

**BOARD OF PHARMACY**  
Professional & Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii

**MINUTES OF MEETING**

Date: Friday, February 8, 2013

Time: 9:00 a.m.

Place: Queen Liliuokalani Conference Room  
King Kalakaua Building  
335 Merchant Street, First Floor  
Honolulu, Hawaii 96813

Members Present: Patrick Adams, Pharmacist, Vice Chair  
Garrett Lau, Pharmacist  
Todd Inafuku, Pharmacist  
Lydia Kumasaka, Public Member  
Carolyn Ma, Pharmacist

Excused: Mark E. Brown, Pharmacist, Chair  
Jill Oliveira Gray, Public Member

Staff Present: Lee Ann Teshima, Executive Officer ("EO")  
Stephen Levins, Deputy Attorney General ("DAG")  
Lisa Kalani, Secretary

Guests: Paul Smith, Walgreens  
Rafael del Castillo, HCPA  
Dennis McAllister, Express Scripts  
Nicole Velasco, Ashford & Wriston  
Peter Harty, CVS/Caremark  
Suthana Tepraseuth, Kaiser

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by section 92-7(b), Hawaii Revised Statutes ("HRS").

Call to Order: There being a quorum present, the Chair called the meeting to order at 9:00 a.m.

Vice Chair's Report: **Announcements and Introductions**  
  
The Vice Chair asked the audience to introduce themselves.

### **Additions/Additional Distribution to Agenda**

The Vice Chair called for a motion to add the following to today's agenda:

Upon a motion by Dr. Ma, seconded by Mr. Lau, it was voted on and unanimously carried to add the following to today's agenda:

#### **Additions**

7. Applications
  - b. Applications – Pharmacy Miscellaneous Permit
    - 2) BriovaRx of Maine Inc

### **Approval of the Previous Minutes – January 17, 2013**

The Vice Chair called for a motion to approve the minutes of the January 17, 2013 meeting.

Upon a motion by Ms. Kumasaka, seconded by Mr. Lau, it was voted on and unanimously carried to approve the minutes as circulated.

#### **Executive Officer's Report:**

#### **2013 Legislature**

##### **SB 971/HB 652 Relating to Remote Dispensing**

The EO reported that HB 652, which removes the sunset date for remote dispensing, has one referral to the Health Committee, while SB 971 has two referrals, one to the Health Committee the other to the Commerce and Consumer Protection Committee.

The consensus of the Board is to support both SB 971 and HB 652.

##### **HB 61 Relating to Pharmacy**

The EO reported HB 61 amends HRS 461-15 Miscellaneous permits to require an out of state pharmacy have a Hawaii licensed pharmacist in its employ..

Mr. Inafuku asked, what is the purpose of having a pharmacist licensed in Hawaii.

The Vice Chair stated the purpose is that the law in each state is different, and that the out of state pharmacy needs to have someone who knows Hawaii law.

Mr. Inafuku stated that we (the Board) permit the out of state pharmacy to ship drugs into Hawaii. The out of state pharmacy is filling prescriptions under the guidelines of their home state, not Hawaii.

The DAG stated the vast majority of states do not impose this requirement.

The EO stated the Board has received numerous inquiries regarding remote order entry, which falls under the practice of pharmacy. The interpretation of the Board has been that the out of state pharmacy doing remote order entry is required to obtain a miscellaneous permit in Hawaii, and that the pharmacist performing the remote order entry also is required to obtain a Hawaii pharmacist license.

Mr. Inafuku stated that he does not think this is the appropriate section for this amendment and that the Board may have to create a separate licensure for this. He does not think the miscellaneous permit is a "one size fits all" license.

Dennis McAllister, asked if he could address the Board.

The Chair acknowledged Mr. McAllister.

Mr. McAllister introduced himself. He is employed by Express Scripts and is also a member of the Arizona Board of Pharmacy. He asked the Board, how many bad instances have occurred because of someone not knowing Hawaii law? He stated Arizona was the first state to require out of state pharmacist in charge ("PIC") be licensed in their state and that the real issue is the "outliers". However, the Board still has jurisdiction on outliers with a miscellaneous permit and suggest perhaps an attestation on the miscellaneous permit from the PIC that they are aware of Hawaii law.

The EO asked Mr. McAllister to clarify because according to the NABP law survey Arizona does require non resident pharmacies to be licensed or registered in their state; however you don't require the pharmacist to be licensed.

