



NEVADA STATE BOARD OF PHARMACY

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• Web Page: bop.nv.gov

MINUTES

September 7-8, 2016

BOARD MEETING

Hyatt Place
1790 E Plumb Lane
Reno, Nevada

Board Members Present:

Leo Basch	Kevin Desmond	Tallie Pederson	Cheryl Blomstrom
Jason Penrod	Kirk Wentworth	Darla Zarley	

Board Staff Present:

Larry Pinson	Dave Wuest	Paul Edwards	Shirley Hunting
Joe Depczynski	Brett Kandt	Kristopher Mangosing	

1. Public Comment September 7, 2015 9:00 AM

There was no public comment.

2. Approval of July 21-22, 2016, Minutes

Cheryl Blomstrom recused from participation in this matter due to her absence during the July 2016 board meeting.

Mr. Desmond requested corrections to change "Daniel Dodge" to "Joe Dodge."

President Basch requested clarification on pg. 6 to include in the motion that Board Staff is authorized to review this case and lift the suspension on Ms. Baker's license prior to the end of the twelve-month period providing that she passes the PARE exam

Board Action:

Motion: Kirk Wentworth moved to approve the Minutes with corrections as noted.

Second: Kevin Desmond

Action: Passed unanimously

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

- A. Allcare Pharmacy, Inc. – Worcester, MA
- B. Global Medical Therapeutics – Salt Lake City, UT
- C. Heritage Biologics, Inc. – Lee’s Summit, MO
- D. Paragon Healthcare Specialty – Dallas, TX
- E. Pioneer Pharmaceuticals, LLC – Rosenberg, IL
- F. Priority Care Pharmacy Services, LLC – Amory, MS
- G. ProCare Pharmacy Care, LLC – Miramar, FL
- H. Recept Pharmacy #1 – Fort Worth, TX
- I. TNH Pharmacy 2 – Van Nuys, CA
- J. Wecare Pharmaceutical Services Inc. – San Bernardino, CA

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

- K. Favre’s Baytown Pharmacy – Bay St Louis, MO
- L. Hy-Vee Pharmacy Solutions – Omaha, NE
- M. Paragon Infusion Care, Inc. – Dallas, TX
- N. Portland Professional Pharmacy – Portland, OR
- O. Prescription Dispensing Laboratories, Inc. – Cedar Park, TX
- P. Propac Pharmacy – Vancouver, WA

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

- Q. Advanced Accelerator Applications USA, Inc. – Millburn, NJ
- R. Aesculap, Inc. – Hazelwood, MO
- S. Aesculap Implant Systems, Inc. – Hazelwood, MO
- T. Attain Med, Inc. – Atlanta, GA
- U. Bloodworth Wholesale Drugs – Tifton, GA
- V. Blu Pharmaceuticals – Franklin, KY
- W. JCB Laboratories, LLC – Wichita, KS
- X. Kenco Logistic Services, LLC – Chattanooga, TN
- Y. Kuehne + Nagel Inc. – Indianapolis, IN
- Z. Larken Laboratories, Inc. – Canton, MS
- AA. Merit Medical Systems, Inc. – Chester, VA
- BB. Midwest Veterinary Supply, Inc. – Dallas, TX
- CC. Reliable Pharmaceutical Returns, LLC – Nashville, TN
- DD. Smith Medical Partners, LLC – Carol Stream, IL
- EE. Ster Rx LLC – Plattsburg, NY
- FF. Technomed, Inc. – Ramsey, NJ
- GG. Unit Dose Solutions, Inc. – Morrisville, NC

Applications for Out-of-State Medical, Devices, Equipment and Gases – Non Appearance:

- HH. DJO, LLC – Plainfield, IN
- II. Ortho Tek, Inc. – Des Moines, IA
- JJ. Owens & Minor Distribution Inc. – Carol Stream, IL
- KK. Respironics, Inc. – Mt. Pleasant, PA
- LL. Respironics Logistics Services, LLC – Mt. Pleasant, PA

Applications for Nevada Pharmacy – Non Appearance for Possible Action:

- MM. ER at the Lakes, a Department of Southern Hills Hospital and Medical Center – Las Vegas
- NN. Vesper Specialty Pharmacy LLC – Las Vegas

The Board discussion ensued regarding the services and information provided on Paragon Infusion Care, Inc.'s (Item 3M) website.

