

SEP 13 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

HOYEON CHO, RPH

Certificate of Registration No. 18658

AMY LYNN DELUCA, RPH

Certificate of Registration No. 18793

CVS PHARMACY #5942

Certificate of Registration No. PH02020

Respondents.

CASE NO. 16-036-RPH-A-S

16-036-RPH-B-S

16-036-PH-S

NOTICE OF INTENDED ACTION
AND ACCUSATION

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

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 Hoyeon Cho (Ms. Cho), Certificate of Registration #18658, and Respondent Amy Lynn Deluca (Ms. Deluca), Certificate of Registration #18793, were pharmacists licensed by the Board; and Respondent CVS Pharmacy #5942 (CVS), Certificate of Registration PH02020, was a pharmacy licensed by the Board.

FACTUAL ALLEGATIONS

II.

On or about April 14, 2016, Dr. T. examined patient T. V. and prescribed Protonix (pantoprazole) 40mg with instructions to take one tablet twice a day for gastric ulcer.

III.

Dr. T. electronically transmitted the prescription to CVS on April 14, 2016, where pharmacist Ms. Cho entered the data into CVS' computer system. The computer system

designated the prescription as No. 800564.

IV.

During data entry, Ms. Cho entered the first three letters of the prescribed drug and selected *propranolol* from the dropdown box rather than *Protonix* as prescribed.¹

V.

Pharmaceutical technician S.R. filled the prescription with the medication and instructions for use as printed on the label. The label read:

“Propranolol 40 MG Tablet
TAKE 1 TABLET BY MOUTH TWICE A DAY FOR GASTRIC ULCER”

VI.

Ms. Cho was the verifying pharmacist for prescription No. 800564. Ms. Cho failed to detect the medication error when she verified the data entry and final product as accurate.

VII.

The counseling pharmacist of record was Ms. Cho. Pharmacy records indicate that Ms. Cho did not perform counseling for T.V.’s new prescription (No. 800564).

VIII.

Ms. Cho admits that the pharmacy’s policies and procedures for patient counseling were not followed.

IX.

T.V. maintains that he did not receive counseling for prescription No. 800564.

X.

T.V. ingested forty (40) propranolol 40 mg. tablets within a twenty (20) day time period. He reportedly suffered fatigue and lightheadedness as a result of the medication error.

XI.

Dr. T. discovered the error during T.V.’s annual wellness examination when T.V. presented the medication bottle dispensed by CVS.

¹ *Propranolol* is a beta-blocker used to treat tremors, angina, hypertension, and other heart or circulatory conditions. *Protonix* (pantoprazole) is a proton pump inhibitor used to treat erosive esophagitis and other conditions involving excess stomach acid.

XII.

During Board Staff's investigation, CVS was unable to provide a copy of the original records, duplicate label, and workflow documents for prescription No. 800564, and admits that Ms. Cho deleted the prescription from the pharmacy computer system.

XIII.

Ms. Cho admits that on May 4, 2016, she asked pharmaceutical technician B.O. to inactivate prescription No. 800564 in order to prevent future fills. B.O. inactivated the prescription in the pharmacy computer system as instructed.

XIV.

Amy Deluca was the managing pharmacist at CVS at the time of the events alleged herein.

FIRST CAUSE OF ACTION

(Respondent Cho)

XV.

Nevada Administrative Code (NAC) 639.945(1)(d) defines unprofessional conduct to include the failure by a licensee to follow strictly the instructions of a prescriber when filling, labeling and dispensing a prescription. Unprofessional conduct also includes performing duties in an "incompetent, unskillful or negligent manner" *See* NAC 639.945(1)(i).

Ms. Cho violated NAC 639.945(1)(d) and/or (i) by committing an error during data entry which resulted in the incorrect drug to be dispensed to the patient.

SECOND CAUSE OF ACTION

(Respondent Cho)

XVI.

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

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

Ms. Cho violated NRS 639.266, NAC 639.707(1) and (2), and NAC 639.945(1)(i), when she failed to counsel T.V. regarding the new prescription.

THIRD CAUSE OF ACTION

(Respondent Cho)

XVII.

NAC 639.910(1)(a) states that "Any computerized system used by a pharmacy for recording information concerning prescriptions must be designed in such a manner that it provides: (a) A readily retrievable printed record of the information relating to a prescription or a patient which the pharmacy is required to maintain pursuant to state or federal law, including, without limitation, information relating to the original prescription or the refill or modification of that prescription".

Ms. Cho violated NRS 639.210(4) and (17), NAC 639.482, and NAC 639.945(1)(i) and (m), and NAC 639.910(1), when she deleted the record for prescription no. 800564 by removing the original data and eliminating any reference of the filling error.

FOURTH CAUSE OF ACTION

(Respondent Deluca)

XVIII.

As the managing pharmacist/pharmacist in charge of CVS #5942 at the time of each of the violations alleged herein, Respondent Deluca is responsible for those violations, including those of her employees. See NRS 639.0087, NRS 639.210(15), NRS 639.220(3)(c), NAC 639.702 and NAC 639.910(2).

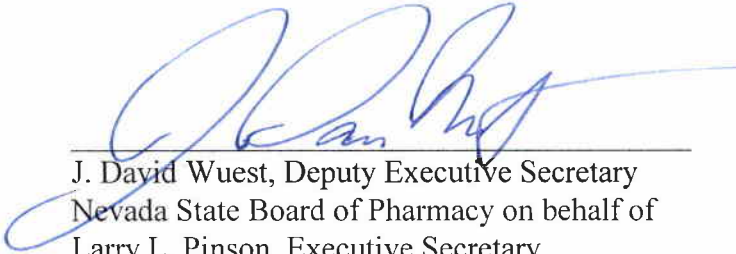
FIFTH CAUSE OF ACTION
(Respondent CVS Pharmacy #5942)

XIX.

