

THE ARIZONA STATE BOARD OF PHARMACY

HELD A REGULAR MEETING NOVEMBER 16 AND 17, 2005

GLENDALE, ARIZONA

November 16, 2005

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

President McCoy convened the meeting at 8:00 A.M. and welcomed the audience to the meeting.

Mr. Wand explained that law continuing education would be offered for attendance at the meeting.

AGENDA ITEM 1 - Introduction of New Board Member and Oath of Office

President McCoy introduced the newly appointed Board Member, Louanne Honeyestewa.

Ms. Honeyestewa is a Certified Pharmacy Technician. President McCoy administered the Oath of Office to Ms. Honeyestewa to allow Ms. Honeyestewa to assume the duties of a voting member of the Board. Ms. Honeyestewa gave a brief synopsis of her educational and occupational background.

AGENDA ITEM 2 - Approval of Minutes

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Dutcher and Mr. McAllister**, the minutes of the Regular Meeting held on August 17 and 18, 2005 were unanimously approved by the Board Members.

AGENDA ITEM 3 - Proposed Rules

Shared Services

Compliance Officer/Rules writer Dean Wright opened the discussion by stating that he has made the change in R4-23-607 which would require an Arizona Board licensed Pharmacist in Charge at nonresident pharmacies. The Board had requested this change at the August meeting.

Mr. Wright stated that he has received several comments concerning this rule. As the current rule is written, the order processing has to be completed by an Arizona licensed pharmacist. Mr. Wright stated that there have been comments from non-resident pharmacies that they feel that they should not be required to license all their pharmacists in Arizona. Mr. Wright stated that the Board needs to decide if they would like all the pharmacists involved in the order processing function to be licensed in Arizona or would the Board only require the Pharmacist in Charge to be licensed.

Mr. McAllister opened the discussion by stating that it would be an onerous task for many non-resident pharmacies to license all their pharmacists. Mr. McAllister asked if an Arizona resident was injured if the Board could send the complaint to the State Board where the improper action occurred. Mr. Wand stated that currently the complaint is being sent to the State Board in the other state. Mr. Wand stated that we are not able to travel to the other state to do the investigation.

Mr. Wand stated prior to passing the new statutes in August the penalties for the permit holder were not very strong. Mr. Wand stated previously there were only a limited number of instances for which the Board could take action against the permit holder. Mr. Wand stated prior to August the Board was requesting the pharmacists be licensed in Arizona. Mr. Wand stated with the new statutes it would probably not be necessary to license all the pharmacists.

Dr. McCoy asked if the Board's recourse would be to send the complaint to the other State Board. Mr. Wright stated that the Board would be able to take action against the permit holder.

Mr. Wand stated that the only issue would be if the other Board did not take action against the pharmacist that there is nothing our Board could do in that case.

Dr. Smidt asked if the Pharmacist in Charge could be asked to appear before the Arizona Board.

Mr. Wand stated that the Pharmacist in Charge could be asked to appear.

Mr. Pulver stated that with the new statutes the Board has listed 29 items that represent unethical conduct on the part of a permit holder. Mr. Pulver stated that the Board would have jurisdiction over both the Pharmacist In Charge and the permit holder. Mr. Pulver stated that the Board could hold the permit holder responsible and revoke the permit. Mr. Wand stated that only 5 to 7 other states require all pharmacists at a nonresident pharmacy to be licensed.

Mr. Dutcher asked if the rule as it is written requires all pharmacists to be licensed. Mr. Wright stated that he would change the order processing and dispensing sections to be identical. The section would read that the individual needs to be licensed in the state where the shared services are occurring.

Dr. Berry asked if the rule currently states that only the order processing pharmacists need to be licensed in Arizona. Ms. Berry stated that the Board should require everyone to be licensed or just the Pharmacist in Charge. Mr. Wright replied that he could change the rule to read that only the Pharmacist in Charge needs to be licensed in Arizona.

Mr. Wright stated that other comments received concerned the written information that was to be sent to the patient. The pharmacies requested to use similar language.

Mr. Wright stated that the pharmacies questioned if it was necessary to maintain joint policies and procedures. Dr. McCoy asked if the proposed rule requires joint policies. Mr. Wright replied yes. Dr. Smidt stated that he feels that the policies should be delineated.

Mr. Wright stated that they did not like the line that stated that they must report to the Board as soon as practical the results of any disciplinary action taken by another state's pharmacy regulatory agency involving shared services. Mr Wright stated that the other states that have shared service rules have a statement that is similar to this statement.

Mr. Wright stated that in R4-23-607 he added that nonresident wholesalers could not repackage or relabel medications. This statement has already been added to the resident wholesalers section.

Mr. Van Hassel stated that he would like to recommend that Mr. Wright remove the statement requiring all nonresident pharmacies to be licensed in this state and leave the rest of the rule as written.

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

Pharmacist-administered Immunizations Rule.

Mr. Wright stated that a public hearing was held on August 29, 2005. Mr. Wright stated that no one attended the public hearing and the office received no written comments regarding the rule.

Mr. Wright stated that the changes included the following: the addition of diphenhydramine for emergency situations, the change of pneumonia to pneumococcal, and the change of tetanus toxoid to tetanus booster.

Dr. McCoy asked if the training program teaches the pharmacist how to administer diphenhydramine in an emergency situation. Mr. Wright stated that the pharmacist is taught how to use epinephrine and diphenhydramine.

On motion by Mr. Dutcher and Dr. Tippet, the Board unanimously agreed to approve the Notice of Final Rulemaking and Economic Impact Statement for the Pharmacist-administered Immunizations rule.

Mr. Wright stated the rule should appear on the January GRRC agenda for approval.

Automated Dispensing and Mechanical Counting Devices Rules

Mr. Wright stated a public hearing was held on October 17, 2005. One individual, Janet Elliott, representing the Arizona Community Pharmacy Committee attended the hearing. Ms. Elliott spoke in favor of the proposed rulemaking provided language could be added to clarify the use of devices that allow patients to pick up refilled prescriptions without pharmacy personnel intervention. Written comments were received from Ms. Elliott, Rich Mazzoni, and Rob Johnson.

Mr. Wright stated he has added language regarding automated systems allowing patients to pick up refilled prescriptions. Mr. Wright stated he added sections that would require the following: the system can only contain refilled prescriptions that are properly labeled and verified by a pharmacist before release to a patient, the system allows a patient to choose whether or not to use the system, the system is located in a wall of a properly permitted pharmacy, the system provides a method to identify the patient and only releases that patient's prescriptions, the system is secure from access and removal of drugs or devices by unauthorized individuals, the system provides a method for a patient to obtain a consultation with a pharmacist if requested by the patient, and the system does not allow the system to dispense refilled prescriptions if a pharmacist determines that the patient requires counseling. Mr. Wright stated that this would allow a kiosk to be placed in the pharmacy wall and patients could pick up their refilled prescriptions at this kiosk.

Dr. McCoy stated that this rule associates the kiosk with a pharmacy. Mr. Wright stated that it must be located in a pharmacy. Mr. Dutcher asked if this precludes the machines from being in a doctor's office. Mr. Wright stated that is correct. Mr. Wright stated that a prescription could only be dropped off at a pharmacy.

Dr. McCoy asked if the rule states that the prescriptions must be filled by a pharmacist versus the system that fills the prescriptions. Mr. Wright stated that the kiosk must be in the wall of the pharmacy and the pharmacist must check the prescriptions that are placed in the kiosk.

Mr. Wright stated that changes have been made to the mechanical counting device section. Mr. Wright stated that he has clarified the use of multiple lot numbers in a cell and the expiration date to be used on the cell. Mr. Wright stated that documentation requirements have been added concerning the identity of the individual filling the cassette or cell.

Mr. Dutcher asked how long the records should be kept. Mr. Wright stated that the records should be kept the same as other records.

Dr. Berry asked if a technician could fill the automated dispensing machine. Mr. Wright replied a technician could fill the machine under the supervision of a pharmacist. Dr. Berry asked if a log would need to be maintained. Mr. Wright stated that the records would be kept by the system.

The Board authorized Mr. Wright to proceed with the rulemaking process. Mr. Wright stated that a new public hearing will be held.

Hospital Pharmacy Rules

Mr. Wright stated that a public hearing for comments on the proposed rulemaking was held on

September 19, 2005. Six individuals attended the public hearing and provided oral comments in opposition to the proposed rulemaking. Written comments were received at the Board Office. Five of the seven written comments received were in opposition to the proposed rulemaking.

President McCoy opened the discussion by stating that after reading the comments that she would recommend that the Board not move forward with the rule at this time, but establish a task force to study the impact on the hospitals. Dr. McCoy stated that the rule is a good rule and the Board needs to decide how the rule can be implemented without a detrimental effect on the rural hospitals. Mr. Dutcher agreed.

Mr. Van Hassel stated that the negative parts that were mentioned could be a basis of how to accomplish the job without impacting the hospitals in a detrimental way. Mr. Van Hassel stated that he feels that there should be adequate staff to review the orders. Mr. Van Hassel stated that he is in favor of a task force.

Mr. McAllister stated that he feels that the rules can be followed. Mr. McAllister stated a task force could help find ways to accomplish the task.

Dr. McCoy stated that the Board wants to develop a plan that is amenable to everyone. Dr. McCoy asked that the Hospital Association name individuals that would be willing to work with the Board. Dr. McCoy asked for participation from the Board Members. Mr. Van Hassel and Mr. McAllister volunteered to serve on the Task Force. Dr. McCoy stated that the Hospital Association would be contacted.

Counseling and Prescription Imaging Rules

Mr. Wright stated that a public hearing for comments on the proposed rulemaking was held on October 24, 2005. One

individual, Janet Elliott, representing the Arizona Community Pharmacy Committee attended the public hearing. Ms. Elliott spoke in favor of the proposed rulemaking provided subsection (I) of R4-23-402 was removed from the final rulemaking. Ms. Elliott provided written comment to that effect. The Board office also received a written comment from the National Association of Chain Drug Stores (NACDS). NACDS is in favor of the rulemaking if the language in subsection (I) of R4-23-402 is removed from the final rules. Mr. Wright stated that he has removed subsection (I).

Mr. Wand stated that subsection (I) requires the pharmacist to hand all new prescriptions to the patient. Mr. Wand stated that individuals felt that it would disrupt their workflow. Mr. Wand stated that it would make the inspector's job easier to determine if counseling was occurring.

Dr. McCoy stated that if appropriate documentation occurs then the patient would be counseled.

Mr. Wright stated that the rules were changed to clarify the documentation process. Mr. Wright stated that the changes would allow someone else to do the documentation, but the pharmacist still needs to accept the refusal.

On motion by Mr. McAllister and Dr. Berry, the Board unanimously agreed to approve the Notice of Final Rulemaking and Economic Impact Statement for Counseling and Prescription Imaging Rules.

General Provisions/Discontinuing a Pharmacy/Records & Other Order Forms Rules

Mr. Wright stated that a public hearing for comments on the proposed rulemaking was held on October 24, 2005. One individual, Janet Elliott, representing the Arizona Community Pharmacy Committee attended the public hearing. Ms. Elliott spoke in opposition to the rulemaking and requested that the records retention frame be changed to two years or continued at the three years. Ms. Elliott's organization felt that the statute refers to prescription records and not purchase and disposal records. Ms. Elliott proved similar written comments. The Board received written comment from the National Association of Chain Drug Stores. The NACDS requested that the rulemaking be terminated and that the records retention be left at three years. The Board staff felt that the retention of purchase and disposal records could be changed to two years to conform to the federal requirements. Mr. Wright stated that he has terminated the current rulemaking and has opened a new docket.

Mr. Wand stated that Arizona statutes require that medical records be retained for seven years.

Mr. Wand stated that medical records would include patient profiles and prescription records.

Mr. Wright stated that the two year requirement would include invoices and disposal records.

Mr Wright stated that the federal law requires that a pharmacy maintain these records for two years and the proposed rule change would conform to federal laws.

Mr. Wright stated that he prepared a notice of termination and he will file a new docket on Friday.

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

AGENDA ITEM 4 - Permits & Licenses

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

Professional CPS Pharmacy

Owner Jim Otterbeck and Pharmacist in Charge Gary Henglefeldt were present to answer questions from Board Members.

President McCoy opened the discussion by asking the applicants if this was a change of ownership. Mr. Otterbeck replied that it is a change of ownership. President McCoy asked the owner if he was a pharmacist. Mr. Otterbeck stated that he is not a pharmacist.

Mr. Wand asked the applicants to describe their business. Mr. Wand stated that currently the pharmacy provides medications for hospice patients. Mr. Henglefeldt stated that he does not anticipate any change in business. Mr. Henglefeldt stated that the pharmacy services hospice patients and assisted living patients.

Mr. Wand asked if they would be compounding medications. Mr. Henglefeld replied that they do compound. Mr. Wand reminded the applicants that they cannot compound commercially available products. Mr. Wand reminded the applicants that they can not sell more than 5% of their sales to physician's offices. Mr. Henglefeld stated that they do not compound for doctor's offices.

Dr. McCoy reminded the owner that he cannot overrule the pharmacist. The Pharmacist in Charge is responsible for the activities of the pharmacy and following the rules and regulations of the Board.

Dr. McCoy thanked the applicants for appearing.

Caresite Pharmacy

CEO James Messina, Lori Valatsky, and Pharmacist In Charge Linda Schiraldi were present to answer questions from Board Members.

President McCoy asked the applicants to describe the nature of their business. Mr. Messina stated that their pharmacies are retail pharmacies located in medical office buildings. Mr. Messina stated that they do not have a front end and they do not compound medications.

Dr. McCoy thanked the applicants for appearing.

Rio Rico Pharmacy

Owner and Pharmacist in Charge Joseph Coil appeared to answer questions from Board Members.

President McCoy opened the discussion by asking the applicant to describe the nature of his business. Mr. Coil stated that he will be opening an independent pharmacy in a rural setting.

Mr. Coil stated that his pharmacy will be located between Nogales and Green Valley.

Dr. McCoy thanked the applicant for appearing.

Humana Pharmacy, Inc.

Jeff Campbell and Pharmacist in Charge Sherry Andes were present to answer questions from Board Members.

President McCoy asked the applicants to describe the nature of their business. Ms. Andes stated that they will be opening a mail order pharmacy that is a division of Humana.

Mr. Wand asked if there would be any internet prescriptions filled at this pharmacy. Mr. Campbell replied no.

Mr. Dutcher asked about the term limited. Mr. Wand stated that mail order pharmacies are classified as limited service pharmacies because they do not fit in either the community or hospital pharmacy classification. The Board has written specific rules for limited service pharmacies.

Mr. Dutcher asked if they would be filling prescriptions for instate patients or would they be filling prescriptions nationally. Mr. Campbell stated that they would be filling prescriptions nationally.

Dr. McCoy asked if they would be using barcode technology. Mr. Campbell stated that the operation would initially be a manual operation. Mr. Campbell stated that as they grow larger they will shift to automation, imaging, and barcoding.

Dr. McCoy thanked the applicants for appearing.

Arizona Discount Pharmacy

Owner and Pharmacist Amy Thai appeared to answer questions from Board Members.

President McCoy asked Ms. Thai to describe the nature of her business. Ms. Thai stated that the pharmacy will be a generic

only pharmacy. Ms. Thai stated that the pharmacy plans on stocking and dispensing only generic medications. Ms. Thai stated that Brand name products will be ordered upon request.

Dr. McCoy asked if Ms. Thai will be doing any compounding. Ms. Thai stated that she would be doing a very limited amount of compounding.

Ms. Thai stated that the intent of the pharmacy in stocking only generic products is to control inventory and overhead and be able to have a lower priced product for the patient.

Dr. McCoy thanked the applicant for appearing.

Pharma Tech Solutions, Inc.

Owner Keith Berman and Pharmacist In Charge Nate Kaplan were present to address questions from Board Members.

President McCoy asked the applicants to describe the nature of their business. Mr. Kaplan stated that the pharmacy would be a mail order pharmacy serving the indigent population.

Mr. Wand asked if this would be a 340B pharmacy. Mr. Burman stated that it maybe a 340B pharmacy in the future.

Mr. Wand asked if there would be internet prescriptions. Mr. Burman stated that patients will not be able to fill out questionnaires on the internet to obtain medications. Mr. Burman stated that the company has proprietary equipment (PDAs) that will enable physicians to use the internet to transmit prescriptions to the pharmacy.

Mr. Wand asked if the patient does not want to use their pharmacy will the doctor be able to issue a prescription to the patient. Mr. Burman stated that the physician can print a prescription from the PDA and give the prescription to the patient.

Mr. Van Hassel asked if they would fill other prescriptions. Mr. Kaplan stated that this is not a retail oriented pharmacy but a mail order pharmacy.

Dr. McCoy thanked the applicants for appearing.

