

BOARD MEETING

Airport Plaza Hotel
1981 Terminal Way
Reno

September 2nd and 3rd, 2009

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

Board Members Present:

Keith Macdonald	Leo Basch	David Chan
Donald Fey	Chad Luebke	Kam Gandhi
Mary Lau		

Board Members Absent:

Board Staff Present:

Larry Pinson	Jeri Walter	Carolyn Cramer	Keith Marcher
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CONSENT AGENDA

1. Approval of July 15-16, 2009, Minutes
2. Applications for Out-of-State MDEG – Non Appearance:
 - A. Carefusion Corporation – Tucker, GA
 - B. Choice Medical, Inc. – Knoxville, TN
 - C. Eye Response Technologies, Inc. – Charlottesville, VA
 - D. Hoveround Corporation – Sarasota, FL
 - E. Kinex Medical Company, LLC – Waukesha, WI
 - F. Liberator Medical Supply Inc. – Stuart, FL
 - G. Thrifty Medical Supply, Inc. – San Leandro, CA

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

- H. Aapex Community Pharmacy – Houston, TX
- I. Care Plus CVS/pharmacy #2801 – West Hollywood, CA
- J. Care Plus CVS/pharmacy #2915 – Honolulu, HI

- K. Care Plus CVS/pharmacy #3129 – Phoenix, AZ
- L. Covance Specialty Pharmacy – Lakeland, FL
- M. Omnicare Clinical Intervention – Oklahoma City, OK
- N. One Stop Pharmacy Inc. LLC – St Petersburg, FL
- O. PVPL Pharmacy – Omaha, NE
- P. Reliance Meds – Ft Myers, FL
- Q. Southern Desert Pharmacy – Prescott, AZ
- R. Tropical Pharmacy – Sunrise, FL

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

- S. Abbott Laboratories Inc. – Dallas, TX
- T. Ameridose, LLC – Westborough, MA
- U. AxoGen Corporation – Alachua, FL
- V. Cadista Pharmaceuticals, Inc. – Salisbury, MD
- W. Diamond Pharmacy Services – Kolter, PA
- X. Dusa Pharmaceuticals, Inc. – Wilmington, MA
- Y. Far West Returns, Inc. – Paradise, CA
- Z. Healthfirst Corporation – Mountlake Terrace, WA
- AA. Just Packaging, Inc. – South Plainfield, NJ
- BB. Lannett Company Inc. – Philadelphia, PA
- CC. McKesson Specialty Distribution LLC – Fairfield, OH
- DD. McKesson Specialty Distribution LLC – Memphis, TN
- EE. McKesson Specialty Distribution LLC – Suwanee, GA
- FF. McKesson Specialty Distribution LLC – West Sacramento, CA
- GG. Xttrium Laboratories, Inc. – Chicago, IL

Applications for Nevada MDEG – Non Appearance:

- HH. AmPro Orthotics & Prosthetics Inc. – Las Vegas
- II. Family Pharmacy – Pahrump

Applications for Nevada Pharmacy – Non Appearance:

- JJ. CVS/pharmacy #6625 – Reno
- KK. Golden Health Pharmacy – Elko
- LL. St Mary’s Outpatient Surgery Center at Galena LLC – Reno
- MM. Target Pharmacy T-2568 – Henderson

NOTE: Mary Lau recused from participation in the vote on items I, J, K, KK and MM as they are members of RAN. Chad Luebke recused from participation in the vote on items I, J, K and JJ as he is employed by CVS.

Discussion:

The consent agenda applications and supporting documents were reviewed.

Board Action:

Motion: Leo Basch found the consent agenda application information to be accurate and complete and moved for approval with the exception of items I, J, K, KK, MM and JJ.

Second: Keith Macdonald

Action: Passed Unanimously.

Discussion:

Motion: Leo Basch found the minutes to accurate and complete and moved for approval.

Second: David Chan

Action: Passed Unanimously.

REGULAR AGENDA

3. Applications for Out-of-State Pharmacy – Appearance

A. Drug Crafters – Frisco, TX

Drug Crafters have rescheduled to October.

B. Royal Palm Compounding Pharmacy LLC – Wellington, FL

Royal Palm has rescheduled to October.

4. Disciplinary Actions:

A. Davidson Okpukpara, R.Ph (09-054-RPH-N)

B. Scolari's Pharmacy #28 (09-054-PH-N)

NOTE: David Chan recused from participation as he is employed by Scolari's. Mary Lau recused from participation as Scolari's is a member of RAN.

