



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 JANUARY 27 AND 28, 2011
AT THE ARIZONA STATE BOARD OF PHARMACY OFFICE
IN PHOENIX, ARIZONA**

MINUTES FOR REGULAR MEETING

AGENDA ITEM 1 – Call to Order – January 27, 2011

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

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

AGENDA ITEM 2 – Introduction of New Board Members

Vice President Haiber introduced the two newly appointed Board Members. Dr. John Musil is the newly appointed Pharmacist member. Ms. Nona Rosas is the newly appointed Pharmacy Technician member. Dr. Musil and Ms. Rosas each gave a brief overview of their work experience.

AGENDA ITEM 3 – Declaration of Conflicts of Interest

Due to having a “substantial interest” in the matter, Dr. Musil recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 7, Schedule A, Motion to Deem for Daniel Echavarria.

Due to having a “substantial interest” in the matter, Dr. Musil recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 10, Schedule C, Resident Pharmacy Permit for Mix Rx.

Due to having a “substantial interest” in the matter, Dr. Musil recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 14, Schedule F, Complaint #3901.

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 10, Schedule C, Resident Pharmacy Permit for CVS/Pharmacy #8983.

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, Complaint #3892, Complaint #3899, Complaint #3903, Complaint #3905, and Complaint #3907.

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 15, Schedule G, Consent Agreement for Thomas Leach.

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 14, Schedule F, Complaint #3894 and Complaint #3902.

AGENDA ITEM 4– Approval of Minutes

Following a review of the minutes and an opportunity for questions and **on motion by Dr. Musil and seconded by Mr. Milovich**, the minutes of the Regular Meeting held on November 17 and 18, 2010 and the Special Telephonic meeting held on December 9, 2010 were unanimously approved by the Board Members.

AGENDA ITEM 5 – Nomination and Election of Officers – A.R.S. § 32-1903 (A)

Pursuant to A.R.S. § 32-1903 (A), the Board is required annually to elect a president and vice president.

Vice President Haiber opened the nominations for President from the Board Members.

On motion by Mr. Milovich and seconded by Dr. Foy, the Board nominated Mr. Haiber for the position of President.

Mr. Haiber was asked if he was willing to serve if elected. Mr. Haiber replied yes.

There were no other nominations for President and the nominations were closed.

All Board Members were in favor of Mr. Haiber serving as Board President.

President Haiber opened the nominations for Vice President from the Board Members.

On motion by Dr. Foy and seconded by Mr. Haiber, the Board nominated Mr. Milovich for the position of Vice President.

Mr. Milovich was asked if he was willing to serve if elected. Mr. Milovich replied yes.

All Board Members were in favor of Mr. Milovich serving as Board Vice President.

AGENDA ITEM 6 – Complaint Review Committee Members Selection

President Haiber opened the discussion by stating that two motions would be needed to select the members of the complaint review committee.

President Haiber stated that a motion would be needed so that Ms. Rosas would be able to serve on the complaint review committee today. Ms. Rosas would be replacing Ms. Honeyestewa.

On motion by Dr. Musil and seconded by Mr. Milovich, the Board unanimously selected Ms. Rosas to serve as the pharmacy technician member on the complaint review committee for today's meeting and the following year.

The Board then selected members to serve on the complaint review committee for following year.

On motion by Mr. Milovich and seconded by Dr. Musil, the Board unanimously selected Mr. Foy to serve as a pharmacist member on the complaint review committee.

On motion by Mr. Milovich and seconded by Mr. Haiber, the Board unanimously selected Mr. Van Hassel to serve as a pharmacist member on the complaint review committee.

On motion by Mr. Milovich and seconded by Ms. Rosas, the Board unanimously selected Ms. Galindo to serve as the public member on the complaint review committee.

AGENDA ITEM 7 – Hearings/ Motions to Deem

Motion to Deem

#1 Daniel Echavarria

Dr. Musil was recused due to a conflict of interest.

President Haiber 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 Daniel Echavarria, License #T017804, Case 11-0006-PHR.

President Haiber asked if Mr. Echavarria was present. Mr. Echavarria was not present.

President Haiber 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 Dr. Foy, the Board unanimously agreed to grant the State's motion to Deem Allegations admitted.

On motion by Mr. Van Hassel and seconded by Mr. Milovich, the Board unanimously agreed to adopt all factual allegations in the Complaint as the findings of fact.

On motion by Mr. Van Hassel and seconded by Dr. Foy, the Board unanimously agreed to adopt all of the alleged violations set forth in the Complaint as the Board's conclusions of law.

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

On motion by Mr. Milovich and seconded by Dr. Foy, the Board unanimously agreed to revoke Pharmacy Technician Trainee License T017804 issued to Daniel Echavarria. A roll call vote was taken. (Mr. McAllister - aye, Ms. Locnikar - aye, Mr. Van Hassel - aye, Dr. Foy - aye, Ms. Rosas - aye, Ms. Galindo - aye, Mr. Milovich - aye, and Mr. Haiber - aye).

Motion to Deem

#2 Cameron Garbrick

President Haiber 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 Cameron Garbrick, License #T019005, Case 11-0021-PHR.

President Haiber asked if Mr. Garbrick was present. Mr. Garbrick was not present.

President Haiber 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 Dr. Musil, the Board unanimously agreed to grant the State's motion to Deem Allegations admitted.

On motion by Mr. Milovich and seconded by Dr. Foy, the Board unanimously agreed to adopt all factual allegations in the Complaint as the findings of fact.

On motion by Mr. Milovich and seconded by Dr. Foy, the Board unanimously agreed to adopt all of the alleged violations set forth in the Complaint as the Board's conclusions of law.

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

On motion by Mr. Milovich and seconded by Dr. Foy, the Board unanimously agreed to revoke Pharmacy Technician License T019005 issued to Cameron Garbrick. A roll call vote was taken. (Mr. McAllister - aye, Ms. Locnikar – aye, Dr. Musil – aye, Mr. Van Hassel – aye, Dr. Foy – aye, Ms. Rosas – aye, Ms. Galindo – aye, Mr. Milovich – aye, and Mr. Haiber – aye).

Hearing

#1 Lori Allen

President Haiber stated that this is the time and place where the matter dealing with Lori Allen, Case 10-0068-PHR, is scheduled to be heard by the Arizona State Board of Pharmacy.

Mr. Haiber stated that the subject of this hearing is set forth in the Complaint and Notice of Hearing. This is a formal administrative hearing to determine if there have been violations of the Board's statutes and rules, and whether disciplinary action is warranted.

A roll call vote was taken and the following Board Members were present: Dennis McAllister, Kyra Locnikar, John Musil, Tom Van Hassel, Jim Foy, Nona Rosas, Joanne Galindo, Dan Milovich, and Steve Haiber.

Mr. Haiber stated let the record show that the Board members have been furnished with copies of: the Complaint and Notice of Hearing, the respondent's answer, and all pleadings of record.

Mr. Haiber asked the parties to identify themselves.

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

Lori Allen, Respondent, was present.

Ken Baker, Legal Counsel for Ms. Allen, was present.

Mr. Baker stated that he had a preliminary matter that he would like the Board to consider. Mr. Baker stated that Ms. Allen would prefer that the action be taken against the permit instead of her personally.

Mr. Baker stated that Ms. Allen did not understand that the addition of flavoring should be added to the compounding log sheet. Mr. Baker stated that Ms. Allen has corrected that problem.

Mr. Baker stated that there was a system failure in the pharmacy that resulted in the patient not being told that they owed her medication.

Mr. Baker stated that they are asking the Board to drop the charges against Ms. Allen and apply the charges against the company. Mr. Baker stated that if the charges are filed against Ms. Allen then the disciplinary action would be reported to the Clearing House and the disciplinary action would make it difficult for Ms. Allen to move somewhere else.

Ms. Campbell stated that it is up to the Board's discretion if they would like to dismiss the case against Ms. Allen and open a complaint against the pharmacy. Ms. Campbell stated that the Board could consider a consent agreement against the pharmacy. Ms. Campbell stated that the pharmacy could not be required to do continuing education. Ms. Campbell suggested that the Board should not close the case against Ms. Allen and should continue the hearing. Ms. Campbell stated that a complaint should then be opened against the permit holder and a new consent agreement could be written.

Mr. Milovich stated that he still has concerns that a compounding pharmacist would not know that flavoring should be documented on the compounding log.

Ms. Allen stated that she did not think of flavoring as a compounding ingredient.

Mr. Baker stated that Ms. Allen is willing to work with the pharmacy alliance to spread the word that flavoring should be logged on the compounding sheet as an ingredient.

Mr. Van Hassel stated that he is perplexed with the wrong amount of drug being given. Mr. Van Hassel stated that the patient was not given an adequate amount of the medication.

Mr. Munns stated that the Board should open a complaint against the company and the complaint should be reviewed at the next complaint review committee.

Mr. Munns stated that counsel could work with the licensee to write a consent against the company and both be presented at the same meeting.

Ms. Campbell stated that she would like the Board to consider the items at the March meeting.

On motion by Dr. Musil and seconded by Mr. McAllister, the Board unanimously agreed to continue the hearing until March.

Mr. McAllister stated that across the country there is more resistance to Boards taking disciplinary action against licensees. Mr. McAllister stated that there were errors in this case due to faulty procedures. Mr. McAllister stated that there was no real intent to break the law. Mr. McAllister stated that the errors were clerical in nature. Mr. McAllister stated that the Board may want to consider formal disciplinary action at a future meeting. Mr. McAllister stated that in some cases a letter of concern could be placed in the file.

AGENDA ITEM 8 - Conferences

Conference #1

Complaint #3871

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Stacey Cook (Pharmacist), Lauren Nabozny (Pharmacy Technician), and Richard Zoyhofski (Pharmacy Supervisor).

Compliance Officer Rich Cieslinski gave a brief overview of the complaint. Mr. Cieslinski stated that the complainant's young daughter received prednisone tablets instead of prednisilone liquid.

President Haiber asked Ms. Cook to address the error. Ms. Cook stated that she is sorry the error occurred. Ms. Cook stated that she verified the prescription incorrectly. Ms. Cook stated that she read prednisilone as prednisone. Ms. Cook stated that when she counseled the patient she told the mother that the tablets would be bitter and explained to the mother to give the tablets with food. Ms. Cook stated that the mother told her that her daughter had chewed the tablets at the hospital. Ms. Cook stated that she told the mother that if her daughter could not chew the tablets the medication could be changed to a liquid form.

