

DEC 10 2015

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

TINA RIZZOLO, RPH

Certificate of Registration No. 17665,

LUCAS MEYERS, RPH

Certificate of Registration No. 16064,

WALGREENS PHARMACY #3922

Certificate of Registration No. PHN01127, and

WALGREENS MAIL SERVICE, INC.

Certificate of Registration No. PH01964,

Respondents.

CASE NO. 15-028-RPH-A-S

CASE NO. 15-028-RPH-B-S

CASE NO. 15-028-PH-S

CASE NO. 15-028-PH-O

NOTICE OF INTENDED
ACTION AND ACCUSATION

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because at the time of the events alleged herein, Respondents Tina Rizzolo (Ms. Rizzolo), Certificate of Registration No. 17665, and Lucas Meyers (Mr. Meyers), Certificate of Registration No. 16064, were pharmacists licensed with the Board, and Respondents Walgreens Pharmacy #3922 (Walgreens), Certification of Registration No. PHN01127, and Walgreens Mail Service, Inc., Certificate of Registration No. PH01964, were pharmacies licensed with the Board.

II.

Walgreens Mail Service, Inc. is a work shifting operation located in Orlando, Florida. The facility provides support to Walgreens' retail pharmacies in Nevada. At the time of the

events alleged herein, it provided data verification support to five Walgreens' pharmacies in Las Vegas, Nevada, including Respondent Walgreens Pharmacy #3922.

III.

On May 5, 2015, patient A.P. saw his physician, who prescribed a quantity of thirty (30) Zoloft tablets with instructions to take 200 mg. by mouth daily. The prescription appears as follows:

THE FACE OF THIS DOCUMENT HAS A GREEN BACKGROUND

Lic. # _____ DEA # _____

Green Valley Psychiatric Associates
1080 Wigwam Parkway, _____ Henderson, NV 89074
Telephone: (702) 454-_____

UZMA ZAFAR, M.D. **DODGE A. SLAGLE, D.O.**

Name A. _____ P. _____ Date 5/5/15

Address _____

200mg 200mg PO Daily
30 Days

☐ Label
Rx# - 0 0 - 2 - 3 - 4 - PRN Green Valley

VERIFICATION BOX: RUB BETWEEN THUMB & FOREFINGER OR BREATHE ON IT. COLOR WILL DISAPPEAR, THEN REAPPEAR.

IV.

Walgreens #3922 accepted the prescription at the pharmacy drive-thru window on May 5, 2015. It filled the prescription that day, and dispensed it to A.P. through the drive through on May 7, 2015.

V.

A.P. ingested one tablet of the dispensed medication on May 8, 2015, per his doctor's instructions. He later discovered that the label on the prescription bottle indicated Zocor 20 mg. tablets, rather than the Zoloft 200 mg. tablets his physician prescribed.

VI.

A.P. telephoned Walgreens and verified that it dispensed the wrong medication. He returned the medication to Walgreens, which replaced it with the correct medication. A.P. reported no negative impact from ingesting the medication Walgreens initially dispensed.

VII.

According to pharmacy records, the filling error originated with pharmaceutical technician Noelle Mallari (Ms. Mallari), who performed the data entry for A.P.'s prescription (Rx #3094107-3922) at Walgreens #3922.¹

VIII.

During data entry, Ms. Mallari read the prescription as calling for Zocor 200 mg. tablets, rather than the Zoloft 200 mg. tablets P.A.'s doctor prescribed. Zocor does not come in 200 mg. tablets, so Ms. Mallari instead selected Zocor 20 mg. tablets.

IX.

Ms. Mallari sent the prescription data into the data entry verification queue for approval by a pharmacist.

X.

Ellen Wagner (Ms. Wagner) is a registered pharmacist in Florida. She is not licensed to practice pharmacy in Nevada. She is employed by Respondent Walgreens Mail Service, Inc. in Florida.

XI.

At the facility in Florida, Ms. Wagner retrieved the data for Rx #3094107-3922 from the queue to perform data verification. Ms. Wagner failed to detect the data entry error and verified Zocor 20 mg. tablets as accurate in lieu of the Zoloft 200 mg. tablets that P.A.'s

¹ The *Audit/Board of Pharmacy Inspection Report Fill History Entered By* field records E. Wagner (Ellen Wagner) for Rx #3094107-2. Walgreens' transactional data indicates that E. Wagner updated the prescriber field subsequent to Ms. Mallari performing data entry. The system records the name of the last individual who adjusted the field.

physician prescribed. After verifying the data as accurate, Ms. Wagner sent the prescription to the queue for filling in Nevada by Walgreens #3922.

XII.

Back at Walgreens #3822, pharmaceutical technician Courtney Watkins retrieved Rx #3094107-3922 from the queue. She filled the prescription with simvastatin (generic for Zocor) 20 mg. tablets, and staged it for the pharmacist's final product review.

XIII.

Pharmacist Lucas Meyers performed the final product verification at Walgreens #3922. He did not detect that the prescription bottle contained simvastatin 20 mg. tablets, instead of the Zoloft 200 mg. tablets P.A.'s doctor prescribed. Without looking at the original prescription or image of the prescription available to him, Mr. Meyers verified and approved the prescription as accurate and complete. He staged the final product for customer pickup.

XIV.

In a written statement, Mr. Meyers explained that under Walgreen's model, his duty is limited to verifying that the product in the vial matches the information on the label and leaflet, even if they do not match the prescription. In this case, the label and leaflet do not match the prescription, as they were generated based on the incorrect data verified by Ms. Wagner at the Florida facility.

XV.

Walgreens #3922 has no mandatory procedure to detect a data entry or verification error by the Florida work shifting facility and/or an out-of-state pharmacist after data verification is complete.

XVI.

Pharmacist Tina Rizzolo's initials are recorded on the Audit/Board of Pharmacy Inspection Report documenting that patient consultation was completed. Ms. Rizzolo did not detect the medication error during counseling.

XVII.

A.P. alleges that counseling was not provided at the pharmacy drive-thru window for Rx #3094107-3922. He informed the Board Investigator that he never receives counseling when he utilizes Walgreens pharmacy drive-thru window.

XVIII.

Walgreens was not able to produce a record of the errant prescription label because Mr. Meyers deleted the errant prescription from A.P.'s patient profile, rather than closing the prescription. The counseling log was also electronically removed from the store level view when the prescription was deleted.

FIRST CAUSE OF ACTION
(Respondent Lucas Meyers)

XIX.

In failing to strictly follow the instructions of A.P.'s physician by verifying and dispensing a prescription for *simvastatin 20 mg. tablets (generic Zocor)*, rather than the *Zolofl 200 mg. tablets* the patient's doctor prescribed, Mr. Meyers violated NAC 639.945(1)(d) and/or (i), which violations are grounds for action pursuant to NRS 639.210(4), (11), and/or (12), and NRS 639.255.

SECOND CAUSE OF ACTION
(Respondent Lucas Meyers)

XX.

In failing to maintain a recordkeeping system that would allow for readily retrievable prescription records for patient A.P.'s prescription, Mr. Meyers violated NRS 639.210(4) and/or (17), NRS 639.236, NAC 639.482, NAC 639.706 and/or NAC 639.945(1)(h) and/or (i), which violations are grounds for action pursuant to NRS 639.210(4) and (17) and/or NRS 639.255.

THIRD CAUSE OF ACTION
(Respondent Tina Rizzolo)

XXI.

In failing to provide adequate counseling for A.P.'s new prescription, which may have detected the medication error, Ms. Rizzolo violated NRS 639.266(1) and NAC 639.707(1) and (2), as well as NAC 639.945(1)(i), which violations are grounds for action pursuant to NRS 639.210(4), (11) and/or (12), and under NRS 639.255.

FOURTH CAUSE OF ACTION
(Respondent Walgreens Pharmacy #3922)

XXII.

As the pharmacy in which the foregoing alleged violations occurred, Walgreens Pharmacy #3922 is responsible for the actions of its employees, Respondents Lucas Meyers and Tina Rizzolo, as alleged herein, pursuant to NAC 639.945(2), which is grounds for discipline pursuant to NRS 639.210(4), (11) and/or (12), and NRS 639.255.

FIFTH CAUSE OF ACTION
(Respondent Walgreens Mail Service, Inc.)

XXIII.


As the pharmacy in which the violations alleged herein occurred, Walgreens Mail Service, Inc. is responsible, pursuant to NAC 639.945(2), for the unprofessional conduct of its employee, Ellen Wagner. That conduct includes Ms. Wagner's:

(1) failure to strictly follow the instructions of the prescriber and verifying *simvastatin 20 mg. tablets (generic Zocor)* as the correct medication, instead of the *Zoloft 200 mg. tablets* the physician prescribed, (*see* NAC 639.945(1)(d) and/or (i)); and

(2) failure to confer with A.P.'s physician to verify the medication name and strength, which are illegible and subject to question here. *See* (NAC 639.945(1)(e)). This respondent is therefore subject to discipline under NRS 639.210(4), (11) and (12), and NRS 639.255.

Therefore, it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the licenses and/or certificates of registration of these respondents.

Signed this 9th day of December, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT(S)

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 15-028-RPH-A-S
)	
Petitioner,)	
)	
v.	)	STATEMENT TO THE
	)	RESPONDENT NOTICE
	)	OF INTENDED ACTION
TINA RIZZOLO, RPH	)	AND ACCUSATION
Certificate of Registration No. 17665,	)	RIGHT TO HEARING
)	
Respondent.	/	

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, Larry L. Pinson, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to a hearing before the Nevada State Board of Pharmacy to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. It is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Nevada State Board of Pharmacy within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.


III.

The Board has reserved Wednesday, January 13, 2016, as the date for a hearing on this matter at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada. The hour of the hearing will be set by letter to follow.

IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 9th day of December, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**TINA RIZZOLO, RPH
Certificate of Registration No. 17665,**

Respondent.

CASE NO. 15-028-RPH-A-S

**NOTICE OF INTENDED
ACTION AND ACCUSATION**

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of December, 2015.

TINA RIZZOLO, RPH

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BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	CASE NO. 15-028-RPH-B-S
)	
Petitioner,)	
	)	STATEMENT TO THE
v.	)	RESPONDENT NOTICE
	)	OF INTENDED ACTION
LUCAS MEYERS, RPH	)	AND ACCUSATION
Certificate of Registration No. 16064,	)	RIGHT TO HEARING
	/	
Respondent.		

