

BOARD MEETING

at the

Airport Plaza Hotel  
1981 Terminal Way  
Reno

September 14 and 15, 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:

Larry Pinson	Jeri Walter	Carolyn Cramer	Keith Marcher
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PUBLIC COMMENT ON SEPTEMBER 14, 2011

Liz Macmenamin asked how our Board was going to handle public comment. Keith Marcher explained that there were two ways of addressing the issue and the Board of Pharmacy had chosen to open the meeting with public comment and close the meeting with public comment each day rather than have public comment after each agenda item.

Ira Hansen, a representative of the Legislative Commission, appeared and identified himself and noted that he was present to see how the Board of Pharmacy applied our statutes and regulations in our Board meetings.

PUBLIC COMMENT ON SEPTEMBER 15, 2011

Cheryl Blomstrom appeared and questioned Board staff on agendizing the topic of CII electronic prescribing. She would like the Nevada Board of Pharmacy to be one of the first to allow CII electronic prescribing and wants regs written to allow that practice.

Jody Lewis and Kam Gandhi both agreed that we should be ready when the DEA allows it.

Larry Pinson stated that SureScripts was not available to attend the September Board meeting and asked to be included on the October agenda. He also indicated that he was not sure the whole Board supports the concept of allowing CII\$ to be electronically prescribed.

Dan Luce, representing Walgreens, indicated that the standards across the country should be consistent. He suggested starting the process for CII\$, but not to pull the trigger until the Board is comfortable, however be ready when the time is right.

Carolyn Cramer advised that public comment was just that . for comments from the public . and that no vote may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken. (NRS 241.020)

#### CONSENT AGENDA

1. Approval of July 13-14, 2011, Minutes for Possible Action
2. Applications for Out-of-State MDEG . Non Appearance for Possible Action:
  - A. Air Liquide Industrial U.S. LP . Rancho Cucamonga, CA
  - B. Balance and Support Dynamica, LLC . Maryville, TN
  - C. Beyond Medical USA . Delray Beach, FL
  - D. CCS Medical Health Services Division . Clearwater, FL
  - E. Diabetic Health Agency Inc. . Tequesta, FL
  - F. Kelley Medical Equipment . Durant, OK
  - G. Kinex Medical Company, LLC . Waukesha, WI
  - H. MediQuip International . McKinney, TX
  - I. Reliable Medical Supplies, Inc. . Boca Raton, FL
  - J. VQ Orthocare . Paramount, CA
  - K. VQ Orthocare . Vista, CA

Applications for Out-of-State Pharmacy . Non Appearance for Possible Action:

- L. Cardinal Health 414, LLC . Colton, CA
- M. Center Pet Pharmacy . Washington, DC
- N. Fresenius Medica Care North America . Los Lunas, NM
- O. Hook\$ Apothecary . Evansville, IN

- P. Retail Pharmacy Customer Care Center . Cumberland, RI
- Q. Safety Drugs . Phoenix, AZ
- R. Sheffield Pharmacy & Homecare . Sheffield, AL

Applications for Nevada Pharmacy . Non Appearance for Possible Action:

- S. Ace Pharmacy . Las Vegas
- T. Complex Care Hospital at Tenaya . Las Vegas
- U. Discount Pharmacy LLC . Las Vegas
- V. The Medicine Shoppe Pharmacy . Fallon
- W. True Care Pharmacy . Las Vegas

Applications for Out-of-State Wholesaler . Non Appearance for Possible Action:

- X. Abbott Laboratories Inc. . Charlotte, NC
- Y. Aidarex Pharmaceuticals, LLC . Corona, CA
- Z. ANI Pharmaceuticals, Inc. . Baudette, MN
- AA. Exel Inc. . Fairburn, GA
- BB. Exel Inc. . Mt Vernon, IN
- CC. Exel Inc. . Vonore, TN
- DD. Genco I Inc. . Lebanon, PA
- EE. Genzyme Corporation . Framingham, MA
- FF. Genzyme Corporation . Northborough, MA
- GG. Genzyme Corporation . Ridgefield, NJ
- HH. Kuehne + Nagel Inc. . Rialto, CA
- II. Meda Pharmaceuticals Inc. . Lakewood, NJ
- JJ. NuPathe Inc. . Conshockocken, PA
- KK. PamLab, LLC . Shreveport, LA
- LL. Stat Rx USA, LLC . Gainesville, GA
- MM. True Science Holdings, LLC . Daytona Beach, FL
- NN. VWR International, LLC . Batavia, IL
- OO. Wright Medical Technology, Inc. . Arlington, TN

Discussion:

The consent agenda applications and supporting documents were reviewed. Item P was pulled from the agenda for further review.

Board Action:

Motion: Cheryl Blomstrom found the consent agenda application information to be accurate and complete and moved for approval with the exception of Item P.

Second: Keith Macdonald

Action: Passed Unanimously.

Discussion:

Motion: Keith Macdonald found the minutes accurate and complete and moved for approval.

Second: Russ Smith

Action: Passed Unanimously.

### REGULAR AGENDA

3. Discipline for Possible Actions:

- A. Russell E. Smith, R.Ph (11-060-RPH-N)
- B. Walgreens #04788 (11-060-PH-N)

Carolyn Cramer acknowledged that disciplining a Board member is difficult and reminded them that they were appointed to serve in the best interest of the public.

Ms. Cramer noted that a Stipulation and Agreement had been signed by Mr. Smith and Rob Graham who is representing both Mr. Smith and Walgreens #04788. Mr. Graham was not present as he felt the Stipulation and Agreement was solid and did not feel the need to be present. Ms. Cramer read the Agreement into the record.

Regarding Mr. Smith and the First, Second, Third and Fourth Causes of Action, Mr. Smith will participate in the Your Success Rx program at his own expense. Mr. Smith will be on probation for two years with the condition that he report all errors to the Board within seven days of the event and obey all laws.

Board Action:

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

Second: Kam Gandhi

Action: Passed Unanimously

- C. Chona Sabistina, R.Ph (11-001A-RPH-N)

D. Rochelle Fernandez, R.Ph  
E. Wal-Mart #10-3254

(11-001B-RPH-N)  
(11-001-PH-N)

NOTE: Keith Macdonald recused from participation in this matter as he is an employee of Wal-Mart.

Chona Sabistina and Rochelle Fernandez appeared and were sworn by President Foster prior to answering questions or offering testimony.

Scott Jamieson was present to represent Chona Sabistina. Hal Taylor was present to represent Wal-Mart #10-3254 and Debbie Mack was present, also representing Wal-Mart. Ms. Fernandez represented herself.

Carolyn Cramer advised the Board that Ms. Sabistina and Ms. Fernandez had signed Stipulated Agreements. Ms. Cramer read the Agreements into the record.

Regarding Ms. Sabistina and the First and Second Causes of Action, Ms. Sabistina will participate in the Your Success Rx program at her own expense. Ms. Cramer noted that Ms. Sabistina had attended a two day Wal-Mart workshop in Atlanta to refresh her memory on Wal-Mart procedures and the importance of concentrating on the tasks at hand in her practice.

Board Action:

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

Second: Jody Lewis

Action: Passed Unanimously

Regarding Ms. Fernandez and the First and Second Causes of Action, Ms. Fernandez will pay a fine of \$250.00 within 90 days and complete a continuing education course on error prevention approved by Larry Pinson. Ms. Cramer advised the Board that Ms. Fernandez had already received approval for the CE from Mr. Pinson.

Board Action:

Motion: Kirk Wentworth moved to accept the Stipulation and Agreement as presented.

Second: Russ Smith

Action: Passed Unanimously

Carolyn Cramer dismissed the Third Cause of Action with regard to Wal-Mart.

F. Jonathan Corey Ray, R.Ph

(11-065-RPH-N)

Carolyn Cramer advised the Board that she is continuing this matter to the December Board meeting for further investigation.

