MINUTES

December 6, 2017

BOARD MEETING

Hyatt Place
1790 E Plumb Lane
Reno, Nevada

Board Members Present:

Leo Basch    Jason Penrod    Melissa Shake    Robert Sullivan
Kirk Wentworth    Darla Zarley

Board Members Absent:

Kevin Desmond

Board Staff Present:

Larry Pinson    Dave Wuest    Paul Edwards    Shirley Hunting
Brett Kandt    Joe Depczynski    Yenh Long    Kristopher Mangosing
Sarah Bradley

President Basch read the mission statement of the Nevada State Board of Pharmacy to reiterate the Board’s duty to carry out and enforce the provisions of Nevada Law to protect the health, safety and welfare of the public.

Mr. Pinson announced and congratulated Jason Penrod on his reappointment to serve another term on the Board.

1. Public Comment December 6, 2017 9:00 AM

There was no public comment.

2. Approval of October 18-19, 2017, Minutes

Board Action:
Motion: Kirk Wentworth moved to approve the October 18-19, 2017, Meeting Minutes as presented.

Second: Melissa Shake

Action: Passed unanimously

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

A. Alore, LLC – Salem, OR
B. Ball Park Pharmacy – Arlington, TX
C. Beta Discount Pharmacy & Health Services, LLC – Marietta, GA
D. Chesapeake Bay Pharmacy – District Heights, MD
E. CVS/specialty #48604 – Flower Mound, TX
F. Dr. Ike’s Pharmacy #1 – Reseda, CA
G. Focused Care Pharmacy, Inc. – Syracuse, NY
H. Janus Rx – Montgomery, AL
I. Karen Pharmacy – Burbank, CA
J. Lake City Pharmacy, LLC – Sterling Heights, MI
K. McHugh Drugstore LLC – Carthage, IL
L. MedSavvy Inc. – Portland, OR
M. Orphan Pharmacy Services, LLC – Syosset, NY
N. Over-the-Mountain Compounding – Birmingham, AL
O. Patient Frist Pharmacy – Sugarland, TX
P. Royal Pharmacy – Pearland, TX
Q. Southside Pharmacy 3 – Houston, TX
R. Venice Pharmacy, LLC – Venice, FL
S. WellDyneRx, LLC – Centennial, CO

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

T. All-Care Pharmacy – Scottsdale, AZ
U. BioTek reMEDys – New Castle, DE
V. Focus Rx Pharmacy Services Inc. – Ronkonkoma, NY

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

W. Agile Therapeutics, Inc. – Princeton, NJ
X. Alfasigma USA, Inc. – Shreveport, LA
Y. Animal Health Logistics, LLC – Dublin, OH
Z. Apollo Pharmaceuticals USA Inc. – Palm Beach Gardens, FL
AA. Aurolife Pharma LLC – Dayton, NJ
BB. Aurex Pharmaceuticals LLC – East Windsor, NJ
CC. AveXis, Inc. – Libertyville, IL
DD. BexR Logistix, LLC – Boerne, TX
EE. Brothers Healthcare, Inc. – Riverside, CA
FF. Ferndale Laboratories, Inc. – Warren, MI
GG. Liebel-Flareshiem LLC – Richmond Heights, MO
HH. Mitsubishi Tanabe Pharma America, Inc. – Jersey City, NJ
II. OKC Allergy Supplies, Inc. – Oklahoma City, OK
JJ. R & S Solutions LLC – Jackson, TN
KK. scPharmaceuticals Inc. – Burlington, MA
LL. Smith Drug Company, Division of J M Smith Corporation – Valdosta, GA
MM. Teva Women’s Health, LLC – North Tonawanda, NY

Applications for Out-of-State Medical, Devices, Equipment and Gases – Non Appearance:

NN. American Independence Mobility – Oceanside, CA
OO. BUYPAPUSACOM.COM, Inc. – Portland, OR
PP. Comfort Medical, LLC – Coral Springs, FL
QQ. Ebb Therapeutics, Inc. – Pittsburgh, PA
RR. Edge Endo, LLC – Albuquerque, NM
SS. Essential Medical Supplies – El Cajon, CA
TT. First Choice Medical Supply – El Cajon, CA
UU. Hylan Medicine Cabinet Inc. – Staten Island, NY
VV. Intermountain Home Health & Hospice – St. George, UT
WW. McKesson Patient Care Solutions Inc. – Auburn, AL
XX. Personally Delivered Inc. – Bunnell, FL
YY. Regenesis Biomedical, Inc. – Scottsdale, AZ
ZZ. SoCal Pharmacy Inc. – Garden Grove, CA
AAA. Trust Home Medical LLC – Plant City, FL

