

THE ARIZONA STATE BOARD OF PHARMACY

HELD A REGULAR MEETING-JANUARY 9 & 10, 2002

MIDWESTERN UNIVERSITY

GLENDALE, ARIZONA

The following Board Members and staff were present: President Gerald Ritt, Vice President William E. Jones, Susan Ford, Gene Drake, Paul Draugalis, Daniel Ketcherside and Dennis McAllister; Compliance Officers Ed Hunter, Cheryl Frush, Dennis Waggoner and Dean Wright; Deputy Director Hal Wand and Executive Director L. A. Lloyd. Also present was Assistant Attorney General Victoria Martin(1/10/02).

President Ritt convened the meeting at 9:00 a.m. and welcomed the audience to the meeting. Deputy Director Wand announced the procedure for obtaining continuing education credit for attending this meeting. Ms. Ford and Mr. McAllister introduced Charles Quist and Durga Zally pharmacy student interns present at the meeting.

AGENDA ITEM I - APPROVAL OF MINUTES

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Jones and Mr. Draugalis**, the minutes of the Regular Meeting of November 14 & 15, 2001 were unanimously approved as amended.

AGENDA ITEM II - PERMITS/LICENSES

Pharmacy Permits

Deputy Director Wand advised the Board that pharmacy permits shown on Schedule A, including the addendum, of the agenda included several non-resident applications, he further indicated that all were in order and all fees have been paid. Mr. Wand indicated that a number of individuals were present representing firms with applications on the agenda. Roxanne Brooks and Charles Freed representing Advanced PCS's application answered questions from the Board. The Board discussed the value of issuing of non-resident pharmacy permits but not licensing the pharmacist in charge, no action was taken. **On motion by Mr. McAllister and Mr. Draugalis** the Board unanimously approved the pharmacy permits itemized below, subject to final inspection by the compliance officer where appropriate.

IN-STATE PHARMACIES

- A.J.'s United Drug
7141 E Lincoln Dr., Scottsdale 85253
Bahsas' United Drug Inc.
- AdvanceRx.com
9501 E Shea Blvd., Scottsdale, 85260
AdvanceRx.com LP
- American Pharmaceutical Services
9220 N Central Ave, Phoenix 85020
(O)APS Acquisiton LLC
- American Pharmaceutical Services
9220A N Central Ave., Phoenix 85020
(O)APS Acquisiton LLC
- Apothecary Shop of Gilbert
2450 E Guadalupe Rd., #302, Gilbert 85324
Apothecary Shop of Gilbert Inc.
- Fry's Food & Drug #70
14845 E Shea Blvd. Fountain Hills 85268
Smith's Food & Centers Inc.
- Infusion Care Systems Inc.
5032 S Ash Ave., #108, Tempe 85282
(O) Critical Care Systems Inc.
- Walgreens Drug #5215
2363 S Lindsay Rd., Gilbert 85286
Walgreen Arizona Drug Co.
- Walgreens Drug #6062

76 W Guadalupe, Gilbert 85233-3349

Walgreen Arizona Drug Co.

- Walgreens Drug #6241
1055 E Riggs Rd., Chandler 85249
Walgreen Arizona Drug Co.
- Walgreens Drug #6666
2880 N Centre Court, Prescott Valley 86314
Walgreen Arizona Drug Co.
- Walgreens Drug #6729
10929 E Dynamite Blvd., Scottsdale 85255
Walgreen Arizona Drug Co.

(O) = Ownership Change

NON-RESIDENT (out of state) PHARMACIES

- Drugs For Less Mail Order
4284 New Getwell Rd., Memphis, TN 38118
National Pharmaceutical Network
- DrugSource Inc.
121 S. Emerson St., Suite 4, Mt. Prospect, IL 60056
DrugSource Inc.
- Excelle Rx/Hospica Pharmacia
530 Walnut St., Suite 550, Philadelphia, PA 19106
Excelle Rx
- Lee Pharmacy Inc.
4300 Grand Ave., Fort Smith, AR 72904
Lee Pharmacy Inc.
- Maxor Pharmacy
216 S. Polk, Amarillo, TX 79101
Maxor National Pharmacy Svces Corp.
- Med 4 Home Pharmacy
340 S 291 Highway, Liberty, MO 64048
(O) Med 4 Home Inc.
- Merck-Medco Rx Services
1 Millenium Drive, Willingboro, NJ 08046
Merck Medco Rx Services
- Norco
1121 W Amity Rd., Boise, ID 83705
Norco Inc.
- Prescriptiononline.com Inc.
7320 Smoke Ranch Rd., Suite D, Las Vegas, NV 89128
Prescriptiononline.com Inc.
- Star Medical Rx
1926 Linn St., Kansas City, MO 64116
Medimart Pharmacy LLC

No Drug Wholesaler or Drug Manufacturer permits were submitted for consideration at this meeting.