G. Bill Curtis, R.Ph

(11-074-RPH-N)

NOTE: Russ Smith disclosed that he works for Walgreens which is the owner of Golden Health Pharmacy where Mr. Curtis was employed however he does not know Mr. Curtis and feels that he can participate in this matter impartially.

Carolyn Cramer advised the Board that she was going to recommend revocation of Mr. Curtis pharmacist license, and would not be presenting any witnesses in this matter.

Bill Curtis appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Curtis admitted that he had taken approximately 200 tablets of hydrocodone from the pharmacy without the authority to do so. He has a prescription for hydrocodone but the amount prescribed was not enough. He explained that he works in Elko at Golden Health, which is a pharmacy strictly for the use of miners in Elko and surrounding areas. Mr. Curtis indicated that because of the stressful conditions at work he could not cope. He stated that he worked alone without a break and had 400 prescriptions to fill and could only fill 300. Mr. Curtis indicated he knew what he had done was wrong but under the circumstances he could not help himself.

Mr. Curtis was advised that he could return to the Board after one year from the time his license is revoked and request reinstatement, and they suggested that Mr. Curtis contact the PRN-PRN program.

Board Action:

Motion: Cheryl Blomstrom moved to find Mr. Curtis guilty of the alleged violations.

Second: Kam Gandhi

Action: Passed Unanimously

Motion: Cheryl Blomstrom moved to revoke Mr. Curtis pharmacist license and suggest that he participate in the PRN-PRN program.

Second: Kam Gandhi

Action: Passed Unanimously

H. Kelli Ramsey, R.Ph (11-013-RPH-N)  
I. CVS/pharmacy #9841 (11-013-PH-N)

NOTE: Jody Lewis recused from participation in this matter as she is employed by CVS.

Kelli Ramsey appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mike Dyer was present to represent Ms. Ramsey and CVS #9841.

Carolyn Cramer advised the Board that Ms. Ramsey and CVS #9841 had signed a Stipulated Agreement. Ms. Cramer read the Agreement into the record.

Regarding Ms. Ramsey and the First and Second Causes of Action, she will participate in the Your Success Rx program which CVS will pay for the costs incurred. Ms. Ramsey will be on probation for one year with the condition that she report all errors to the Board within seven days of the event and obey all laws. The Executive Secretary of the Board can cancel the probation before one year after completion of the Your Success Rx program if he feels it is appropriate. Regarding CVS #9841 they will pay a fine of \$1,000.00 that will be due with 90 days of the effective date of this Stipulated Agreement plus the costs and fees in this matter amounting to \$1,295.00.

Board Action:

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

Second: Kam Gandhi

Action: Passed Unanimously

J. Sami S. Zamzam, MD (11-061-CS-N)

This matter was continued to the December Board meeting.

4. Application for Nevada Pharmacy . Appearance for Possible Action:

Ascend Specialty Rx . Las Vegas

Margaret Bender, managing pharmacist, and Valerie Sullivan, appeared and were sworn by President Foster prior to answering questions or offering testimony.

They explained that they will be providing specialty drugs, such as fertility drugs, medication for arthritis, Multiple Sclerosis drugs, Hepatitis C medications, cancer drugs and medications for transplant patients. They indicated that 65% of their clients come from their parent company, however they get referrals from physicians, too. They currently hold an out of state pharmacy license with Nevada and they are opening a facility in Nevada.

Board Action:

Motion: Cheryl Blomstrom moved to accept the application for pharmacy for Ascend Specialty Rx.

Second: Russ Smith

Action: Passed Unanimously

5. Applications for Nevada MDEG . Appearance for Possible Action:

A. Global DME . Las Vegas

Juan Manuel Ramirez appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Ramirez submitted a letter of authorization to represent Global DME on behalf of Dr. Isaac Verbukh.

Board Staff explained that they were hoping to speak with Dr. Verbukh. Carolyn Cramer asked Mr. Ramirez if he knew what percent of ownership Dr. Verbukh had in Global DME and Mr. Ramirez did not know the answer. Ms. Cramer explained that a physician was only allowed to own 10% of a MDEG facility in Nevada and since there were no other owners listed Board Staff had concerns.

