

January 2, 2007

AGENDA

◆ PUBLIC NOTICE ◆

NEVADA STATE BOARD OF PHARMACY

BOARD MEETING

at the

Airport Plaza Hotel
1981 Terminal Way
Reno, Nevada

Wednesday, January 10th, 2007 – 9:00 am

Thursday, January 11th, 2007 – 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.

January 2007 Board Meeting Agenda

* 1. Approval of December 6-7, 2006, Minutes

* 2. Applications for Out-of-State MDEG – Non Appearance:

- A. Air Liquide Industrial U.S. LP – Santa Fe Springs, CA
- B. Allied Home Medical Inc. – Cookeville, TN
- C. CCS Medical – Lawrenceville, GA

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

- D. Life Extension Pharmacy, Inc. – Fort Lauderdale, FL
- E. PCM Venture I LLC – Murray, UT
- F. Senior Respiratory Solutions – Texarkana, TX

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

- G. BD Distribution Center – Swedesboro, NJ
- H. Fresenius Medical Care Cardiovascular Resources Inc. – San Diego, CA
- I. Priority Solutions International – Swedesboro, NJ
- J. Smiths Medical ASD, Inc. – San Diego, CA
- K. Smiths Medical ASD, Inc. – Southaven, MS

Applications for Nevada MDEG – Non Appearance:

- L. Preferred Homecare – Reno
- M. Universal Mobility Equipment LLC – Las Vegas

Applications for Nevada Pharmacy – Non Appearance:

- N. Smiths Pharmacy #311 – Las Vegas
- O. Vons Pharmacy #2391 – Boulder City
- P. Wal-Mart Pharmacy #10-3728 – North Las Vegas

◆ REGULAR AGENDA ◆

* 3. Application for Out-of-State Pharmacy – Appearance:

BioScrip Pharmacy Services – Burbank, CA

* 4. Request for Technician in Training License – Appearance:

Amber Ramos

January 2007 Board Meeting Agenda

* 5. Applications for Nevada Pharmacy – Ownership/Name Change – Appearance:

- A. Save Mart Pharmacy #550 – Carson City
- B. Save Mart Pharmacy #551 – Carson City
- C. Save Mart Pharmacy #552 – Carson City
- D. Save Mart Pharmacy #553 – Reno
- E. Save Mart Pharmacy #554 – Reno
- F. Save Mart Pharmacy #555 – Reno
- G. Save Mart Pharmacy #556 – Reno
- H. Save Mart Pharmacy #558 – Sparks
- I. Save Mart Pharmacy #559 – Sparks

* 6. 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. | Paul L. Hampton, R.Ph. | (06-041A-RPH-N) |
| B. | Thomas E. Danson, R.Ph. | (06-041B-RPH-N) |
| C. | John A. Warren, R.Ph. | (06-041C-RPH-N) |
| D. | Northern Nevada Medical Center Pharmacy | (06-041-IA-N) |
| E. | Jodi L. Hopkins, PT | (06-067-PT-N) |
| F. | Marty L. Martins, R.Ph. | (06-023A-RPH-N) |
| G. | Steven J. Peters, R.Ph. | (06-023B-RPH-N) |
| H. | Sav-on Drugs #9003 | (06-023-PH-N) |

* 7. Appearance:

Walgreens #4789 and #5295 – Audit Report

* 8. General Counsel Report

* 9. Executive Secretary Report:

- A. Financial Report
- B. Investment Report
- C. Temporary Licenses
- D. Pending Policy Questions
 - a. Annual Financial Disclosure
 - b. Cooperation with Administrative Team for the Review of Child Deaths
 - c. Workgroup on Policy Mitigating Drug Risks
- E. Staff Activities
 - a. Donation of Tablet Counter
 - b. Meetings
 - c. “Recent Developments in Pharmacy Law” Seminar
 - d. Activities Report

January 2007 Board Meeting Agenda

*10. Discussion and Determination:

- A. Written Record of Refills
- B. Partial Filling of Prescriptions

W O R K S H O P – Thursday, January 11th, 2007– 1:30 pm

*11. **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 to NAC 453.440 Controlled Substances in Schedule II**
This amendment will allow pharmacists to add or change a date on a schedule II prescription after consultation with the prescribing practitioner.
2. **Amendment to NAC 453.540 Schedule IV Controlled Substances**
This amendment will add Human Growth Hormone (HGH) to the list of controlled substances in schedule IV.
3. **Amendment of NAC 639 New Language Regulating Prescription Quarantining** This new language will establish conditions and prohibitions regarding prescription quarantining.
4. **Amendment to NAC 639.720 Mechanical Devices in Institutions.** This amendment will establish conditions under which a mechanical device in an institution can be used to dispense drugs to practitioners or patients.
5. **Amendment to NAC 639 New Language Custom Mastectomy Products** This amendment refines the definition of which customized mastectomy products are considered medical devices.
6. **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.

12. Next Board Meeting:

February 22-23, 2007 – Las Vegas, Nevada

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

January 2007 Board Meeting Agenda

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. Continuing Education credit of 4 hours, including one 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:

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

BOARD MEETING

Airport Plaza Hotel
1981 Terminal Way
Reno, Nevada

Wednesday, January 10th, 2007

Thursday, January 11th, 2007

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

Board Members Present:

Dave Wuest
Leo Basch
Ray Seidlinger

Keith Macdonald
Katie Craven

Barry Boudreaux
Ann Peterson

Board Members Absent:

Keith Macdonald was absent on Thursday, January 11, 2007.

Board Staff Present:

Larry Pinson Jeri Walter Louis Ling Keith Marcher and Henna Rasul

CONSENT AGENDA

1. Approval of December 6-7, 2006, Minutes
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- P. Wal-Mart Pharmacy #10-3728 – North Las Vegas

Discussion:

The consent agenda applications and supporting documents were reviewed. Larry Pinson advised that Liz Macmenamin had an issue with language in the minutes regarding a comment she made during the Workshop in December and would like the language changed in the first Workshop item to reflect that it would be difficult to get pharmacists to follow policy...

Keith Macdonald recused from participation in the vote on Item 2P as he is employed by Wal-Mart.

Board Action:

Motion: Ann Peterson moved to approve the minutes with the referenced changes.

Second: Leo Basch

Action: Passed Unanimously

Leo Basch asked to exclude Item 2E from the Consent Agenda vote.

Board Action:

Motion: Leo Basch read the information related to the consent items and found the information to be accurate and complete and moved for approval of item 2 with the exception of Items 2E and P.

Second: Barry Boudreaux

Action: Passed Unanimously

Board Action:

Motion: Katie Craven moved to approve Item 2P

Second: Ann Peterson

Action: Passed Unanimously

Board Action:

Motion: Leo Basch moved to require Item 2E to appear since they are applying to be an internet pharmacy.

Second: Katie Craven

Action: Passed Unanimously

REGULAR AGENDA

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

BioScrip Pharmacy Services – Burbank, CA

BioScrip Pharmacy Services did not appear.

4. Request for Technician in Training License – Appearance:

Amber Ramos

Ms. Ramos will appear at the February, 2007 Board meeting.

5. Applications for Nevada Pharmacy – Ownership/Name Change – Appearance:

- A. Save Mart Pharmacy #550 – Carson City
- B. Save Mart Pharmacy #551 – Carson City
- C. Save Mart Pharmacy #552 – Carson City
- D. Save Mart Pharmacy #553 – Reno
- E. Save Mart Pharmacy #554 – Reno
- F. Save Mart Pharmacy #555 – Reno
- G. Save Mart Pharmacy #556 – Reno
- H. Save Mart Pharmacy #558 – Sparks
- I. Save Mart Pharmacy #559 – Sparks

Michele Sullivan and Steve Ackerman appeared and were sworn by President Wuest prior to answering questions or offering testimony.

NOTE: Ray Seidlinger disclosed that he worked for Sav-On.

Ms. Sullivan and Mr. Ackermann advised the Board that this is a family corporation and on February 23, 2007 they would be acquiring the nine Sav-On pharmacies in the Reno/Sparks/Carson City area. They do not intend to make any changes in personnel or policy. They advised that they will be changing software vendors and would be using PDX. The employees will be trained off site for two days on the new PDX software and a representative from PDX will go on site to ensure the transition in the pharmacies is a smooth one. They will also work with Save Mart throughout the data conversion.

