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NOV 15 2019

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

CATHY QUACH, RPH

Certificate of Registration No. 16344,

JENNIFER ENGLEHAUPT, RPH

Certificate of Registration No. 15287, and

WALGREENS PHARMACY #7032

Certificate of Registration No. PH01747,

Respondents.

CASE NOS. 17-121-RPH-A-S

17-121-RPH-B-S

17-121-PH-S

NOTICE OF INTENDED ACTION
AND ACCUSATION

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because at the time of the events alleged herein, respondents Cathy Quach (Quach), Certificate of Registration No. 16344, and Jennifer Englehaupt (Englehaupt), Certificate of Registration No. 15287, were pharmacists registered by the Board, respondent Walgreens Pharmacy #7032, Certificate of Registration No. PH01747, was a pharmacy registered by the Board, and Quach and Englehaupt were employed by Walgreens Pharmacy #7032.

FACTUAL ALLEGATIONS

II.

On October 20, 2017, an electronic prescription was sent to Walgreens Pharmacy #7032 for patient D.C. The prescription was for Metolazone 2.5 mg 30 tablets.

III.

The prescription was processed on October 21, 2017, and the computer system designated the prescription as Rx #1070713.

IV.

The patient was given a partial fill of 10 tablets properly labeled Sandoz, and a separate fill of the remaining 20 that were Mylan brand tablets; the manufacturer name "Sandoz" and the quantity of tablets were lined out and the name "Mylan" and the quantity of 20 tablets were hand written on the second label. Both labels identified the tablet as "Oval Purple Tablet" when in fact the Mylan tablet is a "Small Round White Tablet".

V.

Quach was the verifying pharmacist for Prescription Rx #1070713. She failed to detect the misbranding error on the second label when she verified data entry, verified the final product as accurate, and filled the prescription.

VI.

Walgreen's Retail computer patient counseling field documents that patient consultation was completed. Englehaupt was the counseling pharmacist of record. Englehaupt documented that counseling was declined on October 23, 2017, by D.C. The Metolazone 2.5mg was a new prescription requiring mandatory counseling.

FIRST CAUSE OF ACTION

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

VII.

A drug shall be deemed to be misbranded if its labeling is false or misleading in any particular. NRS 585.410. Unprofessional conduct includes the failure by a licensee to follow strictly the instructions of a practitioner when filling, labeling, and dispensing a prescription. NAC 639.945(1)(d). It also includes a licensee performing his or her duties in an "incompetent, unskillful, or negligent manner." NAC 639.945(1)(i). Quach violated NAC 639.945(1)(d) and

(i) when she verified the data entered on Prescription Rx #1070713 as accurate when it was not and failed to identify the misbranding error. Quach is therefore subject to discipline pursuant to NRS 639.210(4) and (12).

SECOND CAUSE OF ACTION

Failure to Adequately Counsel (Respondent Englehaupt)

VIII.

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

By marking that counseling was completed, and, to the extent any counseling actually occurred, by failing to discuss the medication sufficiently to detect the misbranding, Englehaupt violated NRS 639.266(1), NAC 639.707(1), (2), (4) and/or (6), and/or NAC 639.945(1)(i), and is therefore subject to discipline pursuant to NRS 639.210(4) and (12).

THIRD CAUSE OF ACTION

Pharmacy/Pharmacy Owner Responsibility (Respondent Walgreens Pharmacy #7032)

IX.

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 Pharmacy #7032 is responsible for any violations of law by Quach and Englehaupt pursuant to NRS 639.230(5), NAC 639.702 and NAC 639.945(2).

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 15th day of November, 2019.



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

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). 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. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

CATHY QUACH, RPH
Certificate of Registration No. 16344,

Respondent.

CASE NO. 17-121-RPH-A-S

**STATEMENT TO THE
RESPONDENT AND
NOTICE OF HEARING**

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 and 622A, 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 show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). 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. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, January 15, 2020, 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.

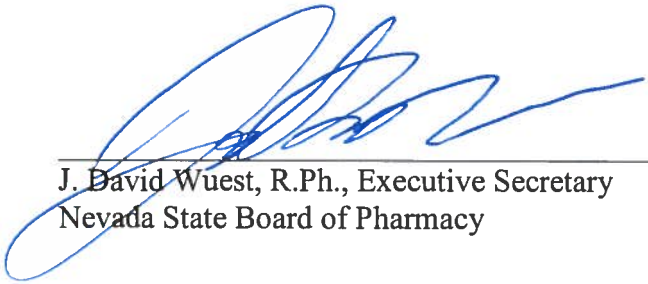
IV.

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.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 15th day of November 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,

Petitioner,

v.

CATHY QUACH, RPH

Certificate of Registration No. 16344,

Respondent.

CASE NO. 17-121-RPH-A-S

**ANSWER AND NOTICE
OF DEFENSE**

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

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

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

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

DATED this ____ day of November 2019.

CATHY QUACH, RPH

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 19th day of November 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Cathy Quach, RPH
3339 Alcludia Bay Avenue
Las Vegas, NV 89141

Jennifer Englehaupt, RPH
2909 Montmorency Street
Henderson, NV 89044

Walgreens #07032
2451 Hampton Road
Henderson, NV 89052

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



SHIRLEY HUNTING

5B

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

JENNIFER ENGLEHAUPT, RPH
Certificate of Registration No. 15287,

Respondent.

CASE NO. 17-121-RPH-B-S

**STATEMENT TO THE
RESPONDENT AND
NOTICE OF HEARING**

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

I.

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II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). 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. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, January 15, 2020, 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.

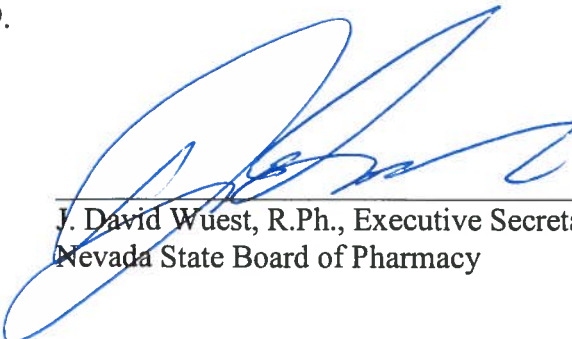
IV.

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.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 15th day of November 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,

Petitioner,

v.

**JENNIFER ENGLEHAUPT, RPH
Certificate of Registration No. 15287,**

Respondent.

CASE NO. 17-121-RPH-B-S

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OF DEFENSE**

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

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

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

DATED this ____ day of November 2019.

JENNIFER ENGLEHAUPT, RPH

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 19th day of November 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Cathy Quach, RPH
3339 Alcludia Bay Avenue
Las Vegas, NV 89141

Jennifer Englehaupt, RPH
2909 Montmorency Street
Henderson, NV 89044

Walgreens #07032
2451 Hampton Road
Henderson, NV 89052

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



SHIRLEY HUNTING

5C

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**WALGREENS PHARMACY #7032
Certificate of Registration No. PH01747,**

Respondent.

CASE NO. 17-121-PH-S

**STATEMENT TO THE
RESPONDENT AND
NOTICE OF HEARING**

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

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II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). 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. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

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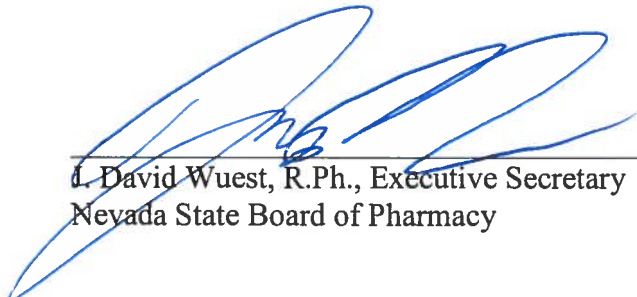
IV.

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.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 15th day of November 2019.



