

October 11, 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, October 25th, 2006 – 9:00 am

Thursday, October 26th, 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.

October 2006 Board Meeting Agenda

- * 1. Approval of September 6-7, 2006, Minutes
- * 2. Applications for Out-of-State MDEG – Non Appearance:
 - A. 5 Star Medical Supply Inc. – Huntingdon Valley, PA
 - B. Freedom Home Medical LLC – Orem, UT
 - C. RGH Enterprises, Inc. – Twinsburg, OH

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

- D. Access Respiratory Supply, Inc. – Pompano Beach, FL
- E. Medex BioCare Pharmacy – Bartlett, IN
- F. Modern Health Pharmacy – Monrovia, CA
- G. Park Compounding Pharmacy Inc. – Westlake Village, CA
- H. PharMEDium Services, LLC – Cleveland, MS
- I. PharMEDium Services, LLC – Edison, NJ
- J. Prescription Solutions – Overland Park, KS
- K. Rx Depot, LLC – Burleson, TX
- L. SavDirectRx, Inc. – San Antonio, TX

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

- M. Advantage Logistics – Oglesby, IL
- N. Darby Dental Supply, LLC – Memphis, TN
- O. Exel Inc. – Mechanicsburg, PA
- P. Novartis Consumer Health, Inc. – Lincoln, NE
- Q. Palmetto State Pharmaceuticals – Charleston, SC

Applications for Nevada MDEG – Non Appearance:

- R. Always Better Medical Supplies – Las Vegas
- S. Joy Mobility and Medical Supplies – Las Vegas
- T. Easy Life Medical Equipment, Inc. – Las Vegas
- U. Lincare Inc. – Las Vegas
- V. Southwest Medical Supplies, LLC – Las Vegas

Application for Nevada Wholesaler – Non Appearance:

- W. Metro Medical Supply, Inc. – Reno

Application for Nevada Manufacturer – Non Appearance:

- X. Genesis Pharmaceutical, Inc. – Henderson

October 2006 Board Meeting Agenda

◆ REGULAR AGENDA ◆

- * 3. Applications for Nevada Pharmacy – Appearance:
 - A. Custom Medications – Las Vegas
 - B. Edge Medical, LLC – Reno
 - C. Khoury’s Pharmacy – Spring Creek
 - D. Liberty Healthcare Pharmacy of Nevada LLC – Las Vegas

- * 4. Applications for Out-of-State Pharmacy – Appearance:
 - A. BioRx – Cincinnati, OH
 - B. Home HealthCare Resources, Inc. – Bensalem, PA

- * 5. Application for Canadian Pharmacy – Non Appearance:
 - Somi Drugs (Pharmasave #050) – Surrey, British Columbia

- * 6. Disciplinary Action: 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.
 - A. Atanas K. Stanev, R.Ph (06-031-RPH-S)
 - B. CVS/pharmacy 3172 (06-031-PH-S)
 - C. Trac T. Nguyen, R.Ph (06-020-RPH-S)
 - D. Walgreens #05862 (06-020-PH-S)
 - E. David A. Kendrick, R.Ph (06-051-RPH-S)
 - F. Rite Aid #6281 (05-053-PH-N)
 - G. Scott T. James, R.Ph (06-048-RPH-S)

- * 7. Requests for Technician in Training Registration – Appearance Required:
 - A. Brian Baker
 - B. Ryan Graham

- * 8. Appearances:
 - A. University of Southern Nevada College of Pharmacy
 - B. Canadian Storefronts

- * 9. General Counsel Report:
 - Rx USA Lawsuit

October 2006 Board Meeting Agenda

*10. Executive Secretary Report:

- A. Financial Report
- B. Investment Report
- C. Temporary Licenses
- D. Pending Policy Questions
 - a. Licensing Issues
 - b. University of Nevada School of Pharmacy
 - c. DEA Update
 - d. MDEG Meeting
- E. Staff Activities

*11. Discussion and Determination:

- A. NTI Drugs
- B. "Your Success" Program
- C. Telepharmacy
- D. "Quarantined Prescriptions"
- E. Wholesale License Issues
- F. Pharmacy Closure
- G. Canadian Pharmacy Inspection Costs

W O R K S H O P – Thursday, October 26th, 2006 – 9:00 am

*12. **Proposed Regulation Amendment Workshop** – The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations.

