

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

ALASKA STATE BOARD OF PHARMACY

MINUTES OF TELECONFERENCE MEETING

January 7, 2011

These 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.

By authority of AS 08.01.070(1) and in compliance with the provision of AS 44.62, Article 6, a teleconference meeting of the Board of Pharmacy was held on January 7, 2011. This purpose of the meeting was quasi judicial.

The meeting was called to order by Dick Holm at 1:14 pm.

Those present constituting a quorum of the board, were:

Richard (Dick) Holm, RPh., Chair
Leah Handley, Public Member
Anne Gruening, Public Member
Christopher Kim, RPh.

Absent:

Dirk White, RPh.
Mary Mundell, RPh.

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

Don Habeger, Director of Corporations, Business and Professional Licensing
Quentin Warren, Chief Investigator
Gary Keiser, Investigator
Mary Kay Vellucci, Licensing Examiner

Present from Attorney General's Office:

Dan Branch, Assistant Attorney General

Agenda Item 1 **Aetna Specialty Pharmacy, LLC**: Case no. 2010-000673, License number PHAO 653

This pharmacy's out of state license was denied by the Board of Pharmacy during the October 8, 2010 teleconference. Aetna requested an administrative hearing to appeal the denial. Subsequently, a Consent Agreement was created between Aetna and the Division of Corporations, Business and Professional Licensing. It was signed December 30, 2010 and routed to Board of Pharmacy members on January 3, 2011.

There was brief discussion about the legal procedures for quasi judicial meetings and the parameters for Executive Session.

Mr. Branch was asked to provide a summary of relevant points to the board. They are as follows:

- Aetna contracted with an out of state pharmacy to fulfill their obligations to Alaskans since their license expired on June 30, 2010.
- The Consent Agreement contains a ten-month period of inactive licensure in Alaska. This should be a significant deterrent to future violations.
- The Corrective Plan of Action also contains steps to deter future violations.
- Aetna will have to report these events on their SEC filing. Because of this, there will be a record outside of this proceeding.

Ms. Handley requested clarification on the following text in the Consent Agreement:

1. Page two, line four: The word “may” is out of context. Mr. Branch stated this word should be deleted from the Consent Agreement.
2. Page two, line ten: It appears there should be additional text after the word “adverse.” Mr. Branch stated this should read “...on which it falsely answered a question asking whether certain agents had been the subject of licensing suspension, revocation or adverse *licensing action*...”
3. Page three, lines 24–26: “Respondent must keep the Board apprised of any adverse licensure action taken against it in any state or jurisdiction where it does business, provided that the action is a result of the illegal activities referred to above.” She asked to define the parameters of “*provided that the action is a result of the illegal activities referred to above.*” Her point was to assure Aetna would be obligated to report any and all licensing actions, not only those involving the specific violations reported to the Alaska Board. Mr. Holm agreed this text needed further clarification.

Because the resolution to f #3 above involved a change in the Consent Agreement, Mr. Branch began attempts to contact Mr. Jim Gross, the attorney for Aetna.

The board was then directed to Action Items three and four on the Corrective Action Plan, which also address Ms. Handley’s question. Mr. Holm asked how long the Corrective Action Plan would be in place. Mr. Warren stated it would be in place through the one-year probationary term. The deferral of issuing the license until May 1, 2011 and the one-year probationary period would run consecutively, not concurrently. Therefore, the probationary term would run May 1, 2011 to May 1, 2012 in the current agreement.

Mr. Jim Gross, attorney for Aetna, joined the teleconference at 1:40 pm.

Ms. Handley asked Mr. Gross about the text in page three, lines 24-26, as described above. Ultimately the question was answered to everyone’s satisfaction by the recommendation to delete “...*provided that the action is a result of the illegal activities referred to above*” so the statement would read “Respondent must keep the Board apprised of any adverse licensure action taken against it in any state or jurisdiction where it does business.”

Mr. Gross disclosed four prescriptions inadvertently shipped to Alaska since the license expired on June 30, 2010. He added a detailed letter to the board would follow very soon.

The text on page two, line ten was reviewed while Mr. Gross was present. He agreed the document should read “...adverse *licensing action*...” He also agreed “may” should be stricken from the text on page two, line four.

Mr. Holm asked Mr. Gross his opinion about a longer probationary period. He stated Aetna would be "fine" with an additional six months probation. Beyond that, he would need to first discuss it with his client.

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

RESOLVED to go into executive session in accordance with AS 46.62.310 (c)(2), to discuss the licensing for Aetna Specialty Pharmacy LLC.

Board, Staff and Investigators to remain.

Off record at 1:51 pm.

On record at 2:36 pm.

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

RESOLVED to conditionally accept the Consent Agreement with Aetna Pharmacy LLC with the following two changes:

- 1. Page three, line 18 and 19: Change to "Respondent's license shall be on probation for three (3) years from May 1, 2011 until May 1, 2014."**
- 2. Page three, line 24 and 25: Delete "...provided that the action is a result of the illegal activities referred to above."**

The meeting was adjourned at 2:40 pm.

Mary Kay Vellucci, Licensing Examiner

Approved:

Dick Holm, Chair
Alaska Board of Pharmacy

Date: _____