

**THE ARIZONA STATE BOARD OF PHARMACY
HELD A REGULAR MEETING JUNE 24, 2004
SCOTTSDALE, ARIZONA**

The following Board Members and staff were present: President Dennis McAllister, Vice President Linda McCoy, Paul Draugalis, Chuck Dutcher, Daniel Ketcherside and Bryan Tippet. Compliance Officers Rich Cieslinski, Larry Dick, Ed Hunter, and Dean Wright, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Roberto Pulver.

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

AGENDA ITEM I - Approval of Minutes

Following a review of the minutes and an opportunity for questions and on motion by Mr. Draugalis and Ms. McCoy, the minutes of the Regular Meeting held on May 12, 2004 were unanimously approved by the Board Members.

AGENDA ITEM II - Permits/Licenses

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

Summit Pharmacy

Owner Dr. Joel Morton and Pharmacist Kevin Borg were present to answer questions from Board Members.

President McAllister opened the discussion by asking the representatives to describe their business. Mr. Borg stated that the pharmacy would be a mail-order pharmacy catering to workers compensation patients.

Mr. McAllister asked the representatives to describe their client base. Mr. Borg stated that the patients that they would service are located on the east coast in the Philadelphia area.

Mr. McAllister asked if the application is complete and if there are any issues that the Board needs to address. Ms. Frush stated that they were requested to appear before the Board because Dr. Morton is a medical practitioner. According to A.R.S § 32-1930 (B), the Board shall deny or revoke a pharmacy permit if a medical practitioner receives compensation, either directly or indirectly, from a pharmacy as a result of the practitioner's prescription orders. Ms. Frush stated that Dr. Morton enclosed with the pharmacy application a written statement indicating that the pharmacy will not be dispensing prescriptions for any of the patients he currently sees in his practice or will see as new patients in the future.

Mr. Dutcher asked the representatives why the pharmacy was being established in Arizona since the clients would be in the Philadelphia area. Dr. Morton stated that they would not solely be working with clients in Philadelphia. Dr. Morton stated that he originally lived on the east coast and has contacts across the country with physicians and individuals that deal with occupational medicine. Mr. Dutcher asked why they picked Arizona versus Pittsburgh if they wanted to mail prescriptions. Dr. Morton stated that he is a resident of Arizona and that is why the business is being established in Arizona.

President McAllister reminded the individuals that this is a unique situation and they will be subject to routine inspections. He reminded them to follow all the rules and regulations and wished them luck with their new business.

Valley of the Sun Pharmacy

Pharmacist and owner Dawn Hoang was present to answer questions from Board Members.

President McAllister opened the discussion by asking Ms. Hoang to describe her proposed business. Ms. Hoang stated that the pharmacy would be a retail independent pharmacy specializing in pediatric and geriatric medications. She stated that she would compound medications for these two groups of patients.

Ms. McCoy reminded Ms. Hoang that she would not be able to compound commercially available products. Ms. McCoy stated that she wanted Ms. Hoang to understand the regulations related to compounding. Ms. Hoang stated that she understood the regulations.

Mr. Wand stated that there is one more issue and that involves the selling of compounded prescriptions to a physician. He reminded Ms. Hoang that the physician could not resell a compounded prescription. He stated that the physician could only administer the medication to his patient at the office. Mr. Wand stated that the selling of products to the physician could only be five percent (5%) of the total pharmacy business.

Mr. McAllister stated that the Board has seen some very serious compounding errors and the Board is focused on patient safety. He reminded Ms. Hoang to be very careful in compounding these prescriptions for her patients.

Mr. Ketcherside asked Ms. Hoang if she would discuss her background with the Board. Ms. Hoang stated that she graduated from Texas Southern University in 2001. She has worked as a pharmacist since that date in Texas and moved to Arizona in December 2003. She stated that she is opening a pharmacy because she wants to meet the needs of the pediatric and geriatric patients. She stated her focus would be on compounding prescriptions for her patients.

Mr. Dutcher asked Ms. Hoang if she would be doing the compounding or if she planned on hiring another pharmacist to do the compounding. Ms. Hoang stated that in the beginning she would be doing the compounding and as business grows she would then hire additional help.

Ms. McCoy asked if Ms. Hoang had taken any specialized compounding courses. Ms. Hoang stated that she had taken compounding courses through PCAA.

President McAllister wished her good luck and reminded her to be careful.

The Cosmetic Pharmacy

Owner Zahra Karim was present to answer questions from Board Members.

President McAllister opened the discussion by asking Ms. Karim what her relationship was with the Pharmacy. Ms. Karim stated that she is one of the owners. Mr. McAllister asked Ms. Karim if she was a pharmacist. Ms. Karim replied that she is not a pharmacist. She stated that she is a physician.

Mr. McAllister asked about regulatory issues associated with this application. Mr. Wand stated that one of the issues is that the owners are medical practitioners that can prescribe medications and prescribers cannot profit by the dispensing of prescriptions at the pharmacy. Mr. Wand stated that the owners already have a wholesale permit and in addition to the pharmacy permit they are also applying for a manufacturer's permit at the same location as the pharmacy. Mr. Wand stated by being at the same location there may be inventory control issues and the mixing of inventories. Dr. Karim stated that they are not at the same location. Mr. Wand asked if they are not at the same location because that is what the

application indicates. Dr. Karim stated that it is the same building but it is separate entities. Mr. Wand asked if she was a different owner than Dr. Livdahl. She replied that Dr. Livdahl is a co-owner. Mr. Wand stated that he has a wholesale permit at the same building. Dr. Karim stated that it is a different suite number. Mr. Wand reminded Dr. Karim that there must be a record of inventory at both locations and the inventory could not be mixed. Mr. Wand reminded Dr. Karim that they could not wholesale compounded prescriptions. Mr. Wand reminded Dr. Karim that the compounded medications must be pursuant to a prescription. Dr. Karim stated that the wholesale operation might be a supplier to the pharmacy. Mr. Wand asked if she meant that they would supply bulk powders to the pharmacy. Dr. Karim replied that is correct.

Mr. Dutcher asked Dr. Karim who would be issuing prescriptions for dispensing at the pharmacy. Dr. Karim stated that the prescriptions would be coming from physicians or patients of other physicians. Mr. Dutcher asked if prescriptions would be coming from her clinic. Dr. Karim replied that they do not plan on writing prescriptions to be filled at the pharmacy because that would be a conflict of interest. Mr. Dutcher asked if they have a physician's office in the same building. Dr. Karim replied that they do not have an office in the same building.

President McAllister asked who would be filling the prescriptions. Dr. Karim replied that the pharmacist would be filling the prescriptions. Mr. McAllister asked if they had hired a pharmacist. Dr. Karim stated that they had hired Dana Kurland. Ms. Frush stated that Ms. Kurland was asked to appear. Dr. Karim stated that Ms. Kurland was not able to attend because she was on vacation.

Ms. McCoy asked if the pharmacist had any special training in compounding. Dr. Karim stated that the pharmacist has had formal compounding courses through the PCAA and has 5 years experience with a compounding pharmacy.

Mr. Dutcher asked what would happen if during an inspection a compliance officer found a prescription written by one of the physicians had been dispensed by the pharmacy. Mr. Wand stated that it would be assigned a case number, an investigation would be conducted, and the case would be referred to the complaint review committee for adjudication. Mr. Wand stated that the permit could be censured, placed on probation, suspended, revoked, and also fined. Dr. Karim stated that she is aware of the issues.

Mr. McAllister stated that the rules are written to protect the public. Dr. Karim asked the Board about the application for the Manufacturer permit. She asked if once the Manufacturer permit was approved if they needed to maintain the wholesale permit.

Mr. Wand stated that they needed to maintain both permits. Mr. Wand asked if they were obtaining the Manufacturer's permit in order to repackage medications. Dr. Karim replied yes. Mr. Wand stated that the manufacturer permit would allow them to repackage the medications. Mr. Wand stated that the wholesale permit would allow them to distribute the products to physicians and pharmacies.

Powderz, Inc.

President McAllister addressed the manufacturer permit at this time for Powderz, Inc. He asked Dr. Karim if she could explain why they are applying for a manufacturer permit. Dr. Karim stated that they would like to repackage and relabel on site. Mr. McAllister asked if they would be wholesaling the products. Dr. Karim replied yes.

Mr. Wand asked to whom they would be selling the products. Dr. Karim replied that they would be selling the products to physicians and pharmacists.

Mr. Wand asked about the location of the wholesale business. Dr. Karim stated that the business is located at 3280 E. Hemisphere

Loop. Mr. Wand asked if they recently moved. Dr. Karim stated that the wholesale business moved in August of 2003. Mr. Wand asked if there are advertisements or web pages that have the old address. Dr. Karim replied no.

Mr. Wand stated that there must be a pharmacist-in-charge at a manufacturer. He asked Dr. Karim if Dana Kurland would be the pharmacist for the manufacturer permit. Dr. Karim replied Ms. Kurland would be the pharmacist. Mr. Wand asked if Ms. Kurland had manufacturing experience or if she was familiar with good manufacturing practices. Dr. Karim replied that Ms. Kurland is familiar with good manufacturing practices.

Mr. Dutcher asked if the pharmacist would be moving back and forth between the two businesses since they are at the same address. Dr. Karim replied that the pharmacist would only be working at Powderz during the repackaging process. Mr. Wand asked if they had their FDA permit and have been inspected. Dr. Karim replied that they have the permit and have been inspected.

President McAllister told Dr. Karim that they have entered into a complex set of regulations, so they need to be sure their records are clear and be prepared for annual inspections.

Gilbert Emergency Hospital

Owner Dr. Tim Johns and Consulting Pharmacist Robert Genest were present to answer questions from Board Members.

President McAllister opened the discussion by asking Dr. Johns about his role with the hospital. Dr. Johns stated that he is a physician and is President. Mr. Genest stated that he is the consulting pharmacist.

President McAllister asked Dr. Johns about the hospital and their

requests for waivers. Dr. Johns stated that the hospital would be licensed as an acute care general hospital. Dr. Johns stated that it is a unique hospital that would specialize in outpatient emergency care. There will be a small inpatient unit with two licensed beds. Dr. Johns stated the focus would be on outpatient emergency care. Dr. Johns stated that there would be a 24-hour full service lab, diagnostic imaging, MRI, CT, ultrasound, nuclear medicine, mammography, and bone density screening. Dr. Johns stated that the hospital would have a rapid transport system in place, which would consist of a helicopter pad on the roof and ground ambulance service. Dr. Johns said the emergency room wait in Gilbert could be up to 16 hours.

Mr. McAllister asked if they planned to have a pharmacist on duty. Dr. Johns stated that they plan on having a pharmacist on duty for 4 hours a day Monday through Friday.

Mr. McAllister asked if they would be dispensing medications to their patients. Dr. Johns said they would be issuing prescriptions. He stated that they may dispense a limited number of pain tablets to a patient and may dispense a first dose on an antibiotic. Mr. McAllister asked if the physician would do the dispensing.. Dr. Johns stated that the physician would be dispensing and they are aware of the packaging and labeling requirements.

Mr. McAllister asked if the number of inpatient beds would be expanded as the hospital grows. Dr. Johns said they do not plan on expanding the number of beds.

Mr. Draugalis stated that he was aware of the need for this type of hospital in the Gilbert area. Dr. Johns stated that it is faster to implement a plan for this type of hospital versus a general hospital, which may take up to ten years to develop.

