

THE ARIZONA STATE BOARD OF PHARMACY
HELD A REGULAR MEETING NOVEMBER 6 & 7, 2002
GLENDALE PUBLIC LIBRARY - GLENDALE, ARIZONA

The following Board Members were present: President Bill Jones, Vice President Paul Draugalis, Linda McCoy, Dennis McAllister and Gerald Ritt. Also present were: Compliance Officers Cheryl Frush, Mitzi Wilson, Dean Wright, Ed Hunter and Dennis Waggoner, Drug Inspector Tony Salcido; Deputy Director Hal Wand, Executive Director L. A. Lloyd and Assistant Attorney General Elizabeth"Lisa" Burns.

President Jones called the meeting to order at 9:00 a.m. and requested Hal Wand to explain the process of obtaining pharmacy law continuing education credit for attending. President Jones welcomed all in attendance and requested pharmacy student interns to stand and be recognized.

AGENDA ITEM I - APPROVAL OF MINUTES

On motion by Mr. Ritt and Ms. McCoy, the minutes of August 21 & 22, 2002 Regular Meeting and the Executive session were unanimously approved.

AGENDA ITEM II - PERMITS AND LICENSES

PHARMACY PERMITS:

Prior to discussing individual applications, Hal Wand advised the Board of typographical changes and applicant postponements to Schedule A. Board Members directed questions to staff relating to applications being considered. Deputy Director Hal Wand indicated that several individuals were present representing Eckerd Drug, a long established national chain making application for their first outlet in Arizona, Vice President for Pharmacy Relations Oren Peacock spoke on behalf of the company and others in attendance. Mr. Peacock outlined the company plans for additional pharmacies in Arizona and introduced the management team selected to oversee the Arizona units. Mr. Peacock described the typical pharmacy floor plan and management philosophy and concluded his remarks by praising the board's staff for their assistance in submitting their first Arizona application.

There being no further questions or comments relating to pharmacy permits: **on motion by Mr. Draugalis and Ms. McCoy**, the Board unanimously agreed to approve all resident pharmacy applications on except Riverview Pharmacy that was not considered due to no representative being present.

IN-STATE

<u>Pharmacy</u>	<u>Location</u>	<u>Owner</u>
Bashas' United Drug #100	3275 N Swan Rd., Tucson, AZ 85712	Bashas' Inc.
Bashas' United Drug #102	20700 N Lake Pleasant Rd., Peoria, AZ 85382	Bashas' Inc.
Bashas' Untied Drug #116	3200 Maricopa Ave., Lake Havasu City, AZ 86406	Bashas' Inc
Bashas' United Drug #119	1050 E Pecos Rd., Chandler, AZ 85225	Bashas' Inc.
Casa Grande Infusion	317 B E. Cottonwood, Casa Grande, AZ 85222	Korman LLC
CVS Pharmacy #3625	8245 W Thomas Rd., Phoenix, AZ 85033	Thomas Phoenix CVS, LLC
CVS Pharmacy #3745	10727 W Olive Ave., Peoria, AZ 85345	CVS 3745 Peoria, LLC
CVS Pharmacy #3749	2840 N Dysart Rd., Goodyear, AZ 85338	Goodyear CVS, LLC
CVS Pharmacy # 3264	3210 F Union Hills Dr., Phoenix, AZ 85050	CVS 3264 Phoenix, LLC
Eckerd Drug #5300	9901 B W. Thunderbird Rd., Sun City, AZ 85351	Eckerd Corporation
Express Scripts	7909 S. Hardy, Tempe, AZ 85282	ESI Mail Pharmacy Service
Hospice Pharmacia	51 W Third Street Suite 111, Tempe, AZ 85281	Excelle Rx Inc.
Osco Drug #0995	10805 N Oracle Rd., Oro Valley, AZ 85737	Albertson's Inc.
Osco Drug #1004	3130 W Carefree Hwy., Phoenix, AZ 85009	Albertson's Inc.
Osco Drug #1021	2935 E Riggs Rd., Chandler, AZ 85249	Albertson's Inc.
Osco Drug #9347	1525 N. Central Ave., Phoenix, AZ 85004	Osco Drug of Texas Inc.
Sam's Club #10-4732	18501 N 83 rd Ave., Glendale, AZ 85308	Sam's West Inc.
Southern Desert Pharmacy Prescott	123 E Merritt Ave., Suite 200, Prescott, AZ 86301	Covenant Care Inc.
Target Pharmacy T-1432	16825 E Shea Blvd., Fountain Hills, AZ 85268	Target Corporation
Wal-Mart #10-3241	18551 N 83 rd Ave., Glendale, AZ 85308	Wal-Mart Stores Inc.
Walgreens Drug #7018	6838 N 7 th St., Phoenix, AZ 85014	Walgreen Arizona Drug Co.
Walgreens Drug #7232	9250 N Coachline Blvd., Marana, AZ 85743	Walgreen Arizona Drug Co.

Mr. Wand advised the Board that all Non-Resident Pharmacy permits were in order, all fees have been received and no concerns have been found.

