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MATRIX GUIDELINE FOR DISCIPLINARY ACTIONS

	1st Action	2nd Action	3rd Action
Non ingested error	Letter	Letter	Hearing
No counseling	\$750.00	Counseling CE + \$1000.00	Hearing
Administrative fee	\$495.00	\$495.00	\$495.00
Ingested no potential harm	\$500.00	\$1000.00	Hearing
Ingested with potential harm or adverse outcomes	\$1000.00	Hearing	Hearing
Ingested with negative outcome or patient discomfort. No institution intervention	Hearing	Hearing	Hearing
Ingested with significant negative health circumstance. With institution admit	Hearing	Hearing	Hearing
Ingested with death related to inappropriate drug therapy	Hearing	Hearing	Hearing

The investigative committee will review each case individually and may recommend a board hearing, particularly with mitigating circumstances such as inappropriate technician involvement or pharmacist malfeasance.

In certain cases with ingested errors and significant negative health circumstances requiring institutional care, the investigative committee recommendation will be a board hearing.

In all death cases resulting from inappropriate drug therapy a board hearing will occur.

Attorney fees will be added costs in contested disciplinary actions requiring extensive attorney preparation and presentation and are not described in the above matrix.

The board has directed that ownership may be charged in disciplinary cases. In non-ingested errors copies of admonition letters will be sent to management. Accumulative actions for ownership monitoring will be based upon a 3 year period. All actions including non-ingested errors will be given a case number and monitored.

The Board has the authority to fine from \$0.00 to \$10,000 for each Cause of Action.

Updated August 2014

FINDING	HARM	DISCIPLINE INDIVIDUAL	DISCIPLINE FACILITY
RPH DC and WB did not complete required CEs.	N/A	DC: \$500 fine; \$1,000 administrative fee; additional CEs; attend 3 of the next 4 Board meetings; complete and pass Nevada law. WB: \$500 fine; \$1,000 administrative fee; additional CEs; attend 3 of the next 4 Board meetings.	
RPH SB failed to speak to the prescriber before, at the time or after she declined to fill a patient's prescription for clopidogrel.	N/A	Fined \$500; administrative fee of \$1,000; 4 hours of CE related to cardiology or cardiac drugs.	Fined \$1,000; an administrative fee of \$2,000; establish Board-approved policies and procedures that are consistent with Nevada law and retrain its current and future pharmacists regarding the same.
RP allowed unlicensed staff to prescribe/order dangerous drugs and use his authority to obtain, administer, access and/or possess an inventory of dangerous drugs when he was not onsite and without his direct supervision. RP did not have a bona fide therapeutic relationship with the patients. RP purchased compounded dangerous drugs from a pharmacy not licensed with the Board.	N/A	RP shall receive a public letter of reprimand; his CS registration shall be placed on probation for a period of 12 months; fined \$5,000; administrative fee of \$2,500; establish policies and procedures. RP's offices/clinics are subject to quarterly inspections for one year.	N/A
RPH NR verified a prescription for 30 chlordiazepoxide 25 mg. capsules which was labeled and dispensed to the wrong patient. RPH JA failed to counsel the patient. PT LP deleted the prescription from the pharmacy system. ML was the managing pharmacist.	N/A	NR shall receive a letter of reprimand; fined \$2,750; 2 additional hours of CE on error prevention. JA shall receive a letter of reprimand; fined \$750; 2 additional hours of CE on patient counseling. LP fined \$500; \$1,000 administrative fee; attend three of the Board's next four	\$1,000 fine; \$1,500 administrative fee.

FINDING	HARM	DISCIPLINE INDIVIDUAL	DISCIPLINE FACILITY
		meetings on disciplinary day. ML shall complete 4 additional hours of CE on pharmacy management.	

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DEC 13 2018

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-070-RPH-S
	)	17-070-PH-S
Petitioner,)	
v.)	
)	
JAIME CORDOBA-HERNANDEZ, RPH	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 17533, and	)	AND ACCUSATION
)	
ALL CITY PHARMACY, LLC)	
Certificate of Registration No. PH03609,)	
)	
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, respondents Jaime Cordoba-Hernandez (Cordoba-Hernandez), Certificate of Registration No. 17533, was a pharmacist registered by the Board, and respondent All City Pharmacy, LLC, Certificate of Registration No. PH03609 (All City Pharmacy), was a pharmacy registered by the Board.

DISCIPLINARY HISTORY

II.

In September 2012, the Board entered a Findings of Fact, Conclusions of Law and Order (Order) in the case of *Board of Pharmacy v. Jaime Cordoba-Hernandez*, Case No. 12-056-RPH-S. In that case, Cordoba-Hernandez dispensed a dangerous drug without a legitimate medical need and without a lawful prescription. He created a fraudulent prescription and dispensed the

dangerous drug to a patient who was a personal friend. As a result, the Board revoked Cordoba-Hernandez's pharmacist registration.

III.

In March 2014, Cordoba-Hernandez appeared before the Board and requested reinstatement of his pharmacist registration. The Board reinstated Cordoba-Hernandez's pharmacist registration subject to a two-year probation with conditions.

IV.

In February 2015, the Board entered another Order against Cordoba-Hernandez in *Board of Pharmacy v. Jaime Cordoba-Hernandez*, Case 14-086-RPH-S. In that Order, the Board found Cordoba-Hernandez guilty of unprofessional conduct for failing to fully comply with the terms and conditions of his probation set forth by the Board at the March 2014, board meeting and September 2012 Order. The Board revoked Cordoba-Hernandez's pharmacist registration, stayed the revocation, and placed his pharmacist registration on probation for two years with conditions.

FACTUAL ALLEGATIONS

V.

On July 18, 2017, Dr. Dhaval Shah sent a prescription to Alta Care Home Health (Alta Care) for IV Vancomycin 1G every 12Hr for 2 weeks for patient P.L. The physician clearly stated on the prescription that "Pharm to dose Abx" and "Vanco trough weekly".

VI.

Justin Reyes, a quality assurance representative from Alta Care, called Cordoba-Hernandez regarding the prescription. Cordoba-Hernandez was the managing pharmacist at All City Pharmacy. Cordoba-Hernandez represented that All City Pharmacy could provide the intravenous medication for the patient and the prescription was subsequently transmitted by facsimile machine to All City Pharmacy.

VII.

Thereafter, without consulting Dr. Shah, Cordoba-Hernandez accepted a verbal prescription from Mr. Reyes, who is not a clinician and not an agent of the prescribing physician, to change the Vancomycin quantity to 30 vials instead of the prescribed 28. The label for this medication lists Dr. Shah as the ordering practitioner.

VIII.

On July 19, 2017, Cordoba-Hernandez prepared 30 Vancomycin 1gm vials that were delivered to the patient's home unreconstituted. Cordoba-Hernandez dispensed the Vancomycin lyophilized powder without a diluent and had no discussion with health professionals at Alta Care on how the product should be mixed.

IX.

R.N. Gerlie Comahig of Alta Care subsequently contacted Cordoba-Hernandez inquiring as to missing infusion supplies and medications. Thereafter, without consulting Dr. Shah, Cordoba-Hernandez accepted a verbal prescription from R.N. Comahig, who was not an agent of the prescribing physician, for Sodium Chloride 0.9% flushing solution and Heparin 100u/ml flushing solution. The labels for each of these medications list Dr. Shah as the ordering practitioner.

X.

Cordoba-Hernandez admitted to Board investigators that he lacks clinical knowledge and training on infusions and the requirements of Dr. Shah's prescription, specifically:

(1) That he dispensed the Vancomycin lyophilized powder without a diluent and without a discussion with Alta Care on how the product should be mixed, and that he wasn't aware that the product had to be mixed.

(2) That he was unable to verbalize what strength of Heparin would be utilized to flush a central line.

- (3) That he was unable to verbalize the name of any central lines (i.e. PICC, Port, Hickman, Groshong)
- (4) That he was unable to verbalize normal Vancomycin trough levels.
- (5) That he was unable to verbalize side effects related to Vancomycin.
- (6) That he had no discussions with Alta Care regarding BUD of the product.
- (7) That he had no discussions with Alta Care regarding when Vancomycin levels would be drawn and how the results would be provided to the pharmacist.
- (8) That he had no verbal discussion with the patient regarding side effects.

XI.

P.L. experienced edema after the medication was administered and was hospitalized with congestive heart failure and renal failure.

FIRST CAUSE OF ACTION

Unprofessional Conduct and Conduct Contrary to the Public Interest (Respondent Cordoba-Hernandez)

XII.

Unprofessional conduct and conduct contrary to the public interest includes the failure by a registrant to follow strictly the instructions of the prescribing practitioner when labeling and dispensing a prescription. NAC 639.945(1)(d). Unprofessional conduct also includes failing to confer with the prescribing practitioner if there is an error or omission in a prescription which should be questioned. NAC 639.945(1)(e). Unprofessional conduct also includes performing one's duties as a registrant in an "incompetent, unskillful or negligent manner." NAC 639.945(1)(i). Furthermore, NAC 639.690(2) provides: "The managing pharmacist shall ensure that all pharmacists engaging in compounding parenteral solutions have the proper training in the safe handling, compounding and therapy related to parenteral solutions, including cytotoxic agents."

Respondent Cordoba-Hernandez engaged in unprofessional conduct and conduct contrary to the public interest in violation of NAC 639.945(1)(d), (e) and (i), and violated NAC 639.690(2) as the managing pharmacist, by attempting to fill and dispense the prescription for P.L. without the necessary knowledge and proper training, by accepting verbal prescriptions from a nurse and a non-clinician who were not agents of the prescribing physician, by failing to follow the prescription written by the prescribing physician, and by failing to consult Dr. Shaw as the prescribing physician. For that conduct, Cordoba-Hernandez is subject to discipline pursuant to NRS 639.210(4) and (12), and NRS 639.255.

SECOND CAUSE OF ACTION

**Failure to Adequately Counsel
(Respondent Cordoba-Hernandez)**

XIII.

NRS 639.266 requires a pharmacist, on receipt of a prescription and after review of the patient's record, to communicate with the patient, or a person caring for the patient, matters that will enhance the patient's therapy through drugs. NAC 639.707(1) and (2) require that discussion to include, among other things, the name of the drug, dosage and administration instructions, the intended use of the drug, common side effects, and other information that is necessary for the safe and effective use of the drug. A pharmacist who performs those duties in an "incompetent, unskillful or negligent manner" is guilty of unprofessional conduct pursuant to NAC 639.945(1)(i).

Respondent Cordoba-Hernandez violated NRS 639.266, NAC 639.707(1) and (2) and engaged in unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(1)(i) by failing to counsel P.L. regarding the prescription. That error, combined with Cordoba-Hernandez's lack of clinical knowledge and proper training in parenteral solutions, caused harmed to P.L. For that conduct, Cordoba-Hernandez is subject to discipline pursuant to NRS 639.210(4) and (12), and NRS 639.255.

THIRD CAUSE OF ACTION
Pharmacy/Pharmacy Owner Responsibility
(Respondent All City Pharmacy)

XIV.

NRS 639.230(5) provides: “Any violation of any of the provisions of this chapter [NRS Chapter 639] by a managing pharmacist or by personnel of the pharmacy under the supervision of the managing pharmacist is cause for the suspension or revocation of the license of the pharmacy by the Board.”

Additionally, “[t]he owner of a pharmacy, the managing pharmacist of the pharmacy and the registered pharmacist on duty at the pharmacy are responsible for the acts and omissions of pharmaceutical technicians and other personnel who are not pharmacists working in or for the pharmacy, including, but not limited to, any errors committed or unauthorized work performed by such personnel, if the owner, managing pharmacist or registered pharmacist knew or reasonably should have known of the act or omission.” NAC 639.702.

Further, the owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ. NAC 639.945(2).

As the pharmacy/pharmacy owner at which the violations of law alleged herein occurred, All City Pharmacy is responsible for those violations, including those of Respondent Cordoba-Hernandez pursuant to NRS 639.230(5), NAC 639.702 and NAC 639.945(2). All City Pharmacy is therefore subject to discipline pursuant to NRS 639.210(4) and (12) and NRS 639.255.

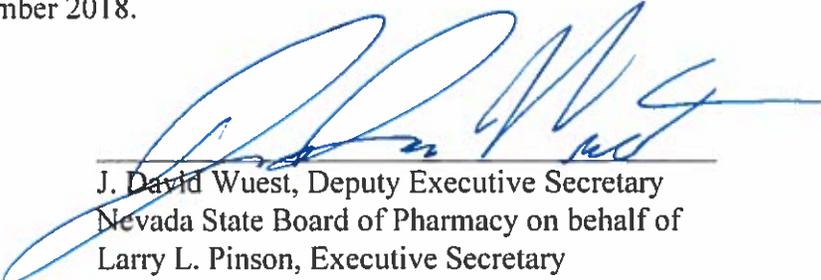
XV.

For the errors, misconduct and violations alleged above in the First, Second and Third Causes of Action, Respondents, and each of them, are subject to discipline pursuant NRS 639.210, as well as NRS 639.230(5) and/or NRS 639.255.

XVI.

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 13th day of December 2018.



J. David Wuest, Deputy Executive Secretary
Nevada State Board of Pharmacy on behalf of
Larry L. Pinson, Executive Secretary

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 20 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-070-RPH-S
)	
Petitioner,)	
v.)	
	)	STATEMENT TO THE RESPONDENT
JAIME CORDOBA-HERNANDEZ, RPH	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 17533	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent.)	
	/	

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

I.

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

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within twenty (20) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

III.

The Board has scheduled your hearing on this matter for Wednesday, January 16, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

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

DATED this 13th day of December, 2018.



J. David Wuest, Deputy Executive Secretary,
Nevada State Board of Pharmacy on behalf of
Larry L. Pinson, Executive Secretary

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-070-RPH-S
)	
Petitioner,)	
v.)	
)	
JAIME CORDOBA-HERNANDEZ, RPH	)	ANSWER AND NOTICE
Certificate of Registration No. 17533	)	OF DEFENSE
)	
Respondent.	/	

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

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

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

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

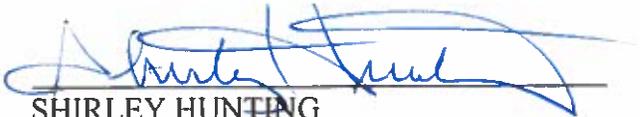
DATED this ___ day of _____, 2018.

JAIME CORDOBA-HERNANDEZ, RPH

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 13th day of December 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Jaime Cordoba-Hernandez, RPH
2077 Anglia Street
Las Vegas, NV 89142


SHIRLEY HUNTING

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,
Petitioner,

v.