Mr. Wand asked if they were requesting a waiver for the size of the

pharmacy. Dr. Johns stated that they are asking for a waiver and plan on having the pharmacy occupy a total of 140 square feet. Dr. Johns stated that they are of the new regulation requiring 500 square feet. Dr. Johns stated that due to the nature of the hospital that they did not need that much space. Dr. Johns stated that they have all the necessary elements in the pharmacy such as an IV hood, locked narcotic area, the computer, the required reference books, exchange carts, and pyxis interchange.

Mr. Wand asked how many employees would be working in the pharmacy. Dr. Johns replied that they plan on hiring only one pharmacist.

Mr. Wand reminded Dr. Johns that they would need 60 square feet for the IV hood. Dr. Johns stated that they will have the necessary square footage.

Mr. Wand addressed the audience and told the audience that the Department of Health Services licenses hospitals. In order to be licensed as a hospital, the Department of Health Services requires that the hospital have a pharmacy.

Mr. Dutcher asked if they were requesting a waiver for pharmacy hours. Mr. Dutcher asked Dr. Johns if he thought four hours a day was sufficient. Dr. Johns stated that they feel four hours would be sufficient. He stated that the pharmacist would maintain the records and be sure the machines are stocked during the four- hour shift. A pharmacist would be available on an on call basis.

Mr. Dutcher asked if the facility was under construction at this time. Dr. Johns stated that it is in the construction phase. Mr. Dutcher asked if there would be enough room to have a pharmacy that was the correct size if the waiver was not granted. Dr. Johns stated that they have provisions to expand the area if necessary, but it would impact other areas.

Mr. Dutcher asked if there would be any way in the future to expand the pharmacy. Dr. Johns stated that there are provisions for two medical office buildings on site and they do have 4,000 square feet reserved in the buildings and if necessary they could move administrative offices to the medical buildings to expand the hospital capabilities. Dr. Johns stated even at full capacity they feel 140 square feet would be adequate.

Mr. Dutcher asked about the nuclear medicine component. Dr. Johns stated that the plans have not been finalized at this time.

Mr. Wright commented that the hood would take up 60 square feet and allow only 80 square feet of working area in the pharmacy.

Mr. McAllister stated that we need to keep in mind that this is a specialty facility and they will have only a limited supply of drugs. Dr. Johns stated that in their program at this time that they do not have any plans to use the IV hood. Dr. Johns stated that most of the medications are pre-packaged. Dr. Johns stated that the IV hood is being installed for use in the future.

Mr. McAllister stated if the waiver is granted and upon inspection the level of service has increased then the waiver could be canceled and remodeling may become an issue. Dr. Johns stated that he felt that would be fair.

Mr. Wand stated that the compliance officer could check for space requirements and necessary changes yearly while conducting their inspection. Mr. Wand stated that most of the pharmacist's activities will be dedicated to repackaging for the emergency room doctors and this will not require much time or space.

At the conclusion of questions from the Board Members and on motion by Mr. Dutcher and Dr. Tippet, the Board unanimously approved the resident permits listed below. On motion by Mr.

Dutcher and Dr. Tippett, the Board unanimously approved the waiver requests for a reduction in pharmacist's hours and reduction in the required pharmacy area for Gilbert Emergency Hospital. The hospital will be inspected within the year to ensure the requirements have not changed. All approvals are subject to final inspection by a Board Compliance Officer where appropriate.

RESIDENT (in Arizona)

**Mayo Clinic O/P
5777 E. Mayo Blvd.
Phoenix, AZ 85054
Mayo Clinic Arizona**

**Eckerd Drugs #5308
2807 N. Power Rd.
Mesa, AZ 85207
Eckerd Corporation**

**Eckerd Drugs #0007
9901B W. Thunderbird Blvd.
Sun City, AZ 85351(O)
CVS EGL Thunderbird Sun City,LLC**

**Eckerd Drugs #00069
8332 W. Thunderbird Rd.
Peoria, AZ 85381 (O)
CVS EGL Thunderbird Peoria AZ, LLC**

**Eckerd Drugs #0032
5400 E. Carefree Hwy.
Carefree, AZ 85331 (O)
CVS EGL Carefree Cave Creek AZ, LLC**

**Eckerd Drugs #00033
1750 E. Broadway Rd.
Tempe, AZ 85282 (O)
CVS EGL Broadway Tempe AZ, LLC**

**Eckerd Drugs #00040
1424 W. Baseline Rd.
Tempe, AZ 85283 (O)
CVS EGL Baseline Tempe AZ, LLC**

**Eckerd Drugs #00042
4726 E. Shea Blvd.
Phoenix, AZ 85028 (O)
CVS EGL Shea Phoenix AZ, LLC**

**Eckerd Drugs #00052
4657 E. Chandler Blvd.
Phoenix, AZ 85048 (O)
CVS EGL Chandler Phoenix AZ, LLC**

**Eckerd Drugs #00064
9093 W. Union Hills Dr.
Peoria, AZ 85382 (O)
CVS EGL West Union Hills AZ, LLC**

**Eckerd Drugs #00017
18591 N. 59th Ave.
Glendale, AZ 85308 (O)
CVS EGL Union Hills AZ, LLC**

**Eckerd Drugs #00024
4330 E. Southern Ave.
Mesa, AZ 85206 (O)
CVS EGL Southern Mesa, AZ, LLC**

**Eckerd Drugs #00029
15495 W. Bell Rd.
Surprise, AZ 85374 (O)
CVS EGL Bell Surprise AZ, LLC**

**Eckerd Drugs #00086
1686 E. Florence Blvd.
Casa Grande, AZ 85222 (O)
CVS EGL Florence Casa AZ, LLC**

**State of Arizona
Board of Pharmacy**

12

**Board Meeting
June 24, 2004**

**Eckerd Drugs #00089
10010 N. Scottsdale Rd.,
Scottsdale, AZ 85253 (O)
CVS EGL Scottsdale Paradise AZ, LLC**

**Eckerd Drugs #00090
10 E. Dunlap Ave.
Phoenix, AZ 85020 (O)
CVS EGL Dunlap Phoenix AZ, LLC**

**Eckerd Drugs #00091
8705 E. Speedway Blvd.
Tucson, AZ 85710 (O)
CVS EGL Speedway Tucson AZ, LLC**

**Eckerd Drugs #00092
25 S. Val Vista Dr.
Mesa, AZ 85204 (O)
CVS EGL Main Mesa, AZ, LLC**

**Eckerd Drugs #7839
32331 N. Scottsdale Rd.
Scottsdale, AZ 85262 (O)
CVS EGL Scottsdale AZ, LLC**

**Eckerd Drugs #7841
4365 N. Oracle Rd.
Tucson, AZ 85705 (O)
CVS EGL Wemore Tucson AZ, LLC.**

**Eckerd Drugs #8365
2428 Val Vista Dr.
Gilbert, AZ 85296 (O)
CVS EGL Val Vista AZ, LLC**

**Eckerd Drugs #8366
1610 E. Camelback Rd.
Phoenix, AZ 85016 (O)
CVS EGL NORTH 16th AZ, LLC**

**Eckerd Drugs #8420
7740 N. Cortaro Rd., Marana, AZ 85743 (O)
CVS EGL East Camelback AZ, LLC**

**Marana Health Center Inc.
13644 N. Sandario Rd.
Marana, AZ 85653
Marana Health Center, Inc.**

**Summit Pharmacy
2320 W. Peoria, Ste. A-103
Phoenix, AZ 85029
Workers Express Medications, Inc.**

**Mountain Park Health Center
4616 N. 51st. Ave.
Phoenix, AZ
Mountain Park Health Center**

**Valley of the Sun Pharmacy
5600 N. Black Canyon Freeway, Suite C-107
Phoenix, AZ 85053
Royal Care, Co.**

**The Cosmetic Pharmacy
3280 E. Hemisphere Loop #112
Tucson, AZ 85706
The Cosmetic Pharmacy, Inc.**

**Gilbert Emergency Hospital
Power & Galveston
Gilbert, AZ
Tim A. Johns, M.D**

**Paradise Pharmacy
4232 E. Cactus Rd.
Phoenix, AZ 85032 (O)
Preeti & Ajay Desai**

(O) = Ownership change

Mr. Dutcher asked Mr. Wand to explain to the audience why the Board requires Non- Resident pharmacies to be licensed in Arizona. Mr. Wand stated that R4-23- 607 requires that all pharmacies in the United States that are shipping medications into the state of Arizona need a Non-Resident Pharmacy permit. Mr. Wand stated historically most of the pharmacies are compounding pharmacies, veterinary compounding pharmacies, mail-order pharmacies, and other specialty pharmacies. Mr. Wand stated that the Board Office does request a copy of the pharmacy license where the pharmacy is located and sends a verification request to the State Board to determine if the license is in good standing.

On motion by Mr. Draugalis and Mr. Dutcher, the Board unanimously approved the Non-Resident permits listed below.

**Accredo Health Group, Inc.
1620 Century Center Parkway, Suite 109,
Memphis Tn, 38134
Accredo Health Group, Inc.**

**NewLife Homecare Pharmacy
48 S. Main St. Suite 401
Pittston, PA 18640
NewLife Homecare, Inc.**

**Statscript Pharmacy
901 S. Rancho #20
Las Vegas, NV 89106
Chronimed Holdings, Inc.**

**Boswell Pharmacy Services
212 Ohio Street
Boswell, PA 15531
Jacqueline Martella**

**Applied Pharmacy Services
3207 International Dr, Ste. F
Mobile, AL 36606
Applied Pharmacy Services, Inc.**

**HDM Pharmacy
4250 Iron Works Pike
Lexington, KY 40511
HDM Pharmacy, LLC**

**Doctor's Choice Pharmacy
5622 Marine Pkwy, Suite 23
Newport Richey, FL 34652
Lurds Inc.**

**Pacific Pulmonary Services
5475 Peoria St. #300 E
Denver, CO 80239
Braden Partners, L.P.**

**CuraScript Pharmacy, Inc.
6272 Lee Vista Blvd. Suite 150
Orlando, FL 32822
CuraScript Pharmacy, Inc.**

**Shared Solutions Pharmacy
901 E. 104th St. Suite 900
Kansas City, MO 64131
Teva Neuroscience**

**Plum Creek Pharmacy
5211 B. West 9th
Amarillo, TX 79106
John Rains**

**Coram Alternate Site Services, Inc
6 Spring Mill Drive
Malvern PA 19355
Coram Alternate Site Services, Inc**

**State of Arizona
Board of Pharmacy**

14

**Board Meeting
June 24, 2004**

**Southwood Mail Order Pharmacy
80 Empire Dr.
Lake Forest, CA 92630
Southwood Mail Order Pharmacy, LLC**

**Accredo Health Group, Inc.
6820 Charlotte Pike
Nashville TN 38134
Accredo Health Group, Inc.**

**Premier Care
4480 Atlanta Highway
Logansville, GA 30052
Premier Care**

Wholesale Permits

President McAllister indicated that there was one applicant for a resident wholesale permit and one applicant for a non-resident wholesale permit.

Walgreens Home Care, Inc.

Zina Berry was present to answer questions from Board members.

President McAllister asked Ms. Berry to describe the nature of the wholesale business. Ms. Berry replied that currently that they are a home infusion pharmacy. Ms. Berry stated that they have had requests from physicians to supply their offices with injectable medications. Ms. Berry stated that the agreement with their distributor has an end-user clause, which allows them to only distribute the medication to the patient that will be using the medication. Ms. Berry said they are applying for the wholesale permit to accommodate the physicians.

Mr. Wand asked Ms. Berry if they will be compounded products. Ms. Berry replied no. Ms. Berry stated that the products would be in the original manufacturer's packaging.