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, Larry L. Pinson, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

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DATED this 9th day of December, 2015.



Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	
	)	CASE NO. 15-028-RPH-B-S
)	
Petitioner,)	
	)	ANSWER AND NOTICE
v.	)	OF DEFENSE
)	
LUCAS MEYERS, RPH)	
Certificate of Registration No. 16064,)	
	/	
<u>Respondent.</u>		

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of December, 2015.

LUCAS MEYERS, RPH

NEVADA STATE BOARD OF PHARMACY.

y.

Certificate of Registration No. PHN01127,

Respondent.

)
CASE NO. 15-028-PH-S
)
)
) STATEMENT TO THE
) RESPONDENT NOTICE
) OF INTENDED ACTION
) AND ACCUSATION
) RIGHT TO HEARING
)
)
)

I.

II.

III.

-1-

IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 9th day of December, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

[illegible]

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of December, 2015.

Type or print name

AUTHORIZED REPRESENTATIVE FOR
WALGREENS PHARMACY #3922

<p>NEVADA STATE BOARD OF PHARMACY,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>WALGREENS MAIL SERVICE, INC.</p> <p>Certificate of Registration No. PH01964,</p> <p style="text-align: center;">Respondent.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>CASE NO. 15-028-PH-O</p> <p>STATEMENT TO THE</p> <p>RESPONDENT NOTICE</p> <p>OF INTENDED ACTION</p> <p>AND ACCUSATION</p> <p>RIGHT TO HEARING</p>
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I.

II.

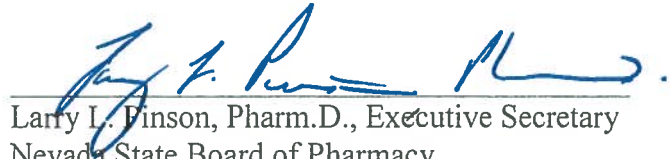
III.

-1-

IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 7th day of December, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 15-028-PH-O
)	
Petitioner,)	
	)	ANSWER AND NOTICE
v.	)	OF DEFENSE
)	
WALGREENS MAIL SERVICE, INC.)	
Certificate of Registration No. PH01964,)	
	/	
Respondent.		

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of December, 2015.

Type or print name

AUTHORIZED REPRESENTATIVE FOR
WALGREENS MAIL SERVICE, INC.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS. 15-051-RPH-S
	)	15-051-PT-A-S
Petitioner,	)	15-051-PT-B-S
v.)	
)	
JUSTIN CURNUTT, RPH	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 18338	)	AND ACCUSATION
)	
ISABEL ROMERO, PT)	
Certificate of Registration No. PT13592)	
)	
LORI BRANDON, PT)	
Certificate of Registration No. PT09558)	
)	
Respondents.	/	

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and these respondents because at the time of the alleged events, Respondent Justin Curnutt, R.Ph. (Mr. Curnutt), was a pharmacist licensed by the Board, and Respondents Isabel Romero, PT (Ms. Romero) and Lori Brandon, PT (Ms. Brandon), were pharmaceutical technicians registered with the Board.

FACTUAL ALLEGATIONS**Unlawful Activity by Ms. Romero, PT**

II.

In June 2015, Board Staff received notice from a Smith's Pharmacy District Pharmacy Coordinator indicating that Smith's Pharmacy (Smith's) had terminated Ms. Romero from her

employment as a pharmaceutical technician at Smith's Pharmacy #341. Smith's terminated Ms. Romero for falsifying a prescription for a dangerous drug (oral contraceptives) for herself.

III.

Ms. Romero falsified that prescription by fraudulently completing a "Confidential Prescription Authorization Request" form authorizing an initial fill of Gildess Fe 1-20 tablets, with eleven (11) refills. Ms. Romero patterned that counterfeit request after a previous legitimate prescription from her physician.

IV.

Ms. Romero wrote the initials "H.D." on the request form indicating that another pharmaceutical technician received a call from Ms. Romero's physician and completed the authorization form. There is no evidence that H.D. had anything to do with the forged prescription.

V.

When pharmaceutical technician Ms. Brandon momentarily stepped away from her computer terminal, Ms. Romero scanned in the falsified request form at Ms. Brandon's terminal under Ms. Brandon's credentials. Ms. Brandon observed Ms. Romero performing a function at her terminal and discovered that Ms. Romero had scanned in the falsified prescription for herself. Ms. Brandon reported the incident to Mr. Curnutt, the pharmacist on duty at the time.

VI.

During an interview with a Board Investigator, and in a subsequent written statement, Ms. Romero admitted to the foregoing allegations. She explained that when Mr. Curnutt confronted her, she admitted to her wrongdoing and cancelled the prescription at Mr. Curnutt's direction. Smith's did not dispense any medication pursuant to that authorization.

VII.

In her written statement, Ms. Romero states that after Mr. Curnutt directed her to cancel her falsified prescription, he went on to tell her that all she really needed to do was ask him for a prescription. Per Ms. Romero, Mr. Curnutt said that he would have written a prescription for her oral

contraceptive, as he routinely wrote prescriptions for himself and for Ms. Brandon. Since it was 9:00 p.m. at the time, Mr. Curnutt said that he would write a prescription for Ms. Romero the following morning using the name of “any doctor”. That never occurred.

Unlawful Activities By Mr. Curnutt, R.Ph., and Ms. Brandon, PT

VIII.

Based on Ms. Romero’s written testimony, Board Staff initiated an investigation of Smith’s Pharmacy #341 employee prescription records. The Board Investigator found questionable phoned-in and/or faxed prescriptions for Mr. Curnutt and Ms. Brandon. No other employee prescription records appeared to be irregular.

IX.

As part of his analysis, the Board Investigator consulted with the prescribers named on the questionable prescriptions. The analysis revealed that Mr. Curnutt and Ms. Brandon assisted each other in falsifying and filling multiple prescriptions for themselves. The fraudulent activity occurred during the time period of February 4, 2013, to August 31, 2015.

X.

Ms. Brandon fabricated “Confidential Prescription Authorization Request” forms for the majority of Mr. Curnutt’s prescriptions, generally purporting to authorize an initial fill with multiple refills. Ms. Brandon falsely documented either Dr. Freeman, Dr. Stoughton, Dr. Reiner, and/or Dr. Reynolds as the prescriber on those requests.

XI.

Similarly, Mr. Curnutt created “phoned in” prescriptions for Ms. Brandon and himself. He placed his initials on the written authorization requests under the “prescriber’s” name, indicating that he accepted the prescription order(s) by phone. On the requests for Ms. Brandon, Mr. Curnutt falsely documented Dr. Reddy as the prescribing physician.

XII.

Table I below is a summary of the fraudulent prescriptions filled for Mr. Curnutt. There are forty (40) unlawful prescriptions listed.

Table I: Fraudulent Prescriptions Filled For Justin Curnutt, R.Ph.

Prescriber	Rx No.	Medication	Quantity	No. of Fills
Brian Freeman, DDS	6128204	Amoxicillin 500mg	24 capsules	4
	6128205	Acyclovir 400mg	30 tablets	4
	6149267	Amoxicillin 500mg	80 capsules	6
Ned Stoughton, MD	6114710	Cephalexin 500mg	30 capsules	2
	6114711	Methylprednisolone 4mg Dosepk	21 tablets	2
	6128207	Fluocinonide 0.05% Ointment	60 gm	5
	6128208	Methylprednisolone 4mg Dosepk	21 tablets	4
	6160595	Prednisone 20mg	21 tablets	1
	6171348	Prednisone 20mg	40 tablets	5
Michael Reiner, MD	6128225	Albuterol 0.083% INH SOL	25 vials	4
Tammy Reynolds, MD	6135314	Lidocaine HCL 1%	200 ml	1
	6135314	Lidocaine HCL 1%	400 ml	2

Table II lists the fraudulent prescriptions processed for Ms. Brandon's benefit. There are five (5) unlawful prescriptions listed.

Table II: Fraudulent Prescriptions Filled For Lori Brandon, P.T.

Prescriber	Rx No.	Medication	Quantity	No. of Fills
Santosh Reddy, MD	6118208	Cephalexin 500mg	80 capsules	3
	6140691	Cephalexin 500mg	80 capsules	2

Mr. Curnutt and Ms. Brandon submitted at least some, if not all, of the foregoing fraudulent prescriptions for payment to their respective insurance providers.

XIII.

After being apprised by the Board Investigator of the prescriptions unlawfully written using their names, Drs. Freeman, Stoughton, Reiner, and Reynolds each signed a declaration affirming that they did not authorize the prescriptions listed on Table I for Mr. Curnutt. Dr. Reddy signed a declaration that he did not authorize the prescriptions for Ms. Brandon listed on Table II.

XIV.

During an interview with the Board Investigator, and in a subsequent written statement, Mr. Curnutt admitted to falsifying several prescriptions for himself and for Ms. Brandon. As a “defense”, Mr. Curnutt claims that due to his personal religious beliefs, he felt justified in falsifying and filling prescriptions for himself because he was stockpiling drugs for what he calls “Judgement Day.”

XV.

Mr. Curnutt said that he wrote prescriptions for Ms. Brandon because she was experiencing pain from an abscessed tooth and could not afford to see a doctor.

XVI.

On September 28, 2015, Mr. Curnutt, at the suggestion of the Board Investigator, delivered the medications he purported to have in his possession to the Board Office in Las Vegas. With Mr. Curnutt present, the Board Investigator inventoried the medications and impounded them.

XVII.

There were significant discrepancies in the quantities of medications Mr. Curnutt returned. For instance, as to seven of the medications, Mr. Curnutt returned a *less* than Smith’s records show were dispensed to him. Mr. Curnutt has not accounted for that missing medication.

XVIII.

As to one medication, Mr. Curnutt returned *more* product than Smith’s records show were dispensed to him. The Board Investigator was unable to determine the origin of that medication, and Mr. Curnutt has not explained how it came into his possession.

XIX.

Additionally, Mr. Curnutt returned two medications¹ that *were not documented* in his prescription profile. The Board Investigator was unable to determine the origin of that medication, and Mr. Curnutt has not explained how it came into his possession.

¹ Rx No. 6128205: Acyclovir 400 mg. #30 filled 12/14/2014;
Rx No. 6171348: Prednisone 20 mg. #40 filled 08/23/2015.

XX.