Pharmacist Licenses and Pharmacy Intern Licenses

Following a review of the roster of applicants for licenses as pharmacists and pharmacy interns and on assurance by the staff that all applications are in order and all fees paid: **on motion by Mr. Draugalis and Mr. Jones**, the Board unanimously approved the following licenses:

- Pharmacists S13043 through S13082 and,
- Pharmacy Interns I05550 through I05580.

For a complete list of individual names see attachments A and B.

AGENDA ITEM III - REPORTS

Executive Director Lloyd distributed copies of the latest financial statement and elaborated on the various entries and figures. Mr. Lloyd advised the Board that NABP was requesting nominations for Honorary President, Distinguished Service Award and the Fred T. Mahaffey Award for their 2002 annual meeting. Mr. Lloyd responded to inquiries from the Board relevant to both the financial statement and the director's report.

Deputy Director Hal Wand invited the Board to look at the most recent Compliance Officer Activity Report and provided detailed explanations for the various entries. Mr. Wand advised the Board of the staffing needs and the progress being made in requesting a certified list of candidates for vacant positions. The statistics quoted by Mr. Wand emphasized the growth in both the number of pharmacies in the state and the number of pharmacists. The numbers cited were quite convincing as to justify the compliance staff increases. Mr. Wand also mentioned that with increased staff compliance officer's territories would be realigned accordingly. In conclusion, Mr. Wand advised the Board that a particular computer program that allows licensees to make address changes on the board's web page had expired without the office being notified. Renewal and upgrading of the program is being addressed and the interruption should be minimal. Mr. Wand responded to questions from Board Members before concluding his report.

AGENDA ITEM IV - RECIPROCITY

Deputy Director Hal Wand addressed the issue of pharmacist license reciprocity in light of recent announcements by both California and Florida that each of the states are proposing a form of pharmacist licensure that is similar to reciprocity (license transfer) yet is not technically reciprocity. Mr. Wand called to Board's attention to material provided in the meeting book and went on to explain how the proposed licensing requirements for non-resident pharmacists will likely be required by each state. Mr. Wand was careful to indicate that the information was based on published proposals and final licensing requirements may differ from the proposals currently available.

Numerous questions and scenarios were presented by Board members; Mr. Wand did his best to address each of them before concluding the discussion by reminding the Board that interested parties should contact the individual state board for the most current information.

AGENDA ITEM V - NABP ANNUAL MEETING

Mr. Lloyd called the Board's attention to the material in the meeting book relevant to the annual NABP meeting to be held in Phoenix May 18-22, 2002. The issue of members and staff participation and involvement with the meeting was discussed. An overview of the events and opportunities to assist were considered. Members and staff were encouraged to reserve these dates and plan to be involved. No formal action was taken at this time.

AGENDA ITEM VI - RULES

Compliance Officer/Rule Writer, Dean Wright presented an overview and progress report on the following Administrative Rules packages:

- Hospital Pharmacy Rules (AAC R4-23-110, R4-23-651 through 664)
- Prescription Requirements Rules (AAC R4-23-110, 404, 405, 406, 407 & 409)
- Collaborative Practice Rules (AAC R4-23-110, new rule 411)

Prior to discussing the in-process rules, Mr. Wright reported that the Governor's Regulatory Review Council had recently approved the Intern Rules and the Pharmacist Licensure Rules, both of which contained fee increases.

In the matter of the Collaborative Practice Rules, Mr. Wright provided a brief background of activity and overview of the special rule making requirements attached to these particular rules. Arizona Pharmacy Association Past President, Richard Herrier was present to review recent changes to the rule as needed to satisfy other interested parties. Board Members and staff directed questions both to Dr. Herrier and to Mr. Wright.

Relevant to the Hospital Pharmacy Rules, Mr. Wright and Board Vice President William E. Jones combined in presenting an overview of the proposed revisions and refinements to the Hospital Pharmacy Rules. Questions and comments were presented by Board Members. Mr. Wright responded with answers and explanations and the Board commended both the sub-committee and the staff for their efforts in revising this extensive and complex rule.

