

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 15-075-RPH-S
	)	15-075-PH-S
Petitioner,)	
v.)	
)	
RHOWELA ALBANA, RPH	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 18334	)	AND ACCUSATION
)	
CVS PHARMACY #8789)	
Certificate of Registration No. PH01257)	
)	
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.

JURISDICTION

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 Rhowela Albana (Ms. Albana) was a pharmacist licensed by the Board, and Respondent CVS Pharmacy #8789 (CVS) was a pharmacy licensed by the Board.

FACTUAL ALLEGATIONS

II.

On December 4, 2015, Tiffany Russaw, APRN, filed a complaint with the Board Office alleging that CVS Pharmacy filled and dispensed the the wrong medication to patient C.J.

III.

On October 30, 2015, C.J. saw APRN Russaw, who prescribed a quantity of thirty (30) mirtazapine with instructions to take one tablet daily at bedtime.

IV.

C.J. tendered the prescription to CVS on November 4, 2015. CVS assigned it prescription #1275047, and dispensed the medication that day.

V.

On December 3, 2015, C.J. contacted Russaw indicating that CVS did not dispense mirtazapine to her as prescribed. The label on the prescription bottle indicated that CVS instead dispensed temazepam 30 mg. capsules.

VI.

In an effort to verify C.J.'s complaint, Russaw accessed C.J.'s PMP Patient Utilization Report and found that CVS dispensed temazepam to C.J. on November 4, 2015.

VII.

Russaw never prescribe temazepam for C.J.

VIII.

Russaw next contacted CVS and spoke with pharmacist Chester Dudzik (Mr. Dudzik), who confirmed CVS's November 4, 2015 dispensing error.

IX.

CVS's records show that the error began when pharmaceutical technician Stefanie Wendel entered the data for Prescription NO. 1275047 and inadvertently selected temazepam¹ (Restoril) 30 mg. capsules, rather than the mirtazapine² (Remeron) 30 mg. tablets Russaw prescribed.

X.

Ms. Albana failed to detect that the medication in the bottle was not the medication Russaw prescribed and verified temazepam as accurate.

¹Temazepam is a benzodiazepine used to treat insomnia symptoms.

²Mirtazapine is an antidepressant used to treat major depressive disorder.

XI.

C.J. accepted counseling, where Ms. Albana again failed to detect that CVS was dispensing the wrong medication.

XII.

During the Board's investigation of this matter, Ms. Albana told the Board Investigator that the scanned image of the prescription is small and that she may have misread the drug name during counseling.

XIII.

C.J. returned the temazepam to CVS on December 4, 2015. She had not ingested any of the wrong medication.

XIV.

CVS replaced the erred medication that same day with the mirtazapine as prescribed.

FIRST CAUSE OF ACTION

XV.

NAC 639.945(1)(d) defines unprofessional conduct to include the failure by a licensee to follow strictly the instructions of a prescriber when filling, labeling and dispensing a prescription. Unprofessional conduct also includes performing duties in an "incompetent, unskillful or negligent manner" *See* NAC 639.945(1)(i). Ms. Albana violated NAC 639.945(1)(d) and/or (i) by verifying, labeling and dispensing temazepam 30 mg. capsules to C.J., when her prescriber prescribed mirtazapine 30 mg. tablets.

SECOND CAUSE OF ACTION

XVI.

NRS 639.266 requires a pharmacist, on receipt of a prescription and after review of the patient's record, to communicate with the patient, or a person caring for the patient, matters that will enhance the patient's therapy through drugs. NAC 639.707(1) and (2) require that discussion to include, among other things, the name of the drug, dosage and administration

instructions, the intended use of the drug, common side effects, and other information that is necessary for the safe and effective use of the drug. Further, NAC 639.945(1)(i) defines unprofessional conduct to include performing duties in an “incompetent, unskillful or negligent manner” See NAC 639.945(1)(i).

Here, Ms. Albana violated NRS 639.266, NAC 639.707(1) and (2), and NAC 639.945(1)(i), when she failed to adequately counsel C.J. regarding temazepam 30 mg. capsules, which was a new medication to her.

THIRD CAUSE OF ACTION

XVII.


NAC 639.945(2) states that “[t]he owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ”. Respondent Ms. Albana is CVS’s employee. As such, CVS is responsible for each of the violations alleged herein.

XVIII.

The violations alleged above, including in each cause of action, are grounds for discipline against the licenses of Rhowela Albana and or CVS #8789 pursuant to NRS 639.210(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 certificates of registration of these respondents.

Signed this ___ day of August, 2016.


