



New Mexico Regulation and Licensing Department
BOARDS AND COMMISSIONS DIVISION
Board of Pharmacy

5200 Oakland Avenue, NE ▪ Suite A ▪ Albuquerque, New Mexico 87113
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www.rld.state.nm.us/pharmacy

June 6 - 7, 2011 Board Meeting Minutes

New Mexico Board of Pharmacy Regular Board Meeting

Location: 5200 Oakland Ave. Suite A, Albuquerque, New Mexico 87113

Call to Order: The meeting was called to order by the Chairman Danny Cross, R.Ph., at 9:10 a.m.

MEMBERS PRESENT: Danny Cross, R.Ph., Chairman
Richard Mazzoni R.Ph., Member
Allen Carrier, Public Member
Amy Buesing R.Ph., Member (telephonically 6/6/11)
Buffie Saavedra, Public Member (Tuesday 6/7/11)
Joe Anderson R.Ph., Member
LuGina Mendez-Harper R.Ph., Member

MEMBERS ABSENT: Ray Nunley R.Ph., Public Member
Buffie Saavedra, Public Member (Monday 6/6/11)
Amy Buesing R.Ph., Member (Tuesday 6/7/11)

STAFF ATTENDING: Mary Smith, Assistant Attorney General
William Harvey, Executive Director
Debra Wilhite, Administrative Secretary
Adela Padilla, Inspector
Ben Kesner, Inspector
Kathleen Klein, Inspector
Sarah Trujillo, Licensing Administrator

Monday June 6, 2011.

- 1. 9:05 a.m. Call to Order**
- 2. Roll Call**

Present were Ms. Buesing, Mr. Mazzoni, Mr. Anderson, Ms. Mendez-Harper and the Chairman Mr. Cross. Ms. Saavedra-Shean, and Mr. Nunley are absent. Mr. Carrier will be late. Mr. Howard Shaver was not present due to his resignation as a board member and a replacement has not been appointed as yet. Mr. Carrier arrived at 11:11 a.m.

3. Approval of the Agenda:

Motion: Approve the agenda. Motion made by Mr. Mazzoni, seconded by Mr. Anderson, board voted unanimously to pass the motion.

4. Approval of April 2011 Minutes: Case number presentation correction

Ms. Wilhite presented a correction of case number presented at the April 2011 board meeting should have been recorded as 2011-010 instead of 2010-010.

Motion: Approve the agenda as amended. Motion made by Mr. Mazzoni, seconded by Ms. Mendez-Harper, board voted unanimously to pass the motion.

5. MTP Report*

Motion: Closed session to hear MTP report. Motion made by Mr. Anderson, seconded by Mr. Mazzoni. Ms. Buesing, Mr. Mazzoni, Mr. Anderson, Ms. Mendez-Harper and the Chairman Mr. Cross voted unanimously to pass the motion.

The board went back into open session and the only issue discussed was the MTP report.

6. Applications: a) Application List

Ms. Sarah Trujillo presented the application list to the board.

Motion: 11 Clinic applications all are in order. Motion made by Ms. Mendez-Harper, seconded by Mr. Mazzoni, board voted unanimously to pass motion.

Motion: 1 Emergency Medical Services application all is in order. Motion made by Ms. Mendez-Harper, seconded by Mr. Anderson, board voted unanimously to pass motion.

Motion: 1 Animal Control application and is in order. Motion made by Mr. Mazzoni, seconded by Mr. Anderson, board voted unanimously to pass motion.

Motion: 6 Custodial Nursing Home applications all are in order. Motion made by Ms. Mendez-Harper, seconded by Mr. Anderson, board voted unanimously to pass motion.

Motion: 6 Pharmacy/Hospital applications all are in order. Motion made by Ms. Mendez-Harper, seconded by Mr. Anderson, board voted unanimously to pass motion. The CVS pharmacy application will be voted on when Mr. Carrier arrives.

Motion: 13 Non-Resident Pharmacy applications all are in order. Motion made by Ms. Mendez-Harper, seconded by Mr. Anderson, board voted unanimously to pass motion.

Motion: 24 Wholesale/Broker applications all is in order. Motion made by Ms. Mendez-Harper, seconded by Mr. Mazzoni, board voted unanimously to pass motion.

b) Pharmacist Clinicians

Motion: Recommendations, renewal and protocols approved for Chris McFarland. Motion made by Ms. Mendez-Harper, seconded by Ms. Buesing, board voted unanimously to pass motion.

Motion: Recommendations, prescriptive authority and clinician certification approved for April Sherard. Motion made by Ms. Mendez-Harper, seconded by Mr. Mazzoni, board voted unanimously to pass motion.

Motion: Recommendations, prescriptive authority, renewal and protocols approved for Rucha S. Bond. Motion made by Ms. Mendez-Harper, seconded by Mr. Anderson, board voted unanimously to pass motion.

Mr. Carrier was in attendance at 11:11 a.m.

Motion: 1 CVS Pharmacy application and is in order. Motion made by Mr. Anderson, seconded by Ms. Mendez-Harper, board voted unanimously to pass the motion. Mr. Mazzoni recused himself from voting.

Ms. Buesing excused herself from the meeting at 11:15 a.m.

