

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD
OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

CASE NO. 17-008-RPH-N

Petitioner,

V.

STEVEN DOUGLAS DEVIN, R.PH.
Certificate of Registration No. 13260,

NOTICE OF INTENDED ACTION 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.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because Respondent Steven Douglas Devin, R.Ph. (Devin), Certificate of Registration No. 13260, was a registered pharmacist with the Board at the time of the events alleged herein.

FACTUAL ALLEGATIONS

II.

In December 2016, Safeway Professional Services Manager Charles Painter submitted a Report of Theft or Loss of Controlled Substances DEA 106 Form (DEA 106) to the Board Office.

III.

The DEA 106 report documented a theft or loss of 1,095 Tramadol 50 mg. tablets from Safeway Pharmacy #2656. The report indicated that a “person of interest” was identified and “terminated for policy violations.”

IV.

Safeway Pharmacy #2656 (Safeway) later disclosed that it terminated Devin from his employment with Safeway Pharmacy for making numerous negative adjustments to the Tramadol inventory count in the pharmacy's computer system.

V.

Devin admitted to recording false adjustments to the Tramadol inventory in Safeway's computer to match the store's physical counts. He also admitted his failure to file a DEA 106 report or report the Tramadol shortages to pharmacy management.

VI.

Painter provided Safeway's Tramadol Pinpoint Audit report which details the adjustments made by Devin. The following summarizes the adjustments:

<u>Date</u>	<u>No. of Tablets</u>
July 14, 2016	-50
July 30, 2016	-200
August 8, 2016	-115
September 1, 2016	-1,048
September 10, 2016	-49
September 15, 2016	-95
September 22, 2016	-230
<u>October 14, 2016</u>	<u>-166</u>
Total Negative Adjustments	-1,953
September 3, 2016	+771
<u>October 16, 2016</u>	<u>+139</u>
Total Positive Adjustments	+910

VII.

Devin could not explain the Tramadol shortages.

VIII.

Devin admitted that on several occasions he has removed prescription-strength Ibuprofen from Safeway's pharmacy stock without payment and without a valid prescription.

IX.

"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." Nevada Administrative Code (NAC) 639.945(1)(g) and (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. Nevada Revised Statutes (NRS) 639.210(4).

FIRST CAUSE OF ACTION

X.

Devin engaged in unprofessional conduct in violation of NAC 639.945(1)(h) by intentionally and repeatedly making numerous false adjustments to Safeway Pharmacy #2656's Tramadol inventory to conceal significant Tramadol losses.

For that conduct, Devin's Registration No. 13260 is subject to discipline pursuant to NRS 639.210(1), (4), and (12), NRS 454.291, and 639.255.

SECOND CAUSE OF ACTION

XI.

Devin engaged in unprofessional conduct in violation of NAC 639.945(1)(h) by repeatedly failing to report significant losses of Tramadol from Safeway Pharmacy #2656 to pharmacy management and by failing to report the losses to the DEA and the Board Office by filing a Report of Theft or Loss of Controlled Substances DEA 106 Form.

For that conduct, Devin's Registration No. 13260 is subject to discipline pursuant to NRS 639.210(1), (4), and (12), NRS 453.568, and 639.255.

THIRD CAUSE OF ACTION


XII.

Devin engaged in unprofessional conduct in violation of NAC 639.945(1)(g) and (h) by diverting a dangerous drug, namely Ibuprofen, from Safeway Pharmacy #2656 without a valid prescription.

For that conduct, Devin's Registration No. 13260 is subject to discipline pursuant to NRS 639.210(1), (4), and (12), and NRS 454.316(1).

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 17th day of January, 2018.


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.

FEB 05 2018

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-008-RPH-N
)	
Petitioner,)	
)	
v.)	
)	
STEVEN DOUGLAS DEVIN, R.PH.	)	ANSWER AND NOTICE
Certificate of Registration No. 13260,	)	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").

Factual errors contained in Factual Allegations and in Accusations-

- 1- Purpose of computer adjustment is incorrect.
 - 2- There was no admission of having taken Ibuprofen without a prescription from this pharmacy.
-

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

First Cause of Action-

I made numerous adjustments to the computer inventory on a wide variety of medications, not just to Tramadol. I made these adjustments because the physical inventory did not match the computer inventory. Some of these adjustments were as a result of a physical count but some others were simply based on a judgment and were guesses. The computer count was incorrect on many different drugs at different times and my adjustments were simply an attempt to quickly make them align better for auto-re-order purposes.

There was no attempt to conceal anything. A report entitled "Change of quantity on hand" was generated each morning and each adjustment I made showed up in this report, and was available for review by the pharmacy manager.

Second Cause of Action-

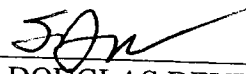
I did fail to generate a DEA 106 report. I was wrong. I had dispensed Tramadol for at least 15 years as a non-controlled drug, and can only think that even though I knew it was now a controlled drug, I did not think of it as one when I changed the quantity.

Third Cause of Action-

I was asked by the Safeway Loss Prevention investigator if I had ever taken any drug from any pharmacy at any time. I answered that I was sure that at some time in my career, I had probably taken an Ibuprofen without a prescription, but when and where that occurred, I didn't know. I was asked when the last time I had done so from this pharmacy, and I answered that I couldn't say, but certainly not recently. I was trying to tell the investigator that in 30-plus years, I was sure that I had taken something, and that I wasn't trying to pretend otherwise. From this answer, I was accused of admitting to diverting Ibuprofen on several occasions from this pharmacy, which isn't true.

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 31 day of January, 2018.



STEVEN DOUGLAS DEVIN, R.PH.

JAN 18 2018

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-092-RPH-N
	)	17-092-PH-N
Petitioner,)	
v.)	
)	
ROY EARL ELSNER, RPH	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 10585, and	)	AND ACCUSATION
)	
PILL BOX)	
Certificate of Registration No. PH02242)	
)	
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 Roy Earl Elsner, Certificate of Registration No. 10585 (Elsner), was a pharmacist registered by the Board; and Respondent Pill Box, Certificate of Registration No. PH02242, was a pharmacy registered by the Board.

