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FILED

APR 27 2018

NEVADA STATE BOARD  
OF PHARMACY

## BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-095-CS-S
	)	
Petitioner,	)	NOTICE OF INTENDED ACTION
v.	)	AND ACCUSATION
	)	
DAVID J. ADAMS, D.O., Certificate of	)	
Registration No. CS11506,	)	
	)	
Respondent.	/	

Larry L. Pinson, 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 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 David J. Adams, D.O., held a Nevada Controlled Substance Registration, Certificate No. CS11506, issued by the Pharmacy Board.

**FACTUAL ALLEGATIONS**

## II.

On April 10, 2018, the Nevada State Board of Osteopathic Medicine ("Osteopathic Board") approved and entered a Settlement Agreement and Order *In the Matter of: David J. Adams, D.O.*, Case No. AD1706001 (the "Order").

## III.

The "Pertinent Facts" as set forth in the Order include:

- a. David Adams, D.O. is licensed by the Board to practice osteopathic medicine in Nevada (License No. 1074). Dr. Adams is board certified in anesthesiology. Order, ¶

- 1.

- b. In February 2017, the Board's office received information upon which the Board's staff initiated an investigation relating to Dr. Adams' practice of medicine. The information indicated that Dr. Adams was engaged in the general practice of medicine in addition to his practice as an anesthesiologist in various institutional settings, and the information indicated concerns with Dr. Adams' practices as a general practitioner. Order, ¶ 2.
- c. The Board's investigation determined that Dr. Adams associated professionally with Ronald Foote, M.D. for over 15 years. On May 30, 2014, Dr. Foote and the Nevada State Board of Medical Examiners (BME) entered into a stipulated indefinite suspension of Dr. Foote's license on May 30, 2014 that was followed in July 2014 with the commencement of a disciplinary action by the BME against Dr. Foote. The disciplinary action was resolved and the indefinite suspension was modified by a Settlement Agreement and Order Lifting Suspension entered by the BME and Dr. Foote on June 3, 2016. As a result of the disciplinary actions by the BME against Dr. Foote, since May 30, 2014, Dr. Foote did not have a DEA registration or a Nevada Controlled Substances Registration, meaning that Dr. Foote was prohibited from prescribing, administering, possessing, or distributing controlled substances to his patients. Order, ¶ 3.
- 
- d. When Dr. Foote's license was restored with conditions in June 2016, Dr. Adams assisted Dr. Foote with Dr. Foote's general practice from Dr. Foote's office at Las Vegas Pain and Wellness Center, 6773 W. Charleston Boulevard in Las Vegas, Nevada. The practices developed and implemented by Dr. Foote and Dr. Adams were that Dr. Foote would see a patient at his office, and when Dr. Foote determined that a patient would need medications, Dr. Foote would prescribe any
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dangerous drugs himself and Dr. Adams would prescribe any controlled substances for the patient. When Dr. Adams prescribed controlled substances for Dr. Foote's patients, he did so on a prescription blank containing his name on top, along with Dr. Foote's name, and the address of the Las Vegas Pain and Wellness Center, indicating that he was doing so as a physician employed at or working from Dr. Foote's practice at the Las Vegas Pain and Wellness Center. Order, ¶ 4.

- e. The focus of the Board's investigation was prescriptions Dr. Adams wrote for Dr. Foote's patients for promethazine HCL and codeine phosphate syrup, a controlled substance in Schedule V. Regarding these prescriptions, Dr. Adams did not see, touch, or examine any of Dr. Foote's patients who received these prescriptions. Instead, Dr. Foote provided Dr. Adams' prescriptions to Dr. Foote's patients by filling in the patients' names in prescription blanks from Las Vegas Pain and Wellness Center on which Dr. Adams had pre-signed and pre-filled out the drug information, leaving the patient name blank. Dr. Adams provided such prescription blanks to Dr. Foote for Dr. Foote to complete and provide to Dr. Foote's patients. Dr. Adams would ratify the promethazine HCL and codeine phosphate syrup prescriptions filled out and issued by Dr. Foote after reviewing Dr. Foote's chart notes for the patients and after the prescriptions had been issued.

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Dr. Adams made no medical notes of his own regarding any of the patients to whom his pre-signed prescriptions were issued by Dr. Foote. Order, ¶ 5.

- f. On November 30, 2017, Dr. Foote's office was searched pursuant to a warrant by officers and agents from the federal Drug Enforcement Agency (DEA) Tactical Diversion Squad. Based upon the evidence seized and admissions made by Dr. Foote, Dr. Foote was arrested and was booked into the Clark County Detention
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Center. Order, ¶ 6.

- g. As part of the investigation of Dr. Foote's medical practice, Dr. Foote was interviewed at length on November 30, 2017. Dr. Adams was interviewed on December 13, 2017. The interviews and evidence obtained pursuant to the DEA's investigation showed that Dr. Foote's examinations of his patients were cursory and inadequate, that based upon these examinations he would render a diagnosis that was merely pretextual, and then based upon the pretextual diagnosis he would issue prescriptions to the patients for promethazine HCL and codeine phosphate syrup using the pre-signed prescription blanks provided to him by Dr. Adams. Dr. Foote would then collect cash from the patient. Order, ¶ 7.
- h. The interviews and evidence obtained pursuant to the DEA's investigation included admissions by Dr. Adams that he knew of Dr. Foote's practices, that he knowingly provided pre-signed blank prescriptions from Las Vegas Pain and Wellness Center for Dr. Foote to facilitate his practice. The pre-signed prescriptions blanks would be prepared by Dr. Adams for promethazine HCL and codeine phosphate syrup 473 ml., and that Dr. Adams acknowledged that he did not know or understand the quantity measurement for 473 ml. or whether it was large or small. Order, ¶ 8.
- i. On February 14, 2018, a criminal complaint was filed in the Las Vegas Justice Court against Dr. Adams (Case No. 18F02513X), charging Dr. Adams with four counts of conspiracy to violate the controlled substances act (NRS 453.401(1)(a)) and four counts of possession of signed prescription blanks (NRS 453.331(1)(a)). All eight counts are felonies. Dr. Adams' initial appearance regarding the criminal complaint is scheduled for March 14, 2018. Order, ¶ 9.
- j. Based upon the above facts, on February 27, 2018, the IBM and the Board's

Executive Director issued an Order of Summary Suspension which was subsequently served on Dr. Adams. Order, ¶ 10.

#### IV.

The Order also includes the following acknowledgment: "Dr. Adams admits that the facts contained in the "Pertinent Facts" section constitute violations of NRS 633.131(1)(k) and NRS 633.511(1)(a)." Order, pg. 5, ll. 4-7.

NRS 633.131 provides:

1. "Unprofessional conduct" includes:

\* \* \* \*

(k) Knowingly or willfully disobeying regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

NRS 633.511 provides:

1. The grounds for initiating disciplinary action pursuant to this chapter are:
  - (a) Unprofessional conduct.

#### APPLICABLE LAW

#### V.

A physician must be licensed to prescribe controlled substances. NRS 453.226; 21 CFR § 1306.03.

#### VI.

A physician 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.

Each written prescription for a controlled substance must contain the handwritten signature of the prescribing practitioner. NRS 639.013(1)(a); NRS 639.2353(2); NAC 453.440(1)(c); 21 CFR § 1306.05.

## VIII.

“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).

## IX.

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).

## X.

“Aiding or abetting a person not licensed to practice pharmacy in the State of Nevada” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(j).

## XI.

“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).

## XII.

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).

### XIII.

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).

### XIV.

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).

### XV.

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**

### XVI.

By providing pre-signed prescription blanks to Dr. Foote, who is not licensed to prescribe controlled substances, and facilitating the issuance of prescriptions for promethazine HCL and codeine phosphate syrup 473 ml., a Schedule V controlled substance, to patients with whom he does not have a bona fide therapeutic relationship, Dr. Adams 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**

### **XVII.**

By providing pre-signed prescription blanks to Dr. Foote, who is not licensed to prescribe controlled substances, and facilitating the issuance of prescriptions for a controlled substance to patients with whom he does not have a bona fide therapeutic relationship, Dr. Adams 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**

### **XVIII.**

By providing pre-signed prescription blanks to Dr. Foote, who is not licensed to prescribe controlled substances, and facilitating the issuance of prescriptions for a controlled substance to patients with whom he does not have a bona fide therapeutic relationship, Dr. Adams aided or abetted a person not licensed to practice pharmacy in the State of Nevada and engaged in unprofessional conduct and conduct contrary to the public interest pursuant to NAC 639.945(1)(j), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

## **FOURTH CAUSE OF ACTION**

### **XIX.**

By prescribing a controlled substance for patients with whom he does not have a bona fide therapeutic relationship and outside the usual course of his professional practice as an anesthesiologist, Dr. Adams 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.

**FIFTH CAUSE OF ACTION**

XX.

By prescribing a controlled substance for patients with whom he does not have a bona fide therapeutic relationship and outside the usual course of his professional practice as an anesthesiologist, Dr. Adams violated 21 CFR § 1306.04. By providing pre-signed prescription blanks to Dr. Foote, who is not licensed to prescribe controlled substances, and facilitating the issuance of prescriptions for a controlled substance, Dr. Adams violated 21 CFR § 1306.03 and CFR § 1306.05. He is therefore subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.

**SIXTH CAUSE OF ACTION**

XXI.

By providing pre-signed prescription blanks to Dr. Foote, who is not licensed to prescribe controlled substances, and facilitating the issuance of prescriptions for a controlled substance to patients with whom he does not have a bona fide therapeutic relationship, Dr. Adams violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.331(1)(a), NRS 453.381(1), NRS 453.401(1)(a), NRS 639.013(1)(a), NRS 639.2353(2), NAC 453.440(1)(c), 21 CFR § 1306.03, 21 CFR § 1306.04 and/or 21 CFR § 1306.05, and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

**SEVENTH CAUSE OF ACTION**

XXII.

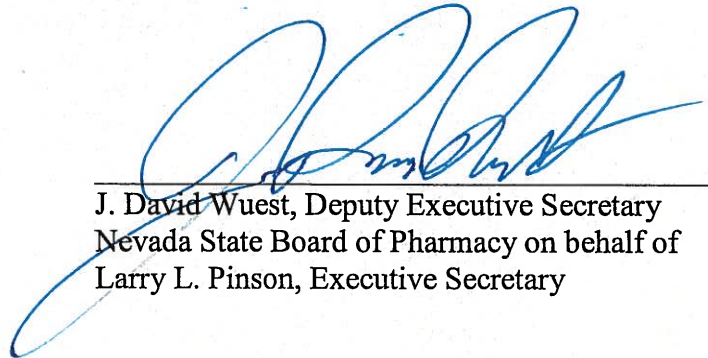
By providing pre-signed prescription blanks to Dr. Foote, who is not licensed to prescribe controlled substances, and facilitating the issuance of prescriptions for a controlled substance to patients with whom he does not have a bona fide therapeutic relationship, Dr. Adams committed an act that would render his Nevada Controlled Substance Registration

inconsistent with the public interest pursuant to NRS 453.231, and is subject to discipline pursuant to NRS 453.236(1)(d) and NRS 453.241(1).

XXIII.

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.

DATED this 27<sup>th</sup> day of April, 2018.



J. David Wuest, Deputy Executive Secretary  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

**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 regarding your certificate of registration. To do so, you must mail to the Board within twenty (20) days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

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**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>STATEMENT TO</b>
	)	<b>THE RESPONDENT</b>
<b>Petitioner,</b>	)	<b>AND NOTICE OF HEARING</b>
<b>v.</b>	)	
	)	<b>CASE NO. 17-095-CS-S</b>
<b>DAVID J. ADAMS, D.O., Certificate of</b>	)	
<b>Registration No. CS11506,</b>	)	
	)	
<b>Respondent.</b>	/	

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, Larry L. Pinson, 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, June 6, 2018, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place Reno-Tahoe, 1790 E. Plumb Ln., Reno, NV 89502.**



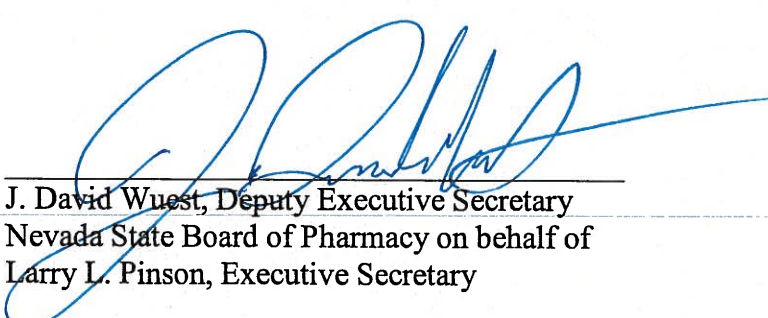
## IV.

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 27<sup>th</sup> day of April, 2018.



J. David Wuest, Deputy Executive Secretary  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

NEVADA STATE BOARD OF PHARMACY,

**Petitioner,**

**v.**

**DAVID J. ADAMS, D.O., Certificate of  
Registration No. CS11506,**

**Respondent.**

) ANSWER AND  
 ) NOTICE OF DEFENSE

**CASE NO. 17-095-CS-S .**

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")

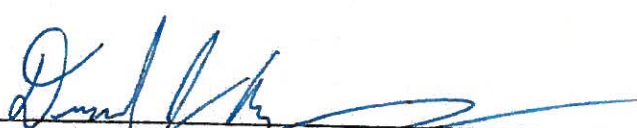
See attached.

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

See attached.

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 31 day of May, 2018.



Respondent DAVID J. ADAMS, D.O.  
Certificate of Registration No. CS11506

ADAMS, David  
Case no. 17-095-CS-S  
May 31, 2018

As you have a copy of my settlement agreement with the Osteopathic Board, I will dispense with responding to each Cause of Action in the Notice of Intended Action and Accusation. Instead, I submit this answer to express my remorse with regards to both my actions and my failure to recognize that my prescribing arrangement with Dr. Foote could violate state or federal law. I had no intention to violate the law or circumvent this Board's authority. At the time, I truly believed that I was supporting the physician I had agreed to supervise, and that my oversight of my cough syrup prescriptions left in the care of a licensed physician was sufficient in terms of compliance and patient safety. I acknowledge how misguided my reasoning was, and I plead with the Board to allow me to retain my controlled substances registration so that I may practice solely as an anesthesiologist, under prescribing restrictions already in place with the Nevada State Board of Osteopathic Medicine.

I have made several mistakes over the last few years, and I intend to spend the rest of my career regaining the reputation I had prior to working with Dr. Foote. While I had no intention of violating the law, I realize I should not have trusted the judgment of a physician who could not prescribe. I should have personally consulted the Pharmacy Board and the Osteopathic Board regarding the acceptability of clinic operations. I was present in the clinic typically three times per day, and closely monitored patient treatment by reviewing records on a daily basis, but I fully understand and accept that those controls were no replacement for my personal care of those patients.

As an anesthesiologist, a suspension or revocation of my CS registration would devastate my practice and my livelihood. I cannot maintain my hospital privileges, or perform my duties, without a CS registration. As the Board is aware, as part of my settlement with the Osteopathic Board, I agreed not to write any prescriptions whatsoever, or my medical license will be suspended. I agreed to practice only within facilities licensed under NRS Chapter 449. The Osteopathic Board basically allowed me to continue practicing as an anesthesiologist, and in no other area of medicine. As a result, without my CS registration to continue my anesthesia practice, I would effectively not be able to practice medicine at all and will lose my livelihood entirely.

With regards to my criminal case, I have come to a verbal agreement with the District Attorney whereby the felony charges against me will be reduced to a single misdemeanor. I expect a written Cooperation Agreement to that effect to be executed prior to my appearance scheduled for July 18, 2018 and I will provide the Board with a copy.

I have been practicing anesthesia for 16 years in both California and Nevada. Prior to this instance, I had never been disciplined by any licensure board, and I have never had any malpractice complaints. By all accounts, I am known as a good anesthesiologist.

I am also known as a man of good character, with deep love of my country and respect for its laws. I went to medical school relatively late in life, after serving as a C-130 navigator in the Air Force. I was commended for my eight years of military service, including three overseas tours and eight combat missions. I had intended to return to serve as an Air Force physician, however a motorcycle accident caused by a drunk driver left me with severe injuries requiring seven surgeries and

ADAMS, David  
Case no. 17-095-CS-S  
May 31, 2018

intensive rehabilitation. It was that experience, however, that triggered my interest in anesthesiology.

Respectfully, I beg the Board to allow me to retain the privilege of having a CS registration so that I may continue to practice anesthesia. I have already agreed not to write any prescriptions and I will be cooperating with the District Attorney's office in providing testimony regarding the operations of the clinic in which I had worked. I have learned that I have no place in an outpatient clinic setting, and I have no intention of practicing, if I am permitted to do so, in any environment other than a surgical suite. I have no history of complaints or discipline with regard to anesthesia, and my continued practice of anesthesia would not pose any harm to public safety or threat to the public interest. I have many contacts in professional sports who are willing to help me design and implement a community education program to deter prescription drug abuse in the midst of the opioid crisis. Please do not allow one mistake, related to a Schedule V substance, define and destroy my entire career and livelihood.

NV STATE BOARD OF  
OSTEOPATHIC MEDICINE

APR 12 2018

FILED

BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF:

DAVID ADAMS, D.O.,  
License No. 1074,

Respondent.

Case No. AD1706001

SETTLEMENT AGREEMENT AND ORDER

The Nevada State Board of Osteopathic Medicine (the Board), by and through its investigating board member Ronald Hedger, D.O. (hereinafter "IBM") and its counsel Louis Ling hereby enters into this settlement agreement with David Adams, D.O. (License No. 1074), represented by Maria Nutile of the law firm of Nutile Law. Pursuant to chapter 233B and chapter 633 of the Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC), it is hereby stipulated and agreed, by and between the parties in the above-entitled matter, that this matter shall be fully and finally settled and resolved upon terms and conditions set out herein.

PERTINENT FACTS

1. David Adams, D.O. is licensed by the Board to practice osteopathic medicine in Nevada (License No. 1074). Dr. Adams is board certified in anesthesiology.

2. In February 2017, the Board's office received information upon which the Board's staff initiated an investigation relating to Dr. Adams' practice of medicine. The information indicated that Dr. Adams was engaged in the general practice of medicine in addition to his practice as an

anesthesiologist in various institutional settings, and the information indicated concerns with Dr. Adams' practices as a general practitioner.

