

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
May 28-29, 2009**

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 May 28-29, 2009 at the Atwood Building, 550 West 7th Ave., Suite 1270, Anchorage, AK.

Call to Order/Roll Call

The meeting was called to order by Mary Mundell, Chair, May 28, 2009 at 9:03 a.m. Those present constituting a quorum of the board, were:

Leah Handley
Richard Holm, R. Ph.
Steven Johnson, R. Ph.
Christopher J. Kim, R. Ph.
Mary Mundell, R. Ph.
Dirk White, R. Ph.

Kathe Boucha 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

Visitors present:

Gayle Horetski-Assistant Attorney General- Agenda Item 7
Nancy Davis-Alaska Pharmacist Association-Agenda Item 8
Daiana Huyen, Walgreens
Dan Luce, Walgreens

Agenda Item 1 New Board Member Introductions

The new board members, Leah Handley, Christopher J. Kim (CJ), and Steven Johnson were introduced to the board. Each new board member shared their respective backgrounds.

Agenda Item 2 Review of Minutes

The board reviewed the minutes of the February 19-20, 2009 meeting and the April 6, 2009 teleconference. No changes were made by the board.

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

RESOLVED to approve the minutes of the February 19-20, 2009 without amendments.

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

RESOLVED to approve the minutes of the April 6, 2009 teleconference without amendments.

Agenda Item 3 Ethics Disclosure and Goals and Objectives

There were no ethics violations to report. Ms. Mundell noted for the new board members what instances may be viewed as an ethics violation. Ms. Zinn noted that she had not brought the ethics video for the new members which was scheduled for the end of the day but would bring it to the September meeting. Mr. White read the 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 its affiliation with NABP and send one board member to the District Seven NABP meeting and two members to the annual NABP meeting. The Division's budget currently allows only one out-of-state travel per fiscal year; this is generally used for attendance at the District Seven NABP meeting.
8. The board will continue to evaluate the impact of current regulations and the need for new regulations.

9. The board will continue to evaluate regulations regarding collaborative practice, and to establish procedures for reviewing/approving appropriate protocols for collaborative practice.
10. The board will assess and evaluate the growing public concern regarding abuse of illicit and prescription drugs, internet pharmacies, counterfeit drugs, and development of a prescription monitoring program.

Ms. Handley asked why the board did not usually attend the NABP Annual Meeting if it was one of the board's goals and objectives. Ms. Mundell noted that the District Seven NABP meeting was more relevant to the state since it contained most of the states in the northwest part of the country.

Agenda Item 4 **New Board Member Orientation**

The board discussed the procedures for board meetings and what constitutes a meeting.

Agenda Item 5 **Investigative Report**

Susan Winton, board investigator, joined the meeting for the investigative report. Ms. Winton gave general information regarding investigators duties and how the investigation process works for the new board members.

Ms. Winton noted there was one pharmacist on probation that was not currently practicing pharmacy, 11 active investigations and 26 open complaints. Since the last meeting, three new investigations have been opened, six were completed, three were closed and three require review. Five new complaints were opened, 11 inquiries were completed and closed or require review.

Mr. White asked Ms. Winton if the fines received from license actions went to pay for the investigation and legal process. Ms. Winton stated she believed the fines went into the general fund for the state. Fines are based on similar actions by other boards and are standardized. The division goal was to keep consistency with all boards considering fines. Mr. White asked Ms. Winton about the National Practitioner Data Bank. Ms. Winton noted that a license action resulted in mandatory notification to the National Practitioner Data Base. The National Practitioner Data Base tracked disciplinary actions for health care providers for the nation. Other actions reported to the NPDB were malpractice actions and revocation of hospital privileges. She further noted that if she received an application with a "yes" answer and the applicant had a license in another state, that was one database she would query.

Ms. Winton noted that she had one additional license application with a "yes" answer to add for review by the board.

Break- Off the record at 10:06 a.m.

On the record at 10:23 a.m.

Agenda Item 6 **License Application Review**

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

RESOLVED in accordance with AS 44.62.310(c)(2), to go into executive session to discuss license applications, staff to remain during executive session.

Off the record at 10:25 a.m.

On the record at 11:03.

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

RESOLVED to approve the pharmacy technician license applications for Windy DeBerry, Amber Smolnik, Justin Fernandez and Daniel Elliott.

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

RESOLVED to approve the pharmacy intern license applications for Molly Branaugh, David Brockhausen, Tasha Engelmeyer, Jacob Reuter, Jared Schmitz, Matthew Staples, Courtney Uebele and Gregory Ziegler.

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

RESOLVED to table the out-of-state pharmacy application for Meds for Vets pending resolution of the DEA investigation.

