



NEVADA STATE BOARD OF PHARMACY

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MINUTES

September 4 & 5, 2019

BOARD MEETING

Hyatt Place
1790 E Plumb Lane

Reno, Nevada

Board Members Present:

Jason Penrod	Kevin Desmond	Jade Jacobo	Wayne Mitchell
Melissa Shake	Robert Sullivan	Gener Tejero	

Board Staff Present:

Dave Wuest	Yenh Long	Paul Edwards	Brett Kandt
Shirley Hunting	Darla Zarley	Joe Depczynski	Sarah Bradley
Kristopher Mangosing			

President Penrod read the mission statement of the Nevada State Board of Pharmacy to reiterate the Board's duty to carry out and enforce the provisions of Nevada Law to protect the health, safety, and welfare of the public.

1. Public Comment September 4, 2019 9:00 AM

There was no public comment.

2. Approval of July 17-18, 2019, Minutes

Ms. Shake requested a correction to Mark Johnston's name on pg. 14.

Board Action:

Motion: Kevin Desmond moved to approve the July 17-18, 2019 Meeting Minutes with the corrections discussed.

Second: Melissa Shake

Action: Passed unanimously

3. Approval of July 30, 2019 Minutes

Kevin Desmond recused from participation in this matter due to his absence at the July 30, 2019 Meeting.

Board Action:

Motion: Jade Jacobo moved to approve the July 30, 2019 Meeting Minutes as presented.

Second: Robert Sullivan

Action: Passed unanimously

4. Applications for Out-of-State Pharmacy – Non Appearance

- A. Broadway Family Pharmacy – New York, NY
- B. CarePartners Pharmacy LLC – Libertyville, IL
- C. Corner Pharmacy, Inc. – Phoenix, AZ
- D. Cornerstone Health Solutions – Randolph, MA
- E. Grand Rx – Richmond, TX
- F. InnovaScript – Indiana, PA
- G. Kaiser Permanente Pharmacy #985 – Downey, CA
- H. Kaiser Permanente Sterling Automated Refill Center – Sterling, VA
- I. LifeScript Pharmacy, PLLC – Fargo, ND
- J. Mathew Management IV, Inc. – Delray Beach, FL
- K. Patient Choice Pharmacy – Sugar Land, TX
- L. RareMed Solution – Pittsburgh, PA
- M. Relief Med Pharmacy – Conroe, TX
- N. Roman Health Pharmacy, LLC – Phoenix, AZ
- O. UrgentMedRx, LLC – Boca Raton, FL
- P. VectraRx Mail Pharmacy Services, LLC – Oro Valley, AZ

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

- Q. Carefirst Specialty Pharmacy – Cinnaminson, NJ
- R. Millennium Specialty Pharmacy – Winter Park, FL
- S. ProLab Pharmacy – Paris, TX

Applications for Out-of-State Medical, Devices, Equipment and Gases – Non Appearance

- T. Ashli Healthcare Inc. – Bakersfield, CA
- U. Cardinal Health 200, LLC – Olive Branch, MS
- V. Coosa Valley Respiratory & Home Medical, Inc. – Sylacauga, AL

- W. Handpiece Headquarters – Placentia, CA
- X. Heart Sail Medical – Decatur, AL
- Y. Lincare Inc. – Middletown, OH
- Z. London Medical Supply LLC – Wake Forest, NC
- AA. Teleflex LLC – Olive Branch, MS
- BB. Wound Care Resources, Inc. – Yorkville, TN

Applications for Nevada Ambulatory Surgery Center – Non Appearance

- CC. Cimarron Surgery Center – Las Vegas, NV
- DD. Surgeon’s Surgery Center – Las Vegas, NV

Application for Nevada Pharmacy – Non Appearance

- EE. Partell Specialty Pharmacy – Las Vegas, NV

Board Action:

Motion: Kevin Desmond moved to approve the Consent Agenda as presented.

Second: Melissa Shake

Action: Passed unanimously

5. Discipline

- A. Christopher Nevarez, MD (19-090-CS-S)

Dr. Nevarez was not present.

Bridgette Kelly was present as counsel representing Dr. Nevarez.

Mr. Edwards summarized the facts of the case where Dr. Nevarez was the medical director of Push IV, LLC in February 2018. At that time, Push IV provided on-site and off-site medical treatment to patients, including the administration of dangerous drugs through intravenous therapy and/or injections using registered nurses and licensed paramedics. Dr. Nevarez allowed non-practitioner staff members to possess the information and keys necessary to access and possess drugs from Push IV’s inventory of dangerous drugs without a licensed practitioner present. Dr. Nevarez directed and allowed non-practitioner staff to possess and control dangerous drugs from Push IV’s inventory, including storing dangerous drugs in their cars or at their homes. Dr. Nevarez frequently did not examine and did not establish a bona fide therapeutic relationship with the patient.

