



Arizona State Board of Pharmacy
1700 W. Washington, Suite 250
Phoenix, AZ 85007
Telephone (602) 771-2727 Fax (602) 771-2749

**THE ARIZONA STATE BOARD OF PHARMACY
HELD A REGULAR MEETING SEPTEMBER 15 AND 16, 2010
AT THE ARIZONA STATE BOARD OF PHARMACY OFFICE
PHOENIX, AZ**

MINUTES FOR REGULAR MEETING

AGENDA ITEM 1 – Call to Order – September 15, 2010

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

The following Board Members were present: President Zina Berry, Vice President Steve Haiber, Jim Foy, Joanne Galindo, Kyra Locnikar, Dennis McAllister, Dan Milovich, and Tom Van Hassel. The following staff members were present: Compliance Officers Rich Cieslinski, Tom Petersen, Sandra Sutcliffe, Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell.

AGENDA ITEM 2 – Declaration of Conflicts of Interest

Due to having a “substantial interest” in the matter, Dr. Foy recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 14, Schedule F, Consent Agreement for Sonia Quijano.

Due to having a “substantial interest” in the matter, Mr. Haiber recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 8, Schedule B, Special Requests, for Natalee Brown.

Due to having a “substantial interest” in the matter, Mr. Haiber recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 12, Schedule D, for Complaint # 3833.

Due to having a “substantial interest” in the matter, Dr. Berry recused herself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 7, Schedule A, Non-Resident Pharmacy Permit, for Walgreens #32894.

Due to having a “substantial interest” in the matter, Dr. Berry recused herself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 11, Schedule C, Conferences, for Conference #2.

Due to having a “substantial interest” in the matter, Dr. Berry recused herself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 12, Schedule D, for Complaint #3829.

Due to having a “substantial interest” in the matter, Dr. Berry recused herself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 14, Schedule F, Consent Agreements, for Dennis Ross.

AGENDA ITEM 3– Approval of Minutes

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Haiber and seconded by Mr. Van Hassel**, the minutes of the Regular Meeting held on July 15, 2010 were unanimously approved by the Board Members.

AGENDA ITEM 4 – Gilbert Hospital

Kimberly Warren, Director of Pharmacy Services, and David Wanger, Chief Executive Officer, were present to discuss a deviation from R4-23-655 (B) which requires a hospital pharmacy to have a minimum of 500 square feet.

President Berry opened the discussion by asking the respondents why they were appearing in front of the Board.

Ms. Warren stated that they are requesting an extension of the deviation from the space requirement of five hundred square feet that was previously granted to Gilbert Hospital in November of 2008. Ms. Warren indicated that the number of licensed beds has decreased. Ms. Warren stated that a portion of the hospital’s IV services have been outsourced. Ms. Warren stated that there was a delay in construction of the new hospital tower and they are requesting that an extension be granted until the project is completed. Ms. Warren stated that when the new tower is completed the hospital would meet all Board space requirements.

Dr. Berry asked Ms. Warren why they requested a deviation initially. Ms. Warren stated that the pharmacy had less than 300 square feet and the Board granted them a deviation for two years until the new hospital tower could be built.

Dr. Berry asked the respondents why they are requesting additional time. Ms. Warren stated that they are only requesting that the deviation be extended until the new tower is completed.

Dr. Berry asked Ms. Warren about the decrease in the number of licensed beds. Ms. Warren stated that the number of licensed beds has decreased from twenty-two beds to nineteen beds.

Mr. Van Hassel asked Ms. Warren who was the Pharmacist in Charge. Ms. Warren stated that she was the Pharmacist in Charge.

Mr. Van Hassel asked Ms. Warren if the pharmacy space is crowded. Ms. Warren stated that they have worked around the space issues.

Mr. Van Hassel asked Ms. Warren how many people work in the pharmacy area at a time. Ms. Warren stated that two people work in the pharmacy. Ms. Warren stated that one pharmacist and one technician work in the pharmacy at a time.

Mr. Van Hassel asked if they had a separate IV room. Ms. Warren stated that they have a separate IV room down the hall.

Dr. Foy asked Ms. Warren if there had been more employees in the pharmacy area when the initial deviation was granted. Ms. Warren stated in 2008 she had not worked at the hospital. Ms. Warren stated at that time the employees were not full-time employees and most of the employees were part-time employees. Ms. Warren stated that they had approximately 11 part-time employees.

Mr. Haiber asked Ms. Warren if the prescription volume had decreased since the number of beds had decreased. Ms. Warren stated that the prescription volume has remained about the same.

Mr. Haiber asked Ms. Warren when they anticipate building the new tower. Ms. Warren stated that the construction was held up by legal issues and the ground should be broken for the new tower within the next year.

Dr. Foy asked when the anticipated construction would be completed. Mr. Wanger stated that he hopes the construction would be completed in the next fourteen months.

Mr. Van Hassel asked if the ground was broken for the new tower. Mr. Wanger stated that they had not broken ground because they were embroiled in a legal case with the current landlord. Mr. Wanger indicated that the legal case has been settled.

On motion by Mr. Haiber and seconded by Ms. Galindo, the Board agreed to approve Gilbert Hospital's request to extend their deviation of R4-23-655(B) for an additional two years. R4-23-655 (B) requires a hospital to have a minimum of 500 square feet. The hospital currently has 300 square feet.

There was one nay vote from Mr. McAllister.

AGENDA ITEM 5- Wickenburg Hospital

Frank Post, Pharmacist in Charge, and Ron Smith, Chief Executive Officer, were present to discuss a deviation from R4-23-655 (B) which requires a hospital pharmacy to have a minimum of 500 square feet.

President Berry opened the discussion by asking the respondents why they were appearing in front of the Board.

Mr. Post stated that they are requesting approval to deviate from R4-23-655 (B) which requires a hospital pharmacy to have a minimum of 500 square feet. Mr. Post stated that

they would have approximately 362 square feet in their new pharmacy area. Mr. Post stated that they have 19 beds in the hospital.

Dr. Berry asked Mr. Post if they are remodeling an existing pharmacy. Mr. Post stated that they are remodeling the pharmacy and moving the pharmacy to a new location within the hospital.

Dr. Berry asked how many employees would be working in the pharmacy. Mr. Post stated that one pharmacist and one technician would be working in the pharmacy.

Dr. Berry asked Mr. Post if he felt cramped in his current work space. Mr. Post stated that the space is adequate. Mr. Post stated that the current space is roughly 290 square feet and the new space would be about 362 square feet.

Mr. Van Hassel asked why they were constructing a new pharmacy. Mr. Smith stated that the pharmacy would be given more space and the pharmacy would be located next to the nursing stations.

Mr. Van Hassel asked why they could not meet the 500 square foot requirement. Mr. Smith stated that they have limited space in the existing facility. Mr. Smith stated that they are licensed as a critical access hospital and have only 19 beds.

Mr. McAllister stated that the Board may want to review the rules and consider if an appropriate standard for a hospital pharmacy area is 500 square feet.

Mr. Wand believes that the rules were written to allow hospitals to request a deviation because small and rural hospitals had a limited number of beds and 500 square feet may not be needed depending on services provided.

Mr. McAllister asked if they had any long term care beds in the hospital. Mr. Smith replied no.

Mr. Van Hassel asked if they had a glove box for IV preparations. Mr. Post replied that they do not have a hood.

Mr. Van Hassel asked who prepares the IV admixtures. Mr. Post stated that the nurses do all the admixtures. Mr. Post stated that most of the IVs are simple IV admixtures and often are purchased as such.

On motion by Mr. McAllister and seconded by Mr. Haiber, the Board approved the request by Wickenburg hospital to deviate from R4-23-655(B) which requires a hospital to have 500 square feet. If there is any increase in patient load of a consistent nature, the hospital must appear at a future meeting to review the deviation. The current square footage is approximately 362 square feet including administrative space. There was one nay vote from Mr. Van Hassel.

AGENDA ITEM 6 – Heartland Home Infusion

Dr. Berry opened the discussion by stating that Heartland Home Infusion has requested to appear in front of the Board concerning a Consent Agreement that was signed by them and accepted by the Board. Dr. Berry stated that Heartland Home Infusion would like to

discuss vacating the final signed consent agreement. Dr. Berry asked if the Board would like to hear from the Heartland Home Infusion representative concerning the Consent Agreement since the Board does not have to take any action concerning the Consent Agreement.

Dr. Foy asked if the consent agreement was signed in November of 2009. Dr. Berry replied yes.

Mr. Haiber stated that he does not see any reason to vacate the consent agreement.

On motion by Mr. Haiber and seconded by Mr. McAllister, the Board unanimously agreed to meet in executive session.

President Berry called the regular meeting to order.

Dr. Berry stated that Heartland Home Infusion had waived all rights to an administrative hearing, rehearing, review, or reconsideration by signing the final Consent Agreement. The final consent was then approved by the Board.

Dr. Berry opened the discussion by asking if the Board Members would like to hear from the representative.

Dr. Berry stated that since there was no discussion the Board would leave the Board's decision as it stands since the Board does not have to take any action on the case.

Stuart Chanen, attorney for Heartland Home Infusion, came forth and demanded that the Board make a motion to let him be heard.

Mr. Chanen stated that he flew in from Chicago and informed Board Staff months ago that he would be attending the meeting and received a specific invitation from them and there has been other circumstances where the Board has reconsidered aspects of signed Consent Agreements.

Mr. Chanen stated that the courteous thing would be to allow him to be heard. Mr. Chanen stated that he has a client that he represents that is licensed and has been a good corporate citizen. Mr. Chanen stated that the circumstances are highly unusual and he is requesting that he be heard. Mr. Chanen stated that the Board went into Executive Session prior to allowing him to be heard and he feels that is procedurally improper.

Mr. Chanen stated that it is incorrect to say that the Board cannot overturn the Consent Agreement. Mr. Chanen again demanded that he be heard.

Mr. Chanen again demanded that the Board call for a motion to allow him to be heard. Mr. Chanen stated that he was invited by staff and it is rude to have him fly from Chicago and not to hear his case.

Mr. Chanen again demanded the Board call for a motion to hear his case.

Mr. Milovich stated that the staff does not have the authority to make the decision if his case is heard and that decision is made by the Board Members.

Ms. Campbell stated that is the Board's discretion if they would like to hear the case. Ms. Campbell stated when someone requests to be on the agenda the staff schedules cases to indicate that there is a spot on the agenda for the Board to consider their case. Ms. Campbell stated that it is the Board's decision if they want to consider the case.

Dr. Berry asked if there was a motion to allow him to be heard.

There was no motion and Mr. Chanen sat down at the table in front of the Board and indicated that this was highly inappropriate. Mr. Chanen demanded that the President give him the procedures for appeal.

