

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

ALASKA STATE BOARD OF PHARMACY

**MINUTES OF MEETING
August 23-24, 2012**

By authority of AS 08.01.070(2) and in compliance with the provision of AS 44.62, Article 6, a scheduled meeting of the Board of Pharmacy was held on August 23rd and 24th 2012 at the Atwood Building, 550 West 7th Avenue, Anchorage AK.

These **FINAL** minutes were prepared by the staff of the Division of Corporations, Business and Professional Licensing. They have not been reviewed or approved by the Board.

Call to Order/Roll Call

The meeting was called to order by Dick Holm, Chair at 9:03 a.m. Those present constituting a quorum of the board, were:

Anne Gruening, Public Member
Lori DeVito, R. Ph.
John Cotter, R. Ph.
Dick Holm, R. Ph.
Dirk White, R. Ph.
CJ Kim, R.Ph.

Present from the Division of Corporations, Business and Professional Licensing were:

Mary Kay Vellucci, Licensing Examiner
Brian Howes, Investigator, PDMP Program Manager

Telephonic participation by:

James Pruitt, Director of Retirement and Benefits
Harriet Milks, AG Office

Visitors present:

Dan Branch, AG Office
Signe Anderson, AG Office
Laura Fox, AG Office
Nancy Davis, Executive Administrator, AkPhA
Laura Nichols, AkPhA
Commissioner Becky Hultberg, Division of Administration
Deputy Commissioner Mike Barnhill, Division of Administration
Chad Hope, DHSS

Agenda Item 1 Review Agenda

The chair called for comments on the agenda. Ms. Vellucci stated agenda item 16, New Business re Electronic License Verifications and Other, should be deleted from the agenda. These are first Division issues. The chair stated this time will then be available for overflow.

On a motion duly made by Mr. White, seconded by Ms. DeVito, and approved unanimously, it was

RESOLVED to approve the agenda as amended.

Agenda Item 2 Review Minutes

The board reviewed the minutes from the April 19-20, 2012 full board meeting.

Chair Holm noted "APA" should be "APhA."

The board discussed the requirement for current licenses to be posted in the pharmacies under Agenda Item 7, New Business. For purposes of inspection, they clarified the licensee can present to the inspector:

1. The original license or
2. A photocopy of the original license, contingent upon the original license being posted in another facility or
3. Print out from the board's Professional License Search for temporary circumstances when the license was recently issued or renewed.

On a motion duly made by Ms. DeVito, seconded by Mr. Kim, and approved unanimously, it was

RESOLVED to amend the minutes of the April 19-20, 2012 regarding acceptable proof of licensure during an inspection, as described above, and for clerical error.

The board then reviewed the minutes from the June 5, 2012 teleconference. The chair called for comments, hearing none.

On a motion duly made by Ms. DeVito, seconded by Mr. Kim, and approved unanimously, it was

RESOLVED to approve the minutes of the June 5, 2012 teleconference.

Agenda Item 3 Ethics Disclosure/Goals and Objectives

The board had no ethics disclosures or violations to report.

Ms. DeVito informed the board is relocating her residence to upstate New York in September. She is retaining her AK pharmacist license, the AK instate pharmacy license for Professional Home IV in Soldotna and the business itself. She will be commuting between New York and Alaska. Therefore, she has reason to be in Alaska on an ongoing basis. She expressed a desire to continue with the board. The board chair stated, and others agreed, Ms. DeVito is a valued board member. Discussion occurred about her continued participation in board meetings, both in person and telephonically. Ms. Vellucci agreed to research the logistics and details of this arrangement from the division perspective and report back to the board. Ms. DeVito will notify the Division in several weeks if she is able to attend the November 15-16, 2012 meeting in Anchorage.

Agenda Item 4 Division Update

Financial Report: The board reviewed the July 10, 2012 letter from Director Don Habeger regarding the \$3M+ appropriation from the legislature and the Schedule of Revenues and Expenditures for the Board of Pharmacy as of March 31, 2012.

Chair Holm asked if the legislature's appropriation was used to respond to the board's request to acquire funds (other than licensing fees) to cover the necessary legal expenses incurred by the board during FY11. Ms. Vellucci replied that it was not. The amount distributed was calculated by dividing the appropriation into the total number of licenses among the forty professional boards. Each board then received a per-license share.