Mr. Wand asked if Ms. Berry had signed the orientation sheet. Ms. Berry replied that she had signed the sheet.

Top RX

Kenny King was present to answer questions from Board Members concerning his Non-Resident wholesale permit.

President McAllister asked Mr. King why he is appearing at the Board Meeting. Mr. King stated that he has applied for a non-resident wholesale permit in order to sell and ship products to Arizona.

Mr. Dutcher asked Mr. King about his clientele. Mr. King replied that he would be selling to independent retail drugstores. Mr. Dutcher asked if Mr. King was already selling to drugstores in Arizona. Mr. King replied yes. Mr. Dutcher asked if they have been wholesaling in Arizona without a permit. Mr. King replied that they had been selling products in Arizona but it was being done without his knowledge. Mr. King explained that the previous manager that he employed was shipping product to Arizona. Mr. King said that he was not aware that they were not licensed in Arizona until his new operations manager was verifying licenses for all the states. When they discovered that they did not have a license, they applied for a license to ship product to Arizona.

Mr. McAllister asked how long Top Rx has been in business. Mr. King replied that they have been in business since 1987.

Mr. Draugalis asked Mr. King to explain what happened in 1984. Mr. King stated that he was employed by Williams Generics in Memphis, Tennessee. Mr. King stated that the company was a wholesale distributor that sold to independent drugstores. Mr. King stated that he had a base of independent drugstores that he called on at that time. Mr. King stated that he brokered birth control pills that were samples that had come from detail salesmen through a pharmacist. Mr. King stated the pills were sold to retail drugstores.

Mr. Draugalis asked if that was what they were referring to as brokering misbranded drugs. Mr. King replied yes. Mr. Draugalis asked what they were referring to when they spoke of adulterated medications. Mr. King stated that he did not have anything to do with the adulterated part but he brokered the medications. Mr. King stated that he did not know the medications were adulterated. Mr. Draugalis asked if he knowingly misbranded prescriptions and sold them. Mr. King replied yes. Mr. King stated that he did not touch the medications. Mr. King stated that he brokered the deal and would tell the individuals where to ship the product. Mr. King stated at that time he did not know what constituted a misbranded product. Mr. King stated that it was his first job and he was 21 years old. Mr. King stated that he knew they were sample birth control pills. Mr. King stated that he found out real quick what constituted a misbranded product.

Mr. McAllister asked Mr. King if he has had any trouble with drug laws since 1984. Mr. King replied no. Mr. McAllister asked if Mr. King has been with Top Rx since 1987. Mr. King replied yes. Mr. McAllister asked if he has had any issues with the Tennessee Board. Mr. King replied no. Mr. King stated that was the only problem he ever had and hopes that is the last problem.

Mr. Dutcher asked Mr. King what position he holds in Top Rx. Mr. King replied that he is the owner.

Mr. Dutcher asked Mr. King what are his assurances that he is purchasing product from a reputable firm. Mr. King stated that he buys directly from the generic manufacturers. Mr. Dutcher asked if he sold strictly generic products. Mr. King stated that he has a few brand name products, but most products are generic products. Mr. Dutcher asked if the products purchased by Mr. King are short-dated products. Mr. King replied that he purchases long-dated products.

Mr. Wand asked Mr. King if he keeps copies of the licenses or permits

for the individuals from which he purchases products. Mr. King said yes. Mr. Wand asked if he verifies the permits for status on a yearly basis. Mr. King stated that he only buys from major manufacturers and he does not verify the permits. Mr. King stated that he verifies the drugstore permits. Mr. Wand asked Mr. King if he sells controlled substances. Mr. King replied that they sell Schedules III-V. Mr. Wand asked if they obtain a copy of the DEA license from the pharmacies. Mr. King replied yes.

Dr. Tippett asked if Mr. King was a pharmacist. Mr. King replied no. Dr. Tippett asked what Mr. King has done in the last several years to ensure that he has remained compliant with the rules. Mr. King stated that he relies on his manager and she is responsible for seeing that the company is compliant with the rules of the Tennessee Board and other states in which the company is licensed. Mr. King stated that this is the only state that has asked him to appear before issuing a license. Mr. King stated that it shows Arizona is aware of issues. Dr. Tippett told Mr. King that he hopes that his new manager will help him abide by all the laws set forth by the various boards.

Mr. Dutcher asked in the future would Mr. King be able to provide the paper trail necessary to show the tracking of the product from manufacturer to drugstore. Mr. King stated that he has a paper trail on all the products that he buys and sells. Mr. King stated that he is installing a computer system at this time that will make his company compliant with the 2006 regulations.

Mr. Draugalis noted that Mr. King did cooperate with Federal authorities and was debriefed.

President McAllister told Mr. King he appreciated his effort to appear in front of the Board to discuss the situation and wished him luck.

On motion by Mr. Draugalis and Dr. Tippett, the Board unanimously approved the resident wholesaler and the non-resident wholesaler

listed below. All approvals are subject to final inspection by a Board Compliance officer where appropriate.

**Walgreens Home Care, Inc.
5604 S. 40th St.,
Phoenix, AZ 85040
Walgreens Home Care, Inc.**

**Top Rx
3141 Stage Post Dr.
Bartlett, TN 38133
Top Rx, Inc.**

Manufacturer Permits

President McAllister noted that there are three manufacturer permits and representatives were present to answer questions.

National Fish Pharmaceuticals

Ms. Frush explained to the Board Members that Mr. Aukes was not able to attend the Board Meeting due to health issues and had sent a letter explaining his business.

Mr. Wand gave a background on the proposed business. Mr. Wand stated that the business is owned by a pharmacist and repackages fish antibiotics for sale to pet stores. Mr. Wand stated that the business is located at the owner's residence. The major concern with the permit was the zoning requirements and Mr. Aukes did get zoning approval to operate the business at his residence. Mr. Wand stated when we inspect the premises we will ensure all requirements are met. Mr. Wand stated that the business is registered with the FDA.

Mr. Draugalis asked where the business is located. Mr. Wand stated that the business is located in Tucson. Mr. Draugalis asked if they allowed zoning for a business in that area. Mr. Wand stated that it took Mr. Aukes approximately 6 months to obtain the permit to operate a home business.

Powderz, Inc.

The manufacturer permit for Powderz, Inc. was discussed earlier in the meeting. The owners were also applying for a pharmacy permit and regulations were discussed with the applicants at that time.

Biotech Cyclotron of Arizona

Pharmacist Dennis Eshima was present to answer questions from the Board Members concerning his manufacturer permit.

President McAllister asked Mr. Eshima to describe his manufacturing operation. Mr. Eshima stated that the business is currently in the process of installing a cyclotron. He stated that they would be producing ultra short acting radionucleotides for patient administration.

Mr. Wand asked if his only customers would be clients authorized to handle nuclear materials.

Mr. Eshima stated that is correct and they would be the only pharmacies to which they would distribute these products. Mr. Wand asked how many pharmacies of this type are located in Arizona. Mr. Eshima replied that there are three or four pharmacies.

Mr. Dutcher asked if the products would be distributed to hospitals. Mr. Eshima said the products would be distributed to the pharmacies and the pharmacies would distribute the product to the hospital.

Mr. Dutcher asked if they had zoning to build a cyclotron. Mr. Eshima stated that there is another cyclotron facility in the same area. Mr. Eshima stated that they had zoning approval from the city and they needed to make modifications to the plans. The plans are currently with the city and they hope to have the plans back from the city soon.

Mr. Wand asked if they had received FDA registration as a manufacturer. Mr. Eshima stated that they have received their labeler ID number, but have not received their registration number. He stated that the local FDA office stated that the process is slow and he anticipates that the registration number will be received very soon. Mr. Eshima stated that they have been waiting for two months. Mr. Wand stated that our statutes require that they have that number prior to being approved. Mr. Pulver stated that if the statute states that the number is required to approve the permit then the Board would need to wait to approve the permit. Mr. Pulver stated that if there is an allowance for pending FDA number approval then the permit could be accepted.

Mr. Wand stated that the applicant must supply the current FDA drug manufacturer or repackager registration number and expiration date. Mr. Pulver stated that the permit must then be tabled.

Mr. Wand stated that the next Board Meeting would be in August. Mr. Eshima stated that they are scheduled to open prior to that date and that is why they tried to submit the application at this meeting. Mr. Wand stated that a telephone conference could be held to approve the permit. Mr. Pulver agreed that a telephone conference could be held once the applicant receives the registration number. The Board Members agreed to a telephone conference for approval of the permit.

On motion by Mr. Dutcher and Dr. Tippet, the Board unanimously approved the manufacturer permits listed below. The permit for Biotech Cyclotron of Arizona was tabled until the applicant receives his FDA registration number and at that time a telephone conference call will be held to approve the permit. All approvals are subject to final inspection by a Board Compliance officer where appropriate.

**National Fish Pharmaceuticals
11660 E. Camino Del Desierto
Tucson, AZ 85747
A-Fam LLC**

Biotech Cyclotron of Arizona - TABLED

**Powderz Inc.
3280 E. Hemisphere Loop #116-A,
Tucson, AZ 85706 Powderz, Inc.**

Pharmacist, Pharmacy Intern, and Pharmacy Technician Licenses

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

Pharmacist licenses 14110 through 14155, Pharmacy Intern licenses 6364 through 6412, and Pharmacy Technician licenses 366 through 1364. For a complete list of names see attachments.

A brief recess was taken and the meeting reconvened.

AGENDA ITEM III - Reports

Executive Director Report

Executive Director Wand stated that many technicians have been licensed and the office staff is working very hard to license the technicians. Mr. Wand stated that most of the applications are being mailed into the office. Mr. Wand stated that one of the problems slowing down the process is the verification of the high school diploma or GED. Mr. Wand stated that we might audit 10% of the certified technicians to ensure that they have a high school diploma

or GED.

Mr. Wand stated that Mr. Hunter would be asked to audit the technicians since he does the audits for the pharmacist's CE.

Mr. Wand stated that we have secured the services of a legislative liaison. Mr. Wand stated that we were able to obtain the services of John Mangum for next year to help with the proposed statute changes. Mr. Wand stated that for the amount of money that we are able to spend for these services it would not allow for any changes that would cause a sunrise process to be necessary. Mr. Wand stated that if a sunrise process was necessary the costs would be greater due to the number of other professionals that would be involved in the process. Mr. Wand said the legislative services would be used for clean-up issues.

Mr. Wand stated that he and Mr. Pulver attended a conference in Washington, DC concerning importation issues. Mr. Wand stated that they learned that the states that have been effective in getting injunctions against importation firms have been able to hire their own attorneys outside the state system. Mr. Wand stated that at the conference an overview of the bills in Congress involving importation was given. Mr. Wand stated that comments by individuals at the conference stated that none of the bills seem to address the fact that the states and not the Federal Government have historically regulated the practice of pharmacy.

Mr. Wand stated that the statutes have been reviewed and proposed changes are included in the meeting book.

Mr. Wand passed out the financial statement and informed the Board Members that other government agencies, such as Motor Pool and ADOA, are behind in their billing. Mr. Wand stated that all our books have to be cleared by July 10, 2004.