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

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 19th day of November 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Cathy Quach, RPH
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2451 Hampton Road
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William J. Stilling, Esq.
215 South State Street, Suite 500
Salt Lake City, UT 84111



SHIRLEY HUNTING

FILED

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NEVADA STATE BOARD
OF PHARMACY

William J. Stilling (NBN 9915)
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215 S. State St., Ste. 500
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Email: bstilling@SHhealthlaw.com

Attorneys for Respondents

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

CATHY QUACH, RPH

Certificate of Registration No. 16344,

JENNIFER ENGLEHAUPT, RPH

Certificate of Registration No. 15287, and

W ALGREENS PHARMACY #7032

Certificate of Registration No. PH01747,

Respondents.

CASE NOS. 17-121-RPH-A-S

17-121-PH-B-S

17-121-PH-S

RESPONDENTS' ANSWER AND
NOTICE OF DEFENSE

Respondents Cathy Quach, R.Ph., Jennifer Englehaupt, R.Ph., and Walgreens Pharmacy #7032, by and through their counsel William J. Stilling, of and for Stilling & Harrison, PLLC, answer and provide notice of their defense to the Notice of Intended Action and Accusation ("Notice") in the above-entitled matter and declare as follows.

REQUEST FOR HEARING

Respondents request a hearing on the Notice of Intended Action and Accusation and will be available on January 15, 2020 in Las Vegas, Nevada.

RESPONSES TO ALLEGATIONS AND CAUSES OF ACTION

In answer to the Notice of Intended Action and Accusation, Respondents admit, deny, and allege as follows:

JURISDICTION

I.

Respondents admit the allegations in paragraph I.

FACTUAL ALLEGATIONS

II.

Respondents admit the allegations in paragraph II of the Notice.

III.

Respondents admit the allegations in paragraph III of the Notice.

IV.

Respondents admit that Respondents correctly filled the prescription with the correct medication, in the correct amount, for the correct patient, with the correct instructions. The patient was given a partial fill of 10 tablets properly labeled Sandoz, and a separate container with the remaining 20 that were Mylan brand tablets. The manufacturer's name "Sandoz" and the quantity of tablets were lined out and the name "Mylan" and the quantity of 20 tablets was handwritten on the second label. Thus, each label properly contained the correct name of the manufacturer and the correct quantity. Both labels described the tablet as "Oval Purple Tablet." The patient was given both bottles at the same time. Each bottle indicated that it was one of two bottles for the same prescription with $\frac{1}{2}$ on the bottle with 10 Sandoz tablets and $\frac{2}{2}$ on the bottle with the Mylan tablets.

V.

Respondents admit the Ms. Quach was the verifying pharmacist for Rx #107013. Respondents deny the other allegations in paragraph IV.

VI.

Respondents deny that Walgreens computer patient counseling field documented that patient received counseling. Respondents agree and admit that Ms. Englehaupt was the pharmacist who complied with Nevada counseling requirements. The Walgreen system incorporates a “hard stop” at the point of sale that blocks processing of the prescriptions until the pharmacist ensures counseling requirements are followed. In this case, Ms. Englehaupt documented that the patient declined counseling on October 3, 2017. This documentation is included in the audit report for prescription 1070713 in the Board’s file at walg 7032004. Respondents also deny that counseling was required for this prescription because counseling was denied.

FIRST CAUSE OF ACTION

Unprofessional Conduct, Failure to Verify the Dispensed Medication
(Respondent Quach)

VII.

Respondents deny the allegations in paragraph VII.

SECOND CAUSE OF ACTION

Failure to Adequately Counsel)
(Respondent Englehaupt)

VIII.

Respondents deny the allegations in paragraph VIII.

THIRD CAUSE OF ACTION

Pharmacy/Pharmacy Owner Responsibility
(Respondent Walgreens Pharmacy #7032)

IX.

Respondents deny the allegations in paragraph IX.

OTHER DEFENSES

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

RESERVATION OF RIGHTS, DEFENSES, AND GENERAL DENIAL

1. Respondents reserve the right to assert other affirmative defenses in this matter and in any civil litigation that may follow and to provide additional facts and mitigating circumstances.
2. To the extent Respondents did not specifically admit allegations in the Notice of Intent and Accusation, they deny such allegations.

PRAYER FOR RELIEF

1. That the Board find that the allegations in the Notice and all evidence presented to the Board do not support imposing discipline on any of the Respondent.
2. That the Board dismiss all Causes of Action in the Notice.
3. That the Board provide further relief to Respondents as it finds just and proper.

DATED this 20th day of December, 2019.



William J. Stilling
STILLING & HARRISON, PLLC
Attorneys for Respondents
Cathy Quach, R.Ph.
Jennifer Englehaupt, R.Ph.
Walgreens Pharmacy # 7032

CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2019, I caused to be served a true and correct copy of the foregoing **ANSWER AND NOTICE OF DEFENSE** by the method indicated below to:

Brett Kandt
General Counsel
Nevada State Board of Pharmacy
431 W. Plumb Lane
Reno, NV 89509
bkandt@pharmacy.nv.gov

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

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

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



5D

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

DIAMOND P. STEWART, PT
Certificate of Registration No. PT17652,MONET M. YOUNG, PT
Certificate of Registration No. PT17353,

Respondent.

CASE NOS. 17-077-PT-A-S
17-077-PT-B-SNOTICE OF INTENDED ACTION
AND ACCUSATION

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

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because, at the time of the events alleged herein, Respondent Diamond P. Stewart, PT (Stewart), Certificate of Registration No. PT17652, and Respondent Monet M. Young, Certificate of Registration No. PT17353 (Young), were pharmaceutical technicians registered with the Board. Stewart and Young were employed by Walgreens Pharmacy #3845.

FACTUAL ALLEGATIONS

II.

In July 2017, Dr. J.L. identified thirty-three (33) prescriptions on her prescriber MP report for approximately seventeen (17) different patients that she had not written that were filled at Walgreens Pharmacy #3845.

III.

A subsequent investigation by Walgreens loss prevention staff identified a total of one-hundred and sixty-seven (167) prescriptions sold between July 2016 and July 2017 by either Stewart or Young and confirmed to be fraudulent by nine (9) prescribers. The fraudulent prescriptions were made from templates using a total of thirty-eight (38) false patient identities and consisted of the following controlled substances:

- 1,560 alprazolam 2mg tablets
- 2,610 carisoprodol 350mg tablets
- 10,770 hydrocodone-acetaminophen 10/325 tablets
- 4,308 oxycodone hcl 30mg tablets
- 450 oxycodone-acetaminophen 10/325 tablets
- 240ml promethazine-codeine syrup

IV.

The investigation revealed that an unknown party would bring in the fraudulent prescriptions to Walgreens Pharmacy #3845 or drop them off at the drive thru window. The prescriptions would then be processed and dispensed by either Young or Stewart with use of a manufacturer discount code, and the suspect male would then pay the remaining amount owed by cash. During the sale Young or Stewart would either input false identity information or not input any at all.

V.

During the investigation, Young admitted to the unlawful diversion activity.

VI.

Walgreens terminated Stewart and Young on July 24, 2017.

FIRST CAUSE OF ACTION

VII.

“Supplying 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.” NAC 639.945(1)(g). 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. NRS 639.210(4).

By creating fraudulent prescriptions and diverting controlled substances as alleged herein, Respondents Stewart and Young engaged in unprofessional conduct and conduct contrary to the public interest pursuant to NAC 639.945(1)(g) and are subject to discipline pursuant to NRS 639.210(4).

SECOND CAUSE OF ACTION

VIII.

“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). 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. NRS 639.210(4).

By creating fraudulent prescriptions and diverting controlled substances as alleged herein, Respondents Stewart and Young being a party to any fraudulent or deceitful practice or transaction, engaged in unprofessional conduct and conduct contrary to the public interest pursuant to NAC 639.945(1)(h) and are subject to discipline pursuant to NRS 639.210(4).