Dani Dooley was present to represent Scolari's. Davidson Okpukpara represented himself.

Carolyn Cramer introduced Loie Brooks, the complainant in this matter. Ms. Cramer admitted six Exhibits into evidence as follows:

Exhibit 1 Scolari's statement

Exhibit 2 Board staffs 13 pages of evidence

- Exhibit 3 Squires/Scloari's #24 Order dated January 6, 2004
- Exhibit 4 Letter to Loran Foster in another complaint from Ms. Brooks regarding Scloari's #28
- Exhibit 5 Okpukpara/Rite Aid #6281 Order dated October 1, 2006
- Exhibit 6 Rx vial showing label changed from 25 mg to 50 mg but no change in directions

Loie Brooks appeared and was sworn by President Fey prior to answering questions or offering testimony.

Ms. Cramer questioned Ms. Brooks regarding the circumstances of her complaint. Ms. Brooks stated that she had her prescription for metoprolol refilled at Scloari's #28. She picked up her medication and left the store, got into her vehicle and looked at what she was given from the pharmacy. Ms. Brooks testified that the tablets looked different from the ones she usually takes, so she returned to the pharmacy to inquire about the difference. Ms. Brooks stated that she spoke with Mr. Okpukpara when she returned and told him that they were not what she had previously taken. She indicated that Mr. Okpukpara acknowledged a mistake had occurred. Ms. Brooks prescription was for 25 mg. metoprolol tablets and the prescription vial contained 50 mg. metoprolol tablets. Ms. Brooks indicated that Mr. Okpukpara went to retrieve the correct 25 mg. metoprolol tablets but found there were only twelve in the stock bottle. Mr. Okpukpara offered to call other stores to see if he could obtain more, however Ms. Brooks asked for the dispensed prescription back again and declined his attempt to find more of the correct medication. Before giving her the prescription vial back, Ms. Brooks stated that Mr. Okpukpara printed out another label, wrote 50 mg. on the label and placed that label over the original label but did not change the directions to take one half tablet.

Mr. Okpukpara gave a statement and indicated that he advised Ms. Brooks to take one half tablet and she seemed to be okay with that solution. Mr. Okpukpara also indicated that he had handwritten the directions on the label. He also indicated that the pharmaceutical technician he was working with made the error and he failed to catch it. He indicated that the pharmaceutical technician was under some stress and made a lot of mistakes that he did catch but missed this one. Ms. Cramer questioned him about the label he said he had handwritten directions on. Ms. Cramer reminded him that Ms. Brooks testimony indicated that she did not receive a label with handwritten directions and asked Mr. Okpukpara if he was possibly upset or nervous about the error and did not remember clearly what he did. Ms. Cramer presented Exhibit 6 which is the original prescription vial with Mr. Okpukpara's handwritten "50 mg." but no change in directions.

The Board questioned Mr. Okpukpara regarding his statement about giving Ms. Brooks 15 extra 50 mg. metoprolol tablets which would have extended the prescription to seven months instead of the six month life of the prescription. They also asked Mr. Okpukpara about what he has done to improve his pharmacy practice since going through the Your Success Rx program.

Dani Dooley was sworn by President Fey prior to answering questions or offering testimony.

Ms. Cramer reviewed the details of the meeting Board staff had with Scolari's. They showed that they had made significant changes in their computer system to keep pharmaceutical technicians from making drug choices without the intervention of a pharmacist so this type of error would not happen again. Ms. Dooley explained thoroughly what steps had been taken. Scolari's and Board staff also discussed the issue of pharmaceutical technician errors in general. Ms. Dooley advised the Board that she and Mr. Chan have talked to all managing pharmacists about the need to report pharmaceutical technician errors to management so they are documented. If a pharmaceutical technician is making many errors and management is not aware of them they are unable to do anything to help correct the situation and document what occurred. If there was a pattern of errors that was not improving on the pharmaceutical technician's part, then an action could be taken against a technician that is not performing well.

Carolyn Cramer gave closing statements and recommended that Scolari's pay one half the fees and costs in this matter and no other penalties as they have already made significant changes to their computer system. Regarding Mr. Okpukpara, Ms. Cramer recommended three years probation, the first year of probation Mr. Okpukpara would practice as an intern and have his preceptor report to the Board Mr. Okpukpara's behaviors as a practicing intern.

The Board questioned Ms. Dooley about Scolari's error reporting forms and how they were filed and asked if Mr. Okpukpara had ever filed error reports on other errors. Ms. Dooley described their procedures.

