

**THE ARIZONA STATE BOARD OF PHARMACY  
HELD A REGULAR MEETING MAY 24 AND 25, 2006  
GLENDALE, ARIZONA**

May 24, 2006

The following Board Members and staff were present: President Chuck Dutcher, Vice-President Tom Van Hassel, Louanne Honeyestewa, Dennis McAllister, Linda McCoy, Ridge Smidt, and Bryan Tippet. Compliance Officers Rich Cieslinski, Larry Dick, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Stephen Wolf.

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

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

**AGENDA ITEM 1 - Approval of Minutes**

Following a review of the minutes and an opportunity for questions and **on motion by Dr. McCoy and Dr. Sypherd**, the minutes of the Regular Meeting and Executive Session held on March 15 and 16, 2006 and the Telephonic Meeting held on May 5, 2006 were unanimously approved by the Board Members.

**AGENDA ITEM 2 - Permits and Licenses**

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

**Sunwest Pharmacy**

Owner Stephen Moskovich, Owner Yuri Eidelman, and Pharmacist In Charge Amnon Friedman were present to answer questions from Board Members.

President Dutcher opened the discussion by asking the applicants if the owners were pharmacists. The owners replied that they are not pharmacists. President Dutcher asked the applicants about the nature of their business.

Mr. Friedman stated that the pharmacy would be an independent retail pharmacy in a medical building.

Mr. Dutcher asked the owners if they were familiar with the laws that do not allow an owner to enter the pharmacy if a pharmacist is not present.

The owners replied that they are familiar with the laws. Mr. Moskovich stated he has owned a pharmacy in California and is familiar with the laws.

Mr. Dutcher thanked the applicants for appearing and wished them luck with their business.

**Cactus and 35<sup>th</sup> Ave Family Pharmacy**

Owner Dimitri Bigun was present to answer questions from Board Members.

President Dutcher opened the discussion by asking Mr. Bigun to describe the nature of their business.

Mr. Bigun stated that he is a licensed pharmacist in California. Mr. Bigun stated that the pharmacy that he is opening in Arizona would be a community retail pharmacy.

Mr. Dutcher asked Mr. Bigun if he has hired an Arizona licensed pharmacist to be the Pharmacist in Charge. Mr. Bigun stated that he is in the process of interviewing the pharmacists at this time.

Mr. Dutcher thanked the applicant for appearing and wished him luck with his business.

## **Aurora Glendale Hospital**

Hospital Representative Reed Tota and Pharmacist Grant Shetterly were present to answer Board Member's questions.

President Dutcher asked the applicants to discuss the nature of their business.

Mr. Shetterly stated that this would be a new hospital pharmacy.

Mr. Tota stated that they are opening a hospital in the old Charter Hospital building. Mr. Tota stated that the Charter Hospital closed many years ago and they have purchased the building.

Mr. Dutcher asked if the paperwork was in order.

Ms. Frush stated that they would need to obtain a waiver because the pharmacy area is less than the required 500 square feet.

Mr. Wand stated that the Board has in the past approved smaller areas for hospitals that do not have emergency rooms and compound IV solutions. Mr. Wand stated that these hospitals do not provide all the services that a regular acute hospital would provide for their patients.

Mr. Dutcher asked the applicants if they would be compounding IV solutions.

Mr. Shetterly replied no.

Mr. Tota stated that this is a specialty hospital. Mr. Tota stated that the hospital is an acute psychiatric hospital.

**On motion by Mr. Van Hassel and Mr. McAllister**, the Board unanimously agreed to accept the variance for the square footage of the pharmacy. The square footage must be no less than the plans submitted by the applicants. (30'8" by 9'3").

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

### **RESIDENT PHARMACY PERMITS (In Arizona)**

- Sunwest Pharmacy  
5757 W. Thunderbird Rd., Suite W-111  
Glendale, AZ 85306  
Acorn USA, Inc.
- CVS Pharmacy #8802  
131 W. Riverside Dr.  
Parker, AZ 85344 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy #8826  
2350 Miracle Mile  
Bullhead City, AZ 86442 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy #8828  
2090 East Fry Blvd.  
Sierra Vista, AZ 85635 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy #9202  
4742 E. Indian School Rd.  
Phoenix, AZ 85018 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy #9205  
914 E. Broadway Rd.  
Tempe, AZ 85262 (O)  
CVS EGL Broadway Tempe AZ, LLC
- CVS Pharmacy #9207  
865 E. Grant Rd.

- Tucson, AZ 85719 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy #9209  
3000 N. Alma School Rd.  
Chandler, AZ 85224 (O)  
Chandler Warner CVS, LLC
  - CVS Pharmacy #9210  
10653 N. Scottsdale Rd.  
Scottsdale, AZ 85254 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy #9211  
6484 N. Oracle Rd.  
Tucson, AZ 85704 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy #9213  
305 E. Brown Rd.  
Mesa, AZ 85201 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy #9215  
3754 S. 16<sup>th</sup> Ave.  
Tucson, AZ 85713 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy #9217  
10720 W. Bell Rd.  
Sun City, AZ 85351 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy #9218  
11335 S. Dobson Rd. #10  
Mesa, AZ 85202 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy #9222  
4326 W. Thomas Rd.  
Phoenix, AZ 85031 (O)  
German Dobson CVS, LLC
  - CVS Pharmacy #9223  
3320 N. 7<sup>th</sup> Ave.  
Phoenix, AZ 85013 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9225  
3141 E. Indian School  
Phoenix, AZ 85016 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9230  
19602 R. H. Johnson Blvd.  
Sun City West, AZ 85375 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9231  
3506 E. Route 66  
Flagstaff, AZ 86004 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9232  
4748 E. Sunrise Drive  
Tucson, AZ 85718 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9237  
9848 W. Peoria  
Peoria, AZ 85345 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9239  
2321 E. Bell Rd.  
Phoenix, AZ 85022 (O)  
CVS 3264 Phoenix, LLC
  - CVS Pharmacy#9244  
4380 N. Miller Rd.  
Scottsdale, AZ 85251 (O)

CVS EGL Indian School Scottsdale AZ, LLC

- CVS Pharmacy#9245  
12409 N. Tatum Blvd.  
Phoenix, AZ 85032 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9252  
14672 N. Frank Lloyd Wright Blvd.  
Scottsdale, AZ 85260 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9254  
240 W. Continental Rd.  
Green Valley, AZ 85614 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9256  
3514 E. Peoria  
Phoenix, AZ 85029 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9258  
802 E. Union Hills  
Phoenix, AZ 85024 (O)  
German Dobson CVS, LLC
- CVS Pharmacy#9260  
950 N. McQueen  
Chandler, AZ 85225 (O)  
German Dobson CVS, LLC
- CVS Pharmacy#9264  
23215 N. Pima Rd.  
Scottsdale, AZ 85255 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9266  
522 Finney Flat, Suite A  
Camp Verde, AZ 86322 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9270  
2033 W. Wickenburg Way  
Wickenburg, AZ 85390 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9272  
7499 E. Broadway Rd.  
Tucson, AZ 85710 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9273  
3785 W. Ina Rd.  
Marana, AZ 85741 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9274  
617 N. Alvernon  
Tucson, AZ 85711 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9276  
5013 N. 19<sup>th</sup> Ave.  
Phoenix, AZ 85015 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9277  
6895 E. Sunrise  
Tucson, AZ 85750 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9278  
1555 S. Avenue B  
Yuma, AZ 85364 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9279  
16545 E. Palisades Blvd.  
Fountain Hills, AZ 85268 (O)  
Arizona CVS Stores, LLC

- CVS Pharmacy#9280  
3547 E. Southern Ave.  
Mesa, AZ 85204 (O)  
Southern Greenfield CVS, LLC
- CVS Pharmacy#9281  
7561 E. Baseline Rd.  
Mesa, AZ 85208 (O)  
CVS 3436 Mesa, LLC
- CVS Pharmacy#9283  
2000 W. Ray Rd.  
Chandler, AZ 85224 (O)  
Chandler Warner CVS, LLC
- CVS Pharmacy#9285  
838 W. Elliot Rd.  
Gilbert, AZ 85233 (O)  
Warner McQueen CVS, LLC
- CVS Pharmacy#9287  
415 W. Baseline Rd.  
Tempe, AZ 85283 (O)  
CVS EGL Baseline Tempe AZ, LLC
- CVS Pharmacy#9288  
415 S. Higley Rd.  
Mesa, AZ 85206 (O)  
Southern Greenfield CVS, LLC
- CVS Pharmacy#9289  
3232 E. Guadalupe Rd.  
Gilbert, AZ 85234 (O)  
CVS Gilbert 3272, LLC
- CVS Pharmacy#9290  
4430 E. Ray Rd.  
Phoenix, AZ 85044 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9291  
1202 W. University Dr.  
Mesa, AZ 85201 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9292  
910 E. Elliott Rd.  
Tempe, AZ 85284 (O)  
Elliot Tempe CVS, LLC
- CVS Pharmacy#9293  
325 W. Apache Trail  
Apache Junction, AZ 85220 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9294  
9172 W. Union Hills Dr.  
Peoria, AZ 85382 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9295  
1560 E. Elliot Rd.  
Gilbert, AZ 85234 (O)  
CVS Gilbert 3272, LLC
- CVS Pharmacy#9297  
6002 N. 7<sup>th</sup> St.  
Phoenix, AZ 85014 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9298  
1644 S. Lindsay Rd.  
Gilbert, AZ 85296 (O)  
CVS 3268 Gilbert, LLC
- CVS Pharmacy#9301  
6712 W. Bell Rd.  
Glendale, AZ 85308 (O)  
CVS EGL Union Hills AZ, LLC
- CVS Pharmacy#9302

- 8920 E. Tanque Verde  
Tucson, AZ 85749 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9304  
7434 W. Indian School Rd.  
Phoenix, AZ 85033 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9306  
19505 N. Sunrise Blvd.  
Surprise, AZ 85374 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9307  
4330 E. University Dr.  
Mesa, AZ 85205 (O)  
University Mesa CVS, LLC
  - CVS Pharmacy#9312  
4323 E. Bell Rd.  
Phoenix, AZ 85032 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9314  
3440 W. Glendale  
Phoenix, AZ 85051 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9315  
1690 W. Southern Ave.  
Apache Junction, AZ 85220 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9319  
1179 S. Highway 260  
Cottonwood, AZ 86326 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9321  
5943 E. Brown Rd.  
Mesa, AZ 85205 (O)  
Brown Recker CVS, LLC
  - CVS Pharmacy#9327  
6021 S. Central Ave.  
Phoenix, AZ 85042 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9328  
7901 E. Thomas Rd.  
Scottsdale, AZ 85251 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9334  
2800 S. 4<sup>th</sup> Ave.  
Yuma, AZ 85364 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9336  
7901 E. Golf Links Rd.  
Tucson, AZ 85730 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9338  
10781 N. Frank Lloyd Wright  
Scottsdale, AZ 85259 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9339  
21001 N. Tatum Blvd., Ste. 82  
Phoenix, AZ 85050 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9340  
3610 W. Anthem Way  
Phoenix, AZ 85086 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9343  
506 N. Miller Valley Rd.

- Prescott, AZ 86301 (O)  
Arizona CVS Stores, LLC
- CVS Pharmacy#9344  
10390 N. Lacanada Dr.  
Oro Valley, AZ 85737 (O)  
CVS EGL Skyline Tucson AZ, LLC
  - CVS Pharmacy#9347  
1525 N. Central Ave.  
Phoenix, AZ 85004 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9374  
1900 W. Valencia Rd.  
Tucson, AZ 85746 (O)  
Arizona CVS Stores, LLC
  - CVS Pharmacy#9379  
1718 E. Florence Blvd.  
Casa Grande, AZ 85222 (O)  
CVS EGL Florence Casa AZ, LLC
  - Critical Care Systems  
4645 S. Ash Ave., Suite 1-6  
Tempe, AZ 85282 (O)  
Critical Care Systems International
  - Target Pharmacy T-0735  
4151 E. Highway 90  
Sierra Vista, AZ 85635  
Target Corporation
  - Target Pharmacy T-2149  
9830 W. Lower Buckeye Rd.  
Tolleson, AZ 85353  
Target Corporation
  - Osco Drug #926  
12970 W. Indian School Rd.  
Litchfield Park, AZ 85340 (O)  
Albertsons, LLC
  - Osco Drug #929  
8454 S. Power Rd.  
Gilbert, AZ 85297 (O)  
Albertsons, LLC
  - Osco Drug #931  
2378 W. 24<sup>th</sup> St.  
Yuma, AZ 85364 (O)  
Albertsons, LLC
  - Osco Drug #940  
750 E. Guadalupe  
Tempe, AZ 85283 (O)  
Albertsons, LLC
  - Osco Drug #941  
5040 E. Cactus  
Glendale, AZ 85304 (O)  
Albertsons, LLC
  - Osco Drug #942  
1919 W. Main St.  
Mesa, AZ 85201 (O)  
Albertsons, LLC
  - Osco Drug #943  
1200 N. Alma School Rd.  
Chandler, AZ 85224 (O)  
Albertsons, LLC
  - Osco Drug #945  
7333 W. Thomas Rd., Ste. 16  
Phoenix, AZ 85033 (O)  
Albertsons, LLC
  - Osco Drug #946  
4820 E. Ray Rd.  
Phoenix, AZ 85044 (O)

- Albertsons, LLC
- Osco Drug #948  
441 N. Val Vista Dr.  
Mesa, AZ 85213 (O)  
Albertsons, LLC
  - Sav-On Drug #1027  
1980 McCulloch Blvd.  
Lake Havasu, AZ 86403 (O)  
Albertsons, LLC
  - Osco Drug #952  
8035 N. 19<sup>th</sup> Ave.  
Phoenix, AZ 85021 (O)  
Albertsons, LLC
  - Osco Drug #955  
2785 N. Scottsdale Rd.  
Scottsdale, AZ 85259 (O)  
Albertsons, LLC
  - Osco Drug #956  
4747 E. Greenway Rd.  
Phoenix, AZ 85032 (O)  
Albertsons, LLC
  - Osco Drug #957  
750 Gilbert Rd.  
Gilbert, AZ 85234 (O)  
Albertsons, LLC
  - Osco Drug #958  
325 S. Power Rd.  
Mesa, AZ 85208 (O)  
Albertsons LLC
  - Osco Drug #959  
6363 E. 22<sup>nd</sup> St.  
Tucson, AZ 85710 (O)  
Albertsons, LLC
  - Osco Drug #960  
7300 N. Lacholla Blvd.  
Tucson, AZ 85741 (O)  
Albertsons, LLC
  - Osco Drug #961  
2854 N. Campbell  
Tucson, AZ 85719 (O)  
Albertsons, LLC
  - Sav-On Drug #962  
3260 N. Stockton Hill  
Kingman, AZ 86401 (O)  
Albertsons, LLC
  - Osco Drug #963  
6600 E. Grant Rd.  
Tucson, AZ 85715 (O)  
Albertsons, LLC
  - Osco Drug #964  
9595 E. Broadway  
Tucson, AZ 85748 (O)  
Albertsons, LLC
  - Osco Drug #965  
4450 E. Highway 69  
Prescott Valley, AZ 86314 (O)  
Albertsons, LLC
  - Osco Drug #966  
6965 N. Hayden Rd.  
Scottsdale, AZ 85250 (O)  
Albertsons, LLC
  - Osco Drug #967  
1416 E. Route 66  
Flagstaff, AZ 86001 (O)  
Albertsons, LLC