NOTICE OF INTENDED ACTION
AND ACCUSATION

JAIME CORDOBA HERNANDEZ, RPH
Certificate of Registration No. 17533,
Respondent.

Case No. 12-056-RPH-S

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

I.

The Nevada State Board of Pharmacy has jurisdiction over this matter because Respondent Hernandez is a registered pharmacist with the Board.

II.

On August 31, 2012, the Nevada State Board of Pharmacy received notice from Smith's Pharmacy that Jaime Cordoba Hernandez was terminated from employment. An investigation by Smith's found that Mr. Hernandez had been creating and filling fraudulent prescriptions for a friend who resides in Indiana. Mr. Hernandez claims that an Indiana physician, also a friend of his, initially called in a prescription for a quantity of 6 Procrit 4,000 unit vials with three refills to Smith's Pharmacy. The patient is a cyclist and was using Procrit to increase his endurance. The patient was not seeing the physician in Indiana any longer because he was using the Procrit for endurance rather than a medical need. Mr. Hernandez admitted that he knew what the patient was using the drug for and continued to provide him with Procrit even though he knew it was

unethical and being used for illicit purposes. Mr. Hernandez was using his Smith's discount card when processing the prescriptions to save his friend money.

III.

In his statement, Mr. Hernandez admitted that the initial prescription was from the physician but it is unclear if the refills had been approved by the physician. The original prescription had not been initialed or signed by Mr. Hernandez as the pharmacist receiving the phoned-in prescription. The initial fill and first refill were for 6 Procrit 4,000 unit vials. A quantity of 10 Epogen 4,000 unit vials were dispensed for the subsequent three refills due to the unavailability of Procrit. Mr. Hernandez did not obtain authorization from the physician for the substitution or the increased quantity. The pharmacy computer system automatically generates an electronic request for substitutions. Mr. Hernandez would override the request and process the refills as a new prescription.

FIRST CAUSE OF ACTION

IV.

In dispensing a dangerous drug without a lawful prescription, Mr. Hernandez violated Nevada Revised Statute (NRS) 639.210(1), and/or (4), and/or (12) and/or 454.221(1) and/or 454.311(3)(b) and/or 454.321 and Nevada Administrative Code (NAC) 639.945(1)(h) and/or 639.918 (2) and/or (4).

SECOND CAUSE OF ACTION

V.

In dispensing a dangerous drug to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship, Mr. Hernandez violated Nevada Revised Statute (NRS) 639.210(1), and/or (4), and/or (12) and Nevada Administrative Code (NAC) 639.945(1)(h) and/or (3)(a).

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

Signed this 18th day of September, 2012.



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

NOTICE TO RESPONDENT

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

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

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

**JAIME CORDOBA HERNANDEZ, RPH
Certificate of Registration No. 17533,**

Case No. 12-056-RPH-S

Respondent.

_____ /

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

I.

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

II.

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

III.

The Board has reserved Wednesday, January 16, 2013 as the date for a hearing on this matter at the Las Vegas Chamber of Commerce, 6671 Las Vegas Boulevard South, Las Vegas, Nevada. The hour of the hearing will be set by letter to follow.

IV.

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

DATED this 18th day of September, 2012.



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

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

ANSWER AND NOTICE
OF DEFENSE

JAIME CORDOBA HERNANDEZ , RPH
Certificate of Registration No. 17533,
Respondent.

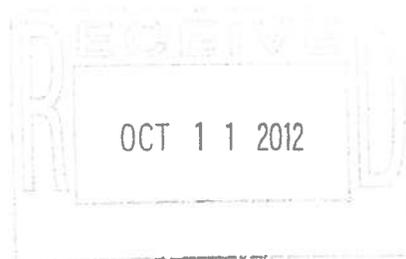
Case No. 12-056-RPH-S

_____/

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").

None

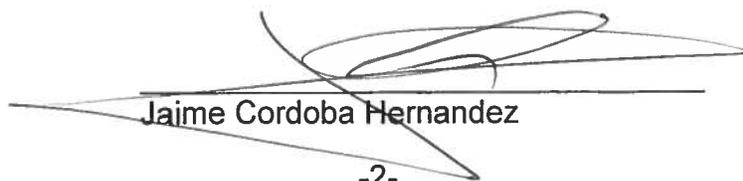


2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I admit

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 10th day of October, 2012.


Jaime Cordoba Hernandez

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	
	)	Case No. 12-056-RPH-S
Petitioner,)	
v.	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW AND
JAIME CORDOBA HERNANDEZ, RPH	)	ORDER
Certificate of Registration No. 17533,)	
)	
Respondent.	/	

The Nevada State Board of Pharmacy (the "Board") heard this matter at its regular meeting on January 16, 2013, in Las Vegas, Nevada. Carolyn J. Cramer represented the Board in her capacity as its General Counsel. Respondent JAIME CORDOBA HERNANDEZ, RPH appeared and represented himself. Hernandez took the witness stand and gave sworn testimony before the Board. Based on the evidence, the testimony presented and the public records in the Board's possession and control, the Board issues the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. The Board received written notice from Smith's Pharmacy ("Smith's") in August 2012, indicating that it terminated Hernandez's employment. Smith's took that action after finding, through an internal investigation, that Hernandez created and filled fraudulent prescriptions for a friend, who is a cyclist and resident of Indiana (the "Patient").

2. Hernandez claimed that an Indiana physician, also a friend of his, initially called Smith's with a prescription for the Patient, for a quantity of 6 Procrit 4,000 unit vials. The patient was using Procrit to increase his endurance. At the time of Hernandez's conduct, the Patient was no longer seeing the physician in Indiana because the Patient was using the Procrit for endurance, not for a legitimate medical purpose. Hernandez subsequently admitted, and the Board finds, that Hernandez knew

of the purpose for which the Patient was using the drug, and that the Patient was not seeing a physician, but he continued to fill the prescriptions for the Patient.

3. Hernandez admitted, and the Board finds, that the physician did not authorize any refills, and that he (Hernandez) regenerated the refills himself based on the initial prescription.

4. The initial fill and first refill were for 6 Procrit 4,000 unit vials. The subsequent three refills were filled by substituting a quantity of 10 Epogen 4,000 unit vials, due to the unavailability of Procrit. Hernandez did not obtain authorization from the physician for the substitution or the increased quantity.

5. The pharmacy computer system automatically generates an electronic request for substitutions. Hernandez overrode the request and processed the refills as a new prescription.

6. Hernandez improperly used his personal Smith's discount card and/or coupons to buy the prescriptions in order to save his friend money. Those practices were unethical and violations of Smith's company policy, which Hernandez admits.

7. Hernandez admitted the allegations in the Notice of Intended Action and Accusation in his October 10, 2012 Answer and Notice of Defense.

8. The Board's findings are consistent with the allegations in the Notice of Intended Action and Accusation, and with Hernandez's admissions.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter because Hernandez was a pharmacist licensed by the Board at the time of the conduct set forth above.

2. In dispensing a dangerous drug without a legitimate medical need, and without a lawful prescription, Hernandez violated Nevada Revised Statute (NRS) 639.210(1), (4), (12), 454.221(1) and 454.311(3)(b). He also violated Nevada Administrative Code (NAC) 639.945(1)(h).

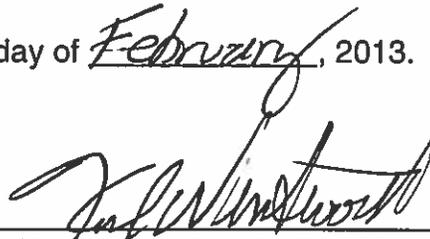
3. In dispensing a dangerous drug to a patient with whom the prescribing practitioner did not have a bona fide therapeutic relationship, Hernandez violated Nevada Revised Statute (NRS) 639.210(1), (4) and (12), and Nevada Administrative Code (NAC) 639.945(1)(h) and(3)(a).

ORDER

Based upon the foregoing, the Board hereby orders the following:

JAIME CORDOBA HERNANDEZ's license as a pharmacist (Certificate of Registration No. 17533) is revoked. Mr. Hernandez may not work in any facility licensed by the Board, including a pharmacy, in any capacity unless and until he has applied to the Board for reinstatement of his pharmacist's license and the Board has reinstated the registration.

Signed and effective this 1 day of February, 2013.



Kirk Wentworth, Interim President
Nevada State Board of Pharmacy



BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	
	)	CASE NO. 14-086-RPH-S
Petitioner,)	
v.)	
)	
JAIME CORDOBA-HERNANDEZ, R.PH.	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 17533	)	AND ACCUSATION
)	
)	
Respondent.)	
	/	

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

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because Respondent Jaime Cordoba-Hernandez (Mr. Cordoba-Hernandez), Certificate of Registration No. 17533, is a registered pharmacist with the Board.

II.

On February 1, 2013, the Board entered a Findings of Fact, Conclusion of Law and Order in the case of Mr. Cordoba-Hernandez (Case No. 12-056-RPH-S). In its Order, the Board revoked Mr. Cordoba-Hernandez’s pharmacist license for violations related to the filling and dispensing of a dangerous drug without a lawful prescription. Mr. Cordoba-Hernandez created and filled fraudulent prescriptions for Procrit for a cyclist friend who used the Procrit to increase his cycling endurance.

III.

At the March 5, 2014 Board meeting, Mr. Cordoba-Hernandez appeared and requested

reinstatement of his pharmacist license. The Board reinstated Mr. Cordoba-Hernandez's license subject to a two year probation with the requirement that Mr. Cordoba-Hernandez attend the Board's meetings in Las Vegas for one year.

IV.

Subsequent to the Board's March 2014 Order, Mr. Cordoba-Hernandez attended one Board meeting on April 17, 2014, in Las Vegas, Nevada.

V.

In July 2014, Mr. Cordoba-Hernandez informed Board Staff that he had moved to New York. Board Staff agreed to allow Mr. Cordoba-Hernandez to attend the New York Board of Pharmacy (New York Board) meetings in order to comply with the condition set forth by the Board as a term of his probation. Board Staff made arrangements with the New York Board to monitor Mr. Cordoba-Hernandez's attendance.

VI.

On November 19, 2014, the New York Board informed Board Staff that Mr. Cordoba-Hernandez has not attended the New York Board meetings as required.

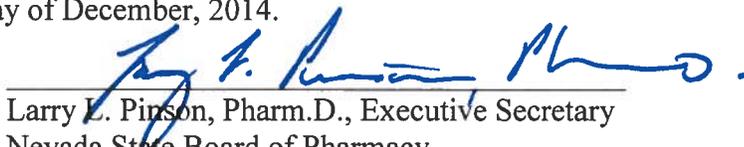
FIRST CAUSE OF ACTION

VII.

By failing to fully comply with the terms and conditions of his probation as set forth by the Board at the March 5, 2014 Board meeting, Jaime Cordoba-Hernandez is guilty of unprofessional conduct as that term is defined in Nevada Administrative Code (NAC) 639.945(1)(l), which violation is grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1) and/or (4), and NRS 639.255.

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

Signed this 17th day of December, 2014.


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

NOTICE TO RESPONDENT

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

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	
	)	CASE NO. 14-086-RPH-S
Petitioner,)	
v.)	
	)	STATEMENT TO THE RESPONDENT
JAIME CORDOBA-HERNANDEZ, R.PH.	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 17533	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent	/	

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

I.

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

II.

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

III.

The Board has reserved Wednesday, January 21, 2015, as the date for a hearing on this matter at the Hilton Garden Inn, 7830 South Las Vegas Boulevard, Las Vegas, Nevada. The hour of the hearing will be set by letter to follow.

IV.

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

DATED this 17th day of December, 2014.



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

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	
	)	CASE NO. 14-086-RPH-S
Petitioner,)	
v.)	
	)	ANSWER AND
JAIME CORDOBA-HERNANDEZ, R.PH.	)	NOTICE OF DEFENSE
Certificate of Registration No. 17533)	
)	
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 _____, 2014.

Jaime Cordoba-Hernandez, R.Ph.

Mr. Cordoba-Hernandez created and filled fraudulent prescriptions for Procrit for a cyclist friend who used the Procrit to increase his cycling endurance.

3. At the Board's March 5, 2014 Board meeting, Mr. Cordoba-Hernandez appeared and requested reinstatement of his pharmacist license. The Board reinstated Mr. Cordoba-Hernandez's license subject to a two-year probation with the requirement that Mr. Cordoba-Hernandez attend the Board's meetings in Las Vegas for one year.

4. Subsequent to the Board's March 2014 Order, Mr. Cordoba-Hernandez attended one Board meeting on April 17, 2014, in Las Vegas, Nevada.

5. In July 2014, Mr. Cordoba-Hernandez informed Board Staff that he had moved to New York. At Mr. Cordoba-Hernandez's request, Board Staff agreed to allow him to attend New York Board of Pharmacy (New York Board) meetings in order to comply with the condition set forth by the Board as a term of his probation. Board Staff made arrangements with the New York Board to monitor Mr. Cordoba-Hernandez's attendance.

6. On November 19, 2014, the New York Board informed Board Staff that Mr. Cordoba-Hernandez has not attended the New York Board meetings as required.

7. On December 18, 2014, Board Staff served a Notice of Intended Action and Accusation in this matter on Mr. Cordoba-Hernandez by certified mail sent to his last address of record.

8. The foregoing findings are supported by evidence in the record, including the documents admitted as Exhibits 1 through 8, along with Mr. Cordoba-Hernandez's hearing testimony.

CONCLUSIONS OF LAW

Based upon the forgoing findings of fact, the Board concludes as a matter of law:

9. The Board has jurisdiction over this matter and this respondent because at the time of the events alleged herein, Mr. Cordoba-Hernandez was a pharmacist licensed by the Board.

10. By failing to fully comply with the terms and conditions of his probation as set forth by the Board at the March 5, 2014 Board meeting, Jaime Cordoba-Hernandez is guilty of unprofessional conduct as that term is defined in Nevada Administrative Code (NAC) 639.945(1)(l).

11. That violation is grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1) and/or (4), and NRS 639.255.

THEREFORE, THE BOARD HEREBY ORDERS:

12. The registration of respondent Jaime Cordoba-Hernandez, R.Ph., Certificate of Registration No. 17533, is hereby revoked. The revocation is stayed and Mr. Cordoba-Hernandez's license is placed on probation for two years from the date of this Order.

