BOARD MEETING

Las Vegas Chamber of Commerce
Turnberry Town Square
6671 Las Vegas Boulevard, South
Building D, Suite 300
Las Vegas

July 16 and 17, 2008

The meeting was called to order at 9:00 a.m. by Barry Boudreaux Board President.

Board Members Present:

Barry Boudreaux	Keith Macdonald	Leo Basch
Ray Seidlinger	Donald Fey	Chad Luebke
Mary Lau		

Board Members Absent:

Board Staff Present:

Larry Pinson	Jeri Walter	Louis Ling	Nancy Savage

CONSENT AGENDA

1. Approval of June 4-5, 2008, Minutes

2. Applications for Out-of-State MDEG – Non Appearance:

   A. Arthrowave Medical Technologies, LLC – Sparks, MD
   B. Discount Diabetic, LLC – Phoenix, AZ
   C. US Med Inc. – Miami, FL

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

   D. Apothecary Shop of Chandler – Tempe, AZ
   E. Clark's Pharmacy – Carefree, AZ
   F. Corporate Pharmacy Services, Inc. – Gadsden, AL
   G. Guided Alliance Pharmacy, Inc. – Dana Point, CA
   H. MasterPharm, LLC – Richmond Hill, NY
   I. OmniCare of Pueblo – Pueblo, CO
   J. ShopKo Pharmacy #2086 – Provo, UT
   K. Treasure Coast Pharmacy – Jensen Beach, FL

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

L. Healix Infusion Therapy, Inc. – Sugar Land, TX
M. Kenco Colonial Heights – Colonial Heights, VA
O. Kimberly-Clark Global Sales, LLC – Tucson, AZ
P. Pfizer Inc. – Independence, MO
Q. Tri-State Hospital Supply Corporation – Yuma, AZ

Applications for Nevada MDEG – Non Appearance:

R. A + Oxygen & DME – Reno
S. Advanced Prosthetics & Orthotics, Inc. – Henderson
T. Universal Hospital Services, Inc. – Las Vegas

Application for Nevada Warehouse – Non Appearance:

U. Bender Warehouse Co. – Reno

Discussion:

The consent agenda applications and supporting documents were reviewed.

Board Action:

Motion: Keith Macdonald found the consent agenda application information to be accurate and complete and moved for approval except for items G, J and T.

Second: Ray Seidlinger

Action: Passed Unanimously

Motion: Ray Seidlinger moved to approve Shopko, item J, after Board staff gets a toll free number.

Second: Chad Luebke

Action: Passed Unanimously

Motion: Ray Seidlinger moved to approve items G and T after Board staff obtains additional information.

Second: Don Fey

Action: Passed Unanimously

Motion: Leo Basch found the minutes to be accurate and complete with a minor change and moved for approval.

Second: Keith Macdonald

Action: Passed Unanimously

REGULAR AGENDA

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

A. Pharmerica – Taylorsville, UT

Tamara Henry appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Ms. Henry advised that they used to be Kindred before changing their name to Pharmerica. The reason for the appearance is that they have moved from Salt Lake City to Taylorsville, Utah. Ms. Henry stated that their pharmacy practice will remain the same. When asked about handling of their parenteral products, Ms. Henry indicated that they would not be shipping parenteral products into Nevada, only enteral products but that was not a choice on our application.

Board Action:

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

Second: Leo Basch

Action: Passed Unanimously

B. United Scripts, Inc. – Villa Park, IL

Lane Olson appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Mr. Olson stated that the only reason they are applying for licensure in Nevada is because they need our license to become a Medicaid provider. United Scripts has one child patient who is a resident of Nevada but is being treated in a facility in Des Plaines, Illinois. They do not plan to provide medication to anyone in Nevada. The license is solely to provide patient care to the one child in Illinois.

Board Action:

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

Second: Chad Luebke

Action: Passed Unanimously

4. Applications for Nevada MDEG – Appearance:

A. 1st Medical Supply – Las Vegas

Tatyana White and Michelle Rico appeared and were sworn by President Boudreaux prior to answering questions or offering testimony.