Ms. Cook stated that the next day the mother called the pharmacy stating that the child was having a hard time swallowing the tablets. Ms. Cook stated that she offered to call the doctor to change the medication to the liquid form. Ms. Cook stated that she realized when she pulled the script an error was made and she called the doctor. Ms. Cook stated that she may have looked at the prescription more closely if the mother had not told her that her daughter chewed tablets while she was in the hospital.

Ms. Cook stated that when the patient returned the incorrect medication she stopped what she was doing to talk to the patient. Ms. Cook stated that she tried to explain to the mother that the drugs were in the same class. Ms. Cook stated that as a mother herself she tried to show empathy towards the complainant. Ms. Cook stated that the mother was upset because they gave her a gift card. Ms. Cook stated that they gave the complainant a gift card for her inconvenience and not to lessen the severity of the error. Ms. Cook stated that she sincerely apologized for the error.

Ms. Cook stated that she has learned from the error. Ms. Cook stated that she has completed continuing education units on error prevention. Ms. Cook stated that

she has posted charts at her desk for look alike and sound alike drugs. Ms. Cook stated that after that incident she used show and tell when counseling patients. Ms. Cook stated that she has changed jobs since that time.

Dr. Foy asked Ms. Cook to describe the workflow process and how the error occurred. Ms. Cook stated that the technician entered the prescription incorrectly for the wrong drug. Ms. Cook stated that another technician pulled and counted the drug based on the label information. Ms. Cook stated that she missed the error when she verified the prescription.

Dr. Foy asked if the prescription hard copy follows throughout the process. Ms. Cook replied yes.

Dr. Foy asked how the medication is pulled. Ms. Cook stated that using the prescription label and NDC number a technician would pull the drug. Ms. Cook stated in this case the wrong drug was pulled because the prescription was entered incorrectly.

Dr. Foy asked Mr. Zoyhowski about the pulling of the medication. Mr. Zoyhowski stated that the technician that pulls and counts the medication takes the label from the basket and pulls the drug checking the NDC number. Mr. Zoyhowski stated that the technician may underline the four middle numbers to indicate that they matched the numbers on the bottle. Mr. Zoyhowski stated that it would be up to the pharmacist to catch that the prescription was entered incorrectly.

Dr. Musil asked if an error report was filed. Ms. Cook stated that the pharmacy manager was on vacation and she did not file the report. Ms. Cook stated that she learned that it is important to report errors so that they can be addressed.

Mr. Van Hassel asked Ms. Cook if she ever tasted the tablets. Ms. Cook replied no. Ms. Cook stated that if the mother had not been insistent that her daughter could chew the tablets she might have pursued changing the prescription to a liquid form.

Mr. Milovich asked Ms. Cook if the fast environment caused her to make the error. Ms. Cook stated that she kind of blamed the environment initially. Ms. Cook stated that she is aware that distractions in the pharmacy could lead to errors, but ultimately she is responsible for seeing that the prescription was entered correctly.

On motion by Mr. McAllister and seconded by Dr. Foy, the Board dismissed the complaint against the pharmacist and the technician. There was one nay vote by Mr. Van Hassel.

Conference #2

Complaint #3875

The following individual was present to answer questions from Board Members concerning a consumer complaint: Marvin Sussman (Pharmacist in Charge).

Compliance Officer Sandra Sutcliffe gave a brief overview of the complaint. Ms. Sutcliffe stated that the complainant stated that prescriptions for diazepam were filled by the pharmacy and she did not have prescriptions filled at this pharmacy nor was the doctor listed on the prescriptions her physician. Ms. Sutcliffe stated that the doctor either picked the prescriptions up at the pharmacy or had the prescriptions delivered to his office. Ms. Sutcliffe stated that there were recordkeeping issues. Ms. Sutcliffe stated that records she obtained during the investigation were changed when she received the final response from the respondent.

President Haiber asked Mr. Sussman to address the complaint. Mr. Sussman stated that the doctor was known to the pharmacy staff. Mr. Sussman stated that the doctor came to the pharmacy and gave them the prescription verbally. Mr. Sussman stated that the pharmacy had just installed new software that linked to their other pharmacy. Mr. Sussman stated that they asked the doctor for the date of birth which did not match the date of birth in the computer for the patient. Mr. Sussman stated that the doctor told him that was the patient's date of birth.

Dr. Foy asked if the doctor wrote the prescription. Mr. Sussman stated that he did not write the prescription. Mr. Sussman stated that the doctor gave the prescription orally to the pharmacist and the pharmacist wrote the prescription.

Dr. Foy asked if it is normal practice to deliver prescriptions to the doctor's office for patients. Mr. Sussman stated that it was routine to deliver prescriptions to the doctor's office because often the doctor would dispense the medication to the patient.

Dr. Foy asked Mr. Sussman about filling the prescriptions early. Mr. Sussman stated that the doctor would indicate that the patient was going out of town. Mr. Sussman stated that the patient seemed to have a relationship with the doctor and he was helping her out.

Mr. Haiber asked if the patient ever came into the pharmacy. Mr. Sussman replied no. Mr. Sussman stated that the prescriptions were either picked up by the doctor or delivered to the doctor's office.

Mr. Haiber asked about billing the insurance. Mr. Sussman stated that they billed the insurance sometimes and at other times they did not bill the insurance. Mr. Sussman stated that if the refills were early the doctor would pay for the prescription.

Mr. Milovich asked when they started questioning the filling of the prescriptions by the doctor. Mr. Sussman stated that they started looking at the issue after about four or five months.

Mr. Haiber asked when they quit filling prescriptions for this patient. Mr. Sussman stated that they quit filling prescriptions for this particular doctor in 2007 when he asked them to fill prescriptions for his sister.

Ms. Rosas asked if all deliveries were signed for by the doctor. Mr. Sussman replied that the doctor signed for some deliveries and others the pharmacy noted were delivered.

Dr. Musil asked if it was a common practice for the doctor to pay for the prescription or have the pharmacy bill the doctor's office for the prescription. Mr. Sussman replied yes.

Dr. Musil stated that it is common practice for pharmacies to deliver to doctor's offices when they are located in a medical building close to the pharmacy. Dr. Musil stated that there was no ill intent on the part of the pharmacy. Dr. Musil stated that the pharmacy had no knowledge that the doctor was obtaining the medication for himself or using another patient's information to obtain the medication.

Ms. Locnikar asked if they had a contact number for the patient or ever contacted the patient to see why the doctor was picking up the prescription. Mr. Sussman replied he is not sure. Mr. Sussman stated that the patient did call in refills but never came to the pharmacy.

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

Conference #3

Complaint #3843, Complaint #3824, Complaint #3823, Complaint #3832, and Complaint #3792

The following individuals were present to answer questions from Board Members concerning several consumer complaints: Dwayne Pinon (Inhouse Counsel for Walgreens), Raymond Yung (Arizona Pharmacist in Charge for Walgreens CPO in Orlando, Florida), Chris Wollitz (Pharmacist in Charge for Walgreens CPO in Orlando, Florida), Rex Swords (Corporate Representative for Walgreens), and Christine Cassetta (Counsel for Walgreens from Quarles and Brady).

President Haiber opened the discussion by asking the Compliance Officers to give a brief overview of the complaints.

Complaint #3824

Mr. Hunter stated that two prescriptions that were renewals for one patient were entered as new prescriptions for a different patient by the pharmacist in Tucson. The prescription was reviewed by a technician at the Florida Mail Order facility and the name error was not caught. The pharmacist at the central fill only looked at the drug and dosage and not the patient name. The prescription was filled at the central fill facility and was sent to the store. The pharmacist counseled the patient which was the wrong patient. The only documentation of counseling was in the computer system.

Complaint #3823

Ms. Sutcliffe stated that three prescriptions for the wife were filled under her husband's name. The technician scanned the prescriptions at the store. A technician at the Florida processing center reviewed the prescriptions for the correct name and doctor and the error was not caught. The verification pharmacist at the mail order facility verified the prescriptions and also did not catch the error.

Complaint #3832

Ms. Sutcliffe stated that two prescriptions with DAW designations were filled generically. Ms. Sutcliffe stated that one prescription was filled locally and the other prescription was verified at the Florida processing center. The prescription was signed on both lines and no call was made to determine if the brand name was to be dispensed. Ms. Sutcliffe stated that no counseling logs were available.

Complaint #3792

Ms. Sutcliffe stated that the complainant's prescription for Pletal 100mg was changed to Pletal 50mg. The directions were also changed to reflect the change in dose. Ms. Sutcliffe stated that there was no annotation that the prescriber was contacted. Ms. Sutcliffe stated that the data entry review was completed by a Florida pharmacist. There was no counseling documentation except CAPS.

President Haiber asked the representatives to address the complaints.

Mr. Swords stated that he would like to give a brief overview of the process. Mr. Swords stated that in Arizona as well as in Florida when a prescription is presented at the store a technician at the in window will assign the patient in the system. The technician will verify that the name is legible, the date of birth, the phone number, and circle the physician's name on the prescription blank. The prescription is then scanned and the image is sent to the central pharmacy in either Arizona or Florida. Mr. Swords stated that the first prescription in is completed first. At the central processing facility, a technician views the prescription and enters the prescription. Mr. Swords stated at this point the image is separated into two different processes. A specialist will review the patient-prescriber information to determine if the information is entered correctly. A pharmacist will review the drug and directions. If a clinical review is necessary, the prescription is flagged and the prescription is sent to a pharmacist that does clinical reviews. Mr. Swords stated that if the prescription is to be picked up that day the label will print at the local Arizona pharmacy and if the patient chooses to pick up the prescription at a later day the prescription is filled at the fulfillment center in Tempe and the prescription is delivered to the store the next morning.

Mr. Swords stated in the past the process involved the technician at the in window scanning the prescription and the pharmacist verifying the prescription at the end. Mr. Swords stated that they have added an additional check in the fact that a technician specialist reviews the patient and prescriber. Mr. Swords stated that the final check occurs at the point of counseling. Mr. Swords stated that at counseling the pharmacist verifies with the customer the patient's name. Mr. Swords stated that the pharmacist completes the counseling dialogue asking the patient questions about the medication. Mr. Swords stated that this is part of the review process. Mr. Swords stated that the complaints in front of the Board are a result of failure in the last step of the process. Mr. Swords stated that as a preventive action the company would be providing a training program to the Arizona pharmacists re-emphasizing that part of the process during counseling. Mr. Swords stated that the training program would begin in the next two weeks.

