

BOARD MEETING

at the

Airport Plaza Hotel
1981 Terminal Way
Reno

December 7th and 8th, 2011

The meeting was called to order at 9:00 a.m. by Beth Foster, Board President.

Board Members Present:

Jack Dalton	Beth Foster	Kirk Wentworth
Russell Smith	Jody Lewis	Kam Gandhi
Cheryl Blomstrom		

Board Members Absent:

Board Staff Present:

Larry Pinson	Jeri Walter	Carolyn Cramer	Keith Marcher
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PUBLIC COMMENT

On December 7th, President Foster asked for Public Comment and there was none.

On December 8th, President Foster asked for Public Comment and there was none.

CONSENT AGENDA

1. Approval of October 12-13, 2011, Minutes for Possible Action
2. Applications for Out-of-State Pharmacy – Non Appearance for Possible Action:
 - A. Aspire Rx Pharmacy – Draper, UT
 - B. Convergys Customer Management Group Inc. – Tucson, AZ
 - C. Direct Success Pharmacy Dept – Farmingdale, NJ
 - D. Everest Pharmacy – Sandy, UT
 - E. Foothills Professional Pharmacy – Phoenix, AZ
 - F. Forest Hills Rx, Inc. – Forest Hills, NY

- G. Injured Workers Pharmacy, LLC – Andover, MA
- H. Meds at Home – Columbus, OH
- I. ProPharmCare – Orange, CA
- J. Summit Pharmacy Inc. – Phoenix, AZ
- K. TAG Pharmacy – Folcroft, PA
- L. Walgreen Co. – Miami Lakes, FL

Applications for Out-of-State Wholesaler – Non Appearance for Possible Action:

- M. Biocompatibles, Inc. – Oxford, CT
- N. CaridianBCT, Inc. – Lakewood, CO
- O. Citra Labs, LLC – Braintree, MA
- P. Dendreon – Union City, GA
- Q. Hospital Pharmaceutical Consulting – San Antonio, TX
- R. J.T. Posey Company – Elk Grove Village, IL
- S. Masters Pharmaceutical, Inc. – Fairfield, OH
- T. Midlothian Laboratories – Montgomery, AL
- U. VWR International, LLC – Visalia, CA

Applications for Out-of-State MDEG – Non Appearance for Possible Action:

- V. Advanced Diabetic Solutions, LLC – Lawrenceville, GA
- W. Aeroflow Inc. – Asheville, NC
- X. Allenmed – Gilmer, TX
- Y. American HomePatient – Knoxville, TN
- Z. American Medical Direct – San Antonio, TX
- AA. Applied Medicals LLC – Miami, FL
- BB. Apria Healthcare, Inc. – Bullhead City, AZ
- CC. Beachwood Medical Supply – Baldwin Park, CA
- DD. Carefree Health Services, Inc. – Delray Beach, FL
- EE. Carolina Diabetic Supply Group Inc. – New Bern, NC
- FF. CureCare Home Medical Equipment & Supplies, Inc. – La Habra, CA
- GG. Diabetes Providers Inc. – Jupiter, FL
- HH. Diabetic Support Program – Wellington, FL
- II. Edwards Health Care Services, Inc. – Hudson, OH
- JJ. Four Leaf Clover, Inc. – Hayesville, NC
- KK. Great Lakes Medical Supply, LLC – Warren, MI
- LL. Home Health Advisors – Wellington, FL
- MM. Lifeline Diabetic – Amory, MS
- NN. Lormed, LLC – Mt Vernon, IL
- OO. Med-EI Corporation – Durham, NC
- PP. Monroe Medical Equipment Co., LLC – Tompkinsville, KY
- QQ. Perfect Medical Solutions, LLC – Rosemount, MN
- RR. Premier Diabetic Solutions – Lafayette, LA
- SS. Prescriptions Plus, Inc. – Wellington, FL
- TT. Quality Medical Products, LLC – Delray Beach, FL

UU. Wright & Filippis, Inc. – Rochester Hills, MI

Applications for Nevada MDEG – Non Appearance for Possible Action:

VV. American Respiratory and Medical Equipment, Inc. – Carson City

WW. American Respiratory and Medical Equipment, Inc. – Reno

Applications for Nevada Pharmacy – Non Appearance for Possible Action:

XX. Family Care Pharmacy – Las Vegas

YY. Horizon Specialty Hospital of Henderson – Las Vegas

ZZ. Wal-Mart Pharmacy #10-4239 – Reno

Discussion:

The consent agenda applications and supporting documents were reviewed.