13. During the probationary period, Mr. Cordoba-Hernandez must attend at least six (6) meetings held by the New York State Board of Pharmacy. As evidence of his attendance at each meeting, Mr. Cordoba-Hernandez must (a) sign in on any attendance roll made available at the meeting, and (b) make his attendance known by introducing himself to the board executive.

14. At the end of the probationary period, Board Staff shall have authority to lift the suspension and return Mr. Cordoba-Hernandez's license to active status without requiring Mr.

Cordoba-Hernandez to reappear before the Board, so long as he has complied with the terms of this Order and any other outstanding orders by the Board.

Signed and effective this 18 day of February, 2015.

A handwritten signature in black ink, appearing to read 'Kamlesh Gandhi', is written over a horizontal line.

Kamlesh Gandhi, President
Nevada State Board of Pharmacy

4B

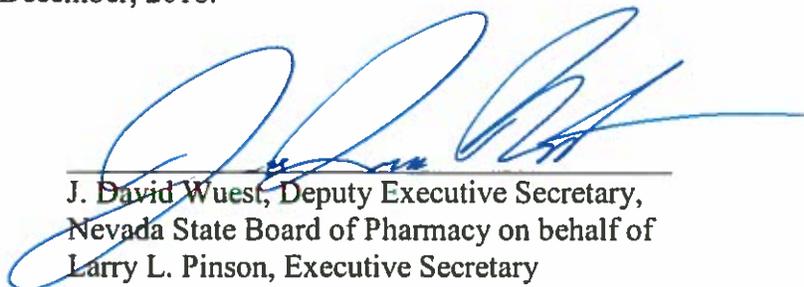
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

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

DATED this 13th day of December, 2018.



J. David Wuest, Deputy Executive Secretary,
Nevada State Board of Pharmacy on behalf of
Larry L. Pinson, Executive Secretary

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-070-PH-S
)	
Petitioner,)	
v.)	
)	
ALL CITY PHARMACY, LLC	)	ANSWER AND NOTICE
Certificate of Registration No. PH03609	)	OF DEFENSE
)	
Respondent.)	
	/	

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

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

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

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

DATED this ___ day of _____, 2018.

Type or print name

Authorized Representative for:
ALL CITY PHARMACY, LLC

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 13th day of December 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

All City Pharmacy
821 N. Lamb Blvd., #4
Las Vegas, NV 89110


SHIRLEY HUNTING

4C

FILED
MAR 08 2019
NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS. 17-086-RPH-S
	)	17-086-PH-A-S
Petitioner,	)	17-086-PH-B-S
v.)	
	)	NOTICE OF INTENDED ACTION
CANDY DAVIS, RPH.,	)	AND ACCUSATION
Certificate of Registration No. 16185,)	
)	
WALGREENS PHARMACY #4579,)	
Certificate of Registration No. PH01283,)	
)	
and)	
)	
WALGREENS PHARMACY #2445,)	
Certificate of Registration No. PH01964,)	
)	
<u>Respondents.</u>	/	

J. David Wuest, 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 events alleged herein, Respondent Candy Davis (Davis), Certificate of Registration No. 16185, was a registered pharmacist with the Board. Respondents Walgreens Pharmacy #4579 (Walgreens Retail), Certificate of Registration No. PH01283, and Walgreens Mail Service Pharmacy #2445 (Walgreens Mail Service), Certificate of Registration No. PH01964, were pharmacies registered by the Board.

II.

Walgreens Mail Service is a Nevada-licensed mail service pharmacy located in Orlando, Florida. During the time of the events alleged herein, it was providing product data review support for Walgreens stores located in Las Vegas, Nevada.

III.

Walgreens Retail is a Nevada-licensed retail pharmacy located in Las Vegas, Nevada.

DISCIPLINARY HISTORY

IV.

In January 2016, the Board entered a Stipulation and Order (Order) in the case of *Board of Pharmacy v. Walgreens Mail Service*, Case No. 15-028-PH-O. The Board found Walgreens Mail Service (Walgreens Pharmacy #2445) responsible for the actions of its employee for violations resulting in a dispensing error. The Board ordered Walgreens Mail Service to pay a fine of \$1,000.00 and an administrative fee of \$495.00 as part of that action.

FACTUAL ALLEGATIONS

V.

Patient J.M. was 71 years old at the time of the events alleged herein, and had been diagnosed with numerous health conditions including Type II diabetes mellitus and esophagitis/gastroesophageal reflux disease (GERD).

VI.

On April 3, 2017, J.M. saw his physician and received a prescription for Ropinirole 2 mg. tablets with instructions to take one (1) tablet daily as needed for restless leg syndrome. The prescription allowed for three (3) refills.

VII.

J.M. tendered the prescription to Walgreens Retail where pharmaceutical technician Kalin Pascacio-Bayles (Pascacio-Bayles) scanned the prescription and entered the prescription data into Walgreens Retail's computer system.

VIII.

The computer system designated the prescription as No. 1465131-04579.

IX.

During data entry, Pascacio-Bayles mistakenly selected *Risperidone* 2 mg. tablets rather than *Ropinirole* 2 mg. tablets as prescribed.ⁱ

X.

During data entry, three Drug Utilization Review (DUR) warnings appeared on the computer screen. The DUR warnings were indicated as follows:

- 1) “ELDERLY INDICATES USING CAUTION WITH RISPERIDONE 2MG TABLETS”
- 2) “DIAB M, INSUL DEP TYPE II INDICATES USING CAUTION WITH RISPERIDONE 2MG TABLETS”
- 3) “ESOPHAGITIS/GERD INDICATES USING CAUTION WITH RISPERIDONE 2MG TABLETS”

XI.

Respondent Davis overrode the DUR warnings within one second of their appearance without taking action (like contacting the prescriber), which may have prevented J.M. from receiving the wrong medication.

XII.

The system-generated prescription label for Prescription No. 1465131-04578 read:

RISPERIDONE 2MG TABLETS
TAKE 1 TABLET BY MOUTH EVERY DAY AS NEEDED FOR RESTLESS LEGS

XIII.

Davis was the verifying pharmacist for Prescription No. 1465131-04579.

ⁱ **Risperidone** is an atypical antipsychotic drug used for treating schizophrenia, bipolar mania, and autism. **Ropinirole** is a non-ergoline dopamine agonist used for the treatment of restless leg syndrome.

XIV.

Davis failed to detect that Pascacio-Bayles entered the wrong medication at data entry and verified the data entry as correct. She then filled the prescription.

XV.

During final product verification, Davis again incorrectly verified that Risperidone was the correct medication. She failed to detect that the drug name printed on the label (Risperidone) is an antipsychotic drug which is not indicated for the treatment of restless leg syndrome.

XVI.

Walgreens Retail's computer patient counseling field documents that patient consultation was completed. Davis was the counseling pharmacist of record.

XVII.

J.M. subsequently obtained 3 refills of Prescription No. 1465131-04579.

XVIII.

The refills of Prescription No. 1465131-04579 were entered into Walgreens Retail's system by automatic refill each month and placed in the queue for pharmacist review.

XIX.

Cheryl Shinkle, Michelle Anderson and Gifty Akomeah are pharmacists registered in Florida and employed by Respondent Walgreens Mail Service. They are not licensed to practice pharmacy in Nevada.

XX.

For each automatic refill for Prescription No. 1465131-04579, one of those Florida pharmacists at Walgreens Mail Service's facility in Orlando retrieved the prescription data from the queue to perform DUR review.

XXI.

The same three DUR warnings as documented in paragraph X above appeared during the processing of each of the three refills for Prescription No. 1465131-04579.

XXII.

The Florida pharmacists who conducted the DUR review on each of the refills of Prescription No. 1465131-04579 each overrode the DUR warnings that appeared for each refill without taking action, which may have prevented J.M. from receiving the wrong medication.

XXIII.

The Florida pharmacists then put the prescription back into a queue for retrieval and filling by Walgreens Retail in Nevada.

XXIV.

The following table lists the medication refill dates and the Florida pharmacist who performed data review and DUR overrides for Prescription No. 1465131-04579

<u>Refill Date</u>	<u>DUR Override</u>
05/05/2017	C. Shinkle
06/02/2017	M. Anderson
06/29/2017	G. Akomeah

XXV.

Davis was the pharmacist of record for each of the three refills of Prescription No. 1465131-04579 when Walgreens Retail filled and dispensed them.

XXVI.

Davis failed to detect the medication error when she performed the final product review and verified the final product as accurate for each of those refills dispensed to J.M.

XXVII.

In mid-July 2017, Walgreens' Central Pharmacy Operation (CPO) notified Davis of the dispensing error related to Prescription No. 1465131-04579. CPO discovered the error during its refill review process.

XXVIII.

J.M. ingested 103 tablets of the wrong medication before Walgreens CPO discovered the error and Davis notified him of that error.

FIRST CAUSE OF ACTION
Unprofessional Conduct, Failure to Verify the Dispensed Medication
 (Respondent Candy Davis)

XXIX.

Unprofessional conduct includes the failure by a licensee to follow strictly the instructions of a practitioner when filling, labeling, and dispensing a prescription. *See* NAC 639.945(1)(d). It also includes a licensee performing his or her duties in an “incompetent, unskillful, or negligent manner”. *See* NAC 639.945(1)(i).

Respondent Davis acted unprofessionally as defined in NAC 639.945(1)(d) and (i) when she (1) verified the data entered on Prescription No. 1465131-04579 as accurate when it was incorrect, and (2) verified the Risperidone 2 mg. tablets in the prescription bottle as the correct product for dispensing when J.M.’s physician prescribed Ropinirole 2 mg. tablets. Ms. Davis’ registration is therefore subject to discipline pursuant to NRS 639.210(4) and (12) and/or NRS 639.255.

SECOND CAUSE OF ACTION
Failure to Act on Drug Utilization Review (DUR) Warnings
 (Respondent Candy Davis)

XXX.

NAC 639.945(1)(i) defines unprofessional conduct to include a licensee performing any of his or her duties in an “incompetent, unskillful or negligent manner.” Respondent Davis acted unprofessionally as defined in NAC 639.945(1)(i) by failing to act upon the DUR alerts displayed on the computer screen for the Risperidone 2 mg. tablets she was preparing to dispense to J.M., including by overriding the DUR alerts within one second of verifying the incorrect data for the prescription as being correct, and by failing to contact J.M.’s physician regarding the dispensing of Risperidone for a condition for which it is not indicated. Those violations are grounds for discipline pursuant to NRS 639.210(4) and/or (12), and NRS 639.255.

THIRD CAUSE OF ACTION
Failure to Adequately Counsel
 (Respondent Candy Davis)

XXXI.

NRS 639.266(1) requires a pharmacist to “communicate matters which will enhance therapy through drugs with the patient or a person caring for the patient.” NAC 639.707(1), (2) and/or (4) further require counseling for all new prescriptions and provide a list of elements to be included as part of proper counseling, including, but not limited to, dose, intended use, expected response and precautions. Additionally, NAC 639.707(6) requires the pharmacist to create a record regarding counseling “at the time that counseling is provided or refused.”

By marking that counseling was completed, and, to the extent any counseling actually occurred, by failing to counsel adequately to detect that she was dispensing the wrong medication, Davis violated NRS 639.266(1), NAC 639.707(1), (2), (4) and/or (6), and/or NAC 639.945(1)(i). Those violations are grounds for action pursuant to NRS 639.210(4) and/or (12), and NRS 639.255.

FOURTH CAUSE OF ACTION
Pharmacy/Pharmacy Owner Responsibility
 (Respondent Walgreens Pharmacy #4579 (Walgreens Retail))

XXXII.

NAC 639.945(2) states that “[t]he owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ”. At the time of the violations alleged herein, Walgreens Retail was Respondent Candy Davis’ employer. Those violations constitute unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(1)(d) and (i), which is grounds for discipline against Walgreens Retail pursuant to NAC 639.945(2), NRS 639.210(4) and/or (12), as well as NRS 639.230(5) and/or NRS 639.255.

FIFTH CAUSE OF ACTION
Pharmacy/Pharmacy Owner Responsibility
 (Respondent Walgreens Pharmacy #2445 (Walgreens Mail Service))

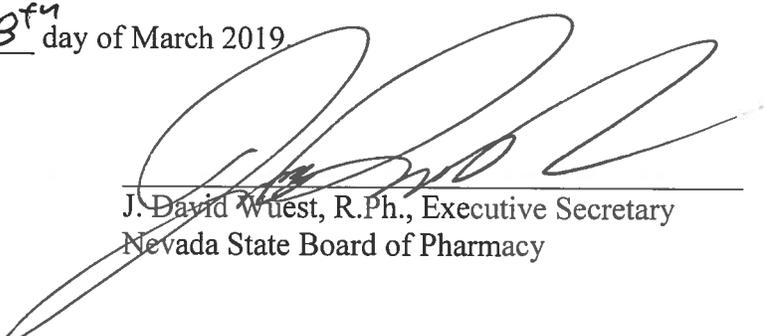
XXXIII.

NAC 639.945(2) states that “[t]he owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ”. At the time of the violations alleged herein, Walgreens Mail Service was Cheryl Shinkle, Michelle Anderson and Gifty Akomeah’s employer. The violations stated herein relating to Shinkle, Anderson and Akomeah constitute unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(1)(d) and (i), which is grounds for discipline against Walgreens Mail Service pursuant to NAC 639.945(2), NRS 639.210(4) and/or (12), as well as NRS 639.230(5) and/or NRS 639.255.

XXXIV.

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 8th day of March 2019.



 J. David Wuest, R.Ph., 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 20 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

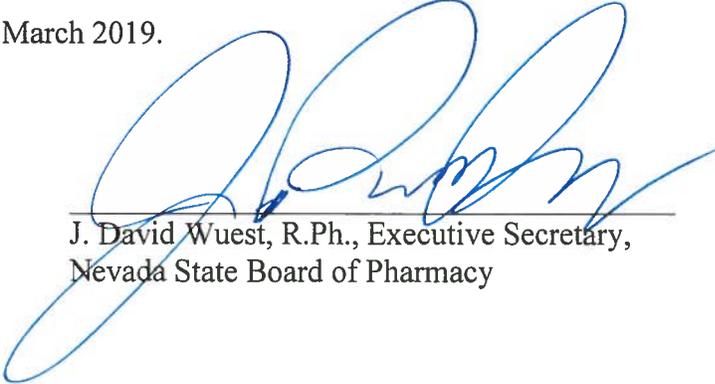
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

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

DATED this 8th day of March 2019.



J. David Wuest, R.Ph., Executive Secretary,
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-086-RPH-S
)	
Petitioner,)	
v.)	
)	
CANDY DAVIS, RPH	)	ANSWER AND NOTICE
Certificate of Registration No. 16185,	)	OF DEFENSE
)	
Respondent.)	
	/	

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

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

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

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

DATED this ___ day of _____, 2019.