Mr. Okpukpara gave a closing statement indicating that he is a good pharmacist and had never made a practice error before the Rite Aid issue and has had nothing since Ms. Brooks matter. Again, he stated that the pharmaceutical technician was at issue and that he had caught many of her errors but admitted missing this one and it was not because he was not paying attention or was distracted. He asked the Board to look at all the facts and show leniency.

The Board discussed what they had heard. Mr. Basch showed concern that Mr. Okpukpara had not filed an error report on this incident with Scolari's management as required in their policies and procedures. Mr. Luebke is concerned that Mr. Okpukpara only takes partial responsibility for the error and blames the pharmaceutical technician even though he is ultimately responsible.

Board Action:

Motion: Leo Basch moved to find Mr. Okpukpara guilty of the First, Second and Third Causes of Action.

Second: Kam Gandhi

Action: Passed Unanimously

Motion: Mr. Basch moved to fine Mr. Okpukpara \$3,000.00 plus one half of the fees and costs, suspend his license for 30 days and stay the suspension, three years probation requiring him to report any errors he makes to the Board within seven days of the incident, not be allowed to practice as a managing pharmacist and work no more than 90 hours in a fourteen day work period.

Second: No Second

Action: Motion Failed

Motion: Chad Luebke moved to have Mr. Okpukpara perform his duties as an intern pharmacist for 60 days plus everything in Mr. Basch's motion.

Second: Kam Gandhi

Discussion: Mr. Basch stated he did not see an internship helpful since Mr. Okpukpara is a fully knowledgeable pharmacist.

Action: Passed With One Negative Vote

Motion: Leo Basch moved to find Scloari's #28 guilty of the Fourth Cause of Action.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Leo Basch moved to fine Scloari's #28 one half the fees and costs in this matter.

Second: Kam Gandhi

Action: Passed Unanimously

C. Christine Thurman, PT

(09-037-PT-N)

Ms. Cramer noted for the record that Ms. Thurman was not present even though the Accusation and notice to appear were sent to her last known address and the certified mail card was signed.

Ms. Cramer explained the circumstances of this matter. Ms. Thurman was terminated from employment from Wal-Mart #10-4370 for attempting to add refills to prescriptions for herself and her family for controlled substances and dangerous drugs. After the notice of termination of employment, it was learned that Ms. Thurman had been arrested and convicted of a Category B felony. The Judgment of Conviction provide

that Ms. Thurman was found guilty of embezzlement and was sentenced to 12 months in prison, pay \$150.00 for a DNA fee, pay \$500.00 for attorney fees, and pay \$27,913.79 for restitution and an administrative fee of \$25.00.

Board Action:

Motion: Keith Macdonald moved to find Ms. Thurman guilty of the First, Second and Third Causes of Action.

Second: David Chan

Action: Passed Unanimously

Motion: Keith Macdonald moved to revoke Ms. Thurman's pharmaceutical technician registration.

Second: David Chan

Action: Passed Unanimously

D. Heidi Miscovich, PT (08-087-PT-N)

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

Carolyn Cramer noted for the Board that Ms. Miscovich was terminated from employment from Carson Tahoe Regional Medical Center for drug diversion. Ms. Cramer said that Ms. Miscovich is present today to explain her circumstances.

Ms. Miscovich admitted to the facts of the Accusation however she needed to come before the Board to explain what she did. She indicated that she had gone through a difficult time in her life – her daughter was writing bad checks and her husband of 21 years was still married to his first wife. Ms. Miscovich said she took the drugs to commit suicide, however for various reasons she did not do it. She stated she flushed the drugs she had taken to get rid of them.

President Fey asked Ms. Miscovich how she has changed her life. Ms. Miscovich said she got her daughter back on the right track and she has just graduated and she and her husband are still trying to rectify the situation with their marriage. She said her husband is 20 years older than she is and the attorney he used for the divorce is dead and no records can be found. Ms. Miscovich apologized to the Board and thanked them for allowing her to appear and clear her conscience.

Board Action:

Motion: Chad Luebke moved to accept Ms. Miscovich's admission of guilt.

Second: Leo Basch

Action: Passed Unanimously

Motion: Keith Macdonald moved to revoke Ms. Miscovich's pharmaceutical technician registration.

Second: Chad Luebke

Action: Passed Unanimously

E. Constance Willman, R.Ph (09-010-RPH-N)

Constance Willman appeared and was sworn by President Fey prior to answering questions or offering testimony. Mr. Espadero was reminded he was still under oath.

