



Arizona State Board of Pharmacy
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**THE ARIZONA STATE BOARD OF PHARMACY
HELD A REGULAR MEETING SEPTEMBER 9 AND 10, 2009
AT THE ARIZONA STATE BOARD OF PHARMACY OFFICE
PHOENIX, AZ**

MINUTES FOR REGULAR MEETING

AGENDA ITEM 1 – Call to Order – September 9, 2009

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

The following Board Members were present: President Dennis McAllister, Vice President Ridge Smidt, Louanne Honeyestewa, Steven Haiber, Dan Milovich, Paul Sypherd, and Tom Van Hassel. The following Board Members were not present: Zina Berry and Joanne Galindo. The following staff members were present: Compliance Officers Rich Cieslinski, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell.

AGENDA ITEM 2 – Declaration of Conflicts of Interest

Due to a conflict of interest, President McAllister recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 4, Schedule A, Non-Resident Permit for RightSource.

Due to a conflict of interest, President McAllister recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Schedule E, Complaint # 3707.

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Schedule E, Complaint #3691, Complaint #3694, Complaint #3695, and Complaint #3719.

Due to a conflict of interest, Mr. Milovich recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 4, Resident Pharmacy Permit for Willcox Grocery.

Due to a conflict of interest, Ms. Honeystewa recused herself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Schedule E, Complaint #3718.

AGENDA ITEM 3 – Approval of Minutes

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Haiber and seconded by Mr. Van Hassel**, the minutes of the Regular Meeting held on July 9, 2009 were unanimously approved by the Board Members.

AGENDA ITEM 4– Permits and Licenses

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

CareMart Pharmacy

Lap Kei Gary Ng, Pharmacist in Charge, was present to answer questions from Board Members.

President McAllister opened the discussion by asking Mr. Ng to describe the nature of his business. Mr. Ng stated that they would be a general pharmacy with medical supplies.

Mr. McAllister asked Mr. Ng if the other owners are non-pharmacists. Mr. Ng stated that the one owner was a pharmacist but was not licensed in Arizona. Mr. Ng stated that the other owner was not a pharmacist.

Mr. McAllister asked if the non-pharmacist owner was a physician. Mr. Ng stated that the owner is not a licensed physician in the United States.

Mr. McAllister asked Mr. Ng if this is the first pharmacy that he owned. Mr. Ng replied yes.

Mr. Haiber asked Mr. Ng if they planned on doing Internet prescriptions. Mr. Ng replied no.

Mr. Haiber asked Mr. Ng if they would be compounding any prescriptions. Mr. Ng replied that they would not specialize in compounding. Mr. Ng stated that he has worked in a pharmacy that specialized in compounding, but they do not plan on specializing in compounding.

Mr. Van Hassel asked about the medical supplies and if they would be specializing in respiratory drugs. Mr. Ng stated that they would carry medical supplies and would dispense respiratory drugs if they had a prescription for the medications.

Custom Rx

Troy Brodersen, Pharmacist in Charge, was present to answer questions from Board Members.

President McAllister opened the discussion by asking Mr. Brodersen to describe the nature of his business. Mr. Brodersen stated that they would be a compounding pharmacy specializing in hormonal therapies and vitamins.

Mr. McAllister asked Mr. Brodersen if they would be compounding any medications for pain control. Mr. Brodersen replied they have no current plans to compound pain medications.

Mr. McAllister asked Mr. Brodersen if this was the first pharmacy that he owned. Mr. Brodersen replied yes.

Mr. McAllister asked if they would be using the internet for solicitation of prescriptions. Mr. Brodersen replied yes. Mr. Brodersen stated that the website is currently being set-up at this time.

Mr. McAllister asked Mr. Brodersen to whom they would be marketing on their website. Mr. Brodersen replied that they would probably be marketing to the public for various vitamin supplements and some of the homeopathic clinics.

Mr. McAllister asked Mr. Brodersen if he would be soliciting prescriptions from physicians through the internet. Mr. Brodersen replied no. Mr. Brodersen stated that they anticipate that only 5% of their products would go to the public directly. Mr. Brodersen stated that their primary business would be to supply the clinics with the therapies that they need.

Mr. McAllister asked Mr. Brodersen if they plan to stock physician's offices with compounded products. Mr. Brodersen stated that he is not familiar with how that would work. Mr. Brodersen stated that the clinic would provide the prescription and the pharmacy would provide the medication to the clinic.

Mr. McAllister asked if this would be for administration in the clinic. Mr. Brodersen replied yes.

Mr. McAllister asked Mr. Brodersen about his statement that 5% of the volume of compounded prescriptions would go to patients. Mr. Brodersen stated that is the number that they are anticipating.

Mr. Wand asked Mr. Brodersen if he meant that 5% of their business would be walk-in customers. Mr. Brodersen stated that is a possibility. Mr. Wand asked if the remaining 95% of the prescriptions would be sent back to the doctor's offices. Mr. Brodersen replied that is how he understands the process.

Mr. Haiber asked Mr. Brodersen how the process works. Mr. Haiber asked if the prescription is patient specific or is the prescription marked for office use. Mr. Brodersen stated that some of the business is being set up by the investors. Mr. Brodersen stated that one of the investors owns a clinic. Mr. Brodersen asked if the prescription would have to be written for the individual. Mr. Brodersen stated that the plan is to provide the prescription to the office.

Mr. McAllister asked if the partner that owns the clinic is a physician. Mr. Brodersen replied no. Mr. Brodersen stated that Shay Tyler owns the clinic and employs two homeopathic physicians. Mr. Brodersen stated that another investor, Gabriela Hunko, is a physician. Mr. Brodersen stated that he was selected to be the pharmacist in charge.

Mr. Van Hassel asked if they have a designated sterile compounding area. Mr. Brodersen stated that the area is currently under construction and would meet USP 797 standards.

Mr. Wand stated that at the opening inspection the Compliance Officers can review the regulations concerning space and prescription requirements. Mr. Wand stated that Mr. Brodersen could make an appointment to come to the office and review any questions that he may have concerning the regulations.

Dr. Smidt asked about the investor that employed two naturopathic doctors. Dr. Smidt asked Mr. Brodersen if he anticipates that the two doctors would be seeing patients and writing prescriptions to be filled at their pharmacy. Mr. Brodersen replied that is what he is anticipating.

Dr. Smidt asked if the pharmacy would receive the prescription, compound the prescription, and then send the compounded prescription to the doctor's office for administration. Mr. Brodersen stated that is how he understands the process.

Dr. Smidt asked if these products would be sterile products. Mr. Brodersen stated that most of the products should be sterile. Mr. Brodersen stated that anything that they make in the compounding room should be sterile.

Mr. Wand asked if the doctors were homeopathic or naturopathic doctors. Mr. Brodersen stated that he does not know. Mr. Brodersen stated that he believes that they are homeopathic doctors.

Mr. Van Hassel asked if Mr. Brodersen planned on compounding bulk products for the office. Mr. Brodersen stated that he is not certain. Mr. Brodersen stated that he has to make sure that he is not breaking any rules before he decides to do that. Mr. Brodersen stated that it would be a possibility if that is an option.

On motion by Mr. Haiber and seconded by Dr. Smidt, the Board unanimously agreed to go into Executive Session to obtain legal advice.

The Board returned to regular session.

On motion by Dr. Smidt and seconded by Mr. Milovich, the Board unanimously agreed to table the application until the November meeting allowing the applicant time to research the answers to the Board's questions. Dr. Smidt stated that the Board would be interested in the remuneration for the prescribing physicians in the clinic owned by the investor. Dr. Smidt stated that the Board would also like clarification if the physicians are naturopathic or homeopathic physicians. Dr. Smidt stated that the Board would also like clarification on how the internet would be used and insuring that there is a proper patient-doctor relationship.

Mr. Haiber stated that Mr. Brodersen needs to be better prepared in explaining the business model at the November meeting. Mr. Haiber suggested that other investors could accompany him to explain the business model. Mr. Brodersen stated that he is not the primary individual putting the business together. Mr. Brodersen stated that he was an investor and was chosen to be the Pharmacist in Charge.

Ms. Campbell asked that the applicant be asked to submit any additional information by letter prior to the meeting, so that the Board can be prepared to ask questions at the November meeting.

On motion by Dr. Smidt and seconded by Mr. Milovich, the Board unanimously amended the motion to include that the applicant must submit additional information as requested in the original motion two weeks prior to the November Board meeting allowing the Board Members time to review the additional information prior to the Board meeting.

Priority Rx

Pierre Navardes, Pharmacist in Charge, was present to answer questions from Board Members. Roger Morris, Legal Counsel for Priority Rx, was also present.

President McAllister opened the discussion by asking Mr. Navardes to describe the nature of his business. Mr. Navardes stated that they would be a compounding pharmacy.

Mr. McAllister asked Mr. Navardes what products they would be compounding. Mr. Navardes stated that they would be compounding mainly bio-identical hormones and veterinary products. Mr. Navardes stated that they would be marketing their products to ob/gyn physicians and veterinarians. Mr. Navardes stated that they are located in a medical building in Arcadia.

Mr. McAllister asked Mr. Navardes if they would be compounding any prescriptions for office use. Mr. Navardes replied no.

Mr. McAllister asked if Mr. Navardes would be delivering prescriptions to doctor's offices. Mr. Navardes indicated that they would deliver filled prescriptions to the doctor's office.

Mr. Van Hassel asked what percentage of the business would be directed to compounding for physicians for office administration. Mr. Navardes stated that is not their business model. Mr. Navardes stated that their business model is to have walk-in traffic with prescriptions being filled for those patients.

Mr. Van Hassel asked if this would be an open door pharmacy where they would fill any prescriptions. Mr. Navardes stated that they would fill only compounded prescriptions.

Mr. Van Hassel asked if they would do any sterile compounding. Mr. Navardes replied no.

