

BOARD MEETING

at the

Airport Plaza Hotel
1981 Terminal Way
Reno, Nevada

March 3rd and 4th, 2010

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

Board Members Present:

Beth Foster	Kirk Wentworth	Mary Lau
Donald Fey	Chad Luebke	Kam Gandhi

Board Members Absent:

Keith Macdonald

Board Staff Present:

Larry Pinson	Jeri Walter	Carolyn Cramer	Keith Marcher
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CONSENT AGENDA

1. Approval of January 13-14, 2010, Minutes
2. Applications for Out-of-State MDEG – Non Appearance:
 - A. CoolSystems, Inc. – Alameda, CA
 - B. DAKL Management Solutions, LLC – Bridgeview, IL
 - C. Electrostim Medical Services, Inc. – Tampa, FL
 - D. Medtronic USA, Inc. – Memphis, TN
 - E. Primo Medical Supplies, Inc. – Encino, CA
 - F. Pulmocare Respiratory Services – Colton, CA
 - G. US Healthcare Supply LLC – Milford, NJ

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

- H. ANEWrx – Pittsburgh, PA
- I. Cardinal Health Pharmacy Services, LLC – Edinburg, TX
- J. Cardinal Health Pharmacy Services, LLC – Houston, TX
- K. Easy Clinic Lab & Rx Shop – Kahu Lui, HI

- L. Greer Pharmacy – Lenoir, NC
- M. PharMerica – Sacramento, CA
- N. United States Pharmaceutical Distributors, Inc. – Lewisville, TX

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

- O. Bard Electrophysiology Division, CR Bard Inc. – Lowell, MA
- P. Epic Pharma, LLC – Laurelton, NY
- Q. Jacobson Warehouse – Delano, PA
- R. Jacobson Warehouse – Memphis, TN
- S. KCI USA, Inc. – Fresno, CA
- T. Red River Wholesale Distribution – Franklin, TN
- U. Rising Pharmaceuticals, Inc. – Allendale, NJ
- V. X-Gen Pharmaceuticals, Inc. – Horseheads, NY

Applications for Nevada MDEG – Non Appearance:

- W. Easy Life Medical Equipment, Inc. – Las Vegas
- X. Orthopedic Motion, Inc. – Las Vegas

Application for Nevada Pharmacy – Non Appearance:

- Y. Advanced Isotopes of Nevada, LLC – Las Vegas

Discussion:

The consent agenda applications and supporting documents were reviewed.

Board staff asked that items 2H, I and S be pulled for discussion.

Board Action:

Motion: Mary Lau found the consent agenda application information to be accurate and complete and moved for approval of all items with the exception 2H, I and S.

Second: Kirk Wentworth

Action: Passed Unanimously.

Board staff has learned that AnewRx, Item 2H, has been doing business in Nevada prior to getting licensed. It was also noted that there was a pending court case in Pennsylvania.

Board Action:

Motion: Mary Lau moved to table this application and require an appearance for details regarding these circumstances.

Second: Beth Foster

Action: Passed Unanimously

The application for Cardinal Health Pharmacy Services, Inc., Item 2I, shows that their hours of operation will be during regular business hours, however Nevada law precludes that offsite order entry can only be done when the pharmacy is closed.

Board Action:

Motion: Mary Lau moved to table this application until the hours of operation can be clarified.

Second: Kam Gandhi

Action: Passed Unanimously

KCI USA, Inc., Item 2S, indicates that they will be shipping their products directly to patients and wholesalers are not allowed to do that under Nevada law.

Board Action:

Motion: Mary Lau moved to table this application until they can be advised of Nevada law regarding wholesalers shipping directly to patients.

Second: Beth Foster

Action: Passed Unanimously

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

Second: Beth Foster

Action: Passed Unanimously.

REGULAR AGENDA

3. Disciplinary Actions:

- A. Mindy Hsu, R.Ph (09-110A-RPH-N)
- B. Consolacion Pagayunan, R.Ph (09-110B-RPH-N)

- C. Michele Brucato, R.Ph (09-110C-RPH-N)
D. Wal-Mart Pharmacy #10-3729 (09-110-PH-N)

NOTE: Mary Lau recused from participation as Wal-Mart is a member of RAN. Beth Foster recused from participation as she employs Mindy Hsu.

Hal Taylor was present to represent Wal-Mart. The pharmacists were all present and represented themselves in this matter.

14 Exhibits were marked and accepted into the record.

Debbie Mack, representing Wal-Mart, Roger McHugh, physician, Georgianna Briggs, patient, Steve Dang, pharmacist, Joe Depczynski, Board inspector/investigator, Michele Brucato, Consolacion Pagayunan and Mindy Hsu appeared and were sworn by President Fey prior to answering questions or offering testimony.