Carolyn Cramer advised the Board that Ms. Willman's pharmacist license is under suspension. Ms. Willman is currently on numerous medications and cannot enter the PRN-PRN program. Ms. Cramer indicated that she has spoken with Ms. Willman and Mr. Espadero and suggests that Ms. Willman have an independent medical examination at the Board's expense.

Mr. Espadero explained that before Ms. Willman can have an independent medical examination she needs to detox from all the medications she is currently taking. Mr. Espadero stated he would work with the psychiatrist to help Ms. Willman regain her health. Once an evaluation is made they can work together towards that goal.

Board Action:

Motion: Keith Macdonald moved to table this request for reinstatement until a treatment plan can be implemented.

Second: Leo Basch

Action: Passed Unanimously

5. Request for Pharmaceutical Technician in Training License – Appearance:

A. Jennifer Ochadleus

Jennifer Ochadleus and Larry Espadero, PRN-PRN monitor, appeared and were sworn by President Fey prior to answering questions or offering testimony.

Carolyn Cramer advised that Ms. Ochadleus is a student in the pharmaceutical technician program at Kaplan College and has applied for a PTT registration. She answered yes to question three on her application regarding use of alcohol or substance abuse.

Ms. Ochadleus stated that she was at a very low point in her life and used extremely poor judgment. She lost her house and her boyfriend and went out with friends and used drugs. Kaplan College did a drug screen and she tested positive for amphetamines. Ms. Ochadleus contacted PRN-PRN immediately for an evaluation. She testified that she does not use drugs and that was a onetime occurrence. She now lives with her mother and is devoting herself to raising her 15 year old and 4 year old children and going to school.

Mr. Espadero testified that Ms. Ochadleus shows a very low propensity for drug abuse and recommended that the Board issue her pharmaceutical technician in training registration so she can complete her course at Kaplan College.

Board Action:

Motion: Keith Macdonald moved to approve Ms. Chadleus' application for pharmaceutical technician in training and continue with PRN-PRN for a period of time to be determined by Mr. Espadero.

Second: Mary Lau

Action: Passed With One Negative Vote

B. Marcos Rodriguez

NOTE: Keith Macdonald recused from participation in this matter as he signed Mr. Rodriguez's application for pharmaceutical technician in training at Wal-Mart #10-3408.

Ms. Cramer indicated that Mr. Rodriguez had answered yes to having been charged, arrested, or convicted of a misdemeanor.

Mr. Rodriguez indicated that he was at a party with people his age – 19 and 20 year olds. At some point, some people arrived at the party that were 21 years of age or older and they brought beer. A neighbor had called the police probably because they were making too much noise. The police arrested about 40% of the party that were under age and let the older group that brought the beer go because they were legal. He was charged for use or possession of alcohol by a minor.

Board Action:

Motion: Chad Luebke moved to approve Mr. Rodriguez's application for pharmaceutical technician in training.

Second: Kam Gandhi

Action: Passed Unanimously

6. Request for Advanced Practitioner of Nursing License – Appearance:

Shannon Leasure, APN

Carolyn Cramer noted that Ms. Leasure has requested an APN license, however she answered all the questions on the application regarding any abuses, arrests or convictions, administrative actions or licensing issues with another Board in the affirmative and she is present to testify to the circumstances.

Ms. Leasure described an incredible period in her life that took place in 2007 regarding drugs and alcohol. She was arrested on a felony charge of child neglect that was pled down to a misdemeanor. She, her boyfriend and daughter were on vacation and had drugs with them and her daughter found and ingested Ecstasy. Ms. Leasure said she is still under a probationary period with the San Bernardino County Court. Since that experience she has married, worked for the last year and a half as a RN and just recently had the suspension lifted from her APN license. Ms. Leasure explained that she has completed a year and a half of a five year contract with the Nursing Board. The contract required her to call in daily for random alcohol and drug screening, attend two AA meetings a week, have regular contact and reports from her sponsor and attend a weekly nurse support group for the entire contract. She has completed several of the requirements from the contract such as attending weekly aftercare for one year, and attend bi-weekly individual counseling sessions for one year. She also completed a 60 day inpatient drug and alcohol rehab program. Ms. Leasure indicated that she volunteers to tell her story before groups and advise them how alcohol and drug abuse can devastate a family. She feels she is making an impact on others and she is proud of the progress she has made in her recovery.

Board Action:

Motion: Keith Macdonald moved to approve the application for APN prescribing privileges for Ms. Leasure.