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

RESIDENT (In Arizona)

- Pacific Pulmonary Services
2125 E. 5th St., Suite 110,
Tempe, AZ 85281 (O)
Braden Partners, L.P
- Professional CSP Pharmacy
1300 N. 12th St., Suite 300,
Phoenix, AZ 85006 (O)
Ven Pharm Holdings, Inc.
- Option Care
1514 Goldrush Rd., #A-10,
Bullhead City, AZ 86442 (O)
Option Care Nevada, LLC
- CVS/pharmacy #07262
18460 N. 7th St.,
Phoenix, AZ 85022
SWC Union Hills Drive CVS, LLC
- CVS/pharmacy #07075
2995 E. Chandler Heights Rd.,
Chandler, AZ 85249
Chandler Heights CVS, LLC
- Bashas' United Drug #52
15310 N. Oracle Rd.,

Tucson, AZ 85739

Bashas' Inc.

- Fry's Pharmacy #673
20427 N. Hayden Rd.,
Scottsdale, AZ 85255
Smith's Food & Drug Centers, Inc.
- Costco Pharmacy #736
595 S. Galleria Way,
Chandler, AZ 85226
Costco Wholesale Corporation
- Walgreens Drug #09742
2491 W. 24th St.,
Yuma, AZ 85364
Walgreen Arizona Drug Co.
- Caresite Pharmacy
1300 N. 12th St., Suite 555,
Phoenix, AZ 85006
SureHealth, LLC
- Walgreens Pharmacy #09292
1320 Willow Creek Rd.,
Prescott, AZ 86301
Walgreen Arizona Drug Co.
- Rio Rico Pharmacy
1103 Circulo Mercado, Suite A,
Rio Rico, AZ 85648
Rio Rico Pharmacy, LLC
- Humana Pharmacy, Inc.
4302 W. Buckeye Rd.,
Phoenix, AZ 85043
Humana Pharmacy, Inc.
- Arizona Discount Pharmacy
1059 N. Mesa Dr.,
Mesa, AZ 85201
Amy Thai
- Saliba's Skilled Care Pharmacy
2501 W. Behrend #69,
Phoenix, AZ 85027
Saliba's Skilled Care Pharmacy
- Pharma Tech Solutions, Inc.
19401 N. Cave Creek Rd.,
Phoenix, AZ 85024
Pharma Tech Solutions, Inc.
- Sirona Medical Infusion, LLC
75 W. Baseline Rd. #6,
Gilbert, AZ 85233
Sirona Medical Infusion, LLC
- Option Care
9013 N. 24th Ave., Suites 1-6,
Phoenix, AZ 85021
Option Care Enterprises, Inc.
- Rizzo RX Lab Pharmacy
6550 E. Carondelet Dr.,
Tucson, AZ 85710
Rizzo RX Lab Pharmacy, Inc.

(O) = Ownership Change

NON-RESIDENT (Out of State)

- SmartChoiceDrugStore.com
4030 W. Braker Lane, Suite 400,
Austin, TX 78759
SCDrugstore.com, Inc.

- Winston Salem Health Care Pharmacy
255 Charlois Blvd.,
Winston-Salem, NC 27103
Novant Health Triad
- Pentech Infusions
106 Chelsea Parkway,
Boothwyn, PA 19061
Pentech Infusions Inc.
- Prescriptions Plus Inc
3361 Fairlane Farms Rd.,
Wellington, FL 33414
Prescriptions Plus Inc.
- Aetna Rx Home Delivery
2528 NW 19th St.,
Pompano Beach, FL 33069
Aetna Rx Home Delivery, LLC
- HCI Specialty Pharmacy
8320 NW 30th
Terrace, Miami, FL 33122
HCI Specialty Pharmacy, LLC
- Caremark
2700 Milan Court,
Birmingham, AL 35211 (O)
CaremarkPCS Alabama Mail Pharmacy
- PrecisionRx Specialty Solutions
8990 Duke Blvd., Suite 100,
Mason, OH 45040
Anthem Prescription Management, LLC
- County-City Employee Pharmacy East
5850 Championship View, Ste .D,
Colorado Springs, CO 80922
El Paso County, State of Colorado
- Aiken Compounding Pharmacy
1123 Banks Mill Rd,
Aiken, SC 29803
James Watts
- SeniorMed LLC
480 S. Chambers Rd.,
Aurora, CO 80017 (O)
SeniorMed LLC
- Med-Care Pharmacy
3300 SW 15th St., Suite 102,
Deerfield, FL 33442
Med-Care Pharmacy Inc.
- Life Quality Pharmacy
82 Spruce St. Business Ctr., Ste. 118,
Murray, KY 42071
Pharmacy 18, Inc.
- Saveon Rx, Inc.

3350 NW 2nd Ave. #A,
Boca Raton, FL 33431
Saveon Rx, Inc.

- DEGC Enterprises (U.S.), Inc.
3601 Thirland Rd. NW, Suite 4,
Roanoke, VA 24019 (O)
Chronic Care Solutions, Inc.
- DEGC Enterprises (U.S.), Inc.
14255 49th St. N, Suite 301,
Clearwater, FL 33762 (O)
Chronic Care Solutions, Inc.
- National Diabetic Pharmacies, LLC
2157 Apperson Dr.,
Salem, VA 24153
PolyMedica Corporation
- MasterPharm, LLC
104-11 115th St.,
Richmond Hill, NY 11419
MasterPharm, LLC
- APS Pharmacy
2595 Tampa Rd., Suite E,
Palm Harbor, FL 34684
Drug Depot Inc.
- Diplomat Specialty Pharmacy
26851 Miles Rd., Suite 202,
Cleveland, OH 44128
Diplomat Specialty Pharmacy
- Health Research Institute
4575 Weaver Parkway,
Warrenville, IL 60555
Health Research Institute, Inc
- Infusion Technologies
820 NE 126th St.,
North Miami, FL 33161
Infusion Technologies, Inc.
- Healix Infusion Therapy
14140 Southwest Freeway, Suite 400 -A,
Sugarland, TX 77478
Healix Infusion Therapy & Medical Supplies, LLC
- A & B Medical Supplies
444 Gracie Ln., Moscow Mills, MO 63362
A & B Medical Supplies, LLC
- Postal Prescription Services
3500 S.E. 26th Ave.,
Portland, OR 97242
Healthy Options, Inc

(O) = Ownership Change

Wholesale Permits

President McCoy stated that all permits were in order and representatives from a resident wholesaler were present to answer questions from Board Members.

The Novel International Compounding Pharmacy

Owners Dr. Kenneth Proefrock, Shidfar Rouhani, and Mark Rudderham were present to answer questions from Board Members.

President McCoy asked the owners to describe the nature of their wholesale business. Dr. Proefrock stated that they currently have a compounding pharmacy that caters to physicians engaged in the practice of pain management. Dr. Proefrock stated that they compound both injectable and topical preparations. Dr. Proefrock stated that they have had requests from physicians to prepare quantities of these medications to be used in their offices. Dr. Proefrock stated that the requests would constitute more than 5% of their sales and that is why they are requesting a wholesale permit.

Mr. Wand asked if this wholesale business would be compounding or selling compounded products. Dr. Proefrock stated primarily and other products for office use, such as IV bags and syringes. Mr. Wand told Dr. Proefrock the wholesalers can not sell compounded products to end users. Mr. Wand told Dr. Proefrock that they can only sell products in manufacturer's containers.

Dr. Proefrock stated that they would then limit their products to the supplies. Mr. Wand stated that they could sell IV bags and syringes. Mr. Wand stated that pharmacies can sell up to 5% of their products to doctor's, including some compounded products for office use. Mr. Wand stated that wholesalers can never sell compounded products.

Mr. Wand asked Dr. Proefrock why they were using pharmacy in the name of the wholesaler. Dr. Proefrock stated that it was the name of the pharmacy. Mr. Wand stated that if they move in a different location from the pharmacy that they would need to change the name. Mr. Wand asked if the business would be open to the public. Dr. Proefrock replied that the wholesale portion would not be open to the public.

Mr. McAllister asked if they would be preparing products up to 5% to be sold to physician's offices. Dr. Proefrock stated that they would continue their current practice of compounding for patient-specific products. Mr. McAllister asked if the physician would be giving the medication to the patient to take home. Dr. Proefrock stated that would be up to the doctor's discretion. Mr.

McAllister stated that if this occurs, then they would be a manufacturer.

Dr. McCoy thanked the applicants for appearing.

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

Resident Wholesaler Permits:

- Costco Wholesale #736
595 S. Galleria Way,
Chandler, AZ 85226
Costco Wholesale Corporation
- The Novel International Compounding Pharmacy
2432 W. Peoria Ave. #1147,
Phoenix, AZ 85029
Kenneth Proefrock, Shidfar Rouhani, Mark Rudderham

Pharmacist, Pharmacy Interns, and Pharmacy Technician Licenses

Following a review and discussion of the roster of applicants for licensure as pharmacists, interns, and pharmacy technicians and assurance by the staff that all applications were in order and all fees paid: **On motion by Mr. Dutcher and Ms. Honeyestewa**, the Board unanimously approved the Pharmacists licenses 14963 through 15160, Intern licenses 7050 through 7364, and Pharmacy Technician licenses 8222 through 8957. Also, approved were 156 licensee changes from Pharmacy technician trainee to Pharmacy technician. For a complete list of names see attachments.

Mr. Wand stated that on November 13, 2005 the rules changed that would require a foreign graduate to pass the tests and

receive their Foreign graduate certificate prior to applying for intern licensure. Mr. Wand stated that many individuals never reported intern hours to Arizona and are using the permit for immigration requirements.

Mr. Wand explained that when a pharmacy technician trainee passes the certification test and applies to be licensed as a pharmacy technician the same license number is used and the status is changed.

AGENDA ITEM 5 - Special Requests

#1 Martin DeLeon

Martin DeLeon spoke with the Board Members via a telephone conference.

President McCoy opened the discussion by asking Mr. DeLeon to describe the nature of his request. Mr. DeLeon stated that he is requesting to proceed with reciprocity from his Texas license. Mr. DeLeon stated that the Texas Board had disciplined his license back in 1986.

Mr. Dutcher asked Mr. DeLeon about the nature of his disciplinary action. Mr. Dutcher stated that the disciplinary action states that he was disciplined for the unauthorized dispensing of medication. Mr. DeLeon stated that his store was located next to a doctor's office. Mr. DeLeon stated that there were three physicians at the office that were prescribing diet medications.

Mr. DeLeon stated that it was determined that the prescriptions were not for legitimate purposes.

Mr. DeLeon stated that he was charged for not using professional judgement in the dispensing of controlled substance prescriptions. Mr. DeLeon stated that some of the prescriptions were filled for more than a three month supply. Mr. Wand stated that Mr. DeLeon was probably disciplined

because of the corresponding liability clause in the federal law.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously approved the request by Mr. DeLeon to proceed with reciprocity.

#2 Lester Sherman

Lester Sherman appeared on his own behalf to request to proceed with reciprocity.

President McCoy opened the discussion by asking Mr. Sherman to describe the nature of his request. Mr. Sherman stated that he is requesting to proceed with reciprocity from his Missouri license. Mr. Sherman stated that his license was revoked 29 years ago in Missouri for possession of a Controlled Substance. Mr. Sherman stated that his license was then reinstated.

Dr. McCoy asked Mr. Sherman if he has any other disciplinary actions taken against his license. Mr. Sherman replied no.

Dr. Tippett asked how long ago the license was reinstated. Mr. Sherman stated that his license was reinstated 18 years ago.

On motion by Mr. Van Hassel and Dr. Tippett, the Board unanimously approved the request by Mr. Sherman to proceed with reciprocity.

#3 Ronald Glenn

Ronald Glenn appeared on his own behalf to request to proceed with reciprocity.

President McCoy opened the discussion by asking Mr. Glenn to describe the nature of his request. Mr. Glenn stated that he is requesting to proceed with reciprocity from his New Mexico license. Mr. Glenn stated that his license was disciplined in New Mexico. Mr. Glenn stated that his license was suspended for two weeks and then was on probation for three years.

Mr. Pulver stated that Mr. Glenn pled guilty to a felony and it was later dismissed.

On motion by Mr. Van Hassel and Mr. Dutcher, the Board unanimously approved the request by Mr. Glenn to proceed with reciprocity.

#4 Tram Le

Ms. Le withdrew her request to appear at this meeting due to financial issues. Mr. Wand stated that Ms. Le was requesting that the Board waive the requirement score of 50 for the TSE exam. Mr. Wand stated that it would be necessary to speak to the individual in order to waive the requirement.

Mr. McAllister stated that he feels that he would like to clarify that the Board would speak to these individuals, but this will not be a substitute for the testing process. Mr. Wand stated in the past the individuals have taken the test ten or more times. Ms. Frush stated that this individual has taken the test four times.

On motion by Mr. Dutcher and Dr. Tippett, the Board unanimously agreed to table the request until Ms. Le can appear before the Board.

#5 Marjorie Daley

Marjorie Daley appeared with Lisa Yates from the PAPA program to request that her suspension be terminated and probation be imposed.

President McCoy asked Ms. Daley about the nature of her request. Ms. Daley stated that her

license is currently suspended and she is requesting that the suspension be removed and her license be placed on probation.

Dr. McCoy asked Ms. Daley how long ago her license was suspended. Ms. Daley stated that her license was suspended six months ago.

Dr. McCoy asked Ms. Yates if PAPA supported Ms. Daley's request. Ms. Yates replied yes. Ms. Yates stated that the counselor has sent a letter supporting Ms. Daley's request.

Dr. McCoy asked Ms. Daley if she was ready to return to work. Ms. Daley replied that she is ready to return to work. Dr. McCoy asked Ms. Daley if she has made changes in her life. Ms. Daley stated that she has made changes with help of the program. Mr. Van Hassel asked if she has an employer. Ms. Daley replied that she does not have a prospective employer at this time.

On motion by Dr. Tippett and Dr. Sypherd, the Board unanimously agreed to approve Ms. Daley's request to remove the suspension on her license and impose probation with the standard PAPA contract for returning to work.

#6 Caryn Trotta-Gundersen

Caryn Trotta-Gundersen appeared with Lisa Yates of the PAPA program to request that her Intern license be reinstated.

Mr. McAllister asked to be recused due to a conflict.

President McCoy asked Ms. Trotta-Gundersen to explain the nature of her request. Ms. Trotta-Gundersen stated that she surrendered her Intern license in 2003 and is requesting that her Intern license be reinstated.

Dr. McCoy asked Ms. Trotta-Gundersen what she has done since she surrendered her license. Ms. Trotta-Gundersen stated that she has participated in the PAPA program, attends meetings, and has a sponsor. Ms. Trotta-Gundersen stated that she has finished her MBA in Health Care Management and has been working for Vanguard Health Systems for two years.

Dr. McCoy asked Ms. Yates if PAPA supports this request. Ms. Yates replied that PAPA does support her request and that the committee has seen big changes and Caryn has moved forward with her recovery.

Mr. Van Hassel asked Ms. Trotta-Gundersen if she would be returning to pharmacy school. Ms.

Trotta-Gundersen stated that she has returned to school this fall. Ms. Trotta-Gundersen stated that she is a second-year student at Midwestern University.

On motion by Dr. Tippett and Mr. Dutcher, the Board unanimously agreed to approve Ms. Trotta-Gundersen's request to terminate the suspension of her Intern license and impose probation with the continuance of her PAPA contract.

#7 Kristina Wells

Kristina Wells appeared with Lisa Yates of the PAPA program to request that her revoked Pharmacist license be reinstated.

President McCoy opened the discussion by asking Ms. Wells to explain the nature of her request.

Ms. Wells stated that she would like to have her revoked pharmacist license reinstated with probation imposed.

Dr. McCoy asked if Ms. Wells is still in the PAPA program. Ms. Wells replied that she is still in the program. Dr. McCoy asked Ms. Yates if PAPA supports the request. Ms. Yates replied that PAPA does support the request. Ms. Yates stated that Ms. Wells has adapted to the program and is doing very well. Mr. Dutcher asked Ms. Yates if there is any hesitation on PAPA's part. Ms. Yates replied that it is up to Ms. Wells and PAPA cannot guarantee that there will not be a relapse.

Dr. McCoy asked Ms. Wells what has made the difference this time in Ms. Well's recovery. Ms. Wells stated that before she was very depressed and was not facing her issues. Ms. Wells stated that her depression kept her in her addiction. Ms. Wells stated that she completed forty days of inpatient treatment at Valley Hope and lived in a halfway house for 7-½ months. Ms. Wells stated that she has filed for divorce. Ms. Wells stated that she signed a new PAPA contract in October of 2004 and has complied with her contract.

Mr. Dutcher asked Ms. Wells what has made the difference in 2004 and why should the Board reinstate her license. Ms. Wells stated that in 2002 and 2003 that she would not attend the PAPA meetings and she did not really care. Ms. Wells stated that she was very depressed. Ms. Wells stated that in 2004 she had the rug pulled out from under her. Ms. Wells stated in 2004 she received a prescription for Vicodin and had it filled. Ms. Wells stated that was considered a relapse and her PAPA contract was terminated. Ms. Wells stated that in 2002 when she was at Valley Hope she did not face issues and did not follow through with resolving her issues. Ms. Wells stated that she has done more in her life in the last year than she had done before.

