

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

RHODA MAGLAYA, R.PH.
Certificate of Registration No. 18613,

GRISELDA RANGEL, PTT
Certificate of Registration No. PT18012

Respondents.

CASE NOS. 17-023-RPH-N
17-023-PTT-N

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.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because at the time of the alleged events, Respondent Rhoda Maglaya, R.Ph. (Ms. Maglaya), Certificate of Registration No. 18613, was a registered pharmacist with the Board, and respondent Griselda Rangel, PTT (Ms. Rangel) was a registered pharmaceutical technician in training with the Board.

II.

Nevada Administrative Code (NAC) 639.240 states, in part, that an applicant for registration as a pharmaceutical technician in training must be a high school graduate or the equivalent. The applicant must specify on the application the pharmacy where he or she will be employed (NAC 639.242(5)), and the managing pharmacist of the employing pharmacy is required to sign the Pharmaceutical Technician in Training Application validating the applicant's employment as a trainee.

III.

On March 16, 2016, the Board Office issued pharmaceutical technician in training Certificate No. PT18012 to Griselda Rangel for employment at Walmart #10-2617.

IV.

At the time of the alleged events, Ms. Maglaya was employed as the managing pharmacist at Walmart Pharmacy #10-2617.

FACTUAL ALLEGATIONS

V.

On March 3, 2017, Ms. Maglaya telephoned Mr. Pinson to inform him that she recently discovered that Griselda Rangel had falsified her Pharmaceutical Technician in Training Application dated February 26, 2016.

VI.

Ms. Maglaya stated that Ms. Rangel checked "Yes" to question 2 on the application indicating that she is a high school graduate or equivalent. Ms. Maglaya claims that approximately one year later she learned that Ms. Rangel is not a high school graduate or the equivalent. Walmart subsequently terminated Ms. Rangel's employment.

VII.

On March 24, 2017, Ms. Rangel sent an unsolicited letter to the Board Office. In the letter, Ms. Rangel purported to surrender her pharmaceutical technician in training registration (Certificate No. PT18012). She admitted that she lied on her application by indicating that she is a high school graduate or the equivalent when she is neither.

VIII.

In the letter, Ms. Rangel accepted full responsibility for the deception. She added, however, that pharmacy manager Ms. Maglaya should be held accountable as well. Ms. Rangel explained that Ms. Maglaya encouraged her to falsify the application.

IX.

On February 18, 2016, Ms. Maglaya hired Ms. Rangel as a pharmacy clerk. Within the first week of employment, Ms. Maglaya requested that Ms. Rangel complete a technician in training application.

X.

On February 26, 2016, Ms. Rangel returned the completed application to Ms. Maglaya. Ms. Rangel explained to Ms. Maglaya that she left question 2 regarding being a high school graduate or equivalent blank because she is not.

XI.

Ms. Rangel alleges that Ms. Maglaya told her to check the "Yes" box anyway, because "the Board never checks."

XII.

Ms. Rangel did as instructed and falsely marked "Yes" in the box next to question 2 indicating that she is a high school graduate or equivalent. Ms. Rangel then signed as the applicant on the signature line attesting that the information provided is true and correct.

XIII.

As the managing pharmacist, Ms. Maglaya signed Ms. Rangel's application knowing that the application contained falsified information.

XIV.

Staff employees witnessed the exchange between Ms. Rangel and Ms. Maglaya regarding the falsification of question 2 on Ms. Rangel's application. Those employees submitted statements to the Board Investigator alleging that Ms. Maglaya instructed Ms. Rangel to mark "yes" to the question regarding high school graduate or equivalent.

XV.

Ms. Maglaya denies the allegation.

XVI.

Subsequent to the submission of the falsified application and the issuance of Ms. Rangel's certificate of registration, Ms. Rangel worked at Walmart as a pharmaceutical technician in training for approximately one year.

FIRST CAUSE OF ACTION

(Respondent Rangel)

XVII.

