

THE ARIZONA STATE BOARD OF PHARMACY

HELD A REGULAR MEETING NOVEMBER 8 AND 9, 2006

GLENDALE, ARIZONA

November 8, 2006

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

President Dutcher convened the meeting at 9:00 A.M. and welcomed the audience to the meeting. Ms. Frush explained that law continuing education would be offered for attendance at the meeting.

President Dutcher stated that the Board at this time would like to recognize Dr. Bryan Tippet who is serving at his last Board Meeting as a Public Board Member. Dr. Tippet's term as a Public Board Member has expired. President Dutcher presented Dr. Tippet with a gift from the Board as a token of their appreciation for the time that he has served as a Board Member.

AGENDA ITEM 1 - Approval of Minutes

Following a review of the minutes and an opportunity for questions and on motion by Dr. Sypherd and Dr. McCoy, the minutes of the Regular Meeting held on September 20 and 21, 2006 were unanimously approved by the Board Members.

AGENDA ITEM 2 - Permits & Licenses

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

Discount Drugs

Owner Troy Olhausen and Roger Morris, Legal Counsel for Discount Drugs, appeared to answer questions from Board Members.

President Dutcher opened the discussion by asking Mr. Olhausen if he is a pharmacist. Mr. Olhausen replied that he is not a pharmacist.

President Dutcher asked Mr. Olhausen why he wanted to open a pharmacy. Mr. Olhausen replied that he currently operates a mail order diabetic supply company. Mr. Olhausen stated that he felt it would benefit his customers by offering other pharmacy services.

Mr. Dutcher asked if they would be filling prescriptions at this pharmacy. Mr. Olhausen stated that they would be filling prescriptions. Mr. Olhausen stated that the diabetic supply business is a separate business from the pharmacy.

Mr. Wand asked if Mr. Olhausen has hired a pharmacist. Mr. Olhausen stated that they are currently interviewing pharmacists for the position.

Mr. Wand asked Mr. Olhausen if he plans to mail prescriptions to other states. Mr. Olhausen replied that he plans to mail prescriptions to other states. Mr. Wand reminded Mr. Olhausen that he might want to check with the other

states to see if they require a non-resident pharmacy permit to ship prescriptions to their state.

Mr. Dutcher asked Mr. Olhausen if he understands the mail order prescription requirements. Mr. Olhausen replied he does understand the regulations.

Mr. Morris stated that the pharmacy would be filling hand written prescriptions from the physicians. Mr. Morris stated that the pharmacy would not be filling internet prescriptions. Mr. Morris stated that Mr. Olhausen has medicare certification for shipping diabetic supplies to his customers.

Mr. Wand asked Mr. Olhausen if the pharmacy would be selling any supplies or medications to physicians. Mr. Olhausen replied no.

Mr. Dutcher wished Mr. Olhausen luck with his new business.

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

RESIDENT (In Arizona)

- **Safeway Pharmacy #1684**
1940 E. Broadway Rd.
Tucson, AZ 85719
Safeway, Inc.
- **Walgreens Pharmacy #09840**
3111 W. Hunt Hwy.
Queen Creek, AZ 85242
Walgreen Arizona Drug Co.
- **Wal-Mart Pharmacy #10-3771**
6150 S. 35th Ave.
Phoenix, AZ 85041
Wal-Mart Stores, Inc.
- **Sonora Behavioral Health Hospital Pharmacy**
6050 N. Corona Rd.
Tucson, AZ 85704 (O)
Haven Behavioral Healthcare, Inc.
- **Wal-Mart Pharmacy #10-3833**
1518 W. Knudsen Dr., Suite 102
Phoenix, AZ 85024
Wal-Mart Stores, Inc.
- **Wal-Mart Pharmacy #10-3799**
240 W. Baseline Rd.
Mesa, AZ 85210
Wal-Mart Stores, Inc.
- **Discount Drugs**
15255 N. 40th St, Suite 155
Phoenix, AZ 85032

Discount Drugs, LLC

Due to a conflict of interest, President Dutcher turned the meeting over to Vice President Van Hassel to review the pharmacy permit for Spring Valley Pharmacy.

On motion by Dr. Tippett and Dr. Berry, the Board unanimously approved the resident permit listed below. All approvals are subject to final inspection by a Board Compliance Officer where appropriate.

- **Spring Valley Pharmacy
17301 E. Spring Lane, Suite B,
Mayer, AZ 86333
Dutcher Enterprises**

Non-Resident Permits

At the conclusion of questions from the Board Members and on motion by Dr. Berry and Dr. Tippett, the Board unanimously approved the non-resident permits listed below.

NON-RESIDENT (Out of State)

- **Duane's Discount Drugs
5175 US Highway 95 North
Lakeland, FL 33809
Duane McKown**
- **NHMC Ascend
53 Darling Ave.
South Portland, ME 04106
National Medical Health Card Systems**
- **Heartland Prescription & Medical Supplies
11028 "Q" Street
Omaha, NE 68137
Heartland Prescription & Medical Supplies**
- **Advanced Diabetes Supply
390 Oak Ave., Suite N
Carlsbad, CA 92008
North Coast Medical Supply**
- **Davita Rx, LLC
1234 Lakeshore Dr., Suite 200
Coppell, TX 75019
Davita Rx, LLC**
- **Blythe Drug
301 W. Hobson Way
Blythe, CA 92225
Blythe Drug Inc., Co.**
- **Pharmahealth Pharmacies
458 Dartmouth St.
Newbedford, MA 02740
RPB Pharmacy, Inc.**
- **Precision Pharmacy
4000 Empire Dr. #200
Bakersfield, CA 93309
Precision Pharmacies, LLC.**
- **Time Pharmacy and Medical Supply
501 S. Rancho Dr, A-6**

- Las Vegas, NV 89106
Mulu Chokele
- CustomMeds
102 E. Highlands Blvd.
Inverness, FL 34452
McCully / Snyder Pharmacy, Inc.
 - SunPlus Home Pharmacy Services
5340 S. Alla Rd., Suite 105
Los Angeles, CA 90066
SunPlus Home Health Services, Inc.
 - Liberty Medical Supply, Inc.
2157 Apperson Dr.
Salem, Va 24513
Liberty Healthcare Group, Inc.
 - 4Care Pharmacy
109 W. Gentile Street
Layton, UT 84041
Roy Rasbond
 - CuraScript SP Specialty Pharmacy
5653 Stoneridge Dr., Suite 109
Pleasanton, CA 94588
Curascript, Inc.
 - San Ysidro Pharmacy
1498 E. Valley Rd.,
Santa Barbara, CA 93108
San Ysidro Pharmacy, Inc.
 - Positudes, Inc.
1757 Merrick Ave., St. 203
Merrick, NY 11566
Positudes, Inc.
 - Aero Apothecary, Inc.
24747 Redlands Blvd., Suite A
Loma Linda, CA 92354
Aero Apothecary, Inc.

Pharmacist, Pharmacy Interns, and Pharmacy Technician Licenses

Following a review and discussion of the roster of applicants for licensure as pharmacists, interns, and pharmacy technicians and assurance by the staff that all applications were in order and all fees paid: On motion by Dr. Berry and Dr. Tippett, the Board unanimously approved the Pharmacists licenses 15741 through 15819. On motion by Mr. McAllister and Dr. McCoy, the Board unanimously approved the Intern licenses 7781 through 7869 with 2 voided licenses. On motion by Ms. Honeyestewa and Dr. McCoy, the Board unanimously approved the Pharmacy Technician licenses 11356 through 11769. Also, approved were 146 licensee changes from Pharmacy Technician Trainee to Pharmacy Technician. For a complete list of names see attachments.

AGENDA ITEM 3 - License Applications Requiring Board Review

#1 Larry Patterson

Larry Patterson appeared on his own behalf to request to proceed with reciprocity.

President Dutcher opened the discussion by asking Mr. Patterson to describe the nature of his request.

Mr. Patterson stated that he would like to reciprocate to Arizona. Mr. Patterson stated that he was previously

disciplined in other states. Mr. Patterson stated that his disciplinary actions have been completed and his licenses are active and in good standing in the other states.

Mr. Wand asked Mr. Patterson if he still has a Montana license. Mr. Patterson stated that the license lapsed because he did not pay the renewal fee.

Mr. Dutcher asked Mr. Patterson if he completed a recovery program in another state. Mr. Patterson stated that he completed a seven-year recovery program.

Mr. Dutcher asked Mr. Patterson if he had a job in Arizona. Mr. Patterson stated that he currently works for an agency and the agency would help him locate employment in Arizona.

On motion by Dr. McCoy and Dr. Tippet, the Board unanimously approved Mr. Patterson's request to proceed with reciprocity.

#2 Kevin Denick

Kevin Denick appeared on his behalf to have his revoked Pharmacist license reinstated. Julian Pickens, PAPA counselor, and Ed Saba, Pharmacy Director at Bashas' Pharmacy were present.

President Dutcher asked Mr. Denick to explain why he requested to appear in front of the Board. Mr. Denick stated that he would like the Board to reinstate his license. Mr. Denick stated that since he appeared in front of the Board last May and talked to other individuals and members of the PAPA steering committee and counselors, he has taken steps to prevent any similar occurrences in the future. Mr. Denick stated that he has studied the Pharmacist's Manual on the DEA website which covers rules regarding controlled substances. Mr. Denick stated that he completed several CE courses on pharmacy law. Mr. Denick stated that one of the most important things that he did was discuss his problems with his counselors. Mr. Denick stated that it was pointed out to him that he strives for excellence with his patients and he allows his empathy to cloud his judgment. Mr. Denick stated that he then read books and worked with his counselors on assertiveness and setting boundaries. Mr. Denick stated that the books shed light on why he wanted to be a people pleaser. Mr. Denick stated that the books gave him insight in setting boundaries and this will help him both professionally and ethically in the future. Mr. Denick stated that he used his daily feelings of remorse as a positive to implement the lessons that he learned in setting healthy boundaries and how to act professionally and ethically. Mr. Denick stated that he apologizes for hurting the reputation of pharmacists and the profession. Mr. Denick stated that he has worked as a pharmacist since 1979 and enjoys working as a pharmacist. Mr. Denick stated that he is ready to resume practice in a professional and ethical manner. Mr. Denick stated that he would exceed the Board's and his employer's expectations.

Mr. Dutcher asked Mr. Denick if someone approaches him outside of his practice would he handle the situation differently than he had in the past. Mr. Denick stated that what he has learned would be beneficial in all aspects of his life.

Mr. Dutcher asked Dr. Pickens about Mr. Denick's progress in the PAPA program. Dr. Pickens stated that he meets with Mr. Denick weekly during the PAPA counseling sessions. Dr. Pickens stated that they have worked on Mr. Denick's need to be a people pleaser and how his empathy can get the best of him. Dr. Pickens stated that Mr. Denick has worked on these issues.

Mr. Dutcher asked Mr. Denick if he realizes the differences between obeying the rules and being a people pleaser. Mr. Denick stated that he felt that reading the rules did not deal with the particular issue that he had in this situation. Mr. Denick stated that the counseling helped point out problems to him that he missed.

Mr. Dutcher asked Mr. Saba if he would like to address the Board. Mr. Saba stated that Mr. Denick was an excellent pharmacist when he worked for their company. Mr. Saba stated that Mr. Denick had no incidence of misfills or consumer complaints. Mr. Saba stated that Mr. Denick worked his scheduled hours and worked well with others. Mr. Saba stated that he feels Mr. Denick would do an excellent job if he was able to return to

pharmacy field.

Mr. Dutcher asked Mr. Denick if his attitude has changed towards the rules and regulations. Mr. Denick replied tremendously.

Mr. Wand stated that the A.R.S. § 32-1928 (D) states the following: With or without conditions the board may reinstate the license of a pharmacist or pharmacy intern that it has placed on probation or whose license it has suspended or revoked. Mr. Wand stated that he does not believe that intern hours would be necessary since Mr. Denick has worked in a high volume store.

Mr. Dutcher asked Mr. Denick how long he has been with the PAPA program. Mr. Denick stated that his PAPA contract ends in May.

Dr. Smidt stated that he feels that this is the first time that Mr. Denick has apologized for his mistakes and appears that he is admitting that he was wrong.

Mr. Denick stated that he has tremendous respect for the Board. Mr. Denick stated that he apologizes for giving the wrong impression in the past. Mr. Denick stated that he would be following all the rules going forth.

Mr. Dutcher asked Mr. Denick about boundaries. Mr. Denick stated that he knows where the boundaries are and he would not cross the boundaries.

Mr. Wand asked Ms. Lee if the Board wanted to keep the existing months on the PAPA contract would a consent order be required. Ms. Lee stated that issuing a consent order would be the best practice so that the terms are clear to everyone. Mr. Wand stated that the Board could also add additional stipulations to the consent order.

Dr. McCoy asked if the PAPA contract is binding. Mr. Wand stated that the contract is binding with PAPA but not with the Board.

Mr. McAllister stated that he feels that Mr. Denick has violated the public trust by his numerous violations of the law. Mr. McAllister stated that if the Board chooses to offer reinstatement to Mr. Denick he would recommend that he never works as a pharmacist alone at least for the first few years.

Dr. Sypherd asked how the Board could incorporate Mr. McAllister's recommendations in reinstating Mr. Denick's license. Ms. Lee stated that the Board could formulate a consent order for probation with the terms recommended by the Board.

Mr. Wand stated that the Board could require intern hours because interns cannot work alone and must be supervised.

Dr. Berry asked if an applicant for reinstatement must take the MPJE exam. Mr. Wand stated that the Board could make that one of the conditions in the Consent order that the respondent take and pass the MPJE exam. Mr. Wand stated that the Board could also specify a required score that the respondent must obtain to pass the exam.

A motion was placed on the floor by Mr. Van Hassel and Dr. Tippett. The motion stated that Mr. Denick's pharmacist license would be reinstated upon the signing of a consent order with the following conditions: Mr. Denick could not work alone as a pharmacist until his PAPA contract ends in May of 2007 and he must pass the MPJE exam prior to the end of his PAPA contract.

Mr. McAllister stated that he feels that Mr. Denick has a history of making judgment errors. Mr. McAllister stated that he feels that probation period should be extended to five years and Mr. Denick should not work alone for five years. Mr. McAllister stated that Mr. Denick should not be allowed to be the Pharmacist In Charge.

Dr. McCoy asked how long the Board has been dealing with Mr. Denick's issues. Mr. Denick stated that the first incident occurred in 1995 at Albertson's. Dr. McCoy stated that he has ignored the rules in the past and she is comfortable with the five-year probation.

