

Arizona State Board of Pharmacy
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**THE ARIZONA STATE BOARD OF PHARMACY
HELD A REGULAR MEETING MAY 9, 2007
GLENDALE, ARIZONA**

MINUTES FOR REGULAR MEETING

AGENDA ITEM 1 – Call to Order – May 9, 2007

President Van Hassel convened the meeting at 9:00 A.M. and welcomed the audience to the meeting.

The following Board Members were present: President Tom Van Hassel, Vice President Zina Berry, Chuck Dutcher, Steven Haiber, Louanne Honeyestewa, Dennis McAllister, Ridge Smidt, and Paul Sypherd. The following staff members were present: Compliance Officers Rich Cieslinski, Larry Dick, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Seth Hargraves.

Ms. Frush explained that law continuing education would be offered for attendance at the meeting.

AGENDA ITEM 2 – Declaration of Conflicts of Interest

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 6, Special Request by Express Scripts.

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 14, Approval of Consents for Eric Kesterson and Dione Valazquez.

Due to a conflict of interest, Mr. McAllister recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 6, Special Request by Mark Heisler.

AGENDA ITEM 3 – Approval of Minutes

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Dutcher and Dr. Berry**, the minutes of the Regular Meeting held on March 27 and 28, 2007 and the Executive Session held on March 27, 2007 were unanimously approved by the Board Members.

AGENDA ITEM 4 – Requests/Applications for Permits & Licenses

President Van Hassel stated that all permits were in order for resident pharmacies and representatives were present to answer questions from Board members.

Midwestern University

Kimberly Cauthon, Assistant Director of Experiential Education, and Melissa Rudinsky, Certified Pharmacy Technician were present to answer questions from Board Members.

Ms. Cauthon will be the Pharmacist In Charge. Ms. Rudinsky will be assisting in the Lab. Roger Morris, Legal Counsel for Midwestern University, was present.

President Van Hassel opened the discussion by stating that Midwestern University is requesting a waiver for the minimum square footage of a community pharmacy. Mr. Van Hassel asked Ms. Cauthon to give a brief overview of the clinic pharmacy that Midwestern University plans to open.

Ms. Cauthon stated that Midwestern University has just built a new ambulatory clinic on campus that is a multidisciplinary clinic. Ms. Cauthon stated that the clinic will have medical services, podiatric services, optometry services, and pharmacy services.

Ms. Cauthon stated that the pharmacy would be providing medication management therapy, disease state management therapy, and medical staff support. Ms. Cauthon stated that the pharmacy would provide educational opportunities for the pharmacy students and other students in other colleges at Midwestern.

Ms. Cauthon stated that they plan to open a compound only pharmacy in the clinic. Ms. Cauthon stated that total square footage of the office area is 640 square feet. Ms. Cauthon stated that the area is composed of four offices to be used for patient care. Ms. Cauthon stated that the total square footage of the pharmacy area is 180 square feet.

Ms. Cauthon stated that the purpose of the pharmacy is for patient education and education of the student pharmacists. Ms. Cauthon stated that they do not anticipate a high prescription volume. Ms. Cauthon stated at the onset there would only be a couple of prescriptions per week. Ms. Cauthon stated that the prescriptions would be for creams and ointments prescribed by the podiatrists. Ms. Cauthon stated that the original plan was to provide the compounding services in the pharmaceuticals lab at the college that already has a pharmacy license. Ms. Cauthon stated that after reviewing the plan they decided to open the compounding pharmacy in the clinic.

Ms. Cauthon stated that they would not be doing any sterile compounding. Ms. Cauthon stated that they would not be compounding any controlled substance products initially.

Ms. Cauthon stated that they would not be manufacturing or making any products that are available commercially. Ms. Cauthon stated that they would be compounding prescriptions for individual patients and not compounding any medications for use by the physicians in their offices.

Ms. Cauthon stated that Dr. McCallian will be the manager of the clinic. Ms. Cauthon stated that Dr. McCallian has many years of compounding experience. Ms. Cauthon stated that she and Ms. Rudinsky have been instructors in the pharmaceuticals lab at the college. Ms. Cauthon stated that they have all attended the PCCA compounding training course in Houston, Texas.

Mr. Dutcher asked who the patients would be receiving the prescriptions from the pharmacy. Ms. Cauthon stated that the patients would be patients seen at the clinic.

Ms. Cauthon stated that the patients would be from the community.

Mr. Dutcher asked if there would be a potential for an increased prescription volume. Ms. Cauthon stated that initially they would be partnering with the podiatrists. Ms. Cauthon stated that they do not foresee a large number of prescriptions being written by the podiatrists initially.

Mr. Dutcher asked if the pharmacy planned to bill insurance companies for prescriptions. Ms. Cauthon stated that they do not plan on accepting insurance payments initially.

Mr. Morris stated that the initial volume is planned to be three to five prescriptions weekly and probably would not exceed twenty prescriptions per week. Mr. Morris stated that the purpose of the pharmacy is for training and not prescription volume.

Mr. McAllister asked Ms. Cauthon what the pharmacy plans to do space wise if their volume expands. Ms. Cauthon stated that this pharmacy would only be doing compounding and they do not plan to carry prescription medications at this

location.

Mr. Morris stated that they could dispense medications at their pharmaceuticals laboratory which already has a pharmacy permit.

Mr. Wand stated that they would be applying as a limited service pharmacy. Mr. Wand read R4-23-671 that states that if the Board determines the requested deviation from the minimum area requirement will enhance the practice of pharmacy and benefit the public, the Board shall grant the requested deviation.

Mr. Dutcher stated that he feels the pharmacy would benefit the public by teaching physicians how to write prescriptions correctly and the pharmacy students to compound correctly.

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously approved the waiver request from Midwestern University compounding pharmacy to deviate from the minimum area requirement with the stipulation that if there is a change in the practice model that they would reappear again and request another waiver.

The Wound Store, LLC

Owner Timothy Kieborz and Pharmacist In Charge Ini Akpabio were present to answer Board Member's questions. Timothy Kieborz is a licensed physician. Roger Morris, Legal Counsel for The Wound Store, was present.

President Van Hassel opened the discussion by asking the individuals to describe their proposed business. Mr. Akpabio stated that they plan to open a specialty retail pharmacy catering to patients that need wound care. Mr. Akpabio stated that they would be carrying over the counter products as well as prescription items dealing with wound care. Mr. Akpabio stated that they would also take care of the patient's antibiotic therapy and pain management needs.

Mr. Van Hassel asked if the products would be sold to the patients or to the physicians in the clinic. Mr. Akpabio stated that the products would be sold to the patients and they would fill patient-specific prescriptions.

Mr. Van Hassel asked if the products would be compounded or manufactured products. Mr. Akpabio stated that the products would be manufactured products.

Mr. Van Hassel asked if the pharmacy would be preparing any sterile products. Mr. Akpabio stated that they would not be preparing any sterile products.

Mr. Wand stated that the reason that they are appearing today is that one of the owners is a physician. Mr. Wand stated that A.R.S. §32-1930 (B) states that a doctor that is an owner cannot benefit from owning the pharmacy. Mr. Morris stated that actually there are two physicians that are owners. Mr. Morris stated that the pharmacy would not be filling any prescriptions authored by those doctors.

Dr. Kieborz stated that there would be a sign posted in their offices stating that the pharmacy would not fill any prescriptions written by these physicians. Dr. Kieborz stated that he is a physician specializing in wound care and their issue is that they have problems obtaining wound care products in a timely fashion.

Dr. Kieborz stated that there are about 16 wound care centers in the area and there is a need for a pharmacy that caters to these patients.

Dr. Kieborz stated that the pharmacists would know not to fill prescriptions written by himself and the other physician.

Mr. Morris stated that the pharmacy's policies and procedures would contain a list that states that they could not fill prescriptions for certain doctors because of ownership issues.

Mr. Dutcher asked about the square footage of the pharmacy. Dr. Kieborz stated that the over the counter section is large. Dr. Kieborz stated that 730 square feet is dedicated to the pharmacy. The rest of the space would be dedicated to office

space.

Dr. Kieborz stated that the pharmacy location is close to several wound centers.

Dr. Smidt stated that there is a huge need for this type of pharmacy. Dr. Smidt stated that most pharmacies do not carry these specialty items and the public does need to have these products readily available.

On motion by Dr. Smidt and Dr. Berry, the Board unanimously approved the permit for The Wound Store, LLC.

At the conclusion of questions from the Board Members and **on motion by Mr. Dutcher and Dr. Berry**, the Board unanimously approved the resident permits listed below. All approvals are subject to final inspection by a Board Compliance Officer where appropriate.

RESIDENT (In Arizona)

Pharmacy	Location	Owner
Safety Drugs, Inc.	20612 N. Cave Creek Rd., F-150, Phoenix, AZ 85024	Safety Drugs, Inc.
Banner Gateway Medical Center	1900 N. Higley, Gilbert, AZ 85234	Banner Health
Bashas' United Drug #137	15367 W. Waddell Rd., Surprise, AZ 85367	Bashas' Inc.
Target Store T-2176	1800 E. Rio Salada Pkwy, #120, Tempe, AZ 85281	Target Corporation
Wal-Mart Pharmacy 10-4336	12900 W. Thunderbird, El Mirage, AZ 85335	Wal-Mart Stores, Inc.
Rosy's Farmacia la Esperanza	7828 N. 12 th St., Phoenix, AZ 85014	Rosy Garcia/Gary Lohmeier
Caresite Pharmacy	10238 E. Hampton Ave., Suite 107, Mesa, AZ 85208	Surehealth LLC
Midwestern University	19389 N. 59 th Ave., Glendale, AZ 85308	Midwestern University
Wal- Mart #10-3846	2725 E. McKellips, Mesa, AZ 85213	Wal-Mart Stores, Inc.
The Wound Store, LLC	10300 N. Scottsdale Rd., Scottsdale, AZ 85253	The Wound Store, LLC
Safeway #2835	3325 N. Hunt Highway, Florence, AZ 85232	Safeway, Inc.

Non-Resident Permits

At the conclusion of questions from the Board Members and **on motion by Dr. Berry and Mr. Dutcher**, the Board unanimously approved the non-resident permits listed below.

NON-RESIDENT (Out of State)

Pharmacy	Location	Owner
Bioscrip Infusion Services, Inc.	320 S. Flower, Burbank, CA 91502	Bioscrip, Inc.
Health Dimensions, Inc	39303 Country Club Dr., A-26, Farmington Hills, MI 48331	Health Dimensions, Inc.
Bowermans Pharmacy	3131 S. Willow Ave., Suite 103, Fresno, CA 93725	Sylmax Corporation

Wholesale Permits

President Van Hassel stated that all permits were in order for resident wholesalers.

On motion by Dr. Berry and Mr. Dutcher, the Board unanimously approved the resident wholesale permit listed below. All permits are subject to final inspection by a Board Compliance Officer where appropriate.

WHOLESALER	LOCATION	OWNER
Supply Source, Inc.	1502 S. Campbell, Tucson, AZ 85713	Supply Source, Inc.

Following a review and discussion of the roster of applicants for licensure as pharmacists, interns, and pharmacy technicians and assurance by the staff that all applications were in order and all fees paid: **On motion by Dr. Berry and Mr. Dutcher**, the Board unanimously approved the Pharmacists licenses 15969 through 16008. **On motion by Dr. Berry and Mr. Dutcher**, the Board unanimously approved the Intern licenses 7952 through 7994. **On motion by Dr. Berry and Mr. Dutcher**, the Board unanimously approved the Pharmacy Technician licenses 13022 through 13390. Also, approved

were licensee changes from Pharmacy Technician Trainee to Pharmacy Technician. For a complete list of names see attachments.

AGENDA ITEM 5 – License Applications Requiring Board Review

#1 Anna Alcozar

Anna Alcozar appeared on her own behalf to request to proceed with technician licensure.

President Van Hassel opened the discussion by asking Ms. Alcozar to describe the nature of her request.

Ms. Alcozar stated that she had been convicted of a felony conviction about 15 years ago. Ms. Alcozar stated that when she applied for her technician license she was told that she would have to appear due to the felony conviction.

Mr. Van Hassel asked Ms. Alcozar if she is employed at this time. Ms. Alcozar stated that she currently is employed by Walgreens, but she does not work in the pharmacy.

Mr. Dutcher asked Ms. Alcozar if she attended Apollo College. Ms. Alcozar stated that she did attend Apollo College.

Mr. Dutcher asked if she took the certification test upon completion of the program at Apollo College. Ms. Alcozar stated that she passed the PTCB test in November of 2005.

Mr. Dutcher asked Ms. Alcozar if she worked as a technician without a license. Ms. Alcozar stated that when she worked at Wal-Mart she was not able to work in the pharmacy because she did not have a license. Ms. Alcozar stated that she worked outside the pharmacy basically as a cashier or customer service representative.

