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MATRIX GUIDELINE FOR DISCIPLINARY ACTIONS

	1st Action	2nd Action	3rd Action
Non ingested error	Letter	Letter	Hearing
No counseling	\$750.00	Counseling CE + \$1000.00	Hearing
Attorney Fees and Costs	Actual	Actual	Actual
Ingested no potential harm	\$500.00	\$1000.00	Hearing
Ingested with potential harm or adverse outcomes	\$1000.00	Hearing	Hearing
Ingested with negative outcome or patient discomfort.			
No institution intervention	Hearing	Hearing	Hearing
Ingested with significant negative health circumstance.			
With institution admit	Hearing	Hearing	Hearing
Ingested with death related to inappropriate drug therapy	Hearing	Hearing	Hearing

The investigative committee will review each case individually and may recommend a board hearing, particularly with mitigating circumstances such as inappropriate technician involvement or pharmacist malfeasance.

In certain cases with ingested errors and significant negative health circumstances requiring institutional care, the investigative committee recommendation will be a board hearing.

In all death cases resulting from inappropriate drug therapy a board hearing will occur.

Attorney fees and costs may be added in contested disciplinary actions requiring extensive attorney preparation and presentation and are not described in the above matrix.

The board has directed that ownership may be charged in disciplinary cases. In non-ingested errors copies of admonition letters will be sent to management. Accumulative actions for ownership monitoring will be based upon a 3 year period. All actions including non-ingested errors will be given a case number and monitored.

The Board has the authority to fine from \$0.00 to \$10,000 for each Cause of Action.

FINDING	HARM	DISCIPLINE INDIVIDUAL	DISCIPLINE FACILITY
RPH DC and WB did not complete required CEs.	N/A	DC: \$500 fine; \$1,000 administrative fee; additional CEs; attend 3 of the next 4 Board meetings; complete and pass Nevada law. WB: \$500 fine; \$1,000 administrative fee; additional CEs; attend 3 of the next 4 Board meetings.	
RPH SB failed to speak to the prescriber before, at the time or after she declined to fill a patient's prescription for clopidogrel.	N/A	Fined \$500; administrative fee of \$1,000; 4 hours of CE related to cardiology or cardiac drugs.	Fined \$1,000; an administrative fee of \$2,000; establish Board-approved policies and procedures that are consistent with Nevada law and retrain its current and future pharmacists regarding the same.
RP allowed unlicensed staff to prescribe/order dangerous drugs and use his authority to obtain, administer, access and/or possess an inventory of dangerous drugs when he was not onsite and without his direct supervision. RP did not have a bona fide therapeutic relationship with the patients. RP purchased compounded dangerous drugs from a pharmacy not licensed with the Board.	N/A	RP shall receive a public letter of reprimand; his CS registration shall be placed on probation for a period of 12 months; fined \$5,000; administrative fee of \$2,500; establish policies and procedures. RP's offices/clinics are subject to quarterly inspections for one year.	N/A
RPH NR verified a prescription for 30 chlorthalidone 25 mg. capsules which was labeled and dispensed to the wrong patient. RPH JA failed to counsel the patient. PT LP deleted the prescription from the pharmacy system. ML was the managing pharmacist.	N/A	NR shall receive a letter of reprimand; fined \$2,750; 2 additional hours of CE on error prevention. JA shall receive a letter of reprimand; fined \$750; 2 additional hours of CE on patient counseling. LP fined \$500; \$1,000 administrative fee; attend three of the Board's next four	\$1,000 fine; \$1,500 administrative fee.

FINDING	HARM	DISCIPLINE INDIVIDUAL	DISCIPLINE FACILITY
		meetings on disciplinary day. ML shall complete 4 additional hours of CE on pharmacy management.	
PT MC diverted controlled substances from her employing pharmacy.	N/A	Revocation of pharmaceutical technician registration.	N/A
RPH SB did not renew his registration and worked 244 days unlicensed. He was also the PIC.	N/A	Fined \$2,500 and \$1,000 administrative fee.	Fined \$5,000 fine and \$2,683.99 administrative fee
RPH CD verified Risperidone 2 mg. tablets in the prescription bottle as the correct product for dispensing when the physician prescribed Ropinirole 2 mg. tablets. CD failed to adequately provide counseling.	N/A	Letter of reprimand; fined \$1,000; \$1,000 administrative fee; complete 2 CEs on error prevention.	WG-NV fined \$1,000; \$1,000 administrative fee. WG-FL fined \$2,000; \$1,000 administrative fee.
RPH JS dispensed medication labeled with incorrect instructions.	N/A	Letter of reprimand; \$1,000.00 fine; \$1,000.00 administrative fee; complete two additional CEs on error prevention.	Fined \$1,000.00; \$1,000.00 administrative fee.
RPH JCH filled and dispensed a Vancomycin prescription without the necessary knowledge and proper training, accepting verbal prescriptions from non-practitioners and failing to follow the prescription written by the prescriber.	N/A	Registration revoked; the revocation is stayed with conditions: take and pass the NAPLEX and MPJE; pay a \$5,000.00 fine; pay a \$1,250.00 administrative fee. Registration shall be placed on probation for four years during which time he cannot work as a managing pharmacist in any Nevada-licensed pharmacy; cannot engage in any form of compounding; and he must attend two Board meetings each year	\$5,000.00 fine; \$1,250.00 administrative fee; subject to quarterly inspections for one year at its own expense.

FINDING	HARM	DISCIPLINE INDIVIDUAL	DISCIPLINE FACILITY
		during the four year probationary periods.	
RPH WM was the managing pharmacist accountable for violations by personnel in his employ regarding the filling, compounding and record keeping of drug products	N/A	Letter of reprimand; \$500.00 fine; \$500.00 administrative fee.	\$1,500.00 fine; \$2,500.00 administrative fee; purchase software for tracking components used in its compounding services and the products it compounds; create new policies and procedures regarding medication management and compounding; subject to quarterly inspections at their own expense.
RPH KB verified data as correct when it was not and dispensed Prednisone 50 mg. tablets when 5 mg. tablets was prescribed.	The patient experienced a temporary negative outcome as a result of the error	\$1,000.00 fine; an administrative fee of \$500.00; complete two additional CEs related to prescription verification/error prevention and 2 CEs on to DUR warnings.	Pay an administrative fee of \$1,000.00.
PT GO dispensed a prescription drug to the wrong patient.	N/A	N/A	\$500 fine; \$750 administrative fee.
RPH SD made false adjustments to the Tramadol inventory. He voluntarily surrendered his registration as discipline. RPH MK was the managing pharmacist and did not report the Tramadol losses to the DEA or Board.	N/A	SD imposed \$600 administrative fee. May not reapply for 1 year. MK to receive letter of reprimand; \$250 fine; 2 additional CEs.	\$1,000 administrative fee; implement new policies and procedures.

4A

FILED

MAY 30 2019

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-085-CS-S
)	
Petitioner,)	
v.)	
	)	NOTICE OF INTENDED ACTION
TAM PHAM NGUYEN, DDS,	)	AND ACCUSATION
Certificate of Registration No. CS14787,)	
)	
Respondent.	/	

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Pharmacy Board) has jurisdiction over this matter and this respondent because at the time of the alleged events, Respondent Tam Pham Nguyen (Nguyen), held a Nevada Controlled Substance Registration, Certificate No. CS14787, issued by the Pharmacy Board.

FACTUAL ALLEGATIONS

II.

On October 7, 2016, the Nevada State Board of Dental Examiners (Dental Board) approved and entered a Stipulation and Voluntary Surrender of License with Nguyen in Case No. 74127-03135 (Stipulation).

III.

Paragraph 15 of the Stipulation states in pertinent part: "Respondent [Nguyen] admits to the findings of the DSO, Bradley Strong, DDS, contained in Paragraphs 13 and 14."

IV.

Paragraph 13 of the Stipulation states in pertinent part:

13. Based upon the limited investigation conducted to date, DSO, Bradley Strong, DDS, finds for this matter and not for any other purpose, including any subsequent civil action, Respondent [Nguyen] has violated NRS 631.095, and/or NRS 631.3475(1), (2), and/or (4), NRS 631.3475(5), and (7), NRS 631.34850) and (2), NRS 631.349, and NAC 631.230(1)(a), (l)(b), and (l)(d) in light of the following:

- A. Information from the Nevada State Board of Pharmacy provides that from July 2015 through August 2016, the prescriber report for Dr. Nguyen shows 450 prescriptions for Oxycodone-Acetaminophen 10/325 or Hydrocodone-Acetaminophen 10/325. Of those 450 prescriptions, 381 were filled at VIP Pharmacy (6 Hydrocodone and 375 Oxycodone).
- B. Several of Dr. Nguyen's patients indicated they had never received such prescriptions from Dr. Nguyen nor had they ever filled any medications at VIP Pharmacy.
- C. A few of Dr. Nguyen's patients indicated he had given them medication to take home after their procedures for pain and/or infection.
- D. Dr. Nguyen told Nevada State Board of Pharmacy investigators that he takes approximately 28 Oxycodone pills per day to account for the all of the prescriptions filled at VIP Pharmacy in the last year; that Dr. Nguyen stated that out of all of the prescriptions filled at VIP Pharmacy, only approximately 3 were legitimate prescriptions which were picked up by the patients themselves.
- E. That Dr. Nguyen has acknowledged an addiction to Oxycodone.

V.

Pursuant to Paragraph 16 of the Stipulation, Nguyen voluntary surrendered his License No. 4664 to practice dentistry in Nevada to the Dental Board.

VI.

Nguyen admitted to Pharmacy Board investigators to creating the fraudulent controlled substance prescriptions for his patients, having the prescriptions filled by Ly at VIP Pharmacy, and then diverting the controlled substances for his personal use.

APPLICABLE LAW

VII.

A practitioner may prescribe controlled substances only for a legitimate medical purpose and in the usual course of his professional practice. NRS 453.381(1); 21 CFR § 1306.04.

VIII.

It is unlawful for a person knowingly or intentionally to acquire or obtain or attempt to acquire or obtain possession of a controlled substance or a prescription for a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge or alteration. NRS 453.331(1)(d).

IX.

It is unlawful for a person knowingly or intentionally to falsely make, alter, forge, utter, publish or pass, as genuine, any prescription for a controlled substance. NRS 453.331(1)(f).

X.

It is unlawful for a person knowingly or intentionally to make a false representation to a pharmacist for the purpose of obtaining a controlled substance for which a prescription is required. NRS 453.331(1)(i).

XI.

Performing or in any way being a party to any fraudulent or deceitful practice or transaction constitutes unprofessional conduct and conduct contrary to the public interest. NAC 639.945(1)(h).

XII.

Engaging in conduct that constitutes unprofessional conduct or that is contrary to the public interest is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(4).

XIII.

Violating any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(11).

XIV.

Violating, attempting to violate, assisting or abetting in the violation of or conspiring to violate any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(12).

XV.

The Board may suspend or revoke a registration issued pursuant to NRS 453.231 to prescribe or otherwise dispense a controlled substance upon a finding that the registrant has committed an act that would render registration inconsistent with the public interest. NRS 453.236(1)(d) and NRS 453.241(1).

XVI.

The surrender of a license by a practitioner to a licensing board operates as an immediate suspension of a registration issued by the Board pursuant to NRS Chapter 453 to possess, administer, prescribe or dispense controlled substances. NRS 639.2107.

FIRST CAUSE OF ACTION

XVII.

By creating fraudulent controlled substance prescriptions for his patients, having the prescriptions filled at VIP Pharmacy, and then diverting the controlled substances for his personal use, Nguyen performed his duties as the holder of a Nevada Controlled Substance Registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct and conduct contrary to the public interest pursuant to NAC 639.945(1)(i), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

SECOND CAUSE OF ACTION

XVIII.

By creating fraudulent controlled substance prescriptions for his patients, having the prescriptions filled at VIP Pharmacy, and then diverting the controlled substances for his personal use, Nguyen was a party to a fraudulent or deceitful practice or transaction and engaged in unprofessional conduct and conduct contrary to the public interest pursuant to NAC 639.945(1)(h), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

THIRD CAUSE OF ACTION

XIX.

By creating fraudulent controlled substance prescriptions for his patients, having the prescriptions filled at VIP Pharmacy, and then diverting the controlled substances for his personal use, Nguyen violated 21 CFR § 1306.04. He is therefore subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.

FOURTH CAUSE OF ACTION

XX.

By creating fraudulent controlled substance prescriptions for his patients, having the prescriptions filled at VIP Pharmacy, and then diverting the controlled substances for his personal use, Nguyen violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.331(1)(d), NRS 453.331(1)(f), NRS 453.331(1)(i), NRS 453.381(1) and/or 21 CFR § 1306.04, and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

FIFTH CAUSE OF ACTION

XXI.

By creating fraudulent controlled substance prescriptions for his patients, having the prescriptions filled at VIP Pharmacy, and then diverting the controlled substances for his personal use, Nguyen committed an act that would render his Nevada Controlled Substance Registration

inconsistent with the public interest, and is subject to discipline pursuant to NRS 453.236(1)(d) and NRS 453.241(1).

SIXTH CAUSE OF ACTION

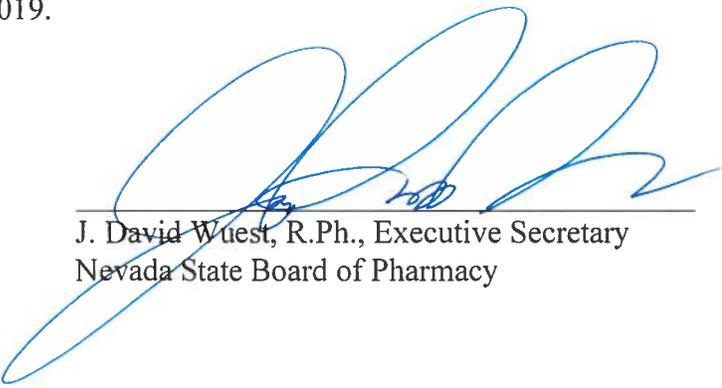
XXII.

By surrendering his License No. 4664 to practice dentistry in Nevada to the Dental Board, Nguyen's Nevada Controlled Substance Registration, Certificate No. CS14787 is subject to immediate suspension pursuant to NRS 639.2107.

XXIII.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of this respondent.

Signed this 30th day of May, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-085-CS-S
)	
Petitioner,)	
v.	)	STATEMENT TO THE
	)	RESPONDENT
TAM PHAM NGUYEN, DDS,	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. CS14787,	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent.	/	

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, July 17, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

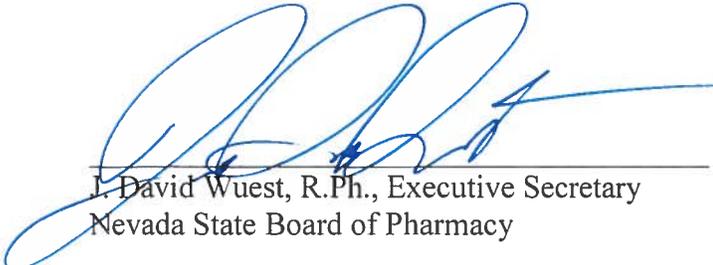
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 30th day of May, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-085-CS-S
)	
Petitioner,)	
v.	)	ANSWER AND NOTICE
	)	OF DEFENSE
TAM PHAM NGUYEN, DDS,)	
Certificate of Registration No. CS14787,)	
)	
Respondent.	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ___ day of June, 2019.

TAM PHAM NGUYEN, DDS

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 4th day of June, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Tam Pham Nguyen, DDS
4840 Spring Mountain Rd. #2
Las Vegas, NV 89102**


SHIRLEY HUNTING

4B

JUN 12 2019

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

)

CASE NO. 19-086-CS-S

)

Petitioner,

)

v.

)

NOTICE OF INTENDED ACTION AND ACCUSATION

MICHAEL S. MALL, MD, Certificate of Registration Nos. CS18967 and PD00257,

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/

Respondent.

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and this respondent because at the time of the alleged events, Respondent Michael S. Mall, MD (Mall), held a Nevada Controlled Substance Registration, Certificate No. CS18967 and a Nevada Dispensing Practitioner Registration, Certificate No. PD00257, issued by the Pharmacy Board.

FACTUAL ALLEGATIONS

II.

On February 21, 2019, Mall surrendered his DEA Certificate of Registration No. FM2307468 to the U.S. Drug Enforcement Administration by executing a DEA Form 104, entitled "Surrender for Cause" (DEA Surrender for Cause).

III.

By executing the DEA Surrender for Cause, Mall acknowledged in pertinent part the following:

In view of my alleged failure to comply with the Federal requirements pertaining to controlled substances or list 1 chemicals, and as an indication of my good faith in desiring to remedy any incorrect or unlawful practices on my part, I hereby surrender for cause my Drug Enforcement Administration (DEA) Certification of Registration.

IV.

On or about February 27, 2019, Board staff notified Mall that his surrender of DEA Certificate of Registration No. FM2307468 for cause operated as an immediate suspension of his Certificate of Registration Nos. CS18967 and PD00257 with the Board pursuant to NRS 639.2107.

APPLICABLE LAW

V.

The Board may suspend or revoke a registration issued pursuant to NRS 453.231 to prescribe or otherwise dispense a controlled substance upon a finding that the registrant has committed an act that would render registration inconsistent with the public interest. NRS 453.236(1)(d) and NRS 453.241(1).

VI.

The surrender of a registration to the Drug Enforcement Administration by a practitioner operates as an immediate suspension of a registration issued by the Board pursuant to NRS Chapter 453 to possess, administer, prescribe or dispense controlled substances. NRS 639.2107.

VII.

Violating any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs is grounds for suspension or revocation of any license or registration issued by the Board. NRS 639.210(11).

VIII.

Violating, attempting to violate, assisting or abetting in the violation of or conspiring to violate any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy is grounds for suspension or revocation of any license or registration issued by the Board. NRS 639.210(12).

FIRST CAUSE OF ACTION

IX.

By failing to comply with the Federal requirements pertaining to controlled substances, Mall committed an act that would render his Nevada Controlled Substance Registration inconsistent with the public interest, and is subject to discipline pursuant to NRS 453.236(1)(d) and NRS 453.241(1).

SECOND CAUSE OF ACTION

X.

By surrendering his DEA Certificate of Registration No. FM2307468 for cause, the suspension of Mall's Nevada Controlled Substance Registration, Certificate No. CS18967 and Nevada Dispensing Practitioner Registration, Certificate No. PD00257 pursuant to NRS 639.2107 is subject to review by the Board pursuant to NRS 453.236(1) and NRS 639.255(1)(c).

THIRD CAUSE OF ACTION

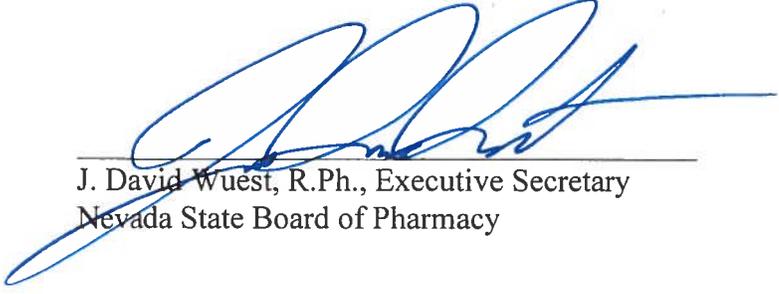
XI.