On motion by Mr. Van Hassel and Dr. Tippett, the Board unanimously agreed to reinstate Mr. Denick's Pharmacist license upon the signing of a consent order with the following conditions: Mr. Denick's license will be placed on probation for five years from this date and during this probationary period he cannot be a Pharmacist in Charge or a preceptor, Mr. Denick cannot work alone as the only pharmacist during his probation period, Mr. Denick must complete his PAPA contract, and Mr. Denick must take and pass the MPJE exam prior to the end of his PAPA contract. A roll call vote was taken. (Mr. McAllister - aye, Ms. Honeyestewa -aye, Dr. Berry - aye, Dr. Tippett - aye, Dr. Smidt - aye, Dr. McCoy - aye, Dr. Sypherd - aye, Mr. Van Hassel - aye, President Dutcher - aye.)

President Dutcher asked Mr. Denick if he understood the terms of his reinstatement. Mr. Denick replied that he did understand the terms.

Dr. Tippett asked if Mr. Denick must come before the Board to terminate his probation. Mr. Dutcher replied that he would need to come before the Board.

#3 Alan Clendenin

Alan Clendenin appeared with Lisa Yates from the PAPA program to request that his revoked Pharmacist License be reinstated.

President Dutcher opened the discussion by asking Mr. Clendenin why he requested to appear in front of the Board today. Mr. Clendenin stated that he would like to have his pharmacist license reinstated. Mr. Clendenin stated that he has had a substance abuse program. Mr. Clendenin stated that he has spent the last year living at a halfway house. Mr. Clendenin stated the halfway house offers classes on 12-step programs and relapse prevention. Mr. Clendenin stated that he has also had a spiritual conversion that has been a live changing event. Mr. Clendenin stated that he has not practiced for three years. Mr. Clendenin stated that he lived with his parents in Missouri for one year. Mr. Clendenin stated that he did not attempt to come back and ask for his license until he was ready.

Mr. Dutcher asked Mr. Clendenin how long he has been dealing with substance abuse issues. Mr. Clendenin stated that it has been over ten years.

Mr. Dutcher asked Mr. Clendenin how he expects to conquer his problems. Mr. Clendenin stated that he has a recipe to follow. Mr. Clendenin stated that he has a set of instructions to follow. Mr. Clendenin stated that when he sat in front of the Board previously he would tell them that he did not know if he would relapse and would tell them that he did not plan to relapse. Mr. Clendenin stated that he now has a set of instructions to follow and if he follows those instructions he will be alright.

Mr. Dutcher asked Mr. Clendenin if he has the fortitude to conquer his problems. Mr. Clendenin stated that he is working the 12-step program and it has improved his life tremendously.

Mr. Dutcher asked Ms. Yates about Mr. Clendenin's progress in the PAPA program. Ms. Yates stated that the Board Members have received letters from Mr. Clendenin's counselor, the halfway house, and Mr. Clendenin's sponsor. Ms. Yates stated that Mr. Clendenin has been in and out of the PAPA program. Ms. Yates stated that previously Mr. Clendenin did not adhere to the spiritual part of the program previously. Ms. Yates stated that Mr. Clendenin has accepted the he must accept the spiritual part of the program to help with his recovery. Ms. Yates stated that this time Mr. Clendenin's recovery is different.

Mr. Dutcher asked Mr. Clendenin why he wanted to be a pharmacist again. Mr. Clendenin stated that he would like to use his education to help people. Mr. Clendenin stated that Pharmacy is a satisfying way to make a living.

Mr. Dutcher asked Mr. Clendenin if he would be tempted if he returns to work as a pharmacist. Mr. Clendenin

stated that he has a recipe to follow and if he has any problems he would leave pharmacy and not return.

Dr. McCoy asked Mr. Clendenin when he last practiced as a pharmacist. Mr. Clendenin stated that he has not practiced in the last three years.

Mr. Wand asked Mr. Clendenin in what area of pharmacy he would like to practice. Mr. Clendenin stated that he would be interested in practicing in Nuclear Pharmacy. Mr. Clendenin stated that he had enjoyed working as a hospital pharmacist.

Mr. Dutcher stated that if the Board reinstated Mr. Clendenin's license they would probably need to reinstate his license with stipulations. Mr. Clendenin stated that he has completed 50 hours of CE with 5 hours of CE in law. Mr. Clendenin stated that he did not complete any CE units in 2004 because he was undecided if he wanted to return to the practice of Pharmacy.

Dr. Tippett asked Mr. Clendenin if he takes any medications. Mr. Clendenin stated that he is taking prescribed antidepressants.

Mr. Van Hassel stated that he feels that it would be a disservice by giving Mr. Clendenin his license back and feels uncomfortable in putting him back in that position.

Dr. McCoy asked Mr. Clendenin if he currently has a contract with PAPA. Mr. Clendenin stated that he signed a five-year contract with PAPA and has completed one year. Mr. Clendenin stated that when he returns to work the number of drug screens would increase.

Dr. Smidt stated that the Board could require Mr. Clendenin to work with another pharmacist.

Dr. Smidt asked Ms. Yates if this would be good move for Mr. Clendenin. Ms. Yates stated that

she feels that it would be good for Mr. Clendenin to return to work. Ms. Yates stated that there is no guarantee that any PAPA participant would not have a relapse. Ms. Yates stated that she sees a different person in Mr. Clendenin this time during his recovery. Ms. Yates stated that she does see Mr. Clendenin working the program this time which he did not do in the past. Ms. Yates stated that Mr. Clendenin is doing everything that every other pharmacist in the PAPA program is doing. Ms. Yates stated that she does see a difference. Ms. Yates stated that Mr. Clendenin's counselor recommended that Mr. Clendenin should be able to return to work. Ms. Yates stated that these are all positive steps. Ms. Yates stated that returning to work would help Mr. Clendenin's recovery.

Dr. Tippett asked Ms. Yates if there are any concerns about Mr. Clendenin's ability to concentrate and focus on his job if he were to return to work. Ms. Yates stated that Mr. Clendenin has been given the necessary tools to help with any problems.

Mr. Wand stated that the Board could request a medical or psychological evaluation and postpone their decision until the evaluation is completed. Mr. Wand stated that since Mr. Clendenin is not licensed he would have to voluntarily agree to the evaluation.

Mr. Dutcher asked Ms. Lee if the consent agreement could be written that if during the probation period that a respondent fails a urine screen the license could automatically be revoked. Ms. Lee stated that it is the position of the Attorney General's Office that the Board would add language that would allow the individual their due process rights to be heard. Ms. Lee stated that the issue could be narrowed in a way that the only issue up for discussion would be if the terms of the consent order were violated.

A motion was placed on the floor by Mr. McAllister and Dr. Tippett to deny Mr. Clendenin's request to reinstate his pharmacist's license.

Dr. McCoy stated that Mr. Clendenin has signed a PAPA contract and is in a controlled environment. Dr. McCoy asked if the Board might consider reinstating Mr. Clendenin's license in a probationary status with restrictions.

Dr. Tippett stated that he would be comfortable in reinstating the license if there is a medical evaluation upfront. Mr. Clendenin stated that he is extremely nervous.

Dr. Sypherd stated that he is uncomfortable with the motion. Dr. Sypherd stated that he feels that Mr. Clendenin should not work alone and work with someone who would check his work. Dr. Sypherd stated that he is uneasy with the Board trying to make a psychological conclusion based on a brief interview.

Mr. Wand stated that Mr. Clendenin does not have a license, so the Board cannot order Mr. Clendenin to take a psychological exam. Mr. Wand stated that Mr. Clendenin would need to voluntarily take the exam and the Board could table their decision until Mr. Clendenin submits the exam. Mr. Clendenin indicated that he would be willing to voluntarily take a medical exam. Mr. Wand stated that the exam would be a psychological exam.

Mr. McAllister stated that his motion is based on the Board's role to protect the public.

Mr. Dutcher stated that Mr. Clendenin has agreed to take the psychological exam and the Board could place his request on a future agenda.

Dr. McCoy asked if the motion could be tabled until the Board receives the psychological exam. Ms. Lee stated that the Board could withdraw the motion on the floor, make a new motion, amend the motion on the floor, or the Board could vote on the current motion on the floor.

Mr. McAllister stated that he sees no reason to withdraw the motion because Mr. Clendenin could come to a future Board Meeting with additional information.

Mr. Van Hassel stated that he agrees with Mr. McAllister's recommendations.

Dr. Smidt asked about the PAPA program recommendations. Mr. Wand stated that PAPA program does not give the Board psychological or medical advice. Mr. Wand stated that the PAPA steering committee advises the Board that the participant is complying with the Board Order and that the participant's drug recovery is going well. Mr. Wand stated that Ms. Yates is not qualified to give a medical or psychological opinion. Mr. Wand stated that the Steering Committee is stating that Mr. Clendenin is complying with his drug rehabilitation program.

On motion by Mr. McAllister and Dr. Tippett, the Board agreed to deny Mr. Clendenin's request to have his revoked Pharmacist license reinstated. There was one nay vote by Dr. McCoy.

#4 Karen Lieb

Karen Lieb appeared on her own behalf to request that her revoked Pharmacist license be reinstated.

President Dutcher opened the discussion by asking Ms. Lieb about the nature of her request. Ms. Lieb stated that she is requesting that the Board reinstate her Pharmacist license. Ms. Lieb stated that she appeared at a previous Board meeting and the Board asked her to complete certain requirements before her license was reinstated. Ms. Lieb stated that she has completed all the requirements.

Mr. Dutcher asked Ms. Lieb if she has a license at this time. Ms. Lieb stated that she was allowed to apply for an intern license, so that she could complete the required intern hours.

Mr. Dutcher asked Ms. Lieb if she signed a PAPA contract. Ms. Lieb stated that she signed a PAPA contract in June of 2006.

Mr. Dutcher asked Ms. Lieb if she passed the MPJE exam. Ms. Lieb stated that she passed the MPJE exam.

Mr. Dutcher asked Ms. Lieb if she completed a review course. Ms. Lieb stated that she completed the Morris-Cody review course and passed the test.

Mr. Dutcher asked Ms. Lieb why she wanted to be a pharmacist. Ms. Lieb stated that she missed working as a pharmacist.

Mr. Dutcher asked Ms. Lieb about her intern hours at Safeway. Mr. Dutcher asked Ms. Lieb if she left as soon as she completed her 400 intern hours. Ms. Lieb stated that she left before she completed her 400 hours.

Mr. Dutcher asked Ms. Lieb if she was terminated by Safeway. Ms. Lieb stated that she was terminated by Safeway because she left without giving notice. Ms. Lieb stated that it was a wrong decision and if she had to do it over again she would have acted differently. Ms. Lieb stated that she had a really rough time working with someone in the pharmacy. Ms. Lieb stated that she worked at the pharmacy as long as she could before she left. Mr. Dutcher reminded Ms. Lieb that walking off a job is not acting professionally.

Mr. Dutcher asked Ms. Lieb if she has been offered a job as a pharmacist. Ms. Lieb stated that she has been offered a part-time job at the pharmacy where she completed her intern hours. Ms. Lieb stated that the pharmacy is a compounding pharmacy.

Mr. Dutcher asked Ms. Lieb if she is comfortable doing compounding. Ms. Lieb stated that she is comfortable doing compounding.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously agreed to reinstate Ms. Lieb's revoked Pharmacist License with the understanding that she sign a consent order placing her license on probation through out the term of her PAPA contract.

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

AGENDA ITEM #4 - Special Requests

#1 Kerry Karn

Kerry Karn appeared with Lisa Yates from the PAPA program to request that the Board amend Board Order 04-0024-PHR which would allow the PAPA Steering Committee to approve the reduction in his random urine screens.

President Dutcher opened the discussion by asking Mr. Karn about his request to amend his Board Order. Mr. Karn stated that he requesting that the order be amended so that the PAPA steering committee would be able to reduce the number of drug screens required. Mr. Karn stated that he has worked the last two years in the retail setting and has completed 48 screens annually with no incidents.

Mr. Dutcher asked Ms. Yates if PAPA supports Mr. Karn's request. Ms. Yates stated that PAPA does agree with the decrease in drug screenings. Ms. Yates stated that Mr. Karn's consent agreement was written differently than other agreements. Ms. Yates stated that when the participant returns to work the urine screens are increased to 48 screens a year. Ms. Yates stated that after 2 years the participant may ask for a decrease in screens. Ms. Yates stated that the urine screens may be decreased further during the last six months of the participant's PAPA contract.

Mr. Van Hassel asked if Mr. Karn was compliant with all his screens. Ms. Yates replied that Mr. Karn was compliant.

On motion by Dr. McCoy and Dr. Berry, the Board unanimously agreed to amend Mr. Karn's Board order to allow the PAPA Steering Committee to reduce the drug screens as determined by the PAPA Steering Committee requirements for the duration of Mr. Karn's PAPA contract.

#2 Celia Torres

Celia Torres appeared on her own behalf requesting Board approval to take the MPJE exam for the fourth time.

President Dutcher asked Ms. Torres about the nature of her request. Ms. Torres stated that she is requesting permission to take the MPJE exam for the fourth time.

Mr. Dutcher asked Ms. Torres if she has taken any study courses to prepare herself for taking the exam a fourth time. Ms. Torres stated that she has read the state laws provided by the Board. Ms. Torres stated that the Board Office recommended a review book that might help her study for the exam. Ms. Torres brought the book with her and told the Board that she has studied the book in anticipation of taking the exam again.

Ms. Torres stated that she tries to answer all the questions and does not want to leave any questions blank. Ms. Torres stated that she worries about not having enough to complete the exam.

Dr. McCoy asked Mr. Wand if Ms. Torres could ask for extra time. Mr. Wand stated that Ms. Torres would need to contact NABP to see if extra time could be granted. Mr. Wand stated that extra time is granted for medical reasons.

Dr. Berry told Ms. Torres that she can download sample tests from the Internet and practice, so that the time does not become an issue.

Mr. Van Hassel asked Ms. Torres if she is currently working. Ms. Torres stated that she is working at a hospital as an intern. Ms. Torres stated that the hospital is willing to offer her a job as a pharmacist when she passes the law exam.

On motion by Mr. Van Hassel and Dr. McCoy, the Board unanimously agreed to allow Ms. Torres to take the MPJE exam for the fourth time.

#3 Ketan Patel

Ketan Patel appeared on his own behalf to request that he be allowed to take an alternate exam for the TSE exam.

President Dutcher opened the discussion by asking Mr. Patel why he was requesting an alternate exam for the TSE exam. Mr. Patel stated that he has taken the TSE exam many times and has received a score of 45 each time. Mr. Patel stated that he is currently working in Michigan as pharmacist.

Mr. Van Hassel was asked on behalf of the Board to administer the alternate exam to Mr. Patel. Mr. Van Hassel asked Mr. Patel to counsel him on the use of Metformin because he was recently diagnosed as being diabetic. Mr. Patel counseled Mr. Van Hassel on the use of Metformin and the side effects of the medication.

