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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.	

4A

OCT 24 2018

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-089-RPH-A-N
	)	17-089-RPH-B-N
Petitioner,	)	17-089-RPH-C-N
v.	)	17-089-PT-N
	)	17-089-PH-N
NUTTAVAT ROJPRASITPORN, RPH)	
Certificate of Registration No. 19161,	)	NOTICE OF INTENDED ACTION
	)	AND ACCUSATION
JEFFREY ARBOGAST, RPH)	
Certificate of Registration No. 16986,)	
)	
MUI CHING LEE, RPH)	
Certificate of Registration No. 08993,)	
)	
LYDIA PASERO, PT)	
Certificate of Registration No. PT08989, and)	
)	
CVS PHARMACY #4691)	
Certificate of Registration No. PH02471,)	
)	
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 Nuttavat Rojprasitporn (Rojprasitporn), Certificate of Registration No. 19161, Jeffrey Arbogast (Arbogast), Certificate

of Registration No. 16986, and Mui Ching Lee (Lee), Certificate of Registration No. 08993, were pharmacists registered by the Board. Additionally, respondent Lydia Pasero (Pasero), Certificate of Registration No. PT08989, was a pharmaceutical technician registered by the Board, and respondent CVS Pharmacy #4691, Certificate of Registration No. PH02471 (CVS), was a pharmacy registered by the Board.

FACTUAL ALLEGATIONS

II.

On December 30, 2016, APRN C.J. separately examined and prescribed medications to P.C. and his girlfriend R.D.

III.

P.C. was prescribed dextroamphetamine salts XR (Adderall XR) 25 mg. capsules with instructions to take one capsule every day.

IV.

R.D. was prescribed chlordiazepoxide 25 mg. with instructions to take one capsule every 8 hours as needed for anxiety.

V.

P.C. and R.D. tendered their prescriptions to CVS the same day where pharmaceutical technician Gisela Ochoa (Ochoa) performed the pre-data entry scan in CVS's computer system.

VI.

During the pre-data entry scan, Ochoa mistakenly entered R.D.'s chlordiazepoxide prescription under P.C.'s name and patient profile.

VII.

CVS processed and dispensed both of the prescriptions later that day.

VIII.

When he arrived at home, P.C. discovered that the contents of the CVS bag contained the dextroamphetamine salts XR 25 mg. capsules (Prescription No. 0613014) as prescribed. The bag also included a second medication bottle containing chlordiazepoxide 25 mg. capsules (Prescription No. 0613015). The prescription label on both medication bottles included P.C.'s name and address.

IX.

P.C. assumed that the chlordiazepoxide 25 mg. capsules were also prescribed to him so he ingested a dose per the instructions on the label.

X.

Later that evening, P.C. ingested alcoholic beverages. P.C. believes that the alcohol interacted with the chlordiazepoxide causing him to become extremely intoxicated and causing his subsequent arrest for driving under the influence.

XI.

On January 1, 2017, R.D. contacted CVS to inform it that the chlordiazepoxide prescribed to her was dispensed to P.C. Pharmacist Arbogast confirmed that CVS dispensed chlordiazepoxide to P.C. in error.

XII.

P.C. ingested approximately 3-5 doses of the wrong medication before discovering the error.

XIII.

Rojprasitporn is on record as the pharmacist who performed data entry verification and product verification for Prescription No. 0613015. To the extent Rojprasitporn performed any verification at all, he failed to detect during those processes that CVS was preparing to dispense the medication to the wrong patient.

XIV.

Arbogast is on record as the counseling pharmacist for Prescription No. 0613015. Arbogast did not counsel P.C. regarding Prescription No. 0613015, nor did he offer counseling to P.C.

XV.

Approximately five (5) hours after CVS sold the product, Arbogast entered into CVS's computer system that P.C. declined counseling.

XVI.

On January 18, 2017, approximately seventeen days after P.C. discovered CVS's dispensing error, Pasero deleted records regarding Prescription No. 0613015 from CVS's computer system.

XVII.

A Board Investigator requested a copy of the original prescription records, including the workflow documents, for Prescription No. 0613015 from the managing pharmacist at CVS on September 21, 2017. The request asked that CVS submit the records by no later than October 4, 2017.

XVIII.

Having received no reply to his initial request for records, the Board Investigator met with Arbogast on November 2, 2017, at CVS. Arbogast was unable to provide any record of Prescription No. 0613015 from CVS's computer system.

XIX.

During his November 2 interview with the Board Investigator, Arbogast produced a typewritten, signed statement on letter head from One CVS Drive, Woonsocket, Rhode Island. That statement was dated October 3, 2017.

XX.

With Arbogast's statement was a clear plastic zip lock-style bag containing various documents relating to Prescription No. 0613015, including handwritten notes and copies of computer screens that have since been deleted from CVS's records.

XXI.

When the Board Investigator asked for a copy of the documents in the plastic bag related to Prescription No. 0613015, Arbogast stated that he would first have to clear their release with CVS's corporate office.

XXII.

On November 14, 2017, nearly two months after the Board Investigator's September 21 request for records, CVS Manager of Pharmacy Regulatory Affairs, Leigh Parenteau, wrote an email to the Board Investigator requesting a list of the specific additional records the Board's Investigator needed for the investigation. The Board Investigator responded with a list the same day.

XXIII.

After significant email, telephonic and facsimile communications through May 2018, Parenteau provided some records related to Prescription No. 613015 to the Board Investigator. Through primarily key stroke logs, Parenteau was able to piece together the fill history for Prescription No. 613014 and 613015.

XXIV.

During the course of the investigation, CVS and/or each of the Respondents failed to timely provide documents, data and information to the Board Investigator because those records were not readily retrievable.

XXV.

Mui Ching Lee was the managing pharmacist at CVS at the time of the events alleged herein.

FIRST CAUSE OF ACTION

**Unprofessional Conduct: Mislabeling and Dispensing to the Wrong Patient
(Respondent Rojprasitporn)**

XXVI.

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 Rojprasitporn engaged in unprofessional conduct in violation of NAC 639.945(1)(d) and (i) and he is responsible for dispensing thirty (30) chlordiazepoxide 25 mg. capsules to P.C., a patient who did not have a prescription for that schedule IV-controlled substance, when he either verified the label on Prescription No. 0613015 as accurate when it was incorrect, or by failing to verify the label and prescription before CVS dispensed it.

SECOND CAUSE OF ACTION

Failure to Adequately Counsel

(Respondent Arbogast)

XXVII.

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 Arbogast 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.C. regarding Prescription No. 0613015. That error, combined with other errors within the pharmacy, caused CVS to dispense thirty (30) chlordiazepoxide 25 mg. capsules to P.C., a patient who did not have a prescription for that schedule IV-controlled substance. For that conduct, Arbogast is subject to discipline pursuant to NRS 639.210(4) and (12), and NRS 639.255.

THIRD CAUSE OF ACTION
Failure to Maintain and Produce Prescription Records
 (Respondent CVS #4691)

XXVIII.

NAC 639.910(1)(a) requires 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”.

Additionally, NAC 639.485 states, in part:

1. A pharmacy shall maintain records for controlled substances:
 - (a) In a readily retrievable manner.
 - (b) In a manner that establishes the receipt, distribution and destruction of all controlled substances handled by the pharmacy.
2. A pharmacy shall maintain a perpetual inventory of any controlled substance listed in schedule II.
3. Records of the distribution of controlled substances listed in schedule II, schedule III or schedule IV must include:
 - (a) The name of the drug, dosage form and strength.
 - (b) The name of the pharmacist distributing or authorizing the distribution of the controlled substance.
 - (c) The name of the authorized person receiving the controlled substance. This information may be included on the record of administration.

(d) The location to which the controlled substance is being distributed.

(e) Controlled substances returned to the pharmacy.

(f) A record of any waste of any prepared or partially administered dose of a controlled substance, which must be witnessed and cosigned by another person who is licensed to provide medical care.

NAC 639.482 requires such records to be kept by a pharmacy for at least 2 years and made available for inspection and copying upon the request of the Board.

Nevada law also requires a pharmacy computer system to have adequate safeguards to identify whether information in the system concerning a prescription has been modified or manipulated, and, where information was modified or manipulated, identify the manner, date and person who modified or manipulated the information. *See* NAC 639.930(3), *see also* NAC 639.751(1)(b) and (2). Additionally, NAC 639.930(4) and (5) require the pharmacy's computer system to maintain the information identified per NAC 639.930(3) and to prevent the removal of that information and the record of a prescription once the system assigns a number to the prescription. Further, NAC 639.935(3)(g)(3) states that computer system must produce printed records of history of each modification or manipulation of information concerning the prescription.

Respondent CVS #4691 violated NAC 639.482, NAC 639.485 and/or NAC 639.910(1) by deleting and/or having a system that allowed its employee, Respondent Pasero, to delete the record, or a portion of the record, for Prescription No. 0613015, specifically by removing the original data and eliminating any reference of the filling error. In failing to maintain records for Prescription No. 0613015 in a readily retrievable manner, by failing to timely provide documents to Board Staff upon request, and in failing to maintain a recordkeeping system that would allow

for readily retrievable prescription records for Prescription No. 0613015, CVS #4691 violated NAC 639.751(1)(b) and (2), NAC 639.930(3), (4) and (5), and NAC 639.935(3)(g)(3). For that conduct, CVS #4691 is subject to discipline pursuant to NRS 639.210(12) and (17) and NRS 639.255.

FOURTH CAUSE OF ACTION

Unprofessional Conduct (Respondent Pasero)

XXIX.

Nevada law requires a pharmacy to maintain and produce records in conformance with NAC 639.482, NAC 639.485 and NAC 639.910(1). NAC 639.945(1)(i) provides that “(p)erforming . . . duties as the holder of a license, certificate or registration issued by the Board . . . in an incompetent, unskillful or negligent manner” shall constitute unprofessional conduct and conduct that is contrary to the public interest. NAC 639.945(1)(m) provides that “(f)ailing to provide any document, data or information that is required to be made and maintained pursuant to chapters 453, 454, 585 and 639 of NRS and chapters 453, 454, 585 and 639 of NAC to a member of the Board or a member of the staff of the Board upon his or her request” shall constitute unprofessional conduct and conduct that is contrary to the public interest.

