



Nevada State Board of Pharmacy

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BOARD MEETING

at

Las Vegas Chamber of Commerce
6671 Las Vegas Blvd South
Las Vegas

April 13th and 14th, 2011

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

Board Members Present:

Keith Macdonald Beth Foster Kirk Wentworth
Russell Smith Jody Lewis

Board Members Absent:

Kam Gandhi Cheryl Blomstrom

Board Staff Present:

Larry Pinson Jeri Walter Carolyn Cramer Rose Marie Reynolds

CONSENT AGENDA

1. Approval of March 2-3, 2011, Minutes
2. Applications for Out-of-State MDEG – Non Appearance:
 - A. Alere Home Monitoring, Inc. – Livermore, CA
 - B. American Medical Supplies, Inc. – Boca Raton, FL
 - C. Apria Healthcare, Inc. – Cedar City, UT
 - D. Apria Healthcare, Inc. – Salt Lake City, UT
 - E. Apria Healthcare, Inc. – St George, UT
 - F. Medtronic USA, Inc. – Littleton, MA
 - G. NormaTec – Newton Center, MA
 - H. Oxford Diabetic Supply, Inc. – Hampton, NJ
 - I. One Source Medical Supply, LLC – West Palm Beach, FL
 - J. RGH Enterprises, Inc. – Tualatin, OR
 - K. Telcare Medical Supply Inc. – Concord, MA
 - L. Village Medical Supplies, Inc. – Boca Raton, FL

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

- M. Advanced Pharmacy, LLC – Piedmont, SC
- N. A-Med Health Care – Huntington Beach, CA
- O. Franklin Pharmacy LLC – Russellville, AL
- P. High Point Pharmacy – Arlington, TX
- Q. Hometech Therapies, Inc. – Sharon Hill, PA
- R. Oncology Plus, Inc. – Brandon, FL
- S. Veterinary Mart. Corp – Hialeah, FL
- T. Westwood Pharmacy Clinical Services – Richmond, VA

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

- U. Macoven Pharmaceuticals, LLC – Magnolia, TX
- V. Medi-Media, LLC – Carlstadt, NJ
- W. Professional Hospital Supply Inc. – Temecula, CA

Applications for Nevada Pharmacy – Non Appearance

- X. Innovative Procedural and Surgical Center – Las Vegas
- Y. Sierra HealthMart-Downtown – Reno
- Z. Sierra HealthMart-Incline Village – Incline Village
- AA. Sierra HealthMart-South – Reno
- BB. Walgreens #12488 – Fernley

Applications for Nevada Wholesaler – Non Appearance:

- CC. Exel, Inc. – Sparks
- DD. MD Logistics, Inc. – Reno

Discussion:

The consent agenda applications and supporting documents were reviewed.

NOTE: Russ Smith recused from participation in the vote on Item BB as he is employed by Walgreens.

Board Action:

Motion: Kirk Wentworth found the consent agenda application information to be accurate and complete and moved for approval.

Second: Jody Lewis

Action: Passed Unanimously.

Motion: Keith Macdonald found the minutes accurate and complete and moved for approval.

Second: Kirk Wentworth

Action: Passed Unanimously.

REGULAR AGENDA

3. Disciplinary Actions:

- A. Victor A. Beraja, R.Ph (09-099-RPH-S)
- B. Victory Pharmacy (09-099-PH-S)

NOTE: Russ Smith disclosed that he works for Walgreens, as does Mr. Beraja however advised that it would not affect his participation in this matter. Jody Lewis disclosed that she and Mr. Beraja worked together at Sav-On years ago, however advised that it would not affect her participation in this matter.

Victor Beraja appeared and was sworn by President Foster prior to answering questions or offering testimony.

Phil Chin, DO, the complainant in this matter, appeared and was sworn by President Foster prior to answering questions or offering testimony.