Mr. Dutcher asked if she is currently working. Ms. Wells stated that she is not currently working. She stated that she takes care of her three small children and volunteers at her children's school.

On motion by Mr. McAllister and Dr. Berry, the Board unanimously agreed to approve the request by Ms. Wells to reinstate her license and impose probation with the usual 5-year PAPA stipulations.

#8 Jeffrey Szubinski

Jeffrey Subinski appeared with Lisa Yates from the PAPA program to request that his revoked Pharmacist license be reinstated.

President McCoy asked Mr. Szubinski to describe the nature of his request. Mr. Szubinski stated that he is requesting that his revoked license be reinstated with probationary status.

Dr. McCoy asked Mr. Szubinski what he has been doing since his license has been revoked. Mr. Szubinski stated that since his license has been revoked he has signed his last contract with PAPA,

attended 90 meetings in 90 days, and works weekly with his sponsor. Mr. Szubinski stated that he is a speaker at the Thunderbird intensive recovery program. Mr. Szubinski stated that he is actively involved with his home group and is secretary of the group. Mr. Szubinski stated that he has assisted in the start up of several "Pills Anonymous" meetings. Mr. Szubinski stated that he has a sponsor and is a sponsor to another individual.

Mr. Wand asked Mr. Szubinski when his impairment first started. Mr. Szubinski stated that his impairment started as an Intern in 1992 in Colorado.

President McCoy asked Mr. Szubinski why he feels that he is ready to have his license reinstated.

Mr. Szubinski stated that in 1992 he had injured his back when he was working with the Fire Department and about seven months later he began using drugs again. Mr. Szubinski stated that he was in recovery for eight years and he decided that he did not need to go to meetings. Mr. Szubinski stated that in 2003 he aggravated the disc and started taking Vicodin again. Mr. Szubinski stated that he has taken additional measures this time and has an addictionologist as his primary care physician. Mr. Szubinski stated that he needs to take an active part in his recovery.

Dr. McCoy asked Ms. Yates if PAPA supports his request. Ms. Yates stated that PAPA supports his request and Mr. Szubinski

needs to continue to follow the program.

Mr. Wand asked Mr. Pulver if the reinstated individuals are agreeing to a consent agreement with a new PAPA contract. Mr. Pulver stated that the Board has statutory authority to reinstate their licenses with conditions. Ms. Yates stated that both applicants signed a five-year contract last year. Mr. Wand stated that the Board is putting the applicant on probation for five years and PAPA will keep them in the program for that time frame without signing a new contract. Ms. Yates stated that the Board Order would need to state that they will have a new five-year contract. Mr. Pulver stated that the applicant could ask the Board to terminate their contract earlier. The Board stated that they would like the contract to be for 5 years.

On motion by Mr. Dutcher and Ms. Berry, the Board unanimously approved Mr. Szubinski's request to reinstate his revoked Pharmacist's license and impose probation with the usual 5 year PAPA stipulations.

#9 Lisa Hunter

Lisa Hunter appeared on her own behalf to request that the probation on her Pharmacist's license be terminated.

Mr. McAllister asked to be recused due to a conflict.

President McCoy asked Ms. Hunter to describe the nature of her request. Ms. Hunter stated that she is requesting that the probation on her license be removed. Dr. McCoy asked how long Ms. Hunter's license had been on probation. Ms. Hunter replied one year.

Dr. McCoy asked if Ms. Hunter had fulfilled the requirements of the consent order. Mr. Wand stated that Ms. Hunter complied with the Board Order and completed the requirements.

Dr. McCoy asked Ms. Hunter if she has completed the required continuing education programs. Ms. Hunter stated that she has brought additional CE certificates with her that are in addition to the required CE programs.

Dr. McCoy asked Ms. Hunter if she has changed her practice to prevent errors from occurring in her practice. Ms. Hunter stated that the Board has got her attention and she pays special attention to her work and the work of others, such as prescribing physicians, technicians, and other pharmacists.

Mr. Dutcher asked Ms. Hunter if she has worked since the probation was instated. Ms. Hunter replied yes. Mr. Dutcher asked Ms. Hunter if she is currently working. Ms. Hunter replied yes.

Mr. Dutcher asked if there have been any issues at her place of employment. Ms. Hunter stated that the Director is very happy with her work. Dr. McCoy asked how long she has been working at her current position. Ms. Hunter stated that she is working through Concentric at West Valley

Hospital and the Director is happy with her work. Ms. Hunter stated that she is still on call for Cameron & Co., but she has not worked for them since she began working for Concentric.

Dr. McCoy asked Ms. Hunter how many positions she has had since being placed on probation.

Ms. Hunter replied she has worked at a few places. Dr. McCoy asked how many positions.

Ms. Hunter stated that she worked at Walgreens for two months and that did not sit with her.

Ms. Hunter stated that she worked for Banner Estrella for one month.

Dr. McCoy asked Ms. Hunter if she left the places of employment by choice or was she asked to

leave. Ms. Hunter replied that she left Walgreens because she was doing work that she was doing work that she did not want to do. Ms. Hunter stated that she lost her job at Banner Estrella after an accident last December.

Mr. Van Hassel asked about her work history. Ms. Hunter stated that her first job was at Maryvale Hospital. Ms. Hunter stated that the interim director had written a letter to the Board questioning her work habits. Ms. Hunter stated that the Director had been happy with her work and when he left the interim director began questioning her work habits. Ms. Hunter stated that she lost her job because of the complaint. Mr. Van Hassel asked if she has been doing temporary work since that time. Ms. Hunter

replied yes.

Mr. Dutcher asked if she has worked in 2005. Ms. Hunter stated that she has worked for the last three months at West Valley Hospital. Ms. Hunter stated that she is working third shift.

Mr. Van Hassel asked Ms. Hunter what she meant when she stated that she has become more attentive. Ms. Hunter stated that she wears her glasses or contacts, takes her time when it is very busy, and requests clarification of orders when necessary.

Dr. Berry asked Ms. Hunter if she brought any letters of recommendation from her employer.

Ms. Hunter stated that she did not request a letter, but has an e-mail from the director. Ms. Hunter stated that this is the only place that she has worked since August.

Dr. McCoy asked Ms. Hunter if she has enhanced her professional skills by completing the CE

courses. Ms. Hunter stated that she has learned some things. Ms. Hunter stated that she wants to do a good job and does not want to hurt anyone. Dr. McCoy stated that the Board's obligation is to the public and the Board is trying to determine if she is a safe practitioner. Dr. McCoy stated that she is not sure if the Board has that level of comfort. Ms. Hunter asked Dr. McCoy what she would like to know. Dr. McCoy stated that she feels a sense of unease because of the track record.

Dr. Sypherd asked Ms. Hunter if distractions in her work place or external environment contributed to the errors. Ms. Hunter stated that her first errors occurred at her first job. Ms. Hunter stated that she recently she has looked for an environment where she can be an outstanding pharmacist. Ms. Hunter stated that she looks for a job where she can keep up with the work. Ms. Hunter stated that she looks for a place where she is able to do kinetics and help in dosing a patient. Ms. Hunter stated that she will not work in an environment where she is overwhelmed. Ms. Hunter stated that she is looking for a place where she is best suited to do an outstanding job. Dr. Sypherd asked if there are pharmacy positions available where a pharmacist is not overwhelmed. Ms. Hunter stated that there are better settings for her to work. Ms. Hunter stated that she avoids settings where she will be overwhelmed. Ms. Hunter stated that she is working at a small hospital with 50 beds.

Mr. Wand asked about the prior complaint from the last meeting. Mr. Pulver stated that the complaint occurred before the probationary period and should not be considered because it did not occur during the current period and the discussion should center on the current Consent Order.

Dr. McCoy stated that she is concerned because Ms. Hunter stated that she left Walgreens because the environment was too stressful. Dr. McCoy stated that Ms. Hunter's reply to why she left Banner Estrella was vague. Dr. McCoy stated that Banner Estrella is a small hospital. Dr. McCoy stated that she is concerned because Ms. Hunter is working at a hospital by herself at night. Dr. McCoy stated that she did not provide anything to the Board, such as letters of recommendation, to show that she is a safe practitioner. Ms. Hunter stated that she had a snowboarding injury and it was painful to stand at Walgreens for 8 hours. Ms. Hunter stated that the accident occurred during her probationary period at Estrella and she was not ready to go back to work. Ms. Hunter stated that she could not return to work and they terminated her employment. Ms. Hunter stated that she has worked very hard to be a knowledgeable pharmacist and pays attention to everything she does in the pharmacy.

Mr. Van Hassel asked Ms. Hunter if she had been evaluated by her current employer or by the hospital director. Ms. Hunter stated that she has not been evaluated by the Director. Ms. Hunter stated that she sees the Director in mornings. Ms. Hunter states that during the week she works from 11:00 PM to 7:00 AM and on the weekends she works from 7:00 PM to 7:30 AM.

Mr. Van Hassel asked if Ms. Hunter works with anyone else in the pharmacy. Ms. Hunter replied that she does not work with anyone else. Ms. Hunter stated that if she has any questions she will call pharmacists at other hospitals that are open 24 hours.

Mr. Van Hassel asked Ms. Hunter if the Board were to call the Director at the Hospital would the Director state that there had been any issues with Ms. Hunter's work. Ms. Hunter replied not to her knowledge. Ms. Hunter stated that she works seven days on and seven days off.

Mr. Dutcher asked Mr. Pulver if the Board could continue the probation. Mr. Pulver asked if there was a specific reason that Mr. Dutcher would like to continue the probation. Mr. Dutcher stated that the lack of work history and the lack of recommendation letters. Mr. Pulver stated that the order states that the respondent has completed the requirements of the Board Order and the Board did not require letters of recommendation during the probationary period. Mr. Pulver stated that the Board could open a new complaint and go forth.

Mr. Wand asked under the new statutes if the Board could order an exam of some type. Mr. Pulver stated that if the respondent has completed the terms of the Order then the Board could take her off probation and if the Board has concerns then the Board has statutory power to order the pharmacist to take an exam to determine competency. Mr. Pulver stated that the Board would need to open a new complaint and conduct an investigation. Mr. Pulver stated in the Order there are no terms that would allow the Board to extend the probation, unless the respondent would agree to continue the probation.

Dr. Smidt asked Ms. Hunter if she would agree to extend the probation. Ms. Hunter replied no.

Ms. Hunter stated that she has met the terms of the Order. Dr. Smidt asked what her current status is where she works. Ms. Hunter stated that she is not an employee of the hospital, but works as a pharmacist through a temporary agency. Ms. Hunter stated that she is an employee of Concentric which is a staffing agency. Ms. Hunter stated that the only assignment that she has worked through Concentric is at West Valley Hospital. Ms. Hunter stated that she did not want to travel with Cameron. Dr. Smidt asked if Ms. Hunter would be willing to work under the supervision of another pharmacist. Ms. Hunter stated that she does not know where she would work. Ms. Hunter stated that she does not want to work retail. Ms. Hunter stated that she would prefer to work with other pharmacists. Ms. Hunter stated that it has been very difficult for her to find a job being on probation. Ms. Hunter stated that no one will look at her because she is on probation.

Dr. Berry stated that Ms. Hunter stated that she had difficulty working in stressful conditions and she asked Ms. Hunter if she is required to participate in code calls. Ms. Hunter replied that she does not work codes. Ms. Hunter stated that she works with ER and ICU and she deals with emergencies in these settings. Ms. Hunter stated that she does not have a technician and would like to have a technician.

On motion by Dr. Tippett and Mr. Dutcher, the Board agreed to Ms. Hunter's request to terminate probation and return her license to active status. A roll call vote was taken.

(Ms. Honeyestewa - no, Dr. Tippett - aye, Dr. Smidt - aye, Dr. Berry - aye, Mr. Van Hassel - aye,

Dr. Sypherd - aye, Mr. Dutcher- aye, President McCoy - aye)

Mr. Pulver stated that if the Board does have concerns about the ability of Ms. Hunter to be in stressful environments and it affects her ability to be a good pharmacist then the Board has the power to open a complaint and ask the applicant to take an exam. Mr. Pulver stated that if the Board does not want to request an exam the Board can wait and see how she functions in the work environment since she is not on probation.

President McCoy reminded Ms. Hunter to establish herself as a safe practitioner.

#10 Gayle Lee

Gayle Lee appeared on her own behalf to request permission to proceed with technician licensure.

President McCoy asked Ms. Lee to describe the nature of her request. Ms. Lee stated that she would like to proceed with licensure to become a pharmacy technician trainee. Dr. McCoy asked Ms. Lee if she had a previous felony conviction. Ms. Lee stated that she was charged with a felony conviction for assault. Ms. Lee stated that it was a road rage incident.

Dr. McCoy asked when the felony occurred. Ms. Lee stated that the incident occurred four years ago and she was convicted three years ago.

Mr. Pulver asked Ms. Lee when her probation was terminated. Ms. Lee stated that the probation was terminated about a year ago. Ms. Lee stated that she was on formal probation for six months and then was on unsupervised probation. Ms. Lee stated that her attorney is applying to vacate the charges.

Dr. McCoy asked what steps Ms. Lee has taken to ensure that this does not occur again. Ms. Lee stated that she attended an anger management class and participated in counseling.

Mr. Wand stated that Ms. Lee had submitted letters of recommendation and letters regarding volunteer activities in which she has participated. Ms. Lee stated that she is currently attending school to become a technician and she volunteers at two hospitals.

On motion by Mr. Van Hassel and Dr. Tippett, the Board unanimously approved Ms. Lee's request to proceed with licensure as a pharmacy technician trainee.

#11 Mary Stults

Mary Stults appeared on her own behalf to request to proceed with technician licensure. Norbert Laskowski, RPh, was present to speak on Ms. Stults behalf.

President McCoy asked Ms. Stults to describe the nature of her request. Ms. Stults stated that she would like to proceed with licensure to become a pharmacy technician trainee. Dr. McCoy asked Ms. Stults if she had a previous felony conviction. Ms. Stults stated that she was charged with two felony convictions. Ms. Stults stated that one conviction was for drug paraphernalia and the other was for DUI. Ms. Stults stated that she was charged with child abuse because the children were in the car.

Dr. McCoy asked Ms. Stults if her probation has ended. Ms. Stults stated that she has been off probation for three years. Dr. McCoy asked Ms. Stults if there have been any problems since that time. Ms. Stults replied no.

Norbert Laskowski stated that he is the Pharmacist in Charge at the pharmacy where Ms. Stults works as a clerk. Mr. Laskowski stated that he wishes to hire her as a pharmacy technician trainee. Mr. Laskowski stated that he hired Ms. Stults in July. Mr. Laskowski stated that he worked at another company with Ms. Stults and he had no issues with her work. Mr. Laskowski stated that he has seen the work that Ms. Stults has completed to help rehabilitate herself.

Mr. Van Hassel asked Ms. Stults if she is currently using any prescription drugs that were not prescribed for her. Ms. Stults replied no. Mr. Van Hassel asked Ms. Stults how she stopped taking the medications that she previously had been taken. Ms. Stults stated that she attended the formal programs while she was on probation and Ms. Stults stated that she has no desire to take the drugs any longer.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously approved the request by Ms. Stults to proceed with licensure to become a pharmacy technician trainee.

#12 Jill Gerkin

Jill Gerkin appeared on her own behalf to request to proceed with technician licensure

President McCoy asked Ms. Gerkin to describe the nature of her request. Ms. Gerkin stated that she would like to get her pharmacy technician license back. Dr. McCoy stated that the original issue is that Ms. Gerkin filed an application and did not indicate that she had a felony conviction.

Mr. Pulver stated that he wanted to clarify for Ms. Gerkin that the Board did not issue her license.

Mr. Pulver stated that her application for licensure was denied at the June Board meeting.

Dr. Tippett asked Ms. Gerkin why she neglected to state the felony on her initial application.

Ms. Gerkin stated this was the first application that she filled out since her conviction and she did not intentionally answer the question wrong.

Dr. McCoy asked Ms. Gerkin if she is working now. Ms. Gerkin stated that she is unable to get a job as a technician without a license. Ms. Gerkin stated that she is doing yard work and house cleaning.

Dr. McCoy asked Ms. Gerkin if she is still on probation. Ms. Gerkin replied that she is still on probation. Ms. Gerkin stated that she has been on probation for about one year now. Ms. Gerkin stated that she had attended Family Counseling.

On motion by Mr. McAllister and Dr. Smidt, the Board unanimously approved the request by Ms. Gerkin to proceed with pharmacy technician licensure.

#13 Shamim Kabir

Shamim Kabir appeared on his behalf to request that his intern license be extended past the six year limit. Dr. Mary Chavez, an instructor, at Midwestern University was present to answer questions.

President McCoy asked Mr. Kabir to describe the nature of his request. Mr. Kabir stated that he would like to renew his intern

license so that he can complete his rotations. Mr. Kabir stated that he has completed his classes and needs the intern license to complete his rotations.