3. The Board's investigation determined that Dr. Adams associated professionally with Ronald Foote, M.D. for over 15 years. On May 30, 2014, Dr. Foote and the Nevada State Board of Medical Examiners (BME) entered into a stipulated indefinite suspension of Dr. Foote's license on May 30, 2014 that was followed in July 2014 with the commencement of a disciplinary action by the BME against Dr. Foote. The disciplinary action was resolved and the indefinite suspension was modified by a Settlement Agreement and Order Lifting Suspension entered by the BME and Dr. Foote on June 3, 2016. As a result of the disciplinary actions by the BME against Dr. Foote, since May 30, 2014, Dr.



1 Foote did not have a DEA registration or a Nevada Controlled Substances Registration, meaning that  
2 Dr. Foote was prohibited from prescribing, administering, possessing, or distributing controlled  
3 substances to his patients.

4 4. When Dr. Foote's license was restored with conditions in June 2016, Dr. Adams assisted Dr.  
5 Foote with Dr. Foote's general practice from Dr. Foote's office at Las Vegas Pain and Wellness Center,  
6 6773 W. Charleston Boulevard in Las Vegas, Nevada. The practices developed and implemented by  
7 Dr. Foote and Dr. Adams were that Dr. Foote would see a patient at his office, and when Dr. Foote  
8 determined that a patient would need medications, Dr. Foote would prescribe any dangerous drugs  
9 himself and Dr. Adams would prescribe any controlled substances for the patient. When Dr. Adams  
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11 his name on top, along with Dr. Foote's name, and the address of the Las Vegas Pain and Wellness  
12 Center, indicating that he was doing so as a physician employed at or working from Dr. Foote's practice  
13 at the Las Vegas Pain and Wellness Center.

14 5. The focus of the Board's investigation was prescriptions Dr. Adams wrote for Dr.  
15 Foote's patients for promethazine HCL and codeine phosphate syrup, a controlled substance in  
16 Schedule V. Regarding these prescriptions, Dr. Adams did not see, touch, or examine any of Dr.  
17 Foote's patients who received these prescriptions. Instead, Dr. Foote provided Dr. Adams'  
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19 Vegas Pain and Wellness Center on which Dr. Adams had pre-signed and pre-filled out the drug  
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24 Adams made no medical notes of his own regarding any of the patients to whom his pre-signed  
25 prescriptions were issued by Dr. Foote.

26 6. On November 30, 2017, Dr. Foote's office was searched pursuant to a warrant by officers  
27 and agents from the federal Drug Enforcement Agency (DEA) Tactical Diversion Squad. Based upon  
28

1 the evidence seized and admissions made by Dr. Foote, Dr. Foote was arrested and was booked into the  
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3 7. As part of the investigation of Dr. Foote's medical practice, Dr. Foote was interviewed at  
 4 length on November 30, 2017. Dr. Adams was interviewed on December 13, 2017. The interviews and  
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 9 blanks provided to him by Dr. Adams. Dr. Foote would then collect cash from the patient.

10 8. The interviews and evidence obtained pursuant to the DEA's investigation included  
 11 admissions by Dr. Adams that he knew of Dr. Foote's practices, that he knowingly provided pre-signed  
 12 blank prescriptions from Las Vegas Pain and Wellness Center for Dr. Foote to facilitate his practice.  
 13 The pre-signed prescriptions blanks would be prepared by Dr. Adams for promethazine HCL and  
 14 codeine phosphate syrup 473 ml., and that Dr. Adams acknowledged that he did not know or  
 15 understand the quantity measurement for 473 ml. or whether it was large or small.

16 9. On February 14, 2018, a criminal complaint was filed in the Las Vegas Justice Court against  
 17 Dr. Adams (Case No. 18F02513X), charging Dr. Adams with four counts of conspiracy to violate the  
 18 controlled substances act (NRS 453.401(1)(a)) and four counts of possession of signed prescription  
 19 blanks (NRS 453.331(1)(a)). All eight counts are felonies. Dr. Adams' initial appearance regarding the  
 20 criminal complaint is scheduled for March 14, 2018.

21 10. Based upon the above facts, on February 27, 2018, the IBM and the Board's Executive  
 22 Director issued an Order of Summary Suspension which was subsequently served on Dr. Adams.

### 23 ACKNOWLEDGMENTS AND APPLICABLE LAW

24 This Settlement Agreement and Order is made and based upon the following  
 25 acknowledgments by the parties:

26 1. Dr. Adams is aware of, understands, and has been advised of the effect of this Settlement  
 27 Agreement and Order, which he has carefully read and fully acknowledged. Dr. Adams consulted with  
 28



1 and was represented by competent counsel of his choice, namely Maria Nutile of the law firm of Nutile  
2 Law.

3 2. Dr. Adams has entered into the Settlement Agreement and Order, and he is aware of his  
4 rights to contest the charges pending against him. These rights include representation by an attorney at  
5 his own expense, the right to a public hearing on any charges or allegations formally filed, the right to  
6 confront and cross-examine witnesses called to testify against him, the right to present evidence on his  
7 own behalf, the right to testify on his own behalf, the right to obtain any other type of formal judicial  
8 review of this matter, and any other rights which may be accorded to him pursuant the provisions of  
9 Chapters 233B, 622, 622A, and 633 of the NRS and the NAC. Dr. Adams is waiving all these rights in  
10 exchange for the Board's acceptance of this Settlement Agreement and Order.

11 3. Should the Settlement Agreement and Order be rejected by the Board, it is agreed that  
12 presentation to and consideration by the Board of such proposed Settlement Agreement and Order or  
13 other documents or matters pertaining to the consideration of this Settlement Agreement and Order  
14 shall not unfairly or illegally prejudice the Board or any of its members from further participation,  
15 consideration, adjudication, or resolution of these proceedings and that no Board member shall be  
16 disqualified or challenged for bias.

17 4. Dr. Adams and the Board acknowledge that NRS 633.691 provides immunity for the Board,  
18 its employees, and its retained specialists from any potential action that might be brought by Dr. Adams  
19 and that for the purposes of NRS 633.691, Dr. Adams acknowledges that the Board, its employees, and  
20 its retained specialists have acted in good faith throughout the conduct of this matter. Dr. Adams and  
21 the Board further acknowledge that NRS 633.691 provides osteopathic physicians such as Dr. Adams  
22 with certain protections against administrative actions by the Board, which protections are inapplicable  
23 in this matter.

24 5. Dr. Adams acknowledges that the Settlement Agreement and Order shall only become  
25 effective after both the Board and he have duly executed it.

26 6. Dr. Adams enters into this Settlement Agreement and Order after being fully advised of his  
27 rights and as to the consequences of this Settlement Agreement and Order. This Settlement Agreement  
28

1 and Order embodies the entire agreement reached between the Board and Dr. Adams. It may not be  
 2 altered, amended, or modified without the express consent of the parties.

3 7. In an effort to avoid the cost and uncertainty of a hearing, the parties have agreed to settle  
 4 this matter. In settling this matter, Dr. Adams admits that the facts contained in the "Pertinent Facts"  
 5 section constitute violations of NRS 633.131(1)(k) and NRS 633.511(1)(a). If the Board approves this  
 6 Settlement Agreement and Order, it shall be deemed and considered disciplinary action by the Board  
 7 against Dr. Adams.

8 8. Both parties acknowledge that it is in the best interests of each to resolve this matter without  
 9 a full hearing on the merits because of the cost and risk involved for each party.

10 9. Both parties acknowledge that the Board has jurisdiction to consider and ratify this  
 11 settlement agreement and order because Dr. Adams is an osteopathic physician licensed by the Board.  
 12 Dr. Adams expressly, knowingly, and intentionally waives the 21-day notice requirement contained in  
 13 the Nevada Open Meeting Law and acknowledges that this settlement agreement and order may be  
 14 presented to the Board for its consideration and potential ratification at the Board's meeting on April  
 15 10, 2018.

#### 16 STIPULATED ADJUDICATION

17 Based upon the above acknowledgments of the parties and their mutual agreement, the parties  
 18 stipulate and agree that the following terms of discipline should be imposed by the Board in this matter:

19 1. Dr. Adams shall pay the sum of \$4,645.00 as payment of the Board's actual costs for the  
 20 investigation and prosecution of this matter and shall pay the sum of \$5,000.00 as a fine pursuant to  
 21 NRS 633.651(1)(f). Dr. Adams shall make an initial payment in the amount of \$2,411.00 to be  
 22 received with the execution of this Settlement Agreement and Order. Thereafter, Dr. Adams shall pay  
 23 at least \$603.00 per month until paid in full, to be received by the last day of each month beginning  
 24 April 30, 2018 unless and until his terms of repayment are otherwise modified as is set out in the terms  
 25 of Dr. Adams's probation that follow.

26 2. Dr. Adams agrees that his license shall be suspended for a period of 27 days, commencing  
 27 February 27, 2018 and ending at 11:59 p.m. on March 25, 2018.  
 28

1           3. Dr. Adams's license shall be on probation for a period of two years commencing on March  
2 26, 2018. The terms and conditions of probation shall be as follows:

3           (a) Dr. Adams shall maintain his license on either active or inactive status throughout the term  
4 of probation.

5           (b) Dr. Adams shall comply with all laws related to the practice of osteopathic medicine,  
6 whether state or federal, whether statutory or regulatory, and whether contained in NRS and NAC  
7 chapters 633, 453, 454, 585, and 639.

8           (c) Dr. Adams shall confine his practice to anesthesia in facilities licensed pursuant to NRS  
9 chapter 449, and as such, may only possess and administer such controlled substances as are necessary  
10 to provide anesthesia services in such facilities. Dr. Adams shall not practice medicine in any setting  
11 other than a facility licensed pursuant to NRS chapter 449 and shall not prescribe or dispense any  
12 controlled substances to any patients.

13           (d) Dr. Adams shall take and successfully complete the PACE Physician Prescribing Course  
14 offered at and through the University of California, San Diego, at any time before his probationary term  
15 ends. Dr. Adams shall provide to the Board's office written evidence of his successful completion of  
16 the course.

17           (e) The Board may monitor Dr. Adams's prescribing of controlled substances through  
18 reasonable random audit of his records and through review of his prescriber's profile.

19           (f) Dr. Adams' probationary period shall not expire if he has violated any of its terms, has failed  
20 to pay the sums due, or has failed to successfully complete the PACE course under the preceding  
21 subsection (d).

22           4. After the probationary term has expired, Dr. Adams agrees he shall continue to confine his  
23 practice to anesthesia in facilities licensed pursuant to NRS chapter 449, and as such, will only possess  
24 and administer such controlled substances as are necessary to provide anesthesia services in such  
25 facilities. If Dr. Adams desires to practice medicine in any setting other than a facility licensed  
26 pursuant to NRS chapter 449 and from such a practice desires to prescribe or dispense any controlled  
27 substances to patients, he will notify the Board in writing of the details related to any such proposed  
28 practice and will not engage in any such practice until he appears at the next regularly scheduled

Nevada State Board of Osteopathic Medicine  
2275 Corporate Circle, Suite 210 - Henderson, NV 89074  
(702) 732-2147

1 meeting of the Board at which he shall make a presentation and answer questions from the Board. The  
2 Board, in its reasonable discretion, may agree with, object to, or require terms and conditions related to  
3 Dr. Adams engaging in the practice proposed by Dr. Adams.

4 5. Upon approval of this Settlement Agreement and Order by the Board, the Board's staff shall  
5 execute such documents as necessary to rescind the Order of Summary Suspension and to void out the  
6 entry related thereto in the National Practitioners Data Bank.

7 6. Dr. Adams shall meet with the Board or its representatives upon reasonable request and shall  
8 reasonably cooperate with such representatives in their supervision, monitoring, investigation, or  
9 auditing to assure compliance with the terms and conditions of this order.

10 7. Dr. Adams's failure to comply with any term or condition of this Settlement Agreement and  
11 Order may result in further discipline by the Board, up to and potentially including revocation of his  
12 license. The Board's staff may take any and all actions it deems necessary to collect any sums ordered  
13 that remain unpaid. If the Board's staff is required to pursue judicial action to affect such collections, it  
14 shall be entitled to recover its attorney's fees and costs incurred in pursuing such judicial action.

15 Signed this 20<sup>th</sup> day of March, 2018.

16 Respondent David Adams, D.O.

Nutile Law

17  
18 By   
19 David Adams, D.O., Respondent

By   
20 Maria Nutile  
21 Counsel for Respondent

22 Nevada Board of Osteopathic Medicine

Louis Ling, Esq.

23 By   
24 Ronald Hedger, D.O.  
25 Investigating Board Member

By   
26 Louis Ling  
27 Board Counsel




ORDER

WHEREAS, on April 10, 2018, the Nevada State Board of Osteopathic Medicine approved and adopted the terms and conditions set forth in the Settlement Agreement and Order with David Adams, D.O. IT IS SO ORDERED.

SIGNED AND EFFECTIVE this 11 day of April, 2018.

NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

  
Paul Mausling, D.O., Vice President and Presiding Officer

**4B**



SEP 11 2018

NEVADA STATE BOARD  
OF PHARMACY

## BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-103-CS-S
	)	
Petitioner,	)	AMENDED
v.	)	NOTICE OF INTENDED ACTION
	)	AND ACCUSATION
ROBERT GAIMARO, PA	)	
Controlled Substance Registration No. CS14259,	)	
	)	
Respondent.	/	

Larry L. Pinson, 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 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, Robert Gaimaro, PA (Gaimaro), Controlled Substance Registration No. 14259, was registered by the Board.

**FACTUAL ALLEGATIONS**

## II.

Gaimaro was granted an account to access the Nevada Prescription Monitoring Program (PMP) for purposes authorized under federal and state law on December 12, 2013.

## III.

Before receiving access, Gaimaro signed a Practitioner Certification Statement on December 12, 2013, stating that he understood and agreed under penalty of perjury that he was responsible for all patient information accessed through his account, that he would treat PMP information as confidential, that he would protect any PMP information in his possession or control in accordance with federal and state laws governing health care information, and that he would safeguard his password and not share his login credentials with any other person.

## IV.

Before receiving a PMP query result, the practitioner must agree to the terms of the Acknowledgement that "...use of this PMP system is permitted only in connection with providing medical or pharmaceutical care to a patient..."

## V.

Stephen Paddock (Paddock) was the perpetrator of the October 1, 2017, Las Vegas mass shooting, and committed suicide immediately after the incident sometime before midnight.

## VI.

On October 4, 2017, Gaimaro's PMP account was used to query the PMP database one (1) time using search parameters for the query to access Paddock's confidential patient information, and obtain patient utilization reports detailing Paddock's prescription-controlled substance utilization history.

## VII.

The search conducted at 09:35:24 a.m., yielded specific prescription information regarding one prescription filled by Paddock at a Walgreens in Reno, Nevada in 2017.

## VIII.

Gaimaro did not have a practitioner/patient relationship with Paddock. Gaimaro had no lawful purpose for accessing the patient utilization report of Paddock.

## IX.

Gaimaro failed to maintain the security of his password. This failure allowed unauthorized access to Paddock's PMP report for no legally authorized purpose.

**APPLICABLE LAW**

## X.

The Board administers the Prescription Monitoring Program (PMP), which maintains a database of all transactions for schedule II, III, IV and V controlled substances prescribed and dispensed in Nevada. *See* NRS 453.162 through 453.165, *inclusive*.



XI.

At the time of the events alleged herein, NRS 639.23507(1) authorized a practitioner to obtain a patient utilization report from the PMP before prescribing a controlled substance to his patients under certain circumstances, to assess whether the prescription is medically necessary.<sup>1</sup>

XII.

Patient utilization reports and data in the PMP database constitute Protected Health Information (PHI) as defined in 45 C.F.R. § 160.103. They are protected from unauthorized access, use and disclosure under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). 45 C.F.R. Part 160 and Part 164, Subparts A and E (HIPPA Privacy Rule).

XIII.

Patient utilization reports and all data in the PMP database are also confidential and protected from unauthorized use or disclosure under state law. NRS 453.164(8).

XIV.

Unauthorized access, use or disclosure of PHI carries civil and criminal penalties under federal law. Pub.L. 104-191, 42 U.S.C. § 1320d-5 and 6.

XV.

Unauthorized access, use or disclosure of information in the PMP database also constitutes a crime under state law. NRS 453.552(2).

**FIRST CAUSE OF ACTION**

XVI.

By accessing or allowing his staff to access Paddock's confidential data in the PMP database when Paddock was deceased and never his patient, Gaimaro performed his duties as the holder of a Nevada Controlled Substance Registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct or conduct contrary to the public interest

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<sup>1</sup> Assembly Bill (AB) 474, 79<sup>th</sup> Legislative Session (2017), amended NRS 639.23507(1). Those amendments became effective January 1, 2018 and are therefore immaterial to this action.

pursuant to NAC 639.945(1)(i). Gaimaro's Controlled Substance Registration, Certificate of Registration No. CS14259, is therefore subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

### **SECOND CAUSE OF ACTION**

#### XVII.

By accessing or allowing his staff to access Paddock's confidential data in the PMP database when Paddock was deceased and never his patient, Gaimaro violated the HIPAA Privacy Rule. His Controlled Substance Registration, Certificate of Registration No. CS14259 is therefore subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.

### **THIRD CAUSE OF ACTION**

#### XVIII.

By accessing or allowing his staff to access Paddock's confidential data in the PMP database when Paddock was deceased and never his patient, Gaimaro violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.164(7) and/or the HIPAA Privacy Rule. Gaimaro's Controlled Substance Registration, Certificate of Registration No. CS14259 is therefore subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

### **FOURTH CAUSE OF ACTION**

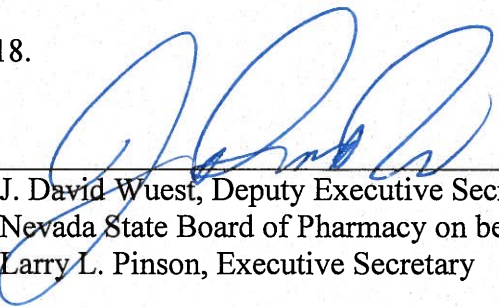
#### XIX.

By accessing or allowing his staff to access Paddock's confidential data in the PMP database when Paddock was deceased and never his patient, Gaimaro committed an act that would render his Nevada Controlled Substance Registration inconsistent with the public interest pursuant to NRS 453.231, and is subject to discipline pursuant to NRS 453.236(1)(d) and NRS 453.241(1).

