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**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND
ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS,
BUSINESS & PROFESSIONAL LICENSING
BOARD OF PHARMACY**

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**MINUTES OF MEETING
AUGUST 7th & 8th, 2014**

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By authority of AS 08.01.070(2) and in compliance with the provisions of Article 6 of AS 44.62, a scheduled meeting of the Board of Pharmacy was held August 7th & 8th, at 550 W. 7th Ave., 16th Floor , Anchorage, Alaska,

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16

The meeting was called to order by Dirk White, President, at 9:00 a.m.

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18

Call to Order/Roll Call

19
20

Those present, constituting a quorum of the board, were:

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Dirk White – R. Ph. – Sitka
Lori DeVito – R.Ph. – Soldotna
John Cotter – R. Ph. – Fairbanks
C.J. Kim R. Ph. – Anchorage
William (Bill) Altland R. Ph. - Craig
Anne Gruening – Public Member – Juneau
Taryl Giessel – Public Member – Eagle River

29
30
31
32

In attendance from the Division of Corporations, Business & Professional Licensing, Department of Commerce, Community and Economic Development were:

33
34
35

Donna Bellino, Licensing Examiner – Juneau
Al Kennedy, Investigator– Anchorage

36
37

Visitors Present:

38
39
40
41
42
43
44
45
46

Dennis McAllister, R.PH, D.PH., FASHP
Express Scripts, Director Pharmacy Regulatory Affairs
Nick Brooke - Walgreens
Sara Chambers – Division Director, CBPL
Debora Stovern – Executive Administrator - State Medical Board

47 **Agenda Item 1- Review Agenda**

48

49 The Board reviewed the agenda and noted was the addition of CBPL Division
50 Director Sara Chambers. Director Chambers will provide division updates and
51 budget expense review at 11:00 a.m.

52

53 C. J. Kim made a request to the board for time to be added to the agenda to discuss
54 what the Board has in place in the event there should be a public health emergency.
55 This has come about as part of Mr. Kim's job duties and his review of the regulations
56 that do not specifically address emergency preparedness or public health
57 emergencies. Board consensus was to add the discussion as 3.1 after agenda item
58 #3 Ethics Disclosure.

59

60 **On a motion duly made by Ms. DeVito, seconded by Ms. Giessel and approved**
61 **unanimously, it was**

62

63 **RESOLVED to approve the agenda with the above additions for**
64 **Thursday August 7th 2014.**

65

66 **Agenda Item 2- Minutes**

67

68 The Board reviewed the minutes from the April 3rd & 4th, 2014 meeting.

69

70 **On a motion duly made by Ms. Giessel, seconded by Ms. DeVito and approved**
71 **unanimously, it was**

72

73 **RESOLVED to approve the minutes from the April 3rd & 4th, 2014**
74 **meeting with corrections noted.**

75

76 **Agenda Item 3- Ethics**

77

78 Chairman White called for any ethics disclosures to be made. No ethics disclosures
79 were reported.

80

81 Investigator Kennedy arrived for his report and the Board decided to table the
82 emergency preparedness discussion.

83

84 **Agenda Item 4 & 5 - Investigative/AKPDMP Report**

85

86 Investigator Kennedy presented the Investigative Report from April 3, 2014 through
87 August 4, 2014. Including cases, complaints, and intake matters, since the last

88 report, the Division opened 43 files. Most of the newly opened files are from the
89 current renewal period that just ended and closed 47 Pharmacy Board matters.

90
91 Investigator Kennedy advised the board that his goal is for the completion of
92 2012/2013 matters and only have 2014 investigative matters to contend with. By
93 the next Board meeting Investigator Kennedy's goal is to have 2012 completely
94 closed with just a few remaining 2013 cases and be strictly dealing with 2014.

95
96 Investigator Howes/AKPMP was not able to attend meeting and Investigator
97 Kennedy provided the report to the Board in his absence.

98
99 In addition to the report the only item Investigator Howes wanted Mr. Kennedy to
100 mention was possible statute or regulation changes based on information
101 Investigator Howes inputs into the PDMP reports, i.e. Non-Dispense Report.

102
103 **Possible statute or regulation changes:**

- 104
105
 - Delegate accounts or authorize agent
 - Unsolicited reports
- 106

107 Investigator Kennedy then addressed the board regarding regulation:

108
109 **12 AAC 52.991 DISCIPLINARY DECISIONS OR CONVICTION REPORTING**
110 **REQUIREMENT.**

111
112 A licensee shall report in writing to the board any disciplinary decision or
113 conviction, including conviction of a felony or conviction of another crime that
114 affects the applicant's or licensee's ability to practice competently and safely, **issued**
115 **against the licensee in another jurisdiction** not later than 30 days of the date of
116 the disciplinary decision or conviction.

117
118 **Authority: AS 08.01.075 AS 08.80.030 AS 08.80.315 AS 08.80.005 AS**
119 **08.80.261 AS 08.80.460**

120
121 Investigator Kennedy highlighted the section of the wording in the regulation above
122 that did not seem correct when reviewing renewal applications. While those
123 applicants were here in Alaska they had criminal acts or they had some issues with
124 this, but the statute says "**in another jurisdiction**" and does not include Alaska,
125 which means they would have to be put through. Investigator Kennedy did not
126 know if that was meant to be, but there were renewal applicants that have criminal

127 history, but it was here in Alaska and did not have to report based on how the
128 regulation is written.

