



Arizona State Board of Pharmacy
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**THE ARIZONA STATE BOARD OF PHARMACY
HELD A REGULAR MEETING MARCH 17 AND 18, 2010
AT THE ARIZONA STATE BOARD OF PHARMACY OFFICE
PHOENIX, AZ**

MINUTES FOR REGULAR MEETING

AGENDA ITEM 1 – Call to Order – March 17, 2010

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

The following Board Members were present: President Ridge Smidt, Vice President Zina Berry, Joanne Galindo, Steve Haiber, Louanne Honeyestewa, Dennis McAllister, Dan Milovich, and Tom Van Hassel. The following staff members were present: Compliance Officers Rich Cieslinski, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell. Ms. Galindo arrived at 9:15 A.M.

AGENDA ITEM 2 – Declaration of Conflicts of Interest

Due to having a “substantial interest” in the matter, Mr. Haiber recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 11, Schedule D, Conference for Complaint #3719.

Due to having a “substantial interest” in the matter, Mr. Haiber recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 12, Schedule E, Complaint #3747, Complaint #3748, and Complaint #3773.

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, Schedule E, Complaint #3749 and Complaint #3752.

Due to having a “substantial interest” in the matter, Dr. Berry recused herself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 12, Schedule E, Complaint #3754 and Complaint #3755.

Due to having a “substantial interest” in the matter, Dr. Berry recused herself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 4, Schedule A, Wholesale Permit, for OptionCare.

Due to having a “substantial interest” in the matter, Dr. Berry recused herself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 17 – Joanna Jackson.

Due to having a “substantial interest” in the matter, Ms. Honeystewa recused herself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 19, Schedule H, Hearing for Angel Rocha.

AGENDA ITEM 3 – Approval of Minutes

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Haiber and seconded by Mr. Milovich**, the minutes of the Regular Meeting held on January 13 and 14, 2010 were unanimously approved by the Board Members.

AGENDA ITEM 4– Permits and Licenses

Resident Pharmacies

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

Apache Junction Hospital

President Smidt asked if anyone was present from Apache Junction Hospital to discuss the permit. No one came forth.

Mr. Wand stated that he could address the issue. Mr. Wand stated at the January Board Meeting the Board approved the application for the hospital without the IV room. Mr. Wand stated that the reason the Board did not approve the IV room because it was only 80 square feet in size and the regulations require that the IV room must be at least 100 square feet in size. The Board requested that the hospital comply with the regulations and increase the size of the IV room to satisfy the regulations. Mr. Wand stated that the hospital completed the construction of the IV room and he inspected the IV room. Mr. Wand stated that the IV room is 102 square feet in size and meets the Board’s regulations.

Neighborhood Pharmacy

Harvey Morton, Pharmacist in Charge, was present to answer questions from Board Members.

President Smidt opened the discussion by asking the applicant to describe his business. Mr. Morton stated that the pharmacy would be a community pharmacy.

Dr. Smidt asked Mr. Morton if he had ever owned a pharmacy. Mr. Morton replied that he is not an owner but the pharmacist in charge and he has managed pharmacies.

Mr. Van Hassel asked Mr. Morton if they would be compounding any prescriptions. Mr. Morton replied no.

Mr. Van Hassel asked Mr. Morton if they would be selling any medications to doctor's offices. Mr. Morton replied no.

Ms. Frush indicated that the owner was not a pharmacist. Dr. Smidt reminded Mr. Morton that the owner could not be in the pharmacy if the pharmacist was not present.

Mr. Haiber asked Mr. Morton if he planned to fill any internet prescriptions. Mr. Morton replied no.

Mr. Van Hassel asked Mr. Morton if there are any physicians located in the same building. Mr. Morton replied no.

Florence Community Healthcare, LLC

Pamela Martin, Pharmacist in Charge, was present to answer questions from Board Members.

President Smidt opened the discussion by asking Ms. Martin to describe their business. Ms. Martin stated that they would be a critical access hospital with 23 beds and 8 Emergency Room beds. Ms. Martin stated that they would be providing medications for inpatients. Ms. Martin stated that they would be preparing IV medications, but would not do any chemotherapy.

Dr. Smidt asked if they would have a clean room. Ms. Martin stated that they would be using a glove box isolation unit.

Mr. Wand noted that Casa Grande hospital would be providing services after hours.

Mr. Van Hassel asked Ms. Martin if she has practiced in a hospital. Ms. Martin stated that she had worked at Mountain Vista hospital.

Mr. Van Hassel asked Ms. Martin if she has policies and procedures in place. Ms. Martin stated that they are in the process of writing the policies and procedures.

Mr. Milovich asked about the hours of operation. Ms. Martin stated that the pharmacy would be open 40 hours per week and the hospital has an agreement with Casa Grande Hospital to provide services after hours.

Microspine Hospital

Angel Barber, CEO, and Phillip Zaffery, Pharmacist in Charge, were present to answer questions from Board Members.

President Smidt opened the discussion by asking the applicants to describe their business. Ms. Barber stated that the hospital is a specialty hospital that specializes in microspine surgery. Ms. Barber stated that most surgeries are done on an outpatient basis and they have only 6 inpatient beds. Ms. Barber stated that occasionally they would have a patient that would require an overnight stay.

Dr. Smidt stated that a hospital must provide pharmacy services for forty hours a week unless approved by the Board. Dr. Smidt stated that the hospital is asking to have the pharmacy open on a part-time basis.

Ms. Barber stated that they are asking to have the pharmacist be present for one day a week. Ms. Barber stated that they would have a pharmacy technician on staff for 40 hours a week and a nursing supervisor. Ms. Barber stated that the nursing supervisor would be trained to obtain any medication from the pharmacy when the pharmacist is not present.

Mr. Wand asked if they would be doing any IVs on site. Ms. Barber stated that they would not be preparing any IVs thru the pharmacy.

Mr. Milovich asked Mr. Zaffery if he would be able to coordinate this job with his other pharmacy position. Mr. Zaffery replied yes.

Mr. Van Hassel asked if the hospital was applying for JCAHO certification. Ms. Barber replied yes.

Mr. Van Hassel asked about the nursing staff entering the pharmacy. Ms. Barber stated that the nursing supervisor would have access to the pharmacy and entry to the pharmacy is by key access only.

Mr. Van Hassel asked if they had policies and procedures in place. Ms. Barber stated that they are currently writing their policies and procedures.

Florence Pharmacy and Medical Supply

Florence Pharmacy and Medical Supply postponed their appearance until the May meeting.

On motion by Mr. McAllister and seconded by Mr. Van Hassel, the Board unanimously approved the resident applications listed below pending final inspection by a Board Compliance Officer. The Board unanimously approved the request by Microspine Specialty Hospital to have a pharmacist present on a part-time basis.

RESIDENT (In Arizona)

Pharmacy	Location	Owner
Apache Junction Hospital, LLC	2050 W. Southern Ave., Apache Junction, AZ 85220	Apache Junction Hospital, LLC
Neighborhood Pharmacy	2571 S. Val Vista Dr., Gilbert, AZ 85295	Neighborhood Pharmacy, LLC
QoL Meds	4909 E. McDowell Rd., Phoenix, AZ 85008	QoL Meds, LLC
Florence Community Healthcare, LLC	450 Adamsville Rd., Florence, AZ 85232	Initiatives Healthcare
Fry's Pharmacy #676	16380 W. Yuma Rd., Goodyear, AZ 85338	Smith's Food & Drug Centers, Inc.
Banner Ironwood Medical Center	37000 N. Gantzel Dr., Queen Creek, AZ 85143	Banner Health
El Rio Pascua Pharmacy	7490 S. Camino De Oeste, Tucson, AZ 85757	El Rio Santa Cruz Neighborhood Health Center

Community Pharmacy	9305 W. Thomas Rd., Suite 185, Phoenix, AZ 85037 (O)	Jeff Gubernick
Microspine Specialty Hospital, LLC	8600 E. Anderson, Scottsdale, AZ 85255	Microspine Intl., LLC.
Sunwest Pharmacy	1300 N. 12 th St., Phoenix, AZ 85006 (O)	Acorn USA, Inc.

(O) = Ownership Change

Non-Resident Permits

President Smidt stated that all permits were in order for non- resident pharmacies.

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

NON-RESIDENT (Out of State)

Pharmacy	Location	Owner
Greater Sacramento Pharmacy, Inc.	2282 Auburn Blvd. #102, Sacramento, CA 95821	Greater Sacramento Pharmacy, Inc
Tiger Pharmacy	109A Parkwest Dr., Suite 1, Lafayette, LA 70583	Chambers Medical Group
Pegasus Express Pharmacy	621 E. 15th St., Suite D, Cookeville, TN 3801	Americare Pharmacy Services, LLC
Davita Rx	1178 Cherry Ave., San Bruno, CA 94066	Davita Rx, LLC
Prescription Giant, LLC	2620 Centennial Rd., Suite G, Toledo, OH 43617	Prescription Giant, LLC
eCompounding Pharmacy	6878 Beck Ave, North Hollywood, CA. 91605	De Vera, Inc.

Wholesaler Permits

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

Womens Choice Pharmaceuticals, LLC

Larry Richardson, Designated Representative, was present to answer questions from Board Members.

