



Nevada State Board of Pharmacy

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Date Posted: January 9, 2020

THIRD AMENDED AGENDA

◆ PUBLIC NOTICE ◆

The Nevada State Board of Pharmacy will conduct a meeting beginning Wednesday, January 15, 2020 at 9:00 am. The meeting will continue, if necessary, on Thursday, January 16, 2020 at 9:00 am or until the Board concludes its business at the following location:

Hilton Garden Inn
7830 S Las Vegas Boulevard
Las Vegas, Nevada

Please Note:

In regulating the practice of pharmacy, the Nevada State Board of Pharmacy has a duty to carry out and enforce the provisions of Nevada law to protect the health, safety and welfare of the public.

The Nevada State Board of Pharmacy may address agenda items out of sequence to accommodate persons appearing before the Board or to aid in the efficiency or effectiveness of the meeting;

The Nevada State Board of Pharmacy may combine two or more agenda items for consideration; and

The Nevada State Board of Pharmacy may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

Public comment is welcomed by the Board, but will be heard during the public comment item and may be limited to five minutes per person. The president may allow additional time to a given speaker as time allows and in his or her sole discretion.

Prior to the commencement and conclusion of a contested case or a quasi judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment. See NRS 233B.126. Please be aware that after the quasi-judicial board or commission has rendered a decision in the contested case and, assuming this happens before adjournment, the board or commission may entertain public comment on the proceeding at that time.

1. Call to Order and Roll Call – Establishment of Quorum

2. Public Comment: No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on a future agenda as an item. (NRS 241.020)

◆ CONSENT AGENDA ◆

The Consent Agenda contains matters of routine acceptance. The Board Members may approve the consent agenda items as written or, at their discretion, may address individual items for discussion or change.

3. Approval of December 4-5, 2019, Minutes (**FOR POSSIBLE ACTION**)
4. Applications for Out-of-State Pharmacy – Non Appearance (**FOR POSSIBLE ACTION**)
 - A. AFA Pharmacy, LLC – Dallas, TX
 - B. Chewy Pharmacy, LLC – Jeffersontown, KY
 - C. Costco Pharmacy #1347 – Jeffersonville, IN
 - D. Costco Pharmacy #1349 – Jeffersonville, IN
 - E. Cura Pharmacy – Tustin, CA
 - F. Hemophilia Preferred Care of Memphis, Inc. – Memphis, TN
 - G. OptionOne, LLC – Oklahoma City, OK
 - H. SMP Pharmacy Solutions #4 – Northridge, CA

Applications for Out-of-State Compounding Pharmacy – Non Appearance (**FOR POSSIBLE ACTION**)

- I. AdhereRx Incorporated – Cary, NC
- J. Crestview Pharmacy – Crestview, FL
- K. Dakota PrecisionRx, Inc. – Bismarck, ND
- L. Genesis Pharmacy Services – St. Louis, MO
- M. Professional Arts Pharmacy – Lafayette, LA
- N. Sterling Specialty Pharmacy – Mendota Heights, MN
- O. Trinity Compounding Experts LLC – Fort Myers, FL

Applications for Out-of-State Medical, Devices, Equipment and Gases – Non Appearance (**FOR POSSIBLE ACTION**)

- P. AB Sciex LLC – Framingham, MA
- Q. Allegro Enterprises, Inc. – Bolingbrook, IL
- R. BrightChoice Medical INC – Savannah, GA
- S. Drawbridge Health, Inc. – San Diego, CA
- T. Home Sleep Delivered, L.L.C. – Lafayette, LA
- U. Hospital Overstock LLC – Boca Raton, FL
- V. Medico International, LLC – Pembroke Pines, FL
- W. Midland Mobility & Surgical Supply, LLC – Thomasville, NC
- X. New Britain Medical Supplies – New Britain, CT

- Y. National Seating & Mobility, Inc. – Murray, UT
- Z. Onduo, LLC – Newton, MA
- AA. Optimal – Stafford, TX
- BB. Southeast Medical Services Inc. – Longwood, FL

Applications for Nevada Medical, Devices, Equipment and Gases – Non Appearance (**FOR POSSIBLE ACTION**)

- CC. National Seating & Mobility, Inc – Henderson, NV

Application for Nevada Pharmacy – Non Appearance (**FOR POSSIBLE ACTION**)

- DD. Albertsons Pharmacy #0155 – Elko, NV

Application for Ambulatory Surgery Center – Non Appearance (**FOR POSSIBLE ACTION**)

- EE. Smith Plastic Surgery Building, LLC – Las Vegas, NV

Applications for Out-of-State Wholesalers – Non-Appearance (**FOR POSSIBLE ACTION**)

Background Check Not Required by Law.

1. Distributor for Single Manufacturer (NAC 639.593(7)(e))
None
2. Manufacturer (NAC 639.593(7)(d))
None
3. Publicly Traded (NAC 639.593(7)(a))
FF. Eton Pharmaceuticals, Inc. – Deer Park, IL
4. VAWD-Accredited (NAC 639.593(7)(c))
None
5. Manufacturer and VAWD-Accredited (NAC 639.593(7)(c) and (d))
None
6. Publicly Traded and Manufacturer (NAC 639.593(7)(a) and (d))
GG. Rigel Pharmaceuticals Inc. – South San Francisco, CA
7. Publicly Traded and VAWD-Accredited (NAC 639.593(7)(a) and (c))
None

Background checks completed in compliance with NRS 639.500. No Disqualifying Events.

- HH. Performance Health Supply, Inc. – Indianapolis, IN
- II. Pharmsource Animal Health, LLC – Brunswick, GA
- JJ. Eversana Life Science Services, LLC – Memphis, TN
- KK. Numed – Springboro, OH
- LL. Medical Supply Distribution, LLC – Zanesville, OH

◆ REGULAR AGENDA ◆

5. Disciplinary hearings pursuant to NRS 639.247 Note: The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of any of the below named parties. **(FOR POSSIBLE ACTION)**
 - A. Cathy Quach, R.Ph (17-121-RPH-A-S)
 - B. Jennifer Englehaupt, R.Ph (17-121-RPH-B-S)
 - C. Walgreens #7032 (17-121-PH-S)
 - D. Diamond P. Stewart, PT (17-077-PT-A-S)
 - E. Monet M. Young, PT (17-077-PT-B-S)
 - F. Armen E. Nikogosian, MD (19-229-CS-S)
 - G. Shahn Sherafat, R.Ph (17-093-RPH-S)
 - H. Nellis Care Pharmacy (17-093-PH-S)
 - I. Order to Show Cause: Donald Cowles (18-104-RPH-S)
 - J. Order to Show Cause: Westminster Pharmaceuticals, LLC (19-206-WH)

6. Petition for Reinstatement of Controlled Substance Registration and Request to Appear Before the Board – Appearance Note: The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of any of the below named parties. **(FOR POSSIBLE ACTION)**
 - Craig Weingrow, MD (17-066-CS-S)

7. Applications for Pharmaceutical Technician in Training - Appearance: Note: The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of any of the below named parties. **(FOR POSSIBLE ACTION)**
 - A. Ciara J. Johnson
 - B. Heidi S. Minson

8. Applications for Pharmaceutical Technician - Appearance: Note: The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of any of the below named parties. **(FOR POSSIBLE ACTION)**
 - A. Sergio J. Garcia

- B. Courtney R. Lee
 - C. Carmen S. Martinez
 - D. Britney McDermott
9. Applications for Out-of-State Wholesalers – Appearance **(FOR POSSIBLE ACTION)**
- A. Huvepharma, Inc. - St. Joseph, MO
 - B. JAMS Rx - Deerfield Beach, FL
 - C. Preferred Medical Supply – Waco, TX
 - D. Teleflex LLC – Olive Branch, MS
 - E. Teleflex LLC – Plymouth, MN
10. Wholesalers Appearing Pursuant to NRS 639.500: Note: The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of any of the below named parties. **(FOR POSSIBLE ACTION)**
- A. Broughton Pharmaceuticals – Savannah, GA (Ownership Change)
 - B. Medical Purchasing Solutions - Hilliard, OH
 - C. Medical Purchasing Solutions - Scottsdale, AZ
 - D. National Distribution & Contracting, Inc. - Lavergne, TN
 - E. Wolf Medical Supply - Sunrise, FL
 - F. X-Gen Pharmaceuticals, Inc. - Horseheads, NY
11. Applications for Nevada Wholesaler – Appearance **(FOR POSSIBLE ACTION)**
- A. Crane Pharmaceuticals, Inc. – Las Vegas, NV
 - B. Hilco – North Las Vegas, NV
12. Applications for Nevada Pharmacy – Appearance **(FOR POSSIBLE ACTION)**
- A. All City Pharmacy #2 – Las Vegas, NV
 - B. All City Pharmacy #3 – Las Vegas, NV
 - C. All City Pharmacy #4 – Henderson, NV
 - D. Atlantic Pharmacy – North Las Vegas, NV
 - E. Combined Wellness Pharmacy – Las Vegas, NV
13. Applications for Out-of-State Pharmacy – Appearance **(FOR POSSIBLE ACTION)**
- A. Catalent Pharmacy Services (PHL) – Philadelphia, PA
 - B. DirectRx Pharmacy – Troy, MI
 - C. Home Rx Healthcare LLC – Lumberton, NC
 - D. Promesa Health Pharmacy – Omaha, NE
14. Application for Out-of-State Compounding Pharmacy – Appearance **(FOR POSSIBLE ACTION)**

Omnicare of Cerritos – Cerritos, CA

15. Applications for Out-of-State Outsourcing Facility – Appearance (**FOR POSSIBLE ACTION**)
- A. Central Admixture Pharmacy Services, Inc. – Phoenix, AZ
 - B. Complete Pharmacy and Medical Solutions LLC – Miami Lakes, FL
 - C. Leiter’s – San Jose, CA
 - D. Pine Pharmaceuticals LLC – Tonawanda, NY
 - E. QuVa Pharma, Inc. – Bloomsbury, NJ
16. Applications for Out-of-State Medical, Devices, Equipment and Gases – Appearance (**FOR POSSIBLE ACTION**)
- A. AMG Medical Supplies LLC – Pahrump, NV
 - B. MDRX, LLC – Henderson, NV
17. Applications for Pharmacist Renewal - Appearance: Note: The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of any of the below named parties. (**FOR POSSIBLE ACTION**)
- A. Kimberly B. Aksentijevic, R.Ph
 - B. Donald Cowles, R.Ph
 - C. Garret Garber, R.Ph
 - D. Gregory G. Gaiser, R.Ph
 - E. David Makhani, R.Ph
 - F. Tung K. Nguyen, R.Ph
 - G. Mohammad Pourteymaur, R.Ph
 - H. Paul Yamamoto, R.Ph
 - I. Massoud Zarkesh, R.Ph
18. Request for Pharmacist Applicant to Retake the Nevada MPJE Exam – Appearance: Note: The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of any of the below named parties. (**FOR POSSIBLE ACTION**)
- Sathish Ariarra Cariappa
19. Applications for Advanced Practice Registered Nurse - Appearance: Note: The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of any of the below named parties. (**FOR POSSIBLE ACTION**)
- A. Lonny Krause, APRN
 - B. Jason Speaks, APRN

20. Review and Approval of Annual Auditors Report for the Nevada State Board of Pharmacy pursuant to NRS 218G.400 – Appearance **(FOR POSSIBLE ACTION)**

Beth Farley - EiadeBailly

21. General Counsel Report

22. Executive Secretary Report:

- A. Financial Report
- B. Temporary Licenses
- C. Staff Activities:
 - 1. Meetings with Other Health Care Boards
 - 2. Open Beds Meeting
 - 3. Legislative Committee on Regulations
- D. Report to Board:
 - 1. Licensing software update
- E. Board Related News
- F. Licensing Activities Report
 - 1. PMP Integration
 - 2. Narcan Training for Medical Students

23. Discussion and determination on reactivation of the Advisory Committee on Continuing Education established pursuant to NAC 639.380 and .385. **(FOR POSSIBLE ACTION)**

◆ WORKSHOP ◆

Thursday, January 16, 2020 – 9:00 am

24. Notice of Proposed Regulation Workshop Pursuant to NRS 233B.061(2) **(FOR POSSIBLE ACTION):**

The purpose of the workshop is to solicit comments from interested persons on the following general topic that may be addressed in the proposed regulation:

[Authority – NRS 639.070]

- A. Amendment of Nevada Administrative Code (NAC) Chapter 639.** The proposed amendment will add a new regulation for the Board to consider a petition for review of criminal history pursuant to AB 319.
- B. Amendment of Nevada Administrative Code (NAC) Chapter 639.** The proposed amendment will authorize the treatment of partners for a shared communicable disease upon the diagnosis of one of the partners.