Respondent Pasero violated NAC 639.482, NAC 639.485 and NAC 639.910(1) by deleting the record, or a portion of the record, for Prescription No. 0613015, specifically by removing the original data and eliminating any reference of the filling error. Respondent Pasero’s actions constitute unprofessional conduct as defined in NAC 639.945(1)(i) and (m). For that conduct, Respondent Pasero is subject to discipline pursuant to NRS 639.210(4) and (17) and/or NRS 639.255.

FIFTH CAUSE OF ACTION
Managing Pharmacist Responsibilities
(Respondent Lee)

XXX.

NRS 639.0087 defines “managing pharmacist” as “a registered pharmacist who is responsible for the operation of a pharmacy.” A managing pharmacist is responsible for the acts and omissions of pharmaceutical technicians and other personnel. NAC 639.702.

Additionally, “[t]he managing pharmacist of a pharmacy that uses a computerized system for recording information concerning prescriptions shall ensure that a procedure is conducted upon the computerized system that ensures that the information which is recorded in the system is not lost or destroyed.” NAC 639.910(2). Whenever a managing pharmacist designates another pharmacist to assume the managing pharmacist’s duties in his or her absence “[t]he managing pharmacist is responsible for the activities of the designee.” NRS 639.220(3)(c).

The Board may suspend or revoke a registration pursuant to NRS 639.210(15) when a person has “as a managing pharmacist, violated any provision of law or regulation concerning recordkeeping or inventory in a store over which he or she presides, or has knowingly allowed a violation of any provision of this chapter or other state or federal laws or regulations relating to the practice of pharmacy by personnel of the pharmacy under his or her supervision.”

As the managing pharmacist/pharmacist in charge of CVS #4691 at the time of each of the violations alleged above, Respondent Lee is responsible for those violations pursuant to NRS 639.210(15), NRS 639.220(3)(c), NAC 639.702 and NAC 639.910(2). Lee has also engaged in unprofessional conduct and conduct contrary to the public interest as defined in NAC

639.945(1)(m). Lee is therefore subject to discipline pursuant to NRS 639.210(4), (12), (15) and (17) and NRS 639.255.

SIXTH CAUSE OF ACTION
Pharmacy/Pharmacy Owner Responsibility
 (Respondent CVS #4691)

XXXI.

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, CVS #4691 is responsible for those violations, including those of Respondents Rojprasitporn, Arbogast, Pasero, and Lee pursuant to NRS 639.230(5), NAC 639.702 and NAC 639.945(2). CVS #4691 is therefore subject to discipline pursuant to NRS 639.210(4) and (12) and NRS 639.255.

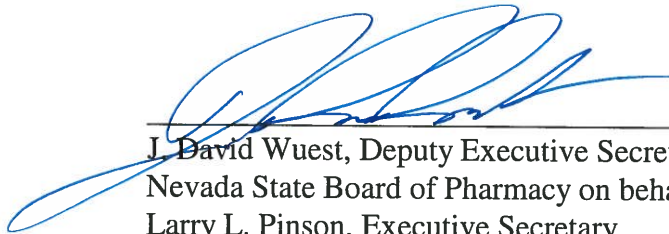
XXXII.

For the errors, misconduct and violations alleged above in the First, Second, Third, Fourth, Fifth and Sixth 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.

XXXIII.

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 24th day of October 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,	)	STATEMENT TO THE RESPONDENT
	)	NOTICE OF INTENDED ACTION
Petitioner,	)	AND ACCUSATION
v.	)	RIGHT TO HEARING
)	
NUTTAVAT ROJPRASITPORN, RPH	)	CASE NO. 17-089-RPH-A-N
Certificate of Registration No. 19161)	
)	
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, December 5, 2018, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place, 1790 East Plumb Lane, Reno, Nevada.

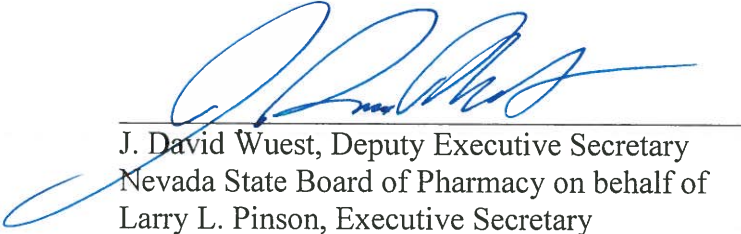
IV.

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 24th day of October 2018.



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

FILED

NOV 15 2018

**NEVADA STATE BOARD
OF PHARMACY**

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

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

Petitioner,

)

v.

)

NUTTAVAT ROJPRASITPORN, RPH
Certificate of Registration No. 19161

)

CASE NO. 17-089-RPH-A-N

)

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:

None

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 15 day of ^{November}~~October~~ 2018.



NUTTAVAT ROJPRASITPORN, R.PH.

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 25th day of October, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Nuttavat Rojprasitporn
1850 Idlewild Dr., #B14
Reno, NV 89509


SHIRLEY HUNTING

4B

BEFORE THE NEVADA STATE BOARD OF PHARMACY

<p>NEVADA STATE BOARD OF PHARMACY,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>JEFFREY ARBOGAST, RPH Certificate of Registration No. 16986</p>	<p>) STATEMENT TO THE RESPONDENT</p> <p>) NOTICE OF INTENDED ACTION</p> <p>) AND ACCUSATION</p> <p>) RIGHT TO HEARING</p> <p>)</p> <p>) CASE NO. 17-089-RPH-B-S</p> <p>)</p> <p>)</p> <p>)</p> <p>/</p>
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Respondent.

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

I.

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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.

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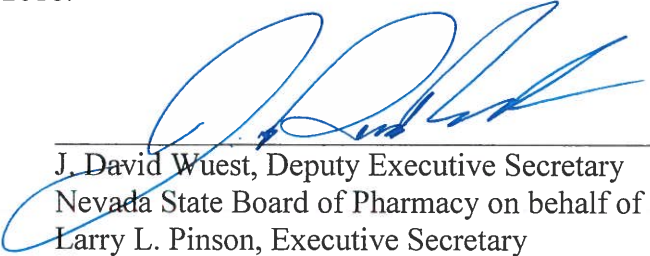
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V.

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 24th day of October 2018.



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

FILED

NOV 15 2018

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

) ANSWER AND
) NOTICE OF DEFENSE

Petitioner,

)

v.

)

JEFFREY ARBOGAST, RPH
Certificate of Registration No. 16986

)

CASE NO. 17-089-RPH-B-N

)

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"). XXVII Failure to Adequately Counsel

XIV Arbogast is on record as the counseling pharmacist for Prescription No. 0613015. Arbogast did not counsel P.C. regarding Prescription No. 0613015, nor did he offer counseling to P.C.

XV Approximately five (5) hours after CVS sold the product, Arbogast entered into CVS's computer system that P.C. declined counseling.

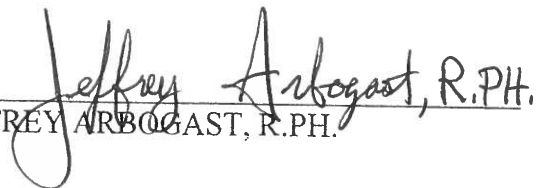
2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows: XXVII Failure to Adequately Counsel

XIV Arbogast denies that at time CVS sold product counseling was not offered to P.C.. Counseling was offered by Arbogast to P.C. and was declined then noted.

XV Arbogast did enter consultation denial approximately five (5) hours after CVS sold the product into CVS's computer system.

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 13th day of ~~October~~ ^{November} 2018.


JEFFREY ARBOGAST, R.PH.

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 25th day of October, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Jeffrey Arbogast
1395 Marsh Avenue
Reno, NV 89509


SHIRLEY HUNTING

4C

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
)	
MUI CHING LEE, RPH	)	CASE NO. 17-089-RPH-C-N
Certificate of Registration No. 08993)	
)	
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, December 5, 2018, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place, 1790 East Plumb Lane, Reno, Nevada.

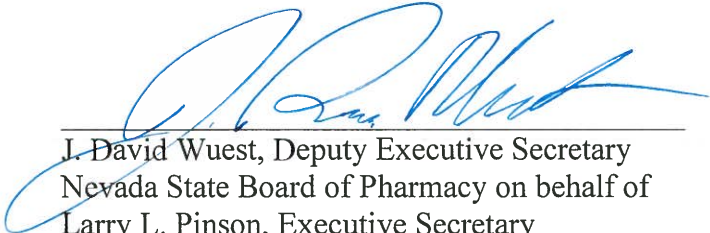
IV.

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 24th day of October 2018.



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

FILED

NOV 14 2018

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

) ANSWER AND
) NOTICE OF DEFENSE

Petitioner,

v.

MUI CHING LEE, RPH
Certificate of Registration No. 08993

) CASE NO. 17-089-RPH-C-N

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").

- Pharmacists are licensed by the Board of Pharmacy to practice independently pursuant to Nevada Laws and Regulations of Pharmacy

- There was no specific authorization needed for a prescription being deleted from the store computer system

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

- (I) I did believe that Mr. Rojprasitporn and Mr. Arbogast, both are licensed pharmacists, are knowledgeable and trained to practice pharmacy according to Pharmacy Laws and Regulations of the State of Nevada during my absence
- (II) No proper cause for script deletion: An incident report was filed with all pertinent informations and actions taken were documented in computer while the physical documentations of initial actions of each pharmacist and customer responses were dictated is kept for future reference
- (III) I did not aware that prescription number 0613015, script for clonazepam, was deleted from the CVS pharmacy system
- (IV) I was lead to believe that the CVS pharmacy computer system for proper record keeping was in compliance with Nevada Laws and Regulations
- (V) I have never intended to engage in any unprofessional conduct and conduct contrary to the public interest

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 ^{November} ~~14th~~ day of ~~October~~ 2018.


