

August 23, 2007

AGENDA

◆ PUBLIC NOTICE ◆

NEVADA STATE BOARD OF PHARMACY

BOARD MEETING

at the

Airport Plaza Hotel
1981 Terminal Way
Reno, Nevada

Wednesday, September 5, 2007 – 9:00 am

Thursday, September 6, 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.

September 2007 Board Meeting Agenda

- * 1. Approval of July 25-26, 2007, Minutes
- * 2. Applications for Out-of-State MDEG – Non Appearance:
 - A. Air Liquide Industrial U.S. LP – Pittsburg, CA
 - B. Lynncore Medgroup, Inc. – Sherman, TX
 - C. Rosendahl Foot and Shoe Center – Boise, ID
 - D. Sawtooth Orthotics and Prosthetics, Inc. – Boise, ID
 - E. Stereotaxis, Inc. – St Louis, MO

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

- F. Atlas Respiratory Services, Inc. – Sharon Hill, PA
- G. Carhart Pharmacy, Inc. – Chicago, IL
- H. CuraScript SP Specialty Pharmacy – New Castle, DE
- I. ITC Compounding & Natural Wellness Pharmacy – Castle Rock, CO
- J. T.S. Rx, Inc. – Houston, TX
- K. Village Compounding Pharmacy – Houston, TX
- L. WellCare Specialty Pharmacy, Inc. – Tampa, FL

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

- M. Stericycle, Inc. – Boynton Beach, FL
- N. Universal Footcare Products Inc. – Northbrook, IL

Applications for Nevada MDEG – Non Appearance:

- O. Divine Relaxation Therapeutic Supply – Las Vegas
- P. Golden Heart Medical Supplies – Las Vegas
- Q. Maximum Comfort Inc. – Las Vegas
- R. OptimalAire, Inc. – Minden

Applications for Nevada Pharmacy – Non Appearance:

- S. Sav-on Pharmacy #6060 – Las Vegas
- T. Summerlin Compounding Pharmacy – Las Vegas
- U. Walgreens #11446 – Reno

◆ REGULAR AGENDA ◆

- * 3. Application for Nevada Pharmacy – Appearance:
 - RX WEST LLC – Las Vegas

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- * 4. Application for Nevada Wholesaler – Appearance:
 - Nevada Medical and Surgical Supply Corp. – Las Vegas
- * 5. Application for Nevada MDEG – Appearance:
 - Diabetic Life Supply – Las Vegas
- * 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. Vaughn R. Terry, PT (07-056-PT-N)
 - B. Breanne N. Kephart, PT (07-020-PT-N)
 - C. Raley’s Drug Center #105 (07-020-PH-N)
 - D. Dana A. Kinas, R.Ph (07-065-RPH-O)
 - E. Wal-Mart Pharmacy #10-3408 (07-010-PH-N)
- * 7. Request for Appearance:
 - A. Jodi Hopkins, PT
 - B. Rich Rosky – National Meth Initiative
 - C. Cari Rovig – Nevada Immunization Coalition
 - D. Electronic Pedigree
 - Stephanie Aleong – Nova Southeastern University
 - Kamal Mustafa – Secure Symbology Inc.
- * 8. Your Success Rx Report – Appearance:
 - Katie Johnson, R.Ph and Steven J. Peters, R.Ph
- * 9. Workplace Assessment Evaluation – Appearance:
 - Do-Hwan Park
- *10. General Counsel Report
- *11. Discussion and Determination:
 - Request by Las Vegas Metro Police Department to Schedule Certain Chemicals

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*12. Executive Secretary Report:

- A. Financial Report
- B. Investment Report
- C. Temporary Licenses
- D. Staff Activities
 - 1. Meetings
 - a. NACDS Pharmacy and Technology Conference
 - b. MDEG Committee Meeting (8/29)
 - c. CE Committee Meeting (8/30)
 - 2. Miscellaneous
 - a. Board Office Move
 - b. Grant
 - c. CE Programs
- E. Report to Board
 - 1. The Green Sign
 - 2. Tamper-Proof Rx pads Update; NABP Response
 - 3. University of Georgia Security Breach
 - 4. Your Success Rx Consultant
- F. Activities Report

W O R K S H O P – Thursday, September 6, 2007 – 9:00 am

- *13. 1. **Amendment of NAC 639.NEW LANGUAGE** Compounding Regulations
- 2. **Amendment of NAC 639.NEW LANGUAGE** Implementation of AB128 regarding sale practices of manufacturers and wholesalers.
- 3. **Amendment of NAC 639.NEW LANGUAGE** Positive identification of user of pharmacy computer system.

P U B L I C H E A R I N G – Thursday, September 6, 2007 – 9:00 am

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

- 1. **Amendment of Nevada Administrative Code 639.593 Wholesaler Fingerprinting** This language will required wholesalers fingerprints to be submitted only in an electronic form so they can be readily processed by the Nevada Department of Public Safety and the Federal Bureau of Investigations.
- 2. **Amendment of Nevada Administrative Code 639.NEW Controlled Substance Regulations for Veterinarians and Veterinary Practices** This language was drafted as a result of a request by the Veterinary Board. It details controlled substance rules for veterinarians and veterinary practices.

