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
March 1-2, 2007

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 March 1, 2007 at the Atwood Building, 550 West 7th Ave., Suite 1270, and March 2, 2007 at the Captain Cook Hotel, in Anchorage, AK.

Call to Order/Roll Call

The meeting was called to order by Gary Givens, Chair, March 1, 2007 at 9:22 a.m. Those present constituting a quorum of the board, were:

Cindy Bueler, R. Ph.
Gary Givens, R. Ph.
Richard Holm, R. Ph.
Mary Mundell, R. Ph.
Bill Altland, R. Ph.

Leona Oberts was not present at the meeting.

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

Sher Zinn, Licensing Examiner
Susan Winton, Investigator
Jun Maiquis, Regulation Specialist-via telephone
Gayle Horetski-Assistant Attorney General-via telephone

Visitors present:

Ron Miller, R. Ph.
Terry Marquart, DEA- Agenda item 5
Nelson Cohen, US Attorney-Agenda item 5
Ken Whittemore, Surescripts-Agenda item 5-via telephone

Agenda Item 1 **Review of Agenda**

The board approved the agenda:

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

RESOLVED to approve the agenda as written.

Agenda Item 2 **Ethics**

There were no ethics violations to report. Mr. Holm noted he had received a phone call from the manager of McKesson. The manager wanted to set up a teleconference with the western division to discuss wholesale distributor licensing regulations. Mr. Holm told him he would need to discuss any regulations with the board at a public noticed meeting. Mr. Givens also noted he had received a similar phone call message and had returned the call but did not speak with anyone.

Agenda Item 3 **Review of Minutes**

The board reviewed the minutes for the September 28-29, 2006 meeting and the January 29, 2007 teleconference. No changes were made.

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

RESOLVED to approve the minutes of the September 28-29, 2006 meeting as written.

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

RESOLVED to approve the minutes of the January 29, 2007 teleconference as written.

Agenda item 4 **Goals and Objectives**

1. The board will continue to educate licensees regarding the Pharmacy Practice Act and Pharmacy regulations.

2. The board will continue to provide input and comment on any proposed legislation/regulations involving medications or pharmaceutical care.

3. The board will continue to promote effective patient counseling by licensees.

4. The board will continue to assess and evaluate the Multi-State Pharmacy Jurisprudence Examination (MPJE).

5. The board will continue to assess and evaluate the jurisprudence practice exam and its effectiveness as a learning tool for interns.

6. The board will continue to assess and evaluate the licensing of pharmacy technicians.

7. The board will continue their affiliation with NABP and send one board member to the District VII NABP meeting and two members to the annual NABP meeting. The Division's budget currently allows one out-of-state travel per fiscal year; this is generally used for attendance at the District VII NABP meeting.

8. The board will continue to evaluate the need for regulations specific to facility activities (i.e.; retail pharmacies, drug rooms, institutional pharmacies, home infusion pharmacies, nuclear pharmacies, remote sites, sterile products, etc.).

9. The board will continue to evaluate regulations regarding the electronic transmission of prescriptions.

10. The board will continue to evaluate regulations regarding collaborative practice and to establish procedures for reviewing/approving appropriate protocols for collaborative practice.

11. The board will assess and evaluate the growing public concern regarding abuse of prescription drugs.

Agenda Item 5 **New Business**

Ken Whittemore from Surescripts joined the meeting via telephone to discuss logistics of e-prescribing. Mr. Whittemore told the board that his company is not a vendor for e-prescribing systems, but works as a hook up to approximately 80 vendors. Surescripts systems function similar to an ATM network that connects all the banks and ATM machines. Surescripts does not have a technology that they sell but connect approximately 80 e-prescribing vendors on the physicians side to 50 or 60 vendors on the pharmacy side. Mr. Holm asked Mr. Whittemore what in the board's current regulations would be a problem for the e-prescribing system. Mr. Whittemore noted 12 AAC 52.490(b), which states "A pharmacist may dispense a prescription drug order that the pharmacist has received by facsimile or digital electronic transmittal only when the prescription drug order is transmitted directly to a pharmacy by a prescribing practitioner or the prescribing practitioner's agent". The question is what is meant by directly. An organization like Surecripts takes the prescription from the physician, along secure transmission lines, passes it onto the pharmacy without altering the prescription in the process, some believe it meets the "direct" definition, others do not. It's very rare for an actual electronic prescription to go from a prescriber to a

