

October 10, 2007

AGENDA

◆ PUBLIC NOTICE ◆

NEVADA STATE BOARD OF PHARMACY

BOARD MEETING

at the

Las Vegas Chamber of Commerce
3720 Howard Hughes Parkway
Las Vegas

Wednesday, October 24, 2007 – 9:00 am

Thursday, October 25, 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.

October 2007 Board Meeting Agenda

- * 1. Approval of September 5-6, 2007, Minutes
- * 2. Applications for Out-of-State MDEG – Non Appearance:

- A. Medela Inc. – McHenry, IL
- B. MRB Acquisition Corporation – Fort Lauderdale, FL
- C. Praxair Inc, #955 – Loveland, CO
- D. Professional Medical Care, Inc. – Chino, CA
- E. Zoll Lifecor Corporation – Pittsburgh, PA

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

- F. Advanced Care Scripts Inc. – Orlando, FL
- G. America's Best Care Plus, Inc. – Rainsville, AL
- H. Buena Vista Pharmacy – Calabasas, CA
- I. Critical Care Systems – Hayward, CA
- J. Custom Compounding Pharmacy of America (CCPA) – Kent, CT
- K. Custom Medications of St Louis – St Louis, MO
- L. HDM Pharmacy, LLC – Lexington, KY
- M. Independence Home Pharmacy II – Murray, KY
- N. Liberty Medical Supply of Ohio – Columbus, OH
- O. One Point Patient Care – Tempe, AZ
- P. Promesa Health Pharmacy – Omaha, NE
- Q. Rood and Riddle Veterinary Pharmacy – Lexington, KY
- R. RXUSAPBM, Inc. – Port Washington, NY
- S. Tricare Pharmacy Network, LLC – Lexington, KY
- T. Vet Rx Direct – Coralville, IA

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

- U. Direct Relief International – Goleta, CA
- V. Farnam Companies/Veterinary Products Lab Division – Council Bluff, IA
- W. Genentech USA, Inc. – Louisville, KY
- X. JHP Pharmaceuticals, LLC – Rochester, MI
- Y. Letco Medical, Inc. – Decatur, AL
- Z. Life Science Logistics, LLC – Louisville, KY
- AA. McKesson Medical-Surgical Inc. – Denver, CO
- BB. Novis Pharmaceuticals, LLC – Santa Ana, CA
- CC. Phoenix Pharmaceutical, Inc. – St Joseph, MO
- DD. Reliance Wholesale Inc. – Cordova, TN
- EE. VetSource – Portland, OR
- FF. VetSource – Middletown, PA

October 2007 Board Meeting Agenda

Applications for Nevada MDEG – Non Appearance:

- GG. Respiratory Enhancement Supply Team – Reno
- HH. Sierra Oxygen Service – Carson City
- II. Tahoe Wound Care, LLC – Incline Village

Application for Nevada Pharmacy – Non Appearance:

- JJ. Sam's Pharmacy 10-4974 – North Las Vegas
- KK. Sav-on Pharmacy #6059 – Las Vegas

Application for Nevada Wholesaler – Non Appearance:

- LL. ICS – Reno

◆ REGULAR AGENDA ◆

- * 3. Application for Nevada Pharmacy – Ownership/Name Change – Appearance:
 - OnePoint Patient Care – Las Vegas
- * 4. Application for Out-of-State Pharmacy – Appearance:
 - PCM Venture I LLC – Murray, UT
- * 5. Application for Canadian Pharmacy – Non Appearance:
 - Universal Drug Services – Winnipeg, Manitoba
- * 6. Request for Reinstatement of Pharmaceutical Technician License – Appearance:
 - Cynthia Blake
- * 7. Request for Reconsideration – Appearance:
 - Walgreens #05862
- * 8. Request for Intern License – Appearance:
 - Bah Fomukong

October 2007 Board Meeting Agenda

- * 9. 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.	Michael T. Szewczyk, R.Ph	(06-071-RPH-S)
B.	CVS/pharmacy #2989	(06-071-PH-S)
C.	Nga B. Ngo, PT	(07-059-PT-S)
D.	CVS/pharmacy #8794	(07-059-PH-S)
E.	Jennifer A. Nay, PT	(07-060-PT-S)
F.	CVS/pharmacy #8780	(07-060-PH-S)
G.	James A. Perkins, PT	(07-061-PT-S)
H.	CVS/pharmacy #8782	(07-061-PH-S)
I.	Ashley Menke, PT	(07-079-PT-S)
J.	CVS/pharmacy #8821	(07-079-PH-S)
K.	Dina Haileyesus, R.Ph	(07-009-RPH-S)
L.	Wal-Mart Pharmacy #10-2050	(07-009-PH-S)
M.	Karen A. Kinan, R.Ph	(07-078-RPH-S)
N.	Dunia Vigoa, PT	(07-077-PT-S)
O.	Shara Janae Jamieson, PT	(07-032-PT-S)
P.	Jessica L. McCulloch, PTT	(07-064-PTT-S)
Q.	Walgreens #05646	(07-064-PH-S)
R.	Leha M. DeRosia, PT	(07-062-PT-S)
S.	Walgreens #05646	(07-062-PH-S)
T.	Christina M. Romero, PT	(07-063-PT-S)
U.	Walgreens #03844	(07-063-PH-S)