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

[SIGNATURE ON FOLLOWING PAGE]

Signed this 11<sup>th</sup> day of September 2018.



---

J. David Wuest, Deputy Executive Secretary  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

**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 regarding your certificate of registration. 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**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NO. 17-103-CS-S</b>
	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	<b>AMENDED</b>
	)	<b>STATEMENT TO THE</b>
<b>ROBERT GAIMARO, PA</b>	)	<b>RESPONDENT AND</b>
<b>Controlled Substance Registration No. CS14259,</b>	)	<b>NOTICE OF HEARING</b>
	)	
<b>Respondent.</b>	)	
	/	

---

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, Larry L. Pinson, 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, October 10, 2018, 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.**

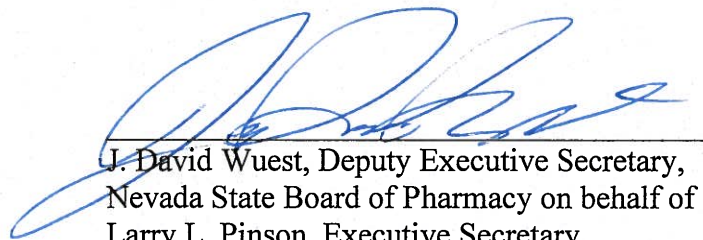
## IV.

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 11<sup>th</sup> day of September 2018.



J. David Wuest, Deputy Executive Secretary,  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

SEP 17 2018

NEVADA STATE BOARD  
OF PHARMACY

## BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-103-CS-S
	)	
Petitioner,	)	
v.	)	
	)	
ROBERT GAIMARO, APRN	)	
Controlled Substance Registration No. CS14259,	)	ANSWER AND NOTICE
	)	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").

1. I Robert A. Gaimaro PA-C, Object in part that I failed to maintain security of my password. I do not share my password with anyone. I believe that the incident on October 4th was an action of an unauthorized person for the purpose of malice. I believe that my password and login information may have stored in memory and thats how the report of Mr. Paddock was retrieved. I had no intention or concern to have access Mr. Paddock prescription history as he was not a patient of mine at any time. I did not realized that my PMP account was locked out until further in the day I had to retrieve a patient report and was unsuccessful. At that time I contacted the Nevada Board of Pharmacy, and was told why the account was locked out. I reported such circumstance to my clinic administrator, Erica Zembrano and my Medical Director, Dr. Raymond P. Nicholl MD.

I object to the section FIRST CAUSE OF ACTION, XVI. that states " that by accessing or allowing his staff to access Paddocks confidential data in the PMP database when Paddock was deceased and never his patient, Gaimaro performed his duties as the holder of a Nevada Controlled Substance Registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct or conduct contrary to the public interest." I never queried, or authorized anyone to search in the PMP site on Mr. Paddock prescription history.




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

2. I Robert A. Gaimaro, admit that I should have taken more precaution in making sure that all PMP software should have been logged out and assure that no one could re enter the site with my credentials. However, I deny ever giving my password or access to anyone to use my PMP account. The site keeps the log in information in memory. Therefore, this makes it accessible to anyone to pull up the PMP site and search an inquiry. The clinic had a breach in security hardware and since has invested in highly secure software, that makes it difficult, or impossible to have access to any clinical, patient, or laboratory information. This includes the PMP web site. I have showed the Nevada Board of Pharmacy investigator when he visited my office in March of 2018, how the PMP site would stay open for more than 15 minutes, and would also retain the login information in memory . Since the incident on October 4th, I have changed all passwords, on all my computers, EHR, Laboratory, Radiology, and PMP account login.

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 September 2018

  
ROBERT GAIMARO, APRN

## NOTICE TO RESPONDENT

Nevada State Board of Pharmacy

Re: Robert A. Gaimaro PA-C

Controlled Substance Registration No. CS14259

### Written Statement of Compliance

I Robert A. Gaimaro write this statement of compliance, on this date of September 10, 2018.

I reviewed all security measures, which includes but not limited to all clinical sensitive patient information, including all passwords, login credentials, PMP site, Practitioner Certification Statement, reviewed and signed on November 20, 2017, and to comply with all state and federal laws. I have reviewed HIPPA privacy rules, and attest to follow these rules. I will not leave any computer, medical records, laboratory, or PMP sites unattended or vulnerable.

I have reviewed HIPPA regulations and understand such regulations. I have reviewed PHI Protected Health Information.



**RAPID CARE MEDICAL CLINIC****4270 S. DECATUR BLVD. SUITE A1 ★ LAS VEGAS, NV 89103****Phone (702) 798-7770****Fax (702) 895-7776**

November 20, 2017

Robert A. Gaimaro PA-C

Re: Computer Password and Login information.

Dear Mr. Gaimaro:

I received your letter with concerns over an unauthorized entry to one of your medical information sites. Indeed, I reviewed and did see that many sites the login information remains in memory. I also reviewed that even when the search browser has been cleared, it still keeps the login information on memory.

To remediate such issues, we are taking action in upgrading our computer systems and firewall hardware to assure that the system does not allow any login credentials and passwords to be saved. I will be personally going to the clinic and upgrading all computer security features.

I understand your frustration over this matter and the uncertainty that it creates. The IT department will continue to investigate in regards to the illegal search related to a Prescription Monitoring Program system.

Sincerely,

Deepak Shroff IT Administrator.

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 11<sup>th</sup> day of September, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Robert Gaimaro, PA  
4270 S. Decatur Blvd., Suite A1  
Las Vegas, NV 89103**



SHIRLEY HUNTING

**4C**

**FILED****AUG 09 2018****NEVADA STATE BOARD  
OF PHARMACY****BEFORE THE NEVADA STATE BOARD OF PHARMACY****NEVADA STATE BOARD OF PHARMACY,****Petitioner,****v.****LUCAS MEYERS, RPH****Certificate of Registration No. 16064,****THY THAI NGUYEN, RPH****Certificate of Registration No. 15730****WALGREENS PHARMACY #03922****Certificate of Registration No. PHN01127, and****WALGREENS CO., an Illinois Corporation,****Respondents.****) CASE NOS. 16-089-RPH-A-S****) 16-089-RPH-B-S****) 16-089-PH-A-S****) 16-089-PH-B-S****)****NOTICE OF INTENDED ACTION  
AND ACCUSATION**

Larry L. Pinson, 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 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, respondents Lucas Meyers (Meyers), Certificate of Registration No. 16064, and Thy Thai Nguyen (Nguyen), Certificate of Registration No. 15730, were pharmacists registered by the Board. Additionally, respondent Walgreens Pharmacy #03922 (Walgreens #03922), Certificate of Registration No. PHN01127, located in Las Vegas, Nevada, was a pharmacy registered by the Board at the time of the events

alleged herein. Respondent Walgreens Co. is an Illinois corporation that is the owner of each of the individual Walgreens facilities named herein at the time of the events alleged.

## II.

Walgreens #03397, located in Chandler, Arizona, was not registered with the Board at the time of the events alleged herein. Walgreens Mail Service Pharmacy #02445 (Walgreens Mail Service), Certificate of Registration No. PH01964, located in Orlando, Florida, was a pharmacy registered by the Board at the time of the events alleged herein. Both pharmacies are work shifting operations designed to provide support to Walgreens retail pharmacies in Nevada.

## III.

Korakot Sayangbarp (Sayangbarp) is a pharmacist licensed in Florida and an employee of Walgreens Mail Service. Sayangbarp is not licensed to practice pharmacy in Nevada.

## **DISCIPLINARY HISTORY**

## IV.

In January 2016, the Board entered a Stipulation and Order in the case of *Board of Pharmacy v. Walgreens Pharmacy #03922, Case 15-028-PH-S* finding Walgreens #03922 responsible for violations resulting from a dispensing error. The Board ordered Walgreens to distribute a copy of the Accusation and Order(s) in that case to all of its pharmacists involved in filling prescriptions for Nevada residents and to review and educate each pharmacist as to a pharmacist's responsibilities under Nevada law.

## V.

In March 2016, the Board entered an Amended Findings of Fact, Conclusions of Law and Order in the case of *Board of Pharmacy v. Respondent Lucas Meyers, Case No. 15-028-RPH-B-S* finding Meyers responsible as the pharmacist on duty for violations resulting from a dispensing error. The Board ordered Meyers to complete two additional one-hour CE units, one each on the topics of pharmacy recordkeeping and error prevention.

## **FACTUAL ALLEGATIONS**

### VI.

On February 29, 2016, eight-week-old patient M.B. received a new prescription from her physician for Amoxicillin 125mg/5ml oral suspension with instructions to “take 5ml (125mg) once a day for 30 days after completing [an] Omnicef 10-day course.” The prescription allowed for one refill.

### VII.

M.B.’s mother, A.C., tendered the prescription to Walgreens #03922 in Nevada on February 29, 2016, where pharmaceutical technician Jonathan Diego (Diego) entered the prescription data into Walgreens’ computer system, designated as Prescription No. 3261261-03922.

### VIII.

Diego submitted the prescription data into a data entry verification queue for pharmacist approval.

### IX.

On March 1, 2016, at Walgreens #03397 in Arizona, a pharmacist retrieved the data for Prescription No. 3261261-03922 from the queue and performed data verification.

### X.

At Walgreens Mail Service in Florida, Sayangbarp later received six (6) drug utilization review (DUR) alerts for Prescription No. 3261261-03922. Sayangbarp overrode all six (6) DUR alerts simultaneously and sent the prescription to the queue for filling.

### XI.

After data verification and the DUR review, pharmaceutical technician Ava Ghayour-Najafabadi at Walgreens #03922 in Nevada filled the prescription and performed the final product review.

## XII.

On March 8, 2016, A.C. picked up Prescription No. 3261261-03922 from Walgreens #03922 in Nevada. At the point of sale, pharmaceutical technician Brenda Facunla reconstituted two 100ml bottles of Amoxicillin 125mg/5ml suspension, constituting a total dosage for thirty (30) days, and dispensed them to A.C.

## XIII.

The instructions on the label for Prescription No. 3261261-03922 appeared as follows:

AMOXICILIN 125MG/5ML SUSP 100ML  
QTY 200 1 REFILL BEFORE 02/28/17  
SHAKE LIQUID WELL AND GIVE ...5 ML BY MOUTH ONCE DAILY FOR  
30 DAYS AFTER COMPLETING OMNICEF 10 DAY COURSE. DISCARD  
REMAINDER

## XIV.

There was no expiration date indicated on the label of either of the 100ml bottles of reconstituted Amoxicillin for Prescription No. 3261261-03922.<sup>1</sup>

## XV.

Meyers was the pharmacist of record for Prescription No. 3261261-03922. Meyers did not verify the final product before sale and dispensing to the patient.

## XVI.

The counseling pharmacist of record was Meyers. Meyers failed to offer or provide counseling to A.C. on Prescription No. 3261261-03922.

## XVII.

On or about March 11, 2016, A.C. began administering the Amoxicillin from Prescription No. 3261261-03922 to M.B. as directed on the prescription label.

---

<sup>1</sup> The manufacturer's guidelines state that any unused portion of reconstituted Amoxicillin Suspension for oral use should be discarded after 14 days. Walgreens dispensed 2 100ml bottles of reconstituted Amoxicillin Suspension on March 8, 2016. Based on the manufacturer's guidelines, the dispensed medication expired on March 22, 2016.

## XVIII.

Throughout the course of administration, A.C. noticed the Amoxicillin Suspension turning from its original pink color to a yellow color.

## XIX.

On March 30, 2016, A.C. returned the Amoxicillin bottles to Walgreens #03922 in Nevada.

## XX.

A pharmacist at Walgreens #03922 confirmed that the Amoxicillin Suspension had expired and Walgreens discarded both bottles of the medication.

## XXI.

M.B. ingested the expired Amoxicillin for approximately nine (9) days.

## XXII.

Walgreens failed to produce a duplicate label or any documentation of the expiration date for Prescription No. 3261261-03922 upon request from the Board's investigator.

## XXIII.

Walgreens altered the records for Prescription No. 3261261-03922 during the course of the Board's investigation. Walgreens initially provided an Audit/Board of Pharmacy Inspection Report (Audit Report) that identified "59610" as the identification number for the Walgreens location where the pharmacists from the facilities in Arizona and Florida performed data review and DUR alert overrides. Walgreens was unable to explain what "59610" represents, and later gave the Board Investigator an altered Audit Report that no longer included "59610" and instead indicates that data review was performed at location number "3397", the Arizona facility, and DUR review was performed at "2445", the Walgreens Mail Service in Florida.



**FIRST CAUSE OF ACTION**

**Failure to Verify Pharmaceutical Technician's Work  
(Respondent Meyers)**

XXIV.

NAC 639.252(2) provides:

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 639.945(i) defines unprofessional conduct and conduct contrary to the public interest to include performing duties in an "incompetent, unskillful or negligent manner."

Meyers violated NAC 639.252(2) and engaged in unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(1)(i) by allowing a pharmaceutical technician under his supervision to perform the final product review and verification of Prescription No. 3261261-03922 without subsequently reviewing the technician's work to verify the selection and strength of the drug, the dosage form and the labeling of the prescription. For that conduct Meyers is subject to discipline pursuant to NRS 639.210(4) and (12), and NRS 639.255.

**SECOND CAUSE OF ACTION**

**Failure to Document Expiration Date on Prescription Label  
(Respondent Meyers)**

XXV.

NRS 639.2801 sets forth the requirements for prescription labeling and states in relevant part:

Unless specified to the contrary in writing on the prescription by the prescribing practitioner, all prescriptions filled by any practitioner must be dispensed in a container to which is affixed a label or other device which clearly shows:

....

7. The expiration date of the effectiveness of the drug or medicine dispensed, if that information is included on the original label of the manufacturer of that drug or medicine. If the expiration date specified by the manufacturer is not less than 1 year after the date of dispensing, the practitioner may use a date that is 1 year after the date of dispensing as the expiration date.

Meyers violated NRS 639.2801(7) and engaged in unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(1)(i) by failing to properly document the expiration date on the label or bottle for Prescription No. 3261261-03922, which resulted in M.B. ingesting nine (9) days of expired medication. For that conduct Meyers is subject to discipline pursuant to NRS 639.210(4) and (12), and NRS 639.255.

### **THIRD CAUSE OF ACTION**

#### **Failure to Adequately Counsel (Respondent Meyers)**

#### **XXVI.**

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 counseling 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.

Meyers 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 M.B.'s caregiver regarding the new prescription for Amoxicillin 125mg/5ml suspension. For that conduct, Meyers is subject to discipline pursuant to NRS 639.210(4) and (12), and NRS 639.255.

#### **FOURTH CAUSE OF ACTION**

##### **Failure to Maintain and Produce Prescription Records (Respondent Walgreens #03922)**

#### XXVII.

Prescription records must be readily retrievable and maintained and produced in conformance with NRS 454.286; NRS 639.326, NRS 639.328, NAC 639.910, NAC 639.930 and NAC 639.935. By failing to timely produce records to Board Staff upon request and to maintain an accurate recordkeeping system that would produce readily retrievable prescription records, specifically, a duplicate label and/or record indicating the expiration date for Prescription No. 3261261-03922, Walgreens #03922 violated NRS 454.286; NRS 639.326, NRS 639.328, NAC 639.910, NAC 639.930 and NAC 639.935 and engaged in unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(1)(m). For that conduct, Walgreens #03922 is subject to discipline pursuant to NRS 639.210(4), (12) and (17) and NRS 639.255.

#### **FIFTH CAUSE OF ACTION**

##### **Managing Pharmacist Responsibilities (Respondent Nguyen)**

#### XXVIII.

NRS 639.0087 defines “managing pharmacist” as “a registered pharmacist who is responsible for the operation of a pharmacy.” A managing pharmacist is responsible for the acts and omissions of pharmaceutical technicians and other personnel. NAC 639.702. A managing pharmacist is also responsible for ensuring that a pharmacy’s computer system retains prescription and patient information. NAC 639.910(2). Whenever a managing pharmacist designates another pharmacist to assume the managing pharmacist’s duties in his or her absence “[t]he managing pharmacist is responsible for the activities of the designee.” NRS 639.220(3)(c).

The Board may suspend or revoke a registration pursuant to NRS 639.210(15) when a person has “as a managing pharmacist, violated any provision of law or regulation concerning recordkeeping or inventory in a store over which he or she presides, or has knowingly allowed a violation of any provision of this chapter or other state or federal laws or regulations relating to the practice of pharmacy by personnel of the pharmacy under his or her supervision.”

As the managing pharmacist/pharmacist in charge of Walgreens Pharmacy #03922 at the time of each of the violations alleged above, Nguyen is responsible for those violations pursuant to NRS 639.210(15) NRS 639.220(3)(c), NAC 639.702 and NAC 639.910(2). Nguyen has also engaged in unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(1)(m). Nguyen is therefore subject to discipline pursuant to NRS 639.210(4), (12), (15) and (17) and NRS 639.255.

#### **SIXTH CAUSE OF ACTION**

##### **Altering Prescription Records**

(Respondent Walgreens #03922 and Walgreens Co.)

#### **XXIX.**

NAC 639.751(1)(b) and (2), and NAC 639.930(3) require a pharmacy computer system to have adequate safeguards to identify whether information in the system concerning a prescription has been modified or manipulated, and, where information was modified or manipulated, identify the manner, date and person who modified or manipulated the information. NAC 639.930(4) and (5) require the pharmacy’s computer system to maintain the information identified per NAC 639.930(3) and to prevent the removal of that information and the record of a prescription once the system assigns a number to the prescription. *See also* NAC 639.935(3)(g)(3) (computer system must produce printed records of history of each modification or manipulation of information concerning the prescription). By altering the Audit/Board of Pharmacy Inspection Report for Prescription No. 3261261-03922, specifically, by altering the store number from

“59610” in the data review field to “3397” and changed the DUR review field to “2445”, Walgreens #03922 and Walgreens Co. violated NAC 639.751(1)(b) and (2), NAC 639.930(3), (4) and (5), and NAC 639.935(3)(g)(3). For that conduct, Walgreens #03922 and Walgreens Co. are subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

### **SEVENTH CAUSE OF ACTION**

#### **Pharmacy/Pharmacy Owner Responsibility (Respondent Walgreens #03922 and Walgreens Co.)**

XXX.