Mr. McAllister asked Mr. Navardes if the owner of the pharmacy is a pharmacist. Mr. Navardes stated that the owner is Michael Zerbib and he is not a pharmacist. Mr. Navardes stated that Mr. Zerbib owns a internet software business.

Mr. Van Hassel asked if they would have a website. Mr. Navardes stated that they probably would have a website.

Mr. Van Hassel asked how they would obtain prescriptions. Mr. Navardes stated that the doctor could phone or fax the prescription to the pharmacy. Mr. Navardes stated that the patient could request that they call their doctor for a new prescription.

Willcox Grocery

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

Darin Hill, pharmacy owner, was present to answer questions from Board Members.

President McAllister opened the discussion by asking Mr. Hill to describe the nature of his business. Mr. Hill stated that he is purchasing an existing Bashas' grocery store in Willcox. Mr. Hill stated that the pharmacy is part of the business that he is buying.

Mr. McAllister asked Mr. Hill if he is a pharmacist. Mr. Hill replied no.

Mr. McAllister asked Mr. Hill if he has a pharmacist to manage the pharmacy. Mr. Hill stated that if he is granted a license that he has several pharmacists interested in the position.

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

Pharmacy	Location	Owner
Walgreens Pharmacy #12385	475 W. Finnie Flats Rd., Camp Verde, AZ 86322	Walgreen Arizona Drug Co.
Target Store T-2140	4040 N. Oracle Rd., Tucson, AZ 85705	Target Corporation
CVS/Pharmacy #9309	4744 S. Hwy 95, Fort Mohave, AZ 86426	Arizona CVS Stores, LLC
Cigna Medical Group Pharmacy #62	1445 W. McDowell Rd., Ste. A-105, Goodyear, AZ 85395	Cigna Healthcare of AZ
CareMart Pharmacy LLC	6565 E. Carondelet Dr, Tucson, AZ 85710	Care Mart Pharmacy LLC
Cardinal Health 414, LLC	4030 Stockton Hill, Kingman, AZ 86409 (O)	Cardinal Health 414, LLC
Willcox Health Mart Pharmacy	666 N. Bisbee Ave., Willcox, AZ 85643	Willcox Health Mart Pharmacy
Priority Rx, LLC	4832 E. Indian School , Phoenix, AZ 85018	Priority Rx, LLC

(O) = Ownership Change

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

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

Pharmacy	Location	Owner
Willcox Grocery	900 W. Rex Allen Dr. , Willcox, AZ 85643 (O)	Darin Hill

(O) = Ownership Change

Non-Resident Permits

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

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

NON-RESIDENT (Out of State)

Pharmacy	Location	Owner
Nutrishare, Inc.	9850 Kent St., Elk Grove, CA 95624	Nutrishare, Inc.
CarePlus CVS/Pharmacy #2801	8607 Santa Monica Blvd. West Hollywood, CA 90069	ProCare Pharmacy, LLC
Cardinal Health Pharmacy Services, LLC	2868 W. Trenton Henderson, Edinburg, TX 78539 (O)	Cardinal Health Pharmacy Services, LLC
The Snyder Center of Pain Pharmacology	102 E. Highland Ave., Inverness. FL 34452	McCully Snyder Pharmacy, Inc.
Hallandale Pharmacy	1109 E. Hallandale Beach Blvd., Hallandale Beach, FL 33009	Gennady Krupnikas
Covance Specialty Pharmacy, LLC	500 Eagles Landing Dr., Ste. A, Lakeland, FL 33810	Covance Specialty Pharmacy, LLC
Dakota Pharmacy of Bismark, Inc.	705 E. Main St., Bismark, ND 59502	Dakota Pharmacy of Bismark, Inc.
Coastal Compounding Pharmacy	6709-A Forest Park Dr., Savannah, GA 31406	Triad Isotopes, Inc
Q Pharma Inc.	45 Horsehill Rd, Suite 103, Cedar Hills, NJ 07927	Q Pharma, Inc.

(O) = Ownership Change

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

President McAllister was recused due to a conflict of interest.

NON-RESIDENT (Out of State)

Pharmacy	Location	Owner
RightSource	655 Eden Park Dr., Suite 400, Cincinnati, OH 45202	Humana Pharmacy

Wholesaler Permits

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

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

WHOLESALER	LOCATION	OWNER
Nephron Pharmaceuticals Corp (Full Service)	Phoenix Industry Center , 840 S. 67 th Ave., Bldg "G", Phoenix, AZ 85043	Nephron Pharmaceuticals Corp.
Cardinal Health 414, LLC (Full Service)	4540 E. Cotton Gin Loop, Phoenix, AZ 85040 (O)	Cardinal Health 414, LLC

(O) = Ownership Change

Manufacturer Permits

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

On motion by Dr. Smidt and seconded by Mr. Haiber, the Board unanimously approved the resident manufacturer permits listed below. All permits are subject to final inspection by a Board Compliance Officer where appropriate.

WHOLESALER	LOCATION	OWNER
Nephron Pharmaceuticals Corp (Full Service)	Phoenix Industry Center , 840 S. 67 th Ave., Bldg "G", Phoenix, AZ 85043	Nephron Pharmaceuticals Corp.
Cardinal Health 414, LLC (Full Service)	4540 E. Cotton Gin Loop, Phoenix, AZ 85040 (O)	Cardinal Health 414, LLC

(O) = Ownership Change

Pharmacists, Interns, Pharmacy Technicians, and Pharmacy Technician Trainees

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

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

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

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

AGENDA ITEM 5 – Special Requests

#1 Kerry Karn

Kerry Karn appeared on his own behalf to request that the probation imposed on his pharmacist license per Board Order 04-0024-PHR be terminated. Lisa Yates from the PAPA program was also present.

President McAllister opened the discussion by asking Mr. Karn to describe the nature of his request. Mr. Karn stated that he is requesting the termination of his probation. Mr. Karn stated that he has fulfilled all the requirements of his consent agreement.

Mr. McAllister asked Mr. Karn how his life is different now. Mr. Karn stated that he is able to experience life without substance abuse. Mr. Karn stated that he has learned to accept things as they are and he may not be able to change them.

Mr. McAllister asked Mr. Karn if he is working. Mr. Karn replied yes.

On motion by Mr. Van Hassel and seconded by Mr. Milovich, the Board unanimously agreed to approve the request by Mr. Karn to terminate the probation of his pharmacist license imposed by Board Order 04-0024-PHR.

#2 William Brophy

William Brophy appeared on his own behalf to request that the probation imposed on his pharmacist license per Board Order 06-0027-PHR be terminated.

President McAllister opened the discussion by asking Mr. Brophy to describe the nature of his request. Mr. Brophy stated that he is requesting the termination of his probation. Mr. Brophy stated that he has completed all the requirements of his consent order.

Mr. McAllister asked Mr. Brophy what was the nature of his discipline. Mr. Brophy stated that he had been involved in filling internet prescriptions.

On motion by Mr. Milovich and seconded by Mr. Van Hassel, the Board unanimously agreed to approve the request by Mr. Brophy to terminate the probation of his pharmacist license imposed by Board Order 06-0027-PHR.

#3 David Garden

David Garden appeared on his own behalf to request that the probation imposed on his pharmacist license per Board Order 04-0033-PHR be terminated. Roger Morris, Legal Counsel for Mr. Garden, was also present.

President McAllister opened the discussion by asking Mr. Garden to describe the nature of his request. Mr. Garden stated that he is requesting the termination of his probation.

Mr. McAllister asked Mr. Garden how long he was on probation. Mr. Garden stated that his probationary term was for three years and ended in 2008. Mr. Garden stated that he is

appearing to ask for the termination of the probation, so that he is able to give immunizations.

Mr. McAllister asked Mr. Garden if he has completed all the requirements of his Consent Agreement. Mr. Garden replied yes.

Dr. Smidt asked Mr. Garden if he had trouble finding employment while he was on probation. Mr. Garden replied no.

On motion by Mr. Van Hassel and seconded by Ms. Honeyestewa, the Board unanimously agreed to approve the request by Mr. Garden to terminate the probation of his pharmacist license imposed by Board Order 04-0033-PHR.

AGENDA ITEM 6– License Applications Requiring Board Review

#1 Don Porter

Don Porter appeared on his own behalf to request to proceed with reciprocity.

President McAllister opened the discussion by asking Mr. Porter why he was appearing in front of the Board. Mr. Porter stated that he would like to apply for reciprocity in Arizona and is currently licensed in Arkansas.

Mr. Porter stated that he was disciplined in Arkansas for failure to complete the required CE when he renewed his license. Mr. Porter stated that he was also disciplined for allowing a pharmacy technician to work when the individual had not sent in the paperwork for their technician license.

Mr. McAllister asked Mr. Porter if he ever had any substance abuse problems. Mr. Porter replied no.

Mr. Haiber asked Mr. Porter if he turned in his renewal indicating that he had not completed his CE requirements. Mr. Porter replied that in Arkansas he had to list all the CE courses that he completed. Mr. Porter stated that he listed the courses that he had taken and did not have enough CE credits and the Board decided to discipline him for not obtaining the required CE units for renewal.

On motion by Dr. Smidt and seconded by Ms. Honeyestewa, the Board unanimously approved the request by Mr. Porter to proceed with reciprocity.

#2 Arikesavanallur Krishnaswamy

Arikesavanallur Krishnaswamy appeared on his own behalf to request to proceed with reciprocity.

President McAllister opened the discussion by asking Mr. Krishnaswamy why he was appearing in front of the Board. Mr. Krishnaswamy stated that he would like to apply for reciprocity in Arizona and is currently licensed in New Hampshire, Tennessee, and Texas.

Mr. Krishnaswamy stated that he was disciplined as a technician in Texas. Mr. Krishnaswamy stated that he did not understand the question on the technician application and mistakenly answered the question no. Mr. Krishnaswamy stated that he received a letter from the Texas Board stating that he should have answered yes to the question and was issued a technician license that was suspended for two weeks.