MUI CHING LEE, RPH

SUPPLEMENTAL AND REVISED RESPONSE

ANSWER AND NOTICE OF DEFENSE

CASE NO. 17-089-RPH-C-N

DATED: NOVEMBER 28, 2018

NOV 28 2018

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	ANSWER AND
	)	NOTICE OF DEFENSE
)	
Petitioner,)	
)	
v.)	
)	
MUI CHING LEE, RPH	)	CASE NO. 17-089-RPH-C-N
Certificate of Registration No. 08993)	
)	
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").

- NRS 639.210(15) - *I have never intentionally allowed any conduct that violated the law or regulation concerning recordkeeping.*
- *I was not aware that particular prescription was removed permanently from record since there was no alert feature to allow me to review the action at that time.*
- *I believed that there is always a backup storage for all business transactions and business related activities. Hence record retrieval was not a concern.*

- NRS 639.220(3)(c) - *There was no warning system for me as a managing pharmacist to review or to intercept the deletion of a prescription in case it was an error. Nor there was a feature to undo the mishap.*
- *As a corporation employee, I could only follow instructions to operate the computer but not designing the system on record lost prevention.*

- NAC 639.702 - *At the time of incident occurred, an incident report was filed, patient reactions and pharmacists actions were also documented. There was no significant reason to delete information from computer especially in terms of hiding errors committed.*
- *I believed that computer information was back-up and stored daily and all information can be retrieved if necessary.*

NAC 639.910(2) - *In today's technological world, I had the impression that all information is retrievable regardless what was done on the computer terminal.*

NAC 639.945(1)(m)- *At time of the Board's investigation request for documents in September, 2017, I have already left the company for two months*

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

- (1) *There was no attempt to hide the error because an incident report was filed in computer as permanent record as soon as we got the response or advice from the doctor on the very Monday after the incident in January 2017.*
- (2) *There was no intention for the deletion of this particular prescription because the information was reported as an error.*
- (3) *It is not feasible, if not impossible, to monitor every key stroke of each and every pharmacy personnel and I believed all information could be retrieved.*
- (4) *There was no noncompliance to the Board because the tie between the company and I was terminated in July, that is two months before the requisition from the Board.*

I deny the allegations for intentionally, unprofessional conduct contrary to public interest and being noncompliance to the Board of Pharmacy.

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 28th day of November 2018


MUI CHING LEE, RPH

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 25th day of October, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Mui Ching Lee
1691 Golddust Drive
Sparks, NV 89436


SHIRLEY HUNTING

4D

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
)	
LYDIA PASERO, PT	)	CASE NO. 17-089-PT-N
Certificate of Registration No. PT08989)	
)	
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, December 5, 2018, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place, 1790 East Plumb Lane, Reno, Nevada.

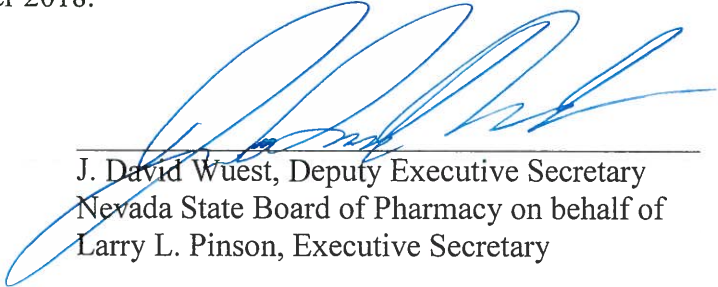
IV.

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 24th day of October 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,	)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
LYDIA PASERO, PT	)	CASE NO. 17-089-PT-N
Certificate of Registration No. PT08989)	
)	
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 October 2018.

LYDIA PASERO, PT

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 25th day of October, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Lydia Pasero
6610 Dorchester Drive
Sparks, NV 89436


SHIRLEY HUNTING

4E

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
)	
CVS PHARMACY #4691	)	CASE NO. 17-089-PH-N
Certificate of Registration No. PH02471)	
)	
<u>Respondent.</u>	/	

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, December 5, 2018, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place, 1790 East Plumb Lane, Reno, Nevada.

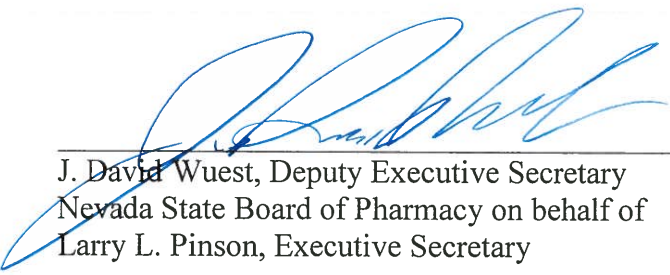
IV.

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 24th day of October 2018.



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

FILED

JAN 11 2019

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	Case No.	17-089-RPH-A-N
	)		17-089-RPH-B-N
	)		17-089-RPH-C-N
v.	)		17-089-PT-N
	)		17-089-PH-N
NUTTAVAT ROJPRASITPORN, RPH)		
Certificate of Registration No. 19161,)		
)		
JEFFREY ARBOGAST, RPH	)	ANSWER AND NOTICE OF	
Certificate of Registration No. 16986	)	DEFENSE	
)		
MUI CHING LEE, RPH)		
Certificate of Registration No. 08993,)		
)		
LYDIA PASERO, PT)		
Certificate of Registration No. PT08989, and)		
)		
CVS PHARMACY #4691)		
Certificate of Registration No. PH02471,)		
)		
Respondents.)		

COMES NOW Respondent CVS Pharmacy #4691 (“CVS”), by and through its counsel, Michael W. Dyer, and responds to the Notice of Intended Action and Accusation which was filed October 24, 2018, by Petitioner, the Nevada State Board of Pharmacy (“Board”). This Response will also 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 CVS #4691 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 of the Accusation..

III.

CVS admits the allegations of Paragraph III of the Accusation.

IV.

CVS admits the allegations of Paragraph IV of the Accusation..

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.

CVS admits the substance of Paragraph VIII with regard to the contents of the bag and the prescription labels.

IX.

In response to Paragraph IX of the Accusation, CVS has no knowledge as to the substance of the allegations, and demands strict proof thereof.

///

X.

In response to Paragraph X of the Accusation, CVS is without knowledge as to the substance of the allegations, and demands strict proof thereof.

XI.

CVS admits the allegations of Paragraph XI of the Accusation.

XII.

CVS has no personal knowledge of the allegation of Paragraph XII, and demands strict proof thereof.

XIII.

CVS admits that Respondent Rojprasitporn is the pharmacist who is on record as performing data entry verification, and product verification, for Prescription No. 0613015, and that he failed to detect that one of the medications being dispensed to P.C. had not been prescribed for patient P.C. CVS objects to the language in Paragraph XIII which asserts that Respondent Rojprasitporn failed to perform any data entry verification, or product verification, and demands strict proof thereof.

XIV.

CVS admits the allegations of Paragraph XIV of the Accusation, insofar as no counseling occurring, but denies, on information and belief, that there was no attempt to counsel.

XV.

CVS admits that the records of CVS #4691 show that Respondent Arbogast entered into the computer system that P.C. declined counseling, and, also admits that the entry was made approximately five hours after the product was sold.

///

XVI.

CVS admits the allegations of Paragraph XVI, with respect to Respondent Pasero deleting records regarding Prescription No. 0613015 from CVS #4691's computer. However, CVS affirmatively asserts that the prescription history remained available in the CVS main computer system.

XVII.

CVS admits Factual Allegation XVII.

XVIII.

CVS denies Factual Allegation XVIII, to the extent that the allegation is intended to assert that the CVS Computer System was not capable of providing any record of the prescription. While the record of the prescription had been deleted from the computer records immediately available at CVS #4691, the complete record of the prescription was still available through the CVS main frame computer system, and could have been provided within 24 hours, or less.

XIX.

In Response to Factual Allegation XIX, CVS is not able to admit, or deny, whether Mr. Arbogast "produced" the "statement" described. To the extent that Board Staff contends that the specific "statement" which Mr. Arbogast provided is necessary to the proof of the substantive allegations asserted against CVS in the Accusation, CVS demands strict proof of thereof.

XX.

In Response to Factual Allegation XX, CVS is not able to admit, or deny, whether Mr. Arbogast provided the "clear plastic bag" described, or that such bag contained "...hand written notes and copies of computer screens that have since been deleted from CVS's Records", as asserted

in Factual Allegation XX. To the extent that Board Staff contends that those allegations are necessary to the proof of the substantive allegations asserted against CVS in the Accusation, CVS demands strict proof of thereof.

XXI.

In Response to Factual Allegation XXI, CVS is not able to admit, or deny, the statements which Factual Allegation XXI asserts were made by Mr. Arbogast. To the extent that Board Staff contends that the specific statements made by Mr. Arbogast are necessary to the proof of the substantive allegations asserted against CVS in the Accusation, CVS demands strict proof of thereof.

XXII.

In Response to Factual Allegation XXII, CVS admits that the CVS Manager of Pharmacy Regulatory Affairs wrote the email referenced in the Allegation, and acknowledges that the email speaks for itself. To the extent that any aspect of Factual Allegation XXII is considered to be material to the proof of any allegation against CVS, strict proof is demanded.

XXIII.

In response to Factual Allegation XXIII, CVS acknowledges that there was correspondence between the Board Inspector and Ms. Parenteau, and the dates of the correspondence is reflected on the correspondence. CVS admits that Ms. Parenteau was able to provide the fill history for Prescriptions No. 613014 and No. 63015. To the extent that the date or the substance of any of the correspondence asserted in Factual Allegation XXII is considered to be material to the proof of any allegation against CVS, strict proof is demanded.

///

XXIV.

CVS denies the allegations of Factual Allegation XXIV, and demands strict proof thereof.

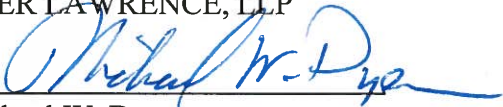
XXV.