During Ms. Brandon's interview with the Board Investigator, and in a subsequent written statement, Ms. Brandon confessed to falsifying several prescriptions for Mr. Curnutt.

XXI.

Ms. Brandon also admitted that Mr. Curnutt wrote and filled fraudulent prescriptions for her.

XXII.

On September 19, 2015, Ms. Brandon delivered to the Board Office the remaining medications that she had in her possession. In Ms. Brandon's presence, the Board Investigator inventoried the medications and impounded them.

FIRST CAUSE OF ACTION
(Prescription Fraud - Isabel Romero, PT)

XXIII.

By creating and attempting to process a fraudulent prescription for a dangerous drug, namely Gildess Fe 1-20 tablets, without a lawful prescription or authorization from a practitioner, Isabel Romero, PT, violated Nevada Administrative Code (NAC) 639.945(1) (h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

SECOND CAUSE OF ACTION
(Prescription Fraud - Justin Curnutt, R.Ph.)

XXIV.

In creating multiple fraudulent prescriptions for various dangerous drugs for himself and for Ms. Brandon, as detailed herein, including Tables I and II, Justin Curnutt, R.Ph., violated NAC 639.945(1)(h) and (k), which violations are grounds for action pursuant to NRS 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

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\\

THIRD CAUSE OF ACTION
(Prescription Fraud - Justin Curnutt, R.Ph.)

XXV.

In filling and dispensing multiple fraudulent prescriptions for various dangerous drugs for himself and Ms. Brandon without a lawful prescription or authorization from a practitioner, as detailed herein, including Tables I and II, Justin Curnutt, R.Ph., violated NAC 639.945(1) (h) and (k), which violations are grounds for action pursuant to NRS 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

FOURTH CAUSE OF ACTION
(Insurance Fraud - Justin Curnutt, R.Ph.)

XXVI.

By processing multiple fraudulent prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner, and by billing those prescriptions to an insurance provider, Justin Curnutt, R.Ph., violated Nevada Administrative Code (NAC) 639.945(1)(h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

FIFTH CAUSE OF ACTION
(Prescription Fraud - Lori Brandon, PT)

XXVII.

By creating multiple fraudulent prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner as detailed herein, including Tables I and II, Lori Brandon, P.T., violated Nevada Administrative Code (NAC) 639.945(1) (h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

SIXTH CAUSE OF ACTION
(Insurance Fraud - Lori Brandon, PT)


XXVIII.

By processing multiple fraudulent prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner, and by billing those prescriptions to an insurance

provider, Lori Brandon, P.T., violated Nevada Administrative Code (NAC) 639.945(1) (h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the license of Mr. Curnutt and certificates of registration of Ms. Romero and Ms. Brandon, respectively.

Signed this 8th day of December, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

JUSTIN CURNUTT, RPH

Certificate of Registration No. 18338

Respondent.

) **STATEMENT TO THE RESPONDENT**
) **NOTICE OF INTENDED ACTION**
) **AND ACCUSATION**
) **RIGHT TO HEARING**
)
) **CASE NO. 15-051-RPH-S**
)
)
)

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, Larry L. Pinson, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.


III.

The Board has reserved Wednesday, January 13, 2016, as the date for a hearing on this matter at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada. The hour of the hearing will be set by letter to follow.

IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 8th day of December, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

KENNETH M. ROBERTS, ESQ.
Nevada Bar No. 04729
DAVID E. KRAWCZYK, ESQ.
Nevada Bar No. 12423
DEMPSEY, ROBERTS & SMITH, LTD.
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Henderson, Nevada 89074
Tel: (702) 388-1216
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E-Mail: Kenroberts@drsLtd.com
Davidk@drsLtd.com
Attorneys for respondent, Justin Curnutt, R.Ph.



BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)
)
Petitioner,)
)
vs.)
)
JUSTIN CURNUTT, RPH)
Certificate of Registration No. 18338)
)
Respondent.)
_____)

ANSWER AND NOTICE
OF DEFENSE

Case No. 15-051-RPH-S

COMES NOW, Respondent JUSTIN CURNUTT, (hereinafter, "Respondent,") by and through his representative counsel, Kenneth M. Roberts, Esq., and David E. Krawczyk, Esq., of the DEMPSEY, ROBERTS & SMITH, LTD. law firm, and hereby submits this Answer and Defense.

Respondent, in answer to the *Notice of Intended Action and Accusation* filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him is hereby interposed on the following grounds: None.

....

1.

Regarding paragraph I, jurisdiction, Respondent admits the facts and allegations contained therein.

FACTUAL ALLEGATIONS
Unlawful Activity by Ms. Romero, PT

11.

Respondent lacks sufficient personal knowledge or information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph II, and therefore denies each allegation contained therein.

III.

Respondent lacks sufficient personal knowledge or information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph III, and therefore denies each allegation contained therein.

IV.

Respondent lacks sufficient personal knowledge or information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph IV, and therefore denies each allegation contained therein.

 V_1

Respondent admits the factual allegations contained in paragraph V.

VI.

Respondent lacks sufficient personal knowledge or information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph VI, and therefore denies each allegation contained therein.

VII.

Respondent lacks sufficient personal knowledge or information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph VII, and therefore denies each allegation contained therein.

Unlawful Activities By Mr. Curnutt, R.Ph., and Ms. Brandon, PT

VIII.

Respondent lacks sufficient personal knowledge or information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph VIII, and therefore denies each allegation contained therein.

IX.

Respondent admits the factual allegations contained in paragraph IX.

X.

Respondent admits the factual allegations contained in paragraph X.

XI.

Respondent admits the factual allegations contained in paragraph XI.

XII.

Respondent admits the factual allegations contained in paragraph XII.

XIII.

Respondent lacks sufficient personal knowledge or information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph XIII, and therefore denies each allegation contained therein.

XIV.

Regarding paragraph XIV, Respondent admits that during an interview with the Board Investigator, and in a subsequent written statement, Respondent admitted to

1 falsifying several prescriptions for himself and for Ms. Brandon. However, Respondent
2 denies the allegation, also contained in said paragraph, that "[a]s a 'defense', Mr. Curnutt
3 claims that due to his personal religious beliefs, he felt justified in falsifying and filling
4 prescriptions for himself because he was stockpiling drugs for what he calls 'Judgement
5 Day.'"

7 XV.

8 Respondent admits the factual allegations contained in paragraph XV.

10 XVI.

11 Respondent admits the factual allegations contained in paragraph XVI.

12 XVII.

13 Respondent admits the factual allegations contained in paragraph XVII.

14 XVIII.

15 Respondent lacks sufficient personal knowledge or information upon which to base a
16 belief as to the truth or falsity of the allegations contained in paragraph XVIII, and therefore
17 denies each allegation contained therein.

19 XIX.

20 Respondent lacks sufficient personal knowledge or information upon which to base a
21 belief as to the truth or falsity of the allegations contained in paragraph XIX, and therefore
22 denies each allegation contained therein.

23 XX.

24 Respondent lacks sufficient personal knowledge or information upon which to base a
25 belief as to the truth or falsity of the allegations contained in paragraph XX, and therefore
26 denies each allegation contained therein.

28

XXI.

Respondent lacks sufficient personal knowledge or information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph XXI, and therefore denies each allegation contained therein.

XXII.

Respondent lacks sufficient personal knowledge or information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph XXII, and therefore denies each allegation contained therein.

FIRST CAUSE OF ACTION

(Prescription Fraud - Isabel Romero, PT)

XXIII.

Respondent lacks sufficient personal knowledge or information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph XXIII.

SECOND CAUSE OF ACTION

(Prescription Fraud - Justin Curnutt, R.Ph.)

XXIV.

Respondent asserts that whether or not admissions or responses contained in preceding paragraphs of this *Answer and Notice of Defense* constitute facts predicated violations of Nevada Administrative Code and, or, Nevada Revised Statutes as alleged in paragraph XXIV, is properly a determination to be made by the Nevada Board of Pharmacy at a hearing pursuant to the agency's adjudicative process.

....

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....

....

THIRD CAUSE OF ACTION

(Prescription Fraud - Justin Curnutt, R.Ph.)

XXV.

Respondent asserts that whether or not admissions or responses contained in preceding paragraphs of this *Answer and Notice of Defense* constitute facts predicated violations of Nevada Administrative Code and, or, Nevada Revised Statutes as alleged in paragraph XXV, is properly a determination to be made by the Nevada Board of Pharmacy at a hearing pursuant to the agency's adjudicative process.

FOURTH CAUSE OF ACTION

(Insurance Fraud - Justin Curnutt, R.Ph.)

XXVI.

Respondent asserts that whether or not admissions or responses contained in preceding paragraphs of this *Answer and Notice of Defense* constitute facts predicated violations of Nevada Administrative Code and, or, Nevada Revised Statutes as alleged in paragraph XXVI, is properly a determination to be made by the Nevada Board of Pharmacy at a hearing pursuant to the agency's adjudicative process.

FIFTH CAUSE OF ACTION

(Prescription Fraud - Lori Brandon, PT)

XXVII.

Respondent lacks sufficient personal knowledge or information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph XXVII.

SIXTH CAUSE OF ACTION

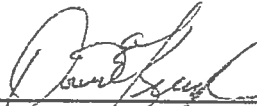
(Insurance Fraud - Lori Brandon, PT)

XXVIII.

Respondent lacks sufficient personal knowledge or information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph XXVIII.

DEMPSEY, ROBERTS & SMITH, LTD.
1130 Wigwam Parkway • Henderson, Nevada 89074
(702) 388-1216 • Fax: (702) 388-2514

Submitted, this 4th day of January, 2016.



KENNETH M. ROBERTS, ESQ.

State Bar No. 04729

DAVID E. KRAWCZYK, ESQ.

State Bar No. 12423

DEMPSEY, ROBERTS & SMITH, LTD.

1130 Wigwam Parkway

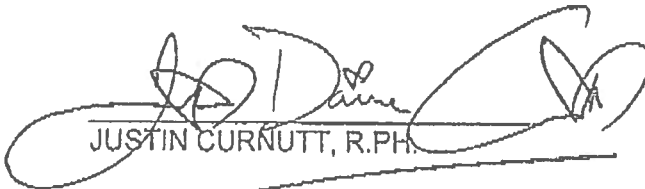
Henderson, Nevada 89074

(702) 388-1216

Attorneys for Respondent, Justin Curnutt, R.Ph.