President Smidt opened the discussion by asking Mr. Richardson to describe his business. Mr. Richardson stated that they would be wholesaling medications to other wholesalers. Mr. Richardson stated that they would be wholesaling pre-natal vitamins, iron supplements, and hemorrhoid creams. Mr. Richardson stated that the products would be prescription items.

Mr. Milovich asked if they would be buying the product direct. Mr. Richardson stated that they would be having the product manufactured.

Mr. Van Hassel asked where the products would be manufactured. Mr. Richardson stated that the products would be manufactured in Indiana and North Carolina.

Global Pharmaceutical and Medical Supplies

Global Pharmaceutical and Medical Supplies postponed their appearance until the May meeting.

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

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

WHOLESALER	LOCATION	OWNER
Option Care Nevada, LLC (Full Service)	2020 Silvercreek, Unit B106, Bullhead City, AZ 86442	Option Care Nevada, LLC

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

WHOLESALER	LOCATION	OWNER
Womens Choice Pharmaceuticals, LLC (Full Service)	219 S. Wm Dillard Dr., Gilbert, AZ 85233	Womens Choice Pharmaceuticals, LLC
Baxter Healthcare Corporation (Full Service)	2222 S. Stearman Dr., Chandler, AZ 85249	Baxter Healthcare Corporation
Clean Harbors Arizona, LLC (Non-Prescription)	1340 W. Lincoln St., Phoenix, AZ 85007	Clean Harbors Arizona, Inc.
Western Arizona Wholesale (Non-Prescription)	715 Penny Dr.. Lake Havasu, AZ 86403	Pam Phillips
Benco Dental Supply Co. (Full Service)	3450 D. Broadmont Dr., Suite 120 Tucson, AZ 85713 (O)	Benco Dental Supply Co.
GW Distributing LLC (Non-Prescription)	1919 W. Fairmont Dr. #6, Tempe, AZ 85282	GW Distributing

(O) = Ownership Change

Pharmacists, Interns, Pharmacy Technicians, and Pharmacy Technician Trainees

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

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

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

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

AGENDA ITEM 5 – Special Requests

#1 Arleen Kaizer

Arleen Kaizer appeared on her own behalf to request that the probation imposed on her pharmacist license per Board Order 08-0051-PHR be terminated. Ken Baker, Legal Counsel for Ms. Kaizer, was also present.

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

Mr. Baker stated that Ms. Kaizer was placed on probation and according to the terms of her probation she could ask to have the probation removed at this time. Mr. Baker stated that Ms. Kaizer has completed all the requirements of her probation.

Mr. Van Hassel asked Ms. Kaizer if she is working. Ms. Kaizer stated that she works in the Medicare Part D department at Caremark.

On motion by Mr. Haiber and seconded by Mr. Van Hassel, the Board unanimously agreed to approve the request by Ms. Kaizer to terminate the probation of her pharmacist license imposed by Board Order 08-0051-PHR.

AGENDA ITEM 6– License Applications Requiring Board Review

#1 Stephen Marks

Stephen Marks appeared on his own behalf to request to proceed with reciprocity.

President Smidt opened the discussion by asking Mr. Marks why he was appearing in front of the Board. Mr. Marks stated that he is applying for reciprocity and had to appear because he was charged by the court with a felony and was placed on one month unsupervised probation. Mr. Marks stated that he was also disciplined by the Pennsylvania Pharmacy Board and was placed on probation for one year.

Mr. Marks stated that he had a falling out with his doctor because he felt that the doctor misdiagnosed his case. Mr. Marks stated that he had a prescription filled without his doctor's permission. Mr. Marks stated that he had to plead guilty in court to the charges and was placed on one month of unsupervised probation. Mr. Marks stated that as a result of the charges he was placed on probation by the Pennsylvania Board of Pharmacy.

Mr. Haiber asked Mr. Marks if his Pennsylvania pharmacist license is active. Mr. Marks stated that it is active and he is on probation.

Mr. Van Hassel asked Mr. Marks if he has a job in Arizona. Mr. Marks stated that he does not have a job in Arizona. Mr. Marks stated that his wife is working as a dental hygienist in Arizona. Mr. Marks stated that he would need to sell his home in Pennsylvania before he moves to Arizona.

Mr. Milovich asked why he had to plead guilty. Mr. Marks stated that he was charged with a misdemeanor. Mr. Marks stated that the doctor had given him a prescription and he had the original prescription filled at one pharmacy and faxed the prescription to another pharmacy to have the prescription filled a second time because he was afraid that

he would run out of medication and he was unable to sleep at night. Mr. Marks stated that he was advised to plead guilty to the charge because there was no treatment program available that he could enter.

Dr. Berry asked Mr. Marks what drug he had filled twice. Mr. Marks replied that the prescription was for Lorazepam.

Dr. Berry asked Mr. Marks how many tablets he received. Mr. Marks stated that the prescription was written for 60 tablets, so he received a total of 120 tablets.

Mr. Milovich asked Mr. Marks why he felt that he did not have enough tablets to carry him through till his surgery. Mr. Marks stated that he felt that he did not have enough tablets. Mr. Marks stated that without the tablets he could not sleep and did not want to lose any time at work.

Mr. McAllister asked Mr. Marks if he was still on probation. Mr. Marks stated that he is still on probation until June of this year.

Mr. Haiber asked Mr. Marks where he was working when this incident occurred. Mr. Marks stated that he was working at Eckerd's.

Mr. Haiber asked Mr. Marks if he ever took Lorazepam off the shelf at Eckerd's. Mr. Marks replied no.

Ms. Campbell stated that Paragraph 17 of the order stated that Mr. Marks stated that he took Lorazepam off the shelf several times while he worked at Eckerd's. Mr. Marks stated that he did discuss the issue with Eckerd's. Mr. Marks stated that he did not know that Eckerd's reported it to the Board.

Mr. McAllister asked Mr. Marks why he did not list Eckerd's as an employer on his resume. Mr. Marks stated that he did not list Eckerd's because it was only a part-time position.

On motion by Mr. Haiber and seconded by Mr. Van Hassel, the Board unanimously agreed to deny the request by Mr. Marks to proceed with reciprocity. The denial was based on the following statutory provisions: A.R.S. §§ 32-1927 (A) and (S) and A.R.S. §32-1901.01 (B)(16).

#2 Calvin Tyree, Jr.

Calvin Tyree, Jr. appeared on his own behalf to request to proceed with reciprocity.

President Smidt opened the discussion by asking Mr. Tyree why he was appearing in front of the Board. Mr. Tyree stated that he is applying for reciprocity and had to appear because his license in Colorado is currently on probation. Mr. Tyree stated that his license in Colorado is on probation because he failed to notify the Colorado Board against actions taken against him in California due to a controlled substance violation. Mr. Tyree stated that in 2005 he was involved in filling prescriptions through an Internet pharmacy arrangement. Mr. Tyree stated that it was not illegal in Colorado at that time. Mr. Tyree stated that he was charged in California with a felony drug charge. Mr. Tyree stated that he was helping California take down internet pharmacies. Mr. Tyree stated that the charges in California were dropped. Mr. Tyree stated that he could not discuss

his involvement because of a gag order. Mr. Tyree stated that he could not notify the Colorado Board. Mr. Tyree stated that when he reported the charge to Colorado he was placed on probation because he did not report the charges in a timely fashion. Mr. Tyree stated that he thought that California was notifying the Board because of the gag order.

Dr. Smidt asked Mr. Tyree if he had a copy of the gag order to present to the Colorado Board. Mr. Tyree replied no.

Mr. McAllister asked Mr. Tyree what the status is of the California charges. Mr. Tyree stated that the charges were dropped.

Mr. McAllister asked Mr. Tyree about the felony charge against him in 1987. Mr. Tyree stated that he was charged with a felony for stolen property. Mr. Tyree stated that the charges were expunged.

Mr. Tyree stated that he did not answer the question correctly. Mr. Tyree stated that he did not list the charges because they were expunged.

Dr. Smidt asked Mr. Tyree what type of property was stolen. Mr. Tyree stated that he took property while he worked at a jewelry store in 1987.

Dr. Smidt asked Mr. Tyree why he wanted to move to Arizona. Mr. Tyree stated that he wants to work at Indian Health Services.

Mr. Van Hassel asked Mr. Tyree if he completed the Ethics course. Mr. Tyree stated that he took the course and felt that the course could have been taught in a different way to make it a better course.

Mr. Van Hassel asked Mr. Tyree if he would get involved with internet pharmacies again. Mr. Tyree stated that he helped dismantle two large organizations. Mr. Tyree stated that his initial response was not to get involved with the internet pharmacy arrangement because it sounded shady. Mr. Tyree stated that he was pressured by a wholesaler to get involved with the internet agreement. Mr. Tyree stated that he owed the wholesaler money. Mr. Tyree stated that he was persuaded by the wholesaler and used poor judgment. Mr. Tyree stated that he would not make the same decision today.

On motion by Mr. Haiber and seconded by Mr. McAllister, the Board unanimously agreed to deny the request by Mr. Tyree to proceed with reciprocity. The denial was based on the following statutory provisions: A.R.S. §§ 32-1927 (A) and (S) and A.R.S. §32-1901.01 (B)(16).