Second: Mary Lau

Action: Passed Unanimously

7. Task Force Intervention Officer Report – Appearance:

Jenine Davis

Joanee Quirk appeared with Jenine Davis to report to the Board on the work Ms. Davis is doing as the intervention officer for the Task Force. Ms. Quirk introduced Ms. Davis to the Board and gave a summary of her background. She obtained her degree in Accounting, however she worked as an intervention officer for NDI before accepting a position with the Task Force. Ms. Davis indicated that she receives information from the Task Force identifying doctor shoppers. She contacts the people, sets up appointments to interview them and explain that they are committing a felony by doctor shopping and

offers them help. If they agree to get the help offered, she works with them, however, if they choose to continue with their doctor shopping behavior, Ms. Davis turns them over to the police department. Ms. Davis gave individual case stories and answered questions from the Board. Ms. Quirk indicated that Ms. Davis has had more success in the North than the previous intervention officer located in the South.

8. Discussion and Determinations:

A. NRS 639.230(1)

Larry Pinson advised the Board that he instructed Board general counsel to send a cease and desist order to Rx Realty advising them that a realty company was not to use "Rx" as part of its name as it was a violation of NRS 639.230. Senator Schneider sent a letter to Mr. Pinson advising that his friend could use "Rx" as part of his realty company's name because it was not the legislative intent to restrict a company that did not sell drugs to use that symbol. The Board questioned staff about how we could prohibit another company that sold skate boards from using a symbol or the word "pharmacy" that was violating the same law and allow a realty company to use Rx. It was noted that Senator Schneider's letter indicated that he was going to present this matter at the next legislative commission meeting for their opinion, and the Board directed staff to wait until an opinion was made before enforcing the cease and desist notice.

B. "Physical Examination" of Patient Prior to Prescribing

Louis Ling, Executive Director of the Medical Board of Examiners, Ivan Garlick, Regional Medical Director for Prison Health Services-Western Region, Mike Pavalakis, of the law firm of Alison McKenzie who represents Prison Health Services, and Joel Locke, also of Allison McKenzie, appeared for the discussion of telemedicine.

Mr. Pavalakis described how telemedicine is used in Nevada for inmate physical examinations in prisons. He advised the Board that the legal medical perspective is found in Chapter 630 and defines the practice of medicine as taking place where the patient is located, regardless of where the practitioner is located, and therefore can be performed electronically or through fiber optics. Mr. Pavalakis was advised that Nevada pharmacy law requires a bona fide patient/physician relationship and requires that the patient be physically examined within six months of dispensing medication.

Dr. Garlik is a well qualified licensed physician that works for Prison Health Services and he noted that he has found that telemedicine is an efficient way of treating inmates to ensure quality patient care. He described the prison setting and how medical units, or infirmaries, perform tasks to accomplish the examination. Telemedicine has the peripherals to examine ears, throat, listen to the chest, etc. He has a computer screen before him at the off-site location with all of the patient information to review. Dr. Garlik works with the APN or PA to do the inmate examination and noted that he has even diagnosed chicken pox through telemedicine. There is always a doctor that he can refer an inmate to for abdominal issues or to check for a mass where he cannot physically

touch the patient's abdomen. The APNs are there all the time and they know what is going on with the patients and can advise the off-site physician. After the examination, Dr. Garlic sends his orders and findings to the nurse so he/she has records in the prison. Chronic care patients are seen every three months to review their medical needs. Dr. Garlic sees patients with depression, seizure disorders and addiction issues in addition to the general service needs. If he prescribes, he enters the order into the computer and faxes it to the nurse. All controlled substance prescriptions are ordered via hard copy, and the prescription is filled and sent to the prison for the specific inmate.

Mr. Pavalakis noted that telemedicine is being practiced in Nevada, however the issue here is that Dr. Garlic is physically located in another state and needs approval to examine Nevada inmate patients.

Louis Ling gave the history of how the Pharmacy Board bona fide relationship regulations came about. They were crafted to curb illegal internet pharmacy practice and requiring a physical examination would prevent them from this practice. The legislature adopted statute requiring the six month physical examination in both the 2001 and 2003 sessions. Mr. Ling suggested that the Board of Pharmacy allow for this practice through regulation – that the six month physical examination not be required for persons in correctional facilities.

The Board directed staff to write regulations to allow this practice in correctional facilities only.

