

MINUTES OF THE MEETING FOR THE
NEVADA STATE BOARD OF ATHLETIC TRAINERS (NSBAT)

DATE: **September 20, 2012**

LOCATIONS:

University of Nevada Reno
1664 N. Virginia Street
Mathewson/IGT Knowledge Center
Room #110
Reno, Nevada 89557

College of Southern Nevada
Cheyenne Campus
3200 E. Cheyenne Avenue
Room 2647B
N. Las Vegas, Nevada 89030

1. Meeting called to order by Chairman, Jim Porter at 9:17 a.m. Board Members present in Las Vegas include Jim Porter and Travis Wakefield; members of the public present include Jay Mellette, LAT, ATC. Board Members present in Reno include Rob Conatser, Christine Wittorff, and Eathan O'Bryant; others present include Stacey Whittaker (Executive Secretary) and Keith Marcher (Attorney General Representative via teleconference). Members of the public present in Reno include Carolyn Cramer- General Counsel, Nevada State Board of Pharmacy and Shelly Germann, LAT, ATC.

2. **Public Comments.** No public comments made at this time.

***Keith Marcher advises the Board to move to Item #11 on the agenda to accommodate the members of the public who are in attendance.**

11. **Review and discuss questions submitted to the Nevada State Board of Pharmacy regarding Licensed Athletic Trainers and their administration of prescription and non-prescription medications.** Jim prefaces the discussion with the history of where this came from. The Board was asked to investigate a public complaint and one of the issues that came to light was that of over the counter medications and the administration of such by a Licensed Athletic Trainer. Jim feels that this has been an area of contention not only in Nevada but several states. Jim said that he has reviewed the National Athletic Trainer's consensus statement, the national standards for Athletic Training and the various NRS relating to this issue. With the consent of the Attorney General's Office, the Board directed their questions and those of the Licensed Athletic Trainers to the Nevada State Board of Pharmacy. The Board received a letter from the Pharmacy Board in response to our questions dated September 18, 2012. The Pharmacy Board was asked to review the National Athletic Trainers Association Consensus Statement regarding the management of prescription and non-prescription medications in the Athletic Training facility. Jim reviews the Pharmacy Board letter as the following:

In Nevada, there are four types of drugs that are classified under Nevada law. They are:

1. **Dangerous Drugs**: These are basically prescription drugs. The consensus statement is that based upon the practice acts of Athletic Trainers, Athletic Trainers have no independent right to possess or administer Dangerous Drugs.
2. **Controlled Substances**: The letter goes into great detail describing what these are, including some illegal drugs, again the Athletic Trainers have no independent right to possess or administer Controlled Substances.
3. **Behind the Counter**: This is a fairly new classification, and are basically drugs that can be purchased without a prescription but can be used to process illegal drugs (primarily methamphetamine). These need to be controlled by a Licensed Pharmacist in the State of Nevada.
4. **Over the Counter**: These are over the counter medications that are not regulated by the State Board of Pharmacy. They can be purchased and used by anybody. Although they are generally safe, each OTC drug has some restrictions on its administration. As we know when taking aspirin, acetaminophen or ibuprofen, there are warnings on those labels as to how they should be used per FDA regulations.

The letter goes on to explain that based on NRS640B.090 for Athletic Trainers, there is no mention in our scope of practice of Athletic Trainers possessing or administering controlled substances, dangerous drugs, behind the counter, or over the counter medications to Athletes. Jim says that therefore, in short answer from the Nevada State Board of Pharmacy, no Athletic Trainer should be possessing or administering these controlled substances, dangerous drugs, behind the counter or over the counter medications for their Athletes. Athletic Trainers are not specifically authorized by the Nevada Legislature to possess or administer controlled substances per NRS 453.375 or dangerous drugs per NRS 454.213. There are some common sense considerations mentioned in the letter by Carolyn Cramer, General Counsel for the Nevada State Board of Pharmacy. One of the points is that Athletic Trainers are not re-packers and cannot break down bulk product into individual doses. If an Athletic Trainer wants to repackage OTC or prescription drugs, the Athletic Trainer will come under the jurisdiction of the Board of Pharmacy. Jim believes that in addition to this, in reviewing NRS 453.213, it limits Physical Therapists to using Iontophoresis and Phonophoresis which is interesting. This is not mentioned in our law at all.

The issue that comes up at this time is one of education and explaining to Licensed Athletic Trainers in the State of Nevada, their legal position regarding pharmaceuticals. What Jim is personally interpreting from this letter from the Board of Pharmacy, is he cannot administer or provide any kind of pharmaceutical other than topical cooling or heating lotions. Jim asks Carolyn Cramer if she agrees with his opinion.

