

## BOARD MEETING

at the

Las Vegas Chamber of Commerce  
6671 Las Vegas Blvd South  
Las Vegas

Wednesday, April 15, 2009

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

### Board Members Present:

Keith Macdonald	Leo Basch	David Chan
Donald Fey	Chad Luebke	Kam Gandhi
Mary Lau		

### Board Members Absent:

### Board Staff Present:

Larry Pinson	Jeri Walter	Carolyn Cramer	Suzanne Warren
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## CONSENT AGENDA

1. Approval of March 4-5, 2009, Minutes
2. Applications for Out-of-State MDEG – Non Appearance:
  - A. Cypress Medical Products LLC – Elwood, IL
  - B. Medical Care Club, LLC – Brentwood, TN

Applications for Out-of-State Pharmacy – Non Appearance:

- C. Allergychoices Pharmacy – La Crosse, WI
- D. Apothecary Shop of Chandler – Phoenix, AZ
- E. Apothecary Shop of Deer Valley – Phoenix, AZ
- F. Belmar Pharmacy – Lakewood, CO
- G. Costa Mesa Compounding Pharmacy – Costa Mesa, CA
- H. Embrace Pharmacy – Appleton, WI
- I. Healthwarehouse.com, Inc. – Cincinnati, OH
- J. HPC, LLC – Mobile, AL
- K. KG Pharmacy – Los Angeles, CA

- L. K Mart Pharmacy #9074 – Sheridan, WY
- M. Omnicare Clinical Intervention Center-NW Ohio – Maumee, OH
- N. Omnicare Pharmacy of Florida, LP – Longwood, FL
- O. Pharmacy Incorporated – Murray, KY
- P. Rx Stat, Inc. – St. Petersburg, FL
- Q. Talon Compounding Pharmacy – San Antonio, TX
- R. WellDyneRx-FL – Lakeland, FL

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

- S. Arrow International, Inc. – Asheboro, NC
- T. Bedford Laboratories A Div-of Ben Venue Laboratories – Walton Hills, OH
- U. Blu Pharmaceuticals – Franklin, KY
- V. Cypress Pharmaceutical, Inc./Hawthorn Pharmaceuticals – Madison, MS
- W. Grifols Biologicals, Inc. – City of Industry, CA
- X. McKesson Drug Company – Aurora, CO
- Y. McKesson Drug Company – Rocky Hill, CT
- Z. Patterson Dental Supply, Inc. – Salt Lake City, UT
- AA. RxElite Holdings, Inc. – Mountain Home, ID
- BB. Teleflex Medical Incorporated – Durham, NC
- CC. Teleflex Medical Incorporated – Fort Worth, TX
- DD. UDL Laboratories, Inc. – Rockford, IL

Application for Nevada MDEG – Non Appearance:

- EE. Hill-Rom – Sparks

Applications for Nevada Pharmacy – Non Appearance:

- FF. Specialty Surgery Center of Pecos – Las Vegas
- GG. Walgreens #11226 – Reno

Discussion:

The consent agenda applications and supporting documents were reviewed.

NOTE: Leo Basch recused from participation in the vote on item GG as he is employed by Walgreens. Mary Lau recused from participation in the vote on items GG and L as Walgreens and K Mart are members of the Retail Association of Nevada.

Board Action:

Motion: Keith Macdonald found the consent agenda application information to be accurate and complete and moved for approval with the exception of items GG and L.

Second: Leo Basch

Action: Passed Unanimously.

Motion: Keith Macdonald moved for approval of items GG and L.

Second: Chad Luebke

Action: Passed Unanimously.

Discussion:

Mary Lau noted that reference to Senator's Carpenter and Denis needed to be changed to Assemblymen. Mr. Pinson indicated that had already been corrected.

Leo Basch indicated that item 6B needed clarification that veterinarians that would be working under another veterinarian's DEA license and controlled substance registration would only need their own DEA license and controlled substance registration if they would be giving prescriptions to a client to be filled elsewhere.

