THE ARIZONA STATE BOARD OF PHARMACY

HELD A REGULAR MEETING AUGUST 17 AND 18, 2005

GLENDALE, ARIZONA

August 17, 2005

The following Board Members and staff were present: President Linda McCoy, Vice President Chuck Dutcher, Zina Berry, Tom Van Hassel, Dennis McAllister, Ridge Smidt, Paul Sypherd,and Bryan Tippett. Compliance Officers Rich Cieslinski, Larry Dick, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Roberto Pulver.

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

Ms. Frush explained that law continuing education would be offered for attendance at the meeting.

AGENDA ITEM 1 - Introduction of New Board Members and Oath of Office

President McCoy introduced the newly appointed Board Members, Dr. Zina Berry and Dr. Paul Sypherd. President McCoy administered the Oath of Office to Dr. Berry and Dr. Sypherd to allow the new Board Members to assume the duties of voting members of the Board. Dr. Berry and Dr. Sypherd gave a brief synopsis of their educational and occupational backgrounds.

AGENDA ITEM 2 - Approval of Minutes

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Van Hassel and Dr. Smidt,** the minutes of the Regular Meeting held on June 16, 2005 were unanimously approved by the Board Members.

AGENDA ITEM 3 - Permits/Licenses

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

Kingman Hometown Pharmacy

Owners Fernando and Jennifer Velez were present to answer questions from Board Members.

President McCoy opened the discussion by asking Mr. Velez to describe his proposed business.

Mr. Velez stated that the pharmacy would be an independent pharmacy with a small front-end business. He stated that the pharmacy would be located in Kingman, Arizona. Mr. Wand informed the owners that often independent pharmacies will be contacted to dispense Internet prescriptions where the doctor issues prescriptions based on online questionnaires and that Arizona statutes do not allow that practice. Mr. Velez stated that they would not be filling any Internet prescriptions.

Dr. McCoy asked the owners if they had any questions for the Board. Mr. and Ms. Velez stated that they did not have any questions. Dr. McCoy wished them luck and thanked them for appearing at the meeting.

Park Central North Pharmacy

Olufemi Omodara, the owner, appeared to answer questions for the Board Members.

President McCoy opened the discussion by asking Ms. Omodara to describe the nature of her business. Ms. Omodara stated that she is purchasing an existing pharmacy and she will be the new owner and Pharmacist In Charge. Ms. McCoy asked Ms. Omodara if she is a first time pharmacy owner. Ms. Omodara replied yes.

Ms. McCoy asked Ms. Omodara if she had any questions for the Board Members. Ms. Omodara replied that she did not have any questions. Ms. McCoy thanked her for attending the meeting and wished her luck.

The Novel International Compounding Pharmacy

The following owners were present to answer questions from Board Members: Dr. Kenneth Proefrock, Dr. Shidfar Rouhani, and Dr. Mark Rudderham. Joe Maximini, Pharmacist In Charge, was present.

President McCoy opened the discussion by stating that this would be a new pharmacy owned by three naturopathic physicians and they would be specializing in compounding. Ms. McCoy asked the applicants to describe the nature of their business. Dr. Proefrock stated that they would be compounding patient specific medications for physicians to use in prolotherapy, mesotherapy, and pain management. Dr. Proefrock stated that they would be compounding both injectable and topical medications.

Ms. McCoy reminded the physicians that the pharmacy could not fill prescriptions written by the owners. Dr. Proefrock stated that they would not be writing prescriptions to be filled at the pharmacy. Mr. Dutcher asked Mr. Maximini if he understood that he could not fill prescriptions written by these physicians. Mr. Maximini replied yes.

Mr. McAllister reminded the applicants that they could not compound medications that are commercially available. Mr. McAllister reminded the applicants that they should be careful about marketing unapproved drugs to physicians.

Ms. McCoy asked Mr. Maximini if he has taken any specialized courses in compounding. Mr. Maximini stated that he worked at a compounding only pharmacy in Chicago. Ms. McCoy asked if this experience was recent. Mr. Maximini replied yes. Ms. McCoy asked if he has taken any formal courses in compounding. Mr. Maximini replied that he took courses in pharmacy school and has taken no other courses.

Mr. Van Hassel asked the applicants if they had a clean room for the compounding of sterile products. Dr. Proefrock stated that they have an ISO5 Clean Room that was established based on USP 797 guidelines.

Mr. Wand reminded the applicants about supplying physician's offices with supplies and if it exceeds five percent that they would need to obtain a wholesale permit.

Ms. McCoy thanked the applicants for appearing and wished them luck.

excelleRx

President McCoy asked if a representative from excelleRx was present to answer questions. No one come forth. Ms. Frush stated that a letter was sent to the Pharmacist In Charge. Mr. Wand stated that the Board could either vote on approval of the application or table the application.

Mr. Wand stated that the issue is that another company is purchasing execlleRx and the previous owners were issued a consent order that required additional inspections at the company's cost. Mr. Wand stated that the consent order would continue with the new owners.

Mr. McAllister stated that the new owner is Omnicare and feels that they would follow the order.

President McCoy asked Mr. Pulver if it was necessary to have the applicants appear if the Board notified the new owners that the inspections would continue. Mr. Pulver stated that a letter should be sent from Omnicare stating that they will continue to follow the consent orders that currently exist for excelleRx. Mr. Wand stated that it could be made in the motion that the owners reply within so many days. Mr. Pulver stated that the Board could specify a deadline in the motion.

At the conclusion of questions from the Board Members and **on motion by Mr. Dutcher and Dr. Tippett,** the Board unanimously approved the resident permits listed below and require the new owners of excelleRx to send a letter of confirmation that they will continue with the inspections ordered by the previous consent order issued to the previous owner. All approvals are subject to final inspection by a Board Compliance Officer where appropriate.

RESIDENT (In Arizona)

- Wal-Mart Pharmacy #10-5369
  1100 N. Estrella Pwky.,
  Goodyear, AZ 85338
  Wal-Mart Stores, Inc.
- Kingman Hometown Pharmacy

2370 Northern Ave., Ste. A,
Kingman, AZ 86409
Fernando & Jennifer Velez

- Sunset Community Health Center
  2060 W. 24th St.,
  Yuma, AZ 85364
  Sunset Community Health Center
- Target Pharmacy T-2083
  1450 S. Yuma Palms Parkway,
  Yuma, AZ 85365
  Target Corporation
- Target Pharmacy T- 0935
  1650 S. Milton Rd.,
  Flagstaff, AZ 86001
  Target Corporation
- Target Pharmacy T-0854
  3901 W. Ina Rd.,
  Tucson, AZ 85741
  Target Corporation
- Food City United Drug #108
  1799 Kiowa Avenue,
  Lake Havasu City, AZ 86403
  Bashas' Inc.
- Walgreens Drug #07747
  3233 E. Germann Rd.,
  Gilbert, AZ 85297
  Walgreen Arizona Drug Co.
- Costco Pharmacy #738
  2450 E. Beardsley Rd.,
  Phoenix, AZ 85024
  Costco Wholesale Corporation
- Walgreens Drug #07723
  975 E. Ocotillo Rd.,
  Chandler, AZ 85249
  Walgreen Arizona Drug Co.
- Park Central North Pharmacy
  500 W. Thomas Rd.,
  Phoenix, AZ 85013
  (O) Jareko, L.L.C.
- Wal-Mart Pharmacy #10-3360
  2750 E. Germann Rd.,
  Chandler, AZ 85249
  Wal-Mart Stores, Inc.
- Valley View Medical Center Pharmacy
  5530 W. Highway 95,
  Fort Mohave, AZ 86427
  PHC- Fort Mohave, Inc.
- excelleRx
  51 W. Third St., Ste. 501,
  Tempe, AZ 85281
  (O) excelleRx, Inc.
- Sam's Pharmacy #10-49515
  600 Hwy 95,
  Bullhead City, AZ 86429
  Sam's West, Inc.
- The Novel International Compounding
  2432 W. Peoria, Ste, #1147,
  Phoenix, AZ 85029
  The Novel InternationalPharmacy Compounding Pharmacy

(O) = Ownership Change

On motion by Mr. Van Hassel and Mr. Dutcher, the Board unanimously approved the non-resident permits listed below.

NON-RESIDENT (Out of State)

- Vitamin Quota Pharmacy
  1131 Crenshaw Blvd.
  Los Angeles, CA 90019
  West Pharm Corporation
- Spectrum Pharmacy Services, L.L.C.
  15 Cactus Garden Dr., Bldg. C
  Henderson, NV 89014
  Spectrum Pharmacy Services, L.L.C.
- drugstore.com
  407A Heron Dr.,
  Swedesboro, NJ 08085
  DS Pharmacy
- drugstore.com
  411 108th Ave. NE, Ste 1400
  Bellevue, WA 98004
  DS Pharmacy
- Highrise Casino Rx
  7700 Las Vegas Blvd. South, Suite 8
  Las Vegas, NV 89123
  Highrise Casino Rx, LLC
- Brinks Pharmacy, Inc.
  1050 East 3300 South #208,
  Salt Lake City, UT 84106
  Brinks Pharmacy, Inc.
- Alpha Pharmacy, Inc
  7652 N. Nob Hill Rd.,
  Tamarac, FL 33321
  Alpha Pharmacy, Inc.
- Rite Aid Pharmacy #777
  407 Heron Dr.,
  Swedesboro, NJ 08085
  Rite Aid of New Jersey, Inc.
- Health E Choice Pharmacy
  28448 SR. 54,
  Wesley Chapel, FL 33543
  Home E Choice Pharmacy, LLC
- Accumed
  3104 W. Waters Ave., #104B,
  Tampa, FL 33614
  Accumed Rx, Inc.
- Compounding Rx Apothecary
  81 Lancaster Ave., Store #4,
  Malvern, PA 19355
  Compounding Rx Apothecary
- Respiratory Supply
  10606 Hempstead Rd., Suite 144,
  Houston, TX 77095
  M & J Pharmacy, Inc.
- AYS Rx
  2221 Las Palmas Dr., Suite G,
  Carlsbad, CA 92009
  AYS LP
- Leechburg Long TermCare Pharmacy
  111 Second St.
  Leechburg, PA 15656
  Burrell Pharmacy, Inc.
- excelleRx, Inc.
  2525 Horizon Lake Dr., Ste. 101,
  Memphis, TN 38133
  (O) excelleRx, Inc.
- excelleRx-PHL
  530 Walnut St., Ste. 550,

Philadelphia, PA 19106
(O) excelleRx, Inc.

- RxCrossroads
  4500 Progress Boulevard,
  Louisville, KY 40218
  RxCrossroads, LLC
- Neighbor Care
  9036 Junction Dr.,
  Annapolis Junction, MD 20701
  Asco Healthcare, Inc.
- NeighborCare- San Diego
  5825 Oberlin Dr., Suite 300
  San Diego, CA 92121
  (O)Evergreen Pharmaceutical of California
- Preferred Pharmaceutical Services
  North Marine Dr.,
  Portland, OR 97217
  (O) NCS Healthcare of Oregon, Inc.
- Prescripticare
  3545 Broadway
  Kansas City, MO 64111
  Prescripticare,LLC
- Escalante Solutions, L.P.
  1625 W. National Ct., Ste. 150,
  Sacramento, CA 95834
  Interfill, L.L.C.

(O) = Ownership Change

Wholesale Permits

President McCoy stated that all permits were in order and representatives from two resident wholesalers were present to answer questions from Board Members.

Natural Partners

Tim Engvall, the manager, was present to answer questions from Board Members.

President McCoy opened the discussion by asking Mr. Engvall to describe the nature of his business. Mr. Engvall stated that this is a wholesale business that operates in Scottsdale and sells nutraceuticals. They sell only to physicians. Mr. Engvall stated that they learned that some of the products that they were selling contained prescription ingredients and that is why they are applying for a permit.

Mr. Wand reminded Mr. Engvall that the company needs to obtain copies of licenses or permits of all individuals that purchase product from them. Mr. Wand reminded Mr. Engvall that these copies need to be kept on file for review by a Compliance Officer.

Ms. McCoy thanked Mr. Engvall for appearing at the Board Meeting.

Southwest Pharmaceutical, Inc.

Dr. Richard Celaya, the owner, and Gerardo Marquez, the manager, were present to answer questions from Board Members.

President McCoy asked the applicants to describe the nature of their business. Mr. Marquez stated that they would be selling prescription medications to physicians and clinics. Mr. Marquez stated that they would not be repackaging or relabeling any products.

Mr. Wand reminded the applicants that they could not sell medications to the clinic, but would need to sell the medications to a physician at the clinic.

Mr. Dutcher asked if physicians could dispense medications. Mr. Wand stated that physicians could dispense after registering

with their Medical Boards as dispensing physicians. Mr. Wand stated that the physicians must follow all the labeling requirements. Mr. Wand stated that the physicians are inspected by their respective Medical Boards.

President McCoy thanked the applicants for appearing.

On motion by Dr. Tippett and Mr. Dutcher, the Board unanimously approved the resident wholesale permits listed below. All permits are subject to final inspection by a Board Compliance Officer where appropriate.

- Costco Wholesale #738
  2450 E. Beardsley Rd.,
  Phoenix, AZ 85024
  Costco Wholesale Corporation
- Natural Partner, Inc.
  7949 E. Acoma, Ste. 103,
  Scottsdale, AZ 85260
  Natural Partners, Inc.
- Southwest Pharmaceutical, Inc.
  13402 N. 32nd St., Suite #1,
  Phoenix, AZ 85302
  Southwest Pharmaceutical, Inc.
- Sam's Club #10-49515
  600 Hwy 95,
  Bullhead City, AZ 86429
  Sam's West, Inc.

Pharmacist, Pharmacy Interns, and Pharmacy Technician Licenses

Following a review and discussion of the roster of applicants for licensure as pharmacists, interns, and pharmacy technicians and assurance by the staff that all applications were in order and all fees paid:

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously approved the Pharmacists licenses 14783 through 14962, Intern licenses 6982 through 7049, and Pharmacy Technician licenses 7798 through 8221.

Also approved were 32 licensee changes from Pharmacy technician trainee to Pharmacy technician. For a complete list of names see attachments.

AGENDA ITEM 4 - Reports

Executive Director

Executive Director Wand began his report by discussing the financial statements. Mr. Wand stated that our budget has been approved for the 2006 and 2007 budget years. Mr. Wand stated that the Compliance Staff is conducting the Child Proof Cap Inspections again this year, which would result in additional federal funds being credited to the Board.

