

1 State of Alaska
2 Department of Commerce, Community and Economic Development
3 Division of Corporations, Business and Professional Licensing
4

5 Alaska Board of Pharmacy
6

7 DRAFT MINUTES OF THE MEETING FOR
8 NOVEMBER 29-30, 2018 (DAY 1)
9

10 By authority of AS 08.01.070(2), and in compliance with the provisions of AS
11 44.62, Article 6, a scheduled meeting of the Board of Pharmacy was held at the
12 Robert Atwood Building, 550 W. 7th Ave., Suite 1535 in Anchorage, Alaska on
13 November 29-30, 2018.
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16

17 Agenda Item 1 Call to Order/Roll Call Time: 9:25 a.m.
18

19 The November 29, 2018 meeting day was called to order by Chair, Rich Holt at 9:25 a.m.
20

21 Board members present, constituting a quorum:
22

23 Richard Holt, PharmD #PHAP2008, MBA – *Chair*
24 Leif Holm, PharmD #PHAP1606
25 James Henderson, RPh #PHAP1683
26 Tammy Lindemuth, Public Member
27 Sharon Long, Public Member (*Via Phone*)
28

29 Division staff present:
30

31 Andy Khmelev, Occupational Licensing Examiner
32 Renee Hoffard, Records and Licensing Supervisor
33 Brian Howes, Investigator
34 Marylene Wales, Accountant III (*via phone*)
35 Marilyn Zimmerman, Paralegal (*via phone*)
36 Charles Ward, Acting Deputy Director (*via phone*)
37

38 Members from the public present:
39

40 CJ Kim, PHAP1274, State of Alaska
41 Jordan Hussey, 123640, Walgreens
42 Molly Gray, Alaska Pharmacists Association
43 Nicholas Marceaux, Pharmacist Applicant

Cheryl Mandala, Office of Administrative Hearings

Board members absent:

Phil Sanders, RPh #PHAP776 (Excused)
Lana Bell, RPh #PHAP893 (Excused)

Agenda Item 2 Review/Approve Agenda

Following roll call, board chair, Rich Holt, prompted the board to review the agenda for day. Renee Hoffard and Brian Howes commented that there is a consent agreement for a license denial from the prior meeting that was sent to the office of administrative hearings that needs to be moved to the new business section on the agenda that starts at 2:00pm.

TASK 1

Move the consent agreement discussion to the new business section (*Completed 11/29/2018*)

On a motion duly made by Tammy Lindemuth, seconded by James Henderson, and approved unanimously, it was

RESOLVED to accept the November 29, 2018 agenda as amended.

| | APPROVE | DENY | ABSTAIN | ABSENT |
|-----------------|----------------|-------------|----------------|---------------|
| Leif Holm | x | | | |
| Richard Holt | x | | | |
| James Henderson | x | | | |
| Tammy Lindemuth | x | | | |
| Sharon Long | x | | | |
| Phil Sanders | | | | x |
| Lana Bell | | | | x |

The motion passed with no further discussion.

Agenda Item 3 Review/Approve Minutes

Chair Holt asked the board that they review and approve the minutes from the October teleconference.

On a motion duly made by Tammy Lindemuth, seconded by Leif Holm, and approved unanimously, it was

RESOLVED to accept the minutes as read from the August 30-31st board meeting and the October 12 teleconference.

| | APPROVE | DENY | ABSTAIN | ABSENT |
|----|-----------------|-------------|----------------|---------------|
| 87 | | | | |
| 88 | Leif Holm | x | | |
| 89 | Richard Holt | x | | |
| 90 | James Henderson | x | | |
| 91 | Tammy Lindemuth | x | | |
| 92 | Sharon Long | x | | |
| 93 | Phil Sanders | | | x |
| 94 | Lana Bell | | | x |