Ms. Campbell addressed Mr. Chanen's request. Ms. Campbell stated in the Consent Agreement that Mr. Chanen's client signed there are statements indicating that his client has waived all rights to an administrative hearing, rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action concerning the matters in the Consent Agreement.

Mr. Chanen continued discussing the case. Mr. Chanen stated that the Board had reviewed two other consent agreements in May and the Board modified one agreement and denied the other agreement. Mr. Chanen stated that both agreements contained the same language. Mr. Chanen stated that Dr. Berry voted in a manner that suggests that the Board had the right to modify a consent agreement.

Mr. Chanen stated that his client did everything that they were asked to do. Mr. Chanen stated that it was noted that his client did not respond to the letter. Mr. Chanen stated that the letter did not call for a response. Mr. Chanen stated that they did comply by having a pharmacist get licensed in Arizona and designated him as the Pharmacist in Charge.

Mr. Chanen alleged that the case went haywire because a friend of Board staff and Board Counsel filed the complaint against his client.

Ms. Campbell stated that the Board has stated that they did not wish to consider the case and the conversation is ended at this time.

Mr. Chanen abruptly left the table and stated that the decision can be appealed.

AGENDA ITEM 7– Permits and Licenses

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

RESIDENT PERMITS

Express Aid

Kamal Saied, Owner and Pharmacist in Charge, was present to answer questions from Board Members.

President Berry opened the discussion by asking Mr. Saied about his business. Mr. Saied stated that the he would be operating an independent pharmacy.

Dr. Berry asked about his location. Mr. Saied stated that he is located in a shopping center area and has no association with the medical center.

Mr. Haiber asked Mr. Saied if he planned on preparing sterile products. Mr. Saied replied no.

Mr. Haiber asked Mr. Saied if he planned on filling Internet prescriptions. Mr. Saied replied no.

Mr. Haiber asked Mr. Saied if he planned on filling prescriptions for HCG. Mr. Saied replied no.

Mr. Van Hassel asked Mr. Saied about the size of the pharmacy. Mr. Saied stated that the pharmacy is roughly 1,000 square feet with a front end section.

Dr. Berry asked if Mr. Saied would be selling medications to physicians for office use. Mr. Saied replied no.

On motion by Mr. Haiber and seconded by Mr. Milovich, the Board unanimously approved the resident applications listed below pending final inspection by a Board Compliance Officer.

RESIDENT (In Arizona)

| Pharmacy | Location | Owner |
|-------------------------------------|---------------------------------------------------|----------------------------------------------|
| Banner Family Pharmacy | 1111 E. McDowell Rd., Phoenix, AZ 85006 | Banner Health |
| Valley Hospital | 3550 E. Pinchot Ave., Pheonix, AZ 85018 | UBH of Phoenix, LLC |
| Safeway #3151 | 9890 S. Estrella Parkway, Goodyear, AZ 85338 | Safeway, Inc. |
| Wal-Mart Pharmacy #10-4252 | 2601 E. Huntington Dr., Flagstaff, AZ 86004 | Wal-Mart Stores |
| Express Aid | 2316 W. Bethany Home Rd., #119, Phoenix, AZ 85015 | Kamal Saied |
| Sun Life Family Health Center, Inc. | 205 N. Stuart Blvd., Eloy, AZ 85131 | Victor Provencio |
| El Rio El Pueblo Pharmacy | 101 W. Irvington, Tucson, AZ 85714 | El Rio Santa Cruz Neighborhood Health Center |
| Patient Care Infusion LLC | 2502 N. 1 st Ave., Tucson, AZ 85719 | Patient Care Infusion LLC |

NON-RESIDENT PERMITS

On motion by Mr. McAllister and seconded by Mr. Van Hassel, the Board unanimously approved the non – resident permits listed below.

NON-RESIDENT (Out of State)

| Pharmacy | Location | Owner |
|--------------------------------------------|-------------------------------------------------|--------------------------------------------|
| Specialty Compounding LLC | 211 S. Bell Blvd., Cedar Park, TX 78613 | Specialty Compounding |
| Pharmahealth Specialty/Long Term Care Inc. | 132 Alden Rd., Fairhaven, MA 02719 | Pharmahealth Specialty/Long Term Care Inc. |
| Pharmacy Services, Inc. | 212 Millwell Dr., Suite A, St. Louis, MO 63043 | Pharmacy Services, Inc. |
| River's Edge Pharmacy and Home Infusion | 523 Parkway View Dr., Pittsburgh, PA 15205 | River's Edge Pharmacy and Home Infusion |
| Triplefin Specialty Services, LLC | 6000 Creek Rd, Cincinnati, OH 45242 | Triplefin Specialty Services, LLC |
| O'Brien Pharmacy | 5453 W. 61 st Pl., Mission, KS 66205 | O'Brien Pharmacy |

Walgreens #32894

Dr. Berry recused herself due to a conflict of interest.

On motion by Mr. Van Hassel and seconded by Mr. Milovich, the Board unanimously approved the non – resident permit listed below.

RESIDENT

| Pharmacy | Location | Owner |
|-------------------|------------------------------------------------------|--------------|
| Walgreens # 32894 | 14901 NW 79 th Ct., Miami Lakes, FL 33016 | Walgreen Co. |

Wholesaler Permits

President Berry stated that there is one resident wholesale permit to approve and a representative is present to answer questions from Board Members.

First Choice Medical

Brandon Hardy and Lyle Lavender appeared to answer questions from Board Members.

President Berry opened the discussion by asking Mr. Hardy if they are a full service wholesaler.

Mr. Hardy stated that they would be operating a full service wholesale operation in Phoenix. Mr. Hardy stated that he would be the manager of the new facility. Mr. Hardy stated that he has worked at the Florida site and is familiar with pedigree regulations.

Mr. Van Hassel asked Mr. Hardy who would be their intended clients. Mr. Hardy replied that they would service elder care facilities and nursing homes.

Mr. Milovich asked how long the company has been in business in Florida. Mr. Hardy replied that they have been in business for three years.

Mr. Haiber asked Mr. Hardy if they would be carrying controlled substances. Mr. Hardy replied no.

Mr. Wand asked if they submitted their bond. Mr. Hardy replied yes.

On motion by Mr. Haiber and seconded by Mr. Milovich, the Board unanimously approved the wholesaler permit listed below.

| WHOLESALER | LOCATION | OWNER |
|------------------------------------------------------|-------------------------------------------|------------------------------------|
| First Choice Medical Supply LLC (Full Service) | 7375 W. Buckeye Rd., Phoenix, AZ 85043 | First Choice Medical Supply LLC |

Pharmacists, Interns, Pharmacy Technicians, and Pharmacy Technician Trainees

President Berry stated that all license requests and applications were in order.

On motion by Dr. Foy and seconded by Mr. Haiber, the Board unanimously approved the Pharmacists licenses listed on the attachments.

On motion by Mr. Haiber and seconded by Mr. Milovich, the Board unanimously approved the Intern licenses listed on the attachments.

On motion by Mr. Haiber and seconded by Mr. Van Hassel, the Board unanimously approved the Pharmacy Technician and Pharmacy Technician Trainee applications listed on the attachments.

AGENDA ITEM 6 – Special Requests

#1 Jeffrey Hannibal

Jeffrey Hannibal appeared on his own behalf to request that the Board amend his Consent Agreement to allow him to serve as a Pharmacist in Charge. Lisa Yates from the PAPA program was also present.

President Berry opened the discussion by asking Mr. Hannibal why he was appearing in front of the Board.

Mr. Hannibal stated that he was placed on probation three years ago and is requesting that the Board amend his consent agreement to allow him to hold the position of pharmacist in charge.

Dr. Berry asked Ms. Yates if Mr. Hannibal is compliant with his contract. Ms. Yates replied that Mr. Hannibal has been compliant.

Dr. Foy asked Mr. Hannibal what he has been doing since 2007. Mr. Hannibal replied that he has been working as a pharmacist at Community Pharmacy which is a retail pharmacy.

Dr. Berry asked Mr. Hannibal about his recovery program. Mr. Hannibal stated that he participates in the PAPA program. Mr. Hannibal stated that he is required to attend three recovery based meetings weekly, but he usually attends 5 meetings a week. Mr. Hannibal stated that he is an active participant and also serves as a sponsor.

Mr. Van Hassel asked Mr. Hannibal why he wants to be a pharmacist in charge. Mr. Hannibal stated that his current employer would like to make him the Pharmacist in Charge at one of his stores.

Mr. Milovich stated that he feels that there is still 2 years left on his contract and it should not be changed.

On motion by Mr. Haiber and seconded by Mr. Milovich, the Board unanimously agreed to deny the request by Mr. Hannibal to amend his consent agreement to allow him to be the Pharmacist in Charge.

#2 Stan Kudish

Stan Kudish appeared on his own behalf to request that the Board amend his Consent Agreement to allow him to serve as a Pharmacist in Charge. Lisa Yates from the PAPA program was also present. Alana Podwika, Chief Pharmacist of Clinical Services, and

Rachel Lambert, Human Resources Director for Mountain Park Medical Services were also present.

President Berry opened the discussion by asking Mr. Kudish why he was appearing in front of the Board.

Mr. Kudish stated he would like the Board to amend his consent agreement so that he could be the pharmacist in charge.

Dr. Foy asked Mr. Kudish why he is requesting to be the pharmacist in charge. Mr. Kudish stated that the medical center has a need for a pharmacist in charge. Mr. Kudish stated that the last two pharmacists that had accepted the job did not work out in that position.

Dr. Foy asked if it is a stressful environment. Mr. Kudish stated that for him it is not a stressful environment. Mr. Kudish stated that he has developed interpersonal skills to deal with the various situations at the center.

Ms. Lambert spoke on Mr. Kudish's behalf. Ms. Lambert stated Mr. Kudish was hired three years ago. Ms. Lambert stated that Mr. Kudish is the best applicant in house for the position. Ms. Lambert stated that Mr. Kudish has a connection with the community and provides excellent customer service. Ms. Lambert stated that doctors value Mr. Kudish's opinion and he is a team member. Ms. Lambert stated that Ms. Podwika is currently the Chief Pharmacist and it is difficult for her to be the Pharmacist in Charge also. Ms. Lambert stated that Mr. Kudish has been helping with some of the duties expected of the Pharmacist in Charge.

Ms. Podwika stated that Mr. Kudish is good with the patients at the center. Ms. Podwika stated that Mr. Kudish is respectable and assists in answering drug information questions. Ms. Podwika stated that Mr. Kudish would be the Pharmacist in Charge at the Mountain Park Pharmacy at Maryvale.

Mr. McAllister stated that he is familiar with the Mountain Park system. Mr. McAllister stated that Mr. Kudish would be under the supervision of the Director of Pharmacy and would also be working with other pharmacists. Mr. McAllister stated that Mr. Kudish would not be working alone.