Motion: Leo Basch found the minutes to accurate and complete and moved for approval with the referenced changes.

Second: Keith Macdonald

Action: Passed Unanimously.

### REGULAR AGENDA

#### 3. Application for Nevada Pharmacy – Appearance:

Central Admixture Pharmacy Services, Inc. – Las Vegas

Michael Koch appeared and was sworn by President Fey prior to answering questions or offering testimony.

Mr. Koch explained that Central Admixture Pharmacy Services (CAPS) is an IV outsourcing company. He explained how the company operated and who they sold to. The letter Board staff received from Bill Jones was unclear regarding their status with the FDA and they asked Mr. Koch to explain their association. The Board explained that any product shipped into Nevada had to be patient specific and that they could not ship bulk quantities to a location for use as needed by a facility without being licensed as a manufacturer. After further discussion, Mr. Koch indicated that he would abide by Nevada's rules and perhaps at a later time would pursue the possibility of becoming a manufacturer.

Board Action:

Motion: Keith Macdonald moved to accept the application for Nevada pharmacy from CAPS providing they do patient specific compounding.

Second: Leo Basch

Action: Passed Unanimously

4. Applications for Out-of-State Pharmacy – Appearance:

A. ApotheCure, Inc. – Dallas, TX

Gary Osborn appeared and was sworn by President Fey prior to answering questions or offering testimony.

Brent Cooper, Mr. Osborn's attorney appeared to represent him and help answer questions.

It was noted that this application was originally received in the Board office on November 3, 2007 and is one and one half years old. Applicants would normally need to re-apply if they couldn't license within one year. When ApotheCure first applied to the Nevada Board of Pharmacy they advised that they had a license denied by the Indiana Board of Pharmacy due to a death that occurred in Oregon from an unsafe batch of colchicine. The Texas Board of Pharmacy had ApotheCure under investigation concerning the colchicine matter. The Board initially told Mr. Osborn that he needed to handle the incidents in the other states before Nevada would consider his application for an out of state pharmacy. To date these matters have not been resolved.

Mr. Osborn explained to the Board the steps they have taken to resolve this issue. Mr. Cooper noted that they were still honing the fine details of an agreement and it should be resolved shortly. President Fey asked Mr. Cooper specifically how long it would be before the negotiations would be complete and asked if it could be completed by July, our next Board meeting in Las Vegas. Mr. Cooper indicated that would not be a problem.

Mr. Osborn and Mr. Cooper were advised that they would have to abide by Nevada's rules and their products would need to be patient specific and sold directly to the patient, not the doctor or through the doctor's office and they cannot provide their products to a physician for general use. Mr. Osborn indicated that he understood.

Board Action:

Motion: Keith Macdonald moved to table this application until the July Board meeting.

Second: Chad Luebke

Action: Passed Unanimously

B. DrugCrafters – Frisco, TX

Giueseppe (Joe) Gallucci appeared and was sworn by President Fey prior to answering questions or offering testimony.

Mr. Gallucci testified that DrugCrafters was a compounding pharmacy that provided injectables to homeopathic doctors. He indicated that he had contracts with doctors in Nevada and has been shipping to them for some time. He stated that he worked for ApotheCure and was just doing the same thing at DrugCrafters that he was doing at ApotheCure. Mr. Gallucci indicated that he was licensed in California, Arkansas, Louisiana and Oklahoma and he obtained licenses with their Board's of Pharmacy after he began shipping into the state not knowing if it is a requirement to be licensed.

After Mr. Gallucci's testimony regarding his business practice the Board found it would be difficult at best for Mr. Gallucci to ship his products to be patient specific and follow Nevada's laws.

Board Action:

Motion: Mary Lau moved to deny the application for out of state pharmacy for DrugCrafters.

Second: Leo Basch

Action: Passed Unanimously

5. Applications for Nevada MDEG – Appearance:

A. APM Medical Suppliers – Las Vegas

Marcel Chatal appeared and was sworn by President Fey prior to answering questions or offering testimony.

