

February 8, 2007

AGENDA

◆ PUBLIC NOTICE ◆

NEVADA STATE BOARD OF PHARMACY

BOARD MEETING

at the

Las Vegas Chamber of Commerce
3720 Howard Hughes Parkway
Las Vegas

Thursday, February 22, 2007 – 9:00 am

Friday, February 23, 2007 – 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.

February 2007 Board Meeting Agenda

- * 1. Approval of January 10-11, 2007, Minutes
- * 2. Applications for Out-of-State MDEG – Non Appearance:
 - A. Advanced Bionica Corp – Sylmar, CA
 - B. Empi Inc. – St Paul, MN

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

- C. Access Pharmaceutical Services – Ridley Park, PA
- D. Genoa Healthcare – Auburn, WA
- E. Smithfield Family Pharmacy – Tar Heel, NC

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

- F. Amerisourcebergen Drug Corp – Orlando, FL
- G. B Braun Medical Inc. – Bridgeview, IL
- H. B Braun Medical Inc. – DFW Airport, TX
- I. B Braun Medical Inc. – Santa Ana, CA
- J. OCuSOFT, Inc. – Rosenberg, TX
- K. BioPartners In Care, Inc. – Lenexa, KS

Applications for Nevada MDEG – Non Appearance:

- L. Kerry's Medical, Inc. – Las Vegas
- M. Kerry's Medical, Inc. – Las Vegas
- N. Kerry's Medical, Inc. – Las Vegas
- O. Kerry's Medical, Inc. – Sparks
- P. LV Medical Supply – Las Vegas
- Q. Medical Supply of Nevada, Inc. – Henderson
- R. Vegas Medical Supplies Corp – Las Vegas
- S. Well Care Medical Supply – Las Vegas

Applications for Nevada Pharmacy – Non Appearance:

- T. Farmacia Del Pueblo – North Las Vegas
- U. Longs Drug Store #213 – Sparks
- V. Ryan's Pharmacy – Henderson
- W. The Pill Box – Elko
- X. Wal-Mart Pharmacy #10-1560 – Las Vegas

◆ REGULAR AGENDA ◆

- * 3. Application for Nevada Pharmacy – Ownership/Name Change – Appearance:
 - Khoury's Pharmacy – Winnemucca

February 2007 Board Meeting Agenda

- * 4. Applications for Nevada Pharmacy – Appearance:
 - A. Desert Canyon Rehabilitation Hospital – Las Vegas
 - B. PRN Systems Connect LLC – Las Vegas

- * 5. Applications for Out-of-State Pharmacy – Appearance:
 - A. BioScrip Pharmacy Services – Burbank, CA
 - B. Complete Infusion Care – Los Angeles, CA
 - C. Diamondback Drugs – Scottsdale, AZ
 - D. PCM Venture I LLC – Murray, UT

- * 6. Requests for Technician in Training License – Appearance:
 - A. Nichol Edwards
 - B. Amber Ramos

- * 7. Request for Managing Pharmacist Waiver – Non Appearance:

Margaret Bath – William B Ririe Hospital Pharmacy

- * 8. 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. Jasmine A. Ta, R.Ph (06-064-RPH-S)
 - B. Rite Aid #6261 (06-064-PH-S)
 - C. Ida Marie Moseley, R.Ph (07-002-RPH-S)
 - D. Kelley Avist, PT (06-061-PT-S)
 - E. Matthew B. Rodgers, PT (06-059-PT-S)
 - F. Gary G. Sovich, R.Ph (06-058-RPH-S)
 - G. John A. Warren, R.Ph. (06-041C-RPH-N)
 - H. Northern Nevada Medical Center Pharmacy (06-041-IA-N)

- * 9. Request for Reinstatement of Pharmacist License – Appearance:

Roger Ly

- *10. Appearances:
 - A. Victor Vercammen – Supervalu Pharmacies
 - B. Katie Hampton – Houldsworth, Russo & Co.
 - C. Jane Arnet – IV Automation Device
 - D. Diana Bond
 - E. Jerry Igbinovia – Remote Order Entry

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*11. General Counsel Report

*12. Executive Secretary Report:

- A. Financial Report
- B. Investment Report
- C. Pending Policy Questions
 - a. Partial Filling of Controlled Prescriptions
- D. Staff Activities
 - a. Meetings
 - b. NDSU student rotations
 - c. AIM presentation – Orlando, FL
 - d. Workgroup – Policy mitigating drug risks
 - e. Legislative update
 - f. Miscellaneous
 - g. Activities Report

*13. Discussion and Determination:

Managing Pharmacist Application

W O R K S H O P – Friday, February 23, 2007– 9:00 am

*14. **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.