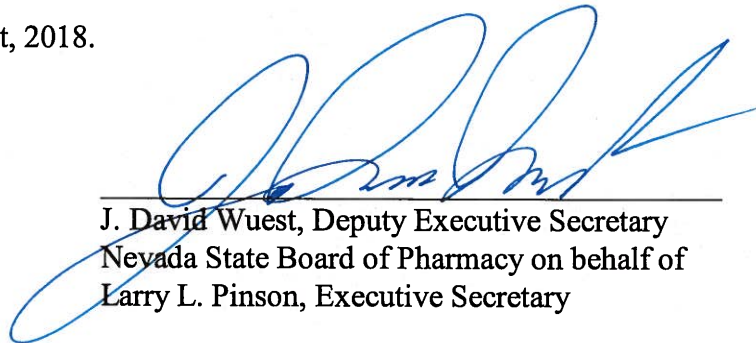
NRS 639.230(5) provides: “Any violation of any of the provisions of this chapter by a managing pharmacist or by personnel of the pharmacy under the supervision of the managing pharmacist is cause for the suspension or revocation of the license of the pharmacy by the Board.” A pharmacy that requires or allows a pharmacist to use the services of a pharmaceutical technician in violation of law is subject to disciplinary action. NAC 639.260. The owner of a pharmacy is responsible for the acts and omissions of pharmaceutical technicians and other personnel. NAC 639.702. It is unprofessional conduct and conduct contrary to the public interest to operate a pharmacy at a location other than the location at which the pharmacy is licensed to operate (NAC 639.945(1)(f)) and to perform any act, task or operation for which licensure, certification or registration is required without the required license, certificate or registration. (NAC 639.945(1)(k)). The 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. NAC 639.945(2).

As the pharmacy/pharmacy at which the violations of law alleged above occurred, Walgreens #03922 and Walgreens Co. are responsible for those violations, including those of its employees pursuant to NRS 639.230(5), NAC 639.260, NAC 639.702 and NAC 639.945(2). Walgreens #03922 and Walgreens Co. also engaged in unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(1)(f) and (k) by performing data verification of Prescription No. 3261261-03922 at Walgreens #03397 in Arizona, which was not

registered with the Board at the time of the violations alleged herein. Walgreens #03922 and Walgreens Co. are therefore subject to discipline pursuant to NRS 639.210(4) 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 these respondents.

Signed this 9<sup>th</sup> day of August, 2018.



J. David Wuest, Deputy Executive Secretary  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

#### **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 regarding your certificate of registration. To do so, you must mail to the Board within 20 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>STATEMENT TO THE RESPONDENT</b>
	)	<b>NOTICE OF INTENDED ACTION</b>
<b>Petitioner,</b>	)	<b>AND ACCUSATION</b>
<b>v.</b>	)	<b>RIGHT TO HEARING</b>
	)	
<b>LUCAS MEYERS, RPH</b>	)	<b>CASE NO. 16-089-RPH-A-S</b>
<b>Certificate of Registration No. 16064</b>	)	
	)	
<b>Respondent.</b>	/	

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, Larry L. Pinson, 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, October 10, 2018, 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.**

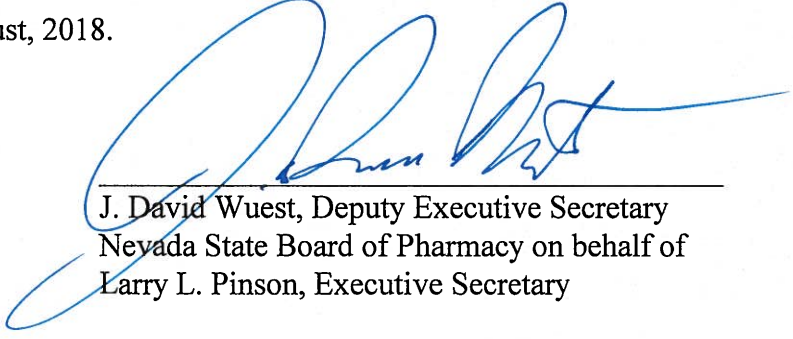
## IV.

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 9<sup>th</sup> day of August, 2018.



\_\_\_\_\_  
J. David Wuest, Deputy Executive Secretary  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary



**FILED****SEP 10 2018****NEVADA STATE BOARD  
OF PHARMACY**

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Attorneys for Respondents:  
 Lucas Meyers, R.Ph.  
 Thy Thai Nguyen, R.Ph.  
 Walgreens Pharmacy #03922  
 Walgreens Co.

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**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

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<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NOS. 16-089-RPH-A-S</b>
	)	<b>16-089-RPH-B-S</b>
<b>Petitioner,</b>	)	<b>16-089-PH-A-S</b>
	)	<b>16-089-PH-B-S</b>
<b>v.</b>	)	
	)	
<b>LUCAS MEYERS, RPH</b>	)	<b>ALL RESPONDENTS' ANSWER</b>
<b>Certificate of Registration No. 16064,</b>	)	<b>AND NOTICE OF DEFENSE</b>
	)	
<b>THY THAI NGUYEN, RPH</b>	)	
<b>Certificate of Registration No. 15730</b>	)	
	)	
<b>WALGREENS PHARMACY #03922</b>	)	
<b>Certificate of Registration No. PHN01127, and</b>	)	
	)	
<b>WALGREENS CO., an Illinois Corporation,</b>	)	
	)	
<b>Respondents.</b>	)	
	)	
	)	

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Respondents, Lucas Meyers ("Mr. Meyers"), Thy Thai Nguyen ("Ms. Nguyen") Walgreens Pharmacy #03922 (Walgreens #03922), and Walgreens Co., by and through their counsel William J. Stilling, of and for Stilling & Harrison, PLLC answer and provide notice of their defense to the Notice of Intended Action and Accusation ("Notice") in the above-entitled matter and declare as follows.

## **REQUEST FOR HEARING**

Respondents request a hearing on the Notice of Intended Action and Accusation and will be available on October 10, 2018 in Las Vegas, Nevada.

## **RESPONSES TO ALLEGATIONS AND CAUSES OF ACTION**

In answer to the Notice of Intended Action and Accusation, Respondents jointly admit, deny, and allege as follows:

### **JURISDICTION**

#### **I.**

Respondents admit the allegations in paragraph I.

### **FACTUAL ALLEGATIONS**

#### **II.**

As to paragraph II, Respondents admit Walgreens Mail Service Pharmacy #02445 ("Mail Service Pharmacy"), Certificate of Registration No. PH01964, located in Orlando, Florida, was a pharmacy registered by the Board at the time of the events alleged herein and that the Mail Service provided work shifting operations designed to provide support to Walgreens retail pharmacies in Nevada. Respondents deny the allegation that Walgreens #03397 was located in Chandler, Arizona and that it was not registered with the Board at the time of the events alleged herein. Respondents further deny that the Walgreens in Chandler, AZ was involved in the processing of prescriptions described in the Notice.

Data verification for Prescription No. 3261261-03922 was performed at AllianceRx Walgreens Prime #03397, registration No. PH00988, located in Tempe Arizona, which was first licensed April 28, 1995 according to the Nevada Board of Pharmacy License Verification List as of 8/17/2018. *See Exhibit A.*

### III.

Respondents admit the allegations in paragraph III.

### IV.

Respondents admit that in January 2016, the Board entered a Stipulation and Order in Case 15-028-PH-S wherein Walgreens admitted it owned the pharmacy in which an error occurred and was therefore strictly liable as the owner under NAC 639.945(2). The Board ordered Walgreens to distribute a copy of the Accusation and Order(s) in the case to all of its pharmacists involved in filling prescriptions for Nevada residents. Respondents deny all other allegations in paragraph IV.

### V.

Respondents admit that in March 2016, the Board entered Amended Findings of Fact, Conclusions of Law and Order in Case No. 15-028-RPH-B-S finding Mr. Meyers responsible for the dispensing errors of others in the pharmacy because he was the pharmacist and that the Board ordered Meyers to complete two additional one-hour CE units, one each on the topics of pharmacy recordkeeping and error prevention.

On March 16, 2016, Respondents filed an Amended Application and Request for Rehearing in Case 15-028, based in part that the Board's decision constituted impermissible rule-making without following the Nevada Administrative Procedures Act. The Board filed a Response on May 20, 2016. The rehearing for Case 15-028 was set for July 20, 2016. On July 20, 2016, the parties filed a Stipulation to Continue Hearing because some of the issues raised in that case were to be the subject of a public hearing to be held by the Board on July 21, 2016. The Board voted to table the rehearing until a future date. Subsequent to that hearing, a Pharmacy Practice Committee was appointed to address these issues. The Committee met several times, but as far as Respondents

know, the Board has not acted on the Committee's recommendations. Case 15-028 remains tabled and pending.

**VI.**

Respondents are without knowledge or information sufficient to form a belief about the truth of the allegations in paragraph VI.

**VII.**

Respondents admit the allegations in paragraph VII.

**VIII.**

Respondents admit the allegations in paragraph VIII.

**IX.**

Respondents admit that on March 1, 2016, at Walgreens #03397 in Tempe, Arizona, a pharmacist retrieved the data for Prescription No. 3261261–03922 from the queue and performed data verification.

**X.**

Respondents admit pharmacist Sayangbarp at the Florida Mail Service Facility was presented with six DUR alerts for prescription no. 3261261–03922, overrode those DURs, and placed the prescription into the queue for filling. Respondents deny all other allegations in paragraph X.

**XI.**

Respondents admit that after data verification and the DUR review, pharmaceutical technician Ava Ghayour–Najafabadi at Walgreens #03922 in Nevada filled the prescription and performed the product verification. Respondents deny all other allegations in paragraph XI.

**XII.**

Respondents admit the allegations in paragraph XII.

**XIII.**

Respondents admit the allegations in paragraph XIII.

**XIV.**

Respondents deny the allegations in paragraph XIV.

**XV.**

Respondents admit Mr. Meyers was the pharmacist of record for Prescription No. 3261261–03922. Respondents deny all other allegations in paragraph XV.

**XVI.**

Respondents deny the allegations in paragraph XVI. Mr. Meyers offered counseling, which was denied as documented in the Walgreens Audit/Board of Pharmacy Inspection Report (“Audit Report”) for Prescription No. 3261261–03922.

**XVII.**

Respondents are without knowledge or information sufficient to form a belief about the truth of the allegations in paragraph XVII.

**XVIII.**

Respondents are without knowledge or information sufficient to form a belief about the truth of the allegations in paragraph XVIII.

**XIX.**

Respondents admit the allegations in paragraph XX.

**XX.**

A pharmacist at Walgreens #03922 confirmed that the remaining Amoxicillin Suspension had expired, and Walgreens discarded both bottles of the medication.



## XXI.

Respondents are without knowledge or information sufficient to form a belief about the truth of the allegations in paragraph XXI.

## XXII.

Walgreens #03922 timely responded to the Board's investigator and provided all records required by applicable Nevada laws and regulations. Respondents deny the allegations in paragraph XXII, particularly to the extent those allegations imply Walgreens did not meet its legal obligations.

## XXIII.

Respondents deny the allegations in paragraph XXIII. Walgreens provided the Board with an Audit Report in or about March 2016 in response to the Board investigator's request. At that time, Walgreens data system used "59610" as generic identifier for the Walgreens central processing pharmacies that provided data verification and DUR review. Board investigators expressed dissatisfaction about the use of a generic number. Walgreens modified its data system so that the system would pull the actual Walgreens pharmacy number and insert that specific number in place of the generic "59610." Later, in May 2018, the Board's investigator requested clarification about the information in the documents he had received two years earlier. Specifically, he wanted to know which facility 59610 represented. In response to the Board investigator's request for clarification, Walgreens personnel provided another Audit Report for Prescription No. 3261261-03922. Because Walgreens IT personnel had changed the way Walgreens data system populates fields in Audit Reports that involve central processing, the clarifying Audit Report contained specific pharmacy numbers—"3397" for the Tempe, AZ facility and "2445" for the Orlando, FL facility—rather than the generic number "59610" that had been

used previously. This clarifying report provided additional, more specific information to the Board just as the Board or its representative(s) had requested.

**FIRST CAUSE OF ACTION**

**Failure to Verify Pharmaceutical Technician's Work  
(Respondent Meyers)**

**XXIV.**

Respondents deny the allegations in paragraph XXIV except for the recitation of specific laws and regulations, which Respondents neither admit nor deny because the laws and regulations speak for themselves.

**SECOND CAUSE OF ACTION**

**Failure to Document Expiration Date on Prescription Label  
(Respondent Meyers)**

**XXV.**

Respondents deny the allegations in paragraph XXV except for the recitation of specific laws and regulations, which Respondents neither admit nor deny because the laws and regulations speak for themselves.

**THIRD CAUSE OF ACTION**

**Failure to Adequately Counsel  
(Respondent Meyers)**

**XXVI.**

Respondents deny the allegations in paragraph XXVI, except for the recitation of specific laws and regulations, which Respondents neither admit nor deny because the laws and regulations speak for themselves. Furthermore, NAC 639.707(5) does not require a pharmacist to counsel a patient or person caring for the patient if such person refuses to accept counseling. Mr. Meyers documented that counseling was declined for Prescription No. 3261261-03922.

**FOURTH CAUSE OF ACTION**  
**Failure to Maintain and Produce Prescription Records**  
 (Respondent Walgreens #03922)

**XXVII.**

Respondents deny the allegations in paragraph XXVII except for the recitation of specific laws and regulations, which Respondents neither admit nor deny because the laws and regulations speak for themselves. Furthermore, none of the laws or regulations cited in the Notice requires a pharmacy to produce an exact duplicate of the label or the expiration date.

**FIFTH CAUSE OF ACTION**  
**Managing Pharmacist Responsibilities**  
 (Respondent Nguyen)

**XXVIII.**

Respondents deny the allegations in paragraph XXVIII except for the recitation of specific laws and regulations, which Respondents neither admit nor deny because the laws and regulations speak for themselves. Furthermore, even if a managing pharmacist is “responsible for” acts or omissions of others, such responsibility does not constitute a violation of the applicable laws and regulations. There are no facts alleged in the Notice to support a claim of Ms. Nguyen “knowingly” allowing a violation of any law or regulation.

**SIXTH CAUSE OF ACTION**  
**Altering Prescription Records**  
 (Respondent Walgreens #03922 and Walgreens Co.)

**XXIX.**

Respondents deny the allegations in paragraph XXIX except for the recitation of specific laws and regulations, which Respondents neither admit nor deny because the laws and regulations speak for themselves. Furthermore, there is no allegation that any Respondent altered signatures and therefore no allegation supports a violation of NAC 693.751 relating to alteration of signatures.



The Sixth Cause of Action is contrary to the public interest and sound public policy because it attempts to punish Walgreen #03922 and Walgreen Co. for expending the time and resources necessary to provide more specific information about which centralized processing facility performed services for a prescription in response to a request by the Board or its representative(s) that such information be included on Audit Reports. Providing more specific information pursuant to such a request does not constitute a violation of any law or regulation cited in the Notice.

**SEVENTH CAUSE OF ACTION**  
**Pharmacy/Pharmacy Owner Responsibility**  
 (Respondent Walgreens #03922 and Walgreens Co.)

**XXX.**

Respondents deny the allegations in paragraph XXX except for the recitation of specific laws and regulations, which Respondents neither admit nor deny because the laws and regulations speak for themselves. Furthermore, the specific allegation in the Seventh Cause of Action that pharmacy #03397 in Tempe, AZ was not registered with the Board is incorrect. The Board's website link for verifying licenses confirms that facility #03397 has been licensed in Nevada since April 28, 1995. *See Exhibit A.*

**OTHER DEFENSES**

Each cause of action fails to state a claim upon which relief can be granted.

**RESERVATION OF RIGHTS, DEFENSES, AND GENERAL DENIAL**

1. Respondents reserve the right to assert other affirmative defenses in this matter and in any civil litigation that may follow and to provide additional facts and mitigating circumstances.
2. To the extent Respondents did not specifically admit allegations in the Notice of Intent and Accusation, they deny such allegations.

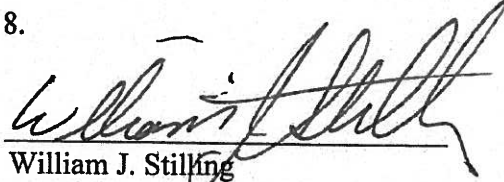
**PRAYER FOR RELIEF**

1. That the Board find that the allegations in the Notice and all evidence presented to the Board do not support imposing discipline on any of the Respondents.

2. That the Board dismiss all Causes of Action in the Notice.

3. That the Board provide further relief to Respondents as it finds just and proper.

DATED this 10<sup>th</sup> day of September 2018.



William J. Stilling  
STILLING & HARRISON, PLLC  
Attorneys for Respondents  
Lucas Meyers  
Thy Thai Nguyen  
Walgreens Pharmacy #03922  
Walgreens Co.

