Paone, R.Ph., Pharm. D. and Marilyn M. Barron, MSW, Public Member.

The following Board staff were present: Charles R. Young, R.Ph., Executive Director, Susan Manning, J.D., Administrative Board Counsel, James D. Coffey, R.Ph., Associate Director, Daniel E. Warren, R.Ph., Board Agent, James C. Emery, C.Ph.T., Healthcare Investigator, Alan Van Tassel, Healthcare Investigator, and Leslie S. Doyle, R.Ph., Healthcare Supervisor and Investigator.

1. 9:30 a.m.

Call to order: Business Meeting.

Minutes for September 25, 2001: approve ____ amend ____

Vote: Tabled

Minutes for October 02, 2001: approve ____ amend ____

Vote: Tabled

Minutes for November 06, 2001: approve ____ amend ____

Vote: Tabled

2. 9:45 a.m.

Continuing Education (CE) Program Discussion/Planning.

President Harold B. Sparr and Board staff provided CE update.

January 16, 2002: MHC CE Program, Crowne Plaza Hotel, Natick

January 30, 2002: MASCAP CE Program, Wellesley

February 06, 2002: MPHA Mid-Winter Conference, Westborough. Donna Horn and Jim DeVita to represent Board at the conference exhibition booth from 12p.m.-2p.m.

**3. 10:00 a.m. - 10:45 a.m. -- Petition for Suspension Termination
In the Matter of Andrea M. Hilse (License No. 22078) - PH-98-057**

Present; Registrant -Andrea M. Hilse and spouse; Tim McCarthy, MPRS

Conference to discuss Registrant's petition for termination of suspension period (eff. date: 8/7/00). Motion/Sparr to discuss matter with Registrant in executive session. Registrant in agreement. Second/DeVita. The motion carried unanimously.

10:40 a.m. Motion/Sullivan to end executive session. Second/DeVita. The motion carried unanimously. Motion/Sullivan to take the matter under advisement. Second/Ryle. The motion carried.

A Motion was made by Dan Sullivan to move out of executive session. The motion was seconded by Jim DeVita.

4. 10:45 a.m. - 11:15 a.m. - Reinstatement Request

In the Matter of John M. Alexander (License No. 20639) - PH-91-039.

Conference to discuss reinstatement request by Registrant who voluntarily surrendered license to Board eff. 6/28/091. Exec. Dir. Chuck Young provided overview of the Registrant's disciplinary history. Registrant currently operates a medical supply business with family and desired to return to retail pharmacy practice. He acknowledged Board would require a pharmacy internship as a condition of reinstatement.

Motion/Ryle to reinstate with following conditions: 1) pay proper reinstatement fees; 2) pass MPJE; 3) complete 500 hour pharmacy experiential rotation in a retail and or hospital pharmacy department; and 4) minimum 1 year of random screenings; provided evaluated and approved by MPRS. Second/ Horn. The motion carried unanimously.

5. 11:15 a.m. to 11:45 a.m. - Technician Registration

Chuck Young stated that MPHA Exec. VP Carmelo Cinqueonce was submitting request for approval of the MPHA pharmacy technician assessment examination. The Board discussed the "grandparent" provision affirming that all applicants must successfully complete either a nationally recognized pharmacy technician assessment examination and or a Board-approved company administered pharmacy technician assessment examination.

The Board requested that February meeting agenda include subcommittee review of the pharmacy technician training programs and assessment examinations.

6. 11:45 a.m. - 12:15 p.m. - Cancelled

MPHA Legislative Update: Carmelo Cinqueonce, Executive Vice President, Massachusetts Pharmacist Association.

7. **Petition for Suspension Termination - In the Matter of Andrea M. Hilse (License No. 22078) - PH-98-057**

Re-discussion (12 p.m.) - Motion/Sullivan to continue discussion of matter in executive session. Second/DeVita. The motion carried unanimously.

Motion/Ryle to offer the Registrant (Hilse) a termination of suspension in accordance with the following conditions: 1) Five years of probation; 2) one year of fluid monitoring testing following license reinstatement; 3) Registrant to agree to abide by both the primary care physician and any other subsequent treating practitioner pain management contract; and 4) future employers shall maintain perpetual inventories of federally controlled substances. Second/Sparr.

Vote: In support: Harold Sparr, Marilyn Barron, Bob Paone, Dan Sullivan, Jim DeVita and Karen Ryle, Opposed: Donna Horn. The motion carried.

8. **12:15 p.m. - 1:15 p.m.**

Lunch.

