

April 5, 2006

AGENDA

PUBLIC NOTICE

NEVADA STATE BOARD OF PHARMACY

BOARD MEETING

at the

Las Vegas Chamber of Commerce
3720 Howard Hughes Parkway
Las Vegas, Nevada

Wednesday, April 19th, 2006 – 9:00 am

Thursday, April 20th, 2006 – 9:00 am

Please Note: The Nevada State Board of Pharmacy may address agenda items out of sequence to accommodate persons appearing before the Board or to aid in the efficiency or effectiveness of the meeting.

Public comment is welcomed by the Board, but will be heard only when that item on the agenda is reached and will be limited to five minutes per person. The president may allow additional time to a given speaker as time allows and in his sole discretion.

CONSENT AGENDA

The Consent Agenda contains matters of routine acceptance. The Board Members may approve the consent agenda items as written or, at their discretion, may address individual items for discussion or change.

April 2006 Board Meeting Agenda

- * 1. Approval of March 1-2, 2006, Minutes
- * 2. Application for Out-of-State MDEG – Non Appearance:

Cascade Medical Supply, Inc. – Redmond, WA

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

Cardinal Health 101, Inc. – Edinburg, TX 78539
Cardinal Health 101, Inc. – Houston, TX
CoramRx, LLC – Malvern, PA
Foundation Care LLC – Earth City, MO
Fresenius Medical Care North America – Ogden, UT
Signature Pharmacy – Orlando, FL

Applications for Out-of-State Wholesaler – Non Appearance:

A&Z Pharmaceutical, LLC – Pittsburgh, PA
Central Admixture Pharmacy Services, Inc. – San Diego, CA
Excelle Wholesaler – Sharon Hill, PA
Fort Dodge Animal Health – Wilmington, OH
Fort Dodge Laboratories, Inc. – Fort Dodge, IA
Fresenius Medical Care North America – Ogden, UT
Pharmacy Buying Association – Riverside, MO

Applications for Nevada MDEG – Non Appearance:

Best Steps Shoes – Las Vegas
Premiere Oxygen, LLC – Minden

Applications for Nevada Pharmacy – Non Appearance:

Southern Nevada Adult Mental Health Services – Las Vegas
Wal-Mart Pharmacy #10-3356 – Las Vegas

REGULAR AGENDA

- * 3. Disciplinary Actions: Note – The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of any of the below named parties.

Felix R. Del Valle, PTT	(05-056-PTT-S)
Brendan D. Ly, R.Ph	(05-026-RPH-S)
Sunrise Medical Pharmacy	(05-026-PH-S)

April 2006 Board Meeting Agenda

Sandra L. Stevens, R.Ph	(06-001-RPH-N)
Brandon L. Davis, PT	(06-008-PT-S)
Evren M. Gonzales, PTT	(06-010-PTT-S)
Rondall D. Wood, R.Ph	(06-013-RPH-S)
William E. Eisler, R.Ph	(06-014-RPH-S)

- * 4. Request for Pharmacist License – Reciprocal – Appearance:
 - Michael L. Orphey

- * 5. Request for Reinstatement of Pharmaceutical Technician License – Appearance:
 - Tami Miller

- * 6. Request for Pharmaceutical Technician in Training License – Appearance:
 - A. Nichol M. Edwards
 - B. Amale T. Garcia
 - C. Trina D. Trinidad

- * 7. Appearances:
 - A. Your Success Rx Report – Katie Johnson
 - Cale Batt
 - Dale Hawkins
 - B. Workload Balance – Walgreens – Dan Luce
 - C. Quality Assurance Program – CVS – Jim DeVita
 - D. Nevadans for Antibiotic Awareness – William Berliner, MD

- * 8. Board Policy: Disclosure

- * 9. Bill Drafts

- *10. General Counsel Report

- *11. Executive Secretary Report:
 - A. Financial Report
 - B. Investment Report
 - C. Pending Policy Questions
 - D. Temporary Licenses

April 2006 Board Meeting Agenda

*12. Discussion and Determination:

- A. Nursing Facilities – Part D Impact
- B. More Than One CII Written On A Prescription Blank
- C. Veterinary Medications

P U B L I C H E A R I N G – Thursday, April 20, 2006 – 9:00 am

*13. Notice of Intent to Act Upon a Regulation:

1. **Amendment of Nevada Administrative Code 639.650 Retail Sale of Veterinary Drugs by Businesses Other Than Pharmacies** This is a new class of registration for feed stores and others who sell veterinary drugs at retail and align the permit expiration from July 1 to November 1 of each even-numbered year. The fee increased to align the fee to equate with other similar registrations.
2. **Amendment of Nevada Administrative Code 639.7102 E-Prescribing** This regulation amendment specifies that when an e-prescribing device is used by a physician that the device automatically turns off after 15 minutes for security purposes.
3. **Amendment of Nevada Administrative Code 639.725 Filling Automated Dispensing Devices** This amendment will allow pharmaceutical technicians, pharmaceutical technicians in training or intern pharmacists to fill automated dispensing devices under the supervision of a pharmacist.
4. **Amendment of Nevada Administrative Code 639.NEW Canadian Licensing** This regulation will allow Canadian pharmacies to serve Nevada as out-of-state mail-order pharmacies as prescribed in SB 5.
5. **Amendment of Nevada Administrative Code 639.NEW Compounding** This amendment defines the conditions under which preparation of sterile and non-sterile compounded prescription drugs are prepared.
6. **Amendment of Nevada Administrative Code 639.NEW Decline to Fill a Prescription** This amendment will define the conditions for a pharmacist to decline to fill a prescription.
7. **Amendment of Nevada Administrative Code 639.NEW Repackaging** This amendment defines the conditions under which a pharmacist may repackage prescriptions to patients in long-term care facilities.

April 2006 Board Meeting Agenda

14. Next Board Meeting:

June 7 & 8, 2006 – Reno, Nevada

15. Public Comments and Discussion of and Deliberation Upon Those Comments

Note: No vote may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken. (NRS 241.020)

* Board action may be taken on these items.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Nevada State Board of Pharmacy, 555 Double Eagle Court, Suite 1100, Reno, Nevada 89521, or call Jeri Walter at (775) 850-1440, as soon as possible.

Anyone desiring additional information regarding the meeting is invited to call the board office at (775) 850-1440.

Mailing a copy of the Nevada State Board of Pharmacy meeting agenda to any person who has requested it will not continue unless a request for reinstatement on the mailing list is made in writing every six months. Accredited Continuing Education credit of 1 hour will be given per day of Board meeting attendance of a minimum of 4 hours. A pharmacist can receive Nevada Law Credit for attending the board meeting for a minimum of 4 hours.

This notice has been posted at the following locations:

Elko County Courthouse – Elko
Mineral County Courthouse – Hawthorne
Washoe County Courthouse – Reno
Nevada State Board of Pharmacy – Reno and Las Vegas

BOARD MEETING

Las Vegas Chamber of Commerce
3720 Howard Hughes Parkway
Las Vegas, Nevada

Wednesday, April 19th, 2006

Thursday, April 20th, 2006

The meeting was called to order at 9:00 a.m. by Joe Kellogg, Board President.

Board Members Present:

Dave Wuest
Leo Basch
Ray Seidlinger

Keith Macdonald
Katie Craven

Joe Kellogg
Ann Peterson

Board Members Absent:

Board Staff Present:

Larry Pinson

Jeri Walter

Louis Ling

Keith Marcher

CONSENT AGENDA

1. Approval of March 1-2, 2006, Minutes
2. Application for Out-of-State MDEG – Non Appearance:
 - A. Cascade Medical Supply, Inc. – Redmond, WA
 - B. Healthtronix Lymphedema Management Inc. – Richardson, TX
 - C. Matthews Book Company – Maryland Heights, MO
 - D. MP TotalCare Services, Inc. – Englewood, CO

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

- E. Cardinal Health 101, Inc. – Edinburg, TX 78539
- F. Cardinal Health 101, Inc. – Houston, TX
- G. CoramRx, LLC – Malvern, PA
- H. Foundation Care LLC – Earth City, MO
- I. Fresenius Medical Care North America – Ogden, UT
- J. Independence Home Pharmacy – Murray, KY
- K. Petcare RX, Inc. – Lynbrook, NY
- L. ProCare Pharmacy – Steele, MO

- M. Save Now Discount Pharmacy – Lynnwood, WA
- N. Signature Pharmacy – Orlando, FL

Applications for Out-of-State Wholesaler – Non Appearance:

- O. Abbott Laboratories Inc. – Dallas, TX
- P. Abbott Laboratories Inc. – Ontario, CA
- Q. Abbott Laboratories Inc. – Rocky Mount, NC
- R. A&Z Pharmaceutical, LLC – Pittsburgh, PA
- S. Central Admixture Pharmacy Services, Inc. – San Diego, CA
- T. Excelle Wholesaler – Sharon Hill, PA
- U. Fort Dodge Animal Health – Wilmington, OH
- V. Fort Dodge Laboratories, Inc. – Fort Dodge, IA
- W. Fresenius Medical Care North America – Ogden, UT
- X. Gallipot, Inc. – St Paul, MN
- Y. Lextron Animal Health – Visalia, CA
- Z. Pharmacy Buying Association – Riverside, MO

Applications for Nevada MDEG – Non Appearance:

- AA. Best Steps Shoes – Las Vegas
 - BB. Diabetes Health Centers, Inc. – Las Vegas
 - CC. Paradise Liquid – Henderson
 - DD. Premiere Oxygen, LLC – Minden
 - EE. Wheelchair Sales & Services, Inc. – Las Vegas
- Applications for Nevada Pharmacy – Non Appearance:

- FF. CVS/pharmacy #7251 – North Las Vegas
- GG. Solutions Specialty Pharmacy – Henderson
- HH. Southern Nevada Adult Mental Health Services – Las Vegas
- II. Wal-Mart Pharmacy #10-3356 – Las Vegas

Discussion:

The consent agenda applications and supporting documents were reviewed.