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

RESOLVED to approve the pharmacist license application for Eric Youngblood.

Ms. Zinn noted that an applicant for a pharmacist license had received 480 hours in a non traditional site, and as required by regulation must be approved by the board before the board may give credit for those internship hours. The board reviewed the explanation for the non traditional internship hours for Stephanie Roberts and made a motion.

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

RESOLVED to accept the 480 non traditional intern hours submitted by Stephanie Roberts for pharmacist licensure.

It was noted the 480 hours were not in conjunction with educational requirements.

The board reviewed the remaining license applications and collaborative practice agreements.

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

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

Pharmacies-

Walgreens #12679
Walgreens #12680
Walgreens #12681
Alaska Managed Care Pharmacy #1829
Providence Health Park Pharmacy
Providence Medical Arts Pharmacy
Providence Alaska Medical Center Inpatient Pharmacy
ARX Pharmacy

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

RESOLVED to approve the pharmacist license applications pending final documents for licensure, as read into the record.

Pharmacists-

Naveed Ahmed- pending verification of one year of practice, MPJE passing score
Grant Bender- pending MPJE passing score
Erik Bernhoft- pending MPJE passing score, verification of one year of practice
Marla Estevis- pending MPJE passing score
Jude Fabius- pending verification of one year of practice, MPJE passing score
Alex Kaushansky- pending MPJE passing score
Jonathan Kijima- pending NAPLEX & MPJE passing scores, transcripts
Anthony L'Esperance- pending MPJE passing score
Steven Olive- pending verification of 1500 intern hours, NAPLEX & MPJE passing scores, verification of Florida intern license

Kane Olson- pending transcripts, NAPLEX & MPJE passing scores, verification of 1500 hours of internship, verification of Maine intern license
Maria Orenca- pending verification of 1500 intern hours, NAPLEX & MPJE passing scores
Brian Phipps- pending \$300 license fee, transcripts, 1500 intern hours, NAPLEX & MPJE passing scores
Emily Phipps- pending \$300 license fee, transcripts, 1500 intern hours, NAPLEX & MPJE passing scores
Maria Reyes- pending transcripts, verification of one year of practice, MPJE passing score, verification of licensure from California
Stephanie Roberts- pending 1500 intern hours, NAPLEX & MPJE passing scores
Katie Roehm- pending transcripts, passing NAPLEX & MPJE passing scores, verification of 83 non-educational related intern hours
Ayoub Sabga- pending \$300 license fee, MPJE passing score
Firdaus Saleh- pending transcripts, MPJE passing score
Michelle Thompson- pending transcripts, NAPLEX & MPJE passing scores, verification of 500 non-educational intern hours

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

RESOLVED to approve the collaborative practice agreements as read into the record.

Collaborative Practice Agreements-

Safeway Pharmacy #2728, Immunization, Deborah Peay #1093, Kimberly Anderson, ANP #910
Carrs Pharmacy #1802, Immunization, Brianne Allison #1775, Kimberly Anderson, ANP #910
Carrs Pharmacy #1817, Immunization, Charles Semling #1588, Kimberly Anderson, ANP #910
Carrs Pharmacy #1806, Immunization, Robert Hill #996, Kimberly Anderson, ANP #910
Carrs Pharmacy #1805, Immunization, Larry Andersen #384, Kimberly Anderson, ANP #910
Carrs Pharmacy #1812, Immunization, Shannon Hanson #1604, Kimberly Anderson, ANP #910
Safeway Pharmacy #2754, Immunization, Tammy Beaudreault #1645, Kimberly Anderson, ANP #910
Safeway Pharmacy #1820, Immunization, David Ferguson #1484, Kimberly Anderson, ANP #910
Carrs Pharmacy #1809, Immunization, Karen Hoplin #154, Kimberly Anderson, ANP #910
Safeway Pharmacy #0548, Immunization, Rose Henry #1382, Kimberly Anderson, ANP #910
Carrs Pharmacy #1813, Immunization, Christopher Kim #1274, Kimberly Anderson, ANP #910

