

**THE ARIZONA STATE BOARD OF PHARMACY
HELD A REGULAR MEETING JANUARY 14, 2004
GLENDALE, ARIZONA**

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

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

AGENDA ITEM I - APPROVAL OF MINUTES

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Ketcherside and Mr. Jones** the minutes of the Regular meeting held on November 5 and 6, 2003 were unanimously approved by the Board Members.

AGENDA ITEM II - PERMITS/LICENSES

Deputy Director Frush advised the Board that pharmacy permits shown on Schedule A of the agenda included non-resident applications and all of the applications were in order and all fees have been paid.

Individuals representing Western Medical Infusion and 3D Pharmacy were present and responded to questions from Board Members.

Western Medical Infusion

Western Medical Infusion was represented by Thomas Maiefski. President Draugalis opened the discussion by asking Mr. Maiefski to describe his business. Mr. Maiefski explained that his business would be a start-up home infusion business preparing sterile products for residents in Maricopa and Pima counties. Mr. Jones asked Mr. Maiefski if his clean room would meet the required standards. Mr. Maiefski replied that the clean room would meet all standards. He stated that he would have an ante room, a Class 2000 clean room, and Class 100 hoods.

3D Pharmacy

Representatives from 3D pharmacy were present to address questions from Board Members. Owner Dominic Dovidio and Pharmacy Manager Tom Gaccione represented 3D Pharmacy. President Draugalis opened the discussion by asking Mr. Dovidio if he was a pharmacist.

Mr. Dovidio replied that he was not a pharmacist and has hired Mr. Gaccione, who is a licensed pharmacist, as his pharmacy manager.

Mr. Draugalis asked Mr. Dovidio to describe their business. Mr. Dovidio explained that the pharmacy will be a closed door pharmacy specializing in cosmetic preparations. The preparations will include facial peels and cosmetics. The cosmetic preparations will be dispensed pursuant to a doctor's prescription.

Mr. Draugalis asked Mr. Gaccione if he had taken a compounding course. Mr. Gaccione replied that he had seven (7) years of compounding experience at a previous pharmacy where he had been employed. Mr. Draugalis asked again if Mr. Gaccione had taken any specialized compounding courses. Mr. Gaccione replied that he has not taken any specialized compounding courses, but has been involved in home infusion compounding for many years.

Mr. Wand asked if the compounds would be patient specific or if the compounds would be sold to doctor's for administration at their offices. Mr. Gaccione replied that the compounds would be patient specific. He stated a doctor could request a preparation for office administration and they would prepare the product for office use.

Mr. Draugalis asked if there would be any walk-in customers. Mr. Gaccione replied that there would be no walk-in customers.

Mr. Draugalis stated that there were some initial concerns about meeting the required square footage necessary to operate a pharmacy. Mr. Draugalis asked Mr. Dovidio if the required 300 square feet was available for the operation of the pharmacy. Mr. Dovidio replied that the plans have been redrawn and there would be 300 square feet available for the pharmacy. Mr. Wand reminded Mr. Gaccione that 300 square feet was the minimum area for a community pharmacy. He reminded Mr. Gaccione that a maximum of three pharmacy personnel may practice or work simultaneously in the minimum area..

Mr. Jones asked Mr. Gaccione if they planned on preparing sterile products. Mr. Gaccione said that most of the products that they will compound will be topical products. Mr. Gaccione stated that they were purchasing a hood, but would not be preparing injectable sterile products.

Mr. Jones asked Mr. Gaccione if he has reviewed the proposed changes to the compounding regulations. Mr. Gaccione stated that he had not reviewed the changes. Mr. Jones stated that Mr. Gaccione should review the proposed changes because there are several new labeling requirements for compounded products. Mr. Gaccione replied that he will review the proposed changes.

Mr. McAllister stated that due to the number of recent complaints the Board has received against pharmacies specializing in compounding, he would like to make a motion that the pharmacy be

inspected within their first six months of operation. He also reminded them that they must keep the wholesale and pharmacy operations separate. **On motion by Mr. McAllister and Mr. Dutcher**, the Board unanimously approved the pharmacy permit for 3D pharmacy with the stipulation that the pharmacy be inspected within the first 6 months of operation.

The Board then addressed issues with two pharmacies listed on the addendum. The first pharmacy Promise Specialty Hospital is applying for a resident permit. The second pharmacy JCB Laboratories is applying for a non-resident permit. Representatives from both pharmacies were available to answer questions from Board Members.

Promise Specialty Hospital

Representatives from Promise Specialty Hospital were present to answer questions from Board Members. Vice President of Operations Brian Wells and Pharmacist-In-Charge Alan Dobrowski represented Promise Specialty Hospital.

President Draugalis opened the discussion by asking Mr. Wells why they were appearing in front of the Board. Mr. Wells opened the discussion by stating that they were requesting a waiver of R4-23- 644 (B) which states that the minimum area of a hospital pharmacy is not less than 500 square feet.

Mr. Wells explained that Promise Specialty Hospital is licensed as a 36 bed long term care hospital. He explained that Promise Specialty Hospital was originally inspected and was approved as a "Ghost Pharmacy" with drugs and services being provided by McKesson Medication Management through St. Lukes Medical Center. In August of 2003, the assets of Camelot Healthcare was purchased and began operating as Promise Healthcare. Mr. Wells stated that management was not aware that the pharmacy did not notify the Board of the changes and began operating a pharmacy that was purchasing, storing, and dispensing medications in the area that was approved as a ghost pharmacy. Mr. Wells stated that they have applied for a new pharmacy permit listing Promise Healthcare as the new owners and are also in the process of applying for a new DEA permit.

Mr. Dutcher asked Mr. Wells to define his space requirements. Mr. Wells stated that the proposed pharmacy space will consist of 422 square feet. The pharmacy will be located in two areas. The pharmacy area will consist of the current pharmacy space of 278 square feet and a separate IV room with 144 square feet. Mr. Wells stated that the pharmacy does not have to support areas such as operating rooms, emergency rooms, ICU, or CCU and feels that the 422 square feet would be adequate to service 36 beds. Mr. Wells stated that the pharmacy will carry from 700 to 800 line items. They plan on employing one pharmacist and one technician. Mr. Wells stated that a MED Dispense system will be located in the nursing station to support patient care 24 hours a day.

Mr. Jones asked about the proposed IV area. Mr. Jones asked if the room would house the laminar flow hoods and provide a storage area. Mr. Jones also asked if there would be 60 square feet for the hood area. Mr. Wells replied that there would be 60 square feet for the hood area. He stated that there would be an area to cleanse the hands. He stated that the ceilings, walls, and floors would be covered with suitable materials. Mr. Jones reminded the pharmacist that cardboard must be kept separate from other IV supplies.

Mr. Jones asked Mr. Dobrowski if the proposed floor plans were workable. Mr. Dobrowski indicated that by separating the two areas there was more room for movement in each area. Mr. Jones asked if a restroom was located within 50 feet of the pharmacy. Mr. Dobrowski replied that there was a restroom within 50 feet.

Mr. Wand asked who would be in charge of the IV area. Mr. Dobrowski stated at this time the pharmacist would be the person in charge of preparing the limited number of IV medications that the hospital would be administering. Mr. Draugalis asked Mr. Dobrowski to describe what he meant by limited IV medications. Mr. Dobrowski stated that they would be preparing a small number of antibiotics. He stated that most of the antibiotics would not need to be prepared in a hood since they will purchase the ADD-Vantage products. He stated that all TPN preparations will be outsourced to S.I.V.A.L for preparation and delivery to the hospital for administration.

On a motion by Mr. Jones and Ms. McCoy, the Board unanimously voted to approve the waiver of R4-23-655 (B) which requires a minimum of 500 square feet for a hospital pharmacy. The request was granted pending final inspection.

JCB Laboratories

JCB Laboratories was represented by Brian Williamson. The permit was tabled at the November Board meeting because there was a concern that the pharmacy was bordering on being a manufacturer and not a compounding pharmacy.

Mr. Draugalis opened the discussion by asking Mr. Williamson to describe his business. Mr. Williamson stated that JCB Laboratories is a compounding pharmacy located in Wichita, Kansas and are applying for a non-resident pharmacy permit. He stated that JCB Laboratories began business about a year ago. JCB Laboratories received their license from Kansas in May of 2003. Mr. Williamson stated that JCB Laboratories prepares sterile products for patients, physician's offices, and surgicenters.

Mr. Wand reminded Mr. Williamson that orders for medications for office use should be invoiced and not dispensed pursuant to a prescription. Mr. Wand reminded Mr. Williamson that only up to 5% of his pharmacy business could be invoiced and the rest would need to be dispensed on a prescription basis only.