By failing to comply with the Federal requirements pertaining to controlled substances, Mall is subject to discipline pursuant to NRS 639.210(11) and/or (12), and NRS 639.255.

XII.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of this respondent.

Signed this 12th day of June, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

III.

The Board has scheduled your hearing on this matter for Wednesday, July 17, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

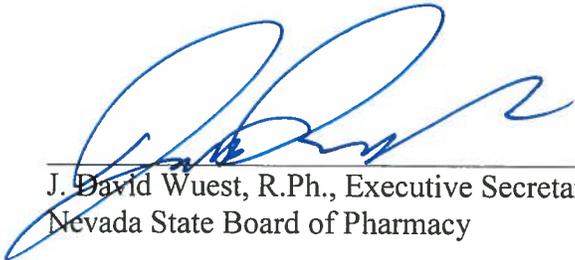
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 12th day of June, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

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NEVADA STATE BOARD OF PHARMACY,

Petitioner,

**Case No. 19-086-CS-S
Case No. 16-1005**

v.

**MICHAEL S. MALL, MD,
Certificate of Registration Nos. CS18967 and
PD00257**

Respondent.



**ANSWER, NOTICE OF DEFENSE, REQUEST FOR HEARING, DEMAND FOR
DISCOVERY, OBJECTION TO TESTIMONY BY WAY OF DECLARATION,
AFFIDAVIT OR REPORT**

Comes Now, Respondent Michael S. Mall, MD, by and through his undersigned counsel of record, Richard A. Schonfeld, Esq., of the law offices of Chesnoff & Schonfeld, and in Answer to the Complaint and Notice of Hearing filed in the above entitled matter before the State of Nevada Board of Pharmacy, declares and Answers as follows (any allegation not addresses shall be deemed a denial of the same):

1. Answering Paragraph I of the Complaint Respondent admits the allegations set forth;
2. Answering Paragraph II of the Complaint, the Respondent denies that there is a valid surrender of his DEA Certificate, nor was the purported surrender "for cause". The purported "surrender" was done under duress. Respondent requested, but was not given, an opportunity to consult with counsel prior to the "surrender". After the "surrender" Respondent was then allowed to contact his counsel and they immediately issued a rescission of the "surrender" to the DEA. See Exhibit A. Accordingly, the surrender is not valid. Moreover, Respondent asserts that he did not violate regulations pertaining to controlled substances, nor has any evidence been presented as to said allegations;

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THIRD DEFENSE

The Board is barred by the doctrine of waiver.

FOURTH DEFENSE

Any claim of the Board is barred by the laches of the Board in pursuing such claim.

FIFTH DEFENSE

The Respondent committed no wrongdoing and the “surrender” of his DEA Certificate of Registration is invalid, was not voluntary, was not for cause, and should be rescinded. Respondent incorporates the rescission letter herein by reference as though fully set forth.

SIXTH DEFENSE

The allegations against Respondent are vague and ambiguous and do not adequately provide the Respondent with notice and an opportunity to defend themselves.

SEVENTH DEFENSE

The evidence obtained in this investigation was obtained in violation of the Respondent’s constitutional rights.

EIGHTH DEFENSE

Pursuant to NRCP 11, as amended, all possible defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Respondent’s Answer, and therefore Respondent reserves the right to amend this Answer to allege additional defenses if subsequent investigation warrants.

NINTH AFFIRMATIVE DEFENSE

Respondent incorporates herein by reference all defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. These defenses are incorporated by reference for the specific purpose of not waiving them.

TENTH AFFIRMATIVE DEFENSE

Respondent has complied with federal requirements pertaining to controlled substances. Respondent did not commit any act that would render his Nevada Registrations inconsistent with

1 the public interest, and therefore is not subject to discipline.

2 **REQUEST FOR HEARING**

3 The Respondent hereby requests a full hearing on the allegations that have been lodged
4 against him.

5 DATED this 1st day of July, 2019.

6
7 Under Penalty of Perjury the undersigned does hereby affirm that he is counsel of record for
8 the Respondent in this matter, and that this document constitutes the Respondents' Notice of
9 Defense, subject to amendment or supplementation.

10 RESPECTFULLY SUBMITTED:

11 CHESNOFF & SCHONFELD

12 

13 RICHARD A. SCHONFELD, ESQ.

14 Nevada Bar No. 6815

15 520 South Fourth Street

16 Las Vegas, Nevada 89101

17 (702) 384-5563

18

19

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21

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23

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25

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27

28

EXHIBIT A



T. LOUIS PALAZZO
ATTORNEY AT LAW

February 22, 2019

Via Email: deanna.k.way@usdoj.gov

Deanna K. Way
Diversion Investigator
U.S. Department of Justice
Drug Enforcement Administration
550 S. Main Street
Las Vegas, Nevada 89101

**Re: Form DEA-104
Michael S. Mall, M.D.**

Dear Investigator Kay:

Please be advised the undersigned has been retained to represent Dr. Michael Mall, with respect to any action concerning or arising out of the events leading to the issuance of a search and seizure warrant, pursuant to Case No. 2:19-mj-140-CWH.

It has come to my attention that yesterday, February 21, 2019, you and your direct supervisor, through the utilization and employment of coercive tactics, caused Dr. Mall, while under extreme duress, to execute a DEA Form 104, with the express intention of forcing him to surrender his Drug Enforcement Administration (DEA) Certificate of Registration. Such was done without any stated or established cause and in direct response to affirmative misrepresentations of fact and law. Formal notice is hereby provided of Dr. Mall's unequivocal and unconditional rescission of the purported surrender of such DEA Form 104.

PALAZZO LAW FIRM
A PROFESSIONAL LAW CORPORATION
ADMITTED TO PRACTICE IN NEVADA, FLORIDA & GEORGIA
520 SOUTH FOURTH STREET LAS VEGAS, NEVADA 89101
TELEPHONE (702) 385-3850
TELE-FAX (702) 385-3855
LOUIS@PALAZZOLAWFIRM.COM



Notwithstanding various DEA and HHS personnel, working in tandem with you, having stripped Dr. Mall of his personal phone, precluding his ability to consult with counsel, and also being forced to remain at the premises and directed to stay seated on the couch in his office lobby area and questioned--without the benefit of *Miranda* rights; when he was finally permitted to depart his office, Dr. Mall was able to seek the advice of counsel and readily able to discern that the basis for insisting upon his execution of Form DEA-104, was predicated upon misinformation, both legally and factually, and devoid of any stated "cause" which would serve as a viable impetus to surrender a registration certificate. Accordingly, demand is hereby made that Dr. Mall's DEA Certificate of Registration be restored to him forthwith, without any adverse consequence, limitation or restriction.

Very truly yours,

PALAZZO LAW FIRM
A PROFESSIONAL LAW CORPORATION

A handwritten signature in dark ink, appearing to read 'Louis Palazzo', is written over the typed name.

Louis Palazzo, Esq.

PALAZZO LAW FIRM
A PROFESSIONAL LAW CORPORATION

520 SOUTH FOURTH STREET LAS VEGAS, NEVADA 89101
TELEPHONE (702) 385-3850
TELE-FAX (702) 385-3855
OFFICE@PALAZZOLAWFIRM.COM

1 **CERT**
 2 **RICHARD A. SCHONFELD, ESQ.**
 Nevada Bar No. 6815
 3 **CHESNOFF & SCHONFELD**
 4 **520 South Fourth Street**
Las Vegas, Nevada 89101
 5 **(702) 384-5563**
Attorney for Respondent, MICHAEL S. MALL. MD

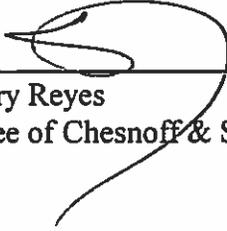
6 **BEFORE THE STATE BOARD OF PHARMACY**

8	NEVADA STATE BOARD OF PHARMACY)	
)	
9	Petitioner,	)	Case No. 19-086-CS-S
	vs.	)	Case No. 16-1005
10)	
11	MICHAEL S. MALL, MD,	)	CERTIFICATE OF
	Certificate of Registration Nos. CS18967	)	<u>MAILING</u>
12	and PD00257)	
	Defendant.)	
13)	

14 I hereby certify that on the 1st day of July, 2019, I served a true and correct copy of the
 15 foregoing **ANSWER, NOTICE OF DEFENSE, REQUEST FOR HEARING, DEMAND FOR**
 16 **DISCOVERY, OBJECTION TO TESTIMONY BY WAY OF DECLARATION, AFFIDAVIT**
 17 **OF REPORT** [Original and 2 copies] by Federal Express #7756 1385 9718 addressed as follows:

19 Nevada State Board of Pharmacy
 20 985 Damonte Ranch Parkway, Suite 206
 21 Reno, Nevada 89521

22 **DATED** this 1st day of July, 2019.

23 
 24 _____
 Rosemary Reyes
 Employee of Chesnoff & Schonfeld

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 13th day of June, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

MICHAEL S. MALL, MD
7455 W WASHINGTON AVE #400
LAS VEGAS, NV 89128


SHIRLEY HUNTING



NEVADA STATE BOARD OF PHARMACY
OFFICE OF THE GENERAL COUNSEL

WRITER'S DIRECT DIAL: (775) 850-1440 • E-MAIL: bkandt@pharmacy.nv.gov • FAX: (775) 850-1444

February 27, 2019

VIA CERTIFIED U.S. MAIL AND ELECTRONIC MAIL TO: candice@drmallmd.com

Michael S. Mall, MD
7455 W. Washington Avenue #400
Las Vegas, NV 89128

Re: Suspension of Certificate of Registration Nos. CS18967 and PD00257

Dear Dr. Mall:

The Nevada State Board of Pharmacy (Board) has been notified by the U.S. Drug Enforcement Administration that you surrendered your DEA Certificate of Registration No. FM2307468 on February 21, 2019 (documentation enclosed).

Please be advised that pursuant to NRS 639.2107 your surrender of your DEA registration operates as an immediate suspension of your Certificate of Registration Nos. CS18967 and PD00257 with the Board.

You may request a hearing before the Board to contest the suspension of your registrations by submitting a written request to the Board's Reno office, located at 985 Damonte Ranch Parkway – Suite 206, Reno, NV 89521.

Please be aware that the forgoing does not preclude a formal investigation or filing of an accusation pursuant to NRS 639.241. If you have any questions, please do not hesitate to contact me at 775-850-1440 or bkandt@pharmacy.nv.gov.

Best regards,

A blue ink handwritten signature, appearing to read "Brett Kandt", is written over a blue circular stamp.

Brett Kandt
General Counsel
Nevada State Board of Pharmacy

4C

JUN 13 2019

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS. 17-118-CS-A-S
	)	17-118-CS-B-S
Petitioner,)	
v.	)	NOTICE OF INTENDED ACTION
	)	AND ACCUSATION
MARIKA CHUNYK, A.P.R.N.,)	
Certificate of Registration No. CS26747, and)	
)	
TIFFANY M. WALKER, A.P.R.N.,)	
Certificate of Registration No. CS27187,)	
)	
Respondents.	/	

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 622A.300(1) and/or NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (“Board”) has jurisdiction over this matter and these respondents because at the time of the events alleged herein, advanced practice registered nurse (“A.P.R.N.”) Marika Chunya, Certificate of Registration No. CS26747 (“Chunya”), and A.P.R.N. Tiffany M. Walker, Certificate of Registration No. CS27187 (“Walker”), each held a controlled substance registration issued by the Board, and each was authorized by the Board to prescribe controlled substances and dangerous drugs pursuant to NRS 639.1375, NRS 639.2351, and NAC 639.850 through 639.898.

FACTUAL ALLEGATIONS

II.

In February 2018, non-Respondent Colt Strebel owned and operated a facility called My Vitamin Therapy (“MVT”), located on Paradise Road in Las Vegas, Nevada.

III.

At the same time, MVT employed Respondents Chunyk and Walker, each of whom was registered as an A.P.R.N. by the Nevada State Board of Nursing.

IV.

MVT also employed registered nurses (“RNs”) and advanced emergency medical technicians (“EMTs”).

V.

RNs and EMTs are not practitioners under Nevada law.

VI.

With Chunyk and Walker’s knowledge and authorization and at their direction, MVT’s staff, including its RNs, EMTs and owner Strebel (collectively its “Non-practitioner Staff”), provided on-site and off-site medical treatment to patients, including the administration of dangerous drugs through intravenous (“IV”) therapy and/or injections.

VII.

MVT and its Non-practitioner Staff provided medical treatment pursuant to protocols, standing orders and/or policies and procedures that allowed for treatment and the administration of drugs without an exam or *bona fide* relationship with a practitioner.

VIII.

MVT’s policies and procedures allowed its Non-practitioner Staff to obtain, access, possess and store dangerous drugs from MVT’s inventory.

IX.

MVT’s Non-practitioner Staff obtained, accessed and possessed dangerous drugs and administered dangerous drugs to patients, without a practitioner on site, without a practitioner’s direct supervision, without an examination by a practitioner, and without a patient-specific and medication-specific order.

X.

MVT's policies and procedures also allowed MVT's Non-practitioner Staff to counsel patients regarding their medical treatment, including the administration of dangerous drugs.

XI.

MVT's Non-practitioner Staff provided counseling to MVT's patients.

XII.

Respondents Chnyk and Walker were aware of the conduct alleged in paragraphs II through XI above, authorized and participated in directing MVT's Non-practitioner Staff to engage in that conduct, and/or aided and abetted MVT's Non-practitioner Staff in engaging in that conduct.

APPLICABLE LAW

XIII.

No person may possess a dangerous drug in Nevada without specific statutory authority to do so. *See* NRS 454.213, NRS 454.316, NRS 454.321.

XIV.

An A.P.R.N. may prescribe and dispense a controlled substance or dangerous drug only after receiving authority and a certificate to do so from the Board, and only to the extent authorized by the Board and the Nevada State Board of Nursing. *See* NRS 632.237, NRS 639.1375(1)(c); NRS 639.2351; NAC 639.850 through 639.900.

XV.

A practitioner can give a registered nurse (RN) limited authority to possess and administer dangerous drugs without the practitioner onsite by way of NRS 454.213(1)(c), which says in relevant part:

a drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by . . . a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric

physician or advanced practice registered nurse, *or pursuant to a chart order, for administration to a patient at another location.*

NRS 454.213(1)(a)(*emphasis added*); *see also* NRS 639.100.

XVI.

Chart orders must be written (NRS 454.223) and are patient-specific and medication-specific.¹

XVII.

“Except as otherwise specifically provided, every person who violates any provision of NRS 454.181 to 454.371, inclusive, is guilty of a misdemeanor.” NRS 454.356.

XVIII.

A practitioner must first establish a *bona fide therapeutic relationship* with a patient by examination before he or she can determine that a medication is medically necessary and direct and/or authorize a RN to possess and administer a dangerous drug on-site or issue a chart order for off-site administration of a dangerous drug to treat the patient’s medical condition. *See* NAC 639.945(1)(o) and NRS 454.213(1)(a).

XIX.

[A] *bona fide therapeutic relationship* between the patient and practitioner shall be deemed to exist if the patient was examined in person, electronically, telephonically or by fiber optics . . . by the practitioner within the 6 months immediately preceding the date the practitioner . . . prescribes a drug to the patient and, as a result of the examination, the practitioner diagnosed a condition for which a given drug therapy is prescribed.

NRS 639.945(3).

¹ *See* NRS 639.004 “Chart order” means an order entered on the chart of a patient in a hospital, facility for intermediate care or facility for skilled nursing which is licensed as such by the Division of Public and Behavioral Health of the Department of Health and Human Services or on the chart of a patient under emergency treatment in a hospital by a practitioner or on the written or oral order of a practitioner authorizing the administration of a drug to the patient.

XX.

“Performing or in any way being a party to any fraudulent or deceitful practice or transaction” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(h).

XXI.

A licensee “[p]erforming any of his or her duties as the holder of a license, certificate or registration issued by the Board . . . in an incompetent, unskillful or negligent manner” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(i).

XXII.

“Performing any act, task or operation for which licensure, certification or registration is required without the required license, certificate or registration” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(k).

XXIII.

“Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(o).

XXIV.

The Board may suspend or revoke a registration issued pursuant to NRS 453.231 to prescribe or otherwise dispense a controlled substance upon a finding that the registrant has committed an act that would render registration inconsistent with the public interest. NRS 453.236(1)(d) and NRS 453.241(1).

XXV.

NAC 639.900 Grounds for . . . suspension or revocation of registration. (NRS 639.070, 639.210) The Board may . . . suspend or revoke . . . [a] certificate of registration if the advanced practice registered nurse:

- 1. Is not of good moral character;
.....
- 4. Is guilty of unprofessional conduct or conduct contrary to the public interest;
.....
- 10. Has violated any provision of the Federal Food, Drug, and Cosmetic Act or any other state or federal law or regulation relating to prescription drugs;
.....
- 12. Has failed to maintain the security of his or her drug supply;
.....
- 14. Has violated any provision of chapter 453, 454, 585 or 639 of NRS or any regulation pertaining to the practice of pharmacy, controlled substances, dangerous drugs or devices.

XXVI.

Engaging in conduct that constitutes unprofessional conduct or that is contrary to the public interest is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(4).

XXVII.

Violating, attempting to violate, assisting or abetting in the violation of or conspiring to violate any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(12).

FIRST CAUSE OF ACTION

Unlawful Access and Possession of Dangerous Drugs (Statutory Violations)

XXVIII.

By allowing MVT’s Non-practitioner Staff, including RNs, EMTs and Strebel, none of whom were practitioners and none of whom were licensed to prescribe dangerous drugs, to operate MVT and to use their authority to obtain, access, possess and/or store dangerous drugs when they were not on site, before they examined the patient, before they wrote a patient-specific order and without their direct supervision, Respondents Chunya and Walker violated, or

aided and abetted MVT's staff in violating, NRS 454.213(1), NRS 454.316, NRS 454.356, NAC 639.854(1)(a) and/or NAC 639.900.

SECOND CAUSE OF ACTION

Unlawful Access and Possession of Dangerous Drugs (Unprofessional Conduct)

XXIX.

By allowing MVT's Non-Practitioner Staff, none of whom were practitioners and none of whom were licensed to possess or prescribe dangerous drugs, to operate MVT and/or to obtain, access, possess and store dangerous drugs when they were not on site, before they examined the patient and before they wrote a patient-specific order, Chunyk and Walker engaged, or assisted and abetted MVT's Non-practitioner Staff, to engage in unprofessional conduct as defined in NAC 639.945(g), (i), (k) and (o).

THIRD CAUSE OF ACTION

Unlawful Administration of Dangerous Drugs – No Bona Fide Therapeutic Relationship and No Authority to Determine Medical Necessity

XXX.

By authorizing MVT's Non-practitioner Staff, none of whom were licensed practitioners, to act under their authority to operate MVT, to administer a dangerous drug to patients who had not been examined by a practitioner, with whom neither Chunyk nor Walker had a *bona fide* therapeutic relationship and for whom neither Chunyk nor Walker had diagnosed or determined that a dangerous drug was medically necessary, Chunyk and Walker violated, and/or aided and abetted MVT's staff in violating Nevada law, including NRS 639.1375, NRS 639.2351, NRS 454.221(1) and/or NAC 639.850 through 639.900. They also acted unprofessionally. *See* NAC 639.945(1)(k) and (o).

