



# Nevada State Board of Pharmacy

431 W. PLUMB LANE • RENO, NEVADA 89509  
(775) 850-1440 • 1-800-364-2081 • FAX (775) 850-1444  
E-mail: pharmacy@pharmacy.nv.gov • Website: bop.nv.gov

## BOARD MEETING

at the

Airport Plaza Hotel  
1981 Terminal Way  
Reno

Wednesday, June 1, 2011

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

### Board Members Present:

Keith Macdonald	Beth Foster	Kirk Wentworth
Russell Smith	Jody Lewis	Kam Gandhi
Cheryl Blomstrom		

### Board Members Absent:

### Board Staff Present:

Jeri Walter	Carolyn Cramer	Keith Marcher
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## CONSENT AGENDA

1. Approval of April 13-14, 2011, Minutes
2. Applications for Out-of-State MDEG – Non Appearance:
  - A. Aamco Medical – Sandy, UT
  - B. Comfort Medical, LLC – Coral Springs, FL
  - C. FedEx Supply Chain Systems, Inc. – Memphis, TN
  - D. FedEx Supply Chain Systems, Inc. – Memphis, TN
  - E. Gordian Medical, Inc. – Irvine, CA
  - F. Medtronic CoreValve, Inc. – Irvine, CA
  - G. Orsini Home Medical Equipment Inc. – Elk Grove Village, IL
  - H. Orthassist, LLC – Libertyville, TL
  - I. Spectrum Healthcare, Inc. – Phoenixville, PA
  - J. Togetherhealth – Sunrise, FL

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

- K. Coastal Express Pharmacy, Inc. – Long Beach, CA

- L. Confidential Pharmacy Services Inc. – Glendale, CA
- M. Custom Pharmacy Solutions – Birmingham, AL
- N. PharMerica – Phoenix, AZ

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

- O. Auburn Pharmaceutical Company – Salt Lake City, UT
- P. Boehringer Ingelheim Vetmedia, Inc. – Fort Dodge, IA
- Q. BUDCO, Inc. – Highland Park, MI
- R. CAO Group, Inc. – West Jordan, UT
- S. Independent Pharmacy Cooperative – Phoenix, AZ
- T. Paddock Laboratories, LLC – Minneapolis, MN
- U. Paddock Laboratories, LLC – New Hope, MN
- V. Pharma Logistics, Ltd. – Mundelein, IL
- W. Schering Corporation – Kenilworth, NJ
- X. Smith Drug Company – Spartanburg, SC
- Y. UPS Supply Chain Solutions, Inc. – Louisville, KY

Applications for Nevada Pharmacy – Non Appearance:

- Z. BHS Specialty Pharmacy – Las Vegas
- AA. The Nevada Center for Reproductive Medicine – Reno
- BB. Walgreens #15035 – Las Vegas

Application for Nevada MDEG – Non Appearance:

- CC. CPAP & More – Sparks

Discussion:

The consent agenda applications and supporting documents were reviewed.

NOTE: Russ Smith recused from participation in the vote on Item BB as he is employed by Walgreens.

Board Action:

Motion: Kam Gandhi found the consent agenda application information to be accurate and complete and moved for approval with the exception of Item BB.

Second: Cheryl Blomstrom

Action: Passed Unanimously.

Motion: Kam Gandhi moved for approval of Item BB.

Second: Kirk Wentworth

Action: Passed Unanimously.

Discussion:

Motion: Kirk Wentworth found the minutes accurate and complete and moved for approval.

Second: Russ Smith

Action: Passed Unanimously.

### REGULAR AGENDA

#### 3. Disciplinary Actions:

- A. Marty L. Martins, R.Ph (10-083-RPH-N)
- B. Scolari's Pharmacy #25 (10-083-PH-N)

President Foster disclosed that her husband is a pharmacist and works for Scolari's. Kirk Wentworth recused from participation in this matter as Marty Martins previously worked for him.

Hal Taylor was present to represent Marty Martins and David Chan was present to represent Scolari's.