Mr. Haiber stated that Mr. Tyree had two issues where he did not report charges to the Board. Mr. Haiber stated that it was Mr. Tyree's responsibility to report the charges to the Colorado Board and not the state of California.

#3 Rodney Diffendaffer

Rodney Diffendaffer appeared on his own behalf to request to proceed with reciprocity.

President Smidt opened the discussion by asking Mr. Diffendaffer why he was appearing in front of the Board. Mr. Diffendaffer stated that he is applying for reciprocity and had to appear because his license was disciplined in Colorado. Mr. Diffendaffer stated that he

made some bad judgment decisions in the past. Mr. Diffendaffer stated that he would like to move to Arizona to be closer to his parents that live in Arizona.

Mr. Diffendaffer stated that in 2005 he hired a pharmacist to work the store he owned for a six month period. Mr. Diffendaffer stated that he wanted to go to Hawaii on vacation and research the possibilities of opening a pharmacy in Hawaii. Mr. Diffendaffer stated that he decided not to open the pharmacy in Hawaii and returned to Colorado. Mr. Diffendaffer stated that he had not stopped in the store during that six month period. Mr. Diffendaffer stated that when he returned to work he was audited by the Colorado Board and they had found recordkeeping deficiencies. Mr. Diffendaffer stated that he was not aware of the shortages or recordkeeping deficiencies because he did not do any controlled substance counts when he returned to the store.

Mr. Diffendaffer indicated that he received a subsequent order when he failed to pass the law exam in the six month time period.

Mr. McAllister asked Mr. Diffendaffer if he is currently on probation. Mr. Diffendaffer replied no that his license is active.

Mr. Haiber asked Mr. Diffendaffer if he was listed as the pharmacist in charge during that period. Mr. Diffendaffer stated that he was listed as the owner and pharmacy manager. Mr. Diffendaffer stated that he owned the pharmacy since 2001.

Mr. Van Hassel asked Mr. Diffendaffer if he applied for a pharmacist license in Hawaii. Mr. Diffendaffer stated that he did not apply for a license because he decided not to open the store in Hawaii.

Mr. Haiber asked Mr. Diffendaffer if he worked in the store. Mr. Diffendaffer stated that he had not worked in the store during that 6 month period.

Mr. Van Hassel asked Mr. Diffendaffer if the other pharmacist was considered as an employee of his pharmacy. Mr. Diffendaffer stated that he had a contract with the pharmacist to work at his pharmacy during his 6 month absence.

Dr. Berry asked if the other pharmacist was sanctioned. Mr. Diffendaffer replied no because he was responsible and there was no physical evidence against the other pharmacist.

Dr. Berry asked if the Colorado Board investigated the other pharmacist. Mr. Diffendaffer replied no. Mr. Diffendaffer stated that he did not report the individual to the Board.

Dr. Smidt asked about the records. Mr. Diffendaffer stated that there were various deficiencies noted on CII medications.

On motion by Mr. Haiber and seconded by Mr. Milovich, the Board unanimously agreed to deny the request by Mr. Diffendaffer to proceed with reciprocity. The denial was based on the following statutory provisions: A.R.S. §§ 32-1927 (A) and (S) and A.R.S. §32-1901.01 (B)(16).

#4 Teri Acedo

Teri Acedo appeared on her own behalf to request that her pharmacy technician license that was revoked on May 15, 2008 be reinstated.

President Smidt opened the discussion by asking Ms. Acedo why she was appearing in front of the Board. Ms. Acedo stated that she would like to have her license reinstated that was revoked in 2008.

Dr. Smidt asked Ms. Acedo what has changed since her license was revoked. Ms. Acedo stated that she is seeing a psychiatrist and is now going to school.

Mr. Van Hassel asked Ms. Acedo why she did not appear when the Board sent her a Hearing Notice in 2008. Ms. Acedo stated that she was embarrassed and angry about what she had done. Ms. Acedo stated at that time she did not want to work in the pharmacy field.

Mr. Van Hassel asked Ms. Acedo why she did not accept the offer to join PAPA. Ms. Acedo stated that she felt that she did not need to go to PAPA because she was not using drugs.

Mr. Van Hassel asked Ms. Acedo if she would sign a consent agreement if the Board required her to sign a PAPA contract as part of the reinstatement. Ms. Acedo stated she would if it was necessary to have her license reinstated.

Mr. Van Hassel asked Ms. Acedo if she has a job offer. Ms. Acedo stated that she has a tentative offer if she is able to become certified again.

A motion was placed on the floor by Mr. Haiber and seconded by Mr. McAllister to grant reinstatement with a consent agreement for a standard PAPA contract and Ms. Acedo must bring her CE current to take the PTCB test.

The motion was withdrawn because Ms. Acedo had already taken the PTCB exam and would only need to update her PTCB certification.

A motion was placed on the floor by Mr. Haiber and seconded by Mr. McAllister to grant Ms. Acedo a pharmacy technician trainee license with a standard PAPA contract. Ms. Acedo must pass the PTCB exam and restore her certification within the next year.

Ms. Campbell stated that the Board could grant a pharmacy technician trainee license but Ms. Acedo has not applied for a technician trainee license. Ms. Campbell stated that Ms. Acedo has asked to have her pharmacy technician license reinstated. Ms. Campbell stated that the Board could reinstate her license with stipulations.

Mr. Van Hassel asked Ms. Acedo when she last used cocaine. Ms. Acedo stated that she used cocaine about 1½ years ago.

The motion was amended. **On motion by Mr. Haiber and seconded by Mr. McAllister**, the Board agreed to offer Ms. Acedo a consent agreement with the following terms: Ms. Acedo's pharmacy technician license would be reinstated provided that she brings her PTCB certification current, she completes CE units to bring her license current, and signs a standard PAPA contract with a 5 year probation period.

The PAPA contract would not include a stipulation for inpatient or outpatient treatment program. The PAPA contract would provide for just counseling and random drug screens. The Board authorized Mr. Wand to sign the consent agreement when it is signed by the respondent instead of coming back to the next Board Meeting for approval. If the consent agreement is not signed, the Board will consider it as a denial of Ms. Acedo's request. There were two nay votes by Mr. Milovich and Mr. Van Hassel

#5 Jon Christofferson

Jon Christofferson appeared on his own behalf to request to proceed with Pharmacy Intern licensure.

Mr. Christofferson stated that he would like to obtain an Arizona Intern license. Mr. Christofferson stated that he is attending pharmacy school in Nevada and would like to return to Arizona to complete his last two intern rotations. Mr. Christofferson stated that he was convicted of a felony in November of 2009 after drinking on New Year's eve in January of 2009.

Mr. Van Hassel stated that he has looked at the letters of recommendation and feels that this may have been an isolated incident.

Mr. Van Hassel asked Mr. Christofferson when he last partied. Mr. Christofferson stated that New Year's eve was the last time he partied. Mr. Christofferson stated that he is not allowed to drink as part of his order.

Mr. Van Hassel asked Mr. Christofferson if he has any rotations set up in Arizona. Mr. Christofferson stated that if his license is approved the school would set up rotations for him in Arizona.

On motion by Mr. McAllister and seconded by Mr. Van Hassel, the Board unanimously agreed to approve the request by Mr. Christofferson to proceed with Pharmacy Intern licensure.

#6 Pravin Patel

Pravin Patel appeared on his own behalf to request to proceed with Pharmacy Technician Trainee licensure.

President Smidt opened the discussion by asking Mr. Patel why he was appearing in front of the Board. Mr. Patel stated that he would like to apply for a pharmacy technician trainee license.

Dr. Smidt asked Mr. Patel if he had issues in the past answering questions on medical board applications. Mr. Patel stated that he was disciplined by medical boards for answering questions incorrectly.

Mr. McAllister asked Mr. Patel why he wanted to obtain a technician license. Mr. Patel stated that he currently works in the research environment. Mr. Patel stated at this time he does not have a job and feels that a pharmacy technician trainee license would give him the opportunity to apply for other jobs.

Dr. Smidt asked Mr. Patel if he needs a pharmacy technician license to apply for a research position. Mr. Patel replied no that he does not need a license to apply for a research position. Mr. Patel stated that the pharmacy technician trainee license would allow him to work as a pharmacy technician and he needs the license to apply for pharmacy technician jobs.

On motion by Mr. Milovich and seconded by Mr. Haiber, the Board agreed to approve the request by Mr. Patel to proceed with pharmacy technician trainee licensure. A roll call vote was taken. (Ms. Galindo – aye, Ms. Honeyestewa – aye, Mr. Milovich – aye, Mr. Van Hassel – nay, Mr. Haiber – aye, Mr. McAllister – nay, Dr. Berry – nay, and President Smidt – aye), The motion carries.

#7 Stephen White

Stephen White withdrew his request to appear.

AGENDA ITEM #7 – St. Joseph’s Hospital and Medical Center Automated Prescription “Pick Up” System

Pharmacy Director David Feldman appeared on behalf of St. Joseph’s Hospital to request a deviation to R4-23-614 (2)(c) which requires the automated system to placed within 20 feet of a properly permitted pharmacy.