XXXI.

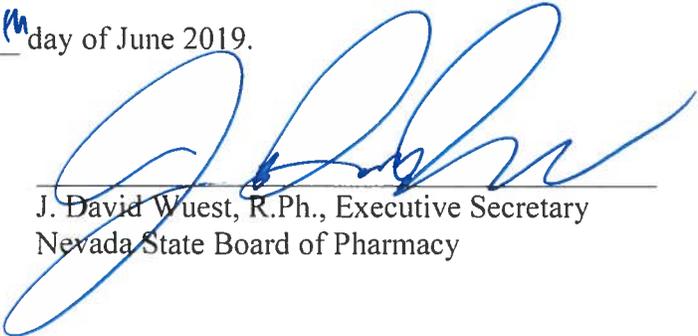
For the violations and conduct alleged in paragraphs II through XXX above, Chunyk's Controlled Substance Registration, Certificate of Registration No. CS26747, and Walker's Controlled Substance Registration, Certificate of Registration No. CS27187, and each of their

Board-issued certificates to prescribe controlled substances and dangerous drugs, are subject to discipline pursuant to NRS 453.236(1)(d), NRS 453.241(1), NRS 639.210(4) and (12), NAC 639.900 and/or NRS 639.255.

XXXII.

WHEREFORE, it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of these respondents.

Signed this 13th day of June 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350. To do so, you must mail to the Board within twenty (20) days of your receipt of the Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-118-CS-A-S
)	
Petitioner,)	
v.	)	STATEMENT TO THE
	)	RESPONDENT
MARIKA CHUNYK, A.P.R.N,	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. CS26747,	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent.	/	

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, July 17, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

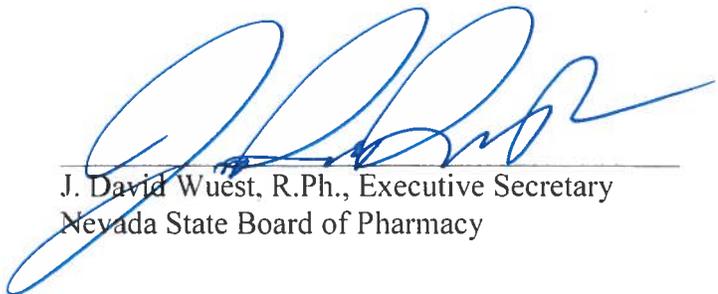
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 13 day of June, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-118-CS-A-S
)	
Petitioner,)	
v.	)	ANSWER AND NOTICE
	)	OF DEFENSE
MARIKA CHUNYK, A.P.R.N,)	
Certificate of Registration No. CS26747,)	
)	
Respondent.	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ___ day of June, 2019.

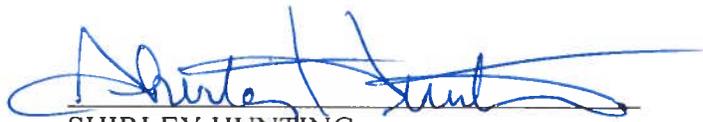
MARIKA CHUNYK, A.P.R.N

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 14th day of June, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Marika Chnyk, APRN
715 Mall Ring Circle, Suite 202
Henderson, NV 89014**

**Tiffany Walker, APRN
7421 Margollini Street
Las Vegas, NV 89148**


SHIRLEY HUNTING

4D

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-118-CS-B-S
)	
Petitioner,)	
v.	)	STATEMENT TO THE
	)	RESPONDENT
TIFFANY M. WALKER, A.P.R.N.,	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. CS27187,	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent.	/	

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, July 17, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

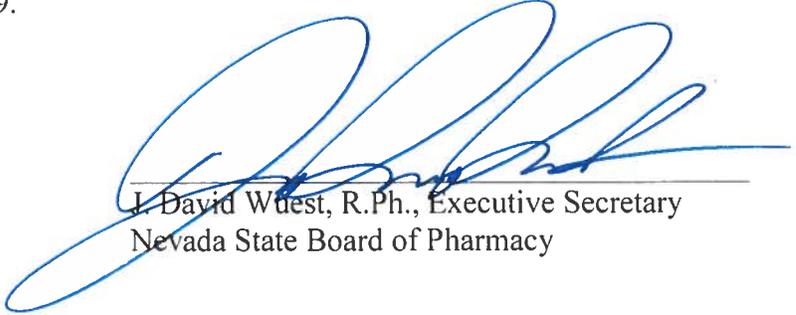
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 13th day of June, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

Please see attached statement.

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 28 day of June, 2019.

A handwritten signature in black ink, appearing to read 'Tiffany M. Walker', written over a horizontal line.

TIFFANY M. WALKER, A.P.R.N.

FILED

JUN 26 2019

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

STATE OF NEVADA BOARD OF
PHARMACY,

Petitioner,

-vs-

TIFFANY M. WALKER, A.P.R.N.,
Certificate of Registration No. CS27187

Respondent.

CASE NO. 17-118-CS-B-S

ANSWER TO NOTICE OF INTENDED
ACTION AND ACCUSATION

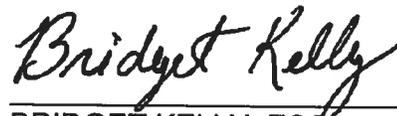
TIFFANY M. WALKER, A.P.R.N., by and through her attorneys Maria Nutile, Esq. and Bridget Kelly, Esq. of the law firm Nutile Law, and in answer to the Notice of Intended Action and Accusation in the above referenced matter, filed on June 13, 2019 upon permission from the Nevada State Board of Pharmacy ("Board"), admits and denies as follows:

1. Answering Paragraphs I and II, Respondent admits the allegations contained therein.
2. Answering Paragraphs VI, XII, XXVIII, XXIX, and XXX, Respondent denies the allegations contained therein.
3. Answering Paragraphs IV, VII, VIII, IX, X, XI, Respondent is without sufficient knowledge upon which to base a belief as to the truth of the allegations contained therein, and therefore denies each and every allegation contained therein.
4. Answering Paragraphs V, XXXI, XXXII, and Paragraphs XIII through XXVII, Respondent states these Paragraphs require no response.

5. Answering Paragraph III, Respondent admits she was registered as an A.P.R.N. by the Nevada State Board of Nursing during February 2018. Respondent denies the remaining allegations contained therein.

DATED this 28th day of June 2019.

NUTILE LAW



BRIDGET KELLY, ESQ.

Nevada Bar No. 14388

MARIA NUTILE, ESQ.

Nevada Bar No. 7847

NUTILE LAW

7395 S. PECOS RD.

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Attorneys for Respondent

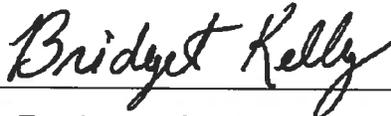
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Nutile Law and that on the 28th day of June 2019, a copy of RESPONDENT'S ANSWER TO NOTICE OF INTENDED ACTION AND ACCUSATION, CASE NO. 17-118-CS-B-S with all Exhibits thereto, was placed into the hands of the United States Postal Service, postage prepaid on the date listed herein, addressed as follows:

Nevada State Board of Pharmacy
985 Damonte Ranch Pkwy, Ste. 206
Reno, NV 89521

A copy was also emailed to S. Paul Edwards, General Counsel for the Board, at pedwards@pharmacy.nv.gov

Dated this 28th day of June 2019.

A handwritten signature in cursive script that reads "Bridget Kelly". The signature is written in black ink and is positioned above a horizontal line.

An Employee of Nutile Law



Maria Nutile, Esq.*
Bridget Kelly, Esq.

* licensed in NV, AZ and CO

June 28, 2019

VIA EMAIL

pedwards@pharmacy.nv.gov

S. Paul Edwards, Esq.
 General Counsel
 Nevada State Board of Pharmacy
 985 Damonte Ranch Pkwy, Ste. 206
 Reno, NV 89521



Re: Case No. 17-118-CS-B-S
Tiffany M. Walker, APRN

Dear Mr. Edwards:

This firm was recently retained by Tiffany Walker, APRN with regards to the above referenced case. Attached please find Ms. Walker's Statement responding to the allegations against her. For reasons set forth below and in Ms. Walker's Statement, we respectfully request this matter be dismissed as regards to Ms. Walker. Alternatively, should a formal hearing be required as currently scheduled for July 17, 2019, our list of witnesses and documents appears below.

Request for Dismissal

It appears Ms. Walker was perhaps included in this matter by mistake. As explained in her Statement, Ms. Walker was never a medical director, supervisor, or person of authority with My Vitamin Therapy (MVT). She was contracted as an on-call nurse practitioner and had minimal engagement with MVT. She provided services, in person, for one (1) MVT patient during her five (5) months' association with MVT, for which she was paid \$72.50. Ms. Walker denies any role in ordering dangerous drugs for MVT or authorizing anyone at MVT to do so in her name. If indeed MVT named Ms. Walker as a "medical director," this was without Ms. Walker's knowledge or consent.

Ms. Walker's initial response to the Board of Pharmacy in this matter in March 2018 was without the benefit of counsel and at the direction of MVT owner, Kolt Strebel. Had we represented Ms. Walker at the time, we would have advised her to clarify immediately that she was not a medical director, and was an on-call nurse practitioner who had as yet not provided any clinical services for MVT. Unfortunately, Ms. Walker attempted to assist the Board of Pharmacy's investigation by summarizing MVT policies and procedures as they were told to her by Mr. Strebel, rather than based upon her personal experience within the business. As a result, Ms. Walker's initial response in this matter may have appeared to represent her own professional activity and even full-time involvement with MVT, when in fact she was trying to describe procedures of a company for which she had not provided any services.

P. Edwards
June 28, 2019
Page 2

For these reasons, we request the charges pending against Ms. Walker be dismissed. She is a newly-licensed APRN, and we would prefer to spare her the expense and publicity of a formal hearing. We would be happy to have a telephone call to discuss this matter further, or provide the Board of Pharmacy additional documentation or a request for dismissal in an alternate format as the Board may require.

Hearing Preparation

Should the Board of Pharmacy decline our request for dismissal, we intend to proceed with the hearing in this matter scheduled for July 17, 2019. I will be appearing on behalf of Ms. Walker, and we intend to present the following:

Witnesses:

1. **Tiffany M. Walker**, Respondent

Documents:

1. **Respondent Statement** by Ms. Walker, attached, with its accompanying exhibits

In addition, we incorporate by reference all evidence for which Petitioner has provided or will provide notice of its intent to introduce.

We appreciate your attention to this matter. Should you have any questions, I may be reached at 702.307.4871.

Sincerely,

NUTILE LAW



Bridget Kelly, Esq.

cc: Tiffany Walker, APRN
Maria Nutile, Esq.



JUN 26 2019

NEVADA STATE BOARD
7421 Marginal St. PHARMACY
Las Vegas, NV 89148

June 28, 2019

Nevada State Board of Pharmacy
985 Damonte Ranch Pkwy, Ste. 206
Reno, NV 89521

RE: Respondent Statement
Case No. 17-118-CS-B-S
Tiffany M. Walker, APRN

To Whom It May Concern:

Please accept the following statement in response to the Nevada State Board of Pharmacy’s Notice of Intended Action and Accusation in this case.

- 1. I object to the Notice as incomplete and failing to clearly state the charges against me.

I do not understand why I have been named in this complaint. As an APRN, I was an on-call independent contractor and not employed by MVT. Additionally, I was never a Medical Director of MVT. Moreover, I am not and have never been an owner, part-owner, or agent of MVT, nor have I held any position of authority, supervision, or control within MVT. My brief association with MVT as an APRN was limited to (a) unpaid training sessions at MVT’s clinic on approximately two (2) occasions, including shadowing Marika Chunya, APRN; (b) signing up through MVT’s website to be on-call (without pay) to provide infusion services; (c) attending a meeting in March 2018 at MVT in response to the Board of Pharmacy’s initial notice of investigation; and (d) being dispatched with an RN to see one (1) patient in approximately March 2018, for whom I provided services in person.

- 2. I deny the allegations against me in the Notice.

Background:

I was associated with MVT clinic from approximately 12/2017 to 05/2018 under the direction of Kolt Strelbel, the owner and sole operator of the clinic. I initially applied to be an RN at MVT, then reapplied to be a nurse practitioner once I was fully credentialed as an APRN. Attached as Exhibit 1 are the job postings to which I responded. Note that both positions were advertised as “part-time” and “on-call”.

Tiffany Walker, APRN

June 28, 2019

Statement of T. Walker, APRN
June 28, 2019
pg. 2

As stated above, I was never a Medical Director for MVT as was mentioned in the Pharmacy Board's initial notice of investigation addressed to me and Marika Chunya, APRN at MVT's clinic. I understood my role at MVT to be part-time/on-call, and I was working other jobs at the same time. I was never involved in ordering, inventory, or operational management, and had no authority at MVT other than clinical supervision of any RN that would have been assigned to me. Further, I never authorized MVT to use my name, license, or DEA registration to obtain any medications or products whatsoever.

As additional proof of my limited association with, and my understanding of my role at, MVT, I have attached as Exhibit 2 screenshots of messages exchanged with a friend of mine who was also starting her career as an APRN. They have been redacted for privacy, but are meant to show my minimal involvement with MVT and the on-call nature of my engagement with them. Specifically, I refer to MVT as a "cool extra side gig" (12/20/2017); that I had not worked for MVT but "was on call but no calls" (12/29/2017); "it's just a side thing to work whenever u want" (12/29/2017); and by March 2018 I had worked "very little" (03/03/2018).

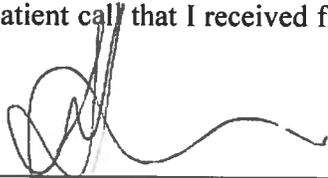
On 3/5/2018, Mr. Strebel held a mandatory meeting at MVT clinic, when I was presented with the Board of Pharmacy's initial notice of investigation in this matter. Mr. Strebel notified me that Board of Pharmacy representatives had visited the clinic. He advised me that I needed to respond to the Board of Pharmacy's investigation.

I did notice that the letter referred to me as one of the medical directors of MVT along with Ms. Chunya, but at the time I did not recognize the significance. I am not sure how the Board of Pharmacy came to believe I was the medical director, and if I was considered to be a medical director within MVT I was not aware of it. Mr. Strebel and I had never discussed that role, nor was I being compensated for any medical director services.

I wanted to help the Pharmacy Board in its investigation, but it had been so long since my training at MVT and I had still not provided any clinical services for MVT that I did not know how to respond to the questions. Mr. Strebel showed me the response that Ms. Chunya had written, and explained to me again the clinic's established procedures. I understood the Pharmacy Board to be asking generally about clinic procedures, which I summarized in my response, but I did not think I was being asked to explain my personal involvement with MVT.

Based on the information provided by Mr. Strebel and his instructions in general, I wrote my response dated 3/5/2018 before I departed the meeting that day and submitted it to the Board. I also asked Mr. Strebel to notify me of the outcome of this situation.

A few weeks after the meeting, I was dispatched for my first appointment. This was the one and only patient call that I received from MVT. I responded to this call and completed the visit with



Tiffany Walker, APRN

June 28, 2019

Statement of T. Walker, APRN

June 28, 2019

pg. 3

an RN. I have attached as Exhibit 3 proof of the only compensation I ever received from MVT, which was a check for \$72.50 cashed on 4/27/2018 for this one dispatch visit. I did not make enough money with MVT to receive a 1099, so this is the only proof of compensation I am able to provide.

In the wake of the Pharmacy Board notice of investigation, in which I was identified as a medical director, I requested a copy of my contract with MVT from Mr. Strebel. He refused to provide me a copy, and questioned my reasons for requesting it. I began feeling very uncomfortable and no longer trusted Mr. Strebel's leadership. Although I only performed one (1) patient visit for MVT during my five (5) months' association with them, I formally resigned with immediate effect on May 10, 2018.

Ultimately, MVT was Mr. Strebel's business and he developed all policies and procedures. I received one call for a patient the entire time I was available for call, and I administered that infusion myself. The other two (2) times that I was in clinic, I was being trained, for two (2) hours at most, and never received any compensation.

I was a newly licensed APRN when I signed up to work with MVT. I did not know exactly where I wanted to work or what kind of care I wanted to focus on. At the time, I had signed up to work per diem or on-call at several facilities and practices, so that I could earn some money while looking for full-time work, and to experience different practice settings.

In hindsight, I was extremely naïve and probably over-eager to begin practicing. As prevalent and popular as infusion clinics are in Las Vegas, I simply assumed MVT and the others would be operating in compliance with the law. I have since learned that businesses such as infusion clinics and medical spas can vary widely as to their structure and operations. As a licensed practitioner, it is my responsibility to help protect the public by being extremely selective in providing my services to any company.

This experience has been eye-opening for me. I can assure the Pharmacy Board that I will avoid working for any infusion clinics, medical spas, and any profit-over-medicine businesses in the future. I will be more mindful of my own responsibilities as a licensee, and will not rely on any employer to ensure professional compliance.

I respectfully request that the charges against me be dismissed.



Tiffany Walker, APRN

June 28, 2019

EXHIBIT 1
JOB POSTINGS

Registered Nurse

IV Vitamin Therapy Clinic - Las Vegas, NV 89169

This job posting is no longer available on Indeed.

Related searches:

Registered Nurse jobs in Las Vegas, NV 89169 >

IV Vitamin Therapy Clinic jobs in Las Vegas, NV 89169 >

Now hiring a on-call Registered Nurses to join our great team of nurses and other practitioner's. We provide Intravenous Vitamin Therapy in our clinic and also dispatch to the hotels on the Las Vegas strip. We don't only treat hangovers, we have a wide range of IV vitamin therapy treatments that treat all different patients conditions from cancer to low immune systems etc. We are clinic based on paradise and sands a block away from the encore hotel, and also do dispatches to the local hotels on the strip. IV Vitamin Therapy Clinic's top priority is to see people get better with Vitamin's, rather than using medications. The human body is extremely smart and powerful with the proper nutrition, and rest the body can heal. Now day's it's very common to see people on many different medications, throwing their entire system out of balance causing a snowball effect not fixing the problem. We offer a Flexible Schedule with great pay. Please reach out for more information. Visit our website for more details MyVitaminTherapy.com

Requirements: To be considered for this position, applicants need to meet the qualifications listed in this posting. Required Qualifications: Registered Nurse Certification Active and unrestricted, RN license in Nevada. Ability to communicate with patients, primary care team members and management staff Ability to make care decisions based on best medical practices without direct supervision or guidance by a physician \$30.00 per Hour: treatments last about one hour, and if they take less than 1 hour you will still be paid for the full hour. You will need to have experience in administering intravenous to be considered for the position.

You will need to be available to be on call 2-4 days a week, and be within 1 hour of the clinic while your on call.

Job Type: Part-time

Salary: \$30.00 /hour

Job Location:

- Las Vegas, NV

Required experience:

- Registered Nurse (RN): 1 year

Required license or certification:

- Registered Nurse (RN)

2 years ago - report job

Family Nurse Practitioner \$50-\$100

IV Vitamin Therapy Clinic - Las Vegas, NV 89169

This job posting is no longer available on Indeed.

