

NEVADA STATE BOARD OF PHARMACY

985 DAMONTE RANCH PKWY, SUITE 206 – RENO, NV 89521 - (775) 850-1440

This application cannot be returned by fax or email.
We must have an original signature and fee to process.

CHANGE OF MANAGING PHARMACIST FORM

Registration Fee: \$50.00

(non-refundable money order or cashier's check only, no cash or business check's)

*This form is only required for pharmacies physically located in Nevada. We only require written notification from an out-of-state pharmacy for a manager change.

General Information

**Nevada Pharmacy Board License #: TBD

**(Do not use your RPH, NPI or DEA number. Number begins with a PH, IA, IB)

Pharmacy Name: ER at South Las Vegas Blvd Store #: N/A

Address: 10770 S. Las Vegas Blvd

City: Las Vegas State: * NV Zip: 89183

Telephone: 702-962-0800 Fax: 702-962-0801

New Managing Pharmacist Name: Jennifer Middleton-Korthauer

License #: 17409 Date Started: Projected June 2021

Pharmacy email: jenna.middleton@hcahealthcare.com

I understand that if I cease to be managing pharmacist of the above named pharmacy I will jointly, with the new managing pharmacist, take an inventory of all controlled substances.

As a managing pharmacist of the above referenced pharmacy, I understand within 48 hours after I report for duty as the managing pharmacist, I shall cause an inventory of all controlled substances of the pharmacy according to the method prescribed by the provision of 21 CFR Part 1304; and cause a copy of the inventory to be on file at the pharmacy.

						Yes	No	
Been diagnosed or treated for any mental illness, including alcohol or substance abuse, or physical condition that would impair your ability to perform the essential functions of your license?....							<input type="checkbox"/>	<input checked="" type="checkbox"/>
1. Been charged, arrested or convicted of a felony or misdemeanor in <u>any</u> state?.....							<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Been the subject of an administrative action whether completed or pending in <u>any</u> state?							<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Had your license subjected to any discipline for violation of pharmacy or drug laws in <u>any</u> state?.....							<input type="checkbox"/>	<input checked="" type="checkbox"/>
If you marked YES to any of the numbered questions (1-3) above, include the following information & provide documentation:								
Board Administrative Action:		State	Date:	Case #:				
			/ /					
Criminal Action:	State	Date:	Case #:	County	Court			

PHARMACY MANAGER'S RESPONSIBILITIES

(PHARMACY MANAGER, MUST READ, SIGN AND DATE THIS SECTION)

1. Insure the pharmacy is operated in accordance with all state and federal laws and regulations. (NRS 639.220).
2. Maintain all outdated, mislabeled or adulterated medications in an isolated area separated from medications for current use. (NRS 639.282; NAC 639.510; NAC 639.473(2).
3. Notify the Nevada State Board of Pharmacy of all employment changes of pharmacy staff within 10 days of the change. (NRS 639.540)
4. Maintain documentation of pharmacy technician in-service records or technician in training daily logs available for inspection at the pharmacy. (NAC 639.254(2))
5. A complete controlled substance inventory must be taken every 2 years and whenever there is a pharmacy manager change (must be completed within 48 hours). (CFR 1304.11; NAC 453.475)
6. Report any loss or theft of controlled substances to the Nevada State Board of Pharmacy, Department of Public Safety and Drug Enforcement Administration within 10 days of the occurrence. (NRS 453.568)
7. Maintain prescription records/logs for 2 years (2 years from the last fill date for original paper prescription). (NRS 639.236; NAC 453.480)
8. Maintain records of sales to practitioners or other licensed providers as invoices for 2 years. (NRS 639.268; NAC 453.485)
9. Maintain invoice records separated as required for 2 years. (NRS 454.286; NAC 639.487)

I understand that as the managing pharmacist I am responsible for compliance by the pharmacy and its personnel with all state and federal laws and regulations relating to the operation of the pharmacy and the practice of pharmacy. I understand my license can be revoked or that I can be the subject of disciplinary action if such laws or regulations are knowingly violated in the pharmacy in which I am managing pharmacist.

I have read all questions, answers and statements and know the content thereof. I hereby certify, under penalty of perjury, that the information furnished on this application is true, accurate and correct.


Signature of New Managing Pharmacist (no stamps or copies)

3-2-2021
Date

Board Use Only

Date Received: _____ Amount: _____

Page 2 of 2

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	CASE NO. 17-015-N
)	
Petitioner,)	STIPULATION TO CONTINUE
v.)	HEARING
)	
MICHAEL L. GERBER, H.M.D., Certificate of)	
Registration Nos. CS03675 and PD03675,)	
)	
Respondent.	/	

S. Paul Edwards, Esq., prosecutor for Petitioner the Nevada State Board of Pharmacy (Board), acting on behalf of Board Staff, and Respondent Michael L. Gerber, H.M.D. ("Gerber"), Nevada Controlled Substance Registration, Certificate No. CS03675, and Nevada Dispensing Practitioner Registration, Certificate No. PD03675 (Gerber), after consulting with his counsel of record, Jeffery A. Dickerson, Esq., hereby agree as follows:

WHEREAS, on July 22, and August 23-24, 2017, the State of Nevada, Board of Homeopathic Medical Examiners ("Homeopathic Board") conducted an administrative disciplinary hearing in the matter of *Board of Homeopathic Medical Examiners v. Gerber*, Case No. 17-01.

After hearing the testimony of witnesses and reviewing documentary evidence entered by the Homeopathic Board into the record, the Homeopathic Board entered its order. *See Board of Homeopathic Medical Examiners v. Gerber*, Case No. 17-01 (Order dated October 23, 2017 (the "Order")).

Subsequent to the Homeopathic Board's Order, the Board filed a *Notice of Intended Action and Accusation* (Accusation) in the case *Nevada State Board of Pharmacy v. Gerber*, Case No. 17-015-N. The Accusation references findings from the Homeopathic Board's Order. The hearing is scheduled to occur on Wednesday, March 7, 2018, in Reno, Nevada.

On or about November 16, 2017, Gerber filed a petition for judicial review ("PJR") of the Homeopathic Board's Order in the Second Judicial District Court, *State of Nevada, Gerber v. State of Nevada, ex rel Board of Homeopathic Medical Examiners*, Case No. CV17-02142.

THE PARTIES THEREFORE STIPULATE AND AGREE THAT:

The hearing in Case No. 17-015-N shall be continued until after the Second Judicial District Court, Dept. I, enters its order regarding the PJR. The continuance is expressly conditioned upon Gerber's compliance with the following requirements:

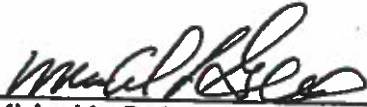
1. Dr. Gerber will not possess, administer, prescribe or dispense any schedule II, III, IV or V controlled substance to any person, and
2. Dr. Gerber will not dispense to any person any drug that is available by allopathic prescription, and
3. Dr. Gerber agrees that any failure by him or his staff to comply strictly with the terms of this stipulated agreement may be grounds for discipline against his Nevada Controlled Substance Registration, Certificate of Registration No. CS03675, and/or his Nevada Dispensing Practitioner Registration, Certificate of Registration No. PD03675, which discipline may include, but is not limited to, suspension or revocation of his registration(s).

Dr. Gerber has fully considered the foregoing terms and conditions of this stipulation and hereby freely and voluntarily agrees to these terms.

AGREED:

Signed this 5th day of March, 2018

Signed this 5th day of March, 2018


Michael L. Gerber, H.M.D.
Certificate of Registration Nos.
CS03675 and PD03675


S. PAUL EDWARDS, ESQ.
General Counsel
Nevada State Board of Pharmacy

Timesheet for Brett Kandt – Michael L. Gerber, H.M.D., Case No. 17-015-PD-N

DATE	TIME
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2/28/2018	4.50
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Review Answer and Notice of Defense and Motion to Dismiss; confer with P. Edwards; research and draft opposition to motion.

5/3/2018	0.25
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Confer with P. Edwards re: Dickerson allegation of violation of stipulation to continue.

9/13/2018	1.75
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Review August 29 and September 11 correspondence of voluntary surrender from Gerber; confer with P. Edwards and draft correspondence to J. Dickerson confirming voluntary surrender.

9/17/2018	0.50
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Review September 13 correspondence from J. Dickerson and draft response.

9/20/2018	1.75
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Review Order of Second Judicial District Court in Case No. CV17-02142 granting Gerber's PJR and remanding to Homeopathic Board for further proceedings; review Gerber Second Motion to Dismiss and confer with P. Edwards.

9/27/2018	3.25
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Research, draft and file Opposition to Second Motion to Dismiss.

10/1/2018	0.75
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Review September 21 correspondence from Gerber and September 27 correspondence from J. Dickerson and draft response.

10/3/2018	0.50
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Review Reply re (Second) Motion to Dismiss; research authority to file reply.

10/17/2018	1.00
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Review October 17 correspondence from J. Dickerson and draft response.

10/19/2018	0.50
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Review Gerber Third Motion to Dismiss.

10/25/2018	3.50
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Research, draft and file Opposition to Gerber Third Motion to Dismiss.

10/30/2018 0.50

Review application from Gerber for controlled substance registration and confer with staff.

10/31/2018 1.00

Review October 29 correspondence from J. Dickerson and draft response.

11/1/2018 3.75

Review Complaint for Declaratory and Injunctive Relief and Motion for Preliminary Injunction in Case No. CV18-02184; confer with client; research and draft response.

11/2/2018 3.25

Review Motion for Temporary Restraining Order in Case No. CV18-02184; research and draft response.

11/5/2018 0.25

Review Ex Parte Motion for Order Shortening Time to Respond to Motion for Temporary Restraining Order in Case No. CV18-02184.

11/6/2018 4.50

Review Reply re Third Motion to Dismiss; finalize and file Opposition to Motion for Temporary Restraining Order in Case No. CV18-02184.

11/7/2018 0.25

Review Reply in Support of Motion for Temporary Restraining Order in Case No. CV18-02184; research DEA registration laws.

11/9/2018 4.25

Confer w/ client; finalize and file Opposition to Motion for Preliminary Injunction.

11/13/2018 3.25

Prepare list of proposed witnesses and copy of all documents and other evidence for Respondent; prepare for hearing in Case No. 17-015-PD-N.

11/16/2018 1.75

Confer with J. Dickerson regarding continuance of hearing in Case No. 17-015-PD-N; review and execute stipulation to continue.

2/20/2019 1.50

Review Order Granting Summary Judgment, confer with client and file Notice of Entry of Order in Case No. CV18-02184.

4/30/2019 0.25

Confer with J. Dickerson regarding rescheduling hearing in Case No. 17-015-PD-N.

5/7/2019 0.25

Confer with J. Dickerson regarding rescheduling hearing in Case No. 17-015-PD-N.

5/9/2019 0.25

Confer with J. Dickerson regarding rescheduling hearing in Case No. 17-015-PD-N.

5/14/2019 0.25

Confer with J. Dickerson regarding rescheduling hearing in Case No. 17-015-PD-N; review notice of appeal.

3/8/2020 1.50

Review Order of Affirmance in Nevada Supreme Court in Case No. 78809; confer with client.

3/31/2020 0.25

Confer with J. Dickerson regarding rescheduling hearing in Case No. 17-015-PD-N.

10/27/2020 0.25

Correspondence to J. Dickerson regarding rescheduling hearing in Case No. 17-015-PD-N.

10/28/2020 0.25

Prepare documents for hearing in Case No. 17-015-PD-N.

10/29/2020 1.25

Prepare for hearing in Case No. 17-015-PD-N; draft proposed order.

11/4/2020 0.50

Confer with J. Dickerson regarding notice of withdrawal from representation. Prepare for hearing in Case No. 17-015-PD-N with respondent appearing pro se.

11/9/2020 0.50

Review notice from L. Beggs regarding representation in Case No. 17-015-PD-N; confer with counsel and draft confirmation of continuance.

12/14/2020 0.50

Confer with L. Beggs and provide prosecution's proposed exhibits and documentation of attorney's fees and costs in Case No. 17-015-PD-N together with correspondence to opposing counsel; review Negotiated Settlement with Nevada Board of Homeopathic Medical Examiners.

TOTAL 49.50 hours x \$65.00/hour = \$3217.50

ACADEMIC PERSONAL DATA

Name: Last, First, Middle	Chau, Diane
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ACADEMIC BIOGRAPHY/BIBLIOGRAPHY FORM

Name: Last, First, Middle	Chau, Diane
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Section I: Employment History and Education

Previous Applicable Employment

Period of employment From: To:	Institution, firm or organization	Location	Rank, title, or position
8/1997 – 8/1998	Mac Gregor Medical Associates	Houston, TX	Physician Faculty
7/1998 – 7/2000	Kaiser NW Permanente	Vancouver, WA	Physician Faculty
9/1998 – 7/2000	Oregon Health Sciences University	Portland, OR	Clinical Preceptor of Medicine
9/1998 – 7/2000	University of Washington	Seattle, WA	Clinical Instructor of Family Medicine
9/2002 – 7/2012	Veteran Affairs Medical Center	Reno, NV	Physician Faculty
1/2003 – 7/2012	University of Nevada	Reno, NV	Assoc Prof, Fellowship Program Director, Chief Division
7/2012 – 7/2017 10/2017 -present 1/2015 -7/2017 3/2013 - 2019	Veteran Affairs Medical Center San Diego PACE UCSD School of Medicine	San Diego, CA Long Beach, CA San Diego, CA San Diego, CA	Medical Director Per Diem Medical Director (PT) HS Associate Clinical Professor (volunteer)
8/2017 - present	Molina Healthcare	Long Beach, CA	Medical Director (FT)

Education

School, college, university, or hospital (internship, residency, or fellowship)	Dates of attendance	Location	Major subject or field	Degrees or certificates	Date received
Boston University	9/1987 - 5/1992	Boston, MA	Biology	BA	5/1992
Harvard University	6/1990 - 5/1992	Boston, MA	Dental/Medical Basic Sciences	Transfer to MD program	
Drexel University	6/1992 - 5/1994	Philadelphia, PA	Medicine	MD	5/1994
Drexel University Hospitals	7/1994 - 6/1995	Philadelphia, PA	Internal Medicine	Internship	6/1995
University of Hawaii	7/1995 - 6/1997	Honolulu, HI	Internal Medicine	Residency	6/1997
University of California, San Diego	8/2000 - 7/2002	San Diego, CA	Geriatrics	Fellowship	7/2002
University of California, San Diego	7/2001 - 6/2002	San Diego, CA	Clinical Research Enhancement through Supplemental Training	CREST	
Stanford University	9/2003	Palo Alto, CA	Geriatrics in Primary Care	Continuing Medical Education 120 hours	10/2003
University of Nevada, Reno	9/2007 - 12/2007	Reno, NV	Management	Certificate of Advanced Management	2007
American College of Health Care Executives	2/2009 - 2/2010	Las Vegas, NV	Leadership	Continuing Medical Education 48 hours	2/2010

Please indicate areas of sub-specialization or board certification, if any. Also include a list of special licenses or permits and the dates received.

Diplomate, American Board of Internal Medicine, 1997 candidate number 177882
 Certificate of Added Qualifications, Geriatric Medicine, 2001, 2011 candidate number 177882
 Diplomate, American Board of Hospice and Palliative Medicine, 2002 candidate number 2259, 2008
 American Board of Medical Specialty, Hospice and Palliative Medicine
 Diplomate, National Board of Medical Examiners, 1994
 California State Medical Board License, 2000 – present
 Nevada State Medical Board License, 2002 – present
 Hawaii State Medical Board License, 1995 - present

International Society for Clinical Densitometry and the American College of Endocrinology Certified Bone Densitometrist 2001 - 2006

Section II: Professional Data

Please list your activities in each of the following eight categories. Please provide dates of awards or service.

a. **University Service** (Include service at the departmental, college, Academic Senate, campus wide, and systemwide levels.)

7/2012 - 2015	University of California, San Diego Geriatrics
Fellowship Steering Committee: interviews, rotation	review of curriculum, teaching residents on
7/2013 - 6/2015	UCSD Geriatrics Fellowship Program Director
2014 - 2015	UCSD Geriatrics Fellowship Program Clinical
Competency Committee and Program	Evaluations Committee
2014, 2015, 2016, 2017	UCSD Clinical Geriatrics Interprofessional
Symposium CME Event Course Director	UCSD Geriatrics Workforce Enhancement
7/2015 - present	Curriculum Committee, Evaluations Committee,
Scholars Program, Program Director,	UCSD Program of All-Inclusive Care Fellowship,
CME Director	Director, Curriculum Committee, Director
7/2015 - present	
SKAGGS School of Pharmacy, Project	

(b) **Memberships** (Include scholarly societies, professional boards, civic organizations, etc.)

1994 - 2013	American College of Physicians (ACP)
2000 - 2014	American Medical Directors Association
2000 - present	American Geriatrics Society (AGS)
2000, 2001	California Medical Association and American
Medical Association	Gerontological Society of America
2002 - 2010	California Geriatrics Society Chapter of the AGS
2003 - present	American Directors of Geriatric Academic
(President 2012 - present)	
2006 - 2012, 2013 - present	Nevada chapter of the ACP
Programs	American Academy of Hospice & Palliative
2007 - 2012	
2008 - 2013	

Medicine	
2008 – 2012, 2014 - 2015	American Program Directors of Internal Medicine
2008 - 2013	
2015 - 2017	American Society of Bone and Mineral Research
2012 - present	Alliance for Academic Internal Medicine
2015 - present	Council of State Affiliates Representative
Directors)	California Long Term Care Medicine (Board of

(c) **Honors and Awards** (Include the dates they were received.)

