

November 27, 2006

AMENDED AGENDA

◆ PUBLIC NOTICE ◆

NEVADA STATE BOARD OF PHARMACY

BOARD MEETING

at the

Meadow Wood Courtyard
5851 S Virginia Street
Reno, Nevada

Wednesday, December 6th, 2006 – 9:00 am

Thursday, December 7th, 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.

Amended December 2006 Board Meeting Agenda

- * 1. Approval of October 25-26, 2006, Minutes
- * 2. Applications for Out-of-State MDEG – Non Appearance:
 - A. Prohealth Mobility – San Jose
 - B. Respiritech – St Paul, MN
 - C. ResMed Corp. – Poway, CA
 - D. Walnut Medical Equipment, Inc. – Pasadena, CA

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

- E. 4Care Pharmacy Services, LLC – Layton, UT
- F. Concept Pharmaceuticals LLC – Montgomery, AL
- G. Focus Home Medical, Inc. – Mustang, OK
- H. Healix Infusion Therapy, Inc. – Sugar Land, TX
- I. HNP Pharmaceuticals – Torrance, CA
- J. Kindred Pharmacy Services – Salt Lake City, UT
- K. PharMEDium Services, LLC – Sugar Land, TX

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

- L. Ballard Medical Products – Draper, UT
- M. Baxter Healthcare Corporation – Morrow, GA
- N. Baxter Healthcare Corporation – Waukegan, IL
- O. Baxter Healthcare Corporation – Grand Prairie, TX
- P. Baxter Healthcare Corporation – Fife, WA
- Q. Baxter Healthcare Corporation – Montgomery, NY
- R. Baxter Healthcare Corporation – Marion, NC
- S. Baxter Healthcare Corporation – Catano, Puerto Rico
- T. BD Distribution Center – Plainfield, IN
- U. BD Distribution Center – Redlands, CA
- V. Glenmark Pharmaceuticals Inc., USA – Mahwah, NJ
- W. Eastman Kodak Company – Rochester, NY
- X. Eastman Kodak Company – Whittier, CA
- Y. KVK – TECH, Inc. – Newtown, PA
- Z. MWI Veterinary Supply Co. – Meridian, ID
- AA. Q Logistics Inc. – Florham Park, NJ
- BB. Premier Wholesale LLC – Monroe, GA
- CC. Priority Solutions International – Memphis, TN
- DD. Teva Pharmaceuticals USA, Inc. – Charfont, PA

Application for Nevada Pharmacy – Ownership Change – Non Appearance:

- EE. St Mary's Regional Medical Center – Reno

Amended December 2006 Board Meeting Agenda

Applications for Nevada MDEG – Non Appearance:

- FF. AM Medical Equipment – Las Vegas
- GG. Electric Mobility Corporation – Las Vegas
- HH. Orbit Medical of Las Vegas, Inc. – Las Vegas
- II. Orthopedic Motion, Inc. – Henderson

Applications for Nevada Pharmacy – Non Appearance:

- JJ. Walgreens #09902 – Sparks
- KK. Wal-Mart Pharmacy #3350 – Las Vegas
- LL. Wellcare Pharmacy, LLC – Las Vegas

◆ REGULAR AGENDA ◆

* 3. Application for Nevada Pharmacy – Appearance:

Liberty Healthcare Pharmacy of Nevada LLC – Las Vegas

* 4. 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.

- A. Lawrence L. Benson (06-055-PT-N)
- B. Caitlyn M. Beaubriand (06-054-PT-N)
- C. Jonathan Corey Ray, R.Ph (06-053-RPH-N)

* 5. Request for Reinstatement of Pharmacists License – Appearance Required:

Roger Ly (04-045-RPH-S)

* 6. Request for Renewal of Pharmacists License – Appearance Required:

Movses-Hrair Karamanoukian

* 7. Appearances:

- A. InstyMeds
- B. Dean Friesen
- C. Joanee Quirk

* 8. General Counsel Report

Amended December 2006 Board Meeting Agenda

- * 9. Executive Secretary Report:
 - A. Financial Report
 - B. Investment Report
 - C. Temporary Licenses
 - D. Pending Policy Questions
 - 1. Biennial Report of Nevada State Board of Pharmacy
 - 2. CE Request by the Oregon Board of Pharmacy
 - 3. Report of the NABP Task Force on Telepharmacy
 - 4. Tech Ratio Comments
 - 5. Task Force Intervention Program
 - E. Staff Activities
 - 1. ASPL Presentation
 - 2. Dental Presentation
 - 3. CE Presentation (12/2)
 - 4. Medical Board Request
 - 5. Compounding Workshops (held 11/21 & 11/22)
 - 6. MDEG Committee Workshop (held 11/7)
 - 7. PRN/PRN and Your Success Links
 - 8. Activities Report
- *10. Discussion and Approval of Policy Regarding Reduction of Wholesaler Surety Bond
- *11. Discussion and Determination:
 - A. Generic Substitution
 - B. Purple Sheets
 - C. The Pharmacies of the Future

W O R K S H O P – Thursday, December 7th, 2006 – 9:00 am

- *12. **Proposed Regulation Amendment Workshop** – The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations.
 - 1. **Amendment of Nevada Administrative Code NAC 639.NEW Policy Mitigating Drug Risks** This new language establishes a list of drugs that present particular risks to patients and pharmacists and sets out expected responses by pharmacies filling prescriptions for these drugs.

