

July 2026 Board Meeting Handouts

5A – Matthew Apel

5D – David McCleve

6B – Kent Holtorf

12C – DHL Supply Chain

13A – Workshop – Public Comment

13B – Workshop – Public Comment

5A

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**MATTHEW E. APEL, MD,
Certificate of Registration Nos.
CS24505 and PD00589, and**

**THOMAS UMBACH, MD,
Certificate of Registration Nos.
CS16064 and PD00512**

Respondents.

**CASE NOS. 24-044-PD-A-S
24-044-PD-B-S**

**STIPULATION AND ORDER
[RESPONDENT APEL ONLY]**

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy (Board), by and through Brett Kandt, General Counsel, and Respondent Matthew E. Apel MD (Apel), Certificate of Registration Nos. CS24505 and PD00589, by and through counsel, Janet I. Jenson, Esq. and John Snow, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. On or about November 13, 2025, Board Staff served Respondents with the First Amended Notice of Intended Action and Accusation (Amended Accusation) on file in this matter together with the Statement to Respondents and Notice of Hearing.
2. On or about December 9, 2025, Respondents jointly filed an Answer and Notice of Defense to the Amended Accusation.
3. Respondent Apel is aware of the right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering this Stipulation.
4. Respondent Apel is aware of the right to a hearing on the matters alleged in the Amended Accusation, the right to reconsideration, the right to appeal, and any and all other rights which may be accorded pursuant to NRS Chapter 233B, Nevada Administrative Procedure Act,

NRS Chapter 622A, Administrative Procedure Before Certain Regulatory Bodies, and NRS Chapter 639, Nevada Pharmacy Act.

5. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that Respondent has failed to comply with the provisions of this Stipulation, Respondent Apel hereby knowingly and voluntarily waives the rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded by NRS Chapter 233B, Nevada Administrative Procedure Act, NRS Chapter 622A, Administrative Procedure Before Certain Regulatory Bodies, and NRS Chapter 639, Nevada Pharmacy Act.

6. Respondent Apel does not contest the allegations in the Amended Accusation, but acknowledges that Board staff prosecuting this case could present such evidence at an administrative hearing to establish a factual basis for the violations alleged in the Amended Accusation, *to wit*, that:

A. Respondent Apel maintained a practice with Respondent Thomas Umbach, MD (Umbach), Certificate of Registration Nos. CS16064 and PD00512, at Blossom Bariatric, located at 7385 S. Pecos Road – Ste 101 in Las Vegas; on December 28, 2023, an inspection of Blossom Bariatric revealed numerous violations of law related to controlled substances.

B. Apel failed to indicate on the biennial inventory if the count was taken either as of the opening or as of the close of business, in violation of 21 U.S.C. § 842(a)(5), 21 CFR § 1304.11(a), NRS 453.246, NRS 453.326(1)(a) and NAC 453.475.

C. Apel and Umbach failed to make and/or maintain acquisition and distribution records of tramadol, a schedule IV substance, transfers from Umbach to Apel, in violation of 21 U.S.C. § 842(a)(5), 21 CFR § 1304.22(a)(2)(iv) and (vii), NRS 453.246 and NRS 453.326(1)(a).

D. Apel failed to record the address of the patient on tramadol dispensing records, in violation of 21 U.S.C. § 842(a)(5), 21 CFR § 1304.22(c), NRS 453.246, NRS 453.326(1)(a) and NAC 453.410(1)(b)(1).

E. Umbach failed to design and operate a system to disclose suspicious orders of controlled substances, in violation of 21 U.S.C. § 832(a), 21 CFR § 1301.74(b), NRS 453.246 and NRS 453.326(1)(a).

F. Umbach failed to register with the Drug Enforcement Administration as a distributor after distributing more than five percent of the total number of dosage units of all controlled substances distributed and dispensed during the same calendar year, in violation of 21 U.S.C. § 822(a) and 21 CFR § 1307.11(b).

G. On or about January 17, 2024, Apel submitted DEA Form 106 documentation and together with a NRS 453.568 Report to the Board reporting the loss of 765 tramadol 50mg tablets resulting from Respondents' failure to provide effective controls and procedures to guard against the theft and diversion of controlled substances and to ensure all drugs were account for, in violation of 21 CFR § 1301.71(a), NAC 453.400 and NAC 639.742(3)(b).

H. By their actions and/or omissions, Respondents have engaged in unprofessional conduct and conduct contrary to the public interest as defined in NAC 639.945(1)(i) and committed acts that render registration inconsistent with the public interest.

7. Those violations are plead with particularity in the Amended Accusation, and are grounds for action pursuant to NRS 453.236(1)(e), NRS 453.241(1), NRS 639.210 and/or NRS 639.255.

8. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Respondent Matthew E. Apel MD, Certificate of Registration Nos. CS24505 and PD00589, stipulate to the following penalties:

A. Certificate of Registration No. PD00589, is hereby revoked pursuant to NRS 639.255(1)(d). Pursuant to NRS 622A.410(1) and 639.257(1), Respondent may not petition for reinstatement of his certificate of registration for a period of five (5) years from the effective date of this Order. In the event Respondent applies for reinstatement of his certificate of registration, or applies for any other certificate, license or permit with the Board, he shall appear before the Board to answer questions and give testimony regarding his application, his compliance with this Order, and the facts and circumstances underlying this matter.

B. Registration No. CS24505 is suspended for a period of two (2) years pursuant to NRS 453.241(1)(a). The suspension is stayed, and Respondent Apel is placed on probation pursuant to NRS 639.255(1)(b) subject to the following conditions:

i. Pursuant to NRS 639.255(1)(f) and NAC 639.955(5), Respondent Apel shall pay a fine of Five Thousand Dollars (\$5,000.00) for the violations, by personal, business, certified or cashier's check or money order made payable to "State of Nevada, Office of the Treasurer" to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, due and payable by August 14, 2026;

ii. Pursuant to NRS 622.400, Respondent Apel shall pay One Thousand Dollars (\$1,000.00) to partially reimburse the Board for reasonable attorney's fees and recoverable costs incurred in investigating and prosecuting this matter, by personal, business, certified or cashier's check or money order made payable to the "Nevada State Board of Pharmacy" to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, due and payable by August 14, 2026; and

iii. While on probation, Respondent shall comply with all federal and state statutes and regulations regarding controlled substances, dangerous drugs, and the practice of pharmacy, shall have no additional administrative charges filed by the Board, and shall have no action taken that would be reportable pursuant to NAC 639.229.

Upon successful completion of probation, Respondent's Certificate of Registration No. CS24505 will be fully restored.

9. Any failure by Respondent Apel to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing Respondent to appear before the Board at the next regularly scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by Respondent, the Board may impose additional discipline upon Respondent consistent with the provisions of NRS Chapters 453 and 639.

10. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on July 15, 2026. Respondent Apel will appear in person or through counsel at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent or counsel are not present at the meeting.

11. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board, it shall be a public record pursuant to NRS 622.330 and shall be reported to the National Practitioner Data Bank pursuant to 42 USC § 1396r-2 and 45 CFR Part 60 and 45 CFR Part 60, and shall be further reported pursuant to NAC 639.960.

12. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board at a later date. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

13. Subject to the approval of this Stipulation by the Board, the Board and Respondent Apel agree to release one another from any and all additional claims arising from the facts set forth in the Amended Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondent has fully considered the charges and allegations contained in the *First Amended Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and has knowingly and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this ____ day of _____ 2026

Signed this ____ day of _____ 2026

MATTHEW E. APEL, MD,
Certificate of Registration Nos.
CS24505 and PD00589

BRETT KANDT
General Counsel
Nevada State Board of Pharmacy

APPROVED AS TO FORM AND
CONTENT
this ____ day of _____ 2026

JANET I. JENSON, ESQ.
JOHN SNOW, ESQ.
Counsel for Respondents

ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as to Respondent Matthew E. Apel MD, Certificate of Registration Nos. CS24505 and PD00589, in Case No. 24-044-PD-A-S, and hereby orders that the terms of the foregoing Stipulation be made immediately effective upon execution below.

IT IS SO ORDERED.

Entered this ____ day of July 2026.

Helen Park, Pharm.D.
President
Nevada State Board of Pharmacy

5D

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**DAVID KAYLE McCLEVE, PA-C,
Certificate of Registration No. CS22331,**

Respondent.

CASE NO. 26-125-CS-S

**DECLARATION OF
ERIN MILLER**

I, Erin Miller, hereby state the following:

1. I am the Board Coordinator II and Administrative Assistant to the Nevada State Board of Pharmacy (Board). I have personal knowledge of the matters stated herein and would be competent to testify thereon if called upon to do so.

2. I am responsible for filing and serving by mail pleadings and notices related to disciplinary actions before the Board.

3. On May 13, 2026, I served the Notice of Intended Action and Accusation (Accusation) on file herein together with the Statement to Respondent and Notice of Hearing by certified mail to Respondent David Kayle McCleve, PA-C, Certificate of Registration No. CS22331, at his address of record with the Board, affixed with a tracking number, in conformance with NRS 639.242 and NAC 639.972. True and correct copies of the Accusation, the envelopes with tracking numbers, and USPS tracking results are attached hereto as Exhibit 1.

4. I, Erin Miller, hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of July, 2026.



Erin Miller, Board Coordinator II
Nevada State Board of Pharmacy

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 13th day of May 2026, I served a true and correct copy of the foregoing document by Standard U.S. mail to the following:

David K. McCleve, PA-C
c/o Allegiant Spine Institute
7140 Smoke Ranch Rd, Ste. A
Las Vegas, NV 89128



ERIN MILLER
ADMINISTRATIVE ASSISTANT,
BOARD COORDINATOR II

FILED

MAY 11 2026

NEVADA STATE BOARD
OF PHARMACY



MAILED

5/13/26

David K. McCleve, PA-C
c/o Allegiant Spine Institute
7140 Smoke Ranch Rd, Ste. A
Las Vegas, NV 89128
26-125-CS-S. NIAA

Certified - \$9.15
Standard - \$1.90

9171 9690 0935 0297 7641 01

Tracking Number:

Remove X

9171969009350297764101

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Delivered, To Original Sender

RENO, NV 89521
May 26, 2026 12:49 PM



Arrived at USPS Facility

PASADENA, CA 91109
May 22, 2026 7:47 AM



Addressee Unknown

LAS VEGAS, NV 89128
May 18, 2026 2:37 PM



Arrived at USPS Facility

LAS VEGAS NV DISTRIBUTION CENTER
May 16, 2026 11:07 AM



Arrived at USPS Facility

SACRAMENTO CA DISTRIBUTION CENTER

May 14, 2026 8:08 PM

Accepted at USPS Facility

RENO, NV 89521

May 14, 2026 6:53 PM

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May 14, 2026

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FAQs

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**DAVID KAYLE McCLEVE, PA-C,
Certificate of Registration No. CS22331,**

Respondent.

CASE NO. 26-125-CS-S

**DECLARATION OF
JESSETTE PHAYNARIKONE**

I, Jessette Phaynarikone, hereby state the following:

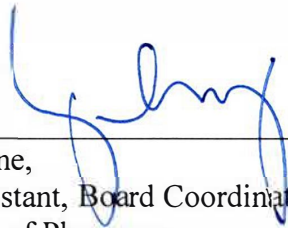
1. I am the Board Coordinator I and Administrative Assistant to the Nevada State Board of Pharmacy (Board). I have personal knowledge of the matters stated herein and would be competent to testify thereon if called upon to do so.

2. I am responsible for filing and serving by mail pleadings and notices related to disciplinary actions before the Board.

3. On June 11, 2026, I served a Notice of Hearing by certified mail to Respondent David Kayle McCleve, PA-C, Certificate of Registration No. CS22331, at his address of record with the Board, affixed with a tracking number, in conformance with NRS 241.0333. True and correct copies of the Notice of Hearing, the envelopes with tracking numbers, and USPS tracking results are attached hereto.

4. I, Jessette Phaynarikone, hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of July, 2026.



Jessette Phaynarikone,
Administrative Assistant, Board Coordinator I
Nevada State Board of Pharmacy

JOE LOMBARDO
Governor

STATE OF NEVADA



DR. KRISTOPHER SANCHEZ
Director

PERRY FAIGIN
NIKKI HAAG
MARCEL F. SCHAEERER
Deputy Directors

J. DAVID WUEST
Executive Secretary

**DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF NEVADA BOARDS, COMMISSIONS AND COUNCILS STANDARDS
STATE OF NEVADA BOARD OF PHARMACY**

June 11, 2026

David McCleve c/o Allegiant Spine Institute
7140 Smoke Ranch Rd, Suite A
Las Vegas, NV 89128

Re: David McCleve and Case No. 26-125-CS-S

Dear David McCleve,

The hearing for case number **26-125-CS-S** has been scheduled for **Wednesday, 7/15/2026 at 9:00:00 AM PST** or soon thereafter at the following location:

Hilton Garden Inn
7830 S Las Vegas Boulevard
Las Vegas, NV 89123

This is an in-person hearing; all respondents, witnesses and counsel must appear in person before the Board.

Pursuant to NRS 241.033, 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.

If you have any questions, please feel free to contact the board staff.

Sincerely,

A handwritten signature in black ink, appearing to read "Jesette".

Jesette Phaynarikone
Administrative Assistant - Board Coordinator I
Nevada State Board of Pharmacy

9171 9690 0935 0297 7648 66

Tracking Number:

Remove X

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Delivered, Front Desk/Reception/Mail Room

LAS VEGAS, NV 89128
June 15, 2026 11:16 AM



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LAS VEGAS NV DISTRIBUTION CENTER
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Arrived at USPS Facility

RENO NV DISTRIBUTION CENTER
June 12, 2026 9:16 AM



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RENO, NV 89511
June 11, 2026 7:21 PM



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FAQs

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**DAVID KAYLE McCLEVE, PA-C,
Certificate of Registration No. CS22331,**

Respondent.

CASE NO. 26-125-CS-S

**MEMORANDUM OF ATTORNEY'S
FEES AND COSTS**

Pursuant to NRS 622.400, the undersigned hereby submits the following itemized bill of costs and reasonable attorney's fees incurred by the Nevada State Board of Pharmacy in connection with the investigation and prosecution of the above-entitled administrative action.

Investigative Time				
Date(s)	Description	Hours	Rate	Amount
N/A	Investigator	-	\$53.00/hr	
Subtotal (Investigation): -				
Attorney Time - Brett Kandt				
Date(s)	Description	Hours	Rate	Amount
3/30/26	Confer with staff and review investigative case file in case 26-125-CS-S; draft and issue Notice of Suspension and Notice of Intended Action and Accusation.	1.50	\$104.00/hr	\$156.00
6/23/26	Confer w/ staff re: service.	0.25	\$104.00/hr	\$26.00

7/25/26	Hearing in case 26-125-CS-S; finalize order.	1.00	\$104.00/hr	\$104.00
Subtotal (Attorney Time): \$286.00				
Administrative Costs				
Date(s)	Description	Hours	Rate	Amount
5/13/26	Erin Miller finalized, filed and served and Accusation.	0.50	\$25.00/hr	\$12.50
6/11/26	Jessette Phaynarikone served Notice of Hearing for July 15, 2026.	0.50	\$25.00/hr	\$12.50
Subtotal (Administrative Costs): \$25.00				
Additional Recoverable Costs: Postage/Mailing Costs:\$20.65				
Total Attorney's Fees and Recoverable Costs: \$45.65				

I, Brett Kandt, affirm, to the best of my knowledge and belief, that the foregoing is a true and correct statement of reasonable attorney's fees and recoverable costs incurred by the Board in the above-entitled action.

DATED this 15th day of July 2026.

Brett Kandt
General Counsel
Nevada State Board of Pharmacy

6B

JOE LOMBARDO
Governor



HELEN PARK
President

J. DAVID WUEST
Executive Secretary

**STATE OF NEVADA
BOARD OF PHARMACY**

985 Damonte Ranch Pkwy, Ste 206
Reno, NV 89521

February 20, 2026

Via Certified/Regular U.S. Mail and Email

Kent Holtorf, M.D.
2232 E. Maple Ave.
El Segundo, CA 90245
Email: kholty@holtorfmed.com

Re: CITATION & FINE: Case No. 25-289-C-O, Unlicensed Practice

Dear Dr. Holtorf:

The Nevada State Board of Pharmacy (Board) has determined that you engaged in unlicensed practice, including ordering drugs for shipment to Nevada from an unlicensed wholesaler and possession, administration, and/or selling of dangerous drugs in violation of Nevada law during the Revolution Against Aging and Death (RAAD) Festival, held July 11 through 13, 2025 at the Red Rock Resort and Casino in Las Vegas. You do not hold a license with either the Board or with the Nevada State Board of Medical Examiners.

Specifically, as the owner of Holtorf Medical Group, you operated a booth at the RAAD Festival in which several attendees received injections of peptides and other dangerous drugs. Neither you nor any of the people administering or prescribing the drugs from the Holtorf Medical Group booth were licensed with the Board as required by Nevada law. Furthermore, you purchased the drugs from and had the drugs shipped to Nevada by Forgotten Formula, a wholesaler that does not hold a license with the Board. At least two people, patients C.R. and A.T., experienced adverse medical reactions to drugs administered at your booth. Both patients had to be intubated and transported to local hospitals by emergency medical services.

Under Nevada Revised Statute (NRS) 639.100(1), it is unlawful to purchase, receive, store, possess and/or sell dangerous drugs or controlled substances without having secured the appropriate certificate, license, or permit issued by the Board. A practitioner is defined as a physician who holds a license to practice his or her profession in Nevada. NRS 639.0125. Pursuant to NRS 639.016, a "wholesaler" includes any person or business that distributes prescription drugs or devices. Pursuant to NRS 639.233, any manufacturer or seller of prescription drugs must secure a Nevada license if it receives, stores, or ships such products within or into Nevada—even if the business is physically located elsewhere.

Accordingly, by administering, possessing and/or prescribing dangerous drugs without holding a license as a practitioner in Nevada and for permitting shipment of drugs to Nevada from an unlicensed wholesaler, you have engaged in unlicensed practice in violation of Nevada law. This letter shall serve as a **CITATION** pursuant to NRS 639.2895(2) for your unlicensed activity. Pursuant to NRS 639.2895(3), the Board has assessed an administrative fine against you in the amount of Five Thousand Dollars (\$5,000.00) with respect to each of the known patients who suffered an adverse medical reaction as a result of your conduct. The aggregate fine is **Ten Thousand Dollars (\$10,000.00)**, payable in accordance with the paragraphs below.

You have the right to appeal this citation by submitting a written request for a hearing to the Board at the Board's Reno office no later than 30 days after receipt of this citation. NRS 639.2895(2). Unless you submit a timely appeal, the above fine must be paid within the same time frame. Payment must be tendered in the form of a certified check, cashier's check or money order made payable to "State of Nevada, Office of the Treasurer." Please remit payment to the Board's Reno office, located at 985 Damonte Ranch Parkway – Suite 206, Reno, NV 89521.

If you fail to timely pay the above fine or appeal this citation, as applicable, the Board may take further action, including referral to the Nevada Controller's Office for collection. See NRS 353C.195; 45 CFR §§ 60.3, 60.5. Pursuant to the Nevada Public Records Act, this letter constitutes a public record that must be released to anyone who makes a proper request for it. If you have any questions concerning this citation or your right to appeal the above finding, you may contact the Board's General Counsel Laura Tucker at 775-850-1440, ext. 128, or *via* email at l.tucker@pharmacy.nv.gov.

Sincerely,

The Nevada State Board of Pharmacy



1 Chandon S. Alexander, Esq.
2 Nevada Bar No. 12033
3 **SPARTACUS LAW FIRM**
4 3993 Howard Hughes Pkwy, Suite 480
5 Las Vegas, Nevada 89169
6 Tel: (702) 660-1234
7 Fax: (702) 441-1626
8 *Attorney for Respondent*

9 **BEFORE THE NEVADA STATE BOARD OF PHARMACY**

10 NEVADA STATE BOARD OF
11 PHARMACY, a Nevada Agency,

Case No.: 25-289-C-O

12 Petitioner,

13 vs.

14 KENT HOLTORF,

15 Respondent.

16 **RESPONDENT'S MOTION TO DISMISS**

17 Respondent Kent Holtorf, M.D. ("Dr. Holtorf"), by and through his undersigned
18 counsel, respectfully moves this Board, pursuant to NRS 639.2895(2), NRS 233B.121, and
19 applicable principles of Nevada administrative law, for an order (1) rescinding the February 20,
20 2026 Order to Cease-and-Desist/Citation and Fine in its entirety; (2) rescinding any
21 administrative fine assessed thereunder; (3) dismissing the Statement to the Respondent and
22 Notice of Hearing (the "Complaint") with prejudice; and (4) awarding Respondent his
23 reasonable attorney's fees and costs.

24 This Motion is made and based upon the Memorandum of Points and Authorities
25 below, the pleadings and papers on file herein, the Declaration of Chandon S. Alexander and
26 exhibits attached thereto, and any oral argument the Board may entertain.

27
28 DATED this 29th day of May, 2026.

Respectfully Submitted,

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SPARTACUS LAW FIRM

/s/ Chandon Alexander

CHANDON ALEXANDER, ESQ.

Nevada Bar No. 12033

3993 Howard Hughes Pkwy, Suite 480

Las Vegas, Nevada 89169

Attorney for Respondent

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Board's Complaint, and its February 20, 2026 Order to Cease-and-Desist/Citation and Fine, should be rescinded and dismissed because, on their face, they ask this Board to wield enforcement authority it does not have, against a person it does not license, over substances it has not classified, regarding conduct that is not the practice of pharmacy.

The Board's administrative-penalty authority over unlicensed persons is statutorily defined by NRS 639.2895, and the vast majority of the statutes the Complaint invokes fall outside it. Of the more than fifteen state and federal authorities the Complaint cites, only two—NRS 639.100(1) and NRS 639.285—lie within the Board's NRS 639.2895 penalty authority. No other statutory predicate is actionable.

The peptide substances allegedly at issue are not "dangerous drugs" under NRS 454.201. That statute's definition is closed; it reaches FDA-approved drugs bearing the "Rx only" legend, two specifically enumerated substances (Gerovital H3 and amygdalin), and any drug that the Board "has found ... to be dangerous to public health or safety" *pursuant to formal regulation*. None of the peptides allegedly at issue satisfies any of these prongs.

The conduct alleged is, if anything, closer to practice of medicine, which lies outside the Board's enabling statute. The Complaint's own gravamen—the absence of a "bona fide

1 therapeutic relationship,” the lack of “diagnosis,” the failure to determine “medical necessity,”
2 and the provision of “on-site medical treatment”—are concepts within NRS Chapter 630
3 (Physicians), not NRS Chapter 639 (Pharmacy). The Board has no authority to adjudicate the
4 standard of medical care.

5 NRS 639.285 requires a “sale” of a “prescription drug”—neither is alleged. NRS
6 639.100(1) and the federal wholesale-distribution authorities reach only the wholesale
7 distribution of “drugs” or “prescription drugs” to non-patients; the conduct here falls within the
8 express exclusions of NRS 639.0155, and the substances at issue are not FDA-approved
9 prescription drugs. NRS 454.217 governs only botulinum-toxin neuromodulators; NRS
10 639.268(1)(a) applies only to Nevada-licensed practitioners; NAC 639.757 applies only to
11 pharmacies and pharmacists; and NRS 200.820 and 200.840 are criminal statutes enforceable
12 only by prosecuting authorities.

13 Moreover, the Complaint violates NRS 233B.121(1)(d) and due process by pleading in
14 the alternative against “Holtorf and/or employees and/or agents” without specifying what
15 Respondent personally is alleged to have done.

16 Because the Board is plainly without jurisdiction to bring the Complaint, the Board can
17 and should entertain and decide this Motion before the merits hearing. The Board’s
18 administrative-penalty authority over an unlicensed person is a creature of statute, fixed by
19 NRS 639.2895; the Board has no inherent authority to adjudicate violations falling outside that
20 section’s enumerated predicates. “As an administrative agency the Board has no general or
21 common law powers, but only such powers as have been conferred by law expressly or by
22 implication.” *Andrews v. Nevada State Bd. of Cosmetology*, 86 Nev. 207, 208, 467 P.2d 96, 96
23 (1970). Where, as here, a respondent challenges the agency’s statutory authority to proceed at
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1 all, the question is one of subject-matter jurisdiction that may be raised at any time and must be
2 decided in the first instance—because no amount of evidentiary development at hearing can
3 supply jurisdiction the Legislature has withheld. *See Landreth v. Malik*, 127 Nev. 175, 179,
4 251 P.3d 163, 166 (2011) (subject-matter jurisdiction may be raised at any time and cannot be
5 waived or conferred by the parties). Resolving the threshold question now will conserve the
6 Board’s resources, narrow or eliminate the issues for hearing, and avoid the manifest
7 unfairness of requiring an out-of-state, unlicensed respondent to defend a multi-day contested
8 case on predicates the Board has no power to enforce.
9

10 Accordingly, and as argued herein, the Complaint should be dismissed in its entirety
11 with prejudice.
12

13 **II. FACTUAL AND PROCEDURAL BACKGROUND**

14 Dr. Holtorf is a California-licensed physician who owns and operates Holtorf Medical
15 Group, located at 2232 E. Maple Avenue, El Segundo, California. He is not, and has never
16 been, licensed by this Board in any capacity—neither as a pharmacist, pharmacy owner,
17 wholesale distributor, nor practitioner registered with the Board. The Board issues him no
18 certificate, license, or permit.
19

20 The Complaint alleges that on or about July 11 through July 13, 2025, Holtorf Medical
21 Group operated a clinical booth at the Revolution Against Aging and Death Festival
22 (“RAADFest”) at Red Rock Resort and Casino in Las Vegas. At the booth, the Board alleges
23 that certain peptide substances—MOTS-c, P21, BPC-157, TB4 (Thymosin Beta-4 fragment),
24 Humanin, ACE-31, and CJC peptides—along with Vitamin B-12 (cyanocobalamin), were
25 administered by injection to attendees by employees and agents of Holtorf Medical Group.
26
27
28

1 On or about February 20, 2026, the Board issued an Order to Cease-and-Desist/Citation
2 and Fine. On or about March 19, 2026, Respondent timely appealed and requested a hearing.
3 The Board filed the Complaint on or about April 6, 2026. A hearing is scheduled for June 3,
4 2026.

5 The Complaint alleges three counts. Count One alleges unlawful purchase and
6 possession of “dangerous drugs” and hypodermic devices, citing NRS 454.213, 454.316,
7 454.510, 639.100(1), 639.268(1)(a), and NAC 639.757(4)–(5). Count Two alleges unlawful
8 furnishing and administration of dangerous drugs, citing NRS 200.840(1), 454.213, 454.217,
9 454.221, 454.316, 454.321, 454.356, 454.510, 639.100(1), and 639.285. Count Three alleges
10 aiding and abetting unlicensed wholesale distribution by a third party (Forgotten Formula
11 PMA), citing 21 U.S.C. §§ 360eee-1, 331(t), 353(e)(1)(A), 21 C.F.R. Part 205, and NRS
12 639.100, 639.233(1), and 639.595.

15 **III. ARGUMENT**

16 **A. The Board’s Administrative-Penalty Authority Over Unlicensed Persons Is** 17 **Statutorily Limited to NRS 639.100(1), 639.2813(1), 639.284, and 639.285—and** 18 **Most of the Complaint’s Predicates Fall Outside That Authority.**

19 The Board’s authority to take administrative action against an unlicensed person—to
20 issue a cease-and-desist order, to issue a citation, or to assess an administrative fine of up to
21 \$5,000—exists exclusively under NRS 639.2895. That statute, captioned “Practicing or
22 offering to practice without license: Penalties,” provides in pertinent part:
23
24

25 In addition to any other penalty prescribed by law, if the Board
26 determines that a person has violated subsection 1 of NRS
27 639.100, subsection 1 of NRS 639.2813 or NRS 639.284 or
28 639.285, the Board may: (1) Issue and serve on the person an order
to cease and desist ...; (2) Issue a citation to the person ...; (3)

Assess against the person an administrative fine of not more than \$5,000.

NRS 639.2895.

The enumerated list in NRS 639.2895 is exhaustive. The Legislature defined, with precision, the four statutory predicates upon which the Board may build an administrative case against an unlicensed person, i.e., unlicensed manufacturing, wholesale distribution, compounding, sale, or dispensing of drugs (NRS 639.100(1)); false representation as a practitioner or agent (NRS 639.2813(1)); unlawful dispensing or sales (NRS 639.284); and unlawful sales by unlicensed persons (NRS 639.285). No other statute appears in NRS 639.2895—not anywhere in Title 15 of the NRS, not anywhere in NRS Chapter 454, not in NAC Chapter 639, and not in the DSCSA.

The Complaint cites at least fifteen separate authorities, almost all of which are plainly outside the Board’s authority against “unlicensed” persons.

The Complaint, in other words, is built almost entirely on predicates that the Board has no statutory authority to adjudicate in an administrative penalty proceeding against an unlicensed person.

This is not a quirk of NRS Chapter 639. It is the deliberate structure of Nevada law. NRS Chapter 454 violations are criminal violations whose punishment is set by NRS 454.356 and prosecuted by the district attorney under NRS 454.160. NRS 454.366 makes the Board the *administrator and enforcer* of Chapter 454, but “enforcement” of criminal provisions means investigation, inspection, and referral for prosecution—not administrative adjudication and fine-imposition over non-licensees. NRS 639.300 separately and expressly provides that “[r]ecovery of penalties ... must be conducted by the district attorney.” Title 15 criminal statutes (NRS 200.820 and 200.840) are even further afield. NRS 200.840 is a category C

1 felony in the Crimes Against the Person chapter, prosecutable only by the Attorney General or
2 appropriate district attorney. The Board has no enabling statute that would empower it to
3 charge, adjudicate, or sanction a person on a Title 15 predicate.

4 The federal predicates in Count Three—the DSCSA (21 U.S.C. § 360eee-1), 21 U.S.C.
5 § 331(t), 21 U.S.C. § 353(e)(1)(A), and 21 C.F.R. Part 205—are likewise nowhere referenced
6 in NRS 639.2895. Even if a federal violation were established (and as discussed *infra*, none is),
7 the Board has no statutory mandate to administratively penalize a non-licensee for a federal
8 violation. Federal violations are enforceable by the FDA and the United States Department of
9 Justice.
10

11 The result is that under any reading of NRS 639.2895, this case is left with at most two
12 cognizable Nevada predicates against an unlicensed person, NRS 639.100(1) and NRS
13 639.285. Neither of those predicates is actually satisfied on the Complaint’s own allegations.
14 But before those two predicates, every other statutory citation in the Complaint must be
15 dismissed or stricken because it is outside the Board’s enforcement authority under NRS
16 639.2895.
17

18
19 **B. The Alleged Peptide Substances Are Not “Dangerous Drugs” Under NRS**
20 **454.201, So Counts One and Two Fail in Their Entirety.**

21 The Complaint repeatedly characterizes the peptides at issue—MOTS-c, P21, BPC-
22 157, TB4, Humanin, ACE-31, and CJC peptides—as “dangerous drugs.” That characterization
23 is the indispensable predicate for Counts One and Two; every Chapter 454 statute they cite is
24 triggered only by conduct involving a substance meeting the statutory definition of “dangerous
25 drug.” Without that predicate, the counts collapse.
26

27 NRS 454.201 defines “dangerous drug” exhaustively as follows:
28

1 “Dangerous drug” means any drug, other than a controlled
2 substance, unsafe for self-medication or unsupervised use, and
3 includes the following:

- 4 1. Any drug which has been approved by the Food and Drug
5 Administration for general distribution and bears the legend “Rx
6 only”;
- 7 2. Procaine hydrochloride with preservatives and stabilizers
8 (Gerovital H3) in injectable doses and amygdalin (laetrile) which
9 have been licensed by the State Board of Health for manufacture in
10 this State but have not been approved as drugs by the Food and
11 Drug Administration; or
- 12 3. Any drug which, pursuant to the Board’s regulations, may
13 be sold only by prescription because the Board has found those
14 drugs to be dangerous to public health or safety.

15 The three prongs are disjunctive, and a substance must satisfy at least one to qualify.

16 None of the peptides at issue satisfies any.

17 None of the peptides at issue is FDA-approved for general distribution, and none bears
18 the federally mandated “Rx only” legend required by 21 U.S.C. § 353(b)(4)(A). The FDA has,
19 however, expressly acknowledged the unsettled regulatory status of these very peptides. In
20 September 2023, the FDA placed BPC-157, MOTS-c, Thymosin Beta-4 (TB-500), CJC-1295,
21 and other peptides on Category 2 of the interim 503A bulks list—the category reserved for
22 substances the agency has determined “raise significant safety concerns.” *See FDA, Bulk Drug*
23 *Substances Nominated for Use in Compounding Under Section 503A*,
24 [https://www.fda.gov/drugs/human-drug-compounding/bulk-drug-substances-nominated-use-](https://www.fda.gov/drugs/human-drug-compounding/bulk-drug-substances-nominated-use-compounding-under-section-503a-fdc-act)
25 [compounding-under-section-503a-fdc-act](https://www.fda.gov/drugs/human-drug-compounding/bulk-drug-substances-nominated-use-compounding-under-section-503a-fdc-act). CJC-1295 (together with AOD-9604, ipamorelin
26 acetate, thymosin alpha-1, and Selank acetate) was removed from Category 2 in September
27 2024 following withdrawal of the underlying nominations. *See Pharmacy Compounding*
28 *Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for*
Comments—Bulk Drug Substances Nominated for Inclusion on the Section 503A Bulk Drug
Substances List; Revisions to the Withdrawn or Removed List,

1 <https://www.regulations.gov/document/FDA-2024-N-4188-0001>. On April 16, 2026, the FDA
2 published a Federal Register notice announcing a Pharmacy Compounding Advisory
3 Committee (PCAC) meeting scheduled for July 23–24, 2026, to consider whether seven
4 additional peptides—BPC-157, KPV, TB-500, MOTs-C, Emideltide (DSIP), Semax, and
5 Epitalon—should be added to the 503A Bulks List, and simultaneously updating the interim
6 503A categories to reflect that those seven peptides would be removed from Category 2
7 effective seven calendar days later. *See Pharmacy Compounding Advisory Committee; Notice*
8 *of Meeting; Establishment of a Public Docket; Request for Comments—Bulk Drug Substances*
9 *Nominated for Inclusion on the Section 503A Bulk Drug Substances List*, 91 Fed. Reg. ____
10 (Apr. 16, 2026), available at [https://www.federalregister.gov/documents/2026/04/16/2026-](https://www.federalregister.gov/documents/2026/04/16/2026-07361/pharmacy-compounding-advisory-committee-notice-of-meeting-establishment-of-a-public-docket-request)
11 [07361/pharmacy-compounding-advisory-committee-notice-of-meeting-establishment-of-a-](https://www.federalregister.gov/documents/2026/04/16/2026-07361/pharmacy-compounding-advisory-committee-notice-of-meeting-establishment-of-a-public-docket-request)
12 [public-docket-request](https://www.federalregister.gov/documents/2026/04/16/2026-07361/pharmacy-compounding-advisory-committee-notice-of-meeting-establishment-of-a-public-docket-request)
13
14

15 None of these peptides has been placed on Category 1, the FDA list of bulk drug
16 substances that may lawfully be used in 503A compounding pending final rulemaking. The
17 peptides remain unapproved drugs in a federal regulatory gray zone. They are not, and never
18 have been, FDA-approved drugs bearing the “Rx only” legend. As for subsection (2), none of
19 the peptides at issue is Gerovital H3 or laetrile. The prong has no application.
20

21 With regard to subsection (3), the only remaining prong, the statutory text imposes two
22 non-negotiable preconditions—the substance must be classified as prescription-only “pursuant
23 to the Board’s regulations,” and the Board must have “found those drugs to be dangerous to
24 public health or safety.” Both preconditions require formal rulemaking under NRS Chapter
25 233B, with notice, hearing, and an opportunity for public comment. *See* NRS 233B.060 *et seq.*
26
27
28

1 The Complaint identifies no such regulation. The Board cannot expand the statutory
2 definition of “dangerous drug” through adjudication when the statute requires expansion
3 through rulemaking.

4 The Complaint also includes B-12 (cyanocobalamin) in its list of substances
5 administered at the booth. Unlike the peptides, B-12 is an FDA-approved drug, and the
6 prescription-strength injectable form does bear the “Rx only” legend. But B-12 injection is one
7 of the most routine therapeutic acts in Nevada medical practice, administered every day by
8 physicians, advanced practice registered nurses, registered nurses, medical assistants, and other
9 authorized personnel under NRS 454.213. The Board’s apparent theory—that the inclusion of
10 B-12 in a peptide protocol transforms a clinical injection into a regulatory violation—would
11 render countless lawful injections in Nevada into violations of state law. Nothing in the
12 Complaint articulates a coherent theory of how a properly authorized injection of B-12
13 alongside non-”dangerous drug” peptides could itself be unlawful conduct chargeable by the
14 Board.

15 Because none of the peptides is a “dangerous drug” under NRS 454.201, every Chapter
16 454 statute cited in Counts One and Two—NRS 454.213, 454.217, 454.221, 454.316, 454.321,
17 454.356, and 454.510—is inapplicable as a matter of law. So too is NRS 639.268(1)(a), which
18 by its terms governs “supplies of dangerous drugs,” and NAC 639.757(4) and (5), which
19 govern compounding of “dangerous drugs” by pharmacies. Counts One and Two are wholly
20 derivative of a “dangerous drug” predicate that does not exist, and they must be dismissed.

21
22
23
24
25 **C. The Conduct Alleged Is the Practice of Medicine, Which Lies Outside the**
26 **Board’s Enabling Statute.**
27
28

1 Even setting aside the dangerous-drug deficiency, the Board has charged conduct that
2 lies outside its enabling statute. The Nevada State Board of Pharmacy is a creature of NRS
3 Chapter 639, and its jurisdiction is bounded by the “practice of pharmacy,” wholesale
4 distribution, and related pharmaceutical activities. NRS 639.0124(1) defines the “practice of
5 pharmacy” through nine enumerated subsections that address the *handling, preparation,*
6 *evaluation, and information* aspects of drugs—manufacturing, compounding, labeling,
7 dispensing, distributing, interpreting prescriptions, advising on therapeutic value, selecting
8 drug sources, and documenting distribution. The statute does not authorize the Board to
9 regulate the act of *administering* a drug to a patient as medical treatment, except in narrow
10 contexts not relevant here (such as the immunization-protocol provisions of NAC 639.2971, by
11 which Nevada pharmacists may administer vaccinations under written physician protocol).
12

14 By contrast, NRS 630.020 defines the “practice of medicine” broadly to include
15 “diagnos[ing], treat[ing], correct[ing], prevent[ing] or prescrib[ing] for any human disease,
16 ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or
17 instrumentality.” NRS Chapter 630 vests in the Nevada State Board of Medical Examiners the
18 authority to license and discipline physicians (NRS 630.045), and NRS 630.400 makes the
19 unauthorized practice of medicine a criminal offense prosecutable by the Office of the
20 Attorney General—not by this Board.
21

22 The Complaint’s own allegations betray that the conduct at issue is the practice of
23 medicine, not pharmacy. Paragraph 4 alleges that Respondent or his agents “provid[ed] on-site
24 medical treatment” and that substances were administered “to patients with whom no
25 practitioner had established a *bona fide therapeutic relationship*, and for whom no practitioner
26 had *diagnosed or determined that a dangerous drug was medically necessary.*” (emphasis
27
28

1 added). Paragraphs 7 and 8 allege that two patients experienced “adverse medical reaction[s]”
2 requiring emergency intubation. The concepts of a “bona fide therapeutic relationship,”
3 “diagnosis,” “medical necessity,” and “treatment” are physician acts within the exclusive
4 province of NRS Chapter 630. A pharmacist filling a prescription neither diagnoses illness nor
5 determines medical necessity; a physician does.

6
7 When this Board sets out to evaluate whether Respondent established appropriate
8 therapeutic relationships, whether his diagnoses were sound, and whether the medical necessity
9 of his interventions was adequately established, it is adjudicating the *medical standard of care*.
10 That is squarely the province of NRS Chapter 630, not Chapter 639.

11 **D. Even the Two Surviving Predicates—NRS 639.100 and NRS 639.285—Fail on**
12 **Their Own Terms.**

13
14 After Section A strips away the predicates outside the Board’s enforcement authority
15 and Section B strips away the predicates that depend on a “dangerous drug” classification,
16 what remains of the Complaint are two potential predicates: NRS 639.100 (unlicensed
17 manufacturing, wholesale distribution, compounding, sale, or dispensing of drugs) and NRS
18 639.285 (unlicensed sale of a prescription drug). Both fail.

19
20 **1. NRS 639.285 — No “Sale” of a Prescription Drug Is Alleged.**

21 NRS 639.285 makes it unlawful for an unlicensed person to “sell, display or offer for
22 sale a prescription drug.” Two elements are essential: (i) a *sale* (or display or offer for sale),
23 and (ii) a *prescription drug*. Neither is satisfied here.

24
25 The Complaint nowhere alleges that Respondent sold any prescription drug to any
26 consumer. The conduct alleged is the on-site clinical administration of substances during
27 purported medical consultations, accompanied by no purchase of the substance by the patient.
28

1 The provision of a medical service that incidentally includes the administration of a substance
2 is materially distinct from the retail “sale” of that substance.

3 Even if the conduct could somehow be characterized as a “sale,” the substances at issue
4 are not “prescription drugs.” NAC 639.010(17) defines “prescription drug” as “a drug or
5 medicine as defined in NRS 639.007 which: (a) [m]ay be dispensed only upon a prescription
6 order that is issued by a practitioner; and (b) [i]s labeled with the symbol ‘Rx only’ pursuant to
7 federal law or regulation.” (emphasis added). The peptides at issue are unapproved
8 compounds; they do not bear, and are not labeled with, the “Rx only” legend required by 21
9 U.S.C. § 353(b)(4)(A). They thus fail prong (b) of the prescription-drug definition.
10

11 NRS 639.285 has no application to this proceeding, and the predicate must be
12 dismissed and/or stricken.
13

14 **2. NRS 639.100 and Count Three — The Conduct Falls Within NRS 639.0155’s**
15 **Express Exclusions, the Substances Are Not “Prescription Drugs,” and Purchaser**
16 **Liability Is Not Established.**
17

18 Count Three alleges that Respondent aided and abetted the unlicensed wholesale
19 distribution of drugs by Forgotten Formula PMA, in violation of NRS 639.100, 639.233(1),
20 639.595, and federal authorities. Count One independently cites NRS 639.100(1).
21

22 However, the conduct alleged falls within the express exclusions of NRS 639.0155.
23 That statute defines “wholesale distribution” as “the distribution of drugs to persons other than
24 consumers or patients,” but expressly *excludes*:

25 2. The purchase or other acquisition of a drug by a health care
26 facility or a pharmacy that is a member of a purchasing
organization.

27 3. The sale, purchase or trade of a drug ... : ... (d) Pursuant to
28 a prescription.

1 NRS 639.0155(2)–(3).

2 The Complaint alleges that Forgotten Formula PMA shipped peptides to Holtorf
3 Medical Group for use at its booth. The alleged transaction was either a purchase by a health
4 care facility (the medical practice) for its own use, and fails to allege a “sale.” Either way, the
5 conduct alleged falls within the statutory exclusions, and the transaction is not “wholesale
6 distribution” as a matter of Nevada statutory law.
7

8 Further, the substances at issue are not “prescription drugs” or FDA-approved
9 “products” within the meaning of the federal predicates. The Drug Supply Chain Security Act
10 (21 U.S.C. § 360eee-1) and the federal wholesale-distribution regime (21 U.S.C. §
11 353(e)(1)(A); 21 C.F.R. Part 205) regulate FDA-approved prescription drugs and “products” as
12 those terms are defined under federal law. *See* 21 U.S.C. § 360eee(13) (defining “product” by
13 reference to FDA-approved prescription drugs). Unapproved compounded peptides are not
14 “products” or “prescription drugs” in the federal sense. The DSCSA’s product-tracing,
15 verification, and trading-partner requirements do not apply, by their own terms, to substances
16 the FDA has not approved and that are currently in 503A regulatory limbo pending PCAC
17 review.
18
19

20 The Board has not identified a Nevada statute making it unlawful for a purchaser to
21 acquire drugs from an unlicensed wholesaler, and the circumstance alleged here—a California
22 party allegedly purchasing drugs from a Texas entity—raises Constitutional concerns under the
23 Dormant Commerce Clause, as Nevada cannot purport to regulate extraterritorial activity. NRS
24 639.100(1) is directed at unlicensed manufacturers, wholesalers, sellers, dispensers, and
25 compounders—that is, the *sellers* of drugs—not at purchasers. NRS 639.595 (“Purchasing a
26 drug from an unlicensed wholesaler does not constitute a bona fide transaction”) is a
27
28

1 definitional / commercial-good-faith provision that disqualifies the transaction for certain
2 purposes; it does not create a freestanding offense by the purchaser. The Complaint nowhere
3 identifies what statutory provision criminalizes or otherwise sanctions the *purchase* of drugs
4 from an unlicensed wholesaler. Count Three thus seeks to impose third-party liability on
5 Respondent for the seller’s licensing failure, with no recognizable statutory basis

6
7 Count Three must be dismissed.

8 **E. Other Individual Statutory Predicates Fail on Their Own Terms.**

9 To the extent any of the following predicates survive Sections A–D (and as
10 demonstrated above, none does), each nonetheless fails.

11 NRS 454.217 governs the injection of “a neuromodulator that is derived from
12 Clostridium botulinum or is biosimilar to or the bioequivalent of such a neuromodulator.” That
13 is, it governs Botox and its botulinum-derived analogs. None of the substances at issue—
14 MOTS-c, P21, BPC-157, TB4, Humanin, B-12, ACE-31, or CJC peptides—is derived from
15 Clostridium botulinum or biosimilar to such a neuromodulator. NRS 454.217 has no
16 application as a matter of law, and the citation must be stricken.

17
18 NRS 639.268(1)(a) governs the conditions under which “[a] practitioner” may purchase
19 supplies of dangerous drugs for office administration. By cross-reference to NRS 639.0125,
20 “practitioner” means a person *licensed in Nevada* to prescribe. Respondent holds no Nevada
21 license. The statute, by its terms, does not apply to him. The Board cannot impose obligations
22 under a statute designed for Nevada licensees on a non-licensee.

23
24 NAC 639.757 governs the “preparation and sale of compounded drugs *by pharmacy or*
25 *pharmacist.*” Subsections (4) and (5) impose compounding conditions on pharmacies and
26
27
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1 pharmacists. Respondent is neither a pharmacy nor a pharmacist; he owns and operates a
2 medical practice. The regulation, by its plain terms, does not apply.

3 As discussed in *supra*, NRS 200.820 and 200.840 are criminal statutes in Title 15
4 (Crimes Against the Person). NRS 200.840 makes the unlicensed performance of a “surgical
5 procedure” a category C felony, prosecutable by the Attorney General or appropriate district
6 attorney. The Board has no enforcement authority over these provisions. Even were it
7 otherwise, the statutes’ legislative purpose was directed at unlicensed persons performing
8 cosmetic and surgical procedures, not routine therapeutic injections that are lawfully
9 administered every day across Nevada by registered nurses, medical assistants, paramedics,
10 and other allied health professionals under NRS 454.213. Reading these statutes to criminalize
11 the therapeutic injection of B-12 or peptides would render countless commonplace clinical
12 activities into felonies—a result plainly at odds with legislative intent.