As the pharmacy in which the violations alleged above occurred, CVS is responsible for the actions of respondent Hoyeon Cho, as alleged herein, pursuant to NAC 639.945(2), which is grounds for discipline pursuant to NRS 639.210(4), (11) and/or (12), and NRS 639.255.

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

Signed this 13th day of September, 2017.



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 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

FILED

OCT 20 2017

NEVADA STATE BOARD
OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	Case No.	16-036-RPH-A-S
)		16-036-RPH-B-S
Petitioner,)		16-036-PH-S
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HOYEON CHO, RPH)	ANSWER AND NOTICE OF	
Certificate of Registration No. 18658)	DEFENSE	
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AMY LYNN DELUCA, RPH)		
Certificate of Registration No. 18793)		
)		
CVS PHARMACY #5942)		
Certificate of Registration No. PH02020)		
)		
Respondents.)		
)		

COMES NOW Respondent Hoyeon Cho ("Ms. Cho"), by and through her counsel, Michael W. Dyer, and responds to the Notice of Intended Action and Accusation filed September 13, 2017, by Petitioner, the Nevada State Board of Pharmacy ("Board"). This Response will serve as Respondent Cho's Answer and Notice of Defense pursuant to NRS 639.244.

Respondent hereby declares:

1. That a hearing on the Accusation is requested.
2. That, in answer to the Accusation, Respondent Cho admits, denies, and alleges as follows:

I.

Respondent Cho admits that the Board has jurisdiction over this matter and over Ms. Cho, on the basis that Ms. Cho is a pharmacist licensed by the Board.

II.

Ms. Cho admits the allegations of Paragraph II.

III.

Ms. Cho admits the allegations of Paragraph III.

IV.

Ms. Cho admits that she inadvertently selected Propranolol when entering the prescription in the CVS computer system, rather than entering Protonix as prescribed.

V.

Ms. Cho admits the allegations of Paragraph V of the Accusation.

VI.

Ms. Cho admits the allegations of Paragraph VI of the Accusation.

VII.

Ms. Cho admits the allegations of Paragraph VII of the Accusation. Ms. Cho also states that she has no recollection of having been advised that the Patient was waiting for counseling.

VIII.

In response to Paragraph VIII of the Accusation, Ms. Cho admits that she has no recollection of performing counseling, and that the records of CVS #5942 do not show that CVS's policies and procedures for patient counseling were followed.

IX.

In response to Paragraph IX of the Accusation, Ms. Cho acknowledges that T.V. maintains that he did not receive counseling.

X.

Ms. Cho is without personal knowledge as to whether T.V. ingested forty (40) Propranolol 40 mg. tablets within the stated time period. She likewise has no personal knowledge of whether T.V. suffered fatigue and light headedness, and therefore has no basis to admit or deny these allegations.

XI.

Ms. Cho has no personal knowledge of how Dr. T discovered the prescription error, but she does not contest the allegations of Paragraph XI of the Accusation.

XII.

Ms. Cho admits the allegations of Paragraph XII of the Accusation.

XIII.

Ms. Cho admits the allegations in Paragraph XIII of the Accusation that she asked pharmaceutical technician B.O. to inactivate the prescription. Ms. Cho has no personal knowledge as to whether technician B.O. inactivated the prescription as instructed, but acknowledges that the prescription was inactivated.

XIV.

Ms. Cho admits the allegations of Paragraph XIV of the Accusation.

XV.

Responding to the First Cause of Action, which is set forth in Paragraph XV of the Accusation, Ms. Cho admits the allegations of the First Cause of Action.

XVI.

Responding to the Second Cause of Action, which is set forth in Paragraph XVI of the Accusation, Ms. Cho admits the allegations of the Second Cause of Action and accepts responsibility for the violations asserted therein.

XVII.

Ms. Cho denies that she intentionally deleted the record for the prescription. However, Ms. Cho admits that in attempting to assist the Patient, she took action by which she intended to only allow the reversal of insurance charges, but which had the unintended effect of deleting the record of prescription #800564 in the computer at CVS Pharmacy #5942.

XVIII.

The Fourth Cause of Action does not involve Ms. Cho, and Ms. Cho does not construe the Fourth Cause of Action as requiring any response on her part, and therefore makes no response.

XIX.

The Fifth Cause of Action deals with Respondent CVS Pharmacy #5942 and does not assert any actions by Ms. Cho, other than those previously set out and responded to above. Ms. Cho therefore makes no additional response to Paragraph XIX of the Accusation.

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WHEREFORE, Respondent CHO requests a hearing before the Nevada State Board of Pharmacy regarding the Notice of Intended Action and Accusation.

Dated this 19th day of October, 2017.

DYER, LAWRENCE, FLAHERTY,
DONALDSON & PRUNTY

By 
Michael W. Dyer
Attorney for Respondent
Hoyeon Cho

OCT 20 2017

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD
OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	Case No.	16-036-RPH-A-S
)		16-036-RPH-B-S
Petitioner,)		16-036-PH-S
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HOYEON CHO, RPH)	ANSWER AND NOTICE OF	
Certificate of Registration No. 18658)	DEFENSE	
)		
AMY LYNN DELUCA, RPH)		
Certificate of Registration No. 18793)		
)		
CVS PHARMACY #5942)		
Certificate of Registration No. PH02020)		
)		
Respondents.)		
)		

COMES NOW Respondent Amy Lynn Deluca ("Ms. Deluca"), by and through her counsel, Michael W. Dyer, and responds to the Notice of Intended Action and Accusation filed September 13, 2017, by Petitioner, the Nevada State Board of Pharmacy ("Board"). This Response will serve as Respondent Deluca's Answer and Notice of Defense pursuant to NRS 639.244.

Respondent hereby declares:

1. That a hearing on the Accusation is requested.
2. That, in answer to the Accusation, Respondent Deluca admits, denies, and alleges as follows:

I.