Mr. Draugalis asked if Mr. Wand could review the time limits for licensure by the technicians. Mr. Wand stated that technically May 3, 2004 was the date that all technician needed to be licensed. Mr. Wand stated the technicians have until September 1, 2004 to become licensed. The reason for the September 1, 2004 date was that the technicians would renew their licenses in October. Mr. Wand stated that he believes that there are about 6,000 technicians in Arizona and thus far the Board has licensed about 1,500 technicians. Mr. Wand stated that in September, the compliance staff would begin to note any technicians that are not licensed. Mr. Wand stated that the Board does have issues with the postage in mailing the licenses. Mr. Wand stated that some companies have dropped off the applications and have picked up the licenses, thus saving the Board postage costs.

Mr. Dutcher stated that the Board Members need to compliment the staff at the Board for organizing the licensing of the technicians and accomplishing the licensing in a timely manner.

Deputy Director Report

Ms. Frush directed the Board Members attention to the activity reports for the Compliance Officers and the Drug Inspector. Ms. Frush stated that the Compliance Staff is still ahead of the number of inspections completed at this time last year. Ms. Frush stated that the hiring process would begin at the beginning of July for a new Compliance Officer. Ms. Frush stated that the drug inspector has been assisting the office staff in processing the technician licenses during the month of May.

At the last Board Meeting, the Board Members asked Ms. Frush if a report could be prepared showing issues that are discovered during the annual inspections. Ms. Frush presented the report and gave a brief overview of each concern.

Ms. Frush stated that during the month of May the compliance staff issued letters for the following violations:

- 1. Outdated Prescription and Non- Prescription medications within the pharmacy (3 occurrences)**
- 2. Failure to inventory Soma Products in 2003**
- 3. Failure to complete an opening inventory of all controlled substances in the pharmacy**
- 4. Failure by the Pharmacist In Charge to establish a Compounding Policy and Procedure Manual**
- 5. Failure by the Pharmacist In Charge to establish a Pharmacy Policy and Procedure Manual**
- 6. Reference Books in the pharmacy were not current**
- 7. Failure to document medical conditions**
- 8. Non- Functional Class A Prescription Balance**

Ms. Frush stated that there were several items noted on inspections that need improvement. These improvements include:

- 1. Upon the change of a Pharmacist In Charge, a complete inventory of all controlled substances in the pharmacy must be completed in 10 days.**
- 2. The Board of Pharmacy needs to be notified immediately if the Pharmacist In Charge changes.**
- 3. Several pharmacies have had hot water issues noted.**

Ms. Frush stated that there are occasions where the pharmacists are meeting or exceeding the standards. These standards include the following:

- 1. Confidentiality - HIPPA requirements are being met**
- 2. Documentation of allergies and medical conditions**

3. Counseling - Noted in pharmacies in one chain - when an interaction occurs between the new medication and a medication that the patient has in his profile and may still be taking, the interaction is printed and attached to the prescription. When the patient is counseled the patient is asked if they are still taking the other medication and if the patient indicates that they are taking the medication then the pharmacist discusses the interaction with the patient and has the patient sign the interaction sheet and files the sheet with the prescription.

Ms. McCoy stated that if possible these helpful tips should be included in the newsletter so that all practitioners are aware of the issues.

APA Report

APA was represented by Kathy Boyle. Ms. Boyle stated that HB2196 concerning the continuing education requirements for pharmacy technicians did pass and will become effective August 26, 2004.

Ms. Boyle stated that 35 pharmacists are participating in the Immunization training course. Ms. Boyle stated that at this time the new Board of the association would need to decide if the association would undertake the Immunization sunrise process. Ms. Boyle stated that the new Board of the association would decide what direction they would like to take in regards to legislative actions. Ms. Boyle stated that several legislators are excited that pharmacists are being trained to give immunizations and would welcome the legislation. Ms. Boyle stated that it might be beneficial to wait until after the elections due to legislative turnover. Ms. Boyle stated that it might be beneficial to wait until 2006 to see who are the key legislative players. Ms. Boyle stated that in order for the legislation for Immunizations to proceed other key associations would need to be involved. Ms. Boyle said by waiting the necessary meetings could be scheduled and obtain the collaboration that would be needed to move

the bill through the legislative process.

Ms. McCoy asked if it would help the cause to have the track record of the pharmacists receiving the training. Ms. McCoy asked Ms. Boyle if additional training programs would be offered. Ms. Boyle stated that the training would be offered again. Ms. Boyle stated that there would be a core group of pharmacists trained to give immunizations and the legislators could be shown the deficiencies in requiring a prescription to administer immunizations. Ms. Boyle stated that this tracking could be beneficial in showing the medical associations how cumbersome the process is for the patient. Ms. Boyle stated that by training the pharmacists to give immunizations, they could also assist in emergency preparedness. Ms. McCoy stated that the pharmacists may want to start collecting the data to show what problems and issues occur with the prescription process.

Ms. Boyle stated that the PAPA program received a donation from one of pharmacy employers in the state and would like to thank the organization in assisting the program with their goals.

President McAllister thanked the association for providing the room for the Board Meeting.

AGENDA ITEM IV - Special Requests

#1 Marvin Fein

Marvin Fein appeared on his own behalf to request permission to pursue licensure by reciprocity from his active Illinois license.

President McAllister asked Mr. Fein to describe the nature of his request. Mr. Fein stated that he would like to transfer his license to Arizona. Mr. Fein stated that he is currently licensed in Illinois.

Mr. McAllister asked Mr. Fein if disciplinary action had been taken

against his Illinois license. Mr. Fein stated that he refilled outdated controlled substance prescriptions without obtaining a new prescription.

Mr. McAllister asked about the disciplinary action imposed by the Illinois Board. Mr. Fein stated that his license was suspended for four years. Mr. Fein stated that after his license was suspended that he went to work for a payroll company. Mr. Fein stated that the company realigned territories and at that time he decided to return to the practice of pharmacy. Mr. Fein stated that he completed all his continuing education requirements. Mr. Fein stated that he retook the Illinois law exam and passed the test. Mr. Fein stated that he has worked for Costco for the last six years and works at a hospital on a part-time basis. Mr. Fein stated that he is interested in part-time work.

Mr. McAllister asked if any criminal charges were filed against Mr. Fein. Mr. Fein replied no. Mr. McAllister asked if the Illinois Board was the only agency to take action against his license. Mr. Fein replied yes. Mr. McAllister stated that the disciplinary action took place in 1988 and Mr. Fein was reinstated in 1997. Mr. McAllister asked if Mr. Fein was moving to Arizona. Mr. Fein said that he would like to move to Arizona and work part-time.

Mr. Dutcher asked Mr. Fein why he filled controlled substances without doctor approval. Mr. Fein stated that it was a result of misjudgment on his part for which he was punished. Mr. Fein stated that he did not deny that he filled the prescriptions without authorization.

Ms. McCoy asked Mr. Fein if he has had any problems since his license was reinstated. Mr. Fein said his license is in good standing at this time and he has been working the last six years at a major pharmacy chain. Ms. McCoy stated that he has paid his dues and has been practicing in Illinois.

On motion by Ms. McCoy and Mr. Ketcherside, the Board unanimously agreed to approve the request of Mr. Fein to proceed with reciprocity.

#2 Howard Goldenberg

Howard Goldenberg appeared on his own behalf to request permission to pursue licensure by reciprocity from his active Minnesota license.

President McAllister opened the discussion by asking Mr. Goldenberg what was the nature of his request. Mr. Goldenberg stated that he is licensed in California and Minnesota. Mr. Goldenberg stated that he has recently reactivated his Minnesota license. Mr. Goldenberg stated that he resides in Arizona and wants to practice pharmacy in Arizona. Mr. Goldenberg stated that he was present to answer questions for the Board. Mr. Goldenberg stated that he was here to explain the disciplinary action against his California license that occurred about 29 years ago.

Mr. McAllister asked Mr. Goldenberg to explain the incident. Mr. Goldenberg stated that a physician filed a complaint stating that Mr. Goldenberg did not call his office for refill authorization. Mr. Goldenberg stated that he could not prove that the doctor had called back on all the refills. Mr. Goldenberg stated that his attorney advised him that he could not prove that he did or did not call. Mr. Goldenberg's license was suspended for two weeks and after the suspension he returned to work. Mr. McAllister asked if he had any other disciplinary action taken against his license. Mr. Goldenberg replied never.

Mr. Goldenberg told the Board Members that when he went to the Board Office that he was told that he would need to do 400 intern hours because he had not practiced for the last 10 years. Mr. Goldenberg wondered why he would need to do 400 hours because he has been in the pharmacies doing returns. Mr. Goldenberg asked if

he could do 200 hours of internship. Mr. Goldenberg asked if he could take the MPJE before completion of the intern hours.

Mr. McAllister asked Mr. Goldenberg if he has practiced in the last 10 years. Mr. Goldenberg stated he has not. Mr. Goldenberg stated that he takes care of outdates for pharmacies. He helps them write up the medications for return or destruction. Mr. McAllister stated that it is the policy of the Board and the rules state that anyone who has not actively practiced in the last year must complete 400 intern hours. Mr. McAllister stated in the past the Board has not been open to reducing the number of hours. Mr. McAllister stated that in the last ten years there have been many changes in the drugs used in pharmacy. Mr. McAllister stated the Board's mission is to protect the public safety and to protect the public Mr. Goldenberg would need to complete the 400 intern hours.

Mr. Goldenberg asked if he could take the MPJE prior to completing the intern hours. Mr. McAllister replied that he could not take the exam until the intern hours were complete.

Mr. Goldenberg asked if he could work 400 hours in California or Minnesota. Mr. McAllister stated that your application indicates that you did not practice in the last year. Mr. Goldenberg asked if he worked in another state would the hours be accepted by the Board. Mr. McAllister told him not at this point. He stated that if Mr. Goldenberg had returned to work before applying for reciprocity that it would have been a different situation.

Mr. Dutcher stated that he feels that the Board should not reduce the number of intern hours. He feels that 400 intern hours is not enough hours but a bare minimum. Mr. Dutcher stated in the last 10 years in pharmacy the processes have changed, the drugs have changed, the insurance requirements have changed, and the customers have changed.

Mr. Wand stated that one reason to do the 400 intern hours in Arizona is that it will help Mr. Goldenberg pass the law exam. Mr. Wand stated that Mr. Goldenberg would learn the law while completing the intern hours.

On motion by Ms. McCoy and Mr. Dutcher, the Board unanimously denied Mr. Goldenberg's request to reduce the number of intern hours and approved his request to proceed with reciprocity.

#3 David Peeples

David Peeples appeared on his own behalf to request permission to pursue licensure by reciprocity from his active Washington license. President McAllister asked Mr. Peeples about the nature of his request. Mr. Peeples stated that he is requesting to reciprocate his license from the state of Washington to Arizona.

Mr. McAllister asked Mr. Peeples about the disciplinary action taken against his license. Mr. Peeples stated that disciplinary action was taken against his license in 1994. Mr. McAllister asked him to describe the disciplinary action. Mr. Peeples stated that since 1974 he had worked at Payless Drug in various capacities. Mr. Peeples stated that he worked as a district manager and for a period of three years was not involved in the day- to-day practice in a pharmacy. Mr. Peeples stated that he was asked to fill a position as a store manager. Mr. Peeples said the store was very busy and a drug interaction was not counseled. The patient filed a complaint with the Board.

Mr. McAllister asked about the disciplinary action with the Board. Mr. Peeples stated that his license was placed on probation for 6 months and he had to complete continuing education courses on drug interactions.

Mr. McAllister asked Mr. Peeples if he has been practicing State of

continuously since that time. Mr. Peeples stated that he has been. Mr. Peeples stated that he has been a pharmacist for 30 years and this is the only disciplinary action that was taken against his license.