Mr. Jones reminded Mr. Williamson that if he does not dispense medication pursuant to a prescription that he may be considered a manufacturer. Mr. Jones also reminded Mr. Williamson that he cannot compound a preparation that is available commercially.

Mr. Williamson asked the Board to clarify the 5% rule for him. Mr. Wand asked Mr. Pulver to clarify for Mr. Williamson if that would be 5% of his Arizona business or his Kansas business. Mr. Pulver stated that the 5% would apply to the business that he conducts within the state of Arizona.

Mr. Williamson asked for further clarification if that meant 5% of his sales in the terms of dollar amounts. Mr. Wand clarified that it was based on units, thus in Arizona 95 out of every 100 preparations would require a prescription.

Mr. Williamson stated that due to their record keeping that they would be able to recall products easily. He stated that the surgicenters would log information of who received the product and the pharmacy would then be able to contact the patient.

On motion by Mr. McAllister and Mr. Jones, the Board unanimously approved the permit for JCB Laboratories.

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

RESIDENT (in Arizona)

Pharmacy

Food City United Drug #94
El Rio Northwest Pharmacy
Western Medical Infusion
Clinic Pharmacy, Inc.
CVS Pharmacy #5778
CVS Pharmacy #5779
CVS Pharmacy #5794
Walgreens #07104
3D Pharmacy
Maricopa Outpatient Pharmacy
Fry's Food & Drug #75
Sam's Pharmacy 10-6606
Promise Specialty Hospital

Location

3442 W. Van Buren Rd., Phoenix, AZ 85009
330 West Prince Road, Tucson, AZ 85705
2202 E. University Dr., Phoenix, AZ 85034
1601 N. Tucson Blvd. #38-B, Tucson, AZ 85716
1901 W. Indian School Rd., Phoenix, AZ 85015
360 N. Val Vista Dr. ,Mesa, AZ 85213
9069 W. Lake Pleasant Pkwy., Peoria, AZ 85382
1145 Harrison Rd., Tucson, AZ 85748
1505 E. Weber Dr. Ste 103A, Tempe, AZ 85281 (O)
2609 E. Roosevelt St., Phoenix, AZ 85008
Higley/Pecos, Gilbert, AZ
8340 W. McDowell, Phoenix, AZ 85037
1800 E. Van Buren St. 2nd Floor, Phoenix, AZ 85006 (O)

Owner

Bashas' Inc.
El Rio Santa Cruz Neighborhood Health Ctr.
Western Medical Infusion, Inc
Joseph Chen, Pharm.D.
Indian Shool Phoenix CVS, LLC
University Mesa CVS, LLC
Lake Pleasant Peoria CVS, LLC
Walgreen Arizona Drug Co.
Dominic Dovidio
Maricopa Integrated Health Systems
Smiths Food & Drug Centers, Inc.
Sam's West, Inc.
Promise Healthcare, Inc.

Change of Ownership - (O)

NON-RESIDENT (out of state)

<u>Pharmacy</u>	<u>Location</u>	<u>Owner</u>
Wedgewood Village Pharmacy	405 Heron Dr. Suite 200, Swedesboro, NJ 08085	Wedgewood Pharmacy, Inc..
One Stop Prescription #2	17023 Nanes Dr., Houston, TX 77090	DB Vaughan, Inc.
Tidyman's Pharmacy	N 2024 Argonne, Spokane, WA 99212	Tidyman's, LLC
MP TotalCare Supply, Inc.	6530 W. Campus Oval, New Albany, OH 43054	MP TotalCare Supply, Inc.
Damer & Cartwright Pharmacy	104 S. Michigan Ave. Ste 619, Chicago, IL 60603 (O)	Henry Schein, Inc.
MedPro Rx	8392 Six Forks Rd, Ste 201, Raleigh, NC 27615	MedPro Rx, Inc.
Pharm Plus Resources	15017 Califa Street, Van Nuys, CA 91411	Pharma Plus Acquisition, Inc.
Delta Drug Store	118 Peeler Ave, Shaw, MS 38773	Delta Drug Store, Inc.
Optima Rx	13331 N. 56 th St., Tampa, FL. 33617	Optima Rx, Inc.
Kronos Pharmacy	3675 S. Rainbow Blvd. #103, Las Vegas, NV 89103	TKG-California, Inc.
Stearns Veterinary Outlet Store	222 E. County Rd 173, Melrose, MN 56352	Stearns Veterinary Outlet Store, Inc.
Option Care Enterprises, Inc.	2750 Arthur St., Roseville, MN 55113	Option Care Enterprises, Inc
University Pharmacy	1320 East 2 nd St., Salt Lake City, UT 84102	University Pharmacy Inc.
Caremark Miramar Pharmacy, LLC	15800 SW 25 th St., Miramar, FL 33027	Caremark Pharmacy, LLC
US Bioservices	16750 Westgrove Dr. Ste 100, Addison, TX 75001	US Bioservices
Hemophilia Resources of America	4000 E. Spring Garden St., Greensboro, NC 27407	Hemophilia Resources of America, Inc.
United Healthcare Products	615 South Ware Blvd, Suite U, Tampa, FL 33619	United Healthcare Products, LLC
Pharmacy 2 Four Seven	407 Lincoln Rd. Suite 8E, Miami, FL 33139	Ocean Blue Inv. & Prop Mgmt
JCB Laboratories	3510 N. Ridge Rd. #910, Wichita, KS 67205	JCB Laboratories

Change of Ownership - (O)

Wholesale Permits

Deputy Director Frush indicated that all applications were in order and all fees have been paid.

Individuals representing Primus Pharmaceuticals, Kit International, and Merchandise Distributors were present and responded to questions from Board Members.

Primus Pharmaceuticals

Primus Pharmaceuticals was represented by J. D. Weir and Mike Martin. Mr. Weir is the President and CEO. Mr. Martin is the CFO.

President Draugalis asked Mr. Weir to give an overview of their wholesale business. Mr. Weir told the Board that Primus Pharmaceuticals, Inc. is a Scottsdale based company specializing in metabolic therapies. Mr. Weir gave an overview of the company's products.

Mr. Draugalis asked Mr. Weir why the company wanted a license to wholesale their products. Ms. Frush stated that their application indicated initially that the offices in Scottsdale were to be administrative offices. They indicated that the pharmaceutical products are being distributed from a warehouse in another state. The application did indicate they would eventually establish a warehouse at the Scottsdale site.

Mr. Draugalis asked Mr. Weir if they planned to distribute pharmaceuticals from the Scottsdale location. Mr. Weir stated that they did not plan to distribute drugs from this location for at least two to three years. Mr. Draugalis asked Mr. Wand if they needed a wholesale permit at this time. Mr. Wand stated that the out-of-state distribution center would need to apply for a non-resident wholesale permit. Mr. Wand stated that as long as no drugs were stored at the Scottsdale location a wholesale permit would not be required. Mr. Weir stated that the sales staff would have samples to distribute to physicians. Mr. Wand stated that if the samples were being stored at the Scottsdale location then a wholesale permit would be necessary. Mr. Wand told Mr. Weir that the site would be subject to Board inspections.

Mr. Weir asked if the Board issues Letters of Recommendations for pharmaceutical products. Mr. Wand responded to the question. Mr. Wand stated that the Board does not issue Letters of Recommendations. He stated that the Board can issue a letter of verification indicating that Primus Pharmaceuticals has a permit issued by the Board and the status of the permit. He stated that the Board could also verify that the drugs are being stored per compendium standards.

Mr. Weir asked about the inspections. Mr. Wand replied that inspections are conducted on a routine basis. During this inspection, a Compliance Officer will ensure that Board regulations are being followed concerning the storage of medications, such as temperature and humidity. Mr. Wand stated that the Compliance Officer will verify the copies of permits or licenses are on file for all individuals to whom Primus Pharmaceuticals has distributed drugs.

Mr. Draugalis recommended that Mr. Weir review the resident wholesale section in the current law book to help answer any questions that he may have about the regulations governing wholesalers.

Kits International

Kits International was represented by warehouse manager, Thomas Worthington. President Draugalis asked Mr. Worthington to describe their wholesale business. Mr. Worthington stated that the business would be wholesaling medications to airlines and ships. Mr. Worthington stated that he understands the rules and regulations because the business would be similar to a company that employed him prior to a buyout.

Merchandise Distributors

Merchandise Distributors was represented by owner Craig Rochette. President Draugalis opened the discussion by asking Mr. Rochette why he was appearing in front of the Board. Mr. Rochette replied that he was present because he had submitted an application for a non-prescription wholesale permit.