1. **Amendment of Nevada Administrative Code 639.NEW Compounding.** This new language defines the conditions and procedures under which preparation of sterile and non-sterile compounded prescription drugs are prepared.
2. **Amendment of Nevada Administrative Code NAC 639.NEW Workload Balancing.** This new language establishes regulations regarding the storing and sharing of prescription information by pharmacies who utilize common databases and software.
3. **Amendment of Nevada Administrative Code 639.330 Continuing Education.** This amendment changes the standards under which a pharmacist may obtain continuing education credit for attending a Board meeting.

October 2006 Board Meeting Agenda

4. **Amendment of Nevada Administrative Code 453.530 and 453.NEW Ephedrine, Pseudoephedrine, and Phenylpropanolamine.** This amendment changes existing controls on drug products that contain ephedrine, pseudoephedrine, and phenylpropanolamine to harmonize Nevada law with new federal law regarding the same products.

PUBLIC HEARING – Thursday, October 26th, 2006 – 9:00 am

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

1. **Amendment of Nevada Administrative Code NAC 453.540 Schedule II**

Prescriptions This language allows more than one controlled substance listed in Schedule II to be written on a single prescription blank.

2. **Amendment of Nevada Administrative Code NAC 639.240**

Pharmaceutical Technician Education Requirements This language will standardize the education requirements to be provided to students entering a pharmaceutical technician training program in a school. The program will have to be American Society of Health-System Pharmacists (APHA) accredited.

3. **Amendment of Nevada Administrative Code NAC 639.245**

Pharmaceutical Technician Changes This amendment changes the ratio between pharmacists and pharmaceutical technicians and pharmaceutical technicians-in-training from two to three and requires technicians or pharmacists to input information from a new prescription related to the drug and directions for use into the pharmacy computer system.

4. **Amendment of Nevada Administrative Code NAC 639.NEW Use of**

retail delivery devices This new language will allow a mechanical device to deliver refilled prescriptions to patients.

14. Next Board Meeting:

December 6-7, 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.

October 2006 Board Meeting Agenda

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

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Application for Nevada Manufacturer – Non Appearance:

- X. Genesis Pharmaceutical, Inc. – Henderson

Discussion:

The consent agenda applications and supporting documents were reviewed and two corrections to the September minutes were noted.

Board Action:

Motion: Katie Craven 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 corrections to the September minutes.

Second: Ann Peterson

Action: Passed Unanimously

REGULAR AGENDA

3. Applications for Nevada Pharmacy – Appearance:

- A. Custom Medications – Las Vegas

Lee Ori and Laura Tobin appeared and were sworn by President Kellogg prior to answering questions or offering testimony.

Dave Wuest questioned Mr. Ori and Ms. Tobin regarding their policies and procedures for operating a pharmacy in Nevada.

Board Action:

Motion: Dave Wuest moved to accept the application for pharmacy pending inspection.

Second: Keith Macdonald

Action: Passed Unanimously

B. Edge Medical, LLC – Reno

Roger Helwig, Leslie Baker, Robert Luciano, Jr., Robert Luciano, Sr., and Larry Luciano appeared and were sworn by President Kellogg prior to answering questions or offering testimony.

Shawn Elicegui of Lionel Sawyer Collins was present, also.

They gave a presentation of their automated packaging system. They explained that they will be filling new prescriptions and will not be doing any repackaging. The Board questioned them regarding their procedures and they answered the questions to the Board's satisfaction.

Board Action:

Motion: Dave Wuest moved to approve the application for pharmacy pending inspection.

Second: Leo Basch

Action: Passed Unanimously

C. Khoury's Pharmacy – Spring Creek

Bassam Khoury and Joe Haid appeared and were sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Khoury explained that he purchased the existing Spring Creek pharmacy from Angela Atkins. Ray Seidlinger led the questioning regarding Mr. Khoury's policies and procedures to the Board's satisfaction.

Board Action:

Motion: Leo Basch moved to approve the application for pharmacy pending inspection.

Second: Ray Seidlinger

Action: Passed Unanimously

D. Liberty Healthcare Pharmacy of Nevada LLC – Las Vegas

Liberty Healthcare Pharmacy will appear at the December 2006 Board meeting.