Related searches:

Family Nurse Practitioner \$50-\$100 jobs in Las Vegas, NV 89169 >

IV Vitamin Therapy Clinic jobs in Las Vegas, NV 89169 >

Now hiring a Nurse Practitioner to join our great team of nurses and other practitioner's. Must have a knowledge about IV Vitamins to be considered. We are expanding and growing all the time, with multiple locations opening this year around the world. We provide Intravenous Vitamin Therapy in our clinic and also dispatch to the hotels on the Las Vegas strip. We carry a wide range of IV vitamin packages.

Conditions treated:

- Migraines headaches * Fibromyalgia * Acute muscle spasm * Upper respiratory tract infections * Asthma * Chronic * PTSD * Spesis * sinusitis * Viral infections * Seasonal allergic rhinitis * Cardiovascular disease * Chronic pain * Insomnia * Depression The Effects Of Free Radicals * Rejuvenates Skin * Cleanses Vital Organs * Restores Hydration * Replenishes Essential Minerals & Vitamins * Boosts Your Immune System * Decreases Inflammation * Relieves Pain And Nausea * Delivers An Energy Boost * Detoxifies The Body * Cleanses Vital Organs * Hives and eczema * ALS * Alzheimer's * ASD (Autism Spectrum Disorder) * Cancer * Chronic Fatigue * COPD * Cystic Fibrosis * Diabetes * Heavy Metal Toxicity * HIV * Huntington's Disease * Lyme Disease * Multiple Sclerosis * Parkinson's Disease * Stroke * Acetaminophen Toxicity * Hangovers & Dehydration :

IV Vitamin Therapy will refresh your body to help you recover from the toughest hangover. All staff follows strict policy and procedures along with protocols. At IV Vitamin Therapy Clinic our top priority is to see people get better with Vitamins & electrolytes, rather than using medications. The human body is extremely smart and powerful with the proper nutrition, and rest the body can heal. Now day's it's very common to see people on many different medications, throwing their entire system out of balance causing a snowball effect not fixing the problem. Athletes come from all around the world to seek IV Vitamin Therapy Clinic's packages and see our medial team.

We offer a Flexible Schedule with great pay. We're open 9-6 M-F and 9-7 on Saturday, Sunday 9-4, we're not open 24 hours. To be considered for this position, applicants need to meet the qualifications listed in this posting.

Required Qualifications: Advanced Nurse Practitioner Certification Active unrestricted Nurse Practitioner, APRN license in Nevada, or ability to obtain. Candidates must have a minimum of 1-year experience in ICU or ER. Ability to communicate with patients, primary care team members and management staff Ability to make care decisions based on best medical practices 50.00 per Hour * plus tips : treatments last about one hour, and if they take less than 1 hour you will still be paid for the full hour. You will be in charge of overseeing nurses and your own patients. You will need to have experience in administering intravenous to be considered for the position. You will need to be available to be on call at least 1- 3 days a week, and be within 1 hour of the clinic while you're on call.

This job operates in a professional medical clinic environment. Documentation and filing activities needed for patient paperwork and will be maintained in Clinic.

Beautiful Clinic, safe work environment, a block away from the Wynn hotel and Las Vegas Convention center.

Job Type: Part-time

Salary: \$50.00 to \$100.00 /hour

Experience:

- IV Therapy: 1 year (Required)

Job Location:

- Las Vegas, NV (Required)

License or certification:

- APRN (Required)

Language:

- English (Required)

18 months ago - report job

Family Nurse Practitioner jobs in Las Vegas, NV

Jobs at IV Vitamin Therapy Clinic in Las Vegas, NV

Family Nurse Practitioner salaries in Las Vegas, NV

Applied

My Jobs

Next Steps

(10)

Registered Nurse

IV Vitamin Therapy Clinic - Las Vegas, NV

Moved to Applied 897 days ago

Expired

Saved

(52)

Got an interview?



Applied

(78)

Interviewing

Offered

(1)

Family Nurse Practitioner \$50-\$100

IV Vitamin Therapy Clinic - Las Vegas, NV

Moved to Applied 541 days ago

Expired

Visited

Archived

Got an interview?

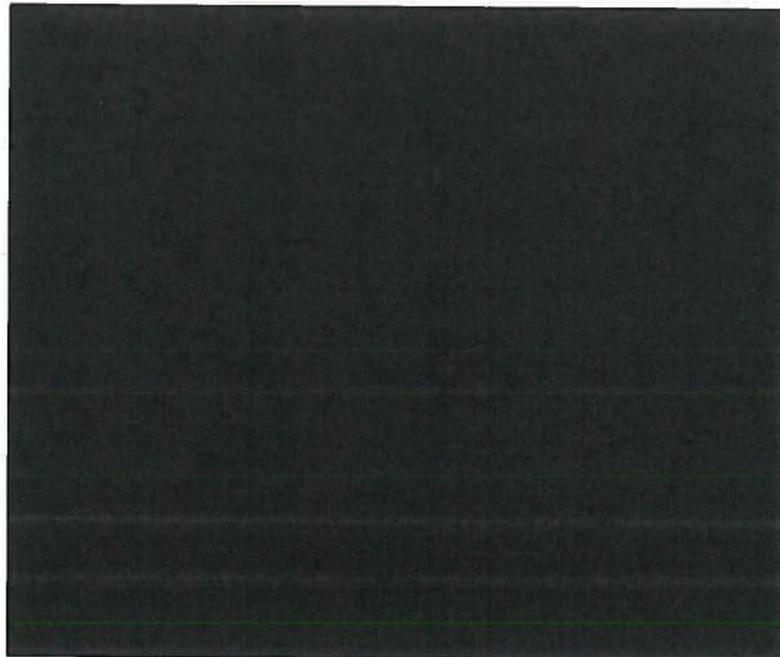
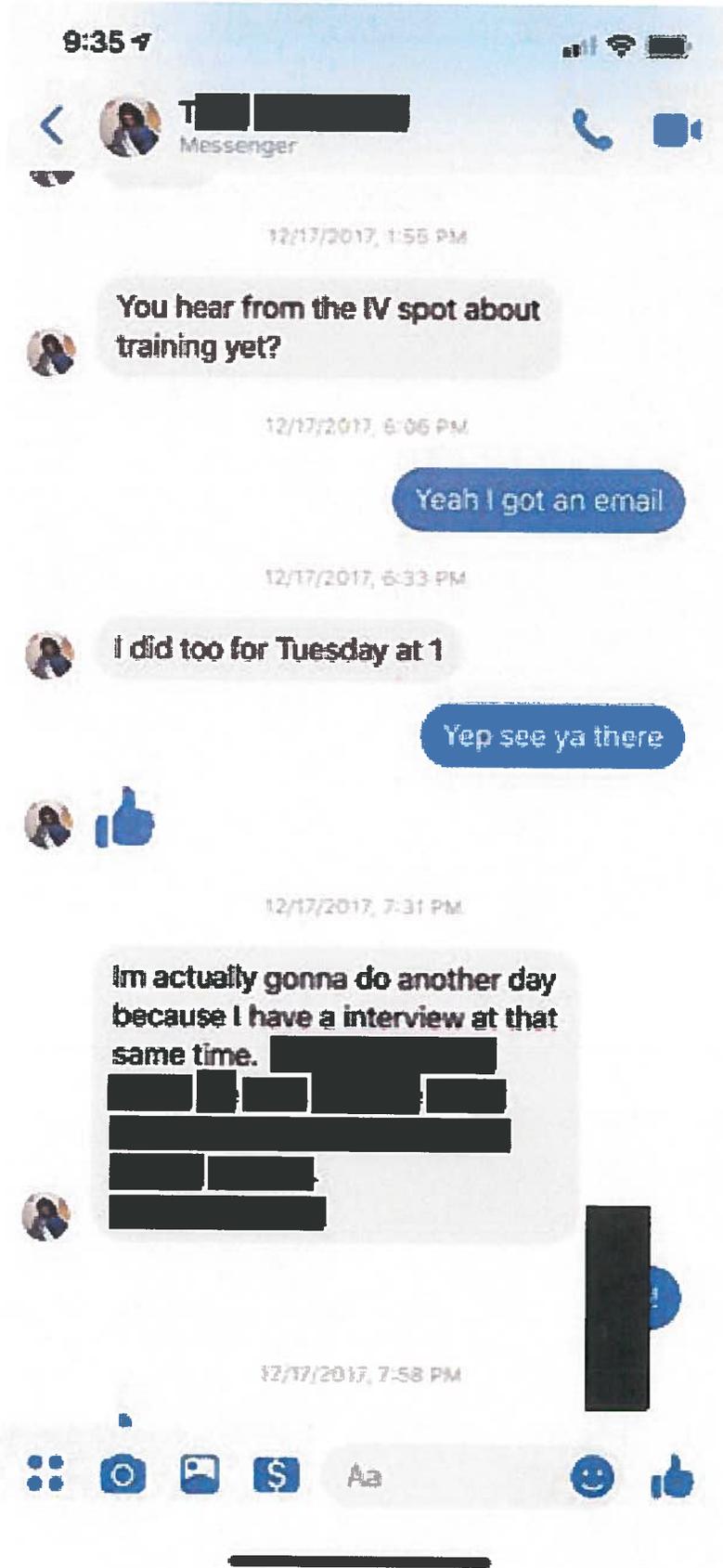
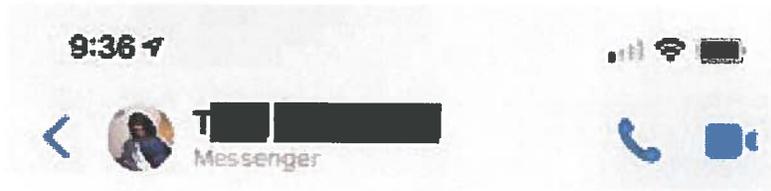


EXHIBIT 2
MESSAGES





12/17/2017, 7:58 PM



12/20/2017, 10:40 AM



How did training go?

It was ok just shadowed an infusion
 got everything set up to work
 basically independent contractor so
 you can sign up when u want



Oh, ok. Im waiting on him to get back with me.

Ok it seems cool extra side gig
 [Redacted]

[Redacted]

12/20/2017, 11:38 AM

[Redacted]



EXHIBIT 3
COMPENSATION

Sales Transaction Report

Filter (Type: CHK -Voids Hidden-)

Check City Durango/warm S
 8520 W. Warm Springs, Ste
 Las Vegas, NV 89113
 (702)216-8999

Check

Customer	Maker	Date	User	Amount	Fees	Total
Walker, Tiffany M						
Walker, Tiffany M						
Walker, Tiffany M						
Walker, Tiffany M						
Walker, Tiffany M						
Walker, Tiffany M						
Walker, Tiffany M						
Walker, Tiffany M						
Walker, Tiffany M						
Walker, Tiffany M						
Walker, Tiffany M						
Walker, Tiffany M						
Walker, Tiffany M						
Walker, Tiffany M						
Walker, Tiffany M	Iv Vitamin Therapy	4/27/2018 4:56:10 PM	SACE	(\$72.50)	\$3.62	(\$68.88)
Totals	Qty: 14					
Grand Totals	Qty: 14					

4E

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-087-CS-S
)	
Petitioner,)	
v.)	
	)	NOTICE OF INTENDED ACTION
SHOUPING LI, MD,	)	AND ACCUSATION
Certificate of Registration No. CS15391,)	
)	
Respondent.	/	

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and this respondent because at the time of the alleged events, Respondent Shouping Li, MD (Li), held a Nevada Controlled Substance Registration, Certificate No. CS15391, issued by the Pharmacy Board.

FACTUAL ALLEGATIONS

II.

On February 5, 2019, Li executed a plea agreement under Fed. R. Crim. P. 11(c)(1)(A) and (B) (Plea Agreement) with the United States Attorney’s Office for the District of Nevada, and entered in United States District Court for the District of Nevada, in D. Nev. case no. 3:19-cr-00009-MMD-CBC.

III.

In Section II(A) of the Plea Agreement, Li pled guilty to one count of distribution of a controlled substance in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(c).

IV.

In Section III of the Plea Agreement, the elements of Li's criminal violation are specified as:

First, beginning on a date unknown but in no event later than October 2017 and continuing through on or about February 2018, the defendant knowingly distributed Schedule II substances, to wit: Oxycodone and Hydrocodone;

Second, the defendant knew that the controlled substances were Oxycodone and Hydrocodone or some other prohibited drug;

Third, the defendant distributed the controlled substances outside the usual course of professional practice and not for a legitimate medical purpose; and

Fourth, the defendant intended to distribute the controlled substances outside the course of his professional practice.

V.

In Section IV(E) of the Plea Agreement, Li admits to the following facts:

1. The defendant, SHOUPING LI (LI), was a licensed physician who, since 2007, practiced medicine in Nevada under Nevada License Number 12382, specializing in family medicine with a concentration in cardiovascular diseases. LI held the position of Vice Chief of Staff for the Humboldt County General Hospital IN Winnemucca, Nevada.

2. As part of his medical practice, he prescribed Schedule II Controlled Substances, including Oxycodone and Hydrocodone, under Drug Enforcement Administration ("DEA") license number BL8898770.

3. Defendant know that under the Controlled Substances Act, Title 21, United States Code, Section 841(a) et seq., and Title 21, Code of Federal Regulations, Section 1306.04, a prescription for a Schedule II controlled

substances was lawful only when written for a legitimate medical purpose by a practitioner acting in the usual course of his or her professional practice.

4. Between approximately August 2015 and February 2018, defendant prescribed dosages and amounts of Oxycodone and Hydrocodone, to patients outside the usual course of his professional practice and without a legitimate medical purpose.

5. Defendant did so with intent to prescribe Oxycodone and Hydrocodone, to patients outside the usual course of his professional practice and without a legitimate medical purpose.

6. Several patients who were actively being seen as patients by the Defendant passed away.

7. All of the foregoing occurred in the State and Federal District of Nevada and elsewhere.

APPLICABLE LAW

VI.

A practitioner may prescribe controlled substances only for a legitimate medical purpose and in the usual course of his professional practice. NRS 453.381(1); 21 CFR § 1306.04.

VII.

Performing any duties as the holder of a license or registration issued by the Board in an incompetent, unskillful or negligent manner constitutes unprofessional conduct and conduct contrary to the public interest. NAC 639.945(1)(i).

VIII.

Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship constitutes unprofessional conduct and conduct contrary to the public interest. NAC 639.945(1)(o).

IX.

The Board may suspend or revoke a registration issued pursuant to NRS 453.231 to prescribe or otherwise dispense a controlled substance upon a finding that the registrant has committed an act that would render registration inconsistent with the public interest. NRS 453.236(1)(d) and NRS 453.241(1).

X.

Engaging in conduct that constitutes unprofessional conduct or that is contrary to the public interest is grounds for suspension or revocation of any license or registration issued by the Board. NRS 639.210(4).

XI.

Conviction of a violation of any law or regulation of the Federal Government related to controlled substances is grounds for suspension or revocation of any license or registration issued by the Board. NRS 639.210(6).

XII.

Violating any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(11).

XIII.

Violating, attempting to violate, assisting or abetting in the violation of or conspiring to violate any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(12).

FIRST CAUSE OF ACTION

XIV.

By prescribing controlled substances to patients outside the usual course of his professional practice and without a legitimate medical purpose, Li performed his duties as the holder of a Nevada Controlled Substance Registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct and conduct contrary to the public interest pursuant to NAC 639.945(1)(i), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

SECOND CAUSE OF ACTION

XV.

By prescribing controlled substances to patients with whom he did not have a bona fide therapeutic relationship, Li engaged in unprofessional conduct and conduct contrary to the public interest pursuant to NAC 639.945(1)(o), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

THIRD CAUSE OF ACTION

XVI.

By prescribing controlled substances to patients outside the usual course of his professional practice and without a legitimate medical purpose in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(c), and by his conviction thereof, Li committed an act that would render his Nevada Controlled Substance Registration inconsistent with the public interest, and is subject to discipline pursuant to NRS 453.236(1)(d) and NRS 453.241(1).

FORTH CAUSE OF ACTION

XVII.

By prescribing controlled substances to patients outside the usual course of his professional practice and without a legitimate medical purpose in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(c), and by his conviction thereof, Li is subject to discipline pursuant to NRS 639.210(6), (11) and/or (12), and NRS 639.255.

FIFTH CAUSE OF ACTION

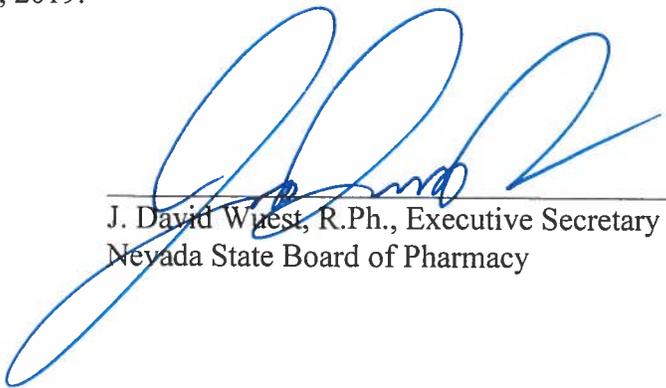
XVIII.

By prescribing controlled substances to patients outside the usual course of his professional practice and without a legitimate medical purpose, Li violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.381(1) and 21 CFR § 1306.04, and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

XIX.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of this respondent.

Signed this 13th day of June, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-087-CS-S
)	
Petitioner,)	
v.	)	STATEMENT TO THE
	)	RESPONDENT
SHOUPING LI, MD,	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. CS15391,	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent.	/	

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, July 17, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

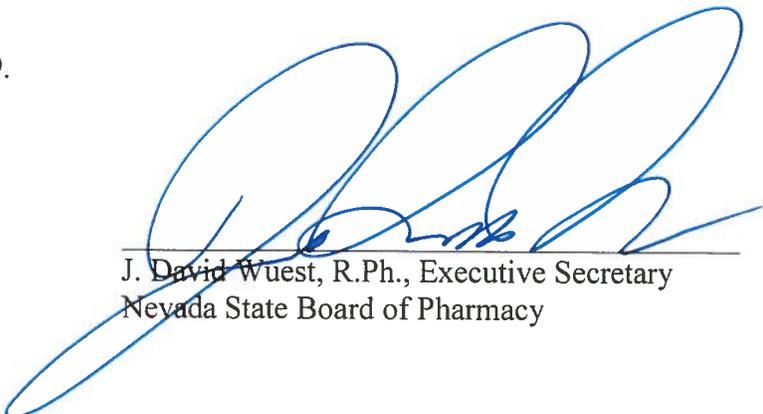
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 13th day of June, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-087-CS-S
)	
Petitioner,)	
v.	)	ANSWER AND NOTICE
	)	OF DEFENSE
SHOUPING LI, MD,)	
Certificate of Registration No. CS15391,)	
)	
Respondent.	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ___ day of June, 2019.