Item 2CC was removed from the consent agenda to require more information. Item 2BB and 2G were removed for discussion.

Joe Kellogg and Keith Macdonald recused from participation from the vote on Item 2II as they are both employed by Wal-Mart.

Board Action:

Motion: Ray Seidlinger read the information related to the consent items and found the information to be accurate and complete and moved for approval of items 1 and 2 with the exception of Items 2CC, 2BB, 2G and 2II.

Second: Katie Craven

Action: Passed Unanimously

Motion: Ray Seidlinger moved to approve Item 2II.

Second: Dave Wuest

Action: Passed Unanimously

Item 2G was discussed and Dave Wuest asked what Coram would be doing from this particular facility. Keith Macdonald noted that he would like to see more information on the applications so the Board would not have to ask questions. Leo Basch agreed it would be helpful to revise the applications so the Board had more information before them to make decisions on approval.

Board Action:

Motion: Dave Wuest moved to approve the application for Item 2G.

Second: Katie Craven

Action: Passed Unanimously

Keith Macdonald had questions regarding Item 2BB, Diabetes Health Centers. Mr. Macdonald noted that Mr. Shaffer, the owner, was in the secondary source wholesaler business and wondered what his plan was regarding this business.

Tom Shaffer was present in the audience and appeared to answer questions for the Board. He explained that this business was a diabetes specialty DME and that there was a need in Las Vegas as there was only one other such business in the area. Mr. Shaffer indicated that he planned to have a CNA on staff as a diabetic nutritional counselor. Mr. Shaffer stated that he was not yet affiliated with a pump manufacturer. Katie Craven noted that she would feel more comfortable if Mr. Shaffer had a relationship with a diabetic practitioner rather than just a CNA. Dave Wuest advised Mr. Shaffer that he can go to the distributor of pumps and get certified and felt that would be an appropriate step to take. When asked if he would attest that he would not partner with any wholesaler, Mr. Shaffer agreed.

Board Action:

Motion: Katie Craven moved to conditionally approve the application for Diabetes Health Centers until Mr. Shaffer provides proof of certified personnel on pumps.

Second: Dave Wuest

Action: Motion Failed

Motion: Leo Basch moved to table the application for Diabetes Health Centers until Mr. Shaffer provides documentation of a relationship with a manufacturer, proof of certified personnel on pumps, and training on diabetes care.

Second: Ray Seidlinger

Action: Passed With One Negative Vote

REGULAR AGENDA

3. Disciplinary Actions:

A. Felix R. Del Valle, PTT (05-056-PTT-S)

Mr. Ling noted that Mr. Del Valle did not appear. Mr. Del Valle was registered at Heritage College in its pharmaceutical technician program and obtained a pharmaceutical technician-in-training registration from the Board. During a routine urine analyses Mr. Del Valle tested positive for marijuana.

Board Action:

Motion: Keith Macdonald moved to find Mr. Del Valle guilty of the charges.

Second: Ann Peterson

Action: Passed Unanimously

Motion: Ann Peterson moved to revoke Mr. Del Valle's pharmaceutical technician-in-training registration.

Second: Dave Wuest

Action: Passed Unanimously

- B. Brendan D. Ly, R.Ph (05-026-RPH-S)
- C. Sunrise Medical Pharmacy (05-026-PH-S)

Mr. Ling indicated that Board staff had taken Board direction and offered Mr. Ly and Sunrise Medical Pharmacy another stipulated agreement with the terms they suggested. Mr. Ly accepted both stipulated agreements.

Board Action:

Motion: Leo Basch moved to accept the stipulated agreements for both Mr. Ly and Sunrise Medical Pharmacy.

Second: Keith Macdonald

Action: Three votes to accept and three votes to reject the stipulated agreements. President Kellogg voted to accept the agreements and the motion passed.

- D. Sandra L. Stevens, R.Ph (06-001-RPH-N)

NOTE: Dave Wuest recused from participation of this matter as he is aware of the circumstances.

Louis Ling advised the Board that Ms. Stevens was offered a stipulated agreement, which she accepted. During a random continuing education audit following the last pharmacist renewal period, Ms. Stevens was asked to provide copies of her continuing education certificates. When Ms. Stevens replied, she could only produce 14.5 continuing education certificates, including one for Nevada law, and 16.5 continuing education certificates that were dated after October 31, 2005. The stipulated agreement that she signed would include Ms. Stevens passing a law examination, do 60 continuing education units for the renewal period of November 1, 2005 through October 31, 2007, be audited again for that renewal period and pay an administrative fee of \$250.