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.

P U B L I C H E A R I N G – Friday, February 23, 2007 – 9:00 am

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

1. **Amendment to Nevada Administrative Code 453.440 Controlled Substances in Schedule II** This amendment will allow pharmacists to add or change a date on a schedule II prescription after consultation with the prescribing practitioner.
2. **Amendment to Nevada Administrative 453.540 Schedule IV** This amendment will add Human Growth Hormone (HGH) to the list of controlled substances in schedule IV.

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3. **Amendment to Nevada Administrative Code 639.720 Use of Mechanical Devices to Dispense Drugs Directly to Patients in Institutions.** This amendment will establish conditions under which a mechanical device in an institution can be used to dispense drugs to practitioners or patients.
4. **Amendment to Nevada Administrative Code 639.926 Weekly Reporting to the Task Force** This amendment will require weekly reporting of data to the Nevada Prescription Controlled Substance Abuse Prevention Task Force according to the latest version of the ASAP format.
5. **Amendment to Nevada Administrative 639.NEW Prohibition of Prescription Quarantining** This new language will establish conditions and prohibitions regarding prescription quarantining.
6. **Amendment to Nevada Administrative 639.NEW Amendments to Regulations Regarding MDEG Licensees** This amendment refines the definition of which customized mastectomy products and pressurized stockings are considered medical devices.

16. Next Board Meeting:

April 18-19, 2007 – Reno, Nevada

17. 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.

February 2007 Board Meeting Agenda

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. Continuing Education credit of 4 hours, including one hour of law will be given per day of Board meeting attendance. You are required to attend the board meeting for a full day to receive CE credit including the law credit.

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

Thursday, February 22, 2007
Friday, February 23, 2007

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

Board Members Present:

Dave Wuest
Leo Basch
Ray Seidlinger

Keith Macdonald
Katie Craven

Barry Boudreaux
Ann Peterson

Board Members Absent:

Board Staff Present:

Larry Pinson

Jeri Walter

Louis Ling

Keith Marcher

CONSENT AGENDA

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- W. The Pill Box – Elko
- X. Wal-Mart Pharmacy #10-1560 – Las Vegas

Discussion:

The consent agenda applications and supporting documents were reviewed.

Board Action:

Keith Macdonald recused from participation in the vote on Item 2X because he is employed by Wal-Mart.

Motion: Keith Macdonald moved to approve the minutes.

Second: Leo Basch

Action: Passed Unanimously

Motion: Keith Macdonald moved to approve the applications with the exception of Item 2X.

Second: Ray Seidlinger

Action: Passed Unanimously

Motion: Ray Seidlinger moved to approve Item 2X.

Second: Katie Craven

Action: Passed Unanimously

REGULAR AGENDA

3. Application for Nevada Pharmacy – Ownership/Name Change – Appearance:

Khoury's Pharmacy – Winnemucca

NOTE: Ray Seidlinger disclosed that he was a former employee of Albertson's/Sav-on.

Mike Dyer appeared to represent Khoury's.

Mr. Dyer advised the Board that there will be an interim period between February 7, 2007 and April 6, 2007 where Albertson's will be operating the pharmacy. The signage will still reflect Sav-on, the pharmacy staff will remain the same and the hours of operation will remain the same. Khoury's and it's employees will have no control of the pharmacy during the interim period. The pharmacy transfer of ownership will be April 7, 2007 and all licenses for Khoury's will need to be in place by that date.

Board Action:

Motion: Keith Macdonald moved to approve the application for change of ownership from Albertson's/Sav-on to Khoury's to become effective April 7, 2007.

Second: Ray Seidlinger

Action: Passed Unanimously

4. Applications for Nevada Pharmacy – Appearance:

A. Desert Canyon Rehabilitation Hospital – Las Vegas

Alan Stipe and Suzie Graham appeared and described the 50 bed rehab hospital pharmacy they were planning to open on May 1, 2007. They answered questions to the Boards satisfaction.

Board Action:

Motion: Katie Craven moved to approve Desert Canyon Rehabilitation Hospital's application for pharmacy pending inspection.

Second: Ray Seidlinger

Action: Passed Unanimously

B. PRN Systems Connect LLC – Las Vegas

Lisa Baker appeared and described retail pharmacy she was going to open. She would be doing remote order entry from her pharmacy and Mesa View is currently interested in contracting with her for these services. Mesa View would connect their computers to PRN Systems which would allow her access as if she were in the Mesa View pharmacy. Ms. Baker stated that she would have complete access to all patient records so she would be in a position to make good patient care decisions.