Carolyn Cramer (General Counsel for the Nevada State Board of Pharmacy) thanks the Board for giving her the opportunity to respond to Mr. Porter's letter. Her agency is responsible for the drug supply in the State of Nevada and they have over 27,000 licensees and 14 different types of licensing categories. They also have the controlled substance monitoring program, a very broad scope. She wanted to address specifically for Nevada, some of the areas that were raised in the consensus statement letter provided. In her opinion, they give a lot of good general information, but do not provide specific information to your State. Carolyn wanted to give the Board an understanding as to where our profession is right now in relation to the Nevada Drug Law. NRS 453 and 454 are areas that are enforced. NRS 453 is the controlled substance act and Carolyn provided a list of people that the Nevada Legislature and Governor have authorized to possess or administer a controlled substance. NRS 454.213 is the dangerous drug act and lists those individuals who can possess or administer dangerous drugs which is anything that is prescription only. OTC and Behind the Counter drugs are essentially anything with pseudoephedrine products like cold and allergy products that we do not get involved with. Carolyn wanted to address Mr. Porter's comments about re-packaging and clarify that this is handled by the FDA. Re-packaging is an arduous process that must be approved by the FDA, and doesn't recommend that we go there. Carolyn addresses the issue of topicals; they can either be OTC items or contain active ingredients that make them either a dangerous drug or a controlled substance. This can limit someone's ability to possess and administer them; it depends on the item itself.

Jim would like to address the Performing Arts, Professional Sports and College University settings that have been in the practice for many years. In the case of UNLV just as an example in the South, if they were to purchase over the counter medications and provide them to the Athletes, could that be done through pharmacy companies that UNLV could contract with to provide them with not only dangerous drugs and controlled substances for Physician use, but also over the counter medications. Could UNLV contract with pharmacy providers to put these products in the Athletic Training Room and monitor them (without the Athletic Trainers involvement) under a team Physician, would this be legal under the law? Carolyn says no. Typically what you are referring to is drug wholesalers who provide to Physicians, controlled substances and dangerous drugs for administration. They can provide OTC drugs for Practitioners for in office administration. Wholesalers do not have the ability to monitor drugs to end users, they provide them to Practitioners. Pharmacies fill patient's specific medications based on the Doctor's written prescription. Patients can go into a pharmacy and buy OTC drugs but they would not be in a position to be dispensing OTC drugs in a facility that is not a pharmacy.

Jim says that there are companies out of Arizona and Southern California that set up a contractual arrangement to be the on-site pharmacy for Professional Sports. Their Pharmacist provides them with a locked safe and they control the key and the Physician has a key, is this legal in Nevada? Carolyn asks Jim to email her the name of this Pharmacist and she will tell him whether or not he is licensed. Jim says that they are marketed nationwide to be able to provide you with on-site pharmacy to provide the team with both prescription drugs and over the counter drugs. They are re-packaging pharmaceuticals and they will also formulate. For instance, one of the things that were used was a Lidocaine topical preparation that they provided. Carolyn says that this would be a dangerous drug and

hopefully they had FDA approval for that. Jim says that they are a Licensed, FDA re-packaging company and they presented their license as part of the contract. His question is, whether or not they were licensed to practice in Nevada. Carolyn asks Jim to email her the information so that she can look into it. Carolyn says they license a wide range of groups and prior to licensure, they inspect.

Jim then asks if an entity has a Physician on-site, that has a medical practice (like at UNLV and UNR), can they within their office, maintain a supply of OTC and prescription drugs that can be used only by the Physician? Carolyn says yes, Practitioners have the ability to have direct prescribing authority of dangerous drugs just by the fact that they would be licensed as either an Allopathic or Osteopathic Physician in the state of Nevada. If they also have a controlled substance registration for that location as well as a DEA number then they can possess and administer a controlled substance for that location. Travis asks if the Physician can delegate the dispensing of the prescription to someone else. Carolyn says no. Dispensing is anytime anybody leaves a facility with a drug. If you are at the Dr.'s office and they tell you to take two of something right now, they have administered. If the Dr. has a Nurse, the Nurse would be able to perform that function under NRS 454.213. If the Dr. has a PA, and the PA has the ability to possess and administer because they are under an agreement with the Dr., and they have an additional controlled substance registration and DEA# for that location then they can possess and administer a controlled substance as well and be able to act as independent Practitioner.

