

MATRIX GUIDELINE FOR DISCIPLINARY ACTIONS

	1st Action	2nd Action	3rd Action
Non ingested error	Letter	Letter	Hearing
No counseling	\$750.00	Counseling CE + \$1000.00	Hearing
Administrative fee	\$495.00	\$495.00	\$495.00
Ingested no potential harm	\$500.00	\$1000.00	Hearing
Ingested with potential harm or adverse outcomes	\$1000.00	Hearing	Hearing
Ingested with negative outcome or patient discomfort. No institution intervention	Hearing	Hearing	Hearing
Ingested with significant negative health circumstance. With institution admit	Hearing	Hearing	Hearing
Ingested with death related to inappropriate drug therapy	Hearing	Hearing	Hearing

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

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

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

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

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

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

Updated August 2014

JUL 16 2018

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 18-027-PT-S
)	
Petitioner,)	
v.)	
	)	NOTICE OF INTENDED ACTION
ANTEEKAH MCCLELLAND, PT	)	AND ACCUSATION
Certificate of Registration No. PT18976,)	
)	
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 Anteeakah McClelland, PT (McClelland), held a Nevada Pharmaceutical Technician Registration, Certificate No. PT18976, issued by the Pharmacy Board.

FACTUAL ALLEGATIONS

II.

In April 2018, McClelland was terminated from her employment as a pharmaceutical technician at Walgreens Pharmacy #7164 (Walgreens) for diversion of controlled substances.

III.

McClelland admitted to diverting controlled substances from Walgreens Pharmacy #7164 in a written statement and verbally during an interview conducted by a Walgreens' asset protection manager.

IV.

McClelland admitted to diverting 800 oxycodone 10/325 mg. tablets, 800 alprazolam 2 mg. tablets, and 400 hydrocodone 10/325 mg. tablets between February 2018 and April 2018.

V.

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

FIRST CAUSE OF ACTION

VI.

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, McClelland 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

VII.

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, McClelland violated NRS 453.336(1) and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

THIRD CAUSE OF ACTION

VIII.

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, McClelland has engaged in unprofessional conduct in violation of NAC 639.945(1)(g), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

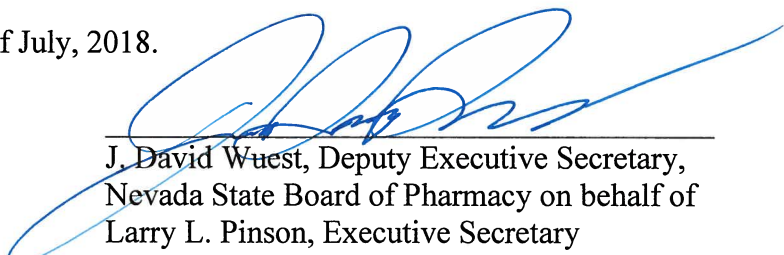
FOURTH CAUSE OF ACTION

IX.

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, McClelland 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 16th day of July, 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. 18-027-PT-S
)	
Petitioner,)	
v.)	
)	
ANTEEKAH MCCLELLAND, PT	)	ANSWER AND NOTICE
Certificate of Registration No. PT18976,	)	OF DEFENSE
)	
Respondent.)	
	/	

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

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

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

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

DATED this ____ day of July, 2018

ANTEEKAH MCCLELLAND, PT

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NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

) CASE NO. 18-056-PT-N

)

Petitioner,

)

v.

)

NOAH DANIEL SILVA, PT

)

NOTICE OF INTENDED ACTION

Certificate of Registration No. PT19453,

)

AND ACCUSATION

)

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 Noah Daniel Silva, PT (Silva), held a Nevada Pharmaceutical Technician Registration, Certificate No. PT19453, issued by the Pharmacy Board.

FACTUAL ALLEGATIONS

II.

In March 2018, a lead coordinator from the CVS Drug Loss Program notified Board Staff that Silva was terminated from his employment as a pharmaceutical technician at CVS Pharmacy #08792 (CVS) for diversion of controlled substances.

III.

Silva admitted to diverting controlled substances from CVS Pharmacy #08792 in a written statement and verbally during an interview conducted by a CVS district asset protection leader.

IV.

Silva admitted that in December 2017, he diverted approximately sixty (60) Adderall 20 mg. tablets from CVS by removing a bottle located by the computer at the “pick-up” counter within the pharmacy, and placing the bottle of Adderall in the pocket of a sweater he wore under his scrubs.

V.

CVS reported the theft to law enforcement and Silva was placed under arrest.

FIRST CAUSE OF ACTION

VI.

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, Silva 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

VII.

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, Silva violated NRS 453.336(1), and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

THIRD CAUSE OF ACTION

VIII.

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, Silva has engaged in unprofessional conduct in violation of NAC 639.945(1)(g), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

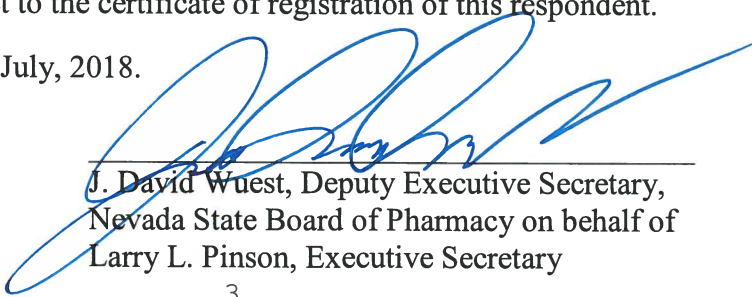
FOURTH CAUSE OF ACTION

IX.