On motion by Dr. Sypherd and Dr. Berry, the Board unanimously agreed to accept the alternate exam administered to Mr. Patel by the Board in place of the TSE exam allowing Mr. Patel to proceed with licensure.

#4 Mustafa Maher

Mustafa Maher appeared on his own behalf to request that the Board terminate the suspension of his pharmacist license and impose probation per Board Order 05-0026-PHR. Ms. Yates was present to answer questions concerning Mr. Maher's participation in the PAPA program.

President Dutcher opened the discussion by asking Mr. Maher to describe the nature of his request. Mr. Maher stated that he would like to have his license reinstated and to be taken off the PAPA program.

Mr. Dutcher asked Mr. Maher how long he had been in the PAPA program. Mr. Maher stated that he has been in the program almost one year.

Mr. Dutcher asked if Mr. Maher signed a standard five-year contract. Ms. Yates replied yes.

Mr. Dutcher asked Ms. Yates about the PAPA recommendations. Ms. Yates stated that she was not aware that Mr. Maher was going to be asked to be removed from the PAPA program. Ms. Yates stated that Mr. Maher did have his counselor Jim Corrington write a letter for him. Ms. Yates stated that Mr. Maher has always denied the fact that he has a problem. Ms. Yates stated that Mr. Maher signed his contract on December 7, 2005.

Mr. Dutcher asked Mr. Maher what brought him before the Board and caused him to sign a consent order to enroll in the PAPA program. Mr. Maher stated that he enrolled in the PAPA program voluntarily due to family issues. Mr. Maher stated that he had to do what ever he could to clear himself. Mr. Maher stated that he joined the PAPA program and has done everything that they have asked him to do.

Mr. Dutcher asked Mr. Maher as of this date if he is compliant with the PAPA program. Mr. Maher replied yes.

Dr. Sypherd asked Mr. Maher if he has had any positive drug screens. Mr. Maher replied that the screens are clear and he has no problems with drugs. Mr. Maher stated that he admitted himself into the program because of previous accusations. Mr. Maher stated that he did tests prior to entering the program.

Dr. Sypherd asked Mr. Maher if he has stopped taking Tylenol #3 with Codeine. Mr. Maher stated that he never took the medication.

Mr. Wand stated that there are two legal documents in front of the Board. Mr. Wand stated that the first document shows that there were numerous Tylenol #3 and Hydrocodone prescriptions written by the respondent and dispensed to the respondent. Mr. Wand stated that the prescriptions were discovered by Fry's pharmacy. Mr. Wand stated that Mr. Maher has no explanation of why he dispensed the prescriptions to himself. Mr. Wand stated that Mr. Maher stated that he did not dispense them to himself and the evidence indicates that he did dispense the prescriptions to himself.

Mr. Wand stated that the second document shows that Mr. Maher took Flexeril tablets from the trash at the pharmacy and took the tablets home.

Mr. Wand stated that Mr. Maher has been consistent throughout the process in denying responsibility for anything. Mr. Wand stated that his family does not agree with the assessment.

Mr. Dutcher asked Ms. Yates if they screen applicants upon entry into the PAPA program. Ms. Yates stated that urine screens are started immediately.

Mr. Dutcher asked if Mr. Maher was hesitant to participate in the program. Ms. Yates replied that Mr. Maher has always been hesitant to participate in the program.

Mr. Dutcher asked if Mr. Maher had any positive screenings. Ms. Yates stated that he has had no positive screens.

Ms. Yates stated that Mr. Maher's problem is that he does not understand why he is participating in the program.

Mr. Dutcher asked if the suspension was for a minimum of three months and probation for the remainder of the five years and if he was compliant. Ms. Yates stated that Mr. Maher has been in compliance. Ms. Yates stated initially Mr. Maher did not turn in his meeting sheets and has corrected that problem.

Mr. McAllister stated that since Mr. Maher has complied with the PAPA requirements and he feels that the suspension could be lifted and probation imposed with continuance in the PAPA program for the rest of the probation period.

Dr. Smidt asked Mr. Maher if he has any issues with the christianity part of the 12-step program.

Mr. Maher replied no. Ms. Yates stated that Mr. Maher has not presented the PAPA program with an alternative and they would accept an alternative. Ms. Yates stated that all Mr. Maher wants is out of the program.

Mr. Dutcher asked Mr. Maher if he still denies that there is a problem. Mr. Maher stated that he denies that there is any problem since day one. Mr. Maher stated that at Fry's he did the drug test before they called him to the meeting. Mr. Maher stated that the test was negative. Mr. Maher stated that he did five drug tests after the incident. Mr. Maher stated that he did everything to prove that he did not have a problem and he keeps falling in the holes.

Mr. Maher asked if there are any tests that he can take to prove that he does not have a problem. Mr. Maher stated that he is willing to pay for the test. Mr. Dutcher responded to Mr. Maher's question. He stated that the Board is asking for compliance with the PAPA program.

Dr. Sypherd asked Mr. Maher if he signed the consent agreement. Mr. Maher stated that he was signing everything that came to him without reading them thinking that this was the solution to his problem.

Dr. Sypherd told Mr. Maher that by signing the agreement he agreed to the Findings of Fact. Mr. Maher stated that he did not read the document.

Dr. Sypherd asked Mr. Maher about the urine testing. Mr. Maher stated that it was taken by his personal doctor.

Mr. Wand asked Ms. Lee if the suspension is terminated after one year. Ms. Lee replied after one year the suspension is removed and the license would be on probation. Mr. Maher stated that he signed the agreement in November. The Board accepted the agreement in January.

Mr. Wand stated that the consent agreement states that the suspension starts upon initiation of treatment at Valley Hope. Ms. Yates stated that his treatment started in November of 2005.

Mr. Dutcher told Mr. Maher that the suspension is terminated.

Mr. Maher told the Board that he has trouble with the PAPA program because the counselor tells him that this group is only for certain people. Mr. Maher stated that if he continues with the PAPA program then he will continue going to the group and just sit in.

Ms. Yates stated that there are alternatives. Ms. Yates stated that the problem is that Mr. Maher does not admit he has a problem or adhering to recovery. Ms. Yates stated that Mr. Maher could go to another group session with a different counselor. Ms. Yates that Mr. Maher could go to a private counselor of his choice that is licensed in substance abuse and Mr. Maher would need to pay the costs.

On motion by Mr. Van Hassel and Dr. Tippett, the Board unanimously agreed to terminate the suspension on Mr. Maher's license and impose probation through out the terms of his PAPA agreement. The Board unanimously agreed that Mr. Maher could present to the Board an alternate counseling program in place of the PAPA counseling program but would remain on probation for the remaining four years of his PAPA contract.

AGENDA ITEM 5 - Reports

Executive Director Report

Mr. Wand opened the discussion by discussing the online renewal process. Mr. Wand stated that 9% of the pharmacies renewed online, 38% of the pharmacists renewed online, and 13% of the technicians renewed online.

Mr. Wand stated that the cost of the online renewals is a reduction in the revenues and is not deducted from the budget appropriations. Mr. Wand stated that if the Board exceeds 30% of all renewals online then additional paperwork would be required.

Mr. Wand stated that he has spent less money for temporary help this year to assist with the renewal process.

Mr. Wand stated that he would be meeting with IBM shortly to place the applications online.

Mr. Wand stated that 10% of our funds go to the General Fund and 90% goes to the Pharmacy Board Fund.

Mr. Wand stated that 835 surveys were filled out by individuals renewing online. Mr. Wand stated that 90% of the individuals were satisfied with the online renewal process.

Mr. Wand stated that some individuals did not like the white paper receipt as their license. Mr. Wand stated that the Compliance Officers can access the website to verify if an individual is licensed. Mr. Wand stated that three years ago the Board changed the regulations that require that the license be posted.

Mr. Wand stated that he is thinking about sending out postcards next year at renewal in an effort to reduce postage. Mr. Wand stated that no return envelope would be sent to the applicants.

Mr. McAllister asked why the technicians did not renew on line. Mr. McAllister stated that often their PTCB license would show as not being eligible. Mr. Wand stated that the PTCB was selected because the Board did not have the birthdate. Mr. Wand stated that in some cases the number may not have been entered correctly when processing the application. Mr. Wand stated that some of the technicians waited until the end and some technicians do not have credit cards.

Mr. Wand reviewed the Budget with the Board Members. Mr. Wand stated that most of the expenses occur during the renewal period.

Mr. Wand stated that they would be renegotiating the contract next year and he is not sure if IBM would still be the provider. Mr. Wand stated that he has volunteered to be on the committee to review the proposals.

Mr. Wand stated that he has signed a contract for the Assistant Attorney General. Mr. Wand stated that Ms. Lee has helped with the Prescription Drug Monitoring Bill.

Deputy Director Report

Deputy Director Frush directed the Board Members attention to the activity reports for the Compliance Staff. Ms. Frush noted that the Compliance Staff is slightly behind in the number of inspections completed during the same period last year due to the increased number of non-prescription inspections conducted earlier in the year and the increased number of complaint investigations being conducted. Ms. Frush stated that the Compliance Staff has helped in the Office during the renewal period.

Ms. Frush stated during the months of September and October 2006, the Compliance Staff issued letters for the following violations:

Controlled Substance Violations

- 1. Controlled Substance Overage - 8**
- 2. Controlled Substance Shortage- 6**

- 3. Failure to Conduct Controlled Substance Inventory upon change of Pharmacist In Charge - 3
- 4. Failure to have Controlled Substance Invoices readily retrievable - 1

Documentation Violations

- 1. Failure to Document Medical Conditions - 8
- 2. Failure to Document Allergies - 1
- 3. Failure to Document Required Information on an Oral Prescription - 2
- 4. Failure to have signed technician statements concerning job descriptions, policies and procedures, and Board Rules -10
- 5. Failure to have a technician training manual - 3
- 6. Daily prescription log not signed -1
- 7. Failure to maintain Compounding Documentation - 1
- 8. Failure to obtain the name of the agent authorizing a refill - 1
- 9. Failure to maintain counseling documentation -1
- 10. Failure to have a sterile products policy manual - 1
- 11. Failure to obtain copies of DHS permits for assisted living homes - 1
- 12. Failure to have a Pharmacy Policy and Procedure Manual - 1
- 13. Failure to have a Technician Training Compound Program - 1

Dispensing Violations

- 1. Outdated Prescription and OTC items in the pharmacy - 5
- 2. Failure to obtain a signed CII Emergency Prescription - 1

Pharmacy Violations

- 1. Allowing technicians to work without a license - 1
- 2. Allowing a technician to work with an expired license - 3
- 3. Allowing an intern to work with out proof of licensure -1
- 4. Wall Certificates not posted - 8
- 5. Failure to notify the Board of a Pharmacist In Charge change - 1
- 6. Failure to have adequate space between the working counter and prescription shelving - 1
- 7. Allowing a technician entry into the hospital pharmacy prior to the pharmacist's arrival -1

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

- 1. Documentation of medical conditions
- P>2. Filing of Controlled Substance Invoices

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

- 1. OTC outdates in the pharmacy
- Areas outside the inspection reports that may be of interest:
 - 1. Discontinuation of a pharmacy - Notify the Board and DEA 14 days prior to discontinuing operation of the pharmacy (R4-23-613)
 - 2. Prescriptions are required for approved Pharmacist-administered immunizations.

PAPA Report

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of thirty-nine (39) participants in the PAPA program. Since the last report on September 20, 2006, there has been one

(1) new participant that entered the program and there have been two(2) participants that have completed their PAPA contracts. Ms. Yates discussed with the Board Members concerns with several participants.

APA Report

Mindy Rasmussen, Executive Director of the Arizona Pharmacy Alliance (APA), was present to update the Board concerning the activities of the Alliance.

Ms. Rasmussen stated that the Alliance recently held their Board of Directors Meeting.

Ms. Rasmussen stated that the Alliance is continuing to hold CE programs and hope to have an online course for pharmacy law in the future./STRONG>

Ms. Rasmussen stated that the Alliance is working on future legislation for medication profile review by the pharmacist and the payment for cognitive services.

Ms. Rasmussen stated that the Alliance's membership is increasing and local companies have paid for their pharmacists to join the Alliance.

Ms. Rasmussen stated that the Quality Commitment Program is available. Ms. Rasmussen stated that independent pharmacy owners may want to consider the program because they could be fined by Medicare Part D if they do not have a quality assurance program in place.

AGENDA ITEM 6 - Fingerprinting - Wholesaler Designated Representatives

Mr. Wand opened the discussion stating at the last Board Meeting the Board indicated that they might want to fingerprint the designated representatives for the wholesaler. Mr. Wand stated that he had Mr. Wright contact DPS concerning the fingerprinting procedure.

Mr. Wand stated that this would require extra work by the Board staff and he did not appropriate in the budget for fingerprinting.

Mr. Wright stated that he contacted DPS. He stated that he was told the Board would need to enter an user agreement with DPS. Mr. Wright stated that someone from the Board office would need to go to training classes to learn how to process the fingerprint cards. Mr. Wright stated that the Board would need to determine if the person passed or not.

Mr. Wand stated that the Board is not required to fingerprint the individuals because the rules state the Board may fingerprint.

Dr. Sypherd stated that fingerprinting may not make it any safer. Dr. Sypherd stated that the wholesaler could circumvent the process by selecting a representative that would pass the fingerprinting.

Dr. McCoy asked if other states are fingerprinting the representatives. Mr. Wand stated that there are some states.

Mr. McAllister stated that our rules are stricter than most states and he does not know if fingerprinting would be necessary.

Dr. Smidt stated that the Board could try fingerprinting the representatives and if it did not work then the Board could stop.

The Board voted in favor of fingerprinting the designated representative of the wholesaler. There were three Board Members opposed to the fingerprinting. The Board Members opposed to the fingerprinting were Mr. McAllister,

Mr. Van Hassel, and Dr. Sypherd.

Heather Lathim, the Drug Inspector, will speak with DPS about taking the training class.

AGENDA ITEM 7 - Proposed Rules and Statutes

Mr. Wand introduced Mr. Don Hughes. Mr. Wand stated that Mr. Hughes will serve as the legislative liaison for the Board.

Mr. Hughes stated that he is not a lawyer but does work for a law firm. Mr. Hughes stated that he has experience in healthcare and insurance areas. Mr. Hughes stated that he has lobbying experience in Arizona and Illinois.

Mr. Hughes stated that he would be assisting the Board in drafting the Bills for the Legislative Session.

Electronic Prescribing Rules

Compliance Officer/Rules Writer Dean Wright opened the discussion by stating that a Notice of Proposed Rulemaking was published on August 25, 2006. Mr. Wright stated that a public hearing was held on September 25, 2006. Mr. Wright stated that both verbal and written comments were received.