President Smidt opened the discussion by asking Mr. Feldman to discuss the nature of his request.

Mr. Feldman stated that the hospital is requesting a deviation for R4-23-614 (2)(c) which requires an automated system to placed within 20 feet of a properly permitted pharmacy. Mr. Feldman stated that the hospital would like to place the unit in the lobby of the hospital. Mr. Feldman stated that the prescriptions would be filled at their outpatient pharmacy across the street. Mr. Feldman stated that the filled prescriptions would be placed in the machine across the street and patients would have access to their refilled prescriptions 24/7. Mr. Feldman stated that no initial prescription fills would be placed in the machine.

Mr. Feldman stated that a telephone would be available at the machine and if a patient had any questions about their medications they would be connected to a pharmacist in the inpatient pharmacy of the hospital.

Mr. Feldman stated that there would be security cameras located in the lobby and security personnel in the lobby would be able to observe the machine.

Mr. Haiber asked who would man the phone during the day. Mr. Feldman stated during the day the calls would be answered by the 222 Pharmacy and after the pharmacy closes the calls would be answered by the inpatient pharmacy at the hospital.

Mr. Haiber asked if there would be any controlled substances in the machine. Mr. Feldman stated that there would be refill prescriptions for controlled substances placed in the machine.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously approved the request by St. Joseph’s Hospital to place the Automated Prescription pick

up system in the hospital lobby based on experimental and technological advances. The deviation is granted for R4-23-614 (2) (c).

AGENDA ITEM #8 – El Rio Proposed Telepharmacy Services

Pharmacy Director Tony Felix and Pharmacist in Charge Thomas Peralta appeared on behalf of El Rio Health Services to request a deviation to allow onsite telepharmacy services for El Rio CODAC clinic. John Courtney with ScriptPro was also present.

President Smidt opened the discussion by asking the respondents to describe the nature of their request.

Mr. Felix stated that they would like to provide telepharmacy services for El Rio CODAC clinic. Mr. Felix stated that the clinic services behavioral patients. Mr. Felix stated that by having a pharmacy site at the location they would hope to improve the patient's compliance with their medications. Mr. Felix stated that the clinic provides services to approximately 1,200 patients and has one provider. Mr. Felix stated that the patients are 340b patients.

Dr. Smidt asked if the pharmacy would dispense other medications other than behavioral medications. Mr. Felix replied yes.

Mr. McAllister asked if all the patients are 340b patients. Mr. Felix replied yes.

Mr. McAllister asked Mr. Felix if the adherence rate has improved at the previous site that was approved as a telepharmacy site. Mr. Felix stated that they have had a 100% pickup rate at that facility.

Mr. McAllister asked if there have been any misfills at the other approved telepharmacy site. Mr. Felix replied no.

Mr. Van Hassel asked if they would be using the ScriptPro system. Mr. Felix replied yes.

Mr. Van Hassel asked who would stock the machine at the remote site. Mr. Peralta stated that the machine would be stocked by a pharmacist at the remote site who would go to the telepharmacy site to stock the machine.

Mr. Haiber asked how this would improve compliance. Mr. Felix stated that it would serve the targeted population. Mr. Felix stated that often the patient leaves the clinic and does not fill the prescription. Mr. Felix stated that if the pharmacy is located at the clinic the patient would fill the prescription.

Mr. Haiber asked Mr. Felix how many prescriptions they are filling daily at the other telepharmacy site. Mr. Felix stated that they fill about 10 prescriptions daily. Mr. Felix stated that they are increasing the number of providers at the site and they hope to fill about 50 prescriptions a day. Mr. Felix stated that they hope to fill about 30 prescriptions a day at this proposed site.

Mr. Haiber asked what would happen if the volume of prescription increases. Mr. Felix stated that the technology works as a bridge until an inhouse pharmacy is necessary. Mr. Felix stated that if the volume increases they could put a second station at the host pharmacy to verify prescriptions.

Mr. Milovich asked where the next closest pharmacy is located. Mr. Felix stated that the pharmacy is located about 8 minutes away.

Mr. Wand asked if the pharmacy that is located about 8 minutes away is a 340b pharmacy. Mr. Felix replied no.

On motion by Mr. Van Hassel and Mr. Milovich, the Board unanimously agreed to approve the request by El Rio Health systems to have a remote telepharmacy site at the El Rio CODAC clinic based on experimental and technological advances. The deviation is granted for R4-23-100 (A).

AGENDA ITEM #9 – Marana Health Center Telepharmacy Services

Pharmacy Director Gregory Redding appeared on behalf of Marana Health Center to request a deviation to allow onsite telepharmacy services at the clinic at Tucson Medical Center. John Courtney with ScriptPro was also present.

President Smidt opened the discussion by asking the Mr. Redding to describe the nature of his request.

Mr. Redding stated that they would like to provide telepharmacy services to the clinic located on the Tucson Medical Center campus. Mr. Redding stated that the clinic is operated by Marana Health Services and the clinic is not affiliated with Tucson Medical Center.

Mr. Redding stated that Clinica del Alma which is a licensed pharmacy with the Board would serve as the host pharmacy. Mr. Redding stated that Clinica del Alma is staffed with a pharmacist and two technicians. Mr. Redding stated that Clinica del Alma is a pharmacy owned by Marana Health Services.

Mr. Van Hassel asked Mr. Redding if the clinic sees enough patients to warrant a telepharmacy site. Mr. Redding stated that the clinic sees enough patients and all the patients are 340b patients. Mr. Redding stated that they often do not obtain their prescriptions when they leave the clinic due to lack of money, insurance, or transportation issues. Mr. Redding stated that by having the telepharmacy site at the clinic the patients are able to obtain the services that they need.

Mr. McAllister asked if the process is similar to El Rio's process. Mr. Redding stated that it is similar to El Rio's. Mr. Redding stated that they will be using the ScriptPro equipment.

Mr. Van Hassel stated that they are trying to create a pharmacy using a robot. Mr. Van Hassel stated that he feels that this does not meet the requirements for a pharmacy.

Dr. Smidt asked where the closest 340b pharmacy is located. Mr. Redding stated that the closest 340b pharmacy would be the host pharmacy which is located 11 miles away.

Mr. McAllister stated that he feels that this system would provide good patient care to the population served. Mr. McAllister stated that he does not feel that the request is trying to get around the requirements for a pharmacy, but is extending the pharmacist's services.

Mr. Wand asked if Tucson Medical Center could put in a pharmacy in their existing building to serve the patients seen at the clinic. Mr. Redding stated that he does not believe that they want to put in a pharmacy servicing 340b patients because the providers would have to agree to see 340b patients.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board agreed to approve the request by Marana Health Center to have a remote telepharmacy site at the Tucson Medical Center clinic based on experimental and technological advances. The deviation is granted for R4-23-100 (A). There was one nay vote by Mr. Van Hassel.

AGENDA ITEM 10- Reports

Executive Director Report

Budget Issues

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

Assistant Attorney General – Interagency Contract

Mr. Wand discussed the new interagency contract between the Attorney General's office and the Board for legal services provided to the Board by the Assistant Attorney General.

Deputy Director Report

Ms. Frush reviewed the Compliance Officers Activity Report and Drug Inspector Activity Reports with the Board Members. Ms. Frush stated that there are three Compliance Officers and one Drug Inspector.

During the months of January and February, the Compliance Staff issued letters for the following violations:

Controlled Substance Violations

1. Controlled Substance Overage –5
2. Controlled Substance Shortage –2
3. Unable to locate Annual Controlled Substance Inventory –1
4. Failure to complete Controlled Substance Inventory upon change of Pharmacist in Charge – 1
5. Controlled Substance Invoices not available – 2
6. Controlled Substance Invoices not separated or readily retrievable - 3

Documentation Violations

1. Failure to sign daily log - 2
2. Failure to document counseling –2
3. Failure to have technician training manual for compounding - 1
4. Failure to document mechanical counting devices maintenance – 2

Dispensing Violations

1. Outdated Rx and OTC items in the pharmacy –3

Pharmacy Violations

1. Allowing technician to work with an expired license - 3

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

1. Controlled Substance documentation and invoices

Areas outside the inspection reports that may be of interest:

1. A pharmacist may make changes to correct errors or omissions made by the prescriber on the following parts of a written schedule II controlled substance prescription order:
 - a. The date issued
 - b. The strength, dosage form, or quantity of a drug
 - c. The directions for its use
2. Prescriptions from Canada or Mexico cannot be transferred from a pharmacy.

AGENDA ITEM 11 – Conferences

Complaint #3741- Part 2

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Charlie Curtis (Pharmacy Supervisor) and Richard Mazzoni (Director of Government Affairs). Roger Morris was present as legal counsel for the respondents.

President Smidt opened the discussion by stating that the Board had opened a complaint against the permit holder and had asked the respondents to appear for a conference to answer questions concerning shortages, recordkeeping, and lack of counseling documentation at the store.

President Smidt opened the discussion by asking the respondents to address the complaint

Mr. Morris stated that the respondents have prepared a report specifying what changes have been made.

Mr. Curtis stated that he was just a new supervisor with the company and had just been assigned to this store when the initial complaint was filed.