President Ritt asked Mr. Wright to continue his report by presenting the revisions to the Prescription Requirements Rules. In this rule a Notice of Supplemental Rule making was filed pursuant to comments that were received from a national pharmacy organization. A public hearing was held on November 26, 2001...no one attended. A concise explanatory statement was presented for Board discussion and their decision. At the conclusion of the discussion in these matters the following Board

action was taken:

- *Collaborative Practice Rules* - The Board endorsed the proposed changes and approved the advancement toward submission for GRRC approval.
- *Hospital Pharmacy Rules* - The Board endorsed the proposed changes and approved the advancement of this package toward final GRRC review and approval.
- *Prescription Requirement Rule* - Following a thorough review and discussion of this revised rule package...on **motion by Mr. Jones and Mr. Draugalis**, the Board unanimously agreed to approve the Notice of Final Rulemaking, the Economic Impact Statement and the Concise Explanatory Statement.

AGENDA ITEM VII - COLLEGES OF PHARMACY

Mr. Lloyd briefly explained that the reason for reviewing and approving the colleges and schools of pharmacy is a portion of the qualifications for licensure as a pharmacist in Arizona. Mr. Lloyd indicated that non-US graduates are required to meet additional standards of equivalency in education prior to sitting for the NAPLEX and MPJE examinations.

Following a period of review and discussion, including previously approved and newly established colleges and programs of pharmacy, **on motion by Ms. Ford and Mr. Draugalis**, the Board unanimously approved the following colleges and programs of pharmacy.

For a complete list of approved colleges/programs of pharmacy see Attachment C.

AGENDA ITEM VIII - ADOPT EXAMINATIONS

Mr. Lloyd called the Board's attention to the statute and rule excerpts copied and included in the meeting book, R4-23-201 and ARS 32-1922 as background and added that recently reviewed and approved rules refer to MPJE as well as other examinations. One reference refers to AZPLEX or other Board approved examination. Specifying the name of the currently utilized examination is good agency policy and is consumer friendly. Following a brief discussion and **on motion by Ms. Ford and Mr. Jones**, the Board unanimously voted to identify and adopt the following examinations as required for licensure as a pharmacist: Multistate Pharmacy Jurisprudence Examination(MPJE), North American Pharmacy Licensure Examination (NAPLEX) and Foreign Pharmacy Graduate Equivalency Examination (FPGEE).

AGENDA ITEM XI - CONSENT AGREEMENTS

President Ritt indicated this was the time and the place in the matter of Consent to Entry of Order #01-0010-PHR issued to Walgreen (Arizona) Drug # 3766. Mr. Ritt called on Mr. Hal Wand to present a background and current status report to the board in this matter. Mr. Wand advised the Board that a Walgreen attorney had advised him that a signed copy of the Consent Order was forthcoming although it has not yet arrived. Following a brief discussion, **on motion by Mr. Drake and Mr. Draugalis** the Board unanimously agreed to table consideration in this matter until Thursday January 10, 2002.

President Ritt announced that this was the time and the place in the matter of Consent to Entry of Order # 01-0021-PHR issued to Alan D. Putman, R. Ph. President Ritt advised the members that it was not necessary for the respondent or the state to be present given that the Order was properly signed and in the possession of the Board.

Because the signed Consent Order is in the possession of the Board, this matter would be adjudicated at this time. Deputy Director Wand indicated that the signed Order was in his possession and no changes have been proposed to the copy provided to the Board in the meeting material.

On motions by Ms. Ford and Mr. Jones and on roll call vote of the entire Board; Findings of Fact, Conclusions of Law and the Board Order were approved as presented and signed by the respondent. Roll Call Vote for each motion was identical: Mr. Drake - yes; Mr. Ketcherside - yes; Mr. Draugalis - yes; Ms. Ford - yes, Mr. Jones - yes; Mr. McAllister - yes and Mr. Ritt - yes.

AGENDA ITEM XII - COMPLAINT REVIEW

Board Member, Dennis McAllister spoke as a member of the Board's Consumer Complaint Review Sub-Committee. Mr. McAllister responded to questions from Board Members and concurred in a suggestion to amend complaint # 2500 by changing the recommendation to 'dismiss' to 'a letter of warning'.

On motion by Mr. Jones and Mr. Ketcherside, the Board unanimously agreed to accept the sub-committee report with the change to # 2500 to indicate a 'letter of warning' will be sent to the pharmacy.