Dr. Chin explained that Mr. Beraja and Victory Pharmacy refilled a prescription early for Lortab for a patient that was being treated for headaches without his authorization.

Danny Garcia, Board investigator, appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Garcia testified that the original prescription was filled at Walgreens. Walgreens was approached to refill the prescription by the patient, however it was too soon and they declined to fill at that time. The patient then had the prescription transferred to Victory Pharmacy. Mr. Garcia stated that Mr. Beraja knew it was an early fill however felt he used his professional judgment to fill the prescription early.

Mr. Beraja apologized to the Board for causing Dr. Chin's patient any discomfort, but he felt he was doing the patient a service since she was so ill. Mr. Beraja described that the patient was waiting for him to open the pharmacy when he arrived at work. She was wearing a hospital wrist band and throwing up. Mr. Beraja felt compassionate towards her and filled the prescription for Lortab early.

Carolyn Cramer gave closing statements and noted that Mr. Beraja should not have filled this prescription early without authorization to do so by Dr. Chin. Ms. Cramer

noted for the record that Mr. Beraja admits guilt on the First and Second Causes of Action and she is leaving the penalty in this matter to the Board's discretion.

Board Action:

Motion: Kirk Wentworth moved to find Mr. Beraja guilty of the First Cause of Action.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Keith Macdonald moved to fine Mr. Beraja \$1,000.00 plus fees and costs in this matter.

Second: Kirk Wentworth

Action: Passed Unanimously

Motion: Keith Macdonald moved to find Victory Pharmacy guilty of the Second Cause of Action.

Second: Kirk Wentworth

Action: Passed Unanimously

Motion: Keith Macdonald moved not to impose a penalty against Victory Pharmacy.

Second: Jody Lewis

Action: Passed Unanimously

C. Joel Forman, R.Ph (10-020-RPH-S)

D. CVS/pharmacy #8812 (10-020-PH-S)

NOTE: Jody Lewis recused from participation as she is a district pharmacy supervisor for CVS.

Mike Dyer was present to represent Joel Forman and CVS #8812.

Carolyn Cramer presented a stipulated agreement to the Board for their consideration. Both parties admit guilt in the First and Second Causes of Action. They will stipulate to a \$500.00 fine for Mr. Forman, to be paid by CVS for Mr. Forman, and CVS agrees to accept a letter written by the Executive Secretary of the Board of Pharmacy addressing concerns outlined in section three of the Stipulation and CVS is to send an all pharmacy

personnel e-mail to address the need to ascertain that the medication being dispensed is the correct medication and that the pharmacist will be responsible for verification that the initial input is correct. Ms. Cramer advised the Board that they could accept or reject this Stipulation and if they rejected the Stipulation that all parties were ready to go to hearing.

After discussion, President Foster asked for a motion.

Board Action:

Motion: Keith Macdonald moved to accept the Stipulated Agreement as presented.

Second: Russ Smith

Action: Passed Unanimously

E.	Miguel Martinez, R.Ph	(10-088-RPH-S)
F.	CVS/pharmacy #8807	(10-088-PH-S)

NOTE: Jody Lewis recused from participation as she is a district pharmacy supervisor for CVS.

Miguel Martinez appeared and was sworn by President Foster prior to answering questions or offering testimony. Mr. Martinez was represented by Maria Nutile.

Mike Dyer was present to represent CVS #8807.

Carolyn Cramer advised the Board that she and the represented parties were in agreement to the admission of guilty on the First Cause of Action, the Second Cause of Action is withdrawn in exchange for admission to the First Cause of Action, and the Third Cause of Action is admitted.

The presentation is a verbal settlement agreement allowing that Mr. Martinez will participate in the Your Success Rx program. Legal counsel defers to the Board for imposing discipline for CVS in this matter.

21 Exhibits were presented and accepted into the record.

Tammy Jordan appeared and was sworn by President Foster prior to answering questions or offering testimony.