Applications for Nevada Pharmacy – Non Appearance:

BBB. All City Pharmacy, LLC – Las Vegas, NV
CCC. West Cheyenne Pharmacy – Las Vegas, NV

The Board requested a correction on Hylan Medicine Cabinet Inc.’s (Item 3 UU) Application to be an Out-of-State Medical, Devices, Equipment and Gases Application.

Board Action:

Motion: Jason Penrod moved to approve the Consent Agenda with the correction to Item 3 UU as discussed.
Second: Darla Zarley
Action: Passed unanimously

4. Discipline

B. Hongming Wong, R.Ph (16-082-RPH-B-N)
C. CVS/pharmacy #8793 (16-082-PH-N)
Erika Sutton, Hongming Wong and Oliver Swafford, Pharmacy Supervisor CVS, appeared and were sworn by President Basch prior to answering questions or offering testimony.

Mike Dyer was present as counsel representing Ms. Sutton and CVS Pharmacy.

Lynn Beggs was present as counsel representing Mr. Wong.

Darla Zarley disclosed that Mr. Swafford was a former student, but stated that she could participate in this matter fairly and without bias.

Jason Penrod disclosed that Mr. Wong is currently an employee of Wal-Mart Pharmacy, but stated that he could participate in this matter fairly and without bias.

Pharmaceutical technicians Gayle Phillips, Damon Phillips and Jennifer Combs were subpoenaed and were present for their involvement in the case.

Mr. Kandt explained that the Respondents have agreed to Stipulated Facts and requested the Board’s permission to have Mr. Edwards read the facts into the record.

President Basch allowed Mr. Edwards to read the Stipulated Facts into the record.

Mr. Edwards read that in January 2016, patient D.S.P’s physician electronically transmitted a new prescription to CVS for diltiazem 240 mg. capsules #90 with instructions to take one capsule daily. CVS processed the prescription and designated it as prescription No. 1074487. On March 10, 2016, D.S.P’s physician changed the dosage of diltiazem to 360 mg. ER capsules #90 with instructions to take one capsule daily. The physician’s office electronically transmitted the new prescription to CVS. Pharmaceutical technician Damon Phillips entered the new prescription into CVS’ computer system that same day. The computer system designated the prescription as No. 1084000. CVS’ records show that the initial data input and five subsequent data inputs were rejected. On March 14, 2016 Ms. Sutton performed the final data entry, data verification, filling and product verification of prescription No. 1084000. Ms. Sutton overrode DUR warnings for “Drug-Drug Interaction” and “Duplicate Therapy” without taking further action. The following day, Ms. Sutton processed a refill of prescription No. 1074487 diltiazem 240 mg. capsules and again overrode the DUR warnings without taking further action.

Mr. Edwards read that CVS filled and dispensed both prescriptions to D.S.P from March 2016 to August 2016. Ms. Sutton performed DUR overrides and product entry verification for both prescriptions on several occurrences between March 2016 and August 2016. Mr. Wong performed a DUR override and product entry verification for one refill on April 12, 2016.

Mr. Dyer and Ms. Beggs had no objections to the Stipulated Facts.

Board Action:

Motion: Jason Penrod moved to accept the Stipulated Facts as presented.

Second: Darla Zarley
Action: Passed unanimously

Mr. Dyer moved to have Exhibit A admitted into the record.

President Basch admitted Exhibit A into the record.

Mr. Swafford read a letter from CVS’ Senior Attorney describing the updates to CVS’ DUR warning system (Exhibit A). He explained that the updates to the DUR warning system require a more thorough review of the DUR warnings and keep a better record of each review.

Ms. Sutton apologized to the Board for her mistakes and explained the changes she has made to her practice to increase accuracy and patient safety.

Board discussion ensued regarding the importance of patient counseling and carefully reviewing DUR warnings.

