



**Arizona State Board of Pharmacy**  
1616 W. Adams, Suite 120  
Phoenix, AZ 85007  
Telephone (602) 771-2727 Fax (602) 771-2749

**THE ARIZONA STATE BOARD OF PHARMACY  
HELD A REGULAR MEETING JANUARY 24 & 25, 2013**

**MINUTES FOR REGULAR MEETING**

**AGENDA ITEM 1 – Call to Order – January 24, 2013**

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

The following Board Members were present: President Dan Milovich, Vice President Tom Van Hassel, Jim Foy, William Francis, Kyra Locnikar, Dennis McAllister, Reuben Minkus, John Musil, and Nona Rosas. The following staff members were present: Compliance Officers Rich Cieslinski, Steve Haiber, Tom Petersen, Sandra Sutcliffe, Dean Wright, Drug Inspectors Melanie Thayer and Cesar Ramirez, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Monty Lee.

**AGENDA ITEM 2 – Declaration of Conflicts of Interest**

Due to having a “substantial interest” in the matter, Mr. McAllister recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 12, Avondale Pharmacy Request.

Due to having a “substantial interest” in the matter, Mr. McAllister recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 16, Schedule R, Complaint #4166.

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 5, Consent Agreement for Crystal Rusinsky.

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 6, Consent Agreement for Michael Mantsch and Omnicare.

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 16, Schedule R, Complaint #4151.

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 22, Avella Wholesale Deviation Request.

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 L, Case 12-0028-PHR.

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 7, Schedule L, Hearing for Jolene Giarrizzo.

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 9, Schedule N, Special Request by Jose Gonzalez to take the NAPLEX exam an additional time.

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 16, Schedule R, Complaints #4121, #4133, #4154, and #4171.

Due to having a “substantial interest” in the matter, Mr. Milovich recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 16, Schedule R, Complaint #4176.

**AGENDA ITEM 3– Approval of Minutes**

Following a review of the minutes and an opportunity for questions and **on motion by Dr. Foy and seconded by Ms. Rosas** the minutes of the Regular Meeting held on November 14, 2012 were unanimously approved by the Board Members.

**AGENDA ITEM 4 – Consent Agenda**

Items listed on the Consent Agenda were considered as a single action item by the Board Members. **On motion by Dr. Foy and seconded by Dr. Musil**, the Board unanimously approved the following items listed on the Consent Agenda.

**4. (1) Resident Pharmacy Permits – Schedule A  
RESIDENT PHARMACY PERMITS**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
Walgreens Pharmacy#15363	4655 E. Sunrise Dr., Tucson, AZ 85718	Walgreen Arizona Drug Co.
Wal-Mart Pharmacy #10-3142	3900 W. Ina Rd., Marana, AZ 85741	Wal-Mart Stores, Inc.
Wal-Mart Pharmacy #10-3049	2550 S. Kolb Rd., Tucson, AZ 85710	Wal-Mart Stores, Inc.
Wal-Mart Pharmacy #10-3143	8640 E. Broadway, Tucson, AZ 85710	Wal-Mart Stores, Inc.
Wal-Mart Pharmacy #10-4060	671 E. Apache Blvd., Suite #128, Tempe, AZ 85281	Wal-Mart Stores, Inc.
QoL Meds	630 N. Alvernon Way, 1 <sup>st</sup> Fl, Suite 161, Tucson, AZ 85711	QoL Meds
Diamondback Drugs	7631 E. Indian School, Scottsdale, AZ 85251 (O)	Diamondback Drugs of Delaware, LLC

**(O) = Ownership Change**

#### 4. (2) Non-Resident Pharmacy Permits – Schedule B

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

Pharmacy	Location	Owner
Pharmacy Solutions, Inc.	5204 Jackson Rd., Suite C, Ann Arbor, MI 48103	Pharmacy Solutions, Inc.
Sheffield Pharmacy & Homecare	400 S. Montgomery Ave, Ste. #108, Sheffield, AL 35660	Leighton Pharmacy, Inc.
Carepoint Healthcare LLC	911 B N. Plum Grove Rd., Schaumburg, IL 60173	Carepoint Pharmacy
NW Pharmacy Inc.	3180 NW 7 <sup>th</sup> St, Miami, FL 33125	NW Pharmacy Inc.
American Specialty Pharmacy	2743 W. 15 <sup>th</sup> St., Plano TX 75075	Abdul Hameed
Hoye's Pharmacy	4330 S. Manhattan Ave., Tampa, FL 33611	Pharmaceutical Specialties, Inc.
Northern New England Compounding Pharmacy	262 Cottage St., Suite 116, Littleton, NH 03561	David Rochefort
Rite Price Pharmacy	23653 El Toro Rd., Lake Forrest, CA 92630	Rite Price Pharmacy Inc.
Institutional Pharmacy Solutions	6520 N. Irwindale Ave., Suite 228, Irwindale, CA 91702	Mims Management Group, LLC
Advanced Pharma, Inc.	9265 Kirby Dr., Houston, TX 77054	Advanced Pharma, Inc.
Transdermal Therapeutics	117 Gemini Circle, Ste. 407, Homewood, AL 35209	Transdermal Therapeutics
Heartland Home Health Care and Hospice	1752 Terrace Dr., Roseville, MN 55113	Heartland Home Health Care And Hospice
Nuro Pharma Inc.	6380 Polaris Ave. #B, Las Vegas, NV 89118	Nuro Pharma Inc.
JCB Laboratories	7335 E. 33 <sup>rd</sup> St. N, Wichita, KS 67205	JCB Laboratories, LLC
Inverness Apothecary	7004 Champion Blvd., Birmingham, AL 35242	FH Investments, Inc.
Liberty Medical Supply, Inc.	10400 S. US Hwy1, Ste.200, Port St. Lucie, FL 34952 (O)	Liberty Healthcare Group, Inc.
APS Pharmacy	34911 US Highway 19-N, Ste. 600, Palm Harbor, FL 34684	Drug Depot, Inc.
Trinity Medical Pharmacy	9332 State Road 54, Suite 203, New Port Richey, FL 34665	Trinity Medical Pharmacy LLC
Central Admixture Pharmacy Services, Inc.	6580 Snowdrift Rd., Allentown, PA 18106	B. Braun of America
Leiter's Cambrian Park Drugs, Inc.	1700 Park Ave. Ste. 30, San Jose CA 95126 (O)	Leiter's Cambrian Park Drugs, Inc.
SuperCare Pharmacy	16017 Valley Blvd., City Industry, CA 91744	SuperCare Inc.
Mandell's Clinical Pharmacy	7 Cedar Grove Ln., Ste. 24, Somerset, NJ 08873	Malanda, Inc.

(O) = Ownership Change

#### 4. (3) Resident Wholesaler Permits – Schedule C

##### RESIDENT WHOLEESALER PERMITS

<b>Wholesaler</b>	<b>Location</b>	<b>Owner</b>
Active Care (Full Service- DME)	4116 E. Superior Ave., Ste. 8, Phoenix, AZ 85040	Regency Medical Equipment, Inc.
Heartland Health Therapy, Inc. (Full Service- DME)	2245 W. University Dr., Suite 7, Tempe, AZ 85281	Heartland Health Therapy Inc.
Heartland Health Therapy, Inc. (Full Service- DME)	3400 Speedway Rd., Suite 104, Tucson, AZ 85716	Heartland Health Therapy Inc.
21 <sup>st</sup> Century Health Specialist Inc. (Full Service- DME)	7402 W. Detroit St. #140, Chandler, AZ 85226	21 <sup>st</sup> Century Health Specialist Inc.
Medical Technology Resources LLC (Full Service- DME)	7642 E. Gray Rd., Suite 107, Scottsdale, AZ 85260	Medical Technology Resources LLC
Diamond Medical Equipment LLC (Full Service- DME)	1324 N. Farrell Ct., #102, Gilbert, AZ 85233	Diamond Medical Equipment LLC
TG Oxygen LLC (Full Service- DME)	943 S. 48 <sup>th</sup> St. #104, Tempe, AZ 85281	TG Oxygen LLC
Valley Respiratory (Full Service- DME)	1530 N. Country Club, Mesa, AZ 85201	United Respiratory Services, Inc.
Preferred Homecare (Full Service- DME)	295 S. Willard St., Ste. 101, Cottonwood, AZ 86326	Maverick Healthcare Group LLC
Preferred Homecare (Full Service- DME)	2201 N. West St., Flagstaff, AZ 86004	Maverick Healthcare Group LLC
Preferred Homecare (Full Service- DME)	5706 W. Missouri Ave, Ste. 500, Glendale, AZ 85301	Maverick Healthcare Group LLC
Preferred Homecare (Full Service- DME)	1570 E. Northern Ave., Unit J, Kingman, AZ 86409	Maverick Healthcare Group LLC
Preferred Homecare (Full Service- DME)	2800 Sweetwater Ave., Ste A-107, Lake Havasu City, AZ 86406	Maverick Healthcare Group LLC
Preferred Homecare (Full Service- DME)	119 W. Aero Dr., Payson, AZ 85541	Maverick Healthcare Group LLC
Preferred Homecare (Full Service- DME)	4602 W. Hammond Ln., Phoenix, AZ 85034	Maverick Healthcare Group LLC
Preferred Homecare (Full Service- DME)	4601 E. Hilton Ave., Ste. 100, Phoenix, AZ 85034	Maverick Healthcare Group LLC
Preferred Homecare (Full Service- DME)	3051 S. White Mtn. Rd., Ste. B, Show Low, AZ 85901	Maverick Healthcare Group LLC
Preferred Homecare (Full Service- DME)	999 E. Fry Blvd., Ste. 301, Sierra Vista, AZ 85635	Maverick Healthcare Group LLC
Preferred Homecare (Full Service- DME)	3280 S. Country Club Way, Ste. 113, Tempe, AZ 85282	Maverick Healthcare Group LLC
Preferred Homecare (Full Service- DME)	2155 N. Forbes Blvd., Ste. 107, Tucson, AZ 85282	Maverick Healthcare Group LLC
Preferred Homecare (Full Service- DME)	1103 E. 21 <sup>st</sup> . St. Ste. B, Yuma, AZ 85365	Maverick Healthcare Group LLC
Fox World Medical Corporation (Full Service- DME)	1985 W. Apache Trail, Suite 4, Apache Junction, AZ 85120	Fox World Medical Corporation

#### 4. (3) Resident Wholesaler Permits – Schedule C – Continued

##### RESIDENT WHOLEESALER PERMITS

Wholesaler	Location	Owner
Dependable Medical Equipment Inc. (Full Service- DME)	1120 S. Swan Rd., Tucson, AZ 85711	Dependable Medical Equipment
Aerocare Home Respiratory (Full Service- DME)	615 W. Deer Valley Rd. #124, Phoenix, AZ 85027	Aerocare Holdings Inc.
Sleep Health Centers (Full Service- DME)	10611 N. Hayden Rd., Scottsdale, AZ 85260	Sleep Health Centers
Sleep Health Centers (Full Service- DME)	9305 W. Thomas Rd., Suite 305, Phoenix, AZ 85037	Sleep Health Centers
Sleep Health Centers (Full Service- DME)	215 S. Power Rd., Suite 205, Mesa, AZ 85206	Sleep Health Centers
RTA Homecare Inc. (Full Service- DME)	442 N. Dobson Rd., #101, Mesa, AZ 85201	RTA Homecare Inc.
Home Again Medical (Full Service- DME)	5016 W. Cactus Rd., #3, Glendale, AZ 85304	Home Again Medical LLC
Diamondback Drugs (Full Service)	7631 E. Indian School, Scottsdale, AZ 85251	Diamondback Drugs of Delaware, LLC

O= Ownership Change

#### 4. (4) – New Pharmacists – Schedule D

The Board approved the 45 New Pharmacist Licenses listed on the attachments.