1992 - 1993	
for Life, present	Albert Schweitzer Urban Health Fellow; Fellows
2001	
Fellows Award	American Medical Directors Association, Future
2002	
Faculty Award	American Medical Directors Association, Junior
2003 – 2006, 2007 - 2010	HRSA Geriatric Academic Career Award
2003	
Star)	Sanford Center for Aging Grantee (2005 Senior
2007 - 2009	
2008 - 2010	Hartford Geriatrics Leadership Scholar
Residents Grant	Hartford Geriatrics Training for Specialty
2009	
2010	Sanford Center for Aging, Faculty Scholar in Aging
Aging Related Service	US Senate, Senator Harry Reid's Recognition for
2011 - present	
	US News and World Report Top Doctors

(d) **Contracts and Grants** (Provide the following information for current contracts and grants.)

Title	Granting agency	Amount of total award (include indirect costs)	Time period of contract/grant	Role (e.g. PI, co-investigator, project leader, etc.) List co-PIs/corresponding share of total award (total must = 100%)

- (e) External Professional Activities (Examples include, but are not limited to, technical service to organizations and agencies, acting as a reviewer of journal or book manuscripts or contract and grant proposals, or professional committee service.)

Grant Reviewer

Grant Reviewer, United Kingdom Diabetes Organization, 2006
HRSA Grant Reviewer, Geriatrics Training for Dentistry, Psychiatry, and Medicine, 2007
HRSA Grant Chairperson, Oral Health Expansion, 2008
HRSA Grant Reviewer, Facility Investment Program, 2009
Boston Schweitzer Fellows Program Grants Reviewer, 2008-2009
HRSA Grant Reviewer, Geriatric Academic Career Award, 2010
HRSA Grant Chairperson, Primary Care Training, 2011
Center for Medicare and Medicaid Innovation, Chairperson, Strong Start, 2012

Journal Reviewer

Annals of Nutrition and Metabolism, 2003
Hartford Project Geriatric Medicine Exam Content Reviewer, Internal Medicine in Training Exams, 2003-2004
Gerontology Society of America Annual Meeting, Abstract Reviewer, 2004, 2005, 2006, 2008, 2011
American Board of Internal Medicine, Geriatric Medicine Relevance Reviewer, 2003 - 2010
International Reviewer Panel, Medical Science Monitor, 2004
Geriatrics Review Syllabus, 5th Edition Slides Reviewer, 2004
Biochemistry and Cell Biology, 2005
American Geriatrics Society, Public Education Materials Reviewer, 2006 - 2008
Clinical Trials Journal, Dove Press, 2009
Journal of the American Geriatrics Society, 2007, 2010, 2017, 2018
Clinical Interventions in Aging Journal, Dove Press, 2010 - 2013
Risk Management & Healthcare Policy Journal, 2010, 2012
American Journal of Medicine, 2012
Research & Palliative Care Journal, 2012
Libertas Academic Journal: Clinical Medicine Insights: Geriatrics, 2013
American Geriatrics Society, 2016

Presentations

2003

1. Geriatric Noon Lecture Series, VA Osteoporosis
2. Palliative Care Journal Club, What is Palliative Care?
3. Lectures for Nevada Geriatrics Education Annual Symposia, Polypharmacy
4. Fourth Annual Geriatrics in Primary Care Conference, University of Nevada, Pain Management in Palliative Care

2004

1. St. Mary's Palliative Care Symposium, Pain Management
2. Renown Medical Center Grand Rounds, Ethics of Pain Management
3. Louise Greenhouse Geriatrics Lecture, Nutritional Issues in the Elderly

2005

1. St. Mary's Palliative Care Spring Symposium, Pain Evaluation and Management
2. Renown Medical Center Grand Rounds, Opiates and How to Use Them
3. Louise Greenhouse Geriatrics Lecture, Constipation
4. 12th Annual Hospice Foundation of America-Living with Grief, Ethical Dilemmas at the End of Life, Methadone Management in EOL.

2006

1. St. Mary's Palliative Care Symposium, Rapid Opiate Escalation Workshop
2. Nevada Center for Ethics and Health Policy, Pain Management Conference

2007

1. California Hospice Foundation Spring Conference, Opiates 101
2. Renown Regional Medical Center Grand Rounds, Opiates and Their Side Effects
3. California Hospice Fall Conference, Prognostication Made Simple

2009

1. California Assisted Living Association Spring Conference, Effective Strategies for Pain Management
2. UNSOM 40th Anniversary Multi-Specialty Updates CME Program, Pain Management in Older Adults
3. Stanford University's Geriatrics GRECC on Prognostication

2010

1. Nevada Family Practice Annual Conference, Capacity & Decision Making
2. American Geriatrics Society Annual Scientific Meeting, Moderator RO4 Consortium on E-learning Special Interest Group
3. American Geriatrics Society Annual Scientific Meeting, Computer-Based Clinical Skills Workshop Speaker
4. Industry speaking for Novartis, Pfizer, Topics: Osteoporosis, Pharmacoeconomics, Pain Management, Dementia
5. University of Nevada Geriatrics Core Conferences, Grand Rounds – numerous, monthly

2011

- Frances Foundation, Pain Management Speaker, Multiple Hospitals

2012

1. Renown Medical Center Grand Rounds: Decisional Capacity
2. University of Nevada School of Medicine Core Conferences: Decisional Capacity
3. Weekly lectures and core presentations in Geriatrics and HPM conferences: Osteoporosis Updates, Transitional Care, Dementia, Delirium, Pain Management

2013

1. UCSD Topics and Advances in Internal Medicine CME Conference, February
2. UCSD Geriatrics Fellowship Seminar, Geriatrics POD Model, July

2014

- UCSD Geriatrics Fellowship Journal Club

2015

1. Geriatrics Scholars Weekly Seminar lecturer topics: Communication, Demographics of Aging, Physiological Aging, Prognostication, Team building and Team Dynamics
2. UCSD Geriatrics Interprofessional Annual Symposia: What is Geriatrics

2016

- Geriatrics Scholars Weekly Seminar lecturer topics: Communication, Demographics of Aging, Physiological Aging, Prognostication, Team building and Team Dynamics
- Geriatrics Workforce Enhancement Program: serving the elderly and underserved through an interdisciplinary curriculum. Oral Presentation at Innovations in Medical Education, Los Angeles, CA
- Park, Paula; Bae, Sang Un; Chau, Diane; Watanabe, Jonathan. Serving the Underserved: Clinical Pharmacy in Low-income Senior Primary Care Clinics. Oral Presentation at West Coast Pharmacy Exchange, San Francisco, CA
- Tam H, Watanabe J, Chau D. A Review of the Recent Evidence: High Risk Medications in

the Older Adult Population in the United States. Poster session presented at California Pharmacist Association West Coast Exchange Pharmacy Conference, San Francisco, CA

- Moderator. UC San Diego 3rd Annual Clinical Geriatrics Interprofessional Symposium, San Diego, CA. December 3-4, 2016
- Broder KW. Chau DL Wound Care in Geriatric Homeless. 2016 American Geriatrics Society Annual Scientific Meeting. [Platform Presentation], Long Beach, CA. May 20, 2016.
- Park, Paula; Chau, Diane; Broder, Kevin; Talavera, Gregory; Hinojosa, Alejandro; Tam, Sammi; Watanabe, Jonathan. GWEP: serving the elderly and underserved through an interdisciplinary curriculum. Oral Presentation at Innovations in Medical Education, Los Angeles, CA, 02/2016

2017

- Watanabe JH, Chi PB, Chau, DL. Anxiety and Depression Symptoms and Every Night Sleep Medication Use in Older Adults in the United States. Academy of Managed Care Pharmacy Nexus Conference. Grapevine, TX.
- Watanabe JH, Chau DL. Older Adults, High Risk Meds, and Polypharmacy. Scripps Mercy Hospital Grand Rounds. San Diego, CA
- Symposium Co-Chair: Using Cross-Cultural and International Experiences in Designing and Implementing Future Elder Care Plans. Presentation: A Brief Review of Elder Care in the US and Europe Over the Last Century. The 21st IAGG World Congress of Gerontology and Geriatrics conference. San Francisco, CA.
- Chau DL Moderator. February 11th, 2017. 3rd Annual UC San Diego Falls Prevention Workshop. Las Vegas, NV.
- Chau D, Sverdlovsky VA "Geriatrics team approach and Quality Improvement Initiatives in Wound Care" December 2, 2017. 4th Annual UC San Diego Wound Care Workshop. Las Vegas, NV.
- Chau DL, Watanabe JH, Sverdlovsky VA, Veneracion M, Naderi B. Preparation for collaboration, UCSD GWEP Challenges, Opportunities and Solutions. Geriatric Workforce Enhancement Program (GWEP) Culture of Care Networking Conference. University of California Irvine GWEP. Anaheim, CA. December 8th, 2017.

2018

- Navigating the intersection of health and social services through information sharing and coordinated care. Community Information Exchange Summit. San Diego, CA
- Chau DL, Naderi B, Watanabe JH. Moderator. Beers Criteria, High Risk Medications, Polypharmacy: Medication Therapy Considerations in Older Adults. UC San Diego-GWEP Scholar Educational Lecture Series. San Diego, CA. March 2018.

Moderator/Panelist

- Moderator Geriatric Homeless Special Interest Group. 2016 American Geriatrics Society Annual Scientific Meeting. [Platform Presentation], Long Beach, CA. May 20, 2016
- Moderator. December 3-4, 2016. 3rd Annual UC San Diego Geriatrics Interprofessional Symposium.
- Moderator. February 11th, 2017. 3rd Annual UC San Diego Falls Prevention Workshop. Las Vegas, NV.
- Moderator. UC San Diego GWEP 4th Annual Wound Care Workshop. Las Vegas, NV. December 2, 2017.
- Moderator. 4th Annual UC San Diego Clinical Geriatrics Interprofessional Symposium. Las Vegas, NV January 20-21, 2018.
- Moderator. UCSD Interprofessional Geriatrics Fall Symposium. March 17, 2018.
- Speaker/Panelist. Health Plans and health care--the intersection. Community Information Exchange Summit, San Diego CA. April 16, 2018
- Moderator Geriatric Homeless Special Interest Group. 2018 American Geriatrics Society Annual Scientific Meeting. [Platform Presentation], Orlando FL. May 3 2018

Professional Committee Service

American Geriatrics Society, 2000 - present Board of Directors, April 2017 - 2020	
2008	Member – Public Education Committee, 2003 –
(2003 – 2007) AGS, 2013 - present	Member – Council of State Affiliates Committee
California Chapter AGS, 2003 – present	Board of Directors Member & Co-Founder –
2003-2004	President, California Chapter AGS, 2012 - present Member – Education Committee, 2001-2002 &
American College of Physicians, 1994 – 2017	Chair – Fellows in Training Section, 2001-2002 Fellow since 2007 Nevada Chapter Resolutions Committee, Awards
Committee, 2007-2012 California Medical Association and American Medical Association Delegate & Alternate Delegate, 2000, 2001	AMA Alternate to Delegate, December 2001, AMA
Delegate to HOD, June 2002	Reference Committee on Amendments to
Constitution and Bylaws Alternate, 2002	
Sanford Center for Aging 2004, 2005, 2008 Planning Committee, Director Search Committee	
American Directors of Geriatric Academic Programs, 2006 – 2012, 2013 - 2015	Nominations Committee, 2009
Joint Commission Ethics Advisory Panel, 2006 - 2007	
American Program Directors of Internal Medicine, 2008 – 2012	Publication Committee, 2009, 2010
State of Washington, Dept of Health Medical Quality Assurance Commission, 2009, 2010 Physician Expert Reviewer	
American Medical Directors Association, Geriatrics Competency Work Group, 2010 – 2012	
Alliance for Academic Internal Medicine (AAIM), Diversity and Inclusion Committee, 2014 – 2017	
AAIM, Associate Editor, Academic Insight 2015 – 2017	
Medical Society Consortium on Climate Change and Health, 2018 –Steering Committee	

(f) Other Activities (List those that do not fit into categories a – f above, such as community service).

2002 - 2004	Senior Advisory Board, Washoe County Northern Nevada, Member
2002	Lectures at senior centers throughout San Diego County for lay public on osteoporosis awareness
2003 - 2005	Developed Promenade Geriatrics Immersion Program, training physicians by having them live within a senior housing community to learn about elders' lives and how to avoid ageism.
1997 - 2008	Boston University Alumni, Admissions Volunteer
2005 - 2012	University of Nevada School of Medicine (UNSOM), American Geriatrics Society Student Chapter, Faculty Coordinator
2005	Sanford Center for Aging Scholarship Committee
2006	Graduate Student Association, UNR Research Grant Judging Panel
2008, 2009	University of Nevada Regional Science Fair Judge
2010 - 2011	Special Advocates for Elders, Washoe County Board of Directors, Member
2012	UCSD Internal Medicine Residency Gait and Falls Assessment Workshop
2012	UCSD Internal Medicine Residency Dementia/Delirium/Depression Workshop
2013 - 2015	Curriculum Development: UCSD Geriatrics Fellowship Program Transitions of Care

Rotation and 2015 - present Education Center/GWEP: homeless geriatrics, Latino	Overall Program (3 fellows) Curriculum Development: UCSD Geriatrics geriatrics, and technology/tele rural health curriculum for the Geriatrics Scholars and Geriatric 2015 - present PACE fellow (9 scholars, 1 fellow, over 120 annual training CME hours) 2017 - present San Diego Health Connect Health Information Exchange Board of Directors, member 2018 - present San Diego 211, Advisory Board of Directors, member
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Section III - Bibliography

- **PRIMARY PUBLISHED OR CREATIVE WORK**
- **Original Articles**
 - Chau DL, Shumaker N, Plodkowski RA. Complications of Diabetes in Elderly. Geriatric Times. 2003. Vol 4(2):11-14.
 - Chau DL, Shull J, Mason N. End of Life Pain: Pharmacological and Psychosocial Perspectives. Psychiatric Times, Vol XXII, No 11, pg 16-18, October 2005.
 - Chau DL, Mason N. Methadone in End of Life. Journal of Opioid Management. Volume 1, Number 5, November/December. 244-248: 2005.
 - Chau DL. No One Dies From Prostate Cancer? Arch Intern Med 2006;166:1525-1525.
 - Chau, Diane; Cho, Lwin M; Jani, Prashant; St. Jeor, Sachiko T Individualizing recommendations for weight management in the elderly. Current Opinion in Clinical Nutrition & Metabolic Care. 11(1):27-31, January 2008.
 - Chau DL, Walker V, Pai L, et al. 2008. Opiates and elderly: Use and side effects. Clin Interv Aging. 3(2) 273-8.
 - Plodkowski RA, Nguyen Q, Sundaram U, Nguyen L, Chau DL, St. Jeor S. Bupropion and Naltrexone: A review of their use individually and in combination for the treatment of obesity. Expert Opinion on Pharmacotherapy. 2009: 10(6), 1069-1081.
 - Christianne Bishop. Diane Chau. What Is Our Ethical Duty to Malingers? Ethical and Legal Issues in Long-Term Care. Annals of Long-Term Care. November (2011) 36-40. Coauthor is trainee.
- **Invited Articles, Review Articles**
 - Chau DL, Edelman SV. Clinical Management of Diabetes in the Elderly. Clinical Diabetes 19(4):172-176, 2001.
 - Chau DL, Edelman SV. Osteoporosis and Diabetes. Clinical Diabetes 20 (3):153-158, 2002.

- Chau DL, Chandran M, Edelman SV. Bone Disease in Diabetes. Curr Diab Rep. Feb;3(1):37-42, 2003.
- Chau DL, Goldstein Fuchs, Edelman SV. Osteoporosis Among Patients with Diabetes. Diabetes Spectrum 16:176-182, 2003.
- AT Fulton, JR Kropf, AM Corcoran, D Chau, EH Castillo. Palliative Care for Patients with Dementia in Long-Term Care. Clin Geriatr Med 27(2011) 153-170.
- NH Kim, GE Hoyek, D Chau. Long-Term Care of the Aging Population with Intellectual and Developmental Disabilities. Clin Geriatr Med 27(2011) 291-300. Co-authors are trainees.

