

**DRAFT/UNAPPROVED
VIRGINIA BOARD OF PHARMACY
MINUTES OF A PANEL OF THE BOARD**

Wednesday, March 14, 2007
Fifth Floor
Conference Room 2

Department of Health Professions
6603 West Broad Street
Richmond, Virginia 23230

Orders/Consent Orders referred to in these minutes are available upon request

CALL TO ORDER: A meeting of a panel of the Board of Pharmacy ("Board") was called to order at 9:45 a.m.

PRESIDING: John O. Beckner, Chairman

MEMBERS PRESENT: Willie Brown
Bobby Ison
David Kozera
Leo Ross
Brandon Yi

STAFF PRESENT: Elizabeth Scott Russell, Executive Director
Cathy M. Reiniers-Day, Deputy Executive Director
Elizabeth M. Revere, Administrative Assistant
Howard M. Casway, Senior Assistant Attorney General

QUORUM: With six members of the Board present, a quorum was established.

STEPHEN KWATENG
License #0202-011867

A formal hearing was held in the matter of Stephen Kwateng following the summary suspension of his pharmacist license on October 11, 2006 and to discuss allegations that he may have violated certain laws and regulations governing the practice of pharmacy in Virginia.

Brandon K. Yi recused himself from this hearing.

William Clay Garrett, Assistant Attorney General, prosecuted the case with the assistance of Amanda E. Mitchell, DHP Adjudication Specialist.

Michelle Crone, DHP Senior Investigator, appeared and by telephone, Detective Timothy Henderson, Fairfax County Police Department testified on behalf of the Commonwealth.

Mr. Kwateng appeared with Richard Langford, Esquire.

Clarence Ellis Helton, Pharmacist; Osei Nti, Pharmacist and Jim Fereto, Patient, testified on behalf of Mr. Kwateng.

Mr. Kwateng testified on his own behalf.

Closed Meeting:

Mr. Ison moved, and the Panel voted 5-0, to convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the Code of Virginia for the purpose to reach a decision in the matter of Stephen Kwateng. Additionally, he moved that Scotti Russell, Cathy Reiniers-Day and Howard Casway attend the closed meeting.

Reconvene:

Mr. Ison moved, and the Panel voted 5-0, that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision:

Mr. Kozera moved, and the Panel voted 5-0, to accept the Findings of Fact and Conclusions of Law as proposed by Mr. Garrett and modified by the Panel and read by Mr. Casway (Attachment 1).

Mr. Kozera moved, and the Panel voted 5-0, that upon receipt of documentation that Mr. Kwateng has successfully completed the Virginia Drug Law Examination, and receipt of the Six Hundred Dollars monetary penalty, his license shall be reinstated. Further, he is reprimanded.

ELITE PHARMACY
Registration #0214-000030

A formal hearing was held in the matter of Elite Pharmacy following the summary suspension of their non-resident pharmacy registration on January 18, 2007, to discuss allegations that they may have violated certain laws and regulations governing the practice of a non-resident pharmacy in Virginia.

Elite pharmacy was not present at the hearing. The Panel proceeded in Elite Pharmacy's absence as the Notice of Formal Hearing dated January 18, 2007, was mailed to Elite Pharmacy's legal address of record, both regular and certified mail. Mr. Beckner ruled that adequate notice was provided to Elite Pharmacy and the hearing proceeded in their absence.

Mr. Garrett prosecuted the case with the assistance of Mykl D. Egan, DHP Adjudication Specialist.

Gayle Miller, DHP Senior Investigator, appeared and testified on behalf of the Commonwealth.

Closed Meeting:

Mr. Ison moved, and the Panel voted 6-0, to convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the Code of Virginia for the purpose to reach a decision in the matter of Elite Pharmacy. Additionally, he moved that Scotti Russell, Cathy Reiniers-Day and Howard Casway attend the closed meeting.

Reconvene:

Mr. Ison moved, and the Panel voted 6-0, that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision:

Mr. Kozera moved, and the Panel voted 6-0 in favor of the motion, to accept the Findings of Fact and Conclusions of Law as proposed by Mr. Garrett and modified by the Panel and read by Mr. Casway (Attachment 2).

Mr. Brown moved, and the Panel voted 6-0 in favor of the motion, that Elite Pharmacy's right to renew their registration be revoked.

AMANDA B. HARPER
Registration # 0230-004982

A formal hearing was held in the matter of Amanda B. Harper following the summary suspension of her pharmacy technician registration on February 14, 2007, and to discuss allegations that she may have violated certain laws and regulations governing the practice of pharmacy technicians in Virginia.