On motion by Mr. Draugalis and Mr. Ritt, the Board unanimously approve the following Non-Resident Pharmacy Permits:

NON-RESIDENT (out of state)

<u>Pharmacy</u>	<u>Location</u>	<u>Owner</u>
Acology Prescription Compounding Inc.	1112 B Ironwood Dr., Couer d'Alene, ID 83814	Acology Prescription Compounding Inc.
Advance Rx.com	#1 Great Valley Blvd., Wilkes-Barre, PA 18076	Advance PCS Health Systems LLC
Byfield Drug Inc.	12 Kent Way #120E, Byfield, MA 01922	Byfield Drug Inc.
Excelle Rx	1680 Century Center Pkwy, Ste 10, Memphis, TN 38134	Excelle Rx, Inc.
EZ Petshop.com Inc.	181 S Franklin Ave., Valley Stream, NY 11581	EZ Petshop.com Inc.
Homelink National Pharmacy	381 Van Ness Ave., #1507, Torrance, CA 90501	Living Well Pharmacy Inc.
IsoRx Radiopharmacy	3801 Sacramento St., #435, San Francisco, CA 94118	IsoRx RadioPharmacy Corp.
IV Solutions of Lubbock	3712 20 th St., Lubbock, TX 79410	Maxor National Pharmacy Services
Omnicare Phcy of Perrysburg	7643 Ponderosa Rd., Perrysburg, OH 43551	Westhaven Services Co.
Option Care Enterprises Inc.	1350 Highland Dr., Suite D, Ann Arbor, MI 48108	Option Care Enterprises Inc.
Reliant Pharmacy Services	1930 Kellogg Ave., Carlsbad, CA 92008	Lincare Pharmacy Services Inc.
SeniorMed Pharmacy	14707 E Second Ave., Aurora, CO 80011	SeniorMed Corp.
Stevens Phamracy	1525 Mesa Verde Dr., Costa Mesa, CA 92626	Harbor Drug Co. Inc.
Unique Pharmaceuticals Inc.	5920 S General Bruce Dr., Temple, TX 76502	Unique Pharmaceuticals Inc.
Valley Home IV Services	109 W Gentile, Layton, UT 84041	Rotech Coproration

WHOLESALE DRUG PERMITS

Deputy Director Wand provided comment relating to the applications for wholesale drug permits. Mr. Wand asked if Dr. Stuart Agren was present, Dr. Agren approached the dias and introduced himself to the Board. Mr. Wand provided background information and Dr. Agren responded to questions from the Board. Following an extensive exchange of questions and answers, President Jones indicated that the Board wished to have more definitive information to issues relating to manufacturing, labeling and federal approval/oversight of the 'allergy serum' Dr. Agren intends to distribute to other medical practitioners for office use. President Jones asked if Dr. Agren could get the information and return the next day? Dr. Agren felt he could and agreed to return on Thursday to continue the discussion. *On Thursday 11/7/02, Dr. Agren returned with additional information relating to the Board's questions from the previous day. Compliance Officer Waggoner provided information on federal oversight/regulation of biologicals. On conclusion of the Thursday discussion the Board's concerns were satisfied and the permit was approved pending federal product registration.*

Motion to approve HC Products LLC (resident-wholesale drug) made by: Mr. Draugalis and Ms. McCoy, unanimously passed.

Motion to approve Family Allergy Clinic (resident - wholesale drug) made by Mr. McAllister and Mr. Ritt, passed unanimously pending confirmation of compliance with federal product registration.

<u>Wholesaler</u>	<u>Location</u>	<u>Owner</u>
Family Allergy Clinic	4545 E Southern Ave., Mesa, AZ 85260	Stuart Agren
HC Products LLC	5522 W. Roosevelt St., Phoenix, AZ 85043	(O)HCP Acquisition LLC

(O)= New Ownership

PHARMACIST AND PHARMACY INTERN LICENSES

Mr. Wand advised the Board that between August 2, 2002 and October 21, 2002 the office has processed 143 applications for Pharmacist Licensure and 217 Intern Applications. Following a review of the applicants and on

motion by Mr. McAllister and Mr. Draugalis the Board unanimously approved pharmacist license applications number 13361 through 13452 and Intern Pharmacist applications number 05670 through 05886.

See ATTACHMENTS A and B for names.

AGENDA ITEM III - SPECIAL REQUESTS

No. 1 Maricopa County

Pharmacist Ron Keehn appeared representing Maricopa Integrated Health System, Compliance Officer Mitzi Wilson was present to discuss her compliance visit findings. Ms. Wilson presented an overview of the discussion at the August Board meeting and her subsequent visit impressions. Ms. Wilson stated that the current request is for a waiver for 'pre-packaging' review by a pharmacist but retention of the 'post-packaging' verification by a pharmacist.

Board members listened to both Ms. Wilson and Mr. Keene and then directed questions to both parties. Several weighty issues were discussed and satisfactorily addressed; **on motion by Mr. Ritt and Mr. Draugalis**, the Board unanimously agreed that Maricopa Integrated Health may operate a prescription drug prepackaging system without having pre-packing pharmacist confirmation of product etc., but retaining the post-packaging verification of accuracy by a pharmacist.

