BOARD OF PHARMACY

Professional & Vocational Licensing Division Department of Commerce and Consumer Affairs State of Hawaii

MINUTES OF MEETING

<u>Date</u> :	Thursday October 20, 2011
<u>Time</u> :	9:00 a.m.
<u>Place</u> :	King Kalakaua Conference Room King Kalakaua Building 335 Merchant Street, First Floor Honolulu, Hawaii 96813
Members Present:	Mark E. Brown, Pharmacist, Chair Patrick Adams, Pharmacist, Vice Chair Todd Inafuku, Pharmacist Lydia Kumasaka, Public Member Jill Oliveira Gray, Public Member
Members Excused:	Garrett Lau, Pharmacist Carolyn Ma, Pharmacist
Staff Present:	Lee Ann Teshima, Executive Officer ("EO") Stephen Levins, Deputy Attorney General ("DAG") Christine Hironaka, Secretary
<u>Guests:</u>	Gerry Fujii, Pharm Assist Tim Moser, Mina Pharmacy Keiko Hiraoka, Hawaii Pharmacists Association ("HPhA") Nancy Huang, Walgreens Rachel Nishimura, Healthways Susan Kang, Healthways
<u>Agenda</u> :	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 9:11 a.m.
<u>Chair's Report</u> :	Announcements/Introductions
	The Chair excused Mr. Lau and Ms. Ma from today's meeting.

Additions and Additional Distribution

Upon a motion by the Vice Chair, seconded by Ms. Kumasaka, it was voted on to unanimously approve the following additional distribution:

- 8. Applications b. Appl
 - Applications
 - 1) <u>Miscellaneous Permit</u>
 - ii. Option Care Enterprises, Inc. dba Walgreens Infusion Services (Las Vegas, NV) – Deferred from September 15, 2011 Meeting
 - iii. Option Care Enterprises, Inc., dba Walgreens Infusion Services (Carlsbad, CA)

Approval of the Previous Minutes - September 15, 2011 Meeting

The Chair asked if there were any amendments to the minutes.

Mr. Inafuku stated that on page 8, second paragraph, the correct spelling for "Jerry" is "Gerry".

The Chair stated that on page 2, under the Chair's Report, Report on Multistate Pharmacy Jurisprudence Examination ("MPJE") State Specific Renew (Chair and Mr. Lau), "pretest" should be removed.

The Chair stated that on page 3, under NABP State News Roundup – August 2011, a second sentence should be added to the second paragraph stating, "Arkansas also recruiting pharmacists for Disaster Medical Assistance Teams ("DMAT") and noted that Hawaii is also looking for pharmacists and technicians to volunteer for Hawaii's DMAT."

The Chair stated that on page 6, the response for 4), should be "See response to question **#2**".

There being no further discussion, upon a motion by the Vice Chair, seconded by Ms. Kumasaka, it was voted on and unanimously carried to approve the minutes of the September 15, 2011 meeting as amended.

Executive Officer's Report	Report on the National Association of Boards of Pharmacy ("NABP") Interactive Executive Officer Forum at NABP Headquarters, Mount Prospect, Illinois				
	The EO reported there were approximately 32 Executive Officers, representing most U.S. states, the District of Columbia, Manitoba Pharmaceutical Association, and the Ontario College of Pharmacists in attendance at the NABP Interactive Executive Officer Forum held at NABP Headquarters in Mount Prospect, Illinois on September 21-22, 2011.				
	Some topics for discussion were Pill Mills, Regulation of Pharmacy Benefit Managers, Internet Pharmacies, the Federal Trade Commission's lawsuit against the North Carolina Board of Dentistry, Automated Dispensing Systems, Virtual Wholesale Distributors, NABP Prescription Monitoring Program, Prescriber Dispensing, Pharmacy Robberies, Medication Errors, Drug Take Back Programs, Immunization Programs and the United States Pharmacopeia ("USP") Chapter 797.				
	The EO stated she was able to network and discuss how other states address certain issues and topics that affect the practice of pharmacy both locally and nationally.				
	RICO Pharmacy Advisory Committee List and Addendum Language for the 2012 Term				
	The Chair asked the Board to review and approve the RICO Pharmacy Advisory Committee List and Addendum Language for the 2012 Term.				
	Upon a motion by the Vice Chair, seconded by Mr. Inafuku, it was voted on and unanimously carried to approve the RICO Pharmacy Advisory Committee List and Addendum Language for the 2012 Term.				
	2012 Board of Pharmacy Meeting Schedule				
	A copy of the 2012 Board of Pharmacy Meeting Schedule was distributed to the Board members for their Information.				
Laws and Rules Committee Report:	Mr. Inafuku reported on the following items discussed at the committee meeting held this morning before the Board meeting:				
	• The committee will review the draft of the rules previously approved by the Board. The committee plans to prioritize and develop a strategy to address future rule changes.				

