



**Arizona State Board of Pharmacy**  
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**THE ARIZONA STATE BOARD OF PHARMACY  
HELD A REGULAR MEETING MARCH 15, 2012**

**MINUTES FOR REGULAR MEETING**

**AGENDA ITEM 1 – Call to Order – March 15, 2012**

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

The following Board Members were present: President Dan Milovich, Vice President Tom Van Hassel, Jim Foy, Joanne Galindo, Kyra Locnikar, Dennis McAllister, John Musil, and Nona Rosas. The following staff members were present: Compliance Officers Rich Cieslinski, Steve Haiber, Ed Hunter, Tom Petersen, Sandra Sutcliffe, Dean Wright, Drug Inspectors Melanie Thayer and Ceasar Ramirez, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Monty Lee.

**AGENDA ITEM 2 – Declaration of Conflicts of Interest**

Due to having a “substantial interest” in the matter, Dr. Musil recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 13, Schedule O, Conference for Complaint #4027.

Due to having a “substantial interest” in the matter, Dr. Foy recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 5, Schedule J, Application for Resident Pharmacy Permits for CVS/Pharmacy #2963 and CVS/Pharmacy #2372.

Due to having a “substantial interest” in the matter, Dr. Foy recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 14, Schedule P, Complaint #4035 and Complaint #4042.

Due to having a “substantial interest” in the matter, Dr. Foy recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 19, Call to the Public letter.

### **AGENDA ITEM 3– Approval of Minutes**

Following a review of the minutes and an opportunity for questions and **on motion by Dr. Musil and seconded by Dr. Foy** the minutes of the Regular Meeting held on January 25 and 26, 2012 were unanimously approved by the Board Members.

### **AGENDA ITEM 4 – Consent Agenda**

Items listed on the Consent Agenda were considered as a single action item by the Board Members. **On motion by Mr. McAllister and seconded by Mr. Van Hassel**, the Board unanimously approved the following items listed on the Consent Agenda.

#### **4. (1) Resident Permits – Schedule A**

##### **RESIDENT PERMITS**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
Long Term Strategies	107 W. Wade Lane #4, Payson, AZ 85541	Long Term Strategies
Quick Pharmacy	549 W. Thomas Rd., Phoenix, AZ 85013	Bahaa, LLC

#### **4. (2) Non-Resident Permits – Schedule B**

##### **NON-RESIDENT (Out of State)**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
JAT Pharmacy, LLC	5374 Maly Rd., Sun Prairie, WI 53590	JAT Pharmacy, LLC
Miami Executive Pharmacy, Inc.	7400 N. Kendall Dr., Suite 100, Miami, FL 33156	Miami Executive Pharmacy Inc
Advanced Pharmacy, LLC	107 Kiowa Lane, Piedmont, SC 29673	Advanced Pharmacy, LLC
Center Pharmacy, Inc.	4900 Massachusetts Ave NW, Washington, DC 20016	Center Pharmacy, Inc.
Institutional Pharmacy Solutions	2697 International Pwky, Bldg #3, Suite 104, Virginia Beach, VA 23452	Daniel Mims
Pencol Compounding Pharmacy	1325 S. Colorado Blvd. #B024, Denver, CO 80222	Marshall Tobun
Express Scripts Specialty Distribution Services, Inc.	8640 Evans Rd., #A, St. Louis, MO 63134	Express Scripts Specialty Distribution Services, Inc.

#### **4. (3) – New Pharmacists – Schedule C**

The Board approved the 55 New Pharmacist Licenses listed on the attachments.

#### **4. (4) – New Interns – Schedule D**

The Board approved the 33 New Intern Licenses listed on the attachments.

#### **4. (5) – New Pharmacy Technicians – Schedule E**

The Board approved the 931 Technicians listed on the attachments.

#### **4. (6) – Consent Agreements – Schedule F**

The Board unanimously agreed to accept the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below:

Robert Weston - 12-0016-PHR  
William Duncan - 12-0021-PHR

#### **4. (7) -Pharmacy Technician Trainee Requests for Approval to Reapply for Licensure – Schedule G**

The Board approved the following individuals for one additional two year period.

<b>Natasha Abeyta</b>	<b>Noor Al-Battat</b>	<b>Tracy Ancharski</b>
<b>Jenny Antone</b>	<b>Emaum Anway</b>	<b>Adriana Aranda</b>
<b>Jill Arenz</b>	<b>Shadi Asayesh</b>	<b>Mathew Beaty</b>
<b>Christina Beckley</b>	<b>Tristine Bingham</b>	<b>Desiree Bivens</b>
<b>Darla Black</b>	<b>Michael Boehler</b>	<b>Samantha Bracy</b>
<b>Shelby Calhoun</b>	<b>Sergio Camacho</b>	<b>Tania Chavez</b>
<b>Ashley Coke</b>	<b>Ana Collazo</b>	<b>Jamie Cupp</b>
<b>James Devoy</b>	<b>Dale Dunlap</b>	<b>David Flickinger</b>
<b>Matthew Gallagher</b>	<b>Ramon Gutierrez</b>	<b>Jeremy Gwizdalski</b>
<b>Jennifer Hajnal</b>	<b>Kristi Hamer</b>	<b>Vanessa Harris</b>
<b>David Hernandez</b>	<b>Jeorgyna Holguin</b>	<b>Theresa Hunt</b>
<b>Hamida Ismail</b>	<b>Elizabeth Jones</b>	<b>Ryan Kilburn</b>
<b>Timothy Kluge</b>	<b>Iesha Lewis</b>	<b>Indira Limon</b>
<b>Luis Limon</b>	<b>Rhonda Lindgren</b>	<b>Cathy Macomber</b>
<b>Margaret McGee</b>	<b>Carla Meadows</b>	<b>Benjamin Miller</b>
<b>Stephanie Miramontes</b>	<b>Evelyn Mogaka</b>	<b>Shannon Mooney</b>
<b>Gina Morales</b>	<b>Camille Morgan</b>	<b>Kathryn Morgan</b>
<b>Teena Morgan</b>	<b>Lourdes Munoz</b>	<b>Amanda Norton</b>
<b>Sonn Nov</b>	<b>Andrea Ortega</b>	<b>Matthew Owens</b>
<b>Pramoda Patel</b>	<b>Jose Perez Garcia</b>	<b>Joshua Pritchard</b>
<b>Camille Ramos</b>	<b>Ojca Randall</b>	<b>Jennie Richards</b>
<b>Christopher Rodriguez</b>	<b>Marcela Rodriguez</b>	<b>Adrienne Savone</b>
<b>Rachel Sellers</b>	<b>Kerri Simmons- Baptiste</b>	<b>Marie Soto</b>
<b>Tawni Stanley</b>	<b>Sri Suradilaja</b>	<b>Alishia Thomas</b>
<b>Michael Trujillo</b>	<b>Rosanna Valdez</b>	<b>Nathaniel Vazquez</b>

Total : 78

#### **4. (8) – Approval of Accredited Programs of Colleges and Schools of Pharmacy – Schedule H**

The Board approved the following two Accredited Programs of Colleges and Schools of Pharmacy: South College of Pharmacy in Knoxville, Tennessee and Manchester College of Pharmacy in Fort Wayne, Indiana.

#### **4. (9) – Complaints with No Violations – Schedule I**

The Board unanimously agreed to dismiss the following complaints:

Complaint #4036

Complaint #4039

Complaint #4040

#### **AGENDA ITEM 5– Permits and Licenses**

##### **Resident Pharmacy Permits – Schedule J**

Due to a conflict of Interest, Dr. Foy recused himself.