No. 2 Walgreens Healthcare Plus(WHP)

Several representatives from WHP were present for this discussion, including attorney Jill Drell and pharmacist Steve Vickhammer. Compliance officer Cheryl Frush provided an overview of her visit to the 'home-office' setting of the 'off-site' verifying pharmacist in this pilot program. Walgreens spokespersons presented their statements and comments. This agenda item is a follow up report and discussion opportunity pursuant to the Board's pilot program endorsement at the August 2002 meeting. Ms. Frush's report was detailed and complete. Board members directed inquiries to both Ms. Frush and the Walgreens representatives present. A variety of topics were addressed, a few concerns surfaced including that the location is not listed (permitted) as an Arizona pharmacy as well as healthcare information security. Company representatives understood the Board's concerns and offered explanations. Board Members suggested that possibly administrative rules need to be considered. Walgreens representatives assured the Board that as a HIPAA 'covered entity' they will fully comply with healthcare information security. A Board Member suggested that the 'remote' site verification is not all that different from on site verification. The unresolved remaining issue appears to focus on the Board's authority to conduct compliance reviews (inspections) in a private residence. In conclusion, and **on motion by Mr. McAllister and Mr. Ritt**, the Board unanimously agreed to continue the 'pilot program status' for 12 months and to require a 6 month progress/status report from WHP.

President Jones declared a brief recess and reconvened the meeting at 10:45 a.m.

NO. 3 Express Scripts

The submitting party chose to not present their request at this meeting...no action taken by the Board on this item.

No. 4 Kirit Patel, R. Ph., appeared on his own behalf requesting a waiver of minimum community pharmacy space requirement. Mr. Patel described the reasons for his request and presented assurances that were such requests granted, he would monitor compliance closely to insure public safety. Board staff provided their position relevant to this request. Board members directed questions to Mr. Patel and stated that there is no provision, or basis upon which the Board can grant his request. President Jones cited the statute authorizing the Board to consider special requests and the current issue fails to meet the requirements of the statute. President Jones thanked Mr Patel and advised him that his request has no standing and can not be considered.

No. 5 Jon S. Bach, R.Ph.

Jon appeared on his own behalf requesting that the Board terminate the probation on his pharmacist license. Mr.

Bach provided information to support his request, including that he has successfully fulfilled the requirements (conditions) itemized in Board (Consent) Order 0000-13-PHR. Board members directed questions and comments to Mr. Bach relative to his request and upon concluding their dialog, **on motion by Mr. McAllister and Mr. Draugalis**, the Board voted unanimously to grant Mr. Bach's request of terminating the probation on his license.

No. 6 George C. Ester, R. Ph. appeared on his own behalf requesting permission to proceed with pharmacist licensure by reciprocity. Mr. Ester stated that his license had been revoked by the Florida Board after he had left the state and rather than contest the charges he signed a consent agreement. He stated that his Mississippi license (by examination) was in-good-standing; a statement that is confirmed by the NABP reciprocity application on file with the board. Following an exchange of questions and answers, and **on motion by Mr. Draugalis and Mr. McAllister**, the Board voted unanimously to approve Mr. Ester's request to precede with licensure in Arizona.

No. 7 Carmen M. Torres, appeared on her own behalf requesting permission to sit for the pharmacy law examination for the sixth time in her quest to become a licensed pharmacist in Arizona. Because Ms. Torres was given permission by the Board at the August 2002 meeting to take the exam a fifth time, which she did...but was unsuccessful; the Board very gently, yet very persuasively advised Ms. Torres that while they appreciated her interest and perseverance...in the interest of public health and safety, they were unable to authorize an additional sitting for the law exam until they received good evidence of written and spoken English proficiency. This decision was unanimously confirmed **on motion by Mr. Draugalis and Mr. Ritt to deny Ms. Torres' request**.

No. 8 Kevin McConnell failed to appear at this meeting, no action was taken by the Board in his absence.

No. 9 Thomas McLean appeared on his own behalf seeking reinstatement of his suspended pharmacist license or approval to obtain a graduate pharmacist intern license. Mr. McLean added that he was aware that Graduate Intern Licenses were not intended for this purpose.

A number of Board Members directed questions to Mr. McLean relevant to his physical and psychological preparedness to return to practice. Mr. McLean denied participation in the PAPA program, he denied having any family or treatment centered support group and he admitted to currently taking a prescription controlled substance medication under treatment by a physician.

Mr. McLean became agitated and impatient as various Board Members described the substance abuse treatment typically experienced by successfully rehabilitated pharmacists. Mr. McLean stated that he needs a license to earn a living. Board members iterated the failed opportunities presented to Mr. McLean for rehabilitation. Becoming increasingly agitated, Mr. McLean lost his composure and abruptly left the meeting room.

In Mr. McLean's absence, and **on motion by Mr. Draugalis and Mr. Ritt**, the Board unanimously agreed to deny Mr. McLean's request, noting that his signed Consent Agreement clearly indicates that he may appear on or after January 1, 2003.

