

**THE ARIZONA STATE BOARD OF PHARMACY
HELD A REGULAR MEETING NOVEMBER 17 & 18, 2004
GLENDALE, ARIZONA**

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

President McAllister convened the meeting at 9:05 A.M. and welcomed the audience to the meeting. Ms. Frush explained that law continuing education would be offered for attendance at the meeting. Mr. Wand introduced Sandra Sutcliffe. Ms. Sutcliffe has recently been hired as a Board Compliance Officer. Ms. Sutcliffe is a graduate of Purdue University College of Pharmacy and the Indiana University College of Law. Ms. Sutcliffe is a member of the Arizona Bar.

AGENDA ITEM I - Approval of Minutes

Following a review of the minutes and an opportunity for questions and on motion by Mr. Dutcher and Mr. Ketcherside, the minutes of the Regular Meeting and Executive Session held on August 11 and 12, 2004 were unanimously approved by the Board Members. On motion by Mr. Dutcher and Mr. Ketcherside, the minutes of the Telephonic Meeting held on October 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.

Care Assure Pharmacy

Eric Contreras and Tarik Sharif, the owners were present to answer questions from Board Members.

President McAllister opened the discussion by asking the owners to discuss their business. Mr. Contreras stated that this is a 50% ownership change. Mr. Contreras stated that the pharmacy has been doing business as Creative Healthcare. Mr. Contreras stated that they would be doing a dba (doing business as) change. Mr. Contreras stated originally the pharmacy was going to do business as Care Assure Pharmacy but will be changing the name to Sunrise Health Pharmacy. President McAllister asked if the application had been updated. Mr. Wand and Ms. Frush stated no updated application has been submitted to the Board Office. President McAllister asked if the Board needed to wait to approve the permit until the application has been updated. Mr. Wand stated in the past the applicant has been allowed to make the change if the Board felt the change was appropriate. Mr. Wand stated that if the Board Members felt the request was inappropriate, they could table the request until the afternoon and the applicants could update the application at lunchtime. President McAllister asked if the other information on the application was correct.

Mr. Contreras replied yes. President McAllister asked that the name change be recorded in the minutes and the applicants could proceed with their request.

President McAllister asked about the ownership change. Mr. Sharif stated that he would be the new owner. Mr. Sharif stated that he would be a 50% owner. Mr. McAllister asked who would own the other 50% of the business. Mr. Contreras replied that Art Contreras is the other owner. President McAllister asked if they were non-pharmacist owners. Mr. Contreras and Mr. Sharif replied that it is true that they are not pharmacists.

Mr. Wand reminded the owners since they are non-pharmacist owners that the pharmacy can only be opened when a pharmacist is present. Mr. Wand stated that the owners could have a key for emergency situations, such as fire or flood. Mr. Wand reminded the owners that they could not overrule the pharmacist in the judgment of pharmacy law for business reasons.

President McAllister reminded the owners that the purpose of the Board is to protect the public. Mr. McAllister reminded the owners that if errors or consumer complaints are addressed regarding a particular pharmacy there could be a risk of licensure discipline. Mr. McAllister reminded the owners to follow all the regulations to protect their patients.

Ms. McCoy asked the owners about the person named as the Pharmacist-In-Charge. Mr. Contreras replied that George Foose will be their new Pharmacist-In-Charge. Mr. Contreras stated the person listed was an interim Pharmacist-In-Charge until they were able to hire a new pharmacist.

President McAllister asked them to describe the pharmacy business. Mr. Contreras stated that they are a home infusion pharmacy. Mr. McAllister asked if they are anticipating obtaining JCAHO accreditation for their services. Mr. Contreras replied that they were previously JCAHO accredited, but currently they are looking at accreditation through CHAPS and ACHC. Mr. Contreras replied that he believes they will not be going for JCAHO accreditation again.

President McAllister thanked them for appearing and wished them luck.

Desert West Pharmacy

The following representatives were present to answer questions posed by Board Members: Matthew Meyer, Vice President; Randy Gorder, Pharmacist-In-Charge; and Linda Owens, Pharmacy Projects Coordinator.

President McAllister opened the discussion by asking the applicants to describe their business.

Mr. Meyer replied that they would be a closed door pharmacy servicing the skilled nursing patients in their facility.

President McAllister asked if they were non-pharmacist owners. Mr. Meyer replied yes. Mr. McAllister reminded the owners that the Board is particularly interested in the buying and selling practices of closed-door pharmacies. Mr. McAllister stated that the diversion of drugs from closed-door pharmacies to illicit outlets has become a national problem. Mr. McAllister reminded them that when they are inspected that their purchasing records would be checked.

Mr. Wand stated that another issue was noted when reviewing the application. Mr. Wand stated that one of the owners listed is a physician. Mr. Wand stated that the physician was contacted and did sign a statement that he would not be writing prescriptions that would be filled at the pharmacy. Mr. Meyer stated that the physician will be working on the business side of the operation.

Mr. Meyer asked if the pharmacy could fill prescriptions for their employees. Mr. McAllister replied that they could fill prescriptions for their employees.

President McAllister thanked them for appearing and wished them luck with their business.

Value Options, Inc.

Melissa Lamer, Pharmacist-In-Charge, and Brita Darzi, Pharmacist-In-Charge, were present to answer questions to answer questions from Board Members.

Ms. Frush stated that they were asked to appear because one pharmacy is a change of ownership.

The pharmacy was previously Rx Innovations. The other pharmacy is a new pharmacy. Ms. Frush stated that several of the owners of Value Options are medical practitioners. Ms. Frush stated that their local business office clarified that the medical practitioners will not be writing prescriptions for Arizona patients. The medical practitioners work at their Virginia business center. Ms. Frush stated that they will be dispensing prescriptions written for mental health issues.

Mr. McAllister asked about their business and if they will be hiring more pharmacists. Ms. Lamer stated that they would be hiring additional pharmacists.

Mr. McAllister thanked them for appearing at the Board Meeting.

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

RESIDENT (In Arizona)

- **Fry's Pharmacy # 674**
13982 W. Waddell Rd., Surprise, AZ 85379
Smith's Food & Drug Centers, Inc.
- **Sunrise Health Pharmacy**
962 E. Isabella Ave. Suite 103, Mesa, AZ 85204 (O)
Creative Healthcare Services
- **Pharmacy Resource Center**
10301 N. 92nd St., Scottsdale, AZ 85260
AdvancePCS Health Systems, L.P.
- **Value Options Pharmacy**
1930 S. Alma School Rd. Ste. A-203, Mesa, AZ 85210 (O)
Value Options of Arizona, Inc.
- **Desert West Pharmacy**
1099 Sunrise Ave., Kingman, AZ 86401
Desert West Pharmacy Corp.
- **Food City United Drug #163**
1930 Juan Sanchez Blvd., San Luis, AZ 85349
Bashas' Inc.
- **Apothecary Shop of Mesa**
1432 S. Dobson Rd. #102, Mesa, AZ 85202
Apothecary Shop of Mesa, Inc.
- **Value Options Pharmacy**
8836 N. 23rd Ave., Phoenix, AZ 85021
Value Options of Arizona, Inc.
- **CVS Pharmacy #5950**
855 E. Elliot Rd., Tempe, AZ 85254
Elliot Tempe CVS, LLC
- **CVS Pharmacy #7845**
7552 E. Indian School Rd., Scottsdale, AZ 85251
CVS EGL Indian Scottsdale AZ, LLC
- **Biotech Pharmacy**
4030 Stockton Hill Rd., Suite 8, Kingman, AZ 86401
Biotech Pharmacy Inc.
- **Target Store T-1959**
5110 S. Power Rd., Higley, AZ 85236
Target Corporation
- **Target Store T-1960**
3931 S. Gilbert Rd., Gilbert, AZ 85296
Target Corporation
- **Arizona Integrated Pharmacy**
2619 E. Pierce, Phoenix, AZ 85008 (O)
Maricopa County Special Health CareDistrict
- **Avondale Family Health Center**
950 E. Van Buren St., Avondale, AZ 85323 (O)
Maricopa County Special Health CareDistrict
- **Chandler Family Health Center**
811 S. Hamilton, Chandler, AZ 85225 (O)
Maricopa County Special Health CareDistrict
- **Comprehensive Healthcare Center**
2525 E. Roosevelt, Phoenix, AZ 85008 (O)
Maricopa County Special Health CareDistrict
- **Desert Vista Health Center**
570 W. Brown Rd., Mesa, AZ 85201 (O)
Maricopa County Special Health CareDistrict
- **Glendale Family Health Center**
5141 W. Lamar, Glendale, AZ 85301 (O)
Maricopa County Special Health CareDistrict
- **Maricopa Medical Center Hospital Pharmacy**
2601 E. Roosevelt St., Phoenix, AZ 85008 (O)
Maricopa County Special Health CareDistrict
- **Maryvale Family Health Center**
4011 N. 51st Ave., Phoenix, AZ 85031 (O)

- Maricopa County Special Health Care District
- Mesa Family Health Center
59 S. Hibbert, Mesa, AZ 85210 (O)
Maricopa County Special Health Care District
- Maricopa Med Center- Outpatient Pharmacy
2601 E. Roosevelt, Phoenix, AZ 85008 (O)
Maricopa County Special Health Care District
- Seventh Avenue Family Health Center
1407 S. 9th Ave., Phoenix, AZ 85007 (O)
Maricopa County Special Health Care District
- South Central Family Health Center
33 W. Tamarisk, Phoenix, AZ 85041 (O)
Maricopa County Special Health Care District
- Sunnyslope Family Health Center
934 W. Hatcher, Phoenix, AZ 85021 (O)
Maricopa County Special Health Care District

(O) = Ownership Change

President McAllister asked how many non-resident pharmacies hold Arizona licenses. Mr. Wand stated that he does not know an exact count, but there are approximately 200 non-resident pharmacies. Mr. Wand stated that often the non-resident pharmacies do not renew their license.

Mr. Wand stated that each non-resident pharmacy must send a copy of their current state license with their application. President McAllister asked if the Board would be notified by their home state if their permit was sanctioned. Mr. Wand stated that in most cases the notification of disciplinary action comes through the NABP Clearinghouse.

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

NON-RESIDENT (out of state)

- American Outcomes Management of New York
40 W. 38th St. 5th Floor, New York, NY 10018
American Outcomes Management of New York,
- BioPlus Specialty Pharmacy Services
376 S. Northlake Blvd. Altamonte Springs, FL 32201
BioPlus Specialty Pharmacy Services, Inc.
- McGuff Compounding Pharmacy Services
2921 W. MacArthur Blvd, Santa Ana, CA 92704
McGuff Compounding Pharmacy Services, Inc.
- Icore Healthcare
8551 W. Sunrise Blvd. #106, Plantation, FL 33322
Icore Healthcare LLC
- Kresge-LeBar Pharmacy
630 Main St., Stroudsburg, PA 18360
Beta Property Enterprises, Inc.
- Oviedo Discount Pharmacy
91 Geneva Dr., Oviedo, FL 32765
Trinity Healthcare Corp.
- BioRx
5800 Creek Rd., Cincinnati, OH 45242
BioRx, LLC
- American Outcomes Management
5009 S. Hulen St. Ste. 102, Ft. Worth, TX 76132
American Outcomes Management, L.P.
- Caremark
7034 Alamo Downs Pkwy., San Antonio, TX 78238 (O)
Caremark Texas Mail Pharmacy, LLC
- Caremark
800 Biermann Ct. Suite A, Mount Prospect, IL 60056 (O)
Caremark Illinois Mail Pharmacy, LLC