Ms. Baker was advised that NAC 639.510 provided that she needed to maintain drugs at the pharmacy and she noted that she was aware of that. Also, NAC 639.4915 provided that she would only be able to provide remote order entry services to Mesa View when their pharmacy was closed.

Board Action:

Motion: Keith Macdonald moved to accept PRN Systems Connect application for pharmacy pending inspection.

Second: Leo Basch

Action: Passed With One Negative Vote

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

A. BioScrip Pharmacy Services – Burbank, CA

BioScrip cancelled their appearance.

B. Complete Infusion Care – Los Angeles, CA

Ali Pourmola, managing pharmacist, and Gloria Fink, consultant and marketing and sales for Complete Infusion Care appeared and described their pharmacy. They generally deal in growth hormones, antibiotics and chemo compounds. They answered questions to the Board's satisfaction.

Board Action:

Motion: Katie Craven moved to accept the application for Complete Infusion Care.

Second: Barry Boudreaux

Action: Passed Unanimously

C. Diamondback Drugs – Scottsdale, AZ

Michael Blaire described Diamondback Drugs as being a veterinary drug compounding pharmacy. They do parenteral solutions in an 1800 square foot 797 compliant facility

complete with a clean room. Their clientele are mostly veterinarians with patient specific orders.

Board Action:

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

Second: Leo Basch

Action: Passed Unanimously

D. PCM Venture I LLC – Murray, UT

PCM Venture cancelled their appearance until the June 2007 Board meeting.

6. Requests for Technician in Training License – Appearance:

A. Nichol Edwards

Ms. Edwards advised the Board that she could not appear in April 2006 because her husband had been injured in a mining accident. She explained that she is back at Heritage College and needs her pharmaceutical technician-in-training registration to complete her PT program. Ms. Edwards had answered that she had been charged, arrested or convicted of a felony on her application.

Ms. Edwards testified that she was convicted of burglary in March 2003. Ms. Edwards had been shopping with a friend when he was found to be using a credit card that was not his. Ms. Edwards was unaware of this behavior but she was arrested as an accomplice. She pled down the burglary charge, was placed on probation which she completed in March 2006 and her felony charge was reduced to a gross misdemeanor.

Board Action:

Motion: Leo Basch moved to approve Ms. Edwards application for a pharmaceutical technician-in-training registration.

Second: Barry Boudreaux

Action: Passed Unanimously

B. Amber Ramos

Ms. Ramos appeared to request a pharmaceutical technician-in-training registration to allow her to continue with her studies at Heritage College in their PT program. Ms. Ramos had answered that she had been charged, arrested or convicted of a misdemeanor and a felony on her application.

Ms. Ramos explained that she was charged with possession of marijuana in February 2001. She stated that the marijuana belonged to a passenger in her car but she was charged, also. After she completed six weeks of counseling and paid a \$350 fine the judge in this matter closed her case.

The second instance happened in October 2005. She was at a football game and she and her family were leaving the premises. She became separated from her family and was asked to leave by another gate even though her family was just outside the gate nearest to her. Ms. Ramos challenged the school police officers and was escorted off the school grounds because one of the officers claimed she kicked him. Ms. Ramos was sentenced to 50 hours of community service and a 60 day suspended sentence to jail.

Ms. Ramos completed her 50 hours of community service and four days before her case was to be closed in September 2006, she was charged with transporting a controlled substance and furnishing a controlled substance to a state prisoner. Ms. Ramos was caught passing marijuana to her imprisoned ex-fiancé. For this offense the judge ordered Ms. Ramos to six months of counseling and for her to finish her schooling at Heritage College.

Ms. Ramos explained to the Board that she did not use drugs but that she socializes with people who do.

Board Action:

Motion: Keith Macdonald moved to deny Ms. Ramos' application for pharmaceutical technician-in-training stating his concerns for her recent involvement with illicit drugs.

Second: Ann Peterson

Action: Passed Unanimously

7. Request for Managing Pharmacist Waiver – Non Appearance:

Margaret Bath – William B Ririe Hospital Pharmacy

Ms. Bath applied to the Board for a managing pharmacist waiver. Ms. Bath is the managing pharmacist/owner of Economy Drug, Inc. in Ely, Nevada, and is requesting to be the managing pharmacist at the William B. Ririe Hospital Pharmacy, also located in Ely.

Board Action:

Motion: Keith Macdonald moved to approve the waiver.

