

May 24, 2006

AGENDA

◆ PUBLIC NOTICE ◆

NEVADA STATE BOARD OF PHARMACY

BOARD MEETING

at the

Meadow Wood Courtyard
5851 S Virginia Street
Reno, Nevada

Thursday, June 8th, 2006 – 9:00 am

Please Note: 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.

Public comment is welcomed by the Board, but will be heard only when that item on the agenda is reached and will be limited to five minutes per person. The president may allow additional time to a given speaker as time allows and in his sole discretion.

◆ 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.

June 2006 Board Meeting Agenda

- * 1. Approval of April 19 & 20, 2006, Minutes
- * 2. Applications for Out-of-State MDEG – Non Appearance:
 - A. Apria Healthcare, Inc. – Sacramento, CA
 - B. MHS Diabetes Direct LLC – Nashville, TN
 - C. Peak Sleep – Bakersfield, CA
 - D. Smith & Nephew, Inc. – Memphis, TN

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

- E. Apria Healthcare, Inc. – Phoenix, AZ
- F. Humana Pharmacy, Inc. – Phoenix, AZ
- G. Kohll's/RxMP55 – Omaha, NE
- H. Medicine Shoppe – Winter Park, FL
- I. PETNET Pharmaceuticals, Inc. – Palo Alto, CA

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

- J. Blood Diagnostics, Inc. – Temecula, CA
- K. Boehringer Ingelheim Roxane, Inc. – Columbus, OH
- L. Encysive Pharmaceuticals, Inc. – Houston, TX
- M. Genentech, Inc. – Louisville, KY
- N. PDL BioPharma, Inc. – Laverne, TN

Applications for Nevada MDEG – Non Appearance:

- O. Century Medical – Las Vegas
- P. CMS Medical, Inc. – Henderson
- Q. DynaMed Inc. – Reno
- R. Foot Solutions – Reno
- S. Lilly's Medical Supply – Henderson
- T. Northern Nevada Medical Supply, LLC – Reno
- U. Preferred Homecare – Pahrump

Applications for Nevada Pharmacy – Non Appearance:

- V. St Rose Dominican Hospital – San Martin Campus – Las Vegas
- W. Wal-Mart Pharmacy #10-3355 – Las Vegas
- X. Wal-Mart Pharmacy #10-3788 – Las Vegas

June 2006 Board Meeting Agenda

Applications for Nevada Pharmacy – Ownership and/or Name Change – Non Appearance:

- Y. CVS/pharmacy #8778 – North Las Vegas
- Z. CVS/pharmacy #8779 – Carson City
- AA. CVS/pharmacy #8780 – Las Vegas
- BB. CVS/pharmacy #8782 – Las Vegas
- CC. CVS/pharmacy #8783 – Las Vegas
- DD. CVS/pharmacy #8784 – Las Vegas
- EE. CVS/pharmacy #8785 – Las Vegas
- FF. CVS/pharmacy #8786 – Las Vegas
- GG. CVS/pharmacy #8787 – Henderson
- HH. CVS/pharmacy #8788 – Las Vegas
- II. CVS/pharmacy #8789 – Pahrump
- JJ. CVS/pharmacy #8790 – Las Vegas
- KK. CVS/pharmacy #8791 – Las Vegas
- LL. CVS/pharmacy #8792 – Sparks
- MM. CVS/pharmacy #8793 – Reno
- NN. CVS/pharmacy #8794 – Las Vegas
- OO. CVS/pharmacy #8795 – Henderson
- PP. CVS/pharmacy #8796 – Las Vegas
- QQ. CVS/pharmacy #8798 – Las Vegas
- RR. CVS/pharmacy #8799 – Las Vegas
- SS. CVS/pharmacy #8800 – Las Vegas
- TT. CVS/pharmacy #8801 – Elko
- UU. CVS/pharmacy #8803 – Las Vegas
- VV. CVS/pharmacy #8804 – Las Vegas
- WW. CVS/pharmacy #8805 – Las Vegas
- XX. CVS/pharmacy #8806 – Reno
- YY. CVS/pharmacy #8807 – Las Vegas
- ZZ. CVS/pharmacy #8808 – North Las Vegas
- AAA. CVS/pharmacy #8809 – Las Vegas
- BBB. CVS/pharmacy #8810 – Las Vegas
- CCC. CVS/pharmacy #8811 – Las Vegas
- DDD. CVS/pharmacy #8812 – Las Vegas
- EEE. CVS/pharmacy #8813 – Boulder City
- FFF. CVS/pharmacy #8814 – Las Vegas
- GGG. CVS/pharmacy #8815 – Las Vegas
- HHH. CVS/pharmacy #8817 – Las Vegas
- III. CVS/pharmacy #8819 – Las Vegas
- JJJ. CVS/pharmacy #8821 – Las Vegas
- KKK. CVS/pharmacy #8822 – Henderson
- LLL. CVS/pharmacy #8823 – Las Vegas
- MMM. CVS/pharmacy #8824 – Las Vegas
- NNN. CVS/pharmacy #8827 – Las Vegas
- OOO. Decatur Drug – Las Vegas