Kyren Lewis, Ms. Jordan's son, was prescribed methylphenidate, however methadone was dispensed to him. Ms. Jordan explained that Kyren took two tablets daily and she would split the medication in half and give half to the school nurse to dispense to Kyren at noon. Ms. Jordan indicated that she was out of state on family business and left

Kyren with his grandfather. Kyren's grandfather advised Ms. Jordan that Kyren's behavior was out of control both in school and at home. When Ms. Jordan returned home and witnessed this behavior she devoted all of her time trying to get Kyren under control. The school nurse finally discovered the error, Kyren's physician was notified and he advised Ms. Jordan to decrease the methadone slowly so he would not go through withdrawals. Ms. Jordan chose not to heed this advice and took Kyren off the methadone completely hoping to get him back on the methylphenidate and control his behavior as soon as possible. Ms. Jordan advised the Board that she had not spoken to anyone from CVS regarding what was done so this type of error did not happen to anyone else.

Mike Dyer noted that he was withdrawing his Motion to Dismiss.

Mr. Dyer described how the error occurred. Ms. Nutile contested and indicated that the Board only needs to determine a penalty in this matter.

Board Action:

Motion: Russ Smith moved to have Mr. Martinez participate in the Your Success Rx program to be completed once he is employed.

Second: Keith Macdonald

Action: Passed Unanimously

Mr. Dyer indicated that the CVS computer system did what it was supposed to do and there should be no penalty imposed upon CVS in this matter.

Board Action:

Motion: Russ Smith moved to impose the fees and costs upon CVS #8807 in this matter.

Second: Kirk Wentworth

Action: Passed Unanimously

G.	Thai Vo, R.Ph	(11-003-RPH-S)
H.	CVS/pharmacy #8807	(11-003=PH-S)

NOTE: Jody Lewis recused from participation as she is a district pharmacy supervisor for CVS.

Mike Dyer was present to represent both Mr. Vo and CVS #8807.

Carolyn Cramer presented a Stipulated Agreement for the Board's determination. Mr. Vo will now require two forms of identification when dispensing a prescription. CVS will reemphasize by e-mailing policies to all pharmacy staff to read and sign that they have read and understand the CVS policies. Both Mr. Vo and CVS will be fined \$750.00 and both fines will be paid by CVS.

Board Action:

Motion: Keith Macdonald moved to accept the Stipulated Agreement as presented.

Second: Russ Smith

Action: Passed Unanimously

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

Michelle Lambert

NOTE: Russ Smith disclosed that he works for Walgreens, however that would not influence his participation in this matter as he does not know Ms. Lambert.

Michelle Lambert appeared and was sworn by President Foster prior to answering questions or offering testimony.

Ms. Lambert explained that she was arrested for contempt of court and at that time she possessed a small amount of methamphetamine. Ms. Lambert was charged with possession, mandated to drug counseling and fined. Ms. Lambert indicated that she has been clean and sober now for almost four years.

Board Action:

Motion: Keith Macdonald moved to accept Ms. Lambert's application for pharmaceutical technician in training pending a positive PRN evaluation.

Second: Kirk Wentworth

Action: Passed Unanimously

5. Application for Nevada Wholesaler – Appearance:

Benco Dental Supply Co. – Sparks

Lou Mangino appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Mangino explained that Benco Dental is the largest distributor of dental supplies in the United States. They are a privately owned company and have been in business for 81 years. They have a large sales force and they supply dental offices with supplies and equipment and, if necessary, they also fix any equipment they have sold that may need attention. He gave details regarding their business plan and procedures. Mr. Mangino advised the Board that Benco Dental Supply Company is VAWD certified through NABP.

Board Action:

Motion: Keith Macdonald moved to accept the Nevada wholesaler application for Benco Dental Supply Company.