Mr. Swords stated that they have removed all the phone calls from the stores. Mr. Swords stated that they have removed task oriented work from the stores. Mr. Swords stated that third party issues are no longer handled at the store level. Mr. Swords stated that they have freed up time for the pharmacists at the store to do counseling, give immunizations, and practice more clinical relevant aspects of pharmacy.

Mr. Swords stated that the objective was to improve quality. Mr. Swords stated that there has been a significant decrease in errors due to the process. Mr. Swords indicated that they have identified gaps and would shore up their processes.

Ms. Cassetta stated that Complaints #3824 and #3823 were a result of the break down in the counseling process. Ms. Cassetta stated that the other two complaints were errors.

Ms. Galindo asked if the patient requests a refill and does not plan on picking up the medication until the next day is it reviewed by the pharmacist. Mr. Swords stated that the refill would not require counseling but if it was new therapy then the prescription would go through the counseling process.

Ms. Galindo asked when the bottle is picked up the next day is the bottle reviewed by the pharmacist. Mr. Swords stated that the bottle has been reviewed centrally by the pharmacist. Mr. Swords stated that counseling would occur at the store if there was a new therapy.

Ms. Galindo stated that these two errors were the errors that were reported. Ms. Galindo stated that there are errors that are not reported. Mr. Swords stated that one error is too many and they are focused on the quality.

Mr. McAllister stated that the process is being used by many companies and the purpose is to have multiple sets of eyes to catch errors. Mr. McAllister asked Mr. Swords if their consumer complaints and errors have decreased. Mr. Swords replied yes.

Mr. McAllister stated that he is satisfied that the two errors occurred as a result in a breakdown at the end.

Mr. Milovich asked Mr. Swords about the new training process. Mr. Swords stated that the training department would come up with a refresher counseling course for the end of the process.

Mr. Milovich stated that the Board has waited a long time for this response and now it has been decided that it is a training issue.

Mr. Swords stated that at the September meeting the Board asked for additional information and they were prepared to come to the November meeting but that was postponed for some reason.

Mr. Milovich asked why the training has not taken place. Mr. Swords stated that they thought they had a different issue and they decided that the end process was where they needed to focus.

Ms. Cassetta stated that she was the one who asked for the extension in order to prepare for the meeting and to try and figure out where the errors occurred.

Dr. Foy asked how many pharmacists viewed the prescription where the prescription was scanned under the wrong patient's name. Mr. Swords stated that would have been the responsibility of the pharmacist at the store.

Dr. Foy asked if any other individuals would have viewed the prescription. Mr. Swords stated that the prescription would have been viewed by the technician at the store, the patient-prescriber technician at the central fill site, and the pharmacist at the store.

Mr. Haiber asked if a pharmacist centrally looks at the name. Mr. Swords stated that they do not. Mr. Swords stated that they are looking at the clinical aspect of the prescription.

Mr. Haiber asked about the final check. Mr. Swords stated that they always have the copy accessible to them. Mr. Swords stated that the image is always available. Mr. Swords stated that primarily the pharmacist at the store would engage the customer after the point of sale and perform their counseling. Mr. Swords stated that if there is a denial or a caregiver picks up the prescription then the instructions to the pharmacist at the store is that they are to pull up the hard copy.

Mr. Haiber asked what would happen if the drug was entered incorrectly. Mr. Swords stated that would be a data review error. Mr. Swords stated that the data review pharmacist centrally should have caught the error and if they did not catch the error the counseling pharmacist should have caught the error.

Mr. Haiber stated that he is concerned about the correct patient's name being on the prescription because the pharmacist is relying on the patient or the patient's care giver to verify that information instead of the pharmacist looking at the hard copy.

Mr. Haiber asked what happens if someone other than the patient picks up the prescription. Mr. Pinson stated that if someone other than the patient picks up the prescription it would be treated as a constructive refusal of counseling and encourage the pharmacist to go back to the hard copy. Mr. Pinson stated that in the one case the wife's prescriptions were entered on the husband's profile and they have documentation that counseling was refused. Mr. Pinson stated that the pharmacist should have went to the hard copy to insure that the prescriptions were entered on the correct patient profile. Mr. Pinson stated that this was not clear in their training program and they must go back and stress this in their training program.

Ms. Rosas asked if the technicians are certified. Mr. Swords stated that Florida does require certification.

Mr. Wand asked if they knew what percentage of the time the end pharmacist looks at the hard copy. Mr. Swords replied that he does not know because they do not keep those statistics.

Mr. Wand stated that a concern of the pharmacists at the time of the conversion was that they would not have time to look at the hard copy as much as they would like. Mr. Swords stated that a pharmacist has a professional responsibility and they cannot be standing over the pharmacist to ensure that they are doing everything correctly.

Mr. Wand stated that they can ensure that they have enough staff to do their job. Mr. Swords stated that they can ensure that they have enough staff, give them the proper tools to use, provide training, and enforce their policies, but at the end of the day it is the pharmacist's responsibility.

Mr. Wand asked if they knew how much time it would take to have the hard copy pulled for each prescription. Mr. Swords stated that he does not know.

Mr. Wollitz stated that in some of the busier stores in Florida the technicians will queue up the image. Mr. Wollitz stated at the point of sale there is a monitor where the technician can pull up the image and the pharmacist can look at the image. Mr. Wollitz stated that this is a best practice and it is up to the pharmacist how they want to handle the counseling.

Dr. Musil asked about the range of DUR severities. Mr. Swords stated that the severity ranges from 1 to 5. Mr. Swords stated that process is driven by third party prompts and an internal engine where interactions are bounced against Medispan.

Dr. Musil stated that under the one patient's profile the patient filled a prescription for Lipitor 40 mg and his wife's prescription for Lipitor 80 mg was on the same profile. Dr. Musil asked where he would find Lipitor 120mg as a DUR. Mr. Swords stated that obviously that would have been tagged by clinical review. Mr. Swords stated that a clinical review pharmacist would have had to review the prescriptions.

Dr. Musil stated that four DURs for the Lipitor were overridden in 6 seconds. Dr. Musil asked how a pharmacist could authorize the dispensing of both 40mg and 80mg of Lipitor. Mr. Swords stated that it was flagged by clinical review and a pharmacist responsible for reviewing clinical reviews in the course of their professional judgment make a decision on how to resolve those clinical reviews. Mr. Swords stated that the information is presented to the pharmacist and they have to resolve the reviews. Mr. Swords stated that if it is six minutes or six seconds that is what they do. Mr. Swords stated that they resolve clinical reviews.

Dr. Musil stated that Diovan and Hyzaar were both dispensed on the same patient profile. Dr. Musil stated that he is concerned that there is a potential problem of giving too much medication to a patient. Dr. Musil stated giving 120mg of Lipitor to a patient is a potential problem. Dr. Musil stated that he does not see any concerns by the pharmacist or the organization. Dr. Musil stated that checking DURs in six seconds is very quick to review a prescription. Dr. Musil stated that using the time scale all the DURs for the Lipitor were done at one time and questioned if this was a good system. Mr. Swords stated again that the system presents the DURs to the pharmacist. Mr. Swords stated that they believe that the system is safe and effective.

Mr. Van Hassel stated that if at counseling he did not raise any concerns about the prescriptions then he could potentially leave with prescriptions that were not his.

Mr. Van Hassel stated that if the pharmacist did not review the hard copies at the end during counseling then they would not know a mistake was made. Mr. Swords stated that at the counseling part that the pharmacist is required to verify the patient, verify the prescriber, what is the purpose of the medication, how they take the medication, and what do they expect from the medication.

Mr. Van Hassel stated that it is the pharmacist's job at the store to make sure that the prescriptions are his without having the prescription to look at unless there is some reason. Mr. Swords stated that the pharmacist always has the hard copy available to him.

Mr. Van Hassel asked what Mr. Swords meant by available. Mr. Swords stated that it is available on the computer work station where the pharmacist is working.

Mr. Van Hassel asked if he does not flag the pharmacist that something is wrong then the pharmacist would not look at the image. Mr. Swords replied that is correct.

Mr. Van Hassel stated that in reality no pharmacist has reviewed that prescription for completeness. Mr. Swords stated that the pharmacist never reviewed the prescription in respect to the patient name. Mr. Swords stated that at the point of sale if the pharmacist has a reason to retrieve the hard copy then they would retrieve the hard copy.

Mr. Swords stated that this particular error type, patient-prescriber review, has decreased significantly with this process.

Mr. Haiber asked if the pharmacists at the store know that they are the pharmacist of record. Mr. Swords stated that is part of the renewed training program. Mr. Swords stated that it was initially covered when they rolled out the process. Mr. Swords stated that during the retraining it will be stressed what the role of the pharmacist is in the process. Mr. Swords stated when you hand the product to the patient you are the final step in the process.

Mr. Wand asked about the technicians pulling up the prescriptions for the pharmacists in Florida. Mr. Wollitz stated that Florida does not mandate consultation. Mr. Wollitz stated that this was a drastic change to all the pharmacists. Mr. Wollitz stated that they paid close attention to their responsibilities. Mr. Wollitz stated that it is ultimately the pharmacist's professional judgment. Mr. Wollitz stated that it is a best practice and the pharmacist is not forced to bring up the image.

Ms. Cassetta stated that the reason the training has not taken place yet is because the company has been reviewing the process to develop the best training program.

Ms. Locnikar stated that she is concerned that the pharmacist is at risk if they are not doing the complete process from start to finish. Mr. Swords stated that they identify who is responsible for each step. Mr. Swords stated that at the end of the process they want to

get the right thing to the right customer. Mr. Swords stated that they have removed tasks at the store to allow the pharmacist to be able to do other things at the store. Mr. Swords stated that 30% of the prescriptions are filled outside the store.

Ms. Locnikar stated that all the other steps are important to ensure that the prescription is filled correctly.

Ms. Galindo stated that as a public member that there is a step that the company is relying on that the consumer is responsible for ensuring that they get the correct medication. Ms. Galindo stated that the consumer relies on the pharmacist to ensure that they are getting the correct medication.

Mr. McAllister stated that this was basically a check-up on the system. Mr. McAllister stated that involves the pharmacist working in a new way. Mr. McAllister stated that there is a corporate focus on quality.

On motion by Mr. McAllister and seconded by Mr. Haiber, the Board agreed to dismiss the complaints. There were two nay votes by Mr. Milovich and Dr. Musil.

AGENDA ITEM 12– License Applications Requiring Board Review

#1 Faramarz Ganjian

Faramarz Ganjian appeared on his own behalf to request to proceed with reciprocity.

