

**THE ARIZONA STATE BOARD of PHARMACY
HELD A REGULAR MEETING MARCH 15 AND 16, 2006
GLENDALE, ARIZONA**

March 15, 2006

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

President Dutcher convened the meeting at 8:30 A.M. and welcomed the audience to the meeting.

Ms. Frush explained that law continuing education would be offered for attendance at the meeting.

AGENDA ITEM 1 - Approval of Minutes

Following a review of the minutes and an opportunity for questions and **on motion by Dr. Tippett and Dr. Berry**, the minutes of the Regular Meeting held on January 25, 2006 and the telephonic meeting held on February 10, 2006 were unanimously approved by the Board Members.

AGENDA ITEM 2 - Introduction of New Assistant Attorney General - Stephen Wolf

Assistant Attorney General, Roberto Pulver stated that unfortunately he has decided to accept employment with an outside firm and will be terminating his employment with the Board of Pharmacy. Mr. Pulver introduced Assistant Attorney General, Mr. Stephen Wolf, who will be replacing Mr. Pulver as the Board's new full-time attorney.

Mr. Wolf gave a brief overview of his educational and work experience. Prior to joining the Pharmacy Board, Mr. Wolf worked as an Assistant Attorney General with the Arizona Medical Board.

President Dutcher presented Mr. Pulver with an honorary Pharmacist license.

Mr. Pulver stated that he has enjoyed working with the Board and will miss working with the Board.

AGENDA ITEM 3 - Introduction of New Chief Executive Officer for the Arizona Pharmacy Alliance - Mindy Rasmussen

Mr. Wand introduced Mindy Rasmussen, who is the new Chief Executive Officer of the Arizona Pharmacy Alliance.

Ms. Rasmussen gave a brief overview of her educational and work experience. Ms. Rasmussen was formerly the Executive Director of the Wyoming Pharmacy Association. Ms. Rasmussen began her current position with the Arizona Pharmacy Alliance in February of 2006.

AGENDA ITEM 4 - Permits & Licenses

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

Estrella Pharmacy

Owner Ernest Yen and Future Pharmacist In Charge Caroline Yen appeared to answer questions from Board Members.

President Dutcher opened the discussion by asking the applicants to describe the nature of their business.

Mr. Yen stated that they would be opening a new retail pharmacy.

Mr. Dutcher asked if it would be an open door pharmacy.

Mr. Yen replied yes.

President Dutcher asked if they would be compounding any medications.

Mr. Yen replied that they would be compounding patient's prescriptions for creams and ointments.

Mr. Wand stated that at the beginning the Pharmacist in Charge would be a pharmacist from a staffing agency.

Ms. Yen stated that she would be graduating in May and after receiving her license she would become the Pharmacist in Charge.

Mr. Dutcher wished them luck in their endeavor.

Mountain Valley Regional Rehabilitation Hospital

Chief Executive Officer Kevin Chavez and Pharmacist In Charge Robert Wilcox were present to answer questions from Board Members.

President Dutcher opened the discussion by asking the individuals to describe the nature of their business.

Mr. Chavez stated that this would be a specialty hospital specializing in neurological, cardiac, pulmonary, and orthopedic conditions.

Mr. Wand asked if the pharmacy would be open forty hours a week.

Mr. Wilcox stated that initially they would be open forty hours a week.

Mr. Wand asked if there would be someone on call after the pharmacy closes.

Mr. Wilcox replied yes. Mr. Wilcox stated that they have not worked out all the details on how the coverage will be staffed at this time.

Mr. Chavez stated that they would be using staff to cover the hospital 24 hours 7 days a week

Dr. McCoy asked how many beds would be in the hospital.

Mr. Chavez stated that there would be 40 beds.

Dr. McCoy asked if they plan on opening at full capacity.

Mr. Chavez stated that they plan to admit their first patient on June 12, 2006.

Dr. McCoy asked if the pharmacy planned on using a Pyxis system.

Mr. Wilcox stated that they are looking at Pyxis Profile.

Mr. Chavez stated that their governing body will be meeting shortly to approve their policies and procedures and appoint a P & T Committee. Mr. Chavez stated that all these items would be completed by June 6, 2006 when they are approved as a hospital by the state of Arizona.

Mr. Dutcher thanked them for attending the meeting and wished them luck.

Avondale Pharmacy

Owner and Pharmacist In Charge Lameck Nyakweba was present to answer questions from Board Members.

President Dutcher opened the discussion by asking the applicant to describe the nature of his business.

Mr. Nyakweba stated that he is planning on opening a retail pharmacy and plans on compounding patient specific prescriptions.

Mr. Dutcher asked Mr. Nyakweba if he has completed any compounding courses.

Mr. Nyakweba stated that he would be attending the compounding classes offered by PCAA in Houston.

Mr. Dutcher asked Mr. Nyakweba if he was aware of the rules concerning Internet prescribing and dispensing.

Mr. Nyakweba replied that he is aware of the rules.

Mr. Dutcher thanked the applicant for appearing and wished him luck.

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

RESIDENT (In Arizona)

- Walgreens Drug #09953
7885 E. Speedway Blvd.
Tucson, AZ 85710
Walgreen Arizona Drug Co.
- Fry's Food and Drug #474
29411 N. Cave Creek Rd.
Cave Creek, AZ 85331
Smith's Food and Drug Centers, Inc.
- Fry's Food and Drug #11
6710 W. Bethany Home Rd.
Glendale, AZ 85303
Smith's Food and Drug Centers, Inc.
- Fry's Food and Drug #78
39508 N. Daisy Mountain Dr.
Anthem, AZ 85086
Smith's Food and Drug Centers, Inc.
- Estrella Pharmacy, LLC
9305 W. Thomas Rd., Suite 185
Phoenix, AZ 85037
Estrella Pharmacy, LLC
- Walgreens Drug #09652
1575 N. Arizona Blvd.
Coolidge, AZ 85228
Walgreen Arizona Drug Co.
- Value Options Pharmacy at Osborn
3640 W. Osborn
Phoenix, AZ 85019
VO of Arizona
- Sunset San Luis Pharmacy
815 E. Juan Sanchez Blvd.
San Luis, AZ 85349
Sunset Community Health Center, Inc.
- Walgreens Drug #09175
23477 W. Yuma Rd.
Buckeye, AZ 85326
Walgreen Arizona Drug Co.
- Costco Pharmacy #644
2887 S. Market St.
Gilbert, AZ 85296
Costco Wholesale Corp.
- CVS/pharmacy #1744
6650 W. Lower Buckeye Rd.
Phoenix, AZ 85043
German Dobson CVS, LLC

- CVS/pharmacy #5892
5050 W. Baseline Rd.
Laveen, AZ 85339
German Dobson CVS, LLC
- CVS/pharmacy #7116
1855 W. Thunderbird Rd.
Phoenix, AZ 85023
German Dobson CVS, LLC
- CVS/pharmacy #7264
39510 N. Gavilan Peak Pkwy.
Anthem, AZ 85086
German Dobson CVS, LLC
- Food City United Drug #60
450 N. Grand Court Plaza
Nogales, AZ 85621
Bashas', Inc.
- Avondale Neighborhood Pharmacy
965 E. Van Buren Ave. #129,
Avondale, AZ 85323
Lameck Nyakweba
- Mountain Valley Regional Rehabilitation Hospital
3700 Windsong Drive
Prescott Valley, AZ 86314
Ernest Health, Inc.

Non-Resident Permits

Mr. Wand stated that Non-Resident Pharmacies are required to be licensed in Arizona if they ship medications to Arizona. Mr. Wand stated that the majority of the pharmacies are Compounding pharmacies, Home Infusion pharmacies, and Respiratory pharmacies. Mr. Wand stated that the applicant is required to send a copy of their state license.

Mr. McAllister added if the pharmacies were not licensed then no action could be taken against them for violating any laws.

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

NON-RESIDENT (Out of State)

- Signature Pharmacy
1200 Kuhl Ave.,
Orlando, FL 32806
Naomi Loomis
- Aetna Specialty Pharmacy, LLC
503 Sunport Lane,
Orlando, FL 32809
(O) Aetna Specialty Pharmacy, LLC
- Sterling Medical Services Pharmacy, LLC
2 Twosome Dr.,
Moorestown, NJ 08057
Sterling Medical Services, LLC
- Schraft's A Specialty Pharmacy
348 E. Northfield Rd.,
Livingston, NJ 07039
Schraft's A Walgreens Specialty
- Concept Pharmaceuticals, LLC
1460 Ann St.,
Montgomery, AL 36107
Concept Pharmaceuticals, LLC
- Option Care Nevada, LLC
3900 W. Charleston Blve., Suite Y,
Las Vegas, NV 89102
Option Care Nevada, LLC
- US Compounding

2515 College Ave.,
Conway, AR 72034
US Compounding, Inc.

- Rockwell Compounding Associates, Inc.
350 Theodore Fremd Ave., 2nd Floor,
Houston, TX 77070
Rockwell Compounding Assoc. Inc.
- Worksite Pharmacy #401
14210 Scottslawn Rd.,
Marysville, OH 43041
Familymeds
- Olshins Pharmacy
114 Congress St.,
Newark, NJ 07105
Olshins Pharmacy, Inc.
- Cardinal Health 101, Inc.
1330 Enclave Parkway,
Houston, TX 77077
Cardinal Health 101, Inc.
- Home HealthCare Resources, Inc.
800 Clarmont Ave.,
Bensalem, PA 19020
Home HealthCare Resources, Inc.
- Medex BioCare Pharmacy, LLC
8024 Stage Hills Blvd., Ste 107,
Bartlett, TN 38133
Medex Biocare Pharmacy, LLC
- Medicom Rx
5474 Williams Rd., Suite 1B,
Tampa, FL 33647
Vin-Kash, Inc,
- CoramRx, LLC
4-Rear Spring Mill Dr.,
Malvern, PA 19355
CoramRx, LLC
- DaVita Rx, LLC
2616 Commerce Park Drive, Suite 500,
Orlando, FL 32819
Davita, Inc
- Pentech Infusions, Inc.
106 Chelsea Parkway,
Boothwyn, PA 19061
Pentech Holdings, Inc.
- Priority Healthcare Pharmacy, Inc.
250 Technology Park,
Lake Mary, IL 32746
(O) Priority Healthcare Pharmacy, Inc
- I Care Pharmacy
109 W. Gentile St.,
Layton, UT 84041
Roy Rasband
- Priority Healthcare Pharmacy
140 Quigley Blvd.,
New Castle, DE 19720 (O)
Chesapeake Infusion, Inc.
- IVPCare Inc
7164 Technology Dr., Suite 100,
Frisco, TX 75034
IVPCare Inc.
- IVPCare Inc
373 Van Ness Ave., Suite 160,
Torrance, CA 90501
IVPCare Inc.
- Grand Pharmacy
5417 Grand Blvd,

New Port Richery, FL 34652

Grand Pharmacy LLC

- Pharma Corr, LLC
6705 Camile Ave.,
Oklahoma City, OK 73149
Pharma Corr LLC
- Choice Source Therapeutics of Houston, TX
20333 State Hwy. 249, Ste 450,
Houston, TX 77070
Choice Source Therapeutics of Houston, TX, Inc.
- Prescription Dispensing Laboratories, Inc.
19230 Stone Oak Parkway, Ste. 200,
San Antonio, TX 78258
Prescription Dispensing Laboratories, Inc.

(O) - Ownership Change

Wholesale Permits

President Dutcher stated that there was one resident non-prescription wholesale permit to approve.

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

- Costco Wholesale #644
2887 S. Market St.,
Gilbert, AZ 85296
Costco Wholesale Corp.

Manufacturer Permits

Novel RX Pharmaceuticals

Owners Dr. Shidfar Rouhani, Dr. Kenneth Proefrock, and Dr. Mark Rudderham and Pharmacist In Charge Joe Maximini were present to answer questions from Board Members.

President Dutcher asked if the Board had received a copy of the FDA registration.

Ms. Frush stated that the Board had not received a copy and the applicants stated that they would bring copies to the meeting.

Dr. Rudderham arrived with the copies and passed the copies out to the Board Members.

President Dutcher asked the applicants why they wanted a manufacturer's permit.

Dr. Proefrock stated that they would be manufacturing preservative-free Lidocaine. Dr. Proefrock stated that they would like to manufacture the product for physician's offices.

Mr. Dutcher asked the applicants about the floor plans submitted for this permit. Mr. Dutcher stated that the Board has seen the same floor plans for the pharmacy and the wholesale business. Mr. Dutcher stated that the total square footage is about 1,400 square feet. Mr. Dutcher asked if they had separate areas to conduct each business.

Dr. Proefrock stated at this time they are talking with the FDA about the requirements and how they should set up the room for manufacturing.

Mr. Dutcher asked if the suite would be large enough to conduct each business at this location.

Dr. Proefrock stated that initially there will be enough space.

Dr. Proefrock stated that the clean room dominates the entire suite and it will not take much to divide the room in half to

accommodate their businesses. <.P>

Mr. Dutcher asked if the clean room was for the manufacturing of the Lidocaine.

The applicants replied yes.

Mr. Dutcher asked where they anticipated compounding the other prescriptions.

Dr. Rouhani stated that there is a completely separate compounding room.

Mr. Dutcher asked if the Pharmacist In Charge is comfortable with this setup.

Mr. Maximini replied that he was comfortable with the setup.

Mr. Wand stated that they also applied for a wholesale permit at this address.

Dr. Proefrock stated that upon reviewing the facility with Compliance Officer Rich Cieslinski they decided that they would be moving the wholesale permit to a separate location.

Mr. Dutcher asked if the manufacturing site has been inspected yet.

Mr. Wand stated that it has not been inspected because we are waiting for the FDA approval list. Mr. Wand asked if this will require a new drug application from the FDA.