pharmacy without having gone through one or two nodes. It might be possible via facsimile if it went directly from the prescriber's office over the phone lines to the pharmacy fax machine. But in the electronic realm, he is not aware of any that are "direct" in the literal sense. Surecripts has a rigorous certification process that vendors on both the prescribers side and the pharmacy side must comply with before they can link up with the Surescripts network. A lot has to do with the way the messages are formatted and what kind of security is used to get the prescription messages to them. The prescriber sends the prescription to their vender, in turn the vendor sends the prescription to Surecripts which verifies the information on the prescription and sends to the pharmacy in a format verifying the prescription is in compliance with the states pharmacy regulations or laws. He further noted if a required part of the prescription is not entered on the prescription, the prescription is then sent back to the prescriber to complete the required information. Ms. Mundell asked how long this process takes. Mr. Whittemore stated it takes minutes and should be completed before the patient has left the physician's office. The process saves time for the pharmacy and the prescriber, therefore is "very attractive" to the pharmacy. Ms. Bueler asked who would pay for the service. Mr. Whittemore stated for the most part it is driven by the transaction charges on the pharmacies side. The physicians do have costs for the basic technology and typically have monthly fees. On the pharmacy side it is usually a transaction fee. Mr. Altland asked about controlled drugs rules. Mr. Whittemore stated at this point controlled drugs are not allowed to be transmitted in an electronic format. They have been discussing this with the DEA and they realize they need to adopt rules to allow this. They do notify vendors they are not allowed to send controlled substance prescriptions electronically. Mr. Whittemore also noted that they would in the future look into the ability of sending patient medication history information to prescribers and to pharmacists. He stated that they first became aware of the idea after Hurricane Katrina. The presciber would be able to ask Surescripts to send a medication history for a patient using the data they collected on what medications had been dispensed to a particular patient. This would also be important to a pharmacist in the case of medication therapy management and medication reconciliation in the institutional setting. They would also look into the ability to send information back to the prescriber, notifying them that the prescription had been filled. Mr. Givens and Ms. Bueler thanked Mr. Whittemore for joining the meeting and clarifying e-prescribing.

Ms. Zinn also noted that she had e-mailed Mr. Whittemore regarding electronic signatures. Mr. Whittemore stated in the e-mail that the e-signature is a process not an actual signature. The pharmacist will not actually see a signature but know the prescription is valid because it came through a secure network. Ms. Zinn further noted that according to the data processing staff, an e-signature is used when a person logs into a system with their user name or ID and a password. However, if the physician gives the user ID and password to an agent, that person would have access to that system. Ms. Zinn stated that she had received two or three phone calls regarding this and had told the pharmacists if they were not sure the prescription was valid, to verify by calling the physicians office as with other prescriptions.

Nelson Cohen from the United States Attorney's office in Alaska joined the meeting. Terry Marquardt from the DEA was also in attendance. Mr. Cohen gave a presentation to the board regarding methamphetamine use and Schedule II drugs. Mr. Cohen noted there was a survey done nationally, and the perception across the country is that methamphetamine use is the largest problem regarding drug abuse in the United States. In another survey done locally, methamphetamine use is highest among Alaska natives. Drug enforcement is the number three priority. The only other issues more important than methamphetamine drug use to the United States Department of Justice are terrorism and gangs. What helped the methamphetamine drug use issue was the "Combat Methamphetamine Act of 2005" requiring pseudoephedrine, ephedrine and phenylpropanolamine to be placed behind the pharmacy counter, limits of sale to an individual to a daily amount if 3.6 grams, monthly limitations and requirements for pharmacy staff to be trained and self-certified with notification to the Attorney General. The law also requires log books to be kept for a minimum of two years. The consequence of the initiative showed that in 2004 the number of seizures of mid-sized labs went from 10,000 to 2000 in the latter part of 2006. Mr. Cohen further noted that the drop in seizures of superlabs was down to 17 in 2006. Mr. Holm asked what was considered a superlab. Mr. Cohen stated it is a subjective term. When the law enforcement officer responded to the survey they were instructed to note if it was a small, mid-size or superlab. Most superlabs make enough meth not just for their own community, but enough to distribute outside of their region. Mr. Cohen then noted the number of meth lab seizures inside Alaska in 2004 was 67, in 2006 the number dropped to five. There have not been any meth lab seizures in Alaska during the first part of 2007. Mr. Cohen stated the reason the seizures had dropped dramatically in Alaska was that the pharmacies and pharmacists on their own limited the amount of pseudoephedrine cold tablets to be purchased by an individual to three boxes. Help also came when the Federal Law took effect last year. Mr. Cohen further noted that great credit goes to the pharmacy profession in the state and the cooperation between law enforcement and pharmacies for the decrease in meth labs. The problem now is that the superlabs have moved to Mexico and now meth is being sent to the United States via the Mexico border.

Mr. Cohen spoke regarding schedule II controlled substances. He wanted to share his concern with the board in that opportunities may be missed to do a better job policing the way C II's are dispensed. One idea in particular was to obtain the thumbprint of the person obtaining the schedule II drug by using a sticky substance where the print could not be smudged and attach it to the prescription. Mr. Cohen noted it would be helpful to track abuse of scheduled substances if each pharmacy was connected electronically to a central server. Mr. Altland noted that a few years ago the board had tried to get prescription monitoring legislation to do so but there was no backing by the legislature. Mr. Altland further noted that the Department of Justice has grants to help get a system started. Mr. Givens noted that if it was implemented correctly, it would be helpful. The board agreed the prescription monitoring system would have to be real time. Mr. Cohen noted the fingerprint would be helpful in prosecuting cases,

but the prescription monitoring would be helpful to stop the problem "before it gets out the door", and would be a tremendous deterrent tool. Mr. Givens thanked Mr. Cohen for the presentation to the board.

Ms. Bueler asked Mr. Marquart about the telepharmacy regulation requiring the drugs to be sent from the central pharmacy to the remote pharmacy. She noted that Ron Miller had explained to the board at the last meeting that the DEA said the central pharmacy must obtain a wholesale distributor license if the drugs were to come from the central pharmacy. Mr. Marquardt stated the issue is not unique to Alaska and that it is in policy and liaison in the DEA. Ms. Bueler noted that the board at this point would not need to change the regulation until they get direction from the DEA.