Amended December 2006 Board Meeting Agenda

2. **Amendment of Nevada Administrative Code NAC 639.926 Weekly Reporting to the Task Force** This amendment will require weekly reporting of data to the Nevada Prescription Controlled Substance Abuse Prevention Task Force according to the latest version of the ASAP format.
3. **Amendment of Nevada Administrative Code NAC 639.NEW Prohibition of Prescription Quarantining** This new language will prohibit the practice of prescription quarantining.
4. **Amendments to NAC 639 MDEG Licenses** This amendment will clarify what devices are or are not considered customized orthotic or prosethic devices.
5. **Amendment of Nevada Administrative Code 639.NEW Compounding.** This new language defines the conditions and procedures under which preparation of sterile and non-sterile compounded prescription drugs are prepared.

PUBLIC HEARING – Thursday, December 7th, 2006 – 9:00 am

*13. Notice of Intent to Act Upon a Regulation:

1. **Amendment of Nevada Administrative Code NAC 453.540 Schedule II Prescriptions** This language allows more than one controlled substance listed in Schedule II to be written on a single prescription blank.
2. **Amendment of Nevada Administrative Code NAC 639.240 Pharmaceutical Technician Education Requirements** This language will standardize the education requirements to be provided to students entering a pharmaceutical technician training program in a school. The program will have to be American Society of Health-System Pharmacists accredited.
3. **Amendment of Nevada Administrative Code NAC 639.NEW Workload Balancing** This language establishes regulations regarding the storing and sharing of prescription information by pharmacies who utilize common databases and software.
4. **Amendment of Nevada Administrative Code 639.330 Continuing Education.** This amendment changes the standards under which a pharmacist may obtain continuing education credit for attending a Board meeting.

Amended December 2006 Board Meeting Agenda

5. **Amendment of Nevada Administrative Code 453.530 and 453.NEW Ephedrine, Pseudoephedrine, and Phenylpropanolamine.** This amendment changes existing controls on drug products that contain ephedrine, pseudoephedrine, and phenylpropanolamine to harmonize Nevada law with new federal law regarding the same products.

14. Next Board Meeting:

January 10-11, 2007 – Reno, 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

Wednesday, December 6th, 2006
Thursday, December 7th, 2006

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

Board Members Present:

Dave Wuest	Keith Macdonald	Barry Boudreaux
Leo Basch	Katie Craven	Ann Peterson
Ray Seidlinger		

Board Members Absent:

Board Staff Present:

Larry Pinson Jeri Walter Louis Ling

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- S. Baxter Healthcare Corporation – Catano, Puerto Rico
- T. BD Distribution Center – Plainfield, IN
- U. BD Distribution Center – Redlands, CA
- V. Glenmark Pharmaceuticals Inc., USA – Mahwah, NJ
- W. Eastman Kodak Company – Rochester, NY
- X. Eastman Kodak Company – Whittier, CA
- Y. KVK – TECH, Inc. – Newtown, PA
- Z. MWI Veterinary Supply Co. – Meridian, ID
- AA. Q Logistics Inc. – Florham Park, NJ
- BB. Premier Wholesale LLC – Monroe, GA
- CC. Priority Solutions International – Memphis, TN
- DD. Teva Pharmaceuticals USA, Inc. – Charfont, PA

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- LL. Wellcare Pharmacy, LLC – Las Vegas

Discussion:

The consent agenda applications and supporting documents were reviewed. Leo Basch noted that he recused from participation in the Walgreens/Nguyen matter but it was not noted in the October minutes.

Board Action:

NOTE: Keith Macdonald recused from participation in the vote on Item KK as he is employed by Wal-Mart. Leo Basch recused from participation in the vote on Item JJ as he is employed by Walgreens.

Motion: Ray Seidlinger 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 Item KK and the addition of the noted omission in the minutes.

Second: Katie Craven

Action: Passed Unanimously

Motion: Ray Seidlinger moved to approve Item KK.

Second: Katie Craven

Action: Passed Unanimously

REGULAR AGENDA

3. Application for Nevada Pharmacy – Appearance:

Liberty Healthcare Pharmacy of Nevada LLC – Las Vegas

NOTE: Barry Boudreaux recused from participation on this item as Joan Boudreaux is his wife.

