

MINNESOTA BOARD OF PHARMACY

*Newsletter to Promote Pharmacy
and Drug Law Compliance.*

Disciplinary Actions

The Minnesota Board of Pharmacy posts public orders of disciplinary actions via its [online license/registration verification service](#). When viewing a licensee or registrant, Board orders will be listed when public actions are present. When Board orders are public, a file and date are included,

and a link to download public documents is available. Discipline is summarized on the [Board's website](#) under the "Resources/FAQs" menu item, while the orders are publicly available via the [online license/registration verification service](#).

Board Member Position Openings

There are three Board member terms expiring in January: two public members and one pharmacist. Beginning in November, these positions will be open for applications on the [Secretary of State Board/Commission website](#). All members of the Board are appointed by the governor. The Board consists of three public members and six pharmacist members, each serving

a term of four years starting the first Monday in January after their appointment. Public members must meet the qualification and exclusion criteria found in [Minnesota Statutes §214.02](#). According to [MN Statutes §151.02](#), pharmacists shall have had at least five consecutive years of practical experience as a pharmacist immediately preceding appointment.

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Staffing Updates

Krystal Sievert, PharmD, RPh, has joined the Board staff as a pharmacy surveyor. She has substantial community pharmacy experience in a staffing role and as a pharmacist-in-charge for over 10 years. Krystal graduated from the University of Minnesota College of Pharmacy.

Kickback Arrangements With Long-Term Care Facilities

Pharmacies that provide services to long-term care facilities (LTCFs) are reminded that it is unprofessional conduct for a pharmacy or pharmacist to participate:

. . . in agreements or arrangements, with any person, corporation, partnership, association, firm, or others involving rebates, 'kickbacks,' fee-splitting, or special charges in exchange for professional pharmaceutical services, **including but not limited to the giving, selling, donating, or otherwise furnishing or transferring, or the offer to give, sell, donate, or otherwise furnish or transfer money, goods, or services free or below cost to any licensed health care facility or the owner, operator, or administrator of a licensed health care facility** as compensation or inducement for placement of business with that pharmacy or pharmacist. Minnesota Rules 6800.2250, Subpart 1.D **(emphasis added)**

The Board periodically receives complaints alleging that a pharmacy provides goods or services to LTCFs without charging for them or charging an amount that is below the cost of the service or good. Below are examples of arrangements that are not allowed. (There may also be other services or goods, not mentioned here, that are being inappropriately provided by pharmacies to LTCFs. Pharmacies are advised to consult with their legal counsel when considering whether to provide anything else of value to facilities for free or below cost.)

- Furnishing LTCFs with medication carts without charging the facility a fee for the use of the carts: The Board has heard that some pharmacies may believe it is permissible to own medication carts and "loan" the carts to facilities without charge. Doing so is **not allowed** and is a violation of the above-mentioned rule. The storage of drugs dispensed to a patient, and subsequently stored

at the facility, is the responsibility of the facility, not the pharmacy. Consequently, the storage of dispensed prescriptions in a medication cart is not an extension of the dispensing process. Once dispensed and delivered to the facility, the drugs are no longer the property of the pharmacy.

- This does not apply to automated drug distribution system (ADDS) packaging devices that are allowed pursuant to MN Statutes §151.58. The drugs loaded into an ADDS of this type are the property of the pharmacy, not the nursing home, until they are packaged and dispensed from the machine. The pharmacy is responsible for loading drugs into the ADDS, and a pharmacist must be available remotely to supervise the operation of the device 24/7. This also does not apply to emergency kits or ADDS used for first and emergency doses. The drugs in those kits and devices are also considered to be the property of the pharmacy.
- Furnishing LTCFs with nursing home pharmacist consultant services for free or below cost: To comply with the rule, the nursing home should be charged at least a sufficient amount to cover the actual salary and benefits paid to the pharmacist for the total number of hours that the pharmacist is providing services to the nursing home.
- Furnishing computers or medication administration record systems for free or below cost.
- Bundling the cost of goods and services provided to the LTCF with the costs of prescriptions dispensed to residents of the facilities: Per MN statutes and rules, pharmacies **are** permitted to do the following. (Pharmacies should, however, consult with their legal counsel to determine if

Kickback Arrangements With Long-Term Care Facilities (cont)

doing these things would be in violation of federal anti-kickback or other statutes and rules.)