Mr. Wand stated that the website has been redesigned in the same format as other state agencies.

Mr. Wand stated that some corrections would be made to the site. Mr. Wand stated that the web page must have links to specific websites for the state.

Mr. Wand explained that the Board would be able to offer online renewals for pharmacists this year. Mr. Wand stated that in order to renew the pharmacist would need their license number and birth date. Mr. Wand stated that there are about 60 pharmacists for whom there are no birth dates and they would be locked out when they try to renew on line. Mr. Wand stated that applicants would be able to change their address online. Mr. Wand stated that the applicants would acknowledge online that they have completed the required CE units. Mr. Wand stated that the applicant would be able to pay with their credit card. Mr. Wand stated that the applicants would be able to renew online from September 15, 2005 through November 15, 2005. Mr. Wand stated that applicants would be able to order relief certificates online. Mr. Wand stated that the technicians were not included this year because this is a pilot program and the technician's birth dates have not been entered into the computer. Mr. Wand stated that possibly next year permit holders would be able to renew online. Mr. Wand stated that an insert would be sent with the renewal letters to alert pharmacists that they can renew their licenses online. Mr. Van Hassel asked if the pharmacists are required to renew online. Mr. Wand stated that the pharmacists could renew online or mail in their renewal.

Mr. Wand explained that the goal of the office is to become paperless and as a result he would like to hire a Records Administrator. The person in this position would report to the Executive Director. The person in this position would be required to have a degree in Library Science or a similar degree. Mr. Wand stated that the Records Administrator would supervise the two individuals in the records department. Mr. Wand stated that there is money in the budget for the staffing of this position. Mr. Wand stated that officially he is the Custodian of the Records and that is why this position would report to him.

Deputy Director Report

Deputy Director Frush directed the Board Members attention to the activity reports for the Compliance Staff. Ms. Frush indicated that the Compliance Staff is currently ahead of the number of inspections completed at this time last year. Ms. Frush indicated that the number of complaints is steadily increasing. Ms. Frush indicated that the Drug Inspector has issued 40 letters for expired non-prescription drugs for the months of June and July.

Ms. Frush stated during the months of June and July, the Compliance staff issued letters for the following violations:

- 1. Failure to obtain signed technician statements - (11)
- 2. Failure to document disease and medical conditions - (9)
- 3. Controlled Substance Shortages - (8)
- 4. Controlled Substance Overages - (6)
- 5. Outdated Rx and OTC products within the pharmacy - (5)
- 6. Annual Controlled Substance Inventory not available - (4)
- 7. Allowing technicians that are not licensed to work - (3)
- 8. Failure to document required information of telephoned prescriptions - (2)
- 9. Failure to display Pharmacist or Technician Wall certificate - (2)
- 10. Failure to sign daily computer log - (2)
- 11. Failure to develop a training program for Compounding Technicians - (1)
- 12. Failure to locate Controlled Substance Inventory upon change of Pharmacist in Charge - (1)
- 13. Failure to properly maintain controlled substance invoices - (1)
- 14. Failure to have license available when working - (1)
- 15. Technician working with an expired technician license - (1)
- 16. Failure to maintain current reference books - (1)
- 17. Hood certification expired - (1)
- 18. Failure to notify Board immediately of a Pharmacist in Charge change - (1)

The following areas were noted on inspection reports for improvements:

1. Documentation of medical conditions

The following areas were noted on the inspection reports where pharmacists and technicians are meeting or exceeding standards:

1. Cleanliness of the pharmacy

Areas outside the inspection reports that may be of interest:

1. DEA-106 forms must be filed with the Board of Pharmacy and the DEA.

2. Two-line prescription blanks are still valid and if the doctor signs on the Dispense as Written side he has indicated his intent on the face of the prescription.

PAPA Report

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of thirty-six (36) participants in the PAPA program. Ms. Yates stated that since the last report on April 6, 2005, there has been one (1) participant that has completed the program and five (5)new participants have entered the program. Ms. Yates stated that the Steering Committee has concerns about two participants in the program.

AGENDA ITEM 5 - Special Requests

#1 Phillip Ngo

Phillip Ngo appeared on his own behalf to request to proceed with reciprocity.

President McCoy opened the discussion by asking Mr. Ngo to describe the nature of his request.

Mr. Ngo stated that he is requesting to proceed with reciprocity from his Oregon license. Mr. Ngo stated that the Oregon Board of Pharmacy disciplined him in 1999. Mr. Ngo stated that he was hired at a chain pharmacy and was designated as the Pharmacist In Charge. Mr. Ngo stated that he had hired a clerk to run the cash register. Mr. Ngo stated that one day he was off and an inexperienced pharmacist was working at the store and the clerk tried to help the pharmacist with the computer. The Board inspected the pharmacy that day and Mr. Ngo was cited as the Pharmacist In Charge for allowing an individual that was not registered as a pharmacy technician to perform the duties of a pharmacy technician. Mr. Ngo stated that he was fined $500.00.

Mr. Wand stated that Mr. Ngo's licenses are current and in good standing.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously approved the request by Mr. Ngo to proceed with reciprocity.

#2 Srinivasa Reddy Male

Srinivasa Reddy Male appeared on his own behalf to request a waiver for the TSE Exam. Sean Duffy, District Pharmacy Manager for Albertsons/Osco, was present.

Mr. Wand explained that Mr. Male is asking the Board to waive the requirement that he pass the Test for Spoken English to obtain his FPGEC certificate. Mr. Wand explained that Mr. Male has taken the test ten times and has received a score of 45 each time. Mr. Wand stated that the applicant must obtain a score of 50 to pass the test.

Mr. Van Hassel asked Mr. Male if he is working in a pharmacy. Mr. Male stated that he is working as a graduate intern at Osco Drug. Mr. Van Hassel asked if he counsels patient. Mr. Male stated that he has been counseling patients and he has not had any trouble communicating with patients or doctors. Mr. Van Hassel asked Mr. Male to counsel him on the drug Coumadin.

Mr. Male counseled Mr. Van Hassel on the use, side effects, and complications of Coumadin.

Dr. Tippett asked Mr. Male if he could describe what he feels is the problem that prohibits him from obtaining a score of 50. Mr. Male stated that he is not sure because he does not receive any feedback from the testing center.

Mr. Dutcher asked Mr. Male to describe the testing process. Mr. Male stated that the test is by telephone. Mr. Male stated that he is asked recorded questions and he must respond within a specific time period. Mr. Male stated that his answers are recorded and evaluated and then he receives his test scores in the mail. Mr. Male stated that the questions are not related to pharmacy. Mr. Male stated that once he was asked "What he would do if he was visiting Egypt?'

Dr. Tippett asked what action the Board has taken in the past for similar requests. Mr. Wand stated that the Board has had one other individual who had taken the test 12 times and scored 45 each time. Mr. Wand stated that the Board granted a waiver to allow the individual to proceed with licensure. Mr. Wand stated that the Board could waive the requirement at this time.

Mr. McAllister asked Mr. Duffy about Mr. Male's work performance. Mr. Duffy stated that he has never had a complaint concerning Mr. Male. Mr. Duffy stated that Mr. Bodznick,who is the Pharmacist In Charge at Mr. Male's store, stated that Mr. Male provides outstanding customer service.

On motion by Mr. Van Hassel and Dr. Tippet, the Board unanimously approved the request by Mr. Male to waive the requirement to pass the TSE exam with a score of 50 in order to allow Mr. Male to proceed with licensure.

#3 Yekaterina (Katya) Wilson

Yekaterina (Katya) Wilson appeared on her own behalf to request a waiver for the TSE exam.

Kris Kaniski, owner of Community Clinical Pharmacy, was present to speak on behalf of Ms. Wilson.

President McCoy opened the discussion by asking Ms. Wilson to describe the nature of her request. Ms. Wilson stated that she is requesting a waiver for the TSE exam. Ms. Wilson stated that she has taken the test six times and has received a score of

45 each time. Ms. Wilson explained that she gets nervous when she is asked to speak about situations of which she is not familiar. Ms.Wilson stated that she was asked once about the advantages of riding the bus to work. She stated that was difficult for her to answer because she has not rode a bus to work. Ms. Wilson stated that she has worked as an intern for two years. Ms. Wilson stated that she speaks with doctors and nurses daily and does not have problems communicating with them. Ms. Wilson stated that she has hired a private tutor and has worked with him for the last 4 months in hopes of improving her pronunciation of certain words.

Mr. McAllister asked Mr. Kaniski if he has observed Ms. Wilson's interactions with patients and doctors. Mr. Kaniski stated that Ms. Wilson has had no problems communicating with the patients.

Mr. Van Hassel asked Ms. Wilson to counsel him on the use of benzodiazepines. Ms. Wilson counseled Mr. Van Hassel on the use and side effects of benzodiazepines.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously approved the request by Ms. Wilson to waive the requirement to pass the TSE exam with a score of 50 in order to allow Ms. Wilson to proceed with licensure.

#4 Rodney McKinney

Rodney McKinney appeared on his own behalf to request to proceed with technician licensure.

President McCoy asked Mr. McKinney to describe the nature of his request. Mr. McKinney stated that he would like to proceed with technician licensure.

Mr. Wand stated that Mr. McKinney did have felony convictions and did acknowledge that fact on his application. Mr. Wand stated that the Board may accept or deny an applicant based on a felony conviction. Mr. Wand stated that one of the convictions was drug related and the felonies occurred in 1998. Mr. Wand stated that Mr. McKinney was at the last meeting and misunderstood when the licenses were approved, he thought his license was approved and left.

President McCoy asked Mr. McKinney to address the felony convictions. Mr. McKinney stated that he is a recovering alcoholic. He stated that the felonies occurred one evening when he was at a bar. Mr. McKinney stated that he was kicked out of the bar and hit a policeman outside the bar.

Mr. McKinney stated that he supposedly bought drugs while in the bar. Mr. McKinney stated that he does not remember hitting the policeman or buying the drugs that evening. Mr. McKinney stated that he has been in recovery for seven years.

Ms. McCoy asked Mr. McKinney if he is in any formal recovery program. Mr. McKinney replied that he attends AA meetings two to three times a week.

Mr. Dutcher asked Mr. McKinney if there has been any problem with narcotics since that time.

Mr. McKinney replied no. Mr. Dutcher asked Mr. McKinney why he wanted to be a pharmacy technician. Mr. McKinney replied that he had worked with sheet metal for the last 25 years and when he was laid off in 2001, he had the opportunity to attend school for retraining. Mr. McKinney stated that he completed the pharmacy technician training program. Mr. McKinney stated that he worked in a hospital during his internship.

Mr. Wand asked Mr. Pulver about the fact that the charges were dismissed, but the right to carry a firearm was denied. Mr. Wand asked if this has any bearing on the Board's decision. Mr. Pulver stated that Mr. McKinney pled guilty to a Class 6 designated felony for the assault and pled guilty to a Class 6 undesignated felony for the drug paraphernalia. Mr. Pulver stated after probation is completed the Class 6 undesignated felony can be changed to a misdeameanor. Mr.

Pulver stated that the Class 6 felony for assault will remain as a felony.

Dr. Sypherd asked Mr. Pulver about the drug paraphernalia. Mr. Pulver stated that in the original charges that it showed the possession of narcotic drugs and during plea- bargaining the charges list the possession of drug paraphernalia because the drug involved required the paraphernalia to use the drug. The possession of drug paraphernalia is a Class 6 undesignated felony and can be reduced to a misdemeanor.

Mr. Wand asked Mr. McKinney if he was working in a pharmacy. Mr. McKinney stated that he is not currently working. Mr. McKinney stated that when he applied for the license he was working for a temporary agency and became ill and the agency terminated his employment.

Mr. McAllister reminded Mr. McKinney that the Board takes drug and alcohol issues very seriously.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously approved the request by Mr. McKinney to proceed with technician licensure.

President McCoy reminded Mr. McKinney to continue with his recovery program and rely on the support of his program.

#4 Robert Durgin

Robert Durgin appeared on his own behalf to request to proceed with technician licensure.

President McCoy opened the discussion by asking Mr. Durgin to explain the nature of his request.

Mr. Durgin stated that he is applying for a technician license. Mr. Durgin stated that he was charged with 2 DUIs several years ago. Mr. Durgin stated that he has been to counseling and his life has changed. Mr. Durgin stated that he has since married and has two children. Mr. Durgin stated that he no longer drinks anymore. Mr. Durgin stated that he has completed 40 hours of counseling and his probation officer has asked for his probation to end early.

Ms. McCoy asked why he wants to be a pharmacy technician. Mr. Durgin stated that he wanted to be a firefighter and the felony conviction prevents him from being a firefighter. Mr. Durgin stated that his father-in-law showed him an article about the need for pharmacy technicians and is willing to help pay for him to go to school.

Mr. Van Hassel asked about Mr. Durgin's current employment. Mr. Durgin stated that he wants a job with steady hours. Mr. Durgin stated that he does contracting work and works at a clothing store part-time in the shipping and receiving department.

Mr. Wand stated that the individual is applying for a technician trainee license.

Mr. Pulver asked Mr. Durgin if he had any paperwork concerning his early release from probation. Mr. Durgin stated that he has completed the requirements and his probation officer

is recommending that he be released from probation after 3 years instead of the 5 years ordered by the court. Mr. Pulver asked Mr. Durgin if he is still on probation and waiting to be released. Mr. Durgin stated that his probation officer submitted the paperwork on August 7th of this year. Mr. Pulver asked if he has a copy of the probation officer's recommendation to the judge. Mr. Durgin stated that he does not have a copy of his paperwork.

President McCoy asked Mr. Pulver to clarify for the Board if Mr. Durgin is still on probation. Mr. Pulver stated that he is still on probation and it would be up to the Board to decide if the Board will grant him a license while he is on probation. Mr. Pulver stated that he would like to have a copy of the probation officer's recommendation for the Board to review prior to making a decision. Mr. Durgin stated that he could go to the Probation Office and get a copy of the paperwork in the morning. Mr. Dutcher asked Mr. Durgin if he could call his probation officer and have the officer fax the information to the office and the Board could consider it a little later in the meeting.

On motion by Mr. Dutcher and Dr. Tippett, the Board unanimously agreed to table Mr. Durgin's request until the necessary paperwork is received from his probation officer.

