

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**NOTICE OF INTENDED ACTION
AND ACCUSATION**

**ROBERT CULLIVER, R.Ph.,
Certificate of Registration #10696,**

Case No. 10-074-RPH-N

**CVS/PHARMACY #9168,
Certificate of Registration #PH00506,**

Case No. 10-074-PH-N

Respondents.

_____ /

COMES NOW Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, and makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy has jurisdiction over this matter because Respondent Robert Culliver is a pharmacist licensed by the Board and CVS/Pharmacy #9168 (CVS #9168) is a pharmacy licensed by the Board, located at 1119 California Avenue in Reno, Nevada.

II.

On or about September 6, 2010, Donna Haynes picked up her prescription for the generic for Zoloft, sertraline HCL 100 mg. tablets, from CVS #9168. When Ms. Haynes was to begin taking the medication she picked up, she noticed that they were different than what she had been taking. Ms. Haynes was familiar with taking generic medications and assumed that the difference was because of a different manufacturer and began taking what she was given as prescribed. Ms. Haynes took the medication she was given for approximately one week and noticed that she had become agitated

and was experiencing panic attacks and had constant thoughts of suicide. The increased severity of the symptoms prompted her to seek medical attention at St. Mary's emergency room which resulted in a series of medical tests and physician follow-ups. Ms. Haynes eventually queried internet sites with a description of the medication she had been taking and learned what she had been dispensed was actually 75 mcg. Synthroid tablets and not the sertraline HCL she had been prescribed.

III.

During the investigation of this matter it was found that a pharmaceutical technician prepared and printed the label set for Ms. Haynes prescription. There is a consensus of which pharmaceutical technician probably processed the label set, however it is inconclusive because there were no computer records to identify the time of the fill or the filling pharmaceutical technician and since the pharmaceutical technician was not consistent in how he initialed labels he could not identify his own initials. The verifying pharmacist in this instance was Mr. Culliver who failed to notice that Ms. Haynes prescription was filled with Synthroid 75 mcg. tablets rather than the prescribed sertraline.

IV.

The Board's investigator reviewed the refill log and it was noted that the prescription labels attached to the log were roughly in the order they were filled. A Synthroid 75 mcg. prescription was filled at approximately the same time as the 100 mg. sertraline prescription. Pharmacy staff had no recollection of this incident, however it was likely both the Synthroid and the sertraline stock bottles were on the filling counter at the same time. The sertraline stock bottle was properly scanned and the prescription bottle properly labeled but the filling pharmaceutical technician inadvertently switched the Synthroid for sertraline during the filling process

FIRST CAUSE OF ACTION

V.

In failing to strictly follow the instructions of Donna Haynes' physician by verifying and filling her prescription for 60 tablets of 100 mg. sertraline with 60 tablets of 75 mcg. Synthroid, Mr. Culliver violated Nevada Revised Statutes (NRS) 639.210(4) and/or Nevada Administrative Code (NAC) 639.945(1)(d) and (i).

SECOND CAUSE OF ACTION

VI.

In failing to be able to capture the identity of the filling pharmaceutical technician that filled the prescription for Ms. Haynes, CVS #9168 violated NRS 639.210(4) and/or NAC 639.252(1) and/or 639.945(1)(m).

THIRD CAUSE OF ACTION

VII.

In owning and operating the pharmacy in which Mr. Culliver filled and dispensed Donna Haynes' prescription for 60 mg. tablets of 100 mg. sertraline with 60 tablets of 75 mg. Synthroid, CVS #9168 violated NRS 639.210(4) and or NAC 639.945(1)(d) and (i) and (2).

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of the Respondents.

Signed this 6th day of January, 2011.


Larry L. Pinson, Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

STATEMENT TO THE RESPONDENT
NOTICE OF INTENDED ACTION
AND ACCUSATION
RIGHT TO HEARING

ROBERT CULLIVER, R.Ph.,
Certificate of Registration #10696,

Case No. 10-074-RPH-N

Respondent.

_____ /

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the board by the Petitioner, Larry L. Pinson, Executive Secretary for the board, alleging grounds for imposition of disciplinary action by the board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II

You have the right to a hearing before the Nevada State Board of Pharmacy to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Nevada State Board of Pharmacy within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

The Board has reserved Wednesday, March 2, 2011 as the date for a hearing on this matter at the Airport Plaza Hotel, 1981 Terminal Way, Reno, Nevada. The hour of the hearing will be set by letter to follow.

IV.

Failure to complete and file your Notice of Defense with the board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 6th day of January, 2011.



Larry L. Pinson, Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

ANSWER AND
NOTICE OF DEFENSE

ROBERT CULLIVER, R.Ph.,
Certificate of Registration #10696,

Case No. 10-074-RPH-N

Respondent.

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I AM AWARE OF MY VICARIOUS RESPONSIBILITY FOR THIS MISFIL AND WAS ON DUTY AT THE TIME. I DO NOT RECOLLECT FILLING THIS PRESCRIPTION PERSONALLY SINCE I WAS IN A "VERIFICATION" MODE THE ENTIRE MORNING. THE PHARMACY MANAGER WAS DOING "FLU" SHOTS. I AM SORRY THIS HAPPENED WITH THE POTENTIAL FOR HARM TO THE PATIENT. I AM UPSET BY THIS. AFTER 30 YEARS/A MILLION PLUS PRESCRIPTIONS - THIS IS THE FIRST TIME AN ERROR WAS GONE TO THIS STAGE. I HAVE RESCUED AS MANY MISHAPS AS THE NEXT PHARMACIST OVER THE YEARS, BUT THESE HAVE BEEN FEW. I WILL OPEN EVERY BOTTLE @ VERIFICATION PROCESS FROM NOW ON. I DO CONSULT WELL ON MOST PRESCRIPTIONS WHEN ON DUTY. THIS TIME I WAS NOT PRESENT AT "PICK-UP". I HAVE RECENTLY DONE "C.E." @ MISHAPS AND PREVENTION OF ERRORS.