VERIFICATION

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts stated therein, are true and correct to the best of my knowledge.


JUSTIN CURNUTT, R.PH.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS. 15-051-RPH-S
	)	15-051-PT-A-S
Petitioner,	)	15-051-PT-B-S
v.)	
)	
JUSTIN CURNUTT, RPH	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 18338	)	AND ACCUSATION
)	
ISABEL ROMERO, PT)	
Certificate of Registration No. PT13592)	
)	
LORI BRANDON, PT)	
Certificate of Registration No. PT09558)	
)	
Respondents.	/	

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and these respondents because at the time of the alleged events, Respondent Justin Curnutt, R.Ph. (Mr. Curnutt), was a pharmacist licensed by the Board, and Respondents Isabel Romero, PT (Ms. Romero) and Lori Brandon, PT (Ms. Brandon), were pharmaceutical technicians registered with the Board.

FACTUAL ALLEGATIONS**Unlawful Activity by Ms. Romero, PT**

II.

In June 2015, Board Staff received notice from a Smith's Pharmacy District Pharmacy Coordinator indicating that Smith's Pharmacy (Smith's) had terminated Ms. Romero from her

employment as a pharmaceutical technician at Smith's Pharmacy #341. Smith's terminated Ms. Romero for falsifying a prescription for a dangerous drug (oral contraceptives) for herself.

III.

Ms. Romero falsified that prescription by fraudulently completing a "Confidential Prescription Authorization Request" form authorizing an initial fill of Gildess Fe 1-20 tablets, with eleven (11) refills. Ms. Romero patterned that counterfeit request after a previous legitimate prescription from her physician.

IV.

Ms. Romero wrote the initials "H.D." on the request form indicating that another pharmaceutical technician received a call from Ms. Romero's physician and completed the authorization form. There is no evidence that H.D. had anything to do with the forged prescription.

V.

When pharmaceutical technician Ms. Brandon momentarily stepped away from her computer terminal, Ms. Romero scanned in the falsified request form at Ms. Brandon's terminal under Ms. Brandon's credentials. Ms. Brandon observed Ms. Romero performing a function at her terminal and discovered that Ms. Romero had scanned in the falsified prescription for herself. Ms. Brandon reported the incident to Mr. Curnutt, the pharmacist on duty at the time.

VI.

During an interview with a Board Investigator, and in a subsequent written statement, Ms. Romero admitted to the foregoing allegations. She explained that when Mr. Curnutt confronted her, she admitted to her wrongdoing and cancelled the prescription at Mr. Curnutt's direction. Smith's did not dispense any medication pursuant to that authorization.

VII.

In her written statement, Ms. Romero states that after Mr. Curnutt directed her to cancel her falsified prescription, he went on to tell her that all she really needed to do was ask him for a prescription. Per Ms. Romero, Mr. Curnutt said that he would have written a prescription for her oral

contraceptive, as he routinely wrote prescriptions for himself and for Ms. Brandon. Since it was 9:00 p.m. at the time, Mr. Curnutt said that he would write a prescription for Ms. Romero the following morning using the name of “any doctor”. That never occurred.

Unlawful Activities By Mr. Curnutt, R.Ph., and Ms. Brandon, PT

VIII.

Based on Ms. Romero’s written testimony, Board Staff initiated an investigation of Smith’s Pharmacy #341 employee prescription records. The Board Investigator found questionable phoned-in and/or faxed prescriptions for Mr. Curnutt and Ms. Brandon. No other employee prescription records appeared to be irregular.

IX.

As part of his analysis, the Board Investigator consulted with the prescribers named on the questionable prescriptions. The analysis revealed that Mr. Curnutt and Ms. Brandon assisted each other in falsifying and filling multiple prescriptions for themselves. The fraudulent activity occurred during the time period of February 4, 2013, to August 31, 2015.

X.

Ms. Brandon fabricated “Confidential Prescription Authorization Request” forms for the majority of Mr. Curnutt’s prescriptions, generally purporting to authorize an initial fill with multiple refills. Ms. Brandon falsely documented either Dr. Freeman, Dr. Stoughton, Dr. Reiner, and/or Dr. Reynolds as the prescriber on those requests.

XI.

Similarly, Mr. Curnutt created “phoned in” prescriptions for Ms. Brandon and himself. He placed his initials on the written authorization requests under the “prescriber’s” name, indicating that he accepted the prescription order(s) by phone. On the requests for Ms. Brandon, Mr. Curnutt falsely documented Dr. Reddy as the prescribing physician.

XII.

Table I below is a summary of the fraudulent prescriptions filled for Mr. Curnutt. There are forty (40) unlawful prescriptions listed.

Table I: Fraudulent Prescriptions Filled For Justin Curnutt, R.Ph.

Prescriber	Rx No.	Medication	Quantity	No. of Fills
Brian Freeman, DDS	6128204	Amoxicillin 500mg	24 capsules	4
	6128205	Acyclovir 400mg	30 tablets	4
	6149267	Amoxicillin 500mg	80 capsules	6
Ned Stoughton, MD	6114710	Cephalexin 500mg	30 capsules	2
	6114711	Methylprednisolone 4mg Dosepk	21 tablets	2
	6128207	Fluocinonide 0.05% Ointment	60 gm	5
	6128208	Methylprednisolone 4mg Dosepk	21 tablets	4
	6160595	Prednisone 20mg	21 tablets	1
	6171348	Prednisone 20mg	40 tablets	5
Michael Reiner, MD	6128225	Albuterol 0.083% INH SOL	25 vials	4
Tammy Reynolds, MD	6135314	Lidocaine HCL 1%	200 ml	1
	6135314	Lidocaine HCL 1%	400 ml	2

Table II lists the fraudulent prescriptions processed for Ms. Brandon's benefit. There are five (5) unlawful prescriptions listed.

Table II: Fraudulent Prescriptions Filled For Lori Brandon, P.T.

Prescriber	Rx No.	Medication	Quantity	No. of Fills
Santosh Reddy, MD	6118208	Cephalexin 500mg	80 capsules	3
	6140691	Cephalexin 500mg	80 capsules	2

Mr. Curnutt and Ms. Brandon submitted at least some, if not all, of the foregoing fraudulent prescriptions for payment to their respective insurance providers.

XIII.

After being apprised by the Board Investigator of the prescriptions unlawfully written using their names, Drs. Freeman, Stoughton, Reiner, and Reynolds each signed a declaration affirming that they did not authorize the prescriptions listed on Table I for Mr. Curnutt. Dr. Reddy signed a declaration that he did not authorize the prescriptions for Ms. Brandon listed on Table II.

XIV.

During an interview with the Board Investigator, and in a subsequent written statement, Mr. Curnutt admitted to falsifying several prescriptions for himself and for Ms. Brandon. As a “defense”, Mr. Curnutt claims that due to his personal religious beliefs, he felt justified in falsifying and filling prescriptions for himself because he was stockpiling drugs for what he calls “Judgement Day.”

XV.

Mr. Curnutt said that he wrote prescriptions for Ms. Brandon because she was experiencing pain from an abscessed tooth and could not afford to see a doctor.

XVI.

On September 28, 2015, Mr. Curnutt, at the suggestion of the Board Investigator, delivered the medications he purported to have in his possession to the Board Office in Las Vegas. With Mr. Curnutt present, the Board Investigator inventoried the medications and impounded them.

XVII.

There were significant discrepancies in the quantities of medications Mr. Curnutt returned. For instance, as to seven of the medications, Mr. Curnutt returned a *less* than Smith’s records show were dispensed to him. Mr. Curnutt has not accounted for that missing medication.

XVIII.

As to one medication, Mr. Curnutt returned *more* product than Smith’s records show were dispensed to him. The Board Investigator was unable to determine the origin of that medication, and Mr. Curnutt has not explained how it came into his possession.

XIX.

Additionally, Mr. Curnutt returned two medications¹ that *were not documented* in his prescription profile. The Board Investigator was unable to determine the origin of that medication, and Mr. Curnutt has not explained how it came into his possession.

¹ Rx No. 6128205: Acyclovir 400 mg. #30 filled 12/14/2014;
Rx No. 6171348: Prednisone 20 mg. #40 filled 08/23/2015.

XX.

During Ms. Brandon's interview with the Board Investigator, and in a subsequent written statement, Ms. Brandon confessed to falsifying several prescriptions for Mr. Curnutt.

XXI.

Ms. Brandon also admitted that Mr. Curnutt wrote and filled fraudulent prescriptions for her.

XXII.

On September 19, 2015, Ms. Brandon delivered to the Board Office the remaining medications that she had in her possession. In Ms. Brandon's presence, the Board Investigator inventoried the medications and impounded them.

FIRST CAUSE OF ACTION
(Prescription Fraud - Isabel Romero, PT)

XXIII.

By creating and attempting to process a fraudulent prescription for a dangerous drug, namely Gildess Fe 1-20 tablets, without a lawful prescription or authorization from a practitioner, Isabel Romero, PT, violated Nevada Administrative Code (NAC) 639.945(1) (h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

SECOND CAUSE OF ACTION
(Prescription Fraud - Justin Curnutt, R.Ph.)

XXIV.

In creating multiple fraudulent prescriptions for various dangerous drugs for himself and for Ms. Brandon, as detailed herein, including Tables I and II, Justin Curnutt, R.Ph., violated NAC 639.945(1)(h) and (k), which violations are grounds for action pursuant to NRS 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

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THIRD CAUSE OF ACTION

(Prescription Fraud - Justin Curnutt, R.Ph.)

XXV.

In filling and dispensing multiple fraudulent prescriptions for various dangerous drugs for himself and Ms. Brandon without a lawful prescription or authorization from a practitioner, as detailed herein, including Tables I and II, Justin Curnutt, R.Ph., violated NAC 639.945(1) (h) and (k), which violations are grounds for action pursuant to NRS 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

FOURTH CAUSE OF ACTION

(Insurance Fraud - Justin Curnutt, R.Ph.)

XXVI.

By processing multiple fraudulent prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner, and by billing those prescriptions to an insurance provider, Justin Curnutt, R.Ph., violated Nevada Administrative Code (NAC) 639.945(1)(h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

FIFTH CAUSE OF ACTION

(Prescription Fraud - Lori Brandon, PT)

XXVII.