CVS Admits that Mui Ching Lee was the managing pharmacist at CVS # 4691 at the time of the events alleged in the Accusation.

The First, Second, Third, Fourth, Fifth, and Sixth Causes of Action, and Paragraphs XXVII and XXVIII of the Notice of Intended Action and Accusation, are statements of Board of Pharmacy Staff's interpretation of provisions of the NRS and NAC, and, of BOP Staff's position that the individual pharmacists, and CVS, are subject to discipline pursuant to the referenced NRS and NAC provisions, and are a request that the Nevada Board of Pharmacy take disciplinary action against the named Respondents. As such, the BOP Staff has the burden of: (1) Proving the allegations which have not been admitted; (2) Stating the discipline which the BOP Staff believes is appropriate; and, (3) proving, through the presentation of evidence and testimony, that the requested discipline is appropriate.

Submitted By CVS #4691, the 10th day of January, 2019.

DYER LAWRENCE, LLP

By 
Michael W. Dyer
Counsel For CVS

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 25th day of October, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

CVS Pharmacy #4691
5151 Sparks Blvd.
Sparks, NV 89436


SHIRLEY HUNTING

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 25th day of October, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Michael W. Dyer, Esq.
2805 Mountain Street
Carson City, NV 89703


SHIRLEY HUNTING

4F

FILED

OCT 24 2018

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-044-RPH-N
	)	17-044-PH-N
Petitioner,)	
v.	)	NOTICE OF INTENDED ACTION
	)	AND ACCUSATION
SUSAN BLAIR, RPH)	
Certificate of Registration No. 17494, and)	
)	
WALGREENS PHARMACY #11227)	
Certificate of Registration No. PHN02513,)	
)	
Respondents.)	
	/	

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

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and these respondents because at the time of the alleged events, respondent SUSAN BLAIR, RPH, Certificate of Registration No. 17494 (“Blair”), was a pharmacist registered by the Board, and respondent WALGREENS PHARMACY #11227, Certificate of Registration No. PHN02513 (“Walgreens”), was a pharmacy registered by the Board.

DISCIPLINARY HISTORY

II.

In March 2014, the Board entered a Stipulation and Order in the case of *Board of Pharmacy v. Respondents Susan Blair, Case No. 13-039-RPH-N and Walgreens Pharmacy #11227, Case No. 13-039-PH-N*, for violations resulting in the filling and dispensing of an

unauthorized prescription and three subsequent unauthorized refills of zolpidem, a Scheduled IV hypnotic. As a penalty, the Board ordered Blair to pay a fine of \$1,000.00 and administrative fee of \$500.00. The Board ordered Walgreens to provide additional training to its pharmacists and technicians on proper documentation and annotation of prescriptions that are superseded by other prescriptions.

FACTUAL ALLEGATIONS

III.

On March 11, 2017, patient T.B. saw his cardiologist, Dr. Nylk, who prescribed him thirty (30) 75 mg. clopidogrel (Plavix) tablets with instructions to take one tablet by mouth once a day. The prescription included three refills.

IV.

T.B. tendered the prescription to Walgreens two days later, on March 13. Walgreens dispensed the medication, Prescription No. 597217, the same day.

V.

On March 22, 2017, Dr. Nylk increased the quantity of T.B.'s prescription for 75 mg. clopidogrel (Plavix) tablets from thirty to ninety tablets with instructions to take one tablet by mouth once a day. Walgreens filled that prescription, Prescription No. 599411, the next day.

VI.

At the same time, Dr. Nylk provided T.B. an additional prescription for sixty 5 mg. Eliquis tablets with instructions to take one tablet by mouth twice a day. Dr. Nylk prescribed Eliquis as part of T.B.'s ongoing anti-platelet anticoagulation therapy. Walgreens designated that as Prescription No. 599727.

VII.

On April 7, 2017, T.B. returned to Walgreens to refill Prescription No. 597217 (75 mg. clopidogrel (Plavix) tablets).

VIII.

The pharmacist on duty, respondent Blair, refused to refill Prescription No. 597217, informing T.B. that the combination of clopidogrel and Eliquis posed a risk of increased bleeding. Blair advised T.B. to discontinue Eliquis and clopidogrel until T.B. consulted Dr. Nylk.

IX.

Blair then closed the clopidogrel prescription (Prescription No. 597217) “pending response from the provider.”

X.

Blair did not speak with Dr. Nylk to discuss and resolve her concerns regarding Prescription No. 597217 before or after she declined to fill that prescription.

XI.

As a result of Ms. Blair’s actions, T.B. went without anticoagulant therapy for about 4 or 5 days.

XII.

During the course of the Board’s investigation, the Board Investigator sought to obtain prescription records to substantiate the report he received from Walgreens that Blair closed Prescription No. 597217. Walgreens produced no records to substantiate that report.

XIII.

Later that same day that Blair purportedly closed Prescription No. 597217 (April 7, 2017), Blair initiated another prescription for clopidogrel for T.B., which Walgreens designated Prescription No. 603227.

XIV.

The Board Investigator requested repeatedly an audit of Prescription No. 603227, and pharmacy manager Derek Engebretson sent an audit request for Prescription No. 603227 to Walgreens’ Pharmacy Affairs.

XV.

In response, Walgreens' Pharmacy Affairs responded that Blair created and filled Prescription No. 603227 on April 7, 2017, then deleted that prescription record.

XVI.

There is no record of that fill at the Walgreens #11227.

XVII.

Walgreens provided inconsistent and conflicting information and documents regarding the origin and status of Prescription No. 603227. Information provided by Tom Bui, a Walgreens Healthcare Supervisor for Pharmacy and Retail Operation, to the Board Investigator indicates that:

“ . . . for reason unknown, the store closed the clopidogrel rx #597217 and COPY creates an new rx 603227 for the same drug, same directions, same quantity on 04/07/2017 at 2:35 pm. The rx was never filled and subsequently stored.”

XVIII.

Walgreens provided no records to show that Prescription No. 603227 was “stored”.

XIX.

That report that Prescription No. 603227 was “stored” conflicts with other records that indicate that Prescription No. 603227 was “. . . filled, then *deleted* on 4/7/17 at 16:26:48 (4:26:48 pm). The prescription was not verified or sold.” (Emphasis added.)

XX.

Other records from Walgreens indicate that a third prescription, “Rx 604576 was COPY created from the *stored* Rx 603227 on 04/13/2017 and dispensed to the patient on 04/13/2017.” (Emphasis added.) Again, that record that Prescription No. 603227 was *stored* and used to create Prescription No. 604576 is at odds with Walgreens' records indicating that Prescription No. 603227 was *deleted*.

XXI.

The Walgreens records indicating that Prescription No. 604576 was created from “deleted” or “stored” Prescription No. 603277 also conflicts with Walgreens’ records indicating that Prescription No. 60476 was created by Ms. Blair from the other previously closed Prescription No. 597217 on 04/07/2017.

XXII.

Further, the fill history for Prescription No. 60476 contains entries that are out of sequence.

Fill History

Scanned by M.R. Beardsley 03/13/2017 14:09:11
 Entered by K.A. Urritia on 04/13/2017 11:40:39
Pat/Pbr rev by S. Blair on 04/07/2017 15:42:50
Data Prod rev by S. Plair on 04/07/2017 15:42:50
 Filled by R. Ochoa on 04/13/2017 11:46:24
 Prod. Rev by D.R. Engebretson on 04/13/2017 11:47:03
 Sold Date 04/13/2017 11:52:00
 RPH of Record: D.R. Engebretson

The records Walgreens provided for Prescription No. 604576 indicate that respondent Blair somehow approved the data entered by K.A. Urrutia six days before Urrutia entered the data and before Mr. Engebretson created that prescription on 04/13/2017.

XXIII.

Walgreens’ inability to provide records showing a clear history of Prescription Nos. 603227 and 604576 persisted throughout the Board’s investigation.

FIRST CAUSE OF ACTION

Regulatory Violation: Failure to Contact Prescribing Practitioner
 (Respondent Blair)

XXIV.

A pharmacist may decline to fill a prescription “only if the pharmacist reasonably believes, in his or her professional judgement” that filling the prescription would be unlawful, imminently harmful to the health of the patient, fraudulent or not for a legitimate medical purpose. *See* NAC 639.753.

The regulation also requires that a pharmacist who declines to fill a prescription “shall speak with the prescribing practitioner in a timely manner to discuss and resolve the concerns of the pharmacist regarding the prescription.” NAC 639.753(2) (referencing the requirement that the pharmacist must speak to the prescribing practitioner in order to decline to fill a prescription).

Blair violated NRS 639.753(2)(4) by failing to contact Dr. Nylk to speak with him about T.B.’s concurrent clopidogrel and Eliquis prescriptions before, at the time or after she declined to fill T.B.’s prescription for clopidogrel. For that violation, Blair is subject to discipline pursuant to NRS 639.210(12) (violation of any law or regulation related to drugs or the practice of pharmacy) and NRS 639.255.

SECOND CAUSE OF ACTION

Unprofessional Conduct: Failure to Contact Prescribing Practitioner (Respondent Blair)

XXV.

“Performing any of [a registrant’s] duties as the holder of a license, certificate or registration issued by the Board . . . in an incompetent, unskillful or negligent manner” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(i). Unprofessional conduct or conduct contrary to the public interest is grounds for discipline pursuant to NRS 639.210(4). *See also* NRS 639.255.

Blair acted “in an incompetent, unskillful or negligent manner” and thereby engaged in “unprofessional conduct or conduct contrary to the public interest” when she failed to speak to Dr. Nylk before, at the time or after she declined to fill T.B.’s prescription for clopidogrel. *See*

NAC 639.945(1)(i). For that conduct, Blair is subject to discipline pursuant to NRS 639.210(4) and/or NRS 639.255.

THIRD CAUSE OF ACTION
Statutory Violation: Failure to Maintain Records
 (Respondent Blair)

XXVI.