Mr. McAllister asked Mr. Krishnaswamy if that is the only disciplinary action that has been taken against his licenses. Mr. Krishnaswamy replied yes.

Mr. Van Hassel asked Mr. Krishnaswamy why he applied for a technician license. Mr. Krishnaswamy stated that he was waiting for approval from NABP to take the FPGE exam. Mr. Krishnaswamy stated that as a technician he had to register with the Texas Board. Mr. Mr. Krishnaswamy stated that he applied for the technician license in Texas in 2004 and received his pharmacist license from Texas in 2006.

Mr. Haiber asked Mr. Krishnaswamy if he plans to move to Arizona. Mr. Krishnaswamy stated that he plans to move to Arizona to be closer to family members that live in California.

Mr. Haiber asked Mr. Krishnaswamy if he has an offer of a job in Arizona. Mr. Krishnaswamy stated that he currently works for CVS in Tennessee and would like to transfer to Arizona with CVS.

On motion by Dr. Smidt and seconded by Mr. Haiber, the Board unanimously approved the request by Mr. Krishnaswamy to proceed with reciprocity.

#3 Harry Pitcher

Harry Pitcher appeared on his own behalf to request to proceed with reciprocity.

President McAllister opened the discussion by asking Mr. Pitcher why he was appearing in front of the Board. Mr. Pitcher stated that he would like to apply for reciprocity in Arizona and is currently licensed in New Mexico. Mr. Pitcher stated that he has signed a Consent Agreement with the New Mexico Board that requires him to participate in the New Mexico Monitoring Program.

Mr. McAllister asked Mr. Pitcher about his progress in the New Mexico program. Mr. Pitcher stated that he is in year 4 of a 10-year program. Mr. Pitcher stated that is doing fine and has brought a copy of his August progress report. Mr. Pitcher stated that he currently works at Carlsbad Medical Center in New Mexico. Mr. Pitcher stated that he is a clinical pharmacist.

Mr. McAllister asked Mr. Pitcher if he would have any issues signing a consent agreement with the Board to participate in the PAPA program. Mr. Pitcher replied that he is required by his New Mexico agreement to participate in a monitoring program if he leaves the state.

On motion by Dr. Smidt and seconded by Mr. Haiber, the Board unanimously approved the request by Mr. Pitcher to proceed with reciprocity upon signing a modified Consent Agreement requiring his participation in PAPA that mirrors the time frame of his

New Mexico Consent Agreement. The Consent Agreement upon signature can be approved by the Executive Director and does not need to come back to the Board for approval at the next meeting. A roll call vote was taken. (Ms. Honeyestewa – aye, Mr. Milovich – aye, Mr. Van Hassel- aye, Mr. Haiber – aye, Dr. Sypherd – aye, Dr. Smidt – aye, and President McAllister –aye)

#4 Luis Alvarez

Luis Alvarez appeared on his own behalf to request to proceed with Pharmacy Technician Trainee licensure.

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

Mr. Alvarez stated that he would like to be licensed as a pharmacy technician trainee, but was asked to appear because he disclosed that he had a marijuana conviction that was expunged. Mr. Alvarez stated that the original conviction occurred in 1992 and the conviction was expunged about 10 years ago.

Mr. McAllister asked Mr. Alvarez why he wanted to be a pharmacy technician. Mr. Alvarez stated that it would be the first step in going to pharmacy school. Mr. Alvarez stated that he currently is licensed as an insurance agent and would like to change careers.

Mr. McAllister asked if Mr. Alvarez has had any issues with marijuana use since the conviction. Mr. Alvarez stated that he was in college at the time and has not used any marijuana since that time. Mr. Alvarez stated that he has four children and has to serve as a role model to his children.

On motion by Dr. Smidt and seconded by Ms. Honeyestewa, the Board unanimously agreed to approve the request by Mr. Alvarez to proceed with pharmacy technician trainee licensure.

#5 Maribel Valdivia

Maribel Valdivia appeared on her own behalf to request to proceed with Pharmacy Technician Trainee licensure.

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

Ms. Valdivia stated that she would like to be licensed as a pharmacy technician trainee. Ms. Valdivia stated that she is attending school to become a technician. Ms. Valdivia stated that she is currently on probation for money laundering. Ms. Valdivia stated that her boyfriend was giving her money illegally.

Mr. McAllister asked Ms. Valdivia when her probation started. Ms. Valdivia stated that her probation started in June of last year. Ms. Valdivia stated that she is currently on unsupervised probation.

Mr. McAllister asked Mr. Valdivia how long she would be on probation. Ms. Valdivia stated that she would be on probation for three years.

Mr. McAllister asked Ms. Valdivia if the illegal activity involved drugs of abuse. Ms. Valdivia replied no.

Mr. McAllister asked Ms. Valdivia if she is currently in school taking technician classes. Ms. Valdivia replied yes and she needs her license to complete her course. Ms. Valdivia stated that she is attending Bryman.

Dr. Smidt asked Ms. Valdivia where her boyfriend was getting the money. Ms. Valdivia stated that he was involved in human smuggling.

Dr. Smidt asked Ms. Valdivia if she knew what was happening. Ms. Valdivia stated her boyfriend was giving her money to put in the bank to pay the mortgage and household expenses. Ms. Valdivia stated that after he went to jail, there was a large amount of money in her account that came from her credit line against a house she owned in Florida. Ms. Valdivia stated that the money was used to pay the attorney. Ms. Valdivia stated at this point they stated that she knew where the money was coming from and she was charged with money laundering. Ms. Valdivia stated that she was not aware of where her boyfriend was getting the money.

Mr. Van Hassel asked how much money they accused her of laundering. Ms. Valdivia stated that they estimated it to be about \$80,000 over 3 years.

Mr. Wand asked Ms. Valdivia how they determined that she had to pay \$40,000 in restitution. Ms. Valdivia replied that she does not know how they determined the amount.

Mr. McAllister asked if Ms. Valdivia was currently working. Ms. Valdivia replied no.

Mr. McAllister asked Ms. Valdivia when she started school. Ms. Valdivia stated that she started school on March 4, 2009. Ms. Valdivia stated that she has perfect attendance and is passing all her courses.

Dr. Smidt asked when Ms. Valdivia starts her internship. Ms. Valdivia stated that she starts her internship in about 5 weeks.

On motion by Mr. Van Hassel and seconded by Dr. Sypherd, the Board agreed to approve the request by Ms. Valdivia to proceed with pharmacy technician trainee licensure. There was one nay vote by Dr. Smidt.

#6 Elizabeth Hogan

Elizabeth Hogan appeared on her own behalf to request that her surrendered pharmacist license be reinstated. Lisa Yates from the PAPA program was also present.

President McAllister opened the discussion by asking Ms. Hogan to describe the nature of her request. Ms. Hogan stated that she would like to have her surrendered Pharmacist license reinstated.

Mr. McAllister asked Ms. Hogan what she has been doing the last two years. Ms. Hogan stated that she has been actively participating in her recovery program.

Mr. McAllister asked Ms. Hogan if she is ready to return to the stress of the workplace. Ms. Hogan replied yes.

Mr. McAllister asked Ms. Hogan if she participates in the PAPA program. Ms. Hogan stated that she has been in the PAPA program for 14 months.

Mr. McAllister asked Ms. Yates about Ms. Hogan's progress in the PAPA program. Ms. Yates indicated that Ms. Hogan was compliant and keeps in touch with her. Ms. Yates stated that Ms. Hogan's PAPA counselor and sponsor have written letters supporting her request.

Mr. McAllister asked Ms. Hogan tell the Board about her recovery. Ms. Hogan stated that initially she was concerned about getting her life back and not getting her license back. Ms. Hogan stated that she works with youth speaking about drugs and alcohol abuse. Ms. Hogan stated that she is teaching pharmacology at Kaplan College. Ms. Hogan stated that she is now able to handle life.

Mr. Wand stated that Ms. Hogan came to the office and apologized to him and Ms. Frush about the problems she had created when she spoke in front of the Board previously.

Mr. Van Hassel asked Ms. Hogan if she has been employed in the last 14 months. Ms. Hogan stated that she worked as a graphic artist. Ms. Hogan stated she is not working at Kaplan College.

Mr. Van Hassel asked Ms. Hogan if she has kept up with her CE. Ms. Hogan replied no that she has not completed any CE units.

Mr. Van Hassel asked Ms. Hogan when she last worked in a pharmacy. Ms. Hogan replied in 2007.

Mr. Haiber asked Ms. Hogan if she is working full-time at Kaplan College. Ms. Hogan replied that she is working full-time.

Mr. Haiber asked Ms. Hogan what her plans are for the future. Ms. Hogan stated that she would like to get her license back so that she could apply for a residency. Ms. Hogan stated that she enjoys working in public health and would like to work in that setting.

On motion by Dr. Smidt and seconded by Mr. Haiber, the Board agreed to offer Ms. Hogan a consent agreement to reinstate her license with the following terms: she must enter into a new 5-year PAPA contract and must successfully complete 30 hours of CE. The Consent Agreement upon signature can be approved by the Executive Director and does not need to come back to the Board for approval at the next meeting. There was one nay vote by Mr. Van Hassel.

#7 Mohamed Abou Zahra

Mr. Abou Zahra withdrew his request to appear at the meeting.

AGENDA ITEM 7 – Alani Vaioleti – Request to continue to work as an Intern

Alani Vaioleti appeared on his own behalf to request to continue to work as a pharmacy intern even though he is no longer enrolled in pharmacy school. Mr. Vaioleti has been granted a leave of absence by Midwestern University College of Pharmacy – Glendale.

President McAllister opened the discussion by asking Mr. Vaioleti why he was appearing in front of the Board. Mr. Vaioleti stated that he would like to retain his Intern license while he is on leave from the school.

Mr. McAllister asked Mr. Vaioleti when he planned on returning to school. Mr. Vaioleti stated that he plans on returning to school next year.