By creating multiple fraudulent prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner as detailed herein, including Tables I and II, Lori Brandon, P.T., violated Nevada Administrative Code (NAC) 639.945(1) (h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

SIXTH CAUSE OF ACTION

(Insurance Fraud - Lori Brandon, PT)


XXVIII.

By processing multiple fraudulent prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner, and by billing those prescriptions to an insurance

provider, Lori Brandon, P.T., violated Nevada Administrative Code (NAC) 639.945(1) (h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the license of Mr. Curnutt and certificates of registration of Ms. Romero and Ms. Brandon, respectively.

Signed this 8th day of December, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

ISABEL ROMERO, PT

Certificate of Registration No. PT13592

Respondent.

) **STATEMENT TO THE RESPONDENT**
) **NOTICE OF INTENDED ACTION**
) **AND ACCUSATION**
) **RIGHT TO HEARING**
)
) **CASE NO. 15-051-PT-A-S**
)
)
)

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, Larry L. Pinson, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.


III.

The Board has reserved Wednesday, January 13, 2016, as the date for a hearing on this matter, at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada. The hour of the hearing will be set by letter to follow.

IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 8th day of December, 2015.



Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
ISABEL ROMERO, PT	)	CASE NO. 15-051-PT-A-S
Certificate of Registration No. PT13592)	
)	
<u>Respondent.</u>	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none")

none

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

Admits
no objections

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 23 day of December, 2015.

Isabel Romero
Type or print name

ISABEL ROMERO, PT

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS. 15-051-RPH-S
	)	15-051-PT-A-S
Petitioner,	)	15-051-PT-B-S
v.)	
)	
JUSTIN CURNUTT, RPH	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 18338	)	AND ACCUSATION
)	
ISABEL ROMERO, PT)	
Certificate of Registration No. PT13592)	
)	
LORI BRANDON, PT)	
Certificate of Registration No. PT09558)	
)	
Respondents.	/	

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and these respondents because at the time of the alleged events, Respondent Justin Curnutt, R.Ph. (Mr. Curnutt), was a pharmacist licensed by the Board, and Respondents Isabel Romero, PT (Ms. Romero) and Lori Brandon, PT (Ms. Brandon), were pharmaceutical technicians registered with the Board.

FACTUAL ALLEGATIONS**Unlawful Activity by Ms. Romero, PT**

II.

In June 2015, Board Staff received notice from a Smith's Pharmacy District Pharmacy Coordinator indicating that Smith's Pharmacy (Smith's) had terminated Ms. Romero from her

employment as a pharmaceutical technician at Smith's Pharmacy #341. Smith's terminated Ms. Romero for falsifying a prescription for a dangerous drug (oral contraceptives) for herself.

III.

Ms. Romero falsified that prescription by fraudulently completing a "Confidential Prescription Authorization Request" form authorizing an initial fill of Gildess Fe 1-20 tablets, with eleven (11) refills. Ms. Romero patterned that counterfeit request after a previous legitimate prescription from her physician.

IV.

Ms. Romero wrote the initials "H.D." on the request form indicating that another pharmaceutical technician received a call from Ms. Romero's physician and completed the authorization form. There is no evidence that H.D. had anything to do with the forged prescription.

V.

When pharmaceutical technician Ms. Brandon momentarily stepped away from her computer terminal, Ms. Romero scanned in the falsified request form at Ms. Brandon's terminal under Ms. Brandon's credentials. Ms. Brandon observed Ms. Romero performing a function at her terminal and discovered that Ms. Romero had scanned in the falsified prescription for herself. Ms. Brandon reported the incident to Mr. Curnutt, the pharmacist on duty at the time.

VI.

During an interview with a Board Investigator, and in a subsequent written statement, Ms. Romero admitted to the foregoing allegations. She explained that when Mr. Curnutt confronted her, she admitted to her wrongdoing and cancelled the prescription at Mr. Curnutt's direction. Smith's did not dispense any medication pursuant to that authorization.

VII.

In her written statement, Ms. Romero states that after Mr. Curnutt directed her to cancel her falsified prescription, he went on to tell her that all she really needed to do was ask him for a prescription. Per Ms. Romero, Mr. Curnutt said that he would have written a prescription for her oral

contraceptive, as he routinely wrote prescriptions for himself and for Ms. Brandon. Since it was 9:00 p.m. at the time, Mr. Curnutt said that he would write a prescription for Ms. Romero the following morning using the name of “any doctor”. That never occurred.

Unlawful Activities By Mr. Curnutt, R.Ph., and Ms. Brandon, PT

VIII.

Based on Ms. Romero’s written testimony, Board Staff initiated an investigation of Smith’s Pharmacy #341 employee prescription records. The Board Investigator found questionable phoned-in and/or faxed prescriptions for Mr. Curnutt and Ms. Brandon. No other employee prescription records appeared to be irregular.

IX.

As part of his analysis, the Board Investigator consulted with the prescribers named on the questionable prescriptions. The analysis revealed that Mr. Curnutt and Ms. Brandon assisted each other in falsifying and filling multiple prescriptions for themselves. The fraudulent activity occurred during the time period of February 4, 2013, to August 31, 2015.

X.

Ms. Brandon fabricated “Confidential Prescription Authorization Request” forms for the majority of Mr. Curnutt’s prescriptions, generally purporting to authorize an initial fill with multiple refills. Ms. Brandon falsely documented either Dr. Freeman, Dr. Stoughton, Dr. Reiner, and/or Dr. Reynolds as the prescriber on those requests.

XI.

Similarly, Mr. Curnutt created “phoned in” prescriptions for Ms. Brandon and himself. He placed his initials on the written authorization requests under the “prescriber’s” name, indicating that he accepted the prescription order(s) by phone. On the requests for Ms. Brandon, Mr. Curnutt falsely documented Dr. Reddy as the prescribing physician.

XII.

Table I below is a summary of the fraudulent prescriptions filled for Mr. Curnutt. There are forty (40) unlawful prescriptions listed.

Table I: Fraudulent Prescriptions Filled For Justin Curnutt, R.Ph.

Prescriber	Rx No.	Medication	Quantity	No. of Fills
Brian Freeman, DDS	6128204	Amoxicillin 500mg	24 capsules	4
	6128205	Acyclovir 400mg	30 tablets	4
	6149267	Amoxicillin 500mg	80 capsules	6
Ned Stoughton, MD	6114710	Cephalexin 500mg	30 capsules	2
	6114711	Methylprednisolone 4mg Dosepk	21 tablets	2
	6128207	Fluocinonide 0.05% Ointment	60 gm	5
	6128208	Methylprednisolone 4mg Dosepk	21 tablets	4
	6160595	Prednisone 20mg	21 tablets	1
	6171348	Prednisone 20mg	40 tablets	5
	6128225	Albuterol 0.083% INH SOL	25 vials	4
Michael Reiner, MD	6128225	Albuterol 0.083% INH SOL	25 vials	4
Tammy Reynolds, MD	6135314	Lidocaine HCL 1%	200 ml	1
	6135314	Lidocaine HCL 1%	400 ml	2

Table II lists the fraudulent prescriptions processed for Ms. Brandon's benefit. There are five (5) unlawful prescriptions listed.

Table II: Fraudulent Prescriptions Filled For Lori Brandon, P.T.

Prescriber	Rx No.	Medication	Quantity	No. of Fills
Santosh Reddy, MD	6118208	Cephalexin 500mg	80 capsules	3
	6140691	Cephalexin 500mg	80 capsules	2

Mr. Curnutt and Ms. Brandon submitted at least some, if not all, of the foregoing fraudulent prescriptions for payment to their respective insurance providers.

XIII.

After being apprised by the Board Investigator of the prescriptions unlawfully written using their names, Drs. Freeman, Stoughton, Reiner, and Reynolds each signed a declaration affirming that they did not authorize the prescriptions listed on Table I for Mr. Curnutt. Dr. Reddy signed a declaration that he did not authorize the prescriptions for Ms. Brandon listed on Table II.

XIV.

During an interview with the Board Investigator, and in a subsequent written statement, Mr. Curnutt admitted to falsifying several prescriptions for himself and for Ms. Brandon. As a “defense”, Mr. Curnutt claims that due to his personal religious beliefs, he felt justified in falsifying and filling prescriptions for himself because he was stockpiling drugs for what he calls “Judgement Day.”

XV.

Mr. Curnutt said that he wrote prescriptions for Ms. Brandon because she was experiencing pain from an abscessed tooth and could not afford to see a doctor.

XVI.

On September 28, 2015, Mr. Curnutt, at the suggestion of the Board Investigator, delivered the medications he purported to have in his possession to the Board Office in Las Vegas. With Mr. Curnutt present, the Board Investigator inventoried the medications and impounded them.

XVII.

There were significant discrepancies in the quantities of medications Mr. Curnutt returned. For instance, as to seven of the medications, Mr. Curnutt returned a *less* than Smith’s records show were dispensed to him. Mr. Curnutt has not accounted for that missing medication.

XVIII.

As to one medication, Mr. Curnutt returned *more* product than Smith’s records show were dispensed to him. The Board Investigator was unable to determine the origin of that medication, and Mr. Curnutt has not explained how it came into his possession.

XIX.

Additionally, Mr. Curnutt returned two medications¹ that *were not documented* in his prescription profile. The Board Investigator was unable to determine the origin of that medication, and Mr. Curnutt has not explained how it came into his possession.

¹ Rx No. 6128205: Acyclovir 400 mg. #30 filled 12/14/2014;
Rx No. 6171348: Prednisone 20 mg. #40 filled 08/23/2015.

XX.

During Ms. Brandon's interview with the Board Investigator, and in a subsequent written statement, Ms. Brandon confessed to falsifying several prescriptions for Mr. Curnutt.

XXI.

Ms. Brandon also admitted that Mr. Curnutt wrote and filled fraudulent prescriptions for her.

XXII.

On September 19, 2015, Ms. Brandon delivered to the Board Office the remaining medications that she had in her possession. In Ms. Brandon's presence, the Board Investigator inventoried the medications and impounded them.

FIRST CAUSE OF ACTION

(Prescription Fraud - Isabel Romero, PT)

XXIII.

By creating and attempting to process a fraudulent prescription for a dangerous drug, namely Gildess Fe 1-20 tablets, without a lawful prescription or authorization from a practitioner, Isabel Romero, PT, violated Nevada Administrative Code (NAC) 639.945(1) (h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

SECOND CAUSE OF ACTION

(Prescription Fraud - Justin Curnutt, R.Ph.)