C. Advertising Practices

Board staff has had concerns raised by pharmacists regarding their company requiring them to provide advertisements to patients. For example when a label set is printed for Flonase, the patient information includes an advertisement for a competitive drug, perhaps Nasonex, and it is stuffed into the patients bag along with the usual drug information sheet. It can be confusing for the patient or they may call their doctor and ask them to change their prescription and it may not be in the patient's best interest.

Coupons for drugs is another issue that has been brought to Board staff's attention. Patients transfer their prescriptions around every month from pharmacy to pharmacy to utilize these coupons. This activity then circumvents one of pharmacy's primary rolls, that being drug utilization review, checking for drug interactions and the like. It could become a potential for error.

The Board discussed these issues and directed Board staff to contact Massachusetts and New Jersey that may have laws in place regulating these practices. It was noted that the Board needs to be careful not to violate freedom of advertising rights. Chad Luebke indicated that he has concerns about patient safety with these practices and also allowed that patients will do most anything to save money.

9. General Counsel Report

Carolyn Cramer advised the Board that she sent a letter to pharmacies to correct a problem that was brought to her attention. A doctor requested a Task Force report to check his own written prescriptions. He found that pharmacies had selected his name to use for 206 prescriptions for people that were not his patients. Ms. Cramer advised in her letter that the pharmacies need to correct their computer records to reflect the correct physician for the specific prescriptions she identified.

Keith Macdonald wanted to know what pharmacist is going to tell the doctors to identify themselves on the list of doctors on the prescription form or the prescription written by a doctor in an ER.

10. Executive Secretary Report:

- A. Financial Report
- B. Investment Report

Larry Pinson gave the financial and investment reports to the Board's satisfaction.

- C. Temporary Licenses
 - 1. McKesson & H1N1 Vaccine Distribution

Mr. Pinson advised the Board that he granted a temporary license for several McKesson warehouse locations in advance of their application being approved so they could prepare for the H1N1 vaccine distribution to Nevada locations that will be giving the immunizations.

- D. Staff Activities
 - 1. Meetings

- a. NACDS Pharmacy & Tech Conference (August)

Mr. Pinson gave an overview of the NACDS meeting he attended in August.

- b. CE

He reported on various Nevada law CE's that he, Joe Depczynski and Ron Shockey had done and noted that he had two more scheduled before the pharmacist renewal deadline of October 31st, 2009.

- c. PT Advisory Committee (10/7)

Mr. Pinson advised that he had called another meeting of the PT Advisory Committee to be held on October 7th and he would bring forth any of their issues to the October Board meeting.

- d. CE Committee (10/8)

A CE Committee meeting will be held on October 8th.

- E. Report to Board
 - 1. Task Force Meeting (8/28)

Mr. Pinson gave a review of the Task Force meeting that was held on August 28th.

- 2. Illegal surgery center follow-up

Larry Pinson gave an update on illegal surgery and possession of dangerous drug activity in Hispanic convenience stores in the Las Vegas area. Mr. Pinson also noted that an anonymous person has contacted him with information on where several more of these back room surgery centers and pharmacies are located. Metro is now in the loop.

- 3. ACPE site visit observer

President Fey has volunteered to represent the Board as an ACPE site observer.

F. Board Related News

1. California Nursing Board

Governor Schwarzenegger has replaced the entire California Nursing Board because they were not doing their job. It was taking them an average of three years to bring a complaint forward.

Mr. Pinson reported that the first meeting with Katie Johnson for her Your Success Rx report with Jose Rodriguez, and Cathi Ketterling/Professional Pharmacy went very well. Mr. Rodriguez and Ms. Ketterling appeared by telephone. He indicated that Ms. Ketterling had prepared policies and procedures for the pharmacy and Mr. Rodriguez had put procedures in place for a more efficiently run pharmacy.

G. Activities Report

WORKSHOP

11. **Proposed Regulation Amendment Workshop**

1. **Amendment of Nevada Administrative Code 453.550** Remove Buprenorphine from Schedule V

President Fey asked for public comment. There was no public comment and President Fey asked for a motion.

Board Action:

Motion: Keith Macdonald moved to move this regulation amendment to Public Hearing.

Second: David Chan

Action: Passed Unanimously

2. **Amendment of Nevada Administrative Code 453.530** Addition of Buprenorphine to Schedule III to Parallel Federal Law

President Fey asked for public comment. There was no public comment and President Fey asked for a motion.

Board Action:

Motion: Keith Macdonald moved to move this regulation amendment to Public Hearing.

Second: David Chan

Action: Passed Unanimously

3. **Amendment of Nevada Administrative Code 639.254** Add ICPT for acceptable in-service training for pharmaceutical technicians.