Second: Russ Smith

Action: Passed Unanimously

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

A. Biomed Pharmaceuticals – Lenexa, KS

Joe Renzi appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Renzi testified that Biomed Pharmaceuticals specializes in injectables. They monitor their patient's care during their therapy to assure appropriate dispensing. They ship via FedEx in temperature controlled packaging to specific patients. Mr. Renzi reviewed their procedures to the Board's satisfaction.

Board Action:

Motion: Russ Smith moved to accept the out of state pharmacy application for Biomed Pharmaceuticals

Second: Jody Lewis

Action: Passed Unanimously

B. Cantrell Drug Company – Little Rock, AR

James McCarley appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. McCarley explained that they were an outsourcing pharmacy that supplies medications to hospitals. Mr. McCarley advised that the products that they ship to hospitals were not patient specific.

Board staff explained that Nevada law requires a pharmacy to ship patient specific. If he is supplying bulk product to hospitals in Nevada, Mr. McCarley was advised that he would have to be licensed as a manufacturer. Board staff also allowed that the fees already paid could be transferred to the new application. The Board took no action pending the proper application.

C. Specialty Therapeutic Care – Houston, TX

Michelle DeRon appeared and was sworn by President Foster prior to answering questions or offering testimony.

Ms. DeRon explained that they ship products for hemophilia patients. They use FedEx for their shipping needs in temperature controlled packages. Ms. DeRon explained their procedures to the Board's satisfaction.

Board Action:

Motion: Russ Smith moved to accept the out of state pharmacy application for Specialty Therapeutic Care.

Second: Jody Lewis

Action: Passed Unanimously

7. Request for Controlled Substance License – Appearance:

Mohamed O. Saleh, MD

Carolyn Cramer presented ten exhibits marked Exhibit 1 and 3 through 11. Dr. Saleh had no objection and they were entered into the record. The Board reviewed the exhibits and Ms. Cramer called Danny Garcia to testify.

Danny Garcia, Board investigator, appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Garcia testified that he went to the Valley View address where Dr. Saleh was supposedly licensed to practice to verify the prescription that was marked as Exhibit 1. Mr. Garcia indicated that there was nothing at that address. Mr. Garcia tried to contact Dr. Saleh by phone and the phone number transferred to a Florida telephone number. Mr. Garcia indicated that he looked up Dr. Saleh on a website and found another location in Las Vegas. He went to the address indicated on the website and it was inhabited but was closed with a note on the door that indicated they were looking for an administrator for that location.

Dr. Saleh presented a letter to the Board of Pharmacy dated April 14, 2011 which was marked as Exhibit A and accepted into the record.

Carolyn Cramer questioned Dr. Saleh regarding the telephone numbers on his prescription pads. Dr. Saleh indicated that he keeps patient records both in Nevada and Florida so he can access them if necessary while he is in Florida. Dr. Saleh explained that he did not realize that he needed two DEA numbers – one for his Florida practice and one for his Nevada practice – as he thought his DEA license was good anywhere in the United States, which is why he did not complete the process of applying for a second DEA license in 2006. When Ms. Cramer questioned Dr. Saleh about not answering “Yes” to any of the questions on his controlled substance application dated November 23, 2010, he indicated that he thought the disciplinary matter he did not disclose on the application was going to be dismissed, however now he understands that he should have answered “Yes” to the question on his application.

Ms. Cramer noted that Dr. Saleh was arrested after his appearance in January for writing prescriptions in Nevada without a license to do so. Dr. Saleh explained that he needs a license from the Board of Pharmacy so he can get his DEA license and continue treating his patients. Dr. Saleh indicated that his patients are now seeing another doctor while he is waiting to obtain his prescribing privileges, however the doctor can only see his patients one day a week and that is not adequate.

Carolyn Cramer gave closing statements. She indicated that Dr. Saleh lied on his application for a controlled substance license and does not feel that his practices are in the public's best interest and recommends that the Board deny his application.

Dr. Saleh gave closing statements and indicated that he did not mean to lie on his application and that it was just an oversight.

Board Action:

Motion: Russ Smith moved to deny Dr. Saleh's application for a controlled substance license.