Ms. Vellucci summarized the board's budget by pointing out there was a \$31k surplus as of March 31, 2012. The surplus existed despite \$100k in legal expenses incurred in FY11, without increasing licensing fees and prior to the revenue generated from recent renewals.

Chair Holm provided a history of the legal expenses incurred during FY11 in response to an inquiry from Mr. Cotter.

Mr. White asked about "fee allocation methodology that occurred outside of the Alaska State Accounting System." Ms. Vellucci stated the Administrative Officer, Misty Frawley, could speak to that point. Ultimately, the board agreed to invite Ms. Frawley to participate in the November meeting for questions such as this, and to discuss the Board of Pharmacy's final FY12 Revenues and Expenditures, which should be available at that time.

Annual Report: Chair Holm informed the group the board's annual report is required by statute at the end of July. He commented on the key points of the report. It was noted for the record the pharmacist board members' participation in the MPJE Multi-State Jurisprudence Exam Review Meeting is a two-person task. While reviewing the board goals, Chair Holm said the board's current role in relation to the PDMP should be updated in the goals language. There was a discussion about rewording goal #10 to capture this. Ms. Vellucci will create drafts for the board's review at the November meeting.

Draft Orientation Manual for Boards and Commissions: The board reviewed the manual prepared by Ms. Chambers prior to the meeting. The manual was well-received and the consensus was it was "a job well done."

Renewals: Chair Holm referenced a written correspondence from Cindy Bueler, RPh regarding the citations for the questions on the renewal form for pharmacist. Ms. Vellucci stated there were a number of similar comments by pharmacist licensees. Mr. White provided correct citations in writing to Ms. Vellucci in mid June. The board will consider this more fully at the November meeting. A website posting regarding the pharmacist renewal questionnaire will subsequently be created.

Ms. Vellucci informed the board that, due to time constraints, not all facility websites and email addresses were entered in the licensing database during renewals. They are, however, accessible in the hard copy records. Websites and email addresses will be entered when the new Professional Licensing database is installed, estimated to be 6-9 months. She also informed them the front office staff did an outstanding job during renewals given the high volume of payments to be posted, mail to be sorted and related administrative tasks. The board acknowledged their contribution to the renewal process and asked Ms. Vellucci to thank them in their behalf.

Agenda Item 5 CE Audits

The board chair confirmed all board members had an opportunity, prior to the meeting, to review the CE Audit documents submitted by Ms. Wilke, paralegal. The chair called for comments on the two consent agreements, one voluntary surrender of pharmacist license and one accusation/default judgment contained in that section of the board packets. Hearing none, the board proceeded.

On a motion duly made by Mr. Kim, seconded by Mr. White, and approved unanimously, it was

RESOLVED to accept the Consent Agreement in case no. 2011-001026.

For the record, this action pertains to Daniel Essim, pharmacist license # 1381.

On a motion duly made by Mr. White, seconded by Ms. DeVito, and approved unanimously, it was

RESOLVED to accept the Consent Agreement in case no. 2011-000710.

For the record, this action pertains to Edward Cook, pharmacy technician license # 1173.

On a motion duly made by Mr. Kim, seconded by Mr. White, and approved unanimously, it was

RESOLVED to accept the Voluntary Surrender of Pharmacist License in case no. 2011-00486.

For the record, this action pertains to Mary Hall, pharmacist license # 1188.

On a motion duly made by Mr. White, seconded by Mr. Kim, and approved unanimously, it was

RESOLVED to accept the Consent Agreement in case no. 2011-000709.

For the record, this action pertains to Ellie Alexander, pharmacy technician license # 923.

The board then considered the information in case no. 2011-000828. They were asked to determine if the documentation provided by this pharmacy technician met the requirements of 12 AAC 52.340. A brief discussion occurred.

On a motion duly made by Ms. DeVito, seconded by Mr. Cotter, and approved unanimously, it was

RESOLVED to approve the continuing education documentation submitted in case no. 2011-000828.

For the record, this action pertains to Chantelle Chin, pharmacy technician license # 2700.

Break: Off record at 10:30 a.m.
On record at 10:45 a.m.

The board members then reviewed the CEs submitted by licensees who are under mandatory audit.

