



**Arizona State Board of Pharmacy**  
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**THE ARIZONA STATE BOARD OF PHARMACY  
HELD A REGULAR MEETING JULY 9, 2009  
AT THE WESTIN LA PALOMA RESORT & SPA  
TUCSON, AZ**

**MINUTES FOR REGULAR MEETING**

**AGENDA ITEM 1 – Call to Order – July 9, 2009**

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

The following Board Members were present: President Dennis McAllister, Vice President Ridge Smidt, Zina Berry, Joanne Galindo, Steven Haiber, Louanne Honeyestewa, Dan Milovich, and Tom Van Hassel. The following Board Members were not present: Paul Sypherd. 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 2 – Declaration of Conflicts of Interest**

Due to a conflict of interest, Mr. McAllister recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 7, Humana RightSource deviation request.

Due to a conflict of interest, Mr. McAllister recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 11, Schedule E, Complaint Numbers #3642, #3643, #3649, and #3677.

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 13, Complaint #3671.

Due to a conflict of interest, Mr. Milovich recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Complaint #3655.

Due to a conflict of interest, Dr. Berry recused herself from participating in the review, discussion, and proposed action concerning Agenda Item 14, Schedule F, Conference for Complaint #3593.

Due to a conflict of interest, Dr. Berry recused herself from participating in the review, discussion, and proposed action concerning Agenda Item 11, Schedule E, Complaint Numbers #3625, #3648, #3650, #3652, #3656, #3660, #3661, #3663, #3667, #3670, #3673, #3678, #3680, and #3688.

### **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 Dr. Smidt**, the minutes of the Regular Meeting held on May 6 and 7, 2009 were unanimously approved by the Board Members.

Following a review of the minutes and an opportunity for questions and **on motion by Dr. Berry and seconded by Mr. Van Hassel**, the minutes of the Regular Meeting held on June 17, 2009 were unanimously approved by the Board Members.

### **AGENDA ITEM 4– Permits and Licenses**

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

#### **Genoa Healthcare**

Yvonne Johnson, Pharmacist in Charge, was present to answer questions from Board Members.

President McAllister opened the discussion by asking Ms. Johnson to describe the nature of her business. Ms. Johnson stated that the pharmacy would be a specialty pharmacy catering to mental health patients in the Tucson area. Ms. Johnson stated that they would also provide long term health care to the patients.

Mr. Van Hassel asked if she planned to do any sterile compounding. Ms. Johnson replied no.

Mr. Van Hassel asked if the pharmacy would be open 24 hours. Ms. Johnson stated that they would be open 5 days a week with contracted services after hours.

Mr. Van Hassel asked Ms. Johnson if she would be providing consulting services for the long term care patients. Ms. Johnson stated that the patients would only be in the long term care setting for a maximum of 7 days.

#### **Paradise Valley Pharmacy**

Bryan Krueger, Owner and Pharmacist in Charge, was present to answer questions from Board Members.

President McAllister opened the discussion by asking Mr. Krueger to describe the nature of his business. Mr. Krueger stated that he would be operating a community retail pharmacy catering to the needs of the doctors in the area.

Mr. McAllister asked Mr. Krueger if he planned to do any compounding. Mr. Krueger stated that he was not planning on doing any compounding initially and if he did it would be simple compounding, such as mixing creams.

Mr. McAllister asked Mr. Krueger about his hours of operation. Mr. Krueger stated that he would be open six days a week and would be closed on Sundays.

Mr. McAllister asked Mr. Krueger if he was the Pharmacist in Charge. Mr. Krueger replied that he would be the Pharmacist in Charge.

Dr. Berry asked Mr. Krueger if he planned to sell medications to doctors for office use. Mr. Krueger replied no.

### **Hualapai Mountain Medical Center**

Robert Stackhouse, Pharmacist in Charge, was present to answer questions from Board Members.

President McAllister opened the discussion by asking Mr. Stackhouse to describe the nature of his pharmacy. Mr. Stackhouse stated that the hospital will be owned by Medcath, Inc. Mr. Stackhouse stated that the pharmacy would be located in Kingman, Arizona. Mr. Stackhouse stated that the pharmacy would provide inpatient services for the hospital.

Mr. McAllister asked how many beds would be in the hospital. Mr. Stackhouse stated that they are licensed for 107 beds, but would only open with approximately 75 beds.

Mr. McAllister asked if the hospital would be a traditional or specialty hospital. Mr. Stackhouse stated that it would be a traditional hospital.

Mr. McAllister asked Mr. Stackhouse if he has ever been a Pharmacist in Charge at a hospital. Mr. Stackhouse stated that he was the Pharmacist in Charge at a hospital for the last 3½ years.

Mr. Van Hassel asked Mr. Stackhouse if they would be using automation within the hospital. Mr. Stackhouse stated that a Pyxis 4000 system would be installed throughout the hospital.

Mr. Van Hassel asked if the pharmacy would be open 24 hours. Mr. Stackhouse replied no and that they would have an on-call pharmacist for after hours.

Mr. Van Hassel asked if there would be a night cabinet for after hours use. Mr. Stackhouse replied that there would be an extra Pyxis machine installed in the ER for emergency use.

Mr. Haiber asked about the size of the pharmacy in terms of square footage. Mr. Stackhouse replied that the pharmacy is roughly 2,000 square feet.

### **Safety Medical Services**

Nathan Kaplan, one of the owners, was present to answer questions from Board Members.

President McAllister opened the discussion by asking Mr. Kaplan to describe the nature of his pharmacy.

Mr. Kaplan stated that the pharmacy would be a durable medical goods pharmacy. Mr. Kaplan stated that they would be filling prescriptions under Medicare Part B for nebulizers and wanted to dispense the medications that go with the nebulizer.

Mr. McAllister asked how many drugs would be handled at the pharmacy. Mr. Kaplan replied that they would only be stocking a few drugs that are used in nebulizers.

Mr. McAllister asked if they would have a pharmacist on staff. Mr. Kaplan stated that Vince Chiarelli is an owner and is the Pharmacist in Charge.

Mr. McAllister asked if they are asking for a waiver of the minimum space required for a pharmacy. Mr. Kaplan replied yes. Mr. Kaplan stated that they felt that for the convenience of the patient they could fill the prescription at this site. Mr. Kaplan stated that if it is not possible to get a waiver for the square footage then they could send the prescription to their retail pharmacy.

Mr. Haiber asked if they are constrained for space. Mr. Kaplan replied that they were not constrained for space, but they felt it was unnecessary to open a full scale pharmacy when they were only going to be carrying a few items.

Dr. Smidt stated that looking at the floor plans of the proposed space it would be possible to build out a pharmacy meeting the 300 square foot requirement.

Mr. McAllister stated that the Board feels that adequate space is available at the site to meet the requirements and a waiver is not necessary.

### **Valley Pharmacy**

Magda Marcous, owner and Pharmacist in Charge, was present to answer questions from Board Members.

President McAllister opened the discussion by asking Ms. Marcous to describe the nature of her pharmacy business. Ms. Marcous stated that the pharmacy would be a community pharmacy.

Mr. McAllister asked if the pharmacy would be open to the public. Ms. Marcous replied yes.