Mr. Wright stated that he has prepared a Notice of Final Rulemaking and Economic Impact Statement. Mr. Wright stated that if the Board approves the Notice of Final Rulemaking and the Economic Impact Statement, he would send them to GRRC for final approval. Mr. Wright stated that the Notice of Final Rulemaking should be on GRRC's January 9, 2007 agenda. Mr. Wright stated that if they are approved by GRRC, the rules should become effective on March 10, 2007.

On motion by Dr. McCoy and Mr. Van Hassel, the Board unanimously agreed to approve the Notice of Final Rulemaking and Economic Impact Statement for the electronic prescribing rules

Automated Storage and Distribution/ Mechanical Counting Device Rules

Compliance Officer/Rules Writer Dean Wright opened the discussion by stating that a Notice of

Supplemental Proposed Rulemaking was published on August 25, 2006. Mr. Wright stated that a public hearing was held on October 1, 2006. Mr. Wright stated that both verbal and written comments were received.

Mr. Wright stated that he has prepared a Notice of Final Rulemaking and Economic Impact Statement. Mr. Wright stated that if the Board approves the Notice of Final Rulemaking and the Economic Impact Statement, he would send them to GRRC for final approval. Mr. Wright stated that the Notice of Final Rulemaking should be on GRRC's January 9, 2007 agenda. Mr. Wright stated that if they are approved by GRRC, the rules should become effective on March 10, 2007.

Mr. Dutcher asked if the maintenance had to be logged daily if a system did not require daily maintenance. Mr. Wright stated that they could log "no maintenance needed."

Mr. Wand stated that it could be changed to reflect that maintenance be performed at the minimum according to the manufacturer's instructions.

Mr. Wright stated that he would check to see if that is a substantive change.

On motion by Dr. Berry and Dr. Tippett, the Board unanimously agreed to approve the Notice of Final Rulemaking and Economic Impact Statement for the automated storage and distribution rules with the proposed change.

Shared Services Rules

Compliance Officer/Rules Writer Dean Wright opened the discussion by stating that a Notice of Proposed Rulemaking was published on April 3, 2006. Mr. Wright stated that a public hearing was held on May 24, 2006. Mr. Wright stated that a Notice of Supplemental Proposed Rulemaking was published on September 1, 2006 and a public hearing was held. Mr. Wright stated that public comment was received and the changes were incorporated.

Mr. Wright stated that he has prepared a Notice of Final Rulemaking and Economic Impact Statement. Mr. Wright stated that if the Board approves the Notice of Final Rulemaking and the Economic Impact Statement, he would send them to GRRC for final approval. Mr. Wright stated that the Notice of Final Rulemaking should be on GRRC's January 9, 2007 agenda. Mr. Wright stated that if they are approved by GRRC, the rules should become effective on March 10, 2007.

On motion by Mr. McAllister and Dr. Berry, the Board unanimously agreed to approve the Notice of Final Rulemaking and Economic Impact Statement for the automated storage and distribution rules with the proposed change.

Prescription Medication Donation Program Rules

Compliance Officer/Rules Writer Dean Wright stated that this is the first draft of the Prescription Medication Donation Program rules. Mr. Wright stated that the rules must be developed in consultation with the Department of Health Services (DHS). Mr. Wright stated that he met with the DHS Rulewriter and has passed out to the Board Members the DHS proposed changes. Mr.

Wright stated that he would bring the rules back to the Board at the January 2007 meeting.

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

Drug Wholesaler Rule

Compliance Officer/Rules Writer Dean Wright stated that this is a draft of the Drug Wholesaler Rules. Mr. Wright stated that he has received comments concerning recalls and returns and needs to address the issues in this rule.

Mr. Wright stated that at this time he will leave the fingerprint requirement in the rules.

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

Mr. Wand stated that the Proposed Statutes are present in the Board Book. Mr. Wand stated that the proposed statutes are the following: Emergency Dispensing, Exempt-Non-Prescription Manufacturers - Pharmacist required, and the Controlled Substance Prescription Monitoring Program.

AGENDA ITEM 8 - Complaint Review

The Consumer Complaint Review Committee met prior to the Board Meeting to review 26 complaints. Dr. Berry, Dr. Sypherd, and Ms. Honeyestewa served as the review committee.

Board Memberes were encouraged to discuss issues and were encouraged to ask questions.

The Board Members discussed Complaint # 3198. The Board felt that no further action need to be taken since these were customer service issues and did not violate the law.

The Board Members discussed Complaint #3204 concerning the fact that the pharmacist did not add refills to the prescription that the doctor requested. The pharmacist then transferred the prescription with no refills instead of

12 refills that the doctor requested. The Board Members decided to send an advisory letter.

The Board Members discussed Complaint #3208. The complainant stated that she had given the pharmacy a list of medications that her husband had taken and later found that the new medication interacted with a medication that her husband was previously taking that was on the list. The Board Members felt that it was the pharmacist's responsibility to counsel the patient concerning the medications. The Board Members decided that both the technician and pharmacist should appear for a conference.

The Board Members discussed Complaint #3217. The Board Members discussed if the pharmacist should before the Board for a conference or if a consent agreement should be offered.

The Board decided that they would ask the pharmacist to appear for a conference to discuss the errors.

The Board discussed Complaint # 3230 and agreed that a consent agreement should be offered to the technician. The Board discussed the terms of the consent agreement. The Board Members

decided that the terms of the consent agreement would be for a 30-day suspension, a \$250 fine for each incident, and probation for one year.

The Board discussed Complaint #3236 and agreed that a consent agreement was in order. The Board discussed the terms of the consent agreement. The Board decided that the pharmacist should be suspended for 30 days, fined \$4,000, and placed on probation. The Board decided that the pharmacist should be requested to take an exam to determine if she is mentally competent to practice.

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

- Complaint # 3190 - Advisory Letter to the Permit Holder
- Complaint # 3198 - No Further Action
- Complaint # 3204 - Advisory Letter to the Pharmacist
- Complaint # 3207 - No Further Action
- Complaint # 3208 - Conference (Pharmacist and Technician)
- Complaint # 3211 - No Further Action
- Complaint # 3212 - No Further Action
- Complaint # 3213 - No Further Action
- Complaint # 3214 - No Further Action
- Complaint # 3215 - Advisory Letter to the Pharmacist
- Complaint # 3216 - Conference (Pharmacist)
- Complaint # 3217 - Conference (Pharmacist)
- Complaint # 3218 - No Further Action
- Complaint # 3219 - No Further Action
- Complaint # 3220 - Advisory Letter to the Pharmacist In Charge and the Technician
- Complaint # 3224 - Advisory Letter to the Pharmacist
- Complaint # 3225 - Conference (Both Pharmacists)
- Complaint # 3226 - Conference with Corporate Legal and Regulatory Personnel
- Complaint # 3227 - No Further Action
- Complaint # 3228 - No Further Action
- Complaint # 3229 - Conference (Pharmacist)
- Complaint # 3230 - Consent- 30-day suspension, \$250 fine for each incident, Probation
- Complaint # 3231 - No Further Action
- Complaint # 3236 - Consent - 30-day suspension, \$4,000 fine, Probation, Mental exam
- Complaint # 3237 - Conference (Pharmacist)
- Complaint # 3241 - Consent - Revocation

AGENDA ITEM 9 - CONFERENCES

Complaint #3180

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Pharmacist Steven Shapiro, Pharmacist In Charge Tempe Site Sharon Richardson, Legal Counsel Ed Reichert, and Vice President of Pharmacy Practice Gary Sobocinski. The following individuals were present via telephone from Troy, New York:

Pharmacist In Charge Troy Site Patrick Marks and New York licensed Pharmacist Shannon Cerf. Compliance Officer Sandra Sutcliffe gave a brief overview of the complaint.

Ms. Sutcliffe stated that the complainant's prescription was written for Voltaren 25 mg and the patient received Voltaren 75mg. The complainant called the pharmacy and informed the pharmacy that she should have received the 75 mg strength. The complainant was told by the pharmacist that the prescription was filled correctly with the 75 mg strength. The pharmacy was contacted by the physician who informed the pharmacy that the prescription was for the 25 mg strength and asked the pharmacy to fill the prescription for the 25 mg. strength. Ms. Sutcliffe stated that the phoned in prescription was never processed by the pharmacy. The pharmacy had to call the physician for a new prescription. In the interim, the patient had a prescription for the 25 mg strength filled locally. The patient did not take any of the incorrect strength of the medication.

President Dutcher asked Mr. Shapiro how this error occurred. Mr. Shapiro stated that he was the verification pharmacist that verified the prescription and he read the strength as 75 mg.

Mr. Dutcher asked Mr. Shapiro how he verified the prescription. Mr. Shapiro stated that he looks at an image of the prescription and verifies that the information is entered correctly.

Mr. Dutcher asked Mr. Shapiro if he has access to the patient's history. Mr. Shapiro stated yes.

Mr. Dutcher asked Mr. Shapiro if he checked the patient history. Mr. Shapiro stated that he did not check the patient's history because there was no question in his mind that the strength was not for 75 mg.

Mr. Dutcher asked Mr. Shapiro what he has changed in his practice to prevent this error from occurring again. Mr. Shapiro stated that if he has any questions about a prescription he would look harder at the prescription. Mr. Shapiro stated that if he notices a discrepancy with the prescription he checks the patient profile.

Mr. McAllister stated looking at the prescription the strength is unclear and he could see how the error could be made.

Mr. Van Hassel asked why the pharmacist did not call the physician when the patient contacted the pharmacy and told the pharmacist that she should have received the 25 mg strength instead of the 75 mg. strength.

Ms. Cerf stated that she looked at the prescription when the patient called and the prescription looked like 75 mg to her. Ms. Cerf stated that she spoke with other pharmacists that concurred that the strength was 75 mg. Ms. Cerf stated that she looked at the patient's profile and she stated that she looked at the image of the previous prescription and the two in the strength was written differently than on this prescription. Ms. Cerf stated at that point she was satisfied that it was written for 75 mg.

Mr. Dutcher asked if they were written by the same doctor. Ms. Cerf stated that it was the same doctor. Ms. Cerf stated that the first prescription was written differently and she felt on the last prescription the number was a 7 and not a 2.

Mr. Dutcher asked if the patient questions the strength and the patient was on the 25 mg previously would that not have sent up a red flag to phone the doctor for clarification. Ms. Cerf stated that she read the strength as 75 mg and felt it was a dosage change. Ms. Cerf stated that the patient stated that she was going to phone the physician and Ms. Cerf stated that she felt that was the appropriate thing to do.

Mr. Van Hassel stated that two out of three incidences indicated that the strength should be 25 mg and the pharmacist should have used her professional judgment and contacted the physician to verify the strength. Ms. Cerf replied that she did speak with the patient and the original prescription looked different. Ms. Cerf stated that the patient was going to call the doctor and if it was a dose change than that is a conversation that is best held between the patient and the doctor. Ms. Cerf stated that in her experience it is better that the conversation takes place between the patient and the doctor and not between the pharmacist and the doctor and then the pharmacist and the doctor.

Dr. McCoy asked Ms. Cerf who is the professional in this situation and who has the responsibility for the safety of the patient. Dr. McCoy stated that in her opinion it is the pharmacist that should have called the physician to clarify the prescription and not the patient.

Dr. McCoy stated that she does have an issue with checking with other individuals. Ms. Cerf stated that she did look at the previous prescription and both prescriptions were written differently. Dr. McCoy told Ms. Cerf that she did question the strength when she asked other individuals and it is the pharmacist's responsibility to verify the prescription with the prescribing physician. Ms. Cerf stated that when she saw the previous prescription she did not have any question in her mind that the strength was not 75 mg.

Dr. McCoy stated that the patient told Ms. Cerf that the prescription sent to her was the wrong strength and Ms. Cerf should have verified the strength with the doctor. Ms. Cerf stated that the patient told her that she was going to call the doctor. Dr. McCoy stated as a professional it is the pharmacist's responsibility to call the doctor and not the patient.

Dr. Berry told Ms. Cerf that an agent or a nurse could have written the initial prescription and the handwriting could have been different on the second prescription. Dr. Berry stated that she also feels that it is the professional responsibility of the pharmacist to call the doctor and verify the strength when a patient questions a prescription.

Dr. Sypherd asked Ms. Richardson about the statement in her letter that stated that the pharmacy could not locate the prescription phoned in by the physician. Ms. Richardson stated that they could not locate the prescription. Ms. Richardson stated that she does not know why they could not locate the prescription.

Mr. Van Hassel asked Ms. Richardson if all prescriptions are scanned. Ms. Richardson stated that is correct. Mr. Van Hassel asked if they could not locate the scanned image. Ms. Richardson stated that in doing her research she found the scanned image. Ms. Richardson stated that she is not sure why the scanned image could not be located when the pharmacy tried to fill the prescription.

Mr. Dutcher asked if the prescription was assigned a number or if it was scanned into the queue.

Ms. Richardson stated that the prescription was scanned into the queue.

Mr. Dutcher asked Ms. Richardson what type of procedures are in place so that the prescription can be accessible for filling or viewing for informational purposes. Ms. Richardson stated that she does not have a good answer. Ms. Richardson stated that the prescriptions are scanned and pulled from the queue by the technicians and entered. Ms. Richardson stated that the prescriptions are sorted by the oldest prescriptions first in the queue. Ms. Richardson stated that she is not sure if the prescription was pulled and someone had an issue with the prescription.

Mr. Dutcher asked Ms. Richardson if she knew where in the process the failure to process the prescription occurred. Ms. Richardson stated that the prescription was never entered by the technician.

Mr. Reichert stated that the issue was handled unprofessionally. Mr. Reichert stated that they do not know why the prescription was not entered. Mr. Reichert stated that this is a highly unusual incidence for the volume of prescriptions handled by this pharmacy.

Mr. Dutcher asked if the company has done any research to find out if there are any additional prescriptions that

were scanned and not filled. Mr. Sobocinski stated that there were failures in the process. Mr. Sobocinski stated that this is an extreme anomaly. Mr. Sobocinski stated that this is the first time that they have seen this type of breakdown.

Mr. Dutcher asked if they have found a way to ensure this problem does not occur again. Mr. Sobocinski stated that they are trying to look at reports to prevent this type of problem from occurring in the future. Mr. Sobocinski stated that human errors may have lead to the problems.

Mr. Van Hassel asked if they have a policy for how pharmacists should handle questionable errors. Mr. Sobocinski stated that they do not have a policy. Mr. Sobocinski stated that they have extremely well-trained pharmacists that interact with patients over the telephone. Mr. Sobocinski stated that the company relies extensively on the pharmacist's professional judgment.