Board Action:

Motion: Jason Penrod moved to find Erika Sutton guilty of the 1-3 Causes of Action.
Second: Darla Zarley
Action: Passed unanimously

Board Action:

Motion: Darla Zarley moved to find Hongming Wong guilty of the Second Cause of Action.
Second: Kirk Wentworth
Action: Passed unanimously

Board Action:

Motion: Jason Penrod moved to find CVS Pharmacy #8793 guilty of the Fourth Cause of Action.
Second: Kirk Wentworth
Action: Passed unanimously

Board Action:

Mr. Kandt stated that Board Staff recommends Ms. Sutton’s Nevada Pharmacist License be suspended. That suspension stayed and placed on probation for 12 months. During that
time Ms. Sutton may not be a managing pharmacist and must comply with all State and Federal Regulations. Ms. Sutton shall pay a fine of $5,000.00 and complete an additional 4 CEU on the topics of error prevention and managing pharmacist responsibilities.

Mr. Dyer stated that Ms. Sutton has taken her error very seriously and requested the Board consider allowing her to continue to act as a managing pharmacist and to reduce her fine to $3,000.00.

Motion: Jason Penrod moved that Erika Sutton’s Nevada Pharmacist Registration is suspended. That suspension is stayed and placed on probation for 12 months. Ms. Sutton shall not be a managing pharmacist. The restriction on Ms. Sutton’s managing pharmacist status is stayed for 12 months. Ms. Sutton shall complete an additional 4 CEU on the topics of error prevention and managing pharmacist responsibilities. Ms. Sutton shall complete one CEU each quarter. After completion of each CEU Ms. Sutton shall write a paper on the CEU and work with CVS management to present her paper as training to CVS Staff. Board Staff is authorized to review Ms. Sutton’s training and paper. Ms. Sutton shall pay a fine of $3,000.00 and an administrative fee of $500.00.

Second: Darla Zarley

Action: Passed unanimously

Mr. Kandt stated that Board Staff recommends Mr. Wong receive a letter of reprimand, complete two additional CEU on error prevention and pay a $1,000.00 fine.

Ms. Beggs had no objections to the additional CEU, but requested the Board reduce Mr. Wong’s fine to $500.00.

Board Action:

Motion: Melissa Shake moved that Hongming Wong shall attend 3 of the next 4 Reno Board Meetings on the disciplinary day. Mr. Wong shall complete an additional 2 CEU on the topic of error prevention and shall submit a paper on the CEU for Board Staff review. Mr. Wong shall pay a fine of $500.00 and an administrative fee of $250.00.

Second: Kirk Wentworth

Action: Passed unanimously

Mr. Kandt stated that Board Staff recommends CVS pay an administrative fee of $1,500.00 and shall submit to Board Staff certification that CVS Pharmacy Staff has completed training on the updated computer system within 90 days.

Board Action:
Motion: Jason Penrod moved that CVS Pharmacy shall pay an administrative fee of $1,500.00 and shall submit to Board Staff certification that CVS Pharmacy Staff has completed training on the updated computer system within 90 days.

Second: Darla Zarley

Action: Passed unanimously

Mr. Kandt stated that the Respondents submitted an Answer and Notice of Defense that were not included in the Board books.

5. Request for Removal of Probation Status from Pharmacist License:

Derek Jones

Derek Jones appeared and was sworn by President Basch prior to answering questions or offering testimony.

Mr. Edwards explained that in April 2012 Mr. Jones’ California Pharmacist License was revoked, that revocation stayed, and his license placed on probation for 5 years. He stated that in June 2014, the Board paralleled California’s action and placed Mr. Jones’ Nevada Pharmacist License on probation with restrictions. Mr. Edwards add that Mr. Jones submitted a letter to Board Staff stating that he has satisfied the terms of his probation in California, and requesting the probationary status be removed from his Nevada Pharmacist License.

Mr. Jones answered questions to the Board’s satisfaction regarding his California Order and recovery.

Board Action:

Motion: Darla Zarley moved to remove the probationary status from Derek Jones’ Nevada Pharmacist License.

Second: Jason Penrod

Action: Passed unanimously

6. Requests for Renewal of Pharmacist License:

A. Wayne E. Dallas

Wayne Dallas appeared and was sworn by President Basch prior to answering questions or offering testimony.