Mr. Edwards presented a Stipulation and Order for the Board’s consideration. He explained that there are four Causes of Action listed in the Stipulation and Order and explained that after further investigation, Board Staff is withdrawing the Fourth Cause of Action.

Dr. Nevarez shall receive a Letter of Reprimand, shall pay a total fine of \$1,500.00 and an administrative fee of \$1,500.00. Dr. Nevarez shall notify and seek approval from the Board before becoming the medical director or practicing in any practice in which a substantial portion of the practice is providing injections or intravenous infusions of vitamins or fluids for rehydration.

Ms. Kelly explained that Dr. Nevarez no longer works at Push IV and is in agreement with the Stipulation and Order as presented.

Board Action:

Motion: Jade Jacobo moved to accept the Stipulation and Order as presented.

Second: Wayne Mitchell

Action: Passed unanimously

B. Douglas Ross, MD (17-100-CS-S)

Douglas Ross appeared and was sworn by President Penrod prior to answering questions or offering testimony.

Bridgette Kelly was present as counsel representing Dr. Ross.

Mr. Edwards summarized the facts of the case where Dr. Ross was the medical director of Infuze LV, LLC in October 2017. Dr. Ross allowed and directed non-practitioner staff members to access, possess and administer dangerous drugs to patients by intravenous and intramuscular injections. Dr. Ross frequently had no contact and did not examine the patient to establish a bona fide therapeutic relationship with the patient.

Mr. Edwards presented a Stipulation and Order for the Board's consideration regarding Dr. Ross.

Dr. Ross shall receive a Letter of Reprimand, shall pay a \$1,500.00 fine and a \$1,500.00 administrative fee. Dr. Ross shall establish and put into practice policies and procedures within his offices/clinics to ensure that a bona fide relationship between the patient and practitioner ordering a controlled substance or dangerous drug exists before any drug is ordered or administered, the practitioner who examines the patient and orders the drug maintains exclusive possession and control of the medication until after he or she creates a patient-specific and medication-specific order for the administration of the medication and to ensure proper possession and control of the medications.

Dr. Ross had no objections to the Stipulation and Order presented.

Board Action:

Motion: Kevin Desmond moved to accept the Stipulation and Order as presented.

Second: Melissa Shake

Action: Passed unanimously

C. Eric Math, MD (19-083-CS-N)

Dr. Math was not present.

Mr. Kandt summarized the facts of the case where on June 3, 2019, Dr. Math completed a DEA 104 Surrender for Cause. On or about June 4, 2019, Board Staff notified Dr. Math that his surrender of DEA Certificate of Registration No. BM4705616 for cause operated as an immediate suspension of his Controlled Substance Registration No. CS04598.

Mr. Kandt explained that Dr. Math was notified of the suspension of his license and was also served a Notice of Intended Action and Accusation.

Mr. Kandt stated that he contacted Dr. Math's attorney who requested that this matter be continued to a future meeting due to a pending criminal case.

Mr. Kandt stated that Dr. Math's suspension would remain in effect until the hearing.

D. Eghomware Igbinovia, R.Ph (18-082-RPH-S and 18-131-RPH-S Consolidated)
E. ACRX Specialty Pharmacy (18-082-PH-S and 18-131-PH-S Consolidated)

Eghomware Igbinovia was not present.

Jay Devoy was present as counsel representing Mr. Igbinovia.

Mr. Kandt summarized the facts of the case where Mr. Igbinovia was the owner and managing pharmacist at ACRX Specialty Pharmacy where multiple compounding issues and record keeping issues were discovered by Board Inspectors during inspections of ACRX Specialty Pharmacy.

Mr. Kandt presented a Stipulation and Order regarding Mr. Igbinovia and ACRX Specialty Pharmacy.

The Respondents shall drop all pending litigation against the Board of Pharmacy. ACRX Specialty Pharmacy shall have up to quarterly inspections at the company's expense until either the FDA issues a close-out letter or for one year. Mr. Igbinovia shall complete a course on sterile compounding.

Board Action:

Motion: Melissa Shake moved to approve the Stipulation and Order as presented.