Mr. Draugalis told Mr. Rochette that the Board has received documentation that a seizure warrant had been issued and possible felony charges were pending against him. Mr. Rochette replied that no criminal charges have been filed yet.

Mr. Draugalis asked Mr. Rochette to talk about the probable cause that there was Illegal Control of an Enterprise. Mr. Rochette stated that his attorney is working with the Attorney General's office to resolve the situation.

Mr. Draugalis asked Mr. Rochette about the pending Money Laundering charges. Mr. Rochette stated that his attorney advised him because he was not properly licensed that any money made, even one dollar, could be considered money laundering.

Mr. Draugalis asked Mr. Rochette to discuss the pending charges of Conspiracy to Possess or Purchase more than twenty-four grams of Ephedrine without a license or permit. Mr. Rochette stated that he sold ephedrine on invoices and he did not have a license. He stated that his license had lapsed and he continued to sell the products.

Mr. McAllister attempted to make a motion to deny the permit when Mr. Rochette stated that his lawyer had reached an agreement with the Attorney General's Office the prior evening and they were preparing documents that morning.

Assistant Attorney General Mr. Pulver advised the Board that they could table the request until the next Board meeting. During that period, the Board must receive documentation describing how the charges will be fully resolved and any stipulations.

On motion by Mr. McAllister and Ms. McCoy, the Board voted unanimously to table Merchandise Distributors application until the documents resolving the case can be reviewed by the Board.

Mr. Pulver stated that Mr. Rochette should provide the documentation to the Board and the Board should not need to request the documentation from the Attorney General's Office.

Mr. Rochette asked if he could still continue to operate on his temporary permit. Mr. Wand informed Mr. Rochette that there are no temporary permits. Mr. Rochette stated that he thought Mr. Wand or Ms. Frush had told him that he had a temporary permit. Both Mr. Wand and Ms. Frush stated that they did not talk to Mr. Rochette and would have advised him that there are no temporary permits. Mr. Rochette said that maybe he spoke to someone else in the office. Mr. Rochette did have a copy of his application marked temporary. Mr. Wand stated that this is a copy of an internal document used for processing his application and the document does not indicate that it was a temporary permit.

Mr. Rochette asked Mr. Pulver what he should do about the drugs he had purchased for the last 6 weeks assuming that he had a temporary permit. Mr. Pulver told Mr. Rochette that he represented the state and Mr. Rochette should seek legal counsel from his own attorneys.

Mr. Pulver told Mr. Rochette that once the Board receives the necessary documentation his application would be reviewed. He also reminded Mr. Rochette that there are no temporary permits.

Mr. Rochette asked if the Board denies his request would he receive a refund. Mr. Wand asked Mr. Rochette if he would like to withdraw his application. He told Mr. Rochette if he withdraws his application a refund would be issued. Mr. Rochette said that he did not want to withdraw his application.

Mr. Pulver again reminded Mr. Rochette that the Board will not review his application until he supplies the Board with the necessary documentation concerning the resolution of his pending charges.

At the conclusion of questions by the Board Members and **on motion by Mr. McAllister and Ms. McCoy**, the Board unanimously approved the wholesale permits listed below with the exception of Merchandise Distributors which has been tabled until documentation showing the resolution of pending charges has been received by the Board. All permits are subject to inspection by the Compliance Officer where appropriate.

<u>Wholesaler</u>	<u>Location</u>	<u>Owner</u>
Primus Pharmaceuticals, Inc (Full-service)	13402 S. Scottsdale Rd. Ste #A-103, Scottsdale, AZ 85254	Primus Pharmaceuticals, Inc.
Sedona Laboratories (Non-prescription)	218 Justin Dr., Cottonwood, AZ 86326	Sedona Laboratories, Inc
J-Toys Distribution (Non-Prescription)	456 E. Juanita Ste. #8, Mesa, AZ 85204	Jared Hilberbrand
Kits International, LLC (Non- Prescription)	4041 N. Central Ave. Suite 110, Phoenix, AZ 85012	Kits International, LLC

Merchandise Distributors (TABLED)

Pharmacist and Pharmacy Intern Licenses

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

Pharmacists licenses 13950 through 14006 and Pharmacy Intern licenses I06253 through I06291. For a complete list of names see attachments.

AGENDA ITEM III- Reports

Executive Director Report

Executive Director Wand called the Board's attention to the "Survey of Boards" published by NABP. The survey shows how often each state holds Board Meetings and the length and duration of the meetings. The survey asked if the Executive Director of the Board was a pharmacist. About 10% of the Executive Directors were not pharmacists.

Mr. Wand informed the Board Members that changes have been made to the State Payroll System. The new system is a web-based system. Mr. Wand indicated that he and Ms. Frush had completed training using the new system.

Mr. Wand informed the Board Members about changes in the office staff. At the end of January, Patty Roy will be retiring and he is in the process of hiring someone to fill her position. Patty works closely with NABP, interns, and pharmacists pursuing licensure in Arizona. Mr. Wand informed the Board that Tony Salcido, the non-prescription drug inspector, had resigned to move to Texas.

Mr. Wand stated that the sunset review is continuing. He stated an agency continuation bill had been dropped by Senator Hellon and a Committee hearing will be held at the Senate on January 15, 2004. Mr. Wand and Ms. Frush will attend the hearing. Mr. Wand welcomed Board Members to attend the hearing if they were available.

Mr. Wand stated that the agency will be audited by the state at the end of January. The previous audit prior to Mr. Wand's appointment had noted deficiencies that needed to be corrected. Mr. Wand stated that the changes have been and hopefully the re-audit will go well.

Mr. Wand stated that the Board usually reviews the ACPE accredited colleges in January. At this time, the book has been discontinued and they are in the process of changing the format. He stated that the new format may be ready by the March Board meeting and the Board can review the colleges at this time.

Mr. Wand stated that he and Mr. Wright would be attending a session at the end of January to review and write questions for the MPJE exam.

Mr. Wand passed out the financial report for review by the Board Members.

Deputy Director Report

Deputy Director Frush called the Board's attention to the Compliance Officer's Activity Reports in the meeting book. She stated that the Compliance staff had inspected 853 retail pharmacies this year which reflected an increase of 60 more pharmacies than last year. She stated that 15 pharmacies were not inspected by the end of the year but were inspected at the beginning of this year. She pointed out that the number of new pharmacies that have opened has also increased this year. The Compliance staff inspected 172 new pharmacies. Ms. Frush called the Board's attention to the increase in complaints for the year. Mr. Draugalis asked Ms. Frush if there was a way to categorize the types of complaints and the outcomes of the complaints. Ms. Frush stated that the information was available. Mr. Draugalis asked if a report could be generated for the next Board Meeting. Ms. Frush replied a report reviewing the complaints could be prepared for the next meeting.

Ms. Frush reviewed the Inspector's Activity Report. Ms. Frush stated that Mr. Salcido had resigned at the beginning of December. Ms. Frush stated that although the number of non-prescription retailer inspections were less than last year, Mr. Salcido did complete the inspections of all wholesalers prior to his departure. Ms. Frush stated that she and Mr. Wand are in the process of interviewing candidates for the Inspector's position and hope to make a selection soon.

PAPA Report

Lisa Yates represented PAPA. She stated that PAPA currently has 38 participants. She stated since 11/5/2003, PAPA has had three new participants, one participant complete the program, and terminated one contract. Ms. Yates stated that PAPA will sponsor a Continuing Education program in March worth four continuing education units.

APA Report

Kathy Boyle represented APA. Ms. Boyle stated that APA has a table set up in the lobby for APA members to vote for or against the unification of the pharmacy association with the health systems association.

Ms. Boyle stated that the APA is sponsoring a bill that will require technicians to obtain continuing education credits to maintain their certification.

Ms. Boyle stated that APA committees are reviewing concerns from pharmacists about physician's handwriting that could lead to potential errors. APA hopes to present these findings to other Boards.

Ms. Boyle stated that at the convention in June there will be a session held on Friday to prepare pharmacists to deal with disasters, such as Bioterrorism.

AGENDA ITEM IV- Proposed Rules

Compliance Officer/ Rules Writer Dean Wright began by reviewing the Board Administrative Hearing Rules. Mr. Wright explained the rules now parallel the rules of the Office of Administrative Hearings. Mr. Wright provided the Board Members with a copy of the Notice of final rulemaking and the Economic Impact Statement. **On motion by Mr. Jones and Mr. Dutcher**, the Board unanimously gave Mr. Wright the approval to proceed.

Mr. Wright then reviewed the Compounding and Sterile Pharmaceutical Products Pharmacy Rules. Mr. Wright informed the Board that the committee met on December 17, 2003 and proposed minor changes to the compounding rules.