Carolyn Cramer reviewed the details of this case. Hal Taylor stipulates that the pharmaceutical technician made the error at input, however noted that Wal-Mart cannot stipulate to what the doctor or patient discussed or any harm that may have been caused from this error. Mr. Taylor advised that Wal-Mart has learned from this mistake and has taken measures to correct the issues brought forth from this investigation.

Carolyn Cramer questioned Dr. McHugh. Dr. McHugh indicated that he specializes in neurology and was treating Ms. Briggs for a tremor in her arm and hand. Dr. McHugh ran tests on Ms. Briggs and found no indicators for Parkinson's disease. He determined that Ms. Briggs' tremor might be helped with the medication Primadone. Dr. McHugh wrote a prescription for 50 mg. tablets of primadone. He explained that he always writes prescriptions for primadone to begin with a dose of ½ tablet due to nausea in some patients. After the first dose, Ms. Briggs was directed to take one tablet twice daily. Ms. Briggs returned to his office one month later and advised Dr. McHugh that she still had the tremor. Dr. McHugh asked Ms. Briggs if she was taking the primadone as he prescribed and Ms. Briggs stated that she was taking prednisone, not primadone. Dr. McHugh testified that he worked with the pharmacist to determine how to reduce the dosage of prednisone. He ordered further lab tests and referred Ms. Briggs to an endocrinologist. Dr. McHugh advised that high doses of prednisone can cause problems, such as adrenal suppression, which could become a serious problem. Dr. McHugh did feel that Ms. Briggs should be able to recover from this error.

Mr. Taylor cross examined.

Ms. Brucato noted that she called the receptionist in Dr. McHugh's office to follow-up regarding the prednisone taper.

Carolyn Cramer called Ms. Briggs to testify. Ms. Briggs stated that she had initially gone to Dr. McHugh for hand tremors. She indicated that she had transferred all of her prescriptions to Wal-Mart because Mindy Hsu was a pharmacist in that pharmacy and that Ms. Hsu is a personal friend. Ms. Briggs also took her prescription for primadone to

Wal-Mart to be filled. Ms. Briggs described that she began having difficulty sleeping, terrible mood swings, weight gain and that she was constantly tired once she began taking the medication that she received from Wal-Mart. Ms. Briggs testified that she returned to Dr. McHugh's office one month later to see if the primadone was helping with her hand tremor. During that appointment she confided that she still had her hand tremor but she had other adverse affects from the medication she was taking. That was when it was discovered that an error had been made. Ms. Briggs returned to Wal-Mart after her appointment with a prescription to taper off the dosage of prednisone and a new prescription for primadone for the tremor. Ms. Briggs testified that she is still having swelling problems with her knees and hands. She had a MRI and a CAT scan on her knee, but she noted that most of her facial swelling had gone down. Ms. Briggs stated that the endocrinologist said that the adrenal glands seemed to be coming back on their own. She also indicated that she is hypoglycemic and that her blood sugar was uncontrollable while she was taking the prednisone.

Ms. Brucato noted for the record that the prescription took 40 minutes to fill rather than 20 minutes indicated by Ms. Briggs in her testimony.

The Board questioned Ms. Briggs.

Joe Depczynski was called by Ms. Cramer to testify. Mr. Depczynski described his duties as the Board's inspector/investigator. He noted that he requested pharmacy records and then went to the pharmacy to address the issues in Ms. Briggs complaint and go through the complete prescription processing procedures. Mr. Depczynski described the sequence of events leading up to the dispensing of Ms. Briggs prescription. At input the pharmaceutical technician erroneously selected prednisone from a dropdown list and became confused because of the strength of the test dose. The technician consulted with Ms. Hsu and then entered a test dose of 25 mg. The first Wal-Mart 4 Point Check was initiated by Ms. Hsu, however she failed to notice the drug error. She approved it and forwarded it to the fill queue. Another pharmaceutical technician attempted to fill Ms. Briggs prescription, however failed to locate 50 mg. prednisone on the stock shelf and ultimately exited out of the order and the prescription was returned to the fill queue. Another pharmaceutical technician attempted to fill Ms. Briggs prescription however she also failed to find 50 mg. prednisone and exited out of the order and notified pharmacist Pagayunan that a change in drug strength was needed to accommodate the available stock on hand. Ms. Pagayunan manually selected the prescription and changed the 50 mg. prednisone tablets to 10 mg. tablets and changed the directions from "Take one tablet by mouth twice daily after a test dose of one-half tablet" to "Take five tablets (50 mg.) by mouth twice daily after test dose of one-half tablet (25 mg.)". Ms. Pagayunan did not realize that she had made a calculation error on the half dose. She returned the prescription to the 4 Point Check for a pharmacist's review. Ms. Hsu retrieved the prescription for the second 4 Point Check and noticed the test dose error but was confused as to how to fix it. She exited the 4 Point Check and requested Ms. Brucato to make the necessary changes. Ms. Brucato initiated the third 4 Point Check and changed the directions to "Take five tablets (50 mg.) by mouth twice daily after test dose of two and a half tablets (25 mg.)". Ms. Brucato did not notice the drug error and exited out of the modified detail screen and the