• **Books and Book Chapters**

- Chau DL, Cho LM. Pain Management in the Elderly. Family Practice Recertification. September 2007; Vol.29, Number 9. 19-26.
- Chau D, Blanchette P, Donepudi S, Dopf R. Assessing Decisional Capacity in Older Adults. Chapter 10. Section 3. Case Based Geriatrics. Victor Hirth Editor. McGrawHill. 2010.
- Chau D and Osborne TF (Eds). Critical Topics in an Aging Society – Using Technology to Improve Care of Older Adults. New York, NY: Springer 2017
- Chau D and Gass AP (Eds). Homeless Older Populations – A Practical Guide for the Interdisciplinary Care Team. New York, NY: Springer. 2018
- Chau D (Ed). Using Technology to Improve the Care of Older Adults. New York, NY: Springer. 2017
- Pal AK, Chau D, Kalender-Rich JL. Transitions of Care and Technology Integration. In: *Critical Topics in an Aging Society – Using Technology to Improve Care of Older Adults*. Chau DL and Osborne TF (Eds). New York, NY: Springer 2017
- Reynolds A, Osborne T, Waggoner J, Melton R, Motarjemi R, Chau D. Advances in Health Education. In: *Critical Topics in an Aging Society – Using Technology to Improve Care of Older Adults*. Chau DL and Osborne TF (Eds). New York, NY: Springer 2017
- Aminbakhsh R, Strong RA, Chau D, Vafadaran A, Faroughi E. Infectious Diseases in Homeless Geriatrics Population: Part I: Viral. In: *Homeless Older Populations – A Practical Guide for the Interdisciplinary Care Team*. Chau DL and Gass AP (Eds). New York, NY: Springer. 2018
- Aminbakhsh R, Gibson T, Chau D, Melvyn A, Nebelsick-Tagg M, Vafadaran A, Faroughi E. Infectious Diseases in Homeless Geriatrics Population: Part II: Bacterial Infections, Tuberculosis, and Arthropods Infestation. In: *Homeless Older Populations – A Practical Guide for the Interdisciplinary Care Team*. Chau DL and Gass AP (Eds). New York, NY: Springer. 2018
- Conright K, Simonis R, Waqar MA, Chau D. End of Life Considerations in Homelessness and Aging. In: *Homeless Older Populations – A Practical Guide for the Interdisciplinary Care Team*. Chau DL and Gass AP (Eds). New York, NY: Springer. 2018

- **OTHER WORK**

- **Abstracts**

- Chau DL, Mulvihill MM, et al. Bone Loss in Latinas with Prior Gestational Diabetes. Journal of Investigative Medicine, Vol 50; No 1, Jan 2002 (383) 71A. Poster presentation at the National Osteoporosis Foundation Meeting Honolulu, HI March 6-9, 2002. Abstract.
- Chau DL, G. Lin, Garfin S. Demographics of Patients Seeking Kyphoplasty for Vertebral Compression Fractures. Vol 50(4) S1-S204, April 2002. P44 Journal of the American Geriatrics Society. Abstract.
- Chau DL, Shapiro P, Shumaker N. Pilot Immersion Program for Internal Medicine Residents to Experience Elderly Aging in Independent Senior Community. A64. Journal of the American Geriatrics Society, Vol 53. No 4 Supplement S1-S244. April 2005.
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- Jahangir S, Krenkel J, Plodkowski R, Chau D, Sundaram U, St. Jeor S. Preservation of Fat Free Mass In Overweight Patients Experiencing Significant Weight Loss. Accepted for poster presentation at The Obesity Society Annual Scientific Sessions. Phoenix, AZ. October 5, 2008. (#623-P)
- Plodkowski R, Chau D, Andal J, Hovenic T, Sundaram U, and Effect of Thiazolidinedione Administration on Bone Turnover Markers in Human Subjects with Type 2 Diabetes. Diabetes. 2008; Vol. 57, sup 1.A599. Published in abstract book for the American Diabetes Association 68th Scientific Sessions. San Francisco, CA. June 6, 2008.
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- DJoseph, SDonepudi, WYang, DChau. Colon Cancer Screening Disparities in Nevada. NPHA. 2009.
<http://www.nphaonline.org/documents/conf%2009%20docs/NPHA%2009%20Breakout%20Session%20Abstracts.pdf>
- P. Swager, P. Charles, D. Chau, and S. Donepudi. Creative Approaches to Provider Education for Healthy Aging: Translating Retention of Information to Potential Outcomes. Gerontological Society of America. Abstract. November 2009 Meeting. Atlanta.
- Shumaker S. Chau D. Interdisciplinary Team (IDT) Approach to Teaching Geriatric Pain Management in a Long Term Care Setting. AGHE. Abstract. March 2010 Meeting. Reno, NV.
- Chau D. May P. Teaching Geriatrics to Surgery Trainees using Case Based and Web based education. AGHE. Abstract. March 2010. Reno, NV.

- Broder KW, Bodor R, Michael A, Duba T, Minsch E, Chau D. Clinical Video Telehealth to the Home for Multidisciplinary Evaluation of Spinal Cord Injured Veterans. [Platform Presentation]. ATA 2015 – American Telemedicine Association 20th Annual Telemedicine Meeting & Trade Show, Los Angeles, CA. May 5, 2015
- Broder KW, Chau DL, Yourman LC, Bodor R. Skilled Nursing Facility/Plastic Surgery Interdisciplinary Team Approach: Utilizing Inter-Professional Collaboration and Innovative Telemedicine Technologies to Provide Comprehensive Wound Care Across the Healthcare Continuum. [Poster Presentation]. AMDA 2015 Annual Conference – The Society for Post-Acute and Long-Term Care Medicine. Louisville, KY. March 19-22, 2015.
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- Broder KW, Bodor R, Chau D, Gaid NA, Alvarez-Divo F. The Use of Dehydrated Human Amnion/Chorion Membrane in Nursing Home Patients with Chronic Wounds. [Abstract Accepted]. 2015 Fall Symposium on Advanced Wound Care and Wound Healing Society Meeting, Las Vegas, NV. September 26-28, 2015
- Tam H, Torres M, Escamilla K, Park P, Chau D, Broder KW. A Stealth Killer- Avoiding Classic, and New Triggers for Autonomic Dysreflexia in Spinal Cord Injury Patients. Poster Presentation at UC San Diego Clinical Geriatrics Interprofessional Symposium, San Diego, CA. October 23-25, 2015
- Tam, H. San Diego Geriatrics Workforce Enhancement Program Improving Elderly Care. SSPPS 2016 Winter Newsletter.
- Park, Paula; Chau, Diane; Broder, Kevin; Talavera, Gregory; Hinojosa, Alejandro; Tam, Sammi; Watanabe, Jonathan. GWEP: serving the elderly and underserved through an interdisciplinary curriculum. Oral Presentation at Innovations in Medical Education, Los Angeles, CA, 02/2016
- Park, Paula; Bae, Sang Un; Chau, Diane; Watanabe, Jonathan. Serving the Underserved: Clinical Pharmacy in Low-income Senior Primary Care Clinics. Oral Presentation at West Coast Pharmacy Exchange, San Francisco, CA, 04/2016
- Park, Paula; Chau, Diane; Watanabe, Jonathan. San Diego GWEP, the interdisciplinary program designed to serve the elderly and underserved. Considering submission, California Pharmacists Journal. 05/2016
- Tam H, Watanabe J, Chau D. A Review of the Recent Evidence: High Risk Medications in the Older Adult Population in the United States. Poster session presented at: California Pharmacist Association West Coast Exchange Pharmacy Conference; 2016 April 29-30; San Francisco, CA.
- Park, Paula. SSPPS Fellow and Faculty Present at Innovations Medical Education Conference 2016. SSPPS 2016 Spring Newsletter.

- Park, Paula; Franco, Juan; Torres, Melanie; Chau, Diane. San Diego Geriatric Workforce Enhancement Program (SDGWEP) at San Diego PACE. Abstract submitted to National PACE Association, San Francisco, CA, 10/2016

- **Additional Products of Scholarly Activities**

- Chau D. Clinical Geriatrics Interprofessional Symposium. ROLE: Developed and implemented. GOAL: Offers lectures to the healthcare community, but also solicits geriatrics-related abstracts from students and trainees. I am the course director for this two-day continuing education event for medical, nursing, and other health professions. The involvement also requires intensive curricular content, community engagement, and overall programmatic development/oversight. 2014
- Broder K, Chau D, Boder R. Geriatrics Wound Care. ROLE: Co-Investigator. GOAL: To collaborate on an existing ECHO CAN Telehealth Education grant on a geriatric wound care project. STATUS: completed during last review period, data collection and analysis. Preparation and draft of grant proposal. Date: 2014.
- Park PE, Chau DL, Watanabe JH. Empowering the interdisciplinary care team for improving care in seniors via clinical pharmacy: The San Diego Geriatrics Workforce Enhancement Program. *California Pharmacist*. April 2017
- Watanabe JH, Chau DL, Hirsch JD. Federal and patient spending on the ten highest spend medications in Medicare Part D from 2011 to 2015. *Journal of the American Geriatrics Society*. In-press.

- **WORK IN PROGRESS**

- Watanabe JH, Chau DL, Hirsch JD. Federal and patient spending on the ten highest spend medications in Medicare Part D from 2011 to 2015. *Journal of the American Geriatrics Society*. (In-press)

Selected publications marked with an [*] can be found at the following link to sample chapter reprinted

Sample Chapter from Item C.1:

<http://www.telhealthandmedtoday.com/a-comprehensive-overview-of-home-telehealth/>
<https://www.barnesandnoble.com/w/homeless-older-populations-diane-chau/1132541831?ean=9780826170156>
 ean HYPERLINK "https://www.barnesandnoble.com/w/homeless-older-populations-diane-chau/1132541831?ean=9780826170156"=9780826170156

<https://www.barnesandnoble.com/w/using-technology-to-improve-care-of-older-adults-diane-chau/1126233411?ean=9780826142429>

<https://www.ncbi.nlm.nih.gov/pubmed/29972589>

<https://www.ncbi.nlm.nih.gov/pubmed/31383056>

I have provided the information contained in this Biography and Bibliography Form or have reviewed it for accuracy.

	5.22.18
Signature	Date

5. Corporate compliance or quality control officer, CVS Pharmacy, Inc., One CVS Drive, Woonsocket, R.I. 02895.

SUMMARY OF TESTIMONY ADDITIONAL WITNESSES

1. **Diane L. Chau, M.D.** She is the respondent's medical expert. A summary of her opinion is stated below, along with an accompanying letter. Dr. Chau's qualifications are attached to this supplemental prehearing statement.

Summary of testimony.

Expert Report of Diane Lynn Chau MD, FACP

Statement of Opinions:

1. Dr. Vidur Mahadeva followed standards of care in pain management and opiate prescribing practices within guidance of the Federation of State Medical Boards (FSMB).

Basis:

Medicine is an art, which can vary widely depending on patient, conditions, preferences which are also noted within the FSMB guidance. Styles of clinical practice vary, however the core components and goals of care reviewed in the cases did not deviate from common standards of pain management.

The prescription of opiates and other controlled substances in NV also requires that a pharmacist review the appropriateness of the prescriptions prior to dispensing the controlled substances to any patient.

Supporting Facts:

The FSMB states very clearly, "The focus of the Guidelines that follow is on the general overall safe and evidence-based prescribing of opioids and treatment of chronic, non-

cancer pain with the specific limitation and restriction that these Guidelines **do not operate to create any specific standard of care**, which standard must depend upon fact-specific totality of circumstances surrounding specific quality-of-care events. The Guidelines recognize that there is not just one appropriate strategy to accomplish the goals of these Guidelines. **Effective means of achieving the goals of these Guidelines vary widely depending on the type and causes of the patient's pain, the preferences of the clinician and the patient, the resources available at the time of care, and other concurrent issues beyond the scope of these Guidelines.**

Statement of Opinions:

2. A presumption that all aspects of a physician's treatment can be captured in documentation is not valid, nor is it valid to state that if certain aspects of a patient's treatment was not captured in a document then it did not happen.

Basis:

Many people have heard this mantra "if it wasn't documented, it didn't happen." This is often interpreted as a requirement to log every action to prove later that it was actually done. However, that interpretation is impractical to consistently implement with 100% accuracy, and generally inconsistent as a standard of common clinical practice. It would be a physical impossibility to document everything that takes place, whether that be the patient's words, the nurse's words or my words. Thus, there are often late entries, or corrections, and cut/paste failed to edit errors common with electronic medical records. The medical record may not capture actual patient care and it is not uncommon to have violated a documentation standard (because a provider didn't record that the patient was

examined in a specific area of the body) but have upheld the hands-on patient care standard.

Supporting Facts:

Literature reports of errors in the health record data integrity, and patient/physician discussions failure to be captured in documentation.

“The emergence of EHR-related errors results in data being lost or incorrectly entered, displayed, or transmitted, leading to loss of information integrity”[Impact of Electronic Health Record Systems on Information Integrity: Quality and Safety Implications 2013 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3797550/>]

It is well known that the overall sensitivity of chart abstraction for documented necessary care was only 70%. <https://pubmed.ncbi.nlm.nih.gov/10856412/> Chart abstraction underestimates the quality of care for common outpatient general medical conditions.

Statement of Opinions:

3. Dr. Vidur Mahadeva conducted appropriate physical examination and objective markers of disease in his assessment based on the cases reviewed.

Basis:

Dr. Mahadeva conducted valid patient physician relevant examinations for the patients reviewed to form this opinion within the FSMB 2017 Guidance.

Contrary to Dr. Munzing's opinions that all initial evaluations of anxiety must include thyroid testing and other extensive evaluation/testing, this practice is not supported in the

literature. This is not indicated and would be extremely wasteful healthcare utilization without any evidence basis.

Supporting Facts

"The nature and extent of the **evaluation depends on the type of pain and the context** in which it occurs." And "For every patient, the initial assessment and evaluation should include a system review **and relevant physical examination**, as well as objective markers of disease or diagnostic **markers as indicated**. "[[FSMB 2017 Guidance]]

It is well known and published in objective research that there are no associations **between high levels of depression and hypothyroidism or between high levels of anxiety and hyperthyroidism**. [Psychiatric symptoms and diagnoses in thyroid disorders: a cross-sectional study, 2005 <https://pubmed.ncbi.nlm.nih.gov/24937789/>]

There was no difference in the mean TSH (Thyroid lab test used in thyroid screening) level between individuals with depression and healthy controls. [Association between subclinical hypothyroidism and depression: an updated systematic review and meta-analysis, 2019 <https://pubmed.ncbi.nlm.nih.gov/30621645/>]

Statement of Opinions:

4. Anxiety disorders standard of care still includes long term benzodiazepine use although this is not the ideal for first line treatment, Dr. Mahadeva's practice is still common standards of community practice in the treatment and use of benzodiazepines.

Basis:

I agree with Dr. Munzing that ideally first line medications in the treatment of generalized disorders include alternative agents, however standards of primary care practice still include use of long-term benzodiazepines.

Supporting Facts:

In a 2018 research study reviewing 64 primary care practices, it is noted that Benzodiazepines were used by 22.6% of participants with anxiety disorders in the primary care sample. A large majority of benzodiazepine users (88.4%) met were long-term users, as defined by utilization for more than 12 weeks including regular and as-needed.

[\[https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6039319/\]](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6039319/)

Statement of Opinions:

5. Dr. Vidur Mahadeva in the usual course of his practice in the cases D.S; C.L; and M.H was within the usual course of practice and his prescriptions were for legitimate purposes.

Basis:

Although not textbook, nor cook-book style medical practice, Dr. Mahadeva complied with the practice of medicine as set by the NV state medical board in its adoption of FSMB 2017 guidelines. There were no adverse patient outcomes noted in this review. There were no poor-quality patient related outcomes in the cases reviewed, such as deaths, injury, or other adverse events.

Supporting Facts:

"these Guidelines do not operate to create any specific standard of care; which standard must depend upon fact-specific totality of circumstances surrounding specific quality-of-care events. The Guidelines recognize that there is not just one appropriate strategy to accomplish the goals of these Guidelines." [FSMB 2017]

In specific cases such as CL, I completely disagree with Dr. Munzing in his opinions regarding Morphine Equivalents, and specifically that use of Methadone with a second opiate in 2016 is therapeutic duplication or not within standards of care. As I have lectured and written about Methadone, it is standard to use Methadone with other opiates especially in opiate titration as Methadone has a nonlinear relationship to other opiates making the entirety of Dr. Munzing's morphine equianalgesic calculations completely erroneous. Conversion recommendations from other opiates to Methadone may require dual opiate usage. I would quote my own article as a reference along with the national guidance on Methadone conversions.

https://www.pbm.va.gov/PBM/clinicalguidance/clinicalrecommendations/Methadone_Dosing_Recommendations_for_the_Treatment_of_Chronic_Pain_July_2016.pdf

I also disagree with Dr. Munzing in his opinions regarding his declaration that there are no indications or legitimate use of SOMA (carisoprodol). Soma has legitimate medical uses and has per the FDA indicated for the relief of discomfort associated with acute, painful musculoskeletal conditions in adult for which Dr. Mahadeva was within legitimate practice in using it to treat a painful musculoskeletal condition.

[https://www.accessdata.fda.gov/drugsatfda_docs/label/2009/011792s043lbl.pdf]

Statement of Opinion:

6. Dr. Vidur Mahadeva issued patient C.M. prescriptions within a clinician's usual course of practice and for legitimate medical purposes to which he as the clinician was led to believe.

Basis:

Dr. Mahadeva prescribed opiates for back pain as he was led to believe C.M had back pain. Dr. Mahadeva's idiosyncratic style of communication and engagement did not negate from the clinical facts recorded that he did conduct within the context of his global patient assessment an appropriately relevant valid examination to support his treatment plans which included prescriptions. Imaging studies in the evaluation of back pain are not considered appropriate nor a good standard of care practice. He did provide risks of medications. Clinicians do work in conjunction with other members of the healthcare team including pharmacists who review and provide risks of medications. In Nevada, it is the duty of pharmacists to refuse an improper prescription.