Mr. Wright indicated that while reviewing the rule, he will need to make minor changes to the definition for "Beyond Use Date". He stated that he will need to add the following statement to the existing definition: or a date determined by the pharmacist at the time of compounding.

Ms. McCoy asked if the new rules address what types of products can be compounded in particular compounds that are already available commercially. Mr. Wright stated that the statutes address the issue and a pharmacy should not compound a product that is available commercially.

Mr. Wand stated that some pharmacies are compounding medications that are slightly different in strength than a readily available commercial product. For example, if a product is available in a 20 mg strength, the pharmacy will compound a product containing 21 mg. Assistant Attorney General Pulver informed the Board that compounding a strength that is slightly different than the available commercially prepared product is an attempt to avoid the rules.

Mr. Jones stated that the pharmacies should be in contact with the physician in determining what strength should be compounded. Mr. Jones stated that the Compliance Officers should look for the compounding of commercially available products during their inspections. Mr. Jones suggested that a message should be placed in the newsletter advising pharmacies that they cannot compound commercially available products.

Mr. McAllister stated that when a Compliance Officer notices that a pharmacy is compounding a medication that is slightly different from the commercially available product that a call could be made to the physician. By calling the physician, the Board would know if the doctor wanted the medication compounded at this strength or if it was marketed to the physician by the pharmacy to circumvent the rules.

Ms. McCoy stated that she is worried about pharmacies compounding products that do not need to be compounded. She stated that she is worried from a patient safety stand point because the patient is reliant on the pharmacist compounding their prescription correctly. Ms. McCoy states that a patient has no chance of catching an error when the prescription is compounded.

The Board gave approval for Mr. Wright to proceed with the notice of proposed rulemaking.

Mr. Wright introduced the newly written immunization rule to the Board Members. Mr. Wand stated that Ms. Wilson has written a brief summary of the rule that is included in the Board book.

Mr. Wand stated that the rules was written in response to a Flu-Mist controversy that occurred this past winter. Pharmacists in Arizona questioned if they had the authority to administer Flu-Mist at their pharmacy because their company had authorized them to administer Flu-Mist. Mr. Wand stated that the Board's attorneys stated that the statutes allow pharmacists to administer vaccines pursuant to a prescription. Mr. Wand stated that if vaccines are not administered pursuant to a patient-specific prescription, the statutes would need to be changed by a sunrise review. A sunrise review could take up to 2 years to complete.

Mr. Jones asked if pharmacists would be able to administer Flu-Mist. Mr. Wand replied that they would under this rule and it would be administered pursuant to a prescription.

President Draugalis asked Mr. Wright to give a brief overview of the rule. Mr. Wright stated that the Board would certify pharmacists to administer immunizations. Mr. Wright stated that the pharmacist must attend an approved training program. The training program would include: CPR training and continuing education.

Mr. Wand added that the rules state that patient must be an adult at least 18 years of age. The reason for restricting the immunizations to adults was that other practitioners look for other health issues when immunizing children. Some children may only see a physician when being immunized for school.

Mr. Wand stated that the rules list certain immunizations that can be given by a pharmacist. The reason for listing the immunizations was that certain immunizations have strict monitoring criteria that pharmacists may not be qualified to perform or monitor.

Mr. Wand also expressed concern that some practitioners are strongly opposed to pharmacists administering immunizations.

Mr. Dutcher felt that we should proceed with the rule because we are behind other states in developing rules of this nature.

Mr. Draugalis stated that he would like to see the Board move forward with these rules.

Mr. Jones asked if an emergency kit would be available if the patient experienced an allergic reaction. His concern is how would a pharmacist respond to this situation. Mr. Wand stated that emergency situations should be addressed in the training program requirements.

Mr. Jones said that CPR may not address the situation and it would be necessary to call 911.

Mr. Dutcher asked Mr. Pulver how a pharmacist could respond to an emergency. Mr. Pulver stated that a pharmacist could only respond by reacting within the scope of their practice. Mr. Pulver stated that calling 911 and going forth would be within the scope of practice of a pharmacist. Mr. Pulver said that insurance companies providing malpractice insurance may not cover emergency procedures.

Mr. Wand stated in order for a pharmacist to use epinephrine a prescription would be required. Mr. Pulver stated that in that case the doctor would need to write a prescription for the patient for epinephrine and authorize the pharmacist to administer epinephrine in case of an allergic reaction.

Ms. McCoy asked if clinics set up in stores have emergency kits with them. Mr. Draugalis said he has not witnessed any emergency situations in his stores the past few years when immunizations were given by health clinics.

Mr. Pulver suggested that Mr. Wright contact the South Dakota Board concerning emergency situations, since the rules are patterned along the lines of South Dakota's immunization rules. It was suggested that Mr. Wright check to see if any interactions had occurred and how the interactions were handled.

Mr. Wand stated that with the shortage of the flu vaccine this year, if a patient specific prescription was issued then patients who really need the immunization would receive the medication.

Ms. McCoy stated that it is often difficult to get an appointment to see a physician. If the physician issues a prescription, the patient will have ready access to a pharmacy. By providing the immunizations at the pharmacy, we will eliminate barriers for patients.

Mr. Jones asked if consent forms would be required. Mr. Wright stated that the rules do not require a consent form but require a prescription. Mr. Wright stated that the pharmacist must hand out literature about the immunization and follow-up with documentation to the physician. Mr. Pulver stated that a consent form would not be needed. The doctor has made the judgment that the patient needs the immunization by giving the patient a prescription.

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

Mr. Wright opened the discussion on the Technician rule by passing out the transcription of the hearing held at the Board Office on January 7, 2004. The hearing was held to hear comments from the pharmacists concerning the removal of the technician ratio. The Board office accepted written and oral comments until 5:00 P.M. on January 7, 2004. Mr. Wright indicated that there were comments both for and against the elimination of the technician ratio.

Mr. Jones indicated that he would be in favor of eliminating the technician ratio. Mr. Jones felt that the Board could monitor the activities and reinstate the technician ratio if necessary.

Mr. McAllister stated that pharmacists should concentrate on the positive aspects and not what they see as negative aspects. By having more technician help available, the pharmacist would be able to interact with their patients.

Mr. Draugalis stated that some of the statements made by the pharmacists he felt were not valid. He feels that the pharmacist will be able to spend more time with their patients and not less time. He stated that pharmacists will have more time to interact with their patients if they are not forced to count every prescription and are able to delegate that task to a technician.

Ms. McCoy asked who are we protecting. Ms. McCoy said that the Board's responsibility is to protect the patient. She stated that technology is advanced and pharmacists must make contact with the patient. She stated that maybe this is the time that the Board takes the opportunity to eliminate the option that a patient can refuse counseling. Ms. McCoy said that many pharmacists are concerned that this is a safety issue. Ms. McCoy stated that many management personnel have stated that they would not create an unsafe work environment. Ms. McCoy stated that pharmacists will be able to help make decisions concerning the technician help that is required in their pharmacy. The pharmacist will no longer be able to hide behind the rule. Ms. McCoy stated that there are no statistics that show that the 3-to-1 ratio prevents errors. Ms. McCoy feels that an extra technician may proactively catch an error. Ms. McCoy stated that the Board would not put patients at risk by creating an unsafe environment.

Mr. McAllister stated that he is in support of eliminating the ratio. Mr. McAllister said that the pharmacist will be able to do the job that they were trained to do which is counsel the patient. Mr. McAllister reminded the pharmacists in the audience that if they make an error in filling a prescription and counseling was not performed, the Board may recommend suspension of your license. Mr. McAllister reminded the pharmacists to work with their patients.

Mr. Dutcher indicated that he is opposed to the elimination of the ratio. He stated that the pharmacists that sent written comments to the Board believe that their statements are true. He stated that pharmacists worry that they won't have time to spend with their patients because they will be too busy checking the technician's work. Mr. Dutcher thanked the Board for changing the day of the hearing since most pharmacists could not attend on Monday which is usually the busiest day in the pharmacy. Mr. Dutcher stated that pharmacists who did speak against the elimination of the ratio did not have their supervisors present. He noted that the rest of the

speakers were supervisors in favor of elimination of the ratio. Mr. Dutcher stated that the role at the counseling window needs to change. The pharmacist is needed at the counseling window and the technicians can enter the prescriptions. Mr. Dutcher stated if the Board proceeds with the elimination of the ratio, the Board should tell each pharmacy how many individuals can work in the pharmacy. Mr. Dutcher stated that most pharmacists that he spoke with did not like that the ratio is unlimited.