Second: Barry Boudreaux

Action: Passed Unanimously

8. Disciplinary Action:

- A. Jasmine A. Ta, R.Ph (06-064-RPH-S)
- B. Rite Aid #6261 (06-064-PH-S)

Louis Ling presented a stipulated agreement. Ms. Ta filled a prescription for cephalexin with amoxicillin. She caught the mistake before it was dispensed to the patient, however after she corrected the error she picked up the bottle of amoxicillin that was sitting next to the cephalexin and bagged it and dispensed it to the patient. The stipulated agreement was a \$250.00 fine for both Ms. Ta and Rite Aid #6261 plus administrative fees.

Board Action:

Motion: Keith Macdonald moved to accept the stipulated agreement as presented.

Second: Ann Peterson

Action: Passed Unanimously

- C. Ida Marie Moseley, R.Ph (07-002-RPH-S)

NOTE: Barry Boudreaux recused from participation as he worked with Ms. Moseley in the past.

Marie Moseley and Mitchell Brown, Ms. Moseley's supervisor at Apria where she works, appeared and were sworn by President Wuest prior to answering questions or offering testimony.

Louis Ling called John Brooks to testify.

John Brooks appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Brooks testified that he works for Montevista Hospital as a drug and alcohol counselor. Larry Espadero, the PRN-PRN monitor, asked Mr. Brooks to administer a UA to Ms. Moseley. He explained that there is an indicator on the cup that will measure temperature of the urine sample. Mr. Brooks advised that when he got the urine sample from Ms. Moseley it did not register any temperature. Ms. Moseley was asked to provide another sample but she told Mr. Brooks that she was late for work and couldn't produce another one at that time. Mr. Brooks stated that Ms. Moseley agreed to return on her lunch hour to provide another sample. Mr. Brooks testified that Mr. Espadero asked for a female counselor to do a witnessed UA and Ms. Moseley became angry and refused.

Larry Espadero, PRN-PRN monitor, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Espadero gave a history of his association with Ms. Moseley. He stated that because of the lack of temperature in Ms. Moseley's urine that morning he made arrangements for a search or a witnessed UA with a female counselor. Mr. Espadero testified that Ms. Moseley said she was humiliated and would not submit a urine sample at noon. Mr. Espadero advised the Board of Ms. Moseley's breach of her PRN-PRN contract and as a result, today's hearing. Mr. Espadero advised the Board that he had not had problems with Ms. Moseley before this incident.

Mitch Brown testified that Ms. Moseley is a good employee and he has never had a problem with her since she has been employed at Apria.

Ms. Moseley testified on her own behalf and advised the Board that she was proud of her sobriety and enjoyed living a clean and sober life and that she would not jeopardize her license and her job by supplying clean urine produced prior to the UA. She stated that she had nothing to hide and refused to produce a urine sample because in all the years she has been in the PRN-PRN program she had never been asked to produce a witnessed UA and did not realize that Mr. Espadero could require that nor did she realize that it is part of her contract with PRN-PRN.

Board Action:

Motion: Keith Macdonald moved to find Marie Moseley guilty of the alleged violations.

Second: Ray Seidlinger

Action: Passed Unanimously

Motion: Keith Macdonald moved to send Ms. Moseley a letter of admonishment, extend her PRN-PRN contract for an additional year and increase her UA's per month.

Second: Ray Seidlinger

Action: Passed Unanimously

D. Kelley Avist, PT

(06-061-PT-S)

Louis Ling advised the Board that Ms. Avist was not present for hearing even though we received a signed green certified mail card showing that she received her Accusation.

Mr. Ling advised the Board that staff was notified that Ms. Avist was terminated from employment because she was authorizing and refilling hydrocodone prescriptions for herself without the authorization of a physician. Mr. Ling recommended revocation.

Board Action:

Motion: Ray Seidlinger moved to find Ms. Avist guilty of the alleged violations.

Second: Katie Craven

Action: Passed Unanimously

Motion: Ray Seidlinger moved to revoke Ms. Avist's pharmaceutical technician registration.

Second: Ann Peterson

Action: Passed Unanimously

E. Matthew B. Rodgers, PT (06-059-PT-S)

Louis Ling advised the Board that Mr. Rodgers was not present for hearing even though we received a signed green certified mail card showing that he received his Accusation.