- **Direct Pharmacy**
1033 State Rd 436, Suite 201, Casselberry, FL 32707
Direct Pharmacy Inc.
- **Sun Mart Pharmacy #107**
2605 8th St. South, Moorehead, MN 56560
Nash Finch Co.
- **United Mail Pharmacy Services**
800 E. Hallandale Beach Blvd. Hallandale, FL 33009
United Mail Pharmacy Services, LLC
- **Caremark**
11162 Renner Blvd., Lenexa, KS 66219
Caremark Kansas Specialty Pharmacy LLC
- **American Discount Pharmacy**
750 Preston Drive #1, Mesquite, NV 89027
American Discount Pharmacy
- **University Compounding Pharmacy**
1875 3rd Ave., San Diego, CA 92101
Joseph and John Grasela
- **Metro Medical Pharmacy**
1911 Church St., Nashville, TN 37203
Metro Medical Supply, Inc.
- **Central Avenue Pharmacy**
133 15th St., Pacific Grove, CA 93950
CAP RX, Inc.
- **RxCrossroads**
4500 Progress Boulevard, Louisville, KY 40218
RxCrossroads, LLC
- **Biologics, Inc**
625 Oberlin Rd., Raleigh, NC 27605
Biologics, Inc.
- **Long Beach Prescription Pharmacy II**
232 Pacific Ave, Long Beach, CA 90806
Michael Drobot
- **Pacific Island Health**
2295 N. King St. #35, Honolulu, HI 96819
Koaha Place LLC
- **MedQuest Pharmacy**
111 E. 12300 South, Draper, UT 84020
MedQuest Pharmacy
- **CHJ Pharmacare**
12851 Western Ave., Ste. A, Garden Grove, CA 92841
Robert Weber
- **Aero Care Pharmacy**
15401 Vantage Parkway W. Ste. 100, Houston, TX 77032
Aero Care Pharmacy Inc.
- **Alexander's Twin Pharmacy**
2217 S. Olden Ave., Trenton, NJ 08610
Betty Schenkel
- **Auburndale Community Pharmacy**
200 Havendale Blvd., Auburndale, FL 33823
Auburndale Community Pharmacy LLC
- **Premier Pharmacy International**
20214 Braidwood, Ste 140, Katy, TX 77450
Premier Pharmacy International, L.P.
- **Countryside Pharmacy**
979 W. Memorial Hwy., Harmony, NC 28634
Carolina Pharmacy Systems, Inc.
- **ArTex Medical Pharmacy**
1802 Moores Lane, Texarkana, TX 75503
ArTex Medical, Inc.
- **Advanced Healthcare Management**
6027 Monroe Hwy, Pineville, LA 71360
Advanced Healthcare Management Corp.
- **Ambulatory Pharmaceuticals Service**

3110 Polaris Ave., Suite 24, Las Vegas, NV 89102
IHS Acquisition XXX, Inc.

- Avee Pharmacy, Inc.
407 N. Belcher Rd., Clearwater, FL 33765
Avee Pharmacy, Inc.
- Leading Edge Medical, LLC
504 McCurdy Avenue South, Rainsville, AL 35986
Leading Edge Medical LLC
- Innoviant Pharmacy
1800 Byberry Rd., Huntingdon Valley, PA 19006
Innoviant Pharmacy Inc.
- CCS Medical
3601 Thirlane Rd., NW Suite 4, Roanoke, VA 24019
DEGC Enterprises US Inc.

- (O) = Ownership Change

Wholesale Permits

President McAllister indicated that there are four applicants for resident wholesale permits.

Orthomeds

Darren Benson and Scott Ruchenberg were present to answer questions from Board Members.

President McAllister opened the discussion by asking the applicants to describe their business.

Mr. Benson stated that they would be doing in office point of care dispensing for an orthopedic network. Mr. McAllister asked if it would be physician dispensing. Mr. Benson replied yes.

Mr. Wand asked how the medications would be packaged to sell to the physicians. He inquired if they would be selling whole bottles to the physicians. Mr. Benson stated that they will be pre-packed and re-packed products. Mr. Wand asked who would be doing the prepacking or re-packing. Mr. Benson replied that the repackaging would be done by a company in Santa Ana called Dispensing Solutions Incorporated. Mr. Wand stated that the issue is that this wholesale permit does not allow them to repackage medications. Mr. Benson stated that they would be putting their own label on the packages.

Mr. Dutcher asked if they were buying unit dose medications. Mr. Benson replied that they would be purchasing packages containing 30 to 60 tablets.

Mr. Wand asked Mr. Benson what he meant when he stated that they would be putting their own label on the packaging. Mr. Benson stated that the label would say Orthomeds and would also have the doctor's name, doctor's address, quantity, and expiration date. Mr. Ruchenberg stated that the re-packer would need to label the product because the permit does not allow them to label product. Mr. Wand stated that this is also Federal law.

Mr. Wand asked Mr. Benson if he read and signed the orientation sheet. Mr. Benson stated that he had and his policies are based off the state and federal laws. Mr. Wand stated that a compliance officer would conduct an inspection before they open for business and if they have any questions they may ask the compliance officer.

President McAllister thanked them for answering the Board's questions.

On motion by Ms. McCoy and Mr. Dutcher, the Board unanimously approved the resident wholesaler permits listed below. All approvals are subject to final inspection by a Board Compliance Officer where appropriate.

- Western Vet Supply, Inc.
414 W. Buist, Phoenix, AZ 85041
Western Vet Supply, Inc.
- Granberry Supply Corp.
2130 S. 7th Ave. Ste. 150, Phoenix, AZ 85007
Granberry Supply Corp.

- Orthomed, Inc.
6900 S. Priest Dr. #7, Tempe, AZ 85283
Orthomed, Inc.
- Maricopa County Special Health Care
2611 E. Pierce St., Phoenix, AZ 85008 (O)
Maricopa County Special Health Care District

(O) = Ownership Change

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. Ketcherside, the Board unanimously approved the following licenses:

Pharmacist licenses 14272 through 14458, Pharmacy Intern licenses 6462 through 6740 (with 6562 and 6702 voided), and Pharmacy Technician licenses 3410 through 6111. For a complete list of names see attachments.

AGENDA ITEM III -Reports

Executive Director Report

Executive Director Hal Wand began his report by discussing the financial statements. Mr. Wand passed out the financial statements for the Board Members review and discussed the fund balance. Mr. Wand passed out a new form that shows the amount of dollars taken in by the Board. Mr. Wand stated that during the month of October, the office took in one million two hundred and eighty-two thousand dollars. Mr. Wand stated that the Board used temporary personnel during this renewal period. Mr. Wand stated that the licensing and renewals of the technicians have added an extra workload for the staff.

Mr. Wand stated that he along with Mr. Pulver and Mr. Wright met with the Board's lobbyist John Magnum and his assistant Tricia Hart concerning the proposed statute changes. The proposed statute changes have been put into bill form by the legislative offices. The sponsor for the bill should be Carolyn Allen, who sponsored our bill last year. Mr. Wand stated that Carolyn Allen would be the new Chairman of the Health Committee.

Mr. Wand stated that the Board is in the process of the budget approval. Mr. Wand stated that he has requested \$100,000.00 in extra appropriations from our budget officers. Mr. Wand stated that he has met with the Joint Legislative Budget Committee and the Governor's Office on Strategic Planning and Budget. Mr. Wand stated that the budget does include \$52,000 for an electronic Board Meeting system. Mr. Wand stated that the request was approved by GITA. Mr. Wand stated that the OSBP asked why we needed an electronic system. Mr. Wand stated that they did not question him any further when he told them that he was instructed by the Board to purchase an electronic system. Mr. Wand stated that \$30,000 has been budgeted for a lobbyist to assist the Board in meeting with other health professionals to plan for a prescription drug- monitoring program.

Mr. Wand stated that he has also applied for a grant for the drug- monitoring program. Mr. Wand stated that Mr. Wright went to San Diego and he went to Kentucky to network with other individuals that have drug-monitoring programs. Mr. Wand stated that it is a \$50,000 grant that would allow the Board to conduct meetings with all the interested stakeholders, meet with legislators to obtain a sponsor, travel to other states that already have a drug monitoring program, and also provides a stipend for the facilitator. Mr. Wand stated that he and Mr. Wright might be traveling to Nevada or Kentucky to observe their programs.

Mr. Ketcherside asked how the Board is doing technology wise. Mr. Wand stated that the Compliance Officers do not have laptops at this time and are not able to connect to the database at the office. Mr. Wand stated that there are funds in the budget that will provide funds to purchase laptops for the Compliance staff. Mr. Wand stated that when he spoke with the budget person from the Governor's Office he thought that we might be able to budget up to \$400,000 dollars for a new database and electronic equipment. Mr. Wand stated that he would like to explain that the Board is a 90/10 agency. Mr. Wand stated that 10% goes to the State Fund and the other 90% goes to the Pharmacy Fund. Mr. Wand stated that during the budget process he must then convince them to give the Board the money back from the Pharmacy Fund.

Ms. McCoy asked if the Board could require all prescribing to be done electronically to protect the patient and if this was something that the Board would have to budget for in an upcoming budget. Mr. Wand stated that this is

an issue that the Board could consider at the planning meeting. Mr. Wand stated that he has only scheduled five Board meetings for next year and hoped to schedule an additional meeting for a planning meeting. Mr. Wand stated that he would like everyone to submit topics for a planning meeting, so that they may put on an agenda. If the item is not on the agenda, the Board would not be able to discuss the item during the planning meeting. Mr. Wand stated that in order to require electronic prescribing that the Board would need to discuss the issue with every shareholder. Mr. Wand stated that it would involve many stakeholders outside of the Pharmacy Board and the Board could not make a unilateral decision to require electronic prescribing. Mr. Dutcher stated that the technology is out there for electronic prescribing and the main issue is who is going to pay for the electronic prescribing. Mr. Dutcher stated that the pharmacies are not willing to foot the bill for the electronic prescribing. Mr. Wand stated that it has been traditionally a function of the Arizona Pharmacy Association to help lobby some of these issues. Mr. Wand stated that Kathy Boyle is very well respected at the legislature and can assist with the passage of bills through the legislature.

Deputy Director Report

Deputy Director Frush directed the Board Members attention to the activity reports for the Compliance Officers. Ms. Frush stated that the Compliance Staff is slightly behind the number of inspections completed at this time last year. Ms. Frush stated that the numbers should improve with the hiring of the additional compliance officer. Ms. Frush stated that they are currently trying to hire for the vacant Drug Inspector position. Ms. Frush stated that they did receive a hire list but did not hire any from that list. Ms. Frush stated that the majority of the applicants expected a salary that exceeded the designated salary for that position. Ms. Frush stated that the Compliance Staff have been spending more time this year on complaint investigations as the number of complaints have increased again this year. Ms. Frush also noted that the Compliance Staff has been conducting more audits as a result of drug theft and loss of medications.

Ms Frush stated that during the months of July, August, September, and October, the compliance staff issued letters for the following violations:

- 1. Outdated Prescription and OTC medications within the pharmacy (14)
- 2. Controlled Substance Audit - Overage (8)
- 3. Controlled Substance Audit - Shortage (8)
- 4. Allowing pharmacy technicians to work without a valid license (5)
- 5. Failure to complete an Annual Controlled Substance Inventory (4)
- 6. Failure to document required prescription information (3)
- 7. Failure to document and record patient's medical conditions (4)
- 8. Failure to maintain current references (1)
- 9. Failure of staff to wear name badges (1)
- 10. Failure to inventory Soma products on Controlled Substances Inventory (1)
- 11. Failure to sign daily prescription log (1)
- 12. Failure to maintain copies of prescriptions - water damaged and trashed - (1)
- 13. Unable to locate CIII-V portion of Controlled Substance Inventory (1)

Ms. Frush stated that there were two areas on the inspection report that needed improvement.

1. Non-functioning hot water heaters that need repaired
2. Prior to an opening inspection, please be sure the pharmacy is ready for the inspection.

Ms. Frush stated that the Compliance Officers have noted areas where the pharmacists and technicians are meeting or exceeding standards:

1. Posting of wall certificates
2. Most pharmacies are neat and clean in appearance - fewer occurrences of dusty shelves

Ms. Frush stated issues that she has noted outside the inspection reports include the following:

1. Notice of change of employer or home address - the licensee must make this change within 10 days
2. DEA 106 forms for the loss or theft of medications are not being filed in a timely fashion and copies must be sent both to the DEA and the Board Office

3. Supervision of Interns - A pharmacist is responsible for the supervision of an intern and the rules state that professional duties can be performed by an intern under the supervision of a pharmacist.

PAPA Report

PAPA was represented by Lisa Yates. Ms. Yates stated that there are a total of thirty-nine (39) participants in the PAPA program. Ms. Yates stated that is the highest number of participants that have been in the program at one time. Ms. Yates stated since August 11, 2004 there has been one participant that has completed the program and two new participants that have come into the program.

Ms. Yates stated that PAPA is planning to have a CE Program directed towards the Pharmacy Supervisors. They anticipate holding the program in February.

Ms. Yates stated that a participant's spouse has a hard time accepting the fact the addiction is a disease. Ms. Yates stated that it is important for individuals that do not accept addiction as a disease to attend the CE programs and learn that addiction is a disease.

Mr. Wand stated that there is a request in the budget to increase the PAPA allocation by \$10,000.

Mr. Draugalis asked Ms. Yates to explain what occurs when an individual has an over hydrated specimen. Ms. Yates stated that on the contract it states that if a urine screen is over hydrated the screen is not accepted. Ms. Yates stated that they are allowed two over hydrated screens in the five year time period. Ms. Yates stated that it is very easy to over hydrate the urine. Ms. Yates stated that participant calls the testing center that morning to see if they need to be screened that day. Ms. Yates stated that they must be careful prior to going to the screening center. Ms. Yates stated that over hydrated screens do happen but not too often.

