

BOARD OF REGISTRATION IN PHARMACY
MINUTES: PHARMACY BOARD MEETING
TUESDAY, FEBRUARY 14, 2006
239 CAUSEWAY STREET, ROOM 204
BOSTON, MASSACHUSETTS 02114

Present: James T. DeVita, R.Ph., George Cayer, R.Ph., Karen Ryle, R.Ph., M.S., Joel Berman, R.Ph. (left at 12:40 p.m.), Sophia Pasedis, R.Ph., Marilyn M. Barron, MSW, Public Member, Kathy Fabiszewski, R.N., Ph.D. (left at 11:55 a.m.)

Absent: Harold Sparr, R.Ph., M.S., Steven Budish, Public Member, William Gouveia, R.Ph., Donald Accetta, M.D.

Staff present: Charles R. Young, R.Ph., Exec. Dir., James Coffey, R.Ph., Assoc. Dir., Leo McKenna, R.Ph., Pharm.D., CQI Surveyor, Carolyn Reid, Administrative Asst., Sam Penta, R.Ph., Investigative Supervisor and James Emery, C.Ph.T., Investigator

1. 8:30 a.m. - Pres. Cayer called meeting to order at 8:30 a.m.
2. 8:35 a.m. - Review of minutes from a previous meeting
Motion/DeVita to accept minutes from November 15, 2005 meeting.
Second/Berman. Unanimous in favor.
3. 8:40 a.m. to 9:00 a.m. – Susan Manning, Board Counsel
Adjudicatory Session (Closed Session per G.L. c. 30A, s. 11A)

8:40 a.m. Motion/DeVita to enter Adjudicatory Session.
Second/Berman. Unanimous in favor.

DeVita – Recused (exited meeting room)

9:00 a.m. Motion/Cayer to return to Open Session. Second/Berman.
Unanimous in favor.

In the Matter of Earl C. Stephen, Ph. Tech. (Docket No. PH-PT-05-116)
Reg. No. 1947. Motion/Cayer to adopt Proposed Final Decision and
Order by Default and issue Order revoking technician registration.
Second/Barron. Unanimous in favor.

4. 9:00 a.m.- 9:20 a.m.- In the Matters of Wal-Mart Pharmacy #10-2139 (Docket No. DS-06-112) and Wal-Mart Pharmacy #10-2341 (Docket No. DS-06-113).

Ex. Dir. Charles Young, R.Ph. provided overview of complaints filed by three patients alleging Wal-Mart Pharmacy (2 locations) declined to fill prescriptions for emergency contraceptives on three dates in December 2005. Young advised Board that Wal-Mart's response acknowledge that emergency contraceptives were not stocked and sought guidance from the Board as to any requirement to stock same.

After discussion, Motion/DeVita to advise Wal-Mart that emergency contraception should be stocked and dispensed to comply with the requirements of 247 CMR 6.02(4). Second/Berman. Unanimous in favor. Wal-Mart to be requested to advise Board within three days of Board communication regarding regulation compliance.

5. 9:20 a.m. to 9:40 a.m. - New Pharmacy Application (Medicine Centre) and Investigative Conference re: Matter of Gregory McKenna, R.Ph. (Docket No. PH-06-041) - State of Connecticut Commission of Pharmacy No. 02-119.

Applicant: The Medicine Centre/ LTC, 41 Sullivan Street, Springfield, MA 01104. Propsed MOR: Gregory E. McKenna, R.Ph. (Reg. No. 18404).

CEs – compliant

Present: McKenna and Barry Gordon

Pharmacy to be located at 41 Sullivan St. in Springfield and open M-F 12:00 noon to 8 p.m., Sat. and Sun. 9:00 a.m. to 1:00 p.m.; with consultation and IV rooms, swipe card entrance and pass for controlled room; cameras and alarm systems are installed. Applicant advised plans Secretary of State filings must be certified. Applicant not seeking any waivers.

Board reviewed CT disciplinary matter with McKenna, who described conduct as resulting from situations when his pharmacy was out of medications requested by his customers, he would obtained medications

from other pharmacies in his name. He described that impact of his actions professionally and financially and stated he will never do it again.