129
130 Investigator Kennedy discussed with the Board that was it certainly not the intent of
131 this regulation and worked out the following change:

132
133 A licensee shall report in writing to the board any disciplinary decision or
134 conviction, including conviction of a felony or conviction of another crime that
135 affects the applicant's or licensee's ability to practice competently and safely, **issued**
136 **against a licensee shall be reported to the board not later than 30 days of the**
137 **date of the disciplinary decision or conviction.**

138
139 **On a motion duly made by Ms. DeVito, seconded by Mr. Cotter and approved**
140 **unanimously, it was**

141
142 **RESOLVED to submit a regulation change to 12 AAC 2.991**
143 **DISCIPLINARY DECISION OR CONVICTION REPORT REQUIREMENT**
144 **To now read:**

145
146 **A licensee shall report in writing to the board any disciplinary decision**
147 **or conviction, including conviction of a felony or conviction of another**
148 **crime that affects the applicant's or licensee's ability to practice**
149 **competently and safely, issued against the licensee shall be reported to**
150 **the board no later than 30 days of the date of the disciplinary decision**
151 **or conviction.**

152
153 Ms. Bellino will submit the regulation change to Jun Maquis, Regulation Specialist
154 for change.

155
156 Investigator Kennedy then advised the board he had a couple of issues for the Board
157 to vote on and it was decided that the board go into Executive Session

158
159 **On a motion duly made by Lori DeVito, seconded by Ms. Giessel and approved**
160 **unanimously, it was**

161
162 **RESOLVED to go into executive session in accordance with**
163 **AS44.62.301(c) 3, for the purpose of discussing investigative matters.**

164
165 Board staff to remain

166
167 Off the record at 9:30 a.m.

168 On the record at 9:50 a.m.

169

170 **On a motion duly made by Mr. Cotter, seconded by Ms. Gruening and approved**
171 **unanimously, it was**

172

173 **RESOLVED to approve the imposition of a civil fine for case numbers:**

174

175 **Case #2014-000655 Medco Health Solutions**

176 **Case #2014-000669 RightSource**

177

178 The board was ahead of schedule due to the brief PDMP report and had extra time
179 before Director Chambers addressed the Board. The board began their discussion
180 on emergency preparedness. The Board focused the discussion on what is the
181 protocol for emergencies within Alaska and nationally, and how pharmacists and
182 pharmacies would respond in the case of an emergency within the state and how the
183 state would interact with the federal government if it had to defer to them in a
184 national emergency for drugs needed from the national stockpile.

185

186 Currently the Pharmacy regulations do not have much detail to refer to for guidance
187 on what you can and cannot do. Mr. Cotter advised that in his previous involvement
188 with disaster plans over the years would be that you follow state regulations. If and
189 when a situation was to get so bad the Governor would have to suspend them.

190

191 Ms. DeVito asked Dennis McAllister how Arizona handles emergency preparedness.
192 Mr. McAllister advised the history of emergency preparedness started with the
193 National Stockpile. All the rules go out the window when that gets opened. In New
194 York the fire department distributed Cipro for the anthrax scare via dispensing sites,
195 an example of rules going out the window to save the population instead of handing
196 out 20 tablets to everybody.

197

198 In terms of a national disaster that is a different deal, Mr. McAllister advised that
199 states with good rules for emergency preparedness are Arizona, Louisiana, New
200 Jersey, and Washington which has had its share of natural disasters of late.
201 Reviewing what these states have in place would be a good place to start.

202

203 Mr. McAllister also advised the Governor declares the emergency and then the
204 Board of Pharmacy should have some rules that say pharmacists should use
205 professional judgment, but the rules should state that they would be subject to
206 discipline if they abuse the privilege. New Jersey during hurricane Sandy allowed
207 for 30 days of controlled substances so not to stop pain management. The rules can

208 be wide open so, “be a pharmacist” and use good judgment in responding to the type
209 of medications people are in need of under these circumstances.

210

211 When the Governor says do what you have to do, the Board should have some
212 guidelines. NABP has Emergency and Disaster Preparedness and Response
213 Planning: A Guide for Boards of Pharmacy where some starting language could be
214 looked at. Something first would have to be done from a legislative standpoint.

215

216 Mr. McAllister asked if Alaska could do a “substantive policy” while pursuing the
217 legislative process that could be posted on the website for pharmacists to refer to if
218 needed that states we expect pharmacists to be healthcare providers in emergency
219 situations, etc.

220

221 The Board will do research on the states recommended and seek authorization for
222 the board to act in the case of an emergency. C. J. Kim will take the lead on
223 information gathering and report his findings at the November meeting when this
224 discussion will be continued. Ms. Bellino will print the NABP Task Force Report to
225 include in the board packet for the next BOP meeting.

226

227 Break: Off the record at 10:30 a.m.

228 Back on the record at 10:40 a.m.

229

230 **Agenda Item 6 – Pharmacy Technician Certification**

231

232 Lis Houchen NW Regional Director State Government Affairs for NACDS(National
233 Association of Chain Drug Stores) sent a letter via email to Ms. Bellino on the
234 morning of August 6, 2014 before Ms. Bellino was to leave to attend the Board of
235 Pharmacy meeting on August 7th & 8th 2014. Certification of Technicians was
236 included in the letter. Ms. Bellino distributed the letter at the meeting to the Board.
237 The Board took a few minutes to read the letter before discussion.

238

239 Mr. Cotter began the discussion on technician certification. Mr. Cotter looked at
240 technician requirements for Arizona, Idaho, Iowa, Oregon and Texas. The states
241 chosen represent a common theme of what is required/not required. If certification
242 is required what does it takes to achieve it, and what training is involved. Also
243 considered how the certification is implemented. Is a technician grandfathered in if
244 they are already licensed? Some states do allow for that.