SHOUPING LI, MD

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 13th day of June, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

SHOUPING LI, MD
118 E Haskell St #H
Winnemucca, NV, 89445



SHIRLEY HUNTING

1 NICHOLAS A. TRUTANICH
 United States Attorney
 Nevada Bar Number 13644
 2 SUE FAHAMI
 Nevada Bar Number 5634
 3 KILBY MACFADDEN
 Assistant United States Attorneys
 4 400 S. Virginia Street, Suite 900
 Reno, Nevada 89501
 5 Telephone: (775) 784-5438
 6 Email: kilby.macfadden@usdoj.gov
 Representing the United States of America

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
FEB - 5 2019	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY

7 UNITED STATES DISTRICT COURT
 8 DISTRICT OF NEVADA

-oOo-

9 UNITED STATES OF AMERICA,
 10
 Plaintiff,
 11
 vs.
 12 SHOUPING LI, M.D.,
 13
 Defendant.

Case No.: 3:19-cr-00009-MMD-CBC

PLEA AGREEMENT UNDER
FED. R. CRIM. P. 11 (c)(1)(A)
and (B)

15 Plaintiff United States of America, by and through NICHOLAS A. TRUTANICH,
 16 United States Attorney, SUE FAHAMI and KILBY MACFADDEN, Assistant United
 17 States Attorneys, the defendant SHOUPING LI, M.D. and the defendant's attorneys,
 18 CRANE POMERANTZ, ESQ., and MICHAEL CRISTALLI, ESQ., submit this Plea
 19 Agreement under Fed. R. Crim. P. 11(c)(1)(A) and (B).

20 **I. SCOPE OF AGREEMENT**

21 The parties to this Plea Agreement are the United States of America and
 22 SHOUPING LI (the defendant). This Plea Agreement binds the defendant and the United
 23 States Attorney's Office for the District of Nevada. It does not bind any other prosecuting,
 24 administrative, or regulatory authority, the United States Probation Office, or the Court.

1 The Plea Agreement sets forth the parties' agreement regarding criminal charges
 2 referenced in the Plea Agreement and applicable sentences, fines, restitution and forfeiture.
 3 It does not control or prohibit the United States or any agency or third party from seeking
 4 any other civil or administrative remedies directly or indirectly against the defendant.

5 **II. DISPOSITION OF CHARGES AND WAIVER OF TRIAL RIGHTS**

6 A. Guilty Plea. The defendant knowingly and voluntarily agrees to plead guilty
 7 to the following one count Criminal Information filed _____:

8 **Count One:** Distribution of a Controlled Substance, in violation of Title 21, United
 9 States Code, Section 841(a)(1) and (b)(1)(C).

10 B. Waiver of Trial Rights. The defendant acknowledges that he has been
 11 advised and understands that by entering a plea of guilty he is waiving -- that is, giving up --
 12 certain rights guaranteed to all defendants by the laws and the Constitution of the United
 13 States. Specifically, the defendant is giving up:

- 14 1. The right to proceed to trial by jury on all charges, or to a trial by a
 15 judge if the defendant and the United States both agree;
- 16 2. The right to confront the witnesses against the defendant at such a
 17 trial, and to cross-examine them;
- 18 3. The right to remain silent at such a trial, with assurance that his
 19 silence could not be used against him in any way;
- 20 4. The right to testify in his own defense at such a trial if he so chooses;
- 21 5. The right to compel witnesses to appear at such a trial and testify in
 22 the defendant's behalf;
- 23 6. The right to have the assistance of an attorney at all stages of such
 24 proceedings; and

1 7. The right to be indicted by a grand jury.

2 C. Withdrawal of Guilty Plea. The defendant will not seek to withdraw his
3 guilty plea after he has entered it in court.

4 D. Additional Charges. The United States agrees not to bring any additional
5 charges against the defendant arising out of the investigation in the District of Nevada
6 which culminated in the Criminal Information and this Plea Agreement and based on
7 conduct known to the United States, except that the United States reserves the right to
8 prosecute the defendant for any crime of violence as defined by 18 U.S.C. § 16 in which
9 the defendant may have participated or for any crime committed before the execution of
10 this Agreement if the United States had no knowledge of the facts underlying this crime
11 through its investigation, or the defendant did not disclose the crime before the execution
12 of the Agreement.

13 **III. ELEMENTS OF THE OFFENSES**

14 **Count One:** The elements of Distribution of Controlled Substance in violation of 21
15 U.S.C. §§ 841(a)(1) and (b)(1)(C) are:

16 **First,** beginning on a date unknown but in no event later than October 2017 and
17 continuing through on or about February 2018, the defendant knowingly distributed
18 Schedule II controlled substances, to wit: Oxycodone and Hydrocodone;

19 **Second,** the defendant knew that the controlled substances were Oxycodone and
20 Hydrocodone or some other prohibited drug;

21 **Third,** the defendant distributed the controlled substances outside the usual course of
22 professional practice and not for a legitimate medical purpose; and

23 **Fourth,** the defendant intended to distribute the controlled substances outside the
24 course of his professional practice.

1 Ninth Cir. Model Criminal Jury Instr., Criminal 9.18; Title 21 C.F.R. § 1306.04;
2 *United States v. Feingold*, 454 F.3d 1001, 1008 (9th Cir. 2006)

3 **IV. FACTS SUPPORTING GUILTY PLEA**

4 A. The defendant will plead guilty because he is, in fact and under the law,
5 guilty of the crimes charged.

6 B. The defendant acknowledges that if he elected to go to trial instead of
7 pleading guilty, the United States could prove his guilt beyond a reasonable doubt and
8 establish its right to forfeit the specified property by preponderance of the evidence. The
9 defendant further acknowledges that his admissions and declarations of fact set forth below
10 satisfy every element of the charged offense.

11 C. The defendant waives any potential future claim that the facts he admitted in
12 this Plea Agreement were insufficient to satisfy the elements of the charged offense.

13 D. Both the United States and the defendant agree that this section of the Plea
14 Agreement does not contain all of the relevant information known to the defendant. The
15 parties also agree that the facts contained in Section IV provide a sufficient factual basis for
16 the crime to which defendant is pleading guilty, but the facts contained in Section IV are
17 not an exhaustive statement by the defendant .

18 E. The defendant admits and declares under penalty of perjury that the facts set
19 forth below are true and correct:

20 At all times relevant to the Criminal Information:

21 1. The defendant, SHOUPING LI (LI), was a licensed physician who, since
22 2007, practiced medicine in Nevada under Nevada License Number 12382, specializing in
23 family medicine with a concentration in cardiovascular diseases. LI held the position of
24 Vice Chief of Staff for the Humboldt County General Hospital in Winnemucca, Nevada.

1 2. As part of his medical practice, he prescribed Schedule II Controlled
2 Substances, including Hydrocodone and Oxycodone, under a Drug Enforcement
3 Administration ("DEA") license number BL8898770.

4 3. Defendant knew that under the Controlled Substances Act, Title 21, United
5 States Code, Section 841(a) *et seq.*, and Title 21, Code of Federal Regulations, Section
6 1306.04, a prescription for a Schedule II controlled substance was lawful only when written
7 for a legitimate medical purpose by a practitioner acting in the usual course of his or her
8 professional practice.

9 4. Between approximately August 2015 and February 2018, defendant
10 prescribed dosages and amounts of Oxycodone and Hydrocodone, to patients outside the
11 usual course of his professional practice and without a legitimate medical purpose.

12 5. Defendant did so with the intent to prescribe Oxycodone and Hydrocodone
13 outside the course of his professional practice and without a legitimate medical purpose.

14 6. Several patients who were actively being seen as patients by the Defendant
15 passed away.

16 7. All of the foregoing occurred in the State and Federal District of Nevada and
17 elsewhere.

18 **V. COLLATERAL USE OF FACTUAL ADMISSIONS**

19 The facts set forth in Section IV of this Plea Agreement shall be admissible against
20 the defendant under Fed. R. Evid. 801(d)(2)(A) at sentencing for any purpose. If the
21 defendant does not plead guilty or withdraws his guilty plea, the facts set forth in Section
22 IV of this Plea Agreement shall be admissible at any proceeding, including a trial, for
23 impeaching or rebutting any evidence, argument or representation offered by or on the
24 defendant's behalf. The defendant expressly waives all rights under Fed. R. Crim. P. 11(f)

1 and Fed. R. Evid. 410 regarding the use of the facts set forth in Section IV of this Plea
2 Agreement.

3 **VI. APPLICATION OF SENTENCING GUIDELINES PROVISIONS**

4 A. Discretionary Nature of Sentencing Guidelines. The defendant
5 acknowledges that the Court must consider the United States Sentencing Guidelines
6 (“USSG” or “Sentencing Guidelines”) in determining the defendant’s sentence, but that
7 the Sentencing Guidelines are advisory, not mandatory, and the Court has discretion to
8 impose any reasonable sentence up to the maximum term of imprisonment permitted by
9 statute.

10 B. Offense Level Calculations. The parties stipulate to the following calculation
11 of the defendant’s offense level under the Sentencing Guidelines, acknowledge that these
12 stipulations do not bind the Court, and agree that they will not seek to apply any other
13 specific offense characteristics, enhancements or reductions:

14 The defendant acknowledges that the statutory maximum sentence and any
15 statutory minimum sentence limit the Court’s discretion in determining the defendant’s
16 sentence notwithstanding any applicable Sentencing Guidelines provisions.

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Count 1: 21 U.S.C. §§ 841(a)(1) and (b)(1)(C)

Offense Level Calculation		USSG
Base Offense Level ¹	22	§ 2D1.1(c)(9)
Use of Special Skill	+2	§ 3B1.3
Adjusted Offense Level (Subtotal)	24	
Contingent Reduction for Acceptance of Responsibility	-2	§ 3E1.1(a)
Contingent Reduction for Government Motion for Acceptance of Responsibility	-1	§ 3E1.1(b)
FINAL Adjusted Offense Level	21	

C. Reduction of Offense Level for Acceptance of Responsibility. Under USSG § 3E1.1(a), the United States will recommend that the defendant receive a two-level downward adjustment for acceptance of responsibility unless he (a) fails to truthfully admit facts establishing a factual basis for the guilty plea when he enters the plea; (b) fails to truthfully admit facts establishing the amount of restitution owed when he enters his guilty plea; (c) fails to truthfully admit facts establishing the forfeiture allegations when he enters his guilty plea; (d) provides false or misleading information to the United States, the Court, Pretrial Services, or the Probation Office; (e) denies involvement in the offense or provides conflicting statements regarding his involvement or falsely denies or frivolously contests conduct relevant to the offense; (f) attempts to withdraw his guilty plea; (g) commits or

¹ The Count 1 base offense level was calculated as follows: there were distributions of Oxycodone and Hydrocodone for a total 13,800 milligrams of Hydrocodone/Oxycodone. This is equal to 92.46 kg of marijuana (13.8g x 6700g equals 94,460 grams). The parties stipulate to this calculation for purposes of sentencing only, using the USSG Guidelines Manual effective November 1, 2016.

1 attempts to commit any crime; (h) fails to appear in court; or (i) violates the conditions of
2 pretrial release.

3 Under USSG §3E1.1(b), if the Court determines that the defendant's total offense
4 level, before operation of § 3E1.1(a), is 16 or higher, and if the United States recommends a
5 two-level downward adjustment pursuant to the preceding paragraph, the United States
6 will move for an additional one-level downward adjustment for acceptance of responsibility
7 before sentencing because the defendant communicated his decision to plead guilty in a
8 timely manner that enabled the United States to avoid preparing for trial and to efficiently
9 allocate its resources.

10 D. Criminal History Category. The defendant acknowledges that the Court
11 may base his sentence in part on the defendant's criminal record or criminal history. The
12 Court will determine the defendant's Criminal History Category under the Sentencing
13 Guidelines.

14 E. Relevant Conduct. The Court may consider any counts dismissed under this
15 Plea Agreement and all other relevant conduct, whether charged or uncharged, in
16 determining the applicable Sentencing Guidelines range and whether to depart from that
17 range.

18 F. Additional Sentencing Information. The stipulated Sentencing Guidelines
19 calculations are based on information now known to the parties. The parties may provide
20 additional information to the United States Probation Office and the Court regarding the
21 nature, scope, and extent of the defendant's criminal conduct and any aggravating or
22 mitigating facts or circumstances. Good faith efforts to provide truthful information or to
23 correct factual misstatements shall not be grounds for the defendant to withdraw his guilty
24 plea. The defendant acknowledges that the United States Probation Office may calculate

1 the Sentencing Guidelines differently and may rely on additional information it obtains
 2 through its investigation. The defendant also acknowledges that the Court may rely on this
 3 and other additional information as it calculates the Sentencing Guidelines range and
 4 makes other sentencing determinations, and the Court's reliance on such information shall
 5 not be grounds for the defendant to withdraw his guilty plea.

6 **VII. APPLICATION OF SENTENCING STATUTES**

7 A. Maximum Penalty. The maximum penalty under 21 U.S.C. §§ 841(a) and
 8 841(b)(1)(C) is 20 years imprisonment, a fine of \$1,000,000, or both.

9 B. Factors Under 18 U.S.C. § 3553. The Court must consider the factors set
 10 forth in 18 U.S.C. § 3553(a) in determining the defendant's sentence. However, the
 11 statutory maximum sentence and any statutory minimum sentence limit the Court's
 12 discretion in determining the defendant's sentence.

13 C. Parole Abolished. The defendant acknowledges that his prison sentence
 14 cannot be shortened by early release on parole because parole has been abolished.

15 D. Supervised Release. In addition to imprisonment and a fine, the defendant
 16 will be subject to a three-year term of supervised release. Supervised release is a period of
 17 time after release from prison during which the defendant will be subject to various
 18 restrictions and requirements. If the defendant violates any condition of supervised release,
 19 the Court may order the defendant's return to prison for all or part of the term of
 20 supervised release, which could result in the defendant serving a total term of
 21 imprisonment equal to the statutory maximum prison sentence of 20 years imprisonment.

22 E. Special Assessment. The defendant will pay a \$100.00 special assessment
 23 per count at the time of sentencing.

24

1 **VIII. POSITIONS REGARDING SENTENCE**

2 The government will recommend that the Court sentence the defendant to a
3 sentence within the Sentencing Guidelines range as determined by the Court.

4 Notwithstanding its agreement to recommend that the defendant be sentenced as described
5 in this Plea Agreement, the United States reserves its right to defend any lawfully imposed
6 sentence on appeal or in any post-conviction litigation.

7 The defendant may seek a downward adjustment pursuant to 18 U.S.C. § 3553,
8 including probation, from any sentence the Court may impose.

9 The defendant acknowledges that the Court does not have to follow these
10 recommendations.

11 **IX. RESTITUTION**

12 In exchange for benefits received under this plea agreement, the defendant agrees to
13 make full restitution in an amount to be determined by the Court for all of the losses the
14 defendant caused by his schemes or offenses, whether charged or uncharged, pleaded to or
15 not, and by all of his relevant conduct. 18 U.S.C. § 3663(a)(3).

16 **X. FINANCIAL INFORMATION AND DISPOSITION OF ASSETS**

17 Before or after sentencing, upon request by the Court, the United States, or the
18 Probation Office, the defendant will provide accurate and complete financial information,
19 submit sworn statements, and/or give depositions under oath concerning his assets and his
20 ability to pay. The defendant will surrender assets he obtained directly or indirectly as a
21 result of his crimes, and will release funds and property under his control in order to pay
22 any fine, forfeiture, or restitution ordered by the Court.

23

24

1 **XI. THE DEFENDANT’S ACKNOWLEDGMENTS AND WAIVERS**

2 **A. Plea Agreement and Decision to Plead Guilty.** The defendant
3 acknowledges that:

4 (1) He has read this Plea Agreement and understands its terms and
5 conditions;

6 (2) He has had adequate time to discuss this case, the evidence, and this
7 Plea Agreement with his attorney;

8 (3) He has discussed the terms of this Plea Agreement with his attorney;

9 (4) The representations contained in this Plea Agreement are true and
10 correct, including the facts set forth in Section IV; and

11 (5) He was not under the influence of any alcohol, drug, or medicine that
12 would impair his ability to understand the Agreement when he considered signing this Plea
13 Agreement and when he signed it.

14 The defendant understands that he alone decides whether to plead guilty or go to
15 trial, and acknowledges that he has decided to enter his guilty plea knowing of the charges
16 brought against him, his possible defenses, and the benefits and possible detriments of
17 proceeding to trial. The defendant also acknowledges that he decided to plead guilty
18 voluntarily and that no one coerced or threatened him to enter into this Plea Agreement.

19 **B. Waiver of Appeal and Post-Conviction Proceedings.** The defendant
20 knowingly and expressly waives: (a) the right to appeal any sentence imposed within or
21 below the applicable Sentencing Guideline range as determined by the Court; (b) the right
22 to appeal the manner in which the Court determined that sentence on the grounds set forth
23 in 18 U.S.C. § 3742; and (c) the right to appeal any other aspect of the conviction or
24 sentence and any order of restitution or forfeiture.

1 The defendant also knowingly and expressly waives all collateral challenges,
2 including any claims under 28 U.S.C. § 2255, to his conviction, sentence, and the
3 procedure by which the Court adjudicated guilt and imposed sentence, except non-
4 waivable claims of ineffective assistance of counsel.

5 The defendant reserves only the right to appeal any portion of the sentence that is an
6 upward departure or an upward variance from the Sentencing Guidelines range determined
7 by the Court.

8 The defendant acknowledges that the United States is not obligated or required to
9 preserve any evidence obtained in the investigation of this case.

10 C. Removal / Deportation Consequences. The defendant understands and
11 acknowledges that if he is not a United States citizen, then it is highly probable that he will
12 be permanently removed (deported) from the United States as a consequence of pleading
13 guilty under the terms of this Plea Agreement. The defendant has also been advised if his
14 conviction is for an offense described in 8 U.S.C. § 1101(a)(43), he will be deported and
15 removed from the United States and will not be allowed to return to the United States at
16 any time in the future. The defendant desires to plead guilty regardless of any immigration
17 consequences that may result from his guilty plea, even if the consequence is automatic
18 removal from the United States with no possibility of returning. The defendant
19 acknowledges that he has specifically discussed these removal / deportation consequences
20 with his attorney.

21 XII. ADDITIONAL ACKNOWLEDGMENTS

22 This Plea Agreement resulted from an arms-length negotiation in which both parties
23 bargained for and received valuable benefits in exchange for valuable concessions. It
24 constitutes the entire agreement negotiated and agreed to by the parties. . No promises,

1 agreements or conditions other than those set forth in this agreement have been made or
 2 implied by the defendant , the defendant 's attorney, or the United States, and no
 3 additional promises, agreements or conditions shall have any force or effect unless set forth
 4 in writing and signed by all parties or confirmed on the record before the Court.

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DATE 2/5/19

NICHOLAS A. TRUTANICH,
 United States Attorney



KILBY MACFADDEN
 SUE FAHAMI
 Assistant United States Attorneys

DATE 2/5/19



CRANE POMERANTZ
 MICHAEL CRISTALLI
 Counsel for the Defendant

DATE 2/5/19



SHOUPING LI, M.D.
 Defendant

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FILED

JUN 13 2019

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS. 17-100-CS-S
)	
Petitioner,	)	NOTICE OF INTENDED ACTION
v.	)	AND ACCUSATION
)	
DOUGLAS ROSS, M.D.,)	
Certificate of Registration No. CS10138,)	
)	
Respondent.	/	

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (“Board”) has jurisdiction over this matter and this respondent because at the time of the events alleged herein, Respondent Douglas Ross, M.D., Certificate of Registration No. CS10138 (“Dr. Ross”) held a Board-issued controlled substance registration.

FACTUAL ALLEGATIONS

II.

In October 2017, Respondent Dr. Ross was the medical director of Infuze LV, LLC (“Infuze LV”).

III.