REGULAR MEETING
APPLICATION LIST
June 6 & 7, 2011

CLINIC /HOME HEALTH CARE

CONSULTANT PHARMACIST

1.ABQ Health Partners Gibson Podiatry Clinic 5400 Gibson Blvd SE Albuquerque, NM 87108	Relocation Caitlyn Tanner, R.Ph.
2. ABQ Health Partners Journal Center 5150 Journal Center Blvd NE Albuquerque, NM 87109	Class Upgrade Kathy Chavez, R.Ph.
3. ABQ Health Partners Westside ENT 10511 Golf Course Road NE #105 Albuquerque, NM 87114	Class Upgrade Kathy Chavez, R.Ph.
4. El Centro Family Health – Taos Clinic 1331 Gusdorf Road Taos, NM 87571	New Christine Vigil, R.Ph.
5. Guadalupe Public Health Office – Santa Rosa 117 Camino de Vida Suite 400 Santa Rosa, NM 88435	Relocation George Gonzales, R.Ph.
6. La Casa Family Health Center – Melrose 120 N Main Melrose, NM 88124	New Melissa Perkins, R.Ph.
7. La Casa Los Niño’s Pediatrics 200 Wilshire Blvd Suite A Roswell, NM 88201	New Melissa Perkins, R.Ph.
8. Roosevelt Public Health Office – Portales 1513 West Fir Portales, NM 88130	Relocation George Gonzales, R.Ph.
9. San Juan Health Partners Neurosciences 407 South Schwartz Suite 202	Relocation Ernie Armenta, R.Ph.

Farmington, NM 87401

10. San Juan Health Partners Pediatrics
407 South Schwartz Suite 102
Farmington, NM 87401

Relocation
Ernie Armenta, R.Ph.

11. Santa Rosa Medical Clinic
117 Camino de Vida Suite 300
Santa Rosa, NM 88435

Relocation
George Gonzales, R.Ph.

EMERGENCY MEDICAL SERVICES

Artesia Ambulance Service
3300 W Main Suite F
Artesia, NM 88210

CONSULTANT PHARMACIST

Relocation
Kirk Irby, R.Ph.

ANIMAL CONTROL

Torrance County Animal Shelter
751 Salt Missions Trail
McIntosh, NM 87032

CONSULTANT PHARMACIST

Relocation
Kathleen West, R.Ph.

CUSTODIAL/NURSING HOME

1. A Better Way of Living Inc
709 Sagebrush Trail SE
Albuquerque, NM 87123

CONSULTANT PHARMACIST

New
Phil Griego, R.Ph.

2. Alegria Family Service-Yvette Griego
2901 Carlisle NE Suite 105
Albuquerque, NM 87110

New
Joel Villarreal, R.Ph.

3. Lessons of Life LLC
2293 Divet Suite 2
Las Cruces, NM 88001

New
Mahmood Hurab, R.Ph.

4. Ramah Care Services Inc
1116 Burke Drive
Gallup, NM 87301

New
Perry Storey, R.Ph.

5. Ramah Care Services Inc
101 Sunset Drive
Gallup, NM 87301

New
Perry Storey, R.Ph.

6. Zalla Galya
7405 Blue Moon Lane NE
Albuquerque, NM 87113

New
Joel Villarreal, R.Ph.

PHARMACY /HOSPITAL

1. CVS Pharmacy
4201 Montano NW
Albuquerque, NM 87120

PHARMACIST IN CHARGE

New
James Brown, R.Ph.

2. Guadalupe County Hospital
117 Camino de Vida Suite 100
Santa Rosa, NM 88435

New
Jeffrey Campbell, R.Ph.

3. Miners Colfax Medical Center
203 Hospital Drive

New
Mark Wilson, R.Ph.

Raton, NM 87740

4. Presbyterian Rust Medical Center
2400 Unser Blvd
Rio Rancho, NM 87124

New
Leigh Anders, R.Ph.

5. Route 66 Pharmacy Inc
117 Camino de Vida Suite 200
Santa Rosa, NM 88435

Relocation
John Fitzgerald, R.Ph.

6. Sams Pharmacy
4201 Rodeo Drive
Santa Fe, NM 87507

Remodel
Kathleen Fernandez, R.Ph.

7. UNM of New Mexico Hospital (Retail)
2211 Lomas Blvd NE
Albuquerque, NM 87106

New
William Long, R.Ph.

8. Wiley Chemists Inc
1676 Hospital Drive
Santa Fe, NM 87505

New
Jack Martinez, R.Ph.

NON-RESIDENT PHARMACY

PHARMACIST IN CHARGE

1. A-Med Health Care
5302 Rancho Road
Huntington Beach, CA 92647-2069

New
George W Kridner IV, R.Ph.

2. Colorado Animal Health
3530 Stagecoach Road
Longmont, CO 80504

New
Shawn Martin, R.Ph.

3. Compound Pharmaceutical Technologies Inc
1048 Stanton Road Suite B
Daphne, AL 36528

New
Robert R Roberts III, R.Ph.

4. Costal Express Pharmacy Inc
2632 Pacific Avenue
Long Beach, CA 90806

Change of Ownership
Toan Thai, R.Ph.