Jim asks if there are any other questions for Carolyn. Jim asks if the Board deems it an appropriate action, would Carolyn have a problem with them sending out a copy of the letter provided to Jim to the Licensed Athletic Trainers explaining what was talked about at this meeting. Carolyn says she has no problem with how we disseminate this information and thinks it is great information that gives us the opportunity as a profession to start talking about some of these issues. The last thing they want is someone inadvertently getting themselves into trouble. Carolyn feels that if we need to ask for additional authority from the Legislature, this gives us a great place to start in making that request and determining what we want to do as a profession. It takes time to get the Legislature on board, the sooner we start talking to them about the needs of our licensees and patients, that's going to go a long way. We will have to educate them as to what we are up against in this profession and what it takes to take care of the Athletes.

Jim asks for additional questions/comments, there are none. Jim asks the Board what direction they would like to take moving forward in regards to educating the Licensed Athletic Trainers in Nevada. Rob feels that this information should go out to all the Licensed Athletic Trainers but even further than that to the professional settings, collegiate level and even club teams. Carolyn suggests that we put together a committee of interested individuals who would discuss how we want to go about this. There are a lot of different environments that we are dealing with such as children/minors, young adults in college, professionals and performers and the expectations can be very different. Keith says that we may want to consider forming a sub-committee in the future to address some of these issues. He recommends at a minimum right now based on the way the agenda reads, you can entertain a motion to disseminate the letter from the Pharmacy Board to all Licensed Athletic Trainers in the state as step one.

Jim asks Carolyn if an employer like Wynn, can provide over the counter medications to their employees or does that have to be done through a nursing office. Carolyn says that it depends on what you mean by provide. There are times when people can access band-aids and basic OTC items from a safety cabinet. As long as the patient is making the decision that they want to access it, that is fine. It doesn't mean that there isn't liability associated with it, but it does not require a Nurse. Jim asks in the case of UNLV, could they purchase the Over the Counter's and put them out in the locker room and the Athletes can choose to take what they want (the Athletic Trainer would have the right to educate them but not administer or dispense the OTC). Would this be a sensible solution? Carolyn says that you would have to be careful what you mean by educate, if you are going to tell them that 4 of those is equal to one prescription Advil, then that's a problem. Anytime you have that sort of thing around, it can be problematic for you. You have to tread lightly, what other OTC meds or herbs are they are taking. Carolyn recommends that we check with the General Counsel for the Universities to see how comfortable they are just leaving OTC medications out for Athlete use. Jim feels that he could explain to an Athlete what the side effects are of Ibuprofen but should not refer them to a particular dosage; this should come from a Pharmacist or a Physician rather than an Athletic Trainer. Carolyn agrees. Jim says that the reason he is asking these questions is once the letter goes out, these are the types of questions the Board will be getting. Jim agrees with putting together a committee to address this issue, disseminating this information, evaluate whether or not the Board wants to go back to the Legislature to open up the practice act, and how we make sure that the educational entity that is training Athletic Trainers not only in this state

but around the country regarding our pharmacy laws. What we need to look at right now, is getting the information out.

Jim says, moving forward, you are in violation of state laws if you are administering any kind of pharmaceutical other than topicals for external tissue (as long as they are not considered prescription preparations). Carolyn says she did provide in the letter that if someone has a specific prescription, there is an ability of a patient who is an end user who has a specific prescription for them, to enter into an agreement with somebody else to help administer it to them. That might be another route you might want to consider, the law does allow for this. As Carolyn pointed out in her letter, whatever happens under drugs has to meet your practice act and whether or not you are comfortable that it meets the definition of NRS 640B.090 is your call.

Jim's one concern with sending out the letter to all Athletic Trainers is that there is one point under NRS 454.213 that anyone can delegate an individual to administer the drug to them. Is this information that we want to provide at this point until we have a better opportunity to educate them about the risks involved? Carolyn agrees, and whether or not it meets the Athletic Trainer's practice act would require soul searching on our part and what it means to be an Athletic Trainer.

Jim recommends that we may want to exclude this information from the original information we send out to the Athletic Trainers, he feels that it could be opening a doorway that we have no control of how people will use it and he sees potential for abuse that would require additional oversight. Jim entertains a motion as to the action the Board should take today to move forward on this topic. Rob motions to place sending the information out to Licensed Athletic Trainers on the next meeting agenda. Travis seconds the motion.