Mr. Dutcher asked if the schools require them to have a license to do their internship programs. Mr. Wand stated that the students do not need a license if they are shadowing in the pharmacy and just observing activities.

Ms. Frush stated that most of the schools are encouraging their students to become licensed prior to beginning their experiential rotations.

Mr. McAllister stated that the students are under the auspices of the schools and the schools have a specific set of rules at each site.

Mr. Van Hassel stated that he also has students that shadow at the pharmacy and would hate to encumber the process because often students are stimulated to become technicians or pharmacists.

Mr. Haiber asked Ms. Alcozar about her shadowing. Ms. Alcozar stated that her job at Wal-Mart was a customer service representative. She stated that she shadowed the OTC Manager.

Mr. Haiber asked Ms. Alcozar about her resume and her job duties at Wal-Mart. Ms. Alcozar stated that she was training to be a technician, but could not do technician duties.

Mr. Dutcher asked Ms. Alcozar if she called for refills. Ms. Alcozar stated that she did call for refills.

Mr. Wand stated that calling for refills is a technician duty and Ms. Alcozar should have been licensed to call for refills.

Mr. McAllister stated that the activities of a technician versus a clerk would be a good article for the next newsletter.

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously approved the request by Ms. Alcozar to proceed with technician licensure.

#2 Jeffrey Hannibal

Jeffrey Hannibal appeared on his own behalf to request that his revoked pharmacist's license be reinstated. Lisa Yates from the PAPA program was also present.

President Van Hassel opened the discussion by asking Mr. Hannibal to describe the nature of his request.

Mr. Hannibal stated that he is appearing to request that the Board consider changing the status of his Pharmacist's license from revocation to probationary status.

Mr. Van Hassel asked Mr. Hannibal when his license was revoked. Mr. Hannibal stated that his license was revoked at the July 2006 Board Meeting. Mr. Hannibal stated that he has not worked as a pharmacist since the beginning of March of 2006.

Mr. Van Hassel asked Ms. Yates about Mr. Hannibal's PAPA contract. Ms. Yates stated that Mr. Hannibal signed his PAPA contract on May 16, 2006. Ms. Yates stated that Mr. Hannibal has been compliant with his contract. Ms. Yates stated that Mr. Hannibal has submitted several recommendation letters to the Board.

Mr. Dutcher asked Mr. Hannibal if he has a prospective job. Mr. Hannibal stated no.

Mr. Dutcher asked Mr. Hannibal if he returns to work in a pharmacy if there would be temptations to take drugs again. Mr. Hannibal stated that there is not a special temptation for him. Mr. Hannibal stated that the obsession and compulsion to use drugs has been lifted due to an aggressive program of treatment that he has undertaken in the last fourteen months.

Mr. Dutcher told Mr. Hannibal that he has concerns that not only had he alleviated the pharmacy of controlled substances but had substituted other products in those bottles.

Mr. Hannibal stated that he initiated that report at CVS when he was the Pharmacist In Charge. Mr. Hannibal stated that he did not substitute the drugs.

Mr. Hannibal stated that in March of 2006 he was terminated by Walgreens for diverting several different types of narcotics from the store. Mr. Hannibal stated that he is an addict and alcoholic. Mr. Hannibal stated that he did not substitute the drugs. Mr. Hannibal stated that he has placed the safety of the public in jeopardy in the past.

Mr. Van Hassel asked Mr. Hannibal if this is his second PAPA contract. Mr. Hannibal replied yes.

Mr. Van Hassel asked Mr. Hannibal if he completed his first PAPA contract. Mr. Hannibal replied yes. Mr. Hannibal stated that during the five year process he was compliant. Mr. Hannibal stated that he did hold in reserve that he was not an addict-alcoholic. Mr. Hannibal stated that he felt that this was possibly a bad set of circumstances or some misunderstanding. Mr. Hannibal stated that he now realizes that he is suffering from a disease that could kill him and destroy all the things that he holds dear. Mr. Hannibal stated that this realization did not come until thirteen months ago.

Mr. Hannibal stated that he is now working an aggressive program of recovery. Mr. Hannibal stated that if his disease is not treated aggressively it will get worse. Mr. Hannibal stated that he attends several meetings a week and speaks with people on a daily basis about his disease. Mr. Hannibal stated that this disease requires a constant daily effort.

Mr. Haiber asked Mr. Hannibal about sending out medications that were misbranded. Mr. Hannibal stated that this is a hazardous activity. Mr. Hannibal stated that in 2004 he misfilled a prescription that was properly documented with CVS. Mr. Hannibal stated that he did not substitute any tablets to obtain controlled substances.

Dr. Smidt asked Mr. Hannibal how returning his pharmacist license to him would help him. Mr. Hannibal stated that he is a good pharmacist and it would allow him to be of service to society. Mr. Hannibal stated that it would allow him to work with other pharmacists in recovery.

Mr. Hannibal stated that fourteen months ago he would not have appeared in front of the Board and asked for his license back. Mr. Hannibal stated that he destroyed everything at that time. Mr. Hannibal stated that when he turned his will to God and asked for help from others in this same situation that he was able to proceed with recovery. Mr. Hannibal stated that it is necessary at this point to extend that to someone else. Mr. Hannibal stated that there are other pharmacists that are

in the same situation and he is willing to be of service in that capacity.

Dr. Smidt stated that there are non-dispensing roles for pharmacists and his recommendation would be that if a probationary license is granted that Mr. Hannibal not work in a dispensing role for a certain period of time.

Dr. Sypherd asked Mr. Hannibal to summarize the events that lead to his revocation. Mr. Hannibal stated that he was arrested in a parking lot at a grocery store at Prescott Valley for the possession of prescription narcotics. Mr. Hannibal stated that he took the medications from Walgreens. Mr. Hannibal stated that he had worked at the store about seven weeks. Mr. Hannibal stated that he had been diverting for about a week at Walgreens. Mr. Hannibal stated that this was not the first time he diverted. Mr. Hannibal stated that he had relapsed a long time before this incident. Mr. Hannibal stated that he diverted drugs from CVS. Mr. Hannibal stated that he did go for treatment in November of 2005. Mr. Hannibal stated that he did a two week treatment and that was the last that he had worked for CVS. Mr. Hannibal stated that the last few years have been a bout with his disease and he has taken prescription medications and also drank alcohol.

Dr. Sypherd asked if he always diverts the same medications. Mr. Hannibal stated that Hydrocodone is his drug of choice. Mr. Hannibal stated that he also drinks alcohol.

Dr. Sypherd asked Mr. Hannibal if he is clean at this time. Mr. Hannibal stated that he has been sober and clean for 13 months.

Dr. Sypherd asked Mr. Hannibal if he still regards himself as an addict. Mr. Hannibal stated that he is an addict in recovery.

Mr. Dutcher asked Mr. Hannibal if he could guarantee the Board that a relapse would not happen if he returns to practice. Mr. Hannibal stated that there are no 100% guarantees. Mr. Hannibal stated that he has instilled and put into place a safety net which starts with self-identification and patterns of self-behavior. Mr. Hannibal stated that there is a network of people around him that he has worked with to identify relapse behavior at its early stages. Mr. Hannibal stated that it is a day to day process. Mr. Hannibal stated that if he does these activities on a daily basis the compulsion to use controlled substances is lifted.

Mr. Dutcher asked Mr. Hannibal what would happen if the Board reinstates his license and he relapses. Mr. Hannibal stated that he would not return to the Board for any further requests.

Mr. McAllister stated that Mr. Hannibal had completed a five-year term and has now re-entered into the same situation. Mr. McAllister stated that a conversion has occurred, but he feels that more time is needed to guarantee the public that pharmacists are safe to work.

Mr. Van Hassel stated that he sees a repeat history. Mr. Van Hassel stated that Mr. Hannibal went to CVS as a Pharmacy Manager and identified tablets that were in the wrong bottles. Mr. Van Hassel stated that this is pretty blatant disrespect for the patient. Mr. Van Hassel stated that it is one thing for pharmacists to divert drugs but it is another thing to endanger patients. Mr. Van Hassel stated that he is also uncomfortable with the amount of time.

Mr. Hannibal stated that he came across those medications in the bottles. Mr. Hannibal stated that first off he noticed the missing CII medications and reported that loss to his supervisors. Mr. Hannibal stated that upon completing a CII inventory he noticed that the pills looked different. Mr. Hannibal stated that he did the reporting in that situation. Mr. Hannibal stated that he took Hydrocodone from CVS, but did not take narcotics. Mr. Hannibal stated that when he entered his treatment program, the technician that he worked with at CVS was there for treatment. Mr. Hannibal stated that the technician came forth in treatment and stated that he had taken the drugs from the pharmacy and sold them on the street. Mr. Hannibal stated that it was never a practice of his to substitute medications. Mr. Hannibal stated that he diverted medications from stock bottles. Mr. Hannibal stated that he did not give the wrong medication to anyone.

Dr. Sypherd asked about the non-dispensing roles available for pharmacists. Mr. Wand stated that in the past mail order pharmacies did accept pharmacists in non-dispensing roles in their call centers. Mr. Wand stated that due to litigation the mail order pharmacies have not accepted many pharmacists that have practice restrictions. Mr. Wand stated that nuclear pharmacies do not have controlled substances, but do require extensive and costly training. Mr. Wand stated that they

could work in medication therapy management programs because there are no drugs in the pharmacy. Mr. Wand stated that it is hard to find a non-dispensing job.

Mr. Wand stated that the Board could reinstate the license with or without conditions.

Mr. Hargraves stated that the Board would issue a Consent Agreement with the conditions spelled out in the agreement.

Mr. Wand stated that the Board could also recommend a lifetime PAPA contract.

Mr. McAllister stated that even though the site does not have drugs a person that relapses on their own would be treating patients on less than a focused basis.

Mr. McAllister stated that there needs to be proven time in recovery.

A motion was placed on the floor by Mr. McAllister and Mr. Dutcher to deny Mr. Hannibal's request to reinstate his license at this time and he may return at a later date to request his license status be reviewed. A roll call vote was taken. (Mr. McAllister –aye, Ms. Honeystewa –nay, Dr. Smidt – nay, Dr. Berry – aye, Mr. Dutcher – nay, Dr. Sypherd – nay, Mr. Haiber – aye, and Mr. Van Hassel – aye). The motion fails.

Dr. Smidt stated that it is tough to determine how much time is sufficient before reinstating his license.

Mr. Van Hassel stated that it is the Board's decision to determine when it is appropriate for an individual to return to practice.

Dr. Sypherd stated that he has concerns that an individual in PAPA has stated that he feels he is strong enough to practice and the Board has to determine if the individual is able to return to practice.

Ms. Yates stated that statistics show that there is one in eight pharmacists that have a problem. Most of the pharmacist's problems are not identified. Ms. Yates stated that the people in the program are being monitored. Ms. Yates stated that someone working in the pharmacy that has not been identified is not being monitored. Ms. Yates stated that there is no guarantee that they will not relapse. Ms. Yates stated that she attends the Southwest PRN meeting annually and other states have the same issues with pharmacists that relapse.

Dr. Sypherd asked if Mr. Hannibal is placed on probation do the screens continue. Ms. Yates replied yes. Ms. Yates stated that PAPA is willing to do lifetime contracts with screens and counseling.

A motion was placed on the floor by Mr. Dutcher and Dr. Sypherd, to issue Mr. Hannibal a Consent Agreement reinstating his license with the condition that he signs a new five-year PAPA contract. (Mr. McAllister – nay, Ms. Honeystewa –aye, Dr. Smidt – nay, Dr. Berry – nay, Mr. Dutcher –aye, Dr. Sypherd –aye, Mr. Haiber – nay, Mr. Van Hassel – nay) The motion fails.

Dr. Smidt stated that since this is his second time before the Board he feels that a lifetime PAPA contract would be necessary. Mr. Hannibal stated that he would agree to a lifetime contract. Dr. Smidt stated that it is a lifetime disease and the disease does not magically end in five years.

Mr. McAllister stated that he is not against Mr. Hannibal returning to practice. Mr. McAllister stated that he has seen individuals stating that they are in recovery only to relapse quickly. Mr. McAllister stated that Mr. Hannibal has relapsed once and he would like to see a history of recovery.

Mr. Van Hassel stated that he feels that recovery is in process, but he does not think that a year is enough time.

Dr. Berry stated that she feels that he does not have a history of recovery. Dr. Berry stated that he has relapsed once and she feels that he needs to establish a history of recovery and return to the Board to ask for his license at a later date.

Mr. Hannibal stated that in the last 13 months he has grown from many opportunities. Mr. Hannibal stated that he did not

drink or use drugs over the destruction of his marriage. Mr. Hannibal stated that he has met the challenges and has excelled from these experiences.