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of

Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 27 day of JAN, 2011.

Robert G. Culliver

Robert Culliver, R.Ph.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,
v.

**NOTICE OF INTENDED ACTION
AND ACCUSATION**

**ROBERT CULLIVER, R.Ph.,
Certificate of Registration #10696,**

Case No. 10-074-RPH-N

**CVS/PHARMACY #9168,
Certificate of Registration #PH00506,**

Case No. 10-074-PH-N

Respondents.

_____ /

COMES NOW Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, and makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy has jurisdiction over this matter because Respondent Robert Culliver is a pharmacist licensed by the Board and CVS/Pharmacy #9168 (CVS #9168) is a pharmacy licensed by the Board, located at 1119 California Avenue in Reno, Nevada.

II.

On or about September 6, 2010, Donna Haynes picked up her prescription for the generic for Zoloft, sertraline HCL 100 mg. tablets, from CVS #9168. When Ms. Haynes was to begin taking the medication she picked up, she noticed that they were different than what she had been taking. Ms. Haynes was familiar with taking generic medications and assumed that the difference was because of a different manufacturer and began taking what she was given as prescribed. Ms. Haynes took the medication she was given for approximately one week and noticed that she had become agitated

and was experiencing panic attacks and had constant thoughts of suicide. The increased severity of the symptoms prompted her to seek medical attention at St. Mary's emergency room which resulted in a series of medical tests and physician follow-ups. Ms. Haynes eventually queried internet sites with a description of the medication she had been taking and learned what she had been dispensed was actually 75 mcg. Synthroid tablets and not the sertraline HCL she had been prescribed.

III.

During the investigation of this matter it was found that a pharmaceutical technician prepared and printed the label set for Ms. Haynes prescription. There is a consensus of which pharmaceutical technician probably processed the label set, however it is inconclusive because there were no computer records to identify the time of the fill or the filling pharmaceutical technician and since the pharmaceutical technician was not consistent in how he initialed labels he could not identify his own initials. The verifying pharmacist in this instance was Mr. Culliver who failed to notice that Ms. Haynes prescription was filled with Synthroid 75 mcg. tablets rather than the prescribed sertraline.

IV.

The Board's investigator reviewed the refill log and it was noted that the prescription labels attached to the log were roughly in the order they were filled. A Synthroid 75 mcg. prescription was filled at approximately the same time as the 100 mg. sertraline prescription. Pharmacy staff had no recollection of this incident, however it was likely both the Synthroid and the sertraline stock bottles were on the filling counter at the same time. The sertraline stock bottle was properly scanned and the prescription bottle properly labeled but the filling pharmaceutical technician inadvertently switched the Synthroid for sertraline during the filling process

FIRST CAUSE OF ACTION

V.

In failing to strictly follow the instructions of Donna Haynes' physician by verifying and filling her prescription for 60 tablets of 100 mg. sertraline with 60 tablets of 75 mcg. Synthroid, Mr. Culliver violated Nevada Revised Statutes (NRS) 639.210(4) and/or Nevada Administrative Code (NAC) 639.945(1)(d) and (i).

SECOND CAUSE OF ACTION

VI.

In failing to be able to capture the identity of the filling pharmaceutical technician that filled the prescription for Ms. Haynes, CVS #9168 violated NRS 639.210(4) and/or NAC 639.252(1) and/or 639.945(1)(m).

THIRD CAUSE OF ACTION

VII.

In owning and operating the pharmacy in which Mr. Culliver filled and dispensed Donna Haynes' prescription for 60 mg. tablets of 100 mg. sertraline with 60 tablets of 75 mg. Synthroid, CVS #9168 violated NRS 639.210(4) and or NAC 639.945(1)(d) and (i) and (2).

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of the Respondents.

Signed this 6th day of January, 2011.



Larry L. Pinson, Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

STATEMENT TO THE RESPONDENT
NOTICE OF INTENDED ACTION
AND ACCUSATION
RIGHT TO HEARING

**CVS/PHARMACY #9168,
Certificate of Registration #PH00506,**

Case No. 10-074-PH-N

Respondent.

_____ /

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the board by the Petitioner, Larry L. Pinson, Executive Secretary for the board, alleging grounds for imposition of disciplinary action by the board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II


You have the right to a hearing before the Nevada State Board of Pharmacy to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Nevada State Board of Pharmacy within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

The Board has reserved Wednesday, March 2, 2011 as the date for a hearing on this matter at the Airport Plaza Hotel, 1981 Terminal Way, Reno, Nevada. The hour of the hearing will be set by letter to follow.

IV.

Failure to complete and file your Notice of Defense with the board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 6th day of January, 2011.



Larry L. Pinson, Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

ANSWER AND
NOTICE OF DEFENSE

CVS/PHARMACY #9168,
Certificate of Registration #PH00506,

Case No. 10-074-PH-N

Respondent.

_____ /

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this _____ day of _____, 2011.

type or print name

for CVS #9168

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

NOTICE OF INTENDED ACTION
AND ACCUSATION

v.

ALAYNA M. HELLESON, PT
Certificate of Registration No. PT02760,

Case No. 10-091-PT-N

Respondent.

COMES NOW Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, and makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy has jurisdiction over this matter because Respondent Helleson is a registered pharmaceutical technician with the Board.

II.