No. 10 David S. Shoup failed to appear at this meeting. Deputy Director Wand advised the Board that Mr. Shoup had provided some additional information pursuant to the Board's previous request, this information is included in the agenda material. Upon reviewing the material provided by Mr. Shoup, Board Members determined that part of the requested information was not provided. There being no further discussion, **on motion by Mr. Draugalis and Mr. McAllister** the Board unanimously agreed to deny Mr. Shoup's request and requested the staff to so advise Mr. Shoup.

No. 11 Mark Heisler, appeared on his own behalf and with the support of the PAPA program and Director of Pharmacy Operations for Banner Health, Chuck Berry. President Jones asked Mr. Heisler to state his request and to summarize his rehabilitation activities in anticipation of returning to practice. Following Mr. Heisler's presentation, Lisa Yates, and Dennis Johannes, provided statements confirming Mr. Heisler's successful participation in PAPA and the endorsement of his return to practice. Chuck Berry confirmed that Mr. Heisler has been a valuable asset to Banner Health and that he supports Mark's return to practice request. Mr. Heisler thanked the Board for providing a

program that allows pharmacists to establish the foundation for recovery and to move in the direction of rehabilitation and return to practice.

There being no further questions, **on motion by Mr. McAllister and Mr. Draugalis**, the Board unanimously agreed to stay Mr. Heisler's suspension, place his license on probation and require 48 urinalysis tests per year until further notice. *Board Member McCoy declared a conflict of interest and did not participate in this decision.*

President Jones recessed the meeting for lunch and reconvened the meeting at 1:15 p.m.

AGENDA ITEM IV - REPORTS

A. Executive Director

Mr. Lloyd distributed copies of his report to the Board and summarized it's contents. Mr. Lloyd also provided copies of the Board's financial report through September 2002 indicating that the Board's fiscal year unspent appropriation is sufficiently adequate to fund the Board's needs through the end of the budget year. Mr. Lloyd closed his report by inviting questions or comments.

B. Deputy Director

Mr. Wand directed the Board's attention to the Compliance Officer Activity Report in the agenda material. He pointed out that we are slightly behind last year's inspection pace but he is confident that every Arizona pharmacy will be inspected by the end of the calendar year. Mr. Wand summarized a few of the non-inspection activities that have occupied the compliance staff in the past several months. Mr. Wand invited questions or comments from the Board.

C. Pharmacists Assisting Pharmacists of Arizona(PAPA)

Lisa Yates, Program Administrator for PAPA was present and provided a written report of the program for the calendar quarter. Ms. Yates indicated a total of 34 active participants with 2 new participants since August 22nd and one participant that has completed their program. Ms. Yates concluded her remarks by inviting questions/comments from the Board.

D. Arizona Pharmacy Association(APA)

Kathy Boyle, Executive Director of the Arizona Pharmacy Association was present and provided an overview of the association's recent activities and programs. Ms. Boyle reminded the Board of up-coming legislative activities and related endeavors. Ms. Boyle commented on the Drug Therapy Management Advisory Committee Appointments and the APA's interest in moving ahead without delay in this matter. Ms. Boyle invited comments or questions from the Board.

AGENDA ITEM V - PROPOSED RULES

President Jones invited Compliance Officer/Rules Writer Dean Wright to address the Board.

Mr. Wright summarized the proposed changes to the Long Term Care Facility(LTCF) rules and advised the Board of the comment and requests that have been submitted in this matter. Mr. Wright indicated his willingness to work with the stakeholders and reminded everyone of the framework we are obliged to work within.

President Jones invited others in the audience wishing to comment on these rules to approach the dias. Pharmacist Tom O'Neil asked to speak. Mr. O'Neil provided an overview of the LTCF provider pharmacy activities and the limited financial resources that constrain the industry. O'Neil provided information on benefits to the patient and the provider of having an optional drug formulary for a LTCF. Mr. O'Neil invited questions/comments from the Board and staff.

Following the conclusion of discussion of LTCF Rules President Jones asked for a straw-vote from the Board Members as to their feelings about a formulary and whether it's best to be required or optional. By a show of hands the Board indicated 4 to 1; preferring a permissive, not mandatory, formulary.

Mr. Wright presented a revised Controlled Substance Destruction Substantive Policy for Board review and action. Following their discussion, the Board voted unanimously to adopt the revised Policy relating to Board Staff Destruction of Unwanted Controlled Substances.

In conclusion, Mr. Wright advised the Board that the Governor's Regulatory Review Council had recently given final approval to revised rules for Hospital Pharmacy and for Veterinary Drugs, both will become effective January 5, 2003.

AGENDA ITEM VI - COMPLAINT REVIEW

The consumer complaint sub-committee met prior to the Board Meeting to review 16 consumer complaints and make recommendations to the Board for resolution. Committee member Paul Draugalis presented the subcommittee's findings and recommendations. Mr. Draugalis solicited comments and/or inquiries from Board Members relevant to the recommendations or the complaints themselves. Each complaint was addressed individually, on conclusion of the Board's discussion the Board either concurred or amended the subcommittee's recommendations. The following summary represents the final decision of the Board which was memorialized on motion by Mr. McAllister and Ms. McCoy and unanimously agreed on by the members.