Mr. McAllister asked Ms. Marcous if this is the first pharmacy that she owned. Ms. Marcous replied yes.

Mr. McAllister asked Ms. Marcous if they would be doing any compounding. Ms. Marcous stated that at the beginning they would not be doing any compounding and may in the future depending on the needs of the community.

Mr. Haiber asked if they would be doing any internet dispensing. Ms. Marcous stated no.

Mr. Van Hassel asked who are the owners of the LLC. Ms. Marcous stated that her and her husband are the owners.

Mr. Van Hassel asked Ms. Marcous if she would be selling any medications to doctors or their offices. Ms. Marcous stated that she would only be selling prescriptions to patients.

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

**RESIDENT (In Arizona)**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
Genoa Healthcare of Arizona, LLC	1210 E. Pennsylvania, Tucson, AZ 85714	Genoa Healthcare of Arizona, LLC
HealthSouth East Valley Rehabilitation Hospital	5652 E. Baseline Rd., Mesa, AZ 85206	HealthSouth Mesa Rehabilitation Hospital LLC
CVS/Pharmacy #5983	3025 N. Windsong Dr., Prescott Valley, AZ 86314	Arizona CVS Stores, LLC
CVS/Pharmacy #8977	3501 Stockton Hill Rd., Kingman, AZ 86409	Arizona CVS Stores, LLC
Wal-Mart Pharmacy #10-5768	800 E. Southern Ave., Tempe, AZ 85285	Wal-Mart Stores, Inc.
Banner Desert Medical Center	1400 S. Dobson Rd., Mesa, AZ 85202	Banner Health
Paradise Valley Pharmacy	3805 E. Bell Rd, Suite 1900., Phoenix, AZ 85032	Krueger Investments, LLC
Xpress Care Pharmacy #2	13055 W. McDowell Rd., Avondale, AZ 85392	Jackie Phan
Hualapai Mountain Medical Center	3801 Santa Rosa Dr., Kingman, AZ 86401	MedCath, Inc.
Walgreens #09460	40663 N. Gantzel Rd., Queen Creek, AZ 85140	Walgreen Arizona Drug. Co
Safety Medical Services	2630 E. Mohawk Ln., Suite 128, Phoenix, AZ 85050	Safety Medical Services
Convergys Corporation	3670 N. Commerce Dr., Tucson, AZ 85705	Convergys Customer Management Group Inc.
Sun Valley Pharmacy LLC.	100 N. Gila Blvd., Gila Bend, AZ 85337	Sun Valley Pharmacy LLC
Costco Pharmacy #1058	4570 E. Cactus Rd., Phoenix, AZ 85032	Costco Wholesale Corp.
Valley Pharmacy	2960 N. Litchfield Rd., Suite #120, Goodyear, AZ 85395	Valley Pharmacy LLC

## Non-Resident Permits

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

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

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
Direct Pharmacy Service, Inc.	6635 W. Commercial Blvd, Suite 116 , Tamarac, FL 33319	Direct Pharmacy Service, Inc.
Treasure Coast Pharmacy	1114 NE Jensen Beach Blvd., Jensen Beach, FL 34957	Treasure Coast Pharmacy
Central Drugs	520 W. La Habra Blvd., La Habra, CA 90631	Auro Pharmacies, Inc.
Mandell’s Clinical Pharmacy	7 Cedar Grove Lane, Somerset, NJ 08873	Edward and Terry Malanda
Reliance Meds	1860 Boy Scout Dr. #201, Ft. Myers, FL 33907	Jonathan Eaton
EZ Pass Rx	450 S. 400 E, Bountiful, UT 84010	EZ Rx Inc.
Rx Solutions Inc.	441 Eisenhower Lane South, Lombard, IL 60148	Rx Solutions, Inc.
Royal Palm Compounding Pharmacy LLC	117 S. State Rd. 7, Suite 201, Wellington, FL 33433	Royal Palm Compounding Pharmacy LLC
HPC LLC	63 S. Royal Street, Suite 710, Mobile, AL 36602	HPC LLC
RxKnights Corporation	2020 Calamos Ct., Naperville, IL 60563	RxKnights Corporation

## Wholesaler Permits

President McAllister stated that all permits were in order for resident wholesalers.

**On motion by Dr. Berry and seconded by Ms. Honeyestewa**, the Board approved the resident wholesale permits listed below. All permits are subject to final inspection by a Board Compliance Officer where appropriate.

<b>Wholesaler</b>	<b>Location</b>	<b>Owner</b>
Webster Veterinary Supply, Inc. (Full Service)	23048 N. 15 <sup>th</sup> Ave., Phoenix, AZ 85027	Webster Veterinary Supply, Inc.
Valley Wholesales (Non-Prescription)	3432 W. Wilshire Dr., Suite 7, Phoenix, AZ 85009	3y Inc.
JD Medical Dist. Co. Inc. (Non- Prescription)	1923 W. Peoria Ave., Phoenix, AZ 85029	JD Medical Dist. Co. Inc.
Discount Practice (Non-Prescription)	7400 E. Pinnacle Peak Rd. #200, Scottsdale, AZ 85255	Artemiz Seif & Garrett Adkins

## Pharmacists, Interns, Pharmacy Technicians, and Pharmacy Technician Trainees

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

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

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

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

### **AGENDA ITEM 5– Special Requests**

#### **#1 Gerwyn Makai**

**Gerwyn Makai** appeared on his own behalf to request that the suspension imposed on his pharmacist license per Board Order 09-0044-PHR be terminated and probation be imposed. Lisa Yates with the PAPA program was present.

President McAllister opened the discussion by asking Mr. Makai to describe the nature of his request. Mr. Makai stated that he is requesting that his suspension be terminated and probation be imposed.

Mr. McAllister asked Mr. Makai how long his license has been suspended. Mr. Makai stated that his license has been suspended for six months.

Mr. McAllister asked Mr. Makai why his license was suspended. Mr. Makai stated that he admitted to the use of methamphetamine. Mr. Makai stated that he was arrested and charged with possession of drug paraphernalia.

Mr. Makai stated that he spent 30 days in an inpatient program at Valley Hope. Mr. Makai stated that he signed a PAPA contract and is fulfilling the requirements.

Mr. McAllister asked Mr. Makai how his substance abuse issues have changed in the last six months. Mr. Makai stated that drug addiction is a cunning and baffling disease. Mr. Makai stated that he is learning to deal with emotional and psychological conflicts. Mr. Makai stated that the best way to treat the conflicts is to go to therapy. Mr. Makai stated that he knows that success is possible.

Mr. McAllister asked Mr. Makai if he is ready to go back to practice. Mr. Makai replied yes.

Mr. McAllister asked Ms. Yates if Mr. Makai has met the stipulations of his PAPA contract. Ms. Yates stated that Mr. Makai has met the expectations. Ms. Yates stated that his counselor and sponsor have written letters to the Board. Ms. Yates stated that Mr. Makai does keep in contact with her on a regular basis.

Dr. Smidt asked Mr. Makai if he takes any medications prescribed by his physician to help him relax. Mr. Makai replied yes.

Mr. Van Hassel asked Mr. Makai what has changed in his life. Mr. Makai stated that there has been a re-emphasis on values. Mr. Makai stated that he is less quick to anger and is less selfish. Mr. Makai stated that he now has a connection to spirituality. Mr. Makai stated that he has a new appreciation for patience and discipline.