On or about December 16, 2010, Board staff was notified by David Vasenden, owner of Don's Pharmacy, located at 501 Ralston Street in Reno, that Ms. Helleson had been terminated from employment as a pharmaceutical technician. Mr. Vasenden indicated that he was notified by the Reno Police Department, after he had terminated Ms. Helleson, that they had arrested Ms. Helleson at her home and found numerous narcotic drugs that she admitted to stealing from Don's Pharmacy.

III.

Ms. Helleson's arrest was predicated on information received by Reno PD that Ms. Helleson was selling controlled substances, that she had stolen from her employer, from her home. On November 30th, 2010, an undercover detective set up a buy from Ms. Helleson at her home. He purchased 15 Norco tablets, a Schedule III narcotic,

packaged in a plastic Ziploc baggie for \$60.00. The investigation proceeded and officers arrested Ms. Helleson on December 8, 2010. The officers were given permission by Ms. Helleson to search her home and they found 20 Oxycontin 40 mg. tablets, 40 oxycodone hydrochloride 30 mg. tablets, 9 morphine sulfate SR 30 mg. tablets, 15 methadone hydrochloride 10 mg. tablets, 1 amphetamine/dextroamphetamine 20 mg. tablet, 4 methylphenidate HCl 10 mg. tablets, 63 compounded hydrocodone bitartrate 10 mg. tablets, 5 Endocet 10/325 mg. tablets, 17 suboxone 8 mg./2 mg. tablets, 6.5 acetaminophen/hydrocodone 325/10 mg. tablets, 1 suboxone 8 mg./2 mg. sublingual film and 1 fentanyl 50 mcg/hr transdermal patch. Ms. Helleson admitted that all of the drugs found in her home were taken from Don's Pharmacy without authorization.

FIRST CAUSE OF ACTION

IV.

In removing controlled substances from Don's Pharmacy, namely the drugs listed above, without a prescription therefore, Ms. Helleson violated (NRS) 453.331(1)(d), 453.336(1) and/or 639.210(1), (4), and/or (12) and/or Nevada Administrative Code (NAC) 639.945(1)(h) and/or (i).

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of the Respondent.

Signed this 5th day of January, 2011.



Larry L. Pinson, Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**STATEMENT TO THE RESPONDENT
NOTICE OF INTENDED ACTION
AND ACCUSATION
RIGHT TO HEARING**

**ALAYNA M. HELLESON, PT
Certificate of Registration No. PT02760,**

Case No. 10-091-PT-N

Respondent.

_____/

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the board by the Petitioner, Larry L. Pinson, Executive Secretary for the board, alleging grounds for imposition of disciplinary action by the board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to a hearing before the Nevada State Board of Pharmacy to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Nevada State Board of Pharmacy within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.


III.

The Board has reserved Wednesday, March 2, 2011 as the date for a hearing on this matter at the Airport Plaza Hotel, 1981 Terminal Way, Reno, Nevada. The hour of the hearing will be set by letter to follow.

IV.

Failure to complete and file your Notice of Defense with the board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 5th day of January, 2011.


Larry L. Pinson, Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

ANSWER AND NOTICE
OF DEFENSE

ALAYNA M. HELLESON, PT
Certificate of Registration No. PT02760,

Case No. 10-091-PT-N

Respondent.

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

I have enclosed copies of prescriptions for Suboxone 8mg from Dr. A. Assad, + a copy of Morphine 30mg from Dr. K. Pitman. Both were written in 2009-2010. The Morphine did not help w/ my pain but I held on to it anyway. The Suboxone worked great so I held on to them just in case for future use.

The only medication that I admitted to taking out of Don's Pharmacy was compounded Hydrocodone 10mg, for personal use.

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows: Same as prior page.

This is an ongoing criminal case & have been advised by my attorney to say nothing else.

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 19 day of Jan, 2011.

A. Helleon
Alayna M. Helleon, PT

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BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**STEPHANIE INGREY, R.Ph.,
Certificate of Registration #15292,**

**THOMAS TRAYNOR, R.Ph.,
Certificate of Registration #06491,**

**RALEY'S DRUG CENTER #109,
Certificate of Registration #PH00449,
Respondents.**

**NOTICE OF INTENDED ACTION
AND ACCUSATION**

Case No. 10-063A-RPH-N

Case No. 10-063B-RPH-N

Case No. 10-063-PH-N

COMES NOW Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, and makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy has jurisdiction over this matter because Respondents Stephanie Ingrey and Thomas Traynor are pharmacists licensed by the Board and Raley's Drug Center #109 (Raley's #109) is a pharmacy licensed by the Board, located at 1363 Highway 395 North in Gardnerville, Nevada.

II.

On or about March 13, 2009 Dr. Jim Samuelson's office staff called in a prescription for Darren Ambrose to Raley's #109. Stephanie Ingrey took the prescription for 30 tablets of 40 mg. Paxil and the prescription was input into the pharmacy computer by a pharmaceutical technician. The pharmaceutical technician's normal procedure was to retrieve the NDC from the stock bottle and enter it into the appropriate data field. By entering the NDC, the remaining fields would populate with the drug name associated with that NDC. In March of 2009, paroxetine, the generic for

Paxil, occupied adjacent shelf space to fluoxetine, the generic for Prozac. The pharmaceutical technician believes that when she went to retrieve the paroxetine stock bottle she inadvertently chose fluoxetine. She then entered the NDC on the stock bottle and incorrectly identified fluoxetine as the prescribed drug. The pharmaceutical technician did not notice this error and continued on with the data entry by adding the patient instructions, "Take one tablet by mouth every evening – generic for Paxil." She then printed the label set and staged it with the stock bottle for eventual verification by the pharmacist. Ms. Ingrey was the verifying and filling pharmacist for this prescription and she did not notice the error. Ms. Ingrey subsequently bagged the prescription for patient pickup.