Supporting Facts:

21 C.F.R. 1306.04, which states that a pharmacist has a "corresponding responsibility" with the practitioner to limit prescriptions for controlled substances to what is medically necessary, and NRS 453.381(4), which states that a pharmacist "shall not" fill a prescription if the pharmacist believes that the prescription was not issued in the usual course of the practice of the physician. This clearly demonstrates other members of the healthcare team during the usual course of their practices as part of the clinical care team

agreed that the prescriptions, doses, and amounts prescribed were in the usual course of clinical practice standards.

Low back pain is one of the most common reasons for an outpatient visit. Dr. Vidur Mahadeva's evaluation for low back pain included appropriate focused medical history looking for red flags and in finding none, he ordered no imaging studies nor are imaging studies relevant. Imaging studies in the evaluation of low back pain are not supported in the medical literature or clinical practice. Numerous studies and current quality standards do not incorporate nor recommend routine imaging studies including routine X-rays in back pain assessment. The National Committee for Quality Assurance (NCQA) exists to improve the quality of health care across the United States for all clinical practices and states on their website: "Evidence shows that unnecessary or routine imaging (X-ray, MRI, CT scans) for low back pain is not associated with improved outcomes. It also exposes patients to unnecessary harms such as radiation and further unnecessary treatment."

[<https://www.ncqa.org/hedis/measures/use-of-imaging-studies-for-low-back-pain/>]

Exhibits:

The exhibits used will be progress notes of treatment, radiology reports, consultation reports, laboratory and pathology reports and other portions of the medical records from the treatment provided by Dr. Vidur Mahadeva in the cases referenced. The FSMB guidelines. References provided in links above. Cases: D.S.; C.L; M.H; C.M.

Qualifications:

I am a physician licensed to practice medicine in the State of California, Nevada, Texas, & Hawaii. I hold an undergraduate degree (B.A. in Biology) from Boston University and graduated from Drexel University College of Medicine in Philadelphia, PA class of 1994. I have completed 3 years of internal medicine training and 2 years of geriatric medicine subspecialty training. I am an internal medicine physician with training and board certification in Geriatric Medicine, Hospice & Palliative medicine and have been in clinical practice since 1997 including the treatment of pain and non-pain symptoms in thousands of patient encounters. My academic experiences include services for the University of Nevada School of Medicine, Reno as Division Chief in Geriatrics, Fellowship Program Director for Hospice & Palliative Medicine, Fellowship Program Director for Geriatric and am currently an Adjunct Associate Professor for the University of Nevada Las Vegas, School of Medicine and the University of California San Diego. I have an extensive history of academic medicine spanning 2 decades, with publications (including "Opiates and elderly: Use and side effects" and "Methadone in end-of-life pain management.") I have been Principal Investigator in opiate-related research (Opiate Induced Constipation), and have formally provided education/training for thousands of medical providers through training programs, lecturers, seminars for over 25 years (physicians, residents, students, nurses, physical therapists, pharmacists in pain management). I have also served as the Fellowship Program Director for Geriatric Medicine trainees and Associate Professor for the University of California, San Diego where I recently served as Project Director overseeing a 4-year government funded training grant ending 2019 that included an Opiate Safety Initiative and have given many invited guest lectures in Pain Management.

I am currently a practicing hospitalist for the Veteran Affairs, a regional medical director for a California health plan, and sit on numerous advisory boards, committees, and Board of Directors including the American Geriatrics Society.

A copy of my curriculum vitae is attached. I am familiar with the standards of care for prescribing controlled substances in Nevada including the Federal State Medical Boards 2017 Model Policy for the Use of Opioid Analgesics in the Treatment of Chronic Pain.

COMPENSATION I charge \$400.00/hour to review records. For deposition testimony my fee is \$800.00/hour for trial testimony, the fee is \$1200.00/hour plus travel

The expert opinions stated above are given to a reasonable degree of medical certainty.

LETTER FROM DIANE L. CHAU, M.D.

To whom these matters concern:

I have been asked by attorney Carl Hebert at Hebert Law to review and respond in my professional opinion as an independent medical expert regarding the care rendered by Dr. Vidur Mahadeva and specifically to answer the question:

"Were the drugs prescribed by Dr. Mahadeva medically necessary within the boundaries of the Guidelines and in the usual course of his professional practice?"

I have reviewed:

The accusation by the DEA in a charging document for Dr. Vidur Mahadeva titled "Order to Show Cause and Immediate Suspension of Registration," dated July 22, 2020 and have noted on section titled "Background," at § 3, the notice states: "DEA's investigation revealed that you have regularly prescribed controlled substances to patients outside of

the usual course of the professional practice of medicine in Nevada, in violation of 21 U.S.C. § 823(f)(2), and that you have also failed to comply with applicable federal and state laws relating to controlled substances, in violation of 21 U.S.C. §823(f)(4)."

In essence, the charge is that Dr. Mahadeva's possession of a registration should be revoked because it is not in the "public interest," in that he failed to follow federal and state law in prescribing controlled substances. Subsection 823(f)(4).

I have reviewed the federal regulation: "(a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice." 21 C.F.R. § 1306.04(a) as defined by Nevada law. NRS 453.381 and I was provided a summary of the Nevada regulation, NAC 630.185, issued by the Nevada State Board of Medical Examiners, specifically NAC 630.187:

"1. The Board hereby adopts by reference the *Guidelines for the Chronic Use of Opioid Analgesics*, April 2017, published by the Federation of State Medical Boards of the United States, Inc., and any subsequent revision of the publication that has been approved by the Board for use in this State. ...

2. The most recent publication of the *Guidelines for the Chronic Use of Opioid Analgesics* ... at the Internet address <http://www.fsmb.org>."

In addition, records from 4 patients were reviewed from September 15, 2016 to March 7, 2020 and I have concluded that Dr. Vidur Mahadeva in my professional opinion has

practiced in the usual course of professional practice within acceptable standards of the community and demonstrated intent for legitimate medical purpose within the art of his medical practice. Within my expert review of his cases and using the Guidelines for the Chronic Use of Opioid Analgesics, April 2017 along with other peer reviewed publications, in the context of his practice style, Dr. Vidur Mahadeva met the minimum community practice standards while incorporating FSMB Guidelines for opiate usage.

Finally, I also conclude that Dr. Mahadeva's had legitimate medical justification based upon the clinical context of the patient presentations to prescribe the combination-controlled substances. Dr. Mahadeva was not dangerous nor reckless. In fact, there are no patients' records demonstrating any negative outcomes such as death, hospitalizations, or injury related to actual prescriptions in the 4 cases reviewed (M.H., D.S., C.L., and C.M.). The evidence-based literature and objective references, along with my expert review based upon decades of expertise as a clinician, educator, project director, medical director and published author/speaker in pain management, chronic management are the basis of my opinion.

Please see attached details of my opinions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Diane Chau', with a long horizontal stroke extending to the right.

Diane Chau MD 11/5/20

APPLICATION TO BE THE DESIGNATED REPRESENTATIVE for a Pharmacy or Wholesaler located in Nevada

Date 3-2-2021

GENERAL INSTRUCTIONS

Type an answer to every question. If a question does not apply to you, so state with N/A. If space available is insufficient, continue on page 10 or use a separate sheet and precede each answer with the appropriate title. Do not misstate or omit any material fact(s) as each statement made herein is subject to verification. Applicant must initial each page, as provided in lower right hand corner. By placing his initials on each page, the applicant is attesting to the accuracy and completeness of the information contained on that page.

All applicants are advised that this personal history record is an official document and misrepresentation or failure to reveal information requested may be deemed to be sufficient cause for the refusal or revocation of a license.

All applicants are further advised that an application for a license, finding of suitability or for other action may not be withdrawn without the permission of the licensing agency.

Application for OP Pharmacy LLC d/b/a OnePoint Patient Care

Nature of Pharmacy or Wholesaler
444 E Warm Springs Rd STE 112 Las Vegas NV 89119-4236
Name and Address of Business for Which Designated Representative is Requested
OnePoint.LLC
If applicable, Name Under Which It Is Now Operated

1. PERSONAL INFORMATION:

Last Name Johnson First Name Kimberley Middle Name Anne
Alias(es, Nicknames, Maiden Name, Other Name Changes, Legal or Otherwise)
LaRue Court Las Vegas NV 89145
Present Residence Address-Street or RFD City State/Zip
444 E. Warm Springs Rd. STE 112 Las Vegas, NV 89119
Present Business Address City State/Zip
Pharmacist in Charge Dates 3/11 to Current
Present Position with the Pharmacy or Wholesaler
Phone: Residence 702-777-4900
Business

Date of Birth 59 Place of Birth (City, County, State)
Age 59 Social Security Number or ITIN Br FE Br Sex Light
Color of Eyes Br Color of Hair Light Weight 175 lbs. Build 5'1" Height

Scars, tattoos or distinguishing marks and/or characteristics noneAre you a citizen of the United States? ☒ Yes ☐ No If alien, registration No

If naturalized, certificate No Date

Place (If naturalized, document must be verified.)

2. MARITAL INFORMATION:

Single ☒ Married ☐ Separated ☐ Divorced ☐ Widowed ☐ Engaged ☐Applicant's initial KJ

MARITAL INFORMATION-Continued

A. Current Marriage 2/16/1980 Jamestown, NY (Clatsop County)
 Spouse's full name (Maiden) Randy Evans Johnson City, County and State
 Date of Birth _____ Place of Birth Jamestown NY
 Resident address La Rue Crt Las Vegas NV 89145
 Telephone: Residence Cell Business _____
 Spouse's employer Retired Occupation _____
 Address of employer _____
 Street City State Zip

B. Previous Marriages: If ever legally separated, divorced, or annulled, indicate below:

Name of Spouse	Date of Order or Decree	Date of Place of Marriage	Nature of Action	City County and State
<u>None</u>				

List of names, current address and telephone numbers of previous spouses:

Name	Street	City	State	Zip	Telephone
<u>None</u>					

3. FAMILY INFORMATION:

A. Children and Dependents:

List all children, including step-children and adopted children and give the following information:

Name	Birth Date	Birth Place	Residence Address
<u>Randy Johnson Jr</u>		<u>Jamestown NY</u>	<u>1 Peachtree St Berkeley CA 94705</u>
<u>Michael Johnson</u>		<u>Jamestown, NY</u>	<u>One Bond Ave LV NV 89138</u>
<u>Ryan Johnson</u>		<u>Jamestown, NY</u>	<u>Penrose Cliff Dr LV NV 89134</u>

B. Child Support Information:

Please mark the appropriate response:

- ☐ I am not subject to a court order for the support of child.
- ☐ I am subject to a court order for the support of one or more children and am in compliance with a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order; or
- ☐ I am subject to a court order for the support of one or more children and NOT in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

Applicant's initial REJ

FAMILY INFORMATION-Continued

District attorney or public agency responsible for enforcing the child support order:

Name None

Address _____

Contact person _____

C. Parents:

List names, residence addresses, dates of birth and most recent occupations of parents, step-parents, parents-

in-law or legal guardian. If retired or deceased, list last address and occupation.

Name (Maiden)	Birth Date	Address	Occupation
---------------	------------	---------	------------

Father

Darr Friend Eicher Deceased

Mother

Gertrude Louise Johnson Deceased

Father-in-Law

Earl Ray Johnson Deceased

Mother-in-Law

Angeline Johnson 515 Forest Ave Jamestown NY 14701 - Retired**D. Brothers and Sisters:**

List names, residence addresses, dates of birth and most recent occupations of brothers and sisters and of their respective spouses.

Name (Maiden)	Birth Date	Address	Occupation
---------------	------------	---------	------------

Dennis Eicher

Spouse

Estrella EicherDarwin Eicher

Spouse

Judy EicherKathleen Eicher

Spouse

Spouse

4. EDUCATION:

Name of School	Location	Dates Attended	Graduate
Grammar School			Yes <input type="checkbox"/> No <input type="checkbox"/>
High School			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
School	<u>Tamworth Comm College</u>	<u>Jamestown NY 1992-95</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
College	<u>University of New York</u>	<u>Buffalo NY 1995-98</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
University			Yes <input type="checkbox"/> No <input type="checkbox"/>
Other			Yes <input type="checkbox"/> No <input type="checkbox"/>

Type of degree obtained, if any Bth - Bachelor's DegreeCollege or university where obtained SUNY @ Buffalo

Applicant's initial

Page 3

5 MILITARY INFORMATION:

A. Have you ever served in any armed forces?

Yes ☐ No ☒

Branch _____ Date of entry-active service _____

Date of separation _____ Type of discharge _____

Rating at separation _____ Serial number _____

While in the military service were you ever arrested for an offense which resulted in summary action, a trial or special or general court martial? Yes ☐ No ☒ If yes, furnish details on page 10. (List all incidents regardless of where they occurred-foreign or domestic.)

B. Have you registered for the draft?

Yes ☐ No ☒

County _____ State _____ Date registered _____

6. ARRESTS, DETENTIONS, LITIGATIONS AND ARBITRATIONS: (Include those arrests in which you were not convicted.)

A. Have you ever been arrested, detained, charged, indicted or summoned to answer for any criminal offense or violation for any reason whatsoever, regardless of the disposition of the event? (Except minor traffic citations.) Yes ☐ No ☒ If yes, give details in space provided below. List all cases without exception.

Date of Arrest	Age	Charge	Location-City and State	Deposition/Date	Arresting Agency

B. Has a criminal indictment, information or complaint ever been returned against you, but for which you were not arrested or in which you were named as an unindicted co-party? Yes ☐ No ☒ If yes, furnish details on page 10.

C. Have you ever been questioned or deposed by a city, state, federal or law enforcement agency, commission or committee? Yes ☐ No ☒

D. Have you ever been subpoenaed to appear or testify before a federal, state or county grand jury, board or commission? Yes ☐ No ☒

E. Have you ever been subpoenaed to testify for any civil, criminal or administrative proceeding or hearing? Yes ☐ No ☒

F. Have you ever had a civil or criminal record expunged or sealed by a court order? Yes ☐ No ☒ If yes, when? _____ city, county and state _____

G. Have you ever received a pardon or deferred prosecution for any criminal offense? Yes ☐ No ☒ If yes when? _____ city, county and state _____

H. Has any member of your family or of your spouse's family ever been convicted of a felony? Yes ☐ No ☒ If you answer to any of the above questions (B through H) is yes, furnish details on page 10.

Name	Relationship	Charge	Location	Date

Applicant's initial

KJ

ARRESTS, DETENTIONS, LITIGATIONS AND ARBITRATIONS-Continued

- I. Have you, as an individual, member of a partnership, or owner, director or officer of a corporation, ever been a part to a lawsuit as either a plaintiff or defendant or an arbitration as either a claimant or respondent?
 Yes ☐ No ☒ (Other than divorces)

If yes, give details below. List all cases without exception, including bankruptcies:

Plaintiff/Defendant or Claimant/Respondent	Date Filed	Court and Case Number	City, County and State	Disposition/Date

- J. Has any general partnership, business venture, sole proprietorship or closely held corporation (while you were associated with it as an owner, officer, director or partner) been a party to a lawsuit, arbitration or bankruptcy?
 Yes ☐ No ☒ If yes, complete the following:

Name of Entity	Type of Entity	Approximate Date(s) of Lawsuit/Arbitration/Bankruptcy

7. RESIDENCES:

List all residences you have had for the last ^{10 yrs} 25 years:

Month and Year (From-To)	Street and Number	City	State or County
11/2018 - Current	La Rue CRT	Las Vegas	NV
5/2017 - 11/2018	6199 Bayard St	Las Vegas	NV
7/2014 - 5/2017	9922 Bighorn Boulevard	Las Vegas	NV
3/2013 - 7/2014	3355 Royal Bay Dr	Las Vegas	NV
1/2010 - 3/2013	2918 Charming Cross Way	Las Vegas	NV

Applicant's initial

KJ

8. EMPLOYMENT: 10yrs

A designated representative must document that he or she has been employed for at least 6,000 hours in pharmacies or wholesalers in a capacity related to the dispensing and distribution of and record keeping related to prescription drugs. Please provide the following information to document your hours of employment.

3/2011	Orchard Patient Care 444 E Warm Springs Rd LVNV 89119	20,800hrs
PIC	Managing all aspects of the pharmacy	Gary Henglefeld
	Maintain Policy & Procedures, Compliance & Audit	
Month and Year	Name/Mailing Address of Employer/Business	Number of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/Mailing Address of Employer/Business	Number of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/Mailing Address of Employer/Business	Number of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/Mailing Address of Employer/Business	Number of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/Mailing Address of Employer/Business	Number of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/Mailing Address of Employer/Business	Number of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/Mailing Address of Employer/Business	Number of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/Mailing Address of Employer/Business	Number of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/Mailing Address of Employer/Business	Number of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/Mailing Address of Employer/Business	Number of Employed Hours
Title	Description of Duties	Name of Supervisor

If additional space is needed, continue on page 10 or provide attachment.

Applicant's initial KJ Page 6

9. CHARACTER REFERENCES:

List five character reference who have know you five years or more. Do not include relatives, present employer or employees.