Ms. White and Ms. Rico explained their business plan. Ms. White described her experience as she served her community in Serbian Russia. She indicated that she has been with Apex Diagnostics since August, 2005, and feels she would be competent to be the administrator of 1st Medical Supply.

The Board advised Ms. White that the administrator needs to be knowledgeable in all facets of the MDEG business before they apply to the Board for approval.

Board Action:

Motion: Keith Macdonald moved to table the application for MDEG provider until Ms. White hires a qualified employee to run her business. At that time that person would need to complete a personal history form and submit it to be included with their application.

Second: Mary Lau

Action: Passed Unanimously

B. A Plus A Medical Supplies & Equipment, LLC – Las Vegas

Armenui Bezoyan and Greta Akopyan appeared and were sworn by President Boudreaux prior to answering questions or offering testimony.

Louis Ling reminded the Board that A Plus A Medical Supplies and Equipment appeared before the Board at the April, 2008 meeting where the Board denied the application for MDEG provider.

The Board asked questions regarding their business plan and who was going to physically be located in the business to operate it. The application indicated that Ms.

Akopyan resides in California and could not possibly be the administrator for this business.

Board Action:

Motion: Keith Macdonald moved to table this application for MDEG provider until Board staff receives a personal history record for Greta Akopyan, the facility administrator, and it has been reviewed.

Second: Leo Basch

Action: Passed Unanimously

C. Decatur Medical Equipment LLC – Las Vegas

Anush Davtyan, Queen Anieze, Armen Ayrpetyan and Richard Niewzal appeared and were sworn by President Boudreaux prior to answering questions or offering testimony.

The Board questioned them regarding their business plan and how they planned to operate their MDEG business. It was determined that Mr. Niewzal would be the administrator and after questioning him the Board determined that he would be qualified.

Board Action:

Motion: Keith Macdonald moved to approve the application for MDEG provider for Decatur Medical Equipment pending inspection.

Second: Don Fey

Action: 2 Negative Votes, 3 Yes Votes, Motion Carries

D. Express Medical Supply – Las Vegas

Eduardo Deocampo and Sonja Parker appeared and were sworn by President Boudreaux prior to answering questions or offering testimony.

Mr. Deocampo and Ms. Parker answered questions from the Board regarding their business plan, hours of operation, maintenance of equipment and their facility administrator's experience.

Board Action:

Motion: Chad Luebke moved to approve the application for MDEG provider pending inspection.

Second: Mary Lau

Action: Passed Unanimously

E. Rometech – Las Vegas

Andrew Eickhof and James Masters appeared and were sworn by President Boudreaux prior to answering questions or offering testimony.

They explained that they needed a license with the Board of Pharmacy to become a Medicaid provider. They explained that they will sell and maintain an electric larynx product and no other MDEG products. They described their business and how they operate.

Board Action:

Motion: Leo Basch moved to approve the MDEG application for Rometech.

Second: Don Fey

Action: Passed Unanimously

F. Vital Supply, Inc. – Las Vegas

No one appeared for Vital Supply.

5. Application Review – Appearance:

Sunrise Medical Supply

No one was present from Sunrise Medical Supply.

Board Action:

Motion: Ray Seidlinger moved to revoke Sunrise Medical Supply's MDEG registration.

Second: Leo Basch

Action: Passed Unanimously

6. Application for Technician in Training License – Appearance:

Justina Bloom

Justina Bloom appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Louis Ling advised that Ms. Bloom indicated on her application for PTT that she had been "charged, arrested, or convicted of a misdemeanor…". She is present to explain the circumstances.

Ms. Bloom indicated that she had been convicted of possession of marijuana in September, 2006. She stated that she is currently working at Walgreens and has been for the last six months. She would like to be a pharmaceutical technician at Walgreens. Ms. Bloom advised that she is a college student – she received her AA from the community college and will begin at UNLV in September. She has not decided on a major yet but would like to be an attorney or a pharmacist. She indicated that the marijuana incident was isolated and a mistake.

Board Action:

Motion: Keith Macdonald moved to approve Ms. Bloom's application for PTT pending a PRN-PRN evaluation.