Marty Martins and David Chan appeared and were sworn by President Foster prior to answering questions or offering testimony.

Carolyn Cramer read the terms of a Stipulation and Agreement into the record that Mr. Chan and Scolari's came to with Board staff. The investigation of this matter raised concerns regarding the records maintained in the pharmacy computer. Mr. Chan has already taken corrective action to address the concerns by remodeling the pharmacy to alleviate shelf congestion. Mr. Chan provided Board staff with photographs of the remodeled space. The computer system has been reprogrammed so each person involved in the processing of a prescription is identifiable. Various new policies and procedures have been implemented regarding positive identification to ensure that the right patient receives the right medication. Binders containing the policy and procedure manual have been distributed to each Scolari's pharmacy in the chain. The Board's staff has reviewed the policies and procedures and approves of the changes made. The Board's staff and Scolari's agree to the imposition of a \$750.00 fine and ask the Board to accept the Stipulation and Agreement as presented.

Board Action:

Motion: Keith Macdonald moved to accept the Stipulation and Agreement as presented.

Second: Cheryl Blomstrom

Action: Passed Unanimously

Carolyn Cramer read the terms of a Stipulation and Agreement into the record that Mr. Martins and Mr. Taylor came to with Board staff. Mr. Martins acknowledges the errors that were made in this matter and recognizes that he must take corrective action, on his part, to avoid such errors in the future. The Board's staff, Mr. Martins and Mr. Taylor agree to the imposition of Mr. Martins' participation in the Your Success Rx program and ask the Board to accept the Stipulation and Agreement as presented.

Mr. Martins made a heartfelt statement to the Board and apologized for making the errors in this matter.

Board Action:

Motion: Cheryl Blomstrom moved to accept the Stipulation and Agreement as presented.

Second: Jody Lewis

Action: Passed Unanimously

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|----|------------------------------|-----------------|
| C. | James E. Christensen, R.Ph   | (10-043A-RPH-N) |
| D. | Matthew R. Christensen, R.Ph | (10-043B-RPH-N) |
| E. | Rex Drugs                    | (10-043-PH-N)   |

James Christensen and Matthew Christensen appeared and were sworn by President Foster prior to answering questions or offering testimony.

Hal Taylor was present to represent the Respondents.

Carolyn Cramer read the terms of a Stipulation and Agreement into the record that James Christensen, Matthew Christensen and Mr. Taylor came to with Board staff. After the investigation of this matter it was determined that the errors can be attributed to pharmacist inattention, unfamiliarity with the drug Nuvigil which was not in the computer system, look alike/sound alike drug names, failure to accurately transcribe a physician's order, poor verification procedures, poor counseling procedures and the alteration of the original computer records to correct the initial error resulted in a furtherance of the error in the directions for use in the second prescription. The Board's staff, Respondents and Mr. Taylor agree to the imposition of James Christensen,

Matthew Christensen and Rex Drugs participation in the Your Success Rx program and ask the Board to accept the Stipulation and Agreement as presented.

Board Action:

Motion: Keith Macdonald moved to accept the Stipulation and Agreement as presented.

Second: Kam Gandhi

Action: Passed Unanimously

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|----|--------------------------|----------------|
| F. | Frank Alvarado           | (11-036-PTT-N) |
| G. | CVS/pharmacy #8779       | (11-036-PH-N)  |
| H. | CVS Pharmacy Corporation | (11-036-PH-N)  |

This matter was continued until the July 2011 Board meeting.

4. Requests for Pharmaceutical Technician in Training License – Appearance:
  - A. Andrea K. Boucher

NOTE: Keith Macdonald recused from participation in this matter as he is employed by Wal-Mart.

Andrea Boucher and Larry Espadero, PRN-PRN monitor, appeared and were sworn by President Foster prior to answering questions or offering testimony.

