

BOARD MEETING

at the

Airport Plaza Hotel
1981 Terminal Way
Reno, Nevada

December 1st and 2nd, 2010

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	Cheryl Blomstrom

Board Members Absent:

Kam Gandhi

Board Staff Present:

Larry Pinson	Jeri Walter	Carolyn Cramer	Keith Marcher
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CONSENT AGENDA

1. Approval of October 13-14, 2010, Minutes
2. Applications for Out-of-State MDEG – Non Appearance:
 - A. Air-Way Medical Inc. – Bishop, CA
 - B. A Natural Image, LLC – Manchester, CT
 - C. Cascade Prosthetics and Orthotics, Inc. – Ferndale, WA
 - D. Classic Sleepcare, LLC – Agoura Hills, CA
 - E. Foundation Care LLC – Earth City, MO
 - F. Lincare Inc. – Clearwater, FL
 - G. Medtronic USA, Inc. – Jacksonville, FL
 - H. Medtronic USA, Inc. – Mystic, CT
 - I. Physio-Control, Inc. – Redmond, WA
 - J. R&J Medical Sales, Inc. – Syosset, NY

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

- K. Baxter Healthcare Corporation – Baxter, CA
- L. Baxter Healthcare Corporation – Ontario, CA
- M. Baxter Healthcare Corporation – Wilsonville, OR
- N. Braun Pharmacy – Chicago, IL
- O. California Pet Pharmacy – Hayward, CA
- P. Capital Rx, Inc. – Sacramento, CA
- Q. CHS Pharmacy – Vancouver, WA
- R. Global Medical Direct – Lenexa, KS
- S. Specialty Veterinary Pharmacy – Houston, TX

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

- T. Baxter Healthcare Corporation – Buffalo Grove, IL
- U. Camber Pharmaceuticals Inc. – Piscataway, NJ
- V. Centurion Medical Products Corporation – Kennesaw, GA
- W. Genzyme Corporation – Cambridge, MA
- X. Clean Harbors of Aragonite, LLC – Aragonite, UT
- Y. Darby Dental Supply, LLC – Guilderland Center, NY
- Z. Pernix Therapeutics, LLC – Magnolia, TX
- AA. Stericycle – Norcross, GA
- BB. Tri-anim Health Services Inc. – Denver, CO
- CC. Vidacare Corporation – Shavano Park, TX
- DD. Wockhardt USA LLC – Parsippany, NJ

Applications for Nevada Pharmacy – Non Appearance:

- EE. Advanced Care Rx Pharmacy 2 – Las Vegas
- FF. Assist Care Pharmacy Inc. – Las Vegas
- GG. Catalyst Mail – Las Vegas
- HH. MLK Pharmacy – Las Vegas
- II. Spectrum Pharmacy Services LLC – Las Vegas
- JJ. Spectrum Pharmacy Services LLC – Reno

Discussion:

The consent agenda applications and supporting documents were reviewed. Carolyn Cramer brought several issues to the Board's attention regarding Items B, E, F, U and EE.

Board Action:

Motion: Keith Macdonald found the consent agenda application information to be accurate and complete and moved for approval with the exception of Items B, E, F, U and EE which are to be tabled until further information is received or applications have been corrected.

Second: Cheryl Blomstrom

Action: Passed Unanimously.

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

Second: Kirk Wentworth

Action: Passed Unanimously.

REGULAR AGENDA

3. Disciplinary Actions:

A. William J. Mumbert, R.Ph (10-079-RPH-N)

William Mumbert and Larry Espadero appeared and were sworn by President Foster prior to answering questions or offering testimony.

Carolyn Cramer advised the Board that she, Mr. Mumbert and Mr. Espadero had spoken prior to this matter being called. She indicated that Mr. Mumbert is not contesting the allegations in the Accusation. Ms. Cramer recommended revocation of Mr. Mumbert's pharmacist license.