Mr. Van Hassel asked Ms. Yates if Mr. Makai is compliant with his contract. Ms. Yates replied yes.

Mr. Haiber asked Mr. Makai how long he had been practicing as a pharmacist when his license was suspended. Mr. Maki stated that he was a recent graduate and had only been practicing for three months.

Mr. Haiber asked Mr. Makai if there was a certain event that triggered his desire to experiment with drugs. Mr. Makai stated that he had never experimented with drugs or alcohol before and tried the drugs to see what effect they would have on him. Mr. Makai stated that he wanted to be the best he could.

Mr. Milovich asked Mr. Makai if he had a job offer. Mr. Makai stated that he would be working in the retail environment.

Ms. Galindo reminded Mr. Makai that it is very difficult to recover from the use of methamphetamine. Ms. Galindo stated that he must continue to work on his addiction because 6 months does not constitute a recovery period.

Mr. Makai stated that he has made a commitment to his recovery. Mr. Makai stated that his recovery has no time limit and is continuous. Mr. Makai stated that his recovery would be a priority for the rest of his life.

Mr. Haiber asked Ms. Yates about the drug screening schedule once Mr. Makai returns to work. Ms. Yates stated that the drug screenings would increase to 48 random screens per year. Ms. Yates stated that after two years and no positive screens, the participant could ask for a reduction to 24 random screens per year.

**On motion by Dr. Smidt and seconded by Mr. Milovich**, the Board unanimously agreed to approve Mr. Makai's request to terminate the suspension of his pharmacist license and impose probation.

## **#2 Hyman Abramchick**

**Hyman Abramchick** appeared on his own behalf to request that the suspension imposed on his pharmacist license per Board Order 09-0010-PHR be terminated and probation be imposed. Lisa Yates with the PAPA program was present.

President McAllister opened the discussion by asking Mr. Abramchick to describe the nature of his request. Mr. Abramchick stated that he is requesting that his suspension be terminated and probation be imposed.

Mr. McAllister asked Mr. Abramchick how long his license has been on suspension. Mr. Abramchick stated that his license has been suspended for six months.

Mr. McAllister asked Mr. Abramchick why his license was suspended. Mr. Abramchick stated the he was accused of taking Fioricet and was sent for an evaluation. Mr. Abramchick stated that during the evaluation he tested positive for methamphetamine.

Mr. McAllister asked Mr. Abramchick what has changed in his life in the last six months. Mr. Abramchick stated that his live has totally changed. Mr. Abramchick stated that what turned out to be a negative in his life has turned into a huge positive and has been

life-saving. Mr. Abramchick stated that it was the best thing that could have happened to him. Mr. Abramchick stated that the addiction was killing him as a human being.

Mr. McAllister asked Mr. Abramchick to describe the changes in his life. Mr. Abramchick stated that everything is different. Mr. Abramchick stated that he is working a 12-step program and is actually working the steps. Mr. Abramchick stated that in 1988 he went to an AA meeting because of alcohol use. Mr. Abramchick stated that he never worked the 12 steps or got the spiritual part of the program. Mr. Abramchick stated that recovery is primary in his life or everything else will fall apart.

Mr. McAllister asked Ms. Yates if Mr. Abramchick has complied with the terms of his contract. Ms. Yates stated that Mr. Abramchick has met the requirements of his contract. Ms. Yates stated that due to a laboratory error Mr. Abramchick was accused of having a positive test. Ms. Yates stated that Mr. Abramchick stated that he did not take any medications. Ms. Yates stated that she requested that the lab re-run the test again and the test was negative.

Dr. Smidt asked Mr. Abramchick if he had a job. Mr. Abramchick replied that he did not have a job yet.

Ms. Galindo reminded Mr. Abramchick that he needs to continue working on his addiction. Mr. Abramchick stated that this is not a five-year deal. Mr. Abramchick stated that it is one day at a time.

Mr. Haiber asked Mr. Abramchick if the methamphetamine came from the pharmacy. Mr. Abramchick replied no.

**On motion by Dr. Smidt and seconded by Mr. Haiber**, the Board unanimously agreed to approve Mr. Abramchick's request to terminate the suspension of his pharmacist license and impose probation.

### **#3 Sarah Fornelli**

**Sarah Fornelli** appeared on her own behalf to request that the probation imposed on her pharmacy technician license per Board Order 07-0044-PHR be terminated.

President McAllister opened the discussion by asking Ms. Fornelli to describe the nature of her request. Ms. Fornelli stated that she is requesting that the probation on her technician license be terminated.

Mr. McAllister asked Ms. Frush to give a brief overview concerning Ms. Fornelli's case. Ms. Frush stated that Ms. Fornelli was one of the first technicians to sign a Consent Agreement that required them to participate in counseling and random drug screens. Ms. Frush stated that Ms. Fornelli has completed the requirements of her consent agreement. Ms. Frush stated that Ms. Fornelli was required to send the Board Office a monthly report that she wrote concerning her progress. Ms. Frush stated that Ms. Fornelli sent the report every month and had her random screens sent to the Board Office.

Mr. McAllister asked Ms. Fornelli how her life has changed. Ms. Fornelli stated that she has worked very closely with her counselor. Ms. Fornelli stated that Connie, her counselor, has written a letter for her to bring to the Board Members. Ms. Fornelli stated that her home life is completely different.

Mr. Haiber asked Ms. Fornelli if she is working in a pharmacy. Ms. Fornelli stated that at this time she is not looking for work. Ms. Fornelli stated that she wants her license back if she decides to work in a pharmacy in the future. Ms. Fornelli stated that currently she is focused on her family life.

Mr. Van Hassel stated that he would like to commend Ms. Fornelli on completion of her contract.

Mr. Haiber stated that he would also like to commend Ms. Fornelli on completion of her program since most technicians do not complete their programs.

**On motion by Mr. Haiber and seconded by Dr. Berry**, the Board unanimously agreed to approve Ms. Fornelli's request to terminate the probation on her pharmacy technician license and return the license to open status.

## **AGENDA ITEM 6 – License Applications Requiring Board Review**

### **#1 Adam McLean**

**Adam McLean** appeared on his own behalf to request to proceed with Pharmacy Technician Trainee licensure.

President McAllister opened the discussion by asking Mr. McLean why he was appearing in front of the Board. Mr. McLean stated that he would like to be licensed as a pharmacy technician trainee. Mr. McLean stated that he was a recovering drug addict. Mr. McLean stated that in his younger days he was a methamphetamine and opiate addict. Mr. McLean stated that he broke into pharmacies and was charged with a series of felonies. Mr. McLean stated that he found out that he was interested in Biochemistry and that he was a drug addict.

Mr. McLean stated that he was arrested three years ago. Mr. McLean stated that he entered into a DUI drug program and his felony charges would be dropped.

Mr. McAllister asked Mr. McLean to describe the turn in his life. Mr. McLean stated that he entered a residential treatment center in 2006. Mr. McLean stated that he found out that he needed to go to 12 step meetings and counseling. Mr. McLean stated that his charges have been dropped and he is working on having the remaining Class 6 felony removed.

