

**BOARD OF REGISTRATION IN PHARMACY
BOARD MEETING
TUESDAY, AUGUST 13, 2002
239 CAUSEWAY STREET, ROOM 206
BOSTON, MASSACHUSETTS 02114**

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, MS, R.Ph., President, James T. DeVita, R.Ph., Marilyn Barron, MSW and Public Member and Dr. Robert P. Paone, R.Ph., Pharm. D. Absent: Dan Sullivan, Donna Horn and Karen Ryle.

The following Board staff were present: Charles R. Young, R.Ph., Executive Director, James D. Coffey, R.Ph., Board Counsel, Susan Manning, J.D., Associate Director, Alan Van Tassel, healthcare Investigator and Leslie S. Doyle, R.Ph., Healthcare Supervisor and Investigator.

AGENDA ITEMS

1. 9:30 a.m. - Call to Order.

Minutes for June 11, 2002: approve X amend _____

Vote: Motion/Sparr to approve the minutes as written. Second/DeVita. The motion carried. Minutes adopted.

Minutes for June 25, 2002: approve X amend _____

Vote: Motion/Sparr to approve the minutes as written. Second/Paone. The motion carried. Minutes adopted.

Minutes for July 09, 2002: approve X amend _____

Vote: Motion/Paone to approve the minutes as written. Second/DeVita. The motion carried. Minutes adopted.

2. 9:35 a.m. to 10:00 a.m.

Investigative Conference: SA-PH-02-079/ In the Matter of Jason M. McLaren.

Discussion of Special Assignment alleging unlawful possession of controlled substances by an pharmacy intern.

Present for discussion:

Pharmacy Intern: Jason M. McLaren

Investigator: Leslie S. Doyle

McLaren stated he had not registered with PCS as a Pharmacy Intern due to financial hardship; he is enrolled at MCPHS; and acknowledged responsibility for the drug theft at the hospital which he described as an isolated event. McLaren stated he was intoxicated on the night of the incident and had little recall of the incident. No police

report was filed with regard to the incident. McLaren stated he advised his employer (Champa Pharmacy) of incident and that he was willing to undergo MPRS assessment.

On advice of counsel and Ex. Dir., Board will view McLaren a Pharmacy Intern for purposes of complaint resolution.

Board Decision: Motion/Sparr to refer McLaren to MPRS Coordinator for evaluation. The Board advised McLaren that he may not work in a pharmacy department until a recommendation is made by MPRS. Second/Paone. Vote: In support: Bob Paone, Harold Sparr and Jim DeVita. Opposed: none. Abstain: Barron. The motion carried.

3. 10:00 a.m. to 10:15 a.m. - Introduction of CQI Surveyor and Extern.

Exec. Dir. introduced Arthur J. Chaput, R.Ph., Pharm.D., Quality Assurance Surveyor, and Amy Delorme, a Extern from N.U. School of Pharmacy.

**4. 10:15 a.m. to 10:45 a.m. - Application for Licensure
Byfield Drug Inc., Byfield, MA.**

The purpose of the meeting was to discuss the merits of an application for licensure as a new retail pharmacy. The application did not contain any petitions for waiver.

Present for discussion:

Manager of Record (Proposed): Philip D'Amato (Lic. No. 24170)

Consultant: Ernie Gates

Investigator Leslie Doyle reviewed preliminary inspection (7/19/02) and expressed concerns as to the lack of a patient counseling area and a common receiving area (back room) that could be potentially shared by three separate pharmacy operations.

Proposed Manager of Record Philip D'Amato stated that the proposed facility would be a full service pharmacy; that staff pharmacists would receive specialty training in the area of women's health pharmacotherapy. D'Amato stated that the three pharmacies in the complex are physically separate and alarmed; each maintaining separate medication inventories. Facility plans to offer after hours services and that only pharmacists would have after hours access to the pharmacy.

According to Gates, Byfield Drug is owned by Priority Health Care of Florida. No practitioner with prescriptive privileges is an owner. Byfield Drug will focus on women's health prescriptive and disease state management issues. Patient counseling will primarily be by telephone (mail order) but a patient counseling area will be available on premises.

Board Decision: Motion/DeVita to take the matter under advisement. Second/Paone. The motion carried. Motion/DeVita for re-discussion later in the afternoon.