Larry Pinson reminded the new owners that counseling and documentation is mandatory in Nevada, a bathroom is required in all pharmacies, they would be required to submit weekly reporting to the Controlled Substance Task Force, and that Nevada has lunch break rules.

Board Action:

Motion: Keith Macdonald moved to approve the applications for Save Mart change of ownership.

Second: Leo Basch

Action: Passed Unanimously

6. Disciplinary Action:

- | | | |
|----|---|-----------------|
| A. | Paul L. Hampton, R.Ph. | (06-041A-RPH-N) |
| B. | Thomas E. Danson, R.Ph. | (06-041B-RPH-N) |
| C. | John A. Warren, R.Ph. | (06-041C-RPH-N) |
| D. | Northern Nevada Medical Center Pharmacy | (06-041-IA-N) |

Louis Ling reviewed some procedural matters for this hearing. He advised the Board that the hearing today would be for Mr. Hampton and Mr. Danson, only. Mr. Hampton would be heard first and Mr. Danson second. The Board would hear John Warren and Northern Nevada Medical Center (NNMC) at the February, 2007 Board meeting. Mr. Warren may be asked to testify today. Hal Taylor was present to represent Mr. Danson and Roger Morris was present as legal counsel for McKesson who was the owner of the pharmacy located within NNMC.

Paul Hampton, Tom Danson, and John Warren appeared and were sworn by President Wuest prior to answering questions or offering testimony.

Mr. Ling reviewed the circumstances of this matter. McKesson ceased managing and operating the pharmacy at the NNMC pharmacy and during the transition it was determined that there were numerous discrepancies in the controlled substance inventories that could not be resolved.

Mr. Hampton testified that he began working at NNMC in January of 2006. Almost immediately after he became employed at NNMC he began removing various amounts of various strengths of Oxycontin from a Pyxis station on the fifth floor of NNMC. To do so, he would use his identification number and password to let himself into the Pyxis station. Once the device was open he would remove what he wanted and then create a discrepancy in the Pyxis device's computer system that he would then resolve by typing in the words "med transfer." Mr. Hampton explained that "med transfer" was meaningless and that NNMC policy required a real medication transfer to identify the location where the medications were transferred. At no time were his erroneous "med transfer" entries questioned during his employment at NNMC. It was not until the transition that occurred after McKesson ceased managing NNMC's pharmacy that the "med transfer" entries were questioned. At that time, Mr. Hampton immediately admitted to removing Oxycontin and methadone from NNMC's Pyxis devices for his personal use. Mr. Hampton explained that he entered an in-patient treatment center and signed an agreement with PRN-PRN, fully realizing he had a drug problem and could no longer try to withdraw from Oxycontin on his own.

Gretta Woodington appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Ms. Woodington, in her capacity as a board member and active participant in PRN-PRN, testified that Mr. Hampton had been working effectively his substance abuse treatment program and had suffered no relapses and was a good candidate to return to the practice of pharmacy.

Board Action:

Motion: Leo Basch moved to find Mr. Hampton guilty of the First Cause of Action.

Second: Ann Peterson

Action: Passed Unanimously

Motion: Leo Basch moved to suspend Mr. Hampton's pharmacist license for three months, require him to pay restitution and pay ½ the fees and costs in this matter and continue with his PRN-PRN program under the standard contract.

Second: Keith Macdonald

Amendment: Ann Peterson would like to see Mr. Hampton's suspension be for six months rather than three.

The amendment was accepted by the First and the Second.

Action: Passed Unanimously

Louis Ling called Gretta Woodington to testify.

Gretta Woodington appeared and was reminded that she was still under oath.

Ms. Woodington described her work history and noted that she is the director of pharmacy at Summerlin Hospital. She was associated with Advocate Rx Solutions and was employed to assist in the transition from McKesson to NNMC operating their own pharmacy. Ms. Woodington described the procedures to sign in and use a password for admission to the Pyxis machines. She also described the steps needed to be taken, once in the Pyxis machine, to remove drugs. Ms. Woodington testified that once she learned how the drug diversion was taking place, she immediately instituted a new policy that would require two people to do inventory and discrepancy resolution.