245

246 In the letter to the Board, Ms. Houchen expressed concern on behalf of NACDS how
247 mandatory certification would impact current and future pharmacy technicians in
248 their ability to sit for an exam given the geography of Alaska. Mandatory

249 certification would appear to leave a significant gap in availability to those located
250 in SE Alaska as well as those technicians working in pharmacies in other areas
251 without easy access to either Fairbanks or Anchorage. Also in the letter NACDS
252 strongly encouraged the board not to move forward with mandatory certification,
253 but to consider increasing continuing education requirements that would be more
254 easily accessible to technicians via on-line or convention related activities. Until
255 such time as certification testing becomes more readily available and accessible.
256

257 Mr. Cotter received an email from Adam Chesler, Pharm D who is the Director of
258 Strategic Alliance for the Pharmacy Technician Certification Board. The email
259 advised that there are 31 available Pearson VUE sites in Alaska, in addition to the 3
260 currently available cities Anchorage, Fairbanks and Juneau. Mr. Chesler would be
261 happy to discuss with the board the possibility of opening more the 31 sites as PTCB
262 testing sites. This information would address the concern of the availability of
263 testing sites.
264

265 The board then discussed if they moved forward with the certification requirement,
266 having different levels of technician licenses for those techs that would only perform
267 more "clerk" type duties that does not require certification, and then have a separate
268 certified technician license.
269

270 Mr. Cotter's preference for technician license would be:

- 271
- 272 A) Define the "clerk" license
 - 273 B) Tech Training license (Tech I) would be a 2 year license with certification as
274 a requirement. The 2 year timeframe would not be extendable, but if
275 extendable, extend only by an additional year not additional 2 years to
276 achieve certification.
 - 277 C) Certification through PTCP or ExCPT or other entity designated by the board
 - 278 D) Pass certification only one time
 - 279 E) Increase CE requirements to align with certification requirements, so if they
280 do not maintain certification it stays the same.
 - 281 F) Techs already licensed are "grandfathered" in

282 Grandfathering current licensees versus a transition period for this new
283 requirement was debated by the board along with the timeframe to implement this
284 change to technician requirements. A regulation project would need to be started to
285 begin the change process.
286

287 Mr. McAllister addressed the board and advised a few points for the board to
288 consider going forward with this change. He advised that PTCB versus ExCPT
289 certification is the certification entity to go with. NABP is partnered with PTCB and
290 doing psychometric testing making sure that is a valid examination. Texas
291 legislatively could not choose an exam unless they receive an RFP on the exam.
292 Texas had both organizations produce an RFP and hired an outside consultant
293 psychometrist to look at the exams against the practice blueprint. Texas Board
294 of Pharmacy was advised overwhelmingly that PTCB was the exam. The
295 information can be verified through Gay Dodson with the Texas Board of Pharmacy.
296 Another point that Mr. McAllister advised the board in going forward with requiring
297 certification is that PTCB certification starting in 2020 will require an accredited
298 training program.

299
300 Mr. McAllister who is on the ACPE Board of Directors, advised the board of a new
301 arm that has been formed called Technician Training Accreditation Council. This
302 council is in operation and is receiving a flood of applications from community
303 colleges all over the country so they can have their accredited programs in place to
304 meet the 2020 PTCB requirement. Mr. McAllister believes this will happen in Alaska
305 as well since it will be the new industry standard. Lastly, Mr. McAllister advised that
306 Arizona and Texas model rules will fit very well with what the board is trying to
307 achieve with this new requirement.

308
309 **On a motion duly made by Mr. Cotter, seconded by Ms. Gruening and approved**
310 **unanimously, it was**

311
312 **RESOLVED to begin a regulation project for the certification and**
313 **clarification of technician roles in a pharmacy, to include defining the**
314 **role of the technician clerk for non-drug functions inside of a pharmacy,**
315 **the role of the technician in training and the implementation of**
316 **certification requirements for technicians and the rules for obtaining**
317 **certification for established technicians.**

318
319 **Agenda Item 7 - Budget Expense Review/Division Update**
320

321 Division Director Sara Chambers addressed the board regarding the end of the third
322 quarter expense report. Director Chambers also advised the board the amount of
323 gross receipting received for the Board of Pharmacy from April 1, 2014 to present
324 day from the June 30th renewal was over \$600,000 in revenue. That is an increase of
325 \$100,000 in renewal revenue from the 2012 renewal period.
326

327 In review of the 3rd quarter report, Chairman White asked Director Chambers about
328 monies receipted from the fines the board imposes going into the general fund
329 rather than back to the state boards to help offset the cost of investigations and legal
330 counsel for the board, currently these expenses are reported as a direct expense to
331 the board's budget.

332
333 Director Chambers advised that this is an item of keen interest with all boards and
334 that she has been meeting with the Legislative Budget and Audit committee for 2
335 hours per month in a hearing setting to talk about issues regarding CBPL,
336 specifically issues pertaining to fee setting and fiscal policy. The administration side
337 is very interested in trying to get more tools in the tool box to address some of the
338 concerns. On the legislative side the Legislative Budget and Audit committee is also
339 very interested in looking at some resolution to some of the ongoing concerns.