Mr. Durgin contacted the probation officer and the probation officer faxed the paperwork requested.

President McCoy read Mr. Durgin's letter from his probation officer. The letter states that the probation officer has submitted that his client, Mr. Durgin, be released early from probation because he has been compliant with his terms of probation. The probation officer states that the judge will make the ultimate decision.

Mr. Dutcher asked Mr. Pulver if this is the information that the Board needs to make their decision. Mr. Pulver stated that it was the information requested and as stated it will be up to the judge to make the decision if probation is terminated. Mr. Pulver stated that it is up to the Board to decide if they want to grant the applicant a license while he is on probation or wait for the judge's decision. Mr. Wand asked if the Board could make a motion for the license to be granted later. Mr. Pulver stated that the Board could make a motion pending termination of his probation that they would grant his request to become a pharmacy technician.

President McCoy asked Mr. Pulver what the time frame would be to grant the termination of probation. Mr. Pulver stated that it could be up to one or two months. Ms. Mc Coy stated that the Board could make a recommendation dependent upon the

judge's decision. Mr. Pulver stated that there is a limitation on the processing of an application. Mr. Pulver stated that the application is incomplete at this time and the applicant would be providing additional information.

On motion by Dr. Smidt and Dr. Tippett, the Board unanimously agreed to approve Mr. Durgin's request to proceed with pharmacy technician licensure pending termination of his probation by the judge.

Mr. Durgin was told to fax or bring the paperwork to the office when he receives that information from the court, so that his license could be processed.

#6 Sherry Bauser

Sherry Bauser appeared on her own behalf to request permission to proceed with technician licensure.

President McCoy asked Ms. Bauser to describe the nature of her request. Ms. Bauser stated that she would like to continue with technician licensure. Ms. Bauser stated that she did pass the certification test. Ms. Bauser stated that she had a felony conviction.

Mr. Wand stated that the applicant has been convicted of a felony conviction and the Board can accept or deny her application to become a pharmacy technician. Mr. Wand stated that her probation has been terminated.

Ms. Bauser stated that she has letters of recommendation from her past and present employers and passed the letters forward for the Board to review.

Ms. McCoy asked Ms. Bauser if she is currently working. Ms. Bauser stated that her current employment depends on her being approved for a technician license.

Ms. McCoy asked Mr. Pulver if the legal documents were in order. Mr. Pulver stated that her probation was terminated in 2000. Ms. Bauser stated that there is also a letter stating the she completed a program at Cottonwood de Tucson. Mr. Van Hassel asked Ms. Bauser about the Cottonwood de Tucson program. Ms. Bauser stated that when she woke up in jail her life had to change and that she attended the Cottonwood de Tucson program. Ms. Bauser stated that she attended group therapy sessions. She stated that she attended the program four hours a night for three nights a week. Ms. Bauser stated that the program gave her alternatives to handling situations.

Ms. McCoy asked Ms. Bauser if she is still part of a treatment group. Ms. Bauser stated that she is not in any treatment program. Ms. Bauser stated that she no longer drinks.

On motion by Mr. Dutcher and Dr. Tippett, the Board unanimously approved the request by Ms. Bauser to proceed with technician licensure.

The Board took a brief recess. President McCoy called the meeting to order.

#7 Christina Strickbine

Christina Strickbine appeared on her own behalf to request permission to proceed with technician licensure.

President McCoy asked Ms. Strickbine to describe the nature of her request. Ms. Strickbine stated that she would like to become licensed as a pharmacy technician trainee. Ms. Strickbine stated that she eventually wants to become a pharmacist. Ms. Strickbine stated that she committed a felony in November of 2000. Ms. Stickbine stated that she was charged with a felony in March of 2001 for the theft of drugs from a pharmacy where she was working. Ms. Strickbine stated that she completed her probation and her probation was terminated in March.

Ms. Strickbine stated that she completed her community service and drug counseling as required by her court order. Ms. Strickbine stated that she now has two children, a fiancee, and works for Child Protective Services.

Ms. McCoy asked Ms. Strickbine if she is in a recovery program at this time. Ms. Strickbine stated that she was not using the drugs. Ms. Strickbine stated that she stole the drugs for another individual. Ms. Strickbine stated that she currently has an opportunity to work in a pharmacy.

Mr. Van Hassel asked about the theft of the medication. Mr. Van Hassel asked if the individual that she was stealing the drugs for was a significant other or was she selling the drugs to this other individual for money. Ms. Strickbine stated that the

individual was a short-time acquaintance. Ms. Strickbine stated that she met this individual through someone else.

Ms. McCoy asked Ms. Strickbine how long she had worked at the pharmacy from which she stole the drugs. Ms. Strickbine stated that she had worked at the pharmacy one month.

Mr. Dutcher asked Ms. Strickbine what guarantees does the Board have that the same thing will not happen when she is placed back in the same environment. Ms. Strickbine stated that she has been working in a pharmacy since she was 16-years-old. Ms. Strickbine stated that she wants to be a pharmacist and she does not want to ruin her chances of a career. Ms. Strickbine stated that she has two children and she does not want to risk the chance of having her children taken away from her.

Mr. Dutcher asked Ms. Strickbine what she has learned at Child Protective Services that will help her in pharmacy. Ms. Strickbine stated that she is a secretary and that she was given a second chance at the agency. Ms. Strickbine stated that most places felt that if you made a mistake that you would be like that for the rest of your life. Ms. Strickbine stated that she has bettered herself and continues to do so.

Mr. Van Hassel stated that in the pre-sentence report that the loss prevention person at the store stated that Ms. Strickbine had stole from other pharmacy employers. Ms. Strickbine stated in her response that she denied that she stole from other pharmacies. Ms. Strickbine stated that she just saw that statement recently and is contacting the lawyer that represented her to see if something can be done to remove that incorrect statement.

Mr. McAllister stated that the report indicates that Ms. Strickbine used marijuana and cocaine for one year. Ms. Strickbine stated that was not the purpose of what she did.

Ms. McCoy asked Ms. Strickbine if she participated in a treatment program. Ms. Strickbine stated that she completed the program in 2001.

Mr. Dutcher asked Ms. Strickbine if she is still on probation. Ms. Strickbine stated that she was released in March of this year. Mr. Dutcher asked if one of the terms of her probation was that she not work in a pharmacy. Ms. Strickbine replied yes.

Mr. Pulver asked if Ms. Strickbine participated in the work furlough program. Ms. Strickbine stated that she did not participate in the work furlough program. Ms. Strickbine stated that she began working for the State of Arizona Child Protective Services last year in March. Ms. Strickbine stated prior to that time she worked as an Office Manager for the Republican Party.

Mr. Pulver asked Ms. Strickbine if she was on probation when she was hired by the state. Ms. Strickbine stated that every employer knew about her probation when she applied.

On motion by Dr. Tippett and Dr. Smidt, the Board approved the request by Ms. Strickbine to proceed with technician licensure. There were two votes of opposition by Mr. Van Hassel and Mr. McAllister.

AGENDA ITEM 6 - ACPC -Patient Counseling Brochure

Janet Elliott, the Director of Pharmacy Affairs, appeared on behalf of the Arizona Community Pharmacy Committee. Ms. Elliott presented the final mock-up of the Patient Counseling Brochure developed by the Arizona Community Pharmacy Commitee.

Ms. Elliott stated that they have changed the original pictures on the brochure and both pictures on the front and inside of the brochure are of pharmacists counseling patients.

Ms. Elliott stated that a percentage of the brochures would be printed in Spanish.

Ms. Elliott stated that the brochures would be available at all pharmacies. The initial plan is to provide each pharmacy with 1,000 brochures and to develop a method for pharmacies to reorder the brochures. Ms. Elliott stated that they are currently trying to obtain additional funding. Ms. Elliott stated that when additional funding is obtained the back cover would be revised to indicate individuals that have provided funding.

President McCoy thanked Ms. Elliott for appearing and presenting the brochure.

President McCoy stated that there is a state patient coalition that is working on a universal medication form. The purpose of the form is to have patients list all their medications, so that they can show healthcare providers the form when they are providing services to the patient. Ms.

McCoy stated that the launch is set for September 1, 2005. Ms. Elliott stated that the Arizona Community Pharmacy Committee plans on being at the launch.

AGENDA ITEM #7 - Express Scripts - Remote Home Verification Update

The following individuals were present from Express Scripts to discuss the home verification pilot program: Tracy Jo Robinson, Kelly Elliott, Gary Sobocinski, and Steven Haiber.

Compliance Officer Sandy Sutcliffe provided a brief overview of her visits to the home sites. Ms. Sutcliffe stated Mr. Rob Dobrowski, IT Specialist, from the Arizona State Board of Pharmacy accompanied in her last home visit. Ms. Sutcliffe stated on the visit with Mr. Dobrowski several concerns were raised. Ms. Sutcliffe stated that there is a concern that there is storage capacity on the local C drive. Ms. Sutcliffe stated that there was an issue concerning the disabling of unused USP ports. Ms. Sutcliffe stated that they did not have a means to test the USP ports on the day of their visit. Ms. Sutcliffe stated that there were no possibilities of HIPAA violations. Ms. Sutcliffe stated that the questions were raised as concerns and perhaps the individuals from Express Scripts could address these issues with the Board Members.

Dr. Smidt asked the individuals about the need for a wireless network router and what stops a neighbor from tapping into that wireless router. Mr. Sobocinski replied that it takes three levels of security to access their system. Mr. Sobocinski stated that one system is the iPass, which requires a token called a secure ID. Mr. Sobocinski stated that token has a six- digit number that changes every minute. Mr. Sobocinski stated that each individual has a prefix password. Mr. Sobocinski stated that first the individual has to reach the Internet and then the individual has to successfully negotiate the iPass that can only happen from Express Scripts registered equipment.

Mr. Sobocinski stated that iPass knows the location of the computer attempting to access the system and confirms the login name and password affiliation. Mr. Sobocinski stated that after the individual enters that port and gets past the firewall, the system will then ask for a password to enter the Express Scripts network. Mr. Sobocinski stated after entering the system then a login and password is necessary to enter the application for remote verification.

Dr. Smidt asked if the wireless router is essential to the process. Mr. Sobocinski stated that he does not believe the wireless router is essential. Mr. Sobocinski stated that the company is looking if DSL or another method would be an alternative to the wireless router.

Mr. Dutcher asked if the extra USP ports have been disabled and would it possible to only have one USP port. Mr. Sobocinski stated that he is not an equipment person and he understood that the USP ports would be disabled and the local C drive would only contain the software to do the iPass dial-up connection.

Mr. Dutcher asked if information could be stored or printed. Mr. Sobocinski stated that data is not sent to the individual. Mr. Sobocinski stated that once connectivity is established that the individual is working on Express Scripts system. Mr. Wand stated that there is a potential that information could be stored and the Board is not sure if information can be stored. Mr. Sobocinski stated that the equipment is owned by Express Scripts.

Dr. Tippett asked how it is authenticated what computer is dialing into the system. Mr. Sobocinski stated that iPass software is written specifically for Express Scripts and the IP address of the system is registered to that software.

Mr. Wand stated that the concern was that a memory stick could be attached to one of the USP ports if the ports are not disabled. Mr. Sobocinski stated that he would take those concerns back to the IT department. Mr. Sobocinski stated that they may be disconnected but not removed and he is not sure.

Dr. Berry stated that it was noted that there was not a written policy concerning the deletion of orders at the end of the day and she asked if that policy has been written. Ms. Robinson stated that the policy has been written.

Mr. Sobocinski stated that the one proactive message that the company would like to leave with the Board is that the five pharmacists that are in the program have a combined accuracy rate of 99.9.

Ms. McCoy asked if the home is considered a pharmacy site location. Mr. Wand stated that he does not believe that it is a pharmacy site and the New Mexico Board has tabled their request. Mr. Wand stated that there is a potential that someone could refuse entrance into his home.

Mr. Wand stated that there are no drugs at the home site. Mr. Pulver stated that the pharmacists

could sign a form stating that they would allow admittance to their homes. Mr. Pulver stated that he would research the issues. Mr. Sobocinski stated that the pharmacists have signed a document stating that they will allow entry to their homes by the company and the Board.

Dr. Sypherd asked Mr. Sobocinski if he could briefly describe the process. Mr. Sobocinski stated that the patient's prescriptions are imaged and sent to data entry pharmacy technicians to be entered into the system. The pharmacists at the home site will dial into a tandem computer at Express Scripts and will verify that the technician has entered the prescription correctly.

Mr. Wand stated that Express Scripts would need to respond to the Board's concerns. Mr. Wand stated that the Board could request that the company respond within a specified time period.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously approved the continuation of the remote home verification program with Express Scripts responding by letter within 30 days to the Board's concerns of electronic storage of data and the disabling of the USB Ports. The company should appear at the next Board meeting to provide an update on the home verification pilot.

AGENDA ITEM 8 - Proposed Rules

Shared Service Rules

Compliance Officer/Rules writer Dean Wright opened the discussion by stating the Board does not have any rules that define the practice of providing prescription order filling or processing by one pharmacy for another pharmacy. Mr. Wright stated that the staff is proposing rules to define the practice of providing prescription order filling and/or processing by one pharmacy for another pharmacy. Mr. Wright stated that definitions would be added and the proposed rules would include a new section entitled shared services that details the requirements for participating in shared services.

Mr. McAllister asked if this rule would cover shared services between hospitals and PBMs. Mr. Wright stated that it would cover those services.

Mr. Dutcher stated that the way he reads the proposed rules that shared order filling could only occur between two pharmacies located in Arizona, but shared order processing could occur between resident and non-resident pharmacies. Mr. Dutcher questioned if shared order filling could be performed by a non-resident pharmacy. Mr. Wright asked if the Board Members wanted to allow non-resident pharmacies to perform shared order filling services.

Mr. Wright asked if the Board wants to require the pharmacists that are filling orders out of state to be licensed in Arizona. Mr. Wand stated that the proposed rules were placed on the website and he has received calls from non-resident pharmacies not wanting to license all their pharmacists if they do shared filling. Mr. Wand stated that they will support the Pharmacist In Charge having an Arizona license. Mr Wright stated that an Arizona licensed Pharmacist must perform the order processing function

Mr. Dutcher stated that the rules should be consistent because shared order processing allows the processing to occur between resident and non-resident pharmacies and shared order filling is allowed to occur only between Arizona pharmacies. Mr. Dutcher stated that there is a potential for the shared filling services to be performed out of state. Mr. Wand asked if the Board wants to make that change would the Board also request that the Pharmacist In Charge be licensed in Arizona. Mr. Wand stated that disciplinary actions that can be taken against the permit holder are different than the disciplinary actions that can be taken against a licensee.

