

April 2, 2008

AGENDA

◆ PUBLIC NOTICE ◆

NEVADA STATE BOARD OF PHARMACY

BOARD MEETING

at the

Las Vegas Chamber of Commerce
Turnberry Town Square
6711 Las Vegas Blvd South
Las Vegas

****** NEW ADDRESS FOR THE CHAMBER OF COMMERCE ******

Wednesday, April 16, 2008 – 9:00 am

Thursday, April 17, 2008 – 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.

April 2008 Board Meeting Agenda

- * 1. Approval of March 5-6, 2008, Minutes
- * 2. Applications for Out-of-State MDEG – Non Appearance:
 - A. Envoy Health – Miami Lakes, FL
 - B. Liberty Medical Supply, Inc. – Salem, VA
 - C. MedEx Medical, Inc. – Boca Raton, FL
 - D. Personally Delivered, LLC – Tucson, AZ
 - E. PRN Medical Services, Inc. – Phoenix, AZ
 - F. United States Medical Supply, Inc. – Miami, FL
 - G. Wellness Life Systems, LLC – Kansas City, MO

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

- H. Diplomat Specialty Pharmacy – Swartz Creek, MI
- I. HealthCare Pharmaceuticals, Inc. – Salt Lake City, UT
- J. Monument Pharmacy – Monument, CO
- K. National Compounding Institute, Inc. – Irvine, CA
- L. Premier Kids Care, Inc. – Hollywood, FL
- M. PrescriptionGiant, LLC – Rochester Hills, MI

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

- N. Aurobindo Pharma USA, Inc. – Cranbury, NJ
- O. Axia Medical Solutions, LLC – Carlsbad, CA
- P. Exel Inc. – Mechanicsburg, PA
- Q. JOM Pharmaceutical Services, Inc. – Sheperdsville, KY
- R. Kuehne + Nagel Inc. – Alsip, IL
- S. MWI Veterinary Supply Co. – Edwardsville, KS

Applications for Nevada MDEG – Non Appearance:

- T. 24/7 Medical Equipment Supply, LLC – Las Vegas
- U. ACP Medical Supply Corporation – Reno
- V. Happy Feet Las Vegas – Las Vegas
- W. Life Improvement Medical Supply – Henderson
- X. Spinal Rehab Solutions, Inc. – Las Vegas

Applications for Nevada Pharmacy – Non Appearance:

- Y. Applied Pharmacy Services – Las Vegas
- Z. CVS/pharmacy #121 – Henderson

April 2008 Board Meeting Agenda

Application for Nevada Wholesaler – Non Appearance:

AA. Cardinal Health 108, Inc. – Reno

◆ REGULAR AGENDA ◆

* 3. Application for Nevada Pharmacy – Appearance:

ContinueCare Hospital of Carson Tahoe, Inc. – Carson City

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

UTMB – CMC Department of Pharmacy – Huntsville, TX

* 5. Applications for Nevada MDEG –Appearance:

- A. A Plus A Medical Supplies, LLC – Las Vegas
- B. Decatur Medical Equipment LLC – Las Vegas
- C. Flotsol Inc Medical Supplies – Las Vegas
- D. Southwest Medical Supply – Las Vegas
- E. Vital Supply, LLC – 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. | Alan P. Wiggetman, R.Ph | (07-071-RPH-S) |
| B. | Walgreens #03841 | (07-071-PH-S) |
| C. | Wal-Mart Pharmacy #10-2050 | (07-009-PH-S) |
| D. | Joanna L. Carlson, PT | (07-097-PT-S) |
| E. | Stephanie Ortiz, PT | (08-005-PT-S) |
| F. | Jeri L. Wilson, PT | (07-099-PT-S) |
| G. | Kenton L. Crowley, R.Ph | (08-013-RPH-S) |
| H. | Sunrise Medical Supply | (08-020-MDEG-S) |
| I. | Chi Phan, R.Ph | (08-002-RPH-S) |
| J. | CVS/pharmacy #2928 | (08-002-PH-S) |

* 7. Your Success Rx Report – Summerlin – Appearance:

Katie Johnson, R.Ph

April 2008 Board Meeting Agenda

* 8. Executive Secretary Report:

- A. Financial Report
- B. Investment Report
- C. Temporary Licenses
- D. Staff Activities
 - 1. Meetings
 - a. MDEG Committee (4/1)
 - b. Consultant Pharmacists (3/20/)
 - c.. UCSF
 - 2. DEA Conference
 - 3. DC Speaking Engagement
- E. Reports to Board
 - 1. Workplace Assessment Committee
 - 2. Versa
- F. Board Related News
NAPLEX
- G. Activities Report

* 9. General Counsel Report

*10. Discussion and Determination:

- A. CII Splitting Revisited
- B. ICPT
- C. RxBids.com

W O R K S H O P – Thursday, April 17, 2008 – 9:00 am

- *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 of Nevada Administrative Code 639.515 Stock of drugs in facility for skilled nursing or intermediate care.** This amendment removes an invalid CFR reference.
- 2. **Amendment of Nevada Administrative Code NEW Language Compounding Regulations**

April 2008 Board Meeting Agenda

3. **Amendment of Nevada Administrative Code 639.480 Correctional Facility** This language will add the parameters for drug room inspections in correctional facilities.

4. **Amendment of Nevada Administrative Code 639.NEW Language** Pharmacist practice outside of pharmacy.

PUBLIC HEARING – Thursday, April 17, 2008 – 9:00 am

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

1. **Amendment of Nevada Administrative Code 453.450 Canceling CII Prescriptions** This language will remove the requirement for each schedule II prescription to be hand cancelled, dated, license number of the pharmacist filling prescription and signed.