THIRD CAUSE OF ACTION

IX.

“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). 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. NRS 639.210(4).

By creating fraudulent prescriptions and diverting controlled substances as alleged herein, Respondents Stewart and Young aided or abetted in the unlicensed practice of pharmacy in the State of Nevada, engaged in unprofessional conduct and conduct contrary to the public interest pursuant to NAC 639.945(1)(j), and is subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

FOURTH CAUSE OF ACTION

X.

Only an authorized practitioner may prescribe controlled substances, only for a legitimate medical purpose and in the usual course of his professional practice. 21 CFR § 1306.04. Violating any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(11).

By creating fraudulent prescriptions and diverting controlled substances as alleged herein, Respondents Stewart and Young violated 21 CFR § 1306.04, and are therefore subject to discipline pursuant to NRS 639.210(11).

FIFTH CAUSE OF ACTION

XI.

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.” 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).

By creating fraudulent prescriptions and diverting controlled substances as alleged herein, Respondents Stewart and Young violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.331(1)(d) and are subject to discipline pursuant to NRS 639.210(12).

SIXTH CAUSE OF ACTION

XII.

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]”. 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).

By creating fraudulent prescriptions and diverting controlled substances as alleged herein, Respondents Stewart and Young violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.336(1) and are subject to discipline pursuant to NRS 639.210(12).

SEVENTH CAUSE OF ACTION

XIII.

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).

By creating fraudulent prescriptions and diverting controlled substances as alleged herein, Respondents Stewart and Young further violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.381(1), NRS 453.401(1)(a) NRS 453.431(2) and/or 21 CFR § 1306.03, and are subject to discipline pursuant to NRS 639.210(12).

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 6th day of December, 2019.



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

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). 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. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

DIAMOND P. STEWART, PT
Certificate of Registration No. PT17652,

Respondent.

CASE NO. 17-077-PT-A-S

**STATEMENT TO THE
RESPONDENT AND
NOTICE OF HEARING**

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 and 622A, 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 show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). 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. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, January 15, 2020, 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.

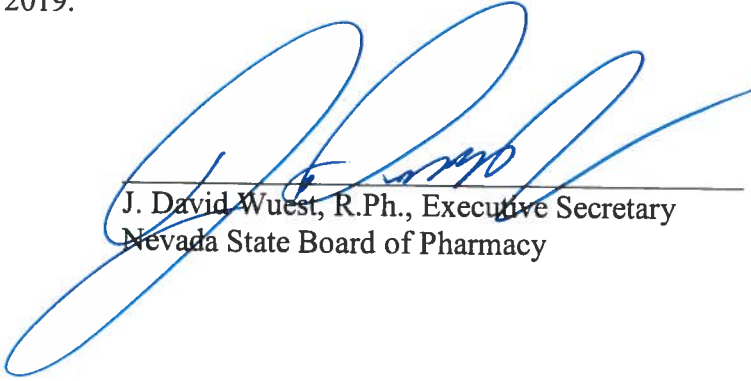
IV.

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.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 6th day of December 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,

Petitioner,

v.

DIAMOND P. STEWART, PT
Certificate of Registration No. PT17652,

Respondent.

CASE NO. 17-077-PT-A-S

**ANSWER AND NOTICE
OF DEFENSE**

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

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

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 December 2019.

DIAMOND P. STEWART, PT

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this
11th day of December 2019, I served a true and correct copy of the foregoing document by Certified
U.S. Mail to the following:

Diamond Stewart
209 West 56th Street
Los Angeles, CA 90037

Monet Young
1341 Stokes Street
Las Vegas, NV 89110



SHIRLEY HUNTING

5E

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**MONET M. YOUNG, PT
Certificate of Registration No. PT17353,**

Respondent.

CASE NO. 17-077-PT-B-S

**STATEMENT TO THE
RESPONDENT AND
NOTICE OF HEARING**

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 and 622A, 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 show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). 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. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, January 15, 2020, 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.

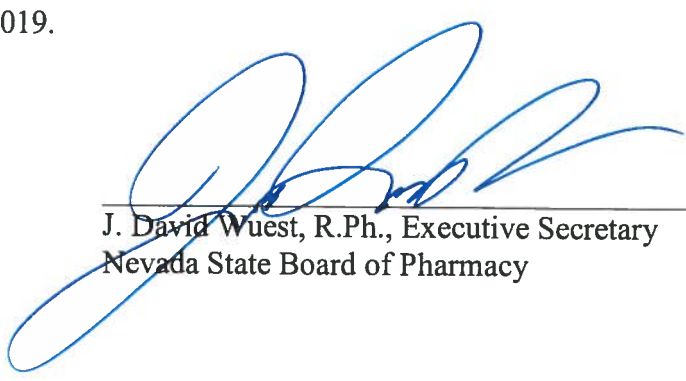
IV.

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.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 6th day of December 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,

Petitioner,

v.

MONET M. YOUNG, PT
Certificate of Registration No. PT17353,

Respondent.

CASE NO. 17-077-PT-B-S

**ANSWER AND NOTICE
OF DEFENSE**

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

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

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

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

DATED this ____ day of December 2019.

MONET M. YOUNG, PT

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 11th day of December 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Diamond Stewart
209 West 56th Street
Los Angeles, CA 90037

Monet Young
1341 Stokes Street
Las Vegas, NV 89110



SHIRLEY HUNTING

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BEFORE THE NEVADA STATE BOARD OF PHARMACY

FILED

DEC 13 2019

NEVADA STATE BOARD
OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Case No. 19-229-CS-S

Petitioner,

v.

NOTICE OF INTENDED ACTION
AND ACCUSATION

ARMEN E. NIKOGOSIAN, MD,
Certificate of Registration No. CS12023,

Respondent.

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under NRS 233B.127(3) and as an accusation under NRS 622A.300(1) and 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 alleged events, Respondent Armen E. Nikogosian, MD, held an expired Nevada Controlled Substance Registration, Certificate No. CS12023, issued by the Board.

FACTUAL ALLEGATIONS

II.

Respondent failed to timely renew his Certificate of Registration No. C CS12023, which expired on October 31, 2018.

III.

Respondent wrote thirty-three prescriptions for controlled substances between November 1, 2018 and December 12, 2019.

APPLICABLE LAW

IV.

It is unlawful to prescribe a controlled substance except as authorized by law. NRS 453.321(1)(a); NRS 639.100(1).

V.

A prescription for a controlled substance may be issued only by an individual practitioner who is authorized to prescribe controlled substances by the jurisdiction in which he is licensed to practice his profession. 21 CFR § 1306.03(a)(1). Every practitioner who prescribes any controlled substance within this State shall obtain biennially a registration issued by the Board. NRS 453.226(1).

VI.

Failure to renew a certificate of registration by failing to submit the application for renewal is grounds for suspension or revocation of that registration by the Board. NRS 639.210(13).

VII.

It is unlawful for any person falsely to represent himself as a practitioner entitled to write prescriptions in this State. NRS 639.2813(1).

VIII.

Violating any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(11).

IX.

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).

X.

The Board may suspend or revoke a registration to prescribe 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).

FIRST CAUSE OF ACTION

XI.

By failing to timely renew his Certificate of Registration CS12023, Respondent is subject to discipline pursuant to NRS 639.210(13) and NRS 639.255.

SECOND CAUSE OF ACTION

XII.

By writing thirty-three prescriptions for controlled substances between November 1, 2018 and December 12, 2019, without a valid registration, Respondent violated 21 CFR § 1306.03 and is subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.

THIRD CAUSE OF ACTION

XIII.