AGENDA ITEM X - SPECIAL REQUESTS

#1 Mansur Oloumi R. Ph., appeared with PAPA Program Director Lisa Yates to request that the Board terminate the "non work alone" requirement of Board Order 01-0013-PHR. The Board received copies of a letter of endorsement from PAPA's psychologist/counselor Dr. Joel Heerboth from Tucson. Ms. Yates concurred that Mr. Oloumi has progressed well in the program and appears to have embraced the concept of recovery as a requirement for sobriety. Mr. Oloumi presented a history of his unsuccessful attempts to secure a pharmacist position in Tucson, but was hampered by the restriction of not working alone in a pharmacy. His request is for the Board to rescind this restriction based on the endorsements of PAPA and his counselor. Following the dialogue between the Board and Mr. Oloumi and **on motion by Mr. McAllister and Mr. Draugalis**, the Board voted unanimously to approve Mr. Oloumi's request to terminate the "not work alone" restriction on his license. The balance of the conditions found in the Board Order 01-0013-PHR remain in effect.

#2 Alan D. Putman, R. Ph., appeared with Lisa Yates PAPA Program Administrator, to discuss with the Board the possibility of a modification in his return to practice-transition. Board Member Dennis McAllister declared a conflict of interest and did not participate in this discussion or decision. President Ritt requested a brief summary of participation and present status of Mr. Putnam in the PAPA program. Ms. Yates indicated that Mr. Putman has met all the requirements of the PAPA program and appears to have made good progress in his recovery. Ms. Yates further stated that Mr. Putnam's counselor is a very demanding individual and not one to compromise on recovery issues, also that the counselor supports Mr. Putnam's request to rephrase the pharmacy practice conditions imposed at the November 2001 Board Meeting. Upon concluding an extensive discussion between Board Members and Ms. Yates and Mr. Putnam; **on motion by Mr. Jones and Ms. Ford**, the Board on Roll Call vote, with Mr. Mc Allister abstaining, voted unanimously in favor of modifying the practice conditions restrictions imposed at the November meeting to read: Mr. Putnam shall NOT work more than 40 hours in a 7 day period and NOT work alone for the first 90 days back in practice. Consent Order 01-0021-PHR will be amended to reflect these changes.

#3 Wendell E. Helwig - Mr. Helwig notified Deputy Director Wand that he would withdraw his request and not appear at the meeting. There was no action taken in this matter.

#4 William Wayne Dallas, R. Ph. - appeared on his own behalf requesting Board approval to proceed with licensure in Arizona by reciprocating his license from Colorado. Mr. Dallas describe the nature of a minor disciplinary action taken in June 2001 by the Colorado Board. The nature of the action was a "letter of admonishment" with no practice suspension, probation or restrictions. Mr. Dallas further stated that he personally was not the dispensing pharmacist but was serving as the Pharmacist-In-Charge at the time of the problem. President Ritt asked Mr. Dallas if he had any other disciplinary actions on his pharmacist license. Mr. Dallas indicated that in 25 years of practice this was the first blemish on his license and it was a record-keeping issue. **On motion by Mr. Draugalis and Mr. Ketcherside**, the Board voted unanimously to approve Mr. Dallas' request to proceed with reciprocity.

#5 Richard Cieslinski, R.Ph., appeared on behalf of his employer, Express Scripts of Tempe, AZ. At President Ritt's request, Deputy Director Hal Wand provide an overview of Mr. Cieslinski's reason for appearing.. Mr. Wand's understanding is that Express Scripts pharmacy is seeking a Board waiver of the requirement to hand write the initial of the final verifying pharmacist on the label of a dispensed prescription before shipping the item to the patient. Mr. Wand suggested that the Compliance Officer's that recently visited the pharmacy may be better informed on the safeguards and precautions being proposed. Compliance Officers Dean Wright and Dennis Waggoner responded to questions from Board Members and shared their observations from a recent visit to the pharmacy. In summary the compliance staff felt there will be sufficient verification/documentation of dispensed prescriptions to protect the consumer.

Mr. Cieslinski described verbally the prescription filling and verification process in the Express Scripts Tempe, AZ pharmacy and focused on the technologic advances that stimulated this request. Multiple cross-checking, bar-code scanning and verification processes have proven highly effective to ensure that a prescription is correctly filled and labeled.