Mr. Chatal was questioned regarding his qualifications to be the facility administrator for APM Medical Suppliers. Mr. Chatal explained that he bought into the company as the owners are planning ahead for retirement. This was not a change in ownership, he is now one third owner along with the existing owners. Mr. Chatal explained that he was a nurse in Sweden however he had not pursued that status in the United States. He was advised that he needed to be properly trained to sell medical devices in Nevada. The Board asked Mr. Chatal if the other two persons were still going to stay on in the business at APM Medical Suppliers and would train him appropriately to ultimately become the facility manager. Mr. Chatal stated nothing has changed, that he was just joining the current owners.

Mr. Chatal was advised that Board staff could have approved this application without being brought to the Board for hearing. It is a requirement to notify the Board if there is

a change in the facility administrator. The Board suggested that the current facility manager, Mr. Malito, train Mr. Chatel, then apply to the Board for a change in facility administrator with a letter outlining Mr. Chatel's training and readiness.

B. Caring Medical Supply, LLC – Henderson

Norman Hicks and Michael Barbara appeared and were sworn by President Fey prior to answering questions or offering testimony.

Board staff advised that this is a new application. They had applied in January and withdrew their application because of pending litigation.

Mr. Hicks indicated that the litigation is still pending but is close to resolution. President Fey asked if they would have their issues resolved by the July Board meeting and they agreed that would be ample time.

Board Action:

Motion: Keith Macdonald moved to table the application for Caring Medical Supply until the July Board meeting.

Second: Kam Gandhi

Action: Passed Unanimously

C. Gabel Distributors, LLC – Las Vegas

Andy Gable appeared and was sworn by President Fey prior to answering questions or offering testimony.

Mr. Gable described his business and his products. He provides passive motion machines to patients for post op therapy for wrists, knees, elbows, shoulders, ankles, or any part of the body that needs physical therapy. Mr. Gable reviewed his procedures regarding his interaction with patients and physicians and how he works with them to meet their needs. Mr. Gable admitted during testimony that he is already conducting business in Nevada even though unlicensed.

Board Action:

Motion: Keith Macdonald moved to approve the application for Gable Distributors.

Second: Leo Basch

Action: Passed Unanimously

6. Application for Out-of-State Wholesaler – Appearance:

C.T. International – San Luis Obispo, CA

Michael Kyle appeared and was sworn by President Fey prior to answering questions or offering testimony.

CT International has been in operation for 21 years and are licensed in every state in the United States. They had a license in Nevada previously but were not using it and let it lapse. In California they had discipline and President Fey asked Mr. Kyle to explain the circumstances. Mr. Kyle explained that they had opened a compounding pharmacy within their wholesaler location. In California that was acceptable, but there were timeframes and procedures that were not being adhered to. In the meantime, California required that a compounding pharmacy had to comply with sterile compounding requirements. CT International was inspected and it was found that they were not compliant when transferring products from the wholesale facility to the pharmacy and vice versa. After that incident and the requirement for them to convert their compounding pharmacy to a sterile compounding pharmacy they determined to close the pharmacy and not compound product any longer and just operate their wholesaler facility.

Board Action:

Motion: Leo Basch moved to accept the application for CT International.

Second: Keith Macdonald

Action: Passed Unanimously

7. Disciplinary Action:

Terrance L. Rogers, R.Ph

(09-014-RPH-S)

Carolyn Cramer noted that Mr. Rogers was not present for hearing even though he received notice.

NOTE: Leo Basch recused from participation in this matter as he is employed by Walgreens, as was Mr. Rogers. Mary Lau disclosed that Walgreens is a member of RAN however it would not affect her participation in this matter.

Mary Curran, loss prevention supervisor for Walgreens, appeared and was sworn by President Fey prior to answering questions or offering testimony.

Ms. Cramer asked Ms. Curran to explain her job duties and how she became involved in this matter.