Board Action:

Motion: Kirk Wentworth moved to approve the Consent Agenda with the exception of Item 3M.

Second: Jason Penrod

Action: Passed unanimously

Board Action:

Motion: Kirk Wentworth moved to table Paragon Infusion Care, Inc.'s Out-of-State Pharmacy Application until the next Board Meeting. Prior to the next meeting, Board Staff is to contact Paragon Infusion Care, Inc. and determine if the pharmacy is providing pre-printed prescription pads to prescribers.

Second: Cheryl Blomstrom

Action: Passed unanimously

4. Discipline

- A. Zachary Hansen, R.Ph (16-044-RPH-N)

Darla Zarley recused from participation due her employment at Roseman University. Mr. Hansen was a student at Roseman University.

Zachary Hansen appeared and was sworn by President Basch prior to answering questions or offering testimony.

Mr. Edwards moved to have Exhibits 1 through 7 admitted.

Mr. Hansen had no objections to the Exhibits.

President Basch admitted the Exhibits into the record.

Mr. Edwards presented a copy of Mr. Hansen's answer to the Accusation to the Board.

Mr. Edwards explained that in June 2016, Board Staff received notification from Smith's Food and Drug Stores (Smith's) that Mr. Hansen was terminated from his employment as a pharmacist for falsifying and filling fraudulent prescriptions for controlled substances.

Mr. Edwards stated that between August 7, 2015, and June 7, 2016, Mr. Hansen filled approximately thirty-eight fraudulent prescriptions. Mr. Hansen admitted, in writing, to using a valid prescription as a template for the fraudulent prescriptions and falsely billing his and other patients' insurances to pay for the prescriptions.

Mr. Edwards presented Five Causes of Action against Mr. Hansen for unprofessional conduct, knowingly obtaining illegal controlled substances, party to deceitful practice, writing prescriptions without proper registration and acting as a dispensing practitioner without proper registration.

Mr. Hansen admitted to the facts listed in the allegations. He apologized to the Board for his mistakes and stated that he was prepared to take responsibility for his actions. He explained that he has obtained a personal therapist and made apologies to the patient's whose names he falsely used.

Mr. Edwards called Mr. Hansen as a witness.

Mr. Edwards asked Mr. Hansen to review Exhibits 1 through 7 for the Board. Mr. Hansen acknowledged and confessed to the Causes of Action presented by Board Staff.

After questioning Mr. Hansen, Mr. Edwards requested Exhibit 7 be removed from the record.

The Board questioned Mr. Hansen regarding his current employment status, treatment plan and the details of how he fraudulently filled the prescriptions.

Board Action:

Motion: Cheryl Blomstrom moved to find Zachary Hansen guilty of the five Causes of Action presented.

Second: Jason Penrod

Action: Passed unanimously

Mr. Edwards stated that Board Staff recommends revocation of Mr. Hansen's Pharmacist License.

Board Action:

Motion: Cheryl Blomstrom moved to revoke Zachary Hansen's Nevada Pharmacist License.

Second: Jason Penrod

Action: Passed unanimously

B. Donates Pranskevicius, PT (16-037-PR-N)

Paul Quade was present as counsel representing Mr. Pranskevicius.

Mr. Quade requested permission to continue this matter until the next meeting with the agreement that Mr. Pranskevicius will not practice pharmacy until this matter is resolved.

Mr. Edwards stated that Board Staff has no objections to the request for continuance as long as Mr. Pranskevicius agrees not to work in a pharmacy.

President Basch approved the request to continue this matter until the next meeting.

5. Applications for Controlled Substance License – Appearance:

A. Ronald H. Foote, MD

Ronald Foote appeared and was sworn by President Basch prior to answering questions or offering testimony.

Dr. Foote explained that he appeared before the Board during the July 2016 meeting and requested his application be tabled due to Board's concern regarding a pending lawsuit.

Dr. Foote provided information regarding his past arrests, disciplinary actions and current status with the Nevada State Board of Medical Examiners (Medical Board).

Dr. Foote agreed to enter a letter from the NV Physicians Health Program regarding his recovery over the last 2 years into the record.