President Haiber opened the discussion by asking Mr. Ganjian why he was appearing in front of the Board. Mr. Ganjian stated that he would like to continue with reciprocity and was asked to appear due to disciplinary actions taken against his license. Mr. Ganjian stated that he graduated from pharmacy school in 1978. Mr. Ganjian stated that in 1992 he was charged with wrong doings and did serve some time for his actions. Mr. Ganjian stated that at that time he surrendered his New York license.

Mr. Ganjian stated that his New York license was reinstated on probation. Mr. Ganjian stated that he was granted a license in California that was placed on probation and he was required to take NAPLEX and the law exam. Mr. Ganjian stated that he holds active licenses in California and New York. Mr. Ganjian stated that he is the process of paying back fees to bring his Connecticut license current.

Mr. Van Hassel asked if there was only one action taken against his licenses or were there multiple occurrences. Mr. Ganjian stated that his New York license is currently clear and when he applied for the California license the Board put his license on probation based on the New York disciplinary action.

Mr. Van Hassel asked who redacted the names on the consent order. Mr. Wand stated that he believes someone at NABP redacted the names when copies were sent to the Board.

Mr. Van Hassel asked Mr. Ganjian if he plans to move to Arizona. Mr. Ganjian stated that he has a friend that wants to compound a special dental gel and would like to fill prescriptions for patients in Arizona. Mr. Ganjian stated that his friend needs an Arizona licensed pharmacist to supervise his operation.

Dr. Foy asked Mr. Ganjian what he did for employment after surrendering his license. Mr. Ganjian stated that he sold cars and worked on the development of a carwashing system. Mr. Ganjian stated that he had hit the bottom. Mr. Ganjian stated that he could not work in a pharmacy in any capacity during that time.

Mr. Ganjian stated that he is a totally different person than he was in 1992. Mr. Ganjian stated that he does volunteer work with the AIDS coalition. Mr. Ganjian stated that he realizes that it is the Board's responsibility to protect the public and he stated that what he did in the past would never happen again.

On motion by Mr. Van Hassel and seconded by Mr. Milovich, the Board unanimously agreed to approve Mr. Ganjian's application to proceed with reciprocity.

AGENDA ITEM 13 – Reports

Executive Director Report

Budget Issues

Mr. Wand opened the discussion by reviewing the financial reports with the Board Members. Mr. Wand also reviewed the JLBC Budget recommendations.

Personnel

Mr. Wand stated that the Board office has obtained approval to hire a Drug Inspector to replace Heather Lathim who has recently resigned to go to school. Mr. Wand stated that the Drug Inspector is responsible for routine compliance inspections of medical gas, non-prescription drug retail, full-service, and non-prescription drug wholesaler facilities. Mr. Wand stated that the Board is currently accepting applications and would be conducting interviews in the near future.

10- Year Sunset Audit

Mr. Wand stated that he has received notice from the Auditor General's Office that they would be conducting the sunset review. The audit will take place during 2012. Mr. Wand stated that Arizona statutes require most agencies to undergo a sunset review at least once every 10 years. Mr. Wand stated that the sunset determines if an agency should continue to exist.

Legislative SB-1119- Naturopathic Medicine: Nutrients

Mr. Wand stated that SB-1119 is a bill concerning naturopathic medicine and the definition of nutrients within the bill. Mr. Wand stated that the definition states

a nutrient is manufactured by a pharmacy which should read compounded by a pharmacy because pharmacies do not manufacture products. Mr. Wand stated that the definition also states manufactured by a pharmacy accredited by the Pharmacy Accreditation Board. Mr. Wand stated that he feels that it should read licensed by the Board of Pharmacy because the accreditation board does not license pharmacies.

Mr. Wand stated that he is asking the Board to allow him to represent the Board and ask for the changes he recommended to the language.

On motion by Dr. Musil and seconded by Mr. Van Hassel, the Board unanimously agreed to allow Mr. Wand to represent the Board and to request the proposed changes to the language in SB-1119.

Deputy Director Report

Ms. Frush reviewed the Compliance Officers Activity Report and Drug Inspector Activity Reports with the Board Members.

During the months of November and December, the Compliance Staff issued letters for the following violations:

Controlled Substance Violations

1. Controlled Substance Overage 1
2. Controlled Substance Shortage -5
3. Controlled Substance Records not readily retrievable – 2
4. Failure to complete Controlled Substance Count upon change of Pharmacist in Charge - 1

Documentation Violations

1. Failure to document counseling – 2
2. Failure to document mechanical counting devices maintenance –1
3. Failure to document medical conditions – 2

Pharmacy Violations

1. Allowing a technician to work with an expired license - 2
2. Current license renewal not available at site for pharmacist or technician – 2

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

1. Location of Controlled Substance Records

Areas outside the inspection reports that may be of interest:

1. Generic Substitution – Orange Book rating
2. Offers of Counseling
3. Annual Inventory taken over multiple days

Mr. McAllister stated that it may be advisable for pharmacies to perform a self-assessment each year, so that everyone in the pharmacy would know where the records are kept.

AGENDA ITEM 15 – Consent Agreements

President Haiber 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.

Dr. Foy was recused due to a conflict of interest

On motion by Mr. Van Hassel and seconded by Mr. Milovich, 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.

Thomas Leach - 11-0032-PHR

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

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

Karen Bloom - 11-0019-PHR
Ronald Gottschlich - 11-0020-PHR
Albert Cruz, Jr. - 11-0025-PHR
Anji Kurray - 11-0026-PHR
Sherwin Kaufman - 11-0027-PHR
David Rugolo - 11-0028-PHR
Jami Pitts - 11-0029-PHR
Noel Jeanne Lance - 11-0033-PHR

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

AGENDA ITEM 16 -Pharmacy Technician Trainee Requests for Approval to Reapply for Licensure

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

On motion by Mr. Milovich and seconded by Dr. Foy, 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

Abrar Alsafi	Lilian Bashou
Alicia Burch	Tiffany Riggs
Alex Palafox	Cheryl Legan
Ronnie Gammage	Amanda Hardcastle
Erin Bacskai	Charity Benson
David Byers	Jovonna Curley
Jessica Silva	Gina McMichael
Cesar Arroyo	Hemal Patel
Heather Morales	Denise Quigg
Isabel Chavez	Steven Nelson
Heather Exarhos	Minh Le
Danielle Huff	Aundrea Kline
Boyd Nells	Kristen Anson
A'Shandra Mansfield	Charlesia Reynolds
Nizhonia Johnson	Thomas Bigas
Desiree Cobos	Corrie North
Yolanda Gonzales	Ricky Ellis
Kelley Lewellyn	Brittany Ann De Leon
Iva Kozeli	Brandon Ruiz
Diana Apraku	Steven Chaira
Vivian Franco	Valentino Torres
Renee Anderson	Roxina Villagranna
Vidal Mancilla	Valerie Holguin
Denisse Montoya	Claudia Duran
Jodi MacKendrick	

AGENDA ITEM 20 – Craig Moon – Case #11-0003-PHR

President Haiber asked Mr. Wand to address the agenda item.

Mr. Wand stated that at the last meeting the Board decided to issue a Board Order to Mr. Moon revoking his pharmacist license.

Mr. Wand stated that Mr. Moon had sent a letter to the Board indicating the he did not renew his license. Mr. Wand stated that the Board reviewed the files and found that Mr. Moon did not renew his license. Mr. Wand stated that Mr. Moon stated that he started the process and then decided not to renew his license. Mr. Wand stated that his license was rolled as part of the renewal process and there were no fees attached showing that he had renewed his license. Mr. Wand stated that Mr. Moon had an expired license at the time that the Board considered the case.

Ms. Campbell stated that the Board could close the case and file the information if the individual reapplies for a license in Arizona.

On motion by Mr. Van Hassel and seconded by Dr. Foy, the Board unanimously agreed to close the case and review the information if the respondent reappears.

AGENDA ITEM 22 – Approval of exams for licensure

President Haiber opened the discussion by stating that the Board approves the licensing exams every year.

On motion by Mr. McAllister and seconded by Mr. Van Hassel, the Board unanimously approved the NAPLEX exam, the MPJE exam, The FPGEEC exams, and the PTCB exam as the Board approved exams for licensure.

AGENDA ITEM 23 – Medical Marijuana

President Haiber asked Mr. Wand to address this agenda item.

Mr. Wand stated that this agenda item was asked to be placed on a future agenda.

Mr. Wand stated that the Board of Pharmacy is not involved with the administration of the Medical Marijuana program. Mr. Wand stated that the draft rules are being written by the Arizona Department of Health Services (DHS).

Mr. Wand stated that the Board of Pharmacy is not involved because Medical Marijuana is a Schedule I drug with no approved medical use. Mr. Wand stated that pharmacies and pharmacists may face legal ramifications if they were involved in the distribution of marijuana.

Mr. Wand stated that the physicians are not issuing prescriptions for the marijuana but are making recommendations.

Mr. Wand stated that the Arizona Pharmacy Alliance published a position statement. Mr. Wand stated that one recommendation was that the Prescription Monitor program track the sales. Mr. Wand stated that there are several issues with the monitoring program tracking the sales. Mr. Wand stated that there are no prescriptions issued and there are no NDC numbers assigned to the products.

Mr. Wand stated that DHS is developing their own reporting system.

Mr. Wand stated that it has also been suggested that the DEA should change the product to a Schedule II medication. Mr. Wand stated that would be difficult to do since there is no standard dose for marijuana.

AGENDA ITEM 24 – Quality Assurance Program Rules

President Haiber asked Mr. Wand to address this agenda item.

Mr. Wand stated that this item was requested to be placed on a future agenda for discussion. Mr. Wand stated that he believes that no action can be taken at this time due to the rules moratorium.

Mr. Wand stated that he has provided information stating that a rule can be changed if there is no cost associated with the change and the change is deregulatory.

Mr. Wand stated that he believes that that there could be an extra cost to some companies and other companies have already established a program.

Mr. Wand stated that the rule implementation would not be deregulatory.

Mr. Wand indicated that there were two different proposals and the sponsor of the bill did not support the one proposal because it included near misses.

Mr. Wand stated that the rules moratorium is supposed to last until December.

Mr. Van Hassel stated that there was some concern expressed to him that the rules had not been written. Mr. Van Hassel stated that pharmacies could put a program in place without having written rules.

Mr. Wand stated that the quality assurance program is required by statute.

Dr. Musil stated that the program provides a way for pharmacies to look at their processes and make improvements.