2. **Amendment of Nevada Administrative Code 639 NEW Language** Inactive status for pharmacists license

13. Next Board Meeting:

June 4 & 5, 2008 – Reno, Nevada

14. 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, 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.

April 2008 Board Meeting Agenda

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

Las Vegas Chamber of Commerce
Turnberry Town Square
6671 Las Vegas Blvd South
Las Vegas

April 16 & 17, 2008

The meeting was called to order at 9:00 a.m. by Barry Boudreaux Board President.

Board Members Present:

Barry Boudreaux
Ray Seidlinger
Mary Lau

Keith Macdonald
Donald Fey

Leo Basch
Chad Luebke

Board Members Absent:

Board Staff Present:

Larry Pinson

Jeri Walter

Louis Ling

Nancy Savage

CONSENT AGENDA

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Application for Nevada Wholesaler – Non Appearance:

- AA. Cardinal Health 108, Inc. – Reno

Discussion:

The consent agenda applications and supporting documents were reviewed.

NOTE: Mary Lau and Chad Luebke recused from participation in item 2Z as Mr. Luebke is employed by CVS and Ms. Lau is president of the Nevada Retail Association and CVS is one of its members.

Board Action:

Motion: Ray Seidlinger found the consent agenda application information to be accurate and complete and moved for approval except for item 2Z.

Second: Mary Lau

Action: Passed Unanimously

Motion: Ray Seidlinger moved to approve item 2Z.

Second: Leo Basch

Action: Passed Unanimously

Leo Basch noted that the plural tense of a word on page 13 of the minutes should be used and wanted the term “abuse potential” used rather than the current language, also on page 13.

Motion: Ray Seidlinger found the minutes to be accurate and complete and moved for approval with the suggested changes made by Mr. Basch.

Second: Don Fey

Action: Passed Unanimously

REGULAR AGENDA

3. Application for Nevada Pharmacy – Appearance:

ContinueCare Hospital of Carson Tahoe, Inc. – Carson City

Carl Lutz and Beta Przebinda appeared and were sworn by President Boudreaux prior to answering questions or offering testimony.

Mr. Lutz and Ms. Przebinda described their business plan for the Board. They will operate the pharmacy from 8:00 a.m. to 5:00 p.m. Monday through Friday and will have a pharmacist on call when they are closed. The pharmacy will have a compounding area that will be 797 compliant and will not have automated dispensing units. Their facility will accommodate acute care critically ill patients. They will have 29 beds on the second floor above the pharmacy in the old Carson Tahoe hospital and will operate with one pharmacist for the first six months. They will then evaluate their operation and adjust staffing if required.

Board Action:

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

Second: Don Fey

Action: Passed Unanimously

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

UTMB – CMC Department of Pharmacy – Huntsville, TX

Stephanie Zepeda, director of pharmacy, appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Ms. Zepeda explained that UTMB is an HMO for the Department of Criminal Justice (prisons). They have a contract with the US Marshals Service as well as with local jails to hold their detainees until they are sentenced. Their function would be to mail the detainees that are staying in local jails awaiting sentencing their medications. They will only be providing maintenance medications and no controlled substances.

Board Action:

Motion: Mary Lau moved to approve the out-of-state pharmacy application.

Second: Keith Macdonald

Action: Passed Unanimously

5. Applications for Nevada MDEG –Appearance:

A. A Plus A Medical Supplies, LLC – Las Vegas

Armenui Bezoyan appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Ms. Bezoyan noted that this is going to be their second location. They are already licensed with the Board as Ang Medical Supplies and Equipment. She stated that they would use the same business plan in both locations. She indicated that they plan to hire someone to operate A Plus A since she operates Ang alone, however she was not sure who at this point. Ms. Bezoyan testified that she has liability and fire insurance with Allstate and an attorney to see to her matters. Ms. Bezoyan advised the Board that she does not have a permanent address at this time and is currently living with a friend. Ms. Bezoyan testified that she is the administrator for Ang Medical Supplies and Equipment.

Board Action:

Motion: Keith Macdonald moved to deny the application for MDEG provider because of Ms. Bezoyan's uncertain address, uncertain financial backing, and that she can not be the administrator for two licensed businesses.

Second: Leo Basch

Action: Passed Unanimously

B. Decatur Medical Equipment LLC – Las Vegas

Queen Anieze and Arman Ayrapetyan appeared and were sworn by President Boudreaux prior to answering questions or offering testimony.

Ms. Anieze noted that she was just hired the day before to represent Mr. Ayrapetyan. Mr. Ayrapetyan came from Russia where he operated an MDEG type business. He has money to operate this business, but does not speak English. Ms. Anieze was asked if she speaks Russian and she indicated that she did not and that she uses Mr. Ayrapetyan's wife as translator. The Board noted that Mr. Ayrapetyan would not be eligible to be the administrator for Decatur Medical Equipment as he does not speak English and that they would have to hire someone. Ms. Anieze stated that she advised Mr. Ayrapetyan to hire one person to begin with until they saw how the business went. They plan to send out cards to facilities to establish a clientele. After additional questioning about their business plan, Ms. Anieze stated that she plans to be the facilitator for Decatur Medical Equipment as she was hired just yesterday for that purpose.

Louis Ling explained to the Board that staff does not have much employment history information for Mr. Ayrapetyan and the only thing we know is that he was a delivery driver.

Board Action:

Motion: Leo Basch moved to deny the application for MDEG provider due to lack of history of MDEG experience and there being no administrator information on Ms. Anieze. If they would like to pursue licensure of Decatur Medical Equipment they will have to reapply with Ms. Anieze's information.