Second: Jade Jacobo

Action: Passed unanimously

6. Hearing pursuant to NRS 233B.121 to contest ACRX Specialty Pharmacy's involuntary closure pursuant to NAC 639.570 – 19-044-PH-S NOTE: The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of any of the below named parties.

No further action was taken due to the Stipulation and Order approved under Item 5 D & E.

7. Applications for Nevada Pharmacy – Appearance

- A. Alto Pharmacy – Las Vegas, NV

Emil Patel, Vice President and pharmacist, and Rory Wright, managing pharmacist, appeared and were sworn by President Penrod prior to answering questions or offering testimony.

Mr. Patel stated that Alto Pharmacy is a retail pharmacy that would primarily serve as the preferred dispensing pharmacy for Teachers Health Plan.

Mr. Patel and Mr. Wright answered questions to the Board's satisfaction regarding Alto Pharmacy's products and services provided, policies and procedures, advertising, ownership and Mr. Patel's and Mr. Wright's pharmacy experience.

After discussion, the Board encouraged Mr. Patel and Mr. Wright to contact Board Staff to approve their building plans prior to building.

Board Action:

Motion: Melissa Shake moved to approve Alto Pharmacy's Application for Nevada Pharmacy pending a positive inspection. Alto Pharmacy shall have up to quarterly inspections at the company's expense (\$500 maximum per inspection). Board Staff is authorized to evaluate and cancel additional inspections.

Second: Jade Jacobo

Action: Passed unanimously

- B. Pahrump Wellness Pharmacy and Nutrition Center – Pahrump, NV

Jade Jacobo disclosed that she knows Mr. Rogaski and stated that she can participate in this matter fairly and without bias.

President Penrod disclosed that he has worked with Mr. Rogaski and stated that he can participate in this matter fairly and without bias.

Thomas Rogaski, managing pharmacist, and Justin Curnutt, owner, appeared and were sworn by President Penrod prior to answering questions or offering testimony.

Mr. Curnutt stated that Pahrump Wellness Pharmacy is a retail pharmacy that provides non-sterile compounding services.

Mr. Curnutt answered questions regarding his past discipline, employment, and how he has kept up his pharmacy knowledge since he last practiced.

Mr. Rogaski answered questions to the Board's satisfaction regarding his work history, pharmacy experience and past discipline.

The Board questioned Mr. Rogaski and Mr. Curnutt regarding Pahrump Wellness Pharmacy's products and services provided and compounding procedures.

After discussion, the Board expressed concern regarding Mr. Curnutt's and Mr. Rogaski's lack of experience with non-sterile compounding.

President Penrod offered Mr. Curnutt the option to table Pahrump Wellness Pharmacy's application to allow Mr. Curnutt and Mr. Rogaski time to become familiar with non-sterile compounding laws and practices.

The Board tabled Pahrump Wellness Pharmacy's application at Mr. Curnutt's request.

8. Applications for Out-of-State Pharmacy – Appearance

A. A & W Pharmacy – Duchesne, UT

Wade Poulson, managing pharmacist and owner, appeared and was sworn by President Penrod prior to answering questions or offering testimony.

Mr. Poulson explained that A & W Pharmacy provides non-sterile compounding and mail services to patients.

Mr. Wuest stated that Mr. Poulson contacted Board Staff to self-report that A & W Pharmacy had shipped prescriptions into Nevada without a valid license. He stated that Mr. Poulson was forthright with Board Staff and is applying to correct their error.

Mr. Poulson answered questions to the Board's satisfaction regarding the company's policies and procedures, product testing, clean room specifications and current disciplinary status in Utah.

Board Action:

Motion: Melissa Shake moved to approve A & W Pharmacy's Application for Out-of-State Pharmacy License with conditions. A & W Pharmacy shall provide a copy of their recent inspection and documentation of the company's pending discipline in Utah. Board Staff is authorized to review and evaluate A & W

Pharmacy's inspection and discipline documentation. Board Staff may decide to inspect A & W Pharmacy at the company's expense.

Second: Jade Jacobo

Action: Passed unanimously

B. Edgepark Medical Supplies – Twinsburg, OH

This matter was continued to a future Board Meeting.

C. Westmoreland Pharmacy, Inc. – New Albany, IN

Anthony Westmoreland, owner, appeared and was sworn by President Penrod prior to answering questions or offering testimony.

Ms. Long questioned Mr. Westmoreland regarding Westmoreland Pharmacy's policies and procedure, products provided, product testing, pharmacy layout, compounding training and past discipline.

Mr. Westmoreland answered questions to the Board's satisfaction.