AGENDA ITEM 26 – Attendance at Annual NABP meeting – San Antonio, TX

President Haiber asked Mr. Wand to address this agenda item.

Mr. Wand stated that Board must select delegates to serve at the NABP meeting in San Antonio, Texas from May 21, 2011 to May 24, 2011. Mr. Wand stated that the Board must select a voting delegate and alternate delegate.

On motion by Dr. Musil and seconded by Dr. Foy, the Board unanimously selected Mr. Haiber as the voting delegate and Mr. Milovich as the alternate delegate.

AGENDA ITEM 27 – Call to the Public

President Haiber 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.

Mindy Smith, CEO of the Arizona Pharmacy Alliance, came forth to update the Board on various activities of the Alliance.

Ms. Smith reviewed the various conferences to be held by the different academies. Ms. Smith stated that the annual conference would in held in July.

Ms. Smith stated that the alliance has three bills pending this legislative session. Ms. Smith stated that one bill would change the drug therapy management sites. Ms. Smith stated that another bill would allow pharmacists to give children immunizations with a prescription and would allow a pharmacist to administer the influenza vaccine to children without a prescription. Another bill would allow pharmacy students (Interns) to immunize under the supervision of a pharmacist.

Ms. Smith stated that currently the law suit filed by the health care associations concerning the budget sweep is currently being appealed.

Ms. Smith stated that the alliance has met with DHS concerning the medical marijuana rules.

Roger Morris came forth to updated the Board on the lawsuit concerning the sweeps. Mr. Morris stated that they are currently appealing the decision.

President Haiber recessed the meeting at 3:15 P.M. The meeting will resume at 9:00 A.M. on January 28, 2011

AGENDA ITEM 1 – Call to Order – January 28, 2011

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

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

AGENDA ITEM 9 – City of Peoria Police Department Ordinance Proposal

President Haiber opened the discussion by stating that the City of Peoria is present to explain the city's ordinance proposal which would regulate the dispensing of prescription drugs.

The following individuals were present: Steve Kemp (City Attorney for Peoria), Ed Bakke (Police Detective for Peoria Police Department), and Doug Hildebrandt (Commander for Peoria Police Department).

The police department presented a power point presentation regarding their proposed ordinance.

The police department feels that prescription drug abuse has increased and prescription fraud is a leading cause.

The police department indicated that the increase in prescription fraud has increased the workload of the police department in investigating cases.

The police department hopes to make it more difficult for criminals to engage in fraudulent or illegal transactions.

The ordinance makes the following suggested regulations:

1. Pharmacies would be required to submit a security plan to the police department for approval
2. Pharmacies would be required to have a closed circuit video recording device, capable of producing video images of such clarity and distinctness that identification of each person presenting a prescription and obtaining a prescription from the pharmacy can be seen
3. Pharmacies would be required to obtain fingerprints of the subject obtaining a Schedule II medication and the fingerprints must be kept on file.
4. Pharmacies would be required to check identification for patients picking up prescriptions.

Dr. Foy stated that he sees prescription fraud as a real problem, but does not feel that each city should be making their own regulations. Dr. Foy stated that the regulations should be kept consistent. Dr. Foy stated that it would be difficult for companies if each city adopts different regulations.

Dr. Foy stated that they mentioned Oxycodone and Methadone as two medications that are abused. Dr. Foy stated that they would be asking individuals to be fingerprinted to obtain other medications that are Schedule II, such as Adderall, which is used by young children.

Dr. Foy stated that if the plan is implemented in Peoria the problem would not go away. The problem would just move to a different city.

Mr. Kemp stated that they would like the state to make it mandatory to report prescription fraud.

Mr. Kemp stated that they would like to require mandatory identification if a patient is picking up a Schedule II prescription.

Mr. Hildebrandt stated that it is not only a problem in Peoria but is a problem everywhere. Mr. Hildebrandt stated that they would like to see the issue handled at a state level because the problem would just move from one area to another. Mr. Hildebrandt stated that they started the process to address the issues.

Mr. Milovich asked about certification of the cameras to have a workable image. Mr. Bakke stated that most pharmacies have good equipment with good resolution and DVR capability. Mr. Bakke indicated that the placement of the camera is important.

Mr. Milovich asked if they have completed a cost analysis in regards to the cost of the

equipment and the stoppage of the workflow to fingerprint someone picking up the prescription. Mr. Bakke stated that they have not.

Mr. Kemp stated that the regulations could be phased-in so that the burden is minimized.

Mr. Milovich stated that a similar issue has occurred with pseudoephedrine. Mr. Milovich stated that each city has made their own ordinances and some stores have decided not to carry the products.

Mr. Kemp stated that they are looking for a balance between the two.

Mr. Van Hassel stated that there are tools in place, such as the prescription monitoring program, to monitor for fraud. Mr. Bakke stated that they do use the program. Mr. Bakke stated that they are able to use the program to tie together multiple cases and doctor shopping incidences. Mr. Bakke stated that they are not able to identify the person from this information

Ms. Rosas asked about the fingerprinting process. Mr. Bakke stated that the index fingerprint would be placed on the prescription presented.

Dr. Musil asked the presenters to describe fraud. Mr. Bakke stated that from a prescription aspect it could mean that a patient obtained a prescription from a doctor and changed the prescription. Mr. Bakke stated that a patient could manufacture a prescription and present the prescription to the pharmacy.

Dr. Musil asked if the regulations would expand to physician's offices to prevent fraud. Mr. Kemp stated that the more you expand the regulations the more invasive the process becomes. Mr. Kemp stated that the city does not have authority to regulate doctor's offices.

Dr. Musil asked what makes it different at a physician's office versus a pharmacy. Mr. Kemp stated that the pharmacies have tools that would assist the police department most.

Mr. Bakke stated that they cannot prove that a patient went to the doctor and lied about their identity.

Mr. Bakke stated that most patients make prescriptions on their home computers and steal the doctor's DEA number.

Dr. Musil stated that the police department should reach out to the pharmacies and the Board to come up with a possible solution. Dr. Musil stated that the Governor stated that she does not want regulations enacted that would increase costs to businesses.

Mr. Bakke stated that they have had varied responses. Mr. Bakke stated that most pharmacies are within the regulation and are verifying IDs.

Dr. Musil stated that an additional step in the process, such as fingerprinting, could create a distraction that could impact patient care.

Dr. Musil stated that he feels that fraud could be decreased through education.

Mr. Haiber asked when the individual would be fingerprinted. Mr. Bakke stated that the fingerprinting would occur at the time of pickup.

Mr. Haiber stated that he sees issues because prescriptions could be phoned in as forged prescriptions.

Mr. Haiber stated that it would be difficult to fingerprint patients at a drive-thru window at the pharmacy.

Mr. Haiber asked about the challenges to prosecute fraud cases. Mr. Bakke stated that if the video is not clear even if the pharmacist is able to identify the patient the county attorney would turn down the case.

Mr. McAllister stated that a pharmacist looking for fraud can stop the fraud in its track. Mr. Bakke stated that it appears that the same pharmacies turn fraudulent prescriptions into the police department. Mr. Bakke stated that some pharmacies indicate that they do not check Ids or are too busy too track Ids.

Mr. McAllister stated that the Board could have an article in a future newsletter concerning the reporting of fraudulent prescriptions.

Mr. Kemp stated that they would like the Board to require pharmacies to report the fraudulent prescriptions, so that they could get cases early on.

Arizona Pharmacy Alliance

Mindy Smith, CEO, of the Pharmacy Alliance was present to speak on behalf of the Pharmacy Alliance.

Ms. Smith stated that the alliance opposes the City of Peoria Drug Ordinance Proposal.

Ms. Smith stated that the Alliance opposes the proposal for the following reasons:

1. Pharmacists have a duty to patient care, not to act as law enforcement.
2. Fingerprinting does not identify the person who is involved in the actual diversion of a controlled substance.
3. There will be significant costs incurred by pharmacies and to the City of Peoria.
4. The proposed ordinance is a piecemeal approach. Controlled Substance diversion is a national issue and not just a local issue.

Ms. Smith stated that the alliance proposes to use the monitoring program to identify abusers and refer the individuals for treatment and this solution would be cost effective for the pharmacies. Ms. Smith stated that the ordinances should target the person for whom the prescription was written and not the purchaser. Ms. Smith noted that the purchaser is not always the person who created the fraudulent prescription.

Arizona Retailers Association

Janet Underwood and Richard Mazzoni with the Arizona Community Pharmacy Committee were present to state their concerns with the proposed Peoria ordinances.

Ms. Underwood stated that the ordinances are problematic in numerous ways.

Ms. Underwood stated that there is an issue of patient safety. Ms. Underwood stated that by fingerprinting a patient picking up a Schedule II prescription an individual could watch the pharmacy counter and when the patient leaves the pharmacy they could be mugged in the parking lot.

Ms. Underwood stated that there could be possible HIPPA violations.

Ms. Underwood stated that the DEA and the Board of Pharmacy are responsible for regulating pharmacies and drugs.

Ms. Underwood stated that the proposed ordinance would capture video data on innocent people.

Ms. Underwood stated that there would costs associated with the process which would include employee time and the loss of business as innocent patients go elsewhere to fill their prescriptions.

Ms. Underwood stated that the use of the prescription monitoring program could help resolve the issue.

Ms. Underwood stated that the retailers association is willing to work with the Peoria City Council to develop a workable plan.

American Civil Liberties Union (ACLU)

Dan Pochoda was present to represent the ACLU on the proposed fingerprinting ordinance in Peoria.

Mr. Pochoda stated that the ACLU opposes the ordinance recommended by the Peoria City attorney and the Police department that would require the taking of fingerprints by the pharmacists.

Mr. Pochoda stated that the plan would require fingerprints from all patients and most patients would not be suspects of a criminal prosecution.

Mr. Pochoda stated that the law would make pharmacies an annex of the police station.

Dr. Musil asked Mr. Pochoda if the ACLU would be willing to work with the city and the Board to help educate the public. Mr. Pochoda stated that their resources are used to protect the rights of individuals.

Mr. Van Hassel asked if the ACLU is only opposed to the fingerprinting aspect. Mr. Pochoda stated that they feel that the taking of prints is private information. Mr. Pochoda stated that they do not oppose the use of cameras because the use of cameras is widespread.

Mr. Wand stated that he did look at NABPLaw and no state requires fingerprinting to pick up prescriptions. Mr. Wand stated that seven states require identification to pick up controlled substance prescriptions.