Ms. Woodington explained that when they came in to do the transition, they ran transaction reports. They found a consistent pattern where 100 cc's of liquid oxycodone/APAP were wasted out of a 500 ml bottle. Lortab elixir discrepancies were also found.

Exhibit 1 was introduced and accepted into the record. All CII Safe Events Report dated 1/1/2006 through 6/26/2006.

Ms. Woodington reviewed the report for the Board. She noted that they were not able to retrieve records prior to January 1, 2006. Ms. Woodington noted the discrepancies on the liquid drug products were all done by Mr. Danson. She pointed out that he would go into the same drawer four times or more in one day, into the same pocket. She noted that that was highly unusual behavior for a person to check on a discrepancy that many times. Ms. Woodington could not find any resolutions for any of the discrepancies.

Exhibit 2 was introduced and accepted into the record. 222 Form and Invoice from McKesson.

Ms. Woodington testified that Mr. Danson had been offered a job at NNMC pending the completion of the transition. Ms. Woodington attempted to resolve the discrepancies on the liquids, however was unable to resolve any of them. Because of this, NNMC rescinded their letter offering Mr. Danson employment.

Mr. Taylor noted for the Board that he realized his client, Mr. Danson, had made some mistakes but was confident that Mr. Danson did not divert drugs. Mr. Taylor asked Ms. Woodington to review the remaining discrepancies on Exhibit 1. He also questioned Ms. Woodington regarding the security of the password process.

Exhibit A (defense) was introduced and accepted into the record. Pyxis vs. CII Safe Comparison Report.

After Mr. Taylor's cross examination of Ms. Woodington, he requested the charges pertaining to diversion be dismissed. Mr. Ling stated that the Board needed to make that decision.

Board Action:

Motion: Barry Boudreaux moved to go forward with the hearing as it is not appropriate to dismiss charges of diversion.

Second: Ann Peterson

Action: Passed Unanimously

Mr. Taylor called Kevin Gammel to testify.

Kevin Gammel appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Gammel testified that he worked with Mr. Danson from 2002 through 2006. He noted the Pyxis med stations were installed in 2003. They learned how to use the med stations through tutorial and had no real hands-on training – they were just given an operating manual. Mr. Taylor asked questions regarding the monthly inventory and activity reports. Mr. Gammel described his experience while working at NNMC with Mr. Danson. Mr. Taylor gave Mr. Gammel a copy of Exhibit A and asked if that was a report he used while employed at NNMC and Mr. Gammel agreed that it was. Mr. Gammel then described the inaccurate processes that would occur.

Mr. Taylor called Mr. Warren to testify.

Mr. Taylor asked Mr. Warren if he had ever used the Pyxis system before he was employed at NNMC and Mr. Warren testified that he had not. He advised that he had not been trained on the Pyxis system and that he learned what he knows from the pharmacists. Mr. Warren testified that he was unaware of reports that could be run and he did not know you could do a blind count. He stated that if a pharmacist could not resolve a discrepancy they were to bring the discrepancy to him for resolution. Mr. Warren testified that he was unaware of the reports available to him until Joe Depczynski, Board investigator, was investigating this matter.

Mr. Ling cross examined Mr. Warren. He asked if Mr. Warren was aware that Mr. Danson was making up discrepancies and notations to correct them. Mr. Warren replied that he had told Mr. Danson that he could not do that.

Mr. Taylor called his client, Mr. Danson, to testify.

Mr. Taylor questioned Mr. Danson and he offered no explanation for any of the discrepancy notations he made even when asked directly to do so. He had a vague recollection of the discrepancies and the notations he made. Mr. Danson speculated that another person may have been using his password to attribute certain acts to him as he regularly left his password on a Post-It note on his computer. Then he testified that the entries on the transaction report were in fact made by him. Mr. Taylor asked Mr. Danson to review some of the Exhibits and explain them. Mr. Danson could not

answer numerous questions regarding the discrepancy notations and what happened to the controlled substances that were missing.