340
341 Director Chambers stated that it will be difficult to find a one size solution to fit the
342 40 licensing programs and out of the 40 programs 20 of the programs have boards
343 and are managed by the division. Programs range from 25,000 licensees and
344 multiple staff, to 64 licensees and a fraction of a staff member. The investigative
345 activity because it is complaint and consumer driven varies widely, and can impact a
346 small board. Through much effort on the part of the legislator, the administration
347 and board members, the focus is on honing in on enhancing the tool box, sharpening
348 some of those tools and obtaining new tools to make sure that we are on a
349 continuous quality improvement track.

350
351 The Board of Pharmacy receipted \$1400 in fines since April 1st and it is state law
352 that requires the receipting of those fines into the general fund. There is a lot of
353 action going on behind the scenes and quite a bit of discussion regarding these
354 issues, but it is a very high level decision that needs to be made to see if those fines
355 can be receipted back to boards and do something to offset the investigative costs
356 that are incurred in pursuit of board enforcement.

357
358 Ms. Giessel asked if there was anything the board could do at this point to further
359 the cause. Director Chambers advised that the stake holders who have the ability to
360 make these changes are aware and suggested the board write a letter to her as
361 Director, and that way she would have it on file and forward up. Make copies of the
362 letter and circulate it around so Director Chambers would have evidence of the
363 board's thoughts and concerns. Board members are always welcome at any time to
364 contact members of the legislator, the governor's office or any relationships they
365 may personally have. As a representative of the executive branch Director
366 Chambers would be more than happy to keep that information on file and make sure

367 the Commissioner and the governor's legislative office are aware of this board's
368 concerns and thoughts on the matter.

369

370 The Division's fee setting is governed by **Sec. 08.01.065 Establishment of fees** in
371 centralized statutes that states very straight forward licensing programs must be
372 self-sustainable. That is the language that HB187 worked to amend, to allow more
373 flexibility, because the law says licensees have to pay for the programs. There is
374 different language enabling statutes for each program, each division and each
375 department and is fairly complex.

376

377 Ms. DeVito asked if there would be explanations for the "indirect" expenditures that
378 have ** next to them. Director Chambers advised that further explanation will be
379 included in the October budget report that will be ready and available for the
380 board's review at the November board meeting.

381

382 Ms. Giessel posed a question to Director Chambers of how to fix the problem of high
383 indirect expenses assessed to the boards without the board's ability to control what
384 is being assessed. Director Chambers advised that "indirect" is not under the
385 board's purview to control. Statutorily the department is responsible for the
386 administrative activity of the board, and is a best practice with boards. Boards are
387 the governors of the practice and staff is the manager of the day to day and fiscal
388 responsibilities, but she understands that boards need more information to feel
389 confident.

390

391 The October report will have more cost detail for the board's review and there has
392 been vast improvement since 2011 when Legislative Budget and Audit did a special
393 audit of CBPL and it brought to light some accounting problems and practices that
394 preceded the current administration. Fraud or deceit was not found, but there
395 wasn't any consistency, or standardization. Lack of training and lack of over site
396 were revealed in this audit and that is when Sara when she was the division's
397 operations manager and the previous division Director Don Habeger began to
398 formulate a plan on how to fix and change what was discovered.

399

400 The board brought up to Director Chambers that they are aware of rumors that
401 there could be changes and restructuring within the investigative unit and how
402 important it is to keep the current Board of Pharmacy investigator, Al Kennedy. The
403 board believes Investigator Kennedy's previous law enforcement background in
404 narcotics has been so important for the success Investigator Kennedy has had with
405 pharmacy investigations and the board would very much like for Investigator
406 Kennedy remain as the investigator for the board of pharmacy.

407

408 Director Chambers provided some Division updates to the board regarding the
409 professional licensing database that should be online within the next year. Testing
410 will begin in the next few months. Director Chambers will be forwarding
411 information to the board within the next few weeks regarding coming changes to
412 board travel. She also advised the board that there is the ability to post board
413 packet information on the secure website for any board member to go in and
414 download information to their own electronic device. Other boards are currently
415 doing this. The state has done research and has had discussions on the pros and
416 cons of providing electronic devices, i.e. ipads, Kindles to the boards.

417

418 Lunch break: Off the record at 12:02 p.m.

419 Back on the record at 1:04 p.m.

420

421 Before the next agenda item at 1:30 the board took the opportunity to discuss the
422 remaining 2 items addressed in letter from Lis Houchen/NACDS. In the letter Ms.
423 Houchen addressed the board regarding previous discussions with Walgreen's
424 personnel about Walgreen's wanting to send pharmacists and technicians from
425 Washington state to train pharmacy personnel in Alaska without getting licensed.
426 Under current Alaska regulation that is not allowed without the appropriate
427 licensure. Ms. Houchen requested the board revisit this regulation to allow for other
428 personnel to be behind the counter. The board will consider the request and will
429 address it at a later date as part of regulation review.

430

431 **Agenda Item 8 - Regulation Review -**

432

433 Debora Stovern; Executive Administrator for the Alaska State Medical Board was
434 invited to speak to the board about the medical board's drafting of medical board
435 regulation **12 AAC 40.981 Exemptions for persons who practice in Alaska tribal
436 health program.**

437

438 The Alaska State Medical Board was presented with a copy of the Attorney General
439 Opinion on exempting persons who practice in Alaska tribal health programs. The
440 medical board reviewed the opinion extensively to see what it really meant and
441 keyed into a couple of items in the opinion, one of them being the boards still have
442 the right and responsibility to ensure that people practicing under the federal
443 exemption are qualified to practice under the exemption and are seeking to
444 establish an application form for board recognition of the exemption. The board had
445 to be careful that they weren't requiring a licensing program under a different name
446 and so what was set up is a very simple form where they apply for board recognition
447 of the exemption. The board was also careful that the requirements for granting

448 that recognition were spelled out under the federal legislation, the federal
449 Affordable Care Act.