NAC 639.240 requires that an applicant for registration as a pharmaceutical technician in training must be a high school graduate or the equivalent. By falsely attesting on her Pharmaceutical Technician in Training Application that she is a high school graduate or the equivalent, Ms. Rangel violated NAC 639.240(2)(b), which constitutes unprofessional conduct, as that term is defined in NAC 639.945(1)(h). That violation is grounds for discipline pursuant to Nevada Revised Statute (NRS) 639.210(4). Ms. Rangel's false statement is also grounds for discipline pursuant to NRS 639.281, NRS 639.210(1), (9), (10), and (12), as well as NRS 639.255.

SECOND CAUSE OF ACTION

(Respondent Maglaya)

XVIII.

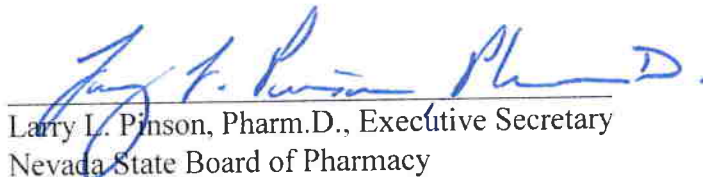
"Performing or in any way being a party to any fraudulent or deceitful practice or transaction" constitutes "unprofessional conduct and conduct contrary to the public interest." NAC 639.945(1)(h). Engaging in conduct that constitutes unprofessional conduct or that is contrary to the public interest is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(4).

Ms. Maglaya allowed and encouraged an employee under her direct supervision, namely, Ms. Rangel, to secure a pharmaceutical technician in training registration by making a false representation of her education credentials. As the managing pharmacist, Ms. Maglaya willfully

and knowingly signed the application falsified by Ms. Rangel. Ms. Maglaya's actions constitutes unprofessional conduct. Ms. Rangel is guilty of unprofessional conduct as that term is defined in NAC 639.945(1)(h). That violation is grounds for discipline pursuant to Nevada Revised Statute (NRS) 639.210(4) as well as NRS 639.281, NRS 639.210(1), (9), (12), and (15), and 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 these respondents.

Signed this 21st day of April, 2017.


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 the 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. 17-023-RPH-N
)
Petitioner,)
v.)
) STATEMENT TO THE RESPONDENT
RHODA MAGLAYA, R.PH.) NOTICE OF INTENDED ACTION
Certificate of Registration No. 18613,) AND ACCUSATION
) 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 (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 scheduled your hearing on this matter for Wednesday, May 31, 2017, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place, 1790 East Plumb Lane, Reno, 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 21st day of April, 2017.


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

1 Roderic A. Carucci, Esq. (#4233)
Carucci and Associates
2 702 Plumas Street
Reno, NV 89509
3 775-323-0400
Attorney for Rhoda Maglaya, R.P.H.

FILED

MAY 15 2017

NEVADA STATE BOARD
OF PHARMACY

4
5
6
7
8 **BEFORE THE NEVADA STATE BOARD OF PHARMACY**

9
10 _____
11 **NEVADA STATE BOARD OF
PHARMACY,**

12 **Petitioner,**

CASE NO.: 17-023-RPH-N

13 **v.**

14 **RHODA MAGLAYA, R.P.H.**
Certificate of Registration No.
15 **18613,**

16 **Respondent.**
17 _____

18 **ANSWER AND NOTICE OF DEFENSE**

19 **and REQUEST FOR HEARING**

20 Respondent, Rhoda Maglaya, by and through counsel, Roderic A. Carucci, Esq. and
21 the law firm of Carucci and Associates, respectfully submits the following answer and
22 notice of defenses Respondent further requests a hearing on the matter.

23 1. Admit that at all relevant times, respondent was a registered pharmacist in
24 the State of Nevada and that the Board of Pharmacy had jurisdiction over the matter.