By writing thirty-three prescriptions for controlled substances between November 1, 2018 and December 12, 2019, without a valid registration, Respondent violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.226(1), NRS 453.321(1)(a), NRS 639.100(1), NRS 639.2813(1) and/or 21 CFR § 1306.03, and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

FOURTH CAUSE OF ACTION

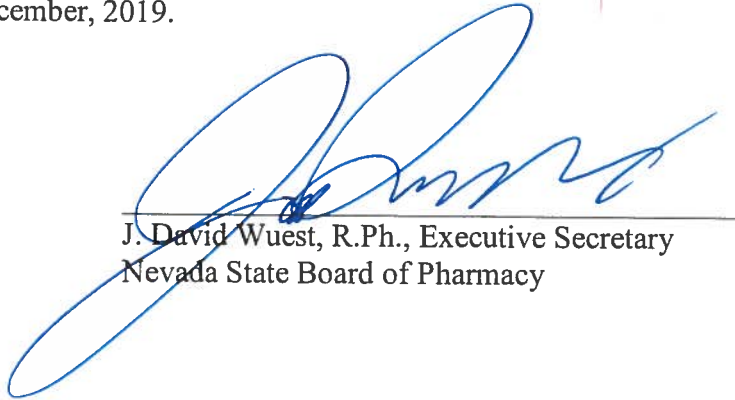
XIV.

By writing thirty-three prescriptions for controlled substances between November 1, 2018 and December 12, 2019, without a valid registration, Respondent committed an act that would render his Nevada Controlled Substance Registration, Certificate No. CS12023, inconsistent with the public interest, and is subject to discipline pursuant to NRS 453.236(1)(d) and NRS 453.241(1).

XV.

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 13th day of December, 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. NRS 233B.127(3). 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. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY.

Petitioner,

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ARMEN E. NIKOGOSIAN, MD,
Certificate of Registration No. CS12023,

Respondent.

CASE NO. 19-229-CS-S

STATEMENT TO THE RESPONDENT AND NOTICE OF HEARING

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 and 622A, 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 show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). 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. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, January 15, 2020, 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.

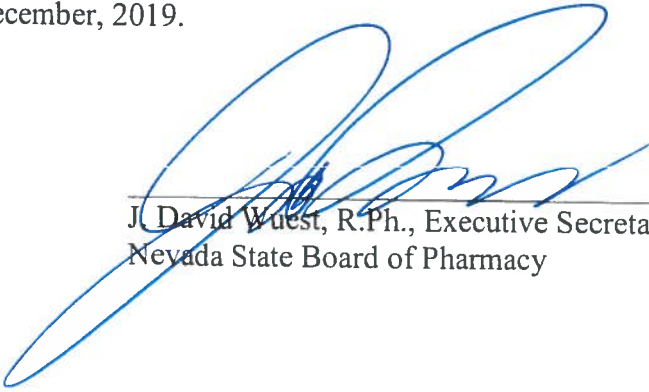
IV.

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.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 13th day of December, 2019.



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

BEFORE THE NEVADA STATE BOARD OF PHARMACY

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|--|---|-----------------------------|
| NEVADA STATE BOARD OF PHARMACY, |) | CASE NO. 19-229-CS-S |
| |) | |
| v. |) | ANSWER AND NOTICE |
| |) | OF DEFENSE |
| |) | |
| ARMEN E. NIKOGOSIAN, MD, |) | |
| Certificate of Registration No. CS12023 |) | |
| 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 December, 2019.

ARMEN E. NIKOGOSIAN, MD

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 13th day of December, 2019, I served a true and correct copy of the foregoing document by Certified U.S.

Mail to the following:

Armen E. Nikogosian
5380 S. Rainbow #306
Las Vegas, NV 89118



SHIRLEY HUNTING

5G

AUG 02 2019

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

SHAHN SHERAFAT, RPH

Certificate of Registration No. 10909, and

NELLIS CARE PHARMACY, LLC

Certificate of Registration No. PH02838,

Respondents.

) CASE NO. 17-093-RPH-S

) 17-093-PH-S

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NOTICE OF INTENDED ACTION
AND ACCUSATION

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 622A.300(1) and 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 Shahn Sherafat, R.Ph., Certificate of Registration No.10909 (Sherafat), was a pharmacist registered by the Board and Respondent Nellis Care Pharmacy, Certificate of Registration No. PH02838 (Nellis Care), was registered with the Board as a pharmacy.

PRIOR DISCIPLINE

II.

In March 1999, Sherafat admitted by written stipulation to dispensing an incorrect dose of Mellaril-S¹ for a 4 1/2-year-old child, causing the patient to receive a dose that is

¹ Mellaril and its generic, thioridaz, are used to treat certain mental/mood disorders.

approximately 20 times the dose the physician prescribed and suffered negative physical effects as a result.

FACTUAL ALLEGATIONS

III.

Sherafat was the managing pharmacist/pharmacist in charge and the owner of Nellis Care at the time of the violations alleged herein.

IV.

On September 29, 2017, Board Inspectors conducted an inspection of Nellis Care with representatives of the Drug Enforcement Administration (DEA).

V.

During the inspection, Board Inspectors reviewed Nellis Care's controlled substance prescription records and conducted a physical count of the pharmacy's inventory of schedule II-controlled substances.

VI.

Upon request, Sherafat and Nellis Care produced perpetual inventories dating from July 2017, to September 28, 2017.

VII.

Respondents could not locate or produce perpetual inventories that pre-dated July 2017.

VIII.

During the inspection, Sherafat provided false information about the location of the missing perpetual inventories to Board Inspectors by repeatedly misrepresenting that he stored them on site at Nellis Care.

IX.

Sherafat later admitted that the missing perpetual inventories were not on site at Nellis Care and represented to Board Inspectors that he took the missing perpetual inventories home to "adjust" the numbers.

X.

During the inspection, the Board Inspectors also reviewed two of Nellis Care's biennial inventories, one for 2014, and a second for 2016.

XI.

Each biennial inventory report contained blank fields missing required information. They also showed significant variances between the controlled substances that were purportedly "in stock" compared to the physical count of those drugs, which Sherafat was unable to explain to Board Inspectors.

XII.

The variances and inaccuracies in the 2014 biennial inventory provided by Sherafat for Nellis Care were so significant as to render those records essentially meaningless and of no value.

XIII.

The variances and inaccuracies in the 2016 biennial inventory provided by Sherafat for Nellis Care were also significant, including an unexplained combined shortage of 19,560 Norco tablets without any adjustments or notations of explanation.

XIV.

Sherafat and Nellis Care also failed to maintain complete invoices when purchasing controlled substances.

XV.

Ten of the forty-five invoices located during the inspection were missing signatures and/or dates as a result of which Board Inspectors were unable to determine who received those shipments of controlled substances and when the shipment arrived.

XVI.

On April 4, 2019, Sherafat delivered to the Board office a written statement along with the original copy of his pharmacist registration certificate, and his wallet card, and stated to

Board Inspectors that he was ill and did not intend to renew his Certificate of Registration No.10909.

APPLICABLE LAW

XVII.

NRS 453.246 Recordkeeping and inventory requirements for registrants. Persons registered to dispense controlled substances pursuant to the provisions of NRS 453.011 to 453.552, inclusive, shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of state and federal law and with any additional regulations the Board issues.

XVIII.

NRS 453.326 Unlawful acts relating to recordkeeping, inspections and knowingly keeping or maintaining place where controlled substances are unlawfully used, kept or sold; penalty.

1. It is unlawful for a person:

(a) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under the provisions of NRS 453.011 to 453.552, inclusive;

XIX.

NRS 453.236 Suspension, revocation of registration; seizure, placement under seal of controlled substance owned or possessed by registrant; notification of Drug Enforcement Administration and Division concerning suspension, revocation or forfeiture; registrant prohibited from employing person whose pharmacist's certificate was suspended or revoked.

1. The Board may suspend or revoke a registration pursuant to NRS 453.231 to dispense a controlled substance upon a finding that the registrant has:

....

(d) Committed an act that would render registration under NRS 453.231 inconsistent with the public interest as determined pursuant to that section.