FACTUAL ALLEGATIONS

II.

At the time of the alleged events, Elsner was the owner and managing pharmacist/ pharmacist in charge of Pill Box.

III.

Patient K.V. is two years old. She was diagnosed at birth with cerebral palsy and epilepsy.

IV.

K.V. receives the following compounded medications to control muscle contractions and seizures:

- Topiramate 100 mg. tablets compounded into a 6mg/ml solution with instructions to take 45mg twice a day.

- Baclofen 20 mg. tablets compounded into a 10mg/ml solution with instructions to take 3mg three times per day.

The medications are administered via gastronomy tube (g-tube) inserted into the abdominal wall.

V.

The Doernbecher Children's Hospital Pharmacy in Oregon compounded and dispensed the medications for K.V. since her birth, using specific formulations developed by the compounding committee at the Oregon Health and Sciences University.

VI.

In August 2017, K.V.'s family relocated to Elko, Nevada.

VII.

K.V.'s mother, B.V., arranged for Elko pediatrician Dr. S. to provide for K.V.'s continued medical care.

VIII.

Dr. S. contacted Elsner at the Pill Box, who represented to Dr. S. that he would be capable of properly compounding K.V.'s medications.

IX.

On September 12, 2017, Dr. S. electronically transmitted two prescriptions to the Pill Box for K.V. The medications prescribed were (1) Topiramate 100 mg. tablets compounded into a 6mg/ml suspension with instructions to take 45mg twice a day for 30 days; and (2) Baclofen 20 mg. tablets compounded into a 10mg/ml solution with instructions to take 3mg three times per day for 30 days.

X.

On September 21, 2017, Elsner notified B.V. that the compounded medications were available for pickup.

XI.

During counseling by Elsner, B.V. noticed that the Topiramate bottle contained a watery substance with a thin layer of froth on the surface and a thick layer of white granules on the bottom. Also visible in the liquid was a large semicircular strand of an unknown substance.

XII.

The Topiramate solution compounded by Elsner differed in appearance from the Topiramate compounded by Doernbecher Pharmacy. The Doernbecher Pharmacy compounded Topiramate medication was a white milky liquid.

XIII.

The Baclofen solution compounded by Elsner contained various sized clumps of an unknown substance floating in the solution.

XIV.

B.V. expressed her concern to Elsner regarding the difference in both the Topiramate and Baclofen solutions Elsner compounded in comparison to the solutions compounded by Doernbecher Pharmacy.

XV.

Elsner responded that he couldn't get the granules to dissolve, and recommended that B.V. "shake it and then pull it up in a syringe really fast." He added "hopefully you can then get the right dose."

XVI.

B.V. contacted Doernbecher Pharmacy and described the products compounded by Elsner. The Doernbecher pharmacist advised B.V. not to administer the compounds and to seek another source for the compounds.

XVII.

Elsner made no attempt to utilize any available resources, including Doernbecher Pharmacy's formulas, to compound the Topiramate or Baclofen solutions.

XVIII.

Elsner changed the strength of Topiramate from the 100 mg. tablets prescribed, to 25 mg. sprinkles. He compounded the Topiramate into a 9mg/ml suspension rather than the 6mg/ml prescribed. He added 200 mls of non-sterile water to 100 mls of sodium bicarbonate to obtain the 300 mls prescribed. Elsner did not consult Dr. S., the prescribing physician, regarding the change. The pharmacy system designated the Topiramate compound as Prescription No. 377667.

XIX.

Elsner changed the strength of Baclofen 20 mg. tablets prescribed to 10 mg. tablets. He used non-sterile water to compound the ingredients. Elsner did not consult Dr. S., the prescribing physician, regarding the change. The pharmacy system designated the Baclofen compound as Prescription No. 377474.

XX.

The compounding worksheets for Prescription Nos. 377667 and 377474 did not identify all of the ingredients used to make the compounded Topiramate and Baclofen solutions. They did not contain required information that would allow the verification of the expiration dates and lot numbers for the ingredients used in each medication.

XXI.

Elsner assigned a one-year Beyond Use Date (BUD) for the Topiramate and Baclofen compounds. USP 795 guidelines mandate a BUD of fourteen (14) days from the date compounded when utilizing nonsterile water. NAC 639.6703(2)(b) requires no more than a fourteen (14) day BUD from the date compounded for compounds containing nonsterile water.

XXII.

Elsner cannot provide evidence of any sterile and/or nonsterile compounding policies and procedures that were in effect at the time of the alleged violations.

XXIII.

Elsner lacks formal training in the preparation of sterile and/or nonsterile compounded products. Training and/or ongoing training is not provided to Pill Box's pharmacy staff to ensure that its members are competent and proficient in compounding drug products.

FIRST CAUSE OF ACTION

Failure to Follow Prescriber's Instruction - Prescription No. 377667
(Respondent Elsner)

XXIV.

Nevada Administrative Code (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).

Elsner engaged in unprofessional conduct in violation of NAC 639.945(1)(d) and (i) in failing to follow the prescriber's instructions for Prescription No. 377667 by changing the strength of Topiramate from the 100 mg. tablets prescribed to 25 mg. sprinkles; compounding the Topiramate into a 9mg/ml suspension rather than the 6mg/ml; and failing to consult the prescriber on the changes.

For that conduct, Elsner's Registration No. 10585 is subject to discipline pursuant to NRS 639.210(4) and (12), and 639.255.

SECOND CAUSE OF ACTION

Failure to Follow Prescriber's Instruction - Prescription No. 377474
(Respondent Elsner)

XXV.

Nevada Administrative Code (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).

Elsner engaged in unprofessional conduct in violation of NAC 639.945(1)(d) and (i) in failing to follow the prescriber's instructions for Prescription No. 377474 by changing the strength of Baclofen 20 mg. tablets prescribed to 10 mg. tablets and failing to consult the prescriber on the change.