June 2006 Board Meeting Agenda

◆ REGULAR AGENDA ◆

- * 3. Applications for Out-of-State Pharmacy – Appearance:
 - A. College Pharmacy – Colorado Springs, CO
 - B. Palm Beach Pharmaceuticals, Inc. – Palm Beach Gardens, FL

- * 4. Applications for Nevada MDEG – Appearance:
 - A. Desert Industrial Gas – North Las Vegas
 - B. Diabetes Health Centers, Inc. – Las Vegas
 - C. Paradise Liquid – Henderson

- * 5. Applications for Canadian Pharmacy – Non Appearance:
 - A. Minit Drugs – Calgary, Alberta
 - B. R.F. Drug Store – Winnipeg, Manitoba

- * 6. Request for Pharmacist License – Reciprocity – Appearance:

Stephen L. Wu

- * 7. Disciplinary Action: 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.

Charles Sass, R.Ph (06-009-RPH-N)

- * 8. Appearance Requests:
 - A. Kent Worswick – Modification of Order
 - B. David Merrill – Dutchess Settlement Agreement
 - C. Ian Buxton and John Q. Adams
University of Nevada School of Pharmacy Funding

- * 9. General Counsel Report

- *10. Executive Secretary Report:
 - A. Financial Report
 - B. Investment Report
 - C. Pending Policy Questions

- *11. Election of Officers

June 2006 Board Meeting Agenda

*12. Personnel Review – 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.

- A. Personnel Salary Approval
- B. Executive Secretary Evaluation

*13. Discussion and Determinations:

- A. Workload Balance
- B. Fingerprinting
- C. VAWD Requirement for Wholesalers

14. Next Board Meeting:

July 19 & 20, 2006 – Las Vegas, Nevada

15. Public Comments and Discussion of and Deliberation Upon Those Comments

Note: No vote may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken. (NRS 241.020)

* Board action may be taken on these items.

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, 555 Double Eagle Court, Suite 1100, Reno, Nevada 89521, or call Jeri Walter at (775) 850-1440, as soon as possible.

Anyone desiring additional information regarding the meeting is invited to call the board office at (775) 850-1440.

Mailing a copy of the Nevada State Board of Pharmacy meeting agenda to any person who has requested it will not continue unless a request for reinstatement on the mailing list is made in writing every six months. Accredited Continuing Education credit of 1 hour will be given per day of Board meeting attendance of a minimum of 4 hours. A pharmacist can receive Nevada Law Credit for attending the board meeting for a minimum of 4 hours.

This notice has been posted at the following locations:

Elko County Courthouse – Elko
Mineral County Courthouse – Hawthorne
Washoe County Courthouse – Reno
Nevada State Board of Pharmacy – Reno and Las Vegas

BOARD MEETING

Meadow Wood Courtyard
5851 S Virginia Street
Reno, Nevada

Thursday, June 8th, 2006

The meeting was called to order at 9:00 a.m. by Joe Kellogg, Board President.