Mr. McAllister asked why it is Mr. Vaioleti's desire to keep his intern license active. Mr. Vaioleti stated that he is currently not working as an intern, but would like the opportunity to work as an intern.

Dr. Sypherd asked if there was any way of knowing if he returns to school next year.

Mr. Wand stated that the office could put a tickler on his file to contact the school next year and have them report to the Board if he returns to school next year.

Mr. McAllister stated that an intern license is granted to parallel the academic program. Mr. McAllister stated that he could work as a pharmacy technician. Mr. McAllister stated that an intern license is granted to someone working toward licensure and not granted to someone wanting the license so that they can work as an intern without attending school.

Mr. Van Hassel asked Mr. Vaioleti why he was not attending school. Mr. Vaioleti stated that his personal life was very hectic and it affected his studies. Mr. Vaioleti stated that he has been getting his personal life in order over the summer.

Mr. Van Hassel asked Mr. Vaioleti if he completed his first year of school. Mr. Vaioleti stated that he has to repeat some classes from his first year and would be attending school part-time next year while he repeats those classes.

Mr. Van Hassel asked Mr. Vaioleti if he has ever worked as an intern. Mr. Vaioleti replied no. Mr. Vaioleti stated that he worked as a volunteer at John C. Lincoln prior to entering pharmacy school.

On motion by Mr. Van Hassel and seconded by Dr. Sypherd, the Board unanimously denied Mr. Vaioleti's request to keep his intern license while he is not enrolled in pharmacy school.

AGENDA ITEM 8 – North Country Health Care – Deviation request

Mary Lou Brubaker appeared on behalf of North Country Health Care to request a deviation from R4-23-110 (A) definition for "Supervision" which would include a telepharmacy site at a remote location without a pharmacist present. The waiver would

be based on experimental and technological advancement. Teresa Vaughn with ScriptPro was also present.

President McAllister opened the discussion by asking Ms. Brubaker why she was appearing in front of the Board. Ms. Brubaker stated that North Country Health Care is requesting a deviation for two sites to allow them to have telepharmacy sites at the Grand Canyon and at Kingman. Ms. Brubaker stated that the Flagstaff pharmacy would serve as the host pharmacy.

Mr. McAllister asked Ms. Brubaker to describe the process. Ms. Brubaker stated that the process would involve two systems. The first system would be the current pharmacy QS1 system which houses the database for all patient profiles. The second system would be the ScriptPro telepharmacy system.

Ms. Brubaker stated that there would be a certified technician at each site.

Ms. Brubaker stated that the patient would present a prescription hard copy to the remote site and the prescription would be scanned. The doctor could also phone or fax the prescription to the host site. The prescription would be entered into the QS1 system and a pharmacist would check the order entry at the host site. The prescription would then be filled at the remote site. After the prescription is filled, the pharmacist would do a quality assurance check on the prescription using the video link connected to the ScriptPro.

Ms. Brubaker stated that the pharmacist at the host site can see an image of the medication and the label. Ms. Brubaker stated that once verified by the remote pharmacist the prescription bag is sealed until the patient arrives to pick up the prescription. Ms. Brubaker stated that there is face to face consultation with the host site via an audio and video link.

Mr. McAllister asked if all prescriptions would be filled at the remote site. Ms. Brubaker stated that there would be no controlled substances at the remote site. Ms. Brubaker stated that all controlled substance prescriptions would be filled at the host site and sent to the remote site.

Mr. McAllister asked if the technician would select the products. Ms. Brubaker stated that most items would be unit of use kept in the ScriptPro. Ms. Brubaker stated that the technician must scan the barcode and have the correct product before a label would be printed. Ms. Brubaker stated that a label would not be printed until the barcode and product match.

Mr. McAllister asked Ms. Brubaker if she could observe the technician via the video link. Ms. Brubaker stated that she can turn the video on at anytime to observe the technician.

Mr. McAllister asked Ms. Brubaker how often the pharmacist would visit the pharmacy. Ms. Brubaker states that initially a pharmacist would be at the site until the system is set up. Ms. Brubaker stated that once the system is set up they would visit the remote site weekly for the next quarter and then would visit the remote site quarterly after that. Ms. Brubaker stated that the Grand Canyon is 80 miles away and Kingman is 140 miles away.

Mr. Wand stated at this time due to the rules moratorium the Board is not allowed to write any rules concerning telepharmacy.

Mr. Wand asked Ms. Brubaker if they service 340B patients. Ms. Brubaker replied yes.

Mr. Milovich asked why they could not partner with a pharmacy in Kingman. Ms. Brubaker replied that they could do that but the organization chose not to do that because of auditing and purchasing requirements involved with 340B regulations.

Mr. Wand asked Ms. Brubaker if they would be able to fill prescriptions for tourists at the Grand Canyon. Ms. Brubaker stated that the federal guidelines would allow them to fill the prescriptions if they were seen in the clinic.

Mr. Wand asked Ms. Brubaker if they have a language translator for foreign visitors that may be seen at the Grand Canyon. Ms. Brubaker stated that they have a translation service in place at the medical site and the service could be used by the pharmacy site.

Mr. Van Hassel asked why they want to set up a remote site in Kingman. Ms. Brubaker stated that there are a large number of uninsured patients going through their clinics. Ms. Brubaker stated that there are many individuals that need prescriptions at a lower cost.

Ms. Brubaker stated that in Flagstaff the cost of contracting the pharmacy service out to a local pharmacy would cost a lot more than operating the pharmacy because they were not able to find a reasonable contract.

Mr. McAllister stated that North Country Health Care is a federally qualified health center and they serve a need that is not competitive with the market place.

Ms. Brubaker stated that prescriptions are now being picked up where as when the pharmacy services were contracted out the prescriptions were not picked up.

Dr. Smidt asked how long the pharmacists would be at the remote site. Ms. Brubaker stated that they would not be opening both sites at the same time. Ms. Brubaker stated that the pharmacist would be there 1 to 3 weeks for setup. Ms. Brubaker stated that after setup the pharmacist would go to the remote site every week for 3 months and then they would visit the remote site quarterly.

Dr. Smidt asked if the technician would check in the inventory order. Ms. Brubaker stated that the product would arrive in a sealed container and they could watch the technician at the remote site via the video link open the container.

Dr. Smidt asked who would order the medications. Ms. Brubaker stated that the equipment would generate a report and the host site would place the order.

Dr. Smidt asked if they would fill acute prescriptions and refills. Ms. Brubaker stated that they would fill both.

Dr. Smidt asked if a prescription could only be picked up while both pharmacy sites are open. Ms. Brubaker replied yes.

Mr. Haiber asked how often inventory would be taken at the remote site. Ms. Brubaker replied that it would be taken twice a year.

Mr. Haiber asked what would happen if a patient did not pick up the prescription. Ms. Brubaker stated that the filled prescription would be returned to the host pharmacy after 14 days.

Mr. Milovich asked if both remote sites would be servicing 340B niche populations. Ms. Brubaker stated that 340B designations are associated with community health center projects.

Dr. Smidt asked if there was a way to determine if there was a failure such as diversion. Ms. Brubaker stated that the technology would alert them to certain issues.

On motion by Mr. Van Hassel and seconded by Dr. Smidt, the Board approved the request by North Country Health Care to deviate from R4-23-100(A) definition for “Supervision” which would allow them to have telepharmacy remote sites at Kingman and the Grand Canyon. The deviation is based on experimental and technological advances. There was one nay vote by Mr. Milovich.

AGENDA ITEM 9 – Howard Pulver – Case #09-0035-PHR

Howard Pulver appeared on his own behalf to request that the Board reconsider the Board’s decision concerning the disciplinary action imposed as a result of a consumer complaint. Ken Baker, Legal Counsel for Mr. Pulver, was also present.

President McAllister opened the discussion by asking Mr. Pulver why he was appearing in front of the Board. Mr. Pulver stated that he received a consent agreement for a 6 month suspension and would like the Board to consider a long probation period instead of a suspension

Mr. McAllister stated that the Board did review the complaint and had decided that the suspension was an appropriate discipline.

Mr. Baker asked if he could address the Board. Mr. Baker stated that they had sent the Board a lengthy memo concerning the issues. Mr. Baker stated that Mr. Pulver admits that he did do some things wrong. Mr. Baker stated that they are asking the Board to reconsider the suspension and impose a lengthy probation. Mr. Baker stated a lengthy probation would show the Board that Mr. Pulver could follow the rules. Mr. Baker stated that Mr. Pulver did have a cavalier attitude towards the refills. Mr. Baker stated that Mr. Pulver stated that he did contact the physicians for the refills but communication was not good. Mr. Baker stated that Mr. Pulver had thought the doctor authorized a refill when the doctor did not mean for an approval. Mr. Baker stated that they are asking the Board to consider a lengthy probation. Mr. Baker stated that Mr. Pulver will not fill prescriptions for himself or family members.

Mr. Pulver stated that he has two special needs children. Mr. Pulver stated that he has seen multiple doctors for several issues and assumed they were giving him authorization to fill his and family members prescriptions.

Mr. McAllister stated that the complaint was reviewed by the committee and if the consent agreement is not signed then the case moves to hearing. Mr. McAllister stated that this is not the time to discuss evidence.

Dr. Sypherd asked if the Board has a procedure for reconsideration. Mr. Wand stated that the Board has reconsidered cases occasionally.

Dr. Smidt asked Mr. Pulver if he has had any other incidents with other employers. Mr. Pulver replied no. Mr. Pulver stated that he worked as an intern at Albertsons. Mr. Pulver stated that when he got licensed he worked as a pharmacist with Albertsons. Mr. Pulver stated that he left Albertsons about 2 years ago and started working as a pharmacist at Wal-Mart. Mr. Pulver stated that he is currently working at CareMark.