Carolyn Cramer reminded the Board that Ms. Boucher had answered yes to one of the questions on her application for a pharmaceutical technician in training application. It was learned at her last appearance that Ms. Boucher was participating in a methadone program. The Board advised Ms. Boucher to have an evaluation by PRN-PRN and she and Mr. Espadero are present to discuss.

Mr. Espadero indicated that she is participating in a methadone program at ATC and is trying to titrate off of the methadone. At the rate she is decreasing her dosage it may be six to nine months before she is off methadone. Mr. Espadero indicated that she is seeing Colin Hodge, who is a drug and alcohol counselor and PRN-PRN monitor in the North. Mr. Espadero indicated that while Ms. Boucher is taking methadone it is difficult to drug test her.

Carolyn Cramer explained that Ms. Boucher could withdraw her application, or the Board could deny it. She suggested withdrawing the application so in the future she does not have to answer on other applications that she has had an application denied.

Ms. Boucher withdrew her application for pharmaceutical technician in training.

B. Nathan A. Evans

Nathan Evans appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Evans indicated that he was applying to participate in the Milan Institute pharmaceutical technician program, however he had to answer yes to one of the questions on the PTT application. Mr. Evans testified that he was arrested for possession of marijuana paraphernalia in 2009. He stated that it was his girlfriend's paraphernalia but he took the blame so she would not lose her child care license. He paid the fine and has not been in trouble since this incident. He moved here from Florida to remove himself from former friends and bad situations.

Karen Powell, the pharmaceutical technician program director for the Milan Institute, was present in the audience and she noted that Milan is drug testing and doing background checks.

The Board questioned Mr. Evans about his past employment, his friends and relationships and he answered them to their satisfaction.

Board Action:

Motion: Cheryl Blomstrom moved to approve Mr. Evans application for a pharmaceutical technician in training registration.

Second: Kam Gandhi

Action: Passed Unanimously

5. Requests for Pharmacist License – Reciprocity – Appearance:

A. Howard Pulver

Howard Pulver appeared and was sworn by President Foster prior to answering questions or offering testimony.

President Foster noted that Mr. Pulver answered yes to two of the questions on his application for reciprocity admitting that he had had an administrative action against his license and that he had had his license suspended, revoked, surrendered or otherwise disciplined. In Mr. Pulver's explanation that he provided along with his application for reciprocity he indicated that he was sanctioned for misinterpretation of prescription refills when entering them into the computer and that he misused store gift cards. President Foster advised that the Board had before them the Consent Agreement and Order for Suspension issued by the Arizona State Board of Pharmacy and the Findings of Fact indicate that there was considerably more than misuse of gift

cards and adding refills. Mr. Pulver indicated that he knew the Arizona Board was going to send the Consent Agreement so he just gave a brief version. President Foster noted that Mr. Pulver was suspended for six months and asked him to explain the circumstances. Mr. Pulver stated that he had some accidents and surgeries and he was taking Darvocet. Initially his prescriptions had one refill but he noted that his physician changed the prescriptions to no refills so he would have to go in to see the doctor monthly. He stated that he had been taking Darvocet for about three years and didn't notice that there were no refills when he was filling the prescriptions he was filling for himself. President Foster asked Mr. Pulver about the status of his license in Arizona. He indicated that his license was reinstated in May of 2010 and he had to take the law exam but there were no other stipulations on his license. When asked if he was in a treatment program he indicated that he was never in a treatment program because he was using the medications according to the directions by his physician. Mr. Pulver was asked about the gift cards that resulted in a loss to Wal-Mart of \$1,642.00, and he indicated that the Findings of Fact were not accurate and claimed that he signed the Consent Agreement because he did not want to go to court to contest. Carolyn Cramer noted other controlled substance medications that he filled for himself and family members where the quantities were changed or refills were added and he claimed that those Findings of Fact were also inaccurate. He indicated that he was working in a mail order facility in Arizona and was not interested in working in a retail environment again. After lengthy discussion, President Foster asked for a vote.

Board Action:

Motion: Cheryl Blomstrom moved to deny Mr. Pulver's request for reciprocity to Nevada.