Dr. Rouhani stated that he spoke with the FDA headquarters and he stated that they told him that if they are making an item that it is already listed in the Orange Book then they are allowed to make that product.

Mr. Wand stated that he would recommend that Compliance Officer Rich Cieslinski and an owner of Novel Rx Pharmaceuticals meet with the FDA to be sure all this information is correct. Mr. Wand stated that he feels that a new drug application would be needed.

An audience member, Mr. Dennis Waggoner, who is employed by a manufacturer, was asked if he felt a new drug application would be needed to manufacture this product. Mr. Waggoner stated that they would need to check with FDA but he feels that an abbreviated new drug application would be required in order for them to manufacture this product.

Dr. Rouhani stated that he talks to the FDA on a weekly basis and it is his understanding that they could manufacture this product. Dr. Rouhani stated that it is also his understanding that if they do not list any new uses for the product then they do not need to go through that process.

Mr. Van Hassel asked the applicants to describe their clean room.

Dr. Proefrock gave an overview of the clean room.

Mr. Van Hassel asked about the testing of the product.

Dr. Proefrock stated that they have their own quality control lab.

Dr. Smidt asked what the intended use is for the preservative free lidocaine.

Dr. Proefrock stated that the preservative free lidocaine would be used for prolotherapy. Dr. Proefrock stated that the preservatives in other lidocaine solutions would cause problems when used in prolotherapy.

Dr. Smidt asked if the applicants if they knew the procedure for manufacturing future products.

Dr. Proefrock stated that the most difficult part is to get your foot in the door and get your first product approved. Dr. Proefrock stated that once the FDA approves the process it will be easier to have other products approved.

Dr. Rouhani stated that for each new product that they want to make they will need to register that product with the FDA. Dr.

Rouhani stated that they are aware that the Board requires notification if they are making additional products.

President Dutcher asked if this was the application.

Dr. Rouhani stated that the FDA faxed the copy of this document to him on Thursday which has their labeler number and registration number on the application.

Mr. Wand asked if they have a drug list yet.

Dr. Proefrock stated that they do not have a drug list yet, but the FDA has listed in their database that this is the only item that they would be manufacturing.

Dr. Smidt asked if they have had a site inspection by the FDA.

Dr. Rouhani stated that they have not had a site inspection yet and the FDA is welcome to come any time they like. Dr. Smidt asked if the FDA registered them to manufacture a product without inspecting the location.

Mr. Wand stated that this is not unusual.

Dr. Rouhani stated that the FDA does their inspection based on the risk of the item. Dr. Rouhani stated that they do not know when the inspection will be because the item is considered a relatively low harm item. Dr. Rouhani stated that an inspection will be done depending on FDA availability.

Dr. Proefrock stated that the level of accountability in manufacturing shifts to the individual manufacturing the product and the liability now becomes your own and that is the way the federal part of the process works.

On motion by Mr. McAllister and Dr. McCoy, the Board unanimously agreed to approve the manufacturer's permit listed below dependent upon the applicants meeting with the Board Staff and an FDA representative to review the applications and manufacturing procedures.

Novel Rx Pharmaceuticals

Pharmacist, Pharmacy Interns, and Pharmacy Technician Licenses

Following a review and discussion of the roster of applicants for licensure as pharmacists, interns, and pharmacy technicians and assurance by the staff that all applications were in order and all fees paid: **On motion by Dr. Smidt and Dr. Tippett**, the Board unanimously approved the Pharmacists licenses 15261 through 15334, Intern licenses 7398 through 7414, and Pharmacy Technician licenses 9418 through 9919. Also, approved were 96 licensee changes from Pharmacy Technician trainee to Pharmacy Technician. For a complete list of names see attachments.

AGENDA ITEM 5 - Special Requests

#1 Craig Moon

Craig Moon appeared on her own behalf to request to proceed with reciprocity.

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

Mr. Moon stated that he is requesting to proceed with reciprocity from his Nevada license. Mr. Moon stated that in 1996 he was involved in a serious accident and over the next year he developed an opiate dependency. Mr. Moon stated that he was reported by an employer and he was disciplined by the Wisconsin State Board of Pharmacy. He received a stayed suspension pending his completion of a treatment program. Mr. Moon stated that he completed the treatment program. Mr. Moon stated that part of his suspension required him to work under the supervision of a pharmacist. Mr. Moon stated that he is currently licensed in Nevada and Wisconsin.

Mr. Dutcher asked Mr. Moon if he planned to move to Arizona.

Mr. Moon stated that eventually he hopes to move to Arizona.

Mr. Dutcher asked Mr. Moon when he completed his treatment program.

Mr. Moon stated that he completed the program in January of 2003.

Mr. Dutcher asked Mr. Moon if he has had any issues since that time.

Mr. Moon stated that he attends two 12-step meetings a week. Mr. Moon stated that he plans on contacting Ms. Yates when he moves to Arizona about follow-up options with the PAPA program.

On motion by Dr. McCoy and Dr. Smidt, the Board unanimously approved the request by Mr. Moon to proceed with reciprocity.

#2 Jeffrey Ramsey

Jeffrey Ramsey appeared with Lisa Yates from the PAPA program to request the termination of probation imposed by Board Order 00-0015-PHR.

President Dutcher asked Mr. Ramsey about the nature of his request.

Mr. Ramsey stated that he is requesting that probation be terminated and his pharmacist license be restored to active standing. Mr. Ramsey stated that he has completed all the requirements of his consent order with the PAPA program.

Mr. Van Hassel asked Ms. Yates if the PAPA steering committee supports Mr. Ramsey's request.

Ms. Yates stated that the counselor has reviewed with Mr. Ramsey methods to maintain sobriety now that he has completed his PAPA contract.

Mr. Dutcher stated that the counselor had written a very positive letter about Mr. Ramsey's progress. Mr. Dutcher asked Mr. Ramsey to describe what he has learned from the program.

Mr. Ramsey stated that the major thing that he has learned that addiction is a disease and he needs to deal with it on a daily basis. Mr. Ramsey stated that the disease does not end with the ending of his PAPA contract. Mr. Ramsey stated that he plans to reach out and help others with their addictions.

On motion by Mr. McAllister and Dr. McCoy, the Board unanimously agreed to terminate the probation of Mr. Ramsey's license subject to the terms of Board Order Number 00-0015-PHR.

#3 Scott Huft

Scott Huft appeared with Lisa Yates from the PAPA program to request that the suspension of his pharmacist license be terminated and probation be imposed per Board Order 05-0015-PHR.

President Dutcher asked Mr. Huft about the nature of his request.

Mr. Huft stated that he is requesting that his suspension be terminated and probation be imposed per his consent agreement.

Mr. Dutcher asked how long Mr. Huft has been on suspension.

Mr. Huft stated that his license has been suspended for 7 months.

Mr. Dutcher asked Mr. Huft to explain to the Board why his license should be placed on probation.

Mr. Huft stated that he has been immersing himself in his own recovery and he desires to work as a pharmacist again. Mr. Huft stated that he has been attending the required meetings and has been exceeding the requirements for the 12-step meetings. Mr. Huft stated that his personal physician is an addictionologist that he sees every 2 months. Mr. Huft stated that he sees a therapist monthly. The therapist is certified in substance abuse.

Mr. Dutcher asked if the steering committee has met and determined that Mr. Huft is ready to return to work.

Ms. Yates stated that the steering committee relies on the recommendations of the counselor. Ms. Yates stated that the steering committee did receive a letter from the addictionologist. Ms. Yates stated that it is the opinion of the counselor and the addictionologist that Mr. Huft is ready to return to work.

Mr. Dutcher asked Mr. Huft if he has ever appeared before the Board prior to this consent.

Mr. Huft replied that he had a previous consent order.

Mr. Dutcher asked how long it has been between consents.

Mr. Huft replied about 15 years and he completed the PAPA program about 10 years ago.

Mr. Dutcher asked if it involved the same type of issue. Mr. Huft replied yes.

Ms. Yates stated that recovery is up to the individual once they complete the PAPA program. Ms. Yates stated that individuals need to keep attending meetings and doing the things that they learned in the PAPA program after they complete the program. Ms. Yates stated that the disease does not go away.

Mr. Dutcher asked Mr. Huft if he is willing to make that commitment.

Mr. Huft replied yes.

Dr. Smidt asked Mr. Huft if he would be comfortable working in a pharmacy alone with a bottle of hydrocodone and the temptation to take the medication.

Mr. Huft stated that he would not work in certain situations and environments. Mr. Huft stated that he is currently working as a pharmacy technician instructor. Mr. Huft stated that he would like to work part-time and in a different setting than he worked in the past. Mr. Huft stated that he has learned how stress plays a role in how individuals react to certain situations. Mr. Huft stated that he does not want to work in the retail setting full-time due to the stress.

Dr. Smidt asked about the missing hydrocodone products. Dr. Smidt asked Mr. Huft if he was responsible for all the missing hydrocodone products.

Mr. Huft replied that he took approximately 200 tablets.

Dr. Smidt stated that there were 23,000 tablets missing.

Mr. Dutcher asked if Mr. Huft was the Pharmacist In Charge at the time. Mr. Huft stated that he was the Pharmacist In Charge. Mr. Dutcher told Mr. Huft that he was responsible for the drugs.

Mr. Dutcher stated with all the missing tablets Mr. Huft did not manage the pharmacy appropriately.

Mr. Huft stated that he was very negligent and he believes that was due to his stress problems.

Dr. Smidt asked Mr. Huft if he had any recollection of what happened to the tablets.

Mr. Huft replied that he did not have any recollection.

Dr. McCoy stated that the order states that the period of suspension is to be determined by the steering committee and the Board does have recommendations that Mr. Huft should be allowed to return to work. Dr. McCoy asked Mr. Huft if there is a difference this time.

Mr. Huft stated that he now realizes that this is a disease that has to be dealt with on a daily basis. Mr. Huft stated that he is learning things that he must do on a daily basis.

Mr. Van Hassel asked Ms. Yates if Mr. Huft has been 100% compliant with the program.

Ms. Yates stated that Mr. Huft has been 100% compliant.

Mr. Wand stated that the order states that the suspension period is determined by the PAPA steering committee. Mr. Wand stated that in future orders the Board could change the order to read that the PAPA steering committee could make a recommendation and the Board could approve or not approve the recommendation.

On motion by Dr. Tippett and Ms. Honeyestewa, the Board unanimously approved the request by Mr. Huft to terminate suspension and impose probation on his pharmacist license per Board Order 05-0015-PHR. A roll call vote was taken. (Ms. Honeyestewa - aye, Dr. Smidt - aye, Dr. Tippett - aye, Dr. Berry-aye, Mr. McAllister - nay, Dr. McCoy - aye, Mr. Van Hassel - aye, President Dutcher - aye)

#4 James Owens

James Owens appeared on his own behalf to request that the probation on his Pharmacist license be terminated.

President Dutcher opened the discussion by asking Mr. Owens about the nature of his request.

Mr. Owens stated that he is requesting that the Board terminate the probation placed on his pharmacist license. Mr. Owens stated that he has completed all the requirements of his consent order. Mr. Owens stated that all the problems that led to the consent order have been resolved.

Mr. Dutcher asked Mr. Owens why he did not appear after January 13, 2005 to terminate his probation.

Mr. Owens stated that he had family issues at the end of 2004 and thought he would receive a letter from the Board asking him to appear.

Mr. Dutcher told Mr. Owens that it is the responsibility of the licensee to request the appearance in order to terminate the probation.

Mr. Van Hassel asked Mr. Owens if he has worked continually during the time that he was on probation.

Mr. Owens replied that he has worked continually.

Mr. Van Hassel asked if there have been any issues during his probation.

Mr. Owens replied no.

Dr. Tippett asked if the requirements of the consent order have been met.

Mr. Wand stated that Mr. Owens has completed all the requirements of his consent order.

On motion by Mr. McAllister and Dr. Smidt, the Board unanimously approved the request by Mr. Owens to terminate the probation imposed by Board Order 99-0031-PHR.

#5 Thomas Togno

Thomas Togno appeared on his own behalf to request that he be allowed to sign a consent agreement offering him a PAPA contract.

President Dutcher opened the discussion by asking Mr. Togno about the nature of his request.

Mr. Togno stated that he is seeking approval of the Board to sign a PAPA contract. Mr. Togno stated that his license was suspended in Arizona and was changed to probation and he would now like to return to Arizona to practice.

Mr. Dutcher asked Mr. Togno if he has a similar contract in New Jersey.

Mr. Togno replied that he does.

Mr. Dutcher asked Mr. Togno when he plans on returning to reside in Arizona.

Mr. Togno replied that he plans on returning to Arizona in a few weeks.

Mr. Dutcher asked Mr. Togno if he would like to sign a PAPA contract.

Mr. Togno replied yes.

Mr. Dutcher stated that the standard PAPA contract is five years and asked Mr. Togno if that would be an issue.

Mr. Togno replied that would be no problem.

Mr. Dutcher stated that the contract would be effective the day that Mr. Togno returns to Arizona.

Mr. Pulver told Mr. Togno that he may be able to petition the Board for an early termination due to the fact that he has been in a program for the last year.

Mr. Dutcher asked if the Board needs to create a new consent order or if the Board could add an addendum to the existing consent order.

Mr. Wolf stated that the Board could do it either way.

Mr. Wolf stated that in paragraph 26 it states that the respondent shall initiate a 5 year contract with the PAPA program or another drug treatment program approved by the Board. Mr. Wolf recommended that the Board delete the portion of the statement reading " or another drug treatment program approved by the Board". Mr. Wolf stated that by deleting that statement it ensures that Mr. Togno can only sign a consent agreement with the PAPA program.

Dr. Smidt asked Mr. Togno how long he has been sober.