- Furnishing nursing homes with Drug Enforcement Administration-compliant drug disposal containers or devices, free of charge, and paying for the disposal of the drugs placed into those containers. MN Statutes §151.37, Subdivision 6a, allows a pharmacy licensed under MN Statutes §151.19 to “collect a legend drug from an ultimate user, or from a long-term care facility on behalf of an ultimate user who resides or resided at the long-term care facility, for the purpose of disposing of the legend drug as pharmaceutical waste.”

Please note, however, that a pharmacy is not permitted to allow LTCFs to physically return drugs to the

pharmacy for disposal. LTCFs can only return drugs to the pharmacy pursuant to MN Rules 6800.2700, Subpart 2, which allows for the return of drugs that can be re-dispensed (as long as certain conditions are met). Drugs that cannot be re-dispensed are considered pharmaceutical waste and must be disposed of in compliance with Minnesota Pollution Control Agency statutes and rules, per MN Statutes §151.37, Subd 6a.

In the past, the Board has issued warnings about such violations. The Board is empowered, however, to take disciplinary action for any violation of its statutes or rules and may, among other actions, impose civil penalties of up to \$10,000 per violation.

Pharmacy Technicians and Vaccine Administration

Minnesota law allows pharmacists to delegate the administration of vaccines to qualified pharmacy technicians and pharmacy interns when specific training, supervision, and documentation requirements are met.

Before a pharmacist may delegate vaccine administration to a pharmacy technician, both the pharmacist and the technician must successfully complete an immunization administration program approved by the Accreditation Council for Pharmacy Education (ACPE) or another program approved by the Board.

When utilizing pharmacy technicians to administer vaccines, pharmacies should be aware of several additional requirements.

Pharmacist Responsibilities
The pharmacist must: • complete patient counseling on administered vaccines; • use the Minnesota Immunization Information Connection (MIIC) to assess an individual’s immunization status before vaccine administration (an exception applies when administering influenza vaccines to individuals ages nine and older); • report the administration of the immunization(s) to MIIC; • maintain a current certificate in basic CPR; • be readily and immediately available to the pharmacy technician while the technician is administering vaccinations; and • provide in-person supervision of the technician (supervision may not be provided through telehealth).

Pharmacy Technician Requirements

A pharmacy technician administering vaccines must:

- successfully complete an ACPE-approved immunization administration program or another program approved by the Board;
- maintain a current certificate in basic CPR;
- complete at least two hours of ACPE-approved, immunization-related continuing pharmacy education as part of the technician’s two-year continuing education (CE) schedule;
- administer vaccines only while under the required in-person supervision of a licensed pharmacist; and
- be authorized by the collaborative practice agreement and protocol if using that authority for administration.

Keeping Your Pharmacy Compliant

Pharmacies that utilize technicians to administer vaccines should periodically review technician training records, CPR certification, immunization-related CE, and

pharmacy policies to ensure all requirements remain current. Pharmacies should also verify that appropriate procedures are in place for MIIC review and

reporting and that technician-administered vaccinations are always performed with the required level of pharmacist supervision.

Medication Disposal

Unwanted pharmaceuticals pose a risk to human and animal health and the environment if not disposed of properly. [MN Statutes §151.37 Subd 6a](#) allows licensed pharmacies in Minnesota to offer a collection receptacle for the public (“ultimate users”) to discard unwanted household pharmaceuticals. Guidance on requirements can be found [here](#): *Collecting Pharmaceuticals from Households and Long Term Care Facilities*. For those pharmacies that do not have a registered collection

receptacle, the Board encourages providing resources for the public and patients to find a convenient drop-off location. Information is available on the [Minnesota Pollution Control Agency website](#).

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