**On motion by Mr. Van Hassel and seconded by Mr. McAllister**, the Board unanimously approved the following two permits.

##### **RESIDENT PERMITS – Schedule J**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
CVS/ Pharmacy #2963	14045 N. 7 <sup>th</sup> St., Phoenix, AZ 85014	German Dobson CVS, LLC
CVS /Pharmacy #2372	3975 E. Thunderbird, Phoenix, AZ 85032	Arizona CVS Stores, LLC

##### **EzyFast Pharmacy, LLC**

President Milovich stated that a representative was present from Ezyfast Pharmacy to answer questions from Board Members.

**Ezekiel Kesitilwe, Owner and Pharmacist in Charge**, was present to answer questions from Board Members.

President Milovich opened the discussion by asking Mr. Kesitilwe if he was a first time pharmacy owner. Mr. Kesitilwe replied yes.

Mr. Van Hassel asked Mr. Kesitilwe if the pharmacy is a full service pharmacy. Mr. Kesitilwe replied yes.

Mr. Van Hassel asked Mr. Kesitilwe if the pharmacy would be compounding any medications. Mr. Kesitilwe replied that the pharmacy would be compounding non-sterile products.

Mr. Van Hassel asked Mr. Kesitilwe if he would be compounding any products for veterinarians. Mr. Kesitilwe stated that they would not be compounding for veterinarians initially.

Mr. Van Hassel asked Mr. Kesitilwe if he would be providing any medications to doctor's offices. Mr. Kesitilwe replied no.

Mr. Van Hassel asked Mr. Kesitilwe about his staffing model. Mr. Kesitilwe stated that

there would be 3 employees. Mr. Kesitilwe stated that he would be the pharmacist in charge and would be hiring two technicians.

**On motion by Mr. Van Hassel and seconded by Dr. Musil**, the Board unanimously approved the resident permit below pending final inspection.

**RESIDENT PERMITS – Schedule J**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
EzyFast Pharmacy LLC	2850 Hwy 95, #106, Bullhead City, AZ 86442	EzyFast Pharmacy, LLC

**AGENDA ITEM 6– Permits and Licenses**

**Non-Resident Pharmacy Permits – Schedule K**

**Steven’s Pharmacy**

President Milovich stated that a representative was present from Steven’s Pharmacy to answer questions from Board Members.

**Owner Charles Bonner** was present to answer questions from Board Members.

President Milovich opened the discussion by asking Mr. Bonner why he was appearing in front of the Board. Mr. Bonner stated that he had applied for a non-resident pharmacy permit in Arizona and was asked to appear because the pharmacy is on probation in California.

Mr. Bonner explained that he was disciplined by the California board because in 2007 a technician was stealing controlled substances from his pharmacy. Mr. Bonner stated that he was not on duty when it was discovered that the technician was stealing medications. Mr. Bonner stated that he was also disciplined by the Board because he was the pharmacist in charge.

Mr. Bonner read statements from the administrative court hearing that indicated that he has made changes in the pharmacy.

Mr. Milovich asked Mr. Bonner why he was applying for an Arizona permit. Mr. Bonner stated that he would like to continue to service his customers that have moved to Arizona. Mr. Bonner stated that his pharmacy provides specialized compounded dental products for office use by dentists.

Mr. Bonner stated that he has made numerous changes in his pharmacy. Mr. Bonner stated that he has installed 16 security cameras. Mr. Bonner stated that all CII medications are in a locked cabinet and a perpetual inventory is kept. Mr. Bonner stated that he has a reinforced ceiling. Mr. Bonner stated that he has only certified janitors remove the trash since the technician was stealing the drugs by placing them in the trash.

Mr. Bonner stated that all invoices are checked for excessive CII purchases by the pharmacist in charge and himself. Mr. Bonner stated that he reviews the videos of the pharmacy on a weekly basis.

Mr. Bonner stated that he was granted a license by the Indiana Board of Pharmacy and the license is subject to the same conditions as the California Order.

Mr. Milovich asked Mr. Bonner when his probation ends. Mr. Bonner stated that the probation ends in 2013.

Dr. Foy asked how the loss was allowed to happen and who was ordering the product. Mr. Bonner stated that he did not work the weekends and the pharmacy technician would order the medication to come in on Friday afternoon. Mr. Bonner stated that the relief pharmacist never questioned the quantity ordered. Mr. Bonner stated that he did not check the invoices at that time. Mr. Bonner stated that the pharmacist checked the invoices to verify that the product was received and if the product was received the invoice was sent to the bookkeeper. Mr. Bonner stated that the cost of an extra bottle or two did not raise any alarms because it was not a huge expense.

**On motion by Mr. McAllister and seconded by Ms. Locnikar**, the Board unanimously agreed to approve the application for Steven’s Pharmacy with the pharmacy placed on probation to match the California Order.

**NON-RESIDENT PERMIT – Schedule K**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
Steven’s Pharmacy	1525 Mesa Verde Dr. E, Costa Mesa CA. 92626	Harbor Drug Company, Inc.

**AGENDA ITEM 7 -Special Requests**

**#1 Kevin Denick**

**Kevin Denick** appeared on his own behalf to request that the probation imposed on his pharmacist license per Board Order 07-0030-PHR be terminated.

President Milovich opened the discussion by asking Mr. Denick why he was appearing in front of the Board. Mr. Denick stated that he is asking the Board to remove the probation placed on his pharmacist license.

Mr. Milovich asked Mr. Denick when his probation was completed. Mr. Denick stated that his probation period ended at the end of January. Mr. Denick stated that he had completed all the requirements and had taken the law exam.

**On motion by Mr. Van Hassel and seconded by Ms. Rosas**, the Board unanimously agreed to approve the request by Mr. Denick to terminate the probation of his pharmacist license imposed by Board Order 07-0030-PHR.

**#2 Joshua Walden**

**Joshua Walden** appeared on his own behalf to request that the probation imposed on his pharmacist license per Board Order 09-0012-PHR be terminated. Lisa Yates with the PAPA program was also present.

President Milovich opened the discussion by asking Mr. Walden why he was appearing in front of the Board. Mr. Walden stated that he would like his probation to be terminated.

Mr. Milovich stated that Mr. Walden's probation ended on March 12, 2012 and he has letters of support.

Dr. Musil asked Mr. Walden what has changed in his life. Mr. Walden stated that his life has changed and recovery has become his way of life.

Mr. Milovich asked Ms. Yates if PAPA supports his request. Ms. Yates stated that Mr. Walden has completed that program and he had no problems in the program.

**On motion by Mr. McAllister and seconded by Dr. Foy**, the Board unanimously agreed to approve the request by Mr. Walden to terminate the probation of his pharmacist license imposed by Board Order 09-0012-PHR.

**#3 Gary Sorensen**

**Gary Sorensen** appeared on his own behalf to request that the probation imposed on his pharmacist license per Board Order 06-0012-PHR be terminated. Lisa Yates with the PAPA program was also present.

President Milovich opened the discussion by asking Mr. Sorensen why he was appearing in front of the Board. Mr. Sorensen stated that he would like his probation to be terminated.

Mr. Milovich noted that Mr. Sorensen had provided letters of support and has completed his community service hours.

Mr. Milovich asked Ms. Yates if PAPA supports his request. Ms. Yates stated that Mr. Sorensen is a miracle and has done very well in the program.

**On motion by Mr. Van Hassel and seconded by Ms. Rosas**, the Board unanimously agreed to approve the request by Mr. Sorensen to terminate the probation of his pharmacist license imposed by Board Order 06-0012-PHR.