- Osco Drug #968  
1116 E. Florence Blvd.  
Casa Grande, AZ 85222 (O)  
Albertsons, LLC
- Osco Drug #969  
15660 N. Frank Lloyd Wright  
Scottsdale, AZ 85260 (O)  
Albertsons, LLC
- Osco Drug #970  
10665 N. Tatum Blvd.  
Phoenix, AZ 85028 (O)  
Albertsons, LLC
- Osco Drug #971  
8950 W. Bell Rd.  
Peoria, AZ 85382 (O)  
Albertsons, LLC
- Osco Drug #972  
1350 N. Silverbell Rd.  
Tucson, AZ 85745 (O)  
Albertsons, LLC
- Osco Drug #974  
20255 N. 59<sup>th</sup> Ave.  
Glendale, AZ 85308 (O)  
Albertsons, LLC
- Osco Drug #975  
1625 E. Camelback  
Phoenix, AZ 85016 (O)  
Albertsons, LLC
- Osco Drug #976  
409 N. Litchfield Rd.  
Goodyear, AZ 85338 (O)  
Albertsons, LLC
- Osco Drug #977  
14551 W. Grand Ave.  
Surprise, AZ 85375 (O)  
Albertsons, LLC
- Osco Drug #979  
34442 N. Scottsdale Rd.  
Scottsdale, AZ 85262 (O)  
Albertsons, LLC
- Osco Drug #980  
1951 W. Baseline  
Mesa, AZ 85202 (O)  
Albertsons, LLC
- Osco Drug #981  
3145 S. Alma School Rd.  
Chandler, AZ 85248 (O)  
Albertsons, LLC
- Osco Drug #983  
11475 E. Via Linda  
Scottsdale, AZ 85259 (O)  
Albertsons, LLC
- Osco Drug #984  
2070 S. Power Rd.  
Mesa, AZ 85236 (O)  
Albertsons, LLC
- Osco Drug #985  
18411 N. Cave Creek Rd.  
Phoenix, AZ 85032 (O)  
Albertsons, LLC
- Osco Drug #988  
5085 N. Lacanada Dr.  
Tucson, AZ 85704 (O)  
Albertsons, LLC
- Osco Drug #989

- 2727 N. Power Rd.  
Mesa, AZ 85215 (O)  
Albertsons, LLC
- Osco Drug #991  
8240 W. Deer Valley Rd.  
Peoria, AZ 85382 (O)  
Albertsons, LLC
  - Osco Drug #992  
717 W. Ray Rd.  
Gilbert, AZ 85233 (O)  
Albertsons, LLC
  - Osco Drug #993  
445 N. Stapley Dr.  
Mesa, AZ 85203 (O)  
Albertsons, LLC
  - Osco Drug #995  
10805 N. Oracle Rd.  
Tucson, AZ 85737 (O)  
Albertsons, LLC
  - Osco Drug #997  
4060 W. Ray Rd.  
Chandler, AZ 85226 (O)  
Albertsons, LLC
  - Osco Drug #998  
7575 W. Cactus Rd.  
Peoria, AZ 85381 (O)  
Albertsons, LLC
  - Osco Drug #1002  
9243 E. Baseline  
Mesa, AZ 85212 (O)  
Albertsons, LLC
  - Osco Drug #1004  
3130 W. Carefree Hwy.  
Phoenix, AZ 85086 (O)  
Albertsons, LLC
  - Osco Drug #1005  
4240 W. Bell Rd.  
Phoenix, AZ 85308 (O)  
Albertsons, LLC
  - Osco Drug #1007  
1849 W. Greenway  
Phoenix, AZ 85023 (O)  
Albertsons, LLC
  - Osco Drug #1009  
5802 W. Olive Ave.  
Glendale, AZ 85302 (O)  
Albertsons, LLC
  - Osco Drug #1021  
2935 E. Riggs Rd.  
Chandler, AZ 85249 (O)  
Albertsons, LLC
  - Osco Drug #1023  
861 E. Warner Rd.  
Gilbert, AZ 85296 (O)  
Albertsons, LLC
  - Osco Drug #1028  
99 S. Higley  
Gilbert, AZ 85236 (O)  
Albertsons, LLC
  - Osco Drug #1026  
16750 W. Bell Rd.  
Surprise, AZ 85384 (O)  
Albertsons, LLC
  - CareSite Pharmacy  
18700 N. 67<sup>th</sup> St., Suite 101

Glendale, AZ 85308  
SureHealth LLC

- Cactus and 35<sup>th</sup> Ave. Family Pharmacy  
12450 N. 35<sup>th</sup> Ave. #25  
Phoenix, AZ 85029  
Global Rx Solutions
- Aurora Glendale Hospital  
6015 W. Peoria Ave.  
Glendale, AZ 85302  
Aurora Behavioral Health System
- Food City #162  
845 W. Southern Ave.  
Phoenix, AZ 85041  
Bashas' Inc.
- Kindred Pharmacy Services  
9525 E. Doubletree Ranch Rd.  
Scottsdale, AZ 85258  
KPS Phoenix, LLC

President Dutcher recused himself and turned the meeting over to Vice President Van Hassel.

Vice President Van Hassel asked the Board Members if they had any questions concerning Remedies Pharmacy.

The Board Members did not have any questions.

**On motion by Dr. McCoy and Dr. Smidt**, the Board unanimously approved the resident permit listed below. All approvals are subject to final inspection by a Board Compliance Officer where appropriate.

- Remedies  
1400 E. White Mountain Blvd., Suite 101  
Pinetop, AZ 85935  
Dutcher Enterprises

President Dutcher noted that there are several chain stores listed on the agenda.

Mr. Wand stated that if the non-resident pharmacy is shipping to Arizona then they would need to be licensed in Arizona. Mr. Wand stated that the majority of the non-resident pharmacies are Compounding and Home Infusion pharmacies.

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

#### **NON-RESIDENT (Out of State PHARMACY PERMITS)**

- Foundation Care, LLC  
4010 Wedgeway Ct.,  
Earth City, MO 63045  
Foundation Care, LLC
- PIN Rx, LLC  
31 Wabanaki Way  
Indian Island, ME 04468  
Penobscot Indian Nation
- Centric Health Resources  
17877 Chesterfield Airport Rd.  
Chesterfield, MO 63005 (O)  
Centric Health Resources, Inc.
- Procure Pharmacy  
214 W. Main  
Steele, MO 63877  
Procure Medical, Inc.
- Hemophilia of the Sunshine State  
4035 Tampa Rd., Suite 6500  
Oldsmar, FL 34677 (O)

- Lynnefield Drugs, Inc.
- Allergychoices Pharmacy  
201 Main St., Suite 710  
Lacrosse, WI 54601  
Allergychoices, Inc.
  - Independence Home Pharmacy  
1306 S. 12<sup>th</sup> St.  
Murray, KY 42071  
Soporex Respiratory, Inc.
  - Palm Beach Pharmaceuticals, Inc.  
8409 N. Military Trail #125  
Palm Beach Gardens, FL 33410  
Palm Beach Pharmaceuticals, Inc.
  - Fresenius Medical Care North America  
549 Sand Sage Rd. NW  
Los Lunas, NM 87031  
Fresenius USA Manufacturing, Inc.
  - Fisher Bioservices  
14665 Rothgeb Dr.,  
Rockville, MD 20850  
Fisher Bioservices, Inc.
  - Burnham-McKinney Pharmacy #1  
5001 Main St.,  
Moss Point, MS 39563  
John and Wendy McKinney
  - Burnham-McKinney Pharmacy #3  
2525 Hwy. 90,  
Gautier, MS 39553  
Burnham-McKinney Pharmacy #3, LLC
  - Back Bay Drugs  
10437 Lamey Bridge Rd. #A  
D'Iberville, MS 39450  
Back Bay Drugs, LLC
  - 65 Plus Store  
14339A NE 20<sup>th</sup> St.  
Bellevue, WA 98007  
AMS Homecare USA, Inc.
  - Apex Care Pharmacy  
4047 Minnesota Ave. NE  
Washington, DC 20019  
Matrix Corp.
  - Infinity Infusion Care, Ltd.  
3600 S. Gessner Rd., Suite 100  
Houston, TX 77063 (O)  
Critical Care Systems International
  - Medicine Shoppe Pharmacy  
3796 Howell Branch Rd.,  
Winter Park, FL 32972  
M.C.S. Enterprises, Inc.
  - Duane Reade #971  
24 East 14<sup>th</sup> St.  
New York, NY 10003  
Duane Reade

(O) = Ownership Change

### Pharmacist, Pharmacy Interns, and Pharmacy Technician Licenses

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 Mr. McAllister and Dr. Tippet**, the Board unanimously approved the Pharmacists licenses 15335 through 15396 and Intern licenses 7415 through 7498.

**On motion by Dr. McCoy and Dr. Tippett**, the Board unanimously approved the Pharmacy Technician licenses 9920 through 10498. Also, approved were 176 licensee changes from Pharmacy technician trainee to Pharmacy technician.

### **AGENDA ITEM 3 - Special Requests**

#### **#1 Gaye Sanders**

**Gaye Sanders** appeared on her own behalf to request to proceed with reciprocity.

President Dutcher opened the discussion by asking Ms. Sanders to describe the nature of her request.

Ms. Sanders stated that she is requesting to proceed with reciprocity from her New Mexico license.

Mr. Dutcher asked Ms. Sanders if there was a sanction against her license in New Mexico.

Ms. Sanders replied yes.

Mr. Dutcher asked Ms. Sanders to explain the details of that action.

Ms. Sanders stated that some of the CE that she turned in was incorrect. Ms. Sanders stated that some of the CE that she listed she had not completed even though she thought she had completed them and some of the CE that she completed she did not include on the list.

Mr. Dutcher asked if her license was placed on probation or suspended.

Ms. Sanders stated that her license was placed on probation.

Mr. Dutcher asked Ms. Sanders if she would be moving to Arizona.

Ms. Sanders stated that she is not planning on moving to Arizona. Ms. Sanders stated that she works for Express Scripts and the company is requiring that she become licensed in Arizona.

Mr. McAllister asked Ms. Sanders about her CE records.

Ms. Sanders stated that she did not keep good records that year and became confused about the CE she completed. Ms. Sanders stated that she has revamped her system for keeping track of her CE records.

Mr. Wand reminded Ms. Sanders that the all CE records must be kept for five years.

Mr. Van Hassel asked Ms. Sanders if she has completed the CE requirements of the Board Order.

Ms. Sanders stated that she has completed the requirements. Ms. Sanders stated that her probation was removed in March.

Dr. McCoy asked Mr. Wand if the Board can request that a pharmacist be audited.

Mr. Wand stated yes. Mr. Wand stated that Mr. Hunter audits about 10% each year.

Mr. McAllister reminded Ms. Sanders that she must have 3 hours of law CE to renew her license.

**On motion by Dr. McCoy and Dr. Smidt**, the Board unanimously approved the request by Ms. Sanders to proceed with reciprocity with the stipulation that during the next several years that her CE units be audited.

#### **#2 Erika Boyer**

**Erika Boyer** appeared on her own behalf to request the termination of probation imposed by Board Order 03-0011-PHR.

President Dutcher recused himself due to a conflict. President Dutcher turned the meeting over to Vice President Van Hassel.

Vice President Van Hassel asked Ms. Boyer about the nature of her request.

Ms. Boyer stated that she is requesting that her probation be terminated and her pharmacist license be restored to active status.

Vice President Van Hassel asked Ms. Boyer how long she has been on probation.

Ms. Boyer replied that she has been on probation about 3 years. Ms. Boyer stated that the probation was for one year but she has not appeared at a Board Meeting to have the probation removed.

Mr. Van Hassel asked Ms. Boyer why she waited so long to have the probation removed.

Ms. Boyer stated that she has had two children and moved in that time period.

**On motion by Mr. McAllister and Dr. Smidt**, the Board unanimously agreed to terminate the probation of Ms. Boyer's license subject to the terms of Board Order Number 03-0011-PHR.

Vice President Van Hassel turned the meeting back over to President Dutcher.

### **#3 James Edwards**

**James Edwards** appeared on his own behalf to request the termination of probation imposed by Board Order 04-0031-PHR.

President Dutcher asked Mr. Edwards about the nature of his request.

Mr. Edwards stated that he is requesting to have the probation removed from his technician license.

President Dutcher asked Mr. Edwards to explain why he was on probation.

Mr. Edwards stated that he made a grievous error and his license was suspended for one month and then placed on probation due to a shoplifting charge.

President Dutcher asked Mr. Edwards if he is working as a technician.

Mr. Edwards replied yes.

Mr. Van Hassel asked Mr. Edwards where he was working as a technician.

Mr. Edwards replied that he is working at Value Options.

Mr. Van Hassel asked Mr. Edwards if he has notified the Board of his change of employment.

Mr. Edwards replied yes. Mr. Edwards stated that he has been at Value Options for a year.

Mr. Dutcher asked if Value Options was aware of the Board Order and Mr. Edwards replied yes.

Mr. Wand stated that Mr. Edwards has successfully completed all the requirements of his order and has been forthright in his communications with the Board.

**On motion by Mr. Van Hassel and Dr. Tippett**, the Board unanimously agreed to terminate the probation of Mr. Edwards's license subject to the terms of Board Order Number 04-0031-PHR.

### **#4 Mountain Valley Regional Rehabilitation Hospital**

**Bob Wilcox and Bob Grivel** appeared to request a waiver of R4-23-655 (B) which states that the minimum square footage of a hospital must be 500 square feet unless a waiver is approved by the Board.

President Dutcher asked the respondents about the nature of their request.

Mr. Wilcox stated that they are present to request a waiver for the minimum square footage of the hospital.

Mr. Dutcher asked the Mr. Wilcox if this is a specialty hospital.

Mr. Wilcox stated that it is a specialty hospital. Mr. Wilcox stated that it is a rehabilitation hospital.

Mr. Dutcher asked the respondents about the square footage of the hospital.

Mr. Grilvel stated that they have over 300 square feet but less than 500 square feet.

Mr. Dutcher asked Mr. Grilvel if they would be preparing IV solutions.

Mr. Grilvel stated that they would and they have a ISO 7 clean room that meets the 60 square feet requirement.

Mr. Dutcher asked if the hospital has an emergency room.

Mr. Grilvel stated no.

Mr. Dutcher asked the respondents what is the current square footage of the pharmacy.

Mr. Grilvel stated that the pharmacy is approximately 345 square feet.

Mr. Dutcher asked how many beds would be in the hospital.

Mr. Grilvel replied that there would be 40 beds.

Dr. Smidt asked if the hospital is new.

Mr. Grilvel stated that the hospital is new.

Mr. Dutcher asked why the hospital was not built to the specifications required by the regulations.

Mr. Grilvel stated that they have built hospitals in other states and have not had stringent square footage requirements. Mr. Grilvel stated that after talking to the Board Staff that the clean room was too small and the square footage was changed for the clean room. When Mr. Wilcox was hired it was noted that they did not have enough square footage. At that time, the square footage was about 245 square feet. Mr. Grilvel stated that they have added extra square footage from an adjacent room and now have approximately 345 square feet. Mr. Grilvel stated that the pharmacy would only have 2 employees. There would be one pharmacist and one technician. Mr. Wilcox stated that the layout is efficient and adequate space is available.

Dr. McCoy asked if the hospital would remain at 40 beds.

Mr. Grilvel stated that there are no plans at this time to enlarge the hospital.

Dr. McCoy stated that if the hospital space changes then she feels that the waiver would need to be reconsidered.

Mr. Wilcox stated that they would be doing less than one IV a day and that IV would be a piggyback. Mr. Wilcox stated that any TPNs would be outsourced to a local infusion company.

**On motion by Mr. McAllister and Dr. Smidt**, the Board unanimously agreed to the approval of the waiver requested by the hospital to allow the hospital pharmacy to have less than the required 500 square feet. The waiver will allow the hospital to operate the pharmacy with a square footage of 345 square feet and if the hospital adds additional beds or changes their operation (addition of Emergency Room or type of hospital) then the waiver would be rescinded and the hospital would need to comply with the existing regulations or request a new waiver.

**#5 Robert Riepel**

Robert Riepel appeared on his own behalf to request that his delinquent pharmacist license be reinstated. Mr. Riepel is a non-practicing pharmacist.

President Dutcher asked Mr. Riepel about the nature of his request.

Mr. Riepel stated that he would like to reinstate his Arizona license.

Mr. Dutcher asked Mr. Riepel how long it has been since his license was active.

Mr. Riepel stated about 6 years.

Mr. Dutcher asked if that was just Mr. Riepel's Arizona license or all his licenses.

Mr. Riepel stated that all his licenses are inactive.

President Dutcher asked Mr. Riepel if he wants to work in a pharmacy again.

Mr. Riepel replied yes and stated that he has completed many CE units.