Mr. Togno replied that it has been fourteen months. Mr. Togno stated that he is currently practicing in New Jersey.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously approved the request of Mr. Togno to amend the existing consent order to allow Mr. Togno to sign a new five year PAPA contract with the deletion of the statement reading " or another drug treatment program approved by the Board. The contract would become effective on the first day Mr. Togno returns to Arizona.

#6 Bronswellus Kent

Bronswellus Kent appeared on his own behalf to request that he be allowed to proceed with technician licensure.

President Dutcher asked Mr. Kent to explain the nature of his request.

Mr. Kent stated that he would like to request approval to proceed with technician licensure. Mr. Kent stated that he is applying for a technician trainee license.

Mr. Dutcher asked Mr. Kent why he was appearing in front of the Board.

Mr. Kent explained that he was appearing because he had been convicted of a felony for carrying a weapon to school.

Mr. Dutcher asked Mr. Kent if this was in high school.

Mr. Kent replied yes that he took a handgun to school.

Mr. Dutcher asked Mr. Kent if has completed all the requirements of his probation.

Mr. Kent stated that everything was completed in 2000.

Mr. Kent stated that he is applying for the license because he was told that he cannot work as a technician until he gets licensed. Mr. Kent stated that he has a GED.

Dr. McCoy asked if Mr. Kent would be able to take the PTCB exam.

Mr. Wand stated that the PTCB has allowed other individuals that the Board has licensed to take the exam.

Mr. Dutcher stated that Mr. Kent did answer the question honestly and replied that he had been charged with a felony.

Dr. McCoy stated that Mr. Kent was forthcoming with the information.

On motion by Dr. Smidt and Ms. Honeyestewa, the Board unanimously approved the request by Mr. Kent to proceed with licensure as a Pharmacy Technician Trainee.

#7 Mohamed Salih

Mohamed Salih appeared on his own behalf to request a waiver for the TSE Exam.

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

Mr. Salih stated that he is requesting a waiver for the TSE exam. Mr. Salih stated that he has taken the test seven times and has received a score of 45 each time. Mr. Salih stated that he has passed the TOEFL exam and the FPGEE exam. Mr. Salih has completed his required intern hours.

Mr. Dutcher asked Mr. Salih about the test.

Mr. Salih stated that the test is given over the telephone and he is scheduled to take the test again next month. Mr. Salih stated that he is asking for a waiver in case he receives a score of 45 again.

Dr. Smidt asked Mr. Salih about his background.

Mr. Salih stated that he grew up in Sudan and attended pharmacy school in Russia. Mr. Salih stated that he moved to the United States about six years ago and began working as a cashier, moved up to a pharmacy technician, and then became an insurance specialist. Mr. Salih stated that he moved to Arizona and has worked as an Intern for about 24 months. Mr. Salih stated that he has brought letters of recommendation from pharmacists that he has worked with at two different companies. Mr. Salih stated that he does not have any problems communicating with the patients.

Mr. Van Hassel asked Mr. Salih to counsel him on a particular drug.

Mr. Salih counseled Mr. Van Hassel.

On motion by Mr. Van Hassel and Dr. Berry, the Board unanimously approved the request by Mr. Salih to waive the requirement to pass the TSE exam with a score of 50 in order to allow Mr. Salih to proceed with licensure.

Mr. Van Hassel asked if there was a way for the Board to evaluate the test.

Mr. Wand replied that the test is currently being revised. The Board Members decided that they will wait until the test is revamped and see if the scores improve before evaluating the test.

8. Kaity Tran

Kaity Tran appeared on her own behalf to request to take the NAPLEX exam for the fourth time.

Pharmacist Jan Burdick and Pharmacy Regional Manager Jerry Denny were present to speak on her behalf.

President Dutcher asked Ms. Tran about the nature of her request.

Ms. Tran stated that she is requesting to take the NAPLEX for a fourth time. Ms. Tran stated that she has taken the test three times and has not passed. Ms. Tran stated that she is currently working as an Intern.

Mr. Dutcher asked Ms. Tran if her scores improved each time.

Ms Tran stated that her scores have gone up and down.

Mr. Dutcher asked Ms. Tran why she thinks that she has not passed the test.

Ms. Tran stated that she thinks she was not prepared for the test. Ms. Tran stated that she is now taking the Morris-Cody review course.

Dr. McCoy asked Ms. Tran when she graduated.

Ms. Tran stated that she graduated in 2005 from Midwestern University.

Mr. McAllister stated that it is important for the Board Members to understand that NAPLEX is not a percentage score but a test that is a scaled score. Mr. McAllister stated that 100 is the average score and an individual needs to score 75 to pass. Mr. McAllister recommended that Ms. Tran prepare for the exam because if she appears in front of the Board asking to take the exam for the fifth time that she may be required to take extra course work prior to taking the exam.

Ms. Burdick and Mr. Denny spoke on Ms. Tran's behalf. Both stated that they have worked with Ms. Tran and she is a hard worker and they hope the Board would grant her the opportunity to take the test for a fourth time.

On motion by Dr. Smidt and Dr. Tippett, the Board unanimously approved the request by Ms. Tran to sit for the NAPLEX exam for the fourth time.

9. Saleha Naz Zaida

Saleha Naz Zaida appeared on her own behalf to request a waiver of the FPGEEC and proceed with reciprocity.

President Dutcher asked Ms. Naz Zaida about the nature of her request.

Ms. Naz Zaida stated that she would like to continue with reciprocity. Ms. Naz Zaida stated that she holds active Pharmacist licenses in New York and New Mexico. Ms. Naz Zaida stated that when she applied to Arizona for reciprocity she was told that she would need to have the FPGEEC certificate since she was a foreign graduate. Ms. Naz Saida stated that she works at Express Scripts and they are requiring that she obtain an Arizona license.

Mr. Dutcher asked Ms. Naz Zaida where she obtained her first license.

Ms. Naz Zaida stated that she obtained her first license in New York. She stated that she then reciprocated to New Jersey and New Mexico. Ms. Naz Zaida stated that she passed the NAPLEX exam with a score of 80 and her licenses in New York and New Mexico are in good standing at this time.

Mr. Wand stated that there are technical issues involved in the reciprocity process. Mr. Wand stated at the time Ms. Naz Zaida was licensed in New York the New York Board did not require that an applicant pass the FPGEE exam. Mr. Wand stated that it has been the policy of the Board to only reciprocate from states with like requirements. Mr. Wand stated that the Board can waive the requirements in this case if that is their decision. Mr. Wand stated that New York does now require the FPGEE exam.

Mr. McAllister stated that the Foreign Graduate Program was developed to assist Boards in determining entry level competency to begin the licensure process. Mr. McAllister stated that she has taken the NAPLEX exam and has met entry level qualifications.

On motion by Mr. McAllister and Dr. McCoy, the Board unanimously approved the request of Ms. Naz Zaida to continue with reciprocity and waive the requirement that she receive the FPGEEC certificate.

10. Michael Fuangunyi

Michael Fuangunyi appeared on his own behalf to request the waiver of the FPGEEC.

President Dutcher asked Mr. Fuangunyi about the nature of his request.

Mr. Fuangunyi stated that he is appearing in front of the Board to request a waiver of the FPGEE exam. Mr. Fuangunyi stated that is a Cameroonian and obtained his pharmacy degree in Nigeria. Mr. Fuangunyi stated that when he came to the United

States in 2002 he applied to NABP to take the exams. He stated that NABP approved his transcripts and accepted his diploma but he could not proceed with the Foreign graduate exams because he does not hold a license in the country from which he graduated. Mr. Fuangunyi stated that in 2003 he forwarded to NABP his license from Cameroon and was told that he must have a license from Nigeria. Mr. Fuangunyi stated that because he was not a citizen of Nigeria he was not able to be licensed in Nigeria. Mr. Fuangunyi stated that NABP told him that he would need to contact the individual Boards to see if any Board would be willing to waive the FPGEEC requirements. Mr. Fuangunyi stated that New Jersey rejected his application because he did not have the FPGEEC. Mr. Fuangunyi stated that New York and Iowa have not replied to his request. Mr. Fuangunyi stated that the Arizona Board sent him a letter stating that he must present his case to the Board and that is why he is appearing today. Mr. Fuangunyi stated that he has passed the TSE exam with a score of 50 and has also passed the TOEFL exam and unfortunately he is not able to take the FPGEE exam.

Dr. Smidt asked Mr. Fuangunyi how he chose Arizona.

Mr. Fuangunyi stated that he called the Board office and was told he would need to submit a written request to the Board to appear at a Board Meeting to present his case.

Dr. Smidt asked Mr. Fuangunyi where he currently resides.

Mr. Fuangunyi stated that he currently resides in Maryland. Mr. Fuangunyi stated that he has lived there the last three years, but has visited Arizona because he has cousins that live in Tucson.

Mr. McAllister stated that NABP is currently discussing allowing individuals with licensure issues due to citizenship requirements to proceed with taking the Foreign Graduate exams. Mr. McAllister asked Mr. Fuangunyi if Cameroon has a pharmacy school.

Mr. Fuangunyi stated that Cameroon does not have a pharmacy school and all pharmacists are trained in foreign countries.

On motion by Mr. McAllister and Dr. Smidt, the Board unanimously agreed to waive the FPGEE exam to allow Mr. Fuangunyi to proceed with the licensure process.

11. Richard Nikwenti

Richard Nikwenti appeared on his own behalf to request the waiver of the FPGEEC certificate.

President Dutcher asked Mr. Nikwenti about the nature of his request.

Mr. Nikwenti stated that he is appearing in front of the Board to request a waiver of the FPGEE exam. Mr. Nikwenti stated that he is a Cameroonian and obtained his pharmacy degree in Nigeria like the last applicant. Mr. Nikwenti stated that because he is not able to obtain a license from Nigeria he is not eligible to take the FPGEE exam.

Mr. Dutcher asked if Mr. Nikwenti has been working in the United States in the medical field.

Mr. Nikwenti stated that he has not been working as a pharmacist. Mr. Nikwenti stated that he has received certification in the Nuclear Pharmacy field from Purdue University. Mr. Nikwenti stated that he has worked for John Hopkins Hospital and PetNet in the Nuclear Pharmacy field. Mr. Nikwenti stated that he has been hired by PetNet as a consultant to train new hires. Mr. Nikwenti stated that there are no requirements of licensure to obtain the training in Nuclear Pharmacy.

Mr. Van Hassel asked Mr. Nikwenti why he chose to come to Arizona.

Mr. Nikwenti stated that his application was approved by New York but he did not pass the TSE exam with a score of 50. Mr. Nikwenti stated that he kept getting a score of 45. Mr. Nikwenti stated that he plans to move to Arizona. Mr. Nikwenti stated that he worked as an intern in Maryland and could transfer those hours to Arizona. Mr. Nikwenti stated that there is an opening at PetNet in Arizona for a Nuclear Pharmacist. Mr. Nikwenti stated that Intern hours in Maryland are sent to the Board for certification.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously agreed to waive the FPGEE exam and accept the TSE score of 45 to allow Mr. Nikwenti to proceed with the licensure process.

AGENDA ITEM 6 - Reports

Executive Director

Executive Director Wand began his report by discussing the financial reports. Mr. Wand stated that the majority of the budget is spent on salaries and that the Board is within its budget.

Mr. Wand stated that he made a request to reclassify the Compliance Officers. Mr. Wand stated that the reclassification would make the Compliance Officers uncovered employees. Mr. Wand passed out an organization chart showing the new classifications. Mr. Wand stated that he has classified Dean's position as a Compliance Policy Advisor since he helps write the rules. Mr. Wand stated that if there is money in the next budget then it is possible that they would be able to receive a raise as uncovered employees. Mr. Wand stated that the issue may be the number of uncovered positions within the agency.

Mr. Wand stated that all the Compliance Officers have been signed up to take the MPJE exam as secret shoppers at no cost to the Board. Mr. Wand stated that the law scores would be reported back to the Compliance Officers.

Mr. Wand stated that the Board is eighty thousand dollars in the black. Mr. Wand stated that it is important to realize that this is a two year budget and the first year budget is one hundred thousand dollars larger than the second year budget.

Mr. Wand stated that the Windows 98 Computers in the Office have been replaced with Windows XP. Mr. Wand stated that they are secure wireless systems and the Board will not need to pay to have the lines changed if the computers are moved.

Mr. Wand stated that HB-2240 will affect Budget appropriations. The Bill has just been amended. It states that if an agency whose balance in any fee fund is more than 10% of the prior year's expenditure of fee revenues the agency shall submit a plan to reduce the fund's balance. Mr. Wand stated that they suggested that this could be accomplished by lowering the fees or expending the balance. Mr. Wand stated that the Board does not have the authority to lower the fees without legislative approval. Mr. Wand stated that the agency would be required to submit a budget explaining how the funds would be spent and the time frame.

Deputy Director Report

Deputy Director Frush directed the Board Members attention to the activity reports for the Compliance Staff. Ms. Frush stated that the Compliance Staff during January and February completed approximately 500 inspections of Non-prescription outlets. The Compliance staff educated the owners concerning the new pseudoephedrine requirements. Ms. Frush noted that the number of complaints is still increasing. Ms. Frush noted that Mr. Cieslinski has been conducting investigations concerning diversions. Ms. Frush stated that this has become a growing problem for the compliance staff.