Board Action:

Motion: Ray Seidlinger moved to accept the stipulated agreement as presented.

Second: Katie Craven

Action: Passed Unanimously

- E. Brandon L. Davis, PT (06-008-PT-S)

NOTE: Ray Seidlinger recused from participation in this matter as he was employed by Sav-On at the time of this incident.

Mr. Ling noted that Mr. Davis was not present at hearing. Board staff was notified that Mr. Davis had been terminated from employment. Board staff requested information regarding the termination and it was determined that Mr. Davis acknowledged that he stole one bottle of Viagra and one bottle of Cialis to sell to help him pay his rent.

Board Action:

Motion: Keith Macdonald moved to find Mr. Davis guilty of the violations.

Second: Ann Peterson

Action: Passed Unanimously

Motion: Keith Macdonald moved to revoke Mr. Davis' pharmaceutical technician registration.

Second: Ann Peterson

Amendment: Leo Basch asked to amend the motion to include restitution to Sav-On if Mr. Davis ever asked the Board for reinstatement.

The amendment was accepted by the First and the Second.

Action: Passed Unanimously

F. Evren M. Gonzales, PTT (06-010-PTT-S)

Mr. Ling advised the Board that Mr. Gonzales was not present. Mr. Gonzales attended Heritage College in their pharmaceutical technician program. Mr. Gonzales tested positive for amphetamines during a routine urine analysis.

Board Action:

Motion: Katie Craven moved to find Mr. Gonzales guilty of the violation.

Second: Ann Peterson

Action: Passed Unanimously

Motion: Katie Craven moved to revoke Mr. Gonzales' pharmaceutical technician-in-training registration.

Second: Ann Peterson

Action: Passed Unanimously

G. Rondall D. Wood, R.Ph

(06-013-RPH-S)

Mr. Ling noted that Mr. Wood was not present for hearing. Board staff received a letter from Gerry Primavera, district pharmacy manager for Rite Aid, that he terminated Mr. Wood's employment with Rite Aid because Mr. Wood came to work under the influence of alcohol and continued to drink while on duty. Mr. Wood admitted this behavior to Mr. Primavera.

Board Action:

Motion: Dave Wuest moved to find Mr. Wood guilty of the violations.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Dave Wuest moved to revoke Mr. Wood's pharmacist license.

Second: Ann Peterson

Action: Passed Unanimously

H. William E. Eisler, R.Ph

(06-014-RPH-S)

William Eisler appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Ling explained that Mr. Eisler was audited during the last renewal period. Mr. Eisler provided copies of his continuing education, however could not provide a copy of one unit of Nevada law. Mr. Eisler was provided with a Nevada law examination and was required to return it within 30 days. Mr. Eisler did not return the Nevada law examination and was sent a second letter allowing him an extension of time to return the examination. Mr. Eisler did not return the Nevada law examination and a Notice of Intended Action and Accusation was prepared bringing Mr. Eisler to hearing to explain to the Board why he had not completed his examination.

Mr. Eisler advised the Board that the law test "turned him off." Mr. Eisler explained that he did not want to spend time looking up all those law citations. He noted that he was not practicing pharmacy and did not see the need to do a law test. He suggested that he might give his license up since he was not using it. The Board explained that one way he could get his Nevada law CE was to attend a Board meeting for four hours. The Board told Mr. Eisler that they would hate to have him give up his license for something so easily attainable and offered Mr. Eisler an opportunity to get credit for his appearance at hearing to suffice for his Nevada law CE rather than do the law

examination providing he stay for four hours. After consideration he agreed to return after lunch for four hours.

Board Action:

Motion: Dave Wuest moved to find Mr. Eisler guilty of the violation.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Dave Wuest moved to offer Mr. Eisler a one-time opportunity to fulfill his Nevada law CE requirement by attending four hours of today's Board meeting. Mr. Eisler could return after lunch for four hours and that would put him in compliance with the last audit.

Second: Ann Peterson

Action: Passed Unanimously

4. Request for Pharmacist License – Reciprocal – Appearance:

Michael L. Orphey

Michael Orphey and Larry Espadero, PRN-PRN monitor, appeared and were sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Orphey explained that he would like to reciprocate his pharmacist license to Nevada from Louisiana. He stated that he was fired from Rite Aid in Louisiana for drug abuse. Mr. Orphey indicated that he was self medicating for about a year, taking Tylenol III. When he was fired he submitted himself into a treatment program. Mr. Orphey's wife has been transferred to Las Vegas for her employment and when they arrived, Mr. Orphey contacted Larry Espadero and joined the Nevada PRN-PRN program. Mr. Orphey indicated that his license has been reinstated in Louisiana and he is currently on five years probation. He noted that the Louisiana and Nevada PRN-PRN programs are almost identical.

Mr. Espadero indicated that Mr. Orphey has been coming to him since June, 2005. Mr. Espadero evaluated him and Mr. Espadero agrees that the Louisiana program and the Nevada program mesh well. Mr. Espadero advised the Board that Mr. Orphey has been working the PRN-PRN program in Nevada for almost a year and recommends approval of his application for reciprocity.