APA Report

APA was represented by Kathy Boyle. Ms. Boyle stated that the Arizona Pharmacy Alliance is scheduled to begin January 1, 2005.

Ms. Boyle stated that the first AZPA annual meeting would be held June 16-19, 2005 at the Sheraton Wild Horse Pass. Ms. Boyle stated a room has been reserved for the Pharmacy Board Meeting on Thursday.

Ms. Boyle stated that they are planning an Immunization Training Program to be held in the spring of next year. Ms. Boyle stated that there has been an increased interest in giving immunizations by pharmacy employers and having their pharmacists receive the necessary training. Ms. Boyle stated that she could send a copy of the APHA training program to the Board for their review.

Ms. Boyle stated that she had attended the legislative session that morning concerning the Naturopathic Board. Ms. Boyle stated that the Board was approved to continue for another ten years. Ms. Boyle stated on the Naturopathic Board's sunrise request that they were seeking to administer vitamins and minerals intravenously. Ms. Boyle stated that the majority of the naturopaths have completed their pharmacology training. Ms. Boyle stated that they will be allowed to give vitamins and minerals under certain conditions and these conditions would be outlined in the rulemaking process and they would also need to complete a certificate training course. Ms. Boyle stated that in the rulemaking process they would need to outline the details concerning the dosage treatments and appropriate lab tests that would be required. The committee did approve the Naturopathic's sunrise request.

Ms. Boyle stated the new House Health Chairman will be Douglas Quillen. Ms. Boyle stated that he indicated that he would help support the Pharmacy Bill.

AGENDA ITEM IV - Special Requests

#1 Douglas McDowell

Douglas McDowell appeared with Lisa Yates from the PAPA program. Mr. McAllister asked Mr. McDowell to describe the nature of his request. Mr. McDowell stated that his license was suspended in November of 2003. Mr. McDowell stated that since that time he has participated in the PAPA program, Valley Hope's inpatient treatment program, and Valley Hope's aftercare program. Mr. McDowell stated that he has one drug screening a week,

attends six NA meetings a week, and attends weekly PAPA counseling meetings. Mr. McDowell stated that he is following the requirements of the PAPA program and would like to have the suspension of his pharmacy license lifted so that he may return to work.

Mr. McAllister asked Mr. McDowell how his life is different. Mr. McDowell stated that it is tremendously different. Mr. McDowell stated that he has now come to view drug addiction as a disease and not a behavioral problem. Mr. McDowell stated that he realized that he has a problem that will be with him every day of his life. Mr. McDowell stated that over the last year he has built a solid foundation for his recovery.

Mr. McAllister asked Ms. Yates about PAPA's recommendation. Ms. Yates stated that PAPA supports his request to have his license reinstated. Ms. Yates stated that Mr. McDowell has complied with the requirements.

Mr. McAllister stated that upon terminating the suspension and imposing probation that Mr. McDowell will follow the standard PAPA contract.

Mr. McAllister asked Mr. McDowell if he was ready to return to work. Mr. McDowell stated that he missed pharmacy and was ready to return to work.

On motion by Mr. Dutcher and Mr. Draugalis, the Board unanimously agreed to terminate the suspension of Mr. McDowell's license and impose probation with the standard PAPA contract subject to the terms of Board Order Number 03-0019-PHR.

#2 Jeffrey Hannibal

Jeffrey Hannibal appeared with Lisa Yates from the PAPA program. Mr. McAllister asked Mr.

Hannibal to describe the nature of his request. Mr. Hannibal stated that he requesting to terminate the probation on his license.

Mr. McAllister asked Mr. Hannibal how he was doing. Mr. Hannibal stated that he is doing great.

Mr. Hannibal stated that almost every aspect of his life has changed for the better. Mr. Hannibal stated that he has had 5 years of sobriety. Mr. Hannibal stated that he has been married during that time and has a new baby son. Mr. Hannibal stated that his life is good.

Mr. McAllister asked Ms. Yates if PAPA supports his request. Ms. Yates replied that PAPA does support his request and he has been compliant for the whole five years.

Ms. McCoy stated that she would like to congratulate him on completing the program and would encourage him to keep in touch with the program.

Mr. Dutcher stated that he would like to also congratulate him on completing the program and being compliant for the 5 year time period.

On motion by Mr. Draugalis and Ms. McCoy, the Board unanimously approved the request by Mr. Hannibal to terminate the probation subject to terms of Board Order Number 99-0206-PHR.

#3 John Bacovcin

John Bacovcin appeared with Lisa Yates from the PAPA program. Mr. Draugalis asked to be recused due to a conflict of interest.

President McAllister asked Mr. Bacovcin to explain the nature of his request. Mr. Bacovcin stated that he would like the restriction that prohibits him from being a preceptor be removed from his consent order. Mr. Bacovcin stated that he would like to work with the interns.

Mr. McAllister asked Mr. Bacovcin how he was doing in his program. Mr. Bacovcin stated he is doing very well. Mr. Bacovcin stated that the PAPA program makes a difference in many peoples lives. Mr. McAllister asked Ms. Yates if PAPA supports his request. Ms. Yates stated that the PAPA program supports his request.

Mr. Dutcher asked if the Board could terminate a section of the consent order. Mr. Pulver stated that the order could be amended. Mr. Dutcher asked Mr. Bacovcin why he wants to be a preceptor. Mr. Bacovcin stated that at the store he currently works there is a technician that will be entering pharmacy school next year and she wants to continue to work at the store as an intern and he would like to work with her. Mr. Bacovcin stated that he enjoys the interaction with the interns. Mr. Bacovcin stated that he would like to pass on his knowledge and experience. Mr. Dutcher asked if he was willing to pass on the knowledge about his experiences with the PAPA

program. Mr. Bacovcin replied yes. Mr. Dutcher stated that would alert the interns to the nature of the work environment.

On motion by Mr. Dutcher and Ms. McCoy, the Board unanimously agreed to approve the request made by Mr. Bacovcin to amend Board Order 01-00006-PHR to allow Mr. Bacovcin to be a preceptor.

#4 Bradley Koonse - Request withdrawn

#5 Jack Brown

Jack Brown appeared on his own behalf to request permission to proceed with reciprocity.

President McAllister asked Mr. Brown to describe the nature of his request. Mr. Brown stated that he would like to proceed with reciprocity. Mr. Brown stated that his license was revoked in 1985 in Idaho. Mr. Brown stated that he befriended a co-worker and was found guilty of possession of drug paraphernalia. His license was subsequently revoked in August of 1985. Mr. Brown stated that he started the proceedings in 1999 to obtain a pharmacist license in Illinois.

Mr. Brown stated that he had to meet with the Idaho Board and the Illinois Board and it was agreed that he could obtain a temporary license in Illinois. Mr. Brown stated that he was on probation for one year, had to take the NAPLEX exam, and the Illinois law exam. Mr. Brown

stated that early in 2004 his license was fully reinstated. Mr. Brown stated that his goals are to move to Arizona in the summer of 2005 and he would like to be a pharmacist.

Mr. McAllister asked Mr. Brown what he did between the years of 1985 and 1999 when he did not have a pharmacist license. Mr. Brown stated that he went through the various court systems to see if the restrictions on his license could be changed and he found that they would not change the Board's rulings. Mr. Brown stated that he then needed to determine how he was going to support himself. Mr. Brown stated that he returned to school and obtained an electronics degree and then moved to Indiana and obtained a degree in automated technology. Mr. Brown stated that he got married in 1990 and his wife passed away a year ago. Mr. Brown stated that he returned to church during this time and he decided that his calling was to return back to pharmacy. Mr. Brown stated that he then started the process to obtain his license. Mr. Brown stated that he was living in Illinois since 1995. Mr. Brown stated that in 1999 he spoke with the Pharmacy Board. Mr. Brown stated that the attorney generals from both states conversed and he did not want to return to Idaho but wanted to work in Illinois. Mr. Brown stated that the representatives in Idaho and Illinois agreed that enough time had passed. Mr. Brown stated that there had not been any problems since that time. Mr. Brown stated that his probation was lifted early in 2004 and he had met all the requirements imposed by the Illinois Board.

Mr. McAllister asked Mr. Brown when he obtained his license. Mr. Brown stated that he got his license in 2002. Mr. Brown stated that he has worked for Osco the last two years. He stated that he also had worked at Walgreens and Wal-Mart.

Mr. Draugalis asked Mr. Brown about the drug paraphernalia. Mr. Brown stated that one of his co-workers had a pot pipe and he thought the police were following him and watching him. Mr. Brown stated that his friend asked him to store the pipe for him.

On motion by Ms. McCoy and Mr. Draugalis, the Board unanimously agreed to approve the request made by Mr. Brown to proceed with reciprocity.

#6 David Cooper

David Cooper appeared on his own behalf to request permission to proceed with reciprocity.

President McAllister asked Mr. Cooper to explain the nature of his request. Mr. Cooper replied

that he would like to proceed with reciprocity. He explained that his license in Michigan was revoked in 1990 and reinstated in 1994.

Mr. McAllister asked Mr. Cooper to explain why his license was revoked in Michigan. Mr. Cooper stated that during 1983-1984 he was a member of a loosely organized chain of pharmacies. One of the practices of the chain was to bill for brand name medications when generic drugs were dispensed. Mr. McAllister asked if his license was suspended or revoked. Mr. Cooper stated that his Michigan license was suspended in 1988 and revoked in 1990. Mr. Cooper stated that he did not have to retake the exams. Mr. Cooper stated that as result of his Michigan license being revoked his Florida license was also revoked and reinstated in 2000.

Mr. McAllister asked if he had been working in pharmacy since 1994. Mr. Cooper stated that actually he has worked continuously in the pharmacy field. Mr. Cooper stated during his revocation he worked providing drug information services to pharmacists working at a Long Term Care facility.

Mr. McAllister asked since his license has been reinstated if he has been in continuous practice. Mr. Cooper replied yes. Mr. McAllister asked if there have been any other disciplinary actions taken against his licenses. Mr. Cooper replied no.

Mr. Dutcher asked Mr. Cooper about his current pharmacy practice. Mr. Cooper stated that he has worked the last five years as a consultant pharmacist for a long-term care pharmacy. Mr. Dutcher asked if he had explored any job opportunities in Arizona. Mr. Cooper stated that he has not looked for a job yet, but would like a consulting position in a long-term care facility. Mr. Cooper stated that he has purchased a home in Arizona and would like to live here on a permanent basis.

On motion by Mr. Ketcherside and Ms. McCoy, the Board unanimously approved the request made by Mr. Cooper to proceed with reciprocity.

#7 Glen Namura

Glen Namura appeared on his own behalf to request to proceed with reciprocity.

President McAllister asked Mr. Namura to describe the nature of his request. Mr. Namura stated that he would like to reciprocate his Colorado license to Arizona because he currently lives in Laughlin, Nevada and would like to work in Bullhead City, Arizona.

Mr. McAllister asked Mr. Namura if his Colorado license is still on probation. Mr. Namura stated that he did not realize that his license was still on probation. Mr. Namura stated that he received a 2-day suspension and thought it was all cleared up after he did his monitoring. Mr. McAllister asked Mr. Namura if he was not aware of the fact that his license was still on probation before today. Mr. Namura stated that he had a restricted license but did not realize that he was still on probation.

Mr. McAllister asked Mr. Namura if he is living in Laughlin. Mr. Namura stated that he has a home in Laughlin. Mr. McAllister asked Mr. Namura if he is working in Colorado. Mr. Namura replied that he is trying to sell his pharmacy in Colorado.

Mr. McAllister told Mr. Namura that the Board would not look at reciprocity until the applicant has an unencumbered license. Mr. McAllister told Mr. Namura that he would need to resolve the issues with the Colorado Board and then appear to request approval for reciprocity. Mr. Namura asked what Mr. McAllister meant by unencumbered license. Mr. Namura asked if that meant that his license was not on probation. Mr. McAllister stated that his license cannot be on probation. Mr. Namura stated that he has been actively practicing and the only thing that he has on his license is restrictions. Mr. Namura asked if that is considered being on probation. Mr. McAllister asked Mr. Wand if he was on probation. Mr. Wand stated that his order states that he is on probation. Mr. McAllister told Mr. Namura until he has a full active license he is not eligible for reciprocity.

Mr. Draugalis asked Mr. Namura if he completed the requirements of his Board Order. Mr. Namura stated that he had a paper from 1998 that stated he completed the requirements. Mr. Draugalis stated that the Board has a letter dated 2000 that indicated he did not complete the requirements.

Mr. Namura asked if he would have to appear before the Board again once he resolves his issues with Colorado.