NOTE: Jack Dalton recused from participation on Item ZZ as he works for Wal-Mart and Russ Smith recused from participation on Item L as he works for Walgreens.

Board Action:

Motion: Kam Gandhi found the consent agenda application information to be accurate and complete and moved for approval with the exception of Items ZZ and L.

Second: Cheryl Blomstrom

Action: Passed Unanimously.

Motion: Kirk Wentworth moved for approval of Items ZZ and L.

Second: Jody Lewis

Action: Passed Unanimously

Discussion:

Motion: Cheryl Blomstrom found the minutes accurate and complete and moved for approval.

Second: Kam Gandhi

Action: Passed Unanimously.

REGULAR AGENDA

3. Discipline for Possible Actions:

Gail Krivan, MD

(11-004-CS-N)

Gail Krivan appeared and was sworn by President Foster prior to answering questions or offering testimony.

Scott Freeman was present to represent Dr. Krivan.

Carolyn Cramer advised the Board that Dr. Krivan had signed a stipulated agreement and she reviewed the highlights of the agreement. Dr. Krivan had pre-signed prescription pads and left them with her staff when she went on vacation. 115 prescriptions for controlled substances were issued while she was not present in the office. Dr. Krivan recognizes now that this practice is both illegal and unethical and has taken corrective action. Dr. Krivan has agreed to probation for two years with conditions. Ms. Cramer asked for approval of the stipulated agreement.

Board Action:

Motion: Cheryl Blomstrom moved to approve the stipulated agreement as presented.

Second: Kam Gandhi

Action: Passed Unanimously

4. Request for Pharmaceutical Technician in Training License – Appearance for Possible Action:

Christopher Irwin

This request has been continued.

5. Applications for Nevada MDEG – Appearance for Possible Action:

A. Amira Medical Supply – Las Vegas

Michael Igeleke and Stacey Igeleke appeared and were sworn by President Foster prior to answering questions or offering testimony.

Mr. Igeleke was asked about his experience in the MDEG field because he was not listed as an employee at JC Medical Supply on the annual inspection forms. He explained that he worked as a volunteer for his uncle, who owned the business, for three years so he could learn all aspects of the business. Mr. Igeleke stated that he

developed the company's policies and procedures, made vendor contacts, maintained inventory controls, managed expenses, worked through the accreditation process, secured the appropriate licenses and was knowledgeable in compliance issues for JC Medical Supply.

The Board questioned Mr. Igeleke regarding his knowledge of diabetic supplies and he admitted that he did not feel comfortable with those products because he needed to be accredited and he was not. Ms. Igeleke indicated that they did not plan to provide diabetic supplies at this time, but it was something they wanted to do in the future.

After discussion, it was determined that the Igeleke's would remove diabetic supplies from their application for MDEG provider.

Board Action:

Motion: Cheryl Blomstrom moved to approve the application for MDEG license for Assistive Equipment only. The Igeleke's could come back to request approval for other areas as they become accredited.

Second: Kam Gandhi

Action: Passed Unanimously

B. Forrester Custom Prosthetics – Reno

Scott Forrester appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Forrester explained that he is a Certified Prosthetist and has worked at Ultra Prosthetics in Carson City since 2005 until August, 2011 when he decided to open his own business in Reno. Mr. Forrester provides specialized prosthetics to amputees in Nevada. He has worked with many returning military amputees to ensure they receive the best possible fit and care that he can provide.