Second: Keith Macdonald

Action: Passed Unanimously

Keith Macdonald would like Board staff to ensure that all of Dr. Saleh's claimed registrations and certifications are verified to be true before accepting another application for a controlled substance license from him again.

8. Request for Reinstatement of Pharmacist License – Appearance:

Matthew Osayaren

Matthew Osayaren appeared and was sworn by President Foster prior to answering questions or offering testimony.

Carolyn Cramer read a letter from the Federal Department of Health and Human Services to the Board disallowing Mr. Osayaren to work in any facility that allows Medicare or Medicaid billing. She also indicated that he is under an Order not to practice pharmacy for five years.

Mr. Osayaren indicated that he has an opportunity to teach, but they require him to be a licensed pharmacist and asked the Board to reinstate his license so he could take advantage of this prospect. Mr. Osayaren indicated that he obtained a certificate to return to work from his physician as he was requested to do at his last appearance. Board staff indicated that there was no request for such a document.

Two exhibits were reviewed and admitted into the record. Exhibit 1 was a work release from a physician and Exhibit 2 was the letter from the Federal Department of Health and Human Services sent to Board staff not allowing Mr. Osayaren to practice in any facility that bills Medicare and Medicaid.

Board Action:

Motion: Kirk Wentworth moved to deny Matthew Osayaren's request for reinstatement of his pharmacist license.

Second: Keith Macdonald

Action: Passed Unanimously

9. Request for Reinstatement of Pharmaceutical Technician License – Appearance:

Mayra Arreola

Ms. Arreola cancelled her appearance before the Board to request reinstatement of her pharmaceutical technician registration.

10. Applications for Nevada MDEG – Appearance:

A. Global Orthopedics, LLC – Las Vegas

No one appeared to represent Global Orthopedics, LLC.

Board Action:

Motion: Russ Smith moved to deny the application for a Nevada MDEG license for Global Orthopedics.

Second: Keith Macdonald

Action: Passed Unanimously

Before the end of the meeting two representatives of Global Orthopedics came forward to ask why their application was denied. President Foster asked if they were in the room when she called Global Orthopedics to come forward. They indicated that they were present but did not know what they should do so they did not come to the table. President Foster advised them that the Board had already denied their application and if they wanted to pursue licensure in Nevada they could reapply.

B. Health Essentials, LLC – Las Vegas

Rod Borkowsky, Milette Cruz and Troy Smith appeared and were sworn by President Foster prior to answering questions or offering testimony.

The Board questioned Mr. Borkowsky and Mr. Smith regarding their business plan and how they will operate Health Essentials. Ms. Cruz was asked about her qualifications to be the facility administrator and she indicated that she has a degree as a nurse. She will be the person at the facility on a daily basis operating the business.

Board Action:

Motion: Jody Lewis moved to approve the Nevada MDEG application for Health Essentials, LLC pending receipt of a copy of Ms. Cruz's vocational nursing degree.

Second: Russ Smith

Action: Passed Unanimously

C. Next Step Medical LLC – Las Vegas

Carlos Paule appeared and was sworn by President Foster prior to answering questions or offering testimony.

Mr. Paule indicated that they are providers of muscle stimulators and home rehab products, including braces. Mr. Paule gave an overview of his work history, including experience with oxygen concentrators, and other MDEG products.

Board Action:

Motion: Keith Macdonald moved to approve the Nevada MDEG application for Next Step Medical LLC.

Second: Jody Lewis

Action: Passed Unanimously

D. United Seating and Mobility LLC – Las Vegas

James Wilcox and Brent Die appeared and were sworn by President Foster prior to answering questions or offering testimony.

Mr. Wilcox and Mr. Die described their business model and policies and procedures. Mr. Wilcox has been providing services to disabled patients with mobility devices for over 21 years. He evaluates patients and determines what the most appropriate equipment would be for their specific needs. They are a full sales and service company.