CANDY DAVIS, RPH

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 8th day of March, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Candy Davis, R.Ph.
940 Calamity Jane Lane
Henderson, NV 89002

Walgreens Pharmacy #4579
2400 E. Tropicana Avenue
Las Vegas, NV 89121

Walgreens Pharmacy #2455
8337 S. Park Circle
Orlando, FL 32819-9049

William J. Stilling, Esq.
215 South State Street, Suite 500
Salt Lake City, UT 84111



SHIRLEY HUNTING

4D

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-086-PH-A-S
)	
Petitioner,)	
v.)	
	)	STATEMENT TO THE RESPONDENT
WALGREENS PHARMACY #4579	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. PH01283,	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent.)	
	/	

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

I.

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

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within twenty (20) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

III.

The Board has scheduled your hearing on this matter for Wednesday, April 10, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

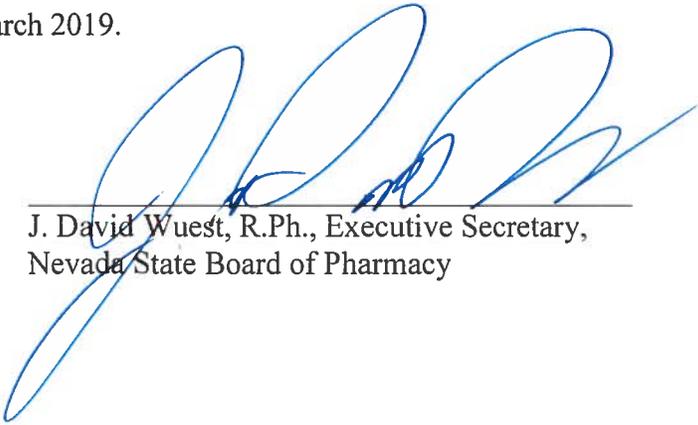
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

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

DATED this 8th day of March 2019.



J. David Wuest, R.Ph., Executive Secretary,
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-086-RPH-S
)	
Petitioner,)	
v.)	
)	
WALGREENS PHARMACY #4579	)	ANSWER AND NOTICE
Certificate of Registration No. PH01283,	)	OF DEFENSE
)	
Respondent.)	
	/	

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

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

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

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

DATED this ___ day of _____, 2019.

Type or print name

AUTHORIZED REPRESENTATIVE FOR
WALGREENS PHARMACY #4579

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 8th day of March, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Candy Davis, R.Ph.
940 Calamity Jane Lane
Henderson, NV 89002

Walgreens Pharmacy #4579
2400 E. Tropicana Avenue
Las Vegas, NV 89121

Walgreens Pharmacy #2455
8337 S. Park Circle
Orlando, FL 32819-9049

William J. Stilling, Esq.
215 South State Street, Suite 500
Salt Lake City, UT 84111


SHIRLEY HUNTING

4E

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-086-PH-B-S
)	
Petitioner,)	
v.)	
	)	STATEMENT TO THE RESPONDENT
WALGREENS PHARMACY #2445	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. PH01964,	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent.)	
	/	

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

I.

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

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within twenty (20) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

III.

The Board has scheduled your hearing on this matter for Wednesday, April 10, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

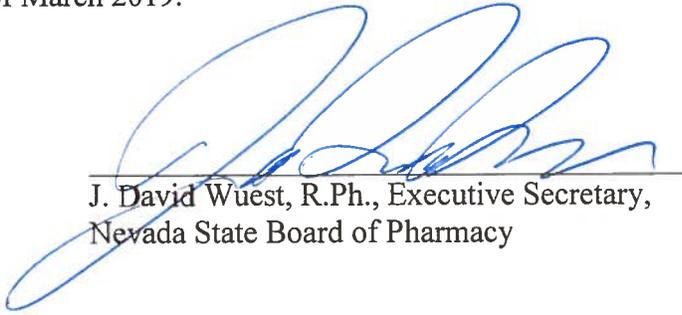
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

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

DATED this 8th day of March 2019.



J. David Wuest, R.Ph., Executive Secretary,
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-086-PH-B-S
)	
Petitioner,)	
v.)	
)	
WALGREENS PHARMACY #2445	)	ANSWER AND NOTICE
Certificate of Registration No. PH01964,	)	OF DEFENSE
)	
Respondent.)	
	/	

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

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

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

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

DATED this ____ day of _____, 2019.

Type or print name

AUTHORIZED REPRESENTATIVE FOR
WALGREENS PHARMACY #2445

-2-

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 8th day of March, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Candy Davis, R.Ph.
940 Calamity Jane Lane
Henderson, NV 89002

Walgreens Pharmacy #4579
2400 E. Tropicana Avenue
Las Vegas, NV 89121

Walgreens Pharmacy #2455
8337 S. Park Circle
Orlando, FL 32819-9049

William J. Stilling, Esq.
215 South State Street, Suite 500
Salt Lake City, UT 84111



SHIRLEY HUNTING

4F

III.

L.S. gave birth to a viable infant with no apparent complication or negative impact for the baby.

IV.

L.S. later learned from her physician, and subsequently by letter from Carson Tahoe, that the hospital's pharmacy may have made a compounding error related to the epidural. In that letter, Carson Tahoe advised L.S. that she may have received an epidural that contained the preservative methylparaben instead of the preservative-free formulation. The letter advised L.S. of the possible conditions that could result from the error.

V.

The patient's husband later filed a complaint with the Board. In that complaint, he reported that after receiving the epidural, L.S. experienced pain and a burning sensation in her back, spine and hip region. Those symptoms continued after discharge, according to the complaint, and at times were so debilitating that it was difficult for L.S. to walk more than a few yards at a time.

VI.

The course of the error began on February 9, 2018, when Carson Tahoe's newly-assigned purchasing agent mistakenly ordered bupivacaine with methylparaben preservative instead of the preservative-free bupivacaine required for epidurals.

VII.

The order of bupivacaine, consisting of one flat of twenty-five 50 ml. vials, arrived at the pharmacy on February 10 and was stocked in the IV room by a pharmacy technician.

VIII.

The normal procedure for stocking bupivacaine in the pharmacy is to remove the vials from the flat and place them in a plastic bin on a shelf adjacent to the IV hood. In this case, the

50 ml. bupivacaine with methylparaben vials were intermingled with the remaining 30 ml. preservative-free bupivacaine vials in the bin. The number of preservative-free bupivacaine vials that remained in the bin at the time the technician introduced the bupivacaine with methylparaben vials is not known.

IX.

From February 10 through March 4, 2018, the 50 ml. bupivacaine with methylparaben vials were used to compound epidurals for both the operating room (OR) and obstetric department (OB).

X.

During that February 10 through March 4 time period, the pharmacists and technicians who compounded epidurals failed to adequately inspect the compounding components that went into the epidurals and thereby failed to detect that they were using 50 ml. vials of bupivacaine containing methylparaben to compound epidurals.

XI.

During that time period, the pharmacists and technicians who compounded epidurals failed to prepare and maintain records of their compounding activities to track those processes and ensure that an error had not occurred in the compounding of the subject epidurals.

XII.

During that time period, Carson Tahoe either did not have written policies and procedures in place to adequately record its epidural compounding processes and prevent errors, or the pharmacy had written policies and procedures for compounding epidurals that it did not follow.

XIII.

On March 4, while preparing to compound OB epidurals, pharmacy technician Nicholas Beaudette did notice that the larger 50 ml. bupivacaine with methylparaben vials were mixed in with the smaller 30 ml. preservative-free bupivacaine vials.

XIV.

Upon closer examination, Beaudette confirmed that the larger 50 ml. vials contained bupivacaine with methylparaben and were labelled with a caution against epidural use.

XV.

After alerting his supervising pharmacist, Beaudette removed approximately fifteen 50 ml. vials with methylparaben from the bupivacaine bin and placed them on the purchasing agent's desk with a note that read "Do not use – Not for Epidurals."

XVI.

Beaudette then located two flats of 30 ml. preservative-free bupivacaine vials in the pharmacy's regular stock and used those vials to continue compounding.

XVII.

On Monday, March 5, 2018, the purchasing agent advised pharmacist Kelly Schott of Beaudette's discovery.

XVIII.

The hospital engaged in an effort to identify patients who may have been affected by the error. That effort was hampered by a lack of required compounding records, particularly the absence of batch compounding log sheets.

XIX.

In the absence of batch compounding log sheets, Schott relied on the Controlled Substance Standard Compounding Records that contained Fentanyl, a common ingredient in 250 ml. Standard OB Epidurals. Based on those records, Schott was able to identify thirty-five epidurals compounded during the time frame involved that possibly contained the bupivacaine with methylparaben, with approximately half of those epidurals having been wasted due to their expiration.

XX.

Of the remaining epidurals, Carson Tahoe determined that sixteen patients possibly may have received epidurals containing the methylparaben preservative. The hospital notified those patients by telephone and mail.

XXI.

To date, only L.S. has reported any adverse effects from her epidural.

FIRST CAUSE OF ACTION
Failure to Follow Practitioner's Order
 (Carson Tahoe Regional Medical Center)

XXII.

By compounding and allowing to be administered an epidural using bupivacaine with methylparaben instead of preservative-free bupivacaine as ordered by the practitioner, Carson Tahoe acted unprofessionally and contrary to the public interest as defined in Nevada Administrative Code (NAC) 639.945(1)(a), (b), (d) and/or (i), which violations are grounds for discipline pursuant to Nevada Revised Statutes (NRS) 639.210(4) and/or NRS 639.255.

SECOND CAUSE OF ACTION
Failure to Follow Compounding Procedures
 (Carson Tahoe Regional Medical Center)

XXIII.

By failing to inspect the compounding components that went into the epidural administered to L.S., and by failing to prepare and maintain records concerning the compounding of that epidural to ensure than an error had not occurred in the compounding process, Carson Tahoe violated NAC 639.6701(1)(a) and (c), as well as NAC 639.6702. Those violations constitute unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(1)(i) and/or (m), which are grounds for discipline against Carson Tahoe pursuant to NAC 639.945(2), NRS) 639.210(4), (12) and/or (17), as well as NRS 639.255.

THIRD CAUSE OF ACTION
Failure to Establish and Follow Policies and Procedures
(Carson Tahoe Regional Medical Center)

XXIV.

By failing to establish, maintain and/or adhere to written policies and procedures for compounding drug products, Carson Tahoe violated NAC 639.67015. Those violations constitute unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(1)(i), which is grounds for discipline against Carson Tahoe pursuant to NAC 639.945(2), NRS 639.210(4) and/or (12), as well as NRS 639.230 and/or NRS 639.255.

FOURTH CAUSE OF ACTION
Managing Pharmacist Responsibility
(Respondent Wayne Mitchell)

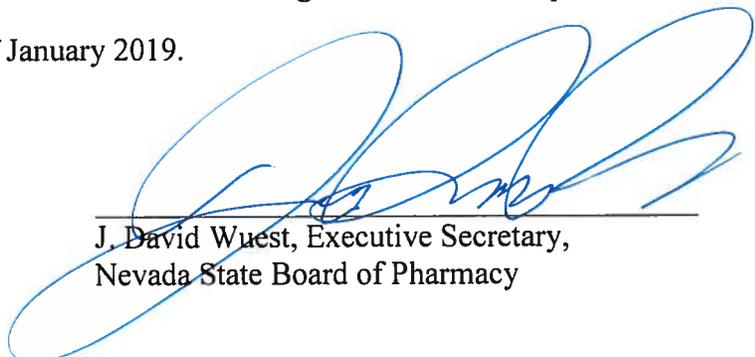
XXV.

As the managing pharmacist who knew of and/or allowed the foregoing violations, or any one of them, to occur at Carson Tahoe, Respondent Wayne Mitchell is responsible for the errors pursuant to NRS 639.0087, NRS 639.220(3)(c), NRS 639.2324(2), NAC 639.468, NAC 639.473, NAC 639.510, NAC 639.702, NAC 639.945(1)(i), which violation is subject to discipline pursuant to NRS 639.210(4), (11), (12), and/or (15), and/or NRS 639.255.

XXVI.

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 23rd day of January 2019.



 J. David Wuest, 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 twenty (20) days of your receipt of the Notice of Intended Action and Accusation a written statement showing your compliance.

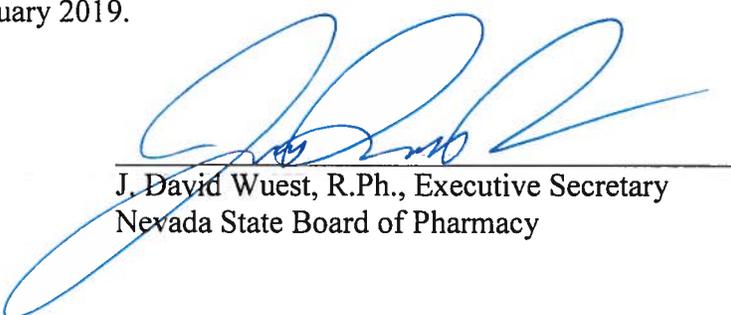
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

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

DATED this 23rd day of January 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

FILED

FEB 11 2019

NEVADA STATE BOARD OF PHARMACY

1 JOHN H. COTTON, ESQ.
 Nevada Bar Number 5268
 2 JHCotton@jhcottonlaw.com
 BRAD J. SHIPLEY, ESQ.
 3 Nevada Bar Number 12639
BShiple@jhcottonlaw.com
 4 **JOHN H. COTTON & ASSOCIATES, LTD.**
 7900 West Sahara Avenue, Suite 200
 5 Las Vegas, Nevada 89117
 Telephone: (702) 832-5909
 6 Facsimile: (702) 832-5910
 7 *Attorneys for Respondents*

BEFORE THE NEVADA STATE BOARD OF PHARMACY

9 NEVADA STATE BOARD OF PHARMACY,
 10
 11 Petitioner,
 vs.
 12 WAYNE MITCHELL, R.PH.,
 Certificate of Registration No. 08501,
 13 And
 14 CARSON TAHOE REGIONAL MEDICAL
 CENTER, Certificate of Registration No.
 15 IA00531
 16 Respondents.