Joan Boudreaux, Clayton Edwards and Mary Ryan, of Medco Health Solutions, appeared and were sworn by President Wuest prior to answering questions or offering testimony.

Liberty Healthcare serves several million patients with diabetes throughout the country. Liberty has partnered with Medco so Liberty can manage Medco's diabetic patients' needs. Mary Ryan testified that Liberty will be housed within the Medco pharmacy but will have no drugs within Liberty. Joan Boudreaux will be the pharmacist for Liberty and they would be operating like the Board's central fill model with prescriptions being approved by Ms. Boudreaux and labeling with the Liberty label on all of their prescriptions. Ms. Boudreaux will counsel, they will have their own toll free number in Florida, and will essentially be a mail order pharmacy with their prescriptions mailed by Medco. They would be filling legend drugs and diabetic products with Ms. Boudreaux validating all prescriptions. There would be no automatic shipment to patients.

Board Action:

Motion: Keith Macdonald moved to accept the application for pharmacy.

Second: Katie Craven

Action: Passed Unanimously

4. Disciplinary Action:

A. Lawrence L. Benson (06-055-PT-N)

NOTE: Leo Basch recused from participation in this matter as he is employed with Walgreens, as was Mr. Benson.

Lawrence Benson appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Ling noted that the Accusation is not contested, Mr. Benson admitted that he stole hydrocodone from Walgreens for his personal use.

Mr. Benson advised the Board that he does not want his pharmaceutical technician registration right now because he did not think it would be wise to work in a pharmacy at this time.

Larry Espadero appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Espadero agreed that it would be better if Mr. Benson did not work in a pharmacy at this time.

Board Action:

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

Second: Ann Peterson

Action: Passed Unanimously

Motion: Keith Macdonald moved to revoke Mr. Benson's pharmaceutical technician registration.

Second: Ann Peterson

Action: Passed Unanimously

B. Caitlyn M. Beaubriand (06-054-PT-N)

Caitlyn Beaubriand appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Ms. Beaubriand advised the Board that she tested positive for marijuana. She stated that she smoked one joint of marijuana on the 4th of July weekend with friends. Ms. Beaubriand stated that she does not use marijuana regularly and that she used poor judgment when she accepted the marijuana from her friend and smoked it. Ms. Beaubriand was randomly drug tested by her employer when she returned to work and tested positive for marijuana.

Larry Espadero, still under oath, testified that he is evaluating Ms. Beaubriand and so far she does not appear to display addictive behaviors. Mr. Espadero advised the Board that he would see her for three months. When asked if Mr. Espadero would trust Ms. Beaubriand to work in a pharmacy at this time, he responded that he would.

Bret Ramey appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Ramey advised that he was the managing pharmacist for Ms. Beaubriand and testified on her behalf stating that she was an excellent pharmaceutical technician. When asked if he would work with her again he stated that he would, but that company policy would not allow for her return to Smith's.

Board Action:

Motion: Katie Craven moved to find Ms. Beaubriand guilty of the alleged violations.

Second: Ray Seidlinger

Action: Passed Unanimously

Motion: Katie Craven moved to suspend Ms. Beaubriand's pharmaceutical technician registration, stay the suspension, place her on one year probation and require that she continue with PRN-PRN until Mr. Espadero completed her evaluation.

Second: Ray Seidlinger

Action: Passed Unanimously

C. Jonathan Corey Ray, R.Ph (06-053-RPH-N)

Corey Ray appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Louis Ling explained that the Board received notification that Corey Ray had been terminated from employment from Tucker's Pharmacy.

Mr. Ray testified that he had been clean for over two years and started using again because of family problems. He admitted to taking oxycodone containing drug products from Tucker's Pharmacy for his personal use and substituted saved clean urine samples for his urine analyses. Mr. Ray has been active in the PRN-PRN program and advised the Board that he entered a 28 day in-patient program after this relapse and was beginning to get his life straightened out. Mr. Ray stated that he has been looking for work but finds it difficult because he reveals that he is a pharmacist on his applications and he is denied employment because he is over-qualified.

Larry Espadero, still under oath, recommended that Mr. Ray not be allowed back into a pharmacy at this time and advised that he not be allowed for at least one year. Mr. Ray concurred that this recommendation is appropriate because part of his PRN-PRN program is to accept responsibility for his actions. Mr. Ray indicated that he had been a clinical pharmacist for about three years and never intended to go into retail pharmacy. He would feel better not working where there is constant temptation. Mr. Espadero stated he was opposed to Mr. Ray having a pharmacist license at this time.

Mr. Ling recommended the standard PRN-PRN order and before he accept employment in a pharmacy he return with Mr. Espadero to re-evaluate Mr. Ray's situation.