Mr. Dutcher asked Mr. Riepel if he wants to work in retail or a different setting.

Mr. Riepel stated that he would like to work in the retail setting.

President Dutcher stated that there are CE requirements to reinstate his CE.

Mr. Wand stated that he has completed the 30 hours of CE requirements.

President Dutcher asked if Mr. Riepel allowed his license to lapse or was his license taken away.

Mr. Riepel stated that he allowed his license to lapse.

President Dutcher asked Mr. Riepel if he has been in a pharmacy in the last six years.

Mr. Riepel stated no.

Mr. Dutcher stated that he feels intern hours would be necessary.

Mr. McAllister stated that he feels a review course would be necessary.

Dr. McCoy asked Mr. Riepel if he plans to practice in Arizona.

Mr. Riepel stated yes.

Dr. McCoy asked if Mr. Riepel if his original license is with Arizona.

Mr. Riepel stated that he took his original exam in Arizona about 40 years ago.

**On motion by Mr. McAllister and Dr. McCoy**, the Board unanimously agreed to approve Mr. Riepel's request to activate his license with the following stipulations: the completion of 400 intern hours, the completion of a NAPLEX review course, and passing the MPJE exam.

#### **#6 Albertus Rinke**

Albertus Rinke appeared on his own behalf to request to take the NAPLEX exam for the fourth time.

President Dutcher asked Mr. Rinke to describe the nature of his request. Mr. Rinke stated that he is present to request to take the NAPLEX exam for the fourth time. Mr. Dutcher asked if Mr. Rinke has taken the test three times in Arizona and not passed.

Mr. Rinke replied yes. Mr. Rinke stated that he did pass the NAPLEX exam in 2004 in California.

Mr. Dutcher asked Mr. Rinke if he was licensed in California.

Mr. Rinke replied no. Mr. Rinke said that he was unable to pass the law exam in California.

Mr. Rinke stated that he has been a pharmacist for 20 years in South Africa.

Mr. Dutcher asked Mr. Rinke about his exam scores.

Mr. Rinke stated that he panics when he takes exams and finds it very stressful to take the exam. Mr. Rinke stated that if he does not pass the exam he would not have a job and would need to return to South Africa. Mr. Rinke asked if it would be possible to accept his NAPLEX score from California.

Mr. Van Hassel asked Mr. Rinke if he has a job in Arizona.

Mr. Rinke stated that he is currently working as an intern.

Mr. Wand asked Mr. Rinke if there is a time issue for his visa.

Mr. Rinke stated that he has four years left to obtain his green card. Mr. Rinke stated that as soon as he becomes licensed as a pharmacist he can start the process to obtain a green card.

Mr. Van Hassel asked Mr. Rinke if he has attended any NAPLEX preparation courses.

Mr. Rinke replied that he took the Morris-Cody in California.

Mr. Van Hassel asked Mr. Rinke if he plans to take the course again.

Mr. Rinke stated that he is planning on taking the Morris-Cody crash course which begins this Saturday.

Mr. Rinke stated that in 2004 there was not the option to score transfer from California.

Mr. Wand stated that apparently Mr. Rinke did not score transfer in the allotted time frame and in 2004 Arizona did not reciprocate with California at all.

Mr. McAllister stated that he feels Mr. Rinke should take the exam since he was not licensed in California.

Mr. Rinke asked if they would accept his California score if he completed the Morris-Cody course.

Mr. McAllister stated that he feels that Mr. Rinke should pass the exam because the Board is responsible for protecting the public.

Mr. Wand told Mr. Rinke that he could contact NABP to see if they would grant him an extended period to take the exam since he suffers from test anxiety and has trouble completing the exam in the required time period.

**On motion by Mr. Van Hassel and Dr. Smidt**, the Board unanimously approved the request by Mr. Rinke to take the NAPLEX exam for the fourth time.

#### **#7 Josefina Llamerea-Elembabi**

Josefina Llamerea-Elembabi appeared on her own behalf to request a waiver for the TSE exam.

President Dutcher opened the discussion by asking Ms. Llamerea-Elembabi to describe the nature of her request.

Ms. Llamerea-Elembabi stated that her initial request was to request a waiver for the TSE exam. Ms. Llamerea-Elembabi stated that she has recently taken the TSE exam and just received her score and passed with a score of 50.

Ms. Llamerea-Elembabi asked the Board if they would grant her permission to take the NAPLEX and MPJE exam without waiting to receive her FPGEEC certificate. Ms. Llamerea-Elembabi stated that she has passed all the preliminary exams and completed her intern hours and it would be several weeks before she received her certificate.

Mr. McAllister pointed out that everyone has to wait until they receive their certificate and this may create a precedence.

Mr. Wand stated that the Board has the option of approving or denying the request. Mr. Wand stated that the rules were changed to require that an individual have the FPGEEC certificate prior to obtaining an intern license and taking the exams. Mr. Wand stated the changes was made to prevent individuals from obtaining an Arizona Intern license and never completing any intern hours in Arizona and using the Intern License for immigration purposes.

Dr. Smidt asked Ms. Llamerea-Elembabi if she plans on working in Arizona.

Ms. Llamerea-Elembabi stated that she is currently working at Fry's as an Intern.

Dr. McCoy asked how long it would take for her to obtain her certificate. Mr. McAllister stated that it could take up to six months for her to receive her certificate. Mr. McAllister stated that this individual is living in Arizona and working for an Arizona company so she is not using the license for immigration purposes.

**On motion by Mr. McAllister and Mr. Van Hassel**, the Board unanimously agreed to approve Ms. Llamera-Elembabi's request to proceed with licensure prior to receiving her FPGEEC certificate.

#### **#8 Traiza El Biblway**

Traiza El Biblway appeared on her own behalf to request a waiver for the TSE exam.

President Dutcher asked Ms. El Biblway to describe the nature of her request.

Ms. El Biblway stated that her original request was to ask for a waiver of the TSE exam. Ms. El Biblway stated that she has recently taken the TSE exam and passed with a score of 50. Ms. El Biblway asked if the Board would grant her permission to take the MPJE exam prior to receiving her FPGEEC certificate.

Ms. El Biblway stated that she took the NAPLEX exam in Michigan. Ms. El Biblway stated that Michigan does not require the TSE exam.

**On motion by Dr. McCoy and Dr. Sypherd**, the Board unanimously agreed to allow Ms. El Biblway to take the MPJE exam prior to receiving her FPGEEC certificate.

#### **#9 Akiko Yamada**

Akiko Yamada appeared on her own behalf to request a waiver for the TSE exam.

Chris Wernke, the Pharmacy Director at St. Joseph's Hospital, appeared to speak on behalf of Ms. Yamada.

President Dutcher opened the discussion by asking Ms. Yamada to describe the nature of her request. Ms. Yamada stated that she is requesting a waiver for the TSE exam. Ms. Yamada stated that every time she takes the exam she receives a score of 45.

Mr. Van Hassel asked Ms. Yamada to counsel the Board Members on the use of Coumadin.

Ms. Yamada counseled on the use of the drug and side effects of the drug.

Mr. Wernke stated that Ms. Yamada is able to communicate with all hospital staff. Mr. Wernke stated that he has had no complaints about Ms. Yamada and her ability to communicate with other staff.

**On motion by Mr. McAllister and Dr. McCoy**, the Board unanimously agreed to approve the request by Ms. Yamada to waive the requirement to pass the TSE exam with a score of 50 to allow Ms. Yamada to proceed with licensure.

#### **#10 Mohamed Eslam Elmissirey**

Mohamed Eslam Elmissirey appeared on his own behalf to request a waiver for the TSE exam.

President Dutcher opened the discussion by asking Mr. Elmissirey to describe the nature of his request.

Mr. Elmissirey stated that he has taken the exam many times and has received a 45 each time.

Mr. Elmissirey stated that he is scheduled to take the NAPLEX exam through Michigan in June and will transfer his score to Arizona.

Mr. Dutcher asked Mr. Elmissirey if he plans on living in Arizona. Mr. Elmissirey stated that he plans on remaining in Arizona. Mr. Elmissirey stated that he currently works at Fry's as an Intern and has lived in Arizona for the last two years and plans on staying in Arizona and working at Fry's.

Mr. Van Hassel asked Mr. Elmissirey to counsel him on the use of benzodiazepines.

Mr. Elmissirey counseled Mr. Elmissirey on the use of the drug and the side effects.

**On motion by Dr. Smidt and Dr. McCoy**, the Board unanimously agreed to approve the request by Mr. Elmissirey to waive the requirement to pass the TSE exam with a score of 50 to allow Mr. Elmissirey to proceed with licensure.

### **#11 Wanka Ndifor**

Wanka Ndifor appeared on his own behalf to request a waiver of the FPGEEC.

President Dutcher opened the discussion by asking Mr. Ndifor about the nature of his request.

Mr. Ndifor stated that he is requesting a waiver of the FPGEEC.

Mr. Dutcher asked Mr. Ndifor why he is requesting the waiver.

Mr. Ndifor replied that NABP will not allow him to sit for the FPGEE exam because of citizenship issues. Mr. Ndifor stated that he was a citizen of Cameroon and received his pharmacy education in Nigeria. Mr. Ndifor stated that he is not able to obtain a license in Nigeria because he is not a citizen in Nigeria. Mr. Ndifor stated that at the last Board Meeting the Board approved the request of his classmate to waive the FPGEE exam and certificate.

Dr. Smidt asked Mr. Ndifor where his classmate is working at this time.

Mr. Ndifor stated that his classmate received his intern certificate from the Board and started an internship in Maryland two weeks ago.

Mr. McAllister asked Mr. Ndifor if he had copies of his NABP certification of his documents.

Mr. Ndifor stated that he has not received that document yet.

Dr. Smidt asked why the Board should approve a waiver for someone who may or may not work in Arizona. Dr. Smidt stated that he understands the reasons why he cannot take the FPGEE, but why should the Arizona Board approve a waiver when the individual has no intention of practicing in Arizona.

Mr. Van Hassel stated that the Board asked the last applicant if he planned on working in Arizona and the answer was yes.

Mr. Ndifor stated that he wants the Board to understand that he wants to move to Arizona.

Dr. McCoy stated that the Board was told last time that the individual wanted to move to Arizona. Dr. McCoy wondered if there is information being shared among individuals to come to the Arizona Board for FPGEEC waivers.

Mr. Wand stated that there are websites that allow individuals to see what waivers each Board has approved.

Mr. Ndifor stated that everyone has agreed to move to Arizona. Mr. Ndifor stated that he currently works in a hospital in

Washington, DC. Mr. Ndifor stated that if he had his intern certificate it would be easier for him in the next 6 months to obtain his internship hours in the hospital that he is working at currently in Washington, DC.

Mr. McAllister asked Mr. Ndifor when he first applied for the FPGEE.

Mr. Ndifor stated that he applied about three months ago.

Mr. McAllister stated that he believes that NABP is changing the rules concerning refugee status and they should be approving the requests to take the exam.

Mr. McAllister stated that maybe Mr. Ndifor is here before he received an answer from NABP.

Mr. Wand stated that the Board does not have certification of his degree from NABP.

**On motion by Mr. Van Hassel and Dr. Sypherd**, the Board unanimously agreed to table Mr. Ndifor's request until the Board receives approval from NABP or NABP's contracted credentialing company certifying Mr. Ndifor's pharmacy degree.

## **#12 Deborah Lantz**

Deborah Lantz appeared on her own behalf to request permission to proceed with pharmacy technician trainee licensure. Ms. Lantz is unable to provide proof of obtaining a high school diploma. President Dutcher asked Ms. Lantz about the nature of her request.

Ms. Lantz stated that she would like to proceed with technician licensure. Ms. Lantz stated that she contacted the school she attended in Massachusetts. Ms. Lantz stated that the school has burnt down and they sent to her the only records that were available.

Mr. Dutcher asked Ms. Lantz if she graduated from this school.

Ms. Lantz stated that she did graduate.

Mr. Dutcher asked Ms. Lantz if she is currently working as a technician.

Ms. Lantz stated that she is working as a technician and she became aware of the problem when she tried to obtain a license. Ms. Lantz stated that she has no issue with taking the GED exam, but would like to apply for her trainee licensee.

Mr. McAllister asked Ms. Lantz about her work experience.

Ms. Lantz gave an overview of her work history.

Mr. McAllister stated that he feels that her work experience would qualify as high school equivalent.

Mr. Wand reminded Ms. Lantz that she would need to provide proof of the high school diploma or proof of her GED to take the PTCB exam.

Ms. Lantz stated that she would complete the GED program.

**On motion by Mr. McAllister and Dr. Smidt**, the Board unanimously agreed to approve Ms. Lantz's request to proceed with pharmacy technician licensure.

## **#13 David Lundgren**

David Lundgren appeared on his own behalf to request permission to proceed with pharmacy technician licensure.

President Dutcher opened the discussion by asking Mr. Lundgren the nature of his request.

Mr. Lundgren stated that he would like to apply for a technician license. Mr. Lundgren stated that he was convicted of a felony. Mr. Dutcher stated that he was convicted of a Class 3 felony.

Mr. Lundgren brought letters of recommendation to the Board Members.

Mr. Dutcher asked if this would be a new profession for Mr. Lundgren. Mr. Lundgren stated that he had previously worked in the construction field and was injured on the job. Mr. Lundgren stated that he is attending Tucson College in the pharmacy technician program.

Mr. Dutcher asked Mr. Lundgren about his certificate for hotel/restaurant management.

Mr. Lundgren stated that he was enrolled at Pima College for culinary arts and had to quit the program due to family medical issues. Mr. Lundgren stated that he quit school and returned to work.

Mr. Dutcher asked Mr. Lundgren if that is another career path for him. Mr. Dutcher asked if they have the same stipulations for felony convictions. Mr. Lundgren stated he is not sure.

Dr. Sypherd asked Mr. Lundgren if he has served time for the felony conviction.

Mr. Lundgren stated that he served four years and three months in a correctional institution and he has about two and one-half years left on a seven year probation term.

Dr. Sypherd asked if it is supervised probation.

Mr. Lundgren stated that he is on the maintenance load.

Dr. Sypherd asked Mr. Lundgren about his situation.

Mr. Lundgren stated that he feels really strong about his career choice and his instructor has been very supportive.

Dr. Sypherd asked Mr. Lundgren if he would commit this crime again.

Mr. Lundgren stated that he does not plan on committing this crime again. Mr. Lundgren stated that the things he has lost because of this crime has made him face this situation.

Dr. Sypherd stated that the conviction did not involve drugs, theft, or robbery.

Dr. Tippet asked if it would make any difference in what type of environment in which Mr. Lundgren would work since some positions would have less contact with the public. Dr. Tippet asked if the Board could limit his practice site. Mr. Dutcher asked Mr. Lundgren if he has worked in a pharmacy.

Mr. Lundgren stated that he has not worked in a pharmacy, but has visited different pharmacy sites through the school. Mr. Lundgren stated that he would like to work the graveyard shift in a retail setting.

Dr. Smidt expressed concerns that it is the mission of the Board to protect the public and Mr. Lundgren would have access to public records. Dr. Smidt suggested that maybe Mr. Lundgren should choose a profession that does not require the public trust. Dr. Smidt stated he is not concerned about Mr. Lundgren committing the same crime again.

Mr. McAllister stated that the felony was not related to drugs, theft, or burglary. Mr. McAllister stated that there was a conviction in this case and the time has been served. Mr. McAllister stated that his debt has been paid. Mr. McAllister stated that it is unlikely that this crime would be committed in a pharmacy. Mr. McAllister stated that his references have been positive.

Dr. McCoy stated that Mr. Lundgren is still on probation and is being watched and hopefully that will also help protect the public.

Mr. Van Hassel asked about Mr. Lundgren's schooling and employment.

Mr. Lundgren stated that the custodial maintenance program was completed while he was in custody. Mr. Lundgren stated that he started the culinary program and completed the hotel/restaurant certification. Mr. Lundgren stated that he was in a car accident and as a result of the accident he has become responsible for the home health care of his father. Mr. Lundgren stated that he works the midnight shift at the newspaper seven days a week, so that he can take care of his father during the day.