Respondent Deluca admits that she is a pharmacist licensed by the Board, and that the Board has jurisdiction over her, and over this matter.

II.

Ms. Deluca admits the allegations of Paragraph II.

III.

Ms. Deluca admits the allegations of Paragraph III.

IV.

Ms. Deluca admits that Ms. Cho incorrectly entered Propranolol rather than Protonix but has no personal knowledge as to how the error occurred.

V.

Ms. Deluca admits the allegations of Paragraph V of the Accusation.

VI.

Ms. Deluca admits the allegations of Paragraph VI of the Accusation.

VII.

Ms. Deluca admits the allegations of Paragraph VII of the Accusation.

VIII.

In response to Paragraph VIII of the Accusation, Ms. Deluca admits that the policies and procedures for patient counseling do not appear to have been followed.

IX.

In response to Paragraph IX of the Accusation, Ms. Deluca acknowledges that T.V. maintains that he did not receive counseling.

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X.

Ms. Deluca is without personal knowledge as to whether T.V. ingested forty (40) Propranolol 40 mg. tablets within the stated time period. She likewise has no personal knowledge of whether T.V. suffered fatigue and light headedness. However, Ms. Deluca does not dispute these allegations.

XI.

Ms. Deluca has no personal knowledge of how Dr. T discovered the prescription error, but she does not contest the allegations of Paragraph XI of the Accusation.

XII.

Ms. Deluca admits that CVS is unable to provide the duplicate and workflow documents, because the prescription history was deleted from the pharmacy computer.

XIII.

Ms. Deluca admits the allegations in Paragraph XIII of the Accusation that Ms. Cho asked pharmaceutical technician B.O. to inactivate the prescription. Although, Ms. Deluca has no personal knowledge as to whether technician B.O. inactivated the prescription as instructed, Ms. Deluca acknowledges that the prescription was inactivated.

XIV.

Ms. Deluca admits the allegations of Paragraph XIV of the Accusation.

XV.

Responding to the First Cause of Action, which is set forth in Paragraph XV of the Accusation, Ms. Deluca admits the allegations of the First Cause of Action.

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XVI.

Responding to the Second Cause of Action, which is set forth in Paragraph XVI of the Accusation, Ms. Deluca admits the allegations of the Second Cause of Action.

XVII.

With regard to the Third Cause of Action, Ms. Deluca acknowledges that Ms. Cho deleted the record of the prescription.

XVIII.

In response to the Fourth Cause of Action, Ms. Deluca acknowledges she was the managing pharmacist at the time of violations alleged in the Accusation. The extent of Ms. Deluca's personal liability under the cited NRS and NAC provisions is a question of law, and Ms. Deluca does not acknowledge that the cited NAC and NRS provisions should be interpreted to impose personal liability on her, or her license, strictly on a respondeat superior basis. For that reason, Ms. Deluca denies a managing pharmacist has unlimited responsibility for violations of Nevada law by other employees of the pharmacy.

XIX.

The Fifth Cause of Action, deals with Respondent CVS Pharmacy #5942 and does not assert any actions by Ms. Deluca, other than those previously set out and responded to above. Ms. Deluca therefore makes no additional response to Paragraph XIX of the Accusation.

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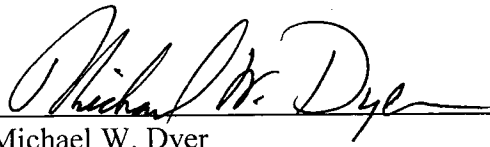
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WHEREFORE, Respondent DELUCA requests a hearing before the Nevada State Board of Pharmacy regarding the Notice of Intended Action and Accusation.

Dated this 19th day of October, 2017.

DYER, LAWRENCE, FLAHERTY,
DONALDSON & PRUNTY

By 
Michael W. Dyer
Attorney for Respondent
Amy Lynn Deluca

FILED

OCT 20 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	Case No.	16-036-RPH-A-S
)		16-036-RPH-B-S
Petitioner,)		16-036-PH-S
)		
v.)		
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HOYEON CHO, RPH)	ANSWER AND NOTICE OF	
Certificate of Registration No. 18658)	DEFENSE	
)		
AMY LYNN DELUCA, RPH)		
Certificate of Registration No. 18793)		
)		
CVS PHARMACY #5942)		
Certificate of Registration No. PH02020)		
)		
Respondents.)		
_____)		

COMES NOW Respondent CVS Pharmacy #5942 ("CVS"), by and through its counsel, Michael W. Dyer, and responds to the Notice of Intended Action and Accusation filed September 13, 2017, by Petitioner, the Nevada State Board of Pharmacy ("Board"). This Response will serve as Respondent CVS's Answer and Notice of Defense pursuant to NRS 639.244.

Respondent hereby declares:

1. That a hearing on the Accusation is requested.
2. That, in answer to the Accusation, Respondent CVS admits, denies, and alleges as follows:

I.

Respondent CVS admits that it is a pharmacy licensed by the Board, and that the Board has jurisdiction over CVS, and over this matter.

II.

CVS admits the allegations of Paragraph II.

III.

CVS admits the allegations of Paragraph III.

IV.

CVS admits that Ms. Cho incorrectly entered Propranolol rather than Protonix.

V.

CVS admits the allegations of Paragraph V of the Accusation.

VI.

CVS admits the allegations of Paragraph VI of the Accusation.

VII.

CVS admits the allegations of Paragraph VII of the Accusation.

VIII.

In response to Paragraph VIII of the Accusation, CVS admits that the policies and procedures for patient counseling do not appear to have been followed.

IX.

In response to Paragraph IX of the Accusation, CVS acknowledges that T.V. maintains that he did not receive counseling.

X.