AGENDA ITEM 10– Permits and Licenses

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

RESIDENT PERMITS

OnSite Rx of Phoenix, LLC

Terry Allard, Pharmacist in Charge of the Texas Site, and Lee Moore, Pharmacist in Charge for the new Phoenix Site, were present to answer questions from Board Members.

President Haiber opened the discussion by asking the applicants about the nature of their business. Mr. Allard stated that they would be a closed door pharmacy serving long term care facilities such as skilled living homes.

Mr. Van Hassel asked if they planned on placing dispensing machines in the various homes. Mr. Allard replied that the dispensing machines would be placed in the pharmacy and the medications would be filled and dispensed at the pharmacy. Mr. Allard stated that the medications properly labeled for the nursing facility would be delivered to the nursing home.

Mr. Allard stated that they do have another service model that does place the dispensing machines in the nursing homes and they may pursue that option in the future.

Mr. Van Hassel asked if they were familiar with the rules and regulations concerning the logs that must be kept for dispensing machines. Mr. Allard stated that they have a quality assurance program in place.

Mr. Van Hassel asked about the machines being used in the pharmacy. Mr. Allard stated that they would be using Talis machines. Mr. Van Hassel asked if they are aware of problems with the machines such as humidity issues. Mr. Allard stated that they are aware of the problems and have programs in place.

Mr. McAllister asked if the company is based in Texas. Mr. Allard stated that their corporate office is in Texas. Mr. Allard stated that they have pharmacy sites in Texas and Pennsylvania. Mr. Allard stated that in those two states they use a combination of central and remote dispensing.

Mr. Haiber asked if the regulations in Pennsylvania allow them to use remote machines. Mr. Allard replied yes.

Dr. Foy asked if they have standards for filling the machines. Mr. Allard stated that the medications are placed in canisters that are checked by the pharmacist. Mr. Allard stated that each canister is encoded and the machine knows what medication is placed in the canister by the computer chip.

Med Health Solutions

Steven Kane, Owner, and Peter Sweeney, Pharmacist in Charge, were present to answer questions from Board Members.

President Haiber opened the discussion by asking the applicants to describe the nature of their business.

Mr. Kane stated that the main emphasis of their business would be home infusion.

Dr. Foy asked about the layout of the pharmacy. Dr. Foy noted that the offices were located next to the pharmacy and wanted to know if the non-pharmacist owner would have access to the pharmacy when the pharmacist was not present. Mr. Kane stated that the areas are separated by a deadbolt and the pharmacist would be the only one to have keys to open the pharmacy. Mr. Kane stated that there are video cameras throughout the pharmacy.

Mr. McAllister asked them to describe the layout of the sterile processing area. Mr. Kane stated that they have an ante room that is a screened off area. Mr. Kane stated that they have rubber dividers in the area. Mr. Kane stated that the room is equipped with HEPA filters and had been previously certified as a clean room.

Mr. McAllister asked if they planned on preparing chemo products. Mr. Sweeney replied no.

Mr. Van Hassel asked if the IV preparation would be a small or large part of their business. Mr. Sweeney replied IV preparation would be a large part of their business.

Mr. Van Hassel noted that the IV room is rather small for a large scale operation. Mr. Sweeney stated that as money permits they would be remodeling the space.

Mix Rx

Dr. Musil was recused due to a conflict of interest.

Mark Forster, Pharmacist in Charge, was present to answer questions from Board Members. Susan Trujillo, Legal Counsel for Mix Rx, was also present.

President Haiber opened the discussion by asking the applicant to describe the nature of their business.

Mr. Forster stated that the pharmacy would be doing veterinary compounding. Mr. Forster stated that they would not be a traditional retail pharmacy.

Mr. McAllister asked if they would be supplying medications for veterinary use. Mr. Forster stated that most of the medications compounded would be patient specific.

Mr. McAllister asked how the pharmacy planned to obtain the prescriptions from the veterinary office. Mr. Forster stated that they would receive the prescriptions via telephone, fax, or hard copy. Mr. Forster stated that the prescriptions could be delivered to the address of the patient's choice which would include their home or veterinarian's office.

Mr. Van Hassel asked Mr. Forster if they planned on doing sterile compounding. Mr. Forster replied no.

Mr. Haiber asked if Mr. Forster planned to do any internet dispensing. Mr. Forster replied no.

Ms. Trujillo stated that they had checked limited service pharmacy on their application but would actually be a community pharmacy.

Southwest Orthopedic and Spine Hospital, LLC

Jim Flinn, CEO of O.A.S.I.S., and Aftehar Baqseh, Pharmacist in Charge, were present to answer questions from Board Members.

President Haiber opened the discussion by asking the applicants to describe the nature of their business.

Mr. Flinn stated that the pharmacy would be an inpatient pharmacy within the hospital and would do routine hospital dispensing.

Mr. Haiber asked how many beds would be in the hospital. Mr. Flinn stated that they would be licensed for 65 beds. Mr. Flinn stated that they would open with 40 beds and ultimately hope to be licensed for 80 beds.

Mr. Haiber asked if they would be doing any sterile compounding. Ms. Baqseh stated that the pharmacy would do sterile preparations and the pharmacy would not be open until the third week of April.

Mr. Van Hassel asked about the staffing model of the pharmacy. Ms. Baqseh stated that she would serve as the pharmacist and would have one pharmacy technician.

Mr. Van Hassel asked about the size of the pharmacy. Mr. Flinn stated that the pharmacy meets the required space and is stretched out along the hallway to be in alignment with the pre-op area.

Mr. Van Hassel asked if they would fill any out patient prescriptions. Ms. Baqseh stated that they would be strictly an inpatient pharmacy.

On motion by Mr. Van Hassel 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
Wal-Mart Pharmacy #10-3844	5137 W. Olive Ave, Glendale, AZ 85302	Wal-Mart Stores, Inc
Xpress Care #4	2222 E. Highland Ave., Suite #102, Phoenix, AZ 85016 (O)	Jackie Phan
OnSite Rx of Phoenix, LLC	21421 N. 23 rd Ave., Suite #21, Phoenix, AZ 85027	Provider Meds LP
Northern Arizona University/ Fronske Health Center	Fronske Health Center, Building 25 HLC, Flagstaff, AZ 86011	Northern Arizona University Arizona Board of Regents
Eagle Pharmacy	16222 N. 59 th Ave., Suite D-175, Glendale, AZ 85306 (O)	Eagle Pharmacy, LLC
Airpark Pharmacy	15021 N. 74 th St., Ste 100, Scottsdale, AZ 85260	Airpark Pharmacy, LLC
Med-Health Solutions	2401 W. Behrend Dr., Phoenix, AZ 85027	Steven Kane
Southwest Orthopedic & Spine Hospital	750 N. 40 th St., Phoenix, AZ 85008	Southwest Orthopedic & Spine Hospital, LLC
LifeCare Solutions, Inc.	2240 W. Broadway, Ste #101, Mesa, AZ 85202 (O)	LifeCare Solutions, Inc.
SunWest Pharmacy LTC (Long Term Care)	1300 N. 12 th St., Phoenix, AZ 85006	Acorn USA, Inc.

(O) = Ownership Change

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

On motion by Dr. Musil and seconded by Mr. McAllister, the Board unanimously approved the resident application listed below pending final inspection by a Board Compliance Officer.

RESIDENT (In Arizona)

Pharmacy	Location	Owner
CVS/Pharmacy #8983	5125 W. Olive Ave. Glendale, AZ 85302	Arizona CVS Stores, LLC

Dr. Musil was recused due to a conflict of interest.

On motion by Mr. Van Hassel and seconded by Mr. McAllister, the Board unanimously approved the resident application listed below pending final inspection by a Board Compliance Officer.

RESIDENT (In Arizona)

Pharmacy	Location	Owner
Mix Rx	7820 E. Redfield Rd., Suite 2, Scottsdale, AZ 85260	M4G, LLC

NON-RESIDENT PERMITS

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

NON-RESIDENT (Out of State)

Pharmacy	Location	Owner
Med-Care Diabetic & Medical Supplies, Inc.	933 Clint Moore, Boca Raton, FL 33487	Med-Care Diabetic & Medical Supplies, Inc.
KV Vet Supply	3190 N. Rd., David City, NE 68632	Kennel Vaccine Vet Supply
Main Street Pharmacy, LLC	126 E. Main St., Newbern, TN 38059	David Newbaker
Carvajal Pharmacy	3410 Roosevelt Ave., San Antonio, TX 78214	Carvajals, Inc.
MedfusionRx, LLC	2102 5 th St. N, Columbus, MS 39705	MedfusionRx, LLC
Catalyst Mail	255 Phillipi Rd., Suite 400, Columbus, OH 43228	Medco Pharmacy, LLC
Catalyst Mail	6225 Annie Oakley Dr., Las Vegas, NV 89120	Medco Pharmacy, LLC
Lone Star Pharmacy	12615 W. Airport Blvd., Sugar Land, TX 77478	Lone Star Pharmacy, LTD
Pharmacy Services Inc	212 Millwell Dr., Suite A, St. Louis, MO 63043	Pharmacy Services, Inc.
Promesa Health Pharmacy	10815 Old Mill Rd., Omaha, NE 68154	Promesa Health, Inc.

Wholesaler Permits

President Haiber stated that there all wholesale permits are in order and there are representatives present to answer questions from Board Members.

Independent Pharmacy Cooperative

Paul Abbott, Manager of Independent Pharmacy Cooperative, was present to answer questions from Board Members.

President Haiber opened the discussion by asking Mr. Abbott to describe the nature of their business.

Mr. Abbott stated that they will be a wholesaler shipping prescriptions to businesses in seven western states. Mr. Abbott stated that this is the second distribution center that his

company has opened. Mr. Abbott stated that their first distribution center is located in Wisconsin.

Mr. Haiber asked if they would be handling controlled substances. Mr. Abbott stated at this time they would not be handling any controlled substances. Mr. Abbott stated that they would not be carrying any over the counter medications at this time.

Mr. Haiber asked Mr. Abbott if he would be the manager at this site. Mr. Abbott replied yes.

On motion by Mr. McAllister and seconded by Dr. Musil, the Board unanimously approved the wholesaler permits listed below.