Second: Ray Seidlinger

Action: Passed With One Negative Vote

7. Request to Modify Probation – Appearance:

Kenton Crowley, R.Ph

Mr. Crowley noted that he had appeared before an ALJ of the California Board of Pharmacy the previous day. He indicated that the California Board is trying to revoke his probationary status with their state. The ALJ has 30 days to make a recommendation to the Board but he is unsure how long it will take the California Board to notify him of their decision regarding his license.

Mr. Crowley would like to request an amendment to his PRN-PRN Order with the Nevada Board of Pharmacy. Mr. Crowley stated that he currently works at Applied Pharmacy Services with Mr. Lopez and Mr. Lopez is opening a new pharmacy where he has an opportunity to be the managing pharmacist.

President Boudreaux advised the Board that he did not feel comfortable allowing Mr. Crowley to practice as a managing pharmacist at this time. Mr. Crowley stated he had not explained his reasoning and should not be dismissed. He said that his DUI was not pharmacy related and it should not make a difference in his pharmacy practice or restrict him from practicing as a managing pharmacist. The Board reminded Mr. Crowley that his past appearances before them always tried to shift responsibility for his actions to someone else. At the original hearing Mr. Crowley was reminded that his

attorney gave him bad advice, his son renewed his license and answered the questions incorrectly, etc. Mr. Espadero stated that Mr. Crowley has attended meetings and has been open with him, but indicated that Mr. Crowley has poor impulse control and makes poor choices. Mr. Fey indicated that he did not think Mr. Crowley should have even asked for a request to modify his probation at this time.

Board Action:

Motion: Keith Macdonald moved to deny Mr. Crowley's request to modify his Order as it is too soon since the incident.

Second: Ray Seidlinger

Action: Passed Unanimously

8. Request to Reexamine Board Order – Appearance:

Jeri L. Wilson

Mr. Ling advised that since the Board had Ordered Ms. Wilson to be evaluated by PRN-PRN, Board staff had received a letter from Larry Espadero, the PRN-PRN monitor, and he stated that he would be unable to monitor Ms. Wilson because of the number of controlled substance prescriptions she was currently taking.

Board staff had a profile from the Task Force showing Ms. Wilson's prescription drug use. Ms. Wilson claimed that she did not fill those prescriptions. Mr. Pinson left the Board hearing and checked with Walgreens regarding the prescriptions on the profile and Walgreens records showed that the prescriptions were filled and then cancelled. Mr. Espadero indicated he would try to work with Ms. Wilson, however she needed to come back to his office and sign a contract.

The Board directed staff that Ms. Wilson is not to be allowed to work in a pharmacy in any capacity until she has signed her agreement with PRN-PRN.

9. Disciplinary Action:

A.	Jessica Nguyen, R.Ph	(08-027A-RPH-S)
B.	Timothy A. Lopez, R.Ph	(08-027B-RPH-S)
C.	Applied Pharmacy Services LLC	(08-027-PH-S)

Anthony Lauria was present to represent Ms. Nguyen and William Stilling was present to represent Mr. Lopez and Applied Pharmacy Services.

Jessica Nguyen and Timothy Lopez appeared and were sworn by President Boudreaux prior to answering questions or offering testimony.

Mr. Ling called Francine Schlacks to testify.

Francine Schlacks appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Louis Ling asked the Board to dismiss the Third Cause of Action regarding Mr. Lopez being the managing pharmacist for more than one location, since the other location was in Southern California and was up for sale.

Mr. Stilling requested the Board to dismiss the Second Cause of Action regarding counseling.

Ms. Schlacks testified that she hurt her back while sky diving and was prescribed Omnitrope. Ms. Nguyen compounded the Omnitrope and showed Ms. Schlacks how to inject it. Ms. Schlacks was given insulin syringes and shown how to draw up the Omnitrope and how much to fill the syringe. Ms. Schlacks stated that she used the medication as she was directed for three weeks and could not see where the Omnitrope was reducing in quantity. Ms. Schlacks indicated that she telephoned the pharmacy and spoke with Ms. Nguyen three times to question the dosage and was told that the directions were correct and that it was a three month supply. Ms. Schlacks finally asked to speak with someone else and she then began her communication with Mr. Lopez. Ms. Schlacks and Mr. Lopez agreed that the calculations were incorrect. Mr. Lopez contacted Ms. Schlacks physician and determined the dosage should be increased. Mr. Lopez then did the calculations, however since the refill labels had already been prepared, Mr. Lopez failed to create new labels and labeled the correct medication with directions to take only once a day rather than twice a day as he and the physician had discussed. Ms. Schlacks also indicated that the first prescription that was compounded was in powder form and when she received the refill it was the consistency of plaster of paris. Ms. Schlacks contacted the manufacturer and was told that the consistency should be like plaster of paris and then Ms. Schlacks wondered what she was given the first time when Ms. Nguyen prepared the compounded Omnitrope.