Second: Mary Lau

Action: Passed Unanimously

C. Flotsol Inc Medical Supplies – Las Vegas

Iluwole Adegboruwa appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Mr. Adegboruwa explained that he had friends in the MDEG business and after talking with them at length, he decided he wanted to become involved in the MDEG business, too. He indicated that he got married and moved to Nevada, he has signed a five year lease for a facility on West Sahara, and he already has a Dunn and Bradstreet number. He plans to sell assistive equipment, such as electric beds, wheel chairs, walkers, etc.

They are looking at five possible suppliers – Shopwrite, Major Wholesaler, Complete Medical Supply and two that he could not remember without referring to his files – and he has already applied with them to establish a line of credit. His insurance carrier is State Farm for liability insurance. Mr. Adegboruwa stated that he would be working alone for the present but will hire an assistant eventually. He had worked with his mother-in-law, Deborah Jones, in the MDEG business at Express Medical Supply in California. His wife is a nurse and works in a Las Vegas hospital. He worked at Fletcher Jones, a car dealership, to earn enough money to build his home in Las Vegas and establish a foundation for his MDEG business.

Board Action:

Motion: Leo Basch moved to approve the application for MDEG provider pending inspection.

Second: Don Fey

Action: Passed Unanimously

D. Southwest Medical Supply – Las Vegas

Arthur Oganessian appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Mr. Oganessian explained that in 2005-2006 he owned Complete Care pharmacy and worked as a pharmaceutical technician in the pharmacy. He has contracted with one supplier for Southwest Medical Supply and has two other suppliers pending. He sold his pharmacy and that money allowed him the opportunity to open Southwest Medical Supply. He bought Huntridge and changed the name to Complete Care and he sold it to Anthony Buck. He has start up capital of between \$45,000.00 and \$60,000.00. Mr. Oganessian testified that he has a high school education and has been a pharmaceutical technician registered in Nevada. When he bought Complete Care he stated that his father helped him financially as he was only nineteen years old when he bought the pharmacy. Mr. Oganessian stated that he has his liability insurance with Allstate.

Board Action:

Motion: Keith Macdonald moved to approve the application for MDEG provider pending inspection.

Second: Don Fey

Action: Passed Unanimously

E. Vital Supply, LLC – Las Vegas

Vital Supply will reschedule their appearance for the July Board meeting.

6. Disciplinary Action:

- | | | |
|----|-------------------------|----------------|
| A. | Alan P. Wiggetman, R.Ph | (07-071-RPH-S) |
| B. | Walgreens #03841 | (07-071-PH-S) |

NOTE: Mary Lau and Leo Basch recused from participation in this matter as Mr. Basch is employed by Walgreens and Ms. Lau is president of the Nevada Retail Association and Walgreens is one of its members.

Rob Graham was present to represent Mr. Wiggetman and Walgreens #03841.

Louis Ling presented three exhibits.

Exhibit 1 Walgreens Audit/Board of Pharmacy Inspection Report dated 8/5/2007

Exhibit 2 Walgreens Audit/Board of Pharmacy Inspection Report dated 8/2/2007

Exhibit 3 Walgreens Policy regarding Retrieving Medication for the Patient.

Mr. Ling advised the Board that he and Mr. Graham had come to agreement that all three Exhibits were appropriate and they were accepted into the record. Mr. Ling noted that he would not be presenting testimony by the doctor in this matter as Walgreens and Mr. Wiggetman do not contest that the error took place.

Alan Wiggetman and Matt Forster, district pharmacy supervisor for Walgreens, appeared and were sworn by President Boudreaux prior to answering questions or offering testimony.

Mr. Graham noted that Mr. Wiggetman has worked 31 years for MediMart and Walgreens and that he has been a pharmacist for 46 years. His practice of pharmacy has always centered on patient care and asked Mr. Wiggetman to describe the circumstances of this matter.

Patient EO is a seven year old patient of Dr. Rochelle Flynn. Dr. Flynn prescribed Ceron DM syrup for Patient EO and faxed the prescription to Walgreens #03841 to be filled. Mr. O, Patient EO's father, came in to pick the medication up and a technician helped him. The technician tried to verify Patient EO's address with Mr. O, but Mr. O was Spanish speaking and did not understand English and apparently indicated in some manner that the address was correct. The technician went to Mr. Wiggetman to advise him that Mr. O needed to be counseled, Mr. Wiggetman signed off on the Counseling Application Program (CAP) system before he went to counsel, the technician returned to Mr. O and completed the transaction and Mr. O left the store with the medication given to him – apparently not understanding that Mr. Wiggetman would be there momentarily to counsel him.

Louis Ling asked Mr. Wiggetman to describe the physical layout in Walgreens #03841. Mr. Wiggetman described that the CAP system computer is located next to the counseling window and there were two other computer terminals – one at the in window and one at the out window. Mr. Wiggetman described the CAP system as a counseling tool. When a technician pulls up a new prescription, the register locks until the pharmacist counsels. Mr. Wiggetman indicated that he was approximately eight feet from the CAP system computer. Mr. Ling referred to Exhibit 2 and it appeared that Mr. O was in the store at approximately 8:00 p.m. to pick up Patient EO's medication.

Dan Luce appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Mr. Luce testified that the sold time was 21:33 and the counseled time was 22:38. Right now there are two separate clocks in their computer system – one for payment and one for counseling. The Walgreens IT people are trying to integrate the two clocks so only one clock is used for documenting these transactions.