Board Action:

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

Second: Ann Peterson

Action: Passed Unanimously

Motion: Keith Macdonald moved to suspend Mr. Ray for a minimum of one year, continue with his PRN-PRN program and appear with Mr. Espadero when Mr. Ray requests reinstatement.

Second: Katie Craven

Action: Passed Unanimously

5. Request for Reinstatement of Pharmacists License – Appearance Required:

Roger Ly

(04-045-RPH-S)

Roger Ly appeared and was sworn by President Wuest prior to answering questions or offering testimony. Mr. Espadero was reminded that he was still under oath.

Mr. Ling reminded the Board that Mr. Ly had his license revoked in November, 2004 for diversion of drugs from three Von's pharmacies. Mr. Ly would fill fraudulent prescriptions for Von's patients who had no idea this behavior was transpiring, would pay the co-pay and bill the patients' insurances and would take the filled prescriptions for his personal use. Mr. Ly unlawfully removed 2, 990 dosage units of Oxycontin 40 mg. and 49,370 dosage units of hydrocodone 10/500 over a 23 month period. Mr. Ling noted that Mr. Ly has fulfilled all but one of the conditions of his Order. He has not paid restitution to Von's. Von's has determined that Mr. Ly owes them \$42, 299.00. Mr. Ly has attempted to make restitution of \$14,000.00 at \$100.00 per month and Von's has rejected this attempt.

Mr. Ly approached PRN-PRN several months after his Order because he stated he was in denial that he had a problem. Mr. Espadero noted that Mr. Ly joined PRN-PRN approximately fourteen months ago. Mr. Espadero evaluated Mr. Ly's situation and stated that Mr. Ly is finally being honest with PRN-PRN regarding his drug addiction. Mr. Espadero indicated that Mr. Ly has acceptance issues.

Mr. Ly testified that when he first moved to Las Vegas he had no friends so he joined a basketball team. In order to "buy friends" he was "giving" his basketball friends the drugs he was stealing from Von's. Mr. Ly stated that he is married and has a baby now and is totally dedicated to his family.

When asked if he had any assets he could liquidate to pay restitution to Von's, Mr. Ly claimed he had nothing. He had already sold an automobile to pay his mortgage in order to keep his home. The Board made several suggestions of other jobs in the field where drugs were not available to him, but Mr. Ly showed no interest in such a concept.

Board Action:

Motion: Leo Basch moved to deny Mr. Ly's request for reinstatement. Mr. Ly may request reinstatement again after he has made restitution with Von's.

Second: Ann Peterson

Action: Passed Unanimously

6. Request for Renewal of Pharmacists License – Appearance Required:

Movses-Hrair Karamanoukian

Mr. Karamanoukian had forfeited his license in Nevada in 2001. Nevada law allows five years to reinstate a license before it permanently expires. Mr. Karamanoukian's license would permanently expire October 31, 2006 if he did not reinstate his license. On the renewal Board staff sent Mr. Karamanoukian to reinstate his license he answered all three of the questions regarding convictions, administrative actions and violation of any drug laws in any state "yes."

Mr. Karamanoukian explained that he owned a pharmacy in California. During a routine inspection the California inspector noted violations of recordkeeping. On advice of his attorney, Mr. Karamanoukian paid full monetary restitution for the audited discrepancy and found that because he paid the restitution it was perceived as an admission of guilt. In the end, Mr. Karamanoukian's attorney left his defense and he served eight months in the prison system.

Mr. Karamanoukian is not licensed in California because they want him to pay approximately \$4,000.00 and he stated he could not afford it. He would like to come to Nevada and open his own pharmacy. He stated he was going to borrow the money from family members.

The Board advised Mr. Karamanoukian to borrow the money for the fine with the California Board, get reinstated in California and come back and request reinstatement after his affairs are settled.

Board Action:

Motion: Keith Macdonald moved to deny Mr. Karamanoukian's request for renewal until he takes care of reinstating his license in California. The Board will extend the expiration of his license for two years so he will have plenty of time to reinstate his license in California.

Second: Ray Seidlinger

Action: Passed Unanimously

7. Appearances:

A. InstyMeds

Matt Sneller of InstyMeds and Lynn Fulstone and Paul Larsen of Lionel Sawyer and Collins appeared and gave a presentation on the InstyMeds automated prescription medication dispensing system.

The InstyMeds dispensing system is designed be used in hospital emergency rooms and rural clinics to provide patients an opportunity to fulfill their medication needs right at the hospital or clinic without having to go to an off-site pharmacy. The machine would scan the patient's insurance card upon registration at the hospital. Once the patient is seen and diagnosed, the physician can give the patient the choice to receive a hard copy prescription to take off-site or to have the prescription filled at the InstyMeds machine. The InstyMeds machine adjudicates insurance claims and can also accommodate self-paying customers. The patient enters the prescription number and birth date into the InstyMeds machine, enters a credit card or cash to pay for the medication. The medication is automatically labeled and bar coded to ensure the

patient receives the correct medication. This process takes about five minutes and the patient has the convenience of obtaining their medications at the point of medical care. Mr. Sneller presented this new concept and asked the Board if the InstyMeds dispensing system would comply with Nevada law.