4 Point Check. For unknown reasons the prescription was again returned to the 4 Point Check queue where it was retrieved by Ms. Hsu. Ms. Hsu exited the 4 Point Check and advised Ms. Brucato that her 4 Point Check had not yet cleared. Ms. Brucato re-entered the 4 Point Check and approved the prescription and it was again sent to the filling queue. At that point a technician retrieved the prescription from the fill queue and discovered that the prednisone brand selected was not in stock. She sent the prescription to trouble shooting for a change in NDC. Ms. Brucato retrieved the prescription and changed the NDC and sent it back to the fill queue for the fourth time. A technician filled the prescription with the new NDC without incident and the prescription was then sent to the visual verify queue to await a pharmacist's final approval. The Wal-Mart Activity Log showed that the prescription was retrieved for the visual verification by Ms. Brucato but she skipped that step and exited from the computer. Next the prescription was retrieved for the visual verification by Ms. Pagayunan but she cancelled out of the verification process and it was returned to the visual verification queue. Next Ms. Brucato manually pulled the prescription and completed the visual verification. She then printed the patient information leaflets to include with the prescription and counseled Ms. Briggs. Mr. Depczynski indicated that had the pharmacists followed the Wal-Mart Policies and Procedures this error would not have happened.

Hal Taylor called Steve Dang to testify. Mr. Dang is the pharmacy manager for this Wal-Mart and testified that he was the pharmacist that saw Ms. Briggs when she came into the pharmacy to advise them of the error they had made. Mr. Dang indicated that he contacted Dr. McHugh to discuss tapering Ms. Briggs off the prednisone.

Mr. Taylor presented Exhibit A, a Wal-Mart screen shot of what a pharmacist would see if they had a scanned prescription. Exhibit A was accepted into the record.

Mr. Taylor noted that the scanned prescription is always on the screen at input, through the 4 Point Checks and at the visual verification screen. Mr. Dang indicated the three pharmacists work well together and during a normal day they bounce things off each other and trust one another. Mr. Taylor asked Mr. Dang if there had been new procedures put in place since this incident and Mr. Dang testified that a new SOP checklist was implemented and all managing pharmacists had a meeting with the district manager to review the new checklist. The managing pharmacists returned to their respective stores and reviewed the changes with their staff.

Carolyn Cramer cross examined Mr. Dang and asked why the three pharmacists involved in this incident did not look at the scanned prescription that was on the screen each time someone 4 Point checked the prescription and he did not have an answer.

There were questions from the Board and Mr. Taylor had redirect.

Ms. Hsu noted for the record that you cannot tell if a prescription had been 4 Point Checked when you pull it up.

Ms. Brucato said that she had focused on the directions when she looked at the scanned prescription however now her practice is to focus on everything.

Carolyn Cramer asked if it was not her duty to ensure that a prescription was correct before it left the pharmacy and Ms. Brucato indicated that it was. Ms. Brucato stated that it was taking a long time to fill this prescription and since the patient was waiting she overlooked the drug and concentrated on the directions.

Hal Taylor cross examined and the Board questioned Ms. Brucato.

Carolyn Cramer gave closing remarks and asked the Board to find guilt in all three Causes of Action.

Mr. Taylor gave closing remarks and asked the Board not to find guilt in the Third Cause of Action pertaining to Wal-Mart because they had policies and procedures in place and the pharmacists in this instance did not follow them.

Ms. Brucato gave a closing statement and advised that this was uncharacteristic behavior in her practice of pharmacy and apologized for her part in this error.

Ms. Hsu gave a closing statement, apologized and noted that now she is more willing to call the doctor when she has issues with a prescription.

Ms. Pagayunan gave a closing statement, apologized and noted for the record that she did not do the 4 Point Check and should not be held responsible.

Board Action:

Motion: Kam Gandhi moved to find Ms. Hsu guilty of the First Cause of Action.

Second: Kirk Wentworth

Action: Passed Unanimously

Motion: Kam Gandhi moved to find Ms. Hsu guilty of the Second Cause of Action.