- *10. General Counsel Report

- *11. Election of Officers

- *12. Executive Secretary Report:

A.	Financial Report
B.	Investment Report
C.	Temporary Licenses
D.	Staff Activities
	1. NABP District 7-8 Meeting
	2. NASCA Meeting
	3. Speaking engagements
E.	Reports
	1. Re-establishment of NAPLEX
	2. Tamper-proof prescription pad service
F.	Activities Report

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- *13. Discussion and Determination:
 - A. Immunizations
 - B. Park Report Funding
 - C. Workgroup on Workplace Assessment
 - D. Lipo-Dissolve

W O R K S H O P – Thursday, October 25, 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.
 - 1. **Amendment of Nevada Administrative Code 453.510, 530.540 and 453.550** Metro request for addition to schedules.
 - 2. **Amendment of Nevada Administrative Code 639.NEW** Pharmacist practice outside of pharmacy.
 - 3. **Amendment of Nevada Administrative Code 453.460** Controlled substance partial fill.
 - 4. **Amendment of Nevada Administrative Code 639.NEW** Computer ID
 - 5. **Amendment of Nevada Administrative Code 629.240** Pharmaceutical Technician Education

P U B L I C H E A R I N G – Thursday, October 25, 2007 – 9:00 am

- *15. Notice of Intent to Act Upon a Regulation:
 - 1. **Amendment of 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 of Nevada Administrative Code 453.450 Controlled Substances in Schedule II.** This language allows more than one controlled substance listed in Schedule II to be written on a single prescription blank.

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3. **Amendment of Nevada Administrative Code 453.530 and 453.NEW Ephedrine, Pseudoephedrine, and Phenylpropanolamine.** This amendment changes the existing controls on drug products that contain ephedrine, pseudoephedrine, and phenylpropanolamine to harmonize Nevada law with new federal law regarding the same products.
4. **Amendment of Nevada Administrative Code 453.530 Scheduling Human Growth Hormone as a Controlled Substance in Schedule III.** By adding HGH to Schedule III it will be more difficult to obtain and hopefully diminish substance abuse.
5. **Amendment of Nevada Administrative Code 639.245, 639.250, and 639.701 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 new prescriptions related to the drug and directions for use into the pharmacy computer system.
6. **Amendment of Nevada Administrative Code 639.4914, 639.4915 and 639.NEW Offsite Cognitive Services** This amendment will clarify the language and define remote chart order processing.
7. **Amendment of Nevada Administrative Code 639.7425 Dispensing Technician Education Requirements.** By removing the educational requirements for dispensing technicians it parallels the pharmaceutical technician education requirements.
8. **Amendment of Nevada Administrative Code 639.NEW Workload Balancing** This language establishes regulations regarding the storing and sharing of prescription information by pharmacies who utilize common databases and software.
9. **Amendment of Nevada Administrative Code 639.NEW Prohibition of Prescription Quarantining** This new language will establish conditions and prohibitions regarding prescription quarantining.
10. **Amendment of Nevada Administrative Code 639.NEW AB128 Manufacturer and Wholesaler Reporting** Implementation of AB128 regarding sale practices of manufacturers and wholesalers.
11. **Amendment of Nevada Administrative Code 639.593, 639.6065 and 639.NEW VAWD Certified Wholesalers** This language will reduce the bond requirement for wholesalers registered with the Board after five years of being in good standing.

October 2007 Board Meeting Agenda

16. Next Board Meeting:

December 5-6, 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, 431 W Plumb Lane, Reno, Nevada 89509, 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. Continuing Education credit of 4 hours, including 1 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

October 24 & 25, 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

Nancy Savage

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- Z. Life Science Logistics, LLC – Louisville, KY
- AA. McKesson Medical-Surgical Inc. – Denver, CO
- BB. Novis Pharmaceuticals, LLC – Santa Ana, CA
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Application for Nevada Pharmacy – Non Appearance:

- JJ. Sam’s Pharmacy 10-4974 – North Las Vegas
- KK. Sav-on Pharmacy #6059 – Las Vegas

Application for Nevada Wholesaler – Non Appearance:

- LL. ICS – Reno

Discussion:

The consent agenda applications and supporting documents were reviewed. Item K, Custom Medications of St. Louis, was pulled for discussion. Keith Macdonald recused from participation in the vote on item JJ, Sam’s Club, as he is employed by Wal-Mart. Barry Boudreaux recused from participation in the vote on item N as his wife is employed by Liberty. Ray Seidlinger recused from participation in the vote on item KK as he was employed by Sav-On.