While Dr. Ross was Infuze LV’s medical director, the Board received consumer complaints alleging that under Dr. Ross’s direction, Infuze LV allowed registered nurses (“RNs”) and licensed paramedics (collectively “Non-practitioner Staff Members”) to access,

possess and administer dangerous drugs to patients by intravenous (“IV”) and intramuscular injections.

IV.

The Board’s investigation produced evidence to substantiate those claims.

V.

Dr. Ross allowed Infuze LV’s Non-Practitioner Staff to access, possess and control Infuze LV’s inventory of dangerous drugs without a licensed practitioner present.

VI.

Dr. Ross and Infuze LV allowed Non-practitioner Staff to provide IV therapy, injections and other medical procedures where the patient had not been examined by a practitioner and therefore did not have a *bona fide* relationship with the practitioner who authorized the treatment.

VII.

Under Dr. Ross’s direction, Infuze LV’s Non-practitioner Staff Members accessed and possessed the clinic’s inventory of dangerous drugs and provided supplies of dangerous drugs to Non-Practitioner Staff Members without a practitioner on site, without a practitioner’s direct supervision, before Dr. Ross or any other practitioner examined the patient, and before there was a patient-specific and medication-specific written order for the patient and/or the medication.

VIII.

Dr. Ross allowed Infuze LV’s Non-practitioner Staff Members to transport dangerous drugs without a patient-specific and medication-specific order.

IX.

Dr. Ross frequently had no contact with and did not examine the patient to establish a *bona fide* therapeutic relationship with the patient until after one of Infuze LV’s Non-Practitioner Staff Members transported the dangerous drugs in his/her possession to the patient’s location.

X.

For off-site medical treatment, once a Non-practitioner Staff Member arrived at the patient's location, the RN or paramedic would examine the patient and discuss why an IV or injection would be beneficial to the patient.

XI.

The RN would then communicate his/her assessment of the patient to Dr. Ross by telephone or text, by which Dr. Ross would then approve the medication by text.

XII.

Through that exam process, Dr. Ross often did not speak or communicate directly with the patient.

XIII.

Infuze LV and its Non-practitioner Staff Members often provided medical treatment to patients at its physical location when Dr. Ross was not on site.

APPLICABLE LAW

XIV.

No person may possess a dangerous drug in Nevada without specific statutory authority to do so. *See* NRS 454.213, NRS 454.316, NRS 454.321.

XV.

A practitioner can give a registered nurse limited authority to possess and administer dangerous drugs without the practitioner onsite by way of NRS 454.213(1)(c), which says in relevant part:

a drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by . . . a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practice registered nurse, *or pursuant to a chart order, for administration to a patient at another location.*

NRS 454.213(1)(a)(*emphasis added*); *see also* NRS 639.100.

XVI.

Chart orders must be written (NRS 454.223) and are patient-specific and medication-specific.¹

XVII.

“Except as otherwise specifically provided, every person who violates any provision of NRS 454.181 to 454.371, inclusive, is guilty of a misdemeanor.” NRS 454.356.

XVIII.

A practitioner must first establish a *bona fide therapeutic relationship* with a patient by examination before he or she can determine that a medication is medically necessary and direct and/or authorize an RN to possess and administer a dangerous drug on-site or issue a chart order for off-site administration of a dangerous drug to treat the patient’s medical condition. See NAC 639.945(1)(o) and NRS 454.213(1)(a).

XIX.

[A] bona fide therapeutic relationship between the patient and practitioner shall be deemed to exist if the patient was examined in person, electronically, telephonically or by fiber optics . . . by the practitioner within the 6 months immediately preceding the date the practitioner . . . prescribes a drug to the patient and, as a result of the examination, the practitioner diagnosed a condition for which a given drug therapy is prescribed.

NRS 639.945(3).

XX.

An outsourcing facility that is engaged in the compounding of sterile drugs in this State [Nevada] or for shipment into this State shall:

1. Obtain a license from the Board as a manufacturer in accordance with NRS 639.100 and 639.233;

¹ See NRS 639.004 “Chart order” means an order entered on the chart of a patient in a hospital, facility for intermediate care or facility for skilled nursing which is licensed as such by the Division of Public and Behavioral Health of the Department of Health and Human Services or on the chart of a patient under emergency treatment in a hospital by a practitioner or on the written or oral order of a practitioner authorizing the administration of a drug to the patient.

2. Comply with the provisions of NAC 639.609 to 639.619, inclusive; and
3. Comply with all the requirements of 21 U.S.C. § 353b.

NAC 639.6915

XXI.

“Supplying . . . medicines, substances or devices which are legally sold in pharmacies or by wholesalers, so that unqualified persons can circumvent any law pertaining to the legal sale of such articles” constitutes “unprofessional conduct and conduct contrary to the public interest.”

NAC 639.945(1)(g).

XXII.

A licensee “[p]erforming any of his or her duties as the holder of a license, certificate or registration issued by the Board . . . in an incompetent, unskillful or negligent manner”

constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC

639.945(1)(i).

XXIII.

“Performing any act, task or operation for which licensure, certification or registration is required without the required license, certificate or registration” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(k).

XXIV.

The Board may suspend or revoke a registration issued pursuant to NRS 453.231 to prescribe or otherwise dispense a controlled substance upon a finding that the registrant has committed an act that would render registration inconsistent with the public interest. NRS 453.236(1)(d) and NRS 453.241(1).

XXV.

Engaging in conduct that constitutes unprofessional conduct or that is contrary to the public interest is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(4).

XXVI.

Violating, attempting to violate, assisting or abetting in the violation of or conspiring to violate any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(12).

FIRST CAUSE OF ACTION**Unlawful Access and Possession of Dangerous Drugs - Statutory Violations**

XXVII.

By allowing Infuze LV's Non-practitioner Staff Members to operate Infuze LV and to use his authority as a practitioner to obtain, access, possess and/or store dangerous drugs when he was not on site, before he examined the patient (or without an examination), before he wrote a patient-specific order and without his direct supervision, Dr. Ross violated, or assisted and abetted Infuze LV's staff in violating, NRS 454.213(1), NRS 454.316 and/or NRS 454.356.

SECOND CAUSE OF ACTION**Unlawful Access and Possession of Dangerous Drugs – Unprofessional Conduct**

XXVIII.

By allowing Infuze LV's staff, none of whom were practitioners and none of whom were licensed to possess or prescribe dangerous drugs, to operate Infuze LV and/or to obtain, access, possess and store dangerous drugs when he was not on site, before he examined the patient and before he wrote a patient-specific order, Dr. Ross engaged, or assisted and abetted Infuze LV's staff to engage, in unprofessional conduct as defined in NAC 639.945(1)(g), (i), and (k).

THIRD CAUSE OF ACTION**Unlawful Administration of Dangerous Drugs – No Bona Fide Therapeutic Relationship and No Authority to Determine Medical Necessity**

XXIX.

By authorizing Infuze LV's Non-practitioner Staff, none of whom were licensed practitioners, to use his authority to operate Infuze LV, to administer a dangerous drug to patients who had not been examined by a practitioner, when he did not have a *bona fide*

therapeutic relationship and for whom he had not diagnosed or determined that a dangerous drug was medically necessary, Dr. Ross violated, and/or aided and abetted Infuze LV's staff in violating Nevada law, including NRS 454.221(1). He also acted unprofessionally. See NAC 639.945(1)(k) and (o).

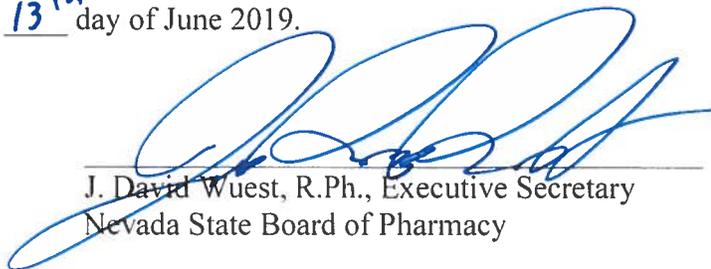
XXX.

For the violations and conduct alleged in paragraphs II through XXIX above, Dr. Ross's Controlled Substance Registration, Certificate of Registration No. CS10138 is subject to discipline pursuant to NRS 453.236(1)(d), NRS 453.241(1), NRS 639.210(4) and (12) and/or NRS 639.255.

XXXI.

WHEREFORE, it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of this respondent.

Signed this 13th day of June 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-100-CS-S
)	
Petitioner,)	
v.)	
	)	STATEMENT TO THE
DOUGLAS ROSS, M.D.,	)	RESPONDENT
Certificate of Registration No. CS10138,	)	NOTICE OF INTENDED ACTION
	)	AND ACCUSATION
Respondent.	/	RIGHT TO HEARING

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, July 17, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

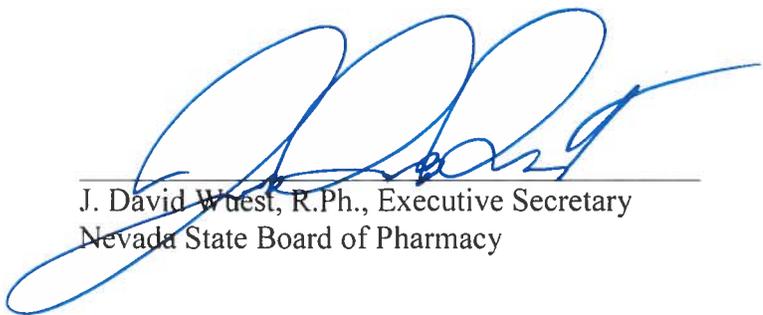
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 17th day of June, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-100-CS-S
)	
Petitioner,	)	ANSWER AND NOTICE
v.	)	OF DEFENSE
)	
DOUGLAS ROSS, M.D.,)	
Certificate of Registration No. CS10138,)	
)	
Respondent.	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ___ day of June, 2019.

DOUGLAS ROSS, M.D.

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 13th day of June, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

DOUGLAS ROSS, MD
2481 W HORIZON RIDGE PKWY #100
HENDERSON, NV 89052



SHIRLEY HUNTING

4G

FILED

JUN 13 2019

BEFORE THE NEVADA STATE BOARD OF PHARMACY

**NEVADA STATE BOARD
OF PHARMACY**

NEVADA STATE BOARD OF PHARMACY,

)

CASE NO. 19-072-CS-S

)

Petitioner,

)

v.

)

**NOTICE OF INTENDED ACTION
AND ACCUSATION**

ROGER ESTEVEZ, MD,

)

Certificate of Registration No. CS18169,

)

)

Respondent.

/

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Pharmacy Board) has jurisdiction over this matter and this respondent because at the time of the alleged events, Respondent Roger Estevez (Estevez), held an expired Nevada Controlled Substance Registration, Certificate No. CS18169, issued by the Pharmacy Board.

FACTUAL ALLEGATIONS

II.

Estevez failed to timely renew his Certificate of Registration No. CS18169, which expired on October 31, 2018.

III.

Estevez wrote one-hundred and eighty-nine prescriptions for controlled substances between November 1, 2018 and March 28, 2019.

IV.

On or about April 4, 2019, Board staff ordered Estevez pursuant to NRS 639.2895(1) to cease and desist prescribing controlled substances without a valid registration.

V.

The Board renewed Estevez' Certificate of Registration No. CS18169 on April 11, 2019.

APPLICABLE LAW

VI.

It is unlawful to prescribe a controlled substance except as authorized by law. NRS 453.321(1)(a); NRS 639.100(1).

VII.

A prescription for a controlled substance may be issued only by an individual practitioner who is authorized to prescribe controlled substances by the jurisdiction in which he is licensed to practice his profession. 21 CFR § 1306.03(a)(1). Every practitioner who prescribes any controlled substance within this State shall obtain biennially a registration issued by the Board. NRS 453.226(1).

VIII.

Failure to renew a certificate of registration by failing to submit the application for renewal is grounds for suspension or revocation of that registration by the Board. NRS 639.210(13).

IX.

It is unlawful for any person falsely to represent himself as a practitioner entitled to write prescriptions in this State. NRS 639.2813(1).

X.

Violating any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(11).

XI.

Violating, attempting to violate, assisting or abetting in the violation of or conspiring to violate any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(12).

XII.

The Board may suspend or revoke a registration to prescribe a controlled substance upon a finding that the registrant has committed an act that would render registration inconsistent with the public interest. NRS 453.236(1)(d) and NRS 453.241(1).

FIRST CAUSE OF ACTION

XIII.

By failing to timely renew his Certificate of Registration No. CS18169, Estevez is subject to discipline pursuant to NRS 639.210(13) and NRS 639.255.

SECOND CAUSE OF ACTION

XIV.

By writing one-hundred and eighty-nine prescriptions for controlled substances between November 1, 2018 and March 28, 2019, without a valid registration, Estevez violated 21 CFR § 1306.03 and is subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.

THIRD CAUSE OF ACTION

XV.

By writing one-hundred and eighty-nine prescriptions for controlled substances between November 1, 2018 and March 28, 2019, without a valid registration, Estevez violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.226(1), NRS 453.321(1)(a), NRS 639.100(1), NRS 639.2813(1) and/or 21 CFR § 1306.03, and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

FOURTH CAUSE OF ACTION

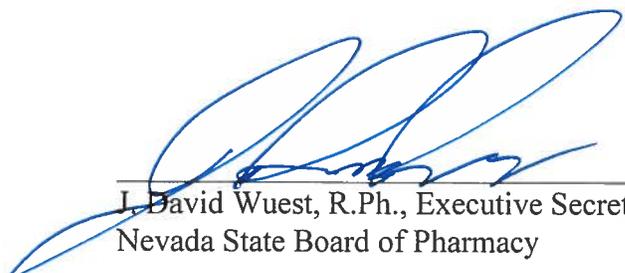
XVI.

By writing one-hundred and eighty-nine prescriptions for controlled substances between November 1, 2018 and March 28, 2019, without a valid registration, Estevez committed an act that would render his Nevada Controlled Substance Registration inconsistent with the public interest, and is subject to discipline pursuant to NRS 453.236(1)(d) and NRS 453.241(1).

XVII.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of this respondent.

Signed this 13th day of June, 2019.



I. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-072-CS-S
)	
Petitioner,)	
v.	)	STATEMENT TO THE
	)	RESPONDENT
ROGER ESTEVEZ, MD,	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. CS18169,	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent.	/	

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

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III.

The Board has scheduled your hearing on this matter for Wednesday, July 17, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

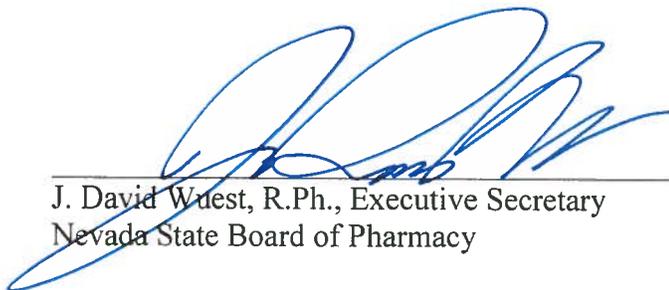
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 17th day of June, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

FILED

JUN 26 2019

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**ROGER ESTEVEZ, MD,
Certificate of Registration No. CS18169,**

Respondent.

) **CASE NO. 19-072-CS-S**

)

)

) **ANSWER AND NOTICE**

) **OF DEFENSE**

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Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

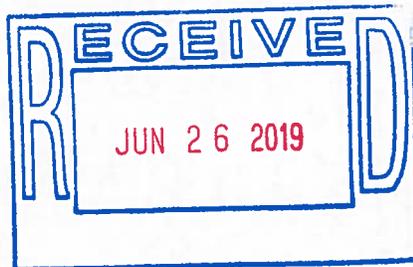
2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 17 day of June, 2019.



ROGER ESTÉVEZ, MD



06/18/2019

Nevada State Board of Pharmacy

To whom it may concern

In an effort to continuously improve the safety of our patients, We have been diligent in keeping up with renewal deadlines for state of Nevada controlled substance ever since 2009. As our practice is also involved in clinical research trials we were informed that for us to continue with this enterprice we must request a dispensing license by State board of pharmacy , Controlled substance as well as the DEA license was supposed to be in good standing as a requisite to obtain this dispensing License , However, regrettfully this caused confusion and it is with regret that License was not timely renewed . I am very sorry for this as it has created quite a problem in my practice, due to the fact that I have not properly been able to dispense controlled substances to our patients as they need .I however relied on my office manager to follow up on this .

To correct this, I have placed alerts on calendars so that this does not ever happen again. I also will be personally in Charge of renewal of this License in the future. We will do everything in our power to correct this.

Thank you for your consideration in the restitution of my license. As I said, this incident will never as long as I can control it happen again.

Respectfully,

Roger Estevez, MD

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IV.

Dr. Mirkia allowed Mirkia IV's office staff, including office manager Alex Zukovski ("Zukovski"), who is not a practitioner or registered nurse, to possess the information and keys necessary to access Mirkia IV's inventory of dangerous drugs.

V.

Under Dr. Mirkia's direction, Zukovski or other Mirkia IV office staff accessed and possessed Mirkia IV's inventory of dangerous drugs and provided supplies of dangerous drugs to registered nurses without a practitioner on site, without a practitioner's direct supervision, before Dr. Mirkia or any other practitioner examined the patient, and before there was a patient-specific and medication-specific written order for the patient and/or the medication.

VI.

Dr. Mirkia directed the registered nurses who were employed by or contracted with Mirkia IV to possess and control dangerous drugs from Mirkia IV's inventory, including storing them at their homes, without a practitioner on site, without direct practitioner supervision, without a patient-specific and medication-specific written order for the patient and/or medication. Dr. Mirkia allowed those nurses to possess and store dangerous drugs from Mirkia IV's inventory for up to three days at a time in anticipation that Dr. Mirkia might examine a patient and issue an order for administration.

VII.

Dr. Mirkia allowed registered nurses to transport the dangerous drugs he put into their possession and control without a patient-specific and medication-specific order.

VIII.

Dr. Mirkia generally had no contact—did not examine and did not establish a bona fide therapeutic relationship with the patient—until after one of Mirkia IV's registered nurses transported the dangerous drugs in his/her possession to the patient's location.

IX.

After completing an “examination” of the patient by telephone, Dr. Mirkia would approve, deny or modify a pre-determined order authorizing the patient to receive treatment using an electronic medical record (“EMR”) system.

X.

After Dr. Mirkia issued an order to administer medication to the patient, the registered nurse purportedly performed his/her own assessment.

XI.

Mirkia IV’s nurses were directed to upsell, and often upsold, additional medications to the patient beyond what Dr. Mirkia initially ordered.

XII.

When an RN was successful in upselling additional dangerous drugs to a patient, an “on call” practitioner purportedly was available to amend the patient’s order prior to administration.

XIII.

Dr. Mirkia purchased sterile compounded dangerous drugs from Fusion IV Pharmaceuticals, Inc., *dba* Axia Pharmaceuticals (“Fusion”), in Los Angeles, California.

XIV.

Fusion sold compounded sterile products to practitioners in Nevada, including Dr. Mirkia and/or Mirkia IV.

XV.

Fusion is not licensed in Nevada.

APPLICABLE LAW

XVI.

No person may possess a dangerous drug in Nevada without specific statutory authority to do so. *See* NRS 454.213, NRS 454.316, NRS 454.321.

XVII.