Board Action:

Motion: Keith Macdonald moved to approve the application for reciprocity.

Second: Ray Seidlinger
Action: Passed Unanimously

5. Request for Reinstatement of Pharmaceutical Technician License – Appearance:

Tami Miller

Mr. Ling advised the Board that Ms. Miller was not present. Ms. Miller requested an appearance to request reinstatement of her pharmaceutical technician registration. Ms. Miller's registration was revoked as she broke her agreement with PRN-PRN.

Board Action:

Motion: Dave Wuest moved to table her request until Ms. Miller appears.

Second: Katie Craven

Action: Passed Unanimously

6. Request for Pharmaceutical Technician in Training License – Appearance:

- A. Nichol M. Edwards

Nichol Edwards did not appear for hearing.

Louis Ling noted that Ms. Edwards was convicted of burglary. Ms. Edwards provided a statement on her application that she was put on probation for a period of three years and if she completes her probation the felony charge will be reduced to a gross misdemeanor.

Board Action:

Motion: Katie Craven moved to table Ms Edwards' application until she appears.

Second: Keith Macdonald

Action: Passed Unanimously

- B. Amale T. Garcia

Amale Garcia appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Ling advised the Board that Ms. Garcia was convicted of identity theft and asked her to explain the circumstances.

Ms. Garcia stated that on her 18th birthday she was with someone that committed a crime by using someone else's credit card. Since that person was convicted she was considered guilty by association. Ms. Garcia was told that when she completed probation the conviction would be removed from her record.

Board Action:

Motion: Keith Macdonald moved to approve Ms. Garcia's application for pharmaceutical technician-in-training and have Ms. Garcia provide a copy of the document that verifies her testimony.

Second: Dave Wuest

Action: Passed Unanimously

C. Trina D. Trinidad

Trina Trinidad appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Ms. Trinidad advised the Board that she had been offered a job with Smith's as a pharmaceutical technician-in-training. On her application she noted that she was once a student at Heritage College in the pharmaceutical technician program. Ms. Trinidad advised the Board that she was terminated from enrollment with Heritage because she failed to provide a urine analysis. She maintains that was not true and told the Board that she had gone to do the urine analysis, however she had an emergency and asked if she could come back later so she could leave to attend to her child. Ms. Trinidad said that when she returned close to midnight she was advised that she could not test.

Board Action:

Motion: Keith Macdonald moved to approve Ms. Trinidad's application for pharmaceutical technician-in-training.

Second: Katie Craven

Action: Passed Unanimously

7. Appearances:

A. Your Success Rx Report – Katie Johnson
Cale Batt
Dale Hawkins

Katie Johnson appeared with Cale Batt and Dale Hawkins and described that she reviewed their philosophies on pharmacy practice. She evaluated workflow and various practices.

Board Action:

Motion: Dave Wuest moved to go into closed session since the Board would be discussing the practices of specific pharmacists. The Board will review each individually.

Second: Leo Basch

Action: Passed Unanimously

Motion: Dave Wuest moved to go back into open session.

Second: Ann Peterson

Action: Passed Unanimously

Mr. Pinson announced that he was pleased with this training method for disciplinary purposes.

B. Workload Balance – Walgreens – Dan Luce

Dan Luce did not appear. Matt Forster, Holly Priervo and Eman Gobran gave the Walgreens Workload Balancing presentation in his absence.

In order for this concept to work within Nevada law, a regulation needs to be written to allow transfers within the corporation not to be considered transfers to the prescription. Walgreens will be transferring prescriptions from a busy pharmacy to a slower paced pharmacy for filling. The medication will be returned to the original pharmacy for dispensing. It was determined Board staff would bring language to Workshop in June.

C. Quality Assurance Program – CVS – Jim DeVita

Jim DeVita, representing CVS, appeared and gave a presentation on CVS's Quality First program. He gave a comprehensive accounting of the CVS quality assurance program.

D. Nevadans for Antibiotic Awareness – William Berliner, MD

Dr. Berliner appeared to request a donation for Nevada's For Antibiotic Awareness program.

Board Action:

Motion: Keith Macdonald moved to support the program and donate \$5,000 for the cause.

Second: Leo Basch

Action: Passed Unanimously

Dr. Berliner was requested not to donate any more book marks and just accept our donation.

8. Board Policy: Disclosure

Larry Pinson advised the Board that he was initiating a new disclosure policy that would encompass three areas as follows:

1. Each member of the Board shall disclose any and all non-state compensation and its source received while conducting Board matters.
2. Disclosure needs to be in writing to the Executive Secretary on an annual basis by January 31st or within 30 days of the beginning of the receipt of the compensation.
3. Each member of the Board shall report immediately to the Executive Secretary or General Counsel any direct or indirect threat or intimidation which the member believes was intended to induce the member to make, omit or delay any act, decision or determination.
 - a. This could include physical threats, threats to one's job, threats regarding future benefits at one's job or similar conduct.