#### **#4 Howard Sussman**

**Howard Sussman** appeared on his own behalf to request to take the NAPLEX exam for the fourth time and the MPJE exam for the fifth time.

President Milovich opened the discussion by asking Mr. Sussman why he was appearing in front of the Board. Mr. Sussman stated that he would like to take the Board exams again. Mr. Sussman stated that he originally took the NAPLEX exam in 1979. Mr. Sussman stated that he worked as a pharmacist until 1986. Mr. Sussman stated that he held licenses in several states but did not renew the licenses because he had chosen another career at the time.

Mr. Sussman stated that when he came to Arizona he lost his job. Mr. Sussman stated that he completed the intern hours and thought that he would only need to take the law exam. Mr. Sussman stated that he was told that he would need to take the NAPLEX exam because he did not have a current license. Mr. Sussman stated that he took the NAPLEX exam and the exam has changed from when he took the exam. Mr. Sussman stated that the exam is geared towards the clinical practice and not the retail setting. Mr. Sussman stated that he had taken a five-day review course and has been working as a certified technician. Mr. Sussman stated that he would like to return to the practice of pharmacy.

Mr. McAllister told Mr. Sussman that his scores are very low and it would be prudent for him to return to school to be able to practice in the current pharmacy field.

Mr. Sussman stated that he was not prepared for the exam the first two times he took the exam. Mr. Sussman stated that the exam is one four hour exam which was different than the five part exam he took initially. Mr. Sussman stated that he has taken a review course.

Mr. Sussman stated that he could return to South Carolina and complete 1,000 intern hours and take the law exam and he could have his license reactivated.

Mr. Sussman stated that he is willing to take the NAPLEX exam again.

Mr. Van Hassel stated that passing the exam does not necessarily mean that he would be able to work in the current area. Mr. Van Hassel stated that taking a review course and passing the exam may not adequately prepare him to practice.

Mr. Sussman stated that the exam is not a reflection of his knowledge. Mr. Sussman stated that he was a very good pharmacist. Mr. Sussman stated that he would not fit into the hospital setting. Mr. Sussman stated that his abilities are not reflected by his test scores.

Mr. Sussman stated that the new test wants pharmacists to prescribe medications for the doctor. Mr. Sussman stated that the test does not test the pharmacist's ability to fill prescriptions. Mr. Sussman stated that pharmacy computers have everything listed to be a pharmacist.

Mr. Milovich asked Mr. Sussman if he would rely on the computer for knowledge. Mr. Sussman stated that the computer would be there to help him. Mr. Sussman stated that he would know where to look on the computer for knowledge.

Dr. Foy told Mr. Sussman that the test is the only way the Board can assess his knowledge. Mr. Sussman stated that the real way to test his knowledge would be to let him be a pharmacist. Mr. Sussman stated that pharmacists today do not do any filling. Mr. Sussman stated that pharmacists today do not help a customer they ask the customer to come back in several hours for their prescriptions instead of filling the prescription at the time. Mr. Sussman stated that when he was a pharmacist he took care of his customers and did not ask them to come back.

Mr. Milovich asked Mr. Sussman what his motive was for getting his license back. Mr. Sussman stated that he would like to get back into pharmacy not only for making money but because the job was rewarding. Mr. Sussman stated that he did not work in big chains and would like to help people again. Mr. Sussman stated that he did his internship in Douglas which was a small pharmacy.

**On motion by Dr. Foy and seconded by Mr. McAllister**, the Board denied the request by Mr. Sussman to take the NAPLEX and MPJE exams an additional time. There was one nay vote by Dr. Musil.

## **AGENDA ITEM 8– License Applications Requiring Board Review**

### **#1 Ken Daniels**

**Ken Daniels** appeared on his own behalf to request to proceed with reciprocity.

President Milovich opened the discussion by asking Mr. Daniels to give a brief background on why he was appearing in front of the Board.

Mr. Daniels stated that he would like to reciprocate to Arizona. Mr. Daniels stated that he was disciplined by the Nevada Board in 1990. Mr. Daniels stated that he owned and operated a pharmacy in Nevada. Mr. Daniels stated that he was sited for numerous violations and he was placed on probation for two years. Mr. Daniels stated that he had to pass the law exam, pay a fine of \$3,000, and complete an additional 15 hours of CE.

Mr. Daniels stated that since his original license was in Iowa the Iowa Board took action against his Iowa license. Mr. Daniels stated that he was obtained other licenses since that time.

Mr. Daniels stated that he currently practices in Florida and is Director of Pharmacy Practice. Mr. Daniels stated that he has obtained approval from three other states to reciprocate his license.

**On motion by Mr. Van Hassel and seconded by Mr. McAllister**, the Board unanimously agreed to approve the request by Mr. Daniels to proceed with reciprocity.

**#2      Geovanni Cervantes**

**Geovanni Cervantes** appeared on his own behalf to request to proceed with Pharmacy Technician Trainee licensure.

President Milovich opened the discussion by asking Mr. Cervantes about the nature of his request. Mr. Cervantes stated that he is requesting to proceed with pharmacy technician trainee licensure. Mr. Cervantes stated that he was charged with possession of marijuana and entered a deferred program with TASC. Mr. Cervantes stated that he has brought his certificate showing that he has completed his program and the deferred program with TASC.

Dr. Foy asked Mr. Cervantes if this was his only charge. Mr. Cervantes stated that he had one other charge in 2007. Mr. Cervantes stated that after his first charge he had moved to Chicago and had no issues until he moved back to Arizona.

Dr. Musil asked Mr. Cervantes what has changed in his life to convince the Board that he is different.

Mr. Cervantes stated that he wants to show his family that he can do more than he has done in the past.

Dr. Musil asked if the charges were for using or transporting and selling. Mr. Cervantes stated that they were for using.

Dr. Musil asked Mr. Cervantes what he was required to do during his recovery program with TASC. Mr. Cervantes stated that he had to submit to random urine screens weekly.

Dr. Musil asked Mr. Cervantes how he spends his free time. Mr. Cervantes stated that he plays sports and spends time with his family. Mr. Cervantes stated that he has a different outlook on life.

Mr. Van Hassel asked Mr. Cervantes if he has a job lined up as a pharmacy technician. Mr. Cervantes stated that if he is given a license he has a job at Fry's.

Mr. Van Hassel asked Mr. Cervantes if he has used marijuana since his conviction. Mr. Cervantes replied no.

**On motion by Mr. Van Hassel and seconded by Ms. Galindo**, the Board unanimously agreed to approve the request by Mr. Cervantes to proceed with Pharmacy Technician Trainee licensure.

### #3 LaShaunda Bennett

**LaShaunda Bennett** appeared on her own behalf to request to proceed with Pharmacy Technician Trainee licensure.

President Milovich opened the discussion by asking Ms. Bennett about the nature of her request. Ms. Bennett stated that she is requesting to proceed with pharmacy technician trainee licensure.

Mr. Milovich asked Ms. Bennett about her felony convictions. Ms. Bennett stated that her CNA (Nursing) license was not revoked because of any of her actions at the hospital but the revocation was due to her felony conviction.

Ms. Bennett stated that two of her felonies have been reduced to misdemeanors. Ms. Bennett stated that she was at the wrong place at the wrong time.

Ms. Bennett stated that the felony that resulted in the loss of her CNA license was an aggravated assault charge when she was arrested for shoplifting.