Board Action:

Motion: Russ Smith Keith moved to approve the Nevada MDEG application for United Seating and Mobility LLC.

Second: Kirk Wentworth

Action: Passed Unanimously

11. Applications for Nevada Pharmacy – Appearance:

A. Institutional Pharmacy Solutions – Las Vegas

Selamawit Taylor appeared and was sworn by President Foster prior to answering questions or offering testimony.

Ms. Taylor explained that they were applying for a pharmacy license to practice at Monte Vista Hospital. There was some confusion about the pharmacy already in Monte Vista Hospital. It is owned by someone else other than the Hospital. Ron Shockey, Board inspector, cleared up the confusion and indicated that it is an outside management company that currently runs the pharmacy and now Monte Vista has hired Institutional Pharmacy Solutions to operate their pharmacy in house. Mr. Shockey said he has been inspecting the Monte Vista Hospital pharmacy for years and they run a good facility. This would be considered a new pharmacy to Nevada.

Board Action:

Motion: Russ Smith moved to approve the Nevada pharmacy application for Institutional Pharmacy Solutions.

Second: Keith Macdonald

Action: Passed Unanimously

B. Valley View Surgery Center – Las Vegas

Fay Delacruz appeared and was sworn by President Foster prior to answering questions or offering testimony.

Ms. Delacruz gave an accounting of how she will control the drugs maintained at the surgery center. They have policies and procedures in place to ensure security. Ms. Delacruz indicated that they will use single needle/single dose practices and they have a means to control the issue of the medications and the needles. They also have a witness procedure for wasting excess drugs after surgical procedures.

Board Action:

Motion: Keith Macdonald moved to approve the Nevada pharmacy application for Valley View Surgical Center.

Second: Jody Lewis

Action: Passed Unanimously

12. Presentation of 50 Year Pharmacist Certificate:

Gerald Mandel, R.Ph

President Foster and Larry Pinson gave a synopsis of Mr. Mandel's professional history and presented him with a 50 year pharmacist certificate.

Mr. Mandel reminisced about his experience with the Nevada State Board of Pharmacy and shared a letter he received from Keith Macdonald when he inquired with three states whether he could get a discount on his licensing fees since he had worked for 35 years. Mr. Mandel noted that Mr. Macdonald was the only person to respond to his inquiry and he appreciated his response and candor.

Again, President Foster thanked Mr. Mandel for 50 years of service to the profession of pharmacy.

13. General Counsel Report

Carolyn Cramer reported that the legislature is still in session and they have not been called to appear since the last meeting. Ms. Cramer indicated that she has been doing fiscal notes as requested by various legislators. We should know more after Friday because bills that do not come out of committee will probably be dropped.

14. Executive Secretary Report:

A. Financial Report

Larry Pinson gave the financial report to the Board's satisfaction.

i. Personal check issues

Mr. Pinson reported to the Board that bounced checks are becoming a problem and advised that Board staff would like to require payment by credit card, certified check or money order only. Occasionally people come to the Board office with cash to pay for a registration. Since we do not keep cash in the office, we would also like to discontinue accepting cash. After discussion, President Foster asked for a motion.

Board Action:

Motion: Keith Macdonald moved to accept Mr. Pinson's recommendation to no longer accept personal checks.

Second: Russ Smith

Action: Passed Unanimously

B. Temporary Licenses

One temporary license was granted since the last Board meeting.

C. Staff Activities

i. CE in Reno (3/12)

Ron Shockey and Joe Depczynski did a CE in Reno on Saturday, March 12th.