95

96 The motion passed with no further discussion.

97

98 **Agenda Item 4 Ethics Report**

99

100 The board then moved on to addressing ethics, however, there were no ethics disclosures to
101 report.

102

103 **Agenda Item 5 PDMP Update**

104

105 Investigator Brian Howes goes over how many PDMP registrations there were, which at this
106 time there are over 10,000 registered users. Prescriber report card came out the prior day,
107 which allows the prescriber to know where they are with their peers, compared to their
108 specialty. In most cases prescribers seem to think it's a good idea. It's not a punitive
109 measure, but rather more for information. The report will also disclose if a patient is seeing
110 more than 5 prescribers at a time, or 5 dispensers in a three month time period. It provides
111 good information to the prescriber to see if something is wrong. These report cards can tell
112 the prescriber if some behaviors, or prescriptions need to be modified. The PDMP report
113 that Investigator Howes has provides information about patient history requests vs opioids
114 dispensed. As of right now only federally scheduled drugs are on the PDMP program, and
115 Investigator Howes suggested that "drugs of concern" are added to it that may not be
116 scheduled federally, but state wise. The amount of opioid prescriptions went up 8%, while
117 the number of prescribers are less, which Tammy Lindemuth expressed concern for. The
118 main question is whether or not the program is actually working. With the program only
119 being around since 2016, it may take more time and more numbers to determine factors on
120 what is causing higher numbers of opioid prescriptions, and ways that they can be lowered.

121

122 Investigator Howes then commented about the security of the PDMP registrations, listing
123 an example of where a doctor left his computer open, and someone ended up going into the
124 system and looking up confidential patient information. The question then comes as to
125 whether this was a mistake on the doctors end for leaving his computer open, or if the
126 doctor purposely allowed someone to access the system, and if that was the case, steps need
127 to be taken to find out who that was.

128

129 Chair Holt inquired why Schedule V were removed from PDMP. Tammy Lindemuth had a
130 theory was because those are less likely to be abused. The conversation talked about possibly
131 reinstating Schedule V drugs back into the PDMP, which Investigator Howes confirmed can
132 be done, however it would put more pressure on pharmacists to input more information.
133

134 Chair Holt suggested that the report on delinquencies in PDMP be held off on discussion
135 until Laura Carrillo returns from leave and assumed the executive administrator for
136 pharmacy position.
137

138 **Agenda Item 6 Investigative Report**

139
140 Investigator Howes indicated that for one of the discussions the board will need to go into
141 executive session. The report indicates 23 open cases, 10 of which were not registering with
142 the PDMP in a timely manner. Investigator Howes states that at this time, there is not
143 enough information to see if the pharmacist actually dispenses prescriptions, versus if they
144 are merely a consulting pharmacist.
145

146 Chair Holt inquired if any of the cases required discussion, however the cases that the
147 investigator has open at the time are still pending, and waiting for more information.
148

149 **On a motion duly made by Leif Holm and seconded by James Henderson in**
150 **accordance with AS 44.62.310(c)(3), the board unanimously moved to enter executive**
151 **session for the purpose of discussing matters which by law, municipal charter, or**
152 **ordinance are required to be confidential.**
153

154 Staff members Andy Khmelev, Renee Hoffard, and Brian Howes were authorized to remain
155 in the room.
156

157 *Off record for executive session at 10:21 a.m.*

158 *Back on the record at 10:58 a.m.*
159

160 Upon return from executive session, Chair Holt requested a 15 minute recess.
161

162 *Off record at 10:59 a.m.*

163 *Back on record at 11:11 a.m.*
164

165 **Agenda Item 7 Board Business**

166 **Task 2**

167 Review tabled applications. The first tabled ballot from the prior voting cycle required the
168 board to enter executive session.
169
170

171 **On a motion duly made by Leif Holm and seconded by James Henderson in**
172 **accordance with AS 44.62.310(c)(2), the board unanimously moved to enter executive**

173 session for subjects that tend to prejudice the reputation and character of any person,
174 provided the person may request a public discussion.

175
176 Staff members Andy Khmelev, Renee Hoffard, and public member Nicholas Marceaux were
177 authorized to remain in the room.

178
179 *Off record for executive session at 11:13 a.m.*
180 *Back on record at 11:41 a.m.*

181
182 Upon return from executive session the board moved on to application review. CJ Kim, the
183 pharmacist in charge for the State of Alaska – Division of Public Health made an appearance
184 at the meeting on behalf of a Drug Room Location Change application. The only question
185 the board had for Dr. Kim was when James Henderson asked about the controlled
186 substances question on the inspection report not being complete, Dr. Kim confirmed that
187 the Drug Room does not have a DEA license, therefore it does not handle controlled
188 substances.

189
190 Due to the sheer number of applications, the Licensing Examiner (Andy Khmelev) made the
191 ballots be open through 12/10/18. The board agreed with the large number of ballots, with
192 the exception of the State of Alaska – Division of Public Health Drug room application, the
193 remaining ballots will be voted on after the meeting, prior to the close date.

194
195 **Task 3**
196 The board must vote on the open ballots prior to close date (*the original close date is 12/10/18,*
197 *however due to the earthquake the struck Anchorage on 11/30/18, the ballot close dates may be postponed*).