Board Action:

Motion: Katie Craven moved to approve all of the items on the Consent Agenda except for items K, N, JJ and KK.

Second: Ray Seidlinger

Action: Passed Unanimously

Motion: Ray Seidlinger moved to approve items N and KK.

Second: Katie Craven

Action: Passed Unanimously

Motion: Katie Craven moved to approve item JJ.

Second: Barry Boudreaux

Action: Passed Unanimously

Item K was discussed. The Board had questions regarding what and how products were to be shipped into Nevada. Board staff was asked to invite a representative of Custom Medications of St. Louis to appear before the Board to review their practices. Specifically the Board was concerned whether the products were patient specific and had general concerns with a pharmacy shipping lipo-dissolve chemicals, even though lipo-dissolve has not been FDA approved.

Board Action:

Motion: Katie Craven moved to table the application for Custom Medications of St. Louis until a representative can appear before the Board.

Second: Ann Peterson

Action: Passed Unanimously

Ray Seidlinger would like page 10 of the minutes in the Wal-Mart Order to reflect that the initials on the labels be for the duplicate label, not the label on the bottle. He also noted that on page 12 item C would reduce the age for immunizations to 11 – not 14.

Board Action:

Motion: Ray Seidlinger moved to approve the minutes with the referenced changes.

Second: Ann Peterson

Action: Passed Unanimously

REGULAR AGENDA

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

OnePoint Patient Care – Las Vegas

NOTE: Barry Boudreaux recused from participation as the managing pharmacist works for him. Mr. Boudreaux also recused from participation in the vote on item O from the consent agenda.

Jeff Hohl, Henry Miller, James Otterbeck, and Terry Smith appeared and were sworn by President Wuest prior to answering questions or offering testimony.

They explained that they were a closed door pharmacy and described who they were going to provide services to. They advised the Board that they had been forewarned about selling their deeply discounted drugs to a secondary source wholesaler and that they would not embark on that practice.

President Wuest asked about the out-of-state pharmacy in Arizona that was on the consent agenda, and noted that the Board had held that item out of the consent motion for discussion.

Messrs. Hohl, Miller, Otterbeck and Smith answered all questions to the Board's satisfaction.

Board Action:

Motion: Katie Craven moved to approve the application for OnePoint Patient Care pending inspection.

Second: Ray Seidlinger

Action: Passed Unanimously

Board Action:

Motion: Katie Craven moved to approve item O on the consent agenda and accept the application for the Arizona pharmacy.

Second: Ray Seidlinger

Action: Passed Unanimously

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

PCM Venture I LLC – Murray, UT

PCM notified Board staff that they would be unable to appear, but would reschedule to the December meeting.

5. Application for Canadian Pharmacy – Non Appearance:

Universal Drug Services – Winnipeg, Manitoba

Louis Ling and Larry Pinson advised the Board that Joe Depczynski had just returned from Canada for the currently licensed pharmacies annual inspection. This application was received after Mr. Depczynski had returned and this pharmacy has not been inspected.

Leo Basch indicated that he would not vote to approve another application from Canada until the Legislature fulfilled their promise to correct the original legislation that provided that the drugs provided by Canadian pharmacies be FDA approved.

Board Action:

Motion: Leo Basch moved to deny the application for pharmacy for Universal Drug Services.

Second: Katie Craven

Action: Four Votes to Deny, 2 Negative Votes – Motion Passed

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

Cynthia Blake

Mr. Ling advised that Ms. Blake would not be present as she had a death in her family. The Board will table this matter until Ms. Blake requests another appearance, however the Board asked that staff verify the circumstance of the death prior to her asking for another appearance.

7. Request for Reconsideration – Appearance:

Walgreens #05862

Walgreens was unable to attend this meeting and has decided to withdraw their request.

8. Request for Intern License – Appearance:

Bah Fomukong

Board staff advised Mr. Fomukong that he had a choice to appear before the Board or join the PRN-PRN group. Mr. Fomukong has joined the PRN-PRN group.

9. Disciplinary Action:

- A. Michael T. Szewczyk, R.Ph (06-071-RPH-S)
- B. CVS/pharmacy #2989 (06-071-PH-S)

NOTE: Ray Seidlinger disclosed that he knows Mr. Szewczyk. Mr. Szewczyk had no issues with Mr. Seidlinger sitting on this case.

Mike Dyer, legal counsel, was present to represent CVS #2989. Chad Luebke, CVS district pharmacy representative, was also present. Mr. Szewczyk represented himself.

Louis Ling noted that he and Mr. Dyer have spoken and in this specific instance they agree that counseling was haphazard. Mr. Dyer noted that since CVS had had other counseling issues, they have come into complete compliance with their counseling procedures. Mr. Dyer also noted that the counseling log in this matter indicates that counseling was refused, however they are not contesting this issue.