Second: Kirk Wentworth

Action: Passed Unanimously

Motion: Kam Gandhi moved to find Ms. Brucato guilty of the First Cause of Action.

Second: Kirk Wentworth

Action: Passed Unanimously

Motion: Kam Gandhi moved to find Ms. Brucato guilty of the Second Cause of Action.

Second: Kirk Wentworth

Action: Passed Unanimously

Motion: Kam Gandhi moved to find Ms. Pagayunan guilty of the First Cause of Action.

Second: No Second

Action: Motion Failed

Motion: Kirk Wentworth moved to find Ms. Pagayunan not guilty of the First Cause of Action.

Second: Don Fey

Action: Passed With One Negative Vote

Motion: Kirk Wentworth moved to find Ms. Pagayunan not guilty of the Second Cause of Action.

Second: No Second

Action: Motion Failed

Motion: Kam Gandhi moved to find Ms. Pagayunan guilty of the Second Cause of Action.

Second: Don Fey

Action: Passed With One Negative Vote

Motion: Kam Gandhi moved to find Wal-Mart #10-3729 not guilty of the Third Cause of Action.

Second: Don Fey

Action: Passed Unanimously

Motion: Kirk Wentworth moved in the First and Second Causes of Action to have Ms. Hsu go through the Your Success Rx program and pay one half of the fees and costs in this matter.

Second: Don Fey

Action: Motion Failed

Motion: Kam Gandhi moved in the First and Second Causes of Action to fine Ms. Hsu \$750.00, have her go through the Your Success Rx program and pay half of the fees and costs in this matter.

Second: Kirk Wentworth

Action: Passed Unanimously

Motion: Kam Gandhi moved in the First and Second Causes of Action to fine Ms. Brucato \$750.00, have her go through the Your Success Rx program and pay half of the fees and costs in this matter.

Second: Kirk Wentworth

Action: Passed Unanimously

Motion: Kirk Wentworth moved in the Second Cause of Action to fine Ms. Pagayunan \$500.00.

Second: Kam Gandhi

Action: Passed Unanimously

E. Tyler J. Dines, PT (10-004-PT-N)

Tyler Dines appeared and was sworn by President Fey prior to answering questions or offering testimony.

Carolyn Cramer reviewed the circumstances of this matter for the Board and presented two exhibits. Exhibit 1, DEA report and Exhibit 2, Managing Pharmacist's written statement. Mr. Dines agreed to the exhibits and they were marked and accepted into the record.

Mr. Dines testified that the circumstances as written in the Accusation were true but had no explanation as to why he had taken a bottle of Tussionex, that was to be returned to stock, into the bathroom of the pharmacy and consumed a small amount of it. Mr. Dines indicated that he had never done anything like that before and could not explain his actions. The Board asked Mr. Dines if he had ever taken any other drugs from the pharmacy for his personal use and he indicated that he had not. Mr. Dines acknowledged that what he did was wrong and asked the Board for another opportunity to continue his practice as a pharmaceutical technician.

Board Action:

Motion: Kam Gandhi moved to find Mr. Dines guilty of the alleged violation.

Second: Beth Foster

Action: Passed Unanimously

Motion: Kam Gandhi moved to suspend Mr. Dines' pharmaceutical technician registration until he is evaluated by PRN-PRN and reappears before the Board with Larry Espadero, PRN-PRN monitor, for his conclusion.

Second: Beth Foster

Action: Passed Unanimously

F. Jessica Avery, PT (09-085-PT-N)

Carolyn Cramer noted that Ms. Avery was noticed for the appearance today, however she was not present.

Ms. Cramer advised the Board that John Warren, Kelly Schott, and Joe Depczynski were present to testify if the Board felt the necessity.

Fourteen Exhibits were admitted and accepted into the record in this matter.

Ms. Cramer advised the Board that staff was notified by Ms. Avery's ex-boyfriend that he was in possession of drugs that Ms. Avery had obtained from two of her previous employers and he wanted to get rid of them. He sent them to Joe Depczynski, the Board's inspector/investigator, and Mr. Depczynski investigated. He found that Sierra Surgery Hospital identified the lot numbers for Midazolam, Ketamine and Meperidine as being consistent with those used at their facility and Carson Tahoe Regional Medical Center confirmed that lot numbers for Cyclobenzaprine, Haloperidol and Metaxalone matched those in their pharmacy stock. In a written statement Ms. Avery claimed that her ex-boyfriend threatened to get her fired from her jobs and have her children taken away from her if she did not obtain drugs for him.

Board Action:

Motion: Mary Lau moved to find Ms. Avery guilty of the alleged violations.

Second: Kam Gandhi

Action: Passed Unanimously

Motion: Mary Lau moved to revoke Ms. Avery's pharmaceutical technician registration.