Board Action:

Motion: Jody Lewis moved to approve the MDEG application for Forrester Custom Prosthetics.

Second: Cheryl Blomstrom

Action: Passed Unanimously

C. Global DME – Las Vegas

Global DME has rescheduled to the January 2012 Board meeting.

D. RespMed, Inc. – North Las Vegas

After calling RespMed to the table twice and no one appeared, the Board decided to continue the request for MDEG license.

Board Action:

Motion: Cheryl Blomstrom moved to continue this application to the January 2012 Board meeting.

Second: Kam Gandhi

Action: Passed Unanimously

6. Application for Nevada Pharmacy – Appearance for Possible Action:

Medication Review, Inc. – Gardnerville

Jeanette Bidondo appeared and was sworn by President Foster prior to answering questions or offering testimony.

Ms. Bidondo gave an overview of their practice. Medication Review, Inc. is currently licensed in Washington and they are applying for a license in Nevada to serve small and medium sized hospitals that do not have 24 hour pharmacies. There are no drugs maintained, they are only open when a hospital pharmacy is not open, and they have access to an exact database as the hospital.

Board Action:

Motion: Russ Smith moved to approve the application for Nevada pharmacy for Medication Review, Inc.

Second: Kam Gandhi

Action: Passed Unanimously

7. Appearance for Possible Action:

Affiliated Monitors – Vincent DiCianni

Vincent DiCianni appeared and gave a presentation on the services Affiliated Monitors can provide to free Board staff from monitoring certain disciplinary cases. The Board asked Affiliated Monitors to provide additional information for their review.

8. Petition by Retail Association of Nevada to Amend NAC 639.735 for Possible Action

Liz Macmenamin, representing RAN, and Josh Hicks, RAN's attorney, appeared to petition the Board to amend NAC 639.753 as it impacts the pharmacy industry as cited in the Wal-Mart v. Sanchez case. They argued that the Board's Informational Statement in 2006 predicting no economic impact on industry to be inaccurate in light of the footnote in this case. Mr. Pinson indicated that in 2006, there was no reason to foresee an economic impact on the industry, which is why it was posted as such. Also provided was a New Jersey statute which was discussed.

Carolyn Cramer advised Mr. Hicks that what he had given the Board as a petition to amend NAC 639.753 was not in the correct format and did not follow the requirements of NAC 639.140.

Mr. Hicks asked if he could prepare the petition as required in NAC 639.140 and return the next morning to present it. President Foster indicated that the language adopted by New Jersey was not something she would entertain, but she would continue this matter until Thursday, December 8th at 10:00 a.m.

Thursday, December 8th, 2011.

Liz Macmenamin and Josh Hicks appeared and were sworn by President Foster prior to answering questions or offering testimony.

Mr. Hicks presented the petition to amend NAC 639.753 in the appropriate format, however with the New Jersey language. Mr. Hicks explained that this was a starting point in which language could be discussed and agreed upon. Carolyn Cramer stated that since this was a petition to amend, this is the language that would have to be noticed for Workshop.

Larry Pinson indicated that Workshopping the New Jersey language would most likely be perceived nationally as an abortion issue, thus losing the intent of the discussion.

President Foster would like Board staff to bring language to Workshop – not the language that was presented by Mr. Hicks.

After further discussion, the following was determined:

Board Action:

Motion: Cheryl Blomstrom moved to decline to go forward with the petition to amend NAC 639.753 as presented.

Second: Jody Lewis

Action: Passed Unanimously

Motion: Cheryl Blomstrom moved to go forward with the rulemaking process to amend NAC 639.753.

Second: Jody Lewis

Action: Passed Unanimously

Mr. Pinson asked for clarification. We will begin the process as we would normally with a Discussion and Determination topic? Ms. Blomstrom agreed that is what she meant with her motion.

9. Discussion and Determination for Possible Action:

A. Controlled Substance Diversion in Pharmacies

Board staff receives DEA 106 forms reporting the theft or loss of controlled substances from pharmacies. Many of the reports are troubling because of the astounding amount of drug loss. Larry Pinson gave examples of some of the losses and asked for discussion.