Ms. McCoy reminded individuals in the audience that it is important to counsel patients concerning drug interactions. She noted that in the inspection report summary that some pharmacies have adopted a unique way to track interactions. She stated in Mr. Peeples case by not counseling on the drug interaction he was disciplined by his state of licensure.

On motion by Mr. Draugalis and Ms. McCoy, the Board unanimously approved the request by Mr. Peeples to proceed with reciprocity.

#4 Miles Locke

Miles Locke appeared with Lisa Yates from the PAPA program. President McAllister asked Mr. Locke to describe the nature of his request. Mr. Locke requested that the suspension on his license be removed and probation imposed.

Mr. McAllister asked why his license was suspended. Mr. Locke replied that he was an impaired pharmacist on duty due to opiate addiction. Mr. Locke stated that he has been enrolled in the PAPA program since January. Mr. Locke stated that things are going well.

Mr. McAllister asked Ms Yates for PAPA's recommendation. Ms. Yates stated that Mr. Locke has been in compliance throughout his PAPA contract and his counselor has submitted a letter to the Board.

Mr. McAllister asked if Mr. Locke was ready to go back to work in a busy pharmacy. Mr. Locke said that it is a difficult question to answer until you are confronted with the situation. Mr. Locke stated that he now has a strong support group and he was lacking that support group in the past.

Mr. Locke said that he went through Valley of Hope inpatient program for one month and has been in the PAPA counseling group since January. He stated that he has a strong relationship with his sponsor. Mr. Locke stated that he has attended support group meetings on a daily basis since January. Mr. Locke stated that he feels he has the necessary support.

Mr. McAllister asked if Mr. Locke has dealt with the pressures that caused his problems. Mr. Locke stated that his initial problem was a degenerative condition in his lower back. Mr. Locke stated that he had surgery in July of last year. Mr. Locke stated his condition had improved after the surgery and he has not had any significant pain from the back problem since December of last year.

Mr. Wand stated that Mr. Locke is volunteering at the Board Office. Mr. Locke must do 400 hours of community service and is fulfilling that requirement by helping at the office. Mr. Dutcher asked Mr. Locke how many hours of community service he has completed . Mr. Locke replied that he has completed about 50 hours at the Board office and 60 hours through the local Little League. Mr. Dutcher asked if this would place any restrictions on the Board approving Mr. Locke's request.

Mr. Wand stated that the Community Service must be completed before probation is removed at the end of the five- year PAPA contract.

On motion by Mr. Ketcherside and Dr. Tippett, the Board unanimously approved the request by Mr. Locke to terminate the suspension of his pharmacist's license and impose probation with the standard PAPA contract changes.

#5 Bimal Kapadia

Bimal Kapadia appeared on his own behalf to request Board approval

to take the MPJE exam for the fourth time.

President McAllister opened the discussion by asking Mr. Kapadia to describe the nature of his request. Mr. Kapadia stated that he is requesting to take the MPJE for the fourth time.

Mr. McAllister asked Mr. Kapadia what he has done to ensure that he will pass the test this time.

Mr. Kapadia stated that the first time he took the Arizona exam he was studying for the California exam at the same time.

Mr. McAllister asked where Mr. Kapadia would be practicing. Mr. Kapadia replied that he is residing in California and is currently a graduate intern in California. Mr. McAllister asked when he graduated. Mr. Kapadia stated that he is a foreign graduate. He stated that he graduated in 2000 from India. He stated that he has taken the FPGE exam.

Mr. McAllister asked if Mr. Kapadia had taken any review courses. Mr. Kapadia said he is planning on contacting friends in Arizona to help him with questions and asked if any review courses were available.

Mr. Draugalis asked if this would be setting a precedent to allow him to take the exam for the fourth time. Mr. Wand replied that the Board had approved an individual to take the exam a fifth time before the individual passed the exam.

Mr. Wand asked if Mr. Kapadia had ever worked in an Arizona pharmacy. Mr. Kapadia replied that he has not worked in an Arizona pharmacy. Mr. Wand suggested that Mr. Kapadia may want to obtain an Arizona graduate intern license and work at a pharmacy in the state. Mr. Kapadia stated that he thought about getting a license in Arizona and moving to Arizona, but at the time decided to take the California exam again.

Dr. Tippett recommended that Mr. Kapadia might want to take a formal study program prior to sitting for the exam. Mr. Kapadia asked if there was any review course being offered. Mr. Wand recommended that Morris-Cody might offer a review course.

On motion by Dr. Tippett and Mr. Ketcherside, the Board unanimously approved the request by Mr. Kapadia to take the MPJE exam for the fourth time.

#6 Jessica Ochoa

Jessica Ochoa appeared on her own behalf requesting permission to proceed with the technician licensing process. Cathy Torda, the technician trainer at Fry's, was also present.

Board Member Paul Draugalis asked to be excused during this discussion due to a conflict of interest.

President McAllister asked Ms. Ochoa to describe the nature of her request. Ms. Ochoa stated that she would like to be licensed as a pharmacy technician trainee. Mr. McAllister asked why she was asked to appear. Ms. Ochoa stated that she had a felony conviction. Mr. McAllister asked if the felony involved pharmaceuticals. Ms. Ochoa replied no. Mr. McAllister how long ago was the conviction. Ms. Ochoa stated the conviction was in 1998.

President McAllister asked Ms. Ochoa if she was working for Fry's. Ms. Ochoa replied that she has worked in the pharmacy for approximately three months. Mr. McAllister asked Ms. Torda if Fry's had any recommendations. Ms. Torda stated that Ms. Ochoa is a good employee and they do have additional recommendations from her store manager and pharmacy manager.

President McAllister asked Ms. Ochoa if she was looking forward to a career in pharmacy. Ms. Ochoa stated that when she was given the

opportunity to work in the pharmacy that it was something that she thought that she would never do. Ms. Ochoa stated that once she started in the pharmacy she enjoyed the job and wants to continue working in the pharmacy.

Mr. Wand pointed out that the applicant is applying for a trainee license and the Board may approve or deny her request due to the felony conviction. Mr. Wand stated that the PTCB does not allow anyone convicted of a felony to take the exam. Mr. Wand stated at this time she would not be able to take the test to become a certified technician. Mr. Wand stated that she could be a trainee for two years and ask for another two year extension and see if PTCB changes their requirements during the two year period. Ms. Torda asked if her conviction were expunged would she be able to take the exam. Mr. Wand stated that would depend on the situation at the time and would need to be considered if that occurred.

Mr. Dutcher asked Ms. Ochoa if it would be possible for charges to be expunged. Ms. Ochoa said her case was overturned and she was re-sentenced. Ms. Ochoa stated that her lawyer told her that upon completion of her probation that it may be possible to have the charges expunged after a certain period of time.

Mr. Ketcherside asked Ms. Ochoa about the drug addiction. Ms. Ochoa stated that the addiction occurred a long time ago. She stated that she was incarcerated for five and one-half years and during that time she participated in educational and drug and alcohol programs that were offered. Ms. Ochoa stated that she has a long-standing mentor, who also came to the meeting, to support her in her efforts. Ms. Ochoa stated that she has no desire to do drugs and has grown up a lot since that time. Ms. Ochoa stated that Fry's has given her the opportunity to have a future. Ms. Ochoa stated that she had the option to appear at the Board meeting or move to another position. Ms. Ochoa stated that she opted to come to the Board Meeting because she had come so far and she was not willing to let it

go because of her past.

On motion by Mr. Dutcher and Dr. Tippet, the Board unanimously approved the request to allow Ms. Ochoa to be licensed as a pharmacy technician trainee. Mr. Draugalis did not vote due to a conflict of interest.

#7 Yvonne Rodriguez

Yvonne Rodriguez appeared on her own behalf requesting permission to proceed with technician licensure.

President McAllister asked Ms. Rodriguez to state the nature of her request. Ms. Rodriguez stated that she is requesting a certified technician license. Mr. McAllister asked why Ms. Rodriguez was asked to appear before the Board. Ms. Rodriguez stated that she had a felony conviction several years ago. Mr. McAllister asked if the felony conviction was related to pharmaceuticals. Ms. Rodriguez replied no.

Ms. McCoy asked Ms. Rodriguez about her PTCB certification. Ms. Rodriguez stated that she was certified in 2001 and recertified in 2003. Ms. McCoy asked Ms. Rodriguez if her conviction occurred in July of 2001 how she was able to take the PTCB exam in November. Ms. Rodriguez stated that they never asked about her conviction when she was certified. Ms. McCoy asked Ms. Rodriguez if she disclosed to the PTCB that she had a felony conviction. Mr. Dutcher asked if the question is on the application. Ms. Boyle replied the question is on the application. Ms. Rodriguez stated that if the question is on the application then she did answer the question.

Mr. McAllister asked Ms. Rodriguez if she was still on probation. Ms. Rodriguez stated that she was given two years probation and was released after one year. Ms. Rodriguez stated that she paid restitution.

Mr. Draugalis said he would like to see the original application and stay the request. Mr. McAllister asked Ms. Rodriguez if she had a copy. She replied she did not. Mr. Wand stated that he would need to contact the PTCB for a copy.

On motion by Mr. Draugalis and Mr. Dutcher, the Board unanimously agreed to stay the request until the original application is reviewed. Mr. McAllister stated that the Board would be in touch with the applicant.

Mr. Pulver asked Ms. Rodriguez about her certification and recertification. Ms. Rodriguez stated that she took the exam and was recertified two years later. Mr. Pulver asked if the recertification requires the disclosure of any convictions. Ms. Rodriguez replied no. Mr. Pulver stated that he is concerned that they would not ask for an update when the applicant applies for recertification.

#8 Southeast Arizona Medical Center

Southeast Arizona Medical Center was represented by Bill Lewis and Dennis Moore. Mr. Lewis is the Pharmacist In Charge at the hospital. Dennis Moore works for Omnicare and will be in charge of the outsourcing of pharmacy services after hours.

President McAllister opened the discussion by asking the representatives what was the nature of their request. Mr. Lewis stated that they are requesting a reduction in the number of in house pharmacist hours from 40 a week to 15 hours a week. Mr. Lewis stated that some of the pharmacy services would be outsourced to Danny's Pharmacy in Tucson. Mr. Lewis stated that they are going to a Med-Dispense system. Mr. Lewis stated that they want to decrease the hours to 2 to 4 hours a day Monday through Friday. Mr. Lewis stated that the census is down. Mr. Lewis stated that the average census is 0 to 4 patients daily.

Mr. McAllister asked the representatives to explain the outsourcing to the Tucson pharmacy and the relationship with the pharmacy. Mr. Moore stated that the hospital contracted out the management of the hospital to Omnicare. Mr. Moore stated that Danny's Long Term Care pharmacy would provide after hour services. Mr. Moore stated within the hospital they would be using the Med-Dispense system. Mr. Moore stated that Danny's Long Term Care pharmacy would provide 24 hour on call services including the weekends.

Ms. McCoy asked if a pharmacist would review the orders before a nurse has access to the medications. Mr. Moore replied that all orders would be reviewed unless they are an emergency or stat order. Ms. McCoy asked if the orders would be faxed to the pharmacy. Mr. Moore replied that they would be faxed to the pharmacy, the pharmacist would review the order, enter the order into the system, and the order will show on the screen enabling the nurse to remove the medication from the machine. Mr. Moore stated that in case of an emergency the nurse would be able to override the system. Ms. McCoy asked if the primary duties of the pharmacist in the hospital would be to stock the machine. Mr. Moore stated that the pharmacist would be responsible for the machines, performing DUE, and work with the P & T committee.