For that conduct, Elsner's Registration No. 10585 is subject to discipline pursuant to NRS 639.210(4) and (12), and 639.255.

THIRD CAUSE OF ACTION

Failure to Keep Accurate Records - Prescription Nos. 377667 and 377474 (Respondent Elsner)

XXVI.

Elsner failed to prepare and keep the required records concerning the compounding of Prescription Nos. 377667 and 377474 to ensure that an error has not occurred in the process of compounding each drug product.

By failing to maintain accurate records for Prescription Nos. 377667 and 377474 to reflect the products used, lot numbers, expiration dates, beyond use dates, product testing on compounding worksheets and/or finished compounded products, Elsner violated Nevada Administrative Code (NAC) 639.6701(1)(c), NAC 639.6702, NAC 639.6703, NAC 639.945(1)(i) and (m), which violations are grounds for action pursuant to NRS 639.210(4), (12), (17) and NRS 639.255.

FOURTH CAUSE OF ACTION

Managing Pharmacist Responsibilities (Respondent Elsner)

XXVII.

As the managing pharmacist/pharmacist in charge of Pill Box at the time of each of the violations alleged herein, Elsner is responsible for the violations alleged above. *See*

NRS 639.0087 and NRS 639.210(15). As such, his Registration No. 10585 is subject to discipline pursuant to the statutes and regulations cited above, including NRS 639.210(4) and (12), and 639.255.

FIFTH CAUSE OF ACTION
Staff Working Outside Scope of Training
(Respondent Pill Box)

XXVIII.

Pill Box pharmacy staff, including Elsner, did not receive sufficient and/or ongoing training to maintain competency and proficiency in compounding drug products.

By allowing untrained or inadequately trained pharmacy staff to compound nonsterile drug products, Pill Box violated NAC 639.67013 and/or NAC 639.945(1)(i), which violations are grounds for action pursuant to NRS 639.210(4), (12) and/or NRS 639.255.

SIXTH CAUSE OF ACTION
Policies and Procedures
(Respondent Pill Box)

XXIX.

Pill Box did not have written policies and procedures for compounding nonsterile drug products to ensure the identity, strength, quality, and purity of the compounded drug product. Pill Box did not establish control procedures to evaluate and ensure the uniformity and homogeneity of each nonsterile compounded drug product, including the clarity, completeness and pH of a nonsterile compounded drug product. Pill Box did not have control procedures in place to ensure, in the case of a suspension, that the visible suspended particles are of uniform size and are readily dispersed upon shaking.

In failing to establish and maintain policies and procedures for compounding drug products properly, Pill Box violated NAC 639.67015 and/or NAC 639.67035, which violations are grounds for action pursuant to NRS 639.210(4), (12) and NRS 639.255.

SEVENTH CAUSE OF ACTION

**Pharmacy Responsibility
(Elsner and Pill Box)**

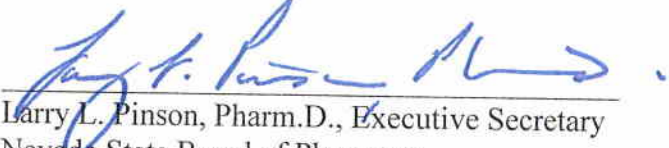
XXX.

As the pharmacy in which the violations alleged above occurred, and as the owner of the pharmacy, Pill Box and Elsner are responsible for the violations herein pursuant to NRS 639.230(5) and NAC 639.945(2), which is grounds for discipline pursuant to NRS 639.210(4), and (12), and NRS 639.255.

XXXI.

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 18th day of January, 2018.


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.

FILED

BEFORE THE NEVADA STATE BOARD OF PHARMACY

FEB 08 2018

NEVADA STATE BOARD
OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-092-PH-N
)	
Petitioner,	)	ANSWER AND
v.	)	NOTICE OF DEFENSE
)	
PILL BOX)	
Certificate of Registration No. PH02242)	
)	
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:

When I first spoke to this young lady she didn't like the way I described my topiramate compound, so I tried to do something different than I always have, I was not able to get all the ingredients I needed, I tried to make it work, I never should have given it to her. Since it's 200 miles to the next pharmacy that does the compound anything, I do the best I can.

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 January, 2018.

2/5/18

Roy Elson

Type or print name

Roy Elson

AUTHORIZED REPRESENTATIVE FOR
PILL BOX

FILED

JAN 23 2018

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-015-N
)	
Petitioner,	)	NOTICE OF INTENDED ACTION
v.	)	AND ACCUSATION
)	
MICHAEL L. GERBER, H.M.D., Certificate of)	
Registration Nos. CS03675 and PD03675,)	
)	
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.

JURISDICTION

I.

The Nevada State Board of Pharmacy ("Pharmacy Board") has jurisdiction over this matter and this respondent because at the time of the events alleged herein, Respondent Michael L. Gerber, H.M.D. ("Gerber"), held a Nevada Controlled Substance Registration, Certificate No. CS03675, and a Nevada Dispensing Practitioner Registration, Certificate No. PD03675, both of which were issued by the Pharmacy Board.

FACTUAL ALLEGATIONS

II.

On July 22, and August 23-24, 2017, the State of Nevada, Board of Homeopathic Medical Examiners ("Homeopathic Board") conducted an administrative disciplinary hearing in the matter of *Board of Homeopathic Medical Examiners v. Gerber*, Case No. 17-01.

III.

After hearing the testimony of witnesses and reviewing documentary evidence entered by the Homeopathic Board into the record, the Homeopathic Board made findings of fact. *See*

Board of Homeopathic Medical Examiners v. Gerber, Case No. 17-01 (Order dated October 23, 2017 (the “Order”).

IV.