After discussion, the Board directed staff to include the words, "either implied or inferred" in 3 (a) after the word "job".

Board Action:

Motion: Keith Macdonald moved to adopt the Board policy with the inclusion of the words recommended.

Second: Leo Basch

Action: Passed Unanimously

9. Bill Drafts

The Board determined there would be no bill draft at this time.

10. General Counsel Report

1. Louis Ling reported that he is still waiting for Judge Adair's Order in the FMC matter. Mr. Ling indicated that FMC submitted a 23 page Order for the Judge's signature, however he is doubtful that Judge Adair will sign something that lengthy. He is guessing that she will write her own Order, however it will probably take some time.
2. Mr. Ling proclaimed that all legal cases were over now except for settling with Dutchess.
3. There was a wholesaler summit to set realistic timetables for RFID and pedigree implementation as required in SB 37. After input from all committee members from all segments of the industry, except manufacturers, it was conservatively estimated that they were five to ten years out in refining the technology to produce reliable pedigrees and RFID.

11. Executive Secretary Report:

- A. Financial Report
- B. Investment Report

Larry Pinson gave the financial and investment reports to the Board's satisfaction.

- C. Pending Policy Questions

1. CE Committee.

- A. Mr. Pinson asked if the Board would consider accepting PSAM for continuing education credits. He explained that it could take between three and six hours to complete the self evaluation. The CE Committee recommended four hours of accredited CE credit.

Board Action:

Motion: Katie Craven moved to approve PSAM for four hours of CE credit.

Second: Keith Macdonald

Action: Passed Unanimously

- B. Since so many CE programs given for other medical professions are pertinent for pharmacists as well, the CE Committee is recommending that accredited CE be given to pharmacists for those programs that are accredited by other medical professional boards that are pertinent to pharmacy practice.

Mr. Pinson indicated that if a pharmacist wanted to attain accredited CE for such a program they would have to submit an outline of the program to Board staff to determine if the subject matter would be pertinent to pharmacy practice.

Board Action:

Motion: Keith Macdonald moved to approve CME if it meets our standards for pharmacy practice.

Second: Katie Craven

Action: Passed Unanimously

- C. C. Infectious disease pain management. The CE Committee has reviewed and recommended accredited CE for the following two programs:
1. "Pain Management and Palliative Care" – 12 hours
 2. "Infectious Diseases Symposium" at Mercy General Hospital in Sacramento on March 31 and April 1, 2006 – 14 hours
2. CSTF moved to Carson City. The Task Force will have a new telephone number however the old number will be forwarded to Carson City for the time being. Our office is much more comfortable with Louis Ling moving into the Task Force space, Joe Depczynsky moving into Mr. Ling's old office and the space Mr. Depczynsky was using as an office will be enclosed and used as storage space. We will move the boxes from the storage unit to this newly acquired office space.
3. Website update. Mr. Ling noted that our new website will be a functional program. License verification is used extensively by credentialing agencies and this will now become a one-click function. The Nevada Revised Statutes and the Nevada Administrative Code will be a standard search feature with easy access. We will post the latest version of our regulation amendments so they are accessible to the public in a timely manner. We plan to list the approved e-prescribing programs for physicians, also. By having the capability to update our own website we will be able to keep the information current to include agendas and minutes as they are produced.
4. RFP for licensing program. We have been informed that there are approximately five or six vendors that provide licensing software. It will take some time to go through the RFP process and our estimated install timeframe will probably be June or July 2007.
5. Fingerprinting. We have applied for and received our account number from the Records and Technology Division of the Criminal History Repository. The fees are \$21.00 for a Nevada only fingerprint search. If we want to forward the fingerprints to the FBI the fee is an additional \$24.00. We will be processing the fingerprints we have already acquired for Nevada fingerprint search only. We have recently found out that if

we want both searches we need two sets of fingerprint cards submitted.

6. The newly formed Pharmaceutical Technician Committee had an organizational conference call. Renee Coffman will chair the committee and a committee meeting will be held May 10, 2006.

7. The University of Utah is scheduling their drug addiction program in June. Mr. Pinson advised that he had registration forms for anyone interested.

8. Larry Pinson advised that he attended the NABP Executive Orientation at the new NABP facility. He indicated that the orientation was useful and the new NABP facility was absolutely amazing and very secure.

9. It was found that a dentist was obtaining nitrous oxide from an unlicensed supplier that was supplying non-medical quality gases. The supplier was identified and sent a "cease and desist" letter and a fax broadcast was sent to dentists asking them to confirm that the supplier they use is licensed with the Board. The medical society was alerted as well, since the supplier was supplying liquid nitrogen to some dermatologists and family practice physicians as well.