Second: Kam Gandhi

Action: Passed Unanimously

4. Requests for Reinstatement of Pharmacist License – Appearance:

A. Thomas Danson

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

NOTE: Beth Foster recused from participation as she employs Mr. Danson's wife.

Mr. Danson indicated that he is basically retired now, however indicated that he may like to work on a part time basis to occasionally fill in for someone that needs to take time off. Mr. Danson stated that he can only earn a small amount of money since he is receiving social security benefits so he was not looking for full time work. He indicated that he would be privileged to have his pharmacist license reinstated.

Mr. Espadero testified that for the first time Mr. Danson is truly involved in the PRN-PRN program. He stated that when a member of PRN-PRN indicates that he wants to come before the Board to request reinstatement he increases their monitoring. Mr. Espadero indicated that Mr. Danson has shown true dedication to his program and would like redemption by making it right with himself and the Board. Mr. Espadero recommended reinstatement of Mr. Danson's pharmacist license.

Chad Luebke asked Mr. Danson what really happened at NNMC – the last hearing that revoked his license. Mr. Danson admitted that he was vague when he answered questions at that hearing because he did not want to admit that he had been diverting drugs for his personal use, however he admitted that everything the Board accused him of was true.

Mr. Danson testified how the PRN-PRN program has helped him learn about himself and to use coping skills. He finds his family supportive and they hold him accountable for his actions and behavior. Mr. Danson indicated that he has a sponsor and is very involved in the PRN-PRN program.

Larry Pinson expressed his disappointment in Mr. Danson's performance at the NNMC hearing. He considered Mr. Danson a friend and that he let Mr. Pinson down. Mr. Danson apologized to Mr. Pinson and indicated that he is ready to practice pharmacy again because he is stronger now than he has ever been and asked the Board to consider reinstatement of his pharmacist license.

Board Action:

Motion: Chad Luebke moved to reinstate Mr. Danson's pharmacist license with restrictions: 1) Mr. Danson needs to catch up on his CE's and provide 45 CE's to Board staff when they are complete; 2) Extend Mr. Danson's PRN-PRN contract two more years for a total of five years; 3) Inform any potential employers of this Board's Order and not practice as a managing pharmacist; and 4) Mr. Danson must work with another person in the pharmacy – either another pharmacist or a pharmaceutical technician.

Second: Kam Gandhi

Action: Passed Unanimously

B. Cindy Vert

Cindy Vert appeared and was sworn by President Fey prior to answering questions or offering testimony.

Larry Espadero was reminded that he was still under oath. Mr. Espadero testified that Ms. Vert had a revelation at the last hearing when her pharmacist license was revoked. She finally understood the gravity of her actions and has stepped up and taken responsibility. Mr. Espadero indicated that she has been very positive in the last year, unlike her previous involvement with PRN-PRN.

Ms. Vert testified that she became complacent the first time she was with the PRN-PRN program and was walking through her program without any dedication to it. For the past year Ms. Vert indicated that she has a strong support group and is genuinely participating in the program. She indicated that she was careless and realizes now that she needs to be held responsible for her actions.

The Board indicated that when they revoked her license they found her testimony incredible about confusing Vicodin with a vitamin. They could not believe that a pharmacist could make a mistake like that. Ms. Vert admitted that she did take the Vicodin however she was not paying attention to what she was doing. The Board questioned her regarding her CE. Ms. Vert stated that she has completed 26 CE's and that she reads the trade magazines.

Board Action:

Motion: Chad Luebke moved to reinstate Ms. Vert's pharmacist license with restrictions: 1) Ms. Vert needs to provide copies of her CE's to Board staff; 2) Extend Ms. Vert's PRN-PRN contract two more years; 3) Inform any potential employers of this Board's Order and not practice as a managing pharmacist; 4) Ms. Vert must work with another person in the pharmacy – either another pharmacist or a pharmaceutical technician; and 5) Not work more than 90 hours in a two week period.

Second: Mary Lau

Amendment: Kam Gandhi moved to amend the motion to include that Ms. Vert reappear at the June, 2010 Board meeting for an update on her reinstatement.

The First and Second accepted the Amendment

Action: Passed Unanimously

5. Request for Reinstatement of Pharmaceutical Technician – Appearance:

Celeste Martinez

Celeste Martinez appeared and was sworn by President Fey prior to answering questions or offering testimony.