Mr. Espadero testified that after Mr. Mumbert was terminated from employment he re-joined the PRN-PRN program. He also indicated that he did not feel Mr. Mumbert should practice pharmacy at this point.

Board Action:

Motion: Keith Macdonald moved to accept the agreement as pled.

Second: Russ Smith

Action: Passed Unanimously

Motion: Kirk Wentworth moved to revoke Mr. Mumbert's pharmacist license.

Second: Keith Macdonald

Action: Passed Unanimously

B. Enrique A. Romero, R.Ph (10-050A-RPH-N)
C. Edwin Gonyou, R.Ph (10-050B-RPH-N)
D. Farideh Forouziannia, R.Ph (10-050C-RPH-N)

Enrique Romero, Edwin Gonyou and Farideh Forouziannia appeared and were sworn by President Foster prior to answering questions or offering testimony.

NOTE: Russ Smith recused from participation as he is an employee of Walgreens as are Mr. Romero, Mr. Gonyou and Ms. Forouziannia.

Rob Graham was present to represent the Respondents.

Carolyn Cramer gave opening statements and gave an overview of this case.

Mr. Graham contested the counseling issue in this matter regarding Ms. Forouziannia and asked that the Third Cause of Action be dismissed.

Kathy Grenert appeared and was sworn by President Foster prior to answering questions or offering testimony.

Sixteen Exhibits were presented by Carolyn Cramer and accepted into the record.

Ms. Grenert testified that she was prescribed estradiol for hormone replacement therapy. Her physician gave her a 30 day sample supply before he gave her a prescription to see if they would work to control her symptoms. Ms. Grenert took the supply of estradiol she was given for 30 days and contacted her physician and advised that the estradiol had worked well for her. Ms. Grenert was then given a prescription for estradiol and she took it to Walgreens #2662 to be filled. Ms. Grenert testified that when she brought the medication she was given at Walgreens #2662 home, she noticed that the estradiol looked different than what she had received from her physician. Ms. Grenert described the tablets she received from Walgreens #2662 as being larger and a different color blue than what she received from her physician. Ms. Grenert attributed the difference in appearance to a different manufacturer and began taking the larger tablets as directed. Soon after she began taking the medication she received from Walgreens #2662 she began to experience frequent hot flashes. Thinking that she may have received something other than estradiol she called Walgreens #2662 and spoke with Mr. Romero. When she questioned the difference in the appearance between the estradiol she was given by her physician and what she received from Walgreens #2662 she was assured by Mr. Romero that she had the correct medication and that the manufacturer was the same. Mr. Romero suggested that perhaps the size difference was with the formulation of the product. Ms. Grenert continued to take the medication until the severity of the hot flashes became increasingly worse. Ms. Grenert called Walgreens #2662 because she was concerned that she might be taking the wrong medication because the estradiol that her physician gave her worked well and this was not working at all. Again, Ms. Grenert spoke with Mr. Romero and she testified that she felt he was talking down to her and that she did not know what she was talking about. He reiterated that Walgreens #2662 had dispensed the correct medication to her. Mr. Romero advised her to see her physician. Ms. Grenert telephoned her physician's office and spoke with medical assistant Kelly Gregory and explained her concerns regarding the medication that she was taking. Ms.

Gregory then called the pharmacy and spoke with Mr. Romero. Again Mr. Romero was questioned regarding Ms. Grenert's prescription for estradiol. Mr. Romero, again, attested to Ms. Gregory that Ms. Grenert was given the correct medication. Ultimately, Mr. Romero told Ms. Gregory to have Ms. Grenert come to the pharmacy with the medication she was dispensed from Walgreens #2662 and they would identify it. Ms. Grenert testified that when she went to Walgreens #2662, Mr. Romero had already left for the day and she spoke with William Ruebusch, who confirmed that Ms. Grenert had been given the wrong medication. Ms. Grenert had been taking blood pressure medication, enalapril, for almost a month which is why her hormone replacement therapy was not being treated.