Mr. Lundgren stated that if he is able to work a midnight shift at a pharmacy he would still be able to take care of his father during the day.

Dr. Sypherd stated that he feels that the Board would have to decide if the crime would impact the individual's actions in a pharmacy. Dr. Sypherd stated that he does not see a conflict in the activities that he would perform in a pharmacy.

Mr. Wolf stated that under Arizona law that the mere conviction of a felony is not an ultimate ground for denial of a license and the Board may deny a license if it is related to the practice of pharmacy.

**On motion by Dr. Sypherd and Mr. McAllister**, the Board approved Mr. Lundgren's request to proceed with technician licensure. There was one nay vote by Dr. Smidt.

#### **#14 Valerie Littleman**

Valerie Littleman appeared on her own behalf to request to proceed with technician licensure. President Dutcher opened the discussion by asking Ms. Littleman about the nature of her request.

Ms. Littleman stated that she is requesting to proceed with technician licensure.

Mr. Dutcher asked Ms. Littleman if she is currently working in a pharmacy. Ms. Littleman stated that she is currently attending school.

Mr. Dutcher asked Ms. Littleman if she has passed the PTCB.

Ms. Littleman stated that she is taking the exam in July. Ms. Littleman stated that she had taken the exam in the past and she did not renew her certification and it expired.

Ms. Littleman stated that she was convicted of a felony. Ms. Littleman stated that upon further research she has found that her felony conviction has been discharged as a misdemeanor. Ms. Littleman brought paperwork with her indicating that the charges were reduced.

**On motion by Dr. Smidt and Dr. McCoy**, the Board unanimously approved the request by Ms. Littleman to proceed with technician licensure.

#### **#15 Zachary Barnholdt**

Zachary Barnholdt appeared on his own behalf to request permission to proceed with technician licensure.

President Dutcher opened the discussion by asking Mr. Barnholdt to describe the nature of his request.

Mr. Barnholdt stated that he wants to proceed with technician licensure.

President Dutcher asked Mr. Barnholdt if he is working in a pharmacy.

Mr. Barnholdt stated that he is attending a pharmacy technician training program at Bryman. Mr. Barnholdt stated that he was convicted of a Class 3 felony.

Mr. Dutcher asked Mr. Barnholdt if this was a one time incident.

Mr. Barnholdt stated that he is currently on probation and his probation review will be in 2 months. Mr. Barnholdt stated that he has brought letters from his probation officer and his instructors.

Mr. Dutcher asked if the conviction was pharmacy related.

Mr. Barnholdt stated that it was not pharmacy related.

Dr. Smidt asked Mr. Barnholdt if he completed an anger management course.

Mr. Barnholdt stated that he took an anger management course in the past and is currently in counseling with Value Options as a condition of his probation.

Dr. Smidt asked Mr. Barnholdt if he has tools to work with irate individuals.

Mr. Barnholdt stated that this experience has been a great learning lesson for him and he now has tools to resolve issues in a different manner.

Mr. Dutcher asked if Mr. Barnholdt served any jail time.

Mr. Barnholdt stated that he served 6 months.

Mr. Van Hassel asked about Mr. Barnholdt's licensures.

Mr. Barnholdt stated that he was licensed as a bail enforcement officer.

Dr. Smidt asked if Mr. Barnholdt had any convictions or tickets for drug use.

Mr. Barnholdt stated no.

**On motion by Dr. Tippett and Dr. McCoy**, the Board approved the request by Mr. Barnholdt to proceed with technician licensure. There was one nay vote by Dr. Smidt.

#### **#16 Alex Schultz**

Alex Schultz appeared on his own behalf to request to proceed with technician licensure.

President Dutcher opened the discussion by asking Mr. Schultz to describe the nature of his request.

Mr. Schultz stated that he would like to proceed with pharmacy technician licensure.

Mr. Dutcher asked Mr. Schultz if he is attending a technician school at this time.

Mr. Schultz stated that he graduated in January and would like to go to school to become a pharmacist.

Mr. Dutcher asked about Mr. Schultz's felony conviction.

Mr. Schultz stated that he had a concealed weapon in the car.

Mr. Dutcher asked if he has taken the PTCB exam.

Mr. Schultz stated yes and he has passed. Mr. Schultz stated that he applied for the test and he is not sure if they asked if he had been charged with a felony.

**On motion by Dr. McCoy and Dr. Tippett**, the Board unanimously agreed to approve the request by Mr. Schultz to proceed with technician licensure.

#### **#17 Karen Lieb**

**Karen Lieb** appeared on her own behalf to request to have her revoked pharmacist's license reinstated.

President Dutcher asked Ms. Lieb about the nature of her request.

Ms. Lieb stated that she would like to have her pharmacist's license reinstated that was revoked.

Mr. Wand gave a brief overview of the situation. Mr. Wand stated that Ms. Lieb signed a Board >Consent Order for a PAPA treatment program. Mr. Wand stated that Ms. Lieb notified the Board that she could not comply with the program and the

Board revoked her license.

Mr. Wand stated that the incident involved the diversion of drugs from the Grand Canyon clinic. Mr. Wand asked Ms. Lieb if she received any treatment.

Ms. Lieb stated that she went through an outpatient treatment program and has not had any problems since that time. Ms. Lieb stated that when she decided to give up her license she was going through a very painful divorce and felt that she could not handle both issues at once.

Mr. Dutcher asked when she completed the treatment program.

Ms. Lieb stated that she completed the program in 2000.

Mr. Dutcher asked Ms. Lieb if she has been in a pharmacy in the last six years.

Ms. Lieb replied no.

Mr. Dutcher asked Ms. Lieb if she were to return to work in a pharmacy does she feel that the same temptation would be present today.

Ms. Lieb stated no. Ms. Lieb stated at that time she was going through some very painful things in her life and used the drugs as a crutch.

Dr. McCoy asked if the program she completed has continuing support.

Ms. Lieb replied that the program does not have continuing support, but she is involved with the local AA and attends meetings locally. Ms. Lieb stated that the local AA meetings include both alcohol and drug addiction problems. Ms. Lieb stated that she has done the 12 step program.

Mr. Wand asked Ms. Lieb how long the outpatient lasted.

Ms. Lieb stated that the program lasted for 12 weeks. Ms. Lieb stated that the facility is located in Flagstaff and is associated with the hospital.

Mr. Dutcher asked Ms. Lieb if she wanted to return to pharmacy.

Ms. Lieb stated that she would like to return to pharmacy and she had practiced 13 years without any issues. Ms. Lieb stated that she would like to practice in the retail setting.

Mr. Wand stated that the Board in considering sanctions could require an addictionologist report. Mr. Wand stated that it was a rather large addiction.

Ms. Lieb agreed that for a short period of time that it was a large addiction. Ms. Lieb stated that she attends about one meeting a week.

Mr. Dutcher asked if she has had any drug screenings.

Ms. Lieb replied not recently.

Mr. Wolf stated that the Board may want to consider when was the last time that Ms. Lieb's sobriety had been monitored. Mr. Wolf stated that the previous Consent Order was for five years of monitored sobriety and she has effectively evaded that monitored sobriety.

Ms. Lieb stated that she would be willing to enter a monitored program.

Dr. Smidt stated that he feels that she should be required to enter a PAPA program.

Mr. Dutcher asked if PAPA is a five year program.

Mr. Wand stated that the Board only offers a five year contract. Mr. Wand stated that since Ms. Lieb is in the Flagstaff area that the Board could approve an alternate testing program.

Mr. Wolf stated that the Board could require a period of monitored sobriety which could be confirmed by random urine screens. Ms. Lieb stated that there is a lab in Flagstaff that does the screenings.

The Board Members discussed allowing Ms. Lieb to set up a one-year random drug screening monitoring program in the Flagstaff area. The costs would be beared by Ms. Lieb and the results would be sent to the Board.

Dr. Smidt stated that he has concerns because this would give a pharmacist a second option to the PAPA program. Dr. Smidt stated that would give the pharmacist the option to come back in six years and ask for their license back. Dr. Smidt stated that the PAPA requirements can increase and decrease urine screenings based on the individual.

Mr. Dutcher stated that Ms. Lieb has indicated that she has attended a treatment program.

Mr. Wolf stated that his experience with other Boards is that if an individual walks away from a monitoring program then the Board requires evidence that the individual has had one to two years of monitored sobriety before issuing the license. The Board asked Ms. Lieb to supply documentation to the Board that she has completed the treatment program.

Mr. McAllister stated that he feels that the Board should be able to work with PAPA for a contract in this case.

Mr. Wand stated PAPA would be upset if it is not a 5 year contract.

Mr. Wolf stated that the Board could place her in the PAPA program for 5 years and review the issue in 1 year because the Board has the final say in the length of the program.

Mr. McAllister stated that PAPA should be able to work with Ms. Lieb to develop a program.

**On motion by Mr. Van Hassel and Mr. McAllister**, the Board agreed to approve Ms. Lieb's request to reinstate her license upon the completion of the following requirements:

- enter into a PAPA contract
- complete 400 intern hours
- pass the MPJE exam
- and complete a review course such as Morris Cody.

There was one nay vote by Dr. Tippett.

### **#18 Mamta Praful Desai**

Mamta Praful Desai appeared with Legal Counsel, Roger Morris, to request the Board waive the requirement that each candidate for FPGEC certification, graduating from a pharmacy program after January 1, 2003 must have completed a minimum five-year pharmacy curriculum.

President Dutcher opened the discussion by asking Ms. Desai to describe the nature of her request. Ms. Desai stated that she is present to ask the Board to waive the FPGEC certification.

Mr. Dutcher asked Ms. Desai why she needed that waiver.

Ms. Desai stated that she graduated from a four-year degree pharmacy program after 2003 and NABP stated that after January 1, 2003 that they have a minimum requirement of a five-year degree.

Mr. Dutcher asked Ms. Desai if it was possible for her to take that exam earlier.

Ms. Desai stated that due to visa issues she had to return to the United States and as a result did not graduate in 2002 as anticipated, but graduated in 2003.

Mr. Dutcher asked Ms. Desai if she left three weeks before school ended.

Ms. Desai stated that she left three weeks before school ended in 2001 to take care of visa issues before she turned 21 years

of age.

Mr. Morris stated that the requirements changed in 2002 and Ms. Desai was not aware of the requirements at that time.

Mr. Dutcher asked Ms. Desai about her visa issues.

Ms. Desai stated that she had various visa issues because of September 11, 2001. Ms. Desai stated that NABP denied her request because she did not complete a five-year program.

Mr. Morris stated that Ms. Desai has been involved in the NABP process for the last year and a half. Mr. Morris stated that Ms. Desai has passed the TSE exam, TOEFL exam, Morris-Cody review exam, and has passed the certified technician exam. Ms. Desai is currently working as a technician.

Mr. Dutcher asked Ms. Desai about the five-year program.

Ms. Desai stated that the country from which she obtained her degree does not offer a five-year program.

Mr. Dutcher asked if Ms. Desai could have completed a program in the states.

Ms. Desai stated that she would have had to go through the whole three year program and she would have needed additional courses. Ms. Desai stated that they would not transfer all of her credits. Mr. Morris stated that she is asking for a waiver to complete her intern hours and be able to take the exams. Mr. Morris stated that he cannot conceive of any other student in the same situation.

**On motion by Dr. Smidt and Dr. McCoy**, the Board unanimously approved Ms. Desai's request to waive the FPGEC certification and proceed with the licensing requirements.

## **AGENDA ITEM 4 - Reports**

### **Executive Director**

Executive Director Wand began his report by discussing the financial reports. Mr. Wand stated that the Board will have a carryover amount this year and can be used in the following year. Mr. Wand stated that Dr. Smidt has offered to assist in the Budget process. Mr. Wand stated that the Board Members can offer input into what they would like to see in the budget. Mr. Wand stated that he would like to obtain additional funding for the PAPA program.

Mr. Wand introduced Tiffany Poetsch. Ms. Poetsch was hired as the new Records Supervisor. Ms. Poetsch will be responsible for the maintaining of the office records and the processing of the disciplinary records for NABP. Ms. Poetsch has a Masters Degree in Library Science.

Mr. Wand asked Board Members to submit to him any topics that they would like discussed in the upcoming newsletter.

### **Deputy Director Report**

Deputy Director Frush directed the Board Members attention to the activity reports for the Compliance Staff. Ms. Frush noted that the Compliance Staff is slightly behind in the number of inspections completed during the same period last year due to the fact that January was spent inspecting non-prescription outlets and educating the owners about the new pseudoephedrine regulations. Ms. Frush stated that the number of complaints and number of investigations for diversions are continuing to grow.

Ms. Frush stated during th months of March and April the Compliance Staff issued letters for the following violations:

### **Controlled Substance Violations**

- 1. Controlled Substance Overage - 2
- 2. Controlled Substance Shortage - 6
- 3. Controlled Substance Inventory Not Complete - 1
- 4. Failure to Conduct Controlled Substance Inventory upon change of Pharmacist in Charge - 2

## Documentation Violations

- 1. Failure to Document Medical Conditions - 6
- 2. Failure to Document Required Information on an oral prescription - 1
- 3. Failure to Document Agent's name authorizing refill - 1
- 4. Unable to produce a drug specific report - 1
- 5. Failure to have signed technician statements concerning job description, policies, and procedures and board rules - 6
- 6. Failure to have a technician training manual - 2
- 7. Failure to have a technician Policies and Procedures manual - 3
- 8. Daily prescription log not signed - 2

## Dispensing Violations

- 1. Dispensing a faxed CII prescription without obtaining the original prescription - 1
- 2. Failure to follow Current Good Compounding Rules - Calculations - 1
- 3. Drugs removed from Limited Service facility without proper documentation - 1
- 4. Failure to input the correct date written into the computer system - 1
- 5. Allowing a pharmacy technician trainee to compound - 1
- 6. Outdated Rx and OTC items in the pharmacy - 1
- 7. Failure by the pharmacist to sign off on prepackaged products - 1

## Pharmacy Violations

- 1. Allowing technicians to work without a license - 2
- 2. Allowing a technician to work with an expired license - 2
- 3. Wall certificates not posted - 5
- 4. Pharmacy permit not available - 1

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

- 1. Documentation of health conditions
- 2. Documentation of agent's name authorizing new prescription or refill via telephone

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

- 1. Cleanliness of Pharmacy

## Areas outside the inspection reports that may be of interest:

- 1. Change of address
- 2. Physicians assistants can write a CII for a 72 hour supply and if certified for a 14 day supply.

The Board adjourned for lunch recess.

The meeting reconvened at 1:15 P.M. President Dutcher called the meeting to order.

## **AGENDA ITEM 5 - Proposed Rules**

### **Electronic Prescription Rules**

Compliance Officer/Rules Writer Dean Wright opened the discussion by stating that he has made the changes the Board requested at the March meeting. Mr. Wright stated that he has added language to require offsite storage of backup files and a requirement for a quality assurance program.

Mr. Dutcher asked if it was necessary to ask for the address of the practitioner on a refill authorization since most refill authorization requests are usually initiated by the pharmacy and the pharmacy has the information on file.

Mr. Wright stated that he can remove that from the rule.

Mr. Dutcher asked if it is necessary to obtain the full name of the medical practitioner's agent authorizing the refill. Mr. Dutcher stated that he feels the last name is not necessary and the first name is sufficient.

Mr. Wright stated that he can eliminate full name and insert name.

Mr. Dutcher asked about the retention of the original hard copy prescriptions if an electronic imaging recordkeeping system is used.

Mr. Wright stated that the original hard copy must be maintained for at least 30 days.

The Board authorized Mr. Wright to proceed with the rulemaking process.

### **Policies and Procedures and Intern Rules**

Mr. Wright stated that a Public Hearing was held on May 15, 2006. One individual, Janet Elliott, representing the Arizona Community Pharmacy Committee attended the hearing. Ms. Elliott spoke in favor of the proposed rulemaking. Written comments were received from Ms. Elliott.

There were no comments requesting any changes to the rule.

Mr. Wright stated that he has prepared the Notice of Final Rulemaking and the Economic Impact Statement for the Board's approval. Mr. Wright stated that if the Board approves the Notice of Final Rulemaking and the Economic Impact Statement, the rulemaking will be presented to GRRC for their August 1, 2006 meeting agenda for final approval with the rules. If approved by GRRC, the rules would become effective on September 30, 2006.