Mr. Hannibal stated that he would not be sitting in front of the Board today if he did not feel he was ready to accept the job of being a pharmacist. Mr. Hannibal stated that he would agree to limited job functions. Mr. Hannibal stated that he will continue to do what he is doing in recovery. Mr. Hannibal stated that if the Board gives him his license back he will show the Board, if necessary by a lifetime contract that he is willing to met the challenges of recovery.

On motion by Dr. Smidt and Mr. Dutcher, the Board agreed to reject Mr. Hannibal's request to return his license to him at this time and encourage Mr. Hannibal to reapply at a later date. A roll call vote was taken. . (Mr. McAllister –aye, Ms. Honeyestewa –aye, Dr. Smidt – aye, Dr. Berry – aye, Mr. Dutcher – aye, Dr. Sypherd – nay, Mr. Haiber – aye, and Mr. Van Hassel – aye). The motion passes and Mr. Hannibal's request to reinstate his license is denied.

Mr. Van Hassel told Mr. Hannibal to demonstrate to the Board that he has not had a relapse and return at a future meeting and make his request again.

#3 Jeanmarie Hazard

Jeanmarie Hazard appeared on her own behalf to request that her revoked pharmacist's license be reinstated. Lisa Yates from the PAPA program was also present.

President Van Hassel opened the discussion by asking Ms. Hazard to describe the nature of her request.

Ms. Hazard stated that she would like the Board to consider reinstating her license. Ms. Hazard stated that she would like to apologize to the Board for her past behavior. Ms. Hazard stated that she lied about using heroin when she had actually used heroin.

Ms. Yates stated that PAPA had never terminated her contract. Ms. Yates stated that Ms. Hazard appeared in July of 2005 for violating her PAPA contract by testing positive for heroin. Ms. Yates stated that Ms. Hazard's license was revoked in November of 2005 and she entered treatment in November of 2005. Ms. Yates stated that Ms. Hazard signed a new five-year contract on April 14, 2007.

Mr. Van Hassel asked Ms. Hazard what has changed in her life since her license was revoked to make her feel that receiving her license back would be serving the needs of the citizens of Arizona.

Ms. Hazard stated that in recovery it is important to be honest. Ms. Hazard stated that staying sober is easier by being honest.

Mr. Van Hassel asked Ms. Hazard if she has been 100% clean since her license was revoked. Ms. Hazard stated no. Ms. Hazard stated that she used heroin about three times after having her license revoked. Ms. Hazard stated that she has been clean since January of 2006.

Mr. Dutcher asked Ms. Hazard if she has met the financial aspects of her contract. Ms. Yates stated that Ms. Hazard has sent a check to the PAPA program and is now paid in full.

Mr. Van Hassel asked Ms. Yates how Ms. Hazard can show up as compliant on the PAPA report if she has used three times. Ms. Yates stated that the urine screens were reported as negative.

Mr. Van Hassel asked Ms. Hazard about the urine screens. Ms. Hazard stated that the screens were twice a month. Ms. Hazard stated that she was lucky that it did not show up in the screens the three times that she used heroin.

Mr. Van Hassel asked Ms. Hazard when she used the heroin. Ms. Hazard stated that she used the heroin in September of 2005, December of 2005, and January of 2006.

Mr. Dutcher asked Ms. Hazard if the results since that time are valid or did she use between screens. Ms. Hazard stated that she is trying to be honest and she did not have to tell the Board about the three times that she used the heroin.

Mr. Van Hassel asked about the missing meeting sheets. Ms. Yates stated that everyone is to send in their meeting sheets on a monthly basis. Ms. Yates stated that there are several participants that do not mail in their sheets and she contacts them. Ms. Yates stated that she has not been able to reach Ms. Hazard by phone. Ms. Hazard stated that she is having phone problems. Ms. Yates stated that it does not mean that the participant is not attending meetings, but that they are not turning the sheets into her.

Ms. Yates stated that the meetings are self-help meetings, such as AA(Alcoholics Anonymous), NA (Narcotics Anonymous), and PA (Pills Anonymous). Ms. Yates stated that the sheets must be signed by someone at the meeting. Ms. Yates stated that they must attend at least three meetings a week.

Ms. Hazard stated that she has the sheets. Ms. Hazard stated that she did not send them in because of the payment issues.

Mr. Haiber asked Ms. Hazard why she would risk not turning the sheets in on a timely basis. Ms. Hazard replied that it was an oversight.

Mr. Haiber asked if the sheets are validated by PAPA. Ms. Yates stated that there are so many meetings that they could attend. Ms. Yates stated that anyone could falsify the sheets. Ms. Yates stated that the participants are asked certain questions and sometimes their responses indicate if they are attending meetings.

Mr. Van Hassel asked about Ms. Hazard's new PAPA contract. Ms. Yates stated that currently there are 24 urine screens per year and will be increased to 48 screens per year when the licensee returns to work. The screens will remain at 48 for two years and may be decreased at the participant's request and approved by the Steering Committee.

On motion by Dr. Smidt and Dr. Berry, the Board unanimously agreed to deny Ms. Hazard's request for reinstatement of her license. A roll call vote was taken.

(Mr. McAllister –aye, Ms. Honeystewa –aye, Dr. Smidt – aye, Dr. Berry – aye, Mr. Dutcher – aye, Dr. Sypherd – aye, Mr. Haiber – aye, and Mr. Van Hassel – aye). The motion passes and Ms. Hazard's request to reinstate her license is denied.

Mr. Van Hassel told Ms. Hazard to continue in the PAPA program with her recovery and she could appear in front of the Board at a later date requesting her license be reinstated.

AGENDA ITEM 6 – Special Requests

#1 Mark Heisler

Due to a conflict of interest, Mr. McAllister recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 6, Special Request by Mark Heisler.

Mark Heisler appeared on his own behalf to request the termination of his probation per Board Order 02-0015-PHR. Lisa Yates from the PAPA program was also present.

President Van Hassel opened the discussion by asking Mr. Heisler to describe the nature of his request. Mr. Heisler stated that he is requesting the termination of his probation.

Mr. Van Hassel asked Mr. Heisler how long his probation has been in place. Mr. Heisler replied almost five years. Mr. Heisler stated that he has completed his five year PAPA contract.

Mr. Van Hassel asked Mr. Heisler if he has been employed during that time. Mr. Heisler replied yes.

Mr. Dutcher asked Mr. Hargraves if the Board can terminate his probation early, since the Consent Agreement states that he shall appear on or after August 22, 2007.

Mr. Hargraves stated that the order was signed in August of 2002, so technically the five years of probation has not been completed. Mr. Hargraves stated that there are no provisions that allow him to appear early. Mr. Hargraves stated that if the Board would like to allow someone to appear early then that language could be placed in the consent agreement.

Mr. Dutcher asked if the Board could make a motion today to end the probation on August 22, 2007. Mr. Hargraves stated that Mr. Heisler would still need to appear after August 22, 2007.

Mr. Dutcher asked Mr. Heisler if the Board or staff told him that he could appear early. Mr. Heisler stated that he talked to other individuals and was told that they had requested that their probation be terminated early.

Mr. Wand stated that probation has been terminated early in the past with slightly different wording and different interpretations by the Board attorney.

Mr. Van Hassel asked Mr. Heisler if there is a reason that he is requesting to have his probation terminated early. Mr. Heisler stated that one of the provisions of his consent is to not be a preceptor and his place of employment is encouraging everyone to be a preceptor.

Mr. Heisler asked the Board if he has satisfied the provisions of his PAPA contract because he has completed the five year contract. Mr. Heisler stated that he would like to know if he has to remain in the PAPA program until he returns in August.

Mr. Van Hassel stated that he would recommend that he stay in the PAPA program until he returns to show the Board that he has recovered.

Mr. Dutcher asked Ms. Yates if he has complied with his PAPA contract. Ms. Yates replied yes.

Mr. Dutcher asked if the five year contract has been completed. Ms. Yates replied yes.

Ms. Yates stated that PAPA recommends that he stay in the program until his probation is terminated.

Mr. Heisler stated that he is also screened monthly at work.

Mr. Van Hassel told Mr. Heisler that the Board cannot take any action at this time and recommended that Mr. Heisler return at the September Board meeting to ask that his probation be terminated.

#2 Kevin Denick

Kevin Denick appeared on his own behalf to request the termination of his probation per Board Order 02-0007-PHR. Lisa Yates from the PAPA program was also present.

President Van Hassel opened the discussion by asking Mr. Denick to describe the nature of his request. Mr. Denick stated that he is requesting to be released from the PAPA program.

Mr. Van Hassel asked Ms. Yates about Mr. Denick's status with the PAPA program. Ms. Yates stated that Mr. Denick will complete his contract on May 17, 2007.

Mr. Wand stated that Mr. Denick had signed a new consent agreement when his license was reinstated which included a probationary period.

Mr. Hargraves stated that if the Board Members look at the new consent agreement it can be inferred that Mr. Denick must comply with the PAPA agreement he signed through the end of May.

Mr. Van Hassel asked Mr. Denick if he is asking to be released from participating in the PAPA program. Mr. Denick replied yes and his new consent agreement did not require him to continue in the program.

Mr. Dutcher asked Mr. Denick if he is asking not to participate in the PAPA program. Mr. Denick replied yes.

Mr. Dutcher asked Mr. Denick if he feels he does not need the support of the PAPA program. Mr. Denick stated that he would continue doing what he has been doing and he feels it is not necessary to continue to pay the fees to PAPA.

Mr. Dutcher asked Mr. Denick to describe what he is doing in terms of recovery. Mr. Denick stated that he had the same sponsor for the last five years. Mr. Denick stated that he has worked on the steps with his sponsor. Mr. Denick stated that by working the steps he has worked to remove character defects. Mr. Denick stated that working the program has improved his life both professionally and personally. Mr. Denick stated that he had a history of making bad decisions. Mr. Denick stated that he meditates on decisions and no longer makes impulsive decisions. Mr. Denick stated that his decisions were also compounded by his big ego and that caused a lot of problems. Mr. Denick stated that he has learned to keep his impulsiveness in check.

Mr. Denick stated that the program has worked for him and will follow the steps that he has learned in the program because if he does not follow the steps he will end up in trouble again. Mr. Denick stated at this time it is mainly a financial issue.

Mr. Dutcher asked Mr. Denick if he is working as a pharmacist at this time. Mr. Denick replied he had difficulty finding employment because he must work with another pharmacist. Mr. Denick stated that his old employer created a position for him in March. Mr. Denick stated that he is working a mid-shift position with a substantial decrease in pay.

Mr. Dutcher asked Ms. Yates if Mr. Denick was in compliance with his PAPA contract. Ms. Yates replied yes.

On motion by Dr. Smidt and Mr. Dutcher, the Board unanimously agreed to allow Mr. Denick to terminate his participation in the PAPA program since he has completed his contract and the remainder of the Board's consent order stays intact.

#3 Bhavesh Soni

Bhavesh Soni appeared on his own behalf to request the termination of his probation per Board Order 07-0021-PHR.

President Van Hassel opened the discussion by asking Mr. Soni to describe the nature of his request. Mr. Soni stated that he is requesting the termination of his probation.

Mr. Van Hassel asked Mr. Soni how long he has been on probation. Mr. Soni stated that he has been on probation for 6 months.

Mr. Dutcher asked Mr. Soni if he has met all the conditions of the consent order. Mr. Soni replied that he has met all the conditions.

On motion by Mr. Dutcher and Mr. McAllister, the Board unanimously approved Mr. Soni's request to terminate his probation per Board Order 07-0021-PHR.

#4 Preston Hooper

Preston Hooper appeared on his own behalf to request that his Board Order 05-0028-PHR be amended to allow him to be a Pharmacist In Charge or a Preceptor. Lisa Yates from the PAPA program was also present.

President Van Hassel opened the discussion by asking Mr. Hooper to describe the nature of his request. Mr. Hooper stated that he is requesting that his Board Order be amended to allow him to be a Pharmacist In Charge and a Preceptor.

Mr. Van Hassel asked Mr. Hooper how long he has been on probation. Mr. Hooper stated that he has been on probation since November 1, 2005. Mr. Hooper stated that he is compliant with his requirements.

Mr. Dutcher stated that one of the conditions of his consent agreement is that he shall not serve as a Pharmacist In Charge or a preceptor during the term of the agreement. Mr. Hooper replied yes.

Mr. Dutcher asked Mr. Hooper if he has completed the 400 hours of Community Service.

Mr. Hooper replied no. Mr. Hooper stated that he has completed about 120 hours. Mr. Hooper stated that he volunteered at Hospice prior to returning to work. Mr. Hooper stated that when he returned to work he decided to concentrate on his recovery program and his work situation before adding more to his plate.

Mr. Dutcher asked Ms. Yates if Mr. Hooper is compliant with his PAPA contract. Ms. Yates replied yes.

Mr. Dutcher stated that he does not want to change consent agreements at each Board Meeting when the licensee signed the agreement knowing the conditions would be in effect for the term of the order.