4. Applications for Out-of-State Pharmacy – Appearance:

A. BioRx – Cincinnati, OH

Mark Kessler appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Keith Macdonald led the questioning regarding BioRx's policies and procedures to the Board's satisfaction.

Board Action:

Motion: Keith Macdonald moved to approve the application for out-of-state pharmacy.

Second: Katie Craven

Action: Passed Unanimously

B. Home HealthCare Resources, Inc. – Bensalem, PA

Daniel Cole appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Katie Craven led the questioning regarding Home HealthCare Resources policies and procedures to the Board's satisfaction.

Board Action:

Motion: Katie Craven moved to approve the application for out-of-state pharmacy.

Second: Ann Peterson

Action: Passed Unanimously

5. Application for Canadian Pharmacy – Non Appearance:

Somi Drugs (Pharmasave #050) – Surrey, British Columbia

Louis Ling explained that Somi Drugs missed the last Canadian inspection. They are applying to be an approved Canadian pharmacy with Nevada. Mr. Ling explained that it could be a year before we go back to Canada for annual inspections. Mr. Ling explained that the Board needs to make a determination as to approval of their application pending inspection. Mr. Ling noted that if Somi wants to pay for the inspector to go to Canada for the inspection sooner than a year from now they will be responsible for all costs incurred.

Board Action:

Motion: Keith Macdonald

Second: Dave Wuest

Action: Passed With Two Negative Votes

6. Disciplinary Action

- A. Atanas K. Stanev, R.Ph (06-031-RPH-S)
- B. CVS/pharmacy 3172 (06-031-PH-S)

Mr. Ling presented a stipulated agreement that was accepted by both parties. Mr. Stanev filled a prescription for Verapamil 120 mg tablets with Verapamil ER and did not advise the patient that the substitution had been made. Board staff offered Mr. Stanev and CVS #3172 a stipulated agreement of a fine of \$100 each.

Board Action:

Motion: Katie Craven moved to accept the stipulated agreement as presented.

Second: Leo Basch

Action: Passed Unanimously

- C. Trac T. Nguyen, R.Ph (06-020-RPH-S)
- D. Walgreens #05862 (06-020-PH-S)

NOTE: Leo Basch recused from participation in this matter as he is employed by Walgreens.

Trac Nguyen and Holly Prievo appeared and were sworn by President Kellogg prior to answering questions or offering testimony.

Rob Graham appeared to represent Walgreens and Mr. Nguyen.

Mr. Ling noted for the Board that there were two patients with the name "James". Both James' had prescriptions for similar products. When one of the prescriptions was filled, Mr. Nguyen called "James" and one of the James' appeared and was sold the wrong prescription.

Mr. Graham advised how the mistake was made. Mr. Nguyen apologized and noted the new procedures in place to verify the correct patient before dispensing a prescription.

Mr. Ling recommended a \$100 fine for the error, a \$750 fine for inadequate counseling, a letter of reprimand for Mr. Nguyen and possibly an \$850 fine for Walgreens.

Mr. Graham questioned the \$750 fine since Mr. Nguyen was counseling and the patient refused.

Board Action:

Motion: Keith Macdonald moved to find Trac Nguyen guilty of the First, Second and Third Causes of Action.

Second: Katie Craven

Action: Passed Unanimously

Motion: Keith Macdonald moved to fine Mr. Nguyen \$500 for all three Causes of Action plus administrative fees and costs to be paid within 60 days of signing of the Order and have Mr. Nguyen complete one hour of continuing education for the Third Cause of Action.

Second: Dave Wuest

Action: Passed Unanimously

Motion: Keith Macdonald moved to find Walgreens #05862 guilty of the Fourth Cause of Action.

Second: Ann Peterson

Action: Passed Unanimously

Motion: Keith Macdonald moved to place Walgreens #05862 on probation for two years.

Second: Dave Wuest

Action: Passed Unanimously

E. David A. Kendrick, R.Ph (06-051-RPH-S)

Mr. Ling advised the Board that Mr. Kendrick was not present even though he received his Accusation and had spoken with Board staff regarding the hearing. Mr. Ling stated that he would proceed with this case as his witness was present.