Board Members Present:

Dave Wuest
Leo Basch
Ray Seidlinger

Keith Macdonald
Katie Craven

Joe Kellogg
Ann Peterson

Board Members Absent:

Board Staff Present:

Larry Pinson

Jeri Walter

Louis Ling

Keith Marcher

CONSENT AGENDA

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- OOO. Decatur Drug – Las Vegas

Discussion:

The consent agenda applications and supporting documents were reviewed.

Joe Kellogg and Keith Macdonald recused from participation in the vote on Items 2W and 2X as they are both employed by Wal-Mart.

Ray Seidlinger recused from participation in the vote on Items 2Y through 2NNN as he was formerly employed by Albertson's/Sav-On.

Request was made to pull Item 2I, Petnet Pharmaceuticals and Item 2L Encysive Pharmaceuticals for discussion.

Board Action:

Motion: Dave Wuest read the information related to the consent items and found the information to be accurate and complete and moved for approval of items 1 and 2 with the exception of Items 2W, X Y, NNN, I and L.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Dave Wuest moved to approve Items 2W and X.

Second: Leo Basch

Action: Passed Unanimously

Motion: Dave Wuest moved to approve Items 2Y through NNN.

Second: Keith Macdonald

Action: Passed Unanimously

Katie Craven asked Board staff what Petnet was shipping into Nevada that was radioactive. Board staff had no immediate answer and it was determined to hold this application until the answer was determined.

Board Action:

Motion: Katie Craven moved to table until the next Board meeting.

Second: Ray Seidlinger

Action: Passed Unanimously

Katie Craven asked why Encysive Pharmaceuticals needed a license since they noted on their application that they would not be manufacturing or distributing drugs from their site.

Board Action:

Motion: Katie Craven moved to table the application for Encysive until the next Board meeting.

Second: Leo Basch

Action: Passed Unanimously

REGULAR AGENDA

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

A. College Pharmacy – Colorado Springs, CO

Sandy Estridge appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

The Board questioned Ms. Estridge about the discipline College Pharmacy had in Colorado and she indicated there were two instances that she was not familiar with but she thought it had something to do with record keeping and a pharmacist that was filling prescriptions for a doctor without being patient specific.

Katie Craven asked Ms. Estridge specific questions regarding the operation of College Pharmacy and what they would be shipping into Nevada. Ms. Estridge stated that they ship nutritional products on ice via FedEx for over night delivery. Ms. Estridge indicated that they had no in-state emergency contact or 800 number for patients to call if they needed help.

Board Action:

Motion: Keith Macdonald moved to deny the application for out-of-state pharmacy for College Pharmacy.

Second: Katie Craven

Action: Passed Unanimously

B. Palm Beach Pharmaceuticals, Inc. – Palm Beach Gardens, FL

Board Action:

Motion: Katie Craven moved to deny the application for out-of-state pharmacy for Palm Beach Pharmaceuticals, Inc. because they did not appear.

Second: Keith Macdonald

Action: Passed Unanimously

4. Applications for Nevada MDEG – Appearance:

A. Desert Industrial Gas – North Las Vegas

Robert H. Craig and Robert C. Craig appeared and were sworn by President Kellogg prior to answering questions or offering testimony.

Louis Ling explained that Board staff was notified that doctors were complaining that they were receiving products that appeared to be below standard. The Board sent a fax broadcast to doctors and dentists to check their Medical Devices Equipment and Gas sources. Board staff found that Desert Industrial Gas had been shipping into Nevada without a MDEG license with our Board.

Messrs. Craig explained that they were unaware that they needed to be licensed by the Board of Pharmacy in order to ship into Nevada. They sell medical oxygen, nitrogen and nitrusoxide to casinos and dentists offices. They have been doing business for years and have a well established clientele in Nevada.

Board Action:

Motion: Keith Macdonald moved to approve the application for MDEG provider providing Messrs. Craig check with the Board office to ensure the doctors they are providing gasses to are legitimate.

Second: Ray Seidlinger

Action: Passed Unanimously

B. Diabetes Health Centers, Inc. – Las Vegas

Tom Shaffer appeared and was reminded he was still under oath from his last appearance.