Ms. Frush stated during the months of January and February the Compliance Staff issued letters for the following violations:

Controlled Substance Violations

- 1. Controlled Substance Overage - 5
- 2. Controlled Substance Shortage - 1
- 3. Controlled Substance Inventory Not Complete - 5
- 4. Failure to Conduct Controlled Substance Inventory upon change of Pharmacist In Charge - 1

Documentation Violations

- 1. Failure to Document Medical Conditions - 9
- 2. Failure to Document Allergies - 1
- 3. Failure to Manually Initial Final Prescription Label - 1
- 4. Failure to Document Required Information on an Oral Prescription - 2
- 5. Unable to produce a drug specific report - 1
- 6. Failure to have signed technician statements concerning job description, policies & procedures, and Board rules - 5
- 7. Failure to have signed technician statements concerning the training program - 4
- 8. Failure to have signed technician statements concerning the compounding training program - 1

Dispensing Violations

- 1. Dispensing a faxed CII prescription without obtaining the original prescription - 1
- 2. Partial filling of a CII prescription when conditions do not warrant partial filling - 1
- 3. Compounding commercially available products - 1

Pharmacy Violations

- 1. Allowing technicians to work without a license - 2
- 2. Allowing a technician to enter a hospital pharmacy in the morning without the Pharmacist present - 1
- 3. Wall certificates not posted - 2
- 4. Technician working without a renewal certificate present - 1
- 5. Failure to notify the Board of a change in Pharmacist In Charge - 1

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

- 1. Personnel need to wear name badges with name and title
- 2. Filing of Invoices

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

- 1. Cleanliness of Pharmacy
- 2. CII dispensed within time limits

Areas outside the inspection reports that may be of interest:

- 1. Need to report change of address and employment
- 2. Need to report DEA losses immediately

PAPA Report

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of thirty-seven (37) participants in the PAPA program. Ms. Yates stated since the last report on January 25, 2006 two participants have completed the program, and one new participant has entered the program. Ms. Yates stated that one participant is pending the completion of the first step of their treatment program. Ms. Yates stated that at this time the steering committee has sent a letter to the Board concerning one participant and the Board is proceeding with action against the participant.

APA Report

Ms. Rasmussen gave a brief overview of the legislation that the APA is following through the legislature. Ms. Rasmussen stated that the first bill is HB- 2382 which is the prescription reuse bill. Ms. Rasmussen stated that she had just worked on a similar bill in Wyoming.

Ms. Rasmussen stated that HB-2815 which is the bill concerning pseudoephedrine sales. Ms. Rasmussen stated that the APA has concerns that cities can make their own ordinances and there will not be standardized laws.

Ms. Rasmussen stated that SB-1518 is the duty to fill bill. Ms. Rasmussen stated that she and Mr. Wand have been working with the legislature to clarify the wording in this bill.

Ms. Rasmussen stated that HB-2707 would prevent a physician from writing a prescription for a minor without parental consent. Ms. Rasmussen stated that the association is concerned about confidentiality issues.

Ms. Rasmussen stated that HB-2479 is a bill that is being held. The bill concerns dual copay coverage.

Ms. Rasmussen stated that the APA is looking at future legislation to allow pharmacists to prescribe and administer immunizations. Ms. Rasmussen stated that the APA is looking at collaborative practice and therapeutic substitution regulations.

Ms. Rasmussen stated that the APA future projects include: strengthening medication therapy management and service payments for pharmacists.

Ms. Rasmussen stated that they hope to work with the Board in addressing quality assurance issues. Ms. Rasmussen stated that there is a program that documents outcomes for pharmacies used to address patient safety measures.

Ms. Rasmussen stated that she will have pharmacy students working at the APA office. Ms Rasmussen stated that the APA is looking at doing regional rallies. Ms. Rasmussen extended an invitation to the Board to attend the annual meeting from July 27 through July 30, 2006 at the Westin La Paloma in Tucson. Ms. Rasmussen extended an invitation to attend the APA Board Meeting on May 6, 2006 from 9:00 A.M. to 12:00 P.M.

AGENDA ITEM 7 - Conversion to Common Licensing Database - GITA

President Dutcher asked Mr. Wand to address this topic.

Mr. Wand stated that Mr. Martel from GITA was not able to attend the meeting to speak about the database conversion. Mr. Wand stated that the data base conversion was scheduled to be finished by the end of the year. Mr. Wand stated that due to budgeting issues the project will probably be completed around the first quarter of 2007.

The Board recessed for lunch.

President Dutcher reconvened the meeting at 1:00 P.M.

Dr. Paul Sypherd was present for the afternoon session.

AGENDA ITEM 8 - Consumer Complaint Review

The Consumer Complaint Review committee met prior to the Board Meeting to review 24 complaints. Dr. Berry, Dr. Sypherd, and Ms. Honeyestewa served as the review committee. Board Members were encouraged to discuss issues and were encouraged to ask questions.

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

- Complaint # 3048 - Advisory Letter

- Complaint #3051 - Conference - Pharmacist
- Complaint #3056 - Conference - Pharmacist (Complainant), Pharmacist Owner, and Pharmacy Technician
- Complaint #3057 - Advisory Letter - Pharmacist and Technician
- Complaint #3058 - Conference - Both Pharmacists
- Complaint #3059 - No Further Action
- Complaint #3063 - Conference - Pharmacist
- Complaint #3064 - Site Inspection and Follow up action
- Complaint #3073 - Advisory Letter
- Complaint #3074 - No Further Action
- Complaint #3076 - No Further Action
- Complaint #3081 - Consent/Hearing
- Complaint #3082 - Consent/Hearing
- Complaint #3083 - Consent/Hearing
- Complaint #3084 - Consent/Hearing-Pharmacist, Conference -Pharmacist In Charge
- Complaint #3090 - Consent/Hearing
- Complaint #3091 - No Further Action
- Complaint #3092 - Consent/Hearing-Pharmacist, Conference -Pharmacist In Charge
- Complaint #3093 - Consent/Hearing-Pharmacist, Conference -Pharmacist In Charge
- Complaint #3094 - Consent/Hearing
- Complaint #3095 - Consent/Hearing - Two Technicians, Conference -Pharmacist In Charge
- Complaint #3096 - No Further Action
- Complaint #3097 - Consent Order to Match Colorado Consent - Pharmacist
- Complaint #3098 - Consent/Hearing - Technician and Wholesale Permit
(If consent is not accepted, send to OAH for hearing)

AGENDA ITEM 9 - Conferences

Complaint #3023

Pharmacist Richard Herman and Pharmacy Supervisor June Puposar were present in response to a consumer complaint.

Compliance Officer Sandy Sutcliffe gave a brief overview of the complaint.

Ms. Sutcliffe stated that the complainant, a physician, stated that he issued a prescription for Diprosone Cream 15 gm with no refills and the pharmacist dispensed a 45 gm tube without consulting the physician. The physician is concerned because this is a steroid cream and he did not want the patient to receive the larger tube due to possible side effects.

President Dutcher asked Mr. Herman to explain what occurred in this situation.

Mr. Herman stated that the patient had arrived at his pharmacy about 7:00 P.M. The patient told him that he had already been to two pharmacies and they did not have the medication. Mr. Herman stated that he checked if he had the medication and found that he had the 45 gm tube in stock. Mr. Herman stated that he called the insurance company and was told that the patient would pay the same copay whether he dispensed the 15 gm or 45 gm tube. Mr. Herman stated that he told the patient that he would save him money by dispensing the larger tube. Mr. Herman stated that he did not call the physician.

Mr. Dutcher asked Ms. Puposar if it is corporate policy to call the insurance company and not the doctor.

Ms. Puposar stated that it is not corporate policy to call the insurance company. Ms. Puposar stated that the pharmacist must call the doctor to request quantity changes.

Mr. Dutcher asked Mr. Herman why he did not dispense 15 gm from the larger tube into an ointment jar.

Mr. Herman stated that he does not have any ointment jars at the store.

Mr. Dutcher asked Mr. Herman what he has learned from this consumer complaint.

Mr. Herman stated that he would call the doctor's office for the quantity change and if that is not possible he would call other pharmacies for the patient to see if he could locate the correct product.

Mr. Wand stated that the physician is very concerned about the side effects of the steroid creams and that is why he files the complaints.

Mr. Van Hassel asked Mr. Herman what action he would take if he was working tonight and did not have the size tube that the doctor prescribed.

Mr. Herman stated that he would tell the patient that he would need to clarify the quantity with the physician in the morning and the patient would need to pick up the prescription the next day.

Complaint #3026 - Postponed

Complaint #3035 and #3060

Pharmacist Claudia Marechal appeared to answer questions concerning two consumer complaints.

No representative from the company appeared. Ms. Marechal's employment had been terminated by the company. Compliance Officer Sandy Sutcliffe gave a brief overview of the two complaints.

Ms. Sutcliffe stated that the first complaint involved the dispensing of Prednisone 50 mg instead of Prednisone 5 mg. The patient did not take any of the incorrect medication. Ms. Sutcliffe stated that in the second complaint the complainant received an order for Effexor with his name on the label; however he has not been prescribed this medication. The complainant did not ingest any of the Effexor.

President Dutcher asked Ms. Marechal if these prescriptions were involved in a remote verification arrangement.

Ms. Marechal stated that she verified prescriptions in Albuquerque. Mr. Dutcher asked Ms. Marechal if it was her responsibility to ensure that the prescriptions were entered correctly by the technician. Ms. Marechal replied yes.

Mr. Dutcher asked Ms. Marechal to explain how these errors occurred.

Ms. Marechal stated that when she spoke to her supervisor about the errors she told him that there were several different scenarios that could have occurred. Ms. Marechal stated that in the mail order pharmacy the pharmacists are expected to perform different tasks and at times they are expected to do different tasks at the same time. Ms. Marechal stated that she told her supervisor that there were a lot of different things occurring around her desk and she may have been disrupted while verifying the prescription. Ms. Marechal stated that the prescription for Effexor was filled for a patient with the same first name but a different last name. Ms. Marechal stated that the technician selected the wrong patient. Ms. Marechal stated that when she first started at the mail order facility it was the responsibility of the technician to verify the address. Ms. Marechal stated that currently the pharmacist is to verify the address and she missed the address. Ms. Marechal stated that the Prednisone had been entered incorrectly by the technician and was returned to the technician for correction. Ms. Marechal stated that the one error was corrected and she did not catch that the Prednisone had been entered for the wrong strength. Ms. Marechal stated that she was going faster than she should have been going to accurately verify the prescriptions.

Ms. Marechal stated at the time she made the errors she was sitting behind the Mentor's desk. Ms. Marechal stated that she asked them to move her desk because of the noise. Ms. Marechal stated that she asked to be moved in August and finally got moved in October.

Mr. Dutcher asked Ms. Marechal if she entered the data into the computer.

Ms. Marechal stated that she does not enter the data but verifies that the technician has entered the prescription correctly.

Mr. Wand stated that Ms. Marechal works in Albuquerque verifying prescriptions for the Tempe facility.

Dr. Smidt asked Ms. Marechal if she had been employed at the mail order facility for five years and lost her job as a result of the errors.

Ms. Marechal replied yes.

Dr. Smidt asked if it was noisy where she worked.

Ms. Marechal replied yes and she asked to be moved.

Dr. Smidt asked Ms. Marechal if there have been changes at the facility where she works. Dr. Smidt noted that Ms. Marechal stated that she had increased pressure to complete more work.

Ms. Marechal stated yes.

Dr. Smidt asked if this was the sole reason Ms. Marechal was offered when her employment was terminated.

Ms. Marechal stated that the errors were why her employment was terminated. Ms. Marechal stated that they told her that she was visiting with the Mentor, but the Mentor was bringing work to her desk and would talk to her when she brought the work to her desk. Ms. Marechal stated that things have changed since she was hired. Ms. Marechal stated that there is tremendous pressure on every aspect of their jobs. Ms. Marechal stated that she is not the only person who had made an error, but she was the person who was fired. Ms. Marechal stated that she felt the treatment of the patient by the customer representatives led to the patient filing the complaint.

Ms. Marechal stated that she has purchased books to read about errors and does not want to jeopardize the health of any patient.

Mr. Van Hassel asked Ms. Marechal if it was her mistake, a system mistake, or a computer mistake, or if she was working too fast.

Ms. Marechal stated that it was a combination of different factors. Ms. Marechal stated that she was probably working too fast because she was expected to perform at a higher level. Ms. Marechal stated that she does not see a picture of the medication and that might have helped her identify the incorrect drug. Ms. Marechal stated that the setting and noise may have been a contributing factor. Ms. Marechal stated that she feels that she has been singled out in this incidence.

President Dutcher reminded Ms. Marechal that she is the pharmacist and the pharmacist sets the pace at which they will work to ensure that the patient is protected.

Complaint #3046

Pharmacist Amy Bates, Pharmacy Technician Tiffany Guerrero, Pharmacy Manager Mohamed Khan, and Pharmacy Supervisor Nickole Schickel were present to address a consumer complaint.

Compliance Officer Ed Hunter gave a brief overview of the complaint.

Mr. Hunter stated that a prescription written for Promethazine with Codeine, 3/4 teaspoonful by mouth at bedtime as needed for cough for a 5- year old child was entered incorrectly. The technician entered the prescription as 3.75 teaspoonfuls by mouth at bedtime as needed for cough. The pharmacist verified that the label was correct and performed an override of the DUR warning. The medication was given to the child and the child was taken to the physician for care when the mother had difficulty waking the child.

President Dutcher opened the discussion by asking Ms. Guerrero, the technician, how the prescription was entered incorrectly.

Ms. Guerrero stated that she calculated the number of mls. in 3/4 teaspoonful and when she typed in the directions she entered teaspoonful instead of mls. The directions read to take 3.75 teaspoonfuls instead of 3.75 mls.

Mr. Dutcher asked Ms. Bates if she compared the label with the hard copy.

Ms. Bates stated that she does but she did not catch the teaspoonfuls. Ms. Bates stated that they normally convert the teaspoonfuls to mls because they give the patient an oral dosing syringe.

Mr. Dutcher asked Ms. Bates if she ever saw a dose that was three and three-fourths teaspoonfuls.

Ms. Bates replied no.

Mr. Dutcher stated that the dosage should have sent up a red flag.

Mr. Dutcher asked how this error could have been prevented. Mr. Dutcher asked the Pharmacy Manager if teaspoonful automatically populates the field.