C. Amendment of Nevada Administrative Code (NAC) Chapter 639. The proposed amendment will authorize the delivery of a prescription drug to a practitioner for administration to the ultimate user or patient if the FDA has made a determination that the drug is dangerous for the ultimate user or patient to possess.

25. Petition for Declaratory Order or Advisory Opinion pursuant to NAC 639.150 - Submitted by the Nevada Association of Nurse Anesthetists on authority of CRNAs to possess and administer preanesthetic medications, intraoperative anesthesia and postanesthetic medications for surgical procedures. **(FOR POSSIBLE ACTION)**

26. Hearing pursuant to NRS 639.2895(2) on appeal of citation and fine for unlicensed operation of a pharmacy. **(FOR POSSIBLE ACTION)**

Deeflat Pharmacy – Bullhead City, AZ

27. Date and Location of Next Scheduled Board Meeting:

March 18-19, 2020 – Las Vegas, NV

28. Public Comment: No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on a future agenda as an item. (NRS 241.020)

29. Adjournment

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Nevada State Board of Pharmacy, 985 Damonte Ranch Parkway, Suite 206, Reno, NV, 89521, or call Shirley Hunting at (775) 850-1440, as soon as possible.

Supporting materials or additional information regarding the meeting may be obtained from Shirley Hunting at (775) 850-1440, email at shunting@pharmacy.nv.gov or 985 Damonte Ranch Parkway, Suite 206, Reno, Nevada, 89521.

Continuing Education credit of 4 hours, including 1 hour of law, will be given per day of Board meeting attendance. You are required to attend the board meeting for a full day to receive CE credit including the law credit.

This notice has been posted at the following locations and is available for viewing at www.notice.nv.gov and bop.nv.gov.

Elko County Courthouse – Elko
Washoe County Courthouse – Reno

Nevada Board of Pharmacy – Reno & Las Vegas
Mineral County Courthouse – Hawthorne



NEVADA STATE BOARD OF PHARMACY

985 Damonte Ranch Pkwy, Ste 206, Reno, NV 89521

(775) 850-1440 • 1-800-364-2081 • FAX (775) 850-1444

• Web Page: bop.nv.gov

MINUTES

December 4-5, 2019

BOARD MEETING

Hyatt Place
1790 E Plumb Lane
Reno, Nevada

Board Members Present:

Krystal Freitas	Jade Jacobo	Wayne Mitchell
Helen Park	Gener Tejero	Richard Tomasso

Board Staff Present:

Dave Wuest	Yenh Long	Brett Kandt	Shirley Hunting
Joe Depczynski	Henna Rasul	Darla Zarley	Kristopher Mangosing

Presiding Officer Park read the mission statement of the Nevada State Board of Pharmacy to reiterate the Board's duty to carry out and enforce the provisions of Nevada Law to protect the health, safety, and welfare of the public.

Mr. Wuest introduced and congratulated Krystal Freitas, Helen Park and Richard Tomasso as Governor Sisolak's newest appointments to the Nevada State Board of Pharmacy for three year terms.

Mr. Wuest performed the roll call. All Board Members were present and a quorum was established.

1. Public Comment December 4, 2019 9:00 AM

There was no public comment.

2. Election of President and Treasurer pursuant to NRS 639.040.

Board Action:

Motion: Richard Tomasso moved to nominate Helen Park as President

Second: Wayne Mitchell

Action: Passed unanimously

Board Action:

Motion: Richard Tomasso moved to nominate Wayne Mitchell as Treasurer

Second: Gener Tejero

Action: Passed unanimously

3. Discussion and possible action on criteria for placement of items on agenda, including without limitation, placement of action items on consent agenda.

Board discussion ensued regarding how and why items are placed on the agenda.

Mr. Wuest described Board Staff's procedures including investigation of complaints, processing applications, requests for appearance and petitions for proposed regulation changes.

4. Approval of October 9-10, 2019, Minutes

Mr. Wuest stated that Board Staff has corrected the Minutes to indicate that Melissa Shake recused from participation regarding Item 13D.

Board Action:

Motion: Wayne Mitchell moved to approve the October 9-10, 2019 Minutes with the corrections discussed.

Second: Gener Tejero

Action: Passed unanimously

5. Applications for Out-of-State Pharmacy – Non Appearance

- A. Cottrill's Pharmacy – Orchard Park, NY
- B. CVS/specialty #48023 – Tampa, FL
- C. CVS/specialty #48036 – Milford, MA
- D. CVS/specialty #48040 – Troy, MI
- E. CVS/specialty #48045 – Raleigh, NC
- F. Deeflat Pharmacy – Bullhead City, AZ
- G. F&M Specialty Pharmacy – Flowood, MS
- H. Gordon's Hometown Pharmacy – Pooler, GA
- I. Publix Pharmacy #3213 – Orlando, FL
- J. Tarrytown Expocare, LLC – Austin, TX

- K. vitaCare Prescription Services, Inc. – Boca Raton, FL
- L. Zeus Rx – Forney, TX

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

- M. Core Pharmacy – Valley View, OH
- N. Gibson’s Pharmacy – Murray, UT
- O. Sincerus Florida LLC – Pompano, FL
- P. Walgreens #16569 – Lone Tree, CO

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

- Q. Cardinal Health 200, LLC – Riverside, CA
- R. Choice Medical Healthcare Inc. – Salt Lake City, UT
- S. MedSupply – Fresno, CA
- T. Northland AAC – Tempe, AZ
- U. Numotion – Sandy, UT
- V. SRW Industries Inc. – Lake Zurich, IL

Applications for Out-of-State Wholesaler – Non Appearance

Fingerprint Background Check Not Required by Law

Applicants that are initialized must submit a \$25,000 bond prior to licensure.

Distributor for Single Manufacturer

- EEE. Novadoz Pharmaceuticals, LLC – Piscataway, NJ*

Manufacturer

- W. Acotech Biopharma LLC – East Windsor, NJ*
- BB. Array BioPharma Inc. – Boulder, CO*
- CC. AuroMedics Pharma LLC – East Windsor, NJ*
- DD. Avanir Pharmaceuticals, Inc. – Aliso Viejo, CA*
- EE. Avion Pharmaceuticals, LLC – Alpharetta, GA*
- FF. BE Pharmaceuticals, Inc. – Cary, NC*
- GG. Becton, Dickinson and Company – Franklin Lakes, NJ*
- JJ. Breckenridge Pharmaceutical, Inc. – Berlin, CT*
- MM. Compass Health Brands Corp – Brookpark, OH*
- NN. Collegium Pharmaceutical, Inc. – Stoughton, MA*
- OO. Cypress, Macoven, Hawthorn – Morristown, NJ*
- UU. Foamix Pharmaceuticals Inc. – Bridgewater, NJ*
- AAA. Lohxa, LLC – Worcester, WA*
- CCC. Medline Industries, Inc. – Glen Falls, NY*
- DDD. Micro Labs USA, Inc. – Basking Ridge, NJ*

GGG. *Novo Nordisk Pharma Inc. – Plainsboro, NJ*
III. *Patheon Manufacturing Service LLC – Greenville, NC*
JJJ. *PARI Respiratory Equipment, Inc. – Midlothian, VA*
KKK. *Perrigo Pharmaceuticals Company – Allegan, MI*
LLL. *Persion Pharmaceuticals LLC – Morristown, NJ*
PPP. *Progenics Pharmaceuticals, Inc. – Somerset, NJ*
RRR. *QOL Medical – Vero Beach, FL*
TTT. *Retrophin, Inc. – San Diego, CA*
AAAA. *Seattle Genetics, Inc. – Bothwell, WA*
BBBB. *Spectrum Pharmaceuticals, Inc. – Irvine, CA*
CCCC. *Strides Pharma, Inc. – East Brunswick, NJ*
EEEE. *Tusker Medical Inc. – Menlo Park, CA*
FFFF. *UroGen Pharma Inc. – New York, NY*

Publicly Traded

X. *Adhera Therapeutics, Inc. – Durham, NC*
HH. *Bluebird Bio, Inc. – Cambridge, MA*
SS. *Expeditors International of Washington, Inc. – Surprise, AZ*
XX. *Global Blood Therapeutics Inc. – South San Francisco, CA*
HHH. *O&M Halyard, Inc. – Southaven, MS*
DDDD. *Tricida, Inc. – South San Francisco, CA*
GGGG. *Viela Bio, Inc. – Gaithersburg, MD*

VAWD Accredited

SSS. *Republic Pharmaceuticals – Ann Arbor, MI*
VVV. *RxCrossroads 3PL LLC – Fairdale, KY*
WWW. *RxCrossroads 3PL LLC – Louisville, KY*
XXX. *Safco Dental Supply LLC – Buffalo Grove, IL*
YYY. *Safeway Distributors Inc. – Davie, FL*

Manufacturer and VAWD Accredited

MMM. *Pharmaceutical Associates, Inc. – Greenville, SC*

Publicly Traded & Manufacturer

AA. *Anika Therapeutics, Inc. – Bedford, MA*

Publicly Traded & VAWD Accredited

BBB. *McKesson Medical-Surgical Inc. – Bethlehem, PA*

Fingerprint Background Checks Required by Law. Background Check Completed. No Disqualifying Event.