5. Custom Pharmacy Solutions
2637 Valleydale Road
Birmingham, AL 35244

New
Brandon Thornton, R.Ph.

6. Douglas Yoch Inc
DBA Stanley Apothecary
3330 Monroe Road Suite A
Charlotte, NC 28205

New
Douglas Yoch, R.Ph.

7. Green Valley Drugs
1850 Whitney Mesa #180
Henderson, NV 89014

New
Kjersten Lane, R.Ph.

8. Pet Meds and Beyond
2501 W 80th Street #7

New
Edith D Mahiques, R.Ph.

Hialeah, FL 33016

9. PharmaHealth Specialty Long Term Care Inc Fairhaven, MA 02719	New Adam Wilczek, R.Ph.
10. Royal Palm Specialty Pharmacy 118 Main Street Webster, MA 01570	New Agnes Bergeron, R.Ph.
11. SBH Medical Ltd 655 Dearborn Park Lane Worthington, OH 43085	New John Milton, R.Ph.
12. Sheffield Pharmacy & Homcare 400 S Montgomery Avenue Suite 108 Sheffield, AL 35660	New Thomas Embry, R.Ph.
13. Steltec Pharmacy DBA ePharmPro Services 601 Upland Avenue Suite 112 Brookhaven, PA 19015 <u>WHOLESALE/BROKER</u>	New Mark Steltz, R.Ph.
1. Auburn Pharmaceutical Company 1979 South 4130 West Salt Lake city, UT 84104	New
2. Benco Dental Supply Co 625 Waltham Way Patrick Industrial Park McCarran, NV 89434	New
3. Bound Tree Medical LLC 2237 North Plaza Drive Visalia, CA 93291	New
4. BTG International Inc Five Tower Bridge 300 Barr Harbor Drive 8 th Floor West Conshohocken, PA 19428	New
5. Cardinal Health 27680 Avenue Mentry Valencia, CA 91355	New
6. Corporate Services 5681 West Cleveland Road South Bend, IN 46628	Change of Ownership
7. Exel Inc 1802 Brierley Way Sparks, NV 89434	Change of Ownership
8. Ivesco Holdings LLC 910 Shaver Street Springdale, AR 72762	New

9. Ivesco Holdings LLC 124 Country Club Road Iowa Falls, 50126	New
10. Libertas Pharma Inc 1755 North Brown Road Suite 200 Lawrenceville, GA 30043	New
11. Meridian Medical Technologies 1945 Craig Road St Louis, MO 63146	Change of Ownership
12. Meridian Medical Technologies 8030 Litzsinger St Louis, MO 63144	Change of Ownership
13. Multipharma Inc 560 Sylvan Avenue Suite 3020 Englewood Cliffs, NJ 07632	New
14. OHL 4101 Empire Road Kansas City, MO 64120	New
15. Optimer Pharmaceuticals Inc 10110 Sorrento Valley Road Suite C San Diego, CA 92121	New
16. PharmaForce Inc 4150 Lyman Drive Hilliard, OH 43026	Change of Ownership
17. Pharmakon Pharmaceuticals Inc 801 Congressional Blvd Suite 200B Carmel, IN 46032	New
18. Seattle Genetics 21823 30 th Drive SE Bothell, WA 98021	New
19. Supernus Pharmaceuticals Inc 1550 East Gude Drive Rockville, MD 20850	New
20. Talec Pharma LLC 699 Trade Center Blvd Suite A Chesterfield, MO 63005	New
21. Teva Animal Health Inc 5920 Corporate Drive St Joseph, MO 64507	New
22. UPS Supply Chain Solutions Inc 1840 Outer Loop Road Louisville, KY 40219	New

23. West-Ward Pharmaceutical Corp
4750 Pleasant Hill Road
Memphis, TN 38118

Change of Ownership

24. Winder Laboratories LLC
716 Patrick Industrial Lane
Winder, GA 30680

New

7. 10:00 a.m. Rule Hearings:

a. NMAC 16.19.4.9 - Internet Prescribing

Chairman Danny Cross took roll call, present were Ms. Buesing, Mr. Mazzoni, Mr. Anderson, Ms. Mendez-Harper. The Chairman opened the hearing at 10:00 and asked that the notice of hearing be entered as exhibit #1 and proposed rule language be entered as exhibit #2. There were no written or verbal comments presented.

Motion: Motion was made by Mr. Mazzoni , seconded by Ms. Mendez-Harper to file the rule as amended. Ms. Buesing, Mr. Mazzoni, Mr. Anderson, Ms. Mendez-Harper and Chairman Danny Cross voted unanimously to pass motion.