At the last Board meeting Mr. Shaffer was asked to provide Board staff with a packet of information to ensure he had a relationship with a manufacturer, proof of certified personnel on pumps and training on diabetes care. Mr. Shaffer provided Board staff with the appropriate documentation and appeared to request licensure for Diabetes Health Centers, Inc.

Board Action:

Motion: Keith Macdonald moved to approve the application for an MDEG license for Diabetes Health Centers, Inc.

Second: Ann Peterson

Action: Passed Unanimously

C. Paradise Liquid – Henderson

Kimberly and Richard Spore appeared and were sworn by President Kellogg prior to answering questions or offering testimony.

Mr. and Mrs. Spore were noticed that they were practicing in Nevada without a MDEG license. They explained that they originally began their business in 1998 and they did not need a license at that time and that they were unaware that at some point after that they were required to license with the Board of Pharmacy. Mr. Spore explained that the only product they distribute to their dermatologist clients is liquid nitrogen. Mr. and Mrs. Spore described the process they follow for preparation of their product and distribution.

Board Action:

Motion: Keith Macdonald moved to approve the application for MDEG provider for Paradise Liquid.

Second: Dave Wuest

Action: Passed Unanimously

5. Applications for Canadian Pharmacy – Non Appearance:

A. Minit Drugs – Calgary, Alberta

B. R.F. Drug Store – Winnipeg, Manitoba

These pharmacy applications will not be approved until they are inspected. Joe Depczynski will go to Canada once a year, in August, and he will inspect any new applicants and will do the annual inspection of the pharmacies already approved.

Board Action:

Motion: Dave Wuest moved to table Minit Drugs for more information.

Second: Ann Peterson

Action: Passed Unanimously

Motion: Dave Wuest moved to approve R.F. Drug Store pending inspection.

Second: Ann Peterson

Action: Three Yes Votes, Two No Votes, President Kellogg Voted Yes - Motion Passed

6. Request for Pharmacist License – Reciprocity – Appearance:

Stephen L. Wu

Stephen Wu appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Louis Ling explained that Mr. Wu was before the Board because he answered the question regarding previous discipline in the negative on his application for reciprocity when in fact Mr. Wu was disciplined in California. Mr. Wu also failed to note that he was licensed in California on his application and only indicated Illinois and Massachusetts.

Mr. Wu explained that he had been practicing pharmacy for sixteen years. Mr. Wu was a fill-in pharmacist at the pharmacy where the incident occurred. He explained the discipline in California involved a pharmacy technician that filled a prescription. He checked the prescription but failed to check the NDC code. After he checked the prescription and went to restock the bottle he realized there may have been a problem. The patient was notified and the medication was not ingested. The patient had had previous incidents at this pharmacy and filed a complaint with the California Board of Pharmacy.

Mr. Wu testified that he was uncertain how to answer the question. He misinterpreted it and assured the Board he was not trying to hide anything. He had documents showing that he had advised NABP about the discipline in question. Mr. Wu knew his license was not reciprocal from California and did not include his licensure from there on his application to Nevada.

After serious discussion President Kellogg asked for a motion.

Board Action:

Motion: Keith Macdonald moved to approve the application for reciprocity.

Second: Dave Wuest

Action: Four Voted No, Two Voted Yes – Motion Failed

Motion: Ann Peterson moved to deny the application for reciprocity.

Second: Katie Craven

Mr. Wu provided the six page document from NABP showing that he had divulged the incident in California to them.

Action: Three Voted No, Three Voted Yes – President Kellogg Voted Against the Motion – Motion Failed

Motion: Dave Wuest moved to approve the application for reciprocity.

Second: Keith Macdonald

Action: Three Voted No, Three Voted Yes – President Kellogg Voted For the Motion – Motion Passed

7. Disciplinary Action:

Charles Sass, R.Ph

(06-009-RPH-N)

Charles Sass appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Louis Ling advised the Board that he spoke with Mr. Sass just prior to hearing and noted that Mr. Sass does not contest the charges but was confused as to how he was supposed to obtain his law CE.