CVS is without personal knowledge as to whether T.V. ingested forty (40) Propranolol 40 mg. tablets within the stated time period. CVS likewise has no personal knowledge of whether T.V. suffered fatigue and light headiness. However, CVS does not dispute these allegations.

XI.

CVS has no personal knowledge of how Dr. T discovered the prescription error, but does not contest the allegations of Paragraph XI of the Accusation.

XII.

CVS admits that it is unable to provide the duplicate workflow documents, because the prescription history was deleted from the pharmacy computer. However, CVS can provide a computer printout from its mainframe computer which will establish the history of the filling of the prescription, including, which personnel performed each action taken during the filling of the prescription.

XIII.

CVS admits the allegations in Paragraph XIII of the Accusation that Ms. Cho asked pharmaceutical technician B.O. to inactivate the prescription. Although, CVS has no knowledge as to whether technician B.O. inactivated the prescription as instructed, CVS acknowledges that the prescription was inactivated.

XIV.

CVS admits the allegations of Paragraph XIV of the Accusation.

XV.

Responding to the First Cause of Action, which is set forth in Paragraph XV of the Accusation, CVS admits the allegations of the First Cause of Action.

XVI.

Responding to the Second Cause of Action, which is set forth in Paragraph XVI of the Accusation, CVS admits the allegations of the Second Cause of Action.

XVII.

With regard to the Third Cause of Action, CVS acknowledges that Ms. Cho deleted the record of the prescription.

XVIII.

In response to the Fourth Cause of Action, CVS acknowledges that Ms. Deluca was the managing pharmacist at the time of the violations alleged in the Accusation. The extent of Ms. Deluca's personal liability under the cited NRS and NAC provisions is a question of law, and CVS does not acknowledge that the cited NAC and NRS provisions should be interpreted to impose personal liability on the license held by the managing pharmacist, based strictly on a respondent superior basis. For that reason, CVS denies that a managing pharmacist has unlimited responsibility for violations of Nevada law by other employees of the pharmacy, based solely on respondent superior.

XIX.

The Fifth Cause of Action deals with Respondent CVS Pharmacy #5942, and asserts that CVS is subject to discipline solely because Ms. Cho was an employee of CVS. It is the position of CVS that discipline cannot be imposed on the holder of a pharmacy license if the discipline is based solely on a respondeat superior basis, and without any inappropriate action, or failure to act, on the part of the holder of the pharmacy license.

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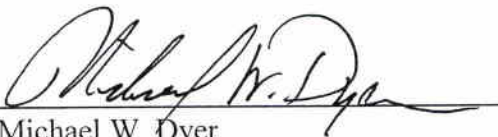
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WHEREFORE, Respondent CVS requests a hearing before the Nevada State Board of Pharmacy regarding the Notice of Intended Action and Accusation.

Dated this 19th day of October, 2017.

DYER, LAWRENCE, FLAHERTY,
DONALDSON & PRUNTY

By 
Michael W. Dyer
Attorney for Respondent
CVS Pharmacy #5942

MAR - 3 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS. 16-025-RPH-A-S
	)	16-025-RPH-B-S
Petitioner,	)	16-025-RPH-C-S
v.	)	16-025-PH-S
)	
DONNA RAYMOND, RPH	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 18430	)	AND ACCUSATION
)	
MARJAN GHANEM, RPH)	
Certificate of Registration No. 19145)	
)	
ERALDA BAHO, RPH)	
Certificate of Registration No. 18086)	
)	
CVS PHARMACY #8827)	
Certificate of Registration No. PHN01676)	
)	
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.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because at the time of the events alleged herein, Respondents Donna Raymond (Ms. Raymond), Certificate of Registration No. 18430, Marjan Ghanem (Ms. Ghanem), Certificate of Registration No. 19145, and Eralda Baho (Ms. Baho), Certificate of Registration No. 18086, were registered pharmacists with the Board, and Respondent CVS Pharmacy #8827, Certificate of Registration No. PHN01676 (CVS), was a pharmacy registered with the Board.

FACTUAL ALLEGATIONS

II.

On April 2, 2016, E.S. filed a consumer complaint with the Board Office alleging that CVS dispensed the injectable form of ampicillin rather than oral capsules prescribed by her

physician. E.S. alleges that CVS did not provide counseling at the time her husband purchased the medication.

III.

On March 29, 2016, Dr. Richter's office phoned in a prescription for E.S. to CVS.

IV.

Respondent Ms. Raymond transcribed the phoned in prescription for ampicillin 500 mg. capsules with instructions to take one capsule four (4) times per day for seven (7) days.

V.

That same day, Ms. Raymond performed the pre-data entry scan and the data entry into CVS' computer system, which designated the prescription as No. 735320. During data entry, Ms. Raymond inadvertently selected *ampicillin 500 mg. vials for injection*, rather than the *ampicillin 500 mg. capsules* as prescribed.

VI.

CVS did not have the ampicillin vials in stock. Prescription No. 735320 went into a holding status pending receipt of the medication.

VII.

CVS ordered the ampicillin vials and received them on March 31, 2016.

VIII.

On March 31, 2016, pharmaceutical technician Dolly Fajota (Ms. Fajota) completed the data entry and filling process of prescription No. 735320. Ms. Fajota staged the final product for the pharmacist's verification.

IX.

Pharmacist Marjan Ghanem (Ms. Ghanem) verified the data entry as accurate. Ms. Ghanem failed to detect that the prescription label read:

AMPICILLIN 500 MG *VIAL*
TAKE ONE *CAPSULE* BY MOUTH 4 TIMES A DAY FOR 7 DAYS

She also failed to detect that the National Drug Code (NDC) 00781-3407-95 printed on the label is the identifier for the *injectable* form of ampicillin 500 mg. That is not the NDC for ampicillin capsules.

X.

Ms. Ghanem performed the final product verification of prescription No. 735320. At final verification, Ms. Ghanem failed to identify the filling error.