On motion by Mr. McAllister and Dr. Sypherd, the Board unanimously agreed to issue an advisory letter to the permit holder in New York regarding patient communication.

Dr. Sypherd noted that these are all system failures. Dr. Sypherd stated that they must pay attention to detail and the problems seem to run the length of the company and he would like to see the problems fixed.

Complaint # 3136

Pharmacist Lawrence Nappi and Pharmacy Supervisor John Reitz were present in response to a consumer complaint. Compliance Officer Larry Dick gave a brief overview of the complaint.

Mr. Dick stated that the prescription for the complainant's son was filled incorrectly. Mr. Dick stated that the prescription was written for Cefzil 125mg/5ml with directions to take 3 ml. every 12 hours for 10 days for 60 mls. The prescription was filled with Cefzil 125mg/5ml with directions to take 6 ml every 12 hours for 10 days for 60 mls. Mr. Dick stated that the patient's mother was counseled. The mother called the pharmacy concerned about the amount of medication that she was to give her three-month old son. The mother asked the pharmacist if it was the correct dose. The pharmacist told the mother that he checked and that is the correct dose. Mr. Dick stated that the mother gave the child the labeled dose of 6 mls. every 12 hours. When the mother called in for a refill, it was discovered that an error was made in the dosage.

President Dutcher opened the discussion by asking Mr. Nappi to explain to the Board Members why the mother was told that 6 mls was the correct dose when she called the pharmacy questioning the dose.

Mr. Nappi stated that an error was made on his part. Mr. Nappi stated that instead of looking at the original prescription, he looked at Clinical Pharmacology to see if this was a suitable dose for a child. Mr. Nappi noted that he should have first looked at the prescription first to see if the prescription had been dispensed as the doctor had written the prescription. Mr. Nappi stated that this was an error on his part and feels badly about the error.

Mr. Dutcher asked Mr. Nappi how he has changed his practice. Mr. Nappi stated that he now has instituted a triple check for each factor on the prescription. Mr. Nappi stated that he compares the written prescription with the final label to ensure that the label has been typed correctly.

Mr. Nappi stated that if a patient asks a question about their medication he does not look for the quick answer and thinks through the whole situation. Mr. Nappi stated that the first step he takes now is to verify the information against the original prescription and then if he feels it is necessary he would look up additional information in Clinical Pharmacology.

Mr. Dutcher asked Mr. Nappi how he verifies the prescription. Mr. Nappi stated that the prescription is scanned and he has an image of the prescription and the data entry information on his screen. Mr. Nappi stated that he can then compare the two.

Mr. Dutcher asked if the data entry person verifies the information they entered before they send the prescription to the pharmacist. Mr. Nappi stated that there is no second check by the data entry person because the pharmacist is the final check.

Mr. Van Hassel asked Mr. Nappi if he counseled the patient. Mr. Nappi stated that he counseled the patient from the label on the bottle. Mr. Van Hassel stated that the error could have been caught during counseling because there was not enough medication for 10 days. Mr. Nappi agreed.

On motion by Mr. Van Hassel and Dr. McCoy, the Board unanimously agreed to issue an advisory letter to Mr. Nappi.

Complaint #3152

Dr. McCoy and Mr. McAllister asked to be recused due to a conflict of interest.

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Pharmacist Andrew Yee, Pharmacist Laura Bosse, Pharmacist in Charge Jesse Carpenter, and Pharmacy Director Butch David. Sigurds Krolls was present as legal counsel for Mr. Yee and Ms. Boose. Compliance Officer Rich Cieslinski gave a brief overview.

Mr. Cieslinski stated that in 2005 the complainant's husband was admitted to the hospital for surgery. An allergy form was completed indicating that the patient was allergic to Penicillin which would produce swelling. Mr. Cieslinski stated that in July of 2005 the complainant's husband was given Zosyn which is a penicillin derivative. Mr. Cieslinski stated that the literature for Zosyn indicates that the physician should be contacted prior to administering the medication. Mr. Cieslinski stated that Mr. Yee reviewed the initial order and reviewed the patient information and released the initial order to be processed. Mr. Cieslinski stated that Zosyn was administered through out the patient's hospital stay until he passed away in August of 2005.

President Dutcher asked Mr. Yee if he feels that he followed protocol in the dispensing of this product. Mr. Yee stated that this incident occurred over a year ago. Mr. Yee stated that he always calls the floor to gather more information on penicillin allergies, since he is also allergic to penicillin. Mr. Yee stated that when he sees the interaction as swelling he also gathers additional information because he does not want to occlude the patient's airway. Mr. Yee stated that his main fault was that he did not document that he talked to anyone or gathered additional information. Mr. Yee stated that the medication did not cause the patient harm. Mr. Yee stated that in reviewing the case the patient was intubated and no obstruction of the airway would have occurred.

Mr. Dutcher asked Mr. Yee if a penicillin byproduct is given when the patient has a penicillin allergy. Mr. Yee stated that is why additional information is gathered because some people can tolerate the product depending on what type of reaction they have to the product.

Mr. Dutcher asked what type of additional information Mr. Yee would gather. Mr. Yee stated that they would gather what type of reaction was displayed, such as IV site swelling, leg and arm swelling, or occluded airway.

Mr. Dutcher asked if the cause of death was related to the penicillin allergy. Mr. David replied the cause of death was not related to the penicillin allergy.

Dr. Sypherd asked if the autopsy revealed that the penicillin allergy was not the cause of death.

Mr. David replied that is correct. Mr. David stated that the patient showed no allergic reaction to the Zosyn.

Dr. Sypherd asked if there was a warning bracelet on the patient indicating a penicillin allergy.

Mr. David said yes and that would alert the physicians to the allergy.

Mr. Van Hassel asked the pharmacists to describe the routine procedure when they receive an order that has a patient drug allergy. Mr. Yee stated that they always call the doctor.

Mr. Yee stated that they now have a documentation system in place. Mr. Yee stated that the system has been enhanced and a hard stop is present to make everyone list what they do sequentially before any other steps are completed.

Mr. Van Hassel asked if there are hard stops for penicillin related drugs. Mr. David replied yes.

Mr. David stated that any cross allergies require the pharmacist to enter into the system why they are still releasing the product if they choose to release the product.

Mr. Van Hassel asked if this system was in place when the complainant's husband was in the hospital. Mr. David stated that it was not in place at that time. Mr. David stated that there has been a system change on the software.

Dr. Smidt asked if a pharmacist reviewed the allergies each time the Zosyn was ordered. Mr. Carpenter stated that the pharmacist had access to the medical record and saw that previous doses had been dispensed without any problem.

Mr. Krolls stated that the infectious disease doctor was aware of the allergy and continued to use the medication.

Dr. Berry stated that is the reason why the pharmacists were asked to appear because there was no documentation that the allergies were discussed with the physician.

Mr. Van Hassel stated that there is a need to document the interactions.

On motion by Mr. Van Hassel and Dr. Sypherd, the Board unanimously agreed to dismiss the complaint and take no further action.

Mr. David asked if the Board could help educate other health practitioners on the documentation of allergies and identifying of a true allergy. Mr. David stated for example the stomach upset associated with codeine is often interpreted as an allergy when it is a side effect.

Mr. Wand stated that he could speak with the other boards and the different health boards could publish the concerns in their newsletters.

Mr. David stated that they have addressed the issue at the hospital in their medical newsletter and would send a copy of the newsletter to Mr. Wand.

Complaint # 3150

Pharmacist Peter Massrock, Pharmacist In Charge Paul Okamoto, Pharmacy Technician Carolyn

Begay, and Pharmacy Supervisor Chad Schuster were present in response to a consumer complaint. Compliance Officer Sandra Sutcliffe gave a brief overview.

Ms. Sutcliffe stated that the complainant's fourteen-year old daughter received Haloperidol instead of Nadolol. The patient took two doses of the medication and was taken to the Emergency Room when she became lethargic and had some other side effects. The mother stated after the medication was discontinued her daughter had no ongoing problems.

Mr. Dutcher asked Mr. Massrock to address the complaint. Mr. Massrock stated that the technician enters the prescription and a label is printed and the prescription and label are passed to the pharmacist. Mr. Massrock stated

that he received the prescription and the label. Mr. Massrock stated that he checked the label and circled the strength and handed the basket back to the technician telling her it was not correct. Mr. Massrock stated that he did not even notice that the drug was incorrect. Mr. Massrock stated that he told the technician if the strength is changed that they need to document who they talked to and the time. Mr. Massrock stated that is the last time that he saw the prescription because there are no checks or documentation that he checked the prescription. Mr. Massrock stated that he is not sure what happened to the prescription. Mr. Massrock stated that he worked the rest of the evening and he does not recall talking to the mother.

Mr. Dutcher asked Mr. Massrock if he put a note on the prescription indicating what was not correct. Mr. Massrock stated that he just gave the basket back and told them to correct the label.

Mr. Dutcher asked Mr. Massrock if it would have been possible that someone placed the prescription in the filled section and bagged the prescription instead of redoing the label. Mr. Massrock stated that is possible.

Mr. Dutcher asked how many pharmacists were working at the time. Mr. Massrock stated that there were two pharmacists until 6:00 P.M.

Mr. Dutcher asked Mr. Massrock what changes have been made to prevent this error from occurring again. Mr. Massrock stated that he writes on the label "fix me" and writes a note indicating what needs to be changed.

Mr. Okamoto stated that he is the Pharmacist In Charge and has the technicians check every evening that all the baskets that need corrections have a note in the basket indicating what type of correction is needed since the same pharmacist may not be working the next day. Mr. Okamoto stated that he tries to have the pharmacist and technician that close in the evening open the next morning so that they know what is going on with the prescriptions that are remaining from the prior evening.

Mr. Dutcher stated that this error could have been caught when the patient was counseled. Mr. Dutcher asked where the breakdown occurred in the counseling process. Mr. Schuster stated that they are not sure who provided counseling. Mr. Schuster stated that he talked to everyone at the store. Mr. Schuster stated that he told the technicians that they must ask the pharmacist about the prescription and if they can give it to the patient.

Mr. Massrock stated that he has obtained a date and initial stamp and when he counsels the patient he stamps the prescription.

Dr. Smidt asked Mr. Massrock if the patient refuses counseling what does he do. Mr. Massrock stated that he stamps the prescription and writes no counsel on the prescription.

Dr. Smidt asked how the pharmacist knows that a patient needs counseling. Mr. Massrock stated that the technician would call the pharmacist to the counter to counsel the patient. Mr. Massrock stated that if he does not counsel the patient the technician will place the prescription on the counter or place the prescription in the basket indicating that they told the technician that they did not want counseled. Mr. Massrock stated that he is a floater pharmacist and when the patient tells the technician that they have taken the medication before he tells the technicians to tell the patient that the pharmacist will be with them for a final check of the prescription.

Mr. Dutcher asked if the counseling procedures are written down for all pharmacists to follow because if the patient was counseled this error should have been caught. Mr. Schuster stated that he cannot say that they have the rules written somewhere but the pharmacists know the laws and they know the procedures. Mr. Schuster stated that new prescriptions are attached to the bag with a clip so that the pharmacist does have the hard copy when he counsels the patient.

Dr. Smidt asked what happens if the technician does not call the pharmacist to the counter to counsel the patient. Mr. Schuster stated that they would go through progressive discipline.

Dr. Smidt asked Mr. Schuster how many of his technicians have gone through progressive discipline. Mr. Schuster

stated that he cannot think of any technicians that have gone through the discipline. Dr. Smidt stated that they know it is occurring and nothing is being done about the problem.

Dr. Berry stated that the technician cannot take the refusal for counseling. Dr. Berry stated that the pharmacist must accept the refusal for counseling.

Dr. Berry stated that if the bin is being handed back to the technician for processing the pharmacist might want to put a big X on the front of the prescription label. Dr. Berry stated that she believes that there was no final check on the prescription and was given to the patient without counseling.

Mr. Dutcher stated that the prescription bag should be given to the pharmacist and the pharmacist initiates the counseling and if the patient elects not to be counseled then the pharmacist accepts the refusal.

Mr. Dutcher stated that in the patient profile under medical conditions it shows psychosis. Mr. Dutcher asked if the medical condition is entered when the prescription is entered. Mr. Schuster stated that when the drug is entered into the system the system pulls up one or two selections for medical conditions. Mr. Dutcher told Mr. Schuster that they have now listed psychosis as a medical condition for this patient because they mis-filled a prescription.

Mr. Dutcher stated that the intent of the law is for the pharmacist to speak with the patient and obtain medical conditions from the patient.

Mr. Wand stated that the medical condition should have been removed when they discovered that they had mis-filled the prescription.

Mr. McAllister asked if the original prescription is with the finished product in the dispensing area. Mr. Massrock stated yes. Mr. McAllister stated that the prescription is clearly printed Nadolol and the pharmacist is given a label that says Haloperidol. Mr. McAllister stated that the pharmacist must speak with the patient to avoid errors.

On motion by Mr. McAllister and Dr. Smidt, the Board agreed to offer consent orders to both pharmacists and the technician. The consent orders would have the following conditions:

- 1. The pharmacists will be assessed a fine of \$100 each and the technician will be assessed a fine of \$25.
- 2. Both pharmacists and the technician will be placed on probation for 30 days.

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

Complaint # 3155

Pharmacist Jay McCoy, Pharmacist Ronald Siegel, and Pharmacy Supervisor Darren Kennedy were present in response to a consumer complaint. Compliance Officer Sandra Sutcliffe gave a brief overview of the complaint.

Ms. Sutcliffe stated that this complaint involved three separate incidents at two different stores. Ms. Sutcliffe stated that in the first incident the complainant, a seven-month old child received Zyrtec instead of Zantac on a refill. The patient took five doses before the error was discovered.

The mother reported that her son was drowsy but had no long term effects.

Ms. Sutcliffe stated that the second and third incidents involved the incorrect directions being typed on the prednisolone and hydroxyzine syrup labels. The mother gave three days worth of each medication as labeled to her son. The mother stated that her son did have some side effects from the medication, but did not experience any long term side effects.

President Dutcher opened the discussion by asking Mr. McCoy to address the first incident.

Mr. McCoy stated that the prescription was filled approximately one year ago before Walgreens instituted the stop gaps for these two products. Mr. McCoy stated that he has implemented procedures to prevent this from occurring in the future.

Mr. Dutcher asked Mr. McCoy if the stop gaps have helped. Mr. McCoy stated that the stop gaps have helped and the technicians are more aware of the error. Mr. McCoy stated that the stop gaps have required everyone to do a second set of checks.

Mr. Dutcher asked Mr. Kennedy if he has statistics showing how the stop gaps have helped prevent this error. Mr. Kennedy stated that they do not have any numbers available at the district level, but the numbers may be available from the corporate office. Mr. Kennedy stated that he has noticed less errors being reported on drugs where stop gaps have been instituted.