Mr. Graham cross examined Ms. Grenert and asked her to identify the pictures of estradiol and enalapril on one of the Exhibits. Mr. Graham questioned Ms. Grenert regarding the phone calls she had made when she spoke with Mr. Romero and what her recollection was regarding those conversations.

The Board questioned Ms. Grenert.

Kelly Gregory appeared and was sworn by President Foster prior to answering questions or offering testimony.

Ms. Gregory testified that she is a medical assistant in Ms. Grenert's physician's office, Dr. Shumacher. Ms. Gregory stated that Ms. Grenert telephoned their office and indicated that she was experiencing adverse side effects from the medication that she was taking. Ms. Grenert also stated that she was concerned that the medication did not appear to be the same as she was given by her physician. Ms. Gregory telephoned Walgreens #2662 and spoke with Mr. Romero. Ms. Gregory testified that Mr. Romero was adamant that Kathy Grenert and Ms. Gregory were both wrong and Kathy Grenert had received the correct medication. Ms. Gregory advised that Mr. Romero told her to have Ms. Grenert bring the medication into the pharmacy and they would identify it. Ms. Gregory then advised Ms. Grenert to take the medication to the pharmacy for identification.

Mr. Graham asked Ms. Gregory about the timeframe between calling the pharmacy and speaking with Mr. Romero and when he called her back. Ms. Gregory testified that she received a call from another pharmacist regarding the error the same day and a call from Mr. Romero the following day, with an apology.

The Board questioned Ms. Gregory.

Joe Depczynski appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Depczynski described his service with the Board and described the steps he takes when he conducts an investigation. Carolyn Cramer asked Mr. Depczynski to describe each of the 16 Exhibits for the Board. Mr. Depczynski described the Walgreens procedures and found they were in order and this matter appeared to be a staff issue.

Rob Graham cross examined Mr. Depczynski and asked him to look at Exhibit 13 and stated that he felt that the look alike bottles of medication was frightening and could see how errors occur. The bottle of enalapril and the bottle of estradiol were identical except for the name of the product. Mr. Graham asked Mr. Depczynski if Ms. Grenert and Ms. Gregory had embellished their testimony compared to his interviews with them. Mr. Depczynski indicated that their testimony was consistent with their interviews.

Keith Macdonald indicated how difficult it was to remember what happened in any given prescription fill transaction since they do so many. He also indicated how dependant they are on the medication barcode and the inability to scan more than one bottle for a single prescription was a handicap. If a second scan could have been made, this error would not have happened because the barcodes would not match.

Carolyn Cramer asked the Board to dismiss the Third Cause of Action regarding counseling against Ms. Forouziannia. Ms. Cramer also gave a statement regarding the affect this error had upon Ms. Grenert.

Mr. Graham advised the Board that Mr. Romero and Mr. Gonyou were long practicing pharmacists.

Mr. Graham asked Mr. Gonyou what he has done to ensure accuracy in his pharmacy practice since this incident. Mr. Gonyou indicated that he has slowed his process down to ensure he is more aware of each step he is taking rather than just filling from habit. Mr. Gonyou advised the Board that he has been practicing pharmacy since he had to use a typewriter for labels. He indicated that now the pharmacy staff is completely dependent on the computer.

Mr. Graham asked Mr. Romero to describe his communication practices. Mr. Romero indicated that he is not really rude, but perhaps he is perceived to be rude because of his Filipino culture. He indicated that he is very serious about his profession but he did not mean to demean either Ms. Grenert or Ms. Gregory. He was going completely from what he saw in the computer, however looking at the circumstances now, he can see how he should have handled this situation. He was given several opportunities to have Ms. Grenert bring the medication in for identification to be sure that a mistake had not been made and he did not take any of those opportunities. Mr. Romero indicated that he is looking into taking a communication course to improve his communication skills.