On motion by Mr. McAllister and Ms. McCoy, the Board gave Mr. Wright approval to proceed with the Notice of Final Rulemaking . A roll call vote was taken. The following Board Members voted in favor of eliminating the ratio and proceeding with the rule: Mr. Ketcherside, Mr. Jones, Mr. McAllister, Ms. McCoy, and Mr. Draugalis. The following Board Member voted against eliminating the technician ratio: Mr. Dutcher.

Mr. Wright explained that he will proceed with the rulemaking. The rule should be placed on GRCC's March agenda for approval. If approved by GRCC, the rule should become effective in May.

On motion by Ms. McCoy and Mr. McAllister, the regular session was recessed until 1:00 P.M. and the Board Members went into Executive Session.

The meeting reconvened at 1:00 P.M.. President Draugalis asked Executive Director Wand to address the students from Midwestern University that were attending the Board Meeting that afternoon. Mr. Wand reviewed with the students that the mission of the Board of Pharmacy is to protect the public safety. The Board is responsible for licensing pharmacists, interns, pharmacies, non-prescription outlets, wholesalers, and manufacturers. Mr. Wand stated that the Board assists in writing questions for the MPJE exam. President Draugalis asked each Board Member to introduce themselves to the students.

AGENDA ITEM V - Special Requests

#1 David Skolnik

David Skolnik appeared with Lisa Yates, representing PAPA, to request to terminate probation of his pharmacist's license subject to terms of Board Order Number 98-0030-PHR. President Draugalis asked Mr. Skolnik to explain why he was appearing in front of the Board. Mr. Skolnik replied that he is requesting to terminate his probation. Mr. Draugalis asked Mr. Skolnik if he had completed all the requirements of the order. Mr. Skolnik replied that he had completed all the requirements.

Lisa Yates stated that the PAPA steering committee supports Mr. Skolnik's request to terminate the probation of his pharmacist's license. Ms. Yates indicated that Mr. Skolnik completed all the requirements of his 5 year contract with PAPA.

Mr. Draugalis asked Mr. Skolnik how he was doing. Mr. Skolnik said he would like to tell the Board and the students that he is a better pharmacist because of this experience. He stated that he thought it was okay to bend the rules but discovered that it is not okay to bend the rules.

Mr. Skolnik stated that when he was first ordered to attend AA meetings he believed that AA was just fluff. By attending meetings, Mr. Skolnik said that he discovered that AA saves a lot of lives. Mr. Skolnik stated that he was given another chance that he did not know existed. During his 12 step programs, Mr. Skolnik said he made amends. He now realizes that family is the most important thing in life.

Mr. Skolnik said he would like to tell the students the PAPA program is tough. Mr. Skolnik said that he has seen people return and he cannot conceive that he will return to the program. Mr. Skolnik stated that he now has his mental health issues in order and hopes to be a success story.

Mr. Draugalis stated that he feels that Mr. Skolnik has a great handle on his life and knows where he is going. Mr. Draugalis stated that it is important to place family first and wished him luck. Ms. McCoy agreed with Mr. Draugalis and wished Mr. Skolnik luck.

On motion by Mr. Jones and Mr. Dutcher, the Board unanimously agreed to terminate probation and restore Mr. Skolnik's license to active status.

#2 David Stephens

David Stephens appeared on his own behalf to request permission to pursue licensure by reciprocity from his active Nevada license. President Draugalis asked Mr. Stephens to explain why he was appearing at the Board Meeting. Mr. Stephens stated that he would like to proceed with reciprocity.

Mr. Draugalis asked Mr. Stephens if his pharmacist licenses had been disciplined in any other states. Mr. Stephens stated that his license was disciplined in California and subsequently disciplined in Nevada. Mr. Stephens stated that he could not say no to filling prescriptions and California revoked his license.

Mr. Draugalis asked if the prescriptions were valid. Mr. Stephens replied that the doctors involved stated that they wrote the prescriptions. Mr. Draugalis said he did not understand how his license would be revoked if he filled valid prescriptions. Mr. Stephens stated that the doctors stated that they wrote the prescriptions, but the California Board said that he was filling too many prescriptions.

Mr. Draugalis asked Mr. Stephens if there have been any incidences since that time. Mr. Stephens stated that he has worked as a staff pharmacist since his license has been reinstated and he has had no problems.

Mr. McAllister asked if Mr. Stephens had filled the prescriptions without a legitimate medical purpose. Mr. Stephens stated that is what the California Board claims.

Mr. Draugalis asked Mr. Stephens if the quantity prescribed caused the Board to think that the prescriptions were not filled for a legitimate medical purpose. Mr. Stephens stated that some of the controlled substances were written for quantities of 1200 tablets.

Mr. Jones asked Mr. Stephens to clarify the statements in his order that stated that he was a substance abuser. Mr. Stephens said his lawyer advised him it would be easier to get his license back when his license was suspended if he agreed to substance abuse treatment. Mr. Stephens replied that he does not do drugs and has no substance abuse problem. Mr. McAllister told Mr. Stephens that looking at his order they stated that he was a substance abuser and needed to participate in substance abuse therapy and treatment. Mr. Stephens replied that his lawyer told him to go to the group meetings. Mr. Draugalis told Mr. Stephens that it appeared that the Board considered him a substance abuser. Mr. Draugalis asked if he was tested for substance abuse. Mr. Stephens stated that he was not tested prior to the order. After starting the program, he was tested. Mr. Draugalis asked if the testing was part of the Board Order. Mr. Stephens replied that it was a requirement.

Mr. McAllister stated that he still had questions in his mind and would like Mr. Stephens to send Letters of Recommendation from his last three employers to Executive Director Hal Wand at the Board Office to review.

On motion by Mr. McAllister and Mr. Jones, the Board unanimously agreed to allow Mr. Stephens to proceed with reciprocity after submitting Letters of Recommendation to Executive Director Hal Wand for review.

Mr. Draugalis asked Mr. Stephens if he understood the Board's decision. He explained that Mr. Stephens should submit Letters of Recommendation from his employers for the last three years. The Board staff will review the letters and get in touch with Mr. Stephens after reviewing the letters. Mr. Stephens stated that he would submit the letters.

#3 Charles Medalie

Charles Medalie appeared on his own behalf to request a waiver of the 400 hours of internship training necessary to proceed with reciprocity. He has not practiced as a pharmacist since July of 1977.

President Draugalis asked Mr. Medalie why he was appearing at the Board meeting to address the Board. Mr. Medalie stated that he has moved to Arizona and would like to get back into pharmacy. He stated that he has been involved in the medical sales area since 1977. He has worked for Eli Lilly and various medical technology companies. He stated that he is successful as a result of his pharmacy education. He stated that he is asking for the 400 hours of internship to

be waived. He stated that he deals with doctors, tests, and medical equipment on a daily basis. He stated that he incorporates pharmacy in his job on a daily basis. He stated that in his current sales position that he travels and would ultimately like to retire from a sales career and return to pharmacy.

Mr. Draugalis asked Mr. Medalie if he would agree to do 400 hours of internship if he had not been dealing with medical equipment. Mr. Draugalis pointed out that Mr. Medalie's application listed many non-pharmacist jobs. Mr. Medalie replied that he keeps his license current in Missouri. He stated that he uses pharmacy daily in selling his equipment and describing tests. Mr. Medalie states that his pharmacy experience enhances what he does.

Mr. Draugalis asked Mr. Medalie what area of pharmacy he plans to pursue. Mr. Medalie stated that he plans to practice hospital pharmacy.

Mr. Draugalis asked Mr. Medalie if he feels that intern hours are not required for him to return to practice. Mr. Medalie replied that his wife and sister are pharmacists and pharmacy is discussed at family gatherings. He stated that he worked for Lilly and was in the hospital selling drugs and medical equipment. Mr. Medalie states that he keeps current on new drugs.

Mr. Draugalis informed Mr. Medalie that talking about pharmacy and practicing are not the same. Mr. Draugalis asked Mr. Medalie if an employer was willing to pay pharmacist's wages instead of intern wages during his internship would he be opposed to the 400 hours. Mr. Medalie replied possibly. Mr. Medalie indicated it would be difficult to work at intern salary wages. Mr. Draugalis then asked Mr. Medalie if it would be easier to do the internship if he was paid pharmacist's wages. Mr. Medalie replied yes.

Mr. Dutcher stated that any pharmacist can keep up with CE requirements, but he was concerned because Mr. Medalie has been out of practice for 20 years. Mr. Dutcher stated that he is skeptical that he could jump right in with no training after 20 years. Mr. Dutcher stated that by completing the 400 hours of internship it would allow Mr. Medalie to become comfortable with the hospital environment. Mr. Medalie replied that any new environment would require some sort of training. Mr. Medalie said that there would be a computer oriented learning curve. Mr. Medalie stated that he has given in services on computer software used in pharmacies. Mr. Medalie stated that it would be foolhardy not to think that he would not need some training.