Ms. Martinez testified that she had a drug problem and went into a 90 day inpatient treatment program after she was terminated from employment at Scolari's. That was the reason she did not appear before the Board for her hearing in June, 2008. Ms. Martinez also was unaware of a warrant that was out for her arrest because she was in the treatment program. When she was released she went through drug court and is now in the final phase of that program. Ms. Martinez indicated that she was drug tested regularly and that she has complied with all requirements of the Court. Ms. Martinez asked the Board to consider giving her pharmaceutical technician registration back as her goal is to become a pharmacist.

The Board questioned Ms. Martinez about what kind of programs she participates in and she indicated that she appears before the Judge in drug court once a month to report her progress, she attends four or five 12 step meetings a week and now has her family's support. Ms. Martinez indicated that she had to prove herself to her family for them to trust her again.

Board Action:

Motion: Mary Lau moved to table the request for reinstatement until June and require Ms. Martinez to have a PRN-PRN evaluation.

Second: Kam Gandhi

Action: Passed Unanimously

6. Applications for Out-of-State Pharmacy – Appearance:

A. BioRx – Urbandale, IA

BioRx cancelled their appearance and will reschedule to the June Board meeting.

B. Precision Pharmacy – Bakersfield, CA

Patrick Wade, owner, appeared and was sworn by President Fey prior to answering questions or offering testimony.

Mr. Wade described his business practice in California. He indicated that they make sterile injectables for horses. Precision Pharmacy is currently licensed in 42 states and has been providing their products from their Bakersfield, California facility since 2005. The Board advised Mr. Wade that his injectable products needed to be patient (horse) specific and that he cannot ship bulk into Nevada without a wholesaler license. Mr. Wade acknowledged that he understood and indicated that he would not ship in bulk.

Board Action:

Motion: Kam Gandhi moved to accept the application for Precision Pharmacy.

Second: Kirk Wentworth

Action: Passed Unanimously

7. Applications for Nevada MDEG – Appearance:

A. Hathaway Medical – Las Vegas

Michael Hathaway, facility administrator, appeared and was sworn by President Fey prior to answering questions or offering testimony.

Mr. Hathaway indicated that he had worked for DJ Orthopedics in the bone growth stimulator business for several years and is now branching out on his own. Bone growth stimulators is the only product he will carry in his MDEG facility. Mr. Hathaway described why bone stimulators are prescribed and how bone growth stimulators are used for a patient's therapy.

Board Action:

Motion: Beth Foster moved to approve the MDEG application for Mr. Hathaway.

Second: Kirk Wentworth

Action: Passed Unanimously

B. Three Wishes Inc. – Las Vegas

Dennis Karnes appeared and was sworn by President Fey prior to answering questions or offering testimony.

Carolyn Cramer explained that Mr. Karnes had previously applied for an MDEG license with the Board, however withdrew his application until he was more prepared to open a facility.

Mr. Karnes answered questions regarding his business practice to the Board's satisfaction.

Board Action:

Motion: Mary Lau moved to approve the MDEG application for Three Wishes.

Second: Beth Foster

Action: Passed Unanimously

8. Applications for Nevada Pharmacy – Appearance:

A. Biomed Pharmaceuticals – Las Vegas

Russell Lubriani appeared and was sworn by President Fey prior to answering questions or offering testimony.

Mr. Lubriani described the business practice and shipping methods used at Biomed Pharmaceuticals. Mr. Lubriani indicated that they serve patients who suffer from hemophilia. The Board questioned Mr. Lubriani regarding parenterals because it was checked on his application. Mr. Lubriani indicated that they were not planning to prepare parenterals.

Board Action:

Motion: Kirk Wentworth moved to accept the application for pharmacy from Biomed Pharmaceuticals with the removal of parenterals from the paperwork.

Second: Kam Gandhi

Action: Passed Unanimously

B. Pathway Specialty Compounds – Las Vegas

Vernon Gettys, president, and Kenton Crowley, pending managing pharmacist, appeared and were sworn by President Fey prior to answering questions or offering testimony.

Mr. Gettys described his professional career in the healthcare field and answered questions regarding his involvement with Pathway Specialty Compounds. Mr. Crowley

answered questions regarding the products Pathway planned to compound and who their marketing was directed toward. He indicated that they were planning to do hormone replacement products for now and would like to expand into doing parenterals in the future.

Board Action:

Motion: Kam Gandhi moved to accept the application for Pathway Specialty Compounds.

Second: Kirk Wentworth

Action: Passed Unanimously

9. Application for Nevada Pharmacy – Non Appearance:

Smoke Ranch Surgery Center – Las Vegas

Ms. Cramer advised the Board that she received information regarding the law suit involving Dr. Grover and noted that it was a malpractice case that had been resolved.

Board Action:

Motion: Beth Foster moved to accept the application for pharmacy for Smoke Ranch Surgery Center.