Carrs Pharmacy #0520, Immunization, Ruth Parker #573, Kimberly Anderson, ANP #910
Safeway Pharmacy #1821, Immunization, Jeanie Kinchen #1281, Kimberly Anderson, ANP #910
Safeway Pharmacy #3410, Immunization, Mary Bohan #1081, Kimberly Anderson, ANP #910
Carrs Pharmacy #1807, Immunization, Lisa Symmes #1183, Kimberly Anderson, ANP #910
Carrs Pharmacy #1814, Immunization, Benjamin Osburn #1568, Kimberly Anderson, ANP #910
Carrs Pharmacy #1829, Immunization, Lauren Bognar #1009, Kimberly Anderson, ANP #910
Carrs Pharmacy #1811, Immunization, Annie Worman #1471, Kimberly Anderson, ANP #910
Safeway Pharmacy #1090, Immunization, Joseph Mauer #1027, Kimberly Anderson, ANP #910
Carrs Pharmacy #2628, Immunization, Brian Swan #1337, Kimberly Anderson, ANP #910
Carrs Pharmacy #1818, Immunization, Valentina Todd #1717, Kimberly Anderson, ANP #910
Safeway Pharmacy #1832, Immunization, Teresa Heilig #1319, Kimberly Anderson, ANP #910
Carrs Pharmacy #1808, Immunization, Susan Easley #1565, Kimberly Anderson, ANP #910

Lunch- off the record at 11:55 a.m.
On the record at 1:15 p.m.

Agenda Item 7 **Regulations**

Ms. Mundell gave background information to the new board members regarding remote pharmacies. Ms. Zinn noted that she had handed out information to the board members regarding census data for communities in the state, in the case the board chose to define community by population size.

Gayle Horetski, assistant attorney general, and Jun Maiquis, regulation specialist, joined the meeting via telephone. Ms. Horetski noted that the previous Shared Pharmacy Services and Remote Pharmacy regulations had expired and therefore the files were closed. The board would have to start a new project and begin with drafting of the regulations, send out for public comment, and adopt at a meeting.

Ms. Mundell stated that the board had decided at the last meeting to use Ms. Horetski's draft with a few revisions. The board decided to take out (c) which had definitions for "established pharmacy services" and "community", and change (2) to read "that there is no access within a 10 mile radius to an established pharmacy in the community in which the remote pharmacy is to be located. Ms. Horetski noted that the last version the board had which included the 10 mile

radius language would not be approved by the Department of Law because of statutory requirements. She further stated the board could go ahead with the draft with the 10 mile radius but wanted to clarify that the language was not the department's language. Mr. White noted it was the draft modified by the board.

The board discussed the Shared Pharmacy Services regulations. The board reviewed Ms. Horetski's draft from the February board meeting. It was noted the purpose of the regulation was to allow a pharmacy or pharmacist in another state to enter into a shared pharmacy services agreement with a hospital pharmacy only in Alaska. Any pharmacy inside the state that wished to enter into an agreement for shared pharmacy services, must do so with another pharmacy or pharmacist physically located inside the state and licensed by the board.

Ms. Mundell asked Mr. Kim to explain how Carrs shared pharmacy services worked. Mr. Kim stated that a pharmacy can send a prescription number for a refill to a closed pharmacy with no patient access. That pharmacy then pulls up the information from a database, prints the label and it is attached to the medication. The medication is then delivered to the respective stores to be dispensed to the patient. The pharmacy will not give the central fill pharmacy a new script to type.

The board allowed Dan Luce to explain how it worked with the Walgreen pharmacies. Mr. Luce said the patient walks into the pharmacy with the prescription, the prescription is then scanned, the pharmacy where the prescription is dropped off can do the data entry, or another pharmacy can do the data entry, then a pharmacist reviews the data. All of the information is in a common queue. After the data is reviewed by a pharmacist, the label prints at the store where the prescription was dropped off. He further stated that the services are performed in the same geographic area so all pharmacies had the same doctor database.

After further discussion, the board decided to make the following changes and send to the regulation specialist:

12 AAC 52.443. Approval for shared pharmacy services. (a) A pharmacy in this state that wishes to participate in shared pharmacy services as provided in 12 AAC 52.445 must apply to the board for approval on a form provided by the department.

12 AAC 52.445. Shared pharmacy services.(g) a pharmacist working independently outside of the state may participate in shared pharmacy services with an institutional pharmacy in this state if the pharmacist holds

(1) a current license as a pharmacist issued under AS 08.80 and this chapter, and

(2) a current license to practice as a pharmacist issued by the licensing jurisdiction where the pharmacist is working.

12 AAC 52.995(a)

(29) "filling pharmacy" means a pharmacy participating in shared pharmacy service that processes or fills a prescription order for a patient;

(30) "requesting pharmacy" means a pharmacy participating in shared pharmacy services that forwards a prescription order to another participating pharmacy to be processed or filled;

(31) "shared pharmacy services" means a system allowing the processing by a participating pharmacist or a pharmacy of a request from another participating pharmacist or pharmacy to process or fill a prescription drug order, or to perform functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, therapeutic interventions, and institutional order review.