Carolyn Cramer gave closing statements and recommendations. Her recommendation for Mr. Gonyou was to work with Katie Johnson and the Your Success Rx program to help develop policies and procedures in conjunction with Walgreens with regard to filling a prescription from more than one stock bottle. For Mr. Romero, she suggested a choice of a \$5,000.00 fine plus fees and costs or a 30 day suspension, given the fact that Mr. Romero had so many opportunities to address Ms. Grenert's concerns about her prescription, and failed to do so.

Rob Graham gave closing statements and noted that Mr. Gonyou is fine with working with Ms. Johnson and the Your Success Rx program to implement policies and procedure for Walgreens to help improve pharmacy practices. Since Mr. Romero did not make the mistake, Mr. Gonyou did, Mr. Graham feels that a \$5,000.00 fine or a 30 day suspension is too severe since he did not make the mistake and thinks that training for Mr. Romero would be a more appropriate action. Mr. Graham advised the Board that Mr. Romero had not had an error in 16 years of practice and suggested that Your Success Rx or Interpersonal Communications which relates directly to listening to the patient would be a more appropriate discipline for Mr. Romero.

Board Action:

Motion: Kirk Wentworth moved to find Mr. Romero guilty of the First Cause of Action.

Second: Keith Macdonald

Action: Passed Unanimously

After several tries at a penalty motion, the following was ordered:

Motion: Jody Lewis moved to fine Mr. Romero \$1,000.00 plus fees and costs and enroll in the Your Success Rx program. After that program is completed, have Katie Johnson report back to Board staff if an interpersonal communication program is needed.

Second: Cheryl Blomstrom

Action: Passed Unanimously

Motion: Keith Macdonald moved to find Mr. Gonyou guilty of the Second Cause of Action.

Second: Cheryl Blomstrom

Action: Passed Unanimously

Motion: Keith Macdonald moved to fine Mr. Gonyou \$500.00 and work with Your Success Rx to ensure policies and procedures are put in place in his pharmacy with regard to filling a prescription from more than one stock bottle.

Second: Cheryl Blomstrom

Action: Passed Unanimously

4. Request to Amend Order – Appearance:

Jiansheng “Jason” Li

NOTE: Jody Lewis recused from participation as she is employed by CVS – the pharmacy chain that employed Mr. Li prior to his dismissal.

Jason Li appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Li appeared with his legal counsel, Hal Taylor.

Carolyn Cramer described the circumstances of this case for the new Board members and advised that Mr. Li is requesting an amendment to his Order to allow him to attend Board meetings in Texas rather than Nevada since he is now living there. Ms. Cramer also noted that Mr. Li was going to meet with Katie Johnson the next day to discuss the requirement of participating in the Your Success Rx program.

Mr. Li testified that he met with Katie Johnson the end of October and began the Your Success Rx program, even though he did not have a job in which she could observe his work habits. Mr. Li acknowledged that he was meeting with her again the following day. Mr. Li indicated that Ms. Johnson had given him a two week homework assignment to track his pharmacy practice in his current Texas pharmacy. He indicated that the final evaluation will be done with Ms. Johnson and Larry Pinson by conference call.

There was discussion about Texas Board meetings and whether they did their disciplinary matters in open or closed session. The consensus appeared to be that they did not do their discipline in open session and Mr. Li would not benefit from attending the Texas Board meetings.

Mr. Taylor apologized to the Board for not having checked with Texas prior to this appearance. He indicated that he would check with them about their practice of hearing disciplinary issues. Board staff also indicated that they would check with the Texas Board of Pharmacy.

President Foster indicated that she was not comfortable making a decision since she had no input from Katie Johnson regarding Mr. Li’s participation in the Your Success Rx program and not knowing how the Texas Board handles their disciplinary matters. President Foster noted that the purpose of Mr. Li attending Board meetings on the day discipline was heard was so he could learn from the experience.