Mr. McAllister replied that he would need to appear again

#8 Archish Patel

Archish Patel appeared on his own behalf to request that the Board waive the requirement of passing the TSE portion of the FPGEC. Saul Plenys, RPh was also present to speak on Mr. Patel's behalf.

Mr. Draugalis asked to be recused due to a conflict of interest.

President McAllister asked Mr. Patel to describe the nature of his request. Mr. Patel stated that he would like the Board to waive the requirement that he needs to pass the TSE portion of the FPGEC. Mr. Patel stated that he has taken the test twelve (12) times and each time he receives a score of 45 and he needs a score of 50 to pass the exam. Mr. Patel stated that he feels that when they ask the questions that they do not give you enough time to think about your answer and it may take him too long to answer the question. Mr. Patel stated that sometimes he feels that he did better than a previous time but his score still remains the same.

Mr. McAllister asked Mr. Patel if he is currently working at Fry's. Mr. Patel replied yes. Mr. Plenys spoke on Mr. Patel's behalf. Mr. Plenys stated that he is the Pharmacy Manager at the Apache Junction store where Mr. Patel works as an Intern. Mr. Plenys stated that he has never had any complaints from patients indicating that they could not understand Mr. Patel when he spoke with them. Mr. McAllister asked Mr. Plenys if Mr. Patel counsels patients. Mr. Plenys stated that Mr. Patel counsels patients and he listens to the conversation and feels that there have been no problems. Mr. McAllister asked Mr. Plenys about Mr. Patel's general knowledge. Mr. Plenys stated that Mr. Patel's knowledge level is good and he has already passed the NAPLEX with a score of 91.

Ms. McCoy asked Mr. Patel about the nature of the testing. Mr. Patel stated that they ask nine (9) questions and he must speak about the topic for one (1) minute. Mr. Patel stated that they ask questions about a picture, questions about a map, questions about a graph that is usually a job related graph, and questions about a report on a project.

Ms. McCoy asked if one person scores the test. Mr. Patel replied that two people score the test and their scores are averaged.

Mr. Wand stated that we do have copies of the book that an applicant can use to study for the exam. Mr. Wand stated that Mr. Patel has passed the FPGEE exam.

Mr. Plenys stated that Mr. Patel has been taking English classes and has become a U.S. citizen.

Mr. McAllister asked Mr. Patel how long he has worked at Fry's. Mr. Patel stated that he has worked at Fry's for three and one-half years.

On motion by Mr. Dutcher and Mr. Ketcherside, the Board unanimously approved Mr. Patel's request to waive the requirement that he pass the TSE with a score of 50.

President McAllister stated that the next several requests involve the licensing of technicians with previous felony convictions. President McAllister asked Assistant Attorney General Roberto Pulver if he had any advice for the Board Members.

Mr. Pulver stated that Mr. Wand had asked him questions concerning how the Board could determine good moral character. Mr. Pulver stated that each case is to be judged by the Board on a case- to-case basis. Mr. Pulver stated that applicants may be appearing before the Board for a conviction that occurred 24 years ago and may have been a felony that had nothing to do with drugs or the practice of pharmacy. Mr. Pulver stated that the legislature has given the Board the authority to determine good moral character and if that individual has been rehabilitated.

Mr. Pulver stated that there is also the issue of individuals not having a high school diploma or an equivalent or evidence that they obtained a high school diploma or equivalent. Mr. Pulver states that the statute states that the individual has a high school diploma or an equivalent of a high school diploma. Mr. Pulver stated that it is up to the Board's discretion to determine what is meant by equivalent to a high school diploma. Mr. Pulver stated that the Board could determine that an equivalent could be a GED, experience in the military, or several years being a pharmacy technician in the same locale under the same supervisor or with the same company. The Board could determine that an individual has the skills or qualities necessary that a GED would show.

Mr. Pulver said that the Board could decide one way in one case and a different way in another case. Mr. Pulver stated that each case has its own facts and circumstances that are unique.

#9 James Van Zanen

James Van Zanen appeared on his own behalf to request permission to proceed with technician licensure.

President McAllister asked Mr. Van Zanen to describe the nature of his request. Mr. Van Zanen

stated that he was requesting permission to obtain his license. President McAllister asked if Mr. Van Zanen was a certified technician. Mr. Van Zanen said he has passed the certification test. Mr. McAllister asked Mr. Van Zanen if he has a felony conviction. Mr. Van Zanen stated that when he was 19 years old he had a DUI conviction and is now 25 years old. He stated that he did everything that was required by the state and completed his probation.

President McAllister asked Mr. Van Zanen if he is currently working. Mr. Van Zanen stated that he is currently working as a pharmacy technician at CVS. Mr. McAllister asked Mr. Van Zanen how long he has been working as a pharmacy technician. Mr. Van Zanen stated that he has been working as a technician for two years. Mr. Van Zanen stated that he worked at PCS for about a year and then began work at CVS when the store opened close to his house.

President McAllister asked Mr. Van Zanen if he had any other DUI issues since he was 19 years old. Mr. Van Zanen said that part of his life is behind him. Mr. Van Zanen stated that he would like to attend school to become a pharmacist. Mr. Dutcher asked if he was attending pharmacy school. Mr. Van Zanen stated that he is going to school in December to begin his studies. Mr. Van Zanen stated that his pharmacy manager wrote a letter for him.

On motion by Mr. Ketcherside and Mr. Dutcher, the Board unanimously approved the request made by Mr. Van Zanen to proceed with technician licensure.

#10 Eloisa Martinez

Eloisa Martinez appeared on her own behalf to request permission to proceed with technician licensure.

President McAllister opened the discussion by asking Ms. Martinez to describe her request. Ms. Martinez stated that she would like to obtain a technician license to return to work. Ms. Martinez stated that she will be going to court on Friday and will be paying the amount owed for the felony that she committed.

President McAllister asked her about her felonies. Ms. Martinez stated that she had three felonies. The felonies involved larceny and stealing.

President McAllister asked Ms. Martinez if she is currently working in a pharmacy. Ms. Martinez replied that she is not currently working. Ms. Martinez stated that she planned on working for Dependable Staffing. Mr. McAllister asked Ms. Martinez to describe her technician experience.

Ms. Martinez stated that she attended school to be a technician and has worked as a technician for approximately six years. Ms. Martinez stated that she worked at Cigna and the county hospital.

Ms. Martinez stated that when she applied to work for Dependable Staffing she was told that she needed to be licensed. Mr. McAllister asked Ms. Martinez if she worked continuously during the six years. Ms. Martinez stated that she worked off and on because she had a baby during that time period.

President McAllister asked Ms. Martinez if any of her convictions were drug related. Ms. Martinez stated no. Mr. McAllister asked Ms. Martinez if she ever had any drug problems. Ms. Martinez replied no.

President McAllister asked if the only issue with the court was the paying of her fines. Ms. Martinez replied yes and then the case would be closed.

Mr. Ketcherside asked if the Board should move forward with this case since the court case is not settled. Ms. McCoy asked if this is actually a felony conviction. Mr. Pulver stated that what the Board is looking at is a Complaint before the Court. Mr. Pulver stated that when this applicant speaks of paying the fines that the Board should ask to see the final disposition document. Mr. Pulver stated that there might be sentencing or probation.

Mr. Pulver stated that there are a lot of issues to be taken care of by the court. Mr. Pulver stated that another question that he has that the Board might want to look at is that we are talking about incidences that occurred between February of 2003 thru August of 2003. Mr. Pulver stated that we are talking about a Class 6 felony that is the lowest level, a Class 5 felony that is going up the chain, and a Class 3 felony.

Mr. Pulver stated that his usual experience is that there is some type of probation put on an individual in lieu of sentencing and sometimes there is sentencing. Mr. Pulver stated that he would recommend that after Ms. Martinez finishes with the court to return to the Board with documentation concerning the outcome. Mr. Pulver reminded Ms. Martinez that she might not be able to take the exam if she is convicted of a felony. Mr. Wand stated that she is applying for a trainee license and the test is not required for a trainee license. Mr. Wand stated that the case involves Food Stamp fraud. Ms. Martinez stated that it was \$7,500.

Ms. McCoy asked about a felony conviction for a trainee. Mr. Wand stated that an applicant needs to disclose the felony but it does not preclude them from obtaining a trainee license. Mr. Wand stated that a felony conviction could preclude them from taking the certification test.

President McAllister told Ms. Martinez that she must settle her issues with the court first.

Mr. McAllister stated that after she resolves the court issues and presents the paperwork to the Board, she could reappear for consideration to obtain a technician trainee license.

#11 Matthew Calvert

Matthew Calvert appeared on his own behalf to request permission to proceed with technician licensure. Melanie Malee, Pharmacy Supervisor for Walgreens, was also present.

President McAllister opened the discussion by asking Mr. Calvert to describe his request. Mr. Calvert stated that he would like to obtain a technician trainee license but he has a felony conviction. Mr. McAllister asked Mr. Calvert to tell the Board about his felony conviction. Mr. Calvert stated that when he was 18 years old he was at a party and got into an altercation with another individual and was charged with assault. Mr. McAllister asked Mr. Calvert how old he is now. Mr. Calvert replied that he is 20.

President McAllister asked Mr. Calvert what was the resolution of the conviction and if he is on probation at this time. Mr. Calvert replied that he is on probation. Mr. McAllister asked Mr. Calvert for how long is the probation imposed. Mr. Calvert stated that the probation is for three years. Mr. Pulver stated that the probation would end in 2007 according to the order.

President McAllister asked Mr. Calvert if he ever had any problems with drugs. Mr. Calvert replied never.

President McAllister asked Ms. Malee if she is there to support Mr. Calvert's request. Ms. Malee stated that Mr. Calvert has worked for the company for three years. He previously worked for the front end of the store and was promoted to the pharmacy. Ms. Malee said Mr. Calvert has done a nice job.

Mr. Dutcher asked Mr. Pulver if Mr. Calvert's case is cleared through the court. Mr. Pulver stated that he is not cleared through the court and he is under the auspices of the court. Mr. Pulver stated that there are certain conditions that he must follow. Mr. Pulver stated that if he violates those conditions he will be back in the court. Mr. Pulver asked Mr. Calvert as he understands it what are the conditions that he must follow and once he finishes the probation does this Class 6 felony become a misdemeanor. Mr. Calvert stated that it is a designated felony and will stay on the record.

Mr. Wand stated that this brings up the issue that if the Board approves Mr. Calvert's request for a technician trainee license that in two years he would not be able to take the PTCB certification because he was convicted of a felony. Mr. Wand stated that during that two year period that perhaps Mr. Calvert could get the charges dropped to a misdemeanor, or PTCB may change their requirements, or the Board could offer another test.

Mr. Draugalis asked Mr. Pulver if the charges were lowered to a misdemeanor would Mr. Calvert still need to state that he was convicted of a felony. Mr. Pulver stated that Mr. Calvert would need to indicate that he was convicted of a felony.

Mr. Dutcher stated that he would hate to encourage Mr. Calvert to pursue a license and then two years from now he would not be able to sit for the PTCB exam. Mr. Draugalis stated that he agrees with Mr. Dutcher. Mr.

Draugalis stated that the end goal is to become a certified technician and if the Board approves the license, this individual would not be able to become a certified technician because he could not sit for the PTCB exam.

Mr. Dutcher asked Mr. Pulver if Mr. Calvert gets the felony reduced to a misdemeanor if he could reapply for a license. Mr. Pulver replied that he does have the opportunity to apply again. Mr. Pulver stated that if the Board wanted to they could ask for quarterly reports on Mr. Calvert's progress. Mr. Pulver stated that even though Mr. Calvert obtains the training in Arizona and cannot get certified because of his felony he may be able to go to another state that does not require him to take the PTCB exam. Mr. Pulver stated that the Board could offer another exam to this individual if this individual presents evidence to the Board that he has changed his life and then the Board decides that they would like to offer an alternative exam to the PTCB.

Mr. Wand stated that the statute does not state that you need to be a certified technician. The statute states that a person seeking licensure as a pharmacy technician must pass the PTCB exam or a test approved by the Board. The goal of the Board at the time the statute was written was to use the PTCB exam because the exam was a psychometrically sound exam. Mr. Wand stated that it would be difficult for the Board to make a similar exam, but it could be done. Mr. Wand stated that the Board would have two years to develop or find an alternative exam while these individuals worked as trainees. Mr. Wand stated that the individual could also ask for a two year extension, which would give the individual four years to work as a technician. Mr. Wand stated that he received a letter from PTCB stating that they are willing to discuss the issue of felonies.

Mr. Wand stated that those options might give Mr. Calvert up to four years to pass a certification test.