President Wuest asked Louis Ling to comment. Mr. Ling advised that right now we could tie the machine to the hospital pharmacy and develop regulations to accommodate this concept. Mr. Macdonald noted that Board staff would have to amend out NAC 639.715 if we were to write regulations to allow this concept.

Board Action:

Motion: Keith Macdonald moved to proceed with the regulatory process and allow this concept to be allowed in institutional facilities only.

Second: Leo Basch

Action: Passed Unanimously

B. Dean Friesen

Mr. Friesen gave a brief history of his experience. He graduated from USC with a PharmD in 1970. He is not currently licensed as a pharmacist in any state at present but he had been registered in Ohio and Arkansas. He also surrendered his license in California. He has not been licensed in any state for at least 12 years.

Mr. Friesen gave a presentation regarding several Boards he is involved with. He cited various bills and resolutions he will be working on with legislators. Mr. Friesen asked the Board if they wanted representation on an advisory committee to the proposed CIM Board. They did not need to be a board member just a pharmacist with knowledge of nutraceuticals.

President Wuest suggested perhaps the Board could nominate someone if they found someone with interest to participate.

C. Joanee Quirk

Larry Pinson prefaced the presentation by Ms. Quirk and described the basic grant sponsored intervention program and noted Ms. Quirk's expertise as the "go to" person in the Task Force industry.

Ms. Quirk gave some statistics. Since June, 2004, they have done 99 interventions. Eleven were terminated for non-compliance, four successfully completed the program, five persons can not be found since they signed their agreement, ten signed agreements and moved from the area and seven are deceased – six overdosed and

one had a fatal drug related car accident. The remainder of the 99 interventions are still in the program.

The Task Force has received two grants that were federally funded by the Bureau of Justice that have paid for the intervention officer and Ms. Quirk noted that the intervention process appears to be successful. She plans to apply for another grant that will be used mostly for hardware and software since the Task Force will be sharing data with California and will need to upgrade equipment. The grant money from the Bureau of Justice will be depleted in September, 2007 and another grant will be available in October, 2007. The Task Force is anticipating a grant will be available in January 2008 from Health and Human Services.

Larry Pinson asked the Board if they wanted to maintain an intervention officer and if they did, would they be willing to bridge a potential gap in late 2007. Ms. Quirk indicated that they have a grant coming in January but asked for direction regarding the intervention officer. The Board directed staff to look into hiring an intervention officer for the North, also, and to move forward with the whole concept even if the Board has to bridge the gap late in 2007.

8. General Counsel Report

- There was no update on litigation.
- Still collecting faxes and solicitations from wholesalers.
- In January an intern will be coming in to the Board office to help Louis with discipline and will also help with the FAQ's for the website.
- HGH is not currently a controlled substance, perhaps we should write regs to control it.
- At one time it was assumed that 10% of all drugs were counterfeit. It has been determined that in actuality it is less than 1%. Drugs that are ordered off the internet are 50% counterfeit.
- We are out of sync with the federal rules regarding CII requirements. The federal rules allow a change or addition of the date on CII's and we do not. Board staff was directed to parallel the federal rules.

9. Executive Secretary Report:

- A. Financial Report
- B. Investment Report

Larry Pinson advised the Board that staff is in the process of changing banks. He also noted that he and Leo Basch, the Board treasurer, would be reviewing the audit report after the Board meeting.

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

- C. Temporary Licenses

Mr. Pinson granted three temporary licenses since the last Board meeting.

D. Pending Policy Questions

1. Biennial Report of Nevada State Board of Pharmacy

Louis Ling reported that while writing this report it is the first time ever that pharmaceutical technician registrations are flat, however we expect a jump in these registrations after the first of the year due to the implementation of our new regulations. They have steadily increased over the years. Mr. Ling also noted that since the new stricter laws for wholesalers have been implemented some of the wholesalers have chosen not to renew their licenses.

2. CE Request by the Oregon Board of Pharmacy

Mr. Pinson advised that the Oregon Board of Pharmacy has requested Keith Macdonald to go to their state and give a continuing education presentation on PMP issues. Mr. Macdonald noted that all of his expenses were being paid for by the Oregon Board so there would not be any expense to the Nevada Board for him to participate. Since both Mr. Pinson and Ms. Quirk are previously booked for the requested date, the Board agreed that sending Mr. Macdonald is prudent.