XI.

The counseling pharmacist of record was Ms. Baho. The pharmacy did not document that patient counseling occurred.

XII.

On April 2, 2016, E.S. went to CVS to inform it of the error and to return the ampicillin vials.

XIII.

Ms. Baho was the pharmacist on duty when E.S. returned the erred medication.

XIV.

Ms. Baho filled and dispensed the correct medication to E.S. Again, the pharmacy did not document that patient counseling occurred.

XV.

Ms. Baho did not follow the pharmacy's workflow procedure to correct and reprocess prescription No. 735320. Ms. Baho edited the original prescription record in the computer system instead of inactivating it and generating a new prescription.

XVI.

Ms. Baho modified the prescription record by removing the original data that was entered for *ampicillin 500 mg vial* and replacing the record with details of the corrected fill.

XVII.

Editing the prescription record removed any reference of the filling error. CVS was unable to provide the Board Investigator with documentation of the original record for prescription No. 735320.

FIRST CAUSE OF ACTION

(Respondent Raymond)

XVIII.

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

Ms. Raymond violated NAC 639.945(1)(d) and/or (i) by entering 500 mg. *vials for injection*, rather than the ampicillin 500 mg. *capsules* E.S.'s physician prescribed. That error, combined with other errors within the pharmacy, caused the pharmacy to dispense the wrong medication to the patient.

SECOND CAUSE OF ACTION

(Respondent Ghanem)

XIX.

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

Ms. Ghanem violated NAC 639.945(1)(d) and/or (i) by verifying, labeling and dispensing 500 mg. *vials for injection*, rather than the ampicillin 500 mg. *capsules* E.S.'s physician prescribed. That error, combined with other errors within the pharmacy, caused the pharmacy to dispense the wrong medication to the patient.

THIRD CAUSE OF ACTION

(Respondent Baho)

XX.

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

Ms. Baho violated NRS 639.266, NAC 639.707(1) and (2), and NAC 639.945(1)(i), when she failed to adequately counsel E.S. regarding the new prescription for ampicillin. That error, combined with other errors within the pharmacy, caused the pharmacy to dispense the wrong medication to the patient.

FOURTH CAUSE OF ACTION

(Respondents Baho and CVS)

XXI.

NAC 639.910(1)(a) states that "[a]ny computerized system used by a pharmacy for recording information concerning prescriptions must be designed in such a manner that it provides: (a) A readily retrievable printed record of the information relating to a prescription or a patient which the pharmacy is required to maintain pursuant to state or federal law, including, without limitation, information relating to the original prescription or the refill or modification of that prescription".

NAC 639.930(2) requires any computerized system used by a pharmacy in the dispensing process to "[p]revent access by a person who is not authorized to modify or manipulate information in the system."

Further, where a person modifies or manipulates information in a pharmacy's computer system, NAC 639.930(3) requires the system to identify (a) the fact that information was modified or manipulated, (b) the manner in which the modification occurred, (c) when the modification or manipulation occurred, and (d) the person who altered the data.

Ms. Baho and CVS violated NRS 639.210(4) and (17), NAC 639.482, NAC 639.910(1), NAC 639.930(2) and (3), NAC 639.945(1)(i) and (m) when CVS allowed Ms. Baho access and the ability to modify the data for Prescription No. 735320 by removing the original data and eliminating any reference to the filling error without keeping an adequate record of that modification in CVS Pharmacy #8827's computer system.

FIFTH CAUSE OF ACTION

XXII.


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, Respondents Ms. Raymond, Ms. Ghanem, and Ms. Baho were CVS employees. As such, CVS is responsible for each of those violations.

XXIII.

The violations alleged herein, including in each cause of action, are grounds for discipline against the licenses of Donna Raymond, Marjan Ghanem, Eralda Baho and/or CVS Pharmacy #8827 pursuant to NRS 639.210(4), (11) and/or (12), as well as NRS 639.255.

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

Signed this 2nd day of March, 2017.


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

MAR 28 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

DONNA RAYMOND, RPH

Certificate of Registration No. 18430,

Respondent.

CASE NO. 16-025-RPH-A-S

ANSWER AND NOTICE
OF DEFENSE

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").

This is not in fact what occurred.

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

See attached please

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 26 day of March, 2017.


DONNA RAYMOND, RPH

In answer to the charges filed against me in regards to the prescription called in March 29, 2016 by Dr. Richter.

Dr. Richter did call in the medication for ampicillin in the vial for injection, which was then scanned into the computer. I realized the patient could not take the medication that way. I called Dr. Richter back and told him that I didn't think I could order the medication in that format. That CVS was not a hospital and would not have that form available. I also pointed out to him that the patient would not be able to use in that format at home.

Dr. Richter then asked what strength we had available in capsules. I checked the shelf and we did not have enough medication to fill the order and advised him we would have to order the medication. He asked my advice on dosing and I suggested he keep the same but change to capsule. I then changed prescription to reflect capsules prescribed.

At the end of the evening the technician informed me that we could order vials. I informed her that I had already spoken with doctor and changed to capsules and that was what should be ordered.

I do not know why vials were ordered for this patient. I assumed capsules were ordered.

I did not make a transcription error or incorrectly interpret Dr. Richter's order.

Donna
Raymond
PharmD

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-025-RPH-B-S
)	
Petitioner,)	
)	
v.)	
)	
MARJAN GHANEM, RPH	)	ANSWER AND NOTICE
Certificate of Registration No. 19145,	)	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 _____, 2017.

MARJAN GHANEM, RPH

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

ERALDA BAHO, RPH

Certificate of Registration No. 18086, '

Respondent.

) CASE NO. 16-025-RPH-C-S

**) ANSWER AND NOTICE
) OF DEFENSE**

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

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

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

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

DATED this ____ day of _____, 2017.