A practitioner can give a registered nurse limited authority to possess and administer dangerous drugs without the practitioner onsite by way of NRS 454.213(1)(c), which says in relevant part:

a drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by . . . a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practice registered nurse, *or pursuant to a chart order, for administration to a patient at another location.*

NRS 454.213(1)(a)(*emphasis added*); *see also* NRS 639.100.

XVIII.

Chart orders must be written (NRS 454.223) and are patient-specific and medication-specific.¹

XIX.

“Except as otherwise specifically provided, every person who violates any provision of NRS 454.181 to 454.371, inclusive, is guilty of a misdemeanor.” NRS 454.356.

XX.

A practitioner must first establish a *bona fide therapeutic relationship* with a patient by examination before he or she can determine that a medication is medically necessary and direct and/or authorize a RN to possess and administer a dangerous drug on-site or issue a chart order for off-site administration of a dangerous drug to treat the patient’s medical condition. *See* NAC 639.945(1)(o) and NRS 454.213(1)(a).

¹ *See* NRS 639.004 “Chart order” means an order entered on the chart of a patient in a hospital, facility for intermediate care or facility for skilled nursing which is licensed as such by the Division of Public and Behavioral Health of the Department of Health and Human Services or on the chart of a patient under emergency treatment in a hospital by a practitioner or on the written or oral order of a practitioner authorizing the administration of a drug to the patient.

XXI.

[A] bona fide therapeutic relationship between the patient and practitioner shall be deemed to exist if the patient was examined in person, electronically, telephonically or by fiber optics . . . by the practitioner within the 6 months immediately preceding the date the practitioner . . . prescribes a drug to the patient and, as a result of the examination, the practitioner diagnosed a condition for which a given drug therapy is prescribed.

NRS 639.945(3).

XXII.

An outsourcing facility that is engaged in the compounding of sterile drugs in this State [Nevada] or for shipment into this State shall:

1. Obtain a license from the Board as a manufacturer in accordance with NRS 639.100 and 639.233;
2. Comply with the provisions of NAC 639.609 to 639.619, inclusive; and
3. Comply with all the requirements of 21 U.S.C. § 353b.

NAC 639.6915

XXIII.

“Supplying . . . medicines, substances or devices which are legally sold in pharmacies or by wholesalers, so that unqualified persons can circumvent any law pertaining to the legal sale of such articles” constitutes “unprofessional conduct and conduct contrary to the public interest.”

NAC 639.945(1)(g).

XXIV.

A licensee “[p]erforming any of his or her duties as the holder of a license, certificate or registration issued by the Board . . . in an incompetent, unskillful or negligent manner” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(i).

XXV.

“Performing any act, task or operation for which licensure, certification or registration is required without the required license, certificate or registration” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(k).

XXVI.

The Board may suspend or revoke a registration issued pursuant to NRS 453.231 to prescribe or otherwise dispense a controlled substance upon a finding that the registrant has committed an act that would render registration inconsistent with the public interest. NRS 453.236(1)(d) and NRS 453.241(1).

XXVII.

Engaging in conduct that constitutes unprofessional conduct or that is contrary to the public interest is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(4).

XXVIII.

Violating, attempting to violate, assisting or abetting in the violation of or conspiring to violate any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(12).

FIRST CAUSE OF ACTION

Unlawful Access and Possession of Dangerous Drugs - Statutory Violations

XXIX.

By allowing Mirkia IV’s staff, including its office manager and its registered nurses, none of whom were practitioners and none of whom were licensed to possess or prescribe dangerous drugs, to operate Mirkia IV and/or to obtain, access, possess and store dangerous drugs when he was not on site, before he examined the patient and before he wrote a patient-specific order, Dr. Mirkia violated, or assisted and abetted his staff in violating, NRS 454.213(1), NRS 454.316 and/or NRS 454.356. Because of that conduct, which violates Nevada law and is

inconsistent with the public interest, Dr. Mirkia’s controlled substance registration, Certificate of Registration No. CS15197, is subject to discipline pursuant NRS 639.210(12), NRS 453.236(1)(d) and NRS 453.241(1).

SECOND CAUSE OF ACTION

Unlawful Access and Possession of Dangerous Drugs – Unprofessional Conduct

XXX.

By allowing Mirkia IV’s staff, including its office manager and its registered nurses, none of whom were practitioners and none of whom were licensed to possess or prescribe dangerous drugs, to operate Mirkia IV and/or to obtain, access, possess and store dangerous drugs when he was not on site, before he examined the patient and before he wrote a patient-specific order, Dr. Mirkia engaged, or assisted and abetted his staff to engage, in unprofessional conduct as defined in NAC 639.945(1)(g), (i), and (k). For that conduct, Dr. Mirkia’s controlled substance registration, Certificate of Registration No. CS15197, is subject to discipline pursuant to NRS 639.210(4), NRS 453.236(1)(d) and/or NRS 639.255.

THIRD CAUSE OF ACTION

Purchasing Sterile Compounded Drugs from an Unlicensed Pharmacy

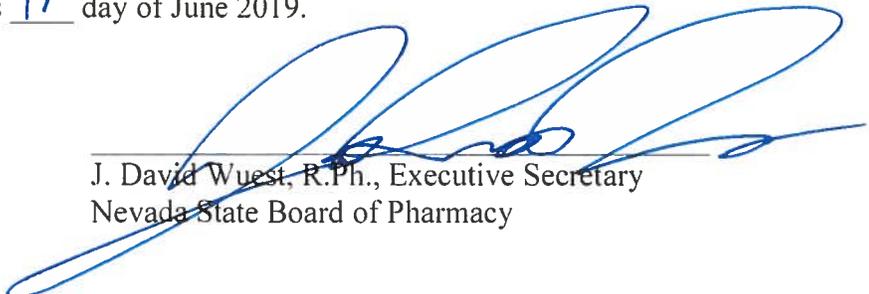
XXXI.

By purchasing sterile compounded dangerous drugs from a pharmacy not licensed with the Board, Dr. Mirkia violated, or assisted and abetted that pharmacy in violating, NRS 639.233, NRS 639.285 and/or NAC 639.6915. Because of that conduct, Dr. Mirkia’s controlled substance registration, Certificate of Registration No. CS15197 is subject to discipline pursuant to NRS 639.210(4) and (12), NRS 453.236(1)(d); NRS 453.241(1) and/or NRS 639.255.

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WHEREFORE, it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of this respondent.

Signed this 17th day of June 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-090-CS-S
)	
Petitioner,)	
v.)	
	)	STATEMENT TO THE
KIARASH L. MIRKIA, M.D.,	)	RESPONDENT
Certificate of Registration No. CS15197,	)	NOTICE OF INTENDED ACTION
	)	AND ACCUSATION
Respondent.	/	RIGHT TO HEARING

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, July 17, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

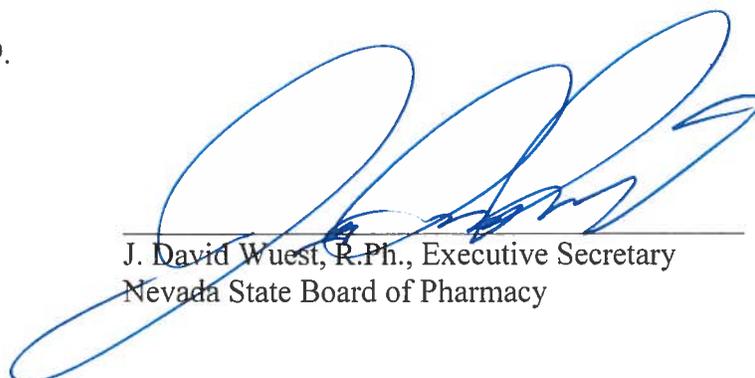
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 13th day of June, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-090-CS-S
)	
Petitioner,)	
v.	)	ANSWER AND NOTICE
	)	OF DEFENSE
KIARASH L. MIRKIA, M.D.,)	
Certificate of Registration No. CS15197,)	
)	
Respondent.	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ___ day of June, 2019.

KIARASH L. MIRKIA, M.D.

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 14th day of June, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Kiarash L. Mirkia, MD
1878 Morro Vista Drive
Las Vegas, NV 89135**


SHIRLEY HUNTING

41

No. 15333 subject to various conditions, including continued participation with the PRN-PRN program as previously ordered.

FACTUAL ALLEGATIONS

III.

At the time of the events alleged herein, Ly owned and operated VIP Pharmacy in Las Vegas, a pharmacy previously licensed by the Board, Certificate of Registration No. PH02881.

IV.

From approximately July 2015 through August 2016, Ly and VIP Pharmacy filled approximately three-hundred and eighty (380) fraudulent prescriptions for Oxycodone-Acetaminophen and Hydrocodone-Acetaminophen, both Schedule II controlled substances, written by Tam Nguyen, DDS (Nguyen).

V.

Nguyen admitted to Board investigators to creating the fraudulent prescriptions for his patients, having the prescriptions filled by Ly at VIP Pharmacy, and then diverting the drugs for his personal use.

VI.

Ly admitted to Board investigators that he delivered the fraudulently-prescribed drugs directly to Nguyen and continued to fill Nguyen's fraudulent prescriptions for approximately five (5) months after patients alleged fraud.

VII.

On October 7, 2016, Nguyen entered into a stipulation and voluntary surrender of his license with the Nevada State Board of Dental Examiners; his Certificate of Registration No. CS14787 with the Board was subsequently suspended.

VIII.

In September 2017, Ly entered into a Memorandum of Agreement with the United States Attorney's Office for the District of Nevada and the Drug Enforcement Administration, pursuant to which Ly agreed to pay \$120,000 in civil penalties for violations of the Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, after an investigation into Ly's operation of VIP Pharmacy as a result of the events alleged herein.

APPLICABLE LAW

IX.

A pharmacist shall not fill an order which purports to be a prescription for a controlled substance if the pharmacist has reason to believe that it was not issued in the usual course of the professional practice and shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances. 21 CFR § 1306.04; NRS 453.381(4).

X.

A pharmacist shall not knowingly fill or refill any prescription for a controlled substance for use by a person other than the person for whom the prescription was originally issued. NRS 453.431(1).

XI.

It is unlawful for a person knowingly or intentionally acquire or obtain or attempt to acquire or obtain possession of a controlled substance or a prescription for a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge or alteration. NRS 453.331(1)(d).

XII.

Performing or in any way being a party to any fraudulent or deceitful practice or transaction constitutes unprofessional conduct and conduct contrary to the public interest. NAC 639.945(1)(h).

XIII.

Performing any of the duties of a pharmacist in an incompetent, unskillful or negligent manner constitutes unprofessional conduct and conduct contrary to the public interest. NAC 639.945(1)(i).

XIV.

Engaging in conduct that constitutes unprofessional conduct or that is contrary to the public interest is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(4).

XV.

Violating any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(11).

XVI.

Violating, attempting to violate, assisting or abetting in the violation of or conspiring to violate any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(12).

FIRST CAUSE OF ACTION

XVII.

By continuing to fill and deliver prescriptions for controlled substances directly to Nguyen when he knew or should have known those prescriptions were fraudulent, Ly performed his duties as a pharmacist in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct and conduct contrary to the public interest pursuant to NAC 639.945(1)(i), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

SECOND CAUSE OF ACTION

XVIII.

By continuing to fill and deliver prescriptions for controlled substances directly to Nguyen when he knew or should have known those prescriptions were fraudulent, Ly was a party to a fraudulent or deceitful practice or transaction and engaged in unprofessional conduct and conduct contrary to the public interest pursuant to NAC 639.945(1)(h), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

THIRD CAUSE OF ACTION

XIX.

By continuing to fill and deliver prescriptions for controlled substances directly to Nguyen when he knew or should have known those prescriptions were fraudulent, Ly violated 21 CFR § 1306.04. He is therefore subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.

FOURTH CAUSE OF ACTION

XX.

By continuing to fill and deliver prescriptions for controlled substances directly to Nguyen when he knew or should have known those prescriptions were fraudulent, Ly violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.331(1)(d), NRS 453.431(1); NRS 453.381(4) and/or 21 CFR § 1306.04, and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

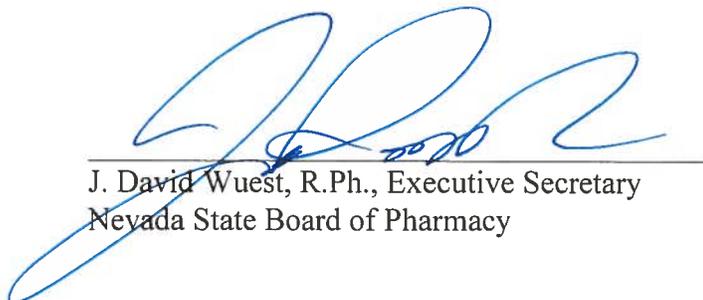
FIFTH CAUSE OF ACTION

XXI.

As the pharmacy/pharmacy owner at which the violations of law alleged herein occurred, Ly is responsible for those violations pursuant to NRS 639.230(5) and NAC 639.945(2). Ly is therefore subject to discipline pursuant to NRS 639.210(4), (11) and (12) and NRS 639.255.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of this respondent.

Signed this 29th day of June, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-043-RPH-S
)	
Petitioner,)	
v.	)	STATEMENT TO THE
	)	RESPONDENT
ROGER THI LY, R.Ph.,	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 15333,	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent.	/	

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, July 17, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 29th day of May, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-043-RPH-S
)	
Petitioner,)	
v.	)	ANSWER AND NOTICE
	)	OF DEFENSE
ROGER THI LY, R.Ph.,)	
Certificate of Registration No. 15333,)	
)	
Respondent.	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of June, 2019.

ROGER THI LY, R.PH.

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 4th day of June, 2019, I served a true and correct copy of the foregoing document by Certified U.S.

Mail to the following:

**Roger Ly, RPH
7469 Mezzanine View Avenue
Las Vegas, NV 89178**


SHIRLEY HUNTING

4J

FILED

JUN 13 2019

**NEVADA STATE BOARD
OF PHARMACY**

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**TODD SPEARS, RPH
Certificate of Registration No. 18123,**

**CVS PHARMACY #5286
Certificate of Registration No. PH01804.**

Respondents.

) **CASE NOS. 18-005-RPH-S**
) **18-005-PH-S**

) **NOTICE OF INTENDED ACTION**
) **AND ACCUSATION**

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because at the time of the events alleged herein, respondent Todd Spears (Spears), Certificate of Registration No. 18123, was a registered pharmacist with the Board. Respondent CVS Pharmacy #5286 (CVS), Certificate of Registration No. PH01804, was a pharmacy registered by the Board.

FACTUAL ALLEGATIONS

II.

On November 10, 2017, J.T. saw his physician and received a prescription for Amitriptyline 10 mg. with instructions to take one tablet daily. The prescription allowed for two (2) refills.

III.

J.T. tendered the prescription to CVS where pharmaceutical technician Lisa Morris (Morris) performed data entry in CVS's computer system.

IV.

The computer system designated the prescription as No. 1268716.

V.

During data entry, Morris mistakenly selected *Amlodipine Besylate* 10 mg. tablets rather than *Amitriptyline* 10 mg. tablets as prescribed.ⁱ

VI.

Spears is on record as the verifying pharmacist for Prescription No. 1268716. He failed to detect the medication error when he verified data entry as accurate, performed the final product review, and filled the prescription.

VII.

Prescription No. 1268716 was a new prescription requiring patient counseling.

VIII.

CVS's computer system indicated no history of Amlodipine Besylate in J.T.'s medication profile.

IX.

CVS's computer patient counseling field documents that patient consultation was completed. Spears is on record as the counseling pharmacist.

X.

J.T. alleges that counseling was not offered.

XI.

CVS discovered the medication error weeks later during a "Patient Care Call" to J.T. reminding him to pick up his December refill of Prescription No. 1268716.

ⁱ **Amitriptyline** is a tricyclic antidepressant with analgesic properties used to treat depression and neuropathic pain.

Amlodipine is a long-acting calcium channel blocker indicated for the treatment of hypertension.

XII.

J.T. ingested 19 tablets of the wrong medication before CVS notified him of the error.

FIRST CAUSE OF ACTION

(Respondent Todd Spears)

XIII.

Unprofessional conduct includes the failure by a licensee to follow strictly the instructions of a practitioner when labeling and dispensing a prescription. *See* NAC 639.945(1)(d). It also includes a licensee performing his duties in an “incompetent, unskillful or negligent manner”. *See* NAC 639.945(1)(i).

Additionally, NAC 639.252 states in relevant part:

If a pharmaceutical technician performs one or more of the functions necessary to prepare a prescription, *the pharmacist supervising the pharmaceutical technician* is responsible for the filled prescription, including, but not limited to, verifying:

- (a) The selection and strength of the drug;
- (b) The dosage form; and
- (c) The labeling of the prescription.

NAC 639.252(2) (emphasis added.)

Respondent Spears violated NAC 639.252(2) and engaged in unprofessional conduct in violation of NAC 639.945(1)(d) and (i) when he verified the data and final product on Prescription No. 1268716 as accurate when it was not, which resulted in CVS dispensing *Amlodipine Besylate* 10 mg. tablets rather than *Amitriptyline* 10 mg. tablets as prescribed. Spears is therefore subject to discipline pursuant to NRS 639.210(4) and (12) and/or NRS 639.255.

SECOND CAUSE OF ACTION

(Respondent Todd Spears)

XIV.

NRS 639.266 requires a pharmacist, on receipt of a prescription and after review of the patient’s record, to communicate with the patient, or a person caring for the patient, matters that will enhance the patient’s therapy through drugs. NAC 639.707(1) and (2) require that discussion to include, among other things, the name of the drug, dosage and administration

instructions, the intended use of the drug, common side effects, and other information that is necessary for the safe and effective use of the drug. A pharmacist who performs those duties in an “incompetent, unskillful or negligent manner” is guilty of unprofessional conduct pursuant to NAC 639.945(1)(i).

Respondent Spears violated NRS 639.266, NAC 639.707(1) and (2) and engaged in unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(1)(i) by failing to adequately counsel J.T. regarding Prescription No. 1268716. That error, combined with other errors within the pharmacy, caused CVS to dispense *Amlodipine Besylate* 10 mg. tablets rather than *Amitriptyline* 10 mg. tablets as prescribed. For that conduct, Spears is subject to discipline pursuant to NRS 639.210(4) and (12), and NRS 639.255.

THIRD CAUSE OF ACTION
(Respondent CVS 5286)

XV.

NAC 639.945(2) states that “[t]he owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ”. At the time of the violations alleged herein, Respondents Mr. Spears and Ms. Morris were each CVS employees. As such, CVS is responsible for each of the violations alleged herein.

The violations alleged above are grounds for discipline against the licenses of Ms. Spears and Ms. Morris, as well as CVS #5286, pursuant to NRS 639.210(4) and/or (15) as well as NRS 639.255.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of these respondents.

Signed this 13th day of June, 2019.