On motion by Mr. Van Hassel and seconded by Dr. Sypherd, the Board unanimously agreed to allow Mr. Pulver to sign the consent agreement offered to him in the next 14 days and if not signed the case moves to Hearing. A roll call vote was taken. (Ms. Honeyestewa – aye, Mr. Milovich – aye, Mr. Van Hassel- aye, Mr. Haiber – aye, Dr. Sypherd – aye, Dr. Smidt - aye, and President McAllister –aye)

AGENDA ITEM 10- Reports

Executive Director Report

Budget Issues

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

Mr. Wand stated that at the end of the fiscal year there was a balance of \$300,000. Mr. Wand stated that the Board did receive the \$200,000 loan. Mr. Wand stated that there is a slight increase in the amount of revenues due to the increase in fees earlier this year. Mr. Wand stated that the rent was swept for the year at the beginning of August.

Rules Moratorium

Mr. Wand stated that next week the Governor's Office will extend the rules moratorium until June 2010. Mr. Wand stated that there are some cases where rules may be written and approved. Those cases would include the following:

1. If there is an imminent threat to public health
2. Repeal of rules that are no longer used
- 3 If there is a violation of a court order with existing rules
4. If rules need to be written for use of stimulus funds from the federal government

Personnel Issues

Mr. Wand stated that the Board Office is experiencing several personnel issues. Mr. Wand stated that he has requested permission to hire a Compliance Officer to replace Mr. Dick. He stated that he currently has had no reply from the Governor's Office. Mr. Wand stated that he hopes that he will have that authorization by January.

Mr. Wand stated that due to illness the Office Staff is short one individual and Heather Lathim, the Drug Inspector, has been helping in the office. Mr. Wand stated that the Board does have a temporary staffing employee to serve as a receptionist.

Mr. Wand stated that license renewal letters have been mailed. Mr. Wand stated that if a licensee or permit holder renews online the license renewal would be e-mailed to the licensee or permit holder. Mr. Wand stated that relief certificates would be sent by regular mail.

District 6, 7, and 8 NABP meeting

Mr. Wand stated that the District 6,7, and 8 meeting will be held in New Orleans, Louisiana from September 30, 2009 through October 2, 2009.

Mr. Wand stated that he would be attending the meeting. Mr. Wand stated that Mr. McAllister and Dr. Berry would also be attending the meeting.

Annual Report

Mr. Wand stated that he has completed the Annual Report and has sent the report to the Governor's Office.

Mr. Wand reviewed the annual report with the Board Members.

Deputy Director Report

Ms. Frush reviewed the Compliance Officers Activity Report and Drug Inspector Activity Reports with the Board Members. Ms. Frush indicated that due to personnel issues the number of inspections is less than at this time last year.

During the months of June and July, the Compliance Staff issued letters for the following violations:

Controlled Substance Violations

1. Controlled Substance Overage – 4
2. Controlled Substance Shortage – 5
3. Incomplete Annual Controlled Substance Inventory - 1

Documentation Violations

1. Failure to Document Medical Conditions – 8
2. Failure to sign daily log - 3
3. Failure to document counseling – 5
4. Failure to have required technician statements signed – 6
5. Failure to document automated dispensing machine maintenance – 3
6. Failure to be able to print a single drug usage report – 1
7. Failure to have adequate compounding documentation – 1
8. Failure to document the initials of a pharmacist taking an oral prescription – 1

Dispensing Violations

1. Outdated Rx and OTC items in the pharmacy – 2

Pharmacy Violations

1. Allowing technician to work without a license -1
2. Pharmacy scale broken - 1
3. Pharmacy permit not displayed - 1
4. Current renewals not available in the pharmacy – 1
5. Pharmacist giving immunizations without a current certificate – 1
6. Failure to notify the Board upon change of Pharmacist in Charge - 1

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

1. Documentation of Medical Conditions

Areas outside the inspection reports that may be of interest:

1. CE hours are required for renewal for Pharmacists and Certified Technicians
2. Licenses and wall certificates do not need to be posted. License renewals must be available for review by the Compliance Officer. Pharmacy Permit must be posted.

Pharmacist Assisting Pharmacists of Arizona (PAPA)

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of forty-seven (47) participants in the PAPA program. Since the last report on May 6, 2009, there have been three (3) new PAPA contracts signed.

Ms. Yates stated that PAPA has just contracted with a new counselor in Flagstaff where there are 6 participants in that area.

Ms. Yates stated that PAPA is working with the Arizona Pharmacy Foundation Board to try and put together a budget that will help Pharmacy Technicians with their initial intensive outpatient treatment expenses. Ms. Yates stated that it would be on a first come, first serve basis only.

Ms. Yates stated that the Southwest PRN will be held September 18, 2009 through September 20, 2009 in Sedona, Arizona at the Radisson Poco Diablo Resort. Ms. Yates stated that 9 hours of ACPE approved CE will be offered.

AGENDA ITEM 11 – Consent Agreements

President McAllister 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 stated that the Consent Agreement for Robert Sumner is a result of his decision to surrender his Pharmacist license. Mr. Wand stated that Mr. Hunter sent Mr. Sumner an audit letter for CE. Mr. Sumner had not completed his CE and asked to surrender his license.

Ms. Frush stated that Adam McLean had signed his Consent Agreement but did not send the recommendation letters that the Board requested at the July 2009 meeting. Mr. McLean was to send recommendation letters and sign a Consent Agreement for random screening in order to obtain his technician trainee license.

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

Gerald Calloway	-	10-0002-PHR
Haritha Choday	-	10-0003-PHR
Ronald Babington	-	10-0004-PHR
Mark Woodburn	-	10-0005-PHR
John Whitehead	-	10-0006-PHR
Melissa Cuestas	-	10-0009-PHR
Terri Birkholtz	-	10-0013-PHR
Robin Lederman	-	10-0014-PHR
Faiza Malik	-	10-0015-PHR
Ernest Bristol	-	10-0017-PHR
Robert Sumner	-	10-0018-PHR

On motion by Mr. Van Hassel and seconded by Ms. Honeystewa, the Board unanimously agreed to deny Adam McLean’s Pharmacy Technician Trainee application based on his criminal convictions which are violations of A.R.S. § 32-1927.01 (S), A.R.S. § 32-1927.01 (C) (6) and A.R.S. § 32-1927.01 (C) (8).

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

The Consumer Complaint Review Committee met prior to the Board Meeting to review 32 complaints. Ms. Galindo, Ms. Honeystewa, Mr. Haiber, and Mr. Milovich served as the review committee. Board Members were encouraged to discuss issues and were encouraged to ask questions.

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

Complaint #3707 - Dismiss

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

Complaint #3718 - Consent Agreement offered to the Pharmacy Technician for a PAPA contract. If not signed, the case proceeds to hearing

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

- Complaint #3691 - Dismiss
- Complaint #3694 - Dismiss
- Complaint #3695 - Dismiss
- Complaint #3719 - Consent Agreement offered to the Pharmacist for a 60 day suspension, 1 year probation, and \$1,000 fine to be paid in 60 days, If not signed, the case proceeds to hearing.

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

- Complaint #3674 - Conference for both Pharmacists as Respondents and Permit Holder as Witness
- Complaint #3690 - Dismiss – Refer Back to Texas Board
- Complaint #3692 - Dismiss
- Complaint #3693 - Dismiss
- Complaint #3697 - Consent Agreement offered to the Pharmacist in Charge concerning counseling policies with the following terms: \$500 fine to be paid in 60 days If not signed, the case proceeds to hearing.

Consent Agreement offered to the Verification Pharmacist with the following terms: \$500 fine to be paid in 60 days, 8 hours of approved CE on error prevention in addition to regular CE hours with 6 months to complete. If not signed, the case proceeds to hearing.

Advisory Letter to the Pharmacy Technician on following policies

- Complaint #3698 - Conference for both Pharmacists as Respondents and Permit Holder as Witness
- Complaint #3699 - Advisory Letter to the Pharmacist concerning the final accuracy check
- Complaint #3700 - Dismiss – Refer Back to Texas Board
- Complaint #3701 - Dismiss
- Complaint #3702 - Dismiss – Refer to Nursing Board
- Complaint #3703 - Consent Agreement offered to the Pharmacist with the following terms: \$3,000 fine to be paid in 60 days, 8 hours of approved CE on error prevention in addition to regular CE hours with 6 months to complete. If not signed, the case proceeds to hearing.

Advisory Letter to the Pharmacy Technician Trainee on following data entry policies

- Complaint #3705 - Dismiss

- Complaint #3696 - Dismiss
- Complaint #3706 - Consent Agreement offered to the Permit Holder with the following terms: \$1,000 fine to be paid in 60 days and proof of Arizona Licensed Pharmacist in Charge within 30 days. If not signed, the case proceeds to hearing.
- Complaint #3709 - Consent Agreement offered to the Pharmacist for a new 5-year PAPA contract with no suspension period. If not signed, case proceeds to hearing.
- Complaint #3710 - Consent Agreement offered to the Pharmacist for voluntary surrender and not reapply for 5 years. If not signed, the case proceeds to hearing.
- Complaint #3711 - Consent Agreement offered to the Pharmacist with the following terms: 1 year suspension followed by 2 years probation, \$1,000 fine to be paid in 60 days, take and pass the MPJE within 90 days, 400 hours of community service to be completed during suspension or probation period. If not signed, case proceeds to hearing.
- Complaint #3712 - Consent Agreement offered to the Intern with the following terms: \$1,000 fine to be paid in 6 months and probation period during term of Intern license. If not signed, case proceeds to hearing.
- Complaint #3713 - Consent Agreement offered to the Pharmacy Technician Trainee with the following terms: \$500 fine to be paid in 6 months, 1 year probation, and complete 6 hours of law CE during the probation period.
- Complaint #3714 - Consent Agreement offered to the Pharmacist with the following terms: 60 day suspension followed by 2 years of probation, \$1,000 fine to be paid in 60 days, take and pass the MPJE within 90 days, and 200 hours of community service to completed during the suspension or probation period. If not signed, the case proceeds to hearing.
- Complaint #3715 - Consent Agreement offered to the Pharmacist with the following terms: 60 day suspension followed by 2 years of probation, \$1,000 fine to be paid in 60 days, take and pass the MPJE within 90 days, and 200 hours of community service to completed during the suspension or probation period. If not signed, the case proceeds to hearing.
- Complaint #3716 - Consent Agreement offered to the Pharmacist with the following terms: 60 day suspension followed by 2 years of probation, \$1,000 fine to be paid in 60 days, take and pass the MPJE within 90 days, and 200 hours of community service to completed during the suspension or probation period. If not

signed, the case proceeds to hearing.