On a motion duly made by Mr. White, seconded by Ms. Gruening, and approved unanimously, it was

RESOLVED to approve the CE Audits for pharmacy technicians
license number 689 Amy McDaniels
license number 827 Katherine Schofield
license number 923 Ellie Alexander, per terms of consent agreement
license number 1173 Ed Cook, per terms of consent agreement
license number 1656 Annette Carelock
license number 1680 Randy Mundell
license number 1997 Michael Moss
license number 2685 Ashley Martinez

On a motion duly made by Mr. White, seconded by Ms. Gruening, and approved unanimously, it was

RESOLVED to approve the CE Audits for pharmacists
license number 574 Garrett Tatsumi
license number 741 Cindy Audet
license number 1249 Katherine Azmeh
license number 1368 Tatjana Jelic
license number 1381 Daniel Essim, per terms of consent agreement
license number 1389 Wanda Weatherby
license number 1436 Scott Simpson
license number 1448 Brian Narog
license number 1558 Elise Shepard.

Agenda Item 6 Correspondence

General Correspondence:

- Margaret Soden letter of August 9, 2012. The board reviewed a letter from the former board president which encouraged them to continue their work with the Attorneys General to determine the state licensure requirement for pharmacy facilities in tribally-owned health centers.
- State Boards of Pharmacy, Watchdogs or Lapdogs? Drug Topics: Mr. White stated he submitted this article for board review to demonstrate, nationally, how many executives from major drug chains are on state boards of

pharmacy, and the lack of support from administration on issues of safety. The article reminds the reader that the goal of a pharmacy board is to serve the public vs. personal business interests.

- MTM Legislation; E-Prescribing for Controlled Substances RX Ipsa Loquitor: The chair noted the Alaska Board does not regulate beyond the DEA on matters for E-Prescribing for Controlled Substances and the content of the article may be useful for computer vendors.
- American Veterinary Medical Association (AVMA) letter of June 25, 2012: This letter was addressed to the board chair and described the AMVA's concerns about non-veterinary pharmacies dispensing pet medications. The board responded as follows:
 1. The AMVA points were valid. Dosaging is equally important between humans and pets.
 2. Any pharmacy that fills veterinary prescription must utilize specialty references such as Plumb's and Veterinary PDR, as well as resources on veterinary pharmacology and veterinary lab values.
 3. The Alaska Board of Pharmacy takes this matter seriously. The board requested communication from the AMVA or AK Vet Board to determine if these sub-standard practices are occurring in Alaska.
 4. Board recommended pet medications not be dispensed unless the pharmacist is adequately prepared to do so safely.
- 90 day prescription supplies: The board agreed it is up to the professional discretion of the pharmacist, in conjunction with the prescriber and the patient, to determine if a 90 day supply can be dispensed.
- Anchorage VA Correspondence: The full board reviewed these correspondences in which the facility plans to provide medications to the providers at specialty clinics for their VA patients use. The board agreed this was out of the scope of the pharmacy board's jurisdiction and recommended the facility also check with the Medical Board.
- Reports of Theft:
 1. Geneva Woods Medset Pharmacy: This theft was committed by a person doing the cleaning service and prompted the following replies from board members:
 - Cleaning services should be conducted during open pharmacy hours.
 - There should be no access to the pharmacy without a pharmacist being present.
 - A cleaning service (or any other non-licensed entity) should not have keys to a pharmacy. Mr. White stated his pharmacies

have a Knox-Box. This device houses keys to the pharmacy under a secure code. The police and fire departments only have the code for entry into the pharmacy under an emergency situation only.

2. Providence Alaska Medical Center: No action.
3. Wal-Mart Eagle River: No action.

NABP Correspondence:

- Invitation to Interactive Forum: Due to personal and professional commitments, no board members were available to attend.
- Josh Bolin at Nov., 2012 board meeting: The board was made aware of Mr. Bolin's request to participate in the November board meeting to discuss NABP programs and services. The board agreed to allot one hour to Mr. Bolin, to be allocated as a 30 minute presentation and 30 minutes for follow up discussion.
- MPJE State Specific Review: Board members were unavailable for the September 5-6 In House Review.

On a motion duly made by Ms. DeVito, seconded by Mr. White, and approved unanimously, it was

RESOLVED to continue the use of board funds for the Alaska State Newsletter and other NABP services during FY12.