Mr. Curtis stated that he spent an entire week at the store trying to correct the problems that were discovered at the store.

Mr. Curtis stated that he removed the pharmacist in charge and terminated two pharmacists. Mr. Curtis stated that there are different pharmacists now working at the site.

Mr. Curtis stated that he spent one week at the pharmacy with the pharmacy staff and they have developed a workable plan of action.

Mr. Curtis stated that they created a list of all pharmacists and technicians working at the store. Mr. Curtis stated that the licensure list is verified with the Board's website to ensure that all employees are licensed and there has not been any disciplinary action taken against anyone. If the technician finds a discrepancy on the list, then the list is reviewed with the pharmacist in charge.

Mr. Curtis stated that everyone has a name badge and if they do not have their name badge they are sent home to get their name badge or a temporary badge is made for them for the day.

Mr. Curtis stated that they have also updated their compounding binder to meet all required regulations.

Mr. Curtis stated that all automated counting machines are cleaned and calibrated daily and the cleaning is documented. Mr. Curtis stated that they have stopped returning medications to the ScriptPro machine and await approval from the Board to return medications to the ScriptPro machine.

Mr. Curtis stated that counseling was being performed at the store but there was inconsistent documentation of counseling. Mr. Curtis stated that all pharmacists have been trained on how to use the logs.

Mr. Curtis stated that he reviewed the reports for the shortages and could not find any signs that showed diversion issues. Mr. Curtis stated that he believes that some of the shortages were due to incorrect counting. Mr. Curtis stated that he is not sure if the starting numbers on the May inventory were correct.

Mr. Haiber asked Mr. Curtis about his concerns with the May 1, 2009 audit. Mr. Curtis stated that he did not have confidence that the individual did an accurate count and that was the basis that the Compliance Officer used to conduct his audit.

Mr. Haiber asked Mr. Curtis if the losses were reported. Mr. Curtis replied yes.

Mr. Haiber asked Mr. Curtis when he became the supervisor for that store. Mr. Curtis stated that he took over that area in July of 2009.

Mr. Haiber asked Mr. Curtis what compliance gaps he found at the store. Mr. Curtis stated that the counseling logs were not signed, compounding sheets were not complete, the Kirby Lester machines were not cleaned, and the overall cleanliness of the pharmacy was lacking.

Mr. Haiber asked Mr. Curtis if the policy and procedures manual is current. Mr. Curtis replied yes.

Mr. Van Hassel asked if inventory records and counseling logs would be kept as required by law. Mr. Curtis replied yes. Mr. Curtis stated that he has designated individuals responsible for these documents.

Mr. Milovich asked if he has educated other pharmacies about these gaps. Mr. Curtis stated that he has taken the inspection report to all his stores and walked through with each store what is required. Mr. Curtis stated that counseling documentation was the main issue that he discussed at each store. Mr. Curtis stated that it requires teaching, training, communication, and follow-up.

Mr. Mazzoni stated that the information has been conveyed to all the stores.

Dr. Berry asked about the company's policy on labeling prescriptions when the directions will not fit on the label. Mr. Curtis stated that there is a form that the pharmacist can use to write the directions on for the patient. Mr. Curtis stated that the additional form can be rubberbanded to the prescription bottle.

Dr. Berry asked if there was any documentation connected to the form in the computer system. Mr. Curtis replied that the pharmacist can make a note in the system that he filled out the paperwork.

Mr. Wand asked if there are different forms for tablets, capsules, and liquids. Mr. Mazzoni replied that there is only one form.

Mr. Haiber asked about the allegations concerning misfilled quantities. Mr. Haiber stated that the complainant was told to keep the extra medication or to throw it away. Mr. Curtis stated that is not company policy. Mr. Curtis stated that they should have told the patient to bring back the extra medication and the medication would have been destroyed. Mr. Curtis stated that he could not find anyone at the store that stated that this conversation took place with the complainant.

Mr. Haiber asked about the counting of controlled substances. Mr. Curtis stated that they have removed all controlled substances from the automatic counting machines and they are counted by hand.

Mr. McAllister asked if the supervisor who had the store previously had observed the same problems. Mr. Curtis stated that he believes that the previous supervisor just made sure that the store was staffed because the store is a high-volume store.

On motion by Mr. Haiber and seconded by Mr. McAllister, the Board unanimously agreed to issue an advisory letter to the permit holder regarding counseling documentation.

Complaint #3742

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Crane Davis (Assistant Pharmacy Director) and Jeff Sheridan (Pharmacy Technology Coordinator). Compliance Officer Ed Hunter was also present.

President Smidt opened the discussion by asking Mr. Hunter to give a brief overview of the complaint.

Mr. Hunter stated that a dentist filed the complaint against several pharmacies in the chain because he kept receiving refill requests for patients that were not his patients. Mr. Hunter stated that the dentist called the corporate office but he is still receiving refill requests from different pharmacies within the chain. Mr. Hunter stated that when he visited the pharmacies he was told that when the prescriptions from the old system were downloaded into the new system, all the prescriptions with the name "Bala" were assigned to the same prescriber. The prescriber that all the prescriptions were assigned to was a dentist. Mr. Hunter stated that when the pharmacy was notified that the fax refill request was sent to the wrong doctor the pharmacy would then contact the help desk and the correction was made. The pharmacists noted that they could not make the change at the store level. Mr. Hunter stated that he contacted the corporate office and was told that that they are working on the problem and would issue a memo to the pharmacies.

President Smidt asked the respondents to address the complaint.

Mr. Davis stated that the company is currently undergoing a computer changeover. Mr. Davis stated that in their old Legacy system the two physicians were listed separately, but two subsets had the wrong information. Mr. Davis stated that during the conversion process the DEA number was verified and correct. Mr. Davis stated that the fax numbers were wrong for the physicians which caused the refill requests for patients of the nephrologist to be sent to the dentist. Mr. Davis stated that the corporate office sent a communication to the pharmacies to notify them of the problem and to contact the help desk to correct the problem. Mr. Davis stated that they believed the problem was fixed. Mr. Davis stated that when he received the complaint they investigated the problem again. Mr. Davis stated that on 12/9/2009 they identified another subset of prescriptions that were incorrect. Mr. Davis stated that they then mapped the information to the correct prescriber. Mr. Davis stated that they have eliminated the system's ability to automatically fax information to this prescriber.

Mr. Milovich asked why they did not fix the problem when they were initially notified by the pharmacy or by the complainant. Mr. Davis stated that they did not believe that the matter was that large. Mr. Davis stated that when they realized it was a more extensive problem they took a more aggressive approach to solve the problem.

Mr. Milovich asked if the DEA numbers were not linked to the correct doctor. Mr. Davis stated in the legacy system the DEA number for the nephrologists was correct but his fax number was incorrect.

Mr. Van Hassel asked if the wrong doctor's name was entered on the prescription. Mr. Davis stated no. Mr. Davis stated that the information was faxed to the wrong doctor.

Mr. Milovich asked how many incorrect faxes were sent to the dentist. Mr. Davis stated that he believes that there were about 15 to 20 faxes.

Mr. Davis stated that the mapping is complete and the problem has been resolved.

Mr. Haiber asked how the problem was corrected prior to 12/9/2009. Mr. Davis stated that the problem was handled at the store level. Mr. Davis stated that in the old Legacy system the pharmacist could have made the modification to the information at the store level. Mr. Davis stated that the pharmacy is not allowed to make those changes in the new system and the pharmacy needed to call the help desk to make the change.

Mr. Davis stated that in the future they would take a more aggressive approach to having the changes made. Mr. Davis stated that there is a learning curve with the new computer system.

Mr. Milovich asked when the data was scrubbed if there was not some alert to show an exception when there was inconsistent data. Mr. Sheridan stated that the pharmacist could have still selected the doctor or entered the incorrect information again.

Mr. Milovich asked who scrubbed the data. Mr. Sheridan stated that an outside company did the scrub.

On motion by Mr. McAllister and seconded by Dr. Berry, the Board unanimously agreed to issue a advisory letter to the permit holder concerning the accuracy of the data downloaded in a computer system conversion.

Complaint #3719

The respondent stated that he did not receive the information when contacted. The conference will be tabled until the May meeting.

AGENDA ITEM 12 - Consideration of Complaints on Schedule "E" and Consideration of Consumer Complaint Committee Recommendations

The Consumer Complaint Review Committee met prior to the Board Meeting to review 21 complaints. Ms. Honeyestewa, Ms. Galindo, Mr. Haiber, and Mr. Milovich served as the review committee. Board Members were encouraged to discuss issues and were encouraged to ask questions.