Second/Sparr. The motion carried. Motion/Sparr to approve the application subject to compliant inspection and representative inventory. Second/DeVita. The motion carried. The Board noted all three pharmacies should be inspected to assess regulatory and inventory compliance.

5. 10:45 a.m. to 12:00 p.m. - Administrative Business Items.

- a) Mass NARAL Reproductive Freedom & Choice correspondence regarding access to the morning after pill in MA pharmacies reviewed: DPH/DCP Asst. Dir. Adele Audet stated a NARAL rep. would attend discussion. **Motion/DeVita** to table until NARAL representative can meet with the Board or staff. Second/Paone. The motion carried.
- b) Frank P. Castronovo Jr., Ph.D., License No. 22691, inquiry requesting approval of CME Category 2 Risk Management CE credit (2 hours per IRB meeting). After discussion, **Motion/Paone** to deny request. Second/DeVita. The motion carried.
- c) Bio-Terrorism Hospital Preparedness Program: Board reviewed the program report. Exec. Dir. will provide progress reports to Board.
- d) DPH notice of public comment period (7/19-26/02) on proposed amendments to MLID related to removal of Levothyroxine Sodium from the List of Interchangeable Drug Products.
- e) MEMA Potassium Iodide (KI) documentation: Exec. Dir. reported that MA was the only state to involve pharmacies in the free KI distribution program.
- f) State budget update related to proposed Medicaid reimbursement and assessment fee/tax: Reviewed.
- g) FDA bulletin regarding Xyrem (sodium oxybate or gamma hydroxybutyrate/GHB) for treatment of cataplexy attacks in patients afflicted with narcolepsy: Staff provided update of new indication for use.
- h) Division of Professional Licensure Disciplinary Actions for FY 02: Exec. Dir. provided overview of the DPL 2002 disciplinary benchmark statistics. **Motion/DeVita** to place Board complaint resolution methods and the CQI process on a future Board agenda for discussion purposes. Second/Paone. Motion carried.
- i) In the matter of DS-02-051/CVS Pharmacy, 6 Post Office Square, Harwich Port, MA & PH-02-059/Nancy K. Barsic, R.Ph. Re-discussion of April 23, 2002 and May 28, 2002 Investigative Conference decisions. Recused: Jim DeVita **Motion/Sparr** to issue the Barsic a formal reprimand. The motion was not seconded. Advisory Letter vote stands.
- j) In the matter of DS-02-016/ J.E. Pierce Apothecary, 1180 Beacon Street, Brookline, MA and PH-02-066/ Stephen L. Grossman, R.Ph. Re-discussion of May 28, 2002 Investigative Conference Decision. **Motion/Sparr** to resolve by Reprimand with prior stipulations. Second/DeVita. Vote: In support: Harold Sparr, Jim DeVita, Bob Paone and Marilyn Barron. Opposed: None. The motion carried unanimously.
- k) In the matter of PH-02-101/Kevin Tam, R.Ph. -Discussion of May 25, 2002 Investigative Conference. Board took the matter under advisement pending additional information. Invest. Doyle summarized investigation. **Motion/Paone** to refer the complaint to the Office of Prosecutions. Second/Sparr. Vote: In support: Marilyn Barron, Bob Paone, Harold Sparr and Jim DeVita. Opposed: None. Motion carried.

- l) Robert Forte/Osco Pharmacy matter - Correspondence from Office of the Attorney General. Inv. Doyle advised the Board that no further information was available from DMA until a related case is resolved. Doyle directed to follow up with Brooks Pharmacy (current owners) to obtain response related to matter.
- m) "A Call to Act to Prohibit the Sale of Tobacco Products in Pharmacies and Drug Stores" by Sarah Elisabeth, J.D., M.P.H., Staff Attorney, Tobacco Control Resource Center, Inc.: Exec. Dir. reviewed proposal. **Motion/Sparr** for the Board to "encourage" pharmacies not to stock tobacco products. Board took no position on the House Bill. Second/Paone. The motion carried.

6. 12:00 p.m. to 12:30 p.m. - MPHA Leg. Update: Carmelo Cinqueonce, Ex. VP

Mr. Cinqueonce provided update regarding proposed reduction of Medicaid reimbursement and assessment fees. Public hearings are scheduled for August 27 and September 05, 2002.