Agenda Item 7 AkPhA Report

Nancy Davis and Lara Nichols joined the meeting.

Ms. Davis reported the Political Action Committee account was closed due to lack of activity. The \$1500 funds will be distributed based on lobbyist's recommendations. She informed the board there are now PTCEB exam collection sites at UAF and Fort Wainwright. Technician certifications have doubled. Briefly discussed were scholarship awards, the status of the CPE Monitoring Program, National Drug Take Back Day (September 29, 2012).

The primary point of discussion was AkPhA's recommendations regarding the national trends to require the PTCE Exam, certification of technicians, creation of two tiers of pharmacy technicians, sterile compounding be done only by certified technicians only and only ACPE-approved technician courses be accepted to fulfill CE requirements (vs. allowing technicians to take pharmacist level courses.)

The boards' responses to these recommendations were:

- Despite this being a national trend, the rationale for these measures is not applicable to Alaska because of its unique geography, large off-road system and minimal technician pool.
- These standards would regulate a demotion in scope of practice for technicians at proposed level 1.
- Moving ahead for economic reasons is not within the purview of the board's mission.
- An employer can internally develop two tiers of pharmacy technician classification if they prefer this system.
- The board encouraged certification and acknowledged its value, but determined it is not necessary to be mandated in regulation.

Lunch break: off record at 12:07 p.m.
On record at 1:04 p.m.

Agenda Item 8

Legislative Report

Pharmacy Audit Bill: Commissioner Becky Hultberg and Deputy Commissioner Mike Barnhill from the Department of Administration joined the meeting in person. James Pruitt, Director of Retirement and Benefits, joined telephonically. The participants introduced themselves and described their positions. The chair and vice chair noted for the record they were invited to participate specifically on behalf of the board and state association, not the Division.

Upon request, Ms. Vellucci provided a copy of the April 12, 2012 letter authored by Commissioner Hultberg, addressed to Senator Egan, regarding the pharmacy audit bill. Mr. White stated the letter indicated pharmacists and pharmacies were committing fraud and it reflected negatively on the profession as a whole. He cited language in the letter to substantiate his point. Commissioner Hultberg apologized for the offensive tone of the letter and said it was not intended to imply all pharmacists act in this manner.

Ms. Hultberg identified the primary concerns with the bill as:

1. *Ninety Day Prescriptions Filled for 83 days:* Three pharmacies were filling 90 day prescriptions for 83 days for State of Alaska members only in order to get a higher reimbursement rate. This violated the contract they had with the state. This practice impaired patients ability to acquire prescriptions as prescribed, within the necessary time frame for refills. These pharmacies also had signs posted in the facility stating this practice. Discussion occurred. The collective reply from the board was a pharmacy can fill a prescription for less than the written ninety day quantity, although it would be unethical to do so consistently and repeatedly only to increase reimbursement. Mr. White stated he was withholding his opinion because all relevant information was

not immediately available.

2. *Definition of "Clerical Error:"* The bill in the last legislative session identified the scenario in #1 as a "clerical error." Resolution of this was unlikely to be completed by the end of the session. The Department of Administration therefore objected to the definition of "error."

Chair Holm stated the bill was intended to clarify the purpose and process for an audit and alleviate practices such as "extrapolating," which are genuinely unfair.

3. *Dispensing Fees:* Deputy Commissioner Barnhill stated dispensing fees reflected utilization trust money. Therefore, if dispensing was done improperly, the money should be returned to the fund. The consensus among the group was the language regarding dispensing fees needs refined and narrowed.

The Commissioner and Deputy Commissioner Barnhill then identified the flexible concerns with last session's bill:

1. *Audit Notice Time Frame:* Ms. Hultberg stated they prefer a one week audit notice. The bill contained language for two weeks audit notice. She stated they do not have a strong objection to two week notice.
2. *Audit on days 1-7 of a new month:* Envision, the state PBM, informed the Department of Administration their data did not show a spike in prescriptions during the first through the seventh of a new month. Pharmacist board members strongly objected and cited reasons for the increase in prescriptions at the beginning of a month. These reasons are unrelated to retired State employees transactions. Ms. Hultberg said they are flexible on this point.
3. *Extrapolation:* Deputy Commissioner Barnhill stated, and Commissioner Hultberg agreed, they did not object to language in the bill that prohibited extrapolation or other similar measures.