**On motion by Dr. McCoy and Mr. McAllister**, the Board unanimously agreed to approve the Notice of Final Rulemaking and Economic Impact Statement for the changes in the Policies and Procedures rules and the Intern rules,

### **Pharmacist's Initials to Document Counseling Rule**

Mr. Wright stated that a Public Hearing was held on May 15, 2006. One individual, Janet Elliott, representing the Arizona Community Pharmacy Committee attended the hearing. Ms. Elliott spoke in opposition of the proposed rulemaking. Written comments were received from Ms. Elliott. The Arizona Community Pharmacy Committee (ACPC) requested that the Board reconsider amending the proposed rules that would require the documentation of the name or initials of the pharmacist, graduate intern, or pharmacy intern who does or does not provide oral consultation on a new prescription. ACPC feels that this proposed requirement would unfairly place a pharmacist or intern in jeopardy by expecting them to remember facts of a conversation with a patient regarding counseling.

Mr. Wright stated that he has made changes recommended by the staff in Subsection 10 and Subsection 15 which he has handed out to the Board Members. Mr. Wright stated that Section 10 will require the pharmacist to check prescription order data entry to ensure the prescription is entered correctly. The change in Subsection 15 would require the pharmacist to verify or take responsibility to verify that the prescription medication is sold to the correct patient and if necessary the pharmacist should obtain positive identification of the person who picks up the completed prescription.

Several Board Members expressed concerns that individuals may not be able to produce an ID and felt it was not necessary to pick up a prescription. Mr. Dutcher stated that checking ID may prevent the wrong prescription from being given out to the wrong patient and may prevent fraud. The Board Members agreed to allow the proposed change if the requirement for ID was removed.

Mr. Wright stated that he would make the change.

Dr. Smidt stated that the rule change to document the pharmacist's initials that performed counseling does not require them to recall the conversation. Dr. Smidt stated that the documentation of the initials would protect the pharmacist.

Mr. Dutcher added by documenting the initials the Board would be able to identify who did or did not perform counseling instead of bringing the whole staff in front of the Board.

The Board Members agreed to keep the changes to subsection 4, subsection 10, and subsection 15 with the requested modifications. The Board granted approval to Mr. Wright to proceed with a Notice of Supplemental Proposed Rulemaking.

## **Automated Storage and Distribution System/ Mechanical Counting Devices.**

Mr. Wright stated that a Public Hearing was held on May 15, 2006. One individual, Janet Elliott, representing the Arizona Community Pharmacy Committee attended the hearing. Ms. Elliott spoke in support of the proposed rulemaking. Written comments were received from Ms. Elliott. Mr. Wright stated that he received written comments from NACDS expressing their concerns. Mr. Wright stated that NACDS requested that the pharmacy can document electronically the policies and procedures. Mr. Wright stated the policies can be written in a manner approved by the Board. Mr. Wright stated that the Board does approve the documentation of the policies electronically.

Mr. Wright stated that he has added a new section for mechanical counting devices that do nothing but count medications and do not store the medication. Mr. Wright stated that Section R4-23-615 deals with mechanical storage and counting devices for drugs in solid, oral dosage forms. This would include machines such as baker cells and ScriptPro. Mr. Wright stated that Section R4-23-616 would deal for mechanical counting devices such as scales and Kirby-Lester machines.

Mr. Wright stated that an issue has arisen concerning medications that have been returned to stock. Mr. Wright stated that he has added language to require the pharmacist to return the medication to the correct cell and document the return. Mr. Wright stated that the medication could be left on the shelf to be counted again.

Dr. Smidt stated that in either case the pharmacist would be responsible for checking the product.

Mr. Dutcher stated that often technicians are not as careful as pharmacists in returning the drugs.

Mr. Wright stated that the filling of the cell is checked after the fact.

Dr. Smidt asked if there is a difference between the stock bottle and the return to stock.

Mr. Wright stated that there is no way to bar code a return to stock bottle. Mr. Wright stated that there are no processes to cover return to stock medications. Mr. Wright stated that a stock bottle has a lot number and a return to stock bottle does not have a lot number. Mr. Wright stated that since there is not a lot number then the return to stock bottle medication should not be placed in the cassette.

Dr. McCoy stated that she agrees that the Return to Stock bottle should not be returned to the cell and the other Board Members agreed.

Mr. Wright stated that NACDS requested that R4-23-615 (B)(2) be amended to allow any prescriptions that do not require oral consultation be placed in the automated storage and distribution system. Mr. Wright stated that previously the section read that only refilled prescriptions could be placed in the storage system. Mr. Wright stated that he has made that change.

Mr. Wright stated that R4-23-616 was a result of the site visits. Mr. Wright stated that the rules have been added to ensure that the devices are calibrated and working properly.

Dr. McCoy asked if they would need to maintain a log.

Mr. Wright stated that would be part of their policy and procedures.

The Board authorized Mr. Wright to proceed with the rulemaking process.

## **Shared Services Rules**

Mr. Wright stated that a Public Hearing was held on April 3, 2006. Mr. Wright stated that Janet Elliott of the Arizona Community Pharmacy Committee and Matt Cook and Dan Luce from Walgreens attended the Public Hearing. Ms. Elliott provided written comment requesting the Board to change the proposed rules.

Ms. Elliott is requesting that R4-23-621(E)(3)(f) be changed to read: " ... operating a continuous quality improvement program for shared services designed to resolve identified problems."

Mr. Cook and Mr. Luce spoke in favor of the rule but agreed with the change proposed by Ms. Elliott.

The Board received written comment from NACDS concerning the language in R4-23-621 (D) (1) and (2) that requires a

record of the name of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, and pharmacy technician trainee who participates in the filling, dispensing, counseling, drug use review, refill authorization, or therapeutic intervention functions.

Mr. Wright stated that NACDS feels that most pharmacy computer systems may not have the capability to capture each of the names involved in the prescription filling process. Mr. Wright stated that the changes have been made and it now states that manual or electronic records must be maintained identifying the pharmacist or intern responsible for each order processing function.

Mr. Wand stated that recording the name may not prevent the mistake but may lead back to the root cause of the problem if an error occurs.

Dr. Smidt stated that most systems can document people who changed an order. The initials may not be upfront but may be in the background somewhere.

Mr. McAllister stated that the Board should be encouraging the pharmacies to upgrade their systems to record these processes and allow a time frame to implement the changes.

Dr. McCoy stated that she agrees and the Board needs to identify who is responsible for the errors.

Mr. Van Hassel stated that he feels that if a quality assurance monitoring program is in place then the initials are not needed.

The Board requested that Mr. Wright proceed with the rule as proposed.

Mr. Wright asked about the changes requested to the quality assurance program.

Dr. Smidt stated that the requested change was to have a quality assurance program in place to resolve identified problems. Dr. Smidt stated that the purpose of a quality assurance program is to identify problems.

Dr. McCoy stated that the purpose of a quality improvement program is to look at your system to prevent errors from occurring in the first place.

The Board authorized Mr. Wright to proceed with the rulemaking process and to proceed with the rule as proposed.

### **AGENDA ITEM 6 - Complaint Review**

The Consumer Complaint Review committee met prior to the Board Meeting to review 56 complaints.

Dr. Berry, Dr. Sypherd and Ms. Honeyestewa served as the review committee.

Board Members were encouraged to discuss issues and were encouraged to ask questions.

The following summary represents the final decisions of the Board in each complaint:

- Complaint #3067  
No Further Action
- Complaint #3068  
Advisory Letter
- Complaint #3069  
No Further Action
- Complaint #3070  
Advisory Letter
- Complaint #3071  
No Further Action
- Complaint #3072  
No Further Action
- Complaint #3075  
Conference/Pharmacist
- Complaint #3077  
Conference/Technician

- Complaint #3078  
Conference/Pharmacist
- Complaint #3079  
Conference/Pharmacist
- Complaint #3080  
No Further Action
- Complaint #3085  
No Further Action
- Complaint #3086  
Advisory Letter
- Complaint #3087  
No Further Action
- Complaint #3088  
Advisory Letter
- Complaint #3089  
No Further Action
- Complaint #3099  
Advisory Letter
- Complaint #3100  
Advisory Letter
- Complaint #3101  
Conference/Pharmacist
- Complaint #3102  
Conference/Pharmacists
- Complaint #3103  
No Further Action
- Complaint #3104  
No Further Action
- Complaint #3105  
Conference/Technician
- Complaint #3106  
No Further Action
- Complaint #3107  
No Further Action
- Complaint #3108  
Conference/Pharmacist
- Complaint #3109  
Advisory Letter
- Complaint #3110  
Conference/Pharmacist
- Complaint #3111  
No Further Action
- Complaint #3112  
No Further Action
- Complaint #3113  
Advisory Letter to District Supervisor concerning Complaint Reply
- Complaint #3114  
Conference/Pharmacist
- Complaint #3115  
Advisory Letter
- Complaint #3116  
Advisory Letter
- Complaint #3117  
No Further Action
- Complaint #3118  
No Further Action
- Complaint #3119  
Advisory Letter
- Complaint #3121  
Withdrawn
- Complaint #3122  
Conference/Pharmacist and Technician
- Complaint #3123  
Conference/Technician
- Complaint #3124

- Conference Pharmacist
- Complaint #3125  
Consent/Hearing (Revocation)
- Complaint #3126  
No Further Action
- Complaint #3127  
No Further Action
- Complaint #3128  
No Further Action
- Complaint #3129  
Withdrawn
- Complaint #3130  
Conference/Pharmacist
- Complaint #3131  
Conference/Pharmacist
- Complaint #3132  
Conference/Pharmacist
- Complaint #3135  
No Further Action
- Complaint #3138  
Consent/Hearing (Revocation)
- Complaint #3145  
Consent/Hearing (Revocation)
- Complaint #3146  
Consent/Hearing (Revocation)
- Complaint #3147  
Consent/Hearing (Revocation)
- Complaint #3148  
Consent/Hearing (Revocation)
- Complaint #3149  
No Further Action

## **AGENDA ITEM 7 - Conferences**

### **Complaint #3026**

Pharmacist In Charge Pamela Huntoon and Pharmacy Supervisor Holly Prievo were present in response to a consumer complaint.

Compliance Officer Dean Wright gave a brief overview of the complaint.

Mr. Wright stated a three-year old patient received Strattera prescribed and labeled for a ten-year old patient with the same first and last name. The only difference is the ten-year old has an "e" at the end of her first name. The three-year old took four doses of Strattera before the error was discovered. A cashier gave out the wrong drug.

President Dutcher asked Ms. Huntoon if this was a new or refill prescription.

Ms. Huntoon stated that they were all new prescriptions.

Mr. Dutcher asked if the pharmacist should have been handing out the prescriptions since they were new prescriptions and the patient should be counseled.

Ms. Huntoon stated that the cashier rings up the prescription and then sends the patient to the pharmacist for counseling.

Mr. Dutcher asked if the patient was sent to the pharmacist for counseling.

Ms. Huntoon stated that counseling was declined.

Mr. Dutcher asked Ms. Huntoon what has been done at the pharmacy to ensure that the correct patient receives the correct medication.

Ms. Huntoon stated that their policy is to verify the address on all prescriptions.

Ms. Huntoon stated that the policy was reinforced when the pharmacy was notified of the error. Ms. Huntoon stated a notice was posted and a verbal warning was given to everyone. Ms. Huntoon stated that they have a three strikes policy in their pharmacy and upon the third strike the individual is terminated.

Mr. Dutcher asked if there is a procedural problem at the pharmacy.

Ms. Huntoon stated that she is not sure if the clerk verified the address on both bags.

Dr. McCoy asked Ms. Huntoon if the pharmacy knows that there are two patients with the same name is there anything they do proactively to separate the bags.

Ms. Huntoon stated that if there are two patients that they know have the same name they will add a middle initial or add a note to the address indicating that there are two patients with the same name.

Dr. Smidt asked if either patient was new to the pharmacy.

Ms. Huntoon replied no.

Dr. Smidt asked Ms. Huntoon if the technician asked the patient if they wanted to speak to the pharmacist.

Ms. Huntoon stated that the technician would tell the patient that the pharmacist would like to speak to you about your medication and ask the patient to step over to the window. Ms. Huntoon stated at this point the patient refused counseling.

Dr. Smidt asked if the technician makes the judgment concerning counseling.

Ms. Huntoon states that the technician asks the patient to step to the counseling window.

Dr. Smidt asked if the patient pays for the medication and is given the medication and then asked to step to the counseling window.

Ms. Huntoon stated that before the patient pays for the prescription the technician will tell the patient that this is a new prescription and the pharmacist will want to review the prescription with you. Ms. Huntoon stated as this point the technician has the option to select accept or deny counseling. Ms. Huntoon stated that if the patient accepts counseling the prescription is passed to the pharmacist.

Dr. Smidt stated then the decision to counsel is left up to the technician's judgment.

Mr. Dutcher asked Ms. Huntoon if there are other patients at her store with the same name.

Ms. Huntoon stated that there are other patients.

Mr. Dutcher asked if there were any flags in the computer system for these two patients.

Ms. Huntoon stated no.

Mr. Dutcher asked if they have a policy in place.

Ms. Huntoon stated that when a patient drops off a prescription and the technician entering the prescription notices a duplicate name then they will add a middle initial or a message on the address line.

Mr. McAllister stated that he is concerned that the technicians are making decisions concerning counseling. Mr. McAllister stated that other pharmacies have been sanctioned for allowing technicians to make the decision on counseling. Mr. McAllister stated in this case the care-giver does bear some responsibility to question why a doctor would prescribe a capsule when her child takes liquid medications.

Mr. Van Hassel asked about the address on the label. On the label after the address it says add2. Mr. Van Hassel wanted to

know if this was the designation used.

Ms. Huntoon stated that due to limited space that is all that appeared on the label. Ms. Huntoon stated that this note was added after the error.

Dr. McCoy stated that she thought when the counseling rules were changed that the technician could not accept the refusal of counseling.

Mr. Dutcher stated that all new prescriptions requiring consultation should go the consultation window. Mr. Dutcher stated that the patient should refuse counseling when they speak to the pharmacist.

Dr. Smidt stated that he knows from personal experience that the technician will document the refusal of counseling without any input from the pharmacist.

Ms. Frush read for the Board Members R4-23-402 (H) which states that a pharmacist, graduate intern, or pharmacy intern shall document or assume responsibility to document, that oral consultation is provided or: when a patient refuses oral consultation or a person other than the patient or patient's care giver picks up a prescription and oral consultation is not provided, document or assume responsibility to document , that oral consultation is not provided....

Dr. Smidt stated that pharmacy technicians cannot accept the refusal.

Dr. McCoy stated that it is a pharmacist that determines if counseling is provided.

Mr. Wright stated that the issue is the documentation of counseling at the register. The technician enters yes or no into the register and then passes the prescription to the pharmacist. If the patient declines counseling then the register cannot be changed.

Mr. Dutcher asked Ms. Prieto to address the issue with their corporate office.

Mr. Wand stated that the Board could change the rule to remove the statement "assume the responsibility" to document and this would eliminate the technician from documenting counseling.

Dr. McCoy stated that the reason the statement was placed in the rules was to allow Walgreens to document the counseling on the register, but the intent was not to allow the technician to determine if counseling would take place.

Dr. Smidt asked Ms. Prieto what could be implemented to solve the problem tomorrow.

Ms. Prieto stated that signs have been added to the register to remind the person at the register to verify the patient's address. The sign reminds the person to ask for the address versus reading the address to the patient. Ms. Prieto stated that there are pilot programs in other parts of the country that offer a payment to the patient if the cashier does not ask for the patient's address. Ms. Prieto stated that documentation changes on the register would need to be changed by corporate.

Dr. Smidt asked if the pharmacist would need to log onto the register to document counseling.

Ms. Prieto replied yes and that they are testing other systems in other areas but at this time there would be no easy fix.

Dr. Smidt asked if a hard copy log could be kept.

It was noted that Walgreens does not maintain any hard copy logs.