“Performing any of [a registrant’s] duties as the holder of a license, certificate or registration issued by the Board . . . in an incompetent, unskillful or negligent manner” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(i). Unprofessional conduct or conduct contrary to the public interest is grounds for discipline pursuant to NRS 639.210(4) and NRS 639.255.

Blair acted “in an incompetent, unskillful or negligent manner” and thereby engaged in “unprofessional conduct or conduct contrary to the public interest” when she closed Prescription No. 597217 without explanation and without creating a record of her contact with patient T.B. See NAC 639.945(1)(i). For that conduct, Blair is subject to discipline pursuant to NRS 639.210(4) and/or NRS 639.255.

FOURTH CAUSE OF ACTION
Failure to Maintain Records for Prescription No. 603227
 (Respondent Walgreens #112277 and Respondent Blair)

XXVII.

NAC 639.706 Marking of prescriptions with serial numbers; maintenance of files of prescriptions.

1. A pharmacist who receives a prescription to fill, including a prescription that is written, transcribed from an oral order or transferred to the pharmacy, shall mark on the prescription a unique serial number issued for that prescription.

2. A pharmacist shall maintain files of prescriptions in a manner that ensures that every serial number is accounted for pursuant to NAC 453.480. If the prescriptions are not filed in

numerical order, the pharmacist shall file the prescriptions in such a manner that any prescription can be readily retrieved.

3. A pharmacist shall maintain a physical record in the files of prescriptions that accurately explains or accounts for any serial number issued for a prescription that is not filled, including a serial number issued in error or for a prescription that is later rendered void.

By deleting Prescription No. 603227, respondents violated NAC 639.706(2) and (3) by failing to maintain a record that adequately explains or accounts for that serial number (603277) even though it was not filled. For that violation, respondents are subject to discipline pursuant to NRS 639.210(12) (violation of any law or regulation related to drugs or the practice of pharmacy) and NRS 639.255.

FIFTH CAUSE OF ACTION

Failure to Maintain and Produce Prescription Records (Respondent Walgreens #112277)

XXVIII.

NAC 639.910(1)(a) requires 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”.

Nevada law requires a pharmacy computer system to have adequate safeguards to identify whether information in the system concerning a prescription has been modified or manipulated, and, where information was modified or manipulated, identify the manner, date and

person who modified or manipulated the information. *See* NAC 639.930(3), *see also* NAC 639.751(1)(b) and (2).

Additionally, NAC 639.930(4) and (5) require the pharmacy's computer system to maintain the information identified per NAC 639.930(3) and to prevent the removal of that information and the record of a prescription once the system assigns a number to the prescription. Further, NAC 639.935(3)(g)(3) states that computer system must produce printed records of history of each modification or manipulation of information concerning the prescription.

In failing to maintain clear records of the origin and status of Prescription Nos. 603227 and 604576 in a readily retrievable manner and by failing to maintain a recordkeeping system that would allow for readily retrievable prescription records for those prescription numbers, Walgreens violated NAC 639.910(1)(a), NAC 639.751(1)(b) and (2), NAC 639.930(3), (4) and (5), and NAC 639.935(3)(g)(3). For that conduct, Walgreens is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

SIXTH CAUSE OF ACTION
Pharmacy/Pharmacy Owner Responsibility
 (Respondent Walgreens #112277)

XXIX.

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.

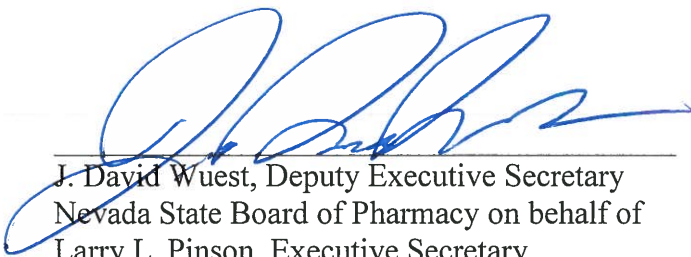
Further, “the owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ.” NAC 639.945(2).

As the pharmacy/pharmacy owner at which the violations of law alleged herein occurred, Walgreens is responsible for the violations alleged herein pursuant to NAC 639.702 and NAC 639.945(2). Walgreens is therefore subject to discipline pursuant to NRS 639.210(4) and (12) and NRS 639.255.

XXX.

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 24th day of October 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,)
) STATEMENT TO THE RESPONDENT
) NOTICE OF INTENDED ACTION
Petitioner,)
) AND ACCUSATION
v.)
) RIGHT TO HEARING
)
SUSAN BLAIR, RPH)
Certificate of Registration No. 17494)
)
) CASE NO. 17-044-RPH-N
)
)
)
)
)
)
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, December 5, 2018, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place, 1790 East Plumb Lane, Reno, Nevada.

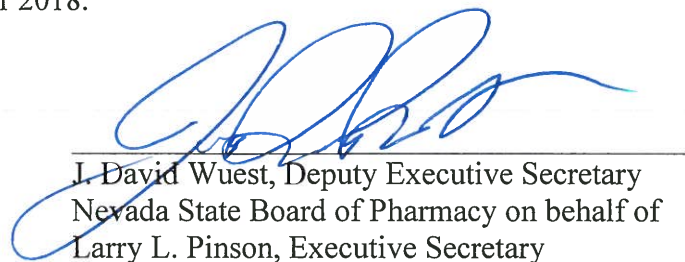
IV.

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 24th day of October 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,	)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
SUSAN BLAIR, RPH	)	CASE NO. 17-044-RPH-N
Certificate of Registration No. 17494)	
)	
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 October 2018.

SUSAN BLAIR, R.PH.

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 29th day of October, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Susan Blair
6978 Poco Bueno Circle
Sparks, NV 89436


SHIRLEY HUNTING

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	
	)	CASE NO. 13-039-RPH-N
Petitioner,	)	13-039-PH-N
v.)	
)	
SUSAN MARIE BLAIR, RPH	)	STIPULATION AND ORDER
Certificate of Registration No. 17494)	
)	
WALGREENS #11227)	
Certificate of Registration No. PH02513-C)	
)	
Respondents.)	
)	
)	
)	
	/	

S. Paul Edwards, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and Respondents Susan Marie Blair, RPh., Certificate of Registration #17494 and Walgreens Pharmacy #04854, Certificate of Registration #PH0253-C (collectively “Respondents”), by and through their counsel, William J. Stilling, of the law firm Parsons Behle & Latimer,

HEREBY STIPULATE AND AGREE THAT:

1. The Board has jurisdiction over these matters.
2. The Board served a Notice of Intended Action and Accusation (Accusation) on each of the Respondents on or about January 31, 2014.
3. Respondents filed a joint written Answer and Notice of Defense with the Board on February 26, 2014.

4. Respondents, and each of them, are fully aware of their right to a hearing on the matters alleged in the Accusation, their right to reconsideration, their right to appeal and any and all other rights which may be accorded to them pursuant to the Nevada Administrative Procedure Act and the Nevada Pharmacy Act.

5. Respondents, and each of them, hereby freely and voluntarily waive their rights to a hearing, reconsideration, appeal, and any and all other rights that may be accorded to them by the Nevada Administrative Procedure Act and the Nevada Pharmacy Act.

6. Respondents admit that evidence exists, and could be presented at a hearing, to establish a factual basis for the violations alleged in the Accusation, including:

a. On or about April 10, 2013, patient AJ received a prescription for zolpidem 10 mg and partial refills of that prescription on three subsequent occasions as a result of a Ms. Blair's belief that the scanned prescription on the computer screen when she checked the product for filling was a valid prescription that had been scanned on February 1, 2013. However, the earlier prescription had been superseded by a subsequent prescription for a lower dose and AJ's physician had not authorized refills for the April 10, 2013 prescription.

7. Based on Respondents' admissions and the Board's authority under NRS 639.255, cause for disciplinary action against Susan Blair and Walgreens #11227 exists under: (i) NAC 639.945(1)(d) and NRS 639.210(4) and (12); and (ii) NAC 639.945(2) respectively.

8. The foregoing admissions are for the purposes of this proceeding only, and shall have no force or effect in any other case or proceeding before the Board.

9. Based upon the Accusation and the foregoing admissions, Respondents stipulate to the following penalties, which are subject to approval and adoption by the Board:

a. Walgreens #11227 will pay a fine of \$1,000.00 and an administrative fee of \$500.00 as a penalty for being the owner of the business where the prescription was dispensed to AJ.

b. Susan Blair will pay a fine of \$1,000.00 and an administrative fee of \$500.00 as a penalty for filling the prescription for AJ not in accordance with instructions from the prescriber.

10. Walgreens #11227 will provide additional training to its pharmacists and technicians, as applicable, to ensure that they properly document and annotate prescriptions that are superseded by other prescriptions and that they properly close such prescriptions. Walgreens will provide documentation of such additional training upon request from the Nevada Board of Pharmacy.

11. Board Counsel will present this stipulation to the Board for approval at its next scheduled meeting on March 5, 2014 in Reno, Nevada. Respondents, and each of them, agree to appear at that meeting to answer questions put to them by members of the Board and Board Staff. The Board may discuss and deliberate regarding this stipulation, even if Respondents or their counsel are not present. The Board, at its sole discretion, may enter a decision and order accepting this stipulation and imposing discipline as recommended by the parties, but it is under no obligation to do so.

12. If the Board adopts the recommendations set forth above:

- a. Respondents shall pay the fines agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer" to be received by the Board's Reno office located at 431 W. Plumb Lane, Reno, NV 89509, within 90 days of the effective date of the Board's Order.
- b. Respondents shall pay the administrative fees agreed to herein by *cashier's check*, *certified check* or *money order* made payable to the "Nevada State Board of Pharmacy" to be received by the Board's Reno office located at 431 W. Plumb Lane, Reno, NV 89509, within 90 days of the effective date of the Board's Order.

13. If the Board adopts the recommendations set forth above, any failure by any Respondent to satisfy those obligations may result in additional discipline, up to and including suspension or revocation of her registration/license, until all terms have been complied with.