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,	)	STATEMENT TO THE RESPONDENT
	)	NOTICE OF INTENDED ACTION
v.	)	AND ACCUSATION
	)	RIGHT TO HEARING
)	
RHOWELA ALBANA, RPH	)	CASE NO. 15-075-RPH-S
Certificate of Registration No. 18334)	
)	
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 (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.

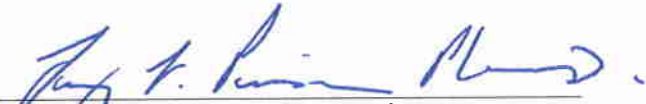
III.

The Board has reserved Wednesday, October 12, 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 17th day of August, 2016.



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.)	
)	
RHOWELA ALBANA, RPH	)	CASE NO. 15-075-RPH-S
Certificate of Registration No. 18334)	
)	
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 August, 2016.

RHOWELA ALBANA, R.PH.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
CVS PHARMACY #8789	)	CASE NO. 15-075-PH-S
Certificate of Registration No. PH01257)	
)	
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 August, 2016.

Type or print name

AUTHORIZED REPRESENTATIVE FOR
CVS PHARMACY #8789

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

PAMELA KALYAN, R.PH.
Certificate of Registration No. 15083

Respondents.

) CASE NOS. 16-087-RPH-S

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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, Respondent Pamela Kalyan (Ms. Kalyan), Certificate of Registration No.15083, was a registered pharmacist with the Board.

II.

On October 31, 2016, Meds Direct Rx of NV's (Meds Direct) pharmacy registration expired due to non-renewal of its Nevada pharmacy license with the Board.

III.

Meds Direct continued to operate the pharmacy without being properly licensed or registered with the Board for approximately thirty days (30) from November 1, 2016, through November 30, 2016. See NRS 639.100 (requiring an entity to hold a pharmacy license when operating a pharmacy in Nevada).

IV.

On or about December 1, 2016, the Board Office received a *Renewal Application – PHARMACY* form and late renewal fee from Meds Direct.

V.

On or about December 2, 2016, Board Staff served Meds Direct with a citation in the amount of \$3,000.00 for operating a pharmacy without a current pharmacy license.

VI.

Respondent Pamela Kalyan was the managing pharmacist during the period that Meds Direct operated without being properly licensed or registered with the Board.


FIRST CAUSE OF ACTION

VII.

As the pharmacist in charge of a pharmacy that operated for approximately thirty (30) days from November 1, 2016, through November 30, 2016, without being properly licensed or registered with the Board, Pamela Kalyan is subject to discipline pursuant to Nevada Revised Statute (NRS) 639.230(5), as well as Nevada Administrative Code (NAC) 639.945(1)(i) and/or (j), which violations are grounds for discipline pursuant to NRS 639.210(4), (11), (12), and/or (13), or alternatively, under NRS 639.255, as well as NAC 639.955.

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

Signed this 2nd day of December, 2016.



Larry 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.

PAMELA KALYAN, R.PH.

Certificate of Registration No. 15083

Respondent

) CASE NO. 16-087-RPH-S
)
)
) STATEMENT TO THE RESPONDENT
) NOTICE OF INTENDED ACTION
) AND ACCUSATION
) RIGHT TO HEARING
)
)
) /

TO THE RESPONDENT ABOVE-SAMED: 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 scheduled your hearing on this matter for Wednesday, January 11, 2017, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 South Las Vegas Blvd, Las Vegas, Nevada.

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 2nd day of December, 2016.



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

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-087-RPH-S
)	
Petitioner,)	
v.	)	ANSWER AND
	)	NOTICE OF DEFENSE
PAMELA KALYAN, R.PH.)	
Certificate of Registration No. 15083)	
)	
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 _____, 2016.

PAMELA KALYAN, R.PH.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

JASON CAZAR, PT.
Certificate of Registration No. PT10508

MARK FRIEDLANDER
Certificate of Registration No. 07517

TONY HUFFMAN, RPH
Certificate of Registration No. 13199

CARDINAL HEALTH 414 LLC
Certificate of Registration No. PHNU02921

Respondents.

CASE NOS. 16-079-PT-S
16-079-RPH-A-S
16-079-RPH-B-S
16-079-PH-S

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, Respondent Jason Cazar (Mr. Cazar), Certificate of Registration No. PT10508, was a registered pharmaceutical technician with the Board, Respondents Mark Friedlander (Mr. Friedlander), Certificate of Registration No. 07517, and Tony Huffman (Mr. Huffman), Certificate of Registration No. 13199, were registered pharmacists with the Board and Respondent Cardinal Health 414 LLC, Certificate of Registration No. PHNU02921 (Cardinal Health), was a pharmacy registered with the Board.

II.

On or about November 9, 2016, Mr. Cazar notified Board Staff that he failed to renew his license by the expiration date on October 31, 2016. Mr. Cazar reported that he did not