Mr. Wiggetman noted that he usually does not sign off prior to counseling, but in this instance he saw the bag the technician presented and signed off prior to speaking with the patient.

There was considerable Board discussion regarding the need for mandatory counseling, availability of counseling for non-English speaking patients, and the CAPS program.

President Boudreaux asked Mr. Wiggetman if he thought he had done anything wrong and he replied that he did not. Mr. Wiggetman advised President Boudreaux that the patient would have refused counseling even if he had approached him after the sale of the medication.

Additional discussion about Walgreens computer system occurred. There were questions regarding why Mr. Wiggetman did not change the computer records to reflect that he had not counseled. Mr. Graham reminded the Board that the reason changes can not be made to specific areas of their computer system was because of requirements of Nevada Board of Pharmacy regulations.

Mr. Fey asked Mr. Wiggetman why he did not follow his normal procedure in this instance. Mr. Wiggetman testified that he was trying to save time since he and the technician were working alone. Mr. Fey reminded Mr. Wiggetman that even though the technician had picked the wrong medication, he as the pharmacist on duty was ultimately responsible for the actions of the technician. Mr. Fey also noted that Walgreens appeared to be setting up their staff for failure since Walgreens Policies and Procedures are clear that the patient must recite their address back to pharmacy staff rather than simply tell staff what their address is.

Matt Forster stated that Walgreens is strict about keeping the medication until the pharmacist counsels. Technicians ask the patient to step over to the counseling window and that is when the patient tells the technician they do not want counseling.

Louis Ling gave closing statements and cited NAC 639.707 regarding the requirements for counseling. He noted that the Board had allowed computer generated initials because of Walgreens computer system, however right now the counseling is the only thing differentiating technicians from pharmacists. If counseling had taken place, perhaps Mr. Wiggetman would have noticed that the medication he was about to dispense to Mr. O was for a patient with a similar name, the medication was for alprazolam and should not be given to a seven year old, and that counseling would have prevented a trip to the ER for Patient EO due to taking the wrong medication. Patient EO was kept over night at the hospital for observation.

Mr. Ling recommended for the First Cause of Action, because of the ER visit for over night observation, a fine to be determined by the Board, for the Second Cause of Action a fine of \$750.00 for failure to counsel, and the same for the Third Cause of Action for Walgreens, plus have them revisit their policies and procedures regarding the CAP system.

Mr. Graham gave closing statements and allowed that there are no requirements for a pharmacist to have to speak Spanish or any other foreign language, and he failed to see that throwing a 46 year pharmacist under the bus was useful. As for Walgreens, Mr. Graham noted that computer systems can not be changed immediately and the Board should take that into consideration when determining discipline.

The Board discussed the issues. Mr. Lubeke indicated that if the technician had not given the bag to the patient, the patient would never have left the store until he spoke with the pharmacist. Mr. Fey does not feel that the pharmacist should be held responsible for what the technician did, but on the other hand if the pharmacist had counseled the error would have been caught. Mr. Seidlinger feels that the technician should be held responsible for his actions. Mr. Luebke would have liked to have heard from the technician. Mr. Macdonald stated that the legislative intent for registering pharmaceutical technicians is not for them to be a licensed entity, thus the pharmacist is held responsible for their actions. It was noted that in the past the Board has not wanted pharmaceutical technicians brought before the Board for errors they have made since it is ultimately the pharmacist that is responsible for their actions.

Board Action:

Motion: Keith Macdonald moved to find Mr. Wiggetman guilty of the First Cause of Action.

Second: Ray Seidlinger

Action: Passed With One Negative Vote Plus President Boudreaux's Vote

Motion: Don Fey moved to find Mr. Wiggetman guilty of the Second Cause of Action.

Second: Chad Luebke

Action: Passed With One Negative Vote Plus President Boudreaux's Vote

Motion: Don Fey moved to find Walgreens guilty of the Third Cause of Action.

Second: Ray Seidlinger

Action: Passed With One Negative Vote Plus President Boudreaux's Vote

Motion: Keith Macdonald moved to fine Mr. Wiggetman \$500.00 for the error.

Second: Ray Seidlinger

Action: Passed Unanimously

Motion: Don Fey moved to fine Mr. Wiggetman \$750.00 for the failure to counsel.

Second: Ray Seidlinger

Action: Passed With One Negative Vote Plus President Boudreaux's Vote

Motion: Ray Seidlinger moved to have Walgreens update the CAP procedures to allow changes to reflect accurate records, pay the fees and costs in this matter, and communicate the changes to the CAP program to Board staff.

Second: Don Fey

Action: Passed With One Negative Vote Plus President Boudreaux's Vote

C. Wal-Mart Pharmacy #10-2050 (07-009-PH-S)

NOTE: Keith Macdonald recused from participation as he is employed by Wal-Mart. Mary Lau recused from participation as she is the president of the Retail Association of Nevada and Wal-Mart is a member of RAN.

Hal Taylor was present to represent Wal-Mart. Debbie Mack and Deidre Taylor were also available to answer questions.

Mr. Taylor requested that reconsideration be made regarding the probation Ordered in this matter at the January 2008 Board meeting. He noted that there were no specific

provisions to the probation and that Wal-Mart had reviewed all of the procedures put in place since the error occurred at the Board meeting in January.

Board Action:

Motion: Don Fey moved to remove the probation reflected in the Board Order dated February 15, 2008.

Second: Ray Seidlinger

Action: Passed Unanimously

D. Joanna L. Carlson, PT

(07-097-PT-S)

NOTE: Chad Luebke and Ray Seidlinger both recused because each of them had employed Ms. Carlson.