Mr. McAllister stated that in the past the Board has changed elements of the order because of documented performance. Mr. McAllister stated that there is tremendous pressure to bring individuals into management. Mr. McAllister stated that he feels being a Pharmacist In Charge or a preceptor adds to the stress. Mr. McAllister stated that he feels it is too early in this order to consider the change.

Mr. Dutcher asked if the added pressure would contribute to a relapse. Mr. McAllister stated that he feels the added pressure could contribute to a relapse and that is why the Board initially placed those conditions in the consent agreement.

On motion by Mr. McAllister and Dr. Berry, the Board unanimously agreed to deny Mr. Hooper's request to amend his Board Order to be a Pharmacist In Charge or preceptor.

#5 Revindranadha Alluri

Revindranadha Alluri appeared on his own behalf to request to take an alternative exam for the TSE exam.

President Van Hassel opened the discussion by asking Mr. Alluri to describe the nature of his request. Mr. Alluri stated that he would like to take an alternative exam for the TSE.

Mr. Van Hassel asked Mr. Alluri if he is currently working. Mr. Alluri stated that he is currently working as a Pharmacist for Walgreens in Michigan.

Mr. Van Hassel asked Mr. Alluri how long he has worked for Walgreens. Mr. Alluri stated that he has worked there for 2 years.

Mr. Van Hassel asked Mr. Alluri if he counsels patients at Walgreens. Mr. Alluri stated that he does counsel patients.

Mr. Dutcher asked Mr. Alluri if he is the Pharmacist In Charge or a staff pharmacist. Mr. Alluri stated that he is a staff pharmacist.

Mr. Dutcher asked Mr. Alluri how many hours he works a week. Mr. Alluri stated that he works 40 hours a week.

Mr. Wand stated that at the recommendation of counsel at the last meeting the exam should be given by the office staff and the individual could proceed with licensure if they passed. Mr. Wand stated that one exam has been given at the office and the person passed the test.

Mr. McAllister stated that this case is different. Mr. McAllister stated that this individual has been working in another state with a full license and he has no trouble understanding him.

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously approved Mr. Alluri to proceed with reciprocity.

#6 Celia Torres

Celia Torres appeared on her own behalf to request to take the MPJE exam for the fifth time.

President Van Hassel opened the discussion by asking Ms. Torres to describe the nature of her request. Ms. Torres stated that she would like to take the MPJE exam for the fifth time.

President Van Hassel asked Ms. Torres about her previous request to take the exam for the fourth time. Ms. Torres stated that she took the exam for the fourth time and her score was 72. Ms. Torres stated that she received a letter from the Board Office suggesting that she take a review course prior to taking the exam a fifth time. Ms. Torres stated that she took the Morris-Cody review course and received a 92 on the review test.

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously approved the request by Celia Torres to take the MPJE exam for the fifth time.

#7 Sandra Finn

Sandra Finn appeared on her own behalf to request to take the MPJE exam for the fifth time.

President Van Hassel opened the discussion by asking Ms. Finn to describe the nature of her request. Ms. Finn stated that she would like to take the MPJE exam for the fifth time.

Mr. Wand stated that Mr. Hunter and Ms. Sutcliffe will be reviewing the laws with Ms. Finn.

Mr. Van Hassel asked Ms. Finn if she has done any other preparatory work. Ms. Finn replied that she has been studying at home.

Mr. Van Hassel asked Ms. Finn if she is currently employed. Ms. Finn stated that she works for PharmaCare Pharmacy in Massachusetts.

Dr. Berry asked Ms. Finn if she has completed any of the online courses. Ms. Finn stated that she has completed tests offered on CD. Ms. Finn stated that she has reviewed the Federal laws.

Mr. Haiber asked Ms. Finn if she has enough time to complete the test. Ms. Finn replied yes.

On motion by Dr. Berry and Mr. Haiber, the Board unanimously approved Ms. Finn's request to take the MPJE for the fifth time.

#8 Express Scripts

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 6, Special Request by Express Scripts.

Al Redford, Pharmacist in Charge, was present on behalf of Express Scripts to request a waiver of R4-23- 402 (A) (11). Ed Reichart, Legal Counsel for Express Scripts, was present.

President Van Hassel opened the discussion by asking Mr. Redford to describe the nature his request. Mr. Redford stated that Express Scripts is requesting a waiver of R4-23-402 (A) (11) which states that a pharmacist must perform a final accuracy check on the completed prescription medication.

Mr. Redford stated that they are introducing a piece of automation that will dispense manufacturer's unit-of-use packaging. Mr. Redford stated that they have a waiver for their high volume filler. Mr. Redford stated that the software that operates the new piece of machinery is the same platform that operates the high volume filler.

Mr. Redford stated that the policies and procedures would be the same as the high volume filler and the reason he is appearing today is to ask for a waiver for this piece of equipment because it is not covered under the initial waiver.

Mr. Redford stated that Compliance Officer Sandra Sutcliffe visited the site and viewed the operation of the equipment.

Ms. Sutcliffe stated that she did view the Autopack machine. Ms. Sutcliffe stated that there are 12 drugs that are being considered to be dispensed by the machine. Ms. Sutcliffe stated that the drugs are in the manufacturer's unit-of-use packaging. Ms. Sutcliffe stated that the products consist of inhalers and birth control pills. Ms. Sutcliffe stated that there are three scanners in the robotic arm system that looks at package, the NDC, and the patient label. Ms. Sutcliffe stated that the system was set up to fail and the machine did stop the error. Ms. Sutcliffe stated that they have a technician that will stock the machine and scan the NDC codes into the system. Ms. Sutcliffe stated that a pharmacist would check the product that the technician would load into the machine. Ms. Sutcliffe stated that they are looking for a waiver of the final check by a pharmacist after the robotic arm selects the product.

Mr. Redford added the pharmacist of record would be the pharmacist who inspects the product upfront. Mr. Redford stated that the pharmacist would enter that verification into the system. Mr. Redford stated that if there is a product that would align so that the barcode could not be read then the product would be removed from the machine and not available for restocking.

Mr. Redford stated that the machine scans the product, the label, and a verification of the product and label when they are married together.

Mr. Van Hassel asked if there is any repackaging of the products. Mr. Redford stated that there is no repackaging and the products are all in the manufacturer's original package.

Mr. Dutcher asked Mr. Redford if the system fails who is responsible for putting the machine back online. Mr. Redford stated that they have an automation mechanic that would remove the product from the machine and recycle the machine. Mr. Redford stated that the rest of the product in the channel has already been inspected and would continue to be used.

Mr. Dutcher asked who was replenishing the machine. Mr. Redford stated that the machine is replenished by a technician after the pharmacist verifies the product that is to be used in that location. Mr. Redford stated that there is a cart adjacent to the machine and the pharmacist would verify the product and enter the identity of the product, the lot number, and the expiration date of the product into the machine. The technician would then place the product into the channel of the machine.

Mr. Redford stated that each channel of the machine is sized for a specific product. Mr. Redford stated that there is a picture of the product on the channel. Mr. Redford stated that the product has to be oriented in a specific manner so that when the robotic arm picks up the product the barcode can be read by the scanner. Mr. Redford stated that if there was a similar sized product the robotic arm would not be able to orient the product for the scanner to read.

Mr. Dutcher asked Ms. Sutcliffe if she thought the chain of command in the process was appropriate. Ms. Sutcliffe stated that initially they wanted to ask for a waiver for both pharmacist's checks at the front end and back end. Ms. Sutcliffe stated that she does not have any issues with the proposed process.

Mr. Redford stated that he has brought a copy of the policies and procedures for the Board to review.

Mr. Redford stated that with the high volume filler they do 5% sampling and would like to eliminate the sampling with this piece of machinery because the machine would stop if an error occurs.

Dr. Smidt asked if it is possible to get the wrong label on the wrong product. Mr. Redford stated that they have not seen the machine fail at this point. Mr. Redford stated that if an error of that type was detected the robotic arm picks up the package and places the product in a side bin. Mr. Redford stated that they did show Ms. Sutcliffe a system failure when she visited the site.

Dr. Smidt asked what would happen to the labeled product that was placed in the bin. Mr. Redford stated procedurally it would not be used in the machine. Mr. Redford stated that the label would be removed and placed in the hand fill stations.

Dr. Smidt asked if there are any reports that they could provide to the Board if the machine fails. Mr. Redford stated that they do have scheduled maintenance on the machine. Mr. Redford stated that they would have logs of malfunctions so that

they could adjust the performance of the machine.

Dr. Smidt asked Mr. Redford if the software has failed in the past resulting in a mislabeled product. Mr. Redford stated no. Mr. Redford stated that there are safeguards built into the system.

Mr. Van Hassel asked how many products would be placed in the machine. Mr. Redford stated that initially the machine would be set up for 12 products. Mr. Redford stated that in the future they may add more products.

Mr. Van Hassel asked what would happen if the packaging on the product changed. Mr. Redford stated that they do have a procedure for changing the product over to the new packaging. Mr. Redford stated that it is a mechanical change over. Mr. Redford stated that the product is verified by a pharmacist prior to placing the product in the channel.

On motion by Dr. Smidt and Mr. McAllister, the Board unanimously approved the waiver request to eliminate the final accuracy check when the product is dispensed by the Autopack machine. Mr. Haiber did not vote due to a conflict of interest.

Mr. McAllister stated that he would like to place on a future agenda the approval of automated machines by the Board. Mr. McAllister stated that there are many types of automation being introduced and some of the processes are the same and he feels that the Board could be more efficient in reviewing the machinery.

AGENDA ITEM 7 – Reports

Executive Director

Mr. Wand opened the discussion by reviewing the current appropriations and expenditures with the Board Members. Mr. Wand discussed the fund balance with the Board Members. Mr. Wand stated that the Board spends on the average about 8-1/4 % of the total appropriations each month.

Mr. Wand passed out the two proposed budgets from the Senate and House. Mr. Wand stated that the Senate budget includes the six hundred thousand dollar contribution to the University of Arizona for the College of Pharmacy Fund. Mr. Wand stated that is the only difference between the Senate and House budgets. Mr. Wand stated that the proposed budgets represent approximately a 16% increase over last year's budget. Mr. Wand stated that both budgets include: the addition of new compliance officers and salary adjustments for the compliance officers.

Mr. Wand stated that the Board staff receives a performance payment if the staff meets the performance standards. Mr. Wand stated that these performance standards include resolving complaints in 55 days or less and maintaining a Customer Satisfaction rating of 7.8 out of 8. Mr. Wand stated that the survey is only for licensees and not for the general public. Mr. Wand stated that only two Boards submitted the results of their survey to the legislature. Mr. Wand stated that the other Board, the Osteopathic Board, also gives the survey cards only to licensees. Mr. Wand stated that the Board is not required to survey consumers.

Mr. Wand stated that there are two bills still active. Mr. Wand stated that the first bill is the Emergency Prescription Bill. Mr. Wand stated that it would allow pharmacists to fill prescriptions for a patient if there is a natural disaster, such as a fire or earthquake. The pharmacists would also be able to fill the prescription one additional time if necessary. The bill would also allow a pharmacist licensed in another state to work in the state if there was a need for them to work in Arizona. The bill would also allow the pharmacists to fill prescriptions for patients that are transferred to Arizona during a disaster. Mr. Wand stated that the final reading of the bill is today and if it is approved, the bill would go the Governor for her to sign.

Mr. Wand stated that the Prescription Monitoring Bill failed the first time it had a third reading. Mr. Wand stated that Senator Harper voted to reopen the third reading and have another vote. The senate did agree to another reading. Mr. Wand stated that the bill would need to be placed on the calendar. Mr. Wand stated that the Alliance and Pain doctors in the area have been sending letters to the Senate in support of the bill. Mr. Wand stated that the bill would need 16 out of 30 votes to pass.

Mr. Wand stated that the move to the new downtown office is scheduled for the end of June. Mr. Wand stated that the Board Offices would be located on the second floor and there would be a Board Meeting room located on the third floor.

Deputy Director Report

Ms. Frush gave a brief overview of the Compliance Officer's Report and the Inspector's Report. Ms. Frush stated that the number of inspections is slightly ahead of the number of inspections at this time last year. Ms. Frush stated that the number of complaints is about the same number as last year at this time. Ms. Frush noted that this is the first time the Board Members have seen the new Compliance Report that defines the hours that were normally spent as office hours or diverse activities.