Mr. McAllister asked Ms. Campbell if the Board could add an extra requirement to the consent agreement. Ms. Campbell stated that the Board could amend the consent agreement.

A motion was placed on the floor by Mr. McAllister and seconded by Mr. Haiber to approve Mr. Kudish's request to amend his consent agreement to allow him to be the Pharmacist in Charge while employed by the Mountain Park system only. Mr. Wand would be authorized to sign the amended consent agreement on behalf of the Board. A roll call vote was taken. (Ms. Galindo – nay, Ms. Locnikar – aye, Mr. McAllister – aye, Mr. Van Hassel – aye, Mr. Haiber – nay, Dr. Foy – nay, and Dr. Berry – nay)

The motion failed.

Ms. Campbell stated that the status of the Consent Agreement remains unchanged.

#3 Karen Lieb

Karen Lieb appeared on her own behalf to request that suspension imposed on her pharmacist license per Board Order 10-0052-PHR be terminated and probation be imposed. Lisa Yates with the PAPA program was also present.

President Berry opened the discussion by asking Ms. Lieb why she was appearing in front of the Board.

Ms. Lieb stated that she would like the Board to lift her suspension and be placed on probation.

Dr. Berry asked Ms. Yates if PAPA supports her request. Ms. Yates stated that Ms. Lieb has been compliant with her contract.

Dr. Berry asked Ms. Lieb what is different this time in her recovery program. Ms. Lieb stated that she has been working the 12-step program. Ms. Lieb stated that in the past she was compliant and did what was required. Ms. Lieb stated that she has a sponsor and has a spiritual foundation this time.

Dr. Berry asked Ms. Lieb if she is ready to return to work. Ms. Lieb stated that she is ready to return to work and would be working at the Mortar and Pestle in Flagstaff.

Dr. Berry asked Ms. Lieb if she has completed any community service hours. Ms. Lieb replied that she has not, but does have some options.

Mr. Milovich asked Ms. Lieb what sparked the change in her recovery. Ms. Lieb stated that when she went to the treatment center she discovered that her life was unmanageable. Ms. Lieb stated that she is now working the 12 steps.

On motion by Mr. Haiber and seconded by Mr. Milovich, the Board unanimously agreed to approve the request by Ms. Lieb to terminate the suspension of her pharmacist license and impose probation per Board Order 10-0052-PHR.

#4 Natalee Brown

Mr. Haiber recused himself due to a conflict of interest.

Natalee Brown appeared on her own behalf to request that the suspension imposed on her pharmacist license per Board Order 10-0053-PHR be terminated and probation be imposed. Lisa Yates with the PAPA program was also present.

President Berry asked Ms. Brown why she was appearing in front of the Board. Ms. Brown stated that she is asking the Board to terminate her suspension on October 1, 2010 and impose probation. Ms. Brown stated that she participated in a 30 day treatment program. Ms. Brown stated that she attends AA meetings and has received counseling for the reason she started drinking. Ms. Brown stated that she is ready to return to work. Ms. Brown stated that she has started her community service hours.

Mr. Van Hassel asked Ms. Brown if she has a job. Ms. Brown stated that she does not have a job.

Dr. Berry asked Ms. Yates if PAPA supports her request. Ms. Yates stated that PAPA supports her request and Natalee has been compliant with her contract.

Mr. Van Hassel asked Ms. Brown if she has consumed any alcohol while in the PAPA program. Ms. Brown stated that she never drank until she was placed in a situation that caused the problem. Ms. Brown stated that she is now back with the church and is seeing a counselor to help her resolve her problems.

On motion by Mr. Van Hassel and seconded by Mr. Haiber, the Board unanimously agreed to approve the request by Ms. Brown to terminate the suspension of her pharmacist license on October 1, 2010 and impose probation per Board Order 10-0053-PHR.

#5 Scott Huft

Scott Huft appeared on his own behalf to request that the probation imposed on his pharmacist license per Board Order 05-0015-PHR be terminated. Lisa Yates with the PAPA program was also present.

President Berry opened the discussion by asking Mr. Huft why he was appearing in front of the Board. Mr. Huft stated that he is requesting his probation be terminated.

Dr. Berry asked Mr. Huft if he completed the PAPA program. Mr. Huft stated that his PAPA contract was completed in August. Mr. Huft stated that he is continuing to go to the PAPA program.

On motion by Mr. Van Hassel and seconded by Mr. Milovich, the Board unanimously agreed to approve the request by Mr. Huft to terminate the probation of his pharmacist license imposed by Board Order 05-0015-PHR.

#6 David Clapp

David Clapp appeared on his own behalf to request that the probation imposed on his pharmacist license be terminated. Lisa Yates with the PAPA program was also present.

President Berry opened the discussion by asking Mr. Clapp why he was appearing in front of the Board. Mr. Clapp stated that he is requesting that the Board terminate the probation on his license that was imposed when his license was reinstated.

Dr. Berry asked if PAPA supports his request. Ms. Yates stated that Mr. Clapp has been compliant with his contract. Ms. Yates stated that Mr. Clapp is working and has been compliant.

Mr. Haiber asked Mr. Clapp if he passed all the exams. Mr. Clapp replied yes.

Mr. Clapp stated that he has built up a support system. Mr. Clapp stated that he works with other participants and likes to contribute back to the program.

Ms. Yates stated that Mr. Clapp has asked to serve on the steering committee, but he must wait one year.

On motion by Mr. Van Hassel and seconded by Dr. Foy, the Board unanimously agreed to approve the request by Mr. Clapp to terminate the probation imposed on his pharmacist license.

#7 Jeffrey Yanello

President Berry asked Ms. Frush to address this request.

Ms. Frush stated that Mr. Yanello sent a letter to the Board requesting that the suspension of his Arizona pharmacist license be removed based upon the recent reinstatement of his Pennsylvania pharmacist license. Mr. Yanello's Arizona pharmacist license has expired. The Board will place the information regarding his reinstatement of his Pennsylvania license in his file to be considered in the event that he should ever reapply for licensure in Arizona.

AGENDA ITEM 9 – Diamondback Drugs and Michael Blaire – Case #10-0010-PHR and Case #10-0011- PHR

Susan Trujillo, Legal Counsel for Diamondback Drugs and Michael Blaire, was present to request that the Board review the consent agreements offered to Diamondback Drugs and Michael Blaire.

President Berry opened the discussion by asking Ms. Trujillo why she was appearing in front of the Board.

Ms. Trujillo stated that she is asking the Board to reconsider the Consent Agreements offered to Diamondback Drugs and Michael Blaire. Ms. Trujillo stated that Mr. Cieslinski came to the pharmacy as a result of an anonymous complaint concerning the cleanliness of the pharmacy, employee safety, and patient safety.

Ms. Trujillo stated that Mr. Blaire was present at the inspection. Ms. Trujillo stated that Mr. Blaire has instituted a new log to document the cleaning process.

Ms. Trujillo stated that a letter was sent to the Board explaining why Mr. Blaire did not submit his response to the complaint prior to the Board meeting.

Ms. Trujillo stated that they are asking the Board to reconsider the case in light of the response and letter.

Ms. Trujillo stated that there was not a violation of statute and they are requesting that the Board either dismiss the case or issue a non-disciplinary advisory letter.

Dr. Berry asked if the cleaning log was being used at the time of the complaint investigation. Ms. Trujillo stated that the activities were happening but the log was not being signed. Ms. Trujillo stated that all employees are completing a CE course on good compounding practices.

Dr. Foy asked if the two additional inspections were performed. Mr. Wand stated that the inspections would be conducted after the consent was signed.

Mr. McAllister stated that the issue is not the cleaning log. Mr. McAllister stated that Mr. Cieslinski observed two scales covered with powder. Mr. McAllister stated that the response does not target the charge. Mr. McAllister stated that he is not sure that formal discipline is necessary. Mr. McAllister stated that the pharmacy is open to inspection at any time.

On motion by Mr. McAllister and seconded by Dr. Foy, the Board agreed to close the Complaint #3812 with an advisory letter concerning the cleanliness of the pharmacy. There was one nay vote by Mr. Van Hassel.

AGENDA ITEM 9 – Reports

Executive Director Report

Budget Issues

Mr. Wand opened the discussion by reviewing the financial reports with the Board Members.

Board Meeting Room

Mr. Wand stated that it is possible that the Board may be asked to give up the Board Meeting Room. Mr. Wand stated that the Board is paying the rent for the room and allows others to use the room at no charge.

Mr. Wand asked the Board Members to think about possible alternative sites if the Board is asked to give up the room.

Renewals

Mr. Wand stated that renewals have begun and will continue through the end of October. Mr. Wand stated that licenses and permits can be renewed online with a credit card. Mr. Wand stated that currently most renewals are being done online.

NABP update

Mr. Wand stated that Dr. Berry and Mr. Haiber will be attending a session at NABP next week for Board Members. Mr. Wand will also be attending the session.

Mr. Wand stated that the NABP district meeting will be held at the end of the month.

Mr. Wand stated that he is running as a candidate for the NABP Executive Committee.

Satisfaction Survey

Mr. Wand stated that the Board sends out postcards rating the service applicants receive from the Board. Mr. Wand stated that the Board staff has received excellent marks and positive comments.

Mr. McAllister stated that when he attends other Board Meetings he receives many compliments concerning the Board staff. Mr. McAllister stated that many individuals are impressed that the Board answers their phone calls unlike other Boards where they receive no response after being required to leave a voice message.

Deputy Director Report

Ms. Frush reviewed the Compliance Officers Activity Report and Drug Inspector Activity Reports with the Board Members. Ms. Frush stated that there are four Compliance Officers and one Drug Inspector. Ms. Frush stated that the new Compliance Officer has completed his training and is now conducting inspections on his own.

During the months of July and August, the Compliance Staff issued letters for the following violations:

Controlled Substance Violations

1. Controlled Substance Overage –5
2. Failure to complete Controlled Substance Inventory upon change of Pharmacist in Charge – 1
3. Did not complete annual Controlled Substance Inventory – 1
4. Failed to maintain store copy of DEA 222 - 1

Documentation Violations

1. Failure to sign daily log - 1
2. Failure to document counseling – 4
3. Failure to document mechanical counting devices maintenance – 5
4. Failure to have signed technician statements -3
5. Failure to document medical conditions - 3

Dispensing Violations

1. Outdated Rx and OTC items in the pharmacy –2
2. Returning medications to counting machine without system approval - 1

Pharmacy Violations

1. Allowing a technician to work with an expired license - 1
2. Administering immunizations with an expired certificate - 1

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

1. Maintenance of mechanical counting devices and documentation

Areas outside the inspection reports that may be of interest:

1. Generic Substitution – 2 line prescription blank – “AB” rated product

PAPA Report

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of fifty (50) participants in the PAPA program. Since the last report on May 12, 2010, three participants have completed the program and there have been two (2) new participants come into the program.