15 **F. The Complaint Violates NRS 233B.121(1)(d) and Due Process by Failing to**
16 **Specify the Conduct Charged.**

17 NRS 233B.121(1)(d) requires that a notice of hearing in a contested case include “a
18 short and plain statement of the matters asserted.” Due process requires that a respondent
19 receive adequate notice of the charges with sufficient specificity to prepare a defense. *Mathews*
20 *v. Eldridge*, 424 U.S. 319, 335 (1976); *Potter v. State Bd. of Med. Examiners*, 101 Nev. 369,
21 371, 705 P.2d 132, 134 (1985).
22

23 The Complaint fails both standards. Each count alleges violations in the alternative
24 against “Holtorf and/or employees and/or agents,” without specifying what Respondent
25 personally is alleged to have done. This is not a minor pleading wrinkle: in a disciplinary
26 proceeding, due process requires proof of *personal* misconduct, not the imposition of vicarious
27
28

1 liability under cover of ambiguous pleading. The Complaint also recites a litany of statutes—
2 including criminal statutes that the Board has no authority to enforce, statutes that by their
3 terms do not apply to Respondent, and a Chapter 454 framework that requires a “dangerous
4 drug” classification the Board has neither identified nor adopted—without specifying how
5 Respondent’s conduct, as distinguished from that of others, violates each cited provision.
6

7 The Complaint should be dismissed.

8 **G. The Board Has the Authority — Indeed, the Obligation — to Determine Its**
9 **Own Jurisdiction Before Proceeding, and Its Own Failure to Adopt Procedural**
10 **Rules Cannot Be Used to Bar That Determination.**
11

12 In a closely related contested matter currently before this Board, the Board has taken
13 the position that respondents in NRS 639.2895 appeals may not test the Board’s jurisdiction by
14 motion, and that any such motion is “procedurally improper” because “[t]he statute provides
15 for an appeal in the form of a hearing, not based on motion practice.” *Nev. State Bd. of*
16 *Pharmacy v. Prime Plus Lakeview*, Case No. 25-110-V-O, Motion to Strike/Opposition to
17 Motion to Dismiss at 3 (May 26, 2026) (the “Motion to Strike,” attached hereto as **Exhibit A**).
18 The Board grounds that position on *Andrews v. Nevada State Board of Cosmetology*, 86 Nev.
19 207, 208, 467 P.2d 96 (1970), for the general proposition that administrative agencies have
20 only those powers granted them “expressly or by implication.”
21

22 Respondent anticipates that the Board may raise a similar objection here and
23 respectfully addresses it. The Board’s position is foreclosed by *Andrews* itself, by the plain text
24 of Nevada’s APA, by the Board’s own regulations, by the practice of Nevada’s sister licensing
25 boards, by the basic principle that subject matter jurisdiction cannot be conferred by procedural
26 default, and by federal constitutional due process.
27
28

1 **1. *Andrews* Itself Recognizes Implied Agency Authority, and the Authority to**
2 **Determine Subject Matter Jurisdiction Is the Paradigmatic Implied Power.**

3 *Andrews* is a subpoena case. The Cosmetology Board sought to issue subpoenas
4 without any statutory grant of subpoena authority, and the Nevada Supreme Court held that it
5 could not — not because agencies lack all implied powers, but because the Legislature, in the
6 same session in which it enacted the Nevada APA, had made specific and selective grants of
7 subpoena power to particular agencies (the Department of Agriculture, the Air Pollution
8 Control Hearing Board, and this Board). 86 Nev. at 209–10, 467 P.2d at 97–98. The Court
9 reasoned that the Legislature’s selective grant of subpoena authority to enumerated agencies
10 necessarily implied deliberate withholding from the non-enumerated Cosmetology Board. *Id.*

11
12 That reasoning has no application here. There is no parallel pattern of selective
13 legislative grant of motion-to-dismiss authority to particular Nevada agencies, with
14 withholding from others. To the contrary, the Nevada APA establishes a uniform set of
15 “minimum procedural requirements” applicable to all Chapter 233B agencies, NRS
16 233B.020(1), and motion practice is embedded throughout those requirements.

17
18 *Andrews* expressly recognized that an agency has not only the powers “specifically set
19 forth” in its enabling statute, but also those conferred “by implication.” 86 Nev. at 208, 467
20 P.2d at 97. The authority of an adjudicative body to determine that it has no power to entertain
21 a proceeding before it is the paradigmatic implied power. Without it, no agency could
22 discharge its enabling statutory function. NRS 233B.031 defines “agency” in relevant part as
23 one “authorized by law to ... determine contested cases.” An agency that cannot determine
24 whether it has the authority to determine a particular case in the first place cannot, by
25 definition, determine contested cases. The implied power to entertain a motion to dismiss for
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1 lack of jurisdiction is therefore not just consistent with the agency’s express statutory function
2 — it is constitutive of it.

3 **2. NRS Chapter 233B Expressly and Repeatedly Contemplates Motion Practice in**
4 **Contested Cases.**

5 Setting aside *Andrews*’s implied-power analysis, the Nevada APA — which governs
6 the Board’s contested cases, NRS 233B.020 — repeatedly contemplates motion practice as a
7 matter of express statutory text.

8
9 NRS 233B.121(7) defines the record in a contested case to include “[a]ll pleadings,
10 motions and intermediate rulings.”. The Legislature would not have required the record to
11 memorialize motions and intermediate rulings if such filings were never permitted in the first
12 place. The statutory text presupposes that pleadings, motions, and intermediate rulings are a
13 feature of every contested case under Chapter 233B.

14
15 NRS 233B.121(5) provides: “Unless precluded by law, informal disposition may be
16 made of any contested case by stipulation, agreed settlement, consent order or default.” That
17 subsection flatly contradicts the Board’s argument that the only available procedure is “an
18 appeal in the form of a hearing.”

19
20 NRS 233B.050(1)(a) commands that “each agency shall ... [a]dopt rules of practice,
21 setting forth the nature and requirements of all formal and informal procedures available,
22 including a description of all forms and instructions used by the agency.” The statute reflects a
23 legislative determination that agencies will have formal and informal procedures — including
24 motion practice — and that they must publish their rules to ensure procedural regularity.

25
26 NRS 233B.020 establishes the foregoing as “minimum procedural requirements.” An
27 agency may provide more process than the APA requires, but cannot provide less.
28

3. The Board’s Own Regulations Recognize and Employ Motion Practice.

The Board’s own administrative regulations expressly recognize that disciplinary proceedings are subject to motion practice. NAC 639.120(1)(c) provides for “written request[s]” — i.e., motions — for continuance, subject to good-cause showings, timing requirements, and service requirements. NAC 639.120(2) opens its description of the order of hearing proceedings with the qualifier “unless the Board for good cause or to prevent manifest injustice orders otherwise” — necessarily contemplating that the Board may, and indeed must, depart from the default hearing sequence where justice requires. The Board’s own meeting minutes confirm that the Board entertains motions of various kinds.

For example, in *In re Magana*, Case No. 20-070-PR-N, on April 16, 2025, the Board entertained a respondent-initiated Petition to Vacate a prior disciplinary order that was “filed with the Board” on behalf of respondent. *See Exhibit B* [Minutes of April 16-17, 2025 Board Meeting] at 8. The Board “heard testimony,” “received evidence,” and voted to deny the Petition to Vacate. Nothing in NAC 639 — including the limited continuance provisions of NAC 639.120 — authorizes a “Petition to Vacate.” The Board nonetheless treated the Petition as a procedurally cognizable filing, set it for hearing, and ruled on its merits.

The Board itself moves to find jurisdiction in contested cases. For example, in *In re Dubin*, Case No. 20-020-S, on September 8, 2022, a Board member moved “to find that the Board has jurisdiction over this matter consistent with paragraph 1” of the Notice of Intended Action and Accusation; the motion passed unanimously. *See Exhibit C* [Sept. 7-8, 2022, Board Meeting Minutes] at 11. Days earlier in the same meeting, in *In re Las Vegas Scripts Rx*, Case No. 19-243-PH-S, a Board member moved “to find that the Board has jurisdiction consistent

1 with paragraph 1 of the Notice of Intended Action and Accusation”; that motion also passed
2 unanimously. *Id.* at 24.

3 The Board cannot simultaneously rule on motions not expressly provided for by NAC
4 639, while claiming that it lacks the procedural authority to rule on a motion testing the
5 Board’s own jurisdiction to issue a fine in the first place.
6

7 **4. Nevada’s Sister Licensing Boards Have Adopted Motion-Practice Rules; the**
8 **Board of Pharmacy Is an Outlier.**

9 That motion practice is not only consistent with but required by NRS 233B.050(1)(a) is
10 confirmed by the uniform practice of Nevada’s other professional licensing boards, each of
11 which has promulgated rules of practice expressly providing for motions in contested cases.
12

13 The Nevada State Board of Nursing has adopted detailed motion-practice regulation of
14 any Nevada licensing board. NAC 632.921 enumerates nine categories of permitted motions,
15 the first of which is precisely the motion presented here: “[t]o request the dismissal of the
16 complaint for a failure to state facts which, if true, would form a sufficient basis for discipline.”
17 NAC 632.921(2)(a).
18

19 The Board of Dental Examiners of Nevada maintains a dedicated subdivision of its
20 administrative code titled “Pleadings, Motions and Other Papers,” within which NAC 631.310
21 specifically governs “Motions” in contested cases. The Nevada State Board of Veterinary
22 Medical Examiners maintains a parallel structure, with NAC 638.175 expressly governing
23 “filing and service of ... answer, motion, opposition or reply” in disciplinary matters under the
24 heading “Pleadings, Motions and Other Papers.” The Nevada Real Estate Commission has
25 adopted a general motion-practice rule providing that “[a]ll motions, unless made during a
26 hearing, must be in writing,” and prescribing service, response, and oral-argument procedures.
27
28

1 NAC 645.840. The Nevada State Board of Medical Examiners likewise contemplates and
2 requires motion practice as a feature of its contested cases, including through its mandatory
3 early case conference at which the parties must “[s]et dates ... [b]y which all prehearing
4 motions and responses thereto must be filed.” NRS 630.339(3)(b)(2).

5 Nevada’s nursing, dental, veterinary, real estate, and medical boards — each of which
6 is governed by the same Chapter 233B APA and is subject to the same NRS 233B.050(1)(a)
7 obligation — have all complied with that obligation by adopting motion-practice rules. The
8 Board of Pharmacy stands alone in having omitted to do so.

10 **5. The Board’s Failure to Adopt Rules of Practice Violates NRS 233B.050, and the**
11 **Agency Process Inoperative Is Until Rules Are Adopted.**

13 To the extent the Board’s position rests on the absence of a regulation expressly
14 authorizing motions to dismiss, that absence is itself a statutory violation. NRS 233B.050(1)
15 commands — in mandatory terms — that “each agency shall ... [a]dopt rules of practice,
16 setting forth the nature and requirements of all formal and informal procedures available.”. The
17 Board cannot weaponize its own failure to comply with that command against a respondent
18 challenging the Board’s jurisdiction. *Cf.* NRS 233B.050(2) (“A regulation, rule, final order or
19 decision of an agency is not valid or effective against any person or party, nor may it be
20 invoked by the agency for any purpose, until it has been made available for public
21 inspection.”).

23 The consequence of an agency’s failure to adopt procedural rules is not that the
24 respondent loses procedural rights, but that the agency loses procedural authority.

26 In *Yeik v. Department of Revenue and Taxation*, 595 P.2d 965 (Wyo. 1979), the
27 Wyoming Supreme Court confronted a statutory provision making hearing-examiner orders
28

1 “subject to a hearing before the Wyoming tax commission in accordance with the Wyoming
2 Administrative Procedure Act.” *Id.* at 968. The Tax Commission had failed to adopt procedural
3 rules implementing that intermediate-review provision. The Court held that the omission was
4 fatal. “In the actual conduct of a hearing, failure to have such rules can be prejudicially fatal,”
5 *id.* at 969, and “after exhausting every rule of construction if no sensible meaning can be given
6 to a statute or if it is so incomplete that it cannot be carried into effect, it must be pronounced
7 inoperative and void,” *id.* The Court’s holding is squarely on point. “No procedure having been
8 provided by the state tax commission pursuant to [Wyoming’s APA] ... which would clarify
9 and make plain to the persons affected what procedure must be followed to obtain the review
10 required by [statute], we, therefore, hold that [the review provision] is inoperative and void
11 until such time as adequate procedural rules and regulations are adopted pursuant to the
12 Administrative Procedure Act and the rule-making power of the state tax commission.” *Id.*

15 The Wyoming APA provision the *Yeik* court invoked is materially identical to NRS
16 233B.050(1)(a). Compare *id.* at 969 (quoting Wyo. Stat. § 9-4-102(a)(i), requiring agencies to
17 “[a]dopt rules of practice setting forth the nature and requirements of all formal and informal
18 procedures available in connection with contested cases”), with NRS 233B.050(1)(a) (“[a]dopt
19 rules of practice, setting forth the nature and requirements of all formal and informal
20 procedures available”). The two statutes use the same operative language.

22 The New Jersey Superior Court reached the same result in *In re Consider Distribution*
23 *of Casino Simulcasting Special Fund (Accumulated in 2005)*, 398 N.J. Super. 7, 939 A.2d 230
24 (App. Div. 2008). There, the New Jersey Racing Commission had failed to adopt rules of
25 practice describing the procedures governing applications for distribution of a statutory fund.
26 The Appellate Division held that the Commission’s failure to comply with N.J.S.A. 52:14B-
27
28

1 3(2) — which uses language nearly identical to NRS 233B.050(1)(a), requiring agencies to
2 “adopt rules of practice setting forth the nature and requirements of all formal and informal
3 procedures available” — required reversal and barred further agency action until rules were
4 adopted. 398 N.J. Super. at 18–19, 939 A.2d at 236–37. The court emphasized that such rules
5 are essential because they “provide notice of the agency’s procedures to interested parties and
6 assure that proceedings before the agency are conducted uniformly and fairly,” and that “[a]
7 description of the manner in which proceedings to resolve disputed matters will be conducted
8 is a ‘fundamental aspect[] of any procedural rules.’” *Id.* at 18, 939 A.2d at 237). The court
9 further held that “[b]ecause the [agency] has not adopted a rule of practice incorporating
10 procedures, the [agency] must comply with [the APA rules-of-practice statute] before it takes
11 further action.” 398 N.J. Super. at 19, 939 A.2d at 237.

14 To the extent that the Board refuses Respondent’s jurisdictional challenge, its NRS
15 639.2895 enforcement authority “inoperative and void” until rules of practice are adopted.

16 **6. The Board Cannot Lawfully Subject Respondent to a Hearing on Matters**
17 **Beyond Its Statutory Authority.**

18 Subject matter jurisdiction is a non-waivable structural requirement of any adjudication.
19 *See* NRCP 12(h)(3) (“If the court determines at any time that it lacks subject-matter
20 jurisdiction, the court must dismiss the action.”); *Landreth v. Malik*, 127 Nev. 175, 179, 251
21 P.3d 163, 166 (2011) (subject matter jurisdiction “cannot be conferred by the parties.”).

22 Thus, the Board cannot defer the jurisdictional question to post-hearing judicial review
23 without itself acting in excess of its statutory authority. If the Board lacks the statutory power
24 to issue a penalty under NRS 639.2895, then it equally lacks the statutory power to conduct an
25 evidentiary hearing on the predicate question of whether a penalty should issue. *See* NRS
26
27
28

1 233B.031 (defining “agency” as one “authorized by law to ... determine contested cases”).

2 Where NRS 639.2895’s four enumerated predicates are not in play — and, as demonstrated
3 *supra*, they are not — there is no statutory “case” for the Board to determine, and a hearing on
4 factual allegations that, if proven, would not establish a predicate is not just unnecessary; it is
5 itself ultra vires.

6
7 Federal and Nevada constitutional due process require that a party be given a
8 “meaningful” opportunity to be heard before the deprivation of a protected interest. *Mathews v.*
9 *Eldridge*, 424 U.S. 319, 333 (1976) (“The fundamental requirement of due process is the
10 opportunity to be heard at a meaningful time and in a meaningful manner.” (internal quotation
11 marks omitted)). The Nevada Supreme Court has long applied this principle to administrative
12 licensure and disciplinary proceedings. *See, e.g., Gilman v. State Bd. of Veterinary Med.*
13 *Examiners*, 120 Nev. 263, 269, 89 P.3d 1000, 1004 (2004); *Potter v. State Bd. of Med.*
14 *Examiners*, 99 Nev. 162, 659 P.2d 868 (1983). A “meaningful” opportunity is one that permits
15 the respondent to raise — and the agency to consider — the threshold question of whether the
16 agency has the power to deprive the respondent of property at all.
17
18

19 Dr. Holtorf holds no Nevada license, has no Nevada presence to defend, and is haled
20 before this Board on a Complaint that on its face fails to identify a single Nevada-enforceable
21 predicate. NRS 639.2895 by its terms reaches only persons whose conduct falls within four
22 specific statutory provisions; none is alleged here in any cognizable form. The Board’s
23 threshold duty is to determine, before subjecting an out-of-state respondent to its compulsory
24 process, whether it has the statutory authority to do so at all. The procedural vehicle for raising
25 that question is this Motion.
26
27
28

1 The Board should rule on the merits of this Motion, and dismiss the Complaint in its
2 entirety.

3 **G. Respondent Respectfully Requests an Award of Reasonable Attorney's Fees**

4 Respondent respectfully requests an award of reasonable attorney's fees and costs
5 incurred in defending this proceeding pursuant to NRS 233B.130 and NRS 233B.135, and/or
6 under NRS 18.010(2)(b), which authorizes a fee award where a claim has been "brought or
7 maintained without reasonable ground or to harass the prevailing party." The Complaint was
8 filed against an out-of-state physician on statutory predicates the Board has no authority to
9 enforce against an unlicensed person under NRS 639.2895, on a "dangerous drug" theory
10 unsupported by any Board regulation as NRS 454.201(3) requires, and in significant part on
11 facially inapplicable statutes. Each of these defect—and the Board's lack of jurisdiction—was
12 apparent on the face of the Complaint when filed.
13
14

15 Accordingly, an award of reasonable fees and costs to Respondent is appropriate in this
16 matter.
17

18 **V. CONCLUSION**

19 For the foregoing reasons, Respondent respectfully requests that the Board enter an
20 order (1) rescinding the February 20, 2026 Order to Cease-and-Desist/Citation and Fine in its
21 entirety, pursuant to NRS 639.2895(2); (2) rescinding any administrative fine assessed against
22 Respondent pursuant to NRS 639.2895(2); (3) dismissing the Statement to the Respondent and
23 Notice of Hearing, Case No. 25-289-C-O, with prejudice; and (4) awarding Respondent his
24 reasonable attorney's fees and costs pursuant to NRS 233B.130, NRS 233B.135, and/or NRS
25 18.010(2)(b).
26
27
28

1 For the foregoing reasons, the Complaint should be dismissed in its entirety with
2 prejudice and Respondent should be awarded his reasonable fees and costs.

3
4 Dated this 29th day of May, 2026.

Respectfully Submitted,

6 **SPARTACUS LAW FIRM**

7
8 /s/ Chandon S. Alexander
9 Chandon S. Alexander, Esq.
10 Nevada Bar No. 12033
11 3993 Howard Hughes Pkwy, Suite 480
12 Las Vegas, Nevada 89169
13 *Attorney for Respondent*

14
15 **DECLARATION OF CHANDON S. ALEXANDER, ESQ.**

16 CHANDON S. ALEXANDER, ESQ., hereby deposes and states the following under the pains
17 and penalties of perjury:

- 18 1. That I am an attorney licensed to practice law in the State of Nevada and am Counsel
19 of Record for Respondent KENT HOLTORF, M.D., in Case No. 25-289-C-O before
20 the Nevada State Board of Pharmacy;
- 21 2. That I have personal knowledge of the facts and circumstances set forth herein and
22 could competently testify to the same;
- 23 3. That I make this Declaration in support of Respondent's Motion to Dismiss, filed
24 concurrently herewith;
- 25 4. That attached as **Exhibit A** to the Motion to Dismiss is a true and correct copy of the
26 Board's Motion to Strike/Opposition to Motion to Dismiss filed in *Nev. State Bd. of*
27 *Pharmacy v. Prime Plus Lakeview*, Case No. 25-110-V-O (May 26, 2026).
- 28 5. That attached as **Exhibit B** to the Motion to Dismiss is a true and correct copy of the
Nevada State Board of Pharmacy's April 2025 Board Meeting Minutes (Final Draft),

1 which I personally downloaded from the Nevada State Board of Pharmacy's official
2 public website at the following URL:

3 [https://bop.nv.gov/uploadedFiles/bopnvgov/content/board/ALL/2025_Meetings/April](https://bop.nv.gov/uploadedFiles/bopnvgov/content/board/ALL/2025_Meetings/April%202025%20Meeting%20Minutes%20-%20FINAL%20DRAFT.pdf)
4 [%202025%20Meeting%20Minutes%20-%20FINAL%20DRAFT.pdf](https://bop.nv.gov/uploadedFiles/bopnvgov/content/board/ALL/2025_Meetings/April%202025%20Meeting%20Minutes%20-%20FINAL%20DRAFT.pdf)

- 5 6. That attached as **Exhibit C** to the Motion to Dismiss is a true and correct copy of the
6 Nevada State Board of Pharmacy's September 2022 Board Meeting Minutes (v5 –
7 Final Approved by Board Members), which I personally downloaded from the Nevada
8 State Board of Pharmacy's official public website at the following URL:

9 [https://bop.nv.gov/uploadedFiles/bopnvgov/content/Board/September%20Board%20](https://bop.nv.gov/uploadedFiles/bopnvgov/content/Board/September%20Board%20Meeting%20Minutes%20-%20v5%20-%20Final%20Approved%20by%20BM.pdf)
10 [Meeting%20Minutes%20-%20v5%20-%20Final%20Approved%20by%20BM.pdf](https://bop.nv.gov/uploadedFiles/bopnvgov/content/Board/September%20Board%20Meeting%20Minutes%20-%20v5%20-%20Final%20Approved%20by%20BM.pdf)

- 11 7. That the foregoing **Exhibits B** and **C** are offered to demonstrate that the Nevada State
12 Board of Pharmacy has previously entertained and ruled on pre-hearing motions to
13 dismiss raising statutory-authority and predicate-failure challenges of the same general
14 character as those presented in Respondent's Motion to Dismiss;
15 8. That the foregoing exhibits are true and correct copies of the records as they appeared
16 and have not been altered in any respect.

17
18 I declare under penalty of perjury pursuant to the laws of the State of Nevada (NRS
19 53.045)¹

20 DATED this 29th day of May, 2026.

21
22 /s/ Chandon S. Alexander

23 CHANDON S. ALEXANDER, ESQ
24
25

26 ¹ NRS 53.045 Use of unsworn declaration in lieu of affidavit or other sworn declaration. Any matter whose
27 existence or truth may be established by an affidavit or other sworn declaration may be established with the same
28 effect by an unsworn declaration of its existence or truth signed by the declarant under penalty of perjury, and
dated, in substantially the following form: 1. If executed in this State: "I declare under penalty of perjury that the
foregoing is true and correct."

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Jessette Phaynarikone
Laura Tucker
Nevada State Board of Pharmacy
jphaynarikone@pharmacy.nv.gov
L.tucker@pharmacy.nv.gov
Office: 775-850-1440
Fax: 775-850-1444
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Reno, NV 89521

/s/ Chandon S. Alexander
An Employee of SPARTACUS LAW FIRM

EXHIBIT A

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

PRIME PLUS LAKEVIEW,

Respondent.

Case No. 25-110-V-O

**MOTION TO STRIKE/OPPOSITION
TO RESPONDENT'S MOTION TO
DISMISS**

The Nevada State Board of Pharmacy (Board), by and through counsel prosecuting this matter, Laura Tucker, General Counsel, files this motion to strike/opposition to Respondent Prime Plus Lakeview's (Respondent) Motion to Dismiss First Amended Statement to the Respondent filed May 22, 2026. This motion/opposition is based upon the following points and authorities and the pleadings on file herein.

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL AND PROCEDURAL BACKGROUND

On or about September 15, 2025, the Board issued a Citation and Fine Order on Respondent alleging violation of Nevada law for unlicensed wholesale distribution in Nevada. On or about October 15, 2025, Respondent appealed the Citation and Fine Order and requested a hearing before the Board. On or about October 27, 2025, the Board served Respondent with a Statement to the Respondent and Notice of Hearing pursuant to Nevada Revised Statute (NRS) 233B.121 for Respondent's appeal. On or about December 20, 2025, the Board served Respondent with a First Amended Statement to the Respondent (hereinafter "NRS 233B Statement").

II. LEGAL STANDARD

Respondent's appeal is authorized by NRS 639.2895(2) and governed by the statutes for the adjudication of contested cases set forth in NRS 233B.121-126, inclusive. The Board's authority is

limited to either upholding or dismissing the citation. See *Andrews v. Nevada State Board of Cosmetology*, 86 Nev. 207, 208, 467 P.2d 96, 96-96 (2007).

Dismissal for failure to state a claim prior to a hearing should only result if the prosecution can prove no set of facts that support the charges. See *Simpson v. Mars Inc.*, 113 Nev. 188, 190, 929 P.2d 966, 967 (1997). The Board may strike "any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter" filed in this matter. See NRCP 12(f); see also *Jordan v. State*, 121 Nev. 44, 61 n.32, 110 P.3d 30, 43, n.32 (2005), *abrogated on other grounds*.

III. ARGUMENT

Respondent's Motion to Dismiss should must be stricken or denied because it is procedurally improper and without merit.

A. Respondent's Motion to Dismiss Should be Stricken because its Arguments will be Properly Addressed at Hearing.

In arguing its motion to dismiss, Respondent advances arguments that are more appropriately addressed at hearing, including by attaching an exhibit that the Board intended to present into evidence at that time. When ruling on a motion to dismiss, matters outside the pleading being attacked generally are not considered. *Engelson v. Dignity Health*, 139 Nev. 578, 582, 542 P.3d 430, 436 (Nev. App. 2023), (citing *Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993)).

Here, Respondent asks the Board to consider evidence presented outside the 233B Statement, specifically an invoice the Board's counsel intended to present as evidence of the Respondent's conduct at hearing. In doing so, Respondent provides support that a hearing to fully examine the facts and circumstances around the investigation is necessary—thus, defeating its own motion to dismiss.

Furthermore, Respondent asks the Board to consider that it falls under an exception to the state's wholesaler licensing statute. Once again, Respondent makes arguments that consider facts and

evidence outside the 233B Statement, thus necessitating a hearing. Because these assertions require the presentation of evidence outside the 233B statement, a motion to dismiss is improper.

B. Respondent's Motion to Dismiss is Procedurally Improper pursuant to NRS 639.2895(2) and Nevada law.

Respondent's motion to dismiss is procedurally improper because it asks the Board to dismiss an appeal that Respondent itself requested. Pursuant to NRS 639.2895(2), the Board may issue a citation on entities or individuals who engage in unlicensed activity in Nevada. The statute provides for an appeal in the form of a hearing, not based on motion practice. *See* NRS 639.2895(2). Opportunity must be afforded to all parties to respond and present evidence on argument on all issues involved. NRS 233B.121(4).

Here, Respondent first requested a hearing of the evidence to support the Board's citation, but now seeks dismissal of the citation altogether. The Board's citation authority allows for the Board to issue a citation, and the Respondent may request a hearing in front of the Board to appeal the decision. The statutory framework does not consider motion practice within its citation appeal authority, nor does it logically follow that the Respondent can request a hearing and then ask to dismiss a hearing it requested.

C. Respondent is Not Being Denied Due Process because the Board's 233B Statement meets Nevada's notice pleading requirements.

Respondent asserts that the NRS 233B Statement denies it due process in that it fails to plead facts establishing wholesale distribution in Nevada. NRS 233B.121(2) specifies that notice in a contested case must include:

(a) A statement of the time, place and nature of the hearing.

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(c) A reference to the particular sections of the statutes and regulations involved.

(d) A short and plain statement of the matters asserted.

The NRS 233B Statement clearly meets these requirements; it sets forth factual allegations relating to the matters asserted, references to the statutes and regulations involved, one cause of action based upon the Board's investigation and findings, a statement of legal authority and jurisdiction, and a statement of the time, place, and nature of the hearing (an appeal at the Respondent's request).

Nevada is "a notice-pleading jurisdiction and pleadings should be liberally construed to allow issues that are fairly noticed to the adverse party." *Nevada State Bank v. Jamison Family Partnership*, 106 Nev. 792, 801, 801 P.2d 1377, 1383 (1990). The Nevada Supreme Court has further held that "in the context of administrative pleadings, 'due process requirements of notice are satisfied where the parties are sufficiently apprised of the nature of the proceedings so that there is no unfair surprise.'" *Dutchess Business Services, Inc. v. Nevada State Bd. of Pharmacy*, 124 Nev. 701, 712, 191 P.3d 1159, 1167(2008) (citations omitted).

Due process is not violated unless an administrative proceeding is so fundamentally unfair that a party is prevented from reasonably presenting his case and prejudiced as a result. *Manufactured Home Cmtys., Inc. v. Cty. of San Luis Obispo*, 167 Cal. App. 4th 705, 711 (2008) (citing *Sinaiko v. Superior Court*, 122 Cal. App. 4th 1133, 1140 (2004)).

Respondent argues that its due process is violated because the 233B Statement does not allege that Respondent did not qualify under an exception involving pharmacy-to-pharmacy sales pursuant to NRS 639.0155. However, that is not a requirement at the administrative pleading stage. In fact, Respondent urges the Board to consider evidence *outside* of the pleadings in its argument to dismiss the 233B Statement, which falls outside the scope of a motion to dismiss.

The Board provided Respondent with a short and plain statement of the matters asserted and the violations alleged. The Board also provided Respondent with evidence to be presented at hearing. Respondent is receiving a hearing, including the opportunity to present evidence, call witnesses and cross-examine opposing witnesses in conformance with NRS 233B.121(4) and NRS 233B.123(4)). Respondent has been accorded all necessary due process guarantees of fundamental fairness, including the opportunity to prepare a defense.

IV. Conclusion

For the foregoing reasons, the prosecution respectfully requests that the Board strike or deny Respondent's Motion to Dismiss.

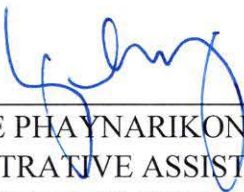
By: /s/Laura M. Tucker
LAURA M. TUCKER, Esq.
General Counsel
Nevada State Board of Pharmacy
985 Damonte Ranch Parkway, Suite 206
Reno, NV 89521

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 26th day of May 2025, I served a true and correct copy of the foregoing document by Standard U.S. mail to the following:

Prime Plus Lakeview
c/o Chandon S. Alexander, Esq.
Spartacus Law Firm
3993 Howard Hughes Pkwy, Suite 480
Las Vegas, NV 89169

And via Electronic Mail to: chandon@spartacuslawfirm.com



JESSETTE PHAYNARIKONE
ADMINISTRATIVE ASSISTANT,
BOARD COORDINATOR I

EXHIBIT B



NEVADA STATE BOARD OF PHARMACY

985 Damonte Ranch Pkwy, Ste 206, Reno, NV 89521

(775) 850-1440 • 1-800-364-2081 • FAX (775) 850-1444

Email: pharmacy@pharmacy.nv.gov • Web Page: bop.nv.gov

MINUTES

April 16-17, 2025

BOARD MEETING

The Nevada State Board of Pharmacy will conduct a meeting beginning Wednesday, April 16, 2025, at 9:00 am. The meeting will continue Thursday, April 17, 2025, at 9:00 am if necessary or until the Board concludes its business. Pursuant to NRS 241.023(1)(c) the meeting is being conducted by means of remote technology. The public may attend the meeting via live stream remotely or at the following location:

Hyatt Place
1790 E Plumb Lane
Reno, NV 89502

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

or

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

Board Members Present:

Helen Park
Jade Jacobo

Krystal Freitas
Anna Carr

Richard Tomasso

Adam Porath

Board Staff Present:

David Wuest
Darlene Nases
Yenh Long

Gregory Zunino
Erin Miller
Todd Weiss

Brett Kandt
Ryan Miller
Laura Tucker

Monica Moazez
Jesette Phaynarikone
Mui Lee

1. Call to Order and Roll Call – Establishment of Quorum

President Park performed the roll call. Board members were present, and a quorum was established.

2. Public Comment at April 16, 2025, 9:07 AM

There was no public comment.

3. Approval of March 5-6, 2025, Board Meeting Minutes (**FOR POSSIBLE ACTION**)

Board Action:

Motion: Jade Jacobo moved to approve the March 5-6, 2025 Board Meeting Minutes.

Second: Krystal Freitas

Action: Passed unanimously.

◆CONSENT AGENDA◆

The Consent Agenda contains matters of routine acceptance. The Board Members may approve the consent agenda items as written or, at their discretion, may address individual items for discussion or change.

3. Approval of the March 5-6, 2025, Board Meeting Minutes (**FOR POSSIBLE ACTION**)

4. 4.1 Applications for Out-of-State Medical, Devices, Equipment and Gases License (NAC 639.6944) – Non-Appearance (**FOR POSSIBLE ACTION**)

- A. Clara Care, Inc – Uniontown, OH
- B. Gramatan Health Supplies, LLC – Mount Vernon, NY
- C. Graymont Equipment Distribution LLC – Chicago, IL

4.2 Applications for Out-of-State Wholesaler License (NRS 639.233) – Non-appearance (**FOR POSSIBLE ACTION**) Background Check Not Required by Law.

4.2.1 Publicly Traded (NAC 639.593(6)(a))

- D. Cardinal Health 414, LLC – Lewis Center, OH
- E. Infusystem, Inc – Bakersfield, CA

4.2.2 Publicly Traded and VAWD-Accredited (NAC 639.593(6)(a) and (c))

- F. Catalent Pharma Solutions, LLC – Philadelphia, PA

4.2.3 Publicly Traded and Manufacturer (NAC 639.593(6)(a) and (d))

- G. Euclid Vision Corporation – Sterling, VA
 - H. KalVista Pharmaceuticals, Inc – Cambridge, MA
 - I. Kuna Oncology, Inc – Boston, MA
 - J. Revance Therapeutics, Inc – Nashville, TN
 - K. Soleno Therapeutics, Inc – Reedwood City, CA
- 4.2.4 Publicly Traded, VAWD-Accredited, and Manufacturer (NAC 639.593(6)(a), (c), and (d))
- 4.2.5 VAWD-Accredited (NAC 639.593(6)(c))
- L. Kuehne & Nagel, Inc – Lewisville, TX
 - M. Kuehne & Nagel, Inc – Memphis, TN
- 4.2.6 Manufacturer (NAC 639.593(6)(d))
- N. Accellence Home Medical – Reno, NV
 - O. Banner Life Sciences, LLC – High Point, NC
 - P. Bridge Global Health – Hapeville, GA
 - Q. Catalent Greenville, LLC – Greenville, NC
 - R. Catalent Pharma Solutions, LLC – Morrisville, NC
 - S. Granulation Technology, Inc – Fairfield, NJ
 - T. Nuclein, LLC – Austin, TX
- 4.2.7 VAWD-Accredited and Manufacturer (NAC 639.593(6)(c) and (d))
- 4.2.8 Distributor for Single Manufacturer (NAC 639.593(6)(e))
- 4.2.9 Background checks completed in compliance with NRS 639.500.**
- U. Kuehne & Nagel, Inc – Dallas, TX
- 4.3 Application for Nevada Warehouse (NAC 639.622) – Non-Appearance **(FOR POSSIBLE ACTION)**
- 4.4 Application for Nevada Pharmacy License (NRS 639.230) – Non-Appearance **(FOR POSSIBLE ACTION)**
- V. Renown Regional Medical Center Specialty Care Pharmacy – Reno, NV
 - W. Ridley’s Pharmacy #1144 – Spring Creek, NV
- 4.5 Application for Out-of-State Compounding Pharmacy License (NRS 639.230) – Non-Appearance – **(FOR POSSIBLE ACTION)**
- X. AnazaoHealth – Tampa, FL
 - Y. Oakstead Infusion Vital Care – Layton, UT

- Z. Optum Infusion Services 308, LLC – Chandler, AZ
- AA. Polomar Specialty Pharmacy, LLC – Palm Harbor, FL
- BB. Rush Pharmacy – Oviedo, FL

4.6 Application for Out-of-State Pharmacy License (NRS 639.2328) – Non-Appeal
(FOR POSSIBLE ACTION)

- CC. Advanced Diabetes Supply – Carlsbad, CA
- DD. AHF Pharmacy – Carson, CA
- EE. Aurora Specialty Pharmacy – Menomonee Falls, WI
- FF. Get Relief Rx – Billings, MT
- GG. Rare Specialty Pharmac – Rahway, NJ
- HH. Stellar Rx – Avondale, PA
- II. SelectRx KS, LLC – Olathe, KS
- JJ. The Art of Medicine – Philadelphia, PA
- KK. The Medicine Shoppe – Riverside, CA
- LL. US Med, LLC – Miami, FL

4.7 Application for Out-of-State Ambulatory Surgery Center License (NAC 639.4992) – Non-Appeal **(FOR POSSIBLE ACTION)**

4.8 Request to Engage in The Practice of Pharmacy at A Site Other Than a Licensed Pharmacy – Non-Appeal **(FOR POSSIBLE ACTION)**

4.9 Application for Nevada Ambulatory Surgery Center License (NAC 639.4992) – Non-Appeal **(FOR POSSIBLE ACTION)**

Adam Porath recused himself from Consent Agenda Item 4V from the Consent Agenda.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve the Consent Agenda with exception of Agenda Item 4V.

Second: Krystal Freitas

Action: Passed unanimously.

Board Action:

Motion: Jade Jacobo moved to approve the Consent Agenda Item 4V.

Second: Krystal Freitas

Action: Passed unanimously (Porath recused).

◆ REGULAR AGENDA ◆

5. Disciplinary hearings pursuant to NRS 639.247. **(FOR POSSIBLE ACTION)**

N. Lincare, Inc

(24-324-MP-N)

Jay DeVoy was present.

Gregory Zunino, Senior General Counsel for the Nevada Board of Pharmacy, prosecuted the case alleging Lincare failed to properly service the respiratory equipment furnished to a patient at least every 24 months as required by the manufacturer's product manual.

The proposed stipulated penalties for Lincare, Inc. License No. MP00015 are the following: 1) Respondent fined \$1,000; and 2) Respondent assessed \$1,000 in attorney's fees and costs.

Board discussion ensued.

Board Action:

Motion: Adam Porath moved to approve the Stipulation and Order for Lincare, Inc. as presented by Mr. Zunino.

Second: Jade Jacobo

Action: Passed unanimously.

N. Meta Pharmacy Services

(24-125-PH-S)

O. Sean Barclay

(24-125-RPH-A-S)

Richard Tomasso has recused himself from these matters.

President Park was familiar with Sean Barclay from Roseman University but could participate in this matter fairly and without bias.

Sean Barclay and William Stilling were present.

Brett Kandt, General Counsel for the Nevada Board of Pharmacy, prosecuted the case alleging that Meta Pharmacy Services and Sean Barclay as owner/managing pharmacist, and/or pharmacy employees, filled and dispensed unlawful prescriptions for controlled substances and compounded semaglutide, employed one pharmaceutical

technician in training (PTT) on an expired registration and another PTT without obtaining a registration to work at Meta Pharmacy.

Mr. Kandt commented that a change of ownership application had been submitted on behalf of Meta Pharmacy. The parties then presented a proposed stipulation to resolve the matter.

Board discussion ensued.

The hearing was recessed so the parties could meet to discuss proposed amendments to the stipulated penalties. The hearing resumed, and the parties presented the following proposed stipulation for the Board's consideration:

Respondent's Barclay's Certificate of Registration No. 17303 is revoked, the revocation is stayed, and respondent is placed on probation for a period of ten (10) years subject to the following conditions: 1) a public reprimand; 2) pay a \$10,000 fine for the violations; 3) pay \$2,000 in attorney's fees and costs; 4) 12 additional continuing education on pharmacy law and ethics within six months of the Order date; 5) shall not be a managing pharmacist at Meta Pharmacy or any pharmacy licensed by the Board during the probation period; 6) shall divest himself of any ownership interest in Meta Pharmacy within 90 days of the Order and shall not hold any ownership in any pharmacy licensed by the Board during the probation period; and 7) shall not work as a pharmacist for Meta Pharmacy for a period of two years from the effective date of the Order. Respondent Meta fined \$10,000 for the violations; \$2,000 in attorney's fees and costs; and quarterly inspections for a period of one (1) year not to exceed \$500 at owner's expense.

Board Action:

Motion: Jade Jacobo moved to approve the Stipulation and Order for Meta Pharmacy and Sean Barclay, with the amendments presented.

Second: Adam Porath

Action: Motion passed (Tomasso recused).

N. Christopher Peters	(24-125-RPH-B-S and 23-175-RPH-S)
O. Michelle Lyn Badten	(24-125-RPH-C-S)

Joey Gilbert was present on behalf of Christopher Peters and Michelle Lyn Badten.

Brett Kandt, General Counsel for the Nevada Board of Pharmacy, prosecuted the case alleging that Respondent Peters in Case No. 23-175-RPH-S refused to transfer a prescription as requested by a patient and engaged in unprofessional conduct, and he knowingly filled and dispensed unlawful prescriptions for controlled substances in Case No. 24-125-RPH-B-S. It was also alleged that Respondent Badten knowingly filled and dispensed unlawful prescriptions for controlled substances.

Kandt presented proposed stipulations for each respondent.

The proposed stipulated penalties for Michelle Lyn Badten, Certificate of Registration No. 14966-B are the following: 1) Respondent's Certificate of Registration No. 14966-B is suspended for a period of one (1) year, the suspension is stayed, and Respondent is placed on probation for one (1) year subject to the following conditions: 1) public reprimand; 2) Respondent fined \$1,000; and 3) Respondent assessed \$1,000 in attorney's fees and costs.

Board discussion ensued.

Board Action:

Motion: Adam Porath moved to approve the Stipulation and Order for Michelle Lyn Badten, as presented by Mr. Kandt.

Second: Krystal Freitas

Action: Motion passed (Tomasso recused).

The proposed stipulated penalties for Christopher Peters, Certificate of Registration No. 16325 are the following: 1) Respondent's Certificate of Registration No. 16325 is suspended for a period of two (2) years, the suspension is stayed, and Respondent is placed on probation for two (2) years; 2) Respondent fined \$2,000; and 3) Respondent assessed \$2,000 in attorney's fees and costs.

Board discussion ensued.

The Board proposed that Respondent also complete ten (10) additional continuing education (CE) hours on pharmacy law and ethics within six months of the effective date of the Order.

Mr. Gilbert indicated his client consented to the additional term of the Stipulation and Order.

Board Action:

Motion: Adam Porath moved to approve the proposed Stipulation and Order for Christopher Peters, with the additional requirement that Respondent complete ten (10) additional hours of continuing education on pharmacy law and ethics, due within six (6) months of this order.

Second: Jade Jacobo

Action: Motion passed (Tomasso recused).

Heliodoro Magana and Brad Shipley were present.

Todd Weiss disclosed that he previously worked with Brad Shipley but could participate in this matter fairly and without bias.

Gregory Zunino, Senior General Counsel for the Nevada Board of Pharmacy, prosecuted the case alleging that Respondent Magana failed to pay the \$10,000 fine and \$544.55 in attorney's fees and costs in Case No. 20-070-PR-N ordered on April 17, 2024.

A petition to vacate was filed with the Board on behalf of Mr. Magana by his counsel.

The Board heard testimony and received evidence.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to deny the Petition to Vacate.

Second: Krystal Freitas

Action: Passed unanimously.

Board Action:

Motion: Jade Jacobo moved to uphold the previous terms of the Order with an amendment to include a payment plan option for Respondent Magana.

Second: Richard Tomasso

Aye: Freitas, Tomasso, Park, Jacobo, Carr

Nay: Porath

Action: Motion passed.

13. Discussion and possible action to amend, revise and/or approve proposed FY26 budget **(FOR POSSIBLE ACTION)**

David Wuest, Executive Secretary for the Nevada Board of Pharmacy, and Kiran Bains, Finance Manager for the Nevada Board of Pharmacy, reviewed the monthly budget and gave an overview of the proposed FY26 budget for the Board.

Board discussion ensued.

Board Action:

Motion: President Park moved to approve the FY26 budget, as presented by Board staff.

Second: Adam Porath

Action: Passed unanimously.

A. Uri Assa Krutilin

(18-052-RPH-S)

No one was present on behalf of Uri Assa Krutilin.

Brett Kandt, General Counsel for Nevada Board of Pharmacy, prosecuted the Order to Show Cause alleging that Respondent Krutilin failed to pay the fine of \$1,300 and \$749 in attorney's fees and costs as ordered on December 1, 2021.

Mr. Kandt called Erin Miller as a witness.

Erin Miller, Administrative Assistant – Board Coordinator II, was sworn in and subject to examination.

Mr. Kandt called Jessette Phaynarikone as a witness.

Jessette Phaynarikone, Administrative Assistant – Board Coordinator I, was sworn in and subject to examination.

Mr. Kandt requested that proof of service of the Order to Show Cause and proof of service of a second notice of the show cause hearing to Respondent Krutilin be admitted into record as Exhibits 1-2.

President Park admitted Exhibits 1-2 into the record.

The Board heard testimony and received evidence.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to find that Uri Assa Krutilin was properly served and was in violation of the original Order by non-payment of the fine and attorney's fees and the violation shall be reported to the National Practitioner Data Bank.

Second: Krystal Freitas

Action: Passed unanimously.

B. Eric Math

(19-083-CS-S)

No one was present on behalf of Eric Math.

Brett Kandt, General Counsel for Nevada Board of Pharmacy, prosecuted the Order to Show Cause alleging that Respondent Math failed to pay the fine of \$5,000 and \$812.50 in attorney's fees and costs as ordered on April 21, 2021.

Mr. Kandt called Erin Miller as a witness and reminded her she was still under oath.

Erin Miller, Administrative Assistant – Board Coordinator II, was subject to examination.

Mr. Kandt called Jesette Phaynarikone as a witness.

Jesette Phaynarikone, Administrative Assistant – Board Coordinator I, was sworn in and subject to examination.

Mr. Kandt requested that proof of service of the Order to Show Cause and proof of service of a second notice of the show cause hearing to Respondent Math be admitted into record as Exhibits 1-2.

President Park admitted Exhibits 1-2 into the record.

The Board heard testimony and received evidence.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to find that Eric Math was properly served and was in violation of the original Order by nonpayment of the fine and attorney's fees and the violation shall be reported to the National Practitioner Data Bank.

Second: Krystal Freitas

Action: Passed unanimously.

L. Alyssa Garcia

(25-076-PT-S)

No one was present on behalf of Alyssa Garcia.

Brett Kandt, General Counsel for Nevada Board of Pharmacy, prosecuted the case alleging that the Board filed an Order of Summary Suspension based upon preliminary findings that Respondent Garcia diverted controlled substances.

Mr. Kandt called Erin Miller as a witness and reminded her she was still under oath.

Erin Miller, Administrative Assistant – Board Coordinator II, was subject to examination.

Mr. Kandt called Jessette Phaynarikone as a witness and reminded her she was still under oath.

Jessette Phaynarikone, Administrative Assistant – Board Coordinator I, was subject to examination.

Mr. Kandt requested that proof of service of the Summary Suspension Order and proof of service of a second notice of the summary suspension hearing to Respondent Garcia be admitted into record as Exhibits 1-2.

President Park admitted Exhibits 1-2 into the record.
Board discussion ensued.

Board Action:

Motion: Adam Porath moved to uphold the Order of Summary Suspension, pending the filing of an accusation with charges.

Second: Jade Jacobo

Action: Passed unanimously.

C. McGuff Compounding Pharmacy Services (23-070-PH-O)

This matter was continued.

D. McGuff Company, Inc (23-070-WH-O)

This matter was continued.

E. Revive Rx (23-411-PH-O)

This matter was continued.

F. Injured Workers Pharmacy, LLC (23-428-PH-O)

This matter was continued.

K. Abdollah Assad

(24-470-CS-N)

This matter was continued.

M. Pulmonary Solutions, LLC

(22-357-MP-N)

This matter was continued.

P. Frank A Shallenberger

(23-515-CS-N)

This matter was continued.

6. Application for Nevada Wholesaler License (NRS 639.233) – Appearance (**FOR POSSIBLE ACTION**)

B. The Tranzonic Companies – Las Vegas, NV – Background Check completed in compliance with NRS 639.500

Tamer Gerges (West Coast Distribution Director), Justin Nunez (designated representative), Chris Adams (Vice President - North American Firm), and Jaclyn Sittock (General Manager for Controlled Environments Pharma Strategic Business Unit) were present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

Board Action:

Motion: Adam Porath moved to approve the wholesaler license for The Tranzonic Companies.

Second: Jade Jacobo

Action: Passed unanimously.

6. Application for Nevada Medical, Devices, Equipment and Gases License (NAC 639.6944) – Appearance (**FOR POSSIBLE ACTION**)

A. High Vibes Medical Supply, LLC – Las Vegas, NV

Cecily Fernandez, Owner and Administrator, was present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

President Park asked the applicant if she would like to table her application and resubmit it to later to reappear in front of the Board.

This matter was tabled.

B. Med Way Medical Inc – Las Vegas, NV

Michael Williams (Regional Manager - Nevada), Austin Drushal (Regional Operations Director), Natascha Amster (Compliance), and Diane Segel (Compliance) were present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

Board Action:

Motion: Krystal Freitas moved to approve the Nevada Medical, Devices, Equipment and Gases license for Med Way Medical, Inc.

Second: Adam Porath

Action: Passed unanimously.

11. Applications for Controlled Substance Registration (NRS 453.226) – Appearance **(FOR POSSIBLE ACTION)**

A. Harsha Nagaraja

Harsha Nagaraja was present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

Board Action:

Motion: Adam Porath moved to approve the controlled substance registration for Harsha Nagaraja for schedules II-V with the condition that he remains compliant with the monitoring program with the Nevada Medical Board of Medical Examiners and the North Carolina Medical Board and to send quarterly reports to Board staff

Second: Jade Jacobo

Action: Passed unanimously.

B. Rachel Miceli

Rachel Miceli was present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

Board Action:

Motion: President Park moved to approve the controlled substance registration for Rachel Miceli on the condition that she stays compliant with her monitoring program with the Nevada Board of Medical Examiners.

Second: Richard Tomasso

Action: Passed unanimously.

12. Applications for Advance Practice Registered Nurse – Prescribe Registration (NAC 639.850) – Appearance (**FOR POSSIBLE ACTION**)

A. Jorge Menjivar

Jorge Menjivar was present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

Board Action:

Motion: Adam Porath moved to approve the prescribing registration for Jorge Menjivar for schedules II-V with the condition that he stays compliant with the monitoring program with the Georgia Board of Nursing as well as the requirements imposed on him by the Nevada State Board of Nursing and to provide quarterly reports to Board staff.