Second: Keith Macdonald

Action: Passed Unanimously

B. Shaleen Srivastava

Shaleen Srivastava appeared and was sworn by President Foster prior to answering questions or offering testimony.

President Foster noted that Mr. Srivastava answered yes to two of the questions on his application for reciprocity admitting that he had had an administrative action against his license and that he had had his license suspended, revoked, surrendered or otherwise disciplined. Carolyn Cramer asked Mr. Srivastava to explain the circumstances. He indicated that after he graduated from pharmacy school he was caught diverting drugs from his employers. He explained that he took them to get high with a girlfriend but denied an addiction problem. Mr. Srivastava signed a 5 year PRN contract in Oregon, went through a 30 day in-patient program and a 1 year out-patient program. Mr. Srivastava was placed on probation for ten years with the Oregon Board, however he petitioned for early release from probation and the PRN program and it was

granted after serving a four year probationary period and his license is active and unrestricted in Oregon now.

Board Action:

Motion: Keith Macdonald moved to approve Mr. Srivastava's request for reciprocity pending an evaluation by Larry Espadero.

Second: Russ Smith

Action: Passed Unanimously

6. Application for Nevada Wholesaler – Appearance:

Burkhart Dental Supply Co. – Reno

James Omgig and Michael Baxter appeared and were sworn by President Foster prior to answering questions or offering testimony.

Mr. Omgig and Mr. Baxter gave an overview of their facility and its 120 year family owned history. Mr. Omgig indicated that he has been the facility manager since 2005 with Burkhart Dental Supply Company and has eleven years total experience. They gave details on their procedures and the products they supply to dental offices.

Board Action:

Motion: Keith Macdonald moved to approve the Nevada wholesaler application for Burkhart Dental Supply Company pending inspection.

Second: Cheryl Blomstrom

Action: Passed Unanimously

7. Application for Out-of-State Pharmacy – Appearance:

River's Edge Pharmacy – Rancho Mirage, CA

Hany Benjamin appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Benjamin explained that River's Edge is a specialty infusion pharmacy that provides medications for HIV and oncology patients. He currently serves southern California patients and has plans to expand to northern California and Nevada. Besides his regular patients, Mr. Benjamin serves the underprivileged that cannot afford their medications and has been able to get help from various governmental agencies and the Chronic Disease Foundation to help maintain care for these patients. Mr. Benjamin

uses UPS for his shipping purposes. He ships his medications patient specific to either the patient directly or to the physician's office for dispensing to the patients.

Board Action:

Motion: Kam Gandhi moved to approve the out of state pharmacy application for River's Edge Pharmacy.

Second: Jody Lewis

Action: Passed Unanimously

8. Request for Reinstatement of Pharmacy Technician License – Appearance:

Heidi R. Miscovich

(08-087-PT-N)

Heidi Miscovich appeared and was sworn by President Foster prior to answering questions or offering testimony.

Carolyn Cramer explained that Ms. Miscovich appeared before the Board in 2009 and explained in a tearful admission that she had diverted a few tablets of MS Contin and methadone from her employing hospital pharmacy with the intent to take her life. Ms. Miscovich was going through a difficult period in her life, but decided not to take her life after all, and flushed the drugs she had taken.

Ms. Miscovich testified that she is working two jobs with elderly and mental health patients and would like to return to hospital pharmacy because she does that best and she likes the work. She stated that she was a pharmaceutical technician for eleven years before this incident and was a good technician. Ms. Miscovich indicated that the difficulties in the past with her daughter were resolved and her daughter is back on track. Also at that point in her life, she and her husband were having difficulties, too, but her marriage is stable now. She explained that she has never had a drug problem, that she only took the drugs to end her life, and that she would like to go back into hospital pharmacy now that her life has stabilized.

Board Action:

Motion: Russ Smith moved to reinstate Ms. Miscovich's pharmaceutical technician registration.