The Homeopathic Board’s Findings of Fact, as stated in the Order, include:

- a. “On or about December 27, 1984, the [Homeopathic] Board Office received an application for licensure from Respondent [Gerber].” Order, ¶ 1.
- b. “In his application, Respondent [Gerber] indicates that he was issued a medical license from Kansas and California.” Order, ¶ 1(a).
- c. “Respondent [Gerber] attached a copy of his [Kansas] medical license (certificate number 15355) from the State of Kansas which indicated he was licensed on or about July 10, 1973.” Order, ¶ 1(b).
- d. “Respondent’s [Gerber’s] California medical license number C35438 was revoked on June 20, 1984.” Order, ¶ 1(c).
- e. “Respondent’s [Gerber’s] Kansas medical license was cancelled by the Kansas State Board of Healing Arts on June 30, 1990, due to Respondent’s failure to renew.” Order, ¶ 1(d).
- f. “At a later date, Respondent [Gerber] indicated to the [Homeopathic] Board that he was licensed to practice medicine in the Government of the District of Columbia, Department of Health of Medicine.” Order, ¶ 2.
- g. “According to a letter dated April 27, 2017, from Counsel to Government of the District of Columbia, Department of Health of Medicine (D.C. Board of Medicine), Suzanne M. Fenzel, states that Respondent [Gerber] ‘is not ‘currently licensed in good standing to practice medicine in the District of Columbia pursuant to DCMR 17-4600.’” Order, ¶ 3.
- h. “She [Fenzel] further states that ‘Mr. Gerber’s D.C. license was indefinitely restricted via a Consent Order effective October 8, 1986’ which states the Respondent [Gerber]

‘will not practice or attempt to practice medicine in the District of Columbia without prior approval of the Board. As of today’s date, the Board has given no such approval.” Order, ¶ 3.

i. “Consequently, Respondent [Gerber] no longer qualified for licensure by the [Homeopathic] Board as of June 30, 1990.” Order, ¶ 4.

j. “Pursuant to NRS 630A.230(2)(d), licensure as a homeopathic physician in the State of Nevada requires that the applicant ‘is licensed in good standing to practice allopathic or osteopathic medicine in any state or country, the District of Columbia or a territory or possession of the United States[.]’” Order, ¶ 6.

k. “[Homeopathic] Board practice and procedure requires that the file for each applicant for licensure as a homeopathic physician be reviewed and approved by the Board member[s] pursuant to NAC 630A.050.” Order, ¶ 8.

l. “This review is intended to verify the educational and internship requirements, codified in NRS and NAC Chapter 630A, for licensure are met by each applicant prior to licensure.” Order, ¶ 9.

m. “The [Homeopathic] Board member who initially approved Respondent’s [Gerber’s] file for licensure relied on Respondent’s Kansas medical license.” Order, ¶ 10.

n. “Respondent [Gerber] allowed his Kansas medical license to expire on June 30, 1990.” Order, ¶ 11.

o. Respondent [Gerber] was issued [homeopathic] license number 84106 that became invalid on June 30, 1990.” Order, ¶ 12.

p. “In NRS 630A.050, the Nevada Legislature declared that a ‘homeopathic physician’ means a person who has complied with all of the requirements set forth in this chapter and the regulations adopted by the [Homeopathic] Board for the practice of homeopathic medicine.’” Order, ¶ 14 (*citing* NRS 630A.050).

q. “In NRS 630A.144, the Nevada Legislature declared that the [Homeopathic] Board ‘shall regulate the practice of homeopathic medicine in this State and any activities that are within the scope of such practice, to protect the public health and safety and general welfare of the people of this State’ and ‘license or certify those applicants it finds to be qualified.’” Order, ¶ 15 (*citing* NRS 630A.144).

r. “Respondent’s [Gerber’s] failure to hold a valid medical license from the District of Columbia, Department of Health of Medicine, California or Kansas in good standing prevents him from safely practicing homeopathic medicine in the State of Nevada.” Order, ¶ 17.

s. “Further, Respondent’s [Gerber’s] application became invalid on June 30, 1990, when he allowed his Kansas medical license to expire, thus raising concerns about his ‘good moral character,’ which is a requirement for licensure pursuant to NRS 630A.230(2)(b).” Order, ¶ 18.

t. “Respondent [Gerber] advertises and/or holds himself out as a medical doctor and homeopathic physician.” Order, ¶ 19.

u. “Unless and until Respondent [Gerber] satisfies the requirements of NRS 630A.230(2)(d), he is not eligible for licensure as a homeopathic physician in the State of Nevada.” Order, ¶ 20.

V.

The Homeopathic Board also entered Conclusions of Law, concluding that Gerber violated Nevada law (NRS 630A.350) by providing an untrue statement to that Board on each of his renewal applications:

By falsely indicating that he was licensed in good standing to practice allopathic or osteopathic medicine in any state or county [sic], the District of Columbia or territory or possession of the United States, Respondent [Gerber] provided an untrue statement to the [Homeopathic] Board in his renewal licensure applications in

violation of NRS 630A.350, and which is grounds for disciplinary action.

Order, pg. 5, ll. 1-6.

VI.

Gerber does not currently hold a license in good standing to practice allopathic or osteopathic medicine in any state or country, the District of Columbia or territory or possession of the United States.

VII.

The Pharmacy Board issued a Nevada Controlled Substance Registration, Certificate No. CS03675, to Gerber in approximately May 1990.

VIII.

The Pharmacy Board issued a Nevada Dispensing Practitioner Registration, Certificate No. PD03675, to Gerber in approximately May 1990.

IX.

Since June 30, 1990, Gerber has not qualified to possess Certificate No. CS03675 because his “[homeopathic] license number 84106 . . . became invalid on June 30, 1990” (Order, ¶ 12) after he ceased to comply with NRS 630A.230(2)(d) and became “[in]eligible for licensure as a homeopathic physician in the State of Nevada.” Order, ¶ 20.

X.