- Y. Advanced Pharmaceuticals, LLC – Ocean Springs, MS
- Z. Amneal Pharmaceuticals LLC – Glasgow, NY
- II. Bonita Pharmaceuticals LLC – Westland, MI
- KK. Chewy Wholesale LLC – Louisville, KY
- LL. Cochran Wholesale Pharmaceuticals LLC – Monroe, GA
- PP. DHL Supply Chain (USA) – Export, PA
- QQ. DHL Supply Chain (USA) – Manchester, PA
- RR. Durbin USA – Ocean Springs, MS
- TT. Fisher BioServices, Inc. – Frederick, MD
- VV. Focus Laboratories, Inc. – North Little Rock, AR
- WW. GHR Second Source Rx and OR 2SRX – Earth City, MO
- YY. Invicta Wholesale Supplies, LLC – Tukwila, WA
- ZZ. Kenco Logistic Services, LLC – Roswell, GA
- FFF. Norbrook Inc. – Lenexa, KS
- NNN. Pharmsource, LLC – Brunswick, GA
- OOO. PI Services, LLC – Erie, PA
- QQQ. Quantum Rx – Redford, MI
- UUU. Rising Pharma Holdings, Inc. – Somerset, NJ
- ZZZ. Scott's Dental Supply, LLC – Fife, WA

Application for Nevada Pharmacy – Non Appearance

HHHH. Rx2U, LLC – Las Vegas, NV

Krystal Freitas disclosed that she was classmates with employees listed on applications for Items 5 F and 5 HHHH, but stated that she could participate in these matters fairly and without bias.

Board Action:

Motion: Gener Tejero moved to approve the Consent Agenda with the exceptions of Items 5 W to 5 GGGG.

Second: Jade Jacobo

Action: Passed unanimously

Mr. Wuest presented documentation describing the business type of each applicant for Out-of-State Wholesaler License and if a background check or bond was required by the applicant.

Mr. Wuest read the names of the Consent Agenda applicants who require a surety bond prior to being approved for licensure.

Board Action:

Motion: Gener Tejero moved to approve Items 5X 5HH, 5SS, 5XX, 5HHH, 5DDDD, 5GGGG, 5AA, 5BBB. The remaining Consent Agenda Wholesalers are approved pending each company complies with the surety bond requirements.

Second: Wayne Mitchell

Action: Passed unanimously

6. Discipline

A. Markey Wilson, PA (19-032-CS-S)

Markey Wilson appeared and was sworn by President Park prior to answering questions or offering testimony.

Mr. Kandt summarized the facts of the case where Ms. Wilson had written approximately 3175 prescriptions without a valid controlled substance registration.

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

Ms. Wilson had no objections.

President Park admitted Exhibit A into the record.

Mr. Kandt presented Ms. Wilson's Answer and Notice of Defense as Exhibit A.

Ms. Wilson accepted responsibility for her error. She explained that she stopped writing prescriptions as soon as she was notified by the Board.

Ms. Wilson acknowledged her responsibility to ensure that her licenses are renewed on time.

Board Action:

Motion: Jade Jacobo moved that the Board has jurisdiction over this matter.

Second: Wayne Mitchell

Action: Passed unanimously

Board Action:

Motion: Jade Jacobo moved that the Findings of Fact in paragraphs two through five have been proven and are true.

Second: Wayne Mitchell

Action: Passed

Board Action:

Motion: Jade Jacobo moved that Markey Wilson is guilty of the First through Fourth Causes of Action.

Second: Wayne Mitchell

Action: Passed unanimously

Mr. Kandt stated that Board Staff recommends that Ms. Wilson receive a Letter of Reprimand and pay a \$5,000 fine within 60 days.

Board Action:

Motion: Jade Jacobo moved that Ms. Wilson shall receive a Letter of Reprimand and pay a \$5,000 fine within 60 days.

Second: Gener Tejero

Action: Passed unanimously

B. Simplot Western Stockmens (19-216-WH)

Greg Brower was present as counsel representing Simplot Western Stockmens.

Mr. Kandt summarized the facts of the case where Simplot Western Stockmens failed to provide a list of directors/employees, fingerprints and authorization to process fingerprints.

Mr. Brower explained that Simplot Western Stockmens provided fingerprints and authorization for two employees at the time they submitted their application, but agreed that no fingerprints or authorization were provided for the directors at that time.

Mr. Brower stated that Simplot Western Stockmens is going through the process of obtaining VAWD certification.

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

Mr. Brower had no objections.

Mr. Kandt presented the Answer and Notice of Defense submitted by Simplot Western Stockmens.

Board discussion ensued regarding the option to continue this matter while Simplot Western Stockmens either obtains VAWD certification or provides fingerprints and authorization for all required directors and employees.

Board Action:

Motion: Gener Tejero moved to continue this matter. Simplot Western Stockmens shall provide a written attestation within two weeks to suspend all business in Nevada until the company is either VAWD certified or the company modifies their business structure.

Second: Jade Jacobo

Action: Passed unanimously

C. Westminster Pharmaceuticals, LLC (19-206-WH)

No representative from Westminster Pharmaceuticals, LLC was present.

Mr. Kandt summarized the facts of the case where Board Staff contacted Westminster Pharmaceuticals, LLC requesting the company to comply with requirements of NRS 639.500 and submit a current list of officers/directors and a fingerprint card from each officer/director with written permission authorizing the Board to forward those fingerprints to the Central Repository for Nevada Records of Criminal History. Mr. Kandt stated that Board Staff attempted to contact Westminster Pharmaceuticals, LLC again in July 2019, but still has not received the current list of officers/directors and fingerprint cards.

Mr. Kandt called Shirley Hunting, Board Coordinator Nevada State Board of Pharmacy, as a witness.

Shirley Hunting appeared and was sworn by President Park prior to answering questions or offering testimony.

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

President Park admitted Exhibit A into the record.

Ms. Hunting testified that she sent Westminster Pharmaceuticals, LLC the Notice of Intended Action and Accusation by certified mail. Ms. Hunting reviewed documentation showing that Westminster Pharmaceuticals, LLC was properly served at their address of record.

Mr. Kandt called David Wuest, Executive Secretary Nevada State Board of Pharmacy, as a witness.

Mr. Kandt moved to have Exhibit B admitted into the record.

President Park admitted Exhibit B into the record.

Mr. Wuest explained that Westminster Pharmaceuticals, LLC contacted Board Staff to surrender their wholesaler license. He stated that Westminster Pharmaceuticals, LLC contracted with a 3PL company to deliver products into Nevada. Mr. Wuest explained that Westminster Pharmaceuticals, LLC was still required to hold a Nevada wholesaler license even if they utilize a 3PL company to deliver products into Nevada.

Mr. Kandt presented a letter from Board Staff to Westminster Pharmaceuticals, LLC explaining the requirements for the company to maintain licensure pursuant to NRS 639.233.

Board Action:

Motion: Wayne Mitchell moved that the Board has jurisdiction over this matter.

Second: Jade Jacobo

Action: Passed unanimously

Board Action:

Motion: Jade Jacobo moved that Board Staff properly noticed Westminster Pharmaceuticals, LLC and that the Findings of Fact (Paragraphs 2-4) are true.

Second: Richard Tomasso

Action: Passed unanimously

Board Action:

Motion: Jade Jacobo moved that the Conclusions of Law (Paragraph 7) are proven true.

Second: Richard Tomasso

Action: Passed unanimously

Mr. Kandt stated that Board Staff recommends an Order, not considered as discipline, directing the Respondent to provide a current list of officers/directors, fingerprint cards and authorization within twenty days.

Board Action:

Motion: Jade Jacobo moved that Westminster Pharmaceuticals, LLC shall provide Board Staff with a list of current officers/directors, fingerprint cards and authorization allowing the Board to forward those fingerprints to the Central Repository for Nevada Records of Criminal History within twenty days. This Order is not considered discipline.

Second: Richard Tomasso

Action: Passed unanimously

D: Order to Show Cause: Jaime Cordoba-Hernandez (17-070-RPH-S)

Jade Jacobo disclosed that she has interviewed Mr. Cordoba-Hernandez in the past, but stated that she can participate in this matter fairly and without bias.

Gener Tejero disclosed that he has a professional relationship with Mr. Stilling, but stated that he can participate in this matter fairly and without bias.

Jaime Cordoba-Hernandez appeared and was sworn by President Park prior to answering questions or offering testimony.

Bill Stilling was present as counsel representing Mr. Cordoba-Hernandez.

Mr. Kandt summarized the facts of the case where Mr. Cordoba-Hernandez engaged in unprofessional conduct by attempting to fill and dispense a prescription without the necessary knowledge and proper training, by accepting verbal prescriptions from non-practitioners who were not agents of the prescribing physicians, failing to follow the written prescription by the prescribing physician and failing to consult the prescribing physician.

Mr. Kandt explained that at that time Mr. Cordoba-Hernandez's pharmacist registration was revoked, the revocation was stayed and his registration was placed on probation. He was ordered to take and pass the NAPLEX exam and MPJE exam within six months as well as pay a fine and administrative fee. Mr. Kandt explained that Mr. Cordoba-Hernandez has failed to pass the NAPLEX examination within the six month time frame.

Mr. Stilling stated Mr. Cordoba-Hernandez has paid his administrative fee and fine and has completed the MPJE exam. Mr. Stilling asked the Board if Mr. Cordoba-Hernandez could be allowed to retake the NAPLEX exam or if there were other alternatives to prove Mr. Cordoba-Hernandez's competence.

Mr. Cordoba-Hernandez answered the Board's questions regarding the NAPLEX exam.

Board discussion ensued regarding allowing Mr. Cordoba-Hernandez to retake the NAPLEX exam.

Board Action:

Motion: Jade Jacobo moved to stay the suspension on Jaime Cordoba-Hernandez's Pharmacist Registration and allow him one attempt to take and pass the NAPLEX exam within six months.

Second: Krystal Freitas

Aye: Freitas, Jacobo

Nay: Mitchell, Tejero, Tomasso

Action: Motion fails

Board Action:

Motion: Wayne Mitchell moved that Jaime Cordoba-Hernandez be allowed to take and pass the NAPLEX exam with as many attempts as he can within six months.

Second: Gener Tejero

Aye: Mitchell, Tejero, Tomasso

Nay: Freitas, Jacobo, Park

Action: Motion fails

Board Action:

Motion: Jade Jacobo moved that Jaime Cordoba-Hernandez be allowed two attempts to take and pass the NAPLEX exam within six months

Second: Wayne Mitchell

Action: Passed unanimously

E. Order to Show Cause: Clinician's Choice Dental Products Inc. (19-158-WH)

No representative from Clinician's Choice Dental Products Inc. was present.

Mr. Kandt explained that at the last meeting the Board entered an Order directing the Respondent to comply with NRS 639.500 within twenty days. Mr. Kandt stated that the Respondent has failed to comply with the terms of the Order.

Mr. Kandt called Shirley Hunting as a witness.

Ms. Hunting testified that she sent the Order to Show Cause to Clinician's Choice Dental Products Inc. by certified mail and Order to Show Cause was received by the Respondent on November 7, 2019.

Mr. Kandt moved to have Exhibit A and B admitted into the record.

President Park admitted Exhibit A and B into the record.

Mr. Kandt presented documentation that Board Staff properly sent the Order to Show Cause to the Respondent by certified mail and the Order to Show Cause was received.

Mr. Kandt called Darla Zarley, Grant Analyst, as a witness.

Darla Zarley appeared and was sworn by President Park prior to answering questions or offering testimony.

Ms. Zarley testified that she received notification from Clinician's Choice Dental Products Inc. stating that they mailed the current list of officers/directors, fingerprint cards and authorizations this week.

Board discussion ensued regarding the option to continue this matter to review what the Respondent submitted to the Board.

Board Action:

Motion: Jade Jacobo moved to continue this matter pending receipt of Clinician's Choice Dental Products Inc.'s fingerprint cards, authorization and list of officers/directors within two weeks.