Board Action:

Motion: Gener Tejero moved to approve Westmoreland Pharmacy, Inc.'s Application for Out-of-State Pharmacy for non-sterile compounding services pending Board Staff review and approval of the company's PCAB inspection and Indiana Board of Pharmacy inspection.

Second: Melissa Shake

Action: Passed unanimously

9. Application for Out-of-State Compounding Pharmacy – Appearance

PharmaCorr, LLC – Oklahoma City, OK

Dawn Mustain, managing pharmacist, appeared and was sworn by President Penrod prior to answering questions or offering testimony.

Ms. Mustain stated that she would provide a Letter of Authorization allowing her to speak on behalf of the company.

Ms. Mustain stated that PharmaCorr, LLC is an Out-of-State Compounding pharmacy that provides parenteral and mail services to patients.

Ms. Mustain answered questions to the Board's satisfaction regarding PharmaCorr, LLC's policies and procedures, products and services provided and her work history.

Board Action:

Motion: Kevin Desmond moved to approve PharmaCorr, LLC's Application for Out-of-State Compounding Pharmacy pending receipt of a Letter of Authorization allowing Ms. Mustain to speak on behalf of the company.

Second: Jade Jacobo

Action: Passed unanimously

10. Application for Out-of-State Outsourcing Facility – Appearance
SterRx, LLC – Plattsburg, NY

This matter was continued to a future Board meeting.

11. Applications for Nevada Medical, Devices, Equipment and Gases – Appearance
- A. AA Medical (Rancho Drive) – Las Vegas, NV
 - B. AA Medical (Eastern Avenue) – Las Vegas, NV

Shantea Dixon, Regional Compliance Manager, and Billy Smith, Regional Director, appeared and were sworn by President Penrod prior to answering questions or offering testimony.

Ms. Dixon and Mr. Smith explained that AA Medical is applying for ownership change approval.

Ms. Dixon and Mr. Smith answered questions to the Board's satisfaction regarding the new ownership, staff and products and services provided.

Board Action:

Motion: Kevin Desmond moved to approve AA Medical's (Rancho Drive) and (Eastern Avenue) Ownership Change Application's for Nevada MDEG License.

Second: Jade Jacobo

Action: Passed unanimously

- C. All Time Health Care – Las Vegas, NV

This matter was continued to a future Board Meeting.

- D. Foothill Medical Supply, LLC – Las Vegas, NV

Wayne Reaves, owner and manager, appeared and was sworn by President Penrod prior to answering questions or offering testimony.

Mr. Reaves stated that Foothill Medical Supply, LLC will deliver medical supplies and oxygen to home-bound patients.

The Board questioned Mr. Reaves regarding the products and services provided by Foothill Medical Supply, LLC.

After discussion, the Board expressed concern that Mr. Reaves was unable to answer their questions.

President Penrod offered Mr. Reaves the option to table Foothill Medical Supply, LLC's application to allow the MDEG Administrator to appear and answer the Board's questions.

The Board tabled Foothill Medical Supply, LLC's application at Mr. Reaves request.

E. Optima Prosthetics & Orthotics, LLC – Reno, NV

Susan Norell, administrator, and Cynthia Wilson, owner, appeared and were sworn by President Penrod prior to answering questions or offering testimony.

Ms. Norell answered questions to the Board's satisfaction regarding Optima Prosthetics & Orthotics products and services provided, her work history and experience with prosthetic and orthotic products.

Ms. Wilson answered questions to the Board's satisfaction regarding her past discipline.

Board Action:

Motion: Melissa Shake moved to approve Optima Prosthetics & Orthotics, LLC's Application for Nevada MDEG License pending a positive inspection

Second: Kevin Desmond

Action: Passed unanimously

Jade Jacobo was not present for this matter.

12. Request for Nevada Medical, Devices, Equipment and Gases Renewal – Appearance
Field Ocular Prosthetics LLC

This matter was continued to a future meeting.

13. Applications for Controlled Substance Registration - Appearance:

A. Kristin Hestdalen, MD

This matter was continued to a future meeting.

B. David J. Smith, MD

David Smith appeared and was sworn by President Penrod prior to answering questions or offering testimony.

Mr. Kandt stated that Dr. Smith disclosed pending discipline in California on his application for controlled substance registration.

Mr. Kandt summarized the facts of the pending case in California.

Robert Odell, physician, and Barbara Rosigno, RN, appeared and were sworn by President Penrod prior to answering questions or offering testimony.