#### 4. (5)– New Interns – Schedule E

The Board approved the 22 New Intern Licenses listed on the attachments.

#### 4. (6) – New Pharmacy Technicians – Schedule F

The Board approved the 942 Technicians listed on the attachments.

**4. (7) -Pharmacy Technician Trainee Requests for Approval to Reapply for Licensure – Schedule G**

The Board approved the following individuals for one additional two year period.

Daniel Alvarez	Krizol Alvarez	Kristina Baptist
Jamison Borrelli-Farkas	Christopher Brady	Elizabeth Bryan
Diana Butler	Kent Carpenter	Holly Clark
Michele Curley	Jessica Eiler	Donna Enwiya
Jose Garcia	Becky Gutierrez	Julieta Guy
Brooke Hedlund	Nicholas Joel Hernandez	Nicholas Andrew Hernandez
Fernando Higareda	Aldemaro Jaime Jr.	Nicole Jones
Neda Khorrami	Shelby Kracht	Duc Quang Le
Dana Lehman	Briza Loustaunau	Sean Mackey
Kathryn Mihalko	Adiba Mundt	Salvador Navarro
Terez Nelson	Maria Nuves	Noah Nylander
Cesar Ortiz	Valerie Parker	Gregory Pleasants
Nicole Pope	Michael Porch	Michelle Ruiz
Mark Segovia	Sara Shipley	Noel Showers
Jacqueline Siwec	Ivy Sprabary	Maxwell Stern
Tavares Thues	Karen Tom	John Tucker
Sharon Turcotte	Alyssa Urbalejo	Tevin Wade
David Walker	Keila Watley	Amin Zahoui
Robin Zill		

**Total : 55**

**4. (8) – Consent Agreements – Schedule H**

The Board unanimously agreed to accept the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below:

Robert Eaton (Owner) - 13-0004-PHR  
Eaton Veterinary Laboratories

Olufemi Omodara (Pharmacist in Charge) and Favor Rexall Drugs (Park Central Pharmacy) (Permit Holder) - 13-0005-PHR

**4. (9) – Approval of Colleges and Schools of Pharmacy – Schedule I**

The Board unanimously approved the ACPE accredited programs of Colleges and Schools of Pharmacy.

**4. (10) – Approval of Exams for Licensure – Schedule J**

The Board unanimously approved the following exams for Licensure:

1. NAPLEX
2. MPJE
3. FPGEEC
4. PTCB

**4. (11) – Complaints with No Violations – Schedule K**

The Board unanimously agreed to dismiss the following complaints:

Complaint #4150	Complaint #4155	Complaint #4156
Complaint #4158	Complaint #4165	Complaint #4169
Complaint #4175		

**AGENDA ITEM 5 – Crystal Rusinsky – Consent Agreement Offer in Lieu of Hearing for Case 12-0038-PHR**

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

President Milovich opened the discussion by stating that Ms. Rusinsky has signed a Consent Agreement in lieu of proceeding with the Hearing.

Mr. Lee stated that the Consent Agreement is for an Order of Surrender of her Pharmacy Technician Trainee License which would be considered the same as a revocation.

**On motion by Mr. Van Hassel and seconded by Dr. Musil**, the Board unanimously agreed to accept the Consent Agreement offered in lieu of Hearing for Case 12-0038-PHR against Crystal Rusinsky. A roll call vote was taken. ( Ms. Locnikar – aye, Mr. McAllister – aye, Dr. Foy – aye, Mr. Minkus – aye, Ms. Rosas –aye, Mr. Francis- aye, Mr. Van Hassel – aye, and Mr. Milovich – aye)

**AGENDA ITEM 6 – Omnicare and Michael Mantsch- Consent Agreement Offer in Lieu of Hearing for Case 12-0028-PHR**

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

President Milovich opened the discussion by stating that Omnicare and Michael Mantsch have submitted a Consent Agreement for Board Consideration in lieu of proceeding with the hearing.

Mr. Lee recommended tabling this agenda item until Friday morning because the respondents were not present.

The Board Members agreed to table the matter until Friday morning.

**AGENDA ITEM 7 – MOTIONS TO DEEM/HEARINGS – Schedule L**

**MOTION TO DEEM**

**1. Crystal Rusinsky**

This motion to deem did not proceed because the Board accepted the offered consent.

**2. Valerie Holguin**

President Milovich stated this is the time and place for consideration of the State’s Motion to Deem Allegations Of the Complaint and Notice of Hearing admitted for Case 12-0032-PHR against Valerie Holguin. The matter was set for formal hearing at this date and time. The attorney for the State has filed the current motion before us today.

President Milovich asked if the licensee was present or represented by counsel.

The licensee was not present and was not represented by counsel.

President Milovich asked if there is a motion granting or denying the State's Motion to Deem Allegations admitted.

**On motion by Mr. Van Hassel and seconded by Mr. McAllister**, the Board unanimously agreed to grant the State's Motion to Deem Allegations admitted. A roll call vote was taken. (Ms. Locnikar – aye, Mr. McAllister – aye, Dr. Musil – aye, Dr. Foy – aye, Mr. Minkus – aye, Ms. Rosas – aye, Mr. Francis – aye, Mr. Van Hassel – aye, and Mr. Milovich – aye)

President Milovich asked if there was a motion to adopt all factual allegations in the Complaint as findings of fact.

**On motion by Dr. Foy and seconded by Dr. Musil**, the Board unanimously agreed to adopt all factual allegations in the Complaint as findings of fact. A roll call vote was taken. (Ms. Locnikar – aye, Mr. McAllister – aye, Dr. Musil – aye, Dr. Foy – aye, Mr. Minkus – aye, Ms. Rosas – aye, Mr. Francis – aye, Mr. Van Hassel – aye, and Mr. Milovich – aye)

President Milovich asked if there was a motion to adopt all of the alleged violations set forth in the Complaint as the Board's conclusions of law.

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

President Milovich asked if the Assistant Attorney General has any comment or recommendation as to the appropriate discipline to be imposed.

Mr. Lee stated that the respondent received the Notice of Hearing and did not respond to the Complaint. Mr. Lee stated that the State would recommend that the respondent's license be revoked.

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

**On motion by Mr. Van Hassel and seconded by Ms. Rosas**, the Board unanimously agreed to revoke the Pharmacy Technician License No. T018155 issued to Valerie Holguin. . A roll call vote was taken. (Ms. Locnikar – aye, Mr. McAllister – aye, Dr. Musil – aye, Dr. Foy – aye, Mr. Minkus – aye, Ms. Rosas – aye, Mr. Francis – aye, Mr. Van Hassel – aye, and Mr. Milovich – aye)

### **3. Kristina Holland**

President Milovich stated this is the time and place for consideration of the State's Motion to Deem Allegations Of the Complaint and Notice of Hearing admitted for Case 12-0037-PHR against Kristina Holland. The matter was set for formal hearing at this date and time. The attorney for the State has filed the current motion before us today.

President Milovich asked if the licensee was present or represented by counsel.

The licensee was not present and was not represented by counsel.

President Milovich asked if there is a motion granting or denying the State's Motion to Deem Allegations admitted.

**On motion by Dr. Foy and seconded by Dr. Musil**, the Board unanimously agreed to grant the State's Motion to Deem Allegations admitted. A roll call vote was taken. (Ms. Locnikar – aye, Mr. McAllister – aye, Dr. Musil – aye, Dr. Foy – aye, Mr. Minkus – aye, Ms. Rosas – aye, Mr. Francis – aye, Mr. Van Hassel – aye, and Mr. Milovich – aye)

President Milovich asked if there was a motion to adopt all factual allegations in the Complaint as findings of fact.

**On motion by Dr. Musil and seconded by Dr. Foy**, the Board unanimously agreed to adopt all factual allegations in the Complaint as findings of fact. A roll call vote was taken. (Ms. Locnikar – aye, Mr. McAllister – aye, Dr. Musil – aye, Dr. Foy – aye, Mr. Minkus – aye, Ms. Rosas – aye, Mr. Francis – aye, Mr. Van Hassel – aye, and Mr. Milovich – aye)

President Milovich asked if there was a motion to adopt all of the alleged violations set forth in the Complaint as the Board's conclusions of law.

**On motion by Dr. Musil 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. A roll call vote was taken. (Ms. Locnikar – aye, Mr. McAllister – aye, Dr. Musil – aye, Dr. Foy – aye, Mr. Minkus – aye, Ms. Rosas – aye, Mr. Francis – aye, Mr. Van Hassel – aye, and Mr. Milovich – aye)

President Milovich asked if the Assistant Attorney General has any comment or recommendation as to the appropriate discipline to be imposed.

Mr. Lee stated that the respondent received the Notice of Hearing and did not respond to the Complaint. Mr. Lee stated that the respondent did not appear at the Hearing or contact the Board, and did not defend or respond to the Complaint. Mr. Lee stated that the State would recommend that the respondent's license be revoked.