Mr. Sass testified that he did 30 hours of continuing education that included two hours of national CE law. After he received a letter from Board staff and a Nevada law examination he called the Board office and asked how he could attain Nevada law CE. Board staff advised him that he could attend a live CE program or attend a Board meeting for four hours. Mr. Sass stated that he came to a Board meeting in March but only stayed for three hours and did not obtain his Nevada law CE. He was confused because he thought that would satisfy the problem and then he would not have to do the Nevada law examination that was sent to him.

Mr. Ling recommended that Mr. Sass be required to complete the Nevada law examination, be audited after the next renewal period and complete two hours of Nevada law CE for the next renewal period.

Board Action:

Motion: Keith Macdonald moved to find Mr. Sass guilty of the alleged violations.

Second: Dave Wuest

Action: Passed Unanimously

Motion: Keith Macdonald moved to accept Mr. Ling's recommendation and include that the Nevada law examination be completed and returned to Board staff for grading within 60 days.

Second: Dave Wuest

Action: Passed Unanimously

8. Appearance Requests:

A. Kent Worswick – Modification of Order

Ray Seidlinger disclosed that he had worked with Mr. Worswick in the past. Mr. Worswick had no issue with Mr. Seidlinger participating in the decision.

Mr. Worswick appeared and requested that his Order be modified to allow him to be the managing pharmacist at Spring Creek Pharmacy where he has been employed for approximately a year and a half.

Board Action:

Motion: Keith Macdonald moved to approve the modification of Mr. Worswick's Order providing Larry Espadero contacted Board staff to ensure Mr. Worswick is in good stead with the PRN-PRN program.

Second: Leo Basch

Action: Passed Unanimously

B. David Merrill – Dutchess Settlement Agreement

Mr. Merrill cancelled his appearance and will appear at a future Board meeting.

C. Ian Buxton and John Q. Adams
University of Nevada School of Pharmacy Funding

Mr. Buxton and Mr. Adams cancelled their appearance and will appear at a future Board meeting.

9. General Counsel Report

- Louis Ling reported that Tom Martino of our Optia/Nevada State Institutional Pharmacy case was convicted in Florida for the same thing he was doing in Nevada - using a closed door pharmacy to obtain drugs at a deeply discounted rate and reselling them through the secondary source wholesale market. Mr. Martino is currently serving 21 years six month prison sentence.
- Florida's electronic pedigree requirements have become effective however there is no way the manufacturing and wholesaling industry will be able to comply. Our meeting with the industry showed they are working on the technology but realistically they are still about ten years from having a reliable product.
- Mr. Ling advised the Board that he just returned from Philadelphia where he spoke to a group on the wholesaler issue. Manufacturers and physicians claimed to be totally unaware that there is a problem with counterfeit or adulterated drugs. Mr. Ling will speak again in Washington DC in August on the same topic. He noted that he just completed two written articles on the subject.
- On the law suit front, Mr. Ling advised the Board that all of the legal fees have been paid to John Bailey's firm for representing Keith Macdonald and himself.

Mr. Ling advised the Board that there was a new law on the books that allows legal counsel to go into closed session to speak with his client (the Board) and he asked for a motion.

Board Action:

Motion: Ann Peterson moved to go into closed session

Second: Katie Craven

Action: Passed Unanimously

Motion: Ann Peterson moved to go into open session

Second: Katie Craven

Action: Passed Unanimously

10. Executive Secretary Report:

- A. Financial Report
- B. Investment Report

Larry Pinson gave the financial and investment reports to the Board's satisfaction.

Leo Basch gave a Treasurer's report. He stated that he had reviewed the annual budget reports from 2003, 2004, 2005 and the projected 2006 figures. Expenses are

decreasing since the legal expenditures are concluding. Mr. Basch found that the Equipment category was over budget, however noted that review of prior budgets showed the expenditures for equipment was well under budget indicating that Board staff was focusing on keeping expenses in check while unknown legal debt was accumulating. Mr. Basch commended Board staff for employing the checks and balances necessary to ensure fiscal integrity.