Second: Gener Tejero

Action: Passed unanimously

F. Order to Show Cause: Halyard Sales, LLC (19-170-WH)

No representative from Halyard Sales, LLC was present.

Mr. Kandt explained that at the last meeting the Board entered an Order directing the Respondent to comply with NRS 639.500 within twenty days. Mr. Kandt stated that the Respondent has failed to comply with the terms of the Order.

Mr. Kandt called Shirley Hunting as a witness.

Ms. Hunting testified that she sent the Order to Show Cause to Halyard Sales, LLC. by certified mail and Order to Show Cause was received by the Respondent on November 4, 2019.

Mr. Kandt moved to have Exhibits A and B admitted into the record.

President Park admitted Exhibits A and B into the record.

Mr. Kandt presented the Order to Show Cause and documentation that Board Staff properly sent Halyard Sales, LLC the Order by certified mail which was received on November 4, 2019.

Mr. Kandt called Darla Zarley as a witness.

Ms. Zarley testified that she has received no communication from Halyard Sales, LLC.

Board Action:

Motion: Jade Jacobo moved that Board Staff properly served Halyard Sales, LLC with the Order to Show Cause and that Halyard Sales has failed to comply with the Order.

Second: Gener Tejero

Action: Passed unanimously

Mr. Kandt stated that Board Staff recommends revocation of Halyard Sales, LLC's Out-of-State Wholesaler License.

Board Action:

Motion: Jade Jacobo moved to revoke Halyard Sales, LLC's Out-of-State Wholesaler License effective immediately.

Second: Gener Tejero

Action: Passed unanimously

G. Order to Show Cause: Pharmaco Technology LLC (19-188-WH)

No representative from Pharmaco Technology LLC was present.

Mr. Kandt explained that at the last meeting the Board entered an Order directing the Respondent to comply with NRS 639.500 within twenty days. Mr. Kandt stated that the Respondent has failed to comply with the terms of the Order.

Mr. Kandt called Shirley Hunting as a witness.

Ms. Hunting testified that she sent the Order to Show Cause to Pharmaco Technology LLC by certified mail and Order to Show Cause was received by the Respondent on November 11, 2019.

Mr. Kandt moved to have Exhibits A and B admitted into the record.

President Park admitted Exhibits A and B into the record.

Mr. Kandt called Darla Zarley as a witness.

Ms. Zarley read into the record a letter from Mark Kim, Owner Pharmaco Technology, voluntarily surrendering their Wholesaler License.

Mr. Kandt moved to have the letter from Mr. Kim admitted into the record as Exhibit C.

President Park admitted Exhibit C into the record.

Mr. Kandt explained that the Respondent's voluntary surrender of its Wholesaler License while this case is pending shall constitute and be reported as discipline.

Board Action:

Motion: Jade Jacobo moved that Board Staff properly served Pharmaco Technology with the Order to Show Cause and Notice of Hearing.

Second: Krystal Freitas

Action: Passed unanimously

Board Action:

Motion: Jade Jacobo moved that this case was pending during the time that Pharmaco Technology voluntarily surrendered their Wholesaler License.

Second: Krystal Freitas

Action: Passed unanimously

Board Action:

Motion: Jade Jacobo moved that the Board accepts Pharmaco Technology's voluntary surrender of their Wholesaler License and this matter shall be reported as discipline.

Second: Krystal Freitas

Action: Passed unanimously

H. Order to Show Cause: RLC Labs, Inc.

(19-194-WH)

Gener Tejero disclosed that his pharmacy has contracted with RLC Labs, Inc. but stated that he can participate in this matter fairly and without bias.

Dai Jinn, RLC Labs, Inc. appeared and was sworn by President Park prior to answering questions or offering testimony.

Mr. Kandt explained that at the last meeting the Board entered an Order directing the Respondent to comply with NRS 639.500 within twenty days. Mr. Kandt stated that the Respondent has failed to comply with the terms of the Order.

Mr. Jinn accepted responsibility for the error and explained that due to staffing changes and company infrastructure changes he was not able to provide the fingerprint cards, authorization and list of officers/directors on time.

Mr. Jinn stated that he contacted Board Staff to discuss the company changes in October 2019. He explained that he does have the fingerprint cards with him to submit today.

Mr. Kandt called Darla Zarley as a witness.

Ms. Zarley confirmed that she had a phone conversation with a representative from RLC Labs, Inc. in October.

The Board directed Mr. Jinn to submit the fingerprint cards, authorization and list of directors/officers to the Board Office for review.

Board Action:

Motion: Jade Jacobo moved to continue this matter pending Board Staff's receipt and review of RLC Labs, Inc.'s fingerprint cards, authorization and list of directors/officers within two weeks.

Second: Gener Tejero

Action: Passed unanimously

7. Application for Nevada Wholesaler – Appearance

Hilco – North Las Vegas, NV

David Serrano, manager, and Megan Rooney, licensing, appeared and were sworn by President Park prior to answering questions or offering testimony.

Mr. Serrano and Ms. Rooney answered questions regarding Hilco's products and services provided, shipping procedures and advertising.

After discussion, Mr. Serrano and Ms. Rooney disclosed that Hilco is going through an ownership change and that the application that was submitted did not reflect the new ownership.

The Board directed Mr. Serrano and Ms. Rooney to provide Board Staff with a new application including the updated ownership information and appear at a future meeting.

8. Applications for Nevada Pharmacy – Appearance

A. Atlantic Pharmacy – North Las Vegas, NV

No representative from Atlantic Pharmacy was present.

B. PAM Specialty Hospital of Las Vegas – Las Vegas, NV

C. PAM Specialty Hospital of Sparks – Sparks, NV

Lane Cheramie, managing pharmacist PAM Specialty Hospital of Las Vegas, Paul Osterman, managing pharmacist PAM Specialty Hospital of Sparks, Gary Brooks, CEO PAM Specialty

Hospital of Sparks, Sean Guillory, Account Manager Cardinal Health appeared and were sworn by President Park prior to answering questions or offering testimony.

President Park disclosed that Paul Osterman was a former coworker, but stated that she could participate in this matter fairly and without bias.

Ms. Long stated that both locations are requesting Board approval for an ownership change.

Mr. Cheramie answered questions to the Board's satisfaction regarding past inspections and his experience as a managing pharmacist.

Mr. Osterman answered questions to the Board's satisfaction regarding past inspections, facility layout and policies and procedures.

The Board modified PAM Specialty Hospital of Las Vegas and PAM Specialty Hospital of Sparks' application to indicate that the corporation, any owner, shareholder, or partner with any interest has not ever surrendered a license, permit of certificate of registration voluntarily or otherwise at Mr. Brooks' request. Mr. Brooks stated that he has confirmed that this was marked in error.

Board Action:

Motion: Jade Jacobo moved to approve PAM Specialty Hospital of Las Vegas and PAM Specialty Hospital of Sparks' Ownership Change Applications for Nevada Pharmacy.

Second: Wayne Mitchell

Action: Passed unanimously

9. Applications for Out-of-State Pharmacy – Appearance

- A. Catalent Pharmacy Services (PHL) – Philadelphia, PA

This matter was postponed to a future meeting.

- B. DirectRx Pharmacy – Troy, MI

This matter was postponed to a future meeting.

- C. Empower Pharmacy – Houston, TX

Shaun Noorian, owner, appeared and was sworn by President Park prior to answering questions or offering testimony.

Ms. Long questioned Mr. Noorian regarding Empower Pharmacy's services provided, staff and licensure and discipline in other states.

Mr. Noorian answered Ms. Long's questions to the Board's satisfaction. He explained that Empower Pharmacy provides order processing services and testified that no drugs or shipping would be taking place at this facility.

Board Action:

Motion: Jade Jacobo moved to approve Empower Pharmacy's Application for Out-of-State Pharmacy.

Second: Wayne Mitchell

Action: Passed unanimously

D. Golden Gate Pharmacy Services – Novato, CA

Nicole Clausen, managing pharmacist, appeared and was sworn by President Park prior to answering questions or offering testimony.

Ms. Clausen stated that Golden Gate Pharmacy Services is a closed door long term care pharmacy with an emphasis on mental health. Ms. Clausen explained that Golden Gate Pharmacy Services plans on providing a new FDA approved point of care testing device.

Ms. Clausen answered questions regarding Golden Gate Pharmacy Services past disciplinary history.

Ms. Clausen explained that during a DEA inspection in 2014, the DEA found violations including record keeping issues and manufacturing violations.

Ms. Clausen stated that Golden Gate Pharmacy Services no longer compounds controlled substances and explained that the company has no plans to ship other products into Nevada except the point of care testing device.

Board Action:

Motion: Jade Jacobo moved to approve Golden Gate Pharmacy Services' Application for Out-of-State Pharmacy License with conditions not to send any controlled substances into Nevada.

Second: Krystal Freitas

Action: Passed unanimously

10. Applications for Out-of-State Compounding Pharmacy – Appearance

A. Advanced Infusion Solutions – Dallas, TX

Jonathan Hamer, managing pharmacist and Director of Pharmacy, appeared and was sworn by President Park prior to answering questions or offering testimony.

Lynn Beggs was present as counsel representing Advanced Infusion Solutions.

Mr. Hamer answered questions to the Board's satisfaction regarding Advanced Infusion Solutions products and services provided, staff training, past discipline, past inspections and product testing.

Board Action:

Motion: Jade Jacobo moved to approve Advanced Infusion Solutions' Application for Out-of-State Compounding Pharmacy pending receipt of their most recent Texas State Board of Pharmacy inspections and FDA 483 form.

Second: Wayne Mitchell

Action: Passed unanimously

- B. Omnicare of Cerritos – Cerritos, CA

This matter was postponed to a future meeting.

11. Applications for Out-of-State Outsourcing Facility – Appearance

- A. Pine Pharmaceuticals, Inc. – Tonawanda, NY

This matter was postponed to a future meeting.

- B. QuVa Pharma, Inc. – Bloomsbury, NJ

This matter was postponed to a future meeting.

- C. RXQ Compounding LLC – Albany, OH

Edward Zatta, CEO RXQ Compounding LLC, appeared and was sworn by President Park prior to answering questions or offering testimony.

Mr. Wuest and Ms. Long questioned Mr. Zatta regarding RXQ Compounding LLC's products and services provided and past inspections FDA inspections.

Mr. Zatta answered questions regarding how RXQ Compounding LLC addressed the observations listed by the FDA during their past inspections.

Mr. Zatta explained that the Albany facility opens January 2020 and has not yet been inspected.

The Board expressed concern regarding approving an Outsourcing Facility License before the facility has been inspected.

Board discussion ensued regarding sending Board Inspectors to inspect RXQ Compounding LLC's Albany facility.

Board Action:

Motion: Jade Jacobo moved to approve RXQ Compounding LLC's Application for Out-of-State Outsourcing Facility pending receipt of the company's most recent FDA 483 and a positive inspection by Board Staff. The cost of inspection shall be at the company's expense.

Second: Gener Tejero

Action: Passed unanimously

12. Applications for Controlled Substance Registration – Appearance:

A. Kristin Hestdalen, MD

Kristin Hestdalen appeared and was sworn by President Park prior to answering questions or offering testimony.

Lynn Beggs was present as counsel representing Dr. Hestdalen.

