

**THE ARIZONA STATE BOARD OF PHARMACY
HELD A REGULAR MEETING JANUARY 12, 2005
GLENDALE, ARIZONA**

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

President McAllister convened the meeting at 9:05 A.M. and welcomed the audience to the meeting. Ms. Frush explained that law continuing education would be offered for attendance at the meeting. President McAllister introduced Dr. Annie Lin, the Dean of the Pharmacy School at Midwestern University. Dr. Lin welcomed the audience to Midwestern University. Dr. Lin gave a brief overview of the school's demographics and the school's strategic plan. Dr. Lin thanked the individuals in the audience that serve as preceptors for providing quality programs and training for the students.

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

President McAllister introduced the newly appointed Board Member, Thomas Van Hassel.

Mr. Van Hassel is the Director of Pharmacy at Yuma Regional Medical Center.

President McAllister administered the Oath of Office to Mr. Van Hassel to allow Mr. Van Hassel to assume the duties of a voting member of the Board.

AGENDA ITEM II - Approval of Minutes

Following a review of the minutes and an opportunity for questions and on motion by Mr. Dutcher and Ms. McCoy, the minutes of the Regular Meeting and the Executive Session held on November 17 and 18, 2004 were unanimously approved by the Board Members.

AGENDA ITEM III - Permits/Licenses

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

President McAllister stated that American Pharmacy had sent a letter to the Board indicating that they will be closing the pharmacy instead of changing ownership of the pharmacy and as a result will not be appearing at this Board Meeting.

- Nuclear Apothecary Yuma

Jacqueline Toth, the owner was present to answer questions from Board Members.

President McAllister opened the discussion by asking Ms. Toth to discuss her business. Ms. Toth

stated that her and her partner will be opening a nuclear pharmacy in Yuma, Arizona. Ms. Toth stated that there is not a nuclear pharmacy in Yuma and most patients and physicians are being serviced by pharmacies in Phoenix.

Mr. McAllister asked if Ms. Toth is a pharmacist. Ms. Toth stated that both her and her business partner are both pharmacists.

Mr. Wand asked if the pharmacy would be delivering products to doctors in the Yuma area. Ms. Toth stated that the pharmacy would be delivering to doctors in the area. Mr. Wand asked if the prescriptions would be individually labeled for the patients. Ms. Toth stated that about 90% of the products would be prescribed and labeled for specific patients. Ms. Toth stated that the other products would be labeled for physician use.

Mr. Dutcher asked if the pharmacy would only be delivering prescriptions to patients in the Yuma area or if they would be transporting products outside the Yuma area. Ms. Toth stated that they might consider transporting

products to the Brawley and El Centro areas in California. Ms. Toth stated that they would need to apply for licensure in California prior to transporting products to these two areas.

Mr. Wand reminded Ms. Toth that she must have a copy of her Arizona Radiation Regulatory approval prior to her opening inspection by the Board. Ms. Toth stated that the license has been submitted to the Arizona Radiation Regulatory Agency and the agency is awaiting the approval of the pharmacy permit by the Board of Pharmacy.

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

RESIDENT (In Arizona)

- Wal-Mart Pharmacy 10-5186
2501 S. Market Street
Gilbert, AZ 85296
Wal-Mart Stores, Inc.
- Wal-Mart Pharmacy 10-5330
6145 N. 35th Ave.
Phoenix, AZ 85017
Wal-Mart Stores, Inc.
- Wal-Mart Pharmacy 10-5190
2501 W. Happy Valley Rd.,
Phoenix, AZ 85027
Wal-Mart Stores, Inc.
- Wal-Mart Pharmacy 10-3315
4230 W. Union Hills Dr.,
Phoenix, AZ 85308
Wal-Mart Stores, Inc.
- Wal-Mart Pharmacy 10-5303
1280 Gail Gardner Way,
Prescott, AZ 86305
Wal-Mart Stores, Inc.
- Walgreens Drug #09264
21274 N. John Wayne Parkway,
Maricopa, AZ 85239
Walgreen Arizona Drug Co.
- Kindred Pharmacy Services
4595 S. Palo Verde Rd., Ste. 519,
Tucson, AZ 85714 (O)
KPS Mountain, Inc.
- Nuclear Apothecary Yuma
11665 S. Fortuna, Ste. F,
Yuma, AZ 85367
Nuclear Apothecary of Yuma
- Safeway Pharmacy #0752
4747 E. Elliot Rd.,
Phoenix, AZ 85044
Safeway Inc.
- Safeway Pharmacy #2088
4857 E. Greenway Rd.,
Phoenix, AZ 85254
Safeway Inc.
- CVS/Pharmacy #5029
9230 E. Broadway Rd.,
Mesa, AZ 85208
Broadway Maricopa CVS, LLC
- CVS/Pharmacy #5849
990 E. Pecos Rd.,
Chandler, AZ 85225
Chandler Dobson CVS, LLC
- Safeway Pharmacy #2699
Litchfield & Waddell Rds.,
Surprise, AZ 85374

(O) = Change of Ownership

The permit for American Pharmacy of Arizona was not approved since the owner sent a letter to the Board indicating that they intended to close the pharmacy.

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

NON-RESIDENT (Out of State)

- Americare Health Care Systems, Inc.
961 E. Altamonte Dr.,
Altamonte Springs, FL 32701
Americare Health Systems, Inc.
- Hill Pharmacy Direct, Inc.
1701 E. Airport Blvd., Sanford, FL 32773
Hill Pharmacy Direct, Inc.
- Custom Prescription Shoppe
313 E. Maple St. #101, Bellingham, WA 98225
Custom Prescription Shoppe, LLC
- Radiant Pharmacy Services, Inc.
3880 Schiff Drive,
Las Vegas, NV 89103
Radiant Pharmacy Services, Inc.
- Medipharm-Rx, Inc.
4607 N. Clark Ave.,
Tampa, FL 33614
Medipharm-Rx, Inc.
- Eastern Isotopes, Inc.
5900- B Obata Way,
Gilroy, CA 95020
Eastern Isotopes, Inc.
- Apria Healthcare
4401 McLeod Rd. NE,
Albuquerque, NM 87109
Apria Healthcare, Inc.
- QoL Meds.
7440 McKnight Rd., Second Floor,
Pittsburgh, PA 15237
Specialized Pharmaceuticals, Inc.

Wholesale Permits

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

- **Webster Veterinary Supply, Inc.**

Tom Burke and Todd Milburn were present to answer questions from Board Members.

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

Mr. Burke stated that they will be wholesaling veterinary supplies and have previously operated as Milburn Distributions, Inc.

Mr. Wand asked if they had signed the wholesale orientation sheet. Mr. Burke replied that they had signed the sheet.

Mr. Wand asked if they are aware that they cannot repackage drugs as part of the wholesale agreement. Mr. Burke replied yes.

Mr. Wand reminded them that they must have on file copies of the licenses and permits of individuals to whom they sell medications.

- Apothecary Shop of Scottsdale, Inc.

John Musil was present to answer questions from Board Members.

President McAllister opened the discussion by asking Mr. Musil to describe his wholesale business. Mr. Musil replied that his wholesale business will be servicing professional sports teams.

Mr. Wand reminded Mr. Musil that he must have a copy of the medical directors license for the team. Mr. Musil stated that he will obtain a copy of the medical directors license and DEA permit. Mr. Wand reminded Mr. Musil that the sports team is not authorized to buy medications and only the medical director of the team could purchase the medications.

Mr. Wand explained to the audience that the reason the Board asks applicants to appear and answer questions is to determine the nature of the applicant's business. If at a later date, the permit holder did not do what he told the Board he was going to do during the question and answer period, the Board could revoke or suspend their permit.

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

- Webster Veterinary Supply, Inc.
23048 N. 15th Ave.
Phoenix, AZ 85027
Webster Veterinary Supply, Inc.(O)
- Apothecary Shop of Scottsdale, Inc.
9777 N. 91st. St, Ste. 102,
Scottsdale, AZ 85258
Apothecary Shop of Scottsdale, Inc.
- Blood Systems
2424 W. Erie,
Tempe, AZ 85282
Blood Systems, Inc.

(O)= Ownership Change

Pharmacist, Pharmacy Intern, and Pharmacy Technician Licenses

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

Pharmacists licenses 14459 through 14558, Pharmacy Intern licenses 6741 through 6779, and Pharmacy Technician licenses 6112 through 6499 (with one number voided). Also, approved were 36 licensee changes from pharmacy technician trainee to pharmacy technician. For a complete list of names see attachments.

Mr. Wand indicated that many foreign graduates obtain intern licenses but never report intern hours or become licensed in Arizona. It was decided that this is a topic that the Board may want to consider at the planning meeting.

AGENDA ITEM IV - Reports

Executive Director Report

Executive Director Hal Wand began his report by discussing the financial statements. Mr. Wand stated that the Board has six months left on the two-year budget. Mr. Wand stated that there will be some money left over at the end of the year. The money left at the end of the year will be used to help update the computer equipment within the office. Mr. Wand stated that the Federal Money is used for training issues.