Name of Where Employed	Street	City	State	Zip	Telephone	Years Known
Name	Home					
Employer	Business					
Name	Home					
Employer	Business					
Name	Home					
Employer	Business					
Name	Home					
Employer	Business					
Name	Home					
Employer	Business					

10. Have you ever held a privileged, occupational or professional license in any state, including but not limited to the following:

Liquor	Lawyer	Race horse/race dog owner	Securities dealer	Insurance
Doctor	Contractor	Real estate broker or salesman	Barber/Cosmetologist	Gaming
Accountant	Pilot	Sports promoter	Trainer or manager	Educator

Yes ☒ No ☐

If yes, state type, where and years held

Pharmacist - North Carolina

11. Have you ever applied for a city, county or state business, venture or industry license or held a financial interest in a licensed business or industry OUTSIDE the State of Nevada? Yes ☒ No ☐

If yes, state type, when and where and give names and locations of the businesses in which you were involved, the names and address of all partners and the agency responsible for licensing said business, venture or industry.

President + Treasurer - Randy Johnson
 Johnson's Carwax - VP + Secretary - Kimberly Johnson
 918 East Haggard Ave Elan NC 27244 - Closed now (5/06 - 12/2019)

12. Have you ever appeared before any licensing agency or similar authority in or outside the State of Nevada for any reason whatsoever? Yes ☐ No ☒

13. Have you ever been denied a personal license, permit, certificate or registration for a privileged, occupational or professional activity? Yes ☐ No ☒

If yes to the above, state where, when and for what reason:

Applicant's Initial

KJ

14. Have you ever been refused a business or industry license or related finding of suitability or been a participant in any group which has been denied a business or industry license or related finding of suitability?
Yes ☐ No ☒

15. Have you or any person with whom you have been a participant in any group been the subject of an administrative action or proceeding relating to the pharmaceutical industry?
Yes ☐ No ☒

16. Have you or any person with whom you have been a participant in any group ever been found guilty, plead guilty or entered a plea of nolo contendere to any offense, federal or state, related to prescription drugs and/or controlled substances?
Yes ☐ No ☒

17. Have you or any person with whom you have been a participant in any group ever surrendered a license, permit or certificate of registration relating to the pharmaceutical industry voluntarily or otherwise (other than upon voluntary close of a wholesaler)
Yes ☐ No ☒

18. Do you have any relatives within the fourth degree of consanguinity associated with or employed in the pharmaceutical or drug related industry?
Yes ☐ No ☒

19. Will you be actively involved in and aware of the daily operation of the pharmacy or wholesaler?
Yes ☒ No ☐

20. Will you be employed fulltime with the pharmacy or wholesaler?
Yes ☒ No ☐

21. Will you be present at the site of the pharmacy or wholesaler during its normal operating hours?
Yes ☒ No ☐

ATTACH PHOTOGRAPH
TAKEN WITHIN LAST
30 DAYS HERE

Date of photograph _____

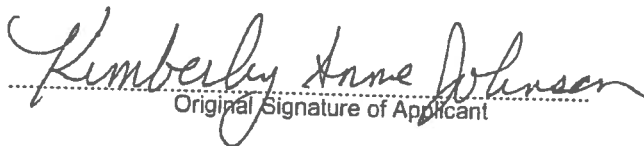
Applicant's initial KL

STATE OF _____ ss.

COUNTY OF _____

I, _____, being duly sworn, depose and say I have read the foregoing application and know the contents thereof; that the statements contained herein are true and correct and contain a full and true account of the information requested; that I executed this statement with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for denial or revocation of a wholesaler license; that I am voluntarily submitting this application with full knowledge that Nevada Revised Statutes 639.210 (10) provides denial or revocation of the application of any person for a certificate, license, registration or permit if the holder or applicant "Has obtained any certificate, certification, license or permit by the filing of an application, or any record, affidavit or other information in support thereof, which is false or fraudulent," and further, that I have familiarized myself with the contents of Nevada Statutes on Pharmacists and Wholesaler and the Controlled Substances Act, as amended, and the Regulations of the Nevada State Board of Wholesaler as promulgated thereunder and agree, if licensed, to abide thereby.

I hereby expressly waive, release and forever discharge the State of Nevada, the licensing agency and its agents from any and all manner of action and causes of action whatsoever which I, my administrators or executors can, shall or may have against the State of Nevada, the licensing agency and its agents, as a result of my applying to be a designated representative for a pharmacy or wholesaler in the State of Nevada.


Original Signature of Applicant

Subscribed and Sworn to before me this _____ day of _____

Notary Public

(seal)

Applicant's initial



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Nevada State Board of Pharmacy
985 Damonte Ranch Pkwy
Suite 206
Reno, NV 89521

February 25, 2021

Temporary MDEG License MP02984 Aircare Medical Inc. - Hearing March 4th 2021


To whom it may concern,

We have a hearing on March 4th 2021 for temporary MDEG License MP02984 issued to Aircare Medical Inc. and we are requesting a name change for that license from Aircare Medical Inc. to SMRT LLC. For this purpose we are including with this letter:

- New MDEG Application in the name of SMRT LLC
- Check # 1649 in the amount of \$500.00
- Personal History Record (same information as personal history record submitted with Aircare Medical Application dated 10/1/2019, except for answer on 6B. On the original application we answered 6B with YES when the correct answer should have been NO. No criminal indictment, information or complaint has ever been returned against Neil McKay)
- Application for MDEG Administrator
- Copy of Temporary License MP02984
- Copy of Hearing Date letter

We thank you for your consideration.

Best Regards,


Neil McKay
Owner/President

Aircare Medical / SMRT LLC

Main Office:
5330 Carroll Canyon Road
Suite 120
San Diego CA 92121

Tel. 800-981-7100

Branches:
1317 Broad Street Suite B
Suite B
San Luis Obispo CA 93401

Info@aircaremedical.com

27777 Cleveland Ave
Suite 104
Santa Rosa CA 95403

www.aircaremedical.com

12231 S Eastern Ave
Suite 140
Henderson NV 89052

NEVADA STATE BOARD OF PHARMACY

985 Damonte Ranch Pkwy, Suite 206 – Reno, NV 89521 – (775) 850-1440
APPLICATION FOR NEVADA Medical Device, Equipment & Gases (MDEG)

\$500.00 Fee made payable to: Nevada State Board of Pharmacy
(non-refundable and not transferable money order or cashier's check only)
Application must be printed legibly or typed

Any misrepresentation in the answer to any question on this application is grounds for refusal or denial of the application or subsequent revocation of the license issued and is a violation of the laws of the State of Nevada.

☒ New MDEG ☐ Ownership Change ☐ Name Change ☐ Location Change
(Please provide current license number if making changes: MP or MW _____)

☐ Publicly Traded Corporation – Pages 1,2,3,4 ☐ Partnership - Pages 1,2,3,6
☐ Non Publicly Traded Corporation – Pages 1,2,3,5a,5b ☒ Sole Owner – Pages 1,2,3,7
Please check box for type of ownership and complete correct part of the application.

GENERAL INFORMATION to be completed by all types of ownership

MDEG Name: SMRT LLC

Physical Address: 12231 S Eastern Avenue #140 Henderson NV 89054

(This must be a business address, we can not issue a license to a home address)

Mailing Address: 12231 S Eastern Avenue #140

City: Henderson State: NV Zip Code: 89054

Telephone: 800-981-7100 Fax: 858-755-7243

E-mail: neilmckay45@gmail.com Website: www.aircaremedical.com

DAYS AND HOURS THAT THE FACILITY WILL BE REGULARLY OPERATING

Mon: 9 to 4:30 Tue: 9 to 4:30 Wed: 9 to 4:30 Thu: 9 to 4:30

Fri: 9 to 4:30 Sat: closed to _____ Sun: closed to _____ Holidays: closed to _____

MDEG ADMINISTRATOR INFORMATION (MDEG administrator application required)

Name: NEIL MCKAY

TYPE OF MDEG PRODUCTS THAT WILL BE SOLD (CHECK ALL APPLICABLE)

- | | |
|---|---|
| <input type="checkbox"/> Medical Gases** | <input checked="" type="checkbox"/> Assistive Equipment |
| <input checked="" type="checkbox"/> Respiratory Equipment** | <input type="checkbox"/> Parenteral and Enteral Equipment** |
| <input type="checkbox"/> Life-sustaining equipment** | <input type="checkbox"/> Orthotics and Prosthesis |
| <input type="checkbox"/> Diabetic Supplies | Other: _____ |

**If providing these types of services you are required to have in place a mechanism to ensure continued care in the event of an emergency. Provide name and telephone number of Nevada contact. Name: NEIL MCKAY Telephone: 858-922-9757

APPLICATION FOR NEVADA MDEG LICENSE

This page must be submitted for all types of ownership.

List all Medicare and Medicaid provider numbers registered to the business or its owner:

<u>4671100001</u>	<u>1124104146</u>	<u>1467058701</u>
<u>0611320001</u>	<u>1306801261</u>	<u>1356969885</u>
<u> </u>	<u>1578181095</u>	<u> </u>

- 1) Do any shareholders hold an interest ownership or have management in any type of business or facility which are licensed by the State of Nevada or another political jurisdiction? Yes ☒ No ☐
- 2) Are you or have you in the last year been associated with any person, business or health care entity in which MDEG products were sold, dispensed or distributed? Yes ☒ No ☐
- 3) Are any of the owners health professionals? If yes, please check the box and list name.

- ☐ Practitioner
- ☐ Advanced Practitioner of Nursing
- ☐ Physician's Assistant
- ☐ Physical Therapist
- ☐ Occupational Therapist
- ☐ Registered Nurse
- ☐ Respiratory Therapist

Name: _____

Name: _____

Name: _____

Name: _____

Name: _____

Name: _____

Name: _____

Practicing licensed health care professionals cannot obtain a license per NAC 639.6943.

APPLICATION FOR NEVADA MDEG LICENSE

This page must be submitted for all types of ownership.

- 1) Has the corporation, any owner, shareholder(s) or partner(s) with any interest, ever been charged, or convicted of a felony or gross misdemeanor (including by way of a guilty plea or no contest plea)? Yes ☐ No ☒
- 2) Has the corporation, any owner(s), shareholder(s) or partner(s) with any interest, ever been denied a license, permit or certificate of registration? Yes ☐ No ☒
- 3) Has the corporation, any owner(s), shareholder(s) or partner(s) with any interest, ever been the subject of an administrative action or proceeding relating to the pharmaceutical industry? Yes ☐ No ☒
- 4) Has the corporation, any owner(s), shareholder(s) or partner(s) with any interest, ever been found guilty, pled guilty or entered a plea of nolo contendere to any offense federal or state, related to controlled substances? Yes ☐ No ☒
- 5) Has the corporation, any owner(s), shareholder(s) or partner(s) with any interest, ever surrendered a license, permit or certificate of registration voluntarily or otherwise (other than upon voluntary close of a facility)? Yes ☐ No ☒

If the answer to questions 1 through 5 is "yes", a signed statement of explanation must be attached. Copies of any documents that identify the circumstance or contain an order, agreement, or other disposition may be required.

I hereby certify that the answers given in this application and attached documentation are true and correct. I understand that any infraction of the laws of the State of Nevada regulating the operation of an authorized MDEG provider or wholesaler may be grounds for the revocation of this permit.

I have read all questions, answers and statements and know the contents thereof. I hereby certify, under penalty of perjury, that the information furnished on this application are true, accurate and correct. I hereby authorize the Nevada State Board of Pharmacy, its agents, servants and employees, to conduct any investigation(s) of the business, professional, social and moral background, qualification and reputation, as it may deem necessary, proper or desirable.


Original Signature of Person Authorized to Submit Application, no copies or stamps

Neil McKay

Print Name of Authorized Person

12/11/20

Date

Board Use Only

Received: _____

Amount: _____

APPLICATION FOR NEVADA MDEG LICENSE

OWNERSHIP IS A SOLE OWNER. All information relates to the person listed as the owner.

Owner's Name: Neil McKay

Business Name: SMRT LLC

Current Business Address: 12231 S Eastern Ave #140

City: Henderson State: NV Zip: 89052

Telephone: 858 922 9757

Fax: 858 755 7243

SOLE OWNER

Include with the application for a sole owner

Complete personal history record. Must be original signature(s), no copies or stamps. Download the form from the website. Download the form from the website under the "New Applications" tab. The forms are available under the *documents for all types of businesses*.

PERSONAL HISTORY RECORD for Pharmacy, MDEG & Wholesaler

Date 11/17/2020

GENERAL INSTRUCTIONS

Type an answer to every question. If a question does not apply to you, so state with N/A. If space available is insufficient, continue on page 10 or use a separate sheet and precede each answer with the appropriate title. Do not misstate or omit any material fact(s) as each statement made herein is subject to verification. Applicant must initial each page, as provided in lower right hand corner. By placing his initials on each page, the applicant is attesting to the accuracy and completeness of the information contained on that page.

All applicants are advised that this personal history record is an official document and misrepresentation or failure to reveal information requested may be deemed to be sufficient cause for the refusal or revocation of a license.

All applicants are further advised that an application for a license, finding of suitability or for other action may not be withdrawn without the permission of the licensing agency.

Application for Nevada Medical Device, Equipment and Gases (MDEG)

SMRT LLC 12231 S Eastern Ave #140 Henderson NV 89052

Name and Address of Establishment for Which License Is Requested

If applicable, Name Under Which It Is Now Operated

1. PERSONAL INFORMATION:

McKay Neil
Last Name First Name Middle Name

Alias(es, Nicknames, Maiden Name, Other Name Changes, Legal or Otherwise)

Tradewinds Drive San Diego CA 92127
Present Residence Address-Street or RFD City State/Zip
12231 S Eastern Ave #140 Henderson NV 89052
Present Business Address City State/Zip

Business Owner Occupation
Phone: Residence 800 981 7100
Business 800 981 7100

70 Onagh, County Tyrone, N Ireland
Date of Birth Place of Birth (City, County, State)

70 M
Age Sex
Blue gray ruddy 242 heavy 6'2"
Color of Eyes Color of Hair Complexion Weight Build Height

Scars, tattoos or distinguishing marks and/or characteristics NA

Are you a citizen of the United States? Yes ☒ No ☐ If alien, registration No. NA

If naturalized, certificate No. NA Date NA

Place NA (If naturalized, document must be verified.)

2. MARITAL INFORMATION:

Single ☒ Married ☐ Separated ☐ Divorced ☐ Widowed ☐ Engaged ☐

Applicant's initial nm

Page 1

March 11, 2020

MARITAL INFORMATION-Continued

A. Current Marriage 11/3/1982 Aghagallon County Antrim N Ireland
 Spouse's full name (Maiden) Esther Elizabeth McKay City, County and State
Date SS# or ITIN
 Date of Birth Place of Birth Lurgan N. Ireland
 Resident address Tradewinds Drive San Diego CA 92127
Street City State Zip
 Telephone: Residence Business same
 Spouse's employer Willis Allen Occupation Realtor
 Address of employer Paseo Delicias Rancho Santa Fe CA 92127
Street City State Zip

B. Previous Marriages: If ever legally separated, divorced, or annulled, indicate below:

Name of Spouse	Date of Order or Decree	Date of Place of Marriage	Nature of Action	City County and State
NA				

List of names, current address and telephone numbers of previous spouses:

Name	Street	City	State	Zip	Telephone
NA					

3. FAMILY INFORMATION:

A. Children and Dependents:

List all children, including step-children and adopted children and give the following information:

Name	Birth Date	Birth Place	Residence Address
Kate McKay, MBA, LLB		Oceanside CA	Rarfar Rd Cobham Surrey
Dr. Charles McKay MD,		La Jolla CA,	Curant St. Nerme Bay Auckland New Zealand
Clare McKay JD,		La Jolla, San Jose CA	

B. Child Support Information:

Please mark the appropriate response:

- ☒ I am not subject to a court order for the support of child.
- ☐ I am subject to a court order for the support of one or more children and am in compliance with a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order; or
- ☐ I am subject to a court order for the support of one or more children and NOT in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

Applicant's initial nm

FAMILY INFORMATION-Continued

District attorney or public agency responsible for enforcing the child support order:

Name NA

Address

Contact person

C. Parents:

List names, residence addresses, dates of birth and most recent occupations of parents, step-parents, parents-in-law or legal guardian. If retired or deceased, list last address and occupation.

Name (Maiden)	Birth Date	Address	Occupation
Charles McKay deceased			
Father			
Ita McKay deceased			
Mother			
Jack McCorry deceased			
Father-in-Law			
Elizabeth McCorry deceased			
Mother-in-Law			

D. Brothers and Sisters:

List names, residence addresses, dates of birth and most recent occupations of brothers and sisters and of their respective spouses.

Name (Maiden)	Birth Date	Address	Occupation
Dr. John McKay -	- Dungannon N Ireland - Retired Physician		
Elizabeth McCorry - deceased			
Spouse			
Mary Ferris -	- Nungannon N Ireland - Retired college professor		
Seamus Ferris -	- Nungannon N Ireland - retired college professor		
Spouse			
Anita Rea -	- Beaumont CA - High School Administrator		
Alastair Rea -	Beaumont CA - Retired		
Spouse			
Jayne Corr -	Oxshot Surrey England - Attorney		
Patrick Corr -	Oxshot Surrey England - Attorney		
Spouse			

4. EDUCATION:

Name of School	Location	Dates Attended	Graduate
Grammar School	Presentation Brothers		Yes No
High School	St. Patricks Academy Dungannon N Ireland		Yes No
College	Queens University Belfast		Yes No
University			Yes No
Other	PWC		Yes No

Type of degree obtained, if any BSC (Economics)

College or university where obtained Queens University Belfast

Applicant's Initials

Page 3

March 11, 2020

5 MILITARY INFORMATION:

A. Have you ever served in any armed forces?

Yes ☐ No ☒

Branch NA Date of entry-active service _____

Date of separation _____ Type of discharge _____

Rating at separation _____ Serial number _____

While in the military service were you ever arrested for an offense which resulted in summary action, a trial or special or general court martial? Yes ☐ No ☒ If yes, furnish details on page 10. (List all incidents regardless of where they occurred-foreign or domestic.)