14. If the Board adopts the recommendations set forth above, the Board and the Respondents agree to release each other from any and all claims arising from the facts set forth in the Accusation on file herein, whether known or unknown, that might otherwise have existed on or before the effective date of the Board's Order in this matter.

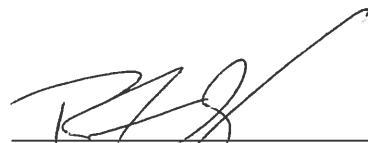
15. If the Board rejects any part or all of this stipulation, the parties agree that a full hearing on the merits of this matter may be heard by the Board, and that the hearing shall occur at the Board's June 2014 meeting in Reno, Nevada.

16. If the Board rejects any part, or all, of this stipulation, the terms and admissions herein may not be used or referred to in the full hearing on the merits of this matter.


I have fully considered the charges and allegations contained in the Notice of Intended Action and Accusation in this matter. I understand the rights to a hearing, reconsideration, appeal and any and all other rights accorded by the Nevada Administrative Procedure Act and the Nevada Pharmacy Act, including, if applicable, my right to be represented individually by counsel at my own expense.

Signed this ___ day of March, 2014

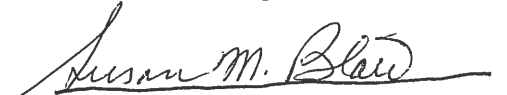
Signed this 5th day of March, 2014



Authorized Representative for
Walgreens #11227
Certificate of Registration No. PH02513-C



S. Paul Edwards, Esq.
General Counsel
Nevada State Board of Pharmacy

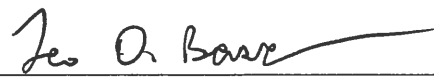


Susan Blair
Certificate of Registration
no. 17494

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Respondents Susan Marie Blair, RPh., Certificate of Registration #17494, and Walgreens Pharmacy #11227, Certificate of Registration #PH02513-C, and hereby orders that the terms of the foregoing Stipulation be made effective. This decision and order shall be effective upon execution.

3-5-2014
DATED



Leo Basch, Acting President
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,
Petitioner,

v.

SUSAN MARIE BLAIR, RPH
Certificate of Registration No. 17494,

WALGREENS #11227
Certificate of Registration No. PH02513-C,

Respondents.

) **CASE NO. 13-039-RPH-N**
) **CASE NO. 13-039-PH-N**

) **NOTICE OF INTENDED**
) **ACTION AND ACCUSATION**



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

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because at the time of the events alleged herein, respondent Susan Marie Blair was a registered pharmacist with the Board, and respondent Walgreens Pharmacy #11227 (Walgreens) was a pharmacy registered with the Board.

II.

On or about October 15, 2012, Dr. Z saw patient AJ and prescribed thirty (30) zolpidem 10mg tablets with instructions to take one tablet at bedtime. Dr. Z authorized two refills on the prescription. Walgreens filled and dispensed the medication (Rx 257094).

III.

On February 1, 2013, Dr. Z faxed a new zolpidem 10mg prescription for AJ authorizing one refill to Walgreens (Rx 21996). That same day, Walgreens faxed a return message to Dr. Z informing her that new Federal Drug Administration (FDA) guidelines for women recommended a maximum strength of zolpidem 5mg. Dr. Z concurred and faxed a new prescription for

zolpidem 5mg, quantity thirty, authorizing one refill (Rx 278437). Walgreens subsequently closed the zolpidem 10mg prescription (Rx 21996) without filling it.

IV.

On April 7, 2013, Walgreens faxed Dr. Z's office a request to refill the zolpidem 5mg prescription. Dr. Z denied the request based on a review of AJ's prescription monitoring report which indicated an excessive amount of zolpidem fills.

V.

During the investigation, the Board Investigator reviewed AJ's prescription monitoring report. The review revealed no unauthorized or excessive zolpidem use. AJ had elected to receive fifteen tablets every two weeks versus thirty tablets once a month.

VI.

On April 10, 2013, the closed prescription from February 1, 2013 (Rx 21996 Zolpidem 10mg, quantity 30) was scanned by pharmaceutical technician MT, and issued a new prescription number (Rx 292637). The prescription was partially filled with fifteen (15) Zolpidem 10mg tablets and verified as accurate by Ms. Blair. The prescription was partially filled (15 tablets) again on May 7, 2013, June 5, 2013, and June 30, 2013. Walgreens did not obtain prescriber authorization to fill or refill the 10mg strength of zolpidem.

VII.

In a written statement, Ms. Blair indicated "that the refill authorized from 4/10/13 for 10mg zolpidem was stored rather than closed when authorization was given to change the dosage to 5mg." In a subsequent interview, Ms. Blair admitted to reopening the closed zolpidem prescription and assigning it a new prescription number (292637-11227). She also admitted to not contacting the prescriber for authorization. Ms. Blair could provide no reason for opening and dispensing the closed prescription without prescriber authorization.

FIRST CAUSE OF ACTION

VIII.

In filling an unauthorized prescription (Rx 292637) and three subsequent unauthorized refills for AJ, namely zolpidem 10mg tablets, Respondent Susan Marie Blair, violated Nevada Administrative Code (NAC) 639.945(1)(d) and/or (i), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(4) and/or (11) and/or (12), or alternatively under NRS 639.255.


SECOND CAUSE OF ACTION

IX.

As the pharmacy in which the violations alleged above occurred, Walgreens #11227 violated NAC 639.945(1)(d) and/or (i), and is statutorily responsible for respondent Blair's actions 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.

THEREFORE 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 31st day of January, 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.

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
)	
WALGREENS PHARMACY #11227	)	CASE NO. 17-044-PH-N
Certificate of Registration No. PHN02513)	
)	
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, December 5, 2018, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place, 1790 East Plumb Lane, Reno, Nevada.

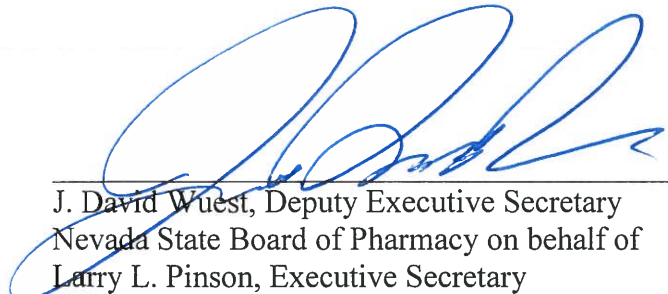
IV.

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 24th day of October 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,	)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
WALGREENS PHARMACY #11227	)	CASE NO. 17-044-PH-N
Certificate of Registration No. PHN02513)	
)	
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 October 2018.

Type or print name

AUTHORIZED REPRESENTATIVE FOR
WALGREENS PHARMACY #11227

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 29th day of October, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Walgreens Pharmacy #11227
2299 Oddie Blvd.
Sparks, NV 89431


SHIRLEY HUNTING

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 29th day of October, 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

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


SHIRLEY HUNTING

4H

III.

Weissman admitted to diverting controlled substances from Smith's both verbally and in writing during an interview conducted by the district pharmacy practice coordinator and a representative from Smith's asset protection department.

IV.

Weissman's admission included the diversion of approximately sixty (60) Zolpidem 10 mg. tablets from Smith's in December 2018.

V.

Smith's 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 and possessing Zolpidem tablets, a controlled substance, as alleged herein, Weissman 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 and possessing Zolpidem tablets, a controlled substance, without a prescription, as alleged herein, Weissman 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 Zolpidem tablets as alleged herein, Weissman 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.

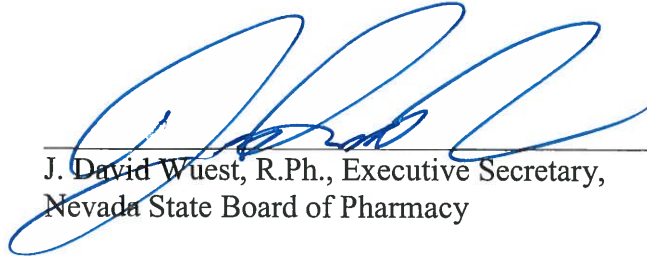
NAC 639.945(1)(h) states that “[p]erforming or in any way being a party to any fraudulent or deceitful practice or transaction” constitutes “unprofessional conduct and conduct contrary to the public interest.”

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, Weissman 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 11th 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 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. 19-001-PT-S
)	
Petitioner,)	
v.)	
	)	STATEMENT TO THE
HEATHER WEISSMAN, PT	)	RESPONDENT AND
Certificate of Registration No. PT18902,	)	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, 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.

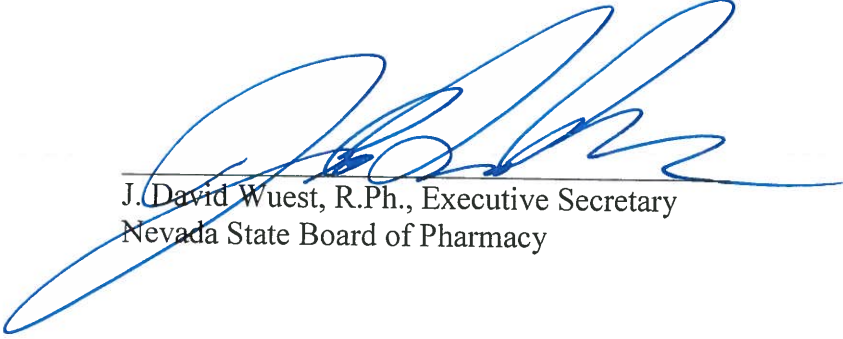
IV.

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 11th day of January 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. 19-001-PT-S
)	
Petitioner,)	
v.)	
)	
HEATHER WEISSMAN, PT	)	ANSWER AND NOTICE
Certificate of Registration No. PT18902,	)	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 January 2019.