Ms. Bennett stated that her last felony was a child abuse charge. Ms. Bennett stated that she does not understand why she was charged with child abuse. Ms. Bennett stated that her three-year-old child got out of the house and was in the neighborhood for a day or so when one of the neighbors called the police. Ms. Bennett stated that she has no idea how the child got out of the house.

Mr. Milovich asked if Ms. Bennett's probation ends in 2017. Ms. Bennett replied yes.

Mr. Milovich asked Ms. Bennett if she served any jail time for any of felony charges. Ms. Bennett stated that her jail time was deferred.

Mr. Wand asked Ms. Bennett about the forgery charge. Ms. Bennett stated that she had her license suspended and forged a signature on a traffic ticket.

Mr. Milovich asked Ms. Bennett why she wanted a pharmacy technician license. Ms. Bennett stated that she has worked in the hospital since she was 18 as a CNA. Ms. Bennett stated that she went to school to become a pharmacy technician. Ms. Bennett stated that she has a position lined up with Fry's in Buckeye. Ms. Bennett stated that eventually she wants to go to nursing school.

Ms. Bennett stated that she cannot apply to have her CNA license reinstated because she is on probation.

**A motion was placed on the floor by Dr. Musil and seconded by Mr. Milovich** to approve Ms. Bennett's application for pharmacy technician trainee licensure. The motion did not carry.

Mr. McAllister stated that he realizes that Ms. Bennett is trying to move forth with her life. Mr. McAllister stated that he would like to see more time with a unfettered life without law enforcement involved in her life.

**On motion by Mr. McAllister and seconded by Mr. Van Hassel**, the Board denied the request by Ms. Bennett to proceed with pharmacy technician trainee licensure. There were two nay votes by Mr. Milovich and Dr. Musil. The request was denied under A.R.S § 32-1927.01(S) and (A) (1).

#### **#4 Jaylena Dewakuku**

**Jaylena Dewakuku** appeared on her own behalf to request to proceed with Pharmacy Technician Trainee licensure.

President Milovich opened the discussion by asking Ms. Dewakuku about the nature of her request. Ms. Dewakuku stated that she is requesting to proceed with pharmacy technician trainee licensure.

Ms. Dewakuku stated that she was charged with a felony in 2009 and was sentenced in 2010. Ms. Dewakuku stated that she worked in retail and was charged with fraudulent schemes. Ms. Dewakuku stated that she made a big mistake and is paying restitution.

Ms. Dewakuku stated that she is on probation until 2013 and has been listed as a minimal risk. Ms. Dewakuku stated that she is making better choices in her life and wants to move forward with her life. Ms. Dewakuku stated that she wants to make changes in her life for herself and her family.

Mr. Milovich asked Ms. Dewakuku why she wanted to be a pharmacy technician. Ms. Dewakuku stated that she has a medical assistant certificate. Ms. Dewakuku stated that in high school she participated in a program for health care workers. Ms. Dewakuku stated that she liked filling prescriptions and it helped her explain medications to her diabetic grandparents.

Ms. Dewakuku stated that she has completed part of the pharmacy technician program and must complete 255 hours of training in a pharmacy and that is why she is appearing in front of the Board today to ask for the license. Ms. Dewakuku stated that the school has not assigned her to a site until she receives her license.

Dr. Foy asked Ms. Dewakuku to explain the fraudulent scheme in which she participated. Ms. Dewakuku stated that she was working Customer Service in a retail setting for two years. Ms. Dewakuku stated that she passed shoes to a customer and the customer paid her on the side. Ms. Dewakuku stated that she was a single mother and needed the extra money to pay for daycare. Ms. Dewakuku stated that she told security what she had done.

Dr. Foy asked Ms. Dewakuku how long this occurred. Ms. Dewakuku stated that it occurred from February to July. Ms. Dewakuku stated that she was caught in July.

Mr. McAllister asked Ms. Dewakuku if she is put back in the retail environment how can the Board be assured that she would not do the same thing again. Ms. Dewakuku stated that she has learned from the incident. Ms. Dewakuku stated that she would never make that mistake again and is making better choices in her life.

**On motion by Mr. McAllister and seconded by Ms. Locnikar**, the Board approved the request by Ms. Dewakuku to proceed with pharmacy technician trainee licensure. There were two nay votes by Dr. Musil and Mr. Van Hassel.

## **#5 Anthony Miller**

**Anthony Miller** appeared on his own behalf to apply for an intern license and request to take the licensing exams after completion of his intern hours.

President Milovich opened the discussion by stating that this agenda item was tabled at the last Board Meeting in order to obtain additional documents.

Mr. Milovich stated that Mr. Miller did obtain additional documents from his attorney and the court that he forwarded to the Board.

Mr. Miller addressed the Board. Mr. Miller stated that he has completed therapy and has accepted what he has done.

Mr. Milovich asked Mr. Miller if he had obtained any information from Colorado why they denied his Intern license. Mr. Miller replied no.

Mr. Wand stated that the Board Office did not obtain any further information from the Colorado Board concerning the case.

Mr. Lee stated that it appears the felony convictions were the same convictions used for the revocation. Mr. Lee stated that the revocation was based on the same behavior.

Mr. Van Hassel asked Mr. Miller what his plans were if he was granted a license. Mr. Miller stated that he would like to relocate to Arizona because they have family in Arizona.

Mr. Van Hassel asked Mr. Miller if he is willing to complete intern hours and take the licensing exams. Mr. Miller stated that he is willing to do whatever the Board requests.

**On motion by Dr. Musil and seconded by Ms. Rosas**, the Board unanimously agreed to issue an Intern license to Mr. Miller and upon completion of the Intern hours he may take the licensing exams (NAPLEX and MPJE).

## **AGENDA ITEM 9 – Reports**

### **Executive Director Report**

#### **Budget Issues**

Mr. Wand reviewed the financial reports with the Board Members.

## **Personnel Issues**

Mr. Wand stated that he received approval to hire an additional compliance officer and Steve Haiber has been hired as the new compliance officer.

## **Legislative Update**

Mr. Wand reviewed the following legislative bills with the Board Members.

### **HB2155 – Controlled Substances: Workers Compensation**

Mr. Wand stated that the bill would pass and would require doctors to inform workers compensation when a patient is taking controlled substances.

### **HB2242 – Consumer Reports – Notice to Consumers**

Mr. Wand stated that the bill has either been discontinued or held.

### **HB2263 – Metamphetamine Precursor**

Mr. Wand stated that the bill would pass and would require retailers to track methamphetamine precursor sales electronically.

### **HB2331 – Emergency Contraception**

Mr. Wand stated that the bill is currently held.

### **HB2356 – Drugs: Definition**

Mr. Wand stated that the bill has been signed and would add drugs such as Spice as a prohibited drug.

### **HB2366 – Workers Compensation: Controlled Substances**

Mr. Wand stated that the bill has either been discontinued or held.

### **HB2369 - Electronic Medical Records**

Mr. Wand stated that there is only one section that involves pharmacy. Mr. Wand stated that the bill would allow pharmacies to fill electronic prescriptions pursuant to DEA regulations.

### **HB2646 – Pharmacy Board; Transfer of Monies**

Mr. Wand stated that the bill would pass and would allow the Pharmacy Board to transfer monies to the Poison Center at the University of Arizona.

### **HB2730 – Prescriptions: Foreign Pharmacies**

Mr. Wand stated that this bill has been discontinued

### **SB1043 – Dangerous Drugs**

Mr. Wand stated that this bill has been discontinued.

### **SB1189 – Health Professions: State Regulation: Exception**

Mr. Wand stated that this bill would allow a healthcare professional to work in Arizona at a not for profit or charity facility.