Second: Kirk Wentworth

Action: Passed Unanimously

10. Requested Appearances:

A. R. Kelly Hansen, Hospital Corporation of America (HCA)

Chad Luebke took over for President Fey as he recused from participation on this agenda item as he is employed by HCA. Kam Gandhi disclosed that he works for Specialty Surgicare as a consultant pharmacist.

Kelly Hansen, Division Director of Pharmacy for HCA, Peter VanNess, Director of Centralized Order Entry Pharmacy in Denver, Colorado, and Jim Blue Director of COE Pharmacy in Nashville, Tennessee, appeared and were sworn by Chad Luebke prior to answering questions or offering testimony.

Larry Pinson advised the Board that he received a letter from Mr. Hansen in January requesting an appearance and originally he thought they were going to request centralized order entry from one hospital to another in Las Vegas. He did a little research and found that this is a nationwide program and that the centralized order

entry facilities are not located in Nevada. Nevada law does not allow this practice. If a hospital has a pharmacy they can only provide remote order entry if the pharmacy is closed but the model HCA is proposing is not allowed per our current laws. Mr. Pinson asked the Board to hear the presentation and then make a determination if regs should be written to allow this practice.

Mr. Hansen stated that they have 160 hospitals across the United States and that 80 of them currently utilize the five remote order entry pharmacies. They are currently licensed in 23 states and 13 of those states allow this practice. Mr. Hansen further indicated that studies have shown that this practice of Centralized Order Entry (COE) enhances the practice so pharmacists can be more clinically astute and involved in the care of their patients. Mr. VanNess and Mr. Blue gave testimony as to how the practice works in Colorado and Tennessee for the hospitals they serve.

Adam Porath and Robert Long, representing the Nevada Society of Health-System Pharmacists, appeared and were sworn by President Fey prior to answering questions or offering testimony.

Mr. Porath and Mr. Long both voiced concerns about delays in patient care and safety if this procedure were allowed. They gave instances where this practice would impede the patient's care and ultimately require a local pharmacist to intervene in the completion of a remote order entry chart order and they may as well do it locally. They find no evidence that this practice would allow for more time to perform clinical services; on the contrary they would be dealing with problems and orders that were on hold. They recommend that the Board defer any decisions at this time and do a more comprehensive review of this practice when they rework the hospital regulations.

Board Action:

Motion: Beth Foster moved to look at this practice again when Board staff begins reworking the hospital regulations.

Second: Kam Gandhi

Action: Passed With One Negative Vote

B. Paul Vitkus – St Mary's Regional Medical Center

Paul Vitkus appeared and was sworn by President Fey prior to answering questions or offering testimony.

Mr. Vitkus appeared to request an extension for St. Mary's to comply with the March 18, 2010 deadline to be compliant with the Compounding reg requirements of having a functional clean room. He provided the Board with copies of the planned pharmacy clean room floor plan. Mr. Vitkus advised the Board that he went to his superiors at St. Mary's to make the request numerous times and advise them of the deadline for having a compliant clean room, however they did not heed his requests. The CFO has finally

allotted the funds for a clean room, and they now have permits to deconstruct and construct the clean room, however it cannot be accomplished by March 18th.

Mr. Vitkus was advised that when the Board passed the Compounding regs they were aware that hospitals could not produce an instant clean room which is why they allowed 18 months to comply. It was noted that this is the first deficiency brought to the Board's attention and probably will not be the only hospital pharmacy that is non-compliant. In all probability, more will be found during inspections.

Board Action:

Motion: Kam Gandhi moved to have Board staff write a letter to Mr. Vitkus advising him that interim provisions need to be made for compliance with the Compounding regs requirement of having a clean room.

Second: Mary Lau

Action: Passed Unanimously

11. General Counsel Report

Carolyn Cramer cited a Florida case involving Walgreens where a pharmaceutical technician made an error at input that was not caught by the pharmacist. The patient received and ingested ten times the amount of warfarin that was prescribed. The court awarded a \$25.8 million judgment in that case and when they took it to appeal, the court upheld the judgment. She also described another case against Rite Aid where a patient was awarded \$2.5 million for an ingested misfill caused by a pharmaceutical technician.

Ms. Cramer also advised the Board that she was going to speak to a group of veterinarians.

12. 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

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

- D. Staff Activities

1. Meetings

- a. MDEG Committee (1/19/10)

This was the quarterly meeting and nothing in particular came out of it to bring forth.

- b. LCHH working group (2/3/10)

- c. LCHH (2/17/10)

AB326 from the 2009 session mandated that we, along with the Board of Medical Examiners and the Board of Osteopathic Medicine work together to address the

escalating problem of prescription drug abuse in Nevada. To that end, Mr. Pinson formed and chaired a workgroup which held its first meeting with the goal of exploring the problem; identifying the issues that contribute to prescription drug abuse; then coming forth with draft legislation to address the problem. It became evident to the group that this issue is overwhelming in scope and will be quite challenging, especially with the lack of any available funds.