President Fey asked for public comment. There was no public comment and President Fey asked for a motion.

Board Action:

Motion: Mary Lau moved to move this regulation amendment to Public Hearing.

Second: Keith Macdonald

Action: Passed Unanimously

4. **Amendment of Nevada Administrative Code 639.220 Schedule of fees; penalty for late renewal; exemptions from certain fees.** Fee increase for pharmacists and pharmacist interns.

Leo Basch noted that he thought the fee increase for pharmacist interns should be \$40.00 rather than the proposed \$30.00 to keep it in line with pharmaceutical technician fees. Interns generally make more money than pharmaceutical technicians and would be more appropriate to keep the fees equal. Mr. Basch also noted that the increased fees needed to be reflected in both the application and the renewal application sections. The fee increase for pharmacists will be raised to \$180.00 for both the registration application fee and the renewal fee.

President Fey asked for public comment. There was no public comment and President Fey asked for a motion.

Board Action:

Motion: Leo Basch moved to move this regulation amendment to Public Hearing with the changes discussed.

Second: David Chan

Action: Passed Unanimously

5. **Amendment of Nevada Administrative Code 639.870 Certificate of registration: Application; fee; period of validity; appearance before Board; collaborating physician; late renewal.** Delete consultant pharmacist requirement for Advanced Practitioner of Nursing.

President Fey asked for public comment. There was no public comment and President Fey asked for a motion.

Board Action:

Motion: Leo Basch moved to move this regulation amendment to Public Hearing.

Second: Chad Luebke

Action: Passed Unanimously

6. **Amendment of Nevada Administrative Code 639.272 Requirements for registration certificate.** Delete consultant pharmacist requirement for physician assistant.

President Fey asked for public comment. There was no public comment and President Fey asked for a motion.

Board Action:

Motion: Leo Basch moved to move this regulation amendment to Public Hearing.

Second: Chad Luebke

Action: Passed Unanimously

7. **Amendment of Nevada Administrative Code AB213 Cancer Drug Donation Program.**

President Fey advised the Board that he wanted them to go through the language section by section and discuss each section individually. Carolyn Cramer referred to the bill, AB213, throughout the discussion to ensure the Board was clear why she wrote the language she presented. Leo Basch made specific suggestions for language changes and David Chan questioned liability to the pharmacist if they received an adulterated product and redispensed it. Larry Pinson referenced our adulterated Serostim case and noted that the pharmacist was not held responsible. If anyone should have been held responsible it would be the wholesaler.

President Fey opened the Workshop to the public for comment.

Liz Macmenamin, representing RAN, noted that this program needs to be voluntarily and liability free for pharmacies and pharmacists that participate in the program.

Tom McCoy, representing the American Cancer Society, described the objective of AB213. He noted that the intent was to provide drugs to uninsured and under insured cancer patients. They wanted to allow cancer patient's care givers to register them into the program on their behalf. Mr. McCoy indicated that programs of this nature generally

start slowly as evidenced in other states with similar programs. He noted that the program needs to be publicized so the public is aware the program is available.

President Fey closed the Workshop to the public and asked for a motion to give Board staff direction.

Board Action:

Motion: Mary Lau moved to make changes as discussed and re-Workshop.

Second: Leo Basch

Action: Passed Unanimously

8. **Amendment of Nevada Administrative Code SB197** Regulations for reissued drugs by nonprofit pharmacies.

The Board discussed the proposed language and directed Board staff to get input from HAWC, FISH and the Salvation Army before going further with these regulations.

Board Action:

Motion: Keith Macdonald moved to bring back to Workshop after Board staff has discussions with HAWC, FISH and the Salvation Army for their input.

Second: Mary Lau

Action: Passed Unanimously

PUBLIC HEARING

12. Notice of Intent to Act Upon a Regulation:

1. **Amendment of Nevada Administrative Code 453.530 Amendment of Schedule III.** This language removes references to over the counter products containing ephedrine, pseudoephedrine or phenylpropanolamine, their optical isomers, salts and salts of optical isomers. Also, some spelling corrections were made.

President Fey opened the Public Hearing for comment.

There was no public comment and President Fey asked for a motion.

Board Action:

Motion: Mary Lau moved to adopt NAC 453.530 as presented.

Second: Leo Basch

Action: Passed Unanimously

2. **Amendment of Nevada Administrative Code 639.6934 “Life Sustaining Equipment” defined.** This amendment removes the term “oxygen concentrator” from the definition of life sustain equipment to correct the existing language.