16.19.4.9 DEFINING UNPROFESSIONAL OR DISHONORABLE CONDUCT:

- A.** Preamble: In defining "unprofessional conduct" the definitions of professional conduct and a pharmacist's duty should be considered.
- B.** Professional conduct may be defined as complying with all the laws and regulations that apply to a given professional activity.
- C.** Definition: Unprofessional or dishonorable conduct by a pharmacist shall mean, among other things, but not be limited to.
- (1) Violation of any provision of the Pharmacy Act as determined by the board.
 - (2) Violation of the board of pharmacy regulations as determined by the board.
 - (3) Violation of the Drug and Cosmetic Act as determined by the board.
 - (4) Violation of the Controlled Substances Act as determined by the board.
 - (5) Failure of the pharmacist to conduct himself professionally in conformity with all applicable federal, state and municipal laws and regulations to his relationship with the public, other health professions and fellow pharmacists.
 - (6) Failure to keep his pharmacy and/or area of professional practice clean, orderly, maintained and secured for the proper performance of his professional duties.
 - (7) Acquiring prescription stock from unlicensed sources.
 - (8) Failure to hold on the strictest confidence all knowledge concerning patrons, their prescriptions, and other confidence entrusted or acquired of by him; divulging in the interest of the patron only by proper forms, or where required for proper compliance with legal authorities.
 - (9) Participation in a plan or agreement which compromises the quality or extent of professional services, or facilities at the expense of public health or welfare.
 - (10) The solicitation of prescription business by providing prescribers with prescription blanks with the name of any licensed pharmacy or pharmacist printed thereon.
 - (11) Failure to report a theft or loss of controlled substances in accordance with 16.19.20.36 NMAC.
 - (12) Failure to report an impaired licensee in compliance with Subparagraph (a) of Paragraph (1) of Subsection C of 16.19.4.12 NMAC.
 - (13) Failure to train or supervise adequately supportive personnel or the use of supportive personnel in activities outside the scope of their permitted activities.

(14) Conviction, plea of nolo contendere, or entering into any other legal agreements for any violation of the Pharmacy Act, Controlled Substances Act, Drug Device and Cosmetic Act or any similar act of another state or territory of the United States.

(15) Suspension, revocation, denial, or forfeiture of license to practice or similar disciplinary action by a licensing agency of another state or territory of the United States.

(16) Dispensing a prescription for a dangerous drug to a patient without an established practitioner-patient relationship:

(a) except for the provision of treatment of partners of patients with sexually transmitted diseases when this treatment is conducted in accordance with the expedited partner therapy guidelines and protocol published by the New Mexico department of health;

(b) except for on-call practitioners providing services for a patient's established practitioner;

(c) except for delivery of dangerous drug therapies to patients ordered by a New Mexico department of health physician as part of a declared public health emergency;

(d) except for dispensing a prescription for the dangerous drug naloxone to a person for administration to another as authorized in public health law 24-23 administration of opioid antagonist;

(e) except for the prescribing or dispensing and administering for immunizations programs.

(17) Dispensing a prescription order for a dangerous drug to a patient if the pharmacist has knowledge, or reasonably should know under the circumstances, that the prescription order was issued on the basis of an internet-based questionnaire or an internet-based consultation without a valid practitioner-patient relationship.

[03-01-93; 16.19.4.9 NMAC - Rn, 16 NMAC 19.4.9, 03-30-02; A, 07-15-02; A, 01-15-08; A, 09-16-11]

8. 10:30 a.m. Note: Time as scheduled or immediately following the rule hearing - Robert Reidy, MD, Eye Associates of NM, Petition for Waivers - Compounded Sterile Product Requirements

Dr. Robert Reidy has presented a petition requesting two waivers to the Medical board and NMBOP; to be able to have an acceptable inventory on non-assigned, non-patient specific Avastin for patients requiring same day treatment; and the ability to submit compressed prescriptions requests, requests would contain all required elements required by the NMBOP.

Upon discussion the request does not fall within the statutes of 26-1-16 Drug, Device and Cosmetic Act. Suggestion were made regarding finding a local compounding pharmacy that would be able to supply Avastin upon daily demand and at a reduced cost opposed to the current status of demand and supply ordering and high cost to obtain Avastin.

The board went to recess at 12:05 p.m.

The board reconvened from recess at 1:25 p.m. Present were Mr. Mazzoni, Mr. Anderson, Mr. Carrier, Ms Mendez-Harper and Chairman Danny Cross. Ms. Buesing was not present.

9. 1:30 p.m. Stipulated or Settlement Agreements/Surrenders/Default Hearings and Orders*

2009-036 Request to Modify Order – Katherine Field

Motion: Stipulated Order held in abeyance until in compliance with MTP and must petition the board to re-activate her license. Motion made by Ms. Mendez-Harper, seconded by Mr. Mazzoni, board voted unanimously to pass motion.

2009-063 Settlement Agreement/NCA – Dennis Kon

Motion: Close session to discuss Dennis Kon and Cory McGuinn-Parks cases. Motion made by Mr. Mazzoni, seconded by Mr. Carrier to go into closed session. Mr. Mazzoni, Mr. Carrier, Mr. Anderson, Ms. Mendez-Harper and Chairman Danny Cross voted unanimously to pass motion.

The board went back into open session and the only issues discussed were Dennis Kon and Cory McGuinn-Parks.

Motion: Accept Settlement Agreement for Dennis Kon. Motion made by Mr. Anderson, seconded by Mr. Mazzoni, board voted unanimously to pass motion.

2010-018 Settlement Agreement/NCA – Tony Afshari

Motion: Accept Settlement Agreement. Motion made by Mr. Carrier, seconded by Mr. Anderson, board voted unanimously to pass motion.