450
451 Other things the medical board feel are important is that the medical board can
452 cease recognizing an exemption if a person violates our practice act, practices out of
453 the scope of the their state license because some of the medical licenses in other
454 states have a different scope of practice that Alaska and that the board can report
455 those violations, investigations, complaints and the board ceasing to recognize an
456 exemption to the National Practitioner Data Bank and to the Federation State
457 Medical Board Data Bank so the information is shared with our sister states and
458 then the state license under which they are practicing in our state that board would
459 then be aware of any violations and could take an appropriate action against their
460 license.

461
462 The whole issue is sharing of information. That if they are practicing under another
463 state license that state is aware of the violation and can investigate and take action.
464

465 The Department of Law and the Regulations Review Committee has done an initial
466 review of the proposed change and it is at the Department of Law for final review
467 and filing and is fairly confident it will receive approval.

468
469 This information was sent out for public comment and the medical board addressed
470 the comments at their February meeting in Sitka. The tribal health organizations
471 that responded to the public notice are not in support of this change and feel the
472 board is overstepping the federal regulation. Other groups that opposed this
473 proposed change misunderstood the intent and thought the board was going to
474 grant exemptions.

475
476 The Board of Pharmacy is very much in support of this regulation change and would
477 like to draft the same regulation change for pharmacy practitioners working at
478 tribal organizations.

479
480 **Regulation Project JU2013200469 (Part 1)**

481
482 The board reviewed their copy of a Memorandum received from Steven C. Weaver,
483 Sr. Assistant Regulations Attorney Legislation/Regulations Section-Juneau, written
484 to Hon. Mead Treadwell, Lieutenant Governor, who responded to proposed
485 regulation changes in Regulation Project Part 1 JU2013200469 that the board was
486 looking to implement.

487

488 The Department of Law reviewed the regulations against the statutory standards of
489 the Administrative Procedure Act and found no legal problems with changes to **12**
490 **AAC 52.310** and **12 AAC 52.995(a)**.

491

492 The Department of Law disapproved the other changes that the Board of Pharmacy
493 proposed in Part 1. The memorandum received constitutes the written approval
494 under **AS 44.62.060(b) and (c)** that authorized the Lieutenant Governor to file the
495 attached regulations.

496

497 The regulation changes were adopted by the Board of Pharmacy after the close of
498 the public comment period. The regulations update requirements for reinstatement
499 of a lapsed pharmacist license, and makes changes to the definition of “dispenser”.

500

501 The Department of Law disapproved proposed **12 AAC 52.020(f)**, proposed **12**
502 **AAC 52.130(b)(5)**, and proposed **12 AAC 52. 150**. In summary, the regulation
503 changes proposed in **12 AAC 52.020(f)**, **12 AAC 52.130(b)(5)**, and **12 AAC 52.150**
504 would impose a more stringent physical inspection requirement on pharmacies
505 licensed in this state only if they were “high risk”, but would impose the same
506 requirement on pharmacies licensed outside this state regardless of risk, and would
507 name certain classes of pharmacy as “high risk” without expressing the risk to be
508 avoided. For these reasons is why the changes have been disapproved.

509

510 In summary, the regulations proposed in **12 AAC 52.020(f)**, **12 AAC 52. 130(b)(5)**,
511 and **12 AAC 52.150** would impose more stringent physical inspection requirement
512 on pharmacies licensed in this state only if they were “high risk”, but would impose
513 the same requirement on pharmacies licensed outside this state regardless of risk,
514 and would name certain classes of pharmacy as “high risk” without expressing the
515 risk to be avoided. For these reasons, the Department of Law disapproved proposed
516 **12 AAC 52.020(f)**, **proposed 12 AAC 52.130(b)(5)**, and proposed **12 AAC 52.150**

517

518 Also disapproved, the proposed amendment to **12 AAC 52.865(c)** in part because
519 as formatted the proposed amendment sets up a likely error in syntax.

520

521 The Board reviewed the entire Memorandum and discussed the best way to proceed
522 with the disapprovals. The Board will go back to beginning and re-group and
523 determine how to fit in with other regulation projects.

524

525 Jun Maquis, Regulation Specialist for the Division, requested the Board go on record
526 regarding a regulation change that was started in 2012.

527

528 The Board went on the record to repeal **12 AAC 52.080(c)**

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

531

532 **RESOLVED to repeal 12 AAC 52.080(c) The Board will accept no**
533 **more than 1,000 hours of internship that the applicant**
534 **completed in conjunction with the educational requirements at at**
535 **a college of pharmacy accredited by ACPE.**

536

537 Ms. Bellino reviewed with the board regulations that are in need of change due to
538 the board's decision to increase the fees for change in pharmacy manager from
539 \$5.00 to \$50.00 and will now charge \$75.00 for Collaborative Plan Applications.

540

541 Ms. Bellino will forward the information to the Regulation Specialist to insert in the
542 corresponding regulations.