- Consumer Complaint No. 2568 - Appear before the Board
- Consumer Complaint No. 2577 - Letter of Warning to Pharmacist
- Consumer Complaint No. 2578 - No Further Action
- Consumer Complaint No. 2580 - Letter of Warning to Pharmacist
- Consumer Complaint No. 2581 - Hearing on Violations/Consent Agreement
- Consumer Complaint No. 2582 - No Further Action
- Consumer Complaint No. 2583 - No Further Action
- Consumer Complaint No. 2584 - Notice of Hearing to Pharmacist
- Consumer Complaint No. 2585 - No Further Action
- Consumer Complaint No. 2586 - Appear before the Board (R.Ph and Technician)
- Consumer Complaint No. 2587 - Appear before the Board
- Consumer Complaint No. 2588 - Appear before the Board
- Consumer Complaint No. 2589 - No Further Action
- Consumer Complaint No. 2591 - Letter of Warning to Pharmacist
- Consumer Complaint No. 2594 - No Further Action
- Consumer Complaint No. 2596 - No Further Action

This being the last agenda item of the day, President Jones announced that audience members may direct comments to the Board, however because the comments are not listed on the agenda the Board is only able to listen and not reply.

President Jones recessed the meeting at 4:35 p.m.

President Jones reconvened the meeting in open session at 9:05 a.m. 11/7/02

AGENDA ITEM VII - Potential for Rulemaking/Pharmacist Administering Immunizations and Ordering Lab Tests

President Jones invited discussion on this agenda item. Arizona Pharmacy Association (APA) Executive Director Kathy Boyle approached the dias and provided an overview of the origin of this agenda item. The APA is interested

in knowing if pharmacists in Arizona have the necessary statutory authority to administer immunizations and order/interpret patient lab tests, often referred to as 'CLIA waived lab tests'. Ms. Boyle stated, if Arizona pharmacists have the authority, APA is prepared to offer continuing education programs designed to train pharmacists in this area. The issue of ordering lab tests appears to be of interest to pharmacists practicing in unique doctor, patient, pharmacist agreements where properly trained pharmacists confer with medical practitioners to select the optimum drug therapy for patients.

Executive Director Lloyd commented that he had received information from a reliable source indicating that the 'practice act' does establish authority for pharmacists to administer prescription drugs to patients under the authority of a licensed medical practitioner. However that same law is silent as to ordering/interpreting patient lab tests.

Discussion between and among Board Members followed. **On motion by Mr. Ritt and Mr. Draugalis** the Board voted unanimously to have staff pursue the necessary statutory authority enabling qualified pharmacists to administer immunizations and/or order 'CLIA waived patient laboratory tests'.

AGENDA ITEM VIII - CONFERENCES

COMPLAINT NO. 2546

Pharmacist Siva K. Kamineni and Supervisor Kay Ackerman appeared pursuant to a consumer complaint alleging that a prescription was dispensed with the wrong patient(family member's) name on the label. Compliance Officer Cheryl Frush provided a summary of her complaint investigation. President Jones requested pharmacist Siva K. Kamineni to comment on the incident. Mr. Kamineni apologized for any inconvenience that resulted from this situation. President Jones asked for a clarification of the pharmacy technician duties in the pharmacy where the incident took place. Others inquired as to the prescription volume and staffing as well as the policies and procedures for addressing a consumer complaint. Following responses to these questions, President Jones asked what practice/procedure changes the pharmacist has made to preclude the recurrence of such incidents. Participants were excused and encouraged to always verify all the items on a label before dispensing.

COMPLAINT NO. 2551

Pharmacists Robert Broberg and Todd Voss and Supervisor Darren Gettings were present; the result of a consumer complaint.

Compliance Officer Dean Wright provided the findings of his investigation in this matter. Mr. Wright believes that the dispensing pharmacist may have misfilled the prescription and the verifying pharmacist failed to catch the error.

President Jones asked both pharmacists to comment on their recollections of this incident. Testimony revealed that in addition to the two pharmacists...a pharmacy intern was also involved in the dispensing process. Consensus is that the final responsibility rests with the pharmacist to properly verify all aspects of the dispensing process.

Following an exchange of dialog between Board Members and the pharmacists; President Jones asked if any procedural changes have been made to avoid future errors. Mr. Voss indicated that policies have been initiated to improve the procedure.

COMPLAINT NO. 2555

Pharmacist Steve Bui and Supervisor Melanie Malee appeared due to a consumer complaint alleging a dispensing error.

Compliance Officer Cheryl Frush presented the findings of her investigation including that the consumer stated there had been previous dispensing errors involving her prescriptions at this pharmacy.

President Jones requested Pharmacist Bui to describe for the board his recall of the incident reported to the Board. Mr. Bui stated that he is aware of the requirement to hand initial the label upon verification and he offered no excuse for not doing so. President Jones also inquired about the report of the patient refusing counseling...although no record of the refusal was made. Mr. Bui indicated that efforts have been made to more closely follow this board requirement.