Dr. Sypherd stated that the pharmacists should not count on a computer program to prevent them from making the error. Dr. Sypherd stated that the pharmacist should take charge of the situation and prevent errors from occurring.

Dr. McCoy stated that at the last meeting the company presented the stop gaps that they have put in place to keep this error from occurring in the future and it is reassuring to know that the stop gaps are in place and working.

President Dutcher asked Mr. Siegel to address the errors where the Prednisolone and Hydroxyzine syrups were labeled incorrectly. Mr. Dutcher stated that the computer generated prescriptions contain two sets of directions. Mr. Siegel stated that he did not see the second set of directions.

Mr. Kennedy stated that the other Pharmacy District Manager, Fauzia Somani, had contacted the doctor's office concerning this error. Ms. Somani was told that the computer program the doctor uses office has default directions and if a doctor wants they may type different directions. In this case, the doctor did not remove the default directions and typed the directions that the doctor wanted on these two prescriptions. This is the reason that two sets of directions appeared on the prescription.

Mr. Dutcher stated the prescription still had two sets of directions on the prescription and should have been caught by the pharmacist. Mr. Dutcher stated that he hoped if the pharmacist saw two sets of instructions that he would have taken the time to contact the physician.

Mr. Van Hassel asked about the scale not being calibrated and the verifying of the Zyrtec and Zantac prescriptions. Mr. Kennedy stated that the scale has a barcode function to scan the barcode on the label and the stock bottle. Mr. Kennedy stated that even if the scale was not calibrated the pharmacist still use the barcode function. Mr. Kennedy stated that he could only assume the pharmacist did not use the scale to scan the barcode.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously agreed to dismiss the complaint because of corporate actions to remedy the Zyrtec/Zantac errors and the confusing directions on the other prescriptions. The Board chose to take no further action.

Complaint #3169

Pharmacist Richard Herman and Pharmacy Supervisor June Piposar were present in response to a consumer complaint. Roger Morris, Legal Counsel for Mr. Herman, was also present. Compliance Officer Rich Cieslinski gave a brief overview.

Mr. Cieslinski stated in the first incident the complainant stated that he received Propecia instead of Proscar. Mr. Cieslinski stated in the second incident the complainant stated that he received generic Flexeril instead of generic Ziac. Mr. Cieslinski stated in the second incident someone else in household had a prescription for generic Flexeril.

President Dutcher asked Mr. Herman to address the first incident. Mr. Herman stated that the patient brought the bottle back to the pharmacy and stated that he received Propecia instead of Proscar. Mr. Herman stated that he then filled the prescription for the correct medication. Mr. Herman stated that all 30 tablets were returned.

Mr. Herman stated that he cannot understand how the error occurred. Mr. Herman stated that the medications are different in color and that should have been a red flag to the patient. Mr. Herman stated that the patient stated that the senior pharmacist told me not to worry about the different color, it is the usual blood pressure med that I take. Mr. Herman stated that he never told the patient that because every pharmacist knows that neither Propecia or Proscar are used for blood pressure.

Mr. Herman stated that the computer system requires the pharmacist to scan the barcode on the bottle and the label to be sure the products match.

Mr. Dutcher asked Mr. Herman if he filled any Propecia around the time of the incident. Mr. Herman stated that there were no Propecia prescriptions filled that day.

Ms. Puposar stated that the company does routine cycle counts and the counts were accurate for the Propecia.

On motion by Dr. Tippett and Dr. Sypherd, the Board unanimously agreed to dismiss the complaint and take no further action concerning the first incident.

On motion by Dr. Tippett and Dr. McCoy, the Board unanimously agreed to dismiss the complaint and take no further action concerning the second incident.

Complaint # 3172

Pharmacy Director Michael White, Pharmacist In Charge John Saliba were present in response to a consumer complaint. Compliance Officer Richard Cieslinski gave a brief overview.

Mr. Cieslinski stated that the complainant indicated that unauthorized refills were issued on a lithium prescription without contacting the prescriber. Mr. Cieslinski stated that the patient had received two unauthorized refills. Mr. Cieslinski stated that he was told that the issue was a computer issue that allowed prescriptions to processed without obtaining authorization.

President Dutcher asked Mr. White how long he has been using this computer system.

Mr. White stated that he started working at Saliba's using the QSI system in August of 2005.

Mr. Dutcher asked if this was a new prescription system. Mr. Saliba stated that they have been using the QSI system since 1999 when they opened the pharmacy. Mr. Saliba stated that he is using the long term care program.

Mr. Dutcher asked if there ever was a hard stop edit for refills. Mr. Saliba stated that they were not aware of any stop. Mr. Saliba stated that they are using the long term care program of QSI versus the retail program. Mr. Saliba stated that the clients are in assisted living homes and they package the medications in compliance packaging. Mr. Saliba stated that they are required to do autofills. Mr. Saliba stated that the autofill program automatically generates refills on a monthly basis. Mr. Saliba stated that the program was developed for skilled nursing homes. Mr. Saliba stated that the program allowed them to generate a list of prescriptions that needed refill authorization and the refill requests were faxed out to the prescribers. Mr. Saliba stated that this particular prescriber would not fax refills. Mr. Saliba stated that this particular psychiatrist required that he see his patients before authorizing refills. Mr. Saliba stated that they had to call the facility and tell the facility that the patient needed to see the psychiatrist. Mr. Saliba stated that since there was no hard edit there was an oversight in this case.

Mr. Dutcher asked who was responsible for obtaining refill authorization. Mr. Saliba stated that

there were two technicians responsible for obtaining the refills. Mr. Saliba stated that they had apparently contacted the caregiver but had not heard back from the prescriber and did not remove the prescription from the list.

Mr. Saliba stated that they have contacted their software programmer and have arranged to have a hard edit in place so that even if there is a human error the prescription could not be refilled without authorization.

Mr. Dutcher stated that the complainant was concerned that refilling prescriptions without authorization was the standard of practice at the pharmacy. Mr. Saliba replied that this was not their standard of practice.

Dr. Berry asked Mr. Saliba if there is a maximum number of dosages that would take the prescription off the autofill. Mr. Saliba stated that the system does maintain the maximum quantity, but what was missing was the hard edit to prevent the fill.

Mr. Dutcher asked if the computer would add an additional refill before the authorization was received. Mr. Saliba stated that this process has stopped. Mr. Saliba stated that when they installed the system he did extensive tests on the system. Mr. Saliba stated that he was comfortable that the system worked. Mr. Saliba stated that they dispense a large number of prescriptions each year and the problem was this particular provider and how the pharmacy addressed the provider's needs.

On motion by Mr. Van Hassel and Mr. McAllister, the Board unanimously agreed to issue an advisory letter to the permit holder.

AGENDA ITEM 17- Call to the Public

President Dutcher 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.

A Pharmacist came forth to express his concerns about fingerprinting. He stated that the fingerprinting would add extra time to the licensing process.

The Pharmacist stated that he feels participation in an error program could be offered in place of a consent agreement.

The Pharmacist stated that the Board must review every disciplinary case and make different decisions based on the evidence presented.

There being no further business to come before the Board, on motion by Mr. Van Hassel and Dr. McCoy, the Board unanimously agreed to adjourn the meeting at 5:40 P.M.

November 9, 2006

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

President Dutcher convened the meeting at 9:00 A.M. and welcomed the audience to the meeting. Ms. Frush explained that law continuing education would be offered for attendance at the meeting.

AGENDA ITEM 8 - Complaint Review

President Dutcher asked Ms. Lee if the Board could reconsider their decision concerning Complaint # 3217.

Ms. Lee stated that they could reopen the complaint.

On motion by Dr. McCoy and Dr. Sypherd, the Board unanimously agreed to review their decision concerning Complaint #3217.

Dr. McCoy stated that yesterday the Board voted to have the pharmacist appear for a conference.

Dr. McCoy stated that after thinking about the decision she felt that it would be better to issue a Consent Agreement to the pharmacist.

Dr. McCoy stated that she feels that the pharmacist should not practice alone. Dr. McCoy stated that she would also like a term of probation.

Ms. Lee stated that staff could negotiate the terms of the probation. Dr. McCoy stated that staff could negotiate the terms of the probation.

Mr. McAllister stated that he feels that twice a year inspections would be appropriate. Mr. McAllister stated that the costs of the inspections would be charged to the pharmacist.

Dr. Smidt asked Ms. Lee what other options are available to the Board.

Ms. Lee stated that the Board could set a hearing and the pharmacist would need to appear in front of the Board and answer their questions and then the Board could make their decision on what action to take.

Ms. Lee stated that some Boards will assign a mentor and the mentor must oversee everything the licensee is doing and submit reports to the Board. Ms. Lee stated that the individual and the mentor both submit reports.

Dr. McCoy asked Ms. Lee if the pharmacist does not sign the consent agreement if the case would proceed to a hearing. Ms. Lee stated that it is correct.

Ms. Lee stated that the Board could ask for the consent agreement to be signed in a certain period of time and if not signed then it would move to hearing.

Dr. Berry asked if the Board could recommend a program such as Terri Jackson's program. Ms. Lee stated that they could ask he complete the program.

Mr. Wand stated that the he does not feel the inspections would show practice violations.

Dr. Sypherd stated that he feels a sense of urgency to reach some solution to help protect the public. Dr. Sypherd stated that he likes the idea of a consent order.

Mr. Wand stated that if the Board feels that there is a sense of urgency then the Board could summarily suspend his license and have a hearing in ten days.

Mr. McAllister stated that it would be difficult to find a second pharmacist to work in his store.

Ms. Lee stated that the licensee must be given a thirty notice for hearing.

On motion by Dr. McCoy and Dr. Smidt, the Board unanimously agreed to issue a consent agreement with the following terms: The consent order must be signed within 15 days, there will be two inspections at the pharmacy with the cost being charged to the permit holder, the pharmacist cannot practice alone, reports submitted prior to

each Board meeting for the next year, and the probationary period will be determined by staff.

Dr. Smidt asked if a psychological evaluation can be ordered. Ms. Lee stated that the Board could order a psychological evaluation and wait for the results and then issue a consent agreement.

Dr. Berry asked if the reports could be reviewed at each Board meeting.

Mr. McAllister stated that the pharmacists practice skills are deficient.

Mr. McAllister stated that he feels the staff could review the reports and make any report any issues to the Board.

AGENDA ITEM 9 - Conferences

Complaint #3140

Pharmacy Director Daniel Milovich and Pharmacy Systems Coordinator Brad Barron were present to answer questions from Board Members as a result of questions raised during a conference at the last Board Meeting.

Mr. Milovich stated that at the last Board Meeting a pharmacist and pharmacy technician were present for a conference and Mr. Milovich stated that they feel that they misrepresented how the pharmacy computer system works.

President Dutcher asked the respondents to explain how the pharmacist and technician were in error. Mr. Barron stated that the company provides a three day inhouse training for all new employees. Mr. Barron stated that they review the operation of the computer as well as company policies and procedures. Mr. Barron stated that when a prescription is entered and a DUR screen appears the person doing the entry must enter Bypass or Pend. Mr. Barron stated that their training clearly states that a technician cannot type Bypass. Mr. Barron stated that the technician would type Pend and their workflow would continue. Mr. Barron stated that the label would state Pended Rx. When the pharmacist sees the Pended Rx, the pharmacist would then type Bypass to override the DUR. Mr. Barron stated that the pharmacist can reverse the prescription and call the physician if he wants further clarification of the DUR.

Mr. Barron stated that at the last meeting the technician stated that she knew that she should not type Bypass and did type Bypass against company policy.

Mr. Milovich stated that Mr. Dutcher and Mr. Wand did review the software. Mr. Wand stated that the system is safe and sometimes the technician would use a print screen instead of the Pend function.

Mr. Dutcher asked if there is a hard stop or ID connected with the Bypass. Mr. Barron stated that the pharmacist must sign on the system prior to a technician logging onto the system. Mr. Barron stated that the system assumes Bypass is typed by the pharmacist.

Dr. McCoy asked if a technician could violate policy and type in Bypass. Mr. Barron stated that the technician could type Bypass. Mr. Barron stated that the Pharmacist and technician are recorded on the final fill. Mr. Barron stated that on the daily audit report that the pharmacist signs there is a listing of Bypassed prescriptions. Mr. Barron stated that anyone could type the word Bypass or Pend. Mr. Barron stated it could be recommended that QS1 change the word Bypass to the pharmacist's password to override DURs. Mr. Barron stated that would not stop the pharmacist from giving the technician his password.

Dr. McCoy asked if there is any documentation in the system of why the pharmacist bypassed the prescription. Mr. Barron stated that there is no documentation. Mr. Barron stated that he could ask QS1 if this would be possible.

Dr. McCoy suggested Mr. Barron check to see if QS1 could lock out the technician. Mr. Barron stated that it may

be better that only a pharmacist could type Bypass.

Dr. Smidt asked if the technician types Bypass to print the screen. Mr. Barron stated that the technician can type in Bypass and print the screen. Mr. Barron stated that the technician is taught to type Pend and they do not recommend they use the Bypass screen.

Dr. Berry asked if there is a way that a hard stop could be in place so that the label does not print until a pharmacist reviews the DUR screen. Mr. Barron stated that he could check on the process.

Dr. McCoy stated that she would recommend that they monitor their processes to see how often this occurs on a daily basis. Dr. McCoy stated that the inconsistencies of using Bypass and Pend would make it difficult for a technician or pharmacist that works at multiple sites.

Mr. Dutcher closed the discussion by stating that the Board would write a letter QS1 to require a hard stop when a DUR screen appears.

On motion by Mr. McAllister and Dr. McCoy, the Board unanimously agreed to dismiss the complaint against the permit holder and take no further action against the permit holder.

Complaint # 3194/P>

Pharmacist Van Lieu, Pharmacy Supervisor John Cerni, and Pharmacy Supervisor Rich Zohofski

were present in response to a consumer complaint. Compliance Officer Larry Dick gave a brief overview of the complaint.

Mr. Dick stated that the patient's prescription for Primidone 50 mg was filled with Prednisone 50 mg with directions to take ½ to 1 tablet at bedtime for one week, the take one tablet twice daily. The patient took the medication for approximately three weeks. The patient experienced side effects and is still experiencing some side effects.

President Dutcher opened the discussion by asking Mr. Lieu to describe how the error occurred.

Mr. Lieu stated that the prescription was entered by the technician, a second technician counted and labeled the prescription, he then checked the prescription, and a third technician dispensed the medication out the window.

Mr. Dutcher asked Mr. Lieu to describe his verification process. Mr. Lieu stated that he checks the prescriber, the patient, the medication, and the quantity.