543

544 **AGENDA ITEM 9 - CE Audits and Consent Agreement Review from**
545 **Renewals/Paralegal Charles Ward**

546

547 Charles Ward joined the meeting telephonically to review and discuss 2 consent
548 agreements.

549

550 The board went into Executive Session to discuss the agreements.

551

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

554

555 **RESOLVED In accordance with the provisions of Alaska Statute**
556 **44.62.310(c), Ms. DeVito moved to go into executive session for**
557 **the purpose of discussing the consent agreements, Licensing**
558 **Examiner to remain during session.**

559

560 Off the record at 2:55 p.m.

561 Back on the record at 3:05 p.m.

562

563 **On a motion duly made by Ms. DeVito and seconded by Ms. Giessel and**
564 **approved unanimously, it was**

565

566 **RESOLVED to approve Consent Agreement No. 2013-001222 for**
567 **Pharmacist Technician Michael Jones.**

568

569

570 **On a motion duly made by Ms. DeVito and seconded by Ms. Gruening and**
571 **approved unanimously, it was**

572

573 **RESOLVED to approve Consent Agreement No. 2013-001106 for**
574 **Pharmacist Technician Michelle Butler.**

575

576 The board finished up their review of the letter from Lis Houchen/NACDS and ran
577 out of time to discuss agenda item #7. The board decided to review/recap points of
578 discussion for legislative review before the start of Agenda Item #8.

579

580 **Agenda Item 7 Legislative Review -**

581

582 The licensing of out-of-state wholesale distributors – Board will work to ensure
583 sponsorship of a bill for the upcoming 2015 legislative session and have it ready for
584 the December deadline.

585

586 Dirk White and Taryl Giessel will work with Karen Robinson and Barry Christiansen
587 on this.

588

589 503B entities – how do these entities fit in and can this be handled via regulation or
590 legislatively. The board will look at what Idaho just passed.

591

592 PDMP Funding – The board will be working to secure permanent funding for this
593 program.

594

595 Break: off the record at 3:15 p.m.

596 Back on the record at 3:25 p.m.

597

598 **Agenda Item 10 Application Review -**

599

600 At the request of Records and Licensing Supervisor, Sher Zinn the board reviewed
601 the “yes” answer license renewal application for pharmacist Andrew T. Beitel.
602 Between the last renewal period and the renewal period that just ended, Mr. Beitel
603 had to answer yes to question number 2. Due to the nature of incidences, Ms. Zinn
604 wanted to board to review his signed statement and documents provided regarding
605 the event. Upon review of the information as presented from the applicant and the
606 investigator the board agreed to let the renewal stand.

607

608 Due to the amount of applications for review and approval, the board decided to
609 review the correspondence first then finish the day’s meeting with the rest of the
610 applications for review.

611 **AGENDA ITEM 11 – Correspondence**

612

613 The board reviewed general correspondence and correspondence from NABP.

614 Included in the general correspondence were 3 reports of Theft/Loss received since
615 the April Board of Pharmacy meeting.

616 The board reviewed a letter received from Walmart regarding electronic
617 recordkeeping and hard copies of e-prescriptions and e-faxed prescriptions. The
618 letter advised that Walmart would like to adjust their process to maintain e-
619 prescriptions and e-faxed prescriptions solely electronically. Walmart asked
620 specifically the following:

621

622 • May Walmart Pharmacies discontinue maintaining hard copies of e-
623 prescriptions?

624 • May Walmart Pharmacies discontinue maintaing hard copies of e-faxed
625 prescriptions?

626 Upon review of the letter and questions, the board said yes to the above questions.

627

628 **Agenda Item 10 Application Review Continued –**

629

630 **On a motion duly made by Ms. DeVito and seconded by Ms. Gruening and**
631 **approved unanimously, it was**

632

633 **RESOLVED to approve the following pharmacist applications pending**
634 **any outstanding items for:**

635

636 **Chad Forinash**

637 **Laura Garza**

638 **Hannah Farnham**

639 **Matthew Folcik**

640 **Robert Gorseline**

641 **Danielle Gradeler**

642 **Xuan – Dien Ho**

643 **Elizabeth Johnson**

644 **John Opoku-Ansah**

645 **Matthew Reichart**

646 **Peter Adly**

647 **Laura Anderson**

648 **Tarah Authier**

649 **Elise Bankowski**

650 **Joseph Driggers**

651 **Kaylie Ellingson**
652 **Kristin Frye**
653 **Kimberly Frazee**
654 **Sarah Erickson**
655 **Ross Hagens**
656 **Paul Hinckley**
657 **Laney Jones**
658 **Kathryn Kenes**
659 **Shadi Obeidi**
660 **Sandie Perrin**
661 **Ellyn Persicke**
662 **Rachel Pittman**
663 **David Steele**
664 **Reed Supe**

665
666 **On a motion duly made by Ms. DeVito and seconded by Ms. Giessel and**
667 **approved unanimously, it was**

668
669 **RESOLVED to approve the In State Pharmacy application for Med Set**
670 **Pharmacy.**

671
672 **On a motion duly made by Ms. DeVito and seconded by Ms. Gruening and**
673 **approved unanimously, it was**

674
675 **RESOLVED to approve the Collaborative Practice Applications for the**
676 **Following Pharmacies:**

677
678 **Fred Meyer Pharmacy #018**
679 **Fred Meyer Pharmacy #158**
680 **Fred Meyer Pharmacy #017**
681 **Fred Meyer Pharmacy #071**
682 **Fred Meyer Pharmacy #485**
683 **Fred Meyer Pharmacy #653**
684 **Fred Meyer Pharmacy #224**
685 **Fred Meyer Pharmacy #671**
686 **Fred Meyer Pharmacy #011**
687 **Fred Meyer Pharmacy #656**
688 **Fred Meyer Pharmacy #668**
689 **Carrs Pharmacy #1739**
690 **Safeway Pharmacy #1832**
691 **Safeway Pharmacy #1821**

692 **Safeway Pharmacy #2754**
693 **Carrs Pharmacy #1811**
694 **Carrs Pharmacy #1805**
695 **Safeway Pharmacy #1820**
696 **Walgreens Pharmacy #15092**
697 **Walgreens Pharmacy #12679**
698 **Walgreens Pharmacy #12681**
699 **Walgreens Pharmacy #13656**
700 **Walgreens Pharmacy #13449**
701 **Walgreens Pharmacy #12680**
702 **Walgreens Pharmacy #15362**
703 **Walgreens Pharmacy #15654**

704

705 The board recessed until Friday morning August 8th at 9:00 a.m.

706

707 Off the record at 5:15 pm

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Friday August 8, 2014

The meeting was called to order by Dirk White, Board Chair, at 9:02 a.m.