Second: Jade Jacobo

Action: Passed unanimously.

B. Samantha Perkins

Samantha Perkins was present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

President Park commented that since there is a pending case with the California Board of Nursing relating to this applicant and asked Ms. Perkins if she would like to table her application until the case is adjudicated.

The matter was tabled.

C. Rebecca Ballinger

Rebecca Ballinger and Craig Perry, Esq. were present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

Board Action:

Motion: President Park moved to approve the controlled substance prescribing registration for Rebecca Ballinger for dangerous drugs only.

Second: Jade Jacobo

Action: Passed unanimously.

15. General Counsel Report

Gregory Zunino, Senior General Counsel, presented.

9. Application for Nevada Pharmacy License (NRS 639.230) – Appearance **(FOR POSSIBLE ACTION)**

C. Healthy Choice Pharmacy – Las Vegas, NV

Olive Bayle (Pharmacist in Charge), Brandon Catacutan (Owner and Administrator), and Giovanni Bayle (Owner) were present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve the pharmacy license for Healthy Choice Pharmacy pending a favorable inspection.

Second: Adam Porath

Action: Passed unanimously.

E. Renew Care Pharmacy – Las Vegas, NV

Yvonne Nkwen-tamo, managing pharmacist, was present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

Board Action:

Motion: Krystal Freitas moved to approve the pharmacy license for Renew Care Pharmacy pending a favorable inspection.

Second: Adam Porath

Action: Passed unanimously.

16. Executive Secretary Report

David Wuest, Executive Secretary for the Nevada Board of Pharmacy, presented.

Public comment at April 16, 2025, at 4:15 PM

There was no public comment.

President Park recessed the meeting for the night and reconvened the meeting the next morning at 9:00 AM.

Board Members Present:

Helen Park	Adam Porath	Richard Tomasso	Jade Jacobo
Krystal Freitas	Anna Carr		

Board Staff Present:

David Wuest	Yenh Long	Gregory Zunino	Brett Kandt
Monica Moazez	Laura Tucker	Darlene Nases	Erin Miller
Mui Lee	Jessette Phaynarikone		

Call to Order and Roll Call – Establishment of Quorum

President Park performed the roll call. All Board members were present, and a quorum was established.

Public comment at April 17, 2025, at 9:02 AM

There was no public comment.

◆ WORKSHOP ◆

Thursday, April 17, 2025 – 9:00 am

14. Notice of Proposed Regulation Workshop Pursuant to NRS 233B.061(2) **(FOR POSSIBLE ACTION):**

- A. **Amendment to Nevada Administrative Code NAC 454.** The proposed amendment revises the ability of an advanced emergency medical technicians to possess and administer dangerous drugs upon the order of a practitioner in a license hospital when practicing under their scope of practice as determined by the State of Nevada Health Department.

David Wuest, Executive Secretary for the Nevada Board of Pharmacy, and Brett Kandt, General Counsel for the Nevada Board of Pharmacy, presented.

President Park opened the floor for public comment.

The following person(s) offered public comment:

Melinda Osborn, Chief Nurse Executive for Renown Health.

Jimmy Lao, Director of Emergency Services for Renown Health.

President Park closed the floor for public comment.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to adopt the proposed amendment to Nevada Administrative Code NAC 454, with the suggested revisions by the Board.

Second: President Park

Action: Passed unanimously.

7. Application for Nevada Wholesaler License (NRS 639.233) – Appearance (**FOR POSSIBLE ACTION**)

- A. Boxout, LLC – McCarran, NV – Background Check completed in compliance with NRS 639.500

Matthew Miller (Compliance Manager), Ken Kramer (Chief Finance Officer), and Dennis Partain (Regional Director) were present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

Board Action:

Motion: Adam Porath moved to approve the wholesaler license for Boxout, LLC.

Second: Jade Jacobo

Action: Passed unanimously.

9. Application for Nevada Pharmacy License (NRS 639.230) – Appearance (**FOR POSSIBLE ACTION**)

- D. Meta Pharmacy Services – Las Vegas, NV

Jade Jacobo, Krystal Freitas, and President Park disclosed that they were familiar with the incoming pharmacist in charge could participate in this matter fairly and without bias.

Rachel Grey (Counsel), Derek O’Leary (President of Operations), Andy Vukadinovich (Vice President of Operations), and Erik Heikkinen (Consultant) were present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve the change of ownership application for Meta Pharmacy Services with conditions that the pharmacist in charge appears at the next Board Meeting; and quarterly inspections at the owner’s expense.

Second: Richard Tomasso

Action: Passed unanimously.

8. Application for Nevada Warehouse (NAC 639.622) – Appearance **(FOR POSSIBLE ACTION)**

A. Kuehne & Nagel, Inc – McCarran, NV

Ria Philip (Director of Healthcare Regulatory Compliance) and Katy Ditmars (Quality Manager) were present.

The Board heard testimony and asked questions of the applicant.

Jade Jacobo was excused from the meeting at 10:20AM.

Jade Jacobo returned to the meeting at 10:21AM.

Board discussion ensued.

Board Action:

Motion: Adam Porath moved to approve the warehouse license for Kuehne & Nagel, Inc.

Second: Krystal Freitas

Action: Passed unanimously.

9. Application for Nevada Pharmacy License (NRS 639.230) – Appearance **(FOR POSSIBLE ACTION)**

B. First Choice Pharmacy, LLC – Las Vegas, NV

Kirk Beaulieu, Pharmacist in Charge, was present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve the ownership change for First Choice Pharmacy, LLC.

Second: Krystal Freitas

Action: Passed unanimously.

A. AMG Pharmacy – Las Vegas, NV

April Tsai (Owner and Designated Representative) and Terry Kang (Pharmacist in Charge) were present.

President Park disclosed that she is familiar with Dr. Kang from Roseman University but could participate in this matter fairly and without bias.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve the pharmacy license for AMG Pharmacy pending a favorable inspection.

Second: Krystal Freitas

Action: Passed unanimously.

11. Applications for Controlled Substance Registration (NRS 453.226) – Appearance **(FOR POSSIBLE ACTION)**

C. Devendrakumar Patel

Devendrakumar Patel and Lyn Beggs, Esq. were present.

The Board heard testimony and asked questions of the applicant.

Board discussion ensued.

Board Action:

Motion: Krystal Freitas moved to approve the controlled substance registration for Devendrakumar Patel with conditions that he can prescribe Schedules IV and V only and must participate in quarterly PMP training with Board staff for a period of one (1) year.

Second: Richard Tomasso

Aye: Freitas, Tomasso, Carr, Park, Porath

Nay: Jacobo

Action: Motion passed.

10. Application for Out-of-State Pharmacy License (NRS 639.230) – Appearance
(FOR POSSIBLE ACTION)

D. Wedgewood Pharmacy LLC – Bakersfield, CA

Richard Tomasso was excused from the meeting at 11:38AM.

Samra Wussow, pharmacy and compliance manager, was present.

The Board heard testimony and asked questions of the applicant.

Richard Tomasso returned to the meeting at 11:42AM.

Board discussion ensued.

Board Action:

Motion: Richard Tomasso moved to approve the out-of-state pharmacy license for Wedgewood Pharmacy LLC.

Second: Jade Jacobo

Action: Passed unanimously.

17. Date and Location of Next Scheduled Board Meeting:

June 4-5, 2025 – Las Vegas, NV

18. Public Comment

There was no public comment.

19. Adjournment

EXHIBIT C



NEVADA STATE BOARD OF PHARMACY

985 Damonte Ranch Pkwy, Ste 206, Reno, NV 89521

(775) 850-1440 • 1-800-364-2081 • FAX (775) 850-1444

• Web Page: bop.nv.gov

MINUTES

September 7-8, 2022

BOARD MEETING

The Nevada State Board of Pharmacy will conduct a meeting beginning Wednesday, September 7, 2022, at 9:00 am. The meeting will continue, Thursday, September 8, 2022, at 9:00 am if necessary or until the Board concludes its business. Pursuant to NRS 241.023(1)(c) the meeting is being conducted by means of remote technology. The public may attend the meeting via live stream remotely or at the following location:

Hilton Garden Inn
7830 S Las Vegas Boulevard
Las Vegas, NV

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

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

Board Members Present:

Helen Park	Jade Jacobo	Krystal Freitas	Gener Tejero
Wayne Mitchell	Rolf Zakariassen	Richard Tomasso	

Board Staff Present:

Dave Wuest	Yenh Long	Shirley Hunting	Kristopher Mangosing
Brett Kandt	Peter Keegan	Darlene Nases	Courtney Lee
Joe Dodge	Leo Basch	Luis Curras	Dena McClish
Ken Scheuber	Sophia Long	Darla Zarley	

President Park read the mission statement of the Nevada State Board of Pharmacy to reiterate the Board's duty to carry out and enforce the provisions of Nevada Law to protect the health, safety, and welfare of the public.

Dave Wuest stated that this Board Meeting is being held over Zoom and is in compliance with the Governor's directive and Open Meeting Laws for Nevada.

1. Call to Order and Roll Call – Establishment of Quorum

President Park performed the roll call. All Board members were present, and a quorum was established.

2. Public Comment September 7, 2022, 9:00 AM

Ken Kunke from the Nevada Society of Health Systems Pharmacist and the Nevada Pharmacy Alliance invites the public to attend their annual meeting on September 24 at Renown Health in Reno, Nevada from 8am-3pm. For more information, please visit the Nevada Pharmacy Alliance Website under “News & Events”.

◆ CONSENT AGENDA ◆

The Consent Agenda contains matters of routine acceptance. The Board Members may approve the consent agenda items as written or, at their discretion, may address individual items for discussion or change.

3. Approval of the July 13-14, 2022, Meeting Minutes (**FOR POSSIBLE ACTION**)

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve July 13-14, 2022, Board Meeting minutes.

Second: Krystal Freitas

Action: Passed unanimously.

4. 4.1 Applications for Out-of-State Medical, Devices, Equipment and Gases License (NAC 639.6944) – Non-appearance (**FOR POSSIBLE ACTION**)

- A. Bigfoot Biomedical, Inc. – Milpitas, CA
- B. Edgepark Medical Supplies; Cardinal Health at Home – Cranbury, NJ
- C. Edgepark Medical Supplies; Cardinal Health – Durham, NC
- D. Edgepark Medical Supplies; Cardinal Health at Home – Elgin, IL
- E. Edgepark Medical Supplies; Cardinal Health at Home – Fort Worth, TX
- F. Edgepark Medical Supplies; Cardinal Health at Home – Jacksonville, FL
- G. Edgepark Medical Supplies; Cardinal Health at Home – Kansas City, MO
- H. Edgepark Medical Supplies; Cardinal Health at Home – Ontario, CA
- I. Edgepark Medical Supplies; Cardinal Health at Home – Portland, OR
- J. Edgepark Medical Supplies; Cardinal Health at Home – Twinsburg, OH
- K. Kestra Medical Technology Services, Inc. – Kirkland, WA
- L. Mendtronix, Inc. – Latrobe, PA
- M. Petersen Medical, St. George, UT

N. Preferred Homecare – Kingman, AZ

4.2 Applications for Out-of-State Wholesaler License (NRS 639.233) – Non-appearance (**FOR POSSIBLE ACTION**)

Background Check Not Required by Law.

4.2.1 Distributor for Single Manufacturer (NAC 639.593(7)(e))

4.2.2 Manufacturer (NAC 639.593(7)(d))

- O. ABB Optical Group – Alameda, CA
- P. Almatica Pharma, LLC – Morristown, NJ
- Q. CeQur Corp. – Greenville, SC
- R. Datascope Corp. – Wayne, NJ
- S. Edenbridge Pharmaceuticals, LLC – Parsippany, NJ
- T. Exela Pharma Sciences, LLC – Lenoir, NC
- U. Fisher & Paykel Healthcare Inc. – Irvine, CA
- V. Mycovia Pharmaceuticals, Inc – Durham, NC
- W. Novugen Pharma (USA) LLC – Princeton, NJ
- X. Oryza Pharmaceuticals, Inc. – Coral Springs, FL
- Y. Salus Medical LLC – Phoenix, AZ
- Z. Tulex Pharmaceuticals Inc. – Cranbury, NJ
- AA. Yaral Pharma Inc. – Parsippany, NJ

4.2.3 Publicly Traded (NAC 639.593(7)(a))

- BB. Outlook Therapeutics, Inc. – Iselin, NJ
- CC. Pharmacyclics, LLC – North Chicago, IL

4.2.4 VAWD-Accredited (NAC 639.593(7)(c))

4.2.5 Manufacturer and VAWD-Accredited (NAC 639.593(7)(c) and (d))

4.2.5 Publicly Traded and Manufacturer (NAC 639.593(7)(a) and (d))

- DD. Alexion Pharmaceuticals, Inc. – New Haven, CT
- EE. AtriCure, Inc. – Mason, OH
- FF. Biofrontera Inc. – Woburn, MA
- GG. ImmunoGen, Inc. – Waltham, MA

4.2.6 Publicly Traded and VAWD-Accredited (NAC 639.593(7)(a) and (c))

4.2.7 Background checks completed in compliance with NRS 639.500.

- HH. ABB Optical Group – Coral Springs, FL

- II. ABB Optical Group – Hawthorne, NY
- JJ. DHL Supply Chain (USA) – Memphis, TN
- KK. Direct Customer Solutions, LLC – Bells, TN
- LL. HHCRX – Cincinnati, OH
- MM. KARES Enterprises – Duarte, CA

4.3 Applications for Nevada Wholesaler License (NRS 639.233) – Non-Appearance
(FOR POSSIBLE ACTION)

- NN. Accelerated Care Plus Leasing, Inc. – Reno, NV - Background Check Not Required – Publicly Traded (NAC 639.593 (7)(a))
- OO. Innovative Neurotronics, Inc. – Reno, NV - Background Check Not Required – Publicly Traded (NAC 639.593 (7)(a))

4.4 Application for Nevada Pharmacy License (NRS 639.230) – Non-appearance
(FOR POSSIBLE ACTION)

- PP. 986 LTC Pharmacy – Las Vegas, NV
- QQ. Humboldt County General Hospital Pharmacy – Winnemucca, NV
- RR. Nevada Health Centers Pharmacy – Elko – Elko, NV

4.5 Application for Out-of-State Pharmacy License (NRS 639.2328) – Non-appearance
(FOR POSSIBLE ACTION)

- SS. Perigon Pharmacy 360 – Coraopolis, PA
- TT. Valley Vet Supply – Marysville, KS

Board discussion ensued.

Board Action:

Motion: Wayne Mitchell moved to approve the Consent Agenda.

Second: Jade Jacobo

Action: Passed unanimously.

◆ REGULAR AGENDA ◆

5. Disciplinary hearings pursuant to NRS 639.247. **(FOR POSSIBLE ACTION)**

- A. Richard Teh, MD (20-021-CS-A-B-S)
- B. Cynthia Teh, MD (20-021-CS-C-S)

Crane Pomerantz appeared as counsel on behalf of Richard and Cynthia Teh.

Richard Teh and Cynthia Teh appeared and were sworn in by President Park prior to answering questions and offering testimony.

Courtney Lee, General Counsel for the Nevada Board of Pharmacy, prosecuted the case regarding unlawful prescribing of controlled substances while out of the country.

Ms. Lee presented a proposed Stipulation and Order for the Board's consideration with the following updates: 1) modify paragraph 9B on page 3 to change "Teh 1 to Teh 2" and change the pronouns to "she"; 2) modify page 4 to remove an extra space in paragraph 12; and 3) complete language change to paragraph 14 that Ms. Lee read into the record.

The penalties for Respondent Richard Teh ("Teh 1") Certificate of Registration Nos. CS19708 and CS31633 are the following: 1) the suspension is stayed and is placed on probation for a period of two years; 2) accept this Stipulation and Order as a public reprimand; 3) pay a fine of \$4,000; 4) pay attorney's fees and costs of \$2,000 to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter; and 5) comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs, and have no additional charges filed against him whole on probation.

The penalties for Respondent Cynthia Teh ("Teh 2") Certificate of Registration No. CS09236 is the following: 1) the suspension is stayed and is placed on probation for a period of two years; 2) accept this Stipulation and Order as a public reprimand; 3) pay a fine of \$4,000; 4) pay attorney's fees and costs of \$2,000 to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter; and 5) comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs, and have no additional charges filed against her whole on probation.

In addition, the Board shall conduct scheduled quarterly inspections of Respondents' practice for a period of 12 months from the effective date of the Order, and Respondents shall bear and reimburse the Board for inspection costs in the amount not to exceed \$500 per quarterly inspections.

Richard and Cynthia Teh commented to the Board that they made mistakes and apologized for their errors.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve the proposed Stipulation and Order with the proposed changes by Ms. Lee.

Second: Rolf Zakariassen

Action: Passed unanimously.

C. Ann Childress, MD

(20-250-CS-S)(20-250-PD-S)

Joseph Reynolds appeared as counsel on behalf of Ann Childress.

Ann Childress appeared and was sworn in by President Park prior to answering questions and offering testimony.

Courtney Lee prosecuted the case regarding Ms. Childress dispensing clinical study medication consisting of controlled substances and dangerous drugs without a valid practitioner dispensing registration.

Ms. Lee presented a proposed Stipulation and Order for the Board's consideration.

The penalties for Respondent Childress are the following: 1) pay a fine of \$5,000; 2) pay attorney's fees and costs of \$500 to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter.

Ms. Lee clarified paragraph 7 is one singular violation.

Ms. Childress provided testimony to the Board on the events that occurred with this issue.

Board discussion ensued.

Mr. Reynolds would consider a more lenient discipline for Ms. Childress at the Board's consideration.

Mr. Reynolds requested Board to continue with the proposed Stipulation and Order presented by Ms. Lee.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve the proposed Stipulation and Order for Ann Childress.

Second: Krystal Freitas

Aye: Park, Jacobo, Freitas, Mitchell, Zakariassen

Nay: Tejero, Tomasso

Action: Motion carries.

D. Christopher Olsen, RPH

(21-171-RPH-N)

E. Olsen's Corner Drug Store Compounding Center

(21-171-PH-N)

Gil Khan appeared as counsel on behalf of the respondents.

Christopher Olsen appeared and was sworn in by President Park prior to answering questions and offering testimony.

Brett Kandt, General Counsel for the Nevada Board of Pharmacy, prosecuted the case regarding Mr. Olsen failing to maintain accurate and complete records for controlled substance inventories for Olsen's Corner Drug Store Compounding Center.

Mr. Kandt wanted to clarify that the Notice of Intended Action and Accusation should list pharmacy license no. PH01913 not PH03816. Pharmacy License No. PH01913 had the change of ownership approved 4/15/21, and Pharmacy License No. PH03186 ceased all operations.

Mr. Kandt presented a Stipulation and Order for the Board's consideration with a change to the pharmacy license number – PH01913.

The penalties for Christopher Olsen Certificate of Registration No. 11156 are the following: 1) the revocation is stayed and placed on probation for a period of five years; 2) Respondent Olsen may not work as a managing pharmacist for any pharmacy licensed by the Board or hold an ownership interest in any pharmacy licensed by the Board; 2) pay a fine of \$5,000 3) pay attorney's fees and costs of \$500 to partially reimburse the Board for reasonable attorney's fees and recoverable costs incurred in investigating this matter. Upon successful completion of probation, Respondent's Certificate of Registration No. 11156 will be fully restored.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve the proposed Stipulation and Order for Christopher Olsen and Olsen's Corner Drug Store Compounding Center with the corrected pharmacy license no. PH01913.

Second: Rolf Zakariassen

Action: Passed unanimously.

F. Morton Hyson, MD

(22-146-CS-S)

No representative was present on behalf of Morton Hyson.

Peter Keegan prosecuted the case regarding Dr. Hyson's license being suspended by the Nevada State Board of Medical Examiners (NSBME) for violations of NRS Chapter 630.

Mr. Keegan presented a Stipulation and Order for the Board's consideration with updates to page 2, paragraph 7 with it to reflect item "C" since "B" is listed twice.

The penalties for Respondent Hyson's Certificate of Registration No. CS05851 are the following: 1) suspension of his controlled substance registration until Dr. Hyson demonstrates reinstatement of his Nevada Medical License No. 6020; 2) pay attorney's fees and costs of \$500 to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter.

Mr. Keegan clarified that Dr. Hyson no longer qualifies to hold a controlled substance license since his medical license was suspended.

Board discussion ensued.

Board Action:

Motion: Rolf Zakariassen moved to approve Stipulation and Order for Dr. Morton Hyson with changes presented by Mr. Keegan.

Second: Jade Jacobo

Action: Passed unanimously.

G. Wesley Robertson, MD (21-063-CS-S)

This matter was continued to a future Board Meeting.

H. Richard Washinsky, MD - Second Order to Show Cause (22-094-CS-S)

No representative was present on behalf of Richard Washinsky.

Brett Kandt prosecuted the case regarding Dr. Washinsky's Second Order to Show Cause where he prescribed controlled substances on a suspended registration in violation of the previous Orders.

Mr. Kandt presented a Stipulation and Order for the Board's consideration.

The penalties for Respondent Washinsky's Certificate of Registration No. CS06491 are the following: 1) revocation of his controlled substance registration; 2) respondent may not possess, administer, prescribe or dispense a controlled substance until he has petitioned the Board for reinstatement; 3) respondent may not petition for reinstatement of his certificate of registration for a period of five years from the effective date of this Order; 4) In the event, the respondent applies for reinstatement of his certificate of registration, or applies for any other certificate, license or permit with the Board, he shall appear before the Board.

Mr. Kandt commented that previous counsel entered a withdrawal of representation, and he was working with Dr. Washinsky directly on this matter who accepts the terms.

Board discussion ensued.

Board Action:

Motion: Wayne Mitchell moved to approve Stipulation and Order for the Second Order to Show Cause for Dr. Richard Washinsky.

Second: Jade Jacobo

Action: Passed unanimously.

I. Stephen Dubin, MD

(20-020-S)

Crane Pomerantz appeared as counsel on behalf of Dr. Stephen Dubin.

Stephen Dubin appeared and was sworn in by President Park prior to answering questions and offering testimony.

The Board heard part 1 of this case on December 1, 2021. The matter was continued to today's hearing due to scheduling conflicts. Courtney Lee prosecuted the case regarding Dr. Dubin unlawfully prescribing controlled substances while out of the country.

Ms. Lee presented a list of Stipulated Facts on page 1766 of the Board book that counsel for Dubin previously agreed.

Ms. Lee re-called Mary Allen Domondon as a witness.

Mary Allen Domondon appeared and was sworn in by President Park prior to answering questions and offering testimony.

Ms. Lee questioned Ms. Domondon.

Mr. Pomerantz cross-examined Ms. Domondon.

Ms. Lee re-crossed Ms. Domondon.

Ms. Lee called Stephen Dubin as a witness.

Ms. Lee questioned Dr. Dubin.

Ms. Lee requested public records of Dr. Dubin's previous suspension/revocation of his medical license be entered into the record as Exhibit 11.

Mr. Pomerantz objected to the exhibit as it is not related to this issue.

President Park denied exhibit due to the age of the disciplinary action and would only consider actions taken within the past five years.

Mr. Pomerantz cross-examined Dr. Dubin.

Mr. Pomerantz requested Exhibits 11-15 be entered into the record.

Ms. Lee objects to Exhibit 13 being entered as lacking foundation (no assurance of authenticity and or modification) and is not the best evidence (the medical records themselves are the best evidence).

President Park entered Exhibits 11-15 into the record.

Mr. Pomerantz questioned Dr. Dubin on Exhibits 11-15.

Ms. Lee re-crossed Dr. Dubin.

Ms. Lee provided a closing statement regarding Dr. Dubin, as the only medical director, should have properly supervised or been aware of his staff's actions. Also, Dr. Dubin did not establish a bona fide therapeutic relationship with some of his patients or follow the laws for emergency CII prescriptions.

Mr. Pomerantz provided a closing statement regarding Dr. Dubin was not aware that the prescriptions were being filled and believes there is a lack of evidence to charge him.

Board discussion ensued.

Peter Keegan read the Causes of Action into the record.

Ms. Lee requested the Board to find the Findings of Fact consistent with paragraphs 2-3, 5-13, and the entirety of the Stipulated Facts.

Board Action:

Motion: Jade Jacobo moved to make Findings of Fact consistent with paragraphs 2-3, 5-13 of the Notice of Intended Action and Accusation and the entirety of the Stipulated Facts.

Second: President Park

Board discussion ensued.

Aye: Park, Jacobo, Freitas, Tomasso, Mitchell, Zakariassen

Nay: Tejero

Action: Motion Carries.

Board Action:

Motion: Jade Jacobo moved to find that the Board has jurisdiction over this matter consistent with paragraph 1.

Second: Wayne Mitchell

Action: Passed unanimously.

Board Action:

Motion: Jade Jacobo moved to find Dr. Dubin not guilty of the First Cause of Action.

Second: Gener Tejero

Gener Tejero withdraws his second motion.

Second: Richard Tomasso

Board discussion ensued.

Aye: Tomasso, Jacobo

Nay: Park, Freitas, Mitchell, Tejero, Zakariassen

Action: Motion fails.

Board Action:

Motion: Jade Jacobo moved to find Dr. Dubin not guilty of the Second Cause of Action.

Second: Gener Tejero

Board discussion ensued.

Aye: Park, Jacobo, Freitas, Tomasso, Tejero

Nay: Mitchell, Zakariassen

Action: Motion carries.

Board Action:

Motion: Jade Jacobo moved to find Dr. Dubin guilty of the Third Cause of Action.

Second: Wayne Mitchell

Board discussion ensued.

Aye: Park, Jacobo, Freitas, Tejero, Mitchell, Zakariassen

Nay: Tomasso

Action: Motion carries.

Board Action:

Motion: Jade Jacobo moved to find Dr. Dubin guilty of the Fourth Cause of Action.

Second: President Park

Board discussion ensued.

Aye: Park, Jacobo, Freitas, Mitchell, Zakariassen

Nay: Tomasso, Tejero

Action: Motion carries.

Board Action:

Motion: President Park moved to find Dr. Dubin guilty of the First Cause of Action.

Second: Gener Tejero

Board discussion ensued.

Aye: Park, Freitas, Tejero, Mitchell, Zakariassen

Nay: Tomasso, Jacobo

Action: Motion carries.

Ms. Lee requested the Board to enter the attorney's fees and cost as Exhibit 15.

President Park entered into the record as Exhibit 15.

Board Action:

Motion: President Park moved to award the attorney's fees and costs of \$3,834.50 on the basis that they were reasonable, necessary, and actually incurred.

Second: Jade Jacobo

Action: Passed unanimously.

Ms. Lee proposed the following penalties for Dr. Dubin's Certificate of Registration No. CS19164: 1) suspension is stayed immediately and Dr. Dubin be placed on probation for two years from the date of the Order; 2) pay a fine of \$5,000 within 30 days; 3) pay the attorney's fees and costs of \$3,834.50 on the basis that they were reasonable, necessary and actually incurred; 4) complete four additional continuing education (CE) courses relating to proper prescribing of controlled substances.

Dave Wuest, Executive Secretary of the Nevada Board of Pharmacy, recommended that Dr. Dubin meet with the Darla Zarley and Joe Dodge who can train him over the PMP and how to properly prescribe.

Mr. Pomerantz requested the Board consider a fine of \$1,000 rather than \$5,000.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to make the following penalties for Dr. Dubin's Certificate of Registration No. CS19164: 1) placed on probation for two years; 2) one hour of training with Darla Zarley on the PMP and one hour of training with Joe Dodge on proper prescribing of controlled substances; 3) additional four hours of CE's on proper controlled substance prescribing; 4) pay a fine of \$5,000 with a payment plan agreed upon by Board staff; 5) pay the attorney's fees and costs of \$3,834.50 on the basis that they were reasonable, necessary and actually incurred with a payment plan agreed upon by Board staff, effective immediately.

Second: Rolf Zakariassen

Aye: Park, Jacobo, Freitas, Mitchell, Zakariassen

Nay: Tejero, Tomasso

Action: Motion carries.

J. Abdel Khalek, MD	(19-003-CS-A-S)
K. Robert Chancellor, MD	(19-003-CS-B-S)
L. Lindsay Hoffman, PA-C	(19-003-CS-C-S)

These matters were continued to a future Board meeting.

6. Appeal hearing pursuant to NRS 639.2895(2) -Appearance:(**FOR POSSIBLE ACTION**)

Vinay Bararia, MD	(19-003-S)
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This matter was continued to a future Board meeting.

Public Comment September 8, 2022, 5:00 PM

There was no public comment.

President Park recessed the meeting for the night and reconvened the meeting the next morning.

Board Members Present:

Helen Park	Jade Jacobo	Krystal Freitas	Gener Tejero
Wayne Mitchell	Rolf Zakariassen	Richard Tomasso	

Board Staff Present:

Dave Wuest	Yenh Long	Shirley Hunting	Kristopher Mangosing
Brett Kandt	Peter Keegan	Darlene Nases	Courtney Lee
Joe Dodge	Leo Basch	Luis Curras	Ken Scheuber
Homa Woodrum			

President Park read the mission statement of the Nevada State Board of Pharmacy to reiterate the Board's duty to carry out and enforce the provisions of Nevada Law to protect the health, safety, and welfare of the public.

Dave Wuest stated that this Board Meeting is being held over Zoom and is in compliance with the Governor's directive and Open Meeting Laws for Nevada.

Call to Order and Roll Call – Establishment of Quorum

President Park performed the roll call. All Board members were present, and a quorum was established.

Public Comment September 7, 2022, 9:00 AM

Ken Kunke from the Nevada Society of Health Systems Pharmacist and the Nevada Pharmacy Alliance invites the public to attend their annual meeting on September 24 at Renown Health in Reno, Nevada from 8am-3pm. For more information, please visit the Nevada Pharmacy Alliance Website under "News & Events".

◆ PUBLIC HEARING ◆

Thursday September 8, 2022 – 9:00 am

22. Notice of Proposed Regulation Public Hearing Pursuant to NRS 233B.061(2)

(FOR POSSIBLE ACTION):

- A. **Amendment to Nevada Administrative Code (NAC) 639.** The proposed amendments relate to licensing and regulation of Medical Products Wholesalers as Wholesalers in order to conform the requirements of existing law. (LCB File No. R085-22)

Peter Keegan provided background on public hearing item and proposed language changes.

President Park opened the floor to public comment.

There was no public comment.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to adopt the proposed Amendment to NAC 639 (LCB File No. R085-22) with conforming amendments.

Second: Wayne Mitchell

Action: Passed unanimously.

- B. **Amendment to Nevada Administrative Code (NAC) 453.** The proposed amendments relate to controlled substances, provide for the registration of a law enforcement officer engaged in training a canine in drug detection, and add methoxetamine to the controlled substances listed in Schedule I. (LCB File No. R050-22)

Dave Wuest provided background on public hearing item and proposed language changes.

President Park opened the floor to public comment.

There was no public comment.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to adopt Amendment to NAC 453 (LCB File No. R050-22).

Second: Krystal Freitas

Action: Passed unanimously.

- C. **Amendment of Nevada Administrative Code (NAC) 453.540: Schedule IV.** The proposed amendment to NAC 453.540 will add daridorexant to the list of controlled substances listed in Schedule IV. (LCB File No. R170-22)

Yenh Long, Deputy Secretary of the Nevada Board of Pharmacy, provided background on public hearing item and proposed language changes.

President Park opened the floor to public comment.

There was no public comment.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to adopt Amendment to NAC 453.540 (LCB File No. R170-22).

Second: Rolf Zakariassen

Action: Passed unanimously.

◆ REGULAR AGENDA ◆

19. Discussion and Possible Action on Adoption of Emergency Regulation pursuant to NRS 233B.0613 to amend NAC 639.250 relating to the number of pharmaceutical technicians and pharmaceutical technicians in training that a pharmacist may supervise at one time. **(FOR POSSIBLE ACTION)**

Lorri Walmsley, Walgreen's Director of Pharmacy Affairs, requested the Nevada Board of Pharmacy to consider an emergency regulation relating to the number of pharmaceutical technicians and pharmaceutical technicians in training that a pharmacist can supervise at one time.

Dave Wuest provided background on emergency regulation request to the Board.

Ms. Walmsley is in support of this emergency regulation request as it will help pharmacist with their workload and alleviate some stress for staff.

Mr. Wuest commented that several letters of support of this emergency regulation request were received and available for the public to review.

President Park opened the floor to public comment.

Liz McMenamin from the Retail Association of Nevada expressed support of this emergency regulation request. She commented that patient demand is greater due to COVID, and she would like this regulation to become permanent.

Holly Privo, Health Supervisor of Walgreens for Las Vegas, expressed support of this emergency regulation request. She commented that pharmaceutical technicians doing certain tasks allows the pharmacist to work on other things, and she received a lot of feedback from pharmacist when the emergency regulation expired.

Reyshelle Tucker, Pharmacist from Walgreens, expressed support of this emergency regulation request. She commented that it allows pharmaceutical technicians to take on certain tasks so that pharmacist can focus on other things.

Melissa Shake, Pharmacist from Walgreens, expressed support of this emergency regulation request. She commented that the limited capacity is hindering care for the public and supervising pharmaceutical technicians and pharmaceutical technicians in training ratios is an extra stressor to her duties.

Board discussion ensued.

Catherine Leiana Oswald, Pharmacist, encouraged Board consider the public safety if this emergency regulation is passed rather than the ease of work.

Jennifer Lindgren, Pharmacist, supported President Park and Ms. Oswald's testimony and is not in favor of the emergency regulation request.

Kelsey Maxim, Pharmacist from Community Health Alliance, is not in support of the emergency regulation request.

Lauren Paul from CVS Health commented that the increased ratio did not increase errors during the pandemic. Therefore, she is in support of the emergency regulation request and commented that the waiver to increase ratio during pandemic.

Achille Tiam, Pharmacist, expressed support of the emergency regulation request. He commented that this will allow him to focus on more clinical tasks for his patients.

Jennifer Wheeler, Chief Medical Officer from Community Health Alliance and represents ASHP Community Retail Pharmacy Committee, commented that she is not in favor of the emergency regulation request and stated in her experience with pharmacies that they need more pharmacist not pharmaceutical technicians.

Mary Grear, Pharmacist, is not in favor of the emergency regulation request. Pharmacies should hire more pharmacist and not pharmaceutical technicians.

Board discussion ensued.

Board Action:

Motion: President Park moved to deny adoption of Emergency Regulation pursuant to NRS 233B.0613 to amend NAC 639.250 relating to the number of pharmaceutical technicians and pharmaceutical technicians in training that a pharmacist may supervise at one time as there is no emergency.

Second: Gener Tejero

Aye: Park, Freitas, Mitchell, Tejero, Tomasso, Zakariassen

Nay: Jacobo

Action: Motion carries.

Dave Wuest commented that he will agendize a discussion regarding pharmaceutical technician ratio on a future meeting.

5. Disciplinary hearings pursuant to NRS 639.247. **(FOR POSSIBLE ACTION)**

Q. David Edwards, MD

(22-133-CS-N)

David Edwards appeared and was sworn in by President Park prior to answering questions and offering testimony.

Peter Keegan prosecuted the case regarding Dr. Edwards prescribing controlled substances with an expired controlled substance registration.

Mr. Keegan proposed a Stipulation and Order for the Board's consideration.

The penalties for Respondent Edwards Certificate of Registration No. CS01332 are the following: 1) pay a fine of \$5,000; 2) pay attorney's fees and costs of \$500 to partially reimburse the Board for recoverable attorney's fees and costs in investigating and prosecuting this matter.

Board discussion ensued.

Board Action:

Motion: Krystal Freitas moved to approve the Stipulation and Order for Dr. David Edwards.

Second: Rolf Zakariassen

Action: Passed unanimously.

14. Applications for Controlled Substance Registration (NRS 453.226) – Appearance
(FOR POSSIBLE ACTION)

A. David Edwards

Dr. David Edwards would like to withdraw his controlled substance application.

Dave Wuest explained that Dr. Edwards will not be able to hold a DEA if he does not have a controlled substance registration.

Dr. Edwards rescinded his withdrawal of his controlled substance application.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve controlled substance registration for Dr. David Edwards.

Second: Wayne Mitchell

Action: Passed unanimously.

5. Disciplinary hearings pursuant to NRS 639.247. **(FOR POSSIBLE ACTION)**

R. Graham Simpson, MD

(22-199-CS-S)

Graham Simpson appeared and was sworn in by President Park prior to answering questions and offering testimony.

Peter Keegan prosecuted the case regarding Dr. Simpson prescribing controlled substances with an expired controlled substance registration.

Mr. Keegan presented a proposed Stipulation and Order for the Board's consideration.

The penalties for Respondent Simpson's Certificate of Registration No. CS01982 are the following: 1) pay a fine of \$10,000; 2) pay attorney's fees and costs of \$750 to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter.

Dr. Simpson provided testimony on the events that occurred with this issue and has concerns with the question on the controlled substance application stating, "Have you been the subject of a board citation or an administrative action whether completed or pending in any state?". He requests clarification on what Board that they are referring to.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve Stipulation and Order for Dr. Graham Simpson.

Second: Wayne Mitchell

Action: Passed unanimously.

14. Applications for Controlled Substance Registration (NRS 453.226) – Appearance
(FOR POSSIBLE ACTION)

B. Graham Simpson

Board Action:

Motion: Jade Jacobo moved to approve controlled substance registration for Dr. Graham Simpson.

Second: Wayne Mitchell

Board discussion ensued.

Action: Passed unanimously.

5. Disciplinary hearings pursuant to NRS 639.247. **(FOR POSSIBLE ACTION)**

M. Sherman Washington, MD	(21-104-CS-N)
P. Sherman Washington, MD	(19-243-CS-S)

Michael Mee appeared as counsel on behalf of Dr. Sherman Washington.

Dr. Sherman Washington was not present for the hearing.

Brett Kandt made an opening statement on the charges that Dr. Washington unlawfully prescribed controlled substances, was disciplined by the Nevada State Board of Medical Examiners for violations related to drugs and failed to disclose discipline by other jurisdictions on his pending controlled substance applications and his 2020 renewal application for Controlled Substance Registration No. CS24310.

Mr. Kandt presented a proposed stipulation and order for the Board's consideration.

Sherman Washington, Certificate of Registration No. CS24310, stipulates to the following penalties: 1) revocation of registration; 2) respondent may not petition for reinstatement for 2 years; 3) fine of \$5,000; 4) \$600 attorney's fees and costs for case 19-243-CS-S; and 5) \$4,000 attorney's fees and costs for case 21-104-CS-N.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve the Stipulation and Order as presented by Mr. Kandt.

Second: Wayne Mitchell

Action: Passed unanimously.

14. Applications for Controlled Substance Registration (NRS 453.226) – Appearance
(FOR POSSIBLE ACTION)

- E. Sherman Washington - Iuventus Medical Center – Las Vegas, NV
- F. Sherman Washington - Iuventus Medical Center – Las Vegas, NV

Dr. Sherman Washington has withdrawn both controlled substance applications.

17. Applications for Intern Pharmacist Registration– Appearance. **(FOR POSSIBLE ACTION)**

Tyler Hill

Lyn Beggs appeared as counsel on behalf of Tyler Hill.

Tyler Hill appeared and was sworn in by President Park prior to answering questions and offering testimony.

Dave Wuest provided background on appearance.

President Park disclosed that she knows Tyler Hill due to her previous employment with Roseman University but stated that she could participate in this matter fairly and without bias.

Ms. Beggs provided background on discipline charges against Mr. Hill.

President Park requested assurances from Mr. Hill that his discipline history will not be an issue with his future practice.

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

Board discussion ensued.

Board Action:

Motion: Rolf Zakariassen moved to approve Intern Pharmacist Registration for Tyler Hill pending favorable evaluation.

Second: Jade Jacobo

Action: Passed unanimously.

12. Applications for Pharmaceutical Technician in Training Registration (NAC 639.242) – Appearance. **(FOR POSSIBLE ACTION)**

James Taylor

James Taylor appeared and was sworn in by President Park prior to answering questions and offering testimony.

Yenh Long provided background on application and disclosures.

Richard Tomasso was excused from the meeting at 11:53 AM and returned at 11:54 AM.

Mr. Taylor explained the events that occurred with his disclosures regarding stolen property and theft.

The Board questioned Mr. Taylor on why he wants to be pharmacy technician, the discipline charges against him, and what he has been doing since his disclosures.

Mr. Taylor answered the Board's questions.

Board discussion ensued as they have concerns with approving his application.

President Park offered Mr. Taylor an opportunity to withdraw his application.

Mr. Taylor withdrew his application.

5. Disciplinary hearings pursuant to NRS 639.247. **(FOR POSSIBLE ACTION)**

N. Las Vegas Scripts Rx	(19-243-PH-S)
O. Nathan Edouard, RPH	(19-243-RPH-S)

Chandon Alexander appeared as counsel on behalf of Respondents Las Vegas Scripts Rx and Nathan Edouard, RPH.

Nathan Edouard appeared and was sworn in by President Park prior to answering questions and offering testimony.

Courtney Lee prosecuted the case and read into the record the Stipulated Facts with the following amendments: deletion of paragraphs 6A, 6C, and 6E and modification of language to paragraph 6B as presented.

Mr. Alexander provided background on the allegations and requested the Board to enter Exhibit 9 which are CE's and Exhibit 10 which are letters of recommendation into the record.

President Park admitted Exhibit 9-10 into the record.

Mr. Alexander started providing testimony on the issue.

Ms. Lee objects to counsel's statements to the extent that counsel is testifying on facts and exhibits that were already stipulated. Counsel has agreed that the facts and exhibits support certain violations, and that the only consideration for the Board is the conditions/penalties or discipline.

President Park sustained objection.

Ms. Lee requested the Board to make Conclusions of Law consistent with paragraphs 7-21 and to dismiss Count Three (paragraph 18) and Count Five (paragraph 20) of the Notice of Intended Action and Accusation.

Yenh Long has concerns based on testimony provided by Mr. Alexander if Count Three (paragraph 18) should be dismissed and the process if it was stipulated.

Homa Woodrum, Senior Deputy Attorney General for the Attorney General's Office (AGO), provided counsel to Board staff.

Board discussion ensued.

Ms. Lee requested revision to Count Three to reference law NAC 639.712 instead of NAC 639.707.

Ms. Long read NAC 639.712 into the record.

Mr. Alexander agreed to not dismiss Count Three in the Notice of Intended Action and Accusation and accepted Board staff to revise the violation of law from NAC 639.707 to NAC 639.712.

Ms. Lee requested the Board to make Conclusions of Law consistent with paragraphs 7-21 and to dismiss Count Five (paragraph 20) and the revision of Count Three in the Notice of Intended Action and Accusation.

Board Action:

Motion: Jade Jacobo moved to make Conclusions of Law consistent with paragraphs 7-21 and to dismiss Count Five (paragraph 20) and the revision of Count Three as proposed by Ms. Lee in the Notice of Intended Action and Accusation.

Second: Krystal Freitas

Action: Passed unanimously.

Ms. Lee requested the Board to enter the attorney's fees and cost as Exhibit 11.

President Park admitted Exhibit 11 into the record.

Board Action:

Motion: Jade Jacobo moved to award the attorney's fees and costs of \$940.50 on the basis that they were reasonable, necessary, and actually incurred.

Second: Krystal Freitas

Action: Passed unanimously.

Ms. Lee proposed the following penalties for Las Vegas Scripts Rx Pharmacy License No. PH03930: 1) revocation (effective immediately) and is unable to petition for re-instatement for two years; 2) pay a fine of \$10,000; 3) pay attorney's fees and costs of \$940.50 for investigating and prosecuting this matter; and 4) discipline is reportable to the National Practitioner Data Bank.

Mr. Alexander thinks that revocation of the license is severe and recommends only a fine or additional CE's.

Board discussion ensued.

Ms. Woodrum advised that there was no motion to enter the Stipulated Facts into the record.

Board Action:

Motion: Jade Jacobo moved to find that the Board has jurisdiction consistent with paragraph 1 of the Notice of Intended Action and Accusation.

Second: President Park

Action: Passed unanimously.

Board Action:

Motion: Jade Jacobo moved to adopt the Stipulated Facts and the Facts consistent with paragraphs 2-5, 6B, and 6D of the Accusation.

Second: Gener Tejero

Action: Passed unanimously.

Board discussion ensued on potential penalties for respondents.

Joe Dodge, Investigator for the Nevada Board of Pharmacy, provided testimony that Board has inspected pharmacy and if any issues were found that they would have been brought to Board's attention.

Ms. Lee proposed the following penalties for Nathan Edouard Certificate of Registration No. 19462: 1) revocation effective immediately and placed on probation for two years, 2) pay a fine of \$5,000; 3) pay attorney's fees and costs of \$900 investigating and prosecuting this matter; and 5) discipline is reportable to the National Practitioner Data Bank.

Mr. Edouard provided testimony to the Board and apologized for his errors.

Mr. Alexander commented that the revocation is too severe and suggested that the revocation be stayed for Mr. Edouard.

Board discussion ensued.

Board Action:

Motion: Wayne Mitchell moved to approve the following penalties for Nathan Edouard Certificate of Registration No. 19462: 1) revocation which is immediately stayed and placed on probation for five years; 2) may not be a managing pharmacist for two years; 3) pay a fine of \$5,000; 4) pay \$900 to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter; 5) attend two discipline days for Board Meetings within one year.

Second: Jade Jacobo

Action: Passed unanimously.

Board Action:

Motion: Jade Jacobo moved to approve the following penalties for Las Vegas Scripts Rx Pharmacy License No. PH03930: 1) quarterly inspections at the owner's expense for two years; 2) revocation (which is immediately stayed) and on probation for two years; 3) compounding training for all registered pharmacist(s) who compound within six months (Board staff to approve); 4) pay a fine of

\$10,000; 5) pay \$940.50 to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter.

Second: Rolf Zakariassen

Action: Passed unanimously.

8. Applications for Nevada Pharmacy License (NRS 639.2328) – Appearance (**FOR POSSIBLE ACTION**)

CrowdRx – Black Rock City, NV

Juliana Zschoche, Registered Pharmacist, and Connor Fitzpatrick, Executive Director, appeared and were sworn in by President Park prior to answering questions and offering testimony.

Dave Wuest provided background on application.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve the Nevada Pharmacy License for CrowdRx.

Second: Krystal Freitas

Action: Passed unanimously.

11. Application for Ambulatory Surgery Center License (NAC 639.4992) - Appearance (**FOR POSSIBLE ACTION**)

A. Elko Community Health Center, LLC – Elko, NV

Kevin Brown (Administrator), David Lutz (Managing Director), Andrea Haslehurst (Operating Room Officer), Mary Gear (Contracted Pharmacist), and Jarrett Portz (Managing Partner) appeared and were sworn in by President Park prior to answering questions and offering testimony.

Dave Wuest commented that a temporary license was provided, but they are not operating.

Yenh Long provided background on application and disclosures for Mr. Portz regarding pending lawsuits for an architecture firm seeking recovery fees for an abandonment of a job and fraudulent statements for a company that he invested in.

The Board questioned on the business model of the company.

Mr. Lutz answered to the Board's satisfaction.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve Ambulatory Surgery Center License for Elko Community Health Center.

Second: President Park

Action: Passed unanimously.

B. Silver State Surgery Center West LLC – Las Vegas, NV

President Park commented that Mary Grear (Contracted Pharmacist) is still sworn in from a previous matter.

Selaiman Noori (Co-Owner), Rolonda Johnson (Coordinator), and Mallory Martin (Director of Nursing) appeared and were sworn in by President Park prior to answering questions and offering testimony.

Yenh Long provided background on the application and a disclosure regarding a DUI for Mr. Noori.

Mr. Noori provided background on the events that occurred with his disclosure.

Board discussion ensued.

Board Action:

Motion: Rolf Zakariassen moved to approve the change of ownership for Silver State Surgery Center West LLC.

Second: Jade Jacobo

Action: Passed unanimously.

7. Application for Nevada Compounding Pharmacy License (NRS 639.230) – Appearance **(FOR POSSIBLE ACTION)**

A. American Wellness Pharmacy – Las Vegas, NV

George Maiorano, Co-Owner, and Eytan Klepach, Co-Owner, appeared and were sworn in by President Park prior to answering questions and offering testimony.

Joe Dodge provided background on change of ownership application.

Mr. Dodge wanted clarification from Mr. Maiorano on if they intend to do sterile compounding or if they would like the affidavit removed.

Mr. Maiorano requested that the affidavit be removed from the application.

Mr. Dodge questioned on the change of ownership, any changes in processes, location of the pharmacy, and Mr. Klepach's work history.

Mr. Maiorano and Mr. Klepach answered questions to the Board's satisfaction.

Board discussion ensued.

Board Action:

Motion: Rolf Zakariassen moved to approve the change of ownership and name change for American Wellness Pharmacy.

Second: Jade Jacobo

Action: Passed unanimously.

B. Capsules Rx LLC – Las Vegas, NV

President Park disclosed that she knows Mouna Mazloumi and Ani Avetyan due to her previous employment with Roseman University but stated that she could participate in this matter fairly and without bias.