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

**On motion by Dr. Foy and seconded by Mr. Van Hassel**, the Board unanimously agreed to revoke the Pharmacy Technician License No. T002554 issued to Kristina Holland.

#### **4. Brenda Smith**

President Milovich stated this is the time and place for consideration of the State's Motion to Deem Allegations Of the Complaint and Notice of Hearing admitted for Case 12-0042-PHR against Brenda Smith. The matter was set for formal hearing at this date and time. The attorney for the State has filed the current motion before us today.

President Milovich asked if the licensee was present or represented by counsel

The licensee was not present and was not represented by counsel.

President Milovich asked if there is a motion granting or denying the State's Motion to Deem Allegations admitted.

**On motion by Mr. Francis and seconded by Dr. Foy**, the Board unanimously agreed to grant the State's Motion to Deem Allegations admitted. A roll call vote was taken. (Ms. Locnikar – aye, Mr. McAllister – aye, Dr. Musil – aye, Dr. Foy – aye, Mr. Minkus – aye, Ms. Rosas – aye, Mr. Francis – aye, Mr. Van Hassel – aye, and Mr. Milovich – aye)

President Milovich asked if there was a motion to adopt all factual allegations in the Complaint as findings of fact.

**On motion by Mr. Francis and seconded by Dr. Musil**, the Board unanimously agreed to adopt all factual allegations in the Complaint as findings of fact. A roll call vote was taken. (Ms. Locnikar – aye, Mr. McAllister – aye, Dr. Musil – aye, Dr. Foy – aye, Mr. Minkus – aye, Ms. Rosas – aye, Mr. Francis – aye, Mr. Van Hassel – aye, and Mr. Milovich – aye)

President Milovich asked if there was a motion to adopt all of the alleged violations set forth in the Complaint as the Board's conclusions of law.

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

President Milovich asked if the Assistant Attorney General has any comment or recommendation as to the appropriate discipline to be imposed.

Mr. Lee stated that the respondent received the Notice of Hearing and did not respond to the Complaint. Mr. Lee stated that the respondent failed to show for the hearing. Mr. Lee stated that the State would recommend that the respondent's license be revoked.

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

**On motion by Dr. Musil and seconded by Ms. Rosas**, the Board unanimously agreed to revoke the Pharmacy Technician License No. T002554 issued to Kristina Holland.

## **HEARING**

### **5. Jolene Giarrizzo**

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

President Milovich stated that this is the date, time, and place where the matter dealing with Case No. 12-0036-PHR against Jolene Giarrizzo is scheduled to be heard by the Arizona State Board of Pharmacy.

The subject of the 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.

The following Board Members were present: President Dan Milovich, Vice President Tom Van Hassel, Kyra Locnikar, Dennis McAllister, John Musil, Reuben Minkus, Nona Rosas, and William Francis. Dr. Foy was recused.

Mr. Milovich stated let the record show that the Board Members have been furnished with copies of:

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

Mr. Milovich asked the parties to identify themselves.

Monty Lee, Assistant Attorney General, was present for representing the state.

Jolene Giarrizzo, the respondent was not present.

Ms. Giarrizzo was not represented by counsel.

President Milovich asked if the respondent was properly served and if the respondent responded to the complaint.

Ms. Frush stated that the respondent was properly served and did respond to the complaint.

Mr. Milovich asked if the state was ready to proceed.

Mr. Milovich swore in the witness.

The State did not wish to make an opening statement and wanted to proceed directly to the hearing.

The evidence was presented.

Mr. Lee gave a closing statement. Mr. Lee stated that all of the allegations in the notice have been demonstrated and he would recommend that the Board adopt the allegations as the findings of fact. Mr. Lee stated that the all of the violations in the notice have been demonstrated and he would recommend that the Board adopt the violations as the conclusions of law.

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

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

**On motion by Dr. Musil and seconded by Mr. McAllister**, the Board unanimously agreed to revoke the Pharmacy Technician License No. T004302 issued to Jolene Giarrizzo.

## **AGENDA ITEM 8– Resident Pharmacy Permits – Schedule M**

### **1. Pharmcare USA of Phoenix, LLC - Withdrawn**

The company has asked that their application be withdrawn.

### **2. Infinite Care Pharmacy**

President Milovich stated that a representative from Infinite Care Pharmacy was present to answer questions from Board Members

**Guy Baker, Owner and Pharmacist in Charge**, was present to answer questions from Board Members.

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

Mr. Baker stated that he was opening a new pharmacy in the former Tatum Drug location and would be providing the same care to the patients as they received at Tatum Drug. Mr. Baker stated that he would be providing pharmacy services, some DME products, and veterinary medications. Mr. Baker indicated that he would be compounding some medications.

Mr. McAllister asked Mr. Baker about his experience in compounding medications.

Mr. Baker stated that he worked at a compounding pharmacy in Tucson.

Mr. McAllister asked Mr. Baker if he had any specialized training in compounding.

Mr. Baker stated that he has completed some CE courses on compounding.

Mr. McAllister asked Mr. Baker if he planned to do any sterile compounding.

Mr. Baker replied no.

Mr. Van Hassel asked Mr. Baker for whom he would be compounding the medications.

Mr. Baker stated that he would be compounding for patients.

Mr. Van Hassel asked Mr. Baker if he would be supplying any medical offices with compounded products.

Mr. Baker replied that he would be compounding medications specialized for the individual patient.

**On motion by Dr. Musil and seconded by Mr. Francis** the Board unanimously approved the permit for Infinite Care Pharmacy.

### **RESIDENT PHARMACY PERMITS**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
Infinite Care Pharmacy	8850 E. Pima Center Pkwy., Scottsdale, AZ 85256 (O)	Infinite Care Development, LLC

O = Ownership Change

### 3. Sunwest Pharmacy Scottsdale

President Milovich stated that representatives from Sunwest Pharmacy were present to answer questions from Board Members.

**Chase Westen, Pharmacist in Charge, and Yuri Eidelman, Owner,** were present to answer questions from Board Members.

President Milovich opened the discussion by asking the applicants why they were appearing in front of the Board.

Mr. Westen stated that they are opening a new pharmacy next to Scottsdale Osborn Hospital. Mr. Westen stated that the pharmacy would be a retail pharmacy specializing in HIV medications.

Mr. Westen reviewed the proposed floor plans with the Board Members. Mr. Westen stated that the square footage is approximately 1,000 square feet.

Dr. Musil asked Mr. Westen if he planned to compound medications. Mr. Westen replied that he did not plan to do any compounding at this time.

Dr. Musil asked if there was a designated space for compounding if they needed to compound a medication. Mr. Westen replied no. Mr. Eidelman stated that there is a sink in one area labeled the work area and they could convert that area to a compounding area if needed.

**On motion by Mr. McAllister and seconded by Dr. Musil,** the Board unanimously approved the permit for Sunwest Pharmacy Scottsdale.

### RESIDENT PHARMACY PERMITS

Pharmacy	Location	Owner
Sunwest Pharmacy Scottsdale	3501 N. Scottsdale Rd., Ste. 100 Scottsdale, AZ 85251	Acorn US, Inc.

### 4. BioCare Specialty Services

President Milovich stated that representatives from BioCare Specialty Pharmacy were present to answer questions from Board Members.

**Dennis Gomez, Pharmacist in Charge, and Sean Jeffries, Director of Operations,** were present to answer questions from Board Members.

President Milovich opened the discussion by asking the applicants why they were appearing in front of the Board.

Mr. Gomez stated that they are opening a new pharmacy that would be providing blood factor and some other products for patients with hemophilia.

Mr. Jeffries stated that this would be a new business entity for Blood Systems.

Mr. Van Hassel asked how they would be obtaining their business.

Mr. Gomez stated that they would be working with various insurance companies to provide their clients with medications.

Mr. Van Hassel asked if the medications would be dispensed in original packaging.

Mr. Gomez stated that all products would be shipped in the original packaging.

Mr. Van Hassel asked how they would ship the packages to the patient.

Mr. Gomez stated that they would use a courier for in town deliveries and for out of town deliveries they would use FedEx overnight.

Mr. McAllister asked if the medications would be delivered to the patient or to an administration site.

Mr. Gomez stated that the medications would be delivered to the patient.

**On motion by Mr. Van Hassel and seconded by Dr. Foy**, the Board unanimously approved the permit for BioCare Specialty Services.

#### **RESIDENT PHARMACY PERMITS**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
BioCare Specialty Services	2826 S. Potter Dr., Suite B, Tempe, AZ 85282	Blood System Inc.

#### **5. Remuda Ranch Center for Anorexia and Bulimia**

President Milovich stated that representatives from Remuda Ranch Center for Anorexia and Bulimia were present to answer questions from Board Members.

**Roger Rose, Pharmacist in Charge, and Dr. Leslie Williams, Director of Medical Services**, were present to answer questions from Board Members.

President Milovich opened the discussion by asking the applicants if their appearance was prompted by a change in ownership.

Mr. Rose stated that Remuda Ranch was bought by The Meadows of Wickenburg, Inc.

Mr. Milovich asked if they were asking to continue the space deviation for the pharmacy.

Mr. Rose replied that they are requesting the space deviation be continued that the Board approved previously.

Mr. McAllister asked if there would be any changes in the business model.

Dr. Williams stated that the operation would remain the same and they would be treating the same patient population.

**On motion by Mr. McAllister and seconded by Dr. Foy**, the Board unanimously approved the permit for Remuda Ranch Center for Anorexia and Bulimia and continue the space deviation that was previously approved at the June 2012 meeting.

## RESIDENT PHARMACY PERMITS

Pharmacy	Location	Owner
Remuda Ranch Center for Anorexia and Bulimia	1245 Jack Burden Rd., Wickenburg, AZ 85390	The Meadows of Wickenburg, Inc.

### 6. Newspring Pharmacy LLC

President Milovich stated that a representative from Newspring Pharmacy was present to answer questions from Board Members.

**Lucas Nyabero, Pharmacist in Charge and Owner**, was present to answer questions from Board Members.

President Milovich opened the discussion by asking Mr. Nyabero if he had previously owned a pharmacy.

Mr. Nyabero stated that this would be the first pharmacy that he owned.

Mr. Milovich asked Mr. Nyabero to describe his business.

Mr. Nyabero stated that he would be operating a regular independent pharmacy with some DME products.

Mr. Milovich asked where the pharmacy would be located.