Mike Szewczyk and Chad Luebke appeared and were sworn by President Wuest prior to answering questions or offering testimony.

Mr. Ling called his witness, Adrian Cohen, the complainant in this matter.

Adrian Cohen appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Cohen testified that he took two prescriptions to CVS #2989 to be filled. One was for gemfibrozil, which was a new prescription, and the other was for a hydrocortisone cream that he had used before, but not for some time. Mr. Cohen stated that he paid for the prescriptions, was not counseled, and left the pharmacy. When Mr. Cohen arrived home he noticed that the expiration date on the prescription label for the hydrocortisone cream was November 20, 2007 even though the manufacturer's date was September 20, 2007. Mr. Cohen then called CVS #2989 and advised Mr. Szewczyk of the difference between the manufacturer's date and the label date. Mr. Cohen stated that he was told by Mr. Szewczyk that it did not make a difference.

Exhibit A – the box the hydrocortisone cream was in – accepted into the record.

Mr. Cohen then began giving other examples of issues he had had with CVS #2989 in the past. Mr. Dyer objected and asked that the Board direct Mr. Cohen to stick to the issues at hand.

Mr. Dyer cross examined Mr. Cohen. The Board questioned Mr. Cohen regarding counseling.

Mr. Dyer questioned Mr. Luebke. Mr. Luebke stated he was filling in for Ke Kim as CVS #2989 was in Mr. Kim's district. Mr. Luebke advised that they did a random counseling log audit and found the counseling logs that they audited to meet the requirements of Nevada law.

Louis Ling cross examined Mr. Luebke regarding the counseling log audit and questioned Mr. Szewczyk.

Mr. Szewczyk apologized to Mr. Cohen for his perceived attitude when he spoke with him regarding the differences in the dates on his hydrocortisone prescription. He advised the Board that he left CVS and is now working where he is more patient interactive. Mr. Szewczyk indicated that he was unaware that he was supposed to initial the counseling logs and that he believed an offer to counsel was adequate. He now understands it is mandatory in Nevada.

Mr. Dyer cross examined Mr. Szewczyk.

The Board questioned Mr. Luebke and Mr. Szewczyk. Mr. Macdonald asked if the dates default to one year automatically in the CVS computer system to which Mr. Szewczyk answered yes, they are set for one year. Mr. Boudreaux asked about how CVS communicates with their stores. He was advised that they use e-mail to accomplish many communications. Ms. Craven asked about CVS's procedures for expiration dates. Mr. Basch questioned Mr. Szewczyk about his counseling procedures now, after this incident. CVS explained that they allow technicians to change the expiration dates manually. They put a neon label on drugs that expire within the year and mark them so they can override the one year date the system automatically generates.

Louis Ling made closing statements and recommendations. First Cause of Action, failure to label expiration date to match manufacturer's label, a \$100.00 fine for Mr. Szewczyk. Second Cause of Action, failure to counsel, \$750.00 fine for Mr. Szewczyk and CVS #2989. Third Cause of Action, failure to maintain counseling logs, \$750.00 fine for CVS #2989. Fourth Cause of Action, ownership, no additional fine, just fees and costs.

Mr. Dyer made closing statements. He had no argument with the penalty but wanted to express a concern. Mr. Dyer had researched the MPJE examination that pharmacists take for Nevada. He was unable to identify if the examination included questions regarding Nevada's mandatory counseling laws. Mr. Dyer thought perhaps the Board should look into this issue with NABP.

Board Action:

Motion: Leo Basch moved to find Mr. Szewczyk guilty of the First and Second Causes of Action – striking (2) in 639.945 in the Second Cause of Action.

Second: Ann Peterson

Action: Passed Unanimously

Motion: Leo Basch moved to find CVS #2989 guilty of the Third and Fourth Causes of Action.

Second: Katie Craven

Action: Passed Unanimously

Motion: Leo Basch moved to fine Mr. Szewczyk \$100.00 for the First Cause of Action.

Second: Katie Craven

Action: Passed Unanimously

Motion: Leo Basch moved to fine Mr. Szewczyk \$750.00 for the Second Cause of Action.

Second: Katie Craven

Action: Passed Unanimously

Motion: Leo Basch moved to find CVS #2989 not guilty of the Second Cause of Action.

Second: Ray Seidlinger

Action: Passed Unanimously

Motion: Leo Basch moved to place CVS #2989 on probation for one year in the Third and Fourth Causes of Action, plus fees and costs.

Second: Keith Macdonald

Amendment: Ann Peterson asked to amend the motion to include a \$750.00 fine.

The amendment was accepted by the First and the Second.