XXIV.

In creating multiple fraudulent prescriptions for various dangerous drugs for himself and for Ms. Brandon, as detailed herein, including Tables I and II, Justin Curnutt, R.Ph., violated NAC 639.945(1)(h) and (k), which violations are grounds for action pursuant to NRS 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

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THIRD CAUSE OF ACTION

(Prescription Fraud - Justin Curnutt, R.Ph.)

XXV.

In filling and dispensing multiple fraudulent prescriptions for various dangerous drugs for himself and Ms. Brandon without a lawful prescription or authorization from a practitioner, as detailed herein, including Tables I and II, Justin Curnutt, R.Ph., violated NAC 639.945(1) (h) and (k), which violations are grounds for action pursuant to NRS 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

FOURTH CAUSE OF ACTION

(Insurance Fraud - Justin Curnutt, R.Ph.)

XXVI.

By processing multiple fraudulent prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner, and by billing those prescriptions to an insurance provider, Justin Curnutt, R.Ph., violated Nevada Administrative Code (NAC) 639.945(1)(h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

FIFTH CAUSE OF ACTION

(Prescription Fraud - Lori Brandon, PT)

XXVII.

By creating multiple fraudulent prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner as detailed herein, including Tables I and II, Lori Brandon, P.T., violated Nevada Administrative Code (NAC) 639.945(1) (h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

SIXTH CAUSE OF ACTION

(Insurance Fraud - Lori Brandon, PT)


XXVIII.

By processing multiple fraudulent prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner, and by billing those prescriptions to an insurance

provider, Lori Brandon, P.T., violated Nevada Administrative Code (NAC) 639.945(1) (h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the license of Mr. Curnutt and certificates of registration of Ms. Romero and Ms. Brandon, respectively.

Signed this 8th day of December, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

LORI BRANDON, PT

Certificate of Registration No. PT09558

Respondent.

) **STATEMENT TO THE RESPONDENT**
) **NOTICE OF INTENDED ACTION**
) **AND ACCUSATION**
) **RIGHT TO HEARING**
)

) **CASE NO. 15-051-PT-B-S**
)
)
)

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, Larry L. Pinson, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.


III.

The Board has reserved Wednesday, January 13, 2016, as the date for a hearing on this matter at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada. The hour of the hearing will be set by letter to follow.

IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 8th day of December, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
LORI BRANDON, PT	)	CASE NO. 15-051-PT-B-S
Certificate of Registration No. PT09558)	
)	
Respondent.)	
	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections, or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of December, 2015.

LORI BRANDON, PT

OCT 27 2015

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 15-055-MP-N
)	
Petitioner,)	
v.)	
)	
VITAL CARE HEALTH SERVICES	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. MP00060	)	AND ACCUSATION
)	
)	
Respondent.	/	

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because Respondent Vital Care Health Services (Vital Care), Certificate of Registration No. MP00060, was a registered Medical Devices, Equipment and Gases (MDEG) provider with the Board at the time of the events alleged herein.

II.

On or about August 6, 2015, respiratory therapist (RT) Duayne Meinert of Sierra Pulmonary filed a consumer complaint with the Board Office on behalf of patient J.A. The complaint alleges that Vital Care, a subsidiary of Rotech Health, failed to set J.A.'s auto-servo ventilator to the correct pressures as prescribed by J.A.'s physician.

III.

On May 11, 2015, patient J.A. saw her physician Dr. L. at Sierra Pulmonary. Dr. L. subsequently prescribed a Respironics System One Pro Auto Servo Ventilator (ASV) with heated humidifier, heated tubing and Smart Card with Apnea-Hypopnea Index (AHI) compliance data set to the following:

Min EPAP (Expiratory Positive Airway Pressure): 7
Max EPAP (Expiratory Positive Airway Pressure): 7
Min PS (Pressure Support): 0
Max PS (Pressure Support): 13
Max Pressure: 20
Backup Rate: Auto

IV.

On July 15, 2015, Vital Care RT Jim Burr setup and delivered the ASV to patient J.A. During setup, RT Burr set the Max Pressure to 13cmH2O rather than the 20cmH2O as prescribed. RT Burr also incorrectly set the Max Pressure Support to 6cmH2O instead of the prescribed 13cmH2O.

V.

On August 6, 2015, RT Meinert downloaded and reviewed J.A.'s patient compliance information from her ASV. He discovered that the pressures were not setup according to what the physician ordered. RT Meinert contacted Rotech Healthcare and reported the error.

VI.

Rotech Healthcare District Manager Trina Woods (Ms. Woods) conducted an internal investigation. Ms. Woods confirmed that RT Burr failed to setup J.A.'s ASV Max Pressure and Max Pressure support per the specific instructions of patient J.A.'s prescriber, Dr. L.

VII.

Ms. Woods discussed the findings of Rotech Healthcare's internal investigation with RT Burr. RT Burr refused to provide a statement regarding the incident. RT Burr resigned his position with Vital Care Health Services effective August 26, 2015.

VIII.

Nevada Administrative Code (NAC) 639.945(1)(d) states that "[f]ailing strictly to follow the instructions of the person writing, making or ordering a prescription or chart order . . . " constitutes ". . . unprofessional conduct or conduct contrary to the public interest."

IX.

NAC 639.6941(1) makes the provisions of NAC 639.945 applicable to medical product providers.

X.

NAC 639.6941(1)(e) further provides that “[p]erforming or allowing any employee or agent of the medical products provider or medical products wholesaler to perform services beyond the training, competency, ability or knowledge of the employee or agent . . .” constitutes “unprofessional conduct or conduct contrary to the public interest.”

XI.

Per NAC 639.6941(2), “[t]he owner of a medical products provider is responsible for the acts of his or her business administrator and employees.” *See also* NAC 639.945(2).

XII.

The Board Investigator’s attempts to contact RT Burr were unsuccessful.

XIII.

Board Staff has referred the case to the Nevada Board of Medical Examiners, RT’s licensing Board, for investigation and possible prosecution.

FIRST CAUSE OF ACTION

XIV.

As the MDEG in which the violations described herein occurred, Vital Care Health Services is responsible for the acts of its employee, RT Burr, pursuant to NAC 639.945(2) and NAC 639.6941(2). It is therefore subject to discipline pursuant to NRS 639.210(4) and (12), as well as NRS 639.255.

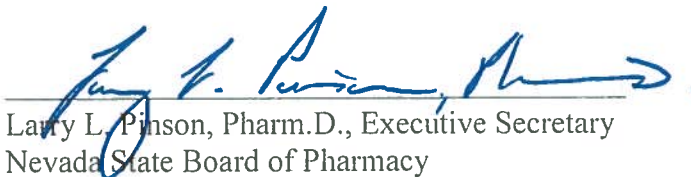
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WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of this Respondent.

Signed this 27th day of October, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

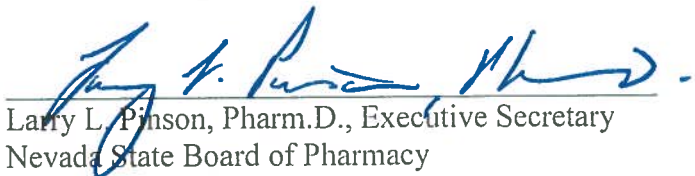
NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 27th day of October, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	
	)	CASE NO. 15-055-MP-N
Petitioner,)	
v.)	
	)	ANSWER AND
VITAL CARE HEALTH SERVICES	)	NOTICE OF DEFENSE
Certificate of Registration No. MP00060)	
)	
Respondent	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of _____, 2015.

Vital Care Health Services

DEC 10 2015

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 15-074-RPH-N
)	
Petitioner,)	
v.)	
	)	NOTICE OF INTENDED ACTION
ASHLEY ISOM, R.PH.	)	AND ACCUSATION
Certificate of Registration No. 17655,)	
)	
Respondent.	/	

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because Respondent Ashley Isom, R.Ph., Certificate of Registration No. 17655, was a registered pharmacist with the Board at the time of the events alleged herein.

II.

On or about December 10, 2015, Board Staff received notification from the CVS Health Director of Regulatory Affairs (CVS) indicating that Ms. Isom diverted controlled substances and dangerous drugs during her employment at CVS Pharmacy #157.

III.

During an interview conducted by a CVS Regional Loss Protection Manager, and in a written statement, Ms. Isom admitted to diverting the following drugs beginning in July 2015 through December 2015:

- 5 tablets Metformin 1000 mg.
- 1 tablet Ritalin (generic) 10 mg.
- 6 tablets Phentermine 37.5 mg.
- 2 capsules Phentermine 30 mg.
- 6 tablets Amphetamine salts 30 mg.
- 10 tablets Amphetamine salts 10 mg.

IV.

In her written statement, Ms. Isom indicates that she diverted the drugs for personal use to relieve the stress in her life.

FIRST CAUSE OF ACTION

V.

By diverting controlled substances, as detailed above, Ms. Isom violated Nevada Revised Statute (NRS) 453.331(1)(d) and/or NRS 453.336(1), and/or Nevada Administrative Code (NAC) 639.945(1)(g) and/or (h), which violations are grounds for action pursuant to NRS 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

VI.

By diverting dangerous drugs, as detailed above, Ms. Isom violated NAC 639.945(1)(g) and/or (h), which violations are grounds for action pursuant to NRS 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

WHEREFORE, it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of this respondent.

Signed this 10th day of December, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 15-074-RPH-N
)	
Petitioner,)	
v.)	
ASHLEY ISOM, R.PH.	)	STATEMENT TO THE RESPONDENT
Certificate of Registration No. 17655,	)	NOTICE OF INTENDED ACTION
	)	AND ACCUSATION
Respondent.	)	RIGHT TO HEARING
	/	

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, Larry L. Pinson, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.


III.

The Board has reserved Wednesday, January 13, 2016, as the date for a hearing on this matter at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada. The hour of the hearing will be set by letter to follow.

IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 10th day of December, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	CASE NO. 15-074-RPH-N
)	
Petitioner,)	
v.)	
)	
ASHLEY ISOM, R.PH.	)	ANSWER AND NOTICE
Certificate of Registration No. 17655,	)	OF DEFENSE
)	
Respondent.)	
	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of _____, 2015.

ASHLEY ISOM, R.PH.