Mr. Wand stated that the Board might want to place a time period on the waiver. Mr. Wand stated that if the census were to increase then the pharmacy hours may need to increase and the waiver would need to be re-evaluated. Mr. Wand stated that if the compliance officer or the hospital staff noticed an increase in the census, then they should notify the Board. Mr. Wand stated that this is a better system than the current system because the orders will be reviewed.

Ms. McCoy stated that she also feels that this is an improvement since they would have 24- hour coverage and a review of all orders will occur. Mr. Moore stated that Danny's would be 24- hours in the near future. Mr. Moore stated that currently Danny's pharmacy would

provide service Monday through Friday from 8:00 a.m. to 9:00 p.m., Saturday from 9:00 a.m. to 5:30 p.m., and Sunday from 10:00 a.m. to 2:00 p.m.

Mr. Wand asked if they had an emergency room at the hospital. Mr. Moore stated that they do have an emergency room. Mr. Wand asked if the doctors dispense in the emergency room. Mr. Moore stated that a Med-Dispense has been installed in the emergency room and the doctors will oversee the removal and dispensing of medications from the machine. Mr. Wand asked if the pharmacist would pre-package the drugs for the emergency room and a log will be kept recording the dispensing. Mr. Lewis stated that has been the procedure.

Mr. Dutcher asked about the on call pharmacist and if he lives close to the hospital. Mr. Lewis stated that he lives in Sierra Vista and is available by phone. Mr. Lewis stated that the on call duties would be taken over by Danny's in Tucson.

Mr. Wand asked about parenteral products. Mr. Lewis stated that they use the ADD-Advantage system. Mr. Wand asked if they do any TPN admixtures. Mr. Lewis replied no.

On motion by Ms. McCoy and Mr. Draugalis, the Board unanimously approved the request of the Southeast Arizona Medical Center to decrease the pharmacy hours to 2 to 4 hours per day with follow-up inspections to determine if the census has changed.

#9 Walgreens - TUCSON EAST

Kent Taylor, District Pharmacy Manager for the Tucson East District, appeared on Walgreens behalf to request a waiver for R4-23-402 (E) (1) and (2). The rules state that a pharmacist, graduate intern, or pharmacy intern must accept the refusal for consultation. The rules state that the pharmacist, graduate intern, or pharmacy intern must document or assume responsibility to document the refusal for

consultation on the original prescription order or document by alternative methods approved the Board or its designee. Walgreens is requesting to pilot the Walgreens Consultation Project in the Tucson East District.

Mr. Taylor briefly explained the project. Mr. Taylor stated that when a prescription is scanned at the register a pop-up screen would appear and it would list two options for consultation. If the technician presses the number one the system would record that consultation was accepted and if the technician presses the number two that consultation was refused. Mr. Taylor stated that their goal is to improve patient care and safety by changing procedures in counseling and denial of counseling. The goal is to be providing 100% consultation on all new prescriptions. Mr. Taylor stated that they would like to use the electronic means of recording the acceptance or denial of counseling. Mr. Taylor stated that the prescription label states if the prescription is a new or refill prescription. Mr. Taylor stated that counseling would be offered on all refills and documented electronically if the patient denied counseling. Mr. Taylor stated that Walgreens is using this method in four other states. Mr. Taylor stated that the pilot program would involve his 30 stores in the Tucson East District. Mr. Taylor stated that it would be an education process for both the technicians and the pharmacists.

Mr. McAllister reiterated Mr. Taylor's remark that it is company policy that 100% of new prescriptions are counseled. Mr. Taylor stated that this is the policy. Mr. McAllister stated that while reading the proposal he felt that the public is usually not aware of what they are declining.

Mr. McAllister asked Mr. Taylor how they are going to improve the public's perception that they need counseling. Mr. McAllister stated that the public's perception would not be improved by having a technician ask the patient if they want to talk to the pharmacist. Mr. Taylor stated that the training would be an important part of the program. Mr. Taylor stated that if a technician notes that the State

prescription is a new prescription then the patient is told that the pharmacist will talk to them about their prescription and the prescription is handed to the pharmacist. Mr. Taylor stated at the drive-up window it will be easier because the patient would not leave until the prescription is sent out to them. Mr. Taylor said that he emphasizes in his stores that the prescription is given to the pharmacist and not the patient. Mr. Taylor said that there is an issue with patient education because the patient does not see the need to consult with the pharmacist. Mr. Taylor stated that they do not have a patient education component at this time.

Mr. McAllister asked how would the Board be ensured that a pharmacist would not have the clerk always push the Refusal key. Mr. Taylor stated that education would be important. Mr. McAllister stated that as the trial project proceeds he feels a report should be generated per store per pharmacist to show improvement.

Mr. Dutcher asked if the pop-up screen would appear at all cash registers or just the pharmacy registers. Mr. Taylor stated that it would only appear at the registers at the pharmacy because all prescriptions are paid for at the pharmacy register. Mr. Dutcher asked if the patient can sign that they refused counseling. Mr. Taylor said no. Mr. Dutcher stated that if the patient signed then it would place a block for the pharmacist who did not want to counsel. Mr. Taylor stated that if the patient signs something or checks a box it is no guarantee that the patient understands about the counseling process.

Mr. Taylor stated that there are ways around any system. Mr. Taylor stated that through education, supervision and compliance officer visits he hopes that they would be doing a better job of counseling their patients. Mr. Taylor said they would be offering counseling on refills, which is not currently being offered.

Mr. Draugalis asked Mr. Taylor to walk through the process. Mr.

Taylor stated when the prescription is completed the patient is paged to the pharmacy. The technician would scan the prescription into the register. The pop-up would appear on the screen. Mr. Dragaulis asked where the consultation is recorded. Mr. Taylor stated that the consultation is recorded in the patient's profile in their computer system. Mr. Draugalis asked what the technicians would say to the patients. Mr. Taylor stated when the technician scans the prescription they would look to see if the prescription is a new or refill prescription. If the prescription is a new prescription, the technician would tell the patient that the pharmacist needs to speak them and the prescription is handed to the pharmacist. The pharmacist would be responsible for giving the prescription to the patient. Mr. Draugalis asked Mr. Taylor to describe the process if the prescription was a refill. Mr. Taylor stated that the pop-up screen would appear and the technician will look to see if the prescription is a new or refill prescription. If the prescription is a refill, the technician would tell the patient that the pharmacist is available to answer any questions about their prescriptions. At this time, the technician would record if the patient accepted or refused counseling. If the pharmacist wants to talk to a patient concerning a refill, a slip would be attached to the prescription and the technician will refer the patient to the pharmacist. Mr. Draugalis stated that he feels that this is an improvement. Mr. Draugalis stated that there would always be ways around the system. Mr. Draugalis stated that this is a pilot program and does not have to be continued. Mr. Draugalis stated that he thinks the program follows the intent of the law.

Dr. Tippet stated that he feels if the electronic technology works it will be important to understand the procedure. Mr. Taylor stated that the technician will push the button and the patient will be referred to the pharmacist. Mr. Dutcher asked if it would be easier for the pharmacist to push the button. Mr. Taylor stated that they do not want to interrupt the pharmacist while he is verifying a prescription to push a button on the register.

Dr. Tippett asked if the system would allow the company to print trends. Mr. Taylor said data could be retrieved. Mr. Taylor stated that he hopes to see an increase in refill counseling.

Mr. Wand asked if the technician's initials would be recorded because he thought their initials were to be recorded. Mr. Taylor stated the initials are not recorded. Mr. Wand stated that with the licensing of technicians that it would be possible to identify technicians just pushing buttons and take action against technicians. Mr. Taylor stated that he would be able to identify the cashier who completed the sale for that prescription

Ms. McCoy asked about the sequence of events. Mr. Taylor stated that the pop-up is on every prescription and the technician will check to see if the prescription is a new or a refill prescription. If the prescription is a new prescription, the technician will accept consultation and pass the prescription to the pharmacist. If the prescription is a refill, the technician will ask the patient if they have any questions for the pharmacist. If the patient wants to speak with the pharmacist, counseling will be accepted and if the patient does not want to speak with the pharmacist, then counseling will be denied.

Ms. McCoy asked if the patient would still have the opportunity to tell the technician that they do not want to be counseled. Mr. Taylor stated that the technician would hand the prescription to the pharmacist and the patient would have to tell the pharmacist that he did not want counseled. Ms. McCoy asked if the pharmacist would need to go back into the system at that point and change the acceptance to a refusal. Mr. Taylor stated that they would attempt to counsel every patient. Mr. Taylor stated that they would not be able to change the record and would document the refusal in some other fashion if the patient did not want to speak to the pharmacist. Mr. Taylor stated the goal is to counsel the patient.

Mr. McAllister asked if the request was for a 90-day trial. Mr. Taylor replied yes. Mr. McAllister asked what data would be brought back to the Board for review. Mr. Taylor stated that the data that they would be able to produce would be the number of patients counseled on refills. Mr. Taylor stated that the goal is that everyone is counseled on new prescriptions, so the data for the new prescriptions would reflect that 100% of the patients were counseled. Mr. Taylor stated that he hopes more patients will be seeking counseling and not avoiding counseling.

Ms. McCoy asked Mr. Taylor if the other states have similar laws to Arizona laws concerning who may accept the refusal for counseling. Mr. Taylor stated that Walgreens has used the application in Utah, Arkansas, Ohio, and Kentucky. Mr. Taylor said he is not sure of the requirements. Ms. McCoy asked Mr. Taylor if he knew how long the applications have been in use in the other states. Mr. Taylor said about three years. Mr. Taylor said the application has been turned on only in states that will allow documentation in this fashion. Ms. McCoy asked Mr. Taylor if he has seen any of the data from these states. He replied that he has not seen the data.

Mr. Draugalis asked if Mr. Hunter has seen the system. Mr. Taylor replied that the system has not been turned on yet. Mr. McAllister suggested that if the project is approved that Mr. Hunter should make a few stand and watch visits that are unannounced. Mr. McAllister stated that he would like for Mr. Hunter to note if the patient is being referred to the pharmacist. Mr. Taylor replied that he hoped Mr. Hunter is observing that process in his stores at this time. Mr. Hunter stated that he has observed that process in Mr. Taylor's stores.

On motion by Mr. Draugalis and Mr. Dutcher, the Board unanimously approved Walgreens request for a waiver of R4-23-402 (E) (1) and (2) for refusal of consultation and documentation of refusal for consultation and allow them to conduct a 90 day trial project in the Tucson East District starting on August 1, 2004 and requested that they reappear at the November, 2004 meeting with data gathered during the 90 day trial period.

President McAllister recessed the meeting for Lunch.

The meeting reconvened at 1:15 p.m.

#10 Arizona Department of Corrections

Mike Sharp and Frank Evans appeared on behalf of the Arizona Department of Corrections to request approval for a remote filling project.

President McAllister asked the representatives to give a short synopsis of their proposed project. Mr. Sharp stated that the Arizona Department of Corrections operates 11 facilities in the state of Arizona with pharmacies. Mr. Sharp stated that in the facilities they house approximately 33,000 inmates and fill close to 3,000 prescriptions daily. Mr. Sharp stated that they employ 25 pharmacists. Mr. Sharp stated that in order to maintain a safe environment and with limited resources and limited personnel they would like to fill prescriptions remotely for their pharmacies. He stated that Pharmacy A would fill prescriptions for Pharmacy B on a temporary basis. This would occur when Pharmacy A had an employee off for illness or vacation.