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3. **Amendment of Nevada Administrative Code 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.
4. **Amendment of Nevada Administrative Code 639.NEW Prohibition of Prescription Quarantining** This new language will establish conditions and prohibitions regarding prescription quarantining.
5. **Amendment of Nevada Administrative Code 639.720 Use of Mechanical Device to Dispense Drugs Directly to Patients 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.
6. **Amendment of Nevada Administrative Code 639.330 Continuing Education Revisions Regarding Attendance at Board Meetings** This amendment changes the standards under which a pharmacist may obtain continuing education credit for attending a Board meeting.
7. **Amendment of Nevada Administrative Code 639.245, 639.250 and 639.701 Pharmaceutical Technician Changes** This amendment changes the ratio between pharmacists and pharmaceutical technicians and pharmaceutical technicians-in-training from two to three and requires technicians or pharmacists to input information from a new prescription related to the drug and directions for use into the pharmacy computer system.
8. **Amendment of Nevada Administrative Code 639.NEW Retail Delivery Devices** This new language would allow a mechanical device to deliver refilled prescriptions to patients.

15. Next Board Meeting:

October 24-25, 2007 – Las Vegas, Nevada

16. 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.

September 2007 Board Meeting Agenda

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, 431 W Plumb Lane, Reno, Nevada 89509, 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 1 hour of law, will be given per day of Board meeting attendance. You are required to attend the board meeting for a full day to receive CE credit including the law credit.

This notice has been posted at the following locations:

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, September 5, 2007
and
Thursday, September 6, 2007

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	Keith Marcher
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CONSENT AGENDA

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R. OptimalAire, Inc. – Minden

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T. Summerlin Compounding Pharmacy – Las Vegas

U. Walgreens #11446 – Reno

Discussion:

Leo Basch suggested two changes in the Workshop items.

Board Action:

Motion: Keith Macdonald moved to approve the minutes of the July Board meeting noting the changes Leo Basch suggested.

Second: Leo Basch

Action: Passed Unanimously

Discussion:

NOTE: Leo Basch recused from participation in the vote on Item 2U as he is employed by Walgreens.

The consent agenda applications and supporting documents were reviewed.

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 Item 2U.

Second: Katie Craven

Action: Passed Unanimously

Motion: Keith Macdonald moved to approve Item 2U.

Second: Katie Craven

Action: Passed Unanimously

REGULAR AGENDA

3. Application for Nevada Pharmacy – Appearance:

RX WEST LLC – Las Vegas

Michelle Peterson and Robert Rimberg appeared and were sworn by President Wuest prior to answering questions or offering testimony.

NOTE: Katie Craven disclosed that she knows Ms. Peterson.

Ms. Peterson and Mr. Rimberg answered the Board's questions regarding their pharmacy operations to the Board's satisfaction.

Board Action:

Motion: Keith Macdonald moved to approve the application for Nevada pharmacy pending inspection.

Second: Barry Boudreaux

Action: Passed Unanimously

4. Application for Nevada Wholesaler – Appearance:

Nevada Medical and Surgical Supply Corp. – Las Vegas

Paul Dankie and Ron Patterson appeared and were sworn by President Wuest prior to answering questions or offering testimony.

Mr. Dankie and Mr. Patterson answered the Board's questions regarding their pharmacy operations to the Board's satisfaction.

Board Action:

Motion: Keith Macdonald moved to approve the application for Nevada pharmacy pending inspection.

Second: Katie Craven

Action: Passed Unanimously

5. Application for Nevada MDEG – Appearance:

Diabetic Life Supply – Las Vegas

NOTE: Keith Macdonald recused from participation because of his previous association with Rob Miller.

Rob Miller and Robert Maxwell appeared and were sworn by President Wuest prior to answering questions or offering testimony.

Mr. Miller and Mr. Maxwell answered the Board's questions regarding the operation of their MDEG facility. Mr. Maxwell stated that he is the president of Diabetic Life Foundation and he publishes a magazine and plans to do a television program to inform diabetic patients about their disease. Mr. Miller and Mr. Maxwell discussed their suppliers, employees, and other facets of their operation.

Board Action:

Motion: Barry Boudreaux moved to approve the Nevada MDEG application pending inspection.

Second: Leo Basch

Action: Passed Unanimously

6. Disciplinary Action:

A. Vaughn R. Terry, PT (07-056-PT-N)

President Wuest called Mr. Terry numerous times to appear, however Mr. Terry was not present. The Board determined they would move forward with this matter in Mr. Terry's absence.

Louis Ling noted that Mr. Terry tested positive for marijuana in a pre-employment drug screen for Smith's.

Board Action:

Motion: Ann Peterson moved to find Mr. Terry guilty of the alleged violation.

Second: Leo Basch

Action: Passed Unanimously

Motion: Ann Peterson moved to revoke Mr. Terry's pharmaceutical technician registration.