Action: Passed Unanimously

- | | | |
|----|---------------------|---------------|
| C. | Nga B. Ngo, PT | (07-059-PT-S) |
| D. | CVS/pharmacy #8794 | (07-059-PH-S) |
| E. | Jennifer A. Nay, PT | (07-060-PT-S) |
| F. | CVS/pharmacy #8780 | (07-060-PH-S) |

- G. James A. Perkins, PT (07-061-PT-S)
- H. CVS/pharmacy #8782 (07-061-PH-S)
- I. Ashley Menke, PT (07-079-PT-S)
- J. CVS/pharmacy #8821 (07-079-PH-S)

Louis Ling and Mike Dyer advised the Board that they had come to an agreement and a stipulated agreement was signed by them both. The agreement is the same for these CVS pharmacies and pharmaceutical technicians as the Orders for the first cases heard regarding technicians working without licenses in June.

The Board indicated that from now on they would like an appearance for these licensees and pharmacies.

Board Action:

Motion: Ray Seidlinger move to approve the stipulated agreement as presented.

Second: Barry Boudreaux

Action: Passed With One Negative Vote

- K. Dina Haileyesus, R.Ph (07-009-RPH-S)
- L. Wal-Mart Pharmacy #10-2050 (07-009-PH-S)

Mr. Ling advised the Board that Wal-Mart had recently hired local legal counsel, Hal Taylor, and Mr. Taylor had not had enough time to review the case. Mr. Ling has agreed to continue this matter until the April 2008 Board meeting.

- M. Karen A. Kinan, R.Ph (07-078-RPH-S)

NOTE: Barry Boudreaux recused from participation in this matter as he employs Ms. Kinan's ex-husband.

Louis Ling described that Ms. Kinan had not fulfilled her obligation from the last Board Order to have a complete psychiatric evaluation. Larry Espadero, PRN-PRN monitor, advised the Board that he has released Ms. Kinan from the PRN-PRN program as she was not fulfilling her obligation to the program and she also owed a considerable amount of money.

Karen Kinan and Larry Espadero appeared and were sworn by President Wuest prior to answering questions or offering testimony.

Ms. Kinan gave Mr. Ling a one paragraph letter from Emmanuel Nwapa that she felt would satisfy the Board Ordered psychiatric evaluation.

The letter was admitted into the record as Exhibit A.

Mr. Espadero advised the Board that the letter from Emmanuel Nwapa was not a full psychiatric evaluation as Ordered by the Board. Mr. Espadero also noted that Ms. Kinan had not been participating in her PRN-PRN program and that she owed him several hundred dollars, which was also in violation of her Board Order.

Ms. Kinan testified that she has been under considerable financial hardship. She thought that the letter she was providing would fulfill her responsibilities as far as the psychiatric evaluation was concerned. She stated that she would get back in the PRN-PRN program and try to make amends with Mr. Espadero. Ms. Kinan pled to the Board not to revoke her pharmacist license.

Board Action:

Motion: Keith Macdonald moved to find Karen Kinan guilty of violating her previous Order.

Second: Ann Peterson

Action: Passed Unanimously

Motion: Keith Macdonald moved to revoke Ms. Kinan's pharmacist license.

Second: Ann Peterson

Action: Three yes votes, two negative votes with President Wuest's vote to revoke. The motion passed.

N. Dunia Vigoa, PT

(07-077-PT-S)

Louis Ling advised the Board that Ms. Vigoa returned her Answer and Notice of Defense and stated that she did not want a hearing which is the reason she did not appear. Mr. Ling read her Answer and Notice of Defense where she admitted to taking ten bottles of hydrocodone 10/325 from her employing pharmacy during the course of a three month period.

Board Action:

Motion: Keith Macdonald moved to find Dunia Vigoa guilty of the alleged violations.

Second: Leo Basch

Action: Passed Unanimously

Motion: Keith Macdonald moved to revoke Ms. Vigoa's pharmaceutical registration.

Second: Ann Peterson

Action: Passed Unanimously

O. Shara Janae Jamieson, PT

(07-032-PT-S)

Shara Jamieson appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Mr. Ling advised the Board that he spoke with Ms. Jamieson before hearing and she admitted to taking Dilaudid, morphine, Percocet, and Lortab from her employing pharmacy, Kindred, and she would not contest the charges. He also explained that Kindred will testify as to how they have fixed their issues to ensure their dispensing machines were secure.

Robin Hager, director of pharmacy for Kindred, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Ms. Hager described the circumstances that occurred which ultimately found that the pharmacy had a drug security problem. She had arranged for an in-service training to teach pharmaceutical technicians how to use pharmacy records and reports. The technicians found that there were discrepancies in the records and began researching the discrepancies. It appeared that Ms. Jamieson was at the center of the problem. There would be drugs missing and Ms. Jamieson was doing a discrepancy report to cover her theft. Ms. Hager explained that since this revelation she has implemented Policies and Procedures that disallow same person discrepancy reports.