Break

Off the record at 11:12 a.m.
Back on the record at 11:23 a.m.

Ms. Mundell left the meeting at 11:12 a.m.
Ms. Mundell returned at 11:30 a.m.

Agenda Item 7 **Regulations**

Gayle Horetski, Assistant Attorney General and Jun Maiquis, Regulations Specialist joined the meeting to discuss the pharmacist licensing application regulations. The regulations had been adopted by the board at the last meeting, but needed to be re-written. The regulations are before the board to be re-adopted as amended. Ms. Horetski outlined the changes to the board and noted that the intent of the previous adopted regulation had not changed, but only the format in which it was written. On page one of the proposed regulations, 12 AAC 52.070 would be repealed and readopted with a new title "Application for pharmacist license by examination". She noted that there was an addition to the application to be in compliance with AS 08.80.110, requiring the applicant to be fluent in reading, writing, and speaking of the English language, 12 AAC 52.090(d) would be repealed and readopted to read, "An applicant for licensure by examination must submit an application under 12 AAC 52.070 and be approved under 12 AAC 52.092 before sitting for examination under this section". Ms. Horetski noted that this would not give the licensing examiner the authority to issue a license, only to sit for the exam. The board would decide on the issuance of the license as they currently do. A new section would be added to read, 12 AAC 52.092, Approval to sit for examination. (a) an applicant for licensure by examination under 12 AAC 52.070 who has submitted documents that meet the requirements on the checklist set out in (b) of this section may be approved to sit for the North American Pharmacy licensing Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Examination (MPJE) required under 12 AAC 52.090. An applicant whose application documents do not clearly meet the requirements set out in (b) of this section will not be approved to sit for the NAPLEX or MPJE unless the board further reviews the application and

determines that the applicant meets the requirements of AS 08.80.110, AS 08.80 116, and 12 AAC 52.070. A checklist regulation is in (b) of the section which the applicant must meet to be eligible to sit for the exams. A new section, 12 AAC 52.095, was added for the application licensing requirements for pharmacists being licensed by reciprocity. Ms. Horetski noted that (b) was added to be in compliance with AS 08.80.145, "If another jurisdiction allows licensure in that jurisdiction of a pharmacist licensed in this state under conditions similar to those in this section, the board may license as a pharmacist in this state a person licensed as a pharmacist in the other jurisdiction if the person….. Ms. Horetski contacted Ms. Zinn the previous day to determine how the board made that decision. Ms. Zinn noted that a state that is a member of the NABP has similar licensing rules as all states who are members of the NABP must adopt similar licensing regulations based on the NABP Model Rules. Ms. Horetski asked the board if indeed this was the case. Ms. Bueler stated that yes that is the case, unless the applicant is coming from a jurisdiction that is not a member of the NABP. Ms. Horetski noted that perhaps they would need to put language in that section in the case a person is being licensed by reciprocity from another jurisdiction that is not a member of the NABP, showing that jurisdiction has the same licensing requirements. Ms. Horetski noted that the language regarding "score transfer" was taken out because it is a subset of licensure by exam and already is included in 12 AAC 52.090(c). Ms. Zinn noted that in the previous drafted regulations, the requirement for a foreign pharmacy graduate to submit "certified true copies of the original" of the diploma showing the pharmacy degree and the Foreign Pharmacy Graduate Examination Certificate were included in the licensing regulations, but are not included in this draft. Ms. Horetski stated that it was in the last draft but didn't know if those needed to come as a separate item or stay with the licensing application requirements. She stated that they could be added and she will re-draft to include those requirements to state that the person could meet either A if they graduated from a program in the United States, or B if they graduated from a foreign pharmacy school. The requirement would be included in both 12 AAC 52.070 and 52.095. Ms. Horetski noted that 12 AAC 52.095(b) would also be amended to add language that allows a pharmacist from another jurisdiction that is not a member of the NABP, to establish equivalent licensure requirements were met in that state and cite the wording from AS 08.80.145. Mr. Altland asked Mr. Horetski if the two affidavits of moral character required could be from non-family members only. Ms. Horetski stated that the statute says "two affidavits from reputable citizens that the applicant has known for at least one year". The board could define "reputable citizens" but could not disallow family members. The statute could be amended, but the board is bound by the "awkward language" that appears there. Ms. Horetski said she would re-draft the changes and get the copy back to the board that afternoon. After review by the board, they could vote to re-adopt the regulation changes.

Mr. Givens left the meeting at 11:52.
Mr. Givens returned at 11:55

Ms. Zinn told the board that Mr. Maiquis did not have the wholesale distributor regulations draft complete for the meeting, but if the board would like, they could either hold a teleconference before the next meeting or wait until the May meeting to discuss. The board determined that the meeting in May would be fine to discuss the draft regulations.

Lunch Break-off the record at 12:02
On the record at 12:50

Agenda Item 6 **Investigative Report**

Susan Winton, investigator, joined the meeting to give the investigative report. Ms. Winton outlined the open and closed cases. The board reviewed the information for a Wholesale Distributor license renewal. The renewal showed a new pharmacy manager and fingerprint cards were submitted to the Department of Public Safety. The returned report showed there was a conviction in Nevada for the new manager. The board decided not to take any further action on the information since the questions on the renewal application were answered correctly and the conviction was a misdemeanor.