198
199 The meeting went into recess for lunch.

200
201 *Off the record for lunch at 11:55 a.m.*
202 *Back on the record at 1:17 p.m.*

203
204 **Agenda Item 8 Budget Report/Division Updates**

205
206 Acting Deputy Director Charles Ward and Accountant III Marylene Wales joined the
207 meeting via teleconference to discuss the budget report and the division updates. No
208 questions from the board regarding the budget report. Miss Wales then went over the FY18
209 Division Indirect Expenses which was \$259,690. Board members did not have follow up
210 questions. Pharmacy board currently has a surplus of \$507,993 at the end of FY18. No
211 further discussion on budget.

212
213 **Agenda Item 9 New Business**

214
215 **Task 4**
216 The board briefly reviewed the State of Alaska Opioid Epidemic Plan that was issued by the

217 Department of Health and Social Services. The plan did not require discussion by the board,
218 rather it was added into the agenda by Acting Director Sara Chambers for information
219 purposes.

220

221 **Task 5**

222 Cheryl Mandala, a judge from the Office of Administrative Hearings joined the meeting in
223 person, and Marilyn Zimmerman, the Division Paralegal II joined via teleconference, to
224 discuss a consent agreement that required an executive session.

225

226 **On a motion duly made by Leif Holm and seconded by Tammy Lindemuth in**
227 **accordance with AS 44.62.310(c)(4), the board unanimously moved to enter executive**
228 **session for the purpose of discussing matters involving consideration of government**
229 **records that by law are not subject to public disclosure.**

230

231 Staff members Andy Khmelev, Renee Hoffard, Marilyn Zimmerman, Brian Howes, and
232 Cheryl Mandala were authorized to remain in the room.

233

234 *Off record for executive session at 1:40 p.m.*

235 *Back on the record at 2:23 p.m.*

236

237 No motions were made during the executive session.

238

239 **On a motion duly made by Leif Holm, seconded by James Henderson, and approved**
240 **unanimously, it was**

241

242 **RESOLVED to accept the consent agreement proposed for OAH 18-0850-**
243 **PHA.**

244

245

| | APPROVE | DENY | ABSTAIN | ABSENT |
|-----|-----------------|-------------|----------------|---------------|
| 246 | | | | |
| 247 | Leif Holm | x | | |
| 248 | Richard Holt | x | | |
| 249 | James Henderson | x | | |
| 250 | Tammy Lindemuth | x | | |
| 251 | Sharon Long | x | | |
| 252 | Phil Sanders | | | x |
| 253 | Lana Bell | | | x |

254

255 The motion did not pass. There was no further discussion on this matter.

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257

258 **On a motion duly made by Leif Holm, seconded by James Henderson, and approved**
259 **unanimously, it was**

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RESOLVED to accept the consent agreement proposed for 2017-00048

| | APPROVE | DENY | ABSTAIN | ABSENT |
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| Leif Holm | x | | | |
| Richard Holt | x | | | |
| James Henderson | x | | | |
| Tammy Lindemuth | x | | | |
| Sharon Long | x | | | |
| Phil Sanders | | | | x |
| Lana Bell | | | | x |

Motion passed with no further discussion.

Agenda Item 10 Old Business

There was no old business to discuss. Board members requested a short break prior to public comment.

Off record at 2:28 p.m.

On record at 2:45 p.m.

Agenda Item 11 Public Comment

Molly Gray was present during public comment. She reminded the board members of the Annual Convention in February at the Sheraton in Anchorage. There were no further appearances or discussions during the public comment period.

On a motion duly made by Tammy Lindemuth, seconded by Leif Holm, and approved unanimously, it was

RESOLVED to close public comment at 2:50 p.m.

| | APPROVE | DENY | ABSTAIN | ABSENT |
|-----------------|----------------|-------------|----------------|---------------|
| Leif Holm | x | | | |
| Richard Holt | x | | | |
| James Henderson | x | | | |
| Tammy Lindemuth | x | | | |
| Sharon Long | x | | | |
| Phil Sanders | | | | x |

302 Lana Bell x

303

304 Motion passed with no further discussion.

305

306 **On a motion duly made by Tammy Lindemuth, seconded by James Henderson, and**
307 **approved unanimously, it was**

308

309 **RESOLVED to send Rich Holt and Leif Holm as the board delegates to the annual**
310 **conference on February 8-10th.**