The board decided the pharmacy would apply for approval using a form similar to the collaborative practice protocol agreement. Ms. Zinn would draft the form and send to Ms. Mundell for review.

The board returned to the remote pharmacy regulations discussion. Ms. Handley asked Ms. Horetski what it was about the 10 mile rule wording that it would not be approved by the Department of Law. Ms. Horetski said the administrative procedure act gave the department authority for final review of all boards and commissions to the regulations attorney. That person was assistant attorney general, Deb Behr. The board had specific state laws that had to be adhered to including the state constitution, administrative procedure act and administrative hearings act. The board has no authority other than the protection of the public health and safety. The board cannot make regulations regarding economic concerns or classes of licenses. Mr. Holm stated that the ten mile rule was considered a health and safety issue because the best patient care would be a full pharmacy and not a remote pharmacy. A remote pharmacy would be allowed only in a community that could not support a full pharmacy. The ten mile distance between a brick and mortar pharmacy and a remote pharmacy would give a patient enough service to keep patient safety. A remote pharmacy would not be considered equal to a full pharmacy, but enough distance that a remote pharmacy could be accessible to people who could not go the 10 miles to a brick and mortar pharmacy. A remote pharmacy could provide a temporary service to that community "but it is not a do all end all for that community". Ms. Horetski noted that the 10 mile rule assumed all people can go to all pharmacies. The board was not taking into consideration the dual healthcare system in the state in reference to the native population being served by the native corporations and federal employees. Ms. Mundell stated the board is not making a distinction because the board cannot regulate the federal facilities. She further stated that the native health care facilities are serving both eligible and non-eligible people, therefore the non-eligible people belong under the jurisdiction of the board when considering public health and safety. Ms. Horetski said the federal laws can include non-eligible people if the federal government wants them to. Ms. Mundell said that when a brick and mortar pharmacy comes into a community with native health care, the brick and mortar pharmacy can service the non-native population, but does not take native care away from the native community. If a

brick and mortar pharmacy comes into a community with a native remote pharmacy, it does not mean the remote pharmacy has to be shut down as long as they are not serving non-eligible patients. The board thinks that a native pharmacy serving both native and non-native people should hold a state license, but that was a question they had asked an attorney general opinion on that has not been answered. She further said that a pharmacy that services non-eligible patients should be a state function. Ms. Horetski noted that the eligible patients are determined by the federal government and in certain instances can be non-native people. Federal law is not affected by what the Alaska Board of Pharmacy does.

Mr. Holm brought up the case of the pharmacy in Ketchikan that wanted a telepharmacy license to help solve the pharmacist staffing problem there. He noted that with other brick and mortar pharmacies in the community that would serve the population in its own best interest, there should not be a telepharmacy that does not have person to person contact with a pharmacist. That was not the purpose of the board instituting the remote pharmacy license.

Ms. Horetski and Mr. Maiquis disconnected from the meeting.

Mr. White gave the history of the telepharmacy regulation for the new board members. The current telepharmacy regulations have a legal hole that allows any pharmacy to have a telepharmacy anywhere. The board's intention was for a telepharmacy to serve a community that had no access to a pharmacy, not to solve staffing problems or give a pharmacy opportunity to make more money by not having a pharmacist staff the pharmacy.

Ms. Mundell said she had a hard time getting rid of the 10 mile radius when the IHS Manual had a 30 mile radius. She read the Indian Health Services manual which states that a determination for providing or not providing healthcare to ineligible individuals was based in part on "Reasonable Alternative Health Facility or Services. Generally, a reasonable alternative health facility or services will be determined to exist if there is, within a 30 mile radius of the IHS health facility, a private health care facility or private health care providers (e.g., physicians, surgeons, dentists, optometrists, etc.) available to provide necessary health care services. The following criteria are to be considered in making a determination of whether there is reasonable alternative health facility or services available:

- a. Health care facilities located (e.g., hospitals and hospital beds, clinics, etc.) within a 30 mile radius of the IHS health facility.
- b. The range of services available at these health care facilities.
- c. The number and type of health care providers (e.g., physicians, surgeons, dentists, optometrists, pharmacists, etc.) practicing within a 30 mile radius of the HIS health facility."

Ms. Mundell stated they were not keeping with their own rules outlined in the manual.

The board decided to send the Shared Pharmacy Services out for public comment.

After further discussion, the board decided to discuss the remote regulation on Friday morning after reviewing the community statistics for the state, and the “community” definitions from current state statutes.

Break- Off the record at 3:25 p.m.
On the record at 3:32 p.m.