## **Deputy Director Report**

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

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

### **Controlled Substance Violations**

1. Controlled Substance Overage - 12
2. Controlled Substance Shortage - 4
3. Pharmacist failed to take a complete controlled inventory upon change of pharmacist in charge- 2

### **Documentation Violations**

1. Expired Immunization certificates -2
2. Failure to sign daily log -1

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

1. Invoice filing

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

1. Reminder to take annual controlled substance inventory
2. Change of Pharmacist in Charge needs to be reported immediately
3. Be sure credit memos, return memos, and DEA 106 forms are available for audit purposes.

## **PAPA Report**

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of fifty-one (51) participants in the PAPA program. Ms. Yates stated that one participant has entered the program and there has been one termination of a contract. Ms. Yates stated that the individual that had his contract terminated has entered an extensive inpatient program and would be offered a new contract when he completes the program.

Ms. Yates stated that PAPA would be offering a CE program in Tucson on March 24, 2012 at the Westin La Paloma. Ms. Yates stated that information and registration can be found on the Arizona Pharmacy Alliance website.

## **AGENDA ITEM 10 – Sierra Healthmart Request**

Sierra Healthmart canceled their request to appear at this meeting.

## **AGENDA ITEM 11 – Silver Creek Pharmacy Request**

President Milovich opened the discussion by stating that representatives were present from Silver Creek Pharmacy to answer questions for Board Members regarding their deviation request.

Charles Dutcher, Owner of Silver Creek Pharmacy #1 and #2, and Angela Cronin appeared to answer questions from Board Members.

Mr. Dutcher stated that Silver Creek Pharmacy #2 is located in Heber-Overgaard. Mr. Dutcher stated that the pharmacy fills about 110 prescriptions daily. Mr. Dutcher stated that the residents of the area depend on the pharmacy. Mr. Dutcher stated that due to the low volume of prescriptions, high cost of employing a pharmacist, inability to find a pharmacist, and low reimbursements from third party providers that Silver Creek pharmacy would need to close this location if the Board does not grant the deviation.

Mr. Dutcher stated that they are requesting to deviate from R4-23-110 that a pharmacist must be physically present. Mr. Dutcher stated that they would have a pharmacist present via telepharmacy technology. Mr. Dutcher stated that he would operate a remote pharmacy site at Silver Creek Pharmacy #2 and support the remote pharmacy service from Silver Creek Pharmacy #1 located in Taylor.

Dr. Musil noted that the letter stated that Controlled Substances would not be filled at Silver Creek Pharmacy #2. Mr. Dutcher stated that the controlled substance prescriptions would be filled at Silver Creek Pharmacy #1 and their supplier would deliver the prescriptions to Silver Creek Pharmacy #2 in a sealed tote.

Dr. Musil asked how many of the 110 prescriptions that are filled daily at Silver Creek Pharmacy #2 are for controlled substances. Mr. Dutcher stated that about 16 prescriptions maybe filled daily for controlled substances. Mr. Dutcher stated that most of the prescriptions are for chronic patients and most patients drop off the prescriptions early.

Dr. Musil asked about the procedures for the pickup of controlled substances at Silver Creek #2. Mr. Dutcher stated that the medications would be sealed in the bag with a barcode. Mr. Dutcher stated that the barcode would be scanned into the system for the patient counseling and would list the drugs that the patient is to receive.

Dr. Musil asked about other security features. Mr. Dutcher stated that there is a face to face camera at the register. Mr. Dutcher stated that the counseling would be done over a telephone.

Dr. Musil asked what would occur if there was a disruption in power. Mr. Dutcher stated that there would be minimal down time. Mr. Dutcher stated that there has not been a black out for a long period of time. Mr. Dutcher stated that the black out periods have not lasted for more than 10 minutes.

Dr. Musil asked Mr. Dutcher if he has a procedure to follow if there is a disruption in service. Mr. Dutcher stated that they could use their cell phones to contact the remote pharmacy to close. Mr. Dutcher stated that all the information entered would be retained. Mr. Dutcher stated that the scanned prescription, directions and label could be easily viewed by the pharmacist at the remote location. Mr. Dutcher stated that counseling notes would also be stored.

Dr. Musil asked if there would be medications in the pharmacy or would there be a robotic machine at the site. Mr. Dutcher stated that the pharmacy would be fully stocked and the technician would fill the prescription. Mr. Dutcher stated that the pharmacist at the remote site would then view via a camera the medication, the label, and the prescription. Mr. Dutcher replied that they are not using robot technology to fill the prescriptions.

Mr. Milovich asked how busy is the host pharmacy. Mr. Dutcher stated that the host pharmacy fills between 200 to 300 prescriptions daily. Mr. Dutcher stated that there are different time frames at both pharmacies. Mr. Dutcher stated that the host pharmacy is busy between 9:00 to 11:00 and between 4:00 to 6:00. Mr. Dutcher stated that the remote pharmacy opens at 10:00 and is busiest at lunchtime and after 5.00.

Mr. Milovich asked how the pharmacists would be trained at the host location. Mr. Dutcher stated that all the pharmacists and technicians would be trained at the same time. Mr. Dutcher stated that everyone would have an ID card that is scanned. Mr. Dutcher stated that all technicians would be trained at both locations.

Mr. Milovich asked Mr. Dutcher if he was granted the deviation when would the process start. Mr. Dutcher stated the he would start the process the next day because it would take 3 to 4 weeks to install the equipment and that would be based on the company's schedule.

Mr. Milovich asked Mr. Dutcher if the pharmacy is still for sale. Mr. Dutcher stated that the pharmacy has been taken off the market.

Dr. Foy asked about the process of checking the prescription. Mr. Dutcher stated that the checks could all occur at one time. Mr. Dutcher stated that the screen is divided into four parts. Mr. Dutcher stated that the prescription, the NDC, the medication, and the label all appear on the screen and can be checked at the same time.

Mr. Milovich asked how this deviation is different than the other deviations that the Board has approved. Mr. Wand stated that this would be the first deviation request that would use a live person to fill the prescriptions. Mr. Wand stated that the other systems all used robotic systems to fill the prescriptions.

Mr. McAllister asked Mr. Wand if this is similar to the North Dakota system. Mr. Wand stated that there are 64 sites that are using similar technology with a live technician.

Mr. Van Hassel stated that the deviations must be based on experimentation and technology. Mr. Van Hassel stated that he has concerns if the Board is going to allow technician based pharmacies. Mr. Van Hassel stated that he feels that this should be placed on a future agenda for discussion to see if the Board wants to develop rules for this type of situation instead of approving deviations for each case.

Mr. McAllister stated that the Board needs to decide what direction they want to go in terms of patient safety.

Mr. McAllister asked if the Board could come back in June with a review of North Dakota's rules and could use that as the technology deviation and then allow others who meet that rule to proceed.

Mr. Wand stated that the Board could review North Dakota's rules. Mr. Wand stated that it would take about 18 months in Arizona to have the rules approved.

Mr. McAllister asked if the process makes sense based on experimentation and technology then the Board could say that anyone who meets that process could deviate from the current rules until the rules are completed.

Mr. Lee stated that the rules allow the Board to grant a deviation for experimentation and technologic reasons. Mr. Lee stated that if the Board takes the approach that they have looked at a process and are comfortable with applying it on a broader basis than an individual case by case basis then the Board is stepping beyond the experimentation. Mr. Lee stated that if the Board has already satisfied itself that it is no longer a "lets see if it works" and have determined that it works and decides to grant a cross the board deviation the Board may be facing a legal problem in the fact that the Board may or may not be satisfying the statutory requirement that the deviation is granted for technologic or experimentation reasons.