Ms. Curran testified that her investigation came as the result of a complaint by a Walgreens patient. The patient requested a patient profile on herself for her insurance company and found that many of the prescriptions that were attributed to her were not

actually hers. Ms. Curran testified that Terrance Rogers was the person that processed all of the prescriptions and it was found that he did not scan them. He filled the prescriptions without a prescription to authorize the fills. Ms. Curran talked to Mr. Rogers and he indicated that all the prescriptions he filled were refills but Ms. Curran could not locate any hard copy prescriptions in the files to authenticate Mr. Rogers's story. Ms. Curran stated that there were fifteen prescriptions that could not be accounted for and the medications that were filled were hydrocodone, Alprazolam, Oxycodone and carisoprodol. Mr. Rogers did not admit to obtaining those prescriptions for his personal use, only to taking hydromorphone and morphine sulphate when he would forget to bring his own medication to work. In Mr. Rogers written statement he also indicated that he would return some of the medication from his personal prescriptions at home.

Ms. Cramer reminded the Board that it was illegal to return medications once they leave the pharmacy and that obtaining medication from his employing pharmacy without authorization from a physician is also illegal. Ms. Cramer recommended revocation of Mr. Rogers's pharmacist license.

Board Action:

Motion: Keith Macdonald moved to find Mr. Rogers guilty of the alleged violations.

Second: Chad Luebke

Action: Passed Unanimously

Motion: Keith Macdonald moved to revoke Mr. Rogers's pharmacist license and Mr. Rogers will be responsible for the Board's fees and costs in this matter.

Second: Kam Gandhi

Action: Passed Unanimously

8. Request for Pharmacist License – Reciprocation – Appearance:

Madonna R. Wilcox, R.Ph

Ms. Wilcox cancelled her appearance and will reschedule at a later date.

9. Requests for Reinstatements – Appearance:

A. James Ammon, R.Ph (08-021-RPH-O)

James Ammon appeared and was sworn by President Fey prior to answering questions or offering testimony.

Carolyn Cramer noted for the Board that when Mr. Ammon renewed his license he did not disclose that he had surrendered his license in another state. President Fey asked Mr. Ammon to explain why he was appearing now to request reinstatement of his pharmacist license at this point in time.

Mr. Ammon stated that he was imprisoned for seven months for pleading guilty to felony healthcare fraud.

Keith Macdonald asked Mr. Ammon if he had cleared up his legal problems. Mr. Ammon testified that he was still on probation until November of 2009. Mr. Macdonald asked if he had reinstated his license with the Utah Board of Pharmacy. Mr. Ammon explained that he was trying to reinstate Utah, Wyoming and Nevada concurrently. Mr. Macdonald explained that it is this Board's practice to have a pharmacist get his business in order with his home state before he requests reinstatement in Nevada and understands that most states generally follow that protocol.

Board Action:

Motion: Keith Macdonald moved to have Mr. Ammon clear up his license in Utah before he requests reinstatement.

Second: David Chan

Action: Passed Unanimously

B. Scott James, R.Ph (06-048-RPH-S)

Mr. James did not appear because he had not complied with his Board Order dated November 21, 2006 which required him to pay a fine of \$2,000.00 plus costs and fees before he requests reinstatement of his pharmacist license.

C. William Tinghitella, PT (00-063-PT-S)

Mr. Tinghitella cancelled his appearance to request reinstatement of his pharmaceutical technician registration.

D. Robert Carillo, PT (07-015-PT-S)

Mr. Carillo cancelled his appearance to request reinstatement of his pharmaceutical technician registration and will contact Board staff to reschedule.

10. Request for Appearance:

CVS – Susan DelMonico

Ms. DelMonico cancelled her appearance due to a family emergency.

11. Requests for Pharmaceutical Technician in Training License – Appearance Required:

A. Christopher Bianchi

Christopher Bianchi appeared and was sworn by President Fey prior to answering questions or offering testimony.

Mr. Bianchi appeared before the Board because he tested positive for marijuana during a random drug test at Kaplan College, where he is currently enrolled in their pharmaceutical technician program. Mr. Bianchi needs a pharmaceutical technician in training registration to complete the course.