# Exhibit A

## NEVADA STATE BOARD OF PHARMACY

### LICENSE VERIFICATION LIST AS OF: 8/17/2018

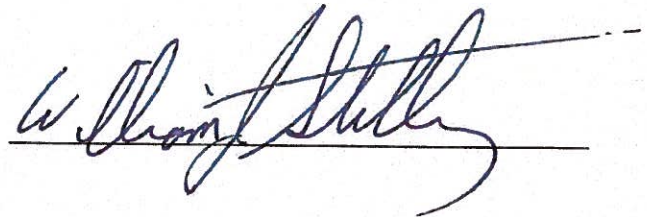
Name	Street Address	City	State	Zip	Phone #	License #	Expires	1st Lic'd Date
AEVA SPECIALTY PHARMACY	6280 S VALLEY VIEW #732	LAS VEGAS	NEVADA	89118	702-558-2382	PHN03106	10/31/18	02/12/14
AEVA SPECIALTY PHARMACY 2	4641 BLUE DIAMOND	LAS VEGAS	NEVADA	89139	702-558-2382	PHN03940	10/31/18	07/25/18
AFFINITY RX	11003 ANTOINE DR #F	HOUSTON	TEXAS	77086	281-444-5200	PH03925	10/31/18	06/12/18
AFFINITY SURGERY CENTER LLC	10135 W TWAIN AVE #110	LAS VEGAS	NEVADA	89147	702-882-5959	ASC03194	10/31/18	07/03/14
AFFORDABLE PHARMACY	8030 FM 1765 #A104	TEXAS CITY	TEXAS	77591	409-229-4636	PH03498	10/31/18	01/21/16
AGEVITAL PHARMACY LLC	1614 MAIN ST	SARASOTA	FLORIDA	34236	941-388-0800	PH03358	10/31/18	04/27/15
AHF PHARMACY	19300 S HAMILTON AVE #170/180	GARDENA	CALIFORNIA	90248	310-464-8241	PH03709	10/31/18	04/17/17
AHF PHARMACY	3201 S MARYLAND PKWY #218	LAS VEGAS	NEVADA	89109	702-826-5310	PH03380	10/31/18	06/18/15
AKINA PHARMACY	4080 LAFAYETTE CENTER DR #270	CHANTILLY	VIRGINIA	20151	855-792-5462	PH03265	10/31/18	12/08/14
ALBERTSON'S-SEAFWAY PHARMACY #4705	12874 E FLORENCE AVE	SANTA FE SPRINGS	CALIFORNIA	90670	800-834-8778	PH03493	10/31/18	01/21/16
ALL CITY PHARMACY LLC	821 N LAMB BLVD #4	LAS VEGAS	NEVADA	89110	702-834-7704	PH03609	10/31/18	09/12/16
ALL IN ONE PHARMACY	2080 E FLAMINGO RD #310	LAS VEGAS	NEVADA	89119	702-697-6501	PH02757	10/31/18	12/15/11
ALL IN ONE PHARMACY	890 MILL ST #203	RENO	NEVADA	89502	775-507-4291	PH03797	10/31/18	10/11/17
ALL MED PHARMACY	1052 S POWERLINE RD #C	DEERFIELD BEACH	FLORIDA	33442	885-241-0927	PH03777	10/31/18	07/26/17
ALL-CARE PHARMACY	8415 N PIMA RD #125	SCOTTSDALE	ARIZONA	85258	480-270-6700	PH03822	10/31/18	12/11/17
ALLCARE PLUS PHARMACY INC.	12 PLYMOUTH ST #100	WORCESTER	MASS.	1608	508-754-8800	PH03615	10/31/18	09/19/16
ALLCARE SPECIALTY PHARMACY LLC	50 BEARFOOT RD	NORTHBOROUGH	MASS.	1532	508-459-3535	PH03045	10/31/18	12/09/13
ALLERGYCHOICES PHARMACY	10620 COLONEL GLENN RD #300	LITTLE ROCK	ARKANSAS	72204	501-217-8880	PH03570	10/31/18	06/08/16
ALLIANCERX WALGREENS PRIME #03397	2731 NATIONAL DR	ONALASKA	WISCONSIN	54650	608-793-1580	PH02496	10/31/18	04/22/09
ALLIANCERX WALGREENS PRIME #04566-2	8350 S RIVER PKWY	BEAVERTON	OREGON	97008	866-202-4014	PH03509	10/31/18	01/21/16
ALLIANCERX WALGREENS PRIME #15438	9505 SW GEMINI DR	CANTON	MICHIGAN	48188	888-282-5166	PH01834	10/31/18	06/24/03
ALLIANCERX WALGREENS PRIME #15443	41460 HAGGERTY CIRCLE S	FRISCO	TEXAS	75033	214-387-3500	PH01156	10/31/18	08/07/97
ALLIANCERX WALGREENS PRIME #15463	10530 JOHN W. ELLIOTT DR #100	BETHESDA	MARYLAND	20814	800-541-4959	PH03349	10/31/18	04/27/15
ALLIANCERX WALGREENS PRIME #16280	6931 ARLINGTON RD #400	FRISCO	TEXAS	75033	866-574-1414	PH02023	10/31/18	03/03/05
ALLIANCERX WALGREENS PRIME #16287	10930 JOHN W. ELLIOTT DR #200	PITTSBURGH	PENNSYLVANIA	15275	888-347-3416	PH01440	10/31/18	09/27/99
ALLIANCERX WALGREENS PRIME #16567	130 ENTERPRISE DR	IRVING	TEXAS	75063	877-357-7463	PH02062	10/31/18	07/25/05
ALLIANCERX WALGREENS PRIME #16568	2901 KINWEST PKWY #250	ORLANDO	FLORIDA	32819	407-591-4063	PH02830	10/31/18	06/11/12
ALLIANCERX WALGREENS PRIME #20579	2354 COMMERCE PARK DR #100	IRVING	TEXAS	75063	888-282-4801	PH03740	10/31/18	06/05/17
ALLIANCERX WALGREENS PRIME #12314	2901 KINWEST PKWY #350	BEAVERTON	OREGON	97008	503-643-8511	PH02337	10/31/18	01/17/08
ALLIVET	9775 SW GEMINI DR #1	HIALEAH	FLORIDA	33014	877-500-9944	PH02568	10/31/18	12/07/09
ALLURE PHARMACY	480 W 83RD ST	LOS ANGELES	CALIFORNIA	90049	310-826-1111	PH03413	10/31/18	07/27/15
ALLYSCRIPTS	11670 SAN VICENTE BLVD #A	SCOTTSDALE	ARIZONA	85269	844-309-7171	PH03645	10/31/18	12/12/16
ALORE LLC	201 LONNIE E CRAWFORD BLVD #8	SALEM	OREGON	97302	877-814-2968	PH03821	10/31/18	12/11/17
ALPHA-OMEGA PHARMACY LLC	999 COMMERCIAL ST SE	CLEARWATER	FLORIDA	33764	352-600-7950	PH03646	10/31/18	12/12/16
ALTA RX LLC	4625 E BAY DR #313	SANDY	UTAH	84070	801-716-7200	PH03206	10/31/18	07/29/14
ALTA-ROSE SURGERY CENTER	9883 S 500 W	LAS VEGAS	NEVADA	89106	702-386-9906	ASC02399	10/31/18	09/02/08
AMBER PHARMACY	501 S ROSE ST #110	OMAHA	NEBRASKA	68138	402-896-5000	PH02178	10/31/18	09/06/06
AMBUATORY SURGICAL CENTER OF SOUTHERN N	10004 S 152ND ST #A	LAS VEGAS	NEVADA	89113	702-952-1660	ASC03932	10/31/18	07/19/18
AMBUATORY SURGICAL CENTER OF SOUTHERN N	6950 S CIMARRON RD #100	LAS VEGAS	NEVADA	89147	702-952-1660	ASC02400	10/31/18	09/02/08
AMERICA'S BEST CARE PLUS INC.	3820 S HUALAPAI WAY #100	FORT PAYNE	ALABAMA	35968	256-997-1770	PH02462	10/31/18	11/24/08
AMERICAN INTEGRATIVE PHARMACY	1825 EVERETT DR W	LOMITA	CALIFORNIA	90717	310-539-1750	PH03139	10/31/18	04/28/14
AMERICAN MEDICAL DIRECT	1852 LOMITA BLVD #204	SAN ANTONIO	TEXAS	78248	210-832-8300	PH02946	10/31/18	04/26/13
AMERICAN OUTCOMES MANAGEMENT L.P.	1862 W BITTERS #301	FORT WORTH	TEXAS	76109	817-361-7699	PH02005	10/31/18	01/14/05
AMERICAN SPECIALTY PHARMACY	6310 SOUTHWEST BLVD #204	SAN ANTONIO	TEXAS	78229	210-417-4567	PH03514	10/31/18	01/27/16
AMERITA INC.	2414 BABCOCK RD #106	PRESCOTT	ARIZONA	86305	928-708-0025	PH02576	10/31/18	01/19/10
AMERITA INC.	1151 IRON SPRINGS RD #G	TULSA	OKLAHOMA	74146	918-493-2727	PH02937	10/31/18	04/25/13
AMERITA INC.	12515 E 55TH ST	SALT LAKE CITY	UTAH	84119	801-908-6100	PH02448	10/31/18	09/15/08
AMEX PHARMACY	2446 PROGRESS DR	MELBOURNE	FLORIDA	32901	321-872-0723	PH03085	10/31/18	01/28/14
AMOP PHARMACY	1515 ELIZABETH ST #J	WARREN	MICHIGAN	48089	586-772-6872	PH03084	10/31/18	01/28/14

**CERTIFICATE OF SERVICE**

I hereby certify that on September 10, 2018, I caused to be served a true and correct copy of the foregoing **ANSWER AND NOTICE OF DEFENSE** by the method indicated below to:

S. Paul Edwards  
Nevada State Board of Pharmacy  
431 W. Plumb Lane  
Reno, NV 89509  
[pedwards@pharmacy.nv.gov](mailto:pedwards@pharmacy.nv.gov)

- ☐ U.S. Mail postage prepaid
- ☐ Hand delivery
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Electronic Mail





**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 9<sup>th</sup> day of August, 2018, I served a true and correct copy of the foregoing document by Certified U.S.

Mail to the following:

**Lucas Meyers, RPh  
7248 Old Mission Drive  
Las Vegas, NV 89128**

  
SHIRLEY HUNTING

**4D**

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>STATEMENT TO THE RESPONDENT</b>
	)	<b>NOTICE OF INTENDED ACTION</b>
<b>Petitioner,</b>	)	<b>AND ACCUSATION</b>
<b>v.</b>	)	<b>RIGHT TO HEARING</b>
	)	
<b>THY THAI NGUYEN, RPH</b>	)	<b>CASE NO. 16-089-RPH-B-S</b>
<b>Certificate of Registration No. 15730</b>	)	
	)	
<b>Respondent.</b>	/	

---

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, Larry L. Pinson, 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, October 10, 2018, 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.**



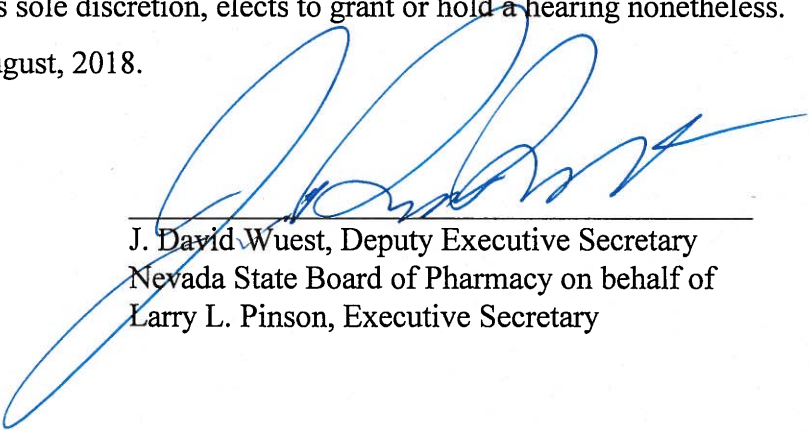
## IV.

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 9<sup>th</sup> day of August, 2018.



---

J. David Wuest, Deputy Executive Secretary  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

## **CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 9<sup>th</sup> day of August, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Thy Thai Nguyen, RPh  
4025 Wake Forest Drive  
Las Vegas, NV 89129**



SHIRLEY HUNTING

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>ANSWER AND</b>
	)	<b>NOTICE OF DEFENSE</b>
<b>Petitioner,</b>	)	
<b>v.</b>	)	
	)	
<b>THY THAI NGUYEN, RPH</b>	)	<b>CASE NO. 16-089-RPH-B-S</b>
<b>Certificate of Registration No. 15730</b>	)	
	)	
<b>Respondent.</b>	)	
	/	

---

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 August, 2018.

---

THY THAI NGUYEN, RPH

**4E**

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>STATEMENT TO THE RESPONDENT</b>
	)	<b>NOTICE OF INTENDED ACTION</b>
<b>Petitioner,</b>	)	<b>AND ACCUSATION</b>
<b>v.</b>	)	<b>RIGHT TO HEARING</b>
	)	
<b>WALGREENS PHARMACY #03922</b>	)	<b>CASE NO. 16-089-PH-A-S</b>
<b>Certificate of Registration No. PHN01127</b>	)	
	)	
<b>Respondent.</b>	/	

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, Larry L. Pinson, 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, October 10, 2018, 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.**

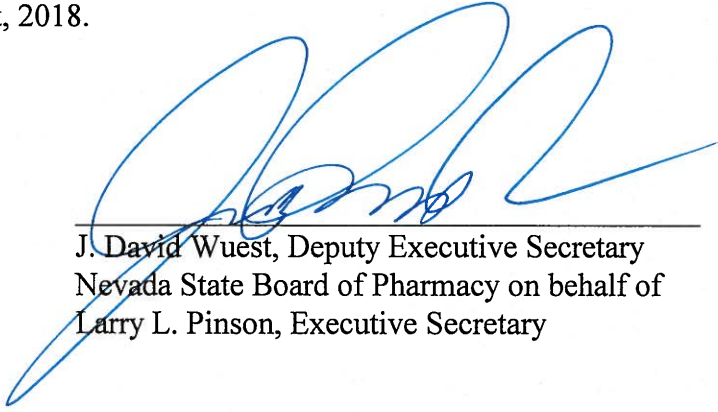
## IV.

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 9<sup>th</sup> day of August, 2018.



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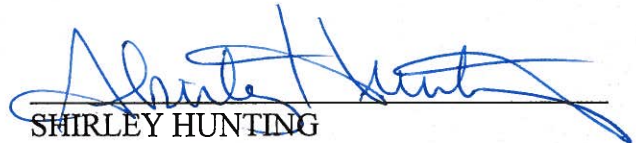
J. David Wuest, Deputy Executive Secretary  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

## **CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 9<sup>th</sup> day of August, 2018, I served a true and correct copy of the foregoing document by Certified U.S.

Mail to the following:

**Walgreens Pharmacy #03922**  
**7599 W. Lake Mead Blvd.**  
**Las Vegas, NV 89128**



SHIRLEY HUNTING



**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>ANSWER AND</b>
	)	<b>NOTICE OF DEFENSE</b>
<b>Petitioner,</b>	)	
<b>v.</b>	)	
	)	
<b>WALGREENS PHARMACY #03922</b>	)	<b>CASE NO. 16-089-PH-A-S</b>
<b>Certificate of Registration No. PHN01127</b>	)	
	)	
<b>Respondent.</b>	/	

---

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 August, 2018.

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Type or print name

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AUTHORIZED REPRESENTATIVE FOR  
WALGREENS PHARMACY #03922

**4F**

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>STATEMENT TO THE RESPONDENT</b>
	)	<b>NOTICE OF INTENDED ACTION</b>
<b>Petitioner,</b>	)	<b>AND ACCUSATION</b>
<b>v.</b>	)	<b>RIGHT TO HEARING</b>
	)	
<b>WALGREENS CO., an Illinois Corporation</b>	)	<b>CASE NO. 16-089-PH-C-O</b>
	)	
<b>Respondent.</b>	)	
	/	

---

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

**I.**

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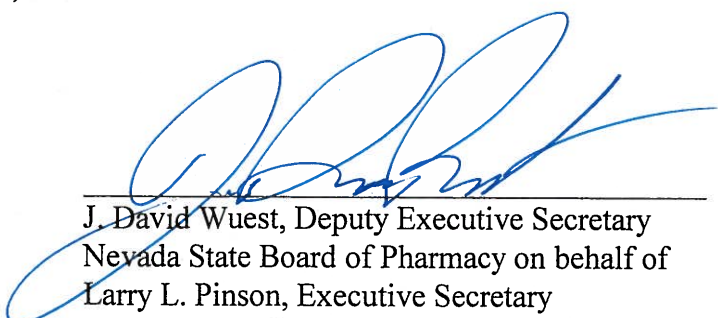
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DATED this 9<sup>th</sup> day of August, 2018.



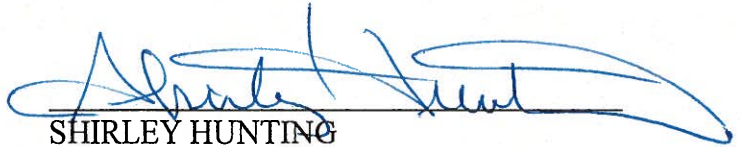
J. David Wuest, Deputy Executive Secretary  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

## **CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 9<sup>th</sup> day of August, 2018, I served a true and correct copy of the foregoing document by Certified U.S.

Mail to the following:

**William Stilling, Esq.  
215 South State Street, Suite 500  
Salt Lake City, UT 84111**



SHIRLEY HUNTING

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 9<sup>th</sup> day of August, 2018, I served a true and correct copy of the foregoing document by Certified U.S.

Mail to the following:

**Walgreens Co.  
Corporate Office  
300 Wilmot Road, MS 3215  
Deerfield, IL 60015**



SHIRLEY HUNTING

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>ANSWER AND</b>
	)	<b>NOTICE OF DEFENSE</b>
<b>Petitioner,</b>	)	
<b>v.</b>	)	
	)	
<b>WALGREENS CO., an Illinois Corporation</b>	)	<b>CASE NO. 16-089-PH-C-O</b>
	)	
<b>Respondent.</b>	)	
	/	

---

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 August, 2018.

---

Type or print name

---

AUTHORIZED REPRESENTATIVE FOR  
WALGREENS CO., an Illinois Corporation

**4G**

AUG 08 2018

NEVADA STATE BOARD  
OF PHARMACY**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NOS. 18-057-PT-S</b>
	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	<b>NOTICE OF INTENDED ACTION</b>
	)	<b>AND ACCUSATION</b>
<b>TIFFANY CHERIE HALL, PT</b>	)	
<b>Certificate of Registration No. PT20933</b>	)	
	)	
<b>Respondents.</b>	)	
	/	

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Larry L. Pinson, 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 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 Tiffany Cherie Hall, PT (Ms. Hall), held a Nevada Pharmaceutical Technician Registration, Certificate No. PT20933, issued by the Pharmacy Board.

**II.**

On May 7, 2018, the Board received a Pharmaceutical Technician Application from Ms. Hall signed by her and dated May 2, 2018.

**III.**

The Board issued Certificate of Registration No. PT20933 to Ms. Hall on May 8, 2018.

## **FACTUAL ALLEGATIONS**

### IV.

Ms. Hall was arrested in Heber City, Utah on March 22, 2018, for driving under the influence of alcohol/drugs. Wasatch County Justice Court Case No. 185400759.

### V.

Ms. Hall did not disclose her arrest record on the Pharmaceutical Technician application. She instead falsely marked “No” on question 3, which ask whether she had “[b]een charged, arrested or convicted of a felony or misdemeanor in any state?”

### VI.

Ms. Hall then signed the application certifying to the Board that the “information furnished on this document [the application] is true and complete.”