Agenda Item 8 **Alaska Pharmacist Association Report**

Nancy Davis, executive directory, from AkPhA joined the meeting. Ms. Davis gave the report to the board on current issues with the association. Ms. Davis noted that the new prescription forms that require to be tamper-resistant do not fax well. The word void covers the prescription and the patient, prescriber and drug information is not legible. Ms. Mundell had also mentioned that she had the same problem as well as other pharmacists on the board. The prescription cannot be read to even contact the prescriber by phone for the information. Ms. Davis noted SB 38 regarding regulation of Pharmacy Benefit Managers (PBM) was held in Labor and Commerce and had a fiscal note of 70 million attached to it. She stated the association was encouraging the public to visit with their legislators during the summer to educate them on what a PBM does. Most legislators do not know what they do. Senator French had taken over the sponsorship for the bill since Senator Elton has taken a federal position. She said SB 139 regarding loan repayment for pharmacists was currently in finance. Alaska is one of seven or eight states that do not have loan repayment and incentive programs for pharmacists graduating from pharmacy school. For the naturopathic bill, SB 70, the association took a position that they did not support prescriptive authority for naturopaths but did support a naturopathic board. Ms. Davis said the association had formed a “technician certification committee”. The committee has two pharmacists and six technicians. The committee felt that technician certification should be required with two tiers, one being trainees and the other certified technicians. The training period should be a minimum of 1500 hours and must be certified at the end of the period before they can continue practice. The committee recommended that a technician that had worked for at least 10 years should be grandfathered and the ExCPT exam as well as the PTCB should be accepted for certification. She noted that they were recommendations to the AkPhA board so the pharmacy board knew where they could potentially be going.

Agenda Item 9 **Public Comment**

Dan Luce from Walgreens addressed the board for public comment. Mr. Luce thanked the board for allowing him to speak to the board regarding Dynamic Workload Balancing on Friday morning and stated he was looking forward to working with the board with the new Walgreen pharmacies opening in Alaska.

Agenda Item 7 Regulations

The board discussed pharmacy technician continuing education allowing the UAA technician program in place of the ten hours of continuing education required for renewal in accordance with 12 AAC 52.325 and 52.340. Ms. Mundell stated the board should wait until the AkPhA technician committee had opportunity to address the board on their findings as noted by Ms. Davis.

The board recessed at 4:06 p.m. until Friday, 9:00 a.m.

Friday May 29, 2009

Call to Order/Roll Call

The meeting was called to order by Mary Mundell, Chair, May 29, 2009 at 9:01 a.m. Those present constituting a quorum of the board were:

- Leah Handley
- Richard Holm, R. Ph.
- Steven Johnson, R. Ph.
- Christopher Kim, R. Ph.
- Mary Mundell, R. Ph.
- Dirk White, R. Ph.

Kathe Boucha was not present at the meeting.

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

- Sher Zinn, Licensing Examiner
- Susan Winton, Investigator
- Karen Wilke, Paralegal

Visitors present:

- Dan Luce, Walgreens- Agenda Item 12
- Daiana Huyen, Walgreens- Agenda Item 12

Agenda Item 10 Legislative Update

The board discussed SB 38 which would require regulation of pharmacy benefit managers, PBMs. Mr. White noted a 70 million dollar fiscal note had been attached to the bill by Pat Shier, Director of Retirement and Benefits, and it probably stemmed from the PBM telling the state it would cost them extra money

per prescription if the state were to regulate them. Ms. Zinn noted that Caremark is the PBM for the general government union healthcare plan. Mr. White said he knew of a local pharmacist whose wife worked for the state. He said he would get paid about \$11 for that prescription from the PBM but the PBM would charge the state \$75 for the same medication. He said he knew this because his wife had received a statement of benefits for the medication showing the \$75 cost to the state for the prescription. Ms. Mundell stated that unless there is legislation that makes the PBM show what is going on, no one knows. She stated they were making huge amounts of money and with regulation they would have to be transparent. Mr. Holm, noted that the first state to regulate the PBMs was Maine. It went all the way to the Supreme Court, and several other states had regulated them and still others are in the process.

Agenda Item 11 **Regulations**

The board returned to the remote pharmacy regulations drafted by Ms. Horetski discussed at the February meeting. The board decided to send the following to the regulation specialist for drafting:

12 AAC 52.423. Approval for operation of a remote pharmacy. A central pharmacy that wishes to provide pharmacy services through a remote pharmacy in the state under a telepharmacy system as provided in 12 AAC 52.425 must apply to the board for approval. The central pharmacy must apply on a form provided by the department, and pay the fees required in 12 AAC 02.310.