Answer to the Notice of Intended Action and Accusation 15-074-RPH-N

I have so much remorse. I wish I could convey what I feel. I will tell my story, how life was in the past, what lead up to this point and what I am doing now to create a better future. All I can do is show my actions that reflect my heart of change.

I will start with my tendencies for perfectionism and my obsessive nature. The same characteristics that lead to being rewarded scholarships and high school valedictorian when I was young, soon turned on me. I went to college to become a nutritionist. After gaining the "freshman fifteen" I decided to apply my knowledge about nutrition to lose weight. I began exercising more and eating less. I lost weight, but I couldn't stop. I couldn't stop until I was the perfect weight. Obsessive compulsive disorder and anxiety ruled my life. I slowly stopped going out with friends. I was no stranger to depression. I recognized the mood, the lump in my throat and philosophical self-talk, "Why am I here? Would anyone beside my family notice if I disappeared?" This time the depression stayed. Even exercise wouldn't help anymore. I sat alone in my dorm room studying, drinking hot tea to warm my starving body. My mother brought me home from college. Eventually I was admitted to an inpatient hospital at 85 pounds.

After release from the hospital I felt out of control. I was coming back from starvation and wanted to devour whatever I could get my hands on. That is when the binges began. But the anxiety of weight gain, fear of being out of control, and obsessions with numbers and checking still remained. I went through about a year of outpatient therapy as well as 12 step groups for support with the eating disorder. During that time a friend brought me to a Christian church, where I felt welcome, played guitar, and developed a faith in something higher than myself.

After deciding that nutrition was not a good major for me, I focused my efforts on a BS in Kinesiology. Throughout this time I felt like a guinea pig. With each episode of depression and every university doctor, I got a change in medication often making me worse than before. I started researching and becoming my own advocate. My history as a human guinea pig sparked my interest in pharmacy and now pharmacogenetics.

I met my husband, joined the Church of Jesus Christ of Latter-day Saints, and soon was accepted into Physical Therapy School. During all this time, I managed to keep the eating disorder secret. Expect for my husband and select others, I could not bear to tell anyone about my intensely shameful and humiliating secret.

After another bout of depression, I changed my career path. I decided to get a Master of Education in Science and teach high school. I thought teaching would be a great job for having a family. My husband and I wanted badly to have our own children. It turned out that we couldn't and that became a cause of tension in our relationship.

Then, in my late twenties, I began to have serious joint pain and trouble with my kidneys. I was diagnosis with lupus by a rheumatologist. Pain inhibited my movement to the point that it was a struggle just to do simple chores. I could no longer take NSAIDs for pain due to esophageal tears from purging, so the doctor prescribed Lortab. I was beginning to exercise more and get back to

life. My depression subsided. Although doses increased as tolerance developed, I was able to stop that time.

I continued with life. I was married, going to work and church when I heard of a pharmacy school nearby. I applied and was accepted. During school several stressors on our relationship escalated to the point that divorce seemed like the only option. Then after my first year as a pharmacist, my father died of cancer. Within months my work contract ended. The loss I felt was unbearable.

I met a man who made me feel like everything was going to be okay. I quickly moved with him to California. I thought, "What's the worst that could happen?" While there I had a hemorrhagic ovarian cyst and was placed on another opiate. It turned out that my boyfriend had a history with addiction. Next thing I knew we were each being prescribed oxycodone. I didn't deal with the losses. This time I used the medication not just for pain but to numb my emotions.

Thankfully, when I got depressed again I recognized that I needed a change and sought help. When the doctor interviewed me, she somehow assumed that I was suicidal and walked me across to the emergency room hospital. I was placed on a 72 hour hold. When released, I started going to counseling and realized I needed to get away from my boyfriend. I moved to Reno with my two dogs and whatever I could fit in the car. My mother and my brother's family in Reno became my main support.

I got a job as a clinical pharmacist in Reno at a long term care hospital. I loved it. I learned quite a bit in a short period of time. I was on-call half of the nights which improved my ability to think clinically and independently. My manager left and I was made interim pharmacy manager. After a new manager came on board, I felt that many employees including myself were not being treated well. Instead of leaving the toxic environment, I shamefully resorted to diverting opiates. A fog came over me when I diverted medication. Looking back at it I think I felt a fog because I didn't want to accept that I would do such an awful thing. I remember falling to my knees and praying for help because I couldn't stop. I did some planning and found out about the PRN program. Then, my employer called me out for a drug test. I started working with the counselors and getting random drug tests before being confronted. Months later I was called into the pharmacy board office for questioning, I wound up telling them everything. I feel that Larry Pinson's decision for discipline was inspired. He allowed me to practice pharmacy with conditions of not being a PIC, remaining in PRN, drug testing, etc. At that time I was seriously depressed at the thought of losing my license. I could only think about how I ruined my life and my mother's life. I had suicidal thoughts. I am eternally grateful for Larry's decision at that point in time.

Thanks to PRN-PRN I became very active in AA and recovery. I found a sponsor and made some close friends. I cut off any communication with my ex-boyfriend. The 12 steps emphasize putting trust in a power greater than oneself, so I wanted to reconnect with the God who helped me through many other struggles. I found the Church of Jesus Christ of Latter Day Saints in my neighborhood and started going to church.

My ex-husband and I had kept in touch. He called me from Las Vegas and we began talking more when our dog got sick. I had over an hour commute to and from Walmart Pharmacy each day and plenty of time to catch up. We decided he should move to Reno. A year later we remarried.

At Walmart, I found myself covering too many shifts, getting snowed in overnight, and becoming too exhausted. I was getting tired of politics. I made better decisions than before and sought work elsewhere. Just in time I was offered a position with a startup compounding pharmacy. It would be perfect. I would compound topical medications. I wouldn't have to be around controlled drugs. Unfortunately, I couldn't be a manager according to my agreement with Larry Pinson. So I kept looking for jobs. I took a pharmacy instructor job at Community College of Northern Nevada, while there I got a call back from CVSHealth. I loved everyone I worked with at CVS. I loved counseling patients. The problem was that CVS pharmacists in Nevada work 13 or 14 hour shift and do not get a lunch break. This seems like a set up for failure. I tried setting a time to eat a small snack but it was usually too busy to eat. I often didn't notice that I was hungry until 5pm. I see now that that was likely the eating disorder talking. I was getting more and more exhausted. I starved during the day and binged and purged at night. Having to be up early the next day, my sleep was affected as well.

Then my in-laws were in a car accident. My father-in-law suffered traumatic brain injury. In an instant, several lives changed. My husband and I would go to Utah to help in caring for his father during time off of work. I couldn't make it as many AA meetings. I started going to fewer and fewer counseling sessions. I was missing church meetings. Between the long work hours, with not enough food, the eating disorder, personal stress, family sickness, travel, and little contact with my supportive friends in recovery, I gave in to the eating disorder. I diverted stimulants to increase energy and decrease appetite. I also diverted metformin for controlling blood sugar and for the side effect of weight loss. When I diverted phentermine, was overcome with shame. I told my AA sponsor who scolded me and gave me some assignments. I thought I was getting back on track. About a month or two went by and I diverted some pills again. With so much shame and humiliation, I didn't tell my sponsor again. I made excuses and spoke to her less and less. Finally, I saw the need for professional help with my eating disorder and started going to psychiatrist Dr. Kathleen Stoll. I also contacted psychologist Dr. Joyce Nash. In fact I had my first appointment already scheduled when CVS loss prevention called me into the office for questioning. This time I broke easily, telling all. The loss prevention specialist even commented that she knew I was being honest.

I'm doing everything I can to seek help and get better. I am striving to be open and honest to myself and others. I immediately scheduled a one on one counseling appointment with the addictions councilor Colin Hodgins with PRN-PRN in Reno. I agreed to have random drug tests increased to twice a week and to two group counseling sessions a week at Renegade. As planned, I have been going to therapist Dr. Joyce Nash. She specializes in eating disorders, OCD, and anxiety. I'm also reading one of her books and applying methods of recovery.

I explained my current situation to my psychiatrist Dr. Stoll. We since have decided to taper down Vyvanse, instead seeking more therapy. I have recommitted myself to church and church

activities. I am actively involved in a local group, Paws for Love, and take my registered therapy dog on visits to a retirement home, libraries and hospitals. I serve as Cub Scout committee chair with my husband. We recently brought food and clothes to Record Street. The cub scouts served food to the homeless, a humbling experience. I am meeting with my AA sponsor, reading and working the 12 steps. I reconnected with my OA sponsor. We are coming up with the best eating and exercise plan that will work for me. Lastly I met with my church bishop. I was transparent with him about the current events and what lead up to this point.

My bishop is assisting me with plans for therapy in southern Utah. I plan to move with my husband and mother to Utah to help in caring for my father-in-law. I have applied for several jobs including entry level research positions to gain knowledge while I apply for programs in pharmacogenetics. I ask that the Board consider suspension of my license rather than revocation. Any of the educational opportunities in pharmacogenetics that I can find require an active license in order to apply.

Since the eating disorder is the root of my addiction problems and this is the first time in twenty years that I have sought professional help for it, I believe that I will overcome these addictions one day at a time. I am confident that my motivation for change will only increase. I am trying to tackle my problems by every means: psychologically, physically, socially and spiritually. I am doing what I can. I want to do what is right. I want to work as a pharmacist and contribute to my profession.

Ashley Isom PharmD.

DEC 09 2015

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS. 13-067-RPH-A-S
	)	13-067-RPH-B-S
Petitioner,	)	13-067-RPH-C-S
v.	)	13-067-PH-S
)	
PATRICK BLACK, RPH	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 15081	)	AND ACCUSATION
)	
JILL HENRY, RPH)	
Certificate of Registration No. 14965)	
)	
GARY GOODMAN, RPH)	
Certificate of Registration No. 16949)	
)	
OMNICARE OF LAS VEGAS)	
Certificate of Registration No. PH01949)	
)	
Respondents.	/	

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and these respondents because at the time of the alleged events, Respondent Patrick Black (Mr. Black), Jill Henry (Ms. Henry), and Gary Goodman (Mr. Goodman) were pharmacists licensed by the Board, and Respondent Omnicare of Las Vegas (Omnicare) was a pharmacy licensed by the Board.

II.

On or about October 25, 2013, A.R. filed a consumer complaint with the Board Office on behalf of her eighty-two year old mother E.L. The complaint alleges that Omnicare¹ filled and dispensed E.L.'s prescription written for sulfasalazine 500 mg. tablets with the incorrect medication, as described below.