At the conclusion of a vigorous discussion and **on motion by Mr. McAllister and Mr. Ketcherside**, the Board voted unanimously to grant a renewable waiver for one year to Express Scripts from hand initialing the label of prescriptions based on presentation of sufficient technological advances to protect the public health.

#6 N. Reid Glover did not appear at this meeting.

Mr. McAllister asked to have the issue of "Foreign Pharmacy Graduate Licensure" on the March agenda.

AGENDA ITEM XI - CONFERENCES

Complaint 2472

Pharmacists Robert Judd & Kelleen Brenden and supervisor Richard Cieslinski appeared pursuant to a consumer complaint alleging a prescription dispensing error and an unacceptable delay in correcting the error. President Ritt asked Pharmacy Board Compliance Officer Cheryl Frush to present the findings of her investigation. President Ritt then asked Mr. Cieslinski to describe the events leading to this complaint. Several Board Members directed numerous questions to the conferees to better understand how and why this consumer was subjected to unacceptable service in correcting a dispensing error. Board Members indicated their frustration and diminishing patience in the events leading to this complaint. As a result Mr. Cieslinski was admonished to initiate customer service training and policies that will preclude a recurrence of this situation.

Complaint 2478

Pharmacist Jeff Gubernick appeared on his own behalf due to a consumer complaint of an alleged dispensing error. President Ritt requested Compliance Officer Dennis Waggoner to describe the findings of his investigation. Following Mr. Waggoner's presentation, President Ritt asked Mr. Gubernick what measures he has taken to preclude the recurrence of this event. Mr. Gubernick elaborated on the changes he has initiated to improve the customer service from the pharmacy. Based on statements in the Compliance Officer's report; Mr Draugalis commented that it might be a good idea for Mr. Gubernick to take an Arizona Pharmacy Law continuing education course. Mr. McAllister stated that the reported practice changes were positive and should preclude recurrences, he also indicated that an additional incident would result in a disciplinary hearing.

Complaint 2479

Pharmacist Allison Bates and Supervisor Ken Cross appeared pursuant to a consumer complaint alleging that a dispensing error occurred. Compliance Officer Dennis Waggoner provided an overview of his investigation in this matter.

President Ritt inquired if there was litigation pending in this matter. Mr. Cross replied there was not. Mr. Ritt then asked Ms. Bates to describe the measures she has taken that would preclude a recurrence of this violation.

Ms. Bates recited several procedural changes that have been implemented in the pharmacy to prevent a recurrence.

Ms. Bates was asked if an incident report had been filed. She indicated it had and was sent to the Boise, Idaho office. Several Board Members offered practical suggestions for preventing confusion in dispensing "look-alike" and "sound-alike" medicines. Ms. Bates was dismissed and encouraged to initiate the measures discussed.

Complaint # 2481

Pharmacist James Thompson and Supervisor Terry Daane appeared pursuant to a consumer complaint alleging a dispensing error. Compliance Officer Ed Hunter reviewed the findings of his investigation for the Board.

President Ritt asked Mr. Thompson to briefly describe the events leading to this complaint. Mr. Thompson outlined measures that have been implemented to address dispensing errors in general. Mr. Ritt asked Mr. Thompson to address the allegation of unprofessional attitude on his part. Mr. Thompson stated that he was very surprised to see that comment since he has a history of being low-key, conciliatory, caring and compassionate. Mr. Thompson indicated that a new policy of having the completed prescription visually confirmed both when it is bar-code scanned and when the patient picks it up. There being no additional comments, President Ritt encouraged Mr. Thompson to routinely follow the new policy.

Board Member Paul Draugalis declared a conflict of interest and did not participate in the above conference.

MEMO (investigation)

Present for the discussion were: Steve Genrich, R. Ph., owner/pharmacist at Genrich Pharmacy in Phoenix; and

Bill Wilson, John Sheels and Marian Fisher of Bergen Brunswig/Amerisource Wholesale Drug (BBA).

President Ritt called Compliance Officer Dean Wright to provide information from his investigation to the Board. Mr. Wright stated that Genrich Pharmacy had returned a quantity of injectable prescription drugs to BBA for credit; possibly in violation of the customer/client agreement with BBA. The customer/client/BBA agreement signed by Mr. Genrich clearly states that he will not return items to BBA for credit that were not purchased from BBA. Mr. Wright failed to find documentation in Genrich Pharmacy records to confirm that the quantity of product returned was purchased from BBA. Further, Mr. Wright believes that the majority of the item in question that was returned for credit, was received by Genrich Pharmacy from a former client now living in California and not currently a customer of Genrich Pharmacy. Because the item is an injectable and because it requires being stored at specified temperatures to insure potency; participating in an arrangement described in the

investigational report raises concerns as to the integrity of the product and the ethics of the pharmacy.