Board Action:

Motion: Keith Macdonald moved to allow Board staff to determine if the goal of the Board’s Order could be met in Texas.

Second: Cheryl Blomstrom

Action: Passed Unanimously

5. Applications for Nevada Pharmacy – Appearance:

A. Live Better Rx – Las Vegas

Patrick Osan appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Osan testified that he is purchasing Remedy Rx, owned by Tim Lopez. He stated that he is purchasing the assets. Mr. Osan made it clear that he did not intend to follow Mr. Lopez's business model. The business is currently located in a medical office. He plans to prepare medications that are only patient specific. Mr. Osan was advised that Mr. Lopez was selling quantities of product that was not patient specific into states where he was not licensed to do so. Mr. Osan indicated that he is planning to license in all of the states he intends to ship to. Discussion incurred again advising that if he plans to sell in bulk to any doctor or facility he would need to be licensed as a manufacturer. Mr. Osan indicated that he understood and would not be selling in bulk.

Board Action:

Motion: Keith Macdonald moved to approve the application for Live Better Rx pharmacy.

Second: Kirk Wentworth

Action: Passed Unanimously

B. Partell Specialty Pharmacy – Las Vegas

Nicholas Gandio appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Gandio testified that this is going to be a compounding pharmacy, mostly for hormone replacement and erectile dysfunction products. Mr. Gandio gave an overview of his pharmacy practice and that he will be running this Partell Specialty Pharmacy as he does his other pharmacy. Mr. Gandio understands that his compounded products need to be patient specific.

Board Action:

Motion: Russ Smith moved to approve the application for Partell Specialty Pharmacy.

Second: Jody Lewis

Action: Passed Unanimously

6. Applications for Nevada Wholesaler – Appearance

A. 21st Century Environmental Management of Nevada, LLC – Fernley

Christine Raber appeared and was sworn by President Foster prior to answering questions or offering testimony.

Ms. Raber testified that they are a reverse distributor, a facility that destroys drugs. Larry Pinson explained that the Board does not have a license type “reverse distributor” which is why Ms. Raber is applying as a wholesaler. Ms. Raber described their facility and how the operation works, including security methods. The Board questioned Ms. Raber and indicated that there is a need for such a facility in Nevada.

Board Action:

Motion: Kirk Wentworth moved to approve the application for 21st Century Environmental Management of Nevada.

Second: Cheryl Blomstrom

Action: Passed Unanimously

B. PCCA – Henderson

Fabian Zaccardo appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Zaccardo testified that they have been licensed in Nevada as a Texas out of state wholesaler for a long time. He explained that they want to base their western distribution out of Henderson, Nevada. Mr. Zaccardo gave an overview of their distribution processes and their shipping methods.

Board Action:

Motion: Kirk Wentworth moved to approve the application for PCCA as a Nevada wholesaler.

Second: Keith Macdonald

Action: Passed Unanimously

7. Applications for Nevada MDEG – Appearance:

A. Access Orthopedic, LLC – Las Vegas

Access Orthopedic will appear before the Board at it's January meeting.

B. B & B Medical Services, Inc. – Reno

William Long, Ardith Peper and William Espy appeared and were sworn by President Foster prior to answering questions or offering testimony.

Mr. Long advised the Board that they had a contract with the VA to provide home oxygen services to veterans. Mr. Espy indicated that they were a long-time provider and have eleven facilities throughout the United States. Their contract with Nevada had been held up for sometime and has ultimately been approved and he noted that they were anxious to get this facility approved so they can provide their services to Nevada's veterans.

Board Action:

Motion: Cheryl Blomstrom moved for approval of the application for B & B Medical Services.

Second: Kirk Wentworth

Action: Passed Unanimously

C. Tropicana Medical Supply, Inc. – Las Vegas

Queen Azeze, Marcie Alonge, Maya Azucina and Jimmy Thomas appeared and were sworn by President Foster prior to answering questions or offering testimony.