- Complaint #3717 - Consent Agreement offered to the Pharmacy Technician with the following terms: \$500 fine to be paid in 6 months, 1 year probation, and complete 6 hours of law CE during the probation period.
- Complaint #3719 - Consent Agreement offered to the Pharmacist with the following terms; 60 day suspension, 1 year probation, and \$1,000 fine to be paid in 60 days. If not signed, proceed to hearing.
- Complaint #3720 - Consent Agreement offered to the Pharmacist for revocation. If not signed, the case proceeds to hearing.
- Complaint #3721 - Authorize the Executive Director to order an evaluation with one of the three Board approved evaluators with the appointment set up within 2 weeks and the appointment is to be made within the next 30 days.

AGENDA ITEM 13 – Jacqueline Rothschild – Complaint #3585

President McAllister opened the discussion by asking Ms. Campbell, Assistant Attorney General, to address this agenda item.

Ms. Campbell stated that Complaint #3585 was opened in September of 2008. Ms. Campbell stated that there was concerns that the physician who did the original evaluation did not have all the pertinent information to consider at the time of his evaluation. The additional information was sent to the physician and his evaluation was inconclusive.

Ms. Campbell stated that with regard to Complaint #3721, the Board had recommended that Ms. Rothschild be re-evaluated for substance abuse issues. Ms. Campbell stated that she would recommend that the Board forward the information received with regard to Complaint #3585 along with the information from Complaint #3721 to the evaluator.

AGENDA ITEM 14 – Conferences

Complaint #3656

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Jamison Fisher (Pharmacist) and Patrick Jerome (Pharmacy Supervisor).

Compliance Officer Ed Hunter gave a brief overview of the complaint. Mr. Hunter stated that the complainant and his physician both filed a complaint stating that the patient had Potassium Chloride 20meq tablets mixed in his vial with his Metformin tablets. The patient stated that he noticed some of the tablets appeared slightly different in color and shape. The physician stated that the patient called him after experiencing side effects.

Mr. Hunter stated it is not clear how the two medications were mixed in the bottle. Mr. Hunter stated that the patient had a prescription for Potassium Chloride filled on March 3, 2008. The pharmacy upon learning of the error contacted all patients who had received Metformin in the same time frame. None of the other patients had received mixed tablets in their bottle. There is a possibility that the Potassium Chloride 20meq was mixed in the Baker Cell with Metformin 1000mg. There is also the possibility that the patient mixed the two medications since he had received both medications in the past.

President McAllister opened the discussion by asking Mr. Fisher if both medications are in the Baker Cells. Mr. Fisher replied yes.

Mr. Fisher stated that he is a floater pharmacist and that was the first day that he had worked at that store.

Mr. McAllister asked Mr. Fisher how the Baker Cells are replenished. Mr. Fisher stated that prior to pouring the medications into the cells he checks the medication before the technician places the medications into the cells. Mr. Fisher stated that the technician then logs the medication in the book. Mr. Fisher stated that he is certain that the correct drug goes into the cell because he checks the drug first.

Mr. Jerome stated that a pharmacist verifies all medications that are placed in the Baker Cells.

Mr. Wand asked if both tablets would fit through the opening in the Baker Cell. Mr. Hunter stated that both tablets would fit through the opening.

Mr. McAllister asked if return to stock products are placed back into the Baker Cell. Mr. Jerome stated that they are not placed back into the Baker Cell and are placed on the shelf in their original vial.

Mr. Haiber asked how many tablets the Baker Cell would hold. Mr. Fisher stated that the Baker Cell would hold about 500 tablets of Metformin. Mr. Fisher stated that the Baker Cell would hold less than 500 tablets of Potassium because they are slightly larger in size.

Mr. Van Hassel asked if the store did an audit. Mr. Jerome stated that they pulled three prescriptions that were filled before and after the complainant's prescription and called the patients. Mr. Jerome stated that no other patients had Potassium tablets mixed with their Metformin tablets.

On motion by Dr. Smidt and seconded by Dr. Sypherd, the Board unanimously agreed to dismiss the complaint.

Complaint #3664

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Robert Carranza (Pharmacist), Sally Salkowski (Pharmacist), and Joe Hands (Pharmacy Supervisor). Ken Baker was present as Legal Counsel.

Compliance Officer Rich Cieslinski gave a brief overview of the complaint. Mr. Cieslinski stated that Mr. Carranza filled the prescription with Amitriptyline 100mg instead of Amitriptyline 10mg. The patient was given 3 tablets of the incorrect medication because the pharmacist told the patient that they only had 3 tablets and the balance would be ready in a few days. Mr. Cieslinski stated that when Ms. Salkowski was reviewing the "Partial Due" labels she ran across the duplicate and told Mr. Carranza that they had plenty of the 10mg tablets in stock. Mr. Cieslinski stated that Ms. Salkowski told him that Mr. Carranza made the comment that he wondered what he gave the patient. Mr. Cieslinski stated that it is not known if any one called the patient to see what medication she received. Mr. Cieslinski stated that the patient stated that the tablets were larger in size but were the same color so she took them. The patient experienced side effects and was hospitalized for 3 days.

President McAllister opened the discussion by asking Mr. Carranza what happened. Mr. Carranza stated that he was a floater at the store. Mr. Carranza stated that he has no recollection of the event. Mr. Carranza stated that he was shown the label with his signature on the label indicating that he filled the prescription. Mr. Hands stated that he has a copy of the signed label.

Mr. McAllister asked Ms. Salkowski if the products are stored next to each other on the shelf. Ms. Salkowski stated that prior to the incident all the amitriptyline products were stored beside each other on the shelf and were arranged by increasing strength. Ms. Salkowski stated that the Amitriptyline 100mg has been moved. Mr. Hands stated that corporate policy is being changed to move the Amitriptyline 100mg to the other side of the pharmacy and placing the product with the Elavil products.

Mr. Van Hassel asked if scanning technology is used in the stores. Mr. Hands stated that scanning technology is not used. Mr. Hands stated that they are waiting for the scanners to be hooked up to the system. Mr. Hands stated that all stores would have the ability to scan product codes in the next six months.

Mr. McAllister asked Mr. Carranza why he did not call the patient if he wondered what he gave her. Mr. Carranza replied that he would have called the patient if he had known that he made a mistake. Mr. Carranza stated that he would not have made that statement and if he thought he made a mistake he would have called the patient.

Mr. Haiber asked Ms. Salkowski when the conversation took place between her and Mr. Carranza. Ms. Salkowski stated that Mr. Carranza worked 9 to 5 and she came in at noon. Ms. Salkowski stated that the conversation took place that afternoon.

Mr. Baker stated that he is not sure that anyone knew a mistake was made until the letter from the attorney arrived a month later. Mr. Baker stated that Mr. Donnelly called the patient when the letter was received and this was the first indication that they knew a mistake was made.

Dr. Smidt stated that he believes that the conversation took place that afternoon during the overlap. Mr. Baker stated that if the conversation had taken place it is apparent someone would have called the patient.

Dr. Smidt asked Ms. Salkowski when she filled the balance of the prescription. Ms. Salkowski stated that she waited until the order came in that afternoon and she filled the balance of the prescription.

Mr. Hands stated that he did not receive a call from any pharmacist stating that an error was made. Mr. Hands stated that he does not believe that the conversation occurred in such a way that Robert reacted to the comment.

Mr. Milovich asked if the patient was given 3 or 6 tablets. Mr. Hands stated that the patient was given 6 tablets.

Dr. Sypherd recommended that both pharmacists be fined.

On motion by Dr. Sypherd and seconded by Mr. Van Hassel, a motion was placed on the floor to impose the maximum fine on both pharmacists and the permit holder.

Mr. Milovich noted that there was only one violation issued and a complaint would need to be opened against the permit holder.

Mr. Van Hassel stated that the maximum fine is not warranted. Mr. Van Hassel stated that he feels that they understand that a mistake was made and he feels a \$500 fine would be warranted.

Mr. Milovich stated that when ingestion of the product occurs the fine is for \$1,000.

Mr. Haiber asked why there should be a fine against the permit holder. Mr. Van Hassel stated that the permit holder is responsible for the actions of the pharmacy.

Ms. Campbell stated that the respondents in the case are Mr. Carranza and Ms. Salkowski. Ms. Campbell stated that the permit holder is not a respondent and the Board would need to open a complaint against the permit holder. Ms. Campbell stated that since this is a conference the Board has the following options: dismiss the complaint, issue an advisory letter, or offer a consent agreement.

Mr. Wand noted that the complaint letter is a settlement letter. Mr. Wand asked Mr. Hands if the company has already paid a settlement in court on this case. Mr. Hands replied yes.

Dr. Sypherd and Mr. Van Hassel withdrew their original motion.

On motion by Dr. Sypherd and seconded by Mr. Van Hassel, a motion was placed on the floor to offer both pharmacists a consent agreement with the following terms: a \$500 fine. Dr. Sypherd and Mr. Van Hassel amended the motion to add continuing education.

Mr. McAllister stated that he felt that continuing education on patient safety should be included in the consent agreement.

Dr. Smidt asked Ms. Salkowski about her statement about the quantity of drug in stock. Ms. Salkowski stated that there was no doubt in her mind that Robert would have called the patient. Ms. Salkowski stated that she did not know if an error was made and she

only knew that they had plenty of the medication in stock. Mr. Carranza stated that he does not recall making that statement. Mr. Carranza stated that he would have called the patient. Mr. Carranza stated that he is not aware if Ms. Salkowski knew that he made a mistake.