Mr. Ling noted that Ms. Carlson had received the Notice of Intended Action. Ms. Carlson had left a message on Mr. Ling's voice mail and Mr. Ling returned the call. Mr. Ling spoke with Ms. Carlson's father and left a message that he was returning her call however she did not call again. Ms. Carlson was not present for hearing.

Mr. Ling advised the Board that Ms. Carlson claimed that she passed two forged prescriptions because she wanted to be fired from her employing physician. Ms. Carlson indicated that the physician was a friend of her parents and it was not easy to quit her job so she wrote the prescriptions on her employing physician's prescription pad and tried to fill it at a local pharmacy so she would be caught and fired. Mr. Ling recommended revocation.

Board Action:

Motion: Keith Macdonald moved to find Ms. Carlson guilty.

Second: Leo Basch

Action: Passed Unanimously

Motion: Keith Macdonald moved to revoke Ms. Carlson's pharmaceutical technician registration.

Second: Mary Lau

Action: Passed Unanimously

Mr. Ling advised the Board that Ms. Ortiz would testify on her own behalf.

Ms. Ortiz admitted to making up unauthorized refills using fictitious names as outlined in the Notice of Intended Action and Accusation. Mr. Macdonald asked Ms. Ortiz why she did it and she explained that she was doing a favor for her friends. She indicated that she was doing the favor for only one person, but several different people would come in and pick up the prescriptions. Ms. Ortiz testified that she no longer associates with these people. She indicated that she was caught on Smith's security camera dispensing and not ringing up one of the false prescriptions. Ms. Ortiz noted that she is now working for Las Vegas Skin and Cancer Institute. Ms. Ortiz also indicated that she had received a letter from Smith's requesting restitution, however she had not yet paid restitution.

Mr. Ling recommended either revocation or suspension of Ms. Ortiz's pharmaceutical technician registration until she has paid restitution to Smith's.

Board Action:

Motion: Leo Basch moved to find Ms. Ortiz guilty of the alleged violations.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Leo Basch moved to revoke Ms. Ortiz's pharmaceutical technician registration. If Ms. Ortiz requests reinstatement after one year she must provide proof of restitution to Smith's.

Amendment: Ray Seidlinger would like to amend the motion to include a PRN-PRN evaluation prior to requesting reinstatement.

Mr. Basch accepted the amendment.

Second: Ray Seidlinger

Action: Passed Unanimously

Jeri Wilson and Roger Waddington appeared and were sworn by President Boudreaux prior to answering questions or offering testimony.

NOTE: Leo Basch disclosed that he knows Mr. Waddington as they are both employed by HCA.

Mr. Waddington described his 20 year career and advised that he is currently employed at Sunrise Hospital. He was the director of pharmacy at Southern Hills when Ms. Wilson was employed there. Mr. Waddington advised that some of the pharmaceutical technician's duties were to check for outdates in dispensing machines. This procedure was done on a quarterly basis. Mr. Waddington stated that a discrepancy in narcotics in the Acudose machines was noticed and a nurse brought the situation to his attention. He checked and could not find eight outdates in the expired medication bin. He ran a report to try to resolve the discrepancy and still could not balance. Lortab was the drug that could not be accounted for. Mr. Waddington then reviewed the expired medication procedures and ran another report on two Acudose machines. He found that there were only two drugs missing – Lortab and carisoprodol. Mr. Waddington then checked all of the pharmaceutical technician's transactions.

Exhibit 1 – a list of dates, times, location, quantity and drug that was expired by Jeri Wilson – was admitted into the record.

Mr. Waddington referred to Exhibit 1 and noted that none of the drugs that were on the list were found in the expired drug room. Since the expired drugs are done quarterly it was unusual for expirations to be found just days apart. He found no discrepancies with other pharmacy personnel. Mr. Waddington notified Human Resources, Ms. Wilson was suspended and more research was done. They notified the Board of Pharmacy and the DEA of Ms. Wilson's drug diversion.

Ms. Wilson cross examined Mr. Waddington and the Board questioned Mr. Waddington regarding where the information on Exhibit 1 came from. Mr. Waddington noted that it came from a larger report that was not given to Board staff. He advised that the drug vault was keypad locked and it took a special badge to enter and that pharmacists and pharmaceutical technicians have access. It is a double locked room system.

Ms. Wilson advised the Board that she made her statement in her Answer and Notice of Defense and they should reference that and ask her questions on her Answer. She described her duties and stated that she checked on the Acudose machines daily to reload medications into the machines. Ms. Wilson stated that on the day Mr. Waddington questioned her she had put drugs in the vault and it was not her fault that they were not there when he checked. Others had access to the vault and it could have been anyone removing the Lortab and carisoprodol, but she did not do it. Ms. Wilson then offered to take a drug test.

Mr. Ling gave closing statements. He reminded the Board that the losses from the Acudose machines are what is at issue. What Exhibit 1 shows are the exceptions and there was no reason to remove those drugs as outdates. Mr. Waddington reviewed hundreds of pages of data and extracted the removals on Exhibit 1 and they could only be attributed to Ms. Wilson. Mr. Ling recommended revocation.

Ms. Wilson made closing remarks. She indicated that she has been a pharmaceutical technician since 1982 and she did not divert any drugs from that hospital.

The Board discussed the documentation in this matter and determined that they would like to see a full report, no matter how long the report, rather than just extracted information and would like to see a more complete investigation. Something was going on in that pharmacy that could possibly have been uncovered with a more complete investigation.

Board Action:

Motion: Don Fey moved to find Jeri Wilson guilty of the alleged violations.