In dismissing Mr. Bui, President Jones stressed the importance of following regulations that are designed to protect the public health and safety.

COMPLAINT NO. 2560

Patrick Farney, R.Ph. and supervisor Darren Gettings appeared pursuant to a consumer complaint alleging an error in directions on a prescription for an infant.

Compliance Officer Dean Wright summarized the findings of his compliant investigation including what appeared to be some basic practice omissions, such as verifying a specific dose of a medication prescribed for an infant.

Pharmacist Farney was asked by President Jones to comment on his recollection of the events leading to this complaint. Mr. Farney stated that this event has caused him considerable anguish and he spent a lot of time analyzing the issues involved. He was particularly concerned because he did not hear about it until two months after it happened...which kept him from helping to resolve it.

Board members offered comments including: pediatric prescriptions, especially those for very young patients demand careful review and confirmation-even calls to the prescriber and the fact that the pharmacy computer did not warn the pharmacist of a potential problem. Another concern was that some pharmacy computers encourage 'warning over-rides' by making the process so simple.

In dismissing Mr. Farney, President Jones reinforced the need to carefully calculate medication dosed for infants.

President Jones called a brief recess and reconvened the meeting at 3:07 p.m.

COMPLAINT NO. 2563

Pharmacists Gavin Kivisto and Gene Ashworth were present with Melissa Christensen and Bruce Painter, pharmacist supervisory staff for WalMart.

Compliance Officer Dean Wright summarized the findings of his compliant investigation.

President Jones invited pharmacists Kivisto and Ashworth to comment on their recollection of the events leading to this compliant. Mr. Kivisto apologized to the patient previously and to the Board at the meeting for being a party in this incident. He continued by describing the events, as he remembers them, that led to the compliant.

President Jones asked both pharmacists to report what practice changes have been implemented since this happened. An overview of revised policies was provided. President Jones concluded the discussion by encouraging the pharmacists to make changes in their practice from the lessons learned in this discussion.

COMPLAINT NO. 2564

Board Member Paul Draugalis recused himself in this matter and did not participate.

Pharmacist Jim Schleiger appeared with supervisor Terry Dane pursuant to a consumer complaint alleging that the wrong strength of a prescription tablet was dispensed.

Compliance Officer Cheryl Frush provided an overview of her investigation in this matter.

President Jones invited Mr. Schleiger to share his recollection of the events impacting this complaint. Mr. Schleiger stated that he believes he counseled the patient relevant to this prescription and that his only explanation is that he was interrupted or had a momentary concentration lapse during the process.

President Jones related this event to comments made earlier with other pharmacists where interns or technicians have been extensively involved in the dispensing and the pharmacist is involved in other matters. Supervisor Dane shared a couple of practice procedure changes that Mr. Schleiger has implemented to improve future outcomes.

President Jones dismissed the participants by encouraging them to always focus on the issue before them and avoid being distracted.

COMPLAINT NO. 2566

Sharon Richardson and supervisor June Piposar were present to discuss the events related to a pediatric prescription that apparently was both incorrectly written and dispensed.

Compliance officer Dennis Waggoner summarized the findings of his complaint investigation including the fact that the prescription was written by a physician assistant and dispensed by the pharmacist as written, without verifying that the prescribed dose was correct for the patient. In reality the dose was several times the proper dose for the patient's weight.

President Jones asked Pharmacist Richardson to recount the events involved in filling the prescription and those at the time the dosing error was discovered. Ms. Richardson began by stating that she was very upset knowing that the directions were incorrect for the child's weight. She indicated that there was no computer warning that the dose was not correct. She also stated that is not an excuse but it was reality. She indicated that since this event she has carefully reviewed all pediatric dosages and confirmed that they were in the safe range for the patient. President Jones also focused on patient counseling as a way to detect errors in prescriptions and encouraged all pharmacists to not minimize opportunities to interact with patients.

COMPLAINT NO. 2567

Gabriel Rosenberg, R. Ph. and supervisor Rich Cieslinski were present relevant to an alleged dispensing error.

Compliance officer Mitzi Wilson provided a summary of her complaint investigation. Ms. Wilson indicated that it appears that a pharmacy technician selected the wrong strength from the computer menu and the verifying pharmacist did not detect the error which resulted in the patient receiving the right drug but wrong strength. Ms. Wilson also learned that the patient had to call the pharmacy service center four times during nine days to obtain assistance.

President Jones asked pharmacist Rosenberg if Ms. Wilson's report was what he remembered. Mr. Rosenberg acknowledged that he failed to detect the data entry error, however he did not comment on the consumer service center incident. Mr. Cieslinski was asked to comment on this item. Mr. Cieslinski stated that it was his understanding that all consumer calls requesting to speak to a pharmacist were promptly directed to a pharmacist.

President Jones asked Ms. Wilson to verify Mr. Cieslinski's statement by calling the consumer service center and asking to speak to a pharmacist. (This was done shortly after the conference and Ms. Wilson confirmed that she was promptly connected to a pharmacist.)

Mr. Rosenberg was encouraged to be more careful in the future.