Mr. Wright stated that the rules could be changed under the non-resident pharmacy section requiring all non-resident resident pharmacies to have their Pharmacist In Charge licensed in Arizona. Mr. Wright stated that central fill pharmacies should not be singled out and required to have their Pharmacist In Charge licensed in Arizona. Mr. Wand asked if this would require a statute change. Mr. Wright stated that it could be changed in the rules in section R4-23-607.

The Board members recommended that the Pharmacist In Charge of a non- resident pharmacy must be licensed in Arizona.

The Board members authorized Mr. Wright to proceed with the rulemaking process.

Computer Records and Resident Drug Wholesaler Permit Rules

Mr. Wright stated that he is presenting to the Board the Notice of Final Rulemaking and Economic Impact statement for the Computer Records and Resident Drug Wholesaler rules. Mr. Wright stated that a public hearing was held on July 11, 2005.

Janet Elliot representing the Arizona Community Pharmacy Committee attended the hearing and provided written and verbal comments requesting that the term repackager be added as specified in the Notices. The term repackager is included in the final rules.

Mr. Wright received written comment from the National Association of Chain Drug Stores expressing concern that the proposed rules changes would have the unintended effect of preventing chain pharmacy distribution centers from engaging in the legitimate repackaging and relabeling of prescription drugs received in bulk amounts into smaller quantities for the distribution to their own pharmacies for use in dispensing prescription drugs. Mr. Wright stated that he responded to the letter by stating that the Board is not aware of any Arizona chain pharmacy distribution centers who are repackaging drugs and that the Board has made no statement that would allow a chain pharmacy distribution center to repackage drugs for distribution to their pharmacies without a manufacturer or repackager permit.

On motion by Mr. Dutcher and Dr. Berry, the Board unanimously agreed to approve the Notice of Final Rulemaking and Economic Impact Statement for the Computer Records and Drug Wholesaler Permit Rules.

Mr. Wright stated that the rule change should appear on the October hearing agenda at GRRC.

Counseling and Computer Records (Rx Imaging) Rules

Mr. Wright stated that he opened a docket for amending the counseling rule that became effective on 8/6/2005. Mr. Wand stated that the proposed language would reflect the intentions of the Counseling Task force. The Board intended that the pharmacist be allowed to delegate the actual documentation function of the counseling to a pharmacy technician or pharmacy technician trainee after the pharmacist has either accepted the acceptance or denial of counseling.

Mr. Wright stated that the other change would clarify the documentation requirements. Mr. Wand stated that if the patient refuses counseling the pharmacist would document or assume responsibility to document that counseling was not performed without any reason. If the pharmacist decides not to counsel the patient, then the pharmacist must document or assume to document that counseling did not occur and the reason why counseling did not occur.

Mr. Wright stated that subsection I is a new section and states that the pharmacist, graduate intern, or pharmacy intern under the supervision of a pharmacist shall personally give the prescription to the patient or the patient's caregiver whether or not oral consultation is provided.

Dr. Smidt asked if a technician could mark that the patient refused counseling and give the prescription to the patient. Mr. Wright replied that is why subsection I was created because that would require the pharmacist to give the new prescription to the patient.

Mr. Wand stated that there would be a Public Hearing on this proposed change.

Mr. Van Hassel asked if it would be a violation of the rule if the pharmacist did not give the new prescription to the patient. Mr. Wright replied yes. Mr. Wright stated that the patient does not need to be counseled if the patient has previously taken the medication. Mr. McAllister stated that it is very important to make that element clear to everyone that it only requires the pharmacist to give out new prescriptions.

Ms. McCoy asked Mr. Wright about the time frame for a hearing. Mr. Wright stated that it would probably not occur before 6 to 8 weeks.

Mr. Dutcher asked about the computer imaging. Mr. Dutcher asked if the retention of records is seven years from the date of the last dispensing. Mr. Wright stated that the records are kept for seven years from the last dispensing.

Dr. Smidt asked about the policies and procedures for use of an electronic imaging record keeping system. Mr. Wright stated that this subsection A specifies the requirements for writing and reviewing the policies and procedures. Mr. Wright stated that under the computer requirements the pharmacy must be able to retrieve pharmacy records during down time.

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

Permit General Provisions and C.S. Records and Order Forms Rules

Mr. Wright stated that during the five-year review, the staff filed a Notice of Rulemaking to amend R4-23-601 and R4-23-1003. Both sections will have the language for records retention changed from three years to seven years to bring the rules

into consistency with existing statute and Board Rules.

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

Automated Systems and Mechanical Counting Device Rules

Mr. Wright stated that numerous changes have been made to the initial rule.

Ms. McCoy asked if this rule would address kiosks. Mr. Wright stated that R4-23-614 (B) (2) would address this issue. Mr. Wright stated that the rule states a pharmacy permitee or pharmacist-in-charge shall establish policies and procedures for appropriate performance and use of the automated storage and distribution system that: Ensure that an automated storage and distribution system used within a pharmacy for access to drugs or devices by patients only contains refilled prescriptions that are properly labeled and verified by a pharmacist before release to patients. Mr. Wright stated that means the kiosk must be within the pharmacy.

Mr. Dutcher asked if an individual could use both a paper and an electronic log. Mr. Wright stated that the pharmacy could use either format.

Mr. Dutcher asked if the NDC number could be used instead of the manufacturer's name.

Mr. Wright stated that he could change the rule to read drug manufacturer or NDC number.

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

President McCoy recessed the meeting for lunch. President McCoy reconvened the meeting at 1:00 P.M.

AGENDA ITEM 9 - Complaint Review

The Consumer Complaint Review committee met prior to the Board Meeting to review 39 complaints. Mr. Dutcher and Dr. Tippett served as the review committee. Board Members were encouraged to discuss issues and were encouraged to ask questions. Board Members discussed Complaints #2948, #2952, #2959 , #2975, and #297.

Complaint #2948

Mr. Dutcher stated that there are numerous complaints involving one mail order facility and a conference was recommended to see if the Board could help them resolve their customer service issues.

Mr. Van Hassel stated that he would like to see copies of their policies and procedures showing how the staff should deal with these situations. Mr. Van Hassel stated that in the short time he has been with the Board this particular facility has had 4 or 5 complaints each meeting. Mr. Van Hassel stated that the he is not sure if the personnel are being educated concerning the policies and procedures.

Mr. McAllister stated that when he read through the packet he noted such things, as technicians deleting orders and the patients are never notified that their order is not being sent. Mr. McAllister stated that he does not see this practice at the other mail orders in town.

Mr. Dutcher stated that the Board is spending time and money constantly investigating complaints at this particular facility.

Mr. Van Hassel stated that maybe it is time to fine this facility to get their attention.

Ms. McCoy stated that this particular facility has been fined and had appeared in front of the Board stating that they had put together a quality work plan to prevent these occurrences. Ms. McCoy stated that maybe it is time to go beyond a stay because she is not sure that the message was conveyed to the pharmacy.

Mr. Dutcher stated that is why a conference is recommended and it is recommended that they bring their policies and procedures with them to the conference. Mr. Dutcher stated that the Board wants them to know how upset the Board is about using the Board's manpower to investigate all these complaints.

Ms. McCoy stated that the Board has been talking to this facility and nothing has changed. Ms. McCoy stated that maybe it is

time to fine the facility.

Mr. McAllister stated that the last time the Board did discuss a fine and probation the outcome was a stipulated stay. Mr. McAllister stated that he is really bothered by the fact that the patient does not know if they are going to receive their medication.

Mr. Dutcher asked Mr. Pulver if there are limits on fines. Mr. Pulver stated that the Board may fine $1,000 per violation. Mr. Pulver stated that the statute does not specify what constitutes a violation. A violation could be an order, or could be each tablet. Mr. Pulver stated that the Board has the option of asking the facility to appear for a conference and gather information and if they are not happy with the information that they receive, the Board could move to an administrative hearing.

Mr. Pulver stated that an investigator could gather the information, but it would probably be more of an impact for the facility to appear in front of the Board. Mr. Pulver stated that the Board has more options for discipline with the new statutes.

Mr. Wand reminded the Board that they could only discipline a permit holder for a violation of statute or rule. Mr. Wand stated that with the new statutes the Board's intent was to move from a conference to further action if needed. Mr. Wand stated that the Board could identify items that are violations and make a consent offer at that time.

Mr. Van Hassel stated that perhaps the Board needs to review the policies and procedures to ensure that the policies are adequate.

Mr. Wand stated that the Board could issue a Consent Order at this time and that would be done by the staff. Mr. Wand stated that he felt that the Board Members wanted to talk to the individuals and negotiate the Consent with the company. Mr. Wand stated that a Consent Order could be done and approved at the November meeting or the company could appear for a conference at the November meeting and the Board could negotiate a consent order at that time.

Mr. Dutcher stated that they are concerned that complaints are coming before the Board every meeting and nothing seems to change. Dr. Tippett stated that he feels that it is important to decide what the Board wants to talk to them about so that they can come prepared to discuss those topics. Mr. Van Hassel asked if we could send them a copy of the complaints for the last 12 months and ask what policy changes have been made. Dr. Tippett stated that they respond to the complaint when the Compliance Officer presents them with the complaint and he really does not want to hear the same answer again. Mr. Dutcher stated that perhaps the company should bring to the Board a copy of their policies and procedures and explain how the policies are set up or why they are not being followed. Ms. McCoy asked if the Board could include the policies that they would like discussed in the letter being sent to the facility to appear at a conference. Mr. Pulver stated that the conference would be a chance for the company to discuss with the Board their concerns.

Mr. Wand stated that Mr. Dutcher and Dr. Tippett could be sent the complaints and indicate what issues they would like to discuss with the company. Mr. Wand stated that the Board Staff could summarize the complaints and Mr. Dutcher and Dr. Tippett could check off which issues are the most critical. Dr. Tippett asked how far back the Board would review the complaints. Mr. Wand suggested from the end of the stay, which was last November.

Complaint # 2952

The Board Members had questions if the pharmacist would be truthful during the conference with them, since he had not responded to requests from the VA administration. Mr. Pulver stated that the individual could be placed under oath at the conference and the statutes require that he must provide truthful evidence to the Board.

Complaint # 2959 and Complaint #2975

Mr. McAllister stated that on Complaint 2959 and 2975 he would recommend a Consent Order because the pharmacists did not talk to the patients. Mr. McAllister stated that if either of these pharmacists had talked to the patient these errors would not have occurred. Dr. Tippett stated that the review committee recommended a conference because there were unanswered questions concerning the situations.

Ms. McCoy asked if the individual could be brought in for a conference and then the Board could move to a consent order. Mr. Pulver stated that the Board could invite the licensee to enter a consent and the licensee could say no and then the Board could dismiss, issue an advisory letter, or move to a formal hearing.

Mr. McAllister made a motion that the pharmacists involved in Complaint #2959 and Complaint #2975 should be issued a Consent Order. The motion was not seconded. The Committee's recommendation is upheld and both pharmacists involved in the complaints will be requested to appear for a conference.

Complaint # 2976

The Board received a complaint about a pharmacist and the complainant was concerned that the pharmacist's skills were not adequate to practice safely in the hospital setting. The hospital that had employed the pharmacist submitted numerous error reports to the Board that involved the performance of this pharmacist.

Dr. Tippett stated that the errors that were submitted occurred in 2003, while the pharmacist was employed at this hospital. Dr. Tippett stated that the pharmacist has signed a previous consent order. Mr. Wand stated that the individual signed a consent order in 2004, which involved an error the individual made at another hospital. Mr. Wand stated that the pharmacist was placed on probation, had to pay a fine, and complete additional CE.

Mr. McAllister stated that in the years that he has been on the Board that the Board never receives complaints involving hospital pharmacists because hospitals have internal risk management programs and the patient does not complain because they are not aware that a pharmacist made an error. Mr. McAllister stated that there is a history with this individual and there is a risk to the public health and the Board needs to act.

Dr. Tippett asked if this individual had previous complaints. Mr. Wand stated that the individual has had two complaints filed with the Board and the last complaint resulted in the consent order being issued.

Dr. Tippet asked Mr. Pulver what action could be taken because these errors are not current. Mr. Pulver stated that if the Board does not have a current violation then there is not a complaint to open. Mr. Pulver stated that the individual has signed a consent agreement in hopes of changing past bad acts. Mr. Pulver stated if the errors occurred during probation then the Board could take action. Mr. Pulver stated that the Board could call the pharmacist in for a conference or ask the individual to take a physical or psychological evaluation. Mr. Pulver stated that there should be a current violation.

Mr. Dutcher stated that the person who sent the letter was concerned if the pharmacist's skills were adequate. Mr. Pulver stated that if the Board is concerned about her ability to practice that the Board could ask the individual to appear before the Board.

Dr. Tippett asked about the definition of currency. Ms. McCoy asked if the person is on probation and the Board receives concerns is the Board within their rights to ask the pharmacist to appear before the Board and address the issues. Mr. Pulver stated that the Board could address issues with this individual.

Mr. McAllister stated that he feels the issues are pertinent and he feels that we should talk to the individual.

Ms. McCoy asked if the individual can be called in to speak with the Board. Ms. Frush stated that the individual should request to appear at the November meeting for the termination of probation.

Mr. Pulver stated that there is not an automatic termination and the individual appears before the Board and the Board has the opportunity to ask them questions. Mr. Pulver stated that the Board could talk to the individual at the meeting and if there are concerns then the Board could open a new complaint.

Mr. Dutcher asked if a copy of this complaint could be placed with the request to appear at the November meeting. Mr. Pulver stated that if the Board wants to discuss something with a licensee then the licensee should be notified of the complaint.

On motion by Mr. Van Hassel and Mr. Dutcher, the Board unanimously approved the recommendations of the Complaint Review Committee.

The following summary represents the final decisions of the Board in each complaint.