- The committee will continue their discussion on the definition of the "Practice of pharmacy" and determine if changes are necessary.
- The committee will further discuss the need for a definition for "out-of-state pharmacies" located in United States territories, Washington D.C. and military installations. There is currently no definition for an out-of-state pharmacy.
- Two pharmacy technicians nominated by the Hawaii Pharmacists Association have been added to the Advisory Committee. Patricia Drury, representing the hospital sector, is a certified pharmacy technician with hospital, retail and home infusion experience. Mary Chinen, representing the retail sector, has 40 years of pharmacy technician experience.

<u>Correspondence:</u> National Association of Boards of Pharmacy ("NABP")

NABP State News Roundup – September 2011

The Board reviewed the articles in the NABP State News Roundup for September 2011.

Mr. Inafuku stated that the topic of the article, "New Mexico Board Begins Pilot Study on Continuous Professional Development" was brought up at the NABP district meeting. More emphasis is now being placed on pharmacists being able to provide a professional development plan in conjunction with continuing education credits. Boards are being approached to develop more continuous professional development programs.

Express Scripts, Walgreens Not Renewing Its Network Pharmacy Provider Agreement

The Chair stated that Express Scripts is notifying the Board of the dispute between Express Scripts and Walgreens.

Gammie Homecare, Requesting Review of the Federal Fresh Air Act of 2000

The Chair asked the Vice Chair to lead the discussion on Mr. Paul Gammie's request for a review of the Fresh Air Act of 2000 in which the Act requires the "dumping" of all compressed gas cylinders filled with medical grade oxygen when returned from areas outside the control of the filler.

Mr. Inafuku stated that medical oxygen is a prescription drug and the rules specifically state that it cannot be returned even if it is in a self contained container. Mr. Inafuku also stated also that a representative from the medical oxygen group should be added to the Advisory Committee of the Laws and Rules Committee because they dispense to the patient.

After further discussion, the Board reviewed the pharmacy laws and rules and it was the consensus of the Board since medical oxygen is considered a prescription drug, once it leaves the premises where it was dispensed or sold, it may not be accepted for return or exchange.

The Board referred this issue to the Laws and Rules Committee to consider if any changes to the statutes or administrative rules are necessary.

ACPE Memo: Summary of Reasons for Denial of Precandidate Accreditation Status for the Doctor of Pharmacy Program of the South College School of Pharmacy

The Chair stated that this memo lists more information regarding the denial of Precandidate Accreditation Status for the Doctor of Pharmacy Program at South College School of Pharmacy.

Real Time Electronic Centralized Database, Dean Fujimoto, Pharmacare No. 8

The Chair asked Mr. Inafuku to lead the discussion on Mr. Fujimoto's email regarding his legal concerns with the transfer process of non-controlled substance prescriptions between pharmacies that use real time electronic centralized database such as Kaiser Permanente.

Mr. Inafuku stated that there is not enough information because Kaiser also uses remote dispensing.

The Vice Chair stated that the pharmacist should be able to look at the label and know what pharmacy filed the prescription.

The Chair stated he was confused as to whether the question was referring to a central fill or mail order.

The DAG advised the Board that since Mr. Fujimoto is basically bringing something that may be in violation of the law to the attention of the Board and since there is not enough information in the email, he should be referred to the entity that is supposed to look into complaints.