Rather than discussing any of the investigative findings at this time; **on motion by Mr. McAllister and Ms. Ford**, the Board voted unanimously to discontinue the present discussion, refer the case to the State Attorney General's office for review and comment as to the possibility of insurance fraud and federal drug law violations.

The balance of the agenda issues were scheduled for Thursday January 10, 2002.

President Ritt opened the meeting for comments from the public, in so doing he clearly stated that the Board can not act or respond to issues from the audience but is able to listen. A number of comments were offered to the Board.

President Ritt recessed the meeting at 4:02 p.m. to be reconvened at 9 a.m. January 10, 2002.

President Ritt reconvened the meeting at 9:10 a.m. January 10, 2002 at Midwestern University Glendale, Arizona with the following members and staff present: President Gerald Ritt, Vice President William E. Jones, Susan Ford, Gene Drake, Paul Draugalis, Daniel Ketcherside and Dennis McAllister; Compliance Officers Ed Hunter, Cheryl Frush, Dennis Waggoner and Dean Wright; Deputy Director Hal Wand and Executive Director L. A. Lloyd. Also present was Assistant Attorney General Victoria Martin.

AGENDA ITEM IX - CONSENT AGREEMENTS.....continued from 1/9/02

As announced on 1/9/02 the Matter of Walgreen Arizona Drug Co. dba Walgreens Drug # 3766 of Scottsdale, Arizona; Notice of Hearing Number 01-0010-PHR was continued to this date pending receipt of signed documents.

President Ritt called on Deputy Director Hal Wand to summarize the status of this Consent to Entry of Order.

Mr. Wand indicated that there was agreement in principle among the parties and counsel for the respondent had assured him that signed copies were in route to the Board office. Given these assurances and pending receipt of signed documents having the same conditions of settlement, **on motion by Mr. Jones and Mr. McAllister**, the Board, on a roll call voted unanimously in favor of adopting the Findings of Fact and the Conclusions of Law as presented in Notice of Hearing No. 01-00010-PHR, issued the Walgreen Arizona Drug Co. dba Walgreens Drug #3766 of Scottsdale, Arizona.

The record of roll call votes is as follows: Mr. Drake-yes, Mr. Ketcherside-yes, Mr. Draugalis-yes, Mr. Jones-yes, Mr. McAllister-yes, Mr. Ritt-yes.....Ms. Ford declared a conflict of interest and did not participate in this matter.

After reviewing the proposed Order in the Consent Agreement 01-0010-PHR and, **on motion by Mr. Jones and Mr. McAllister**, the Board, on a roll call voted unanimously in favor of adopting the Order as presented in Notice of Hearing No. 01-00010-PHR, issued the Walgreen Arizona Drug Co. dba Walgreens Drug # 3766 of Scottsdale, Arizona.

The record of roll call votes is as follows: Mr. Drake-yes, Mr. Ketcherside-yes, Mr. Draugalis-yes, Mr. Jones-yes, Mr. McAllister-yes, Mr. Ritt-yes.....Ms. Ford declared a conflict of interest and did not participate in this matter.

AGENDA ITEM XIII - PROPOSED LEGISLATION

President Ritt asked for comment on this agenda item. Assistant Attorney General Victoria Martin indicated a need to provide legal advice to the Board in this matter.**On motion by Mr. Draugalis and Mr. Jones**, the Board unanimously agreed to recess the open meeting and reconvene in Executive Session for the purpose of receiving legal advice at 9:25 A.M.

On completion of the executive session, **on motion by Mr. Ketcherside and Ms. Ford**, the Board unanimously agreed to close the Executive session and returned to Open Session at 9:37 a.m.

Discussion concerning the Board's proposed legislative changes continued in open session, no motions were made or passed on this item.

AGENDA ITEM XIV - ARIZONA PHARMACY ASSOCIATION REPORT

Arizona Pharmacy Association Executive Director Kathy Boyle provided the Board with information relevant to legislative issues that may impact on the practice of pharmacy during the 2002 legislative session. Ms. Boyle indicated that the APA Board of Directors has reviewed the Pharmacy Board's proposed changes to the controlled substances act and is supportive of the changes. Ms. Boyle briefly reviewed the latest discussion relevant to the definition of 'natural substance' which has been a

bone of contention among dispensing pharmacists for sometime. She was unsure how this issue would resolve. In closing, Ms. Boyle thanked retiring Board of Pharmacy Member Susan Ford for her service and dedication to protecting the public health.