Ms. Jamieson testified that she knows it was wrong to have taken the drugs. She advised the Board that she stopped physically taking the drugs she was stealing the day she left Kindred. When the Board asked her if she had any withdrawal symptoms she indicated that she was sleepy for a few days but that was all. Ms. Jamieson pled to the Board to keep her pharmaceutical technician registration, but admitted that if she were to go into a pharmacy today the drugs would be a temptation. Ms. Jamieson stated that she would benefit by going into the PRN-PRN program, however she is currently employed as a certified nursing assistant caring for the elderly in an assisted living facility.

Board Action:

Motion: Ann Peterson moved to find Ms. Jamieson guilty of the alleged violations.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Ann Peterson moved to revoke Ms. Jamieson's pharmaceutical technician registration.

Second: Keith Macdonald

Action: Passed Unanimously

P.	Jessica L. McCulloch, PTT	(07-064-PTT-S)
Q.	Walgreens #05646	(07-064-PH-S)
R.	Leha M. DeRosia, PT	(07-062-PT-S)
S.	Walgreens #05646	(07-062-PH-S)
T.	Christina M. Romero, PT	(07-063-PT-S)
U.	Walgreens #03844	(07-063-PH-S)

Mr. Ling advised the Board that he and Rob Graham, legal counsel for Walgreens, had come to an agreement and a stipulated agreement was written and signed that paralleled the CVS agreement.

Board Action:

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

Second: Ray Seidlinger

Action: Passed Unanimously

10. General Counsel Report

Louis Ling advised the Board that he would be arguing the Dutchess case before the Supreme Court. He invited the Board members to attend if they like and he would appreciate their support.

11. Election of Officers

Board Action:

Motion: Leo Basch moved to appoint Barry Boudreaux to the position of President.

Second: Katie Craven

Action: Passed Unanimously

Motion: Keith Macdonald moved to re-appoint Leo Basch to the position of Treasurer.

Second: Ann Peterson

Action: Passed Unanimously

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

Mr. Pinson granted three temporary licenses since the last Board meeting.

D. Staff Activities

1. NABP District 7-8 Meeting

Mr. Pinson briefly reviewed his views of the District meeting. The Board members that attended all agreed that it was a good meeting.

2. NASCA Meeting

Larry Pinson and Joanee Quirk attended the NASCA meeting which was very beneficial. Nevada is the only state that has 24/7 service and the other states were very impressed. Mr. Pinson reported that he met with Assemblyman Mo Dennis and gave him a presentation on how the Task Force operates and he was very impressed, also.

3. Speaking engagements

Mr. Pinson noted that he was through doing law CE's. He had done numerous presentations in both Reno and Las Vegas giving pharmacists many opportunities to obtain their Nevada law CE.

Louis Ling went to Seattle and did a presentation regarding pedigree requirements.

Mr. Pinson asked NABP about the possibility of hosting a national electronic pedigree data base. NABP staff responded favorably and has invited Mr. Pinson and Mr. Ling to appear before the Executive Committee on February 8, 2008 in Scottsdale, Arizona. Nevada continues to lead the nation in their endeavors to require pedigree reporting.

E. Reports

1. Re-establishment of NAPLEX

Mr. Pinson indicated that the NAPLEX has been reinstated and testing has begun again after the breach of security.

2. Tamper-proof prescription pad service

There has been a delay of the requirement for physicians to use tamper-proof prescription pads for prescriptions written for controlled substances for Medicaid patients until April, 2008.

Mr. Pinson noted that there had been calls regarding the voluntary withdrawal of OTC cold medications for children under two years of age. He also reported the status of our

new licensing program search. Mr. Pinson just learned that Minnesota has adopted 795 and 797 as the standard for compounding requirements. Board staff asked Assemblyman Conklin about what we were to do if wholesalers and manufacturers do not report to us as required in AB128. Staff was advised that if someone did not comply, to put a list on our website of those in violation. Mr. Pinson learned at the NASCSA meeting that the DEA will again allow “do not fill until” date. It has not been solidified as of yet, but when it becomes effective a memo will go out to all pharmacies and physicians. Mr. Pinson advised that Chad Luebke, district manager for CVS, and Don Fey, pharmacy supervisor for Sunrise Hospital, have been appointed to the Board.

F. Activities Report

13. Discussion and Determination:

A. Immunizations

Because of the presentation by Cari Rovig from the Nevada Immunization Coalition at the last Board meeting, this topic is brought as a D and D item to determine if we should change our current regulations and lower the age limit from 14 and allow pharmacists to immunize children younger and require reporting to a tracking registry. Keith Macdonald suggested Board staff should go to the Health Division to see if there are protocols for immunizing children. Leo Basch indicated Board staff should look at the laws New Mexico has in place and possibly parallel their language.

B. Park Report Funding

As a result of the Dr. Park’s report on our workplace assessment data, one of the Board’s actions was to continue the relationship with her and UNR for objective analysis of that data. Board Staff estimates it will be approximately \$5,000.00 per year to continue that relationship and asked if the Board would consider funding.