Mr. Dutcher stated that the internship would allow Mr. Medalie to learn first hand about the hospital. Mr. Medalie asked Mr. Dutcher, "Do you think 400 hours will do it?" Mr. Dutcher replied that he feels 400 hours would be the minimum number of hours if he was going to work in a hospital after 20 years of not practicing in a hospital. Mr. Dutcher stated that many things have changed in the practice of pharmacy in the last 20 years. Mr. Medalie replied that he would only need to be brought up to speed on hospital policies and procedures. Mr. Medalie stated that he feels 400 hours is excessive.

Mr. McAllister addressed Mr. Medalie by stating that Mr. Medalie has not practiced pharmacy anywhere. Mr. McAllister stated that the purpose of the Board is to protect the public safety. Mr. McAllister told Mr. Medalie that many changes have occurred in pharmacy in the last 20 years and he feels that Mr. Medalie should do 400 hours of internship. Mr. McAllister stated that Mr. Medalie needs to practice before he gets his license.

Mr. Wand stated that A.R.S. § 32-1922 (H) states the following: The Board may require a pharmacist who has not been actively engaged in the practice of pharmacy for over one year to serve not more than four hundred hours in an internship training program approved by the board or its designee before the pharmacist may resume the active practice of pharmacy.

Mr. Jones told Mr. Medalie that the practice of hospital pharmacy has changed tremendously in the last 20 years. Mr. Jones told Mr. Medalie that it would take him the full 10 weeks of the internship to learn hospital standards and another 10 weeks to learn JCAHO requirements. Mr. Jones asked Mr. Medalie if he is familiar with the hospital rules and the changes in the rules that occurred in the last year. Mr. Medalie replied "no". Mr. Jones told Mr. Medalie that providing clinical services is the new trend in the hospitals and he feels that 400 hours of intern training is not excessive.

Ms. McCoy stated that her background is in hospital pharmacy. She stated that she has a real problem with practitioners who don't know when they don't know. She told Mr. Medalie that being associated with diagnostic equipment is only a minimal part of what goes on in a hospital. She told Mr. Medalie that he could not be completely trained in a hospital in 400 hours. Ms. McCoy stated that new pharmacists at the hospital where she works are told that it will take six months to one year before they know everything about the hospital and what they are doing. Ms. McCoy stated that she feels Mr. Medalie should complete 400 intern hours.

Mr. Medalie stated that he developed a drug interaction table for doctors and cardiologists. He stated that he used his pharmacy education and the help of other people. Mr. Medalie stated that from his perspective the Board does not understand the extent to which he has been involved in the practice of pharmacy. Mr. Medalie stated that he had an expansive career which required the incorporation of pharmacy in his daily routine. He stated that he can learn policies and rule changes quickly. He stated that most other activities are didactic and he could learn those. He stated that the companies he worked for were accepting of his pharmacy expertise.

Mr. Ketcherside stated that Mr. Medalie has lots of varied experiences. Mr. Ketcherside stated that the Board's job is to protect the public and feels Mr. Medalie should complete 400 intern hours.

On motion by Mr. Ketcherside and Mr. Dutcher, the Board voted unanimously to deny the request to waive the 400 hours of internship. Mr. Medalie must complete 400 hours of internship training in order to proceed with reciprocity.

#4 Faustina Evbuonwan Oyegun

Faustina Oyegun appeared on her own behalf to request the waiver of 400 hours of internship in an Arizona licensed pharmacy. President Draugalis opened the discussion by asking Ms. Oyegun to state why she was appearing to address the Board. Ms. Oyegun stated that she was asking the Board to waive the 400 hours of internship training in a retail pharmacy.

Mr. Wand stated that Ms. Oyegun appeared at the Board Meeting on March 12, 2003. The Board voted to accept 1100 hours of intern training from Fort Defiance, but to require 400 hours of internship training in a pharmacy having a permit from the Arizona Board of Pharmacy in order to become familiar with state pharmacy laws and rules.

Ms. Oyegun stated that there are no retail pharmacies in Fort Defiance. She stated that the retail pharmacy located in Holbrook refused to offer her employment due to the nature of her Visa. The pharmacy told her that they could not accept her on a voluntary basis due to liability issues. Ms. Oyegun also stated that she tried to obtain employment or volunteer at two different retail chains located in Gallup, New Mexico. They were not willing to train her since she would leave after her hours were completed. Ms. Oyegun stated that her Visa prevents her from moving back and forth from one establishment to another establishment.

Mr. Draugalis opened the discussion by asking Ms. Oyegun if she is working in the outpatient pharmacy. Ms. Oyuegun said that she is working in the outpatient pharmacy. She stated that she reviews charts, screens the prescriptions for interactions, and counsels patients.

Mr. Draugalis asked Ms. Oyegun if there is any exposure to Arizona law in her practice. Ms. Oyegun replied that there is a little exposure to Arizona law. Mr. Draugalis explained that is why the Board requested 400 hours at an Arizona licensed pharmacy, so that she would be exposed to Arizona law and prepare her for taking the law test.

Mr. Dutcher stated that the letter from Ms. Oyegun's employer states that she counsels patients based on Public Health Standards. Ms. Oyegun stated that she counsels patients on new prescriptions.

Mr. Draugalis asked Ms. Oyegun how many hours of internship training have been completed. Ms. Oyegun said about 1800 hours at Fort Defiance.

Mr. McAllister stated that the pharmacies that are run by Indian Health Services do not work the same way as Arizona licensed pharmacies. He stated that orders are not the same and substitution requirements are different. Mr. McAllister stated that Ms. Oyegun's credentials are very good. Mr. McAllister stated that the Board's issue is that there is no exposure to Arizona Pharmacy laws. Mr. McAllister stated that if Ms. Oyegun does not pass the law test that the Board could ask her to wait and retake the test at a later date.

Mr. Jones stated that the Board is concerned because there is no Arizona Pharmacy law exposure. Mr. Jones asked Mr. Oyegun if the main issue was her Visa. Ms. Oyegun replied that her Visa will only allow her to work for the individuals sponsoring her Visa. Mr. Jones asked if she planned to stay in the state. Ms. Oyegun replied that she planned to stay in Arizona and continue working at Fort Defiance.

Mr. McAllister stated that Ms. Oyegun did attend pharmacy school in the United States and is not a foreign graduate.

On motion by Mr. McAllister and Mr. Ketcherside, the Board voted unanimously to accept 1500 hours of internship training from Fort Defiance.

#6 Terry Mahan

Terry Mahan appeared with his supervisor Fauzia Somoni to request a reduction in the 1500 hours of internship training. Mr. McAllister did not participate in the discussion due to a conflict of interest. Mr. Draugalis asked Mr. Mahan to explain why he was requesting a reduction in intern hours. Mr. Mahan stated that he was told by Mr. Lloyd that he needed to complete 1500 hours of intern training. He stated that he had previously practiced as a pharmacist but not recently. He had been employed as a sales representative with Eli Lilly. President Draugalis asked if he was willing to complete 400 hours of internship training. Mr. Mahan replied that 400 hours would be fine.

On motion by Mr. Jones and Ms. McCoy, the Board unanimously agreed that Mr. Mahan should complete 400 hours of internship training prior to taking the NAPLEX and MPJE exams.

AGENDA ITEM VI - Complaint Review

The Consumer Complaint Review committee met prior to the Board Meeting to review 22 complaints in preparation for making recommendations to the Board for final resolution. Members McCoy and Ketcherside served as the review committee. Ms. McCoy provided a summary of each complaint and provided the committee's recommendations to the Board. Board members were encouraged to ask questions.

Mr. McAllister opened the discussion by stating that he would recommend a Consent/Hearing for Complaint #2720 instead of a conference. Mr. McAllister stated that the pharmacist had the opportunity to protect the patient and did not take the opportunity. Mr. McAllister stated that when the patient questioned the therapy, the pharmacist should have caught the error. The Board members agreed and the recommendation was changed from a conference to a Consent/Hearing agreement.