III.

On or about March 14, 2009 Mr. Ambrose's wife picked up his prescription from Raley's #109. Ms. Ambrose noticed that the drug that was being dispensed looked different than what Mr. Ambrose normally received. It was not only a different named drug but the dosage form was a capsule rather than a tablet. Ms. Ambrose asked the clerk that was helping her to ask the pharmacist if this prescription was correct. The clerk went to Tom Traynor to verify that the prescription was correct. The clerk returned to Ms. Ambrose and informed her that the pharmacist confirmed that the prescription was correct and that it was just a different generic. Ms. Ambrose was not counseled and there was no indication in the counseling log that Ms. Ambrose had been counseled even though this was a new prescription. Based on what she was told, Ms. Ambrose went home and delivered the prescription to her husband.

IV.

Mr. Ambrose finished the medication from the previous fill and then began taking the medication from the new prescription that was dispensed to Ms. Ambrose. Within days of taking the newly dispensed medication Mr. Ambrose began to exhibit manic episodes and a variety of physical problems including sleep apnea and difficulty

swallowing. The manic episodes prompted Ms. Ambrose to contact Raley's #109 on April 1, 2009. Ms. Ambrose spoke with pharmacy manager, Doug Provan, and the error was discovered at that time.

FIRST CAUSE OF ACTION

V.

In failing to strictly follow the instructions of Darren Ambrose's physician by verifying and filling his prescription for 30 tablets of 40 mg. paroxetine with 30 tablets of 40 mg. fluoxetine capsules, Stephanie Ingrey violated Nevada Revised Statutes (NRS) 639.210(4) and/or Nevada Administrative Code (NAC) 639.945(1)(d) and (i).

SECOND CAUSE OF ACTION

VI.

In failing to counsel Ms. Ambrose when she picked up Mr. Ambrose's new prescription for paroxetine, even though Ms. Ambrose had specifically questioned the difference in the name and dosage form of what was being dispensed, Thomas Traynor violated NRS 639.210(4) and/or NAC 639.707 and/or 639.945(1)(i).

THIRD CAUSE OF ACTION

VII.

In owning and operating the pharmacy in which Ms. Ingrey filled and dispensed Darren Ambrose's prescription for 30 tablets of 30 mg. paroxetine with 30 capsules of 40 mg. fluoxetine and Mr. Traynor failed to adequately counsel Ms. Ambrose when she picked up her husband's new prescription, Raley's #109 violated NRS 639.210(4) and/or 639.266 and/or NAC 639.707 and/or 639.945(1)(d) and (i) and (2).

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of the Respondents.

Signed this 7th day of January, 2011.


Larry L. Pinson, Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

STATEMENT TO THE RESPONDENT
NOTICE OF INTENDED ACTION
AND ACCUSATION
RIGHT TO HEARING

STEPHANIE INGREY, R.Ph.,
Certificate of Registration #15292,

Case No. 10-063A-RPH-N

Respondent.

_____ /

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the board by the Petitioner, Larry L. Pinson, Executive Secretary for the board, alleging grounds for imposition of disciplinary action by the board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

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You have the right to a hearing before the Nevada State Board of Pharmacy to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Nevada State Board of Pharmacy within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

The Board has reserved Wednesday, March 2, 2011 as the date for a hearing on this matter at the Airport Plaza Hotel, 1981 Terminal Way, Reno, Nevada. The hour of the hearing will be set by letter to follow.

IV.

Failure to complete and file your Notice of Defense with the board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 7th day of January, 2011.



Larry L. Pinson, Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

**NEVADA STATE BOARD OF
PHARMACY,**

Petitioner,

vs.

**STEPHANIE INGREY, R.Ph.,
Certificate of Registration #15292,**

Respondent.

**AMENDED ANSWER AND NOTICE OF
DEFENSE**

Case No. 10-063A-RPH-N

Respondent Stephanie Ingrey, by and through William J. Stilling of and for Parsons Behle & Latimer, answers the Notice of Intended Action and Accusation (“Notice of Intent”) in the above-entitled matter and declares as follows. This Amended Answer and Notice of Defense is submitted to correct the facts in Paragraph II so that they correctly state that the pharmacist, not technician, normally scans the prescription drug stock bottle and label for the prescription into the computer.

**INTRODUCTION
DEFENSES AND REQUEST FOR HEARING**

1. Respondent requests a hearing on the Notice of Intent and will be available on March 2, 2011.

**RESPONSE TO FACTUAL ALLEGATIONS
AND CAUSES OF ACTION**

In answer to the Notice of Intent, Respondent admits, denies, and alleges as follows.

I.

Respondent admits the allegations in Paragraph I.

II.

On or about March 13, 2009, someone from the office of Jim Samuelson called in a prescription for Darren Ambrose to Raley's #109. Stephanie Ingrey received the telephone prescription for 30 tablets Paxil 40 mg and promptly reduced it to writing onto a prescription form. The normal procedure would have been to hand the prescription form to the technician; the technician would pull the stock bottle from the shelf; the technician would enter the NDC number and the other information from the prescription form into the computer; the technician would stage the prescription so the pharmacist could complete the filling of the prescription. Stephanie Ingrey's normal process would have been to scan the bar code from the prescription label and then the stock bottle into the computer; check the prescription label against the prescription for the patient's name, the name of the medication, the dose and dosing of the medication, the number of refills, the name of the prescriber, and other information before attaching the label to the bottle; and place the prescription bottle on a shelf for dispensing. The check marks on the March 13, 2009 prescription confirms Ms. Ingrey followed her normal process.