Mr. Ling cross examined Mr. Danson and asked about the drugs that were being inventoried daily. Mr. Ling noted that all the counts would be accurate until Mr. Danson would go into the Pyxis machine and create a discrepancy for which he could not explain.

Roger Morris asked Mr. Danson if he just made up the discrepancy resolutions to get them off his plate and he admitted that that was the truth.

Mr. Danson brought up his disciplinary history with the Board which started in March 1989 as a result of his removing 27 vials (325 mg. each) of cocaine from his employing hospital pharmacy. Mr. Danson was placed on probation and fourteen months into his probation he tested positive twice for hydrocodone. Mr. Danson's license was revoked and reinstated and he was disciplined for various violations of the terms of his probation having to do with his treatment or testing to verify his sobriety. Mr. Taylor noted for the Board that Mr. Danson had been drug screened three times within the last six months and all the tests were negative.

Mr. Ling and Mr. Taylor both made closing remarks and recommendations.

Board Action:

Motion: Ann Peterson moved to find Mr. Danson guilty of the Second Cause of Action.

Second: Barry Boudreaux

Action: Passed With One Negative Vote

Motion: Ann Peterson moved to revoke Mr. Danson's pharmacist license effective immediately.

Second: Katie Craven

Action: Three Yes Votes – Three No Votes – President Wuest voted to revoke and the motion passed.

E. Jodi L. Hopkins, PT

(06-067-PT-N)

President Wuest recused from participation in this matter as he worked with Ms. Hopkins at one time. He gave the Chair to Katie Craven.

Jodi Hopkins appeared and was sworn by Katie Craven prior to answering questions or offering testimony.

Louis Ling advised the Board that Ms. Hopkins did not contest the Accusation and was here to tell her story.

Ms. Hopkins testified that as a pharmaceutical technician working at Don's Pharmacy, part of her job duties were to make compounded products. One of the products she would compound was a cocaine solution. Ms. Hopkins testified that she had never before used illicit drugs, but that beginning in March 2006, she first removed from Don's Pharmacy some cocaine that she subsequently used. She began removing and using more and more cocaine from Don's Pharmacy. On November 15, 2006, she was terminated from employment as the result of the pharmacy's discovery that she had been removing cocaine for her personal use without a lawful order. Ms. Hopkins admitted to unlawfully removing 29.579 grams of cocaine. Ms. Hopkins paid restitution to Don's Pharmacy of \$2,100.00.

Mr. Ling gave recommendations.

Board Action:

Motion: Keith Macdonald moved to find Ms. Hopkins guilty of the alleged violations.

Second: Ann Peterson

Action: Passed Unanimously

Motion: Keith Macdonald moved to contract with PRN-PRN and be on probation for a period of time determined by the PRN-PRN monitor.

Second: Ann Peterson

Action: Passed With One Negative Vote

F.	Marty L. Martins, R.Ph.	(06-023A-RPH-N)
G.	Steven J. Peters, R.Ph.	(06-023B-RPH-N)
H.	Sav-on Drugs #9003	(06-023-PH-N)

Marty Martins and Steven Peters appeared and were sworn by President Wuest prior to answering questions or offering testimony.

Mike Dyer was present to represent Mr. Peters and Sav-On #9003. Mr. Martins represented himself.

NOTE: Ray Seidlinger recused from participation because he was formerly employed by Sav-On.

Mr. Ling objected to the Memo of Points and Authorities Mr. Dyer had Ms. Walter distribute to the Board. The Memo was returned from the Board members to Mr. Dyer.

None of the Board members had read the document. Mr. Ling had no opening statement.

Mr. Dyer noted that he does not represent Sav-On as they no longer exist. He does represent Mr. Peters and Mr. Dyer gave opening statements.

Louis Ling called Greg McGee to testify as the father of the patient.