Mr. Nyabero stated that the pharmacy would be located in Avondale.

Dr. Musil asked Mr. Nyabero if he planned on having a clean room.

Mr. Nyabero stated he planned to compound medications but did not plan on compounding any sterile products. Mr. Nyabero stated that he planned to compound regular products in a specified area.

Dr. Musil asked if he plans on meeting USP 797 standards.

Mr. Nyabero stated that he plans to meet the USP 797 standards.

Mr. McAllister asked Mr. Nyabero to describe his work experience.

Mr. Nyabero stated that he worked at a site where he did remote order entry. Mr. Nyabero stated that he has worked at a hospital. Mr. Nyabero stated that he has also worked for Fry's.

Mr. Van Hassel asked Mr. Nyabero if he would be filling only prescriptions for patients or would he also be supplying clinics with medications.

Mr. Nyabero stated that the prescriptions would be for individual patients.

Mr. Van Hassel asked Mr. Nyabero if he would be filling Internet prescriptions.

Mr. Nyabero stated that he would not be filling any internet prescriptions.

**On motion by Mr. Van Hassel and seconded by Dr. Musil**, the Board unanimously approved the permit for Newspring Pharmacy.

## **RESIDENT PHARMACY PERMITS**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
Newspring Pharmacy	10750 W. McDowell Rd., Bld. C, Avondale, AZ 85323	Newspring Pharmacy LLC

### **6. LCRx LLC**

President Milovich stated that representatives from LCRx LLC Pharmacy were present to answer questions from Board Members.

**Pharmacist in Charge Jeffrey Hannibal, Owner Loren Howard, and Owner Christopher Murray** were present to answer questions from Board Members.

President Milovich asked Mr. Hannibal if the pharmacy is going to be a compounding pharmacy.

Mr. Hannibal stated that the pharmacy would be a compounding pharmacy preparing non-sterile products. Mr. Hannibal stated that there would be no drop off window because they plan on mailing and delivering the medications. Mr. Hannibal stated that they would be preparing topical analgesic medications and a few bio-topical products. Mr. Hannibal stated that he has experience compounding products and would be able to compound the medications that they plan to dispense. Mr. Hannibal stated that he does not have any special certification in compounding. Mr. Hannibal stated that there would be no internet sales. Mr. Hannibal stated that they would have a website for information only. Mr. Hannibal stated that he understands that he cannot sell more than 5% to doctor offices. Mr. Hannibal stated that they would not be selling directly to physicians. Mr. Hannibal stated that the medications would be sold directly to the patient. Mr. Hannibal stated that information would be sent with the medication and a phone number would be provided for consultation.

Dr. Musil asked if Mr. Hannibal had experience compounding the products that he would be dispensing at this pharmacy.

Mr. Hannibal replied that he does have experience compounding these products and they would be compounded according to the doctor's specifications.

Dr. Musil reminded Mr. Hannibal that he cannot Brand compounds.

Mr. Hannibal stated that they would not be naming the products but would list the ingredients on the label and in the package information.

Dr. Musil asked if there were any incentives paid to physicians for recommending their products.

Mr. Hannibal stated no.

Dr. Musil asked who would be doing the marketing.

Mr. Howard stated that he would be doing the marketing.

Mr. Minkus asked the respondents about their experience in owning and managing a pharmacy.

Mr. Hannibal stated that he has been working at an independent pharmacy and did compounding at the pharmacy.

Mr. Howard stated that he is an entrepreneur and would be establishing the website and doing marketing for the pharmacy.

Mr. Murray stated that he would be doing consulting for the pharmacy. Mr. Murray stated that is where his expertise lies in the consulting and marketing field.

**On motion by Mr. Francis and seconded by Mr. McAllister**, the Board unanimously approved the permit for LCRX LLC.

## **RESIDENT PHARMACY PERMITS**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
LCRX LLC	8240 E. Gelding Dr., Ste. #115, Scottsdale, AZ 85260	LCRx LLC

## **AGENDA ITEM 9 -Special Requests- Schedule N**

### **#1 Sunwest Pharmacy**

**Chase Westen, Pharmacist in Charge**, appeared on behalf of Sunwest Pharmacy to request that the probation imposed on the permit per Board Order 12-0015-PHR be terminated.

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

Mr. Westen stated that Sunwest Pharmacy is requesting the termination of their probation.

President Milovich asked if the two additional inspections have been completed.

Ms. Frush stated that the inspections were completed at the expense of the permit holder.

**On motion by Mr. McAllister and seconded by Mr. Francis**, the Board unanimously agreed to approve the request by Sunwest Pharmacy to terminate the probation of their permit imposed by Board Order 12-0015-PHR.

### **#2 Michael Castillo**

**Michael Castillo** appeared on his own behalf to request that the probation imposed on his pharmacist license per Board Order 10-0027-PHR be terminated.

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

Mr. Castillo stated that he is requesting the termination of his probation. Mr. Castillo stated that he has completed all the requirements of his probation.

Dr. Foy asked Mr. Castillo what he has learned over the last two years.

Mr. Castillo stated that he learned not to take the profession for granted. Mr. Castillo stated that he has not worked in pharmacy for the last two years and it has been a tremendous hardship. Mr. Castillo stated that he wants to move on with his life.

Mr. Van Hassel asked Mr. Castillo if he is current with his CE requirements.

Mr. Castillo stated that he has completed his CE. Mr. Castillo stated that he has kept his license current even though he did not work.

**On motion by Mr. Van Hassel and seconded by Dr. Foy**, the Board unanimously agreed to approve the request by Mr. Castillo to terminate the probation of his pharmacist license imposed by Board Order 10-0027-PHR.

### **#3 Wilfred Bloom**

**Wilfred Bloom** appeared on his own behalf to request to take the NAPLEX exam for the fourth time.

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

Mr. Bloom stated that he would like approval to take the NAPLEX exam for the fourth time. Mr. Bloom stated that when he left the test the last time he felt that he had passed the exam.

President Milovich asked Mr. Bloom why he felt that he had passed the exam.

Mr. Bloom stated that he completed the exam and double checked his answers prior to answering the questions.

Mr. Milovich asked Mr. Bloom how he prepared for the exam.

Mr. Bloom stated that he prepared in the wrong fashion. Mr. Bloom stated that he practiced overseas and had owned his own pharmacy. Mr. Bloom stated that when he left to come to the States clinical pharmacy was in its infancy. Mr. Bloom stated that he prepared for the exams in the same fashion that he prepared for his exams in South Africa many years ago. Mr. Bloom stated that he is in his 60's and wants to start his career again. Mr. Bloom stated that he feels that he could have a positive influence in pharmacy. Mr. Bloom stated that he has invested in new textbooks to study for the exam if given the opportunity. Mr. Bloom stated that he is having difficulty finding a job as an Intern. Mr. Bloom stated that he has been applying for jobs as a technician.

Dr. Foy asked Mr. Bloom about his work experience.

Mr. Bloom stated that he had a job as an Intern but when he took a month off to study for his exam he was replaced by another Intern. Mr. Bloom stated that he is willing to accept a job as a technician to be able to study the new drugs.

Mr. McAllister stated that Mr. Bloom may want to obtain some additional schooling. Mr. McAllister stated that Mr. Bloom may be able to audit some classes.

**On motion by Mr. McAllister and seconded by Dr. Foy**, the Board unanimously agreed to deny the request by Mr. Bloom to take the NAPLEX exam for the fourth time until he can provide the Board of more substantive preparation for the exam.

#### **#4 Jose Gonzalez**

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

**Jose Gonzalez** appeared on his own behalf to request to take the NAPLEX exam for the sixth and final time.

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

Mr. Gonzalez stated that he is requesting to take the NAPLEX exam for the sixth and final time. Mr. Gonzalez stated that due to the new NABP testing limits he must request to take the exam prior to March 1, 2013. Mr. Gonzalez stated that due to the new NABP testing limits this would be the last time he would be allowed to take the test. Mr. Gonzalez stated that the last time he took the exam he was very close to passing. Mr. Gonzalez stated that his scores have improved and he would not be asking to take the exam if he felt that he could not pass the exam. Mr. Gonzalez stated that the last time he did not finish the exam but did answer more questions correctly. Mr. Gonzalez stated that he has been working as a pharmacy technician at CVS back east. Mr. Gonzalez stated that he has remained in the field and had taken time off to come to the meeting and request the chance to take the exam again.

Mr. Milovich asked what changes he has made in studying for the exams.

Mr. Gonzalez stated that he has taken the Kaplan course and the Morris Cody course. Mr. Gonzalez stated that he has purchased books and CDs to help him study for the exam. Mr. Gonzalez stated that he realizes that he has only one more chance to take the exam.

Mr. McAllister asked Mr. Gonzalez to tell the Board how he prepared for the last exam.

Mr. Gonzalez stated that he worked 40 hours a week and spent the rest of his time studying the material. Mr. Gonzalez stated that before the last exam he purchased the RxPrep book. Mr. Gonzalez stated that he studied the whole book and made notes and studied his notes. Mr. Gonzalez stated that he studied on his days off and took 10 days off prior to the exam to study.

Mr. McAllister stated that it appears his lowest scores are in the pharmacotherapy area and he probably did not come away with the knowledge from his program.

Mr. Gonzalez stated that he knows that no pharmacist knows everything and prior to answering a patient's question he would look up the answer if he did not know the answer before answering the patient's question. Mr. Gonzalez stated that he wants to pass the exam and work in the retail field.

**On motion by Mr. McAllister and seconded by Ms. Rosas**, the Board unanimously agreed to approve the request by Mr. Gonzalez to take the NAPLEX exam for the sixth and final time.

## **AGENDA ITEM 11- Gilbert Hospital Deviation Request to allow an Instymeds Dispensing Machine to be placed in the Emergency Room**

President Milovich stated that there are several representatives present from Gilbert Hospital and Instymeds to answer question from Board Members concerning the deviation request by Gilbert Hospital.

The following individuals were present: Kimberly Warren, Director of Pharmacy, Julie Geason with Instymeds, and Ed Reichert, Regulatory Counsel for Instymeds.

President Milovich opened the discussion by asking Ms. Warren to address the deviation request.