Second: Leo Basch

Action: Passed Unanimously

- B. Breanne N. Kephart, PT (07-020-PT-N)
- C. Raley's Drug Center #105 (07-020-PH-N)

Breanne Kephart and David Fluitt, District Pharmacy Manager representing Raley's, appeared and were sworn by President Wuest prior to answering questions or offering testimony.

Mr. Fluitt explained to the Board that there was miscommunication at Raley's headquarters when verifying Ms. Kephart's registration information. The Board's website noted her status as "Renewal Pending" and the person doing license verifications thought that meant her re-registration was in process. Mr. Fluitt described new policies and procedures Raley's has implemented to ensure licensure of their pharmacy staff.

Board Action:

Motion: Keith Macdonald moved to find Ms. Kephart guilty of the First Cause of Action.

Second: Ann Peterson

Action: Passed Unanimously

Motion: Keith Macdonald moved not to fine Ms. Kephart in this matter.

Second: No Second

Action: Motion Failed

Motion: Ray Seidlinger moved to fine Ms. Kephart \$250 and have her attend the CE that Board staff is presenting on September 20, 2007.

Second: Ann Peterson

Action: Passed Unanimously

Motion: Ray Seidlinger moved to find Raley's guilty of the Second Cause of Action, fine them \$250 plus costs and fees in this matter.

Second: Ann Peterson

Action: Passed Unanimously

D. Dana A. Kinas, R.Ph

(07-065-RPH-O)

Louis Ling presented a stipulated agreement to Ms. Kinas that she signed. Mr. Ling advised the Board that Ms. Kinas had been disciplined and revoked in Arizona for adding refills for herself to prescriptions without her physician's authorization. Since Ms. Kinas is an out-of-state pharmacist, the stipulated agreement prohibits her from practicing in Nevada. If she returns to Nevada to practice, Ms. Kinas will have to first appear before the Board with proof that her license has been reinstated in Arizona and that she is in good standing with them.

Board Action:

Motion: Ray Seidlinger moved to accept the stipulated agreement as outlined.

Second: Katie Craven

Action: Passed Unanimously

E. Wal-Mart Pharmacy #10-3408

(07-010-PH-N)

NOTE: Keith Macdonald recused from participation as he is employed by Wal-Mart.

Debbie Mack, Director of Professional Services representing Wal-Mart, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Ms. Mack did not dispute the error in this matter, however she indicated that she would be discussing the other accusations in the Notice of Intended Action and Accusation.

Louis Ling advised the Board that Board staff only charged the store in this matter since it was impossible for the Board investigator to determine who, specifically, was involved in processing the prescription for a one-year old baby, Mason Rice. A prescription was written for Bactrim suspension and was filled with Bactrim DS 800-160 tablets with directions to take one tablet by mouth twice daily until gone. The label also showed the physician's name to be Dr. Jennifer Ehmann, not Dr. Philip Schlager even though Dr. Schlager was the actual prescriber of the prescription. Mr. Ling advised the Board that he would present testimony from Jason Penrod, one of the Wal-Mart pharmacists in the Carson City store, David Rice, Mason Rice's father, Jeannie Dey, Mason Rice's mother, and Joseph Depczynski, Board inspector/investigator.

Mr. Ling presented three Exhibits.

Exhibit 1 is a packet of photographs of various screens of the Wal-Mart computer, the floor space of the pharmacy, and the labeling and scanning equipment.

Exhibit 2 is a copy of Wal-Mart Pharmacy #10-3408's 4Point Check Report.

Exhibit 3 is a copy of Wal-Mart Pharmacy #10-3408's Activity Report.

All three Exhibits were accepted into the record.

Jason Penrod, pharmacist at Wal-Mart, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Louis Ling questioned Mr. Penrod regarding his employment with Wal-Mart. Mr. Penrod explained that he was working in the Carson City Wal-Mart at the time of the error however has subsequently transferred to one of the Reno stores. Mr. Ling asked Mr. Penrod to explain the computer system at Wal-Mart regarding updates to the system. Mr. Penrod stated that a flash comes on the screen when a change is made to the computer system to alert the pharmacist or technician of a change. He indicated that since he has been employed by Wal-Mart he has seen this happen only twice. Mr. Penrod described the process of filling a prescription. At the time of the error there were several computers accessible to the pharmacist and two computers at the out-window. Mr. Penrod admitted that he was logged onto more than one computer and knew he would be held responsible for work done on any computer with his log-on whether he actually did the work or not.