Dr. McCoy asked Mr. Kabir if he has been attending Midwestern University for the six years that he was licensed as an intern. Mr. Kabir stated that he took off two years because he had a heart attack and had chest pains. Mr. Kabir stated that he has returned to school and has completed all his classes and has eight months left to complete his rotations. Dr. McCoy asked Mr. Kabir if he is in good standing with the college. Mr. Kabir stated that he is in good standing.

Dr. McCoy asked Mr. Kabir if he worked as an intern and did not report the hours. Mr. Kabir stated that he did not know he was to turn in his intern hours until Mr. Wand told him that he needed to turn in his hours. Mr. Kabir stated that he has turned in his hours to the Board.

Mr. Van Hassel asked Mr. Kabir if the program at Midwestern is a 3- year program. Mr. Kabir replied yes. Mr. Van Hassel stated that if Mr. Kabir started in 1999 he should have completed the program prior to this year. Mr. Van Hassel asked if Mr. Kabir could account for the other two years and if the issues were health or school related. Mr. Kabir stated that he was diagnosed with chest pain. Ms. Kabir came forth. Ms. Kabir stated that the hospital had treated him for stomach pain.

Mr. Dutcher asked Mr. Kabir about his grades. Mr. Kabir stated that he has a 2.5 GPA.

Dr. McCoy asked Dr. Chavez if it is common for a student at Midwestern to renew an intern license to continue their education. Dr. Chavez stated that this is an unusual situation. Dr.

Chavez stated that Mr. Kabir had health issues and his grades were not as good as they could have been. Dr. Chavez stated that Mr. Kabir needs the intern license to complete his rotations.

Dr. McCoy asked Mr. Kabir why he did not appear at the August meeting. Mr. Kabir stated that he had attended a CPR class that day and thought that he could renew his license the next week.

Mr. Wand reminded the Board that the statutes require the Board to approve an intern license beyond the six year limit.

Dr. Berry asked Mr. Kabir if he had worked as an intern. Mr. Kabir stated that he had worked as an intern in the past at Walgreens and Safeway. Dr. Berry asked if he had letters of recommendation. Mr. Kabir stated that he turned in the hours. Mr. Wand stated that when hours are turned in late that there is a penalty. Mr. Wand stated that the submission of intern hours is discussed with the students at the school. Mr. McAllister stated that the students at Midwestern take the law class their first year at the school.

Mr. Wand stated that when he had asked Mr. Kabir if he had worked at Walgreens or Safeway he told him no. Mr. Kabir stated that he told him no because he did not have the dates that he worked at the stores. Ms. Kabir interjected that he floated. Mr. Wand stated that he asked him if he had worked at Walgreens or Safeway as an intern and Mr. Kabir replied no.

Mr. McAllister asked Mr. Pulver if the Board could ask the school for assessments from Mr. Kabir's preceptors during his rotations. Mr. Pulver replied that if the school states that Mr. Kabir has completed the rotations then that should be evidence enough for the Board.

Mr. McAllister asked Mr. Kabir if he is aware that he must notify the Board of his employment as an intern. Mr. Kabir stated that he did not know and if he would have known he would have told the Board. Mr. McAllister stated that the information is listed in his law book and on his intern application. Mr. McAllister told Mr. Kabir that he did not follow the law.

Dr. McCoy reminded Mr. Kabir that the next step would be for Mr. Kabir to be licensed as a pharmacist. Dr. McCoy reminded Mr. Kabir that as a pharmacist he must comply with the laws.

Dr. McCoy suggested that Mr. Kabir review all the rules and regulations of the Board and be in compliance.

Mr. McAllister asked Mr. Kabir if he stated that his only leave from school was due to his heart attack. Mr. Kabir said yes. Mr. McAllister asked Mr. Kabir if he had any other leaves from school. Mr. Kabir stated that he had problems with his chest pains. Ms. Kabir interjected that Mr. Kabir had to repeat some classes. Mr. McAllister asked how long he was on leave. Ms. Kabir interjected that Mr. Kabir had to wait until the following year to start classes again.

Mr. Dutcher asked if the Board decides to grant Mr. Kabir a renewal if it would be for six years or can the Board place a time limit on the renewal. Mr. Wand stated that it would be for six years. Dr. Tippet asked what the issues were around the time

frame. Mr. Wand stated that the issue is that an individual could not become a professional intern.

Dr. Smidt asked Mr. Kabir if he is currently attending class. Mr. Kabir stated that he has completed all his classes and he is ready to enter his rotations. Dr. Chavez stated that he is ready to move forward and begin his final rotations. Dr. Dutcher asked how many weeks of rotations must Mr. Kabir finish. Dr. Chavez stated that he has 30 weeks of rotations to finish.

On motion by Mr. Van Hassel and Dr. Tippett, the Board approved Mr. Kabir's request to renew his intern license. There were two nay votes by Dr. Berry and Mr. McAllister.

Mr. Dutcher asked if there needed to be a time frame placed on the license. Mr. Pulver stated that it would need to be issued for the six years. Mr. Pulver stated that if Mr. Kabir returns in six years that should raise concerns with the Board.

Mr. McAllister reminded Mr. Kabir that he needs to have honest conversations with the Board and Staff. Mr. McAllister stated that Mr. Kabir was not honest when he discussed his intern hours with Mr. Wand and when he told the Board that his only leave was for illness.

Dr. McCoy told Mr. Kabir to review the laws and to have honest conversations with the Board.

#14 Stephen Otis

Stephen Otis appeared on his own behalf to request to proceed with reciprocity.

President McCoy opened the discussion by asking Mr. Otis about the nature of his request. Mr. Otis stated the he is asking for reciprocity to Arizona.

Dr. McCoy stated that it is her understanding that he does not have a current license. Mr. Otis stated that both his Florida and Alabama license are suspended. Dr. McCoy stated that her understanding is that in order to reciprocate to Arizona that the applicant must have an active license in another state. Mr. Otis stated that he is aware of that fact. Mr. Otis stated that he has been on the prn program in Florida over 5-½ years. Mr. Otis stated that he has had difficulty in explaining to the Florida Board what he has done to get his license reinstated. Mr. Otis stated that he appeared before the Florida Board on August 17, 2005 understanding that his license would be placed in active status and he was hoping to reciprocate to Arizona. Mr. Otis stated

that reinstatement did not occur. Mr. Otis stated that the Board stated that he was non-compliant. Mr. Otis stated that Florida does not think that the PAPA program is adequate.

Mr. Otis stated that because he is in Arizona the Florida Board feels that he cannot be properly monitored. Mr. Otis stated that he has done everything that he could do in the prn program. Mr. Otis stated that when he appeared at the Board meeting it was determined that the monitoring was not adequate because he is too far away. Mr. Otis stated that he could not go into the PAPA program because it is not up to their standards. Mr. Otis stated that he is stuck in the middle.

Mr. Otis stated that Dr. Pomm that is in charge of the prn program was no help.

Dr. McCoy stated that the Board cannot reciprocate from a license that does not exist. Dr. McCoy stated that the only pathway for Mr. Otis is to take NAPLEX and MPJE and obtain an

Arizona license. Mr. Otis said he would be willing to try that but he has not practiced for six years and he graduated in 1988. Mr. Otis stated that if he was still practicing that would not be a problem. Mr. Otis stated that he has hired an attorney and when the Florida Board hears the information he is sure that they will reinstate his license.

Dr. McCoy told Mr. Otis that the Board cannot authorize him to proceed with reciprocity because he does not have an active license. Dr. McCoy told Mr. Otis that he can have one of his licenses activated and come back to the Arizona Board and apply for reciprocity or he could take the NAPLEX and MPJE exams.

#15 Shirley Thompson

President McCoy stated that the Board has received Shirley Thompson's written request to terminate probation on her pharmacist's license.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously approved the Ms. Thompson's request to terminate probation on her pharmacist's license.

#16 Thomas Togno

President McCoy asked Mr. Wand to address this request. Mr. Wand stated that Mr. Togno will be available by phone if the Board would like to speak with him.

Mr. Wand stated that Mr. Togno's license was suspended by the Arizona Board as part of a consent order. Mr. Togno was addicted to heroin and was required to sign a PAPA contract.

Mr. Togno moved to New Jersey due to financial issues and the Board approved his participation in the New Jersey program. Mr. Togno has been in the program for one year and has been compliant for one year. At this time, Mr. Togno is asking the Arizona Board to remove the suspension and impose probation, so that he may activate his New Jersey license. Mr. Wand stated that the Board had received conflicting letters concerning Mr. Togno's compliance. Mr. Wand stated that there is a letter from the counselor describing what had occurred to cause the conflicting letters to be sent to the Board. Mr. Wand stated that he spoke to the Director of the Program and Mr. Togno is in compliance.

On motion by Mr. Dutcher and Dr. Tippet, the Board unanimously agreed to approve Mr. Togno's request to terminate the suspension and impose probation on his Arizona pharmacist license with Mr. Togno remaining in a five-year treatment program approved by the Board.

AGENDA ITEM # 6 - Rx. Com

William "Buck" Stevens and Keith McFalls were present from Rx.com to explain their company's central fill model to the Board members.

President McCoy opened the discussion by asking Mr. Stevens to explain their business model to the Board Members. Mr. Stevens stated that he is the Senior VP of Governmental Affairs for PDX/Rx.com and Mr. McFalls is in charge of the fulfillment center.

Mr. McFalls stated that the company has built a business model that allows independent pharmacies to keep the prescriptions within their community instead of being filled at a mail order facility outside their community. Mr. McFalls stated that they have developed a software application that will allow that to happen and they have built a fulfillment center with automation that will reduce the cost of filling a prescription. Mr. McFalls stated that they have provided the pharmacies with a lower cost of goods that will allow the pharmacies to receive a lower reimbursement. Mr. McFalls stated that the process operates under central fill or shared services rules and regulations.

Mr. McFalls walked the Board through the process. Mr. McFalls stated that a patient will present the prescription to the independent pharmacy. The pharmacist at the independent pharmacy will process the prescription. The pharmacist will review the adjudication and the drug interactions. The pharmacist at the independent pharmacy is responsible for verifying that the prescription is entered correctly. The prescription is then transmitted electronically to the fulfillment center. At the fulfillment center, the prescription is filled and labeled. The prescription is checked and verified by a pharmacist to ensure that the prescription was filled correctly. The prescription is then sent back to the pharmacy or to the patient's home. The label has the store name on the label.

Mr. McFalls stated that the name and address of the fulfillment center is also on the label. Mr. McFalls stated that there will be a unique identifying number on the label that will correspond to a prescription number. Mr. McFalls stated that all the patient information that is generated at a store is generated at the fulfillment center. Mr. McFalls stated that the pharmacist at the store is familiar with the paperwork and knows what information is being conveyed to their patients.

Mr. Dutcher asked if there are any other regulations other than the shared service regulations that they must follow. Mr. Wand stated that both prescription numbers must be on the label as required by A.R.S 32-1964 and 1968. Mr. McFalls stated that they do put the numbers on the labels so they are in compliance with the statutes.

Mr. Wand asked Mr. McFalls about the ownership of the drugs. Mr. McFalls stated that the drugs are held on a consignment relationship. Mr. McFalls stated that the retail store will sign an agreement with the wholesaler providing the product. Mr. McFalls stated that once a transaction occurs, the ownership of the medication is transferred to that store and they are billed by the wholesaler for that product.

Mr. Wand stated that the only requirement that they would need to meet under the shared services would be to have their Pharmacist in Charge licensed in Arizona. Mr. McFalls stated that the Pharmacist in Charge has passed his test in Arizona several weeks ago and is now licensed in Arizona.

Mr. Wand asked about the turnaround time. Mr. McFalls stated that if the prescription is sent to the fulfillment center by 3:00 PM then the prescription will be back to the pharmacy by 3:00 PM the next day.

Mr. Dutcher asked if they have contracts with multiple suppliers. Mr. McFalls stated that they have contracts with multiple suppliers. Mr. Dutcher asked who bills the independent pharmacy for the goods. Mr. McFalls stated that the wholesaler bills the pharmacy. Mr. McFalls stated that the fulfillment center bills for their services. Mr. Dutcher asked who has the contract with the PBMs. Mr. McFalls stated that the independent pharmacy has the contract with the PBMs.

Mr. Dutcher asked if the PDX system can interact with the various computers in the various settings. Mr. McFalls stated that it would be the responsibility of the vendors to write a software interface that will interact with the PDX system.

Mr. Dutcher asked Mr. Wand if there is a misfill who would be responsible for the error. Mr. Wand stated that just like the mail order facilities it would be the person responsible for making the error. Mr. Wand stated that it would need to be determined if the prescription was entered incorrectly or if the prescription was filled incorrectly. Mr. McFalls stated that once the prescription is dispensed a transaction list will be sent to the store via the software to indicate the pharmacists and technicians involved in the filling of the prescription. Mr. Wand stated that the Texas Board could discipline the pharmacist that filled the prescription wrong and the Arizona Board could discipline the permit holder or the Pharmacist in Charge.

Dr. Tippett asked how the processes will reduce filling errors. Mr. McFalls stated that they have automated systems. Mr. McFalls stated that everything is verified by a pharmacist before it is delivered to a patient. Mr. McFalls stated that they take images of the product that is being dispensed. Mr. McFalls stated that equipment is being installed that will validate the weight of the product. Mr. McFalls stated that they have multiple independent checks. Mr. McFalls stated that they have been operational at this facility since January of 2005 and they have had zero errors.

Dr. Berry asked if the prescriptions were being delivered to the patient's home or to the store. Mr. McFalls stated that they would be shipped to the patient's home if the state law allowed them to ship to the patient's home. Mr. McFalls stated that controlled substances would be returned to the store.

Dr. Smidt asked about the inventory control and the advantage of having multiple wholesalers.

Mr. McFalls stated that the pharmacies were not willing to switch wholesalers, so they accommodated the pharmacies by offering the services of multiple wholesalers. Dr. Smidt asked if an inspector went to the pharmacy that was serviced by the fulfillment center would the inspector be able to conduct an audit. Mr. McFalls said that the pharmacy receives an invoice.

On a daily basis, the pharmacy receives a sheet specifying what items were used from the fulfillment center. Mr. Dutcher asked if the pharmacy receives separate invoices for controlled and non-controlled substances. Mr. McFalls stated that the pharmacy would receive the invoices from the wholesaler. Mr. McFalls stated that the sales information is electronically submitted to the wholesaler and the wholesaler bills the pharmacy for the portion of the bottle used. Mr. Wand asked when the invoices are received at the store. Mr. McFalls stated in most cases the invoices are received by the pharmacy the next day.

Mr. Stevens stated that the advantage to the owner is that the owner is only billed for the portion of the bottle that is used and thus reduces the owner's store inventory. Mr. Stevens stated that this gives the independent pharmacist the opportunity to compete.

Dr. Smidt asked if there were any states that did not approve their central fill system. Mr. Stevens stated that several states will need to change rules to allow them to operate in their state. Mr. Stevens stated that one of the states that is reviewing their rules is New Mexico. Mr. Stevens stated that they are operating in Indiana, New Jersey, and Texas.

Mr. Wand stated that the model would fit the new shared service rules. Mr. Wand stated that with the new shared services rules the individual pharmacists would not need to be licensed.

The meeting adjourned for lunch.

The meeting reconvened at 1:30 PM.

AGENDA ITEM # 7 - Ralph Fobair

President McCoy asked Mr. Fobair to describe to the Board Members why he was appearing in front of the Board. Mr. Fobair stated that he received a letter requesting him to appear because he may have provided false or misleading information to

Question 7 on his pharmacy technician application. Mr. Fobair stated that Question 7 asks about previous felony convictions.

Mr. Fobair stated that in 1979 when he lived in Wyoming he was convicted of grand theft for an amount of approximately five hundred dollars. Mr. Fobair stated that he was under 21 years of age and he and another individual took his roommate's possessions. Mr. Fobair stated that he served two years probation. Mr. Fobair stated that he was told that the action would be expunged after he completed his probation and he has a letter from the court stating that it would be removed. Mr. Fobair stated that he was told by two attorneys that he did not have to reveal that he was convicted. Mr. Fobair stated that after he received the letter from the Board he took the letter to his attorney that he is using for an identity theft case and the attorney told him that he should have answered yes to the question. Mr. Fobair stated that he should have approached someone at the office to clarify the question before applying for the technician license. Mr. Fobair stated that he is remorseful and he has not done anything else wrong in 26 years.

Mr. Fobair stated that he is working as a technician at Safeway.

President McCoy asked if the Board needs to decide if they would like to take action against the license or take no further action against the license. Mr. Wand stated that the Board could take action against the license if the Board desires. Mr. Wand stated that the action would be based on the fact that misleading information was provided on the application.

Mr. Pulver stated that the Board could issue an advisory letter to Mr. Fobair as a red flag for future Boards.

President McCoy stated that Mr. Fobair has had no convictions since 1979 and is now working and is remorseful for the problems caused by answering the question incorrectly.