Mr. Dutcher asked about the issue of probation and if it affects the training license. Mr. Wand stated that Mr. Calvert does not have a license that is on probation, but this is his personal probation.

Mr. Ketcherside stated that he does not want Mr. Calvert to feel that the Board is pacifying him by issuing him a license. Mr. Ketcherside stated that there are other issues that Mr. Calvert needs to deal with before being licensed.

Mr. Draugalis asked Mr. Pulver in his opinion what would type of assault would result in three years probation. Mr. Pulver stated that for endangerment to be involved usually some type of weapon was used such as a bottle or even a pencil.

Mr. Pulver addressed Mr. Calvert concerning Condition 21, which required incarceration in the Maricopa County Jail for six (6) months. Mr. Calvert replied that he was in jail for 6 months. Mr. Pulver asked Mr. Calvert when he was released. Mr. Calvert replied yesterday morning.

Mr. Pulver asked Mr. Calvert what he could tell the Board to convince them that there has been a change in his life. Mr. Calvert told the Board that he has completed a nine month period going through the trial system and was not in any trouble during that period. Mr. Calvert stated that he participated in the work furlough program, which allows you to go to work everyday and return to the jail in the evening. Mr. Pulver asked Mr. Calvert if he takes responsibility for what he did. Mr. Calvert replied that he did.

Mr. Pulver asked if his supervisor would be willing to send quarterly reports to the Board if the Board would request those documents. Ms. Malee stated that the Pharmacist In Charge or she could send reports to the Board. Ms. Malee said the Pharmacy Manager wanted to attend the meeting to show his support but he was on vacation. Mr. Pulver stated that Board wants to be sure that he has changed his life.

Ms. McCoy asked about his jail sentence. Ms. McCoy asked if he has worked the last six months.

Mr. Calvert said he worked through the work furlough program.

President McAllister stated that the Board has two choices to allow Mr. Calvert to straighten out his court issues and then reappear or grant Mr. Calvert a license knowing in the future that he may not be able to take the certification test. Mr. Dutcher stated that he feels that Mr. Calvert needs to straighten out the issues with the court.

President McAllister told Mr. Calvert to straighten out his court issues, keep his life in order, and then return to the Board after his court issues are settled.

A brief recess was taken at 10:25 AM and the meeting reconvened at 10:38 AM.

#12 Debra Dunson

Debra Dunson appeared on her own behalf requesting permission to proceed with technician licensure.

President McAllister noted that Ms. Dunson has her PTCB certification but has a felony conviction. Mr. McAllister asked Ms. Dunson to describe her felony conviction. Ms. Dunson stated that the felony occurred 23 years ago and it was a Class 6 felony for the sale of a dangerous drug. Ms. Dunson stated that at the time she was living with her now ex-husband and he was selling drugs and since she was living there she also was charged with a felony. Ms. Dunson stated that she was on probation for two years and was released from probation early. Ms. Dunson stated that she has had no legal problems since that time.

President McAllister asked Ms. Dunson if she is currently working. Ms. Dunson stated that she has worked at El Dorado Hospital the last 12 years as a pharmacy technician. Mr. McAllister stated that he read the letter that her supervisor wrote on her behalf and it was very complimentary.

On motion by Ms. McCoy and Mr. Draugalis, the Board unanimously approved the request made by Ms. Dunson to proceed with pharmacy technician licensure.

#13 Shannon Brown

Shannon Brown appeared on her own behalf to request permission to proceed with technician licensure. Bryan Bakke, the Regional Pharmacy Manager for Albertsons/Osco was also present.

President McAllister noted that Ms. Brown is applying for technician licensure and she has been convicted of a felony. Mr. McAllister asked her to describe her felony conviction. Ms. Brown stated that she was in a car accident in 1997, which resulted in the death of her fiancée. Ms. Brown stated that she was on probation for 5 years and was released from probation in 1992. Ms. Brown stated that she has not been in trouble since that time and she had never been in trouble before this incident.

President McAllister asked if she was given a felony conviction for a car accident because was she under the influence of drugs or alcohol. Ms. Brown replied yes. Ms. Brown stated that they found drugs in her fiancée's boot. Ms. Brown stated that he was hurt pretty bad and she did not want him to go to prison so she took the blame and she told them that the drugs belonged to her. Mr. McAllister asked if she uses illegal drugs now. Ms. Brown stated that she does not.

Mr. Ketcherside asked about her being under the influence of drugs. Ms. Brown stated that she was under the influence of methamphetamine.

Mr. Bakke stated that Ms. Brown has been working at the store since August. Mr. Bakke stated that the Store manager and Pharmacy Manager have both stated that Ms. Brown has provided exemplary service. Mr. Bakke stated that she would continue to work in the pharmacy if she is granted a technician trainee license and if she is not able to take the certification test in two years the Store manager has assured Mr. Bakke that Ms. Brown would have a job in the store. Mr. Bakke stated that Ms. Brown is currently providing support for her 2 children and her husband who is undergoing chemo treatment at this time.

President McAllister asked Ms. Brown about her recovery program. Ms. Brown stated that she was court ordered to do a substance abuse program in Winslow. She stated that she completed the program and received a certificate. Ms. Brown stated that she would like the Board to know that she was not an addict. Ms. Brown stated that this was a one time occurrence and as a result she lost someone that she cared about very much. Ms. Brown stated that she had not used drugs before the accident and has not used drugs since the accident.

Mr. McAllister reminded Ms. Brown that as a licensed technician she will be under scrutiny and any use of drugs would probably result in the loss of her technician license.

On motion by Mr. Dutcher and Mr. Ketcherside, the Board unanimously agreed to approve Ms. Brown's request to proceed with technician licensure.

#14 Glenna Tabor

Glenna Tabor appeared on her own behalf to request permission to proceed with technician licensure. Stan

Sirota, a pharmacist, was present to speak on Ms. Tabor's behalf.

President McAllister noted that Ms. Tabor is requesting to proceed with technician licensure and is unable to prove that she has a high school diploma or equivalent. Ms. McAllister asked Ms. Tabor why she could not prove that she did not have a diploma. Ms. Tabor stated that she has worked in drug stores since 1964 and she was never asked to present a high school diploma.

Mr. Sirota stated that an older sister raised Ms. Tabor and before she could complete high school, she needed to quit school to help support the family. After that time, Ms. Tabor then needed to help support her own family. Mr. Sirota stated that Ms. Tabor had worked for him at his drug store for 15 years. Mr. Sirota stated that Glenna is highly qualified, honest, accurate, and very caring.

President McAllister stated that the requirements were written for entry-level people. Mr. McAllister stated that Glenna has many years of experience.

On motion by Ms. McCoy and Mr. Dutcher, the Board unanimously agreed to approve the request made by Ms. Tabor to proceed with technician licensure.

#15 Medistar

Julie Stritzel and Calvin Thompson were present to update the Board about Medistar's process for after hours hospital verifications.

President McAllister noted that they were present to give the Board a six month update on their progress. Mr. McAllister stated that the Board would be interested in hearing any problems that they have encountered and how successful they have been in supporting hospitals after hours.

Ms. Stritzel stated that they would like to thank the Board for giving them this opportunity to review and verify orders before the medication is given to the patient. Ms. Stritzel feels that this is a valuable service.

Ms. Stritzel stated that they have tracked the numbers for three different models that they have worked with during the last year. Ms. Stritzel stated that they did a six-week site at West Valley Hospital. They covered from 7:00 PM to 7:00 AM. Ms. Stritzel stated that during that time frame they entered 3,449 orders which was roughly 82 orders a night which would not have been entered by a pharmacist until the next morning. Ms. Stritzel stated during that six-week period they made 84 interventions. Ms. Stritzel stated that 40% of the interventions were medication and dose clarifications. Ms. Stritzel stated that 15% of the interventions were allergy related. These interventions involved prescriptions written for patients with known allergies.

Ms. Stritzel stated that their second model is at St. Joe's Hospital. They log into the system for 4 hours each evening and help the night Ms. Stritzel stated that they do the orders for the easy floors and the pharmacist is able to concentrate on the ICU and the pediatric floor. Ms. Stritzel stated that they probably do about 30% of their order entry at night.

Ms. Stritzel stated that their third model is HealthSouth Rehab hospital. Ms. Stritzel stated that there are not many interventions at this site. Ms. Stritzel stated that they have worked there the last seven months and have entered 8,012 orders and is roughly 41 orders a night that would not have been entered until the next morning by the pharmacist. Ms. Stritzel stated that they made 141 interventions. Ms. Stritzel stated that 8% of the interventions were due to formulary substitutions.

Ms. Stritzel stated that they have had no complaints and have had very good feedback.

President McAllister stated that he feels that this is a valuable service because he is aware of the issues with unsupervised nurses. Mr. McAllister stated that he is pleased to hear about the number of interventions that correlate with patient safety.

Ms. McCoy stated that as this technology becomes available and errors are prevented, the Board might want to require all hospitals in Arizona to utilize this type of service when a pharmacist is not available. Ms. McCoy stated that if we look at the number of interventions that were made for drug allergies we are able to see how this type of service protected the patient. Ms. McCoy stated that in the past the Board has been sympathetic to the small hospital that could not afford to have a pharmacist on staff 24 hours, but with the technology changes that the Board may need to look at this issue and take this issue into consideration to protect the public.

Ms. Stritzel stated that they are also available to provide drug information to the nursing staff. Mr. Thompson stated that the nurses are pleased to have their assistance with their medication issues. Ms. Stritzel stated that they are open to doing day shifts as well as evening shifts.

Mr. Wand stated that there are a couple of small hospitals in Arizona that have been written up by the Department of Health Services for the low number of pharmacy hours. Mr. Wand stated that provides a copy of the Board waiver to the Department of Health Services. Mr. Wand stated that if we had this requirement then the Department of Health Services concerns would be lessened. Mr. Wand stated that the Department of Health Services is trying to protect the public and they often feel that the pharmacy being open 5 hours a week is not sufficient.

Ms. McCoy stated that the IOM report stated that healthcare has not done a lot to change the error rate. Ms. McCoy stated that the IOM report stated that pharmacy intervention does save lives. Ms. McCoy stated that this is a serious issue that we must look at to prevent errors.

President McAllister thanked Ms. Stritzel and Mr. Thompson for appearing and updating the Board on their progress.

#16 Arizona State Hospital

Dee Ann Estes, Director of Pharmacy, appeared on behalf of Arizona State Hospital to present the hospitals request to have sterile parenteral products prepared off-site.

President McAllister asked if the hospital was requesting a waiver. Ms. Estes stated that the hospital only prepares about 5 to 6 parenteral products yearly and found that it would be very costly to bring the IV room into compliance with USP 797 and JCAHO compliance. Ms. Estes stated that they are requesting permission to have St. Lukes hospital prepare the IVs. Ms. Estes stated that they would fax the order to St. Lukes. Ms. Estes stated that the pharmacists at the State hospital would enter the order and screen for drug interactions and incompatibilities. Ms. Estes stated that the technicians and the pharmacists at St. Lukes would prepare the IV and label the product. A technician from the State Hospital would pick the product up at St. Lukes hospital. Ms. Estes stated that the pharmacist at the State Hospital would review the order again. Ms. Estes stated that both hospital pharmacies are contracted through Cardinal Health. Mr. McAllister asked if the pharmacist at St. Lukes would be responsible for checking the admixture.

Ms. Estes replied yes.

Mr. Wand stated that the process would not be affected by the rules, but he did want the Board to be aware of the practice. Mr. Wand stated that it is similar to the mail order process where orders are entered at one place and dispensed at another site. Mr. Wand stated that it probably would not require a waiver. Ms. Estes stated that they are sending a copy of the order and a copy of the patient's profile to St. Lukes.

Ms. McCoy stated that she feels that this would be a much safer practice. Ms. McCoy stated that the competency level would be greater at St. Lukes where more than five IVs are prepared yearly.

Mr. Dutcher asked how the order would be sent to the other pharmacy. Ms. Estes replied that the order and profile would be faxed.

Mr. McAllister stated that it seems like a safer practice and the Board approves the preparation of the products by St. Lukes.

Mr. Wright stated that the label needs to say St. Lukes . Mr. Wand stated that if St. Lukes prepares the product then the label needs to bear their name.

#17 Express Scripts

Express Scripts was represented by Gary Sobocinski, Vice President of Pharmacy Practice, and Roger Morris, Legal Counsel for Express Scripts.

President McAllister stated that this is the six-month follow-up of the stipulated stay. During this six month period, Express Scripts was to demonstrate improvement in processes and patient safety and at this time they

are asking to remove the stay. Mr. Morris stated that they are asking to remove the stipulated stay and dismiss the underlying matters that were subject to the stay.