Mr. Stilling and Mr. Lauria questioned Ms. Schlacks.

Mr. Lauria questioned Ms. Nguyen regarding her professional experience which she described for the Board. She had never been a compounding pharmacist until she took the position with Applied Pharmacy Services. Ms. Nguyen testified that she was unaware that units of insulin were different than units of Omnitrope or that it would make a difference in the dosage if administered through an insulin syringe. Ms. Nguyen testified that she had no training regarding compounding medications when she was hired at Applied Pharmacy Services.

Mr. Stilling and the Board questioned Ms. Nguyen regarding her testimony and her pharmacy practice.

Mr. Stilling called Mr. Lopez. Mr. Lopez described his pharmacy experience. He then described the circumstances in this matter and gave details of his pharmacy operation at Applied Pharmacy Services. Mr. Lopez was asked about his hiring and training practices for his employees. Mr. Lopez indicated that he thought a new pharmacist just out of pharmacy school would be knowledgeable about compounding.

Mr. Lauria and the Board questioned Mr. Lopez.

Mr. Ling gave closing remarks and recommendations. For the First Cause of Action regarding the filling and dispensing with incorrect directions, when Ms. Nguyen and Mr. Lopez both mislabeled the Omnitrope prescriptions for Ms. Schlacks, Mr. Ling recommended a $1,000.00 fine for Ms. Nguyen and a $150.00 fine for Mr. Lopez. For the Second Cause of Action regarding keeping accurate records, as they both recorded that they did not counsel Ms. Schlacks when they both had counseled Ms. Schlacks, Mr. Ling recommended Mr. Lopez and Applied Pharmacy Services prepare policies and procedures regarding staff training and do a self-audit and report back to the Board at the October meeting. He recommended dismissing the Third Cause of Action. The Fourth Cause of Action regarding owning and operating, Mr. Ling left to the Board's discretion.

Mr. Lauria and Mr. Stilling both gave closing statements.

Board Action:

Motion: Leo Basch moved to find Ms. Nguyen guilty of the First Cause of Action.

Second: Don Fey

Action: Passed Unanimously

Motion: Leo Basch moved to find Ms. Nguyen guilty of the Second Cause of Action.

Second: Mary Lau

Action: Passed Unanimously

Motion: Leo Basch moved to find Mr. Lopez guilty of the First and Second Causes of Action.

Second: Don Fey

Action: Passed Unanimously

Motion: Leo Basch moved to dismiss the Third Cause of Action.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Leo Basch moved to find Applied Pharmacy Services guilty of the Fourth Cause of Action.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Leo Basch moved in the First Cause of Action to fine Ms. Nguyen $750.00 require her to pay one third of the fees and costs in this matter, and do 12 hours of CE in compounding calculations and error prevention – 4 hours each and 4 hours of anything else – to be done within 90 days of signing of the Order.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Leo Basch moved not to take action against Ms. Nguyen in the Second Cause of Action.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Leo Basch moved in the First Cause of Action to fine Mr. Lopez $250.00 and require him to pay one third of the fees and costs in this matter.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Leo Basch moved in the Second Cause of Action no fine, but policies and procedures on counseling be prepared to conform with Nevada law and have those policies and procedures reported to Board staff within 60 days of signing of the Order.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Keith Macdonald moved in the Fourth Cause of Action to have Applied Pharmacy Services pay one third of the costs and fees in this matter.

Second: Leo Basch

Action: Passed Unanimously

D.	David R. Pricer, R.Ph	(08-022-RPH-S)
E.	Smith's Pharmacy #385	(08-022-PH-S)

NOTE: Mary Lau recused from participation in this hearing as she is the president of the Retail Association of Nevada and Smith's is a member of RAN.