ERALDA BAHO, RPH

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

CVS PHARMACY #8827

Certificate of Registration No. PHN01676,

Respondent.

) **CASE NO. 16-025-PH-S**

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**ANSWER AND NOTICE
OF DEFENSE**

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

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

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

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

DATED this ____ day of _____, 2017.

Authorized Representative For
CVS PHARMACY #8827

FILED

NOV 17 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**MIHRETEAB S. TESEMA, RPH
Certificate of Registration No. 18570, and**

**CVS PHARMACY #9967
Certificate of Registration No. PH01250**

Respondents.

**CASE NO. 17-032-RPH-S
17-032-PH-S**

**NOTICE OF INTENDED ACTION
AND ACCUSATION**

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

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and these respondents because at the time of the alleged events, Respondent Mihreteab S. Tesema, Certificate of Registration No. 18570 (Mr. Tesema), was a pharmacist registered by the Board; and Respondent CVS Pharmacy #9967, Certificate of Registration No. PH01250 (CVS) was a pharmacy registered by the Board.

FACTUAL ALLEGATIONS

II.

On or about October 25, 2016, Patient H.R. saw her physician and received a prescription for Adderall ER 20 mg. capsules with instructions to take one capsule daily.

III.

H.R. tendered the prescription to CVS on October 25, 2016, where pharmaceutical technician Amanie Khoury (Ms. Khoury) entered the data into CVS' computer system. The

computer system designated the prescription as No. 435948.

IV.

During data entry, Ms. Khoury selected *Adderall XR 25 mg.* capsules rather than *Adderall ER 20 mg.* capsules as prescribed.

V.

During data entry for prescription No. 435948, a Drug Utilization Review (DUR) warning appeared on the computer screen. The warning was indicated as follows:

“Use of ADDERALL XR 20 MG CAPSULE and ADDERALL XR 25 MG CAPSULE may represent a duplication in therapy based on their association to the therapeutic drug class”

The previous fills of *Adderall ER 20 mg.* capsules in H.S.’s patient medication profile triggered the warning.

VI.

Mr. Tesema overrode the DUR warning within two seconds of its appearance, without taking action to contact the prescriber or action which may have prevented H.R. from receiving the wrong medication.

VII.

Mr. Tesema was the verifying pharmacist for prescription No. 435948. Mr. Tesema failed to detect the medication error when he verified data entry and the final product as accurate.

VIII.

The indicator in the pharmacy computer patient counseling field indicated “Y”, counseling required for new drug.

IX.

H.R. picked up the medication on October 25, 2016. There is no documentation that counseling was accepted or declined.

X.

H.R. ingested thirty capsules of the erred medication with no reported adverse effects.

FIRST CAUSE OF ACTION

(Respondent Tesema)

XI.

Nevada Administrative Code (NAC) 639.945(1)(d) defines unprofessional conduct to include the failure by a licensee to follow strictly the instructions of a prescriber when filling, labeling and dispensing a prescription. Unprofessional conduct also includes performing duties in an "incompetent, unskillful or negligent manner". See NAC 639.945(1)(i).

Mr. Tesema engaged in unprofessional conduct in violation of NAC 639.945(1)(d) and (i) by verifying as accurate the data entry and final product of Prescription No. 435948, in which a technician's erroneous data entry and Ms. Tesema's subsequent errors resulted in the patient ingesting the wrong medication for thirty (30) days. Mr. Tesema verified as accurate *Adderall XR 25 mg.* capsules with instructions to take one capsule daily; rather than the prescribed *Adderall ER 20 mg.* capsules with instructions to take one capsule daily. For that conduct, Mr. Tesema's Registration No. 18570 is subject to discipline pursuant to NRS 639.210(4) and (12), and 639.255.

SECOND CAUSE OF ACTION

(Respondent Tesema)

XII.

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."

Mr. Tesema engaged in unprofessional conduct in violation of NAC 639.945(1)(i) by failing to act upon the DUR alert displayed on the pharmacy's computer screen. The alert indicated the potential for duplicate therapy. For that conduct, Mr. Tesema's Registration No. 18570 is subject to discipline pursuant to NRS 639.210(4) and (12), and 639.255.

THIRD CAUSE OF ACTION

(Respondent Tesema)

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. Further, NAC 639.945(1)(i) defines unprofessional conduct as performing duties in an "incompetent, unskillful or negligent manner".

Mr. Tesema violated NRS 639.266, NAC 639.707(1) and (2), and acted unprofessionally in violation of NAC 639.945(1)(i) when he failed to counsel H.R regarding the prescription for Adderall XR 25 mg. capsules (prescription No. 435948). That error, combined with other errors within the pharmacy, caused the pharmacy to dispense the wrong medication to H.R. For that conduct, Mr. Tesema's Registration No. 18570 is subject to discipline pursuant to NRS 639.210(4) and (12), and 639.255.

FOURTH CAUSE OF ACTION

(Respondent Tesema)

XIV.

As the managing pharmacist/pharmacist in charge of CVS Pharmacy #9967 at the time of each of the violations alleged herein, Respondent Tesema is responsible for those violations, including those of his employees, including pharmaceutical technician Ms. Khoury. *See* NRS 639.0087, NRS 639.210(15), and NAC 639.702. As such, his Registration No. 18570 is subject to discipline pursuant to the statutes and regulations cited above, including NRS 639.210(4) and (12), and 639.255.

FIFTH CAUSE OF ACTION

(Respondent CVS #9967)

XV.

As the pharmacy in which the violations alleged above occurred, CVS Pharmacy #9967 is responsible for the actions of Respondent Mr. Tesema and pharmaceutical technician Ms. Khoury, as alleged herein, pursuant to NRS 639.230(5) and/or NAC 639.945(2). As such, it's Certificate of Registration No. PH01250 is subject to discipline pursuant to the statutes and regulations cited herein.


XVI.