CASE NOS.: 18-041-RPH-N
18-041-PH-N

**RESPONDENTS WAYNE
 MITCHELL AND CARSON TAHOE
 REGIONAL MEDICAL CENTER'S
 ANSWER TO NOTICE OF
 INTENDED ACTION AND
 ACCUSATION**

18 Respondents, WAYNE MITCHELL, R.PH., and CARSON TAHOE REGIONAL
 19 MEDICAL CENTER, (hereinafter "Respondents"), by and through their counsel of record, John
 20 H. Cotton, Esq. and Brad J. Shipley, Esq., of the law firm of JOHN H. COTTON &
 21 ASSOCIATES, in answering the Notice of Intended Action and Accusation, hereby admits,
 22 denies and alleges as follows:

Jurisdiction

24 I. In answering paragraph I, Respondents admit that the Board has jurisdiction over
 25 this matter and that respondents were a pharmacist and pharmacy registered with
 26 the Board.

27 ///
 28 ///

John H. Cotton & Associates, Ltd.
 7900 West Sahara, Suite 200
 Las Vegas, Nevada 89117

John H. Cotton & Associates
7900 W. Sahara, Suite 200
Las Vegas, NV 89117

Factual Allegations

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- II. In answering paragraph II, Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.
- III. In answering paragraph III, Respondents admit that L.S. gave birth to a viable infant with no apparent complication or negative impact for the baby.
- IV. In answering paragraph IV, Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein regarding L.S.' alleged knowledge and where she obtained that knowledge from and denies them on that basis. Respondents admit to the allegations contained in the paragraph regarding the general contents of the letter and the fact that it was sent.
- V. In answering paragraph V, Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.
- VI. In answering paragraph VI, Respondents assert that the phrase "the course of the error" is ambiguous, and therefore deny the allegations contained therein on that basis. Respondents admit that a newly assigned purchasing agent mistakenly ordered bupivacaine with methylparaben, but respondents are without sufficient knowledge to ascertain whether L.S. was actually exposed to this bupivacaine, and therefore denies on that basis.
- VII. In answering paragraph VII, respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.
- VIII. In answering paragraph VIII, respondents admit the allegations contained therein.

///
///

John H. Cotton & Associates
7900 W. Sahara, Suite 200
Las Vegas, NV 89117

- 1 IX. In answering paragraph IX, respondents are without knowledge or information
2 sufficient to form a belief as to the truth of the allegations contained therein and
3 denies them on that basis.
- 4 X. In answering paragraph X, respondents are without knowledge or information
5 sufficient to form a belief as to the truth of the allegations contained therein and
6 denies them on that basis.
- 7 XI. In answering paragraph XI, respondents are without knowledge or information
8 sufficient to form a belief as to the truth of the allegations contained therein and
9 denies them on that basis.
- 10 XII. In answering paragraph XII, respondents deny the allegations contained therein.
- 11 XIII. In answering paragraph XIII, respondents admit the allegations contained therein.
- 12 XIV. In answering paragraph XIV, respondents admit the allegations contained therein.
- 13 XV. In answering paragraph XV, respondents admit the allegations contained therein.
- 14 XVI. In answering paragraph XVI, respondents admit the allegations contained therein.
- 15 XVII. In answering paragraph XVII, respondents admit the allegations contained
16 therein.
- 17 XVIII. In answering paragraph XVIII, respondents admit the allegations contained
18 therein.
- 19 XIX. In answering paragraph XIX, respondents admit the allegations contained therein.
- 20 XX. In answering paragraph XX, respondents admit the allegations contained therein.
- 21 XXI. In answering paragraph XXI, respondents admit the allegations contained therein.

22
23 **FIRST CAUSE OF ACTION**

24 **Failure to Follow Practioner's Order**

25 (Carson Tahoe Regional Meidcal Center)

- 26 XXII. In answering paragraph XXII, respondents deny the allegations contained therein.

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John H. Cotton & Associates
7900 W. Sahara, Suite 200
Las Vegas, NV 89117

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SECOND CAUSE OF ACTION

Failure to Follow Compounding Procedures

(Carson Tahoe Regional Medical Center)

XXIII. In answering paragraph XXIII, respondents deny the allegations contained therein.

THIRD CAUSE OF ACTION

Failure to Establish and Follow Policies and Procedures

(Carson Tahoe Regional Medical Center)

XXIV. In answering paragraph XXIII, respondents deny the allegations contained therein.

FOURTH CAUSE OF ACTION

Managing Pharmacist Responsibility

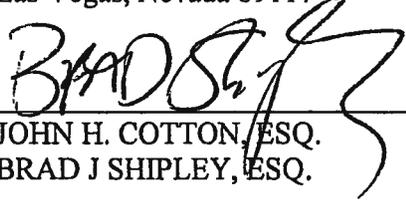
(Wayne Mitchell)

XXV. In answering paragraph XXV, respondents deny the allegations contained therein.

WHEREFORE, Respondents, having fully answered, pray for judgment in their favor and for the Nevada State Board of Pharmacy to take no disciplinary action with respect to the certificates of registration of these respondents.

Dated this 11th day of February 2019.

JOHN H. COTTON & ASSOCIATES, LTD.
7900 West Sahara Avenue, Suite 200
Las Vegas, Nevada 89117



JOHN H. COTTON, ESQ.
BRAD J SHIPLEY, ESQ.

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 23rd day of January, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Wayne Mitchell, R.Ph.
P.O. Box 5295
Incline Village, NV 89450

Carson Tahoe Regional Medical Center
1600 Medical Parkway
Carson City, NV 89703


SHIRLEY HUNTING

4G

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	STATEMENT TO THE RESPONDENT
	)	NOTICE OF INTENDED ACTION
Petitioner,	)	AND ACCUSATION
v.	)	RIGHT TO HEARING
)	
CARSON TAHOE REGIONAL MEDICAL	)	CASE NO. 18-041-PH-N
CENTER, Certificate of Registration No. IA00531)	
)	
Respondent.	/	

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

I.

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

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within twenty (20) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

III.

The Board has scheduled your hearing on this matter for Wednesday, March 6, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place, 1790 East Plumb Lane, Reno, Nevada.

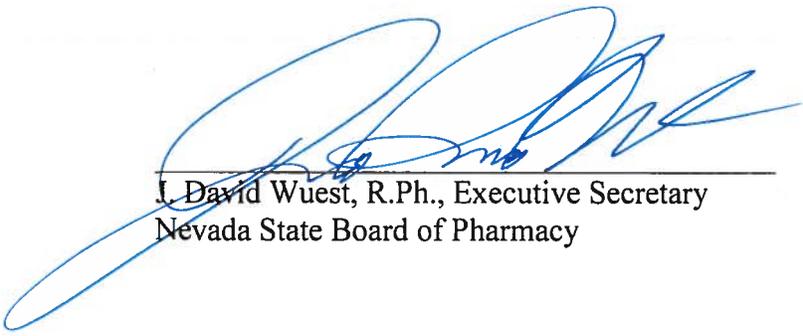
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

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

DATED this 23rd day of January 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

FILED

FEB 11 2019

NEVADA STATE BOARD OF PHARMACY

1 JOHN H. COTTON, ESQ.
 Nevada Bar Number 5268
 2 JHCotton@jhcottonlaw.com
 BRAD J. SHIPLEY, ESQ.
 3 Nevada Bar Number 12639
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 7900 West Sahara Avenue, Suite 200
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 Telephone: (702) 832-5909
 6 Facsimile: (702) 832-5910
 7 *Attorneys for Respondents*

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

CASE NOS.: 18-041-RPH-N
18-041-PH-N

Petitioner,

vs.

WAYNE MITCHELL, R.PH.,
Certificate of Registration No. 08501,

**RESPONDENTS WAYNE
MITCHELL AND CARSON TAHOE
REGIONAL MEDICAL CENTER'S
ANSWER TO NOTICE OF
INTENDED ACTION AND
ACCUSATION**

And

CARSON TAHOE REGIONAL MEDICAL
CENTER, Certificate of Registration No.
IA00531

Respondents.

Respondents, WAYNE MITCHELL, R.PH., and CARSON TAHOE REGIONAL MEDICAL CENTER, (hereinafter "Respondents"), by and through their counsel of record, John H. Cotton, Esq. and Brad J. Shipley, Esq., of the law firm of JOHN H. COTTON & ASSOCIATES, in answering the Notice of Intended Action and Accusation, hereby admits, denies and alleges as follows:

Jurisdiction

I. In answering paragraph I, Respondents admit that the Board has jurisdiction over this matter and that respondents were a pharmacist and pharmacy registered with the Board.

///

///

John H. Cotton & Associates, Ltd.
7900 West Sahara, Suite 200
Las Vegas, Nevada 89117

John H. Cotton & Associates
7900 W. Sahara, Suite 200
Las Vegas, NV 89117

Factual Allegations

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- II. In answering paragraph II, Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.
- III. In answering paragraph III, Respondents admit that L.S. gave birth to a viable infant with no apparent complication or negative impact for the baby.
- IV. In answering paragraph IV, Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein regarding L.S.' alleged knowledge and where she obtained that knowledge from and denies them on that basis. Respondents admit to the allegations contained in the paragraph regarding the general contents of the letter and the fact that it was sent.
- V. In answering paragraph V, Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.
- VI. In answering paragraph VI, Respondents assert that the phrase "the course of the error" is ambiguous, and therefore deny the allegations contained therein on that basis. Respondents admit that a newly assigned purchasing agent mistakenly ordered bupivacaine with methylparaben, but respondents are without sufficient knowledge to ascertain whether L.S. was actually exposed to this bupivacaine, and therefore denies on that basis.
- VII. In answering paragraph VII, respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.
- VIII. In answering paragraph VIII, respondents admit the allegations contained therein.

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///

John H. Cotton & Associates
7900 W. Sahara, Suite 200
Las Vegas, NV 89117

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IX. In answering paragraph IX, respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.

X. In answering paragraph X, respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.

XI. In answering paragraph XI, respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.

XII. In answering paragraph XII, respondents deny the allegations contained therein.

XIII. In answering paragraph XIII, respondents admit the allegations contained therein.

XIV. In answering paragraph XIV, respondents admit the allegations contained therein.

XV. In answering paragraph XV, respondents admit the allegations contained therein.

XVI. In answering paragraph XVI, respondents admit the allegations contained therein.

XVII. In answering paragraph XVII, respondents admit the allegations contained therein.

XVIII. In answering paragraph XVIII, respondents admit the allegations contained therein.

XIX. In answering paragraph XIX, respondents admit the allegations contained therein.

XX. In answering paragraph XX, respondents admit the allegations contained therein.

XXI. In answering paragraph XXI, respondents admit the allegations contained therein.

FIRST CAUSE OF ACTION

Failure to Follow Practioner's Order

(Carson Tahoe Regional Meidcal Center)

XXII. In answering paragraph XXII, respondents deny the allegations contained therein.

///

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John H. Cotton & Associates
7900 W. Sahara, Suite 200
Las Vegas, NV 89117

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SECOND CAUSE OF ACTION

Failure to Follow Compounding Procedures

(Carson Tahoe Regional Medical Center)

XXIII. In answering paragraph XXIII, respondents deny the allegations contained therein.

THIRD CAUSE OF ACTION

Failure to Establish and Follow Policies and Procedures

(Carson Tahoe Regional Medical Center)

XXIV. In answering paragraph XXIII, respondents deny the allegations contained therein.

FOURTH CAUSE OF ACTION

Managing Pharmacist Responsibility

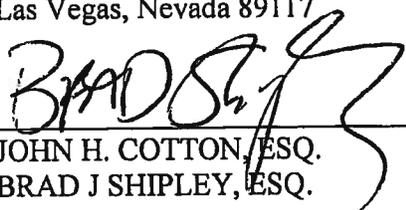
(Wayne Mitchell)

XXV. In answering paragraph XXV, respondents deny the allegations contained therein.

WHEREFORE, Respondents, having fully answered, pray for judgment in their favor and for the Nevada State Board of Pharmacy to take no disciplinary action with respect to the certificates of registration of these respondents.

Dated this 11th day of February 2019.

JOHN H. COTTON & ASSOCIATES, LTD.
7900 West Sahara Avenue, Suite 200
Las Vegas, Nevada 89117



JOHN H. COTTON, ESQ.
BRAD J SHIPLEY, ESQ.

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 23rd day of January, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Wayne Mitchell, R.Ph.
P.O. Box 5295
Incline Village, NV 89450

Carson Tahoe Regional Medical Center
1600 Medical Parkway
Carson City, NV 89703


SHIRLEY HUNTING

4H

III.

Consistent with the discharge summary, A.C.'s physician wrote a prescription for Deltasone (name brand Prednisone) 5 mg. tablets, quantity forty-five (45) with directions to take 8 tablets daily for 3 days (40 mg.), then 4 tablets daily for 3 days (20 mg.), then 2 tablets daily for 3 days (10 mg.), then 1 tablet daily for 3 days (5 mg.).

IV.

A.C. presented the prescription to Walgreens on August 6, 2018, which filled and sold the medication the same day.

V.

Pharmaceutical technician Rhodora Galang scanned the prescription at 4:38 p.m. Walgreens system designated it as Prescription No. 191694.

VI.

Managing pharmacist, Ms. Balduzzi, entered the prescription data into Walgreens' system at 4:42 p.m. She mistakenly chose 50 mg. prednisone tablets instead of the 5 mg. tablets called for in the prescription.

VII.

Ms. Balduzzi performed data entry review at 4:48:17 p.m. She did not detect the dosing error.

VIII.

One second later, at 4:48:18 p.m., Ms. Balduzzi overrode three Drug Utilization Review (DUR) warnings. Those warnings indicated:

- "HYPERTENSION INDICATES USING CAUTION WITH PREDNISONE 50MG (FIFTY) TABLETS",
- "DIABETES MELLITUS INDICATES USING CAUTION WITH PREDNISONE 50 MG (FIFTY MG) TABLETS", and

- “3.75 TAB(S) OF PREDISONE 50MG (FIFTY MG) TABLETS EXCEEDS THE RECOMMENDED GERIATRIC DOSAGE: 0.02 – 1.20 TAB(S) PER DAY.”

IX.

Pharmaceutical technician Eva Vergara filled the medication based on the erroneous information on the prescription label printed from Walgreens’ computer system.

X.

Ms. Balduzzi performed the final product verification at 5:09 p.m. She again failed to detect that Walgreens was dispensing 50 mg. tablets instead of the 5 mg. tablets called for by the prescription.

XI.

Walgreens sold Prescription No. 191694 at 6:20 p.m.

XII.

At 7:10 p.m., Ms. Balduzzi marked that she completed counseling for the prescription.

XIII.