Krystal Freitas disclosed that she worked with Mouna Mazloumi at her previous employment but stated that she could participate in this matter fairly and without bias.

Mouna Mazloumi and Ani Avetyan appeared and were sworn in by President Park prior to answering questions and offering testimony.

Joe Dodge provided background on application and questioned on the business model and their experience with non-sterile compounding.

Mr. Dodge has concerns that their knowledge of non-sterile compounding is still new.

Ms. Mazloumi and Ms. Avetyan request that they go forward with the application to only do retail pharmacy and will work to get approval to do non-sterile compounding later.

The Board questioned on the business model, their experience as managing pharmacist, and their past work history.

Ms. Mazlouni and Ms. Avetyan answered questions to the Board's satisfaction.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve Nevada Pharmacy License for Capsules Rx LLC pending updated application to remove the service of non-sterile compounding, quarterly inspections at the owner's expense for one year, and a favorable inspection.

Second: Krystal Freitas

Action: Passed unanimously.

C. Indigo Pharmaceutical LLC – Las Vegas, NV

President Park disclosed that she knows Eric Sparks due to her previous employment with Roseman University but stated that she could participate in this matter fairly and without bias.

Eric Sparks, Managing Pharmacist, and Sima Koegel, Owner, appeared and were sworn in by President Park prior to answering questions and offering testimony.

Joe Dodge provided background on application and wanted clarification on if they intend to do sterile compounding and if they would like the affidavit removed.

Mr. Sparks would like the affidavit removed.

Joe Dodge questioned the business model, products being shipped, and Mr. Sparks past work history with compounding.

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

Mr. Dodge is comfortable with Mr. Sparks experience with compounding experience.

Mr. Dodge questioned Ms. Koegel on her experience with pharmacy and what her role for the pharmacy will be.

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

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve Nevada Compounding Pharmacy License for Indigo Pharmaceutical LLC.

Second: Krystal Freitas

Action: Passed unanimously.

Mr. Sparks requested the Board for a temporary license, so he can start the pharmacy.

Dave Wuest commented that he can call the Nevada Board of Pharmacy and discuss with him.

D. KabaFusion NV – Henderson, NV

Gener Tejero recused himself since he was a previous owner of KabaFusion NV.

Smita Njeru (Vice President of Regulatory and Licensing), Felicia Vargo-Johnson (Paralegal), Tina Benkendorfer (Pharmacist and Chief Operating Officer), Jennifer Lindgren (Managing Pharmacist), Tamara Boshans, Pharmacist and Regional Vice President of Operations, appeared and were sworn in by President Park prior to answering questions and offering testimony.

President Park disclosed that she knows Jennifer Lindgren due to her previous employment with Roseman University but stated that she could participate in this matter fairly and without bias.

Joe Dodge provided background on the application and wanted clarification if the Managing Pharmacist has changed.

Ms. Lindgren commented that the Managing Pharmacist has changed an updated application was sent back in June.

Mr. Dodge questioned on the business model, services that they will provide, and Ms. Lindgren's experience with compounding.

Ms. Benkendorfer and Ms. Lindgren answered questions to the Board's satisfaction.

Mr. Dodge feels comfortable with the application.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve change of ownership for KabaFusion NV.

Second: Wayne Mitchell

Action: Passed unanimously.

G. Monicos Pharmacy, LLC – Las Vegas, NV

Jade Jacobo disclosed that she is friends with Adebola Durosawo but stated that she could participate in this matter fairly and without bias.

President Park disclosed that she knows Adebola Durosawo due to her previous employment with Roseman University but stated that she could participate in this matter fairly and without bias.

Adebola Durosawo, Co-Owner and Managing Pharmacist, and Elaine Robles, Co-Owner, appeared and were sworn in by President Park prior to answering questions and offering testimony.

Joe Dodge provided background on application.

Mr. Dodge questioned on the change of ownership, any staffing changes, and products that they plan to compound.

Ms. Durosawo and Ms. Robles answered questions to the Board's satisfaction.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve change of ownership for Monicos Pharmacy.

Second: Krystal Freitas

Action: Passed unanimously.

18. Discussion and possible action to request an Attorney General opinion pursuant to NRS 228.150 on the authority of homeopathic physicians to possess, administer, prescribe, and dispense controlled substances and dangerous drugs (**FOR POSSIBLE ACTION**)

Dave Wuest and Brett Kandt provided background on item.

Board discussion ensued.

Board Action:

Motion: President Park moved to request Attorney General Opinion pursuant to NRS 228.150 on the authority of homeopathic physicians to possess, administer, prescribe, and dispense controlled substances and dangerous drugs.

Second: Jade Jacobo

Action: Passed unanimously.

14. Applications for Controlled Substance Registration (NRS 453.226) – Appearance
(FOR POSSIBLE ACTION)

C. Kent Swaine

Kent Swaine, Mark Chase (Owner of PRN Program), and Praveen Saran (Dr. Swaine's preceptor) appeared and were sworn in by President Park prior to answering questions and offering testimony.

Brett Kandt provided background on disclosures regarding domestic violence, a conviction for obtaining controlled substances by deception, a probation violation, a DUI, and his history of his registration to practice medicine.

The Board questioned on the events that occurred with Dr. Swaine's disclosures, any triggers that could cause him to relapse, what medications would his practice usually prescribe, and the PRN program that Dr. Swaine is admitted in.

Dr. Swaine, Dr. Saran, and Mr. Chase answered questions to the Board's satisfaction.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve controlled substance registration with conditions that Dr. Swaine can only prescribe Schedule IV's and V's and buprenorphine only.

Second: Gener Tejero

Action: Passed unanimously.

15. Request to Engage in the Practice of Pharmacy at a Site Other than a Licensed Pharmacy – Appearance **(FOR POSSIBLE ACTION)**

Stephen McMillan

Krystal Freitas recused herself due to Stephen McMillan being a co-worker that she worked with closely.

Annette Logan Parker, Founder and CEO for Cure 4 the Kids Foundation, and Stephen McMillan appeared and were sworn in by President Park prior to answering questions and offering testimony.

Yenh Long provided background on the appearance regarding Mr. McMillan's request to engage in the practice of pharmacy at a site other than a licensed pharmacy for Cure 4 the Kids Foundation.

The Board questioned Mr. McMillan on the services that he plans to provide.

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

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve Stephen McMillan's request to engage in the practice of pharmacy at a site other than a licensed pharmacy.

Second: Rolf Zakariassen

Action: Passed unanimously.

7. Application for Nevada Compounding Pharmacy License (NRS 639.230) – Appearance **(FOR POSSIBLE ACTION)**

E. Kindred Hospital Las Vegas (E. Flamingo) – Las Vegas, NV

F. Kindred Hospital Las Vegas (Sahara) – Las Vegas, NV

Gabe Scott appeared as counsel on behalf of Kindred Hospital.

Josh Dalton, Director of Pharmacy, appeared and was sworn in by President Park prior to answering questions and offering testimony.

Joe Dodge provided background on application.

Mr. Dodge questioned about the ownership change and if there is any staffing or operation changes.

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

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve change of ownership for Kindred Hospital Las Vegas at E. Flamingo and Sahara locations.

Second: Krystal Freitas

Action: Passed unanimously.

13. Application for Pharmacist Registration by Reciprocity (NRS 639.134) – Appearance
(**FOR POSSIBLE ACTION**)

Michael Schember

Michael Schember appeared and was sworn in by President Park prior to answering questions and offering testimony.

Courtney Lee provided background on application and questioned on if he has been disciplined in Arizona.

Mr. Schember confirmed that he was disciplined in Arizona and would like to update his application to reflect “yes” for the question “Been the subject of a board citation or administrative action or board citation whether completed or pending in any state?”.

Ms. Lee requested more information regarding his disclosure since Mr. Schember did not provide supporting documentation.

Mr Schember explained that the discipline was regarding a miscalculated a prescription and the discipline taken against him.

Ms. Lee wanted confirmation if he is subject of a court order for the support of a child.

Mr. Schember confirmed that he has not children, so the answer is “no”.

The Board requested Mr. Schember to provide an updated application to reflect updated answers.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to approve application for pharmacist registration by reciprocity for Michael Schember pending updated application.

Second: President Park

Action: Passed unanimously.

16. Request for Pharmacist Applicant to Retake the NAPLEX Exam (NRS 639.120(1)) – Appearance: (**FOR POSSIBLE ACTION**)

Ameer Alhaj

Ameer Alhaj appeared and was sworn in by President Park prior to answering questions and offering testimony.

Mr. Alhaj requested another chance to take the NAPLEX as the state of Michigan will not allow him to.

The Board questioned on what occurred with his five NAPLEX attempts and where he intends to practice.

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

Board discussion ensued.

Board Action:

Motion: Richard Tomasso moved to approve Ameer Alhaj one more attempt at the NAPLEX exam.

Second: Jade Jacobo

Action: Passed unanimously.

10. Applications for Out-of-State Wholesaler License (NRS 639.233)
– Appearance (**FOR POSSIBLE ACTION**)

- A. Maquet Cardiovascular, LLC – Wayne, NJ - Background Check Not Required – Manufacturer (NAC 639.593 (7)(d)) – Disclosure

Pierre Kernizan, Designated Representative, appeared and was sworn in by President Park prior to answering questions and offering testimony.

President Park requested a Letter of Authorization from Mr. Kernizan so that he can speak on behalf of the company.

Dave Wuest provided background on application and questioned on the details of their disclosure regarding an FDA administrative fine.

Mr. Kernizan is not familiar with the disclosure.

President Park gave Mr. Kernizan an opportunity to table the application so that he can get a representative who is familiar with the disclosure.

Mr. Kernizan would like to table application.

President Park tabled application at Mr. Kernizan's request.

14. Applications for Controlled Substance Registration (NRS 453.226) – Appearance
(FOR POSSIBLE ACTION)

D. Tri Truong

There was no representative present on behalf of Tri Truong.

21. Executive Secretary Report:

- A. Financial Report
- B. Issuance of Temporary Licenses and Registrations
- C. Change of Address Business List
- D. Meetings with Other Health Care Regulatory Boards
- E. COVID-19 Response
- F. Licensing Software Update
- G. Licensing Activities Report
- H. PMP Integration
- I. Citations & Fines issued pursuant to NRS 632.2895

Dave Wuest provided the Financial Report to the Board's satisfaction.

Board discussion ensued.

20. General Counsel Report. Note: The Board may exclude the public for a report on potential or existing litigation pursuant to NRS 241.015(3)(b)(2).

There was no General Counsel Report.

23. Date and Location of Next Scheduled Board Meeting:

October 12-13, 2022 – Las Vegas, NV

24. Public Comment September 8, 2022, 5:00 PM

There was no public comment.

25. Adjournment

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

KENT HOLTORF,

Respondent.

Case No. 25-289-C-O

**MOTION TO STRIKE/OPPOSITION
TO RESPONDENT'S MOTION TO
DISMISS**

The Nevada State Board of Pharmacy (Board), by and through counsel prosecuting this matter, Laura Tucker, General Counsel, files this motion to strike/opposition to Respondent Kent Holtorf's (Respondent) Motion to Dismiss filed May 29, 2026. This motion/opposition is based upon the following points and authorities and the pleadings on file herein.

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL AND PROCEDURAL BACKGROUND

On or about February 20, 2026, the Board issued a Citation and Fine Order on Respondent alleging violation of Nevada law for unlicensed practice and aiding and abetting unlicensed practice in Nevada. On or about March 19, 2026, Respondent appealed the Citation and Fine Order and requested a hearing before the Board. On or about April 6, 2026, the Board served Respondent with a Statement to the Respondent and Notice of Hearing pursuant to Nevada Revised Statute (NRS) 233B.121 for Respondent's appeal (hereinafter "233B Statement").

II. LEGAL STANDARD

Respondent's appeal is authorized by NRS 639.2895(2) and governed by the statutes for the adjudication of contested cases set forth in NRS 233B.121-126, inclusive. The Board's authority is limited to either upholding or dismissing the citation. See *Andrews v. Nevada State Board of Cosmetology*, 86 Nev. 207,208,467 P.2d 96, 96-96 (1970).

Dismissal for failure to state a claim prior to a hearing should only result if the prosecution can prove no set of facts that support the charges. See *Simpson v. Mars Inc.*, 113 Nev. 188, 190, 929 P.2d

966, 967 (1997). The Board may strike "any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter" filed in this matter. See NRCp 12(f); see also *Jordan v. State*, 121 Nev. 44, 61 n.32, 110 P.3d 30, 43, n.32 (2005), *abrogated on other grounds*.

III. ARGUMENT

Respondent's Motion to Dismiss should must be stricken or denied because it is procedurally improper and without merit.

A. Respondent's Motion to Dismiss is Procedurally Improper pursuant to NRS 639.2895(2) and Nevada law.

Respondent's motion to dismiss is procedurally improper because it asks the Board to dismiss an appeal that Respondent itself requested. Pursuant to NRS 639.2895(2), the Board may issue a citation on entities or individuals who engage in unlicensed activity in Nevada. The statute provides for an appeal in the form of a hearing, not based on motion practice. *See* NRS 639.2895(2). Opportunity must be afforded to all parties to respond and present evidence on argument on all issues involved. NRS 233B.121(4).

Here, Respondent first requested a hearing of the evidence to support the Board's citation, but now seeks dismissal of the citation altogether. The Board's citation authority allows for the Board to issue a citation, and the Respondent may request a hearing in front of the Board to appeal the decision. The statutory framework does not consider motion practice within its citation appeal authority, nor does it logically follow that the Respondent can request a hearing and then ask to dismiss a hearing he requested.

B. The Board Has Subject-Matter Jurisdiction and Administrative-Penalty Authority Over Respondent because Respondent Engaged in Unlicensed Practice of Pharmacy.

Respondent incorrectly asserts that the Board lacks subject matter jurisdiction or administrative-penalty authority over him. The Board has express statutory authority to enforce the provisions of Chapters 453, 454, and 639 of the Nevada Revised Statutes for the protection of the public. NRS 639.070(1)(l); *see also* NRS 454.366. This includes the express authority to issue a citation

and assess an administrative fine for any unlicensed activity falling within the Board's jurisdiction. NRS 639.2895. Furthermore, NRS 639.100(1)(a) states that unlicensed practice includes those who do not hold the appropriate license or permit required by Chapter 639 "or chapter 453 or 454 of NRS."

In asserting this argument, Respondent actually admits to the misconduct alleged: that he "holds no Nevada license." In its 233B statement, the Board alleges that Respondent and/or his agents possessed, furnished, administered and/or dispensed drugs without a license—that is, the unlicensed practice of pharmacy. In Nevada, drugs or medicine may be possessed or furnished by practitioners (among others). NRS 454.213(1)(a). A practitioner is defined as a "physician [...] who holds a valid license to practice his or her profession in this State." NRS 639.0125; NRS 454.00958 (*emphasis added*). Additionally, a dangerous drug "means any drug, other than a controlled substance, unsafe for self-medication or unsupervised use, and includes [...] [a]ny drug which, pursuant to the Board's regulations, may be sold only by prescription because the Board has found those drugs to be dangerous to public health or safety." NRS 454.201(3).

Under Nevada law, peptides are a "drug" because they qualify as a "parenteral solution" within the meaning of NRS 639.0105 and NRS 639.007. This means that the possession, compounding and sale of peptides is restricted pursuant to NRS 639.2806 and NRS 639.2807. The peptides must only be sold by "a pharmacy licensed in this state or a practitioner" and may only be compounded by "a registered pharmacist [...] or a practitioner licensed in this state." NRS 639.2806; NRS 639.2807. Because Respondent is neither a pharmacist nor a practitioner licensed in this state, the sale and furnishing of the peptides amounts to unlicensed practice by which the Board can take action. NRS 639.2895.

IV. Conclusion

For the foregoing reasons, the prosecution respectfully requests that the Board strike or deny Respondent's Motion to Dismiss.

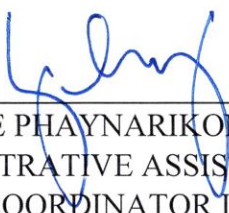
RESPECTFULLY SUBMITTED this 1st day of June 2026.

By: /s/Laura M. Tucker
LAURA M. TUCKER, Esq.
General Counsel
Nevada State Board of Pharmacy
985 Damonte Ranch Parkway, Suite 206
Reno, NV 89521

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 1st day of June 2026, I served a true and correct copy of the foregoing document by Standard U.S. mail to the following:

Kent Holtorf
c/o Chandon Alexander, Esq.
Spartacus Law Firm
3993 Howard Hughes Pkwy, Suite 480
Las Vegas, NV 89169



JESSETTE PHAYNARIKONE
ADMINISTRATIVE ASSISTANT,
BOARD COORDINATOR I



Chandon S. Alexander, Esq.
Nevada Bar No. 12033
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Tel: (702) 660-1234
Fax: (702) 441-1626
Attorney for Respondent

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF
PHARMACY, a Nevada Agency,

Petitioner,

vs.

KENT HOLTORF,

Respondent.

Case No.: 25-289-C-O

REPLY IN SUPPORT OF RESPONDENT'S MOTION TO DISMISS

Respondent Kent Holtorf, M.D. ("Dr. Holtorf"), by and through his undersigned counsel, respectfully submits this Reply in support of his Motion to Dismiss (the "Motion") and in opposition to the Board's Motion to Strike/Opposition to Respondent's Motion to Dismiss (the "Opposition"), filed June 1, 2026. This Reply is based upon the following Memorandum of Points and Authorities, the pleadings and papers on file herein, and any oral argument the Board may entertain at its July 15, 2026 meeting.

DATED this 3rd day of May, 2026.

Respectfully Submitted,

SPARTACUS LAW FIRM

/s/ Chandon Alexander

CHANDON ALEXANDER, ESQ.

Nevada Bar No. 12033

3993 Howard Hughes Pkwy, Suite 480

Las Vegas, Nevada 89169

Attorney for Respondent

FILED

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Opposition confirms the Motion rather than answering it. On the threshold question—whether the Board may entertain a motion to dismiss at all—the Board, through counsel advising its President, has now confirmed in writing that Dr. Holtorf’s Motion “will be heard and there will be a decision rendered” at the July 15, 2026 meeting, before the Board reaches the underlying citation appeal.

That leaves the merits, and on the merits the Opposition is remarkable for what it omits. It never mentions NRS 454.201, the “dangerous drug” definition on which Counts One and Two are built. It does not address the practice-of-medicine argument, the independent failure of NRS 639.285 and NRS 639.100, the facial inapplicability of the individual predicates (NRS 454.217, 639.268(1)(a), NAC 639.757, NRS 200.820 and 200.840, and the federal DSCSA authorities), the due-process and specificity defect, or the request for fees. The Opposition instead advances a single theory the Board’s Notice and Statement (“the Statement”) never pleaded—that the peptides are “parenteral solutions” whose sale is restricted by NRS 639.2806 and NRS 639.2807. That theory fails at the threshold, because a violation of NRS 639.2806 or NRS 639.2807 is not among the four predicates that trigger the Board’s administrative-penalty authority over an unlicensed person under NRS 639.2895; and it fails again because those two statutes, by their terms, govern only parenteral solutions used in a patient’s home or a dependent-care or medical facility, not the on-site administration alleged here.

The Motion should be granted and the Motion to Strike denied.

1 **II. THE BOARD HAS ABANDONED ITS THRESHOLD OBJECTION,**
2 **CONCEDING THAT THE MOTION WILL BE HEARD AND DECIDED**

3 **A. The Board’s counsel has confirmed, in writing, that the Motion will be heard and**
4 **decided on July 15, 2026.**

5 The centerpiece of the Opposition is that the Motion is “procedurally improper” because
6 “[t]he statute provides for an appeal in the form of a hearing, not based on motion practice,” and
7 “[t]he statutory framework does not consider motion practice within its citation appeal
8 authority.” (Opp. at 2.) The Board has since abandoned that position.

9
10 By email dated June 26, 2026, Deputy Attorney General Todd M. Weiss—counsel
11 advising the Board and its President on precisely this question—wrote to counsel for both sides
12 and confirmed that the Board President “is willing to have the motion to dismiss heard and
13 decided before proceeding with the citation appeal”; that “the Board will be posting the attached
14 amended agenda that specifically denotes a hearing on Dr. Holtorf’s motion before moving into
15 the underlying citation appeal in the event the motion fails”; and that “[b]oth sides need to be
16 prepared to argue and present on both the motion to dismiss as well as the citation appeal on July
17 15th.” Counsel left no room for doubt: “Dr. Holtorf’s motion will be heard and there will be a
18 decision rendered at the upcoming meeting.”

19
20
21 The Board thus concedes exactly what the Opposition disputed. The procedural objection
22 is moot. The only question that remains for July 15 is whether the Motion is correct on the
23 merits—and, as shown below and in the Motion, it is.
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27
28

1 **B. In all events, the Board’s “no motion practice” position is wrong as a matter of**
2 **law, and the Board must decide its own jurisdiction.**

3 Even had the Board not withdrawn the objection, it would fail for the reasons set out at
4 length in the Motion. The Nevada Administrative Procedure Act repeatedly contemplates motion
5 practice, see NRS 233B.121(5), (7); the Board’s own regulations and prior practice employ it;
6 every other Nevada licensing board has adopted motion-practice rules pursuant to NRS
7 233B.050(1)(a); and *Andrews v. Nevada State Board of Cosmetology*, 86 Nev. 207, 208, 467
8 P.2d 96, 96 (1970)—the very authority the Board cites—recognizes that an agency holds the
9 powers conferred on it “expressly or by implication.” The authority of an adjudicative body to
10 determine whether it has jurisdiction to hear a matter is the paradigmatic implied power; without
11 it, no agency could discharge its statutory function.
12

13
14 More fundamentally, subject-matter jurisdiction “cannot be conferred by the parties” and
15 “may be raised at any time.” *Landreth v. Malik*, 127 Nev. 175, 179, 251 P.3d 163, 166 (2011);
16 The Board cannot defer that question to post-hearing review while proceeding to exercise the
17 very jurisdiction that is in doubt.
18

19 The Board’s own conduct refutes its position. The Opposition is styled a “Motion to
20 Strike” and expressly invokes NRCP 12(f). A party that files a motion invoking the Rules of
21 Civil Procedure cannot maintain, in the same breath, that “the statutory framework does not
22 consider motion practice.” (Opp. at 2.) See NRCP 12(h)(3) (a tribunal “must dismiss” once it
23 determines it lacks subject-matter jurisdiction).
24

25 **III. THE MOTION TO STRIKE FAILS ON ITS OWN TERMS**

26 To the extent the Board asks that the Motion be “stricken” under NRCP 12(f), the request
27 is misplaced. NRCP 12(f) permits a tribunal to strike matter only “from a pleading”—an
28

1 “insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” A motion
2 to dismiss is not a “pleading.” See NRCP 7(a) (enumerating the pleadings, i.e., a complaint, an
3 answer, and the like).

4 Striking is, in any event, a drastic remedy reserved for matter that can have no possible
5 bearing on the proceeding. A motion challenging the Board’s subject-matter jurisdiction—the
6 threshold question in any adjudication—is neither “immaterial,” “impertinent,” nor
7 “scandalous.” It is the first question the Board must answer. The Motion to Strike should be
8 denied.
9

10 **IV. THE OPPOSITION CONCEDES THE MOTION’S DISPOSITIVE**
11 **ARGUMENTS BY FAILING TO ADDRESS THEM**
12

13 A movant is entitled to have unopposed arguments treated as conceded. The Opposition
14 contests only two things—whether the Motion may be brought at all and whether the Board has
15 jurisdiction because the peptides are “parenteral solutions”. It says nothing about the remainder
16 of the Motion. In particular, the Opposition does not respond to, and therefore concedes:

- 17 • that of the fifteen-plus authorities the Complaint cites, only NRS 639.100(1) and
18 NRS 639.285 even arguably fall within the Board’s NRS 639.2895 penalty
19 authority, and that the Chapter 454 criminal provisions (whose recovery NRS
20 639.300 assigns to the district attorney), the Title 15 criminal statutes (NRS
21 200.820, 200.840), and the federal DSCSA authorities are enforceable by other
22 authorities, not by this Board (Motion § A);
23
- 24 • that the peptides are not “dangerous drugs” under NRS 454.201, because the
25 Board has adopted no regulation classifying them as such (Motion § B)—the
26 Opposition does not so much as cite NRS 454.201;
27
28

- 1 • that the conduct alleged—administration during medical consultations, in the
- 2 alleged absence of a “bona fide therapeutic relationship,” “diagnosis,” and
- 3 “medical necessity”—is the practice of medicine governed by NRS Chapter 630,
- 4 not the practice of pharmacy (Motion § C);
- 5 • that NRS 639.285 is not satisfied because no “sale” of a “prescription drug” is
- 6 alleged (Motion § D.1);
- 7 • that NRS 639.100 and Count Three fail because the conduct falls within the
- 8 exclusions of NRS 639.0155, the substances are not “prescription drugs,” and no
- 9 Nevada statute imposes purchaser liability (Motion § D.2);
- 10 • that NRS 454.217 (botulinum-derived neuromodulators), NRS 639.268(1)(a)
- 11 (Nevada-licensed practitioners), and NAC 639.757 (pharmacies and pharmacists)
- 12 are facially inapplicable to Dr. Holtorf and to these substances (Motion § E);
- 13 • that the Complaint’s “and/or” pleading against “Holtorf and/or employees and/or
- 14 agents” violates NRS 233B.121(1)(d) and due process (Motion § F); and
- 15 • Respondent’s request for reasonable attorney’s fees and costs (Motion § G).
- 16
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19 Each of these arguments, standing alone, requires dismissal of one or more counts. Left
20 unanswered, they should be deemed admitted.

21 **V. THE BOARD’S SOLE MERITS THEORY—THAT THE PEPTIDES ARE**
22 **“PARENTERAL SOLUTIONS”—DOES NOT SAVE THE COMPLAINT**

23 The Opposition’s one affirmative argument is that the peptides “qualify as a ‘parenteral
24 solution’ within the meaning of NRS 639.0105 and NRS 639.007,” that “the possession,
25 compounding and sale of peptides is restricted pursuant to NRS 639.2806 and NRS 639.2807,”
26 and that because Dr. Holtorf is “neither a pharmacist nor a practitioner licensed in this state,” the
27
28

1 “sale and furnishing of the peptides amounts to unlicensed practice” actionable under NRS
2 639.2895. (Opp. at 2-3.) The argument is unavailing.

3 **A. An alleged violation of NRS 639.2806 or NRS 639.2807 is not a predicate for**
4 **administrative penalties under NRS 639.2895.**

5 The Board’s penalty authority over an unlicensed person is not open-ended. It exists only
6 where “the Board determines that a person has violated subsection 1 of NRS 639.100, subsection
7 1 of NRS 639.2813 or NRS 639.284 or 639.285.” NRS 639.2895. That enumeration is
8 exhaustive. NRS 639.2806 and NRS 639.2807—the only substantive provisions the Opposition
9 actually invokes—appear nowhere within it. Even if Dr. Holtorf had violated NRS 639.2806 or
10 NRS 639.2807 (he did not), the Board would have no authority to issue a citation, a cease-and-
11 desist order, or an administrative fine against him on that basis. The Opposition’s theory never
12 connects the alleged conduct to any of the four predicates the Legislature actually enumerated.
13

14 **B. In any event, NRS 639.2806 and NRS 639.2807 do not reach the conduct alleged.**

15 The Board’s reliance on the parenteral-solution statutes is doubly mistaken, because
16 those statutes do not govern the conduct alleged here. Both are confined, by their own terms, to
17 the home-infusion setting. NRS 639.2806 applies only to “[a] parenteral solution which is used
18 by a patient in his or her home or in a facility for the dependent or a medical facility, other than
19 a hospital.” NRS 639.2807 is identical in scope, reaching only “[a]ny parenteral for use in a
20 home or a facility for the dependent or a medical facility, other than a hospital.” These are the
21 provisions that govern home intravenous therapy and comparable home and long-term-care
22 infusions; NRS 639.2806, for example, requires that a “registered nurse [be] available at all times
23 for immediate assistance to the patient.” NRS 639.2806(3).
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1 The Statement alleges nothing of the kind. It alleges the on-site administration of
2 injections at a clinical booth at a convention (RAADFest) at a Las Vegas resort. A convention
3 booth is not a patient's "home," a "facility for the dependent," or a licensed "medical facility"
4 within the meaning of these provisions. NRS 639.2806 and NRS 639.2807 have no application
5 to the conduct alleged and cannot supply the "unlicensed practice" the Opposition asserts.
6

7 **C. The pivot to "parenteral solutions" concedes that the peptides are not**
8 **"dangerous drugs"—abandoning the predicate on which Counts One and Two are**
9 **pleaded.**

10 The Board's new theory is also a tacit concession. Counts One and Two are pleaded
11 entirely on Chapter 454 statutes that are triggered only by a "dangerous drug" as defined in NRS
12 454.201. The Motion demonstrated (§ B) that the peptides satisfy none of the three prongs of
13 that closed definition and that the Board has adopted no regulation classifying them as
14 "dangerous," as NRS 454.201(3) requires. The Opposition does not dispute any of this. It does
15 not cite NRS 454.201 at all. Instead it retreats to the general "drug" and "parenteral solution"
16 definitions of NRS 639.007 and NRS 639.0105—a retreat that concedes the peptides are not
17 "dangerous drugs" and that Counts One and Two, as pleaded, cannot stand.
18

19 The Board cannot rescue those counts by re-pleading them in an opposition brief. A
20 respondent is entitled to notice of the charges actually made against him, NRS 233B.121(1)(d);
21 the Board may not litigate a "parenteral solution" theory it never charged. And even if it could,
22 that theory would fail for the two independent reasons just given. That the peptides may be
23 injectable "drugs" in the generic sense does not make them "dangerous drugs" the Board may
24 regulate, does not bring NRS 639.2806 or NRS 639.2807 within NRS 639.2895, and does not
25 convert a physician's clinical administration into the practice of pharmacy.
26
27
28

1 **VI. CONCLUSION**

2 For the foregoing reasons, and those set forth in the Motion, Respondent respectfully
3 requests that the Board (1) deny the Motion to Strike; (2) grant the Motion to Dismiss; (3) rescind
4 the February 20, 2026 Order to Cease-and-Desist/Citation and Fine in its entirety, and any
5 administrative fine assessed thereunder, pursuant to NRS 639.2895(2); (4) dismiss the Statement
6 to the Respondent and Notice of Hearing, Case No. 25-289-C-O, with prejudice; and (5) award
7 Respondent his reasonable attorney's fees and costs pursuant to NRS 233B.130, NRS 233B.135,
8 and/or NRS 18.010(2)(b).
9
10
11

12 Dated this 3rd day of July, 2026.

Respectfully Submitted,

14 **SPARTACUS LAW FIRM**

16 /s/ Chandon S. Alexander
17 Chandon S. Alexander, Esq.
18 Nevada Bar No. 12033
19 3993 Howard Hughes Pkwy, Suite 480
20 Las Vegas, Nevada 89169
21 *Attorney for Respondent*
22
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 3rd day of July, 2026, I caused the preceding document
3 entitled **REPLY IN SUPPORT OF RESPONDENT'S MOTION TO DISMISS** to be served
4 on the following parties via email:
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/s/ Chandon S. Alexander
An Employee of SPARTACUS LAW FIRM



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8 *Attorney for Respondent*

6 **BEFORE THE NEVADA STATE BOARD OF PHARMACY**

7 NEVADA STATE BOARD OF
8 PHARMACY, a Nevada Agency,

Case No.: 25-289-C-O

9 Petitioner,

10 vs.

11 KENT HOLTORF,

12 Respondent.

13 **RESPONDENT'S MOTION FOR SPECIAL SESSION**

14
15 Respondent KENT HOLTORF, by and through counsel, respectfully moves the Board
16 to set this matter for a special session or, in the alternative, to schedule the hearing at a time on
17 the Board's agenda that will permit sufficient time to hear the matter in full. This Motion is filed
18 concurrently with Respondent's Motion to Continue the July 15, 2026 Hearing, Respondent's
19 Request to the Executive Secretary for Issuance of Subpoenas, and Respondent's Second Motion
20 to Dismiss.
21

22 The legal and factual issues in this matter are complex. The charges turn on the regulatory
23 and scientific classification of an array of investigational peptides, and on contested issues of
24 causation concerning the adverse reactions alleged. Respondent has retained several experts
25 across the relevant disciplines, and expert testimony will be necessary, particularly on causation.
26 The Board's recent supplemental production of July 1, 2026 has further expanded the factual
27
28

1 issues and the number of potential witnesses, including a newly disclosed witness and a co-
2 subject of the investigation who now appears on the Board's witness list.

3 Dr. Holtorf is entitled to due process and a fair hearing, including "the opportunity to be
4 heard at a meaningful time and in a meaningful manner," *Mathews v. Eldridge*, 424 U.S. 319,
5 333 (1976), and the opportunity "to respond and present evidence and argument on all issues
6 involved," NRS 233B.121(4). Given the complexity of the issues and the number of witnesses,
7 a hearing constrained by a routine agenda slot risks depriving Respondent of that opportunity. A
8 special session — or, alternatively, a setting at a time when the Board's agenda permits sufficient
9 time — will ensure that the matter is heard fully and fairly.

12 For these reasons, Respondent respectfully requests that the Board (1) set this matter for
13 a special session; or (2) in the alternative, schedule the hearing at a time on the Board's agenda
14 that will permit sufficient time to hear the matter in full; and grant such other and further relief
15 as is just.

17 DATED this 3rd day of July, 2026.

Respectfully Submitted,

19 SPARTACUS LAW FIRM

20 /s/ Chandon Alexander

CHANDON ALEXANDER, ESQ.

21 Nevada Bar No. 12033

22 3993 Howard Hughes Pkwy, Suite 480

23 Las Vegas, Nevada 89169

Attorney for Respondent

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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of July, 2026, I caused the preceding document entitled **RESPONDENT’S MOTION FOR SPECIAL SESSION** to be served on the following parties via email:

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9 **BEFORE THE NEVADA STATE BOARD OF PHARMACY**

10 NEVADA STATE BOARD OF
11 PHARMACY, a Nevada Agency,

Case No.: 25-289-C-O

12 Petitioner,

13 vs.

14 KENT HOLTORF,

15 Respondent.

16 **RESPONDENT'S MOTION TO CONTINUE THE JULY 15, 2026 HEARING**

17 COMES NOW Respondent KENT HOLTORF ("Respondent" or "Dr. Holtorf"), by
18 and through his counsel of record, Chandon S. Alexander, Esq., of the SPARTACUS LAW
19 FIRM, and hereby respectfully moves the Board to continue the hearing currently scheduled
20 for July 15, 2026, for a period of at least ninety (90) days, or to such other date on the Board's
21 calendar as will permit the issuance of the subpoenas described below, the production of the
22 responsive records, and adequate time thereafter for Respondent's retained experts to review
23 those records.

24 **Given the timing and time-sensitivity of the matters raised herein, Respondent**
25 **respectfully requests that this Motion be decided, and granted, in advance of the July 15,**
26 **2026 hearing date.**

1 This Motion is based upon the following Memorandum of Points and Authorities, the
2 concurrently filed Declaration of Chandon S. Alexander, Esq. ("Alexander Decl."), the exhibits
3 attached hereto, the papers and pleadings on file, and any oral argument the Board may permit.

4
5 DATED this 3rd day of July, 2026.

Respectfully Submitted,

6 **SPARTACUS LAW FIRM**

7 /s/ Chandon Alexander

8 CHANDON ALEXANDER, ESQ.

9 Nevada Bar No. 12033

3993 Howard Hughes Pkwy, Suite 480

Las Vegas, Nevada 89169

10 *Attorney for Respondent*

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12
13 **I. INTRODUCTION**

14 Two weeks before the July 15, 2026 hearing, on July 1, 2026, the Board produced a
15 supplemental discovery file that materially changes the posture of this case. The centerpiece of
16 that production is the Board's Supplemental Investigative Report #1 (Declaration of Chandon S.
17 Alexander ("Alexander Decl."), **Exhibit B**), which summarizes a video-recorded Zoom
18 interview of Nurse Practitioner Darrell "DJ" Linders conducted on June 25, 2026. Neither the
19 interview, nor its existence, nor the fact that it was recorded, had been disclosed to Respondent
20 before July 1. The interview was attended by the Board's Chief Investigator, its Investigator, the
21 Board's Executive Secretary, and two Board attorneys.

22
23
24 The Linders account set forth in Supplemental Report #1 differs substantially from the
25 material contained in the Board's initial Investigative Report served on Respondent on or about
26 April 23, 2026 (Alexander Decl., **Exhibit A**), and it advances new factual assertions directed
27 squarely at Dr. Holtorf's alleged responsibility for the administration of the peptides at issue.
28

1 Where the initial record cast Mr. Linders as a peripheral provider of ozone and ultraviolet-light
2 services who denied any role in peptide assessment, mixing, or recommendation, the
3 supplemental record recasts him as a cooperating witness who now states that he is “willing to
4 testify,” who identifies additional persons and documents, and whose testimony is directed at
5 Dr. Holtorf’s alleged knowledge of and control over the peptide administration. Mr. Linders —
6 himself a subject of the same investigation — now also appears on the Board’s agenda and
7 witness list for the same July hearing, and the July 1 production identifies at least one previously
8 undisclosed witness, Christina Ristovski.
9

10
11 Because this newly produced material bears directly on the allegations against Dr.
12 Holtorf, and because it was produced only two weeks before hearing, Respondent requires a
13 reasonable opportunity to investigate it, to obtain records necessary to test it, and to have his
14 retained experts evaluate it before the Board is asked to weigh it. That opportunity cannot be
15 afforded on the current schedule. In particular, the new material makes it necessary for the
16 Executive Secretary to issue subpoenas under NRS 639.246, and for the responsive records to
17 be produced and reviewed, before any hearing can fairly proceed.
18

19 This Motion is not made for the purpose of delay. It is the second request for a
20 continuance and is largely predicated on the Board’s July 1 supplemental production; the only
21 prior continuance in this matter was obtained by stipulation and on different grounds. As set
22 forth below, good cause exists under NRS 639.247, NAC 639.120, the Nevada Administrative
23 Procedure Act, and the guarantees of procedural due process.
24

25
26 **Further, given the urgency and time-sensitivity, Respondent requests that this**
27 **Motion be decided, and granted, before the July 15, 2026 Hearing.**
28

1 **II. FACTUAL AND PROCEDURAL BACKGROUND**

2 The Complaint charges Respondent — a California-domiciled physician who holds no
3 Nevada license — with violations predicated on the asserted regulatory status of an array of
4 investigational peptides (including MOTS-c, P21, BPC-157, TB4, Humanin, ACE-31, and CJC
5 peptides) as “dangerous drugs” under NRS 454.201. The regulatory, pharmacological, and
6 scientific classification of those substances lies at the heart of the defense, and the causation (or
7 lack thereof) of the adverse reactions alleged in the Complaint is a central, expert-dependent
8 issue. Respondent has retained several experts whose disciplines map onto the Board’s
9 allegations. Alexander Decl. ¶ 4.
10

11
12 The hearing in this matter was originally set for June 3, 2026. By stipulation of the parties,
13 the Board continued that hearing to July 15, 2026. Alexander Decl. ¶ 5.
14

15 On July 1, 2026 — fourteen days before the continued hearing date — Board counsel
16 produced a supplemental discovery file (Alexander Decl., **Exhibit B**) and advised that a witness
17 list and exhibits would follow. Alexander Decl. ¶ 6. That production included the Board’s
18 Supplemental Investigative Report #1, summarizing a video-recorded Zoom interview of NP
19 Linders conducted six days earlier, on June 25, 2026. Alexander Decl. ¶ 7. The report reflects
20 that the interview was recorded with the participation of the Board’s Chief Investigator, its
21 Investigator, the Board’s Executive Secretary, and two Board attorneys. *Id.* The July 1
22 production also included newly produced financial and travel records — including payment
23 records, a Form W-9, and airfare receipts — bearing on the relationships among Holtorf Medical
24 Group, Dr. Holtorf, Dr. Nguyen, and Mr. Linders. *Id.*
25
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1 The substance of Mr. Linders' June 25 account differs materially from his prior written
2 response and from the initial Investigative Report (Alexander Decl., Exhibit A). Alexander Decl.
3 ¶ 8. Mr. Linders — a subject of the same investigation — now states that he is willing to testify
4 and appears on the Board's agenda and witness list for the July hearing, and the production
5 identifies a previously undisclosed witness, Christina Ristovski. *Id.* ¶¶ 8–9.
6

7 **III. ARGUMENT**

8 **A. The Governing Standard Permits a Continuance for Cause Shown, and Due** 9 **Process Requires a Meaningful Opportunity To Be Heard.** 10

11 The Board's enabling statute authorizes the presiding officer to grant a continuance "for
12 cause shown." NRS 639.247(2). By regulation, the Board provides that a continuance may be
13 granted upon a joint stipulation of the parties, the existence of an emergency condition, or a
14 timely written request; a written request must be "filed at least 5 days before the date of the
15 hearing and actually served upon the other parties at least 1 day before the date of the hearing."
16 NAC 639.120(1). The Board may also depart from its ordinary hearing procedure "for good
17 cause or to prevent manifest injustice." NAC 639.120(2). This Motion is filed and served well
18 in excess of those minimum time requirements and therefore satisfies NAC 639.120(1)(c). The
19 late supplemental production also independently constitutes an "emergency condition" within
20 the meaning of NAC 639.120(1)(b).
21

22 The Nevada Supreme Court has long held that the denial of a reasonable continuance is
23 an abuse of discretion where "the delay is not the particular fault of counsel or the parties" and
24 "the purpose of the motion is to procure important witnesses." *Lord v. State*, 107 Nev. 28, 42–
25 43 (1991); *see also Colgain v. State*, 102 Nev. 220 (1986); *Banks v. State*, 101 Nev. 771 (1985).
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1 That principle applies with at least equal force in an administrative contested case, where
2 procedural due process requires “the opportunity to be heard at a meaningful time and in a
3 meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). The Nevada
4 Administrative Procedure Act codifies the same guarantee, stating that “[o]ppportunity must be
5 afforded all parties to respond and present evidence and argument on all issues involved.” NRS
6 233B.121(4).
7

8 **B. The Board’s Late Supplemental Production Materially Changed the Posture of**
9 **the Case Two Weeks Before Hearing.**
10

11 The June 25, 2026 interview and Supplemental Report #1 are not incremental. They
12 transform a subject of the investigation — Mr. Linders, whose prior response disclaimed any
13 role in the peptide process beyond administering a single cocktail at the pharmacist’s direction
14 — into a cooperating witness whose account is directed at the central contested issue in this case:
15 Dr. Holtorf’s alleged knowledge of, and responsibility for, the administration of the peptides.
16

17 The production of this material only fourteen (14) days before hearing leaves Respondent
18 without a fair opportunity to run down the new assertions, to identify and interview the newly
19 named individuals, to obtain the underlying records, and to have his retained experts account for
20 the new material in their opinions. Proceeding to hearing on July 15 would require Respondent
21 to meet a reshaped case on two weeks’ notice — the antithesis of the “meaningful” opportunity
22 guaranteed by *Mathews* and NRS 233B.121(4).
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1 **C. The New Material Necessitates Subpoenas Under NRS 639.246 and Time for**
2 **Production and Expert Review.**

3 By statute, “[t]he Executive Secretary of the Board shall issue subpoenas for the
4 production of witnesses, documents or papers . . . at the request of any party to a hearing.” NRS
5 639.246 (emphasis added). Respondent is invoking that mechanism with a concurrently filed
6 request. In light of the July 1 production, Respondent will be requesting that the Executive
7 Secretary issue subpoenas, among others, to (1) the Nevada Department of Health and Human
8 Services, for the health records of all persons alleged to have experienced reactions to the alleged
9 peptide administration, which records are directly relevant to causation; (2) the Nevada State
10 Board of Nursing and (3) Mr. Linders, for any responses or statements made by Mr. Linders in
11 connection with the Nursing Board’s investigation and any settlement, consent order, stipulation,
12 or other disposition relating thereto, which bear directly on Mr. Linders’ bias, motive, and
13 credibility as a witness against Dr. Holtorf. Alexander Decl. ¶ 10.
14

15
16 Respondent has also requested directly from Board counsel a complete copy of the video
17 recording of the June 25, 2026 interview of Mr. Linders, together with any transcript, audio,
18 notes, or other recordings of that interview; disclosure of whether Mr. Linders has entered into,
19 or is negotiating, any stipulation, consent agreement, settlement agreement, or other informal
20 disposition with the Board of Pharmacy, and the terms of any such agreement; and all records,
21 statements, and underlying documentation relating to the newly identified witness, Christina
22 Ristovski, including any medical or treatment records concerning the alleged peptide
23 administration and reaction. Alexander Decl. ¶ 11. Any consent or settlement agreement
24 resolving Mr. Linders’ own exposure is directly relevant to his credibility, and Respondent
25
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1 contends that such agreements are public records under NRS 622.330 and NRS 622A.170 (see
2 also NRS 639.2485).

3 These are not abstract requests. The Nevada Supreme Court has held that the fundamental
4 fairness of the Board's own disciplinary procedures depends on the availability of exactly these
5 mechanisms: under NRS 639.246, "the Executive Secretary of the Board must issue subpoenas
6 on behalf of any party for the production of witnesses, documents, or papers," and under NRS
7 639.2485 the documents and information considered by the Board are public records to which
8 the parties have access. *Dutchess Bus. Servs. v. State, Bd. of Pharmacy*, 124 Nev. 701, 191 P.3d
9 1159 (2008).
10

11
12 Those mechanisms are meaningful, however, only if a party is afforded time to invoke
13 them. A late production of significant new material, coupled with a refusal to allow time to
14 subpoena and review the underlying records, would render the very procedures that supply the
15 Board's due-process legitimacy illusory. A continuance of sufficient length to permit the
16 issuance of the subpoenas, the production of the responsive records, and adequate expert review
17 thereafter is therefore necessary. Alexander Decl. ¶¶ 10–12.
18

19
20 **D. The Delay Is Not the Fault of Respondent or Counsel, and a Continuance Will**
21 **Not Prejudice the Board.**

22 The timing is entirely of the Board's making. The Board conducted the Linders interview
23 on June 25, 2026 and produced the resulting report on July 1, 2026 — two weeks before the
24 hearing it had set. Respondent could not have investigated, subpoenaed records concerning, or
25 prepared expert responses to material he had never seen. The delay is thus "not the particular
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1 fault of counsel or the parties,” and the purpose of the requested continuance is “to procure
2 important witnesses” and evidence. *Lord*, 107 Nev. at 42–43.

3 A continuance of approximately ninety (90) days will not prejudice the Board. The
4 conduct alleged in the Complaint occurred in July 2025,. A modest continuance will not
5 materially affect the Board’s ability to adjudicate the claims fairly. By contrast, requiring
6 Respondent to proceed without the ability to test the Board’s newly produced material — without
7 the subpoenaed records, without his experts’ evaluation of that material, and without a fair
8 opportunity to develop the credibility and bias issues the new material raises — would deprive
9 Respondent of a meaningful opportunity to be heard and would risk an adjudication on a
10 materially incomplete record. Alexander Decl. ¶ 13.

13 **E. To the Extent NAC 639.120 Is Construed To Require “Narrow” Construction of**
14 **Good Cause or Appearance at the Hearing, That Construction Exceeds the Board’s**
15 **Statutory Authority and Violates the APA and Due Process.**
16

17 Respondent submits that ample good cause exists under any standard. To the extent the
18 Board views NAC 639.120 as imposing either a “narrowly construed” good-cause standard or a
19 requirement that the movant appear at the hearing to obtain a continuance, Respondent
20 respectfully submits that those features of the regulation are inconsistent with the Board’s
21 enabling legislation, the Nevada Administrative Procedure Act, and procedural due process, and
22 preserves the objection for judicial review under NRS 233B.135.