Pamela Goff appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Ms. Goff is a pharmacist at Summerlin Hospital where she has been employed since February 2006. Ms. Goff worked with Mr. Kendrick and had opportunity to observe him in his practice. Ms. Goff testified that cameras were placed in the pharmacy because they were having discrepancies in the CII counts and only three people knew there were cameras in the pharmacy. Pharmacy staff reconciled the books and did a complete audit of controlled substances in schedule II. The schedule II drugs were audited daily. Ms. Goff testified that Mr. Kendrick's behavior was usually "flighty" and she observed him carrying a bag of fentanyl. She did not want Mr. Kendrick to know that she had observed this behavior so she said nothing at the time, but instead waited until morning when she could audit the schedule II drugs. The audit of the schedule II locker and the pyxis machines showed a discrepancy with fentanyl.

Ms. Goff testified that she received a phone call from the shift pharmacist at Summerlin Hospital Pharmacy late one night to report that Mr. Kendrick was behaving strangely. Ms. Goff was told that Mr. Kendrick was randomly filling IV bags for no reason and that the pharmacy staff was following him around the pharmacy and destroying the bags because they did not know what was in them. Ms. Goff testified that the managing pharmacist was out of town and that she contacted another pharmacist and took Mr. Kendrick to a lab for a drug test. On the way to the lab, Ms. Goff noted that Mr. Kendrick was drinking inordinate amounts of water and chewing ice. When they arrived at the lab the lab technician asked Mr. Kendrick to stop drinking water and he ignored the request. Ms. Goff and the other pharmacist returned to Summerlin where they parted ways.

When the managing pharmacist returned from his vacation, he viewed the DVD's from the hidden cameras to determine who may have been observed taking drugs from the CII cabinet. Mr. Ling showed DVD's for the Board to view. Ms. Goff explained that all pharmacists have keys to the CII cabinet. Mr. Ling cued up the DVD's to specifically show Mr. Kendrick removing drugs from the CII cabinet without signing them out or documenting in any way that he was removing drugs from the CII cabinet. Ms. Goff helped describe what was being seen on the DVD's and what drugs were kept in the vicinity of where Mr. Kendrick was observed removing drugs. In one of the scenes you can see Mr. Kendrick removing drugs and putting them in his sock. In another he used papers he had in his hand to hide the drugs that he was removing. In yet another he was observed putting drugs from the CII cabinet in his pocket.

Mr. Ling recommended revocation of Mr. Kendrick's license and restitution be paid to Summerlin Hospital Pharmacy before Mr. Kendrick applies for reinstatement. He also noted that Mr. Kendrick is currently in the PRN-PRN program from a previous Board Order.

Board Action:

Motion: Dave Wuest moved to find Mr. Kendrick guilty of the First Cause of Action.

Second: Katie Craven

Action: Passed Unanimously

Motion: Dave Wuest moved to find Mr. Kendrick guilty of the Second Cause of Action.

Second: Katie Craven

Action: Passed Unanimously

Motion: Dave Wuest moved to revoke Mr. Kendrick's pharmacist license. Before Mr. Kendrick can apply for reinstatement he must pay restitution to his former employer for the drugs he stole. Mr. Kendrick will pay the Boards administrative fees and costs and sign another five year agreement with PRN-PRN.

Second: Katie Craven

Amendment: Keith Macdonald moved to amend that a fine of \$5,000 be added to the original motion.

The First and the Second accepted the amendment.

Action: Passed Unanimously

F. Rite Aid #6281 (05-053-PH-N)

Mike Dyer and Germaine Rowbottom appeared to represent Rite Aid.

Louis Ling explained that this was a continuation of the disciplinary action taken at the September 2006 Board meeting. No discipline was imposed upon Rite Aid because of the untimely demise of Jim Krahulic, with whom Mr. Dyer was consulting on behalf of Rite Aid. Mr. Ling noted that he and Mr. Dyer had come to a stipulated agreement.

Mr. Dyer gave an overview of circumstances leading to today's meeting. He introduced four exhibits. 1) Transcript of Mr. Okpukpara's testimony at the September 2006 Board meeting, 2) Affidavit of Tammy Royer, 3) Scanned image of the original prescription, and 4) Rite Aid computer screen shot.

After his presentation and explanation of the exhibits Mr. Dyer concluded that he did not think Rite Aid should be fined.