Mr. McAllister stated that a similar precedent was set with the Cigna center. Mr. McAllister asked Ms. Frush if she had reviewed the proposal. Ms. Frush stated that she had reviewed the proposal with Mr. Evans. Ms. Frush stated that they have covered the transfer State

issues, the labeling issues, and the transport issues. Ms. Frush stated that any issues that occur could be discussed and corrected during the inspection process. Ms. Frush stated that they would not be filling controlled substances at the remote sites.

On motion by Ms. McCoy and Mr. Dutcher, the Board unanimously approved the Arizona Department of Corrections proposal to go forth with the remote filling project.

Mr. McAllister reminded the representatives that they would be subject to annual inspections.

#11 Jerrold Stein

Jerrold Stein appeared with Lisa Yates from the PAPA Program. Also, present were Steven Lerch, District Pharmacy Director for Safeway and Greg Shumaker, Regional Pharmacy Manger for Safeway.

President McAllister asked Mr. Stein to describe the nature of his request. Mr. Stein replied that he is requesting an amendment to his Board order that would allow him to be a Pharmacist In Charge. He stated that by being able to be the Pharmacist In Charge that would allow him to become eligible to become the Pharmacy Manager at the Safeway store in Casa Grande.

Mr. McAllister asked Mr. Stein when his probationary period began. Mr. Stein stated that he signed his PAPA contract in September of 2000. He stated that his probationary period began in March of 2001.

Mr. McAllister asked Ms. Yates about Mr. Stein's progress in the PAPA program. Ms. Yates said that his progress is very good. Ms. Yates stated that Mr. Stein has helped others that have started the program.

Mr. McAllister asked Mr. Lerch about Mr. Stein. Mr. Lerch stated that he has known Mr. Stein since February of 2001. Mr. Lerch stated that Mr. Stein has demonstrated that he has a high level of integrity and honesty. Mr. Lerch stated that he is confident that those standards will continue.

Mr. Shumaker stated that he is Mr. Stein's supervisor. Mr. Shumaker stated that he has no concerns about Mr. Stein's integrity or capabilities. Mr. Shumaker stated that Mr. Stein is heavily involved in youth sports in the community.

Mr. McAllister asked Mr. Stein how is his life different now then when he signed his contract.

Mr. Stein stated that he has more balance in his life now. Mr. Stein stated that many things have changed in his life. Mr. Stein stated that his family life has changed. Mr. Stein stated that he is involved not only in his own recovery and tries to give it back by helping others. Mr. Stein stated that he attends five meetings a week. Mr. Stein stated that he is involved with other people in the PAPA program and other addicts in the recovery groups.

Mr. McAllister asked if he wants to be a manager. Mr. Stein stated that if the position opened at his store that he would be interested in being a manager. Mr. McAllister asked about the stress of being the manager. Mr. Stein stated that he is aware of the stress but stated that he now is involved in a program and has a sponsor. Mr. Stein stated that he used to take on all the problems and try to be a Super Manager. Mr. Stein said he has a responsibility to show that PAPA works and that participants could be responsible members of the profession.

Mr. Draugalis asked Mr. Stein about his support group. Mr. Stein stated that his support group consists of his wife and family and that they really appreciate the changes that have occurred in his life. Mr. Stein stated that he has support from PAPA and from his recovery group. He also stated that he has turned his work place into a State

support group. Mr. Draugalis stated that he also has the support of his district and regional pharmacy managers.

On motion by Mr. Draugalis and Mr. Ketcherside, the Board unanimously approved the request by Mr. Stein to amend his Board order to allow him to become a Pharmacist In Charge and serve as a preceptor pharmacist during the term of his probation.

#12 Mary Kirkpatrick

Mary Kirkpatrick appeared on her own behalf to request permission to proceed with the technician licensing process.

President McAllister asked Ms. Kirkpatrick to describe the nature of her request. Ms. Kirkpatrick stated that she wants to proceed with technician licensure. Ms. Kirkpatrick stated that she is in her mid 50's and graduated from high school about 40 years ago. Ms. Kirkpatrick stated that the high school she attended burnt down and she is not able to obtain a copy of her high school diploma.

Mr. McAllister asked if she has checked with the school district for verification. Ms. Kirkpatrick stated that all the records are gone. Mr. McAllister asked Ms. Kirkpatrick if they are unable to confirm that she was enrolled at the high school. Ms. Kirkpatrick stated that she already tried.

Mr. McAllister asked if she had attended any higher education programs. Ms. Kirkpatrick replied no. Ms. Kirkpatrick stated that she has been working as a technician for 10 years.

Mr. McAllister asked Mr. Pulver, the Assistant Attorney General, for guidance in this matter. Mr. Pulver asked Ms. Kirkpatrick if there was a classmate in the area that could verify that she attended high school there. Ms. Kirkpatrick stated that everyone is gone. Mr. Pulver asked Ms. Kirkpatrick what high school she attended. Ms.

Kirkpatrick replied that she attended Liberal High School. Mr. Pulver told President McAllister that they need something stating that the school burnt down such as a newspaper clipping. Mr. Pulver asked Ms. Kirkpatrick if the school district existed. Ms. Kirkpatrick stated that it still exists but that she graduated 40 years ago and everything is different now. Ms. Kirkpatrick stated that maybe she could go back to the newspaper archives to see if she could find an article stating the school burnt down. Mr. McAllister asked if all the schools (elementary, high school) were housed in the same building. Ms. Kirkpatrick replied no. Mr. McAllister asked if there were records indicating she attended the elementary school. Mr. McAllister told Ms. Kirkpatrick that the Board needs proof.

Mr. Pulver told Ms. Kirkpatrick that in the school district there is a custodian of records that could verify that the school burnt down and the records were unavailable. Mr. Pulver stated that the custodian could send a letter directly to the Board indicating that the records were destroyed.

Mr. Pulver stated that the burden of proof is on her to provide the proof that the records have been destroyed. Mr. McAllister stated that the Board is requiring validity of what occurred with the records.

Mr. McAllister stated that the Board would allow Ms. Kirkpatrick until the November Board meeting to supply the proof.

Ms. McCoy asked if PTCB would accept the documentation. Mr. Wand asked Ms. Kirkpatrick if she planned to become a certified technician. Mr. Wand stated that Ms. Kirkpatrick might want to consider taking the GED exam if she is not able to provide proof of her high school diploma in order to take the PTCB exam.

Mr. McAllister stated that PTCB is a certification board and not a regulatory board.

AGENDA ITEM V - Proposed Rules and Statutes

President McAllister asked Mr. Wand to address the proposed statute changes. Mr. Wand stated in the book is proposed statute changes that we hope to change with our legislative liaison. Mr. Wand stated that the attorneys that have worked with the Board have stated that the Board needs to change the statutes to formalize the options that are available to the Board in resolving a complaint, such as letters of concern, letters of reprimand, and letters of admonition. Mr. Wand stated that since the statutes will be open we wanted to look at other statutory changes that other boards have in their statutes, such as the requirement to report a pharmacist that is working incapacitated in the pharmacy. Other statutory changes could include the addition of a technician to the Board. By including a technician, the number of Board Members would be an even number and could result in a tie vote. Another change involved the statutory change that the Executive Director serves a two- year term and thus far past Executive Directors have served 33 years and 16 years. Mr. Wand stated that Mr. Pulver pointed out that if the Board decided to issue a letter of reprimand during a conference, the person would need to be sworn in before the conference began and a court reporter would be needed to document the minutes of the conference. Mr. Wand suggested that the conferences are now informal and if the Board wanted to keep the conferences informal that the Letter of Reprimand could be removed from that section. Mr. Wand stated that the Board Members might want to wait and review the changes and discuss the changes at the August meeting.

Mr. Dutcher asked Mr. Pulver if we have any Boards have an even number of Members. Mr. Pulver replied that all Boards have an odd number of members so that there is not a tie vote.

Mr. Dutcher asked if any Boards have a regulation that the Chairman does not vote unless there is a tie. Mr. Pulver replied no that the Chairman always votes. Mr. Pulver states that if a technician is added to the Board, the Board could add another member, such as

another public member.

Mr. Wand stated that there are immunization rules in this package. Mr. Wand stated that at this time the Board would not be able to do a scope of practice sunrise this year due to the cost and the need to meet with all the other Boards for this change to occur.

Mr. McAllister stated that if any Board Members have any concerns or changes to please notify Hal and then the changes could be discussed at the August meeting.

Immunization Rules

Compliance Officer/Rules Writer Dean Wright began by telling the Board Members that he has prepared the Notice of Final Rulemaking and the Economic Impact Statement for the immunization rules.

Mr. Draugalis asked if there were any changes since the last time. Mr. Wright stated that there were no changes made.

Mr. Wand stated that these are the rules that would allow a pharmacist to administer immunizations pursuant a prescription. Mr. Wand stated that these rules do not involve a scope of practice change that would result in the sunrise process being necessary.

On motion by Mr. Draugalis and Ms. McCoy, the Board unanimously agreed to approve the Notice of Final Rulemaking and the Economic Impact Statement for the Immunization Rules and authorized Mr. Wright to proceed with the process.

Technician Licensure Time-frame Rules

Mr. Wright stated that when the technician rules were passed that the attorney for GRCC stated that we did not have time frames in the rule. GRCC allowed the Board to proceed with the technician rules

and required that a new rule package be opened to address the time frames. Mr. Wright stated that the rule states the time frame that the Board needs to meet for licensure. Mr. Wright stated that also included is a citation correction in R4-23-655.

Mr. Dutcher asked if there was a reason that we went from 7 days to 3 days. Mr. Wright stated that it is still 7 days total. Mr. Wright stated that the administrative review is 3 days and the substantive review is 4 days. Mr. Wright stated that if we keep the process under 7 days then the Board does not have to file a report with GRCC.

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

AGENDA ITEM VI - Complaint Review

The Consumer Complaint Review committee met prior to the Board Meeting to review 15 complaints in preparation for making recommendations to the Board for final resolution. Mr. Dutcher and Dr. Tippet served as the review committee. Mr. Dutcher provided a summary of each complaint and provided the committee's recommendations to the Board. Board members were encouraged to ask questions.

Complaint Discussion

Complaint # 2786

President McAllister and Mr. Draugalis requested to change the committee's recommendation of a conference to a consent order. Mr. McAllister stated that the pharmacist had several chances to correct the error and did not call the doctor to clarify the directions when he stated that the directions were unclear. The Board agreed and the recommendation was changed to a consent agreement.

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

- Complaint # 2783 - No Further Action**
- Complaint # 2784 - Add to Findings of Fact - Stipulated Stay**
- Complaint # 2785 - No Further Action**
- Complaint # 2786 - Consent**
- Complaint # 2787 - Conference**
- Complaint # 2788 - No Further Action**
- Complaint # 2789 - Conference - Both Pharmacists**
- Complaint # 2790 - Letter to Pharmacist- Unprofessional Conduct**
- Complaint # 2791 - Conference**
- Complaint # 2792 - No Further Action**
- Complaint # 2793 - Conference**
- Complaint # 2794 - Letter requesting copy of process**
- Complaint # 2795 - No Further Action**
- Complaint # 2798 - No Further Action**
- Complaint #2799 - Letter**

AGENDA ITEM VII - Conferences

COMPLAINT #2743

President McAllister called Pharmacist Stephen Veerkamp and Supervisor Terry Daane forward to address the Board concerning a Consumer Complaint. Mr Draugalis excused himself from taking part in this conference due to a conflict of interest. Compliance Officer Rich Cieslinski gave a brief overview of the complaint. The complainant received either Lipitor 40mg or 20mg instead of Accupril 40mg.