25 2. Admit that paragraph 2 of the complaint accurately paraphrases the
26 applicable statute which requires the managing pharmacist to sign the Pharmaceutical
27 Technician in Training Application. This administrative code does not require the
28 pharmacist to independently verify the factual accuracy of such application.

1 3. Respondent is without knowledge or information sufficient to form a belief
2 as to the truth of the averments in Paragraph 3 of the complaint.

3 4. Admit that respondent was employed by Walmart as the managing
4 pharmacist at the Winnemucca, Nevada store on March 16, 2016.

5 5. Deny that respondent spoke with Larry Pinson, Executive Secretary of the
6 Nevada Board of Pharmacy on March 3, 2017. Admit that respondent spoke to Larry
7 Pinson on March 9, 2017. Admit that respondent advised Larry Pinson on March 9, 2017,
8 that respondent recently discovered that Griselda Rangel had falsified her Pharmaceutical
9 Technician in Training Application.

10 6. Admit that Rangel falsified her Pharmaceutical Technician in Training
11 Application. Admit that respondent learned of this falsification approximately one year
12 later. Respondent became curious about Rangel's claim to be a High School graduate
13 because Rangel was unable to perform routine mathematical computations required of any
14 pharmacist or trainee. Rangel's regularly refused to take responsibility for her mistakes
15 and would regularly complain to WalMart management (open door policy) when she was
16 subjected to corrective / disciplinary action. At a WalMart meeting with management and
17 respondent on March 9, 2017, Rangel revealed for the first time that she had falsified her
18 application and did not have a High School degree. There were also issues of payroll
19 integrity and inability to get along with other employees that were addressed with Rangel
20 at the March 9, 2017, WalMart management meeting. Consistent with her past
21 behavioral patterns, Rangel attempted to deflect and blame others for her knowing
22 falsification of her application by claiming that respondent told her to falsify her
23 application. There is absolutely no independent, legally admissible, proof to support
24 Rangel's claim and she is entitled to no credibility as a witness since she admits to
25 committing perjury.

26 7. Respondent is without knowledge or information sufficient to form a belief
27 as to the truth of the averments in Paragraph 7 of the complaint. Rangel's purported
28 letter to the Board of March 24, 2017, establishes that she has committed perjury and that

1 she is not entitled to any credibility as a witness. Respondent has never seen this letter.

2 8. Deny the averments contained in this paragraph. Rangel is not accepting full
3 responsibility for her deceitful actions if she is attempting to deflect blame to others.
4 Respondent denies that she ever encouraged Rangel to lie on her application. Respondent
5 does acknowledge that there is a history or conflict with Rangel at work based upon
6 Rangel's poor performance and lack of integrity during the time of her employment. This
7 establishes a foundation Rangel's malicious desire to retaliate against respondent. There
8 is a history of conflict between respondent and Rangel in the workplace.

9 9. Admit that respondent hired Rangel as a pharmacy clerk on or about
10 February 18, 2016. Deny that respondent ever requested that Rangel complete a
11 technician training application. During the first week of Rangel's employment, Rangel
12 made a prescription error which was caught and remedied. Based upon that incident
13 alone, respondent would never have requested or encouraged Rangel to apply for a
14 technician training application.

15 10. Deny. Rangel's assertion is simply false. Respondent has no recollection as
16 to whether the High School graduation section of Rangel's application was left blank or
17 if Rangel falsely and affirmatively stated that she was a High School graduate.
18 Respondent specifically denies that Rangel explained anything to her about Rangel's
19 application, particularly the High School graduation section.

20 11. Deny. Respondent denies providing any assistance whatsoever to Rangel in
21 completing her application. Respondent never told Rangel to check the "yes" box, nor did
22 respondent ever tell Rangel that "the Board never checks." Respondent has no idea
23 whether the Board independently verifies or checks these applications or not.

24 12. Deny that "Ms. Rangel did as instructed." Respondent did not instruct
25 Rangel in any phase of the completion of Rangel's application. Rangel's application speaks
26 for itself as she apparently signed the line attesting that the information contained therein
27 was true and correct.