Mr. Penrod testified that he heard about the error from Ms. Dey the day after the medication was dispensed. Mr. Penrod described how he dispenses medication and advised that he tried to review the counseling log for this prescription but found there was no documentation of that particular prescription. Mr. Penrod stated that he had the Wal-Mart Security Department review the security tape of the pharmacy for the time of this error. He could not explain how the error happened. He explained the process when a new prescription comes in and reviewed the pictures that Mr. Ling presented as Exhibit 1. Mr. Penrod explained the procedure at “the drop” – when the pharmacy receives a new prescription and it is scanned into their computer system. The original paper prescription does not follow throughout the filling process after the drop. Mr. Penrod, another pharmacist and a pharmaceutical technician were on duty when the prescription came in to the pharmacy. On page two of Exhibit 1 is a picture of the input screen where the information for the label is input. On the Activity Log it shows Mr. Penrod input the information for the label but in actuality it was Jeannie Chang, pharmacy manager, who did the input as shown on the security tapes. Page 3 of Exhibit 1 is the 4Point Check where verification is done to ensure everything is correct. If an error is made on dosing a red lettered warning appears. The system then prompts the pharmacist as to what they need to do to correct the situation. The pharmacist has to go back to the beginning to review again. Mr. Penrod testified that he did not do the 4Point Check as he assumed that Jeannie Chang did it even though the computer is logged on with Jason Penrod’s ID. Mr. Penrod explained the details of the 4Point Check and the scan verification process. He described that anyone who uses the scan gun needs to “73” out so the new person using the gun can be identified. He testified that the verification screen shows the picture of the drug and the pharmacist is required to pour out the drug from the prescription container into the cap to compare and verify that the medication matches the computer image. At that point the filled prescription is sent to the counseling window. On Mason Rice’s prescription a pharmaceutical technician dispensed it to Mr. Rice before a pharmacist could come to counsel. Mr. Rice had already paid for Mason’s medication. Mr. Penrod advised that Wal-Mart considers the 4Point Check the critical part of the filling process that ensures all is

correct. He also described the initialing process of the labels. Wal-Mart will print out the prescription stickers that need initialing throughout the day and the pharmacist will initial the prescription stickers, sometimes hours after the actual fill.

Ms. Mack cross examined and asked Mr. Penrod if he now realized why it is important to log on and off the computer and not to be logged on to more than one computer at a time. Mr. Penrod replied that he now understands the importance.

David Rice, Mason Rice's father, appeared by telephone and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Rice testified that Mason was prescribed an antibiotic for severe diarrhea. As he recalled, the physician phoned the prescription to the Wal-Mart pharmacy where Mr. Rice worked. He went to pick up the prescription after he got off work at 8:00 p.m. Mr. Rice testified that he heard pills in the bag he was given and asked how he was going to give his one-year old a pill. The technician told him to give it to the baby with food. When Mr. Rice took the medication home and gave it to his wife, she did not try to give the pill to Mason. Instead she waited until the next day and contacted Mason's doctor to see if he had made a mistake and had written the prescription for an adult dosage. Mr. Rice indicated that his wife was told by the doctor had written the prescription for Bactrim suspension.

Jeannie Dey, Mason Rice's mother, appeared by telephone and was sworn by President Wuest prior to answering questions or offering testimony.

Ms. Dey testified that Mason's doctor had written the prescription for Bactrim suspension for an ear infection. Ms. Dey asked her husband to pick up the prescription on his way home from work. When Mr. Rice gave Ms. Dey the medication he picked up from Wal-Mart he told her that the pharmacy had given him pills rather than suspension for Mason. Ms. Dey testified that she spoke with the doctor the following day and was told that the pharmacy had made a mistake because he had written for Bactrim suspension. Ms. Dey stated that she called the pharmacy and told them of the error and was frustrated because she did not get any compassion from the Wal-Mart pharmacy staff. She indicated that they told her to get rid of the pills and they would replace it with the correct medication.

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

Mr. Depczynski described his duties with the Board of Pharmacy. He testified that when he received this case he went to the Wal-Mart pharmacy and tried to recreate the filling process. Mr. Depczynski dealt with Jeannie Chang, pharmacy manager for Wal-Mart #10-3408. Mr. Depczynski started with the drop area and had concerns. He did a simulated process after they retrieved the original written prescription. Mr. Depczynski had difficulty determining who the people were that actually filled this particular prescription. Mr. Depczynski noted that he requested information from Lanikai Abbott, the district pharmacy manager for Wal-Mart, but she could not produce it. Ms. Abbott advised Mr. Depczynski that she would get it for him from the corporate offices. Mr.

Depczynski advised that it was common practice for pharmacy staff to use a computer that was logged on to someone else.

Ms. Mack objected to Mr. Depczynski going over the filling process again since it had been thoroughly reviewed by Mr. Penrod. Mr. Ling advised the Board that since Wal-Mart is contesting most of the charges against them because they claim Mr. Depczynski did not know what he was doing and was unqualified to understand the Wal-Mart computer system, he would like to continue this questioning. President Wuest directed Mr. Ling to continue.

Mr. Ling asked Mr. Depczynski if he had checked the counseling log. Mr. Depczynski indicated that he had and that he had asked a technician how she notified the pharmacist for counseling on a new prescription and he was told that she would ask the patient if they wanted to talk to a pharmacist. He advised that that practice was unacceptable.

Mr. Ling questioned Mr. Depczynski about the Workplace Assessment sheets. Mr. Depczynski advised that his inspections of Wal-Mart pharmacies, Wal-Mart pharmacies as a whole can not complete the forms.