Mr. Khan stated that a teaspoonful would need to be entered. Mr. Khan stated that for any dosage less than a teaspoonful they calculate the dosage as a ml quantity and give the patient an oral syringe to measure the medication.

Mr. Dutcher asked if anyone knew that this prescription was for a child.

Ms. Bates replied yes.

Mr. Dutcher asked if the dosage did not send up a red flag for a child.

Ms. Bates stated that a DUR was generated by the computer. Mr. Dutcher asked if it was for a high dose.

Ms. Bates replied that she overlooked the dosage. Ms. Bates stated that 1/2 teaspoonful is the usual dose for a child that age and Ms. Bates stated that she overrode the DUR because she read the dosage as 3.75 mls.

Mr. Dutcher asked Ms. Bates if the workload was too heavy.

Ms. Bates said possibly and she has changed jobs at this time.

Dr. Berry asked if counseling was performed.

Ms. Bates stated that she was not the only pharmacist working that day and she is not sure who counseled the patient.

Mr. McAllister noted that the days supply was entered as a 10 day supply and that was also incorrect. Mr. McAllister stated that since the prescriber was a pediatric nurse practitioner the pharmacist should have questioned the dose entered by the technician.

Dr. McCoy asked about the counseling. Dr. McCoy stated that because the dosage is so high the error should have been caught during counseling. Dr. McCoy asked if the patient's parents indicated that they were counseled.

Mr. Hunter stated that the father stated that he gave the dose on the label.

Dr. McCoy asked Ms. Bates to describe the counseling procedure.

Ms. Bates stated that they counsel on all new prescriptions. The prescription is rung up by the technician and then the patient is sent to the counseling window to speak with the pharmacist.

Dr. McCoy asked if they counsel any differently on pediatric prescriptions.

Ms. Bates replied no but they may give the patient an oral syringe. Ms. Bates stated that they counsel from the slip on the bag.

Mr. Dutcher asked when the bag is given to the patient is the bag closed or open and where are the directions that the pharmacist uses to counsel the patient.

Ms. Bates replied that the bag is closed and the directions are on the inside of the leaflet stapled to the bag.

Mr. Wand asked if counseling was documented on the register.

Mr. Hunter stated that the "Y" was entered for yes.

Mr. Wand stated that their documentation indicates that counseling was performed but the pharmacy can not ascertain who performed the counseling function. Mr. Wand stated currently our rules do not require the initials of the person performing the counseling function.

Mr. Wand asked how many pharmacists were working at the time that the prescription was sold.

Ms. Bates replied that three pharmacists were working at the time.

Dr. Sypherd asked the pharmacist if something else was going on in the pharmacy or her personal life that prevented her from focusing on the prescription.

Ms. Bates stated that she believes she read the label as mls instead of teaspoons. Ms. Bates stated that she believed that the DUR referred to the 3/4 teaspoonful that was prescribed and made a judgment call based on what the prescription read and not what the label read.

Dr. Sypherd asked about the training program at the store.

Ms. Schickel stated that all the Pharmacy Supervisors do monthly peer reviews. Ms. Schickel stated that a report is generated concerning external and internal events within the pharmacy. Ms. Schickel stated that the report is shared with the entire pharmacy staff.

Dr. Sypherd asked if the other pharmacists are aware of this case.

Mr. Khan replied that the other pharmacists are aware of this case. Mr. Khan stated that there has been a recent update to their software. Mr. Khan stated that a pop-up message appears to check dosages on all liquid medications.

Mr. Dutcher told the Pharmacy Supervisor that the pharmacy staffs need to be educated on the use of mls versus teaspoonfuls because this is not the first mistake of this nature that has come to the Board's attention.

Dr. Smidt asked Ms. Schickel how many stores she supervises.

Ms. Schickel replied that she supervises 30 stores.

Dr. Smidt asked Ms. Schickel if she had the authority to set a policy that would require the pharmacist to record their initials

when they counsel the patient.

Ms. Schickel replied that she does not have that authority but she can make the recommendation to their corporate office.

Dr. McCoy asked if the computer can convert the teaspoonfuls to mls.

Ms. Schickel stated that she can check to see if that can be done.

Dr. McCoy stated that she would like the Board to send a letter to the Nurse Practitioner because she did not enter the age of the patient on the prescription. If the age was on the prescription, it would serve as a second check to the pharmacist.

Mr. Dutcher stated that he would like the prescription to have the date of birth of the patient.

Mr. Wand asked if the date of birth is in the computer for insurance purposes.

Ms. Schickel stated that the date of birth is in the computer. Ms. Schickel replied that the age shows up on the top of the screen when the prescription is verified.

Mr. Wand asked if the pharmacist verifies the prescription from the hard copy or the image on the screen.

Ms. Schickel replied that the pharmacist verifies from the image on the screen.

Mr. Wand asked if the Nurse Practitioner had entered the age of the patient on the prescription then the age would have shown up on the image.

Ms. Schickel replied yes.

Mr. Dutcher asked the participants if they had learned anything from this incident.

Mr. Khan stated as a result of the error they are double checking their work and all conversions. Mr. Khan stated that they are documenting counseling and ensuring that counseling is performed.

Dr. Smidt asked Ms. Guerrero, the technician, about the counseling process.

Ms. Guerrero states that when the technician rings up the prescription they explain to the patient that they are sending them to the consultation window to speak with the pharmacist. Ms. Guerrero stated that the technician then hits the yes key for consultation. Ms. Guerrero stated that they ask patients that are picking up refills if they would like to talk to the pharmacist and then push the appropriate key.

Dr. Smidt asked if the patient is handed the package after paying for the medication.

Ms. Guerrero stated that they are not handed the prescription if counseling is required. Ms. Guerrero stated that the technician gives the prescription to the pharmacist at the consultation window. Ms. Guerrero stated that if the patient was handed the medication the patient would leave.

Mr. Dutcher reminded the respondents to be careful and slow down.

Complaint #3055

Pharmacist Richard Pillon and Regional Pharmacy Manager Jerry Denny were present to address a consumer complaint.

Compliance Officer Larry Dick gave a brief overview.

Mr. Dick stated that the complainant's refill prescription for Trazadone 100 mg and Glipizide 10 mg were both filled with Glipizide 10 mg tablets. The patient took four Glipizide 10 mg tablets daily and experienced side effects.

President Dutcher asked Mr. Pillon how this error occurred.

Mr. Pillon stated that he was working quite a few hours and that is not an excuse for the error. Mr. Pillon stated that when he counsels the patients he does a show and tell on all new prescriptions. Mr. Pillon stated that on refills he asks the patients if there are any questions. Mr. Pillon stated that on refills he should probably be doing a show and tell during counseling.

Mr. Pillon stated that he arrived at the store late because the staffing agency received the call late. Mr. Pillon stated that he did not arrive at the store until 11:00 A.M. and he was already behind.

Mr. Dutcher asked Mr. Pillon if he had appeared before the Board recently.

Mr. Pillon replied yes.

Mr. Dutcher asked Mr. Pillon if the Board has a reason to be concerned.

Mr. Pillon replied yes.

Mr. Dutcher asked Mr. Pillon what the Board needs to do to help him.

Mr. Pillon replied that he needs to overhaul his whole procedure in how he fills a prescription.

Mr. Dutcher stated that he is concerned with the frequency of the errors. Mr. Dutcher asked Mr. Pillon what was decided at the end of the last conference.

Mr. Pillon stated that he was going to change his practices.

Dr. Smidt asked Mr. Pillon if he was working for a staffing agency.

Mr. Pillon replied yes.

Dr. Smidt asked Mr. Pillon if he could be called in to work in an emergency situation.

Mr. Pillon replied yes.

Dr. Smidt stated that he feels that this may not be the best practice situation for Mr. Pillon.

Mr. Pillon stated that he has not been working in the retail setting for the last several months.

Dr. Smidt asked if there was a technician on duty and indicated that Mr. Pillon felt not having a technician led to the error.

Mr. Pillon stated that he felt that a technician would have been helpful to at least ring the purchases at the cash register.

Mr. McAllister referred to Mr. Pillon's reply that Mr. Pillon felt that during winter visitor season that the pharmacy chain should be required to have at least one technician working a 6 to 8 hour day. Mr. McAllister noted that on that day there were only 34 prescriptions filled and he does not view this as a high volume store.

Mr. Dutcher stated that he does view 34 prescriptions daily as a high volume.

Mr. Dutcher stated that the Board needs to take proper steps so that Mr. Pillon does not return in another few months with another error.

Mr. Pillon stated that he is currently working in a call center and he has not had any problems. Mr. Dutcher asked Mr. Pillon if the job is through the relief service or if it is a permanent job.

Mr. Pillon replied that it is through the relief service and he hopes it turns into a permanent job.

Dr. Smidt indicated that he feels the Board needs to take same type of action to protect the public.

Mr. Dutcher suggested that maybe Mr. Pillon could take the PSAM exam and additional CE credits on errors.

Dr. Tippet asked if Mr. Pillon could be mentored or shadow another individual, so that he could be exposed to other ways of conducting business.

Mr. Wand stated that in the past the Board had required Intern hours but this could impact his ability to find a job. Mr. Wand stated that since he is working in a call center he assumes someone would need to listen to the calls.

Mr. McAllister stated that he feels that Intern hours are not necessary because Mr. Pillon has been a pharmacist for a long time. Mr. McAllister suggested that a letter should be sent to the relief agency concerning the competencies of their employees. Mr. McAllister stated that the companies should be aware of the individuals that are being sent to their pharmacies to work.

Mr. McAllister stated that he would suggest a fine and required patient safety CE. Mr. McAllister stated that he does not feel the PSAM would be relevant because we are dealing with dispensing errors. Mr. Wand stated that it may be difficult to find the CE and he may need a year to complete the CE.

Mr. McAllister stated that he feels a year would be sufficient.

Mr. Pulver stated that the Board could offer Mr. Pillon a consent. Mr. Pulver stated that the Board can specify the terms for Mr. Wolf, who will be writing the consent. Mr. Pulver stated that if Mr. Pillon does not sign the consent then the Board would move to an administrative hearing.

Mr. McAllister suggested a 30-day probation period, a \$1,000 fine, and 8 hours of CE on patient education within 12 months.

Dr. Smidt suggested that as an addendum Mr. Pillon should be prevented from working in a pool situation. Dr. Smidt stated that Mr. Pillon stated that he was overwhelmed with 34 prescriptions that day. Dr. Smidt stated that he feels that because he is a pool pharmacist that he feels that Mr. Pillon feels that he can work at a lower level as a pharmacist.

Dr. McCoy stated that she feels that the Board cannot stipulate where Mr. Pillon can work. Dr. McCoy stated that these are competency issues and the errors could occur in any setting. Dr. McCoy stated that the errors have occurred in two different settings.

Mr. McAllister suggested that as a compromise and to ensure additional mentoring, the Board could stipulate that Mr. Pillon must work with another pharmacist and cannot work alone. Mr. McAllister suggested that the probation would be lengthened with the stipulation that he cannot work alone.

Dr. Berry asked Mr. Pillon what he does at the call center.

Mr. Pillon stated that he resolves problems with the prescriptions and calls the physician.

On motion by Mr. McAllister and Mr. Van Hassel, the Board agreed to offer Mr. Pillon a consent order with the following recommended terms: a 6- month probationary period during which he cannot work as the only Pharmacist on duty, \$1,000 fine, 8 hours of CE on patient safety, and return to the Board at the end of the 6-month probation and reports to the Board how his practice has changed. There was one nay vote by Dr. Tippet.

Complaint #3062

Pharmacist Stuart Horn and Pharmacy Supervisor Rick Gates were present to address a consumer complaint.

Compliance Officer Larry Dick gave a brief overview.

Mr. Dick stated that the complainant's prescription for Trazadone 50 mg was updated and filled with Tramadol 50 mg. Two subsequent refills were also filled incorrectly. The patient took the medication until she began to experience adverse reactions.

President Dutcher asked Mr. Horn to discuss this error.

Mr. Horn stated that the prescription was a computer generated refill. During the creation process, the drug was changed from Trazadone 50 mg to Tramadol 50 mg. Mr. Horn stated that the prescription he saw before him was for Tramadol and was filled with Tramadol. Mr. Horn stated that he does not trust the computer when there is a product copy and he has taken measures on his own to ensure this does not happen again. Mr. Horn stated that when he receives a copy of a prescription he goes to the patient profile and verifies that the correct drug was copied. Mr. Horn stated that the company has made changes. Mr.

Horn stated that they now scan the prescriptions and he has a copy of the prescription in front of him to verify.

Mr. Dutcher asked Mr. Horn if he filled off the label.

Mr. Horn replied he filled off the computer.

Mr. Dutcher asked if there was a new hard copy.

Mr. Horn replied that there was a new computer generated hard copy.

Mr. Dutcher asked Mr. Gates how a prescription is created.

Mr. Gates stated that there was a copy and create function in their old computer system. The little box shows the old prescription number from which the new prescription was created. Mr. Gates stated that currently a mock-up prescription is created and the pharmacist can look at the profile to check the drug. Mr. Gates stated that the company has removed the quick code TRA 50 which would pull up both medications and would require the individual entering the drug to type in the name of the drug.

Mr. Gates stated that they can also pull other quick codes if they see issues corporately.

Mr. Dutcher asked if the prescription was updated why the pharmacist had the chance to change the name of the drug.

Mr. Gates stated that the system has now been changed and will not allow the pharmacist to change the name of the drug or the directions on an update.

Mr. McAllister asked if patient information was printed for the bag.

Mr. Gates replied yes.

Mr. McAllister stated that the patient received information stating that the medication was for pain and probably helped prolong the error.

Mr. Dutcher asked Mr. Horn about looking at the image.

Mr. Horn stated that when the term copy appears on the screen he will go to the patient's profile to view the closed prescription and ensure that the prescription was copied correctly.