Mr. Dutcher asked if a key pad could be located near the pharmacist to document counseling.

Dr. Smidt stated that if he was a pharmacist he would want to document everything to ensure there were no problems.

Mr. Dutcher asked Ms. Huntoon what has changed in the pharmacy.

Ms. Huntoon stated that she is constantly aware if the technicians are asking for the address. Ms. Huntoon stated that she counsels the patient and really does not give them the option of refusing counseling.

Mr. Dutcher asked Ms. Prievo discuss the Board's recommendations with her corporate office.

### **Complaint #3051**

Pharmacist John Markus and Pharmacy Supervisor Sean Duffy were present to answer questions concerning a consumer complaint.

Compliance Officer Sandy Sutcliffe gave a brief overview of the complaint. Ms. Sutcliffe stated that the patient received Lisinopril 40 mg instead of Trazadone 50mg in his prescription vial. The patient took two doses of the incorrect medication.

President Dutcher asked Mr. Markus how Lisinopril was placed in the Trazadone bottle.

Mr. Markus stated that he believes that he placed the wrong label on the wrong bottle.

Mr. Dutcher asked Mr. Markus if he had technician help that day.

Mr. Markus stated that there is usually one pharmacist and one technician working at the same time.

Mr. Dutcher asked Mr. Markus if the two products look the same.

Mr. Markus stated that the products do not look alike and he probably did not complete the final verification.

Mr. Dutcher reminded Mr. Markus to be careful and to fill one prescription at a time.

### **Complaint #3056**

Pharmacy Owner Craig Mathews and Legal Counsel Roger Morris were present to respond to a consumer complaint.

Ms. Frush stated that the other pharmacist and technician involved were not able to attend the meeting and asked for a postponement until the July meeting. The technician sent a letter to the Board but the Board is requesting that he appear at the July meeting. Compliance Officer Larry Dick gave a brief overview of the complaint.

Mr. Dick stated that the complainant, a pharmacist, stated that a technician employed at the pharmacy gave her a vial of expired Oxycontin 75 mg SR capsules at his home for her use. The bottle contained 65 capsules. Mr. Dick stated that he spoke to the technician and was told by the technician that he did not take the capsules from the pharmacy.

President Dutcher asked Mr. Mathews about the changes he has made at his pharmacy to ensure that this does not occur again.

Mr. Mathews stated that he now keeps all outdated products in a locked container. Mr. Mathews stated that he keeps a perpetual inventory of all medications in the locked container. Mr. Mathews stated that he has placed a lock on the swinging door between the dispensing area and the lobby. Mr. Mathews stated that he is conducting a monthly audit of his controlled substances used for compounding. Mr. Mathews stated that he is not compounding in excess of the quantity indicated on the prescription. Mr. Mathews stated that this change will insure that no extra capsules are compounded which could result in expired product. Mr. Mathews stated that he is more closely monitoring the powders used for compounding.

Mr. Dutcher asked Mr. Mathews if he had procedures in place prior to the incident.

Mr. Mathews stated that these are new procedures.

Mr. Dutcher asked Mr. Mathews if he did audits between the annual inventory previously.

Mr. Mathews stated that he did not.

Mr. Dutcher asked Mr. Mathews if the technician is still working for him.

Mr. Mathews stated that he suspended the technician and the technician sent him a letter terminating his employment.

Mr. Mathews stated that as far as he knows the technician is working as a carpenter at this time.

Dr. Smidt asked if everyone was asked to appear.

Ms. Frush indicated that the pharmacist has asked for a postponement and the technician has sent a letter to the Board but was told that he would be sent a letter to appear at the July meeting.

Dr. Smidt asked if the pharmacist is practicing in Arizona. Dr. Smidt stated that he is concerned about the numerous letters that she wrote. Ms. Frush stated that the pharmacist asked to postpone her conference so that she is able to bring an evaluation from her physician to the Board. Mr. Wand stated that conferences are held for fact finding.

Mr. Wand stated that the Board could order a psychological exam.

Dr. Smidt stated that this may have been a bad cycle in her life and asked if the pharmacist could bring the evaluation with her.

Mr. McAllister stated that this involves a relationship that went wrong and feels that we do not have enough information to make a decision.

Dr. McCoy stated that she is concerned that an unsafe practitioner may be working.

Mr. Van Hassel asked Mr. Mathews if he thought Mr. Lamont took the medication from his pharmacy.

Mr. Mathews stated that he is not certain who took the medication.

Mr. Dutcher asked if the pharmacist ever worked for him.

Mr. Mathews stated that the pharmacist never worked for him. Mr. Mathews stated that her story changes every time.

Mr. Wand stated that the Board could take action if the respondent refuses to appear for a conference, but in this case the respondent has asked for a postponement.

Mr. Wolf stated that at this time all the Board has is a suspicion. Mr. Wolf stated that would be sufficient grounds for ordering an evaluation.

Mr. Dutcher stated that Mr. Mathews has changed his practice substantially and hopes this never occurs again.

### **Complaint #3058**

Pharmacist Jane Douglas, Pharmacist Chung Ma, Pharmacy Supervisor Vincent Bona, and Director of Pharmacy Services Jason Reiser appeared to discuss a consumer complaint.

Compliance Officer Rich Cieslinski gave a brief overview of the complaint.

Mr. Cieslinski stated that the patient and doctor allege that a prescription for Synthroid 0.075 mg was phoned to the pharmacy and was transcribed as Synthroid 0.175 mg by the pharmacist. The doctor's office phoned to the same pharmacist a prescription for Synthroid 0.075 mg and Synthroid 0.05 mg to be dispensed as written. The pharmacist took the prescriptions as the generic being approved. The prescriptions were counseled by a different pharmacist and the complainant stated that she was not told that the medications were generic.

President Dutcher opened the discussion by asking Ms. Douglas if the patient was a regular patient at the pharmacy.

Ms. Douglas replied yes.

Mr. Dutcher asked if the patient had been on Synthroid.

Ms. Douglas replied yes.

Mr. Dutcher asked why the prescription was filled generically.

Ms. Douglas stated that when the patient picked up the original prescription she complained about the high copay because the product was brand name.

Ms. Douglas stated that when the doctor phoned in the prescription the second time the generic was dispensed because the doctor did not state that the prescription should be Brand name. Ms. Douglas stated that if the patient is present she will ask if the patient wants the generic medication. Ms. Douglas stated that she was not present when the patient picked up the prescription.

Mr. Dutcher asked Ms. Douglas when the prescription is data entered will the computer show that the patient has had Synthroid in the past.

Ms. Douglas stated that the profile is for Synthroid. Ms. Douglas stated that she has to manually go to the patient profile.

Mr. Reiser stated that it is part of the DUR check to review the patient profile.

Mr. Dutcher stated that if the patient has been on Synthroid for the last five years there would be no need to change to the generic unless the patient asked for the generic.

Mr. Reiser stated that he has spoke with Ms. Douglas about checking with the doctor or the patient when the patient has been on the Brand name product.

Mr. Dutcher asked about the counseling.

Mr. Cieslinski stated that the patient does not believe she was counseled properly. Mr. Cieslinski stated that Ms. Douglas stated that she did counsel the patient.

Mr. Dutcher stated that the doctor's office stated that the prescription was not transcribed correctly by the pharmacist. Mr. Dutcher asked Ms. Douglas if she took the prescriptions over the phone.

Ms. Douglas replied yes.

Mr. Dutcher asked Ms. Douglas if they are her check marks on the prescription.

Ms. Douglas replied yes. Ms. Douglas stated that when a prescription is phoned to the pharmacy she repeats all the information back to the doctor.

Mr. Dutcher stated that he believes that this is a communication problem and the doctor can always fax the prescription to the pharmacy.

Ms. Douglas stated that she has given the doctor the fax number to fax the prescription to the pharmacy.

Mr. Dutcher asked about the patient profile and the voided prescriptions.

Mr. Reiser stated that voided prescriptions remain in the system, but do not show on the patient's profile to prevent any confusion about the medications that a patient is currently taking at this time.

### **Complaint # 3063**

Pharmacist Edward Tsao appeared to answer questions concerning a consumer complaint. Mr. Tsao no longer works for the company where the error occurred and the Pharmacy Supervisor was unable to attend the meeting.

Compliance Officer Larry Dick gave a brief overview of the complaint.

Mr. Dick stated that the patient's prescription for Tramadol 50 mg was incorrectly filled with Trazadone 50 mg and the patient took thirty tablets of the wrong medication before noticing the error. The prescription was entered correctly but was dispensed incorrectly.

President Dutcher asked Mr. Tsao how Trazadone got in the bottle labeled Tramadol.

Mr. Tsao stated that he believes the incorrect drug was placed in the Baker Cell that he used to count the prescription. Mr. Tsao stated that as a second check the medication is placed on the scale. Mr. Tsao stated that since the Baker Cell bar codes are loaded into the machine the pharmacist or technician does not scan the stock bottle as a second check. Mr. Tsao stated that the scale weight is the same for both tablets. Mr. Tsao stated that he did not look at the contents of the bottle that the technician filled. Mr. Tsao stated that he verified the label and did not verify the imprint code on the tablet to ensure he had the correct medication. Mr. Tsao stated that the tablets are the same size and shape and he should have checked the imprint code.

Mr. Dutcher asked Mr. Tsao what he has learned from this incident.

Mr. Tsao stated that he checks the NDC code and the imprint numbers on all the tablets that he checks.

Mr. Dutcher asked Mr. Tsao if the pharmacy where he is currently working uses Baker Cells to count medication.

Mr. Tsao stated that he must pull the bottles off the shelf and everything is counted manually.

Mr. Dutcher asked if the Tramadol and Trazadone are close.

Mr. Tsao stated that they are separated.

Dr. McCoy asked about the filling of the Baker Cell.

Mr. Tsao stated that a pharmacist is supposed to check the work of the technician that filled the Baker cell.

Mr. Dutcher asked Mr. Tsao if he has learned anything from this incident.

Mr. Tsao stated that he has left the retail environment and is in the process of returning to work in a hospital.

Mr. Dutcher reminded Mr. Tsao to be careful.

#### **Complaint # 3084**

Pharmacist Sameer Boshi, Pharmacy Supervisor Chad Schuster, and Pharmacy Supervisor Stephanie Wernsman were present at the request of the Board to address an issue of diversion that occurred at the pharmacy.

Compliance Officer Rich Cieslinski gave a brief overview of the complaint. Mr. Cieslinski stated that a pharmacist that worked at the store diverted controlled substances by creating a fictitious program which he used as a cover to create fake prescriptions using various patient names and prescribers. Sometimes the pharmacist paid for the prescriptions and other times he would not pay for the prescriptions.

President Dutcher opened the discussion by telling Mr. Boshi that the Board takes seriously the job of a Pharmacist In Charge. President Dutcher asked Mr. Boshi how this could occur under his supervision.

Mr. Boshi replied that he never worked with the other pharmacist. Mr. Boshi stated that there is no overlap. Mr. Boshi stated that when he was off the other pharmacist worked and vice versa.

Mr. Dutcher asked if all the prescriptions were forged.

Mr. Boshi replied that all the prescriptions were forged.

Mr. Dutcher asked who filed the CII prescriptions.

Mr. Boshi stated that they both filed the CII prescriptions.

Mr. Dutcher asked Ms. Wernsman if it was a good company policy for the pharmacists to work two days on and two days off.

Mr. Dutcher asked Ms. Wernsman if overlap is needed.

Ms. Wernsman stated that the company does like overlap, but the scheduling is done by each store and not the supervisors.

Mr. Dutcher asked who has power of attorney to sign the DEA 222 forms.

Mr. Boshi stated that they both had power of attorney.

Mr. Dutcher asked Mr. Boshi if there was any overlap at anytime.

Mr. Boshi replied occasionally.

Mr. Dutcher asked Mr. Boshi if the pharmacist came to work impaired.

Mr. Boshi replied that the other pharmacist did come to work impaired the last week.

Mr. Dutcher asked about the perpetual inventory. Mr. Dutcher asked Mr. Boshi if he noticed any large quantities of drugs being dispensed.

Mr. Boshi stated that the last week he noticed 600 tablets of Adderall and began questioning the prescriptions. Mr. Boshi stated that he called the doctor two days later and found out that the prescriptions were fake and he contacted his supervisor.

Mr. Dutcher asked how this could be prevented in the future.

Mr. Shuster stated that the company did have a requirement to do a perpetual audit once a month and that had been changed to once a quarter. Mr. Shuster stated that they could go back to the once a month audit. Mr. Boshi stated that he does a monthly audit.

Mr. Dutcher asked if Mr. Boshi did not notice the loss.

Ms. Wernsman stated that it may have been hard to detect since most of the medications went out under fake prescriptions.

Mr. Dutcher stated that there needs to be some double checks in the pharmacy.

Mr. McAllister stated that when the problem was discovered Mr. Boshi did report the problem to his supervisor.

Mr. Wand asked about the prescriptions being written by the same doctor.

Ms. Wernsman stated that the doctors were all real but the patients were fictitious.

Mr. Dutcher asked if the store staff knew that the pharmacist was delivering the prescriptions.

Mr. Boshi stated that he would stay and fill the prescriptions after hours and then deliver the prescriptions.

Mr. Cieslinski stated that Mr. Boshi filled six forged prescriptions that the pharmacist brought in at 7:30 on a Friday night.

Mr. Boshi stated that he trusted him as a pharmacist. Mr. Boshi stated that the prescriptions were very good forgeries but he questioned the doctor on Monday and found out the prescriptions were forged.

Mr. Dutcher stated that the corporate office may want to look at pharmacists staying after hours and the delivery of prescriptions.

Ms. Wernsman stated that if they were aware of the issues they would have taken action sooner. Ms. Wernsman stated that their company policy states that if an employee is not clocked in then they should not be in the pharmacy.

Mr. Shuster stated that the store management did not notify anyone that the pharmacist was staying after hours.

Dr. Smidt asked if any of the technicians are still working for the company.

Mr. Boshi replied that all the technicians are still working for the company.

Dr. Smidt asked about the technician knowing about the theft.

Mr. Boshi stated that the technician stated that she knew that the pharmacist had taken prescription pads home but she did not know that he was taking the medications. Mr. Boshi stated that the pharmacist had computer generated prescriptions and forged the signature.

Mr. Van Hassel asked over what time frame this occurred.

Ms. Wernsman stated that there was evidence back to September of 2005.

Mr. Van Hassel asked if he paid for the prescriptions.

Mr. Boshi stated that he paid for some prescriptions and did not pay for others.

Mr. Van Hassel asked if the corporation has a way to track prescriptions.

Ms. Wernsman stated that when the prescription is entered into the computer there is no tie in with the register. Ms. Wernsman stated that they do inventories. Ms. Wernsman stated that there were no red flags because the prescriptions were filled under fake prescriptions and the counts would be correct. Ms. Wernsman stated that the only way that they would know what prescriptions were paid for is by pulling the register records.

Mr. Dutcher stated that he believes that Dr. Smidt has concerns that the technician was aware of what was going on and is still employed.

Ms. Wernsman stated that she was involved with Loss Prevention in conducting the investigation and it was determined that no one in the pharmacy department was involved in any illegal activity other than the person arrested.

Mr. Dutcher asked if there are any policies against dispensing their own prescriptions.

Mr. Boshi stated that the pharmacist filled his own prescriptions because there were no other pharmacists present.

Mr. Dutcher stated that if the Pharmacist In Charge is responsible for the pharmacy then he needs to have oversight and in this case there was not oversight. Mr. Dutcher asked the District Managers to see if corporate could find ways to help the Pharmacist In Charge to prevent what happened in this store.

Ms. Wernsman stated that the policies that they have in place allowed them to remove the pharmacist quickly.

Mr. Dutcher stated that they should have policies to prevent the incident from occurring.

### **Complaint #3092**

Pharmacy Director Lalit Mansukhani was present at the request of the Board to address an issue of diversion that occurred at the pharmacy.

Compliance Officer Rich Cieslinski gave a brief overview of the complaint. Mr. Cieslinski stated that a pharmacist diverted CII medications from the hospital for his personal use. The Board was notified and an investigation was conducted by the Compliance Officer.