(b) The board will approve an application to provide pharmacy services through a remote pharmacy if the central pharmacy establishes:

- (1) that it is able to comply with the requirements of 12 AAC 52.425, and
- (2) that there is no access within a ten mile radius to an established pharmacy in the community in which the remote pharmacy is to be located.

(c) As used in the section "community" means a city or town incorporated or unincorporated, unincorporated village, or in the absence of the foregoing, a trade area, any of which may or may not be located on a road system.

Agenda Item 14 **Expense Report**

Ms. Zinn gave the expense report to the board. She noted the board was still in the black and perhaps by next year, the board could lower the license fees for renewal.

Agenda Item 12 **New Business**

Dan Luce, director of pharmacy affairs for Walgreens, addressed the board regarding Dynamic Workload Balancing. He noted that the board addressed most of what he wanted to discuss during the Shared Pharmacy Services discussion on Thursday. The prescription is walked into the pharmacy by the patient, the prescription is then imaged, the technician enters the data, then the pharmacist reviews the data entry to make sure all of the information is correct. Once it has been checked by the pharmacist and determined to be correct, a

label prints, it's filled and then verified by the pharmacist that it is the correct product. Then it is dispensed to the patient. For the workload balancing part, the data entry and data review is done on a common database by the prescription being imaged into a queue. The imaged prescription is shared in a common database and viewed from another store. The pharmacist can go into the queue and see that the original store is busy and then the tech can either do the data entry or the pharmacist can perform the data review. The queue knows when a pharmacy is backed up and will alert another pharmacy that is not backed up to help with the process.

Mr. Holm asked what would happen if the prescription was imaged at one store and another store viewed it and did not recognize the prescriber's name. Since most local pharmacies can tell what a local prescriber's hand writing and signature looks like, how would another pharmacy in another area know? Mr. Luce said that only pharmacies in the same geographic area would be using the same database. He said if a technician cannot read it, they send it back to the original store and it stays there for the original store to complete. Since there are currently only three stores opening in Anchorage, they would be the only stores with a common database and he wasn't sure how much workload balancing they would be doing. If the second store cannot read the prescription, a block is set in with a notation to call the physician for clarification. It cannot be filled until it is fixed. There are blocks all along the way to make sure the information is correct and there are no errors. The benefits are, less distractions, and therefore less errors. The pharmacist has more time to spend with patients for counseling. Mr. Luce said they were doing it in 43 other states, Alaska is the 44th. There is an audit trail accountability that can be printed showing all of the steps, who scanned the prescription, the data entry, the data review, product review. Everything is documented that can be printed instantaneously using the prescription number. Mr. Luce noted that the system would be in line with the proposed Shared Pharmacy Services regulations the board reviewed on Thursday.

Daiana Huyen stated the first Walgreens was to have the grand opening on July 12th. The store will have an opening for physicians, board members and elected officials to see the pharmacy and the system. Mr. Luce personally invited the board and staff to come and view the system at anytime at one of the stores.

The board discussed job shadowing. Ms. Zinn noted that she had several inquiries regarding allowing a person to come into the pharmacy and shadow without having to obtain a technician license. Ms. Zinn further noted she would like the board to make a policy so that in the future, the licensing examiner would be able to give direction when an inquiry is made. One specific concern was patient confidentiality. Mr. Holm noted it was important to allow job shadowing and encourage students to go into the practice of pharmacy. Creighton University, which has a distance learning program, has students shadow in a pharmacy during their first year for part of a day. He noted one came into his pharmacy last week and wanted to shadow.

Mr. Luce said that Walgreen's does it across the country. They have the student or tech sign a non-disclosure form. They are not allowed to touch anything in the pharmacy. He said that the most worrisome part of it is a student walking through the pharmacy and picking up a bottle of medication and putting it in their pocket.

Ms. Winton noted that since the student is not an employee, they cannot sign the same non-disclosure form as an employee would have to sign. The Alaska Statute states that the only way they can be behind the counter without a license, is if they are not an employee. Job shadowing is kind of a loop hole because that particular statute does not apply to them. She stated that if the board were to come up with a form for non-disclosure, to note on the form that the pharmacist-in-charge is responsible for the person shadowing. They are the only ones the board can hold responsible if something goes wrong.

Ms. Mundell noted that she wanted recommendations from teachers or principals or other responsible parties before a student would be allowed in the pharmacy. The pharmacist-in-charge is responsible for that person at all times, and they sign a non-disclosure HIPAA form.

Ms. Winton said the board should come up with a regulation outlining the responsibilities of the PIC so they know what is expected.