## **FIRST CAUSE OF ACTION**

### VII.

“Any person who secures or attempts to secure registration for himself or herself or any other person by making, or causing to be made, any false representation...is guilty of a misdeameanor.” Nevada Revised Statute (NRS) 639.281(1). The statute goes on to state that: “Any certificate issued by the Board on information later found to be false or fraudulent must be automatically cancelled by the Board.” NRS 639.281(2).

By falsely marking “No” on question 3 on her application, which asks whether she had “[b]een charged, arrested or convicted of a felony or misdemeanor in any state?”, and by signing the application certifying that the information she provided was “true and correct”, Hall violated NRS 639.281(a) and engaged in unprofessional conduct, as defined in Nevada Administrative Code (NAC) 639.945(1)(h). Her actions are grounds for discipline pursuant to NRS 639.210(1), (4), (9), (10), (12), NRS 639.281(2) and NRS 639.255.

## **SECOND CAUSE OF ACTION**

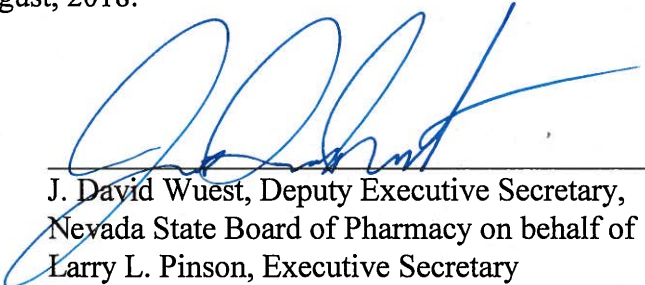
### VIII.

“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). 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).

Hall is guilty of unprofessional conduct as that term is defined in NAC 639.945(1)(h). That violation is grounds for discipline pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (9), (12), and (15), NRS 639.281(2) 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 these respondents.

Signed this 8<sup>th</sup> day of August, 2018.

  
\_\_\_\_\_  
J. David Wuest, Deputy Executive Secretary,  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

## **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 regarding your certificate of registration. 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**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NO. 18-057-PT-S</b>
	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	
	)	<b>STATEMENT TO THE RESPONDENT</b>
<b>TIFFANY CHERIE HALL, PT</b>	)	<b>NOTICE OF INTENDED ACTION</b>
<b>Certificate of Registration No. PT20933,</b>	)	<b>AND ACCUSATION</b>
	)	<b>RIGHT TO HEARING</b>
<b>Respondent.</b>	)	
	/	

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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, Larry L. Pinson, 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, October 10, 2018, 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.**

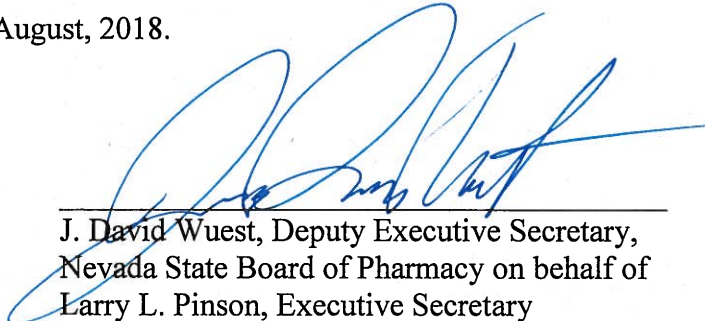
## IV.

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 9<sup>th</sup> day of August, 2018.



J. David Wuest, Deputy Executive Secretary,  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NO. 18-057-PT-S</b>
	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	
	)	
<b>TIFFANY CHERIE HALL, PT</b>	)	<b>ANSWER AND NOTICE</b>
<b>Certificate of Registration No. PT20933,</b>	)	<b>OF DEFENSE</b>
	)	
<b>Respondent.</b>	)	
	/	

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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 \_\_\_\_ day of \_\_\_\_\_, 2018.

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TIFFANY CHERIE HALL, PT

**4H**

**FILED****AUG 09 2018****NEVADA STATE BOARD  
OF PHARMACY****BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NO. 18-064-PT-S</b>
	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	
	)	<b>NOTICE OF INTENDED ACTION</b>
<b>VERONICA STAR ASHWORTH, PT</b>	)	<b>AND ACCUSATION</b>
<b>Certificate of Registration No. PT00939,</b>	)	
	)	
<b>Respondent.</b>	/	

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Larry L. Pinson, 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 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 Veronica Star Ashworth, PT (Ashworth), held a Nevada Pharmaceutical Technician Registration, Certificate No. PT00939, issued by the Pharmacy Board.

**FACTUAL ALLEGATIONS****II.**

In February 2018, Walgreens Pharmacy #3844 (Walgreens) terminated Ashworth from her employment as a pharmaceutical technician for diversion of controlled substances.

**III.**

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

## IV.

Ashworth admitted to diverting 800 Oxycodone 15 mg tablets, 800 Percocet 10/325 mg. tablets and 2,000 Oxycodone 30 mg. tablets over an approximately one-year period.

## V.

Ashworth diverted the controlled substances for personal use and to sell to pay her personal bills.

## VI.

Ashworth initially diverted the drugs by removing tablets from stock bottles. She later stole customers' filled controlled substance prescriptions and deleted the prescription information from the pharmacy computer system.

## VII.

Walgreens reported the theft to law enforcement and Ashworth was placed under arrest.

**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, Ashworth 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, Ashworth 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.**

NRS 453.337(1) states, in relevant part, that unless otherwise authorized, “it is unlawful for a person to possess for the purpose of sale . . . any controlled substance classified in schedule I or II.” NRS 639.210(12) says that a violation or attempt to violate “any law or regulation relating to drugs, [or] the . . . distribution of drugs . . . 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, Ashworth violated, violated NRS 453.337(1) and is subject to discipline pursuant to NRS 639.210(12), as well as NRS 639.255.

### **FOURTH CAUSE OF ACTION**

#### **XI.**

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, Ashworth 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.

## **FIFTH CAUSE OF ACTION**

### **XII.**

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, Ashworth 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 9<sup>th</sup> day of August, 2018.



\_\_\_\_\_  
J. David Wuest, Deputy Executive Secretary,  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

## **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 regarding your certificate of registration. 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**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NO. 18-064-PT-S</b>
	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	
	)	<b>STATEMENT TO THE</b>
<b>VERONICA ASHWORTH, PT</b>	)	<b>RESPONDENT AND</b>
<b>Certificate of Registration No. PT00939,</b>	)	<b>NOTICE OF HEARING</b>
	)	
<b>Respondent.</b>	)	
	/	

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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, Larry L. Pinson, 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, October 10, 2018, 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.**

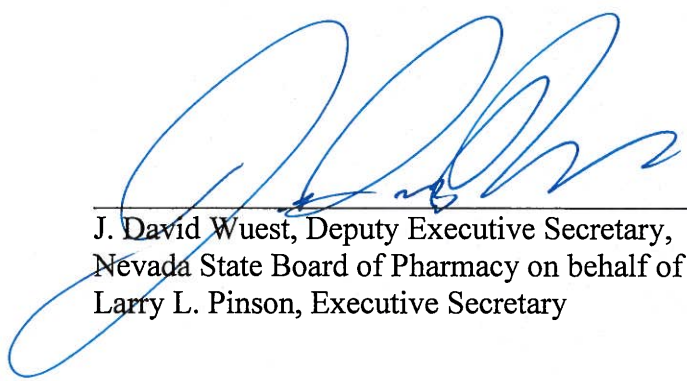
## IV.

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 9<sup>th</sup> day of August, 2018.



J. David Wuest, Deputy Executive Secretary,  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary



## **CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 10<sup>th</sup> day of August, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Veronica Star Ashworth  
1694 Buck Island Street  
Las Vegas, NV 89156**



SHIRLEY HUNTING

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NO. 18-064-PT-S</b>
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>VERONICA ASHWORTH, PT</b>	)	<b>ANSWER AND NOTICE</b>
<b>Certificate of Registration No. PT00939,</b>	)	<b>OF DEFENSE</b>
	)	
<b>Respondent.</b>	)	
	/	

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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 21 day of August, 2018

**FILED**

**AUG 30 2018**

**NEVADA STATE BOARD  
OF PHARMACY**

  
\_\_\_\_\_  
VERONICA ASHWORTH, PT

**4I**

AUG 22 2018

NEVADA STATE BOARD  
OF PHARMACY

## BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-102-CS-S
	)	
Petitioner,	)	NOTICE OF INTENDED ACTION
v.	)	AND ACCUSATION
	)	
MICHAEL DEAN BELL, DDS	)	
Certificate of Registration No. CS04818,	)	
	)	
Respondent.	/	

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Larry L. Pinson, 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 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, Michael Dean Bell, DDS (Bell), had a Controlled Substance Registration, Certificate No. CS04818 issued by the Board.

**FACTUAL ALLEGATIONS**

## II.

On April 16, 2015, the Board granted Bell an account for Internet access to the Nevada Prescription Monitoring Program (PMP) for purposes authorized under federal and state law.

## III.

Prior to receiving access, Bell signed a Practitioner Certification Statement on April 16, 2015, stating that he understood and agreed under penalty of perjury that he was responsible for all patient information accessed through his account, that he would treat PMP information as confidential, that he would protect any PMP information in his possession or control in accordance with federal and state laws governing health care information, and that he would safeguard his password and not share his login credentials with any other person.

## IV.

Before receiving a PMP query result, the practitioner must agree to the terms of the Acknowledgement that "...use of this PMP system is permitted only in connection with providing medical or pharmaceutical care to a patient, which includes evaluating a patient for medical treatment..."

## V.

Stephen Paddock (Paddock) was the perpetrator of the October 1, 2017, Las Vegas mass shooting, and committed suicide immediately after the incident sometime before midnight.

## VI.

On October 4, 2017, Bell's PMP account was used to query the PMP database eight (8) separate times using different search parameters for each query, to access Paddock's confidential patient information and patient utilization reports detailing Paddock's prescription-controlled substance utilization history.

## VII.

Paddock was not a patient of Bell's. Bell had no lawful purpose for accessing the patient utilization report of Paddock.

## VIII.

Because the PMP Administrator restricted access to Paddock's confidential patient information on October 4, 2017, Bell did not succeed in accessing Paddock's confidential patient information.

**APPLICABLE LAW**

## IX.

The Board administers the Prescription Monitoring Program (PMP), which maintains a database of all transactions for schedule II, III, IV and V controlled substances prescribed and dispensed in Nevada. *See NRS 453.162 through 453.165, inclusive.*

## X.

At the time of the events alleged herein, NRS 639.23507(1) authorized a practitioner to obtain a patient utilization report from the PMP before prescribing a controlled substance to his patients under certain circumstances, to assess whether the prescription is medically necessary.<sup>1</sup>

## XI.

Patient utilization reports and data in the PMP database constitute Protected Health Information (PHI) as defined in 45 C.F.R. § 160.103. They are protected from unauthorized access, use and disclosure under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). 45 C.F.R. Part 160 and Part 164, Subparts A and E (HIPAA Privacy Rule).

## XII.

Patient utilization reports and all data in the PMP database are also confidential and protected from unauthorized use or disclosure under state law. NRS 453.164(8).

## XIII.

Unauthorized access, use or disclosure of PHI carries civil and criminal penalties under federal law. Pub.L. 104-191, 42 U.S.C. § 1320d-5 and 6.

## XIV.

Unauthorized access, use or disclosure of information in the PMP database also constitutes a crime under state law. NRS 453.552(2).

### **FIRST CAUSE OF ACTION**

## XV.

By attempting to access Paddock's confidential data in the PMP database when Paddock was deceased and never his patient and by attempting to obtain Paddock's patient utilization report, Bell performed his duties as the holder of a Nevada Controlled Substance Registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct or

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<sup>1</sup> Assembly Bill (AB) 474, 79<sup>th</sup> Legislative Session (2017), amended NRS 639.23507(1). Those amendments became effective January 1, 2018 and are therefore immaterial to this action.

conduct contrary to the public interest pursuant to NAC 639.945(1)(i). Bell's Controlled Substance Registration, Certificate of Registration No. CS04818, is therefore subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

### **SECOND CAUSE OF ACTION**

#### **XVI.**

By attempting to access Paddock's confidential data in the PMP database when Paddock was deceased and never his patient and by attempting to obtain Paddock's patient utilization report, Bell violated the HIPAA Privacy Rule. His Controlled Substance Registration, Certificate of Registration No. CS04818, is therefore subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.

### **THIRD CAUSE OF ACTION**

#### **XVII.**

By attempting to access Paddock's confidential data in the PMP database when Paddock was deceased and never his patient and by attempting to obtain Paddock's patient utilization report, Bell violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.164(8) and/or the HIPAA Privacy Rule. His Controlled Substance Registration, Certificate of Registration No. CS04818, is therefore subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

### **FOURTH CAUSE OF ACTION**

#### **XVIII.**

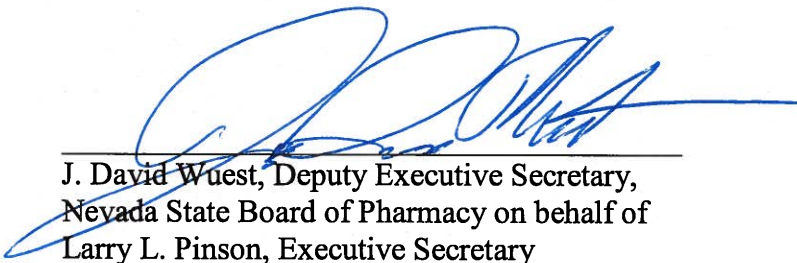
By attempting to access or directing his staff to access Paddock's confidential data in the PMP database when Paddock was deceased and never his patient and by attempting to obtain Paddock's patient utilization report, Bell committed an act that would render his Nevada Controlled Substance Registration inconsistent with the public interest pursuant to NRS 453.231, and is subject to discipline pursuant to NRS 453.236(1)(d) and NRS 453.241(1).



XIX.

WHEREFORE, it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the Controlled Substance Registration, Certificate No. CS04818, of Respondent Bell.

Signed this 22<sup>nd</sup> day of August, 2018.



J. David Wuest, Deputy Executive Secretary,  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

**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 regarding your certificate of registration. 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**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NO. 17-102-CS-S</b>
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	
	)	<b>STATEMENT TO THE</b>
<b>MICHAEL DEAN BELL, DDS</b>	)	<b>RESPONDENT AND</b>
<b>Certificate of Registration No. CS04818,</b>	)	<b>NOTICE OF HEARING</b>
	)	
<b>Respondent.</b>	)	
	/	

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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, Larry L. Pinson, 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, October 10, 2018, 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.**

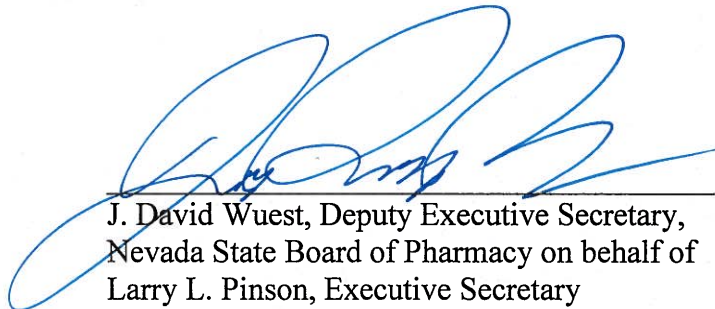
## IV.

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 22<sup>nd</sup> day of August, 2018.



J. David Wuest, Deputy Executive Secretary,  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NO. 17-102-CS-S</b>
	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	
	)	<b>STIPULATION AND ORDER</b>
<b>MICHAEL DEAN BELL, DDS</b>	)	
<b>Certificate of Registration No. CS04818,</b>	)	
	)	
<b>Respondent.</b>	/	

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Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and Respondent MICHAEL DEAN BELL, DDS, Certificate of Registration No. CS04818, by and through his counsel, David Roger, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. The Board has jurisdiction over Respondent and this matter.
2. On or about August 23, 2018, Board Staff properly served the Notice of Intended Action and Accusation (Accusation) on file in this matter on Respondent, together with a Statement to Respondent and Notice of Hearing.
3. In lieu of filing an Answer to the Accusation, Respondent has entered into this Stipulation.
4. Respondent is fully aware of his right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.
5. Respondent is aware of his right to a hearing on the matters alleged in the Accusation, his right to reconsideration, his right to appeal and any and all other rights which may be accorded to him pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).
6. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of his right to challenge any future determination that Respondent has failed to comply

with the provisions of Paragraphs 9, 14 and 15 below, Respondent hereby freely and voluntarily waives his rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to him by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

7. Respondent admits that evidence exists, and that Board staff prosecuting this case could present such evidence at an administrative hearing, to establish a factual basis for the violations alleged in the Accusation, *to wit*, that Respondent attempted to access Stephen Paddock's confidential data in the Nevada Prescription Monitoring Program (PMP) database and attempted to obtain patient utilization reports detailing Paddock's prescription-controlled substance utilization history, after Paddock was deceased and although Paddock was never Respondent's patient.

8. Those violations are plead with particularity in the Accusation and are grounds for action pursuant to NRS 639.210 and NRS 639.255.

9. Based upon the Accusation and the foregoing admissions, the Board and Respondent stipulate to the following penalties. Respondent Michael Dean Bell, DDS, Certificate of Registration No. CS04818, shall:

A. Implement any internal controls and procedures necessary to ensure that his staff do not use his PMP account to query the PMP on his behalf except as authorized by law;

B. Pay a fine of Two-Thousand Dollars (\$2,000.00) associated with the violations indicated above; and

C. Pay an administrative fee of Two-Thousand Dollars (\$2,000.00) to partially reimburse the Board for reasonable attorney's fees and costs incurred in investigating and prosecuting this matter.

10. Any failure by Respondent to comply with the terms of this Stipulation and Order may result in issuance by the Executive Secretary of an order to show cause directing

Respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Stipulation and Order by Respondent, the Board may impose additional discipline upon Respondent not inconsistent with the provisions of NRS Chapter 639.

11. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on October 10, 2018, in Las Vegas, Nevada. Respondent will appear at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent or his counsel are not present at the meeting.

12. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board it shall be a public record pursuant to NRS 622.330.

13. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

14. Upon approval of this Stipulation by the Board, Respondent shall pay the fine agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 431 W. Plumb Lane, Reno, Nevada 89509, within thirty (30) days of the execution of this Order.