HEATHER WEISSMAN, PT

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 22nd day of January, 2019 , I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

**Heather Weissman, PT
8777 Tom Noon Ave., #101
Las Vegas, NV 89178**


SHIRLEY HUNTING

41

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS. 17-098-S
)	
Petitioner,	)	NOTICE OF INTENDED ACTION
v.	)	AND ACCUSATION
)	
RAANAN POKROY, M.D.,)	
Certificate of Registration No. CS25754,)	
)	
Respondent.	/	

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

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and this respondent because at the time of the events alleged herein, Respondent Raanan Pokroy, M.D. (Dr. Pokroy), Nevada Controlled Substance Registration No. CS25754, was registered by the Board.

FACTUAL ALLEGATIONS

II.

Dr. Pokroy owns and is the Medical Director of Reviv, which provides concierge/mobile intravenous hydration and injection services at its locations in the MGM and Palazzo hotel properties in Las Vegas, Nevada.

III.

Reviv, under Dr. Pokroy’s ownership and direction, misled patients and deceitfully and/or fraudulently allowed patients to believe that Reviv could lawfully engage in the practice of medicine and provide medical treatment, including the administration of dangerous drugs,

without an examination by a practitioner, without a practitioner onsite, and without a practitioner's supervision.

IV.

Dr. Pokroy stored dangerous drugs at each of his Reviv locations.

V.

Dr. Pokroy allowed Reviv's staff, including RNs, access to his locked cabinets where dangerous drugs were stored and to access his inventory of dangerous drugs at those locations without a practitioner onsite and without a practitioner's supervision.

VI.

Dr. Pokroy allowed Reviv's staff, including RNs, to administer dangerous drugs by IV and/or by injection to patients without a lawful examination by a licensed practitioner and without a practitioner's supervision.

VII.

Dr. Pokroy allowed Reviv's staff, including RNs, to administer dangerous drugs without a diagnosis or other determination by a licensed practitioner that the dangerous drugs were medically necessary.

VIII.

For off-site services, Dr. Pokroy allowed and directed Reviv's staff, including RNs, to access, possess and transport dangerous drugs that were not included on a lawful chart order.

IX.

For off-site services, Dr. Pokroy provided Reviv's staff, including RNs, with an inventory of dangerous drugs that are not listed on, and/or that exceeded the quantity called for on a lawful chart order.

X.

Dr. Pokroy purchased dangerous drugs from an unlicensed pharmacy for administration to Reviv's patients.

APPLICABLE LAW

XI.

No person may possess a dangerous drug in Nevada without specific statutory authority to do so. *See* NRS 454.213, NRS 454.316, NRS 454.321.

XII.

A practitioner can give a registered nurse (RN) limited authority to possess and administer dangerous drugs without the practitioner onsite by way of NRS 454.213(1)(c), which says in relevant part:

a drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by . . . a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practice registered nurse, *or pursuant to a chart order, for administration to a patient at another location.*

NRS 454.213(1)(a)(*emphasis added*); *see also* NRS 639.100.

XIII.

Chart orders must be written (NRS 454.223) and are patient-specific and medication-specific.¹

¹ *See* NRS 639.004 "Chart order" means an order entered on the chart of a patient in a hospital, facility for intermediate care or facility for skilled nursing which is licensed as such by the Division of Public and Behavioral Health of the Department of Health and Human Services or on the chart of a patient under emergency treatment in a hospital by a practitioner or on the written or oral order of a practitioner authorizing the administration of a drug to the patient.

XIV.

“Except as otherwise specifically provided, every person who violates any provision of NRS 454.181 to 454.371, inclusive, is guilty of a misdemeanor.” NRS 454.356.

XV.

A practitioner must first establish a *bona fide therapeutic relationship* with a patient by examination before he or she can determine that a medication is medically necessary and direct and/or authorize a RN to possess and administer a dangerous drug on-site or issue a chart order for off-site administration of a dangerous drug to treat the patient’s medical condition. See NAC 639.945(1)(o) and NRS 454.213(1)(a).

XVI.

[A] bona fide therapeutic relationship between the patient and practitioner shall be deemed to exist if the patient was examined in person, electronically, telephonically or by fiber optics . . . by the practitioner within the 6 months immediately preceding the date the practitioner . . . prescribes a drug to the patient and, as a result of the examination, the practitioner diagnosed a condition for which a given drug therapy is prescribed.

NRS 639.945(3).

XVII.

An outsourcing facility that is engaged in the compounding of sterile drugs in this State [Nevada] or for shipment into this State shall:

1. Obtain a license from the Board as a manufacturer in accordance with NRS 639.100 and 639.233;
2. Comply with the provisions of NAC 639.609 to 639.619, inclusive; and
3. Comply with all the requirements of 21 U.S.C. § 353b.

NAC 639.6915

XVIII.

“Supplying . . . medicines, substances or devices which are legally sold in pharmacies or by wholesalers, 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.”
NAC 639.945(1)(g).

XIX.

“Performing or in any way being a party to any fraudulent or deceitful practice or transaction” constitutes “unprofessional conduct and conduct contrary to the public interest.”
NAC 639.945(1)(h).

XX.

A licensee “[p]erforming any of his or her duties as the holder of a license, certificate or registration issued by the Board . . . in an incompetent, unskillful or negligent manner” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(i).

XXI.

“Aiding or abetting a person not licensed to practice pharmacy in the State of Nevada” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(j).

XXII.

“Performing any act, task or operation for which licensure, certification or registration is required without the required license, certificate or registration” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(k).

XXIII.

“Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship” constitutes “unprofessional conduct and conduct contrary to the public interest.” NAC 639.945(1)(o).

XXIV.

The Board may suspend or revoke a registration issued pursuant to NRS 453.231 to prescribe or otherwise dispense a controlled substance upon a finding that the registrant has committed an act that would render registration inconsistent with the public interest. NRS 453.236(1)(d) and NRS 453.241(1).

XXV.

Engaging in conduct that constitutes unprofessional conduct or that is contrary to the public interest is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(4).

XXVI.

Violating, attempting to violate, assisting or abetting in the violation of or conspiring to violate any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(12).

FIRST CAUSE OF ACTION

Unlawful Access and Possession of Dangerous Drugs (Statutory Violations)

XXVII.

By allowing Reviv's staff, including RNs, none of whom were practitioners and none of whom were licensed to prescribe dangerous drugs, to operate Reviv and to use his authority to obtain, access and/or possess an inventory of dangerous drugs when he was not onsite and without his supervision, Dr. Pokroy violated, or assisted and abetted his staff in violating, NRS 454.213(1)(c), NRS 454.311, and/or NRS 454.316. *See also* NRS 630.305(1)(e), NRS 454.321 and NRS 454.356. Because of that conduct, Dr. Pokroy's controlled substance registration, Certificate of Registration No. CS25754, is subject to discipline pursuant to NRS 639.210(12) and/or NRS 639.255.

SECOND CAUSE OF ACTION

Unlawful Access and Possession of Dangerous Drugs (Unprofessional Conduct)

XXVIII.

By allowing Reviv's staff, including RNs, none of whom were practitioners and none of whom were licensed to prescribe dangerous drugs, to use his authority to operate Reviv and to obtain, access and/or possess an inventory of dangerous drugs when he was not onsite and without his supervision, Dr. Pokroy engaged in unprofessional conduct as defined in NAC 639.945(g), (h), (i), (j) and (k). For that conduct, Dr. Pokroy's controlled substance registration, Certificate of Registration No. CS25754, is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

THIRD CAUSE OF ACTION

Unlawful Administration of Dangerous Drugs – No Authority to Determine Medical Necessity

XXIX.

By authorizing Reviv's staff, including RNs, none of whom were licensed practitioners, to use his authority to operate Reviv and to determine that a dangerous drug was medically necessary and to administer a dangerous drug to Reviv's patients, Dr. Pokroy violated, and/or aided and abetted Reviv's staff in violating Nevada law, including NRS 630.305(e) and NRS 454.221(1), and he acted unprofessionally. *See* NAC 639.945(1)(k) and (o). Because of that conduct, Dr. Pokroy's controlled substance registration, Certificate of Registration No. CS25754 is subject to discipline pursuant to NRS 639.210(4) and (12) and/or NRS 639.255.

FOURTH CAUSE OF ACTION

Unlawful Administration of Dangerous Drugs - No Bona Fide Therapeutic Relationship

XXX.

By authorizing RNs on Reviv's staff, including RNs, none of whom were licensed practitioners, to administer a dangerous drug to patients who had not been examined by a practitioner, with whom he did not have a bona fide therapeutic relationship and for whom he had not made any diagnosis or determination that the dangerous drug was medically necessary, Dr. Pokroy violated, and/or aided and abetted Reviv's staff in violating Nevada law, including NRS 630.305(e) and NRS 454.221(1), and he acted unprofessionally. *See* NAC 639.945(1)(k) and (o). Because of that conduct, Dr. Pokroy's controlled substance registration, Certificate of Registration No. CS25754 is subject to discipline pursuant to NRS 639.210(4) and (12) and/or NRS 639.255. *See also* NRS 630.306.

FIFTH CAUSE OF ACTION

Purchasing Compounded Drugs from an Unlicensed Pharmacy

XXXI.

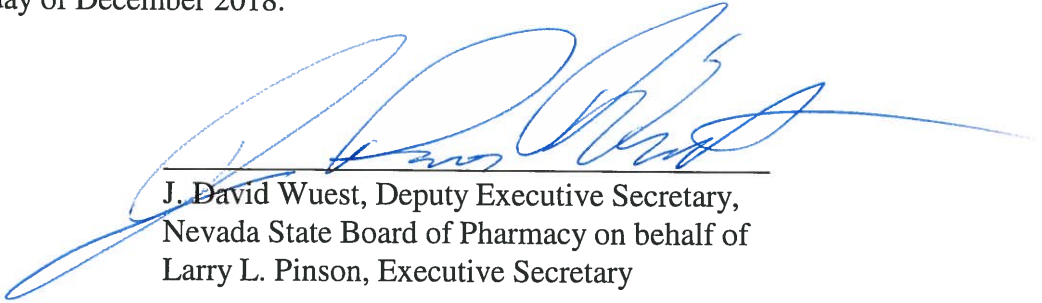
By purchasing compounded dangerous drugs from a pharmacy not licensed with the Board, Dr. Pokroy violated, or assisted and abetted that pharmacy in violating, NRS 639.285 and/or NAC 639.6915. Because of that conduct, Dr. Pokroy's controlled substance registration, Certificate of Registration No. CS25754 is subject to discipline pursuant to NRS 639.210(4) and (12) and/or NRS 639.255.