Mr. Dutcher told Mr. Gates that he is glad that the company has made the appropriate changes to their computer system.

Dr. Smidt asked if there is a limit on the time frame that an individual can file a complaint.

Mr. Pulver replied that there is no limit. Mr. Pulver stated that it may depend on the freshness of the complaint and the severity of the complaint.

Complaint #2998

President Dutcher called Mr. Espino forth to appear.

Mr. Espino was not present.

Ms. Frush stated that Mr. Espino was sent a letter with a request to respond by March 6, 2006 that he received the letter and would appear. Mr. Espino did not show for the November 16, 2005 meeting and was not available on January 25, 2006 when the Board attempted to reach him by telephone for the conference.

On motion by Dr. Berry and Mr. McAllister, the Board agreed to issue a Consent Order to Mr. Espino for revocation of his pharmacy technician trainee license and if Mr. Espino does not sign the consent then the hearing will be sent to the Office of Administrative Hearing. There was one nay vote by Mr. Van Hassel.

Mr. Van Hassel suggested that maybe the Board should hear the case to save the additional funds that it would cost to sent the case to the Office of Administrative Hearing.

Mr. Pulver stated that the individual can be held responsible for the costs at both places if the licensee loses the case.

Mr. Pulver stated that if the individual does not respond to the complaint then the allegations are deemed true.

Complaint #3006

Pharmacists Kathleen Crook and Brian Choi, and Pharmacy Supervisor Rick Gates were present to answer questions from Board Members.

Compliance Officer Larry Dick gave a brief overview.

Mr. Dick stated that as a result of the conference at the last Board Meeting the pharmacists that were working that day were asked to appear before the Board to determine who counseled the patient. The error involved the filling of an Avandia 4 mg prescription with Warfarin 4 mg. The medication was to be given twice daily. The error was discovered when the patient brought in a prescription for Cipro and the pharmacist told him he could not take this medication with Warfarin.

President Dutcher asked Mr. Choi to address the complaint.

Mr. Choi stated that he was one of two pharmacists on duty the day the prescription was sold.

Mr. Dutcher stated that the reply stated that counseling was performed according to the policy.

Mr. Dutcher asked the pharmacists if either of them counseled the patient.

Mr. Choi stated that he does not recall counseling the patient.

Ms. Crook stated that she does not recall counseling the patient.

Mr. Dutcher asked Mr. Gates if there was a system breakdown on who counseled the patient.

Mr. Gates stated that currently there are no requirements to document who did the counseling and that is why both pharmacists are appearing.

Mr. McAllister asked the pharmacists if they could give him a clinical example where Warfarin would be used twice daily.

Mr. Choi stated that he has not seen Coumadin used twice daily and that would have raised a red flag to him at the consultation window.

Mr. Van Hassel asked if the pharmacists realized that Avandia and Coumadin is a major transcription error.

Ms. Crook stated that she heard that after she made the error.

Mr. Van Hassel asked if they heard anything about look- alike and sound alike drugs.

Ms. Crook replied yes.

Mr. Choi stated that he is aware of one example and that is Avandia and Avalide.

Dr. McCoy asked if the computer system would trigger that Coumadin twice daily is an unusual dose.

Mr. Gates stated that he is not aware of a flag but he will check.

Mr. Dutcher told the pharmacists that counseling should have prevented this error and that he feels adequate counseling was not performed. Mr. Dutcher reminded the pharmacists to counsel the patient and to be careful.

Dr. McCoy asked to send a copy of the ISMP newsletter to the physicians assistant concerning the error and alerting her to the confusion with look-alike and sound-alike drugs.

Complaint #3024

Pharmacist Sharon Huie, Pharmacist Thomas Bannister, Pharmacy Supervisor Sean Duffy, Corporate Director of Pharmacy Professional Services Richard Mazzoni, and Legal Counsel Roger Morris were present to address a consumer complaint.

Mr. Dutcher gave a brief overview of the complaint. Mr. Dutcher stated that the patient received toxic doses of acetaminophen by obtaining early refills and written prescriptions for Darvocet N-100. Mr. Dutcher stated that at the last meeting action was taken against the Pharmacist In Charge. Mr. Dutcher stated that the Board decided to take action against all the pharmacists involved because they all filled prescriptions for the Darvocet N-100. Mr. Dutcher stated that it appears the red flags were overlooked.

Mr. Bannister stated that he does accept his responsibility in the unfortunate filling of these prescriptions. Mr. Bannister stated that he has always looked at acetaminophen as a troublesome overdosed drug for the community and he missed the overdose in this individual. Mr. Bannister stated that he has made changes in the way he reviews prescriptions in the computer. Mr. Bannister stated that he is looking for this type of controlled drug with this type of directions. Mr. Bannister stated that he has the technician print the patient's history or he will review the patient's profile. Mr. Bannister stated that these are the steps that he has initiated to prevent this error from occurring again.

Mr. Dutcher stated that one of the issues is that the pharmacist must tell the patient no when they request early refills. Mr. Dutcher stated that the Board feels the patient approached all the pharmacists and asked for early refills and his request was not denied.

Ms. Huie stated that she regrets the incident. Ms. Huie stated that she has taken steps to prevent this in the future.

Mr. Morris stated that the pharmacists have agreed to sign a consent order similar to the one signed by the Pharmacist In Charge.

Mr. Dutcher asked if the consents were agreeable to Mr. Bannister and Ms. Huie. They replied yes.

Mr. Morris stated that Richard Mazzoni is present on behalf of the permittee to answer any questions concerning system issues.

Mr. Wand stated that Mr. Morris had requested one change on the consent order. The change allows the individuals to be preceptors.

Mr. Morris stated that the store currently has three interns at the store.

Mr. McAllister states that they have not shown any deficiencies in being preceptors and probably will be teaching better because of the experience.

Mr. Bannister and Ms. Huie signed the consent orders.

Dr. Tippett asked about paragraph 25 where it states that the respondent shall appear in person before the Board to respond to questions or concerns regarding his compliance with this Order when requested by the Board.

Mr. Pulver stated that it gives the Board the option to ask the individuals to a Board Meeting if the Board receives a report concerning some issue in the Consent Order.

Mr. Dutcher stated that the Pharmacists have agreed to a 90 day probation and will not be a Pharmacist in Charge during the probation and they must take the PSAM exam.

On motion by Dr. McCoy and Dr. Smidt, the Board unanimously agreed to accept the Consent Agreement for Thomas Bannister. A roll call vote was taken. (Dr. Sypherd - aye, Ms. Honeyestewa - aye, Dr. Smidt - aye, Dr. Tippett -aye, Dr. Berry - aye, Mr. McAllister -aye,

Dr. McCoy -aye, Mr. Van Hassel - aye, President Dutcher - aye.)

On motion by Dr. McCoy and Dr. Smidt, the Board unanimously agreed to accept the Consent Agreement for Sharon Huie. A roll call vote was taken. (Dr. Sypherd - aye, Ms. Honeyestewa - aye, Dr. Smidt - aye, Dr. Tippett -aye, Dr. Berry - aye, Mr. McAllister -aye,

Dr. McCoy -aye, Mr. Van Hassel - aye, President Dutcher - aye.)

President Dutcher asked Mr. Mazzoni, Corporate Director of Pharmacy Professional Services for Albertsons, to explain if there were a failure in the system to allow the prescriptions to be overridden or if there is a failure in the procedure to allow the pharmacist to fill the prescriptions early.

Mr. Mazzoni stated that part of his job is compliance. Mr. Mazzoni stated that it is important to note that the patient and doctor had some behaviors that contributed to this problem and it was the responsibility of the pharmacists to catch the error. Mr. Mazzoni stated that there were some breakdowns in practice at this location. Mr. Mazzoni stated that the computer system has a number of DUR edits, such as excessive dose, dose range checking, and therapeutic duplication. Mr. Mazzoni stated that he had the systems analysts check the functionality of the system at this location and everything was functioning as it should. Mr. Mazzoni stated that the various edits that occur require overriding with messaging. Mr. Mazzoni stated that they can be overridden but messages must be entered on a comment line. Mr. Mazzoni stated that there is extensive training.

Mr. Mazzoni stated that there is in-person training for pharmacists and technicians, workbooks, and memos. Mr. Mazzoni stated that the acetaminophen chart is one of their training tools.

Mr. Mazzoni stated that there are very explicit policies and procedures in the manual concerning DUR issues and the workflow process. Mr. Mazzoni stated that the policies are very explicit in defining each person's responsibilities. Mr. Mazzoni stated that the Field Supervisors, such as Mr. Duffy, visit the stores every 4 to 6 weeks. Mr. Mazzoni stated that workflow and compliance is covered during these visits. Mr. Mazzoni stated that this issue has been covered in every store in which they operate. Mr. Mazzoni stated that the company has Pharmacy Manager meetings twice a year. Mr. Mazzoni stated that he has talked about compliance issues in the past at these meetings, including pain management and pseudoephedrine use. Mr. Mazzoni stated that he feels that the company has comprehensive policies in place to prevent this from happening.

Mr. Duffy stated that the computer system does meet the requirements. Mr. Duffy stated that sometimes the pharmacist relies on the insurance company to alert when a prescription is too soon to be refilled. Mr. Duffy stated that issue has been addressed.

Dr. McCoy stated that the current ISMP newsletter has an extensive article about Acetaminophen and the products that contain Acetaminophen. Dr. McCoy asked if the company subscribes to the ISMP newsletter.

Mr. Mazzoni stated that he gets the excerpts from the ISMP and he has produced a bibliography of abstracts from various publications that deal with Acetaminophen overdose.

Dr. Smidt asked Mr. Bannister about his new practice of printing out the refill history.

Dr. Smidt asked Mr. Bannister when he decides to look at the history.

Mr. Bannister replied that it is on a case by case basis. Mr. Bannister stated that he looks at refills for controlled substances because he did not pick up on the problem previously.

Dr. Smidt stated that the system does not allow the pharmacist to review the medication history.

Mr. Bannister stated that they have a final review screen and the history screen is one step beyond that screen and the pharmacist must go to that screen. Mr. Bannister stated that the information is in the system and there is a final review log that is a document about the size of a prescription that gives the review of the prescription history and would indicate if a prescription is too soon. Mr. Bannister stated that he wasn't using the document correctly.

Mr. Mazzoni stated that there are numerous places where the previous data refill is presented to whoever is doing the data input.

Dr. Smidt asked if that person is a technician.

Mr. Mazzoni stated that it could be a technician and it would be the responsibility of the technician to alert the pharmacist.

Dr. Smidt stated that the technician is making the determination to notify the pharmacist.

Dr. Smidt asked Mr. Duffy if he is reviewing the financial information of the pharmacy when he visits the pharmacy.

Mr. Duffy stated that he does look at financial issues. Mr. Duffy stated that the company has been reviewing workflow processes for the last 9 months.

Dr. Smidt asked if in the new workflow process is the technician still the person determining if a prescription should be refilled.

Mr. Duffy stated that they have a new biometric system coming up that would allow only a pharmacist to override certain high dose alerts, drug-drug interactions, or allergy alerts with their thumbprint. Mr. Duffy stated that the technicians are now trained to bring the pharmacist to the computer to override the interaction. Mr. Duffy stated that if the pharmacist is not available then the technician would print out the alert.

Mr. Dutcher asked if the company has changed anything within the computer system since this incident. Mr. Mazzoni stated that they have not changed any programming.

Mr. Mazzoni stated that the company felt the programming was adequate and still is adequate.

Mr. Morris stated that some state boards have regulated when a prescription could be filled.

Mr. Dutcher asked Mr. Mazzoni if they have corporate standards on refills too soon. Mr. Mazzoni stated that they allow the pharmacist to use their discretion and judgment.

AGENDA ITEM 10 - Consent Agreements

President Dutcher asked Board Members if there were any questions or discussions concerning the consent agreements.

Executive Director Hal Wand indicated that the consent agreements have been reviewed and approved by the Attorney General's Office and have been signed.

On motion by Dr. McCoy and Dr. Tippet, the Board voted unanimously to accept the Consent Agreement 06-0005-PHR for Dennis Lambert as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Dr. Sypherd - aye, Ms. Honeyestewa - aye, Dr. Smidt - aye, Dr. Tippet - aye, Dr. Berry - aye, Mr. McAllister - aye,

Dr. McCoy - aye, Mr. Van Hassel - aye, President Dutcher - aye.)

On motion by Dr. McCoy and Dr. Berry, the Board voted unanimously to accept the Consent Agreement 06-0005-PHR for Dennis Lambert as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Dr. Sypherd - aye, Ms. Honeyestewa - aye, Dr. Smidt - aye, Dr. Tippet - aye, Dr. Berry - aye, Mr. McAllister - aye, Dr. McCoy - aye, Mr. Van Hassel - aye, President Dutcher - aye.)

Mr. Pulver stated that Mr. Randy Savage was placed on the agenda in case he signed and returned the Consent Agreement. Mr. Pulver stated that at this time Mr. Savage has not returned the Consent Agreement. Mr. Pulver stated that if Mr. Savage returns the signed Consent Agreement it would be placed on the Agenda for the next Board Meeting. Mr. Wand stated that if he signed the agreement it would be placed on the Agenda unless someone makes a motion to go to hearing.

Dr. McCoy asked about the turn around time.

Mr. Wand stated that they are usually given three weeks.

Mr. Pulver stated that if he does not sign the Consent Agreement then it would go to a hearing. Mr. Pulver stated that the Consent Agreement was for revocation.

Mr. Dutcher asked if the Board would like to take any action at this time.

Dr. McCoy stated that she feels the individual has had enough time to sign the consent.

Mr. Wand stated that the Consent was sent out on February 24, 2006 and was received by Mr. Savage on February 28, 2006. Mr. Wand asked Mr. Savage to respond by March 10, 2006. Mr. Wand stated that there is no requirement that he reply by March 10, 2006.