B. Have you registered for the draft?

Yes ☐ No ☒

County NA State _____ Date registered _____

6. ARRESTS, DETENTIONS, LITIGATIONS AND ARBITRATIONS: (Include those arrests in which you were not convicted.)

A. Have you ever been arrested, detained, charged, indicted or summoned to answer for any criminal offense or violation for any reason whatsoever, regardless of the disposition of the event? (Except minor traffic citations.) Yes ☐ No ☒ If yes, give details in space provided below. List all cases without exception.

Date of Arrest	Age	Charge	Location-City and State	Deposition/Date	Arresting Agency
NA					

B. Has a criminal indictment, information or complaint ever been returned against you, but for which you were not arrested or in which you were named as an unindicted co-party? Yes ☐ No ☒ If yes, furnish details on page 10.

C. Have you ever been questioned or deposed by a city, state, federal or law enforcement agency, commission or committee? Yes ☐ No ☒

D. Have you ever been subpoenaed to appear or testify before a federal, state or county grand jury, board or commission? Yes ☐ No ☒

E. Have you ever been subpoenaed to testify for any civil, criminal or administrative proceeding or hearing? Yes ☐ No ☒

F. Have you ever had a civil or criminal record expunged or sealed by a court order? Yes ☐ No ☒ If yes, when? NA city, county and state _____

G. Have you ever received a pardon or deferred prosecution for any criminal offense? Yes ☐ No ☒ If yes when? NA city, county and state _____

H. Has any member of your family or of your spouse's family ever been convicted of a felony? Yes ☐ No ☒ If you answer to any of the above questions (B through H) is yes, furnish details on page 10.

Name	Relationship	Charge	Location	Date
------	--------------	--------	----------	------

NA

Applicant's initial mm

Page 4

March 11, 2020

ARRESTS, DETENTIONS, LITIGATIONS AND ARBITRATIONS-Continued

- I. Have you, as an individual, member of a partnership, or owner, director or officer of a corporation, ever been a part to a lawsuit as either a plaintiff or defendant or an arbitration as either a claimant or respondent?
☒ Yes ☐ No (Other than divorces)
 If yes, give details below. List all cases without exception, including bankruptcies:

Plaintiff/Defendant or Claimant/Respondent	Date Filed	Court and Case Number	City, County and State	Disposition/Date
McKay v Iazar	2018	37-2018-00000738	San Diego	Awarded stock in company 2019
McKay v Starwood	2013	don't know	San Diego	Settled 2014
McKay v Osborne 2007??		unknown	San Diego	Awarded judgment in my favor

- J. Has any general partnership, business venture, sole proprietorship or closely held corporation (while you were associated with it as an owner, officer, director or partner) been a party to a lawsuit, arbitration or bankruptcy?
 Yes ☒ No ☐ If yes, complete the following:

Name of Entity	Type of Entity	Approximate Date(s) of Lawsuit/Arbitration/Bankruptcy
NA		

7. RESIDENCES:

List all residences you have had for the last 25 years:

Month and Year (From-To)	Street and Number	City	State or County
	Cerros Redondos,	Rancho Santa Fe,	CA 92067
	Tradewinds Drive	San Diego,	CA 92127

Applicant's initial nm

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March 11, 2020

8. EMPLOYMENT:

Beginning with your current employment, list your work history, all businesses with which you have been involved, and/or all periods of unemployment since 18 years of age. Also, list all corporations, partnerships or any other business ventures with which you have been associated as an officer, director, stockholder or related capacity.

Month and Year	Name/Mailing Address of Employer/Business	Reason for Leaving
1972-1975	Price Waterhouse Coopers Belfast	Opportunity
Title	Description of Duties	Name of Supervisor
Trainee	Chartered Accountant	Wilson Graham
Month and Year	Name/Mailing Address of Employer/Business	Reason for Leaving
1975-1978	Wilson's Stores Dunganon N Ireland	Opportunity
Title	Description of Duties	Name of Supervisor
CFO	Accountant	Mervyn Wilson
Month and Year	Name/Mailing Address of Employer/Business	Reason for Leaving
1978-80	Dunganon N Ireland	Opportunity in US
Title	Description of Duties	Name of Supervisor
Owner	All management duties	Neil McKay
Month and Year	Name/Mailing Address of Employer/Business	Reason for Leaving
1980-1992	Powerscreen International	Bought out
Title	Description of Duties	Name of Supervisor
Independent agent	Marketing	Patrick Dougan
Month and Year	Name/Mailing Address of Employer/Business	Reason for Leaving
1985 - 2000	Cavan Crystals Ireland	Bought out
Title	Description of Duties	Name of Supervisor
Owner	All business duties	Peter Pollock
Month and Year	Name/Mailing Address of Employer/Business	Reason for Leaving
2001	SMART LLC	still active
Title	Description of Duties	Name of Supervisor
Managing Member	All duties	Neil McKay
Month and Year	Name/Mailing Address of Employer/Business	Reason for Leaving
2018	Acquired Aircare HM Los Angeles	active
Title	Description of Duties	Name of Supervisor
100% owner	All duties	Neil McKay
Month and Year	Name/Mailing Address of Employer/Business	Reason for Leaving
2019	Aircare Health Henderson NV	active
Title	Description of Duties	Name of Supervisor
100% owner	All duties	Neil McKay

If additional space is needed, continue on page 10 or provide attachment.

Applicant's initial nm

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March 11, 2020

9. CHARACTER REFERENCES:

List five character reference who have know you five years or more. Do not include relatives, present employer or employees.

Name of Where Employed	Street	City	State	Zip	Telephone	Years Known
Name Andrew Wilson	Home	El Camino Real	San Diego	CA		25
Employer retired	Business	Nuclear Physicist				
Name Russel McHugh	Home	Carmel Valley	CA	92130		15
Employer Independent	Business	IT Consultant				
Name Jon Green	Home	CHase Bank Rancho Santa Fe	CA	92067		5
Employer Chase Bank	Business	CHase Bank Rancho Santa Fe	CA	92067		
Name Dr. Richard Schuman	Home	Bernardo Center Dr	San Diego	CA 92128		7
Employer Self employed	Business	Neurologist				
Name Thomas Elliot	Home	Valencia Ct	Encinitas	CA 92024		7
Employer Self	Business	Insurance Broker				

10. Do you have any safe deposit box or other such depository, access to any depository or do you use any other person's depository? Yes ☒ No ☐
If yes, complete the following:

Box Number or Type of Depository	Location	City and State	Authorized Users
NA			

11. Have you ever held a privileged, occupational or professional license in any state, including but not limited to the following:

Liquor	Lawyer	Race horse/race dog owner	Securities dealer	Insurance
Doctor	Contractor	Real estate broker or salesman	Barber/Cosmetologist	Gaming
Accountant	Pilot	Sports promoter	Trainer or manager	Educator

Yes ☒ No ☐

If yes, state type, where and years held

NA

12. Have you ever applied for a city, county or state business, venture or industry license or held a financial interest in a licensed business or industry OUTSIDE the State of Nevada? Yes ☒ No ☐
If yes, state type, when and where and give names and locations of the businesses in which you were involved, the names and address of all partners and the agency responsible for licensing said business, venture or industry.

SMRT LLC provides medical services to patients with sleep disorder. The company is licensed by the California Department of Health.

Applicant's initial nm

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March 11, 2020

13. Have you ever appeared before any licensing agency or similar authority in or outside the State of Nevada for any reason whatsoever? Yes ☒ No ☒

14. Have you ever been denied a personal license, permit, certificate or registration for a privileged, occupational or professional activity? Yes ☒ No ☒

If yes to the above, state where, when and for what reason:

NA

15. Have you ever been refused a business or industry license or related finding of suitability or been a participant in any group which has been denied a business or industry license or related finding of suitability?

Yes ☒ No ☒

NA

16. Have you or any person with whom you have been a participant in any group been the subject of an administrative action or proceeding relating to the pharmaceutical industry?

Yes ☒ No ☒

NA

17. Have you or any person with whom you have been a participant in any group ever been found guilty, plead guilty or entered a plea of nolo contendere to any offense, federal or state, related to prescription drugs and/or controlled substances?

Yes ☒ No ☒

NA

18. Have you or any person with whom you have been a participant in any group ever surrendered a license, permit or certificate of registration relating to the pharmaceutical industry voluntarily or otherwise (other than upon voluntary close of a manufacturer

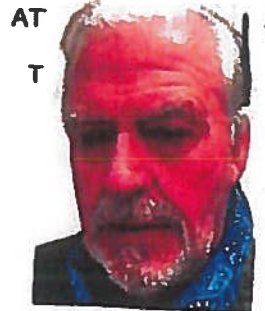
Yes ☒ No ☒

NA

19. Do you have any relatives within the fourth degree of consanguinity associated with or employed in the pharmaceutical or drug related industry?

Yes ☒ No ☒

NA



Date of photograph 2/24/21

Applicant's initial nm

STATE OF _____

ss.

COUNTY OF _____

I, Neil McKay, being duly sworn, depose and say I have read the foregoing application and know the contents thereof; that the statements contained herein are true and correct and contain a full and true account of the information requested; that I executed this statement with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for denial or revocation of a manufacturer license; that I am voluntarily submitting this application with full knowledge that Nevada Revised Statutes 639.210 (10) provides denial or revocation of the application of any person for a certificate, license, registration or permit if the holder or applicant "Has obtained any certificate, certification, license or permit by the filing of an application, or any record, affidavit or other information in support thereof, which is false or fraudulent," and further, that I have familiarized myself with the contents of Nevada Statutes on Pharmacists and Manufacturer and the Controlled Substances Act, as amended, and the Regulations of the Nevada State Board of Manufacturer as promulgated thereunder and agree, if licensed, to abide thereby,

I hereby expressly waive, release and forever discharge the State of Nevada, the licensing agency and their agents from any and all manner of action and causes of action whatsoever which I, my administrators or executors can, shall or may have against the State of Nevada, the licensing agency and their agents, as a result of my applying for a manufacturer license in the State of Nevada.



Original Signature of Applicant

Subscribed and Sworn to before me this _____ day of _____

Notary Public

(seal)

Applicant's initial nm

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March 11, 2020

APPLICATION TO BE THE MDEG ADMINISTRATOR

Person who runs the facility on a daily basis

Date 12/11/20

Each MDEG shall employ an administrator at all times. The administrator must be:

1. A natural person.
2. Have a high school diploma or its equivalent.
3. Have: a) At least 1500 hours of verifiable work experience relating to the products provided be the medical products provider or medical products wholesaler or b) An associate's degree or higher degree from an accredited college or university in a field of study that is directly related to patient health care.
4. Be employed be the medical products provider or medical products wholesaler at the place of business or facility of the employer at least 40 hours per week or during all regular business hours if the business or facility is regularly open less than 40 hours per week and
5. Be approved by the board.
6. The administrator shall ensure that that the operation of the business or facility complies with all applicable federal, state and local laws, regulations and rules.

A medical products provider or medical products wholesaler shall notify the staff of the Board of the cessation of employment of an administrator within 3 business days after the cessation of the employment. A medical products provider or medical products wholesaler shall notify the staff of the Board of the employment of a new administrator within 3 business dates after the beginning of the employment.

A medical products provider or medical products wholesaler may not operate for more than 10 business days without an administrator. The Board may summarily suspend the operation of a business or facility that operates without an administrator.

GENERAL INSTRUCTIONS

Type or print an answer to every question. If a question does not apply to you, so state with N/A. If space available is insufficient, use a separate sheet and precede each answer with the appropriate title. Do not misstate or omit any material fact(s) as each statement made hererin is subject to verification. Applicant must initial each page, as provided in lower right hand corner.

All applicants are advised that this application to be a MDEG administrator is an official document and misrepresentation or failure to reveal information requested may be deemed to be sufficient cause for the refusal or revocation of a license.

All applicants are further advised that an application for a license, finding of suitability or for other action may not be withdrawn without the permission of the licensing agency.

Application for MDEG Administrator

Nature of MDEG
SMRT LLC 12231 S Eastern Avenue #140 Henderson NV 89054

Name and Address of Business for Which MDEG Administrator Is Requested

If applicable, Name Under Which It Is Now Operated

1. PERSONAL INFORMATION:

McKay _____ Neil _____
Last Name First Name Middle Name

Alias(es, Nicknames, Maiden Name, Other Name Changes, Legal or Otherwise) _____

12231 S Eastern Ave #140 Dates _____
Present Residence Address-Street or RFD San Diego CA 92127
City State/Zip

12231 S Eastern Ave #140 Dates _____
Present Business Address Henderson NV 89052
City State/Zip

Owner _____
Present Position with the MDEG _____

Phone _____ Fax: 858 755 7243

Email address: neilmckay45@gmail.com

Date of Birth _____ Omagh County Tyrone N Ireland
Place of Birth (City, County, State)

70 _____
Age

blue _____ gray _____
Color of Eyes Color of Hair

242 _____
Weight

6'2" _____
Height

Scars, tattoos or distinguishing marks and/or characteristics NA

Are you a citizen of the United States? Yes ☒ No ☐

If alien, registration No _____

If naturalized, certificate No NA Date NA

Place NA (If naturalized, document must be verified.)



EMPLOYMENT:

A MDEG administrator must document that he or she has been employed for at least 1500 hours of verifiable work experience relating to the products provided by the medical products provider or medical products wholesaler. Please provide the following information to document your hours of employment.

2000	SMRT LLC 5330 Carroll Canyon Road #120 San Diego CA 92121	20 years
Month and Year	Name/ Address of Employer/Business	No of Employed Hours
Owner	All aspects of business	NA
Title	Description of Duties	Name of Supervisor
Month and Year	Name/ Address of Employer/Business	No of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/ Address of Employer/Business	No of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/ Address of Employer/Business	No of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/ Address of Employer/Business	No of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/ Address of Employer/Business	No of Employed Hours
Title	Description of Duties	Name of Supervisor
Month and Year	Name/ Address of Employer/Business	No of Employed Hours
Title	Description of Duties	Name of Supervisor

I have ☒ I have not ☒ been diagnosed or treated in the last five years for a mental illness or a physical condition that would impair my ability to perform any of the essential functions of my license, including alcohol or substance abuse,

1. I have ☒ I have not ☒ been charged, arrested or convicted of a felony or misdemeanor.

2. I have ☒ I have not ☒ been the subject of an administrative action whether completed or pending.

3. I have ☒ I have not ☒ had a license suspended, revoked, surrendered or otherwise disciplined, including any action against a professional license that was not made public.

If you checked "I have" to questions 1, 2 and/or 3, please include the following information and provide a written explanation and/or documents.

a) Board Administrative Action:

State: _____

Date: _____

Case Number: _____

b) Criminal Action:

State: _____

Date: _____

Case Number: _____

County: _____

Court: _____

4. Will you be actively involved in and aware of the daily operation of the MDEG?

☒ Yes ☒ No

5. Will you be employed fulltime with the MDEG?

☒ Yes ☒ No

6. Will you be present at the site of the MDEG during its normal operating hours?

Yes ☒ No ☒

If you answer No to questions 4, 5 or 6 please provide a written letter of explanation.

I will be traveling between our branches in

Henderson NV, San Luis Obispo CA,

Santa Rosa CA and San Diego CA

AT

APH

T

ST

Date of photo



1/24/01

Handwritten signature/initials.

I, Neil McKay, being duly sworn, depose and say I have read the foregoing application and know the contents thereof; that the statements contained herein are true and correct and contain a full and true account of the information requested; that I executed this statement with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for denial or revocation of a MDEG license; that I am voluntarily submitting this application with full knowledge that Nevada Revised Statutes 639.210 (10) provides denial or revocation of the application of any person for a certificate, license, registration or permit if the holder or applicant "Has obtained any certificate, certification, license or permit by the filing of an application, or any record, affidavit or other information in support thereof, which is false or fraudulent," and further, that I have familiarized myself with the contents of Nevada Revised Statutes and Regulations.

I hereby expressly waive, release and forever discharge the State of Nevada, the licensing agency and its agents from any and all manner of action and causes of action whatsoever which I, my administrators or executors can, shall or may have against the State of Nevada, the licensing agency and its agents, as a result of my applying to be a designated representative for a pharmacy or MDEG in the State of Nevada.