Motion/DeVita to take matter under advisement. Second/Pasedis. Unanimous in favor.

6. 9:40 a.m. to 10:15 a.m. - Report of Offices – Legal/S. Manning, Counsel Review of terms of Agreement executed with CVS/pharmacy dated February 9, 2006 in resolution of pending complaints

Recused – DeVita (exit meeting room)

DPH/DHPL Director Jean Pontikas provided comments to the Board regarding the complaint resolution process in general.

9:50 a.m. Motion/Pasedis to re-enter Adjudicatory Session (Closed per G.L. c. 30A, s. 11A). Second/Barron. Unanimous in favor.

10:10 a.m. Motion/Ryle return to Open Session. Second/Fabiszewski. Unanimous in favor.

a) In the matter of Christopher Wilcox, R.Ph. (No.21858/ Exp. 12/31/04) – Docket No. PH-04-030 /Review of Proposed Final Decision.

Motion/Cayer to adopt Proposed Final Decision and issue Order of six month suspension, Pharmacist Self-Assessment Mechanism (PSAM), and MPJE exam. Second/Fabiszewski. In favor: Cayer, Berman, Barron, Ryle. Opposed: Pasedis.

b) In the Matter of David Trinks, R.Ph., Docket No. PH-05-025. New matters concerning convictions to be referred to Office of Public Protection.

c) Ex. Dir. Young provided overview of DPH/DCP proposed amendments to 105 CMR 700.000: Implementation of M.G.L. c. 94C - Prescription Monitoring Program. Notice of Public Hearing - February 27, 2006 at 9:30 a.m. in the Auditorium of the State Laboratory Institute, 305 South St., Jamaica Plain, MA. Young noted comments from interested parties (professional associations) should be presented at this hearing.

d) Proposed revisions to Board Regulation – News Section 247 CMR 10.07: Suspension Prior to Hearing.
Motion/DeVita to adopt New Section 10.07. Second/Berman.
Unanimous in favor. Regulations expected to be effective on March 10, 2006 (Mass. Register publish date).

e) In the Matter of Dana Shore, R.Ph. (No. 16944/Revoked 6/28/05) (Docket No. PH-04-067): Update – Commonwealth vs. Dana Shore, Superior Ct. decision issued 12/12/05 denying appeal of convictions.

7. 10:30 a.m. to 11:00 a.m. - Walgreen's Pharmacy
Daniel F. Luce, R.Ph., Mgr., Pharmacy Affairs, regarding proposed central D.U.R. program "Vision" (Virtual Imaging System to Improve Operations Nationwide).

Luce described proposed system for balancing workload on busy days between two stores - Store A enters prescription and remaining D.U.R. and data review occurs in Store B with prescription dispensed at Store A. Orders which have been scanned remain in queue until selected. Walgreen's has been using system in Florida for several months. Two Board members DeVita and Berman believe system could be compliant with Board regulations, since the medications are dispensed in the original store. Ex. Dir. noted continuing concerns regarding regulatory/statute requirements and recommended Board continue review at March 7 meeting and consider pilot project option. Board advised Walgreen's to submit proposal prior to March 7 meeting.

Motion/Cayer take matter under advisement. Second/DeVita.
Unanimous in favor.

8. 11:00 a.m. to 11:55 a.m. – Leo McKenna, R.Ph, Pharm.D. - Quality Assurance Surveyor – Update—Mass. Coalition Accountability Project

McKenna provided overview of Accountability Project: "Defining Accountability in Patient Safety."

Accountability Project goals are to:

- understand the range of perspectives in the analysis of harm and the assignment of accountability; identify the approaches used by health

care organizations and by regulatory agencies;
- review the literature on the topic of professional accountability, responsibility and competence;
- develop a common framework that could be used by healthcare organizations and by regulatory agencies in assigning accountability to individuals and to systems of care; and
- define action steps for healthcare organizations, regulatory agencies and others that would move toward adoption of this framework to enhance patient safety.