Call to Order/Roll Call

Those present, constituting a quorum of the board, were:

Anne Gruening – Public Member – Juneau
John Cotter – R. Ph. – Fairbanks
Dirk White – R. Ph. - Sitka
C.J. Kim – Anchorage
Bill Altland – Craig
Lori DeVito - Soldotna
Taryl Giessel – Public Member – Eagle River

In attendance from the Division of Corporations, Business & Professional
Licensing, Department of Commerce, Community and Economic
Development were:

Donna Bellino, Licensing Examiner – Juneau
Al Kennedy, Investigator – Anchorage

Visitors Present:

Randall Burns – SOA Division of Behavioral Health
Michael Dickey – SOA Division of Behavioral Health
Elizabeth Giordina – Governor’s Office
Sarah Heath – Governor’s Office
Dr. Tina Tomsen – Anchorage Women’s Clinic
Ellen Ruby-Markie – Anchorage Women’s Clinic

Agenda Item 1 Review Agenda -

The board reviewed the agenda and no changes were made.

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

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RESOLVED to approve the agenda for today's meeting with no changes.

Agenda Item 13 Public Comment -

Chairman White called for Public Comment. No one addressed the board with comments.

Agenda Item 14 Randall Burns OTP PDMP Reporting-

Randall Burns and Mike Dickey from the State of Alaska Department of Behavioral Health addressed the board. Mr. Burns is also the Opioid Treatment Director for the state of Alaska and it is in this capacity that he requested to speak with the board.

In July, Mr. Burns sent a letter to the board regarding the decision the board made earlier this year requiring most of the State's active Medication Assisted Treatment (MAT) programs also known as Opioid Treatment Programs, or OTPs to seek Drug Room licensure under Board of Pharmacy rules and regulations. Mr. Burns believes there are unintended consequences for these providers and he wishes to have this clarified on behalf of the affected Alaska OTPs and why he is seeking guidance from the Board of Pharmacy on this.

The specific concern relates to the requirement that businesses with Drug Rooms apparently also have to report to the State's Prescription Drug Monitoring Program (PDMP). Per Mr. Burns this requirement is in direct conflict with the fact that OTPs are prohibited under federal law from reporting the identity of OTP clients to any state-run PDMP. For these reasons, the requirement that Alaska's non-physician based department-approved OTPs must report patient information to the PDMP as a result of the Drug Room licensure requirement has placed the Alaska OTPs between a rock and a hard place: If they comply with the State's PDMP reporting requirements, they are violating the provisions under which they were issued a license to provide MAT by the federal government, and if these programs do not properly identify their methadone clients in the database, they are out of compliance with Alaska Board of Pharmacy requirements.

9:15 a.m. Investigator Kennedy entered the room

Information included with Mr. Burn's letter to the board was guidance from AATOD and SAMSHA given to the OTPs concerning the use of prescription monitoring program (PMP) databases. Federal law is pretty specific that individuals enrolled in a drug treatment program that their name not be disclosed. The OTPs are checking

815 the database to make sure that the individuals who are enrolled are not seeking and
816 not being prescribed other drugs that would be inappropriate for them and their
817 treatment program. This covered the OTPs review of the database.

818 Mr. Altland asked Mr. Burns how his counterparts in other states handle this issue.
819 Mr. Burns advised that he just spoke with Oregon and they do not require it because
820 of the federal requirement for OTPs not to disclose the names of their individuals to
821 the state PDMP. Mr. Burns also advised that as far as he is aware there aren't any
822 states that require this reporting.

823
824 Brian Howes, the investigator who works with the PDMP program that could help to
825 address these questions from Mr. Burns and the board was not able to attend this
826 meeting. The board will discuss these questions with Investigator Howes for further
827 clarification to define authority or augment information for PDMP reporting
828 requirements.

829
830 Elizabeth Giardina, Director for Boards and Commissions, and Sara Heath, Boards
831 and Commissions Assistant from the Governor's office came by to speak to the
832 board regarding a new board that has been formed, The Controlled Substances
833 Advisory Committee, and wanted to drop off information to the board about it.

834
835 This committee has existed in statute for about 30 years since the Hammond
836 Administration, but no Governor had made appointments to this committee. Due to
837 legislation changes this last year, statutes now require this committee to meet at
838 least twice a year. The Controlled Substances Advisory Committee has a seat on it
839 for the Board of Pharmacy. The seat was given to the Chair of the Board of
840 Pharmacy or the Chair could if decided, designate someone else from the Board to
841 sit in instead. This new board will work in conjunction with the Criminal Justice
842 Commission. The Criminal Justice Commission was created out of bill SB64 to help
843 with sentencing and to closely evaluate Alaska's criminal justice system and its
844 practices. One of the issues that the Criminal Justice Commission is tasked at
845 looking at is controlled substances.