After discussion it was determined to continue this application to the October Board meeting.

B. Mobility Sales . Carson City

Sue Councilman, the new owner of Mobility Sales, and Charles Owens, the current owner, appeared and were sworn by President Foster prior to answering questions or offering testimony.

Mr. Owens explained that he sold his facility to Ms. Councilman and planned to remain as the Administrator. Mr. Owens indicated that he has been located in this location

since 2005 and has been in the DME business for over 20 years both in Nevada and California. Ms. Councilman indicated that she was going to be learning the business with Mr. Owens guidance. Mr. Owens indicated that he did not plan to retire any time soon and would assure that before he did retire that Ms. Councilman was completely competent to operate Mobility Sales.

Board Action:

Motion: Jody Lewis moved to accept the application for MDEG provider for Mobility Sales.

Second: Cheryl Blomstrom

Action: Passed Unanimously

6. Applications for Out-of-State Pharmacy . Appearance for Possible Action:

A. Equinox Healthcare . Ellicott City, MD

Equinox Healthcare has been rescheduled to the October Board meeting.

B. University of Utah Hospital Infusion Pharmacy . Salt Lake City, UT

Steven Kurahara, staff pharmacist, appeared and was sworn by President Foster prior to answering questions or offering testimony.

It was explained to Mr. Kurahara that Board staff needed a letter of authorization for him to appear on behalf of University of Utah Hospital Infusion Pharmacy. Mr. Kurahara was directed to send it to Jeri Walter when he returned to Utah.

Mr. Kurahara advised that they have cancer patients in Elko, Ely and Spring Creek, Nevada. They provide antibiotics, FU-5, catheters, etc., to these patients, but Medicare will not pay unless there is a pharmacy in the state where the patient resides. This practice puts the patient in jeopardy and so they are opening a pharmacy in Nevada to provide patient care and still be paid.

Board Action:

Motion: Russ Smith moved to approve the application for University of Utah Hospital Infusion Pharmacy pending receipt of the letter of authorization.

Second: Jody Lewis

Action: Passed Unanimously

7. Request for Pharmaceutical Technician in Training License . Appearance for Possible Action:

Chris M. Irwin

This appearance has been rescheduled to the December Board meeting.

8. Requests for Pharmacist License . Appearance for Possible Action:

- A. Fadi W. Atiya

This application is over a year old and has expired. Fadi Atiya will reapply at a later date.

- B. Robert Brower II

This appearance has been rescheduled to the October Board meeting.

9. Requested Appearance for Possible Action:

Medco Computer-Assisted Dispensing Systems (PVSV)

Board Staff outlined Medco's request to utilize their PVSV system in accordance with NAC 639.940 through 639.943. Staff is comfortable with the PVSV system since it is essentially an extension of Medco's automation process and that they have verified accuracy through metrics as presented. The Board supported Staff's recommendation to allow the use of the system.

10. Prescription Drug Abuse Presentation:

Larry Pinson

Larry Pinson gave a PowerPoint presentation on prescription drug abuse to share some of what he learned at the University of Utah School on Alcohol and Drug Abuse. The presentation was well received and will be used as part of future CE programs and speaking invitations.

11. Comprehensive Review of Regulations for Possible Action

Larry Pinson prepared the document in the Board book pursuant to Governor Sandoval's Executive Order to complete a comprehensive review of the regulations of the State Board of Pharmacy with respect to the protection of the public's health, safety and welfare without discouraging economic growth. Mr. Pinson met with Governor Sandoval and he is very receptive to the work that the Board of Pharmacy does. Mr.

Pinson indicated that the document is what he intends to send to the Governor and asked for their approval.

Board Action:

Motion: Cheryl Blomstrom moved to approve the Comprehensive Review of Regulations document to be sent to Governor Sandoval.