Mr. Wand stated that the racing commission sent a letter thanking Mr. Cieslinski for his help during a recent investigation. Mr. Wand stated that there has been individuals at the local horse race track dispensing drugs without a permit and are not veterinarians. Mr. Cieslinski stated that they raided several tack rooms and found unlabeled products and medications from Canada and Mexico. Mr. Cieslinski stated that the sources of the product could not be easily identified because most of the products were in the manufacturer's bottles.

Mr. Wand stated that the Board Office is currently running an ad for a certified technician for the inspector position. Mr. Wand stated that an ad was run in September and interviews were conducted. A suitable candidate was not found to fill the position during this interview process. Mr. Wand stated that the previous inspector helped in the office during the technician licensing process and when the inspector was terminated, temporary help was used to assist with the licensing in the office. Mr. Wand stated now that the licensing process is completed, the office is working hard to hire someone to fill the inspector position.

Mr. Wand stated that fortunately the Board of Pharmacy did not have issues licensing technicians.

Mr. Wand stated that the Naturopathic Board is currently trying to license the massage therapists and are several weeks behind in licensing and the massage therapists were picketing outside the massage therapy's board office.

President McAllister stated that the Board must keep in mind that as they propose new rules and regulations that it often creates work for the office. President McAllister stated that it was an exemplary piece of work to license all the technicians. Mr. Wand stated that the office staff should be congratulated for their work during this license and renewal period.

Deputy Director Report

Deputy Director Frush directed the Board Members attention to the activity reports for the Compliance Officers. Ms. Frush stated that the Compliance Staff was slightly behind the number of pharmacy inspections that were completed at this time last year. Ms. Frush stated that the Compliance Staff inspected all the full service and non-prescription wholesalers during the month of December and noted several issues that needed to be corrected. In the past, the inspector performed the wholesale inspections. Ms. Frush stated that the number of complaints for the year was the same number of complaints as last year. Ms. Frush stated that the number of audits that the Compliance staff has conducted is increasing. Additional audits are performed when the office receives reports of theft, diversion, or forgeries. Ms. Frush stated that the ad is currently running in the Arizona republic for the inspector position. The ad also appears on the internet on the Arizona Central career builder site and on the State Human Resource site.

Ms. Frush stated that during the months of November and December, the compliance staff issued letters for the following violations:

- 1. Failure to license technicians - (9)
- 2. Controlled substance shortages - (7)
- 3. Controlled substance overages - (4)
- 4. Failure to post the wall certificate or have technician licenses available - (2)
- 5. Upon change of Pharmacist-In-Charge, the controlled substance inventory was not completed - (2)
- 6. Dispensed a CII prescription past the 60 day limit - (2)
- 7. Unable to locate CIII- CV invoices - (1)
- 8. Substitution on a prescription signed on the Dispense as Written line - (1)
- 9. Label did not indicate generic product was substituted for Brand Name - (1)
- 10. Computer Security - Allowed alteration of Rx date - (1)
- 11. Failure to obtain hard copy of emergency CII prescriptions within 7 days - (1)
- 12. Annual Controlled Substance Inventory lacked pharmacist's name and time - (1)
- 13. Record Keeping - Invoices filed improperly- (1)
- 14. Pharmacist allowed a pharmacy technician trainee to compound - (1)

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

- 1. Signing of daily log
- 2. Wearing of name badges by all pharmacy employees

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

- 1. Obtaining prescription information - date, agent's name
- 2. Improvement in OTC departments

Areas outside the inspection reports that may be of interest:

- 1. Pharmacies using temporary staffing should insure that all temporary employees are properly licensed prior to working.
- 2. Pharmacies remodeling their pharmacies must submit remodel plans and be inspected by a Compliance Officer prior to moving into the new space.

PAPA Report

PAPA was represented by Lisa Yates. Ms. Yates stated that there are a total of thirty-five (35) participants in the PAPA program. Ms. Yates stated since November 17, 2004, there have been three participants that have completed the program and there has been one termination.

A short recess was taken and the meeting was reconvened.

APA Report

Kathy Boyle was present to represent the Arizona Pharmacy Alliance. Ms. Boyle stated that she is the Chief Operating Officer and lobbyist for the Alliance.

Ms. Boyle stated that the Alliance would be following several bills, including the Pharmacy Board's bill, during this legislative session. Ms. Boyle stated that they would be following the Medical Liability Reform Bill. This bill will attempt to cap economic damages, develop expert witness standards, and allow for a sheltering of an apology during discovery.

Ms. Boyle stated that they would be following a pain task force bill that would allow for a pharmacist with pain management experience to serve on that task force.

Ms. Boyle stated that they would be following the Naturopathic Board's bill that would allow naturopaths to administer vitamins and minerals.

Ms. Boyle stated that a bill has been proposed that would allow a pharmacist to decline to fill prescriptions based on religious, moral or ethic reasons. Ms. Boyle stated that the bill does not require the pharmacist to do anything else for the patient.

Ms. Boyle stated that a bill has been proposed by the Attorney General's Office that would put all pseudoephedrine and ephedrine products behind the pharmacy counter. The only products that non-pharmacy outlets would be able to sell would be the liquid and gel cap products. Ms. Boyle stated that a paper logbook of sales would be required. Ms. Boyle stated that the alliance feels that the paper logbook would be a burden to the pharmacist.

AGENDA ITEM V - Proposed Rules

- **Technician CE Rules**

Compliance Officer/Rules Writer Dean Wright stated that he is submitting for the Board's approval the Notice of Final Rulemaking and the Economic Impact Statement for the technician CE requirements. Mr. Wright stated that at the last Board Meeting the Board decided to keep the CE requirement for law at 2 contact hours instead of one contact hour. Mr. Wright stated that a request was made by the public during the hearing period to decrease the CE requirement for law to one credit. Mr. Wright stated that the Board decided to keep the law CE at 2 hours. Mr. McAllister stated that this might impact the office staff.

On motion by Mr. Dutcher and Mr. Ketcherside, the Board unanimously agreed to approve the Notice of Final Rulemaking and the Economic Impact Statement for the Technician CE rules and authorized Mr. Wright to proceed with the process.

Mr. Wright stated that the Notice should be reviewed at GRCC's meeting on March 1, 2005 and if approved

it will become law in 60 days.

- **Five-Year-Rule-Review**

Mr. Wright stated that the Board is required to review three articles for this five-year-rule review.

The Board will be required to review Articles 7, 9, and 10. Mr. Wright stated that he has provided the Board with the guidelines for the review. Mr. Wright stated that at the April meeting, the Board should recommend any changes that they feel would be necessary to the existing rules.

President McAllister stated that Board Members should review the rules and recommend any changes at the April meeting. Mr. Wright stated that Article 7 has been reviewed in the last two years. Mr. Wright stated that Article 9 has only one section. Mr. Wright stated that Article 10 was reviewed about 2 years ago. Mr. Wright stated that the Board Members could e-mail to him any recommendations prior to the April meeting.

Mr. Wright stated that the five-year rule review involves the agency reviewing the rule to see if any changes need to be made and notifying GRCC if the Board will take any action. Mr. Wright stated that the Board is looking for inconsistencies, conciseness, clarity, and understandability. The review does not necessarily involve practice changes.

Mr. Wright stated that he looks over the rules to be sure that the Board keeps the promises to GRCC to review the rules. Mr. Wright stated that GRCC is trying to take action against agencies that do not follow through with their reviews. Mr. Wand stated that GRCC could delete the rules and require the Board to start the process all over again.

On motion by Mr. Van Hassel and Ms. McCoy, the Board agreed to meet in Executive Session.

The meeting was recessed for lunch and reconvened at 1:15 PM. President McAllister welcomed the Midwestern Pharmacy students to the meeting.

AGENDA ITEM VI - Special Requests

- **#1 Greg Mowers**

Greg Mowers appeared with Lisa Yates from the PAPA program. President McAllister asked

Mr. Mowers to describe the nature of his request. Mr. Mowers stated that he is requesting that the suspension of his pharmacist's license be terminated and probation imposed.

President McAllister asked Mr. Mowers to describe the changes that he has made in his life since his license was suspended. Mr. Mowers stated that he had completed his treatment at Valley Hope. Mr. Mowers stated that he attends five to six meetings a week and PAPA counseling sessions. Mr. Mowers stated that he is working on improving himself and his family situation.

President McAllister asked Mr. Mowers how he feels about himself today compared to several months ago. Mr. Mowers stated that he feels like a different person. Mr. McAllister asked Mr. Mowers if he was ready to return to work in a busy pharmacy. Mr. Mowers replied that he was ready to return to work.

President McAllister asked Ms. Yates if PAPA supported Mr. Mowers request. Ms. Yates replied that PAPA supports his request. Ms. Yates stated that Mr. Mowers has been compliant with his contract and is doing well.

Mr. Dutcher asked if there were any legal problems since the order states that Mr. Mowers could appear after January 15, 2005. Mr. Pulver stated that the Board could make the reinstatement effective on January 15, 2005.