10. Mr. Pinson advised the Board that Governor Schwarzenegger in California is no longer appointing Board members. As Board member terms expire with no replacements, the future of professional licensing Boards in California is questionable.

D. Temporary Licenses

There have been no temporary licenses issued since the last Board meeting.

12. Discussion and Determination:

A. Nursing Facilities – Part D Impact

Keith Macdonald advised the Board that nursing facilities have difficulty with patients medications as they have six different formularies because of Part D dual eligible plans. Mr. Macdonald asked that if the nursing facility wanted to have a collaborative practice agreement with a physician would there be a problem. This would be strictly for nursing facilities, not long term care or any other similar facility. Mr. Macdonald advised that the nurses and the physicians both agree with the concept to ensure appropriate drug therapy for their patients.

The Board agreed that this practice would be appropriate and to advise nursing facilities as such.

B. More Than One CII Written On A Prescription Blank

Larry Pinson and Louis Ling asked the Board if their intent was that a physician not be allowed to put more than one CII medication on a prescription blank. The Board agreed that was their intent. Mr. Ling noted that our law does not specifically say that now. As it is now the language is vague by requiring the “signature of the physician” on each CII prescription. Mr. Ling will do a regulation amendment to clean up the language and say what we mean.

C. Veterinary Medications

Larry Pinson noted that NRS 639.2345 specifically states that any person engaging in the sale of veterinary medications, either OTC or legend, must obtain a permit from the Board and further states that the Board shall adopt regulations relating to that permit. Now, the veterinary medications are being sold by everything from feed stores to pet shops and on-line companies. Mr. Pinson asked if the Board thought it was time to enforce that requirement and regulate the permit. The Board directed staff to bring language forward for adoption.

PUBLIC HEARING

13. Notice of Intent to Act Upon a Regulation:

1. **Amendment of Nevada Administrative Code 639.650 Retail Sale of Veterinary Drugs by Businesses Other Than Pharmacies** This is a new class of registration for feed stores and others who sell veterinary drugs at retail and align the permit expiration from July 1 to November 1 of each even-numbered year. The fee increased to align the fee to equate with other similar registrations.

President Kellogg opened the Public Hearing.

There were no public comments.

President Kellogg closed the Public Hearing and asked for a motion.

Board Action:

Motion: Keith Macdonald moved to approve the language as presented.

Second: Dave Wuest

Action: Passed Unanimously

2. **Amendment of Nevada Administrative Code 639.7102 E-Prescribing**
This regulation amendment specifies that when an e-prescribing device is used by a physician that the device automatically turns off after 15 minutes for security purposes.

President Kellogg opened the Public Hearing.

There were no public comments.

President Kellogg closed the Public Hearing.

After Board discussion, it was determined that the word “device” throughout the regulation should be changed to “computer system” as it clarifies the intent.

Board Action:

Motion: Keith Macdonald moved to approve with the minor change discussed.

Second: Ray Seidlinger

Action: Passed Unanimously

3. **Amendment of Nevada Administrative Code 639.725 Filling Automated Dispensing Devices** This amendment will allow pharmaceutical technicians, pharmaceutical technicians in training or intern pharmacists to fill automated dispensing devices under the supervision of a pharmacist.

President Kellogg opened the Public Hearing.

There were no public comments.

President Kellogg closed the Public Hearing.

Larry Pinson noted that Diana Bond had suggested some sort of electronic technology be included in the language. The Board discussed this possibility and concluded that the pharmacist does the final check and how it happens is irrelevant. It was also noted that in number 2 the word “pharmacist” needed to be changed to “pharmacy.”

Board Action:

Motion: Keith Macdonald moved to approve with the minor change discussed.

Second: Dave Wuest

Action: Passed Unanimously

4. Amendment of Nevada Administrative Code 639.NEW Canadian Licensing This regulation will allow Canadian pharmacies to serve Nevada as out-of-state mail-order pharmacies as prescribed in SB 5.

Assemblywoman Barbara Buckley, David MacKay, Fabina Kara, Andy Trozock, John Meyers, Janet McDonald and Senator Maggie Carlton were present.

Larry Pinson explained the process of the Public Hearing for those who have not experienced it previously.

Louis Ling reviewed the language for the Board and those present.

President Kellogg commended Board staff for a difficult job well done.

President Kellogg opened the Public Hearing.

Bill Nicoletti appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Nicoletti expressed his opinion that dealing with Canada was not a good idea since persons in the United States could not sell to Canada that it could ultimately affect jobs in Nevada.

Barbara Buckley, appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Ms. Buckley expressed her gratitude to the Board for writing law that would protect Nevada citizens. She found it unconscionable that American drugs were unaffordable and that it effects choices some have to make. The Governor's website will have a list of the Board approved internet pharmacies in Canada where it will be safe for Nevadan's to purchase their drugs. Ms. Buckley urged the Board to adopt these regulations.

Larry Jeppison appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Jeppison spoke in favor of the Canadian regulations.