Jack Dalton advised that Wal-Mart headquarters has someone tracking discrepancies and they notify the appropriate store. They then do an inventory if there appears to be a discrepancy between sales and orders. Mr. Dalton indicated that pharmacists are the only people at Wal-Mart allowed to check drugs in when they arrive at the pharmacy.

Russ Smith indicated that Walgreens also only allows a pharmacist to check drugs into the pharmacy. Walgreens tracks the numbers of sales and orders and who is placing the orders.

Kam Gandhi stated that Sav-On is working on this problem. Since technicians are generally at fault, he feels that if there were more severe consequences to the technician it would help with the diversion problem.

It is frustrating to the industry because they call law enforcement for the theft of controlled substances who in turn does nothing. They make reports and some arrests are made, but generally law enforcement indicates they have more important things to deal with. Perhaps they need to be educated to the seriousness of these actions.

The Board suggested that Board staff write a Newsletter article for pharmacists to be aware of controlled substance losses in their pharmacies as a standard of pharmacy practice.

It was also suggested that perhaps maintaining a perpetual inventory would help this growing problem.

Larry Pinson asked each of the chain store and hospital pharmacist Board members to submit their Policies and Procedures with regard to drug diversion to him to see if there is a mechanism in place to help control drug diversion.

B. Board Initiative Prescription Drug Abuse Education

President Foster and Board staff would like the Board to discuss a possible Board of Pharmacy Initiative involving prescription drug abuse education. Given the current focus on prescription drug abuse, coupled with the obvious need for education, not only of our youth, but of our practitioners as well, such an initiative might be worthwhile.

Larry Pinson advised that he wants to be proactive by educating other health care professions, PT schools, etc. President Foster noted that the meeting Joe Depczynski attended along with the DEA was a good opportunity to educate. Join Together Northern Nevada, and other entities similar, would also be good to use for educational outlets.

The Board directed staff to move forward with the Initiative.

10. Comprehensive Review of Regulations for Possible Action

Larry Pinson advised the Board that he had prepared and submitted the comprehensive review of our regulations as required by Governor Sandoval's Executive Order. Staff from the Governor's office then indicated that a spread sheet addressing each regulation would be more acceptable. Mr. Pinson then brought Ray Seidlinger up from Las Vegas and together with Carolyn Cramer they comprised a more comprehensive review. After they prepared an 81 page report, but before it was submitted, Mr. Pinson was again contacted by the Governor's staff who then indicated that perhaps the original report the Board submitted was adequate. Mr. Pinson advised the Board that he intends to submit the more comprehensive report that was prepared since the work had been completed.

11. Nevada Nursing Regional Action Coalition for Possible Action

NOTE: Cheryl Blomstrom disclosed that she is a lobbyist for the Nursing Association.

Mr. Pinson noted that he included an article from the Institute of Medicine regarding the future of nursing and an application to the Nevada Nursing Regional Action Coalition on behalf of the Nevada Alliance for Nursing Excellence and the Nevada Health Care Sector Council in the Board book. The Nursing Board has asked the Board of Pharmacy for their support in this endeavor.

Board Action:

Motion: Kirk Wentworth moved to support the application for the Nevada Nursing Regional Action Coalition.

Second: Kam Gandhi

Action: Passed Unanimously

12. E-Prescribing Committee Report for Possible Action

Carolyn Cramer gave an overview of the meeting of the E-Prescribing Committee meeting that was held on November 22, 2011. All participants in the meeting were supportive of CII electronic prescribing and Board staff was directed to begin the regulation amendment process for NAC 639.7105 to include a field for doctors controlled substance registration number, a date field of when the patient was last examined by the doctor, and a data field for the indication for use of the prescribed medication. Board staff will produce language for consideration as a Workshop item to be presented at the January Board meeting.

Larry Pinson noted that the DEA is still having trouble with their pilot program in California. He also advised the Board that he received approval from the Governor's office to move forward with the regulatory process.