On motion by Ms. McCoy and Dr. Tippett, the Board unanimously agreed to terminate the suspension of Mr. Mower's license and impose probation with the standard PAPA contract subject to the terms of Board Order Number 04-0026-PHR. This termination will be effective as of January 15, 2005.

- #2 Jonathan Corey Ray

Jonathan Ray appeared with Lisa Yates from the PAPA program.

President McAllister asked Mr. Ray to describe the nature of his request. Mr. Ray stated that he is requesting that the suspension of his license be removed. Mr. McAllister asked Mr. Ray about his recovery program. Mr. Ray stated that he attended the thirty-day program at Valley Hope. Mr. Ray stated that he has remained to stay clean and sober. Mr. Ray stated that he attends five to seven meetings a week and attends an after care program. Mr. Ray stated that he is living in the Lake Tahoe area and is working the program, which is a little different than the PAPA program here.

President McAllister asked Mr. Ray if he is living permanently in the Tahoe area. Mr. Ray stated that he is living there temporarily because he has lost everything. Mr. Ray stated that it is important to him to get his license back to help put his family back together. Mr. McAllister asked if his request is granted would Mr. Ray be moving back to Arizona. Mr. Ray stated that he

probably would be moving back to Arizona because he feels that there is a larger support group here. Mr. Ray stated that his support group only has a few nurses in the groups and it is harder for others to understand his situation. Mr. Ray stated that he could not afford to move back to Arizona until he can support his children.

President McAllister asked Mr. Ray how he feels about himself now compared to last summer. Mr. Ray stated that he feels better as a person. Mr. Ray stated that he feels he needs to grow more. Mr. Ray stated that he does not feel at this time that he could work in a retail or hospital pharmacy. Mr. Ray stated that he will be looking for a non-traditional pharmacist role. Mr. Ray stated that he took some IT courses at the community college over the summer. Mr. Ray stated at first he felt that he would not return to pharmacy and over the summer decided that he would like to return to pharmacy because he enjoys working with patients. Mr. Ray stated that he is trying to rebuild his life and get back into the profession.

President McAllister asked Ms. Yates about the out-of-state arrangements. Ms. Yates stated that she does speak with his counselor and she does receive monthly reports. Ms. Yates stated that the reports indicated that the counselor feels Mr. Ray is working a good program. Ms. Yates stated that he has been compliant throughout his contract. Ms. Yates stated that it is PAPA's hope that the pharmacist will return to the Arizona area due to the pharmacist support that they receive. Ms. Yates stated that Mr. Ray told her that he would like to work in a non-dispensing role.

President McAllister stated that if the request is granted that Mr. Ray will be expected to follow the standard PAPA contract.

Mr. Dutcher asked Mr. Ray what has PAPA offered him to help resist temptation if he is not able to find a non-dispensing role. Mr. Ray stated that the PAPA program helps set boundaries and guide participants in the right direction. Mr. Ray stated he has not been faced with the situation of opportunity and that is why he wants to be in a non-dispensing role. Mr. Ray states that after care and counseling is very important.

President McAllister stated that the Board supports the PAPA program because addiction is a disease and recovery is possible. Mr. McAllister stated that the Board has seen many successes.

Mr. Van Hassel asked Mr. Ray what he has done over the summer since he was unable to work in the pharmacy. Mr. Ray stated that he worked with his sponsor, who is a demolition expert. Mr. Ray stated that he spent time with his son over the summer because he had become distant from his family. Mr. Ray stated that he helps with his son's Cub Scout troop and at his school. Mr. Ray stated that he is trying to be a better person in general. Mr. Ray stated that he took some courses at the Community College.

On motion by Mr. Dutcher and Dr. Tippet, the Board unanimously agreed to terminate the suspension of Mr. Ray's license and impose probation with the standard PAPA contract subject to the terms of Board Order Number 04-0012-PHR.

- #3 Bradley Williamson

Bradley Williamson appeared on his own behalf to request permission to proceed with reciprocity.

President McAllister asked Mr. Williamson to describe the nature of his request. Mr. Williamson stated that he would like to proceed with reciprocity. Mr. Williamson stated that he is currently licensed in Tennessee and Alabama.

President McAllister asked Mr. Williamson why he was asked to appear in front of the Board to proceed with reciprocity. Mr. Williamson stated that his intern license was suspended in Georgia in 1994. Mr. Williamson stated that he was living and working in Tennessee and was in the process of applying for a Tennessee pharmacist license. Mr. Williamson stated that Georgia decided to suspend his intern license for a criminal matter. Mr. Williamson stated that the criminal matter has been discharged. Mr. Williamson stated under the first offender act the matter was discharged in 1995.

President McAllister asked Mr. Williamson how long he has been practicing as a pharmacist. Mr. Williamson stated that he has been practicing since 1996. Mr. McAllister asked Mr. Williamson if he has had any other disciplinary actions taken against his licenses. Mr. Williamson replied no.

President McAllister asked Mr. Williamson if he would be moving to Arizona. Mr. Williamson replied that he would not be moving to Arizona. Mr. Williamson explained that he works for Caremark in Alabama and due to the workload in Arizona, Caremark has asked pharmacists in Alabama to become licensed in Arizona to help with the workload if necessary.

Dr. Tippett asked Mr. Williamson if he attempted to have the Georgia suspension removed. Mr. Williamson stated that Georgia did not take action until after he finished his degree and was already working in Tennessee. Mr. Williamson stated that he no longer needed the intern license to work.

On motion by Mr. Van Hassel and Mr. Ketcherside, the Board unanimously agreed to approve the request made by Mr. Williamson to proceed with reciprocity.

- #4 Brenda Benally

Brenda Benally appeared on her own behalf to request that the Board allow her to obtain an intern license.

President McAllister asked Ms. Benally to explain the nature of her request. Ms. Benally stated that in 1992 her pharmacist license was revoked in Oklahoma for substance abuse and failure to keep records. Ms. Benally stated that she left Oklahoma before this happened and returned to

Arizona where she grew up. Ms. Benally stated since that time she has not practiced pharmacy.

Ms. Benally stated that she has been working with her husband.

Ms. Benally stated that she appeared before the Oklahoma Board in 2003. Ms. Benally stated that the Oklahoma Board agreed to allow her to reinstate her license but she would need to take the NAPLEX exam. Ms. Benally stated that she agreed to take the exam. Ms. Benally stated that in June of 2004, she volunteered to help in the pharmacy at Fort Defiance. Ms. Benally stated that she started out working as an aid doing filing and then she started working as a pharmacy technician.

Ms. Benally stated that she realized that she wanted to return to pharmacy. Ms. Benally stated that she applied to take the NAPLEX exam. Ms. Benally stated that she wants to work, but does not want to go back to Oklahoma to complete the process. Ms. Benally stated that there is a need for pharmacists on the reservation and she would like to become licensed as a pharmacist again.

President McAllister stated that the process would involve an internship of at least 400 hours. Mr. Wand stated that it would be at least 400 intern hours, but the compounding issue is that she would be working at a Federal facility that is not licensed by the Arizona Board. Mr. Wand stated in order to work at a Federal facility Ms. Benally could be licensed in any state. Mr. Wand asked if Ms. Benally had a pharmacist license in any state. Ms. Benally replied no. Ms. Benally stated that she is still waiting for her time to take the NAPLEX exam. Mr. Wand asked if the score would be reported to Oklahoma. Ms. Benally replied yes. Ms. Benally stated that she wants to stay in Arizona and felt that she needed to go back to Oklahoma to speak with the Board. Mr. Wand asked if she has already paid the fee to take the NAPLEX. Ms. Benally stated that the Oklahoma Board will be giving her a time to take the test at their next meeting. Ms. Benally stated that the meeting will be held a week from today. Mr. Wand stated that the score could be transferred to Arizona and that must be completed within a certain time period.

President McAllister asked Ms. Benally if she is currently working as a technician. Ms. Benally stated that she is not currently working. Ms. Benally stated that she worked until November and was working as a temporary employee. Ms. Benally stated that there would be a job opening this month for a technician at Fort Defiance. Ms. Benally stated that she is studying for the test.

Mr. Dutcher stated that he feels that 400 hours of internship is not adequate. Mr. Wand asked if she did 1500 hours of internship in Oklahoma. Ms. Benally stated that she did more than 1500 hours. Mr. Wand stated that the Board could only request 400 hours unless she agreed to do additional hours.

Mr. Van Hassel stated that according to the Oklahoma Board minutes that Ms. Benally agreed to take the NAPLEX exam by date of January 1, 2004. Ms. Benally stated that she understood that she had to make the application to take the exam in 2004. Ms. Benally stated that was her mistake. Ms. Benally stated that when she appeared in front of the Oklahoma Board, she was very nervous and she messed up.

Mr. Dutcher asked Ms. Benally if the Oklahoma Board was going to allow her to sit for the exam since she missed the assigned date. Ms. Benally stated that the Board would consider her request at their Board Meeting next week.