Since June 30, 1990, Gerber has not qualified to possess Certificate No. PD03675 because his “[homeopathic] license number 84106 . . . became invalid on June 30, 1990” (Order, ¶ 12) after he ceased to comply with NRS 630A.230(2)(d) and became “[in]eligible for licensure as a homeopathic physician in the State of Nevada.” Order, ¶ 20.

XI.

Gerber is not currently eligible to possess Certificate No. CS03675 or Certificate No. PD03675 because he does not currently hold a license in good standing to practice allopathic or

osteopathic medicine in any state or country, the District of Columbia or territory or possession of the United States.

XII.

On June 30, 2016, one of Gerber's patients, K.S., through her physician, W.C., requested that Gerber release K.S.'s medical records from the first date he provided service to her to the last date he provided service to her.

XIII.

On or about July 6, 2016, Gerber, through his Gerber Medical Clinic, provided K.S. a 54-page packet purporting to be K.S.'s complete medical records of Gerber's treatment of K.S.

XIV.

The 54-page packet did not include records associated with several office visits, treatments and injections Gerber provided to K.S. and billed to K.S. or her insurance provider.

XV.

Gerber later provided to Board Staff a 61-page packet of records purporting to be a complete record of K.S.'s treatment by Gerber.

XVI.

That 61-page packet did not include records of several office visits, treatments and injections Gerber provided to K.S. and for which he billed K.S. and her insurance provider.

XVII.

Gerber and/or his staff at the Gerber Medical Clinic provided to Board Staff all records in their possession and/or control relating to Gerber's treatment of K.S. when the Board's Investigator requested those records.

XVIII.

Neither Gerber nor his staff at the Gerber Medical Clinic have possession or control of records relating to Gerber's treatment of K.S. that have not been provided to Board Staff.

APPLICABLE LAW

XIX.

A person must be a practitioner, as that term is defined at NRS 453.126 and/or NRS 639.0125, to hold a Nevada Controlled Substance Registration. *See* NRS 453.226; NRS 453.231(3); and NRS 453.056.

XX.

A person must be a practitioner, as that term is defined at NRS 453.126 and/or NRS 639.0125, to hold a Nevada Dispensing Practitioner Registration. *See* NAC 639.742 and 639.745.

XXI.

“Practitioner” includes a homeopathic physician who is qualified as such pursuant to NRS Chapter 630A, including 630A.050 and NRS 630A.230(2)(d). *See* NRS 453.126(1); *see also* NRS 0.040 (defining “physician” to include persons who engage in homeopathy).

XXII.

To qualify as a homeopathic physician in Nevada, a person must be “licensed in good standing to practice allopathic or osteopathic medicine in any state or country, the District of Columbia or a territory or possession of the United States.” *See* NRS 630A.230(2)(d).

FIRST CAUSE OF ACTION

XXIII.

By failing to qualify for a homeopathic medical license since June 30, 1990, Gerber has failed, since June 30, 1990, to qualify as a practitioner as that term is defined in NRS 453.126 and NRS 639.0125. As a non-practitioner, Gerber has not qualified to hold a Controlled Substance Registration since June 30, 1990. *See* NRS 453.226; NRS 453.056. The Homeopathic Board found Gerber’s claim that he is a qualified homeopathic physician false in

its October 23, 2017 Order. Certificate No. CS03675 is therefore subject to cancellation pursuant to NRS 639.281(2).

SECOND CAUSE OF ACTION

XXIV.

By failing to qualify for a homeopathic medical license since June 30, 1990, Gerber has failed, since June 30, 1990, to qualify as a practitioner as that term is defined in NRS 453.126 and NRS 639.0125. As a non-practitioner, Gerber has not qualified to hold a Dispensing Practitioner Registration since June 30, 1990. *See* NAC 639.742 and 639.745. The Homeopathic Board found Gerber's claim that he is a qualified homeopathic physician false in its October 23, 2017 Order. Certificate No. PD03675 is therefore subject to cancellation pursuant to NRS 639.281(2).

THIRD CAUSE OF ACTION

XXV.

By renewing his Controlled Substance Registration, Certificate No. CS03675, biennially since December 30, 1990, Gerber represented falsely to the Pharmacy Board that he qualified to hold and to renewal that registration. In doing so, he violated NRS 453.331(1)(e), NRS 639.281, NRS 639.2813, and NAC 639.945(h). His Controlled Substance Registration, Certificate No. CS03675, is therefore subject to discipline pursuant to NRS 453.331, NRS 453.236(1)(a) and (d), NRS 639.210(4), (10) and (12), and NRS 639.255.

FOURTH CAUSE OF ACTION

XXVI.

By renewing his Dispensing Practitioner Registration, Certificate No. PD03675, biennially since December 30, 1990, Gerber represented falsely to the Pharmacy Board that he qualified to hold and to renewal that registration. In doing so, he violated NRS 453.331(1)(e), NRS 639.281, NRS 639.2813, and/or NAC 639.945(h). His Dispensing Practitioner

Registration, Certificate No. PD03675, is therefore subject to discipline pursuant to NRS 453.331, NRS 453.236(1)(a) and (d), NRS 639.210(4), (10) and (12), NRS 639.255 and NAC 639.7445.

FIFTH CAUSE OF ACTION


XXVII.

By failing to keep and produce to Board Staff records of office visits, treatments and injections Gerber provided to K.S. and billed to K.S. or her insurance provider, Gerber violated NRS 453.326, NAC 639.745(1) and (3), NAC 639.287, NAC 639.945(h) and (m). As a result, his Certificate Nos. CS03675 and PD03675 are subject to discipline pursuant to NRS 639.210(4), (12) and (17) and/or NRS 639.255, as well as NAC 639.7445.

XXVIII.

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.

DATED this 23 day of January, 2018.


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.

JEFFREY A. DICKERSON
BAR NO. 2690
305 W. MOANA LANE, SUITE E
RENO, NV 89509
786-6664

ATTORNEY FOR DR. GERBER

FILED
FEB 08 2018
NEVADA STATE BOARD
OF PHARMACY

**BOARD OF PHARMACY
STATE OF NEVADA**

NEVADA STATE BOARD OF
PHARMACY,
PETITIONER,
v.