Complaint # 2946 - Conference

Complaint # 2947 - No Further Action

Complaint # 2948 - Conference

Complaint # 2952 - Conference

Complaint # 2956 - No Further Action

Complaint # 2957 - No Further Action

Complaint # 2958 - Conference

Complaint # 2959 - Conference - Pharmacist and Technician

Complaint # 2960 - Conference

Complaint # 2961 - Letter

Complaint # 2962 - No Further Action

Complaint # 2963 - Withdrawn

Complaint # 2964 - Consent

Complaint # 2965 - Consent

Complaint # 2966 - No Further Action

Complaint # 2967 - Conference

Complaint # 2968 - No Further Action

Complaint # 2969 - Conference

Complaint # 2970 - Letter

Complaint # 2971 - No Further Action

Complaint # 2972 - Conference

Complaint # 2973 - No Further Action

Complaint # 2974 - Letter - Pharmacist and Technician

Complaint # 2975 - Conference

Complaint # 2976 - Conference (Dependent on Pharmacist's Request to Appear)

Complaint # 2977 - No Further Action

Complaint # 2978 - No Further Action

Complaint # 2979 - Consent

Complaint # 2981 - No Further Action

Complaint # 2984 - No Further Action

Complaint # 2985 - No Further Action

Complaint # 2986 - No Further Action

Complaint # 2987 - Letter

Complaint # 2988 - No Further Action

Complaint # 2990 - No Further Action

Complaint # 2992 - No Further Action

Complaint # 2995 - Conference

Complaint # 2998 - Conference

Complaint # 2999 - No Further Action

AGENDA ITEM 10 - Conferences

Complaint # 2886

Pharmacist Don Fox and Pharmacy Supervisor June Piposar were present in response to a consumer complaint. Compliance Officer Sandy Sutcliffe gave a brief overview of the complaint.

Ms. Sutcliffe stated that the complainant states that her son's prescription that was written for Omnicef was filled with Ceftin. Ms. Sutcliffe stated that the complainant states that her daughter's prescription for DDAVP was labeled incorrectly. The DDAVP was to be used in one nostril and the prescription was transcribed by the pharmacist to use in nostrils.

President McCoy asked Mr. Fox to explain what happened in this situation. Mr. Fox stated that the technician entered the prescription and pulled the medication. Mr. Fox stated that he did not catch the mistake when he verified the prescription. Mr. Fox stated that the father was in a hurry and refused counseling which was documented.

Mr. Dutcher reminded Mr. Fox to work at a safe rate and not to allow the customer to rush him when filling prescriptions because that is when errors occur.

Ms. McCoy asked Mr. Fox about the DDAVP prescription and the transcribing of the prescription. Mr. Fox stated that the prescription was phoned to the pharmacy and left on a voice recorder. Mr. Fox stated that he listens to each voice message carefully and writes each prescription as it is phoned in by the individual leaving the message. Mr. Fox stated that the individual had phoned in the prescription to be used in "nostrils". Ms. McCoy stated that JCAHO recommends that the pharmacist receiving an oral prescription should take the prescription and then read the prescription back to the individual calling in the prescription. Ms. McCoy questioned if it was safe to leave new prescriptions on a voice recorder when the pharmacist cannot read the prescription back to the individual calling in the prescription. Mr. Dutcher reminded Mr. Fox that he could call the doctor at any time to verify or clarify any prescription that is left on a voice recorder.

Ms. Piposar stated that the store is stapling the new prescription to the prescription bag and when the patient is counseled the hard copy is used to check that the prescription has been entered and filled correctly.

Complaint # 2909

Pharmacist Tena Parker and Pharmacy Supervisor Mike Umbleby were present to address a consumer complaint. Compliance Officer Dean Wright gave a brief overview of the complaint.

Mr. Wright stated that the complainant alleges that the pharmacist was rude, ignored him by waiting on other patients before him, and did not counsel him.

President McCoy asked Ms. Parker to address the situation. Ms. Parker stated that this was the first time that she had worked at this particular store. Ms. Parker stated that she was busy verifying prescriptions and was asked to speak to a gentleman concerning an over the counter preparation. Ms. Parker stated that while she was assisting this gentleman the man at the counter begin yelling that he needed to be waited on. Ms. Parker stated that when she went to the counter the man at the counter was yelling at her and telling her he did not need to talk to her. She stated that she was unable to counsel him and therefore gave him his medications.

Mr. Smidt said that several people at the store indicated that the patient was a very demanding patient and difficult at times and Mr. Smidt asked if the store indicates that in some fashion for other pharmacists that would not be familiar with the patient. Mr. Umbleby stated that a message could be placed in a box that pops up.

Mr. Smidt told Ms. Parker that often it is best to ask the customer that you are helping if they mind if you go and assist the

patient creating problems. Ms. Parker stated that the gentleman she was helping did make that offer, but she was almost done assisting him with his questions.

Complaint # 2914

Pharmacist Ronald Sherman and Supervisor Dean Burton were present to answer questions from Board Members concerning a consumer complaint. Compliance Officer Sandy Sutcliffe gave an overview.

Ms. Sutcliffe stated that the patient's prescription for Dilantin 30mg was refilled with Dilantin 100mg. The patient took the incorrect dose for 18 days.

President McCoy asked Mr. Sherman to address the consumer complaint. Mr. Sherman stated that he is deeply sorry for the error and the problems it has caused the patient. Mr. Sherman stated that the prescription was a refill and he checks medications in a certain fashion. Mr. Sherman feels that his process was interrupted and he missed that the drug was incorrect.

Ms. McCoy stated that Mr. Sherman indicated that there were procedures at this store that caused him concern. Mr. Sherman stated that there are procedures that concern him, but he was responsible for catching the error.

Mr. Dutcher stated in the comments by the patient it was stated that Mr. Dean Burton stated that he would not discussing this misfill if the pharmacist had used the scanning system. Mr. Dutcher asked Mr. Sherman if he used the scanning system. Mr. Sherman replied that he is a pharmacy manager at a different store and routinely uses the scanner at his store. Mr. Sherman stated at his store all technicians use the scanning system prior to giving the completed prescription to the pharmacist to check. Mr. Sherman figures that he may have been interrupted and thought the prescription was scanned.

Ms. McCoy asked if the store where the error occurred was at a different store. Mr. Sherman stated that he was filling in at this store for that day.

Mr. Van Hassel stated in Mr. Sherman's reply he stated that he is uncomfortable working at this store. Mr. Van Hassel asked if the routine has changed at this store. Mr. Sherman stated that the company does have other work routine procedures other than scanning to help prevent errors. He stated that different individuals should pull and check the medication and each time the product should be scanned thus the product will be scanned twice. Mr.Van Hassel asked if the routine has changed at this store. Mr. Sherman stated that he has not worked at that store since that time.

Mr. Van Hassel asked Mr. Burton to address the change. Mr. Burton stated that he spoke with the Pharmacy Manager at that store and he stated that the Pharmacy Manager told him that they have a technician pulling the drug and that is part of his routine. Mr. Burton stated that at certain times of the day the technicians may not be pulling and scanning the drug. Mr. Van Hassel asked if the technician does not pull the drug, who is responsible for pulling the drug. Mr. Burton replied that the pharmacist would pull the drugs. Mr. Van Hassel asked if the pharmacist scans the product. Mr. Burton replies that the pharmacist is required to check the technicians work and not vice versa. Ms. McCoy again asked Mr. Burton if the pharmacist is required to scan the product. Mr. Burton replied yes. Mr. Van Hassel asked if the problem is fixed at this store. Mr. Burton stated that when he discussed this issue with the Pharmacy Manager, the Pharmacy Manager told him that they always had this routine with the technicians. Mr. Burton stated that whether or not it needs to be fixed, Mr. Van Hassel would need to talk to the Pharmacy Manager. Mr. Burton stated that he did see where anything needed to be fixed. Mr. Burton stated that they were following company policy. Mr. Burton stated that he has never received any complaints from any other pharmacists about this store.

Ms. McCoy asked Mr. Sherman if he has made any changes in the way he practices. Mr. Sherman stated that his practices are very deliberate and methodical.

Dr. Tippett asked how the scanner helps eliminates errors. Mr. Sherman stated that the scanner is an electronic device. Mr. Sherman stated that each drug has an NDC barcode on the bottle and when the label is printed the barcode is printed on the label. Mr. Sherman stated that one of the steps is to scan the barcode on the bottle and the label and if the codes do not match then an alarm will sound.

Ms. McCoy asked if both the technician and pharmacist are required to use the scanner. Mr. Burton stated anyone in the workflow process is required to use the scanner.

Complaint # 2915

Pharmacist Ronald James, Pharmacy Technician Gloria Ronquillo, and Pharmacy Manager Sean Duffy were present to answer

questions from Board Members concerning a consumer complaint.

Compliance Officer Rich Cieslinski gave a brief overview of the complaint.

Mr. Cieslinski stated that the patient's prescription for Benadryl 20 mg was filled with diphenhydramine 25mg. The patient stated that she took one dose and became ill. The patient indicated that she was not counseled.

Ms. McCoy asked Mr. James about the error. Mr. James stated that the biggest problem was that the prescription was inputted incorrectly and he missed the error when he checked the prescription. Mr. James stated that the intern did not call him to the window to counsel the patient.

Ms. McCoy asked if the technician inputted the prescription. Ms. Ronquillo stated that she inputted the prescription.

Ms. McCoy asked Mr. James what changes have been made to prevent this error from occurring again. Mr. James stated that he had a staff meeting and reinforced with the staff that every new prescription must be counseled. Mr. James stated that if he had counseled the patient he would have caught the error. Mr. James stated that after he talks to the patient he initials the back of the prescription to indicate that he talked to the patient. Mr. James stated that he knows that he did not talk to the patient because the back of the prescription was not initialed. Mr. James stated that he counsels on every new prescription whether or not the patient has had the medication prior to this time.

Ms. McCoy asked about the inputting of the prescription. Ms. Ronquillo stated that she entered the prescription as Benadryl and it did not come up on the menu for her to select, so she went to the shelf and pulled the product off the shelf and entered it by generic name.

Mr. McAllister asked about the orientation of the intern. Mr. McAllister stated that inexperienced interns should not be at the counseling window. Mr. James stated that the intern had been at the store for four weeks and only works on Saturdays and Monday nights. Mr. James stated that he knows that the intern knows that counseling is required and the intern should have called him to the window.

Mr. McAllister asked about the training of the intern. Mr. Duffy stated that the company's recommendation is for the intern to shadow the pharmacist until they feel comfortable counseling patients. Mr. Duffy stated that the intern will usually start counseling patients on the use of antibiotics.

Ms. McCoy asked if the intern had followed company procedure then he would have called the pharmacist to the counseling window. Mr. Duffy replied yes.

Mr. McAllister stated that after an intern shadows the intern should not counsel unsupervised. Mr. Duffy stated that the interns are supervised.

Ms. McCoy asked Ms. Ronquillo what she has changed in the way she inputs prescriptions. Ms.

Ronquillo states that she now types the prescription in as written and verifies everything. Ms. Ronquillo stated that if she has any questions she asks the pharmacist.

COMPLAINT # 2916

Pharmacist Michelle Storm and Pharmacy Supervisor Darren Kennedy were present in response to a consumer complaint. Compliance Officer Dean Wright gave a brief overview of the complaint.

Mr. Wright stated that the pharmacy refilled a Zantac syrup prescription with Zyrtec Syrup. The father of the 13-month old child gave a 2.5 ml dose to the child before discovering that it was the wrong drug. This was the second time that this pharmacy had filled this prescription with Zyrtec instead of Zantac.

Ms. Storm stated that she does not remember that day and she did not catch the error when she checked the prescription.

Ms. McCoy stated that this is a problem that has been reported nationally. Ms. McCoy what effort has been made by the pharmacy to ensure this error does not reoccur. Ms. Storm stated that she made sure there was sufficient distance between the products. Ms. Storm stated that orange QA stickers were placed on the products since they have the look alike/sound alike problems. Ms. Storm stated that the company has placed the flavor of the liquid on the label as an additional check for the pharmacist. Ms. Storm stated that a check and weigh system has been introduced that will alert the pharmacist if the

technician did not scan the product.

Ms. McCoy asked Mr. Kennedy if the safety process is in all the stores. Mr. Kennedy stated that if the item is not scanned the pharmacist will see a pop-up window indicating that the product was not scanned.

Complaint #2923

Pharmacist Aaron Friedman, Pharmacy Technician Trainee Tracie Lucas, and Pharmacy Supervisor Richard Monty were present to address a consumer complaint. Compliance Officer Larry Dick gave an overview of the complaint.

Mr. Dick stated that the patient received Norditropin Cartridge 15mg/1.5ml instead of Nutropin 5 mg. vial.

Ms. McCoy asked Mr. Friedman to address the complaint. Mr. Friedman stated that the technician pulled the incorrect product and upon inspection of the label and product he did not catch the error.

Ms. McCoy asked what he has changed in his practice since that time. Mr. Friedman stated the he physically picks up the box and verifies that the NDC number is correct. Ms. Lucas stated that she double checks the NDC when she pulls the medication and compares the drug with the name of the drug on the compounding sheet.

Mr. Monty stated that a staff meeting was held to discuss dispensing errors. Mr. Monty stated that an In Service was held to discuss the various growth hormones and dosage forms available. Mr. Monty stated that all pharmacists were asked to review their dispensing practices and make any necessary changes to prevent dispensing errors.

Complaint #2925

Pharmacist Robbin Williams, Pharmacy Technician Ronda Nowell, and Pharmacy Supervisor Matt Cook were present to respond to questions from Board Members. Compliance Officer Ed Hunter gave a brief overview of the complaint.

Mr. Hunter stated that the patient's prescription for Clomiphene 50 mg was filled with Clomipramine 50mg. The patient's address was not correct and contained the information for another patient with the same first and last name. The patient ingested the incorrect medication and experienced some side effects. The patient claims she was not counseled.

President McCoy asked Ms. Williams to address the complaint. Ms. Williams stated that she is responsible to ensure that the correct medication is entered and the correct medication is given to the patient. Ms. Williams stated that she had in her head that Clomipramine was the generic for Clomid. Ms. Williams stated that she did not counsel the patient and she is not sure why the patient was not counseled. Ms. Williams stated that if she had counseled the patient that she would have caught the error.

Ms. McCoy asked if any changes have been made to the verification process. Ms. Williams stated that she has slowed down and is more meticulous. Ms. McCoy stated that they have a new software system in place that helps with the checking of the prescription.

Ms. McCoy asked Ms. Nowell if she has changed anything in her practice. Ms. Nowell states that when she uses the quick code she makes sure that the correct medication is selected and not the first item that is on the list.