2011-020 Voluntary Surrender – Cathy Lucero

Motion: Accept Voluntary Surrender. Motion made by Mr. Carrier, seconded by Mr. Mazzoni, board voted unanimously to pass motion

2011-028 Stipulated Agreement - Pharmacist Intern Application – Cory McGuinn-Parks:

After lengthy discussion the board agreed to table until Mr. McGuinn-Parks had time to review the Stipulated Agreement and continue the discussion on June 7, 2011 when the boards' counsel was present.

The board reconvened on Tuesday June 7, 2011 to continue discussion and deliberate regarding the Stipulated Agreement for Cory McGuinn-Parks. The boards' counsel Mary Smith was present, telephonically to address questions presented by the board and Mr. McGuinn-Parks.

Motion: A motion was made by Mr. Mazzoni, seconded by Mr. Anderson to go into closed session to deliberate. Mr. Mazzoni, Mr. Carrier, Mr. Anderson, Ms. Saavedra, Ms. Mendez-Harper and Chairman Danny Cross voted unanimously to pass motion.

The board went back into open session and the only issue discussed was Cory McGuinn-Parks.

Ms. Saavedra-Shean left the board meeting at 11:57 a.m.

Motion: Accept Stipulated Agreement with restrictions on intern license written to be consistent with previous Stipulated Agreement of technician license. Motion was made by Mr. Mazzoni, seconded by Mr. Carrier, board voted unanimously to pass motion.

10. Committee Reports

Tele-Pharmacy Committee: Mr. Harvey stated that they listened to Mr. Irby's issues regarding the Artesia hospital and that Mike Lacey was preparing to submit what will be needed for presentation of the waiver regarding policies and procedures.

Pharmacist CE Committee: No report at this time

Pharmacist Practice Committee: No report at this time

Emergency Preparedness Committee: No report at this time

Pharmacist Clinician Committee: Meeting will be held June 23, 2011

Board of Pharmacy/Chiropractor Formulary Committee: Formulary presented at legislative session but was vetoed. Mr. Anderson submitted what the NMBOP had upon approval of the Medical board. The Medical board had a hearing scheduled for 6/6/11 but it was cancelled.

Board of Pharmacy/BAOM Education Committee: Mr. Harvey discussed The NMBOP submission of education overview and goals and supporting rule language developed while working with Barbara Maddoux the BAOM representative. The language submitted was approved by BAOM as reported.

Pharmacy Technician Committee: Proposed changes to 16.19.22.7 NMAC regarding stocking and the cut-off date for extensions was discussed and language presented. Notice at the August 2011 board meeting.

Motion: Motion made by Mr. Mazzone, seconded by Ms. Mendez-Harper, board voted unanimously to pass motion.

Tuesday June 7, 2011

1. 9:05 a.m. Call to Order

Present were Mr. Carrier, Mr. Mazzone, Ms Saavedra-Shean, Ms. Mendez-Harper and Chairman Danny Cross. Mr. Anderson would be late and Ms. Buesing was absent. Mr. Anderson arrived at 9:10 a.m.

2. Public and Professional Requests/Waiver Petitions:

a. Julien Revire - Waiver Request: Michele Disco was present and asked the board to waive the ACPE requirement for Julien Revire for three months starting from October through December.

Motion: Waiver of ACPE for three months. Motion was made by Ms. Saavedra, seconded by Mr. Mazzone, board voted unanimously to pass the motion.

b. Lovelace Medical Center, David Nevill, CEO - Acquisition of the Heart Hospital of New Mexico, proposed licensure: Gary Cacciatore from Cardinal Health and David Nevill, Shawn Welch and Warren Arms all from Lovelace Medical Center were present to request a declaratory ruling in support of including the HHNM under LMC's pharmacy license and state controlled substance registration. LMC's plans for physically connecting the HHNM buildings with the other buildings on the campus will follow a phased approach summarized as follows:

Phase 1: Designating a walkway to connect the buildings.

Phase 2-A: Constructing an enclosed, climate controlled sky-bridge to span Elm St. NE from west to east.

Phase 2-B: Constructing a covering to the walkway along Elm St. NE from south to north, from the newly constructed sky-bridge to HHNM.

Phase 3: Constructing an enclosed, climate controlled sky-bridge(s) and walkway to connect LMC with HHNM.

Upon completing the acquisition of the HHNM, it will operate under LMC's existing hospital license.

Motion: Accept the petition as presented. Motion made by Mr. Mazzoni, seconded by Ms. Saavedra-Shean, board voted unanimously to pass the motion.

c. Matthew Campen, Ph.D., Assoc. Prof. UNMCOP - Petition for Waiver:

Professor Campen is asking that his laboratory at UNM Department of Pharmaceutical Sciences function as a preceptor location so that the student pharmacist be allowed to obtain 650 hours during this rotation.

Motion: Accept the waiver. Motion made by Ms. Saavedra-Shean, seconded by Mr. Anderson, board voted unanimously to pass the motion.

d. Martin Tran - Petition for Waiver:

I obtained my California registered pharmacist license (#64375) on 8/17/2010. I currently work as a night clinical pharmacist at Riverside County Regional Medical Center in California with broad clinical and distributive duties. However, I'll be starting a pharmacy practice residency at the University of New Mexico Hospital in July of this year.