Ms. Warren stated that they are present to ask for a waiver for the quantity limits for dispensing in the Emergency Department and if that deviation is approved then they would ask for a deviation for automated storage and distribution system. Ms. Warren stated that there are currently dispensing restrictions. Ms. Warren stated that the rules stated that drugs in the Emergency Department can only be dispensed in quantities sufficient to meet patient needs until outpatient pharmacy services are available. Ms. Warren stated that they would like to have that requirement waived to install an Instymeds machine which would provide the patients with a full course of medication and would improve compliance.

Mr. Milovich asked how this meets the requirements for asking for a deviation. Mr. Milovich stated that a deviation is granted for experimentation and technological advances.

Ms. Warren stated that extension of the quantities could be the experimental part and Ms. Warren stated that the Instymed machine could be the technological part.

Mr. Milovich asked how many items would be placed on the formulary.

Ms. Warren replied about 20 to 30 items. Ms. Warren stated that the medications would primarily be discharge medications such as antibiotics and pain medications.

Mr. Van Hassel asked Ms. Warren why she thought the original rule was made to allow the Emergency Room to dispense a limited number of tablets.

Ms. Warren stated originally they did not have the automation. Ms. Warren stated that they were handing out emergency packs without the proper labeling. Ms. Warren stated that the packages from the Instymed would be fully labeled with all required information. The prescriber would provide all the information on counseling along with written documentation.

Mr. Van Hassel asked if a pharmacist would be available to answer questions.

Ms. Warren stated yes. Ms. Warren stated that the physician would provide the initial counseling. Ms. Warren stated that there would be a pharmacist on call that would be available to answer the patient's questions.

Mr. Van Hassel asked if this would be deemed as physician dispensing.

Ms. Warren replied yes.

Mr. Reichert stated that he would like to add that the dispensing of a full course of medication would be for the antibiotics. Mr. Reichert stated that other medications dispensed in the Emergency Room are

acute care medications. Mr. Reichert stated that it is not the intent to dispense 30 days of any medication. Mr. Reichert stated that it is patient safety driven. Mr. Reichert stated that studies show that when patients leave the Emergency Room with a prescription a large number of patients do not fill the prescription. Mr. Reichert stated that it is worse when a patient is given a starter pack of an antibiotic and because they feel better they do not fill the prescription. Mr. Reichert stated that the Instymed machine is only used in Emergency Rooms and urgent care settings. Mr. Reichert stated that acute medicines are stocked in the machine. Mr. Reichert stated that the purpose of the machine is to provide the patient with the medication at the point of care and not replace the pharmacy.

Mr. Milovich asked if the patient had options.

Ms. Warren stated that the patient would be given the option to use the machine or obtain a handwritten prescription to take to the pharmacy. Ms. Warren stated that the Instymed machine would accept all major insurance plans.

Mr. McAllister asked if the hospital has a pharmacy license. Mr. McAllister asked if the drugs dispensed are owned by the pharmacy.

Ms. Warren replied yes. Ms. Warren stated that the drugs would be stocked into the machine by the pharmacy. Ms. Warren stated that the medications would be adjudicated through a NABP ID that would be supported by Gilbert Hospital.

Ms. Geason explained the Instymed technology. Ms. Geason stated that if the patient needs a prescription the physician would write a computerized physician order on the EMR system and would interface with Instymed's software and it creates an order for the pre-packaged medications that are in the Instymed machine. Ms. Geason stated that all the medications in the machine are pre-packaged in unit of use containers in normal dosage quantities. Ms. Geason stated that it provides the patient with a means to obtain the medication at that time.

Mr. Reichert stated that the hospital owns the drugs. Mr. Reichert stated that currently the physician can dispense a starter pack that was prepared by the pharmacy. Mr. Reichert stated that it is the physician that is responsible for the dispensing and being certain that the correct medication is dispensed. Mr. Reichert stated that it would be the physician's responsibility to counsel the patient. Mr. Reichert stated that there would be a pharmacist on call to provide additional counseling. Mr. Reichert stated that they could have a policy in place whereby the pharmacist could review the order the next day. Mr. Reichert stated that Instymed is contracted with the major insurance carriers for billing purposes.

Mr. McAllister stated that the limits in the rule were based on not having 24 hour pharmacies. Mr. McAllister stated that there are now 24 hour pharmacies. Mr. McAllister stated in his experience physicians do not counsel because they are moving on to the next patient. Mr. McAllister stated that nurses do not counsel because they do not have the information. Mr. McAllister stated that he is having a hard time considering this a technological advancement when there are pharmacies that are open 24 hours.

Mr. Reichert stated that having an access to a pharmacy is not necessarily an issue it is the fact that the patient does not go to the pharmacy. Mr. Reichert stated that compliance is better if the patient receives the medication at the point of care.

Mr. Milovich asked how DURs are handled.

Ms. Geason stated that Instymed does all of the prescription adjudication. Ms. Geason stated that pharmacy technicians do the adjudication. Ms. Geason if a DUR reject occurs, the technician has two avenues they would either call the Pharmacist on Call and review the DUR or they call the facility and review the DUR with the physician.

Mr. Milovich asked if the center where the technicians adjudicate the prescriptions is located in another state.

Ms. Geason stated that they have a call center in Minnesota.

Mr. Milovich asked if there was a pharmacist on site at the Minnesota Call Center.

Ms. Geason stated that a pharmacist is present during normal business hours. Ms. Geason stated that after normal business hours there is a pharmacist on call.

Dr. Musil asked if this is a medication or prescription order.

Ms. Warren stated that it is a medication order.

Mr. Reichert stated that the rules do allow dispensing from the Emergency Room. Mr. Reichert stated that it is only for a limited quantity. Mr. Reichert stated that the medication order is entered into the chart and is dispensed by the practitioner at the point of care. Mr. Reichert stated that the hospital is seeking to dispense a full course of therapy for antibiotics and a limited course of therapy for the other medications. Mr. Reichert stated that the Emergency Room and the pharmacy would develop the formulary.

Dr. Musil asked about the use of the Prescription Monitoring Program to ensure that the patient is not going to various Emergency Rooms to obtain medications.

Mr. Reichert stated that Instymeds is operating in 30 states and complies with the PMP programs in those states. Mr. Reichert stated that it is not any different than the patient coming to the Emergency Room and being given a starter pack. Mr. Reichert stated that the dispensing is reported to the PMP program.

Mr. Francis asked if the claim was adjudicated and it was found that the patient had just received the medication would someone be able to stop the dispensing.

Ms. Geason replied yes.

Mr. Francis asked about patients receiving medications that may be contraindicated with each other.

Ms. Warren stated that the physician takes a complete history when the patient comes to the Emergency Room. Ms. Warren stated that the DUR would indicate that there is a possible contraindication between the medication prescribed and a medication that the patient is currently taking. Ms. Warren stated that they could talk to the physician and the physician could change what he is prescribing.

Mr. Francis stated that patients often are not great historians and that is why the DUR messaging is very important.

Ms. Warren stated that there is someone there to address the messaging 24 hours a day.

Dr. Foy asked what hours the hospital pharmacy is open.

Ms. Warren stated that Gilbert Hospital is open from 7:00 A.M. to 10:00 P.M. Monday through Friday and from 7:00A.M. to 3:00 P.M. on Saturday and Sunday.

Dr. Foy asked if the physicians currently dispense at the hospital.

Ms. Warren stated that the physicians currently do not dispense.

Dr. Foy asked what hours the Instymeds machine would be functional.

Ms. Warren stated that the machine would be functional 24/7. Ms. Warren stated that the pharmacy does not do any outpatient prescriptions at this time.

Dr. Foy asked if there would be controlled substance medications in the machine.

Ms. Warren replied yes.

Dr. Foy asked who fills the machine and how does the machine work.

Ms. Geason replied that all of the medications are pre-packaged in unit of use containers. Ms. Geason stated that they monitor the inventory in the machine and send out the medication as needed to refill the machine. Ms. Geason stated that Instymeds has their own wholesale distributor that is licensed as an out-of-state wholesaler. Ms. Geason stated that the medications are shipped to the pharmacy and the pharmacy is responsible for stocking the machine. Ms. Geason stated that there are no cassettes and everything is barcoded and can be placed in any spot.

Dr. Foy asked about the call center and the reviewing of the DUR edits by the technicians.

Ms. Geason stated that the technicians receive the DUR message from the PBM. Ms. Geason stated that if the technician receives a DUR message they would either call the pharmacist on call or the physician directly.

Dr. Foy asked if the pharmacist on call is called for every DUR during the night.

Ms. Geason stated that during the night the physician is usually called directly.

Mr. Reichert stated that technician does not make any judgments but they are reporting the fact that a DUR occurred. Mr. Reichert stated that the physician would make the necessary changes.

Dr. Foy asked if the policies and procedures indicate that the technician call the physician for every DUR.

Ms. Geason if it is a refill too soon the physician is contacted. Ms. Geason stated that there are very few DUR edits because of the nature of the medications.

Dr. Foy stated that if the technician decides not to call the physician then they have made a decision concerning the DUR.

Mr. Reichert stated that they do not have that discretion. Mr. Reichert stated that they work with the hospital to develop the policies. Mr. Reichert stated that if the Instymeds pharmacist is present then the pharmacist would call the prescriber.

Dr. Foy asked what happens if the patient visited the Emergency Room and did not understand the directions after he gets home.

Ms. Warren stated that the patient could call the Emergency Room and that would be in the policy and procedure of the hospital.

Mr. McAllister asked if the Call Center in Minnesota is licensed as a non-resident pharmacy in Arizona.

Ms. Geason replied no.

Mr. McAllister stated that the Call Center would need to be licensed in Arizona with an Arizona licensed Pharmacist in Charge. Mr. McAllister stated that these are the requirements under the shared services regulations. Mr. McAllister stated that he feels that this does not meet the requirement of technology improvement. Mr. McAllister stated that the Instymeds system removes the pharmacist from the care.

Ms. Rosas asked if an error occurs who is responsible for the error.

Mr. Reichert stated that the physician would be responsible for a dispensing error. Mr. Reichert stated that the bottles are barcoded and if the barcodes do not match the product is rejected. Mr. Reichert stated that there has never been an error that has reached the patient through the Instymeds system. Mr. Reichert stated that there has been about two million prescriptions dispensed through the machine.

Mr. Francis asked if there is any quality control measures in place to be sure the DUR is received and acted upon.

Ms. Geason replied not at this time.

Mr. Van Hassel asked what type of computer is used in the Emergency Room.

Ms. Warren replied Medhost.