Mr. Morris stated that 6 six months ago Express Scripts and the Board entered into a consent stipulating a stay for several matters. Mr. Morris stated that there were a series of promises that Express Scripts put together outlined in a packet which included the following: reports to the Board, changes in procedures, changes in accuracy, and changes in customer information. Mr. Morris stated that he feels the promises have been kept and the reports were sent to the Executive Director. Mr. Morris stated that the accuracy rate has improved. Mr. Morris stated that they created Mr. Sobocinski's position, which is Vice President of Pharmacy Practice for the entire company. Mr. Morris stated that they have added a new position at the Arizona facility. This position is the Quality Assurance Compliance Officer. Mr. Morris stated that they are using this Arizona model as a guide for the rest of the country in terms of patient safety and satisfaction.

Mr. McAllister asked Mr. Wand if they have met the requirements of the order. Mr. Wand stated that he has received the required reports. Mr. Wand stated that the inspections were completed and there were no notable violations. Mr. Wand stated that his only concern is if the stay is removed if people would be terminated or positions eliminated that were created as a result of this stay.

Mr. Sobocinski stated that no positions would be eliminated. Mr. Sobocinski stated that the stay did accomplish more changes in respect to patient care than disciplinary action would have accomplished. Mr. Sobocinski stated that the efforts that they have put in place would remain in place especially the training programs. Mr. Sobocinski stated that most of the training concerns were centered on the call center and the ability of a patient to access a pharmacist in a timely manner. Mr. Sobocinski stated that testing competencies for pharmacy staff and call center staff would also remain in place. Mr. Sobocinski stated that the cross-functional meetings between the pharmacy staff and the call center staff will remain in place. Mr. Sobocinski stated that they have improved the quality of the letters going to the patients and those changes will remain in place. Mr. Sobocinski stated that they would continue the outcome audits. Mr. Sobocinski stated that they are able to measure patient satisfaction and patient satisfaction has seemed to improve. Mr. Sobocinski stated that the one factor that they have not measured and need to measure is employee satisfaction. Mr. Sobocinski stated that he would be interested in seeing if the employee satisfaction does not also exceed the standards at the other pharmacies and if this is also a gain that was a result of the process.

Mr. McAllister stated that he hopes the firm does not wait to get in trouble with the various Pharmacy Boards before they decide to fix their systems. Mr. McAllister stated that he is glad to see the efforts that have been put in to fixing the systems and the number of complaints has decreased as a result.

Ms. McCoy suggested that they might consider publishing their story. Ms. McCoy stated that it is a great story in terms of patient safety literature. Ms. McCoy stated that by paying attention to a problem and providing the appropriate resources that they have made the system safer for patients. Ms. McCoy stated that from a regulatory standpoint they were given the chance to fix the problems instead of paying a fine. Ms. McCoy stated that the process does not end with the removal of the stay and patient safety is an ongoing concern.

On motion by Ms. McCoy and Mr. Ketcherside, the Board unanimously agreed to remove the stipulated stay in Case 2004-002-PHR in the matter of ESI Mail Pharmacy Services.

On motion by Ms. McCoy and Mr. Ketcherside, the Board unanimously agreed to dismiss the underlying complaints.

#18 Omnicare

Omnicare was represented by Michael White, Director of Operations. Mr. White was requesting a waiver of R4-23-407 (D) (6) concerning electronic transfers.

Mr. White stated that Omnicare would like to fill new orders for long term care patients in Tucson at Danny's Pharmacy in Tucson. The prescriptions would then be transferred to the Phoenix facility for refilling. Mr. White noted that the pharmacies share the same Data Base.

Mr. Wand stated that the issue is that the system does not comply with the electronic transfer rules. Mr. Wand stated that the issue is that the system does not meet the transfer requirements. Mr. Wand stated that the transfers will be between two pharmacies owned by the same company and the pharmacist can be tracked so that patient safety is not compromised.

Mr. White stated that the new prescriptions will be filled at Danny's Sunscript Pharmacy and then transferred back to the Omnicare facility in Phoenix for refilling and then shipped to Tucson. Mr. White stated that the original orders would be filled in Tucson because they would be needed on a more urgent basis. Mr. White stated that the refills could be filled in Phoenix because they would have a greater lead time before the medications would need to be delivered.

Mr. Dutcher asked if this would be a central fill operation. Mr. White replied it is not a central fill process. Mr. Dutcher asked why do the orders need to come back to Phoenix if the patients are located in Tucson. Mr. White stated that they have greater resources in Phoenix and the cost to fill the prescription in Phoenix is lower. Mr. White stated that they are having difficulty finding staff in the Tucson area and have recently had a search for a unit director and that has not been successful. Mr. White stated that by moving the prescriptions to Phoenix they would have oversight by experienced employees.

Mr. Dutcher asked about the procedure concerning the entry of the prescriptions. Mr. White stated that the prescription would be entered and verified in Phoenix. Mr. White stated that the orders would be printed, filled, and delivered to the patient from the Tucson facility.

Mr. Wand stated that the Board must remember that only new prescriptions will be filled in Tucson. Mr. Dutcher stated that it still seems like a central fill operation to him. Mr. White stated that only 42% of the orders will be filled in Tucson and 58% of the orders will be filled in Phoenix.

Mr. Wand stated that the main issues that R4-23-407 was written to cover are covered in this procedure. Mr. Wand stated that the issue is that the paperwork or bookkeeping is not right. Mr. Wand stated that the information can be located on different screens but is not in the fashion requested by R4-23-407. Mr. Wand stated that the rule was written with the retail pharmacy in mind and it does not necessarily apply to the non-retail pharmacy. Mr. Wand stated that patient safety is not compromised in this proposal.

Mr. Dutcher asked if R4-23-407 needs to be amended to include such situations. Mr. Wand stated that the rule could remain the same for community pharmacies and Mr. Wright could write new policies and procedures under R4-23-674, which deals with Long Term Care facilities.

On motion by Mr. Dutcher and Ms. McCoy, the Board approved Omnicare's request to waive R4-23-407 (D) (6) which requires information to be maintained in a certain fashion for electronic transfers.

#19 Yvonne Rodriguez

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

Sharon Richardson, Pharmacy Supervisor for Safeway, was also present.

President McAllister asked Ms. Frush if she could give the Board a quick review of this case. Ms. Frush stated that Ms. Rodriguez has appeared at the last two Board meetings. Ms. Frush stated that Ms. Rodriguez has a felony conviction and inadvertently had omitted that information on her PTCB application and renewal. At the last Board Meeting, the Board asked Ms. Rodriguez to contact PTCB to see if they will honor her certification.

President McAllister asked Ms. Rodriguez where she stands with obtaining approval from PTCB.

Ms. Rodriguez stated that she contacted John Gibbs at PTCB and wrote a letter to him explaining what had occurred. Ms. Rodriguez stated that PTCB is willing to honor her certification. Mr. McAllister asked if we have documentation to the fact. Ms. Rodriguez stated that she had an e-mail and would pass it onto the Board Members.

Mr. McAllister read the notice from PTCB that states that PTCB will work with the Arizona State Board to create language that will allow a certified pharmacy technician to keep their credential even when a felony conviction as long as the incident occurred a significant time ago and was not pharmacy or drug related.

Ms. Richardson stated that Yvonne has worked for Safeway for twenty (20) years. Ms. Richardson stated that Yvonne has worked in the pharmacy for ten years. Ms. Richardson stated that she is an excellent technician and knows her customers personally.

On motion by Ms. McCoy and Mr. Ketcherside, the Board unanimously approved the request made by Ms. Rodriguez to proceed with technician licensure.

At this time, President McAllister stated that the Board would like to review Agenda Item XII. On motion by Mr. Draugalis and Ms. McCoy, the Board unanimously agreed to rescind the Notice of Hearing and return the complaint to the investigative status.

On motion by Mr. Dutcher and Mr. Ketcherside, the Board unanimously agreed to convene in Executive Session to obtain legal advice concerning Agenda Item XII.

The meeting reconvened at 1:15 PM.

AGENDA ITEM V - Proposed Rules

Counseling Rules

Compliance Officer/Rules Writer Dean Wright stated that these rules have been written as a result of the recommendations by the task force that was appointed to review the current counseling rules. President McAllister stated that the process started in May and we already have new rules ready to be reviewed and he would like to thank the task force for their work.

President McAllister stated that issues have arisen concerning the term care giver. Mr. Pulver stated that there were concerns that the term care giver would cause violations of HIPAA. Mr. Pulver stated that in the way the rules are set forth the pharmacist has the opportunity for due diligence to determine if that person is truly the care giver. If the pharmacist does a reasonable job and determines that the individual is not the care giver, the pharmacist can document that fact on the prescription or in the computer and provide the individual with a phone number that the patient can call to speak with the pharmacist. Mr. Pulver stated that the purpose of the rule is to allow the pharmacist the power to determine if this individual is the care giver. Mr. Pulver stated that each pharmacy does have legal counsel available to them and suggests that they contact their legal counsel about implementation of the rules.

President McAllister stated that the biggest change in the rules is that a patient that has been on a long-term medication will not need to be counseled every time he picks up a new prescription for the same medication.

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

Technician Licensure Time-frame Rules

Mr. Wright stated that a hearing was held on the proposed rules on August 30, 2004. No one attended the hearing and one written comment was received from the Arizona Pharmacy Association indicating their support of the rules.

Mr. Wright stated that they need a formal approval of the Notice of Final Rulemaking and the Economic Impact Statement.

On motion by Mr. Draugalis and Mr. Dutcher, the Board unanimously agreed to approve the Notice of Final Rulemaking and the Economic Impact Statement for the Technician Licensure Time-frame Rules and authorized Mr. Wright to proceed with the process.

Technician CE Rules

Mr. Wright stated that there had been a Notice of Proposed Rulemaking published in September, 2004. A public hearing was held on October 12, 2004. One person attended the hearing and was in favor of the proposed rulemaking. One written comment was received from the Arizona Pharmacy Association. The Association requests that the Board reduce the number of hours of law continuing education required for the technician from 2.0 contact hours to 1.0 contact hour. Mr. Wright stated that if the change is made that GRRC stated that it is a substantive change and would require another Notice and public hearing. Mr. Wright stated that if the change was made that the Board would need to approve the rule at the March meeting at the earliest.

President McAllister opened the discussion by stating that he feels that the one area that pharmacists and

technicians share responsibility is the application of the law. Mr. McAllister stated that he does not have any problem with requiring the technicians to obtain 2.0 credits of law CE.

Mr. Wright stated that the rationale that the Arizona Pharmacy Association used is that a technician only needs 1.0 contact hour of law to renew their PTCB certification. Mr. Wright stated that our rules stated ACPE approved CE and PTCB does not require ACPE approved courses. Mr. Wright felt that the Board should require ACPE approved courses. Mr. McAllister stated that he does not have any problem with requiring ACPE approved courses.

Ms. McCoy stated that she would like to leave the rule as written for 2.0 hours of law CE. Mr. Dutcher stated he feels that the rule should remain at 2.0 hours of law CE and does not feel that the requirement is excessive. Mr. Ketcherside and Mr. Draugalis expressed their views that the law CE should remain at 2.0 hours.

Mr. Wright stated that he would prepare the Notice of Final Rulemaking and the Economic Statement for the January meeting.

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 36 complaints in preparation for making recommendations to the Board for final resolution. Mr. Dutcher and Dr. Tippett served as the review committee. Board Members were encouraged to discuss any issues and were encouraged to ask questions.

President McAllister stated that he would like to commend the Complaint Committee because this was a lot of work. Mr. McAllister stated that some of the complaints are frivolous, but all complaints are investigated. Mr. McAllister stated that some of the complaints involved insurance issues and other complaints involved customer service issues for which the Board does not have jurisdiction.

Ms. McCoy asked that a commendation letter be sent to the Pharmacists in Complaint #2816. Mr. Dutcher stated that a physician filed the complaint because the pharmacists refused to fill his prescriptions as they were written because the dosage exceeded the limits for the medication. The Medical Board has suspended the physician's license.

On motion by Mr. Ketcherside and Mr. Draugalis, the Board unanimously approved the recommendations of the Complaint Review Committee.