WHOLESALER	LOCATION	OWNER
Independent Pharmacy Cooperative (Full Service)	5610 S. 40 th St. #1, Phoenix, AZ 85040	Independent Pharmacy Cooperative
ABB/Con-Cise Optical Group, LLC (Full Service)	9860 N. 19 th Dr., Phoenix, AZ 85021 (O)	ABB/Con-Cise Optical Group, LLC

(O) = Ownership Change

Pharmacists, Interns, Pharmacy Technicians, and Pharmacy Technician Trainees

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

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

On motion by Dr. Musil and seconded by Mr. McAllister, the Board unanimously approved the Intern licenses listed on the attachments.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously approved the Pharmacy Technician and Pharmacy Technician Trainee applications listed on the attachments.

AGENDA ITEM 11– Special Requests

#1 Robert Preston Hooper

Robert Preston Hooper appeared on his own behalf to request that the probation imposed on his pharmacist license per Board Order 05-0028-PHR be terminated. Lisa Yates with the PAPA program was also present.

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

Mr. Haiber asked Mr. Hooper if he has met all the requirements of his consent agreement. Mr. Hooper replied yes.

Mr. McAllister asked Mr. Hooper what has changed in his life the last couple of years. Mr. Hooper stated that he is in a more positive place. Mr. Hooper stated that his life has turned around. Mr. Hooper stated that his life has changed in a positive direction after experiencing a near death experience.

Mr. Haiber asked Ms. Yates if PAPA supports his request. Ms. Yates stated that Mr. Hooper has remained compliant through out his contract.

On motion by Mr. McAllister and seconded by Mr. Van Hassel, the Board unanimously agreed to approve the request by Mr. Hooper to terminate the probation of his pharmacist license imposed by Board Order 05-0028-PHR.

#2 Mustafa Maher

Mustafa Maher appeared on his own behalf to request that the probation imposed on his pharmacist license per Board Order 05-0026-PHR be terminated. Lisa Yates with the PAPA program was also present.

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

Mr. Haiber asked Mr. Maher if he is currently working. Mr. Maher stated that he is working at a compounding pharmacy. Mr. Maher stated that he is working on a new product to treat Alzheimer's disease. Mr. Maher stated that he has met with the FDA for the product.

Mr. Haiber asked Mr. Maher about the PAPA program. Mr. Maher stated that he is in a very good position. Mr. Maher stated that he came from overseas and it was real hard to go with the American flow. Mr. Maher stated that it was a long journey and a tough road. Mr. Maher stated that he has learned a lot.

Mr. Haiber asked Ms. Yates if PAPA supports his request. Ms. Yates stated that Mr. Maher has remained compliant and PAPA supports his request.

On motion by Mr. Van Hassel and seconded by Mr. McAllister, the Board unanimously agreed to approve the request by Mr. Maher to terminate the probation of his pharmacist license imposed by Board Order 05-0026-PHR.

#3 Gary Sorensen

Gary Sorensen appeared on his own behalf to request that the Board amend his Consent Agreement to allow him to serve as a Preceptor. Lisa Yates from the PAPA program was also present.

President Haiber opened the discussion by asking Mr. Sorensen why he was appearing in front of the Board. Mr. Sorensen stated that he would like the Board to amend his consent agreement so that he is allowed to be a preceptor. Mr. Sorensen stated that his employer has sent a letter supporting his request. Mr. Sorensen stated that he has a year left on his consent agreement.

Mr. Haiber asked Ms. Yates if Mr. Sorensen is compliant with his PAPA contract. Mr. Yates stated that Mr. Sorensen has remained compliant with the contract.

Mr. Milovich asked if the Board is able to approve his request.

Mr. Wand stated that in the past the Board has approved similar requests. Mr. Wand stated that in 2005 the language changed in the rules. Mr. Wand stated that A.A.C R4-23-302(C) (1) states that to be a pharmacy intern preceptor, a pharmacist must hold a current unrestricted pharmacist license. Mr. Wand stated that Mr. Sorensen is currently on probation and therefore could not serve as a preceptor.

Mr. McAllister stated that Mr. Sorensen could still work with students even though he could not be a preceptor. Mr. Sorensen stated that he was hoping to be a preceptor so that he could evaluate the student's work that he works with at the hospital.

Ms. Locnikar asked why participants request to amend their consent agreements when the consent is signed for five years and why the PAPA contract is for five years. Ms. Yates stated that the PAPA program is 5 years in length due to relapses. Ms. Yates stated that statistically relapses occur during the first and third years. Ms. Yates indicated that there are relapses right before the fifth year is finished.

President Haiber stated at this time the Board cannot approve his request and the Consent Agreement would remain as written and signed by Mr. Sorensen.

AGENDA ITEM 12– License Applications Requiring Board Review

#2 James Clausius

James Clausius appeared on his own behalf to request to proceed with reciprocity.

President Haiber opened the discussion by asking Mr. Clausius why he was appearing in front of the Board. Mr. Clausius stated that he would like to continue with reciprocity and was asked to appear due to disciplinary actions taken against his license. Mr. Clausius stated that he has had an unrestricted license in Pennsylvania for 7 years. Mr. Clausius stated that he currently works for Rite-Aid in Pennsylvania.

Dr. Musil asked Mr. Clausius if he is maintaining his sobriety. Mr. Clausius stated that the circumstances that created the initial problem in Colorado are non-existent.

Dr. Musil asked Mr. Clausius about the evaluations from his doctor. Mr. Clausius stated that in 1990 he was evaluated by doctors that did not understand social anxiety disorder.

Mr. Clausius stated that he was issued prescriptions for medications but due to embarrassment did not fill the prescriptions and instead diverted the medications that he was prescribed. Mr. Clausius stated that he surrendered his Colorado license because he could not go to group therapy and speak in front of others and they would not allow him to go for one-on-one therapy with a doctor.

Dr. Foy asked Mr. Clausius what he did after he surrendered his license. Mr. Clausius stated that he renovated and sold houses. Mr. Clausius stated that he moved back to Pennsylvania due to his parent's health. Mr. Clausius stated that he studied for over a year to take his exams. Mr. Clausius stated that he would like to live out west again,

Ms. Locnikar asked if there were any disciplinary actions in 2003. Mr. Clausius stated that he took the exams that year.

Mr. Milovich asked Mr. Clausius if he has been offered a position in Arizona. Mr. Clausius stated that he does not have a job in Arizona and wanted to wait until he has an Arizona license before looking for employment.

On motion by Mr. Milovich and seconded by Ms. Locnikar, the Board agreed to approve Mr. Clausius's application to proceed with reciprocity. There was one nay vote by Dr. Musil.

AGENDA ITEM 13 – Reports

PAPA Report

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of forty- nine (49) participants in the PAPA program. Since the last report on

November 17, 2010, two participants have completed the program, three new participants have entered the program, and three new contracts are pending due to signatures or completion of treatment

Ms. Yates stated that one participant has decided that he wants to terminate his contract. Ms. Yates stated that she has submitted a letter to the Board Office today after receiving the participant's written request to terminate his contract.

Mr. Van Hassel asked Ms. Campbell why the names were removed from the report.

Ms. Campbell stated that the statutes state that the program must submit a report by case number and that would not include the names.

Mr. Van Hassel stated that he would like to have the names to help identify participant's that may be having problems.

Ms. Campbell stated that it would need to be placed on a future agenda to discuss since it is not on the agenda today.

Mr. Van Hassel asked that he would like the PAPA report format to be placed on a future agenda for consideration.

AGENDA ITEM 14 – Consideration of Complaints on Schedule “F” and Consideration of Consumer Complaint Committee Recommendations

The Consumer Complaint Review Committee met prior to the Board Meeting to review 17 complaints. Ms. Galindo, Mr. Haiber, Mr. Milovich, and Ms. Rosas served as the review committee. Board Members were encouraged to discuss issues and were encouraged to ask questions.

On motion by Dr. Musil and seconded by Mr. McAllister, the Board unanimously accepted the recommendations of the Consumer Complaint Review Committee for the following complaints. Mr. Haiber was recused due to a conflict of interest.

- Complaint #3894 - Dismiss
- Complaint #3902 - Dismiss

On motion by Dr. Musil and seconded by Mr. Van Hassel the Board unanimously accepted the recommendations of the Consumer Complaint Review Committee for the following complaints. Dr. Foy was recused due to a conflict of interest.

- Complaint #3892 - Dismiss
- Complaint #3872 - Dispensing Pharmacist -Consent Agreement offered to the Pharmacist for a fine of \$500 and 3 hours of board approved CE on error prevention and 3 hours of board approved CE on law in addition to regular CE requirements. Fine must be paid and CE completed in 90 days. If not signed, the case proceeds to hearing.
Pharmacist in Charge - Dismiss
Pharmacy Technician – Consent Agreement for a \$100 fine to be paid in 90 days
Pharmacy Intern – Advisory Letter concerning Counseling and Address Change
- Complaint #3903 - Conference for Permit Holder, Pharmacist, and Pharmacy Technician
- Complaint #3905 - Dismiss
- Complaint #3907 - Pharmacist – Consent Agreement offered to the Pharmacist for a fine of \$500 and 6 hours of board approved CE on error prevention in addition to regular CE requirements. Fine must be paid and CE completed in 90 days. If not signed, the case

proceeds to hearing.
Pharmacy Technician – Advisory Letter concerning
the following of policies and procedures

On motion by Mr. Van Hassel and seconded by Mr. McAllister, the Board unanimously accepted the recommendations of the Consumer Complaint Review Committee for the following complaints. Dr. Musil was recused due to a conflict of interest.

Complaint #3901 - Dismiss

On motion by Mr. Van Hassel and seconded by Dr. Musil, the Board unanimously accepted the recommendations of the Consumer Complaint Review Committee for the following complaints.

Complaint #3888 - Dismiss

Complaint #3889 - Conference for Pharmacist in Charge

Complaint #3890 - Advisory Letter concerning recordkeeping to the Pharmacist in Charge

Complaint #3891 - Dismiss

Complaint #3893 - Dismiss

Complaint #3895 - Permit Holder – Advisory Letter Concerning Substitution

Complaint #3904 - Dismiss

Complaint #3908 - Pharmacist – Standard PAPA contract with suspension time starting with the starting of Inpatient treatment.

Complaint #3908 - Pharmacist – Standard PAPA contract with suspension time starting with the starting of Inpatient treatment.

AGENDA ITEM 17 – Abimbola Jonson – Case #11-0005-PHR

President Haiber opened the discussion by stating that Abimbola Johnson has requested that the Board reconsider Case #11-0005-PHR (Complaint #3800).

Lisa Gervase, Legal Counsel for Ms. Johnson was present to present Ms. Johnson’s case. Ms. Johnson was unable to attend the meeting due to health issues associated with her pregnancy.