Carolyn Cramer asked them to describe what they had done since they previously appeared to be prepared to open a MDEG facility. Since they had checked all of the types of products that will be sold at Tropicana Medical Supply, Ms. Cramer asked specific questions regarding each product and wanted to know who was responsible and what kind of training that person had in that specific product.

Each contributed to the discussion and it was determined that they had a respiratory therapist ready to work for them to handle the medical gases and respiratory equipment. It was determined that they have a billing company on the payroll and will use them for all of their billing needs. Jimmy Thomas, who worked for the previous owner Elijah Akpan, is the technician and the delivery person. Mr. Thomas is the person that will fix equipment if it's broken or needs to be attended to. Mr. Thomas attested to Ms. Azucina's qualifications and noted that she was very nervous before the Board.

Board Action:

Motion: Keith Macdonald moved to approve the application for Tropicana Medical Supply.

Second: Russ Smith

Discussion:

Cheryl Blomstrom indicated that she was not comfortable with the qualifications of the owner or her staff to be able to ensure public safety.

Ray Seidlinger, Board inspector, appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Seidlinger testified that he had made many trips to Tropicana Medical Supply and they have addressed all of the previous issues. Mr. Seidlinger indicated that he had concerns about the lack of experience of the facility administrator.

Ms. Azeze testified that she had trained Ms. Azucina personally and that Tropicana Medical Supply had been accredited by the Compliance Team. It was determined that the Compliance Team is one of only a few accreditation agencies.

Mr. Seidlinger stated that he is only comfortable with her abilities to help patients with assistive equipment.

Amendment:

Keith Macdonald moved to amend his original motion to include a probationary period of six months with monthly inspections by Mr. Seidlinger and written documentation of the facility administrator capabilities to ensure Tropicana Medical Supply is compliant with Nevada's requirements.

The amendment was accepted by the Second.

Action: Passed Unanimously

D. WBC Group, LLC – Dinsmore, FL

WBC Group, LLC will appear before the Board at it's January meeting.

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

Andrea K. Boucher

Carolyn Cramer advised the Board that Board staff had been notified that Wal-Mart had recinded its offer to employ Ms. Boucher as a pharmaceutical technician in training, however they failed to notify Ms. Boucher of that fact.

Board Action:

Motion: Russ Smith moved to table this application to the next Reno Board meeting to allow Ms. Boucher the opportunity to speak with Wal-Mart.

Second: Kirk Wentworth

Action: Passed Unanimously

9. Report on Annual Audit – Appearance:

Beth Kohn-Cole, CPA – Kohn Coloday, LLP

Beth Kohn-Cole presented the Board's annual audit and indicated that it was a clean audit. Ms. Kohn-Cole reviewed the highlights of the report to the Board's satisfaction.

Board Action:

Motion: Russ Smith moved to accept the Audit as presented.

Second: Cheryl Blomstrom

Action: Passed Unanimously

10. General Counsel Report:

Recent Regulatory Activities and Litigation

Ms. Cramer indicated that she had no report for this meeting.

11. Board Statement:

Sanchez v. Wal-Mart

Carolyn Cramer presented a Statement of Intent on the Sanchez v. Wal-Mart matter for the Board's determination. Ms. Cramer advised the Board that it would not be advisable to re-open this issues as it was diligently examined in 2006 and careful thought and deliberation created the language as it stands today.

Liz Macmenamin, director of government affairs for the Retail Association of Nevada (RAN) and Mark Amodei, legal counsel to RAN, appeared. Mr. Amodei asked that the Board take action to amend NAC 639.753 because he fears that as this regulation is written it would leave the pharmacies in Nevada open to law suits. In his opinion, even though the Supreme Court ruled in the pharmacy's favor in the Sanchez v. Wal-Mart matter, footnote 3 of the decision leaves the door open for a different ruling in future cases. Mr. Amodei advised the Board that a pro-active stance now would be advisable to ensure the Board held the reins in this issue rather than have it become a legislative mandate. Most states now have required PMP reporting and Mr. Amodei advised that because of potential third party liability it would be in the Board's best interest to be

clear in NAC 639.753 that third parties are exempted from prosecution in such cases. Mr. Amodei suggested, at the least, Board staff go to the Legislative Counsel Bureau and discuss this issue.