Janet McDonald, retired FDA representative, appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Ms. McDonald testified against the regulation because of perceived safety issues. She feared that the risks outweighed the good and stressed that safety should not be sacrificed for cost.

Larry Mathias, Nevada State Medical Association, appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Mathias supports the legislature and the governor's opinion that these regulations should be approved.

Mary Staples, NACDS, and Marv Sheppard, an expert witness from Texas, appeared and were sworn by President Kellogg prior to answering questions or offering testimony.

Ms. Staples and Mr. Sheppard both oppose the passage of these regulations. Mr. Sheppard gave numerous opinions regarding safety issues when reimporting Canadian drugs.

Matt Bradley, RxBids.com, appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Bradley supported the language but was there primarily to tout his business, RxBids.com which is like prescriptions on e-bay where pharmacies bid for your business.

Denise Kelley appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Ms. Kelley congratulated the Board for having the guts to stand up to the big money manufacturers and lobbyists. Ms. Kelley absolutely supported the language presented.

Andy Troszok, Extended Care Pharmacy, appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Extended Care Pharmacy is a Canadian pharmacy and Mr. Troszok is a Canadian pharmacist. He explained that Canada has two sets of system regulations they must obey and their processes are safe for the American public. Mr. Troszok noted that for over 20 years American's have been purchasing their drugs from Canada and that the Nevada public should feel even more comfortable since Nevada is the only state to have regulations regarding Canadian pharmacy practices.

Scott Watson, President of NARA, appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Watson spoke in favor of this language.

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

Ms. Macmenamin voiced her members opposition to Canadian drug reimportation.

President Kellogg closed the Public Hearing.

After Board discussion, President Kellogg asked for a motion.

Board Action:

Motion: Ann Peterson moved to approve with minor changes as discussed.

Second: Keith Macdonald

Action: Passed Unanimously

5. **Amendment of Nevada Administrative Code 639.NEW Compounding**
This amendment defines the conditions under which preparation of sterile and non-sterile compounded prescription drugs are prepared.

President Kellogg opened the Public Hearing.

Diana Bond, UMC, appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Ms. Bond testified that she would like the Board to table this regulation as she had not had an opportunity to read the LCB language. Since she just received a copy of the language it would be impossible to make a determination as to the content.

President Kellogg closed the Public Hearing.

Board Action:

Motion: Katie Craven moved to table this regulation until the Board had had time to review.

Second: Leo Basch

Action: Passed Unanimously

6. **Amendment of Nevada Administrative Code 639.NEW Decline to Fill a Prescription** This amendment will define the conditions for a pharmacist to decline to fill a prescription.

President Kellogg opened the Public Hearing.

Larry Mathias, still under oath, commended the Board by the appropriate way they handled the controversial topic and worked out the problem. He and his members have no objection as written without the conscience language.

Maggie Carlton, Senator, appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Ms. Carlton opposes the language as she finds it overbroad and feels the language could still be interpreted to allow a pharmacist to refuse to fill a prescription because of conscience. Ms. Carlton advised the Board that she feels this is a legislative matter and should be handled as such.

Pat Elzy appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Ms. Elzy opposes the language as she feels it is overbroad.

Lisa Lynn Chapman appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Opposed the language as she, too, felt it was overbroad.

Lee Rowland, ACLU, appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Opposed the language as he felt it was overbroad.

Richard Seizor appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Seizor would like to see stronger language to include the conscience issue, however he supported the regulation.

President Kellogg closed the Public Hearing.

Keith Macdonald gave reasons why he supports the regulation as written and Louis Ling noted that the proposed language tracks federal law.

Board Action:

Motion: Dave Wuest moved to approve the language with minor changes.

Second: Leo Basch

Action: Passed Unanimously

7. **Amendment of Nevada Administrative Code 639.NEW Repackaging**
This amendment defines the conditions under which a pharmacist may repackage prescriptions to patients in long-term care facilities.

President Kellogg opened the Public Hearing.

There were no public comments.

President Kellogg closed the Public Hearing.

The Board discussed various changes to the language and directed staff to include that the pharmacist be required to include the initials of who repackaged the medications.

Board Action:

Motion: Leo Basch moved to accept the language with the minor changes discussed.

Second: Katie Craven

Action: Passed Unanimously

14. Next Board Meeting:

June 7 & 8, 2006 – Reno, Nevada

15. Public Comments and Discussion of and Deliberation Upon Those Comments

Jodi Brege appeared, representing the United Steel Workers, and challenged the Board to close Medco Health Services because of the lockout of pharmaceutical technicians at Medco. The Board advised that the Board inspector visited Medco and found no violations in Nevada law as described by Ms. Brege. Since the pharmaceutical technicians that have been locked out are union members represented by the USW, and they have no contract, Medco had no other choice in the matter. The Board found that closing Medco would not be in the public's best interest since they fill approximately 100,000 prescriptions per day and that would negatively impact patient's drug therapy.