28 13. Deny. Respondent was the managing pharmacist at the relevant time. Deny

1 that respondent had any knowledge that Rangel's application contained false averments
2 of fact. Nothing in the "Pharmaceutical Technician in Training Application" requires the
3 managing pharmacist to independently verify the truth of the statements contained
4 therein. The signature of the managing pharmacist is contained in the section "requesting
5 registration at the following pharmacy." I appears to be an endorsement that the
6 application is being filed for employment at the managing pharmacist's pharmacy. The
7 questions pertaining to education are containing in an entirely separate block of the
8 application, contained within a solid line box, and below the signature section for the
9 managing pharmacist. Nothing in the NAC requires independent verification by the
10 managing pharmacist of the information set forth in the application by the preparer and
11 signer of the application.

12 14. Deny that there are any independent witnesses to a verbal transaction
13 between respondent and Rangel on February 26, 2016.

14 15. Admit.

15 16. Admit.

16 WHEREFORE, respondent prays for the following relief:

17 1. That both the First and Second Causes of Action be dismissed with prejudice
18 as the Board cannot meet its burden of proof by clear and convincing evidence.

19
20 **AFFIRMATIVE DEFENSES**

21 1. NAC 639.240 requires the managing pharmacist to sign the Pharmaceutical
22 Technician in Training Application, it does not require the managing pharmacist signing
23 the application to independently verify the facts set forth therein by the applicant.

24 2. During the March 9, 2017 telephone conversation between respondent and
25 Larry Pinson, respondent was advised: "This is a lesson learned for you. From now on
26 you need to verify credentials. We will not go after you at this time." Respondent restated
27 Larry Pinson's statements in a return email dated March 13, 2017.

28 3. That Rangel not entitled to any credibility as a witness as she has admitted

1 to perjury.

2 4. Rangel was unable to perform routine job functions, including mathematical
3 calculations, which caused respondent to investigate her background with management
4 at Walmart and to participate in disciplinary proceedings regarding Rangel.

5 5. Rangel had a history of repeated disciplinary issues / frictions with the
6 employer; she filed grievances and has a motive to retaliate; she has a motive to lie and
7 is not entitled to any credibility as a witness.

8 DATED: May 15, 2017

9 Carucci & Associates
10 702 Plumas Street
11 Reno, Nevada 89509
12 (775) 323-0400

13 By: 

14 Roderic A. Carucci, Esq.
15 Attorney for Rhoda Maglaya
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Carucci & Associates and on May 15, 2017, I served a true and correct copy of:

Answer and Notice of Defense and Request for Hearing

by:

___ Placing an original or true copy thereof in a sealed envelope, postage prepaid for collection and mailing in the United States Mail at Reno, Nevada

X Personal Delivery

___ Facsimile to the following number: _____

___ Reno Carson Messenger Service


___ Certified Mail, Return Receipt Requested

___ E-Flex filing system

___ Electronic mail addressed to:

addressed to:

Nevada State Board of Pharmacy
431 West Plumb Lane
Reno, NV 89509


Bryttanie McNeff
Carucci and Associates

CARUCCI & ASSOCIATES
702 PLUMAS STREET RENO, NEVADA 89509
(775) 323-0400 FAX (775) 323-0466
LICENSED IN NEVADA, OREGON, WASHINGTON, COLORADO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE NEVADA STATE BOARD OF PHARMACY

| | | |
|---|---|------------------------------|
| NEVADA STATE BOARD OF PHARMACY, |) | CASE NO. 17-023-PTT-N |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | |
| |) | |
| GRISELDA RANGEL, PTT |) | ANSWER AND NOTICE |
| Certificate of Registration No. PT18012, |) | OF DEFENSE |
| |) | |
| Respondents. |) | |
| | / | |

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 _____, 2017.

GRISELDA RANGEL, PTT