Mr. McLean stated that he worked in a fitness center where he had learned about diet and exercise. Mr. McLean stated that after working at the fitness center for two years he is now working at the treatment center where he received help. Mr. McLean stated that he has been a behavioral health specialist. Mr. McLean stated that the Guidance Center has offered him a position as a prn pharmacy technician.

Mr. McAllister asked Mr. McLean if he works full-time as a behavioral health specialist. Mr. McLean stated that he works 40 hours a week.

Mr. McAllister asked Mr. McLean when was the last time that he used drugs. Mr. McLean stated that he last used drugs on November 28, 2006.

Mr. McAllister asked Mr. McLean about going back into an environment where there are drugs. Mr. McLean stated that medications are administered three times daily at the center and he is present during those times.

Mr. McAllister asked Mr. McLean if he has any letters of recommendation. Mr. McLean stated that he could get a letter from the Pharmacist in Charge.

Mr. McAllister stated that he would be more comfortable approving his request if he had letters of recommendation from individuals willing to hire him and letters from his counselors.

Mr. Van Hassel stated that letters from others would validate his case. Mr. Van Hassel stated that he felt that there should be some contact with TASC for random drug screens.

Ms. Yates stated that Mr. McLean could be monitored by the PAPA program.

Dr. Smidt stated that he feels that the Executive Director should receive the letters of support and forward them to the Board if there are issues.

Ms. Campbell stated that the Board could authorize her and the Executive Director to work with Mr. McLean to write a Consent Agreement. Ms. Campbell stated that a Consent Agreement could be written for urine screens and counseling of some sort and be brought back to the Board with his letters of recommendation at the next meeting.

The Board Members authorized Ms. Campbell and Mr. Wand to draft a Consent Agreement to present to the Board Members at the next meeting. The Board Members wanted to see letters of recommendation. The Board Members requested that the Consent Agreement include random urine screens and does not include any type of counseling.

## **#2 Michael Lopez**

**Michael Lopez** appeared on his own behalf to request to proceed with Pharmacy Technician Trainee licensure.

President McAllister opened the discussion by asking Mr. Lopez why he was appearing in front of the Board. Mr. Lopez stated that he would like to be licensed as a pharmacy technician trainee. Mr. Lopez stated that he would be starting school to become a pharmacy technician. Mr. Lopez stated that he needs the license to complete the externship. Mr. Lopez stated that he had a felony conviction for endangerment.

Mr. McAllister asked Mr. Lopez if he spent time in prison. Mr. Lopez stated that he spent 8 months in prison and was on probation for two years. Mr. Lopez stated that he has completed his probation.

Mr. McAllister asked Mr. Lopez if he used illegal drugs. Mr. Lopez stated that he used illegal drugs, such as marijuana, in the past.

Mr. McAllister asked Mr. Lopez if he is using any illegal drugs at this time. Mr. Lopez replied no.

Mr. McAllister asked Mr. Lopez why he wants to become a pharmacy technician. Mr. Lopez stated that he has an interest in the pharmacy field and likes to help others.

Mr. McAllister asked Mr. Lopez what school he would be attending. Mr. Lopez stated that he would be attending Apollo College.

Ms. Galindo asked Mr. Lopez if he participated in any drug treatment or anger management treatment. Mr. Lopez stated that he participated in a program for alcohol treatment and took classes on anger management.

Ms. Galindo asked Mr. Lopez about his coping skills. Mr. Lopez stated that he has learned coping skills and must stay away from alcohol. Mr. Lopez stated that he has four children and chose to go to school to have a positive effect on his children.

Ms. Galindo asked Mr. Lopez if he still drinks alcohol. Mr. Lopez stated that he drinks some but not to the extent that he used to drink.

Mr. Van Hassel asked Mr. Lopez what type of work he has done in the last two years. Mr. Lopez stated that he did construction work until there was no further work and then he found a job at a paper plant and was laid off due to financial issues at the plant.

Mr. Van Hassel asked Mr. Lopez if he has funding to go to school. Mr. Lopez stated that he is receiving help from his tribe.

Mr. Haiber asked Mr. Lopez if his endangerment was related to a DUI. Mr. Lopez replied yes that he hit another vehicle while drinking.

Mr. Haiber asked Mr. Lopez about other drugs he used. Mr. Lopez stated that about four years ago he used marijuana.

**A motion was placed on the floor by Mr. Van Hassel and seconded by Dr. Smidt, to approve the request by Mr. Lopez to proceed with pharmacy technician trainee licensure. A roll call vote was taken. ( Mr. Van Hassel – aye, Ms. Galindo – nay, Dr. Berry – nay, Mr. Milovich – nay, Ms Honeyestewa – nay, Mr. Haiber – nay, Dr. Smidt – aye, President McAllister – nay.) The motion fails.**

Ms. Galindo asked Mr. Lopez if he had any further citations or arrests. Mr. Lopez stated that he was arrested last year for driving on a revoked license.

Ms. Galindo asked Mr. Lopez if he had any other DUI charges. Mr. Lopez replied no.

Dr. Berry asked Mr. Lopez how many times he had been pulled over for driving on a revoked license. Mr. Lopez stated that he was pulled over twice.

Mr. McAllister stated as a pharmacy technician Mr. Lopez would need to follow the rules and laws.

Ms. Galindo asked if Mr. Lopez could start the program without being licensed. Mr. McAllister stated that a license would not be necessary for him to attend the classes, but he would need a license eventually to do the externship.

Mr. Lopez stated that the externship would start about a year from now.

**On motion by Dr. Berry and seconded by Mr. Milovich**, the Board agreed to deny the request by Mr. Lopez to proceed with pharmacy technician trainee licensure based on A.R.S. § 32-1927.01 (S) and A.R.S. § 32-1901.01 (C) (6) referencing his felony charge and illicit drug use. A roll call vote was taken. ( Mr. Van Hassel – nay, Ms. Galindo – nay, Dr. Berry –aye, Mr. Milovich – aye, Ms Honeyestewa –aye, Mr. Haiber – aye, Dr. Smidt – nay, President McAllister – aye.) The motion carries.

### **#3 Eunice Iwunze**

**Eunice Iwunze** appeared on her own behalf to request to proceed with Pharmacy Technician Trainee licensure.

President McAllister opened the discussion by asking Ms. Iwunze why she was appearing in front of the Board. Ms. Iwunze stated that she would like to be licensed as a pharmacy technician trainee. Ms. Iwunze stated that she was asked to appear because her nursing license was revoked and she had been charged with a felony that was reduced to a misdemeanor.

Mr. McAllister asked Ms. Iwunze when her nursing license was revoked. Ms. Iwunze stated that her license was revoked in April of this year.

Mr. McAllister asked Ms. Iwunze why her license was revoked. Ms. Iwunze stated that she had refused to sign a consent agreement with the Nursing Board because she did not like the terms of the consent agreement. Ms. Iwunze stated that her Consent Agreement stated that she could not work any night shifts. Ms. Iwunze stated that she worked the night shift for two weeks and then was promised a day job with her friends company Ms. Iwunze stated that she worked the night shifts because she was desperate for work due to financial issues.

Ms. Iwunze stated that the Nursing Board found out the she worked the night shifts and revoked her license.