Ms. Mack cross examined Mr. Depczynski and told Mr. Depczynski that Wal-Mart could provide any information he wanted and could not understand why Mr. Depczynski found it difficult. Mr. Depczynski testified that he could not retrieve the information and Ms. Mack said he could. Ms. Mack also said the Activity Report is always accurate. Mr. Depczynski stated that it was not since it did not show the actual persons involved in the processing of the prescription at issue. Ms. Mack stated that if the pharmacist followed the policies and procedures it would be correct and she considered it correct because it showed people logged on to the computer and it was their fault if they compromised their ID's by not logging off. Mr. Depczynski stated that the audit report did not reflect the drop or input functions. Ms. Mack said she can get it from the home office. She stated they can provide the information required to complete the Workplace Assessment form, also. Mr. Depczynski noted that pharmacy staff and the district pharmacy supervisor were unaware of being able to provide that information or how to go about obtaining it.

Mr. Ling questioned Mr. Depczynski regarding Ms. Mack's cross examination. The Board also questioned Mr. Depczynski for clarification on his testimony.

Mr. Ling presented Exhibit 4.

Exhibit 4 is the original prescription for Mason Rice.

Ms. Mack went through the filling process as it is supposed to be done according to Wal-Mart's policies and procedures. Again, Ms. Mack reiterated that Wal-Mart admits the error occurred but the pharmacists did not follow policies and procedures and that is not Wal-Mart's fault.

Mr. Ling gave closing statements. He noted that Wal-Mart pharmacy computer systems are in violation of Nevada law. Board staff did not charge the pharmacists in this matter because it was difficult to determine who actually worked on the prescription. Mr. Penrod was logged on to more than one computer but did not actually fill the prescription. Then there is the counseling that did not occur. Mr. Ling reviewed the Causes of Action and made the following recommendations.

First Cause of Action – Misfill. No fine per matrix.

Second Cause of Action – Policy on visual verification. \$1,000.00 fine.

Third Cause of Action – Policy that pharmacist does not have to put initials on duplicate label at time of fill. \$1,000.00 fine.

Fourth Cause of Action – Counseling violations. \$750.00 fine.

Fifth Cause of Action – No counseling log. \$750.00 fine.

Sixth Cause of Action – Failure to produce dependable record. \$1,000.00 fine.

Seventh Cause of Action – Failure to produce data for the Workplace Assessment. \$500.00 fine.

Eighth Cause of Action – Owning and operating the pharmacy in which the error took place. \$1,000.00 fine.

Mr. Ling also recommends probation for one year with terms as follows:

Within 90 days Wal-Mart will change their computer system to 1) only one person can be logged onto one computer at a time, 2) high dose alerts for pediatric patients, 3) pill verification and image of original prescription to be compared, 4) technician and pharmacist initial duplicate label, and 5) find a new way to counsel and do not ring up prescription and pay before counseling.

Ms. Mack made closing statements and denied all eight Causes of Action. Pharmacists need to be held responsible since Wal-Mart has policies and procedures and they expect their staff to follow the rules.

The Board discussed the case and the recommendations. Leo Basch noted for the record that he found it offensive that Wal-Mart deny all Causes of Action including the error.

Board Action:

Motion: Ann Peterson moved to find Wal-Mart #10-3408 guilty of all eight Causes of Action.

Second: Katie Craven

Action: Passed Unanimously

Motion: Barry Boudreaux moved to place Wal-Mart #10-3408 on probation for one year, system enhancement of high dose alert, and measures taken to ensure counseling takes place – to be complete within 90 days of the date of the Boards Order. Have Wal-Mart representatives sit down with Board

staff to discuss compliance with Nevada law and the referenced requirements. Have Board inspector audit for counseling compliance and then spot check during the probationary period. Fine Wal-Mart #10-3408 \$3,000.00 plus costs and fees.

Second: Ray Seidlinger

Action: Passed Unanimously

7. Request for Appearance:

A. Jodi Hopkins, PT

Ms. Hopkins appeared and President Wuest acknowledged his working relationship with Ms. Hopkins and gave the Chair to Katie Craven to preside over this matter.

Ms. Hopkins indicated that she is doing well in the PRN-PRN group and enjoys participation. Larry Espadero was not present with Ms. Hopkins, however he submitted a letter of support, feeling that Ms. Hopkins was ready to return to pharmacy practice. Ms. Hopkins stated that she had a job opportunity at Arlington Clinical pharmacy and feels confident that she is ready to return to pharmaceutical technician duties.

Board Action:

Motion: Keith Macdonald moved to approve reinstatement of Ms. Hopkins pharmaceutical technician registration.

Second: Barry Boudreaux

Action: Two yes votes, three no votes. Ms. Hopkins was advised that the Board felt she should be out of pharmacy for at least one year before requesting reinstatement considering she was using injectables.

B. Rich Rosky – National Meth Initiative

Rich Rosky appeared representing HIDTA Southwest Meth Initiative and gave a presentation proposing a mechanism to track pseudoephedrine purchases. He explained that it was an electronic program that would track purchases over 9 grams of pseudoephedrine within a 30 day period. Right now there is no way of knowing from one store to another – let alone one state to the next. Each state seems to be trying to combat the meth problem in their own way, but if there was one system for consistency, meth “smurfers” could be deterred. He explained that the information would go into a central data base and be available across state lines. Mr. Rosky explained the steps for implementation and thanked the Board for their interest.