Tammy Myxter, district pharmacy manager for Smith's, and Blair Woolf, vice president of pharmacy practices for Smith's, appeared to represent Smith's Pharmacy #385.

Louis Ling called Emily Calderone to testify.

Emily Calderone appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Mr. Ling asked Ms. Calderone to explain the circumstances of her complaint. Ms. Calderone indicated that she was diagnosed with diabetes. Dr. Wong prescribed Humalog 75/25 and Ms. Calderone took her prescription to Smith's #385 to be filled. Ms. Calderone explained that a woman gave her the medication after the prescription was filled, she paid for it and left the store. Ms. Calderone stated that she waited until the following Saturday to begin her insulin therapy as she wanted to be at home to see how she would react to the insulin. Ms. Calderone read the directions on the label noting that she was to take 60 units of Humalog twice a day, however the syringes she was given at the pharmacy were too small (they only went up to 50 units). Ms. Calderone telephoned the pharmacy and was told she could inject two 30 unit doses to equal 60 units and that she could come into the pharmacy and exchange the syringes for larger ones. Ms. Calderone followed the direction of the person she spoke with on the telephone and injected 60 units of Humalog. She testified that she became shaky and sweaty after her injections. A few minutes later, Jennifer from Smith's #385 telephoned Ms. Calderone and told her not to inject 60 units of Humalog as she was only supposed to have 6 units. Ms. Calderone was advised to go the emergency room and have her blood sugar monitored. Ms. Calderone was admitted to the hospital for 24 hours to stabilize her blood sugar.

Blair Woolf appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Mr. Woolf apologized and then questioned Ms. Calderone and noted for the Board that Smith's human resources had contacted Ms. Calderone.

Ms. Calderone advised the Board that nobody counseled her regarding her new Humalog prescription and that she trusts her pharmacy to tell her what she needs to do.

David Pricer appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Mr. Pricer apologized to Ms. Calderone. He explained that he read the prescription as 60 units because of the doctor's handwriting. Mr. Pricer admitted he did not give the filling of this prescription his full attention as it was extremely busy at the time and he should have noticed that the prescription for Humalog was more than the prescribed syringes could hold.

Exhibit 1, a copy of the written prescription, was admitted into evidence.

Louis Ling gave closing statements and recommendations. For the First Cause of Action for filling and dispensing a prescription with the wrong dosage, Mr. Ling recommended a fine of $500.00 plus half of the costs and fees. For the Second Cause of Action regarding counseling, he recommends a fine of $750.00 and the Third Cause of Action with reference to Smith's #385 he recommends the same as for Mr. Pricer.

Mr. Pricer acknowledged responsibility for the errors. Mr. Woolf commended Mr. Pricer and Jennifer for their actions regarding this unfortunate error.

Board Action:

Motion: Ray Seidlinger moved to find Mr. Pricer guilty of the First Cause of Action.

Second: Leo Basch

Action: Passed Unanimously

Motion: Ray Seidlinger moved to find Mr. Pricer guilty of the Second Cause of Action.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Ray Seidlinger moved to find Smith's #385 guilty of the Third Cause of Action.

Second: Keith Macdonald

Action: Passed With One Negative Vote

Motion: Ray Seidlinger moved to fine Mr. Pricer $1,000.00 for the First Cause of Action.

Second: Keith Macdonald

Action: Passed With One Negative Vote

Motion: Ray Seidlinger moved to fine Mr. Pricer $500.00 for the Second Cause of Action.

Second: Don Fey

Action: Passed With One Negative Vote

Motion: Ray Seidlinger moved to impose fees and costs to Smith's #385 for the Third Cause of Action.

Second: Keith Macdonald

Action: Passed With One Negative Vote

F.	Shamika R. Banks, PT	(08-035-PT-S)
G.	Rasel-Lian Pablo, PT	(08-034-PT-S)

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

Louis Ling advised the Board that Ms. Banks and Mr. Pablo were both noticed properly regarding the time and place of this hearing, however neither of them were present.