Mr. Holm returned to the meeting from the lunch break at 12:54.

Agenda Item 7 **Regulations**

The board discussed the draft regulations for e-prescribing. Ms. Zinn noted that on page three of the draft regulations, 12 AAC 52.490(2), the wording "or the prescribing practitioner's agent" must be deleted to be in compliance with Federal law. The board agreed that the agent may only do so if the prescription is given to the pharmacy verbally. The board reviewed the Nevada and Wyoming regulations that were included in the board packet. After review of the draft regulations and discussion, the board made the following changes:

Page 3 of the draft-
12 AAC 52.490 (a) would be changed to "Except for prescription information regarding a Schedule II drug, legend drug and controlled substance prescriptions may be transmitted by electronic transmission under this section, consistent with state and federal laws. A pharmacist may dispense a prescription drug order transmitted by electronic transmission of prescription information under this section only if the prescribing practitioner includes the following information on the prescription drug order before it is transmitted:
Delete from (2)- "or the prescribing practitioner's agent"
Delete all of (4), (5) would become (4),
Delete from the new (4)(b)-"only when the prescription drug order is transmitted directly to a pharmacy by a prescribing practitioner or the prescribing practitioner's agent.

Page 4-
In (4)(c)- delete “A” and add “The pharmacy”, delete “contain policies and procedures that”
Page 5-
Delete from (7) -“have policies and procedures that” and after the ; “all pharmacy employees and agents of the pharmacy are required to read, sign and comply with the policy and procedures. (7) would read “each pharmacy must ensure the integrity and confidentiality of patient information transmitted electronically as required by this chapter and federal law.
After (7), the (e) should be (d)
Page 6-
Delete from (D)-“using media such as magnetic tape, removable drives, or compact disc media”.

Ms. Zinn noted that other housekeeping regulations were added to the draft. The NABP scores the MPJE exam with a “scaled score”, while current regulations state percentage. Therefore changes were made to 12 AAC 52.090(a)(2), (b) and 12 AAC 42.100(a)(6), 12 AAC 52.110(a)(4), changing “percent” to “scaled” to be in compliance with the NABP scoring process. Also changes were made to 12 AAC 52.340(a)(1), 12 AAC 52.350(e)(3) and 12 AAC 52.995(a)(3). The word “approved provider” was changed to “accredited provider” to be in compliance with wording the ACPE uses. Ms. Zinn also noted that in addition to the changes in the draft, 12 AAC 995(2) would need to be changed to “approved or accredited provider” from “approved provider”.

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

> **RESOLVED to send the revised draft regulation package out for public comment, to include 12 AAC 52.090, 52.100, 52.110, 52.340, 52.350, 52.490, 52.995.**

Break, off the record at 2:31 p.m.
On the record at 2:42

The board discussed a definition for remote pharmacy. Ms. Zinn gave the board a copy of an e-mail from Kay Houghton, a pharmacist from Valdez. Ms. Houghton was concerned that the board would allow a remote pharmacy in a community that already had retail pharmacy services. Mr. Givens gave background on the discussion during the regulation process for remote pharmacies. The board had initially put a 10 mile radius in the regulation based on Texas regulations for telepharmacy. Other states including North Dakota, Washington and Wyoming, with telepharmacy regulations, also had a mileage rule. The board reviewed the public comment on the proposed regulations and noted there was opposition to the 10 mile rule. The board at that point took out the 10 mile rule. The issue is now before the board because a retail pharmacy would like to have a remote pharmacy in a community with three other retail pharmacies. The intent of the board for a remote pharmacy was to allow

pharmacy access to communities without a pharmacy, not for staffing issues. Mr. Altland noted that what is best for the patient is what the board should be looking at. Mr. Givens stated it would be hard to define what an underserved community is. Maybe the board could work on the issue of communities without a pharmacy now and then look at working on the issue of understaffed communities at a later meeting. Mr. Holm stated the board has to look at what could be an issue. If the board allows a pharmacy to open up a remote pharmacy to address shortage of staff, what stops XYZ pharmacy from coming in and opening up remote pharmacies in Craig and Valdez. What is best for the community, a remote pharmacy that has put a pharmacy out of business leaving the community without a pharmacist, or having a pharmacist in the community. "That is the can of worms that could be opened up." Mr. Holm then stated that the board should take up the issue of defining a remote pharmacy by putting in a radius. If staffing issues become a problem, take up the issue in a separate regulation. Mr. Givens stated that the 10 mile radius was in the regulation before consideration of public comment, the board should put it back in. Ms. Mundell stated the board should put the 10 mile radius in now and at the next meeting, discuss underserved areas and staffing issues. Ms. Bueler thought that if the board could limit it to 10 miles, why not 20 miles.

The board decided to add to 12 AAC 52.425(c), "at least 10 miles from a licensed pharmacy". Ms. Zinn stated it would go to the regulation specialist to be drafted for the board's review at the next meeting.

The board discussed workload balancing. The board tabled the discussion from the last meeting. Ms. Bueler noted that the board has had this issue before them for at least a year with different circumstances. She stated that if the pharmacy or institution reviewing the order is out of the state, the pharmacy should be licensed, if it is a pharmacist outside of the state working alone, the pharmacist should be licensed. An example would be if Wal-Mart wanted Mary Mundell to review the order from her home, who would be licensed, Wal-Mart or Mary Mundell? What if Mary was outside of the state?