I would like your consideration in accepting the hours that I've spent working as a licensed pharmacist in addition to the 1500 intern hours that I've completed so that I'm able to sit for the New Mexico MPJE. I am seeking a waiver of the required 2150 intern hours by New Mexico BOP according to provision 16.19.32 NMAC.

A waiver was not required regarding Mr. Tran's request.

e. Det. Robert Garcia, Santa Fe Police Department - Request for "Agent of Board" status for: Agt. Robert A. Garcia, Agt. Robert F. Vasquez, and Sgt. Andrew Padilla:

Mr. Harvey stated that Detective Robert Garcia was not able to be present to make the request himself. The officers listed will be authorized to be agents of the board.

f. Brett Cordes, DVM - Request for compounding of emergency sterile products:

The Board currently does not permit the compounding of sterile products for office use. A pharmacist may only supply a compounded sterile product pursuant to a prescription which is specific to a patient. The board suggested that Mr. Cordes contact the Veterinary board regarding clarification on this issue and any rule changes.

g. Doug Scribner, CPT, CNM - Petition for Waiver Extension:

Motion: Approve extension for 2 years. Motion made by Mr. Mazzoni, seconded by Mr. Anderson, board voted unanimously to pass motion.

h. Dawn Lomako, PharmD, R.Ph. - Waiver Petition:

Motion: Accept petition 80 hrs. active status. Motion made by Mr. Mazzoni, seconded by Ms. Mendez-Harper to allow Dawn active status of 80 hrs. and 2 year waiver by assisting the board doing volunteer work, board voted unanimously to pass motion.

i. Louis Ahusim, Pharm D, R.Ph., Executive Director, Pharmaceutical Services UNM Hospitals - Waiver Petition:

The board did not approve the waiver, but stated he must document and communicate with the pharmacist in the event a electronic prescription in the que failed to be sent and that it didn't go to another pharmacy.

3. Executive Directors Report (May be heard at any time during the two day meeting)

a. NABP PMP Hub: MOU w/ NABP - PMP Interconnect - Cost Funding:

Josh Bolin (telephonically) discussed the following information regarding Prescription Drug Monitoring Program.

MEMORANDUM OF UNDERSTANDING
Between the National Association of Boards of Pharmacy
and the

State of _____ Relating to its Prescription Drug Monitoring Program

Purpose

The purpose of this memorandum of understanding (MOU) is to describe the terms under which the National Association of Boards of Pharmacy (NABP), which is located at 1600 Feehanville Drive, Mount Prospect, IL 60056, will provide the Prescription Monitoring Program Interconnect System ("System") services to the State of _____ ("State").

Recitals

The State prescription drug monitoring program (PMP) collects prescription drug dispensing or prescribing information and permits authorized users to access prescription drug information for controlled substance prescriptions that are dispensed to patients. The purpose of this program is to identify prescription drug abuse, prevent diversion, and protect public health and safety. In addition, the PMP program may authorize the collection of dispensing information on non-controlled substance prescriptions where the drug is especially subject to abuse or diversion.

Individual state PMPs are not fully connected or operable with each other. The State will utilize the NABP PMP Interconnect System to address this lack of interoperability and provide the State with access to out-of-state PMP information in order to further support the lawful purpose of such programs by identifying and preventing drug abuse and diversion.

NABP is a 501(c)(3) non-profit organization whose mission is to support its member boards of pharmacy in establishing uniform standards to protect the public health and safety.

NABP wishes to provide the System to state PMPs in furtherance of such mission.

NABP has partnered with a solution provider, currently Appriss, Inc., to develop and maintain the System at little or no cost to the states, and anticipates that the System will be launched and available to participating states by September 30, 2011.

The System will permit authorized users to access or use information in one or more states' prescription drug monitoring programs.

NABP Responsibilities

1. NABP is responsible for developing and maintaining the functionality of the System, pursuant to requirements for access and use of PMP information that is established, from time to time, by the State. The System allows individuals who meet State-designated requirements ("Requirements") to access the State's PMP information. In turn, the System allows authorized individuals in the State, and in other states, who meet the criteria designated by each state to access such state's PMP information. Such persons are collectively referred to as "Authorized Users."
2. NABP is responsible for developing and maintaining the System in accordance with the State requirements, industry standards and laws and rules applicable to protected health information and personally identifiable information.
3. NABP is responsible for implementing a basic reporting functionality in the System so the State may access statistical reports regarding usage of State PMP information.
4. NABP may work with one or more solution providers, now or in the future, to discharge its responsibilities under this MOU.
5. NABP and its solution provider(s) cannot and will not access or use any protected health information and/or personally identifiable patient information that is transmitted through the System. Further, NABP and its vendor(s) do not claim any ownership interest in such information.
6. NABP agrees to implement the State or State requirements for access to and use of the State PMP information.
7. NABP is responsible for designating a contact person(s) to assist Authorized Users if there are questions about the System and to provide technical support.
8. NABP is responsible for any complaints, investigations, claims, lawsuits, losses, damages, and the like, relating to claims that an NABP employee, agent, or contractor failed to comply with state or federal laws or rules applicable to PMP information in the performance of this MOU or failed to comply with any requirement for access or use of PMP information through the System in his or her performance of this MOU, whether the requirement was established by the State, another state, or NABP.
9. NABP is not responsible for non-compliant use of the System or PMP information by any state authorized users or any state employees, agents or contractors.
10. NABP will cover all costs associated with the development of PMP Interconnect, including upgrade costs.
11. NABP will cover all reasonable, necessary and otherwise unfunded costs associated with modifying state PMPs to be able to interface with the PMP Interconnect.
12. NABP will cover all annual participation and maintenance for state participation the PMP Interconnect through June 30, 2016. At least one year prior to this date, NABP will notify states whether it will continue bearing all costs of state participation. If the state will be required to pay any part of the participation and maintenance fees, NABP will so notify the state of the maximum cost for participation for the next 2-year period, giving a one-year notice of potential future costs to the state.