In March 2009, stock bottles of Paxil (paroxetine) and Prozac (fluoxetine) were stored close to each other on the shelf of the pharmacy. Based on the technician's belief, the nature of the work flow, and the subsequent misdispensing, it appears the technician pulled fluoxetine from the shelf instead of paroxetine and that the normal checking process performed by Stephanie Ingrey did not catch the error before the prescription bottle was placed on the shelf for

dispensing. Respondent lacks personal knowledge of information to form a belief about the truth of the other facts alleged in Paragraph II.

III.

Respondent, Stephanie Ingrey, was not working the day Ms. Ambrose picked up the prescription in question and therefore lacks personal knowledge or information sufficient to form a belief about the truth of the facts alleged in Paragraph III.

IV.

Respondent, Stephanie Ingrey, lacks personal knowledge or information sufficient to form a belief about the truth of the facts alleged in Paragraph IV.

FIRST CAUSE OF ACTION

V.

Paragraph V does not aver factual allegations, but contains legal conclusions that are not subject to admission or denial of facts. Ms. Ingrey correctly received and reduced to writing the prescription from Jim Samuelson, P.A. and followed her normal practice of checking all information on the prescription order form against the information on the label for the prescription. Ms. Ingrey's quality control and checking practice when filling prescriptions meets or exceeds pharmacy standards, but in this instance she did not catch the error. While Ms. Ingrey admits a misdispensing occurred, a single misdispensing when the activity is performed according to regular industry practices, does not evidence conduct that is "unprofessional" or conduct that is contrary to the "public interest," or conduct that is "incompetent," "unskillful," or "negligent" as those terms are used in NRS639.210(4) and NAC 639.945(1)(d) and (i).

SECOND CAUSE OF ACTION

VI.

Paragraph VI relates to another Respondent and does not aver factual allegations, but contains legal conclusions that are not subject to admission or denial of facts.

THIRD CAUSE OF ACTION

VII.

Paragraph VII relates to another Respondent and does not aver factual allegations, but contains legal conclusions that are not subject to admission or denial of facts.

STATEMENT OF COMPLIANCE

Ms. Ingrey does not dispute a misdispensing occurred. She deeply regrets the misdispensing. Ms. Ingrey's careful checking procedures have allowed her to avoid errors over her career so far for the tens of thousands of prescriptions she has filled. Ms. Ingrey has taken steps to avoid such a misdispensing in the future. Unfortunately, it would be extremely rare for a pharmacist to never make a dispensing error, though Ms. Ingrey, like all pharmacists, works to achieve that goal.

RESERVATION OF RIGHTS AND GENERAL DENIAL

1. Respondent reserves the right to assert other affirmative defenses in this matter and in any civil litigation that may follow.
2. During the hearing o March 2, 2011, Respondent will provide the Board with the remedial steps she believes will minimize the likelihood of errors like this from occurring in the future.
3. To the extent Respondent lacks personal knowledge or information sufficient to form a belief about the truth of facts alleged or Respondent does not expressly and specifically admit allegations in the Notice of Intent, she denies such allegations.

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 16th day of February, 2011.



William J. Stilling
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Attorneys for Respondent Stephanie Ingrey

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BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**STEPHANIE INGREY, R.Ph.,
Certificate of Registration #15292,**

**THOMAS TRAYNOR, R.Ph.,
Certificate of Registration #06491,**

**RALEY'S DRUG CENTER #109,
Certificate of Registration #PH00449,
Respondents.**

**NOTICE OF INTENDED ACTION
AND ACCUSATION**

Case No. 10-063A-RPH-N

Case No. 10-063B-RPH-N

Case No. 10-063-PH-N

COMES NOW Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, and makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy has jurisdiction over this matter because Respondents Stephanie Ingrey and Thomas Traynor are pharmacists licensed by the Board and Raley's Drug Center #109 (Raley's #109) is a pharmacy licensed by the Board, located at 1363 Highway 395 North in Gardnerville, Nevada.

II.

On or about March 13, 2009 Dr. Jim Samuelson's office staff called in a prescription for Darren Ambrose to Raley's #109. Stephanie Ingrey took the prescription for 30 tablets of 40 mg. Paxil and the prescription was input into the pharmacy computer by a pharmaceutical technician. The pharmaceutical technician's normal procedure was to retrieve the NDC from the stock bottle and enter it into the appropriate data field. By entering the NDC, the remaining fields would populate with the drug name associated with that NDC. In March of 2009, paroxetine, the generic for

Paxil, occupied adjacent shelf space to fluoxetine, the generic for Prozac. The pharmaceutical technician believes that when she went to retrieve the paroxetine stock bottle she inadvertently chose fluoxetine. She then entered the NDC on the stock bottle and incorrectly identified fluoxetine as the prescribed drug. The pharmaceutical technician did not notice this error and continued on with the data entry by adding the patient instructions, "Take one tablet by mouth every evening – generic for Paxil." She then printed the label set and staged it with the stock bottle for eventual verification by the pharmacist. Ms. Ingrey was the verifying and filling pharmacist for this prescription and she did not notice the error. Ms. Ingrey subsequently bagged the prescription for patient pickup.

III.

On or about March 14, 2009 Mr. Ambrose's wife picked up his prescription from Raley's #109. Ms. Ambrose noticed that the drug that was being dispensed looked different than what Mr. Ambrose normally received. It was not only a different named drug but the dosage form was a capsule rather than a tablet. Ms. Ambrose asked the clerk that was helping her to ask the pharmacist if this prescription was correct. The clerk went to Tom Traynor to verify that the prescription was correct. The clerk returned to Ms. Ambrose and informed her that the pharmacist confirmed that the prescription was correct and that it was just a different generic. Ms. Ambrose was not counseled and there was no indication in the counseling log that Ms. Ambrose had been counseled even though this was a new prescription. Based on what she was told, Ms. Ambrose went home and delivered the prescription to her husband.