Mr. McAllister replied they do require the pharmacist in charge to be licensed. However, in the eleven years that this requirement has been in place, Arizona has never sanctioned one of those people. They realize when complaints do come to the Board it's always the pharmacy permit and not the pharmacist.

The Vice Chair asked, in Arizona when you do license a mail order pharmacy, do they have to list all pharmacists that are at the mail order pharmacy.

Mr. McAllister replied, no.

Mr. Lau agrees with Mr. McAllisters suggestion to incorporate an affidavit onto the miscellaneous permit application that the PIC signs to acknowledge his/her compliance with Hawaii law.

After further discussion, upon a motion by the Vice Chair, seconded by Mr. Lau, it was voted on and unanimously carried that the Board has no position on HB 61.

Executive Session:

At 10:06 a.m., upon a motion by the Ms. Kumasaka, seconded by Dr. Ma, it was voted on and unanimously carried to move into executive session pursuant to §92-5(a)(4), HRS, "To consult with the Board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities;"

At 10:18 a.m., upon a motion by Ms. Kumasaka, seconded by Mr. Lau, it was voted on and unanimously carried to move out of executive session.

HB 63 Relating to Pharmacy

The EO reported HB 63 amends HRS 461-2 "Board of pharmacy; appointment; qualifications and HRS 461-4.5 Powers and duties." By adding a pharmacy benefit management company to the Board and also requires the Board to adopt, amend, and repeal rules pursuant to chapter 91 to regulate all pharmacy benefit management companies that engage in the practice of pharmacy.

The EO stated that the Board is going to be asked if they will regulate pharmacy benefit managers and that the Insurance Division of the DCCA has already declined.

The Vice Chair does not think pharmacy benefit managers should be licensed by the Board and that the Board does not possess the knowledge and/or expertise to decide who regulates pharmacy benefit managers.

Upon a motion by the Vice Chair, seconded by Ms. Kumasaka, it was voted on and unanimously carried that pharmacy benefit managers are not registered or defined in the state so it is premature to add a member.

HB 606 Relating to Death with Dignity :

The EO reported HB 606 creates a new section in HRS 461 entitled, Compliance with death with dignity law that will allow a terminally ill, competent adult of at least 50 years of age to get lethal dose of medication to end life.

After further discussion, it is the consensus of the Board to not support HB 606 as the proposed amendment does not appear to be necessary for a pharmacist to fill a valid prescription.

SB 667 Relating to Health

The EO reported that this bill that requires the registration of and regulates the practices of pharmacy benefit management companies.

The Vice Chair stated that the Board does not have the capacity to take on the regulation of pharmacy benefit management companies since we do not have the expertise or manpower and that a task force should also be chaired by someone else and not the Board.

Correspondence:

**State of Emergency Policies/Procedures for Pharmacists**

The Board reviewed the attached "State of Emergency" policies and procedures for the Board's consideration. The policies and procedures describe the pharmacist's ability to dispense refills of prescription drugs during a State of Emergency declared by the Governor, in order to ensure that patients can receive their prescription drugs during a State of Emergency.

Mr. Lau questioned, the transfer between pharmacies mentioned in the last paragraph of the document, if it will comply with Federal pharmacy laws.

The DAG stated the language is already consistent with what is in the rules and therefore it will comply.

After further discussion, upon a motion by Mr. Inafuku, seconded by Dr. Ma, it was voted on and unanimously carried to provide State of Emergency Policies/Procedures document to the Department of Health, Emergency Preparedness Branch for their review and consideration.

**Limited Services Pharmacy, Keith McFalls**

The Board reviewed an email inquiry from Mr. McFalls on "limited service pharmacies". After some discussion, upon a motion by the Vice Chair, seconded by Mr. Lau, it was voted on and unanimously carried to respond to Mr. McFalls questions as follows:

"Q1: I am working on a project for a PBM that has a mail order pharmacy located in Texas. This facility is licensed in Texas and is licensed in all 50 states. They have a call center that is located in a different state supporting this pharmacy for all patient counseling, drug information and service related calls. Pharmacists are on staff in the call center and are taking patient calls. They have complete access to all patient information, demographics, patient profile for allergies and medical conditions, prescription history, refill activity, including dispensing detail to aid in the answering of patient's questions. esponse to Q1 – Yes, the call center needs to be licensed as an out of state pharmacy in Hawaii."

Does this call center need to be licensed as an out-of-state pharmacy in your state?

Yes, miscellaneous permit as an out-of-state pharmacy.