Patient A.C. ingested forty-four (44) tablets of the dispensed medication as directed. As a result, he ingested ten times the intended dose, or 400 mg. of Prednisone daily for 3 days, instead of the 40 mg. he was prescribed. He then ingested 200 mg. daily for 3 days, instead of the 20 mg. as prescribed. He then tapered to 100 mg. daily, instead of 10 mg. as prescribed, and finally, to 50 mg. daily, instead of 5 mg. as prescribed.

XIV.

A.C.’s physician discovered Walgreens’ dosing error on August 17, 2018, during a follow-up examination of A.C. at the doctor’s office.

XV.

As a result of Walgreens’ error, A.C.’s blood sugar levels were elevated to 300-500 and were uncontrollable by insulin. A.C. also experienced edema in his legs, and Walgreens’ error may have caused delays in the healing of A.C.’s wounds.

XVI.

A.C.'s physician gave A.C. a subsequent prescription for prednisone to safely taper off the high dose Walgreens provided.

FIRST CAUSE OF ACTION

**Unprofessional Conduct, Failure to Verify the Dispensed Medication
(Respondent Kara Balduzzi)**

XVII.

Unprofessional conduct includes the failure by a licensee to follow strictly the instructions of a practitioner when filling, labeling, and dispensing a prescription. *See* NAC 639.945(1)(d). It also includes a licensee performing his or her duties in an "incompetent, unskillful, or negligent manner". *See* NAC 639.945(1)(i).

Respondent Kara Balduzzi violated NAC 639.945(1)(d) and (i) when she (1) verified the data entered on Prescription No. 191694 as accurate when it was not, and/or (2) verified the 50 mg. tablets in the prescription bottle as the correct product when Walgreens should have dispensed 5 mg. tablets. Ms. Balduzzi's registration is therefore subject to discipline pursuant to NRS 639.210(4) and (12) and/or NRS 639.255.

SECOND CAUSE OF ACTION

**Failure to Act on Drug Utilization Review (DUR) Warnings
(Respondent Kara Balduzzi)**

XVIII.

NAC 639.945(1)(i) defines unprofessional conduct to include a licensee performing any of his or her duties in an "incompetent, unskillful or negligent manner." Ms. Balduzzi violated NAC 639.945(1)(i) by failing to act upon the DUR alerts displayed on the computer screen for the 50 mg. prednisone tablets being prepared to dispense to A.C., including by overriding the DUR alerts within one second of verifying the incorrect data for the prescription as being correct. That violation is grounds for action pursuant to NRS 639.210(4) and/or (12), and under NRS 639.255.

THIRD CAUSE OF ACTION
Failure to Adequately Counsel
 (Respondent Kara Balduzzi)

XIX.

NRS 639.266(1) requires a pharmacist to “communicate matters which will enhance therapy through drugs with the patient or a person caring for the patient.” NAC 639.707(1), (2) and/or (4) further require counseling for all new prescriptions and provide a list of elements to be included as part of proper counseling, including, but not limited to, dose, intended use, expected response and precautions. Additionally, NAC 639.707(6) requires the pharmacist to create a record regarding counseling “at the time that counseling is provided or refused.”

By marking that counseling was completed at 7:10 PM, nearly an hour after Walgreens sold the medication, and, to the extent any counseling actually occurred, by failing to discuss the medication sufficiently to detect that she was dispensing an inaccurate dose of prednisone that was ten (10) times the dose prescribed, Ms. Balduzzi violated NRS 639.266(1), NAC 639.707(1), (2), (4) and/or (6), and/or NAC 639.945(1)(i). Those violations are grounds for action pursuant to NRS 639.210(4) and/or (12), and under NRS 639.255.

FOURTH CAUSE OF ACTION
Pharmacy/Pharmacy Owner Responsibility
 (Respondent Walgreens Pharmacy #15035)

XX.

NAC 639.945(2) states that “[t]he owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ”. At the time of the violations alleged herein, Walgreens was Respondent Kara Balduzzi’s employer. As such, Walgreens Pharmacy is responsible for each of the violations alleged herein.

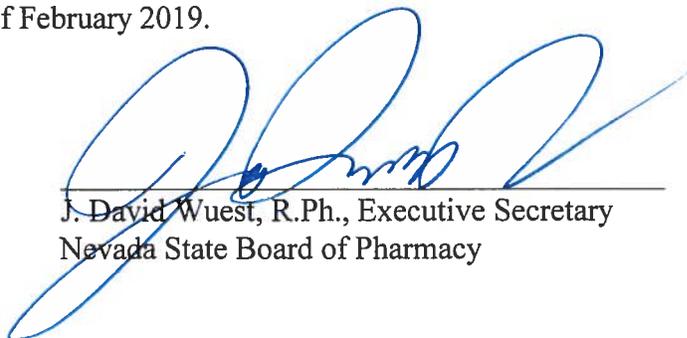
XXI.

The violations alleged above are grounds for discipline against the pharmacist registration of Kara Balduzzi, as well as Walgreens #15035, pursuant to NRS 639.210(4) and (12), and/or NRS 639.255.

XXII.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration and/or license of these respondents.

Signed this 14th day of February 2019.



J. David Wuest, R.Ph., 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 20 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	
	)	CASE NO. 18-071-RPH-S
Petitioner,)	
v.)	
	)	STATEMENT TO THE RESPONDENT
KARA BALDUZZI, RPH	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 18074	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent	/	

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

I.

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

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within twenty (20) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

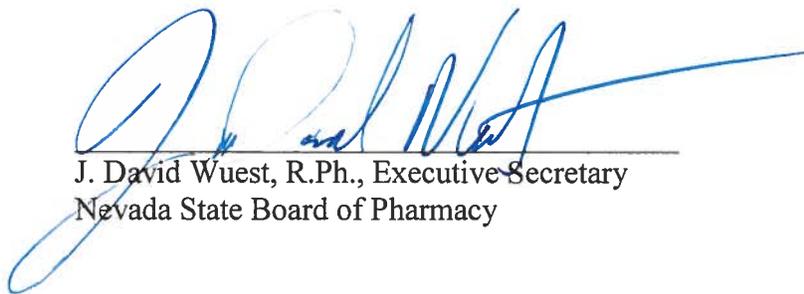
III.

The Board has reserved Wednesday, April 10, 2019, as the date for a hearing on this matter at the Hilton Garden Inn located at 7830 South Las Vegas Blvd., Las Vegas, Nevada. The hour of the hearing will be set by letter to follow.

IV.

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

DATED this 14 day of February, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

JURISDICTION

I.

Respondents admit the allegations in paragraph I. As to the nature and location of Walgreens #15035, Respondents assert that Walgreens #15035 is located in a building next to MountainView Hospital in Las Vegas with a hallway that connects to the hospital.

FACTUAL ALLEGATIONS

II.

Respondents do not have sufficient knowledge to admit or deny the allegations in paragraph II and therefore deny the same.

III.

Respondents admit that records at Walgreens #15035 contain a prescription signed by Dr. Tselikis for A.C., dated August 6, 2018, for the medication and in the dosing that matches the allegations in paragraph III.

IV.

Respondents deny the allegations in paragraph IV. Respondents admit that Walgreens # 15035 received the prescription and delivered the prescription to A.C. in his room at the hospital. Furthermore, Ms. Balduzzi spoke with A.C.'s spouse by phone and counseled S.C.'s spouse about the medications and answered multiple questions she had about them.

V.

Respondents admit the allegations in paragraph V.

VI.

Respondents admit Ms. Balduzzi entered the prescription data into Walgreens' system at 4:42 p.m.

VII.

Respondents admit Ms. Balduzzi performed the patient/prescriber review and the data review at 4:48:17 p.m.

VIII.

Respondents admit Ms. Balduzzi overrode the DURs as described in the Audit/Board of Pharmacy Inspection Report provided to the Board.

IX.

Respondents deny the allegations in paragraph IX. The Audit/Board of Pharmacy Inspection Report documents E.M. Pineda as having filled prescription no. 191694.

X.

Respondents deny the allegations in paragraph X except that Respondents admit that Ms. Balduzzi performed the product verification for prescription no. 191694 at 5:09 p.m.

XI.

Respondents deny the allegations in paragraph XI.

XII.

Respondents deny the allegations in paragraph XII. Respondents assert Ms. Balduzzi documented her counseling and that she spoke with A.C.'s spouse.

XIII.

Respondents do not have sufficient knowledge to admit or deny the allegations in paragraph XIII and therefore deny the same.

XIV.

Respondents do not have sufficient knowledge to admit or deny the allegations in paragraph XIV and therefore deny the same.

XV.

Respondents do not have sufficient knowledge to admit or deny the allegations in paragraph XV and therefore deny the same.

XVI.

Respondents do not have sufficient knowledge to admit or deny the allegations in paragraph XVI and therefore deny the same.

FIRST CAUSE OF ACTION**Unprofessional Conduct, Failure to Verify the Dispensed Medication**
(Respondent Kara Balduzzi)**XVII.**

Respondents deny the allegations in paragraph XVII.

SECOND CAUSE OF ACTION**Failure to Act on Drug Utilization Review (DUR) Warnings**
(Respondent Kara Balduzzi)**XVIII.**

Respondents deny the allegations in paragraph XVIII.

**THIRD CAUSE OF ACTION
Failure to Adequately Counsel
(Respondent Kara Balduzzi)**

XIX.

Respondents deny the allegations in paragraph XIX.

**FOURTH CAUSE OF ACTION
Pharmacy/Owner Responsibility
(Respondent Walgreens Pharmacy #15035)**

XX.

Respondents deny the allegations in paragraph XX.

XXI.

Respondents deny the allegations in paragraph XXI.

XXII.

Prayer for Relief

Paragraph XXII does not contain any allegations but contains a prayer for relief.

Respondents ask the Board to take appropriate action in this case by:

1. Dismissing this matter or by finding all Respondents not guilty as to the allegations in the Notice
2. Finding that the allegations in the Notice and all evidence presented to the Board do not support imposing discipline on any of the Respondent.
3. Providing further relief to Respondent as it finds just and proper.

OTHER DEFENSES

Each cause of action fails to state a claim upon which relief can be granted.

RESERVATION OF RIGHTS, DEFENSES, AND GENERAL DENIAL

1. Respondent reserves the right to assert other affirmative defenses in this matter and in any civil litigation that may follow and to provide additional facts and mitigating circumstances.

2. To the extent Respondent did not specifically admit allegations in the Notice of Intent and Accusation, he denies such allegations.

DATED this ____ day of March 2019.

William J. Stilling
STILLING & HARRISON, PLLC
Attorneys for Respondents
Kara Balduzzi, R.Ph.
Walgreens Pharmacy #15035

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2019, I caused to be served a true and correct copy of the foregoing **ANSWER AND NOTICE OF DEFENSE** by the method indicated below to:

S. Paul Edwards
General Counsel
Nevada State Board of Pharmacy
431 W. Plumb Lane
Reno, NV 89509
pedwards@pharmacy.nv.gov

- U.S. Mail postage prepaid
- Hand delivery
- Overnight Mail
- Facsimile
- Electronic Mail

David Wuest
Executive Secretary
Nevada State Board of Pharmacy
431 W. Plumb Lane
Reno, NV 89509
dwuest@pharmacy.nv.gov

- U.S. Mail postage prepaid
 - Hand delivery
 - Overnight Mail
 - Facsimile
 - Electronic Mail
-

CERTIFICATE OF SERVICE

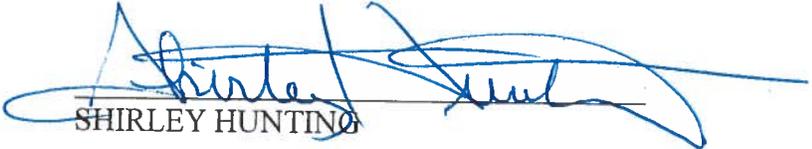
I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 14th day of February 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Kara Balduzzi
1438 Cayuga Pkwy.
Las Vegas, NV 89169

Walgreens Pharmacy #15035
3150 N. Tenaya Way, #170
Las Vegas, NV 89128

William J. Stilling, Esq.
215 South State Street, Suite 500
Salt Lake City, UT 84111

Danial O. Laird
The Gage Law Firm, PLLC
1980 Festival Plaza Dr. Ste. 270
Las Vegas, NV 89121


SHIRLEY HUNTING

41

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	
	)	CASE NO. 18-071-PH-S
Petitioner,)	
v.)	
	)	STATEMENT TO THE RESPONDENT
WALGREENS PHARMACY #15035	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. PH02742	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent	/	

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

I.

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

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within twenty (20) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

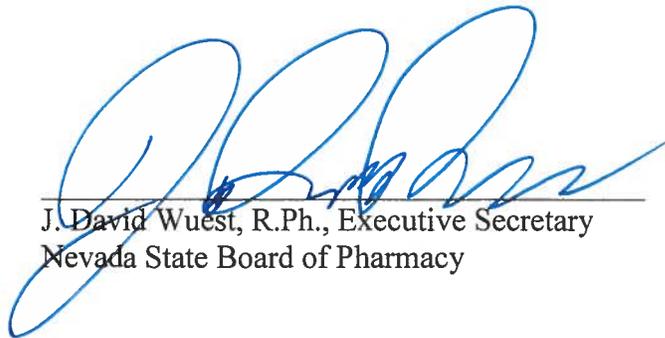
III.

The Board has reserved Wednesday, April 10, 2019, as the date for a hearing on this matter at the Hilton Garden Inn located at 7830 South Las Vegas Blvd., Las Vegas, Nevada. The hour of the hearing will be set by letter to follow.

IV.

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

DATED this 14th day of February, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

JURISDICTION

I.

Respondents admit the allegations in paragraph I. As to the nature and location of Walgreens #15035, Respondents assert that Walgreens #15035 is located in a building next to MountainView Hospital in Las Vegas with a hallway that connects to the hospital.

FACTUAL ALLEGATIONS

II.

Respondents do not have sufficient knowledge to admit or deny the allegations in paragraph II and therefore deny the same.

III.

Respondents admit that records at Walgreens #15035 contain a prescription signed by Dr. Tselikis for A.C., dated August 6, 2018, for the medication and in the dosing that matches the allegations in paragraph III.

IV.

Respondents deny the allegations in paragraph IV. Respondents admit that Walgreens # 15035 received the prescription and delivered the prescription to A.C. in his room at the hospital. Furthermore, Ms. Balduzzi spoke with A.C.'s spouse by phone and counseled S.C.'s spouse about the medications and answered multiple questions she had about them.

V.

Respondents admit the allegations in paragraph V.

VI.

Respondents admit Ms. Balduzzi entered the prescription data into Walgreens' system at 4:42 p.m.