9. 12:00 p.m. to 12:40 p.m. - Investigative Conference DS-05-091 & PH-06-032. In the matter of DS-05-091/Baystate Medical Center (CSR No.), and PH-06-032/John P. Budz, R.Ph. ("Registrant") (No. 18648).

Complaint alleges that on March 17, 2005, Registrant dispensed Lioresal Intrathecal (refill kit) 2000mcg/ml rather than Lioresal Intrathecal 500mcg/ml as ordered while employed at Baystate Medical Center, Inc., 759 Chestnut Street in Springfield, Massachusetts.

Present: Registrant, Bryan Stadnicki, Melinda Phelz,

CEs: compliant

Registrant admitted to dispensing Lioresal Intrathecal 2000mcg/ml rather than the prescribed Lioresal Intrathecal 500mcg/ml and apologized for the error. Prescription was picked-up on March 31, 2005. Later that day he was notified by physician assistant that dosage of prescription was incorrect and that error was caught before drug was administered to patient. The pharmacy corrected medication and the patient received correct dose that same day. Registrant said that he notified his supervisor of the incident and that a Medication Error Report was filed and root cause analysis conducted. Corrective actions were implemented to physically separate higher dose products away from the lower dose kits, specific identifiers have been added to the prescription label to separate the concentrations.

Pharmacist: Motion/Ryle issue an Advisory Letter, report to ISMP. Second/DeVita. Unanimous in favor.

Drugstore: Motion/Pasedis issue an Advisory Letter. Second/DeVita. Unanimous in favor.

10. 12:40 p.m. to 1:40 p.m. - Lunch
11. 1:45 p.m. to 2:15 p.m. - Investigative Conference
In the matter of PH-05-128 & PH-06-039/David W. Pehrson, R.Ph.,
("Registrant") (No. 16455).

Complaints concerned Registrant's Minnesota pharmacy license which he surrendered on January 27, 2005 in resolution of allegations he falsified a prescription for a controlled substance for his spouse. Second complaint alleged unprofessional conduct (communications with patient concerning insurance coverage) related to the processing of two prescriptions while employed at Shaws/Osco Pharmacy in Plymouth.

Present: Registrant

CEs: 2003 – compliant total, no live credit
2004 – compliant total, no live credit
2005 – deficient 2 CE credits

Registrant disagrees with date incident occurred. He stated that the correct date of the incident was November 16, 2005 not November 15, 2005; he did not work at Osco Pharmacy on November 15. Registrant said he was scheduled to work half day on November 17, 2005, he experienced chest pain so he left work early to go to the emergency room. Registrant stated that on November 27, 2005 he resigned his position at Osco Pharmacy.

Registrant stated that he currently works part-time at CVS Pharmacy. Registrant stated he had not made CVS Pharmacy aware of the surrender of his Minnesota license.

Motion/Ryle to take matter under advisement. Second/Pasedis.

Unanimous in favor.

Motion/ Ryle to resolve by 30 day suspension of license and 5 year probationary status of license, MPJE Exam, and PSAM (module 1).

Second/Pasedis. Unanimous in favor.

12. 2:20 p.m. to 3:00 p.m. - Investigative Conference
In the matter of DS-05-077/America's Compounding Center

(Reg. No. 3285) and Arthur M. Margolis, R.Ph. (No. 19228)
("Registrant")

Complaint alleged that on March 17, 2005, Registrant dispensed Prevacid Suspension 15mg/ml improperly compounded by utilizing Sodium Hydroxide rather than Sodium Bicarbonate to minor patient while employed at Americas Compounding Center, located at 950 Watertown Street, W. Newton, Massachusetts.

Present: Registrant, Counsel, Complainants (parents of patient)

CEs: compliant

Registrant admitted that Sodium Hydroxide was used instead of Sodium Bicarbonate in mix with Prevacid. Registrant stated the compound was mixed by a sixth year pharmacy intern and verified by Registrant. Registrant said he received a telephone call from Complainants informing him of the allergic reaction the child experienced after taking the medication and a call from the Children's Hospital pharmacist. Registrant said he investigated the matter and concluded that Sodium Hydroxide had been used in the formula. Registrant said he left several messages at the Complainants' home and at Children's Hospital and that no calls were returned. The pharmacy intern was not terminated.