24 NAC 639.120’s “narrowly construed” gloss exceeds the Board’s regulatory authority.
25 The Board’s enabling statute authorizes continuances “for cause shown.” NRS 639.247(2). The
26 Board’s general rulemaking power extends only to “regulations, not inconsistent with the laws
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28

1 of this State.” NRS 639.070(1)(a). A regulation that engrafts a “must be narrowly construed”
2 limitation onto the Legislature’s “for cause shown” standard does not implement the statute —
3 it narrows it, and thereby conflicts with it. The Nevada Supreme Court has held that the Board
4 may not, under its NRS 639.070 rulemaking power, “diminish or add to” the standards the
5 Legislature has prescribed. *Estes v. Nevada State Bd. of Pharmacy*, 60 Nev. 389, 111 P.2d 48,
6 49 (1941). To the extent NAC 639.120 would compel the presiding officer to construe “good
7 cause” more grudgingly than NRS 639.247(2) permits, it is *ultra vires* and unenforceable, and
8 the statutory “for cause shown” standard governs. The regulation is also in tension with NRS
9 233B.121(4), which guarantees that “[o]ppportunity must be afforded all parties to respond and
10 present evidence and argument on all issues involved.” At a minimum, the Board should construe
11 and apply NAC 639.120 consistently with its enabling statute and with due process, and should
12 exercise its authority under NAC 639.120(2) to prevent manifest injustice.
13
14

15 Further, NAC 639.120’s requirement that “[a] party requesting a continuance must
16 appear on the date of the hearing and be prepared to proceed unless the request has been made
17 pursuant to a joint stipulation” is, as applied to a timely written pre-hearing request, both wasteful
18 and inconsistent with due process. Read literally, the regulation permits a contested written
19 continuance request to go undecided until the hearing date itself, requiring the movant — and
20 every witness the movant would call, including retained experts who charge for their time and
21 travel — to assemble and appear “prepared to proceed” at the very hearing the movant is asking
22 to continue. That regime imposes precisely the multiplied expense and burden a pre-hearing
23 continuance is meant to avoid; it deprives the presiding officer of any orderly mechanism to rule
24 in advance; and it puts the moving party to an untenable choice between appearing “prepared to
25 proceed” (undercutting the good-cause showing) and risking a default. The enabling statute
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1 contains no such appearance precondition. *See* NRS 639.247. Applying that precondition to
2 defeat or defer a meritorious, timely written request would offend the guarantee of a meaningful
3 opportunity to be heard. *Mathews*, 424 U.S. at 333; NRS 233B.121(4). Respondent therefore
4 respectfully requests that the presiding officer rule on this written request in advance of the July
5 15 hearing, and preserves all objections to the contrary for judicial review.
6

7 **IV. CONCLUSION**

8 For the foregoing reasons, Respondent respectfully requests that the Board (1) continue
9 the hearing presently scheduled for July 15, 2026 for a period of approximately ninety (90) days,
10 or to such other date on the Board's calendar as will permit the issuance of the subpoenas
11 described herein, the production of the responsive records, and adequate time thereafter for
12 Respondent's retained experts to review those records; (2) and grant such other and further relief
13 as the Board deems just and proper.
14
15

16 **Further, given the urgency and time-sensitivity, Respondent requests that this**
17 **Motion be decided, and granted, before the July 15, 2026 Hearing.**
18
19

20 Dated this 3rd day of July, 2026.

Respectfully Submitted,

21
22 **SPARTACUS LAW FIRM**

23 /s/ Chandon S. Alexander
24 Chandon S. Alexander, Esq.
25 Nevada Bar No. 12033
26 3993 Howard Hughes Pkwy, Suite 480
27 Las Vegas, Nevada 89169
28 *Attorney for Respondent*

1 **DECLARATION OF CHANDON S. ALEXANDER, ESQ.**

2
3 CHANDON S. ALEXANDER, ESQ., hereby deposes and states the following under the pains
4 and penalties of perjury:

5 1. I am an attorney licensed to practice law in the State of Nevada and am counsel
6 of record for Respondent KENT HOLTORF in Case No. 25-289-C-O before the Nevada State
7 Board of Pharmacy. I have personal knowledge of the facts set forth herein and, if called as a
8 witness, could and would competently testify thereto.

9 2. This Declaration is submitted in support of Respondent's Motion to Continue
10 the July 15, 2026 hearing.

11 3. The Complaint charges Respondent with violations predicated on the asserted
12 regulatory status of an array of investigational peptides, including MOTS-c, P21, BPC-157,
13 TB4, Humanin, ACE-31, and CJC peptides. The regulatory and scientific classification of
14 those substances, and the causation of the adverse reactions alleged, are central and expert-
15 dependent issues in this matter.

16 4. Respondent has retained several expert witnesses whose disciplines map onto
17 the Board's allegations. These experts will need time to review the additional evidence
18 produced by Board counsel, and additional evidence sought in Respondent's concurrently
19 filed Request for Subpoena.

20 5. The hearing in this matter was originally scheduled for June 3, 2026. By
21 stipulation of the parties, the Board continued the hearing to July 15, 2026.

22 6. On July 1, 2026, Board counsel produced a supplemental discovery file
23 (attached as **Exhibit B**) and advised that a witness list and exhibits would follow.

24 7. Included in that July 1, 2026 production is the Board's Supplemental
25 Investigative Report #1, which summarizes a video-recorded Zoom interview of NP Darrell
26 "DJ" Linders conducted on June 25, 2026. The report reflects that the interview was recorded
27 with the participation of the Board's Chief Investigator, the Board's Investigator, the Board's
28 Executive Secretary, and two Board attorneys. Neither the interview, nor its existence, nor the

1 fact that it was recorded, had been disclosed to Respondent before July 1, 2026. The July 1
2 production also included newly produced financial and travel records bearing on the
3 relationships among Holtorf Medical Group, Dr. Holtorf, Dr. Nguyen, and Mr. Linders.

4 8. The account attributed to Mr. Linders in Supplemental Report #1 differs
5 substantially from his prior written response and from the Board's initial Investigative Report
6 served on Respondent on or about April 23, 2026 (attached as Exhibit A), and it advances new
7 factual assertions directed at Dr. Holtorf's alleged knowledge of and responsibility for the
8 administration of the peptides. It also identifies additional individuals and potential witnesses.

9 9. Mr. Linders — himself a subject of the Board's investigation — now states
10 that he is willing to testify and appears on the Board's agenda and witness list for the July
11 hearing. The July 1 production identifies at least one previously undisclosed witness,
12 Christina Ristovski.

13 10. In light of the July 1 production, Respondent will be requesting that the
14 Executive Secretary of the Board issue subpoenas pursuant to NRS 639.246, including
15 subpoenas to the Nevada Department of Health and Human Services for the health records of
16 all persons alleged to have experienced reactions to the alleged peptide administration, which
17 are relevant to causation, and to the Nevada State Board of Nursing and Mr. Linders for any
18 responses or statements made by Mr. Linders in connection with the Nursing Board's
19 investigation and any settlement, consent order, stipulation, or other disposition relating
20 thereto, which are relevant to Mr. Linders' bias, motive, and credibility.

21 11. Respondent has also requested directly of Board counsel a complete copy of
22 the video recording of the June 25, 2026 interview (together with any transcript, audio, or
23 notes); disclosure of whether Mr. Linders has entered into or is negotiating any stipulation,
24 consent, or settlement with the Board of Pharmacy, and the terms thereof; and all records and
25 documentation relating to the newly identified witness, Christina Ristovski, including any
26 medical or treatment records concerning the alleged peptide administration and reaction.

27 12. The retained experts cannot meaningfully evaluate the newly produced
28 material — including the causation and credibility issues it raises — without the records

1 described above. A continuance of sufficient length is necessary to permit the issuance of the
2 subpoenas, the production of the responsive records, and adequate time thereafter for the
3 experts' review.

4 13. A continuance of approximately ninety (90) days is reasonable under the
5 circumstances and will not cause undue prejudice to any party. This Motion is not made for
6 the purpose of delay; it is the second request for a continuance and is predicated on the
7 Board's July 1, 2026 supplemental production. On July 2, 2026, I requested that Board
8 counsel stipulate to a continuance in light of that production.

9 14. Attached hereto as **Exhibit A** is a true and correct copy of the Board's initial
10 Investigative Report, Case No. 25-289 (Bates Holtorf 25-289-O. 0001-0036). Attached hereto
11 as **Exhibit B** is a true and correct copy of the Board's July 1, 2026 supplemental production
12 (Bates Holtorf 25-289-O. 0037-0049), including Supplemental Investigative Report #1.

13
14 I declare under penalty of perjury pursuant to the laws of the State of Nevada (NRS
15 53.045)¹

16 DATED this 3rd day of July, 2026.

17
18 /s/ Chandon S. Alexander
19 CHANDON S. ALEXANDER, ESQ
20
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26
27 ¹ NRS 53.045 Use of unsworn declaration in lieu of affidavit or other sworn declaration. Any matter whose
28 existence or truth may be established by an affidavit or other sworn declaration may be established with the same
effect by an unsworn declaration of its existence or truth signed by the declarant under penalty of perjury, and
dated, in substantially the following form: 1. If executed in this State: "I declare under penalty of perjury that the
foregoing is true and correct."

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15

EXHIBIT A



NEVADA STATE BOARD OF PHARMACY INVESTIGATIVE REPORT

CASE NUMBER: 25-289-S

COMPLAINANT: Internal/ NV Board of Pharmacy

RESPONDENT(S): Han Nguyen, Pharm D
Darrell Linders, APRN
Kent Holtorf, M.D.

INVESTIGATOR: Dena McClish

COMPLAINT SYNOPSIS:

During the weekend of 07/11/2025 – 07/13/2025, there was a “Revolution Against Aging and Death” (RAAD) festival/conference held at the Red Rock Casino & Hotel in Las Vegas, NV. At least two attendees of the festival experienced medical emergencies after receiving injections of peptides at the Holtorf Medical vendor booth.

KEY INVESTIGATIVE FACTS:

1. During the weekend of 07/11/2025 – 07/13/2025, there was a “Revolution Against Aging and Death” (RAAD) festival/conference held at the Red Rock Casino & Hotel in Las Vegas, NV.
2. Two people at the RAAD festival obtained injections of peptides from the Holtorf Medical Group Booth and subsequently experienced severe adverse reactions resulting in emergency transportation to Summerlin Hospital.
3. The first patient, O [REDACTED] R [REDACTED], reported getting injections of MOTS-c 5mg, P21 2.5mg, BPC-157 2.5mg, and TB4 2.5mg and experiencing a reaction within 10 minutes.

****CONFIDENTIAL – SECONDARY DISSEMINATION PROHIBITED****

The information contained in this report is confidential and the property of the Nevada State Board of Pharmacy. Neither the report nor any of its contents may be disseminated without the expressed authorization of the Nevada State Board of Pharmacy. It is intended to be read only by the person or entity to whom it has been delivered and authorized, or by their duly appointed designee. Secondary distribution of this report or its contents in any form to unauthorized persons or entities is strictly prohibited.

Holtorf. 25-289-O. 0001

4. R [REDACTED] reported that Pharmacist, Dr. Han Nguyen, mixed and drew up the peptides and Nurse Practitioner, Darrell Linders, administered the injections.
5. The second patient, A [REDACTED] T [REDACTED], reported getting an ACE-31 and CJC peptide injection, drawn up and administered by Dr. Han Nguyen, before experiencing a reaction.
6. Dr. Kent Holtorf reported to LVMPD via phone that the peptides came from Forgotten Formulas.
7. Dr. Han Nguyen reported to the NVBOP that the vials of peptides were labeled with Forgotten Formula.
8. Dr. Holtorf did not respond to inquiries from Investigator McClish.
9. Dr. Han Nguyen acknowledged working for Holtorf Medical Group as a pharmacist and providing services such as mixing medications and administering the injections during the RADD festival.
10. NP Darell Linders acknowledged providing Ozone and Ultraviolet Light services for the Holtorf Medical Group for RAAD festival and acknowledged administering a peptide injection to R [REDACTED] at Nguyen's request.
11. Neither Dr. Holtorf nor Dr. Nguyen has ever held a registration with the NV Board of Pharmacy (NVBOP). Dr. Holtorf does not hold a license with the Nevada State Board of Medical Examiners.

Dena McClish 11/25/25

Investigator / Date

Ryan Miller 11/25/25

Supervisor / Date

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A. CASE OPENING / COMPLAINT

On 07/15/2025, detectives from Las Vegas Metro Police Department contacted Investigator Dena McClish and Inspector Leo Basch via phone concerning possible multiple victims of peptide injection reactions from the RAAD festival held at Red Rock Casino over the prior weekend. LVMPD planned to interview two of the identified victims that had been emergently transported to Summerlin Hospital and requested NVBOP assistance.

Investigator McClish and Inspector Basch subsequently met with LVMPD Detectives, Clinton Weaver, and Kathleen VonGoldberg at Summerlin Hospital and witnessed the interviews of the two victims. Both victims had reportedly received injections of unknown peptides during the RAAD festival held at Red Rock Casino in Las Vegas, NV over the previous weekend.

B. PATIENT #1 C [REDACTED] R [REDACTED]

C [REDACTED] R [REDACTED] was the first patient. R [REDACTED] substantially stated the following during her interview:

R [REDACTED] resides in CA and attended the RAAD conference as a vendor. On Sat, July 12th, she went to another vendor booth, Dr. Kent Holtorf's booth, and received a B-12 injection. Dr. Han Nguyen was the person that administered the B-12 injection. She described Dr. Nguyen as a shorter, Asian male. She had no adverse reactions.

On Sun, July 13th, she went back to that same booth (Holtorf's) wanting another B-12 injection. Dr. Nguyen advised since she had one Saturday, she shouldn't have another. A different team member of that booth, identified as Michael McNeal, suggested that she get a peptide cocktail instead. Dr. Nguyen then mixed up the peptide cocktail and gave it to Nurse Practitioner (NP) DJ Linders to administer to her. She believed the cocktail consisted of MOTS-c 5mg, P21 2.5mg, BPC-157 2.5mg, and TB4 2.5mg.

Within 10 minutes, her eyes started feeling heavy and she had double vision. She went to get food as she thought it was just lack of eating and energy. She tried to eat a cheeseburger, but her eyes got heavier, and she felt that her tongue and throat began swelling. She then went with a friend, who was a nurse, up to her friend's room at the hotel to try and get some sleep. She then texted the NP from Dr. Holtorf's booth (DJ Linders) and told him she didn't feel well. Linders came up to the room and C [REDACTED] reported that she felt like she was dying as she struggled to open the door for him. He came into the room, and she believed he immediately called emergency services.

R█████ reported that during the ambulance ride she was given 2 EpiPens that didn't work and then was intubated during transport. She doesn't remember much after that.

R█████ stated she had no issues at the actual injection site. She reported no allergies and stated she had no other treatments that weekend, nor any previous treatments involving peptides.

R█████ advised that she signed a consent form prior to the peptide injections but absolutely no health history or vitals were taken or documented prior to the administration. She does not believe there was any record made of the administration outside of the consent form.

C. PATIENT #2 A█████ T█████

A█████ T█████, DOB ██████, was the second patient. T█████ substantially stated the following during her interview:

T█████ resides in Las Vegas and was at the conference all weekend as an attendee. On Sunday, July 13th, she went to Holtorf Medical Group booth where they had a menu with various injections and pricing. At about 1300hrs, she paid \$33 for a Humanin injection and was given a free B-12 injection at that same time. Dr. Han Nguyen drew up and administered both injections in her upper left buttocks. She had no adverse reactions and continued to walk around the vendor area for about 15-20 minutes.

T█████ then came back to Dr. Holtorf's booth and decided to get additional injections. She decided on the ACE-31 and CJC peptide injections. Dr. Nguyen drew up and administered these two injections in her shoulder with two different syringes. She recalls him saying that many people stack these injections.

T█████ then went to a different room of the conference to listen to some presentations and noticed her eyelids feeling heavy, almost like she was tranquilized. By about 1600hrs, she was having trouble walking and talking and tried to take a sip of water, but her throat wouldn't let her swallow. She texted a friend at the conference and asked him to come help. She was in the Veranda room at this time and her friend along with Dr. Nguyen came over.

Dr. Nguyen gave her Benadryl and what she believes was a steroid like prednisone. The Casino EMTs also came, and emergency services were ultimately called. She was told her lips were turning blue, her heart rate and blood pressure were very elevated, and she recalls being given 3 epi pens during transport. She couldn't hold her head up and remembers at the hospital being told they needed to intubate her. She was then sedated and didn't recall much after that.

T [REDACTED] stated she had no issues at the actual injection sites. She reported an allergy to penicillin only, and stated she had no other treatments that weekend, nor any previous treatments involving peptides.

T [REDACTED] advised that she signed a consent form prior to the peptide injections but absolutely no health history or vitals were taken or documented prior to the administration. She does not believe there was any record made of the administration outside of the consent form.

D. LVMPD INFORMATION

LVMPD provided their recorded event no. of LLB250700051363. LVMPD detectives identified Dr. Nguyen as Han Bao Nguyen, DOB [REDACTED], SSN [REDACTED], with an address of [REDACTED] in Anaheim, CA.

LVMPD advised they had spoken with Dr. Kent Holtorf via phone, who advised the peptides came from Forgotten Formulas and were shipped directly to Red Rock Casino for the conference.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

F. KENT HOLTORF, M.D.

On 07/21/2025, Investigator McClish attempted to contact Dr. Kent Holtorf via phone and left a message with his assistant, Season, at [REDACTED], inquiring about the best way to communicate with Dr. Holtorf. On 07/22/2025, Season provided an email address of kholty@holtorfmed.com. On 07/22/2025, Investigator McClish emailed and mailed Dr. Holtorf a letter providing information about the two patient's adverse reactions to the peptide injections. The letter ([Holtorf letter](#)) asked Dr. Holtorf for the following information:

- 1) Please clearly explain your role and responsibilities at the Dr. Kent Holtorf booth at RAADfest 2025.
- 2) Please provide a record/report of all injections administered during the RAADfest.
- 3) Provide a full and complete copy of the record of administration and/or treatment chart for the two patients listed above or a brief explanation for lack thereof.
- 4) Provide a report of any additional adverse reactions reported from peptide or B-12 injections reported from RAADfest and other patients within the last year.
- 5) Both patients reported signing a consent form for the peptide injections. Provide a copy of the signed consent forms for the two patients above along with any additional forms (medical history questionnaire, etc) filled out by or on behalf of the two patients listed above
- 6) Provide a copy of the invoice/purchase record for all medications/injections administered during the RAADfest to include the peptide and B-12 injections.
- 7) Provide a brief explanation as to the transportation, storage, mixture, and administration of the peptide and B-12 injections offered at RAADfest 2025 (i.e. Were the medications shipped directly to Red Rock or were they personally transported; were the medications stored in a refrigerator, room temperature, etc., were the medications pre-mixed or pre-drawn or are they compounded/mixed/constituted on site/demand, are the vials of medication single use or multi-dose)
- 8) Please provide a brief statement as to the disposition of any remaining medications used at RAADfest (i.e. has this medication been quarantined? And if so, provide the location where it is being quarantined).
- 9) Provide a picture of the vials of medications to include the peptides and B-12 used for administration at RAADfest.
- 10) The peptides reported to have been administered and most of those advertised for administration at RAADfest are not FDA approved and many are in the FDA category 2 bulk drug substances list (identified as having potential significant safety risks). Please briefly explain how these medications/active pharmaceutical ingredients were vetted. If applicable, please provide the manufacturer's/distributor's COA (certificate of analysis), FDA registration, or other applicable documentation showing the purity and safety of the ingredient(s).

No response from Dr. Holtorf was gained.

On 11/25/2025, Investigator McClish conducted a search of Dr. Holtorf utilizing the Nevada State Board of Medical Examiners online license verification tool. It revealed that he does not appear to hold a medical license in Nevada.

G. HAN NGUYEN, PHARM.D.

On 08/04/2025, The CA Board of Pharmacy public records department emailed Investigator McClish and confirmed that Han Bao Nguyen is a registered Pharmacist in the State of CA under license no. APH 10732. Per inLumon inquiry, he has never held a registration with the NVBOP.

On 07/24/2025, Investigator McClish mailed a letter to Dr. Nguyen to his home address with the same request for information as was sent to Dr. Holtorf (above) (Nguyen letter).

Heather S Hall, Esq. confirmed representation of Dr. Nguyen and on 08/11/2025, via email, advised that Dr. Nguyen had been working for Holtorf Medical Group for about 3 months but had no involvement in buying, ordering, or reviewing the medications so could not definitively identify the source of the medications. However, on the vials, there was the name "Forgotten Formula."

On or about 08/25/2025, Ms. Hall emailed Dr. Nguyen's response to Investigator McClish. In response to the inquiry, Dr. Nguyen substantially stated the following:

He was hired by the Holtorf Medical Group (HMG) on or around 05/05/2025 for pharmacist services and is still employed with HMG. For RAAD festival, his role was to assist the Nurse Practitioners and other physicians taking vitals, mixing medications, and administering the intramuscular shots when other providers were not available to do so. He is unable to provide any patient, consent, or administration records as HMG maintains the records. Outside of the two patients at RAAD festival, he is unaware of any other reported adverse reactions from an injection given with HMG. He also acknowledges that he provided peptide therapies for many years with another company prior to HMG and is unaware of any significant side effects or adverse reactions. Nguyen advised that HMG purchased the medications administered during RAAD festival to include the peptide and B-12 medications, but he does not have access to the invoices or purchase agreements so cannot provide such. He was not involved in the purchase or transportation of the medications but believed the medications were transported by staff in a cooler in the rented van. Most of the peptides were provided as lyophilized powder in a multi-dose vial which were reconstituted on site with sterile bacteriostatic water in a sterile manner as needed. Peptide selection and dosing were based on the patients' history and physical and particular goals and needs.

Nguyen advised that as a precautionary measure following the reported adverse events, HMG management immediately quarantined all remaining medications for the event and all other peptide injections. It is his understanding that they are being sent for retesting for purity, microbiological, endotoxins, and specialty testing for botulism toxin.

He again reiterated that he has never been involved in selecting or sourcing medications used by HMG so cannot provide any Certificate of Analysis (COA) or documentation of the purity or safety of the ingredients. He stated the vials have the name "Forgotten Formula" on them. He was informed that HMG utilizes peptide therapies that are common within the standard of care for longevity and regenerative medicine, a field in which many innovative treatments are not yet formally FDA approved. He was also informed that HMG requires a COA for all products and has requested that HMG provide these to the Board. Based on the information gathered to date, HMG does not believe the peptides were the causative agent ([Nyugen's Response](#)).

H. DARRELL LINDERS, APRN

Per inquiry with the NV Board of Nursing by Investigator McClish on 07/17/2025, Darrell Linders had an NV registration with the NV Board of Nursing during these events. A NVBOP InLumon inquiry on 07/17/2025 revealed he did not hold a registration with the NVBOP at that time, but a subsequent inquiry on 11/18/2025 showed he had obtained a NVBOP controlled substance registration on 10/21/2025.

On 07/22/2025, Investigator McClish emailed a letter to Mr. Linders with the same request for information as was sent to Dr. Holtorf (above) ([Linders letter](#)).

On 08/13/2025, Linder's attorney, Marie Ellerton, emailed his response to Investigator McClish. In his response, Linders substantially stated the following ([Linders response](#)):

Linders stated that nothing he did or did not do with regard to this situation and patient, C [REDACTED] R [REDACTED], fell below the standard of care. Linder's only role at RAAD festival was to provide Ozone/Ultraviolet light procedures. Dr. Kent Holtorf had contacted him and engaged him in this role. Linders denies being engaged to nor performing any peptide assessments, consults, recommendations, or mixing of any peptides. He did; however, administer the peptide cocktail to C [REDACTED] R [REDACTED] at the request of Dr. Han Nguyen who had mixed the cocktail. Linders denies having access to or being able to provide any records or reports of injections administered during RAAD festival with exception of what he documented related to his encounter with C [REDACTED] R [REDACTED], the one and only

patient to whom he administered an injection at the request of Dr. Nguyen. The patient chose the peptides she wanted to receive, and Dr. Nguyen mixed the cocktail. Thereafter, Dr. Nguyen asked Linders to administer the injection.

Linders provided a picture of the informed consent for therapy signed by Ms. R [REDACTED] on 07/13/2025 ([Informed consent](#)). He also provided a chart note ([Chart note](#)) of his administration that reflected the patient's request for peptide therapy. The note indicates she was "Evaluated and consulted by Dr. Hann, of HMG" and had "previously attempted B-12 injection the previous day." The note indicates a reported egg allergy and notes that to the best of his knowledge, the patient was informed of off-label use of the below listed peptides which were selected and administered based on pharmacist and HMG low dose protocol (see below snip of the provided notes):

- MOTS-C (5 mg):
- P21 (2.5 mg):
- BPC-157 (2.5 mg):
- Thymosin Beta-4 (2.5 mg):

All peptides to the best of my knowledge were compounded by a licensed pharmacy. The Recommendations, consult, good faith exam were to the best of my knowledge completed by the "licensed Pharmacist". The peptides were drawn by the pharmacist into a syringe. The pharmacist asked for me to administer IM or SubQ. The patient elected IM in the left glute. I reviewed peptide written order on the Consent form of the names and dosing of peptides with the pharmacist Dr. Hann who to my knowledge requested this combination based on patients presenting symptoms and prior education and knowledge in regenerative peptide therapy. Dr. Hann was on site as the SME of peptides and works for HMG as their peptide specialist and writes their protocols for peptides. Administered supplement after confirming Right patient, right dose, right supplement, right route, and completion of Consent form and evaluation:

- Injection given IM in left glute.
- Patient monitored for approximately 15 minutes post-administration with no adverse response. Patient waited for two other people to receive B-12 injections. Prior to patient leaving, we spoke, and the patient stated she would be back to say bye. No reactions reported at that time, the patient left on her own free will.
- No rash, anaphylaxis, dizziness, or respiratory changes noted.
- Verbal report: "feeling clear," "happy with treatment."
- Instructed to hydrate, rest, and report any delayed symptoms.
- Patient educated to report any symptoms and adverse reactions.

NEVADA STATE BOARD OF PHARMACY
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The note also indicates a "Post-Injection Emergency Response Note (see below snip):

Post-Injection Emergency Response Note

Patient Name: C [REDACTED] R [REDACTED]

Date of Incident: 07/13/25

Rendering Provider: Darrell Linders

Location: Room 8108 –

Chief Complaint (Post-Injection Distress):

Approximately 45–60 minutes post-injection, I received a text message from the patient stating:

"I'm really unwell right now. My vision is off completely and I'm shaking. What do I do??"

Immediate Actions Taken:

- I immediately called the patient and instructed her to provide her room number and unlock the door.
- I notified building security to dispatch emergency medical services (EMS) to Room 8108.
- I proceeded directly to the room and found the patient conscious, breathing spontaneously, but exhibiting the following symptoms:
 - Inability to open eyes
 - Slurred speech
 - Mild tongue swelling noted
 - Complaints of altered vision and shakiness

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Clinical Interventions Rendered:

- **Positioned** patient in semi-recumbent position, supported with pillow
- Applied **2L oxygen via nasal cannula**
- Monitored **BP, respiratory rate, SpO2** continuously
- **Called EMS again directly from room phone** to ensure dispatch
- At this time, **Dr. Holtorf** arrived to assist
 - **BP recorded at 149/90**
 - Dr. Holtorf administered:
 - **Diphenhydramine 50 mg IM**
 - **Epinephrine 0.3 mg IM (EpiPen)**
- Continued frequent monitoring of vitals and maintained oxygen therapy until **Fire Rescue arrived on site**

Post-Emergency Plan & Documentation:

- Patient was **turned over to EMS** with full handoff including vitals, timing, and symptom progression.
 - **Full incident documented**
 - Patient had received the following peptides IM approximately 1 hour prior:
 - **MOTS-c 5 mg**
 - **P21 2.5 mg**
 - **BPC-157 2.5 mg**
 - **TB-500 (Thymosin Beta-4) 2.5 mg**
 - Reaction suspected to be an anaphylactoid **response**.
-

Rendering Provider:

Darrell Linders

Date: 07/13/25

I. FORGOTTEN FORMULA

A web search of forgotten formulas showed a website of <https://www.forgottenformula.com/>.

The website indicates they are a "Private Member Association" and have a partnership with Holtorf Medical Group (see below snip).



Our Proud Partners



Investigator McClish was unable to determine a physical address for Forgotten Formula and although the website offers "Peptides" as a product, it requires a membership to access further information (see below snip).

Terms and Conditions Privacy Policy Return and Cancellation Policy	Corporate and Return Address Forgotten Formula PMA P.O. Box 147 Justin, Tx 76247	Contact Us accounting@forgottenformula.com Customer Service Number 940-255-7173
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Disclaimer: All bodies in the public sector. We are a private members organization that operates under the 1st and 14th amendment's of the United States Constitution you do not have any jurisdiction nor do your policies apply to our members or our organization. We operate in the private arena only and have a right to contract, right to privacy and right to assemble. All doctors, healers, and members are protected under the shield of this organization. We operate member to member ONLY. Ignoring this disclaimer can lead to legal consequences against the party at fault.

J. INTEGRATIVE PEPTIDES AND MICHAEL MCNEAL

Forgotten Formula's website indicates a partnership with Integrative Peptides, <https://integrativepeptides.com/>. Investigator McClish scrutinized this website, and it shows indications of providing oral peptides only (not injectable).

Patient C [REDACTED] R [REDACTED] indicated that a Michael McNeal suggested the peptides. A web search indicates that Mr. McNeal may be a nutritionist based in TX and is also the Director of Education and Health Coach of Integrative Peptides: <https://integrativepeptides.com/peptide-specialist-michael-mcneal/?srsltid=AfmBOoqLmvSW5pKzhAwpNmDUHUKK1cdrFYbIbYZzSCWKYsdpS--Gurf9> (see below snip)


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DIRECTOR OF EDUCATION & HEALTH COACH

Michael McNeal

Meet our Director of Education, Michael McNeal, bringing 14+ years of functional medicine expertise, with deep specialization in personalized peptide therapy. He regularly advises physicians on complex cases. His approach bridges hard science with practical application – and always centers on what's best for the patient.

NEVADA STATE BOARD OF PHARMACY
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Investigator McClish attempted to contact Mr. McNeal on 11/18/2025 via the phone number provided by Ms. R [REDACTED], [REDACTED], and was unsuccessful. The message left was not returned. A web search indicated that Integrative Peptides shares the same address as Holtorf Medical Group (see below).



MapQuest

<https://www.mapquest.com> > ... > El Segundo

Integrative Peptides LLC - El Segundo

2232 E Maple Ave. El Segundo, CA 90245. Integrative Peptides LLC is a biotechnology company El Segundo, CA, specializing in the research and ...



Holtorf Medical Group

<https://holtorfmed.com> > contact

Contact

2232 E. Maple Ave. El Segundo, CA 90245. Call Our Office (310) 375-2705. Book Appointment (t 1177. Office Hours Monday – Thursday: 9am-5pm. Friday: 9am ...



Yelp

<https://www.yelp.com> > ... > Holtorf Medical Group

HOLTORF MEDICAL GROUP - Updated November 2025

HOLTORF MEDICAL GROUP, 2232 E Maple Ave, El Segundo, CA 90245, 32 Photos, (310) 375-2705
9:00 am - 5:00 pm, Tue - 9:00 am - 5:00 pm, ...

4.4 ★★★★★ (153)

K. CONTACTS **All licensing information obtained via InLumon inquiry

COMPLAINANTS/PATIENTS:

C [REDACTED] R [REDACTED]
[REDACTED] El Segundo, CA [REDACTED]

A [REDACTED] T [REDACTED]
[REDACTED], Las Vegas, NV [REDACTED]

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NEVADA STATE BOARD OF PHARMACY
INVESTIGATIVE REPORT

Case #:25-289

RESPONDENT(S):

Darrell Richard Linders, APRN (CS41067- issued 10/21/25)

[REDACTED], Miramar, FL [REDACTED]
[REDACTED]
[REDACTED]

Attorney for Linders: Marie Ellerton, Hall Prangle LLC
1140 N Town Center Dr, Ste 350, Las Vegas, NV 89144
mellerton@hallprangle.com

Kent Alan Holtorf, M.D. (NVBOP/ NV Med Board - Unlicensed)

[REDACTED], El Segundo, CA [REDACTED]
[REDACTED]

kholt@holtorfmed.com

Han Bao Nguyen, Pharm. D. (NVBOP - Unlicensed)

[REDACTED], Anaheim, CA [REDACTED]

Attorney for Nguyen: Heather Hall, McBride Hall
8329 West Sunset Rd, Ste 260, Las Vegas, NV 89113
702-792-5855
hshall@mcbridehall.com

Forgotten Formula (NVBOP - Unlicensed)

PO Box 147, Justin, TX 76247
940-255-7173

Integrative Peptides LLC (NVBOP Unlicensed)

2232 E Maple Ave, El Segundo, CA 90245

END OF REPORT.

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07/22/2025

Kent Holtorf, M.D.

El Segundo, CA

Re: Nevada Board of Pharmacy Investigative Case 25-289

Dear Dr. Holtorf,

The Nevada State Board of Pharmacy (Board) was notified of two patients having severe, life threatening reactions after receiving peptide injections from Dr. Kent Holtorf's booth at RAADfest 2025 held at Red Rock Casino & Hotel in Las Vegas, NV on 07/13/2025. The Board has a case open to investigate the matter. I am writing to request that you respond to the allegation(s) and provide copies of certain documents and information relevant to the Board's investigation.

Patient #1, C [REDACTED] R [REDACTED], reported receiving a B-12 injection from the Holtorf booth on 07/12/2025 administered by Dr. Han Nguyen with no adverse reactions. She then reported receiving a "peptide cocktail" on 07/13/2025 containing a combination of at least four peptides (believed to be MOTS-c, P21, BPC-157, and TB4) administered by NP Darrell Linders. Ms. R [REDACTED] reported her reaction starting about 10 minutes after the injection, ultimately resulting in emergency transportation and hospitalization.

Patient #2, A [REDACTED] T [REDACTED], reports receiving a B-12 and Humanin injection on 07/13/2025, administered by Dr. Nguyen, with no adverse reactions. She then reports going back to the booth 15-20 minutes later and receiving injections of CJC/IPA and ACE-31. She reports similar reactions starting that same afternoon and ultimately resulting in emergency transportation and hospitalization.

- 1) Please clearly explain your role and responsibilities at the Dr. Kent Holtorf booth at RAADfest 2025.
- 2) Please provide a record/report of all injections administered during the RAADfest.
- 3) Provide a full and complete copy of the record of administration and/or treatment chart for the two patients listed above or a brief explanation for lack thereof.
- 4) Provide a report of any additional adverse reactions reported from peptide or B-12 injections reported from RAADfest and other patients within the last year.
- 5) Both patients reported signing a consent form for the peptide injections. Provide a copy of the signed consent forms for the two patients above along with any additional forms (medical history questionnaire, etc) filled out by or on behalf of the two patients listed above
- 6) Provide a copy of the invoice/purchase record for all medications/injections administered during the RAADfest to include the peptide and B-12 injections.

Holtorf. 25-289-O. 0017

- 7) Provide a brief explanation as to the transportation, storage, mixture, and administration of the peptide and B-12 injections offered at RAADfest 2025 (i.e. Were the medications shipped directly to Red Rock or were they personally transported; were the medications stored in a refrigerator, room temperature, etc., were the medications pre-mixed or pre-drawn or are they compounded/mixed/constituted on site/demand, are the vials of medication single use or multi-dose)
- 8) Please provide a brief statement as to the disposition of any remaining medications used at RAADfest (i.e. has this medication been quarantined? And if so, provide the location where it is being quarantined).
- 9) Provide a picture of the vials of medications to include the peptides and B-12 used for administration at RAADfest.
- 10) The peptides reported to have been administered and most of those advertised for administration at RAADfest are not FDA approved and many are in the FDA category 2 bulk drug substances list (identified as having potential significant safety risks). Please briefly explain how these medications/active pharmaceutical ingredients were vetted. If applicable, please provide the manufacturer's/distributor's COA (certificate of analysis), FDA registration, or other applicable documentation showing the purity and safety of the ingredient(s).

Please provide the information referenced above and a written response to the foregoing allegation(s) within 14 calendar days of this request. Include with your response any records or other information you believe will help the Board make a determination in this case. **Any written statement must include your handwritten signature attesting that it is true and accurate.**

Please feel free to contact me with any questions. I can be reached at [REDACTED].

Respectfully,

Dena McClish

Dena McClish, Investigator, Nevada State Board of Pharmacy
1140 N Town Center Dr Ste 300, Las Vegas, NV 89144
Office: [REDACTED] Fax: 702-486-7903
Email: dmcclish@pharmacy.nv.gov

Cc: Dr. Han B Nguyen
NP Darrell Linders

August 25, 2025

Via U.S. & Electronic Mail

Dena McClish, Investigator
Nevada State Board of Pharmacy
1140 N Town Center Dr Ste 300
Las Vegas, NV 89144
dmcclish@pharmacy.nv.gov

Re: BON v. Han B. Nguyen, Pharm. D.

Case No.: 25-289

Patients: C [REDACTED] R [REDACTED] and A [REDACTED] T [REDACTED]

Dear Ms. McClish,

Thank you for the opportunity to respond to your July 22, 2025 correspondence, requesting a response to allegations related to two patients who received peptide injections at Dr. Kent Holtorf's booth at RAADfest 2025 held at Red Rock Casino & Hotel. Below are my responses to each of the specific questions.

1) Please clearly explain your role and responsibilities at the Dr. Kent Holtorf booth at RAADfest 2025.

I was hired by Holtorf Medical Group on or around May 5, 2025 to provide pharmacist services. I am currently still employed with HMG. With respect to RAADfest, my role was to assist the Nurse Practitioners and other physicians taking vitals, mixing the medications and administering the intramuscular shots when other providers were not available to do so.

2) Please provide a record/report of all injections administered during the RAADfest.

Holtorf Medical Group maintains all patient records. I requested a record of all injections from HMG and was advised that the office would provide those directly to the Board under separate cover.

3) Provide a full and complete copy of the record of administration and/or treatment chart for the two patients listed above or a brief explanation for lack thereof.

As stated, Holtorf Medical Group maintains all patient records. I requested records of the administration of the two patients in question from HMG and was advised that the office would provide those directly to the Board under separate cover.

///

///

- 4) Provide a report of any additional adverse reactions reported from peptide or B-12 injections reported from RAADfest and other patients within the last year.**

To the best of my recollection, I was never made aware of any additional adverse reactions reported from peptide or B-12 injections given at RAADfest. I was employed by HMG for only 2 ½ months prior to RAADfest, but did not administer intramuscular shots or give IVs prior to RAADfest. During my employment with HMG, these two patients are the only reported adverse reactions following peptide or B-12 injections that I have been advised of. Prior to my employment with HMG, I provided therapies using peptides for many years with another company. I am also unaware of any significant side effects or adverse reactions from the administration of peptides or B-12 injection during my previous employment.

- 5) Both patients reported signing a consent form for the peptide injections. Provide a copy of the signed consent forms for the two patients above along with any additional forms (medical history questionnaire, etc.) filled out by or on behalf of the two patients listed above.**

I am not in possession of any records for the two patients in question, but it is my understanding those records will be provided by HMG.

- 6) Provide a copy of the invoice/purchase record for all medications/injections administered during the RAADfest to include the peptide and B-12 injections.**

It is my understanding that HMG purchased the medications administered during the RAADfest, including the peptide and B-12 injections. I do not have access to the invoice or purchase agreement between the supplying company and HMG. I requested HMG provide any responsive documents directly to the Board.

- 7) Provide a brief explanation as to the transportation, storage, mixture and administration of the peptide and B-12 injections offered at RAADfest 2025 (i.e., were the medications shipped directly to Red Rock or were they personally transported; were the medications stored in a refrigerator, room temperature, etc., were the medications pre-mixed or pre-drawn or are they compounded/mixed/constituted on site/demand, are the vials of medication single use or multi-dose)**

My understanding is that the medications were transported by HMG's staff in a cooler in a rented van. I was not personally involved in transporting the medications. Most of the medications did not need to be refrigerated. The peptides were provided as lyophilized powder in multi-dose vials and reconstituted on-site with sterile bacteriostatic water in a sterile manner as needed for individual patients. Peptide selection and dosing were based

on the patients' history and physical and particular goals and needs. There was a portable refrigerator on-site to store reconstituted vials or anything that needed refrigeration. All of the peptide vials were multi-dose.

- 8) Please provide a brief statement as to the disposition of any remaining medications used at RAADfest (i.e., has this medication been quarantined? And if so, provide the location where it is being quarantined.)**

As a precautionary measure following the adverse events, HMG management immediately quarantined all remaining medications from the event and all other peptide injections. My understanding is that they are currently securely quarantined and all reconstituted vials from RAADfest, along with additional unreconstituted vials from the same lot and batch, were immediately sent for retesting for purity, microbiological, endotoxins, and specialty testing for botulism toxin. HMG has informed me it will provide any preliminary testing that has come back which I do not have access to.

- 9) Provide a picture of the vials of medications to include the peptides and B-12 used for administration of RAADfest.**

HMG will provide photographs of the vials of peptides and B-12 used at RAADfest.

- 10) The peptides reported to have been administered and most of those advertised for administration at RAADfest are not FDA approved and many are in the FDA category 2 bulk drug substances list (identified as having potential significant safety risks). Please briefly explain how these medications/active pharmaceutical ingredients were vetted. If applicable, please provide the manufacturer's/distributor's COA (certificate of analysis), FDA registration, or other applicable documentation showing the purity and safety of the ingredient(s).**

During my time as a part-time employee of HMG, I have never been involved in selecting medications or sourcing from pharmaceutical companies. I am not now, nor have I ever been, involved in ordering medications or requesting certificates of analysis. I also do not have access to certificates of analysis. The only information I am able to provide in response to this request is that the vials have the name "Forgotten Formula" on them.

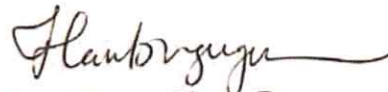
However, in response to my inquiry, I was informed that HMG utilizes peptide therapies that are common within the standard of care for longevity and regenerative medicine, a field in which many innovative treatments are not yet formally FDA-approved. I was also informed that HMG vets all suppliers and requires a Certificate of Analysis for all products to ensure purity and safety. I have requested HMG provide these documents to the Board

Dena McClish, Investigator
August 25, 2025
Page | 4

of Pharmacy as I do not have access to them. Based upon information gathered to date, HMG does not believe the peptides were the causative agent.

I hope this correspondence provides you the information you need to conduct your investigation of this matter. Should you require any additional information that I am able to provide, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Han Nguyen", followed by a horizontal flourish line.

Han Nguyen, Pharm.D.



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07/22/2025

Darrell Linders, N.P.

Miramar, FL

Re: Nevada Board of Pharmacy Investigative Case 25-289

Dear Mr. Linders,

As you are aware, the Nevada State Board of Pharmacy (Board) was notified of two patients having severe, life threatening reactions after receiving peptide injections from Dr. Kent Holtorf's booth at RAADfest 2025 held at Red Rock Casino & Hotel in Las Vegas, NV on 07/13/2025. The Board has a case open to investigate the matter. I am writing to request that you respond to the allegation(s) and provide copies of certain documents and information relevant to the Board's investigation.

Patient #1, C [REDACTED] R [REDACTED], reported receiving a B-12 injection from the Holtorf booth on 07/12/2025 administered by Dr. Han Nguyen with no adverse reactions. She then reported receiving a "peptide cocktail" on 07/13/2025 containing a combination of at least four peptides (believed to be MOTS-c, P21, BPC-157, and TB4) administered by NP Darrell Linders. Ms. R [REDACTED] reported her reaction starting about 10 minutes after the injection, ultimately resulting in emergency transportation and hospitalization. Ms. R [REDACTED] also reported notifying you, Mr. Linders that she wasn't doing well and recalls you coming to her room then calling for emergency assistance.

Patient #2, A [REDACTED] T [REDACTED], reports receiving a B-12 and Humanin injection on 07/13/2025, administered by Dr. Nguyen, with no adverse reactions. She then reports going back to the booth 15-20 minutes later and receiving injections of CJC/IPA and ACE-31. She reports similar reactions starting that same afternoon and ultimately resulting in emergency transportation and hospitalization.

- 1) Please clearly explain your role and responsibilities at the Dr. Kent Holtorf booth at RAADfest 2025.
- 2) Please provide a record/report of all injections administered during the RAADfest.
- 3) Provide a full and complete copy of the record of administration and/or treatment chart for the two patients listed above or a brief explanation for lack thereof.
- 4) Provide a report of any additional adverse reactions reported from peptide or B-12 injections reported from RAADfest and other patients within the last year.
- 5) Both patients reported signing a consent form for the peptide injections. Provide a copy of the signed consent forms for the two patients above along with any additional forms (medical history questionnaire, etc) filled out by or on behalf of the two patients listed above

Holtorf. 25-289-O. 0023

- 6) Provide a copy of the invoice/purchase record for all medications/injections administered during the RAADfest to include the peptide and B-12 injections.
- 7) Provide a brief explanation as to the transportation, storage, mixture, and administration of the peptide and B-12 injections offered at RAADfest 2025 (i.e. Were the medications shipped directly to Red Rock or were they personally transported; were the medications stored in a refrigerator, room temperature, etc., were the medications pre-mixed or pre-drawn or are they compounded/mixed/constituted on site/demand, are the vials of medication single use or multi-dose)
- 8) Please provide a brief statement as to the disposition of any remaining medications used at RAADfest (i.e. has this medication been quarantined? And if so, provide the location where it is being quarantined).
- 9) Provide a picture of the vials of medications to include the peptides and B-12 used for administration at RAADfest.
- 10) The peptides reported to have been administered and most of those advertised for administration at RAADfest are not FDA approved and many are in the FDA category 2 bulk drug substances list (identified as having potential significant safety risks). Please briefly explain how these medications/active pharmaceutical ingredients were vetted. If applicable, please provide the manufacturer's/distributor's COA (certificate of analysis), FDA registration, or other applicable documentation showing the purity and safety of the ingredient(s).

Please provide the information referenced above and a written response to the foregoing allegation(s) within 14 calendar days of this request. Include with your response any records or other information you believe will help the Board make a determination in this case. **Any written statement must include your handwritten signature attesting that it is true and accurate.**

Please feel free to contact me with any questions. I can be reached at [REDACTED].

Respectfully,

Dena McClish

Dena McClish, Investigator, Nevada State Board of Pharmacy
1140 N Town Center Dr Ste 300, Las Vegas, NV 89144
Office: [REDACTED] Fax: 702-486-7903
Email: dmcclish@pharmacy.nv.gov

Cc: Han B Nguyen, Pharm D
Kent Holtorf, M.D.

Marie Ellerton
mellerton@hallprangle.com

August 26, 2025

VIA EMAIL and U.S. MAIL
dmcclish@pharmacy.nv.gov

Dena McClish, Investigator
NEVADA STATE BOARD OF PHARMACY
1140 North Town Center Drive, Suite 300
Las Vegas, Nevada 89144

**DARRELL LINDERS, APRN'S RESPONSE TO NEVADA BOARD
OF PHARMACY INVESTIGATIVE CASE 25-289**

Dear Ms. McClish:

Please consider this correspondence as Darrell Linders, APRN's formal response to the July 22, 2025, Nevada State Board of Pharmacy ("Board") Investigative Case 25-289. The Board's letter indicates that it was notified of two patients having severe, life threatening reactions after receiving peptide injections from Dr. Kent Holtorf's booth at RAADfest 2025 held at Red Rock Casino & Hotel in Las Vegas, Nevada on 07/13/2025. It goes on to advise that the Board has a case open to investigate this matter. The letter requests that Mr. Linders respond to the allegation(s) and provide copies of certain documents and information relevant to the Board's investigation.

Set out below you will find Mr. Linders' objections and/or requests for clarification, the allegations and his responses to those allegations to the extent that he is able to respond.

Darrell Linders, APRN objects to the inclusion of allegations that, upon information and belief, do not relate to care and treatment he provided. Inclusion of any allegations related to other health care professionals and/or providers is entirely improper. In fact, just as a provider of health care is liable only for his or her own conduct in a civil action, Mr. Linders cannot and must not be disciplined for conduct attributable to another health care professional, including but not limited to any alleged failure by another provider of health care during the patient's treatment preceding, simultaneous to or after Mr. Linder's involvement in this case. Any inquiry regarding Mr. Linders must be limited to his involvement, and his care and treatment only. Therefore, Mr. Linders requests clarification as to the specific allegations made against him individually, if any, so that he is able to properly defend against the same pursuant to his due process rights under the Constitution of the State of Nevada and the Constitution of the United States of America. In addition, Mr.

hallprangle.com



Dena McClish, Investigator
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Linders reserves the right to supplement and/or amend this response upon receipt of this necessary information and clarification. Notwithstanding the foregoing objections, and without waiving and subject to the same, Mr. Linders' responses are set out below.

Darrell Linders, APRN states that nothing he did or did not do with regard to this situation and patient C [REDACTED] R [REDACTED] fell below the standard of care.

RESPONSE TO ALLEGATIONS

1) Please clearly explain your role and responsibility at the Dr. Kent Holtorf booth at RAADfest 2025.

Darrell Linders, APRN's only role at RAADfest 2025, was to provide Ozone/Ultraviolet light procedures (EBOO – extracorporeal blood oxygenation and ozonation). He was contacted by Dr. Kent Holtorf and engaged to provide the procedures as he had been recommended to Dr. Holtorf by the OZONE companies' trainers as a safe and reliable practitioner who is trained and certified and has procedural and emergency protocols in place. This was Mr. Linders' only responsibility and role at RAADfest.

Mr. Linders was not engaged to perform any peptide assessments, consults, recommendations, or mixing of any peptides. He did not perform any peptide assessments, consults, recommendations, or mixing of any peptides. He did, however, administer the peptide cocktail to C [REDACTED] R [REDACTED] at the request by Dr. Han Nguyen who mixed the cocktail.

2) Please provide a record/report of all injections administered during the RAADfest.

Mr. Linders is unable to provide records and/or reports of injections that were administered during RAADfest. He does not have access to documentation other than what he documented related to his encounter with C [REDACTED] R [REDACTED] the one and only patient to whom he administered an injection at the request of Dr. Han Nguyen. The patient chose the peptides she wanted to receive and Dr. Nguyen mixed the cocktail. Thereafter, Dr. Nguyen asked Mr. Linders to administer the injection.

3) Provide a full and complete copy of the record of administration and/or treatment chart for the two patients listed above or a brief explanation for lack thereof.