- d. Speaking Engagement – Nevada Osteopathic Medical Association (1/22/10)
- e. Speaking Engagement – Northern Nevada Dental Society (2/11/10)
- f. Speaking Engagement – Northern Nevada Practice Managers Association (3/9/10)

Mr. Pinson spoke to all three groups and gave them an overview of the purpose and function of the Board of Pharmacy, as well as addressing prescription drug abuse in Nevada.

- E. Reports to Board
 - 1. Opinion request on hCG

The Board of Medical Examiners asked Mr. Pinson to opine on hCG.

- 2. Student rotations

The Board of Pharmacy staff will host students from Idaho State University and Creighton University for six to eight week rotations.

- F. Board Related News
 - 1. Pharmacists given new power in Nova Scotia.

Pharmacists in Nova Scotia have been given the power to write prescriptions for minor ailments and will loosen the strict conditions for changing existing prescriptions.

- G. Activities Report

13. Delegate for NABP

Board Action:

Motion: Kam Gandhi moved to appoint Beth Foster as the delegate and Kirk Wentworth as the alternate for the NABP Annual Meeting.

Second: Mary Lau

Action: Passed Unanimously

14. CE Committee Report

Larry Pinson advised the Board that two programs were discussed at the CE Committee meeting. One was “Pharmacy Safety and Security” and the other was “Reducing the Risk of Sudden Infant Death Syndrome (SIDS)” and Mr. Pinson asked the Board for approval of these programs.

Board Action:

Motion: Beth Foster moved to accept the recommendation of the CE Committee and approve the two programs described.

Second: Mary Lau

Action: Passed Unanimously

15. Discussion and Determination:

Pharmacists Filling Their Own Prescriptions

Larry Pinson noted that Kam Gandhi had requested this topic be placed on the agenda for discussion. Mr. Pinson indicated that ethically it is probably not a good idea for pharmacists to fill their own prescriptions if there is another pharmacist available. There are many circumstances to consider, however, such as the only pharmacy/pharmacist in a rural setting. Would he have to drive 200 miles to take his prescription to another pharmacy or could he fill his own? Carolyn Cramer reminded the Board that first and foremost there needs to be a legitimate written prescription. If the Board wanted to prohibit pharmacists from filling their own prescriptions they would have to write regs since there is nothing in Nevada law presently to prohibit this practice. After discussion it was determined that policies and procedures set by the individual pharmacies should be adequate without changing our laws.

WORKSHOP

16. **Proposed Regulation Amendment Workshop**

- 1. Amendment of Nevada Administrative Code 639.NEW Telepharmacy Regulation** This language sets the parameters for a pharmacist or dispensing practitioner to practice from a remote site.

Carolyn Cramer advised the Board that the language before them was derived from their suggestions at the last Workshop.

Liz Macmenamin asked for clarification on the definition of service. Lillian Shell asked for clarification on initials for labels and Carolyn Cramer read comments provided by Roy Elsner. The Board and staff clarified the two questions raised and President Fey asked for a motion.

Board Action:

Motion: Mary Lau moved to continue the process and move to Public Hearing.

Second: Kirk Wentworth

Action: Passed Unanimously

2. **Amendment of Nevada Administrative Code 639.525 Minimum requirements for work area and equipment.** This amendment will require the temperature of the pharmacy's refrigerator to be monitored and logged to ensure biologicals are protected for patient safety.

Chris Smith appeared from the Department of Health and indicated that vaccines are also at issue in the need for checking the temperature in pharmacy refrigerators. She would suggest the refrigerator be checked twice a day. If the vaccines temperature is lower than 35 degrees they could freeze and if they are maintained at a temperature over 46 degrees it is too warm and the vaccines could become ineffective. Ms. Smith added that pharmacists partnering with them to give immunizations in the community has been a huge help reducing their enormous volume.

Liz Macmenamin asked if pharmacies can use their own logs or if they had to use what was included in the Board book. Carolyn Cramer noted that she included examples in the Board book provided by the Department of Health, however if a pharmacy already has a log, that is acceptable as long as it is used.

Russ Smith appeared and noted that if a product goes out of temperature in their stores they call the manufacturer. He has found that some of the products need to be returned to the manufacturer and others just need to be destroyed.

After more discussion, Board staff was directed to re-workshop this regulation amendment.

17. Next Board Meeting:

April 14-15, 2010 – Las Vegas, Nevada

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

There were no public comments.