President Ritt declared a lunch recess and reconvened the meeting at 1 p.m.

Prior to addressing the remaining business issues; President Ritt announced to the Board, the staff and the audience that Governor Hull had made her decision on filling the two vacancies (Eugene Drake and Susan Ford) on the Board of Pharmacy. Recognizing that Board Member Bill Jones has served as the Board's 'hospital pharmacist member' for three years and due to a recent change in employment he is no longer hospital based; the Governor in compliance with the statute requirement, appointed Linda McCoy a hospital pharmacist at Good Samaritan Hospital in Phoenix to a five year term. The Governor also reappointed sitting public member Eugene Drake to another five year term. President acknowledged the excellent service and dedication of retiring member Susan Ford. Among the attributes cited by President Ritt were: Susan obviously spent hours preparing for a meeting, she was quick to analyze the issues and adept at finding options in resolving sticky matters. Mr. Ritt encouraged Susan to remain active and involved in the profession and concluded by saying how much Susan will be missed by the Board. Executive Director Lloyd added that the staff concurs with Mr. Ritt's comments and wishes Ms. Ford the very best in her career and her future.

AGENDA ITEM XV - ELECTION OF OFFICERS

President Ritt announced that nominations for the office of President of the Board for the calendar year 2002 were in order. **Mr. Draugalis nominated and Mr. McAllister seconded**, the nomination of William E. Jones as President of the Board of Pharmacy. There being no further nominations, President Ritt closed the nominations and the Board voted unanimously to elect Mr. Jones as President. President Ritt opened the floor to nomination for the office of Vice President. **Mr. McAllister nominated and Ms. Ford seconded**, the nomination of Paul Draugalis as Vice President. There being no further nominations, President Ritt closed the nominations and the Board voted unanimously to elect Mr. Draugalis as Vice President.

Board Members and Staff joined in thanking Mr. Ritt for his outstanding service as President of the Board this past year.

AGENDA ITEM XIV - HEARINGS

President Ritt stated that this was the time and the place in the Matter of Notice of Hearing **01-0022-PHR** issued to Jesse I. Kleinhesselink, R.Ph. Arizona License Number 10867.

President Ritt inquired if the Respondent was present or represented by counsel. There was no reply.

President Ritt inquired if the State was present, represented by counsel and prepared to proceed. Assistant Attorney General Victoria Martin answered to representing the state and confirmed she was prepared to proceed.

President Ritt stated that it was not necessary to have the Respondent present nor that Respondent be represented for the Board to conduct the Hearing.

President Ritt invited Ms. Martin to proceed.

Ms. Martin indicated she would waive the reading of the Notice and move directly to her opening statement. The opening statement established the allegations of violations, a brief reference to evidence in the state's possession and the fact that the Respondent did not challenge the allegations set-forth in the Notice.

President Ritt asked if the State would call any witnesses. Ms. Martin indicated she would call Board of Pharmacy Deputy Director Hal Wand. President Ritt placed Mr. Wand under oath.

Ms. Martin directed foundational questions relating to Mr. Wand's position, length of service, official duties and how Notice in this case was served to the witness.

Mr. Wand responded promptly and appropriately to Ms. Martin's questions.

Ms. Martin asked President Ritt to accept into evidence the PAPA letter regarding non-compliance with the PAPA program. President Ritt did allow this evidence as Exhibit #1.

President Ritt invited questions/discussion from Board Members. There was none.

In her concluding remarks, Ms. Martin told the Board that the information presented clearly established jurisdiction of the Board in this case and evidence presented clearly established the guilt of the Respondent. Ms. Martin asked the Board to find the Respondent guilty and to adopt an appropriate Order in this matter.

President Ritt invited a motion addressing the Finding of Facts and the Conclusion of Law in the Matter of Notice of Hearing Number 01-0022-PHR issued to Jesse I. Kleinhesselink holder of License # 10867.

On motion by Ms. Ford and Mr. Draugalis, and on a roll call vote, the Board unanimously agreed that sufficient evidence was presented to sustain the charges in this matter; and further that the Board of Pharmacy does have jurisdiction in this matter as provided in ARS § 32-1904 and § 32-1927.