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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 14th 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 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. 17-098-S
)	
Petitioner,)	
)	
v.)	
	)	STATEMENT TO THE RESPONDENT
RAANAN POKROY, M.D.,	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. CS25754,	)	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.

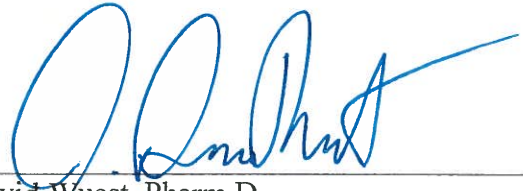
IV.

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 14th day of December, 2018.



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

ALVERSON TAYLOR & SANDERS
LAWYERS
6605 GRAND MONTECITO PKWY STE 200
LAS VEGAS, NV 89149
PHONE 384-7000

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ALVERSON TAYLOR & SANDERS
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
6605 Grand Montecito Parkway, Ste. 200
Las Vegas, NV 89149
(702) 384-7000
efile@alversontaylor.com
Attorneys for Respondent

FILED

JAN 17 2019

NEVADA STATE BOARD
OF PHARMACY

DISTRICT COURT

CLARK COUNTY, NEVADA

NEVADA STATE BOARD OF
PHARMACY,

Petitioner,

vs.

RAANAN POKROY, M.D.,
Certificate of Registration No. CS25754,

Respondent.

Case No.: 17-098-S

**ANSWER TO NOTICE OF INTENDED
ACTION AND ACCUSATION**

COMES NOW, Respondent, RAANAN POKROY, M.D. (hereinafter referred to as
"Answering Respondent" or "Respondent") by and through his attorneys of record,
ALVERSON TAYLOR & SANDERS, and answers the Notice of Intended Action and
Accusation on file herein as follows:

1. Answering Paragraphs I, XI, XIII, XIV, XV, XVII, XVIII, XXIV, XXV, XXVI, XVII,
and XVIII of the Notice of Intended Action and Accusation on File, Answering
Respondent is without sufficient knowledge or information upon which to base a belief
as to the truth of the allegations contained therein, and upon said ground, denies each
and every allegation contained therein.

ALVERSON TAYLOR & SANDERS
LAWYERS
6605 GRAND MONTECITO PKWY STE 200
LAS VEGAS, NV 89149
702.734.7999

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- 2. Answering Paragraph II and XII of the Notice of Intended Action and Accusation on file, Answering Respondent admits the allegations contained therein.
- 3. Answering Paragraphs III, VII, IX, X, XIX, XX, XXI, XXII, XXIII, XXVII, XXVIII, XXIX, XXX, XXXI, of the Notice of Intended Action and Accusation on file, Answering Respondent denies the allegations contained therein.
- 4. Answering Paragraph IV of the Notice of Intended Action and Accusation on file, Answering Respondent admits he stored non-controlled substance medications in a locked, secure place, accessible only to authorized personnel, at REVIV locations.
- 5. Answering Paragraph V of the Notice of Intended Action and Accusation on file, Answering Respondent admits he allowed authorized medical staff to access non-controlled substance medications from the secured space, pursuant to a chart order, and under his remote supervision.
- 6. Answering Paragraph VI of the Notice of Intended Action and Accusation on file, Answering Respondent previously allowed REVIV's authorized staff, including RNs, to administer non-controlled substance medications by IV and/or by injection to patients without a patient-specific examination by a licensed practitioner and without a practitioner's direct supervision.

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PRAYER FOR RELIEF

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Answering Respondent denies that Petitioner is entitled to any of the requested relief as contained within the Notice of Intended Action and Accusation.

Dated this 17th day of January, 2019.

ALVERSON TAYLOR & SANDERS

By 

LEANN SANDERS, ESQ.
Nevada Bar No.: 000390
6605 Grand Montecito Parkway, Ste. 200
Las Vegas, NV 89149
(702) 384-7000
Attorneys for Respondent

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ALVERSON TAYLOR & SANDERS
LAWYERS
6605 GRAND MONTECITO PKWY STE 200
LAS VEGAS, NV 89149
(702) 384-7000

NV BOARD OF PHARMACY RESPONSE

Before I respond to the individual allegations and cause of action stated in the NV Board of Pharmacy document, I'd like to state that my staff and I have attempted to contact the Board on several occasions requesting guidance regarding my practice and they have always informed us that they do not regulate my business because REVIV does not dispense. With the regulatory audits that occurred last year, I contracted a NV board certified pharmacist, Dr. Robin Hager, and she also informed me, after speaking to the Board of Pharmacy, that they do not regulate my type of business; I am therefore a bit confused regarding their jurisdiction. In the letter, it indicates that they have jurisdiction of the matter because my NV Controlled Substance Registration # CS25754 was registered by the Board. For your information, none of the medications administered at REVIV are controlled substances. A copy of the medications offered at REVIV is attached hereto.

Factual Allegations

I am the medical director of REVIV at the MGM and Palazzo Hotel and my business does provide concierge and mobile services.

I deny that I misled or fraudulently allowed patients to believe REVIV could engage in the practice of medicine and provide medical treatments. My business was the first of its kind and after initial research, conferring with counsel, as well as performing an operational review of other medical business, I believed, based on information available at that time, that I could take a remote approach and utilize a standardized medical protocol, similar to vaccination programs, dialysis centers, or that at rehab/care facilities. Every treatment administered at REVIV was always prescribed by myself. At no time have I ever intentionally tried to circumvent administration requirements.

Non-controlled substance medications are stored in a lock secured space, accessible only to authorized personnel at the above REVIV locations. I do not prescribe or utilize any controlled substance at REVIV.

I previously allowed my authorized medical staff to access medications from the secured space, pursuant to a chart order and under my remote supervision. Since February 2018, however, I have changed this practice, and now require a medical screening by a licensed practitioner. No medications are administered without a patient-specific order.

My business was the first of its kind and I believed in good faith, and based upon legal and business consultations, that I was allowed to prescribe treatments based on an established medical protocol and the RNs were administering medications pursuant to my chart order. I have since then modified my practice and require all patients to undergo a medical screening exam either in person or via telemedicine by myself or a licensed practitioner, before any medications are administered.

All treatments at REVIV are purely elective, similar to other elective medical treatments such as Botox and dermatologic procedures. REVIV medical protocols are there to screen for eligibility. My patients were previously treated under a set protocol including a screening exam and questionnaire which were required before any treatments were administered. As indicated above, I now do require all patients to undergo a medical screening exam either in person or via telemedicine by myself or a licensed practitioner to determine medical eligibility.

Since all REVIV treatments are prescribed I did not appreciate the complexity of medical possession for off-site services. Currently, I or a licensed practitioner, perform a medical screening exam and create a chart order for all off-site patients before nurses are allowed to possess and transport patient specific medications for off-site administration.

REVIV current protocol dictates that the nurses are only able to possess and transport medications pursuant to a patient-specific chart order and nothing that exceeds the quantity prescribed.

I never purchased medications from an unlicensed pharmacy. The licensed pharmacy I utilized was in good standing. However, I have modified my operational protocols to require that all incoming shipments come directly from pharmacies licensed to sell to Nevada.

I have always only allowed RNs to possess and administer a medication pursuant to a chart order. Based on the information available to me at the time, as well as reviewing other medical businesses and companies in the industry, I believed it was appropriate to operate based on a medical protocol. I was always available for remote supervision. It was never my intention to circumvent any regulatory statutes involving access and possession of medications. I have since then modified my medical protocols and require all RNs that administer medications to do so only after a chart order is created on an established patient, with no ability to access or possess quantities in excess to what is prescribed and under the supervision of a licensed practitioner.

As aforementioned, to my knowledge, REVIV was the first business of its kind. I undertook efforts to the best of my ability in research and development of the original protocols and contacted the Nevada Board of Pharmacy for guidance. I modeled my business based on accepted and established medical businesses and subsequently industry peers. I have since then modified my policy to require all patients to undergo a medical screening exam with a licensed provider to establish a bona fide therapeutic relationship and to determine medical eligibility before any chart order is created.

I did not fully understand the complexity of pharmaceutical distribution and licensing. I assumed that the inability to distribute pharmaceutical products were a commercial consideration since the pharmacy was of good standing and able to ship to other locations within the USA. I have since then adopted strict safeguards in my protocols to require that all incoming shipments come directly from pharmacies licensed to sell to Nevada.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Raanan Pokroy', with a horizontal line extending to the right.

Raanan Pokroy, M.D.

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LIST OF MEDICATIONS UTILIZED AT REVIV LOCATIONS**All Infusion ingredients:**

Normal Saline

Magnesium

Vitamin C

B-complex

Vitamin B12

Decadron

Pepcid

Zofran

Zinc Sulfate

N-Acetyl-L-Cysteine

Toradol

Glutathione IV push

Trace minerals

All Injection ingredients:

Methionine

Inositol

Choline Chloride

Cyanocobalamin

Hydroxocobalamin

Dexpanthenol

CoQ10

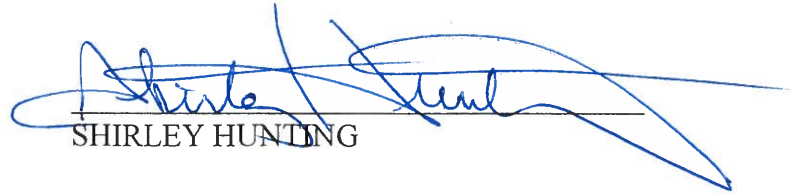
Glutathione

Water Sterile for Injection

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 14th day of December 2018, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Raanan Pokroy, MD
9788 Newport Coast Circle
Las Vegas, NV 89147


SHIRLEY HUNTING