Second: Kam Gandhi

Action: Passed Unanimously

12. Discussion and Determination for Possible Action:

A. Pharmaceutical Technician Discipline

Larry Pinson explained that several Board members have expressed their frustration in cases when a PT is the cause of errors, yet they are not charged with anything and the pharmacist and pharmacy are held responsible. Historically pharmaceutical technicians have not been held responsible for errors even though in countless cases the PT is an integral part of a pharmacy disciplinary action. Mr. Pinson stated that he tried to charge a PT in a death case but the Board threw it out and would not allow the PT to be charged. Then there was the case where the PT did not like the pharmacist and shredded CII prescriptions to get her in trouble. Mr. Pinson gave an example that a vindictive PT could make errors purposely until the pharmacist failed to catch one and a patient might be harmed. Mr. Pinson asked for comments from the Board.

Keith Macdonald has concerns about disciplining a PT. How far are you going to take disciplining pharmacy staff? Just PTs, or include PTTs, or clerks? Then take into consideration that they do not make a lot of money and the Board should give serious consideration to the consequences of the discipline.

Jody Lewis indicated that it is a fine line between a business responsibility vs. a pharmacy/pharmacist responsibility. Pharmacists are not aware of some of the things a PT does. Ms. Lewis indicated that perhaps bringing the PTs to the Board hearing would demonstrate the seriousness and importance of a PTs function and would serve as a learning experience.

President Foster agrees that the PTs would learn and feels it is important that they see the consequences of their errors, the patient that has been harmed, and how their error affects that patient.

Dan Luce, from Walgreens, Mary Staples from NACDS and Debbie Mack, from Wal-Mart were asked to the table to help in this discussion and divulge what they see other states doing.

Mr. Luce indicated that most Boards charge the pharmacist in error cases and PTs are only brought to the Board for their personal problems such as theft or failed drug screenings. CE is helpful to enlighten PTs and not just limit CE to pharmacists.

Carolyn Cramer indicated that she could subpoena PTs to appear without charging them and that may be the answer to show them the consequences their error caused. This seemed to be a reasonable starting point to the Board.

## B. Unlicensed Entities

The Board has indicated displeasure in granting a license to an entity that has been doing business in Nevada without a license. They apply for a license, come before the Board and apologize and indicate they did not know they needed a license. Could the Board impose a fine for doing business in Nevada unlicensed as part of granting that license?

Keith Marcher, representative from the AG's office, said that a lot of Boards have the authority to give administrative citations, however the Board of Pharmacy is not one of them. He indicated that we would have to go to the Legislature to get that authority.

### 13. General Counsel Report for Possible Action

There was no general counsel report.

### 14. Executive Secretary Report for Possible Action:

#### A. Financial Report

Larry Pinson gave the financial report to the Board's satisfaction.

#### B. Temporary Licenses

One temporary license was issued since the last Board meeting.

#### C. Staff Activities

1. Address Board of Directors of %Good Neighbor Pharmacies+ (Amerisource-Bergen)

Mr. Pinson indicated he would go into detail when he did his presentation.

#### D. Reports to Board

1. Your Success Rx Report
  - A. Matt Christensen
  - B. James Christensen
  - C. Rex Drug
  - D. Tom Traynor
  - E. Mike Martinez

Katie Johnson and Mr. Pinson met and reviewed the results of the Your Success Rx program with each of the pharmacists by telephone and all found the experience exceptionally helpful.

2. 2012 Board Meeting Dates

The Board was given the dates for the 2012 Board meetings.

3. Medi-Spa Issues

A. Board of Cosmetology Inspector Training

Mr. Pinson called a meeting of the Cosmetology, Medical and Nursing Boards to discuss the problems in the Medi-Spa arena. Often no one at these facilities is licensed to possess or administer dangerous drugs or controlled substances and in most instances there is no supervising physician at those locations. One physician was located in Michigan and allowing a RN to run the spa. Mr. Pinson advised the Board that he was going to do a presentation to the Board of Cosmetology on how to inspect Medi-Spas in the North and the South. The Boards are meeting with the Governor's office and the AG's office next week to discuss this issue and Staff will report back to the Board on the outcome at the October Board meeting.