Walgreens notified Board staff that Ms. Banks and Mr. Pablo were terminated from employment for obtaining hydrocodone for a friend without a valid prescription.

Board Action:

Motion: Keith Macdonald moved to find Ms. Banks and Mr. Pablo guilty of the alleged violations.

Second: Chad Luebke

Action: Passed Unanimously

Motion: Keith Macdonald moved to revoke Ms. Banks and Mr. Pablo's pharmaceutical technician registrations.

Second: Chad Luebke

Action: Passed Unanimously

H. Rafael Escobar, PT (08-031-PT-S)

NOTE: Chad Luebke recused from participation in this matter as he is employed by CVS.

Louis Ling advised the Board that the Accusation and the letter with time and place of hearing were received by Mr. Escobar, however he is not present for hearing.

Board staff received notice of termination of employment for Mr. Escobar for diverting hydrocodone from CVS #5068. Mr. Escobar had been taking full bottles of 100 from the pharmacy for approximately two months and estimated that he had taken between 20 to 35 bottles. Mr. Ling recommended revocation of Mr. Escobar's pharmaceutical technician registration.

Board Action:

Motion: Don Fey moved to find Mr. Escobar guilty of drug diversion.

Second: Keith Macdonald

Action: Passed Unanimously

Motion: Don Fey moved to revoke Mr. Escobar's pharmaceutical technician registration. Mr. Escobar may not request reinstatement of his registration until he has provided proof of restitution to Board staff.

Second: Keith Macdonald

Action: Passed Unanimously

I. Kelly Gaines, PTT (08-023-PTT-S)

Kelly Gaines appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Ms. Gaines testified that she was following Smith's standard policies and procedures when she added unauthorized refills to prescriptions for hydrocodone and Alprazolam. Ms. Gaines stated that the unauthorized refills she filled were for a Smith's store employee who was calling in her own refills and that was not her fault. She indicated that she always charged the co-pay and never gave the refills for free.

Ms. Gaines was drug tested because she was showing unusual behavior while at work. Ms. Gaines tested positive for methamphetamines and she admitted to using them but not while she was at work.

Board Action:

Motion: Keith Macdonald moved to find Ms. Gaines guilty of the First Cause of Action for testing positive for methamphetamines

Second: Chad Luebke

Action: Passed Unanimously

Motion: Keith Macdonald moved to find Ms. Gaines guilty of the Second Cause of Action for filling hydrocodone and Alprazolam refills for friends without authorization from a physician.

Second: Don Fey

Action: Passed Unanimously

Motion: Keith Macdonald moved to revoke the PTT registration for Ms. Gaines.

Second: Leo Basch

Action: Passed Unanimously

J. James V. Ammon, R.Ph (08-021-RPH-O)

Mr. Ling advised the Board that Mr. Ammon had made a request for a continuance however he had sent the request and Answer and Notice of Defense to the Chamber of Commerce instead of the Board of Pharmacy and neither had received the paperwork.

Board Action:

Motion: Ray Seidlinger moved to deny the request for continuance.

Second: Leo Basch

Action: Passed Unanimously

Louis Ling explained that Mr. Ammon had lied on his online renewal application by indicating that he had not been disciplined by any other state or been arrested for violation of pharmacy or drug laws in any other state. Mr. Ammon did not disclose the surrender of his license in Utah on his renewal in Wyoming. The Wyoming Board of Pharmacy accepted Mr. Ammon's voluntary surrender of his license for not being truthful on his renewal application. Since Mr. Ammon was untruthful on his renewal application with our Board by having two licenses disciplined in two other states and having been charged, arrested or convicted of a felony or misdemeanor in another

state, Mr. Ling recommended revocation or suspension of Mr. Ammon's pharmacist license in Nevada.

Board Action:

Motion: Chad Luebke moved to find Mr. Ammon guilty of the First and Second Causes of Action.

Second: Mary Lau

Action: Passed Unanimously

Motion: Chad Luebke moved to suspend Mr. Ammon's pharmacist license until he requests reinstatement.

Second: Keith Macdonald

Action: Two No Votes, Three Yes Votes – Motion Carries.