After lengthy discussion, Keith Macdonald directed Board staff to work with interested parties by forming a committee and to meet with Brenda Erdos at the Legislative Counsel Bureau. Larry Pinson formed a committee of Liz Macmenamin, Mark Amodei, Cheryl Blomstrom, Fred Hillerby and Beth Foster. First and foremost, Carolyn Cramer and Mark Amodei will meet with Brenda Erdos and after that meeting a committee meeting will be called to discuss the findings.

12. Discussion and Determination:

Synthetic Cannabinoids

See Workshop Item 15 (2).

13. Committee Appointments:

A. CE Committee

Beth Foster accepted the appointment to the CE Committee.

B. PT Advisory Committee

Russ Smith accepted the appointment to the PT Committee.

C. MDEG Committee

Jody Lewis and Kirk Wentworth accepted appointments to the MDEG Committee.

14. Executive Secretary Report:

A. Financial Report

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

B. Temporary Licenses

There were three temporary licenses granted since the last Board meeting.

C. Staff Activities

1. CE

Continuing education programs were conducted by staff throughout the state prior to the renewal deadline. President Foster thanked the staff for their unselfish availability for so many programs.

2. PT Advisory Board (12/7)

Mr. Pinson advised the Board that the PT Advisory Committee was meeting on December 7, 2010.

D. Reports to Board

1. MDEG Administrator Regulation

The MDEG administrator regulation that was rejected by the Legislative Commission on regulations was reconsidered by that body at the request of Board staff and passed.

2. Akpan

At the October Board meeting Mr. Akpan advised the Board that he was not on the OIG list prohibiting him from working for any business that billed Medicare and/or Medicaid. Apparently Mr. Akpan misunderstood the letter he received. Mr. Pinson produced evidence of Mr. Akpan's name being on that list as of September 23rd, 2010.

E. Board Related News

Mr. Pinson reported on the ASPL meeting held in November where Nevada's "Inspecting for Safety" program was highlighted in one of the presentations, bringing once again national attention to our efforts to better patient's safety.

F. Activities Report

WORKSHOP

*15. Proposed Regulation Amendment Workshop

1. Amendment of Nevada Administrative Code NAC 639.7105 This language ensures compatibility with federal regulations regarding e-prescribing.

This language was written to parallel the CFR regarding e-prescribing controlled substance prescriptions. Larry Pinson indicated that the federal regulations will require e-prescribing software to become DEA certified prior to use. At this time, that process is not in place, however it is coming soon. Both Sure Scripts and Dr First look to be almost ready to certify for the DEA. When the certification process is finally in place, the pharmacy will simply need to obtain a copy of the software's certification to accept e-prescriptions transmitted on that system. The validity of the prescription is guaranteed and therefore will not be a burden on the pharmacist. Mr. Pinson urged the Board to pass this regulation to ensure that Nevada is ready when the time comes. E-prescriptions of controlled substances will be allowed in Nevada for CIII through CV prescriptions and not CII prescriptions at this time.

Dan Luce, representing Walgreens, advised that it will probably be mid-year 2011 before companies will be certified by the DEA.

There was discussion regarding faxing those electronic prescriptions. If these prescriptions are faxed, the physician still must physically sign the prescription. An electronic signature is only good if e-prescribed. Board staff indicated they would educate physicians, APN's and PA's by working with the Medical Board, the Nursing Board and the Medical Association to put information regarding these requirements in their newsletters.

Board Action:

Motion: Keith Macdonald moved to bring this regulation to Public Hearing.