Mr. Rodgers worked at Valley Hospital and made up a fictitious nurse by the name of "Christine Fuller" in the hospital pharmacy computer system and gave her full access to all the Pyxis machines in the hospital. The hospital noticed that every time "Christine Fuller" was logged onto the computer Mr. Rodgers was also logged onto the computer system. Mr. Rodgers would go into the Pyxis machine and use a pen to pry open the container next to the non-narcotic bin and use a spoon or a paper clip to scoop out the schedule II and III narcotic drugs and take them for his personal use. Mr. Rodgers was arrested, appeared in Justice Court, and convicted of a gross misdemeanor. The Court Ordered Mr. Rodgers to pay restitution of \$7,796.20 and sentenced him to two years probation with conditions.

Board Action:

Motion: Ray Seidlinger moved to find Mr. Rodgers guilty of the alleged violations.

Second: Katie Craven

Action: Passed Unanimously

Motion: Ray Seidlinger moved to revoke Mr. Rodgers' pharmaceutical technician registration.

Second: Katie Craven

Action: Passed Unanimously

F. Gary G. Sovich, R.Ph (06-058-RPH-S)

Gary Sovich appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Katie Craven disclosed that she worked with Mr. Sovich at some point in their careers. Mr. Sovich was asked if he would mind if Ms. Craven sat on his case and he replied that he did not mind. Mr. Ling had no objections either.

Louis Ling explained that Board staff was notified that Mr. Sovich tested positive for Phenobarbital during a pre-employment drug test.

Mr. Sovich testified that he went to the ER and was treated for angina, heartburn and a hiatal hernia. He was prescribed a product containing phenobarbital as one of the medications to correct his symptoms. He had forgotten he had taken a phenobarbital containing product prior to his drug test.

Board Action:

Motion: Keith Macdonald moved to dismiss.

Second: Ann Peterson

Action: Passed Unanimously

G.	John A. Warren, R.Ph.	(06-041C-RPH-N)
H.	Northern Nevada Medical Center Pharmacy	(06-041-IA-N)

David Hicks, Sherry Umkofer and Dennis McAllister, representatives for McKesson, appeared and were sworn by President Wuest prior to answering questions or offering testimony.

Roger Morris and Amy Gobster were legal counsel representing McKesson.

Louis Ling reminded the Board that this was a continuation of the case heard in Reno at the January Board meeting.

Mr. Ling called Gretta Woodington to testify. He reminded Ms. Woodington that she was still under oath from the January meeting.

Ms. Woodington reminded the Board that she was working for an agency hired to transition the change in pharmacy ownership from McKesson to Universal. They did inventories and ran reports as part of this transition. She stated that during their audit they found discrepancies that could not be accounted for. Ms. Woodington checked with Board staff to see if the losses she found had been reported and learned that they had not been. Ms. Woodington advised that the discrepancies should have been trackable between the CII cabinet and a specific Pyxis machine, but they were not. She testified that pharmacists could resolve their own discrepancies, unlike the nurses who

required two people to come to a resolution. Ms. Woodington reviewed the structure of a hospital pharmacies procedures that she was familiar with.

Mr. Warren questioned Ms. Woodington.

Mr. Morris presented a 4 inch binder as an Exhibit. Mr. Morris questioned Ms. Woodington regarding the Accusation. Ms. Woodington testified that she had never seen the Accusation and had no knowledge of it's content and consequently could not comment. Mr. Morris also questioned Ms. Woodington about Nevada law and the charges that were made in the Accusation. Again, Ms. Woodington stated that she could not comment.

Mr. Warren called Jean Lyon.

Jean Lyon, former chief nurse at NNMC and current chief nurse at Sierra Surgery, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Ms. Lyon testified that she was not employed at NNMC after the Pyxis machines were installed, but she was key in budgeting for them.

Mr. Warren gave a history of NNMC, which was previously Sparks Family Hospital. While it was Sparks Family Hospital, Owens/Cardinal was responsible for the pharmacy. At some point, Owens/Cardinal left and McKesson took over. Mr. Warren reviewed personnel and the changes that were made after the transition.

Ms. Lyon reiterated the information Mr. Warren provided. She testified that Tom Danson became the sole pharmacist while Ms. Lyon was still at NNMC and that Mr. Danson was resistant to implement the Pyxis machines. Ms. Lyon reviewed her experience with working with Mr. Warren at NNMC and noted that she would not have hired him at Sierra Surgery if she did not find him exceptional in performance of his duties. She highly commended his performance.

Mr. Ling cross examined Ms. Lyon for clarification of some of her testimony and the Board questioned her to their satisfaction.

Mr. Warren gave a statement in his own defense.

Mr. Macdonald noted that he did not feel Mr. Warren violated any of the violations in the Third Cause of Action and made a motion.