Mr. Dutcher asked Mr. Lieu if he circled the drug and quantity on the label. Mr. Lieu stated that he circled the information on the prescription and thought the drug was prednisone. Mr. Lieu stated that he counseled the patient on prednisone.

Mr. Dutcher asked Mr. Lieu if he told the patient the use of the medication. Mr. Lieu stated that he did not recall.

Dr. Tippett stated that not being a pharmacist he would not have read the prescription as Prednisone.

Dr. Smidt asked if he documented consultation. Mr. Lieu stated no. Mr. Lieu stated that the current system he is using is better in documenting consultation.

Dr. Smidt asked if the patient was at the drive thru window. Mr. Lieu stated that the patient came into the store and he counseled them face to face.

Dr. Smidt asked if the technician asks if the patient wants counseled. Mr. Lieu stated that he counsels on all prescriptions.

Mr. Dutcher asked Mr. Lieu to describe how he knows to counsel a patient. Mr. Lieu stated that on the label the word counsel appears and the technician will call the pharmacist to the counter.

Mr. Lieu stated that the pharmacist takes the bag from the technician and gives the bag to the patient.

Mr. Dutcher asked Mr. Lieu what he has changed in his practice. Mr. Lieu stated that he double or triple checks the label against the medication. Mr. Lieu stated that he tells patients about their medications and tells the patient to call if they have any questions.

Dr. Berry asked Mr. Lieu if he checked the patient profile because this is a high dose of Prednisone. Mr. Lieu stated that he did not check the profile. Mr. Lieu stated that when he was made aware of the error he apologized to the patient.

Mr. McAllister stated that there is no justification for giving prednisone at that dosage. Mr. McAllister told Mr. Lieu that he must take care of his patients.

Dr. Sypherd asked Mr. Lieu how long he has practiced as a pharmacist. Mr. Lieu stated about one year.

Dr. Sypherd reminded Mr. Lieu that the public is very trusting and when he hands a medication to a patient it is his responsibility to ensure that the patient receives the correct medication.

Dr. Tippett stated the public assumes that the medication is correct. Dr. Tippett asked if the Board could have a conversation with the Medical Board concerning how mistakes are made when handwriting issues are concerned. Mr. Wand stated that he would be meeting with the Medical Board on another issue and would express the Board's concerns about standardized electronic prescriptions.

On motion by Dr. Sypherd and Mr. McAllister, the Board unanimously agreed to offer a consent order to Mr. Lieu with the following conditions:

- 1. Probation for one year**
- 2. A \$500 fine**
- 3. Completion of a CE course on error prevention**

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

Complaint # 3203

Pharmacist Thomas Blakely, Pharmacy Technician Carmen Robles, and Pharmacy Supervisor

Connie Shawler were present in response to a consumer complaint. Compliance Officer Ed Hunter gave a brief overview of the complaint.

Mr. Hunter stated that the patient's prescription for Lorazepam 0.5 mg was filled incorrectly with Alprazolam 0.5 mg. The patient's prescription was entered correctly but the incorrect medication was in the prescription vial. Mr. Hunter stated that the complainant stated that she received incomplete counseling.

President Dutcher opened the discussion by asking Ms. Robles how the wrong medication was placed in the prescription vial. Ms. Robles stated that she did type the prescription but she does not remember filling the prescription.

President Dutcher asked Mr. Blakely to discuss the error. Mr. Blakely stated that he allowed the attitude of the patient to modify his behavior. Mr. Blakely believes that there was a failure to use the scanner to identify the drug. Mr. Blakely stated that the counseling was abbreviated because the patient was in a hurry and the tablets were not shown to the patient which he does during counseling.

Mr. Dutcher asked Mr. Blakely what he has changed in his practice since this incident. Mr. Blakely stated that he does not allow the attitude of the patient to affect how he practices. Mr. Blakely stated that he does not allow the attitude of the patient to permeate the staff. Mr. Blakely stated that all prescriptions are scanned. Mr. Blakely stated that he compares the number of scans with the number of prescriptions filled to ensure prescriptions are scanned.

Mr. Blakely stated that this patient was counseled. Mr. Blakely stated that counseling was abbreviated because of the patient's attitude. Mr. Blakely stated that he shows the patient the medication and tells the patient about the use of the medication and the side effects of the medication.

Mr. Dutcher asked Mr. Blakely who hands the medication to the patient. Mr. Blakely stated that the pharmacist hands the prescription to the patient. Mr. Blakely stated that he marks a C on the prescription for counseling with his initials and the date.

Mr. Van Hassel asked Ms. Robles to describe how a technician would fill a prescription. Ms. Robles stated that she would check the NDC on the bottle and label. Ms. Robles stated that if the prescription is for a controlled substance then she double counts the medication. Ms. Robles stated that she does not scan the bottle.

Mr. Blakely stated that the scanners are used by the pharmacists. Dr. McCoy asked Mr. Blakely what is scanned. Mr. Blakely stated that the label and stock bottle are scanned.

Mr. Van Hassel asked Mr. Blakely if the prescription was scanned. Mr. Blakely stated that he thought the prescription was scanned but it may not have been scanned due to the sense of urgency of the patient and that step was skipped.

Dr. Sypherd asked Mr. Blakely if he has regained control of the pharmacy. Mr. Blakely replied yes and he tells his staff that the pharmacy controls the situation and the patient does not dictate how they practice.

Dr. McCoy asked Ms. Robles if the products are located close together. Ms. Robles stated that the alprazolam is located on the fast mover shelf and the lorazepam is stored on the regular stock shelves.

On motion by Mr. McAllister and Dr. Berry, the Board agreed to issue an advisory letter to the pharmacist and technician. A roll call vote was taken. (Mr. McAllister - aye, Ms. Honeyestewa - aye, Dr. Berry - aye, Dr. Tippett - nay, Dr. Smidt - aye, Dr. McCoy - aye, Dr. Sypherd - nay, Mr. Van Hassel - aye, President Dutcher - aye)

Complaint # 3205

Pharmacist Bhavesh Soni, Pharmacist Keith Likes, Pharmacy Supervisor Nickole Schickel, and Pharmacy Supervisor Joe Leyba were present to respond to questions pursuant to a consumer complaint. Compliance Officer Rich Cieslinski gave a brief overview.

Mr. Cieslinski stated that the complainant stated that she received a prescription for Novolin 70/30 and the directions were incorrect. The patient stated that the doctor told her to take the insulin twice a day. The patient stated that when she picked up the prescription she questioned the frequency of the dosing and was told that the doctor had phoned the prescription in that way.

The patient stated that she called the doctor to obtain the correct directions. Mr. Cieslinski stated that neither pharmacist questioned the directions that stated that the patient should use 36 units in the morning, 30 units at bedtime, 24 units in the evening, and 30 units at dinner. Mr. Cieslinski

stated that the pharmacist that took the prescription did not question the directions and did not question the directions when questioned by the patient during counseling. Mr. Cieslinski stated the verifying pharmacist was located at another store and did not question the directions. Mr. Cieslinski stated that when he called the doctor's office he was told that an assistant had called the prescription into the pharmacy incorrectly.

President Dutcher opened the discussion by asking Mr. Soni to discuss why he not check the directions when the patient questioned the directions. Mr. Soni stated that during counseling he asked the patient if she knew how to use the insulin and syringes. Mr. Soni stated that the patient told him that she knew how to use the insulin. Mr. Soni stated that the patient did not have any comments about the directions. Mr. Soni stated that the patient called later to ask about disposing of syringes. Mr. Soni stated that the patient came the next day for a sharps container and did not mention about any error in the directions. Mr. Soni stated that the patient called later that day and asked what would happen if she took more insulin than she needed. Mr. Soni stated that she could become hypoglycemic and it could be bad. Mr. Soni stated that the patient did not mention anything about calling the doctor when he counseled her.

Mr. Dutcher asked Mr. Soni what he did when the patient questioned the directions. Mr. Soni stated that he went to the scanned directions and he told her that was the way the doctor called in the prescription. Mr. Soni stated that the patient did not tell him this was an error.

Mr. Dutcher asked Mr. Likes if he was verifying the prescriptions at a different location. Mr. Likes stated that he is at a different store.

Mr. Dutcher asked Mr. Likes if he has access to the patient's profile because he indicated in his reply that he did not have access to the profile. Mr. Likes stated that he meant he did not have access to the patient's medical history but he can see the patient's information.

Dr. McCoy asked Mr. Soni how he could counsel someone on these directions because she would have no idea what to tell the patient. Mr. Soni stated that when he was counseling the patient the patient told him that the doctor went over the directions with her. Mr. Soni stated that the patient did not tell him that the doctor had told her to use the insulin any other way.

Mr. Dutcher asked Mr. Likes if the dosage raised any red flags for him. Mr. Likes stated yes to some extent. Mr. Likes stated that Novolin insulin can be given more than twice daily. Mr. Likes stated that the insulin could be given three times daily. Mr. Likes stated that there are many factors that can affect how many times a day insulin is used. Mr. Likes stated that he should have sent a note to check the dosage.

Dr. McCoy stated that Mr. Cieslinski stated that the prescription phoned to the pharmacy incorrectly and she asked what the correct dosage was. Mr. Cieslinski stated that the patient was to take 36 units in the morning and 24 units in the evening. Dr. McCoy told the pharmacists that the patient would have taken twice the amount of insulin required.

Dr. Berry asked Mr. Soni if he called the office back to verify the dose. Dr. Berry stated that she has never seen Novolin 70/30 given four times a day because the long acting portion of this insulin does not start to act for 6 to 8 hours. Dr. Berry stated that there were too many chances to verify the dosage with the physician.

Dr. Smidt asked Mr. Likes what does he do when he verifies a prescription. Mr. Likes stated that he verifies that the prescription is entered correctly. Mr. Likes stated that he analyzes the prescription. Mr. Likes stated that if a red flag is raised then it is sent back to the pharmacy with comments to check the dose, etc. or correct the data entry error.

Dr Smidt stated that it is outrageous for the pharmacist to state that the patient should tell him that the doctor made a mistake. Dr. Smidt stated that it is not the patient's responsibility to correct the error.

Mr. McAllister stated that the pharmacist acted as a great transcriber but did not act as he should when told the

directions were wrong.

Dr. McCoy stated that she feels there is a management issue that needs to be addressed because Mr. Likes indicated that he does not review the prescription for allergies or question prescriptions because he has a certain number of prescriptions to verify daily. Dr. McCoy stated that the pharmacist has failed to take responsibility professionally.

Mr. Leyba stated that there is a breakdown in more than one spot in this complaint. Mr. Leyba stated that the prescription may be verified at any site and the pharmacist does have access to the patient's information. Mr. Leyba stated that there is no set number of prescriptions that the pharmacist must verify remotely.

Dr. Berry stated that this is a blatant clinical error and not a system issue. Dr. Berry asked Mr. Soni if he asked the patient how often she checks her blood sugar. Mr. Soni stated no.

Dr. McCoy stated that she has concerns that Mr. Soni replied that he has made no changes in his practice in regards to this complaint. Dr. McCoy stated that if this error was taken seriously Mr. Soni should have written a number of pages concerning the changes. Mr. Soni stated that he would be more careful.

Dr. McCoy asked Mr. Soni if he changed the way he counsels a patient. Mr. Soni stated that he goes over the directions even if the patient stated that the doctor told them how to use the medication. Mr. Soni stated that if the patient tells him the directions are different then he would call the doctor.

On motion by Mr. Van Hassel and Mr. McAllister, the Board unanimously agreed to offer a consent order to Mr. Soni and Mr. Likes with the following conditions:

- 1. Probation for one year
- 2. A \$1,000 fine
- 3. Completion of an 8 hour diabetic education program

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

Complaint #3183

Pharmacist Rory Albert, Pharmacist In Charge Michael Blair, and Legal Counsel Roger Morris were present to address a consumer complaint. Compliance Officer Sandra Sutcliffe gave a brief overview of the complaint.

Ms. Sutcliffe stated that the complaint was sent in by another pharmacy alleging that Diamondback Drug had wholesaled compounded items to veterinary offices for resale. Ms. Sutcliffe stated that the complainant stated that the quantity dispensed was excessive for one pet and that the product was inappropriately labeled. Ms. Sutcliffe stated that during the complaint investigation there were discrepancies noted in labeling, some questions were raised about excessive quantities being shipped to other prescribers, and the shipping of medications to California where the pharmacy is not licensed.

Mr. Morris stated that there are four issues. Mr. Morris stated that it is important to note that the complaint was sent to the Board by a competing pharmacy that asked a veterinarian to call in an invalid prescription. The pharmacy conspired with the veterinarian to call in the prescription to see if Diamondback pharmacy was engaged in appropriate conduct.

Mr. Dutcher asked Ms. Sutcliffe if she spoke to the prescriber. Ms. Sutcliffe stated that she spoke to the prescriber and he was contacted by the complainant and he was requested to order product from Diamondback Pharmacy. The prescriber stated when he contacted Diamondback Pharmacy he told them he did not have a pet. Ms. Sutcliffe stated that the prescriber was told by the pharmacist at Diamondback to give them a name of pet he had in the past

and he did.

Ms. Sutcliffe stated that the prescriber did this as a favor to the complainant pharmacy.

Mr. Morris stated that the four issues are the name of the animal on the label, the labeling of small containers, the wholesaling of medications, and non-resident licensure.

Mr. Blair stated that in labeling they use the BK compounder software for labeling. Mr. Blair stated that the system generates prescription labels and maintains patient profiles. Mr. Blair stated that when they take prescriptions for animals the species and name of the owner must appear on the label. Mr. Blair stated that the prescription label would read Canine "Spot" Smith.

Mr. Blair stated that Ms. Sutcliffe indicated that the first and last name of the owner should appear on the label. Mr. Blair stated that the first name of the owner now appears after the last name of the owner. Mr. Blair stated that they want to ensure that the owner does not use the pet's medication.

Mr. Blair stated that the next issue is the inappropriate labeling. Mr. Blair stated that when labels will not fit on the container they generate a backstop label. Mr. Blair stated that the backstop label would contain the name and address of the pharmacy, the name, strength, quantity of medication, lot number, batch number, and the supervising pharmacist. Mr. Blair stated that the product with the backstop label is then placed in a larger container with the prescription label on the larger container.

Mr. Morris stated that they believe that the backstop labels were removed from the products sent to the Board. Mr. Morris stated that he was assured by Mr. Blair that nothing leaves the pharmacy unlabeled and every single dosage container is labeled. Mr. Blair stated that the procedure has been reviewed with all staff.