The Board questioned Dr. Foote regarding the outcome of his lawsuit.

Dr. Foote explained that the hearing was continued until November 2016.

The Board expressed concern regarding the continuance of his court hearing and the current restrictions on his medical license.

Board Action:

Motion: Kevin Desmond moved to deny Ronald Foote's Application for Controlled Substance License.

Second: Darla Zarley

Aye: Blomstrom, Desmond, Pederson, Penrod, Zarley

Nay: Wentworth

Action: Motion Passed

B. Michael J. Yudez, DO

Michael Yudez appeared and was sworn by President Basch prior to answering questions or offering testimony.

Dr. Yudez explained that he is applying for a controlled substance registration in Nevada and has already found a practice location in Las Vegas. He stated that he indicated on his application that he was subject of a board citation or administrative action in Colorado.

The Board questioned Dr. Yudez regarding the surrender of his medical license in Colorado, treatment, testing and past practice.

Dr. Yudez explained that he has been licensed by the Nevada State board of Osteopathic Medicine and that he has no issues with addiction or controlled substance abuse.

The Board expressed concern that the Nevada Board of Osteopathic Medicines website did not show record of his disciplinary history in Colorado.

The Board offered Dr. Yudez the option to table his application until the next meeting. Board Staff is instructed to contact the Nevada State Board of Osteopathic Medicine to discuss Dr. Yudez's disciplinary history.

Dr. Yudez requested the Board table his application until the next meeting.

6. Application for Physician Assistant to Prescribe – Appearance:

Russell P. Johnson, PA

Russell Johnson appeared and was sworn by President Basch prior to answering questions or offering testimony.

Mr. Johnson explained that he is currently working in a sports medicine clinic with Dr. Holper providing pain management services.

The Board questioned Mr. Johnson regarding past charges, arrests, convictions and disciplinary actions in other states.

Mr. Johnson explained that in August 2011, he was investigated by the DEA for prescribing controlled substances to himself. He stated that during the investigation he voluntarily surrendered his medical license and entered a 3-month treatment course.

The Board expressed concern of Mr. Johnson's lack of accountability regarding his past disciplinary actions and that Mr. Johnson is providing pain management services with Dr. Holper when Dr. Holper informed the Board that he was no longer going to be offering pain management.

Board discussion ensued regarding Mr. Johnson being evaluated by PRN-PRN.

Board Action:

Motion: Jason Penrod moved to table Russell Johnson's Application for Physician Assistant to Prescribe until the October 2016 Board meeting. Before the October meeting Mr. Johnson is to be evaluated by PRN-PRN.

Second: Tallie Pederson

Action: Passed unanimously

7. Discussion and possible action on Strategic Pharmaceutical Solutions' proposed Settlement Agreement in the matters of *Strategic Pharmaceutical Solutions Inc. v. Nevada State Board of Pharmacy*, D. Nev., Case No. 16-cv-171, and *Nevada State Board of Pharmacy v. Strategic Pharmaceutical Solutions Inc.*, Nev. 2d Jud. Dist. Ct., Case No. CV16-00560. Please note that during this agenda item the Board may adjourn the meeting and exclude the public for an attorney-client conference on existing litigation pursuant to NRS 241.015(3)(b)(2); however, any action will be taken in an open meeting. (For Possible Action)

Robert Jaffe and James Boyle were present as counsel representing Strategic Pharmaceutical Solutions Inc. (VetSource).

Colleen Platt and Paul Edwards were present as counsel representing the Nevada State Board of Pharmacy (Board).

Mr. Jaffe explained that VetSource is an out-of-state pharmacy that provides services to Veterinarians.

Mr. Jaffe provided an explanation of VetSource's business model, the pending Federal Action claiming the Board's violation of anti-trust laws and the state proceeding where the judge ruled that VetSource was not issuing kickbacks to veterinarians using their services.

Mr. Jaffe stated that VetSource has been following this current business practice for eight years with no public safety issues.

Mr. Jaffe presented a 'walk away' settlement to the Board.

Ms. Platt presented a timeline from the Board's Cease and Desist letter to VetSource in May 2015, to present. She explained the chain of drug ownership in VetSource's business model.