Ms. Frush stated during the months of February and March 2007, the Compliance Staff issued letters for the following violations:

Controlled Substance Violations

1. Controlled Substance Overage – 5
2. Controlled Substance Shortage – 4
3. Failure to Conduct Controlled Substance Inventory upon change of Pharmacist in Charge – 4
4. Failure to have Controlled Substance Inventory readily retrievable - 1
5. Failure to count Controlled Substance Inventory appropriately – 1
6. Failure to forward DEA 222 to DEA – 1

Documentation Violations

1. Failure to Document Medical Conditions – 9
2. Failure to Document Required Information on an Oral Prescription – 2
3. Failure to have signed technician statements concerning job description, policies & procedures and Board rules - 3
4. Failure to have technician training manual - 1
5. Failure to document counseling - 3
6. Failure to sign daily sig log – 1
7. Written information missing on patient information sheets (Missed doses and storage) – 1

Dispensing Violations

1. Outdated Rx and OTC items in the pharmacy - 1

Pharmacy Violations

1. Allowing technicians to work without a license – 3
2. Allowing a technician to work with an expired license - 2
3. Wall certificates not posted – 3
4. Water not working properly -1
5. Pharmacist not present when pharmacy was open – 1

The following areas were noted on the inspection reports for improvement:

1. Documentation of counseling.

The following areas were noted on the inspection reports where pharmacists and technicians are meeting or exceeding standards:

1. Expired drugs being removed from pharmacies

Areas outside the inspection reports that may be of interest:

1. Counseling documentation

Ms. Frush stated that it has been noted on inspection reports that pharmacists are incorrectly documenting counseling. Ms. Frush stated that the Compliance staff has noted that Pharmacists are documenting that the patient refused counseling at the drive-thru window when the pharmacist did not provide counseling because they felt it was a HIPAA violation to counsel at the drive-thru window.

Mr. Dutcher stated that he felt that was not appropriate and would like to discuss this issue further.

Mr. Hargraves stated that the topic would need to be placed on an agenda for further discussion.

PAPA Report

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of forty-two (42) pharmacists in the PAPA program. Since the last report on March 28, 2007, there have been two (2) former participants sign new PAPA contracts. There are two (2) more pending the completion of inpatient treatments.

Ms. Yates stated that there are concerns about one participant. The participant has missed drug screens in the past and has recently missed a drug screen. At the time, he has been asked to write a letter to the PAPA steering committee explaining his reasons for missing his screens.

Ms. Yates stated that PAPA would be sponsoring an hour and half CE program at the 3rd Annual Arizona Pharmacy Alliance conference on July 28, 2007. Ms. Yates stated that the program is titled "Latest Trends with Street Drugs and Rx/OTC Medications.

AzPA Report

Mindy Rasmussen, Executive Director of the Arizona Pharmacy Alliance (AzPA), was present to update the Board concerning the activities of the Alliance.

Ms. Rasmussen stated that the Medication Therapy Management Bill has had several language changes. Ms. Rasmussen stated that the pilot has turned into a program. Ms. Rasmussen stated that they are trying to determine the number of patients that would qualify and the actual dollar amount to provide the services. Ms. Rasmussen stated that they must receive matching Federal funds.

Ms. Rasmussen stated that the Quality Assurance Bill was signed by the Governor.

Ms. Rasmussen stated that a Committee would be developed to help write the rules for the program.

Ms. Rasmussen stated that future legislation includes the following: Immunizations, Audit reform, Any willing provider, and Collaborative Practice. Ms. Rasmussen stated that they are also considering expanding technician education.

Ms. Rasmussen stated that they have drafted a letter to address the 37 different city rules concerning pseudoephedrine. Ms. Rasmussen stated that they are asking all the cities to adopt the Federal regulation.

Ms. Rasmussen stated that there will be an anticoagulation certificate program offered at the convention. Ms. Rasmussen stated that the program would be worth 15 hours of CE.

Ms. Rasmussen stated that the program consists of 7 hours of home study and 8 hours of live CE on Thursday prior to the convention. Ms. Rasmussen stated that an additional 25 hours of CE would be offered and if someone attends all the breakout sessions they would be able to obtain 18.5 credit hours.

Ms. Rasmussen stated that in June they would be offering a program on Diabetic Ketoacidosis at various sites around the state. Ms. Rasmussen stated that the dates would be on their website soon.

Ms. Rasmussen stated that ballots have been sent out for President Elect. Ms. Rasmussen stated that the two candidates running are Kristina De Los Santos and Linda McCoy.

The Board recessed for lunch. President Van Hassel called the meeting to order at 1:00 P.M.

AGENDA ITEM 8 – Information Technology Review – Board of Pharmacy

Rob Dobrowski, Information Technology Specialist for the Board, was present to give a brief overview of the changing

information technology needs of the Board.

Mr. Dobrowski stated that the Board has partnered with IBM to design a new licensing system. Mr. Dobrowski stated that when he started at the Board he developed the licensing database that the Board is currently using.

Mr. Dobrowski stated that the Board has had two successful seasons of online renewals. Mr. Dobrowski stated that a few months ago the Board became the first health care board to offer applicants the ability to submit their permit applications online. Mr. Dobrowski stated that this summer the online application process would be extended to pharmacists, technicians, and interns.

Mr. Dobrowski gave a brief overview of the application process online. Mr. Dobrowski stated that the online application mirrors the current paper applications.

Mr. Dobrowski stated that IBM will host that data on their server. Mr. Dobrowski stated that even though IBM would be hosting this data the Board still has some pressing equipment needs.

Mr. Dobrowski stated the Board currently has one server that is used for sharing information in the office and for storage for Docuware which is the document imaging software. Mr. Dobrowski stated that one drive is currently filled and the other larger drive is filling up quickly. Mr. Dobrowski stated that the software is used to image legal files, checks, mailed in applications, surveys, and any other paperwork that needs imaged.

Mr. Dobrowski stated that the Board was recently notified that Docuware would no longer be supported. Mr. Dobrowski stated that the staff has been reviewing a proposal for replacement of the Docuware system.

Mr. Dobrowski stated that he is looking at new hardware due to security issues at the new office building. Mr. Dobrowski stated that the staff would not be able to use the wireless technology that they are currently using. Mr. Dobrowski stated that there must be wired connectivity to the central server.

Dr. Smidt asked what would be scanned into the Docuware system if IBM is hosting all the online applications. Mr. Dobrowski stated that the following documents are imaged:

Paper applications, legal files, complaints, maintenance files, address changes, employment changes and other record information.

Mr. Dobrowski stated that the new equipment he is reviewing hopefully would be able to combine the two systems.

Mr. Dutcher asked if the information is stored off site with IBM. Mr. Dobrowski stated it is stored offsite.

Mr. Wand stated that currently there is a bid out to provide online licensing for the state. Mr. Wand stated that IBM is competing with other companies to provide the services to the state.

AGENDA ITEM 9 – Conference Continuation from March Meeting – Complaint #3294 – Elizabeth Hogan

The following individuals were present to answer questions from Board Members concerning a consumer complaint:
Pharmacist Elizabeth Hogan and Legal Counsel
Roger Morris.

At the last meeting, the conference was tabled and the Hospital Pharmacy Director was asked to appear to explain to the Board Members how the incident occurred from the perspective of the pharmacy. Lisa Pope, Hospital Pharmacy Director, and Andrew Peterson, Legal Counsel for the hospital were present to answer Board Member's questions. Mr. Peterson stated that other employees are present if they would like them to answer questions.

Ms. Pope stated that on December 20th she was in the breakroom because they were having their Christmas party. Ms. Pope stated that the Pharmacy Manager came to her and told her that she needed to speak to her in her office. Ms. Pope

stated that the Pharmacy Manager told her that she had been approached by the daytime pharmacist stating that he had been told by Elizabeth that she was going to the restroom. This occurred shortly after Elizabeth arrived at work. The pharmacist stated that he was telling the manager this because he felt that Elizabeth was going to ask to leave for the rest of the evening. Ms. Pope stated that the Pharmacy Manager also told her that the IV technician had witnessed Elizabeth in the IV room in the controlled substance drawer at a time when she did not to be in the drawer. The technician stated that Elizabeth was rummaging through the drawer. The technician stated that when Elizabeth left the IV room she noticed that a partial bottle of Morphine was missing. Ms. Pope stated at that point the technician went to find the Pharmacy Manager. Ms. Pope stated that the Pharmacy Manager was out of the department. Ms. Pope stated that at that point the technician began watching the IV room. Ms. Pope stated that the technician then saw Elizabeth come back into the pharmacy and when the technician went back into the IV room the bottle of Morphine had reappeared. Ms. Pope stated that the technician finally found Jean, the Pharmacy Manager, and reported the incident to her. Jean immediately confiscated the IV vial. Ms. Pope stated that when Jean told her the story she asked Jean to call Human Resources to see if this was justification for “for cause drug testing”.

Ms. Pope stated that while they were in her office the daytime pharmacist came into her office and told her that Elizabeth was not okay. Ms. Pope stated that she went out into the main pharmacy and Elizabeth was sitting at the order entry station with the phone off the hook. Ms. Pope stated that she called out Elizabeth’s name and when Elizabeth turned around her face and neck were flushed (extremely red) and her eyes were half-closed.

Ms. Pope stated that she told Elizabeth that she needed to come with her and took her hand. Ms. Pope stated that a technician witnessed her taking Elizabeth’s hand. Ms. Pope stated that she took her hand because she did not know how well Elizabeth could walk.

Ms. Pope stated that they walked to the breakroom where Elizabeth let go of her hand.

Ms. Pope stated that once in her office she told Elizabeth that they had a witness that saw her in the controlled substance drawer. Ms. Pope stated that she explained to Elizabeth that they were going to take her for a “for cause drug test” because of the disappearance of the morphine vial. Ms. Pope stated that Elizabeth replied ok very slowly.

Ms. Pope stated that she led the way to Occupational Health and Jean followed behind Elizabeth. Ms. Pope stated that the nurse from Occupational Health is present if the Board has any questions for her.

Ms. Pope stated that the “for cause drug urine screen” came back positive for morphine. Ms. Pope stated that the Director of the J2 labs has verified the results numerous times. Ms. Pope stated that on December 21, 2007 she met with Elizabeth and the Human Resources Director and terminated Elizabeth’s employment that day.

Mr. Van Hassel asked Ms. Hogan if this is what occurred. Ms. Hogan stated that according to her recollection that is what occurred.

Mr. Van Hassel stated that in this recollection there was no indication of injury that Ms. Hogan alleged occurred when she spoke in front of the Board at the last meeting. Ms. Hogan stated that is a good question. Ms. Hogan stated that she provided photographic evidence at the last meeting. Ms. Hogan stated that there was no hand in hand holding. Ms. Hogan stated that it was more abrupt. Ms. Hogan stated that she was wearing a long sleeved sweater and was grabbed in the upper arm.

Ms. Pope stated that there are witnesses at the hospital that would testify that they saw her take Elizabeth’s hand. Ms. Pope stated that they walked for 15 to 20 feet to the breakroom area.

Ms. Pope stated that she has been in Pharmacy Management since 1984 and would never do what she is being accused of by Elizabeth.

Ms. Pope stated that in Elizabeth’s statement at the last Board Meeting she stated that Ms. Pope drug her to occupational safety. Ms. Pope stated that is not correct and Jean, the Pharmacy Manager, accompanied them to Occupational Health.

Jean Rose, the Pharmacy Manager, stated that Ms. Pope’s recollection is how the incident occurred. Ms. Rose stated that she witnessed no physical contact of any type from Ms. Pope.

Mr. Morris stated that he thinks the case should go to a hearing to factually determine what happened. Mr. Morris stated that the arm issue is not the relative issue. Mr. Morris stated that there are inconsistent medical tests. Mr. Morris stated that they never did describe the saliva test and the inconsistent results.

Mr. Van Hassel stated that the Board is trying to gather information from the Hospital to determine what happened.

Dr. Smidt stated that the purpose of a hearing would be to determine if she tested positive for a controlled substance while she was working. Dr. Smidt stated that the purpose of this conference or the hearing is to determine if the pharmacist was impaired.

Mr. Peterson stated that Kevin Johnson from J2 Labs is available to answer questions.

Mr. Morris asked if there were any issues of impairment prior to December 20, 2007. Ms. Rose stated that two weeks prior to this incident she was in conversation with Elizabeth in her office and she was having trouble keeping her eyes open. Ms. Rose stated that she asked Elizabeth how she was feeling. Ms. Rose stated that Elizabeth had been ill the previous month and interpreted her question to be a follow-up from that illness. Ms. Rose told Elizabeth that it appears that she is having trouble staying awake. Ms. Rose stated that Elizabeth told her that she still had neck pain and stiffness, but the headaches were getting better. Ms. Rose stated that she did not identify it as impairment. Ms. Rose stated that she brought that to Ms. Pope's attention the next day. Ms. Rose stated on the same day another pharmacist asked her if she thought that Elizabeth appeared impaired.

Mr. Van Hassel asked the Board Members if they would like to hear from the Lab Director.

Dr. Smidt stated that if we go to hearing the only options are to determine if the pharmacist was impaired or not.

Mr. Dutcher stated that the Board could resolve the case with a consent order.

Dr. Sypherd asked Ms. Hogan if her story that she told the Board at the last meeting is still the same or would she like to add anything else. Ms. Hogan replied that her story stays as told at the last meeting and she would not like to add anything else.