Mr. Lee stated that the Board has granted deviations where there is robotic filling and this is the first time that there has been a human filling prescriptions at the remote site. Mr. Lee stated that this request is different than the other requests that the Board has granted in the past. Mr. Lee stated that the Board may want to see by comparison if this works better then revisit the approach.

Mr. Lee stated that the Board should work towards a unified approach with the rules to determine if the Board has gone past experimentation and is satisfied that it can be integrated into the regular distribution system.

Mr. Dutcher stated that he understands the concerns of how this situation could explode. Mr. Dutcher stated that the Board could put boundaries on where the technology could or could not be used. Mr. Dutcher stated that the system could be used in underserved areas that could benefit from the service. Mr. Dutcher stated that this would still allow them to have one on one contact with the patient.

Dr. Foy asked Mr. Dutcher how he would be able to supervise the technician from the remote site. Mr. Dutcher stated that the system has cameras that can view the pharmacy. Mr. Dutcher stated that the Board has licensed technicians and they are susceptible to disciplinary action. Mr. Dutcher stated that he has an employee that he trusts.

Dr. Foy stated that he is concerned about the precedent that it sets.

Ms. Locnikar asked Mr. Dutcher if he would be willing to report back to the Board the successes and deficiencies in the process.

Mr. Dutcher stated that prior to opening the pharmacy the pharmacy would need to be inspected. Mr. Dutcher stated that he could report back to the Board any problems that

occurred or changes that they made in the process. Mr. Dutcher stated that the system has been approved for use in other states.

Mr. McAllister stated that Texas created a license status that would allow drop off stations for rural areas.

Mr. McAllister stated that he was uncomfortable knowing that an inventory would only be taken once a year. Mr. Dutcher stated that he could do an inventory more often if that is what the Board would like. Mr. Dutcher stated that there would be no controlled drugs in the pharmacy.

Mr. Van Hassel stated that he asked different pharmacists what they thought about having remote pharmacies with technicians filling the prescriptions. Mr. Van Hassel stated that one of the concerns was that the pharmacist was being taken out of the equation. Mr. Van Hassel stated that the concern was scrutinizing the prescription by a camera.

Mr. Van Hassel stated that he has concerns that pharmacists may try to run multiple locations via a camera.

Mr. Dutcher stated that the Board could set parameters that would only allow the verification to be done at a specific site.

Mr. Van Hassel stated that the Board should determine the parameters instead of just approving deviations.

Mr. Dutcher stated that in the retail setting the technician usually performs all the filling functions. Mr. Dutcher stated that he is doing the process via a screen image instead of physically looking at the prescription. Mr. Dutcher stated that he is still performing the same function using technology.

Dr. Musil stated that there are still harmful drugs in a pharmacy. Dr. Musil stated that Mr. Dutcher has not assured the Board that the remote pharmacy could only be accessed after getting the green light from the host pharmacy. Dr. Musil stated that he is uncomfortable that the pharmacist is not present and medications are present and anyone can go into the pharmacy at any time.

Dr. Foy stated that he is uncomfortable with the aspect of supervision within the pharmacy. Mr. Dutcher stated that there are cameras in the pharmacy that would enable him to look at the pharmacy. Mr. Dutcher stated that on busy days that he would have additional pharmacists to help.

Mr. Wand stated that there are 64 places in North Dakota that have had no issues with diversion.

Mr. Wand stated that no rules have been written because of the rules moratorium.

Ms. Rosas asked if the Board granted this deviation if anyone else who had a similar process would need to appear in front of the Board. Mr. Wand stated that it is on a case by case basis at this time.

Ms. Locnikar asked Mr. Dutcher what would happen if the Board denied his deviation request. Mr. Dutcher stated that he would have to close the pharmacy.

Ms. Rosas asked do you have any other security other than the computer. Mr. Dutcher stated that the pharmacy is under lock and key. Mr. Dutcher stated that there is one door in and out. Mr. Dutcher stated that there is an alarm system throughout the store.

Mr. Van Hassel stated that the deviation would need to apply to the pharmacist opening the pharmacy.

**On motion by Mr. Van Hassel and seconded by Dr. Foy**, the Board unanimously agreed to investigate if the Board would like to write rules to handle these cases on a regular basis and explore the options at the June meeting. The request was tabled to allow the Board to do more research.

Dr. Musil stated that he would like to see Mr. Dutcher develop a plan showing standard operating procedures and a more detailed security plan.

### **AGENDA ITEM 12 – Express Scripts Request**

President Milovich opened the discussion by stating that representatives were present from Express Scripts to answer questions for Board Members regarding their deviation request.

The following representatives were present: Chris Meilinger – Pharmacist in Charge, Gaurang Ghandi – Sr. Director of Pharmacy Practice, and Doug Lang – Senior Director of Pharmacy Compliance.

Mr. Meilinger stated that they have two requests. Mr. Meilinger stated that one request is to modify an existing deviation and the other request is to extend the deviation to a different part of the dispensing.

Mr. Meilinger stated the waiver in 2007 eliminated the final check by a pharmacist for the Unit of Use automated dispensing machine. Mr. Meilinger stated that the process still requires the pharmacist to validate the backstock of the product on the shelf before the technician puts the product into the machine.

Mr. Meilinger stated that they would like to modify the waiver to eliminate the pharmacist validation. Mr. Meilinger stated that there is a pharmacist involved with the inventory setup and a drug file pharmacist that double checks that the NDC number and barcode match. Mr. Meilinger stated that the unit of use machine uses the barcode technology. Mr. Meilinger stated that the first scan is of the UPC bar code and that allows the label to print. The second scan is the bar code label and the label is applied to the product. If an incorrect barcode is scanned from the package, then the label will not print. Mr. Meilinger stated that they have filled more than 7 million prescriptions using this technology at the Tempe and St. Louis facilities and there have been zero errors.

Mr. Meilinger stated that the second request is to take the barcode technology and expand that technology to all manually filled unit of use products. Mr. Meilinger stated that a second scan would be added. Mr. Meilinger stated that currently in the manual pick area the technician would scan the product UPC bar code. If there is a positive scan, the rx label would print with a bar code and the label is applied to the product. Mr. Meilinger stated that they would add a second scan of the barcode on the rx label and the product UPC code. If the scan is positive, then the process is completed.

Mr. McAllister asked if the first request would eliminate the check by the pharmacist of the medications to be loaded into the machine. Mr. Meilinger replied yes. Mr. Meilinger stated that the product is already barcoded by the manufacturer when it is placed into the channel.

Mr. McAllister asked if it is barcoded for a specific channel. Mr. Meilinger stated that is correct. Mr. Meilinger stated that when the robot picks the product from the channel the barcode will be scanned. Mr. Meilinger stated that if it is a positive scan the label would print.

Mr. McAllister asked how the label is applied. Mr. Meilinger stated that the label is applied by the machine.

Mr. McAllister asked if the second request was to allow a human to do the picking instead of the robotic arm. Mr. Meilinger replied yes.

Mr. McAllister asked about multiple units that would be picked by the human such as six inhalers. Mr. Meilinger stated that they would need to scan six bar codes. Mr. Meilinger stated that the barcode of the product would be the same but the rx label barcode would be different. Mr. Meilinger stated that if the technician scanned the same box that would be caught at the second scan. Mr. Meilinger stated that if the barcodes do not match the process would not continue.