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

Complaint # 2812 - No Further Action (Letter to RPh stating that she is empowered to instruct the intern to not process orders)

Complaint # 2813 - No Further Action

Complaint # 2814 - Conference

Complaint # 2815 - No Further Action

**Complaint # 2816 - No Further Action
(Letter of Commendation to Pharmacists)**

Complaint # 2817 - Conference

Complaint # 2818 - No Further Action

Complaint # 2819 - No Further Action

Complaint # 2820 - No Further Action

Complaint # 2821 - No Further Action

**Complaint # 2822 - Commendation Letter to Pharmacist,
Letter to the Medical Board, Letter to the PIC**

Complaint # 2823 - No Further Action

Complaint # 2824 - No Further Action

Complaint # 2825 - Withdrawn

Complaint # 2826 - Conference - Pharmacist and Intern

Complaint # 2827 - No Further Action

Complaint # 2828 - Conference

Complaint # 2829 - Conference

Complaint # 2830 - Conference

Complaint # 2831 - Letter of Warning

**Complaint # 2832 - No Further Action
(Letter to Pharmacist concerning customer service issues.)**

Complaint # 2833 - No Further Action

Complaint # 2834 - No Further Action

Complaint # 2835 - Withdrawn

Complaint # 2836 - No Further Action

**Complaint # 2837 - No Further Action
(Letter of Commendation to Pharmacist)**

Complaint # 2838 - No Further Action

Complaint # 2839 - Letter of Warning

Complaint # 2841 - Conference

Complaint # 2844 - No Further Action

Complaint # 2845 - No Further Action

Complaint # 2846 - No Further Action

Complaint # 2847 - No Further Action

Complaint # 2848 - Consent

Complaint # 2849 - Consent

Complaint # 2850 - Consent

AGENDA ITEM VII - Conferences

Complaint #2797

Pharmacist Gregory Kerber and Pharmacy Technician Annette Callahan were present in response to a consumer complaint. Compliance officer Larry Dick gave a brief overview of the complaint.

Mr. Dick stated that the patient was upset because she observed a pharmacy technician who was filling prescriptions prepare progesterone vaginal suppositories without wearing gloves and was worried about bacterial contamination. The patient mentioned that the technician was not wearing gloves and she felt the pharmacist did not take her complaint seriously and requested that her prescription be returned to her so that she could take the prescription to another pharmacy.

President McAllister opened the discussion by asking Mr. Kerber about the complaint. Mr. Kerber stated that as Pharmacist In Charge he is responsible for the activities of all the technicians. Mr. Kerber stated that in this one case the patient was in an extreme hurry and wanted her prescription filled now. Mr. Kerber stated that it was an oversight on their part that their technician did not use gloves. Mr. Kerber stated that they always use gloves not only for the safety of the technician but also the safety of the patient. Mr. Kerber stated that the customer was raising a ruckus and in the interest of getting her through the process that one step was skipped.

Mr. Kerber stated that he has brought with him a copy of the list showing that the technicians have been trained, the general pharmacy procedures, and the policy on handling medications and pharmacy cleanliness.

President McAllister asked Mr. Dick when he investigated the complaint did he get the impression that they normally wear gloves. Mr. Dick replied that during the period that he was in the pharmacy that no one was preparing any compounded preparations.

President McAllister stated that it seems the issues have been addressed and thanked the participants for appearing and addressing the issues.

Complaint # 2801

Pharmacist Eric Nielson, Pharmacy Technician Sylvia Pyles, and Pharmacy Supervisor Kent Taylor were present in response to a consumer complaint. Compliance Officer Ed Hunter gave a brief overview of the complaint. Mr. Hunter stated that the patient's prescription for Bio-Hist LA was filled with Ami-Tex LA. The technician entered the prescription into the computer system and filled the prescription with Ami-Tex LA. The pharmacist mistakenly thought Ami-Tex LA was a correct substitution for Bio-Hist LA and did not research the substitution properly. Mr. Hunter stated that the patient took the medication for one month and had an allergic reaction. When the patient received the correct medication, the allergic reaction stopped. The doctor indicated that the patient did not have any lingering effects. Mr. Hunter stated that while he was at the store he tried to enter the prescription to see if the system would make the substitution and it did not, so the technician entered the prescription incorrectly.

President McAllister asked Mr. Nielson about the incident. Mr. Nielson stated that when he received the prescription to check and verify he assumed that Ami-Tex LA was an appropriate substitute for the Bio-Hist LA. Mr. Nielson stated that he was in error by not double checking that in the book. Mr. Nielson stated that he has taken three courses on error prevention because he wants this to be the first and last time he appears in front of the Board. Mr. Nielson stated that he is very careful now to check that the medication that the patient receives is the medication that the doctor ordered.

President McAllister asked Ms. Pyles if she entered the prescription. She replied that she did. Ms. Pyles stated that she asked the pharmacist if they were similar and the pharmacist approved for her to enter the medication into the system.

President McAllister asked Mr. Taylor if their system has a way to check for appropriate equivalents. Mr. Taylor replied yes. Mr. Taylor stated that if the drug is entered as written the computer will list appropriate substitutes and the computer will not switch to a non-equivalent product. Mr. Taylor stated that in this case the error was not caught.

President McAllister asked what the difference was in the ingredients of the two products. Mr. Taylor stated that the Bio-Hist LA is pseudoephedrine and chlorpheniramine and the Ami- Tex LA is guaifenesin and phenylephrine.

Mr. Dutcher asked what has been changed to ensure that this type of error does not occur again.

Mr. Dutcher asked why the prescription was not entered as the doctor wrote the prescription since that is the fail safe in the system. Ms. Pyles replied that she was not sure. Mr. Nielson stated since this error occurred he is looking at the fine print on the label indicating that the product is the accepted substitute. Mr. Nielson said if he is not sure he will look at the book or on the computer to ascertain the ingredients. Mr. Dutcher asked Mr. Wand if it is not regulation that the Brand name must appear on the label if it is substituted. Mr. Wand replied yes.

Mr. Draugalis asked Mr. Nielson if this was his first misfill. Mr. Nielson stated it was not the first misfill in his career. Mr. Draugalis asked Mr. Nielson if he had misfills in the past. Mr. Nielson replied yes. Mr. Draugalis asked Mr. Nielson what he has done in the past to correct those misfills. Mr. Nielson replied that he tries to look at the situation and see what may have contributed to the mistake. Mr. Nielson stated that he has taken CE courses before on error prevention and he has received useful tips from the courses. Mr. Draugalis asked Mr. Nielson if he thought the CE courses had helped him in the past. Mr. Nielson replied yes. Mr. Draugalis asked Mr. Nielson if he had made errors in the past and approximately how many. Mr. Nielson stated that he has and did not know how many errors he made in the past. Mr. Draugalis stated that the point that he is trying to make is that you can take all the CE courses that you want and if you do not apply the CE you will continue to make mistakes. Mr. Draugalis reminded Mr. Nielson to apply what he has learned during the CE courses to help protect the patient.

President McAllister asked Ms. Pyles how long she has been a technician. Ms. Pyles replied that she has been a technician since 1998. Mr. McAllister told Ms. Pyles prior to making substitutions be sure to speak to the pharmacist if she has any questions concerning the substitution.

President McAllister reminded them to be careful and thanked them for appearing.

Complaint # 2804

Pharmacist Lorrie Caum and Pharmacy Supervisor Melanie Malee were present to answer questions concerning a consumer complaint. Compliance Officer Larry Dick gave a brief overview of the complaint. Mr. Dick stated that the patient was given a different patient's medication when he went to the pharmacy to pick up his prescription. Both patients have the same last name but different first names. The complainant stated that he was not counseled, but the pharmacy does not have any documentation indicating that he refused counseling so it is assumed that he was counseled.

President McAllister asked Ms. Caum how the patient received another patient's medication. Ms. Caum stated that she did not work the days that the incidents occurred. Ms. Caum stated that she is the Pharmacist In Charge. Ms. Caum stated that the technician did not follow procedures. The technician is to verify the patient's address before giving the prescription to the patient. In this case, Ms. Caum stated that she feels the technician did not verify the address because the patient would not have received the wrong medication. Ms. Caum believes the patient was counseled because they did not mark on the prescription that the patient denied counseling. Ms. Caum stated that every prescription is pulled and noted on the hard copy when counseling is denied. Ms.

Caum stated that she thinks counseling did occur because the complainant mentioned that the pharmacist said that indomethacin and Celebrex could be use interchangeably for some conditions.

President McAllister stated that if quality counseling occurs then misfills do not leave the pharmacy.

Ms. McCoy asked if the technician gave out the prescription. Ms. Caum stated that the technician pulled the prescription. Ms. Caum states that it is speculation that the counseling was performed. Ms. McCoy asked if they are aware that the pharmacist is to counsel the patients on new prescriptions. Ms. Caum stated that they are aware that counseling must occur on new prescriptions. Ms. Caum stated that she has had meetings with the staff to review the error. Ms. Caum stated that if the technician had obtained the correct information this error would not have occurred. Mr. McAllister told Ms. Caum to remind her technicians that since they are now licensed that they could be asked to appear before the Board if they contribute to an error. Ms. Caum said that she will pass that information on to her technicians.

Mr. McAllister thanked Ms. Caum for her time and for educating her staff.

AGENDA ITEM VIII - Consent Agreements

President McAllister asked Board Members if there were any questions or discussions concerning the consent

agreements. Executive Director Hal Wand indicated that the six consents have been reviewed and approved by the Attorney General's Office and have been signed. Mr. Wand provided an overview of the Consent Agreements for the benefit of the audience.

Mr. Wand stated that he would like to comment on Consent Agreement #1. Mr. Wand stated that Thomas Togno has agreed to a consent agreement for a suspension for six months to one year. Mr. Wand stated that he must participate in a drug treatment program and he has moved back to New Jersey to be with family. Mr. Wand stated that he is not participating in the PAPA program but is participating in a program in New Jersey. Mr. Wand stated that he has included the paperwork in the Board book from the New Jersey program. Mr. Wand stated that it is the oldest recovery program in the United States and is directed to physicians, but they do allow pharmacists and nurses to participate in the program. Mr. Wand stated that the unfortunate thing for Mr. Togno is that he has had positive drug screens. He has had two positive screens for marijuana and one screen for cocaine. Mr. Wand stated that it appears to be a relapse. Mr. Wand stated that he recommends that the Board accept the consent because at this time his license is suspended and he would need to appear in front of the Board to remove the suspension. Mr. Wand stated that if he continues to be non-compliant with the New Jersey program the Board could send a notice for further disciplinary action.

Mr. Wand stated that the consents for Kino Hospital and Shirley involved the missing medications at Kino Hospital.

Mr. Wand stated that the consent order #4 for Lisa Hunter involved a prescription error. The consent order prohibits the pharmacist from being a preceptor or a Pharmacist In Charge. The consent also involved a probationary period and a fine.

Mr. Wand stated that consents #5 and #6 involved a drug addiction and the pharmacists have entered into five-year PAPA contracts.

On motion by Mr. Draugalis 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:

- Thomas Togno
04-0013-PHR
- Shirley Thompson
04-0021-PHR
- Kino Community Hospital
04-0023-PHR
- Lisa Hunter
04-0025-PHR
- Gregory Mowers
04-0026-PHR>
- Lisa Bueno
04-0027-PHR

AGENDA ITEM IX - Drug Therapy Management Agreement

President McAllister stated that the Drug Therapy Management Advisory Committee reviewed one application and recommended that the Board approve the agreement. Corina Grancorvitz, Pharm D, submitted the proposal. Ms. Grancorvitz is employed by Cigna and will be working in the anticoagulation clinic to manage the patient's drug therapy.

On motion by Ms. McCoy and Mr. Dutcher, the Board unanimously agreed to approve the Drug Therapy Management Agreement submitted by Corina Grancorvitz to manage patient's drug therapies at the Cigna Anticoagulation Clinic.

AGENDA ITEM X - Approval of Board Meeting Schedule for 2005

President McAllister asked if any Board Members had a conflict with the schedule. Mr. Draugalis asked if there was any reason why there was a 12-week period between two of the meetings. Mr. Wand stated that in May the NABP holds their annual meeting and the NABP District meetings are usually held in October. Mr. Wand stated that he left the sixth meeting date open to be determined by the Board Members for a planning meeting. Mr. Wand stated that agenda items could be discussed at the planning meeting because it is a public meeting with an agenda. Mr. Wand stated that if the Board Members would like a sixth meeting it could be scheduled in addition

to the planning meeting.

Mr. McAllister stated that the Board Members do want to have a planning meeting. Mr. Wand stated that the Board Members could decide on a date for the planning meeting or it could be discussed at a later meeting. Mr. McAllister stated that since the Board Members would be attending the Board Meeting on June 16th at Wild Horse that maybe the planning meeting could be scheduled for Friday, June 17th, at Wild Horse if the Board is able to obtain a room to hold the meeting. Mr. Wand stated that he would check on the availability of a room.

Mr. Wand stated that the meeting in January would be held at Midwestern University.

AGENDA ITEM XI - NABP Exam Changes

Mr. Wand stated that the blueprint for the NAPLEX exam has changed. Mr. Wand stated that they will have an increased emphasis on counseling skills, they will place an emphasis on over-the-counter medications, and there will be questions asked concerning dietary supplements. Mr. Wand stated that 75 would still be a passing score.