Following the presentations and discussion and **on motion by Mr. McAllister and Mr. Jones**, the Board unanimously agreed to accept the agreed upon actions for resolution of the complaints. The following summary represents the final decision of the Board in each complaint:

- Complaint # 2715 - Consent
- Complaint # 2716 - Conference
- Complaint # 2720 - Consent
- Complaint # 2721 - Letter
- Complaint # 2722 - No Further Action
- Complaint # 2723 - Consent
- Complaint # 2724 - Withdrawn - No Further Action
- Complaint # 2726 - Conference
- Complaint # 2727 - Letter of Concern
- Complaint # 2728 - Conference
- Complaint # 2729 - Forward complaint to BOMEX and DEA
- Complaint # 2730 - No Further Action
- Complaint # 2731 - No Further Action
- Complaint # 2732 - Letter of Warning
- Complaint # 2733 - No Further Action
- Complaint # 2734 - Letter
- Complaint # 2735 - Conference
- Complaint # 2737 - Conference
- Complaint # 2738 - No Further Action

Complaint # 2739 - Incident #1 - No Further Action
Incident #2 - Letter of Warning
Incident #3 and #4 - Conference

Complaint # 2741 - Conference

Complaint # 2745 - No further action

The Board decided that Ms. McCoy and Mr. Ketcherside will serve as the complaint review committee for this year.

AGENDA ITEM VII - Conferences

COMPLAINT # 2677

Pharmacist Richard Pianowski, Pharmacy Technician Mark Harrison, and Supervisor Rick Gates were present relevant to a consumer complaint. Compliance Officer Larry Dick was requested to describe the findings of his investigation. President Draugalis asked Mr. Pianowski to describe the events leading to this discussion. Mr. Pianowski replied that he did not remember the exact circumstances, but it was a Saturday night and the prescription left the pharmacy without being reconstituted.

Mr. Draugalis asked Mr. Pianowski if he showed the patient the bottle during counseling. Mr. Pianowski replied that they now use a clear plastic bag for all medications that require reconstitution. Mr. Draugalis asked Mr. Pianowski if this medication was in a clear bag. He replied that they did not use the clear bag at the time the incident occurred. The medication would have been placed in a regular paper bag. Mr. Pianowski stated that it was a busy afternoon. Mr. Draugalis asked Mr. Pianowski if only antibiotics or all medications were placed in a clear plastic bag prior to pick-up. He replied just the antibiotics are put in the plastic bag. Mr. Draugalis asked Mr. Pianowski what would happen if by accident an antibiotic was placed in a non-clear bag. He replied that he was not sure. Mr. Drauglis asked Mr. Pianowski if he takes the medication out of the bag that is not clear when he counsels the patient. He stated that he does not take the bottle of the bag, but he will take the bottles from the bag and show the patient from now on.

Mr. Draugalis asked Mr. Pianowski what would have happened to the patient when he was given the powder by his mother. He replied that he did not know. He stated that nothing would have happened. He further added that the patient may have become nauseous and would not have received the proper dose. Mr. Draugalis asked Mr. Pianowski if he had children. He replied that he did have children. Mr. Draugalis stated that he should then understand the concerns of the mother.

Mr. Draugalis told Mr. Pianowski that his comments to the mother were flippant. Mr. Draugalis told Mr. Pianowski that he needs to rethink the way he communicates with a patient after making an error. Mr. Draugalis further added that if the bag was not heavy, then Mr. Pianowski should have realized that the medication was not reconstituted.

Ms. McCoy told Mr. Pianowski that his comments to the mother were flippant. She felt that Mr. Pianowski should learn how to handle errors. Ms. McCoy suggested that Mr. Pianowski watch the video made by APA concerning how to handle errors. Ms. McCoy also stated that Mr. Pianowski review his counseling techniques.

Mr. Jones asked Pharmacy Technician Mark Harrison about the comment he made to the patient. Mr. Harrison replied that he could not recall the comment and that is not usually the type of comment that he would make to a patient. Mr. Jones told Mr. Pianowski and Mr. Harrison that they should take ownership of the error. Mr. Jones told Mr. Pianowski if you don't act professionally then you need to work somewhere else. Mr. Jones reiterated to Mr. Pianowski and Mr. Harrison to take ownership of the errors and take care of your patients.

Ms. McCoy told Mr. Pianowski that he could have contacted the physician when the mother questioned him about what would happen to her baby. She told Mr. Pianowski that his reply of "I don't know" is not an acceptable answer.

Mr. Wand stated that all pharmacies are given the number to Poison Control. Mr. Wand told Mr. Pianowski that Poison Control would have been able to determine what would have happened to the baby instead of him assuming that nothing would have happened to the baby.

Mr. Draugalis told Mr. Pianowski and Mr. Harrison to take these comments to heart and be careful.

COMPLAINT # 2701

President Draugalis called Pharmacist Arthur Smith and Supervisor Kent Taylor forward to address the Board about the Consumer Complaint. Compliance Officer Ed Hunter was present to report the findings of his investigation. President Draugalis asked Mr. Smith to discuss the events leading up this complaint. Mr. Smith replied that he filled the prescription at 5:00 in the afternoon. The technician entered the refill prescription information and poured the medication into the bottle and placed the bottle in front of the stock bottle. He assumed the bottle was shaken and he signed off on the refills. Mr. Smith stated that since that time he makes sure all technicians shake bottles and is constantly reminding them to shake the bottles. He stated that he tells the technicians about this error.

Mr. Draugalis asked what is being done to prevent this type of error. Mr. Taylor replied in addition to Mr. Smith spreading the word that the company has issued a memo to all pharmacies to be sure all stock bottles are shaken when a shake well label appears on the stock bottle.

Mr. Taylor said he has talked to the technicians and the technician training coordinator is reinforcing the memo when visiting the stores.

Mr. Jones stated that shaking the bottle is a simple thing to do and all technicians should be reminded to do this in their practice.

Ms. McCoy stated that she was glad that the information was shared with the other stores to prevent this error from occurring at a different store.

Mr. Draugalis stated that positive changes have occurred as a result of this error and thanked the participants for sharing this information with the Board.

Complaint #2704

President Draugalis called Pharmacist Rhonda LeGree and her Supervisor Brian Baake to address the Board relevant to their role and recollection in this consumer complaint. Compliance Officer Dean Wright gave a brief overview of the findings of his investigation. President Draugalis asked Ms. LeGree to discuss the events leading to this discussion. Ms. LeGree stated that she has been a pharmacist for 19 years without an incident. She stated that the prescription had been entered incorrectly and verified incorrectly. She stated that she did not catch the error at the out window when she counseled the patient. She stated that she was not paying close enough attention. She stated that the computer does issue a warning to check the strength.

Mr. Wright stated that the technician can scroll for the name of a drug if they do not know the speed code. Mr. Draugalis asked Mr. Baake about the scrolling features. Mr. Baake stated that the technician will scroll if they don't know the speed code. He stated that the entering technician is supposed to check the label against the hard copy prescription.

Mr. Draugalis stated that he has seen this error before. He asked Mr. Baake if they separated the Doxepin 10mg and the Doxepin 100mg in the pharmacy. Mr. Baake stated that the products were not separated in the pharmacy because the error occurred at the point of entry.

Mr. Draugalis stated that he was concerned about the three refills. He asked if the pharmacist checks the refilled medication against the hard copy on the first refill. Mr. Baake replied that the hard copy is not checked on refills. Mr. Draugalis suggested that the company may want to make a list of the top ten or twenty drugs that are often misfilled and check the hard copy on the first refill.

Mr. Dutcher asked who wrote the 10mg on the front of the prescription. Ms. LeGree stated that she did not know. Mr. Dutcher asked Ms. LeGree who puts the label on the back of the prescription. She replied she did. Mr. Dutcher asked her if she matches the label to the front of the prescription. She replied that she does but she missed the strength this time. Mr. Dutcher asked if she fills the prescriptions and she replied that she fills the prescriptions.

Mr. Jones reminded Ms. LeGree to look at the original prescription and not work off the sticker. When working off a sticker, we often assume the person entered the prescription correctly. Mr. Jones told Ms. LeGree that as pharmacists we all are subject to making an error. He encouraged her to develop a system to check prescriptions and not to lose sight of the system.

Ms. McCoy asked Ms. LeGree to describe how she verifies the strength when she gets a PQA warning. Ms. LeGree stated that she looks at the bottle, the label, and the capsule. Ms. McCoy told Ms. LeGree to avoid conformational bias it is often recommended to check the bottle and then move the bottle to the other hand and perform the check again. Ms. McCoy suggested to Mr. Baake that the company needs to look at the computer system to prevent these types of errors from constantly occurring by scrolling for drug names.

Mr. Draugalis suggested that the Board could put together a list of the top twenty drugs that are misfilled. Mr. Draugalis reminded Ms. LeGree to be careful.

COMPLAINT #2707 AND COMPLAINT #2709

Former Pharmacist-in-Charge Patrick Mondone, Present Pharmacist-In-Charge Thomas Hinckley, Express Scripts Legal Counsel John Vandervort, Site Manager Carie Borgran, and Outside Legal Counsel Roger Morris were present relevant to a consumer complaint. Compliance Officer Mitzi Wilson was requested to describe the findings of her investigation.