Board Action:

Motion: Katie Craven moved to accept the treasurer's report.

Second: Ann Peterson

Action: Passed Unanimously

A. Pending Policy Questions

Mr. Pinson reported various activities.

- He attended a model drug law conference.
- He did a mini-internship where he followed doctors through their work for two days. Mr. Pinson said the process was very interesting and well worth the time spent.
- Mr. Pinson reported that all nine of our regs passed the Legislative Committee on May 4th.
- Mr. Pinson gave a talk to retired public employees in Carson City and they were very responsive.
- Joe Kellogg attended a Health Summit for Mr. Pinson as he was unable to attend due to another meeting.
- Mr. Pinson met with the Legislative Counsel Bureau auditor's. They were going to audit pharmacies in prisons and he was able to help them.
- Mr. Pinson attended a BADA meeting where they are exploring how to best utilize grant money for alcohol and drug abuse prevention.
- Mr. Pinson will be attending an ASPL meeting in Florida and speak on how an attorney should present his case to a Board. What works and what doesn't.
- The Pharmacy Technician Program Evaluation Committee has had one meeting and it was determined they would look into finding an accreditation program that would be the industry standard like APCE is for pharmacists.

- The Nevada Bowl of Hygia plaque is now located in the Reno Board office.
- Mr. Pinson noted that Leo Basch will be attending the Nevada Prepares for Disaster conference.]
- The new website is up and running. It is not as complete as it will be, but it is a much more complete website than we had. You can go to the website with a new logon of bop.nv.gov.
- There will be an MDEG meeting on July 10, 2006 at the Reno Board office.
- Mr. Pinson received three letters from NACDS, NABP and South Dakota all in opposition to the Canadian regs that passed on May 4th.

11. Election of Officers

The June meeting has been established, as policy, to elect officers. Since Board terms end or reappoint on October 31st it was determined election of officers at the June meeting would allow for a smooth transition. The new term will begin November 1st and will be reviewed biennially. There are no term limits.

There was an election for president as Joe Kellogg's term will end this October. Dave Wuest was elected president.

12. Personnel Review

A. Personnel Salary Approval

Mr. Pinson gave the Board his recommendation for salary increases. He commended Board staff for the jobs they do and their support during the transition after Keith Macdonald retired and he became the executive secretary.

Board Action:

Motion: Keith Macdonald moved to adopt the 2006 salary schedule recommended by Mr. Pinson.

Second: Dave Wuest

Action: Passed Unanimously

B. Executive Secretary Evaluation

The Board heartily agreed that they were pleased with Mr. Pinson's performance as the new executive secretary and commended him for a job well done.

13. Discussion and Determinations:

A. Workload Balance

At the last Board meeting, Walgreens did a presentation of their “workload balance” concept which would allow for prescriptions to be filled for a very busy store by a store that is less busy. To accommodate this concept some regulatory changes would need to be made. Mr. Pinson asked if the Board would consider making such changes. The Board directed staff to bring language to Workshop for further discussion.

B. Fingerprinting

Board staff asked for approval to add the costs of fingerprinting, which is now mandated by law, to the administrative fees of the hearing process. The Board directed staff to incorporate those costs.

C. VAWD Requirement for Wholesalers

Many states are requiring VAWD certification for wholesalers by NABP as part of their licensing requirements. Does the Board want to make VAWD certification mandatory?

Liz Macminamen, representing RAN, noted that her members had concerns if the Board mandated VAWD certification. She noted that the chains would not necessarily want to do that since they are already licensed as wholesalers and it proves to be a costly process. Ms. Macminamen noted that Nevada has already tightened the wholesaler laws and she and her members feel they are already abiding by those regulations and that should suffice.

After Board discussion it was determined to move forward with a regulation that possibly could allow a bond reduction for VAWD certified wholesalers. A discount could be given for the bond requirement if wholesalers were VAWD certified

14. Next Board Meeting:

July 19 & 20, 2006 – Las Vegas, Nevada

15. Public Comments and Discussion of and Deliberation Upon Those Comments

There were no public comments.