Ms. Harper was not present at the hearing. The Panel proceeded in Ms. Harper's absence as the Notice of Formal Hearing dated February 14, 2006, was mailed to Ms. Harper's legal address of record, both regular and certified mail. Mr. Beckner ruled that adequate notice was provided to Ms. Harper and the hearing proceeded in her absence.

James Schliessmann, Assistant Attorney General, prosecuted the case with the assistance of Mr. Egan.

Lisa Oliphant, DHP Senior Investigator; and Diana Gallion, Kroger Risk Management Specialist; appeared and testified on behalf of the Commonwealth.

Closed Meeting:

Mr. Ison moved, and the Panel voted 6-0, to convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the Code of Virginia for the purpose to reach a decision in the matter of Amanda Harper. Additionally, he moved that Scotti Russell, Cathy Reiniers-Day, and Howard Casway attend the closed meeting.

Reconvene:

Mr. Ison moved, and the Panel voted 6-0, that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision:

Mr. Kozera moved, and the Panel voted 6-0, to accept the Findings of Fact and Conclusions of Law as proposed by Mr. Schliessmann, amended by the Panel and read by Mr. Casway.

Mr. Kozera moved, and the Panel voted 6-0 that Amanda B. Harper's right to renew her pharmacy technician's registration be revoked.

Ms. Harper's signed Consent Order was received in the Board Office while the hearing was being held. Mr. Beckner was contacted by telephone and accepted the signed Consent Order and the formal hearing proceeding was vacated.

LYNN S. BOYD
Registration #0230-008974

A formal hearing was held in the matter of Lynn S. Boyd following the summary suspension of her pharmacy technician registration on February 14, 2007, and to discuss allegations that she may have violated certain laws and regulations governing the practice of pharmacy technicians in Virginia.

Ms. Boyd was not present at the hearing. The Panel proceeded in Ms. Boyd's absence as the Notice of Formal Hearing dated February 14, 2007, was mailed to Ms. Boyd's legal address of record, both regular and certified mail. Mr. Beckner ruled that adequate notice was provided to Ms.

Boyd and the hearing proceeded in her absence.

Mr. Schliessmann, prosecuted the case with the assistance of Ms. Mitchell.

Nan Dunaway, DHP Inspector, testified on behalf of the Commonwealth.

Closed Session:

Mr. Ison moved, and the Panel voted 6-0, to convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the Code of Virginia for the purpose to reach a decision in the matter of Lynn Boyd. Additionally, he moved that Scotti Russell, Cathy Reiniers-Day and Howard Casway attend the closed meeting.

Reconvene:

Mr. Ison moved, and the Panel voted 6-0, that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision:

Mr. Kozera moved, and the Panel voted 6-0, to accept the Findings of Fact and Conclusions of Law as proposed by Mr. Schliessmann, amended by the Panel and read by Mr. Casway (Attachment 3).

Mr. Kozera moved, and the Panel voted 6-0, that Lynn Boyd's right to renew her pharmacy technician's registration be revoked.

ADJOURN:

With all business concluded, the meeting adjourned at 2:45 p.m.

Cathy M. Reiniers-Day
Deputy Executive Director

John O. Beckner, Chairman

Date

Attachment 1
Minutes – Board of Pharmacy
Formal Hearing – Panel
March 14, 2007

Stephen Kwateng
License #0202-011867

Findings of Fact:

- Stephen Kwateng previously held License No. 0202-011867 issued by the Board to practice pharmacy in the Commonwealth of Virginia, which was summarily suspended by the Board pursuant to an Order entered October 11, 2006, in accordance with § 54.1-2408.1 of the Code.
- By Mr. Kwateng's own admission, during the course of his employment as a pharmacist at BJ's Pharmacy #33, Fairfax, Virginia, between approximately March 2006, and on or about June 15, 2006, he diverted three bottles of De-Chlor MR (cough syrup with hydrocodone), a Schedule III controlled substance, to send to Ghana. As a result of his actions, Mr. Kwateng's employment was terminated on or about June 24, 2006.
- Mr. Kwateng testified that he dispensed three bottles of De-Chlor MR based upon a Ghanaian prescription he claimed was mailed to him in March 2006, and written for Kofi Adu, a resident of Ghana and friend of Mr. Kwateng. Mr. Kwateng testified that on June 4, 2006, he delivered the three bottles of De-Chlor MR to an individual he did not know, to take to Ghana for him. Said prescription has not been located.
- Mr. Kwateng pled guilty and was convicted in the Fairfax County Circuit Court on February 13, 2007, of Unauthorized Dispensing of a Controlled Drug, a misdemeanor, in violation of § 18.2-260 of the Code.