President Haiber asked Ms. Gervase to address the request on behalf of Ms. Johnson. Ms. Gervase stated that she is requesting that the Board issue an advisory letter to Ms. Johnson instead of a disciplinary consent agreement. Ms. Gervase stated that Ms. Johnson had worked at the pharmacy for 7 years. Ms. Gervase stated that Ms. Johnson became comfortable walking away from the pharmacy into the store and nothing untoward had occurred. Ms. Gervase stated that Ms. Johnson was never summoned back to the pharmacy by the staff.

Ms. Gervase stated that she has a copy of Ms. Johnson's employee evaluation from 2010. Ms. Gervase stated that the evaluation stated that the pharmacy was clean and in compliance.

Ms. Gervase stated that Ms. Johnson has completed seven continuing education courses on pharmacy law. Ms. Gervase stated that Ms. Johnson takes this incident seriously and has taken corrective action.

Ms. Gervase stated that Ms. Johnson has already been disciplined by being terminated from a job that she held for seven years. Ms. Gervase stated that Ms. Johnson has never been disciplined previously. Ms. Gervase stated that Ms. Johnson understands the need for formality and staying in charge of the pharmacy.

Ms. Gervase stated that there have been other cases that seem more serious than this case and the pharmacists have received the same type of discipline.

Mr. Haiber stated that in his opinion that this was a failure to control the pharmacy by the pharmacist in charge. Mr. Haiber stated that each case is looked at individually by the Board.

Ms. Gervase stated that the pharmacy was not left totally unattended because long term pharmacy staff was present.

Mr. McAllister stated that it is not a positive sign that technicians were left in the pharmacy unsupervised.

Ms. Rosas asked why Ms. Johnson did not want to sign the consent. Ms. Gervase stated that if Ms. Johnson signed the consent she would be subjected to disciplinary action that could affect future employment opportunities. Ms. Gervase stated that if an advisory letter was issued it would be non-disciplinary.

Mr. Milovich asked if Ms. Johnson was a good employee why did the employer not just issue a warning and chose to terminate her position. Ms. Gervase stated that she does not know.

Dr. Foy stated that Ms. Johnson should know that it was policy at Wal-Mart not to leave the pharmacy.

Ms. Gervase stated that it only occurred on three occasions. Dr. Foy stated that he believes there were more than those incidents and from the notes it appears that she left the pharmacy on a regular basis for a period of time.

Mr. Van Hassel stated that as an employer he would like to know if a future employee has any action against them. Mr. Van Hassel stated that if an advisory letter is issued he would not know that a letter was issued unless the employee told him.

Mr. Ghanni, a colleague of Ms. Johnson, appeared to speak on her behalf. Mr. Ghanni stated that this was a teachable lesson for Ms. Johnson. Mr. Ghanni stated that he is requesting that the Board issue an advisory letter to Ms. Johnson instead of a consent agreement which is disciplinary. Mr. Ghanni stated that Ms. Johnson might have trouble finding employment if there is disciplinary action on her record.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to re-offer the same consent agreement and if the consent is not signed the case would proceed to hearing.

AGENDA ITEM 18 – Fred Harper – Case #11-0022-PHR

Fred Harper was present to request that the Board reconsider Case# 11-0022-PHR (Complaint #3854). Roger Morris, Legal Counsel, for Mr. Harper was present. Todd Kokaly, a compounding pharmacist at the pharmacy, was also present.

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

Mr. Morris stated that they are appearing to request that the Board reconsider the action that they took on Case #11-0008-PHR. Mr. Morris stated that the case started with a consumer complaint regarding a shortage of medication. Mr. Morris stated that the complaint review committee had an issue with the compounding of Hydrocodone/APAP 325mg/100mg. Mr. Morris stated that the committee had concerns that 100mg of APAP was not a therapeutic amount and the medication should have been classified as a Schedule II medication versus a Schedule III medication.

Mr. Morris stated that they have provided documents from physicians indicating that 100mg of APAP is a therapeutic amount for their patients.

Mr. Morris stated that Mr. Harper began to treat the prescriptions immediately as CII prescriptions. Mr. Morris stated that if the prescriptions are considered as CII prescriptions there is limited availability and inconvenience to the patient.

Mr. McAllister stated that there is a strong argument that a schedule II medication in combination with a non-narcotic is a schedule III medication.

On motion by Mr. McAllister and seconded by Dr. Foy, the Board unanimously agreed to dismiss the case.

AGENDA ITEM 19 – Saliba’s Extended Care Pharmacy – Case #11-0024-PHR

John Saliba, representative for the permit holder, was present to request that the Board reconsider Case# 11-0024-PHR (Complaint #3859). Amy Cotton, Legal Counsel, for Saliba’s Extended Care Pharmacy was present.

President Haiber opened the discussion by asking Mr. Saliba why he was appearing in front of the Board. Ms. Cotton stated that Mr. Saliba is appearing as the representative of the pharmacy.

Ms. Cotton stated that they were not present to say that the error did not occur. Ms. Cotton stated that the pharmacy is taking the error seriously. Ms. Cotton stated that the pharmacy retrained all pharmacy staff concerning the issue of auto-population of prescription fields. Ms. Cotton stated that they have also terminated one pharmacist.

Dr. Musil asked if the errors occurred in July of 2010. Mr. Saliba replied yes.

Dr. Musil asked Mr. Saliba when he noticed that certain fields were auto-populated. Mr. Saliba stated that they have used the QS1 system for approximately 10 years. Mr. Saliba stated that the vendor is slow to make any changes because they would impact many users. Mr. Saliba stated that they were aware of the auto-population issues and alerted pharmacists to the problem.

Dr. Musil asked Mr. Saliba when the retraining took place. Mr. Saliba stated that they started the retraining within a week after being notified of the complaint.

Ms. Locnikar asked why it took so long to change the program. Mr. Saliba stated that he had many conversations with the vendors concerning the problem. Mr. Saliba stated that it takes a significant event, such as this complaint, for the vendor to change the system because a change would impact all users of the system. Mr. Saliba stated that as a result of this complaint the problem has been fixed.

Dr. Foy asked if the inservice has been completed. Mr. Saliba stated that the inservice took place on 10/26/2010 and all pharmacists and technicians were required to sign the statement indicating that they attended the training.

Mr. McAllister asked Mr. Saliba if they had a procedure in place to check that the information was entered correctly knowing that the software was deficient. Mr. Saliba stated that the pharmacist is responsible for verifying that all information is entered correctly. Mr. Saliba stated that the pharmacists were aware of the problem. Mr. Saliba stated that the error was caught internally 161 times.

Mr. Haiber asked if the pharmacist was fired because of the QS1 problem. Mr. Saliba stated no that he was fired as a result of other events.

Mr. Milovich asked if all 12 prescriptions were verified by the same individual. Mr. Saliba replied no.

Mr. Haiber asked if there was a process to provide feedback to the vendor on system problems. Mr. Saliba stated that the vendor did not see this as a problem because they were the only company requesting the change.

Mr. Milovich asked Mr. Saliba if he ever attended a QS1 meeting. Mr. Saliba stated that his IT employee attends the meeting. Mr. Saliba stated that at the meetings they tell the vendor what issues they are having and if it is a huge issue changes are made.

On motion by Dr. Musil and seconded by Ms. Locnikar, the Board agreed to dismiss the complaint. A roll call vote was taken. (Ms. Rosas – aye, Ms. Galindo – nay, Mr. Milovich – nay, Dr. Foy – aye, Mr. Van Hassel – nay, Dr. Musil – aye, Ms. Locnikar – aye, Mr. McAllister – aye, and Mr. Haiber – aye.)

AGENDA ITEM 21 – Approval of ACPE-approved Colleges and Schools of Pharmacy

President Haiber opened the discussion by stating that the Board approves the list of ACPE-approved Colleges and Schools of Pharmacy annually.

On motion by Mr. Van Hassel and seconded by Mr. McAllister, the Board unanimously approved the ACPE-approved Colleges and Schools of Pharmacy listed in Schedule I.

AGENDA ITEM 25 – Meghna Patel – Case #11-0008-PHR

Ken Baker, Legal Counsel for Ms. Patel, was present in case the Board had questions.

President Haiber stated that at the September meeting the Board requested that the Compliance Officer gather additional information to review the case.

Mr. Petersen stated that he did return to the store and ran audit reports on 12 additional prescriptions for that day. Mr. Petersen stated that all the prescriptions showed that Meghna Patel was the pharmacist on record.

Mr. Petersen stated that at the September meeting there were also concerns about the pharmacist logging onto three computers.

Mr. Petersen stated that he checked with the Pharmacist in Charge at the store and she indicated that she only logs onto one computer.

Mr. Petersen stated that he informally asked at other Walgreens stores if they log onto more than one computer. Mr. Petersen stated that four out of five of the pharmacists indicated that they logged onto more than one computer. Mr. Petersen stated that the pharmacists logged onto the computers at each counseling window.

Dr. Foy asked if there is a verification point that will log the credentials at each computer. Mr. Petersen stated that he was told that there is an F4 key and if the key is pressed that signifies that the prescription was checked by the pharmacist. Mr. Petersen stated that if

the computer is logged on then anyone could hit the F4 button. Mr. Petersen stated that he was told by the Pharmacist in Charge that technicians are told not to touch the F4 button.

Mr. Haiber stated that if a pharmacist is logged onto the system anyone could perform any pharmacist function.

Mr. Baker stated that Ms. Patel is requesting a modification. Mr. Baker stated that the company has taken care of the mistakes. Mr. Baker stated that there is a request to resolve this complaint with a non-disciplinary letter. Mr. Baker stated that Ms. Patel has learned her lesson not to allow someone to punch the buttons when she is logged onto the computer.

Mr. Baker stated that he feels that this is a system problem in the process of being corrected.

Mr. McAllister stated that this was a misfill that may or may not have been related to the system problems.

On motion by Mr. McAllister and seconded by Mr. Haiber, the Board unanimously agreed to issue an advisory letter concerning the final verification of prescriptions.

AGENDA ITEM 27 – Call to the Public

President Haiber 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 28 – Future Agenda Items

Mr. McAllister asked that the Board discuss disciplinary versus non-disciplinary action in the resolution of consumer complaints. Mr. McAllister stated that the Board may want to look at the grids that California and Texas use to determine what disciplinary action should be taken by the Board.

Mr. Van Hassel asked that the PAPA report format be placed on a future agenda.

AGENDA ITEM 29 – Adjournment

There being no further business to come before the Board, President Haiber adjourned the meeting at 3:05 P.M.