Mr. Dutcher asked about the two patients with the same name. Mr. Dutcher stated that the faxed prescription has the patient's name and address on the prescription and the error should have been caught. Ms. Williams stated that during the verification process she now checks addresses and birth dates.

Mr. Dutcher stated that in the reply it states that the patient information was entered incorrectly because the prescription was illegible. Ms. Williams stated that the prescription is typed and legible.

Mr. Dutcher asked about the money offered to the patient. Mr. Cook stated that the complainant asked for compensation and 300 dollars was offered. The complainant requested additional money and the claim was turned over to the insurance provider.

Dr. Tippett asked about the software to prevent errors. Ms. Williams states that new prescriptions are imaged and the image comes to the pharmacist. Mr. Cook states that the process separates the data entry verification and the product verification.

Complaint # 2926

Pharmacy Director Steven Haiber and Corporate Legal Counsel John Vandervoort were present to respond to questions from Board Members concerning a consumer complaint. Compliance Officer Sandy Sutcliffe gave a brief overview.

Ms. Sutcliffe stated that the complainant requested that her father-in-laws medication be shipped overnight. The first time the request was made the prescriptions were too early to fill by one day and the patient was told that they could get the medications at a local pharmacy. The complainant called eight days later to check on the medications and the medications still had not been processed. Ms. Sutcliffe stated that they requested overnight delivery and were told that the medications would be sent overnight. The complaint filed the complaint six days later after they did not receive their medication.

Ms. McCoy stated asked Mr. Haiber to address the issue. Mr. Haiber stated that they investigated the complaint. Mr. Haiber stated in February of 2004 they received two prescriptions

from the patient and the prescriptions rejected as too soon. Mr. Haiber stated at that point they are removed from the order fulfillment system and placed in a tickler file. Mr. Haiber stated that the prescriptions were pulled on March 23rd and routed to the data entry department for input. Mr. Haiber stated that the data entry technician realized that she had entered the incorrect doctor and she took the prescription out of the system per policy and she routed the image to another queue. Mr. Haiber stated that the technician failed to put adequate notations on the image that she routed. Mr. Haiber stated that no further action occurred because there were no notes on the image. Mr. Haiber stated that on March 30th when the complainant called the Call Center the call center advocate put in order to have the prescriptions pulled from the file. The referral from the call center advocate was not escalated and was sent through the normal process. Five days later when the complainant called again, the prescriptions had not made it to the data entry queue where they would be visible. The Call Center representative then put in an elevated referral and after some digging the images were located and the prescriptions were sent out overnight.

Dr. Smidt asked Mr. Haiber to what queue were the prescriptions sent after the first problem was discovered. Mr. Haiber stated that there is a second level queue where the data entry technician will move problem prescriptions that are missing required information.

Dr. Smidt asked if the prescription stayed in this queue for 5 days and then was sent to another queue after it was inquired about for another 5 days. Mr. Haiber stated that when it went to the second level queue there was another technician that reviewed that image and since there were no notes on the image that technician will move the image to an adjudication queue.

Dr. Smidt asked what the note should have said on the prescription image. Mr. Haiber replied Dr. Call.

Mr. Dutcher asked if there is no note on the second level queue shouldn't the technician be able to decide what needs to be done with the prescription. Mr. Haiber stated in the second level queue a technician will sometimes receive prescriptions in error with no notes and will move the prescriptions to the adjudication queue.

Dr. Smidt asked if the prescriptions had made it to the adjudication queue when the patient called.

Mr. Haiber replied no it would not be visible to the patient.

Dr. Smidt asked what happens in the adjudication queue. Mr. Haiber states that is the flaw. He stated that the adjudication queue is very large and by the time someone would have found the prescription the patient would have already called. Dr. Smidt asked how many prescriptions are in the adjudication queue. Mr. Haiber replied thousands.

Dr. Smidt stated that the hope is that someone will call about the prescription and then it will be pulled from the adjudication queue because they do not have the ability to work the adjudication queue. Mr. Haiber stated if you knew that it was in the adjudication queue. Mr. Haiber stated that these prescriptions are not visible to the customer service personnel when the patient calls.

Dr. Smidt asked how they find a prescription in the queue if it is not in the system. Mr. Haiber stated that they would have to go on a hunt for the prescription.

Mr. Dutcher stated as he understands adjudication that would mean that the prescription is waiting to be paid. Mr. Haiber stated that there is no input so there would be no payment at this point. Mr. Dutcher stated then it is not waiting for adjudication. Mr. Haiber stated that is the name that is given to the queue.

Mr. Haiber stated that if the note was on the image then the second level technician would have been able to determine if a call was needed before sending the prescription to the doctor call area.

Mr. Dutcher asked if a note was necessary to make that determination since this second level technician should be able to look at the prescription and see what is missing. Mr. Haiber stated that they had policies in place and the policies were not clear in certain areas and one of the areas was the placing of notes. Mr. Haiber stated that they have strengthened their polices and added stronger wording concerning messaging.

Dr. Berry asked if the address flyers and envelope are scanned. Dr. Berry asked if the patient could be called concerning the prescriptions. Mr. Haiber stated that they have the capability to call based off of the images. Dr. Berry asked if the patients are called. Mr. Haiber stated that sometimes the prescriptions will end up in this queue and the prescriptions are valid but have been mis-routed and a call is not necessary.

Ms. McCoy stated a valid prescription should not have a note attached to the image and the prescriptions are being sent to a black hole and she feels the company is not providing good patient care. Ms. McCoy asked if this is a technician competency issue or a process issue. Ms. McCoy stated that there are patient care issues involved in these complaints. Mr. Haiber stated that they have strengthened the process by emphasizing that particular step in the policy to ensure that notes are placed on the referrals. Ms. McCoy stated that they were not addressing her issue that if there is no note on the prescription then this prescription goes to the black hole and nobody deals with the prescriptions. Ms. McCoy stated that nobody deals with the issue until the Board gets a complaint and then the Board is left dealing with the complaint.

Mr. Dutcher asked what the policy is at this time for prescriptions that have no notes. Mr. Haiber stated that their current policy and procedure are under review.

Mr. McAllister asked what the company's safeguards are to let the patient know that they are not receiving their medication on time. Mr. McAllister stated that these prescriptions go into the black hole and that is poor patient care. Mr. Haiber stated that he has opened a request to have the software designed so that if a prescription is imaged and not inputted a report will be printed.

Mr. McAllister stated that you realize you have a problem and patients cannot find out what is happening with their request.

Ms. McCoy stated that she feels the frustration of their clients and patients. Ms. McCoy stated that there are real process issues as well as patient care issues that need to be addressed by the organization.

Mr. Van Hassel asked what QA practices are in place at this time. Mr. Van Hassel asked about the tracking mechanism for prescriptions. Mr. Van Hassel asked if they are able to determine turnaround time. Mr. Haiber stated that they have excellent tracking systems because many of their contracts are based on turnaround time. Mr. Van Hassel asked how the prescription that goes to the black hole affects the turnaround time. Mr. Haiber stated that it would affect the turnaround time negatively. Mr. Van Hassel asked if they have records that would show turnaround time. Mr. Haiber stated that they could provide that information.

Dr. Tippett told the respondents that if you put the same thing in you get the same thing out.

Dr. Tippett stated that maybe consultants could help the organization take a fresh look at the process. Dr. Tippett stated that sometimes that individuals outside the organization can help you find the holes faster and help resolve the issues faster. Dr. Tippett stated that the problems are not going to be solved internally.

Ms. McCoy stated that there are other mail order facilities that are not having these issues. Ms. McCoy stated that the company keeps coming to the Board meetings with consumer complaints and the other mail order facilities do not. Ms. McCoy stated that the processes do not seem to be working and they need to be addressed.

Mr. Wand stated that the Board had previously toured the facility and maybe the Board could tour the facility. Dr. Tippett stated that they need to have someone look at the systems and there are system analysts that could help them with their problems. Mr. McAllsiter stated that the issues that are being discussed will not be seen on a tour.

Dr. Smidt asked if there was anything that the Board could do to help solve their issues. Mr. Vandervoort stated that they will be able to communicate the issues. Mr. Haiber stated that he is not happy to see these issues.

Dr. Sypherd suggested that they should review their quality management processes. Dr. Sypherd stated that they should not look at how many prescriptions are being filled successfully, but how many are not being filled successfully.

Ms. McCoy told the respondents that they should take the message home and something needs to be done about the processes. Ms. McCoy stated that it would be nice for them to come to the Board and update the Board on changes made. Ms. McCoy stated that it would involve QA procedures and there are many sources on how to do root cause analysis. Ms. McCoy

stated that there are many management tools to help with their processes. Ms. McCoy stated that an outside consultant could help them solve their issues. Ms. McCoy stated that there are companies out there doing it right because the Board is not seeing complaints from other companies.

Complaint # 2929

Pharmacist Thomas Branson was present to answer questions from Board Members concerning a consumer complaint. Marty Branson was also present. Mrs. Branson assists at the pharmacy as a pharmacy technician trainee when help is needed. Compliance Officer Rich Cieslinski gave a brief overview of the complaint.

Mr. Cieslinski stated that the complaint's prescription for generic Buspar 15 mg was filled with the wrong strength and when the patient refilled the prescription she received generic Wellbutrin XR 150 mg.

President McCoy asked Mr. Branson to discuss the errors. Mr. Branson stated that he was having a lot of stress with his technician. Mr. Branson stated that his memories are vague on what happened. Mr. Branson stated that the technician was supposed to check his work and the technician let the prescription leave the pharmacy without the show and tell process Mr. Branson used. Mr. Branson stated that sometimes he has low blood sugar and he does not feel well, so he keeps food in the pharmacy for those occasions. Mr. Branson stated that he has purchased an Automed machine that houses about 70 drugs. Mr. Branson stated that the Automed system will print barcodes on the labels and the prescription cannot be filled until the barcode is scanned. Mr. Branson stated that he has slowed down a lot and checks every prescription.

Ms. McCoy asked Mr. Branson if he had the flu or was it low blood sugar. Mr. Branson stated that sometimes he goes to work without eating and his blood sugar becomes low. Mr. Branson stated that he is the only pharmacist that works at this store and he works 9 to 5 during the week. Mr. Branson stated that he is closed on the weekends.

Mr. Dutcher asked if the prescriptions were filled by Automed. Mr. Branson replied no that he just purchased the Automed. Mr. Branson stated at that time both products were made by Mylan and he grabbed the wrong bottle. Mr. Branson stated that he apologized to the patient for the error.

Mr. Dutcher asked how Mr. Branson is preventing errors from occurring. Mr. Branson stated that he had terminated the employment of the technician and has hired two new technicians. Mr. Branson stated that his wife is helping train the technicians. Mr. Branson stated that he now concentrates on the one prescription that he is filling at that time.

Mrs. Branson stated that the technician that was terminated did not follow procedures. Mrs. Branson stated after her termination the environment has improved.

Mr. Dutcher asked Mr. Branson if he feels that he is physically capable. Mr. Branson stated that he feels that he is physically capable and just needs to eat breakfast and lunch to maintain his blood sugar.

Dr. Tippett asked about the new procedures that are in place. Mr. Branson stated that the addition of the two new technicians that follow procedures has helped. Mr. Branson stated that Mrs. Branson is assisting in the training of the technicians

Mr. Wand asked Mr. Branson if he was trying to sell the store. Mr. Branson stated that he had an offer to buy his files but the pharmacy was too far away for his patients. Mr. Wand asked if the Board knew someone who would be interested would Mr. Branson be willing to talk to them about selling the pharmacy. Mr. Branson stated that he would be interested and there are many changes occurring in the town of Ajo.

Ms. McCoy reminded Mr. Branson to be careful.

Complaint # 2930 - Postponed

Complaint #2940

Pharmacist Jerry Rubin and Pharmacy Supervisor June Piposar were present due to an issue reported to the Board by Ms. Piposar. Compliance Officer Dean Wright gave a brief overview.

Mr. Wright stated that Mr. Rubin had filled prescriptions for his wife from the original prescriptions, but kept the hard-copy original prescriptions and placed a hand-written hard-copy in the pharmacy's files, supposedly noting the dispensing on the original written prescriptions kept on his person. The pharmacist's employer reprimanded him for this practice and reported it.

President McCoy asked Mr. Rubin to address this complaint. Mr. Rubin stated that he was a floater pharmacist for the chain. He stated that the company's insurance plan required him to fill his prescriptions at the chain. Mr. Rubin stated that his wife's medication list was extensive and he did not want to go back to the pharmacy for quantities owed. Mr. Rubin stated that he kept the hard copy and documented each fill. Mr. Rubin stated that he did not use the transfer process. Mr. Rubin stated that it was poor judgment on his part.

Ms. McCoy asked Mr. Rubin what changes has he made since this complaint. Mr. Rubin stated that he would never fill his own prescriptions. Mr. Rubin stated that all his prescriptions will be filled at one pharmacy in case he is owed medications. Mr. Rubin stated that he plans to have all his prescriptions filled at a 24 hour pharmacy due to work schedule.

Ms. McCoy told Mr. Rubin that he has addressed all the issues and reminded Mr. Rubin not to fill his prescriptions in this manner again and to follow the rules and regulations.

Complaint #2944

Pharmacist Chung Woon Ma and Pharmacy Supervisor Sean Duffy appeared to answer questions from Board Members concerning a consumer complaint. Compliance Officer Rich Cieslinski gave an overview of the complaint.

Mr. Cieslinski stated that a refill prescription for Celexa was filled with Toprol XL 50 mg. The patient took the medication for four days.

President McCoy asked Mr. Ma to address the complaint. Mr. Ma stated the he uses a left to right side work flow process and assumes that he might have placed the bottle on the wrong side and filled the prescription incorrectly.

President McCoy asked about the side effects the patient experienced. Mr. Ma stated that he did notify the doctor of the error and the doctor stated that the patient would be fine.

Ms. McCoy asked Mr. Ma what he has changed in his practice to prevent errors from occurring in the future. Mr. Ma stated that he pays more attention to what he is doing and has centered his attention on the visual verification. Mr. Ma stated that he puts the bottle on the right side when he is finished with the prescription.

Mr. Van Hassel asked Mr. Ma about his response that stated no prescriptions for Toprol XL were filled that day. Mr. Ma stated that 193 prescriptions were filled that day and he assumes that he did fill a prescription for Toprol XL close to the time that he filled the Celexa.