10. Alternative Pharmacy Practice Sites – Appearance:

Mary Ryan

President Boudreaux asked Don Fey to chair this appearance as he is an employee of Medco Health Solutions, as is Ms. Ryan.

Ms. Ryan described the alternative pharmacy practice site concept that they would like to implement in Nevada. This would allow pharmacists to perform some activities from a non-pharmacy setting. Medco programs have currently been approved in seven states and they would like to include Nevada in this process.

Louis Ling suggested that Medco wait until the regulations are adopted at the Legislative Commission meeting in September. Board staff will consider Ms. Ryan's presentation today as being completed and ask them to submit their written plan for approval after the regulation is adopted.

11. Request for Appearance:

InstyMeds – Matt Sneller

Ed Rickert, Matt Sneller and Jim Holtz appeared before the Board and gave a presentation on the InstyMeds automated prescription medication dispensing system. Currently our law allows InstyMeds dispensing systems to be installed in emergency rooms only. After the presentation, they requested permission to install InstyMeds dispensing systems in remote locations and doctors offices. Board staff advised that it

would take a regulation change to allow that practice. Board staff was directed to bring language to a Workshop.

12. Discussion and Determination:

Patient Counseling

Larry Pinson advised the Board that Keith Macdonald asked this topic to be considered as a D & D item. Mr. Pinson asked Mr. Macdonald to elaborate on his ideas.

Mr. Macdonald addressed our current laws regarding patient counseling. He cited NAC 639.707 and stated that it needed to be changed to reflect what we mean. He feels that the eleven required items on the list of things that need to be covered during counseling are not being addressed in most instances so in essence all pharmacists are violating the law. Mr. Macdonald suggested we get rid of the list and use words such as “in the pharmacists professional judgment” or something similar. He would like to see the language in NAC 639.707 softened in some manner so that pharmacists are not setting up for non-compliance. Mr. Macdonald would also like the Board to look at the matrix regarding failure to counsel and reconsider the fines currently being imposed.

13. 2008-09 Budget Approval

Larry Pinson reviewed the budget line by line and gave explanations of each line item for clarification of the entries.

Board Action:

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

Second: Leo Basch

Action: Passed Unanimously

14. General Counsel Report

Louis Ling advised the Board that Dutchess has applied for rehearing. The Supreme Court needs to deny them and send it back. There was discussion about the Dutchess case and it was determined to provide the final Board Order to the Board members who were not on the Board at that time.

15. Executive Secretary Report:

A. Financial Report
B. Investment Report

Mr. Pinson gave the financial and investment reports in conjunction with the request for budget approval to the Board's satisfaction.

C. Temporary Licenses

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

D. Staff Activities
1. Meetings
a. DEA Annual Conference (6/08)
- CII Changes
- CII Splitting
- CS E-prescribing
- Salvia divinorum

Larry Pinson reported on the DEA Annual Conference that he attended. He noted that Michael Lewis, diversion program manager for the DEA, is alarmed at the prescription drug abuse by children. They are looking into implementing drug testing requirements for children in middle schools and high schools. Kids are getting drugs at home out of their parents and grandparents medicine cabinets. Mr. Pinson also reported that there is a huge push for electronic 222's.

2. HGH Website

Mr. Pinson reported that staff had contacted the operators of an HGH website who had no idea that HGH was a controlled substance in Nevada. They have shut down their website and relinquished their dispensing license.

3. CE Meeting (7/10/08)

Eight programs were reviewed by the CE committee and are recommended for Board approval.

Board Action:

Motion: Leo Basch moved to approve the programs recommended by the CE committee.

Second: Don Fey

Action: Passed Unanimously

E. Report to Board
1. Tech Advisory Committee

Mr. Pinson will ask a cross section of pharmaceutical technicians to participate on the Tech Advisory Committee. He also asked Chad Luebke to represent the Board and Mr. Luebke accepted.

2. ACPE

Trends are shifting nationwide in the pharmacy profession. There is an 8 to 1 chance of getting accepted into a pharmacy school presently. Statistics also indicate a shift toward more males becoming interested in pharmacy than in recent years.

3. Biennial Inspections

Larry Pinson indicated that he did not want to pursue the concept of biennial inspections at this time in light of the hepatitis C issue, however he did feel it was time to add another inspector to Board staff.