Ms. Yates stated that PAPA will be sponsoring a CE article that will be appearing in the “Arizona Journal of Pharmacy” in the near future. The article will be written by Kristen Polin and will be on “Street Drugs”.

Ms. Yates stated that PAPA would like to thank the Board for their continued support of the program.

Ms. Yates and the Board Members discussed concerns about several participants.

AGENDA ITEM 11- Conferences

Conference 1

The following complaints occurred at Banner Children’s Hospital in Mesa. The following individuals were present to discuss the complaints: Shannon Smith-Eckert – Pharmacist and Brian Ziegler – Pharmacy Director. Ken Baker, Legal Counsel for Ms. Smith-Eckert, was also present.

President Berry asked Ms. Sutcliffe to give a brief overview of the complaint. Ms. Sutcliffe stated that an Emergency Room nurse and doctor filed two complaints against the pharmacist. Ms. Sutcliffe stated in the first incident the pharmacist changed the IV rate to titrate. The Emergency Room is a paperless system and the nurse was not able to view the IV rate. Ms. Sutcliffe stated that the second incident involved the voiding of a Zofran order because the pharmacist thought the dose was too high. The Emergency Room staff is not able to view voided orders.

Dr. Berry asked Ms. Smith-Eckert to discuss the complaints. Ms. Smith-Eckert stated that she had prepared a statement concerning the complaints.

Ms. Smith-Eckert stated that in the first incident the rate is usually listed as titrate per policy. Ms. Smith-Eckert stated that the rate can change quickly and they cannot change the label quick enough to reflect the change.

Ms. Smith-Eckert stated that she entered the rate as titrate and did not enter the rate in the comment field because she believed that the rate could be viewed. Ms. Smith-Eckert indicated that the information could be viewed on the paper order.

Ms. Smith-Eckert stated that she was later told by the Pediatric Pharmacy Manager when entering orders for the Emergency Room to enter the IV rate as ordered by the doctor and not use titrate in the rate field. Ms. Smith-Eckert stated that on the pediatric floors in the hospital they use titrate and put the rate in the comment field.

Ms. Smith-Eckert stated that she worked at the hospital for 10 months and was not aware that when she voided an order that the order disappears. Ms. Smith-Eckert stated that voided orders were not covered in her training. Ms. Smith-Eckert stated that she thought when she voided orders the doctor or nurse could see the order and act upon her void. Ms. Smith-Eckert stated that she later learned that the hospital had a dosing protocol for the Zofran that she was not aware of when she voided the order for the dosing.

Ms. Smith-Eckert stated that orders are entered differently for the Emergency Room and the hospital floors.

Dr. Berry asked Mr. Ziegler to address the complaints.

Mr. Ziegler stated that prior to this incident Ms. Smith-Eckert was instructed to enter the IV solution rate in the comments. Mr. Ziegler stated that Ms. Smith-Eckert was coached in February and this incident occurred in April.

Mr. Ziegler stated that if Ms. Smith-Eckert had any questions concerning the Zofran order she should have clarified the order with the doctor or nurse.

Mr. Baker stated that Ms. Smith-Eckert was accused of changing the IV rate. Mr. Baker stated that Ms. Smith-Eckert was not aware that the Nursing Staff in the Emergency Room could not see the chart.

Mr. Baker stated that the doctor accused Ms. Smith-Eckert of vetoing the doctor's order. Mr. Baker stated that Ms. Smith-Eckert thought that she was leaving a message for the doctor by voiding the order prompting him to question the dose. Mr. Baker stated that the problem was that Ms. Smith-Eckert did not understand how the system worked.

Dr. Berry asked Mr. Ziegler when the Emergency Room went paperless. Mr. Ziegler replied in April of 2009.

Dr. Berry asked what the typical protocol is for entering the IV rate. Ms. Smith-Eckert stated that they use titrate for pediatric patients and use the ordered rate for adults. Mr. Ziegler stated that they used titrate for pediatric patients because there could be other feedings and the rate could be titrated up or down. Mr. Ziegler stated that in February it was decided that the initial rate should be placed in the comment field, so that the doctor and nurse knows where to start the IV.

Mr. Van Hassel asked at the time of the incident what were the pharmacists required to enter into the rate field. Mr. Ziegler stated that some enter the exact rate or enter the rate into the comment field if they use titrate.

Mr. Van Hassel asked why the director was called. Mr. Ziegler stated that due to the inflexibility of Ms. Smith-Eckert to clarify the dose. Mr. Ziegler stated that the Zofran voiding compiled the situation. Mr. Ziegler stated that Ms. Smith-Eckert should have followed the chain of command and involved the pharmacy manager instead of letting the situation continue for 3 to 4 hours.

Mr. Van Hassel asked what should have Ms. Smith-Eckert done with the Zofran order. Mr. Ziegler stated that she should have called the doctor or nurse.

Mr. McAllister asked if the rest of the pharmacists had the same issues. Mr. Ziegler stated that Ms. Smith-Eckert was coached in February. Ms. Smith-Eckert stated that she was hung up on when she told the nurse that she did not have the protocol that she referred to for the Zofran dosing.

Mr. McAllister asked what should have been done if there is a question about dosing. Mr. Ziegler stated that when in doubt the order should be clarified with the physician and the order should not be voided. Mr. Ziegler stated that the escalation of the problem caused the friction.

Dr. Foy asked about the coaching Ms. Smith-Eckert received in February. Mr. Ziegler stated that when they identified that by typing titrate in the dose field the nurse was not able to see the rate on the screen the nurse was viewing they requested that the pediatric pharmacy manager ask all pharmacists to type the rate in the comment field so the nurse knows where to start the rate. Mr. Ziegler stated that an e-mail clarification was sent to all pharmacists. Mr. Ziegler stated that an e-mail was sent to all pharmacists in February and another e-mail was sent after this incident.

Dr. Foy asked Ms. Smith-Eckert about the voiding of the Zofran order. Ms. Smith-Eckert stated that by voiding the order she thought the doctor would be prompted to question the order. Ms. Smith-Eckert stated she misunderstood how the process worked. Ms. Smith-Eckert stated that the system does not task the doctor to take any action. Ms. Smith-Eckert stated that the physician called and hung up on her.

Mr. Milovich asked Mr. Ziegler when they changed the procedure if they asked the pharmacists to sign some acknowledgment that they understood the change. Mr. Ziegler replied no.

Mr. Milovich asked Mr. Ziegler if the voiding of orders is addressed during training. Mr. Ziegler stated that he is not sure if the voiding of orders is addressed.

Mr. Milovich asked Mr. Ziegler describe the training process. Mr. Ziegler stated that a new pharmacist is trained for 3 months on a one-on-one basis with a trainer.

Mr. Milovich asked if there is a formal training process. Mr. Ziegler stated that the pharmacist must complete training in all phases. The pharmacist is trained in order entry and is observed by their trainer.

Mr. Milovich asked if there is a formal training manual for the trainer to review with the pharmacists. Mr. Ziegler stated that they have order sets that they complete.

Mr. Haiber asked Mr. Ziegler if there are written policies and procedures to address voids. Mr. Ziegler stated that they have extensive policies but do not have a specific policy for voids.

Mr. Haiber asked Ms. Smith-Eckert about her understanding of the process for voids. Ms. Smith-Eckert stated that it was her understanding that it would be communicated to the nursing department.

Mr. Haiber asked Ms. Smith-Eckert on what she based her assumption. Ms. Smith-Eckert stated that she assumed that the computer system would task the nurse to take some action.

Mr. Haiber asked Ms. Smith-Eckert if she called the doctor in the past when she had questions. Ms. Smith-Eckert replied yes.

Mr. Van Hassel asked if there have been issues with other pharmacists working in the Pediatric pharmacy. Mr. Ziegler replied no.

Ms. Locnikar asked Ms. Smith-Eckert if she voided orders previously and what was the outcome. Ms. Smith-Eckert stated that she had voided orders before and she received communication back from the prescriber. Ms. Smith-Eckert stated that obviously the communication was coincidental. Mr. Ziegler stated that conclusions cannot be drawn based on previous cases.

Mr. Van Hassel asked if the incident was reported to the hospital review committee. Mr. Ziegler stated that the pediatric manager called and spoke to Shannon. Mr. Ziegler stated that Ms. Smith-Eckert was coached by the pediatric pharmacy manager and Pharmacist in Charge. Mr. Ziegler stated that she was coached not to void orders and to enter rate comments in the comment field. Mr. Ziegler stated that Ms. Smith-Eckert was also coached to follow the chain of command.

Ms. Smith-Eckert stated that she works seven days on and seven days off. Ms. Smith-Eckert stated that the incident occurred on her last day of work for the week. Ms. Smith-Eckert stated that she was coached on her return to work after her week off. Ms. Smith-Eckert stated that she was told to type in the exact rate for the Emergency Department and not to put the rate in the comment field.

Dr. Berry asked what is the accepted practice when entering the rate for pediatric floors. Ms. Smith-Eckert stated that there is no consensus. Ms. Smith-Eckert stated that some put in the initial rate and others enter the rate in the comment field.

Mr. McAllister stated that there are two complaints where no patient harm occurred but patients were put at risk. Mr. McAllister stated that he does not feel it is worthy of license discipline.

Mr. Haiber stated that he does have a concern about the non-dispensing of the medication.

Dr. Berry recommended that the hospital standardize their policies and procedures to avoid confusion.

Mr. Van Hassel stated that there is a breakdown in communications and he recommended that the Director develop methods to improve communications.

On motion by Mr. McAllister and seconded by Dr. Foy, the Board unanimously agreed to issue an advisory letter to the pharmacist to follow policies and procedures and to verify orders if there is a question.

On motion by Mr. McAllister and seconded by Dr. Foy, the Board unanimously agreed to issue an advisory letter to the permit holder concerning the communication of policies and procedures.

Mr. McAllister stated that it is extremely rare for a doctor or nurse to file a complaint with the Board.

AGENDA ITEM 12 – Complaint Review

Mr. Wand stated that due to the small number of complaints and a committee quorum issue the full Board will review the complaints this time.

Complaint #3829

Dr. Berry recused herself due to a conflict of interest.

Mr. Milovich stated that this involved two pharmacists that were terminated for the filling of prescriptions for family members in violation of company policy. Information was provided that one of the prescribers, a nurse practitioner, is the sister of one of the pharmacists. The Compliance Officer sent requests to the nurse practitioner asking her to review the prescriptions. The nurse practitioner signed responses to the record request indicating that she did issue the prescriptions and documentation could be found in the patient's chart. Two of the prescriptions were for controlled substances and it is unclear if the nurse practitioner can write controlled substance prescriptions for extended family members.