Conclusions of Law:

- The Board concludes that Finding of Fact #2 constitutes a violation of § 18.2-248, § 18.2-250, § 54.1-3303, § 54.1-3316(5) and (7), and § 54.1-3408 of the Code.

Sanction:

- WHEREFORE, on the basis of the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED that upon receipt of satisfactory documentation from Mr. Kwateng that he has successfully completed the Virginia Drug Law Examination, and receipt of a monetary penalty of Six Hundred Dollars (\$600.00), the license of Stephen Kwateng to practice pharmacy in the Commonwealth of Virginia shall be REINSTATED. Further, it is hereby ORDERED that Stephen Kwateng be, and hereby is, issued a REPRIMAND.

Attachment 2
Minutes – Board of Pharmacy
Formal Hearing – Panel
March 14, 2007

ELITE PHARMACY
Registration #0214-000030

Findings of Fact:

- Elite Pharmacy (“Elite”) held registration number 0214-001030 issued by the Board to conduct a non-resident pharmacy in Virginia, which expired on December 31, 2006. The right to renew the non-resident registration was summarily suspended by an Order of the Board entered on January 18, 2007.
- Based upon representations of William C. Garrett, Assistant Attorney General, and Commonwealth’s Exhibit Nos. 3-5, the presiding officer ruled there was adequate notice and the panel of the Board proceeded with the hearing in Elite’s absence.
- On or about October 10, 2006, the U.S. Drug Enforcement Administration (“DEA”) suspended Elite’s DEA Registration pending an investigation of suspicious Internet practices that occurred during the time period of approximately 2005-2006, including but not limited to:
 - Dispensing approximately 3,218 controlled substance prescriptions that were not signed by a physician or that had a stamped or electronic signature of the physician rather than an original or facsimile signature;
 - Failing to record the date of receipt of controlled substances on 46 purchase invoices; and
 - Dispensing controlled substances to customers, whose prescriptions were received by logging onto an Internet website, despite substantial evidence that said prescriptions were written by practitioners who did not have a legitimate doctor-patient relationship with the customer.
 - Further, Elite’s dispensing of hydrocodone, a Schedule II controlled substance, to Internet customers throughout the United States from January through December of 2005 represented 50 times more than the national average for pharmacy purchases of hydrocodone. Relative to the above investigation, on or about October 16, 2006, Elite entered into an interim Consent Agreement with the Louisiana Board of Pharmacy, whereby Elite relinquished its authority to order, trade, borrow, hold in inventory, or dispense all Schedule I-V controlled substances as well as the following Schedule VI controlled substances: carisoprodol, tramadol, promethazine, and butalbital.
- By letter dated March 12, 2007, attorneys representing Elite Pharmacy, Inc., advised the Board that Elite is not conducting business in Virginia.

Conclusions of Law:

- Finding of Fact No. 3 constitutes a violation of § 54.1-3316(7) and (8) and § 54.1-3434.1(A)(2) of the Code.

Sanction:

- The right to renew the non-resident pharmacy registration of Elite Pharmacy is, REVOKED.

Attachment 3
Minutes – Board of Pharmacy
Formal Hearing – Panel
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LYNN BOYD
Registration #0230-008974

Findings of Fact:

- Lynn S. Boyd previously held Registration No. 0230-008974 issued by the Board to practice as a pharmacy technician in the Commonwealth of Virginia. Said registration expired on December 31, 2006, and the right to renew said registration was summarily suspended pursuant to an Order entered on February 14, 2007.
- Based upon the representations of James E. Schilessmann, Assistant Attorney General, and Commonwealth's Exhibits #1 and #3, the notice of formal hearing and affidavit of mailing, the presiding officer ruled that adequate notice was provided to Ms. Boyd and the hearing proceeded in her absence.
- During the course of Ms. Boyd's employment as a pharmacy technician at Rite Aid Pharmacy #4706, Virginia Beach, Virginia, by her own admission, on or about October 9, 2006, she diverted 30 dosage units of Viagra 100mg (sildenafil, Schedule VI) and 30 dosage units of Levitra 20mg (vardenafil HCl, Schedule VI) that she sold to a third party.

Conclusions of Law:

- The Board concludes that Finding of Fact #3 constitutes a violation of § 54.1-3322(2) of the Code.

Sanction:

- The right to renew Registration No. 0230-008974, issued to Lynn S. Boyd to practice as a pharmacy technician in the Commonwealth of Virginia, be, and hereby is, REVOKED.