¹ At the time of the alleged events in 2010, Omnicare was doing business as Resource Pharmacy. Resource Pharmacy notified the Board Office of the name change to Omnicare of Las Vegas in January 2011.

III.

E. L. has been prescribed sulfasalazine² for several years for the treatment of rheumatoid arthritis. Omnicare services Merrill Gardens, the nursing home where E.L. resided at the time of the alleged events. Omnicare has filled and dispensed E.L.'s prescriptions since 2010.

1. **PRESCRIPTION NO. 41367053 - SULFASALAZINE 500 MG. TABLETS**

IV.

According to pharmacy records, and information submitted to the Board Investigator by the attorney representing Omnicare, Alayne Opie (Ms. Opie), Omnicare received a prescription for E.L. for sulfas~~al~~azine 500 mg. tablets on October 7, 2010.

V.

Pharmaceutical technician Shannon Smith (Ms. Smith) performed the data entry of the prescription (prescription no. 41367053). During data entry, Ms. Smith inadvertently selected sulfad~~ia~~zine³ 500 mg. tablets.

VI.

Pharmacist Jill Henry failed to detect the data entry error and verified the medication data as accurate.

VII.

Pharmacist Gary Goodman performed the final product verification. He did not detect that the prescription bottle contained the wrong medication and verified the final product as correct.

VIII.

Omnicare shipped E.L.'s medication to Merrill Gardens on October 7, 2010.

IX.

Ms. Opie indicated that Mr. Goodman would not have had the original prescription during

² Sulfad~~ia~~zine is a sulfonamide antibiotic used in the treatment and prevention of certain bacterial infections.

³ Sulfas~~al~~azine is an anti-inflammatory agent used in the treatment of ulcerative colitis and rheumatoid arthritis.

product verification. The medication was verified according to the erred prescription label that was produced.

2. **PRESCRIPTION NOS. 41641998 & 41669927 - SULFASALAZINE 500 MG. TABLETS**

X.

On December 21, 2012, E.L.'s physician prescribed a quantity of sixty (60) sulfasalazine 500 mg. tablets with instructions to take one tablet twice daily. The physician's office faxed the prescription to Omnicare. The prescription included authorization for eleven (11) refills.

XI.

Omnicare accepted the new prescription and dispensed E.L.'s medication on December 22, 2012 (prescription no. 41641998).

XII.

Subsequent to the initial fill of the faxed prescription in December 2012, Omnicare supplied refills of E.L.'s prescription for the succeeding three months.

XIII.

On April 20, 2013, Omnicare received the fourth refill order for E.L.'s sulfasalazine medication. The pharmacist on duty observed that E.L. may have been receiving duplicate therapy and contacted E.L.'s physician. It was discovered that Omnicare filled E.L.'s prescription in December 2012, and the three subsequent refills, with sulfadiazine 500 mg. tablets rather than the sulfasalazine 500 mg. tablets E.L.'s physician prescribed.

XIV.

According to pharmacy records, the error originated with pharmaceutical technician Hovhanes Shirinian, who performed the data entry for E.L.'s new prescription. Ms. Opie indicates in her correspondence that during data entry, Mr. Shirinian reactivated data from the erred October 7, 2010 prescription for sulfadiazine 500 mg. tablets. He used the old data to process the new prescription on December 22, 2012.

XV.

Pharmacist Patrick Black performed the final product verification. Mr. Black did not detect

that the prescription bottle contained sulfadiazine 500 mg. tablets, instead of the sulfasalazine 500 mg. tablets E.L.'s physician prescribed.

XVI.

Ms. Opie's correspondence states that Mr. Black "could have had access to the image of the prescription for sulfasalazine when he verified it, but he would not have had access to the image when he filled it."

XVII.

Ms. Opie explains in her correspondence that on January 1, 2013, Merrill Gardens ordered a refill for prescription no. 41641998.

XVIII.

Mr. Shirinian processed the refill order based on the erred data entered for the initial fill of December 22, 2012. Ms. Opie indicates that Mr. Shirinian would not have had the original prescription to verify the medication. A pharmacist did not verify the order because it was a refill.

XIX.

Pharmacist Gary Goodman performed the final product verification. Mr. Goodman verified the product against the erred prescription label that Mr. Shirinian generated. He did not detect that the prescription bottle contained sulfadiazine 500 mg. tablets, rather than the sulfasalazine 500 mg. tablets prescribed.

XX.

On February 28, 2013, Merrill Gardens requested the second refill for prescription no. 41641998. Pharmaceutical technician Mark Eimers (Mr. Eimers) processed the refill based on the existing data in the pharmacy computer for this prescription. Mr. Eimers did not access the original prescription to verify the medication.

XXI.

Mr. Goodman was the verifying pharmacist for the second refill. He did not detect the medication error. Mr. Goodman also did not access the original prescription to verify the medication.

XXII.

On March 7, 2013, Omnicare received an order from Merrill Gardens for the third refill for prescription no. 41641998. The order was accompanied by a hard copy prescription for sulfasalazine. Rather than create a new prescription in the computer for sulfasalazine, pharmaceutical technician Will McKeown instead reactivated the data for the erred medication, sulfadiazine 500 mg. tablets and generated a new prescription number (41669927).

XXIII.

Mr. Goodman verified the data for prescription number 41669927 as accurate. He did not identify the medication error during verification. Ms. Opie's correspondence indicates that Mr. Goodman had access to the physical prescription during data verification.

XXIV.

For reasons not provided, Omnicare did not fill and dispense prescription number 41669927 on March 7, 2013. Omnicare filled the prescription on March 28, 2013. During the verification process, Mr. Goodman did not detect that the prescription bottle contained sulfadiazine 500 mg. tablets, instead of the sulfasalazine 500 mg. tablets prescribed.

XXV.

E.L. ingested the erred medication for approximately four months before the error was discovered.

XXVI.

E.L.'s daughter alleges that during the four months that E.L. ingested the wrong medication, E.L. suffered symptoms of nausea, diarrhea, eating problems, dizzy spells, itching, skin lesions, headaches, and seizures. Due to the symptoms that she was experiencing, E.L. was hospitalized four times during the period that she was ingesting the wrong medication.

XXVII.

The physician who admitted E.L. to the hospital on May 1, 2013, noted in the "History and Physical" that the medication entries in E.L.'s "Medication Administration Record" included both

sulfadiazine tablets and sulfasalazine tablets. He noted that the patient is allergic to sulfa, which may have been the cause of her rash. He discontinued the administration of both medications during E.L.'s hospital stay.

FIRST CAUSE OF ACTION

**(Prescription No. 41367053 - Sulfasalazine 500 Mg. Tablets)
(Jill Henry)**

XXVIII.

By failing to detect during data verification that sulfadiazine 500 mg. tablets was erroneously selected during data entry, rather than the sulfasalazine 500 mg. tablets prescribed, Jill Henry violated Nevada Administrative Code (NAC) 639.945(1)(d) and/or (i), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(4), (11), and/or (12), and NRS 639.255.

SECOND CAUSE OF ACTION

**(Prescription No. 41367053 - Sulfasalazine 500 Mg. Tablets)
(Gary Goodman)**

XXIX.

In failing to strictly follow the instructions of E.L.'s physician by verifying and dispensing sulfadiazine 500 mg. tablets, rather than the sulfasalazine 500 mg. tablets prescribed, Gary Goodman violated NAC 639.945(1)(d) and/or (i), which violations are grounds for action pursuant to NRS 639.210(4), (11), and/or (12), and NRS 639.255.

THIRD CAUSE OF ACTION

**(Prescription No. 41367053 - Sulfasalazine 500 Mg. Tablets)
(Omnicare)**

XXX.

As the pharmacy in which the violations alleged above occurred, Omnicare is, by regulation, responsible for the actions of respondents Jill Henry and Gary Goodman, as alleged herein, pursuant to NAC 639.945(2), which is grounds for discipline pursuant to NRS 639.210(4), (11) and/or (12), and NRS 639.255.

FOURTH CAUSE OF ACTION

**(Prescription Nos. 41641998 & 41669927 - Sulfasalazine 500 Mg. Tablets)
(Patrick Black)**

XXXI.

In failing to strictly follow the instructions of E.L.'s physician by verifying and dispensing sulfadiazine 500 mg. tablets, rather than the sulfasalazine 500 mg. tablets prescribed, Patrick Black violated NAC 639.945(1)(d) and/or (i), which violations are grounds for action pursuant to NRS 639.210(4), (11), and/or (12), and NRS 639.255.

FIFTH CAUSE OF ACTION

**(Prescription Nos. 41641998 & 41669927 - Sulfasalazine 500 Mg. Tablets)
(Gary Goodman)**

XXXII.

In failing to strictly follow the instructions of E.L.'s physician by verifying and dispensing sulfadiazine 500 mg. tablets, rather than the sulfasalazine 500 mg. tablets prescribed, Gary Goodman violated NAC 639.945(1)(d) and/or (i), which violations are grounds for action pursuant to NRS 639.210(4), (11), and/or (12), and NRS 639.255.

SIXTH CAUSE OF ACTION

**(Prescription Nos. 41641998 & 41669927 - Sulfasalazine 500 Mg. Tablets)
(Omnicare)**

XXXIII.

As the pharmacy in which the violations alleged above occurred, Omnicare is, by regulation, responsible for the actions of respondents Patrick Black and Gary Goodman, as alleged herein, pursuant to NAC 639.945(2), which is grounds for discipline pursuant to NRS 639.210(4), (11) and/or (12), and NRS 639.255.

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THEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of these respondents.

Signed this 7th day of December, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT(S)

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

JILL HENRY, RPH

Certificate of Registration No. 14965

Respondent.

) **STATEMENT TO THE RESPONDENT**

) **NOTICE OF INTENDED ACTION**

) **AND ACCUSATION**

) **RIGHT TO HEARING**

)

) **CASE NO. 13-067-RPH-B-S**

)

)

/

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, Larry L. Pinson, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.


III.

The Board has reserved Wednesday, January 13, 2016, as the date for a hearing on this matter at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada. The hour of the hearing will be set by letter to follow.

IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 9th day of December, 2015.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
JILL HENRY, RPH	)	CASE NO. 13-067-RPH-B-S
Certificate of Registration No. 14965)	
)	
Respondent.)	
	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections, or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of December, 2015.

JILL HENRY, R.PH.