For the forgoing error and violations, the license(s)/registration(s) of Respondents, and each of them, are subject to discipline, suspension, or revocation pursuant to the previously cited statutes and regulations cited herein, including, but not limited to, NRS 639.210(4), (12) and/or (15), 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 17 day of November, 2017.


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

NOTICE TO RESPONDENT

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

DEC 20 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	Case No.	17-032-RPH-S
	)		17-032-PH-S
Petitioner,)		
)		
v.)		
)		
MIHRETEAB S. TESEMA, RPH	)	ANSWER AND NOTICE OF	
Certificate of Registration No. 18570	)	DEFENSE	
)		
CVS PHARMACY #9967)		
Certificate of Registration No. PH01250)		
)		
Respondents.)		
_____)		

COMES NOW Respondent Mihreteab S. Tesema, RPH, ("Mr. Tesema") by and through his counsel, Michael W. Dyer, and responds to the Notice of Intended Action and Accusation filed November 17, 2017, by Petitioner, the Nevada State Board of Pharmacy ("Board"). This Response will serve as Respondent Mr. Tesema's Answer and Notice of Defense pursuant to NRS 639.244. Respondent hereby declares:

1. That a hearing on the Accusation is requested.
2. That, in answer to the Accusation, Respondent Mr. Tesema admits, denies, and alleges as follows:

I.

Respondent Mr. Tesema admits that he is a pharmacist licensed by the Board, and that the Board has jurisdiction over Mr. Tesema, and over this matter.

II.

In answer to factual stipulation II, Mr. Tesema has no knowledge as to whether H.R. physically met with her physician; Mr. Tesema also denies that H.R. received a prescription for

Adderall ER 20 mg capsules, and asserts that the prescription was for Amphetamine-Dextroamphet ER 20 mg Oral Capsule Extended Release 24, which is a generic for Adderall XR.

III.

Mr. Tesema admits Factual Allegation III.

IV.

Mr. Tesema admits Factual Allegation IV, and affirmatively notes that the strength of the capsules (25 mg rather than 20 mg) is the only substantive difference between the prescribed medication and the dispensed medication.

V.

Mr. Tesema admits the substance of Factual Allegation V. Mr. Tesema specifically admits the DUR was triggered by the fact that there were several days of medication remaining on H.R.'s then current prescription.

VI.

Mr. Tesema denies that he overrode the DUR warning in 2 seconds. The records in the possession of the Board Staff clearly show that the DUR occurred at 16:36 hours and the DUR override was at 16:38 hours, a difference of 2 minutes, rather than 2 seconds. Mr. Tesema further states that there was nothing in the DUR which would require contact with the prescriber or any action, other than noting that not all the medication in the existing prescription had been used. The referenced DUR was triggered solely by the fact that there were several days of medication still remaining on H.S.'s then current prescription, a fact that Mr. Tesema would have been aware of. Such a DUR is routine when an existing prescription is almost used up, and the new prescription is being filled prior to all the medication in the current prescription having been completely used, so that the patient does not have a gap in their medication.

VII.

Mr. Tesema admits Factual Allegation VII.

VIII.

Mr. Tesema admits Factual Allegation VIII.

IX.

Mr. Tesema admits Factual Allegation IX.

X.

Mr. Tesema admits Factual Allegation X.

Causes of Action

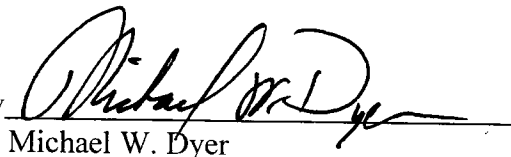
Mr. Tesema acknowledges that the First, through the Fifth, Causes of Action are a statement of the Board Staff's legal position, and Board Staff's interpretation of various NRS and NAC provision, and as such, do not require an "answer" from Mr. Tesema. The referenced Causes of Action are a partial statement of the burden of proof which is on Board Staff during the hearing of this case, and the action which Board Staff is requesting the Board to take. As such, the Causes of Action do not require a response by Mr. Tesema.

WHEREFORE, Respondent CVS requests a hearing before the Nevada State Board of Pharmacy regarding the Notice of Intended Action and Accusation.

Dated this 17th day of December, 2017.

DYER, LAWRENCE, FLAHERTY,
DONALDSON & PRUNTY

By



Michael W. Dyer
Attorney for Respondent
Mihreteab S. Tesema, RPH

FILED

DEC 20 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	Case No.	17-032-RPH-S
	)		17-032-PH-S
Petitioner,)		
)		
v.)		
)		
MIHRETEAB S. TESEMA, RPH	)	ANSWER AND NOTICE OF	
Certificate of Registration No. 18570	)	DEFENSE	
)		
CVS PHARMACY #9967)		
Certificate of Registration No. PH01250)		
)		
Respondents.)		
)		

COMES NOW Respondent CVS Pharmacy 9967 ("CVS"), by and through its counsel, Michael W. Dyer, and responds to the Notice of Intended Action and Accusation filed November 17, 2017, by Petitioner, the Nevada State Board of Pharmacy ("Board"). This Response will serve as Respondent CVS's Answer and Notice of Defense pursuant to NRS 639.244.

Respondent hereby declares:

1. That a hearing on the Accusation is requested.
2. That, in answer to the Accusation, Respondent CVS admits, denies, and alleges as follows:

I.

Respondent CVS admits that it is a pharmacy licensed by the Board, and that the Board has jurisdiction over CVS, and over this matter.

II.

In answer to factual stipulation II, CVS has no knowledge as to whether H.R. physically met with her physician. CVS denies that H.R. received a prescription for Adderall ER 20 mg capsules, and asserts that the prescription received was for Amphetamine-Dextroamphetamine ER 20 mg Oral

Capsule Extended Release 24, which is a generic for Adderall XR. CVS acknowledges that the prescription was to be filled with Adderall XR 20 mg.