Mr. Ketcherside stated that he is troubled by the unresolved issues in Oklahoma and would like to table this request until Ms. Benally resolves the issues with the Oklahoma Board.

Ms. McCoy asked Ms. Benally if she was required by Oklahoma to participate in any treatment programs dealing with the drug issues. Ms. Benally stated in Oklahoma there are no programs available. Ms. Benally stated that she walked away from her pharmacy and just quit. Ms. Benally stated that she has not had problems with medications since that time. Ms. Benally stated that there were no drugs available for her to use. Ms. Benally stated that she is willing to go to drug counseling or a program if that would be necessary.

On motion by Mr. Dutcher and Mr. Ketcherside, the Board unanimously agreed to deny the request by Ms. Benally to be granted an intern license in Arizona.

- #4 Linda Tarron

Linda Tarron appeared on her own behalf to request permission to proceed with technician licensure. Les Weinberger, RPh was also present to speak on Ms. Tarron's behalf.

President McAllister opened the discussion by asking Ms. Tarron to describe the nature of her request. Ms. Tarron stated that she is requesting to proceed with technician licensure.

Mr. McAllister asked why she could not proceed with licensure. Ms. Tarron stated that she does not have a high school diploma or GED. Mr. McAllister asked if she lacked proof of the high school diploma or GED. Ms. Tarron again replied that she does not have a high school diploma or GED.

Mr. Weinberger addressed the Board. He stated that Ms. Tarron has been a technician for ten years. Mr. Weinberger stated that she is an excellent technician. Mr. Weinberger stated that he feels that she should be allowed to continue to work as a technician because she is a fantastic technician.

President McAllister asked Ms. Tarron if she has any intention of earning her GED. Ms. Tarron replied that she has no intention of earning a GED. President McAllister stated in order to become a certified technician that she would need to take the PTCB exam and order to take the PTCB exam; she would need to have a high school diploma or a GED. Mr. McAllister stated that the Board might allow her to become a trainee and earn the GED.

Mr. Pulver stated that according to the statute in order to become a pharmacy technician trainee an individual must have a high school diploma or the equivalent of a high school diploma. Mr. Pulver stated that unless the Board can determine that the applicant's experience is equivalent to a high school diploma then the applicant would need to have a GED.

Ms. McCoy asked if the requirement to have a high school diploma was in effect when we began licensing technicians. Mr. Wand stated that the rule has been in effect since 1993.

President McAllister asked if it is the consensus of the Board that the Board will uphold the rules as written. President McAllister advised Ms. Tarron to obtain a GED.

Mr. Weinberger asked if Ms. Tarron could work in the pharmacy. President McAllister stated that until Ms. Tarron completes the GED she could perform clerk duties but not the duties of a technician.

- #6 Darren Thompson

Darren Thompson appeared on his own behalf to request permission to proceed with technician licensure. Joseph Petrick, RPh was also present to speak on Mr. Thompson's behalf.

President McAllister asked Mr. Thompson describe the nature of his request. Mr. Thompson stated that in January of 2001, he was convicted of cocaine possession and the intent to distribute.

Mr. Thompson stated that his problems started that his problems began when he was in the third year of college. Mr. Thompson stated that he allowed a fugitive to stay at his house as a roommate. Mr. Thompson stated that his house was raided by the DEA and cocaine was found at his residence. Mr. Thompson stated that he was held responsible for the drugs because it was his residence. Mr. Thompson stated that he was offered a plea arrangement, but as a result of the agreement his life could have been endangered. Mr. Thompson stated instead of taking the plea agreement he went to prison for twenty-one (21) months.

President McAllister asked Mr. Thompson when he was released from prison. Mr. Thompson replied that he was released from Federal Prison in November of 2004. Mr. Thompson stated that prior to going to prison he worked at Osco Drug as an education coordinator. Mr. Thompson stated that prior to going to prison he attended school at the University of Arizona. Mr. Thompson stated that upon his release he was hired by Osco as a pharmacy technician. Mr. Thompson stated that the Compliance Officer stated that there might be an issue with his conviction.

Mr. Wand asked Mr. Thompson what job he was offered by Osco upon his return. Mr. Thompson stated that he was offered a job as a pharmacy technician. Mr. Thompson stated that he was PTCB certified before his conviction.

Mr. Wand stated that Mr. Thompson did pass the exam. Mr. Wand stated that Mr. Thompson has been convicted of a felony and the Board may or may not issue a license to an applicant that has been convicted of a felony.

Mr. Pulver asked Mr. Thompson about his release date. Mr. Thompson stated that he did serve a minimum mandatory sentence and was released with good conduct time. Mr. Pulver stated that the main issue for the Board is if the applicant is of good moral character. Mr. Pulver stated that the applicant has made a mistake and it is up to the Board to determine if the applicant is of good moral character.

Mr. Wand stated that different pharmacists at Osco and a supervisor have written letters of recommendation for Mr. Thompson. Mr. Wand stated that many letters were complimentary.

Dr. Tippet asked Mr. Thompson about the roommate's drug use and the plea agreement. Mr. Thompson stated that the giving of information would have endangered his life and his brother's life.

President McAllister stated that Mr. Thompson has paid for his crimes and has numerous recommendation letters.

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

AGENDA ITEM VII - Complaint Review

The Consumer Complaint Review committee met prior to the Board Meeting to review 23 complaints. Mr. Dutcher and Dr. Tippet served as the review committee. Board Members were encouraged to discuss issues and were encouraged to ask questions. Board Members discussed Complaints #2861 and #2869 to reach a final consensus on the recommendation.

Board Members asked Mr. Pulver about their recommendation for Complaint #2872. The Board Members asked if the pharmacist could appear before the Board prior to a consent order being issued. Mr. Pulver stated that as a condition of the consent the Board could ask the pharmacist to appear before the Board. Mr. Van Hassel stated the pharmacist has a flagrant disregard for the rules. Mr. Van Hassel stated that the pharmacist knew the rules and chose not to obey the rules.

Mr. Ketcherside asked about the complaints for a specific organization and the stay. Mr. Ketcherside asked if this stay frees the organization to commit further violations. Mr. Pulver stated that during the time period of the stay the Board would not take any actions against the organization for any complaints that occurred during the stay period because the organization was in the process of changing their policies and procedures. Mr. Pulver stated that after the stay ends then the Board could move forward on any complaints. Mr. Pulver stated that the complaints

occurred during the stay. Mr. Wand reminded the Board Members that the stay ended on November 17, 2004.

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

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

- Complaint # 2840 - Letter
- Complaint # 2843 - No Further Action
- Complaint # 2851 - No Further Action
- Complaint # 2852 - No Further Action (Letter of Concern - Should notify patients of changes in some fashion)
- Complaint # 2853 - No Further Action
- Complaint # 2854 - No Further Action (Occurred during stay)
- Complaint # 2855 - No Further Action
- Complaint # 2856 - No Further Action
- Complaint # 2857 - No Further Action
- Complaint # 2858 - Conference
- Complaint # 2859 - No Further Action
- Complaint # 2860 - No Further Action
- Complaint # 2861 - Letter
- Complaint # 2862 - No Further Action (Occurred during stay)
- Complaint # 2864 - No Further Action
- Complaint # 2865 - No Further Action (Occurred during stay)
- Complaint # 2866 - Letter - Pharmacist and Technician
- Complaint # 2867 - Conference
- Complaint # 2868 - Conference
- Complaint # 2869 - Letter
- Complaint # 2870 - No Further Action
- Complaint # 2871 - Conference
- Complaint # 2872 - Consent - Pharmacist and Permit Holder

AGENDA ITEM VIII - Conferences

- **Complaint # 2814 - Respondent requested a Postponement until the April meeting**
- **Complaint # 2817 - The following individuals were present in response to a consumer complaint:**
 - Billie Saavedra - Pharmacist**
 - Deanne Estes - Hospital Pharmacy Director**
 - Mike Milanovich - Vice President of Cameron and Company (temporary staffing agency)**
 - Roger Morris - Counsel for Billie Saavedra**

Compliance Officer Rich Cieslinski gave a brief overview of the complaint. Mr. Cieslinski stated that the complainant received the wrong medication. Mr. Cieslinski stated that the patient received Coreg 6.25 mg instead of Colesevelam 625 mg. Mr. Cieslinski stated that no ingestion of the medication occurred because the patient knew the medication was not correct.

President McAllister asked Ms. Saavedra about the error. Ms. Saavedra stated that she was working through a relief agency at the hospital that day and did misfill the prescription. Ms. Saavedra stated that she regrets the error. Ms. Saavedra stated that she does not work at the hospital everyday. Ms. Saavedra stated that she changed the way she reviewed prescriptions at this facility.

President McAllister asked Ms. Saavedra if she worked regularly at the hospital through Cameron. Ms. Saavedra stated that she works at a multitude of places and probably only worked at the hospital about ten times. President McAllister asked if the error occurred the first or second time that she worked at this facility. Ms. Saavedra stated it was probably about the tenth time. President McAllister asked if she was comfortable at that time with the facility and the processes. Ms. Saavedra stated that she was not really comfortable because she works mainly at retail pharmacies.