President Dutcher asked Mr. Mansukhani how this occurred.

Mr. Mansukhani stated that he had some concerns earlier but his questions were answered by the pharmacist and he stated in retrospect that he should have been more suspicious. Mr. Mansukhani stated that he was called into the pharmacy one weekend in December after the pharmacist in question had worked. He stated that there were several discrepancies and the afternoon pharmacist was concerned and did not want to be involved with the discrepancies. Mr. Mansukhani stated that he and the Pharmacy supervisor began an audit and found several discrepancies. Mr. Mansukhani stated that the pharmacist was

not scheduled during the investigation and upon returning to work the pharmacist admitted his problem and was terminated.

Mr. Dutcher asked how long the pharmacist worked at the hospital.

Mr. Mansukhani stated that the individual started working for them in September of 2005 and his employment was terminated in December of 2005.

Mr. Dutcher asked if he was stealing the whole time.

Mr. Mansukhani stated that in retrospect he believes that he was stealing the whole time. Mr. Mansukhani stated that he believes that he was stealing in lieu of wasting drugs. Mr. Mansukhani stated that he would make a PCA and since it was not the correct strength it would need to be wasted. Mr. Mansukhani stated that he believes the drug was not wasted. Mr. Mansukhani stated that one of the process changes that they have made is that two individuals must observe the wastage. Mr. Mansukhani stated that any breakage or returns must be seen by two individuals. Mr. Mansukhani stated that they now have changed the documentation for exchanges that occur with the paramedics. Mr. Mansukhani stated that there are three pharmacists, including himself, evaluating discrepancies on a daily basis.

Mr. Dutcher asked about the narcotic inventory.

Mr. Mansukhani stated that the inventory is perpetual.

### **Complaint # 3093**

Pharmacy Director Scott Waldrop was present at the request of the Board to address an issue of diversion that occurred at the pharmacy.

Compliance Officer Rich Cieslinski gave a brief overview of the complaint. Mr. Cieslinski stated that Mr. Waldrop reported to the Board that a pharmacist confessed to the taking of controlled substances for his personal use from January 20, 2005 through January 18, 2006. Mr. Cieslinski stated that the pharmacy began an investigation when an empty Dilaudid box, blood-soaked paper towels, and syringe wrappers were found in the men's restroom. The pharmacist admitted to taking the Dilaudid and Fentanyl to treat his Crohn's disease.

President Dutcher asked Mr. Waldrop to address the issues.

Mr. Waldrop stated that he believes that the pharmacist diverted the drugs for his personal use for approximately one year. Mr. Waldrop stated that the pharmacist would enter prescriptions for PCA and narcotic drips for admitted patients. The pharmacist would indicate that he delivered the medication to the patient and then would state that the patient did not need the medication and credit the patient. Mr. Waldrop stated that the pharmacist would then take the medication. Mr. Waldrop stated that the pharmacist worked the night shift.

Mr. Dutcher asked if he deleted the medication from the profile would it not be entered back into the inventory.

Mr. Waldrop stated that the prescription profiles and the narcotic cabinet are two different systems. Mr. Waldrop stated that he could delete it off the profile without affecting the narcotic count.

Mr. Dutcher asked Mr. Waldrop if they have new checks and balances in place.

Mr. Waldrop stated that the same person cannot enter the prescription, compound the prescription, or deliver the prescription. Each one of these steps must be performed by a different person.

Mr. McAllister stated that PCA compounding does provide a real challenge for hospitals.

Mr. Waldrop stated that they are trying to eliminate some of the problems by buying pre-filled syringes.

Mr. Van Hassel asked Mr. Waldrop about the quantity of Fentanyl used at the hospital.

Mr. Waldrop stated that they are a Level I trauma center and this amount of Fentanyl is not unusual.

Mr. Van Hassel stated that he just wanted the Board Members and audience to know that it would be difficult to track losses

due to the amount of Fentanyl used by the hospital.

## **Complaint #3095 - Postponed until July meeting**

### **AGENDA ITEM 8 -Consent Agreements**

President Dutcher 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.

**On motion by Dr. Smidt and Mr. McAllister**, the Board voted unanimously to accept the consent agreement 06-0012-PHR for Gary Sorensen as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Ms. Honeyestewa - aye, Dr. Sypherd -aye,

Dr. Smidt - aye, Dr. Tippet - aye, Dr. McCoy - aye, Mr. McAllister - aye, Mr. Van Hassel -aye, President Dutcher - aye)

**On motion by Dr. McCoy and Ms. Honeyestewa**, the Board voted unanimously to accept the consent agreement 06-0015-PHR for Michael Yoha as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Ms. Honeyestewa - aye, Dr. Sypherd -aye, Dr. Smidt - aye, Dr. Tippet - aye, Dr. McCoy - aye, Mr. McAllister - aye, Mr. Van Hassel -aye, President Dutcher - aye)

**On motion by Mr. McAllister and Dr. McCoy**, the Board voted unanimously to accept the consent agreement 06-0017-PHR for Alana Zinkie as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Ms. Honeyestewa - aye, Dr. Sypherd -aye, Dr. Smidt - aye, Dr. Tippet - aye, Dr. McCoy - aye, Mr. McAllister - aye, Mr. Van Hassel -aye, President Dutcher - aye)

**On motion by Dr. McCoy and Ms. Honeyestewa**, the Board voted unanimously to accept the consent agreement 06-0019-PHR for David Hall as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Ms. Honeyestewa - aye, Dr. Sypherd -aye, Dr. Smidt - aye, Dr. Tippet - aye, Dr. McCoy - aye, Mr. McAllister - aye, Mr. Van Hassel -aye, President Dutcher - aye)

**On motion by Mr. McAllister and Dr. McCoy**, the Board voted unanimously to accept the consent agreement 06-0020-PHR for Yvonne Trujillo as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Ms. Honeyestewa - aye, Dr. Sypherd -aye, Dr. Smidt - aye, Dr. Tippet - aye, Dr. McCoy - aye, Mr. McAllister - aye, Mr. Van Hassel -aye, President Dutcher - aye)

**On motion by Dr. McCoy and Mr Van Hassel**, the Board voted unanimously to accept the consent agreement 06-0023-PHR for Richard Pillon as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Ms. Honeyestewa - aye, Dr. Sypherd -aye, Dr. Smidt - aye, Dr. Tippet - aye, Dr. McCoy - aye, Mr. McAllister - aye, Mr. Van Hassel -aye, President Dutcher - aye)

### **AGENDA ITEM 9 - Pharmacy Technician Trainee Reapplication**

President Dutcher asked Mr. Van Hassel to address 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 Dr. Sypherd and Ms. Honeyestewa**, the Board unanimously approved the requests of the Pharmacy Technician Trainees listed below to proceed with the licensure 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.**

- Gloria Williams
- Maria Garcia

- Darlene Starman
- Arkiteta Charley
- Lucia Vela
- Sylvia Estrada
- Patricia Hubbard
- Arlene Pratt
- Selina Montano
- Minh Le
- Patricia Wolf
- Arlene Dickson
- Mary Schnose
- Jose Torres
- Judith McPherson
- Cortney Cook
- Hermine Piwarchuck
- James Posadaas
- Virginia Weaver
- Marla Pasierb
- Marilyn Barton
- Marciana Salz-Reff
- Huong Nguyen
- Marla Kessler
- Selene Castro
- Janet Jones
- Rachel Bodoy
- Arely Lopez
- Estella Valenzuela
- Veronica Gonzalez
- Cathy Groves
- Julia Scotto
- Caroline Begay
- Othella Sosa
- Julia Ludden
- Barbara Dawson
- Stacey Lewis
- Sandra Keighley
- Suzy King- Martinez
- Rhonda Gibson
- Lucy Arizmendez
- Doreen Tibbs
- Phillip Vanta
- Abel Alvarez
- Aaron Soderberg
- Phillip Flore
- Frank Atherton
- Stacey Williamson
- Delmar Speed
- Jeanette Mabry
- Sylvia Carpio
- Edward Gilan
- Paula Martinez
- Laura Christians
- Nyren Walker
- Daniel Medders
- Betty Johnson
- Michelle Rolls
- Carisa Tranter
- Geraldine Scavuzzo
- Judy Dutchover
- Jazz Ferreira
- Loraine Stang
- Janice Golden
- Yvette Schultz
- Veronica Mejia
- Donna Lindsey

- Gloria Floyd
- Sophia Ortega
- Jessica Smith
- Clifford Robson
- Barbara Furrow

### **AGENDA ITEM 10 - Approval of Schools and Colleges of Pharmacy**

President Dutcher asked Mr. Wand to address this issue.

Mr. Wand stated that there are two new pharmacy schools that the Board needs to approve in order for the Board to accept credentials from these two new schools. Mr. Wand stated that one school is located in Texas and the other school is located in West Virginia.

Mr. McAllister asked if the Board could make a general motion to approve all new schools if they have obtained precandidate accreditation status.

Mr. Wolf stated that the Board would need to change the rules to allow the Board to make the approvals by reference.

**On motion by Mr. McAllister and Dr. McCoy**, the Board unanimously approved the ACPE list of accredited colleges and schools of pharmacy.

### **AGENDA ITEM 12 - HEARINGS**

Mr. Wolf stated that he has received a call from Jonathan Corey Ray requesting that his hearing be rescheduled from 8:00 A.M. to 10:00 A.M. on May 25, 2006. Mr. Wolf stated that his witnesses have agreed to the time change if approved by the Board.

**On motion by Dr. Smidt and Mr. Van Hassel**, the Board Members unanimously agreed to reschedule the hearing for Jonathan Corey from 8:00 A.M. to 10:00 A.M. on May 25, 2006.

### **AGENDA ITEM 15 - Call to the Public**

President Dutcher 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.

Mr. Gene Martel came forth to speak on behalf of the Government Information Technology Agency (GITA). Mr. Martel stated that GITA provides IT consulting services for state government agencies. Mr. Martel stated that GITA is working with the Board in developing online licensure. Mr. Martel stated that they are working towards developing a common licensing base for state agencies. Mr. Martel stated that last year the pharmacists were allowed to renew on line and this was the fastest adoption rate of any online renewal. Mr. Martel stated that in the next two weeks they will start the process of expanding the registration for pharmacists and pharmacy technicians.

Dr. Smidt stated that he would like to introduce an item for future agenda consideration. Dr. Smidt stated that he would like to suggest that a task force be formed to review non-resident pharmacies that may be dispensing Internet prescriptions.

There being no further business to come before the Board, **on motion by Dr. Smidt and Dr. McCoy**, the Board unanimously agreed to adjourn the meeting at 4:45 P.M.

### **May 25, 2006**

The following Board Members and staff were present: President Chuck Dutcher, Vice-President Tom Van Hassel, Louanne Honeyestewa, Dennis McAllister, Linda McCoy, Ridge Smidt, and Bryan Tippet. Compliance Officers Rich Cieslinski, Larry Dick, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Stephen Wolf.

President Dutcher convened the meeting at 8:30 A.M. and welcomed the audience to the meeting.

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

### **AGENDA ITEM 3 - Special Requests**

#### **#19 Kevin Denick**

Kevin Denick appeared on his own behalf to request to have his revoked pharmacist's license reinstated.

Dr. Julian Pickens and Ed Saba, RPh were present to speak on Mr. Denick's behalf.

President Dutcher opened the discussion by asking Mr. Denick about the nature of his request.

Mr. Denick stated that he would like the Board to consider reinstating his license.

Mr. Dutcher asked Mr. Denick when his license was revoked.

Mr. Denick stated that his license was revoked in November of 2005.

President Dutcher asked Mr. Denick why the Board should reinstate his license.

Mr. Denick stated that he understands that the Board will not tolerate any unprofessional conduct on his part. Mr. Denick stated that it has been a severe financial and emotional impact on him. Mr. Denick stated that he is not able to work at a job that he enjoys. Mr. Denick stated that he has reviewed the Pharmacist's Manual on line. Mr. Denick stated that he took four continuing education classes on pharmacy law. Mr. Denick stated that he read a book on how not to be a slave to his impulses. Mr. Denick stated that he feels that he has taken steps to practice pharmacy according to the letter and intent of the law. Mr. Denick stated that he asked Dr. Pickens and Mr. Saba speak on his behalf.

Dr. Pickens addressed the Board Members. Dr. Pickens stated that he sees Mr. Denick each week at the PAPA counseling sessions. Dr. Pickens stated that since the revocation Mr. Denick has addressed underlying problems. Dr. Pickens stated that hopefully Mr. Denick has learned from this situation and will not act similarly again. Dr. Pickens stated that Mr. Denick has demonstrated that he knows and understands different ways of handling similar situations.

Mr. Saba stated that while working at Bashas' Mr. Denick was accepted well by the customers. Mr. Saba stated that Mr. Denick was always on time and had good work ethics. Mr. Saba stated that he never had a prescription error or a complaint from a customer. Mr. Saba stated that if Mr. Denick's license is reinstated that Bashas' will hire Mr. Denick.

Dr. Smidt asked Dr. Pickens what has changed the most about Mr. Denick since he lost his license.

Dr. Pickens stated that his attitude has changed. Dr. Pickens stated that he feels Mr. Denick is more honest and straightforward.

Mr. Dutcher asked how Mr. Denick is progressing through the program.

Dr. Pickens stated that he attends weekly counseling sessions and his progress is good.

Mr. Van Hassel asked Mr. Denick what he has been doing since his license was revoked.

Mr. Denick stated that he has been trying to find work. Mr. Denick stated that he has been working for a mortgage broker writing loans. Mr. Denick stated that he travels all over the city.

Mr. Dutcher stated that one mitigating factor is the time frame of revocation. Mr. Dutcher stated that the revocation has only been seven months.

Dr. Tippet stated that he is not opposed to having Mr. Denick's license reinstated , but he would like to discuss what stipulations would be placed on the licensee if his license were to be reinstated.

Mr. Dutcher stated that he feels a new PAPA contract and probation would be required.

Dr. Tippet asked if additional CE would be required past his credits needed for renewal.

Dr. Sypherd stated that he feels that probation would be necessary and if Mr. Denick violates any laws during that probation then his license would be revoked again.

Mr. McAllister stated that he feels it is too soon. Mr. McAllister stated that he feels Mr. Denick has not demonstrated a consistent path.

Dr. Smidt stated that he agrees that there has not been enough time to make changes. Dr. Smidt stated that he feels Mr. Denick is on the correct path but feels that there has been a long history of bad judgments.

Dr. Tippet stated that he is not sure how to judge the necessary time frame. Dr. Tippet stated that the professionals present have indicated that the person has progressed and feels that Mr. Denick would work well in their work environment. Dr. Tippet noted that these professionals are responsible for protecting the public health.

Dr. McCoy stated that Mr. Denick has a history of bad judgments for violating rules. Dr. McCoy stated that is the Board's responsibility to protect the public and if the Board allows Mr. Denick to practice are they putting the public at risk due to his bad judgments.

Dr. Sypherd asked about Mr. Denick's previous consents.

Mr. Wand stated that Mr. Denick was addicted to cough medications that contain hydrocodone.

Mr. Dutcher stated that Mr. Denick was an impaired pharmacist and has a problem with personal judgments.

**On motion by Mr. Van Hassel and Mr. McAllister**, the Board denied the request by Mr. Denick to have his license reinstated. There were three nay votes by Dr. Tippet, Dr. Sypherd, and Dr. Smidt.

## **AGENDA ITEM 4 - Reports**

### **PAPA report**

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of thirty-eight (38) participants in the PAPA program. Ms. Yates stated since the last report on March 15, 2006 three participants have completed the program, and four new participants have entered the program. Ms. Yates stated that one participant is pending the completion of the first step of their treatment program. Ms. Yates discussed with the Board Members issues with several participants.

### **APA report**

Mindy Rasmussen, Executive Director of the Arizona Pharmacy Alliance was present to update the Board on upcoming events.

Ms. Rasmussen stated that the Alliance will be holding district meetings during the month of June across the state. Ms. Rasmussen stated that the meetings will address state and federal legislation and CE credit will be offered.