Germaine Rowbottom appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

The Board questioned Ms. Rowbottom regarding the safeguards Rite Aid computers have in place to prevent this type of error in the future.

Mr. Ling noted that the stipulated agreement presented to the Board reflects new facts and changes to the facts previously presented, thus creating a correct document for the record. The facts in the agreement are the facts the Board needs to address in this matter of discipline for Rite Aid. This is just a disciplinary determination today regarding Rite Aid and not a rehearing.

Louis Ling gave closing remarks and recommended a fine beginning at \$5,000 since this error resulted in a death.

Mr. Dyer also gave closing arguments.

Board Action:

Motion: Dave Wuest moved to find Rite Aid #6281 guilty of the Third Cause of Action in this matter.

Second: Leo Basch

Action: Passed With One Negative Vote

Motion: Dave Wuest moved to fine Rite Aid #6281 \$3,000 plus one half the fees and costs in this case and place Rite Aid #6281 on probation for two years.

Second: No Second

Action: Motion Failed

Motion: Leo Basch moved to fine Rite Aid #6281 \$1,000 plus one half the fees and costs in this case and place Rite Aid #6281 on probation for two years.

Second: Dave Wuest

Action: Passed With One Negative Vote

G. Scott T. James, R.Ph

(06-048-RPH-S)

Mr. Ling noted that Mr. James was not present at hearing. Mr. Ling is unsure why Mr. James is not present as he had spoken to Board staff several times regarding this matter.

In Mr. James' absence, Mr. Ling read Mr. James' handwritten statement regarding the circumstances of his dismissal from employment at Huntridge Drug into the record. Mr. James left the pharmacy unattended for approximately 45 minutes while he and his

brother went upstairs to smoke methamphetamine. Mr. Ling had but did not present security camera video of those actions provided by Huntridge Drug.

Board Action:

Motion: Katie Craven moved to find Mr. James guilty of the alleged violations.

Second: Ann Peterson

Action: Passed Unanimously

Motion: Katie Craven moved to revoke Mr. James' pharmacist license and require Mr. James to enroll in the PRN-PRN program before he requests reinstatement.

Second: Ann Peterson

Amendment: Leo Basch moved to amend the original motion to include a fine of \$2,000 plus fees and costs in this matter.

The First and the Second accepted the amendment.

Action: Passed Unanimously

7. Requests for Technician in Training Registration – Appearance Required:

A. Brian Baker

Brian Baker appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Baker is enrolled in Heritage College's pharmaceutical technician program and failed a drug screening. He explained that he needs to obtain a pharmaceutical technician in training registration so he can complete his externship. Mr. Baker explained that he uses marijuana regularly so he can "get through school" without experiencing panic attacks and anxiety.

Board Action:

Motion: Keith Macdonald moved to deny Mr. Baker's application for pharmaceutical technician in training.

Second: Leo Basch

Action: Passed Unanimously

B. Ryan Graham

Ryan Graham appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Graham failed a drug test at work. Mr. Graham is employed at Walgreens and he explained that Walgreens sent him for treatment and he noted that he is doing well.

Board Action:

Motion: Dave Wuest moved to accept Mr. Graham's application for pharmaceutical technician in training after he has been evaluated by PRN-PRN.

Second: Keith Macdonald

Action: Passed Unanimously

8. Appearances:

A. University of Southern Nevada College of Pharmacy

Darla Zarley and Paul Austerman appeared and gave an update of University of Southern Nevada College of Pharmacy activities. They announced that they are ACPE approved now for CE and have new programs being integrated into their curriculum. They are hosting continuing education programs both in the North and the South for pharmacists to obtain their law CE for renewal of their licenses. They are also checking into initiating a poison control program.

B. Canadian Storefronts

Phil Randazzo and Tanya Anderson appeared and presented a concept of storefronts to assist individuals obtain physician prescribed medications in Canada. They would not maintain any drugs but would direct individuals through their website to Ultra Care in Canada to have their prescriptions filled. Ultra Care would fill the prescriptions and mail them directly to the patient.

Keith Macdonald asked Board staff to go to Barbara Buckley and see how she feels about this concept before endorsing this type of business practice.