The board reviewed the request to add the ExCPT examination to the continuing education regulations. Mr. Givens said he was hesitant to do so since Mr. Schafermeyer had not sent the information the NABP had requested as noted in the letter under correspondence from the NABP. The board decided to wait until the NABP had made a determination that the certification was equivalent to the PTCB certification. The board also decided that they would not continue adding specific names to the current continuing regulations, but add "or other certifications deemed equivalent by the board".

The board revisited the remote application for Ketchikan Remote Pharmacy. The application was tabled at the September meeting to be reviewed again at a later meeting.

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

RESOLVED to table the application for Ketchikan Remote Pharmacy until the next meeting.

The board reviewed the continuing education audits for Mary Mundell and Richard Holm. Since Ms. Mundell and Mr. Holm were both audited and are on the board, they are not allowed to vote on the approval of the audit. Both audits were reviewed by the board and voted on separately.

On a motion duly made by Ms. Bueler, seconded by Mr. Holm, and approved by roll call vote, it was

RESOLVED to accept the CE audit for Mary Mundell.

Vote: Yeas-Altland, Bueler, Givens, Holm
Abstention: Mundell

On a motion duly made by Ms. Bueler, seconded by Mr. Altland, and approved by roll call vote, it was

RESOLVED to accept the CE audit for Dick Holm.

Vote: Yeas-Altland, Bueler, Givens, Mundell
Abstention: Holm

Mr. Holm left the room at 3:57 p.m. and returned at 4:00 p.m.

The board revisited the workload balancing discussion. The board included in the discussion, central processing, central fill and remote review. Ms. Bueler noted the workload balancing information in the board packet. Arizona regulations refer to it as shared services, while Indiana, Michigan and Wyoming refer to it as central processing. Mr. Givens stated that central fill could mean data processing or filling of the prescription. He further stated the board should look at the states regulations included in the board packet, and choose which ones would work for each topic. Ms. Bueler stated that shared services might be the way to go since it included cognitive services and central fill. The board decided they would review the Arizona regulations and take what they wanted in those regulations and put into Alaska regulations. The board decided to change Shared Services to Shared Pharmacy Services wherever the phrase was used.

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

RESOLVED to send the Arizona Shared Services regulations to the regulation specialist to draft for the next meeting with the following changes: Shared Services would be changed to Shared Pharmacy Services.

The board reviewed the second draft of the pharmacist licensing requirements and voted to re-adopt the regulations. The following changes were made to the draft regulations that were reviewed earlier in the day: "a certified copy of the original pharmacy school diploma issued to the applicant, and" was added under 52.070(4)(B)(i), 52.092(4)(B)(i) and 52.095(4)(B)(i), "An applicant for licensure under this section must show that the licensing jurisdiction where the applicant is licensed as a pharmacist allows licensure in that jurisdiction of a pharmacist licensed in this state under conditions similar to those in AS 08.80.145", were added to 12 AAC 52.095(b).

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

RESOLVED to re-adopt the proposed regulations 12 AAC 52.070, 52.090, 52.092 and 52.095 as amended.

Mr. Givens signed the re-adoption order.

On a motion duly made by Ms. Mundell, seconded by Ms. Bueler, and approved unanimously, it was

RESOLVED to recess until March 2, 2007 at 9:00 a.m.

Off the record at 4:27 p.m.

Friday March 2, 2007

Call to Order/Roll Call

The meeting was called to order by Mary Mundell, Vice-Chair, March 2, 2007, at 9:03 a.m. Those present constituting a quorum of the board were:

Cindy Bueler, R. Ph.
William Altland, R. Ph.
Richard Holm, R. Ph.
Mary Mundell, R. Ph.

Gary Givens and Leona Oberts were not present at the meeting.

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

Sher Zinn, Licensing Examiner

Visitors present were:

Doug Sapp, Cardinal Health
Roger Penrod
Dave Campana, DHCS
Ed Bako, DHCS
Robert Boyle
Nancy Davis, AkPha
Ron Miller, Safeway
Julie Pritchard, AkPha
Robert Young
Stacy Allen, Laborers Local 341
Barry Christensen, AkPha
Major Heather Jones, USAF MC-Agenda Item 17
Michael Schnarr-Agenda Item 17

Agenda Item 11 **Review of Agenda**

The board reviewed the agenda. Ms. Mundell noted the board did not discuss Will-Call bins during the regulation discussion the previous day. The board would discuss after the CE Audit Review.

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

RESOLVED to approve the agenda with the noted change.

Agenda Item 12 **Public Comment**

Roger Penrod from Fairbanks Professional Pharmacy joined the meeting for public comment. Mr. Penrod stated the reason he was speaking was because he had an objection to the question on the pharmacist renewal application asking if the licensee had been treated for depression. He stated it was an invasion of his privacy. Ms. Bueler noted that the question was added to bring the pharmacist renewal application questions in-line with other health care board renewals, including medical and dental. It was not initiated by an individual, but by the division. Mr. Penrod also noted he was licensed in three other states and none of them ask that question.