Mr. Kandt stated that Dr. Hestdalen previously held a controlled substance registration which she let expire. He explained that Dr. Hestdalen disclosed discipline on her new application for controlled substance registration.

Ms. Beggs explained that Dr. Hestdalen disclosed a misdemeanor DUI charge that occurred in November 2018.

Ms. Beggs requested the Board go into Closed Session to discuss the specifics of Dr. Hestdalen's recovery.

Board Action:

Motion: Jade Jacobo moved to go into closed session to discuss Dr. Hestdalen's treatment.

Second: Richard Tomasso

Action: Passed unanimously

The Board entered closed session.

Board Action:

Motion: Jade Jacobo moved to go back into open session

Second: Krystal Freitas

Action: Passed unanimously

The Board questioned Dr. Hestdalen regarding her current employment and what medications she plans on prescribing to patients.

The Board expressed concern regarding approving Dr. Hestdalen's controlled substance registration without conditions.

Board discussion ensued regarding having Dr. Hestdalen evaluated and approving her registration with limitations to what medications she could prescribe.

Board Action:

Motion: Jade Jacobo moved to approve Kristin Hestdalen's Application for Controlled Substance Registration pending Dr. Hestdalen receive a positive evaluation from Mr. Brooks. Dr. Hestdalen shall comply with her contract with Mr. Brooks and shall have quarterly reports sent from Mr. Brooks sent to Board Staff. Dr. Hestdalen shall only be allowed to prescribe Schedule 2 (Stimulants only), 3 and 4 drugs.

Second: Richard Tomasso

Action: Passed unanimously

B. Maryanne Phillips, MD

Maryanne Phillips appeared and was sworn by President Park prior to answering questions or offering testimony.

Allen Miller was present as counsel representing Dr. Phillips.

Mr. Wuest summarized Dr. Phillips past discipline with the California Board of Medical Examiners, the Nevada State Board of Medical Examiners and the Nevada State Board of Pharmacy.

Mr. Wuest explained that Dr. Phillips appeared before the Board in July 2019 regarding this matter. At that time, the Board tabled this matter to allow Dr. Phillips to correct her application and provide adequate supporting documentation regarding her past discipline.

Dr. Phillips read a statement into the record petitioning the Board to reissue her controlled substance registration specifically for practicing anesthesia.

The Board questioned Dr. Phillips regarding her past disciplinary history, her current license statuses with the Nevada and California Medical Boards.

After discussion, the Board expressed concern regarding Dr. Phillips past disciplinary history, issues disclosing her past disciplinary history and her pattern of behavior and attitude regarding her discipline.

Board Action:

Motion: Jade Jacobo moved to deny Maryanne Phillips' Application for Controlled Substance Registration.

Second: Wayne Mitchel

Aye: Freitas, Jacobo, Mitchell, Park, Tomasso

Nay: Tejero

Action: Motion carries

13. Application for Pharmacist Registration by Examination – Appearance:

James R. Dexter

James Dexter appeared and was sworn by President Park prior to answering questions or offering testimony.

Mr. Wuest stated that Mr. Dexter disclosed multiple DUI charges on his application.

The Board questioned Mr. Dexter regarding DUI charges, treatment and recovery and education and work history.

Mr. Dexter described to the Board his treatment schedule and stated that he should have sought out treatment much sooner.

Mr. Dexter presented a Letter of Recommendation to the Board.

Mr. Dexter answered questions to the Board's satisfaction.

Board Action:

Motion: Jade Jacobo moved to approve James Dexter's Application for Pharmacist Registration by Examination with conditions. Mr. Dexter shall enroll into a three year contract with PRN-PRN. Mr. Dexter must pass all random drug screens, he shall disclose all past issues to all employers and must submit a quarterly report to the Board. Mr. Dexter shall not be a managing pharmacist and shall not work more than 40 hours per week or 80 hours per pay period. Mr. Dexter shall reappear before the Board if he requests to have any of the conditions removed from his license before three years. After three years the conditions will be automatically lifted.

Second: Gener Tejero

Action: Passed unanimously

14. Requests for Pharmacist Applicant to Retake the NAPLEX Exam - Appearance:

Jimmy Nguyen

Jimmy Nguyen appeared and was sworn by President Park prior to answering questions or offering testimony.

Helen Park disclosed that Mr. Nguyen was a former student, but stated that they could participate in this matter fairly and without bias.

Gener Tejero and Krystal Freitas disclosed that Mr. Nguyen was a pharmacy intern who did a rotation at their pharmacies, but stated that they could participate in this matter fairly and without bias.

Mr. Wuest stated that Mr. Nguyen has attempted and failed the NAPLEX Exam five times and is appearing to request the Board's permission for a sixth attempt.

Mr. Nguyen answered questions to the Board's satisfaction regarding his past study habits and test taking strategies.

Board discussion, ensued regarding allowing Mr. Nguyen one attempt to pass the NAPLEX Exam.

Board Action:

Motion: Jade Jacobo moved to approve Jimmy Nguyen's Request for Pharmacist Applicant to Retake the NAPLEX Exam for one attempt within six months. If Mr. Nguyen fails the exam he shall appear before the Board to request any additional attempts.

Second: Krystal Freitas

Action: Passed unanimously

15. Applications for Pharmacist Renewal - Appearance:

A. Carl Black

Jade Jacobo disclosed that Mr. Black and her work at the same company, but stated that she could participate in this matter fairly and without bias.

Carl Black appeared and was sworn by President Park prior to answering questions or offering testimony.

Mr. Wuest stated that Mr. Black disclosed past discipline in another state on his renewal application.

Mr. Black explained that he failed to disclose a prior DUI charge on his application with the Oregon State Board of Pharmacy. He stated that he did not contest this issue in Oregon and has complied with all requirements regarding this issue. Mr. Black explained that this matter was then reported to the 19 other states he is licensed in.

Mr. Black answered questions to the Board's satisfaction regarding his past discipline, work history and employment status.

After discussion, Mr. Black agreed to provide Board Staff with the original complaint from Oregon for review.

Board Action:

Motion: Gener Tejero moved to approve Carl Black's Renewal Application for Pharmacist License pending receipt and review of the complaint documentation.

Second: Jade Jacobo

Action: Passed unanimously

B. J. Patrick Kim

Patrick Kim appeared and was sworn by President Park prior to answering questions or offering testimony.

Mr. Wuest stated that Mr. Kim disclosed a misdemeanor domestic battery charge on his renewal application.

Mr. Kim answered questions to the Board's satisfaction.

Mr. Kim presented to the Board his Court Order and documentation that he has complied with his Order.

Board Action:

Motion: Jade Jacobo moved to approve Patrick Kim's Renewal Application for Pharmacist Registration.

Second: Wayne Mitchell

Action: Passed unanimously

C. Nayan K. Patel

Nayan Patel appeared and was sworn by President Park prior to answering questions or offering testimony.

Mr. Wuest explained that Mr. Patel disclosed past discipline on his pharmacist renewal application.

Mr. Patel described for the Board two cases. The first, Mr. Patel was the pharmacist-in-charge at Central Drugs Pharmacy and allowed an unlicensed individual to practice pharmacy. The second, Mr. Patel was the pharmacist-in-charge at Central Drugs Pharmacy and the pharmacy failed to perform testing for sterility and pyrogen for batch compounded drug products.

Mr. Patel answered questions to the Board's satisfaction regarding his past discipline, and the changes he has made to his practice to correct these issues.

Board Action:

Motion: Jade Jacobo moved to approve Nayan Patel's Renewal Application for Pharmacist Registration.

Second: Wayne Mitchell

Action: Passed unanimously

16. Applications for Pharmaceutical Technician in Training - Appearance:

A. Michael A. Brand

Michael Brand was not present.

Board Action:

Motion: Jade Jacobo moved to deny Michael Brand's Application for Pharmaceutical Technician in Training Registration based on his absence from the meeting.

Second: Wayne Mitchell

Action: Passed unanimously

B. Justin R. Ross

Justin Ross appeared and was sworn by President Park prior to answering questions or offering testimony.

Mr. Ross disclosed on his application that he was charged with driving under the influence in September 2017.

Mr. Ross answered questions to the Board's satisfaction.

Board Action:

Motion: Jade Jacobo moved to approve Justin Ross' Application for Pharmaceutical Technician in Training Registration pending a positive evaluation by PRN-PRN or its equivalent.

Second: Wayne Mitchell

Action: Passed unanimously

17. Presentation regarding continuing medical education program "Best Practices and Tools for Prescribing Controlled Substances" presented by Melissa O'Brien and Paul Snyder from UNR

Paul Snyder and Melissa O'Brien appeared and discussed a continuing education program regarding prescribing controlled substances and practitioners dealing with stress in the workplace.

Board discussion ensued regarding providing a similar course for pharmacists and possible reformation of the Continuing Education Committee.

After discussion, the Board directed Board Staff to bring this matter back in the January 2020 meeting.

18. Request to Engage in the Practice of Pharmacy at a Site Other Than a Licensed Pharmacy – Appearance

KayLynn Bowman, R.Ph

KayLynn Bowman appeared and was sworn by President Park prior to answering questions or offering testimony.

Ms. Bowman stated that she was requesting the Board's permission to provide Medication Therapy Management services to patients as part of Dignity Health, Quality Technical and Assistance Center initiative to incorporate pharmacists into patient-centered team-based care.

Ms. Bowman answered questions to the Board's satisfaction regarding her potential patients and services she plans to provide.

Board Action:

Motion: Wayne Mitchell moved to approve KayLynn Bowman's request to engage in the practice of pharmacy at a site other than a licensed pharmacy.

Second: Jade Jacobo

Action: Passed unanimously

Public Comment December 4, 2019, 5:00 PM

There was no public comment.

19. General Counsel Report

General Counsel had nothing further to report.

20. Executive Secretary Report:

A. Financial Report

Mr. Wuest presented the financials to the Board's satisfaction.

B. Temporary Licenses

There was one temporary license issued since the last meeting.

C. Staff Activities

D. Report to Board

E. Board Related News

F. Licensing Activities Report

21. Notice of Proposed Regulation Workshop Pursuant to NRS 233B.061(2)

Amendment of Nevada Administrative Code (NAC) Chapter 639. The proposed amendment will add a new regulation for the Board to consider a petition for review of criminal history pursuant to AB 319.

Mr. Kandt provided background information.

Mr. Kandt explained that the proposed language would allow applicants to request the Board to review their past administrative and criminal history prior to submitting an application.

The Board discussed modifications to the proposed language to add a \$50 fee, add a 90 day limit for the Board to make a determination and require the person requesting to appear before the Board to answer questions.

President Park opened the Public Comment.

There was no public comment.

Board Action:

Motion: Jade Jacobo moved to bring back the proposed language to Workshop with changes as discussed.

Second: Wayne Mitchell

Action: Passed unanimously

22. Notice of Proposed Regulation Public Hearing Pursuant to NRS 233B.061(2)

A. Amendment of Nevada Administrative Code (NAC) 453.550: Schedule V. The proposed amendment will add FDA approved Brivaracetam to the controlled substances listed in Schedule V. (LCB File No. R149-16)

Ms. Long provided background information.

President Park opened the Public Comment.

There was no public comment.

Board Action:

Motion: Jade Jacobo moved to adopt R149-16.