Greg McGee appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. McGee testified that on April 5, 2006 he took a prescription for Reglan syrup for his daughter Jamie to Sav-On #9003 to be filled. Jamie suffered from pyloric stenosis and subsequent colic for which she was being treated by Dr. Juan Gregory. The pharmacy did not have Reglan in stock and Mr. Martins advised him that he would order the medication and Mr. McGee would be able to pick it up the following day. A pharmaceutical technician input the prescription and generated a label but she inadvertently typed 7 mg. dosing instead of the 0.7 mg. dosing ordered by Dr. Gregory. Mr. McGee testified that after he picked up the medication he went home and read the label and was concerned because the label called for the administration of 7 mg. and his dropper measured in mls, not mgs. Mr. McGee telephoned the pharmacy and questioned the amount in the dosing instructions. Mr. McGee testified that he did not know what pharmacist he spoke to at the pharmacy, but the pharmacist told him that the directions were correct. Mr. McGee stated that he stayed home from work the following day to care for Jamie. He asked his wife what amount of Reglan she administered to Jamie and she told him that she gave Jamie what she considered to be the correct amount rather than what was instructed on the label.

Mr. Martins gave a statement and apologized for the error. He testified that Mr. McGee came in on April 5th, he ordered the medication on the 5th and it was delivered and filled on April 6th.

Cindy McGee appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mrs. McGee testified that her husband called the pharmacy and spoke to a pharmacist and questioned how to convert mls. to mg. since their directions for use called for mg. and the dropper they were given was in mls. Though they were told the directions were correct they felt that was too much medication for a seven month old baby so they gave the baby the lesser amount of 0.7 mls. Mrs. McGee stated that Jamie did not seem to be improving and thought maybe they were incorrect to assume the smaller dosage would be what was best. Mrs. McGee telephoned the pharmacy again and spoke with the pharmacist on duty and questioned the dosage of Jamie's Reglan prescription. Mrs. McGee testified that the pharmacist told her that the dosage was correct and if she had concerns to call her physician. Mrs. McGee stated that the next day she gave Jamie the larger dosage of Reglan at breakfast. Jamie's grandmother was caring for Jamie that day and gave her the second larger dosage at lunch time. Mrs. McGee testified that Jamie began acting oddly as if she were drunk. She stated that Jamie could not

control her movements and appeared to be in discomfort. Mrs. McGee called Dr. Gregory's office and it was determined at that time that Mrs. McGee unwittingly gave Jamie a ten-time overdose of Reglan. Dr. Gregory advised Mrs. McGee to take Jamie to the emergency room at Tahoe Carson Hospital immediately. The McGee's took Jamie to the emergency room where she was treated and kept for several hours before she was released to return home.

Exhibit A (defense) was introduced by Mr. Dyer and accepted into the record. Gastroenterology Consultants notes – four pages.

Mr. Dyer questioned Ms. McGee regarding the documents in Exhibit A. The Board also questioned Ms. McGee regarding her testimony.

Joe Depczynski, Board investigator/inspector, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Depczynski explained how he obtained the evidence in this matter. He spoke with the McGee's regarding their conversations with the pharmacy. Mr. Depczynski testified that Mr. Martins admitted that he was the person who filled the prescription for Jamie and that Mr. Peters was the person who spoke with the McGee's when they telephoned the pharmacy.

Exhibit 1 was introduced by Mr. Ling and accepted into the record. Copy of the original prescription.

Mr. Martins explained his involvement and the circumstances of how he missed the decimal point when he reviewed the prescription. He apologized to the McGee's and expressed sincere remorse.

The Board questioned Mr. Martins.

Steve Peters appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Dyer questioned Mr. Peters regarding his career and his pharmacy experience in the 28 years he has been practicing. Mr. Dyer questioned Mr. Peters regarding his recollection of the telephone calls he received from the McGee's. Mr. Peters testified that he recalled telling them if they had questions regarding the dosing instructions they should call their physician.

Mr. Ling asked Mr. Peters if he had ever pulled the original prescription to look at it since the patient's parents had questioned the dosing instructions at least twice and Mr. Peters responded that he had not – he just looked at the information available to him on the computer.

Exhibit B (defense) was introduced by Mr. Dyer and accepted into evidence. Screen shot of Prescription Inquiry/Maintenance.

The Board questioned Mr. Peters.