Board Action:

Motion: Mr. Macdonald moved to dismiss the Third Cause of Action against Mr. Warren.

Second: Ray Seidlinger

Action: Passed With One Negative Vote.

Mr. Ling, Mr. Pinson and Mr. Morris talked during a break. Mr. Ling made a recommendation to dismiss McKesson's Causes of Action as they have no other pharmacies currently operating in Nevada. If they ever plan to return to Nevada they would need to go to Board staff with their policies and procedures to ensure there is a diversion protection plan in place.

Board Action:

Motion: Leo Basch moved to dismiss with the stipulation as recommended.

Second: Ray Seidlinger

Action: Passed With One Negative Vote.

9. Request for Reinstatement of Pharmacist License – Appearance:

Roger Ly

Roger Ly appeared and was asked to identify himself for the record after which he was arrested by the FBI with no further information available at this time.

10. Appearances:

A. Victor Vercammen – Supervalu Pharmacies

Mr. Vercammen asked the Board if Supervalu Pharmacies could have a waiver of the rule requiring handwritten initials or signatures to document personnel involved in the filling and refilling of prescriptions. Mr. Vercammen gave a presentation of the biometric method they will be using in their computer systems.

President Wuest advised Mr. Vercammen that the Board did not have the authority to give a variance for regulations and that Board staff would have to write regulations to allow the concept he presented. President Wuest asked the Board for their input.

Board staff was directed to write regulations to allow biometric functions and bring to Workshop in April. It was noted the pharmacist would still have to initial the label manually.

B. Katie Hampton – Houldsworth, Russo & Co.

Ms. Hampton commended the Board for receiving the highest rating afforded for an audit process and she went through the audit report for the Board's clarification.

C. Jane Arnet – IV Automation Device

Jane Arnet did not appear.

D. Diana Bond

Ms. Bond appeared for various topics and did not need a specific time.

E. Jerry Igbinovia – Remote Order Entry

Mr. Igbinovia appeared again and requested permission for his remote order entry concept. He explained that he does not need a pharmacy to provide this type of service and equated it to a Pyxis type order entry.

President Wuest explained to Mr. Igbinovia that he can not do remote order entry without a pharmacy and advised that it is very clear in Nevada law.

11. General Counsel Report

Louis Ling thought the Board might be interested in going online and viewing the ISMP Medication Safety Alert. There is an article entitled *Heed this warning! Don't miss important computer alerts* he felt the Board would find interesting since we see cases regularly where the pharmacist that fills and verifies may not know if there were computer alerts that may have been overridden.

Mr. Ling advised the Board that the North Carolina Board of Pharmacy won a law suit that states they have the right to regulate working conditions. The Court of Appeals opinion was affirmed that if a pharmacist makes an error while having worked long hours, then the Board can rule. Mr. Ling provided copies of the decision.

Mr. Ling advised that the electronic pedigree reporting is working. He said he got twice as many transactions than he expected. They need to download twice a month to our Board. Two years ago regs were adopted for wholesalers to begin reporting on February 15, 2007.

Mergers of retail chain stores. As a point of clarification, Board staff does not have a choice but to charge the original owner in disciplinary actions.

12. Executive Secretary Report:

- A. Financial Report
- B. Investment Report

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

C. Temporary Licenses

There were no temporary licenses granted since the last Board meeting.

D. Pending Policy Questions

a. Partial Filling of Controlled Prescriptions

After discussion at the last meeting regarding partial refills of controlled substances, the letter dated May 14, 2002 from Patricia Good, Chief of Liaison and Policy, Office of Diversion Control of the US Department of Justice, DEA, was referenced. If a prescription is written for 50 dosage units with three refills for a total of 200 dosage units and the patient requests smaller quantities be dispensed, the 200 dosage units and the six month timeframe become the limiting factors. If 25 dosage units are dispensed originally and on each subsequent refill, the patient may receive seven such refills as long as they occur within the six months timeframe for a total of 200 dosage units.

E. Staff Activities
a. Meetings

Reminder to get applications for the NABP Annual Meeting to Jeri Walter so they can be processed all together so we can get a discount. Rooms need to be booked by April 18, 2007.

The NABP District VII-VIII Meeting will be held in Ashland, Oregon this year on October 3 – 6, 2007.

Larry Pinson, Louis Ling and Keith Macdonald will all be attending meetings to speak on the subject of electronic pedigrees.

Mr. Pinson noted that he was going to meet with the Governor's staff regarding a letter some Board members received. President Wuest and Ann Peterson have agreed to accompany him.