Board Action:

Motion: Keith Macdonald moved to direct Board Staff to fund Dr. Park.

Second: Barry Boudreaux

Action: Passed Unanimously

C. Workgroup on Workplace Assessment

Because of Dr. Park’s report, the Board determined a workgroup should be created to examine the issues raised by the report. A workgroup consisting of pharmacists, technicians, pharmacies and educators would be created to study improvements to the practice of pharmacy. President Wuest offered to help Board staff recruit a group.

D. Lipo-Dissolve

Lipo-dissolve has not been approved for general use by the FDA – only if it is being used for research. President Wuest advised that some people are saying that lipo-dissolve works. Mr. Pinson said that it is an injectable that allegedly destroys fat cells. Some states and countries have banned its use. Mr. Pinson, also advised, that the practice of lipo-dissolve is prevalent in our state and the substances used for this procedure are often being supplied by our compounding pharmacies. After discussion, the Board directed staff to contact Kansas, one of the states considering a ban on lipo-dissolve, to explore their approach to this matter.

WORKSHOP

14. **Proposed Regulation Amendment Workshop**

1. **Amendment of Nevada Administrative Code 453.510, 530.540 and 453.550** Metro request for addition to schedules.

The Las Vegas Metro Police Department requested that the Board of Pharmacy make additions to the controlled substance schedules as follows:

NAC 453.510 Schedule I

Alpha-methyltryptamine (some trade or other names: AMT)
5-methoxy-N, N-diisopropyltryptamine (some trade or other names: 5-meO-DIPT)

NAC 453.530 Schedule III

Embutramide

NAC 453.540

Pregabalin

There was no public comment and President Wuest asked for a motion.

Board Action:

Motion: Ray Seidlinger moved to go forward to Public Hearing.

Second: Barry Boudreaux

Action: Passed Unanimously

2. **Amendment of Nevada Administrative Code 639.NEW** Pharmacist practice outside of pharmacy.

This language will allow parameters for the Board to review the applications and come to terms with the applicants requesting practice of pharmacy outside a pharmacy. It will

give the Board the control to limit this practice. Record keeping was discussed, whether the person would need to be affiliated with a pharmacy, a definition of who needs to appear before the Board and other topics were discussed. An opt out clause for pharmacists that work for a long-term care facility or surgical center who is working for someone that is keeping records was also discussed. Keith Macdonald, Leo Basch and Katie Craven all had suggestions to improve the language and directed Board staff to re-work the language and bring it back for Workshop in December.

3. Amendment of Nevada Administrative Code 453.460 Controlled substance partial fill.

The Board reviewed the LCB draft and determined that it maintained their intent. President Wuest asked for a motion.

Board Action:

Motion: Barry Boudreaux moved to go forward to Public Hearing.

Second: Leo Basch

Action: Passed Unanimously

4. Amendment of Nevada Administrative Code 639.NEW Computer ID

Mary Staples, representing NACDS, appeared and questioned logging on to the computer for every act performed in the pharmacy. The Board indicated that they had already addressed that issue in the language they were working on. It was determined that Ms. Staples had a previous version of the language and was provided the latest version for her reference.

David Vasenden, representing Don's Pharmacy, asked for clarification on page four to ensure they would not have to write RA (readily available) on the hard copy prescription.

Vic Vercammen, representing Supervalu Pharmacies, and Mary Staples had reviewed the latest language and approved all but Section 4. They requested the Board strike the whole section.

Board Action:

Motion: Leo Basch moved to go forward to Public Hearing.

Second: Ann Peterson

Action: Passed Unanimously

5. Amendment of Nevada Administrative Code 629.240 Pharmaceutical Technician Education

Larry Pinson noted that the schools in both the North and the South are working on obtaining ASHP accreditation. Since these regulations were adopted as Temporary regulations, the schools have already begun the process. President Wuest asked for a motion.

Board Action:

Motion: Barry Boudreaux moved to go forward to Public Hearing.

Second: Ann Peterson

Action: Passed Unanimously

PUBLIC HEARING

15. Notice of Intent to Act Upon a Regulation:

1. **Amendment of 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 and asked for a motion.

Keith Macdonald suggested that on page 3, number 4(c) the language be changed from requiring the “pharmacist shall place...” to “pharmacy personnel shall place...” except for CII prescriptions.

Board Action:

Motion: Keith Macdonald moved to adopt this regulation amendment as presented with the referenced change.

Second: Katie Craven

Action: Passed Unanimously

2. **Amendment of Nevada Administrative Code 453.450 Controlled Substances in Schedule II.** This language allows more than one controlled substance listed in Schedule II to be written on a single prescription blank.

It was discussed that the prescription belongs to the patient and may be returned to them even if it has been cancelled.

President Wuest opened the Public Hearing.