3. Report of the NABP Task Force on Telepharmacy

Mr. Pinson reviewed the highlights of the NABP Task Force. One Board member warned that it appeared NABP is trying to take over the licensing process and if that were to happen our Board would lose its revenue.

4. Tech Ratio Comments

Mr. Pinson presented some comments from pharmacists regarding the increase in the tech ratio, none of which were favorable.

5. Task Force Intervention Program

This was addressed with Joanee Quirk's presentation.

E. Staff Activities

1. ASPL Presentation (11/12) – Mr. Pinson attended and gave a presentation that was very well received. Overall the meeting was very informative.

2. Dental Presentation (11/16) – Mr. Pinson gave a presentation on dental/pharmacy issues.

3. CE Presentation (12/2) – Joe Depczynski and Larry Pinson provided CE and Ann Peterson attended.

4. Medical Board Request – Mr. Pinson advised that he has been asked to testify on another case.
5. Compounding Workshops (held 11/21 & 11/22) – Both workshops were well attended and the results will be presented at Workshop Thursday.
6. MDEG Committee Workshop (held 11/7) – The workshop was productive and the results will be presented at Public Hearing Thursday.
7. PRN/PRN and Your Success Links – Both will be put on the website for information access.
8. Activities Report
 - Board meetings in Reno for 2007 will be held at the Airport Plaza hotel.
 - A pedigree requirements lawsuit was discussed

10. Discussion and Approval of Policy Regarding Reduction of Wholesaler Surety Bond

Louis Ling explained that the law allows for discretion regarding the amount of surety bonds between \$25,000.00 and \$100,000.00. Board staff asked for the authority to reduce to \$25,000.00 for those that have been registered with us for five years or more and have never been involved in a disciplinary matter.

Board Action:

Motion: Keith Macdonald moved to give the staff authority to determine the amount of surety bonds.

Second: Leo Basch

Action: Passed Unanimously

11. Discussion and Determination:

A. Generic Substitution

On a Dispense As Written prescription who decides whether the medication can be substituted for a generic? This situation usually occurs when a patient learns that he can obtain a generic for less money than a brand name drug. After Board discussion it was determined that the physician is the only person who can make that determination. The pharmacist should call the doctor and advise him that his patient wants a generic substitution. If the doctor will not change his direction it is the patient's responsibility to go to the doctor and make his plea.

B. Purple Sheets

Louis Ling noted that the correct term for the purple sheets is Workplace Assessment Tool. Pharmacies are given the purple sheets prior to their inspection. All pharmacies

are asked to fill out the information for one common week in January and another week chosen at random prior to the pharmacy inspection. The purple sheets are collected at inspection. The purple sheets request information regarding personnel and prescription analysis and equipment and work conditions. We have collected this information for ten years and Board staff feels it is time to have the information analyzed. Mr. Ling advised that they have contacted UNR and were referred to a student in the statistics department working on her PhD. She has agreed to do the statistical analysis for a fee of \$6,400.00. Mr. Ling asked if the Board would consider this expenditure.

Board Action:

Motion: Ann Peterson moved to approve the fee of \$6,400.00 for statistical analysis of the Workplace Assessment Tool.

Second: Katie Craven

Action: Passed Unanimously

C. The Pharmacies of the Future

Larry Pinson advised the Board that staff is being approached with models of practice that do not fit our regulatory requirements. Pharmacy practice has evolved and perhaps the Board needs to consider a third class of pharmacy license other than the current retail and institutional.

Louis Ling suggested that rather than write a new regulation amendment to fit every new concept we write one regulation for a third class of pharmacy license and give a list of alternatives that Nevada law would allow.

The Board discussed and some liked the third class of licensure and others wanted each concept brought before the Board and a reg written for each instance.

The Board directed staff to write something up and bring it back as a Discussion and Determination item for further dialogue.

WORKSHOP

12. **Proposed Regulation Amendment Workshop**

1. **Amendment of Nevada Administrative Code NAC 639.NEW Policy Mitigating Drug Risks** This new language establishes a list of drugs that present particular risks to patients and pharmacists and sets out expected responses by pharmacies filling prescriptions for these drugs.

Mr. Pinson described how Board staff came to bring this concept to them. In recent discipline cases narrow therapeutic index (NTI) products are appearing to be secondary causes of death.

Mr. Ling indicated that he tried to make the language as flexible as possible. There will be some requirements such as policies and procedures and at least one of the items on the menu he is proposing. Mr. Ling noted that he got most of the information he used in the language from the ISMP website such as look alike/sound alike drug products. He also used some of Tony Grascha's influence in his draft by giving the industry a real choice of how they want to handle NTI products. Mr. Ling provided several lists for the Board to look at and noted the importance of patient safety.

President Wuest asked if there were any public comments.