9. **1:15 p.m. - 2:00 p.m.**

Investigative Conference: PH-02-030 and DS-02-046

In the Matter of Jerrold D. Lurie, R.Ph, License No. 14484 (Registrant) and Crescent Pharmacy, 698 Broadway Street, Chelsea, MA (Permit No. 2002).

The purpose of the conference was to discuss a complaint submitted by a Board agent alleging Registrant's failure to adhere to appropriate standards of practice on diverse dates while employed at Crescent Pharmacy of 698 Broadway Street, Chelsea, MA.

Present: Registrant and Richard Clayman, Esq.; Investigator James C. Emery

CE's: Registrant compliant 1999; deficient 8 CE's in 2000 (brother ill) - advised to submit 24 additional hours to the Board within 90 days; and compliant 2001.

Inv. Emery stated that on August 14, 1997, the pharmacy dispensed Sinemet 25/100 to a physician's patient pursuant to a legitimate prescription. However, when the authorized refills ran out, the pharmacy allegedly filled the medication for the patient until August 28, 2001. The complainant, the original prescribing practitioner, suggested that the pharmacy filled the Sinemet 25/100 prescription for about a 48 month period while the patient had neither been seen by the physician nor had the prescriber authorized continued medication therapy.

Registrant acknowledged that he filled the Sinemet 25/100 without a valid prescription on file for a 48 month period. He stated he requested that the initial inspection be stopped because he was working alone and could not accommodate the investigator's request for information.

Richard Clayman, Esq. stated that he forwarded the Board the requested pharmacy records for review. Clayman said that the complaint involved one longstanding elderly patient of record who had legitimate prescriptions on file with the pharmacy prior to this incident. Clayman said that his client did not dispute the fact that a Sinemet 25/100 prescription was not on file during the 48 month period at issue. Clayman reported that Registrant called the prescribing practitioner at Beth Israel Hospital on numerous occasions in good faith to obtain a new prescription but was unsuccessful (busy telephone signal). Clayman noted that after the prescribing practitioner filed this complaint with the Board the patient was seen by the physician and the physician authorized the original Sinemet 25/100 prescription for filling. The patient is still a patient of record at the pharmacy and has been prescribed the Sinemet 25/100 for about 28 years.

The Board advised Registrant to be cognizant of the fact that without proper physician oversight and clinical lab value management his actions though likely humanitarian may have served to harm the patient.

Motion/Horn to issue an Advisory Letter with the following stipulations: 1) complete two hours of pharmacy law CE (certificates to the Board within 30 days) and 2) the pharmacy department is deemed compliant with Board regulations (follow-up inspection). Second/Ryle. The motion carried unanimously.

10. 2:00 p.m. - 2:30 p.m. - Board reviewed correspondence and took following actions.

- a) Board response to MCPHS certificate program in Pharmacist Retraining finalized and approved. Chuck Young distributed a policy statement from MCPHS Pres. Charles Monahan for Board consideration. Motion/Sullivan to send final version of response to MCPHS. Second/Horn. Vote: In support - Barron, Sparr, Paone, Horn, Sullivan and DeVita. Opposed- Ryle. The motion carried.
- b) Motion for discussion/DeVita regarding the Board's form letter to pharmacists regarding reinstatement requirements. Second/Ryle. The motion carried. Board Counsel Susan Manning stated she would provide other DPL boards reinstatement conditions for review. Motion/DeVita for Board to develop a policy regarding pharmacist license reinstatement. Second/Paone, The motion carried unanimously.
- c) Registrant Kathleen Benfell (License No. 17397) request for CE Waiver - to replace 2001 CE's with double CE's in 2002 (personal circumstances).

Vote: Approve X Amend: _____

Motion/Sparr to grant waiver of live CE's for 2001 provided that 45 hours of additional CE (correspondence) is completed by the Registrant within 90 days (CE certificates to board for review) and if applicable, the Registrant shall annually write to the Board for live CE waiver consideration. Second/DeVita. The motion carried unanimously.

- d) Registrant Carl J. Chancey (License No. 16038) request for CE Waiver- requests extension to satisfy CE requirements (due to personal circumstances).

Vote: Approve: X Deny: / Conditions: Motion/Horn to grant waiver provided Registrant completes 6 hours of additional CE (correspondence) to satisfy the 2001 CE deficiency (CE certificates to Board for review within 30 days). Second/Paone. Vote: In support: Horn, Sullivan, Paone, Barron and DeVita. Opposed: Sparr and Ryle. The motion carried.