On motion by Mr. Van Hassel and Dr. Tippett, the Board unanimously agreed to take no further action against Mr. Fobair's license.

Mr. Dutcher asked Mr. Pulver if there is a problem with the question on the application or are individuals confused by the court system. Mr. Pulver stated that Question 7 is very specific in asking about convictions. Mr. Pulver stated that if an individual does not pay attention to the questions, he feels that the Board should issue an advisory letter to the applicant to make the person aware that the Board takes this action seriously.

Mr. McAllister stated that maybe a new applicant feels by answering yes to the question that they will be denied a license. Mr. Pulver stated that a line could be added stating that answering yes to this question does not mean that you will be denied a license.

Dr. Sypherd stated that some people may be confused by the fact that the question also asks about drug related convictions and they may answer no because their conviction did not involve drugs.

President McCoy stated that it raises doubts about the individual when they are coming in after the fact instead of providing the information about the felony up front. Ms. McCoy asked about attorneys telling individuals that they do not have to disclose an expunged conviction. Mr. Pulver stated that is why the question states that you must answer yes even if the conviction was expunged.

The Board recommended making the change to include the line: Marking yes does not mean you will be denied a license. Mr. Wand stated that he will add that line to the online application immediately.

Mr. Pulver stated that the Board could also add the line that Failure to disclose the felony will result in disqualification.

AGENDA ITEM #8 - Jennifer Ruitter

President McCoy asked Ms. Ruitter why she was appearing in front of the Board. Ms. Ruitter stated that she received a letter requesting that she appear in front of the Board to discuss a recent felony conviction. Dr. McCoy asked Ms. Ruitter if she is licensed. Ms. Ruitter said yes.

Mr. Wand stated that this felony conviction was self-reported by Ms. Ruitter.

President McCoy asked Ms. Ruitter about her felony conviction. Ms. Ruitter stated that she received a felony conviction as a result of a domestic relations altercation. Ms. Ruitter stated that it is an open ended felony and she pled guilty. Ms. Ruitter stated that on October 26, 2005 she was sentenced to 3 years probation and after 10 months she can petition the court to have the conviction reduced to a misdemeanor.

Mr. Dutcher stated that it was commendable that she reported the felony conviction. Mr. McAllister asked Ms. Ruitter if she is still working. Ms. Ruitter replied that she has been working.

On motion by Mr. Van Hassel and Dr. Sypherd, the Board unanimously agreed to take no action against Ms. Ruitter's license.

AGENDA ITEM #9 - Marvin Fein

Mr. Wand stated that Mr. Fein has left because he had to leave to pick someone up at the airport. Mr. Wand stated that the Board could proceed or table the issue. Mr. Pulver asked if Mr. Fein was subpoenaed. Mr. Wand replied no. Mr. Pulver stated that the Board could open a complaint.

Mr. Pulver stated that if the Board would like to talk to him then he could be issued a subpoena to show up at the Board meeting.

Mr. Wand summarized the issues. Mr. Wand stated that Mr. Fein was previously disciplined in Illinois for controlled substance violations. Mr. Wand stated that he appeared in front of the Board to request to proceed with reciprocity. Mr. Wand stated that the Board approved his request to reciprocate and he has now been caught by his employer stealing medications without valid prescriptions.

President McCoy asked if he is currently working. Mr. Wand stated that he was terminated and is not sure if he has found new employment. Mr. Wand stated that they are required to report changes in employment, but the changes are often not reported.

Dr. McCoy asked what action could be taken against him at this time. Mr. Pulver stated that an investigation could be opened and the Board could move forward. Mr. Pulver stated that he could be asked to appear for a conference or the Board could send it forward for an administrative hearing.

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously agreed to open a complaint and move forward with the complaint.

AGENDA ITEM #10 - Reports

Executive Director

Executive Director Wand began his report by discussing the online renewals. Mr. Wand stated that there were over 1100 renewals online. Mr. Wand stated that he has included copies of the survey. Most people were satisfied with the online renewal. Mr. Wand stated that the cost to the Board was about \$2,700 dollars. Mr. Wand stated that there is an 18 cent transaction fee and a 2% credit card user fee. Mr. Wand stated that the funds are deposited that day.

Mr. Wand discussed the financial reports and the expenses of the Board. Mr. Wand stated that the majority of the expenses are payroll. Mr. Wand stated that another expense is legal services provided to the Board by Mr. Pulver through the Attorney General's Office. Mr. Wand stated that if funds allow the Board may want to consider providing the funds for a full-time legal position. Mr. Wand stated that the office space has increased because of the addition to the backroom. Mr. Wand explained that temporary services are used during the renewal period.

Mr. Wand discussed the newsletter. (See Agenda Item 24).

Mr. Wand stated that he included the PAPA budget in his report. He stated that he wanted to show how difficult it would be for the PAPA program to support the addition of the technicians.

Mr. Wand stated that the legislature would need to increase the funding in order to fund the technicians. Ms. Yates stated that it is often difficult for the technicians to be able to afford to enter the program. Ms. Yates stated that the technician would need to pay for the outpatient program up front. Ms. Yates stated that many technicians do not have the funds or the insurance to pay for the program. Ms. Yates stated that the Urine Screens cost \$45 for each screen. Ms. Yates stated that the pharmacist pay \$125 a month for counseling.

Mr. Wand stated that maybe the Board could obtain statistics on the success of the program. Dr. McCoy stated that it may jeopardize the program for the pharmacists if a large number of technicians are enrolled in the program.

Deputy Director Report

Deputy Director Frush directed the Board Members attention to the activity reports for the Compliance Staff. Ms. Frush indicated that the Compliance Staff is currently ahead of the number of inspections completed at this time last year. Ms. Frush indicated that the number of complaints is steadily increasing. Ms. Frush indicated that the Drug Inspector issued 63 letters for expired non-prescription drugs for the months of August, September, and October.

Ms. Frush stated during the months of August, September, and October the Compliance Staff issued letters for the following violations:

- 1. Controlled Substance Overage (5)
- 2. Controlled Substance Shortage (9)
- 3. Annual Controlled Substance Inventory not completed (1)
- 4. Annual Controlled Substance Inventory not available (1)
- 5. Annual Controlled Substance Inventory incomplete (1)
- 6. Annual Controlled Substance Inventory not completed upon change of PIC (1)
- 7. Failure to have signed technician statements (20)
- 8. Failure to have technician training programs (5)
- 9. Failure to have technician training programs for compounding (2)
- 10. Allowing unlicensed technicians to work (2)
- 11. Allowing a technician to continue to work that did not renew their license in 2004 (1)
- 12. Posting of wall certificates for pharmacists and technicians (8)
- 13. Failure of pharmacy personnel to wear a name badge or badge lacks title (2)
- 14. Failure to document medical conditions (14)
- 15. Failure to document allergies (1)
- 16. Failure to document all necessary information on oral prescriptions (2)
- 17. Failure to sign computer daily logs (4)
- 18. Failure to remove expired products from the pharmacy (9)
- 19. Failure to establish a prescription blank security policy (1)
- 20. Failure to obtain copies of DHS permits for assisted living homes (1)
- 21. Sink not functioning (1)
- 22. Inadequate aisle spacing - less than 36 inches (1)
- 23. Failure to maintain restroom in a sanitary fashion (1)

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

- 1. Documentation of medical conditions
- 2. Documentation of technician requirements

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

- 1. Cleanliness of the pharmacy

Areas outside the inspection reports that may be of interest:

- 1. Physicians assistants may write for a 72 hour supply or if certified a 14 day supply on CII prescriptions.
- 2. Canadian prescriptions must be on the prescriber's original prescription blank (written copy or faxed copy), cannot be for a controlled substance, and must be filed separately.

PAPA Report

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of thirty-seven (37) participants in the PAPA program. Ms. Yates stated since the last report on August 17, 2005, one participant has completed the program, one contract was terminated, and three new participants have entered the program. Ms. Yates stated that the Steering Committee has concerns about two participants in the program.

AGENDA ITEM #11 - Complaint Review

The Consumer Complaint Review committee met prior to the Board Meeting to review 41 complaints. Mr. Dutcher and Dr.

Tippett served as the review committee. Board Members were encouraged to discuss issues and were encouraged to ask questions.

Complaint #3000

The Board Members were concerned about the continuity of care issue with this mail order facility. The Board members stated that they had ongoing concerns with patients not receiving their medications in a timely fashion from this facility

Mr. Pulver stated that the Board could not hold a conference or issue a consent letter because they did not violate the law. Mr. Pulver agreed with the Board Members after discussing the issue that a non-disciplinary advisory letter could be sent to the pharmacy.

Mr. McAllister stated that it may not be a patient care issue in this case, since the patient does have the option to go a local pharmacy for a short term supply.

On motion by Mr. Van Hassel and Mr. McAllister, 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 # 2980 - No Further Action
- Complaint # 2982 - Advisory Letter
- Complaint # 2983 - Conference
- Complaint # 2989 - No Further Action
- Complaint # 2991 - No Further Action
- Complaint # 2993 - Advisory Letter
- Complaint # 2994 - No Further Action
- Complaint # 2996 - Conference
- Complaint # 2997 - Conference
- Complaint # 3000 - Advisory Letter
- Complaint # 3001 - No Further Action
- Complaint # 3002 - No Further Action
- Complaint # 3003 - Advisory Letter
- Complaint # 3004 - No Further Action
- Complaint # 3005 - Conference - Pharmacist and Technician
- Complaint # 3006 - Conference - Pharmacist and Technician
- Complaint # 3007 - No Further Action
- Complaint # 3008 - No Further Action
- Complaint # 3009 - Advisory Letter

- Complaint # 3010 - No Further Action
- Complaint # 3011 - No Further Action
- Complaint # 3012 - Conference
- Complaint # 3014 - No Further Action
- Complaint # 3015 - No Further Action
- Complaint # 3016 - Advisory Letter
- Complaint # 3017 - Consent - Technician Conference - Pharmacist in Charge
- Complaint # 3018 - Consent - Technician Conference - Pharmacist in Charge
- Complaint # 3019 - Conference
- Complaint # 3020 - Conference
- Complaint # 3021 - No Further Action
- Complaint #3022 - No Further Action
- Complaint # 3024 - Conference
- Complaint # 3025 - No Further Action
- Complaint # 3028 - No Further Action
- Complaint # 3031 - No Further Action
- Complaint #3032 - Conference
- Complaint # 3033 - Withdrawn
- Complaint # 3040 - Consent
- Complaint # 3041 - Consent
- Complaint # 3042 - Consent
- Complaint # 3043 - Consent

AGENDA ITEM 12 - Conferences

Complaint #2930

Pharmacist Michael Hurlbut and Pharmacy Supervisor Sean Duffy were present in response to a consumer complaint. Compliance Officer Rich Cieslinski gave a brief overview of the complaint.

Mr. Cieslinski stated that the complainant states that her prescription for Dexedrine 10 mg tablets

was filled with the sustained release capsules. The complainant questioned the change in dosage form when she picked up the prescription and was told by the pharmacist that the tablets and capsules were interchangeable. The pharmacist had several chances to correct the error, when the technician asked about the interchange, when the pharmacist spoke to the patient,

when he spoke to the patient's regular pharmacy, and when the technician told him he needed to contact the physician for authorization to change the dosage form. The patient did ingest the medication and slept poorly for several evenings.

President McCoy asked Mr. Hurlbut to explain what happened in this situation. Mr. Hurlbut stated that the patient gave the new prescription to the technician to enter. Mr. Hurlbut stated that the technician could not find the tablets in the system and she asked Mr. Hurlbut if the capsules were the same and he told her yes. Mr. Hurlbut stated that he did not think about the release mechanism. Mr. Hurlbut stated when the patient picked up the prescription; she placed one capsule in her mouth at the counter. When the patient noticed that they were a capsule, she took the capsule from her mouth and asked if the medication was correct. Mr. Hurlbut stated that he called her regular pharmacy to see what the patient had in the past. Mr. Hurlbut was told that she had the tablets. Mr. Hurlbut stated that he misunderstood what the other pharmacist told him because he thought the other pharmacist told him that they were the same. Mr. Hurlbut stated that they did not have any of the tablets and he assured the patient that they were the same. Mr. Hurlbut stated that he found out otherwise later.

Dr. McCoy asked Mr. Hurlbut if he knows the difference between the two products now. Mr. Hurlbut stated that he knows the difference now.

Dr. Tippet asked Mr. Hurlbut if he looked up the medications and he wanted to know if the reference material distinguished the two different forms. Mr. Hurlbut stated that he cannot remember.

Mr. Van Hassel asked Mr. Hurlbut if he was asked that question today where would he look to find that information. Mr. Hurlbut stated that he would look it up in Facts and Comparisons or Clinical Pharmacology online. Mr. Van Hassel asked Mr. Hurlbut if he had those two sources available in March. Mr. Hurlbut stated that he was a float pharmacist and he was not familiar with where the resources were located. Mr. Hurlbut stated that he probably had access to the resources. Mr. Van Hassel told Mr. Hurlbut that pharmacists are the drug experts and when they are asked a question that should trigger them to find the correct answer.

Mr. McAllister told Mr. Hurlbut that he cannot substitute sustained release products for immediate release products. Mr. McAllister stated that the Label stated SA which means sustained action. Mr. McAllister told Mr. Hurlbut that he needs to pay attention to the details.

President McCoy told Mr. Hurlbut if a patient questions them about their medication that should send up a red flag to the pharmacist and they should research the answer to the question.

Complaint #2946

Pharmacist Frank Vairo was present to answer questions concerning a consumer complaint. Also present were Jason Rieser - Regional Pharmacy Manager, Ted Jones- Sam's Club Supervisor, and Carl Dawson - Pharmacy Supervisor. Mr. Rieser stated that Mr. Vairo no longer works for Wal-Mart or Sam's Club. Compliance Officer Sandy Sutcliffe gave a brief overview of the complaint.

Ms. Sutcliffe stated that Mr. Vairo filled a prescription written for Fiorinal tablets with Fludrocortisone 0.1 mg tablets. The patient ingested two to four tablets of the incorrect medication, but did not experience any adverse effects from the medication.

President McCoy stated that this is a typed prescription, so there is no issue with misinterpretation. President McCoy asked Mr. Vairo to discuss the incident. Mr. Vairo stated that he does not recall verifying the prescription. Mr. Vairo stated that the prescription is very clearly written.

Mr. Vairo stated that a technician enters the prescription and the pharmacist verifies the prescription. Mr. Vairo stated that the prescription is labeled by the technician and then comes to the pharmacist for final verification. Mr. Vairo stated that he does not recall anything about this prescription.

Mr. Vairo stated that he was the only pharmacist working that day. Mr. Vairo stated that there were two technicians and one intern working with him. Mr. Vairo stated that there were three computers in use. Mr. Vairo stated that he was on the last computer and he verifies prescriptions at that computer. Mr. Vairo stated that every one was using each other's computers. Mr. Vairo stated that practice has stopped. Mr. Vairo stated that the technicians were coming to his computer and may have used his computer to do a price check. Mr. Vairo says that he does not recall the prescription.

President McCoy asked Mr. Vairo if this was his first complaint. Mr. Vairo stated no. Mr. Vairo stated that there was a complaint of no counseling. Mr. Vairo stated that the other complaint involved a reprinted label that was incorrect.

Mr. McAllister asked Mr. Vairo to describe the filling process. Mr. Vairo stated that the technician takes the prescription from the patient and scans the prescription and then enters the prescription. After the technician enters the prescription, the prescription is transmitted to the 4 point check queue. The pharmacist will check the prescription on the screen to be sure the name of the patient, the drug name, the drug strength, and the physician is correct. After the pharmacist approves the entry, the technician is able to scan the bar code of the prescription bottle and a label is produced. The technician will count the medication and label the product. The finished prescription is then given to the pharmacist for final verification. Mr. Vairo states that he has some issues with the system. Mr. Vairo stated that he looks in the bottle at the medication and then brings the image up on the screen. Mr. Vairo stated that he does not recall the prescription.

Mr. McAllister asked where the DUR check occurs. Mr. Vairo states when he first gets it on the screen.

Dr. McCoy asked Mr. Vairo if the patient was counseled because the patient stated that he was not counseled and there was no documentation that indicated that he refused counseling. Mr. Vairo stated that he had an intern there that day and he is not sure if the intern counseled the patient.

Mr. Dutcher asked when the Fiorinal was processed. Mr. Vairo stated that the patient returned the incorrect medication and the other pharmacist corrected the error.

Dr. Smidt asked Mr. Rieser if what Mr. Vairo described is the normal process in the stores in regards to the sharing of computers. Mr. Rieser stated that it is not the policy. Mr. Rieser stated that it is company policy that each pharmacist or technician works under their own initials on their own computer. Mr. Rieser stated that before the four point check a pharmacist must review the DUR check. Mr. Rieser stated that the interactions are color coded based on severity. Mr. Rieser stated that red is the severest interaction. Mr. Rieser stated that the computer records the initials of the pharmacist that did the DUR check and the time.