C. Cari Rovig – Nevada Immunization Coalition

Ms. Rovig gave a presentation on the steps the Nevada Immunization Coalition is taking regarding immunizing children in our state. Ms. Rovig noted that Nevada is 50th in the nation for children being immunized. Their goal is to increase immunizations and promote physician visits resulting in healthier children in the community. The Coalition has three programs suited to children, adolescents, and adults to encourage getting immunizations. Ms. Rovig noted that Nevada's laws regarding pharmacists doing immunizations limits the age of their patients to 18 years of age. Ms. Rovig asked the Board to consider reducing the age limit to 11 to parallel their adolescent immunization recipients.

The Board directed staff to bring this topic to the October Board meeting as a Discussion and Determination item for further discussion.

D. Electronic Pedigree

Stephanie Aleong – Nova Southeastern University
Kamal Mustafa – Secure Symbology Inc.

Ms. Aleong and Mr. Mustafa presented an electronic pedigree program that is available now. Secure Symbology Inc. has designed two products that work in conjunction with each other. They have developed an anti-counterfeiting system using a serialized bar code technology. They incorporated a secure database maintained by the company and the system allows manufacturers to collect information beyond that required under government regulations. The information can be useful for conducting recalls, identifying product diversion, and analyzing counterfeit trends. These systems have been designed to be able to adapt to future developments or regulatory requirements and additional e-pedigree technologies.

Mr. Mustafa and Ms. Aleong took questions throughout the presentation and the Board thanked them for the informative presentation.

8. Your Success Rx Report – Appearance:

Katie Johnson, R.Ph and Steven J. Peters, R.Ph

Due to a conflict, Ms. Johnson and Mr. Peters will appear at the December Board meeting.

9. Workplace Assessment Evaluation – Appearance:

Do-Hwan Park

Dr. Park and her associate Ms. Pawinee Buntha appeared and gave a presentation of the statistical analysis they have been working on regarding the Workplace Assessment sheets.

Board Action:

Motion: Keith Macdonald moved to 1) maintain the workplace assessment process and attempt to modify the data gathering to include incident report data for the common week in January, 2) to continue the relationship with Dr. Park and UNR for objective analysis of the data, 3) develop an internal process to assure that all purple sheet data gathered in investigations of consumer complaints is maintained, 4) create a working group to discuss the issues raised by the Park report, and 5) continue making annual presentations of the data to the Board.

Second: Ann Peterson

Action: Passed Unanimously

10. General Counsel Report

Mr. Ling reported that he has been asked to speak in Seattle regarding the electronic pedigree program.

Doctors in Nevada have been calling and asking if they can prescribe Liposolve. Mr. Ling indicated that for one state, Kansas doctors are not allowed to prescribe it. Mr. Ling reported that he contacted the Medical Board and asked if they were going to get involved in this issue. The federal government has allowed Liposolve to be used for clinical research only. Mr. Ling indicated that it is a vanity drug and does not work, sort of like snake oil in the old days. The Board directed Larry Pinson and Dave Wuest to investigate.

11. Discussion and Determination:

Request by Las Vegas Metro Police Department to Schedule Certain Chemicals

Larry Pinson advised the Board that the federal government has scheduled several drugs and Las Vegas Metro Police Department would like us to parallel their action. The Board directed staff to begin the process to schedule the drugs requested by Metro to Workshop.

12. Executive Secretary Report:

- A. Financial Report
- B. Investment Report

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

- C. Temporary Licenses

Mr. Pinson issued one temporary license since the last Board meeting.

D. Staff Activities

1. Meetings
 - a. NACDS Pharmacy and Technology Conference

Mr. Pinson noted that he attended the NACDS conference and found the Disaster Relief presentation of value.

- b. MDEG Committee Meeting (8/29)

The MDEG committee met on August 29, 2007 at the Board office. The major topic of discussion was the level of training necessary to deliver and set different types of breathing machines.

- c. CE Committee Meeting (8/30)

The CE committee met on August 30, 2007 by teleconference and approved two CE programs. "Effective Strategies for Medication Error Prevention" for 2 hours of CE credit and "Sierra Nevada Immunization Conference 2007" for 8.75 hours of CE credit.

Board Action:

Motion: Katie Craven moved to approve the two CE programs as presented.

Second: Leo Basch

Action: Passed Unanimously

2. Miscellaneous
 - a. Board Office Move

The Board office move went smoothly and the staff is happy with their new workspaces.

- b. Grant

The Task Force has accepted a \$400,000.00 grant. The Task Force has also gotten the auto response program working well. Mr. Pinson advised the Board that he had been asked to do a presentation on the Task Force at the District meeting in Ashland, Oregon.