The Board expressed concerns regarding the consequences of accepting a broad settlement agreement, as well as pet and public safety concerns, if other businesses were to adopt similar business models.

Board Action:

Motion: Jason Penrod moved to reject the settlement agreement from VetSource.

Second: Kirk Wentworth

Action: Passed unanimously

Public Comment September 7, 2016 5:00 PM

There was no public comment.

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

A. California Specialty Pharmacy – Whittier, CA

Ethan Huynh, pharmacy manager, appeared and was sworn by President Basch prior to answering questions or offering testimony.

Mr. Huynh stated that California Specialty Pharmacy is a home infusion pharmacy. He explained that California Specialty Pharmacy sells premade home infusion medications and ships them directly to the patient.

Mr. Huynh acknowledged that if California Specialty Pharmacy were to offer non-sterile or sterile compounding services to patients in Nevada then they would need to complete a new application.

Mr. Huynh answered questions to the Board's satisfaction regarding California Specialty Pharmacy's services provided, shipping procedure, clean room specifications and past inspections.

Board Action:

Motion: Kevin Desmond moved to approve California Specialty Pharmacy's Application for Out-of-State Pharmacy License.

Second: Jason Penrod

Action: Passed unanimously

B. Talon Compounding – San Antonio, TX

Rachel Pittman, part owner and pharmacy manager, appeared and was sworn by President Basch prior to answering questions or offering testimony.

Ms. Pittman requested the Board update Talon Compounding's application to reflect that parenteral, sterile and non-sterile compounding services are provided. She explained that Talon Compounding is applying for an ownership change

Ms. Pittman answered questions to the Board's satisfaction regarding services provided, sterile compounding procedure, training of staff, product testing, shipping and changes to the business.

Ms. Pittman explained that Talon Compounding has plans to specialize in compounding veterinary medications in the future.

Board Action:

Motion: Jason Penrod moved to approve Talon Compounding's Application for Out-of-State Pharmacy License.

Second: Cheryl Blomstrom

Board discussion ensued regarding Talon Compounding's website content and past inspections.

Jason Penrod offered to amend the motion.

Board Action:

Motion: Jason Penrod moved to approve Talon Compounding's Application for Out-of-State Pharmacy License pending receipt of Talon Compounding's most recent Texas inspection.

Second: Cheryl Blomstrom

Action: Passed unanimously

C. US Compounding – Conway, AR

Rebecca Mitchell, Vice President of Pharmacy Operations, appeared and was sworn by President Basch prior to answering questions or offering testimony.

Ms. Mitchell explained that US Compounding is applying for an ownership change. She stated that US Compounding is a FDA registered 503B facility that provides sterile and non-sterile compounded human and veterinary medications.

The Board questioned Ms. Mitchell regarding US Compounding's past discipline, compounding and shipping procedures, sterility testing and past inspections.

Ms. Mitchell answered questions to the Board's satisfaction.

Board Action:

Motion: Kevin Desmond moved to approve US Compounding's Application for ownership change.

Second: Jason Penrod

Action: Passed unanimously

9. Applications for Nevada Medical, Devices, Equipment and Gases – Appearance:

A. HDG Medical LLC – Las Vegas

Devin Thornton and Jeff Brouwer, co-owners, appeared and were sworn by President Basch prior to answering questions or offering testimony.

Mr. Thornton explained that HDG Medical LLC. plans to sell braces, TENS units, bone stimulators and cold therapy products to surgery centers, hospitals and prescribers offices.

Mr. Thornton and Mr. Brouwer answered questions to the Board's satisfaction regarding HDG Medical LLC.'s business model, staff training, products provided, billing and the administrator's past work experience.

Board Action:

Motion: Kirk Wentworth moved to approve HDG Medical's Application for Nevada MDEG License pending a positive inspection.

Second: Darla Zarley

Action: Passed unanimously

B. Helix Medical Equipment Inc. – Las Vegas

Angelo Petrilli, part owner, appeared and was sworn by President Basch prior to answer questions or offering testimony.

Mr. Petrilli stated that during the last board meeting the Board expressed concern that Helix Medical Equipment Inc.'s (Helix) business model was not compliant with Nevada law.

Mr. Wuest stated that Mr. Petrilli worked with Board Staff to modify their business model to be in compliance with the law.