Mr. Van Hassel asked if the DUR message would show up in the Medhost system.

Ms. Warren stated that it would not. Ms. Warren stated that is when Instymeds would make the phone call.

Mr. Van Hassel asked how many patient visits are made to the Emergency Room daily.

Ms. Warren stated that there could be 65 to 100 visits daily.

Mr. Van Hassel asked if the physician has to wait for the medication to be released when a DUR occurs.

Ms. Geason stated that the physician does not do the final release.

Mr. Van Hassel stated that he also feels that this is a way to remove the pharmacist from the dispensing process.

Mr. Reichert stated that the technology advantage is that the dispensing process is much better than the current processes in the Emergency Room.

Dr. Musil asked how many Instymeds machines are currently being used in Arizona.

Ms. Geason stated that there are currently no machines located in Arizona. Ms. Geason stated that there were 8 to 9 machines located in Urgent Care settings but they were removed due to a change in ownership.

**On motion by Mr. McAllister and seconded by Mr. Van Hassel**, the Board unanimously agreed to deny the deviation request by Gilbert Hospital to install an Instymeds machine in the Emergency Department due to a lack of experimental and technological advancement.

### **AGENDA ITEM 12 – Avondale Pharmacy Request to continue to table the case until June 2013**

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

**Lameck Nyakweba, Owner of Avondale Pharmacy**, appeared on his behalf to ask the Board Members to continue to table his case until June 2013. Laura Carpenter, Legal Counsel for Avondale Pharmacy, was also present,

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

Ms. Carpenter stated that Mr. Nyakweba appeared before the Board in September to ask the Board to terminate the probation imposed on Avondale Pharmacy. Ms. Carpenter stated that the Board agreed to continue the probation and asked Mr. Nyakweba to hire a consultant to help him resolve his issues and to present a report to the Board in 90 days of the changes and issues that have been resolved. Ms. Carpenter stated that Mr. Nyakweba is requesting that the Board continue to table his case until June when he can apply for accreditation.

Dr. Musil asked why it has taken Mr. Nyakweba so long to get to this point.

Ms. Carpenter stated that it has been an ongoing process. Ms. Carpenter stated that he is trying his best to comply with the regulations. Ms. Carpenter stated that Mr. Nyakweba was not aware that the Board had additional concerns. Ms. Carpenter stated that Mr. Nyakweba has hired consultants that will help him prepare for accreditation.

Mr. Nyakweba stated that he could not apply for accreditation until his probation was terminated. Mr. Nyakweba stated that he is currently working with the consultants to improve his pharmacy so that he is able to apply for accreditation.

Ms. Carpenter stated that it was on her advice that Mr. Nyakweba is requesting to continue the tabling of his request until he is ready to apply for accreditation.

**On motion by Mr. Van Hassel and seconded by Dr. Foy**, the Board unanimously agreed to grant the request by Mr. Nyakweba to table his request until the June Board Meeting.

### **AGENDA ITEM 13 – Reports**

#### **Executive Director - Budget Issues**

Mr. Wand reviewed the financial reports with the Board Members for the current budget.

## **Personnel**

Mr. Wand stated that he would be meeting with State Personnel concerning the reclassification of Personnel in the office. Mr. Wand stated that he would also be discussing the possibility of hiring another Compliance Officer and hiring an additional employee for the front office.

## **Legislation**

Mr. Wand stated that the Board has a Bill in the Legislature this session to make changes to the current statutes. Mr. Wand stated that the Bill is sponsored by Senator Nancy Barto.

## **Deputy Director Report**

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

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

### **Pharmacy Violations**

1. Hot water not working properly – 1
2. Excessive Temperature in pharmacy - 1
3. Current renewals not available in pharmacy for all staff -1
4. Current immunization certificates not available for three pharmacists at the same store – 1

### **Controlled Substance Violations**

1. Controlled Substance Overage -9
2. Controlled Substance Shortage -7
3. Annual Controlled Substance inventory not completed - 1
4. Controlled Substance Invoices not readily retrievable - 1

### **Documentation Violations**

1. Incomplete counseling documentation – 1
2. Failure to document patient's address and DEA on CII prescriptions – 1
3. Failure to maintain mechanical storage device maintenance log – 3

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

1. Transfer of products between stores require an invoice
2. Products sold to doctor's offices require an invoice

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

1. Employment and address changes need to be reported to the Board within 10 days

## **PAPA Report – Schedule P**

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of forty-eight (48) participants in the PAPA program. Ms. Yates stated that since her last report on November 14, 2012 there have been three (3) participants that have completed the program and there has been one (1) new person that has entered the program.

Ms. Yates stated that the Southwest Pharmacy Symposium will be held on January 26, 2013 and 6.5 hours of CE would be offered.

### **AGENDA ITEM 14 – University of Arizona Presentation on CQA Rules – Canceled**

Ms. Locnikar was absent from 1:00 P.M. to 2:00 P.M.

### **AGENDA ITEM 15 – Conferences – Schedule Q**

#### **Conference 1– Complaint #4119**

The following individuals were present to discuss the complaint:

- Dan Williams – Pharmacist - Respondent
- Lisa Tomic – Past Pharmacy Supervisor - Witness
- Steve McQueen – Current Pharmacy Supervisor – Witness
- Christine Cassetta – Legal Counsel for Walgreens
- Steve Haiber – Compliance Officer

President Milovich opened the discussion by asking Mr. Haiber to give a brief overview of the complaint.

Mr. Haiber stated that a physician complained because the pharmacy refilled a prescription for Hydrocodone/APAP 5/325 for his patient when he had denied the refill. Mr. Haiber stated that the Pharmacist in Charge stated that the faxed refill request was misread by the pharmacy technician and rather than being denied the prescription was filled. The Pharmacist in Charge stated that the current process does not provide the verification pharmacist with a copy of the fax renewal response and that the pharmacist responsible for verifying the prescription renewal relies on the original prescription image with technician annotations of any fax renewal responses.

Ms. Cassetta asked the supervisors to address the changes that have occurred since this incident.

Mr. McQueen stated that since a pharmacy can no longer fax a refill request for a controlled substance with the fields already populated their system would no longer generate a fax to be sent to the doctor. Mr. McQueen stated that the doctor is called and the doctor calls in a new prescription which is reduced to a hard copy by the pharmacist. Mr. McQueen stated that a new template is being developed to resolve the issue.

Mr. Milovich asked when the new template would be available.

Mr. McQueen stated that it should be ready in a few months.

Dr. Foy stated that he is not sure how the pharmacist would have caught the error in this case. Dr. Foy noted that it was a technician error.

Mr. Milovich asked if there have been any complaints from the pharmacists since this new procedure has been implemented.

Ms. Tomic stated that there have not been any complaints since the procedure was implemented.

Dr. Foy asked if they fax the doctor for a new prescription for the controlled substances or if they are calling the doctor on each prescription.

Mr. McQueen stated that they cannot accept a fax for the controlled substance prescription and must call the doctor.

**On motion by Dr. Foy and seconded by Dr. Musil**, the Board unanimously agreed to issue an advisory letter to the staff concerning the updating of prescription refills from faxed authorizations.

### **Conference 1– Complaint #4131**

The following individuals were present to discuss the complaint:

Britt Hofer – Pharmacist in Charge - Respondent

Lisa Tomic – Pharmacy Supervisor - Witness

Christine Cassetta – Legal Counsel for Walgreens

Sandra Sutcliffe – Compliance Officer

Ms. Sutcliffe stated that the complainant stated that she received a call from the pharmacy asking her to check her Tramadol prescription to determine if the medication were all the same. The complainant found two different tablets in her bottle. The complainant was told that the tablets were mixed in the dispensing containers in the pharmacy. The complainant's bottle contained mixed tablets of Tramadol and Trazadone. The complainant had picked up her prescription on June 11, 2012 and was called on June 15, 2012 about the possible error. The Pharmacist in Charge stated that on June 14, 2012 the pharmacist on duty found five Trazadone 50 mg tablets mixed in the Tramadol baker cell. The Pharmacist in Charge contacted the nine patients who had received Tramadol in the last 10 days. Five patients had confirmed that they had mixed tablets in their bottles. Ms. Sutcliffe stated during the complaint investigation she observed multiple empty bottles placed on top of the Baker Cell log book. There was no documentation recorded in the log book for any of the medications from August 7<sup>th</sup> and August 8<sup>th</sup>, 2012. Ms. Sutcliffe stated that the store manager told her that the technician from the previous day did not have time to log the bottles into the Baker Cell Log Book.

President Milovich asked Ms. Hofer to address the complaint.

Ms. Hofer stated that once she learned of the mixture of the tablets in the Baker Cell she took the necessary steps to contact the patients and correct the error.

Mr. Milovich asked Ms. Hofer how far back she went on her dispensing logs to contact the patients.

Ms. Hofer stated that she went back 10 days.

Mr. Milovich asked if the wrong medication had been placed in the cell 6 days prior to the error being discovered.

Ms. Hofer replied yes. Ms. Hofer stated that they have taken corrective actions which includes the following: Verify all additions to the cell, the medications must be in the manufacturer's stock bottle, and the product must immediately be logged into the log book.

Mr. Milovich asked how many patients received mixed bottles of tablets.

Ms. Hofer replied five patients.

Dr. Foy asked who is allowed to fill the cells and who verifies the filling of the cell.

Ms. Hofer stated that the pharmacist verifies that the correct medication went into the cell. Ms. Hofer stated that ideally it would be the pharmacist that fills the cell and verifies the cell.

Dr. Foy asked the respondents what the store policy is for filling the cells.

Ms. Hofer stated that a technician can fill the cell but the pharmacist must verify the medication that is put in the cell.

Dr. Foy asked how the pharmacist can verify the correct medication was put in the cell if the empty bottle was placed on top of the cells.

Ms. Hofer stated that she retrained her staff and the log book is right next to the pharmacist.

Dr. Foy asked why there were large gaps in logging of the medications. Dr. Foy noted that there were loggings every 10 days for 1,000 tablets and there were loggings where 1,000 tablets lasted a month. Dr. Foy asked if there could be missing logs.

Ms. Hofer stated that she is not sure what happened.

Dr. Foy asked why the drugs were not logged.

Ms. Hofer stated that she could not explain the reason why the medications were not logged because she left at 4:00 on Monday, was sick on Tuesday, and returned to work that Wednesday.

Dr. Foy stated that it appears it was a common practice not to log the medications.