Mr. Dutcher asked if the Board wants to continue the discussion or go to a hearing.

Mr. McAllister stated that it is his opinion from the comments at the last meeting where Ms. Hogan's counsel asked to present his case at a hearing that the offer of a consent agreement would be a waste of the Board's time.

Mr. Morris stated that he cannot advise anyone who has told him that they have not used any controlled substances inappropriately to enter into a consent agreement about substance abuse. Mr. Morris stated that Ms. Hogan stated that she did not use anything. Mr. Morris stated that they would consent to a random drug test. Mr. Morris stated that he does not know how to prove to the Board that she did not use anything on that date.

Mr. Morris stated that he would consent to OAH hearing the case.

Mr. Dutcher made a motion to go to hearing.

Mr. Hargraves stated that the reason for a hearing is not to continue the investigation. Mr. Hargraves stated that there is an issue in discrepancy of testing. Mr. Hargraves stated that the purpose of the hearing is for the Board to prove their case that there has been a violation. Mr. Hargraves stated that it may be appropriate to hear from the Director of the J2 labs to explain the inconsistencies.

Mr. Dutcher withdrew his motion at this time.

The Board contacted Kevin Johnson via telephone. Kevin Johnson is the Director of J2 labs that conducted the tests on the specimens collected from Ms. Hogan.

Mr. Van Hassel asked Mr. Johnson about the tests conducted on the specimens submitted to J2 labs.

Mr. Johnson stated that a urine specimen was collected by Carondolet and transmitted to the lab via their courier. Mr. Johnson stated that an oral fluid sample was also submitted.

Mr. Johnson stated that they were collected under chain of custody conditions and transported under chain of custody conditions. Mr. Johnson stated that both samples were tested and the oral fluid sample was negative and the urine sample tested positive for benzodiazepines and opiates.

Mr. Johnson stated that because they are a forensic certified lab that anytime that they have a positive test the test is repeated. Mr. Johnson stated that they do a screening test with an immunoassay test with an antibody to detect the drugs and if the test is positive then they conduct a gas chromatography mass spectrometry test specific for those drugs. Mr. Johnson stated that they detected Benzodiazepine in the urine and Morphine. Mr. Johnson stated that they detected Lorazepam in the urine. Mr. Johnson stated that they also detected nordiazepam and oxazepam in the urine which are metabolites of Valium or Librium.

Mr. Van Hassel asked about the concentration levels. Mr. Johnson stated that drug testing in the employment environment uses cut-off levels which are considered threshold amounts. Mr. Johnson stated that the levels in the specimen must be detected at the cutoff level or above for the specimen to be considered positive for that drug. Mr. Johnson stated that the Benzodiazepines were a little bit above the cutoff level. Mr. Johnson stated that the Morphine level of 7,500 ng/ml is above the cutoff level of 2,000ng/ml. Mr. Johnson stated that the level is not exorbitantly high. Mr. Johnson stated that they have seen Morphine levels up to 50,000ng/ml. Mr. Johnson stated that the test indicates that Morphine is in the urine due to recent consumption. Mr. Johnson stated that it indicates the recent use of Morphine or Heroin.

Mr. Johnson stated that the detection time for opiates is a few days. Mr. Johnson stated that a positive test of the urine sample indicates active consumption. Mr. Johnson stated that the levels are set high enough to avoid passive exposure. Mr. Johnson stated that the test would indicate that the donor had used morphine or heroin in the last few days.

Mr. Van Hassel asked if there was any chance that the test could produce a false positive.

Mr. Johnson stated that there is no chance. Mr. Johnson stated that this lab is one of a few labs in the country that holds certification as a forensic lab. Mr. Johnson stated that they must have a valid chain of custody and the chain of custody was valid. Mr. Johnson stated that they performed a screening test that was positive. Mr. Johnson stated that they conducted a confirmation test by gas chromatography mass spectrometry. Mr. Johnson stated that the test is highly specific and differentiates morphine from codeine, hydrocodone, and oxycodone.

Mr. Van Hassel asked why the saliva test would be negative. Mr. Johnson stated that his suspicion is that not enough saliva was collected. Mr. Johnson stated that they only keep the negative specimens for one month.

Mr. Dutcher asked if the urine sample could have been a bad sample or if someone could have tampered with the urine sample. Mr. Johnson stated that the chain of custody standards for the lab was met. Mr. Johnson stated that on the chain of custody statement there is a line that the donor signs that indicates that the sample is their sample and stating that the sample was sealed in their presence. Mr. Johnson stated that the donor signed that it was their urine. Mr. Johnson stated that if the donor is questioning the validity of the sample then they should not have signed the donor form.

Mr. Haiber asked Mr. Johnson if he has seen positive urine tests and negative saliva tests.

Mr. Johnson replied yes. Mr. Johnson stated that there is a test that can test if the sample contained any saliva. Mr. Johnson stated that in this case he does not have the sample any longer because they keep the sample for one month.

Mr. Johnson stated that he feels the Board should ask the collection person at the hospital about issues that they had collecting the sample.

Mr. Johnson stated that the negative saliva test does not negate the fact that the urine test was positive. Mr. Johnson stated that the two tests do not back each other up. Mr. Johnson stated that he feels that the Board should hear the issues concerned with the collection of the sample from the hospital staff.

Mr. Johnson described the saliva test. Mr. Johnson stated that a dry pad on a straw is placed under the tongue to collect the

saliva sample. Mr. Johnson stated that once enough saliva is collected the end of the straw turns blue and the straw and saliva are placed in a transport test tube that contains liquid. Mr. Johnson stated that the saliva mixes with the liquid. Mr. Johnson stated that he is not sure saliva was collected.

Mr. Peterson stated that the vial was also tested. Mr. Johnson stated that the hospital requested he test the vial. Mr. Johnson stated that the vial was tested by gas chromatography mass spectrometry and it was determined that the vial's concentration was lower than expected.

Dr. Sypherd asked about the chain of custody when the specimen comes in the lab door. Mr. Johnson stated that they have certain standards that they must follow according to their regulatory agency. Mr. Johnson stated that they look to see if the Id on the specimen matches the identification on the chain of custody. Mr. Johnson stated that they look to see if the appropriate party has signed off on the chain of custody form.

Mr. Morris asked if the saliva test was negative why wasn't the validity of the sample questioned. Mr. Johnson stated that a drug test was performed on the sample received.

Mr. Morris asked if Mr. Johnson knows if the same person collected the samples. Mr. Johnson stated that he would need to look at the chain of custody forms to see who collected the samples. Mr. Johnson stated that he has no information that the urine sample was not validly collected.

Mr. Morris asked if he took a 10 ml dose of Morphine what his urine sample would show in one hour. Mr. Johnson stated that it would exceed the 2,000ng/ml cutoff. Mr. Johnson stated that this is not a therapeutic test, but the test would show a drug was consumed.

Mr. Morris asks if Morphine metabolites would show in the sample. Mr. Johnson stated that if the screening test is positive for opiates then a gas chromatography test is conducted which separates out the following four substances: codeine, morphine, hydrocodone, and oxycodone. Mr. Johnson stated that Morphine is a metabolite of Codeine. Mr. Johnson stated that if Morphine is only detected in the urine that is not consistent with the use of codeine. Mr. Johnson stated that if someone uses codeine which is metabolized to morphine then both morphine and codeine would both be present with codeine levels exceeding the morphine level. Mr. Johnson stated that they only test for these four substances.

Ms. Hogan stated that she had worked as an analyst in a lab and she understands how GCSM works. Ms. Hogan asked why that the metabolites of the Benzodiazepines are listed but there are no metabolites listed for morphine. Ms. Hogan stated that there should be metabolites of morphine present. Ms. Hogan asked why there is only a parent compound listed for morphine and no metabolites. Mr. Johnson stated that the scope of the test was not to run a metabolic breakdown.

Ms. Hogan stated that he listed the Benzodiazepines and did not list the metabolites of the morphine. Mr. Johnson stated that they analyze the morphine. Mr. Johnson stated the test is designed only to detect codeine, morphine, hydrocodone, and oxycodone.

Mr. Van Hassel asked the person who collected the samples to come forth. Lisa Welsh, for Occupational Safety at the hospital, came forth.

Mr. Van Hassel asked Ms. Welsh about the collection of the two samples. Ms. Welsh stated that she did collect the samples using the proper chain of custody. Ms. Welsh stated that the urine sample was collected properly. Ms. Welsh stated that Elizabeth was given the specimen cup and she was instructed to use a specially constructed bathroom. Ms. Welsh stated that the bathroom does not have any sinks. Ms. Welsh stated that in Elizabeth's presence she poured the samples into two containers. The containers were barcode labeled and initialed per policy.

Ms. Welsh stated that there were issues collecting the saliva sample. Ms. Welsh stated that after leaving the pad in her mouth for the specified amount of time the pad stayed dry. Ms. Welsh stepped out of the room into the hallway to get advice from her supervisor. Ms. Welsh stated that she left the door open. Ms. Welsh stated that she was in the hallway for about thirty seconds to a minute. Ms. Welsh stated that her supervisor suggested that she try another kit. Ms. Welsh stated that when she came back into the room Elizabeth was making sucking noises trying to gather enough saliva. Ms. Welsh stated that she had a little pool of fluid under tongue. Ms. Welsh stated that it was saturated in a short period of time. Ms.

Welsh stated that the sample was signed off on by her and Elizabeth and sent to the lab. Ms. Welsh stated that she assumed that the fluid in Elizabeth's mouth was saliva.

Mr. Haiber asked about the dry mouth. Ms. Welsh stated that her mouth was dry and when she returned she had a pool of fluid in her mouth.

Mr. Haiber asked where the room was located. Ms. Welsh stated that she was placed in the exam room.

Mr. Haiber asked if there were sinks in the room. Ms. Welsh replied yes.

Ms. Welsh stated that it also took several attempts to collect the urine. Ms. Welsh stated that it was on the fourth attempt that they collected the urine. Ms. Welsh stated that Elizabeth was in the room two to three hours. Ms. Welsh stated that they tried to collect the sample every 30 minutes.

Dr. Smidt asked if Ms. Hogan is currently working. Ms. Hogan stated that she is working at CVS.

Dr. Smidt asked Ms. Hogan if she was taking benzodiazepines. Ms. Hogan replied yes. Ms. Hogan stated that is another question she wanted to ask J2 labs because she took the benzodiazepine in the last 48 hours and a saliva test would just show what was recently taken. Ms. Hogan stated that it would not be unexpected that the Benzodiazepine would not show up in the saliva.

Dr. Smidt asked Ms. Hogan if she felt it was a conspiracy that someone had injected morphine into her sample. Ms. Hogan indicated that it could have also been a lab error.

Dr. Smidt asked Ms. Hogan if she was willing to suspend her license voluntarily until which time the accuracy of the lab test could be confirmed.

Mr. Morris stated that they have produced two other lab tests that have been taken subsequent to that time for employment applications that show no issues. Mr. Morris stated that she has been working at CVS for two months and no issues have been raised. Mr. Morris stated that the Board would be asking her to give up gainful employment.

Dr. Smidt stated that at this point the Board has been presented with a positive urine screen and there is no indication that the test is incorrect.

Mr. Morris stated that the hospital did not feel that there were any issues prior to that date. Mr. Morris stated that two lab tests were conducted and were inconclusive. Mr. Morris stated that she has taken two subsequent exams and no one has had any issues with her performance. Mr. Morris stated that he heard today that they should be excused on the false negative because we did not do the test correctly. Mr. Morris stated that it took three to four hours to collect the urine and that is an accusation that she did something wrong. Mr. Morris stated that if the Board thought she was a danger to the public then they would need to summarily suspend her license. Mr. Morris stated that he feels that the Board does not meet the burden of proof. Mr. Morris stated that if the Board is concerned then Ms. Hogan would take a drug test every morning.

Mr. Peterson stated that it is not only the positive test. Mr. Peterson stated that there is the issue of the missing morphine vial and then a positive urine test for morphine.

Dr. Smidt stated at this point the Board has a positive test for morphine.

Ms. Hogan stated that all the CII's are locked up and kept under camera at CVS. Ms. Hogan stated that there is no possibility of diversion. Ms. Hogan stated that she believes that they submitted their current narcotic count to the Board on May 1, 2007 and there were no issues.

Mr. McAllister stated that following a recent dose of morphine urinary retention and dry mouth are normal. Mr. McAllister stated to him this applies to a stronger level that there is an issue.

Ms. Hogan stated that she took a large dose of Benadryl and that would cause the same problem.

Ms. Pope stated that she would like to address that issue. Ms. Pope stated that reading the minutes it was noted that Ms. Hogan stated that she taken diphenhydramine because she thought she was having an allergic reaction. Ms. Pope stated that she never told Ms. Pope that she was having an allergic reaction and took diphenhydramine and did not declare that as one of the medications she had taken when she signed the screening paperwork.