Second: Keith Macdonald

Action: Passed Unanimously

9, Request for Reinstatement of Pharmacist License – Appearance:

Zachary W. Bergan

(07-083-RPH-N)

NOTE: Russ Smith and Kirk Wentworth recused from participation as each of them had employed Mr. Bergan.

Mr. Bergan was unable to personally appear before the Board and testified by telephone.

Zach Bergan was sworn by President Foster prior to answering questions or offering testimony.

Carolyn Cramer explained that when Mr. Bergan appeared at the January 2010 Board meeting to request reinstatement of his license, the Board tabled the request until he could provide the Board with proof that he had been in treatment for at least six months. Mr. Bergan has provided that proof, plus substance abuse testing records, an affidavit showing that he has been attending pharmacy support group meetings, and several letters of recommendation.

Mr. Bergan testified that he is still living in Connecticut and that he has no intention of returning to Nevada to practice, but he would like his license reinstated so the Connecticut Board of Pharmacy will consider accepting his application for reciprocity. Mr. Bergan advised that he is now happily married, has begun a new family, has a good support system in place, has completed 45 continuing education units and is keeping up with the pharmacy world. Mr. Bergan values his education, has altered his lifestyle and would like the opportunity to put his knowledge to work again as a pharmacist to ensure that he provides well for his family.

Board Action:

Motion: Keith Macdonald moved to reinstate Mr. Bergan's pharmacist license and if he returns to Nevada to practice that he join the PRN-PRN program.

Second: Cheryl Blomstrom

Action: Passed Unanimously

10. Credit Card Authorization

Carolyn Cramer reported that Board staff is changing their Visa provider to Heritage Bank. The Bank has asked that the Board make a motion to allow the change and increase the line of credit.

Board Action:

Motion: Keith Macdonald, the Board's treasurer, moved to change the Visa provider to Heritage Bank and increase the credit limit to \$25,000.00.

Second: Cheryl Blomstrom

Action: Passed Unanimously

11. General Counsel Reports:

A. Legislative Commission

Ms. Cramer noted that she appeared before the Legislative Commission and was questioned regarding why we do not allow e-prescribing practices for CII's. She explained that statutorily it was prohibited. Ms. Cramer submitted language to the Commission to give the Board the statutory authority to allow CII's to be e-prescribed to parallel the DEA's intent once they establish the software vendors. She indicated that Larry Pinson is going to a DEA conference later this month and will learn more.

B. Legislative Update

SB114, Mo Denis' bill, was signed by the governor to allow states to share PMP information with each other.

AB199, Debbie Smith's bill, is still in play. This would extend collaborative agreements between hospital pharmacists and physicians. Also in this bill is a section regarding businesses that are not pharmacies using the "Rx" symbol.

12. Executive Secretary Report:

A. Financial Report

Carolyn Cramer gave the financial report and noted that Keith Macdonald, the Board's treasurer, will be giving a budget report at the July meeting.

B. Temporary Licenses

There were no temporary licenses issued since the last Board meeting.

C. Staff Activities

- i. CE In Carson City (6/7) Joe & Larry
- ii. CE In Ely (5/18) – Joe
- iii. University of Utah Alcohol & Drug Abuse School (6/20-6/24) – Larry
- iv. Address Philippine Medical Association in Las Vegas (6/25/) – Larry
- v. Address Nevada Osteopathic Association in Reno (6/25) - Carolyn

D. Reports to Board

President Foster gave an overview of the NABP Annual Meeting and indicated that she found it to be a valuable experience. The DEA was present, compounding reports were given and nationwide prescription monitoring programs were discussed. President Foster noted that Paul Osterman from the University of Southern Nevada brought pharmacy students to the meeting. She commended him for exposing the pharmacy students to a different learning environment by attending a national meeting.

- i. Hillerby Report

ii. TB Reporting

Ms. Cramer advised that she and Mr. Pinson met with the TB group and pharmacists will have to report the sales of certain TB medications to their group. They are working out the details.

E. Board Related News

F. Activities Report

13 . Next Board Meeting:

July 13-14, 2011 – Las Vegas

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

There were no public comments.