9. General Counsel Report:

Rx USA Lawsuit

- Louis Ling gave a presentation on a national wholesaler lawsuit and asked if the Board had an appetite to join in the lawsuit. The Board had no interest in participating in the lawsuit.
- Mr. Ling advised the Board on the latest with the Dutchess collection effort.
- Mr. Ling noted that we will be initiating electronic pedigree requirements in 2007. We will be the first in the nation to have an electronic data bank.
- Louis Ling advised the Board that he wrote an article for the *Journal of Pharmacy Practice* regarding the wholesaler issue.

10. Executive Secretary Report:

- A. Financial Report
- B. Investment Report

Mr. Pinson noted that there were no financial or investment reports since the renewal process was in process and the figures would not be accurate until after October 31st.

C. Temporary Licenses

One temporary license was issued since the last Board meeting.

D. Pending Policy Questions

a. Licensing Issues

Board members sign pharmacists wall certificates during Board meetings. At the last Board meeting a question arose regarding one of the licensees ability to pass the NABPLEX examination. Board staff was directed to check with NABP regarding the legitimacy of the candidate actually having taken the examination himself. Mr. Pinson advised the Board that NABP investigated this matter and reported to him that the candidate himself did take and pass the NABPLEX examination. Mr. Pinson also advised that if a Board member chose not to sign the wall certificate that was their prerogative, however that had no bearing on the status of the license.

b. University of Nevada School of Pharmacy

Iain Buxton approached Larry Pinson and asked for Board endorsement in his effort to promote interest in a school of pharmacy at UNR. Keith Macdonald noted that the Board of Pharmacy supports all higher education in Nevada.

c. DEA Update

Mr. Pinson advised the Board that he had just returned from a meeting where the DEA was present and discussed the “Do Not Fill Until” approach for physicians to be able to prescribe schedule II drugs for their patients for future dates. The

close of public comment will be November 6th and the DEA is expected to approve this guideline shortly thereafter.

E-prescribing was also discussed and the DEA does not view e-prescribing the same way the Board does. Our interpretation of e-prescribing is for a physician to be able to send a prescription from his computer to a pharmacy computer. If the physician sends a prescription from a computer to a fax it is considered a faxed prescription. The DEA's interpretation is that if the physician sends the prescription to a fax that it is still considered an e-prescription.

d. MDEG Meeting

Larry Pinson advised the Board that the MDEG committee met and discussed the language that would be necessary to include pressure stockings and mastectomy products in the MDEG regulations.

E. Staff Activities

- Mr. Pinson noted that he had attended the NASCSA meeting with Joanee Quirk and reviewed some of the highlights of the meeting.
- He also met with some pharmacists in Carson City where they reviewed recent regulations as well as drug diversion issues.
- The FDA is requiring manufacturers to phase out CFC's in albuterol-containing products by December 31, 2008, however the transition to HFA albuterol-containing inhalers is already underway. He cautioned that the shortage of CFC based inhalers creates opportunity for counterfeit. He also noted that the FDA does not consider CFC and HFA based inhalers therapeutically equivalent.
- Mr. Pinson advised the Board of George Barrett's untimely death.

11. Discussion and Determination:

A. NTI Drugs

The Board discussed various solutions to the problem of the dangers of the misfiling of narrow therapeutic index drugs. Keith Macdonald suggested Board staff contact RAN and the new pharmacists association to see if their members had any suggestions. Louis Ling suggested that we could write regulations with a laundry list for each pharmacy to choose for themselves some method of ensuring safety when dispensing these drugs. Dave Wuest suggested that an NTI prescription could be treated like a CII prescription.

B. "Your Success" Program

Board staff asked for a discussion to explore the possibility of offering the services of "Your Success" as a support mechanism to those who may need help if they have been involved in an adverse prescription filling event. The Board directed staff to put "Your

Success” information on the website for pharmacists and technicians to access along with PRN-PRN information. If someone contacts Board staff directly, they gave Board staff the option of using their discretion depending on the circumstances.

C. Telepharmacy

Board staff is constantly asked to explore various models of practice that do not include a “brick and mortar” pharmacy, such as telepharmacy, remote medication therapy management, remote dispensing sites, remote pharmacies and coordinating pharmacies. Many of these facilities do not have drugs and we do not currently have any license type to accommodate such concepts. Board staff was directed to bring this to further discussion.