On motion by Dr. Smidt and Dr. Sypherd, the Board unanimously agreed to move to an administrative hearing for Randy Savage and the hearing will be held at the Office of Administrative Hearings.

Dr. Smidt asked Mr. Pulver about the Consent Agreements.

Mr. Pulver stated that if they sign the agreement the respondent has agreed to the terms of the Consent Agreement. Mr. Pulver stated that if the respondent states that he will not accept the agreement or does not respond then the Board mails the complaint to the respondent at their last known address. Mr. Pulver stated that if they do not respond in 35 days then the allegations become fact.

Call to the Public

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

A pharmacist expressed his concerns about the stance the Board Members took on counseling. The pharmacist stated that if the Board is unhappy with counseling then send the message to the pharmacists directly. He stated that the Board should prepare a letter and e-mail the letter to the pharmacist and not hope that they get the message because A and B got disciplined. He stated that the Board has had a history of education first and discipline second. He stated that the Board should continue to educate. He also suggested that the agenda, the minutes, and the Notice of Hearing could be sent to all pharmacists via e-mail. The pharmacist stated that as more rules are enacted, the pharmacists must pick and choose what rules they are going to follow. He stated that if we are going to pass rules, then the Board should intend to enforce the rules. He suggested that maybe a task force should review the rules to see which rules are necessary and which rules are no longer needed.

A pharmacist stated that he had a comment concerning the proposed policies and procedures rules. He stated that the part that he would like to comment on is the part that requires the pharmacy to comply with its own internal policies and procedures and failure to comply with the rules would result in a violation. The pharmacist stated that the laws represent minimum requirements for practitioners. The pharmacist stated that it is good when a pharmacy promulgates policies that are above the minimum standard. The pharmacist stated that his concern under the proposed rule increases the regulatory risk of the pharmacy and the pharmacy being found in violation. The pharmacist stated that some pharmacies may respond to this negative incentive by amending policies to mirror minimum requirements.

A pharmacist stated his company wants to ensure that the pharmacists are counseling their patients. He felt that holding the corporation responsible for professional practice would be difficult. He feels that the professional should be held responsible for professional practices. He stated that he agrees that if a patient is not counseled then everyone on duty should be held accountable. He felt that the choice to counsel is made by the pharmacist and sometimes there are many duties that the pharmacist must balance doing his job.

A pharmacist stated that he believes that there should be a rule about maintaining the electronic prescriptions for approximately 30 days. He stated that he feels that if there are excess funds the funds could be used to educate the public on why the pharmacist is required to counsel the patient. He stated that he saw the counseling video in the past and suggested that the video could be put online for the pharmacists to review.

Mr. Pulver came forth to thank the Board for providing him the opportunity to work as their attorney. Mr. Pulver stated that he has enjoyed working with Mr. Wand, Ms. Frush, and the Board Members. Mr. Pulver stated that he has enjoyed working as the attorney for the Board.

There being no further business to come before the Board, **on motion by Dr. Tippett and Mr. Van Hassel**, the Board unanimously agreed to adjourn the meeting at 4:25 P.M.

March 16, 2006

The following Board Members and staff were present: President Chuck Dutcher, Vice President

Tom Van Hassel, Zina Berry, Louanne Honeyestewa, Dennis McAllister, Linda McCoy, Ridge Smidt, and Paul Sypherd. Compliance Officers Rich Cieslinski, Larry Dick, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Deputy Director Cheryl Frush,

Executive Director Hal Wand, and Assistant Attorney General Roberto Pulver.

President Dutcher convened the meeting at 8:30 A.M. and welcomed the audience to the meeting. Ms. Frush explained that law continuing education would be offered for attendance at the meeting.

AGENDA ITEM 11- Proposed Rules

Electronic Prescription Rules

Compliance Officer/Rules writer Dean Wright opened the discussion by stating that the proposed rules address electronic transmission of prescriptions based on existing statutes. Mr. Wright stated that the rules will also include rules for fax transmission. Mr. Dutcher asked if the faxing would include controlled substance prescriptions. Mr. Wright stated that last year when the statutes were revised in Article 36 the Federal laws were incorporated into our statutes and the statutes mimic the federal statutes.

Mr. Wand stated that changes would occur in R4-23-407 which include the prescription requirements and R4-23-408 which include the computer requirements.

Mr. Dutcher asked Mr. Wright about the proposed rule that states that the fax must contain the name of the individual transmitting the fax if it is different than the practitioner. Mr. Dutcher stated that it may take some time for the medical staff to conform to these new requirements. Mr. Dutcher asked if the Medical Board would be contacted about the change.

Mr. Wand stated that the Board only had a policy concerning fax transmissions and now the Board needed rules for fax transmission. Mr. Wand stated that the Board cannot take action against an individual based on policies.

Mr. Wright stated that the rules define electronic signature and digital signature. Mr. Wright stated that the Federal Law requires a manual signature on a CII prescription and that would continue and the Board could not change that rule.

Mr. Dutcher stated that it may be hard to obtain the full name of the individual transmitting the fax.

Mr. Wright stated that could be changed after receiving public comments.

Mr. Van Hassel stated that there must be safe guards and quality assurance measurements that the systems are compliant.

Mr. Wright stated that there are already pharmacies that are receiving prescriptions from physician's offices.

Mr. Dutcher asked what happens to the original hard copies of prescriptions when the prescriptions are imaged.

Mr. Wright stated that the hard copy could be shredded. Mr. Wright stated that the rules state that as long as a pharmacy can print out the image of the prescription (front and back) then the prescription can be destroyed.

Mr. Wand stated that the pharmacies must comply with HIPAA regulations concerning destruction of the hard copy prescriptions.

Mr. Wright stated that the rule does not state how long the hard copies must be maintained if the image is available. Mr. Wright stated that the pharmacy could shred the prescription immediately.

Mr. Wright stated that the Board could specify a retention period for hard copies that are imaged.

Dr. Smidt stated that an individual who was under investigation could state that all their electronic records were destroyed in some fashion and not be held accountable for losses.

Mr. Wand stated that the first two imaging systems that were approved were mail order facilities and they were required to have a back-up system off site. Mr. Wand stated that the Board could add that a back up of the prescriptions could be stored off site.

Mr. Wright discussed the use of public and private keys for electronic prescriptions.

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

Intern and Policy and Procedure Rules

Mr. Wright stated through the legislature the intern license was changed from a two-year license to a five- year license. Mr. Wright stated that the statute states that after six years, an intern must appear before the Board in order to renew their license. Mr. Wright stated that since the license is a five year license, the intern would appear before the Board and the Board could renew the license for the time period that the intern needs to complete his education. Mr. Wright stated that the fee would be pro-rated. Mr. Wright stated that the intern license would not be renewed for another five year period. Mr. Wright stated that in most cases the intern completes their education before the five year license expires. Mr. Wright stated that this proposed rule would allow the Board to chose the renewal period and it could be less than 5 years.

Mr. Wright stated that online applications will require a verified signature. Mr. Wright stated that

he has a proposed definition for verified signature that will allow applications forms to be signed electronically on line. Mr. Wright stated that there would be a statement that the applicant would agree to electronically stating that the information is true and accurate.

Mr. Wright stated that in all sections of the rules that require policies and procedures the section will be changed to state that they must not only implement the policies and procedures but must comply with the policies and procedures.

The Board gave Mr. Wright approval to proceed with the rulemaking.

Compounding and Sterile Pharmaceutical Products Rules

Mr. Van Hassel opened the discussion by stating that the Board had appointed a Task Force to

review the rules to establish minimum standards for compounding of sterile pharmaceutical products. Mr. Van Hassel stated that the task force consisted of members involved in various

practice settings. Mr. Van Hassel stated that the task force wanted to develop minimum safe compounding levels for pharmacies in the state. Mr. Van Hassel stated that they wanted to make it easy for the compliance staff to evaluate if a pharmacy was meeting the minimum standards. Mr. Van Hassel stated that the task force wanted to ensure that quality assurance programs existed and the pharmacies were in compliance with the programs. Mr. Van Hassel stated that the task force defined what equipment was necessary. Mr. Van Hassel stated that the task force defined areas and clean room standards.

Dr. Smidt stated that one member of the task force disagreed with the definition of Buffer Zone and requested that the area where the pharmacists or technicians don protective clothing be renamed. After discussion, the Board Members decided to rename this area the Prep area.

Mr. Wand asked Mr. Wright if a hearing has been scheduled.

Mr. Wright stated that if everyone is happy with the proposed changes he will move forward with a notice of proposed. Mr. Wright stated that he needs a copy of the ISO standards because they are referenced in the rules. Mr. Wright asked if anyone has a copy of the standards. Mr. Wright stated that the Board would need to purchase a copy of the Standards since the Board must maintain a copy of the standard if the standards are referenced in the rules.

Mr. Wand asked if these rules would affect someone's JCAHO accreditation.

Mr. Van Hassel stated that JCAHO is ratcheting down their enforcement of the USP 797 policies and what the task force has developed are minimum standards.

Mr. Wand stated that the rules indicate that any pharmacy permit issued a new permit or any pharmacy that remodels must have a clean room area of 100 sq. feet as opposed to the current 60 sq. feet.

The Board gave Mr. Wright the approval to proceed with the rulemaking.

Mr. Dutcher thanked the task force for the time that they spent reviewing and developing the rules.

Counseling Rules

Mr. Wright stated that at the last Board Meeting the Board had recommended that a change may be needed to the counseling rules to identify which pharmacist did or did not counsel the patient. Mr. Wright stated that this proposed change would require the documentation of the pharmacist's initials or an identification code to identify the pharmacist that performed the counseling.

Mr. Dutcher stated that the proposed change would help the Board clarify who failed with the procedure.

Ms. McCoy stated that the counseling should be tied back to the individual prescription. Mr. Wright stated that some pharmacists are using stamps that indicate that they have counseled the patient.

Mr. Wright stated that some pharmacies have check boxes on a label and the pharmacist places the label on a log sheet when they counsel the patient. Mr. Wright stated that the individuals that are using electronic systems, such as the cash register, do not currently have a way to document the initials.

Mr. McAllister stated he cannot think of any other licensed health care professional that does not document when they give advice to a patient.

Dr. Smidt stated that often the pharmacist will ask the patient if they have any questions and the patient replies no and the pharmacist will document that the counseling was performed. Dr. Smidt stated that this would not actually solve the issue.

Mr. Dutcher asked if the pharmacists need to be trained differently. Dr. Smidt stated that if the Board knows who performed the counseling and the counseling was inadequate then the Board could take action against the pharmacist.

Mr. McAllister stated that the purpose of licensing the technicians was to allow the pharmacists to counsel the patient. Mr. McAllister stated that quality counseling should take place and the pharmacist disciplined if the counseling does not occur.

Dr. Smidt stated that the Board needs to send a message to the pharmacists and be consistent reviewing the cases.

Dr. McCoy stated that the Board would need to define a quality process. It may be hard for someone to evaluate if what they observed was a quality process. Dr. McCoy stated that the permit holder also has a responsibility. Dr. McCoy stated it is important to know the company's expectations.

Dr. Sypherd stated that the pharmacist must use their professional judgment and provide the type of counseling that is required.

Mr. Van Hassel stated that maybe the Board needs to take the opportunity and provide education to the pharmacists concerning the minimum standards for counseling.

Mr. Dutcher stated that the APA Convention may offer an opportunity to educate the pharmacists.

Mr. Wand stated that the Board had presented a counseling video at a prior convention and there was a good response from the audience.

Mr. Dutcher asked if the Board could put the video on a DVD and send it out with each renewal.

Mr. Wand stated that he feels the Board could afford to mail a CD to the pharmacists, but he would like to review the video to be sure it is still timely.

Mr. Pulver stated that if the Board is concerned about counseling standards then by statute or rule the Board should define minimum standards.

Mr. Dutcher asked Mr. Wright if the Board needs to change the rules to make the rules stronger.

Mr. Wright stated that the rules state the basic elements that the pharmacist must tell the patient or provide to them in written format. Mr. Wright stated that the rules do not tell the pharmacist how they should counsel the patient and if the Board wants to tell the pharmacist how they should counsel the patient then they would need to develop the standards.

Dr. Berry asked if it would be possible to require 3 hours of CE on counseling when the pharmacist renews their license.

Dr. Smidt stated that the minimum requirements are present. Dr. Smidt stated that the pharmacist has more power and they need to be held accountable to the profession. Dr. Smidt stated that some individuals may need to receive additional education. Dr. Smidt stated that if it is a case of shirking the responsibility at the counseling end then the penalty phase should be more severe.

Dr. Berry asked if there were two or more pharmacists on duty and the Board cannot determine who counseled the patient then all the pharmacists would be penalized. Dr. Berry stated that if the onus is placed on the pharmacist then the pharmacist will develop a way to prove that they did or did not counsel the patient.

Mr. Wand stated that in some states all the pharmacists would be disciplined if the Board cannot determine responsibility.

Mr. Dutcher stated that the Board should take action if someone does not counsel and the word will get out fast to the pharmacists that the Board takes this issue seriously.

Mr. Pulver stated that if the Board wants to show the video at the next Board Meeting then the item should be placed on the agenda. Mr. Pulver stated that the Board could at that time inform the licensees that this is a trend that they are seeing and the Board is going to take the next step if the pharmacist does not counsel the patient. Mr. Pulver stated that the issue is then on a public agenda and becomes public record. Mr. Pulver stated that everyone would be given notice and everyone would be aware of the actions that the Board may take against their license.

Mr. Hunter stated that a large number of pharmacy chains place an emphasis on the number of prescriptions filled and not the number of patients counseled. Mr. Hunter stated that the Board may want to consider taking action against the permit holder if counseling is not performed. Mr. Wand stated that the new statutes allow the Board to discipline the permit holder for any actions that the employees do not perform or perform inadequately.