J. David Wuest, Deputy Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

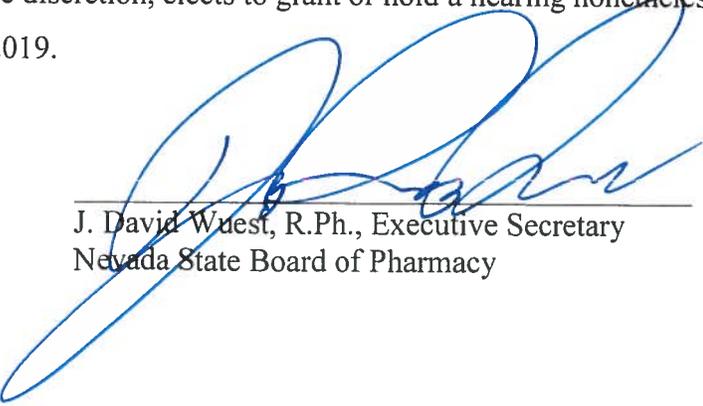
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 13th day of June, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
TODD SPEARS, RPH	)	CASE NO. 18-005-RPH-S
Certificate of Registration No. 18123)	
)	
Respondent.	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections, or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ___ day of June, 2019.

TODD SPEARS, RPH

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 13th day of June, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Todd Spears, RPH
881 Cozy Valley Street
Henderson, NV 89015

CVS Pharmacy #5286
21 W. Horizon Ridge Parkway
Henderson, NV 89012



SHIRLEY HUNTING

4K

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	STATEMENT TO THE RESPONDENT
	)	NOTICE OF INTENDED ACTION
Petitioner,	)	AND ACCUSATION
v.	)	RIGHT TO HEARING
)	
CVS PHARMACY #5286	)	CASE NO. 18-005-PH-S
Certificate of Registration No. PH01804)	
)	
Respondent.	/	

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within twenty (20) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

III.

The Board has scheduled your hearing on this matter for Wednesday, July 17, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

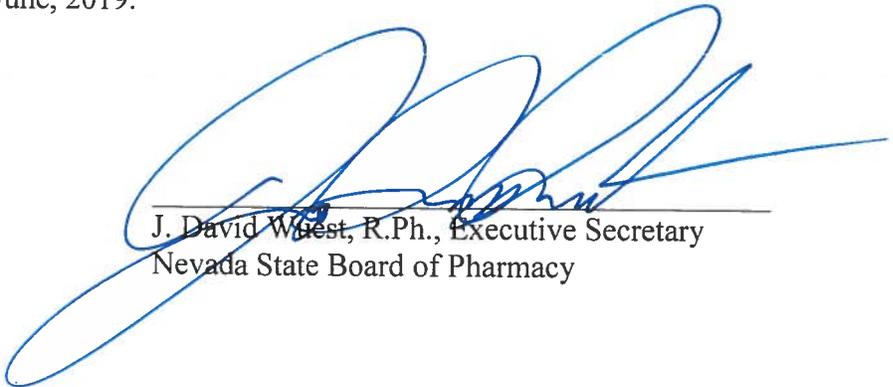
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 13th day of June, 2019.



J. David West, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

FILED

JUN 25 2019

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS.	18-005-RPH-S
	)		18-005-PH-S
Petitioner)		
v.)		
	)	ANSWER AND NOTICE OF DEFENSE	
TODD SPEARS, RPH	)	on behalf of CVS PHARMACY #5286	
Certificate of Registration No. 18123,)		
)		
CVS PHARMACY #5286)		
Certificate of Registration No. PH01804.)		
)		
Respondents.)		
_____)		

COMES NOW Respondent CVS Pharmacy #5286 ("CVS") and responds to the Notice of Intended Action and Accusation which was filed on June 13, 2019 by the Petitioner, The Nevada State Board of Pharmacy ("Board"). This Response shall also serve as Respondent CVS's Answer and Notice of Defense pursuant to NRS 639.244.

Respondent hereby declares:

1. That a hearing on the Accusation is requested.
2. That, in answer to the Accusation, Respondent CVS admits, denies, and/or alleges as follows:

I.

CVS admits that CVS #5286 is a pharmacy licensed by the Board, and as such, the Board has jurisdiction over this matter.

FACTUAL ALLEGATIONS

II.

CVS can neither admit nor deny when patient J.T. may have seen his physician and received a prescription. CVS admits that a prescription was presented by patient J.T. for Amitriptyline 10mg with instructions to take one tablet daily and that the prescription allowed for two (2) refills.

III.

CVS admits the allegations of Paragraph III of the Accusation.

IV.

CVS admits the allegations of Paragraph IV of the Accusation.

V.

CVS possesses insufficient knowledge to either admit or deny what Technician Lisa Morris may or may not have done. Upon information and belief, Technician Lisa Morris has no personal recollection of the events outlined in this paragraph. Subject to and without waiver of same, Respondent CVS does not possess any information upon which it could deny the allegations of Paragraph V of the Accusation.

VI.

CVS admits that Respondent/Pharmacist Spears is on record as the verifying pharmacist for Prescription No. 1268716. CVS possesses insufficient knowledge to either admit or deny what Spears may or may not have done. CVS admits that its records indicate that Spears verified data entry as accurate, performed the final product review, and filled the prescription.

VII.

CVS admits that Prescription No. 1268716, as it was data entered (as Amlodipine Besylate 10 mg. tablets), would have been a 'new' prescription for patient J.T which would have required patient counseling.

VIII.

CVS admits the allegations of Paragraph VIII of the Accusation.

IX.

CVS admits the allegations of Paragraph IX of the Accusation.

X.

CVS possesses insufficient knowledge to either admit or deny what patient J.T. may be alleging.

XI.

CVS admits the allegations of Paragraph XI of the Accusation.

XII.

CVS possesses insufficient knowledge to either admit or deny how many tablets J.T. may have ingested. Subject to and without waiver of same, CVS does not possess any information upon which it could deny the allegations of Paragraph XII of the Accusation.

FIRST CAUSE OF ACTION

XIII.

CVS makes no response to this cause of action, as It is not directed to this Respondent.

SECOND CAUSE OF ACTION

XIV.

CVS makes no response to this cause of action, as it is not directed to this Respondent.

THIRD CAUSE OF ACTION

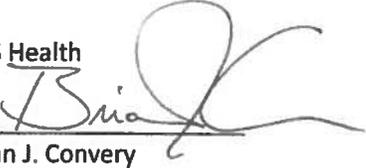
XV.

CVS admits that NAC 639.945(2) states what is cited in the Accusation. CVS admits that Respondent Spears was an employee. CVS admits that Technician Morris was an employee, but denies that she is a 'Respondent' to this action. CVS denies that CVS may be responsible for each of the violations alleged herein, as this is a legal conclusion and holds the Petitioner to proof of same.

CVS denies that the allegations are grounds for discipline, as this is a legal conclusion and holds the petitioner to proof of same.

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

Submitted by CVS #5286 on the ___ day of June, 2019.

CVS Health
By: 
Brian J. Convery
Senior Legal Counsel for CVS Health
Authorized Representative for CVS Pharmacy #5286

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 13th day of June, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Todd Spears, RPH
881 Cozy Valley Street
Henderson, NV 89015

CVS Pharmacy #5286
21 W. Horizon Ridge Parkway
Henderson, NV 89012



SHIRLEY HUNTING

4L

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY	)	CASE NO. 19-078-PT-S
)	
Petitioner,)	
v.)	
	)	NOTICE OF INTENDED ACTION
JOSEPH JAFFER, PT	)	AND ACCUSATION
Certificate of Registration No. PT17329,)	
)	
Respondent.	/	

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and this respondent because at the time of the events alleged herein, Respondent Joseph Jaffer, PT (Jaffer) held a Nevada Pharmaceutical Technician Registration, Certificate No. PT17329, issued by the Board.

FACTUAL ALLEGATIONS

II.

In May 2019, Walgreens Pharmacy notified Board Staff that Jaffer was terminated from his employment as a pharmaceutical technician at Walgreens Pharmacy #12539 (Walgreens) for diversion of controlled substances.

III.

In January 2018, Walgreens conducted an investigation of a possible diversion issue. Walgreens asset protection manager reviewed video surveillance of the pharmacy. The video showed Jaffer pocketing Hydrocodone 10/325 mg. tablets at the fill station while he was filling a

prescription. Jaffer confessed to the diversion of thirty-two (32) Hydrocodone 10/325 mg. tablets.

IV.

Jaffer also admitted that he began diverting Norco 10 mg. tablets in September 2018, by “taking a few here and there” from the pharmacy.

V.

Jaffer admitted to diverting controlled substances from Walgreens in a written statement and verbally during an interview conducted by an asset protection manager for Walgreens.

VI.

Jaffer stated that he diverted the controlled substances for self-use.

VII.

Walgreens reported the theft to law enforcement.

FIRST CAUSE OF ACTION

VIII.

NRS 453.331(d) states, in relevant part, that “[i]t is unlawful for a person knowingly or intentionally to . . . [a]cquire or obtain . . . possession of a controlled substance . . . by misrepresentation, fraud, forgery, deception, subterfuge or alteration.” NRS 639.210(12) states that a violation or attempt to violate “any law or regulation relating to drugs, the . . . distribution of drugs or the practice of pharmacy . . . committed by the holder of a certificate, license [or] registration” is grounds for suspension or revocation of any certificate, license or permit licensed by the Board. By diverting controlled substances as alleged herein, Jaffer violated NRS 453.331(1)(d), and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

SECOND CAUSE OF ACTION

IX.

NRS 453.336(1) states, in relevant part, that “a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or

pursuant to, a [lawful] prescription or order of a [practitioner]”. NRS 639.210(12) says that a violation or attempt to violate “any law or regulation relating to drugs, the . . . distribution of drugs or the practice of pharmacy . . . committed by the holder of a certificate, license [or] registration . . .” is grounds for suspension or revocation of any certificate, license or permit licensed by the Board. By diverting controlled substances as alleged herein, Jaffer violated NRS 453.336(1) and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

THIRD CAUSE OF ACTION

X.

NAC 639.945(1)(g) states that “[s]upplying or diverting drugs . . . which are legally sold in pharmacies . . . so that unqualified persons can circumvent any law pertaining to the legal sale of such articles” constitutes “unprofessional conduct and conduct contrary to the public interest.” NRS 639.210(4) says that conduct that is unprofessional or contrary to the public interest is grounds for suspension or revocation of any certificate, license or permit licensed by the Board. By diverting controlled substances as alleged herein, Jaffer has engaged in unprofessional conduct in violation of NAC 639.945(1)(g), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

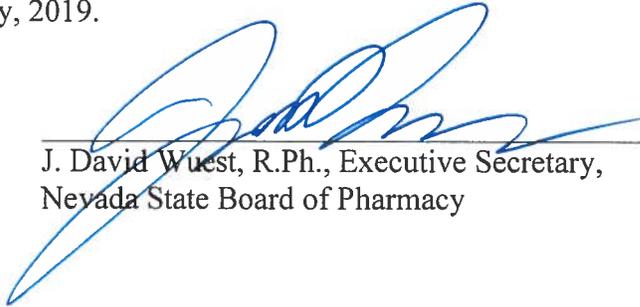
FOURTH CAUSE OF ACTION

XI.

NAC 639.945(1)(h) states that “[p]erforming or in any way being a party to any fraudulent or deceitful practice or transaction” constitutes “unprofessional conduct and conduct contrary to the public interest.” NRS 639.210(4) says that conduct that is unprofessional or contrary to the public interest is grounds for suspension or revocation of any certificate, license or permit licensed by the Board. By diverting controlled substances as alleged herein, Jaffer has engaged in unprofessional conduct in violation of NAC 639.945(1)(h), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

WHEREFORE, it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of this respondent.

Signed this 24th day of May, 2019.



J. David Wuest, R.Ph., Executive Secretary,
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-078-PT-S
)	
Petitioner,)	
v.	)	STATEMENT TO THE
	)	RESPONDENT
JOSEPH JAFFER, PT	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. PT17329,	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent.	/	

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, July 17, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

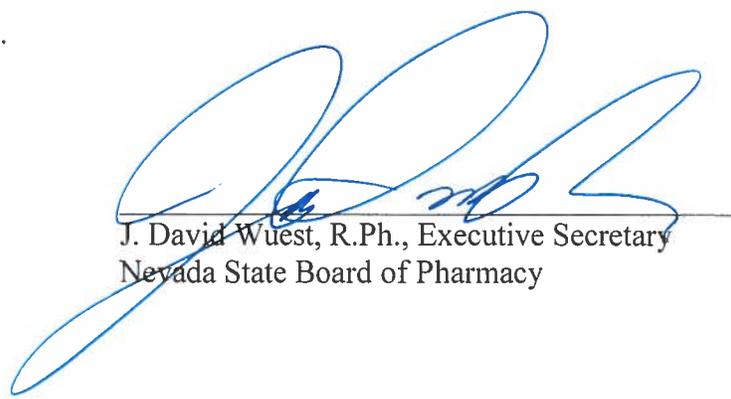
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 29th day of May, 2019.


J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-078-PT-S
)	
Petitioner,)	
v.	)	ANSWER AND NOTICE
	)	OF DEFENSE
JOSEPH JAFFER, PT)	
Certificate of Registration No. PT17329,)	
)	
Respondent.	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

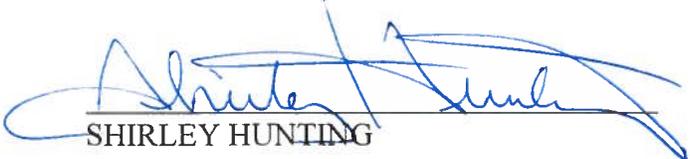
DATED this ____ day of June, 2019.

JOSEPH JAFFER, PT

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 29th day of May, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Joseph Jaffer
1716 Western Lily Street
Las Vegas, NV 89128**


SHIRLEY HUNTING

4M

FILED

MAY 29 2019

**NEVADA STATE BOARD
OF PHARMACY**

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-055-PT-S
)	
Petitioner,)	
v.)	
	)	NOTICE OF INTENDED ACTION
KELLY ANN TRIGLETH, PT	)	AND ACCUSATION
Certificate of Registration No. PT20318,)	
)	
Respondent.	/	

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Pharmacy Board) has jurisdiction over this matter and this respondent because at the time of the events alleged herein, Respondent Kelly Ann Trigleth, PT (Trigleth), held a Nevada Pharmaceutical Technician Registration, Certificate No. PT20318, issued by the Pharmacy Board.

FACTUAL ALLEGATIONS

II.

In March 2019, a Drug Loss Program Lead Coordinator from CVS Pharmacy notified Board Staff that Trigleth was terminated from her employment as a pharmaceutical technician at CVS Pharmacy #08784 (CVS) for diversion of controlled substances.

III.

Trigleth admitted to diverting controlled substances from CVS in a written statement and verbally during an interview conducted by a district asset protection leader for CVS health. The store manager for CVS #08784 witnessed the interview.

IV.

Trigleth admitted that beginning in September 2018 to March 2019, she diverted approximately one thousand (1,000) Tylenol with Codeine #4 tablets from CVS for self-use.

V.

Trigleth diverted the tablets by placing a small amount of tablets in her pants pockets a few times a week.

VI.

CVS reported the theft to law enforcement.

FIRST CAUSE OF ACTION

VII.

NRS 453.331(d) states, in relevant part, that “[i]t is unlawful for a person knowingly or intentionally to . . . [a]cquire or obtain . . . possession of a controlled substance . . . by misrepresentation, fraud, forgery, deception, subterfuge or alteration.” NRS 639.210(12) states that a violation or attempt to violate “any law or regulation relating to drugs, the . . . distribution of drugs or the practice of pharmacy . . . committed by the holder of a certificate, license [or] registration” is grounds for suspension or revocation of any certificate, license or permit licensed by the Board. By diverting controlled substances as alleged herein, Trigleth violated NRS 453.331(1)(d), and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

SECOND CAUSE OF ACTION

VIII.

NRS 453.336(1) states, in relevant part, that “a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or

pursuant to, a [lawful] prescription or order of a [practitioner]”. NRS 639.210(12) says that a violation or attempt to violate “any law or regulation relating to drugs, the . . . distribution of drugs or the practice of pharmacy . . . committed by the holder of a certificate, license [or] registration . . .” is grounds for suspension or revocation of any certificate, license or permit licensed by the Board. By diverting controlled substances as alleged herein, Triglath violated NRS 453.336(1) and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

THIRD CAUSE OF ACTION

IX.

NAC 639.945(1)(g) states that “[s]upplying or diverting drugs . . . which are legally sold in pharmacies . . . so that unqualified persons can circumvent any law pertaining to the legal sale of such articles” constitutes “unprofessional conduct and conduct contrary to the public interest.” NRS 639.210(4) says that conduct that is unprofessional or contrary to the public interest is grounds for suspension or revocation of any certificate, license or permit licensed by the Board. By diverting controlled substances as alleged herein, Triglath has engaged in unprofessional conduct in violation of NAC 639.945(1)(g), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

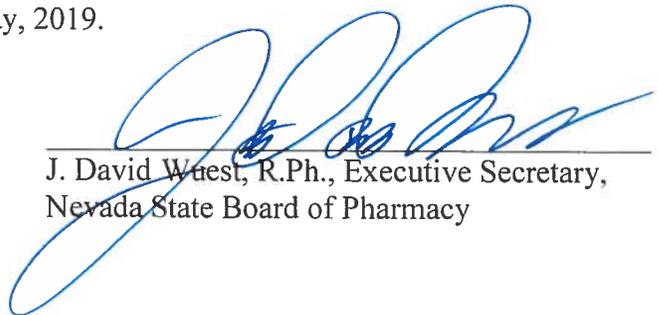
FOURTH CAUSE OF ACTION

X.

NAC 639.945(1)(h) states that “[p]erforming or in any way being a party to any fraudulent or deceitful practice or transaction” constitutes “unprofessional conduct and conduct contrary to the public interest.” NRS 639.210(4) says that conduct that is unprofessional or contrary to the public interest is grounds for suspension or revocation of any certificate, license or permit licensed by the Board. By diverting controlled substances as alleged herein, Triglath has engaged in unprofessional conduct in violation of NAC 639.945(1)(h), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

WHEREFORE, it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of this respondent.

Signed this 29th day of May, 2019.



J. David Wiest, R.Ph., Executive Secretary,
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-055-PT-S
)	
Petitioner,)	
v.)	
	)	STATEMENT TO THE RESPONDENT
KELLY ANN TRIGLETH, PT	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. PT20318,	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent.)	
	/	

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, July 17, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

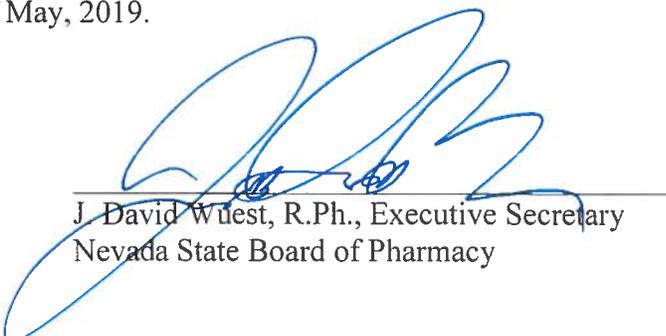
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 29th day of May, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-055-PT-S
)	
Petitioner,)	
v.)	
)	
KELLY ANN TRIGLETH, PT	)	ANSWER AND NOTICE
Certificate of Registration No. PT20318,	)	OF DEFENSE
)	
Respondent.)	
	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of June, 2019.

KELLY ANN TRIGLETH, PT

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 29th day of May, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Kelly Ann Trigleth, PT
8445 S. Las Vegas Blvd., Apt. #1135
Las Vegas, NV 89123**


SHIRLEY HUNTING