III.

CVS admits Factual Allegation III.

IV.

CVS admits Factual Allegation IV, and affirmatively notes that the strength of the capsules (25 mg rather than 20 mg) is the only substantive difference between the prescribed medication and the dispensed medication.

V.

CVS admits the substance of Factual Allegation V. CVS specifically admits the DUR was triggered by the fact that there were several days of medication remaining on H.R.'s then current prescription.

VI.

CVS denies that Mr. Tesema overrode the DUR warning in 2 seconds. The records in the possession of the Board Staff clearly show that the DUR occurred at 16:36 hours, and the DUR override was at 16:38 hours, a difference of 2 minutes, rather than 2 seconds. CVS further states that there was nothing in the DUR which would require contact with the prescriber or any action other than determining that not all the medication in the existing prescription had been used. As noted above, the DUR was triggered solely by the fact that there were several days of medication still remaining on H.S.'s then current prescription. Such a DUR is routine when the medication in the existing prescription is almost used up, and the new prescription is being filled prior to all the medication in the current prescription having been completely used, so the patient does not have a gap in their medication.

VII.

CVS admits Factual Allegation VII.

VIII.

CVS admits Factual Allegation VIII.

IX.

CVS admits Factual Allegation IX.

X.

CVS admits Factual Allegation X.

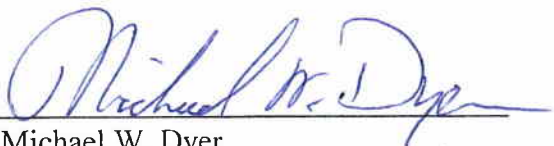
Causes of Action

CVS acknowledges that the First through the Fifth Causes of Action are a statement of the Board Staff's legal position, and contains Board Staff's interpretation of various NRS and NAC provisions, and, as such, do not require an "answer" from CVS. The referenced Causes of Action are a partial statement of the burden of proof which is on Board Staff during the hearing of this case, and the action which Board Staff is requesting the Board to take. As such, the Causes of Action do not require a response by CVS.

WHEREFORE, Respondent CVS requests a hearing before the Nevada State Board of Pharmacy regarding the Notice of Intended Action and Accusation.

Dated this 19th day of December, 2017.

DYER, LAWRENCE, FLAHERTY,
DONALDSON & PRUNTY

By 
Michael W. Dyer
Attorney for Respondent
CVS Pharmacy #9967

NOV 17 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS. 17-039-RPH-S
	)	17-039-PT-A-S
Petitioner,	)	17-039-PT-B-S
v.)	
)	
JOSE FERRAN, RPH,	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 16283,	)	AND ACCUSATION
)	
IAN KNICKERBOCKER, PT,)	
Certificate of Registration No. PT07309,)	
)	
TIFFANY BUIE, PT,)	
Certificate of Registration No. PT08743,)	
)	
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.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and these respondents because at the time of the alleged events, Respondent Jose Ferran, R.Ph. (Ferran), Certificate of Registration 16283, was a pharmacist registered by the Board; and Respondents Tiffany Buie, PT (Buie), Certificate of Registration PT08743, and Ian Knickerbocker, PT (Knickerbocker), Certificate of Registration PT07309, were pharmaceutical technicians registered with the Board.

FACTUAL ALLEGATIONS

II.

In April 2017, Walmart Pharmacy #10-4557 (Walmart) terminated managing pharmacist Jose Ferran for creating and filling fraudulent prescriptions for non-controlled substances.

III.

Walmart also terminated pharmaceutical technicians Buie and Knickerbocker from their employment for their participation in Ferran's fraudulent activity.

IV.

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

V.

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

VI.

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

VII.

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

VIII.

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

IX.

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

X.

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

XI.

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

FIRST CAUSE OF ACTION

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

XII.

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

SECOND CAUSE OF ACTION

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

XIII.

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

THIRD CAUSE OF ACTION

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

XIV.

By processing multiple fraudulent prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner, and by billing those prescriptions to an insurance provider, Jose Ferran, R.Ph., violated Nevada Administrative Code (NAC) 639.945(h) and (k), which violations are grounds for discipline pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

FOURTH CAUSE OF ACTION

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

XV.

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

FIFTH CAUSE OF ACTION

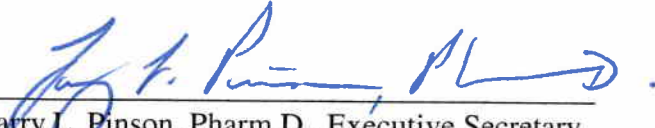
(Insurance Fraud - Tiffany Buie, PT and Ian Knickerbocker)

XVI.

By participating in fraudulent prescription transactions for various dangerous drugs without a lawful prescription or authorization from a practitioner, and by billing those prescriptions to an insurance provider, Tiffany Buie, PT and Ian Knickerbocker, PT, violated Nevada Administrative Code (NAC) 639.945(1) (h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

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

Signed this 17th day of November, 2017.



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

ADDENDUM A

[illegible]

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

DEC 23 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

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

v.

JOSE FERRAN, RPH
Certificate of Registration No. 16283

CASE NO.: 17-039-RPH-S

Respondent.

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

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds:

None.

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

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

I.

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

II. - XI.

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

ANSWER AND NOTICE OF DEFENSE

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

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

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

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

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

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

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

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

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

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

26 DATED: 12/22/17

27 By: 

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

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
IAN KNICKERBOCKER, PT	)	CASE NO. 17-039-PT-A-S
Certificate of Registration No. PT07309)	
)	
Respondent.	/	

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

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

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

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

DATED this ____ day of November, 2017.

IAN KNICKERBOCKER, PT

BEFORE THE NEVADA STATE BOARD OF PHARMACY

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

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

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

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

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

DATED this ____ day of November, 2017.

TIFFANY BUIE, PT