Mr. Pinson and Mr. Ling attended a meeting of all medical Board related executives and their lobbyists to review the upcoming legislative session.

b. NDSU student rotations

Mr. Pinson advised the Board that Board staff will be hosting two interns from North Dakota in 2008 for five week rotations.

c. AIM presentation – Orlando, FL

AIM requested our participation at their conference in Orlando, Florida. Keith Macdonald and Joanee Quirk will attend and make a presentation regarding the Task Force.

Keith Macdonald gave a summary of the meeting he attended to do a presentation in Oregon on the Task Force.

d. Workgroup – Policy mitigating drug risks

Mr. Pinson reported that a meeting was held January 31, 2007; this topic was discussed resulting in suggestions for the Board to take under consideration.

e. Legislative update

Larry Pinson advised that there are some fourteen bills out there that impact pharmacy. All are being diligently tracked by staff and our lobbyist.

Mr. Pinson testified before the Senate Judiciary Committee to provide an update on the Canadian prescription program. Within the first three months, 810 prescriptions were filled with only one minor consumer complaint that was easily resolved.

Staff met with Senator Weiner regarding voluntary price posting on our website.

Staff met with Assemblyman Dennis. A constituents daughter had overdosed on Oxycontin and he wanted to know if the Task Force could have prevented such a tragedy. Mr. Pinson said it was a good discussion and explained the function of the Task Force.

Met with Barbara Buckley to touch bases on upcoming legislative issues.

AB 84 – This bill is regarding drug expiration dates. They want to change it to require manufacturer dates again.

SB 5 – This bill will establish a cancer drug repository to redistribute unused drugs for poor people with cancer.

AB 108 – If passed will require pharmacists take six hours of gerontology training in pharmacy school or they would not be able to be licensed in Nevada.

SB 98 – This bill is proposing to abolish the Board of Pharmacy.

f. Miscellaneous

Mr. Pinson advised the Board that our computers crashed taking our licensing program down for approximately three weeks. Board staff sent the drives to a data recovery company to see if the scanned documents could be recovered. We were not aware that the scanned documents were not being backed up. GLSuite is now back up and running again and we should hear from the data recovery company soon. Mr. Pinson advised that new backup procedures are in place and that documents will no longer be shredded.

Mr. Pinson advised Board members interested in serving on an NABP task force to apply through staff by May 25, 2007.

Larry Pinson relayed to the Board that he was saddened by the passing of pharmacist

Edward Farrell Dolan.

g. Activities Report

Mr. Pinson included his activities report to the legislators for the Board's information.

13. Discussion and Determination:

Managing Pharmacist Application

Many years ago the Board directed staff to require a change in managing pharmacist at any location would be required to take a one page test that must be completed correctly as part of the change process. It is well known that a correct copy is maintained in most pharmacies so it can just be copied when a change in managing pharmacist occurs. Board staff's recommendation is to include the information contained on the test in the change of managing pharmacist's application packet complete with reference to the appropriate statutes and regulations. At the bottom of the form have a dated signature line which would indicate this information had been reviewed and understood.

Board Action:

Motion: Katie Craven moved to remove the test and add page as described.

Second: Ann Peterson

Action: Passed Unanimously

WORKSHOP

14. **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.

Katie Craven asked the Board to table this regulation amendment. Ms. Craven noted that she had called a meeting of hospital pharmacy administrators and they were making progress on fine-tuning the language and asked that they be allowed to continue with their work.

President Wuest found the request unusual since there have been many meetings to complete this task. He advised that he wanted the compounding regs completed in a timely manner so they can be brought to Public Hearing in April. President Wuest asked for a consensus from the Board.

Board Action:

Motion: Katie Craven moved to table the compounding regulations.

Second: Keith Macdonald

Action: Passed Unanimously

Diana Bond commended the Board for allowing the compounding regulations to be tabled. Ms. Bond advised that the group is doing well at creating appropriate language.

PUBLIC HEARING

15. Notice of Intent to Act Upon a Regulation:

1. **Amendment to Nevada Administrative Code 453.440 Controlled Substances in Schedule II** This amendment will allow pharmacists to add or change a date on a schedule II prescription after consultation with the prescribing practitioner.

President Wuest opened the Public Hearing.

There was no public comment.

President Wuest closed the Public Hearing.

The Board discussed and approved the language with minor changes to allow a pharmacist to add or change a date to a CII after consulting with the practitioner. This brings our regulations into step with what is allowed by the DEA.

Board Action:

Motion: Keith Macdonald moved to adopt with minor changes.