Original Signature of Applicant

Nevada State Board Of Pharmacy

(Firm mailing address for window envelope)

THIS STUB IS YOUR RECEIPT

Aircare Medical Inc.
12231 S Eastern Ave #140
Henderson NV 89052

Date: 07/08/2020
Amount: \$ 500.00
License #: MP02984

(ID Card)



Medical Devices, Equipment, Gas

Expires: 02/06/2021

Aircare Medical Inc.
12231 S Eastern Ave #140
Henderson NV 89052

License #
MP02984
Temporary

Trim ID Card to fit your wallet

IDENTIFICATION ONLY

DOES NOT MEET POSTING REQUIREMENTS

Cut Here

License Type: Medical Devices, Equipment,
Gas

License #: MP02984

Managing Pharmacist :



Expires: 02/06/2021
STATUS: Temporary

Aircare Medical Inc.
12231 S Eastern Ave #140
Henderson NV 89052

NONTRANSFERABLE

POST THIS LICENSE PROMINENTLY IN A CONSPICUOUS PLACE

Reprinted: 08/06/2020.



NEVADA STATE BOARD OF PHARMACY

985 Dismonte Ranch Pkwy Suite 206 Reno, Nevada 89521
(775) 850 1410 • 1-800-364-2081 • FAX (775) 850 1411

• Web Page: <http://nv.gov>

February 2, 2021
Aircare Medical Inc.
12231 S. Eastern Ave Suite 140
Henderson, NV 89052

Dear Aircare Medical Inc.:

We are in receipt of your application for a license/registration from the Nevada State Board of Pharmacy.

After reviewing the application, you are required to personally appear before the Board at a regularly-scheduled meeting for their consideration of approval.

Your appearance has been scheduled for:

Thursday, 3/4/2021

9:00 AM or soon thereafter

Pursuant to Governor Steve Sisolak's Emergency Directive 006, there will be no physical location for this meeting. The meeting can be listened to or viewed live over Zoom.

Via Videoconference at Zoom:
<https://zoom.us/j/5886256671>

or

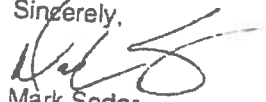
Via Teleconference at 1 (669) 900-6833
Meeting ID: 588 625 6671

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. ~~You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.~~ During the hearing, you will be asked to waive your right to the required 21-day notice.

Your appearance is required at the meeting. If you do not appear at the meeting and have not contacted the Board prior to the meeting, the Board may take action on the application in your absence.

If you have any questions, please feel free to contact us.

Sincerely,


Mark Sedar
Chief Operating Officer

SFY21 MONTHLY BUDGET REPORT
 NEVADA STATE BOARD OF PHARMACY
 CURRENT MONTH: Jan 21

REVENUES	APPROVED BUDGET	BUDGET AMENDMENTS	REVISED BUDGET	CURRENT MONTH REVENUE/EXPENSE	PRIOR MONTH(S) REVENUE/EXPENSE	PROJECTIONS THROUGH 6/30/2020	TOTAL REVENUE/EXPENSE SFY21	DIFFERENCE
Beginning Balance	\$ 2,133,664		\$ 2,133,664	\$ -	\$ 2,234,060	\$ -	\$ 2,234,060	\$ 100,396
Renewal Fees	\$ 4,576,617		\$ 4,576,617	\$ 6,100	\$ 4,538,930	\$ 31,587	\$ 4,576,617	\$ -
Registration Fees	\$ 687,460		\$ 687,460	\$ 43,100	\$ 383,128	\$ 261,233	\$ 687,460	\$ -
Misc. Revenue	\$ 155,000	\$ (154,000)	\$ 1,000	\$ -	\$ 582	\$ 416	\$ 998	\$ (2)
Recovered Costs	\$ -	\$ 8,000	\$ 28,000	\$ -	\$ -	\$ -	\$ -	\$ (11,864)
CC Processing Fees	\$ -	\$ 107,500	\$ 107,500	\$ 1,446	\$ 9,413	\$ 6,723	\$ 16,136	\$ (1,864)
Paper Use Fee	\$ -	\$ -	\$ -	\$ -	\$ 231,728	\$ 5,000	\$ 238,174	\$ 130,674
Change MGR RPh	\$ -	\$ 11,500	\$ 11,500	\$ 50	\$ 3,760	\$ 2,771	\$ 40	\$ 40
Inspections	\$ -	\$ 7,000	\$ 7,000	\$ 150	\$ 300	\$ 471	\$ 921	\$ (4,919)
Interest Income	\$ 30,500		\$ 30,500	\$ 1,164	\$ 12,467	\$ 10,900	\$ 24,530	\$ (6,079)
Late Fees	\$ 25,000		\$ 25,000	\$ 2,675	\$ 21,630	\$ 20,036	\$ 44,341	\$ (5,070)
Total Revenues	\$ 7,608,241	\$ -	\$ 7,608,241	\$ 54,684	\$ 7,436,038	\$ 339,137	\$ 7,829,859	\$ 221,618
EXPENSES								
Payroll	\$ 2,897,623	\$ 81,597	\$ 2,979,220	\$ 250,967	\$ 1,434,866	\$ 1,283,203	\$ 2,969,037	\$ (10,183)
Operating	\$ 909,437	\$ (81,597)	\$ 827,840	\$ 119,935	\$ 396,183	\$ 191,177	\$ 707,295	\$ (120,545)
Equipment	\$ 30,000		\$ 30,000	\$ 1,250	\$ 8,487	\$ 8,205	\$ 17,942	\$ (12,058)
In-State Travel	\$ 110,000		\$ 110,000	\$ 201	\$ 17,345	\$ 27,734	\$ 45,279	\$ (64,721)
Out-of-State Travel	\$ 65,000		\$ 65,000	\$ -	\$ -	\$ 65,000	\$ 65,000	\$ -
DAG Cost	\$ 12,000		\$ 12,000	\$ -	\$ 587	\$ 419	\$ 1,006	\$ (10,994)
Aid for Education	\$ 2,000		\$ 2,000	\$ -	\$ -	\$ 2,000	\$ 2,000	\$ -
Reserve	\$ 3,582,181		\$ 3,582,181	\$ -	\$ -	\$ 4,022,301	\$ 4,022,301	\$ 440,120
Total Expenses	\$ 7,608,241	\$ -	\$ 7,608,241	\$ 372,363	\$ 1,857,468	\$ 5,800,039	\$ 7,829,859	\$ 221,618
Balance	\$ -	\$ -	\$ -	\$ -	\$ 1,857,468	\$ -	\$ -	\$ -

Proposed Regulation of the Nevada State Board of Pharmacy

Workshop – March 4, 2021

Explanation – Language in *blue italics* is new; language in *red text* [omitted material] is language to be omitted, and language in *green text* indicates prior Board-approved amendments that are in the process of being codified.

AUTHORITY: NRS 639.070; NRS639.170; NRS 639.2655

A REGULATION relating to the use of a mechanical device to furnish a prescription drug to a patient; and providing other matters properly relating thereto.

Section. 1. NAC 639.220 is hereby amended to read as follows:

1. The Board hereby adopts the following schedule of fees:

For the examination of an applicant for registration as a pharmacist.....	Actual cost of the examination
For the investigation or registration of an applicant as a registered pharmacist.....	\$180
For the investigation, examination or registration of an applicant as a registered pharmacist by reciprocity.....	180
For the investigation or issuance of an original license to conduct a retail pharmacy.....	500
For the biennial renewal of a license to conduct a retail pharmacy.....	500
For the investigation or issuance of an original license to conduct an institutional pharmacy.....	500
For the biennial renewal of a license to conduct an institutional pharmacy.	500
For the investigation or issuance of an original license to conduct a pharmacy in a correctional institution.....	500
For the biennial renewal of a license to conduct a pharmacy in a correctional institution.....	500
For the issuance of an original or duplicate certificate of registration as a registered pharmacist.....	50
For the biennial renewal of registration as a registered pharmacist.....	180
For the reinstatement of a lapsed registration (in addition to the fees for renewal for the period of lapse).....	100
For the initial registration of a pharmaceutical technician or pharmaceutical technician in training.....	40
For the biennial renewal of registration of a pharmaceutical technician or pharmaceutical technician in training.....	40
For the investigation or registration of an intern pharmacist.....	40
For the biennial renewal of registration as an intern pharmacist.....	40
For the investigation or registration of an advanced practice registered nurse or a physician assistant to prescribe drugs that are not controlled substances.....	80

For the biennial renewal of registration of an advanced practice registered nurse or a physician assistant to prescribe drugs that are not controlled substances.....	80
For authorization of a physician, advanced practice registered nurse, physician assistant, euthanasia technician, ambulatory surgical center, facility for treatment with narcotics, researcher, instructional user or any other authorized person to prescribe or possess controlled substances.....	80
For the biennial renewal of authorization of a physician, advanced practice registered nurse, physician assistant, euthanasia technician, ambulatory surgical center, facility for treatment with narcotics, researcher, instructional user or any other authorized person to prescribe or possess controlled substances.....	80
For the investigation or issuance of an original license to engage in business as an authorized warehouse, medical products provider or medical products wholesaler.....	500
For the biennial renewal of a license to engage in business as an authorized warehouse, medical products provider or medical products wholesaler.....	500
For the investigation or issuance of an original license to a manufacturer or wholesaler.....	500
For the biennial renewal of a license for a manufacturer or wholesaler.....	500
For the reissuance of a license issued to a pharmacy, when no change of ownership is involved, but the license must be reissued because of a change in the information required thereon.....	50
For authorization of a practitioner, other than a licensed veterinarian, to dispense controlled substances or dangerous drugs, or both, for each location where the practitioner will dispense controlled substances or dangerous drugs, or both.....	300
For the biennial renewal of authorization of a practitioner, other than a licensed veterinarian, to dispense controlled substances or dangerous drugs, or both, for each location where the practitioner will dispense controlled substances or dangerous drugs, or both.....	300
For authorization of a licensed veterinarian to dispense controlled substances or dangerous drugs, or both.....	150
For the biennial renewal of authorization of a licensed veterinarian to dispense controlled substances or dangerous drugs, or both.....	150
<i>For the investigation or issuance of an original license for an automated drug dispensing system</i>	<i>500</i>
<i>For the biennial renewal of a license for an automated drug dispensing system</i>	<i>500</i>
<i>For the investigation or issuance of an original certificate to a pharmacy authorizing the use of a mechanical device at a location off the premises of the pharmacy</i>	<i>250</i>
<i>For the biennial renewal of a certificate to a pharmacy authorizing the use of a mechanical device at a location off the premises of the pharmacy</i>	<i>250</i>

2. The penalty for failure to pay the renewal fee for any license, permit or certificate within the statutory period, as provided in subsection 6 of [NRS 639.170](#), is 50 percent of the renewal fee for each period of delinquency in addition to the renewal fee for each period of delinquency.

3. Any person who has been registered as a pharmacist in this State for at least 50 years is not required to pay the fee for the biennial renewal of a certificate of registration as a registered pharmacist.

4. The provisions of this section concerning the fee for the biennial renewal of the authorization to dispense controlled substances or dangerous drugs do not apply to an advanced practice registered nurse who is required to pay a fee pursuant to [NAC 639.870](#).

5. A health center:

(a) Which is a federally qualified health center as defined in 42 U.S.C. § 1396d(1)(2)(B), as that section existed on March 1, 2000, that provides health care primarily to medically underserved persons in a community; and

(b) Which is not a medical facility as defined in [NRS 449.0151](#),
È is not required to pay the fee for the collective certification of advanced practice registered nurses in the employ of a public or nonprofit agency as set forth in subsection 1.

6. A practitioner employed by or serving as an independent contractor of a health center:

(a) Which is a federally qualified health center as defined in 42 U.S.C. § 1396d(1)(2)(B), as that section existed on March 1, 2000, that provides health care primarily to medically underserved persons in a community; and

(b) Which is not a medical facility as defined in [NRS 449.0151](#),
È is not required to pay a fee to the Board for a change of address or for an additional address at which the practitioner dispenses drugs.

7. A practitioner who is exempt from the payment of a fee pursuant to subsection 6 shall notify the Board in writing of each change of address or additional address, or both.

Section. 2. NAC 639.718 is hereby amended to read as follows:

1. Except as otherwise provided in this section, a pharmacy may use ~~a mechanical device to furnish~~ *an automated drug dispensing system to dispense a prescription drug to a patient if the pharmacy applies for and obtains a license from the Board. Each application for such a license must be made on a form furnished by the Board. Upon approval of the application by the Board and the payment of the required fee, the Board shall issue a license to the applicant. Each license must be issued for a specific system at a designated location, posted on the system and visible to the public. The device system must conform to all of the following provisions:*

(a) The ~~device~~ system must contain only prescription drugs:

(1) Approved for use in the system by a registered pharmacist employed by the pharmacy;

(2) For which counseling is not required pursuant to [NAC 639.707](#), unless the system utilizes user-based access technology that includes a real-time audiovisual function that links the patient to a registered pharmacist who has access to the electronic health records necessary for patient counseling; and

(3) For which the prescriptions have been processed, verified and completed in the same manner as prescriptions for drugs that are delivered manually by the pharmacy, including the provision of printed medication guides and any other information required pursuant to [NAC 639.707](#).

(b) The ~~device~~ system must not contain controlled substances included in schedule II, or controlled substances in schedules III-V unless authorized by the federal Drug Enforcement Administration to dispense such substances.

(c) The ~~device~~ system must ~~be designed to ensure that the device:~~

(1) ~~Is located such that access to the device~~ Control and track access to the device utilizing user-based access technology;

~~(I) For stocking, cleaning, maintenance or any other purpose can be obtained only by a registered pharmacist, pharmaceutical technician, or intern pharmacist employed by the pharmacy or a member of the staff of the pharmacy from within a secured area of the pharmacy; and~~

~~(II) Is~~ (2) Be secure from unauthorized access to and removal of prescription drugs from the device;

(3) Be owned or leased by the pharmacy issued the license for the system and only operated under the supervision and control of that pharmacy.

(4) Include a programmable device for monitoring temperature which includes an alarm that records when the temperature falls outside the range compatible with the proper storage of the drugs and a notification to the pharmacy.

(25) Create and maintain a complete, accurate, and readily retrievable ~~r~~Records of all transactions that includes all users accessing the system and all drugs added to, or removed from, the system, including: ~~the name of each person at the pharmacy who authorizes access to the device.~~

(I) The name, strength, quantify and form of dosage of the drug which is stocked, inventoried, removed or dispensed from the system.

(II) The day and time access to the system is obtained

(III) An inventory of the drugs stored in the system; and

(IV) The identity of the person who obtained access to the system.

~~(3) Cannot be used by a patient;~~

~~(I) Outside the physical location of the pharmacy.~~

~~(II) Unless the~~ (6) Restrict access only to a patient that previously has indicated to the pharmacy that the patient desires that his or her prescription drugs be ~~furnished~~ dispensed by the ~~mechanical device~~ system.

(47) Provides a method to identify the patient and ~~furnishes~~ dispense a prescription drug only to the patient or to an authorized agent of the patient.

(58) ~~Can furnish~~ Dispense one, any combination or all of the prescription drugs available to a patient at the option of the patient at the time that the patient removes the prescription drugs from the ~~device~~ system.

(69) Records the date and time that the patient removes the prescription drugs from the ~~device~~ system.

(710) Informs a patient:

(I) That a prescription drug is not available to be ~~furnished~~ dispensed by the ~~device~~ system if the pharmacist wishes to counsel the patient regarding the prescription drug.

(II) If the patient is using the ~~device~~ system at the time that the pharmacy is open, that the patient may discuss questions and concerns regarding the prescription drug with a pharmacist at the pharmacy, or through the use of user-based access technology that includes a real-time audiovisual function that links the patient to a registered pharmacist who has access to the electronic health records necessary for patient counseling.

(III) If the patient is using the ~~device~~ system at the time that the pharmacy is closed, that the patient may discuss questions and concerns regarding the prescription drug ~~using a toll-free telephone number at which a pharmacist at a pharmacy licensed by the Board will respond at all hours when the pharmacy at which the device is located is closed. A pharmacist who responds to questions or concerns pursuant to this sub-subparagraph must have access by computer to the same information regarding the patient that a pharmacist would have using the computer system of the pharmacy at which the device is located~~ through the use of user-based access technology that includes a real-time audiovisual function that links the patient to a registered pharmacist who has access to the electronic health records necessary for patient counseling.

(IV) That he or she may choose not to purchase the drug from the system at any time before the system dispenses the drug.

(11) Dispense all drugs in a container labeled in conformance with NRS 639.2801.

(12) Be installed in such a place and manner that a person is unable to remove the system from its location, and that attempts to obtain access to the device without authorization are visible to the pharmacist of the pharmacy in person or by real-time audiovisual function or audiovisual recording.

(12) Be located in a:

(I) Pharmacy;

(II) Medical facility licensed pursuant to subsections 1-14 or 16 of NRS 449.0151; or

(II) Practice site location of one or more practitioners.

2. A pharmacy which dispenses drugs by a system pursuant to this section shall maintain a written policy which sets forth:

(a) The duties of all persons who are authorized to obtain access to the system; and

(b) The procedure for:

(1) Maintaining the security of the drugs stored in the system during the maintenance and repair of the system;

(2) The preparation of an inventory of the drugs stored in the system; and

(3) Stocking the system with drugs.

23. ~~A pharmacy shall not use a mechanical device to furnish a prescription drug to a patient until the pharmacy has notified the Board in writing of:~~

~~(a) The type of device that will be used; and~~

~~(b) The anticipated date that the device will first be used.~~

The Board will not approve a license pursuant to this section until the manufacturer of the system appears before the Board for its approval of that use of the system and submits evidence satisfactory to the Board that the system:

(a) Dispenses drugs accurately; and

(b) Otherwise satisfies the provisions of this section.