Mr. McAllister asked Ms. Iwunze if nursing is her passion why doesn't she go back to the Nursing Board to settle her issues with them. Ms. Iwunze stated that she must wait 4½ years before she can reapply for her license. Ms. Iwunze stated that she wants to go to a different career field and that is why she wants to be a pharmacy technician.

Mr. Haiber asked Ms. Iwunze about her anger management issues. Ms. Iwunze stated that she attended anger management classes after her divorce and after her arrest.

Mr. McAllister stated that he feels that the Nursing Board attempted to work with Ms. Iwunze but she violated her consent agreement. Mr. McAllister stated that the Pharmacy Board would expect a licensee to follow the stipulations in a consent agreement.

Ms. Iwunze stated that she broke the rules because she was desperate and the stipulations prevented her from finding a job.

Mr. McAllister stated that the purpose of a health care board is to protect the public and the Nursing Board restrictions were put in place to protect the public.

Dr. Smidt told Ms. Iwunze that he would encourage her to go back to the Nursing Board and ask for reconsideration of her case. Dr. Smidt stated that he feels that she needs to rectify the situation with the Nursing Board first.

**On motion by Mr. Van Hassel and seconded by Mr. Haiber**, the Board unanimously agreed to deny the request by Ms. Iwunze to proceed with pharmacy technician trainee licensure based on A.R.S. § 32-1923.01 (A) (1) concerning the moral character of Ms. Iwunze.

### **AGENDA ITEM 7– Humana RightSource Deviation Request for R4-23-1104(A) (4)**

President McAllister recused himself due to a conflict of interest and turned the meeting over to Vice President Smidt.

The following individuals were present to discuss Humana’s project to expand their work at home project to include item entry technicians: Jarrod Gonzales and Jeff Matsen.

Vice President Smidt stated that the Board has had two previous requests for the same deviation. Dr. Smidt asked the individuals to highlight any differences between their request and the requests made by the other companies.

Mr. Gonzales stated that their program is similar to the other programs where technicians would be entering the prescription data at home.

Mr. Gonzales stated that the technician would log into a virtual private network and would receive orders from the server and transcribe the orders. Upon completion of the order, the technician would route the order to a screening pharmacist. The screening pharmacist would review the order and route the order to dispensing.

Mr. Gonzales stated that no patient specific information could be stored on the hard drive.

Dr. Smidt asked if the technician has access to the patient profile. Mr. Gonzales stated that they have access to the profile to query information.

Dr. Smidt asked if they could query any patient or could they only query the profile of the patient that they had on the screen and were entering their prescriptions. Mr. Gonzales stated that they could query any patient.

Dr. Smidt asked who assigns the patient to the image. Mr. Gonzales stated that process is done by an order entry technician.

Dr. Smidt asked if there is a way to prevent the technician at home from querying patient profiles. Mr. Gonzales stated at this point there is not, but IT could look at the procedure. Mr. Matsen stated that it is the technician’s job to verify the patient’s name in the system.

Mr. Milovich asked if they talked about querying patient profiles internally with the employees. Mr. Matson stated that they address the issue of querying profiles with all new hires during orientation. Mr. Gonzales stated that they can monitor keystrokes and if someone is querying profiles they can deal with the problem.

Mr. Milovich asked if there is a certain trigger that would tell them that someone is surfing profiles. Mr. Gonzales stated that they could check keystrokes for a certain time period.

Mr. Milovich asked if the check of keystrokes is done on a regular basis. Mr. Gonzales stated that they could request a report at anytime, but it is not done on a scheduled basis.

Mr. Haiber asked if there is current technology available to prevent the surfing of profiles at home. Mr. Gonzales stated that he is not aware of any technology.

**On motion by Mr. Van Hassel and seconded by Dr. Berry**, the Board unanimously agreed to accept the request by Humana RightSource to deviate from R4-23-1104 (A)(4) to allow remote technician data entry based on experimentation and technological advances. (A.R.S. § 32-1904 (B) (6).

### **AGENDA ITEM 8 – QoL Deviation request for R4-23-110 (A)**

The following individuals were present to answer questions concerning QoL's request to deviate from R4-23-110 (A) definition for "Supervision" which would include a telepharmacy site at a remote location without a pharmacist present: Larry Hart and Jim Smith.

President McAllister opened the discussion by asking the representatives to describe the nature of their request.

Mr. Hart stated that QoL operates a pharmacy in Yuma that is in a community health center and fills prescriptions for behavioral health consumers. Mr. Hart stated that they service clients of the EXCEL group. Mr. Hart stated that the EXCEL group operates an outpatient clinic in Parker, Arizona and QoL currently provides pharmacy services to some of the patients at the clinic. Mr. Hart stated that they would like to provide telepharmacy services to the Parker site.

Mr. Hart stated that the two sites would be connected by a video and audio link. Mr. Hart stated that the technician would scan the prescription at the Parker site and enter the prescription information. Mr. Hart stated that the pharmacist in Yuma would check the data entry and after approving the data entry the technician in Parker would be able to print the label. Mr. Hart stated that the technician would fill the prescription and bar scan the medication which would be reviewed by the pharmacist via a video link. Mr. Hart stated that an audio link would be available if the patient needed to talk to the pharmacist in Yuma.

Mr. McAllister stated that the Board had approved a deviation for El Rio and asked Ms. Frush to give a brief overview and have the applicants compare their remote site to the El Rio site.

Ms. Frush stated that the El Rio remote site was approximately two miles away from the home site. Ms. Frush stated that a pharmacist from the home site would travel to the remote site to verify the medications that were being placed in the ScriptPro machine from which the technician would fill the prescriptions. Ms. Frush asked the applicants if they would have verification of the medications prior to dispensing since the site is 100 miles away.

Mr. Smith stated that the technician would receive the product and a pharmacist would verify the product when the prescription was filled via the video link.

Ms. Frush stated that the previously approved site was using automation to assist in filling the prescriptions and asked if the applicants would have any automation on site. Mr. Smith replied no that they would have an audio and video link.

Ms. Frush stated that the previously approved site served 340B patients and asked the applicants if the clients that they are servicing are 340B patients. Mr. Smith replied that the patients that they are serving are not 340B patients. Mr. Smith stated that the patients either pay cash or have third party insurance. Mr. Smith stated that there is only one pharmacy, a CVS pharmacy, in Parker and some of the patients do not want to go there for their medications.

Ms. Frush stated that the previously approved site had a secure room at the clinic and only the technician or a pharmacist could enter the room. Mr. Smith stated that the technician could not enter the room at the clinic until the pharmacist in Yuma arrived at work.

Mr. McAllister asked where the final verification would be performed. Mr. Smith stated that the final verification would be performed by the pharmacist in Yuma. Mr. Smith stated that a video link would show the label, the pill, and the bottle. Mr. Smith stated that the pharmacist would see on the screen a barcode and the manufacturer's bottle and then would approve the prescription.

Dr. Smidt asked if there would be controlled substances dispensed at the remote site. Mr. Smith stated that no CII prescriptions would be dispensed, but other controlled substances would be dispensed.

Mr. Van Hassel asked if they planned on using technology such as a ScriptPro machine. Mr. Smith stated that they would only be filling about 20 prescriptions a day and using a ScriptPro would not be financially sound. Mr. Smith stated that they are trying to treat a unique population. Mr. Smith stated that they are trying to provide better pharmaceutical care.