COMPLAINT NO. 2572

Pharmacist Neil Elsten and supervisor Steve Mulryan appeared pursuant to a consumer complaint alleging that a prescription was dispensed in a non-child-safe container and that the patient was not counseled when the prescription was picked-up...and there were no records to indicate the patient refused counseling.

Compliance officer Ed Hunter provided a brief statement of his investigative findings.

President Jones invited Mr. Elsten to provide his recollection of the events. Mr. Elsten stated that inattention to details caused this complaint to be filed, he further stated that a second pharmacist two days later failed to counsel the patient. Elsten also reported that a store meeting had been held to emphasize the 'zero tolerance' relating to patient counseling.

President Jones reminded Mr. Elsten that this was his second conference.

COMPLAINT NO. 2573

Pharmacist David Kitley and Supervisor June Piposar appeared relevant to a consumer complaint involving the dispensing of the wrong strength of a medication.

Compliance officer Mitzi Wilson provided a summary of her complaint investigation.

President Jones asked Mr. Kitley to provide a statement of the events impacting on this complaint. Mr. Kitley stated that he has counseled patients for 40 years(long before it was required). Further he feels that he is diligent in counseling patients. He also noted that this complaint was filed 30 days after the prescription was filled...making it difficult to recall the details of the incident. Kitley concluded that it was possible that he neglected to counsel but that was not likely.

President Jones encouraged Mr. Kitley to carefully verify the accuracy of every prescription and to continue to counsel every patient.

COMPLAINT NO. 2576

Pharmacist Brian Jones and Supervisor Jim Foy appeared pursuant to a consumer complaint alleging a patient received both her prescriptions and another patient's prescription and that the directions for use were confusing.

Compliance officer Cheryl Frush reported the findings from her investigation. Generally she confirmed that the consumer's allegations were correct in that an additional prescription was included with her prescription and the directions were confusing due to a labeling mix-up.

President Jones asked Pharmacist Jones to comment on Ms. Frush's report. Mr. Jones confirmed the allegations in the report and indicated that he has revised his counseling and verification procedure in a effort to preclude a repeat of this incident.

President Jones thanked Mr. Jones for appearing and encouraged him to carefully follow his revised practice standards.

COMPLAINT NO. 12 - Multiple Compliance Inspection Violations

Pharmacist/Owner Steve Weber appeared pursuant to continuous compliance violations as documented by three successive pharmacy inspection reports reflecting the same violation with no improvement.

President Jones requested Compliance officer Dennis Waggoner to describe the inspection reports that document the

compliance deficiency and the lack of improvement. Mr. Waggoner called the Board's attention to the three inspection reports included in the agenda material. Mr. Waggoner told the Board that he personally called this issue to Mr. Weber's attention. Documenting patient medical conditions has been a required patient profile element for more than two years.

President Jones asked Mr. Weber if the inspection reports were accurate; he indicated they were. President Jones inquired if there was a reason that he was not documenting this information. Mr. Weber offered no explanation. Board Member Draugalis asked Mr. Weber why he was not in compliance after three inspection report deficiencies. Again, Mr. Weber offered no explanation.

Board Member McAllister offered a motion and Mr. Draugalis seconded the motion to discontinue the discussion and request the staff to issue a Notice of Hearing to Mr. Weber because he failed to correct an inspection deficiency on three successive inspections.

AGENDA ITEM IX - CONSENT AGREEMENTS

President Jones asked Deputy Director Hal Wand to provide an overview and current status of the scheduled Consent Agreements.

Mr. Wand indicated that Consent to Entry of Order 02-0018-PHR issued to Kevin Strychalski is signed and awaiting Board action. President Jones asked if there was any discussion in this matter. No discussion was initiated. President Jones indicated a motion was in order.

On motion by Mr. Draugalis and Ms. McCoy, the Board voted unanimously to accept the Consent to Entry of Order in the matter of 02-0018-PHR issued to Kevin Strychalski as presented.

In the Matter of Notice of Consent Agreement and Order 02-0019-PHR issued to Kristine Wells - Pharmacist License number 11976....Mr. Wand indicated that the Order has been reviewed by the Respondent and the Respondent has advised the staff she opts to not sign the agreement.

A discussion of the Board's options followed. **On motion by Mr. Draugalis and Mr. McAllister the Board voted unanimously to rescind Consent Agreement and Order 02-0019-PIIR, issued to Kristine Wells, Pharmacist License number 11976; further to request a copy of Respondent's treatment records from Pharmacists Assisting Pharmacists of Arizona; further to direct staff to draft a Notice of Hearing in this matter.**

AGENDA ITEM X - Pharmacy Technicians License/Registration Update

Executive Director Lloyd presented a brief report of recent activities related to this topic. Mr. Lloyd cited participation in stakeholder meetings with interested parties and meetings with key legislative leaders to promote the issue. Mr. Lloyd thanked Kathy Boyle and APA for their assistance. The Committee of Reference meeting in this matter is November 21, 2002 and Board Members were encouraged to attend.