4. A pharmacy which dispenses drugs by a system pursuant to this section shall comply with all applicable federal and state recordkeeping requirements and shall maintain those records in a readily retrievable manner separate from other pharmacy records.

5. Drugs stored in a system pursuant to this section shall be deemed part of the inventory and the responsibility of the pharmacy issued the license for the system, and drugs dispensed from the system shall be considered to have been dispensed by that pharmacy

46. The Board may prohibit a pharmacy from using a ~~mechanical device~~ system to furnish a prescription drug to a patient if the Board determines that the ~~device~~ system or the pharmacy's use of the ~~device~~ system does not comply with this section.

§7. The provisions of this section do not prohibit the use of a ~~mechanical device~~ system to furnish a drug or device that is approved by the Food and Drug Administration for sale over the counter without a prescription if the pharmacy using the ~~mechanical device~~ system is otherwise authorized to use ~~mechanical device~~ system pursuant to this section.

8. *As used in this section:*

(a) *“Automated drug dispensing system” means a system that performs operations, other than compounding or administration, relative to the storage and dispensing of drugs. An automated drug delivery system shall collect, control, and maintain all transaction information to accurately track the movement of drugs into and out of the system for security, accuracy, and accountability.*

(b) *“Electronic health record” has the meaning ascribed to it in 42 U.S.C. § 17921(5); and*

(c) *“User-based access technology” means a secure system restricting access to authorized users by requiring two-factor authentication, including, without limitation, knowledge factor, hard token, or biometric information.*

Section. 3. NAC 639.720 is hereby amended to read as follows:

1. Except as otherwise provided in subsections 4 and 6, a mechanical device may be used to furnish drugs and medicines for administration to registered patients in a medical facility. The device must conform to all the following provisions:

(a) All drugs and medicines stocked in the device must be approved for use in the device by a registered pharmacist employed by the:

(1) Medical facility in which the drug or medicine is administered; or

(2) Pharmacy that supplies the medical facility in which the drug or medicine is administered.

(b) Access to the device must be:

(1) Limited to pharmaceutical technicians, pharmaceutical technicians in training, intern pharmacists, registered pharmacists, licensed practical nurses, registered nurses or other practitioners who are:

(I) Authorized by law to prescribe or administer controlled substances, poisons, or dangerous drugs and devices; and

(II) Employed by the medical facility or pharmacy that supplies the medical facility.

(2) Monitored and controlled by the pharmacy which supplies the medical facility or the registered pharmacist who is employed by the medical facility.

(c) Each container of a drug or medicine stored in the device must be labeled in a manner which includes the information required pursuant to subsection 2 of [NAC 639.476](#).

(d) The device must be designed in such a manner that:

(1) Each time a person obtains access to the device, the device automatically prepares a record which is readily retrievable and which includes:

(I) The name, strength, quantity and form of dosage of the drug or medicine which is stocked, inventoried or removed for administration to a patient;

(II) The day and time access to the device is obtained;

(III) If a drug or medicine is removed for administration to a patient, the name of the patient;

(IV) An inventory of the drugs and medicines stored in the device; and

(V) The name of the person who obtained access to the device.

(2) Access to the device may be obtained only by a person with the use of a code which identifies that person.

2. A pharmacy which supplies drugs and medicines to a medical facility which are furnished by a mechanical device pursuant to subsection 1 shall maintain a written policy which sets forth:

(a) The duties of all persons who are authorized to obtain access to the device; and

(b) The procedure for:

(1) Maintaining the security of the drugs and medicines stored in the device during the maintenance and repair of the device;

(2) The preparation of an inventory of the drugs and medicines stored in the device; and

(3) Stocking the device with drugs and medicines.

3. A pharmacy which supplies drugs or medicines to a medical facility which uses a mechanical device to furnish drugs or medicines for administration to patients pursuant to subsection 1 shall provide written notice to the Board. The notice must include:

(a) A description of each mechanical device used by the medical facility to furnish drugs or medicines for administration to patients, including, without limitation, the name of the manufacturer of the device; and

(b) The address of the medical facility at which the mechanical device is located.

4. A pharmacy shall not stock a mechanical device with drugs or medicines and a mechanical device must not be used to furnish drugs or medicines for administration to patients until:

(a) The pharmacy has notified the Board as required by subsection 3; and

(b) The Board has issued a certificate to the pharmacy that authorizes the use of the mechanical device at the medical facility at which the mechanical device is located.

5. Each medical facility that uses a mechanical device pursuant to subsection 1 must make and maintain a record of any waste of a controlled substance in the manner provided in [NAC 639.486](#). The record of any waste of a controlled substance may be prepared:

(a) By the mechanical device if the mechanical device is capable of making and maintaining such a record and documenting the record of the waste being witnessed by another person as provided in paragraph (g) of subsection 1 of [NAC 639.486](#); or

(b) As a written record.

6. A mechanical device may be used to furnish drugs and medicines for a patient receiving treatment in the emergency room of a hospital. The device must conform to all the following provisions:

(a) All drugs and medicines stocked in the device must be approved for use in the device by a registered pharmacist employed by or contracted with the:

(1) Hospital in which the drug or medicine is furnished; or

(2) Pharmacy that supplies the hospital in which the drug or medicine is furnished.

(b) Access to the device for the purposes of stocking, inventory and monitoring must be limited to pharmaceutical technicians, pharmaceutical technicians in training, intern pharmacists or registered pharmacists employed by the hospital or the pharmacy that supplies the hospital.

(c) Use of the device to furnish a drug or medicine to a patient must be:

(1) By a practitioner who:

(I) Is authorized by law to prescribe controlled substances or dangerous drugs;

(II) Is employed by or who has privileges at the hospital;

(III) Prescribed the drug or medicine that is furnished to the patient;

(IV) Personally verifies the correctness of the prescription for the drug or medicine before he or she furnishes it to the patient; and

(V) Has offered to the patient the choice of being provided a prescription that may be filled at a pharmacy, which offer first must be declined by the patient before the prescription is transmitted to the mechanical device to fill and furnish the prescription; or

(2) By the patient where:

(I) The device requires from the patient a unique code known only to the patient to allow the patient to access the device; and

(II) The patient is notified by the device that he or she may choose not to purchase the drug or medicine from the device at any time before the device furnishes the drug or medicine.

(d) Each container of a drug or medicine dispensed by the device is labeled pursuant to [NRS 639.2801](#).

(e) The device must be designed in such a manner that:

(1) Each time a person obtains access to the device, the device automatically prepares a record which is readily retrievable and which includes:

(I) The name, strength, quantity and form of dosage of the drug or medicine which is stocked, inventoried or removed for dispensing to a patient;

(II) The day and time access to the device is obtained;

(III) If a drug or medicine is removed for dispensing to a patient, the name of the patient;

(IV) An inventory of the drugs and medicines stored in the device; and

(V) The name of the person who obtained access to the device.

(2) Access to the device may be obtained only by a person with the use of a unique code which identifies that person.

(f) The device must be located in such a place and manner that a person is unable to remove it from the hospital, and that attempts to obtain access to the device without authorization are visible to employees of the hospital.

(g) Before the device is used to furnish a drug or medicine directly to a patient pursuant to paragraph (c), the manufacturer of the device must appear before the Board for its approval of that use of the device and submit evidence satisfactory to the Board that the device:

(1) Furnishes drugs and medicines accurately; and

(2) Otherwise satisfies the provisions of this subsection.

7. As used in this section, "medical facility" has the meaning ascribed to it in [NRS 449.0151](#).

NAC 639.715 Mechanical devices: Restrictions on use. ([NRS 639.070](#), [639.2655](#)) No drug, controlled substance, medicine, chemical or poison, as those terms are defined in [chapters 453, 454 and 639](#) of NRS, may be sold or offered for sale or dispensed by means of any mechanical device except as otherwise provided in [NAC 639.718](#) and [639.720](#).

[Bd. of Pharmacy, § 639.315, eff. 6-26-80] — (NAC A by R038-07, 10-31-2007)

NAC 639.718 Mechanical devices: Use by pharmacy to furnish prescription drugs to patients. ([NRS 639.070](#), [639.2655](#))

1. Except as otherwise provided in this section, a pharmacy may use a mechanical device to furnish a prescription drug to a patient. The device must conform to all of the following provisions:

(a) The device must contain only prescription drugs:

(1) For which counseling is not required pursuant to [NAC 639.707](#); and

(2) For which the prescriptions have been processed, verified and completed in the same manner as prescriptions for drugs that are delivered manually by the pharmacy, including the provision of printed medication guides and any other information required pursuant to [NAC 639.707](#).

(b) The device must not contain controlled substances included in schedule II.

(c) The device must be designed to ensure that the device:

(1) Is located such that access to the device:

(I) For stocking, cleaning, maintenance or any other purpose can be obtained only by a pharmacist or a member of the staff of the pharmacy from within a secured area of the pharmacy; and

(II) Is secure from unauthorized access to and removal of prescription drugs from the device.

(2) Records the name of each person at the pharmacy who authorizes access to the device.

(3) Cannot be used by a patient:

(I) Outside the physical location of the pharmacy.

(II) Unless the patient previously has indicated to the pharmacy that the patient desires that his or her prescription drugs be furnished by the mechanical device.

(4) Provides a method to identify the patient and furnishes a prescription drug only to the patient or to an authorized agent of the patient.

(5) Can furnish one, any combination or all of the prescription drugs available to a patient at the option of the patient at the time that the patient removes the prescription drugs from the device.

(6) Records the date and time that the patient removes the prescription drugs from the device.

(7) Informs a patient:

(I) That a prescription drug is not available to be furnished by the device if the pharmacist wishes to counsel the patient regarding the prescription drug.

(II) If the patient is using the device at the time that the pharmacy is open, that the patient may discuss questions and concerns regarding the prescription drug with a pharmacist at the pharmacy.

(III) If the patient is using the device at the time that the pharmacy is closed, that the patient may discuss questions and concerns regarding the prescription drug using a toll-free telephone number at which a pharmacist at a pharmacy licensed by the Board will respond at all hours when the pharmacy at which the device is located is closed. A pharmacist who responds to questions or concerns pursuant to this sub-subparagraph must have access by computer to the same

information regarding the patient that a pharmacist would have using the computer system of the pharmacy at which the device is located.

2. A pharmacy shall not use a mechanical device to furnish a prescription drug to a patient until the pharmacy has notified the Board in writing of:

- (a) The type of device that will be used; and
- (b) The anticipated date that the device will first be used.

3. The Board may prohibit a pharmacy from using a mechanical device to furnish a prescription drug to a patient if the Board determines that the device or the pharmacy's use of the device does not comply with this section.

4. The provisions of this section do not prohibit the use of a mechanical device to furnish a drug or device that is approved by the Food and Drug Administration for sale over the counter without a prescription if the pharmacy using the mechanical device is otherwise authorized to use the mechanical device pursuant to this section.

(Added to NAC by Bd. of Pharmacy by R038-07, eff. 10-31-2007)

NAC 639.720 Mechanical devices: Use to furnish drugs and medicines for administration to registered patients in medical facility and to patients receiving treatment in emergency room of hospital. (NRS 639.070, 639.2655)

1. Except as otherwise provided in subsections 4 and 6, a mechanical device may be used to furnish drugs and medicines for administration to registered patients in a medical facility. The device must conform to all the following provisions:

(a) All drugs and medicines stocked in the device must be approved for use in the device by a registered pharmacist employed by the:

(1) Medical facility in which the drug or medicine is administered; or

(2) Pharmacy that supplies the medical facility in which the drug or medicine is administered.

(b) Access to the device must be:

(1) Limited to pharmaceutical technicians, pharmaceutical technicians in training, intern pharmacists, registered pharmacists, licensed practical nurses, registered nurses or other practitioners who are:

(I) Authorized by law to prescribe or administer controlled substances, poisons, or dangerous drugs and devices; and

(II) Employed by the medical facility or pharmacy that supplies the medical facility.

(2) Monitored and controlled by the pharmacy which supplies the medical facility or the registered pharmacist who is employed by the medical facility.

(c) Each container of a drug or medicine stored in the device must be labeled in a manner which includes the information required pursuant to subsection 2 of [NAC 639.476](#).

(d) The device must be designed in such a manner that:

(1) Each time a person obtains access to the device, the device automatically prepares a record which is readily retrievable and which includes:

(I) The name, strength, quantity and form of dosage of the drug or medicine which is stocked, inventoried or removed for administration to a patient;

(II) The day and time access to the device is obtained;

(III) If a drug or medicine is removed for administration to a patient, the name of the patient;

(IV) An inventory of the drugs and medicines stored in the device; and

(V) The name of the person who obtained access to the device.

(2) Access to the device may be obtained only by a person with the use of a code which identifies that person.

2. A pharmacy which supplies drugs and medicines to a medical facility which are furnished by a mechanical device pursuant to subsection 1 shall maintain a written policy which sets forth:

(a) The duties of all persons who are authorized to obtain access to the device; and

(b) The procedure for:

(1) Maintaining the security of the drugs and medicines stored in the device during the maintenance and repair of the device;

(2) The preparation of an inventory of the drugs and medicines stored in the device; and

(3) Stocking the device with drugs and medicines.

3. A pharmacy which supplies drugs or medicines to a medical facility which uses a mechanical device to furnish drugs or medicines for administration to patients pursuant to subsection 1 shall provide written notice to the Board. The notice must include:

(a) A description of each mechanical device used by the medical facility to furnish drugs or medicines for administration to patients, including, without limitation, the name of the manufacturer of the device; and

(b) The address of the medical facility at which the mechanical device is located.

4. A pharmacy shall not stock a mechanical device with drugs or medicines and a mechanical device must not be used to furnish drugs or medicines for administration to patients until:

(a) The pharmacy has notified the Board as required by subsection 3; and

(b) The Board has issued a certificate to the pharmacy that authorizes the use of the mechanical device at the medical facility at which the mechanical device is located.

5. Each medical facility that uses a mechanical device pursuant to subsection 1 must make and maintain a record of any waste of a controlled substance in the manner provided in [NAC 639.486](#). The record of any waste of a controlled substance may be prepared:

(a) By the mechanical device if the mechanical device is capable of making and maintaining such a record and documenting the record of the waste being witnessed by another person as provided in paragraph (g) of subsection 1 of [NAC 639.486](#); or

(b) As a written record.

6. A mechanical device may be used to furnish drugs and medicines for a patient receiving treatment in the emergency room of a hospital. The device must conform to all the following provisions:

(a) All drugs and medicines stocked in the device must be approved for use in the device by a registered pharmacist employed by or contracted with the:

(1) Hospital in which the drug or medicine is furnished; or

(2) Pharmacy that supplies the hospital in which the drug or medicine is furnished.

(b) Access to the device for the purposes of stocking, inventory and monitoring must be limited to pharmaceutical technicians, pharmaceutical technicians in training, intern pharmacists or registered pharmacists employed by the hospital or the pharmacy that supplies the hospital.

(c) Use of the device to furnish a drug or medicine to a patient must be:

(1) By a practitioner who:

(I) Is authorized by law to prescribe controlled substances or dangerous drugs;

(II) Is employed by or who has privileges at the hospital;

(III) Prescribed the drug or medicine that is furnished to the patient;

(IV) Personally verifies the correctness of the prescription for the drug or medicine before he or she furnishes it to the patient; and

(V) Has offered to the patient the choice of being provided a prescription that may be filled at a pharmacy, which offer first must be declined by the patient before the prescription is transmitted to the mechanical device to fill and furnish the prescription; or

(2) By the patient where:

(I) The device requires from the patient a unique code known only to the patient to allow the patient to access the device; and

(II) The patient is notified by the device that he or she may choose not to purchase the drug or medicine from the device at any time before the device furnishes the drug or medicine.

(d) Each container of a drug or medicine dispensed by the device is labeled pursuant to [NRS 639.2801](#).

(e) The device must be designed in such a manner that:

(1) Each time a person obtains access to the device, the device automatically prepares a record which is readily retrievable and which includes:

(I) The name, strength, quantity and form of dosage of the drug or medicine which is stocked, inventoried or removed for dispensing to a patient;

(II) The day and time access to the device is obtained;

(III) If a drug or medicine is removed for dispensing to a patient, the name of the patient;

(IV) An inventory of the drugs and medicines stored in the device; and

(V) The name of the person who obtained access to the device.

(2) Access to the device may be obtained only by a person with the use of a unique code which identifies that person.

(f) The device must be located in such a place and manner that a person is unable to remove it from the hospital, and that attempts to obtain access to the device without authorization are visible to employees of the hospital.

(g) Before the device is used to furnish a drug or medicine directly to a patient pursuant to paragraph (c), the manufacturer of the device must appear before the Board for its approval of that use of the device and submit evidence satisfactory to the Board that the device:

(1) Furnishes drugs and medicines accurately; and

(2) Otherwise satisfies the provisions of this subsection.

7. As used in this section, "medical facility" has the meaning ascribed to it in [NRS 449.0151](#). [Bd. of Pharmacy, § 639.320, eff. 6-26-80] — (NAC A 12-21-95; 5-20-96; R017-03, 10-21-2003; R043-07, 10-31-2007)