Mr. Bianchi explained that he used poor judgment when he went out with friends and smoked marijuana. He did this once. He came to Nevada from another state because a family member that lives here suggested there were job opportunities in the casino industry. By the time he moved here the economy was unstable and there wasn't the opportunity there once was. He looked at various opportunities and decided to enroll in the pharmaceutical technician program at Kaplan College.

The Board questioned Mr. Bianchi regarding how long before the drug test he had smoked marijuana and he stated that it was two days before the test. Mr. Bianchi was asked how much money he paid Kaplan College to take their program and Mr. Bianchi indicated that the tuition was \$14, 000.00.

Board Action:

Motion: David Chan moved to approve Mr. Bianchi's application for pharmaceutical technician in training providing he is evaluated by PRN-PRN and has a positive result.

Second: Mary Lau

Action: Passed With One Negative Vote

B. Ramon A. Dean

Ramon Dean appeared and was sworn by President Fey prior to answering questions or offering testimony.

Mr. Dean answered "yes" to a question on his pharmaceutical technician in training application indicating that he had been charged, arrested or convicted of a misdemeanor. Mr. Dean testified that he had taken his younger brother to a basketball game and his brother was in possession of marijuana. He explained that he took responsibility for his brother's actions and was ticketed for possession of an illegal substance.

The Board questioned Mr. Dean regarding his grades at Kaplan College and he stated he had a 3.8 grade point average and was honored with academic excellence for five months and had a 93% attendance average, He completed his last class on March 13<sup>th</sup> and now needs to do his externship to complete the program, thus, the need for the pharmaceutical technician in training registration. President Fey asked Mr. Dean if this was an expensive program for him and Mr. Dean responded that it was since he was not currently working, however he had applied for a student loan and felt it worthwhile so he would have a career opportunity as a pharmaceutical technician.

Board Action:

Motion: Keith Macdonald moved to approve Mr. Dean's application for pharmaceutical technician in training providing he is evaluated by PRN-PRN and has a positive result.

Second: Kam Gandhi

Action: Passed With One Negative Vote

12. Dutchess Recalculation of Fines

This matter will be addressed at the July Board meeting.

13. General Counsel Report

Carolyn Cramer advised the Board that she has provided a Board book for the public to view during Board meetings beginning with this meeting. Some information on applications has been redacted such as minor children's names, phone numbers and addresses to ensure privacy. If this practice meets with their approval, a Board book will be provided at future meetings. After discussion it was determined that this practice will be implemented.

14. Executive Secretary Report:

- A. Financial Report
- B. Investment Report

Larry Pinson gave the financial and investment reports to the Board's satisfaction.

- C. Temporary Licenses

One temporary license was granted since the last Board meeting.

- D. Staff Activities

1. Meetings

- a. Fulfillment Committee (3/26)

The committee helped Board staff rewrite the regulations regarding fulfillment pharmacies. They will go back to the committee and may be ready for Workshop in June.

- b. Speaking engagements (dental; APhA; Pharm. Conf.)

Mr. Pinson gave details regarding his speaking engagements.

c. Legislative update  
Hillerby Report

Fred Hillerby's reports were given to the Board for their information.

d. PT Committee; Telepharmacy

Larry Pinson advised the Board that the PT committee would be meeting on April 22<sup>nd</sup>, 2009 and he would be meeting with a representative from Rural Health regarding Telepharmacy on April 23<sup>rd</sup>, 2009.

E. Reports to Board

1. NABP Award

NABP is one of only 21 organizations to receive a national Award of Excellence for the 2009 Associations Advance America Awards program which is a national competition sponsored by the American Society of Association Executives and the Center for Association Leadership in Washington DC.

2. Surgery Center Inspections

Mr. Pinson reported that there were only twelve more surgery centers left to inspect from the original fifty. Five in the South and seven in the North. Some of the surgery centers in the North are rural and will be inspected as regular inspections are scheduled for the rural areas. Compliance appears to be good.

F. Board Related News

G. Activities Report

15 . Next Board Meeting:

June 3-4, 2009 – Reno

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

There were no public comments.