Mr. Haiber indicated that this is a violation of internal company policy and not Board regulations.

On motion by Mr. Van Hassel and seconded by Mr. McAllister, the Board unanimously agreed to dismiss the complaint and refer the complaint to the nursing board.

Complaint #3833

Mr. Haiber recused himself due to a conflict of interest.

Mr. Milovich stated that this addresses ethical issues. Mr. Milovich stated that the issues involve the deleting of prescriptions and not entering information to meet quotas.

Mr. Wand stated that the complaint was sent by a group of employees to the Board Office. Mr. Wand stated that a letter was sent to each Board Member concerning their issues with procedures at the pharmacy. Mr. Wand stated that he believes that the main issue is that the pharmacists want to view the data that the technicians use to enter the allergy information and the medical conditions. Mr. Wand stated that the pharmacists

cannot view that information under the current situation. Mr. Wand stated that is why the violation is listed. Mr. Wand stated that the company feels that the pharmacists do not need to view the information.

Mr. Van Hassel stated that in the hospital non-pharmacy personnel obtain the information from the patients.

Mr. McAllister stated that he feels that pharmacists have a hard time allowing other people to do part of the work. Mr. McAllister stated that the pharmacists must have trust that the company has quality systems in place.

Mr. Wand stated that there is also a concern that the company stated in their response that the information does not have to be accurate.

Dr. Foy asked if a flag alerts the pharmacist to allergies. Ms. Frush stated that the pharmacist would be alerted if the allergy was entered. Ms. Frush stated that the pharmacists indicated in their complaint that they could previously view the mailer where the patients listed the allergies but could no longer view the scanned information. Ms. Frush stated that the pharmacists stated in their complaint that they have concerns if the technicians are entering all the information or skipping information to meet quotas.

On motion by Mr. Van Hassel and seconded by Mr. McAllister, the Board unanimously agreed to dismiss the complaint.

Complaint #3838

Mr. Milovich stated that this complainant stated that she was charged a copay for a prescription that she had filled at the pharmacy. The complainant stated that she is an AHCCCS patient and should not have to pay a copay, but was told by the pharmacist that she needed to pay the difference between what AHCCCS paid and what the cost was for him to prepare the prescription. The patient returned to the pharmacy and questioned the pharmacist and he refunded her money. The Compliance Officer also noted that the pharmacist supplied the prescription blanks to the prescriber.

Mr. Van Hassel noted that the ingredients on the prescription blank did not match the ingredients on the compounding sheet.

On motion by Mr. McAllister and seconded by Mr. Van Hassel, the Board unanimously agreed to refer the complaint to AHCCCS. Also, the Board requested that the Compliance Staff conduct an additional investigation of the pharmacy's compounding records and report their findings back to the Board.

Complaint #3844

Mr. Milovich stated that the Board Office received notification from a pharmacy that a pharmacist had admitted to the theft of controlled substances from the pharmacy. The Board Office received a letter from the pharmacist's PAPA counselor indicating that the pharmacist had entered the PAPA program as a confidential member. The counselor stated that as part of the pharmacist's recovery program, he must make amends to people whenever possible. The counselor stated that the pharmacist went to his previous employer and admitted to the theft of the controlled substances. The counselor is

requesting that the Board allow the pharmacist to become a known PAPA member and sign a new PAPA contract.

A motion was placed on the floor by Mr. Van Hassel and seconded by Mr. Haiber to offer the pharmacist a consent agreement making him a known member for a PAPA contract for the rest of the time remaining on his confidential PAPA agreement.

Mr. McAllister stated that he does not agree with the motion because the pharmacist was making amends for his actions in accordance with his program.

Ms. Galindo stated that the pharmacist chose to make amends and the pharmacy is reporting the theft as required by law.

Dr. Foy asked if the police report the action could the Board take action. Ms. Campbell stated that if the pharmacist is charged criminally the Board could take action on the criminal charge.

On motion by Mr. Haiber and seconded by Mr. Milovich, the Board agreed to meet in Executive Session to obtain legal advice and ask questions of the permit holder.

President Berry called the regular meeting back to order.

The original motion was withdrawn.

On motion by Mr. McAllister and seconded by Ms. Locnikar, the Board agreed to dismiss the complaint. There was one nay vote by Mr. Haiber.

AGENDA ITEM 13 – Pharmacy Technician Trainee Requests for Approval to Reapply for Licensure

President Berry stated that Mr. Wand has reviewed the requests and has approved the individuals for one additional two year period.

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

Pharmacy Technician Trainee Requests to reapply for licensure

| | | |
|--------------------|-------------------|---------------------|
| Ambreen Riaz | Frank Lopez | Lanivila Maile |
| Steven Gamo | Morris Slape | Jourdan Grabowsky |
| Jackelyn Marciano | Gloria Bustillos | Tara Studt |
| Tiffany Davis | Lucinsa Montoya | Holly Rook |
| Angel Encinias | Juana Sanguino | Joseph Larkin |
| James Ronald Go | Berenice Cueto | Dony Khamis |
| Fancy Mae Balingit | Anthony Espositio | Johnathan Barksdale |
| Shahin Farvadin | Thalia Williams | Sarah Overholt |
| Robert Parks Jr. | Timothy Nelson | Lou Ann Lilly |
| Roxanna Higuera | Timothy Fey | Saul Rivera |

| | | |
|------------------------|--------------------|--------------------------|
| Patrick Thorne | Doris Cata | Daniel Esparza |
| Jacqueline Gory-Warner | Theresa Palmer | Manuel De Jesus Guitimea |
| Stephanie Urquijo | Danielle Wysocki | Jake Loleit |
| Paula Rabudk | Karen Parades | Sherri Langlo |
| Stacey Nestler | Christine McKinnon | Tracy Dunn |
| Michelle Simon | Adam Zuckerman | Stephanie Bair |
| Erin Smith | William O'Brien | Laura Davis |
| Nicholas Sandstorm | Debra Williams | Lauren Lieppman |
| Marissa Mendibles | Kellie Cowan | Renee Cirocco |
| Jermiah Skalniak | Yvette Carrillo | Mavel Beltran |
| Christopher James | Maria Galvan | Jesus Olguin |
| Herlinda Lopez | Amanda Scott | Paul Rodriguez |
| Patty Baize | Ronald Chester | Marien Zaki |
| Felaine Ablian | Santos Nunez | |

AGENDA ITEM 14 – Consent Agreements

President Berry 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 Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to accept the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below.

- Carol Hersey - 11-0001-PHR
- Kenneth Smith - 11-0012-PHR
- Gary Henglefelt - 11-0014-PHR
- Michael Gallotte - 11-0017-PHR
- David Winters Hall - 10-0018-PHR

A roll call vote was taken. (Ms. Galindo – aye, Ms. Locnikar – aye, Mr. McAllister – aye, Mr. Van Hassel – aye, Mr. Milovich – aye, Dr. Foy – aye, Mr. Haiber – aye, Dr. Berry - aye).

Dr. Berry recused herself due to a conflict of interest.

On motion by Mr. Van Hassel and seconded by Dr. Foy, the Board unanimously agreed to accept the following consent agreement as presented in the meeting book and signed by the respondent. The consent agreement is listed below.

- Dennis Ross - 11-0004-PHR

A roll call vote was taken. (Ms. Galindo – aye, Ms. Locnikar – aye, Mr. McAllister – aye, Mr. Van Hassel – aye, Mr. Milovich – aye, Dr. Foy – aye, Mr. Haiber – aye)

Dr. Foy recused himself due to a conflict of interest.

On motion by Mr. McAllister and seconded by Mr. Van Hassel, the Board unanimously agreed to accept the following consent agreement as presented in the meeting book and signed by the respondent. The consent agreement is listed below.

Sonia Quijano

- 11-0016-PHR

A roll call vote was taken. (Ms. Galindo – aye, Ms. Locnikar – aye, Mr. McAllister – aye, Mr. Van Hassel – aye, Mr. Milovich – aye, Mr. Haiber – aye, Dr. Berry - aye

AGENDA ITEM 15 – Lori Allen

Lori Allen was present to request that the Board reconsider Case# 10-0068-PHR (Complaint #3765). Ken Baker, Legal Counsel, for Ms. Allen was also present.

President Berry opened the discussion by asking Ms. Allen why she was appearing in front of the Board.

Mr. Baker stated that Ms. Allen was offered a Consent Agreement. Mr. Baker stated in the Consent Agreement it stated that Ms. Allen had make two errors. Mr. Baker stated that they believe that the one error involving the Cleocin did not involve Ms. Allen.

Mr. Baker stated that they believe that another employee did not add enough water to the compounded Cleocin.

Mr. Baker stated that Ms. Allen would like to address the issues with the Board. Ms. Allen stated that she would address the issue with the Cleocin prescription first. Ms. Allen stated that no error was made. Ms. Allen stated that the patient received the correct medication. Ms. Allen stated that when the patient picked up her medication they did not have enough medication to fill the prescription. Ms. Allen stated that the patient was given one bottle and was told that the pharmacy owed her one more bottle. Ms. Allen stated that when the patient picked up the balance of the prescription she was not present that day. Ms. Allen stated that someone else reconstituted the medication. Ms. Allen stated that she is not certain if the prescription was reconstituted correctly. Ms. Allen stated that during the complaint investigation she was told by the Compliance Officer that she needed to document flavoring as required by the compounding regulations. Ms. Allen stated that she did not consider flavoring as compounding. Ms. Allen stated that she has put new logs into place to track the reconstitution of prescriptions and the documentation of flavoring. Ms. Allen stated that she is now keeping all appropriate logs.

Ms. Allen stated that she would now address the rifampin prescription. Ms. Allen stated that no mistakes were made. Ms. Allen stated that the patient received the correct medication. Ms. Allen stated that there seems to be some confusion concerning the numbers. Ms. Allen stated that the prescription indicates a quantity of 30 ml. Ms. Allen stated that is her estimate of the quantity that should have been made. Ms. Allen stated that she only had enough medication in stock to make 22.5 ml. Ms. Allen stated that she owed the patient the remaining quantity. Ms. Allen stated that she overlooked telling the patient that they owed her the remaining quantity. Ms. Allen stated that the additional amount was compounded when the patient notified them that she had run out of the medication.

Ms. Allen stated that she is asking the Board to remove the consent agreement and issue to her a non-disciplinary letter of concern.

Mr. Baker stated that Ms. Allen never considered flavoring as compounding.

Mr. McAllister stated that he has concerns about a pharmacy that is a specialty pharmacy and does not realize that flavoring is compounding. Mr. McAllister stated that he feels that any volume changes would result in a change in concentration.