This regulation was adopted as a temporary regulation on April 27, 2009 during the legislative session.

President Fey opened the Public hearing for comment.

There was no public comment and President Fey asked for a motion.

Board Action:

Motion: Leo Basch moved to permanently adopt NAC 639.6934 as presented.

Second: Chad Luebke

Action: Passed Unanimously

3. **Amendment of Nevada Administrative Code 639.254 Initial and biennial in-service training of pharmaceuticals working in or for a pharmacy; substitution of continuing education for in-service training.** This regulation amendment requires pharmaceutical technicians to obtain one hour of Nevada law by attending a program approved or presented by the Board that relates to the practice of pharmacy.

This regulation was adopted as a temporary regulation on April 27, 2009 during the legislative session.

President Fey opened the Public hearing for comment.

There was no public comment and President Fey asked for a motion.

Board Action:

Motion: David Chan moved to permanently adopt NAC 639.254 as presented.

Second: Chad Luebke

Action: Passed Unanimously

4. **Amendment of Nevada Administrative Code 639.528 Preparation and storage of food in prescription of pharmacy.** This regulation amendment prohibits food to be stored in a refrigerator that is used to store medicine in the pharmacy.

President Fey opened the Public hearing for comment.

There was no public comment and President Fey asked for a motion.

Board Action:

Motion: Keith Macdonald moved to adopt NAC 639.528 as presented.

Second: Leo Basch

Action: Passed Unanimously

5. **Amendment of Nevada Administrative Code 639.694 MDEG Administrator required.** This regulation amendment clarifies the existing language and specifies the requirements for MDEG provider administrators. MDEG provider applicants will know in advance of a Board appearance if their administrators qualify to participate in that capacity.

The Board discussed the language returned from LCB and questioned Board staff how they would verify a foreign high school education or the required 1500 hours of work experience. It was suggested to change the word “verified” to “verifiable” and it would clarify to the applicant that the documents provided to Board staff would need to be verifiable so Board staff could check to ensure the MDEG Administrator meets the required qualifications. The Board also discussed procedures for when a change in MDEG Administrator occurs. They want assurance that the new administrator is qualified. Board staff was directed to make changes and bring this regulation back to Workshop as there would be substantial changes.

President Fey opened the Public Hearing for comment.

There was no public comment and President Fey asked for a motion.

Board Action:

Motion: Leo Basch moved to amend NAC 639.694 as discussed and re-Workshop since there are substantial changes.

Second: Kam Gandhi

Action: Passed Unanimously

6. Amendment of Nevada Administrative Code 639.707 Counseling.

Changing the language in this regulation will allow the pharmacist to use his or her professional judgment in the depth of counseling a patient.

Leo Basch noted that he would like to see the wording “without limitation” at the end of the first paragraph in section 4 to be consistent with section 2 so it reads: “The pharmacist or intern pharmacist shall review a patient’s record before dispensing a prescription to determine its therapeutic appropriateness *and, in making that determination, may consider without limitation.*”

President Fey opened the Public Hearing for comment.

Liz Macmenamin, representing RAN, appeared and was sworn by President Fey prior to answering questions or offering testimony.

Ms. Macmenamin wanted clarification on the warning labels referenced in section 4.

President Fey closed the Public Hearing.

Keith Macdonald noted that the lists of things that a pharmacist must counsel is unrealistic. One example specifically would be section 4(b), which reads, “Underutilization of the drug and therapeutic ineffectiveness.” Mr. Macdonald stated that underutilization is nothing that can be verified and asked the Board to consider removing the words “and therapeutic ineffectiveness” from the language.

Board Action:

Motion: Keith Macdonald moved to adopt the language to NAC 639.707 with the suggested minor changes.

Second: Leo Basch

Action: Passed Unanimously

13. Next Board Meeting:

October 14-15, 2009 – Las Vegas

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

Mary Lau asked Mary Staples about how NACDS stands on the coupon issue. Ms. Staples stated that she would research the issue and report back to the Board.

Liz Macmenamin asked if there might be five pharmacists they could recommend that would consider volunteering their time to help law enforcement identify returned drugs. They will be doing a public service taking unused prescription drugs back rather than

flushing them. Ms. Cramer said she would check with Larry Pinson to see if a fax broadcast could be sent to pharmacies providing he had all the information.

An out of state pharmacy student heard about the Your Success Rx program and asked if a pharmacy student could take the course. She was given Katie Johnson's information to contact her about that possibility.