President Jones solicited comments from the audience. Minimal input was received, and it focused on the possibility that a technician in training would be required to obtain a license, which may (or may not) be paid by the pharmacy that hires such persons. Concern is that not all new hires will complete the training and become licensed and the company would be out the license fee. Board comment indicated that regulations will not *require* pharmacies to pay for the training license and pharmacies could advise techs in training to pay for their license...with the company reimbursing the tech upon successful completion of licensure. There being no further comments the discussion was closed.

AGENDA ITEM XI - Executive Session-Legal Advice Foreign Pharmacies

Executive Session Minutes are closed to public disclosure.

On concluding the Executive Session - President Jones reconvened the Board in Open Session.

AGENDA ITEM XII - Fiscal Year 2004-2005

President Jones called on Executive Director Lloyd to comment on the Board's biennial budget request for the 2004-2005.

Mr. Lloyd outlined the 'Decision Packages', i.e. new budget items and issues included in the Board's submission. Lloyd indicated that any new program expenses are being closely scrutinized. Detailed justification is required to be submitted and convincing arguments are necessary to receive support for a request. Most recently our request for appropriation to contract for a 0.5 FTE Assistant Attorney General has been discussed. Lloyd also circulated the Board's 1st Quarter Financial Statement and he assured the Board that sufficient resources are available to maintain the program for the balance of the fiscal year.

AGENDA ITEM XII - PROPOSED LEGISLATION 2003

Executive Director Lloyd distributed an Executive Summary of a possible multi-faceted legislative request. Mr. Lloyd recognized Compliance Officer Dean Wright for his assistance in drafting the package. Many of the proposed changes are related to the 'licensure of pharmacy technicians', a few are in the controlled substances act and the balance are various changes to the practice act for clarification and contemporization. Lloyd solicited comments or questions after which President Jones closed this agenda item.

AGENDA ITEM IXV - DEPARTMENT OF JUSTICE GRANT

Executive Director Lloyd provided the Board with an update on the submission of a grant request for funding to establish a controlled substance prescription tracking program. Mr. Lloyd is keeping in touch with the Board's filing partner, the Arizona Office of Criminal Justice in anticipation of hearing the outcome which could come at any time.

**AGENDA ITEM XV - BOARD OFFICE STAFFING/SPACE & PROPOSED 2003
MEETING SCHEDULE**

President Jones asked Mr. Lloyd to discuss these topics with the Board. Lloyd indicated that a proposed '03 Board Meeting schedule was included in the agenda material and that comments or suggestions were in order. Hearing no objections, President Jones indicated the suggested schedule to be adopted. Mr. Lloyd provided an overview of proposed office space expansion and the recent change in the 'building/property management company' which may impact somewhat on the plans to expand the Board's office space.

**AGENDA ITEM XVI - DRUG THERAPY MANAGEMENT ADVISORY COMMITTEE
APPOINTMENTS**

President Jones provided background information on this item and called the Board's attention to the material in the agenda book. Arizona Pharmacy Association Executive Director, Kathy Boyle provided personal history and highlighted the resumes of the recommended candidates to serve for a period of one year on this recently established subcommittee. Following a brief discussion and, on motion by Mr. McAllister and Mr. Ritt, the Board unanimously appointed the following three members: Christina Tankersley, PharmD; Roy Mock, R. Ph., BCPS, BCOP and Jeffrey Morgan, D.O., F.A.C.I.O.

**AGENDA ITEM XVII - DEPARTMENT OF PUBLIC SAFETY - OPERATION
S.T.O.P.P.**

President Jones invited Department of Public Safety officer Jennifer Pinnow to address the Board. Ms. Pinnow thanked the Board for allowing her to present a matter of public health and safety concern. Ms. Pinnow provided printed material and then walked to Board through the issues of non-compliance among many non-pharmacy drug permit vendors failing to report 'suspicious' sales of 'ephedrine-related' OTC drugs. Ms. Pinnow briefly described

the statute that regulated this matter and asked the Board's assistance through administrative enforcement to curtail such activities. The penalties for violating the law were described and several actual undercover shopping 'buys' were described. Ms. Pinnow suggested that the Board could advise permit holders of the law by an article in a newsletter and by allowing a board compliance person to assist in enforcement.

Following a detailed discussion of the proposal and on motion by Mr. Draugalis and Ms. McCoy, the Board unanimously approved the use of a non-prescription drug inspector to assist in this program and endorsed the newsletter announcement as well.

AGENDA ITEM XVII - CALL TO THE PUBLIC

President Jones advised the audience that at this time the public may comment to the Board on issues or matters related to the Board's operation...however the Board can not reply because the items presented are not on the agenda. Comments included:

- > commending the Board on its WEB PAGE
- > complimenting the Board and staff on their assistance and accommodation in seeking new pharmacy and pharmacist permits/licenses

- > a suggestion that staff advise NABP that test-facility availability in Arizona is inadequate

President Jones thanked the audience for its comments and indicated a motion to adjourn was in order.

AGENDA ITEM XVIII - ADJOURNMENT

On motion by Ms. McCoy and Mr. Draugalis, the meeting was adjourned at 11:20 a.m.