Dr. Tippett asked if there are some operational issues at the facility since there was a previous complaint from this institution. Ms. Estes stated that the two situations that came before the Board were errors made by relief pharmacists and the facility has had no complaints against the regular staff. Ms. Estes stated that the work that the relief pharmacists were asked to complete is similar to work they would do in a retail setting. Ms. Estes stated that the medications that the pharmacists were asked to check were self-med prescriptions. Ms. Estes stated that there were several different systems in place. Ms. Estes stated at that time they were in the process of implementing the automated dispensing machines. Ms. Estes stated that it was a human error in checking this prescription.

President McAllister asked if the activities of the relief pharmacists are included in the quality assurance program. Ms. Estes replied that a different relief pharmacist was sent to the facility each time. Ms. Estes stated that most of the relief pharmacists worked at the facility only two or three times.

Ms. McCoy asked what kind of orientation was provided to the relief pharmacist. Ms. Estes stated that the relief pharmacists are asked to check the self-meds and to check the medications in the cassettes that the staff has filled. Ms. Estes stated that she reviews the process for the self-meds with the pharmacist. Ms. Estes stated that the labels and profiles are printed and she shows the pharmacist how to match the labels and profiles. Ms. Estes stated that she shows the pharmacists how the drugs are stored.

Mr. Dutcher asked if the Colesevelam was stored in the "C" section with the generics. Ms. Estes replied that it is stored in that section. Mr. Dutcher stated that the beginning letters and strengths are similar. Mr. Dutcher recommended that if a technician is not used in the process then the pharmacist should develop a method to double check themselves. Mr. Morris stated in this situation the pharmacist does not have the opportunity to double check the prescription during counseling because the medications are delivered to the patient.

President McAllister stated that he is glad that Ms. Saavedra has looked at her processes and double checks and reminded Ms. Saavedra to be careful.

- **Complaint # 2826**

President McAllister asked to be excused due to a conflict of interest and turned the meeting over to Vice President McCoy.

Pharmacist Steve Kirkland, Intern Cale Hone, and Pharmacy Supervisor Mike Umbleby were present in response to a consumer complaint. Compliance Officer Dean Wright gave a brief overview of the complaint. Mr. Wright stated the intern received a verbal order for Garamycin Ointment and prepared the prescription. Mr. Wright stated the pharmacist verified the prescription. Mr. Wright stated that the prescription was phoned into the pharmacy as Garamycin Ophthalmic Ointment and was dispensed as Garamycin Ointment (topical). Mr. Wright stated that the prescription directions should have read to "apply to stye four times daily" but was labeled to " apply to thigh daily".

Vice President McCoy opened the discussion by asking Mr. Kirkland about the complaint. Mr. Kirkland stated that when he checked the prescription it was for Garamycin Ointment to be applied to the thigh. Mr. Kirkland stated that it was obviously wrong and thought it might be for the eye. Mr. Kirkland stated that when he spoke with the intern he thought the intern had double- checked the medication. Mr. Kirkland stated that they do make a brand name Garamycin Ophthalmic Ointment. Mr. Kirkland stated that he did not mark any thing on the DUR in the computer as he should have marked. Mr. Kirkland stated that he should have deleted the prescription until the prescription was verified. Mr. Kirkland stated that he thought he wrote on the bag to check with the mother for the appropriate therapy during counseling. Mr. Kirkland stated that he would usually put the note on the bag and put the bag in the quarantine area. Mr. Kirkland stated that he does not remember if he wrote on the bag and quarantined the prescription.

Vice President McCoy asked Mr. Kirkland what is his common practice when he has questions regarding a prescription. Mr. Kirkland stated since that time he deletes that prescription from the system. Mr. Kirkland

stated that the computer system has been updated and does not allow the pharmacy to sell a product that has a DUR placed on the prescription. Mr. Kirkland said prior to this update he just deleted the prescription and waited to speak with the doctor or the patient.

Vice President McCoy asked Mr. Hone to discuss this complaint. Mr. Hone stated that he took the prescription over the phone. Mr. Hone stated that he transcribed the prescription as Garamycin Ointment to apply to the thigh daily. Mr. Hone stated that the prescription should have been transcribed as Garamycin Ophthalmic Ointment to be applied to the styte four times daily. Mr. Hone stated that he did not read the prescription back to the person phoning in the prescription. Mr. Hone stated that he now reads the prescription back to the doctor or the doctor's agent to be sure he transcribed the prescription correctly. Mr. Hone stated that he thought the order was unusual, but he was not the pharmacist who verified the order. Mr. Hone stated that he has learned that if he has a question about a prescription he needs to verify the prescription at that time. Mr. Hone stated that he performed the counseling and this is where he made another mistake. Mr. Hone stated that the mother asked him if there were any eye drops for her son. Mr. Hone told her no. Mr. Hone stated that he should have asked the mother about the use of the ointment and he did not. Mr. Hone stated that he now clarifies that the patient understands the counseling that he is providing and if the patient has any questions he ensures that he understands their question. Mr. Hone stated that if he had asked the right questions during counseling this error would not have occurred.

Mr. Wand asked Mr. Umbleby if there is a process for training interns. Mr. Wand asked if the pharmacist or preceptor supervises the intern while they take new prescriptions or does an intern just start taking new prescriptions. Mr. Umbleby stated that typically the company asks that the pharmacist supervise the intern in any aspect of pharmacy duties, such as taking voice mail off the system or counseling patients. Mr. Umbleby stated that in this case he is not sure what process was in place with this particular pharmacy manager. Mr. Wand asked if this policy is on the company's training CD. Mr. Umbleby stated that he believes it is on the CD.

Mr. Van Hassel asked Mr. Kirkland if he were to take the same prescription off the voice mail today would he misinterpret this prescription again. Mr. Kirkland stated that he had never dispensed Gentamycin ointment for anything that he can remember. Mr. Kirkland stated that he was not sure about the thigh part.

Mr. Van Hassel asked Mr. Hone if there was a language barrier between him and the doctor's agent. Mr. Hone stated that English was the agents primary language. Mr. Hone stated that he thought he heard the agent correctly, but he did not hear the prescription correctly.

Mr. Dutcher asked Mr. Hone about the changes he has made in his practice, such as repeating the prescription back to the agent. Mr. Hone stated that he repeats the prescription back each time. Mr. Dutcher stated repeating the prescription back to the agent is a very important safety precaution. Mr. Dutcher stated that counseling is also important. Mr. Dutcher reminded Mr. Hone to keep those two changes in mind for every prescription he dispenses and errors like this should not occur.

Vice President McCoy asked if Mr. Umbleby if it was company policy for anyone receiving verbal orders to repeat the prescription back to the agent. Mr. Umbleby replied that it is not company policy but considered good practice and is suggested to pharmacists and interns. Ms. McCoy stated that one of Joint Commission's national patient safety goals is when verbal orders are given that the orders are written down and repeated back to the practitioner.

Ms. McCoy stated that the pharmacist and intern have changed their practices and reminded them to be careful. Mr. Kirkland stated that he reported the error to ISMP.

- **Complaint # 2828**

Pharmacist Howard Zell and Pharmacy Supervisor Rick Wendling were present in response to a consumer complaint. Roger Morris was present as legal counsel for Mr. Zell. Compliance Officer Larry Dick gave a brief overview of the complaint. Mr. Dick stated that the patient received Phenobarbital 60 mg instead of Tenormin 100mg.

President McAllister asked Mr. Zell about the incident. Mr. Zell stated that he failed to identify the markings on the tablets. Mr. Zell stated that the technicians fill the prescriptions and it is his job to check the tablets. Mr. Zell stated that both tablets are small and white and he missed the identifying marks. Mr. Zell stated since that time he uses a magnifier to match the markings on the small tablets to the picture of the tablet on his computer screen.

President McAllister asked if this was an automated fill. Mr. Wendling stated a technician that incorrectly replenished a cassette caused the error. Mr. Wendling stated that the technician had only been with the company for ten months and showed a failure to follow company procedures while with the company. Mr. Wendling stated that they had developed a performance plan for this individual and he had been retrained on two different occasions when he was observed not meeting the standards. Mr. Wendling stated that the technician was placed on a final disciplinary action and was subsequently terminated.

Mr. Wendling stated that the error would have been difficult for Mr. Zell to catch. Mr. Wendling stated that another pharmacist caught the error and all patients were contacted proactively. Mr. Wendling stated that there were four patients that received the incorrect medication and none of the patients ingested the incorrect medication. Mr. Wendling stated that the correct medication was sent overnight to all the patients.

Mr. Wendling stated that last year a similar incident had occurred and at that time it was the technician's responsibility to log the replenishment. Mr. Wendling stated last year the Board suggested that possibly their automated system could track individuals not following proper procedures. Mr. Wendling stated that as of October 22, 2004, every transaction that takes place is reported to the supervisor, who is a pharmacist. The supervisor reviews all the data looking for inconsistencies for those not following pharmacy procedures.