Dr. Berry asked Mr. Smith if they have any other locations using telepharmacy services. Mr. Smith replied that they have 29 other locations and they do not have telepharmacy services at any of the other locations. Mr. Smith stated that the center director has asked them to come up with a solution to the problem of patients only being able to obtain their medication at one pharmacy in town.

Dr. Berry asked Mr. Smith if the physicians at the center could dispense. Mr. Smith stated that the center director does not want the physicians to dispense. Mr. Smith stated that a physician is not available everyday at the Parker site. Mr. Smith stated that some days the physician is only available by a tele-medicine link with the Parker site.

Dr. Berry asked about the hours the technician would work at the clinic. Mr. Smith stated that the pharmacy would be open from 9 to 5 daily and would be open Monday through Friday.

Mr. Smith stated that their hopes are to improve patient compliance and education by having the remote site.

Dr. Smidt stated that he does not see how a telepharmacy site would improve compliance or patient education. Dr. Smidt stated that the telemedicine part should provide patient education and there are better programs for patient compliance than opening a pharmacy with a technician.

Mr. Smith stated that they could mail prescriptions to some patients but they have difficulty reaching other patients.

Dr. Smidt stated that he is uncomfortable with the process because they have not provided any protocol or pictures of how the process would work. Dr. Smidt asked if they have any written policies or procedures. Mr. Smith replied not currently.

Mr. McAllister stated that he has issues with an unsupervised technician in a room with drugs.

Mr. Smith stated that they would perform cycle counts as part of the procedures. Mr. Smith stated that the counts would be conducted monthly.

Mr. Haiber asked if all drugs would be counted. Mr. Smith stated that they would count certain medications each month.

Dr. Berry asked who would order the drugs. Mr. Smith stated that the technician would order the drugs and a pharmacist would check the order before the medication order was placed.

Dr. Berry asked if the technician could override the order. Mr. Smith stated that the pharmacist would check what medications are ordered.

Dr. Berry asked who would check in the order when it arrived at the remote site. Mr. Smith stated that the technician would check in the order.

Dr. Smidt asked if the costs of opening a pharmacy site would be cheaper than just mailing the prescriptions to the patients. Mr. Smith stated that they are trying to customize a solution for this site.

Dr. Smidt and Mr. Haiber indicate that they would like to see how the process works. They indicated that they would like to see the details of the process. They indicated that they have issues with an unsupervised technician in the pharmacy being able to steal medications and the theft may not be discovered for several months.

**On motion by Mr. Van Hassel and seconded by Dr. Smidt**, the Board unanimously agreed to deny the request by QoL to deviate from R4-23-110 (A) to develop a telepharmacy site at a remote location without a pharmacist present. The Board Members felt that it did not meet the requirements for a deviation which can be granted for experimentation or technological advancement.

## **AGENDA ITEM 9 – Consent Agreements**

President McAllister asked Board Members if there were any questions or discussions concerning the consent agreements. Deputy Director Cheryl Frush indicated that the

consent agreements have been reviewed and approved by the Attorney General's Office and have been signed.

Assistant Attorney General, Elizabeth Campbell, indicated that the consent agreements were different than the original consents that the Board had recommended. Ms. Campbell reviewed the changes with the Board Members.

Ms. Campbell stated that the Board had recommended the revocation of Mr. Mullins license. Mr. Mullins signed a consent agreement for the surrender of his license and would be reported as a revocation of his license.

Ms. Campbell stated that Mr. Miloshoff was offered a consent agreement requiring him to sign a PAPA contract. Ms. Campbell stated that Mr. Miloshoff returned to Indiana and does not plan on returning to Arizona. Ms. Campbell stated that he has signed a consent agreement suspending his license and upon his return to Arizona he would need to appear at a Board Meeting to have the suspension removed and he would need to sign a PAPA contract at that point.

Ms. Campbell stated that the two consent agreements for Korman Healthcare have been rewritten with a new payment schedule for the fine. Ms. Campbell stated that the two permits were assessed a civil penalty. When the civil penalty was not paid, the permit owners were sent consent agreements for revocation. Ms. Campbell stated that the owners contacted her and Mr. Wand to see if they could set up a payment schedule since the person who had signed the consent agreements had left the company and they were not aware of the penalties. Ms. Campbell stated that the new consent agreements represent the new payment schedules.

Mr. McAllister asked if the licenses for Korman Healthcare were still active. Ms. Campbell stated that they closed one business but the other license is still active.

Mr. McAllister stated that he feels that five years is too long to pay off the fine.

Dr. Smidt asked what happens if the company goes out of business in the next five years. Ms. Campbell stated that the Board could refer the case to the Attorney General's office to collect the debt if the Board decides to accept the consent agreements.

Dr. Smidt asked if they gave any explanation of why they were not making the scheduled payments. Ms. Campbell stated that they claim they were not aware of the agreements when Mr. Hardman left the company.

Mr. Haiber asked what would prevent them from not paying the fine again. Ms. Campbell replied that they have expressed a willingness to pay the fine. Ms. Campbell stated that the Board could ask the representatives to appear at the next Board Meeting.

Mr. Van Hassel asked what the Board could do if the payment terms are not acceptable. Ms. Campbell stated that the Board could proceed to hearing or recommend a consent agreement with different payment terms.

Mr. Van Hassel stated that he does not agree with the statement that they are not accountable because someone has left the business.

Mr. Van Hassel stated that he would like a stayed revocation included if they do not pay the fine.

Mr. Haiber asked if the Board could charge interest on the money. Ms. Campbell stated that the Board could charge a flat rate if the fine is not paid on time.

Dr. Smidt stated that he feels that they should pay the fine in the next 30 days or their license should be revoked. Dr Smidt stated that they could arrange their own financing.

**On motion by Dr. Smidt and seconded by Dr. Berry**, 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.

Richard Mullins	-	09-0038-PHR
James Miloshoff	-	09-0037-PHR

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

**On motion by Dr. Smidt and seconded by Dr. Berry**, the Board unanimously agreed to deny the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below:

Korman Healthcare (Long term Care)	-	09-0039A-PHR
Korman Healthcare (Home Infusion)	-	09-0039B-PHR

**On motion by Dr. Smidt and seconded by Dr. Berry**, the Board unanimously agreed to offer Korman Healthcare a consent agreement to pay in full the fine from the previously signed consent agreements (\$52,000 and \$6, 000) to be paid in 30 days from today and if not signed the case would proceed to hearing. The Board authorizes the Executive Director or Deputy Director to sign the consent agreement on behalf of the Board. A roll call vote was taken. ( Mr. Van Hassel – aye, Ms. Galindo – aye, Dr. Berry –aye, Mr. Milovich – aye, Ms Honeyestewa –aye, Mr. Haiber – aye, Dr. Smidt – aye, President McAllister – aye.) The motion carries.

## **AGENDA ITEM 10 - Reports**

### **Executive Director Report**

#### **Budget Issues**

Ms. Frush opened the discussion by reviewing the financial reports with the Board Members.