- e) 2002 APHA correspondence- annual meeting (Philadelphia, PA ,Merck-Medco Willingboro, New Jersey pharmacy tour invitation: Horn and Ryle requested Board staff contact Merck-Medco to confirm their participation in the tour.
- f) Advisory Opinion Request: Jane R. Gannon, Coram Healthcare Manager of Record regarding the ability of registered nurses to take physician orders in the course of their clinical practice at Coram Healthcare. Motion/Horn to approve the outlined practice activity provided that Coram Healthcare nurses are both PTCB certified and registered as pharmacy technicians with the Board, Second/DeVita. The motion carried unanimously.
- g) Familymeds "Arrow Pharmacy" correspondence addressed to Healthcare Investigator Leslie S. Doyle regarding Mediset packaging and labeling issues. Investigator Doyle provided the Board with a sample of the Mediset product as labeled by Familymeds for reference. Sample product was not compliant. Doyle to forward Familymeds the Board's policy statement regarding proper standards for customized patient medication packaging.
- h) In the Matter of DS-00-091 and PH-00-125: Board requested Board Counsel Susan Manning review the file for subsequent recommendations.
- i) N.A.C.D.S. memorandum to State Board of Pharmacy Executives regarding "Moving Beyond Blame": The Board members and staff watched the related video presentation.
- j) In the Matter of Registrant O'Neil: Registrant's request for reinstatement approved, subject to passing the MPJE examination.
- k) Board staff distributed Texas Board of Pharmacy complaint resolution model for consideration.

11. 2:30 p.m. to 4:45 p.m. - Strategic Planning Meeting
Donna M. Horn, R.Ph., Chair, Strategic Planning Comm.

The Board reviewed draft vision and mission statements, goal ranking and future action plans. The Board discussed with Board Counsel the need to complete either a complete revision of current Board regulations and or to bundle smaller necessary regulatory revisions.

The Board would like to address the following matters in the future:
summary suspension authority, conscience clause policy, pharmacy disaster relief policy, test of spoken English (TSE) for applicants of MA colleges of pharmacy (refer to MD Board of Pharmacy language), manager of record responsibilities (shift responsibilities to the company) and pharmacy permit renewal requirements (allow company representative to sign renewal rather than manager of record).

Exec. Dir. Chuck Young advised that with regard to the Georgia Board of Pharmacy disaster relief model guidelines the DEA did not permit Georgia pharmacists to dispense federally controlled substances to patients without valid prescriptions.

The Board approved Chuck Young's request to distribute the Board's "Best Practice Recommendations" to Mike Cohen care of ISMP for review.

12. 4:45 p.m.

Motion/Sparr to adjourn the meeting. Second/ Paone. The motion carried. Meeting adjourned.

Respectfully submitted by:

Charles Young 10/9/02
Executive Director Date

Charles Young
Printed Name

Reviewed by counsel: September 13, 2002
Draft approved: September 13, 2002
Board adopted: September 24, 2002

Executive Session Board Minutes
January 08, 2002

10:00 a.m. - 10:45 a.m.

Termination of Suspension Petition: In the Matter of [REDACTED]

After motion by Sparr/Second by DeVita, approval of [REDACTED] and unanimous vote, the Board discussed petition for termination of suspension (effective date 8/7/00) in executive session.

The Board reviewed the reinstatement documentation submitted by the Registrant and entertained general discussion on the matter. Board Counsel Susan Manning provided an overview of the conditions for reinstatement.

The Registrant stated that she is working in good faith to comply with MPRS contract issues. The Registrant stated that MPRS Committee is conditionally accepting her into the program. [REDACTED]

The Registrant stated that has appointments scheduled with her primary care physician every two months.

The Registrant stated that she was willing to be drug tested. She stated that financial hardships due to a lack of employment opportunities created compliance issues with the MPRS contract because of cost of monitoring tests.

The Registrant stated her belief that she had complied with the conditions set forth in the Board's decision and order. She has completed no live CE's in calendar year 2001 due to financial hardship. The Registrants year 2000 CE's were compliant.

The Registrant said that she would like to work in a long-term care pharmacy practice setting. Her NH pharmacy license remains suspended.

Donna Horn suggested the Board consider offering the Registrant a consent agreement with a modified MPRS contract.

Motion/Sullivan to terminate executive session. Second/DeVita. The motion carried unanimously. Motion/Sullivan to take the matter under advisement. The motion was seconded Karen Ryle. The motion carried unanimously.

Re-discussion: (12 p.m.) Motion/Sullivan to continue discussion of matter in executive session. Second/DeVita. The motion carried unanimously.

The Board entertained general discussion on the matter.

Motion/Ryle to terminate executive session. Second/DeVita. The motion carried unanimously.