D. “Quarantined Prescriptions”

Board staff asked if it was a good practice to fill unauthorized prescriptions and then quarantine them. There are issues regarding the date on the prescription label, verification date and recordkeeping as to who authorized what and when. The Board directed staff to write a reg to address this issue.

E. Wholesale License Issues

With the renewal of wholesaler licenses this year and enforcement of our new rules have come many questions and unforeseen issues. After discussion the Board directed staff to agendize the topic of a reduction in the security bond for the December Board meeting to discuss more in-depth. After some discussion of how manufacturers fit into the new rules, it was determined to exempt them from all requirements of wholesalers such as security bonds and fingerprints.

F. Pharmacy Closure

How does Board staff handle a pharmacy closure where there is no buyer or pharmacy interested in taking the prescription files. The Board had no suggestions and advised Board staff to handle each instance as it arose

G. Canadian Pharmacy Inspection Costs

The cost of inspecting Canadian pharmacies is high given the scope of travel, rental cars, rooms and flights. Because of statutory restraints we can not increase our licensing fees. The Board agreed that Board staff can charge Canadian applicants actual costs for inspections. Staff was directed to discuss this issue who supported the concept for possible direction.

WORKSHOP

12. **Proposed Regulation Amendment Workshop** – The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations.

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

Larry Pinson reviewed the Workshop history of this regulation and reminded the Board that it is their responsibility to pass something that will ensure patient safety.

Louis Ling reviewed the changes made in this version of the regs compared to the last Workshop version in Reno. This version includes all the suggestions made at that meeting. Mr. Ling noted that a new section on chemotherapeutics has been added.

Bill Welch and Robin Keith appeared and presented their suggestions to the current language. The rural hospital and retail community were polled. They want the implementation date extended from January 2007 to something more reasonable. Mr. Welch noted the differences between rural and urban facilities.

Ms. Keith noted that it is very difficult for rural hospitals to compete with the urban hospitals because they just do not have the money. She also mentioned that Albertson's and a hospital in Winnemucca all needed pharmacists – two at Albertson's and one at a hospital. She said that Albertson's is offering a \$50,000 signing bonus and it is almost impossible to compete with that kind of money. Making that kind of expenditure to get a pharmacist compounds the difficulty financially of complying with the proposed regulations. Ms. Keith also noted that the number of persons in critical access hospitals per square mile are considered to be "frontier" hospitals. Ms. Keith asked if the Board would consider the number of beds since all of their hospitals do not meet the "frontier" criteria. Also, she asked that Board staff check the standards of practice for nurses that are compounding.

Gener Tejero brought several concerns to the Board for their consideration.

Brandt Skanson stated that he does not do any sterile compounding, but the language as it is written seems as stringent for non-sterile compounding as sterile compounding.

Board staff was directed to conduct two more Workshops on compounding, one in the North and one in the South, before the next Board meeting and incorporate all the individual issues into the next document.

2. **Amendment of Nevada Administrative Code NAC 639.NEW Workload Balancing.** This new language establishes regulations regarding the storing and

sharing of prescription information by pharmacies who utilize common databases and software.

Mary Ryan appeared and gave testimony in support of the regulation.

Liz Macmenamin appeared and gave comments and concerns from the members of RAN. She also asked for clarification on several sections.

Jason Reiser of Wal-Mart appeared and explained how the Wal-Mart system works in this circumstance and noted that their system blocks the originating pharmacy from pulling prescriptions back for the other pharmacy so there are never two persons working on the same prescription.

Board Action:

Motion: Keith Macdonald moved to move forward with the changes suggested.

Second: Ray Seidlinger

Action: Passed With One Negative Vote

3. **Amendment of Nevada Administrative Code 639.330 Continuing Education.** This amendment changes the standards under which a pharmacist may obtain continuing education credit for attending a Board meeting.

After reviewing the language it was suggested that Board staff change the word “accredited” with “acceptable” since it would be more appropriate and move forward to Public Hearing.

4. **Amendment of Nevada Administrative Code 453.530 and 453.NEW Ephedrine, Pseudoephedrine, and Phenylpropanolamine.** This amendment changes existing controls on drug products that contain ephedrine, pseudoephedrine, and phenylpropanolamine to harmonize Nevada law with new federal law regarding the same products.