Second: Wayne Mitchell

Action: Passed unanimously

B. Amendment of Nevada Administrative Code (NAC) 453.540: Schedule IV. The proposed amendment will add FDA approved Eluxadoline to the controlled substances listed in Schedule IV. (LCB File No. R150-16)

Ms. Long provided background information.

President Park opened the Public Comment.

There was no public comment.

Board Action:

Motion: Jade Jacobo moved to adopt R150-16.

Second: Wayne Mitchell

Action: Passed unanimously

C. Amendment of Nevada Administrative Code (NAC) 639: Dispensing Practitioner. The proposed amendment would permit dispensing practitioners employed by a Federally Qualified Health Center to dispense dangerous drugs for qualified patients at a certain site other than the Health Center. (LCB File No. R004-19)

Mr. Wuest provided background information.

President Park opened the Public Comment.

Todd Rich, Vice President Nevada Health Centers, appeared and expressed support of the proposed language.

Board discussion ensued regarding the storage and security of medications in the mobile units.

Board Action:

Motion: Jade Jacobo moved to adopt R004-19.

Second: Wayne Mitchell

Action: Passed unanimously

D. Amendment of Nevada Administrative Code (NAC) Chapter 639 to add a new section thereto and to amend NAC 453.190 regarding the payment of fees for initial registration, the biennial renewal of a registration, or any other fees charged by the Board. (LCB File No. R033-19)

Mr. Kandt provided background information.

President Park opened the Public Comment.

There was no public comment.

Board Action:

Motion: Jade Jacobo moved to adopt R033-19.

Second: Wayne Mitchell

Action: Passed unanimously

E. Amendment of Nevada Administrative Code (NAC) Chapter 453 to add new sections thereto and to amend NAC 453.070 and NAC 453.074 relating to access to the database of the program established pursuant to NRS 453.162 by pharmacy personnel, practitioners, delegates of practitioners, and hospitals. (LCB File No. R035-19)

Ms. Long read the proposed amendments into the record and provided background information.

President Park opened the Public Comment.

Liz MacMenamin, RAN, appeared and expressed support of the proposed amendments.

Mr. Wuest presented a letter from Mary Staples, NACDS, expressing support of the proposed amendments.

Board Action:

Motion: Jade Jacobo moved to adopt R035-19.

Second: Wayne Mitchell

Action: Passed unanimously

F. Amendment of Nevada Administrative Code (NAC) Chapter 639. Inactive Status

The proposed amendments will add a new regulation requiring that the Executive Secretary, upon notice that an occupational licensing board that licenses a practitioner has placed that license on inactive status, place any certificate of registration issued by the Board to that practitioner pursuant to NRS 453.226 on inactive status, providing for notice to the practitioner of placement on inactive status, providing for a process to petition for reinstatement of a registration to active status, and providing a process for a registrant to request a hearing before the Board to contest or appeal the placement of a registration on inactive status or the denial of a petition for reinstatement of the registration to active status. (LCB File No. R071-19)

Mr. Kandt provided background information.

President Park opened the Public Comment.

Liz MacMenamin, RAN, appeared and expressed support of the proposed amendments.

Ms. MacMenamin stated that she spoke with Mary Staples, NACDS, regarding this matter and Ms. MacMenamin explained that Ms. Staples expressed support of the proposed amendments.

Board Action:

Motion: Jade Jacobo moved to adopt R071-19.

Second: Wayne Mitchell

Action: Passed unanimously

G. Amendment of Nevada Administrative Code (NAC) 639.240 (Requirements for registration of pharmaceutical technicians), 639.242 (Registration of pharmaceutical technician in training) and 639.7425 (Registration of dispensing

technician). The proposed amendment will amend existing requirement regarding applicants with prior criminal convictions. (LCB File No. R072-19)

Mr. Kandt provided background information.

President Park opened the Public Comment.

There was no public comment.

Board Action:

Motion: Jade Jacobo moved to adopt R072-19.

Second: Wayne Mitchell

Action: Passed unanimously

H. Amendment of Nevada Administrative Code (NAC) 639. The proposed amendment will add a new regulation with requirements for forwarding of information between pharmacies: New prescriptions. (LCB File No. R008-19)

Mr. Wuest and Ms. Long provided background information.

President Park opened the Public Comment.

Liz MacMenamin, RAN, appeared and expressed support of the proposed language.

Board Action:

Motion: Jade Jacobo moved to adopt R008-19

Second: Wayne Mitchell

Action: Passed unanimously

I. Amendment of Nevada Administrative Code (NAC) Chapter 639. The proposed amendment will add a new regulation requiring the reporting of certain matters relating to discipline and practice without the appropriate license, certificate or permit to the National Practitioner Data Bank (LCB File No. R070-19)

Mr. Kandt provided background information.

President Park opened the Public Comment.

There was no public comment.

Board Action:

Motion: Jade Jacobo moved to adopt R070-19

Second: Wayne Mitchell

Action: Passed unanimously

23. Date and Location of Next Scheduled Board Meeting:

January 15-16, 2020 – Las Vegas, NV

24. Public Comment December 5, 2019 12:15 PM

There was no public comment.

October 31, 2019

Via E-Mail and FedEx

Mr. David Wuest, Executive Secretary
Nevada State Board of Pharmacy
985 Damonte Ranch Pkwy, Ste. 206
Reno, Nevada 89521

Re: Petition Requesting a Declaratory Order or Advisory Opinion

Dear Mr. Wuest:

The Nevada Association of Nurse Anesthetists (“Petitioner”), acting by and through Fennemore Craig, P.C., respectfully submits to the Nevada State Board of Pharmacy (the “Board of Pharmacy”) pursuant to Section 639.150 of the Nevada Administrative Code (“NAC”), this Petition for a Declaratory Order or an Advisory Opinion (the “Petition”). Specifically, Petitioner requests that the Board of Pharmacy make a determination, consistent with the current scope of practice, that a certified registered nurse anesthetist (“CRNA”) licensed by the Nevada State Board of Nursing (the “Board of Nursing”) need not obtain a license from the Board of Pharmacy and/or a registration from the Drug Enforcement Administration (“DEA”) to select and administer preanesthetic medications, intraoperative anesthesia and postanesthetic medications when such medications are ordered by the CRNA for surgical procedures from a DEA registered institutional pharmacy providing services for a Nevada licensed hospital or medical facility.

BACKGROUND

Petitioner is a professional organization for CRNAs in Nevada. CRNAs are professional registered nurses who have obtained, through additional education and successful completion of a national examination, certification as anesthesia nursing specialists.¹ This specialized education focuses on all aspects of clinical anesthesia practice, including pharmacology and pharmacotherapeutics. The Board of Nursing first adopted regulations establishing standards and authorizing functions that CRNAs may perform in 1986.² The Nevada State Legislature subsequently recognized CRNAs in 1987.³ Under Nevada law, CRNAs are authorized “to administer anesthetic agents to a person under the care of a licensed physician, a licensed dentist

¹ See NEV. REV. STAT. § 632.014(1).

² NEV. ADMIN. CODE § 632.500 to 632.550, inclusive.

³ S.B. 458, 64th Leg. (Nev. 1987) (adding definition of CRNAs to the NRS).

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or a licensed podiatric physician.”⁴ CRNAs practice in every setting in which anesthesia is delivered, including, but in no way limited to, traditional hospital surgical suites and obstetrical delivery rooms, critical access hospitals, ambulatory surgical centers and rural clinics.⁵ Historically, CRNAs have not been required to obtain a license from the Board of Pharmacy or DEA registration in order to select, order, and administer anesthetic agents to inpatients for preoperative, intraoperative, or postoperative use when the anesthetic agents are ordered by the CRNA solely from the institutional pharmacy. A Declaratory Order or an Advisory Opinion is necessary to confirm that this customary practice of CRNAs authorized by Nevada regulations does not constitute “prescribing” under Nevada law and to clarify that CRNAs do not need a license from the Board of Pharmacy or DEA registration so long as the CRNA performs services for patients in a Nevada licensed hospital or medical facility, and orders preanesthetic medications, intraoperative anesthesia and postanesthetic medications solely from the hospital’s or facility’s institutional pharmacy that is licensed by the State Board of Pharmacy and registered with the DEA. Such a Declaratory Order or Advisory Opinion would be consistent with Nevada statutes and regulations and would not change practices that have been acceptable in Nevada for over two decades.

LEGAL AUTHORITY

A person may petition the Board of Pharmacy for a declaratory order or advisory opinion as to the applicability of any statutory provision, regulation or decision of the Board of Pharmacy.⁶ The Board of Pharmacy is responsible for regulating the practice of pharmacy in Nevada, including the dispensing, prescribing and administration of drugs.⁷ Additionally, the Board of Pharmacy may “issue certificates, licenses and permits required” by Chapters 639, 453, or 454 of the Nevada Revised Statutes (“NRS”).⁸ The Board of Pharmacy, therefore, has discretion to determine which acts constitute the prescribing of drugs under Nevada law and which practitioners are required to obtain a license from the Board of Pharmacy and/or DEA registration under specific circumstances. For these reasons, the Board has authority under both the NRS and NAC to issue a declaratory opinion in response to this Petition.

⁴ NEV. REV. STAT. § 632.014(2).

⁵ CRNAs are often the exclusive anesthesia providers to a majority of rural Nevadans.

⁶ NEV. ADMIN. CODE § 639.150; NEV. REV. STAT. § 233B.120.

⁷ NEV. REV. STAT. § 639.070(1); *See also* NEV. REV. STAT. §§454.211 and 639.0065 (defining the term “dispense” to include prescribing and administering controlled substances and dangerous drugs).

⁸ NEV. REV. STAT. § 639.070(c).

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DISCUSSION

1. **The practice of CRNAs - selecting, ordering, and administering anesthetic agents preoperatively, intraoperatively, and postoperatively – does not constitute “prescribing” under Nevada law and is consistent with Nevada statutory law.**

CRNAs in Nevada are authorized to select, order, and administer anesthetic agents in preoperative, intraoperative, and postoperative settings.⁹ This regulatory authority does not contravene any applicable Nevada statutory authority. Neither the Nevada State Legislature nor the Board of Pharmacy has defined the term “order” in the context of administration of anesthetic agents. Rather, the focus of the current Nevada statutory and regulatory framework is who is authorized to possess, administer, prescribe or dispense controlled substances and dangerous drugs.

There is no dispute that a registered nurse, including a CRNA, may possess and administer a drug or medicine.¹⁰ Further, the furnishing of anesthetic agents by a pharmacy in a medical facility to an inpatient during the inpatient’s procedure, test, or treatment at a medical facility does not constitute “dispensing.”¹¹ The statutory definition of “dispense” in Chapter 454 and 639 does not include the furnishing of a dangerous drug or controlled substance by a hospital pharmacy for inpatients.¹² The Board of Pharmacy regulations further clarify that the term “dispense” refers to furnishing drugs in quantities greater than that necessary for the needs of the ultimate user.¹³ “The term does not include the furnishing of a controlled substance or dangerous drug by a pharmacy in a medical facility to an inpatient of the medical facility in which the pharmacy is located.”¹⁴

Similarly, the practice of CRNAs does not constitute “prescribing” under Nevada law because a “chart order” for an inpatient specifying drugs for inpatient use does not constitute “prescribing” drugs under Nevada law.¹⁵ The Nevada State Legislature defines “prescription” as follows:

NRS 639.013 “Prescription” defined.