The Board gave Mr. Wright approval to proceed with the rulemaking

Automated Storage and Distribution System/Mechanical Counting Devices

Mr. Wright stated that a Public Hearing was held on January 30, 2006. Mr. Wright stated that the Board Members have been given copies of the written comments. Mr. Wright stated that he has provided the Board with a Notice of Supplemental Proposed Rulemaking.

Mr. Wright stated that the first change requested was to clarify the allowed location of an automated storage and distribution system. Mr. Wright stated that the proposed rule stated that the automated storage and distribution system had to be located in the wall of a properly permitted pharmacy. The written comments requested a change to allow the automated storage and distribution system to be located in the waiting area of a pharmacy. Mr. Wright stated that he has changed the language to read that the automated storage and distribution system is located either in a wall of a properly permitted pharmacy or within 20 feet of a properly permitted pharmacy if the automated storage and distribution system is secured against a wall or floor in such a manner that prevents the automated storage and distribution system's unauthorized removal.

Mr. Wright stated that the other change requested was that R4-23-614 (B) (1) be changed to remove the following language " and accurately supplies the correct strength, dosage form, and quantity of the drug prescribed." Mr. Wright stated that this change was made.

Mr. Wright stated another change was requested and the Board staff does not agree with the requested change. It was requested that the Board remove the requirement for an ongoing quality assurance program that monitors compliance with established policies and procedures of the automated storage and distribution system and federal and state law. Dr. McCoy stated that the statement should remain in the rules.

Dr. McCoy stated that unless the pharmacy is monitoring the system there could be a chance for diversion.

Dr. Smidt asked if the distribution system could be located outside the pharmacy in the waiting area or outside at a drive-thru window.

Mr. Wright replied that it would allow for the system to be placed in those two spots.

Dr. Smidt asked about the requirement of 20 feet.

Mr. Wright stated that he selected that number and the number of feet could be changed if the Board Members would like to

change the number.

Mr. Dutcher stated that he feels that 20 feet is adequate and if you change it to 50 feet away it may not be in view of the pharmacist.

Dr. Smidt asked if the prescriptions could be picked up after hours.

Mr. Wright replied yes.

Mr. Dutcher asked Ms. Elliott if her organization had any issues with the distance from the pharmacy. Ms. Elliott stated that their only concern was that the distribution system did not have to be located in the pharmacy.

Mr. Dutcher asked if the machines are easily vandalized.

Mr. Wright stated that there is a chance that the machine could be vandalized.

Mr. Wright stated that another issue has risen concerning the Mechanical Counting Device Rules. Mr. Wright stated that the rules were written initially to cover Baker Cells and Cassettes. Mr. Wright stated that the Board staff is now seeing the use of weighing devices to count drugs. Mr. Wright stated that this rule does not address this issue.

Mr. Wand stated that the topic could be placed on the agenda for the next Board Meeting.

Dr. McCoy asked Mr. Wright if he could add a statement that would state that any device used to assist the pharmacist in counting the medication must be calibrated and accurate.

Mr. Dutcher asked Mr. Wright if he could add that sentence.

Mr. Wright stated that he could add that statement and he wanted the Board to be aware of the change.

The Board gave Mr. Wright approval to proceed with the rulemaking

AGENDA ITEM 12 - Pharmacy Technician Trainee Reapplication

President Dutcher asked Mr. Van Hassel to address this issue.

Mr. Van Hassel stated at the last Board Meeting it was decided that a committee would be established to review the Pharmacy Technician Trainee requests to reapply for licensure. Mr. Van Hassel stated that the committee consisted of himself and Mr. Wand.

Mr. Van Hassel stated that the technician trainee license expires in two years. Mr. Van Hassel stated that the committee reviewed nine requests to be allowed to reapply for their Pharmacy Technician Trainee license. Mr. Van Hassel stated that some individuals had issues in sitting for the exam and other individuals did not pass the exam.

Mr. Van Hassel stated that the committee has decided to allow the nine technician trainees to reapply for licensure as a technician trainee for an additional two years.

Mr. Van Hassel stated that the opportunity to reapply can only be allowed one time. Mr. Van Hassel stated that it was decided that a letter would be sent to the technician trainees informing them that this is the only opportunity that they would have to reapply for their technician trainee license. Mr. Van Hassel stated that the law states that a technician trainee may obtain their original license and reapply one additional time. The total time an individual can be a technician trainee is 4 years.

On motion by Dr. McCoy and Ms. Honeyestewa, the Board unanimously approved the requests of the Pharmacy Technician Trainees listed below to proceed with the licensure reapplication process. The Pharmacy Technician trainee may reapply for an additional two years as a pharmacy technician trainee.

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

- 1. Bonita Winter

- 2. Mary Ortiz
- 3. Yvette Schultz
- 4. Nadine Schulwolf
- 5. Phenix Coleman
- 6. Nader Rouhofada
- 7. Suzy Martinez
- 8. Maria Garcia
- 9. Margaret Chavez

AGENDA ITEM 13 - Pharmacy Technician Exams

President Dutcher asked Mr. Wand to address this issue.

Mr. Wand stated that studies by PTCB and NABP have proven that the pharmacy certification exam offered by PTCB is a psychometrically-sound examination.

AGENDA ITEM 14 - Potential Legislation Impacting the Board of Pharmacy

President Dutcher asked Mr. Wand to address this topic. Mr. Wand stated that the following bills might have an impact on the Board of Pharmacy.

Mr. Wand stated that HB-2382 is a bill that allows individuals to recycle drugs that they are no longer using. Mr. Wand stated that the changes requested by the Board have been made. Mr. Wand stated that the Board could determine in rule what drugs could be donated. Mr. Wand stated that the Board could state in rule that drugs could not be donated from someone's house

where the medications have been stored at home since this could be a patient safety issue.

Mr. Wand stated that the bill has been changed to allow patients to donate at sites that are willing to be donation sites. These sites could include: pharmacies, doctor offices, and clinics.

Mr. Wand stated that HB-2815 concerns the sale of Pseudoephedrine products. Mr. Wand stated that this bill does not make pseudoephedrine a CV. The bill does limit the sale of pseudoephedrine by pharmacies only and pseudoephedrine can only be sold by a licensed individual. Mr. Wand stated that the bill does allow cities and towns to enact their own ordinances. Mr. Wand stated that this could be an issue. Mr. Wand stated that he and Ms. Rasmussen at the APA have spoken to the sponsor because it would be too hard to regulate with all the different ordinances.

Mr. Dutcher asked if the Board could make Pseudoephedrine a CV.

Mr. Wand stated that would be a statute change and that would need to go through the legislative process next year.

Mr. Wand stated that HB-2493 is another bill concerning pseudoephedrine sales. The bill is not moving forward.

Mr. Wand stated that HB-1536 is another bill concerning pseudoephedrine and the prescription monitoring program. Mr. Wand stated that the bill is not moving forward.

Mr. Wand stated that SB-1518 is a bill concerning the duty to fill. Mr. Wand stated that the technical changes were made. Mr. Wand stated that the bill goes after the permitte and not the pharmacist.

Dr. Sypherd asked if the pharmacist could refuse to dispense any drug.

Mr. Wand stated that the pharmacist could refuse to fill any medication based on personal beliefs. Mr. Wand stated that the pharmacy is required to offer the patient other options in obtaining their medication.

Mr. Dutcher stated that this helps the patient by not letting them stranded without any medication or options.

Mr. Wand stated that HB-2240 dealt with the budget unit fees. Mr. Wand stated that if the bill passes the Board may be able to spend the funds in the carryover account.

AGENDA ITEM 15 - Executive Staff Recommendations for Proposed Rules

Pharmacist in Charge at more than one location

Mr. Wand stated that many states have rules that allow for a pharmacist to be a Pharmacist In Charge at more than one place. Mr. Wand stated that the Board does not have a rule or statute about a pharmacist being the Pharmacist In Charge at more than one pharmacy. The Board has always tried to encourage the pharmacist to be the Pharmacist In Charge at only one site.

Mr. McAllister stated that he feels that there should be a limit of some kind.

Mr. Wand stated that due to the pharmacist shortage often someone is selected to be the Pharmacist In Charge who does not want to be the Pharmacist In Charge or lacks the training to be a Pharmacist In Charge.

Dr. Berry asked if this would be for resident pharmacies.

Mr. Wand stated that the rule would be for resident pharmacies.

Mr. Dutcher stated that he feels that there should be a limit. Mr. Dutcher asked if the Pharmacist In Charge would need to be working at that store.

Mr. Wand stated that the current rules do not require that the Pharmacist In Charge work at the store, but they do require that the Pharmacist In Charge is responsible for overseeing the pharmacy. Mr. Wand stated that the Board may want to consider if the Pharmacist In Charge needs to be present.

Refilling of Prescriptions when the prescriber cannot be reached

Mr. Wand stated that in several states rules have been enacted that allow the pharmacist to fill prescriptions without authorization when the prescriber cannot be reached. Mr. Wand stated that this situation usually occurs on the weekend when a doctor cannot be reached.

Mr. Dutcher stated that he feels for a chronic medication that is not a controlled substance the pharmacist should be allowed to refill the prescription one time and notify the doctor on Monday.

Mr. Wand stated that the Board would need to contact the doctors to see if they would agree to this arrangement to refill prescriptions. Mr. Wand stated that some individuals state that this may be a change in the scope of practice and may need to be a statute.

Refilling of Prescriptions during state emergencies (Flood, Fire)

Mr. Wand stated that in some states when the governor issues a state of emergency, pharmacists are permitted to dispense refills that have not been authorized by a prescriber. Mr. Wand stated that the Board should develop regulations to govern this situation.

Dr. McCoy stated that the Board should have rules for emergency preparedness.

Pharmacist On Duty requirements

Mr. Wand stated that the rules state that in a community pharmacy the pharmacist must be in the pharmacy or the pharmacy must be locked. Mr. Wand stated that in other practice sites the pharmacist can leave the pharmacy area.

Mr. Dutcher stated that the pharmacist is not always at the counter but he is in the building.

Mr. Wand stated that the pharmacist should be on the premise. Mr. Wand stated that another issue that the Board Members may want to consider is if a technician can hand out refills while the pharmacist is not in the pharmacy area. Mr. Wand stated that the Board would allow a machine to distribute refills and since the technicians are licensed the Board could allow them to hand out refills.

Mr. Wand stated that Mr. Wright would work on these rules for the future.

AGENDA ITEM 16 - FDA Authorization to Enter Pharmacies for Inspection

President Dutcher asked Mr. Wand to address this issue.

Mr. Wand stated that the FDA is entering pharmacies in the state of Arizona requesting to collect samples. Mr. Wand stated that he has told the pharmacies to contact their attorney. Mr. Wand stated that he and Mr. Pulver spoke with Terry Condor and Mr. Silverman, an attorney for the FDA, about this issue.

Mr. Wand stated that the issue is who decides what is manufacturing and what is compounding. Mr. Wand stated that traditionally the states regulate pharmacies and compounding.

Mr. Pulver stated that the FDA attorney sent a copy of the Wedgewood case to the office. Mr. Pulver stated that the third circuit decided this case and that court does not have control in Arizona because Arizona is in the ninth circuit court district.

Mr. Pulver stated that the court decided that the FDA could enter the pharmacy and do an inspection. Mr. Pulver stated that in this case Wedgewood pharmacy was manufacturing and the FDA had concerns. Mr. Pulver stated that the court ruled that the FDA does have the authority to enter the pharmacy without a warrant. Mr. Pulver stated that the pharmacy was under the assumption that there was an exemption that precluded pharmacies from FDA inspection. Mr. Pulver stated that the court stated that the FDA does have the authority to enter and determine if manufacturing is occurring.

Mr. Pulver stated that the next question is what the FDA can inspect. Mr. Pulver stated that if they have probable cause then they can determine if they need to inspect the pharmacy. Mr. Pulver stated that the key issue is if manufacturing is occurring. Mr. Pulver stated that if the pharmacy is compounding then they should fall under state jurisdiction.

Dr. Smidt asked if the Board could invite the FDA to a meeting and place them on the agenda to determine what they are looking for in terms of manufacturing versus compounding.

Mr. McAllister stated that the FDA representative for State Boards retired about 18 months ago and her position has not been filled, so it may be difficult to have someone appear at a Board Meeting at this time.

AGENDA ITEM 17 - Drug Therapy Management

President Dutcher asked Ms. Frush to address this issue.

Ms. Frush stated that there are two applicants that have submitted proposals for approval. Each applicant has submitted an application for anticoagulation management and Diabetes management.

On motion by Dr. McCoy and Dr. Berry, the Board unanimously approved the Drug Therapy Management Agreements for Toni Leyba and Alana Podwika.

Ms. Frush stated that Roy Mock, who was a pharmacist member of the advisory committee, has sent a letter to the Board notifying the Board that he will no longer be able to serve on the Advisory Committee since he is moving to Washington.

Ms. Frush told the Board Members that if they are aware of any individuals that are willing to serve on the committee to have them contact her at the Board Office. Ms. Frush stated that it would be best that the individual did not have an active drug therapy management agreement with the Board since the committee reviews the applications on a yearly basis.

Executive Session

On motion by Dr. McCoy and Dr. Berry, the Board unanimously agreed to move to executive session at 11:00 A.M. to discuss the executive director's progress report.

The Board Meeting reconvened.

On motion by Mr. Van Hassel and Dr. Berry, the Board unanimously agreed to authorize the salary adjustments proposed during the executive session.

Call to the Public

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

the issues were not posted on the meeting agenda.

No one came forth.

There being no further business to come before the Board, **on motion by Dr. Sypherd and Dr. McCoy**, the Board unanimously agreed to adjourn the meeting at 11:50 A.M.