Second: Ray Seidlinger

Action: Passed Unanimously

2. **Amendment to Nevada Administrative 453.540 Schedule IV** This amendment will add Human Growth Hormone (HGH) to the list of controlled substances in schedule IV.

President Wuest opened the Public Hearing.

There was no public comment.

President Wuest closed the Public Hearing.

After Board discussion it was determined that Human Growth Hormone should be put in Schedule III rather than Schedule IV where it seemed to better fit.

Board Action:

Motion: Keith Macdonald moved to put HGH into Schedule III.

Second: Barry Boudreaux

Action: Passed Unanimously

3. Amendment to Nevada Administrative Code 639.720 Use of Mechanical Devices to Dispense Drugs Directly to Patients in Institutions.

This amendment will establish conditions under which a mechanical device in an institution can be used to dispense drugs to practitioners or patients.

President Wuest opened the Public Hearing.

Paul Larsen, representing Lionel Sawyer & Collins for InstyMeds, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Larsen asked the Board to consider including surgery centers to the language and not limit this concept to emergency rooms.

Liz Macmenamin, already sworn, noted that her RAN members did not think the regulation should include anything more than emergency rooms. They feel it would not be long before these machines would be allowed anywhere and that was not acceptable.

Tanya McMillan and Khanh Pham, representing the Nevada Pharmacist Association, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Ms. McMillan and Ms. Pham had several questions and concerns regarding adjudication and counseling. They did not approve this type of dispensing concept.

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

Ms. Bond found the word "only" in section 1, number 1 inappropriate and the words administration and dispense need to be addressed. The machine would not be administering medication it would be dispensing.

President Wuest closed the Public Hearing.

Board Action:

Motion: Leo Basch moved to adopt with changes. 6A to add “contracted” employees, remove II on the top of page 3, remove “access” in III (e)(1) on top of page 3, remove the word “only” from section 1, number 1, and the addition of “device” in 6(c)(1)(I).

Second: Keith Macdonald

Action: Passed Unanimously

4. Amendment to Nevada Administrative Code 639.926 Weekly Reporting to the Task Force This amendment will require weekly reporting of data to the Nevada Prescription Controlled Substance Abuse Prevention Task Force according to the latest version of the ASAP format.

President Wuest opened the Public Hearing.

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

Ms. Macmenamin wanted to thank the Board for allowing time to make this transition.

President Wuest closed the Public Hearing.

Board Action:

Motion: Keith Macdonald moved to adopt this regulation amendment as presented.

Second: Ann Peterson

Action: Passed Unanimously

5. Amendment to Nevada Administrative 639.NEW Prohibition of Prescription Quarantining This new language will establish conditions and prohibitions regarding prescription quarantining.

President Wuest opened the Public Hearing.

Pam McKay, representing the Insurance Commissioner, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Ms. McKay was under the impression that number 3 had been deleted at a previous Workshop but noted that number 3 is still in the language. The Insurance Commissioner wants the language stricken from this regulation amendment.

Dan Luce, representing Walgreens, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Luce gave many reasons why he does not feel that this regulation amendment fixes the Board's problem with insurance billing issues and it would not allow for time saving steps to be taken to ensure patient satisfaction. Billing, processing and labeling have already been addressed with Walgreens and there should not be a problem with that issue any longer.

Vic Vercammen, representing Supervalu Pharmacies, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Vercammen agreed with Mr. Luce and did not feel this regulation as it is written is appropriate.

Khanh Pham, still under oath, noted that the pharmacist association oppose filling prescriptions without authorization.

President Wuest closed the Public Hearing.

Leo Basch made suggestions to amend the language in number 3 so it would read: "The acts prohibited by this section include placing the drug in a container for dispensing and affixing a label to the container for the refill." This language was acceptable to Dan Luce and Vic Vercammen.

Board Action:

Motion: Ray Seidlinger moved to adopt with the changes proposed.

Second: Keith Macdonald

Action: Passed Unanimously

6. **Amendment to Nevada Administrative 639.NEW Amendments to Regulations Regarding MDEG Licensees** This amendment refines the definition of which customized mastectomy products and pressurized stockings are considered medical devices.

President Wuest opened the Public Hearing.

There was no public comment.

President Wuest closed the Public Hearing.

Board Action:

Motion: Ray Seidlinger moved to adopt this regulation amendment as presented.

Second: Katie Craven

Action: Passed Unanimously

16. Next Board Meeting:

April 18-19, 2007 – Reno, Nevada

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

There were no public comments.