XX.

NRS 639.210 Grounds for suspension or revocation of certificate, license, registration or permit or denial of application. The Board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter, and deny the application of any person for a certificate, license, registration or permit, if the holder or applicant:

1. Is not of good moral character;

....

4. Is guilty of unprofessional conduct or conduct contrary to the public interest;

....

9. Has willfully made to the Board or its authorized representative any false statement which is material to the administration or enforcement of any of the provisions of this chapter;

....

11. Has violated any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs;

12. Has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy, or has knowingly permitted, allowed, condoned or failed to report a violation of any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy committed by the holder of a certificate, license, registration or permit;

....

15. 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;

....

17. Has failed to maintain and make available to a state or federal officer any records in accordance with the provisions of this chapter or chapter 453 or 454 of NRS;

....

↪ This subsection applies to an owner or other principal responsible for the operation of the facility.

XXI.

NAC 639.482 Maintenance and availability of records.

1. Each record required to be kept pursuant to NAC 639.483 to 639.489, inclusive, must be kept by a pharmacy for at least 2 years after the date of the record.

2. Records maintained by a pharmacy must be made available for inspection and copying upon the request of the Board, its representatives, or another authorized local, state or federal law enforcement agency.

XXII.

NAC 639.485 Maintenance of records for controlled substances.

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.

XXIII.

NAC 639.487 Maintenance of additional records.

In addition to any other requirements for keeping records, a pharmacy shall maintain the following records:

1. Copy 3 of the order form of the Drug Enforcement Administration (DEA 222C), properly dated, initialed and filed, copies of each unaccepted or defective order form, and any attached statements or other documents.
2. Suppliers' invoices of controlled substances and dangerous drugs. The pharmacist or other personnel of the pharmacy shall clearly record on each invoice the actual date on which the controlled substance or dangerous drug was received.
3. Suppliers' credit memos for controlled substances and dangerous drugs.
4. The biennial inventory of controlled substances required by the Drug Enforcement Administration.
5. Any reports of theft or significant loss of controlled substances submitted to the Drug Enforcement Administration.
6. Reports of the surrender or destruction of controlled substances or dangerous drugs, or both, to an appropriate state or federal agency.
7. A register book for nonprescription drugs listed in schedule V.

XXIV.

NAC 639.945 Unprofessional conduct; owner responsible for acts of employees.

1. The following acts or practices by a holder of any license, certificate or registration issued by the Board or any employee of any business holding any such license, certificate or registration are declared to be, specifically but not by way of limitation, unprofessional conduct and conduct contrary to the public interest:

....

(h) Performing or in any way being a party to any fraudulent or deceitful practice or transaction.

(i) Performing any of his or her duties as the holder of a license, certificate or registration issued by the Board, or as the owner of a business or an entity licensed by the Board, in an incompetent, unskillful or negligent manner.

....

(m) Failing 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.

....

2. 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.

XXV.

NAC 639.955 Imposition of fines; authority to take disciplinary action.

1. Except as otherwise provided in this section, the Board may impose a fine against a pharmacist or pharmacy pursuant to paragraph (f) of subsection 1 of NRS 639.255 according to the following schedule:

....

(h) For failing to make or maintain a biennial inventory of controlled substances.....\$1,000.00

....

2. The Board may impose a fine for a violation listed in subsection 1 that is less than or greater than the amount set forth in that subsection for that violation after giving consideration to any aggravating and mitigating factors that relate to the violator's role in and responsibility for the conduct for which the fine is being imposed, and the unique circumstances of each case.

....

5. The Board may, as it deems appropriate, impose a fine for a violation not listed in subsection 1 that is commensurate with the severity of the violation.

6. No fine imposed by the Board will exceed \$10,000.

....

8. This section will be construed and applied so as to preserve the discretion of the Board to take any disciplinary action authorized by NRS 639.255.

XXVI.

NAC 453.475 Initial and biennial inventory of controlled substances by new managing pharmacist.

1. A pharmacist who is hired or promoted to manage a pharmacy pursuant to the provisions of NRS 639.220 shall:

(a) Within 48 hours after first reporting for duty as the managing pharmacist, conduct an inventory of the controlled substances of the pharmacy with the pharmacist who preceded him or her as the managing pharmacist. The pharmacists shall sign the inventory.

(b) After the date on which the inventory required pursuant to paragraph (a) was taken, conduct an inventory of the controlled

substances of the pharmacy at least once every 2 years during the course of his or her employment as managing pharmacist at the pharmacy. The managing pharmacist may conduct the biennial inventory on any date which is within 2 years of the date on which the previous biennial inventory was conducted.

2. An inventory required by subsection 1 must be:

(a) Conducted according to the method prescribed by the provisions of 21 C.F.R. Part 1304; and

(b) Placed in the records of the controlled substances of the pharmacy.

XXVII.

NAC 639.523 Physical address for delivery of drugs.

1. A pharmacy which purchases drugs and which is required pursuant to NAC 639.5005 to designate a natural person as a representative of the pharmacy shall have the drugs shipped to the pharmacy and shall physically receive the drugs at the physical address for which the Board has issued the license of the pharmacy.

2. The drugs purchased by a pharmacy must not be drop-shipped to any address other than the physical address of the pharmacy to which the Board has issued the license of the pharmacy. As used in this subsection, "drop-shipped" means a direct shipment of drugs to any location other than the pharmacy by the manufacturer or wholesaler of the drugs.

3. A pharmacist employed by a pharmacy shall acknowledge on every invoice that the drugs listed in the invoice were physically received by the pharmacy at the physical address to which the Board has issued the license of the pharmacy.

XXVIII.

21 C.F.R. § 1304.21 General requirements for continuing records.

(a) Every registrant required to keep records pursuant to §1304.03 shall maintain, on a current basis, a complete and accurate record of each substance manufactured, imported, received, sold, delivered, exported, or otherwise disposed of by him/her, and each inner liner, sealed inner liner, and unused and returned mail-back package, except that no registrant shall be required to maintain a perpetual inventory.

(b) Separate records shall be maintained by a registrant for each registered location except as provided in §1304.04(a). In the event controlled substances are in the possession or under the control of a registrant at a location for which he is not registered, the substances

shall be included in the records of the registered location to which they are subject to control or to which the person possessing the substance is responsible.

(c) Separate records shall be maintained by a registrant for each independent activity and collection activity for which he/she is registered or authorized, except as provided in §1304.22(d).

(d) In recording dates of receipt, distribution, other transfers, or destruction, the date on which the controlled substances are actually received, distributed, otherwise transferred, or destroyed will be used as the date of receipt, distribution, transfer, or destruction (e.g., invoices or packing slips, or DEA Form 41). In maintaining records concerning imports and exports, the registrant must record the anticipated date of release by a customs official for permit applications and declarations and the date on which the controlled substances are released by a customs officer at the port of entry or port of export for return information.

(e) *Record of destruction.* In addition to any other recordkeeping requirements, any registered person that destroys a controlled substance pursuant to §1317.95(d), or causes the destruction of a controlled substance pursuant to §1317.95(c), shall maintain a record of destruction on a DEA Form 41. The records shall be complete and accurate, and include the name and signature of the two employees who witnessed the destruction. Except, destruction of a controlled substance dispensed by a practitioner for immediate administration at the practitioner's registered location, when the substance is not fully exhausted (e.g., some of the substance remains in a vial, tube, or syringe after administration but cannot or may not be further utilized), shall be properly recorded in accordance with §1304.22(c), and such record need not be maintained on a DEA Form 41.

XXIX.

21 U.S.C. § 842(a)(5) states in relevant part: “It shall be unlawful for any person . . . to refuse or negligently fail to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice, or information required under this subchapter or subchapter II[.]”

FIRST CAUSE OF ACTION

Failure to Maintain Perpetual Inventories of Controlled Substances
(Respondents Sherafat and Nellis Pharmacy)

XXX.