After further discussion, it was the consensus of the Board that there was insufficient information to make a determination on Mr. Fujimoto's inquiry and to refer him to the Regulated Industries Complaints Office ("RICO") to file a complaint

as they are the designated division that investigates possible licensing law violations.

Pharmacy & Medical Marijuana, Jacob R. Raitt

The Chair reviewed the email from Mr. Raitt stating that pharmacy should control the distribution of marijuana when it becomes a Class II drug.

The Chair stated that the Board of Pharmacy does not classify drugs.

The Vice Chair stated that if marijuana is going to be distributed or dispensed, it should probably be through a pharmacy.

Oxygen prescription for a Canadian traveling to Hawaii, Holly Mansell, Saskatchewan Transplant Program

The Chair asked Ms. Kumasaka to read Ms. Mansell's email inquiring if she will require a written prescription by a physician in Hawaii for her oxygen when she travels to Hawaii and does the physician have to be licensed in the United States or more specifically licensed in Hawaii.

After further discussion, it was the consensus of the Board to respond to Ms. Mansell's email as follows:

We have a patient who is travelling to Hawaii from Canada and requires oxygen

The Board is assuming you are referring to medical grade oxygen in their response.

She was told by her oxygen company that she will require a prescription for this written by a doctor in Hawaii. Can you verify this for me?

A prescription for medical oxygen is required for a medical oxygen distributor to dispense the product.

Will a prescription written by a Canadian prescriber suffice..

No, pursuant to Hawaii Revised Statutes §328-1, the definition of "Out-of-state practitioner" means a physician, surgeon, or osteopathic physician and surgeon, dentists, podiatrist, or veterinarian authorized to prescribe drugs to patients under the applicable laws of any state of the United States except the State of Hawaii, or a physician, surgeon, or osteopathic physician and surgeon, dentists,

> podiatrist, or veterinarian authorized to prescribe drugs under the applicable laws of Hawaii, but practicing in a state other than Hawaii.

.. or does the physician has to be licensed in the United States and more specifically,...

Yes and the physician must be a physician, surgeon, or osteopathic physician and surgeon, dentists, podiatrist, or veterinarian.

.. does he/she have to be licensed in Hawaii? NO

(ie: will a prescription written by a physician in Chicago be acceptable?)

Based on the definition for "out-of-state practitioner"...yes, it would be acceptable if the physician is a physician, surgeon, or osteopathic physician and surgeon, dentists, podiatrist, or veterinarian.

Tubersol Vials as House Stock for Hospice Facility, Brandy Shima, Pharmacare LTC

The Chair asked Ms. Oliveira Gray to read the email from Ms. Shima asking how to provide house stock Tubersol, to be used on multiple patients at a hospice facility.

Mr. Inafuku stated that Tubersol is not a controlled substance.

After further discussion, it was the consensus of the Board that if a pharmacy distributes a prescription drug, not dispensed pursuant to a patient specific prescription, then the pharmacy is acting as a prescription wholesale distributor as defined in §16-95-2 and therefore, would be required to be licensed as such.

Rules/Regulations for 30 and 90 Day Prescription Conversions, Nichola M. DiMedio, ACS Audit & Compliance Solutions Affiliated Computer Services, Inc.

The Chair led the discussion on Nichola DiMedio's email inquiry asking for the state rules or regulations on 30 and 90 day prescription conversions.

The EO stated that the Board previously determined that pursuant to §16-95-82, if a pharmacist dispenses less or more of the quantity listed on the prescription, the pharmacist should obtain a physician's authorization.

The Chair stated that for safety reasons, a physician may not want a patient to have

more or less of the prescribed quantities for specific medications.

The Vice Chair stated that if a pharmacist has a valid prescription, it should be left up to the pharmacist's discretion to dispense more or less unless the prescription specifically states the quantity per month.

Mr. Inafuku stated that the Board had already made an informal opinion that a pharmacist cannot change the prescription to more or less of the prescribed quantity without authorization from a physician and that this is an issue that should be referred to the Laws and Rules Committee.