Liz Macmenamin noted that she had concerns for her RAN members. She indicated that it is difficult to get pharmacists to follow policies and procedures and noted that it is not the chain stores fault if pharmacists override safeguards. Ms. Macmenamin stated that she wanted a committee to delve into this issue.

Dave Fluitt asked if perhaps the Board could put pressure on First Databank to include these products in their software. It was discussed that there was more than one software vendor and that it did not seem probable that the Board would have an impact on their development strategies.

Mary Ryan asked if all the drug lists provided to the Board to view were going to be used. Mr. Ling noted that those lists were just to give the Board an idea of how many products could possibly be a safety issue in pharmacies.

Bonnie Brandt noted that Smith's has tried many of the approaches noted in the language. Smith's has found that if they try one it is only good for a few weeks and it becomes familiar to the pharmacy staff and they do not pay attention any more.

Ray Seidlinger stated that the problem lies with the doctors who write the prescriptions and handwriting that can not be read by the pharmacy staff. Mr. Seidlinger is a proponent of mandating preprinted prescriptions. Board staff noted that that approach would be rebuffed by the Medical Board, Medical Association and eventually the issue would go to the legislature. The Board of Pharmacy does not have the appetite to approach that issue.

Board Action:

Motion: Keith Macdonald moved to take this topic to a work group until some of the issues are resolved.

Second: Ray Seidlinger

Action: Passed Unanimously

2. **Amendment of Nevada Administrative Code NAC 639.926 Weekly Reporting to the Task Force** This amendment will require weekly reporting of data to the Nevada Prescription Controlled Substance Abuse Prevention Task Force according to the latest version of the ASAP format.

Louis Ling explained that weekly reporting will be required because it is mandated for grant funding.

President Wuest asked if there were any public comments.

Mary Ryan asked when this would become effective. Board staff will check with Joanee Quirk to see how far out we can put the date. Board staff would estimate October, 2007.

Board Action:

Motion: Ray Seidlinger moved to move forward with this regulation amendment.

Second: Leo Basch

Action: Passed Unanimously

3. **Amendment of Nevada Administrative Code NAC 639.NEW Prohibition of Prescription Quarantining** This new language will prohibit the practice of prescription quarantining.

Larry Pinson reviewed the language proposed and noted that he did not think prefilling and billing insurance for prescriptions that were not authorized was legal. If billing occurs then the patient has a problem if they deem to have that prescription transferred to another pharmacy or any number of other reasons. Their insurance carrier will reject payment and the patient will not know why because they did not authorize the prescription to be filled in the first place. Also at issue is the date that appears on the final label (date quarantined or date actually dispensed?).

President Wuest asked if there were any public comments.

Liz Macmenamin and Cookie Quandt both agreed that this was too far-reaching by the Board. Ms. Quandt stated that the way this language is written it would prohibit patient choice to call in a prescription on one day and pick it up on another. Ms. Quandt requested that, "The authorization for refilling..." be stricken.

Mary Ryan agreed with Ms. Macmenamin and Ms. Quandt.

The Board discussed a means of protecting the intent of the regulation amendment and requiring authorization before a prescription is refilled. Mr. Ling suggested an opt in/opt out clause concept and it would add a number three to the current language.

Board Action:

Motion: Ray Seidlinger moved to move forward with the changes discussed.

Second: Ann Peterson

Action: Passed Unanimously

4. **Amendments to NAC 639 MDEG Licenses** This amendment will clarify what devices are or are not considered customized orthotic or prosethic devices.

Louis Ling advised that he tried to clarify the language regarding customized orthotics and prosthetics and pressurized stockings and mastectomy products.

President Wuest asked if there were any public comments.

Brant Skanson noted that some companies have ranges from 15 to 20 on pressurized stockings for over the counter sales and with our language, limiting sales to 18 mm/HG, would contradict what is common for over the counter sales.

Kathy Brinkmyer and Dolly Curtz would like to remove the word “products” throughout the language and add “customized breast prosthesis” and “mastectomy form.” Louis Ling noted the changes Ms. Brinkmyer and Ms. Curtz requested and will incorporate them into the language before the regs go to Public Hearing.

Guy Archambeau asked if a doctor will have to write a prescription for these products. Mr. Ling explained that if the pressurized stockings are under 18 mm/HG they can be sold over the counter and the facility has to be registered with the Board. Anything over 18 mm/HG and the patient has to obtain a prescription from their physician for the sale. A physician’s order is required in order for these products to be covered by insurance.

Board Action:

Motion: Keith Macdonald moved to move forward with the changes discussed.

Second: Ray Seidlinger

Action: Passed Unanimously

5. **Amendment of Nevada Administrative Code 639.NEW Compounding.**

This new language defines the conditions and procedures under which preparation of sterile and non-sterile compounded prescription drugs are prepared.