VII.

Respondents admit Ms. Balduzzi performed the patient/prescriber review and the data review at 4:48:17 p.m.

VIII.

Respondents admit Ms. Balduzzi overrode the DURs as described in the Audit/Board of Pharmacy Inspection Report provided to the Board.

IX.

Respondents deny the allegations in paragraph IX. The Audit/Board of Pharmacy Inspection Report documents E.M. Pineda as having filled prescription no. 191694.

X.

Respondents deny the allegations in paragraph X except that Respondents admit that Ms. Balduzzi performed the product verification for prescription no. 191694 at 5:09 p.m.

XI.

Respondents deny the allegations in paragraph XI.

XII.

Respondents deny the allegations in paragraph XII. Respondents assert Ms. Balduzzi documented her counseling and that she spoke with A.C.'s spouse.

XIII.

Respondents do not have sufficient knowledge to admit or deny the allegations in paragraph XIII and therefore deny the same.

XIV.

Respondents do not have sufficient knowledge to admit or deny the allegations in paragraph XIV and therefore deny the same.

XV.

Respondents do not have sufficient knowledge to admit or deny the allegations in paragraph XV and therefore deny the same.

XVI.

Respondents do not have sufficient knowledge to admit or deny the allegations in paragraph XVI and therefore deny the same.

FIRST CAUSE OF ACTION**Unprofessional Conduct, Failure to Verify the Dispensed Medication
(Respondent Kara Balduzzi)****XVII.**

Respondents deny the allegations in paragraph XVII.

SECOND CAUSE OF ACTION**Failure to Act on Drug Utilization Review (DUR) Warnings
(Respondent Kara Balduzzi)****XVIII.**

Respondents deny the allegations in paragraph XVIII.

**THIRD CAUSE OF ACTION
Failure to Adequately Counsel
(Respondent Kara Balduzzi)**

XIX.

Respondents deny the allegations in paragraph XIX.

**FOURTH CAUSE OF ACTION
Pharmacy/Owner Responsibility
(Respondent Walgreens Pharmacy #15035)**

XX.

Respondents deny the allegations in paragraph XX.

XXI.

Respondents deny the allegations in paragraph XXI.

XXII.

Prayer for Relief

Paragraph XXII does not contain any allegations but contains a prayer for relief.

Respondents ask the Board to take appropriate action in this case by:

1. Dismissing this matter or by finding all Respondents not guilty as to the allegations in the Notice
2. Finding that the allegations in the Notice and all evidence presented to the Board do not support imposing discipline on any of the Respondent.
3. Providing further relief to Respondent as it finds just and proper.

OTHER DEFENSES

Each cause of action fails to state a claim upon which relief can be granted.

RESERVATION OF RIGHTS, DEFENSES, AND GENERAL DENIAL

1. Respondent reserves the right to assert other affirmative defenses in this matter and in any civil litigation that may follow and to provide additional facts and mitigating circumstances.

2. To the extent Respondent did not specifically admit allegations in the Notice of Intent and Accusation, he denies such allegations.

DATED this ____ day of March 2019.

William J. Stilling
STILLING & HARRISON, PLLC
Attorneys for Respondents
Kara Balduzzi, R.Ph.
Walgreens Pharmacy #15035

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2019, I caused to be served a true and correct copy of the foregoing **ANSWER AND NOTICE OF DEFENSE** by the method indicated below to:

S. Paul Edwards
General Counsel
Nevada State Board of Pharmacy
431 W. Plumb Lane
Reno, NV 89509
pedwards@pharmacy.nv.gov

- U.S. Mail postage prepaid
- Hand delivery
- Overnight Mail
- Facsimile
- Electronic Mail

David Wuest
Executive Secretary
Nevada State Board of Pharmacy
431 W. Plumb Lane
Reno, NV 89509
dwest@pharmacy.nv.gov

- U.S. Mail postage prepaid
 - Hand delivery
 - Overnight Mail
 - Facsimile
 - Electronic Mail
-

CERTIFICATE OF SERVICE

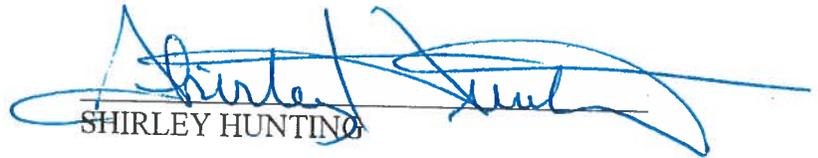
I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 14th day of February 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Kara Balduzzi
1438 Cayuga Pkwy.
Las Vegas, NV 89169

Walgreens Pharmacy #15035
3150 N. Tenaya Way, #170
Las Vegas, NV 89128

William J. Stilling, Esq.
215 South State Street, Suite 500
Salt Lake City, UT 84111

Danial O. Laird
The Gage Law Firm, PLLC
1980 Festival Plaza Dr. Ste. 270
Las Vegas, NV 89121


SHIRLEY HUNTING

4J

FACTUAL ALLEGATIONS

II.

On August 6, 2018, patient C.G. saw her dentist Dr. G. who prescribed thirty (30) Amoxicillin 500 mg. capsules with instructions to take two (2) capsules now, then one (1) capsule every six hours until gone.

III.

The dentist's office phoned the prescription in to Walmart the same day where pharmaceutical technician Robert White (White) performed data entry in Walmart's computer system.

IV.

The computer system designated the prescription as No. 7927675.

V.

During data entry, White mistakenly entered the prescriber's instructions as "*take 2 capsules by mouth now then every 6 hours until gone*", rather than *take 2 capsules now, then 1 capsule every six hours until gone*, as prescribed.

VI.

C.G. picked up Prescription No. 7927675 later that day.

VII.

For the next several days, C.G. ingested 2 capsules every six hours as directed on the prescription label.

VIII.

C.G. began to experience abdominal pain, nausea, vomiting and dehydration.

IX.

C.G. presented at an urgent care facility where she was examined and prescribed Zofran for nausea.

X.

C.G. contacted Dr. G.'s office and learned that the patient instructions on the prescription label were incorrect.

XI.

C.G. ingested twenty-six (26) capsules before the error was discovered.

XII.

Sy is on record as the pharmacist who performed data entry verification for Prescription No. 7927675. She failed to detect the transcription error when she verified data entry as accurate and sent it back to White to fill the prescription.

XIII.

Sy is on record as the counseling pharmacist for Prescription No. 7927675. Walmart's records indicate that counseling was provided.

FIRST CAUSE OF ACTION

**Unprofessional Conduct, Failure to Accurately Verify Prescription Data
(Respondent Sy)**

XIV.

Unprofessional conduct includes the failure by a licensee to follow strictly the instructions of a practitioner when labeling and dispensing a prescription. *See* NAC 639.945(1)(d). It also includes a licensee performing his duties in an "incompetent, unskillful or negligent manner". *See* NAC 639.945(1)(i).

Additionally, NAC 639.252 states in relevant part:

If a pharmaceutical technician performs one or more of the functions necessary to prepare a prescription, *the pharmacist supervising the pharmaceutical technician* is responsible for the filled prescription, including, but not limited to, verifying:

- (a) The selection and strength of the drug;
- (b) The dosage form; and
- (c) The labeling of the prescription.

NAC 639.252(2) (emphasis added.)

Respondent Sy violated NAC 639.252(2) and engaged in unprofessional conduct in violation of NAC 639.945(1)(d) and (i) when she verified the data entered on Prescription No. 7927675 as accurate when it was not, which resulted in Walmart dispensing thirty (30) Amoxicillin 500 mg. capsules with incorrect instructions to “*take 2 capsules by mouth now then every 6 hours until gone*”, rather than *take 2 capsules now, then 1 capsule every six hours until gone*, as prescribed. Sy is therefore subject to discipline pursuant to NRS 639.210(4) and (12) and/or NRS 639.255.

SECOND CAUSE OF ACTION
Pharmacy/Pharmacy Owner Responsibility
 (Respondent Walmart Pharmacy #10-2106)

XV.

NRS 639.230(5) provides: “Any violation of any of the provisions of this chapter [NRS Chapter 639] by a managing pharmacist or by personnel of the pharmacy under the supervision of the managing pharmacist is cause for the suspension or revocation of the license of the pharmacy by the Board.”

Additionally, “[t]he owner of a pharmacy, the managing pharmacist of the pharmacy and the registered pharmacist on duty at the pharmacy are responsible for the acts and omissions of pharmaceutical technicians and other personnel who are not pharmacists working in or for the pharmacy, including, but not limited to, any errors committed or unauthorized work performed by such personnel, if the owner, managing pharmacist or registered pharmacist knew or reasonably should have known of the act or omission.” NAC 639.702.

Further, the owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ. NAC 639.945(2).

As the pharmacy/pharmacy owner at which the violations of law alleged herein occurred, Walmart Pharmacy #10-2106 is responsible for those violations, including those of Respondent Sy pursuant to NRS 639.230(5), NAC 639.702 and NAC 639.945(2). Walmart Pharmacy #10-2106 is therefore subject to discipline pursuant to NRS 639.210(4) and (12) and NRS 639.255.

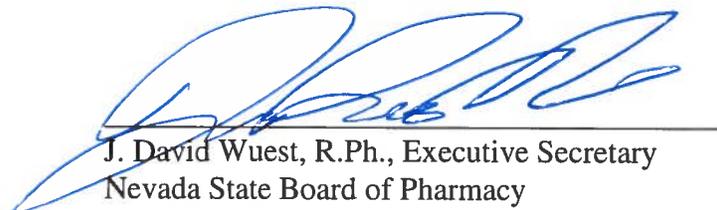
XVI.

For the errors, misconduct and violations alleged above in the First and Second Causes of Action, Respondents, and each of them, are subject to discipline pursuant to NRS 639.210, as well as NRS 639.230(5) and/or NRS 639.255.

XVII.

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 23rd day of January 2019.



J. David Wuest, R.Ph., 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 20 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

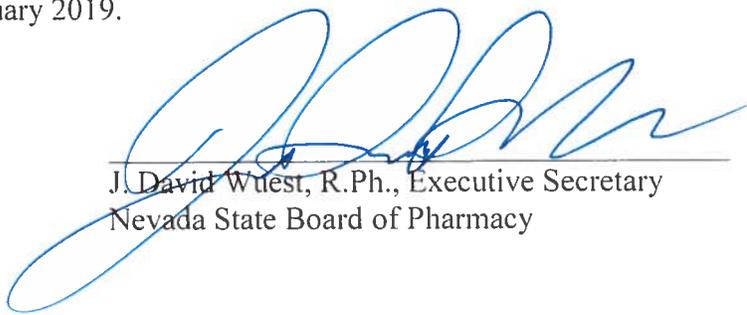
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

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

DATED this 23rd day of January 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

MAR 07 2019

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

Nevada State Board of Pharmacy	)	Case No. 18-092-PH-N
Petitioner)	
)	
v.	)	ANSWER AND NOTICE OF DEFENSE
)	
JOSIELYN SY, RPH)	
Certificate of Registration No. 17094, and)	
)	
WALMART PHARMACY #10-2106)	
Certificate of Registration No. PH00944,)	
)	
Respondents)	
_____)	

Respondents 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, declare:

1. That their objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against it, is hereby interposed on the following grounds and that, in answer to the Notice of Intended Action and Accusation, Respondents admit, deny, and allege as follows:

- A. Admits the Board has jurisdiction over the Respondents as described in Paragraph I.
- B. Admits the portion of Paragraph II to the extent that the prescriber prescribed thirty Amoxicillin 500 mg. capsules with instructions to take two capsules now, then one capsule every six hours. Respondents deny knowledge or information sufficient to form a belief as to the truth of the remainder of Paragraph II.
- C. Admit the Allegations in Paragraph III - VI.
- D. Denies knowledge or information sufficient to form a belief as to the truth of Paragraphs VII - XI.
- E. To the extent that the statements reflects what is in Respondent Walmart's pharmacy records, Respondent Walmart admits the allegations in Paragraphs XII and XIII. Respondent Sy admits the allegations in Paragraphs XII and XIII.
- F. Respondents neither admit nor deny the allegations set forth in Paragraph XIV of the Notice of Intended Action and Accusation, the First Cause of Action.
- G. Respondents admit that the citations to Nevada Revised Statutes and the Nevada Administrative Code in Paragraph XV are accurate to the extent they refer to the language quoted therein.

Respondent Walmart denies any allegation of a violation of NAC 639.702 to the extent that it alleges Respondent Walmart knew or reasonably should have known of any errors committed, as this prescription was within normal parameters for this drug and would not have flagged in Respondent Walmart's system as erroneous.

Respondent Walmart affirmatively alleges that Respondent Sy all times material to the Board's Accusation was a registered pharmacist, approved by the Board, who was responsible for compliance by the pharmacy and its personnel with all state and federal laws and regulations relating to the operation of the pharmacy and the practice of pharmacy.

Respondents neither admit nor deny any remaining allegations set forth in Paragraphs XV and XVI as the allegations contain legal conclusions to which no response is required.

H. Denies any and all allegations not heretofore previously admitted or denied.

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

DATED this 7th day of March, 2019.


Lyn Beggs, Counsel for Respondent

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 23rd day of January, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Josielyn Sy, R.Ph.
10765 Clear Vista Drive
Reno, NV 89521

Walmart Pharmacy #10-2106
2425 E. 2nd Street
Reno, NV 89502


SHIRLEY HUNTING

4K

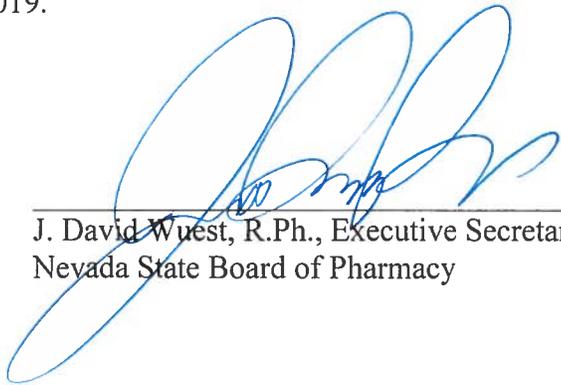
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

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

DATED this 23rd day of January 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

MAR 07 2019

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

Nevada State Board of Pharmacy	)	Case No. 18-092-PH-N
Petitioner)	
)	
v.	)	ANSWER AND NOTICE OF DEFENSE
)	
JOSIELYN SY, RPH)	
Certificate of Registration No. 17094, and)	
)	
WALMART PHARMACY #10-2106)	
Certificate of Registration No. PH00944,)	
)	
Respondents)	
_____)	

Respondents 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, declare:

1. That their objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against it, is hereby interposed on the following grounds and that, in answer to the Notice of Intended Action and Accusation, Respondents admit, deny, and allege as follows:

- A. Admits the Board has jurisdiction over the Respondents as described in Paragraph I.
- B. Admits the portion of Paragraph II to the extent that the prescriber prescribed thirty Amoxicillin 500 mg. capsules with instructions to take two capsules now, then one capsule every six hours. Respondents deny knowledge or information sufficient to form a belief as to the truth of the remainder of Paragraph II.
- C. Admit the Allegations in Paragraph III - VI.
- D. Denies knowledge or information sufficient to form a belief as to the truth of Paragraphs VII - XI.
- E. To the extent that the statements reflects what is in Respondent Walmart's pharmacy records, Respondent Walmart admits the allegations in Paragraphs XII and XIII. Respondent Sy admits the allegations in Paragraphs XII and XIII.
- F. Respondents neither admit nor deny the allegations set forth in Paragraph XIV of the Notice of Intended Action and Accusation, the First Cause of Action.
- G. Respondents admit that the citations to Nevada Revised Statutes and the Nevada Administrative Code in Paragraph XV are accurate to the extent they refer to the language quoted therein.