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

Complaint #3754 - Part A- Consent Agreement offered to the Pharmacist for a fine of \$500 and 8 hours of board approved CE on error prevention and/or counseling in addition to regular CE requirements. Fine and CE to be completed in 90 days. If not signed, the case proceeds to hearing.
Part A and B- Consent Agreement offered to the Pharmacist for a fine of \$1,000 and 15 hours of board approved CE on error prevention and/or counseling in addition to regular CE requirements. Fine and CE to be completed in 90 days. If not signed, the case proceeds to hearing.
Part A and B- Advisory letter to both technicians to follow policies and procedures

Complaint #3755 - Dismiss

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

Complaint #3747 - Dismiss

Complaint #3748 - Dismiss

Complaint #3773 - Consent Agreement offered to the Pharmacist for a Standard 5-year PAPA agreement with the stipulation that it be signed in 2 weeks. Executive Director to approve the signed Consent Agreement without coming to the next Board Meeting. If not signed, the case proceeds to hearing. A roll call vote was taken. (Ms. Galindo – aye, Ms. Honeyestewa – aye, Mr. Milovich – aye, Mr. Van Hassel – aye, Mr. McAllister – aye, Dr. Berry – aye, and President Smidt – aye).

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

Complaint #3749 - Dismiss

Complaint #3752 - Dismiss

The Board discussed the recommendations made by the Consumer Complaint Review Committee for the following complaints and after discussion made the following recommendations for the following complaints.

On motion by Mr. McAllister and seconded by Dr. Berry, the Board unanimously accepted the recommendation made by the Full Board for the following complaint.

Complaint #3760 - Consent Agreement offered to the Component Verification Pharmacist for a fine of \$1,000 and 3 hours of board approved CE on error prevention in addition to regular CE requirements. Fine and CE to be completed in 90 days. If not signed, the case proceeds to hearing.

Consent Agreement offered to the Final Verification Pharmacist for a fine of \$1,000 and 3 hours of board approved CE on error prevention and 3 hours of board approved CE on compounding in addition to regular CE requirements. Fine and CE to be completed in 90 days. If not signed, the case proceeds to hearing.

Advisory Letter to pharmacy technician to follow policies and procedures.

Open a complaint against the hospital permit and ask the Pharmacy Director to appear for a conference at the next Board Meeting in May concerning compounding errors and oversight at the hospital and the preparation of batches.

On motion by Mr. McAllister and seconded by Mr. Haiber, the Board unanimously accepted the recommendation made by the Full Board for the following complaint.

Complaint #3757 - Section 1 (a) - Consent Agreement offered to the Pharmacist in Charge for a fine of \$1,000. Fine to be paid in 90 days. If not signed, the case proceeds to hearing.
Section 1 (b) – Consent Agreement offered to the Pharmacist for a fine of \$1,000 total for two errors. Fine to be paid in 90 days. If not signed, the case proceeds to hearing.
Section 1 (c) – Dismiss
Section 1 (d) – Dismiss
Section 1 (e) - Dismiss
Section 1 (f) - Dismiss
Section 2 and 3 – Consent Agreement offered to the

Pharmacist in Charge for 3 hours of CE on Generic Substitution. CE is in addition to required CE. Must successfully take and pass the MPJE exam. Must be completed in 90 days. If not signed, case proceeds to hearing.

Section 4 – Dismiss

Section 5 – Pharmacist in Charge and Staff Pharmacist – Consent Agreement for 3 hours of CE on Federal Law (FDA) cannot be on controlled substance act. CE is in addition to required CE. CE must be completed in 90 days. If not signed, case proceeds to hearing.

On motion by Dr. Berry and seconded by Mr. Van Hassel, the Board unanimously accepted the recommendation made by the Full Board for the following complaint.

Complaint #3768 - Consent Agreement offered to the Pharmacist for a new 5-year PAPA contract with a minimum of 6 month suspension with the remainder of the 5 years on probation. Executive Director is authorized to approve the signed Consent Agreement without coming to the next Board Meeting. If not signed, the case proceeds to hearing. A roll call vote was taken. (Ms. Galindo – aye, Ms. Honeystewa – aye, Mr. Milovich – aye, Mr. Van Hassel – aye, Mr. Haiber – aye, Mr. McAllister – aye, Dr. Berry – aye, and President Smidt – aye).

On motion by Mr. McAllister and seconded by Dr. Berry, the Board unanimously accepted the recommendation made by the Full Board for the following complaint.

Complaint # 3771 - Consent Agreement offered to the Pharmacist in Charge for a \$3,000 fine to be paid in 90 days. The Pharmacist in charge would be placed on probation for 3 years and cannot be a Pharmacist in Charge for 3 years.

On motion by Mr. Haiber and seconded by Mr. McAllister, the Board unanimously accepted the recommendations of the Consumer Complaint Review Committee for the following complaints.

Complaint #3746 - Advisory Letter to the Pharmacist to check prescription data entry
Advisory Letter to the Pharmacy Technician to follow policies and procedures.

Complaint #3750 - Advisory Letter to the Pharmacist concerning documentation of counseling

Complaint #3751 - Dismiss

Complaint #3753 - Advisory Letter to the Pharmacist to check prescription order data entry

- Complaint #3756 - Dismiss
- Compliant #3759 - Consent Agreement offered to the Pharmacist for a \$500 fine and 8 hours of board approved CE on compounding approved CE on compounding in addition to regular CE requirements. Fine and CE to be completed in 90 days. If not signed, the case proceeds to hearing. Advisory Letter to the Pharmacy Technician to follow policies and procedures.
- Complaint #3763 - Dismiss
- Complaint #3769 - Consent Agreement offered to the Pharmacy Technician for the surrender of his pharmacy technician license and not reapply for two years. If not signed, the case proceeds to hearing.
- Compliant #3770 - Consent Agreement offered to the Pharmacist for 5 years probation providing that all conditions are followed with his PAPA contract and Apache County probation terms.
- Complaint #3772 - Consent Agreement offered to the Pharmacy Technician for Standard 5 year PAPA contract. If not signed, case will proceed to hearing.

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

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

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

Pharmacy Technician Trainee Requests to reapply for licensure

Marie Pugh	Maria Paz
Valerie Acton	Shakaiba Samadi
Melissa Barrera	William Ellis
Eric Hildebrandt	Lynn Wachowiak
Jane Nguyen	Bobbi Cook
Tasha Atou	Ashley Molina
Daisy Martinez	Terri Nye
Genese Alston	Christie Tillotson
Rebecca Owen	Jessica Reyes
Meghan Lehman	Tanya Vargas
Desiree Lopiccolo	Sarah Metcalf
Gloria Story	Marcia Webber
Mary Osuna	Christina Ruiz
Selina Mendez	Aminda Giebel
Lan Nguyen	Brenda Horwoth
Kristi DeCarlo	Margaret Cary

Cedric Hardin	Mary Walker
Marion Maxwell, Sr.	Kyle Mosley
Noelia Corralejo	Gayleen Sharp
Janice Countryman	Jon Chansaveng
Grecia Valdes	Raylene Benson
Josefina Patino	Toi Randolph
Norma Scott	Paul Armaolea
Tabitha Padgett	Luis Compean
Kim Gaston	Stephen Flake
Sherri Begay	Elizabeth Sanchez
Magdalena Moreno	Cindy Castro Torres
Jesus Echave	Veronica Barnett
Robin D'Andrea	Cody Hanna
Kristine Valenzuela	Alexandra Long
Kevin Knesley	Katherine Acuna
Hoaly Broadway	Veronica Ramirez
Tina Bahe	Kelli Inman
Gabriela Ramirez	Andrea Lopez
Evangeline Claw	Lucita Jim
Kelsey Engholm	Louise Carter

AGENDA ITEM 14 – Consent Agreements

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

On motion by Mr. McAllister and seconded by Mr. Haiber, 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.

- Brian Tybor - 10-0032-PHR
- Martin Baron - 10-0044-PHR
- Paul Mekhael - 10-0045-PHR
- Kisa Kisakye - 10-0048-PHR

A roll call vote was taken. (Ms. Galindo – aye, Ms. Honeyestewa, - aye, Mr. Milovich – aye, Mr. Van Hassel – aye, Mr. Haiber – aye, Mr. McAllister – aye, Dr. Berry- aye, and President Smidt – aye)

On motion by Mr. Van Hassel and seconded by Dr. Berry, the Board unanimously agreed to vacate the hearing for Brian Tybor to be held on March 18, 2010.

AGENDA ITEM 15 – Five- Year Rule Review of Articles 7, 9, and 10

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

Mr. Wright stated that every five years the Board must review their rules. Mr. Wright stated that this year the Board must review articles 7, 9, and 10. Mr. Wright stated the Board must review the rules even though there is a rules moratorium which prevents the Board from making changes at this time to any rules.

Mr. Wright stated that he would like for the Board Members to review the rules and e-mail any comments to him by April 15, 2010. Mr. Wright stated that he would then prepare the review for the Board's approval at the May meeting.

Mr. Wand stated that the Board would need to review the rules and when the moratorium is lifted the Board could start the process to make changes to existing rules.

AGENDA ITEM 16 – Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program

President Smidt opened the discussion by asking Mr. Wright to address this agenda item.

Mr. Wright provided a brief overview and update of the Controlled Substances Prescription Monitoring Program.

Mr. Wright provided statistics concerning the number of practitioners using the program.

Mr. Wright indicated that law enforcement is using the program to benefit their investigations.

Mr. Wright provided information concerning the number of letters that were sent when thresholds meet a certain limit. Mr. Wright indicated that letters are sent to practitioners when a patient has seen a certain number of doctors and have had prescriptions filled at a certain number of pharmacies in a specified time period.