1. Will repeat in September in Las Vegas
2. CC in June

Mr. Pinson indicated that there would be ongoing continuing education courses provided in both the North and the South before pharmacist's renewal this coming October. He also advised that he would be addressing the Philippine Medical Association in June. Mr. Pinson visited the new student training facility at UCSF used for training pharmacists, physicians, dentists and nurses and found it amazing how the utilization of lifelike mannequins and their response to simulated drugs given by students is so valuable.

ii. Washoe County Child Death Review Team (4/1)

Larry Pinson advised the Board that he has been asked to participate on the Child Death Review Team and found it to be a most difficult experience reviewing a child's death. The team really appreciates his input on the drug related cases.

iii. Cancer Drug Donation Program

Melissa Menji, an intern from Idaho State School of Pharmacy that spent six weeks with the Board staff, was instrumental in helping institute the cancer donation program which is now up and running.

D. Reports to Board

i. Hillberby Report

The Hillerby Report was given to the Board to update them on legislative issues.

ii. University of Utah Alcohol & Drug Abuse School

Mr. Pinson will be attending the University of Utah Alcohol and Drug Abuse School this year in June. Those who have attended in the past have found it to be a valuable program.

E. Board Related News

Larry Pinson advised the Board that at a previous legislative session it was mandated by statute that pharmacists/pharmacies report to a TB group if a patient receives two drugs from a list of TB drugs. Mr. Pinson was unaware of the law and was sure that pharmacists/pharmacies are also unaware of this requirement. Mr. Pinson indicated that he plans to meet with the TB group and find out more about the requirements.

i. PMP Interconnect Development – NABP

Mr. Pinson provided a memo from NABP regarding a communications exchange between states for PMP programs.

ii. CPE Monitoring Services – NABP

NABP will have an electronic continuing education tracking system available to pharmacists and pharmaceutical technicians available toward the end of 2011.

iii. AWARxE – added to Website

Mr. Pinson reported that AWARxE, a resource on prescription drug abuse and medication safety, has been added to our website.

F. Activities Report

15. Discussion and Determination:

Disciplinary Process

Larry Pinson reminded the Board that Keith Macdonald asked that the disciplinary process be discussed. One of the issues that Mr. Macdonald brought up was the case settlement process and why legal counsel waits until the last minute when a hearing is to begin to negotiate, ultimately wasting the Board's time. Mr. Pinson explained that the settlement process is complex and sometimes the parties begin to think differently as the hearing is ready to progress. Another issue was witness credibility – are claims made by the patient who has ingested a wrong medication at the fault of the pharmacy realistic, feasible or even credible? Mr. Pinson indicated that this is another complex issue. The patient has the right to his/her "day in court" to tell the Board what happened to them. Mr. Pinson also reminded the Board that they are charged with protecting the patient and it is their job to determine credibility. It was suggested that expert witnesses be hired to substantiate a witnesses claims, however that would be cost prohibitive and the hearing process would be drawn out to unacceptable lengths.

Mr. Pinson suggested that the Board designate the matrix as a tool rather than a solid guideline. The matrix was originally developed to bring consistency to discipline as well as give staff a guideline in bringing cases forward. In reality it binds Board staff's ability to negotiate in the settlement process. Mr. Pinson also suggested a perpetual discipline document be included in every Board book along with the disciplinary guidelines and matrix that are already included showing what the rulings have been

over the past dozen or so cases. Mr. Pinson provided a sample of the document he was proposing for the Board's review.

President Foster indicated that she supported the use of the matrix as a tool so the Board has more flexibility. Jody Lewis noted that pharmacists cannot work in fear of retribution for minor offenses that can be a learning experience. Ms. Lewis also suggested that perhaps Katie Johnson could do a mini version of the Your Success Rx program that wouldn't be as intense or as expensive.

Regarding witness credibility, Keith Macdonald wanted to know how much the Board can question patients/complainants that read the drug fact sheets that accompany their medications and then allege harm from what they learned from reading the possible side effects.

Board Action:

Motion: Keith Macdonald moved to allow Board staff to use the matrix as a tool.

Second: Jody Lewis

Action: Passed Unanimously

16. Next Board Meeting:

June 1, 2011 – Reno

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

There were no public comments.

Blank