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, Silva 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 9th day of July, 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. 18-056-PT-N
)	
Petitioner,)	
v.)	
)	
NOAH DANIEL SILVA, PT	)	ANSWER AND NOTICE
Certificate of Registration No. PT19453,	)	OF DEFENSE
)	
Respondent.)	
	/	

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

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

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

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

DATED this ____ day of July, 2018.

NOAH DANIEL SILVA, PT

MAY - 1 2018

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-101-CS-S
)	
Petitioner,	)	NOTICE OF INTENDED ACTION
v.	)	AND ACCUSATION
)	
IVAN GOLDSMITH, M.D.,)	
Certificate of Registration No. CS20816, PD00413,)	
)	
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, Ivan Goldsmith, M.D. (Goldsmith), had both a Controlled Substance Registration, Certificate No. CS20816, and a Practitioner Dispensing Registration, Certificate No. PD00413, issued by the Board.

FACTUAL ALLEGATIONS

II.

On December 9, 2013, the Board granted Goldsmith an account for Internet access to the Nevada Prescription Monitoring Program (PMP) for purposes authorized under federal and state law.

III.

Before receiving access, Goldsmith signed a Practitioner Certification Statement on December 6, 2013, stating that he understood and agreed under penalty of perjury that he was responsible for all patient information transmitted from 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.

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.

V.

On or about October 2, 2017, Goldsmith verified through his office electronic medical records system (EMR) that Paddock was never his patient.

VI.

From October 2, 2017 at 9:25 a.m. to October 3, 2017 at 2:20 p.m., Goldsmith's PMP account was used to query the PMP database five separate times using different search parameters for each query, to access Paddock's confidential patient information, and to obtain patient utilization reports detailing Paddock's prescription-controlled substance utilization history.

VII.

The fourth search, conducted on October 3, 2017 at 10:18 a.m., yielded specific prescription information regarding two prescriptions for Paddock filled at Evergreens Drugs in Henderson, Nevada in 2016, and at a Walgreens pharmacy in Reno, Nevada in 2017.

VIII.

On October 3, 2017 at 9:00 p.m., the Las Vegas Review-Journal published an article written by reporter Paul Harasim. That article purported to include Paddock's confidential patient information, including information about the two prescriptions, which the reporter attributed to and obtained from the Nevada Prescription Monitoring Program (PMP).

IX.

The Las Vegas Review-Journal updated the article on October 4, 2017 at 10:00 a.m. to reference specific prescription data and prescriber information related to Paddock from June 7, 2016 and June 21, 2017.

X.

On or about November 8, 2017, Goldsmith, through his counsel, filed an Amended Declaration with the Eighth Judicial District Court of Clark County Nevada in Case No. A-17-762877-W in which Goldsmith admits to directing his office staff to use his PMP account to query Paddock's confidential patient information and to obtain patient utilization reports on October 2, 2017, and again on October 3, 2017.

XI.

In his Amended Declaration Goldsmith also admits to routinely allowing his staff to use his PMP account to query the PMP on his behalf.

APPLICABLE LAW

XII.

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*.

XIII.

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.¹

XIV.

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).

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

XV.

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(7).

XVI.

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.

XVII.

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

XVIII.

By accessing or directing his staff to access Paddock's confidential data in the PMP database when Paddock was deceased and never his patient and by obtaining Paddock's patient utilization report, Goldsmith 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 pursuant to NAC 639.945(1)(i). Goldsmith's Controlled Substance Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing Registration, Certificate No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

SECOND CAUSE OF ACTION

XIX.

By accessing or directing his staff to access Paddock's confidential data in the PMP database when Paddock was deceased and never his patient and by obtaining Paddock's patient utilization report, Goldsmith violated the HIPAA Privacy Rule. His Controlled Substance Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing Registration,

Certificate No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.

THIRD CAUSE OF ACTION

XX.

By accessing or directing his staff to access Paddock's confidential data in the PMP database when Paddock was deceased and never his patient and by obtaining Paddock's patient utilization report, Goldsmith 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. His Controlled Substance Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing Registration, Certificate No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

FOURTH CAUSE OF ACTION

XXI.

By disclosing or allowing to be disclosed to the press—Las Vegas Review Journal and/or writer Paul Harasim—Paddock's confidential PMP data and patient utilization report, which were accessed only by Goldsmith's PMP account on October 2 and October 3, 2017, Goldsmith violated state and federal law, including the HIPAAA Privacy Rule and NRS 639.164(7). His Controlled Substance Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing Registration, Certificate No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(4), (11) and (12) as well as NRS 639.255.

FIFTH CAUSE OF ACTION

XXII.


By accessing or directing his staff to access Paddock's confidential data in the PMP database when Paddock was deceased and never his patient and by obtaining Paddock's patient utilization report, Goldsmith 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 Controlled Substance Registration, Certificate No. CS20816, and Practitioner Dispensing Registration, Certificate No. PD00413 of Respondent Goldsmith.

Signed this 1st day of May 2018.


Larry Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements 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

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-101-CS-S
)	
Petitioner,)	
v.	)	ANSWER AND NOTICE
	)	OF DEFENSE
IVAN GOLDSMITH, MD)	
Certificate of Registration No. CS20816, PD00413,)	
)	
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 her 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 May 2018.

IVAN GOLDSMITH, MD