Ms. Zinn noted that she had received a phone call from a high school student who was job shadowing in the Ketchikan hospital for two months. The student was shadowing because she had not graduated from high school yet, therefore did not qualify for a license. Ms. Zinn noted that shadowing for two months was not shadowing, but working. Therefore she wanted the board to determine the maximum number of hours a person could shadow. Mr. Holm noted that a half a day would be sufficient. Mr. Johnson stated that at Providence Hospital, he could see a total of 20 hours for shadowing all departments. Ms. Mundell stated that anything over 20 hours would be working, not shadowing.

After further discussion, the board decided to think about what they would like to put in a regulation under pharmacist-in-charge responsibilities and discuss at the next meeting. The PIC would be responsible for the student. Not anyone would be able to job shadow. The student or other person would have to have a recommendation from a school counselor, teacher, principal or other responsible party and possibly positive references. The board would make a form that must be completed and submitted to the division and would include a non-disclosure clause for HIPAA requirements, name of student, pharmacy, PIC and number of hours the student would be in the pharmacy, signatures of school counselor, teacher or other party that recommended the student.

The board discussed refill prescriptions that were called in by a nurse from a practitioner's office. Mr. Johnson noted that if the nurse can call it in, why can't they sign a faxed form authorized by the practitioner. What can the board do to

allow it for non-controlled substances? Ms. Mundell noted that it had been a practice for years.

The board discussed the problem with faxed prescriptions which were generated as an electronic prescription. The board noted that the electronic prescriptions that are not sent computer to computer, but computer to fax must show a handwritten signature as required by the DEA. Ms. Winton noted the statutes or regulations do not distinguish the difference between a written and a faxed prescription.

The board decided to add to 12 AAC 52.460 under (a)(10), if a facsimile prescription drug order, the prescribing practitioner's signature, or authorized agents signature.

The board decided to send to the regulation specialist for drafting as soon as possible so that they can review it during a teleconference in July to send out for public comment. The board noted they would like all three of the regulation changes to be considered as separate projects so that one project would not delay another from moving forward.

Break- Off the record at 10:58 a.m.
On the record at 11:16 a.m.

Agenda Item 13 **NABP Question Writing**

The board noted the information received regarding the question writing for the MPJE exam. The deadline for submitting the questions was June 6th. The board explained to the new board members the question writing and question review process. It was noted that the question review would now be done remotely online.

Agenda Item 15 **CE Audits**

Karen Wilke, paralegal, joined the meeting to discuss the continuing education audit. Ms. Wilke informed the board of the role of the paralegal. The paralegal responds to the FOIA requests, continuing education enforcement and other licensing actions. The paralegal gets involved with the continuing education audit once the licensing examiner has sent two letters to licensees without a response. After no response from the second letter, the file is forwarded to the paralegal who sends a third letter notifying the licensee they are not in compliance with the continuing education requirements. If they don't respond to the third letter, an accusation is filed. If no response to the accusation, then there is a revocation of the license. If the licensee responds, a consent agreement is written for the licensee to sign, then given to the board to review and sign. The board gave guidelines that were adopted in 1998 for pharmacists and in 2003 for technicians regarding disciplinary action for continuing education non compliance. The actions are fines based on how many credit hours were not completed during the correct time period, mandatory audits for the next renewal

period, and a reprimand. This is generally if the CE's are done by the time of the agreement. Ms. Wilke noted the large amount of pharmacists and technicians that did not respond to the audit during the last renewal. Sometimes the licensees change jobs, or in the case of technicians, are no longer working and do not update their address. The division regulations require licensees to keep a current mailing address with the division at all times for service of official communication. The fines for pharmacists consist of a \$2500 fee that is suspended, with \$100 fine for every credit hour that has not been completed during the correct time period. A pharmacist lacking 5 credit hours would be fined \$500. Technicians have the same \$2500 fine suspended with \$25 for every credit hour not completed in correct time period. If the consent agreement shows they must complete a certain number of hours of continuing education by a specific date, and pay the fines by that date, the licensee must do so or pay the full \$2500 fine and their license may be suspended. Ms. Wilke noted the pharmacy board was the only board that did not have a fine for falsification of a renewal application.

Mr. White asked if the fines go back into the board's account or the general fund. He stated he would like the money to go to pay for the paralegal and investigators service to the board and not the general fund.

Ms. Handley asked if the pharmacist-in-charge was ever notified if a technician had a reprimand. Ms. Wilke said consent agreements are reported to the national reporting agencies but the PIC is not notified. It may be something the board would like to have put into the process as a requirement. Ms. Mundell asked if they were not in compliance, do they keep their license. Ms. Wilke said that if they do not respond to the audit, the process would bring them to a revocation of the license which is what the board would be dealing with later. Ms. Mundell asked how the employer would know if the licensee had their license revoked. Ms. Zinn noted there was no way of knowing if the person was employed or who the employer was to notify them. Ms. Mundell noted that if the license was checked on the internet occasionally, you could know if the technician had a current license or if it had been revoked.