IV.

Mr. Ambrose finished the medication from the previous fill and then began taking the medication from the new prescription that was dispensed to Ms. Ambrose. Within days of taking the newly dispensed medication Mr. Ambrose began to exhibit manic episodes and a variety of physical problems including sleep apnea and difficulty

swallowing. The manic episodes prompted Ms. Ambrose to contact Raley's #109 on April 1, 2009. Ms. Ambrose spoke with pharmacy manager, Doug Provan, and the error was discovered at that time.

FIRST CAUSE OF ACTION

V.

In failing to strictly follow the instructions of Darren Ambrose's physician by verifying and filling his prescription for 30 tablets of 40 mg. paroxetine with 30 tablets of 40 mg. fluoxetine capsules, Stephanie Ingrey violated Nevada Revised Statutes (NRS) 639.210(4) and/or Nevada Administrative Code (NAC) 639.945(1)(d) and (i).

SECOND CAUSE OF ACTION

VI.

In failing to counsel Ms. Ambrose when she picked up Mr. Ambrose's new prescription for paroxetine, even though Ms. Ambrose had specifically questioned the difference in the name and dosage form of what was being dispensed, Thomas Traynor violated NRS 639.210(4) and/or NAC 639.707 and/or 639.945(1)(i).

THIRD CAUSE OF ACTION

VII.

In owning and operating the pharmacy in which Ms. Ingrey filled and dispensed Darren Ambrose's prescription for 30 tablets of 30 mg. paroxetine with 30 capsules of 40 mg. fluoxetine and Mr. Traynor failed to adequately counsel Ms. Ambrose when she picked up her husband's new prescription, Raley's #109 violated NRS 639.210(4) and/or 639.266 and/or NAC 639.707 and/or 639.945(1)(d) and (i) and (2).

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of the Respondents.

Signed this 7th day of January, 2011.


Larry L. Pinson, Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

STATEMENT TO THE RESPONDENT
NOTICE OF INTENDED ACTION
AND ACCUSATION
RIGHT TO HEARING

THOMAS TRAYNOR, R.Ph.,
Certificate of Registration #06491,

Case No. 10-063B-RPH-N

Respondent.

_____ /
TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the board by the Petitioner, Larry L. Pinson, Executive Secretary for the board, alleging grounds for imposition of disciplinary action by the board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II

You have the right to a hearing before the Nevada State Board of Pharmacy to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Nevada State Board of Pharmacy within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

The Board has reserved Wednesday, March 2, 2011 as the date for a hearing on this matter at the Airport Plaza Hotel, 1981 Terminal Way, Reno, Nevada. The hour of the hearing will be set by letter to follow.

IV.

Failure to complete and file your Notice of Defense with the board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 7th day of January, 2011.


Larry L. Pinson, Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

**NEVADA STATE BOARD OF
PHARMACY,**

Petitioner,

vs.

**THOMAS TRAYNOR, R.Ph.,
Certificate of Registration #06491,**

Respondent.

ANSWER AND NOTICE OF DEFENSE

Case No. 10-063B-RPH-N

Respondent Thomas Traynor, by and through William J. Stilling of and for Parsons Behle & Latimer, answers the Notice of Intended Action and Accusation ("Notice of Intent") in the above-entitled matter and declares as follows.

**INTRODUCTION
DEFENSES AND REQUEST FOR HEARING**

1. Respondent requests a hearing on the Notice of Intent and will be available on March 2, 2011.

**RESPONSE TO FACTUAL ALLEGATIONS
AND CAUSES OF ACTION**

In answer to the Notice of Intent, Respondent admits, denies, and alleges as follows.

I.

Respondent admits the allegations in Paragraph I.

II.

Respondent, Thomas Traynor, was not working the day the events recited in Paragraph 2 occurred and he therefore lacks personal knowledge or information sufficient to form a belief about the truth of the facts alleged in Paragraph II.

III.

Mr. Traynor reviewed the prescription records that document the dispensing of prescription #6723045 for Darren Ambrose. Based on those records, it appears that the prescription was the same drug, "generic for Paxil," that Mr. Ambrose had received on or about February 22, 2009. Because the prescription called for the same medication as Mr. Ambrose had previously received, "N" for "no" was checked next to the word "Counsel" on the receipt that Ms. Ambrose signed for the prescription. Accordingly, Respondent believed no counseling was required for prescription #6723045 because it was for the same medication Mr. Ambrose received the previous month from Raley's Drug Center #109. Respondent lacks personal knowledge or information sufficient to form a belief about the truth of the other facts alleged in Paragraph III.

IV.

Respondent, Thomas Traynor, lacks personal knowledge or information sufficient to form a belief about the truth of the facts alleged in Paragraph IV.

FIRST CAUSE OF ACTION

V.

Paragraph V relates to another respondent and does not aver factual allegations, but contains legal conclusions that are not subject to admission or denial of facts.

SECOND CAUSE OF ACTION

VI.