Mr. McAllister asked if the second process of the human picking the product is being performed in Missouri. Mr. Meilinger replied no.

Dr. Musil stated that barcode technology could miss counterfeit products. Mr. Lang stated that they have a validation process at the corporate procurement department and they assess all the vendors prior to purchasing the product. Mr. Lang stated that the procurement process is a very stringent process.

Dr. Musil asked why they see the approval of the stock by the pharmacist as a negative. Mr. Meilinger stated that it is not necessarily a negative but it is not seen as a value add. Mr. Meilinger stated that the machine validates the medication when it fills the prescription and there has been no mistakes.

Dr. Musil asked Mr. Meilinger to define error. Mr. Meilinger stated that would include placing the wrong label on the wrong product.

Mr. Van Hassel asked what happens on the second scan when the barcodes do not match. Mr. Meilinger stated that there is a hard halt on the system and a pharmacist or supervisor would need to resolve the issue.

Dr. Foy asked if this process would include eye and ear drops. Mr. Meilinger replied yes.

Dr. Foy asked if the label would cover the bar code for the second scan. Mr. Meilinger stated that the label would be folded by the technician so that it did not cover the barcode.

**On motion by Mr. Van Hassel and seconded by Mr. McAllister**, the Board unanimously agreed to accept the request by Express Scripts to modify the existing deviation and extend the process to a different part of the dispensing process with Express Scripts returning in one year showing that there have been zero defects in the first year and if there has been then the process would be re-reviewed.

Mr. McAllister asked if the defects were just prescriptions that were received by the patient and not internal issues. Mr. Van Hassel replied yes.

### **AGENDA ITEM 13 - Conferences**

#### **Conference 1– Complaint #4027**

The following individuals were present to discuss the complaint:

Karl Kobe– Pharmacist – Respondent

Michael Mantsch – Pharmacist in Charge – Witness

Scott Huhn – Regional Compliance Officer for Omnicare – Witness

President Milovich opened the discussion by asking Mr. Hunter to give a brief overview of the complaint. Mr. Hunter stated that an 11-month old child was transferred from a hospital to a skilled nursing facility (SNF). The discharge nurse at the hospital incorrectly transcribed an order from the MAR as Lasix 90mg every 12 hours GT instead of 9 mg as was indicated on the MAR. The admitting nurse at the SNF did not question or catch the error. The prescribing physician signed the order and did not catch the error. The order was sent to the pharmacy and entered into the system as written. The pharmacist verifying the data entry failed to catch or challenge the order as an overdose for a child. The order was filled as written. The patient received the overdose 6 times over three days and was admitted to the hospital for evaluation of fever, abnormal lab values, and dehydration.

President Milovich asked the respondents to address the complaint. Mr. Kobe apologized for the error and stated that he would be more vigilant in the future in verifying prescriptions.

Mr. Mantsch stated that since that time they have changed some practices in the pharmacy to minimize this event occurring in the pharmacy again. Mr. Mantsch stated that on any admission orders for pediatric patients that they have the height, weight, and date of birth. Mr. Mantsch stated that all the pharmacists have completed CE courses on treatment challenges for pediatric patients. Mr. Mantsch stated that they have made computer changes. Mr. Mantsch stated that a red background would be present when the

pharmacist checks a pediatric prescription. Mr. Mantsch stated that they have added a second pharmacist check when a pediatric patient is involved.

Mr. McAllister asked Mr. Mantsch to describe the prescription process from the time the prescription enters the door till it leaves the pharmacy. Mr. Mantsch stated the order goes into a queue that shows the written order on one screen and the other screen shows the data entry. Mr. Mantsch stated at that point the pharmacist does the initial verification. Mr. Mantsch stated that once the order is verified the order is sent to the back for filling and then there is a second check to check the product.

Mr. McAllister asked if the information from Los Ninos was available to the pharmacist. Mr. Mantsch stated that once the patient is discharged they have no access to the data. Mr. Mantsch stated that once the patient was transferred to La Hacienda new orders were written.

Mr. McAllister asked if the Lasix 90 mg was then a new order. Mr. Mantsch stated correct.

Mr. McAllister asked if obtaining the height and weight were new requirements. Mr. Mantsch stated that the information was not required previously but they are now asking for that information for all new admissions.

Mr. McAllister asked if they are Joint Commission accredited. Mr. Huhn stated that they are not accredited.

Mr. Van Hassel asked what patient information would have been reviewed prior to the changes that were made. Mr. Mantsch stated the pharmacist would have looked at the diagnosis, the patient's age, and any other factors listed on the admission orders.

Mr. Van Hassel asked if the birth date was information that was required on an admission order. Mr. Mantsch replied yrs.

Mr. Van Hassel asked if the age was entered into the computer if the computer would do any dosage calculations. Mr. Mantsch replied no.

Mr. Van Hassel asked about the computer system. Mr. Huhn stated that it is a proprietary system. Mr. Huhn stated that they use Rescot that they purchased and is used by other long term care providers. Mr. Huhn stated that they also use a proprietary system called Oasis.

Mr. Van Hassel asked if the system uses age in any of its quality checks. Mr. Huhn stated that it does not have a cross check by age. Mr. Huhn stated that all the checks are manual checks that they have put in place for this specialized facility.

Mr. Mantsch stated that they are in the process of changing the computer system. Mr. Huhn stated that the computer system would be phased in over three years.

Ms. Galindo asked if they see pediatric patients frequently. Mr. Mantsch stated that their clientele is mainly adult patients. Mr. Mantsch stated that the population is mainly

seniors and some hospice patients. Mr. Mantsch stated that they service two facilities that have pediatric patients. Mr. Mantsch stated that those two facilities are Los Ninos Hospital and La Hacienda. Mr. Mantsch stated that La Hacienda has both pediatric and adult patients.

Mr. Van Hassel asked if the system has the capability do dose checking. Mr. Huhn stated that the system cross checks for duplication of therapy but does not check dosage. Mr. Huhn stated that the system checks for allergies and interactions.

Mr. Van Hassel asked if the pharmacy uses two different computer systems to service the different facilities. Mr. Huhn stated that when the patient was discharged from the hospital those records are discontinued. Mr. Huhn stated that the records do not follow the patient to the new facility. Mr. Huhn stated that Mr. Kobe had not seen the dosing regimen of the patient while the patient was at Los Ninos hospital. Mr. Huhn stated that Mr. Kobe looked at a new drug regimen for a new patient at La Hacienda.

Mr. Van Hassel asked if Mr. Kobe would have known that this was a patient at Los Ninos. Mr. Huhn stated that the new system will track the patient from one facility to the next but the current system does not track the patient when they change facilities.

Mr. Van Hassel asked how many pharmacists work at the facility. Mr. Mantsch replied that 12 pharmacists work at the facility.

Ms. Galindo stated that it should be part of the practice of the pharmacist to look at the patient's age and not rely on the computer.

Dr. Foy asked if the action plan has been acted upon and if the CE has been completed. Mr. Mantsch stated that for all new admissions it is mandatory that they obtain the age, weight, and height upon admission.

Dr. Foy asked what CE lessons have been completed. Mr. Mantsch stated that every pharmacist completed 2 CE courses concerning pediatric errors and the medication errors in specific populations.

Mr. Huhn stated that they did ask Rescot systems if changes could be made and they were told that there are not any changes that could be made.

Ms. Rosas asked if age and weight was being required for all patients are just pediatric patients. Mr. Mantsch stated the requirement is for all patients.