By failing to maintain at least two years' worth of perpetual inventories of schedule II-controlled substances in a readily retrievable manner, and by failing to provide such records to Board Inspectors for inspection upon request, Sherafat and Nellis Care violated NRS 453.246, NAC 639.485(1) and (2), and NAC 639.482(a) and (b), are guilty of unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1), NRS 639.210(4), (12) and (17) and/or NRS 639.255.

SECOND CAUSE OF ACTION

Failure to Maintain Accurate Biennial Inventories of Controlled Substances
(Respondents Sherafat and Nellis Pharmacy)

XXXI.

By failing to maintain at least two years' worth of biennial inventories of its controlled substances in a readily retrievable manner, and by failing to provide such records to Board Inspectors upon request, Sherafat and Nellis Care violated NRS 453.246, NAC 453.475(1)(b) and (2), NAC 639.482(a) and (b) and NAC 639.487(4), are guilty of unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1), NRS 639.210(4), (12) and (17) and/or NRS 639.255.

THIRD CAUSE OF ACTION

Failure to Maintain Records of Controlled Substance Purchases
(Respondents Sherafat and Nellis Pharmacy)

XXXII.

By failing to maintain accurate and complete invoices for the controlled substances Nellis Care purchased and received, Sherafat and Nellis Care violated NRS 453.246, NRS 453.326(1)(a), NAC 639.523(3), 21 U.S.C. § 842(a)(5) and 21 CFR § 1304.21, are guilty of

unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1), NRS 639.210(4), (11), (12) and (17) and NRS 639.255.

FOURTH CAUSE OF ACTION
False Statements/Fraudulent and Deceitful Practices
(Respondent Sherafat)

XXXIII.

By willfully providing Board Inspectors false and misleading information as to the location of Nellis Care's perpetual inventory records and controlled substance records, and engaging in fraudulent and deceitful practices in the maintenance of those records, Sherafat is guilty of unprofessional conduct as defined in NAC 639.945(1)(h), and subject to discipline pursuant to NRS 453.236(1), NRS 639.210(1), (4) and (9) and NRS 639.255.

FIFTH CAUSE OF ACTION
Managing Pharmacist Responsibilities
(Respondent Sherafat)

XXXIV.

As the managing pharmacist of Nellis Care at the time of each of the violations alleged herein, Sherafat is responsible for those violations, including those of the pharmacy's employees, pursuant to NRS 639.220(1), NAC 639.510(2) and NAC 639.702, and subject to discipline pursuant to NRS 639.210(15) and NRS 639.255.

SIXTH CAUSE OF ACTION
Pharmacy/Pharmacy Owner Responsibility
(Respondent Sherafat)

XXXV.

As the owner of Nellis Care at the time of each of the violations alleged herein, Sherafat is responsible for the violations, including those of his employees, pursuant to NRS 639.230(5) and NAC 639.945(2), and subject to discipline pursuant to NRS 639.210(1), (4), (9) (11), (12), (15) and (17) and NRS 639.255.

XXXVI.

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

Signed this 2nd day of August 2019.

A handwritten signature in blue ink, appearing to read 'Yen Long', is written over a horizontal line.

Yen Long, Deputy Executive Secretary
Nevada State Board of Pharmacy on behalf of
J. David Wuest, 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. NRS 233B.127(3). 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. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

| | | |
|---|---|-------------------------------|
| NEVADA STATE BOARD OF PHARMACY, |) | CASE NOS. 17-093-RPH-S |
| |) | 17-093-PH-S |
| Petitioner, |) | |
| v. |) | |
| |) | |
| SHAHN SHERAFAT, RPH |) | STATEMENT TO THE |
| Certificate of Registration No. 10909, and |) | RESPONDENT AND |
| |) | NOTICE OF HEARING |
| NELLIS CARE PHARMACY, LLC |) | |
| Certificate of Registration No. PH02838, |) | |
| |) | |
| Respondents. | / | |

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 and 622A, 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 show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). 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. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, October 9, 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.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 2nd day of August 2019.


Yen H. Long, Deputy Executive Secretary
Nevada State Board of Pharmacy on behalf of
J. David Wuest, Executive Secretary

BEFORE THE NEVADA STATE BOARD OF PHARMACY

| | | |
|--|---|------------------------------|
| NEVADA STATE BOARD OF PHARMACY, |) | CASE NO. 17-093-RPH-S |
| |) | |
| Petitioner, |) | |
| v. |) | |
| |) | |
| SHAHN SHERAFAT, RPH |) | ANSWER AND NOTICE |
| Certificate of Registration No. 10909 |) | 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 August 2019.

SHAHN SHERAFAT, RPH

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 7th day of August, 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

SHAHN SHERAFAT, RPH
316 MOUNT HOPE ST
HENDERSON, NV 89014

NELLIS CARE PHARMACY
348 N Nellis Blvd Suite J
LAS VEGAS NV 89110



SHIRLEY HUNTING

5H

BEFORE THE NEVADA STATE BOARD OF PHARMACY

| | | |
|---|---|-------------------------------|
| NEVADA STATE BOARD OF PHARMACY, |) | CASE NOS. 17-093-RPH-S |
| |) | |
| Petitioner, |) | 17-093-PH-S |
| v. |) | |
| |) | |
| SHAHN SHERAFAT, RPH |) | STATEMENT TO THE |
| Certificate of Registration No. 10909, and |) | RESPONDENT AND |
| |) | NOTICE OF HEARING |
| NELLIS CARE PHARMACY, LLC |) | |
| Certificate of Registration No. PH02838, |) | |
| |) | |
| Respondents. | / | |

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 and 622A, 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 show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). 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. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, October 9, 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.

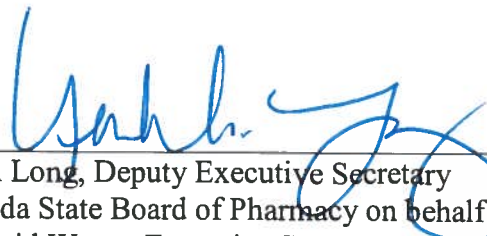
IV.

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.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 2nd day of August 2019.



Yen H. Long, Deputy Executive Secretary
Nevada State Board of Pharmacy on behalf of
J. David Wuest, Executive Secretary

BEFORE THE NEVADA STATE BOARD OF PHARMACY

| | | |
|--|---|-----------------------------|
| NEVADA STATE BOARD OF PHARMACY, |) | CASE NO. 17-093-PH-S |
| |) | |
| Petitioner, |) | |
| v. |) | |
| |) | |
| NELLIS CARE PHARMACY, LLC |) | ANSWER AND NOTICE |
| Certificate of Registration No. PH02838 |) | 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 August 2019.

Type or print name

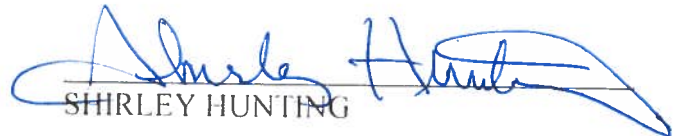
Authorized Representative for
NELLIS CARE PHARMACY, LLC

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy. and that on this 7th day of August, 2019. I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

SHAHN SHERAFAT, RPH
316 MOUNT HOPE ST
HENDERSON, NV 89014

NELLIS CARE PHARMACY
348 N Nellis Blvd Suite J
LAS VEGAS NV 89110


SHIRLEY HUNTING

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

DONALD COWLES, RPH

Certificate of Registration No. 09414,

Respondent.