15. Upon approval of this Stipulation by the Board, Respondent shall pay the administrative fee agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 431 W. Plumb Lane, Reno, Nevada 89509, within thirty (30) days of the execution of this Order.

16. Subject to the approval of this Stipulation by the Board, the Board and Respondent agree to release each other from any and all additional claims arising from the facts

set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

**Respondent has fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and has freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.**

**AGREED:**

**Signed this \_\_\_\_ day of October, 2018**

\_\_\_\_\_  
**RESPONDENT MICHAEL DEAN BELL, DDS**  
**Certificate of Registration No. CS04818**

**Signed this \_\_\_\_ day of October, 2018**

\_\_\_\_\_  
**BRETT KANDT, Esq.**  
**General Counsel**  
**Nevada State Board of Pharmacy**

### **DECISION AND ORDER**

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Respondent Michael Dean Bell, DDS, Certificate of Registration No. CS04818, in Case No. 17-102-CS-S and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

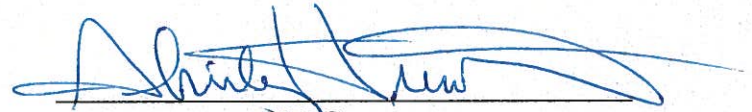
\_\_\_\_\_  
Dated

\_\_\_\_\_  
Leo Basch, President  
Nevada State Board of Pharmacy

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 23rd day of August, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Michael Dean Bell, DDS  
8068 W. Sahara Avenue #A  
Las Vegas, NV 89117**

  
SHIRLEY HUNTING



**4J**

AUG 22 2018

NEVADA STATE BOARD  
OF PHARMACY**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NO. 17-112-RPH-S</b>
	)	
<b>Petitioner,</b>	)	<b>NOTICE OF INTENDED ACTION</b>
<b>v.</b>	)	<b>AND ACCUSATION</b>
	)	
<b>VENUS VEDADI, R.PH.,</b>	)	
<b>Certificate of Registration No. 18969,</b>	)	
	)	
<b>Respondent.</b>	/	

Larry L. Pinson, 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 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, Venus Vedadi, R.Ph. (Vedadi), Certificate of Registration No. 18969, was a pharmacist registered by the Board.

**DISCIPLINARY HISTORY****II.**

In February 2014, the Board served a Cease and Desist Order and Citation to Vedadi for the unlawful practice of pharmacy. Vedadi worked at various Nevada-licensed pharmacies as an unregistered intern pharmacist for approximately fifteen (15) months. The Board assessed an administrative fine and subsequently approved the renewal of her intern pharmacist registration with conditions.

**FACTUAL ALLEGATIONS****III.**

Vedadi was granted an account to access the Nevada Prescription Monitoring Program (PMP) for purposes authorized under federal and state law on September 24, 2015.

## IV.

Before receiving access, Vedadi signed a Practitioner Certification Statement on September 24, 2015, stating that she understood and agreed under penalty of perjury that she was responsible for all patient information accessed through her account, that she would treat PMP information as confidential, that she would protect any PMP information in her possession or control in accordance with federal and state laws governing health care information, and that she would safeguard her password and not share her login credentials with any other person.

## V.

Before receiving a PMP query result, the practitioner must agree to the terms of the Acknowledgement that "...use of this PMP system is permitted only in connection with providing medical or pharmaceutical care to a patient..."

## VI.

Stephen Paddock (Paddock) was the perpetrator of the October 1, 2017, Las Vegas mass shooting, and committed suicide immediately after the incident sometime before midnight.

## VII.

On October 2, 2017, Vedadi's PMP account was used to query the PMP database two (2) separate times using different search parameters for each query to access Paddock's confidential patient information, and obtain patient utilization reports detailing Paddock's prescription-controlled substance utilization history.

## VIII.

The first search conducted at 08:56:32 a.m., yielded specific prescription information regarding one prescription filled by Paddock at a Walgreens in Reno, Nevada in 2017.

## IX.

Vedadi did not have a pharmacist/patient relationship with Paddock. Vedadi had no lawful purpose for accessing the patient utilization report of Paddock.

## X.

In a written statement dated February 15, 2018, Vedadi, through her counsel, admitted that she accessed Paddock's PMP report for no legally authorized purpose. Vedadi confirmed that she has not shared her login credentials with any other person or disclosed the information she accessed to anyone.

**APPLICABLE LAW**

## XI.

The Board administers the Prescription Monitoring Program (PMP), which maintains a database of all transactions for schedule II, III, IV and V controlled substances prescribed and dispensed in Nevada. *See* NRS 453.162 through 453.165, *inclusive*.

## XII.

At the time of the events alleged herein, NRS 639.23507(1) authorized a practitioner to obtain a patient utilization report from the PMP before prescribing a controlled substance to his patients under certain circumstances, to assess whether the prescription is medically necessary.<sup>1</sup>

## XIII.

Patient utilization reports and data in the PMP database constitute Protected Health Information (PHI) as defined in 45 C.F.R. § 160.103. They are protected from unauthorized access, use and disclosure under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). 45 C.F.R. Part 160 and Part 164, Subparts A and E (HIPPA Privacy Rule).

## XIV.

Patient utilization reports and all data in the PMP database are also confidential and protected from unauthorized use or disclosure under state law. NRS 453.164(8).

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<sup>1</sup> Assembly Bill (AB) 474, 79<sup>th</sup> Legislative Session (2017), amended NRS 639.23507(1). Those amendments became effective January 1, 2018 and are therefore immaterial to this action.

## XV.

Unauthorized access, use or disclosure of PHI carries civil and criminal penalties under federal law. Pub.L. 104-191, 42 U.S.C. § 1320d-5 and 6.

## XVI.

Unauthorized access, use or disclosure of information in the PMP database also constitutes a crime under state law. NRS 453.552(2).

**FIRST CAUSE OF ACTION**

## XVII.

By accessing Paddock's confidential data in the PMP database when Paddock was deceased and never had a pharmacist/patient relationship with Vedadi, and by obtaining Paddock's patient utilization report, Vedadi performed her duties as the holder of a Nevada Pharmacist Registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct or conduct contrary to the public interest pursuant to NAC 639.945(1)(i). Vedadi's Nevada Pharmacist Registration, Certificate of Registration No. 18969, is therefore subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

**SECOND CAUSE OF ACTION**

## XVIII.

By accessing Paddock's confidential data in the PMP database when Paddock was deceased and never had a pharmacist/patient relationship with Vedadi, and by obtaining Paddock's patient utilization report, Vedadi violated the HIPAA Privacy Rule. Her Nevada Pharmacist Registration, Certificate of Registration No. 18969, is therefore subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.

**THIRD CAUSE OF ACTION**

## XIX.

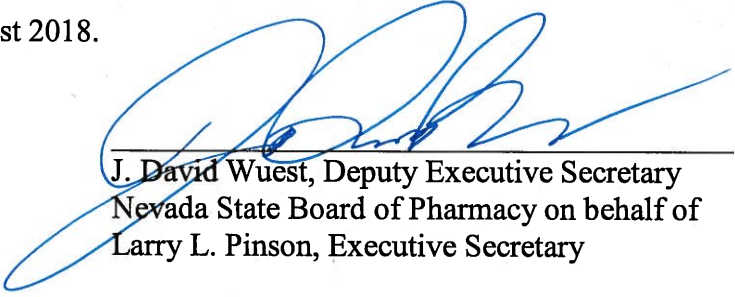
By accessing Paddock's confidential data in the PMP database when Paddock was deceased and never had a pharmacist/patient relationship with Vedadi, and by obtaining

Paddock's patient utilization report, Vedadi violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.164(8) and/or the HIPAA Privacy Rule. Her Nevada Pharmacist Registration, Certificate of Registration No. 18969, is therefore subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

XX.

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

Signed this 22<sup>nd</sup> day of August 2018.



J. David Wuest, Deputy Executive Secretary  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

#### **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 regarding your certificate of registration. 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**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NO. 17-112-RPH-S</b>
	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	
	)	<b>STATEMENT TO THE</b>
<b>VENUS VEDADI, RPH</b>	)	<b>RESPONDENT AND</b>
<b>Certificate of Registration No. 18969,</b>	)	<b>NOTICE OF HEARING</b>
	)	
<b>Respondent.</b>	)	
	/	

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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, Larry L. Pinson, 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, October 10, 2018, 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.**

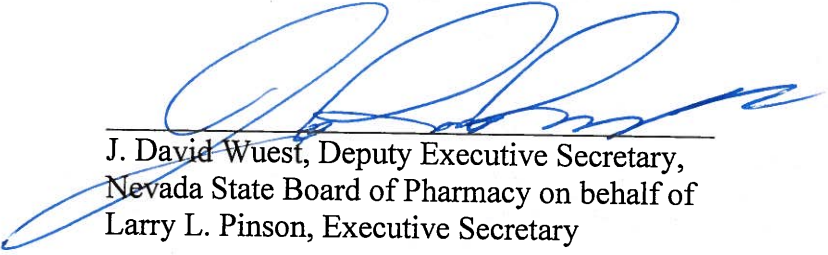
## IV.

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 22<sup>ND</sup> day of August, 2018.



J. David Wuest, Deputy Executive Secretary,  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary



**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NO. 17-112-RPH-S</b>
	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	<b>STIPULATION AND ORDER</b>
	)	
<b>VENUS VEDADI, R.PH.,</b>	)	
<b>Certificate of Registration No. 18969,</b>	)	
	)	
<b>Respondent.</b>	/	

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Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and Respondent VENUS VEDADI, R.Ph., Certificate of Registration No. 18969, by and through her counsel, Lyn E. Beggs, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. The Board has jurisdiction over Respondent and this matter.
2. On or about August 23, 2018, Board Staff properly served the Notice of Intended Action and Accusation (Accusation) on file in this matter on Respondent, together with a Statement to Respondent and Notice of Hearing.
3. In lieu of filing an Answer to the Accusation, Respondent has entered into this Stipulation.
4. Respondent is fully aware of her right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.
5. Respondent is aware of her right to a hearing on the matters alleged in the Accusation, her right to reconsideration, her right to appeal and any and all other rights which may be accorded to her pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).
6. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of her right to challenge any future determination that Respondent has failed to comply with the provisions of Paragraphs 9, 14 and 15 below, Respondent hereby freely and voluntarily

waives her rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to her by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

7. Respondent admits that evidence exists, and that Board staff prosecuting this case could present such evidence at an administrative hearing, to establish a factual basis for the violations alleged in the Accusation, *to wit*, that Respondent accessed Stephen Paddock's confidential data in the Nevada Prescription Monitoring Program (PMP) database and obtained patient utilization reports detailing Paddock's prescription-controlled substance utilization history, after Paddock was deceased and although Paddock was never Respondent's patient.

8. Those violations are plead with particularity in the Accusation and are grounds for action pursuant to NRS 639.210 and NRS 639.255.

9. Based upon the Accusation and the foregoing admissions, the Board and Respondent stipulate to the following penalties. Respondent Venus Vedadi, R.Ph., Certificate of Registration No. 18969, shall:

A. Pay a fine of Five-Thousand Dollars (\$5,000.00) associated with the violations indicated above; and

B. Pay an administrative fee of Five-Thousand Dollars (\$5,000.00) to partially reimburse the Board for reasonable attorney's fees and costs incurred in investigating and prosecuting this matter.

10. Any failure by Respondent to comply with the terms of this Stipulation and Order may result in issuance by the Executive Secretary of an order to show cause directing Respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Stipulation and Order by Respondent, the Board may impose additional discipline upon Respondent not inconsistent with the provisions of NRS Chapter 639.

11. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on October 10, 2018, in Las Vegas, Nevada. Respondent will appear at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent or her counsel are not present at the meeting.

12. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board it shall be a public record pursuant to NRS 622.330.

13. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

14. Upon approval of this Stipulation by the Board, Respondent shall pay the fine agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 431 W. Plumb Lane, Reno, Nevada 89509, within sixty (60) days of the execution of this Order.

15. Upon approval of this Stipulation by the Board, Respondent shall pay the administrative fee agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 431 W. Plumb Lane, Reno, Nevada 89509, within sixty (60) days of the execution of this Order.

16. Subject to the approval of this Stipulation by the Board, the Board and Respondent agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondent has fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and has freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

**AGREED:**

Signed this \_\_\_\_ day of October, 2018

---

**VENUS VEDADI, R.PH.,**  
**Certificate of Registration No. 18969**

Signed this \_\_\_\_ day of October, 2018

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**BRETT KANDT, Esq.**  
**General Counsel**  
**Nevada State Board of Pharmacy**

### **DECISION AND ORDER**

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Respondent Venus Vedadi, R.Ph., Certificate of Registration No. 18969, in Case No. 17-112-RPH-S and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

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Dated

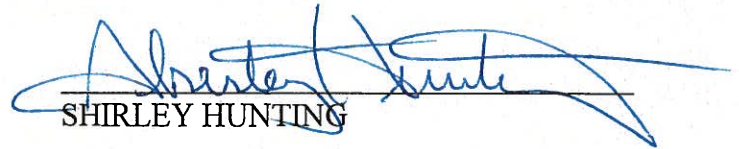
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Leo Basch, President  
 Nevada State Board of Pharmacy

## **CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 23rd day of August, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Venus Vedadi, RPH  
1500 Rancho Navarro Street  
Henderson, NV 89012**

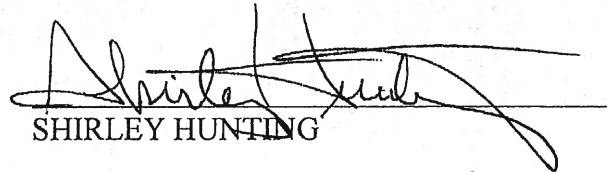


SHIRLEY HUNTING

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 23rd day of August, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Lyn E. Beggs, Esq.**  
**316 California Avenue #863**  
**Reno, NV 89509**



SHIRLEY HUNTING

**4K**

SEP 07 2018

NEVADA STATE BOARD  
OF PHARMACY

## BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 18-029-CS-S
	)	
Petitioner,	)	
v.	)	NOTICE OF INTENDED ACTION
	)	AND ACCUSATION
JOYCE CHANG, MD,	)	
Certificate of Registration Nos. CS15881	)	
PD00340,	)	
	)	
Respondent.	/	

Larry L. Pinson, 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 NRS 233B.127(3) and as an accusation under NRS 639.241.

## I.

The Nevada State Board of Pharmacy ("Board") has jurisdiction over this matter because at the time of the events alleged herein, Respondent Joyce P. Chang, MD ("Chang") held an active Controlled Substance Registration, Certificate No. CS15881, and an active Practitioner Dispensing Registration, Certificate No. PD00340, both issued by the Board.

**FACTUAL ALLEGATIONS**

## II.

On May 10, 2018, the Nevada State Board of Medical Examiners ("BME") and investigators from the Board (collectively the "Investigators") conducted a joint investigation at Respondent Chang's medical office.

## III.

The Investigators found evidence of misconduct and violations of federal and state law involving prescription records and the unlawful prescribing and dispensing of controlled substances and dangerous drugs at Chang's medical office.



## IV.

Chang had established a procedure at her medical office wherein she “authorized” her medical assistant (“MA”) to create, sign and issue prescriptions for controlled substances and dangerous drugs on Chang’s behalf for Chang’s patients.

## V.

Chang’s MA routinely created, signed and issued prescriptions for controlled substances and dangerous drugs to Chang’s patients.

## VI.

Chang also “authorized” her MA to sign Chang’s name and issue prescriptions generated by other practitioners who treated Chang’s patients in Chang’s absence.

## VII.

Chang’s MA routinely signed Chang’s name and issued prescriptions generated by other practitioners who treated Chang’s patients in Chang’s absence.

## VIII.

Chang’s MA is not a practitioner. She is not licensed to practice medicine as a physician, physician’s assistant, or advanced practice registered nurse.

## IX.

Chang travelled out of the country and was therefore absent from her medical office on the following dates:

- March 18 – March 28, 2016,
- August 13 – August 19, 2016, and
- July 5 – July 17, 2017

Chang’s MA signed Chang’s name and issued approximately two-hundred and seven (207) controlled substance prescriptions while Chang was outside of the country. The MA also signed and issued prescriptions for dangerous drugs while Chang was absent.

## X.

Chang utilized an electronic medical record (EMR) system to chart patient records and electronically process and submit claims for payment to Medicaid and other health plan providers.

## XI.

Chang allowed practitioners who treated her patients during her absence to access her EMR for charting and billing patient visits using her sign-on credentials. The practitioner that actually examined the patient for Chang recorded his or her initials in the EMR under "Reason for Appointment."

## XII.

Chang caused the practitioners who treated her patients to use her National Provider Identifier (NPI) at least 174 times while she was outside of the country to bill Medicaid and other commercial health insurance plans for services that Chang did not personally provide. Chang received reimbursement for those services.

## XIII.

During the May 2018 investigation at Chang's medical office, the Investigators found multiple vials, bottles, and/or tubes containing expired medications stored in Chang's medication room with medications that were not expired.

## XIV.

Pre-filled, unlabeled syringes containing an unidentified drug were stored in the refrigerator at Chang's medical office.

## XV.

Multiple 30gm tubes containing various strengths of compounded Hydroquinone Tretinoin were stored in the refrigerator at Chang's medical office with expired compounded creams.

## XVI.

Bags of partially used syringes of expired and unexpired Juvéderm and other unknown substances were stored in the refrigerator at Chang's medical office.

## XVII.

Chang did not have and was not able to produce patient records documenting patient names and dates for the compounded Hydroquinone Tretinoin and Juvéderm syringes dispensed or administered by her office.

## XVIII.

Chang voluntarily surrendered her Drug Enforcement Administration ("DEA") registration on or about June 29, 2018. The DEA has not stayed that surrender, and Chang does not currently have a DEA registration.

**APPLICABLE LAW**

## XIX.

No person may prescribe controlled substances in Nevada except as authorized by law. NRS 453.226; NRS 453.375(1); NRS 453.377; NRS 639.235(1); NAC 639.742(1), (3) and (4); 21 CFR § 1301.11; 21 CFR § 1306.03.

## XX.

Only a practitioner may issue a prescription for a controlled substance or dangerous drug, which practitioner is responsible for the proper prescribing and dispensing of the drug and is subject to penalties for violating the provisions of law relating to controlled substances. *See* NRS 453.377, NRS 454.215, NRS 639.013, NRS 639.235(1), and 21 C.F.R. §1306.04.