4. Versa

Board staff is looking forward to going live with the new Versa licensing program. Board staff has been in Las Vegas since Monday training the Las Vegas office staff how to use the new program.

F. Board Related News

1. Fraud litigation

Mr. Pinson noted cases where huge fines were paid by Walgreens, CVS, and Express Scripts for fraudulent billing activity.

2. "Emily's Law"

Ohio is now testing pharmaceutical technicians for competency and are now "licensing" them.

3. Board Meeting Dates

Mr. Pinson proposed meeting dates for 2009 and the Board approved them.

G. Activities Report

PUBLIC HEARING

16. Notice of Intent to Act Upon a Regulation:

1. **Amendment of Nevada Administrative Code 639.220 Changes to MDEG Fees** This language will require a new application and fee when a MDEG provider changes location.

President Boudreaux opened the Public Hearing.

There was no comment.

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

Board Action:

Motion: Keith Macdonald moved to adopt as presented.

Second: Leo Basch

Action: Passed Unanimously

2. **Amendment of Nevada Administrative Code 639.240 Pharmaceutical Technician Certification Changes** This language will allow a second certification board or institute to certify pharmaceutical technicians to practice in the State of Nevada.

President Boudreaux opened the Public Hearing.

There was no comment.

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

Board Action:

Motion: Ray Seidlinger moved to adopt as presented.

Second: Don Fey

Action: Passed Unanimously

3. **Amendment of Nevada Administrative Code 639.2971, 639.2972, 639.2973 and 639.2975 Immunizations** These changes will change the age of patients that may be immunized by pharmacists and allow the protocol for a physician to set limitations.

Louis Ling and Larry Pinson noted that with this new language a pharmacist could immunize any age. Doctors can still order immunizations and pharmacists can administer them. Mr. Ling made all the changes as directed from the last meeting. Larry Pinson reminded the Board that Nevada has one of the lowest rates of immunization in the nation.

President Boudreaux opened the Public Hearing.

Christina Madison, representing Southern Nevada Health Clinic, appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Ms. Madison showed concern for lowering the age of patients pharmacists would be allowed to vaccinate. She indicated that she vaccinates through the Department of Health and the training they receive would only allow them to vaccinate adolescent and adult patients. Ms. Madison wanted to ensure that if the Board were to lower the age to infants that they be trained appropriately to do so. APhA leaves the age determination to each state because of different rules in each state. Mr. Basch stated that he took the 20 hour APhA course and feels comfortable with the training he received to immunize infants and children. Mr. Luebke indicated that he also took the training and would feel comfortable immunizing babies and children.

Katie Craven appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Ms. Craven advised the Board that she supports these regulation amendments because so many children are not being vaccinated and broadening the availability to parents would be helpful. In a poll, the percentage of children being vaccinated against childhood diseases, Nevada rates as almost the worst state in the nation.

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

Mr. Luce supports the passage of this regulation amendment and applauds the Board for being progressive in the immunization issue.

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

Mr. Ling noted that on page 6(e) of the reg LCB tried to combine two concepts and noted that he would correct it before it is submitted for adoption.

Board Action:

Motion: Ray Seidlinger moved to adopt with the minor change noted.

Second: Leo Basch

Action: Passed Unanimously

4. **Amendment of Nevada Administrative Code 639.4992 and 639.4996 Changes Regarding Consultant Pharmacists to Ambulatory Surgical Centers** To regulate the activities of a consultant pharmacist in the ambulatory surgery center setting.

Louis Ling and Larry Pinson reviewed the language with the Board. It was determined that on page 2 two minor changes would be incorporated into the language for clarification.

President Boudreaux opened the Public Hearing.

Shelly Spiro, representing ASCP, appeared and was sworn by President Boudreaux prior to answering questions or offering testimony.

Ms. Spiro discussed the language and noted that she and ASCP support the language as written.

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

Board Action:

Motion: Leo Basch moved to adopt the language with the minor changes as discussed on page 2.

Second: Chad Luebke

Action: Passed Unanimously

17. Next Board Meeting:

September 3 & 4, 2008 – Reno

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

There was no public comment.