846
847 The Controlled Substances Advisory Committee will be working closely with the
848 Criminal Justice Commission to trade information back and forth and to provide the
849 Criminal Justice Commission with valuable information so they can make some
850 determinations to the legislator and the governor. More information will be coming
851 on this committee. The new board is looking to convene this September/October to
852 put the appointments together.

853
854 Break: Off the record at 10:00 a.m.
855 On the record at 10:10 a.m.

856 **Agenda Item 16 New/Old Business-**

857

858 **FY 2014 Annual Report** – The board reviewed the Fiscal Year 2014 Annual Report
859 that was completed in July. In FY 2014 all pharmacy licensing categories showed an
860 increase in licenses issued from FY 2013. Total licenses issued for FY 2014 was
861 4,134 an increase of 540 licenses from FY 2013. The board had no other comments
862 or issues with the report as presented.

863

864 **Agenda Item 15 Anchorage Women’s Clinic – Can PDMP reporting be used to**
865 **monitor physician prescription writing habits -**

866

867 Dr. Tina Tomsen and Ellen Rubie-Markie addressed the Board. Dr. Tomsen sent a
868 letter to the board in May and wanted to come speak to the board to discuss and see
869 if information from the AKPDMP is accessible to medical practice leaders and/or
870 owners to monitor provider prescribing patterns.

871

872 The Anchorage Women’s Clinic inquired with several regional and national
873 pharmacies and found the type of information they were hoping to generate from a
874 PMP type database did not exist and they believe it would be beneficial to medical
875 practices across the state.

876

877 After much discussion and debate with the Board on the topic, and the Board
878 agreeing that in theory this would be a great tool from an employer perspective,
879 stated that the state run PDMP is not designed to access the kind of information that
880 Dr. Tomsen is looking for.

881

882 Ms. DeVito asked Dr. Tomsen if she had contacted the medical or nursing board on
883 this topic and Dr. Tomsen and Ms. Rubie-Markie advised that they had not contacted
884 either board. The board then advised that the medical and nursing boards would be
885 the boards to have this discussion with to see if it would or could be possible to gain
886 access to the of information they are seeking to achieve.

887

888 **Agenda Item 16 New/Old Business Continued-**

889

890 **Electronic Transcripts** – Ms. Bellino sought board approval if it would be ok to
891 accept electronic transcripts and if so, have it on the record.

892

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

895

896

897 **RESOLVED to approve to accept electronic transcripts directly**
898 **from a pharmacy applicants educational program and other**
899 **documents that may be available electronically for licensing purposes.**
900

901 **VPP Inspection Reports** – Ms. Bellino sought the board’s approval to accept
902 Verified Pharmacy Inspection Reports from NABP from Out-of-State Pharmacies.
903

904 **On a motion duly made by Mr. Cotter and seconded by Ms. DeVito and**
905 **approved unanimously, it was**
906

907 **RESOLVED to approve to accept VPP (Verified Pharmacy Program)**
908 **Inspection Reports from out-of-state pharmacies that have been**
909 **conducted within the time frame as dictated by regulation**
910 **12 AAC 52.130(4) “submits an inspection report or self-inspection**
911 **Report completed within the last 2 years”.**
912

913 Ms. Bellino reminded the board that at the November Board of Pharmacy meeting in
914 addition to setting dates for 2015 BOP meetings, the board will elect a new
915 chairperson since current chair Dirk White will complete the end of his second term
916 as of March 2015.
917

918 Ms. Bellino followed up with the board the costs and constraints associated with
919 setting up phone lines for the public to call into to listen in on Board of Pharmacy
920 meetings. If the board were to implement this the call in number, the number would
921 have to be included in the public notice that is placed in the newspaper 30 days in
922 advance of a meeting.
923

924 Another consideration for the board is what happens when the board goes into
925 executive session during a meeting. Any person on a phone line would have to
926 disconnect for the unknown duration of the executive session. The board reviewed
927 the pros and cons and decided at this time due the constraints involved to leave
928 things status quo.
929

930 The board reviewed and discussed the out-of-state pharmacy applications tabled
931 from the May-June Mail Ballots.
932

933 Out-of-state pharmacy applicant Entirely Pets previously tabled while additional
934 information was requested from them was reviewed by the board and the following
935 resulted:
936
937

938 **On a motion duly made by Mr. Kim and seconded by Ms. Giessel and approved**
939 **unanimously, it was**

940

941 **RESOLVED to deny the out-of-state pharmacy application for Entirely**
942 **Pets, per Sec. 08.80.157 Licensing Of Facilities D & H(4) and per**
943 **Sec 08.80.261 Disciplinary Sanctions 5, 8, & 14**

944

945 **On a motion duly made by Ms. DeVito and seconded by Chairman White and**
946 **approved unanimously, it was**

947

948 **RESOLVED to approve the Drug Room application for the Interior Aids**
949 **Association.**

950

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

953

954 **RESOLVED to approve the out-of-state pharmacy applications tabled**
955 **from previous mail ballots for:**

956

957 **ProAct Pharmacy**
958 **Rx E-Fill Solutions**
959 **Express Plus Pharmacy**
960 **Alpha Direct Compounding**
961 **Concierge Compounding**

962

963 **Agenda Item 17 Office Business -**

964

965 The board signed Wall Certificates

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967 The board adjourned at 11:48 a.m.

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Respectfully Submitted:

Donna Bellino
Donna Bellino, Licensing Examiner
Date: 11/20/14

Approved:

Dirk White
Dirk White, R. PH., Chair
Date: 11/20/14