Mr. Haiber stated that there were several references where Ms. Allen blamed the staff for issues. Mr. Haiber stated that as pharmacist in charge she is responsible. Ms. Allen replied that she was not present when the second bottle of Cleocin was reconstituted.

Mr. Van Hassel stated that he feels that two mistakes were made. The first mistake was that the wrong concentration was given to the patient. The second mistake was that not enough medication was given to the patient which is also an error. Mr. Van Hassel stated that her statement that no errors were made is not true.

Mr. Foy stated that there is the appearance of two prescriptions being filled incorrectly. The first issued involved the documentation of flavoring and the second issue was the owed quantity.

Ms. Galindo stated that she has an issue with the procedures being changed after mistakes were made. Ms. Galindo stated that it is the Board's job to protect the public and procedures should be in place so that mistakes do not occur.

On motion by Mr. Milovich and seconded by Ms. Galindo, the Board agreed to re-offer Ms. Allen the same consent agreement. There was one nay vote from Mr. Foy.

Ms. Campbell stated that the Board would then offer Ms. Allen the same consent agreement with the same terms and fine.

Mr. Baker asked about the violations. Ms. Campbell stated that they are listed in the consent agreement under the findings of fact and conclusions of law.

Mr. Baker asked if he could submit an alternate consent agreement.

Ms. Campbell stated that the Board has looked at the proposed consent and heard input. Ms. Campbell stated that by the Board voting to offer the same consent to Ms. Allen they have determined that they are not willing to see another form of the consent. Ms. Campbell stated that if the consent is not signed then the case would proceed to hearing.

AGENDA ITEM 19 – Tech-Check- Tech

President Berry opened the discussion by asking Mr. Wand to address this agenda item.

Mr. Wand stated this item was placed on the agenda as a result of the Call to the Public at the last meeting and a request for the item to be placed on a future agenda.

Mr. Wand stated that he found information concerning three states that have addressed the issue.

Mr. Wand stated that in Minnesota there is no statute or rule that supports the practice. Mr. Wand stated that the Minnesota pharmacy association has established policies for tech-check-tech, but regulations do not exist in the pharmacy act. Mr. Wand stated that from information he obtained there are only 6 hospitals in the state that take part in the program and they submit the required reports. Mr. Wand noted that there is no statute or rule to back up the procedures.

Mr. Wand stated that in California there is a rule that supports the tech-check-tech program. Mr. Wand stated that there must also be a clinical pharmacy program in the hospital. Mr. Wand stated that he contacted the California Board and there is only one hospital participating in the tech-check-tech process. The hospital is Cedar Sinai where the heparin error was made.

Mr. Wand stated that he did receive an e-mail from the North Carolina Board indicating that a tech-check-tech program was approved by the Board, but is currently on hold for a legislative review. The program requires an associate's degree in pharmacy technology approved by the Board.

Mr. Wand indicated that in Arizona the Board may have to submit a sunrise application if the Board required a formal education.

Mr. Wand noted that in order for a deviation to be granted it would require both experimental and technological components. Mr. Wand stated that he is not aware of any technological components being used in the hospitals in other states.

Mr. Haiber asked if technology would need to be in place for the Board to approve a deviation.

Ms. Campbell stated that the Board can only grant deviations for experimentation and technological advances.

Ms. Campbell also stated that under the current technician regulations the Board could not discipline a technician if an error was made because the pharmacist is responsible for checking their work. Ms. Campbell stated that the responsibility for an error would fall back on the pharmacist or the pharmacist in charge.

Ms. Campbell stated that currently the regulations state that a pharmacist must check the product.

Dr. Foy asked if there was a specific associate's degree that was required. Mr. Wand stated that it was a two-year pharmacy technology degree.

Mr. Wand indicated that if anyone wanted to try a pilot program they would need to meet both criteria of having experimental and technological advances.

Dr. Berry stated that there is an issue with disciplining a technician and that disciplinary action would then fall on the pharmacist.

Mr. Wand stated that the person asking for the deviation would be responsible for the errors.

Ms. Campbell stated by rule it is the pharmacist's duty to check the prescription. Ms. Campbell stated that by allowing another individual to do the duty the pharmacist would be abdicating their responsibility.

Mr. McAllister stated that the tech-check-tech would be only in the hospital setting. Mr. McAllister stated that technology such as bedside barcode checking would help eliminate any errors. Mr. McAllister stated that he feels having a degree is heavy handed. Mr. McAllister stated that having a degree does not help a technician read better.

Mr. Van Hassel stated that he feels that the pharmacist performs a low number of checks due to dispensing cabinets. Mr. Van Hassel stated that the individuals would need to be trained to do these duties.

Mr. Wand stated if someone requests a deviation then the Board could consider their request based on experimentation and technological advances.

AGENDA ITEM 20 – Arizona Pharmacy Alliance Sunrise Proposals

Mark Boesen, was present to give the Board a brief overview of the sunrise proposals that the Arizona Pharmacy Alliance and Arizona Pharmacy Committee have submitted.

The first request is to permit licensed immunization trained pharmacists to administer vaccines to persons less than 18 years of age. They want to expand the authority of licensed certified pharmacists to administer vaccines to patients age 6 to 17 upon receipt of a valid prescription order. They also propose to expand the authority to administer flu vaccines to patients 6 and older without a physician's prescription.

The second request was to modify the requirements so that pharmacists are not limited as to where they can practice medication therapy management via physician approved agreements, protocols, and guidelines.

The third request was to allow trained pharmacy students to administer vaccines to persons under the direct supervision of a licensed immunization trained pharmacist.

AGENDA ITEM 21 – Call to the Public

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

No one came forth.

President Berry recessed the meeting at 3:15 P.M. The meeting will resume at 9:00 A.M. on September 16, 2010.

AGENDA ITEM 1 – Call to Order – September 16, 2010

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

The following Board Members were present: President Zina Berry, Vice President Steve Haiber, Joanne Galindo, Kyra Locnikar, Dennis McAllister, Dan Milovich, and Tom Van Hassel. The following staff members were present: Compliance Officers Rich Cieslinski, Tom Petersen, Sandra Sutcliffe, Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell.

AGENDA ITEM 11 – Conferences

Conference 2

Dr. Berry recused herself due to a conflict of interest.

The following individuals were present to discuss several consumer complaints: Dan Luce – Director of Pharmacy Operations, Matt Cook – Pharmacist in Charge (Arizona Mail Order facility), and Chris Wollitz – Director of Operations (Florida Mail Order Facility). Christine Cassetta, Legal Counsel for Walgreens, was also present.

Vice President Haiber asked Compliance Officer Sandra Sutcliffe to give a brief overview of the complaints. Ms. Sutcliffe stated that there were four complaints. Ms. Sutcliffe stated that Complaint #3824 involved two prescriptions that were scanned under the wrong patient's name. Ms. Sutcliffe stated that Complaint #3792 involved the changing of the medication from Pletal 100mg to Pletal 50mg with different directions. Ms. Sutcliffe stated that the patient was not counseled and took the medication incorrectly. Ms. Sutcliffe stated that Complaint #3823 involved three prescriptions for the wife that were entered under her husband's name. Ms. Sutcliffe stated that Complaint #3832 involved two prescriptions that were written to be dispensed as written and were entered and generically.

Mr. Haiber asked if Mr. Yung would be present to discuss the complaints. Mr. Luce stated that Mr. Yung just received the information about the conference and that they would like to take about the processes today instead of each individual complaint. Mr. Luce stated that by discussing the processes the Board would be able to see that not all the errors were committed at the Florida facility. Mr. Luce stated that they would come back to the next Board meeting to discuss the complaints after they review the complaints and would be able to explain where the errors occurred.

Mr. Haiber opened the discussion by asking if a scanned image is tied to a profile. Mr. Luce replied yes. Mr. Luce stated that the same procedures apply whether it is in the store or mail facility.

Mr. Cook described the process. Mr. Cook stated that the image is associated with a patient. Mr. Cook stated that once the image is scanned it is routed to a central location in a queue or is entered at the store. Mr. Cook stated that a technician would enter the prescription. The prescription data entry is reviewed by the pharmacist. Mr. Cook stated that the pharmacist also performs a clinical review. Mr. Cook stated that the functions can be performed at the local store or either mail order pharmacy. Mr. Cook stated that the computer system captures the initials of each individual involved in the prescription review. Mr. Cook stated that the initials of the last person who touched the prescription would show in the system.

Ms. Galindo stated that she has concerns because all four cases involved prescriptions that were routed to the Florida facility and involved errors. Ms. Galindo asked if they self monitored their processes to ensure the processes are going smoothly. Mr. Luce stated that some of the actual errors occurred in Arizona and some occurred in Florida.

Mr. Wollitz stated that they have quality metrics in place. Mr. Wollitz stated that the data entry is checked. Mr. Wollitz stated that they do check the patient and prescriber name. Mr. Wollitz stated that it is the responsibility of the store pharmacist to check that the correct prescriber is on the prescription.

Mr. Wollitz stated that the system tracks who does what step in the process. Mr. Wollitz stated that the system tracks the technician's work and their data entry rate. Mr. Wollitz stated that the system also tracks the pharmacist's work. Mr. Wollitz stated that a member of management reviews the errors with the employees.

Mr. Wand asked who reviews the prescription. Mr. Cook stated that after the prescriptions are scanned they go into a dynamic queue. Mr. Cook stated that anyone signed into the queue could review the prescription. Mr. Cook stated that the prescriptions are queued by promise time. Mr. Cook stated that the first available pharmacist or technician would review the prescription.

Mr. Wand asked if the pharmacist in the store has the ability to look at the prescription. Mr. Luce replied yes.

Mr. Wand asked if it is policy to look up the prescription at the store when they are counseling a patient. Mr. Luce stated that it is up to the pharmacist's professional judgment.

Mr. Wand asked if there is a quota and does that correlate with the error rate. Mr. Cook stated that there is no correlation. Mr. Cook stated that the pharmacists that do a high volume also perform the most efficiently and proficiently.

Mr. Haiber stated that 2 errors were tied to the Central fill in that the wrong patient name was on the prescription. Mr. Haiber asked if that error should not have been detected at the step where the patient's name is verified. Mr. Cook stated that the final verification of the patient's name is at the consultation step at the store.

Mr. Haiber asked if the image is tied to the wrong profile and goes in the queue does the data entry person enter the prescription as scanned. Mr. Cook replied that the verification pharmacist doing the counseling is responsible for the incorrect association. Mr. Luce stated that the final pharmacist is responsible for giving the right patient the right medication.