Second: Chad Luebke

Action: Passed With One Negative Vote

Motion: Leo Basch moved to suspend Ms. Wilson's pharmaceutical technician registration for six months, stay the suspension, have a PRN-PRN evaluation, pay restitution to Southern Hills and notify her present employer of this action.

Second: Keith Macdonald

Action: Passed With Two Negative Votes

G. Kenton L. Crowley, R.Ph

(08-013-RPH-S)

Kenton Crowley appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Louis Ling presented Exhibit 1 – a certified copy of conviction of DUI in Sonoma County, California – which was accepted into the record.

Louis noted that the date of the DUI was May 2, 2007 and that he pled guilty on May 16, 2007. As a result of the guilty plea Mr. Crowley agreed to certain terms, including small and large group meetings and some jail time in lieu of eight days of community service. He was ordered to eight days in jail, however only spent 2 ½ days in jail. Mr. Crowley indicated on his renewal application that he had not been charged, arrested, or convicted of a felony or misdemeanor in any state, which was untrue.

Mr. Crowley explained that his son works for him in an administrative capacity and had renewed Mr. Crowley's license on line and had answered "no" because he was unaware of Mr. Crowley's DUI. Mr. Crowley stated that he did not remember questions on the application for renewal regarding crimes.

He indicated that he is doing temp work in Nevada and California. Mr. Ling asked him to describe his history for the new Board members. Mr. Crowley testified that he was addicted to Demerol in the past. He went to the Scripps clinic and even after treatment he found he could not stop using and had many relapses. Eventually he was found unconscious in his pharmacy and entered a 30 day program. He had a psychiatric evaluation and it showed that he was a "normal" alcoholic/addict. He has been fortunate to keep his family, friends and profession. California authorities did a raid on his home and found a gun. He spent 7 ½ months in jail for violating his probation and lost his California pharmacist license.

Mr. Crowley explained that after his probation with the California Board of Pharmacy was over and he had completed his PRN program there, he began drinking red wine occasionally. In retrospect, he indicated he probably should not have done that. Mr. Crowley noted that he is working 88 hours a week because of the expenses incurred because of the DUI. He indicated that the California Board is doing something, but has not filed charges against him yet.

Mr. Ling gave closing remarks and recommended that at the least Mr. Crowley have a PRN-PRN evaluation and would leave the option of revocation or suspension up to the Board's discretion.

Mr. Crowley made closing statements and asked the Board to consider what he has been doing because of his California conviction. He noted that he is not doing anything to hinder the care of his patients.

Board Action:

Motion: Keith Macdonald moved to find Mr. Crowley guilty of the First Cause of Action.

Second: Leo Basch

Action: Passed Unanimously

Motion: Keith Macdonald moved to find Mr. Crowley guilty of the Second Cause of Action.

Second: Don Fey

Action: Passed Unanimously

Motion: Keith Macdonald moved have Mr. Crowley sign a mandatory contract for the PRN-PRN program and complete the Your Success Rx program to evaluate his pharmacy practice.

Second: Leo Basch

Action: Passed Unanimously

H. Sunrise Medical Supply

(08-020-MDEG-S)

Armine Amy Madzharyan appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Mr. Ling explained that Medicaid requested records from Grant High School, where Ms. Madzharyan claimed to have graduated, and they found no records. Grant High School claimed that she did not attend or graduate from their school. Ms. Madzharyan provided transcripts to Board staff, however no diploma proving graduation.

Ms. Madzharyan testified that she did not graduate because of her father's illness. She had one more semester to complete before she would have been eligible for graduation. At the moment she is working in health insurance, but would like to provide MDEG services.

Mr. Ling explained that Board staff had suspended Sunrise Medical Supply's license because of the information we received from the Attorney General's office regarding Ms. Madzharyan's education. Medicaid issued them a license based upon our license. Mr. Ling explained that our laws require an administrator with at least a high school diploma and that Ms. Madzharyan was not qualified to be the administrator for Sunrise Medical Supply. Ms. Madzharyan stated that her husband could be the administrator if he needed to be as he has been operating the business all along. Mr. Ling advised that if her husband was going to be the administrator for Sunrise Medical Supply he would have to complete the administrator application.

Board Action:

Motion: Mary Lau moved to find Sunrise Medical Supply guilty of the alleged violations.

Second: Leo Basch

Action: Passed Unanimously

Motion: Mary Lau moved to keep Sunrise Medical Supply suspended until an application for administrator is received and approved.

Second: Chad Luebke

Action: Passed Unanimously

I. Chi Phan, R.Ph
J. CVS/pharmacy #2928

(08-002-RPH-S)
(08-002-PH-S)

Mr. Ling presented the stipulated agreement offered Chi Phan and CVS #2928. Mr. Ling advised that Ms. Phan and a pharmaceutical technician were simultaneously filling two prescriptions for a patient. In the process, Patient B was dispensed two prescription vials with the same medication, namely Levothyroxine 25 mg. tablets, when she should have also received Levothyroxine 25 mg. tablets and Ciprofloxacin HCL 500 mg. tablets. Patient B ingested two Levothyroxine tablets from the prescription vial labeled Ciprofloxacin and noticed when she opened the prescription vial labeled Levothyroxine that they were the same tablets that she had just ingested from the other prescription vial. There was no harm to Patient B and Mr. Ling recommended that the Board accept the Stipulated Agreements with a fine for Ms. Phan and CVS #2928 of \$150.00 each.

Board Action:

Motion: Leo Basch moved to accept the Stipulated Agreements as presented.