Mr. Wendling stated that a second enhancement was made in the replenishment area. Mr. Wendling stated that a technician is required to scan for validity of the correct product. Mr. Wendling stated that if a technician incorrectly scans a bottle then the entire station is locked; the computer screen turns red, and tells the technician to see the supervisor. The technician must then find one of six area supervisors with special scan keys to investigate the problem. At that time, the supervisor will retrain the technician.

President McAllister stated that the follow-up and changes are exemplary to protect the patients.

Mr. Wand stated that he would like to compliment the respondent on typing the report and showed that he cared about the error.

President McAllister thanked the respondents for appearing and feels certain that the changes will protect the public.

- **Complaint #2829 -**

Pharmacist Gretchen Amoroso and Pharmacy Supervisor Dean Burton were present to answer questions concerning a consumer complaint. Compliance Officer Rich Cieslinski gave a brief overview of the complaint. Mr. Cieslinski stated that the complainant was given Pegasys prefilled syringes instead of Pegasys vials on her refill prescription. The Pegasys vials contain 180mcg/1ml and the Pegasys prefilled syringes contain 180mcg/0.5 ml. The complainant tried to calculate her own dose since the pharmacy and her doctor's office were both closed. The patient injected the incorrect amount and experienced some side effects.

President McAllister asked Ms. Amoroso about the incident. Ms. Amoroso stated that she when she checked the finished prescription she did not scan the product to ensure that she had the correct product. Ms. Amoroso stated that she scans everything now. Ms. Amoroso stated that she just checked the label with the box and the label and box both were 180 mcg. Ms. Amoroso stated that she was not aware that they made vials as well as prefilled syringes. Ms. Amoroso stated that she now checks the NDC numbers and uses the scanner for every prescription.

Mr. Dutcher asked about the labels. Mr. Dutcher stated that both the labels state Pegasys 180mcg. Mr. Dutcher asked Ms. Amoroso if it would have helped her if the label had stated 180mcg/1ml or 180 mcg/0.5 ml. Ms. Amoroso replied yes. Ms. Amoroso stated that she did tell the Compliance Officer that fact when they spoke about the error. Ms. Amoroso stated that the vials are no longer available, but it would have helped her back then to have the complete strength on the label. Mr. Dutcher asked if other injectables in the system have the complete strength printed on the label. Mr. Burton stated that he believes that the other products are correct.

Mr. Wand asked Mr. Burton if the drug codes are entered by the company or entered by another company. Mr. Burton replied that they have a contracted company that enters the drug products into the computer. Mr. Wand stated that the contracted company should enter the complete strength.

President McAllister reminded the respondent to be careful.

- **Complaint # 2830 -**

Pharmacist Richard Bates was present to answer questions concerning a consumer complaint. Compliance Officer Rich Cieslinski gave a brief overview of the complaint. Mr. Cieslinski stated that the patient received another patient's medication for Lisinopril 10mg. Mr. Cieslinski stated that the patient should have received Lisinopril 40mg. It is not clear if the patient received both strengths. The patient claims that he took the wrong medication for several weeks and experienced side effects. Mr. Cieslinski stated that the patient did not notice the difference in the tablets.

President McAllister asked Mr. Bates about the incident. Mr. Bates stated the incident occurred roughly a year ago. Mr. Bates stated that he learned of the error three weeks after filling the prescription. Mr. Bates stated that he received a call from the patient's daughter concerning how much money he was going to pay her and how her father was going to be reimbursed for his problems. Mr. Bates stated that he told the patient's daughter that he would need to investigate the situation. Mr. Bates stated that he contacted his liability company to make them aware of the situation.

Mr. Bates stated that he went back to his logbook to look to see when the two prescriptions were filled. Mr. Bates stated that the prescriptions were filled within 5 to 10 minutes of each other. Mr. Bates stated that when the other patient arrived at the pharmacy to pick up her prescription that day, they were not able to locate her prescription. The prescription was filled again. Mr. Bates stated that thinking back on the situation he could have called all the patients that day to see if they received the wrong medication. Mr. Bates stated that there is a question if the patient received both bottles or just the other patient's medication.

Mr. Bates stated that he has instituted four checks to insure that the correct patient receives the correct medication. Mr. Bates stated that he has cleared a space in the pharmacy for placing prescriptions to be bagged. Mr. Bates stated that the technicians at the front counter must check that the number of receipts attached to the bag match the number of bottles within the bag.

Mr. Bates stated that he would like to apologize if the patient experienced any harm. Mr. Bates stated that the patient never questioned the color of the tablets yet he took the medication for approximately two years. Mr. Bates stated that the patient never questioned why his tablet went from a green tablet to a yellow tablet. Mr. Bates stated that he did speak with the primary care physician about the incident.

President McAllister stated that Mr. Bates has made changes to ensure the patient receives the correct medication and reminded him to be careful.

- **Complaint #2841 -**

Pharmacist Tammy Bruno and Pharmacy Supervisor Melanie Malee were present in response to a consumer complaint. Compliance Officer Rich Cieslinski gave a brief overview of the complaint. Mr. Cieslinski stated that the complainant received an incorrectly labeled prescription for her son.

Mr. Cieslinski stated that the prescription label for the Lortab Elixir should have read to "Take one teaspoonful every four hours as needed for pain" and the label read to "Take five teaspoonfuls every four hours as needed for pain". The proper dose was given to the patient.

President McAllister asked Ms. Bruno about the incident. Ms. Bruno stated that the technician entered the prescription incorrectly. Ms. Bruno stated that the first label read to "Take 5 tablets every 4 hours as needed for pain". Ms. Bruno stated that she told the technician the label was

incorrect and gave the label back to the technician to correct. Ms. Bruno stated that the technician handed her the label and she looked at the label and saw that the tablet had been changed to teaspoonful. Ms. Bruno stated that she missed the number five in front of the

teaspoonfuls. Ms. Bruno stated that she counseled the patient from the hard copy. Ms. Bruno stated that she is thankful that the patient was given the medication as instructed by the physician.

President McAllister asked Ms. Malee if upon intake if the patient's age is taken and entered into the computer. Ms. Malee and Ms. Bruno both replied yes. Mr. McAllister asked if the computer system would

flag the five teaspoonfuls as an overdose for a three-year old child. Ms. Malee replied it should be flagged. Mr. McAllister asked how the pharmacist missed the flag. Ms. Bruno stated that the message would have showed a high dose and she was concentrating on the hard copy and continued knowing that the hard copy said one teaspoonful and that was not a high dose.

Ms. McCoy asked if the technician sees the high dose warning. Ms. Malee replied no. Ms. Malee stated that the technicians do not see any DUR warnings. Ms. Malee stated that only the pharmacists see the DUR warning.

President McAllister asked Ms. Bruno if this error would occur today. Ms. Bruno stated that she had a pharmacy meeting and stressed to the technicians how important it is to interpret the prescription correctly the first time. Ms. Bruno stated that she emphasized with the pharmacists that they must be very careful verifying a prescription that has been corrected by the technician.

Ms. Bruno stated that she is doing show and tell consultations.

Mr. Dutcher asked Ms. Bruno if she is the individual that places the label on the prescription container. Ms. Bruno stated that the technician places the label on the bottle. Mr. Dutcher stated that he recommends that she may want to read the label out loud on prescriptions that have been corrected.

President McAllister reminded Ms. Bruno that pediatric and elderly patients are most susceptible to harm from prescription errors. Mr. McAllister reminded Ms. Bruno to be careful.

AGENDA ITEM IX -Consent

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

Mr. Wand stated that a pharmacist allowed an individual entrance to the pharmacy to help her study for her physicians assistant exam. It was determined that the individual stole drugs from the pharmacy while she was in the pharmacy. The pharmacist was not aware that the individual was stealing the medication. The individual admitted to the theft. The pharmacist was in violation of company policy and board rules for allowing an unauthorized person in the pharmacy. The company suspended the pharmacist for several days.

Mr. McAllister reminded the permit holders in the audience that the Board can also sanction the permit holder for failure to control.

Mr. Dutcher asked if CE was enough of a punishment for this individual. Mr. Dutcher felt that the pharmacist should have been more aware of what the individual was doing in the pharmacy.

Ms. McCoy asked about the censure. Mr. Wand stated that a censure stays on the pharmacist's file forever. Mr. Wand stated that if the individual wishes to reciprocate to another state, they must disclose that the Board of Pharmacy censured them. Mr. Wand stated that since this incidence is on file and if a similar incidence was to occur again, the individual could not use the same excuse again. Mr. Wand stated that the company suspended her for several days.

Ms. McCoy asked if it could be noted in the newsletter that unauthorized individuals should not be allowed in the pharmacy.

A roll call vote was taken. (Mr. Ketcherside - aye, Mr. Dutcher - aye, Mr. Van Hassel - aye,

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

Rita Falcon-Smith 04-0030-PHR

AGENDA ITEM X - Approval of Schools of Pharmacy

President McAllister stated that the Board must annually approve the ACPE list of Pharmacy Schools. Mr. Wand stated that by statute and rule that the Board can only approve applicants that have graduated from approved schools of pharmacy unless they come under exemptions, which are mainly foreign graduates.