Respondent Walmart denies any allegation of a violation of NAC 639.702 to the extent that it alleges Respondent Walmart knew or reasonably should have known of any errors committed, as this prescription was within normal parameters for this drug and would not have flagged in Respondent Walmart's system as erroneous.

Respondent Walmart affirmatively alleges that Respondent Sy all times material to the Board's Accusation was a registered pharmacist, approved by the Board, who was responsible for compliance by the pharmacy and its personnel with all state and federal laws and regulations relating to the operation of the pharmacy and the practice of pharmacy.

Respondents neither admit nor deny any remaining allegations set forth in Paragraphs XV and XVI as the allegations contain legal conclusions to which no response is required.

H. Denies any and all allegations not heretofore previously admitted or denied.

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

DATED this 7th day of March, 2019.


Lyn Beggs, Counsel for Respondent

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 23rd day of January, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Josielyn Sy, R.Ph.
10765 Clear Vista Drive
Reno, NV 89521

Walmart Pharmacy #10-2106
2425 E. 2nd Street
Reno, NV 89502



SHIRLEY HUNTING

4L

IV.

Board Staff obtained Barclay's work schedule from November 2017, through November 2018, from Meta Pharmacy.

V.

From the records Meta Pharmacy provided, Board Staff ascertained that Barclay had worked at Meta Pharmacy approximately two-hundred and twenty-four (224) days from November 1, 2017, through November 29, 2018, without a license or registration with the Board.

VI.

Barclay's work history also revealed that he was employed as the managing pharmacist of Meta Pharmacy during the time period that his pharmacist registration was expired.

VII.

On the days that Barclay worked without a current pharmacist registration, Meta Pharmacy operated without a managing pharmacist who was registered with the Board and without a registered staff pharmacist on site.

VIII.

On November 29, 2018, Board Staff served Barclay with a Cease and Desist Order and Citation for the Unregistered Practice of Pharmacy.

IX.

On January 11, 2019, Board Staff served Barclay with a Citation for the Unregistered Practice of Pharmacy and fined him \$5,000.00 for working approximately two-hundred and twenty-four (224) days without a current pharmacist registration. Barclay did not seek a hearing to oppose that citation.

FIRST CAUSE OF ACTION

X.

As the pharmacist in charge of a pharmacy that operated without a registered pharmacist on site, Sean Barclay violated Nevada Revised Statute (NRS) 639.220(1) and NRS 639.284(2), as well as Nevada Administrative Code (NAC) 639.945(1)(i) and/or (j), which violations are

grounds for discipline pursuant to NRS 639.210(4), (11), (12) and/or (15) and NAC 639.702, or alternatively, under NRS 639.255, as well as NAC 639.955.

SECOND CAUSE OF ACTION

XI.

As the owner and operator of the pharmacy in which Barclay violated Nevada law, as alleged above, including in the First Cause of Action, Meta Pharmacy Services is responsible for those violations pursuant to NAC 639.945(2), which is grounds for discipline pursuant to NRS 639.210(11) and/or (12), NRS 639.230(5), NRS 639.255, and NAC 639.955.

THIRD CAUSE OF ACTION

XII.

In owning and operating a pharmacy without a registered pharmacist acting as the pharmacist in charge, Meta Pharmacy Services violated NRS 639.220(1) and NRS 639.284(1), which violations are grounds for discipline pursuant to NRS 639.210(4), (11) and/or (12), or alternatively, under NRS 639.255, as well as NAC 639.955.

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

Signed this 8th day of March 2019



J. David Wuest, R.Ph., 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 license and/or certificate of registration. To do so, you must mail to the Board within 20 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	STATEMENT TO THE RESPONDENT
	)	NOTICE OF INTENDED ACTION
Petitioner,	)	AND ACCUSATION
v.	)	RIGHT TO HEARING
)	
SEAN BARCLAY, R.PH.,	)	CASE NO. 19-002-RPH-S
Certificate of Registration No. 17303)	
)	
Respondent.	/	

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

I.

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

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within twenty (20) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

III.

The Board has scheduled your hearing on this matter for Wednesday, April 10, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

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

DATED this 3rd day of March 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
SEAN BARCLAY, R.PH.,	)	CASE NO. 19-002-RPH-S
Certificate of Registration No. 17303)	
)	
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 March 2019.

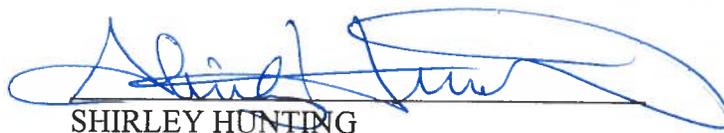
SEAN BARCLAY, RPH

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 8th day of March, 2019 , I served a true and correct copy of the foregoing document by Certified U.S.

Mail to the following:

**Sean Barclay, R.Ph.
520 Summer Mesa Drive
Las Vegas, NV 89144**



SHIRLEY HUNTING

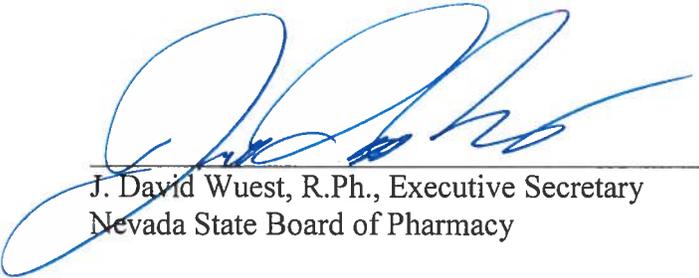
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

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

DATED this 8th day of March 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
META PHARMACY SERVICES,	)	CASE NO. 19-002-PH-S
Certificate of Registration No. PH03433)	
)	
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 March 2019.

Type or print name

AUTHORIZED REPRESENTATIVE FOR
META PHARMACY SERVICES

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 8th day of March, 2019 , I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Meta Pharmacy
8352 Warm Springs Road
Las Vegas, NV 89113**


SHIRLEY HUNTING

4M

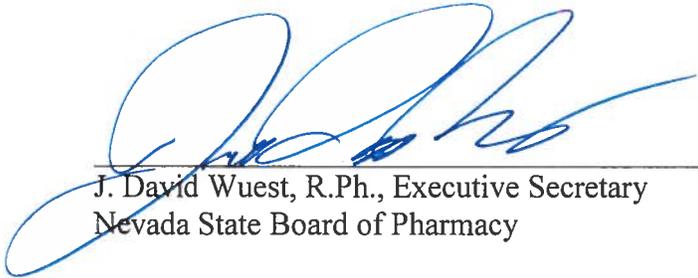
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

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

DATED this 8th day of March 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
META PHARMACY SERVICES,	)	CASE NO. 19-002-PH-S
Certificate of Registration No. PH03433)	
)	
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 March 2019.

Type or print name

AUTHORIZED REPRESENTATIVE FOR
META PHARMACY SERVICES

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 8th day of March, 2019 , I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Meta Pharmacy
8352 Warm Springs Road
Las Vegas, NV 89113**


SHIRLEY HUNTING

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FILED

MAR 08 2019

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-019-PT-S
)	
Petitioner,)	
v.)	
	)	NOTICE OF INTENDED ACTION
MELINA CRUZ, PT	)	AND ACCUSATION
Certificate of Registration No. PT18733,)	
)	
Respondent.	/	

J. David Wuest, 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 this respondent because at the time of the events alleged herein, Respondent Melina Cruz, PT (Cruz) held a Nevada Pharmaceutical Technician Registration, Certificate No. PT18733, issued by the Board.

FACTUAL ALLEGATIONS

II.

In February 2019, a Drug Loss Program Lead Coordinator from CVS Pharmacy notified Board Staff that Cruz was terminated from her employment as a pharmaceutical technician at CVS Pharmacy #08803 (CVS) for diversion of controlled substances.

III.

Cruz admitted to diverting controlled substances from CVS in a written statement and verbally during an interview conducted by a district asset protection leader for CVS health. A district leader for CVS Health witnessed the interview.

IV.

Cruz admitted that in December 2018, she diverted approximately two (2) Alprazolam 1 mg. tablets from CVS for self-use.

V.

CVS reported the theft to law enforcement.

FIRST CAUSE OF ACTION

VI.

NRS 453.331(d) states, in relevant part, that “[i]t is unlawful for a person knowingly or intentionally to . . . [a]cquire or obtain . . . possession of a controlled substance . . . by misrepresentation, fraud, forgery, deception, subterfuge or alteration.” NRS 639.210(12) states that a violation or attempt to violate “any law or regulation relating to drugs, the . . . distribution of drugs or the practice of pharmacy . . . committed by the holder of a certificate, license [or] registration” is grounds for suspension or revocation of any certificate, license or permit licensed by the Board. By diverting controlled substances as alleged herein, Cruz violated NRS 453.331(1)(d), and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

SECOND CAUSE OF ACTION

VII.

NRS 453.336(1) states, in relevant part, that “a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a [lawful] prescription or order of a [practitioner]”. NRS 639.210(12) says that a violation or attempt to violate “any law or regulation relating to drugs, the . . . distribution of drugs or the practice of pharmacy . . . committed by the holder of a certificate, license [or] registration . . .” is grounds for suspension or revocation of any certificate, license or permit licensed by the Board. By diverting controlled substances as alleged herein, Cruz violated NRS 453.336(1) and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

THIRD CAUSE OF ACTION

VIII.

NAC 639.945(1)(g) states that “[s]upplying or diverting drugs . . . which are legally sold in pharmacies . . . so that unqualified persons can circumvent any law pertaining to the legal sale of such articles” constitutes “unprofessional conduct and conduct contrary to the public interest.” NRS 639.210(4) says that conduct that is unprofessional or contrary to the public interest is grounds for suspension or revocation of any certificate, license or permit licensed by the Board. By diverting controlled substances as alleged herein, Cruz has engaged in unprofessional conduct in violation of NAC 639.945(1)(g), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

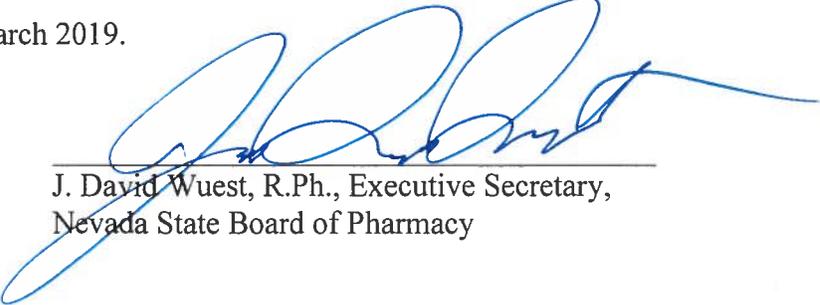
FOURTH CAUSE OF ACTION

IX.

NAC 639.945(1)(h) states that “[p]erforming 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.” NRS 639.210(4) says that conduct that is unprofessional or contrary to the public interest is grounds for suspension or revocation of any certificate, license or permit licensed by the Board. By diverting controlled substances as alleged herein, Cruz has engaged in unprofessional conduct in violation of NAC 639.945(1)(h), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

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

Signed this 8th day of March 2019.



J. David Wuest, R.Ph., 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 twenty (20) days of your receipt of the Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-019-PT-S
)	
Petitioner,)	
)	
v.)	
	)	STATEMENT TO THE
MELINA CRUZ, PT	)	RESPONDENT AND
Certificate of Registration No. PT18733,	)	NOTICE OF HEARING
)	
Respondent.)	
	/	

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

I.

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

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within twenty (20) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

III.

The Board has scheduled your hearing on this matter for Wednesday, April 10, 2019, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

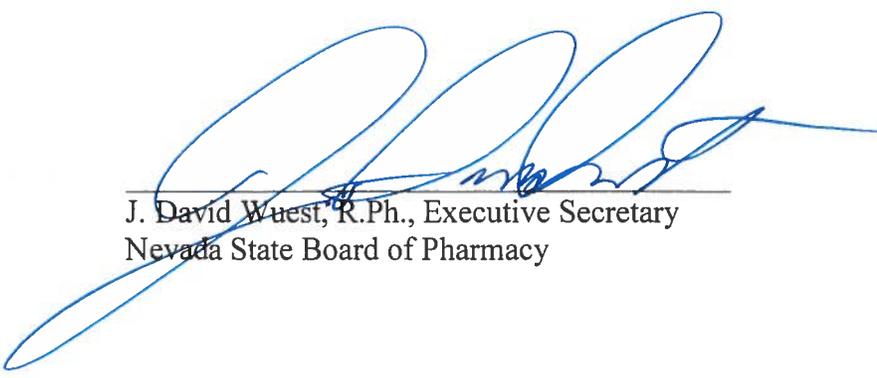
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

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

DATED this 8th day of March 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 19-019-PT-S
)	
Petitioner,)	
v.)	
)	
MELINA CRUZ, PT	)	ANSWER AND NOTICE
Certificate of Registration No. PT18733,	)	OF DEFENSE
)	
Respondent.)	
	/	

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

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

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

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

DATED this ___ day of March 2019.

MELINA CRUZ, PT

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 8th day of March, 2019 , I served a true and correct copy of the foregoing document by Certified U.S.

Mail to the following:

Melina Cruz
5822 Allegro Avenue
Las Vegas, NV 89110



SHIRLEY HUNTING