State Responsibilities

1. State is responsible for timely providing NABP with the Requirements for access to and use of State PMP information (the Requirements are incorporated into this MOU as Attachment A). The State is responsible for timely notifying NABP of changes to such Requirements.

2. State is responsible for ensuring that its Requirements for access to and use of State PMP information comply with all applicable State and federal laws and rules.
3. State is responsible for ensuring its employees, agents, contractors, and affiliates comply with State and federal laws and rules applicable to the State's participation in and use of the System and states' PMP information.
4. State is responsible for any complaints, investigations, claims, lawsuits, losses, damages, and the like, relating to claims that a State employee, agent, contractor, or affiliate failed to comply with State or federal laws or rules applicable to PMP information in the performance of this MOU or failed to comply with any requirement for access or use of PMP information through the System in his or her performance of this MOU, whether the requirement was established by the State or NABP.
5. State is responsible for handling any complaints, investigations, or the like, and any disciplinary or enforcement matters concerning claims that its Authorized User failed to comply with State or federal laws or rules applicable to PMP information accessed through the System or any requirement for access or use of PMP information through the System.
6. State is responsible for ensuring that no other state's PMP information is added to any State information system or database except for an image of state PMP information that has been validly requested through the System. The State will securely store such image online and it will be securely available to the authorized requestor for 30 days. Thereafter, the State may retain the image indefinitely in a secure database with access restricted to only those authorized State employees or staff who have a legitimate State need to access or use such image.
7. If another state files a complaint against a State-authorized user for failure to comply with applicable State or federal laws or rules or fails to otherwise comply with any requirement for access or use of PMP information, or the System requirements, State agrees to investigate such complaint and is responsible for the cost of such investigation.
8. State agrees to collaborate with NABP to implement State Requirements for access to and use of State PMP information.
9. State is responsible for designating a contact person(s) to assist NABP if there are questions about State Requirements for access to or use of State's PMP information.

Information Disclaimer

PMP information that is accessed through the System is provided "as is," meaning as it is maintained by the particular state, and there is no guarantee from NABP that such information is complete, accurate, current, or reliable.

Term and Termination

1. This MOU is effective as of the date of last signature, below, and remains in effect for one year from the effective date. Thereafter, the MOU will automatically renew for consecutive one year periods until either party provides the other with 30 days prior written notification of termination.
2. The State or NABP may terminate this MOU at any time by providing 30 days prior written of termination.
3. In the event of a material breach of this MOU, or suspected breach of secure PMP information, either party may immediately terminate this MOU.

Indemnification

Each party to this MOU shall be responsible for the negligent acts and/or omissions of its officers, agents, employees, and contractors.

Assignment

The Parties shall not assign or subcontract the whole or any part of this MOU without the other Party's prior written consent.

Force Majeure

Neither Party shall be liable for delay or failure in performance of any of its obligations under this MOU when such delay or failure arises from events or circumstances beyond the reasonable control of such Party, including, without limitation, acts of God, fire, flood, war, explosion, sabotage, terrorism, embargo, civil commotion, acts or omissions of any government entity, supplier delays, labor disputes, communications or power failure that are not caused by NABP or its contractors, equipment or software malfunction not caused by NABP or its contractors and which are of a general nature within commerce (i.e. a general failure of the Windows[®] Operating System, Oracle[®] software, the Internet or similar type of failure).

Notice

Any notices or other communications that are required or that may be given by either Party to the other Party under this MOU, shall be in writing and must be sent by private courier service, in a trackable manner with a verified delivery receipt, or by registered or certified mail, postage prepaid, and addressed to the Party representative, as stated herein or as a Party may designate from time to time, or by FAX or e-mail, however, the original must be sent either by private courier service, in a trackable manner with a verified receipt, or by registered or certified mail, postage prepaid, and addressed to the Party representative as stated herein, or as a Party may designate from time to time.