Ms. Frush stated that Mr. Wand’s figures for the amount of money on hand at the end of the year differ from the state’s figures because of the thirteenth month in which expenses can be charged to the past fiscal year.

Ms. Frush stated that the budget bill signed by the Governor gives the Pharmacy Board a loan of \$200,000 that needs to be repaid by June 30, 2010.

## **Advisory Committee for Pharmacist Administered Immunizations – HB 2164**

Ms. Frush stated that if the Governor signs HB2164 the Board of Pharmacy needs to appoint an advisory committee to assist the board in adopting and amending rules.

Ms. Frush stated that Mr. Wand has contacted the various boards to have them recommend members to serve on the committee. Mr. Wand has not received any responses as of this date.

### **Deputy Director Report**

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

During the months of April and May, the Compliance Staff issued letters for the following violations:

#### **Controlled Substance Violations**

1. Controlled Substance Overage – 10
2. Controlled Substance Shortage – 3
3. Failure to conduct Annual Controlled Substance Inventory - 1
4. Failure to conduct a Controlled Substance inventory upon change of Pharmacist in Charge – 1

#### **Documentation Violations**

1. Failure to Document Medical Conditions – 5
2. Failure to Document Allergies - 1
3. Failure to sign daily log - 2
4. Failure to document counseling – 4
5. Failure to have required technician statements signed – 3
6. Failure to document automated dispensing machine maintenance - 4

#### **Dispensing Violations**

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

#### **Pharmacy Violations**

1. Allowing technician to work with an expired license - 1
2. Failure to have technicians sign technician statements - 3
3. Long Term Care – Emergency Boxes – not obtaining prescriptions for items removed – 1

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

1. Documentation of Counseling

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

1. Losses of Controlled Substance Medications must be reported to the DEA and Board Office
2. Termination of Pharmacists and Technicians for Unprofessional Conduct must be reported to the Board in writing.

### **AGENDA ITEM 11 - 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 41 complaints. Ms. Galindo, Mr. Haiber, and Mr. Milovich served as the review committee. Ms. Honeystewa was not present at the review committee meeting. Board Members were encouraged to discuss issues and were encouraged to ask questions.

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

Complaint #3642	-	Dismiss
Complaint #3643	-	Dismiss
Complaint #3649	-	Dismiss
Complaint #3677	-	Dismiss

**On motion by Mr. Haiber and seconded by Mr. Van Hassel**, 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 #3625	-	Dismiss
Complaint #3648	-	Dismiss
Complaint #3650	-	Dismiss
Complaint #3652	-	Consent Agreement offered to the Pharmacist for a \$1,000 fine to be paid in 90 days and 8 hours of board approved CE on error prevention in addition to regular hours with 6 months to complete. If not signed, the case proceeds to hearing.
Complaint #3656	-	Conference for Pharmacist
Complaint #3660	-	Dismiss
Complaint # 3661	-	Consent Agreement offered to the Pharmacist for a \$500 fine for each violation for a total of \$1,000 to be paid in 90 days and 8 hours of board approved CE on error prevention in addition to regular hours with 6 months to complete. If not signed, the case proceeds to hearing.
Complaint #3663	-	Consent Agreement offered to the Pharmacist for a \$1,000 fine for each violation for a total of \$2,000 to be paid in 90 days and 4 hours of board approved CE on error prevention and 4 hours of CE on compounding in addition to regular hours with 6 months to complete. If not signed, the case proceeds to hearing. Advisory Letter to the Pharmacy Technician concerning compounding policies
Complaint #3667	-	Dismiss
Complaint #3670	-	Dismiss
Complaint #3673	-	Dismiss
Complaint #3678	-	Conference for all involved in the complaint
Complaint #3680	-	Dismiss
Complaint #3688	-	Dismiss

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

- Complaint #3641 - Dismiss
- Complaint #3651 - Dismiss
- Complaint #3657 - Dismiss
- Complaint #3658 - Dismiss
- Complaint #3659 - Dismiss
- Complaint #3662 - Consent Agreement offered to the Pharmacist for a \$500 fine to be paid in 90 days and 8 hours of board approved CE on error prevention in addition to regular hours with 6 months to complete. If not signed, the case proceeds to hearing.
- Complaint #3664 - Conference for Both Pharmacists and the Pharmacist in Charge as a witness
- Complaint #3665 - Consent Agreement offered to the Pharmacist for a \$500 fine to be paid in 90 days and 8 hours of board approved CE on error prevention in addition to regular hours with 6 months to complete. If not signed, the case proceeds to hearing.
- Complaint #3666 - Dismiss
- Complaint #3668 - Consent Agreement offered to the Pharmacy Technician for revocation and cannot apply for licensure for 5 years. If not signed, the case proceeds to hearing.
- Complaint #3669 - Consent Agreement offered to the Pharmacist for a \$500 fine to be paid in 90 days and 8 hours of board approved CE on error prevention in addition to regular hours with 6 months to complete. If not signed, the case proceeds to hearing.
- Complaint #3672 - Dismiss
- Complaint #3675 - Consent Agreement offered to the Pharmacist for a \$1,000 fine to be paid in 90 days and 8 hours of board approved CE on error prevention in addition to regular hours with 6 months to complete. If not signed, the case proceeds to hearing.
- Complaint #3676 - Consent Agreement offered to the Pharmacist for one year probation, a \$1,000 fine to be paid in 90 days and 8 hours of board approved CE on error prevention in addition to regular hours with 6 months to complete. If not signed, the case proceeds to hearing.  
Advisory Letter to the Technician concerning policies
- Complaint #3679 - Dismiss
- Complaint #3681 - Consent Agreement offered to the Pharmacy Technician trainee for PAPA. If not signed, the case proceeds to hearing.
- Complaint #3682 - Advisory Letter to all parties involved concerning rules about animals in the pharmacy
- Complaint #3683 - Dismiss

- Complaint #3684 - Consent Agreement offered to the Pharmacy Technician for revocation and cannot apply for relicensure for 5 years. If not signed, proceed to hearing
- Complaint # 3685 - Consent Agreement offered to the Pharmacist for a \$1,000 fine for each violation for a total of \$2,000 to be paid in 90 days and 8 hours of board approved CE on error prevention in addition to regular hours with 6 months to complete. If not signed, the case proceeds to hearing.
- Complaint #3686 - Consent Agreement offered to the Pharmacist for a \$1,000 fine to be paid in 90 days and 8 hours of board approved CE on error prevention in addition to regular hours with 6 months to complete. If not signed, the case proceeds to hearing.
- Complaint #3687 - Consent Agreement offered to the Pharmacist for a \$500 fine to be paid in 90 days and 8 hours of board approved CE on error prevention in addition to regular hours with 6 months to complete. If not signed, the case proceeds to hearing.
- Complaint #3689 - Hearing

### **AGENDA ITEM 12 – Complaint # 3655**

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

President McAllister stated that the whole board would review this complaint because the complaint review committee could not review the complaint due to quorum issues.

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

### **AGENDA ITEM 13 – Complaint # 3671**

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

President McAllister stated that the whole board would review this complaint because the complaint review committee could not review the complaint due to quorum issues.