Complaint #2950

Pharmacy Technician Elke Kohlke appeared with Mukash Shah in response to a complaint that resulted in a Consent Order for the pharmacist. Compliance Officer Rich Cieslinski gave a brief overview.

Mr. Cieslinski stated that he had conducted an investigation involving a pharmacist issuing prescriptions for other individuals using a PA's name. Mr. Cieslinski stated that the pharmacist wrote two prescriptions for the technician. One prescription was for the technician. The other prescription was for the technician's dog. The pharmacist rewrote the prescription for the dog and put the prescription under the technician's name, so that her insurance would pay for the medication.

President McCoy asked Ms. Kohlke why this happened. Ms. Kohlke stated that her she could have paid for her pet's medication but she was not in the right state of mind and when the pharmacist told her to take the prescription that he wrote and pay for that one she did. Ms. Kohlke stated that it was wrong.

Mr. Dutcher asked Ms. Kohlke if she knew it was wrong. Ms. Kohlke stated that she thought the pharmacist had contacted the PA. Mr. Dutcher asked Ms. Kohlke if she ever was a patient of the PA. Ms. Kohlke replied that she did not know the PA.

Mr. Dutcher asked Ms. Kohlke if her insurance paid for the prescription. Ms. Kohlke stated that when she came to the pharmacy to pick up the prescription, the pharmacist told her to take the prescription that he wrote and billed to her insurance and she took that prescription. Mr. Dutcher informed Ms. Kohlke that this practice was insurance fraud.

Mr Dutcher asked Mr. Shah if restitution was made by the company to the insurance company. Mr. Shah replied he did not know because he was asked to appear at the meeting for his supervisor and did not even have paperwork concerning the case.

Ms. McCoy told Ms. Kohlke that she is now a licensed technician and these activities are not in alignment with activities in which a technician should be involved. Mr. Pulver stated under the new statutes the Board could issue a decree of censure requiring restitution, could fine the respondent, or even require CE on ethics.

Ms. McCoy stated that this is an ethical and moral issue. Ms. McCoy stated that these actions require more than a conference.

Dr. Sypherd asked if action could be tabled until tomorrow and her supervisor could appear with her to answer questions.

President McCoy asked Ms. Kohlke to appear the next morning with her supervisor to discuss the issues. President McCoy stated that the Board would like to know what actions were taken by the store. President McCoy stated that Ms. Kohlke should be there at 9:00 A.M.

Complaint # 2953

David Parsons appeared pursuant to a request by the Board to answer questions concerning consent agreements in other states. Mr. Wand stated that no Compliance Officer was involved with this complaint. Mr. Wand stated that Mr. Parsons received a consent order in Iowa and numerous states have issued similar consent agreements. The action was reported to the Board through the Clearinghouse. Mr. Wand stated that the Board could enter into a similar consent agreement or take what every action they see fit in this situation.

Mr. Parsons stated that his license in Iowa was placed on probation because the Iowa Board feels that he did not disclose a disciplinary action in Colorado. The respondent entered into a consent agreement to settle a contested case. Mr. Parsons stated that he has been compliant with his Board orders and explained the disciplinary action in Colorado took place 20 years ago. He stated that on a reinstatement in Iowa that the Iowa Board stated that he did not tell them about the discipline and he contested the case. Mr. Parsons stated that the original action took place in 1984.

On motion by Mr. McAllister and Mr. Van Hassel, the Board agreed to take no further action against Mr. Parson's Arizona pharmacy license. There was one opposing vote from Mr. Dutcher.

AGENDA ITEM 11 - Consents

President McCoy 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. Mr. Wand provided an overview for the benefit of the audience.

Mr. Wand stated that the first consent involved the diversion of controlled substances by a pharmacist for personal use. The pharmacist has signed the consent and will be required to sign a PAPA contract.

Mr. Wand stated that the second consent involved the writing of unauthorized prescriptions by a pharmacist. Mr. Wand stated that the pharmacist has had his licensed suspended for 10 days, will be placed on probation for one year, will be fined for each prescription, must perform 100 hours of community service, and must complete CE units on ethics or law.

Mr. Wand stated that the third consent order involved the violation of a confidential PAPA contract by the pharmacist. The pharmacist signed the consent and will sign a new PAPA contract.

Mr. Wand stated that the fourth consent involved the diversion of controlled substances by a pharmacy technician for personal use. The technician signed the consent order which is a revocation of the technician's license. There was a change in paragraph seven of the consent agreement and was accepted by the Attorney General's Office.

Mr. Wand stated that the fifth consent involved the diversion of controlled substances by a pharmacist for personal use. The pharmacist has signed the consent and will be required to sign a PAPA contract.

Mr. Wand stated that all the suspensions for the pharmacists will start today.

A roll call vote was taken. (Dr. Tippett - aye, Mr. McAllister - aye, Dr. Smidt - aye, Dr. Sypherd - aye, Mr. Van Hassel - aye, Dr. Berry - aye, Mr. Ductcher - aye, President McCoy - aye). All Board Members present voted to unanimously accept the following Notices of Hearing/Consent Agreement as presented in the meeting book and signed by the respondent:

Paul Dahlk 05-0009-PHR

Daniel Osborn 05-0011-PHR

Jonathan Venier 05-0012-PHR

Imelda Sedano 05-0014-PHR

Scott Huft 05-0015-PHR

AGENDA ITEM 12 - C-Path

Dr. Raymond Woosley, President of C-Path Institute appeared at the Board meeting to discuss the launching of C-Path in Tucson, Arizona.

Dr. Woosley stated that C-Path stands for Critical Path Institute. Dr. Woosley stated that C-Path is a non-profit organization that will create innovative programs in education and research that enable the safe acceleration of the process for developing new medical products.

Dr. Woosley stated that C-Path will bring scientists together to develop new drugs and their major concerns will be about drug safety. Dr. Woosley stated that C-Path will develop an early alert active surveillance system for drug safety.

AGENDA ITEM 13 - PASS

President McCoy asked Mr. Wand to address this issue. Mr Wand stated that this is an informational letter for the Board about the program. Mr. Wand stated that PASS is a new company in Arizona that states that they have an innovative and comprehensive approach to dealing with disruptive professionals. Mr. Wand stated that Barry Cassidy, the former director of the Medical Board, is the President of the company.

Mr. Pulver stated that the Board could use this company as part of an assessment process to evaluate a licensee. Mr. Pulver stated that the Board could request that a licensee take part in this program as part of a clinical evaluation. Mr. Pulver stated that after the evaluation of the licensee the Board could review the evaluation and then take action against the licensee.

AGENDA ITEM 14 - Feasibility and Approval of Attendance at Conventions/Training

President McCoy asked Mr. Wand to address the conventions/training. Mr. Wand stated that funding is available for attendance at these conventions/training and wanted to know if there were any Board Members interested in attending the conventions.

CLEAR

Dr. Berry indicated that she was interested in attending this Convention and training session for Board Members.

On motion by Mr. Dutcher and Dr. Smidt, the Board unanimously approved the attendance by Ms. Berry and one compliance officer at this convention/training.

Southwest Recovery Network

Mr. Wand stated that the program is being offered by the Southwest Recovery Network and the Arizona Pharmacy Foundation. Mr. Wand stated that the program deals with the various addiction issues.

Mr. Wand stated that he would be interested in attending this meeting.

On motion by Mr. Dutcher and Dr. Berry, unanimously approved the attendance by Mr. Wand at this meeting.

NABP District 8 Meeting.

Mr. Wand stated that per state policy that only 2 attendees could be paid for by the Board. Mr. McAllister will be attending the meeting as the President of NABP. Mr. Wand stated that Dr. Berry stated that her firm will pay for her to attend the meeting.

On motion by Mr. Dutcher and Mr. McAllister, the Board unanimously approved the attendance by two Board personnel

Members at this meeting. The personnel that will attend the meeting will be determined at a later date.

AGENDA ITEM 17 - Review of letter from PAPA concerning a contract violation

(Jeanmarie Hazard)

President McCoy stated that this agenda item deals with a contract violation for a PAPA member.

President McCoy asked if Jeanmarie Hazard was present. Jesse De Jesus, Director of Pharmacy at Banner Desert Hospital, was also present.

President McCoy stated that the Board has received a letter from the PAPA program indicating that Ms. Hazard had a positive test on one of her drug screens. Ms. McCoy asked Ms. Hazard if this was true information. Ms. Hazard stated that is what she has been told and Ms. Hazard states that it is a mistake and she is trying to prove that it is a mistake. Ms. Hazard stated that she did not use anything.

Mr. Wand asked Ms. Hazard if she was having a hair screen done. Ms. Hazard replied yes. Mr. Wand asked Ms. Hazard if she had the results from that screen. Ms. Hazard stated that she is still waiting for the results. Mr. Wand stated that PAPA's position is summarized in the letter. PAPA stated in the letter that the positive screen was reviewed by the Medical Review Officer.

President McCoy stated that PAPA states that they a have a positive screen which is a violation of the consent agreement. President McCoy stated that the Board could take further disciplinary action against the licensee.

Mr. Pulver asked who was doing the hair analysis. Ms. Hazard stated that she is being proactive and doing it independently. Mr. Pulver stated that his concern would be who conducted the analysis of the hair and does this individual have the credentials to conduct the screening. Ms. Hazard stated that she is willing to go a physician to have this screening done for the proper chain of command. Ms. Hazard stated that her counselor told her that she should be proactive and do something.

Mr. Wand asked Ms. Hazard if she was a confidential participant in the beginning. Ms. Hazard replied yes. Mr. Wand stated that she had a positive screen in 2001 and signed a new contract and that was considered her first slip. Mr. Wand stated that this would be her second slip in the program.

Mr. Van Hassel stated that no laboratory will rescind a reading that is determined to be positive by GC/MS.

Mr. McCoy asked Ms. Hazard if she is still performing her duties as a pharmacist at the hospital.

Ms. Hazard stated that she is currently suspended without pay. Mr. De Jesus stated that when the hospital found out about the positive screen Ms. Hazard was suspended. Mr. De Jesus stated that Ms. Hazard is a very competent pharmacist. Ms. Hazard stated that she has worked at the hospital for the last 5 years.

Mr. McAllister asked if through the PAPA contract could the Board have the hair screen done through a reliable chain of custody. Mr. Wand stated that he did not know the answer but could follow-up for the Board. Mr. McAllister stated at this point in time the Board does have a positive screen. Mr. McAllister recommended that the Board suspend Ms. Hazard's license until the hair screen could be completed and then the Board could decide what action to take. Ms. Hazard stated that she would like to test the sample herself to prove that there was a mistake.

Ms. Hazard stated that she is not sure if the lab made a mistake.

President McCoy stated that the Board's job is to protect the public. Mr. Wand asked Ms. Hazard if she would agree to a consent that would include suspension of her license until the hair analysis results come back. Ms. Hazard replied yes. Mr. Pulver asked about the hair analysis. Mr. Wand stated that the person conducting the analysis should be approved by the Board. Mr. Pulver asked about the time frame of the suspension and suggested that the suspension could last until the next Board meeting in November.

Dr. Sypherd asked what would occur if the two tests differ in their results. Mr. Pulver stated that the Board could ask the person doing the GC/MS to speak with the Board.

Dr. Sypherd asked Ms. Hazard if she uses Heroin. Ms. Hazard replied she does not. Dr. Sypherd asked Ms. Hazard if she ever used Heroin. Ms. Hazard replied yes. Dr. Sypherd asked Ms. Hazard how long it has been since she used Heroin. Ms. Hazard

stated almost five and one-half years.

Dr. Smidt asked about the number of drug screenings under her contract. Mr. Wand replied 48 annual drug screens while she is working. Ms. Hazard stated that her screens were reduced to 24 screens a year. Ms. Hazard stated that she is willing to do extra screenings. Dr. Smidt stated that the lab may have made an error, but by increasing the number of screens if something is occurring the drug would appear again.

Mr. Wand asked about the consent order. Mr. Wand stated that the license would be suspended until the next Board meeting in November, the urine screens would be increased to one weekly, and await the results of the hair analysis.

Mr. Pulver stated that the Board may want to have someone from PAPA present to talk about the tests.

On motion by Dr. Sypherd and Mr. McAllister, the Board unanimously agreed that a consent order would be issued to Jeanmarie Hazard suspending her license until the November meeting, increasing her random drug screens to one a week, and to have the hair analysis completed.

A roll call vote was taken. (Dr. Tippett - aye, Mr. McAllister - aye, Dr. Smidt - aye,Dr. Sypherd -aye, Mr. Van Hassel - aye, Dr. Berry -aye, Mr. Dutcher - aye, President McCoy - aye).

Call to the Public

President McCoy 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.

There being no further business to come before the Board, **on motion by Mr. McAllister and Dr. Berry,** the Board unanimously agreed to adjourn the meeting at 5:30 PM.

August 18, 2005

The following Board Members and staff were present: President Linda McCoy, Vice President Chuck Dutcher, Zina Berry, Tom Van Hassel, Dennis McAllister, Ridge Smidt, Paul Sypherd, and Bryan Tippett. Compliance Officers Rich Cieslinski, Larry Dick, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Roberto Pulver.

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

AGENDA ITEM 10 - Continuation from August 17 , 2005

President McCoy stated that the Board Members had tabled this conference yesterday and requested that the technician's supervisor appear with her this morning. President McCoy called Elke Kohlke and her supervisor to come forth. Pharmacy Technician Elke Kohlke and Pharmacy Supervisor Mick Calli were present to answer Board Members questions.

Mr. Calli stated that an investigation was conducted and it was found that the pharmacist had falsified two prescriptions for Ms. Kohlke using a PA's name. The pharmacist was terminated.

Mr. Calli stated that the prescription that was not for Elke was reversed corporately through the third party plan. Mr. Calli stated that Ms. Kohlke would be required to pay for that prescription.

Ms. McCoy stated that the concern was if that reversal had taken place

President McCoy asked if the Board Members would like to take any action against the technician's license. Ms. McCoy stated at this time no action has been taken against the technician.

Mr. Wand stated that the following actions could be taken: dismiss, file an advisory letter and the licensee could file a response, or enter into an agreement to discipline the licensee.

Mr. Pulver stated that the Board should ask the respondent if she is willing to enter into a consent agreement with the Board.

Mr. McAllister stated that the pharmacist was the catalyst. Mr McAllister stated that restitution has been taken resolved that a Letter of Reprimand would be appropriate.