MICHAEL L. GERBER, H.M.D.,
RESPONDENT.

ANSWER AND NOTICE OF DEFENSE

Pursuant to NRS 639.243(2) and .244, Respondent, by and through his attorney, answers the notice of intended action and accusation and asserts his defense, together with his presentation of evidence and argument at the hearing, as follows.

JURISDICTION

I. Respondent denies the Board has jurisdiction over the first four causes of action because, although the Certificates are Board-issued, the foundation for the proposed action is the findings and conclusions of the Board of Homeopathic Medical Examiners, which Board lacked authority and jurisdiction to address Respondent's license renewal applications as they relate to licensure in foreign jurisdictions as an allopathic or osteopathic physician, as argued before that Board and as presented in Respondent's pending petition for judicial review of that Board's determination. This Board should stay proceedings pending the outcome of that petition for

judicial review, for, if successful, the foundation for causes of action first through fourth in this matter will have dissolved, leaving only the fifth cause of action for consideration.

FACTUAL ALLEGATIONS

- II. Admit.
- III. Admit.
- IV. Admit.
- V. Admit.
- VI. Admit.
- VII. Admit.
- VIII. Admit.
- IX. Denied.
- X. Denied.
- XI. Denied.
- XII. Denied.
- XIII. Admit records were provided and deny the remainder.
- XIV. Denied.
- XV. Denied.
- XVI. Denied.
- XVII. Admit.
- XVIII. Admit.

APPLICABLE LAW

- XIX. Admit any NRS speaks for itself, deny the remainder.
- XX. Admit any NRS speaks for itself, deny the remainder.

XXI. Admit any NRS speaks for itself, deny the remainder.

XXII. Deny.

FIRST CAUSE OF ACTION

XXIII. Deny.

SECOND CAUSE OF ACTION

XXIV. Deny.

THIRD CAUSE OF ACTION

XXV. Deny.

FOURTH CAUSE OF ACTION

XXVI. Deny.

FIFTH CAUSE OF ACTION

XXVII. Deny.¹

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim warranting the relief for which it prays.
2. Relief is barred by the doctrine of waiver.
3. Relief is barred by the doctrine of estoppel.
4. The State cannot prove the necessary state of mind to warrant discipline.
5. The statutes and regulations the State seeks to enforce are void for vagueness facially and as applied.
6. The Amended Complaint is barred by the doctrine of laches.
7. The Board must prove its case by a preponderance of the evidence, and should have to prove it by clear and convincing evidence.

¹A violation of NAC 639.287 is alleged. There is no such regulation.

8. The accusation fails to comply with NRS 639.241.

9. NRS 639.2576 is inapplicable to the accusation.

8. Dr. Gerber reserves the right to add any defense warranted by discovery or evidence adduced at the hearing.

Wherefore, Respondent prays that the charges be dismissed, that proceedings be stayed, that a hearing be had when appropriate, that the request for cancellation of certificates be denied, and that the request for discipline be denied.

I declare under penalty of perjury the foregoing admissions, denials, averments and defenses are true and correct to the best of my personal knowledge after diligent investigation.
NRS 639.244(2).

Dated February 7, 2018


LAW OFFICE OF JEFFREY A. DICKERSON

JEFFREY A. DICKERSON
ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

I certify that today I deposited the foregoing in first class mail addressed to counsel
Edwards for the Board.

Dated February 8, 2018



JEFFREY A. DICKERSON

-1-

IV.

Ferran created a combined total of forty-four (44) "Telephoned Prescriptions" for himself, his family members, Buie and Knickerbocker's spouse, according to a written statement from Ferran. The fraudulent activities occurred during the time period of September 12, 2012, to January 18, 2017.

V.

Walmart provided a detailed summary listing the prescriptions fabricated by Ferran, which is attached hereto as **Addendum A**, and incorporated herein by reference.

VI.

Ferran fabricated "Telephone Prescriptions" falsely documenting Dr. Greg Dryanski as the prescribing physician on one prescription and Dr. Koussay Zarka as the prescriber on the remaining forty-three prescriptions.

VII.

Dr. Zarka reviewed copies of the fraudulent prescriptions provided to him by Walmart. Dr. Zarka signed, dated and documented "not authorized" on each copy of each falsified prescription. He also signed a statement affirming that he did not authorize the prescriptions.

VIII.

Walmart provided information that Ferran paid the co-pays and/or for the entire price of the fraudulent prescriptions for himself and his family using Walmart discount cards and/or billing the prescriptions through his Walmart insurance plan.

IX.

Neither Buie nor Knickerbocker had a bona fide practitioner/patient relationship with Dr. Zarka.

X.

Buie and Knickerbocker knowingly and willfully received and purchased prescriptions for various dangerous drugs for their own use or family member's use prescriptions that Ferran fabricated without a lawful prescription or authorization from a practitioner.

XI.

Buie and Knickerbocker submitted the fraudulent prescriptions for payment to their respective Walmart insurance plans.

FIRST CAUSE OF ACTION

(Prescription Fraud – Jose Ferran, R.Ph.)

XII.

In creating multiple fraudulent prescriptions for various dangerous drugs for himself, members of his family, Buie and Knickerbocker, as detailed herein, including Addendum A, Ferran violated Nevada Administrative Code (NAC) 639.945(1)(h) and (k), which violations are grounds for discipline pursuant to Nevada Revised Statutes (NRS) 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

SECOND CAUSE OF ACTION

(Prescription Fraud - Jose Ferran, R.Ph.)

XIII.

In filling and dispensing multiple fraudulent prescriptions for various dangerous drugs for himself, members of his family, Buie and Knickerbocker, as detailed herein, including Addendum A, without a lawful prescription or authorization from a practitioner, Ferran violated NAC 639.945(1)(h) and (k), which violations are grounds for discipline pursuant to NRS 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

THIRD CAUSE OF ACTION

(Insurance Fraud - Jose Ferran, R.Ph.)