**On motion by Dr. Berry and seconded by Ms. Honeyestewa**, the Board unanimously agreed to dismiss the complaint.

### **AGENDA ITEM 14 – Conferences**

#### **#1 – Continuation of Conference for Complaint #3593**

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

President McAllister opened the discussion by stating that the Board had tabled this conference at the May meeting. The Board had asked Compliance Officer Rich Cieslinski to gather additional information concerning the complaint.

Mr. Cieslinski stated that the additional information he requested did not add any real information on why the complainants did not receive their mother's medications.

Mr. Cieslinski stated that the company was unable to provide the telephone records to indicate that they had called the patient to inform her that she had medications ready at the pharmacy.

Mr. Cieslinski stated that the company could not provide documentation that the technician at the out window had been prompted by the register to check the bins for any additional prescriptions.

Mr. Cieslinski stated that he can only surmise that procedures were not followed. Mr. Cieslinski stated that the only violations that he found that occurred were violations concerning the lack of counseling documentation.

Brenda Maloney, outside counsel for Walgreens, and Mike Simko, corporate legal counsel for Walgreens, asked to address the Board.

Ms. Maloney stated that there are no regulatory requirements that the pharmacy call the patients to let them know that there are prescriptions waiting for them at the pharmacy. Ms. Maloney stated that the Levaquin and Plavix were ready when the patient picked up their other prescriptions.

Ms. Galindo stated that someone died because of procedures not being followed in the pharmacy.

Mr. McAllister stated that there are no regulations concerning the searching of the will call bins or calling the patients to let them know that prescriptions are waiting at the pharmacy. Mr. McAllister stated that there are violations concerning the documentation of counseling.

**A motion was placed on the floor by Ms. Galindo to proceed to hearing.** The motion failed because the motion was not seconded.

**A motion was placed on the floor by Dr. Smidt and seconded by Mr. Haiber to offer a consent agreement to the Pharmacist in Charge for a \$500 fine to be paid in 90 days for failure to control the pharmacy and 6 hours of CE on patient safety to be completed in addition to the regular CE hours. If the consent agreement is not signed the case would proceed to hearing.**

A roll call vote was taken and the motion failed. ( Mr. Van Hassel – nay, Ms. Galindo – nay, Mr. Milovich -nay Ms Honeystewa –nay, Mr. Haiber – aye, Dr. Smidt – aye, President McAllister – aye.)

Ms. Galindo stated that she felt that a hearing should be held so that the board could hear both sides of the complaint.

**A motion again was placed on the floor by Ms. Galindo to proceed to hearing.** The motion failed because the motion was not seconded.

**On motion by Mr. Haiber and seconded by Ms. Honeystewa,** the Board agreed to offer a consent agreement to the Pharmacist in Charge with the following terms: a fine of

\$500 for each counseling violation for a total fine of \$2,000 to be paid in 90 days and 6 hours of CE on patient safety to be completed in addition to the regular CE hours. If the consent agreement is not signed the case would proceed to hearing.

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

### **AGENDA ITEM 15 – Pharmacy Technician Trainee Requests for Approval to Reapply for Licensure**

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

**On motion by Mr. Van Hassel and seconded by Dr. Berry,** 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**

1. Joan Nguyen
2. Jahmar Baybayan
3. Daniel Vazquez
4. Morgan Loewer
5. Cheyenne Pitts
6. Melissa Ornelas
7. Kimberly Hubby
8. Steven Tillman
9. Tiffany Gilder
10. Joanna Bonamo
11. Delsia Chacara
12. Shahab Jeddi
13. Guadalipe Boteo
14. Maria Gutierrez
15. Stephanie Auge
16. Michelle Perez
17. Sarah Moss
18. Eduardo Moldez
19. Maria Smith
20. Lola Engel
21. Scott Kendall
22. Margie Reyes
23. Steven Douglas
24. Minou Mahmoodi
25. Ashley Swindle
26. Valeria Flores
27. Kenyetta Scullark
28. Maria Wilson
29. Eva Atala
30. Rosalyn Felix
31. Christopher Johnson
32. Rosie Berres
33. Luisa Sanchez
34. Cheryl Delveau
39. Christine Sutton
40. Joe Alvarez
41. Francine Conway
42. Ingrid Davis
43. Ravina Molina
44. Mary Daley
45. Tabettha Bechtel
46. Erik Cline
47. Jonathan Randall
48. Johnny Zavala
49. Carol Kendall
50. Cassandra Cavalier
51. Kerrie Johnson
52. Cindy Pike
53. Taylor Lespron
54. Charles Boggan
55. Sonary Chhuon
56. Patricia Borree
57. Amanda Crozier
58. Melonie Arcoverde
59. Lizette Perez
60. Christopher Menigoz
61. Vanessa Gomez
62. Brian Cogley
63. Danielle Schiefer
64. Mark Christianson
65. Jennifer Holiday
66. Ciarenna Lopez
67. Roxanne Shortell
68. Gina Orozco
69. Carmen Otero
70. Angela Davidson
71. Hamid Dakhily
72. Amber Morris

35. Misty Pearson  
36. Hakim Scott  
37. Illyana Gallo  
38. Magdalena Gonzalez

73. Melissa Jessop  
74. Cynthia Beauprey  
75. Kevin Isfan  
76. Kari Gollin

### **AGENDA ITEM 16 – Rules Moratorium**

President McAllister stated that the Governor has extended the rules moratorium until October 16, 2009.

### **AGENDA ITEM 17 – Call to the Public**

President McAllister 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.

Two pharmacists came forth to express their concerns involving the Walgreens Power Project. The pharmacists were concerned about the final product verification and the documentation of the pharmacist's initials in the computer.

Mindy Rasmussen, Executive Director of the Arizona Pharmacy Alliance, came forth to give a brief report on the activities of the Alliance.

Ms. Rasmussen welcomed everyone to the 5<sup>th</sup> annual meeting.

Ms. Rasmussen stated that the litigation is continuing on the lawsuits that were filed concerning the sweeping of funds from the healthcare boards.

Ms. Rasmussen stated that the poison control center at the University of Arizona has been funded.

Ms. Rasmussen stated that they are waiting to see if the Governor signs the Pharmacist Administered Immunization Bill. (HB 2164).

A pharmacy technician came forth to address the Board concerning the request by the pharmacy to allow a technician to work at a remote site. The technician stated that she is glad that the Board denied the request because a technician is not qualified to work at a pharmacy without supervision.

The pharmacy technician also stated that she is glad that PAPA is open to technicians to help them with recovery issues.

A pharmacist came forth to express his concerns about the number of forged CII prescriptions that are being presented to pharmacies.

Mr. Luce, Director of Pharmacy Affairs for Walgreens, came forth to address the Board. Mr. Luce stated that Walgreens has complete transparency with their Power Project. Mr. Luce stated that the goal of the program is to improve patient safety by removing tasks from the stores and allowing the pharmacists to interact with the patients. Mr. Luce stated that the Board Members are welcome to come to a pharmacy to see how the program works.

**AGENDA ITEM 18 – Discussion of Items to be placed on a future meeting agenda**

There were no items to be placed on a future meeting agenda.

**AGENDA ITEM 19– Adjournment**

There being no further business to come before the Board, **on motion by Dr. Smidt and seconded by Mr. Haiber**, the Board unanimously agreed to adjourn the meeting at 3:45 P.M.