Mr. Ling gave closing remarks and recommendations. Mr. Dyer gave closing remarks and rebutted Mr. Ling's version of the issues.

Board Action:

Motion: Katie Craven moved to find Mr. Martins guilty of the First Cause of Action.

Second: Ann Peterson

Action: Passed Unanimously

Motion: Katie Craven moved to fine Mr. Martins \$500.00 plus ½ the fees and costs in this matter, do 6 hours of CE on error prevention and/or pediatric dosing in addition to the 30 required for renewal.

Second: Ann Peterson

Amendment: Leo Basch wanted to amend motion to require Mr. Martins to attend the three remaining Board meetings in Reno without receiving any CE.

Barry Boudreaux did not think attending the Reno Board meetings was necessary.

The amendment was accepted by the First and the Second.

Action: 3 Voted In Favor and 1 Voted Against the Motion. President Wuest voted In Favor of the motion and it passed. (Keith Macdonald was not present and Mr. Seidlinger had recused.)

Board Action:

Motion: Katie Craven moved to find Mr. Peters guilty of the Second Cause of Action except for NRS 639.0124(1)(6) and (7).

Second: Barry Boudreaux

Action: 3 Voted in Favor and 1 Voted Against the motion. President Wuest voted In Favor of the motion and it passed.

After several failed motions, the following was presented.

Board Action:

Motion: Leo Basch moved to have Mr. Peters do 6 hours of CE in addition to the 30 required for renewal on error prevention or pediatric dosing, attend one Reno Board meeting without receiving CE credit, complete the Your Success Rx program at the Board's expense, and receive a letter of reprimand.

Second: Barry Boudreaux

Amendment: Ann Peterson wanted to amend the motion to require Mr. Peters to pay one half of the costs of Your Success Rx.

Amendment accepted by the First and the Second.

Action: Passed Unanimously

Board Action:

Motion: Katie Craven moved to find Sav-On guilty of the Third Cause of Action.

Second: Leo Basch

Action: Passed Unanimously

Motion: Katie Craven moved to fine Sav-On \$1,000.00 plus ½ of the fees and costs in this matter.

Second: Leo Basch

Action: Passed Unanimously

7. Appearance:

Walgreens #4789 and #5295 – Audit Report

Dan Luce and Eman Gobran appeared and gave the audit report that was Ordered for Walgreens #4789 and #5295. They stated they reviewed over 200,000 prescriptions. Eighteen were noted missing documentation. None of them were repeat or refill prescriptions and none of them were for controlled substances. There have been no infractions since the Order was issued.

8. General Counsel Report

A. Candy Nally did an excellent job testifying at Dr. Bass' preliminary hearing in Las Vegas. He was charged with one count of murder.

B. There has been a settlement between Cardinal and the NYAG. There was a fine of several million dollars, but Cardinal signed an agreement not to buy from the secondary source wholesale market. They will not buy or resell into the market.

C. Louis Ling noted that the legislature will be in full swing by the next Board meeting.

9. Executive Secretary Report:

- A. Financial Report
- B. Investment Report

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

C. Temporary Licenses

Since the last Board meeting, Mr. Pinson has granted two temporary licenses.

D. Pending Policy Questions

a. Annual Financial Disclosure

Mr. Pinson asked the Board to complete the annual financial disclosure forms.

b. Cooperation with Administrative Team for the Review of Child Deaths

Mr. Pinson advised the Board that staff would wholeheartedly cooperate with said team.

c. Workgroup on Policy Mitigating Drug Risks

Board staff will conduct a workgroup before the next Board meeting regarding mitigating drug risks and report at the February Board meeting.

E. Staff Activities

a. Donation of Tablet Counter

Larry Pinson reported that he was made aware of a need for a tablet counter by Pharm-Net, a division of the Department of Public Safety. After making inquiries, David Chan, of Scolari's, donated a tablet counter to them.

b. Meetings

1. Met with Senator Schneider and Fred Hillerby regarding his bill to abolish the Board of Pharmacy.

2. Mr. Pinson will be meeting with Barry Gold, a lobbyist for AARP, to discuss bills.

3. Candy Nally and Joanee Quirk testified in the Dr. Bass case.

4. The Board needs to appoint a delegate and an alternate for the NABP annual meeting. Barry Boudreaux was appointed delegate and Katie Craven will be the alternate.

c. "Recent Developments in Pharmacy Law" Seminar

Mr. Pinson will moderate this program in February at the request of CPhA.

d. Activities Report

The Activities Report that was sent to the legislator's was presented.