- c. CE Programs

Mr. Pinson advised the Board that he has been doing Nevada law CE's for pharmacists prior to their renewal in October. Joe Depczynski has been doing them, also, as has Ron Shockey in Las Vegas. There has been more opportunity for this pharmacist renewal period than there has been in the past.

E. Report to Board

1. The Green Sign

Mr. Pinson presented the “green sign” that Ann Peterson designed for use in pharmacies and thanked her for her time in doing this project for the Board.

2. Tamper-Proof Rx pads Update; NABP Response

Board staff has received numerous calls regarding the new requirement for physicians to write prescriptions for Medicaid patients on tamper-resistant prescription blanks that will become effective on October 1, 2007. Mr. Pinson advised the Board that Carmen Catizone, Executive Director of NABP, had written to the Department of Health and Human Services Centers for Medicare and Medicaid Services and asked that they delay implementation of this requirement in the interest of protecting the health of Medicaid recipients. To date Board staff has not seen a delay in the October 1, 2007 implementation date. One way to help patients would be for the pharmacist to contact the prescriber and take the prescription as an oral order. Larry Pinson noted that there is nothing in our law that requires security paper other than for a paper prescription generated by an e-prescribing system. Therefore, the enforcement of this requirement must come from Medicaid.

3. University of Georgia Security Breach

It was discovered there was a professor at the University of Georgia has breached NAPLEX examination security. Consequently, there will be no NAPLEX testing for the until the situation is investigated and corrected by NABP. MPJE is still able for reciprocity purposes.

4. Your Success Rx Consultant

Katie Johnson met with Louis Ling and Larry Pinson and advised them that she was bringing Marybeth Volk, an RN familiar with hospital systems, into the Summerlin Hospital review.

F. Activities Report

WORKSHOP

13. 1. **Amendment of NAC 639.NEW LANGUAGE** Compounding Regulations

Mr. Ling advised the Board that they had finally come to a consensus with the compounding regulations. Before the Workshop, Katie Craven gave Mr. Ling a couple more changes she wanted made to the language for clarification, but otherwise she was satisfied with the language and ready to move forward.

President Wuest asked if there was any public comment and there was none.

Barry Boudreaux submitted a letter from Medco requesting removal of the reference to out-of-state pharmacies in Section 9. The Board deemed to keep the out-of-state language in Section 9.

Board Action:

Motion: Katie Craven moved to move the Compounding regulations to Public Hearing.

Second: Ray Seidlinger

Action: Passed Unanimously

2. **Amendment of NAC 639.NEW LANGUAGE** Implementation of AB128 regarding sale practices of manufacturers and wholesalers.

Louis Ling advised the Board that he had made the changes Pharma requested at the last meeting and as directed by the Board.

John Sandy, of Jones Vargas – representing Pharma, asked if the 120 days could be extended. Mr. Ling advised that if the wholesalers and manufacturers were working diligently to comply, an extension could be arranged.

Board Action:

Motion: Keith Macdonald moved to take this language to Public Hearing as presented.

Second: Katie Craven

Action: Passed Unanimously

3. **Amendment of NAC 639.NEW LANGUAGE** Positive identification of user of pharmacy computer system.

Mr. Ling advised that he had made the changes that resulted from the July Board meeting by removing the four-minute rule and the board staff approval of computer systems, and added pharmaceutical technicians in Section 2.

Liz Macmenamin, of the Retail Association of Nevada, Dan Luce, representing Walgreens, and Vic Vercamin, representing Albertson/Sav-On/Supervalu appeared and voiced their concerns regarding Section 1, subsection 4(b). They recommended the Board remove subsection 4(b) completely. Katie Craven stated that she wanted that language to stay because a pharmacist must be held responsible for the activities on any given computer they are logged on to. It was suggested not to reference back to subsection 3 if the language remained.

Rich Mazzone appeared, representing CVS, and stated he did not want this regulation to move forward to Public Hearing but bring it back to Workshop again.

Russell Smith, representing the Carson City Pharmacist Association, would like to see this language return to Workshop. He said he would like to talk to his Association members and get input from them on this matter.

David Vasenden, representing Don's Pharmacy, indicated that he would prefer to have a timeout as discussed at the July Board meeting.

Board Action:

Motion: Keith Macdonald moved to re-Workshop and have Mr. Smith submit feedback from the Carson City Pharmacist Association to Board staff.

Second: Ann Peterson

Action: Passed Unanimously

PUBLIC HEARING

14. Notice of Intent to Act Upon a Regulation:

1. **Amendment of Nevada Administrative Code 639.593 Wholesaler Fingerprinting** This language will required wholesalers fingerprints to be submitted only in an electronic form so they can be readily processed by the Nevada Department of Public Safety and the Federal Bureau of Investigations.

President Wuest opened the Public Hearing.

There was no public comment.

President Wuest closed the Public Hearing and asked for a motion.

Board Action:

Motion: Keith Macdonald moved to adopt LCB file number R097-07 as presented.

Second: Ray Seidlinger

Action: Passed Unanimously

2. **Amendment of Nevada Administrative Code 639.NEW Controlled Substance Regulations for Veterinarians and Veterinary Practices** This

language was drafted as a result of a request by the Veterinary Board. It details controlled substance rules for veterinarians and veterinary practices.