Dr. Odell and Ms. Rosigno expressed support of Dr. Smith obtaining his Nevada Controlled Substance Registration and answered questions regarding the prescribing procedures and workflow in their clinic.

After discussion, President Penrod offered Dr. Smith the option to table his application until the matter with California is resolved.

The Board tabled Dr. Smith's application at his request.

14. Application for Practitioner Dispensing Registration - Appearance:

Bruce K. Fong, DO

Gener Tejero disclosed that his pharmacy fills prescriptions written by Dr. Fong, but stated that he can participate in this matter fairly and without bias.

Bruce Fong appeared and was sworn by President Penrod prior to answering questions or offering testimony.

Mr. Kandt stated that Dr. Fong disclosed prior discipline on his application for practitioner dispensing registration.

Mr. Kandt summarized the facts of the case where Dr. Fong was dispensing medications out of his office without proper licensure.

Dr. Fong stated that Board Staff notified him of his violation and explained that his office immediately ceased dispensing until he was issued his practitioner dispensing registration.

Dr. Fong answered questions to the Board's satisfaction regarding his past discipline.

Board Action:

Motion: Melissa Shake moved to approve Bruce Fong's Application for Practitioner Dispensing Registration pending a positive inspection.

Second: Jade Jacobo

Action: Passed unanimously

15. Application for Pharmacist Renewal - Appearance:

Gurpartap Basrai

Gurpartap Basrai appeared and was sworn by President Penrod prior to answering questions or offering testimony.

Mr. Edwards stated that Mr. Basrai had appeared before the Board in January 2018. At that time, the Board tabled Mr. Basrai's request for renewal of his pharmacist registration until his pending case in California was resolved.

Mr. Basrai explained that he was the owner of a pharmacy that was being investigated by the California Board of Pharmacy for substantial losses of hydrocodone and alprazolam.

Mr. Basrai explained that due to his involvement in that case his California Pharmacist License was revoked, the revocation was stayed and his license was placed on probation for five years with conditions. He testified that he no longer owns any pharmacies in California and is in compliance with his California Order.

Board Action:

Motion: Gener Tejero moved to approve Gurpartap Basrai's request for renewal with conditions. Mr. Basrai's Nevada Pharmacist Registration shall be placed on probation to match his probation in California. Mr. Basrai shall notify Board Staff of any changes with his status in California. Mr. Basrai must comply with all terms and conditions of his California Order and he shall appear before the Board for approval if he wishes to work as a pharmacist in Nevada.

Second: Kevin Desmond

Action: Passed unanimously

Public Comment September 5, 2019 9:00 AM

There was no public comment.

16. Discussion: Nevada's Opioid Response Summit was held August 14th and 15th. During this summit, licensees and stakeholder questioned if there was an activity that the Board of Pharmacy could undertake to increase communication between licensees related to the prescribing and dispensing of opioid prescription.

Elyse Monroy, Division of Public and Behavioral Health OPHI, appeared and provided a brief summary of the topics discussed during Nevada's Opioid Response Summit. Ms. Monroy

stated that the Summit included speakers and panels on a variety of topics including, overdose education and Naloxone training, Open Beds, sessions on prescribing for pain and addiction treatment.

Beth Slemitz, Medicaid, appeared and explained that the Summit focused on better communication between pharmacists and practitioners in order to improve patient care. Ms. Slemitz encouraged the Board to seek out more opportunities to educate pharmacists and encouraged pharmacists to participate in groups and events that combat the Opiate Crisis.

President Penrod opened the Public Comment.

Cat O'Mara, NSMA, appeared and discussed increasing communication between pharmacists and physicians and the changing roles and responsibilities of pharmacists and physicians. Ms. O'Mara expressed support of increasing education to all parties.

Tida Watkins, pharmacist, appeared and expressed support for providing more education to pharmacists.

President Penrod closed the Public Comment.

Ms. Long presented information regarding the results of AB 474.

Board discussion ensued regarding forming a workgroup including pharmacists and practitioners to discuss how to increase communication between all parties and provide more education.

Board Action:

Motion: Jade Jacobo moved to create a Workgroup at the Executive Secretary's discretion.

Second: Kevin Desmond

Action: Passed unanimously

17. Nevada Ethics Law Training Provide by Yvonne M. Nevarez-Goodson, Esq.
Executive Director of the Nevada Commission on Ethics

Ms. Nevarez-Goodson, appeared and presented information regarding Nevada Law pertaining to ethics and the role of the Ethics Committee.

18. General Counsel Report

General Counsel had nothing further to report.