Enclosed herewith is a copy of the Informed Consent for Therapy signed by C [REDACTED] R [REDACTED] Mr. Linders documented a note on this form.



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Mr. Linders did not see the second patient, A [REDACTED] T [REDACTED]. He does not have access to any records related to her.

- 4) Provide a report of any additional adverse reactions reported from peptide or B-12 injections reported from RAADfest and other patients within the last year.**

Mr. Linders is unaware of any additional adverse reactions reported from peptide or B-12 injections that were administered at RAADfest. In addition, he is not aware of nor does he have knowledge of or records and/or reports concerning other patients within the last year who reported adverse reactions from peptide or B-16 injections. Mr. Linders has no access to any such reports or records.

- 5) Both patients reported signing a consent form for the peptide injections. Provide a copy of the signed consent forms for the two patients above along with any additional forms (medical history questionnaire, etc) filled out by or on behalf of the two patients listed above.**

Mr. Linders was not involved in any way with the second patient A [REDACTED] T [REDACTED]. He does not have access to the consent form that she is said to have signed.

Enclosed herewith is a copy of the Informed Consent for Therapy that was signed by C [REDACTED] R [REDACTED]. Included on the consent form is a note that was documented related to the peptides that she selected, her allergy to eggs, and that she denied any pertinent medical history or reactions to any medications in the past. The note includes that the patient reported no reactions to the peptides after 15 minutes. She was awake and oriented x3, was happy with the treatment and offered no complaints.

- 6) Provide a copy of the invoice/purchase record for all medications/injections administered during the RAADfest to include the peptide and B-12 injections.**

Mr. Linders does not have access to any such invoices and/or purchase records for any of the medications and/or injections that were administered during the RAADfest 2025, including invoices and/or purchase records for the peptide and B-12 injections.

- 7) Provide a brief explanation as to the transportation, storage, mixture, and administration of the peptide and B-12 injections offered at RAADfest 2025 (i.e., Were the medications shipped directly to Red Rock or were they personally transported; were the medications stored in a refrigerator, room temperature, etc., were the medications pre-mixed or pre-drawn or are they**



compounded/mixed/constituted on site/demand, are the vials of medication single use or multi-dose).

Mr. Linders was not engaged to deal with the peptides and/or B-12 injections. He has no knowledge regarding the transportation, storage, mixture and administration of the peptide and B-12 injections offered at RAADfest other than what is set out above that he administered the injection to C [REDACTED] R [REDACTED] at the request of Dr. Han Nguyen who mixed the cocktail of the peptides that were chosen by Ms. R [REDACTED]

- 8) Please provide a brief statement as to the disposition of any remaining medications used at RAADfest (i.e. has this medication been quarantined? And if so, provide the location where it is being quarantined).**

Mr. Linders has no knowledge regarding the disposition of any remaining medications used at RAADfest. In addition, he does not have access to any such information and/or records.

- 9) Provide a picture of the vials of medications to include the peptides and B-12 used for administration at RAADfest.**

Mr. Linders has no access to the vials of medications including the peptides and B-12 used for administration at RAADfest. He therefore is not able to provide a picture of the vials of medications that were used for administration at RAADfest.

- 10) The peptides reported to have been administered and most of those advertised for administration at RAADfest are not FDA approved and many are in the FDA category 2 bulk drug substances list (identified as having potential significant safety risks) Please briefly explain how these medications/active pharmaceutical ingredients were vetted. If applicable, please provide the manufacturer's/distributor's COA (certificate of analysis), FDA registration, or other applicable documentation showing the purity and safety of the ingredient(s).**

Mr. Linders has no knowledge and/or information regarding what the Board is seeking by way of this question nor does he have access to any such information.

CONCLUSION

Darrell Linders, APRN has endeavored to respond to the allegations to the extent that he is able to do so. He does not have access to information, data and/or records kept by Dr. Kent Holtorf and/or his practice in Southern California.

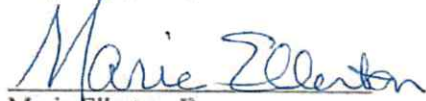


Dena McClish, Investigator
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After reviewing this correspondence the Board has questions, please do not hesitate to contact counsel.

Your attention to this matter is appreciated. We look forward to hearing that this investigation has been completed and the matter has been resolved.

Very truly yours,



Marie Ellerton, Esq.
HALL PRANGLE, LLC



Darrell Linders, APRN

SME
Enclosures as noted





MD/SC 5mg.
P21 2.5mg
BPC 2.5mg
TBC 2.5mg

Informed Consent for Therapy

1. Consent for Medical Treatment

I, [redacted] voluntarily consent to receive medical treatment and care provided by Holtorf Medical Group (HMG). This may include conventional, integrative, and/or complementary therapies as deemed appropriate by my clinician.

2. Patient Rights

I understand that:

- I have the right to refuse any recommended procedure or treatment.
- I have the right to discuss all treatment options with my clinician, including potential risks, benefits, and alternatives.

3. Understanding of Treatment

I confirm that I have been given the opportunity to ask questions regarding:

- My condition
- Conventional, integrative, and complementary treatment options
- Alternative therapies
- Risks and benefits of treatment and non-treatment
- Procedures to be used
- Any associated risks or complications

I acknowledge that I have received sufficient information to provide informed consent. I certify that this form has been explained to me in full, that I have read or had it read to me, and that I understand its contents. I agree not to proceed with any treatment unless I fully understand it and have discussed any questions with my clinician.

4. Financial Responsibility and Insurance

I understand that:

- Full payment is due at the time of service.
- Holtorf Medical Group does not submit claims to insurance providers or Medicare on my behalf.
- HMG cannot guarantee reimbursement from my insurance company and is not responsible for any denied claims.
- The physicians at HMG have opted out of Medicare, and therefore services rendered will not be eligible for Medicare reimbursement.

5. Liability Waiver

I agree to hold harmless, defend, and release The Coalition for Radical Life Extension, RAADFest, LEV Foundation, and Red Rock LLC from any claims, demands, or legal actions arising out of or related to the treatments I receive through Holtorf Medical Group.

Patient Signature: [redacted]

Date: 7/13/25

2232 E. Maple Ave., El Segundo, CA 90245 (310) 375-2705 Fax (310) 414-9727

Consent for Peptide Therapy

(continued)



Having read this, I hereby acknowledge that I am voluntarily undergoing peptide therapy. In addition, I assume full liability for any adverse side effects or complications that may result from non-negligent prescribing of peptide therapy and waive/release Holtorf Medical Group and its providers from any and all claims (legal or otherwise), grievances, or damages (monetary or otherwise) arising from my treatment with peptide therapies. I certify that if any concerns or side effects occur, I will notify my provider. I also understand that Holtorf Medical Group and my provider are not responsible for any manufacturing issues related to these peptides, such as sterility and potency, which are the sole responsibility of the compounding pharmacy preparing them.

NOTE: DO NOT SIGN THIS FORM UNLESS YOU HAVE READ IT AND FEEL THAT YOU UNDERSTAND IT. ASK ANY QUESTIONS YOU MIGHT HAVE BEFORE SIGNING THIS FORM. DO NOT SIGN THIS FORM IF YOU HAVE TAKEN MEDICATIONS WHICH MAY IMPAIR YOUR MENTAL ABILITIES OR IF YOU FEEL RUSHED OR UNDER PRESSURE.

I certify that I have read the above consent form, discussed the issues noted above, had opportunities to ask questions, and agree to all the terms above.

Patient Name: C [REDACTED] R [REDACTED]

Patient Signature: [REDACTED]

Date: 7/13/25

Patient Presents for Peptide use.

Patient was given BPC-157-2.5mg, TBH-2.5mg, P21 2.5mg, MTC 5mg, per standard low dose protocol from Pharmacist. Given in left buttock.
Patient elected these specific peptides, given GFE, denied medications,
Reported Allergy to eggs, denies any pertinent medical Hx or reactions to previous medications.

Patient reported no reactions within 15 minutes, was ALONG
Happy with treatment. no complaints offered

Chart Note — Peptide Administration

Date: 07/13/25

Patient: C [REDACTED] R [REDACTED]

Provider: Darrell Linders, APRN.

Subjective (S):

Patient presented to HMG booth for Peptide Therapy. Evaluated and consulted by Dr. Hann, of HMG. The patient previously attempted B-12 injection the previous day.

Objective (O):

- No respiratory distress on presentation
 - Alert, oriented, conversant
 - No rashes, swelling, or abnormal neurological findings
 - Review of systems Completed by Consulting Pharmacist. Patient did not report chest pain, fever, active infection, or shortness of breath
 - Denies any pertinent medical Hx or past reactions to medications.
 - Allergies: Egg (reported);
-

Assessment (A):

Primary indications for treatment:

- fatigue
 - No contraindications noted on review
-

Plan (P):

The patient to the best of my knowledge was informed of off-label use of the following peptides for **supportive, regenerative optimization** based on clinical presentation. The patient consented in writing after an opportunity for questions.

Peptides selected and administered based on pharmacist and HMG low dose protocol:

- **MOTS-C (5 mg):**
- **P21 (2.5 mg):**
- **BPC-157 (2.5 mg):**
- **Thymosin Beta-4 (2.5 mg):**

All peptides to the best of my knowledge were **compounded by a licensed pharmacy**. The Recommendations, consult, good faith exam were to the best of my knowledge completed by the "licensed Pharmacist". The peptides were drawn by the pharmacist into a syringe. The pharmacist asked for me to administer IM or SubQ. The patient elected IM in the left glute. I reviewed peptide written order on the Consent form of the names and dosing of peptides with the pharmacist Dr. Hann who to my knowledge requested this combination based on patients presenting symptoms and prior education and knowledge in regenerative peptide therapy. Dr. Hann was on site as the SME of peptides and works for HMG as their peptide specialist and writes their protocols for peptides. Administered supplement after confirming Right patient, right dose, right supplement, right route, and completion of Consent form and evaluation:

- **Injection given IM in left glute.**
 - **Patient monitored for approximately 15 minutes post-administration with no adverse response. Patient waited for two other people to receive B-12 injections. Prior to patient leaving, we spoke, and the patient stated she would be back to say bye. No reactions reported at that time, the patient left on her own free will.**
 - No rash, anaphylaxis, dizziness, or respiratory changes noted.
 - Verbal report: "feeling clear," "happy with treatment."
 - Instructed to hydrate, rest, and report any delayed symptoms.
 - Patient educated to report any symptoms and adverse reactions.
-

Disclosure:

Patients acknowledged and signed full **informed consent for peptide therapy**, including risks of adverse response. To the best of my knowledge, the patient was advised that therapy is off-label and not FDA-approved. She elected to proceed with full understanding. All risk complications and future implications of the Peptide therapy had been to the best of my knowledge explained at length to the patient. The patient fully understood and accepted all risks, complications and future implications of the supplement, and all of their questions had been answered to their fullest satisfaction through the signing of the informed consent.

Post-Injection Emergency Response Note

Patient Name: C [REDACTED] R [REDACTED]

Date of Incident: 07/13/25

Rendering Provider: Darrell Linders

Location: Room 8108 –

Chief Complaint (Post-Injection Distress):

Approximately 45–60 minutes post-injection, I received a text message from the patient stating:

"I'm really unwell right now. My vision is off completely and I'm shaking. What do I do??"

Immediate Actions Taken:

- I immediately called the patient and instructed her to provide her room number and unlock the door.
- I notified building security to dispatch emergency medical services (EMS) to Room 8108.
- I proceeded directly to the room and found the patient conscious, breathing spontaneously, but exhibiting the following symptoms:

- Inability to open eyes
- Slurred speech
- Mild tongue swelling noted
- Complaints of altered vision and shakiness

Clinical Interventions Rendered:

- Positioned patient in semi-recumbent position, supported with pillow
- Applied 2L oxygen via nasal cannula
- Monitored BP, respiratory rate, SpO2 continuously
- Called EMS again directly from room phone to ensure dispatch
- At this time, Dr. Holtorf arrived to assist
 - BP recorded at 149/90
 - Dr. Holtorf administered:
 - Diphenhydramine 50 mg IM
 - Epinephrine 0.3 mg IM (EpiPen)
- Continued frequent monitoring of vitals and maintained oxygen therapy until Fire Rescue arrived on site

Vital Signs During Monitoring:

Time	BP	SpO2	Respiratory Rate
------	----	------	------------------

Initial 149/95 98% 12

Re-check 149/90 97% 12

Final (prior to EMS arrival) 149/93 98% 13

Post-Emergency Plan & Documentation:

- Patient was **turned over to EMS** with full handoff including vitals, timing, and symptom progression.
 - **Full incident documented**
 - Patient had received the following peptides IM approximately 1 hour prior:
 - **MOTS-c 5 mg**
 - **P21 2.5 mg**
 - **BPC-157 2.5 mg**
 - **TB-500 (Thymosin Beta-4) 2.5 mg**
 - Reaction suspected to be an anaphylactoid **response**.
-

Rendering Provider:

Darrell Linders

Date: 07/13/25

EXHIBIT B



Dear Han Nguyen,

I am writing to confirm that Han Nguyen's independent contract with our organization concluded on March 17, 2026.

This conclusion was the result of corporate restructuring and was not related to performance or conduct. Han Nguyen fulfilled all contractual obligations during the engagement, and the contract ended in good standing.

If you require any additional information, please feel free to reach out.

Sincerely,

A handwritten signature in black ink, appearing to read "Kent Holtorf", written over a circular stamp or seal.

Kent Holtorf
Owner
Holtorf Medical Group

09/03/2025

Han Nguyen

August

8,500.00

Checking (8576) - Operating

8,500.00

Holtorf Medical Group

22391

09/30/2025

Han Nguyen

September

8,500.00

Checking (8576) - Operating

8,500.00

Holtorf Medical Group

22304

08/05/2025

Han Nguyen

July

5,173.91

Checking (8576) - Operating

5,173.91

Holtorf Medical Group

22236

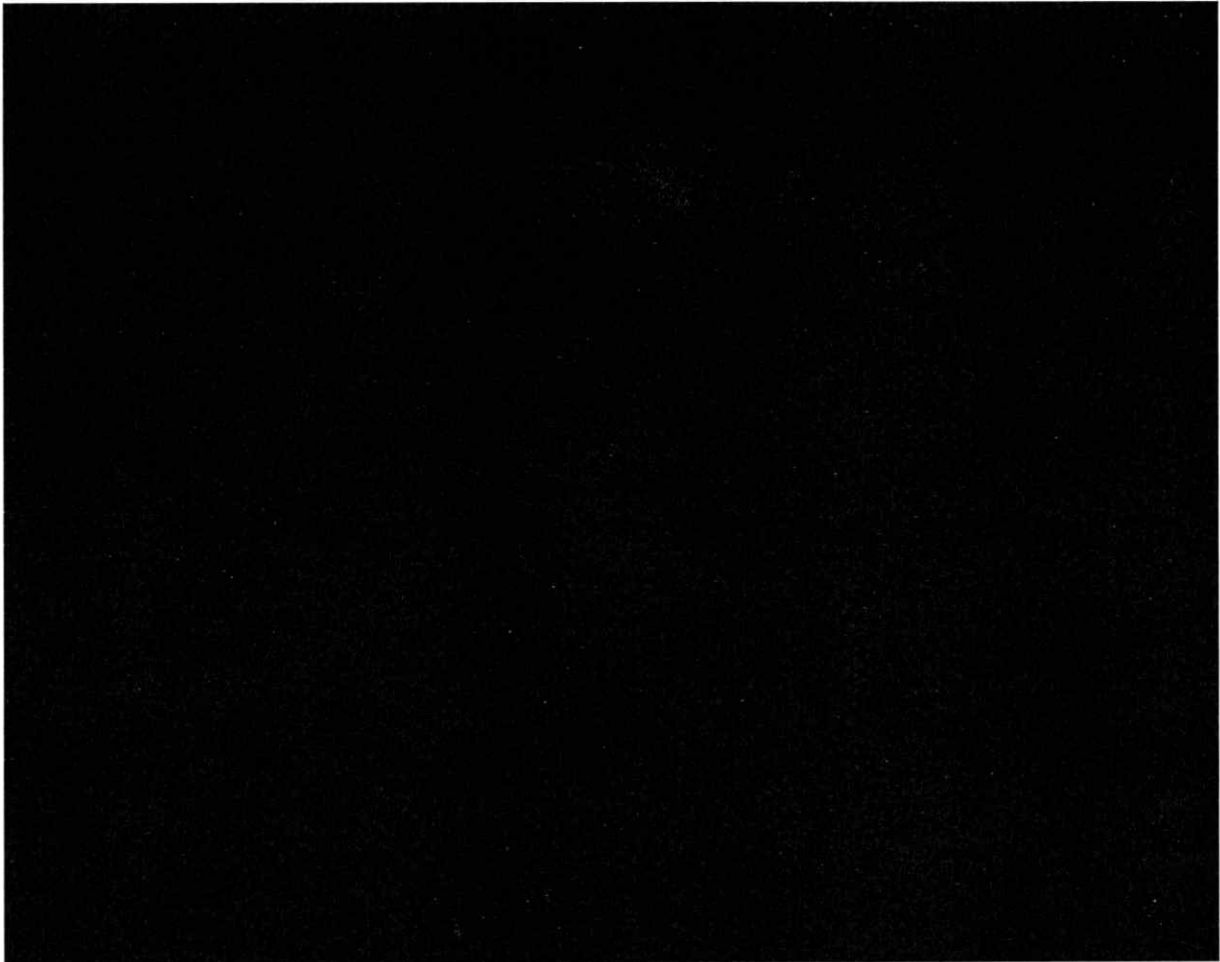
07/08/2025

Han Nguyen

Airfare to Vegas Conference

379.96

Checking (8576) - Operating



From: DJ linders <Wellnessreboot@outlook.com>
Sent: Thursday, June 25, 2026 3:32 PM
To: Marie Ellerton <mellerton@hallprangle.com>
Subject: FW: DJ Linders W9

[External Email] CAUTION!.

Receipt's for Event.

From: Gina C <Ginac@holtorfmed.com>
Date: Monday, July 7, 2025 at 6:15 PM
To: Peter B <peterb@holtorfmed.com>
Cc: DJ linders <wellnessreboot@outlook.com>
Subject: DJ Linders W9

Hi Peter,

Attached is the W9 for DJ Linders along with his receipts for his airfare for RAADfest.

DJ- Peter in accounting will need an invoice for your time at RAADfest to process payment.

From: Gina C <Ginac@holtorfmed.com>

Sent: Thursday, July 3, 2025 2:33 PM

To: Gina C <Ginac@holtorfmed.com>

Subject: DJ air tickets

Get [Outlook for iOS](#)

17:21

5G



Confirmation code: **UNBFEG**

AAdvantage Business™: **LISTEN LINDA 01 LLC**

Wednesday, July 9, 2025

MIA

AA 726 

Miami

8:14 PM

LAS

Seat: **25F**

Las Vegas

Class: **Economy (S)**

10:23 PM

Meals: **Food for purchase**

Sunday, July 13, 2025

LAS

AA 1372 

Las Vegas

11:23 PM

MIA

Seat: **14A**

Miami

Class: **Economy (S)**

7:16 AM

Meals: **Refreshment**

 **Flight arrives Monday, July 14, 2025**

[Manage your trip](#)

⏪ ∨ Reply All



Mail



Calendar



Copilot



Apps



[for you. Terms Apply](#)
[Learn more](#)

Your purchase

Darrell Linders - AAdvantage® #: BB6****

New ticket (0012254588965) **\$716.97**
[\$638.48 + Taxes & carrier-imposed
fees \$78.49]

Total cost **\$716.97**

Your payment

AmericanExpress (ending 3008) **\$716.97**

Total paid **\$716.97**

Bag information

Checked Bag (Airport)

Checked Bag (Online*)

MIA - LAS

t b

d

⏪ ∨ Reply All



Mail



Calendar



Copilot



Apps

**Request for Taxpayer
Identification Number and Certification**

Go to www.irs.gov/FormW9 for instructions and the latest information.

Give form to the
requester. Do not
send to the IRS.

Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

Print or type. See Specific Instructions on page 3.	1 Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.) Darrell Linders
	2 Business name/disregarded entity name, if different from above. Wellness Reboot Now
	3a Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only one of the following seven boxes. ☐ Individual/sole proprietor ☒ C corporation ☐ S corporation ☐ Partnership ☐ Trust/estate ☐ LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) _____ Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) _____
	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) _____ (Applies to accounts maintained outside the United States.)
	3b If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions ☐
5 Address (number, street, and apt. or suite no.). See instructions. [Redacted]	6 City, state, and ZIP code Miramar FL 33029
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number
[Redacted]
or
Employer identification number
[Redacted]

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person **Darrell Linders**

Date **07/03/2025**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

What's New

Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.

New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they



NEVADA STATE BOARD OF PHARMACY SUPPLEMENTAL INVESTIGATIVE REPORT #1

SUPPLEMENT TO CASE NUMBER: 25-289

DATE: 06/25/2026

PURPOSE: To add interview of NP Linders

INVESTIGATOR: Dena McClish

COMPLAINT SYNOPSIS

During the weekend of 07/11/2025 – 07/13/2025, there was a "Revolution Against Aging and Death" (RAAD) festival/conference held at the Red Rock Casino & Hotel in Las Vegas, NV. At least two attendees of the festival experienced medical emergencies after receiving injections of peptides at the Holtorf Medical vendor booth.

SUMMARY OF ACTIONS

On 06/25/2026, the NVBOP conducted an interview with Darrell "DJ" Linders. See report for details of the interview.

Ryan Miller - 6/30/2026

Investigator/Date

****CONFIDENTIAL – SECONDARY DISSEMINATION PROHIBITED****

The information contained in this report is confidential and the property of the Nevada State Board of Pharmacy. Neither the report nor any of its contents may be disseminated without the expressed authorization of the Nevada State Board of Pharmacy. It is intended to be read only by the person or entity to whom it has been delivered and authorized, or by their duly appointed designee. Secondary distribution of this report or its contents in any form to unauthorized persons or entities is strictly prohibited.

NEVADA STATE BOARD OF PHARMACY
INVESTIGATIVE REPORT

Case #: 25-289 Supplemental #1

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B. CONTACTS

NEVADA STATE BOARD OF PHARMACY
INVESTIGATIVE REPORT

Case #: 25-289 Supplemental #1

A. INTERVIEW WITH DARRELL LINDERS

On 06/25/2026, Nevada State Board of Pharmacy Chief Investigator Ryan Miller conducted a video **recorded** zoom interview with APRN Darrell "DJ" Linders. In addition to Chief Investigator Miller, present during the interview were APRN Linder's attorney, Marie Ellerton, and NVBOP Investigator Dena McClish, Executive Secretary Dave Wuest, Attorney Laura Tucker, and Attorney Amy Steelman. The interview was recorded with the knowledge and consent of everyone present.

The following is a summary of the information discussed/provided during the interview. It is not intended to be a transcript. Various topics were discussed throughout the interview and may have been revisited from time to time. Accordingly, testimony relating to the same topics may be combined in the summary for clarity.

Linders substantially reported the following:

Linders was contacted by Gina, the office manager for Holtorf Medical Group, to perform Ozone treatments at the RAAD Fest in Las Vegas. It was the only treatment that he understood he would be providing. They also asked him if he knew anyone licensed in Las Vegas who could administer peptides for them.

Linders asked for an employment contract from the Holtorf Medical Group but was told he didn't need one. He was told that his medical director was Dr. Whiteman, that he was just going to be doing Ozone, and the Dr. Whiteman would be overseeing him.

Linders was not familiar with Dr. Whiteman and had never met him until he actually got to the RAAD Fest. He does not know Dr. Whiteman's first name.

Dr. Whiteman is not licensed in Nevada but is licensed in California. Dr. Whiteman is employed by the Holtorf Medical Group and is one of their head doctors. Linders believes that Dr. Whiteman is a former E.R. doctor. He was introduced to Dr. Whiteman as the on-site Medical Director, and they were to go to him for anything they needed.

Linders confirmed that injections, including peptide injections, were given by the Holtorf booth at the RAAD Fest, and that some patients experienced negative effects as a result of those injections.

Linders was in his own little corner at the Holtorf booth and did not really see the whole process as it relates to who was conducting the medical evaluations and issuing orders prior to the administration of the injections. Nevertheless, he knows that patients would go to the front desk, sign their consent forms, and meet with Dr. Han Nguyen (Pharm D.). He assumes that Dr. Nguyen would then do their consults or "good faith exams," and administer the peptides.

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Dr. Holtorf (Holtorf Medical Group) was in charge of everything; it was his booth, he was a speaker at the events, and he coordinated the procedures and things that were done at the booth. This is why the Holtorf Medical Group reached out to Linders prior to the event for Ozone and looking for someone for the administration of peptides.

At the beginning of the RAAD Fest, they (Holtorf booth) did a brief meeting where they were told Dr. Nguyen would be doing peptides, Linders would be doing Ozone, and other individuals that he didn't know would be doing B12 injections.

The only injections Dr. Holtorf provided at the event were related to the emergency response on the patients that had reactions to an injection. Specifically, Dr. Holtorf injected Benadryl and Epi, which were part of the emergency kit.

After the negative reactions, Dr. Holtorf was upset that Dr. Nguyen was administering the peptides because the patients were supposed to have signed a "Private Medical Association (PMA) Agreement" before receiving the peptides. A PMA is an umbrella agreement /protection/membership that authorizes them to perform medical procedures outside of the laws because they have an agreement. Accordingly, Dr. Holtorf knew that the peptides were being given because his biggest concern was whether the patients had signed the PMA Agreements.

Linders initially thought the peptides used by the Holtorf booth at the RAAD Fest came from Integrated Peptides because he was told that they (Dr. Holtorf) owned his own peptide company. Nevertheless, he learned that the peptides they were using came from Forgotten Formula which were brought to them by an individual named Michael Blake with Forgotten Formula. Forgotten Formula is Dr. Holtorf's injectable peptide vendor. Integrate Peptides is Dr. Holtorf's company and produces oral peptides.

Dr. Holtorf was aware that the peptides came from Forgotten Formula and was talking with the individual (Michael Blake) from Forgotten Formula at the RAAD Fest the whole time. Linders showed the NVBOP a business card he had for Michael Blake.

The day before the event, they (the Holtorf booth) were giving Prolozone injections, one of which resulted in a reaction. In particular, the Medical Director, Dr. Whiteman, gave a Prolozone injection into the spine of a female patient who had a pretty bad reaction.

Dr. Holtorf was at the booth a lot, including during some injections. He knew exactly what was going on and was very much involved in everything. Linders referenced a text message that he showed to NVBOP staff before the interview from Gina, the office manager of the Holtorf Medical Group. This text was received before the RAAD Fest. Linders feels the text is clear that peptides were going to be given at the event because

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Dr. Holtorf was looking for someone licensed to do it. Linders ultimately thought that the licensed person they found to give peptide injections was Dr. Nguyen because that is who ended up giving them.

Linders had never seen a pharmacist giving injections and thought it was odd. Accordingly, he asked Dr. Nguyen if he was allowed to give injections. Dr. Nguyen advised him that his license allowed him to give injections. Linders now knows that he (Linders) was the only Nevada licensee at the Holtorf booth.

Linders believed the Holtorf Medical Group was doing things right because they had their own Ozone Operator but still reached out to him (Linders) for Ozone because he is licensed in Nevada. Additionally, they asked him if he knew any other Nevada licensed Nurse Practitioners and told him that they had a Medical Director. Accordingly, he had no reason to believe that nobody else held a Nevada license at the Holtorf booth.

Prior to the event, Linders told Gina during a phone call that he wasn't comfortable doing peptide injections because he didn't know about their peptides. Gina subsequently told him they were finding someone else to do them.

Once the event started, Linders was not concerned with the peptide injections because they had found someone else to do them and it wasn't his responsibility. Additionally, he was told that the person they found to do them was in charge of the protocols. Linders is not sure where the protocols came from and never saw them.

Linders is willing to testify if needed. He will provide a copy of the previous noted text message from Gina and the business card for Michael Blake. He will look for any other text messages, emails, or documentation that he may have regarding his relationship with Dr. Holtorf as it relates to the RAAD Fest and their roles there and provide it to the NVBOP.

Linders believes that Michael McNeal (previously identified during the investigation as a team member associated with the Holtorf booth at the RAAD Fest) will talk with us because he was bullied into being silent. Michael McNeal's phone number is [REDACTED].

Linders confirmed that the notes on a treatment chart for one of the patients previously provided by Linders to Investigator McClish were written by Linders.

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B. CONTACTS

1. **Darrell Richard Linders, APRN (CS41067- issued 10/21/25)**

, Miramar, FL 33029

[\[redacted\]@outlook.com](mailto:[redacted]@outlook.com)

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End of Report.



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6 Tel: (702) 660-1234
7 Fax: (702) 441-1626
8 *Attorney for Respondent*

6 **BEFORE THE NEVADA STATE BOARD OF PHARMACY**

7 NEVADA STATE BOARD OF
8 PHARMACY, a Nevada Agency,

Case No.: 25-289-C-O

9 Petitioner,

10 vs.

11 KENT HOLTORF,

12 Respondent.

13 **RESPONDENT'S SECOND MOTION TO DISMISS**

14
15 Respondent Kent Holtorf, M.D. ("Dr. Holtorf"), by and through his undersigned
16 counsel, respectfully submits this second Motion to Dismiss, which raises additional and
17 independent grounds for dismissal beyond those presented in Respondent's first Motion to
18 Dismiss filed on or about May 29, 2026. Pursuant to NRS 639.2895(2), NRS 233B.121, and
19 the settled principles of Nevada administrative law set forth below, Respondent moves this
20 Board for an order (1) dismissing the Statement to the Respondent and Notice of Hearing (the
21 "Complaint"), Case No. 25-289-C-O, with prejudice; (2) rescinding the February 20, 2026
22 Order to Cease-and-Desist/Citation and Fine in its entirety; (3) rescinding any administrative
23 fine assessed or proposed thereunder; and (4) awarding Respondent his reasonable attorney's
24 fees and costs.
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1 This Motion is made and based upon the Memorandum of Points and Authorities
2 below, the pleadings and papers on file, the Declaration of Chandon S. Alexander and the
3 exhibit attached thereto, and any oral argument the Board may entertain.

4
5 DATED this 3rd day of July, 2026.

Respectfully Submitted,

6 SPARTACUS LAW FIRM

7 /s/ Chandon Alexander

8 CHANDON ALEXANDER, ESQ.

9 Nevada Bar No. 12033

3993 Howard Hughes Pkwy, Suite 480

Las Vegas, Nevada 89169

10 *Attorney for Respondent*

11
12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 **I. INTRODUCTION**

14 The Board is a creature of statute. It possesses no general police power and no common-
15 law authority; it may exercise only those powers the Legislature has conferred upon it, and those
16 grants are strictly construed. "As an administrative agency the Board has no general or common
17 law powers, but only such powers as have been conferred by law expressly or by implication."
18 *Andrews v. Nevada State Bd. of Cosmetology*, 86 Nev. 207, 208, 467 P.2d 96, 96-97 (1970).
19 That first principle disposes of this case.

20
21 The Board's entire authority to take administrative action against an unlicensed person
22 — to issue a cease-and-desist order, to issue a citation, or to assess a fine of up to \$5,000 per
23 offense — arises exclusively under NRS 639.2895. That statute is not a general grant of power
24 to police drug activity in Nevada. It is a narrow, conditional grant that switches on only "if the
25 Board determines that a person has violated subsection 1 of NRS 639.100, subsection 1 of NRS
26 639.2813 or NRS 639.284 or 639.285." NRS 639.2895. And even where those predicates are
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1 met, the statute's architecture, read against the whole of Chapter 639, confirms that the
2 Legislature reserved the *punishment* of true non-licensees for the courts — not for in-house
3 adjudication by a licensing board.

4 A directly analogous decision resolves the point. In *Dyer v. Louisiana State Board of*
5 *Dentistry*, 767 So. 2d 749 (La. App. 4 Cir. 2000), *writ denied* (La. Sept. 22, 2000), a dentistry
6 board assessed a \$5,000-per-count civil penalty against a laboratory technician for the
7 unauthorized practice of dentistry — under a statute that, on its face, authorized penalties against
8 “any unlicensed person.” The court nonetheless held that the board lacked jurisdiction to fine a
9 person “who neither qualified for nor was ever issued a license,” and that “all disciplinary powers
10 over non-licensees for the unlawful practice of dentistry is reserved for the district courts.” *Id.* at
11 750–54. The court reasoned that a licensing board’s disciplinary power is directed at those within
12 the licensing relationship — current or former licensees — and that the punitive, quasi-criminal
13 sanctioning of a member of the public who never entered that relationship belongs to the courts.
14 Dr. Holtorf stands in precisely the position of the technician in *Dyer*, a person who never held,
15 and was never eligible for, a Board license, haled before a licensing board to answer for the
16 alleged unauthorized practice of pharmacy.

17 Nevada’s statutory scheme reflects the identical division of labor. The very conduct the
18 Board seeks to fine administratively is, at the same time, a felony under NRS 639.100(2); a crime
19 punishable under NRS 193.130 by NRS 639.285; a matter for which “[r]ecovery of penalties”
20 must be “conducted by the district attorney” under NRS 639.300; and the subject of a separate
21 criminal penalty under NRS 639.310. The Legislature even gave this Board a remedy against
22 unlicensed actors — but placed it in the courts: an action for an injunction “in the district court”
23 under NRS 639.097. Against that backdrop, NRS 639.2895 should not be read to authorize this
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1 Board to impose punitive fines, in-house, on an out-of-state physician who never entered
2 Nevada's pharmacy-licensing system.

3 In addition, Respondent maintains that NRS 639.2895 is unconstitutionally vague and
4 violates Nevada's nondelegation doctrine.

5 For these reasons, developed below, the Citation and Statement should be dismissed with
6 prejudice.
7

8 **II. FACTUAL AND PROCEDURAL BACKGROUND**

9 Dr. Holtorf is a California-licensed physician who owns and operates Holtorf Medical
10 Group, located at 2232 E. Maple Avenue, El Segundo, California. As the Statement and Notice
11 of Hearing ("Statement") itself alleges, he "is not a Nevada-licensed practitioner." Statement ¶
12 1. He has never held, applied for, or been eligible for any certificate, license, or permit issued by
13 this Board — not as a pharmacist, an intern pharmacist, a pharmaceutical technician, a pharmacy,
14 a wholesaler, or a Board-registered practitioner. The Board issues him nothing, and can revoke,
15 suspend, or restrict nothing.
16
17

18 The Complaint alleges that from on or about July 11 through July 13, 2025, Holtorf
19 Medical Group operated a clinical booth at the Revolution Against Aging and Death Festival
20 ("RAADFest") at Red Rock Resort and Casino in Las Vegas, and that certain peptide substances
21 and Vitamin B-12 were administered by injection to attendees by employees and agents of the
22 practice. Statement ¶¶ 2–8. On or about February 20, 2026, the Board issued an Order to Cease-
23 and-Desist/Citation and Fine. Statement ¶ 1. Dr. Holtorf timely appealed and requested a hearing
24 on or about March 19, 2026. Statement ¶ 9. The Board filed the Statement on or about April 6,
25 2026, expressly invoking "the authority and jurisdiction conferred upon the Nevada State Board
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1 of Pharmacy ... by NRS 639.2895 and NRS 233B.121-.126.” Statement at 1. The matter is set
2 for hearing.

3 The Board is thus proceeding on the unlicensed-practice track of NRS 639.2895 — not
4 the licensee-discipline track (accusation under NRS 639.241; discipline under NRS 639.210 and
5 639.255), which by its terms runs only to persons the Board has licensed. That distinction is
6
7 dispositive here, because the powers the Board actually possesses over an unlicensed person are
8 defined, and bounded, by NRS 639.2895 alone.

9 **III. LEGAL STANDARD**

10 The Board’s authority is a creature of statute, strictly construed. An administrative
11 agency “has no general or common law powers, but only such powers as have been conferred by
12 law expressly or by implication,” *Andrews*, 86 Nev. at 208, 467 P.2d at 96–97, and the scope of
13 a statutory grant “is controlled by the statute conferring” it, *Tate v. State Bd. of Med. Exam’rs*,
14 356 P.3d 506, 510–11 (Nev. 2015). As to this very Board, the Nevada Supreme Court held long
15 ago that the Board’s general powers do not license it to enlarge upon or diminish the
16 requirements the Legislature itself has fixed. *Estes v. Nevada State Bd. of Pharmacy*, 60 Nev.
17 389, 111 P.2d 48, 49 (1941). Grants of power to *punish* a non-consenting member of the public
18 are construed narrowest of all.

19 An objection that the agency lacks statutory authority to proceed is jurisdictional. Subject
20 matter jurisdiction may be raised at any time, cannot be waived or conferred by the parties, and
21 must be resolved before the merits. *See Landreth v. Malik*, 127 Nev. 175, 179, 251 P.3d 163, 166
22 (2011). No amount of evidentiary development at a hearing can supply authority the Legislature
23 has withheld.

1 This Board can and must determine the limits of its own authority in the first instance.
2 An entity “authorized by law to ... determine contested cases,” NRS 233B.031, necessarily has
3 the implied power — indeed the duty — to decide whether it has authority to determine the
4 particular case before it. *Andrews* itself confirms that agencies possess powers conferred not only
5 expressly but “by implication,” 86 Nev. at 208, 467 P.2d at 97, and the authority of an
6 adjudicative body to determine that it lacks power to proceed is the paradigmatic implied power.
7 The Nevada APA reinforces the point, defining the contested-case record to include “[a]ll
8 pleadings, motions and intermediate rulings,” NRS 233B.121(7), and directs that “each agency
9 shall ... [a]dopt rules of practice, setting forth the nature and requirements of all formal and
10 informal procedures available,” NRS 233B.050(1)(a) — language that presupposes motion
11 practice as a feature of every Chapter 233B contested case. The Board therefore has authority to
12 entertain and grant this Motion now.
13

14 IV. ARGUMENT

15 A. The Board’s Authority Over a Non-Licensee Is a Narrow, Strictly Construed 16 Creature of NRS 639.2895 — Not a General Power to Police Drug Activity. 17

18 The starting point is the text of the only statute that gives the Board any power over an
19 unlicensed person. NRS 639.2895 provides:
20

21 In addition to any other penalty prescribed by law, if the Board
22 determines that a person has violated subsection 1 of NRS 639.100,
23 subsection 1 of NRS 639.2813 or NRS 639.284 or 639.285, the
24 Board may: (1) Issue and serve on the person an order to cease and
25 desist until the person obtains from the Board the proper license,
26 certificate or permit ...; (2) Issue a citation to the person ... [and
27
28

1 e]ach activity in which the person is engaged constitutes a separate
2 offense for which a separate citation may be issued; (3) Assess
3 against the person an administrative fine of not more than \$5,000;
4 [and] (4) Impose any combination of the [foregoing].
5

6 Notably, the grant is conditional and enumerated, such that the the penalty powers arise
7 only upon a determination that the person violated one of four specifically identified provisions.
8 There is no residual, free-floating authority to fine “unlicensed drug activity” in general.

9 The remedial structure is built around the licensing relationship. The cease-and-desist
10 remedy runs “until the person obtains from the Board the proper license, certificate or permit or
11 otherwise demonstrates that he or she is no longer in violation.” NRS 639.2895(1). That remedy
12 presupposes a respondent who is operating a business or activity for which a Board license is
13 available and appropriate — the unlicensed pharmacy — and who can cure the violation by
14 becoming licensed.
15

16 It is incoherent as applied to an out-of-state physician who administers therapeutics in a
17 clinical setting, as Dr. Holtorf is alleged to be. Dr. Holtorf cannot “obtain[] from the Board
18 the proper license” to do what he is alleged to have done in this case, because the Board
19 issues no license, certificate, or permit for the practice of medicine. The statute’s own remedy
20 thus reveals whom it was written to reach — and it was not written to reach him.
21

22 **B. A Licensing Board’s Power to Punish Does Not Reach a Person Who Never**
23 **Entered the Licensing System; That Authority Is Reserved to the Courts.**
24

25 *Dyer* squarely confronted — and rejected — the theory the Board advances here. There,
26 a state dentistry board conducted an adjudication, found a laboratory technician (Ms. Dyer)
27 guilty of six counts of the unauthorized practice of dentistry, and assessed a \$5,000 civil penalty
28

1 per count, together with costs and fees. *Dyer v. Louisiana State Bd. of Dentistry*, 767 So.2d 749,
2 750-51 (2000). The board in *Dyer* acted under a statute that, like NRS 639.2895, expressly
3 authorized a per-offense civil penalty against a non-licensee:

4 “The board may levy a civil penalty of no more than five thousand
5 dollars per offense upon *any unlicensed person*, who, after a hearing
6 or informal resolution ... is found to have practiced dentistry or
7 dental hygiene without the benefit of a currently valid license having
8 been issued by this board.”

9
10 *Id.* (emphasis added).

11 The Louisiana court affirmed the vacatur of that penalty. It held that the board “did not
12 have the jurisdiction to impose disciplinary sanctions ... against [a] technician who ... neither
13 qualified for nor was ever issued a license to practice.” *Id.* at 750. Reading the licensing statutes
14 together, the court concluded that the board’s disciplinary power “is specifically limited to
15 revoking, suspending or restricting the professional licenses of those individuals who are either
16 in possession of a currently valid license or ... have a temporarily suspended or revoked license”
17 — in short, to persons *within* the licensing relationship. *Id.* And it held that “all disciplinary
18 powers over non-licensees for the unlawful practice of dentistry is reserved for the district
19 courts,” because the punitive sanction for unauthorized practice “is the function of the criminal
20 court system, not an administrative agency.” *Id.* at 750, 753–54. The in *Dyer* court reached that
21 result even though the statute, on its face, reached “any unlicensed person” — declining to read
22 the facial breadth of the penalty clause to override the statutory structure and the constitutional
23 allocation of adjudicatory authority.
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1 The same limiting principle recurs across jurisdictions and licensing schemes. In
2 *Hemphill v. Louisiana State Board of Nursing*, 97-1090 (La. App. 1 Cir. 6/29/98), 713 So. 2d
3 1265, writ denied, 728 So. 2d 392 (La. 1998), the court held that a nursing board lacked
4 jurisdiction to discipline a university nursing student “who neither applied for licensure nor had
5 been issued a nursing license.” And the Fourth Circuit — affirmed by the Supreme Court — has
6 recognized the identical structural limit on a dental board’s reach, recognizing that North
7 Carolina’s board “does not have the authority to discipline unlicensed individuals or to order
8 non-dentists to stop violating the Dental Practice Act.” *N.C. State Bd. of Dental Exam’rs v. FTC*,
9 717 F.3d 359, 364 (4th Cir. 2013), *aff’d*, 574 U.S. 494 (2015); accord *Henry v. N.C. Acupuncture*
10 *Licensing Bd.*, No. 1:15CV831, 2017 WL 401234, at *6 (M.D.N.C. Jan. 30, 2017) (same).
11

12
13 Nevada law channels the punishment of unlicensed drug conduct to the courts and the
14 criminal system — exactly as *Dyer* said such punishment must be channeled. The same conduct
15 the Board here seeks to fine administratively is, simultaneously:

16 a *felony* - a person who violates NRS 639.100(1) — the lead predicate of NRS 639.2895
17 — “is guilty of a category D felony,” or a category C felony if substantial bodily harm results,
18 “and shall be punished as provided in NRS 193.130.” NRS 639.100(2);
19

20 a *crime* - unlawful sales by an unlicensed person under NRS 639.285 — another NRS
21 639.2895 predicate — are “punished as provided in NRS 193.130,” up to and including as a
22 felony;
23

24 a matter for *court recovery prosecuted by the district attorney*: “[r]ecovery of penalties”
25 under the chapter is governed by NRS 639.300, captioned “Recovery of penalties; conduct of
26 actions and prosecutions by district attorney”; and

27 the subject of a distinct *criminal penalty* under NRS 639.310.
28

1 Most tellingly, the Legislature *did* arm this Board with a remedy against unlicensed actors
2 — but it placed that remedy in the courts. NRS 639.097 authorizes the Board to “bring an action
3 to enjoin any act which would be in violation of” the chapter, “commenced in the district court.”
4 When the Legislature wanted the Board to reach unlicensed conduct, it told the Board to go to
5 court—and limited it to injunctive relief, not the imposition of fines. It did not authorize the
6 Board to try, convict, and fine a non-licensee in-house.

7
8 Dr. Holtorf is, for purposes of this analysis, indistinguishable from Dyer. He never held
9 a Board license; he never applied for one; he was never eligible for one for the clinical conduct
10 alleged; and he cannot cure the alleged violation by “obtain[ing] from the Board the proper
11 license,” NRS 639.2895(1), because none exists for him. Like the technician in *Dyer*, the
12 student in *Hemphill*, and the non-dentists in *Dental Examiners*, he is a stranger to the licensing
13 relationship on which this Board’s disciplinary authority rests. If the Board believes his conduct
14 was unlawful, the remedies Nevada law provides are the ones it has expressly assigned: an
15 injunctive action in the district court under NRS 639.097; recovery of penalties by the district
16 attorney under NRS 639.300; and, if warranted, criminal prosecution under NRS 639.100(2),
17 639.285, and 639.310. What Nevada law does not authorize is what the Board has done here —
18 the in-house imposition of punitive, per-offense fines on a non-licensee who never entered its
19 system.
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22 **C. Even If the Board May Reach Some Non-Licensees, Its Penalty Authority Is**
23 **Exactly Coextensive With the Four Enumerated Predicates — and No Broader.**

24
25 Should the Board decline to dismiss on the ground that its punitive authority does not
26 reach a true non-licensee at all, dismissal remains required on the narrower, and unavoidable,
27 ground that its authority is *exactly coextensive* with the four predicates NRS 639.2895 cross-
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1 references — NRS 639.100(1), 639.2813(1), 639.284, and 639.285 — strictly construed, and no
2 broader. The penalty power is conditional. It arises only “if the Board determines that a person
3 has violated” one of those four sections. If the conduct alleged does not fall within one of them,
4 “the [NRS 639.2895] penalty power never switches on.”

5
6 As Respondent has separately demonstrated, the peptide substances at issue are not
7 “dangerous drugs” under NRS 454.201, no “sale” of a “prescription drug” is alleged under NRS
8 639.285, and the wholesale-distribution predicates of NRS 639.100 are not satisfied on the
9 Complaint’s own facts. It follows that even accepting the Board’s authority over non-licensees
10 in the abstract, the statutory trigger is not met, and the citation and fine must be rescinded. The
11 great mass of the Complaint’s remaining citations — the Chapter 454 criminal statutes, the Title
12 15 felonies (NRS 200.820, 200.840), and the federal DSCSA provisions — appear nowhere in
13 NRS 639.2895 and are, as a matter of law, outside the Board’s administrative-penalty authority
14 over an unlicensed person. They must be dismissed or stricken.
15

16 **D. Constitutional Constraints Confirm the Narrow Construction and Separately**
17 **Require Dismissal.**

18 **1. NRS 639.2895 is Unconstitutionally Vague**

19
20 The “each activity ... constitutes a separate offense” language permits the Board to
21 multiply a single course of conduct into many \$5,000 citations with no defined unit of
22 prosecution. A statutory term is void for vagueness where it fails to give a person of ordinary
23 intelligence fair notice of what is proscribed and where it invites arbitrary and discriminatory
24 enforcement. *See Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972); *cf. Lopez v. Bay*
25 *Shore Union Free Sch. Dist.*, 668 F. Supp. 2d 406, 421 (E.D.N.Y. 2009); *Wineries of Old Mission*
26
27
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1 *Peninsula Ass'n v. Peninsula Twp.*, No. 1:20-CV-1008, 2022 WL 2155097, at *18–19 (W.D.
2 Mich. June 3, 2022).

3 The dispositive term here — “activity” — is the very word courts have condemned as
4 vague. In *Lopez*, the court held that “activity,” “affiliation,” and “communication” were
5 potentially unconstitutionally vague precisely because each carries such “broad general
6 meaning” that the rule could be “applied to virtually any action or communication,” “regardless
7 of how benign the act or word.” 668 F. Supp. 2d at 421. And in *Wineries*, the court struck the
8 term “Guest Activity” (and “Guest Activity Use”) as vague in violation of the Due Process
9 Clause where the very officials charged with enforcement could not agree on its meaning and
10 applied it inconsistently. 2022 WL 2155097, at *18–19.

11
12
13 NRS 639.2895 deploys the identical unbounded term, and does so at the most
14 consequential point in the statute. “[A]ctivity” is not merely a liability trigger, but the *multiplier*
15 that fixes the magnitude of punishment. Because the statute nowhere defines what constitutes a
16 discrete “activity,” a respondent cannot know, *ex ante*, whether a single booth staffed over three
17 days is one “activity,” three (one per day), or dozens (one per injection, per substance, per
18 attendee) — and neither can the Board, except through the same post hoc, ad hoc line-drawing
19 the vagueness doctrine forbids. The vice is at its most acute where, as here, the undefined term
20 governs not only *whether* conduct is unlawful but *how many times over* it will be punished. Such
21 a term offends both prongs of the doctrine at once — fair notice and the constraint on arbitrary
22 enforcement — and it does so in a punitive proceeding against a non-licensee who never accepted
23 the Board’s interpretive authority in the first place.