Second: Keith Macdonald

Action: Passed Unanimously

7. Your Success Rx Report – Summerlin – Appearance:

Katie Johnson, R.Ph

Katie Johnson and Marybeth Folk appeared with Pam Goff, Nazanin Rezvan, and Jackson Yu, and Steve McMillan and Willa Dixon, representing Summerlin Hospital.

Ms. Johnson reviewed her experience with each of the pharmacists involved in her program and then addressed her experience with Summerlin Hospital staff.

Ms. Goff indicated that she learned a lot about her practice of pharmacy. She can now see that she allowed herself to be swayed and did not follow her professional instincts which led to the error that occurred at Summerlin Hospital. Ms. Goff concluded that she is now confident in making decisions and her practice of pharmacy is much improved because of her experience with Ms. Johnson and the Your Success Rx program.

Ms. Johnson indicated that Ms. Rezvan was well prepared and committed to the program as she reviewed her pharmacy practice. Ms. Rezvan told the Board that she did not think that something like the error that occurred at Summerlin Hospital could happen to her. She stated that she learned a considerable amount about herself and how she practices pharmacy today. Ms. Rezvan noted that she has been offered a job that she is not sure she is qualified for and that she is going into an internship to learn more before she accepts the position.

Mr. Yu learned that he needed to go beyond the policies and procedures of a facility and think of the human aspect of his pharmacy practice. He stated that he has embraced the change in his practice and feels more confident in his practice today.

The Summerlin Hospital staff went through their policies and procedures thoroughly as a result of the Your Success Rx program. They indicated that they have recruited new people for implementing the new procedures and feel they have chosen well. Besides the Your Success Rx program, Summerlin Hospital has been reviewed by Joint Commission and other sources and they are operating in a much more orderly and efficient manner. The compounders and forms have all been set up to match so the problems that occurred previously in this matter will not be repeated. They indicated that they have hired a patient safety officer. The patient is provided with the pharmacy telephone number so they can speak with someone in the pharmacy at any time. There is now a Nursing/Pharmacy Steering Committee and there is better communication between the nursing and pharmacy staffs. They have found some resistance to the changes but overall what needed to happen at Summerlin has happened to ensure patient safety.

Katie Johnson advised the board that Summerlin is doing some things at the corporate level and the changes will be positive. Ms. Johnson indicated that she will be returning to Summerlin in December for a follow-up and will report back to the Board.

8. 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

There were no temporary licenses granted since the last Board meeting.

- D. Staff Activities
 - 1. Meetings
 - a. MDEG Committee (4/1)

Board staff had a meeting with the MDEG Committee. One topic of discussion was to ensure that professionals licensed by their own Boards would not have to be licensed with the Board of Pharmacy as well.

b. Consultant Pharmacists (3/20)

Board staff requested a list of endoscopy surgery centers from the Bureau of Licensure. After review of the list we found a few surgery centers that we were not aware of.

Letters were sent to them, along with applications for licensure, to advise them that they needed to be licensed with the Board of Pharmacy.

c.. UCSF

Mr. Pinson attended a meeting at UCSF and encouraged the pharmacy students to license in Nevada.

2. DEA Conference

Larry Pinson will attend the DEA conference in June to represent the Board.

3. DC Speaking Engagement

Larry Pinson advised the Board that he will be speaking in Washington DC to wholesalers and manufacturers on AB128 and the requirements in Nevada.

Mr. Pinson also indicated that he is scheduled to do CE programs beginning this summer.

E. Reports to Board

1. Workplace Assessment Committee

There will be a Workplace Assessment Committee meeting on June 3rd. Mr. Pinson noted that Wal-Mart has implemented a program to complete the purple sheets on their computer system to ensure that the information is available to the Board inspector.

2. Versa

The new licensing program is moving forward and Board staff is awaiting another training session with the Versa representatives.

F. Board Related News

Mr. Pinson advised the Board that staff would be making a change to the immunization regulations. We hope to change the age limitation for pharmacists to immunize children from 14 years of age to 10 years of age. The annual report to the legislature on immunizations by pharmacists has been completed and will be sent out.

NAPLEX

It was reported that someone hired another person to take the NAPLEX exam for them. The abnormally high score gave away the scam and the person was not licensed.

G. Activities Report

Louis Ling and Larry Pinson discussed the MDEG fraud problem. Mr. Ling indicated that he is working directly with the Attorney General's office in charge of Medicaid fraud. The AG's office relies on the Board of Pharmacy as being the first defense to ensure the MDEG providers are being screened before getting licensed in Nevada.

9. General Counsel Report

Louis Ling advised the Board that he has spoken with a new person to develop the pedigree program. This person has already done some development and it looks promising. NABP is still interested in hosting the program and we are trying to get this program initiated as soon as possible.

10. Discussion and Determination:

A. CII Splitting Revisited

Chad Luebke provided Board staff with the letter from the DEA that CVS distributed to its pharmacies that would no longer allow CII splitting. Mr. Pinson noted that he sent a letter to the DEA indicating that Board staff disagrees with the DEA's interpretation of their own laws.

B. ICPT

Larry Pinson advised the Board that Rebecca Rabbitt was present to request approval of the ICPT program to be acceptable in Nevada. Mr. Pinson noted that he had Michael Cinnamon, an intern from North Dakota State University doing a rotation at the Board office, research the comparison between the PTCB and the ICPT programs. He also noted that NACDS, Wal-Mart and NCPA all submitted written documents supporting inclusion of ICPT as an acceptable pharmaceutical technician certifying program.

Board Action:

Motion: Chad Luebke moved to include ICPT as an acceptable pharmaceutical technician certification program and amend our regulations to reflect the addition.