Result of the roll call vote: Mr. Drake - yes; Mr. Ketcherside - yes; Mr. Draugalis - yes; Ms. Ford - yes;

Mr. Jones -yes; Mr. McAllister - yes and Mr. Ritt - yes.

On motion by Ms. Ford and Mr. Draugalis, and on a roll call vote, the Board unanimously agreed to revoke license number 10867, issued to Jesse I. Kleinhesselink.

Result of the roll call vote: Mr. Drake - yes; Mr. Ketcherside - yes; Mr. Draugalis - yes; Ms. Ford - yes; Mr. Jones -yes; Mr. McAllister - yes and Mr. Ritt - yes.

President Ritt stated that this was the time and the place in the Matter of Notice of Hearing **01-0023-PHR** issued to Jeffery P. Yannello, R.Ph. Arizona License Number 9192.

President Ritt inquired if the Respondent was present or represented by counsel. There was no reply.

President Ritt inquired if the State was present, represented by counsel and prepared to proceed. Assistant Attorney General Victoria Martin answered to representing the state and confirmed she was prepared to proceed.

President Ritt stated that it was not necessary to have the Respondent present nor that Respondent be represented for the Board to conduct the Hearing.

President Ritt invited Ms. Martin to proceed.

Ms. Martin indicated she would waive the reading of the Notice and move directly to her opening statement. The opening statement established the allegations of violations, a brief reference to evidence in the state's possession and the fact that the Respondent did not challenge the allegations set-forth in the Notice.

President Ritt asked if the State would call any witnesses. Ms. Martin indicated she would call Board of Pharmacy Deputy Director Hal Wand. President Ritt placed Mr. Wand under oath.

Ms. Martin directed foundational questions relating to Mr. Wand's position, length of service, official duties and how Notice in this case was served to the witness.

Mr. Wand responded promptly and appropriately to Ms. Martin's questions.

Ms. Martin asked Mr. Wand how he obtained information that Mr. Yannello's Pennsylvania Pharmacist License had been suspended.

Mr. Wand indicated that the National Association of Boards of Pharmacy (NABP) collects and distributes to member states a summary of disciplinary actions taken in other states. It was this publication that notified our office. Mr. Wand subsequently obtained certified copies of the Pennsylvania action, those documents are available for Board Members to review.

Ms. Martin asked President Ritt to accept into evidence the copy of the Pennsylvania action in this matter. President did allow this evidence as Exhibit #1.

President Ritt invited questions/discussion from Board Members. There were none.

In her concluding remarks, Ms. Martin told the Board that the information presented clearly established jurisdiction of the

Board in this case and evidence presented clearly established the guilt of the Respondent. Ms. Martin asked the Board to find the Respondent guilty and to adopt an appropriate Order in this matter.

On motion by Mr. Draugalis and Mr. Jones, and on a roll call vote, the Board unanimously agreed that sufficient evidence was presented to sustain the charges in this matter; and further that the Board of Pharmacy does have jurisdiction in the matter of Notice of Hearing 01-0023-PHR as provided in ARS 32-1904 and 32-1927.

Result of the roll call vote: Mr. Drake - yes; Mr. Ketcherside - yes; Mr. Draugalis - yes; Ms. Ford - yes; Mr. Jones -yes; Mr. McAllister - yes and Mr. Ritt - yes.

On motion by Mr. Draugalis and Mr. Drake, and on a roll call vote, the Board unanimously agreed to suspend license number 9192, issued to Jeffery P. Yannello for the duration of the Pennsylvania Board of Pharmacy's suspension; at which time Mr. Yannello may petition the Board to vacate the suspension and reinstate the license in good standing.

Result of the roll call vote: Mr. Drake - yes; Mr. Ketcherside - yes; Mr. Draugalis - yes; Ms. Ford - yes; Mr. Jones -yes; Mr. McAllister - yes and Mr. Ritt - yes.

AGENDA ITEM XVII - CALL TO THE PUBLIC

Prior to adjourning the meeting ; President Ritt opened the meeting for comments from the public with the caveat that the Board is only able to listen and not comment on issues presented.

AGENDA ITEM XVIII - ADJOURNMENT

On motion by Ms. Ford and Mr. Ketcherside, the Board unanimously agreed to adjourn the meeting at 10:10 a.m.

Retiring President Ritt thanked the Board Members and Staff for their support and dedication during his term in office.