Paragraph VI does not aver factual allegations, but contains legal conclusions that are not subject to admission or denial of facts. Respondent, Thomas Traynor, denies violating NRS 639.210(4), NAC 639.707, or 639.945(1)(i). The alleged violation of NAC 639.707 underpins the alleged violation of NRS 639.210(4) and NAC 639.945(1)(i). Respondent did not violate NAC 639.707 because the regulation requires that “a pharmacist shall verbally provide a patient or person caring for the patient with information about each prescription drug or device dispensed to the patient that: (a) Has not been previously dispensed to the patient from that pharmacy; or” Respondent understood that the drug being dispensed to Mr. Ambrose was “generic for Paxil.” Generic Paxil had been previously dispensed and the counseling section of the receipt indicated counseling was not necessary because the drug had been previously dispensed. Respondent acted in accordance with his belief that the same drug was being dispensed and, therefore, counseling was not required. Accordingly, Respondent did not violate NAC 639.707 and did not violate NRS 639.210(4) or NAC 639.945(1)(i).

THIRD CAUSE OF ACTION

VII.

Paragraph VII relates to another respondent and does not aver factual allegations, but contains legal conclusions that are not subject to admission or denial of facts.

STATEMENT OF COMPLIANCE

Mr. Traynor regrets Mr. Ambrose received paroxetine instead of fluoxetine. Mr. Traynor has changed his practice so he interacts with patients more often regardless of whether counseling is indicated on the prescription documentation. Additionally, because Raley’s Drug


Center #109 has changed the way medications are arranged on the shelves of the pharmacy, the likelihood of this type of misdispensing has been minimized.

RESERVATION OF RIGHTS AND GENERAL DENIAL

1. Respondent reserves the right to assert other affirmative defenses in this matter and in any civil litigation that may follow.
2. Respondent will provide the Board with the remedial steps he believes will minimize the likelihood of errors like this from occurring in the future.
3. To the extent Respondent lacks personal knowledge or information sufficient to form a belief about the truth of facts alleged or Respondent does not expressly and specifically admit allegations in the Notice of Intent, he denies such allegations.

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 4th day of February, 2011.



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Attorneys for Respondent Thomas Traynor

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**STEPHANIE INGREY, R.Ph.,
Certificate of Registration #15292,**

**THOMAS TRAYNOR, R.Ph.,
Certificate of Registration #06491,**

**RALEY'S DRUG CENTER #109,
Certificate of Registration #PH00449,
Respondents.**

**NOTICE OF INTENDED ACTION
AND ACCUSATION**

Case No. 10-063A-RPH-N

Case No. 10-063B-RPH-N

Case No. 10-063-PH-N

COMES NOW Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, and makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy has jurisdiction over this matter because Respondents Stephanie Ingrey and Thomas Traynor are pharmacists licensed by the Board and Raley's Drug Center #109 (Raley's #109) is a pharmacy licensed by the Board, located at 1363 Highway 395 North in Gardnerville, Nevada.

II.

On or about March 13, 2009 Dr. Jim Samuelson's office staff called in a prescription for Darren Ambrose to Raley's #109. Stephanie Ingrey took the prescription for 30 tablets of 40 mg. Paxil and the prescription was input into the pharmacy computer by a pharmaceutical technician. The pharmaceutical technician's normal procedure was to retrieve the NDC from the stock bottle and enter it into the appropriate data field. By entering the NDC, the remaining fields would populate with the drug name associated with that NDC. In March of 2009, paroxetine, the generic for

Paxil, occupied adjacent shelf space to fluoxetine, the generic for Prozac. The pharmaceutical technician believes that when she went to retrieve the paroxetine stock bottle she inadvertently chose fluoxetine. She then entered the NDC on the stock bottle and incorrectly identified fluoxetine as the prescribed drug. The pharmaceutical technician did not notice this error and continued on with the data entry by adding the patient instructions, "Take one tablet by mouth every evening – generic for Paxil." She then printed the label set and staged it with the stock bottle for eventual verification by the pharmacist. Ms. Ingrey was the verifying and filling pharmacist for this prescription and she did not notice the error. Ms. Ingrey subsequently bagged the prescription for patient pickup.

III.

On or about March 14, 2009 Mr. Ambrose's wife picked up his prescription from Raley's #109. Ms. Ambrose noticed that the drug that was being dispensed looked different than what Mr. Ambrose normally received. It was not only a different named drug but the dosage form was a capsule rather than a tablet. Ms. Ambrose asked the clerk that was helping her to ask the pharmacist if this prescription was correct. The clerk went to Tom Traynor to verify that the prescription was correct. The clerk returned to Ms. Ambrose and informed her that the pharmacist confirmed that the prescription was correct and that it was just a different generic. Ms. Ambrose was not counseled and there was no indication in the counseling log that Ms. Ambrose had been counseled even though this was a new prescription. Based on what she was told, Ms. Ambrose went home and delivered the prescription to her husband.

IV.

Mr. Ambrose finished the medication from the previous fill and then began taking the medication from the new prescription that was dispensed to Ms. Ambrose. Within days of taking the newly dispensed medication Mr. Ambrose began to exhibit manic episodes and a variety of physical problems including sleep apnea and difficulty

swallowing. The manic episodes prompted Ms. Ambrose to contact Raley's #109 on April 1, 2009. Ms. Ambrose spoke with pharmacy manager, Doug Provan, and the error was discovered at that time.

FIRST CAUSE OF ACTION

V.

In failing to strictly follow the instructions of Darren Ambrose's physician by verifying and filling his prescription for 30 tablets of 40 mg. paroxetine with 30 tablets of 40 mg. fluoxetine capsules, Stephanie Ingrey violated Nevada Revised Statutes (NRS) 639.210(4) and/or Nevada Administrative Code (NAC) 639.945(1)(d) and (i).

SECOND CAUSE OF ACTION

VI.

In failing to counsel Ms. Ambrose when she picked up Mr. Ambrose's new prescription for paroxetine, even though Ms. Ambrose had specifically questioned the difference in the name and dosage form of what was being dispensed, Thomas Traynor violated NRS 639.210(4) and/or NAC 639.707 and/or 639.945(1)(i).