AGENDA ITEM #17 – Joanna Jackson – Complaint #3431

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

President Smidt asked Assistant Attorney General Ms. Campbell to address this agenda item.

Ms. Campbell stated that the Board Members had voted to offer a consent agreement to Ms. Jackson because she had entered a prescription incorrectly. Ms. Campbell stated that Ms. Jackson is a licensed pharmacy technician and cannot be held responsible for the final verification of a prescription because that is a duty of a pharmacist. Ms. Campbell stated that in most instances technicians have been issued advisory letters because they failed to follow policies and procedures. Ms. Campbell stated that the Board would need to indicate a violation that Ms. Jackson committed in order to proceed with the consent agreement. Ms. Campbell stated that the Board could reconsider the case and consider a different action, such as issuing an advisory letter to Ms. Jackson or dismissing the case against Ms. Jackson.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board agreed to reconsider the case against Ms. Jackson. There was one nay vote by Mr. Van Hassel.

On motion by Mr. McAllister and seconded by Mr. Haiber, the Board unanimously agreed to issue Ms. Jackson an advisory letter recommending that she follow all policies and procedures when entering prescriptions.

AGENDA ITEM 20 – Call to the Public

President Smidt 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 update the Board on the lawsuit concerning the sweep of funds from the healthcare boards.

The meeting recessed until March 18, 2010.

AGENDA ITEM 1 – Call to Order – March 18, 2010

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

The following Board Members were present: President Ridge Smidt, Vice President Zina Berry, Joanne Galindo, Steve Haiber, Louanne Honeyestewa, Dennis McAllister, Dan Milovich, and Tom Van Hassel. The following staff members were present: Compliance Officers Rich Cieslinski, Ed Hunter, and Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, and Assistant Attorney General Elizabeth Campbell.

AGENDA ITEM 10 – Reports

PAPA Report

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of forty-nine (49) participants in the PAPA program. Since the last report on January 13, 2010, there has been one (1) new participant enter into the program, one (1) termination of contract, and one (1) death of a participant.

Ms. Yates indicated that there are no concerns at this time.

Ms. Yates provided the Board with statistics about the PAPA participants since 1989.

Ms. Yates stated that some new PAPA participants have entered the program because they have DUI charges and she is not sure if they are being reported to the Board.

AGENDA ITEM 18 - Ernst Kruger – Case #10-0050-PHR

Ernst Kruger appeared on his own behalf to request that the Board review the disciplinary action for Case #10-0050-PHR. Roger Morris, Legal Counsel, for Mr. Kruger was also present.

President Smidt opened the discussion by stating that the Board had offered a consent agreement to Mr. Kruger. President Smidt stated that Mr. Kruger would like to discuss the disciplinary action with the Board.

Mr. Morris stated at the last Board Meeting the complaint review committee reviewed a number of complaints at this store and recommended a consent agreement be offered to Mr. Kruger.

Mr. Morris stated that the consent agreement offered to Mr. Kruger was for a \$2,000 fine and 3 hours of continuing education based on the findings of fact that Mr. Kruger labeled a prescription vial with "Take as directed" when the directions involved a step down in dose.

Mr. Morris stated that this particular matter got put in with the other matters and Mr. Kruger did not get to explain what happened with this matter. Mr. Morris stated that Mr. Kruger did attach or at least from his habit attached a step-down dosage attachment form for this patient.

Mr. Morris stated that Mr. Kruger would describe his habit because he does not have any recollection of the prescription. Mr. Morris stated that Mr. Kruger would describe what he normally does and describe how he has changed his practice.

Mr. Kruger stated that the prescription directions contained 180 characters and only 100 characters would appear on the label. Mr. Kruger stated that in cases like this the company has a note that you can attach to the leaflet with the dosage and directions.

Mr. Kruger stated that he has never had a problem. Mr. Kruger stated that he would staple it to the leaflet and give it to the patient.

Mr. Kruger stated that he is going to ask CVS to scan the leaflet with the attached directions into the system so that you could go into the system later and prove it was done.

Mr. Morris stated that Mr. Kruger has completed the CE.

Mr. Milovich asked why the directions on the label did not say to take as directed per the sheet attached. Mr. Kruger stated that in hindsight he has instructed everyone in the pharmacy to place something after the "as directed" on the label.

Mr. Haiber stated that what is critical is that there should be something on the label that refers the patient to the leaflet. Mr. Haiber stated that he feels that it does not warrant changing the consent agreement because it did occur and the changes occurred after the fact.

Mr. Morris stated that he is not sure what violation occurred. Mr. Morris stated that he did provide the information that would not fit on the label. Mr. Morris stated that the Board's consent was for an actual violation. Mr. Morris stated that he gave the directions on the attachment per his habit. Mr. Morris stated that he did the final verification. Mr. Morris stated that he believes the Board thought he did not give out the additional information.

Mr. Morris stated that he believes that the patient believes that she did not get the instructions that was placed on the leaflet even though the leaflet was attached to the information in some manner.

Dr. Berry stated that she has concerns because there is no documentation of what was written on the form to prove the accuracy of what was written on the form.

Dr. Berry asked if all hard copy prescriptions are scanned into the system. Mr. Kruger stated that they are scanned. Dr. Berry stated that she would have documented in some way that the form was given to the patient.

Mr. Morris stated that there is a way to scan this form into the system now. It was not being done at the time this prescription was filled.

Ms. Campbell stated that the Board needs to make a motion to decide if they would like to reconsider the consent agreement that was offered. If the Board does not want to reconsider the consent agreement, then the consent agreement would stand as issued.

Dr. Smidt stated that it is not clear if the violation occurred.

Mr. Van Hassel stated that the pharmacist said that he gave the information and the patient stated that they did not get the information.

Mr. Van Hassel asked Mr. Kruger if he was the verification pharmacist and the counseling pharmacist. Mr. Kruger stated that he was the verification pharmacist. Mr. Kruger stated that he did not counsel the patient.

Mr. Morris stated that Mr. Kruger rarely does counseling because of his hearing problem. Mr. Kruger stated that they had an intern at that time that provided the counseling to the patients.

Mr. Van Hassel asked Mr. Kruger if he was to bring in another pharmacist from the store would they tell the Board that it is Mr. Kruger's common practice to use the form. Mr. Kruger replied yes.

Mr. McAllister stated that looking at the prescription it should have raised a red flag that someone should have talked to the patient. Mr. McAllister stated that this is a counseling issue. Mr. McAllister stated that the patient should not have went home not knowing how to take the medication. Mr. McAllister stated that the pharmacist should be supervising an intern when they are counseling the patient.

On motion by Mr. McAllister and seconded by Dr. Berry, the Board agreed to reconsider the Consent Agreement. There was one nay vote by Ms. Galindo.

Dr. Berry asked if it is CVS policy to scan the form. Mr. Kruger stated at his store it is policy. Mr. Morris stated that they are in the process of a computer changeover and he believes that the new system will take care of these issues.

On motion by Mr. McAllister and seconded by Mr. Van Hassel, the Board agreed to dismiss the consent agreement and issue an advisory letter concerning labeling. There was one nay vote by Ms. Galindo.

AGENDA ITEM 19 – Hearings

Chris Munns was present as the Solicitor General for this case.

President Smidt stated that this is the date, time, and place where the matter dealing with Case Number 09-0013-PHR for Respondent Jacqueline Rothschild is scheduled to be heard by the Arizona State Board of Pharmacy.

President Smidt stated that 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.

A roll call vote was taken. The following Board Members were present: Joanne Galindo, Louanne Honeyestewa, Dan Milovich, Tom Van Hassel, Steve Haiber, Dennis McAllister, Zina Berry, and President Smidt.

President Smidt stated that let the records 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

President Smidt asked all parties to identify themselves.

Elizabeth Campbell, Assistant Attorney General for the State, was present.

Jacqueline Rothschild, Respondent, was present.

James Marovich, Attorney for Ms. Rothschild, was present.

Ms. Campbell and Mr. Marovich covered the preliminary matters that the Board should consider.

Mr. Marovich stated that they have submitted a proposal for a consent Agreement in lieu of the hearing.

Mr. Marovich stated that they have sent 2 letters outlining the proposed terms. Mr. Marovich stated that Ms. Rothschild is willing to enter into a consent agreement along those lines.

Ms. Campbell stated that Ms. Rothschild has agreed to participate in an outpatient treatment program and submit to random drug screenings during a period of probation agreeable to the Board.

Ms. Campbell stated that the state recommends that the Board consider this proposal. Ms. Campbell stated that there have been two Board ordered evaluations in this case. The first evaluation was completed by Dr. Carlton and the second evaluation was completed by Dr. Sucher. Ms. Campbell stated that neither evaluator recommended inpatient treatment.

Ms. Campbell stated that Dr. Sucher performed the most recent evaluation and recommended a minimum of three years of a structured monitoring program which would include relapse prevention therapy and random drug testing.

Ms. Campbell stated that at the past Board meetings the Board has indicated a reluctance to enter into a consent agreement with Ms. Rothschild which did not include an inpatient component. Ms. Campbell stated that both evaluators both felt that this component was not necessary for her treatment.