Mr. Van Hassel asked Ms. Hofer how she selected the date.

Ms. Hofer stated that she went back 10 days because it would have included the last day the cell was filled.

Ms. Cassetta stated that the pharmacy is removing the Baker Cells from the pharmacy because they are no longer a 24 hour store.

Mr. McAllister noted that the Compliance Officer Summary indicated that the technician had filled the cell but there was no documentation that the pharmacist had verified the product.

Mr. McAllister asked how the pharmacist was notified that medication was being added to the cell.

Ms. Hofer stated that the pharmacist visually verifies the product before it is added to the cell.

Mr. McAllister stated that it would be possible for the technician to add the medication to the cell without being checked by the pharmacist.

Ms. Cassetta stated that when the pharmacist found the error he dumped the cell to look to see if the tablets were mixed. When the error was discovered, the pharmacy called the patients who had received the medication to see if they had of the incorrect tablets in their bottle.

Mr. McAllister asked Ms. Tomic about the corporate perspective in replenishing the cell.

Ms. Tomic stated that once the incidence was brought to her attention she re-educated all the pharmacists and technicians. Ms. Tomic stated that they are phasing out the Baker Cells and would be installing the Yuyama in the store. Ms. Tomic stated that the medications are barcoded and the pharmacist would have to scan the barcode in order for the product to be placed in the machine.

Mr. Wand asked if both medications were in the Baker Cells.

Ms. Hofer stated that both medications were in the Baker Cells and were side-by-side.

Mr. McAllister stated that technology is changing so rapidly and the pharmacist in charge is responsible for the practice of pharmacy.

Mr. Van Hassel stated that he also feels that there was a breakdown in control of the pharmacy by the Pharmacist in Charge. Mr. Van Hassel stated that the bottles were left on top of the machine for more than one day and policies were not being followed.

**On motion by Mr. Van Hassel and seconded by Dr. Foy**, the Board unanimously agreed to issue an advisory letter to the Pharmacist in Charge for not following policies and procedures.

### **AGENDA ITEM 16– Complaint Review – Consideration of Complaints on Schedule R**

President Milovich opened the discussion by stating the Board Members would review all the complaints on schedule R.

#### **Complaint #4121**

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

**On motion by Mr. McAllister and seconded by Ms. Rosas**, the Board unanimously agreed to offer the pharmacy technician a consent agreement for revocation of his license. If the consent is not signed, the case would proceed to hearing.

#### **Complaint #4122**

**On motion by Dr. Musil and seconded by Mr. Minkus**, the Board unanimously agreed to offer the pharmacy technician a consent agreement for revocation of her license. If the consent is not signed, the case would proceed to hearing.

#### **Complaint #4130**

**On motion by Dr. Foy and seconded by Mr. Van Hassel**, the Board unanimously agreed to issue an advisory letter to the pharmacist concerning the verification of the data input to ensure that it communicates the prescriber's directions precisely.

#### **Complaint #4133**

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

**On motion by Mr. McAllister and seconded by Dr. Musil**, the Board unanimously agreed to offer the pharmacist a consent agreement with the following terms: 8 hours of CE on error prevention. If the consent is not signed, the case would proceed to hearing.

#### **Complaint #4151**

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

**On motion by Dr. Foy and seconded by Mr. Milovich**, the Board unanimously agreed to dismiss the complaint.

#### **Complaint #4154**

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

**On motion by Mr. Van Hassel and seconded by Mr. McAllister**, the Board unanimously agreed to ask the Pharmacist in Charge (the Pharmacist in Charge was the verification pharmacist also) and a representative from the IT department to appear for a conference.

#### **Complaint #4166**

Mr. McAllister was recused due to a conflict of interest.

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

#### **Complaint #4171**

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

**On motion by Mr. Van Hassel and Ms. Rosas**, the Board unanimously agreed to dismiss the complaint.

#### **Complaint #4176**

Mr. Milovich was recused due to a conflict of interest.

**Mr. Van Hassel placed a motion of the floor to offer the pharmacist a consent agreement for 6 hours of CE on error prevention. Mr. Van Hassel then rescinded his motion.**

**On motion by Mr. Van Hassel and seconded by Mr. McAllister**, the Board unanimously agreed to issue an advisory letter to the pharmacist for checking the data entry to ensure the correct drug is entered. The Board also recommended that she review CE on error prevention.

### **AGENDA ITEM 17 – Proposed Rules – Schedule S**

#### **1. Resident Drug Manufacturer and Drug Wholesaler Rules**

President Milovich asked Mr. Wright to address this agenda item.

Mr. Wright stated that the rulemaking amends R4-23-604 Resident Drug Manufacturer by removing all references that require a pharmacist-in-charge in a drug manufacturing operation. Those references are un R4-23-604 (B)(9) and (12), (D), (H)(1)(d), (J) and (O). Mr. Wright stated that the rulemaking would amend R4-23-605 Resident Drug Wholesaler Permit by removing the requirement for a lot number and expiration date in subsection (H)(3)(a).

Mr. Wright stated that a notice of rulemaking docket opening was published on September 14, 2012. A Notice of Proposed Rulemaking was published on November 23, 2012. A public hearing was held on December 28, 2012. No one attended the hearing and no comments were received.

**On motion by Mr. Van Hassel and seconded by Mr. Milovich**, the Board unanimously approved the Notice of Final Rulemaking and Economic Impact Statement.

#### **2. Pharmacy Facilities and Equipment Rules**

President Milovich asked Mr. Wright to address this agenda item.

Mr. Wright stated that Board Staff is seeking to have the distance requirement for toilet facilities increased to 100 feet from 50 feet and to provide an exception to not have a mortar and pestle, prescription balance, and ointment tile, if the pharmacy does not compound.

Mr. Wright stated that he had received a letter from Lis Houchen, the NW Regional Director, of the National Association of Chain Drug Stores which suggested that the Board eliminate the regulation regarding the distance to a facilities because it has no bearing on patient//public safety.

The Board Members suggested that the regulations could be changed to indicate that the permit holder has appropriate equipment to operate a pharmacy.

The Board Members suggested that the regulations could be changed to indicate that the permit holder provides access to toilet facilities.

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

### **3. Permits and Distribution of Drugs: General Provision Rules**

President Milovich asked Ms. Sutcliffe to address this agenda item.

Ms. Sutcliffe stated that the rulemaking would amend R4-23-601 General Provisions by adding the requirement that a resident permit holder verify they receive drugs and regulated chemicals only from persons with a current Board permit.

Ms. Sutcliffe stated the rulemaking would amend R4-23-601 General Provisions by adding the pedigree requirements found in A.R.S. 32-1984.

Ms. Sutcliffe stated that the rulemaking would amend R4-23-601 General Provisions by adding the DEA registration number requirement found in R4-23-1003 (A).

Ms. Sutcliffe stated a docket was opened on January 4, 2013.

The Board Members authorized Ms. Sutcliffe to proceed with the rulemaking.

### **4. Long Term Care Task Rules**

President Milovich asked Ms. Sutcliffe to address this agenda item.

Ms. Sutcliffe stated that in August of 2005, rules R4-23-701, 701.01, 701.02, 701.03, and 703 underwent the five year review and the Board identified that the rules needed to be amended. A task force was appointed in 2008 and several meetings were held prior to the Governor issuing a rules moratorium in 2009. The rules moratorium has been lifted and The Board appointed another task force in 2012 to review the rules and make appropriate changes.

Ms. Sutcliffe stated that the rule making would amend R4-23-110 Definitions by adding or amending definitions to support changes in Article 7 rules.

Ms. Sutcliffe stated that the rulemaking would amend R4-23-674 Limited-Service Long-term Care Pharmacy by removing the requirement that a long-term care consultant pharmacist be employed by or contracted with the provider pharmacy and includes changes to the policies and procedures section.

Ms. Sutcliffe stated that the rulemaking would amend rule R4-23-701 Long-term Care Facilities Pharmacy Services: Consultant Pharmacist by including the requirement that a lone-term care consultant pharmacist in an Arizona facility be licensed by the Board and edits the long-term care consultant pharmacist's responsibility to the facility.

Ms. Sutcliffe stated that the rulemaking would amend rule R4-23-701.01 Long-term Care Facilities Pharmacy Services: Provider Pharmacy by clarifying the requirement that a provider pharmacy develop procedures for patient level drug recalls, and prohibits a provider pharmacy from repackaging previously dispensed drugs.

Ms. Sutcliffe stated that the rulemaking would amend rule R4-23-701.02 Long-term Care Facilities Pharmacy Services: Emergency Drugs by editing the criteria for an emergency drug supply unit, revising the drug packaging, unit labeling and restocking requirements, and adding new subsections for the use of automation.

Ms. Sutcliffe stated that the rulemaking would amend rule R4-23-701.04 Long-term Care Facilities Pharmacy Services : Automated Dispensing Systems to allow the use of automation within a long-term care facility.

Ms. Sutcliffe stated that the rulemaking would add a new section R4-23-702 Hospice Inpatient Facilities to outline the criteria for the provision of contracted pharmacy services in a hospice inpatient facility.

Ms. Sutcliffe stated that the rulemaking would amend R4-23-703 Assisted Living Facilities to prohibit the use of an emergency drug supply unit or an automated dispensing system in an assisted living facility and also to prohibit the repackaging of previously dispensed drugs.

Ms. Sutcliffe stated that the rulemaking would add a new rule section R4-23-704 Customized Patient Medication Packages to allow the packaging of two or more prescribed drugs in a single container.

Ms. Sutcliffe stated that a docket was opened on December 14, 2012.

The Board Members authorized Ms. Sutcliffe to proceed with the rulemaking.

### **AGENDA ITEM 18 – Update concerning the FDA's Intergovernmental Working Meeting on Compounding on December 19, 2012**

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

Mr. Wand stated that the meeting was held in Washington D.C. with the FDA to discuss compounding. Mr. Wand stated that the participants were divided into districts and discussed what they believed constituted compounding and manufacturing.

Mr. Wand stated that they discussed compounding of medications due to shortages and if some of the larger firms were compounding or manufacturing.

Mr. Wand stated that some states had not inspected facilities in their states for 5 years.

Mr. Wand stated that it was discussed about developing training programs to train the inspectors.

Mr. Van Hassel stated that they discussed certifying the inspectors. Mr. Van Hassel stated that standards would be set for inspections.