Miscellaneous

1. This MOU, including all accompanying Attachments, constitutes and expresses the entire MOU and understanding between the Parties regarding all the matters herein referred to, all previous discussions, promises, representations, and understandings relative thereto, if any, between the Parties regarding the subject matter herein
2. The Parties may amend or revise this MOU so long as such changes are agreed to in writing by the Parties and executed by the designated individuals authorized to amend the MOU.
3. Under this MOU, Parties agree that NABP will perform as an independent contractor, and not as an agent or employee of the State.
4. NABP agrees to comply with all applicable state and federal laws and regulations concerning non-collusion and employment, including equal opportunity, prohibitions on hiring illegal immigrants, and anti-discrimination laws and rules, the American with Disabilities Act, and drug-free workplace laws and rules.
5. NABP and the State bind their agents and/or designees to all the terms and conditions of this MOU.
6. The invalidity of any section, subsection, clause or provision of this MOU shall not affect the validity of the remaining sections, subsections, clauses or provisions of this MOU.

The undersigned warrant that they are authorized representatives of their respective organizations and that they are authorized to enter into this MOU and bind their respective organizations to its terms and, in the case of the State, the State, to its terms.

National Association of Boards of Pharmacy

**State of _____
Department/Agency**

By: _____
**Carmen A. Catizone, MS, RPh, DPh
Executive Director/Secretary**

By: _____
Name, title

Date: _____

Date: _____

The board will decide approval based on time sensitive information and cost effectiveness.

b. NABP Annual Meeting Discussion, CPE Monitor How it works: Mr. Harvey discussed the system that NABP will use to store and track electronically CPE of technicians and pharmacist registrants. For other types of certifications such as ExCPT, audits and manual processing would be sent in and uploaded into their (registrants) profile. In the event that a licensing board wants to audit or verify they can log into the individuals profile through the NABP tracking system.

c. Proposed additions to Schedule I Controlled Substances: At this time a list is not available for approval.

d. Pharmacist Prescription of Hormonal Contraception, Letter from NM Medical Society: Mr. Tinker discussed issues regarding contraception protocols that had been presented to Randy Marshall with the New Mexico Medical Society which were not accepted as adopted by the New Mexico Medical Board. Mr. Tinker stated they will be meeting again to discuss the education needed and the scope of the protocols.

e. Artesia General Hospital time extension: Extension time will be granted until the August 2011 board meeting.

f. Training requirements for TB Testing: Dale Tinker and Michele Disco were present to discuss the training requirements from the DOH for registered pharmacists and working with Mr. Harvey to establish appropriate training via CDC webinar. DOH will provide ACPE approved training via New Mexico Pharmacists Association webinar starting in September 2011. A training outline will be submitted at the August 2011 board meeting.

g. Licensing facilities on federal or Native American Lands. AG Opinion 76- 19 Board Policy for current licensees and applicants: Document as presented;

Recent developments in the licensure area of facilities or researchers who are located on a Federal enclave or on Native American jurisdictions. Going forth we will not license any new facility or researcher on lands we do not have jurisdiction over. I do not believe we should be issuing a license to a facility or researcher unless we have the authority to enforce our laws and rules. We have been advised by the Assistant US Attorney, Howard Thomas, that in order for us to

have the authority there must be Federal legislation similar to the Pueblo Land Act.

We do not have the authority to license/enforce or laws and rules on Federal or many of the Native American reservations. We do have the authority to license facilities on any of the 19 Pueblos based on: PUBLIC LAW 109-133 [S. 279] DEC. 20, 2005.

We used that law for the bases of allowing the change of ownership of Nambe Drug to go forth. We will need a letter from the Pueblo Governor, similar to the one we got from the Pueblo of Pojoaque, in order to license a facility/researcher on any Pueblo lands.

We will not be trying to revoke or suspend any of the current facilities that are located on Federal or Native American land. Please continue to renew them as you normally would. I think if we are bound by our previous licensure of these facilities and any sudden change would probably be a detriment to their ability to conduct business.

h. Case Presentations:

Motion: Go into closed session to discuss case presentations. Motion made by Ms. Mendez-Harper, seconded by Mr. Anderson. Ms. Mendez-Harper, Mr. Anderson, Mr. Carrier, Mr. Mazzoni, and the Chairman Mr. Cross voted unanimously to pass the motion.

Board went back into open session and the only issues discussed were deliberation of case 2010-029 and case presentations.

Motion: Accept cases as presented. Motion made by Mr. Carrier, seconded by Mr. Mazzoni, board voted unanimously to pass motion.

2011-028 William Harvey/stipulated agreement was issued

2011-017 Ben Kesner/close

2011-021 Ben Kesner/voluntary surrender issued

2011-035 Ben Kesner/NCA to deny applicant

2010-082 Kathleen Klein/NCA to deny applicant

2011-018 Kathleen Klein/voluntary restriction on license

2011-024 Kathleen Klein/close

2011-023 Adela Padilla/close

2011-027 Adela Padilla/continue presentation at August 2011 board meeting

Other board issues:

Mr. Harvey, Ms. Mendez-Harper and Inspector Katie Klein attended the NABP meeting.

Various issues addressed were:

- DEA #'s being on prescriptions
- electronic prescriptions can be signed and faxed for schedules 3-5 but not any other schedules

- additional requirements for long term opiates use and prescribing
- social media
- rogue internet drug outlets
- election of officers
- VIPPS, VAWD: free for 5 yrs. then initiate payment of fees for use
- Teenagers prescription drug use

Motion: Adjourn board meeting. Motion was made by Mr. Anderson, seconded by Mr. Mazzoni to adjourn the board meeting, board voted unanimously to pass the motion.