They added the Department of Administration was not brought into the pharmacy audit bill matter until the end of the session, and their attempts to communicate with the appropriate person(s) were unanswered.

Mr. White asked why Costco was identified on insurance cards mailed to state employees. Deputy Commissioner Barnhill stated there is either a legal or contractual agreement between Envision and Costco to this end. Mr. White said this presents the wrong message to consumers, implying they must get their prescriptions from Costco. Deputy Commissioner Barnhill said they currently have an RFP out for public comment selection of a PBM for the state. They welcomed the boards' comments. Mr. Holm stated a common concern among Alaska pharmacists is the push for mail order. He said, "You are literally pushing

dollars out of the state.” Deputy Commissioner Barnhill stated out of state mail order is an option, but it has not been “pushed.” Mr. White replied “the state may not be pushing, but the PBMs are.” Mr. Holm told them the Alaska pharmacy profession would appreciate an effort on behalf of the state that would encourage local business.

The chair reiterated the importance of early communication during the session and noted the discussion held constructive information for the state association to pursue. He reminded the group this is primarily a state association bill. Commissioner Hultberg and Deputy Commissioner Barnhill were then introduced to Nancy Davis, Executive Director of Alaska Pharmacists Association.

Agenda Item 9 Regulation Projects

Signe Anderson, Dan Branch and Laura Fox from the AG’s office joined the meeting in person. Mr. Branch informed the board that Ms. Anderson and Ms. Fox were there to discuss licensing of tribally-owned pharmacy facilities.

On a motion duly made by Mr. Holm, board chair, it was

RESOLVED to go into Executive Session in accordance with AS 44.62.310 (c) (3) and (4).

Board, staff, and attorneys to remain.
Off record at 2:00 p.m.
On record at 2:38 p.m.

On a motion duly made by Ms. DeVito, seconded by Mr. Kim, and approved unanimously, it was

RESOLVED to send an advisory letter to all non-licensed pharmacies in the state informing them of the statutes and regulations pertaining to licensure.

On a motion duly made by Mr. White, seconded by Mr. Kim, and approved unanimously, it was

RESOLVED to go into Executive Session in accordance with AS 44.62.310 (c) (3).

Board, staff, and attorneys to remain.
Off record at 2:45 p.m.
On record at 2:52 p.m.

"Housekeeping Regulations" Harriet Milks, AG, joined the meeting telephonically. Mr. Branch summarized the changes by regulations attorney, Steve Weaver, in DOL AAG Rekeyed Version 7/3/12 to the "housekeeping regulations" adopted by the board during the May, 2012 meeting. These changes were also illustrated in print format. The board reviewed each regulation and the chair called for comments.

On a motion duly made by Mr. White, seconded by Mr. Kim, and approved unanimously, it was

RESOLVED to adopt DOL AAG Rekeyed Version 7/3/2012, except for 12 AAC 52.240 (a), 12 AAC 52.240 (b) (2) and 12 AAC 52.240 (j).

Community Pharmacy Accreditation: Ms. Milks stated if the federal government makes national accreditation mandatory for Medicare or Medicaid, there would be nothing the board can do because federal law will always preempt state law. She said there are no changes to this effect on the horizon. There were three existing, related laws on this subject for the board's consideration:

1. **Federal Law:** Congress has written an exemption into law specifically excepting some community pharmacies from the community pharmacy accreditation requirement in *Section 31.09 of the Patient Protection and Affordable Care Act*. It amends the Social Security Act in Medicare Part D by exempting pharmacies if the pharmacy has DME supplies that are less than 5% of total pharmacy sales, the pharmacy has been enrolled as a DME vendor for five years and the pharmacy documents compliance with those other conditions.
2. **State Law: *State Anti-Discrimination in Health Care Insurance:*** The Alaska Insurance Code in AS 21.36.090(d) "a person may not practice or permit unfair discrimination against as person who provides a service covered under a group health insurance policy that extends coverage on an expense-incurred basis or under a group service or indemnity-type contract issued by an HMO or non-profit corporation if the service is within the scope of the provider's occupational license." Ms. Milks stated the catch is pharmacists and pharmacies are not included in the definition of "provider" in this statute. However, the parallel federal law in the Public Health Service Act 42 U.S.C. 1320d of the Social Security Act does include pharmacists in the definition of "provider." Adding pharmacists to the state's anti-discrimination insurance laws would require statutory change. Ms. Vellucci asked if this language could be added to statutes in development for licensing out of state wholesale drug distributors and medical equipment vendors. Mr. Branch stated there are no valid reasons not to have pharmacists included. A discussion followed.
3. **Georgia Statute:** Georgia statutes grant powers to the Board of Pharmacy to restrict access to some types of records by non-government accrediting