Mr. Haiber asked again where the patient association occurs. Mr. Cook replied that the patient association is done by the technician or pharmacist at the in window. Mr. Cook stated that the patient prescriber review is performed by a technician at the mail order facility. Mr. Cook stated that the data review can be done by a pharmacist at the store if the patient is waiting and if the patient is not waiting the prescription is reviewed at the mail order facility. Mr. Cook stated that the data review is only done by a pharmacist. During the data review, the pharmacist checks that the technician transcribed the prescription correctly and entered the prescription as the doctor wrote the prescription.

Mr. Cook stated that the DUR review could be completed at any location. Mr. Cook stated that the prescription would then be filled at the store or would be filled at the mail order facility and sent to the store the next day.

Mr. Haiber asked what happens at the store level if the prescription is filled at the central fill facility. Mr. Wollitz stated the prescription is placed in the pick up bins. Mr. Wollitz stated that when the patient arrives to pick up the prescription the store pharmacist is responsible for asking the patient if that is their prescription. The pharmacist would ask the patient if that is their medicine and verify the doctor. Mr. Luce stated that an error occurs when the last person does not do what he is supposed to do.

Mr. Haiber asked Mr. Cook if a technician verified the patient's name at the mail order facility. Mr. Cook replied that it is the pharmacist's duty to verify the patient at the store and the pharmacist has tools available to verify the patient. Mr. Cook stated at the point of sale the pharmacist also asks the patient for their address. Mr. Cook stated that the point of failure occurs when the pharmacist does not follow the procedure.

Mr. Haiber stated that he is concerned because no pharmacist has checked the patient's name and the pharmacist at the store is relying on the patient or patient's caregiver to tell them that the prescription is for them and the doctor is correct.

Ms. Galindo asks what happens if the patient does not drop off the prescription. Mr. Wollitz stated that the store would need to match the prescription with the patient.

Mr. Wand asked about the pharmacists that work at home. Mr. Wollitz stated that the pharmacists that work at home only do the data review.

Mr. Haiber asked if there is a peer review process between the stores and mail order facilities. Mr. Cook stated that there is peer review and the pharmacists are held accountable.

Mr. Van Hassel asked about consultations because he noted that in some cases the pharmacists state that the patient declined consultation. Mr. Cook stated that they are required to consult with the patients at the store.

Mr. Van Hassel asked if they had any numbers showing the number of consultations completed at the store level. Mr. Luce stated that they do not.

The Board Members asked the respondents to return at the next meeting to discuss the complaints and to have the Pharmacist in Charge from Florida appear with them to discuss the complaints and the errors.

AGENDA ITEM 16 – Meghna Patel

Dr. Berry recused herself due to a conflict of interest.

Meghna Patel was present to request that the Board reconsider Case# 11-0008-PHR (Complaint #3810).

Vice President Haiber opened the discussion by asking Ms. Patel why she was appearing in front of the Board.

Ms. Patel stated that she was given a consent agreement because an insulin prescription was entered under her name. Ms. Patel stated that the prescription was written for Humulin L insulin. Ms. Patel stated that Humulin L is no longer made and the prescription went out as Humulin R. Ms. Patel stated that the prescription was filled under her name but she did not enter the prescription. Ms. Patel stated that she signed onto all three computers in the pharmacy. Ms. Patel stated that she is not sure who entered the prescription because she was working with an Intern and a new technician trainee that day.

Ms. Patel stated that the prescription was filled for Humulin R. The owners gave the dog one dose and noticed that the insulin looked different. The owner called the pharmacy and told Ms. Patel that the medication should have been for Humulin N insulin. Ms. Patel stated that she called the veterinarian's office and he told her to give the owner whatever he wanted. Ms. Patel stated that the owner had not previously filled any prescriptions at the pharmacy. Ms. Patel stated that she did not check the product against the hard copy because she would not have filled the prescription. Ms. Patel stated that she is only responsible for checking the label against the product.

Ms. Patel stated that she is asking the Board to dismiss the consent and offer her an advisory letter.

Mr. Haiber asked Ms. Patel if she performed the final accuracy check. Ms. Patel stated that she checked the label with the medication. Ms. Patel stated that she had the correct medication based on the label. Ms. Patel stated that she scanned the prescription into the computer and linked the patient and the prescription.

Mr. Haiber asked Ms. Patel who entered the prescription. Ms. Patel replied that she did not know who entered the prescription. Ms. Patel stated that since she was logged into the computer it shows she entered the prescription.

Mr. Haiber asked Ms. Patel if the computer system allowed her to sign into multiple stations. Ms. Patel replied that she was signed into three stations. Ms. Patel stated that she signed into all three stations because that is where the patients pick up their prescriptions. Ms. Patel stated that the patient declined counseling so that the error would not have been caught at counseling.

Mr. Haiber asked if this was normal to log into three stations. Mr. Haiber asked if the policies and procedures allow her to log into three stations. Ms. Patel replied that the policies do not work. Ms. Patel stated that it is not feasible to log in and out of stations when you counsel patients at different stations.

Mr. Haiber asked if everything was done under her name. Ms. Patel replied yes.

Mr. McAllister asked Ms. Patel if she was the only pharmacist on duty who checked the prescriptions. Ms. Patel replied that everything went through on her name.

Mr. McAllister stated that she had a new prescription for a pet with health issues and should have consulted with the patient. Ms. Patel stated that she offered counseling and it was declined.

Ms. Galindo asked Ms. Patel why she did not sign the consent if she acknowledges the fact that she made a mistake and is willing to pay the fine. Ms. Patel stated that she does not want any disciplinary action on her license.

Ms. Galindo told Ms. Patel that it is the Board's job to protect the public. Ms. Patel stated that the error would not have happened if she had seen everything.

Ms. Locnikar stated that Ms. Patel has made several statements that are concern her. Ms. Locnikar stated that Ms. Patel stated that she did not know who entered the prescription under her initials and the prescription was given to the patient without being checked. Ms. Locnikar stated that it is frightening that Ms. Patel was working with an Intern and a new technician trainee and does not know who entered the prescription.

Mr. Van Hassel asked Ms. Patel who verified the prescription if she was the only pharmacist present that day. Ms. Patel stated that she did not get a chance to see the prescription. Ms. Patel stated that she believes that a pharmacist did not see the prescription.

Mr. Van Hassel told Ms. Patel that it is her fault that the prescription was not reviewed since she was the only pharmacist present that day. Ms. Patel stated that someone else used her initials because she was signed into the computer.

Mr. Van Hassel asked Ms. Patel what she did verify on the prescription. Ms. Patel stated that she verifies that the product matches the label.

Mr. Milovich asked Ms. Patel if she looked at the prescription when she scanned the prescription into the computer system. Ms. Patel stated that she did not even look at the hardcopy.

Mr. Milovich asked Ms. Patel if there was a standard procedure to review prescriptions. Ms. Patel replied that she does not know.

Mr. McAllister stated that there are many issues that have been presented that were not initially known to the Board. Mr. McAllister stated that the Board may want to move the case to formal hearing based on this new information. Mr. McAllister stated that he is concerned that the pharmacist allowed others to work under her initials. Mr. McAllister stated that there are several potential safety issues.

Ms. Campbell recommended that the Board Members may want to ask the Compliance Staff to do a supplemental investigation based on the new information.

The Board Members asked that the Compliance Staff conduct a supplemental investigation and report the findings back to the Board.

AGENDA ITEM 17 – Stephen Marks – Case #10-0066-PHR

President Berry opened the discussion by stating that this is the time to hear the motion for rehearing or review in the case of Stephen Marks, Case #10-0066-PHR.

Jay Calhoun, Attorney for Mr. Marks, was present. Mr. Marks was not present. Elizabeth Campbell, Assistant Attorney General for the State, was present.

Dr. Berry asked Ms. Calhoun if she would like to present her case for her client, Mr. Marks.

Ms. Calhoun stated that Mr. Marks is petitioning the Board for licensure in Arizona. Ms. Calhoun stated that Mr. Marks would like to move to Arizona because his spouse is already living and working in Arizona.

Ms. Calhoun asked that the Board consider his motion for review. Ms. Calhoun stated that the reasons for review would be the following: the penalty is excessive, there was an error in rejecting evidence, and there was irregularity in Board procedures.

Ms. Calhoun stated that Mr. Marks did have an issue in Pennsylvania. Ms. Calhoun stated that Mr. Marks was placed on probation for one year and his license has been fully reinstated by Pennsylvania. Ms. Calhoun stated that they feel the penalty is excessive because the Board had violated Mr. Marks's right to be a pharmacist and earn a living. Ms. Calhoun asked that they review Mr. Mark's entire file. Ms. Calhoun stated that Mr. Marks did not harm any person other than himself. Ms. Calhoun stated that they are asking the Board to allow him to petition the Board for review.

Ms. Calhoun stated that they would like the Board to consider his petition because Mr. Marks had worked as a pharmacist for 44 years without incidence.

Ms. Calhoun stated that Mr. Marks had spelled words incorrectly in his letter because as he stated he is not a typist.

Ms. Calhoun stated that they are requesting that the Board grant Mr. Marks motion for review.

Ms. Campbell stated that the Board has the authority to deny an application and the Board did not exceed its authority or impose an excessive penalty.

Ms. Campbell stated that the Board does have the authority to deny an application if an applicant has committed an act of unprofessional conduct in this jurisdiction or another jurisdiction. Ms. Campbell stated that Mr. Marks fraudulently filled a prescription and diverted the medication. Ms. Campbell stated that Mr. Marks was charged criminally.

Ms. Campbell stated that if these acts were committed in Arizona they would be grounds for discipline.

Ms. Campbell stated that the Board does not have to consider how long he was licensed in another state. Ms. Campbell stated that Mr. Marks told the Board that he felt justified in diverting the Lorazepam because his treating physician would not authorize the medication

Ms. Campbell stated that receiving duplicate letters with typos does not justify a rehearing.

Ms. Campbell stated that the Board has heard the evidence in this case and nothing in the petition supports a reason why the Board should grant a review or rehearing.

Ms. Calhoun stated that there is no indication that Mr. Marks's license would have been revoked if he was practicing in Arizona when this incident occurred.

Mr. Milovich stated that he was concerned because Mr. Marks stated that he did what he had to do. Mr. Milovich stated that Mr. Marks stated that he was fine with what he did and showed no remorse for his actions before the Board.

Mr. Haiber stated that Mr. Marks appeared in front of the Board twice and did not take ownership for what he did. Mr. Haiber stated that because his license was reinstated in Pennsylvania is not a rubber stamp that he would be approved for a license in Arizona. Mr. Haiber stated that the spelling did not influence his decision. Mr. Haiber stated that Mr. Marks did not acknowledge that what he did was wrong.

Dr. Berry stated that Mr. Marks made contradictory statements in front of the Board. Dr. Berry stated that Mr. Marks made contradictory statements when he was made aware that the Board knew of his diversion from the pharmacy.