Ms. Hogan stated that they asked her for prescribed medications and she listed every medication that she was taking. Ms. Hogan stated that she did not list any over the counter medications and did not expect that to be an issue.

Mr. Van Hassel asked about Ms. Hogan's work performance. Ms. Pope stated that up until December 13, 2007 she did not have any issues with Elizabeth's performance as a pharmacist or her clinical knowledge.

Ms. Pope stated that on December 13, 2007 she and Jean talked to Ms. Hogan about various issues. Ms. Pope stated that she would go in and make IVs for the technicians and not have the technicians check her work. Ms. Pope stated that there is a double check process in the pharmacy. Ms. Pope stated that they reminded her that the double check process was to have the technician make the IV and the pharmacist check the technicians work. Ms. Pope stated that she told Elizabeth that she must document wastage. Ms. Pope stated that if a PCA is broken then the wastage must be documented. Ms. Pope stated that there was one PCA in the past that was questioned.

Ms. Pope stated during that time she did ask Elizabeth if she was okay. Ms. Pope stated that Elizabeth told her she was having trouble sleeping because of TMJ pain as a result of an accident that occurred when she was 16.

Ms. Pope stated that it was oral counseling that was provided to Ms. Hogan.

Ms. Pope stated that on December 18, 2007 she and Jean had been approached by a dayshift pharmacist that had been working after Elizabeth had completed her previous evening shift. Ms. Pope stated that there had been numerous orders left for him to do. Ms. Pope stated that this was unusual. The pharmacist made the comment that Elizabeth's behavior was unusual. Ms. Pope stated that she reviewed all the orders. Ms. Pope stated that there was one 45 minute gap that they could not explain. Ms. Pope stated that they contacted Human Resources to see if they could send her for a "for cause drug test". Ms. Pope stated that they were told no that the individual had to exhibit symptoms.

Ms. Pope stated on December 20, 2007 the next day Elizabeth worked they planned to do a corrective action oral counseling on her performance. Ms. Pope stated that they did not give her the corrective action plan because of all the other events that day.

On motion by Mr. Dutcher and Dr. Smidt, the Board unanimously agreed to move the case to hearing.

Dr. Smidt stated that her legal counsel offered drug testing. Dr. Smidt stated that if she consents to drug testing the Board may decide not go to hearing. Mr. Morris stated that she is willing to submit to drug testing and would sign a consent agreement to that effect. Mr. Morris stated that he cannot allow her to sign a consent stating that she did something wrong when she did not do anything wrong.

Ms. Hogan stated that she is agreeable to taking random drug tests.

Mr. Wand stated that it might be a hardship for the Board to hear all the evidence. Mr. Wand stated that the last hearing was about three days at OAH.

Dr. Sypherd asked if the motion should be amended to include drug testing at some interval.

Mr. Morris suggested that they could decide to do 90 days of drug testing and then make a decision.

Mr. McAllister suggested that daily testing would be excessive and whom would the Board use to obtain random screenings with appropriate chain of custody.

Mr. Van Hassel stated that he is also concerned about Elizabeth's knowledge of the screening process and the ability to

beat the test. Ms. Hogan replied that using gas chromatography there is no way to beat the test because you are using very sophisticated equipment.

Dr. Smidt stated that there is no way to beat the test. Ms. Hogan started to reply and then became quiet.

On motion by Mr. Dutcher and Dr. Smidt, the Board unanimously agreed to move the case to hearing. A roll call vote was taken. (Mr. McAllister –aye, Ms. Honeyestewa –aye, Dr. Smidt – aye, Dr. Berry – aye, Mr. Dutcher – aye, Dr. Sypherd – aye, Mr. Haiber – aye, and Mr. Van Hassel – aye).

AGENDA ITEM 10 – Conferences

Complaint #3276

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Pharmacist In Charge Joanne Palermo, Pharmacy Supervisor Jim Foy, and Legal Counsel Roger Morris. Mr. Morris stated that the pharmacy technician trainee that was asked to appear has moved out of state and attempts to reach her were unsuccessful. Compliance Office Rich Cieslinski gave a brief overview of the complaint.

Mr. Cieslinski stated the complainant dropped off a prescription at the pharmacy for Pen VK suspension for her son. The complainant waited at the pharmacy for the prescription and was not counseled when she received the prescription. The mother took the prescription home and gave the medication to her son for several days. The mother stated that her son kept complaining about how bad he felt and thought he was going to die. The mother checked the bottle and realized that she had been giving her son Phenobarbital. The mother returned to the pharmacy to have the error corrected. The prescription for the Phenobarbital was for another patient with the same last name, but a different first name.

Mr. Dutcher asked how a pharmacy technician trainee gave out a prescription without counseling. Ms. Palermo stated that she is the Pharmacist In Charge and was not involved in the incident. Ms. Palermo stated that the prescription that the trainee gave out that day was to the wrong patient. Ms. Palermo stated that the prescription that was given to the complainant did not require counseling because it was a refill of Phenobarbital for the other patient.

Mr. Dutcher asked if trainees normally hand out prescriptions. Ms. Palermo stated that on refill prescriptions the technician must verify that they are handing out the correct prescription by verifying the address or date of birth. Ms. Palermo stated that the technician would then ask the patient if they have any questions for the pharmacist on their refill. Ms. Palermo stated that the breakdown occurred at the point of sale. Ms. Palermo stated that the prescription went out to a patient with the same last name and a different first name. Ms. Palermo stated that there was no error in filling either prescription.

Mr. Dutcher asked if there have been procedures put in place to prevent this error. Ms. Palermo stated that the procedures were in place and everyone has been retrained. Ms. Palermo stated that they are ensuring that the policy is enforced.

Mr. Van Hassel asked if the patient ever received the Pen VK. Ms. Palermo stated that the complainant returned the Phenobarbital that was clearly labeled for the other patient and received the Pen VK.

Mr. Haiber asked about the current process for ensuring that the medication is being given to the correct patient. Ms. Palermo stated that they are to ask an open ended question, such as “Can you verify the address or date of birth”. Ms. Palermo stated that then the information given to the technician by the patient is verified with the information printed on the prescription paperwork.

Mr. Morris stated that in this case the technician showed the prescription with the incorrect name to the patient and the customer identified the prescription as her prescription. Mr. Morris stated that it is not an excuse but the patient did read the instructions on the bottle but did not read the name on the bottle.

Dr. Sypherd asked about the technician. Ms. Palermo stated that the technician has left the state and is not working in the pharmacy.

Dr. Sypherd asked if the counseling was done in English. Ms. Palermo stated that there is a bi-lingual technician in the pharmacy and there is also an individual in the home and health department that can help when there is a language barrier.

Dr. Smidt recommended that an advisory letter should be issued to the permit holder.

Dr. Sypherd stated that he feels that an advisory letter is light. Dr. Sypherd stated that a patient was deprived of their antibiotic. Dr. Sypherd feels that there is a problem in the manner that employees are trained and supervised.

Ms. Palermo stated that they are following policy. Ms. Palermo stated that the mother had some responsibility. Ms. Palermo stated that the complainant was shown the prescription bottle and receipt label. Ms. Palermo stated at this location both the receipt and prescription bottle are shown to the patient before they leave the pharmacy. Ms. Palermo stated that the name was read to the patient. Ms. Palermo stated that the last names were the same. Ms. Palermo stated that there was a language barrier issue. Ms. Palermo stated that the patient verified that the prescription was her prescription.

Dr. Sypherd stated that there have been quite a few complaints from CVS pharmacies and he hopes that they are changing their practices.

Dr. Sypherd asked if a fine could be imposed.

Mr. Hargraves stated that a Consent Agreement would need to be issued if they planned to impose a penalty.

Mr. McAllister stated that he agrees with Dr. Sypherd concerning the fact that a child received the wrong medication. Mr. McAllister stated that he saw a mistake where the wrong bag was given to a patient and the patient had agreed that it was her medication.

Mr. McAllister stated that the company has worked on correcting the problem.

On motion by Dr. Smidt and Dr. Berry, the Board unanimously agreed to issue an advisory letter to the permit holder.

Complaint #3276

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Pharmacist Andrew Marek and Pharmacy Supervisor Mark Huffman. Compliance Officer Sandy Sutcliffe gave a brief overview.

Ms. Sutcliffe stated that the complainant stated that she received Trazodone 50mg instead of Tramadol 50mg. The pharmacist is not sure how the error occurred. The prescription was processed and a label was created for Tramadol 50mg, but Trazadone 50mg was placed in the bottle. The patient reported taking one to two tablets of the incorrect medication and became drowsy.

President Van Hassel asked Mr. Marek to address the error. Mr. Marek stated that he is not sure if he misread the label and grabbed the wrong bottle. Mr. Marek stated that for some reason he did not scan the bottle. Mr. Marek stated that the patient refused counseling because the prescription was a transfer prescription and she had taken the medication before.

Mr. Van Hassel asked what the normal process is at the store for filling the bottle. Mr. Marek stated that either the technician or the pharmacist can count the product. Mr. Marek stated that he believes that he pulled the bottle. Mr. Marek stated that for some reason he did not scan the bottle. Mr. Marek stated that he counted the product and placed the label on the bottle.

Mr. Van Hassel stated that there appears to be a recurring issue with the pharmacists at Safeway not using the scanner to verify the drug. Mr. Van Hassel asked if the scanner was not user friendly or if there was some reason that he did not use the scanner.

Mr. Marek stated that he has a very good scanning record. Mr. Marek stated that this particular prescription got by him. Mr. Dutcher stated that there is a flaw in the system that allows a pharmacist to bypass the system.

Mr. Huffman stated that it is not their policy to scan the prescription. Mr. Huffman stated that there is no way to tell at the out window if the prescription had been scanned.

Mr. Dutcher stated that the system should prevent the prescription from going further if the medication bottle is not scanned.

Dr. Smidt placed a motion on the floor to issue a consent order to the pharmacist for three months probation and a \$200 fine.

Mr. Wand stated that the Board does not require pharmacies to have scanners.

Mr. Dutcher stated that they have a false sense of security. Mr. Dutcher stated that scanning is a good concept, but if it is bypassed what good is the scanning.

Mr. Huffman stated that the scanning is reviewed weekly to determine if scanning has taken place at the pharmacy.

Mr. Van Hassel asked what percentage of prescriptions is scanned at this pharmacy. Mr. Huffman stated usually over 100%.

Mr. Van Hassel asked how more than 100% can be scanned. Mr. Huffman stated that the prescriptions could be scanned twice. Mr. Huffman stated that the prescription could be scanned first by the technician and then by the pharmacist. Mr. Huffman stated that he can look at the prescriptions on a weekly basis and see the scans on the prescription.

Mr. Van Hassel stated that he would like to see a copy of that report. Mr. Huffman stated that he could supply that report.

Dr. Smidt stated that a tool is present to prevent errors and the refusal to use the tool makes the error more egregious.

Dr. Berry stated that the two drugs involved are on the list of top ten drugs that are misconstrued for one another and that should be even more reason to use the scanner to double check that the correct drug is being dispensed.

Dr. Berry asked if the technician has the ability to scan the final product. Mr. Huffman replied that a technician uses the scanner while filling the prescription.

Mr. Dutcher stated that he fills the permit holder should also be fined to encourage them to correct the problem.

Dr. Smidt amended his motion.

On motion by Dr. Smidt and Dr. Sypherd, the Board agreed to offer a Consent Agreement to the pharmacist for 3 months probation and a \$200 fine and offer a Consent Agreement to the permit holder for a \$200 fine. There was one nay vote by Dr. Berry.

Mr. Van Hassel asked Mr. Huffman to send a scanning report for that store to the Board prior to the next Board Meeting. Mr. Van Hassel stated that he would like to see the report for a 30 day period.

Complaint #3298

Alan Isaacson appeared to answer Board Member's questions concerning a complaint filed against him by his former employer which involved the filling of prescriptions without authorization from a physician.

President Van Hassel asked Mr. Isaacson to address the complaint. Mr. Isaacson stated that he knows why he is appearing today and is embarrassed about his appearance in front of the Board. Mr. Isaacson stated that he exceeded his authority. Mr. Isaacson stated that he assigned refills to prescriptions for a member of his family. Mr. Isaacson stated that he has no explanation for what he did. Mr. Isaacson stated that he was certain that the prescribing physician who had treated his brother would give authorization to fill the prescriptions. Mr. Isaacson stated that he and his brother were both leaving

town and he was not able to reach the doctor. Mr. Isaacson stated that he would like to apologize for a very foolish act. Mr. Isaacson stated that he has not worked in a pharmacy since that time. Mr. Isaacson stated that he was terminated by his employer.