Second: Leo Basch

Action: Passed Unanimously

C. RxBids.com

Larry Pinson advised the Board that Mack and Alan Bradley had appeared before the Board in 2002 and asked if they needed a license to broker. The Board at that time told them they did not need a license as they did not maintain drugs and were not a pharmacy. Now it is determined that they do take possession of patients hard copy prescriptions and put them out for bid. They also maintain copies of the prescriptions in their files.

Mack and Alan Bradley appeared and described their business model. They take the hard copy prescription and give it an ID number. They redact any patient information and put it on line and the bidding begins. They set a time limit and whoever had the lowest bid during that time would win the bid. They then send the pharmacy who won the bid the prescription and the pharmacy fills and ships to the patient.

The Board suggested they change the name of their company since they are not allowed to use the Rx symbol if they are not a pharmacy. They should also not be in possession of patients hard copy prescriptions since they are not a pharmacy. Board staff agreed to help the Bradley's adjust their business model into a model that would fit the new practice outside a pharmacy regulations that are being addressed now. They may even hire a pharmacist and operate as a pharmacy.

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 of Nevada Administrative Code 639.515 Stock of drugs in facility for skilled nursing or intermediate care.** This amendment removes an invalid CFR reference.

Louis Ling advised that this amendment was prompted by a request from LCB to correct an invalid CFR reference.

There was no public comment.

Board Action:

Motion: Leo Basch moved to bring this regulation amendment to Public Hearing.

Second: Ray Seidlinger

Action: Passed Unanimously

2. Amendment of Nevada Administrative Code NEW Language Compounding Regulations

Louis Ling advised that the Legislative Counsel Bureau had done a great job in writing the amendments to the compounding regulations. He indicated that LCB would put the headings back when the language is codified. Mr. Ling also noted that LCB has added some definitions. He advised the Board that Katie Craven submitted written comments and copies had been provided.

Diana Bond appeared and requested another committee meeting to ensure the language prepared by LCB maintains the intent of the committee. Shelly Spiro and Liz Macmenamin asked to participate in the committee meeting.

Board Action:

Motion: Don Fey moved to have one more committee meeting on April 24, 2008 at 5:30 p.m. to finalize the language so it can be presented on the Public Hearing at the June 2008 Board meeting.

Second: Chad Luebke

Action: Passed Unanimously

3. Amendment of Nevada Administrative Code 639.480 Correctional Facility This language will add the parameters for drug room inspections in correctional facilities.

Gina Franklin and Bruce Banister appeared to promote passage of these regulation amendments. Ms. Franklin described their procedures regarding drug dispensing and specific controlled substance procedures in the prisons. She indicated that they check the controlled substances daily, complete logs and inventory their stock. The Board asked if they had thought of using automated dispensing machines and Ms. Franklin and Mr. Banister both agreed they would like to but funding is a problem.

Board Action:

Motion: Mary Lau moved to bring this regulation amendment to Public Hearing.

Second: Don Fey

Action: Passed Unanimously

4. **Amendment of Nevada Administrative Code 639.NEW Language**
Pharmacist practice outside of pharmacy.

Liz Macmenamin noted that she has concerns from her members and indicated that she thought the language as written was too burdensome and offered to work with Board staff to improve the language. Leo Basch asked Ms. Macmenamin why she had not brought her issues forth sooner since this is the third Workshop on this topic. Ms. Macmenamin had no answer.

Board staff explained that the intent of this language is to set a guideline for pharmacists that would work in a unique circumstance. We have rules for pharmacists that work in a traditional pharmacy setting. The unique business applications we have received lately are being brought before the Board for determination and by setting a guideline for alternative situations would make the process simpler. The Board suggested that the terminology in 1(k) of the language be changed from “payment model” to “business model.”

Shelly Spiro appeared and thanked the Board for taking her suggestions in drafting these regulations and offered her help, also, if additional input would be needed to adopt this concept.

Dan Luce asked if a chain would have to have every pharmacist come before the Board to reveal the business model. Board staff advised Mr. Luce that a chain drug store would only have to appear once and present their business model. Mr. Luce also questioned one-time community service or volunteer work done by chain stores and how that would fit this concept. He noted that Walgreens is doing community service and their pharmacists are doing volunteer work today without regulations.

Board staff was directed to rework the language again changing “payment” to “business” in section 1(k) and to work in a provision regarding exclusion of community service and volunteer work as a pharmacist.

Board Action:

Motion: Keith Macdonald moved to re-Workshop this item.

Second: Leo Basch

Action: Passed Unanimously

PUBLIC HEARING

12. Notice of Intent to Act Upon a Regulation:

1. **Amendment of Nevada Administrative Code 453.450 Canceling CII Prescriptions** This language will remove the requirement for each schedule II

prescription to be hand cancelled, dated, license number of the pharmacist filling prescription and signed.

President Boudreaux opened the Public Hearing.

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

Ms. Macmenamin asked for a copy of the language.

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

Board Action:

Motion: Ray Seidlinger moved to adopt.

Second: Keith Macdonald

Action: Passed Unanimously

2. Amendment of Nevada Administrative Code 639 NEW Language
Inactive status for pharmacists license

President Boudreaux opened the Public Hearing.

There was no public comment.

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

The Board discussed the language and asked Board staff to make a minor change in section 2(1) in the second line adding "in this state."

Board Action:

Motion: Mary Lau moved to adopt the language with the minor change suggested.

Second: Chad Luebke

Action: Passed Unanimously

13. Next Board Meeting:

June 4 & 5, 2008 – Reno, Nevada

14. Public Comments and Discussion of and Deliberation Upon Those Comments
There were no public comments.