Mr. McAllister stated that he sees no benefit in reviewing the case again. Mr. McAllister stated that Mr. Marks had testified twice at length. Mr. McAllister stated that Mr. Marks explained his decision process and why he felt that what he did was correct.

On motion by Mr. Van Hassel and seconded by Mr. Milovich, the Board unanimously agreed to deny Mr. Marks's petition for rehearing or review. A roll call vote was taken. (Ms. Galindo – aye, Ms. Locnikar – aye, Mr. McAllister – aye, Mr. Van Hassel – aye, Mr. Milovich – aye, Mr. Haiber – aye, Dr. Berry – aye)

AGENDA ITEM 18 – Hearings/Motions to Deem

President Berry opened the hearing by stating that this is the date, time, and place where the matter dealing with Case Number #10-0065 for Laural Suydam is scheduled to heard by the Arizona State Board of Pharmacy.

Board Members present for the Hearing: Joanne Galindo, Kyra Locnikar, Dennis McAllister, Tom Van Hassel, Dan Milovich, Steve Haiber, and Zina Berry.

President Berry stated let the record show that the Board Members have been furnished with copies of the following:

1. The Complaint and Notice of Hearing
2. The Respondent's Answer
3. All pleadings of record

President Berry asked the parties to identify themselves.

Elizabeth Campbell, Assistant Attorney General, representing the state was present.

Laural Suydam, respondent, was present.

President Berry asked Ms. Suydam if she was represented by an attorney. Ms. Suydam replied no. President Berry asked Ms. Suydam if she understood that by proceeding without representation of legal counsel she is waiving her right to such representation at this hearing. Ms. Suydam replied yes.

President Berry asked Ms. Suydam if she understood that this hearing is her opportunity to present testimony and evidence on her behalf. Ms. Suydam replied yes.

President Berry asked Ms. Suydam if she understood that if she should appeal the Board's decision, the record she makes at this hearing today would be evidence considered by a court in determining whether the Board's decision was proper. Ms. Suydam replied yes.

President Berry read the opening statements concerning the proceedings of the hearing.

President Berry asked the court reporter to swear in the witnesses. The court reporter swore in Ms. Suydam.

Elizabeth Campbell, Assistant Attorney General, asked that her documents be admitted as evidence. Ms. Suydam was agreeable to the documents being admitted as evidence.

President Berry asked Ms. Campbell if she would like to make an opening statement.

Ms. Campbell stated that by her own admission Ms. Suydam had diverted one to two bottles of Hydrocodone/APAP weekly. Ms. Campbell stated that Ms. Suydam stated in her response that she was addicted to Hydrocodone/APAP. Ms. Campbell stated that the state believes that there are demonstrable violations of statutes and rules.

President Berry asked Ms. Suydam if she would like to make an opening statement.

Ms. Suydam replied no.

President Berry asked Ms. Campbell if she would like to call her first witness.

Ms. Campbell stated that the state has no witnesses to call. Ms. Campbell stated that all documents are relative to the case. Ms. Campbell stated in the Evidence submitted there are salient exhibits of Ms. Suydam taking the medications. Ms. Campbell stated in the answer to the Board Complaint Ms. Suydam admitted her addiction. Ms. Campbell stated that Fry's had submitted video stills of the respondent taking the medication. Ms. Campbell stated that Fry's did submit a DEA 106 form estimating the losses. Ms. Campbell stated that the document is not indicative of who took the medication.

President Berry asked Ms. Suydam if she had any witnesses to call. Ms. Suydam stated that she did not have witnesses to call. Ms. Suydam stated that she made a mistake. Ms. Suydam stated that she has been off all medication since leaving the pharmacy. Ms. Suydam stated that she is on no narcotics because she has to take care of her small children.

President Berry stated that this concludes the evidentiary portion of the hearing.

President Berry asked Ms. Campbell if she had a closing statement.

Ms. Campbell stated that by her own admission the respondent diverted medications from the pharmacy. Ms. Campbell stated that the alleged violations did occur.

President Berry asked Ms. Suydam if she had a closing statement. Ms. Suydam replied no.

President Berry stated at this time the Board will discuss the case.

On motion by Mr. Milovich and seconded by Mr. Haiber, the Board unanimously agreed to adopt the factual allegations in the Complaint as findings of fact. A roll call vote was taken. (Ms. Galindo – aye, Ms. Locnikar – aye, Mr. McAllister – aye, Mr. Van Hassel – aye, Mr. Milovich – aye, Mr. Haiber – aye, Dr. Berry – aye)

On motion by Mr. Van Hassel and seconded by Mr. Haiber, the Board unanimously agreed to adopt all of the alleged violations set forth in the Complaint as the Board's conclusions of law. A roll call vote was taken. (Ms. Galindo – aye, Ms. Locnikar – aye, Mr. McAllister – aye, Mr. Van Hassel – aye, Mr. Milovich – aye, Mr. Haiber – aye, Dr. Berry – aye)

President Berry stated that the Board would now consider the Board's Order.

Mr. Haiber asked if the respondent had been offered a consent.

Ms. Campbell stated that the consent was offered in the past and the Board must now consider the findings of fact and conclusions of law in determining the Board Order.

A motion was placed on the floor by Mr. McAllister and seconded by Mr. Haiber to offer the respondent a PAPA contract which would include suspension and probation.

Ms. Suydam told the Board that she could not afford to participate in the PAPA program at this time. Ms. Suydam stated that she was recently divorced and is currently unemployed.

The original motion was withdrawn by Mr. McAllister and seconded by Mr. Haiber. The motion was withdrawn because the respondent was unable to participate in the PAPA program.

On motion by Mr. Van Hassel and seconded by Mr. McAllister, the Board unanimously agreed to revoke Ms. Suydam's pharmacy technician license. A roll call vote was taken. (Ms. Galindo – aye, Ms. Locnikar – aye, Mr. McAllister – aye, Mr. Van Hassel – aye, Mr. Milovich – aye, Mr. Haiber – aye, Dr. Berry – aye)

President Berry concluded the formal hearing.

Motions to Deem

1 Jeffrey McKinney

President Berry opened the discussion by stating that this is the time and place for Consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted in the Case of Jeffrey McKinney, License #T008347, Case 10-0062-PHR. President Berry stated that the attorney for the state has filed the current motion before us today.

President Berry asked if Mr. McKinney was present. Mr. McKinney was not present.

President Berry asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

On motion by Mr. Haiber and seconded by Mr. McAllister, the Board unanimously agreed to grant the State's motion to Deem Allegations admitted.

President Berry asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that in view of the allegations admitted the Board can impose any discipline that they feel appropriate.

President Berry stated that the Board would now deliberate on the appropriate discipline to be imposed.

On motion by Mr. Haiber and seconded by Mr. Milovich, the Board unanimously agreed to revoke Pharmacy Technician License T008347 issued to Jeffrey McKinney. A roll call vote was taken. (Ms. Galindo – aye, Ms. Locnikar – aye, Mr. McAllister – aye, Mr. Milovich – aye, Mr. Van Hassel - aye, Mr. Haiber – aye, and President Berry – aye)

2 Deborah Grabowski Chenoweth

President Berry opened the discussion by stating that this is the time and place for Consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted in the Case of Deborah Grabowski Chenoweth, License #S010764, Case 10-0071-PHR. President Berry stated that the attorney for the state has filed the current motion before us today.

President Berry asked if Ms. Grabowski Chenoweth was present. Ms. Grabowski Chenoweth was not present.

President Berry asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

On motion by Mr. McAllister and seconded by Mr. Haiber, the Board unanimously agreed to grant the State's motion to Deem Allegations admitted.

President Berry asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that in view of the allegations admitted the Board can impose any discipline that they feel appropriate.

President Berry stated that the Board would now deliberate on the appropriate discipline to be imposed.

On motion by Mr. Haiber and seconded by Mr. McAllister, the Board unanimously agreed to revoke Pharmacist License S010764 issued to Deborah Grabowski Chenoweth. A roll call vote was taken. (Ms. Galindo – aye, Ms. Locnikar – aye, Mr. McAllister –aye, Mr. Milovich – aye, Mr. Van Hassel - aye, Mr. Haiber – aye, and President Berry – aye)

3 Kimberly Largo

President Berry opened the discussion by stating that this is the time and place for Consideration of the State’s Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted in the Kimberly Largo, License #T019178, Case 11-0002-PHR. President Berry stated that the attorney for the state has filed the current motion before us today.

President Berry asked if Ms. Kimberly Largo was present. Ms. Largo was not present.

President Berry asked if the Board would like to make a Motion granting or denying the State’s motion to Deem Allegations Admitted.

On motion by Mr. Milovich and seconded by Mr. Haiber, the Board unanimously agreed to grant the State’s motion to Deem Allegations admitted.

President Berry asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that in view of the allegations admitted the Board can impose any discipline that they feel appropriate.

President Berry stated that the Board would now deliberate on the appropriate discipline to be imposed.

On motion by Mr. Van Hassel and seconded by Mr. McAllister, the Board unanimously agreed to revoke Pharmacy Technician License T019178 issued to Kimberly Largo. A roll call vote was taken. (Ms. Galindo – aye, Ms. Locnikar – aye, Mr. McAllister –aye, Mr. Milovich – aye, Mr. Van Hassel - aye, Mr. Haiber – aye, and President Berry – aye)

4 Craig Moon

President Berry opened the discussion by stating that this is the time and place for Consideration of the State’s Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted in the Case of Craig Moon, License #S015884, Case 11-0003-PHR. President Berry stated that the attorney for the state has filed the current motion before us today.

President Berry asked if Mr. Moon was present. Mr. Moon was not present.

President Berry asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

On motion by Mr. Van Hassel and seconded by Mr. Haiber, the Board unanimously agreed to grant the State's motion to Deem Allegations admitted.

President Berry asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that in view of the allegations admitted the Board can impose any discipline that they feel appropriate.

President Berry stated that the Board would now deliberate on the appropriate discipline to be imposed.

On motion by Mr. Van Hassel and seconded by Mr. McAllister, the Board unanimously agreed to revoke Pharmacist License S015884 issued to Craig Moon. A roll call vote was taken. (Ms. Galindo – aye, Ms. Locnikar – aye, Mr. McAllister –aye, Mr. Milovich – aye, Mr. Van Hassel - aye, Mr. Haiber – aye, and President Berry – aye

AGENDA ITEM 21 – Call to the Public

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

No one came forth.

AGENDA ITEM 22 – Future Agenda Items

Mr. McAllister had mentioned during the discussion of the hospital deviation requests that the Board may want to review the hospital pharmacy size requirements.

AGENDA ITEM 23 – Adjournment

There being no further business to come before the Board, **on motion by Ms. Galindo and seconded by Mr. Van Hassel**, the Board unanimously agreed to adjourn the meeting at 11:45 A.M.