bodies due to duplication for licensing requirements. Pursuing this would be a time-consuming and expensive approach to meet the Alaska Board's objectives, according to Mr. Branch.

Agenda Item 8 Legislative Report (con't.)

Registration of Out of State Wholesalers: Prior to the meeting, the board reviewed work draft 28-LS0038/A from Legislative Legal, which requires out of state wholesalers to be registered with the Alaska Board of Pharmacy. The history was discussed briefly by the chair and is outlined in the minutes of the May, 2012 board meeting minutes. Points made regarding the work draft were as follows:

1. *Act Title:* Mr. White suggested the title may be more aptly described as an Act Relating to Wholesale Drug Distributors, Wholesale and Retail Medical Device Suppliers, as the board's intention is to include out of state DME vendors. Ms. Vellucci said she frequently receives calls from out of state DME vendors asking about Alaska licensing laws. They typically explain how they searched for the information. It would be useful for them to include "Wholesale and Retail Medical Device Suppliers" in the title of Sec 08.80.159.
2. *"Registered" vs. "Licensed":* Out of State Pharmacy facility statutes are described as "Registered" vs. "Licensed." Ms. Gruening noted Sec.3.AS11.71.020(b)(ii) reads "licensed or registered."
3. *Ephedrine, pseudoephedrine, phenylpropanolamine, salts:* Sec.3.AS 11.71.020(b) discussed chemicals which aid and abet in the manufacture of methamphetamine and its precursors. Board members commented this was duplication of Federal DEA Law. They requested Legislative Legal determine if it can, therefore, be eliminated from the state statute draft unless it serves another purpose.
4. *State Anti-Discrimination in Health Care Insurance:* The board requested Legislative Legal determine the feasibility of adding pharmacists and pharmacies to the providers list in Alaska Insurance Code in AS 21.36.090(d). The intention is to include this content in the same bill, as previously discussed.

Medical Gasses: The board received the NABP Model Rules for the regulation of Medical Gas Suppliers. Ms. Vellucci stated they were provided in order to demonstrate the option of regulating vendors of only medical gasses separately, as opposed to including them in the regulations for wholesale drug distributors, as is currently done for instate wholesalers. A brief discussion occurred and the topic was then tabled until statutes are in place and regulations need to be developed. Ms. Vellucci agreed to research the extent to which medical gasses are shipped from out of state in the interim.

Agenda Item 10 License Applications

The board reviewed routine license applications.

On a motion duly made by Mr. White, seconded by Mr. Kim, and approved unanimously, it was

**RESOLVED to approve the pharmacist licensing applications for:
William Brown pending passing MPJE score,
Cory Collins pending passing MPJE score,
Joel Phair pending passing MPJE score and OR license verification,
Nathan Temme pending passing MPJE & NAPLEX scores, MT & CO
license verifications, proof of educational intern hours,
Palmer Wetzel pending passing MPJE score.**

On a motion duly made by Mr. White, seconded by Mr. Kim, and approved unanimously, it was

**RESOLVED to approve the Wholesale Distributor License
applications for:
Kodiak Abroad/Kersch,
Seward Ships Ace Hardware & Marine,
Airgas USA, LLC Kenai,
Airgas USA, LLC Fairbanks,
Airgas USA, LLC Anchorage,
Fairbanks Memorial Hospital/Home Medical Equipment**

John Cotter recused himself from the application for Fairbanks Memorial Hospital/Home Medical Equipment.