Mr. Blair stated that the third issue is that veterinarians were calling in prescriptions for their pets and then were reselling the product at their offices. Mr. Blair stated that they did not intend to circumvent Arizona law. Mr. Blair stated that Ms. Sutcliffe reviewed with them the proper procedures for office use prescriptions. Mr. Blair stated that they would like clarification on the wholesale rule of 5%. Mr. Blair stated that in the report Ms. Sutcliffe calculated gross sales per dollar volume. Mr. Blair stated that he does not fill that this is a fair way of calculating the 5% due to the cost of the drugs. Mr. Blair stated that they calculated the percentage based on the number of office prescriptions versus the number of total prescriptions filled and they were under the 5% threshold.

Mr. Morris stated that gross sales could be interpreted in numerous ways.

Mr. Wand stated that the compounding task force stated that 5% could be gross dollar sales or 5% of prescriptions filled and the committee would be flexible.

Mr. Wand stated that many states do not allow compounded products to be sold to prescriber offices. Mr. Wand stated that the committee selected 5% as the threshold.

Mr. Morris stated that there are numerous animal facilities that require compounded products.

Mr. Blair stated that often the pharmacy will receive orders for numerous animals at the zoo or pet store. Mr. Blair stated that the animals are owned by the facility. Mr. Blair stated that Ms. Sutcliffe told them that they should be doing the prescriptions as office use prescription. Ms. Sutcliffe stated that prescriptions were being sent that were not labeled for individual animals but

the bottle was being sent to the pet store and not labeled for the prescriber to use as office stock. Ms. Sutcliffe stated that if they had the animal name that they could label the product with the animal name and the pet store as the owner.

Mr. McAllister stated that NABP has met with national veterinary boards because they are concerned with the growing number of veterinary pharmacies. Mr. McAllister stated that 60% of a veterinarians income is from dispensing and the pharmacy business has cut into their income.

Mr. McAllister stated that he feels the business may be shady. Mr. McAllister stated that one K-9 received 540 mls of eardrops. Mr. McAllister stated that he feels that the quantity is excessive.

Mr. McAllister stated that they need to run their business clean.

Dr. Smidt asked Mr. Blair if he labeled the product this way because of the 5% rule. Dr. Smidt asked if they were attempting to circumvent the rule.

Mr. Blair stated that it is certainly not their intention to willing circumvent Arizona law. Mr. Blair stated that this seemed like a way to stay in compliance. Mr. Blair stated that the veterinarians would prompt them and they did not lead the veterinarian and this is the way the veterinarian would call in the prescription.

Dr. Smidt summarized by stating that Mr. Blair stated that they are wholesaling product through this system. Mr. Blair replied yes.

Mr. Blair stated that when he became aware that a license was needed to ship into California he filed an application with California. Mr. Blair stated that he received an e-mail from California that he could conduct business while the application is pending. Mr. Morris stated that they did not violate any California rules.

Mr. Wand stated that the FDA states that veterinary compounding is not legal. Mr. Wand stated that the FDA feels that compounded veterinary products should be considered new drugs. Mr. Wand stated that state board of pharmacies regulate pharmacy.

Dr. Sypherd asked if the Board could dismiss the complaint and study the issues. Mr. Wand stated the Board could dismiss the complaint and form a task force.

Mr. McAllister stated that this is a shadow industry. Mr. McAllister stated that the pharmacy knows the rules against bulk wholesaling to practitioners and he sees excessive quantities being dispensed to veterinarians for their pets.

Dr. Smidt stated that the Board realizes that the product is being wholesaled. Dr. Smidt stated that they are circumventing the issue.

Mr. McAllister stated that he feels that the Board should discuss the issues with the Veterinary Board. Mr. Wand stated that he feels the Veterinary Association should be included in the discussions.

On motion by Mr. McAllister and Mr. Van Hassel, the Board unanimously agreed to dismiss the complaint and take no further action and begin dialogs with the Veterinary Board and the Veterinary Association concerning future regulations.

Mr. Albert asked if the owner's first name could be left off the label so that the owner does not use the pet's medication. Mr. Wand stated that the regulations state owner's name and does not specify full name. The Board agreed that the last name of the owner would be sufficient on the label.

AGENDA ITEM #10 - Consent Agreements

President Dutcher 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.

#1 Rory Albert

On motion by Dr. McCoy and Dr. Berry, the Board unanimously agreed to accept the consent agreement 06-0013-PHR for Rory Albert as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Mr. McAllister - aye, Ms. Honeyestewa -aye, Dr. Tippett- aye, Dr. Berry - aye, Dr. Smidt - aye, Dr. McCoy - aye, Dr. Sypherd - aye, Mr. Van Hassel - aye, President Dutcher -aye)

#2 Anthony Breeding

On motion by Dr. McCoy and Dr. Berry, the Board unanimously agreed to accept the consent agreement 07-0013-PHR for Anthony Breeding as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Mr. McAllister - aye, Ms. Honeyestewa -aye, Dr. Tippett- aye, Dr. Berry - aye, Dr. Smidt - aye, Dr. McCoy - aye, Dr. Sypherd - aye, Mr. Van Hassel - aye, President Dutcher -aye)

#3 Thomas Dalkin

On motion by Dr. Berry and Ms. Honeyestewa, the Board unanimously agreed to accept the consent agreement 07-0016-PHR for Thomas Dalkin as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Mr. McAllister - aye, Ms. Honeyestewa -aye, Dr. Tippett- aye, Dr. Berry - aye, Dr. Smidt - aye, Dr. McCoy - aye, Dr. Sypherd - aye, Mr. Van Hassel - aye, President Dutcher -aye)

#4 Jeffrey McKinney

On motion by Mr. Van Hassel and Dr. McCoy, the Board unanimously agreed to accept the consent agreement 07-0015-PHR for Jeffrey McKinney as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Mr. McAllister - aye, Ms. Honeyestewa -aye, Dr. Tippett- aye, Dr. Berry - aye, Dr. Smidt - aye, Dr. McCoy - aye, Dr. Sypherd - aye, Mr. Van Hassel - aye, President Dutcher -aye)

AGENDA ITEM #11 - Pharmacy Technician Trainee Reapplication

President Dutcher asked Mr. Van Hassel to address this issue. Mr. Van Hassel stated that the committee has reviewed the Pharmacy Technician Trainee requests to reapply for licensure. Mr. Van Hassel stated that the pharmacy technician trainees have received a letter stating that they may only reapply for licensure as a pharmacy technician trainee one time. Mr. Van Hassel stated that during the next two years the pharmacy technician trainee must take the PTCB test and become certified if they would like to continue to work as a pharmacy technician.

Dr. McCoy asked if the Board could address the issue with extending the trainee license. Mr. Wand stated that the Board may allow the technician trainee to reapply. Mr. Wand stated that the pharmacy industry would oppose a change. Mr. Wand stated that the statute could be changed or the Board could choose not to approve the requests in certain cases. Ms. Lee stated that she feels that the Board should place this item on a future agenda for discussion.

On motion by Dr. Sypherd and Dr. Tippett, the Board 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. There was one nay vote by Ms. Honeyestewa.

Pharmacy Technician Trainees Approved to reapply for licensure as a Pharmacy Technician Trainee for an additional two years.

- **Angela Nunez**
- **Paquita Sihas**
- **Yvonne Moreno**
- **Stacy Francis**
- **Sandra Rogers**

- Naomi Lahti
- Viviana Sanchez
- Jon Hepburn
- Monique Perdock
- Anthony Figueroa
- Mary Chacon
- David Vargas
- Berenice Cueto
- Ismael Fuentes
- Fahimeh Abbasi
- Tanita Jackson
- Lydia Zing
- Angela Zapaa
- Vicky Salazar
- Shannon Miller
- Shawn Danielson
- Bryan Noeding
- Misty English
- Gloria Hernandez
- Carolyn Kellam
- Alexis Noe
- Patricia Jurek
- Regina Pineda
- Scarlett Tatum
- Meeta Patel
- Shila Bhavsar

AGENDA ITEM 12 - Hearings

#1 Diane Ortiz

President Dutcher stated that this is the time and place for the hearing to determine whether to take disciplinary action against License No. 1404 issued to Diane Ortiz, Notice of Hearing No. 06-0021-PHR.

President Dutcher asked if the respondent was present. The respondent was not present.

President Dutcher stated that we have before us a proposed consent agreement which seeks to resolve this matter short of having a formal hearing. President Dutcher asked if the members of the board have reviewed the consent agreement.

President Dutcher asked if the Board staff or the Assistant Attorney General have any additional comments or information.

Ms. Lee stated the Respondent's attorney had called her and stated that the respondent has signed the consent agreement for the voluntary surrender of her Pharmacy Technician license.

On motion by Mr. Van Hassel and Dr. Berry, the Board unanimously agreed to accept the Findings of Fact, Conclusions of Law, and Order as outlined in the Consent Agreement.

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

President Dutcher stated that this matter is now concluded.

#2 Richard Solano

President Dutcher opened the discussion by stating this is the time and place for consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.

President Dutcher asked if Mr. Solano was present. Mr. Solano was not present.

President Dutcher 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. Van Hassel and Dr. McCoy, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted. A roll call vote was taken. (Mr. McAllister - aye, Ms. Honeyestewa -aye, Dr. Tippett- aye, Dr. Berry - aye, Dr. Smidt - aye, Dr. McCoy - aye, Dr. Sypherd - aye, Mr. Van Hassel - aye, President Dutcher -aye)

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

Ms. Lee stated that this individual has admitted to and was criminally charged for stealing prescription medication. Ms. Lee stated that this individual shows a lack of respect for authority. Ms. Lee stated that this individual was placed in a position of trust and has shown that he cannot be trusted. Ms. Lee stated that this individual cannot be effectively regulated. Ms. Lee stated that the State would recommend that the Pharmacy Technician License issued to Mr. Solano be revoked.

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

On motion by Mr. Van Hassel and Dr. McCoy, the Board unanimously agreed to revoke Pharmacy Technician License 7398 issued to Richard Solano. A roll call vote was taken. (Mr. McAllister - aye, Ms. Honeyestewa -aye, Dr. Tippett- aye, Dr. Berry - aye, Dr. Smidt - aye, Dr. McCoy - aye, Dr. Sypherd - aye, Mr. Van Hassel - aye, President Dutcher -aye)

AGENDA ITEM #13 - Presentation of Quality Improvement Program

Mr. Wand introduced Terri Jackson, Clinical Assistant Professor of Pharmacy Practice, at the University of Arizona.

Mr. Wand stated that Ms. Jackson would like to present a program that she has developed to teach medication error reduction skills. Mr. Wand stated that this is a program that the Board might want to consider for individuals that have made errors in filling prescriptions.

Ms. Jackson gave a brief overview of the program, how the program would work in the community setting, and the proposed cost of the program.

The Board Members asked Ms. Jackson questions about the program. Ms. Jackson stated that it would probably take several months to adapt the program, but she is willing to start with a small number of pharmacists.

P>President Dutcher thanked Ms. Jackson for presenting her program to the Board.

AGENDA ITEM 14 - Approval of Board Meeting Schedule

President Dutcher asked the Board Members if they had any conflicts with the proposed Board Meeting Schedule for 2007.

Mr. Wand stated that Dr. Lin had asked if the Board would like to have the January meeting at Midwestern University. Mr. Wand stated that after approval of the dates he would speak with Dr. Lin.

Mr. Wand stated that the Board could hold a meeting in Yuma this year if they would like to have a meeting out of town.

Mr. Van Hassel stated that he had concerns about having a one day meeting at the convention in July. Mr. Van Hassel suggested that the Board could meet on the Wednesday prior to the start of the convention. Mr. Wand stated that he could check to see if the Board could meet at the University of Arizona that Wednesday.

The Board discussed setting tentative meeting dates in April or June if needed.

After discussing the dates, the Board Members approved the schedule below.

The Board will meet on the following dates in 2007:

- **January 24 and 25, 2007**
- **March 21 and 22, 2007**
- **May 16 and 17, 2007**
- **July 26, 2007 (Convention)- Possible additional day on July 25, 2007**
- **September 12 and 13, 2007**
- **November 14 and 15, 2007**

AGENDA ITEM #15 - Review of Complaint #3223

Mr. Wand stated that at the last Board Meeting the Board requested that this complaint be referred to the Executive Director to order evaluations.

Mr. Wand stated that the pharmacist took a random urine screen. The urine screen was negative.

Mr. Wand stated that the pharmacist met with Dr. Pickens who is one of the counselors with the PAPA program. Dr. Pickens stated that he felt that the pharmacist did not have any addiction issues at this time.

Mr. Wand asked if the Board would like to address his professional skills. Mr. Wand stated that the pharmacist in his reply to the counselor stated that he did not have the necessary training at the hospital to perform the tasks required of him.

Mr. Wand stated that the pharmacist is currently working at a retail store.

On motion by Mr. McAllister and Mr. Van Hassel, the Board unanimously agreed to issue an advisory letter to the pharmacist concerning the errors made and the need to extricate himself from an environment in which he is not comfortable.

AGENDA ITEM #16 - Review of Complaint #3110 - Results of Additional Audit at Arizona Surgical Hospital

President Dutcher asked Mr. Wand to address this issue. Mr. Wand stated that Mr. Cieslinski went back to the Arizona Surgical Hospital to repeat the controlled substance audit.

Mr. Wand stated that Mr. Cieslinski completed the initial audit with the information that was provided to him while he was at the hospital conducting the audit.

Mr. Wand stated that Mr. Cieslinski received the additional records in a large cardboard box. Mr. Wand stated that the records were delivered by the new Pharmacist In Charge. Mr. Ng was the Pharmacist In Charge at the

time the initial audit was conducted.

Mr. Wand stated that Mr. Cieslinski spent many hours sorting through the MARs and completing the audit.

Mr. Dutcher stated that there are still discrepancies between the three audits. Mr. Wand stated that he is not sure that all the paperwork was still received.

Mr. McAllister stated that this is a paper system and that it would be impossible to have two audits match. Mr. McAllister stated that it is very labor intensive to conduct an audit in this fashion.

Mr. Van Hassel feels that the Pharmacist In Charge should be sent a letter because it is the Pharmacist In Charge's responsibility to have the records in order for the Compliance Officer.

Mr. McAllister stated that perhaps the permit holder could be charged for the time spent on the additional audit.

Ms. Lee stated that the Board would need to open a new complaint against the permit holder.

On motion by Mr. Van Hassel and Mr. McAllister, the Board unanimously agreed to send a letter to the Pharmacist In Charge, Bill Ng, stating that all records must be readily retrievable during an inspection.

The Board decided to take no action against the permit holder.

Dr. Smidt suggested that Mr. Wand could place an article in the newsletter stating that pharmacies would be charged for additional hours spent on audits if they do not provide the required paperwork at the time of inspection.

AGENDA ITEM 17- Call to the Public

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

No one came forth.

There being no further business to come before the Board, on motion by Mr. Van Hassel and Dr. McCoy, the Board unanimously agreed to adjourn the meeting at 1:00 P.M.