Jim feels that something needs to be put out immediately; we need to alert them that the way they have been practicing in the past is not allowed in the State of Nevada. Rob asks if we can highlight from our practice act that we are not to disseminate any over the counter or behind the counter drugs and then follow up. Jim proposes that we take the letter from the Nevada State Board of Pharmacy and include page 1 and page 2 and simply eliminate the section "Room to Help Take Care of the Athlete". We can table this section until we have the opportunity to get additional information and talk to Keith about what we would need to do to go to the Legislature to change how we practice, a change in NRS 640B.090. Jim asks if there is any discussion regarding the motion on the table. Chris asks Jim to clarify that he has motioned to remove the "Room to Help Take Care of the Athlete" from the letter before sending it out. Jim states that the current motion on the table (per Rob) is to table everything until the next meeting and that this would have to be removed before another motion is presented. Jim asks for all those in favor of the current motion of placing the dissemination of this information out to LAT's on the next meeting agenda. Opposed 5-0.

Jim now entertains a motion to take the information from the Nevada State Board of Pharmacy excluding the two paragraphs from "Room to Help Take Care of the Athlete" at this point and disseminate the information to the Athletic Trainers as soon as possible via email and possibly a written letter. Jim states that at the present time, Athletic Trainers should not be involved in the administering or dispensing of pharmaceuticals of any kind of all four classifications effective immediately. Rob motions to approve the letter from the State Board of Pharmacy be sent out to all Athletic Trainers with the removal of the "Room to Help Take Care of the Athlete" portion. Travis seconds the motion. Approved 5-0. Stacey asks if the NRS should be included with the letter, Jim says yes. Jim asks if the next action should be to establish a committee to evaluate what the next course of action will be for this item. Keith informs him that this needs to be a separate agenda item for the next meeting.

Jim says that there is an inquiry as to whether or not Carolyn will be available at the end of the meeting for public comment, if not is it ok for them to contact her directly. Carolyn says yes, she does not have a direct line but to please call the Pharmacy Board and ask for her. Jim thanks Carolyn for her time and effort. There are no further questions or comments.

3. **Review and approve minutes of meeting 05/10/2012.** Jim asks the Board if there are any questions or comments regarding the above mentioned meeting minutes, there are none. Rob Conatser motions to approve the 05/10/2012 meeting minutes as written. Eathan O'Bryant seconds the motion. Approved 5-0.

4. **Update on disciplinary action reports and investigations of unlicensed activity.** Stacey reports to the Board that the 2nd Quarter Disciplinary Action Report was posted to reflect no disciplinary action taken and zero licenses issued or restored during this quarter. Stacey informed the Board that there was a report of unlicensed activity involving an individual referring to himself as an Athletic Trainer on his resume. The Board sent a certified

letter to this individual that was returned to the Board as undeliverable. Stacey would look into sending the letter via email. There are no further questions or comments.

5. **Review and discuss results of the 2012 license renewal process and the submission of Physician Directors from Licensed Athletic Trainers.** Stacey informs the Board that at the time of renewal, there were 173 Licensed Athletic Trainers in Nevada. 27 Athletic Trainers did not renew their license this year, most of them relocating out of the State (all are accounted for). Since that time, the Board has restored 6 licenses and issued 13 new licenses. There are currently 165 Licensed Athletic Trainers in Nevada. Stacey said that the overall submission of Physician Directors went extremely well, those that did not have one were able to seek help in acquiring one. Stacey asked if those Athletic Trainers that work various sites and clinics were required to submit the name of their Physician Director for each site. Rob feels that this would be a good agenda item for our next meeting. Jim feels that it doesn't need to be a minute by minute issue, but that the Board can vote on it at the next meeting. There are no further questions or comments.

6. **Review and discuss the Sunset Subcommittee of the Legislative Commission and their review of the Nevada State Board of Athletic Trainers.** Jim and Stacey inform the Board that they have not heard anything new from the Legislature since the meetings in March and April 2012. This will be added to our next meeting agenda in the event that information becomes available. There are no further questions or comments.

7. **Review and discuss current status of A.B.455 and the provisions governing athletics in public schools.** Jim informs the Board that this will be on the next meeting agenda for the NIAA scheduled for October 2nd and 3rd in Reno. There is nothing further to discuss at this time.