XIV.

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, Jose Ferran, R.Ph., violated Nevada Administrative Code (NAC) 639.945(h) and (k), which violations are grounds for discipline pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

FOURTH CAUSE OF ACTION

(Prescription Fraud - Tiffany Buie, PT and Ian Knickerbocker, PT)

XV.

By knowingly and willfully participating in fraudulent transactions by receiving and purchasing prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner as detailed herein, including Addendum A, Tiffany Buie, PT and Ian Knickerbocker, PT violated NAC 639.945(h) and (k), which violations are grounds for discipline pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

FIFTH CAUSE OF ACTION

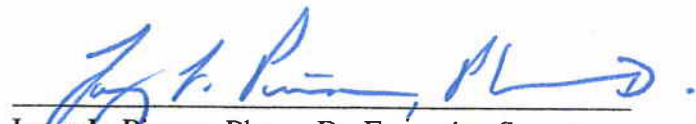
(Insurance Fraud - Tiffany Buie, PT and Ian Knickerbocker)

XVI.

By participating in fraudulent prescription transactions for various dangerous drugs without a lawful prescription or authorization from a practitioner, and by billing those prescriptions to an insurance provider, Tiffany Buie, PT and Ian Knickerbocker, 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.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of Ferran, Buie and Knickerbocker, respectively.

Signed this 17th day of November, 2017.


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

ADDENDUM A

	A	B	C	D	E	F	G	H
	RX DATE	RX #	DRUG NAME	QTY	PATIENT NAME	RELATIONSHIP	PRESCRIBER	
2	JOSE FERRAN - Pharmacy Manager							
3	9/11/2012	6722740	Zithromax 200	30ml	Janelle Ferran	Daughter	Dryanski, Greg	
4	12/17/2012	6733524	Zithromax 200	30ml	Janelle Ferran	Daughter	Zarka, Koussay	
5	12/29/2013	6780015	Zithromax 200	30ml	Janelle Ferran	Daughter	Zarka, Koussay	
6	9/1/2014	6817386	Zithromax 200	30ml	Janelle Ferran	Daughter	Zarka, Koussay	
7	2/19/2016	6909285	Neo/Poly/Dex 0.1% OP SUS	1	Janelle Ferran	Daughter	Zarka, Koussay	
8	Pharmacist Jose Ferran is responsible for (5) falsified Prescriptions for Janelle Ferran							
9	6/19/2013	6756340	Azithromycin 250 mg pak	1	Erick Ferran	Brother	Zarka, Koussay	
10	10/20/2013	6771226	Prednisone 10mg pak	40	Erick Ferran	Brother	Zarka, Koussay	
11	11/16/2013	6774763	Allopurinol 300 mg	30	Erick Ferran	Brother	Zarka, Koussay	
12	11/27/2013	6776151	Avelox 400 mg	7	Erick Ferran	Brother	Zarka, Koussay	
13	1/29/2014	6784695	Prednisone 10mg pak	40	Erick Ferran	Brother	Zarka, Koussay	
14	3/31/2014	6794489	Prednisone 10mg pak	40	Erick Ferran	Brother	Zarka, Koussay	
15	7/3/2014	6808762	Prednisone 10mg pak	40	Erick Ferran	Brother	Zarka, Koussay	
16	10/8/2014	68233502	Methylpred 4 mg	21	Erick Ferran	Brother	Zarka, Koussay	
17	11/6/2014	6828058	Methylpred 4 mg	21	Erick Ferran	Brother	Zarka, Koussay	
18	3/12/2015	6849896	Prednisone 10mg pak	40	Erick Ferran	Brother	Zarka, Koussay	
19	5/5/2015	6859621	Azithromycin 250 mg pak	1	Erick Ferran	Brother	Zarka, Koussay	
20	5/5/2015	6859639	Fluticasone 50 MCG SPR	1	Erick Ferran	Brother	Zarka, Koussay	
21	6/20/2015	6867154	Azithromycin 250 mg pak	1	Erick Ferran	Brother	Zarka, Koussay	
22	7/17/2015	6871391	Prednisone 10mg pak	40	Erick Ferran	Brother	Zarka, Koussay	
23	7/29/2015	6873253	Prednisone 10mg pak	40	Erick Ferran	Brother	Zarka, Koussay	
24	10/11/2015	6885648	Azithromycin 250 mg pak	1	Erick Ferran	Brother	Zarka, Koussay	
25	11/25/2015	6893925	Allopurinol 300 mg	30	Erick Ferran	Brother	Zarka, Koussay	
26	8/10/2016	6939679	Prednisone 10mg pak	40	Erick Ferran	Brother	Zarka, Koussay	
27	11/17/2016	6957479	Azithromycin 250 mg pak	1	Erick Ferran	Brother	Zarka, Koussay	
28	11/17/2016	6957486	Neo/Poly/Dex 0.1% OP SUS	1	Erick Ferran	Brother	Zarka, Koussay	
29	11/17/2016	6957487	Fluticasone 50 MCG SPR	1	Erick Ferran	Brother	Zarka, Koussay	
30	Pharmacist Jose Ferran is responsible for (21) falsified prescriptions for Erick Ferran							
31	2/19/2013	6741315	Azithromycin 250 mg pak	1	Miguel Ferran	Brother	Zarka, Koussay	
32	Pharmacist Jose Ferran is responsible for (1) falsified prescription for Miguel Ferran							