Second: Russ Smith

Action: Passed Unanimously

2. Amendment of Nevada Administrative Code NAC 453.510 Schedule I

Added JWH-018 and JWH-073 to Schedule I and miscellaneous spelling corrections per the request of the Las Vegas Metropolitan Police Department.

Diane Machen, from the Reno crime lab appeared and brought a number of popular products sold in head shops that she purchased as over the counter. She has been testing the products that she purchased and is in the process of developing the ability to identify the contents. Besides the addition of JWH-018 and JWH-073, she asked that we also schedule JWH-200, CP-47,497 5 and cannabicyclohexanol 5.

Board Action:

Motion: Cheryl Blomstrom moved to bring this regulation to Public Hearing with the suggested changes.

Second: Kirk Wentworth

Action: Passed Unanimously

3. Amendment of Nevada Administrative Code NAC 453.520 Schedule II

Added Lisdexamfetamine and Tapentadol to Schedule II per the request of the Las Vegas Metropolitan Police Department.

This language will add the referenced drugs to Schedule II.

Board Action:

Motion: Russ Smith moved to bring this regulation to Public Hearing.

Second: Cheryl Blomstrom

Action: Passed Unanimously

4. Amendment of Nevada Administrative Code NAC 453.540 Schedule IV

Corrected the spelling of Sibutramine per the request of the Las Vegas Metropolitan Police Department.

This is a spelling correction.

Board Action:

Motion: Keith Macdonald moved to bring this regulation to Public Hearing.

Second: Cheryl Blomstrom

Action: Passed Unanimously

- 5. Amendment of Nevada Administrative Code NAC 453.550 Schedule V**
Added Lacosamide to Schedule V and removed language in Subsection 2 per the request of the Las Vegas Metropolitan Police Department.

This language parallels the federal regulations.

Board Action:

Motion: Cheryl Blomstrom moved to bring this regulation to Public Hearing.

Second: Russ Smith

Action: Passed Unanimously

PUBLIC HEARING

*16. **Notice of Intent to Act Upon a Regulation:**

Amendment of Nevada Administrative Code 639.NEW, 639.469, 639.525 and 639.528 – Refrigerator and freezer temperature monitoring. This language will ensure that the temperature is stable for drugs that are stored in the refrigerator or freezer of a pharmacy by requiring the temperature to be monitored. If the temperature is found to be out of range, a pharmacist will document that event, take corrective action, and document that action. Further, the pharmacist will determine the damage to the contents of the refrigerator or freezer.

Larry Pinson advised the Board that this was before them again because when he went to the Legislative Committee after the October Board meeting to be present for the Telepharmacy regulations, some of the legislator's wanted to know why he had pulled this regulation. Mr. Pinson advised that the industry was not supporting the regulation and the Board moved not to go forward with it. They advised Mr. Pinson that they felt it was a good regulation to ensure that medications were safe for the public. He promised to take the regulation before the Board again for reconsideration.

President Foster opened the Public Hearing.

Ray Seidlinger, Board inspector, appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Seidlinger testified on behalf of passing these regulations. He indicated that during an inspection he had seen an injectable product that is extremely temperature sensitive and needed to be stored in a freezer at 5 degrees or lower, however when he was inspecting the temperature was 18 degrees. Mr. Seidlinger stated that there are

inexpensive thermometers on the market that are programmable temperature monitors with alarms that alert the pharmacy if the temperature rises or falls outside the acceptable temperature range.

Rich Polombo appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Polombo asked if the findings could be stored electronically rather than a paper/pencil log and he was advised that the information could be stored electronically.

President Foster closed the Public Hearing.

Board Action:

Motion: Keith Macdonald moved to adopt the regulations as presented.

Second: Russ Smith

Action: Passed Unanimously

17. Next Board Meeting:

January 11-12, 2011 – Las Vegas, Nevada

18. Public Comments and Discussion of and Deliberation Upon Those Comments
There was no public comment.