13. Selection of Board Treasurer for Possible Action

Board Action:

Motion: Kam Gandhi moved to appoint Kirk Wentworth Treasurer to replace Keith Macdonald who is no longer on the Board.

Second: Russ Smith

Action: Passed Unanimously

14. Your Success Rx Reports for Possible Action:

- A. Marty Martins
- B. Jennifer Chan

Mr. Pinson reported that both Mr. Martins and Ms. Chan were very successful participants in the program with Katie Johnson. Mr. Martins has completely changed his practice of pharmacy and Ms. Chan recognized that she had some major personal issues that probably contributed to her two appearances before the Board and she was able to identify those issues and better sort them from her professional activities.

15. General Counsel Report for Possible Action:

Report on Meeting with DA Dick Gammick on Med Spa Issues

Carolyn Cramer advised that she attended this meeting and there was constructive discussion. Med Spa's are not overseen by any single agency. Med spa's should have a dispensing physician registered and on site at a facility, but in reality most med spa's do not and these facilities are being run by unlicensed personnel. Some med spas have a registered nurse on site, however they are not licensed to order, possess or administer controlled substances or dangerous drugs without the oversight of a physician. Board inspectors have found "Botox" and "Juvederm" imported from foreign countries in med spas being sold and injected into patients as brand name products produced in America. Ms. Cramer indicated that it is a huge public safety issue.

16. Executive Secretary Report for Possible Action:

A. Financial Report

1. Audit

Larry Pinson presented the financial and audit reports to the Board's satisfaction.

B. Temporary Licenses

There were no temporary licenses issued since the last Board meeting.

C. Staff Activities

1. NASCSA Annual Meeting (October)

Mr. Pinson and Lisa Adams attended the NASCSA meeting and noted that there is a push for every state to have a PMP and that they all be interconnected and can share data. NABP has a program to help implement data sharing.

2. NABP District 1,2 (October)

Larry Pinson reported that he spoke on Inspecting for Safety and that we are making an impact on how other Boards inspect facilities.

3. Walgreen's Arizona Facility Visit (November)

Mr. Pinson indicated that he toured the Walgreen's facility in Arizona and was favorably impressed by the entire operation.

4. NABP Compliance Officer Forum (December)

Joe Depczynski attended the Compliance Officer Forum in Chicago; participated on a panel and made a presentation on Inspecting for Safety.

5. Paralegals Presentation (December)

Larry Pinson advised that he will be doing a presentation on drug abuse for paralegals on December 20th.

D. Reports to Board

1. Suspended DEA Licenses

Mr. Pinson sent all Board members and chain store district pharmacy supervisors a memo asking for their help. When a physician loses or surrenders his DEA license he is not allowed to write new prescriptions for controlled substances and his/her current controlled substance prescriptions are no longer valid. Board staff sends out faxed notification to every pharmacy in that practitioner's region (North or South) to alert each pharmacy of any such action and expects those pharmacies to discontinue filling

prescriptions for that practitioner. Unfortunately, we are discovering that pharmacies are continuing to fill and refill prescriptions for these practitioners despite the loss of their DEA licenses. Mr. Pinson asked each chain district pharmacy supervisor to provide him with the fax number of someone in their company who will ensure that these practitioners are taken out of their data bases or somehow flagged when they are notified. Mr. Pinson indicated that he has heard from everyone except CVS and Safeway with that contact information.

E. Board Related News

1. Emergency Scheduling of Bath Salts by DEA

The DEA has scheduled Bath Salts as an emergency change to the CFR. We have just received the language back that we submitted to the Legislative Counsel Bureau in September and we will post for Public Hearing for the January Board meeting.

F. Activities Report

17. Public Comments and Discussion of and Deliberation Upon Those Comments

On December 7th, President Foster asked for Public Comment and there was none.

On December 8th, President Foster asked for Public Comment and there was none.

18. Next Board Meeting:

January 18-19, 2012 – Las Vegas