Mr. Edwards explained that Mr. Dallas indicated on his Nevada Pharmacist License renewal form that has been the subject of a board citation or an administrative action in another state. Mr. Edwards stated that Mr. Dallas stipulated to surrender his California Pharmacist License
in September 2016 for failure to maintain adequate operational standards and security of controlled substances and failure to maintain current inventory.

The Board expressed concern regarding the quantity of medication that went missing while Mr. Dallas was supervising the pharmacy.

Board discussion ensued regarding the possibility of Mr. Dallas being evaluated by PRN-PRN.

Mr. Dallas answered the Board’s questions regarding his discipline in California. He explained that he currently resides in South Carolina. He stated that the South Carolina Board of Pharmacy is still reviewing this case and is scheduled to discuss this matter at a future meeting.

The Board offered Mr. Dallas the option of tabling his application while South Carolina evaluates his discipline in California, and to provide him time to be evaluated by PRN-PRN.

The Board tabled Mr. Dallas’ request for renewal of his Nevada Pharmacist License at his request.

B. Joel B. Soburn

Joel Soburn appeared and was sworn by President Basch prior to answering questions or offering testimony.

Mr. Edwards provided background information regarding this matter. He explained that Mr. Soburn indicated that he has been subject of a board citation or administrative action in another state.

Mr. Edwards explained that Mr. Soburn stipulated to failure to maintain current inventory of controlled substances, failure to provide adequate security for controlled substances and failure to maintain records of acquisition and disposition. In October 2016, Mr. Soburn’s California Pharmacist License was revoked. The revocation was stayed and Mr. Soburn’s California Pharmacist License was places on probation for five years with terms and conditions.

Board Action:

Motion: Melissa Shake moved to approve Joel B. Soburn’s Nevada Pharmacist License renewal. Mr. Soburn shall notify Board Staff within five business days if there are any changes to his probation status in California.

Jason Penrod offered a friendly amendment that Mr. Soburn contact Board Staff for approval if he intends to work in Nevada.

Melissa Shake accepts the friendly amendment.

Second: Jason Penrod
Action: Passed unanimously

7. Application for Out-of-State Outsourcing Facility –

   Appearance: Cantrell Drug Company – Little Rock, AR

This matter was continued to a future Board meeting.

8. Applications for Out-of-State Compounding Pharmacy – Appearance:

   A. Axtell Rite Value Pharmacy Inc. – Whitesboro, TX

James Axtell, managing pharmacist, and Patrick Hagan, staff pharmacist, appeared and were sworn by President Basch prior to answering questions or offering testimony.

The Board amended Axtell Rite Value Pharmacy Inc.’s application to indicate that there were no physician shareholders or owners, and removed Axtell Rite Value Pharmacy Inc.'s affidavit not to ship sterile products into Nevada from the record at Mr. Axtell’s request.

Mr. Axtell and Mr. Hagan stated that Axtell Rite Value Pharmacy Inc. is a retail pharmacy that provides both sterile and non-sterile compounding services. Mr. Hagan explained that Axtell Rite Value Pharmacy mainly compounds hormone replacement therapy and erectile dysfunction medications.

Mr. Wuest questioned Mr. Axtell and Mr. Hagan regarding Axtell Rite Value Pharmacy Inc.’s last inspection, past discipline, product testing, clean room specifications, and compounding training and procedures.

Mr. Axtell and Mr. Hagan answered questions to the Board’s satisfaction.

Board Action:

Motion: Jason Penrod moved to approve Axtell Rite Value Pharmacy Inc.’s Application for Out-of-State Pharmacy License pending receipt of the pharmacy’s next inspection by the Texas Board of Pharmacy and Beyond-Use-Dating certification. Board Staff is authorized to review and evaluate these documents.

Second: Darla Zarley

Action: Passed unanimously

B. Dynamic Rx Labs, LLC – Benton, WA

Angelique Williams, managing pharmacist, appeared and was sworn by President Basch prior to answering questions or offering testimony.
James Axtell, part owner, was present to answer questions and provide testimony regarding Dynamic Rx Labs, LLC.

Ms. Williams stated that Dynamic Rx Labs, LLC is a retail pharmacy that provides sterile and non-sterile compounding products.