Mr. Dutcher asked Ms. Kohlke how long she has been a technician. Ms. Kohlke replied since 1997.

Mr. Pulver told Ms. McCoy that she should ask the technician if she is willing to enter into an agreement with the Board. Ms. McCoy asked Ms. Kohkle if she is willing to enter into a consent agreement with the Board for a Letter of Reprimand. Ms. Kohkle replied yes.

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously agreed to issue a Letter of Reprimand to Elke Kohlke in regards to Complaint #2950.

A roll call vote was taken. (Mr. McAllister -aye, Dr. Smidt -aye, Dr. Sypherd -aye, Mr. Van Hassel- aye, Dr. Berry - aye, Mr. Dutcher - aye, President McCoy - aye)

AGENDA ITEM 15 - Request for Second Review of Board Recommendations for Complaint #2903

President McCoy asked Mr. Wand if he would address this issue. Mr. Wand stated that the respondent is not here, but her attorney is present for questions. Mr. Wand stated at the last Board Meeting the complaint was reviewed and the Board's recommendation was that the licensee be issued a consent agreement. Mr. Wand stated that the consent agreement was for a degree of censure. The consent was refused by the licensee. Mr. Wand stated that at this time the respondent is providing additional information.

Mr. Dutcher stated that the pharmacist felt that what she was doing was right and should not sign a consent for what she felt was right. Mr. Dutcher stated that he agrees with the respondent.

Mr. McAllister stated that he would never have asked an individual to make this kind of change in the home and he would have sent new doses. Mr. McAllister stated this is a patient safety issue because the patient's levels were already high and if the caregiver or nurse was distracted then the dose may not be stopped at the correct time. Mr. McAllister stated that he understands the issues of being in a rural town, but those are the issues that the pharmacist needs to deal with when they accept that job. Mr. McAllister stated that he feels it was a bad care decision.

Dr. Berry stated that to send a med-ball and request that the patient shut the ball off at a certain time is bad practice. Dr. Berry stated that this may be normal practice at this pharmacy. Dr. Berry stated that if the patient needed a dose that evening and the medication could not be sent to the patient a one time fix would be acceptable. Dr. Berry stated that the dose should have been sent the next day. Dr. Berry stated that by sending out a weeks supply and saying that it cannot be changed for the next week is not acceptable and the new medication should have been sent to the patient. Dr. Berry stated that the pharmacist feels that this practice is acceptable. Dr. Berry stated that she feels the pharmacy practices in this fashion. Dr. Berry stated that they refilled the prescription in the same manner and did not send the correct medication at that point.

Mr. Pulver stated that Mr. Morris is here to represent his client. Mr. Morris came forth and addressed the Board. Mr. Morris stated that the licensee is willing to come to the Board Meeting.

Mr. Morris stated that the licensee is willing to go to a hearing and has an expert witness that will state that she met the standard of care. Mr. Morris stated that the licensee will not agree to a consent, so the next step would be a hearing.

Dr. Smidt stated that when the labs are used to show that the doses are too high it does not show when the labs were drawn or when the doses were administered. Dr. Smidt stated that it is not clear if the follow-up dispensing was the wrong dose.

Ms. McCoy asked if we needed a motion to go to hearing. Mr. Pulver stated that Mr. Morris stated that his client does not want to sign a consent agreement and wants to go to hearing. Mr. Pulver stated that the Board could offer a lesser degree such as a Letter of Reprimand. Mr. Pulver stated that the Board Members could hear the case or send the case to OAH. Mr. Pulver stated that the Board Members would have more expertise in this case than the OAH judge who would rely on the expert witnesses.

Mr. Wand asked if the Board wanted a hearing for the pharmacy. Mr. Pulver stated that a complaint would need to be opened and an investigation would be need to be conducted. Ms. McCoy asked Mr. Pulver if we could do that at this point since we do not know if it is the policy of the individual or the practice of the pharmacy. Mr. Pulver stated that the Board could conduct an investigation and if it was a one time occurrence then no disciplinary action could follow. Mr. Pulver stated that the Board would need to determine if they have issues with patient health and safety.

Dr. Smidt stated that each situation at home is unique. Dr. Smidt stated that there is a competency level between the pharmacist, physician, and the caregiver and in some instances the pumps are manipulated. Dr. Smidt stated that he felt that a non-pharmacist should not relabel the product.

Dr. Smidt stated that part of the pharmacist's decision was that she was not able to relabel the product and the product could not be brought back to the pharmacy to be relabeled. Dr. Smidt stated that this is a unique situation and does not happen often in the industry where an infuser ball needs to be manipulated. Dr. Berry stated that perhaps it does not happen is because the pharmacy sends out the correct dose when the dose changes. Dr. Berry stated that the relabeling would require the pharmacist to go there and relabel the product, but that does not change the fact that the incorrect dose is in the med-ball. Dr. Smidt stated that the physician filed the complaint but the patient did not suffer. Dr. Smidt stated if the patient had received the wrong dose, then it would have proved that the pharmacist's judgment was poor.

Mr. Wand stated that the complaint review committee recommended a conference and the Board recommended a consent agreement. Mr. Wand stated that the consent agreement is not acceptable with the licensee.

Mr. McAllister stated that this was a judgment error. Mr. McAllister stated that this is a patient safety issue and asked if a letter of concern about policies and procedures could be sent without going to formal discipline.

Mr. Pulver stated that an advisory letter could be sent. Mr. Pulver stated that an advisory letter is a non-disciplinary letter where the Board states that they have concerns. Mr. Pulver stated that the licensee could respond to the letter within 30 days to give her side of the story. Mr. Pulver stated that this would leave a paper trail. Mr. Pulver stated that the licensee could not appeal an advisory letter because it is non-disciplinary.

Dr. Berry stated that she feels that this is a policy and procedure issue at the pharmacy. Dr. Berry stated that she did confer with the patient and the caregivers.

Mr. Van Hassel stated that he feels that this is not acceptable practice. Mr. Van Hassel stated that the pharmacist did not send the correct doses and did not rectify the problem at the earliest possible opportunity.

Ms. McCoy stated that the pharmacist did have the best interest of the patient and did make the effort to see that the people involved understood what they were supposed to do. Ms. McCoy stated that the problem of the incorrect dose went on for several days.

Dr. Berry asked if a letter could be written to the pharmacy. Mr. Pulver stated that if an advisory letter was to be issued to the pharmacy a complaint would need to be opened. Mr. Pulver stated that if a complaint is opened the Board would need enough information to write the letter. Mr. McAllister stated that dose change policies could be included in the letter.

Mr. Wand asked that Dr. Berry and Dr. Smidt review the content of the letter after he writes the initial draft.

On motion by Mr. McAllister and Dr. Berry, the Board approved the issuing of an advisory letter to the licensee.

A roll call vote was taken. (Mr. McAllister - aye , Dr. Smidt - nay, Dr. Sypherd - aye, Mr. Van Hassel - aye, Dr. Berry - aye, Mr. Dutcher - aye, President McCoy -aye)

Mr. Pulver stated that the Board needs to have a motion on what should be in the body of the letter.

On motion by Mr. McAllister and Dr. Berry, the Board unanimously approved the following items to be included in the advisory letter:

1. Lay person adjusting a device created patient safety issues

2. New doses were not delivered in a timely fashion and the Board is concerned about the level of patient care.

The letter will be drafted and if approved by the Board at the next meeting the letter will be sent to the licensee.

AGENDA ITEM 16 -Board Consideration of Intern License Renewal Beyond 6-year limit

President McCoy asked if Mr. Kabir was present. Mr. Wand stated that Mr. Kabir has had an intern license for 6 years and has not completed school. Mr. Wand stated that he does not believe that Mr. Kabir is present and he dropped a letter off to the Board Office from the registrar indicating that he is enrolled and will be attending class starting on August 22, 2005. Mr. Wand

stated that the letter stated that he will graduate in 2006. Mr. Wand stated that the intern license will expire in September and that if a pharmacy intern fails to complete pharmacy education within a period of six years, the intern is not eligible for relicensure as an intern, without acceptable explanation to the board that the intern intends to be and is working toward becoming a pharmacist.

Mr. McAllister stated that an intern license would be needed to complete his rotations. Mr. McAllister stated that he would not need the license until November. Mr. McAllister stated that it would be appropriate to ask for letters from his employers. Mr. Wand stated that Mr. Kabir has not turned in any intern hours. Mr. Wand stated that it is a requirement for him to turn in intern hours.

Mr. Pulver stated that the Board could ask Mr. Kabir to appear before the Board. Mr. Pulver stated that the question would be has he given an acceptable explanation to the Board. Mr. Pulver stated if the explanation is not acceptable then the Board could ask for additional information. Mr. Pulver stated that he should be able to explain why he has not completed a three year program in six years.

On motion by Mr. Van Hassel and Mr. Dutcher, the Board unanimously agreed that Mr. Kabir should appear at the November Meeting and the Board would review his request for relicensure as an intern.

Mr. McAllister stated that will delay Mr. Kabir's graduation because the date of the Board Meeting is after the date that his rotations would begin. Ms. McCoy asked if there was any other method to speak with him. Mr. Wand stated that the Board could do a telephone conference if posted 24 hours in advance. Mr. McAllister stated that the school will add a rotation after graduation.

Mr. Pulver asked why Mr. Kabir was not present. Ms. Frush stated that she sent a letter to Mr. Kabir about appearing and providing additional information. Mr. Kabir dropped the letter off to the office. Ms. Frush asked Mr. Kabir if he would be present at the Board Meeting on August 17, 2005 and Mr. Kabir told Ms. Frush that he had a CPR class that whole day.

Dr. Smidt asked if the intern would be able to continue in school if he does not have a license. Mr. McAllister stated that the school's main purpose is to educate the student and for the student to receive a degree and it is the Board's issue to protect the public safety and decide if someone should have a license.

AGENDA ITEM 17 - This item was discussed on August 17 , 2005.

AGENDA ITEM 18 - Review of Consent Order and Violations of Addiction Treatment Program (Thomas Togno)

Mr. Wand stated that this individual signed a consent order and the Board approved an alternative, out of state, treatment program for this individual, since he moved to New Jersey. Mr. Wand stated that in March, he received a letter stating that Mr. Togno was non-compliant with this treatment program which is a violation of his consent agreement. Mr. Wand stated that it is a violation because he is no longer in the treatment program that was approved.

Mr. Wand stated that the license is currently suspended. Mr. Pulver stated that in Paragraph 33 the hearing would be about violating the order because he is not in a treatment program.

Ms. McCoy asked if a hearing needed to be held to take action against the license. Mr. Pulver replied yes.

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously agreed that Mr. Togno violated his Consent Agreement and a notice of hearing should be issued.

Mr. Wand asked if this case could be sent to the Office of Administrative Hearing. Mr. Pulver stated that the case could be sent to the OAH because it would not be a battle between experts. The judge would look to see if the individual had violated the order.

On motion by Mr. Van Hassel and Mr. McAllister, the Board Members unanimously agreed that the Board would hold the hearing.

AGENDA ITEM 19 - Review of Pharmacist's application that provided misleading information (Steven Ludlow)

President McCoy asked Mr. Wand to address this issue. Mr. Wand stated that Mr. Ludlow sent a letter stating that he had filed his application less than truthfully. Mr. Wand stated that he filed the application based on the information he received from his attorney. Mr. Wand stated that there had been disciplinary actions in Ohio and South Carolina. The discretions were not drug

related.

Mr. Pulver stated that it could be opened as an advisory letter and placed in his file. Mr. Wand stated that it could also be dismissed.

Mr. McAllister asked if this letter would stay in his file. Mr. Wand replied that it would stay in his file.

The Board Members chose to take no action.

AGENDA ITEM 20 - Request by Pharmacist to waive penalty fees for non-renewal of license (Jerry Light)

Mr. Wand stated that Mr. Light sent a letter to the Board asking them to waive the penalties for non-renewal of his license. Mr. Wand stated a letter dated March 8, 2001 to Mr. Lloyd is in the book. Mr. Lloyd explained to Mr. Light the requirements for reinstating his license if he did not renew. Mr. Wand stated that the Board Members must decide if they would like to waive the penalty fees.

Mr. Pulver stated that if the Board Members do not make a motion to waive the fees then it stands that Mr. Light will pay the fees. No motion was made.

Mr. Wand will send a letter to Mr. Light stating that he must pay the penalty fees.

AGENDA ITEM 21 - Paul F. Parker Medal

Mr. Wand addressed this topic. Mr. Wand stated that the medal is awarded to an individual whose lifetime contributions have had a decisive impact on advancing the profession's patient care mission. Mr. Wand stated that if the Board Members would like to nominate someone for this medal to please let him know so that the Board can follow through with the nominations.

AGENDA ITEM 22- Hearings

Roberto Pulver, Attorney for the state, requested a postponement of the hearing until the November meeting due to the death of Mr. Denick's mother-in-law.

On motion by Mr. Dutcher and Ms. Berry, the Board unanimously approved the request to postpone the hearing for Kevin Denick until the November meeting.

AGENDA ITEM 23 - Assignment of Laptops to Board Members and Training

The Board Members were assigned their laptops and signed an agreement. Rob Dobrowski, IT Specialist for the Board, instructed the Board Members on the use of the laptops.

AGENDA ITEM 24 - USP 797

Mr. Van Hassel stated that the task force met on August 16, 2005. Mr. Van Hassel stated that the task force reviewed the USP 797 rules and the current sterile product rules. Mr. Van Hassel stated that the task force feels that the current rules could be modified to reflect USP 797 requirements. Mr. Van Hassel stated that the task force will meet again on Septermber 28, 2005.

AGENDA ITEM 25 - Drug Therapy Management Agreements

President McCoy asked Ms. Frush to open the discussion. Ms. Frush stated that the Board had received one drug therapy management agreement. Two of the four committee members were available to review the agreement and recommended that the agreement be approved. The agreement was submitted by a pharmacist at Cigna to provide anticoagulation management. The committee has approved similar agreements for Cigna pharmacists in the past.

On motion by Mr. Dutcher and Dr, Berry, the Board unanimously approved the following drug therapy agreement:

1. Marla Say - Cigna Healthcare of Arizona - Anticoagulation Clinic

AGENDA ITEM 26- Call to the Public

President McCoy 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.

There being no further business to come before the Board, **on motion by Dr. Sypherd and Dr. Berry,** the Board unanimously agreed to adjourn the meeting at 11.50 A.M.