President McAllister opened the discussion by asking Mr. Veerkamp to describe the events leading to this discussion. Mr. Veerkamp stated that the patient did receive Lipitor 20 mg instead of Accupril 40mg. Mr. Veerkamp stated that he still has the bottle of incorrect medicine at the pharmacy and it is Lipitor 20mg. Mr. Veerkamp stated that the patient called and stated that he had the wrong medication. Mr. Veerkamp stated that he prepared the correct medication and received the wrong medication from the patient. Mr. Veerkamp said he did look in the bottle and noticed that the tablets were imprinted with a 20 indicating that the tablet was 20mgs. He told the patient that he had the wrong medication. Mr. Veerkamp stated that the patient left. Mr. Veerkamp stated that he looked up the medication and identified the medication as Lipitor 20mg and called the patient's doctor and described the incident to the doctor. Mr. Veerkamp stated that the doctor did follow up with the patient. Mr. Veerkamp stated at that time the patient did not report any harm from taking the incorrect medication. Mr. Veerkamp stated that subsequently the patient is now making several complaints of harm. Mr. Veerkamp stated that he was responsible for the incident and would like to apologize if the patient has suffered any harm as a result of the error.

Mr. McAllister stated that he would like to note that Mr. Veerkamp did

call the doctor so that the doctor could monitor the patient. Mr. McAllister stated that it is often difficult to remember details when the incident occurred in February of 2003 and the complaint was filed nine months later. Mr. McAllister reminded Mr. Veerkamp to be careful.

COMPLAINT #2758

Pharmacist David Holland, Pharmacist Donald Ouelette, Pharmacy Supervisor Greg Shumaker, and District Pharmacy Manager Steve Lerch were present in response to a consumer complaint. Compliance Officer Larry Dick gave a brief overview of the complaint. The complaint involved two separate incidences. In the first incident, the complainant's mother received Klor-Con 20meq tablets instead of powder packets. In the second incident, the complainant's son received a prescription with the wrong doctor's name on the label. It was also noted that the product dispensed was not an AB approved generic.

President McAllister opened the discussion by asking Mr. Holland about the incident. Mr. Holland stated he does not recall the incident but does know that he filled the prescription with the tablets because he stated that he has not filled any prescriptions for the packets that he can recall. He stated that the patient's daughter phoned the pharmacy and reported the incident to the pharmacy manager. The pharmacy manager verified with the complainant the medication that she had in her possession. The pharmacy manager told that patient that they could use the tablets and dissolve them in water or she could return the tablets and they would be replaced with the powder packets. The pharmacy manager prepared the packets for the patient and the patient never returned to the pharmacy and they assumed she was using the tablets in place of the packets. Mr. Holland stated that he has changed the way he checks prescriptions and looks more closely at the dosage forms.

President McAllister asked Mr. Ouelette to describe the other incident in this complaint. Mr. Ouelette stated that the complainant called the pharmacy and stated that the wrong doctor's name was on her son's prescription bottle. Mr. Ouelette stated that he verified that the prescription was for the right medication. Mr. Ouelette stated that he apologized for the error and offered to type a new label for the complainant. The patient stated that it was not necessary for them to type a new label. Mr. Ouelette later found out that the Promethazine that was dispensed is not an AB rated generic product. Mr. Ouelette said that he assumed since the products were linked in the system that they were equivalent. Mr. Ouelette stated that the company has corrected the problem.

Mr. Dutcher asked Mr. Ouelette how the wrong doctors name was put on the prescription. Mr. Ouelette stated that the doctor's signature was illegible and the wrong doctor was entered.

Mr. Draugalis stated that looking at the potassium prescription the prescription indicates that the medication is to be given orally. Mr. Draugalis asked how it was determined that the patient was to receive the powder packets. Mr. Holland replied that they check the patient profile and give the patient the dosage form that they had received in the past.

Mr. Dutcher asked Mr. Lerch about the patient's comment in her letter that states that Mr. Lerch told her to contact the State Board of Pharmacy. Mr. Lerch stated that he spoke with the complainant and she was dissatisfied with the way they were handling the situation and she asked what regulatory agency regulated pharmacists. Mr. Lerch replied that he did provide her with the information to contact the Board.

Mr. Ketcherside stated in Mr. Ouelette's reply he indicated that the pharmacy is busy and often hectic and it is easy to miss a check on the prescription. Mr. Ketcherside asked what has changed in the

pharmacy since that time. Mr. Ouelette stated that he is more diligent in checking the doctor's name, and the pharmacists are reminding the technicians to double check the information entered into the computer. Mr. Ouelette stated that the scanning equipment has been moved and the computer system has been fixed to show AB rated products. Mr. Ouelette stated that they have improved their practice.

Mr. Lerch stated that being busy is not an excuse for an error. Mr. Lerch stated that they have systems in place at this location that will help improve their accuracy and prevent errors.

Mr. McAllister stated that in both cases that the pharmacists were caught by ambiguous prescription errors and reminded them to be careful.

A short recess was called. President McAllister called the meeting back to order.

COMPLAINT #2774

Pharmacist Sonia Banks and Supervisor Ed Saba were present pursuant to a consumer complaint. Compliance Officer Ed Hunter was requested to describe the findings of his investigation. The complainant stated that the patient's prescription was incorrectly filled with Paxil instead of Pravachol.

President McAllister asked Ms. Banks what changes have been made in the pharmacy to prevent further errors. Ms. Banks stated that all prescriptions are double checked by the pharmacist and technicians. Ms. Banks stated that they have rearranged and now have more counter space. Ms. Banks stated that she now looks in all vials and checks the medication with the stock bottle.

President McAllister asked since it was for a home bound patient was it filled in a medi-pack or a vial. Ms. Banks stated that the medication was put in a vial.

Mr. Dutcher asked if the patient had Pravachol on his profile. Ms. Banks replied that he did not.

Mr. Dutcher stated that in the letter the nurse states that this is the sixth concern with the pharmacy. Ms. Banks stated that she is not sure. Mr. Dutcher asked if there is one pharmacist on duty. Ms. Banks stated not at all times. Ms. Banks stated that there is one pharmacist on Saturdays. Ms. Banks stated that they have three pharmacists.

Mr. McAllister asked if they serviced many patients for this home care agency. Ms. Banks replied that they have about one hundred patients. Ms. Banks stated that the pharmacy delivers the medication to the patients and the nurses check the medication when they set up the patient's medication boxes.

Ms. McCoy stated that Ms. Banks stated in her reply that it could have been a bottle that had been returned to stock. Ms. Banks stated that she does not remember pulling Pravachol that day.

Mr. McAllister reminded Ms. Banks to be careful especially with these vulnerable patients. Mr. Saba stated that Supervisor Don Featherstone had spent a week at the store to work with the pharmacists to develop procedures and streamline the operation. Mr. Saba stated that errors are something that they do not take lightly. Mr. Saba stated that they had great cooperation from the technicians and pharmacists at the store.

AGENDA ITEM VIII- Consent Agreements

President McAllister asked Board Members if there were any questions or discussions concerning the consent agreements. Executive Director Wand indicated that the two consents have been reviewed and approved by the Attorney General's Office and have been signed. Mr. Wand provided a brief overview of the Consent Agreements for the benefit of the audience.

Mr. Wand stated that the first consent involved the theft of non-controlled substances from a pharmacy and the second consent involved drug addiction and the pharmacist has entered into a PAPA contract.

Mr. McAllister stated that he feels that when a pharmacist steals medications from the pharmacist that their license should be suspended for a period of time.

On motion by Mr. Dutcher and Ms. McCoy, the Board unanimously agreed to accept the following Notices of Hearing/ Consent Agreements as presented in the meeting book and signed by the respondents:

Mayur Dev 04-00010PHR

Howard Jones 04-00011PHR

AGENDA ITEM IX - Review of Pseudoephedrine and Dextromethorphan Sales

President McAllister asked Mr. Wand to open the discussion on the sale of pseudoephedrine. Mr. Wand stated that Mr. Draugalis had seen where Oklahoma had limited the sale of pseudoephedrine to pharmacies. Mr. Wand stated that the Board Members have received copies of the Oklahoma laws. Mr. Wand stated that he feels that this

may possibly be a scope of practice change that may require a sunrise. Mr. Wand stated that dextromethorphan is also being abused in high schools and is not as extensive as the pseudoephedrine but still is a public safety issue.

Mr. Wand stated that he told Mr. Draugalis that we could send a letter to the pharmacies recommending that they move the pseudoephedrine behind the counter.

Mr. Wand stated that A.R.S. § 32-1932 (E) states that the board does not have authority to deny or restrict the right of any permittee to sell nonprescription drugs. Mr. Pulver states that it limits the Board's control over deciding what non-prescription permittees can sell and prevents monopolies.

Mr. Draugalis stated that maybe we should review the issue at the August meeting.

Mr. Dutcher stated that he feels that we are charged with protecting the public safety and we are falling behind in this issue. Mr. Dutcher stated that the Board has seen where a gas station was selling large quantities of pseudoephedrine. Mr. Dutcher states that the Board needs to look at this issue.

Mr. Wright stated that the Board could make pseudoephedrine a CV exempt medication similar to the action the Board took with Ephedrine. Mr. Wright stated that the Board could make the change by making a statutory change. Mr. Wand stated that Kip Holmes at the Attorney General's Office might be able to assist the Board in any changes since he helped with the original pseudoephedrine rules.

Ms. McCoy asked if there was any place that the Board could obtain how much pseudoephedrine is sold. Mr. Wand stated that we might be able to obtain the information from the FDA. Mr. Wand stated changing pseudoephedrine to an exempt CV would be the easiest

route. Ms. McCoy asked if that would remove pseudoephedrine from non-prescription retailers. Mr. Wand replied that it would not allow non-prescription retailers to sell pseudoephedrine.

AGENDA ITEM X - Counseling Task Force

Ms. McCoy stated that the task force held its first meeting and had representation from various organizations. Ms. McCoy stated that the initial goal was to identify issues. Ms. McCoy stated that the task force is planning to look at other state's regulations concerning counseling. Ms. McCoy stated that the task force would look to see if language changes are needed or if the language is adequate and the pharmacists are following the regulations. Ms. McCoy stated that the Board is trying to get out the message that errors involving the lack of counseling are treated more harshly than other errors.

Ms. McCoy stated that the task force is gathering information at this time and will be meeting again. The Board staff called other states to gather information on counseling in their states.

AGENDA ITEM XI - Interagency Service Agreement - Assistant Attorney General

President McAllister opened the discussion on approval of the interagency service agreement. Mr. McAllister stated that he would like to compliment the services that Mr. Pulver has provided to the Board. Mr. McAllister stated that it is time for the Board to vote to renew the agreement.

Mr. Wand stated that there is a potential increase in the agreement. Mr. Wand stated that the increase would be dependent upon budget money being available. Mr. Wand stated that he would make every effort to ensure that the money is in the budget to avoid the revolving door.

On motion by Mr. Draugalis and Ms. McCoy, the Board unanimously approved the interagency service agreement for the Assistant Attorney General.

AGENDA ITEM XII - Call to the Public

President McAllister 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.

Comments were made concerning the following issues:

A member of the Arizona Community Pharmacy Committee stated that members will be attending a meth watch program in Washington. Upon their return, they will be working with retail pharmacies concerning the meth watch program.

A pharmacist wanted to know if any other pharmacies are having problems with Anbesol disappearing from their shelves.

There being no further business to come before the Board on motion by Dr. Tippett and Mr. Ketcherside, the Board unanimously agreed to adjourn the meeting at 3:25 P.M.