Mr. Wuest questioned Ms. Williams and Mr. Axtell regarding Dynamic Rx Labs, LLC.'s past inspections, clean room specifications, Beyond-Use-Dating, and policies and procedures.

Ms. Williams and Mr. Axtell answered Mr. Wuest’s questions to the Board’s satisfaction.

Board Action:

Motion: Jason Penrod moved to approve Dynamic Rx Labs, LLC’s Application for Out-of-State Pharmacy license pending receipt of the pharmacy’s Beyond-Use-Dating certification. Dynamic Rx Labs, LLC will submit their next inspection by the Washington Board of Pharmacy within 7 business days of its completion.

Second: Darla Zarley

Action: Passed unanimously

C. Village Fertility Pharmacy, LLC – Waltham, MA

Ben McElhiney, CEO, appeared and was sworn by President Basch prior to answering questions or offering testimony.

Mr. McElhiney explained that Village Fertility Pharmacy is a specialty pharmacy that provides sterile and non-sterile compounding services. McElhiney stated that Village Fertility Pharmacy does not perform any high-risk compounding.

Mr. Wuest questioned Mr. McElhiney regarding Village Fertility Pharmacy’s past inspections, compounding procedures, products provided, formulations and clean room specifications.

Mr. McElhiney answered Mr. Wuest’s questions to the Board’s satisfaction.

Board Action:

Motion: Jason Penrod moved to approve Village Fertility Pharmacy, LLC’s Application for Out-of-State Pharmacy License. Village Fertility Pharmacy, LLC will notify the Board if they intend to perform high-risk compounding.

Second: Darla Zarley

Action: Passed unanimously
9. Applications for Nevada Medical, Devices, Equipment and Gases – Appearance:

A. Las Vegas Medical Store – Las Vegas, NV

This matter was continued to a future Board meeting.

B. Nordstrom – Las Vegas, NV

Michelle Carlos, MDEG Administrator and Department Manager, and Alisa Quamo, Regional Manager, appeared and were sworn by President Basch prior to answering questions or offering testimony.

Ms. Quamo stated that Nordstrom has a breast prosthesis program that allows for patients who are undergoing breast cancer treatment to purchase mastectomy products.

Ms. Quamo and Ms. Carlos answered questions to the Board’s satisfaction regarding products provided, training and record keeping.

Board Action:

Motion: Jason Penrod moved to approve Nordstrom’s Application for Nevada MDEG License pending a positive inspection.

Second: Darla Zarley

Action: Passed unanimously

10. Request for Reduction of Intern Hours for Licensing as a Pharmacist in Nevada – Appearance:

Stefania K. Nataprawira

Mr. Pinson explained that Ms. Nataprawira withdrew her request to appear regarding this matter.

11. Presentation from James W. Wilson V, MD FAAP – Chair, Antimicrobial Stewardship Summit Steering Committee

Dr. Wilson presented an article on antimicrobial stewardship.

Dr. Wilson discussed the Antimicrobial Resistance Intelligence System which gathers antibiogram data and forecasts antibiotic resistance. He reported that based on the antibiogram data the drug resistance problem is getting worse.

Dr. Wilson stressed the importance of making this information available to prescribers and pharmacists.
12. **Presentation from Kohn & Company – Annual Audit Report**

Beth Kohn presented the audit results and answered questions to the Board’s satisfaction.

13. **General Counsel Report**

Mr. Kandt and Mr. Edwards updated the Board regarding legal proceedings involving Spring Valley Pharmacy and Jessica Nguyen.

14. **Executive Secretary Report**

   A. **Financial Report**

   Mr. Pinson presented the financial report to the Board’s satisfaction.

   B. **Temporary Licenses**

   Two temporary licenses were issued since the last meeting.

   C. **Staff Activities:**

      1. **NASCSA Annual Meeting**

      Mr. Pinson explained that he and Ms. Long attended NASCSA Annual Meeting.

      2. **HHS Continuing Education Programs**

      Mr. Pinson stated that he approved four continuing education programs on the topic of suicide prevention.

      3. **Meetings with other Health Care Boards**

      4. **AB 474 Meeting and Continuing Education**

      Mr. Pinson reported that Board Staff has presented to many groups regarding AB 474 and SB 59.