Ms. Campbell stated that the only violation noted is against Mr. Carranza. Ms. Campbell stated that in regards to Ms. Salkowski what violation does the Board feel that Ms. Salkowski has committed.

Mr. Van Hassel stated that once an error is identified the pharmacist has a responsibility to notify the patient. Mr. Van Hassel stated that he believes that it is unprofessional conduct.

Ms. Campbell stated that she is not finding any applicable violation against Ms. Salkowski.

Mr. Wand stated that the only identified violation against is Mr. Carranza. Mr. Wand stated that he believes that there would be a violation for failure to control against the permit holder, but a new complaint would need to be opened. Mr. Wand stated that he does not believe that there is a statute that could be used to show a violation by Ms. Salkowski.

Dr. Smidt stated that Ms. Salkowski never told Mr. Carranza that he made a mistake, so maybe he did not make the connection that he made a mistake.

Ms. Campbell stated that the complaint is currently opened against Mr. Carranza and Ms. Salkowski. Ms. Campbell stated that the Compliance Officer has only listed one violation and that is against Mr. Carranza. Ms. Campbell stated that the Board could ask the Compliance Officer to investigate further the case against Ms. Salkowski. Ms. Campbell stated that the Board could offer a consent agreement based on a violation determined by the Board.

Mr. McAllister stated that a violation did occur even though the Board cannot identify it at this time. Mr. McAllister stated that he feels that further investigation would not be warranted.

Mr. Milovich stated that to be consistent the fine should be for \$1,000 fine and continuing education should be offered.

The motion was amended by Dr. Sypherd and seconded by Mr. Van Hassel, the Board unanimously agreed to offer a Consent Agreement to Mr. Carranza and Ms. Salkowski with the following terms: \$1,000 fine to be paid in 90 days and the completion of 8 hours of CE on medication errors to be completed within 6 months.

Complaint #3678

The following individuals were present to answer questions from Board Members concerning a consumer complaint: David Erwin (Pharmacist), Nicolle Muschinski (Pharmacist), Raymond Risvedt (Pharmacist), Matthew Vain (Pharmacy Technician), and Joe Leyba (Permit Holder and Supervisor). Roger Morris was present as Legal Counsel.

Compliance Officer Sandra Sutcliffe gave a brief overview of the complaint. Ms. Sutcliffe stated that the complainant received Mephobarbital 100mg instead of Mebendazole 100mg. The complainant did not take any of the incorrect medication. The pharmacy technician who entered the complaint stated he entered the first three letters of the drug name (MEB) and neglected to scan down the list to Mebendazole. The pharmacist that was the DUR and data verification pharmacist did not catch the error. The prescription was not dispensed that day because the pharmacy needed to order the medication. There was no counseling documentation recorded. There were two pharmacists on duty when the prescription was picked up. The pharmacist in charge stated that the other pharmacist was seen on tape talking to the patient. Ms. Sutcliffe stated that she was unable to obtain the prescription information for the Mephobarbital dispensing because the prescription was deleted from the database instead of being canceled. The dispensing information was obtained from the internal incident report.

President McAllister opened the discussion by asking Ms. Muschinski to address the error. Ms. Muschinski stated that she thought the prescription said mephobarbital. Ms. Muschinski stated that when she spoke to the patient she asked her why she had gone to the doctor. Ms. Muschinski stated that the patient told her that she did not know. Ms. Muschinski stated that she told that patient that the medication was a strong sedative and she had to order the medication. Ms. Muschinski stated that she did not call the doctor for clarification.

Mr. McAllister asked who typed the prescription. Ms. Muschinski stated that the technician typed the prescription.

Mr. McAllister asked if there was a record of the prescription. Mr. Erwin stated that he was not able to access the prescription when Ms. Sutcliffe was at the pharmacy. Mr. Erwin stated that he does have a copy of the information. Mr. Erwin stated that the prescription was reissued with the correct medication. Mr. Erwin stated that he now knows how to access the information.

Mr. McAllister asked about the counseling. Mr. Morris stated that when the patient picked up the prescription the next day the pharmacist again asked the patient why she went to the doctor and the patient did not provide the information. Mr. Morris stated that two pharmacists tried to obtain the information.

Dr. Smidt asked why Ms. Sutcliffe could not see the original prescription. Ms. Sutcliffe stated that the original hardcopy prescription was available. Ms. Sutcliffe stated that the regulations require that the computer system must provide for online retrieval of original prescription information and the name or initials of the pharmacist responsible for the dispensing. Ms. Sutcliffe stated that they were unable to provide that information.

Mr. Milovich asked the technician if he scrolls to find the name of the drug. Mr. Vain stated that it is the company's policy to enter the first letters of the drug name and tab down to the drug. Mr. Vain stated that he now types in more than 3 letters and often types out the whole drug name.

Mr. McAllister noted that the prescription is a typed prescription that is legible.

Dr. Smidt asked if the counseling log was complete. Ms. Sutcliffe stated that the log was not complete and is not signed by the pharmacist on the sheet that includes the patient's prescription.

Mr. Leyba stated that in October the company would be instituting barcode technology. Mr. Leyba stated that every pharmacist would be signed a barcode and at the point of sale the pharmacist would scan their barcode indicating that they provided counseling. Mr. Leyba stated that the next step after the barcoding would be to the ability to document the denial reason.

On motion by Dr. Smidt and seconded by Mr. Van Hassel, the Board agreed to issue an advisory letter to all respondents concerning the final accuracy check and documentation of counseling. There was one nay vote by Dr. Sypherd.

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

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

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

Pharmacy Technician Trainee Requests to reapply for licensure

1. Daniel Harmon
2. Lauren Dotzler
3. Brittany Sanchez
4. Souleymane Fofana
5. Irene Salas
6. Destiny Rogers

AGENDA ITEM 16 – Charles Dutcher – Case #10-0010-PHR

President McAllister opened the discussion by asking Mr. Wand to address this agenda item.

Mr. Wand stated that at the July 2009 Board meeting, the Board offered Mr. Dutcher a consent agreement with the following terms: 1 year probation, a \$1,000 civil penalty, and 8 hours of continuing education.

Mr. Wand stated that Mr. Dutcher has sent the Board a written request asking the Board to remove the probationary period or to reduce the probationary period. Mr. Wand stated that Mr. Dutcher serves as a preceptor for the University of Arizona College of Pharmacy and Midwestern College of Pharmacy. Mr. Wand stated that Mr. Dutcher cannot serve as a preceptor while he is on probation.

Mr. Wand stated that Mr. Dutcher has submitted a letter from the University of Arizona asking if he would be able to serve as a preceptor for a student in November.

Mr. Wand stated that the Board could amend the consent to reduce the probationary period.

Mr. McAllister stated that he feels the request is reasonable.

Mr. Haiber stated that he supports the change.

Mr. Milovich stated that he supports the change because the pharmacy is an outlying area.

On motion by Dr. Smidt and seconded by Mr. Milovich, the Board unanimously agreed to amend the consent agreement offered to Charles Dutcher. The Board unanimously agreed to reduce the probationary period from one year to 3 months.

On motion by Dr. Smidt and seconded by Mr. Milovich, the Board unanimously agreed that upon signature of the Consent Agreement it could be approved by the Executive Director and does not need to come back to the Board for approval at the next meeting.

AGENDA ITEM 17- Fahad Alnoah - Case #09-0023-PHR

Mr. Alnoah was present to request the termination of his probation. Mr. Alnoah was required to take the NAPLEX exam and pay a fine within 120 days. Mr. Alnoah's supervisor, Patrick Jerome, was present. Roger Morris was present as legal counsel.

President McAllister asked Mr. Alnoah to address his request. Mr. Alnoah stated that he would like his probation terminated. Mr. Morris stated that Mr. Alnoah did not complete the requirements in 120 days. Mr. Morris stated that Mr. Alnoah took the NAPLEX exam in April and did not pass the exam. Mr. Morris stated that Mr. Alnoah called the Board Office because he had to wait 91 days to retake the exam and could not schedule the exam again until August 8, 2009. Mr. Alnoah was not able to schedule the exam prior to that date because of high demand for testing dates. Ms. Frush stated that she told Mr. Alnoah to schedule the exam and take the exam on that date since it was the earliest date he could obtain to take the exam. Mr. Alnoah did pay his fine on September 2, 2009.

On motion by Dr. Smidt and seconded by Mr. Van Hassel, the Board unanimously agreed to terminate the probation imposed on Mr. Alnoah's pharmacist license per Board Order #09-0023-PHR.

AGENDA ITEM 18 – Proposed Rules

Pharmacist- administered Immunization role

President McAllister opened the discussion by asking Rules Writer Dean Wright to address this agenda item.

Mr. Wright stated that H.B. 2164 passed by the Forty-Ninth Legislature allows pharmacists to administer certain vaccines to adult patients without a prescription based on approved protocols. Mr. Wright stated that the rulemaking would amend the language of R4-23-411 (Pharmacist-administered Immunizations) to comply with the requirements of H.B. 2164. Mr. Wright stated that the Notice of Proposed Rulemaking has been prepared for Board Review.

Mr. Wright stated that the Governor is asking that the rulemaking be expedited. Mr. Wright stated that all steps in the rulemaking process have been expedited. Mr. Wright stated that a Public Hearing will be held on November 2, 2009. Mr. Wright stated that the Notice of Final Rulemaking would be on GRCC's Agenda for their November 3, 2009 meeting. Mr. Wright stated that if the rule package is approved the rules should have an immediate effective date of November 3, 2009.

On motion by Dr. Smidt and seconded by Mr. Haiber, the Board unanimously approved the Notice of Proposed Rulemaking and authorized Mr. Wright to proceed with the rulemaking process. The Board authorized Mr. Wright to proceed with the Notice of Final Rulemaking.