1. “Prescription” means:
 - a. An order given individually for the person for whom prescribed, directly from the practitioner to a pharmacist or indirectly by means of an order

⁹ NEV. ADMIN. CODE § 632.500, attached hereto as **Exhibit 1**; *see also* NEV. REV. STAT. § 632.014.

¹⁰ NEV. REV. STAT. § 454.213(1)(c).

¹¹ NEV. ADMIN. CODE § 639.450.

¹² NEV. REV. STAT. §§ 639.0065(2) (regulating controlled substances) and 454.211(2) (regulating dangerous drugs).

¹³ NEV. ADMIN. CODE § 639.450.

¹⁴ *Id.*

¹⁵ NEV. REV. STAT. §§ 639.013(2) and 454.00961(2).

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- signed by the practitioner or by an electronic transmission from the practitioner to a pharmacist.
- b. A chart order written for an inpatient specifying drugs which the inpatient is to take home upon discharge.
2. The term does not include a chart order written for an inpatient for use while he or she is an inpatient.

NRS 454.00961 “Prescription” defined.

1. “Prescription” means:
 - a. An order given individually for the person for whom prescribed, directly from the practitioner, or the practitioner’s agent, to a pharmacist or indirectly by means of an order signed by the practitioner or an electronic transmission from the practitioner to a pharmacist.
 - b. A chart order written for an inpatient specifying drugs which he or she is to take home upon discharge.
2. “Prescription” does not include a chart order written for an inpatient for use while he or she is an inpatient.

The term “inpatient” is not defined in NRS Chapter 639 or 454. However, its usage throughout the pharmacy statutes and regulations suggests a broader connotation than that conferred by the Nevada State Board of Health.¹⁶ The pertinent distinction between “patient” and “inpatient” appears to be whether the order from practitioner to patient requires (1) the patient to fill the order at a pharmacy for the patient’s own use or (2) the practitioner to fill the order at an institutional pharmacy for the practitioner to administer to patient at a medical facility. Whether the patient is technically an “inpatient” or “outpatient” at a hospital or medical facility is of little import to this analysis.

Indeed, an “institutional pharmacy” is defined as a pharmacy that is part of or is operated in conjunction with a medical facility as defined in NRS 449.0151.¹⁷ The definition of a “medical facility” includes:

1. A surgical center for ambulatory patients;
2. An obstetric center;

¹⁶ NEV. ADMIN. CODE § 449.289 defines “inpatient” as “a person who has been formally admitted into a hospital for diagnosis or treatment.” NEV. ADMIN. CODE § 449.297 defines “outpatient” as “a person who has been registered or accepted for care in a hospital but who has not been formally admitted as an inpatient, and who does not remain in the hospital for more than 48 hours. Even this distinction may relate more to reimbursement status rather than whether or not drugs are being dispensed since in both the case where a patient is admitted to the hospital and when a patient remains in a hospital for observation for 48 hours, drugs may be administered to the patients in the hospital pursuant to a chart order.

¹⁷ NEV. REV. STAT. § 639.0085.

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3. An independent center for emergency medical care;
4. An agency to provide nursing in the home;
5. A facility for intermediate care;
6. A facility for skilled nursing;
7. A facility for hospice care;
8. A hospital;
9. A psychiatric hospital;
10. A facility for the treatment of irreversible renal disease;
11. A rural clinic;
12. A nursing pool;
13. A facility for modified medical detoxification;
14. A facility for refractive surgery;
15. A mobile unit; and
16. A community triage center.¹⁸

The term “institutional pharmacy” further includes “[a] pharmacy on the premises of the medical facility which provides a system of distributing and supplying medication to the facility, whether or not operated by the facility” and “[a] pharmacy off the premises of the medical facility which provides services only to the patients of the facility and provides a system of distributing medication based upon chart orders from the medical facility.”¹⁹ The overall statutory framework clearly contemplates a system of distributing medication to medical facilities so medical facilities can administer medication to their patients. To adopt a limiting definition of the term “inpatient” would lead to an absurd result given the breadth of medical procedures, tests and treatments that do not require a patient’s formal admission to a hospital or medical facility.

Importantly, the scope of practice for CRNAs is limited to “preoperative, intraoperative, and postoperative” settings.²⁰ As such, CRNAs are only authorized to select, order and administer anesthetic agents for patients during the patients’ procedure, test, or treatment at a licensed hospital or medical facility. The statutory definition of a “chart order” is an order entered on the chart of an inpatient in a hospital or medical facility licensed by the Division of Public and Behavioral Health of the Department of Health and Human Services.²¹ Given the limited scope of CRNAs practice and the distinction between a “prescription” and “chart order” under Nevada law, the “ordering” authorized to be performed by CRNAs is synonymous to a chart order and is clearly not a prescription.

The current statutory and regulatory framework does not define who is permitted to make a chart order. Although CRNAs are not expressly included in the statutory definition of a

¹⁸ NEV. REV. STAT. § 449.0151.

¹⁹ NEV. REV. STAT. § 454.00905(1) and (2).

²⁰ NEV. ADMIN. CODE § 632.500.

²¹ NEV. REV. STAT. § 639.004 and NEV. ADMIN. CODE § 639.442.

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“practitioner,” the hospital or institutional pharmacies from which CRNAs “order” anesthetic agents are included in the statutory definition of a “practitioner” to the extent they are licensed or registered to distribute, dispense or administer drugs.²² The logical rationale for including hospitals and institutional pharmacies as “practitioners” in this context would mean that it is unnecessary for a CRNA to obtain a license from the Board of Pharmacy or DEA registration when ordering anesthetic agents from a licensed and DEA registered hospital or institutional pharmacy for the CRNA to administer to the patient at the hospital or medical facility. Moreover, it is unnecessarily duplicative and does not address any State or Federal policy goals to have CRNAs obtain such a license from the Board of Pharmacy or DEA registration under these circumstances, since CRNAs are performing services solely for patients within the hospital or medical facility.

2. The practice of CRNAs does not constitute “prescribing” under Federal law.

The current statutory and regulatory framework under Federal law also suggests that the practice of CRNAs does not constitute “prescribing.” “Prescription means an order for medication which is dispensed to or for an ultimate user but does not include an order for medication which is dispensed for immediate administration to the ultimate user (e.g., an order to dispense a drug to a bed patient for immediate administration in a hospital is not a prescription).”²³ Further, the DEA has promulgated clear exceptions to the requirement of DEA registration for individual practitioners administering, dispensing or prescribing controlled substances under the registration of the hospital or institutional pharmacy.²⁴ 21 C.F.R. § 1301.22 provides, in pertinent part:

(c) An individual practitioner who is an agent or employee of a hospital or other institution may, when acting in the normal course of business or employment, administer, dispense, or prescribe controlled substances under the registration of the hospital or other institution which is registered in lieu of being registered him/herself, provided that:

- (1) Such dispensing, administering or prescribing is done in the usual course of his/her professional practice;
- (2) Such individual practitioner is authorized or permitted to do so by the jurisdiction in which he/she is practicing;
- (3) The hospital or other institution by whom he/she is employed has verified that the individual practitioner is so permitted to dispense, administer, or prescribe drugs within the jurisdiction;
- (4) Such individual practitioner is acting only within the scope of his/her employment in the hospital or institution;

²² NEV. REV. STAT. §§ 639.0125(2) and 454.00958(2).

²³ 21 C.F.R. § 1300.01.

²⁴ 21 C.F.R. § 1301.22.

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- (5) The hospital or other institution authorizes the individual practitioner to administer, dispense or prescribe under the hospital registration and designates a specific internal code number for each individual practitioner so authorized. The code number shall consist of numbers, letters, or a combination thereof and shall be a suffix to the institution's DEA registration number, preceded by a hyphen (e.g., APO123456-10 or APO123456-A12); and
- (6) A current list of internal codes and the corresponding individual practitioners is kept by the hospital or other institution and is made available at all times to other registrants and law enforcement agencies upon request for the purpose of verifying the authority of the prescribing individual practitioner.

This regulation suggests that practitioners in institutional settings who issue orders for medications for direct administration to a patient, such as CRNAs in their normal scope of practice, are not prescribing within the meaning of 21 C.F.R. § 1300.01, and would be exempt from registration. Federal policy concerns have to do with controls and procedures against theft of controlled substances. Accordingly, the DEA distinguishes institutional settings where CRNAs issuing orders for anesthetic agents for direct administration to patients are subject to the controls or procedures of the DEA registrant, such as a hospital or institutional pharmacy, from situations outside institutional settings or where CRNAs dispense and administer their own drugs. Thus, if a CRNA does not “prescribe” and if the CRNA is an agent or employee of a DEA registrant, it follows that the CRNA does not have to register with the DEA.

CONCLUSION

The practice of CRNAs issuing orders for anesthetic agents from hospital or institutional pharmacies for direct administration to patients does not constitute “prescribing” pursuant to the definition of “prescription” in NRS 639.013 and NRS 454.00961 or 21 C.F.R. § 1300.01. Given the limited scope of CRNAs practice and the distinction between a “prescription” and “chart order” under Nevada law, the “ordering” performed by CRNAs is synonymous to a chart order and is clearly not a prescription. For these reasons, we respectfully request a declaratory order or advisory opinion concluding that a CRNA licensed by the State Board of Nursing is not required to obtain a license from the Board of Pharmacy and/or DEA registration to order anesthetic agents from an institutional pharmacy located at a Nevada licensed hospital or medical facility for patient services at the hospital or medical facility.

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Thank you for your time and consideration. Please do not hesitate to contact our office should you have any questions and/or comments.

Sincerely,

FENNEMORE CRAIG, P.C.



Lynn S. Fulstone

LFUL/cada

Cc: Robert Erickson, CRNA, President
Nevada Association Nurse Anesthetists

Paul Edwards, General Counsel
Nevada State Board of Pharmacy

EXHIBIT 1

Nevada Administrative Code § 632.500. Authorized functions. (NRS 632.120)

1. A certified registered nurse anesthetist may, in addition to those functions authorized for the registered nurse, perform the following acts, when it has been determined by a patient's physician, dentist or podiatric physician that an anesthetic is necessary for a procedure, test or other treatment, in accordance with the applicable policies and procedures regarding the administration of anesthetics:

- (a) Obtain a history of the patient's health, as appropriate to the anticipated procedure, test or treatment;
- (b) Assess the client's condition, as appropriate to the anticipated procedure, test or treatment;
- (c) Recommend, request and order pertinent diagnostic studies and evaluate the results of those studies;
- (d) Prepare a written preanesthetic evaluation of the patient and obtain the patient's informed consent for the anesthesia;
- (e) Select, order and administer preanesthetic medication;
- (f) Order, prepare and use any equipment and supplies necessary for the administration of anesthesia and perform or order any necessary safety checks on the equipment;
- (g) Order and prepare any drugs used for the administration of anesthesia;
- (h) Select and order anesthesia techniques, agents and adjunctive drugs;
- (i) Perform and manage general, regional and local anesthesia and techniques of hypnosis;
- (j) Perform tracheal intubation and extubation and provide mechanical ventilation;
- (k) Provide perianesthetic invasive and noninvasive monitoring, as appropriate, and respond to any abnormal findings with corrective action;
- (l) Manage the patient's fluid, blood and balance of electrolytes and acid base;
- (m) Recognize abnormal response by a patient during anesthesia, select and take corrective action;
- (n) Identify and manage any related medical emergency requiring such techniques as cardiopulmonary resuscitation, airway maintenance, ventilation, tracheal intubation, pharmacological cardiovascular support and fluid resuscitation;
- (o) Evaluate the patient's response during emergence from anesthesia and institute pharmacological or supportive treatment to ensure adequate recovery from anesthesia;
- (p) Provide care consistent with the principles of infection control and anesthesia safety to prevent the spread of disease and prevent harm to the anesthetized patient and others in the anesthetizing environment;

- (q) Select, order and administer postanesthetic medication;
- (r) Report to the person providing postanesthetic care the patient's physical and psychological condition, perioperative course and any anticipated problems;
- (s) Initiate, order and administer respiratory support to ensure adequate ventilation and oxygenation in the immediate postanesthetic period;
- (t) Release the patient from the postanesthetic care unit or discharge the patient from the ambulatory surgical setting;
- (u) Include in a timely manner as a part of the patient's medical records a thorough report on all aspects of the patient's anesthesia care; and
- (v) Assess the patient's postanesthetic condition, evaluate the patient's response to anesthesia and take corrective action.