THIRD CAUSE OF ACTION

VII.

In owning and operating the pharmacy in which Ms. Ingrey filled and dispensed Darren Ambrose's prescription for 30 tablets of 30 mg. paroxetine with 30 capsules of 40 mg. fluoxetine and Mr. Traynor failed to adequately counsel Ms. Ambrose when she picked up her husband's new prescription, Raley's #109 violated NRS 639.210(4) and/or 639.266 and/or NAC 639.707 and/or 639.945(1)(d) and (i) and (2).

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of the Respondents.

Signed this 7th day of January, 2011.



Larry L. Pinson, Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

STATEMENT TO THE RESPONDENT
NOTICE OF INTENDED ACTION
AND ACCUSATION
RIGHT TO HEARING

**RALEY'S DRUG CENTER #109,
Certificate of Registration #PH00449,**

Case No. 10-063-PH-N

Respondent.

_____ /

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the board by the Petitioner, Larry L. Pinson, Executive Secretary for the board, alleging grounds for imposition of disciplinary action by the board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II

You have the right to a hearing before the Nevada State Board of Pharmacy to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Nevada State Board of Pharmacy within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

The Board has reserved Wednesday, March 2, 2011 as the date for a hearing on this matter at the Airport Plaza Hotel, 1981 Terminal Way, Reno, Nevada. The hour of the hearing will be set by letter to follow.

IV.

Failure to complete and file your Notice of Defense with the board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 7th day of January, 2011.



Larry L. Pinson, Executive Secretary
Nevada State Board of Pharmacy

III.

Respondent lacks personal knowledge or information sufficient to form a belief about the truth of the facts alleged in paragraph III. Respondent believes no counseling was required for prescription number 6723045 because the same medication had been received by Darren Ambrose on previous dates at Raley's Store 109.

IV.

Respondent denies that the medication dispensed by RALEY's to Darren Ambrose on March 13, 2009 caused the alleged physical injuries. Respondent believes the subject error was determined by RALEY's after consultation with Ms. Ambrose nineteen days after the prescription was picked up by Ms. Ambrose on April 1, 2009.

FIRST CAUSE OF ACTION

V.

Respondent states that the allegations in paragraph V do not include facts but legal conclusions and therefore respondent does not have sufficient knowledge or information upon which to base a belief as to the truth of the allegations therein and, upon said ground, denies each and every allegation contained therein. Respondent admits a single mis-dispensing occurred but denies any allegation that this was a result of unprofessional conduct, negligent or incompetent or contrary to the public interests as set forth in NRS 639.210(4) or NAC 639.945(1)(d) & (i).

SECOND CAUSE OF ACTION

VI.

Respondent states that the allegations in paragraph VI do not include facts but legal conclusions and therefore respondent does not have sufficient knowledge or information upon which to base a belief as to the truth of the allegations therein and, upon said ground, denies each and every allegation contained therein. Respondent believes no counseling was required for prescription number 6723045 because the same medication had been received by Darren Ambrose on previous dates at Raley's Store 109. Respondent therefore denies its employees violated NRS 639.210(4), NAC 639.707, or 639.945(1)(i) because paxil had previously been dispensed to Darren Ambrose prior to March 13, 2009.

THIRD CAUSE OF ACTION

VII.

Respondent admits it owned and operated the subject pharmacy where the inadvertent mis-dispensing occurred. Respondent states the Third Cause of Action does not include factual allegations but legal conclusions and therefore respondent does not have sufficient knowledge or information upon which to base a belief as to the truth of the allegations therein and, upon said ground, and therefore denies each and every offer allegation contained therein. Answering respondent admits that a single dispensing error occurred at its subject pharmacy on March 13, 2009.

RESERVATION OF RIGHTS AND AFFIRMATIVE DEFENSES

1. Respondent denies allegations in the Notice of Intended Action that the subject inadvertent mis-dispensing caused injury.
2. Respondent alleges that Darren Ambrose alleged injuries pre-existed the March 14, 2009 dispense date.
3. The answering respondent denies any and all allegations not specifically addressed in its Answer.
4. Respondent asserts that remedial actions were enacted once it learned of the dispensing error that has prevented any similar error from occurring.
5. Respondent asserts the involved employees utilized their normal customary practice in the staging and filling process that was within acceptable pharmacy standards and that simple human error resulted in a single inadvertent mis-dispensing occurrence.
6. Respondent asserts that the pharmacy activity performed was in accord with regular industry practices.
7. Respondent asserts that the damages alleged by Darren Ambrose were not the result of any acts or omission, commission or negligence of the respondents.
8. Respondent asserts that the damages alleged by Darren Ambrose were solely the result of a pre-existing condition and forces of nature over which respondents had no control.

STATEMENT OF COMPLIANCE

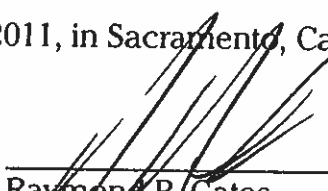
Respondent admits that a single mis-dispensing occurred and that corrective measures were taken to avoid future error.

REQUEST FOR HEARING

Respondent requests a hearing on the Notice of Intended Action and Accusation ("Notice of Intent") and will attend and present evidence at the March 2, 2011 scheduled hearing.

I attest the above to be true and correct to the best of my knowledge, under penalty for perjury and under the laws of the States of California and Nevada. If called upon to testify regarding any of the matters set forth above, I would and could competently do so.

Dated this 4th day of February 2011, in Sacramento, California.



Raymond R. Gates
LAURIA TOKUNAGA GATES & LINN, LLP
Attorneys for Respondent
RALEY'S DRUG CENTER

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