19. Executive Secretary Report:

A. Financial Report

Mr. Wuest explained that Board Staff is currently going through a financial audit and that the report would be available at the next meeting.

B. Temporary Licenses

Three temporary licenses have been issued since the last Board Meeting.

C. Staff Activities:

1. Meetings with Other Health Care Boards
2. Presentation to UNLV School of Medicine
3. Nevada Opioid Response Summit
4. Open Beds Meeting
5. Controlled Substance Task Force Meeting
6. Three Stick Production

D. Report to Board:

1. Licensing software update

E. Board Related News:

1. NABP District Meeting - Boise

F. Licensing Activities Report:

1. PMP Integration
2. Online CE activity
3. Renewals

20. Notice of Proposed Regulation Public Hearing Pursuant to NRS 233B.061(2):

1. **Amendment of Nevada Administrative Code (NAC) 639.250: Restrictions on supervision.** The proposed amendment will authorize a pharmacist to supervise not more than a total of eight pharmaceutical technicians or six pharmaceutical technicians in training at one time in any non-dispensing pharmacy. (LCB File No. R002-19)

Ms. Long provided background information and read Sections 2, 4 and 6 into the record.

Mr. Wuest presented a packet of written public comment.

President Penrod opened the Public Comment.

Liz MacMenamin, RAN, appeared and was sworn by President Penrod prior to answering questions or offering testimony.

Ms. MacMenamin expressed support of the proposed language.

Mary Staples, National Association of Chain Drug Stores, appeared and was sworn by President Penrod prior to answering questions or offering testimony.

Ms. Staples expressed support of the proposed language.

Board Action:

Motion: Melissa Shake moved to adopt R002-19.

Second: Jade Jacobo

Action: Passed unanimously

- 2. Amendment of Nevada Administrative Code (NAC) 453.520: Schedule II.** The proposed amendment will add FDA approved dronabinol oral solutions to the controlled substances listed in Schedule II. (LCB File No. R001-19)

Ms. Long provided background information.

President Penrod opened the Public Comment.

There was no public comment.

Board Action:

Motion: Kevin Desmond moved to adopt R001-19 as presented.

Second: Melissa Shake

Action: Passed unanimously

- 3. Amendment of Nevada Administrative Code (NAC) Chapter 639.** The proposed amendment will add a new regulation authorizing the State Board of Pharmacy to require an applicant for a certificate, license or permit to pay any costs of inspection incurred by the Board. (LCB File No. R005-19)

Mr. Kandt provided background information.

Board discussion ensued regarding clarification for Section 8.

President Penrod opened the Public Comment.

There was no public comment.

Board Action:

Motion: Jade Jacobo moved to adopt the proposed language with modifications to Section 8 as discussed.

Second: Melissa Shake

Action: Passed unanimously

4. **Amendment of Nevada Administrative Code (NAC) 639.220: Schedule of fees.** The proposed amendments to NAC 639.220 will increase the fees for the application for an initial registration, and the biennial renewal of a registration, as a registered pharmacist, pharmaceutical technician or pharmaceutical technician in training, or for authorization to prescribe or possess controlled substances, to cover the cost of maintaining the computerized program developed pursuant to NRS 453.162. (LCB File No. R034-19)

Mr. Wuest provided background information and presented the proposed fee increases for pharmacist, technician and controlled substance registrations.

President Penrod opened the Public Comment.

Cat O'Mara, NSMA, appeared and was sworn by President Penrod prior to answering questions or offering testimony.

Ms. O'Mara expressed opposition to the proposed language and suggested the Board consider increasing the controlled substance registration gradually overtime. She asked the Board to be mindful of the increasing costs of properly licensing, maintaining and operating a medical office.

Ms. O'Mara stated that she received a call from Dr. Fong, DO and President of the Osteopathic Medical Association, and he expressed to Ms. O'Mara that they are also in opposition to the proposed language and fee increases.

Board discussion ensued that based on the direction of the Sunset Committee and increasing costs being placed on the Board that the proposed fee increases are fair.

Board Action:

Motion: Jade Jacobo moved to adopt the proposed language.

Second: Melissa Shake

Action: Passed unanimously

21. Notice of Proposed Regulation Workshop Pursuant to NRS 233B.061(2)

1. **Amendment of Nevada Administrative Code (NAC) 639.240 (Requirements for registration of pharmaceutical technicians), 639.242 (Registration of pharmaceutical technician in training) and 639.7425 (Registration of dispensing technician).** The proposed amendments to the existing registration requirements for a pharmaceutical technician, pharmaceutical technician in training, and dispensing technician would remove prior criminal convictions or past history of drug abuse as mandatory disqualifiers from licensure and make denial for prior criminal convictions

or past history of drug abuse permissive consistent with the statutory requirements for other license categories.