18-104-RPH-S

ORDER TO SHOW CAUSE

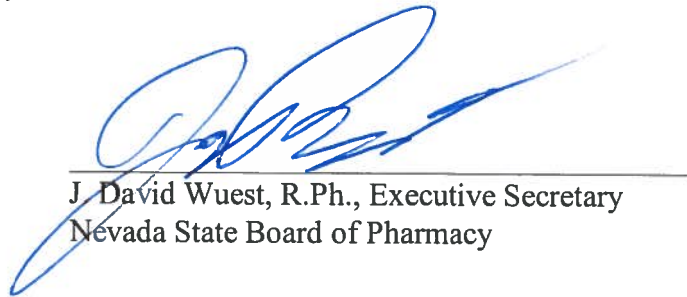
On January 16, 2019, the Nevada State Board of Pharmacy (Board) heard this matter and on February 12, 2019, entered Findings of Fact, Conclusions of Law, and Order (Order) imposing discipline upon Respondent.

Respondent has failed to comply with the terms of the Order, specifically Paragraph 7(d) requiring Respondent to attend three (3) of the Board's next four (4) Las Vegas meetings on disciplinary day, and Paragraph 7(e) requiring Respondent to complete the Board's Nevada law examination with a passing score of at least seventy-five (75%). Furthermore, Respondent failed to timely renew Certificate of Registration No. 09414 and subsequently applied for renewal.

Failure to comply with an order entered by the Board may result in the issuance by the Executive Secretary of an order to show cause directing the Respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. NRS 233B.127(3); NAC 639.965. Failure to appear at the show cause hearing shall be deemed a waiver of any objection to the proposed action. NAC 639.978.

IT IS HEREBY ORDERED that Donald Cowles, R.Ph., Certificate of Registration No. 09414, appear before the Board on January 15, 2020, at 9:00 a.m. at Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada and show cause, if any, why he should not be found in violation of the Order and his application for renewal denied.

DATED this 3rd day of January, 2020.



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

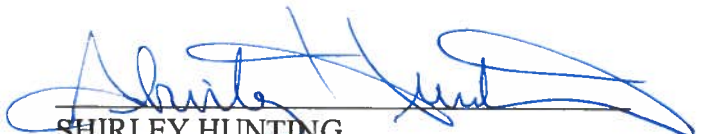
INFORMATIONAL STATEMENT

Pursuant to NRS 241.033 and 241.034, 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.

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 3rd day of January 2020, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Donald Cowles, R.Ph.
3697 Copper Cactus Drive
Las Vegas, NV 89129



SHIRLEY HUNTING

FILED

FEB 12 2019

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

| | | |
|--|---|-----------------------|
| NEVADA STATE BOARD OF PHARMACY, |) | CASE NO. 18-104-RPH-S |
| |) | |
| Petitioner, |) | FINDINGS OF FACT, |
| v. |) | CONCLUSIONS OF LAW |
| |) | AND ORDER |
| DONALD COWLES, RPH |) | |
| Certificate of Registration No. 09414, |) | |
| |) | |
| Respondent. |) | |
| | / | |

The Nevada State Board of Pharmacy (Board) heard this matter at its regular meeting on January 16, 2019, in Las Vegas, Nevada. Attorney S. Paul Edwards, Esq. prosecuted the case on behalf of the State of Nevada. Respondent Donald Cowles, RPH., ("Cowles") attended the hearing without counsel.

Based on the evidence presented at the hearing, including testimony and documentary evidence, the Board enters the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

The Board finds that there is evidence to support each of the factual allegations set forth in the Accusation on file herein, and finds as follows:

1. On October 31, 2017, Cowles signed and submitted a renewal application to renew his pharmacist registration. On that renewal application, Cowles falsely attested that he had completed the required thirty (30) CEUs between November 1, 2015, and October 31, 2017.
2. Board Staff conducted a random audit of CEUs for the biennium ending October 31, 2017.
3. Board Staff's CEU audit found that Cowles did not complete any CEUs for the biennial period November 1, 2015, to October 31, 2017.

NBOP
Cowles Order

CONCLUSIONS OF LAW

4. The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and this respondent because at the time of the events alleged herein, Cowles, Nevada Pharmacist Registration No. 09414, was registered by the Board.

5. By failing to submit evidence that he completed the thirty (30) CEUs he was required to complete for the November 1, 2015 to October 31, 2017 renewal period, Cowles violated NRS 639.2174 and NAC 639.330. That conduct is grounds for discipline pursuant to NRS 639.210(12) and NRS 639.255.

6. By submitting a paper renewal application falsely certifying that he completed all required CEUs for the biennial period of November 1, 2015 to October 31, 2017, Cowles secured the renewal of his Registration No. 09414 based on a false representation. That false representation also constitutes unprofessional conduct and conduct that is contrary to the public interest pursuant to NAC 639.945(1)(h). That conduct is grounds for discipline pursuant to NRS 639.210(1), (4), (9), (10), (12), NRS 639.255 and NRS 639.281(1).

ORDER

7. Based upon the foregoing, the BOARD HEREBY ORDERS Respondent Donald Cowles to:

a. Pay a fine of five hundred dollars (\$500.00) within sixty days (60) of the effective date of this order.

b. Pay an administrative fee of one thousand dollars (\$1,000.00) within sixty days (60) of the effective date of this order to partially reimburse the Board for costs associated with investigating and prosecuting this matter.

c. Complete an additional forty-five (45) continuing education units (CEUs) within sixty (60) days of the effective date of this order. Those forty-five CEUs are in addition to the thirty CEUs Cowles is required to complete for the renewal period ending October 31, 2019.

Cowles cannot count any CEU he completed before the date of the hearing (January 16, 2019) toward either of those requirements.

d. Attend three (3) of the Board's next four (4) Las Vegas Board Meetings, on disciplinary day (typically Wednesday), where he must sign in, make his presence known to a member of the Board's executive staff (Executive Secretary, Deputy Executive Secretary or Counsel), and attend the entire meeting for each day.

e. Complete the Board's Nevada law examination with a passing score of at least seventy-five (75%).

8. Cowles shall pay the fine ordered above 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 within 60 days of the effective date of this Order.

9. Cowles shall pay the administrative fee ordered above by *cashier's check* or *certified check* or *money order* made payable to the "Nevada State Board of Pharmacy," to be received by the Board's Reno office within 60 days of the effective date of this Order.

10. Cowles is advised that he will be subject to another CEU audit following his next renewal to ensure his ongoing compliance with Nevada law.

11. Any failure by Cowles to comply with any term in this Order may result in additional discipline, including the possible suspension or revocation of his registration until he has complied with all of the terms. Furthermore, any failure to pay any fine, fee, or cost ordered herein will also result in such legal action as Board Staff determines to be necessary to collect the unpaid fine, fee, or cost.

IT IS SO ORDERED.

Signed and effective this 12 day of February 2019.


Jason Penrod, President
Nevada State Board of Pharmacy

NBOP
Cowles Order

5J

FILED

DEC 24 2019

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

WESTMINSTER PHARMACEUTICALS,
LLC, Wholesaler License No. WH02154,

Respondent.

Case No. 19-206-WH

ORDER TO SHOW CAUSE

On or about September 11, 2019, Board Staff properly served the Notice of Intended Action and Accusation (Accusation) on file in this matter on Respondent.

On December 4, 2019, the Nevada State Board of Pharmacy (Board) entered an Order directing Respondent to comply with NRS 639.500 within twenty (20) days. Respondent has failed to comply with the terms of the Order.

Failure to comply with an order entered by the Board may result in the issuance by the Executive Secretary of an order to show cause directing the Respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. NAC 639.965.

IT IS HEREBY ORDERED that Westminster Pharmaceuticals, LLC, appear before the Board on January 15, 2019, at 9:00 a.m. at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada and show cause, if any, why License No. WH02154 should not be subject to suspension or revocation pursuant to NRS 639.210, NRS 639.255 and NAC 639.976.

DATED this 24th day of December, 2019.