Ms. Campbell stated that the Board could structure the Consent Agreement such that Ms. Rothschild would agree to a structured program as recommended by Dr. Sucher and the Board could build into the consent agreement a stayed suspension where if Ms. Rothschild failed a drug test or fails to show up to therapy she would automatically be suspended for a period of six months and required to go into an inpatient program and she could only return to practice under a probationary status after completing the inpatient program and authorization to return to practice by an evaluator. Ms. Campbell stated that the Board could also structure the consent agreement so that if Ms. Rothschild violated the terms her license could be revoked.

Mr. Haiber asked if the proposed settlement is what Ms. Campbell stated.

Ms. Campbell stated that Mr. Marovich's proposed letter states that Ms. Rothschild would participate in an outpatient treatment program and random drug screens during the probationary period. Ms. Campbell stated that the proposals sound like a structured drug treatment program.

Mr. Marovich stated that what Ms. Campbell stated is consistent with their proposal.

Dr. Smidt stated that he has concerns that after agreeing to offer the consent that there would be some twist that would cause the parties to disagree on the terms of the consent.

Ms. Campbell stated that in order to have an enforceable consent agreement there would have to be an admission to unprofessional conduct. Ms. Campbell stated that the admission that would be applicable would be based on the evaluation by Dr. Sucher that in order to safely practice Ms. Rothschild must engage in a structured monitoring program. Ms. Campbell stated that there must be a finding of unprofessional conduct.

Mr. Marovich stated that settlement agreements are written everyday without anyone admitting guilt. Mr. Marovich stated that Ms. Rothschild has denied the allegations as they are written in the complaint. Mr. Marovich stated that he believes that they could come up with a settlement agreement that meets the requirements without an admission of guilt.

Ms. Campbell stated that this is a disciplinary order that the Board issues. Ms. Campbell stated that if there is a consent agreement then it must be disciplinary. Ms. Campbell stated that if it is disciplinary then it has to be based on a finding that there was a violation of the Board's statutes. Ms. Campbell stated that the finding would be A.R.S. § 32-1927 (A). The finding would be that the pharmacist cannot safely and competently practice. Ms. Campbell stated that Dr. Sucher stated that the pharmacist is not able to safely and competently practice without engaging in the structured monitoring program.

Mr. Marovich stated that there are two violations that she admitted to that could be the basis of the consent. Mr. Marovich stated that she did not self-report and the breach of the PAPA contract.

Ms. Campbell stated that the breach of the PAPA contract is not a violation of the statutes.

Ms. Campbell stated that Dr. Sucher determined that Ms. Rothschild could not practice safely without the structured monitoring program.

Mr. Marovich stated that it is difficult to say that without reviewing the violations and without conferring with Ms. Rothschild that they would agree to the violations. He stated that he could move for a continuance of the hearing subject to working out the wording.

Mr. Munns stated that there must be a finding in the order to impose discipline. Mr. Munns stated that otherwise the hearing must be held and the Board must find a violation to impose discipline.

Mr. Marovich stated that he would like to look at the statutory references and case law that might govern the case, so that he could advise his client properly.

Mr. Munns stated that the parties could prepare a consent agreement that could be brought back to the Board.

Ms. Campbell stated that she would be interested in getting input from the Board in what they would like to see in the consent agreement.

Ms. Campbell stated that she would need to know if the Board would like to consider a stayed suspension, a stayed revocation, and how long the probationary period should last.

Ms. Campbell stated that the other issue is that Ms. Rothschild does not want to participate in the PAPA program and Ms. Rothschild has suggested alternative programs. Ms. Campbell stated that the Board would need to decide if any of the alternate programs are acceptable. Ms. Campbell stated that the Board could decide how long the probationary period should last. Ms. Campbell stated that the Board could decide if they wanted a stayed suspension or a stayed revocation.

Mr. Van Hassel asked if we should go to a hearing to determine if there are violations.

Mr. Munns stated that if they are willing to stipulate to facts and violations of some sort then there is no need for a hearing.

Mr. Van Hassel stated that Ms. Rothschild's attorney stated that she was not going to stipulate to any facts of guilt and that Ms. Rothschild was not going to admit to any wrongdoings.

Mr. Munns stated that Ms. Campbell pointed out that if there is not an admission to at least one violation then you cannot have an agreement. Mr. Munns stated that her attorney is asking for time to review with Ms. Campbell what violations are being **17 and 18, 2010**

proposed and what facts that they would be willing to admit to in order to establish that one violation occurred.

Mr. Marovich stated that Ms. Rothschild has denied the charges from Mountain Vista. Mr. Marovich stated that there are other violations that the Board has considered in the past.

Dr. Smidt asked Ms. Rothschild if she was willing to accept at least one violation or should the Board proceed to hearing and make the determinations.

Ms. Rothschild stated that she would agree with what her attorney stated. Ms. Rothschild stated that she would continue to not submit to being guilty of any of the Mountain Vista charges. Ms. Rothschild stated that this is a longer case than just this situation at Mountain Vista and she would admit to other violations.

Mr. Munns stated that the Board could find a violation based on the evidence presented.

Mr. McAllister stated that he feels that the PAPA program is the cornerstone of a recovery program and he is uncomfortable that Ms. Rothschild does not want to participate in the program. Mr. McAllister stated that some of the alternative programs are acceptable to him. Mr. McAllister stated that he feels the terms of probation should be five years which is the same as the PAPA program. Mr. McAllister stated that there should be fail safes for failure. Mr. McAllister stated that the Board would need to enforce those lines of thinking and if that is not agreeable then the Board should proceed with the hearing today.

Mr. Haiber stated that he is fine with a structured monitoring program but would prefer the PAPA program. Mr. Haiber stated that penalties should be built in if the licensee fails to satisfy the terms of the agreement. Mr. Haiber stated that he feels the length of the probation should be five years.

Mr. Van Hassel stated he would agree with the five year probation. Mr. Van Hassel stated that he is in favor of the clause that would state if there are failures then there are immediate repercussions.

Mr. Milovich stated that he would prefer participation in the PAPA program, but is open to other suggestions.

Mr. Munns stated that he advises that the licensee be heard before the Board would lift the stay on the suspension if the licensee fails to follow the agreement.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to continue the hearing until the May meeting with the request that the parties craft a consent agreement that meets the directions of the Board with a conference call meeting within 30 days to approve the consent.

Angel Rocha – Case #10-0034-PHR

Ms. Honeyestewa recused herself due to a conflict of interest.

President Smidt stated that this is the date, time, and place where the matter dealing with Case Number 10-0034-PHR for Respondent Angel Rocha is scheduled to be heard by the Arizona State Board of Pharmacy.

President Smidt stated that 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.

A roll call vote was taken. The following Board Members were present: Joanne Galindo, Dan Milovich, Tom Van Hassel, Steve Haiber, Dennis McAllister, Zina Berry, and President Smidt.

President Smidt stated that let the records 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

President Smidt asked all parties to identify themselves.

Elizabeth Campbell, Assistant Attorney General for the State, was present.

Angel Rocha, Respondent, was present.

Mr. Rocha was not represented by legal counsel.

Ms. Campbell covered the preliminary matters that the Board should consider.

The witnesses were sworn in by the court reporter.

The Attorney for the state made an opening statement and presented her evidence.

The respondent made an opening statement and presented his evidence.

The Board Members asked questions of the witnesses after their testimonies

The Attorney for the state made a closing statement.

The respondent made a closing statement.

On motion by Mr. Milovich and seconded by Mr. McAllister, the Board agreed to adopt all factual allegations (Paragraphs 1-3) in the Complaint as findings of fact. There was one nay vote by Dr. Smidt.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board agreed to adopt the alleged violations set forth in paragraphs 1 through 8. A roll call vote was taken. (Ms. Galindo – aye, Mr. Milovich – aye, Mr. Van Hassel – aye, Mr. Haiber – nay Mr. McAllister – aye, Dr. Berry – aye, and President Smidt –nay). The motion carries.

On motion by McAllister and seconded by Mr. Milovich, the Board agreed to suspend Mr. Rocha's pharmacy technician license (T016771) for 6 months followed by 3 years of probation. This action is taken pursuant to A.R.S. § 32-1927.01. A roll call vote was taken. (Ms. Galindo – aye, Mr. Milovich – aye, Mr. Van Hassel – aye, Mr. Haiber – nay Mr. McAllister – aye, Dr. Berry – nay, and President Smidt –nay). The motion carries.

The Hearing concluded.

The Board Office will have copies of the transcript of the hearing prepared within two weeks.

On motion by Mr. Haiber and seconded by Mr. McAllister, the Board unanimously agreed to open a complaint against the permit holder. Mr. Haiber stated that he had

concerns about the investigation of the missing medication and why the pharmacist in charge did not conduct the investigation.

AGENDA ITEM 20 – Call to the Public

President Smidt 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 21 – Future Agenda Items

It was recommended that in the next newsletter that Pharmacists be reminded that they must report any felony charges, especially felony DUI charges.

AGENDA ITEM 22 – Adjournment

There being no further business to come before the Board, **on motion by Mr. McAllister and seconded by Mr. Haiber**, the Board unanimously agreed to adjourn the meeting at 11:00 A.M.