Ms. Wilke stated that once the license was revoked, a copy of the revocation was sent to the licensee to the address on record. They have 30 days to respond to ask the board to reconsider, after the 30 days the revocation is effective.

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

RESOLVED in accordance with AS 44.62.310(c)(2), to go into executive session to discuss the continuing education audits, staff to remain during executive session.

Executive session- Off the record at 11:42 a.m.
On the record at 12:29 p.m.

Mr. Johnson left the room at 11:59 a.m. and returned at 12:09 p.m.

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

RESOLVED to accept the continuing education certificates for pharmacist Gloria Holseybrook, license #634.

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

RESOLVED to accept the consent agreement for case #2600-09-002.

For the record, the consent agreement was for Cindy Audet, pharmacist.

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

RESOLVED to accept the consent agreement for case #2606-09-002.

For the record, the consent agreement was for Katherine Scholfield, technician.

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

RESOLVED to accept the consent agreement for case #2600-09-003.

For the record, the consent agreement was for Scott Simpson, pharmacist.

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

RESOLVED to accept the consent agreement for case #2606-09-001.

For the record, the consent agreement was for Annette Carelock, technician.

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

RESOLVED to accept the consent agreement for case #2606-09-004.

For the record, the consent agreement was for Amy (Donahue) McDaniels, technician.

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

RESOLVED to accept the license revocation for case #2606-09-005.

For the record, the license revocation was for Michael Moss, technician.

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

RESOLVED to accept the license revocation for case #2606-09-006.

For the record, the license revocation was for Erin Stephens, technician.

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

RESOLVED to accept the license revocation for case #2606-09-007.

For the record, the license revocation was for Jamie Bell, technician.

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

RESOLVED to accept the license revocation for case #2606-09-008.

For the record, the license revocation was for Selene Sanchez, technician.

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

RESOLVED to accept the license revocation for case #2600-09-005.

For the record, the license revocation was for Katherine Azmeh-Scanlon, pharmacist.

Ms. Mundell signed the consent agreements and the license revocations. The board thanked Ms. Wilke for attending the board meeting.

Agenda Item 16 Correspondence

The board reviewed the NABP correspondence.

NABP-May 5, 2009- NABP Position Paper- No action required

NABP-May 1, 2009- Possible Compromise of Virginia Board of Pharmacy Electronic Records- No action required.

NABP-April 16, 2009-DEA Interpretation of the Emergency Schedule II Refill Rule-Overnight shipping Precludes use of Rule in Hospice Settings- No action required.

NABP-April, 2009- Verified-Accredited Wholesale Distributors (VAWD) program
Criteria Revisions-Addressing use of Common Carriers- No action required.
NABP-March 2009- State News Roundup- No action required.
NABP-March 12, 2009- ACPE and State Based Continuing Education Approval-
No action required.

The board reviewed the general correspondence.

Sherry Green, NAMSDL-May 6, 2009- Virginia's PMP- No action required.
Nancy Davis/Teresa Bruce- April 24, 2009- Drug Take Back and Medication
disposal Program, for discussion- No action required.
Doug Noaeill-April 14, 2009- Drug Samples in a Drug Room- Ms. Zinn would
respond that federal law does not allow samples in a drug room.
URAC- April 17, 2009- Accreditation Programs- No action required.
Kirsten Reed-May 21, 2009- Pharmacy Services outside of the state- Ms. Zinn
would respond that they need an out-of-state pharmacy license and the
pharmacist must be licensed.
Cathy Wilson-May 21, 2009- Automated Pharmacy Systems- Ms. Zinn would
respond that it is not considered physician dispensing by the Board of Pharmacy
and they would be required to obtain a pharmacy license and comply with
pharmacy statutes and regulations.
Tanie Smiley-May 21, 2009- Pharmacy Services outside of the state- Ms. Zinn
would respond that they need an out-of-state pharmacy license and the
pharmacist must be licensed.
Pat Rickey-May 5, 2009- Oxygen Supplier- Ms. Zinn would respond by stating
the Board of Pharmacy does not have statutes or regulations regarding oxygen,
they must comply with Medicaid and Medicare regulations.

Agenda Item 17 Office Business

The board signed the wall certificates. The chair signed the meeting minutes.

The board adjourned the meeting at 1:23 p.m.

Respectfully Submitted:

Sher Zinn, Licensing Examiner

Approved:

Dick Holm, Vice Chair
Alaska Board of Pharmacy

Date: _____