8. **Review and discuss the status of Licensed Athletic Trainers at Northern Nevada High Schools.** Rob asks if there is anything the Board can do to put the heat on Northern Nevada High Schools. He says there are at least 5-6 High Schools without an Athletic Trainer in Northern Nevada. Reed High School should be getting an Athletic Trainer soon. Rob put a call into Bryan at the district and hasn't heard back from him. He doesn't know if they are actively trying to fill these positions in a manner that it should be. Rob feels that what Reno Orthopedic Clinic is doing is very nice by supplementing the Athletic Trainer's income. Chris says that Carson/Tahoe also has a couple of positions open but they are part time positions and they are being turned down. Rob feels that something needs to be made aware of where this is at in terms of status. There is the issue of concussions and even an incident where an ambulance mishandled a spinal cord injury, people are not aware of how important the Athletic Trainers are. Travis asks what the school district in Northern Nevada is using for liability coverage. He says that in Southern Nevada, the schools have leverage by having Athletic Trainers as it cuts down on the liability for the schools. He recommends going about it from a liability standpoint. Rob does not know the answer to that. Jim says that he has received several emails regarding this issue and feels that money is a big issue. In Southern Nevada, almost all of the schools are run by one district. This is not the case in Northern Nevada, there is not one entity pushing the issue. Rob asks if this is even an issue for the Board. Jim says that unless we went to the Legislature like Hawaii did where they have designated money to pay for the program through the Department of Health. Jim isn't sure that the Board can do anything at this point. There are no further questions or comments.

9. **Review and discuss Governor's Order 2012-11 regarding reciprocity for Military Spouses seeking licensure in Nevada.** Stacey informs the board that she responded to the Governor's Office regarding the Executive Order. At this point the current NRS for Athletic Trainer does not prohibit this order as we allow for reciprocity. The only time it would be a concern is if we were asked to waive the fees. Keith says that this order was designed more for Boards who do not have reciprocity and doesn't change anything at this point. There are no further questions or comments.

10. **Review and discuss the 5th edition of CAATE (Commission on Accreditation of Athletic Training Education) competencies.** Jim feels that the one issue to be addressed is whether or not the Board needs to set a time table for Licensed Athletic Trainers to demonstrate that they have met the new competency requirements. Jim doesn't think that the BOC has set a time frame yet, their reporting period ends December 31, 2012. Rob feels that we should wait and see what the BOC decides to do, let them set the precedence. The Board agrees; there are no further questions or comments.

12. **Review and discuss General Liability Insurance through the State's self-funded plan for Board Members and Executive Secretary position.** Stacey reviews the information that she received from the Tort Claims Manager at the Attorney General's Office. They provide general liability insurance for Board Members and employees of the Board for \$128.79 per person/per fiscal year. For the six individual's it would be \$772.74 per fiscal year and they would be willing to accept this payment now for the fiscal year starting July 1, 2012. Because Stacey is an Independent Contractor, she cannot be covered under this plan unless she converts to a part time employee of the Board. Stacey looked into getting her own liability coverage and the rates start at a minimum of \$1,200-\$1,500 per year. She also spoke with a CPA who said the Board would incur about 10% more of her salary to convert her to an employee. Jim feels that based on these numbers we should look into converting the position to an employee. Keith says that this will have to be a specific agenda item at the next meeting. Jim motions for the Board to submit payment to the Attorney General's Office in the amount of \$643.95 to cover the five Board Members for fiscal year July 1, 2012 – June 30, 2013. Rob Conatser seconds the motion, Approved 5-0.

13. **Review and discuss financial status of the Board.** Jim asks the Board if there are any questions or comments regarding the financial statements that Stacey sent out, there are none.

14. **Future agenda items.**

- A. **Review and approve minutes of meeting 09/20/2012.**
- B. **Update on disciplinary action reports and investigations of unlicensed activity.**
- C. **Update on A.B.455 and the provisions governing athletics in public schools.**
- D. **Review and discuss the Sunset Subcommittee of the Legislative Commission and their review of the Nevada State Board of Athletic Trainers.**
- E. **Review and discuss formulating a committee to evaluate the issue of Athletic Trainers and Pharmacology in the state of Nevada.**
- F. **Review and discuss whether the NSBAT needs to monitor Physician Directors for Athletic Trainers annually or on a case by case basis.**
- G. **Review and discuss converting the NSBAT Executive Secretary position from an Independent Contractor to a part time Employee.**
- H. **Review and discuss financial status of the Board.**

15. **Discussion, possible decision on date of next board meeting.** The next meeting is scheduled for Thursday, January 17th, 2012 at 9:00 a.m.

16. **Public Comments.** There are no public comments in either Reno or Las Vegas.

17. **Meeting adjournment.** Rob Conatser motions to adjourn the meeting of the Nevada State Board of Athletic Trainers at 10:46 a.m. Travis Wakefield seconds the motion. Approved 5-0.