Mr. Petrilli explained that instead of keeping Helix inventory at each prescriber's office, Helix would leave a brochure at the office. When the patient orders an item, Helix will deliver the item directly to the patient's home, or to the prescriber's office at the patient's request.

Mr. Petrilli answered questions to the Board's satisfaction.

Board Action:

Motion: Jason Penrod moved to approve Helix Medical Equipment Inc.'s Application for Nevada MDEG license pending a positive inspection.

Second: Darla Zarley

Action: Passed unanimously

10. Application for Nevada Pharmacy – Appearance:

Santa Maria Pharmacy – Las Vegas

Marco Soliman, pharmacist, appeared and was sworn by President Basch prior to answering questions or offering testimony.

Mr. Soliman explained that Santa Maria Pharmacy is a retail pharmacy that employs drivers to deliver medications directly to patients.

The Board questioned Mr. Soliman regarding Santa Maria Pharmacy's procedure for the counselling of new and refilled prescriptions.

Mr. Soliman explained that each prescription refill has an information sheet with a phone number to call if there are any questions. He stated the pharmacist on duty calls patients who are receiving a new prescription to counsel.

Mr. Soliman answered questions to the Board's satisfaction.

Mr. Soliman requested that the Board update Santa Maria Pharmacy's application's Hours of Operation to Monday through Friday from 9:30 AM to 7:00 PM and Saturday from 10:00 AM to 2:00 PM.

Board Action:

Motion: Jason Penrod moved to approve Santa Maria Pharmacy's Application for Nevada Pharmacy License pending completion of the pharmacy application and a positive inspection. Board Staff is authorized to evaluate the completed application.

Second: Darla Zarley

Action: Passed unanimously

11. Application for Nevada Wholesaler – Appearance:

MidWest Veterinary Supply, Inc. – Las Vegas

No representative from MidWest Veterinary Supply, Inc. was present for the meeting. Board Staff will contact the business to reschedule an appearance for a future meeting.

12. Approval of 2017 Board Meeting Dates

Board Action:

Motion: Kevin Desmond moved to approve the 2017 Board Meeting Dates as presented.

Second: Darla Zarley

Action: Passed unanimously

13. Executive Secretary Report for Possible Discussion:

A. Financial Report

Mr. Pinson presented the financials to the Board's satisfaction.

1. Audit

Mr. Pinson stated that the audit occurred in August 2016.

B. Temporary Licenses

Five temporary licenses were issued since the last meeting.

C. Staff Activities

1. Speaking Engagements:
Q & B Meeting

Mr. Pinson's presentation to this group was well received.

2. Governor's Drug Summit Meeting

Mr. Pinson spoke on two panels during this group's meeting. Mr. Wuest, Mr. Edwards and Ms. Long were present from Board Staff. Mr. Desmond and Mr. Penrod were also in attendance.

3. FDA Meeting

Dave Wuest and Joe Dodge will be attending this group's meeting on September 21-22.

- D. Reports to Board:
 - 1. Collaborative Efforts:
BOME; DEA; FBI; NSBN
 - 2. Tribal Health
 - 3. Biennial Report

Mr. Pinson presented the Biennial Report to the Board's satisfaction.

- E. Board Related News

Mr. Pinson stated that Cheryl Blomstrom, Tallie Pederson and Kevin Desmond are up for reappointment.

Mr. Pinson discussed the increased abuse of promethazine with codeine.

Board discussion ensued regarding options to track promethazine with codeine prescriptions.

- F. Activities Report

Mr. Pinson asked for a volunteer to attend the NABP Member Forum on November 11 and December 1, 2016. Jason Penrod volunteered to attend.

Public Comment September 8, 2016, 9:00 AM

Liz MacMenamin, RAN, appeared to clarify the industry's position on R121-15 regarding pharmacies reporting Naloxone distribution. She explained that the industry still feels that the reporting requirements are too burdensome on the pharmacies.

- 14. Notice of Intent to Act Upon a Regulation:

- A. **Amendment of Nevada Administrative Code (NAC) 639.7102 Use of computer system for issuance and transmission of prescription** The regulation currently allows the Board to approve a computer system for issuance and transmission of a prescription to a pharmacy only if the computer system limits access to the prescribing practitioner. The proposed amendment would allow the Board to approve computer systems that allow prescribers to designate delegates who have the authority to access the system to perform prescription-related functions on the practitioner's behalf.