Louis Ling advised the Board that this is the culmination of the Workshops in Las Vegas and Reno. Mr. Ling reviewed all of the changes made from the Las Vegas meeting for the benefit of the Reno attendees.

President Wuest asked if there were any public comments.

Robin Keith thanked the Board for their concern for the rural hospitals and appreciated that their issues would be addressed separately.

Brant Skanson asked for clarification on numerous issues and made suggestions.

There was discussion regarding who was going to pay for random testing – the Board or the pharmacy. Also, discussion on chemotherapeutic products.

Keith Macdonald moved to have Board staff incorporate the suggestions made today and bring to Public Hearing in February for a decision.

Mr. Ling advised that he would have the incorporated language on the website well in advance of the February meeting for those interested.

PUBLIC HEARING

13. Notice of Intent to Act Upon a Regulation:

1. **Amendment of Nevada Administrative Code NAC 453.540 Schedule II Prescriptions** This language allows more than one controlled substance listed in Schedule II to be written on a single prescription blank.

Larry Pinson reviewed the regulation amendment.

President Wuest opened the Public Hearing.

There was no comment.

President Wuest closed the Public Hearing.

Board Action:

Motion: Keith Macdonald moved to adopt this regulation amendment without change.

Second: Ray Seidlinger

Action: Passed Unanimously

**2. Amendment of Nevada Administrative Code NAC 639.240
Pharmaceutical Technician Education Requirements** This language will standardize the education requirements to be provided to students entering a pharmaceutical technician training program in a school. The program will have to be American Society of Health-System Pharmacists accredited.

Mr. Pinson reviewed this regulation standardizing education for pharmaceutical technicians to ensure they are adequately trained. The language now incorporates military technicians, PTCB certified technicians and technicians trained in another state.

President Wuest opened the Public Hearing.

Liz Macmenamin, representing RAN, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Ms. Macmenamin testified that her members wanted section 6 deleted.

Cookie Quandt, representing Longs, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Ms. Quandt noted that there were other accrediting agencies, such as ICPT. She said that she was not familiar with that one in particular but knew that other states use them for their accrediting process.

Dave Fluitt, representing Raley's, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Fluitt explained that he did the research on the accreditation process for the PT Committee. He never found anything on ICPT. He reiterated that the accreditation is for the schools providing the education – not for chain drug stores and it should not be an issue for them.

President Wuest closed the Public Hearing.

It was noted that the pharmaceutical technician applications will need to be changed.

Board Action:

Motion: Leo Basch moved to adopt the language as presented.

Second: Ann Peterson

Action: Passed Unanimously

3. **Amendment of Nevada Administrative Code NAC 639.NEW Workload Balancing** This language establishes regulations regarding the storing and sharing of prescription information by pharmacies who utilize common databases and software.

Louis Ling described the concept of workload balancing and reviewed the regulation language.

President Wuest opened the Public Hearing.

Liz Macmenamin, reminded that she was still under oath, thanked the Board for including some of the suggestions she made for the RAN members.

Mr. Ling advised that Board staff is trying to stop the pharmacist from logging in in the morning and be logged in all day. Anything that happened by whoever was done on his log-on. We are striving for a unique identifier so it would give a clear picture of who did what to a prescription from beginning to dispensing.

Guy Archambeau appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Archambeau had questions regarding this amendment that were answered to his satisfaction.

President Wuest closed the Public Hearing.

Board Action:

Motion: Leo Basch moved to adopt the regulation amendment as presented.

Second: Keith Macdonald

Action: Passed With One Negative Vote

4. **Amendment of Nevada Administrative Code 639.330 Continuing Education.** This amendment changes the standards under which a pharmacist may obtain continuing education credit for attending a Board meeting.

Larry Pinson described the changes to this language allowing a pharmacist to get one hour of Nevada law and three continuing education units for attending a Board meeting all day.

President Wuest opened the Public Hearing.

There was no public comment.

President Wuest closed the Public Hearing.

Board Action:

Motion: Keith Macdonald moved to adopt as presented.

Second: Barry Boudreaux

Action: Passed Unanimously

5. Amendment of Nevada Administrative Code 453.530 and 453.NEW Ephedrine, Pseudoephedrine, and Phenylpropanolamine. This amendment changes existing controls on drug products that contain ephedrine, pseudoephedrine, and phenylpropanolamine to harmonize Nevada law with new federal law regarding the same products.

Louis Ling stated that this language will parallel federal law regarding the sale of Ephedrine, Pseudoephedrine and Phenylpropanolamine.

President Wuest opened the Public Hearing.

There was no public comment.

President Wuest closed the Public Hearing.

Board Action:

Motion: Ray Seidlinger moved to adopt as presented.

Second: Leo Basch

Action: Passed Unanimously

14. Next Board Meeting:

January 10-11, 2007 – Reno, Nevada

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

There were no public comments.