Mr. Wand stated that there were concerns about doctors hiring technicians to compound medications since doctor's offices are not inspected by the Boards.

Mr. Van Hassel stated that it why the Board is forming a task force to review the rules.

### **AGENDA ITEM 19 – Selection of Compounding Task Force Members**

President Milovich opened the discussion by stating that the Board would select a chairman and members of the task force.

Dr. Foy stated that there should be an adequate number of people on the task force and should represent all the different areas of compounding.

Mr. McAllister stated that the selection of a compounding task force would show that the Board is thinking about the changes and not overacting to the problems.

**On motion by Mr. McAllister and seconded by Dr. Foy**, the Board unanimously approved the following individuals to serve on the task force:

1. John Musil – Chairman
2. Tom Van Hassel – Co-Chairman
3. Danielle Evans
4. Rich Monty
5. Eric Bauer
6. Dennis Waggoner
7. Dana Reed
8. Linda Carboni
9. Sandra Sutcliffe

Mr. McAllister stated that some of the topics that he feels the task force should consider is PCAB accreditation, non-resident compounders, compounding for office use, and a separate license for sterile compounding.

### **AGENDA ITEM 20 – Thomas Laboratories – Consent Agreement in Lieu of Hearing for Case 13-006-PHR**

President Milovich stated that Thomas Laboratories has offered this consent agreement in lieu of going to Hearing.

Christine Cassetta, Legal Counsel for Thomas Laboratories stated that the consent agreement offers a civil penalty of \$6,000 to be paid in 90 days for the violations that were found during the complaint investigation.

**On motion by Mr. McAllister and seconded by Ms. Rosas**, the Board unanimously agreed to approve the Consent Agreement offered to settle Case 13-0006- PHR. ( Ms. Locnikar – aye, Mr. McAllister – aye, Dr. Foy – aye, Dr. Musil –aye, Mr. Minkus – aye, Ms. Rosas –aye, Mr. Francis- aye, Mr. Van Hassel – aye, and Mr. Milovich – aye)

**AGENDA ITEM 21 – Frances Arensen Request to remove the display of her previous disciplinary action from website verification.**

President Milovich stated that Ms. Arensen has requested that the Board remove the display of her disciplinary action from the website. Mr. Milovich stated that this information is considered a public record and should not be removed as such.

**On motion by Mr. Van Hassel and seconded by Mr. Milovich**, the Board unanimously agreed to have staff not honor the request by Ms. Arensen to remove her disciplinary action.

**AGENDA ITEM 22 - Avella Wholesale Deviation Request to wholesale products with less than 120 days dating.**

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

President Milovich stated that representatives from Avella were present to ask for a deviation to wholesale products with less than 120 days dating.

Sherri Garver, Director of Wholesale, and Lisa Gressel, In-House Counsel for Avella, were present to answer questions from Board Members.

Ms. Garver stated that Avella has an exclusive agreement with the manufacturer of Mitosol which is a medication used for Glaucoma surgery. Ms. Garver stated that the current supply of Mitosol has a current expiration date of July. Ms. Garver stated that the normal expiration period for the medication is 24 months. Ms. Garver stated that the manufacturer has a return policy and any medication not used by the patient could be returned if the medication expires.

Mr. Wand asked if the product would be used by the expiration date.

Ms. Garver stated that they should use the product by that date.

Ms. Rosas asked if the deviation is only being requested for this lot.

Ms. Garver stated that they have 1,777 boxes that expire in July and they have 22 different lot numbers. Ms. Garver stated that this is the only product for which they are requesting a deviation.

**On motion by Mr. Van Hassel and seconded by Mr. Minkus**, the Board unanimously approved the deviation request made by Avella Wholesale for the 22 lots of Mitosol currently in stock with the July 2013 dating.

**AGENDA ITEM 23 – Election of Officers**

President Milovich nominated Mr. Van Hassel to be the new President for the next year. The nomination was seconded by Ms. Rosas. The Board unanimously affirmed Mr. Van Hassel for resident for the next year.

President Milovich nominated Dr. Foy to be the new Vice President for the next year. The nomination was seconded by Ms. Rosas. The Board unanimously affirmed Dr. Foy for Vice President for the next year.

## **AGENDA ITEM 24 – Call to the Public**

President Milovich 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.

Roger Morris came forth to address the Board. Mr. Morris stated that he feels that the Board should establish a set number for the number of feet that the bathroom facility is away from the Pharmacy. Mr. Morris stated that it establishes a number for the architect that is designing the Pharmacy. Mr. Morris stated that it also would not require a pharmacist to use a facility that is a long distance from the pharmacy.

## **AGENDA ITEM 25 – Future Agenda Items**

The Board Members listed the following items as future agenda items:

1. Open Meeting Laws and Motions
2. PAPA dinner at the Convention
3. Board Meeting in Yuma
4. Typing of Complaint Responses by Respondents

The meeting adjourned at 2:30 P.M.

## **AGENDA ITEM 1 – Call to Order – January 25, 2013**

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

The following Board Members were present: President Dan Milovich, Vice President Tom Van Hassel, Jim Foy, William Francis, Kyra Locnikar, Dennis McAllister, Reuben Minkus and Nona Rosas. The following Board Member was not present: John Musil. The following staff members were present: Compliance Officers Rich Cieslinski, Steve Haiber, Tom Petersen, Sandra Sutcliffe, Dean Wright, Drug Inspectors Melanie Thayer, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Monty Lee.

## **AGENDA ITEM 6 – Omnicare and Michael Mantsch – Consent Agreement Offer in Lieu of Hearing for Case 12-0028 –PHR**

President Milovich asked if representatives were present for Omnicare and Michael Mantsch

The following individuals were present: Michael Mantsch, Former Pharmacist in Charge, Scott Hune, Regional Compliance Officer for Omnicare, and Paul Giancola, Legal Counsel for Omnicare and Mr. Manstch.

Mr. Giancola stated that the company has done an extensive audit of its practices. Mr. Giancola stated that the company has named a new Pharmacist in Charge and have made changes. Mr. Giancola stated that the proposed consent agreement is an offer to settle the case.

Mr. Lee stated that the initial offer presented was not accepted. Mr. Lee stated that they have made revisions and he believes that the revisions address the Board's concerns. Mr. Lee stated that they have placed new protocols in place. Mr. Lee stated that he supports adopting the agreement.

Mr. Lee noted that there was a typographical error on Page 2. The date is typed as 3012 and should be 2013. Mr. Lee stated that the consent could be accepted and the error could be noted and the correct date can be inserted.

**On motion by Mr. Van Hassel and seconded by Mr. Francis**, the Board unanimously agreed to accept the consent agreement for Michael Mantsch and Omnicare for Case 12-0028-PHR. ( Ms. Locnikar – aye, Mr. McAllister – aye, Dr. Foy – aye, Mr. Minkus – aye, Ms. Rosas –aye, Mr. Francis- aye, Mr. Van Hassel – aye, and Mr. Milovich – aye)

## **AGENDA ITEM 7 – Motions to Deem/Hearings**

### **#6 – Crystal Carney**

President Milovich stated that this is the date, time, and place where the matter dealing with Case No. 12-0028-PHR against Crystal Carney is scheduled to be heard by the Arizona State Board of Pharmacy.

The subject of the 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.

The following Board Members were present: President Dan Milovich, Vice President Tom Van Hassel, Kyra Locnikar, William Francis, Jim Foy, Reuben Minkus, Dennis McAllister, and Nona Rosas.

Mr. Milovich stated let the record show that the Board Members have been furnished with copies of:

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

Mr. Milovich asked the parties to identify themselves.

Monty Lee, Assistant Attorney General, was present for representing the state.

Crystal Carney, the respondent was present.

Ms. Carney was not represented by counsel.

There were no preliminary issues.

The witnesses were sworn by the court reporter

Opening statements were made

The evidence was presented.

Closing statements were made.

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

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

**On motion by Mr. McAllister and seconded by Ms. Rosas**, the Board unanimously agreed to fine the respondent \$250.00. (Mr. Francis – aye, Dr. Foy – aye, Mr. Minkus –aye, Ms Locnikar – aye, Mr. McAllister – aye, Ms. Rosas –aye, Mr. Van Hassel – aye, and Mr. Milovich – aye)

## **AGENDA ITEM 10– License Applications Requiring Board Review – Schedule O**

### **#1 Cynthia Maciak**

**Cynthia Maciak** appeared on her own behalf to request to proceed with reciprocity.

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

Ms. Maciak stated that her license was disciplined in Missouri and she had a relapse and her license was suspended from 2002 through 2003. Ms. Maciak stated that she was then placed on probation from 2003 until 2006. Ms. Maciak stated that as a result of the Missouri disciplinary action she was disciplined by the Indiana Board. Ms. Maciak stated that she is not on probation in Missouri.

Mr. Milovich asked Ms. Maciak if her licenses are currently clear.

Ms. Maciak replied yes.

Dr. Foy asked Ms. Maciak what she has been doing since her probation ended.

Ms. Maciak stated that she attends AA meetings and sees a mental health professional. Ms. Maciak stated that she continues with her recovery which is in remission.

Dr. Foy asked Ms. Maciak about her employment.

Ms. Maciak stated in 2003 she had been employed by Kroger. Ms. Maciak stated that during her probation she worked for a small company. Ms. Maciak stated that she has worked for Kroger since 2007 and would be transferring to Arizona with Fry's to work in Tucson. Ms. Maciak stated that she is a trainer for new hires.

Dr. Foy asked Ms. Maciak why she did not disclose her disciplinary action on her Arizona application.

Ms. Maciak stated that it was an oversight on her part. Ms. Maciak stated that she did not realize that she had answered the question incorrectly. Ms. Maciak stated that she had disclosed the disciplinary action on her NABP application.

Mr. Van Hassel asked Ms. Maciak if she had reported the disciplinary action to the Indiana Board.

Ms. Maciak stated that she did not report the disciplinary action until she came off suspension because she had let her license lapse. Ms. Maciak stated that she had to retake the MPJE exam and she became licensed again.

**On motion by Mr. Van Hassel and seconded by Mr. Francis,** the Board unanimously agreed to approve the request by Ms. Maciak to proceed with reciprocity.

#### **AGENDA ITEM 24 – Call to the Public**

President Milovich 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 26 – Adjournment**

There being no further business to come before the Board, President Milovich adjourned the meeting at 9:50 A.M.