Mr. Fujii stated that currently, with Medicaid audits, if you are changing the quantity in billing you are committing fraud.

After further discussion, it was the consensus of the Board to respond to Nichola DiMedio's questions based on §16-95-82 Valid prescription and §461-1(2)(F), definition of "Practice of pharmacy" as follows:

First, are there any laws or rules/regulations in the state's pharmacy code that states that if a prescription is written for a quantity of #30 with 4 additional refills that a pharmacist may fill the entire quantity (in this case #150) all at one time?

NO

Second, if the same prescription is written for a quantity of #30 with two additional refills, can the pharmacist dispense a quantity of #90 with MD approval or must the quantity dispensed (#90) be authorized by the MD and noted on the prescription?

If the "quantity" dispensed by the pharmacy is other than what is indicated on the valid prescription, physician authorization is required.

Lastly, if a prescription is written for a 90 day supply (the original prescription is written for #30 with 2 refills and the directions are "Take 1 tablet everyday", does a 30 day supply have to be dispensed or can the pharmacist dispense the 90 day supply?

The pharmacist must dispense the "quantity" indicated in the prescription, in this case #30. If the pharmacist wants to dispense more than the "quantity" indicated on the prescription (#30 plus the refills), then physician authorization is required.

Does this situation need MD approval and must it be notated on the prescription?

YES and YES, technically it becomes a "new" prescription and the physician must be notified in writing or entered into an electronic patient record system shared with the licensed physician, within 24 hours.

This is an informal interpretation, based solely on the information contained in the email, for informational and explanatory purposes only and is not an official opinion and therefore is not to be viewed as binding on the Board.

DME "off the shelf" products, Ava Tiblis, Four Leaf Clover, Inc.

The Chair asked the Vice Chair to lead the discussion on the email from Ms. Tiblis asking if Four Leaf Clover, Inc. still needs a license if the company only sells off-the-shelf items from out-of-state, only ships via regular mail, and has no physical location, agent or employee in Hawaii and only gets a Certificate of Medical Necessity ("CMN") from a physician to bill Medicare for the customer.

Mr. Inafuku stated that the company does not need a license to sell non prescription devices.

After further discussion, the Board determined that based solely on the information provided in the email, no license is required since the out-of-state entity will be shipping non prescription medical devices into this State.

This is an informal interpretation, based solely on the information contained in the email, for informational and explanatory purposes only and is not an official opinion and therefore is not to be viewed as binding on the Board.

<u>Old Business</u>: Naturopathic Formulary – Draft (July 25, 2011) of "Important Notice Regarding the Prescriptive Authority of Naturopathic Physicians"

Mr. Inafuku stated the notice from the Board of Naturopathic Medicine informs naturopaths and pharmacists about their prescriptive authority, the background of the prescriptive authority given to them by the Legislature, and the formulary developed by the Board of Naturopathic Medicine.

It was the consensus of the Board to post the "Important Notice Regarding the Prescriptive Authority of Naturopathic Physicians" on the Board of Pharmacy's website.

Open Forum: None

Applications: Ratification List

Upon a motion by Mr. Inafuku, seconded by the Vice Chair it was voted on and

unanimously carried to approve the attached ratification list.

Executive Session: At 1040 a.m. upon a motion by the Vice Chair, seconded by Mr. Inafuku, 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 11:02 a.m. upon a motion by the Vice Chair, seconded by Ms. Oliveira Gray, it was voted on and unanimously carried to move out of executive session.

Miscellaneous Permit

• Wellpartner, Inc. - Deferred from September 15, 2011 Meeting

Upon a motion by the Vice Chair, seconded by the Chair, it was voted on and unanimously carried to grant a conditional approval of the Miscellaneous Permit for Wellpartner, Inc.

The conditional approval allows the pharmacists listed with the application for Wellpartner, Inc. to fill prescriptions for consumers residing in this State, however, the approval does not include Ms. Jeanann Lennard. Pursuant to Hawaii Revised Statutes, §436B-19(7), and (13), based on Ms. Lennard's previous disciplinary action by the Oregon Board of Pharmacy, Ms. Lennard may not fill, compound, review or process any prescriptions coming into this State.