311

312

| | APPROVE | DENY | ABSTAIN | ABSENT |
|---------------------|---------|------|---------|--------|
| 313 Leif Holm | x | | | |
| 314 Richard Holt | x | | | |
| 315 James Henderson | x | | | |
| 316 Tammy Lindemuth | x | | | |
| 317 Sharon Long | x | | | |
| 318 Phil Sanders | | | | x |
| 319 Lana Bell | | | | x |

321

322 Motion passed with no further discussion.

323

324 Public comment officially closed at 2:50 p.m.

325

326 **Agenda Item 12 Correspondence**

327

328 Molly Gray, from the Alaska Pharmacists Association, came to give a presentation on
329 pharmacy tech immunizations. She described how the state of Washington allows pharmacy
330 technicians administer immunizations as a way of delegation of administration. The state of
331 Arizona has implemented it as well. A Pharmacist certified for immunizations would
332 delegate the task to a tech who has gone through the certification program. Delegation of
333 authority would happen under the supervision of the pharmacist. It opens the possibility of
334 technical tasks to be done by the technicians which would open more for pharmacists to
335 work on other projects and have more time for counseling the person that comes in for an
336 immunization. Leif holm asked what the supervision would look like. Molly gray suggested
337 that the board discuss how this would play out with a certified technician. Leif Holm is on
338 board for it if the training is there, and the liability will remain on the pharmacist. Chair Holt
339 brought up that a pharmacist could have concern about the proximity and how close the
340 pharmacist would be to the technician administering immunizations. In regulation the direct
341 supervision definition and personal supervision definition allows for a proximity, and not
342 physically having to be there. It makes no sense to allow this practice, but still require the
343 pharmacist to be present for the administration. Chair Holt also pointed out that there is

344 currently a regulation project for pharmacy technicians, and this topic could continue to be
345 discussed on day 2 of the meeting when the regulation project will be up for discussion.

346
347 Moving onto next topic of correspondence was “How can a pharmacy dispense a
348 prescription medication to a facility (not a patient) outside of their corporation?” Comes
349 from an email from a bible camp in Unalakleet. Chair Holt mentioned regulation 12 AAC
350 52.590 about prescribing drugs to a practitioner or a patient.

351
352 **12 AAC 52.590. PREPACKAGING OF DRUGS.** For the purpose of supplying drugs to a
353 prescribing practitioner, drugs shall be prepackaged in child-resistant containers under the
354 direct supervision of a pharmacist and bear a label that contains

- 355 (1) the name, address, and telephone number of the pharmacy;
- 356 (2) the name, strength, and quantity of the drug;
- 357 (3) the lot number and expiration date of the drug, if not already contained on the
358 unit-of-use or drug packaging;
- 359 (4) cautionary information required for patient safety and information; and
- 360 (5) the initials of the pharmacist.

361
362 Tammy Lindemuth expressed concerns if the child that’s at a remote camp doesn’t know
363 about what kind of allergies they have or how to take their medication. The question on
364 hand is whether or not a prepackaged drug is for a provider, or if it’s for the person its
365 prescribed to specifically. Chair Holt interprets the regulation as a prescription is specifically
366 for a person. Leif Holm expressed concern of the fact that in a situation where a child is at a
367 remote camp, and medication is dispensed incorrectly which could result in the death of a
368 child, the liability could end up with the doctor who prescribed the medication, or the
369 pharmacist who provided it. In order to prevent a child dying, Sharon Long stated that there
370 should be a way for it to be allowed for dispensing medication at a remote site with no
371 medical professional standing by. Chair Holt is worried that an untrained professional
372 administering drugs could be a huge liability for the pharmacist. The determination was that
373 a prescription is for a specific person, and that the provider responsible for actions. The
374 patient will have to be referred to the statutory definition of a prescription which is for an
375 individual person. The other option would be to refer them to 12 AAC 52.590, where
376 prepackaged drugs get sent to a prescribing practitioner.

377
378 Next topic was an email from the NABP, which had the subject, “Licensure Transfer
379 Program Referenced in FTC Report of Expedited Pharmacist License Portability.” The note
380 discusses the concept of mutual recognition of licensure and expedited licensure. Chair Holt
381 determined that the note was more for information purposes. No further discussions on this
382 matter.

383
384 Next topic was an email from Ryan Ruggles, the pharmacy director for Anchorage
385 Neighborhood Health Center, was asking if a pharmacist can administer injectable
386 medications. Examples of injectable medications are vitamins, hormones, etc. The board