2. In addition, the nurse anesthetist may accept additional responsibilities which are appropriate to the practice setting and within his or her expertise. Such responsibilities may include, but are not limited to, the selection and administration of drugs and techniques for the control of pain in the preoperative, intraoperative and postoperative setting.



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Certified Registered Nurse Anesthetists Fact Sheet

History: Nurse anesthetists have been providing anesthesia care to patients in the United States for more than 150 years. The CRNA (Certified Registered Nurse Anesthetist) credential came into existence in 1956. The title "nurse anesthesiologist," which is synonymous with the title "nurse anesthetist," is used by some CRNAs.

Prolific Providers: CRNAs are anesthesia professionals who safely administer *more than 49 million anesthetics* to patients each year in the United States, according to the American Association of Nurse Anesthetists (AANA) 2019 Member Profile Survey.

Rural America: CRNAs are the primary providers of anesthesia care in rural America, enabling healthcare facilities in these medically underserved areas to offer obstetrical, surgical, pain management and trauma stabilization services.

Anesthesia Safety: According to a 1999 report from the Institute of Medicine, anesthesia care is nearly 50 times safer than it was in the early 1980s. Numerous outcomes studies have demonstrated that there is no difference in the quality of care provided by CRNAs and their physician counterparts.

Practice of Nursing: CRNAs provide anesthesia in collaboration with surgeons, dentists, podiatrists, anesthesiologists, and other qualified healthcare professionals. When anesthesia is administered by a nurse anesthetist, it is recognized as the practice of nursing; when administered by a physician anesthesiologist, it is recognized as the practice of medicine. Regardless of whether their educational background is in nursing or medicine, all anesthesia professionals give anesthesia the same way.

Autonomy and Responsibility: As advanced practice registered nurses, CRNAs practice with a high degree of autonomy and professional respect. They carry a heavy load of responsibility and are compensated accordingly.*

Practice Settings: CRNAs practice in every setting in which anesthesia is delivered: traditional hospital surgical suites and obstetrical delivery rooms; critical access hospitals; ambulatory surgical centers; the offices of dentists, podiatrists, ophthalmologists, plastic surgeons, and pain management specialists; and U.S. military, Public Health Services, and Department of Veterans Affairs healthcare facilities.

Military Presence: Nurses first provided anesthesia on the battlefields of the American Civil War. During WWI, nurse anesthetists became the predominant providers of anesthesia care to wounded soldiers on the front lines; today, CRNAs continue to be the primary providers of anesthesia care to U.S. military personnel on front lines, navy ships, and aircraft evacuation teams around the globe.

Cost-Efficiency: Managed care plans recognize CRNAs for providing high-quality anesthesia care with reduced expense to patients and insurance companies. *The cost-efficiency of CRNAs helps control escalating healthcare costs.*

Supervision Opt-Out: In 2001, the Centers for Medicare & Medicaid Services (CMS) changed the federal physician supervision rule for nurse anesthetists to allow state governors to opt out of this facility reimbursement requirement (which applies to hospitals and ambulatory surgical centers) by meeting three criteria: 1) consult the state boards of medicine and nursing about issues related to access to and the quality of anesthesia services in the state, 2) determine that opting out is consistent with state law, and 3) determine that opting out is in the best interests of the state's citizens. To date, 17 states have opted out of the federal physician supervision requirement, including: Iowa, Nebraska, Idaho, Minnesota, New Hampshire, New Mexico, Kansas, North Dakota, Washington, Alaska, Oregon, Montana, South Dakota, Wisconsin, California,



Colorado, and Kentucky. Additional states do not have supervision requirements in state law and are eligible to opt out should the governors elect to do so.

Malpractice Premiums: On a nationwide basis, the average 2018 malpractice liability insurance premium for self-employed CRNAs was 33 percent less than it was in 1988. When trended for inflation through 2018, the reduction in premiums was even greater at 68 percent.

Direct Reimbursement: Legislation passed by Congress in 1986 made nurse anesthetists the first nursing specialty to be accorded direct reimbursement rights under the Medicare program.

AANA Membership: Nearly 54,000 of the nation's nurse anesthetists (including CRNAs and student registered nurse anesthetists) are members of the AANA (or nearly 90 percent of all U.S. nurse anesthetists). More than 40 percent of nurse anesthetists are men, compared with less than 10 percent of nursing as a whole.

Education Requirements: The minimum education and experience required to become a CRNA include**:

- A baccalaureate or graduate degree in nursing or other appropriate major.
- An unencumbered license as a registered professional nurse and/or APRN in the United States or its territories and protectorates.
- A minimum of one-year full-time work experience, or its part-time equivalent, as a registered nurse in a critical care setting within the United States, its territories, or a U.S. military hospital outside of the United States. The average experience of RNs entering nurse anesthesia educational programs is 2.9 years.
- Graduation with a minimum of a master's degree from a nurse anesthesia educational program accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs. As of August 2019, there were 121 accredited nurse anesthesia programs in the United States and Puerto Rico utilizing 1,870 active clinical sites; 91 nurse anesthesia programs are approved to award doctoral degrees for entry into practice.***
- Nurse anesthesia programs range from 24-51 months, depending on university requirements. Programs include clinical settings and experiences. Graduates of nurse anesthesia educational programs have an average of 9,369 hours of clinical experience.
- Some CRNAs pursue a fellowship in a specialized area of anesthesiology such as chronic pain management following attainment of their degree in nurse anesthesia.

Certification: Before they can become CRNAs, graduates of nurse anesthesia educational programs must pass the National Certification Examination.

CPC Program, formerly Recertification: In 2016, the National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA) launched the Continued Professional Certification (CPC) Program, which replaced the former recertification program. The CPC Program focuses on lifelong learning and is based on eight-year periods comprised of two four-year cycles. Each four-year cycle has a set of components that include 60 Class A credits (assessed continuing education), 40 Class B credits (professional activities), four Core Modules (current literature and evidence-based knowledge; voluntary during the first four-year cycle, required beginning in 2020), a 2-year Check-in at the midpoint of each four-year cycle, and a performance standard assessment (no pass/fail) every eight years.

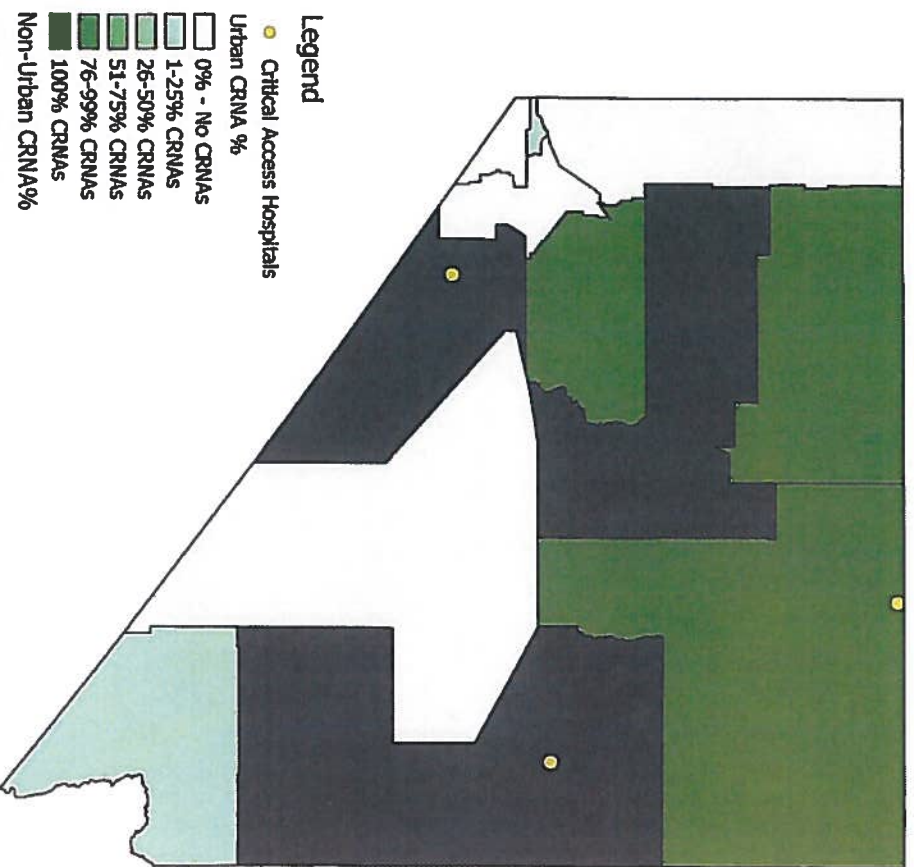
*For information about CRNA compensation, please contact the AANA Public Relations Department at 847-655-1143.

**Nurse anesthesia educational programs have admission requirements in addition to the above minimums. A complete list of programs and information about each of them can be found at <https://www.coacrna.org/accredited-programs/Pages/CRNA-School-Search.aspx>

*** Beginning Jan. 1, 2022, all students matriculating into an accredited program must be enrolled in a doctoral program.

Most recently updated: August 8, 2019

Nevada Urban Areas (Metropolitan and Micropolitan) CRNAs as a % of Anesthesia Providers per CBSA



Core-Based Statistical Area CBSA	MIDAS	CRNAs	CRNAs	% CRNAs
Carson City, NV	8	1	11	
Elko, NV	0	5	100	
Fallon, NV	0	5	100	
Fernley, NV	0	0	0	
Gardnerville Ranchos, NV	19	0	0	
Las Vegas-Henderson-Paradise, NV	270	58	18	
Pahrump, NV	0	0	0	
Reno, NV	86	0	0	
Winnemucca, NV	0	1	100	
Non-Urban Areas	0	2	100	

Data Source: 2018 Physician Compare
 Urban areas are represented as Core-Based-Statistical Areas (CBSAs), which are clusters of counties with > 50,000 aggregate population (Metropolitan) or counties with a city > 10,000 (Micropolitan). Grey areas indicate non-urban counties or counties not represented in either a metropolitan or micropolitan area. Providers with multiple practice locations among multiple CBSAs were only counted once per CBSA or non-urban area.



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