Mr. Kandt provided background information.

President Penrod opened the Public Comment.

There was no public comment.

Board Action:

Motion: Wayne Mitchell moved to adopt the proposed language and move forward to Public Hearing.

Second: Melissa Shake

Action: Passed unanimously

- 2. Amendment of Nevada Administrative Code (NAC) Chapter 639.** The proposed amendments will add a new regulation requiring a new managing pharmacist to complete 2 extra hours of continuing education on pharmacy management within one year of approval as the managing pharmacist.

Mr. Wuest and Mr. Kandt provided background information. They explained that the proposed language was crafted to help new graduate pharmacists and new pharmacy managers' transition into their new roles.

President Penrod opened the Public Comment.

Tida Watkins, pharmacist, expressed support for the proposed language and explained that she believes this would have helped her greatly when she first became a managing pharmacist.

Board discussion ensued regarding having Board Staff create a video CEU regarding the role of a supervising pharmacist and the duties of a managing pharmacist. The Board also discussed Board Staff providing a live CEU training within the first year a pharmacist is named the managing pharmacist.

- 3. Amendment of Nevada Administrative Code (NAC) Chapter 639.** The proposed amendments will add a new regulation requiring any discipline imposed by the Board to be reported to the National Practitioner Data Bank and to any professional licensing board that licenses a practitioner, and require any final decision that a person has engage in unlicensed practice in this state be reported to the National Practitioner Data Bank and to any professional licensing board that licenses a practitioner.

Mr. Kandt provided background information. He explained that the proposed language codifies the current practice of the Board.

Ms. Shake requested a correction to Sections 1 and 2 to read that “practitioner that was subject to discipline,” and “practitioner that was engaged in unlicensed practice in this state.”

President Penrod opened the Public Comment.

There was no public comment.

Board Action:

Motion: Melissa Shake moved to adopt the proposed language with corrections and move forward to Public Hearing.

Second: Jade Jacobo

Action: Passed unanimously

- 4. Amendment of Nevada Administrative Code (NAC) Chapter 639.** The proposed amendments will add a new regulation requiring that the Executive Secretary, upon notice that an occupational licensing board that licenses a practitioner has placed that license on inactive status, place any certificate of registration issued by the Board to that practitioner pursuant to NRS 453.226 on inactive status, providing for notice to the practitioner of placement on inactive status, providing for a process to petition for reinstatement of a registration to active status, and providing a process for a registrant to request a hearing before the Board to contest or appeal the placement of a registration on inactive status or the denial of a petition for reinstatement of the registration to active status.

Mr. Kandt and Mr. Wuest provided background information.

President Penrod opened the Public Comment.

There was no public comment.

Board discussion ensued regarding the use of the word registration and/or license.

Board Action:

Motion: Jade Jacobo moved to adopt the proposed language with a correction to have Board Staff verify if the word registration or license should be used, and move forward to Public Hearing.

Second: Kevin Desmond

Action: Passed unanimously

5. Amendment of Nevada Administrative Code (NAC) 639.250: Restrictions on supervision. The proposed amendment to NAC 639.250 will allow for an increase in pharmaceutical technician to pharmacist ratio in certain pharmacy settings.

Mr. Edwards provided background information and explained that the proposed language brought the pharmacist to pharmaceutical technician ratio to 4:1.

President Penrod opened the Public Comment.

Mary Staples, National Association of Chain Drug Stores, appeared and expressed opposition to the proposed language. Ms. Staples stated that a 4:1 pharmacist to technician ratio and the elimination of pharmacy clerks would create a worse working environment for pharmacists. Ms. Staples requested the Board consider removing the ratio or increasing it to 8:1.

Jeffrey Sinco, CVS Health appeared and expressed opposition to the proposed language. Mr. Sinco stated that the proposed ratio of 4:1 would not provide pharmacists with adequate help.

Aaron Kim, pharmacist, appeared and stated that in some pharmacies, pharmacist hours are being cut. He expressed that an increase in pharmacist help and more education for pharmaceutical technicians would be more helpful for pharmacists.

President Penrod disclosed that Mr. Kim worked for him as a pharmaceutical technician, and stated that he could participate in this matter fairly and without bias.