**On motion by Mr. McAllister and seconded by Ms. Rosas,** the Board unanimously agreed to offer Mr. Kobe a consent agreement with the following terms: 6 hours of CE on patient safety in addition to the CE courses he already completed to be completed in 90 days and a fine of \$1,000.

**On motion by Mr. McAllister and seconded by Ms. Rosas,** the Board unanimously agreed to open a complaint against Omnicare to obtain a compliance plan of how they would handle at risk patients at their practice site.

## **AGENDA ITEM 14 – Complaint Review – Consideration of Complaints Schedule P**

### **Complaint #4030**

**On motion by Mr. McAllister and seconded by Mr. Van Hassel**, the Board unanimously agreed to ask the pharmacist involved in Incident 1 to appear for a conference and dismiss the complaint against the pharmacist in Incident 2.

### **Complaint #4035**

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

**On motion by Mr. Milovich and seconded by Mr. McAllister**, the Board unanimously agreed to dismiss the complaint.

### **Complaint # 4038**

**On motion by Ms. Rosas and seconded by Mr. Milovich**, the Board unanimously agreed to offer a consent agreement to the pharmacist with the following terms:  
6 hours of CE on error prevention.

A roll call vote was taken. (Ms. Locnikar – aye, Mr. McAllister – aye, Dr. Musil – aye, Dr. Foy – aye, Ms. Galindo – aye, Ms. Rosas – aye, Mr. Van Hassel – aye, and Mr. Milovich- aye)

On motion by Ms. Rosas and seconded by Dr. Foy, the Board unanimously agreed to open a complaint against the pharmacy technician involved in the incident.

### **Complaint #4041**

**On motion by Dr. Musil and seconded by Mr. Milovich**, the Board unanimously agreed to send an advisory letter to the pharmacist and pharmacy technician concerning the transfer of prescriptions {R4-23-407 (D) (4) (a) (i)}

### **Complaint #4042**

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

**On motion by Mr. Milovich and seconded by Mr. McAllister**, the Board unanimously agreed to dismiss the complaint.

### **Complaint #4043**

**On motion by Ms. Galindo and seconded by Mr. McAllister**, the Board unanimously agreed to dismiss the complaint.

### **Complaint #4049**

**On motion by Dr. Musil and seconded by Mr. McAllister**, the Board unanimously agreed to move this case to Hearing.

### **Complaint #4050**

**On motion by Mr. Van Hassel and seconded by Ms. Rosas**, the Board unanimously agreed to move this case to Hearing

### **Complaint #4009**

President Milovich opened the discussion by stating that the complainant has asked the

Board to reopen the complaint based on additional information that she has provided that she feels is relevant to the case.

Mr. Milovich stated that the investigation indicated that the prescription was filled correctly according to the doctor's directions and did not include chrysin. Mr. Milovich stated that he believes that the information does not have any bearing on the Board's previous decision.

Mr. Van Hassel asked Dr. Musil if chrysin is normally added to compounds. Dr. Musil stated that it is not typically added unless recommended by the physician.

**On motion by Mr. Milovich and seconded by Dr. Foy**, the Board agreed to not reopen the complaint. There was one nay vote by Dr. Musil.

### **AGENDA ITEM 15 – Proposed Intern Rules**

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

Mr. Wright stated that during the Board's five year rule review approved September 14, 2010, the Board determined that R4-23-1005 Substances excepted from the Schedules of Controlled Substances needed to be amended to update citations in subsections A, B, and C.

Mr. Wright stated that the proposed rulemaking will amend some definitions and delete other definitions.

Mr. Wright stated that a notice of rulemaking docket opening was published on January 6, 2012.

**On motion by Mr. McAllister and seconded by Dr. Musil**, the Board unanimously approved the Notice of Proposed Rulemaking.

### **AGENDA ITEM 16 – Long Term Care Task Force**

President Milovich stated that Dr. Foy has agreed to serve as the chairperson of the Long Term Care Task Force.

**On motion by Mr. Van Hassel and seconded by Dr. Musil**, the Board unanimously approved the appointment of Dr. Foy to serve as the chairperson of the Long Term Care Task Force.

### **AGENDA ITEM 17 – Drug Shortages**

President Milovich stated that the Board could discuss possible actions for the shortage of drugs that are essential for medical treatment.

Mr. Milovich stated that the Board's hands are tied in this situation. Mr. Milovich stated that there could be the possibility of compounding the drug if it is not available.

Mr. Wand stated that the Board could do a statute change next year. Mr. Wand stated that the Board would need a procedure whereby the Governor would allow the pharmacies to use other products and where the products could be administered.

Mr. Van Hassel asked about the NABP survey about using expired drugs. Mr. Wand stated that would require a declaration of emergency in Arizona.

Mr. Van Hassel noted that many injectable medications are in short supply in the hospital setting.

Dr. Musil asked Mr. Wand if he has talked to any other Boards about the shortages and possible statute changes. Mr. Wand stated that he had not talked to other Boards.

### **AGENDA ITEM 18 – Holiday Rx- Rehearing/Consent Agreement**

President Milovich stated at that last meeting Mr. Lee noted that he was working on a Consent Agreement with the attorney for Holiday Rx and asked to bring the Consent Agreement to this meeting for the Board's review.

Mr. Lee stated that he has a copy of the signed Consent Agreement and the original copy is being sent to the Board Office.

Mr. Lee stated that there is an issue with the page numbers on the faxed copy but it is just a mistype in the translation of the page numbers.

**On motion by Dr. Musil and seconded by Ms. Rosas**, the Board unanimously agreed to accept the consent as signed by the respondent. A roll call vote was taken. (Ms. Locnikar – aye, Mr. McAllister – aye, Dr. Musil – aye, Dr. Foy – aye, Ms. Galindo – aye, Ms. Rosas – aye, Mr. Van Hassel – aye, and Mr. Milovich- aye)

### **AGENDA ITEM 19 - Call to the Public**

President Milovich 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.

Mr. Dutcher came forth to state that he is seeing a continuing problem with prescriptions written for Tramadol.

Mr. Dutcher indicated that there are drug shortages in the retail market as well as the hospital setting.

Dr. Foy recused himself due to a conflict of interest.

President Milovich stated that an anonymous letter was received from a CVS employee and if the Board would like to take any further action the topic could be placed on a future agenda for discussion.

## **AGENDA ITEM 20 – Future Agenda Items**

Mr. Van Hassel stated that he feels that the Board should evaluate the validity of the letter. Mr. Van Hassel stated that the item could be placed on the agenda for the June or September meeting. Mr. Van Hassel suggested that the Board could research what other states have done in regards to hours worked per pharmacist and then the Board could review this data.

Mr. McAllister stated that he disagrees. Mr. McAllister stated that there are regular inspections of the stores and consumer complaints. Mr. McAllister stated that there has not been an increase in errors. Mr. McAllister stated that he does not want to respond to an anonymous complaint.

Mr. McAllister stated that other states that have done studies and nothing has come from the studies.

Mr. McAllister stated that he would like to have some clarification on expungements and reductions of felonies.

Mr. McAllister asked if a student could do a project on deviations granted by the Board. Mr. Wand stated that a student from the University of Arizona will be working on that project this summer.

Mr. Van Hassel stated that there are several organizations looking at formalized training for technicians.

Mr. McAllister stated that there will be a vision conference this fall hosted by ACPE. Mr. McAllister stated that they will be revising the college accreditation standards and to look at technician training standards.

## **AGENDA ITEM 21 – Adjournment**

There being no further business to come before the Board, President Milovich adjourned the meeting at 2:25 P.M.