Mr. Vairo stated that he worked at this pharmacy one day a week. Mr. Vairo stated that at this pharmacy it was the practice to use each other computers and the pharmacist in charge was aware that the technicians would flip flop on inputting. Mr. Vairo stated that he kept telling the technicians to use their own computers. Mr. Vairo stated that he told the technicians not to use his computer. Mr. Vairo stated that at his regular store he used only his computer.

Mr. Rieser stated that only a pharmacist can do a DUR check, the four point check, and the final verification.

On motion by Mr. McAllister and Mr. Dutcher, the Board agreed to move the case to a Notice of Hearing. There were two nay votes from Dr. Tippett and Dr. Sypherd.

Mr. Pulver stated that the Board could offer the individual a consent agreement. Mr. McAllister stated that it was his intent to offer a consent agreement. Mr. Vairo asked what is meant by that.

President McCoy stated that Mr. Vairo would receive a written agreement to which he would agree to some type of disciplinary action. President McCoy stated that Mr. Vairo could sign the consent order or he could come in front of the Board for a hearing.

Mr. Pulver stated that if Mr. Vairo appeared for a hearing the Board has the option to take action against his license. Mr. Pulver stated that the consent agreement would state that Mr. Vairo agrees with the findings and agrees to the disciplinary action. Mr. Pulver stated that with a consent agreement Mr. Vairo would be able to negotiate with the Board. Mr. Pulver stated that Mr. Vairo could seek legal counsel.

Mr. Wand stated that the Board could determine the elements of the consent today. Mr. Pulver stated that if Mr. Vairo agrees to the terms set forth by the Board then Mr. Wand and Mr. Pulver would fill in the findings of fact.

Mr. Dutcher stated that he felt that Mr. Wand and Mr. Pulver should complete the consent order since the Board Members do not have enough experience in determining disciplinary actions. Mr. McAllister stated that he felt that the individual should be asked to take and pass the MPJE exam for failure to control the pharmacy and not supervising the intern.

Complaint #2952

Peter Yee requested a postponement until January. The Board has agreed to table this conference until January.

On motion by Mr. Dutcher and Dr. Berry, the Board unanimously agreed to table the conference until the January meeting.

Complaint #2952

Pharmacist Richard Pillon, Pharmacy Technician Stella Bloemers, and Pharmacy Supervisor Jerry Denny were present in response to a consumer complaint. Compliance Officer Rich Cieslinski gave a brief overview.

Mr. Cieslinski stated that the prescription for Prozac for a 6-year old child was labeled with the wrong directions and the wrong doctor. Mr. Cieslinski stated that the directions should have read to take one ml daily and instead read take one teaspoonful daily. The error was caught by the parents because they remembered the dose.

President McCoy asked Mr. Pillon to address the error. Mr. Pillon stated that the prescription was presented to him by the technician and the prescription was unclear. Mr. Pillon stated that the directions looked like one mo. daily. Mr. Pillon stated that he mentioned to the technician that they should call the doctor. Mr. Pillon stated that it was around 12:00 and the doctor was to lunch. Mr. Pillon stated that the prescription was processed. Mr. Pillon stated that he was never given the opportunity to do the DUR override. Mr. Pillon stated that he did counsel the patient.

Mr. Pillon stated since that time he does a show and tell with the patient. Mr. Pillon stated that if the patient has had the medication before he still asks the patient if they have any questions.

President McCoy asked Ms. Bloemers what her process is as a technician if she has a question about a prescription. Ms. Bloemers stated that she asked the pharmacist to clarify the directions because it looked like one mo to her. Ms. Bloemers stated that she does not recall Mr. Pillon asking her to call the doctor. Ms. Bloemers stated that she typed that label as she was told by the pharmacist. Ms. Bloemers stated that after she typed the label she waited on customers and she is not sure what happened to the prescription at that point. Ms. Bloemers stated that if there is a question on a prescription she usually calls the physician.

Dr. Berry stated that it is the responsibility of the pharmacist to call the physician for prescription clarification and not the technician. Mr. Pillon stated that he did try to call the physician.

Mr. Dutcher asked Mr. Pillon if it would not have behooved him to wait for clarification. Mr. Dutcher told Mr. Pillon if the directions are not correct then the pharmacist should have told the patient that he needed to clarify the directions and the prescription should not have left the pharmacy until the directions were clarified.

Dr. Smidt asked Mr. Pillon if he consulted the references for dosing before or after dispensing the medication. Mr. Pillon stated that he checked the references after dispensing the medication. Dr.

Smidt told Mr. Pillon that he could have called the doctor anytime after 2:00 PM and before the patient picked up the prescription that evening.

Mr. McAllister stated that since the wrong doctor's name was on the label he would like to know which doctor was called. Mr. Pillon stated that both physicians' names were on the patient label.

President McCoy reminded Mr. Pillon to be more careful when dealing with the dosing of pediatric patients.

Mr. McAllister asked that a letter be sent to the physician concerning the use of the abbreviation " mo. "

Complaint #2960

Pharmacist William Garrettson and Pharmacy Supervisor Michelle Kapner were present to answer questions from Board Members concerning a consumer complaint. Compliance Officer Sandy Sutcliffe gave a brief overview.

Ms. Sutcliffe stated that the patient received Metronidazole 500mg with a prescription label that read Metronidazole 250mg take two tablets three times daily. The patient took the incorrect dose of 1000 mg two times daily for two to three days. Patient stated that she became nauseous, had diarrhea, and a rash from taking the incorrect dose.

President McCoy asked Mr. Garrettson to address the error. Mr. Garrettson stated that he filled the prescription with Metronidazole 250 mg twice daily. Mr. Garrettson stated that three or four days later the patient returned and told him that she did not receive enough tablets. Mr. Garrettson stated that he gave her the remaining tablets that he owed her of the 250 mg strength.

Mr. Garrettson stated several hours later the patient called and told him that the tablets looked different than the original

tablets. Mr. Garrettson stated that the patient said the original tablets were larger. Mr. Garrettson stated that he told the patient that he would investigate the incident and call her back. Mr. Garrettson stated that he gave the patient the 500mg tablets originally.

Mr. Garrettson stated that he called the patient and the physician concerning the error.

Dr. McCoy asked if it was noted that he owed her medication. Mr. Garrettson said no that the shortage occurred.

Dr. Berry asked if she was shorted or was she given the correct quantity of the 500 tablets. Mr. Garrettson stated that he is not sure how many tablets she received.

Mr. Dutcher asked why he changed the prescription when he entered the prescription but did not document the change on the front of the prescription. Mr. Garrettson said he should have documented the change.

Dr. Tippett asked Mr. Garrettson how he was not aware that the 500mg were in stock. Mr. Garrettson stated that he does not know how he got the bottle of 500mg tablets. Mr. Garrettson stated that someone probably ordered the 500mg and he placed the bottle where the 250 mg. tablets were on the shelf.

President McCoy asked Mr. Garrettson what he has changed in his practice to ensure this error does not occur again. Mr. Garrettson stated that he checks the NDC number and the product when the technician pulls the bottle. Mr. Garrettson stated that he looks inside the bottle when he counsels the patient.

Complaint #2969

Pharmacist Terri Lyman and Pharmacy Supervisor Bryan Baake were present in response to a consumer complaint. Compliance Officer Larry Dick gave a brief overview of the complaint.

Mr. Dick stated that the complainant's veterinarian consulted with the pharmacist to prescribe Bactrim 40 mg twice daily for 14 days for the complainant's dog. The pharmacist understood the dose should be Trimethoprim 40mg and the veterinarian stated that he was basing the dose off the Sulfamethoxazole. The dog died of an overdose of Sulfamethoxazole 24 days after starting therapy.

President McCoy asked Ms. Lyman to address the error. Ms. Lyman stated that the veterinarian called the pharmacy to leave a prescription for the complainant's dog. The veterinarian wanted a 1 to 1 ratio of Sulfamethoxazole and Trimethoprim. Ms. Lyman told him that it does not come in that strength. Ms. Lyman stated that she told the doctor what strengths were available commercially. Ms. Lyman suggested that the veterinarian call the compounding pharmacy to make the required dosage. Ms. Lyman stated that they calculated the dose. Ms. Lyman stated that they calculated the dose and the veterinarian agreed to use the Sulfamethoxazole/Trimethoprim single strength and the dose was to be ½ tablet twice daily for 14 days. Ms. Lyman stated that the final dose was 200mg/40mg. Ms. Lyman stated that during the conversation it was brought up several times that he wanted a 1 to 1 dosing. Ms. Lyman stated that she again told him that the compounding pharmacy could create that dosage. The veterinarian agreed to go with the calculated dose. Ms. Lyman stated that the owners picked up the prescription and 14 days later a refill was requested on March 14th and the veterinarian authorized a refill. Ms. Lyman stated on March 24th the veterinarian was informed by the owner that the dog was ataxic and the veterinarian contacted the pharmacy and the veterinarian concluded that the dose was too high and instructed the owner to stop the therapy. Ms. Lyman stated that on March 25th blood levels were drawn and it was determined that the levels were high. Ms. Lyman stated that on March 25th the owners contacted the pharmacy and left a message concerning about who would pay for the care of the canine. Ms. Lyman stated that pet insurance and the veterinarian covered the services because they felt they were responsible for the over dosage. Ms. Lyman stated that the owners were referred to the corporate office. Ms. Lyman stated that the owners transferred the canine to another veterinarian and on April 1st the canine died. The new veterinarian had treated the pet with a blood transfusion and steroids.

President McCoy stated that Ms. Lyman did have an extensive conversation with the veterinarian.

President McCoy asked if there are resources available for researching animal dosing. Ms. Lyman stated that there are limited resources available and she told the doctor that she was not familiar with dosing animals and that is why she discussed the dosage with him.

Dr. Smidt asked Ms. Lyman if the doctor wanted a 1 to 1 ratio which would mean he wanted 40 mgs of both medications and then settled for a 200mg/40mg combination. Ms. Lyman replied yes. Ms. Lyman stated that she made the dosage clear to the physician and he ordered the medication anyways.

President McCoy stated that Ms. Lyman did discuss the dosage with the veterinarian and there is no further action to be taken.

Complaint #2975

Pharmacist Debbie Kline and Pharmacy Supervisor Darren Kennedy were present in order to response to a consumer complaint. Compliance Officer Rich Cieslinski gave a brief overview of the complaint.

Mr. Cieslinski stated that the complainant took four prescriptions to the pharmacy to be filled. There were two prescriptions for the daughter and two prescriptions for the mother. The mother stated that she told that pharmacist that the Vicodin was not for her but the pharmacist told her that it was written for her. The complainant took the medication for 4 days and experienced an upset stomach and the doctor determined that she was given her daughter's medication. The complainant is allergic to codeine.

President McCoy asked Ms. Kline to address the error. Ms. Kline stated that four prescriptions were entered into the computer. Ms. Kline stated that the mother's prescription for Levaquin was rejected by the insurance. Ms. Kline stated that she called the doctor to see if he would change the mother's Levaquin prescription and was told that he would not change the antibiotic. Ms. Kline stated that she proceeded to fill the prescriptions. Ms. Kline stated that she counseled the daughter on the prescriptions. After the counseling was completed, Ms. Kline stated that mother came to the window and stated that her daughter had never had Vicodin before. Ms. Kline stated that she told the mother the Vicodin was for her and asked if they had any other questions. Ms. Kline stated that they told her no and left. Ms. Kline stated that she did not go back and look at the original prescriptions.

President McCoy asked Ms. Kline about the verification process. Ms. Kline stated that usually she looks at the prescription. Ms. Kline stated that she missed the name because the names were similar. Ms. Kline states that now she does a thorough four point check.

Complaint #2995

Pharmacist John Brady, Pharmacist Rupal Shah, and Pharmacy Supervisor Dean Burton were present in response to a consumer complaint. Compliance Officer Rich Cieslinski gave a brief overview of the complaint.

Mr. Cieslinski stated that the complainant had a prescription for generic Restoril 30 mg phoned into the pharmacy. When she picked up the prescription, she received two bottles and was not counseled by the pharmacist. One bottle contained 27 tablets of Mirtazapine 30 mg (generic Remeron) and the other bottle contained 3 capsules of the generic Restoril. No ingestion of the incorrect medicine occurred.

President McCoy asked Ms. Shah to address her involvement in this error. Ms. Shah stated that when the patient came to pick up the prescription she allowed the technician to take the refusal of counseling from the patient. Ms. Shah stated that if she counseled the patient the error would have never left the pharmacy.

President McCoy asked Mr. Brady to address the error. Mr. Brady stated that he received the prescription from the doctor's office via the telephone. Mr. Brady stated the prescription was passed to the technician to enter and the prescription label was printed. Mr. Brady stated that he checked the label against the prescription and everything was correct. Mr. Brady stated that he signed the label. Mr. Brady believes that the technician pulled the drug and counted the drug and did not give the completed prescription back to the pharmacist. The technician stated that they owed the patient three more tablets. Mr. Brady stated that he failed to do the final check.

Mr. Brady stated that when the technician generated the IOU that the correct medication was dispensed in the second bottle and both vials were placed in the same prescription bag.

President McCoy asked what changes have been made in their practice. Mr. Brady stated that he will not initial a prescription label until the product is counted and labeled. Mr. Brady stated that the technician initials the label indicating that they counted the medication and put the label on the bottle. The technician is required to use the scanner and the pharmacist also uses the scanner to verify the drug. Mr. Brady stated that the technician does not give the medication to the patient until the pharmacist comes to the window. Mr. Brady stated that the technician shows the medication to the patient on refills.

Ms. Shah stated that she verifies all prescriptions the second time. Ms. Shah stated that she does not allow any prescriptions to leave the counter without counseling.

Mr. Burton stated that the hard copy prescription for new prescriptions is being attached to the bag to ensure counseling occurs.

Complaint #2998

Edwin Espino called and said he was not able to make it to the meeting and will be rescheduled for the January meeting.

AGENDA ITEM 13 - Express Scripts

The following individuals were present from Express Scripts to address the issues before the Board: Gary Sobocinski- Vice President of Pharmacy Practice, Steven Haiber - Senior Pharmacy Director and Pharmacist in Charge at the Hardy site, Roger Morris - Legal Counsel, Debbie James - Regional Vice President and General Manager of Pharmacy Operations for Arizona and New Mexico for Senior Non-Pharmacist Personnel, and Sharon Richardson- Pharmacy Director and Pharmacist in Charge at the Desert Drive site.

Mr. Morris stated that the purpose of this discussion is to follow up on the Board's request from the last meeting. Mr. Morris stated that there are a lot of complaints that have been submitted to the Board in the last 21 months and what can be done about the complaints. Mr. Morris stated that in his letter he tried to summarize the information. Mr. Morris stated that Express Scripts has two facilities in town. Mr. Morris stated that they filled approximately 21 million prescriptions in the time period that the Board is reviewing. Mr. Morris stated that the Board has received approximately 30 complaints. Mr. Morris stated that the Board has issued 2 non-disciplinary letters to Express Scripts during that time period. Mr. Morris stated that the Board and Express Scripts entered into a stipulated stay that ended one year ago. The purpose of the stay was to allow Express Scripts to re-evaluate their processes. Mr. Morris stated that the vast majority of the complaints fall into the customer service area. Mr. Morris stated that Express Scripts wants to take care of these complaints. Mr. Morris stated that Express Scripts business is mail order pharmacy. Mr. Morris stated that Express Scripts tells patients to expect their prescriptions in 10 to 14 days. Mr. Morris stated that these patients are on commercial insurance plans and they receive a financial benefit by having their prescriptions filled through the mail order. Mr. Morris stated that there a small minority of patients that are not happy to be using their service. Mr. Morris discussed the error rate. Mr. Morris stated that their complaint ratio is less than 1 in 750,000 prescriptions.

Mr. Morris stated that Express Scripts does not want to have any complaints. Mr. Morris stated that Express Scripts is expanding their business by 25 to 30% in January. Mr. Morris stated that Express Scripts is going to try to roll out the new business so that they do not have any complaints. Mr. Morris stated that Express Scripts has a process in place that will track when a promise is made and will be followed up. The reports will go to the Pharmacist in Charge and the

General Manager of the facility for follow up. Express Scripts will also assemble an Assurance Expediter team who will follow up on consumer complaints.

Mr. Morris said he asked Express Scripts to look at the past complaints and see if the complaints were documented in the appropriate manner. Mr. Morris stated that Express Scripts told him if that if they had the Expediter team in place that the complaints would have been resolved by this group.

Mr. Morris stated that when Express Scripts contacts a doctor by fax that they receive less than 60 % of their responses back. Mr. Morris stated that the patient is not familiar with the problems.

Mr. Morris stated that they continually improve their processes. Mr. Morris stated that everything that they stated that they would do during the stay has been done and the processes are in place.

Mr. Morris stated that it is generally not the wrong tablet in the wrong bottle. Mr. Morris stated that they will have complaints in the future and he hopes that they are billing issue complaints and not that the patient received the wrong medication.

Mr. Morris stated that they did bring the policies and procedures with them.