Mr. Wand stated that he and Mr. Wright would review the MPJE questions in January. Mr. Wand stated that all the Boards submit questions and each Board decides if the question is applicable to their state.

President McAllister stated that the new blueprint follows the recent release from AACP of the CAPE outcomes for pharmacy education. Mr. McAllister stated that the new area that was focused upon was Public Health and Public Health Information.

Mr. Wand stated that the TOEFL exam will be given over the Internet and the applicant should receive his scores sooner./P>

AGENDA ITEM XII - Review of Complaint #2735

After further review and advice from legal counsel and on motion by Mr. Ketcherside and Ms. McCoy, the Board unanimously agreed to dismiss complaint #2735.

AGENDA ITEM XIII - Future Board Activities -Planning Meeting.

Mr. Wand stated that since the Board has already decided the date for the planning meeting it would be helpful to have all suggestions for topics to the Board Office by April or May at the latest.

President McAllister stated that the Board is also open for suggestions by the public and they should feel free to e-mail any suggestions to the Board Office.

Mr. Wand stated that not all suggestions could be acted upon the next day. Mr. Wand stated that some changes could take up to two years to acted upon by the legislature.

AGENDA ITEM XIV - Internet Prescribing - Are Such Prescriptions Misbranded?

President McAllister asked Mr. Wand to address this topic. Mr. Wand stated that every drug in the United States since 1938 has to be approved by the FDA for safety and effectiveness. Mr. Wand stated that the drug must be sold or transferred in a manufacturer's bottle. Mr. Wand stated that the bottle he is showing the audience meets the FDA standards for packaging, labeling, and has the package insert attached. Mr. Wand stated that the only time that the product does not have to be in this packaging is when the medication is dispensed pursuant to a valid prescription. When the pharmacist has a valid prescription, he is able to dispense the prescription in a prescription vial that meets the USP requirements for prescription containers. Mr. Wand stated that the key is that the prescription must be valid for the exemption to apply. Mr. Wand stated that if the prescription is not valid then it is misbranded if it is dispensed in a prescription vial. Mr. Wand that A.R.S.§ 32-1968 (D) states the following:

"This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or the internet..."

Mr. Wand stated that he and Mr. Pulver have drafted a letter to be sent to pharmacies in Arizona stating that if

they are dispensing prescriptions issued pursuant to diagnosis by mail or Internet then the drug that they dispensed is misbranded and they could be subject to disciplinary action.

Mr. Wand stated that it is a warning letter. Mr. Wand stated that he would like the Board to review the letter. Mr. Wand stated that Mr. Pulver has reviewed the statutes and is satisfied with the fact that the drugs are misbranded. Mr. Wand stated that the pharmacy agrees to fill prescriptions and receives a fee for filling the prescriptions. The pharmacist would sign a contract and be aware that the prescriptions are issued pursuant to an Internet diagnosis as a result of an internet questionnaire. Mr. Wand stated that there have been buys made by the DEA and FDA where the people filling out the questionnaires are receiving large amounts of hydrocodone products and other medications. Mr. Wand stated there is no way to determine if the physician has written prescriptions for the same patient at multiple pharmacies across the country. Mr. Wand stated that the patient-pharmacist contact is removed. Mr. Wand stated that a 16-year-old minor could state that he is 45-years old and obtain medications and he feels that this could be a very dangerous practice. Mr. Wand stated that this is an issue and the Board at least needs to warn pharmacists that this is misbranding.

Mr. Dutcher asked who would receive the letters. Mr. Dutcher asked if the letters would be sent to resident and non-resident pharmacies. Mr. Wand stated that he initially was sending the letters to resident pharmacies, but there is no reason not to send the letter to non-resident pharmacies. Mr. Dutcher stated that some of the non-resident pharmacies are filling prescriptions from Internet prescribers. It was determined that the letters would be sent to both resident and non-resident pharmacies.

Ms. McCoy asked how the pharmacist would know that the diagnosis was made over the Internet. Mr. Wand stated that it is usually in the contract signed by the pharmacy. Mr. Wand stated that prior to disciplining someone the Board would need to determine if the pharmacy knew the diagnosis was made over the Internet.

Mr. Wand stated that it is not our intention to interfere with tele-medicine, which occurs at the prisons and other sites. Mr. Wand stated that the main purpose is to stop the diagnosis by internet questionnaire.

Mr. Pulver stated that he was involved in a case with the Arizona Medical Board where a physician had restrictions placed on his license and in order to earn income the physician signed a contract with an enterprise, which was located in an auto parts store in Mesa. The physician earned over \$45,000 in a three-month period. The enterprise in the auto part store had an agreement with a pharmacy in Florida to fill the prescriptions. The physician would have the patients fill out an online questionnaire and the doctor would issue a prescription to the Florida pharmacy for dispensing. Mr. Pulver stated that these individuals usually sign contracts. Mr. Pulver stated that the Board does have subpoena power and could issue a subpoena to obtain the records.

President McAllister stated that these arrangements usually involve credit cards and either UPS or Fed-X agreements and are usually easy to identify. Mr. McAllister stated that this is a good step in starting to put the brakes on this practice.

The Board Members agreed with the interpretation of the statutes and approved Mr. Wand to send the letters to all pharmacies licensed in Arizona.

AGENDA ITEM XV - Return of Prescription Medications.

President McAllister stated that he would like to address this issue. Mr. McAllister stated that times have changed and many medications are dispensed in packagings that are never opened by the pharmacist upon dispensing. Mr. McAllister stated that sometimes things happen and the patient asks to return the medication and is told no. Mr. McAllister stated that he just became aware of the volume of medications in assisted living and other closed-door pharmacies where the medication is never delivered to the patient and when the medication is returned to the pharmacy the medication is destroyed.

Mr. Dutcher stated that in the retail environment he has people who want to return medication on a daily basis. Mr. Dutcher stated that they are told that the law will not allow them to return the medication. Mr. Dutcher stated that he has taken medications back from the patient in the original packaging.

Mr. Wand stated that he believes that the language is already in the rules that allow a patient to return the medication in the original unopened manufacturer's container and the drug or its container has not been subjected to contamination or deterioration. Mr. Wand stated that the second part of the rule is the difficult part for the pharmacist. Mr. Wand stated that it is difficult for a pharmacist to determine if the drug has been contaminated or stored properly. Mr. Wand stated that while he was at the convention in Florida last week, they were told that one of the ways that counterfeit drugs get back in the drug supply is return to pharmacies. Mr.

Wand stated that some nursing home pharmacies do not accept returns because of the time needed to credit accounts.

Mr. Wand stated that we could get copies of other states return policies and discuss this issue at the planning meeting. Mr. McAllister stated that when he was at the District 8 NABP meeting, the Executive Director of Idaho stated that he had to create rules for returns as a result of the legislature. Mr. Wand stated that he receives numerous calls from other Boards stating that our return laws are very lenient.

XVII - 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.

A pharmacist involved with Medicaid programs stated that he is glad that the Board is reviewing the return medication rules. He stated that returns should be handled by professionals only and not legislators. He stated that often the process is driven by economic considerations and not if the pharmacy has a safe product returned.

A pharmacist and a lawyer stated that there are many different sets of rules for drug returns. He stated that everyone is concerned about the safety of prescription drugs that are returned, but the same rules are not being applied to over-the-counter products in many states. He stated that the Board must distinguish between internet prescribing when the doctor and patient have a valid patient-doctor relationship versus diagnosing the patient with an internet survey.

There being no further business to come before the Board, on motion by Mr. Draugalis and Mr. Ketcherside, the Board unanimously agreed to adjourn the meeting at 3:35 PM.

November 18, 2004

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

Vice President McCoy convened the meeting at 9:05 AM. and welcomed the audience to the meeting. Ms. Frush explained that law continuing education would be offered for attendance at the meeting.

AGENDA ITEM IV - Special Requests

#20 Cardinal Health Services.

Cardinal Health Services appeared to update the Board concerning off-site order review and entry service for hospital pharmacies. Cardinal Health Services was represented by Victor de la Garza, RPh, and Roger Morris, Legal Counsel.

Mr. Morris opened the discussion by stating that the Board approved Cardinal's request to provide off-site order review and data entry service for hospitals located in Arizona. At that time, the Board asked Cardinal to return in six months to provide an update to the Board. Mr. Morris stated that Mr. de la Garza, an Arizona licensed pharmacist and Deputy Director at the Cardinal facility in Texas, is present to provide an update on the services provided by the Texas facility.

Mr. de la Garza stated that Cardinal currently operates five pharmacy service centers. They provide services to 80 hospitals in 19 states. Mr. de la Garza explained the types of consultations offered by the pharmacy. Mr. de la Garza stated that they could also track the number of consultations by patient safety. Mr. de la Garza stated that they process orders and are able to track the order processing time.

Mr. de la Garza stated that they have provided services to the Arizona State Hospital since April 2004. He stated that they plan to process over 60,000 orders annually for the hospital. Mr. de la Garza stated that they process orders for the hospital during the day and do not process orders for the hospital after hours. Mr. de la Garza stated that the facility in Texas has 4 pharmacists that are currently licensed in Arizona and will have 4 more

pharmacists requesting to become licensed in Arizona.

Ms. McCoy asked what type of hospitals are serviced by Cardinal Health. Mr. de la Garza stated that they service all types of hospitals and follow each institutions policies and procedures.

Vice President McCoy thanked them for appearing and updating the Board.

#21 Michelle Pena

Michelle Pena appeared on her behalf to proceed with technician licensure. William Stanley, RPh, was also present to speak on her behalf.

Vice President McCoy noted that Ms. Pena was applying for a technician license but was convicted of a felony. Ms. McCoy asked Ms. Pena about her felony conviction. Ms. Pena replied that she was convicted of a felony for disorderly conduct.

Ms. McCoy asked Ms. Pena if she is currently on probation. Ms. Pena replied that she is on probation and is attending the required counseling sessions. Ms. Pena stated that the incident involved a domestic dispute with her spouse. Ms. Pena stated that she is attending classes to help her deal with issues in life, such as anger management, stress reduction, and parenting classes.

Ms. Pena stated that she has been a technician for 14 years and has two small children to help support. Ms. Pena stated that once her classes are completed she can petition the courts to reduce the conviction to a misdemeanor. Ms. Pena stated that outcome of the action has been very positive. Mr. Pulver stated that it is common for undesignated felonies to be designated down to a misdemeanor. Mr. Pulver stated that the individual must state that they were convicted of a felony.

Mr. Stanley stated that he was present to speak on Ms. Pena's behalf. Mr. Stanley stated that he has worked with Ms. Pena in the past and she is a very good technician.

Mr. Dutcher asked if the probation would affect the issuing of a technician license. Mr. Wand stated that the applicant is on personal probation and this has no bearing on the issuing of her license.

Mr. Pulver asked Ms. Pena if she was required to take any drug counseling courses. Ms. Pena replied that she was not because drugs were not involved.

On motion by Mr. Draugalis and Mr. Ketcherside, the Board unanimously agreed to approve the request by Ms. Pena to proceed with technician licensure.

AGENDA ITEM XVI - Hearing

Vice President Linda McCoy opened the administrative hearing. This is the time and place for the consideration of the matter of the hearing to determine whether to revoke or suspend the License Number 9893, issued to Kevin Strychalski, Notice of Hearing Case Number 2004-19-PHR.

Mr. Strychalski was not present. Assistant Attorney General Roberto Pulver represented the state.

The witnesses for the state were sworn in by the court reporter. The state waived the reading of the Notice of Hearing.

The counsel for the state made an opening statement. The hearing then proceeded.

The attorney for the state presented his evidence.

After presentation of the evidence, the attorney for the state made a closing statement.

On motion by Mr. Draugalis and Mr. Dutcher, a roll call vote was taken and all Board Members agreed unanimously to adopt the findings of fact.

On motion by Mr. Draugalis and Mr. Dutcher, all Board Members agreed to adopt the conclusions of law.

On motion by Mr. Dutcher and Mr. Ketcherside, a roll call vote was taken and all Board Members agreed unanimously to revoke license number 9893 issued to Kevin Strychalski.

On motion by Mr. Ketcherside and Mr. Draugalis, all Board Members agreed unanimously that the current license suspension should remain in effect until the revocation becomes effective.

A transcript of the hearing will be available at the Board Office in two weeks.

XVII - Call to the Public

Vice President McCoy 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.

There were no comments from the public.

There being no further business to come before the Board, on motion by Mr. Dutcher and Mr. Ketcherside, the Board unanimously agreed to adjourn the meeting at 10:15 PM.