- B. **Amendment of Nevada Administrative Code (NAC) 639.7105 Electronic transmission of prescription** The regulation currently requires that only a practitioner may access a computer system used for issuance and transmission of a prescription to a pharmacy. The proposed amendment would allow a practitioner to authorize delegates to access such a computer system to perform prescription-related functions on the practitioner's behalf.

Mr. Wuest presented two versions of proposed amendments to the regulation. Version 1 would allow an agent to prepare an electronic prescription for a prescriber to send. Version 2 would allow a prescriber to delegate an electronic prescription for an agent to send and the prescriber will have to check the prescription within 24 hours of it being sent.

The Board discussed the consequence for not reviewing an electronic prescription within the 24 hour time limit as well as the types of errors occurring under the current regulation.

Mr. Wuest also explained that Board Staff has received calls asking the Board to consider moving away from called in prescriptions.

President Basch opened the Public Comment.

Catherine O'Mara, NSMA, stated that the issue is delaying patients from receiving their medication in a timely manner is a safety issue. She also explained the Board of Medical Examiners is currently working on language requiring training of the medical assistants.

Andrew Pasternak, physician, stated that electronic prescriptions are still the safest system available.

Harold Kennedy, physician, agreed with Dr. Pasternak and explained that electronic prescribing systems allow for patient to have timely access to their medications and also reduce fraud and abuse.

Board discussion ensued regarding the required training for medical assistants, possible prescriber mobile access to electronic prescribing systems, and the enforceability of the proposed amendments.

Adam Porath, pharmacist, stated that he supports the proposed amendment version 2, but expressed concern regarding the level of training provided for medical assistants who would be delegated to send electronic prescriptions. Mr. Porath suggested modifying version 2 to be stricter or to require DUR overrides before sending electronic prescriptions.

Sanjay Gouldin, pharmacist, expressed concerns with version 2 and how to verify a medical assistant's training.

David May, pharmacist, expressed concern regarding patient care. He stated that the issues with electronic prescriptions are causing patients to suffer.

President Basch closed the Public Comment.

The Board requested Board Staff to remove Sec. C and D from Version 2 and to form a working group to discuss the possibility of DUR overrides on the prescriber side and to make Version 2 enforceable and to bring this matter back to Workshop.

C. Amendment of Nevada Administrative Code (NAC) 453.510 Schedule I The proposed amendment will add MAB-CHMINACA, AB-FUBINACA and ADB-PINACA to

the controlled substances listed in Schedule 1, and provides for other matters properly related thereto.

Mr. Wuest provided background information for the Board.

The Board discussed adding Kratom to Schedule I.

President Basch opened the Public Comment.

There was no public comment.

Board Action:

Motion: Cheryl Blomstrom moved to adopt the regulation as amended and to add Kratom to Schedule I.

Second: Jason Penrod

Action: Passed unanimously

D. Amendment of Nevada Administrative Code (NAC) 453.540 Schedule IV

The proposed amendment will add Eluxadoline to the controlled substances listed in Schedule IV, and provides for other matters properly related thereto.

President Basch opened the Public Comment.

There was no public comment.

Board Action:

Motion: Cheryl Blomstrom moved to adopt the regulation as amended

Second: Jason Penrod

Action: Passed unanimously

E. Amendment of Nevada Administrative Code (NAC) 453.550 Schedule V

The proposed amendment will add Brivaracetam to the controlled substances listed in Schedule IV, and provides for other matters properly related thereto

President Basch opened the Public Comment.

There was no public comment.

Board Action:

Motion: Cheryl Blomstrom moved to adopt the regulation as amended.

Second: Jason Penrod

Action: Passed unanimously

15. Date and Location of Next Scheduled Board Meeting:

October 12-13, 2016 – Las Vegas, Nevada

16. Public Comment September 8, 2016 12:00 PM

Liz MacMenamin, RAN, stated that after discussion with Board Staff. RAN is willing to support the passing Naloxone regulations with the agreement that Board Staff will be willing to further discuss the reporting requirements.