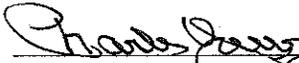
Complainants stated Registrant never called to inquire about the child's condition. Complainants said when they put medication on the child's tongue it burned and that they were advised to bring the child to Children's Hospital. The complainants stated the child woke up a number of nights crying and would not eat for months.

Registrant stated that as a result of the incident, all medication must be weighed, verified, triple check formula, pharmacist's signature recorded. Motion/Pasedis to take matter under advisement. Second/DeVita. Unanimous in favor.

Motion/DeVita to seek reprimand and require students to be engaged in compounding, and to provide copy of new log book. Second/Pasedis. Unanimous in favor.

13. 3:00 p.m. - New Business/Discussion Items
- a) In the matter of PH-03-061/Cheryl Horwath Rashid, R.Ph.
(No. 19341) Request for termination of probation.
Motion/DeVita to approve. Second/Pasedis. Unanimous in favor.
 - b) In the matter of PH-00-123/David Allen, R.Ph. (No. 18630).
Request for termination of probation.
Motion/DeVita to approve. Second/Ryle. Unanimous in favor.
 - c) IVP CARE Inc. Pharmacy (No. 3269)/James Michael Rice, R.Ph.,
Manager of Record. Request for waivers.
Motion/Pasedis schedule appearance for March board meeting.
Second/Cayer. Unanimous in favor.
 - d) Nominations for Alternate Delegate - NABP Annual Meeting (San
Francisco) Motion/Cayer to nominate Karen Ryle. Second/DeVita.
Unanimous in favor.
14. 3:30 p.m. to 3:45 p.m. – Pres. George A. Cayer, R.Ph. reviewed
goals/objectives the year of his presidency.
15. 3:45 p.m. Motion/Cayer to adjourn meeting. Second/Ryle.
Unanimous in favor.

Respectfully submitted by:


Charles R. Young R.Ph.
Executive Director
Date: 5-24-2006

Reviewed by counsel: May 2, 2006
Draft approved: May 2, 2006
Board approved: May 7, 2006

**BOARD OF REGISTRATION IN PHARMACY
ADJUDICATORY SESSION MINUTES
TUESDAY, FEBRUARY 14, 2006
239 CAUSEWAY STREET, ROOM 206
BOSTON, MASSACHUSETTS 02114**

In the Matter of Earl C. Stephen, Pharmacy Technician (Registration No. 1947), Docket No. PH/PT-05-116). Review and discussion of Proposed Final Decision and Order by Default.

In the Matter of Christopher Wilcox, R.Ph., MA Pharmacist License No. 21858/Exp. 12/31/04) - Docket No. PH-04-030. Review and discussion of Proposed Final Decision and Order.

2/14/2006

It is truly an honor to serve as President of the Massachusetts Board of Registration in Pharmacy for 2006. As members of the Board we are charged to promote, preserve, and protect the public health, safety, and welfare by fostering the provision of quality pharmaceutical care to the citizens of Massachusetts, through the regulation of the practice of pharmacy, the operations of pharmacies and the distribution of prescriptions drugs in the public interest. The Board will assume a leadership role in regulating the practice of pharmacy and act in accordance with the highest effectiveness and openness. Within the bounds of our mission statement, I have 4 major goals for 2006.

1. Ongoing education and support for a total and open CQI process.
2. Reviewing and evaluating the role of registered and certified technicians.
3. Strong support for a active Collaborative Drug Therapy Management (CDTM) program
4. Supporting and enforcing regulations concerning emergency contraception (EC)

The practice of pharmacy is always changing and evolving and 2006 will be no different. As board members we are very fortunate to work with such a strong and professional support staff. I am looking forward to all of the challenges that we will face in the coming year, knowing together, we will succeed.

George A. Cayer, RPh