President McAllister stated that there is an online school offering a non-traditional PharmD degree, but the school is not an accredited school of pharmacy.

Mr. Wand stated that ACPE reviews the schools about every 6 years. Mr. McAllister stated that ACPE is requiring interim reports about every two years.

On motion by Mr. Dutcher and Ms. McCoy, the Board unanimously agreed to accept the ACPE list of accredited schools of pharmacy as the Board's approved colleges or schools of pharmacy.

AGENDA ITEM XI - Approval of NAPLEX and MPJE

President McAllister stated that the Board must approve the pharmacist licensure exam (NAPLEX) and the pharmacist jurisprudence exam (MPJE) as entry-level exams. President McAllister stated that the Board must approve these exams, so that the Board has on record that these are the Board approved exams. Mr. Wand stated he felt that the Board should approve these exams on an annual basis. Mr. Wand stated that when the state audits the Board it is easier if the records show that the Board has approved specific exams for licensees.

On motion by Ms. McCoy and Dr. Tippet, the Board unanimously approved NAPLEX as the pharmacist licensure exam and MPJE as the pharmacist jurisprudence exam.

AGENDA ITEM XII - Approval of FPGE

President McAllister stated that the Board needs to approve the FPGE certificate process as the preliminary equivalence exam. Mr. Wand stated that he would like to explain the FPGE certificate. Mr. Wand stated that if an applicant for licensure is a graduate of a pharmacy degree program at a school or college of pharmacy that was not recognized by the board at the time of the person's graduation, the applicant shall pass a preliminary equivalency examination approved by the board in order to qualify to take the NAPLEX and MPJE exams. Mr. Wand stated that in order to obtain the FPGE certificate, the applicant must actually pass three tests. The applicant must pass the FPGE, TOEFL (Test of English as a Foreign Language), and the TSE (Test of Spoken English). Mr. Wand stated that the office requires the applicant pass all three exams and obtain the FPGE certificate.

On motion by Mr. Dutcher and Mr. Ketcherside, the Board unanimously approved the FPGE certificate process as the preliminary equivalency exam.

AGENDA ITEM XIII - Approval of PTCB (Certification Exam for Pharmacy Technician)

President McAllister stated that he feels that it is important motion for the Board to approve this exam because there are competitive technician certification organizations and he feels that it is important for the Board to be standardized.

On motion by Ms. McCoy and Dr. Tippet, the Board unanimously approved the PTCB exam as the certification exam for pharmacy technicians.

Mr. Dutcher asked if the Board could approve any other exams and if the Board has reviewed any other exams. Mr. Wand stated that the Board reviewed one other exam from a company in Virginia. Mr. McAllister stated that the exam was more of an on-job-training exam for retail pharmacies. Mr. McAllister stated that the exam was not as broad based as the PTCB exam and the Board is licensing technicians for all types of practices. Mr. McAllister stated that the Board felt that the PTCB exam was a better exam for the Board's licensing purposes.

Mr. Dutcher asked about the felony issue with the PTCB exam and if it has been addressed with PTCB. Mr. Wand stated that the issue has been addressed with PTCB and he had included a letter with his report at the last Board Meeting. Mr. Wand stated that PTCB is working on the problem at this time. Mr. McAllister stated NABP is a partner now with PTCB and NABP feels that if this is a pre-licensure exam then better background checks need to be performed. Mr. McAllister stated that he has heard from the director of PTCB and they are working on the issues.

AGENDA ITEM XIV - Legislative Update

President McAllister asked Mr. Wand to address the Board concerning the Board's Bill for updating the statutes. Mr. Wand stated that we did receive a draft copy of our Bill. Mr. Wand stated that twenty-two items in the unprofessional conduct area were dropped in the draft. Mr. Wand stated that the items dropped were the disciplinary actions that the Board could impose on licensees. Mr. Wand stated that the draft of the Bill will be corrected and the deleted items placed back into the Bill. Mr. Wand stated that a new section A.R.S. § 32-1901.01 was created and some sections were revised to improve the Bill. Mr. Wand stated he would bring the new draft of the Bill to the Board meeting in March.

Mr. Wand stated that A.R.S. § 13-3404 that would reduce the pseudoephedrine sales from 24 grams to 9 grams was dropped from the original draft. The reason for dropping it from the draft was that the Attorney General's Office was proposing a precursor bill. If the Attorney General's Office could not find a sponsor for their bill, they would have been able to amend the Board's bill.

AGENDA ITEM XV - Prescription Drug Monitoring Program

President McAllister asked Mr. Wand to address this issue. Mr. Wand stated that when the Board initially tried to implement a prescription drug monitoring program they experienced problems funding the program. The initial idea was to implement a controlled substance license that every practitioner and dispenser would be required to have in order to dispense controlled substances. ARMA (the medical association) was not in favor of paying a fee to the Pharmacy Board.

Mr. Wand stated that Federal funding is available to start programs. Mr. Wand stated that he has applied for a federal \$50,000 grant to plan for implementation of the program. Mr. Wand stated that the Board might be able to apply for a \$350,000 grant to run the program. Mr. Wand stated that if the Board were able to obtain the \$350,000 grant it would not be necessary to charge a fee initially.

Mr. Wand stated that all pharmacies would need to report all their controlled substance dispensing to the Board office. Mr. Wand stated that the Board has access to all these records currently, so there is no big brother aspect to this program. Mr. Wand stated that it would be easier to run a report instead of sending an inspector to the site to conduct an audit investigation.

Mr. Wand stated that the program is not for law enforcement purposes. The program is to identify individuals with drug problems and help the individuals obtain treatment. Mr. Wand stated that the Oklahoma and Ohio programs are law enforcement based.

Mr. Van Hassel asked if this would require a statute. Mr. Wand stated that it would require a statute change. Mr. Wand stated that if the Board obtains the \$50,000 grant for planning he will be meeting with the various boards (medical, dental, etc.) to explain the proposed program.

Mr. Dutcher asked what would happen if criminal activity occurred. Mr. Pulver stated that the Board would report the individuals to the appropriate authorities to conduct the investigations.

Mr. Wand stated that Nevada instituted the program in 1997 and had many doctor shoppers and doctors over prescribing. Mr. Wand stated that they now have very few doctor shoppers.

Ms. McCoy asked where the opposition to the program would occur. Mr. Wand stated initially the opposition was with the medical practitioners. Mr. Wand stated that one of the major issues was the fee and if a fee were not charged then the practitioners would not be opposed. Mr. Wand stated that the practitioners were also afraid that the pharmacy board would be disciplining the physicians. Mr. Wand stated that most of the states in the Southwest have a prescription drug monitoring program. Mr. Wand stated that California, Nevada, Utah, and New Mexico all have monitoring programs.

Dr. Tippet asked from a budgetary standpoint if additional funding would be needed to implement and run the program. Mr. Wand stated that the money from the \$350,000 grant would be used to hire a director, staff, and equipment to run the program. Mr. Wand stated that if we do not get the planning grant, \$30,000 has been put in the budget to lobby the other stakeholders. Mr. Wand stated that he is not sure if the \$30,000 will be approved. Mr. Wand stated that there is 10 million dollars in the Federal pot for programs of this nature. Mr. Wand stated a new Bill is being introduced to the US Congress to continue the program. Mr. Wand stated that currently the money is coming from the Department of Justice and under the new US Bill the money would come from Health

and Human Services.

Mr. Wand stated that his hopes are to use the \$50,000 to plan for the program the next two years and then in 2008 have the statute approved and implement the program.

AGENDA ITEM XVI - JCAHO Medication Management Standards

(Pharmacist Reviews after hours)

President McAllister asked Mr. Wand to address this issue. Mr. Wand stated that our current rules allow nurses to enter the hospital pharmacy after hours and remove medications without a review of the medications or chart by a pharmacist. Mr. Wand stated that the proposed JCAHO standards would require a pharmacist to review all orders. If a hospital pharmacy is not open 24 hours a day, seven days a week, then arrangements must be made for a pharmacist to review the medication orders. Mr. Wand stated that the Board would need to change the rules to require a pharmacist to review all orders prior to the patient receiving the medication. Mr. Wand stated that there are companies in Arizona that can provide this service for the hospitals. Mr. Wand stated that the rulemaking process takes 18 to 24 months to complete.

Ms. McCoy stated that this is a pretty significant move on JCAHO's part because the pharmacist is an integral part of the medication use process. Ms. McCoy stated that JCAHO was looking at this from the point of patient safety. Ms. McCoy stated that some of the most catastrophic events have occurred when a non-pharmacist enters the pharmacy and obtains medications that they are not familiar with and administers the wrong medication to the patient or overdoses the patient.

Ms. McCoy states that technology is available that makes it possible to verify orders after hours. Ms. McCoy stated that at the last Board Meeting, a company that provides after hour verification of orders showed the number of interventions that were made that could have had catastrophic results if not reviewed by a pharmacist. Ms. McCoy stated that it would probably have an economic impact on most hospitals. Ms. McCoy stated that the hospital could pay the pharmacists for after hour verifications or spend the money to pay a huge lawsuit when an error occurs.