Brett Kandt, Esq., General Counsel on behalf of
J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 24th day of December 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Westminster Pharmaceuticals, LLC
3450 Buschwood Park, Ste. 110
Tampa, FL 33618-4446



SHIRLEY HUNTING

9171 9690 0935 0238 8800 06

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

WESTMINSTER PHARMACEUTICALS,
LLC, License No. WH02154,

Respondent.

Case No. 19-206-WH

ORDER

This matter came before the Nevada State Board of Pharmacy (Board) at its regularly scheduled meeting on Wednesday, December 4, 2019, in Reno, Nevada. Brett Kandt, Esq., appeared and prosecuted the case before the Board. Respondent WESTMINSTER PHARMACEUTICALS, LLC, Wholesaler License No. WH02154, failed to appear. The Board heard the case and, based on the evidence presented, the Board makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

The allegations against Respondent, as stated in the Accusation on file herein, and upon which Respondent is deemed to have admitted pursuant to NRS 622A.320(1) and the Board makes findings of fact, are as follows:

1. At the time of the events set forth herein, Respondent held Wholesaler License WH02154, issued by the Board.
2. On or about May 24, 2019, Respondent was served by written notice with a request to comply with the requirements of NRS 639.500 and submit a current list of Respondent's officers/directors and a fingerprint card from each officer/director with written permission from each officer/director authorizing the Board to forward those fingerprints to the Central Repository for Nevada Records of Criminal History.
3. On or about July 23, 2019, Respondent was served with a second written notice to comply with the requirements of NRS 639.500.

4. On or about September 11, 2019, Board Staff served the Notice of Intended Action and Accusation (Accusation) and Notice of Hearing in this matter on Respondent.

5. On or about October 3, 2019, Respondent filed an Answer and Notice of Defense to the Accusation, asserting in pertinent part that Respondent had voluntarily surrendered its license.

6. Respondent remains engaged in the business of furnishing drugs in Nevada and is required to maintain licensure pursuant to NRS 639.233. Therefore, License No. WH02154 remains active and Respondent is subject to the requirements of NRS 639.500.

CONCLUSIONS OF LAW

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

1. The Board has jurisdiction over this matter and this respondent, because at the time of the events herein, Respondent held Wholesaler License No. WH02154, issued by the Board.

2. Respondent was served notice in compliance with NRS 622A.300 and 639.242.

3. By failing to submit a current list of Respondent's officers/directors and a fingerprint card from each officer/director with written permission from each officer/director authorizing the Board to forward those fingerprints to the Central Repository for Nevada Records of Criminal History, Respondent is in violation of NRS 639.500 and 21 CFR Part 205.

4. Violating NRS 639.500 and 21 CFR Part 205 is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(11) and (12).

ORDER

THEREFORE, THE BOARD HEREBY ORDERS AS FOLLOWS:

1. Within twenty (20) days of the effective date of this Order, Respondent shall comply with NRS 639.500 and submit to the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, a current list of Respondent's officers/directors and a fingerprint card from each officer/director with written permission from each officer/director authorizing the Board to forward those fingerprints to the Central Repository for Nevada Records of Criminal History.

2. Any failure by Respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing Respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order, the Board may impose additional discipline not inconsistent with the provisions of NRS Chapter 639.

3. This Order is effective on the date it is executed below.

IT IS SO ORDERED.

Entered this 4th day of December, 2019.



Helen Park, President
Nevada State Board of Pharmacy

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 5th day of December 2019, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Westminster Pharmaceuticals, LLC
3810 Northdale Blvd, Suite 250
Tampa FL 33624



BRETT RANDT

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)

Case No. 19-206-WH

) Petitioner,)

v.)

) MOTION TO CONTINUE)

WESTMINSTER PHARMACEUTICALS, LLC)

License No. WH02154,)

Respondent,)

RESPONDENT'S MOTION TO CONTINUE

1. On December 4, 2019, the Nevada State Board of Pharmacy (Board) held its regularly scheduled meeting and addressed specific matters related to license WH02154.
2. An ORDER was issued by the Board to respond within twenty (20) days to provide a current list of each officer/director including a fingerprint card and written permission authorizing the fingerprints to be forwarded to the Central Repository for Nevada Records of Criminal History.
3. Respondent did not receive the ORDER until December 16, 2019, due to the address being incorrect on the Certified Mailing (USPS tracking 9171 9690 0935 0228 7314 62).
4. Petitioner previously provided a written response to the issue of Petitioner's Wholesale License and previous surrender due to the belief and understanding a license was not necessary due to a change in Petitioner's business model of switching from a traditional manufacturer to a "Virtual Manufacturer" by the utilization of a 3rd party Logistics (3PL) for distribution.
5. However, given the Board's recent decision, Respondent is respectfully asking for a continuance on this matter so that Petitioner can secure fingerprints from every officer/director per ORDER.
6. Since the date of receiving this ORDER (12/16/19), due to the Holiday season and frequent out of town travel, the officers/directors have not been readily available to provide the fingerprints necessary to forward to the Petitioner within the twenty (20) day period.

WHEREFORE, the Respondent, **WESTMINSTER PHARMACEUTICALS, LLC** respectfully requests this Honorable Board grant additional time to secure the fingerprints of each officer/director to comply with ORDER issued December 4th, 2019.

I HEREBY declare, under penalty of perjury, that the foregoing MOTION TO CONTINUE, all facts therein stated, are true and correct to the best of my knowledge.
DATED this 30TH day of December 2019.

CERTIFICATE OF SERVICE

I certify that I am an authorized representative of the Respondent, and that on this 30th day of December 30, 2019, I served a true and correct copy of the foregoing document by Certified Mail.

Ricardo Martinez, Esq.

A handwritten signature in black ink, appearing to be 'Ricardo Martinez', with a long horizontal line extending to the right.

Authorized Representative for
Westminster Pharmaceuticals, LLC.
3450 Buschwood Park Drive, Suite 110
Tampa, Florida 33618



Nevada State Board of Pharmacy

985 Damonte Ranch Parkway, Suite 206 • Reno, NV 89521

PHONE (775) 850-1440 • FAX (775) 850-1444

E-mail: bkandt@pharmacy.nv.gov • Web Page: bop.nv.gov

January 6, 2020

VIA U.S. MAIL AND EMAIL TO rmartinez@wprx.com

Ricardo Martinez, Esq.
Westminster Pharmaceuticals, LLC
3450 Buschwood Park Drive, Suite 110
Tampa FL 33618

Re: Case No. 19-206-WH (Certificate of Registration No. WH02154)

Dear Mr. Martinez:

The Nevada State Board of Pharmacy (Board) is in receipt of Westminster Pharmaceuticals, LLC's (Westminster) motion to continue the show cause hearing scheduled for January 15th in the above-referenced matter. NAC 639.120(1) governs continuances and provides:

The Board will convene a disciplinary hearing at the time and place specified in the notice of hearing. The person presiding at the hearing may grant a continuance only upon:

- (a) A joint stipulation of the parties;
 - (b) The existence of an emergency condition; or
 - (c) A written request by a party filed at least 5 days before the date of the hearing and actually served upon the other parties at least 1 day before the date of the hearing.
- > A continuance based on a written request pursuant to paragraph (c) may be granted only upon a showing of good cause which term must be narrowly construed. A party requesting a continuance must appear on the date of the hearing and be prepared to proceed unless the request has been made pursuant to a joint stipulation.

Please be advised that the Executive Secretary will not stipulate to a second continuance of a hearing; Westminster previously sought and was granted a continuance of the October 10, 2019, hearing to December 4, 2019, at which time Westminster failed to appear. Also note that the Board's December 4th Order and December 24th Order to Show Cause were served at Westminster's address of record with the Board; NAC 639.226 requires notification to the Board of a change of address.

If you have any questions, please do not hesitate to contact me at 775-850-1440 or bkandt@pharmacy.nv.gov.

Best regards,

A handwritten signature in blue ink, appearing to read "Brett Kandt".

Brett Kandt
General Counsel
Nevada State Board of Pharmacy