Mr. Ling advised that he had worked closely with Debbie Machen, Executive Director of the Board of Veterinary Medical Examiners, to draft the language presented.

President Wuest opened the Public Hearing.

Debbie Machen appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Ms. Machen asked if “veterinarians” are defined in our law. Mr. Ling advised that they were defined in Chapters 453 and 454. Ms. Machen questioned the double lock requirement for controlled substances and asked how that could be interpreted. She discussed the four year requirement outlined in these regulations and suggested to either change or delete the 18 years of age requirement in Section 4, subsection 2(a).

After discussion of her issues it was determined the language would remain as presented.

President Wuest closed the Public Hearing and asked for a motion.

Board Action:

Motion: Barry Boudreaux moved to adopt the language as presented.

Second: Katie Craven

Action: Passed Unanimously

- 3. Amendment of Nevada Administrative Code 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.

President Wuest opened the Public Hearing.

There was no public comment.

President Wuest closed the Public Hearing and asked for a motion.

Board Action:

Motion: Ray Seidlinger moved to adopt LCB file number R044-07 as presented.

Second: Ann Peterson

Action: Passed Unanimously

4. **Amendment of Nevada Administrative Code 639.NEW Prohibition of Prescription Quarantining** This new language will establish conditions and prohibitions regarding prescription quarantining.

Louis Ling advised the Board that he had not noticed until after the Board book went out that LCB had changed the intent of the Board when they drafted this language. We will request they remove the language, “without limitation” in Section 1(1).

President Wuest opened the Public Hearing.

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

Ms. Macmenamin noted that she and her members had noticed the changes that were made in the LCB language and just wanted to ensure that the language would be corrected before passage.

President Wuest closed the Public Hearing and asked for a motion.

Board Action:

Motion: Leo Basch moved to continue LCB file number R045-07 until the language can be returned to its original intent.

Second: Katie Craven

Action: Passed Unanimously

5. **Amendment of Nevada Administrative Code 639.720 Use of Mechanical Device to Dispense Drugs Directly to Patients 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.

President Wuest opened the Public Hearing.

There was no public comment.

President Wuest closed the Public Hearing and asked for a motion.

Katie Craven noted that the language should change the word “administered” to “dispensing” on page 5 subsection (e) (I) and (III)

Board Action:

Motion: Katie Craven moved to adopt LCB file number R043-07 with minor changes as discussed.

Second: Ray Seidlinger

Action: Passed Unanimously

6. Amendment of Nevada Administrative Code 639.330 Continuing Education Revisions Regarding Attendance at Board Meetings This amendment changes the standards under which a pharmacist may obtain continuing education credit for attending a Board meeting.

President Wuest opened the Public Hearing.

There was no public comment.

President Wuest closed the Public Hearing and asked for a motion.

Board Action:

Motion: Keith Macdonald moved to adopt LCB file number R040-07 as presented.

Second: Barry Boudreaux

Action: Passed Unanimously

7. Amendment of Nevada Administrative Code 639.245, 639.250 and 639.701 Pharmaceutical Technician Changes This amendment changes the ratio between pharmacists and pharmaceutical technicians and pharmaceutical technicians-in-training from two to three and requires technicians or pharmacists to input information from a new prescription related to the drug and directions for use into the pharmacy computer system.

President Wuest opened the Public Hearing.

Liz Macmenamin was reminded that she was still under oath.

Ms. Macmenamin asked that Section 1(e) and (f) be omitted as her members feel these are non-discretionary acts.

Louis Ling suggested they be moved to Section 3 and included in NAC 639.701. Mr. Ling will also clarify the ancillary help ratio in the pharmacy.

President Wuest closed the Public Hearing and asked for a motion.

Board Action:

Motion: Keith Macdonald moved to continue LCB file number R037-07 until the language can be re-worked as suggested.

Second: Leo Basch

Action: Passed Unanimously

8. **Amendment of Nevada Administrative Code 639.NEW Retail Delivery Devices** This new language would allow a mechanical device to deliver refilled prescriptions to patients.

President Wuest opened the Public Hearing.

David Vasenden, representing Don's Pharmacy, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Keith Macdonald suggested that these dispensing devices also dispense the drug information that is given to the patient like when they pick up a prescription in the pharmacy. Mr. Vasenden agreed and felt this is a public safety issue and should be included with their refills.

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

Ms. Quandt suggested that in Section 1, subsection 1(a) the word "drugs" be omitted. After discussion the term "medication" was suggested, however since "medication" is not defined that is not an option.

President Wuest closed the Public Hearing and asked for a motion.

Board Action:

Motion: Ray Seidlinger moved to adopt LCB file number R038-07 with the minor change to Section 1, subsection (1)(a) as suggested.

Second: Katie Craven

Action: Passed Unanimously

15. Next Board Meeting:

October 24-25, 2007 – Las Vegas, Nevada

16. Public Comments and Discussion of and Deliberation Upon Those Comments
There was no public comment.