President Draugalis opened the discussion by asking someone to discuss the events leading up to this discussion. Mr. Hinckley opened the discussion by stating the company is working to resolve the matter at this time. Mr. Hinckley stated that most insurance plans call for us to dispense a 90 day supply. If the original prescription is not written for a 90 day supply, then the refills are consolidated with the original quantity to create a 90 day supply. The consolidation saves the patient money. As a result of the consolidation, the number of refills is decreased. If a partial quantity exists, the computer won't allow the partial quantity to be dispensed. Mr. Hinckley stated that the issue has been communicated to Customer Service Representatives and pharmacists on how to handle the partial refill requests. Mr. Hinckley stated that IS is working on correcting the problem with partial refills.

Mr. Draugalis asked Mr. Hinckley how he is currently addressing the issue of partial refills. Mr. Hinckley stated that if a Customer Service representative receives a call concerning a partial quantity the call is routed to a pharmacist. The pharmacist will pull up the image of the prescription and identify the partial refill exists. If a partial exists, the pharmacist will write up a prescription for the partial quantity.

Mr. Draugalis asked if the pharmacists were calling the physicians to consolidate prescriptions. Mr. Hinckley replied that they do not call to consolidate prescriptions and not every prescription is consolidated.

Mr. Draugalis asked why they don't dispense the face amount on the prescription. Mr Morris replied that our law does not prohibit the dispensing of a quantity other than the face value. Mr. Morris stated that Texas law states that a pharmacist cannot dispense a quantity other than the quantity ordered by the practitioner.

Mr. Dutcher asked if the system has been fixed so that the patient can receive partial refills. Mr. Hinckley stated that the company is working on a fix. Mr. Dutcher inquired why the system was programmed this way. Mr. Hinckley stated that he did not know because the system was programmed that way when he started recently.

Mr. Jones told the pharmacists that they are robbing people of medication when they do not dispense the full quantity of the prescription. Mr. Jones stated that it is not convenient for a patient to call his doctor for a new prescription when the prescription at the pharmacy has a remaining quantity. Mr. Jones asked if they inform their patients about this practice. Mr. Morris stated that the company is working on a form letter to explain the differences between the quantity written and dispensed.

Mr. Jones asked why it takes a complaint to the Board for the company to initiate a change. The company should have initiated the change when the patient complained that you robbed me of 180 tablets. Mr. Morris replied that the problem is being fixed. Mr. Jones stated that the company has problems and should start resolving issues.

Mr. Dutcher indicated that if the company filled the prescriptions with the quantity the doctor prescribed there would be no problem. Mr. Morris stated that they are trying to save the patient money.

Mr. Wand stated that it may be questioned if the pharmacist is prescribing by changing the quantity dispensed.

Mr. Draugalis stated that the pharmacy has forced the insurance companies to try and explain this consolidation process to the patient. He stated that this is apathetic on the part of the company because the insurance company cannot explain the consolidation process.

Mr. McAllister stated that there have been issues with the pharmacists at mail service pharmacies operating by different standards. He stressed that the compliance officers may need to spend more time at the mail order pharmacies looking at their practices.

Mr. Ketcherside stated that this mail order pharmacy has had many complaints filed against them by consumers. He encouraged the company to address the issues and fix the problems. Mr. Hinckley stated that they are trying to resolve the issues.

Ms. McCoy stated that as a complaint review committee member she has read numerous complaints from consumers about this company's lack of concern. She stated that the compliance

officers are spending a lot of time investigating these complaints. She stated that the company is not taking care of the patient. She stressed to the participants that it is their basic responsibility to take care of their patients.

COMPLAINT #2711

President Draugalis called Pharmacist Katherine Boudreau and supervisor Darren Kennedy forward to address the Board about the consumer complaint. Compliance Officer Dean Wright summarized the results of his investigation. President Draugalis asked Ms. Boudreau to explain to the Board what happened to result in this consumer filing a complaint. Ms. Boudreau explained that she believed that the prescription was already filled and she needed to reverify the prescription because of insurance issues. She stated that she did not use the scanner to reverify the contents. Mr. Draugalis asked Ms. Boudreau what changes she has made to ensure that this error does not occur again. Ms. Boudreau stated that she has a set way to fill each prescription. She stated that she now uses the scanner always as part of the verification process. She stated that the scale is used so that the NDC number is checked. She stated that if she had used the scale the prescription for Synthroid would not have been filled with Levoxul. She stated that she now puts a mark on the prescription indicating that she opened the bottle and looked at the contents.

Mr. Draugalis told Ms. Boudreau that the scanner is a great tool to assist the pharmacist. He told her she had a great tool and did not use it. Ms. Boudreau replied she uses the scanner all the time after the error occurred. Mr. Draugalis thanked her for appearing and to continue to use the tools provided by the company to assist her in doing her job.

AGENDA ITEM VIII - Consent Agreements

Due to a conflict of interest, President Draugalis turned the meeting over to Vice President McAllister. Mr. McAllister asked Board Members if there were any questions or discussions concerning the Consent Agreements. Deputy Director Frush indicated that all matters on the agenda have been resolved as Consent Agreements or stipulated orders that have been reviewed and approved by the Attorney General's Office.

Ms. McCoy noted that the consent orders indicated that the respondent is required to furnish all pharmacy employers with a copy of this Board Order throughout the term of their probation. She wanted to know if there is any follow-up to see if the employers are shown the Consent Order. Mr. Wand indicated we do not follow up with the individual to see if he has shown the employer the Consent Order. Mr. Wand stated that employers do call the Board Office inquiring about the status of a pharmacist's license and they would be told that a pharmacist has disciplinary action against his license.

Mr. McAllister suggested that a form letter be developed that the respondent could forward to the Board indicating that he has provided his employers with a copy of the Board Order.

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

Brent Randle	03-0016-PHR
James Liberatore	03-0017-PHR
James Bataoel	03-0018-PHR
Douglas McDowell	03-0019-PHR

AGENDA ITEM IX - Hearings

All Notices of Hearing have been resolved as Consent Agreements and no hearings were scheduled for this meeting.

AGENDA ITEM X - Medical Abbreviations

President Draugalis asked Ms. McCoy to address this issue. Ms. McCoy stated that recently JCAHO has approved a minimum list of dangerous abbreviations, acronyms, and symbols. Ms. McCoy stated that JCAHO accredits health care organizations. Ms. McCoy briefly described the abbreviations. Abbreviations included: U (for unit), IU (for international units), QD and QOD (for daily or every other day), the trailing or leading zero, and the abbreviations used for morphine and magnesium sulfate.

Ms. McCoy stated physicians are alerted not to use these abbreviations when working at the facility where she works. She would like the Board to alert practitioners and discourage the use of these confusing abbreviations. She feels the Board should send letters to other Health Boards supporting the use of preferred terms and discontinuing the use of confusing abbreviations. The decision by doctors, nurses, and pharmacists not to use these abbreviations would impact patient safety and patient safety comes first.

The Board Members suggested submitting a Resolution concerning the use of dangerous abbreviations to the NABP committee to be voted on at the NABP meeting in April.

AGENDA ITEM XI - Election of Officers

On motion by Mr. Ketcherside and Mr. Jones, the Board unanimously elected Mr. McAllister to serve as President for the next year.

On motion by Mr. Dutcher and Mr. Ketcherside, the Board unanimously elected Ms. McCoy to serve as Vice President for the next year.

AGENDA ITEM XII - Discussion of Board Meeting Schedule for May

President Draugalis asked Mr. Wand to discuss this issue. Mr. Wand stated that Mr. Dutcher asked if the meeting could be changed. Mr. Dutcher state that he is attending another convention during the time that the May Board meeting was scheduled and wondered if the meeting could be moved a week earlier or a week later. Other Board Members indicated that they had conflicts in moving the meeting and it was decided not to change the date of the May meeting.

AGENDA ITEM XIII - Selection of Delegates for NABP's 100th Annual Meeting

The Board selected Ms. McCoy as the voting delegate at NABP's 100th Annual Meeting to be held in Chicago in April. Mr. Wand will serve as the designated alternate delegate.

AGENDA ITEM XV - Call to the Public

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

Comments were made concerning the following issues:

1. PAPA is a very good program providing assistance to pharmacists struggling with the problems of substance abuse.
2. It was suggested that drug errors should be noted in the newsletter.
3. A pharmacist suggested that the Board should address the consolidation issue. It was suggested that the physician may not intend for the quantity to be increased
4. It was also suggested that the Board should not waive the counseling requirements for mail order prescriptions.

There being no further business to come before the Board **on motion by Mr. Dutcher and Mr. Jones**, the Board unanimously agreed to adjourn the meeting at 4:45 P.M.