Dr. Smidt asked Mr. Morris about the statement in his letter that stated that the Board does not have the authority to sanction a pharmacy for an employee's failure to follow the Pharmacy's internal policies and procedures. Mr. Morris stated that the Board does have authority over every pharmacy and pharmacist and other licensees. Mr. Morris stated that it is his belief based on the past practices of this Board that a single isolated incident of a pharmacist deviating from a policy that is well known and well enforced is not the practice that this Board is engaged in. Mr. Morris stated that he does not see a pharmacy sanctioned when a pharmacist diverts drugs. Mr. Morris stated that he has 21 million prescriptions filled and if has a single pharmacist that deviated from the policy he does not feel the pharmacy should be sanctioned. Mr. Morris stated that he feels that if it is a single isolated incident that the pharmacist should not be sanctioned either.

Dr. Smidt asked Mr. Morris if he feels that the Board has a role to play. Mr. Morris stated absolutely. Dr. Smidt stated that he feels that they are a victim of their own success. Dr. Smidt stated that the number of complaints from Express Scripts seems

to mob the Board. Dr. Smidt stated that the Board does not know how to begin to address the volume of complaints that the Board receives for Express Scripts. Dr. Smidt stated that the Board is there to protect the people who do not know how to voice their complaints. Dr. Smidt stated that patients do not get answers to their concerns in a timely fashion. Dr. Smidt stated that often patients do not have the abilities to maneuver through Express Scripts systems.

Dr. Smidt stated that Mr. Haiber mentioned at the last meeting that there is a queue where prescriptions are left unresolved and these prescriptions never enter into the quality assurance numbers and there is no easy way to retrieve these prescriptions. Mr. Morris stated that there are several points of confusion. Dr. Smidt stated that if patient mails in a prescription and does not receive the prescription in a month it seems that the patient is not notified that they are not getting their medication. Mr. Morris stated that he does not believe that is correct. Mr. Morris stated that there is mail that is not delivered and Express Scripts does not have any control over mail that is not delivered.

Mr. Morris asked Ms. James to address what occurs when the mail is received. Ms. James stated

that when prescriptions are imaged there is a verification report that is worked daily to ensure that prescriptions that are imaged are entered, verified, and shipped. Ms. James stated that this is a quality check that they have in place. Ms. James stated that one of the changes that they have made as part of their process is to enter the prescription while research is being done on the prescription and the customer service advocate can see that the prescription is there. Ms. James stated that when a prescription is entered into the system there is an automated outbound call that is placed to the patient to let them know that they have received their prescription, if the prescription is in house for 5 days another automated outbound call is placed to the patient to let them know that there is a delay, and when the prescription is shipped another automated outbound call is placed. Ms. James stated that after the patient uses the mail order for the first time and they do not receive these calls then the patient knows that there is a problem.

Mr. Morris stated that a number of these changes have occurred over the last 20 months and will continue to change. Mr. Morris stated as a result of one of the conferences this afternoon they have changed their procedures when a verification pharmacist cancels a prescription because they changed their mind.

Mr. Dutcher stated that a large amount of the inspector's time is spent investigating these complaints and if the complaint was handled appropriately at the site the complaints would not come to the Board. Mr. Dutcher stated that Express Scripts complaints account for 10% of the Board's complaints each meeting. Mr. Dutcher stated that he felt that the tone of the letter was arrogant and condescending. Mr. Morris stated that there was no intent to offend and he apologizes if it appeared that way.

Mr. Morris stated that they are trying to deal with the customer complaints. Mr. Morris stated over the last 20 months they have doubled their volume but have not doubled their complaints.

Mr. Dutcher stated that there are facilities that have very few complaints. Mr. Morris stated that with the expected increase in volume they probably will have more complaints but they are trying to put procedures in place to eliminate the complaints coming to the Board.

Dr. Tippet stated from his perspective in reviewing the complaints he pays close attention to the complaints where the patient does not have medication after three weeks and they keep calling the pharmacy with no results. Dr. Tippet stated that this is a public health issue because the patient does not have their medication. Dr. Tippet stated that the Board should categorize these complaints themselves and then talk statistics. Dr. Tippet stated that this has been a one-sided discussion of the data. Mr. Morris stated that if Dr. Tippet looks at the complaints he can see the number of no further actions that the Board has recommended for the complaints. Mr. Morris stated that there can be lots of complaints and if nothing comes from the complaint then it cannot be counted in the numbers. Dr. Tippet stated that he is not talking about the no further action complaints, but is talking about the other complaints where the patients are not receiving their medications in a timely fashion.

Dr. McCoy stated that there is an issue of continuity of care. Dr. McCoy stated over the last two years the Board keeps hearing the same thing over and over indicating that there is something wrong with the processes. Dr. McCoy stated that this is harming the patients. Dr. McCoy stated that there are a number of complaints that keep coming from this organization and it sends up a red flag to the Board.

Dr. Sypherd stated that he is amazed at the volume of prescriptions filled at the facility. Dr. Sypherd stated that there needs to be a dialog developed of what Express Scripts is going to do to reduce errors, complaints, lost prescriptions, and failure to communicate with the patients and doctors. Mr. Morris stated that they do not want complaints. Mr. Morris stated that each incident offers them a chance to improve their processes.

Mr. Van Hassel stated that for the last 12 months no one from Express Scripts could tell the Board that they had policies and

procedures. Mr. Van Hassel stated if they did have policies then they did not understand the policies. Mr. Van Hassel stated that he is glad that Mr. Morris feels that there is no black hole because the people that have appeared in front of the Board prior to this time seem to feel that there is a black hole. Mr. Van Hassel stated that they have not sanctioned the pharmacists but the Board could start to sanction the individual pharmacists if they would like. Mr. Van Hassel stated that there is a better understanding of the policies at the higher level than at the lower employee level. Mr. Van Hassel stated that is why the Board asked Express Scripts to bring the policies because the Board did not believe that the policies and procedures were available. Mr. Morris stated that the policies are available in this paper form and are also available to the employees on ESI net. Mr. Morris stated that the policies are updated as needed. Mr. Morris stated that each function is compartmentalized. Mr. Morris stated that it is a good point that Mr. Van Hassel raised about Express Scripts educating their employees on the procedures.

Mr. Sobocinski stated that the way you have a small number of complaints over 21 million prescriptions is if everyone understands what they are supposed to do. Mr. Sobocinski stated that it would not be possible to fill that many prescriptions with every employee on a different page.

Mr. Sobocinski stated that he believes that since January of 2004, he feels that the Board believes that when someone appears that the information does not go back to their corporate office. Mr. Sobocinski stated that the complaint is reviewed by the compliance counsel, conference calls are held, and the complaint reviewed. Mr. Sobocinski stated that if improvements are made at one facility the same improvements are made at the other facilities. Mr. Sobocinski stated that the policies are looked at across the corporation so that they can assure that effective controls are in place to operate at the highest level that they can.

Mr. Wand asked how long a new employee has to read the policies and procedures and sign off that they have read the policies and procedures. Mr. Wand asked if a new employee is tested after reading the policies and procedures. Mr. Sobocinski stated he is not aware of any process that tests the new employees on the policies and procedures. Mr. Sobocinski stated that in addition to their policies and procedures they have a code of conduct and other things that the employee must read and sign as part of their employment. Mr. Sobocinski stated that he does not know if they have a fixed time. Ms. James stated that as they review their policies and procedures there are added steps that they do in Arizona that they do not do in other parts of the country. Ms. James stated from the analysis that they have done from complaints to the Board and other data from patient satisfaction surveys they have developed additional training courses for the pharmacists and technicians. Ms. James stated that the employees are competency tested upon completion of the training course.

Dr. Tippet asked if complaints are generated differently in Arizona compared to the other states in which Express Scripts operates. Mr. Sobocinski stated that would be difficult to state if the complaints are generated differently. Mr. Morris stated that in Texas the pharmacy must provide the Pharmacy Board's phone number on the information given to the patient.

Dr. McCoy asked if Arizona is the only Board that has issues with Express Scripts. Mr. Morris stated that other Boards have other means to dismiss complaints. Mr. Morris stated that they could obtain those numbers for the Board. Mr. Morris stated that Arizona has more complaints than other states.

Mr. Wand stated that in other states he understands that the Executive Director and Board Members dismiss the complaints before they come to the Board. Mr. Wand stated that Arizona has five of the largest mail order facilities located in the state.

Dr. McCoy stated that the Board is not receiving complaints from the other mail order facilities in numbers equivalent to the number of complaints generated by Express Scripts. Dr. McCoy stated that the Board cannot turn their backs on the number of complaints coming in from the facility. Mr. Morris stated that he does not want complaints and has noted that the Board has sent letters of commendation to pharmacists when a complaint is filed and the pharmacist handles the situation appropriately. Mr. Morris stated that 94% of the people have checked on the survey that they are satisfied or very satisfied with their prescription experience. Mr. Morris stated that they would like to have 100% of the people satisfied. Mr. Morris stated that the Expediter group

should help the situation. Mr. Morris stated that no practice site is immune from complaints it is just the number of complaints.

Mr. McAllister stated that one chain had 14 complaints and was due to one customer being unhappy with the service. Mr. McAllister stated that the patient has no alternative except to come to the Board. Mr. McAllister stated that if it is a practice issue then the Board will focus on the P> on the complaint. Mr. Morris stated that he feels that there are some people that are unhappy for various reasons and he feels that the expediter group will help with these issues.

Mr. Wand stated that he feels that the Board is being criticized and he would like to say something in defense of the Board. Mr. Wand stated that every mail order company that has moved to Arizona has stated that the Board has favorable regulations, the dealings with the Board are easy, and the Board is willing to approve technological advancements. Mr. Wand stated that the issue is the number of complaints that the Board is receiving. Mr. Morris stated that when he speaks at various conferences that he talks about the Board favorably. Mr. Morris stated that the Board is interested in Public health and welfare

and educating the pharmacist. Mr. Morris stated that Express Scripts has stated what they will do to help reduce the number of complaints.

Mr. Pulver asked Ms. James or one of the Pharmacists In Charge how he would be trained if he was a brand new pharmacist showing up for his first day of work. Mr. Pulver asked how a pharmacist would know when there is a problem and when they need to ask for help. Mr. Pulver stated how would a line pharmacist or technician be trained to learn the policies and procedures. Mr. Pulver stated that Express Scripts cannot control the complaints in some cases. Mr. Pulver stated that the upper management is versed on the policies, but how do they make the line employees aware of the policies.

Mr. Haiber stated that when a new pharmacist arrives the pharmacist is given an orientation by a

seasoned pharmacist. Mr. Haiber stated that the pharmacist goes through a training program at their work station. Mr. Haiber stated that the pharmacist is provided written materials on how the process works. Mr. Haiber stated that there is a policy and procedure manual in that area that the pharmacist can access. Mr. Haiber stated that the pharmacist can obtain all the policies, including the policies outside their area, through the corporate intranet. Mr. Haiber stated that they have monthly meetings with the pharmacists.

Ms. James stated that Sharon has been at the facility for three weeks and Ms. James stated that she would address the training at the Desert site. Ms. James stated that the policy is similar to the Hardy facility. Ms. James stated at the Desert site the activities that are performed include the following: data entry, verification, and DUR edits. Ms. James stated that there are some competency tests given at this facility.

Mr. Pulver asked if there is a reverification process to ensure that the employee understood the training. Mr. Pulver stated if the inspector during their investigation talked with the pharmacist and the pharmacist told the inspector that he followed the policy and contacted the patient then the Board would have no issues. Mr. Pulver stated that the Board is not seeing this happen.

Ms. James stated that during the stay they had agreed to extra training hours and that has continued. Ms. James stated that they have meetings and training sessions with the pharmacists and the technicians. Ms. James stated that some of the topics discussed during the meetings are based off the analysis of the complaints.

Dr. McCoy asked Ms. James if they tape customer calls. Ms. James stated that they have a witness technology that they use in their customer service areas. Ms. James stated that the calls are recorded and they can provide side by side coaching. Ms. James stated that they also rate the employee on the tone of voice, the inflection in their voice, the use of the screens, and did they answer the patient's question.

Mr. Wand asked if they would be able to share the turnover rate in the customer service area. Mr. Morris stated that they would share this information if the Board would like. Mr. Morris stated that these are entry level positions and there is probably a high rate of turnover. Ms. James stated that the company would like to extend an invitation to the Board to tour the facility and see how they operate.

Dr. Berry stated that her concern is the connectivity with the patient. Dr. Berry stated that she is aware that it may take a week for a doctor to reply to a fax and the pharmacy does not seem to involve the patient in the process. Dr. Berry stated that if the pharmacy involved the patient there would be fewer complaints. Dr. Berry stated that the patient would be a great advocate in getting the fax back to the pharmacy. Dr. Berry stated that the reason there are so few complaints concerning the dispensing of the wrong drug is that the technology prevents errors from occurring. Dr. Berry stated that the drugs are not arriving on time and the company fails to communicate with the patient. Mr. Morris stated that some of the plans require the company to fill prescriptions in a certain time frame or return the prescription to the patient. Mr. Morris stated that several of plans allow just a few days. Dr. Berry stated that communication is the key. Dr. Berry stated that often the patient does not have a choice of where to obtain their prescription services. Mr. Morris stated that since this is mail order there are policies and procedures for every plan and patient if they are not able to receive their medication in a timely fashion. Mr. Morris stated depending on the contract terms the patient can go to their local pharmacy and every patient has local options. Dr. Berry stated that when the prescription is being shipped the pharmacist at the local pharmacy cannot fill the prescription. Mr. Morris stated that procedures are in place to communicate issues to the patient.

Dr. Smidt asked if the conferences were going to be held today or tomorrow. President McCoy asked if that would create any hardships if the conferences were held tomorrow. Mr. McAllister

stated that he thought the Board had discussed all the issues that Express Scripts were going forward with. Mr. McAllister stated that he is not trying to get them off easy but he feels that the Board has addressed all four conferences. Mr. McAllister stated that he was putting a motion together to state that the issues have been resolved and to move forward. Mr. McAllister stated that he felt the Board did not have to spend anymore time discussing the issues.

Mr. Wand stated that four conferences were scheduled at the Board's request. Mr. Morris stated that complaints 2948 and 2972 involve the facility and Mr. Haiber is there to answer questions. Mr. Morris stated that Mr. Haiber can discuss the changes with the Board. Mr. Morris stated that the other pharmacists and technicians are present.

Mr. Pulver asked Mr. Morris if the Board is going to receive the policies to review. Mr. Morris stated that the policies are confidential and proprietary and they were not sent to the Board because they do not want the policies to be public.

Mr. Wand stated that one complaint is an actual misfill and this is not a customer service issue. Mr. Wand stated that it is complaint # 2958. Mr. Morris stated that the complaint involves the pharmacist transcribing the prescription incorrectly. Mr. Morris stated that the pharmacist is present.

President McCoy asked the Board Members to review complaint #2958 which was a misfill.

Complaint # 2958

Pharmacist Jennifer Seabright, and Pharmacy Technician Katherine Martin were present in response to a consumer complaint. Compliance Officer Sandy Sutcliffe gave a brief overview.

Ms. Sutcliffe stated that the complainant ordered her Estratest and did not receive that prescription and was told that she did not have any refills remaining. The complainant asked her doctor to phone in a refill to the pharmacy. The patient received Inderal LA instead of her Estratest and the prescription was labeled with another doctor's name. The complainant called the pharmacy several times and had difficulty relaying to the customer service employees that this is not her prescription. It took several calls to the pharmacy before the situation was resolved.

President McCoy asked Ms. Seabright to address this issue. Ms. Seabright stated that she took the prescription from the doctor's office and mixed up the patients names.

Dr. McCoy asked Ms. Seabright if she wrote one patient's name on another patient's prescription order. Dr. McCoy asked if the prescriptions are entered on a computer screen. Ms. Seabright replied that she wrote the prescriptions on a blank that is imaged. Ms. Seabright stated that she if she opened another screen on the computer she may have inadvertently written the wrong patient's name on the blank with the other patient's prescription information. Mr. Morris stated that the company is now recording the calls and the pharmacist can play the message several times to obtain the information and check the information that they are transcribing. Ms. Martin stated that they verify the ID number and other information with the doctor's office. Mr. Morris stated that the only activity that the pharmacist is doing now is taking prescriptions from the voice mail and is not dealing with any customer issues.

Dr. McCoy asked Ms. Martin how she was involved. Ms. Martin stated that received a request that the patient was looking for her Estratest and that it had been confused with another medication. Ms. Martin stated that there were previous notes that she did not see that stated that this was not the medication that the patient was expecting. Ms. Martin stated since this was an error the request should have been forwarded to the pharmacist. Ms. Martin stated that she assumed the patient was looking for another prescription for Estratest and her notes indicated that the doctor only called in one prescription and the doctor did not call in the Estratest. Ms. Martin stated that was an incorrect interpretation. Ms. Martin stated that she now pulls up all the notes for that patient and just not the request.