On a motion duly made by Mr. White, seconded by Ms. DeVito, and approved unanimously, it was

**RESOLVED to approve the instate pharmacy application for
Anchorage Neighborhood Health Center Pharmacy's change of
location.**

On a motion duly made by Mr. White, seconded by Ms. DeVito, and approved unanimously, it was

**RESOLVED to approve the Collaborative Practice Application for
Costco #63, PHAR 341.**

Recess at 5:00 p.m. Reconvene 9:00 a.m. August 24, 2012

Friday August 24, 2012

Call to Order/Roll Call

The meeting was called to order by Dick Holm, Chair, at 9:00 a.m. Those present constituting a quorum of the board were:

John Cotter, R.Ph.
Lori DeVito, R.Ph.
Anne Gruening, Public Member
Dick Holm, R.Ph.
Dirk White, R.Ph.
CJ Kim, R.Ph.

Present from the Division of Corporations, Business and Professional Licensing were:

Mary Kay Vellucci, Licensing Examiner
Brian Howes, PDMP Program Manager & Sr. Investigator
Al Kennedy, Investigator

Agenda Item 12 Review of Agenda

The chair called for changes to the agenda. As noted previously New Business re Electronic License Verifications and Other had been deleted.

On a motion duly made by Mr. White, seconded by Ms. DeVito, and approved unanimously, it was

RESOLVED to approve the agenda as amended.

Agenda Item 10 License Applications (con't.)

The board considered the application for a "Yes" Pharmacy Intern Application.

On a motion duly made by Mr. Kim, seconded by Mr. White, and approved unanimously, it was

RESOLVED to approve the pharmacy intern application for Greta Astrup.

Agenda Item 13 PDMP Update

Brian Howes joined the meeting. He distributed a written report on the status of the PDMP.

Budget: Mr. Howes reported the second grant ends at the end of August. A grant extension request was submitted but there was no official word regarding approval. The Relay Health contract also ends August 31, 2012 with an option to renew for one year.

Multiple users/One DEA#: Users were initially required to have a DEA# or NPI# to register. This created problems for pharmacists, who generally do not have their own DEA# and therefore multiple pharmacists at one facility location have been unable to register to use the database. The problem was resolved when it was found that a manual entry can be made by the program manager using the NPI# as an identifier instead of the DEA#. Mr. Howes will publish further information about this on the board's website.

Delegate Accounts: Mr. Howes stated some physicians were requesting the ability to delegate authority to view PDMP data to their staff. Those physicians have been made aware the prescriber would be responsible for the actions of their staff if regulations to this effect were enacted in the future. The topic was tabled further until the November 2012 meeting.

Compliance with Registration: Mr. Howes stated overall compliance with the program is 75-90%, depending on the license type.

PDMP Interconnect with NABP: Mr. Howes stated a pharmacist in Kodiak told him their community has a large transient population in the seasonal fishing industry and therefore it would be useful to have national data. Another colleague told Mr. Howes it is not uncommon for seasonal out of state tourists to see providers for narcotics in multiple Alaska cities. He added the state of Georgia is inundated with drug seekers because their state PDMP is not yet functional. They are getting traffic that historically went to Florida. The boards' replies were:

Lack of Geographic Necessity: The board acknowledged the comments made by the Alaska colleagues noted above, but still question the necessity of the PDMP Interconnect given Alaska's geographic distance from the lower 48.

Cost: Although there is no charge for the PDMP Interconnect at this time that does not mean it will remain a free service in the future.

Thresholds for Action/Unsolicited Patient Profile Requests: Mr. Howes initiated a conversation about developing thresholds for action from the program staff when a patient appears to be doctor-shopping. An example threshold is that of a

patient who acquires ten prescriptions within thirty days from three or more different prescribers. Mr. Howes was asked by the chair to distribute lists of thresholds from other states at the November meeting. The chair added an hour should be set aside at the November meeting for this purpose. Mr. Howes provided a copy of a letter used by the Louisiana Board of Pharmacy to inform prescribers when one of their patients appears to be obtaining controlled substance prescriptions from multiple prescribers.

Annual Report to the Legislature: Mr. Howes stated this report, in draft form, will be made available for board review during the November, 2012 meeting.

NCAAD Inquiry: The board reviewed an inquiry from the Juneau National Council on Alcohol and Drug Dependence. They requested permission to access the PDMP database. The board agreed there is no statutory authority to release the data to them.

Mr. Howes was informed the regulations regarding a patient's ability to contest data provided by the PDMP and the patient's appeal rights were adopted by the board.

Agenda Item 14 Public Comments

The chair called for Public Comments, hearing none.