Mr. Van Hassel states that JCAHO is supporting the role of the pharmacist in the medication management process. Mr. Van Hassel stated that technology is available to allow this process to occur.

Mr. McAllister stated that it is very tough for the pharmacy director of a small hospital to get the hospital administrator to approve funds. Mr. McAllister stated that if the standards are JCAHO and Board regulated it would be easier for the pharmacy director to obtain the funds.

Dr. Tippet asked if a small rural hospital could only afford to hire one pharmacist does that mean that the pharmacist would be on call 24 hours a day. Mr. McAllister stated that the hospital could contract with a service or another pharmacist to provide after hour services. Mr. McAllister stated that the service would be a financial impact but would probably be cheaper than hiring another pharmacist.

Ms. McCoy stated that in the retail setting after the pharmacist leaves a clerk is not allowed to get medication for the patient, but in a hospital a nurse who is not qualified to dispense can enter the pharmacy and obtain the medication.

Mr. Wand stated that Mr. Wright could open a docket to change the rules. Mr. Wand stated that the issue would probably be the economic impact. Mr. Wand stated that anyone is welcome to express their opinions at the hearing concerning the rule change.

AGENDA ITEM XVII - Ratification of approval of technician license from November meeting

Mr. Wand explained that since the item did not appear on the agenda 24 hours in advance of the meeting, the Board would need to ratify the item at this Board Meeting.

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

AGENDA ITEM XVIII - Pharmacy Security, Robberies, and Hostage Situations

President McAllister asked Mr. Wand to address the issue. Mr. Wand stated that there was a recent hostage situation at a Walgreens pharmacy. Mr. Wand stated that he received several calls from the media asking what the Board was going to do about this situation. Mr. Wand stated that this is an isolated incident and the pharmacists at the store handled the situation very well.

Mr. Wand stated that he told the media that he would ask the Board if they wanted to discuss security issues within a pharmacy. Mr. Wand stated that he told the media that there must be an open area where the pharmacist can speak with the patient and putting bulletproof glass in the pharmacy would not be a good idea. Mr. Wand stated that he attached a copy of the RxPatrol which is an Rx pattern analysis of tracking robberies. Mr. Wand stated that he would put a link on the website to RxPatrol.

AGENDA ITEM XIX - Future Board Activities - Planning Meeting

Mr. Wand stated that there would be a hearing held on March 16, 2005 concerning a wholesaler and his selling of pseudoephedrine and ephedrine products. Mr. Wand stated that at this meeting the Board could consider some small agenda items such as permits.

Mr. Wand stated that the Board wanted to have a planning meeting either the day before or the day after the June 16th meeting. Mr. Wand stated that he called the Wild Horse Resort and there are no rooms available to hold the meeting on the 17th. Mr. Wand stated that they do have a meeting room available on the 15th, but the cost is \$1,500 to book the room from 8:00 AM to 4:00 PM. Mr. Wand stated that the meeting could be held at the office on the 15th.

Mr. Dutcher suggested that the planning meeting could be held on March 16th after the hearing at the office. The Board agreed to have the planning meeting on March 16th after the hearing.

AGENDA ITEM XX - Election of Board Officers for 2005

President McAllister opened the nominations for President. Linda McCoy was nominated for President. Chuck Dutcher was nominated for Vice President. On motion by Mr. Ketcherside and Mr. Van Hassel, the Board unanimously approved the nominations of Linda McCoy for President and Chuck Dutcher for Vice President of the Board for 2005.

AGENDA ITEM XXI - NABP Model Wholesale Rules (Possible Legislation requested by

Pfizer to deter counterfeit drugs)

Robert Jones, Assistant Director of Corporate Affairs at Pfizer, was present to discuss Pfizer's proposed legislation. Steve Duffy was present from the law firm of Isaacson & Duffy. Mr. Duffy's firm serves as legislative counsel for Pfizer in Arizona.

Mr. Jones opened the discussion by stating that there is a growing problem with the issue of counterfeit medications internationally. Mr. Jones stated that Pfizer and many other organizations are working together to increase the safety of the supply chain of prescription drugs nationwide and on a state-to-state basis. Mr. Jones stated that in 2003 two key states, Florida and California increased the requirements for wholesale businesses. Mr. Jones stated that in 2005 approximately thirty more states would weigh in on this issue. Mr. Jones stated that according to Pfizer global security there are several countries with growing problems with counterfeit medications. These countries include: India, China, Iran, Pakistan, Columbia, and Mexico. Mr. Jones stated that the FBI has linked terrorist groups as partners with the counterfeit labs in other countries.

Mr. Jones stated that Pfizer cares about patient safety. Mr. Jones stated that in 2003 a Lipitor counterfeit ring was discovered in the mid-western part of the United States. Mr. Jones stated that all 18 million counterfeit tablets were traced to Costa Rica and shell companies in the United States were used as pass through companies. Mr. Jones stated that in 2003 a large Viagra counterfeit ring was discovered in Thailand. Mr. Jones stated that brick dust was used as the binding agent in these counterfeit tablets. Mr. Jones stated that in 2004 Viagra counterfeit products were discovered in two pharmacies in California.

Mr. Jones stated that Pfizer would like to work with the Board, the Legislature, and interested parties to tighten the drug supply in Arizona to protect the citizens of the state.

President McAllister stated that the draft is modeled after the NABP model wholesale rules. Mr. Jones stated that PHARMA has adopted the Pfizer model as a starting point to start negotiations nationwide. Mr. Jones stated that dialog is continuing to develop an agreement that is workable for all parties.

Mr. Wand stated that he and Mr. Wright have reviewed the document with Mr. Duffy. Mr. Wand stated that some of the definitions that were in our current statutes would remain the same and not be changed to the definition in the proposed legislation. Mr. Wand stated that the term full service wholesaler was inserted in place of wholesaler in the document. Mr. Wand stated that if the legislation does pass that the legislation would take effect in August. Mr. Wand stated that the main issues would be fingerprint checks and background checks at the applicant's expense. Mr. Wand stated that the individual would also need to submit a bond. The bond amount has not been decided as of yet, but it was suggested that a bond of \$100,000 dollars would be required. Mr. Wand stated that a pedigree would be required. Mr. Duffy stated that the legislation would allow for a paper or electronic pedigree. Mr. Jones stated that in California electronic pedigrees will be required by 2007. Mr. Jones stated that in Florida the legislation requires electronic pedigrees by 2007. Mr. Jones stated currently a paper pedigree is required for thirty-one (31) products in Florida.

Mr. Dutcher asked Mr. Duffy if this is the draft of the Bill that will be presented to the legislature.

Mr. Duffy stated that the Bill has been introduced and it is House Bill 2193. Mr. Duffy stated that there would be a few technical changes made in committee. Mr. Duffy stated that there would be some changes probably made during the process, but the draft is essentially the framework of the Bill.

Mr. Dutcher asked if they have met with the wholesalers. Mr. Duffy stated that they would be meeting with local wholesalers.

President McAllister asked that during the process that the legislation be patterned after the NABP model wholesale rules. Mr. McAllister stated that the well-known wholesalers are in favor of this Bill. Mr. McAllister stated that the purpose of the Bill is to stop the counterfeiting of prescription drugs.

AGENDA ITEM XX - Election of Board Officers for 2005

President McAllister opened the nominations for President. Linda McCoy was nominated for President. Chuck Dutcher was nominated for Vice President. On motion by Mr. Ketcherside and Mr. Van Hassel, the Board unanimously approved the nominations of Linda McCoy for President and Chuck Dutcher for Vice President of the Board for 2005.

AGENDA ITEM XXII - Executive session

The Board met in Executive Session earlier in the day.

AGENDA ITEM XXIII - Student Question and Answer Period

A student asked if the Board could define a consent agreement. Mr. Pulver explained that a consent agreement is an opportunity for a licensee to avoid a formal interview. A formal interview is a hearing in front of the Board where there is a range of disciplines. The disciplines could range from a letter of concern, censure, probation, suspension, and revocation. When a licensee signs a consent agreement, the licensee voluntarily enters into some type of disciplinary action with the Board. If the licensee appears before the Board for a formal interview, the Board will determine the disciplinary action. The licensee has the right to appeal the disciplinary action to the Superior Court, but the chance of reversal of the Board's decision is very low. The consent agreement is written by the Executive Director with input from the Board's President. The consent is reviewed by the Board's attorney and is sent to the licensee. Mr. Wand stated that the Board could accept, reject, or modify the consent agreement after the licensee signs the agreement and the agreement is reviewed at the next Board Meeting by the Board Members.

AGENDA ITEM XXIV - Call to the Public

An individual stated that the Board should recognize the pharmacists at the Walgreens store for protecting their patients during the hostage situation.

There being no further business to come before the Board, on motion by Mr. Ketcherside and Mr. Dutcher, the Board unanimously agreed to adjourn the meeting at 4:30 PM.