	A	B	C	D	E	F	G	H
33	6/18/2013	6756072	Metformin 500 mg	180	Maria Ferran	Mother	Zarka, Koussay	
34	6/18/2013	6756073	Glyburide 5 mg	180	Maria Ferran	Mother	Zarka, Koussay	
35	Pharmacist Jose Ferran is responsible for (2) falsified prescriptions for Maria Ferran							
36	4/6/2014	6795431	Proctosol HC 2.5% CRE	1	Jose Ferran	Self	Zarka, Koussay	
37	4/6/2014	6795432	Proctofoam - HC 1% AER	1	Jose Ferran	Self	Zarka, Koussay	
38	4/6/2014	6795433	Hydrocort AC 25 mg SUP	1	Jose Ferran	Self	Zarka, Koussay	
39	5/9/2015	6860254	Victoza 18 mg/3ml INJ	1	Jose Ferran	Self	Zarka, Koussay	
40	7/2/2015	6868938	Victoza 18 mg/3ml INJ	1	Jose Ferran	Self	Zarka, Koussay	
41	7/2/2015	6879766	Victoza 18 mg/3ml INJ	1	Jose Ferran	Self	Zarka, Koussay	
42	8/1/2015	6873799	Victoza 18 mg/3ml INJ	1	Jose Ferran	Self	Zarka, Koussay	
43	7/11/2016	6934729	Victoza 18 mg/3ml INJ	1	Jose Ferran	Self	Zarka, Koussay	
44	Pharmacist Jose Ferran is responsible for (8) falsified prescriptions for himself							
45								
46	IAN KNICKERBOCKER - Pharmacy Technician							
47	10/14/2016	6953084	Methylpred 4 mg	1	Holly Lee	Spouse	Zarka, Koussay	
48	Pharmacist Jose Ferran and Pharmacy Technician Ian Knickerbocker are responsible for (1) falsified prescription for Holly Lee							
49								
50	TIFFANY BUIE - Pharmacy Technician							
51	1/16/2014	6782768	Azithromycin 250 mg pak	1	Tiffany Buie	Self	Zarka, Koussay	
52	10/7/2014	6823213	Azithromycin 250 mg pak	1	Tiffany Buie	Self	Zarka, Koussay	
53	11/12/2015	6891462	Azithromycin 250 mg pak	1	Tiffany Buie	Self	Zarka, Koussay	
54	6/14/2016	6930444	Neo/Poly/Dex 0.1% OP SUS	1	Tiffany Buie	Self	Zarka, Koussay	
55	10/15/2016	6951642	Azithromycin 250 mg pak	1	Tiffany Buie	Self	Zarka, Koussay	
56	1/18/2017	6968301	Erythromycin OP OIN	1	Tiffany Buie	Self	Zarka, Koussay	
57	Pharmacist Jose Ferran and Pharmacy Technician Tiffany Buie are responsible for (6) falsified prescriptions for herself							
58								
59	Total falsified prescriptions for each licensee:							
60	Pharmacist Jose Ferran and his family members			37				
61	Rx Tech Ian Knickerbocker			1				
62	Rx Tech Tiffany Buie			6				
63	Total fraudulent prescriptions written and filled by Jose Ferran			44				

DEC 23 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY
Petitioner,ANSWER AND
NOTICE OF DEFENSE

v.

JOSE FERRAN, RPH
Certificate of Registration No. 16283

CASE NO.: 17-039-RPH-S

Respondent.

Jose Ferran, RPH, ("Mr. Ferran"), by and through his counsel of record MURPHY JONES APC, in answer to the Notice of Intended Action and Accusation ("Accusation") filed in the above-entitled matter before the Nevada State Board of Pharmacy ("Board"), 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.

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

Mr. Ferran has recently retained legal counsel who is conducting an independent investigation into the allegations espoused in the Accusation. Mr. Ferran requests a hearing in the matter, on the merits of the case, and will provide additional information and produce relevant documentation after his legal counsel has been afforded the opportunity to adequately prepare a defense to the Accusation.

I.

Mr. Ferran admits that the Board has jurisdiction over this matter

II. - XI.

Mr. Ferran is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph II-XI and therefore denies the same.

ANSWER AND NOTICE OF DEFENSE

1 **FIRST CAUSE OF ACTION**
2 (Prescription Fraud-Jose Ferran, R. Ph.)

3 XII.

4 Mr. Ferran states that the allegations contained in paragraph XII contain legal
5 conclusions therefore denies the same.

6 **SECOND CAUSE OF ACTION**
7 (Prescription Fraud - Jose Ferran, R.Ph.)

8 XIII.

9 Mr. Ferran states that the allegations contained in paragraph XIII contain legal
10 conclusions therefore denies the same.

11 **THIRD CAUSE OF ACTION**
12 (Insurance Fraud - Jose Ferran, R.Ph.)

13 XIV.

14 Mr. Ferran states that the allegations contained in paragraph XIV contain legal
15 conclusions therefore denies the same.

16 **FOURTH CAUSE OF ACTION**
17 (Prescription Fraud - Tiffany Buie, PT and Ian Knickerbocker, PT)
18 XV.

19 Mr. Ferran states that the allegations contained in paragraph XV contain legal
20 conclusions therefore denies the same.

21 **FIFTH CAUSE OF ACTION**
22 (Insurance Fraud - Tiffany Buie, PT and Ian Knickerbocker, PT)
23 XVI.

24 Mr. Ferran states that the allegations contained in paragraph XVI contain legal
25 conclusions therefore denies the same.

26 DATED: 12/22/17

27 By: K

28 Kevin C. Murphy
MURPHY JONES APC
600 B Street, Suite 1420
San Diego, CA 92101
Tel: (619) 684-5073
Attorney for Respondent Jose Ferran, RPH

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

IAN KNICKERBOCKER, PT

Certificate of Registration No. PT07309

Respondent.

) **ANSWER AND**
) **NOTICE OF DEFENSE**

) **CASE NO. 17-039-PT-A-S**

)

/

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 November, 2017.

IAN KNICKERBOCKER, PT

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	ANSWER AND
	)	NOTICE OF DEFENSE
v.)	
)	
TIFFANY BUIE, PT	)	CASE NO. 17-039-PT-B-S
Certificate of Registration No. PT08743)	
)	
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 November, 2017.

TIFFANY BUIE, PT