• Option Care Enterprises, Inc. dba Walgreens Infusion Services (Las Vegas, NV) – Deferred from September 15, 2011 Meeting

Upon a motion by the Vice Chair, seconded by Mr. Inafuku, it was voted on and unanimously carried to grant a conditional approval of the Miscellaneous Permit for Option Care Enterprises, Inc. dba Walgreens Infusion Services (Las Vegas).

The conditional approval allows the pharmacists listed with the application for Option Care Enterprises, Inc., dba Walgreens Infusion Services to fill prescriptions for consumers residing in this State, however, the approval does not include Mr. Evan Goudge. Pursuant to Hawaii Revised Statutes, §436B-19(7), (13) and (14), based on Mr. Goudge's prior conviction and disciplinary action by the Nevada Board of Pharmacy, Mr. Goudge may not fill, compound, review or process any prescriptions coming into this State.

• Option Care enterprises, Inc., dba Walgreens Infusion Services (Carlsbad, CA)

Upon a motion by the Vice Chair, seconded by Mr. Inafuku, it was voted on and unanimously carried to approve the Miscellaneous Permit for Option Care Enterprises, Inc. dba Walgreens Infusion Services (Carlsbad, CA).

Miscellaneous Permit – Pharmacy Closure

 Medco at Home LLC dba Medco Health Solutions of Long Beach (PMP 640)

Upon a motion by the Vice Chair, seconded by Mr. Inafuku, it was voted on and unanimously approved to delegate to the EO to accept the closure of pharmacies and miscellaneous permits for out-of-state pharmacies and include closure notifications on the Ratification List.

Chapter 91, HRS Adjudicatory Matters:	At 11:02 a.m., the Chair called for a recess from the Board's meeting to discuss and deliberate on the following adjudicatory matter, pursuant to Chapter 91, HRS:
	In the Matter of the Miscellaneous Permit of Advanced Care Scripts, Inc. PHA 2011-7-L; Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order; Exhibits "1"-"2"
	Upon a motion by the Vice Chair, seconded by Ms. Kumasaka, it was voted on and carried unanimously to approve the Settlement Agreement Prior to Filing of Petition for disciplinary Action and Board's Final Order; Exhibits "1"-"2".
	Following the Board's review, deliberation and decision on these matters, pursuant to Chapter 91, HRS, the Chair announced that the Board was reconvening its scheduled meeting at 11:11 a.m. pursuant to Chapter 92, HRS.
<u>Next Meeting:</u>	Thursday, November 17, 2011 9:00 a.m. Exam Room, Room 330 (New Room) King Kalakaua Building, Third Floor 335 Merchant Street Honolulu, Hawaii 96813

Adjournment:

With no further business to discuss, the Chair adjourned the meeting at 11:12 a.m.

Taken and recorded by:

(M

Christine Hironaka Secretary

Reviewed and approved by:

Lee Ann Teshima Executive Officer 11/8/11

[] Minutes approved as is.

[\checkmark] Minutes approved with changes; see minutes of $\underline{n/n/n}$

BOARD OF PHARMACY

October 20, 2011 Ratification List

Miscellaneous Permits (PMP)

New PIC: Genoa Healthcare LLC (PMP 500) New PIC – Daniel Barni Immediate Pharmaceutical Services, Inc. (PMP 586) New PIC – William M. Davis WellCare Specialty Pharmacy, Inc. (PMP 531) New PIC – Michael LaBrecque Puget Sound Drug Corporation dba Key Pharmacy (PMP 316) New PIC – Marc Kosaka Catalyst Mail (PMP 683) New PIC – John Ahler Medco Health Solutions of Columbus West, Ltd dba Medco Health (PMP 321) New PIC - Paul Schad Fairview Pharmacy Services LLC dba Fairview Specialty Services Pharmacy (PMP 572) New PIC - Paul Fischer Factor Support Network Pharmacy Inc. (PMP 618) New PIC – Jacqueline Nguyen Relocation: Life Extension Pharmacy, Inc. (PMP 507) 5990 N. Federal Highway Fort Lauderdale, FL 33308 Pharmacy (PHY)