24
25
26 **2. NRS 639.2895 Violates the Nondelegation Doctrine**
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1 Nevada's nondelegation doctrine permits the Legislature to delegate the power to find
2 facts on which a statute operates, but requires "suitable standards" to cabin executive discretion.
3 *Galloway*, 83 Nev. at 20–26, 422 P.2d at 242–45. NRS 639.2895 authorizes a fine "of not more
4 than \$5,000" and declares that "[e]ach activity in which the person is engaged constitutes a
5 separate offense" — i.e., open-ended stacking — while supplying no standard for calibrating the
6 amount within the ceiling or for defining what counts as a discrete "activity." That standardless,
7 potentially limitless punitive discretion, exercised by the same body that investigates and
8 prosecutes, violates the nondelegation doctrine.
9

10 The defect is compounded by the interaction of the statute's two operative clauses. The
11 per-offense "ceiling" of \$5,000 supplies no meaningful constraint, because it is paired with an
12 unbounded multiplier and no aggregate cap whatever. The Legislature limited the penalty for
13 each "offense" but left the *number* of offenses to the Board's unguided discretion. The practical
14 maximum is therefore not \$5,000 but \$5,000 times however many "activities" the Board elects
15 to find — a figure the agency alone controls by choosing how finely to slice a single course of
16 conduct. A delegation that entrusts the enforcing agency with the power to define both the unit
17 of violation *and* the multiplier that sets total exposure, subject to no legislative standard for
18 either, is the paradigm of the standardless delegation *Galloway* forbids. It leaves the essential
19 policy judgment — how severely to punish — to be made by the executive after the fact rather
20 than by the Legislature in advance. That defect is connected to the vagueness identified above;
21 an undefined term that effectively delegates the basic policy choice to the enforcer is at once
22 void for vagueness and an unlawful delegation of legislative power. And the concern is gravest
23 as applied to a non-licensee, where none of the professional standards, licensing conditions, or
24
25
26
27
28

1 regulatory norms that might otherwise implicitly cabin the Board's discretion over its own
2 licensees is present to supply the guidance the statute itself omits.

3 **3. The Board's Attempt to Impose Civil Penalties Violates Dr. Holtorf's Right to**
4 **a Jury Trial Under the Seventh Amendment and the Nevada Constitution**

5 In *SEC v. Jarkesy*, 603 U.S. 109 (2024), the Supreme Court held that when an agency
6 seeks civil penalties for conduct legal in nature, the defendant is entitled to a jury trial in an
7 Article III court, and the "public rights" exception did not save in-house adjudication; the
8 punitive character of the remedy was the "more important" consideration. By analogy under
9 Nevada's jury-trial guarantee, a \$5,000-per-offense administrative fine for unlicensed practice
10 is punitive, "legal" relief, and the underlying conduct is quasi-criminal — indeed the very same
11 conduct is a crime under NRS 639.310 and 639.100(2), and NRS 639.300 provides for recovery
12 of penalties through an action prosecuted by the district attorney in court. Because a genuine
13 judicial forum exists for the same wrong, the Board's election to punish a non-licensee in-house
14 instead implicates the concern *Jarkesy* identified. Under *Jarkesy*, the Board's citation violates
15 Dr. Holtorf's right to a jury trial under the Seventh Amendment and the Nevada Constitution.
16
17
18

19 **F. Respondent Is Entitled to His Reasonable Attorney's Fees and Costs.**

20 Respondent respectfully requests an award of reasonable attorney's fees and costs
21 pursuant to NRS 233B.130 and NRS 233B.135, and/or NRS 18.010(2)(b), which authorizes a
22 fee award where a claim is "brought or maintained without reasonable ground." The Complaint
23 was filed against an out-of-state physician who holds no Board license, on a statute the Board
24 has no authority to enforce against such a person in the manner attempted, and in significant part
25 on criminal and federal predicates that appear nowhere in NRS 639.2895. The Board's want of
26 authority was apparent on the face of the Complaint.
27
28

1 **V. CONCLUSION**

2 For the foregoing reasons, Respondent respectfully requests that the Board enter an order
3 (1) dismissing the Complaint, Case No. 25-289-C-O, with prejudice; (2) rescinding the February
4 20, 2026 Order to Cease-and-Desist/Citation and Fine in its entirety, pursuant to NRS
5 639.2895(2); (3) rescinding any administrative fine assessed or proposed against Respondent;
6 and (4) awarding Respondent his reasonable attorney's fees and costs.
7

8 DATED this 3rd day of July, 2026.
9
10

11 Dated this 3rd day of July, 2026.

Respectfully Submitted,

12
13 **SPARTACUS LAW FIRM**

14
15 /s/ Chandon S. Alexander
16 Chandon S. Alexander, Esq.
17 Nevada Bar No. 12033
18 3993 Howard Hughes Pkwy, Suite 480
19 Las Vegas, Nevada 89169
20 *Attorney for Respondent*
21
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BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

KENT HOLTORF,

Respondent.

Case No. 25-289-C-O

**MOTION TO STRIKE/OPPOSITION
TO RESPONDENT'S SECOND
MOTION TO DISMISS, MOTION FOR
SPECIAL SESSION, AND MOTION TO
CONTINUE HEARING**

The Nevada State Board of Pharmacy (Board), by and through counsel prosecuting this matter, General Counsel Brett Kandt and Laura Tucker, files this motion to strike/opposition to Respondent Kent Holtorf's (Respondent) following motions filed with the Board on July 3, 2026: Second Motion to Dismiss, Motion for Special Session, and Motion to Continue the July 15, 2026, Hearing (collectively "Respondent's Motions"). This motion/opposition is based upon the following points and authorities and the pleadings on file herein.

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL AND PROCEDURAL BACKGROUND

On or about February 20, 2026, the Board issued a Citation and Fine Order on Respondent pursuant to NRS 639.2895, alleging violation of Nevada law for unlicensed practice and aiding and abetting unlicensed practice in Nevada. On or about March 19, 2026, Respondent appealed the Citation and Fine Order and requested a hearing before the Board. On or about April 6, 2026, the Board served Respondent with a Statement to the Respondent and Notice of Hearing pursuant to NRS 233B.121 for Respondent's appeal (233B Statement), noticing a hearing for June 3, 2026. Respondent moved to continue the June 3, 2026, hearing, and the Board President granted a continuance to July 15, 2026. Respondent also filed a pending motion to dismiss Case No. 25-289-C-O, and the prosecution has moved to strike that motion.

II. LEGAL STANDARD

The Citation and Fine Order and Respondent's request for a hearing to appeal it are based upon by NRS 639.2895 and subject only to the minimum procedural requirements for the adjudication of contested cases set forth in NRS 233B.121-126, *inclusive*. The Board's authority is limited to either upholding or dismissing the citation. *See Andrews v. Nevada State Board of Cosmetology*, 86 Nev. 207, 208, 467 P.2d 96, 96-96 (1970).

III. ARGUMENT

Respondent's Motions should be stricken or denied because they are procedurally improper, predicated upon misapplication of the law, and/or without merit.

A. Respondent's Motions are Procedurally Improper and Not Authorized by Nevada Law.

Pursuant to NRS 639.2895 the Board may issue a citation to and assess an administrative fine against any person that engages in unlicensed activity in Nevada. The sole remedy available to a person subject to a citation and fine is to appeal for a hearing before the Board, and if "[a]ggrieved by a final decision" to seek judicial review pursuant to NRS 233B.130.

The notice and hearing under NRS 639.2895(2) are subject only to the minimum procedural requirements of NRS 233B.121-.126, *inclusive*. Procedural due process requires that Respondent be given 1) reasonable notice of the factual and legal basis for the Citation and Fine Order and 2) an opportunity for a hearing to appeal the Citation and Fine Order, including the opportunity to present evidence, call witnesses and cross-examine opposing witnesses. NRS 233B.121; *see also Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950) (notice); *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (hearing).

1. Respondent has Not Been Denied Due Process.

The 233B Statement satisfies the due process requirement of notice of the basis for the citation and enables Respondent to prepare a defense. "[D]ue process requirements of notice are satisfied where the parties are sufficiently apprised of the nature of the proceedings so that there is

no unfair surprise.” *Dutchess Business Services, Inc. v. Nevada State Bd. of Pharmacy*, 124 Nev. 701, 712, 191 P.3d 1159, 1167 (2008) (citations omitted).

As for the opportunity to be heard, Respondent now seeks preemptive dismissal of the citation prior to the statutorily required appeal hearing that he himself requested, and prematurely speculates in his Motion for Special Session that the hearing scheduled for July 15th will not “permit sufficient time to hear the matter in full.” However, contrary to Respondent’s assertion, the Nevada Administrative Procedure Act does NOT confer jurisdiction to the Board to grant a pre-hearing dismissal of the citation. Furthermore, due process is not violated unless an administrative proceeding is so fundamentally unfair that a party is prevented from meaningfully presenting his case and prejudiced as a result. *Manufactured Home Cmty., Inc. v. Cty. of San Luis Obispo*, 167 Cal. App. 4th 705, 711 (2008) (citations omitted). Finally, Respondent’s Motion to Dismiss relies upon matters outside the pleadings and other extrinsic evidence that cannot be considered, and is predicated upon erroneous application of the law as further detailed below.

2. Respondent Cannot Demonstrate Good Cause for a Second Continuance.

Respondent’s motion for a second continuance of the hearing date disregards the prior continuance, which was granted on the basis that no further continuances would be requested or necessary. Moreover, Respondent requests a second continuance in order to engage in further discovery when the Nevada Administrative Procedure Act does not require ANY discovery. *Dutchess*, Nev. at 713, 191 P.3d at 1167. Most importantly, despite counsel’s representations to the contrary, ALL potential evidence and witnesses, including Christina Ristovski, were disclosed prior to the first hearing date, with the exception of Darrell Linders, who was known to Respondent and disclosed as a potential witness on July 1 at approximately 8:52 AM.

A continuance may be granted only upon a showing of good cause, and only to the extent necessary to accord Respondent the requisite due process. *See, e.g., Jones v. State ex rel. Wyo. DOT*, 991 P.2d 1251 (Wyo. 1999). Notably, each continuance necessitates rescheduling witnesses

for the prosecution. Respondent has had ample time to prepare a defense and cannot demonstrate good cause at this juncture.

The statutory process does not authorize or contemplate pre-hearing motion practice OR pre-hearing discovery; Respondent must simply be accorded the necessary due process guarantees of fundamental fairness. *Dutchess*, Nev. at 711-15, 191 P.3d at 1166-69. Respondent is entitled to notice and an opportunity to be heard. That's all. Respondent should not be permitted to convert this appeal hearing into an extralegal, full-blown civil court trial subject to extensive pre-trial motions and discovery. Respondent can make his arguments before the Board on July 15th.

B. The Board has Jurisdiction to Cite and Fine Respondent for Engaging in Unlicensed Activity in Nevada.

Respondent reasserts his prior argument on his first motion to dismiss that the Board somehow lacks jurisdiction to cite and fine him for his unlicensed activity. This argument stretches the limits of credulity and contravenes all principles of statutory construction. The Board has express authority to enforce the provisions of NRS Chapters 453, 454, and 639 for the protection of the public. NRS 639.070(1)(l); *see also* NRS 454.366. This includes the express authority granted in NRS 639.2895 to cite and fine unlicensed activity.

Respondent argues that the Board's authority under NRS 639.097 to bring an action in the Nevada courts to enjoin any violation of NRS Chapter 639 (enacted in 1967) somehow abrogates its authority to cite and fine unlicensed activity under NRS 639.2895 (enacted in 2013). Similarly, Respondent argues that, because NRS Chapter 639 imposes criminal penalties for unlicensed activity, this also somehow abrogates the Board's authority under NRS 639.2895. Lastly, Respondent posits a narrow interpretation of the statute that defies logic and does not square with the express language.

First, these arguments ignore the plain, unambiguous language of NRS 639.2895 and NRS 639.100(1) prohibiting unlicensed activity in Nevada and empowering the Board to cite and fine such activity. When interpreting a statute, courts look to its plain language: if

the language is plain and unambiguous, courts enforce the statute as written. *Smith v. Zilverberg*, 137 Nev. 65, 72, 481 P.3d 1222 1230 (2021) (citations omitted).

Second, these arguments attempt to manufacture a conflict between statutes where no conflict exists. Courts, whenever possible, interpret provisions within a common statutory scheme “harmoniously with one another in accordance with the general purpose of those statutes and to avoid unreasonable or absurd results, thereby giving effect to the Legislature’s intent.” *S. Nevada Homebuilders Ass’n v. Clark Cnty.*, 121 Nev. 446, 449 117 P.3d 171, 173 (2005) (citations omitted).

Third, Respondent’s tortured interpretation of NRS 639.2895 is a *reductio ad absurdum* that renders the statute meaningless. Courts will not read statutory language in a manner that renders any part of the statute meaningless or that produces absurd or unreasonable results. *Orion Portfolio Services 2 LLC v. Cnty. of Clark ex rel. Univ. Med. Ctr. of S. Nevada*, 126 Nev. 397, 403, 245 P.3d 527, 531 (2010) (citations omitted). It is imperative that the public be protected from unlicensed activity resulting in the type of harm inflicted by Respondent in this case.

C. NRS 639.2895 is Presumed Constitutional.

Respondent challenges the constitutionality of NRS 639.2895 and the Board’s enforcement action thereunder. However, unless ruled otherwise by the courts, a statute is presumed constitutional. *State v. Castaneda*, 126 Nev. 478, 481, 245 P.3d 550, 552-53 (2010), *opinion modified on denial of reh’g*, 52911, 2010 WL 5559401 (Nev. Dec. 22, 2010). It is not the prerogative of the Board to adjudicate the constitutionality of a statute.

D. Respondent May Not Recover Attorney’s Fees and Costs.

Finally, Respondent in moving for dismissal seeks to recover attorney’s fees and costs. However, the Nevada Administrative Procedure Act does not authorize an award of attorney’s fees or costs under NRS 18.010(2) or NRS 18.020. *See, e.g., Zenor v. State*, 134 Nev. 109, 412 P.3d 28 (2018), *citing State, Dept. of Human Resources v. Fowler*, 109 Nev. 782, 786, 858 P.2d 375, 377 (1993) (APA does not authorize an award of attorney’s fees on a petition for judicial review).

IV. CONCLUSION

For the foregoing reasons, the prosecution respectfully requests that the Board strike or deny Respondent's Motions.

RESPECTFULLY SUBMITTED this 8th day of July, 2026.

By: /s/ Brett Kandt
BRETT KANDT, Esq.
General Counsel
LAURA M. TUCKER, Esq.
General Counsel
Nevada State Board of Pharmacy
985 Damonte Ranch Parkway, Suite 206
Reno, NV 89521

CERTIFICATE OF SERVICE

I certify that I am an counsel for the Nevada State Board of Pharmacy, and that on this 8th day of July 2026, I served a true and correct copy of the foregoing document by electronic mail to the following:

Chandon Alexander. Esq.
Spartacus Law Firm
3993 Howard Hughes Parkway Suite 400
Las Vegas, NV 89169
chandon@spartacuslawfirm.com
ray@spartacuslawfirm.com
angie@spartacuslawfirm.com

/s/ Brett Kandt
BRETT KANDT



IN THE SUPREME COURT OF THE STATE OF NEVADA

KENT HOLTORF, M.D.,
Petitioner,
v.
NEVADA STATE BOARD OF
PHARMACY,
Respondent.

No. 92863

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION*

This emergency petition for a writ of mandamus or prohibition challenges the Nevada State Board of Pharmacy’s authority to proceed with an administrative enforcement hearing and seeks a writ directing the Board either to dismiss the complaint, citation, and fine against petitioner for lack of subject matter jurisdiction or to rule on petitioner’s motion to dismiss before the hearing. Petitioner also asks that the Board be directed to adopt rules of practice concerning pre-hearing motions to dismiss, and he seeks a stay of the upcoming hearing pending our consideration of this petition.

Mandamus is properly requested to compel the performance of a legally required act, NRS 34.160; *Walker v. Second Jud. Dist. Ct.*, 136 Nev. 678, 680, 476 P.3d 1194, 1196-97 (2020), but traditionally, only when the petitioner has a clear right to the relief requested, and when there is no plain, speedy, and adequate remedy in the ordinary course of law, NRS 34.170; *Halverson v. Sec’y of State*, 124 Nev. 484, 487, 186 P.3d 893, 896 (2008). Prohibition may issue when a board exceeds its jurisdiction. NRS 34.320. This court has recognized that petitions “for such relief should be directed to and resolved by the district court in the first instance.” *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981); see *State v. County of Douglas*, 90 Nev. 272, 276-77, 524 P.2d 1271, 1274 (1974) (noting that “this court prefers that such an application [for writ relief] be

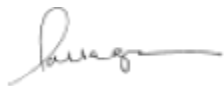
addressed to the discretion of the appropriate district court” in the first instance), *abrogated on other grounds by Att’y Gen. v. Gypsum Res.*, 129 Nev. 23, 33-34, 294 P.3d 404, 410-11 (2013). Whether a petition seeking writ relief will be considered by this court is purely discretionary, *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 818 P.2d 849, 851-52 (1991), and it is the petitioner’s burden to demonstrate that writ review is warranted, *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition and supporting documents, we are not persuaded that our extraordinary intervention is warranted. It is not clear from what is currently before this court that the Board lacks subject-matter jurisdiction over the matter before it, and the Board has not addressed petitioner’s arguments against jurisdiction yet. We decline to intervene to direct the Board how to proceed. Petitioner may raise these issues in any district court petition for judicial review of the Board’s decision, if appropriate. Accordingly, petitioner has an adequate legal remedy precluding writ relief, and we thus

ORDER the petition DENIED.¹



Pickering, J.



Parraguirre, J.



Bell, J.

cc: Attorney General/Carson City
Spartacus Law Firm

¹In light of this order, and because petitioner did not properly seek stay relief by separate motion, his request for a stay of the administrative proceedings is denied.

12C

**DHL Supply Chain
Regulatory Affairs**



360 Westar Boulevard, Westerville, OH 43082

January 24, 2025

To Whom It May Concern,

Exel Inc. d/b/a DHL Supply Chain (USA) ("DHL") submits this correspondence in connection with its Initial application and as the detailed explanation required when the question pertaining to disciplinary action is answered "Yes."

Exel Inc. d/b/a DHL Supply Chain (USA) ("DHL") is a part of Deutsche Post DHL Group, the world's leading contract logistics provider, and has tens of thousands of employees across North America. At any given time, DHL is a named defendant in civil matters, including employment cases. Based on knowledge and belief of the respondent completing this application after reasonable inquiry, DHL is not involved in any pending criminal proceedings. Nor is DHL part of any pending malpractice claims, civil claims, or lawsuits in connection with drugs/devices.

Attached are notices from the State Board for the following items:

1. April 12, 2023: DHL received a notice from the California State Board of Pharmacy indicating that the Board issued a fine against DHL for its failure to notify the Board of a change in its Designated Representative. Please note that the issuance of a fine by the Board is not considered a disciplinary action or reportable and the fine was paid in full within the allotted time.
2. November 30, 2023: The Alabama Board of Pharmacy issued a complaint alleging that DHL's renewal applications failed to disclose a Stipulation and Final Agency Order DHL received from the Colorado Board of Pharmacy in 2019. The Colorado Board of Pharmacy's Stipulation and Final Agency Order alleged DHL had provided a late notice of change in its Designated Representative. Upon further review, it was discovered that DHL had made the proper disclosure to the Alabama Board of Pharmacy and the parties entered into a Deferral Agreement which is not considered a discipline.

DHL timely responded to all notices and has not received any response from the applicable Boards.

Please be assured that DHL takes these matters very seriously and has implemented corrective actions to prevent similar issues from occurring in the future. If you have any concerns regarding the matters set forth in this notice, please do not hesitate to contact DHL Regulatory Affairs at regulatory@dhl.com.

Respectfully,

John Kropczynski, BSE, MBA

John Kropczynski

Director, Regulatory Affairs, Americas

IN THE MATTER OF:	)	BEFORE THE ALABAMA STATE
	)	BOARD OF PHARMACY
	)	
EXEL, INC. d/b/a DHL SUPPLY CHAIN (USA)	)	CASE NO: 23-L-0050
	)	
Third Party Logistics	)	
Permit No. 195360	)	

DEFERRAL AGREEMENT

This Agreement is entered into by and between the Alabama State Board of Pharmacy (Board) and EXEL, Inc. d/b/a DHL Supply Chain (USA).

WHEREAS, EXEL, Inc. d/b/a DHL Supply Chain (USA) was timely served with a Statement of Charges and Notice of Hearing (Pending Charges) alleging violations of the Alabama Pharmacy Practice Act. A copy of the Pending Charges is attached hereto as Exhibit "A".

WHEREAS, the parties, through counsel, have engaged in discussions concerning an informal resolution of the Pending Charges.

WHEREAS, the parties have agreed to resolve this matter pursuant to Code of Alabama (1975) 41-22-12(f) by their approval of the following terms:

IT IS THEREFORE UNDERSTOOD AND AGREED BY THE PARTIES AS FOLLOWS:

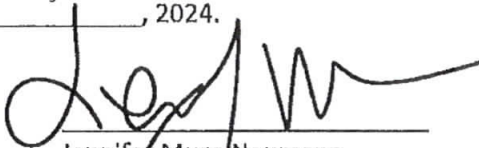
1. The Pending Charges against EXEL, Inc. d/b/a DHL Supply Chain (USA) shall be deferred until December 31, 2024 (Deferral Period).
2. As a condition to the Deferral described above, EXEL, Inc. d/b/a DHL Supply Chain (USA) shall pay costs in the amount of One Thousand Dollars (\$1,000.00) within thirty (30) days of the effective date of this Agreement, that being the date it is signed on behalf of the Board. Failure to pay this amount shall be considered a probable cause violation by EXEL, Inc. d/b/a DHL Supply Chain (USA) as defined below. Payments shall be made payable to Alabama State Board of Pharmacy and mailed to 111 Village Street, Birmingham, Alabama 35242.
3. In the event there are no probable cause violations of the Alabama Pharmacy Practice Act involving EXEL, Inc. d/b/a DHL Supply Chain (USA) during the Deferral Period set forth above, the Pending Charges shall be dismissed.
4. In the event there is a probable cause violation of the Alabama Pharmacy Practice Act involving EXEL, Inc. d/b/a DHL Supply Chain (USA) during the Deferral Period set forth above, both the Pending Charges and any new charges shall be noticed and scheduled for a hearing.
5. Neither the Pending Charges nor this Agreement shall be reported as discipline as long as EXEL, Inc. d/b/a DHL Supply Chain (USA) complies with the conditions of Paragraphs Two and Three of this Agreement.

6. That EXEL, Inc. d/b/a DHL Supply Chain (USA) expressly waives its rights pursuant to the Alabama Pharmacy Practice Act, and the Alabama Administrative Procedures Act and the Alabama Uniform Controlled Substances Act, including but not limited to Code of Alabama (1975), §34-23-92(12), Code of Alabama (1975), §41-22-12 and §41-22-20, and including but not limited to the opportunity for a hearing before the Board in connection with any charges against it and any judicial review. EXEL, Inc. d/b/a DHL Supply Chain (USA) further waives any objection to the attorney for the Board preparing, drafting, or making this Deferral Agreement, including the waiver of any objection or right pursuant to Code of Alabama (1975), §41-22-18.

7. By execution of this Deferral Agreement, EXEL, Inc. d/b/a DHL Supply Chain (USA) hereby releases the Board, its members, agents, representatives, servants, and employees from any and all liability, claims, damages, fees or expenses arising out of or made in connection with the matters relating to this Deferral Agreement and Pending Charges.

8. EXEL, Inc. d/b/a DHL Supply Chain (USA) acknowledges and agrees that it has read this Deferral Agreement and that it fully understands the terms, conditions, and contents of the same. EXEL, Inc. d/b/a DHL Supply Chain (USA) acknowledges and agrees that it voluntarily and of its own free will accepts the terms and conditions set out in this Deferral Agreement and is signing this Deferral Agreement on the advice of its attorney.

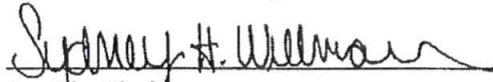
DONE this the 31 day of January, 2024.



Jennifer Muro Neumann
Jennifer Muro Neumann, P.C.
Post Office Box 381082
Birmingham, Alabama 35238

Christy Garmon, Pharm D.
President
State Board of Pharmacy

DONE this the 1st day of February, 2024.

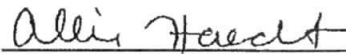


Jennifer Clark

Sydney Willmann

Counsel for EXEL, Inc. d/b/a

DHL Supply Chain (USA)



EXEL, Inc. d/b/a DHL Supply Chain (USA)

By: Allison Haedt

Its: Sr. Associate General Counsel

IN THE MATTER OF:) BEFORE THE ALABAMA STATE
) BOARD OF PHARMACY
)
EXEL, INC. d/b/a DHL SUPPLY CHAIN (USA)) CASE NO: 23-L-0050
)
Third Party Logistics)
Permit No. 195360)

NOTICE OF HEARING

TO: EXEL, INC. d/b/a DHL SUPPLY CHAIN (USA)
1635 Stone Ridge Drive
Stone Mountain, GA 30083

Pursuant to the provisions of Code of Alabama (1975), § 34-23-34, § 34-23-52, § 34-23-92(12), § 34-23-132 and § 41-22-12, you are hereby notified and requested to appear before the Alabama State Board of Pharmacy (hereinafter referred to as the "Board") on Feb 20, 2024 at 8:00 a.m., at the State Board of Pharmacy Hearing Room, 111 Village Street, Birmingham, Alabama 35242, and from time to time thereafter as may be required by the Board for the purpose of a hearing to determine why your permit should not be revoked, suspended, or otherwise disciplined based upon your failure to comply with all applicable laws and regulations of the State of Alabama. Disciplinary action may include administrative fines not to exceed \$1,000 per violation; and/or revocation, suspension, or denial of your license(s); and/or such other discipline as may be ordered by the Board. Code of Alabama (1975), § 34-23-33. You have the right to be represented by counsel at your own expense, to respond and present evidence and argument on all material issues, to cross-examine all witnesses who testify against you, and to request that witnesses and/or documents be subpoenaed on your behalf. Please refer to the enclosed Standard Scheduling Order for further information regarding responding to the charges, witnesses, exhibits, and prehearing matters.

STATEMENT OF CHARGES

COMES NOW Complainant Donna C. Yeatman, as Executive Secretary of the Alabama State Board of Pharmacy and, on behalf of the Board, charges Respondent EXEL, INC. d/b/a DHL SUPPLY CHAIN (USA) of as follows:

On October 30, 2019, on December 13, 2020, and on November 19, 2021, you submitted renewal applications and failed to disclose, when required to do so, that, on April 29, 2019, you entered into a Stipulation and Final Agency Order with the Colorado Board of Pharmacy after it was alleged that you submitted a late notice of change of representative in violation of Colorado law. This discipline was not reported to the Board until you submitted your renewal application on November 23, 2022. Said Stipulation and Final Agency Order is attached hereto as Exhibit A.

On October 18, 2022, you entered into a Deferral Agreement in a matter with this Board in case number 21-L-0277. The above-referenced matter constitutes a violation of the said Deferral Agreement. Said Deferral Agreement is attached hereto as Exhibit B.

VIOLATIONS

If proven true, you will be in violation of the following:

Code of Alabama (1975), §34-23-32(a) and Ala. Admin. Code r. 680-X-2-.25(a): by failing to submit applications that contain information as required by the Board and that conform with the requirements of all applicable laws and regulations.

Code of Alabama (1975), §34-23-32(a) and Ala. Admin. Code r. 680-X-2-.23(l)(3): by failing to comply with all applicable state laws and regulations.

PRAYER FOR RELIEF

WHEREFORE, Complainant, in her capacity as the Executive Secretary of the Alabama State Board of Pharmacy, requests that, upon hearing and proof, Respondent be found guilty of the aforementioned violations and that the Alabama State Board of Pharmacy take such disciplinary actions as it deems necessary.

Dated this the 30th day of Nov, 2023.

ALABAMA STATE BOARD OF PHARMACY


By: Donna C. Yeatman, Executive Secretary

EXHIBIT A

BEFORE THE STATE BOARD OF PHARMACY

STATE OF COLORADO

Case No. 2019-844

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE OUT-OF-STATE PRESCRIPTION DRUG WHOLESALER REGISTRATION IN THE STATE OF COLORADO OF EXEL INC., DBA DHL SUPPLY CHAIN (USA), REGISTRATION NO. WHO 8288,

Respondent Outlet.

IT IS HEREBY STIPULATED AND AGREED by and between the Colorado State Board of Pharmacy ("Board") and Exel Inc., dba DHL Supply Chain (USA) ("Respondent Outlet") to resolve all matters pertaining to Board Case Number 2019-844, as follows:

FINDINGS AND CONCLUSIONS

1. The Board has jurisdiction over Respondent Outlet, its registration as an out-of-state prescription drug wholesaler, and the subject matter of this Stipulation and Final Agency Order ("Final Agency Order") pursuant to the Pharmacists, Pharmacy Businesses, and Pharmaceuticals Act at Title 12, Article 42.5, C.R.S. (2018).
2. Respondent Outlet was originally registered in the State of Colorado on or about November 19, 2010, being issued registration #WHO 8288, and has been so registered at all times relevant to this disciplinary action.
3. Respondent Outlet's address of record with the Board and current location is 1635 Stone Ridge Drive, Stone Mountain, Georgia.
4. Respondent Outlet admits these findings and hereby waives any further proof in this proceeding before the Board regarding the following facts.
5. Respondent Outlet failed to timely submit to the Board an application detailing a change in designated representative and fee. In this case, 320 days transpired between March 9, 2018, the date the previous designated representative ceased the position, and January 23, 2019, the date the application and fee were received.

6. On or about February 4, 2019, the Board initiated a complaint against Respondent Outlet because of the delay of 320 days in submitting an application detailing a change in designated representative and fee.
7. Respondent Outlet's conduct, as set forth above, constitutes violations of the following sections of the Colorado Revised Statutes and Board Regulations:

Colorado Revised Statutes

12-42.5-123. Unprofessional conduct - grounds for discipline.

(1) The board may suspend, revoke, refuse to renew, or otherwise discipline any license or registration issued by it, after a hearing held in accordance with the provisions of this section, upon proof that the licensee or registrant:

(c) Has violated:

(II) The lawful rules of the board.

12-42.5-303. Wholesaler license requirements.

(3)(a) An applicant for a wholesaler license shall provide to the board the following information, and any other information deemed appropriate by the board on a form provided by the board:

(I) The name, full business address, and telephone number of the applicant;

(II) The trade and business names used by the applicant;

(III) The addresses, telephone numbers, and names of the contact persons for all facilities used by the applicant for the storage, handling, and distribution of prescription drugs;

(IV) The type of ownership or operation of the applicant;

(V) The names of the owner and the operator of the applicant, including:

(A) The name of each partner if the applicant is a partnership;

(B) The name and title of each officer and director, the name of the corporation, and the state of incorporation, if the applicant is a corporation;

(C) The name of the limited liability company, if the applicant is a limited liability company, and the name of the parent company, if any, and the state of incorporation or formation of both; or

(D) The name of the sole proprietor and the business entity if the applicant is a sole proprietorship;

(VI) A list of the licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs; and

(VII) The name of the applicant's designated representative for the facility, the fingerprints of the designated representative, and a personal information statement for the designated representative that includes information as required by the board, including but not limited to the information in subsection (5) of this section.

(b) A licensee shall complete and return a form approved by the board at each renewal period. The board may suspend or revoke the license of a wholesaler if the board determines that the wholesaler no longer qualifies for a license.

* * *

Pharmacy Board Rules and Regulations

15.01.14 Change of name, location, or ownership, or designated representative.

c. Any change in the designated representative of a wholesaler shall be reported to the Board on a form supplied by the Board within thirty calendar days of such change. The incoming designated representative must undergo the required background check.

TERMS OF DISCIPLINE

8. **Fine with Surcharge.** Pursuant to section 12-42.5-124(5)(a)(I), C.R.S., Respondent Outlet shall pay a fine of One Thousand Dollars and No Cents (\$1,000.00). Respondent Outlet understands and acknowledges that, pursuant to section 24-34-108, C.R.S., the Executive Director of the Department of Regulatory Agencies may impose an additional surcharge of 15% of this fine. Respondent Outlet shall therefore pay a total amount of One Thousand One Hundred Fifty Dollars and No Cents (\$1,150.00). The total amount shall be payable to the State of Colorado and shall be remitted in one lump sum to be included when Respondent Outlet submits this signed Final Agency Order to the Board.
9. **Compliance.** Respondent Outlet shall submit all future applications and appropriate fees to the Board detailing changes in designated representative within the required time frame specified by Board rule or statute in effect at the time of such designated representative change.

10. Other Requirements. Respondent Outlet acknowledges and agrees that, as a condition of this Final Agency Order, Respondent Outlet shall:

- a. promptly pay all Respondent Outlet's own fees and costs associated with this Final Agency Order;
- b. comply fully with this Final Agency Order; and
- c. comply fully with the Pharmacists, Pharmacy Businesses and Pharmaceuticals Act, all Board rules and regulations, and any other state and federal laws and regulations related to pharmacists and pharmaceuticals in the State of Colorado.

11. Adviseements and Waivers. Through its undersigned Authorized Representative, Respondent Outlet enters into this Final Agency Order freely and voluntarily, after having the opportunity to consult with legal counsel and/or choosing not to do so. Respondent Outlet acknowledges its understanding that it has the following rights:

- a. to have formal notice of hearing and charges served upon it;
- b. to respond to said formal notice of charges;
- c. to have a formal disciplinary hearing pursuant to sections 12-42.5-123 and 12-42.5-124, C.R.S.; and
- d. to appeal this Final Agency Order.

Respondent Outlet freely waives these rights, and acknowledges that such waiver is made voluntarily in consideration for the Board's limiting the action taken against Respondent Outlet to the sanctions imposed herein.

12. Acknowledgments. The undersigned Authorized Representative of Respondent Outlet has read this Final Agency Order in its entirety and acknowledges, after having the opportunity to consult with legal counsel and/or choosing not to do so, that Respondent Outlet understands the legal consequences and agrees that none of the terms or conditions herein is unconscionable. Respondent Outlet is not relying on any statements, promises or representations from the Board other than as may be contained in this Final Agency Order. Respondent Outlet further acknowledges that it is not entering into this Final Agency Order under any duress.

13. Violations. Time is of the essence in this Final Agency Order. It is the responsibility of Respondent Outlet to take all appropriate steps to comply fully with this Final Agency Order. Respondent Outlet acknowledges and agrees that any violation of this Final Agency Order shall constitute a willful violation of a lawful Board order, may be sanctioned as provided under section 12-42.5-124(4), C.R.S., and may be sufficient grounds for additional discipline, including but not limited to revocation of Respondent Outlet's registration. The pendency of any suspension

or disciplinary action arising out of an alleged violation of this Final Agency Order shall not affect the obligation of Respondent Outlet to comply with all terms and conditions of this Final Agency Order.

14. Integration and Severability. Upon execution by all parties, this Final Agency Order shall represent the entire and final agreement of and between the parties. In the event any provision of this Final Agency Order is deemed invalid or unenforceable by a court of law, it shall be severed and the remaining provisions of this Final Agency Order shall be given full force and effect.
15. Public Record. Upon execution by all parties, this Stipulation and Final Agency Order shall be a public record, maintained in the custody of the Board.
16. Effective Date. This Final Agency Order shall become effective upon (a) mailing by first-class mail to Respondent Outlet at Respondent Outlet's address of record with the Board, or (b) service by electronic means on Respondent Outlet at Respondent Outlet's electronic address of record. Respondent Outlet hereby consents to service by electronic means if Respondent Outlet has an electronic address on file with the Board.

ACCEPTED AND AGREED BY

Respondent Outlet

Mark A. Sharick

Authorized Representative

Dated:

4/18/19

Vice President, General Counsel and Secretary
Name / Title

FINAL AGENCY ORDER

WHEREFORE, the within Stipulation and Final Agency Order is approved, accepted, and hereby made an Order of the Board.

Done and effective this 29 day of April, 2019.

State Board of Pharmacy

BY: *Dmitry Kunin*
Dmitry Kunin
Program Director

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within STIPULATION AND FINAL AGENCY ORDER upon all parties herein by electronic means or by depositing copies of same in the United States mail, first class postage prepaid, at Denver, Colorado, this 29th day of April 2019, addressed as follows:

By electronic mail:

Exel Inc. dba DHL Supply Chain USA
1635 Stone Ridge Dr
Stone Mountain, GA 30083-1118

Email: renewals@licenselogix.com; and andrew.post@dhl.com

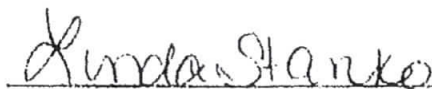

Agent of the Board

EXHIBIT B

IN THE MATTER OF:	)	BEFORE THE ALABAMA STATE
	)	
EXEL INC. dba DHL SUPPLY CHAIN (USA)	)	BOARD OF PHARMACY
	)	
THIRD PARTY LOGISTICS	)	CASE NO: 21-L-0277
Permit No. 195360	)	

DEFERRAL AGREEMENT

This Agreement is entered into by and between the Alabama State Board of Pharmacy (Board) and Exel Inc. dba DHL Supply Chain (USA).

WHEREAS, Exel Inc. dba DHL Supply Chain (USA) was timely served with a Statement of Charges and Notice of Hearing (Pending Charges) alleging violations of the Alabama Pharmacy Practice Act. A copy of the Pending Charges is attached hereto as Exhibit "A".

WHEREAS, the parties, through counsel, have engaged in discussions concerning an Informal resolution of the Pending Charges.

WHEREAS, the parties have agreed to resolve this matter pursuant to Code of Alabama (1975) 41-22-12(f) by their approval of the following terms:

IT IS THEREFORE UNDERSTOOD AND AGREED BY THE PARTIES AS FOLLOWS:

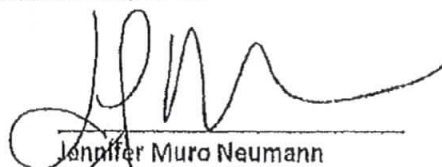
1. The Pending Charges against Exel Inc. dba DHL Supply Chain (USA) shall be deferred until December 31, 2023 (Deferral Period).
2. As a condition to the Deferral described above, Exel Inc. dba DHL Supply Chain (USA) shall pay costs in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) within thirty (30) days of the effective date of this Agreement, that being the date it is signed on behalf of the Board. Failure to pay this amount shall be considered a probable cause violation by Exel Inc. dba DHL Supply Chain (USA) as defined below.
3. In the event there are no probable cause violations of the Alabama Pharmacy Practice Act involving Exel Inc. dba DHL Supply Chain (USA) during the Deferral Period set forth above, the Pending Charges shall be dismissed.
4. In the event there is a probable cause violation of the Alabama Pharmacy Practice Act involving Exel Inc. dba DHL Supply Chain (USA) during the Deferral Period set forth above, both the Pending Charges and any new charges shall be noticed and scheduled for a hearing.
5. Neither the Pending Charges nor this Agreement shall be reported as discipline as long as Exel Inc. dba DHL Supply Chain (USA) complies with the conditions of Paragraphs Two and Three of this Agreement.

6. That Exel Inc. dba DHL Supply Chain (USA) expressly waives its rights pursuant to the Alabama Pharmacy Practice Act, and the Alabama Administrative Procedures Act and the Alabama Uniform Controlled Substances Act, including but not limited to Code of Alabama (1975), §34-23-92(12), Code of Alabama (1975), §41-22-12 and §41-22-20, and including but not limited to the opportunity for a hearing before the Board in connection with any charges against it and any judicial review. Exel Inc. dba DHL Supply Chain (USA) further waives any objection to the attorney for the Board preparing, drafting or making this Deferral Agreement, including the waiver of any objection or right pursuant to Code of Alabama (1975), §41-22-18.

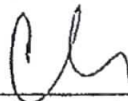
7. By execution of this Deferral Agreement, Exel Inc. dba DHL Supply Chain (USA) hereby releases the Board, its members, agents, representatives, servants and employees from any and all liability, claims, damages, fees or expenses arising out of or made in connection with the matters relating to this Deferral Agreement and Pending Charges.

8. Exel Inc. dba DHL Supply Chain (USA) acknowledges and agrees that it has read this Deferral Agreement and that it fully understand the terms, conditions and contents of the same. Exel Inc. dba DHL Supply Chain (USA) acknowledges and agrees that it voluntarily and of its own free will accepts the terms and conditions set out in this Deferral Agreement and is signing this Deferral Agreement on the advice of its attorney.

DONE this the 18th day of October, 2022.



Jennifer Muro Neumann
Jennifer Muro Neumann, P.C.
Post Office Box 381082
Birmingham, Alabama 35238



Chris Phung, R.Ph.,
President
State Board of Pharmacy

DONE this the 17th day of October, 2022.



Jennifer H. Clark, Attorney for

Exel Inc. dba DHL Supply Chain (USA)

Allin E. Huesch
Exel Inc. dba DHL Supply Chain (USA).

By: Allison Haedt

Its: Associate General Counsel

DHL Supply Chain
Regulatory Affairs



360 Westar Boulevard, Westerville, OH 43082

May 3, 2023

To whom it may concern,

Exel Inc. d/b/a DHL Supply Chain (USA) ("DHL") is submitting this letter in reference to the question on the application regarding pending complaint, investigation, or disciplinary actions.

Exel Inc. d/b/a DHL Supply Chain (USA) ("DHL") is a part of Deutsche Post DHL Group, the world's leading contract logistics provider, and has tens of thousands of employees across North America. At any given time, DHL is a named defendant in civil matters, including employment cases. Based on knowledge and belief of the respondent completing this application after reasonable inquiry, DHL is not involved in any pending criminal proceedings. Nor is DHL part of any pending malpractice claims, civil claims, or lawsuits in connection with drugs/devices.

Attached is a letter from the State Board for the following item:

On April 23, 2023, DHL received a notice from the California State Board of Pharmacy indicating that the Board issued a fine against DHL for its failure to notify the Board of a change in its Designated Representative for the site located at 5920 Corporate Drive, St. Joseph, MO 64507. Please note that the issuance of a fine by the Board is not considered a disciplinary action or reportable and the fine was paid for in full within the allotted time.

Please be assured that DHL takes these matters very seriously and has implemented corrective actions to prevent similar issues from occurring in the future. If you have any concerns regarding the matters set forth in this notice, please do not hesitate to contact DHL Regulatory Affairs at regulatory@dhl.com.

Respectfully,

John Kropczynski, BSE, MBA

John Kropczynski

Director, Regulatory Affairs, America's



California State Board of Pharmacy
2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833
Phone: (916) 518-3100 Fax: (916) 574-8614
www.pharmacy.ca.gov

Business, Consumer Services and Housing Agency
Department of Consumer Affairs
Gavin Newsom, Governor



April 12, 2023

DATED MATERIAL ENCLOSED

EXEL INC_DBA DHL SUPPLY CHAIN (USA)
ATTN: KENNETH SUREDDIN, CEO
5920 CORPORATE DRIVE
ST JOSEPH, MO 64507

RE: CI 2022 99663
EXEL INC_DBA DHL SUPPLY CHAIN (USA)
NPL 1001

The attached Citation and Fine, ("Citation") is being issued pursuant to Business and Professions Code section 125.9 and California Code of Regulations, title 16, section 1775 et. seq., for violations of the laws and regulations that govern the practice of pharmacy in California. (For exact language refer to the California Pharmacy Law and Index, located on the Board's web site, at www.pharmacy.ca.gov, under Pharmacy Law and Regulation).

The attached Citation references the specific statutes and regulations violated, defines each violation charged and specifies any fine(s) assessed. The attached Citation details the conduct that resulted in the issuance of the Citation.

IT IS YOUR RESPONSIBILITY TO READ THE ENTIRE CITATION AND INSTRUCTIONS, TO UNDERSTAND THE PROCESS FOR CONTESTING THE CITATION AND TO RESPOND TO THE CITATION WITHIN THE FOLLOWING TIME FRAMES:

- May 12, 2023: Unless the Citation is contested payment of fine(s) must be received by the Board.
- April 26, 2023: Any contest of the Citation by request for an informal Office Conference must be received by the Board.
- May 12, 2023: Any contest of the Citation by request for a formal Appeal must be received by the Board.

Page two
EXEL INC_DBA DHL SUPPLY CHAIN
CI 2022 99663

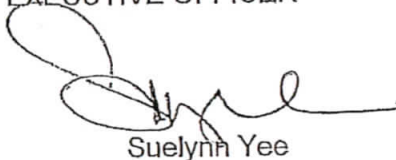
The issuance of a Citation by the Board of Pharmacy is considered an administrative action and substantiated resolution of a complaint and/or investigation. If a hearing is not requested to contest the Citation(s), payment of any fine(s) shall not constitute an admission of the violation(s) charged. Payment in full of the fine(s) assessed shall be represented as a satisfactory resolution of the matter in any public disclosure. (Business and Professions Code section 125.9; California Code of Regulations section 1775).

Additionally, if, at the time of license renewal, the Board has not received full payment of assessed fine(s) and a request to contest the Citation has not been received within the time frames specified, the license shall not be renewed until the assessed fine(s) and renewal fee/s are paid in full.

If you have any questions regarding this Citation please contact Suelynn Yee, Citation and Fine Analyst at (916) 518-3013.

Anne Sodergren
EXECUTIVE OFFICER

By:



Suelynn Yee
Citation and Fine Analyst

Attachments

INSTRUCTION

Read the Following Carefully and Thoroughly

You are hereby served with a Citation issued by the Executive Officer of the California State Board of Pharmacy or her designee. The following instructions are provided to assist you in your timely completion of the Citation process.

PAYMENT OF FINE

- Payment must be made by **May 12, 2023**.
 - Make check or money order payable to the Board of Pharmacy. Do not submit cash.
 - Attach the enclosed "copy" of your Citation
- Mail payment to: State Board of Pharmacy
Attn: Cashier
2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

Unless contested, Citations are final 30 days from the date of service. Payment of a fine is not an admission of the violation charged. A Citation becomes part of your record, and remains there for five years. It can be used as an aggravating factor for future violations. Citations are public information and as such may be released to the public in accordance with the Public Records Act and Information Practices Act.

CONTESTING THE CITATION (CCR §1775.4)

If you wish to contest all or part of your Citation you may request an informal office conference or an appeal before an administrative law judge, or both. If you wish to request both you must submit both forms. If you prevail at the office conference your request for an appeal shall be deemed withdrawn. Please note that the time frames that allow you to request an office conference and an appeal run concurrently. You must submit your request(s) according to the following instructions:

REQUEST FOR OFFICE CONFERENCE (CCR §1775.4 subd. (b))

- Complete attached "Request for Office Conference".
- Mail form to arrive at the Board office no later than April 26, 2023 to the address at the bottom of the form.
- You will be advised by the Board in writing as to the date and time of your appearance.
- You are allowed one postponement.

An office conference is not a hearing. It is an informal discussion of the events that took place, and an opportunity for you to present information and mitigating factors pertaining to the Citation that you would like considered. The Executive Officer and or her designee represent the Board of Pharmacy at this meeting. One other individual of your choice may accompany you to this meeting. Office conferences are not open to the public. There is no discovery available in this process. You will not be allowed to present or question witnesses. However, you may present any written statements or documents that you believe are relevant.

After your office conference, the Citation may be affirmed, modified or dismissed. You will be advised of the decision in writing within 14 calendar days from the date of the conference. If the Citation is affirmed you will have 30 days from the date of the decision letter to comply with the conditions of your Citation. If the Citation is modified, the Citation originally issued shall be considered withdrawn and a new Citation will be issued. The decision issued after the office conference shall be deemed to be a final order with regard to the Citation issued, including the administrative fine levied, and/or an order of abatement.

REQUEST FOR APPEAL (CCR § 1775.4 subd. (a))

- Complete attached "Request for Hearing".
- Mail form to arrive at the Board office no later than May 12, 2023 to the address at the bottom of the form.
- You will be advised in writing as to the date and time of your hearing.

An appeal is a formal adjudicative hearing before an Administrative Law Judge. A Deputy Attorney General will represent the Board of Pharmacy at this hearing. These proceedings shall be conducted in accordance with the provisions of Chapter 5, commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

If you have any questions regarding any documents enclosed please contact Suelynn Yee, Citation and Fine Analyst at (916) 518-3013.

**BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

CITATION AND FINE

Citation Number	Name, License No
CI 2022 99663	EXEL INC_DBA DHL SUPPLY CHAIN (USA), NPL 1001

JURISDICTION: Bus. & Prof. Code § 4314; CCR, title 16, § 1775; Bus. & Prof. Code § 4301, subd. (o)

VIOLATION CODE SECTION	OFFENSE	AMT OF FINE
Bus. & Prof. Code § 4160 subd. (g)	A third-party logistics provider shall notify the board in writing, on a form designated by the board, within 30 days of the date when a responsible manager ceases to act as the responsible manager, and shall on the same form propose another designated representative-3PL to take over and the responsible manager.	\$5,000.00

CONDUCT:

Business and Professions Code section 4160(g) requires a third-party logistics provider to notify the Board in writing, on a form designed by the Board, within 30 days of the date when a responsible manager ceases to act as the responsible manager and shall on the same form propose another designated representative-3PL to take over as the responsible manager. Specifically, on February 3, 2023, the Board received an Application for Change of Responsible Manager from Exel INC DBA DHL Supply Chain (USA), which had been signed under penalty of perjury by a corporate officer and the newly designated responsible manager-in-charge (RMG). The form indicated that the prior RMG, Donald Kragel (DRL 40449), dissociated on June 30, 2021 and that Ryan Stocking (DRL 40676) was designated as the new RMG the following day. Exel INC DBA DHL Supply Chain (USA) failed to notify the Board of their dissociated RMG for 583 days (June 30, 2021 – February 3, 2023). Similarly, Exel INC DBA DHL Supply Chain (USA) failed to notify the Board of their new RMG for 582 days (July 1, 2021 – February 3, 2023).

CITATION ISSUED ON: April 12, 2023

TOTAL AMOUNT OF FINE(S): \$5,000.00

PAYMENT OF FINE(S) DUE BY: May 12, 2023

UPS CampusShip: View/Print Label

1. Ensure there are no other shipping or tracking labels attached to your package. Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
2. Fold the printed label at the solid line below. Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.
3. **GETTING YOUR SHIPMENT TO UPS**
Customers with a Daily Pickup
Your driver will pickup your shipment(s) as usual.

Customers without a Daily Pickup

Take your package to any location of The UPS Store®, UPS Access Point(TM) location, UPS Drop Box, UPS Customer Center, Staples® or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.

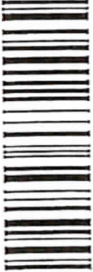
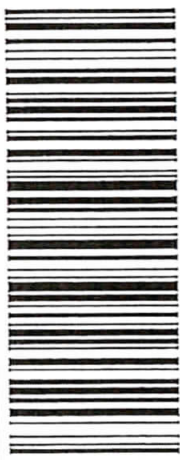
Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages.
Hand the package to any UPS driver in your area..

UPS Access Point™
THE UPS STORE
752 N STATE ST
WESTERVILLE, OH 43082

UPS Access Point™
CVS STORE # 6155
145 S STATE ST
WESTERVILLE, OH 43081

UPS Access Point™
THE UPS STORE
1491 POLARIS PKWY
COLUMBUS, OH 43240

FOLD HERE

LEGAL DEPARTMENT 514.855.8405 SCS LEGAL DEPARTMENT 360 WESTAR BLVD WESTERVILLE OH 43082	LTR	1 OF 1
SHIP TO: ATTN: CASHIER CALIFORNIA STATE BOARD OF PHARMACY SUITE 100 2720 GATEWAY OAKS DRIVE SACRAMENTO CA 95833-3500		
CA 958 9-02 		
UPS NEXT DAY AIR SAVER 1P TRACKING #: 1Z X80 486 13 9746 4449		
		
BILLING: P/P		
COST CENTER (19 DIGITS): 01.9481.9016.8255.33.000 CS 23.0.00. WNTNV50 18.0A 04/2023*		
		

DHL Supply Chain



Legal Department
360 Westar Boulevard
Westerville, Ohio 43082

May 3, 2023

via UPS

California State Board of Pharmacy
Attn: Cashier
2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

RE: Exel dba DHL Supply Chain – CI 2022 99663
Settlement - \$5,000.00

To whom it may concern:

Enclosed please find the following settlement payments:

- a check payable to California State Board of Pharmacy in the amount of \$5,000.00.

Please contact the undersigned if you have any questions.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Michal Armstrong', with a stylized flourish at the end.

Michal Armstrong
Senior Legal Operations Analyst
Legal Services - Americas
Legal-Services@dhl.com
614.865.8415

Enclosures

CC: Lori Hill
Elaine Darr
John Kropczynski

DHL Supply Chain – Excellence. Simply delivered.

DHL Supply Chain
360 Westar Boulevard
Westerville, Ohio 43082
USA

www.dhl-usa.com/supplychain

YOUR INVOICE NO.	INVOICE DATE	DESCRIPTION	NET CHECK AMOUNT
042823	28-APR-23	LEGAL CITATION	5,000.00



**Exel Inc. D/B/A DHL Supply Chain (USA)
360 Westar Blvd
Westerville, Ohio 43082**

To: Jurisdictional Regulator

This letter is to inform you that, in December 2025, Exel Inc. d/b/a DHL Supply Chain (USA) ("DHL") voluntarily surrendered Drug Enforcement Administration ("DEA") registration 007693EXY for its site located at 2020 E Vine Ave., Fresno, CA 93706 (the "Facility") because the Facility had not previously obtained a California Department of Justice ("California DOJ") Controlled Chemical Substance Program ("CCSP") permit. The Facility handles over-the-counter ("OTC") drugs including certain pseudoephedrine products which, per federal and state law, are regulated as List 1 Chemicals. DHL has reapplied for the CCSP permit and intends to reapply for a DEA registration upon receiving approval of its California DOJ CCSP permit.

Detailed Explanation:

This facility operates as a Third-Party Logistics (3PL) provider who by federal definition:

"is an entity that provides or coordinates warehousing or other logistics services on behalf of a manufacturer, wholesale distributor, or dispenser of a product. A 3PL provider does not take ownership of any product. Neither do they have the responsibility to direct the sale or disposition of the product."

In mid-2020, DHL applied for a DEA chemical distributor registration to receive, store and distribute OTC PSE products at the site. DHL was unaware that a California CCSP permit was also required. The site had not obtained a California Board of Pharmacy license because the California BOP does not regulate 3PL's for OTC products. Thereafter, DEA issued a chemical distributor registration for the Facility without this state license in place, and no mention was made of it being a prerequisite.

In late 2023, DEA inspected the Facility and informed DHL that the site needed a CCSP permit issued by the California DOJ. The DHL licensing team immediately submitted an application to the California DOJ. As part of its review of the application, the California DOJ stated that it required purchase and sales data to complete its review of the application. The licensing team notified the California DOJ that it could not provide that data because, as a 3PL, it does not purchase or sell products and only provides distribution services at the direction of suppliers who retain title to the product. Despite several exchanges of information over several months, DHL was unable to satisfy the California DOJ request. Based on the explanation from the California DOJ, the initial and recurring submission of purchasing and sales data is a key part CCSP's permitting process.



**Exel Inc. D/B/A DHL Supply Chain (USA)
360 Westar Blvd
Westerville, Ohio 43082**

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In mid-2020, DHL applied for a DEA chemical distributor registration to receive, store and distribute OTC PSE products at the site. DHL was unaware that a California CCSP permit was also required. The site had not obtained a California Board of Pharmacy license because the California BOP does not regulate 3PL's for OTC products. Thereafter, DEA issued a chemical distributor registration for the Facility without this state license in place, and no mention was made of it being a prerequisite.

In late 2023, DEA inspected the Facility and informed DHL that the site needed a CCSP permit issued by the California DOJ. The DHL licensing team immediately submitted an application to the California DOJ. As part of its review of the application, the California DOJ stated that it required purchase and sales data to complete its review of the application. The licensing team notified the California DOJ that it could not provide that data because, as a 3PL, it does not purchase or sell products and only provides distribution services at the direction of suppliers who retain title to the product. Despite several exchanges of information over several months, DHL was unable to satisfy the California DOJ request. Based on the explanation from the California DOJ, the initial and recurring submission of purchasing and sales data is a key part CCSP's permitting process.

Most recently, in October 2025, the DEA audited the Facility and asked whether the Facility had obtained the CCSP permit. DHL informed the DEA of the actions it had taken including its communication with California DOJ regarding its efforts obtain the permit. Specifically, DHL explained that because as a 3PL, it was unable to provide the List 1 purchase and sales data the California DOJ requested. The DEA investigator then contacted the California DOJ, who indicated the site should have a CCSP permit. DHL submitted a new CCSP application to California DOJ in December 2025. The California DOJ communicated to the DEA that it would take between 120-180 days to process DHL's application.

Given that it appeared that DHL would not be able to obtain the permit for 6 months, DHL and the DEA mutually agreed the best path forward was for DHL to voluntarily surrender the DEA registration until DHL obtains the CCSP permit.

DHL removed all List 1 inventory from the Facility on December 19, 2025, formally requested the DEA registration be surrendered and, communicated to the California DOJ that List 1 product is no longer being stored at the Facility.

Next Steps:

DHL continues to work with the California DOJ and its customer to satisfy the purchase and sales application requirements. DHL has agreement from the DEA that the Facility can reapply for a DEA permit once the CCSP permit is issued.

Please be assured that DHL takes these matters seriously and implements policies and procedures at its sites to ensure compliance with state and federal laws.

Please contact me if you have any questions or require additional information regarding this matter.

Kind Regards,

John Kropczynski

John Kropczynski, BSE, MBA
Director, Regulatory Affairs
Legal Services, Americas
614-865-8500

COPY:
Allison Haedt
Amanda Wickline
IQVIA
John A. Gilbert, Jr.
Regulatory@DHL.com

IN THE MATTER OF:	)	BEFORE THE ALABAMA STATE
	)	BOARD OF PHARMACY
	)	
EXEL, INC. d/b/a DHL SUPPLY CHAIN (USA)	)	CASE NO: 23-L-0050
	)	
Third Party Logistics	)	
Permit No. 195360	)	

DEFERRAL AGREEMENT

This Agreement is entered into by and between the Alabama State Board of Pharmacy (Board) and EXEL, Inc. d/b/a DHL Supply Chain (USA).

WHEREAS, EXEL, Inc. d/b/a DHL Supply Chain (USA) was timely served with a Statement of Charges and Notice of Hearing (Pending Charges) alleging violations of the Alabama Pharmacy Practice Act. A copy of the Pending Charges is attached hereto as Exhibit "A".

WHEREAS, the parties, through counsel, have engaged in discussions concerning an informal resolution of the Pending Charges.

WHEREAS, the parties have agreed to resolve this matter pursuant to Code of Alabama (1975) 41-22-12(f) by their approval of the following terms:

IT IS THEREFORE UNDERSTOOD AND AGREED BY THE PARTIES AS FOLLOWS:

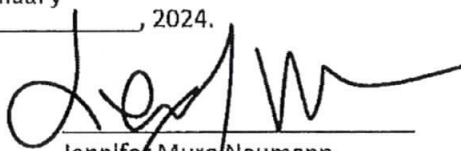
1. The Pending Charges against EXEL, Inc. d/b/a DHL Supply Chain (USA) shall be deferred until December 31, 2024 (Deferral Period).
2. As a condition to the Deferral described above, EXEL, Inc. d/b/a DHL Supply Chain (USA) shall pay costs in the amount of One Thousand Dollars (\$1,000.00) within thirty (30) days of the effective date of this Agreement, that being the date it is signed on behalf of the Board. Failure to pay this amount shall be considered a probable cause violation by EXEL, Inc. d/b/a DHL Supply Chain (USA) as defined below. Payments shall be made payable to Alabama State Board of Pharmacy and mailed to 111 Village Street, Birmingham, Alabama 35242.
3. In the event there are no probable cause violations of the Alabama Pharmacy Practice Act involving EXEL, Inc. d/b/a DHL Supply Chain (USA) during the Deferral Period set forth above, the Pending Charges shall be dismissed.
4. In the event there is a probable cause violation of the Alabama Pharmacy Practice Act involving EXEL, Inc. d/b/a DHL Supply Chain (USA) during the Deferral Period set forth above, both the Pending Charges and any new charges shall be noticed and scheduled for a hearing.
5. Neither the Pending Charges nor this Agreement shall be reported as discipline as long as EXEL, Inc. d/b/a DHL Supply Chain (USA) complies with the conditions of Paragraphs Two and Three of this Agreement.

6. That EXEL, Inc. d/b/a DHL Supply Chain (USA) expressly waives its rights pursuant to the Alabama Pharmacy Practice Act, and the Alabama Administrative Procedures Act and the Alabama Uniform Controlled Substances Act, including but not limited to Code of Alabama (1975), §34-23-92(12), Code of Alabama (1975), §41-22-12 and §41-22-20, and including but not limited to the opportunity for a hearing before the Board in connection with any charges against it and any judicial review. EXEL, Inc. d/b/a DHL Supply Chain (USA) further waives any objection to the attorney for the Board preparing, drafting, or making this Deferral Agreement, including the waiver of any objection or right pursuant to Code of Alabama (1975), §41-22-18.

7. By execution of this Deferral Agreement, EXEL, Inc. d/b/a DHL Supply Chain (USA) hereby releases the Board, its members, agents, representatives, servants, and employees from any and all liability, claims, damages, fees or expenses arising out of or made in connection with the matters relating to this Deferral Agreement and Pending Charges.

8. EXEL, Inc. d/b/a DHL Supply Chain (USA) acknowledges and agrees that it has read this Deferral Agreement and that it fully understands the terms, conditions, and contents of the same. EXEL, Inc. d/b/a DHL Supply Chain (USA) acknowledges and agrees that it voluntarily and of its own free will accepts the terms and conditions set out in this Deferral Agreement and is signing this Deferral Agreement on the advice of its attorney.

DONE this the 31 day of January, 2024.

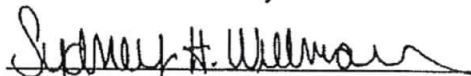


Jennifer Muro Neumann
Jennifer Muro Neumann, P.C.
Post Office Box 381082
Birmingham, Alabama 35238



Christy Garmon, Pharm D.
President
State Board of Pharmacy

DONE this the 1st day of February, 2024.

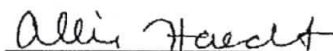


Jennifer Clark

Sydney Willmann

Counsel for EXEL, Inc. d/b/a

DHL Supply Chain (USA)



EXEL, Inc. d/b/a DHL Supply Chain (USA)

By: Allison Haedt

Its: Sr. Associate General Counsel

IN THE MATTER OF:) BEFORE THE ALABAMA STATE
) BOARD OF PHARMACY
)
EXEL, INC. d/b/a DHL SUPPLY CHAIN (USA)) CASE NO: 23-L-0050
)
Third Party Logistics)
Permit No. 195360)

NOTICE OF HEARING

TO: EXEL, INC. d/b/a DHL SUPPLY CHAIN (USA)
1635 Stone Ridge Drive
Stone Mountain, GA 30083

Pursuant to the provisions of Code of Alabama (1975), § 34-23-34, § 34-23-52, § 34-23-92(12), § 34-23-132 and § 41-22-12, you are hereby notified and requested to appear before the Alabama State Board of Pharmacy (hereinafter referred to as the "Board") on Feb 20, 2024 at 8:00 a.m., at the State Board of Pharmacy Hearing Room, 111 Village Street, Birmingham, Alabama 35242, and from time to time thereafter as may be required by the Board for the purpose of a hearing to determine why your permit should not be revoked, suspended, or otherwise disciplined based upon your failure to comply with all applicable laws and regulations of the State of Alabama. Disciplinary action may include administrative fines not to exceed \$1,000 per violation; and/or revocation, suspension, or denial of your license(s); and/or such other discipline as may be ordered by the Board. Code of Alabama (1975), § 34-23-33. You have the right to be represented by counsel at your own expense, to respond and present evidence and argument on all material issues, to cross-examine all witnesses who testify against you, and to request that witnesses and/or documents be subpoenaed on your behalf. Please refer to the enclosed Standard Scheduling Order for further information regarding responding to the charges, witnesses, exhibits, and prehearing matters.

STATEMENT OF CHARGES

COMES NOW Complainant Donna C. Yeatman, as Executive Secretary of the Alabama State Board of Pharmacy and, on behalf of the Board, charges Respondent EXEL, INC. d/b/a DHL SUPPLY CHAIN (USA) of as follows:

On October 30, 2019, on December 13, 2020, and on November 19, 2021, you submitted renewal applications and failed to disclose, when required to do so, that, on April 29, 2019, you entered into a Stipulation and Final Agency Order with the Colorado Board of Pharmacy after it was alleged that you submitted a late notice of change of representative in violation of Colorado law. This discipline was not reported to the Board until you submitted your renewal application on November 23, 2022. Said Stipulation and Final Agency Order is attached hereto as Exhibit A.

On October 18, 2022, you entered into a Deferral Agreement in a matter with this Board in case number 21-L-0277. The above-referenced matter constitutes a violation of the said Deferral Agreement. Said Deferral Agreement is attached hereto as Exhibit B.

VIOLATIONS

If proven true, you will be in violation of the following:

Code of Alabama (1975), §34-23-32(a) and Ala. Admin. Code r. 680-X-2-.25(a): by failing to submit applications that contain information as required by the Board and that conform with the requirements of all applicable laws and regulations.

Code of Alabama (1975), §34-23-32(a) and Ala. Admin. Code r. 680-X-2-.23(l)(3): by failing to comply with all applicable state laws and regulations.

PRAYER FOR RELIEF

WHEREFORE, Complainant, in her capacity as the Executive Secretary of the Alabama State Board of Pharmacy, requests that, upon hearing and proof, Respondent be found guilty of the aforementioned violations and that the Alabama State Board of Pharmacy take such disciplinary actions as it deems necessary.

Dated this the 30th day of Nov, 2023.

ALABAMA STATE BOARD OF PHARMACY


By: Donna C. Yeatman, Executive Secretary

EXHIBIT A

BEFORE THE STATE BOARD OF PHARMACY

STATE OF COLORADO

Case No. 2019-844

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE OUT-OF-STATE
PRESCRIPTION DRUG WHOLESALER REGISTRATION IN THE STATE OF COLORADO OF
EXEL INC., DBA DHL SUPPLY CHAIN (USA), REGISTRATION NO. WHO 8288,

Respondent Outlet.

IT IS HEREBY STIPULATED AND AGREED by and between the Colorado State Board of Pharmacy ("Board") and Exel Inc., dba DHL Supply Chain (USA) ("Respondent Outlet") to resolve all matters pertaining to Board Case Number 2019-844, as follows:

FINDINGS AND CONCLUSIONS

1. The Board has jurisdiction over Respondent Outlet, its registration as an out-of-state prescription drug wholesaler, and the subject matter of this Stipulation and Final Agency Order ("Final Agency Order") pursuant to the Pharmacists, Pharmacy Businesses, and Pharmaceuticals Act at Title 12, Article 42.5, C.R.S. (2018).
2. Respondent Outlet was originally registered in the State of Colorado on or about November 19, 2010, being issued registration #WHO 8288, and has been so registered at all times relevant to this disciplinary action.
3. Respondent Outlet's address of record with the Board and current location is 1635 Stone Ridge Drive, Stone Mountain, Georgia.
4. Respondent Outlet admits these findings and hereby waives any further proof in this proceeding before the Board regarding the following facts.
5. Respondent Outlet failed to timely submit to the Board an application detailing a change in designated representative and fee. In this case, 320 days transpired between March 9, 2018, the date the previous designated representative ceased the position, and January 23, 2019, the date the application and fee were received.

6. On or about February 4, 2019, the Board initiated a complaint against Respondent Outlet because of the delay of 320 days in submitting an application detailing a change in designated representative and fee.
7. Respondent Outlet's conduct, as set forth above, constitutes violations of the following sections of the Colorado Revised Statutes and Board Regulations:

Colorado Revised Statutes

12-42.5-123. Unprofessional conduct - grounds for discipline.

(1) The board may suspend, revoke, refuse to renew, or otherwise discipline any license or registration issued by it, after a hearing held in accordance with the provisions of this section, upon proof that the licensee or registrant:

(c) Has violated:

(II) The lawful rules of the board.

12-42.5-303. Wholesaler license requirements.

(3)(a) An applicant for a wholesaler license shall provide to the board the following information, and any other information deemed appropriate by the board on a form provided by the board:

(I) The name, full business address, and telephone number of the applicant;

(II) The trade and business names used by the applicant;

(III) The addresses, telephone numbers, and names of the contact persons for all facilities used by the applicant for the storage, handling, and distribution of prescription drugs;

(IV) The type of ownership or operation of the applicant;

(V) The names of the owner and the operator of the applicant, including:

(A) The name of each partner if the applicant is a partnership;

(B) The name and title of each officer and director, the name of the corporation, and the state of incorporation, if the applicant is a corporation;

(C) The name of the limited liability company, if the applicant is a limited liability company, and the name of the parent company, if any, and the state of incorporation or formation of both; or

(D) The name of the sole proprietor and the business entity if the applicant is a sole proprietorship;

(VI) A list of the licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs; and

(VII) The name of the applicant's designated representative for the facility, the fingerprints of the designated representative, and a personal information statement for the designated representative that includes information as required by the board, including but not limited to the information in subsection (5) of this section.

(b) A licensee shall complete and return a form approved by the board at each renewal period. The board may suspend or revoke the license of a wholesaler if the board determines that the wholesaler no longer qualifies for a license.

* * *

Pharmacy Board Rules and Regulations

15.01.14 Change of name, location, or ownership, or designated representative.

c. Any change in the designated representative of a wholesaler shall be reported to the Board on a form supplied by the Board within thirty calendar days of such change. The incoming designated representative must undergo the required background check.

TERMS OF DISCIPLINE

8. Fine with Surcharge. Pursuant to section 12-42.5-124(5)(a)(I), C.R.S., Respondent Outlet shall pay a fine of One Thousand Dollars and No Cents (\$1,000.00). Respondent Outlet understands and acknowledges that, pursuant to section 24-34-108, C.R.S., the Executive Director of the Department of Regulatory Agencies may impose an additional surcharge of 15% of this fine. Respondent Outlet shall therefore pay a total amount of One Thousand One Hundred Fifty Dollars and No Cents (\$1,150.00). The total amount shall be payable to the State of Colorado and shall be remitted in one lump sum to be included when Respondent Outlet submits this signed Final Agency Order to the Board.
9. Compliance. Respondent Outlet shall submit all future applications and appropriate fees to the Board detailing changes in designated representative within the required time frame specified by Board rule or statute in effect at the time of such designated representative change.

10. Other Requirements. Respondent Outlet acknowledges and agrees that, as a condition of this Final Agency Order, Respondent Outlet shall:

- a. promptly pay all Respondent Outlet's own fees and costs associated with this Final Agency Order;
- b. comply fully with this Final Agency Order; and
- c. comply fully with the Pharmacists, Pharmacy Businesses and Pharmaceuticals Act, all Board rules and regulations, and any other state and federal laws and regulations related to pharmacists and pharmaceuticals in the State of Colorado.

11. Advisements and Waivers. Through its undersigned Authorized Representative, Respondent Outlet enters into this Final Agency Order freely and voluntarily, after having the opportunity to consult with legal counsel and/or choosing not to do so. Respondent Outlet acknowledges its understanding that it has the following rights:

- a. to have formal notice of hearing and charges served upon it;
- b. to respond to said formal notice of charges;
- c. to have a formal disciplinary hearing pursuant to sections 12-42.5-123 and 12-42.5-124, C.R.S.; and
- d. to appeal this Final Agency Order.

Respondent Outlet freely waives these rights, and acknowledges that such waiver is made voluntarily in consideration for the Board's limiting the action taken against Respondent Outlet to the sanctions imposed herein.

12. Acknowledgments. The undersigned Authorized Representative of Respondent Outlet has read this Final Agency Order in its entirety and acknowledges, after having the opportunity to consult with legal counsel and/or choosing not to do so, that Respondent Outlet understands the legal consequences and agrees that none of the terms or conditions herein is unconscionable. Respondent Outlet is not relying on any statements, promises or representations from the Board other than as may be contained in this Final Agency Order. Respondent Outlet further acknowledges that it is not entering into this Final Agency Order under any duress.

13. Violations. Time is of the essence in this Final Agency Order. It is the responsibility of Respondent Outlet to take all appropriate steps to comply fully with this Final Agency Order. Respondent Outlet acknowledges and agrees that any violation of this Final Agency Order shall constitute a willful violation of a lawful Board order, may be sanctioned as provided under section 12-42.5-124(4), C.R.S., and may be sufficient grounds for additional discipline, including but not limited to revocation of Respondent Outlet's registration. The pendency of any suspension

or disciplinary action arising out of an alleged violation of this Final Agency Order shall not affect the obligation of Respondent Outlet to comply with all terms and conditions of this Final Agency Order.

14. Integration and Severability. Upon execution by all parties, this Final Agency Order shall represent the entire and final agreement of and between the parties. In the event any provision of this Final Agency Order is deemed invalid or unenforceable by a court of law, it shall be severed and the remaining provisions of this Final Agency Order shall be given full force and effect.
15. Public Record. Upon execution by all parties, this Stipulation and Final Agency Order shall be a public record, maintained in the custody of the Board.
16. Effective Date. This Final Agency Order shall become effective upon (a) mailing by first-class mail to Respondent Outlet at Respondent Outlet's address of record with the Board, or (b) service by electronic means on Respondent Outlet at Respondent Outlet's electronic address of record. Respondent Outlet hereby consents to service by electronic means if Respondent Outlet has an electronic address on file with the Board.

ACCEPTED AND AGREED BY

Respondent Outlet

Mark A. Swait Dated: 4/18/19
Authorized Representative

Vice President, General Counsel and Secretary
Name / Title

FINAL AGENCY ORDER

WHEREFORE, the within Stipulation and Final Agency Order is approved, accepted, and hereby made an Order of the Board.

Done and effective this 29 day of April, 2019.

State Board of Pharmacy

BY: *Dmitry Kunin*
Dmitry Kunin
Program Director

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **STIPULATION AND FINAL AGENCY ORDER** upon all parties herein by electronic means or by depositing copies of same in the United States mail, first class postage prepaid, at Denver, Colorado, this 29th day of April 2019, addressed as follows:

By electronic mail:

Exel Inc. dba DHL Supply Chain USA
1635 Stone Ridge Dr
Stone Mountain, GA 30083-1118

Email: renewals@licenselogix.com; and andrew.post@dhl.com

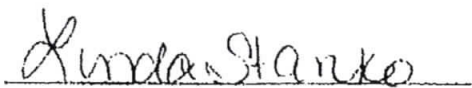

Agent of the Board

EXHIBIT B

IN THE MATTER OF:	)	BEFORE THE ALABAMA STATE
	)	
EXEL INC. dba DHL SUPPLY CHAIN (USA)	)	BOARD OF PHARMACY
	)	
THIRD PARTY LOGISTICS	)	CASE NO: 21-L-0277
Permit No. 195360	)	

DEFERRAL AGREEMENT

This Agreement is entered into by and between the Alabama State Board of Pharmacy (Board) and Exel Inc. dba DHL Supply Chain (USA).

WHEREAS, Exel Inc. dba DHL Supply Chain (USA) was timely served with a Statement of Charges and Notice of Hearing (Pending Charges) alleging violations of the Alabama Pharmacy Practice Act. A copy of the Pending Charges is attached hereto as Exhibit "A".

WHEREAS, the parties, through counsel, have engaged in discussions concerning an informal resolution of the Pending Charges.

WHEREAS, the parties have agreed to resolve this matter pursuant to Code of Alabama (1975) 41-22-12(f) by their approval of the following terms:

IT IS THEREFORE UNDERSTOOD AND AGREED BY THE PARTIES AS FOLLOWS:

1. The Pending Charges against Exel Inc. dba DHL Supply Chain (USA) shall be deferred until December 31, 2023 (Deferral Period).

2. As a condition to the Deferral described above, Exel Inc. dba DHL Supply Chain (USA) shall pay costs in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) within thirty (30) days of the effective date of this Agreement, that being the date it is signed on behalf of the Board. Failure to pay this amount shall be considered a probable cause violation by Exel Inc. dba DHL Supply Chain (USA) as defined below.

3. In the event there are no probable cause violations of the Alabama Pharmacy Practice Act involving Exel Inc. dba DHL Supply Chain (USA) during the Deferral Period set forth above, the Pending Charges shall be dismissed.

4. In the event there is a probable cause violation of the Alabama Pharmacy Practice Act involving Exel Inc. dba DHL Supply Chain (USA) during the Deferral Period set forth above, both the Pending Charges and any new charges shall be noticed and scheduled for a hearing.

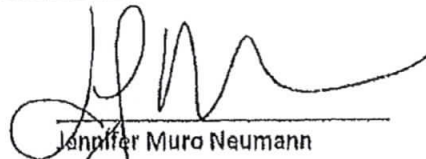
5. Neither the Pending Charges nor this Agreement shall be reported as discipline as long as Exel Inc. dba DHL Supply Chain (USA) complies with the conditions of Paragraphs Two and Three of this Agreement.

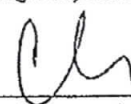
6. That Exel Inc. dba DHL Supply Chain (USA) expressly waives its rights pursuant to the Alabama Pharmacy Practice Act, and the Alabama Administrative Procedures Act and the Alabama Uniform Controlled Substances Act, including but not limited to Code of Alabama (1975), §34-23-92(12), Code of Alabama (1975), §41-22-12 and §41-22-20, and including but not limited to the opportunity for a hearing before the Board in connection with any charges against it and any judicial review. Exel Inc. dba DHL Supply Chain (USA) further waives any objection to the attorney for the Board preparing, drafting or making this Deferral Agreement, including the waiver of any objection or right pursuant to Code of Alabama (1975), §41-22-18.

7. By execution of this Deferral Agreement, Exel Inc. dba DHL Supply Chain (USA) hereby releases the Board, its members, agents, representatives, servants and employees from any and all liability, claims, damages, fees or expenses arising out of or made in connection with the matters relating to this Deferral Agreement and Pending Charges.

8. Exel Inc. dba DHL Supply Chain (USA) acknowledges and agrees that it has read this Deferral Agreement and that it fully understand the terms, conditions and contents of the same. Exel Inc. dba DHL Supply Chain (USA) acknowledges and agrees that it voluntarily and of its own free will accepts the terms and conditions set out in this Deferral Agreement and is signing this Deferral Agreement on the advice of its attorney.

DONE this the 18th day of October, 2022.


Jennifer Muro Neumann
Jennifer Muro Neumann, P.C.
Post Office Box 381082
Birmingham, Alabama 35238


Chris Phung, R.Ph.,
President
State Board of Pharmacy

DONE this the 17th day of October, 2022.


Jennifer H. Clark, Attorney for

Exel Inc. dba DHL Supply Chain (USA)

Allison E. Haedt
Exel Inc. dba DHL Supply Chain (USA).

By: Allison Haedt

Its: Associate General Counsel

DHL Supply Chain
Regulatory Affairs



360 Westar Boulevard, Westerville, OH 43082

May 3, 2023

To whom it may concern,

Exel Inc. d/b/a DHL Supply Chain (USA) ("DHL") is submitting this letter in reference to the question on the application regarding pending complaint, investigation, or disciplinary actions.

Exel Inc. d/b/a DHL Supply Chain (USA) ("DHL") is a part of Deutsche Post DHL Group, the world's leading contract logistics provider, and has tens of thousands of employees across North America. At any given time, DHL is a named defendant in civil matters, including employment cases. Based on knowledge and belief of the respondent completing this application after reasonable inquiry, DHL is not involved in any pending criminal proceedings. Nor is DHL part of any pending malpractice claims, civil claims, or lawsuits in connection with drugs/devices.

Attached is a letter from the State Board for the following item:

On April 23, 2023, DHL received a notice from the California State Board of Pharmacy indicating that the Board issued a fine against DHL for its failure to notify the Board of a change in its Designated Representative for the site located at 5920 Corporate Drive, St. Joseph, MO 64507. Please note that the issuance of a fine by the Board is not considered a disciplinary action or reportable and the fine was paid for in full within the allotted time.

Please be assured that DHL takes these matters very seriously and has implemented corrective actions to prevent similar issues from occurring in the future. If you have any concerns regarding the matters set forth in this notice, please do not hesitate to contact DHL Regulatory Affairs at regulatory@dhl.com.

Respectfully,

John Kropczynski, BSE, MBA

John Kropczynski

Director, Regulatory Affairs, America's



California State Board of Pharmacy
2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833
Phone: (916) 518-3100 Fax: (916) 574-8614
www.pharmacy.ca.gov

Business, Consumer Services and Housing Agency
Department of Consumer Affairs
Gavin Newsom, Governor



April 12, 2023

DATED MATERIAL ENCLOSED

EXEL INC_DBA DHL SUPPLY CHAIN (USA)
ATTN: KENNETH SUREDDIN, CEO
5920 CORPORATE DRIVE
ST JOSEPH, MO 64507

RE: CI 2022 99663
EXEL INC_DBA DHL SUPPLY CHAIN (USA)
NPL 1001

The attached Citation and Fine, ("Citation") is being issued pursuant to Business and Professions Code section 125.9 and California Code of Regulations, title 16, section 1775 et. seq., for violations of the laws and regulations that govern the practice of pharmacy in California. (For exact language refer to the California Pharmacy Law and Index, located on the Board's web site, at www.pharmacy.ca.gov, under Pharmacy Law and Regulation).

The attached Citation references the specific statutes and regulations violated, defines each violation charged and specifies any fine(s) assessed. The attached Citation details the conduct that resulted in the issuance of the Citation.

IT IS YOUR RESPONSIBILITY TO READ THE ENTIRE CITATION AND INSTRUCTIONS, TO UNDERSTAND THE PROCESS FOR CONTESTING THE CITATION AND TO RESPOND TO THE CITATION WITHIN THE FOLLOWING TIME FRAMES:

- May 12, 2023: Unless the Citation is contested payment of fine(s) must be received by the Board.
- April 26, 2023: Any contest of the Citation by request for an informal Office Conference must be received by the Board.
- May 12, 2023: Any contest of the Citation by request for a formal Appeal must be received by the Board.

Page two
EXEL INC_DBA DHL SUPPLY CHAIN
CI 2022 99663

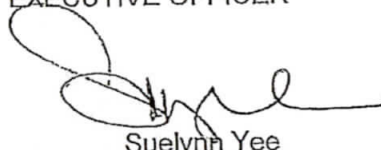
The issuance of a Citation by the Board of Pharmacy is considered an administrative action and substantiated resolution of a complaint and/or investigation. If a hearing is not requested to contest the Citation(s), payment of any fine(s) shall not constitute an admission of the violation(s) charged. Payment in full of the fine(s) assessed shall be represented as a satisfactory resolution of the matter in any public disclosure. (Business and Professions Code section 125.9; California Code of Regulations section 1775).

Additionally, if, at the time of license renewal, the Board has not received full payment of assessed fine(s) and a request to contest the Citation has not been received within the time frames specified, the license shall not be renewed until the assessed fine(s) and renewal fee/s are paid in full.

If you have any questions regarding this Citation please contact Suelynn Yee, Citation and Fine Analyst at (916) 518-3013.

Anne Sodergren
EXECUTIVE OFFICER

By:



Suelynn Yee
Citation and Fine Analyst

Attachments

INSTRUCTION

Read the Following Carefully and Thoroughly

You are hereby served with a Citation issued by the Executive Officer of the California State Board of Pharmacy or her designee. The following instructions are provided to assist you in your timely completion of the Citation process.

PAYMENT OF FINE

- Payment must be made by **May 12, 2023**.
- Make check or money order payable to the Board of Pharmacy. Do not submit cash.
- Attach the enclosed "copy" of your Citation

Mail payment to: State Board of Pharmacy
Attn: Cashier
2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

Unless contested, Citations are final 30 days from the date of service. Payment of a fine is not an admission of the violation charged. A Citation becomes part of your record, and remains there for five years. It can be used as an aggravating factor for future violations. Citations are public information and as such may be released to the public in accordance with the Public Records Act and Information Practices Act.

CONTESTING THE CITATION (CCR §1775.4)

If you wish to contest all or part of your Citation you may request an informal office conference or an appeal before an administrative law judge, or both. If you wish to request both you must submit both forms. If you prevail at the office conference your request for an appeal shall be deemed withdrawn. Please note that the time frames that allow you to request an office conference and an appeal run concurrently. You must submit your request(s) according to the following instructions:

REQUEST FOR OFFICE CONFERENCE (CCR §1775.4 subd. (b))

- Complete attached "Request for Office Conference".
- Mail form to arrive at the Board office no later than April 26, 2023 to the address at the bottom of the form.
- You will be advised by the Board in writing as to the date and time of your appearance.
- You are allowed one postponement.

An office conference is not a hearing. It is an informal discussion of the events that took place, and an opportunity for you to present information and mitigating factors pertaining to the Citation that you would like considered. The Executive Officer and or her designee represent the Board of Pharmacy at this meeting. One other individual of your choice may accompany you to this meeting. Office conferences are not open to the public. There is no discovery available in this process. You will not be allowed to present or question witnesses. However, you may present any written statements or documents that you believe are relevant.

After your office conference, the Citation may be affirmed, modified or dismissed. You will be advised of the decision in writing within 14 calendar days from the date of the conference. If the Citation is affirmed you will have 30 days from the date of the decision letter to comply with the conditions of your Citation. If the Citation is modified, the Citation originally issued shall be considered withdrawn and a new Citation will be issued. The decision issued after the office conference shall be deemed to be a final order with regard to the Citation issued, including the administrative fine levied, and/or an order of abatement.

REQUEST FOR APPEAL (CCR § 1775.4 subd. (a))

- Complete attached "Request for Hearing".
- Mail form to arrive at the Board office no later than May 12, 2023 to the address at the bottom of the form.
- You will be advised in writing as to the date and time of your hearing.

An appeal is a formal adjudicative hearing before an Administrative Law Judge. A Deputy Attorney General will represent the Board of Pharmacy at this hearing. These proceedings shall be conducted in accordance with the provisions of Chapter 5, commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

If you have any questions regarding any documents enclosed please contact Sue Lynn Yee, Citation and Fine Analyst at (916) 518-3013.

**BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

CITATION AND FINE

Citation Number	Name, License No
CI 2022 99663	EXEL INC_DBA DHL SUPPLY CHAIN (USA), NPL 1001

JURISDICTION: Bus. & Prof. Code § 4314; CCR, title 16, § 1775; Bus. & Prof. Code § 4301, subd. (o)

VIOLATION CODE SECTION	OFFENSE	AMT OF FINE
Bus. & Prof. Code § 4160 subd. (g)	A third-party logistics provider shall notify the board in writing, on a form designated by the board, within 30 days of the date when a responsible manager ceases to act as the responsible manager, and shall on the same form propose another designated representative-3PL to take over and the responsible manager.	\$5,000.00

CONDUCT:

Business and Professions Code section 4160(g) requires a third-party logistics provider to notify the Board in writing, on a form designed by the Board, within 30 days of the date when a responsible manager ceases to act as the responsible manager and shall on the same form propose another designated representative-3PL to take over as the responsible manager. Specifically, on February 3, 2023, the Board received an Application for Change of Responsible Manager from Exel INC DBA DHL Supply Chain (USA), which had been signed under penalty of perjury by a corporate officer and the newly designated responsible manager-in-charge (RMG). The form indicated that the prior RMG, Donald Kragel (DRL 40449), dissociated on June 30, 2021 and that Ryan Stocking (DRL 40676) was designated as the new RMG the following day. Exel INC DBA DHL Supply Chain (USA) failed to notify the Board of their dissociated RMG for 583 days (June 30, 2021 – February 3, 2023). Similarly, Exel INC DBA DHL Supply Chain (USA) failed to notify the Board of their new RMG for 582 days (July 1, 2021 – February 3, 2023).

CITATION ISSUED ON: April 12, 2023

TOTAL AMOUNT OF FINE(S) \$5,000.00

PAYMENT OF FINE(S) DUE BY: May 12, 2023

UPS CampusShip: View/Print Label

1. Ensure there are no other shipping or tracking labels attached to your package. Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
2. Fold the printed label at the solid line below. Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.
3. GETTING YOUR SHIPMENT TO UPS
Customers with a Daily Pickup
Your driver will pickup your shipment(s) as usual.

Customers without a Daily Pickup

Take your package to any location of The UPS Store®, UPS Access Point(TM) location, UPS Drop Box, UPS Customer Center, Staples® or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.

Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages.

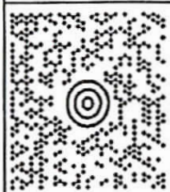
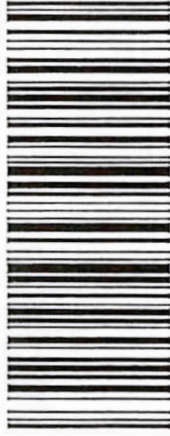
Hand the package to any UPS driver in your area..

UPS Access Point™
THE UPS STORE
752 N STATE ST
WESTERVILLE, OH 43082

UPS Access Point™
CVS STORE # 6165
145 S STATE ST
WESTERVILLE, OH 43081

UPS Access Point™
THE UPS STORE
1491 POLARIS PKWY
COLUMBUS, OH 43240

FOLD HERE

LEGAL DEPARTMENT 614.965.8405 SCSCLLEGAL DEPARTMENT 360 WESTAR BLVD WESTERVILLE, OH 43082		LTR		1 OF 1	
SHIP TO: ATTN: CASHIER CALIFORNIA STATE BOARD OF PHARMACY SUITE 100 2720 GATEWAY OAKS DRIVE SACRAMENTO CA 95833-3500		CA 958 9-02			
		UPS NEXT DAY AIR SAVER 1P			
TRACKING #: 1Z X80 486 13 9746 4449		BILLING: P/P		COST CENTER (19 DIGITS): 01.9481.9016.8255.33.000	
				CS 23.0.00. WNTNVS0 18.0A 9/4/2023*	

DHL Supply Chain



Legal Department
360 Westar Boulevard
Westerville, Ohio 43082

May 3, 2023

via UPS

California State Board of Pharmacy
Attn: Cashier
2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

RE: Exel dba DHL Supply Chain – CI 2022 99663
Settlement - \$5,000.00

To whom it may concern:

Enclosed please find the following settlement payments:

- a check payable to California State Board of Pharmacy in the amount of \$5,000.00.

Please contact the undersigned if you have any questions.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Michal Armstrong', written over a horizontal line.

Michal Armstrong
Senior Legal Operations Analyst
Legal Services - Americas
Legal-Services@dhl.com
614.865.8415

Enclosures

CC: Lori Hill
Elaine Darr
John Kropczynski

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Westerville, Ohio 43082
USA

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YOUR INVOICE NO.	INVOICE DATE	DESCRIPTION	NET CHECK AMOUNT
042823	28-APR-23	LEGAL CITATION	5,000.00

13A

July 14, 2026

Dave Wuest, RPh
Nevada State Board of Pharmacy
985 Damonte Ranch Pkwy, Suite 206
Reno, NV 89521
Attn: Dave Wuest, Executive Secretary

Re: Proposed Regulation Workshop Agenda Item 13B Regarding Shipment of Prescription Drugs

Dear Executive Secretary Wuest and Members of the Nevada State Board of Pharmacy,

On behalf of CVS Health, thank you for the opportunity to provide comments on the proposed amendments to NAC 639 regarding shipment of prescription medications. We appreciate the Board's commitment to protecting medication integrity and ensuring that patients have access to appropriate information during delivery.

While we support the objective of protecting product quality during shipment, we respectfully request revisions to Sections 1(a) and 1(c) to improve clarity, align with established pharmaceutical quality standards, and avoid unnecessary operational burdens that may increase costs for patients, as outlined below:

- Limit the regulation to cold-chain medications and other products with manufacturer-identified temperature-control requirements;
- Clarify the reference to pharmacy-performed stability studies in Section 1(a) and;
- Revise Section 1(c).

Scope of the Regulation Should Be Limited to Cold-Chain Medications

We respectfully request that the Board limit the applicability of this regulation to medications requiring refrigerated, frozen, or other manufacturer-designated temperature-controlled storage that are shipped through the United States Postal Service or a common commercial carrier. As drafted, the proposal applies broadly to all prescriptions, including ambient products which are generally designed to tolerate ordinary shipping conditions and should not be subject to enhanced shipping or monitoring requirements absent manufacturer-designated temperature-control requirements or product-specific stability concerns.

By contrast, cold-chain products require strict temperature controls because excursions may affect potency, stability, or therapeutic effectiveness. The Georgia Board of Pharmacy has

taken a targeted, risk-based approach by limiting similar requirements to cold-chain and other manufacturer-designated temperature-sensitive medications¹.

Applying enhanced shipping and monitoring requirements to all prescriptions would increase costs and operational complexity without a corresponding patient safety benefit. A risk-based approach would focus requirements where they are most warranted by limiting the regulation to cold-chain medications and other products with manufacturer-designated temperature-control requirements.

We encourage the Board to focus any temperature-control requirements on cold-chain medications. Ambient-temperature drugs are routinely transported throughout the pharmaceutical supply chain from manufacturers to wholesalers, distributors, pharmacies, and ultimately patient without temperature monitoring because such controls are not necessary to maintain product integrity. Expanding temperature-monitoring requirements beyond products with manufacturer-specified needs to all prescription deliveries could create unnecessary upstream costs, which may ultimately be passed on to pharmacies and patients, without a corresponding benefit to medication quality or safety. Accordingly, any new requirements should be limited to products with manufacturer-specified temperature-control requirements.

Suggested revision:

- a. A pharmacy that ships a prescription drug requiring refrigeration, freezing, or other temperature-controlled storage conditions designated by the manufacturer to a patient through the United States Postal Service or common commercial carrier must use packaging that is reasonably designed to protect the prescription from conditions of temperature, light and humidity during transit...

Section 1(a): Reference to "Any Stability Studies Performed by the Pharmacy"

With respect to the packaging that pharmacies must use, Section 1(a) references manufacturer requirements, USP standards, the pharmacy's master compound formulation record, or any stability studies performed by the pharmacy. We are concerned that this language may unintentionally suggest that pharmacies must independently conduct stability studies to support shipment conditions. Instead, pharmacies should be permitted to rely on validated packaging studies and qualified third-party testing to confirm that shipping materials and procedures maintain required temperature ranges and protect the integrity of prescriptions shipped to patients.

To avoid any confusion on the use of the term stability studies, we recommend removing that phrase and replacing it with packaging qualification studies. This will allow pharmacies to continue leveraging industry recognized validation of packaging used for shipping

¹ Ga. Comp. R. & Regs. r. 480-48-.02(3)

prescriptions to patients, without increasing the administrative burden to the pharmacy or patient.

Suggested revision:

- a. ... in accordance with the requirements of the manufacturer, the United States Pharmacopeia-National Formulary, the pharmacy's master compound formulation record, or ~~any stability studies performed by the pharmacy packaging qualification studies~~. This may include, without limitation, use of temperature tags, time temperature strips, insulated packaging, gel ice packs, or a combination of these as necessary.

Section 1(c): Temperature Monitoring Device Requirement

Section 1(c) would require a pharmacy, at the request of the patient or the patient's agent, to include a device in the shipping container that monitors temperature and alerts the patient if the prescription was exposed to temperatures outside the applicable range.

Although we appreciate the Board's intent to provide patients with additional information, we have concerns regarding both the reliability and the associated costs.

Many commercially available temperature-monitoring devices designed to be patient facing have limitations in accuracy and may not reliably reflect the actual temperature experienced by the medication itself. Placement, activation, transit handling, or patient interpretation all affect results, increasing the likelihood for erroneous results, unnecessary medication replacement, therapy delays, and patient confusion.

Requiring pharmacies to provide these devices upon request would also impose additional costs to both pharmacies and patients for purchasing, maintaining, integrating, and distributing them, increasing the overall cost of dispensing and shipping medications.

Accordingly, we respectfully request that the Board revise Section 1(c).

Suggested revision:

- c. ~~The pharmacy may offer a temperature-monitoring device, at the request of the patient or patient's agent. At the request of the patient or agent, the pharmacy must include a device in the shipping container which monitors the temperature of the prescription and alerts the patient if the prescription is exposed to temperature range listed in section 1(a).~~



Conclusion

We believe these changes would preserve the Board's patient safety goals while promoting a practical, risk-based, and operationally feasible approach to medication shipment standards.

Thank you for your consideration of these comments. We welcome the opportunity to discuss these recommendations further with the Board and staff.

Sincerely,

Dani Ottoson

Dani Ottoson, PharmD

13B

From: [Dummy Apps](#)
To: [Board Coordination](#)
Subject: Public Comment: Proposed Temperature-Monitoring Amendments (NAC 639) – July 15-16 Board Meeting
Date: Thursday, July 16, 2026 10:53:48 AM

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

To the Members of the Nevada State Board of Pharmacy,

I am submitting the following public comment anonymously regarding the proposed amendments to NAC 639 concerning temperature-monitoring requirements for prescription shipments. I would appreciate the Board's clarification on the following operational and compliance concerns:

1. Protocol for Failed, After-Hours Deliveries & Courier Custody

Under the proposed rules, what is the Board's expected protocol for failed, after-hours deliveries when the dispensing pharmacy is closed?

- Most local, same-day couriers do not operate Board-licensed or climate-controlled holding facilities to store undelivered medications overnight.
- How should couriers legally and securely handle these active, temperature-monitored packages overnight when a delivery fails and the pharmacy is closed?

2. Validation Standards for Stability Studies

Regarding the temperature parameters themselves, how will the Board validate that pharmacies are utilizing legitimate, peer-reviewed, and scientifically sound stability studies to determine their packaging and transit limits?

- What specific primary sources, standards, or regulatory compendia (such as USP guidelines) will the Board require pharmacies to reference to prove their shipping configurations are validated?

Thank you for your time, leadership, and consideration of these practical operational challenges.

Sincerely,

An Interested Nevada Pharmacist / Stakeholder