"Q2: I am working on a project for a company that has been told it must be licensed in that state as a "limited services pharmacy" because they will be receiving prescriptions from prescribers and patients and functioning as the counseling component for any questions from the patient – from billing...to delivery status...to questions about taking the medication. This pharmacy however will not stock product or dispense drugs. The prescriptions will be transferred to fulfillment pharmacies. Pharmacists are on staff in the "call center" pharmacy and are taking patient calls. They have complete access to all patient information, demographics, patient profile for allergies and medical conditions, prescription history, refill activity, including dispensing detail to aid in the answering of patient's questions.

Because the entity must be licensed as a limited service pharmacy in the state in which it is located, does this "call center" pharmacy need to be licensed as an out of state pharmacy in your state?

Yes, miscellaneous permit as an out-of-state pharmacy.

Old Business:

**HAR Title 16, Chapter 95 – Status Report**

No report

Open Forum:

none

Applications:

**Ratification List**

Upon a motion by Mr. Inafuku, seconded by Dr. Ma, it was voted on and unanimously carried to approve the attached ratification lists.

Executive Session: At 11:15 a.m., upon a motion by Mr. Inafuku, seconded by Mr. Lau, it was voted on and unanimously carried to move into executive session pursuant to §92-5(a)(1) and (4), HRS, "to consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;" and "To consult with the Board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities;".

At 11:21 a.m. upon a motion by Mr. Lau, seconded by Mr. Inafuku, it was voted on and unanimously carried to move out of executive session.

Applications:                   **Applications**

Upon a motion by Mr. Inafuku, seconded by Mr. Lau, it was voted on and unanimously carried to approve the following application for exam and license pharmacist:

Patricia A. Warren

Upon a motion by Dr. Ma, seconded by Ms. Kumasaka, it was voted on and unanimously carried to approve the following application for miscellaneous permit.

BriovaRx of Maine Inc

Next Meeting:                   Thursday, March 21, 2013  
9:00 a.m.  
King Kalakaua Conference Room  
King Kalakaua Building, First Floor  
335 Merchant Street  
Honolulu, Hawaii 96813

Mr. Lau and the Chair will not be attending the March meeting.

Adjournment:                   With no further business to discuss, the Chair adjourned the meeting at 11:23 a.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Lee Ann Teshima  
Lee Ann Teshima,  
Executive Officer

/s/ Lisa Kalani  
Lisa Kalani,  
Secretary

2/25/13

[ ] Minutes approved as is.  
[ x] Minutes approved with changes; see minutes of 3/21/13

LTYPE	LIC NUM	BP NAME	PART 1
PH	3465	ROBERT D	<ESTEBAN<
PH	3466	CHERIN S	<WATANABE<
PH	3467	SHAWNA M	<KOBAYASHI<

LTYPE	TEMP	LIC	NUM	VAM_BPR_LEGAL_NAME_1
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PHI	3255			JASON G <LIONETTI<
PHI	3258			MARY D <NGO<
PHI	3256			BROOKE J <NOE<
PHI	3257			JESSICA R <LOPEZ<



LTYPE	LIC NUM	LIC NAME PART 1	BUSN ADDR 1	BUSN CITY	BUSN	ST	BUSN ZIP	BP NAME PART 1
PHY	830		1130 N NIMITZ HWY STE A153 A/B	HONOLULU		HI	96817	OPEN DOOR RX INC

LTYPE	LIC NUM	ST	LIC NAME PART 1	BUSN ADDR 1	BUSN CITY	BUSN		BP NAME PART 1
						ST	BUSN ZIP	
PMP	817	C		9826 S JORDAN GATEWAY	SANDY	UT	84070	BELLA BRANDS LLC
PMP	818	C		4529 N PINE ISLAND DR	SUNRISE	FL	33351	PHYSICIAN CHOICE PHARMACY LLC
PMP	819	C	SIGNATURE PHARMACY SOLUTIONS	1300 SE CARDINAL CT STE 190	VANCOUVER	WA	98683	MWMD PHARMACY HOLDINGS LLC
PMP	820	C		132 ALDEN RD	FAIRHAVEN	MA	02719	PHARMAHEALTH SPECIALTY/LONGTERM
PMP	821	C	PHARMACY INNOVATIONS	2936 W 17TH ST	ERIE	PA	16505	SOUTHERN TIER HOME INFUSION INC
PMP	822	C	UNIVERSITY COMPOUNDING PHARMACY	1765 FOURTH AVE	SAN DIEGO	CA	92101	4TH STREET PHARMACY INC