Dave Campana from the Division of Health Care Services joined the public comment. Mr. Campana wanted to address the board regarding pharmacy claim submission for Medicaid. He noted while reviewing the audits for pharmacy claims for Medicaid services, incorrect information is sometimes provided, such as the presciber ID number. Any intervention letter sent by Medicaid would be sent to the wrong prescriber, a potential HIPPA violation. Another problem is when a patient comes in with a prescription from a new provider and the pharmacy fills the refill prescription using the old provider. There may have been a dosage change with the prescriber change. Ms. Mundell stated that one situation may be when a patient has a new prescription from a new provider but still has refills left from the previous presciber and asks to have the refills filled first before the new prescription is filled. Mr. Campana stated that the pharmacist needs to look at the new prescription for medication changes. If the patient is under the care of a new physician, the new prescription should be used. He would like the board to look at the problem and put into the board's newsletter. He also noted their regulations require the right prescriber to be on the prescription. He stated the National Provider Identification number needs to be put on the prescription for third party billing purposes. The date for the turnover to the NPI is 5/23/2007. In the near future they would be enrolling physician assistants. They would then have to obtain an NPI which would eliminate some of the problems with the prescriber ID. Currently most nurse practitioners do not have a prescriber ID and the new NPI would force them to obtain one. In the NPI regulations, there is a no dissemination clause which does not allow them to send to the pharmacies a list of the prescribers and the NPI numbers, therefore the pharmacies would need to obtain the NPI from each prescriber. They have asked the Centers for Medicare and Medicaid Services permission to do so, but as of this date they have not heard when that may happen. Ms. Mundell asked Mr. Campana if the board could send a letter to CMS asking them to allow the dissemination of the provider and NPI numbers, perhaps that would help speed the process. Mr. Campana said he would get the contact information for mailing of a letter.

Barry Christensen, pharmacist from Ketchikan and co-chair of AkPha, joined public comment. He stated that the e-prescribing regulations were a priority for many of the members of the association. Ms. Bueler noted the board had worked on e-prescribing regulations at the previous meeting. After speaking with Mr. Whittemore from Surescripts the previous day, the board worked again on the regulations and will be sending the draft e-prescribing regulations out for public comment. The regulations may be back to the board by the May meeting for adoption. If so, the regulations would go into effect in July or August. Mr. Christensen thanked the board for holding their meeting in conjunction with the Alaska Pharmacists Association convention. It gives pharmacists a chance to speak to the board about their concerns. He noted Bill Altland had come up with the idea several years prior. Mr. Christensen asked the board how they would prefer the chain of communication with pharmacists. Ms. Mundell stated everything needs to go through Sher Zinn, the licensing examiner. Ms. Zinn stated once she receives a request, she would forward the information onto the appropriate board members if it is a simple question. She would then respond to the inquiry. Ms. Bueler noted that if it was something that needs to be addressed by the whole board, the person would send a letter to Ms. Zinn and the request would be included in the next meetings board packet for review by the board. Ms. Bueler noted that when the board needs to address something with the pharmacy community, it would be put into the board newsletter which is posted on the NABP website. The same information is also included in the board news for the AkPha Newsletter. She further noted that contact information is included in the newsletter and would try to make it more clear in the next newsletter. Mr. Christensen asked if the board thought e-mailing the board newsletter to all licensees would be a viable way to get out the newsletter. Ms. Bueler noted that when the division advised the board the newsletter would no longer be mailed, they had worked with Nancy Davis to get an e-mail list of all association members, but that would not have included anyone who was not a member. Mr. Christensen asked Ms. Bueler if the board could send out the newsletter as Washington does, by using the e-mail contact for each licensee. Ms. Zinn noted that a list-serve could be used e-mailing the link to NABP where the newsletter is found on the web. She further stated that since the board had a contract with NABP to publish the newsletter, she was not sure the board could send out the actual newsletter itself. Nancy Davis stated she could put the newsletter on the front page of the association's web page and could e-mail the newsletter to pharmacies stating they could print it and post in the pharmacy for employees.

Julie Pritchard from AkPha joined the discussion to address continuing education issues with the ACPE. Ms. Pritchard addressed her letter to the board that was given to them the previous day. She highlighted the changes that ACPE wanted to be in-line with their requirements, such as changing “approved provider” to “accredited provider”. CE, Continuing Education would now be referred to as CPE, Continuing Pharmacy Education. The word “certificate” would be used for certificate courses only. The generic term for continuing education units would be referred to as “statement of credits”. She also noted that the CPE’s would be designated for either pharmacists or technicians. The same presentation may be attended by both groups, but the presenter needs to make sure all objectives are met for both groups in the presentation. The Universal Program Number will now include two more characters. A P or a T would be added to the end of the current numbering system to designate between pharmacist and technician CPE’s. Ms. Pritchard noted AkPha had been approved as an accredited provider for the next six years, providing ACPE recommendations have been instituted. Ms. Bueler thanked Ms. Pritchard for taking on the task for the association and its members.

Ron Miller joined the discussion to address 12 AAC 52.960, Mental or Physical Disabilites. Mr. Miller would like the board to add to the section, a requirement that a physician must certify fitness for duty for the licensee and a procedure on how the certification must be met. He stated that Carrs-Safeway already has that requirement. It is to protect the public by making sure the licensee is fit to practice. A potential regulation would need to include a measurable criteria for professional fitness. Ms. Mundell stated that would be an issue with the employer and the employee. She said that if he could come up with a more definitive way to address it, the board may take up the issue at a future meeting.