## XXI.

Each written prescription for a controlled substance must contain the handwritten signature of the prescribing practitioner. NRS 639.013(1)(a); NRS 639.235(2); NAC 453.440(1)(c); 21 CFR § 1306.05.

## XXII.

No person may prescribe dangerous drugs in Nevada except as authorized by law. NRS 454.213; NRS 454.215; NRS 639.235(1); NAC 639.742(1), (3) and (4).

## XXIII.

Each written prescription for a dangerous drug must contain the handwritten signature of the prescribing practitioner. NRS 639.013(1)(a); NRS 639.235(2); NRS 454.223; NAC 454.060(1).

## XXIV.

1. Except as authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to:

- (a) Import, transport, sell, exchange, barter, supply, prescribe, dispense, give away or administer a controlled or counterfeit substance;
- (b) Manufacture or compound a counterfeit substance; or

(c) Offer or attempt to do any act set forth in paragraph (a) or (b).  
NRS 639.321.

## XXV.

NRS 639.331 states in relevant part:

1. It is unlawful for a person knowingly or intentionally to:

....

(c) Assume falsely the title of or represent himself or herself as a registrant or other person authorized to possess controlled substances;

(d) 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;

(e) Furnish false or fraudulent material information in, or omit any material information from, any application, report or other document required to be kept or filed under the provisions of NRS 453.011 to 453.552, inclusive, or any record required to be kept by those sections;

(f) Sign the name of a fictitious person or of another person on any prescription for a controlled substance or falsely make, alter, forge, utter, publish or pass, as genuine, any prescription for a controlled substance;

....

(i) Make a false representation to a pharmacist for the purpose of obtaining a controlled substance for which a prescription is required.

2. A person who violates this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

## XXVI.

A label with the proprietary or generic name, strength and expiration date must be affixed to each package or container in which a controlled substance or dangerous drug is administered. NRS 639.2801(7), (8) and (9).

## XXVII.

Expired medications must be removed from stock and secured in an area where they will not be used to fill prescriptions. NRS 639.282(d); NAC 639.510(3).

## XXVIII.

Each dispensing practitioner shall keep complete, accurate and readily retrievable records of each controlled substance and dangerous drug purchased and dispensed. NAC 639.745.

## XXIX.

A practitioner “who knowingly submits to the State...a charge or claim for drugs or medical supplies furnished to or for a person receiving medical care under any program of public assistance, which is false...is guilty of a category D felony...” NRS 639.2815.

## XXX.

“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).

## XXXI.

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).

## XXXII.

“Aiding or abetting a person not licensed to practice pharmacy in the State of Nevada” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(j).

## XXXIII.

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).

## XXXIV.

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).

## XXXV.

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).

## XXXVI.

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).

## XXXVII.

“The surrender, revocation or a suspension that has not been stayed of any certificate, license or registration of a practitioner, as defined in NRS 453.126, 454.00958 or 639.0125, by a licensing board or the Drug Enforcement Administration operates as an immediate suspension of a certificate, license, registration or permit issued by the Board pursuant to this chapter or chapter 453 or 454 of NRS to possess, administer, prescribe or dispense drugs.” NRS 639.2107.

**FIRST CAUSE OF ACTION**  
**(Surrender of DEA Registration)**

## XXXVIII.

The surrender of Chang’s DEA registration, which has not been stayed, “operates as an immediate suspension” of Chang’s Controlled Substance Registration, Certificate of Registration No. CS15881, which the Board issued pursuant to NRS 453.226 and 453.231, and her Dispensing Practitioner Registration, Certificate of Registration No. PD00340, which the Board issued pursuant to NRS 639.742 *et al.* See NRS 639.2107.

**SECOND CAUSE OF ACTION**  
**(Aiding and Abetting the Unlawful Prescribing of Controlled Substances)**

## XXXIX.

By authorizing her MA, a non-practitioner, to create, falsely sign and issue prescriptions for controlled substances on Chang’s behalf and using Chang’s prescribing privileges, Chang violated and/or aided and abetted her MA in violating federal law, including 21 CFR § 1306.03, 21 CFR § 1306.04, and 21 CFR § 1306.05, and Nevada state law, including NRS 453.321(1)(a), NRS 453.331(1)(c), (d), (f) and (i), NRS 639.2813(1) and NAC 453.440(1)(c). By that conduct, Chang engaged in unlawful and unprofessional conduct and conduct contrary to the public interest as

defined in NAC 639.945(h), (i), (k), and (o). For that conduct, Chang is subject to discipline pursuant to NRS 639.210(1), (4), (11), (12) and (16), and NRS 639.255.

### **THIRD CAUSE OF ACTION**

#### **(Aiding and Abetting the Unlawful Prescribing of Dangerous Drugs)**

XL.

By allowing her MA, a non-practitioner, to create, falsely sign and issue prescriptions for dangerous drugs on Chang's behalf and using Chang's prescribing privileges, Chang violated and/or aided and abetted her MA in violating NRS 454.223(2)(a), NRS 454.311(1) and (2), NRS 639.235(1), NRS 639.2813(1) and NAC 454.060(1). By that conduct, Chang engaged in unlawful and unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(h), (i), (k), and (o). For that conduct, Chang is subject to discipline pursuant to NRS 639.210(1), (4), (12) and (16), and NRS 639.255.

### **FOURTH CAUSE OF ACTION**

#### **(Prescribing to Patients Without a Bona Fide Relationship)**

XLI.

By allowing her MA, a non-practitioner, to create, falsely sign and issue prescriptions for controlled substances and dangerous drugs on Chang's behalf and using Chang's prescribing privileges for patients whom Chang had not examined personally, Chang, aided and abetted by her MA, unlawfully prescribed controlled substances and dangerous drugs to patients with whom she did not have a bona fide practitioner/patient relationship in violation of NRS 639.235 and/or NRS 639.23911(1)(a). Chang also engaged in unprofessional conduct as defined in NAC 639.945(1)(o). For her conduct, Chang is subject to discipline pursuant to NRS 639.210(1), (4), (12) and (16), and NRS 639.255.

### **FIFTH CAUSE OF ACTION**

#### **(Failure to Properly Store Expired Medications)**

XLII.

By failing to segregate expired medications from unexpired medications and secure those expired medications in an area where they could not be used to administer or fill prescriptions, Chang violated NRS 639.282(1)(d), NAC 639.510(3) and NAC 639.601(1). For that conduct, Chang

engaged in unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(i). Chang is therefore subject to discipline pursuant to NRS 639.210(4) and (12), and NRS 639.255.

**SIXTH CAUSE OF ACTION**  
**(Failure to Maintain and Produce Records)**

XLIII.

By failing to keep and produce records documenting patient names and dates for the Hydroquinone Tretinoin and/or Juvéderm syringes dispensed or administered by Chang's Office, and by failing to maintain a recordkeeping system with a readily retrievable record of her patients' names and the dates for Hydroquinone Tretinoin and/or Juvéderm injections dispensed or administered by her office, Chang violated NRS 639.234(4) and NAC 639.745(1)(a) and 3. For that conduct, Chang engaged in unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(h) and (i), and is subject to discipline pursuant to NRS 639.210(1), (4), (12), and (17), and NRS 639.255.

**SEVENTH CAUSE OF ACTION**  
**(Insurance Fraud)**

XLIV.

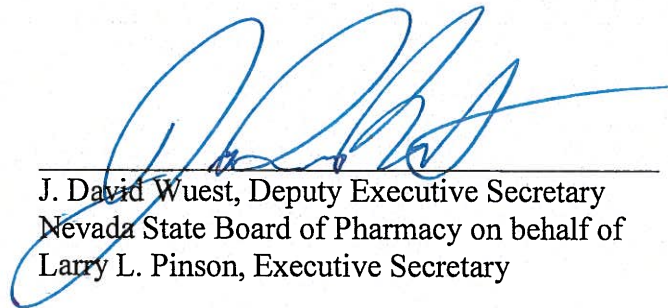
By allowing other practitioners to treat her patients and by billing Medicaid and other commercial health insurance plans using Chang's NPI number, thereby representing falsely that Chang provided the services and prescriptions personally, and by causing Medicaid and other commercial health insurance plans to submit payment to her office for services she did not provide, Chang engaged in fraudulent and unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(h). For that conduct, Chang is subject to discipline pursuant to NRS 639.210(1), (4), and (12), NRS 639.255 and/or NAC 639.7105(10)(b).

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.

[SIGNATURE ON FOLLOWING PAGE]



Signed this 7<sup>th</sup> day of September 2018.



J. David Wuest, Deputy Executive Secretary  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

**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 regarding your certificate of registration. To do so, you must mail to the Board within 20 (twenty) days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

<b>NEVADA STATE BOARD OF PHARMACY,</b>	)	<b>CASE NO. 18-029-CS-S</b>
	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	
	)	<b>STATEMENT TO THE</b>
<b>JOYCE CHANG, MD,</b>	)	<b>RESPONDENT AND</b>
<b>Certificate of Registration Nos. CS15881</b>	)	<b>NOTICE OF HEARING</b>
<b>PD00340,</b>	)	
	)	
<b>Respondent.</b>	/	

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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, Larry L. Pinson, 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, October 10, 2018, 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.**

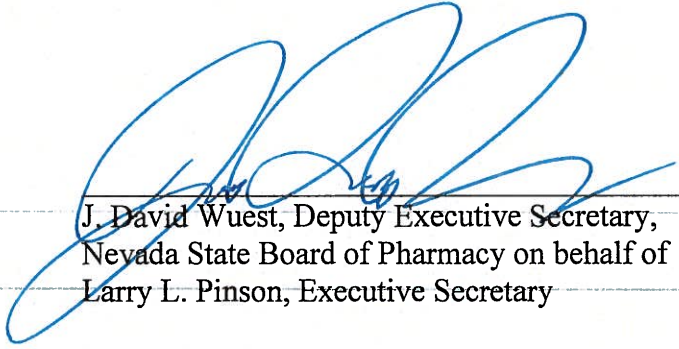
## IV.

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 2<sup>nd</sup> day of September 2018.



J. David Wuest, Deputy Executive Secretary,  
Nevada State Board of Pharmacy on behalf of  
Larry L. Pinson, Executive Secretary

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

**NEVADA STATE BOARD OF PHARMACY,** ) **CASE NO. 18-029-CS-S**

)

**Petitioner,** )

**v.** )

) **STIPULATION AND ORDER**

**JOYCE CHANG, MD,** )

**Certificate of Registration Nos. CS15881** )

**PD00340,** )

)

**Respondent.** /

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and Respondent JOYCE P. CHANG, MD, Certificate of Registration Nos. CS15881 and PD00340, by and through her counsel, L. Kristopher Rath, Esq., **HEREBY STIPULATE AND AGREE<sup>i</sup> THAT:**

1. The Board has jurisdiction over Respondent and this matter.
2. On or about September 7, 2018, Board Staff properly served the Notice of Intended Action and Accusation (Accusation) on file in this matter on Respondent, together with a Statement to Respondent and Notice of Hearing.
3. In lieu of filing an Answer to the Accusation, Respondent has entered into this Stipulation.
4. Respondent is fully aware of her right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.
5. Respondent is aware of her right to a hearing on the matters alleged in the Accusation, her right to reconsideration, her right to appeal and any and all other rights which may be accorded to her pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act),

<sup>i</sup> All agreements and admissions made by Respondent are solely for final disposition of this matter before the Board and any subsequent related administrative proceedings before the Board or civil litigation involving the Board and Respondent. Therefore, Respondent's agreements and admissions are not intended or made for any other use, such as in the context of another State or Federal government regulatory agency proceeding, any State or Federal civil or criminal proceeding, and State or Federal court proceeding, and/or any credentialing and/or privileges matter.

NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

6. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of her right to challenge any future determination that Respondent has failed to comply with the provisions of Paragraph 9 below, Respondent hereby freely and voluntarily waives her rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to her by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

7. Respondent does not contest nor admit the allegations in the Accusation, *to wit*, that Respondent:

A. Aided and abetted the unlawful prescribing of controlled substances in violation of federal law, including 21 CFR § 1306.03, 21 CFR § 1306.04, and 21 CFR § 1306.05, and Nevada law, including NRS 453.321(1)(a), NRS 453.331(1)(c), (d), (f) and (i), NRS 639.2813(1) and NAC 453.440(1)(c);

B. Aided and abetted the unlawful prescribing of dangerous drugs in violation of NRS 454.223(2)(a), NRS 454.311(1) and (2), NRS 639.235(1), NRS 639.2813(1) and NAC 454.060(1);

C. Unlawfully prescribed controlled substances and dangerous drugs to patients with whom she did not have a bona fide practitioner/patient relationship in violation of NRS 639.235 and/or NRS 639.23911(1)(a);

D. Failed to segregate expired medications from unexpired medications and secure those expired medications in an area where they could not be used to administer or fill prescriptions in violation of NRS 639.282(1)(d), NAC 639.510(3) and NAC 639.601(1);

E. Failed to keep and produce records documenting patient names and dates for Hydroquinone Tretinoin and/or Juvéderm syringes dispensed or administered by her office, and failed to maintain a recordkeeping system with a readily retrievable record of her patients'

names and the dates for Hydroquinone Tretinoin and/or Juvéderm injections dispensed or administered by her office, in violation of NRS 639.234(4) and NAC 639.745(1)(a) and 3; and

F. Engaged in conduct violative of NAC 639.945(1)(h) by allowing other practitioners to treat her patients and bill Medicaid and other commercial health insurance plans using Respondent's National Provider Identifier, thereby representing falsely that Respondent provided the services and prescriptions personally, and causing Medicaid and other commercial health insurance plans to submit payment to her office for services she did not provide.

8. Those violations are plead with particularity in the Accusation and are grounds for action pursuant to NRS 639.210 and NRS 639.255.

9. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, and without Respondent admitting to the allegations in the Accusation, the Board and Respondent stipulate to the following penalties:

A. Respondent Joyce P. Chang's Controlled Substance Registration, Certificate No. CS15881, and Practitioner Dispensing Registration, Certificate No. PD00340, are each revoked effective upon approval of this Stipulation by the Board.

B. Unless and until Respondent applies for reinstatement of her controlled substance registration and/or her dispensing practitioner registration, and the Board reinstates her registration(s), Chang:

1) May not possess any controlled substance other than a controlled substance that was lawfully prescribed to her by a licensed practitioner and lawfully dispensed to her for her own personal use to treat a documented medical necessity.

2) May not possess any controlled substance for office use or for patient use and must immediately and lawfully dispose of any and all controlled substances in her possession and/or control, other than a controlled substance lawfully prescribed and dispensed to her for her own personal use.

3) May not prescribe any controlled substance.

4) May not dispense any controlled substance or dangerous drug.

5) The provisions of Paragraph 9.B.(1) through 9.B.(4), inclusive, do not apply to any other practitioners who work at Dr. Chang's clinic or medical offices, whether employed by Dr. Chang's professional corporation or associated with Dr. Chang's professional corporation via independent contractor agreements, who hold their own active controlled substance and dispensing practitioner registrations issued by the Board.

C. Pursuant to NRS 639.257(1), Respondent may apply for reinstatement of her controlled substance and/or dispensing practitioner registrations after one (1) year has elapsed from the date of revocation.

D. In the event Respondent applies for reinstatement, or for any other registration or certificate with the Board, she shall appear before the Board to answer questions and give testimony regarding her application, her compliance with this Order, and the facts and circumstances underlying this matter. The Board may consider the testimony and information provided at said appearance, and in the event of denial of Respondent's application for reinstatement shall specify on the record the reasons therefor pursuant to NRS 639.138.

E. Respondent shall pay an administrative fee of Three-Thousand Dollars (\$3,000.00) to partially reimburse the Board for reasonable attorney's fees and costs incurred in investigating and prosecuting this matter. Respondent shall pay the administrative fee by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 431 W. Plumb Lane, Reno, Nevada 89509, within thirty (30) days of approval of this Stipulation by the Board.

10. Any failure by Respondent to comply with the terms of this Stipulation and Order may result in issuance by the Executive Secretary of an order to show cause directing Respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Stipulation and Order by Respondent, the Board may impose additional discipline upon Respondent not inconsistent with the provisions of NRS Chapter 639.

11. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on October 10, 2018, in Las Vegas, Nevada. Respondent will appear at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent or her counsel are not present at the meeting.

12. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board it shall be a public record pursuant to NRS 622.330.

13. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board at a future Board meeting. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

14. Subject to the approval of this Stipulation by the Board, the Board and Respondent agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.



Respondent has fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and has freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

**AGREED:**

Signed this \_\_\_\_ day of October, 2018

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**JOYCE CHANG, MD,**  
**Certificate of Registration Nos. CS15881**  
**PD00340**

Signed this \_\_\_\_ day of October, 2018

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**BRETT KANDT, Esq.**  
**General Counsel**  
**Nevada State Board of Pharmacy**

### **DECISION AND ORDER**

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Respondent Joyce P. Chang, MD, Certificate of Registration Nos. CS15881 and PD00340, in Case No. 18-029-CS-S and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

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Dated

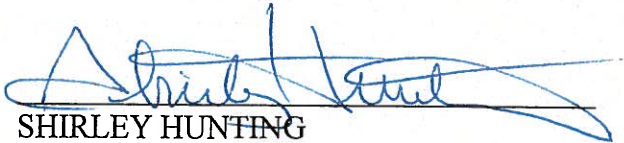
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Leo Basch, President  
 Nevada State Board of Pharmacy

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 7<sup>th</sup> day of September 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Joyce Chang**  
**7720 West Sahara Avenue, #103**  
**Las Vegas, NV 89117**

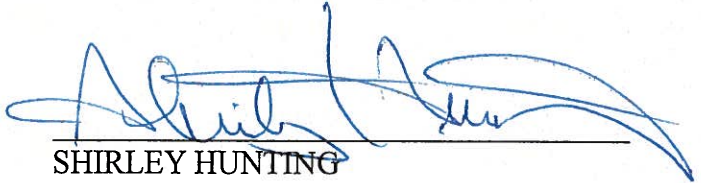


SHIRLEY HUNTING

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 7<sup>th</sup> day of September 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**L. Kristopher Rath, Esq.  
Hutchinson & Steffen  
10080 West Alta Drive, Suite 200  
Las Vegas, NV 89145**



SHIRLEY HUNTING