Lorrie Walmsley, Walgreens and Arizona State Board of Pharmacy Member, appeared and expressed opposition to the proposed language. Ms. Walmsley stated that the 4:1 ratio would not provide pharmacists with adequate help.

Liz MacMenamin, RAN, appeared and expressed opposition to the proposed language. Ms. MacMenamin expressed concern that a ratio of 4:1 without pharmacy clerks would prevent pharmacies from being staffed appropriately to address the needs of patients.

Mr. Edwards clarified that pharmacy clerks still exist in the proposed language, and explained the duties that clerks are allowed to perform.

President Penrod closed the public comment.

Board discussion ensued regarding the changing roles of pharmacists and other ratio options.

Board Action:

Motion: Kevin Desmond moved to adopt the proposed language and move forward to Public Hearing.

Second: Gener Tejero

Aye: Desmond, Mitchell, Tejero
Nay: Jacobo, Shake, Sullivan

President Penrod voted Nay.

Action: Motion does not carry

- 6. Amendment of Nevada Administrative Code (NAC) 453.510: Schedule I.** The proposed amendment to NAC 453.510 will add newly identified synthetic cannabinoid, cathinones and opiates to the controlled substances listed in Schedule I.

Yenh Long provided background information.

President Penrod opened the Public Comment.

There was no public comment.

Board Action:

Motion: Jade Jacobo moved to adopt the proposed language and move forward to Public Hearing.

Second: Melissa Shake

Action: Passed unanimously

22. Discussion on the matter of *ACRX Specialty Pharmacy, Inc., a Nevada Corporation; and Eghomware Igbinovia, a/k/a Jerry Igbinovia, an individual vs. Nevada State Board of Pharmacy*, 8th J.D. Case No. A-19-798928-C. Please note that during this agenda item the Board may adjourn the meeting and exclude the public for an attorney-client conference on existing litigation pursuant to NRS 241.015(3)(b)(2).

The Board called a brief recess to discuss pending litigation regarding ACRX Specialty Pharmacy and Eghomware Igbinovia and the Nevada State Board of Pharmacy.

23. Approval of 2020 Board Meeting Dates

Mr. Wuest presented the 2020 Board Meeting dates.

Board Action:

Motion: Kevin Desmond moved to approve the 2020 Board Meeting Dates as presented.

Second: Wayne Mitchell

Action: Passed unanimously

Gener Tejero and Jade Jacobo were not present for this matter.

24. Discussion: How does the following law effect pharmacist working in pharmacy;

NRS 608.019 Periods for meals and rest.

1. An employer shall not employ an employee for a continuous period of 8 hours without permitting the employee to have a meal period of at least one-half hour. No period of less than 30 minutes interrupts a continuous period of work for the purposes of this subsection.

2. Every employer shall authorize and permit all his or her employees to take rest periods, which, insofar as practicable, shall be in the middle of each work period. The duration of the rest periods shall be based on the total hours worked daily at the rate of 10 minutes for each 4 hours or major fraction thereof. Rest periods need not be authorized however for employees whose total daily work time is less than 3 and one-half hours. Authorized rest periods shall be counted as hours worked, for which there shall be no deduction from wages.

3. This section does not apply to:

(a) Situations where only one person is employed at a particular place of employment.

(b) Employees included within the provisions of a collective bargaining agreement.

4. An employer may apply to the Labor Commissioner for an exemption from providing to all or to one or more defined categories of his or her employees one or more of the benefits conferred by this section. The Labor Commissioner may grant the exemption if the Labor Commissioner believes the employer has shown sufficient evidence that business necessity precludes providing such benefits. Any exemption so granted shall apply to members of either sex.

5. The Labor Commissioner may by regulation exempt a defined category of employers from providing to all or to one or more defined categories of their employees one or more of the benefits conferred by this section, upon the Labor Commissioner's own motion or upon the application of an association of employers. Each such application shall be considered at a hearing and may be granted if the Labor Commissioner finds that business necessity precludes providing that particular benefit or benefits to the employees affected. Any exemption so granted shall apply to members of either sex.

(Added to NRS by [1975, 1583](#); A [1977, 82](#))

Should standards be set for limits regarding pharmacist workload?

Board discussion ensued regarding Nevada Labor Laws and current pharmacy practices.

After discussion, the Board directed Board Staff to find out about pharmacy practices in other states and to write an article about the Nevada Labor Laws for the Board's newsletter.

25. Date and Location of Next Scheduled Board Meeting:

October 9-10, 2019 – Las Vegas, Nevada

26. Public Comment September 5, 2019 3:00 PM

There was no public comment.