Ms. Rasmussen stated that the Alliance's annual Meeting will be held from July 27-30. Ms. Rasmussen stated that 4 hours of law CE in addition to the Board Meeting will be offered at the meeting. Ms. Rasmussen stated that they will be offering the immunization certification on Thursday.

Ms. Rasmussen presented a power point presentation on the Pharmacy Quality Commitment Program. Ms. Rasmussen stated that this is a tool used for medication safety. Ms. Rasmussen stated that the program implements checks and balances. Ms. Rasmussen stated that the program documents errors and near misses. Ms. Rasmussen stated that the program ensures that pharmacies are improving patient safety. Ms. Rasmussen stated that the program currently is tailored towards retail pharmacies and they are looking at a way to tailor the program for hospital pharmacies.

Mr. Dutcher asked Ms. Rasmussen if the Alliance has this product for sale.

Ms. Rasmussen stated that the product is available for \$300 and the renewal is \$200 and can be purchased from the company on their website.

Dr. Smidt asked if the online data entry is just for your group or is the information pooled.

Ms. Rasmussen stated that she believes the data remains within that group.

Mr. Wand stated that California and Florida have regulations that require quality improvement in the pharmacy setting.

Dr. McCoy stated that this would be a good tool to assess quality improvement.

Mr. Wand stated that the Board could require a pharmacy to purchase the product as a correctional tool if the pharmacy has a large number of errors.

Dr. McCoy stated that by collecting the data the pharmacy would be able to identify areas where problems exist.

Dr. Smidt asked Ms. Rasmussen how many pharmacies are using this program.

Ms. Rasmussen stated that the program is being used by roughly 2,000 pharmacies.

### **AGENDA ITEM 8 - Consent Agreements**

**On motion by Mr. McAllister and Dr. Tippett**, the Board voted unanimously to accept the consent agreement 06-0014-PHR for John Markus as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Ms. Honeyestewa - aye, Dr. Sypherd -aye, Dr. Smidt - aye, Dr. Tippett - aye, Dr. McCoy - aye, Mr. McAllister - aye, Mr. Van Hassel -aye, President Dutcher - aye)

### **AGENDA ITEM 11 - Review of Electronic Balances for Counting Medications - Site visits**

President Dutcher asked Mr. Wand to address this issue.

Mr. Wand stated that as a result of a consumer complaint involving the electronic balances that are used for counting medications the Board asked that the Compliance Staff visit several sites and verify the accuracy of the balances. Mr. Wand stated that an Inspector from the Arizona Department of Weights and Measures accompanied the Compliance Officers on their visits. Mr. Wand stated that the reports from the Compliance Officers and the Inspector are in the Board Meeting Book. Mr. Wand stated that the balances are not being calibrated on a regular basis and the balances are not being cleaned properly. Mr. Wand stated that the download from the corporate office is not always accurate. Mr. Wand stated that the balances are not accurate for tablet quantities less than 30. Mr. Wand stated that the prescriptions are usually over or short by one or two tablets or capsules.

Mr. Van Hassel stated that he has used the scales and they are very accurate. Mr. Van Hassel stated that the Board may want to give the Compliance Staff a pre-determined weight and during the inspection the Compliance Officer could validate the scale. Mr. Van Hassel stated that each tablet could vary in weight. Mr. Van Hassel stated that the larger the quantity the more accurate the count.

Mr. Wand stated that the pharmacists have been observed adding pieces of paper and child proofcaps to the balance in order to obtain the correct weight so that the label will print.

Ms. Frush stated that the rules that Mr. Wright proposed yesterday for mechanical counting devices will address the calibration issues.

Dr. McCoy asked if calibration could be part of their policy and procedure.

Mr. Wand stated that they must comply with these policies and procedures.

Mr. McAllister stated that he feels that this should become a regular part of the inspection and the individuals cited for discrepancies.

Mr. Dutcher asked if the lot numbers have variations in weight could this cause issues.

Mr. Van Hassel stated that if the scale is calibrated there should not be much difference.

Mr. McAllister suggested that during the inspection the Compliance Officer could hand count three prescriptions that were previously filled and see if the count is correct.

Dr. McCoy stated that the calibration should also be extended to TPN machines in the hospital setting. Dr. McCoy stated that during the inspection process any electronic device that needs calibration could be checked by the Compliance Staff for accuracy. Dr. McCoy stated that the Compliance Officer could check the logs for TPN calibrations.

**On motion by Mr. Van Hassel and Mr. McAllister**, the Board unanimously agreed that as part of the inspection process the Compliance Officer will verify the accuracy of electronic scales used for counting and other electronic devices, such as TPN machines, that require calibration.

## **AGENDA ITEM 12 - Hearings**

### **Hearing - Jonathan Corey Ray**

President Dutcher opened the administrative hearing. This is the time and place for consideration of the matter of the hearing to determine whether to revoke or suspend the License Number 13139 issued to Jonathan Corey Ray, Notice of Hearing No. 05-0030-PHR.

Assistant Attorney General Stephen Wolf stated that he was contacted by Mr. Ray's mother indicating that Mr. Ray was ill and would not be able to attend the hearing. Mr. Wolf stated that Mr. Ray's mother stated that he has a sore throat and has difficulty speaking. Mr. Wolf stated that Mr. Ray did provide a written answer to the complaint and did line up witnesses. Mr. Wolf stated that if he is unable to speak then Mr. Ray could not present his case, participate in his defense, or cross examine witnesses. Mr. Wolf stated that the State does not oppose Mr. Ray's request for a continuance.

Ms. Cassetta stated that it is the Board's decision if they would like to grant the continuance.

Dr. McCoy asked if the hearing would be held at the July meeting or would the Board need to set a different date.

Mr. Wand stated that the Board could set a date for the continuance. Mr. Wand stated that the Board would need to wait to set the date until a new attorney is assigned to the Board from the AG's office. Dr. Smidt asked if the individual is able to practice pharmacy. Mr. Wand stated that he is currently on probation and would need to notify the Board if he is practicing.

Mr. Wolf stated that he has heard that Mr. Ray is practicing in Nevada.

**On motion by Dr. Tippett and Mr. Van Hassel**, the Board unanimously agreed to grant a continuance for the hearing for Jonathan Corey Ray with the date to be determined after legal counsel is appointed.

### **Hearing - Marvin Fein - Motion to Deem**

President Dutcher opened the administrative hearing. This is the time and place for the consideration of the matter of the hearing to determine whether to revoke or suspend the Pharmacist License Number 14591, issued to Marvin Fein, Notice of Hearing No. 06-0010-PHR.

The licensee, Mr. Fein, was present without counsel.

Mr. Wolf stated that as a preliminary matter there is a Motion to Deem. Mr. Wolf stated that under A.R.S. § 32-1927 (O), the licensee is required to respond within 30 days after receiving a copy of the complaint in order for him to participate in the hearing. Mr. Wolf stated that if the licensee refuses to do so then the Board may deem the allegations in the complaint as being true. Mr. Wolf stated that a copy of the complaint and hearing was mailed to him on April 6, 2006 and an answer was due on May 8, 2006. Mr. Fein failed to file an answer. The state filed a Motion to Deem on May 12, 2006 giving him further notice with his response due on May 22, 2006. No response was received by Mr. Fein. Mr. Wolf stated therefore the State moves that the allegations contained in the complaint be deemed true and the hearing not proceed.

President Dutcher asked Mr. Fein if he received a copy of the Notice of Hearing 06-0010-PHR.

Mr. Fein stated that he did receive the copy and did not respond because his wife had passed away during this time period and he was not able to respond in time so he did not respond.

**On motion by Dr. Smidt and Mr. McAllister**, the Board unanimously agreed to deem the allegations contained in Notice of Hearing 06-0010-PHR.

**On motion by Dr. Smidt and Ms. Honeyestewa**, the Board unanimously agreed to adopt the findings of fact line 2 through

line 25.

**On motion by Mr. McAllister and Dr. McCoy**, the Board unanimously agreed to adopt the conclusions of law paragraphs 1 through 7.

President Dutcher asked Mr. Fein if he had any comments for the Board.

Mr. Fein replied no.

President Dutcher asked Mr. Wolf if he would like to make any comments.

Mr. Wolf stated that in considering sanctions that the Board must take certain factors into consideration. Mr. Wolf stated that Mr. Fein dispensed medications without a valid prescription which is an act of unprofessional conduct. Mr. Wolf stated that Mr. Fein pled guilty to one count of theft which is a crime of mortal turpitude which is an act of unprofessional conduct. Mr. Wolf stated that this is the second time that Mr. Fein has committed the same offense. Mr. Wolf stated that during a conference with Board, Mr. Fein stated that he voluntarily gave up the medication and this was not true. Mr. Wolf stated that the State recommends that Mr. Fein's license be revoked.

**On motion by Mr. McAllister and Dr. Sypherd**, the Board unanimously agreed to revoke Pharmacist License Number 14591 issued to Marvin Fein. Following are the results of the roll call vote: Ms. Honeyestewa - aye, Dr. Sypherd -aye, Dr. Smidt - aye, Dr. Tippett - aye, Dr. McCoy - aye, Mr. McAllister - aye, Mr. Van Hassel -aye, President Dutcher - aye

A transcript of the hearing will be available at the Board Office in two weeks.

#### **Hearing - Christine Bona - Motion to Deem**

President Dutcher opened the administrative hearing. This is the time and place for the consideration of the matter of the hearing to determine whether to revoke or suspend the Pharmacy Technican Trainee License Number 5242, issued to Christine Bona, Notice of Hearing No. 06-0005-PHR.

The licensee, Ms. Bona, was not present.

Assistant Attorney General Stephen Wolf stated that this matter was set for a hearing before the Office of Administrative Hearings for April 24, 2006. Mr. Wolf stated that a copy of the Complaint and Notice of Hearing was sent to Ms. Bona on March 2, 2006 and her reply was due by April 5, 2006. Mr. Wolf stated that Ms. Bona did not file a timely answer and a Motion to Deem was filed on April 6, 2006 and her response was due as of April 17, 2006. The State did not receive a reply. Mr. Wolf stated that the State moved to vacate the hearing before the Office of Administrative Hearings and the motion was granted. Mr. Wolf stated a Motion to Deem was filed. Mr. Wolf stated that under A.R.S. § 32-1927.01 (O) , the licensee is required to respond within 30 days after receiving a copy of the complaint in order for her to participate in the hearing. Mr. Wolf stated that if the licensee refuses to do so then the Board may deem the allegations in the complaint as being true.

**On motion by Dr. Smidt and Dr. Tippett**, the Board unanimously agreed to deem the allegations contained in Notice of Hearing 06-0005-PHR.

**On motion by Mr. Van Hassel and Dr. Tippett**, the Board unanimously agreed to adopt the findings of fact Paragraph 1 through 5.

**On motion by Mr. Van Hassel and Dr. Tippett**, the Board unanimously agreed to adopt the Notice of Errata paragraphs 6 through 9 as conclusions of law.

Assistant Attorney General Stephen Wolf stated that Ms. Bona admitted to store officials that she had stolen Controlled Substances from the pharmacy while working as a pharmacy technician trainee. Mr. Wolf stated that an audit at the pharmacy indicated that there several thousand dosage units of hydrocodone and phentermine missing from the pharmacy. Mr. Wolf stated that the State would recommend that the Pharmacy Technician trainee license be revoked.

**On motion by Dr. McCoy and Dr. Tippett**, the Board unanimously agreed to revoke Pharmacy Technician Trainee License Number 5242, issued to Christine Bona. Following are the results of the roll call vote: Ms. Honeyestewa - aye, Dr. Sypherd - aye, Dr. Smidt - aye, Dr. Tippett - aye, Dr. McCoy - aye, Mr. McAllister - aye, Mr. Van Hassel -aye, President Dutcher - aye

A transcript of the hearing will be available at the Board Office in two weeks.

The Board adjourned at 11:20 A.M. for lunch.

The Board reconvened at 1:00 P.M.

President Dutcher called the meeting to order.

**AGENDA ITEM 13 - Low-Cost Pharmacy - Review of Administrative Law Judge's Recommended Decision for Case 06F-003-PHB**

President Dutcher opened the case. This is the time set for consideration of the Administrative Law Judge's Recommended Decision in Case Number 06F-003-PHB.

John Rao, Owner of Low Cost Pharmacy and Legal Counsel Adam Palmer were present.

Assistant Attorney General Stephen Wolf represented the State.

Assistant Attorney General Christine Cassetta was present to advise the Board.

President Dutcher stated that the Board will now hear oral argument from the parties on the Recommended Decision. Please understand this is not the time for you to reargue your case. Please focus on the recommended sanction and any errors you believe are contained in the Recommended Decision. Each party will have 10 minutes.

Assistant Attorney General Stephen Wolf presented his argument.

Mr. Adam Palmer presented the argument for the permit holder.

Assistant Attorney General Stephen Wolf presented the State's Rebuttal.

President Dutcher stated that having reviewed the Administrative Law Judge's Proposed Findings of Fact, Conclusions of Law and Order in the case, the administrative record, and the arguments from the parties, the Board will now deliberate. Mr. Dutcher stated that no further comments from the parties will be allowed while the Board deliberates. The Board deliberated the case. The Board discussed the risks to the public of filling prescriptions where the doctor made the diagnosis pursuant to an Internet questionnaire.

**On motion by Mr. McAllister and Dr. McCoy**, the Board unanimously agreed to adopt the Findings of Fact, paragraphs 1 through 32 as recommended by the Administrative Law Judge.

**On motion by Dr. McCoy and Dr. McCoy**, the Board unanimously agreed to adopt the Conclusions of Law, deleting Conclusions of Law numbered 7, 8, and 9 with modifications to 10 and 11.

**On motion by Mr. Van Hassel and Dr. Tippett**, the Board unanimously agreed to accept the Administrative Law Judge's recommendation and modify the language in Paragraph 3 to allow for two additional inspections the first year at the expense of the permit holder and original paragraph 3 was renumbered to paragraph 6 to substitute language not providing for a formal hearing on violation of probation. Following are the results of the roll call vote: Ms. Honeystewa - aye, Dr. Sypherd - aye, Dr. Smidt - aye, Dr. Tippett - aye, Dr. McCoy - aye, Mr. McAllister - aye, Mr. Van Hassel - aye, President Dutcher - aye

A copy of the transcript will be on file in the Board Office within two weeks.

**AGENDA ITEM 14 - Update on Prescription Drug Monitoring Program**

Mr. Wright stated a stakeholder meeting is scheduled for June 20, 2006. Mr. Wright stated that two representatives from Nevada will be attending the meeting. Mr. Wright stated that the Chief Inspector for the Nevada Medical Board will attend the meeting to discuss the Nevada program. Mr. Wright stated that Dr. Kidwell, who is a pain management specialist, will speak about his experiences with the Nevada monitoring program. Mr. Wright stated that the speakers will speak to representatives from Health Boards and Health Associations in Arizona to gain support for a prescription drug monitoring program in Arizona. The representatives support will be necessary to present the need for a drug monitoring program to the legislature in 2007. Mr. Wright stated that the planning grant will be used to fund this meeting. Mr. Wright stated the meeting will be held at the Arizona Medical Association's offices which are located at 810 W. Bethany Home from 1:00 to 4:00 P.M. on June 20, 2006. Mr. Wright stated that the purpose is to develop a task force to present a bill to the legislature.

Mr. Wand urged the Board Members to attend the meeting. Mr. Wand stated that the grant money cannot be spent on a lobbyist. Mr. Wand stated that Mr. Wright and Mr. Miller, the Executive Director of the Medical Board, will be traveling to Nevada on May 31, 2006 to review the Nevada program.

Mr. Dutcher asked if any programs were real time.

Mr. Wright stated that there are no real time programs at this time.

Dr. Smidt asked if the whole patient profile was available.

Mr. Wright stated that most programs monitor only controlled substances.

Mr. Wand stated that the grant funds only the monitoring of controlled substances.

Mr. Wright stated that most of the information will be obtained from the retail pharmacies.

#### **AGENDDA ITEM # 15 - Call to the Public**

President Dutcher 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 come forth.

There being no further business to come before the Board, **on motion by Dr. Smidt and Dr. McCoy**, the Board unanimously agreed to adjourn the meeting at 2:05 P.M.