      5. **AG Substance Abuse Working Group**

      Mr. Pinson stated that Ms. Long attended this group’s last meeting.

      6. **ASPL**

      Mr. Pinson explained that he, Mr. Wuest, Mr. Edwards and Mr. Kandt attended this group’s meeting.

Mr. Pinson reported on the following activities:
PMP Task Force
Pharmacy Inspection – Canada
Opening of Mission High School – Las Vegas
Rural Hospital Association
Presentation Roseman Student Rotation

D. Reports to Board:
   1. Pharmacy Practice Advisory Committee Update
E. Board Related News
F. Activities Report

15. Regulation Workshop

**Amendment of Nevada Administrative Code Chapter 639 to add a new section thereto providing for the dispensing of dangerous drugs by veterinarians through consignment.** To allow a veterinarian to take legal ownership but not physical possession of a dangerous drug from a wholesaler, prescribe the drug to a patient, and then consign to a pharmacy for dispensing to the patient.

Mr. Kandt provided a brief background. He stated that during the last meeting the Board requested modifications to include written client consent to the consignment of dangerous drugs and to allow for multiple Board representatives to inspect facilities.

Mr. Kandt stated that VetSource has provided proposed amendments for the Board’s consideration.

President Basch opened the Public Comment.

James Boyle, Strategic Pharmacy Solutions, appeared and presented the VetSource proposed amendments to the Board.

Board discussion ensued regarding the VetSource proposed amendments, consignment of controlled substances and written notice to the client that a medication will be consigned to a pharmacy.

After discussion, the Board decided not to allow consignment of any controlled substances. The Board also requested citation corrections to the proposed amendment.

Dr. David Pelsu appeared and asked the Board who would be held responsible for a filling error under the consignment model.

The Board expressed that each error would be evaluated on a case by case basis.

**Board Action:**
Motion: Jason Penrod moved to adopt the proposed amendments and move forward to Public Hearing with the changes as discussed.

Second: Darla Zarley

Action: Passed unanimously

16. Public Hearing

1. Amendment of Nevada Administrative Code (NAC) 639.926: A regulation relating to the transmission of information to the Prescription Monitoring Program. Definition of Days’ Supply and Addition of ICD-10 Code (International Classification of Diseases Tenth Revision). Adding Schedule V drugs to the list of controlled substances that must be reported to the Prescription Monitoring Program. (LCB File No. R045-17)

Mr. Edwards explained that the proposed amendment adds Schedule V controlled substances and ICD-10 codes to the list of required information to be reported to the Prescription Monitoring Program (PMP).

Mr. Pinson presented written public comment from Mike Podgurksi, Rite Aid, explaining that the pharmacies in Nevada will have to update from ASAP 4.2 to ASAP 4.2A in order for to transmit ICD-10 codes to the PMP.

President Basch opened the Public Comment.

There was no public comment.

Board discussion ensued regarding the PMP’s ability to accept multiple ICD-10 codes per prescription.

Board Staff will find out if pharmacies can report multiple ICD-10 codes to the PMP.

The Board discussed modifying Section 1 to change “2011 ASAP Version 4.2 Standard for Prescription Monitoring Programs,” to the most current ASAP Version Standard for Prescription Monitoring Programs.

Board Action:

Motion: Jason Penrod moved to adopt the proposed amendment with the changes as discussed.

Second: Darla Zarley

Action: Passed unanimously

2. Amendment of Nevada Administrative Code (NAC) 453.440: Changes
Mr. Edwards explained that the proposed amendments updated the components of a written prescription based on AB 474.

The Board instructed Board Staff to add patient date of birth to Section 7 of the proposed amendment.

The Board discussed the components of a prescription that could be changed by contacting the prescriber.

President Basch opened the Public Comment.

There was no public comment.

Board Action:

Motion: Jason Penrod moved to adopt the proposed amendment with the changes as discussed.

Second: Darla Zarley

Action: Passed unanimously

17. Date and Location of Next Scheduled Board Meeting:

January 10-11, 2018 – Las Vegas, Nevada

18. Public Comment December 6, 2017, 5:00 PM

Liz MacMenamin, RAN, informed the Board about Make Good Choices, a program that provides at risk children with positive influences and tools to encourage them to make good choices in their lives.