Mr. Dutcher stated since the prescription was transcribed under the wrong name he would assume that another patient did not get their Inderal. Mr. Dutcher asked if there are policies or procedures in effect that would trigger a search to see what patient is missing their Inderal and may have received the Estratest instead. Mr. Haiber stated that they do not have a policy and will make a recommendation that a policy be developed.

Dr. Smidt asked Ms. Martin about her statement that she changed her policy. Dr. Smidt asked if everyone has their own policies. Dr. Smidt asked if any other employees do the same task as Ms. Martin. Ms. Martin replied that she is the only one performing that task but she does have individuals that will help her. Ms. Martin stated that she receives medication requests and usually the requests are because the medication has not arrived. Ms. Martin stated that she did not see all the information. Ms. Martin stated that after reading the other notes she determined that the request should have been handled by someone else.

Dr. Smidt asked Ms. Martin what her role was in the error. Ms. Martin stated that her area is called Dr. Call. Ms. Martin stated that she receives requests to contact the physicians when a patient claims that they did not receive a prescription that the doctor was to have phoned or faxed to the pharmacy. Ms. Martin stated that she sends the physician a fax requesting a new prescription. Ms. Martin stated that she assumed the doctor only wanted the patient to have one medication in this case. Ms. Martin stated that when she discovered it was an error she transferred the error portion to the pharmacist and she faxed the

doctor's office for a new prescription. Dr. Smidt asked if this error was discussed at a meeting. Ms. Martin replied yes.

Mr. Haiber stated that they have reinforced the process of checking all the notes. Mr. Haiber stated that the technician should not have received the request and the complaint should have been sent to the pharmacist as an alleged misfill. Mr. Haiber stated if that occurred they would not be here talking about this complaint. Mr. Haiber stated that they met with the customer service manager concerning the call. Mr. Haiber stated that they reviewed the call center procedures when a patient claims that they received the wrong drug or the prescription has the wrong doctor's name on the bottle.

Dr. Smidt stated that he is not sure that there is proper oversight in this situation. Dr. Smidt stated that there is no way to know if they are even following their own policies and procedures.

Mr. Morris stated that the pharmacist transcribed the prescription wrong and the root cause of the error was the incorrect transcription. Mr. McAllister stated that the transcription error caused the error and resulted in a domino effect.

Mr. Van Hassel stated that he would like to see the policies and procedures that address the Dr. Call process because the technician was not sure if the request should have been transmitted to her. Mr. Van Hassel stated that he would like to see the changes that they made to the policy regarding the notes. Mr. Van Hassel stated that he would like to see the policy for missing medications and he would like to see the quality assurance procedures associated with the process.

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously agreed to dismiss the other three conferences as they had been discussed.

Home Verification

Mr. Wand addressed this issue. Mr. Wand stated that Ms. Sutcliffe and Mr. Dobrowski from the Board Office visited two additional home sites. The issues have been resolved, which included the inactivation of the USP ports and the inability of a user to download any information

AGENDA ITEM 14 - Valimed

Shaun Priest, from Valimed, was present to give the Board a brief overview of his company. Mr. Priest stated that his company has developed technology that allows them to validate medications, including concentration, in seconds using UV light. Mr. Priest stated that their lab is located in Tucson.

Mr. Priest stated that they can validate medications for patient safety to insure that the right amount of drug is in an IV bag. Mr. Priest stated that they can validate narcotic returns to insure that no one has diluted the medications. Mr. Priest stated that they can do accuracy testing for sterile compounding. Mr. Priest stated that they are able to detect counterfeit medications, including tablets.

Mr. Priest stated that currently 5 hospitals are using their services for end product testing and they have 84 signatures on file that they can identify.

President McCoy thanked Mr. Priest for appearing and educating the Board on the services that his company provides.

AGENDA ITEM 15 - Consents

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

Mr. Wand stated that the first consent order involved a technician that was arrested and pled guilty to a Class 6 felony for possession of drug paraphernalia and a Class 1 misdemeanor for driving under the influence. The technician was offered the opportunity to sign a PAPA contract. The technician declined the PAPA contract due to cost and signed the consent order for revocation.

Mr. Wand stated that the second consent order involved a technician that diverted prescription medications for personal use. The technician signed a consent order that suspends her license for 30 days followed by probation for a one year period.

Mr. Wand stated that the third consent order involved the diversion of prescription medications by a pharmacist. The pharmacist did reimburse the company for the cost of medications that were diverted. The pharmacist signed a consent order

that suspends her license for 30 days followed by probation for a three year period. The pharmacist was also fined \$5,000.

The Board Members asked if the respondents must show the order to their employer. Mr. Pulver stated that the respondents are required to furnish all pharmacy employers with a copy of the Board Order throughout the term of their probation.

A roll call vote was taken. (Mr. McAllister - aye, Ms. Honeyestewa - aye, Dr. Tippet - aye,

Dr. Smidt - aye, Dr. Berry - aye, Mr. Van Hassel - aye, Dr. Sypherd - aye, Mr. Dutcher - aye,

and President McCoy - aye). All Board Members present voted to unanimously accept the following Notices of Hearing/Consent Agreement as presented in the meeting book and signed by the respondent:

- Joseph Ramos 06F-002-PHB
- Jennifer Force 05-0020-PHR
- Marta Broksas 05-0017-PHR

AGENDA ITEM 16 - Approval of Schools of Pharmacy

President McCoy asked Mr. Wand to address this topic. Mr. Wand stated by statute the Board is required to approve colleges or schools of pharmacy. Mr. Wand stated that the Board recognizes schools that are ACPE accredited. Mr. Wand stated that there are three new schools.

The schools are Touro University- California College of Pharmacy in California, Southern Illinois University Edwardsville School of Pharmacy, and University of Appalachia College of Pharmacy.

Mr. Wand explained in order to approve an individual for licensure as a pharmacist or intern they must be attending or have attended a college or school of pharmacy approved by the Board.

Mr. McAllister reminded the Board that there is one international school and that school is located in Lebanon. Mr. Wand stated that the Board has approved the school in the past. Mr. McAllister stated that there are allegations being made about the school by some of the students.

The Board Members felt that they could approve the school because at this time the statements made by the students are only allegations and an investigation is being conducted.

On motion by Mr. Van Hassel and Mr. Dutcher, the Board unanimously agreed to accept the

ACPE list of accredited colleges and schools of pharmacy as the Board's approved list of colleges or schools of pharmacy.

AGENDA ITEM 17 - David Clapp- Progress Report from Employer

President McCoy asked Mr. Wand to address this topic. Mr. Wand stated that when Mr. Clapp appeared before the Board on April 6, 2005 to have his license reinstated, the Board requested Mr. Clapp to submit letters from his preceptors or employers during his internship. Mr. Wand stated that this letter is from Mr. Joe Hands, Pharmacy District Manager for K-Mart. Mr. Hands stated that Mr. Clapp has been a model employee and he is happy with Mr. Clapp's performance as an intern.

AGENDA ITEM 18 - Approval of Board Meeting Schedule for 2006

President McCoy asked the Board Members if they had any conflicts with the proposed Board Meeting Schedule for 2006. After discussing the dates, the Board Members approved the schedule below. All meetings will be held at the Board Office, except the July meeting which will be held in Tucson at the convention.

The Board will meet on the following dates in 2006:

- January 25 and 26, 2006
- March 15 and 16, 2006
- May 24 and 25, 2006
- July 27, 2006 (Convention)
- September 20 and 21, 2006

- November 8 and 9, 2006

AGENDA ITEM #19 - Proposed Legislation - Drug Repository Program

President McCoy asked Mr. Wand to address this issue. Mr. Wand stated that he has provided the Board Members with a copy of the proposed legislation for a drug repository program. Mr. Wand stated that Representative Groh, has proposed new statutes that will mimic Ohio's drug recycling program. Mr. Wand stated that he has met with the individuals several times.

Mr. Wand stated that there are several concerns that the Board may want to address. Mr. Wand stated that the statute tries to redefine the terms hospital and prescription drug and he feels that they do not need to be redefined since the terms are already defined in the statutes.

Mr. Wand stated that the Bill requires the Board to set up the repository. Mr. Wand stated that the Board will not set up the repository in the Board offices but could help establish the requirements of where the repository will be located. Mr. Wand stated that the Bill needs to define where the repository is located and the purpose of the repository. Mr. Wand stated that the purpose of the program is to help indigent patients obtain medications.

Mr. Wand stated that the other concern is that the Bill would allow any person to donate medications. Mr. Wand stated that the Board may want to consider who may donate medications because once medications are in the hands of the public the Board cannot guarantee that the medications are stored properly and are not tampered with. Mr. Wand stated that the Board cannot guarantee that the individual did not buy a counterfeit drug over the internet. Mr. Wand state that the Board could suggest possible restrictions and would only include donations from individuals residing in nursing homes, hospitals, or hospices. Mr. Wand stated that the Federal law will not allow the recycling of controlled substances.

The Board agreed that Mr. Wand and the President will write a letter to the Representative expressing the Board's support of the program and the concerns that the Board has about the safety of the donated drugs.

Call to the Public

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.

No one came forth.

There being no further business to come before the Board, **on motion by Dr. Tippett and Mr. Dutcher**, the Board unanimously agreed to adjourn the meeting at 6:00 PM.

November 17, 2005

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

President McCoy convened the meeting at 8:00 A.M. and welcomed the audience to the meeting.

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

AGENDA ITEM 20 - Hearings

Hearing - Kevin Denick

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 Pharmacist License Number 8392, issued to Kevin Denick, Notice of Hearing No. 05-0010-PHR.

The licensee, Mr. Denick, was present without counsel. The licensee did have one witness who would be testifying on his behalf. Mr. Ed Saba was present as a witness for Mr. Denick

Assistant Attorney General Roberto Pulver represented the state. Rich Cieslinski was present as a witness for the state.

The witnesses were sworn in by the court reporter.

Both parties waived the reading of the Notice of Hearing.

The counsel for the state made an opening statement. Mr. Denick made an opening statement.

Mr. Pulver spoke with Mr. Denick and explained that Mr. Denick agreed to findings of fact and is opposing the disciplinary action that will be taken.

Mr. Denick's witness spoke on his behalf.

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

On motion by Mr. Dutcher and Mr. McAllister, all Board Members agreed unanimously to adopt the findings of fact.

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

On motion by Mr. McAllister and Mr. Dutcher, a roll call vote was taken and the Board Members unanimously agreed to revoke Pharmacist license number 8392 issued to Kevin Denick Following are the results of the roll call vote: Mr. McAllister-aye, Ms. Honeyestewa -aye, Dr. Tippet -aye, Dr. Berry - aye, Dr. Smidt - aye, Mr. Van Hassel- aye, Dr. Sypherd - aye, Mr. Dutcher -aye, and President McCoy - aye.

President McCoy advised the respondent that if he is aggrieved by the Board's decision that he may file, with the Board, a written request for a rehearing in the matter specifying the grounds for said rehearing and within thirty (30) days, of the service of the decision. The date of service shall be deemed to have been when the Order is delivered or mailed by certified mail to the last known residential or business address of the respondent.

President McCoy concluded the hearing.

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

Hearing - Ivan Walker

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 Full-Service Wholesale Permit Number 486 issued to Ivan Walker, Notice of Hearing No. 05-22-PHR.

The permit holder, Mr. Walker, was not present.

Assistant Attorney General Roberto Pulver represented the state.

Mr. Pulver made an opening statement.

Mr. Pulver presented evidence.

Mr. Pulver made a closing statement.

On motion by Mr. Dutcher and Dr. Sypherd, all Board Members agreed unanimously to adopt the findings of fact.

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

On motion by Mr. Dutcher and Dr. Sypherd, a roll call vote was taken and the Board Members unanimously agreed to revoke Wholesale Permit number 486 issued to Ivan Walker and fine Mr. Walker \$3,000.00 plus costs. Following are the results of the roll call vote: Mr. McAllister-aye, Ms. Honeyestewa -aye, Dr. Tippet -aye, Dr. Berry - aye, Dr. Smidt - aye, Mr. Van Hassel- aye, Dr. Sypherd - aye, Mr. Dutcher -aye, and President McCoy - aye.

President McCoy concluded the hearing.

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

AGENDA ITEM 21- Review of Compliance with Consent Order for Jeanmarie Hazard

President McCoy asked Mr. Richard Bogden from Sonora Quest Laboratories to address the Board. Mr. Bogden was asked to describe the testing methods for the Board Members.

Mr. Bogden stated that the urine screen for Ms. Hazard was positive for heroin. He stated that the results were confirmed by GC/MS and a Medical Review Officer. Mr. Bogden explained the chain of custody involved with a sample and that no contamination of the sample occurred.

Mr. Bogden stated that they do not do hair testing at their laboratory. Mr. Bogden stated that heroin could be detected in the hair for about 90 days.

Mr. Bogden stated that the sample was run at two separate labs with the same results.

Mr. Van Hassel asked Mr. Bogden if he has ever seen a sample by GC/MS be in error. Mr. Bogden replied no.

President McCoy asked if Ms. Hazard was in the audience yet. There was no reply. Ms. Frush stated that Ms. Hazard was sent a letter requesting her to appear in front of the Board on November 17, 2005 at 10:00 AM. Ms. Frush stated that Ms. Hazard did not confirm that she received the letter. The Board decided that they would proceed.

Ms. Hazard arrived at 10:35 AM.

President McCoy asked Ms. Hazard to come forth and address the Board. Dr. McCoy opened the discussion by stating that Ms. Hazard had signed a consent order with the Board at the last meeting. Dr. McCoy stated that the consent order suspended Ms. Hazard's pharmacist license until this meeting. Dr. McCoy stated that during this period Ms. Hazard was to make arrangements with the Board to have a hair sample tested for heroin.

Ms. Hazard stated that she had attempted to have a hair sample taken three times but it was difficult to find a place that would do the sample. Ms. Hazard stated that she missed a urine screen by accident and she thought that everything was over, so she did not get the hair screen done. Ms. Hazard stated that she is in intensive outpatient therapy at this time.

Mr. Dutcher asked Ms. Hazard if she had a hair sample taken after the last Board meeting. Ms. Hazard replied no. Ms. Hazard stated that she told Mr. Wand that she had a hair sample taken to get him off her back.

Dr. Tippett asked Ms. Hazard if she was in therapy because she was using drugs again. Ms. Hazard replied that she needed to get help. Dr. Tippett asked if Ms. Hazard was staying in touch with the PAPA program. Ms. Hazard replied yes.

Mr. Pulver asked Ms. Hazard what she wanted the Board to do. Ms. Hazard asked if her suspension could be extended because she does not want to work at this time. Mr. Pulver told Ms. Hazard that if she is willing the Board can offer her a consent order at this time for the revocation of her license. Mr. Pulver stated that Ms. Hazard would be able to ask the Board to reinstate her license when she is ready to practice again and has taken care of her problems. After asking questions, Ms. Hazard signed the consent order revoking her license.

AGENDA ITEM 22 - Drug Therapy Management Agreements

Ms. Frush stated that there are still two agreements waiting for committee approval.

Ms. Frush stated that Kenton Brown has terminated his drug therapy management agreement. Ms. Frush was asked if these agreements are site specific. Ms. Frush stated that the pharmacist and the site must be approved. When a pharmacist leaves a particular site, then the agreement will be terminated and a new application must be submitted if the pharmacist moves to a new site.

AGENDA ITEM 23 - Presentation of Plaque by IBM

Scott Whitfield with IBM was present to present a plaque to the Board for the successful launch of the online pharmacist

renewals. Mr. Whitfield stated that the online renewal process was activated on October 15, 2005 and was deactivated on November 15, 2005. Mr. Whitfield stated that 1100 renewals were processed online.

AGENDA ITEM 24 - NABP Newsletter

Mr. Wand stated that the NABP Newsletter that is mailed to the Pharmacists costs the Board about \$10,000 annually to print and mail. Mr. Wand stated that in January, 2006 an individual can go to the NABP website and add or remove their name to a list to receive the NABP newsletter by e-mail each quarter. Mr. Wand stated that this service will not cost the Board any money.

Mr. Wand stated that the Newsletter is all ready on the website and the Board is spending \$10,000 to mail the same letter to all the pharmacists. Mr. Wand stated that since the technicians are licensed the letter should be sent to the technicians. Mr. Wand stated that if the Board mailed the letter to the technicians the Board would be mailing the letter to about 9,000 more licensees. Mr. Wand stated that the Board would be paying close to \$25,000 to mail the newsletter.

Mr. Wand stated that he will send one more letter in January with directions on how to sign up at the NABP site. Mr. Wand stated that a link could be placed on the Board's website.

The Board Members agreed to eliminate the mailing of the newsletter in favor of the e-mail newsletter being sent to the pharmacists and technicians.

AGENDA ITEM 25 - Call to the Public

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.

A community pharmacist came forth to express his concerns about recent pharmacy robberies.

There being no further business to come before the Board, **on motion by Dr. Tippett and Mr. Van Hassel**, the Board unanimously agreed to adjourn the meeting at 11:50 AM.