This language parallels the federal government requirements. The Board directed staff to move forward to Public Hearing.

PUBLIC HEARING

13. Notice of Intent to Act Upon a Regulation:

1. **Amendment of Nevada Administrative Code NAC 453.540 Schedule II**

Prescriptions This language allows more than one controlled substance listed in Schedule II to be written on a single prescription blank.

President Kellogg opened the Public Hearing.

Cookie Quandt (already sworn) suggested that after November 6th when “Do Not Fill Until (date)” becomes effective, we should require that these types of prescriptions all be on separate prescription blanks.

President Kellogg closed the Public Hearing

After discussion about returning a cancelled prescription to a patient, the Board directed staff to include language that a pharmacist receiving a cancelled prescription from another pharmacy check with the pharmacy that cancelled it to ensure the prescription had not been filled.

The Board directed staff to bring this back to Public Hearing in December.

**2. Amendment of Nevada Administrative Code NAC 639.240
Pharmaceutical Technician Education Requirements** This language will standardize the education requirements to be provided to students entering a pharmaceutical technician training program in a school. The program will have to be American Society of Health-System Pharmacists (APHA) accredited.

President Kellogg opened the Public Hearing.

Liz Macmenamin (already sworn) appeared and noted a few changes to the language and presented her version of the language.

Rich Mazzoni, representing CVS, appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Mazzoni had suggestions regarding the language as written.

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

Ms. Bond wanted the language fixed to protect current technicians in Nevada. She indicated that her experience with PTCB certified technicians is that they are first rate. Ms. Bond also wanted the Board to recognize military trained technicians.

Dave Fluit representing Raley’s, appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Mr. Fluitt noted that he was on the committee that recommended the ASHP accreditation. They are the best accreditation facility he could find and the technicians that take ASHP accredited programs are quality technicians after graduation.

President Kellogg closed the Public Hearing.

Louis Ling gave the Board options on the substantive changes made as suggestions. It was determined to bring the language back to another public hearing in December.

3. Amendment of Nevada Administrative Code NAC 639.245

Pharmaceutical Technician Changes This amendment changes the ratio between pharmacists and pharmaceutical technicians and pharmaceutical technicians-in-training from two to three and requires technicians or pharmacists to input information from a new prescription related to the drug and directions for use into the pharmacy computer system.

President Kellogg opened the Public Hearing.

Liz Macmenamin representing RAN and Cookie Quandt representing Long's appeared and were sworn by President Kellogg prior to answering questions or offering testimony.

Ms. Macmenamin presented a document to the Board for their consideration with the language regarding technician ratio's.

Cookie Quandt had questions regarding name badges and asked if technicians were supposed to change badges with their designated title if they weren't acting as a technician that day.

Louis Ling explained that the purpose of this language and the addition of a third technician to the ratio is to stop the "tech of the moment" circumstance. Keith Macdonald stated that he thinks the tech should wear their regular technician badges and let the work log take care of the problem.

After discussion it was determined to have technicians wear their own badges with their technician designation and Board staff will remove the badge language.

Khanh Pham appeared and was sworn by President Kellogg prior to answering questions or offering testimony.

Ms. Pham noted that she felt the three to one ratio is alright, but the third technician should only do computer input. She also suggested that Nevada pharmaceutical technicians be required to be PTCB certified.

President Kellogg closed the Public Hearing.

Ann Peterson stated that she feels that patient care will be sacrificed if the Board allows a three to one PT ratio. She noted that pharmacists have difficulty now with the ration at two to one and feels it would put an additional burden on the pharmacist to watch and review one more technician's work.

Board Action:

Motion: Ray Seidlinger moved to approve the language with minor changes. Removing the badge language and adding that a clerk can do certain computer entry information.

Second: Leo Basch

Action: Passed With Two Negative Votes

4. **Amendment of Nevada Administrative Code NAC 639.NEW Use of retail delivery devices** This new language will allow a mechanical device to deliver refilled prescriptions to patients.

President Kellogg opened the Public Hearing.

There were no comments.

President Kellogg closed the Public Hearing.

Board Action:

Motion: Leo moved to adopt the language as presented.

Second: Keith Macdonald

Action: Passed Unanimously

14. Next Board Meeting:

December 6-7, 2006 – Reno, Nevada

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