There was no public comment.

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

Board Action:

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

Second: Ann Peterson

Action: Passed Unanimously

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

President Wuest opened the Public Hearing.

There was no public comment.

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

Board Action:

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

Second: Katie Craven

Action: Passed Unanimously

- 4. Amendment of Nevada Administrative Code 453.530 Scheduling Human Growth Hormone as a Controlled Substance in Schedule III.** By adding HGH to Schedule III it will be more difficult to obtain and hopefully diminish substance abuse.

President Wuest opened the Public Hearing.

There was no public comment.

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

Board Action:

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

Second: Ann Peterson

Action: Passed Unanimously

5. **Amendment of Nevada Administrative Code 639.245, 639.250, and 639.701 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 new prescriptions related to the drug and directions for use into the pharmacy computer system.

President Wuest opened the Public Hearing.

There was no public comment.

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

Board Action:

Motion: Leo Basch moved to adopt this regulation amendment as presented.

Second: Katie Craven

Action: Passed With One Negative Vote

6. **Amendment of Nevada Administrative Code 639.4914, 639.4915 and 639.NEW Offsite Cognitive Services** This amendment will clarify the language and define remote chart order processing.

President Wuest opened the Public Hearing.

There was no public comment.

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

Board Action:

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

Second: Ann Peterson

Action: Passed With One Negative Vote

7. **Amendment of Nevada Administrative Code 639.7425 Dispensing Technician Education Requirements.** By removing the educational requirements for dispensing technicians it parallels the pharmaceutical technician education requirements.

Louis Ling noted that LCB had removed in Section 1 number 1(a) and (b) and those need to be added back in.

President Wuest opened the Public Hearing.

There was no public comment.

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

Board Action:

Motion: Ann Peterson moved to adopt this regulation amendment with the referenced change.

Second: Leo Basch

Action: Passed Unanimously

8. **Amendment of Nevada Administrative Code 639.NEW Workload Balancing** This language establishes regulations regarding the storing and sharing of prescription information by pharmacies who utilize common databases and software.

Louis Ling advised that he had reviewed the suggested changes made by NACDS and noted that he will include their suggested language for adoption.

President Wuest opened the Public Hearing.

There was no public comment.

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

Board Action:

Motion: Leo Basch moved to adopt this regulation amendment with the changes suggested by NACDS.

Second: Katie Craven

Action: Passed Unanimously

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

Louis Ling advised the Board that he had changed the language LCB had submitted to include the Board's intent.

President Wuest opened the Public Hearing.

There was no public comment.

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

Board Action:

Motion: Katie Craven moved to adopt this regulation amendment with the changes to preserve the Board's intent.

Second: Keith Macdonald

Action: Passed Unanimously

10. **Amendment of Nevada Administrative Code 639.NEW AB128 Manufacturer and Wholesaler Reporting** Implementation of AB128 regarding sale practices of manufacturers and wholesalers.

Louis Ling noted that Board staff received a written request for amending the language as reflected in the Board book. AdvaMed recommended that in Section 8 (1), (2), (3), (4), and (5) be amended to insert "manufacturer or" after all references to "medical products." Section 5 (1) be amended to insert "or Section 8" after "subsection 2." Add "manufacturer or" after "medical products" in Section 10 (3). Mr. Ling made the changes as recommended.

President Wuest opened the Public Hearing.

Mary Staples, representing NACDS, appeared and was sworn by President Wuest prior to answering questions or offering testimony.

Ms. Staples questioned the language and wanted to ensure that this language exempted chain drug distribution centers. Mr. Ling indicated that he would go to the Bill

drafter and inquire. Ms. Staples indicated that it was her impression that the legislative intent was to exclude them. Ms. Staples advised that she would research.

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

Board Action:

Motion: Keith Macdonald moved to adopt with the changes as discussed.

Second: Ray Seidlinger

Action: Passed Unanimously

11. **Amendment of Nevada Administrative Code 639.593, 639.6065 and 639.NEW VAWD Certified Wholesalers** This language will reduce the bond requirement for wholesalers registered with the Board after five years of being in good standing.

President Wuest opened the Public Hearing.

There was no public comment.

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

Board Action:

Motion: Katie Craven moved to adopt this regulation amendment as presented.

Second: Ann Peterson

Action: Passed Unanimously

16. Next Board Meeting:

December 5-6, 2007 – Reno, Nevada

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

Dean Friesen appeared and questioned the Board regarding a letter his associate, Dr. Daniel Royal, had received regarding their practices. Mr. Friesen described what he had been doing for Dr. Royal. Board staff had interpreted Mr. Friesen's activities as described by Dr. Royal as practicing pharmacy which prompted the letter that was sent to Dr. Royal. The Board advised Mr. Friesen that if he chose to continue doing the activities he has been performing in Dr. Royal's office, he would have to take the exam and become a licensed pharmacist.