Motion/Paone for Board to submit testimony encouraging establishment of an equitable pharmacy reimbursement rate to avoid any interruption of services for Medicaid patients. Second/Sparr. The motion carried unanimously.

7. 12:30 to 1:30 p.m. – Lunch.

8. 1:30 p.m. to 2:10 p.m.

Investigative Conference: PH-02-081/

In the matter of Raymond S. Souza, R.Ph. (Lic. No. 18450).

Complaint alleged unlawful possession of controlled substances.

Present for discussion:

Registrant: Raymond S. Souza

Souza had previously appeared before the Board in connection with disciplinary proceedings related to unlawful possession of controlled substances.

CEs: compliant.

The Registrant is in the MPRS program and had voluntarily surrendered his pharmacy license to the MPRS Coordinator.

Board Decision: Motion/Sparr to take the matter under advisement pending discussion with MPRS Coordinator. Second/DeVita. The motion carried..

9. 2:10 p.m. to 2:50 p.m.

Investigative Conference: PH-02-058/

In the matter of Deborah S. Forand-Tolson, R.Ph. (Lic. No. 21697)

Complaint alleged unlawful possession of controlled substances.

Present for discussion:

Investigator Alan Van Tassel

Registrant: Deborah S. Forand-Tolson

CVS Representatives: Angela Reardon, Barry Jasilli and Mike (Loss Prevention).

Recused: Jim DeVita.

CEs: compliant.

The Registrant stated she was in the MPRS program and had surrendered her license to the MPRS Coordinator. The Registrant acknowledged responsibility for medication theft for personal use.

Angela Reardon stated that the Schedule II medication losses at CVS were brought to her attention around November 24, 2001. Ms. Reardon said that she worked with the CVS Loss Prevention Dept. to conduct an internal controlled substance pharmacy audit and investigation.

Barry Jasilli stated that CVS implemented a new hiring policy on or about August 05, 2002 that includes a background check for all new pharmacy department employees to include front store personnel who are cross-trained for pharmacy support. Jasilli said that pharmacy drug loss reports are now reviewed by both the pharmacy District Manager and the Pharmacist In Charge (PIC).

Board Decision: Motion/Sparr to take the matter under advisement. Second/Paone. The motion carried.

10. 2:50 p.m. to 3:30 p.m.

Investigative Conference: PH-02-097/

In the matter of Thomas R. Mitchell, R.Ph.

(License No. 15553).

Complaint alleged unethical and or unprofessional conduct. On or about January 18, 2002 the Mitchell dispensed a prescription for Alprazolam 1mg in his own name to

satisfy the medicinal needs of a staff hospital prescriber's wife, while he was employed at Hillcrest Hospital Pharmacy in Pittsfield, Massachusetts.

Present for discussion:

Registrant: Thomas R. Mitchell

Investigator: Alan Van Tassel

The Registrant acknowledged responsibility for the incident.


Board Decision: Motion/Paone to resolve by Advisory Letter to Registrant. Second/DeVita. The motion carried. Board also suggested that the matter be referred to the Board of Registration in Medicine.

11. 3:30 p.m. to 4:00 p.m. - Board Review of Pharmacy Tech Assessment Exams.

- Newton-Wellesley Hospital Examination. **Motion**/DeVita to approve the examination provided questions follow the "k-type" format. Second/Paone. The motion carried.
- New England Sinai Hospital and Rehabilitation Examination. **Motion**/Paone to approve the following sections of the amended examination; Section III, IV, V and VI provided questions follow the "k-type" format. Second/DeVita. The motion carried.
- Massachusetts General Hospital Examination. **Motion**/Sparr to approve the examination. Second/Paone. The motion carried.
- Sunscript Pharmacy Examination. **Motion**/Sparr to approve the exam provided questions # 2 & 41 are duplicates. Second/DeVita. The motion carried.

12. 4:00 p.m.

Motion/DeVita to adjourn the meeting. Second/Sparr. The motion carried. Meeting Adjourned.

Respectfully submitted by:  2-12-03
Executive Director Date
Charles Yarr
Printed Name

Reviewed by counsel: January 20, 2003

Draft approved: January 20, 2003

Board adopted: February 11, 2003