Break, off record at 9:50 a.m.

On record at 10:00 a.m.

Agenda Item 14 Investigations

Al Kennedy joined the meeting.

On a motion duly made by Mr. White, seconded by Mr. Kim, and approved unanimously, it was

RESOLVED to go into Executive Session in accordance with AS 44.62.310 (c) (2).

Investigator and board staff to stay.

Off record at 10:00 a.m.

On record at 10:10 a.m.

Probation Report: The board reviewed the probation report prepared by Investigator Jeff Townsend.

Investigative Report: The board then reviewed the Investigative Report, prepared by Mr. Kennedy. The Division opened 36 files, closed 41 Pharmacy Board matters and has seven open investigations.

Compliance Inspection: Mr. Kennedy reported on a compliance inspection at Geneva Woods, requested by the board in May, in response to apparent delays in transmitting patient information for prescription transfer. Mr. Kennedy found the pharmacy enters into a three-way contract with the physician and patient. They said the delay was due to the time involved in communicating with the three existing contract members. The patients were not going without their prescribed meds. The chair stated the patients should not be required to accept a weekly med-pack that was prepared in advance of a completed transfer. These medications should be returned to stock. The board recommended Geneva Woods improve their initial communication with the new pharmacy so the time frame and circumstances are clear at the outset.

Public Posting of Disciplinary Actions: Prior to the meeting, board members asked the investigator to research the option of publicly posting consent agreements and other disciplinary actions of the board. Mr. Kennedy informed the board most other Alaska professional licensing boards, including the Medical Board, already post this disciplinary information. The chair stated, and other agreed, this as a safety issue for the general public. Further discussion occurred. Ms. Vellucci was asked to research how this is accomplished at the division.

On a motion duly made by Mr. White, seconded by Mr. Kim, and approved unanimously, it was

RESOLVED to publish the final disciplinary records of licensees on the Board of Pharmacy website.

Agenda Item 10 **License Applications (con't.)**

The board reviewed a non-routine pharmacy technician license application.

On a motion duly made by Mr. White, seconded by Mr. Kim, and approved unanimously, it was

RESOLVED to approve the pharmacy technician license application for Crystal Tobuk.

On a motion duly made by Mr. White, seconded by Mr. Kim, and approved unanimously, it was

RESOLVED to go into Executive Session in accordance with AS 44.62.310 (c) (2).

Board staff to remain.
Off record at 10:50 a.m.
On record at 11:30 a.m.

On a motion duly made by Mr. White, seconded by Mr. Kim, and approved unanimously, it was

RESOLVED to table the pharmacy technician application for Edward Becker, pending an AG opinion regarding licensing a pharmacy technician with this felony record.

On a motion duly made by Mr. White, seconded by Ms. Gruening, and approved unanimously, it was

RESOLVED to approve the Drug Room application for Creekside Surgery Center.

On a motion duly made by Mr. White, seconded by Mr. Cotter, and approved unanimously, it was

RESOLVED to approve the Out of State Pharmacy Applications for Exactus Pharmacy Solutions and Mandells Clinical Pharmacy.

The board then reviewed the training materials and certifications requested during the May, 2012 meeting from Carlile Logistics/B.Braun Medical. They were satisfied with the contents.

Ms. DeVito left the meeting.

Agenda Items 17 Office Business

Future board meetings were confirmed as November 15-16, 2012 in Anchorage, Room 1270 of the Atwood Building; February 21-22, 2012 in Juneau, Conference Room A of the State Office Building; May 23-24, 2012 in Anchorage, Room 1270 of the Atwood Building.

Wall Certificates and Travel Authorizations were signed. The chair called for other immediate business, hearing none.

On a motion duly made by Mr. White, seconded by Mr. Kim, and approved unanimously, it was

RESOLVED to adjourn the meeting.

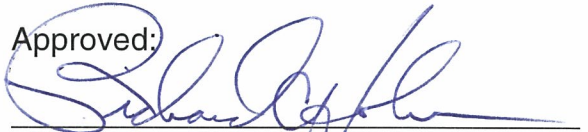
Off the record at 11:50 a.m.

Respectfully Submitted:

 11-15-12

Mary Kay Vellucci, Licensing Examiner

Approved:



Dick Holm, R. Ph., Chair

Date: 11-15-12.