Ms. Bueler reiterated for the public, the presentation by Nelson Cohen, United States Attorney from the previous day. She stated that he said e-prescribing may prevent forged and illegal prescriptions, but the lack of paper may make it hard to prosecute people, not knowing who would have been at the computer to relay the prescription. She also noted Mr. Cohen’s compliment regarding pharmacies and pharmacists assisting with the decrease in methamphetamine labs by putting pseudephedrine behind the counter and limiting the amount sold.

Agenda Item 13 **License Application Review**

The board reviewed license applications for pharmacists, pharmacies and out-of-state pharmacies.

Ms. Mundell left the room at 10:09, returned at 10:12.
Mr. Holm left the room at 10:10, returned at 10:12.
Mr. Altland left the room at 10:12, returned at 10:14.

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

RESOLVED to approve the license applications as read into the record.

- Life Extension Pharmacy-Out-of-State pharmacy with a "yes" answer
- Central Peninsula Hospital Pharmacy-retail pharmacy, name change
- James Bratley-pharmacist, pending MPJE passing score
- Brian Holdorf-pharmacist pending MPJE passing score, completed page 2 of the application, verification of licensure from Idaho
- Robert McConaghy-pharmacist, pending MPJE passing score
- Robert Owen-pharmacist, pending Final NABP application for license transfer, MPJE passing score

Agenda item 9 **CE Audit Review**

The board reviewed the CE audits for licensees that were forwarded to Steve Winker, the division's paralegal for further processing.

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

RESOLVED to accept the license surrender of Wanda K. Adams, pharmacist license #1389.

For the record, Ms. Adams lacked six approved continuing education hours to meet the requirements for renewal.

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

RESOLVED to accept the Memorandum of Agreement for Jeannie L. Peabody, pharmacy technician license #267.

For the record, Ms. Peabody was not able to show proof of meeting the continuing education requirements for renewal.

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

> **RESOLVED to accept the Memorandum of Agreement for Dawn Ressa, pharmacy technician license #428.**

For the record, Ms. Ressa was not able to show proof of meeting the continuing education requirements for renewal.

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

> **RESOLVED to accept the Memorandum of Agreement for Antoinette R. Schwinghammer, pharmacy technician license #790.**

For the record, Ms. Schwinghammer was not able to show proof of meeting the continuing education requirements for renewal.

The board reviewed the information for Stephen Blair, pharmacy technician. Mr. Blair was deployed to Iraq and may not return to Alaska until 2008. In accordance with 08.01.100(f), the board may implement a waiver the continuing education requirements for a licensee engaged in active duty military service in the armed forces of the United States.

On a motion duly made by Mr. Altland, seconded by Mr. Holm, and approved unanimously, it was

> **RESOLVED in accordance with AS 08.01.100(f), to waive the continuing education requirements for Stephen Blair, pharmacy technician license #527.**

Ms. Mundell reviewed the CE's for David Thompson, pharmacist license #1055 and Alicia Maus, technician license #1288. Both licensees submitted proof of the CE requirements after Ms. Zinn forwarded the information onto the paralegal for further processing. All hours for both licensees were completed in the correct time frame. Ms. Mundell signed off on both audits.

The board reviewed the general CE audits for pharmacists and technicians.

Break- Off the record at 10:53 a.m.
On the record at 11:18 a.m.

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

RESOLVED to approve the general CE audit for all licensees as listed in the board packet.

Agenda Item 15 **Division Update-Budget Report**

The board reviewed the budget report. Mr. Altland asked if the board had been charged for the attorney generals opinion on licensing of Native Health Facilities. Ms. Zinn stated that the board had been billed for Gayle Horetski to draft an opinion. It is now with the Department of Administration's Administrative Law Judges for review and their opinion. Ms. Zinn also stated she had asked for an update two weeks prior to the meeting. Candy from the DEA had called and asked where the opinion was in the process. The DEA would like to know the outcome to help them enforce the laws. Ms. Horetski checked on the status and had reported it is not done at this time. The board had requested the opinion three years ago and had not received the opinion yet. Ms. Mundell asked Ms. Zinn if in fact they would finalize the opinion. Ms. Zinn stated she did not have contact with the appropriate parties, and could not answer that question. The board asked Ms. Zinn to get an update for the board, where it is in the process and how long before they could expect the opinion, or whether or not it would be done at all. Since the board had already spent a substantial amount of money for Ms. Horetski's part in the process, if it is not to be done, the board would like to know the reasons why.

Agenda Item 16 **Legislative Update**

The board discussed HB 81-Prescription Drug Task Force, and HB 82-Prescription Drug Discount Pricing. The board asked Barry Christensen, from AkPha, where the bills were in the process. Mr. Christensen stated he had contacted their lobbyist yesterday, she had stated both bills had not been scheduled for committees yet. Both bills died in the legislature last session. It was noted CMS was refiguring reimbursement for Medicare and Medicaid for generic drugs. Ms. Mundell stated that bottom line, under proposed changes in Medicare and Medicaid reimbursement rates, the pharmacy would go out of business if they dispensed generic drugs due to the lower reimbursement rate. The reimbursement rate would be 36% below the pharmacies cost of the drug, in Alaska it would be even higher. She also noted that a generic drug is not always the equivalent of a brand drug.