Agenda Item 19 – Immunizations and Vaccines Advisory Committee

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

Mr. Wand stated that Arizona House of Representatives Bill 2164, which was enacted and signed, by the governor, allows pharmacists to provide immunizations to adult patients without a physician's prescription and establishes an Immunizations and Vaccines Advisory Committee to develop recommended protocols and requirements.

Mr. Wand stated that there are two allopathic physicians who would like to serve on the committee, but the committee consists of only one licensed allopathic physician. The Board Members discussed their choices and selected Andrew John Pham Carroll to be part of the committee.

Mr. Wand asked if the Board could select a chairman of the committee. Kelly Hampton was selected to serve as chairman of the committee.

Mr. Wand stated that the committee would either meet on September 30, 2009 or October 1, 2009

On motion by Mr. Van Hassel and seconded by Dr. Sypherd, the Board unanimously approved the committee members listed below.

1. Two licensed pharmacists – Kelly Hampton and Russ Newman
2. One licensed allopathic physician who specializes in primary care – Andrew John Pham Carroll
3. One licensed osteopathic physician who specializes in primary care - Christopher Labban
4. One licensed registered nurse who has prescribing and dispensing authority - Gail Petersen Hock
5. One licensed physician assistant – James Roch

6. One representative from a nonprofit immunization organization that works to establish a comprehensive, sustained community program for the immunization of the citizens of Arizona – Jennifer Tinney

AGENDA ITEM 20 – NABP Internet Drug Outlet Identification Progress Report

President McAllister opened the discussion by asking Mr. Wand to address this agenda item.

Mr. Wand stated on July 9, 2009, NABP issued its Internet Drug Outlet Identification Program Progress Report for State and Federal Regulatory Bodies. In its Report, NABP Identified Internet drug outlets selling prescription medications which appear to be operating out of compliance with state and federal laws.

Mr. Wand stated that there appears to be about 600 websites listed at one address in Arizona.

Mr. Wand stated that if the Board would like the Board may refer the NABP Report together with the list of “not recommended” drug outlets to the Arizona Attorney General’s Office for possible investigation.

On motion by Mr. Van Hassel and seconded by Dr. Sypherd, the Board unanimously agreed to refer the NABP Report and the list of “not recommended” drug outlets to the Arizona Attorney General’s Office for possible investigation.

AGENDA ITEM 23 – Call to the Public

President McAllister announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

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

Ms. Smith reviewed the activities of the various academies.

Ms. Smith stated that they are expanding the pharmacy network for their Ashville project.

Roger Morris came forth to address two items. Mr. Morris stated that many Boards require Non-resident Manufacturers to be licensed in their state if their products are shipped into the state.

Mr. Morris stated that he would like to thank the Board staff for expediting the licensing of 6 facilities that are going to provide the H1N1 vaccines. Mr. Morris stated that many states expedited their licensing processes when they were notified that Arizona had already licensed the facilities.

The meeting was recessed at 3:20 P.M.

AGENDA ITEM 1 – Call to Order – September 10, 2009

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

The following Board Members were present: President Dennis McAllister, Vice President Ridge Smidt, Louanne Honeyestewa, Steven Haiber, Dan Milovich, Paul Sypherd, and Tom Van Hassel. The following Board Members were not present: Zina Berry and Joanne Galindo. The following staff members were present: Compliance Officers Rich Cieslinski, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell. Christopher Munns, Solicitor General, was present.

AGENDA ITEM 21 – Korman Healthcare (Home Infusion Pharmacy – Permit Number – Y002776)

President McAllister asked Assistant Attorney General, Elizabeth Campbell, to address this agenda item.

Ms. Campbell stated that on March 25, 2008, Steve Hardman on behalf of Korman Healthcare signed a Consent Agreement for Civil Penalty in Board Case 08-0021-PHR. The Consent Agreement became effective on March 27, 2009. The company was to pay a civil penalty of \$6,000 in four payments of \$1,500. Ms. Campbell stated that none of the payments were made.

Ms. Campbell stated that Korman Healthcare was not notified that a complaint for non-compliance had been opened until January of 2009. Ms. Campbell stated that the permit holder had let the permit expire in October of 2008.

Ms. Campbell stated that the Board lacks jurisdiction to proceed against the permit. Ms. Campbell recommended that the Board close the complaint with a notation that the permit expired while the permit holder was in noncompliance. Ms. Campbell stated that the Board could refer the matter to the Attorney General's Office for collection of the \$6,000 dollars.

On motion by Dr. Smidt and seconded by Mr. Van Hassel, the Board unanimously agreed to refer the matter to the Attorney General's Office for collection of the civil penalty and close the complaint file.

AGENDA ITEM 22 – Hearings/Motion to Deem

Brandon Kendrick – Motion to Deem

President McAllister opened by asking Assistant Attorney General Elizabeth Campbell if she would like to make any comments.

Ms. Campbell stated that the state moves that the allegations be deemed as admitted. Ms. Campbell stated that a complaint was filed and Mr. Kendrick failed to respond and at this time the Board may grant or deny the State's motion to Deem Allegations Admitted.

President McAllister asked if Mr. Kendrick was present. Mr. Kendrick was not present.

President McAllister asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

On motion by Mr. Haiber and seconded by Mr. Van Hassel, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted

President McAllister asked if the Assistant Attorney General had any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate.

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

On motion by Mr. Haiber and seconded by Ms. Honeystewa, the Board unanimously agreed to revoke Pharmacy Technician License T011274 issued to Brandon Kendrick. A roll call vote was taken. (Ms. Honeystewa – aye, Mr. Milovich – aye, Mr. Van Hassel-aye, Mr. Haiber – aye, Dr. Sypherd – aye, Dr. Smidt –aye, and President McAllister – aye)

Hearing

Korman Healthcare Pharmacy – Case 09-0039A-PHR

Burton Korner, one of the owners of Korman Healthcare was present. Charles Kelhoffer, Legal Counsel for Korman Healthcare, was also present.

President McAllister stated that in this case the Board has received a letter from Korman Healthcare proposing a new payment schedule

Mr. Kelhoffer asked to address the Board. Mr. Kelhoffer stated that there are several issues that impacted the signing of this consent agreement. Ms. Kelhoffer stated that at the time the consent order was signed Mr. Hardman was a managing member of the company. Mr. Kelhoffer stated that Mr. Hardman did not have the authority to bind the other owners to an agreement. Mr. Kelhoffer stated that shortly after signing the agreement business disputes began between the other owners and Mr. Hardman. Mr. Kelhoffer stated that Mr. Hardman is no longer the Pharmacist in Charge or is working as a pharmacist at the company. Mr. Kelhoffer stated that Korman Healthcare's credit line with Wells Fargo had been placed in default. Mr. Kelhoffer stated that investors put additional funds into the company and the company is no longer in a default position. Mr. Kelhoffer stated that the company cannot financially pay the total civil penalty at one time. Mr. Kelhoffer stated that the company would pay what they owe but would like to pay the penalty over a longer period of time. Mr. Kelhoffer stated that the terms are listed in the letter and they have sent a check for \$5,200 to the Board to show their intent on paying the penalty. Mr. Kelhoffer stated that if they are not able to proceed with the resolution presented in the letter the company would be forced out of business.

On motion by Mr. Haiber and seconded by Mr. Van Hassel, the Board unanimously agreed to go into Executive Session to obtain legal advice prior to proceeding with the hearing.

President McAllister called the regular meeting back to order.

President McAllister asked Ms. Campbell if she would have any issue settling the case by offering a Consent Agreement.

Ms. Campbell stated that the Board could resolve the issue by offering a Consent Agreement.

Mr. Van Hassel asked if the company would be able to meet these financial obligations over the next three years. Mr. Korner stated that they are confident that they can make the payments over the next three years. Mr. Korner stated that they are no longer in a default position with Wells Fargo. Mr. Korner stated that as the operations move forward that they may be able to accelerate their payments.

Mr. Haiber stated that if a consent agreement is offered he would like to see a delinquency date listed in case they stop making payments.

Dr. Smidt asked if the company sells the assets could the Board place a lien on the company.

Mr. Munns stated that he does not believe the Board could place a lien on the company because the Board has a limitation on their enforcement.

Dr. Smidt asked if the Board could refer the case to the Attorney General's Office for collection.

Mr. Munns stated that the Board could refer that matter to the Attorney General's Office to collect the penalty.

Mr. Wand stated that the Attorney General's Office does charge a fee for collecting the funds.

Dr. Smidt asked if the company does sell the business could the individual owners be held responsible for the amount of the penalty not paid.

Mr. Munns indicated that the Board could place that stipulation in the consent agreement, but he is not sure that the individual owners would agree to the stipulation.

On motion by Mr. Haiber and seconded by Mr. Milovich, the Board Members unanimously agreed to offer a consent agreement to Korman Healthcare with the following terms: Approve the payment schedule of 36 months with a balloon payment at the end. If the company defaults on the payment schedule, the license would be summarily suspended. The default period would be 60 days after a payment is due. **The motion was amended by Mr. Haiber and seconded by Mr. Milovich**, the

Board Members unanimously agreed that if the company is sold that the individual owners would be responsible for the remainder of the payments.

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

On motion by Mr. Van Hassel and seconded by Mr. Haiber, the Board unanimously agreed that upon signature of the Consent Agreement it could be approved by the Executive Director and does not need to come back to the Board for approval at the next meeting.

Mr. Munns stated that if the Consent is not signed the Board could then move forward with a Hearing.

AGENDA ITEM 23 – Call to the Public

President McAllister announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

No one came forth.

AGENDA ITEM 24 – Discussion of items to be placed on a future meeting agenda

The Board Members requested that the following items be placed on future meeting agendas for further discussion:

1. Documentation of Counseling

AGENDA ITEM 20 – Adjournment

There being no further business to come before the Board, **on motion by Dr. Smidt and seconded by Mr. Haiber**, the Board unanimously agreed to adjourn the meeting at 9:30 A.M.