New PIC: Longs Drug Stores California LLC dba Longs Drugs #5638 (PHY 755) New PIC – Leona Goda

> Kalihi-Palama Healthcenter dba KPHC (PHY 797) New PIC – Gavin A. Sanjume

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LTYPE LIC NUM BP NAME PART 1

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PH 3285	
PH 3286	AMY L <este<< td=""></este<<>
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PH INTERNS Tuesday October 11, 2011 10:19 AM Page 1

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<u>LTYPE</u>	LIC NUM	VAM BPR LEGAL NAME 1
PHI	3005	JONATHAN D <phung<< td=""></phung<<>
PHI	3006	KYLE R <simonton<< td=""></simonton<<>
PHI	3007	AMY T <buenrostro<< td=""></buenrostro<<>
PHI	3008	ASMA A <rifay<< td=""></rifay<<>
PHI	3010	DHWANI <shah<< td=""></shah<<>
PHI	3011	KATHY H <truong<< td=""></truong<<>
PHI	3012	NANCY D <nguyen<< td=""></nguyen<<>
PHI	3013	COREY A <lester<< td=""></lester<<>
PHI	3014	MARK A <suntay<< td=""></suntay<<>
PHI	3015	LACEY J <miller<< td=""></miller<<>
PHI	3016	TINGTING <sun<< td=""></sun<<>
PHI	3029	CALEB <tang<< td=""></tang<<>

BOARD OF PHARMACY - October 20, 2011 - RATIFICATION LIST

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<u>LTYPE</u>	LIC NUM_LIC NAME PART 1_	BUSN ADDR 1	BUSN CITY	<u>BUSN</u> <u>ST</u>	L <u>BUSN</u> ZIP BP NAME PART 1
PHY	804 MINA PHARMACY #16	3375 KOAPAKA ST #F-251	HONOLULU	HI	96819 MINA CORPORATION

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	LIC			<u>BUSN</u>	BUSN
<u>LTYPE</u>	NUM LIC NAME PART 1	BUSN ADDR 1	BUSN CITY	<u>ST</u>	ZIP BP NAME PART 1
PMP	712	5310 WHITTIER BLVD	LOS ANGELES	CA	90022 EL REY RX INC
PMP	713	550 TECHNOLOGY PARK #1008	LAKE MARY	FL	32746 BALANCED SOLUTIONS COMPOUNDING PHA
PMP	714	1320 E 200 S SALT LAKE CITY		UT	84102 UNIVERSITY PHARMACY
PMP	715	3251 TECH DR N	ST PETERSBURG	FL	33716 RX STAT INC
PMP	716 INJURY MED EXPRESS PHARMACY	30245 COUNTRY RD 49	LOXLEY	AZ	36551 INJURY MED EXPRESS PHARMACY LLC
PMP	717 DIPLOMAT PHARMACY SERVICES	325 W ATHERTON RD	FLINT	MI	48507 DIPLOMAT PHARMACY INC
PMP	718	2501 W 80TH ST #7	HIALEAH	FL	33016 PET MEDS AND BEYOND INC
PMP	719 VRX PHARMACY @ CITY CREEK	60 E S TEMPLE #110	SALT LAKE CITY	UT	84111 VRX PHARMACY LLC
PMP	720	1246 HWY 377 S #100	PILOT POINT	ТΧ	76258 AXTELL'S PHARMACY INC

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LTYPE I	LIC NUM_LIC NAME PART 1_	BUSN ADDR 1	BUSN CITY	<u>BUSN</u> <u>ST</u>	BUSN ZIPBP NAME PART 1
PWD PWD	147 21ST CENTURY HEALTH SPECIALIST148 MED ONE	1331 MAKALOA ST #B4	HONOLULU	н	96814 OLGA N <semenova< APM GROUP LLC</semenova<