Agenda Item 17 **New Business**

Michael Schnarr, pharmacist and Dr. Heather Jones joined the meeting to ask the board for direction on trying out patient medication therapy management between physicians and pharmacists at Elmendorf Air Force Base, and pharmacists off of the base. Mr. Schnarr noted that Elmendorf has a formulary

that changes all the time. The pharmacy on base does not always have the correct drug available and would like the pharmacist on the base to be able to write a new prescription for the patient to obtain the drug off the base. The prescription for the most part would be for refills for maintenance medication for children. Currently he has to track down the provider to write a new prescription and could take hours. It was noted that Mr. Schnarr had contacted Ms. Zinn several months ago and was notified that without a collaborative practice protocol approved by the board, it would not be lawful. In accordance with current pharmacy regulations, a collaborative practice protocol must be between an Alaska licensed prescribing practitioner and an Alaska licensed pharmacist. It may not be between two pharmacists or between a practitioner that works at a Federal facility not licensed by the State Medical Board, and a pharmacy off of the Federal facility. Mr. Schnarr stated he would like the board to approve a pilot project which would allow him to write a prescription based on a previous prescription by a prescribing practitioner, so the patient may go off base to obtain the medication. Ms. Bueler stated that if current regulations do not allow a particular practice, then the board could not approve the pilot project. Current regulations allow the board to approve a collaborative practice agreement between a licensed pharmacist and a licensed prescribing practitioner only. Ms. Mundell asked if there was a significant amount of patients that this affects. Dr. Jones stated that the formulary changes constantly and therefore happens frequently. After further discussion, it was decided the best way to handle the situation at this time would be for the pharmacist to act as the prescriber's agent, and call in the refill prescription to another pharmacy. In the future, maybe the board could look at a regulation which would allow this type of practice.

Mr. Holm left the room at 12:05 and returned at 12:09.

Agenda Item 18 **Correspondence**

The board reviewed the correspondence.

NABP-September 18, 2006-Aetna Health Management letter-For information only, no action required.

NABP-October 30, 2006-Kenneth Schafermeyer, PhD letter regarding the ExCPT examination-For information only, no action required.

NABP-November 30, 2006-E-News-For information only, no action required.

NABP-November 9, 2006-Disposal of Patient Information-For information only, no action required.

NABP-November 29, 2006-Approval to Accredit Suppliers of Durable Medical Equipment-For information only, no action required.

NABP-December 13, 2006-E-News-For information only, no action required.

NABP-January 25, 2007-VAWD Report of Actions Against Wholesale Distributors and Related Individuals-For information only, no action required.

ACPE-November 1, 2006-ACPE Distribution of ACPE Resolution & Statement-For information only, no action required.

Merck & Co.-Emend Tri-fold Pack-The board reviewed the information and decided it was not a board issue. They should contact Providence Hospital. Ms. Zinn would respond.

Kathy Vieson-Required Pharmacy References-For information only, no action required.

Fred Meyer #018-November 20, 2006-Report of Theft or Loss-For information purposes only, no action required.

Stikine Drug, Stephen Cole, RPh-December 18, 2006-After discussion of the information, the board decided this was a patient safety issue as the physician or the person dispensing the medication, may not be giving patient information or drug interaction information. The board would write a letter to the Medical Board advising them that when medication is dispensed in the Tideline Clinic in Wrangell, the patient may not be getting patient information or drug interaction information and therefore is a patient safety issue.

Theresa Grossklaus-January 16, 2007-Adverse Interaction-For information only, no action required.

ACPE-January 29, 2007-Definition of Continuing Education for the Profession of Pharmacy-For information only, no action required.

Sharon Hamrick-February 2, 2007-Mass Prophylaxis Exercises-The board discussed the request from the Division of Public Health to allow pharmacists to administer influenza vaccines during “mass emergency exercises”. The board decided to approve the request but would require formal immunization training for all pharmacists involved before they may administer vaccines. Ms. Zinn would respond.

Agenda Item7 **Regulations**

The board discussed will-call bins regulations. The board reviewed the regulations from states included in the board packet. Ms. Mundell said she would like the regulations to require the system must be located inside of the building next to the pharmacy. The board decided they liked the regulations from Nevada, but would discuss further at the next meeting. They also stated they would like to have a physical demonstration of the system itself, to ensure the system is safe and meets the requirements of the board. Ms. Zinn would respond to the request from Wal-Mart.

Agenda Item 19 **Office Business**

The board confirmed the meetings for the remainder of the year. The meetings would start at 1:00p.m. on Thursday and conclude at 4:00p.m. on Friday.

The board signed TA's, wall certificates and approved minutes.

Ms. Bueler thanked Bill Altand for his active participation and service to the board and especially representing the board in other groups and committees, it has been helpful. She also requested that he play a tune on his harmonica before the board adjourns.

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

RESOLVED to adjourn the meeting of the Alaska Board of Pharmacy.

The meeting adjourned at 12:58 p.m.

Respectfully Submitted:

_____
Sher Zinn, Licensing Examiner

Approved:

_____
Gary Givens, R. Ph., Chair
Alaska Board of Pharmacy

Date: _____