10. Discussion and Determination:

A. Written Record of Refills

Larry Pinson noted that NAC 639.918(4) requires “handwritten initials of the pharmacist who fills the refill.” In consideration of many current practices, as well as pharmacies of the future, featuring such computer advances as biometrics, retinal scans, passwords, PINS and more, staff asked for discussion on “cyber-initialing.” The Board directed staff to draft language to allow this concept.

B. Partial Filling of Prescriptions

This topic was deferred to the February meeting.

WORKSHOP

11. **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 to NAC 453.440 Controlled Substances in Schedule II**

This amendment will allow pharmacists to add or change a date on a schedule II prescription after consultation with the prescribing practitioner.

Cookie Quandt commended this regulation amendment.

The Board directed staff to move forward to Public Hearing.

2. **Amendment to NAC 453.540 Schedule IV Controlled Substances**

This amendment will add Human Growth Hormone (HGH) to the list of controlled substances in schedule IV.

The Board directed staff to move forward to Public Hearing.

3. **Amendment of NAC 639 New Language Regulating Prescription Quarantining** This new language will establish conditions and prohibitions regarding prescription quarantining.

Louis Ling reviewed the language for the Board and noted that since the last draft he had added the opt-in and opt-out language.

Liz Macmenamin, representing RAN, submitted proposed language that deleted most of the language as presented. She noted that her members did not want number three to prohibit refilling.

Cookie Quandt, representing Long’s, wanted the ability to adjudicate the prescription before the patient arrives to pick it up. That way, if the insurance company will not

approve and they have to change the drug it will give the pharmacy the opportunity to contact the prescribing physician.

Mr. Ling noted that the intent of the language as presented was to prevent refilling of prescriptions prior to authorization. Board staff was trying to fulfill the Boards direction from the last meeting.

Mary Ryan, representing Medco, thought that if we strike section A the language would be more flexible.

The Board discussed the suggestions and directed Board staff to rework the language to incorporate the suggestions into our language. It was also noted that pre-filling and pre-billing is considered insurance fraud.

The Board directed staff to make changes and move forward to Public Hearing.

4. **Amendment to NAC 639.720 Mechanical Devices in Institutions.** This amendment will establish conditions under which a mechanical device in an institution can be used to dispense drugs to practitioners or patients.

Paul Larsen and Matt Schnelling, of Lionel Sawyer and Collins on behalf of InstyMeds, appeared and presented suggested language that would include practical nurses, registered nurses or other practitioners to have access to the mechanical devices.

Liz Macmenamin noted that she and her members were under the impression that these mechanical devices were for use in the ER only. She indicated that it was not acceptable for nurses to have access to something that was supposed to be for patient use.

Jan Carmichael, from the VA Hospital Pharmacy, asked for clarification on the intent of this regulation. She voiced serious concerns regarding public safety.

Katie Craven noted that the word “administer” throughout the language needed to be changed to “dispense.” She also would like to narrow the “medical facility” definition to allow this type of mechanical dispensing device in emergency rooms only.

The Board directed staff to make the suggested changes and move forward to Public Hearing.

5. **Amendment to NAC 639 New Language Custom Mastectomy Products** This amendment refines the definition of which customized mastectomy products are considered medical devices.

Dolly Curtz and Kathy Brinkmyer appeared and noted that there was still one correction that needed to be made to this language. Everywhere 18 mm is noted it needs to be changed to 20 mm as that is the industry standard.

The change will be made and the Board directed staff to move forward to Public Hearing.

6. 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.

Move forward to Workshop in Las Vegas.

12. Next Board Meeting:

February 22-23, 2007 – Las Vegas, Nevada

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

Liz Macmenamin advised the Board that there is a bill before the legislature this session promoting a drug repository for returns to be dispensed to poor people.