4. Anthem Tech School Background Checks

Mr. Pinson reported that Anthem is stepping up background checks on their applicants to the Pharmaceutical Technician program.

5. SB 37

SB 37 is a new law that requires each health care licensing board to refer to another health care licensing board any complaint that concerns a matter within the jurisdiction of the other health care licensing board within 5 days of making the determination. Staff has always shared its cases with our sister Boards so this bill will have no impact.

E. Board Related News

1. e-rx Information Sheet

Larry Pinson provided the Board with a concise document from the California Board of Pharmacy regarding electronic prescribing of controlled substances and the DEA Interim Final Rule on Electronic Prescribing and Receiving Controlled Substance Prescriptions.

2. 2011 Bowl of Hygeia Recipient

Mr. Pinson was pleased announce that Katie Johnson was selected to be the recipient of the Bowl of Hygeia this year. He and the Bowl of Hygeia Committee were in complete agreement that Ms. Johnson was an excellent choice as she has made such a positive impact on the pharmacy profession, both locally and nationally.

F. Activities Report

## WORKSHOP for Possible Action

### 15. Proposed Regulation Amendment Workshop

**Amendment of Nevada Administrative Code 453.510 Schedule 1 Bath Salts**  
Because of the increasing popularity and abuse of a variety of synthetic compounds that produce stimulant effects when ingested, snorted or injected, sold under the guise of bath salts+or plant food+in retail outlets or on the

internet, and at the request of law enforcement and at least one legislator, the Board of Pharmacy proposes placing these compounds in Schedule I. In addition there are several spelling corrections.

President Foster gave an overview of the synthetic compounds and the importance of law enforcement and labs to be able to identify them.

President Foster opened the Workshop.

Detective Joe Lever, with the Reno Police Department Drug Interdiction Unit, and Lieutenant Venzon, also with the Reno Police Department appeared to enlighten the Board on the problems they are seeing on the street that involve Bath Salts. At the moment they have 36 cases where Bath Salts are involved and they are now seeing cases on a daily basis. Detective Lever explained that the Interdiction Unit identifies Bath Salts that are shipped through the mail and overnight services. Lieutenant Venzon gave examples of the affects the use of Bath Salts has on the people that use it. It is ingested by various methods . by injection, smoking, snorting, put in food and eaten and other methods. Detective Lever and Lieutenant Venzon both support scheduling of Bath Salts to help ensure public safety.

Diane Machen, with the Washoe County Sheriff's Crime Lab and Bill Ames, with the Washoe County Sheriff's office, appeared and gave a synopsis of the chemical compounds that can be identified. Ms. Machen indicated that the compounds keep changing, however being able to identify the compounds in the reg change that is being proposed is a start in the right direction. Ms. Machen gave examples of the different types of testing procedures there are. Mr. Ames indicated that they would like to limit the sales so it is not so readily available to the public to help ensure their safety.

Dave Jones, Captain of the Nevada Department of Public Safety, appeared and discussed the problems with illicit drugs throughout the state. They would like to educate the public that Bath Salts, even though they are not illegal drugs, are very dangerous and hazardous to people's health. They have gone to the stores that sell Bath Salts and have tried to encourage them not to sell these products, however they are in it for the incredible amount of money they make from those sales. Captain Jones supports the scheduling of the compounds that are proposed in the amendment of Schedule I.

President Foster closed the Workshop and asked for a motion on the proposed regulation amendment.

Board Action:

Motion: Keith Macdonald moved to proceed to Public Hearing on the scheduling of Bath Salts.

Second: Cheryl Blomstrom

Action: Passed Unanimously

16 . Next Board Meeting:

October 12-13, 2011 . Las Vegas

17. Public Comments and Discussion of and Deliberation Upon Those Comments:

There were no public comments on September 14, 2011.

Larry Pinson took the opportunity during public comment on September 15, 2011 to congratulate President Foster for the VA Hospital being recognized as one of the top hospitals in the nation.