Mr. Van Hassel asked if the two prescription drugs were Valium and Ambien. Mr. Isaacson replied yes. Mr. Isaacson stated that his brother uses both drugs. One drug he uses for sleep and the other he uses for a bad neck injury. Mr. Isaacson stated that his brother's wife told him that his brother needed the one medication and when he talked to her later, she told him that he needed the other medication. Mr. Isaacson stated that he credit returned the one medication and filled the other with the intention of calling the doctor when he returned. Mr. Isaacson stated that he got pulled out of town the next day earlier than he thought and everything fell aside.

Mr. Van Hassel asked Mr. Isaacson if he had ever done this activity in the past. Mr. Isaacson replied no. Mr. Isaacson stated that he left everything out and was not trying to hide the fact that he had filled the prescriptions.

Mr. Dutcher told Mr. Isaacson that the worst part of the incident is that he signed off on the prescription as though the doctor had approved the prescriptions. Mr. Isaacson stated that it was wrong.

Mr. Dutcher asked Mr. Isaacson what would happen if the same situation occurred again. Mr. Isaacson stated that he considers himself to be a good retail pharmacist. Mr. Isaacson stated that his practice was to tell the patient that he could not contact their doctor and give them a dose of the medication until their doctor could be reached. Mr. Isaacson stated that it was stupid the way he handled this situation and would never do it again.

Mr. Dutcher asked Mr. Isaacson if he put additional refills on the prescription. Mr. Isaacson stated that he reassigned the prescription with whatever refills were on the original prescription.

Mr. Isaacson stated that he is guilty of filling the prescriptions and if he can continue to practice he would never do it again.

Mr. Isaacson stated that Fry's has a policy for not filling prescriptions for family members. Mr. Isaacson stated that it never made sense to him until now.

Mr. Isaacson stated that he became overconfident and sloppy.

Mr. McAllister stated that it is clear that Mr. Isaacson understands what happened.

Mr. McAllister stated that his actions were outside the law.

On motion by Mr. McAllister and Dr. Berry, the Board agreed to offer a Consent Agreement to Mr. Isaacson with the following terms: 6 months probation, \$2,000 fine, and 16 hours of additional CE units. There was one nay vote by Mr. Van Hassel.

Complaint #3332 – Postponed

AGENDA ITEM 11 – Proposed Rules

Pharmacy Personnel and Security Rule

Compliance Officer/Rules Writer Dean Wright opened the discussion by stating that he has prepared a Notice of Final Rulemaking and Economic Statement for this rule. Mr. Wright stated that a notice of Proposed Rulemaking was published on March 9, 2007. A public hearing was held on April 9, 2007. No one attended the hearing. The Board received one written response from the Arizona Community Pharmacy Committee voicing their approval of the rulemaking.

On motion by Mr. McAllister and Dr. Berry, the Board unanimously approved Mr. Wright's request to submit the Notice of Final Rulemaking to GRRC for final approval.

AGENDA ITEM #12 – Five Year Rule Review

Mr. Van Hassel asked Mr. Wright if he received any comments from Board Members.

Mr. Dutcher stated that he did not see any changes that needed to be made.

Mr. McAllister stated that he did not see any major changes to be made and he did not send any comments.

Mr. Wright stated that he found a few minor changes that needed to be corrected.

Mr. Wand asked Mr. Wright if he changed the wording to licensee in situations where it previously stated pharmacist and intern. Mr. Wand stated by using licensee it would also include technicians. Mr. Wright stated that he would check for any changes that would need to be made.

On motion by Mr. McAllister and Dr. Berry, the Board unanimously approved the request by Mr. Wright to submit the five year rule review to GRCC.

AGENDA ITEM #13 – Complaint Review

Mr. Van Hassel stated that the Board needs to properly notice the complaint review committee and the meeting was not properly noticed.

Mr. Van Hassel stated that the committee would meet and then present their recommendations via a telephone meeting prior to the July meeting.

Mr. Wand stated that the meeting would be a ratification of a meeting that was not properly noticed..

Mr. Van Hassel stated that the Board would table this agenda item at this time and take no further action.

AGENDA ITEM #14 – Consent Agreements

President Van Hassel asked Board Members if there were any questions or discussions concerning the consent agreements. Executive Director Hal Wand indicated that the consent agreements have been reviewed and approved by the Attorney General’s Office and have been signed.

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 14, Approval of Consents for Eric Kesterson and Dione Valazquez.

On motion by Mr. McAllister and Dr. Berry, the Board unanimously agreed to accept the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below. A roll call vote was taken.

(Mr. McAllister –aye, Ms. Honeyestewa –aye, Dr. Smidt – aye, Dr. Berry – aye, Mr. Dutcher – aye, Dr. Sypherd – aye, Mr. Haiber – aye, and Mr. Van Hassel – aye).

Karen Accetta	-	07-0035-PHR
Venkateswara Malladi	-	07-0040-PHR
Catherine Torda	-	07-0043-PHR
Jon Bach	-	07-0046-PHR
Judith Rosch	-	07-0048-PHR

On motion by Mr. McAllister and Dr. Berry, the Board unanimously agreed to accept the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below. A roll call vote

was taken.
(Mr. McAllister –aye, Ms. Honeyestewa –aye, Dr. Smidt – aye, Dr. Berry – aye, Mr. Dutcher – aye, Dr. Sypherd – aye, and Mr. Van Hassel – aye). Mr. Haiber did not vote due to a conflict of interest

Eric Kesterson - 07-0038-PHR

Dione Valazquez - 07-0051-PHR

AGENDA ITEM 15 – Pharmacy Technician Trainee Requests for Approval to Reapply for Licensure

President Van Hassel addressed this issue. Mr. Van Hassel stated that the committee has reviewed the Pharmacy Technician Trainee requests to reapply for licensure. Mr. Van Hassel stated that the pharmacy technician trainees have received a letter stating that they may only reapply for licensure as a pharmacy technician trainee one time. Mr. Van Hassel stated that during the next two years the pharmacy technician trainee must take the PTCB test and become certified if they would like to continue to work as a pharmacy technician.

On motion by Mr. Dutcher and Dr. Berry, the Board unanimously approved the requests of the Pharmacy Technician Trainees listed below to proceed with the reapplication process. The pharmacy technician trainee may reapply for an additional two years as a pharmacy technician trainee one time.

Pharmacy Technician Trainees Approved to reapply for licensure as a Pharmacy Technician Trainee for an additional two years.

1. Kathleen Eckert
2. Maria Plaza
3. Jammie Tudor
4. Jean Higashi
5. Yvonnica Ahasteen
6. Mallory Marlow
7. Lei Carlson
8. Janet Huss
9. Leila Farmahiny
10. Lisa Brady
11. Frances Lopez
12. Kristen Nichols
13. Marjorie Tagle
14. Sara Kinard
15. Kristopher Goodbody
16. Julie Manchester
17. Ramona Genzlinger
18. Kelly Adson
19. Kyle Lee
20. Douglas Bosse
21. Vanessa Gomez
22. Sara Rolle
23. Maria Fuentes
24. Joan Harrigan
25. Cathy McClellan
26. Debra Griego
27. Stasha Boyd
28. Trina Hutton

AGENDA ITEM 16 – Review of Board Meeting Schedule – September 2007

Mr. Wand stated that the September meeting was to be held in Yuma. Mr. Wand stated that after being notified of upcoming expenses with the move he notified Mr. Van Hassel that he felt it would not be cost effective to have the meeting in Yuma at this time. Mr. Van Hassel agreed so the September meeting will be held at the new Board Room at the downtown location.

After discussion by the Board Members, it was decided that the Board Meeting would be moved to September 11th and 12th.

Mr. Wand stated that a future meeting could be held in Yuma when funds are available.

AGENDA ITEM 17 – Board Review of Complaint #3350 – Lisa Hunter

Mr. Wand stated that the Board received a complaint concerning Ms. Hunter. Mr. Wand stated that Ms. Hunter has had previous complaints filed against her. Ms. Frush stated that a letter was sent to Ms. Hunter at her last known address stating that a complaint was opened against her, requesting a reply from her, and that the Board would be discussing the complaint at this Board Meeting. Ms. Frush stated that she had not received a reply.

Mr. Van Hassel stated that he asked Mr. Wand to list the errors made by Ms. Hunter. Mr. Wand stated that Mr. Cieslinski compiled the list for the Board.

Mr. Van Hassel stated that there has been a string of errors reported to the Board from various employers involving a variety of errors. Mr. Van Hassel stated that the last time the Board meet with Ms. Hunter the Board required Ms. Hunter to complete additional training. Ms. Hunter was given her license back in good standing after completing the consent agreement. Mr. Van Hassel stated that the errors indicate a lack of judgment or lack of clinical knowledge.

Mr. Van Hassel stated that the Board would be remiss if they did not take formal action against this licensee. Mr. Van Hassel stated that she is a risk to potential patients that she might treat.

Mr. McAllister stated that there is a consistent theme here and the Board does not know how many errors have not been reported. Mr. McAllister stated that the Board needs to look out for the welfare of the patients.

Mr. Dutcher stated that she has appeared before the Board. Mr. Dutcher stated that her co-workers stopped her actions this time.

Mr. Van Hassel stated that what bothered him the most was the magnitude of the errors.
Mr. Van Hassel stated that they were knowingly wrong.

On motion by Dr. Smidt and Dr. Berry, the Board unanimously agreed to offer a consent agreement to Ms. Hunter for revocation. If the consent agreement is not signed, the case will proceed to hearing.

AGENDA ITEM 18 – Approval of Non- ACPE CE units

President Van Hassel asked Mr. Wand to address this issue. Mr. Wand stated that the rules state that CE units must be board approved or ACPE approved credits. Mr. Wand stated that he receives requests at the office to approve CE units. Mr. Wand stated that the CE program is supposed to be approved prior to taking the course and not after the fact. Mr. Wand stated that he sent a copy of the policy to the individuals requesting credit.

Mr. Wand stated that there is a current policy.

Mr. Van Hassel stated that the current policy works and feels that it should continue.

Mr. McAllister stated that there are many continuing education programs that are valuable. Mr. McAllister stated that he feels that the Board should consider putting a percentage limit on the number of credits that can be earned that are not ACPE approved.

Mr. Wand stated that the staff could research the topic and the item could be placed on a future agenda for discussion.

AGENDA ITEM 19 – Review of the Complaint Review Process

President Van Hassel asked Mr. Wand to address this issue. Mr. Wand stated that there is a new statute signed by the Governor that now requires subcommittee meetings to be posted and minutes to be taken.

Mr. Wand stated that the issue is that it is difficult to find a time for members of the committee to meet. Mr. Wand stated that the meeting of the subcommittee could be posted and the meeting could be held at 8:00 A.M. prior to the meeting, at lunchtime, or at the end of the first day.

Mr. Hargraves stated that the new legislation requires the taking of minutes. Mr. Hargraves stated that the Board can continue with the committee or review the complaints themselves. Mr. Hargraves stated that there may be an issue of breaking away from the Board Meeting to review the complaints.

The Board Members decided that they would like to keep the committee and notice the meeting for 8:00 A.M. the first day of the meeting.

Mr. McAllister stated that many of the complaints are not violations of the law. Mr. McAllister stated that he would like to make a recommendation that staff determine if there is a violation and if there is no violation then the Board does not want to see the complaint.

Mr. Wand stated that the rules do not give the staff authority to dismiss complaints. Dr. Berry stated that the grid does indicate that there are no violations and the committee could recommend that no action be taken.

Mr. Wand stated that he and Ms. Frush are considering a revision of the letter that is sent with the complaint forms. Mr. Wand stated that currently the letter indicates that the Board does not handle complaints associated with insurance issues. Mr. Wand stated that the letter could be revised to indicate what types of situations are not violations of the law.

AGENDA ITEM 20 - Review of the Length of Board Member Terms

President Van Hassel asked Mr. Wand to address this topic. Mr. Wand stated that a survey was conducted of other states and the length of Board Member Terms. Mr. Wand stated that nineteen boards have five year terms, seven boards have seven year terms, nine boards have three year terms, and eighteen boards have four year terms.

Mr. Wand stated that Mr. Drauglis stated that he felt that the term should be one seven year term.

Mr. Wand stated that it would require a statute change and the Board would need to explain to the legislature why the Board would like to change the length of the term.

Mr. Dutcher asked if there are other Boards in the state that have a longer term than five years. Mr. Wand stated that he does not know the answer to that question, but he could research the question.

Dr. Smidt stated that he feels a seven year term would be too long.

The Board decided to place the item on a future agenda for further discussion.

AGENDA ITEM 21 – Call to the Public

Call to the Public

President Van Hassel announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

No one came forth to speak.

AGENDA ITEM 22 – Discussion of Items to be placed on future meeting agenda

There was no discussion of additional items to be placed on future.

AGENDA ITEM 23 – Adjournment

There being no further business to come before the Board, **on motion by Dr. Berry and Mr. Dutcher**, the Board unanimously agreed to adjourn the meeting at 4:00 P.M.

