

THE ARIZONA STATE BOARD OF PHARMACY

HELD A REGULAR MEETING JANUARY 25, 2006

GLENDALE, ARIZONA

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

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

AGENDA ITEM 1 - Approval of Minutes

Following a review of the minutes and an opportunity for questions and **on motion by Dr. Tippett and Dr. Berry**, the minutes of the Regular Meeting held on November 17 and 18, 2005 were unanimously approved by the Board Members. The Board then elected new officers for 2006. (See Agenda Item 15).

AGENDA ITEM 2- Permits & Licenses

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

XPRESS Care Pharmacy

Owner and Pharmacist In Charge Brian Phan appeared to answer questions from Board Members.

President Dutcher opened the discussion by asking the applicant to describe the nature of his business. Mr. Phan stated that he would be opening a new pharmacy. Mr. Dutcher asked if the pharmacy would be a retail pharmacy. Mr. Phan replied that he plans on opening a retail pharmacy.

Mr. Wand asked Mr. Phan if this would be a walk-in pharmacy or a closed door pharmacy. Mr. Phan stated that it would be a walk-in pharmacy. Mr. Wand asked if Mr. Phan would be filling any prescriptions pursuant to internet diagnosis. Mr. Phan stated that he will not be conducting any internet business. Mr. Wand asked Mr. Phan if he planned on compounding prescriptions. Mr. Phan stated that he will be compounding. Mr. Wand asked Mr. Phan if he would be compounding for patients or for doctor offices. Mr. Phan stated that he would be compounding patient specific prescriptions.

Mr. Dutcher thanked the applicant for appearing.

Pharmacie Nouvelle Phoenix

Owner Rick Chester appeared to answer questions from Board Members.

President Dutcher opened the discussion by asking the applicant to describe the nature of his business. Mr. Chester stated that he would be opening a retail pharmacy. Mr. Dutcher asked Mr. Chester if he would be filling compounded prescriptions. Mr. Chester stated that he would be compounding prescriptions for patients only. Mr. Dutcher asked Mr. Chester if he would be dispensing any internet prescriptions. Mr. Chester stated that he would not be filling any internet prescriptions.

Mr. Dutcher asked Mr. Chester if he was the owner and Pharmacist In Charge. Mr. Chester replied that he would like to hire a pharmacist if possible. Mr. Chester stated that he would be the Pharmacist In Charge initially if he is not able to hire a pharmacist prior to opening. Ms. Frush stated that Mr. Chester cannot be Pharmacist In Charge until he completes the process of reactivating his Arizona license.

Mr. Van Hassel asked Mr. Chester if he would be compounding any sterile products. Mr. Chester stated that he would basically be compounding creams and ointments.

At the conclusion of questions from the Board Members and **on motion by Mr. Van Hassel and Dr. Smidt**, 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 #10-3604
14200 W. Indian School Rd.
Goodyear, AZ 8533
Wal-Mart Stores, Inc.
- Wal-Mart Pharmacy #10-3377
2823 W. Valencia Rd.
Tucson, AZ 85746
Wal-Mart Stores, Inc.
- Yavapai Regional Medical Center East
7700 E. Florentine Rd.
Prescott Valley, AZ 86314
Yavapai Community Hospital
- Apothecary Shop of Tucson II, Inc.
2181 W. Orange Grove Rd. #135,
Tucson, AZ 85745
Apothecary Shop of Tucson II, Inc
- Mercy Gilbert Medical Center
3555 S. Val Vista Dr.
Gilbert, AZ 85296
Catholic Healthcare West
- Walgreens Drug #02243
387 N. Estrella Pkwy.
Goodyear, AZ 85338
Walgreen Arizona Drug Co.
- Wal-Mart Pharmacy #10-3751
1781 W. Hunt Hwy.
Queen Creek, AZ 85242
Wal-Mart Stores, Inc.
- Apothecary Shop of Deer Valley, Inc
23620 N. 20th Dr. #12
Phoenix, AZ 85085
Apothecary Shop of Deer Valley, Inc.
- XPRESS Care Pharmacy
13055 W. McDonald Rd., Bldg. E, #103
Avondale, AZ 85323
- Pharmacie Nouvelle Phoenix
3411 N. 5th Ave., Suite A
Phoenix, AZ 85013

Non-Resident Permits

Mr. Wand stated that the majority of the Non-Resident Pharmacies are Compounding Pharmacies or Home Infusion pharmacies. Mr. Wand suggested that the Board might want to send a letter to the pharmacies concerning issues such as compounding, selling to physicians, and internet dispensing. Mr. Wand felt that these are issues that the Board discusses with resident pharmacies and these issues should be discussed with non-resident pharmacies. The Board agreed that it would be appropriate to send a guideline letter to each new Non-Resident Pharmacy.

On motion by Dr. Tippett and Dr. Berry, the Board unanimously approved the nonresident permits listed below.

NON-RESIDENT (Out of State)

- Owens Compounding Pharmacy
2025 Court St., Suite B
Reading, CA 96001
R & J Friesen
- Hospice Pharmacia
512 Elmwood Ave.

Sharon Hill, PA 19079

excelleRx, Inc.

- ARJ Infusion Services, Inc.
10049 Lakeview Ave.,
Lenexa, KS 66219
ARJ Infusion Services, Inc.
- Florida IV Services, Inc.
15712 SW 41 St., Suite 16
Davie, FL 33331
Florida IV Services, Inc.
- Solutions Pharmacy
4632 Hwy 58 North
Chattanooga, TN 37416
J & J Talley
- UPS Supply Chain Solutions, Inc.
775 E. Dr., Suite 305
Carol Stream, IL 60188
UPS Supply Chain Solutions, Inc.
- Prestab Co. Pharmacy
3016 NW 79th Ave.
Miami, FL 33122 (O)
Alexis Basucto
- Cura Script FP Infusion Pharmacy
11403 Bluegrass Pkwy.
Louisville, KY 40299 (O)
Cura Script FP Infusion Pharmacy
- FCS Pharmacy, LLC
7700 Congress Ave., Suite #1113
Boca Raton, FL 33487
FCS Pharmacy, LLC
- Freedom FP Fertility Pharmacy
12 Kent Way, Ste. 120C
Byfield, MA 01922 (O)
Priority Healthcare Corp.
- Freedom Fertility Pharmacy
12 Kent Way, Ste. 120B
Byfield, MA 01922 (O)
Priority Healthcare Corp.
- Byfield Drug, Inc.
12 Kent Way, Ste, 120E
Byfield, MA 01922 (O)
Priority Healthcare Corp.
- Bellevue Pharmacy Solutions
1034 S. Brentwood Blvd.
St. Louis, MO 63117
Bellevue Pharmacy Solutions
- In Home Rx
1582 W. San Marcos Blvd.
#103 San Marcos, CA 92069
Three Wishes, Inc.
- Homecall Pharmaceutical Services, Inc.
10200 Old Columbia Rd., Ste M & N
Columbia, MD 21046
Homecall Pharmaceutical Services, Inc.
- Central Admixture Pharmacy Services, Inc.
7066 S. 220th St.
Kent, CA 98032
Central Admixture Pharmacy
Services, Inc

(O) = Ownership Change

Wholesale Permits

President Dutcher stated that there was one resident non-prescription wholesale permit to approve.

On motion by Dr. Berry and Dr. Tippett, the Board unanimously approved the resident wholesale permit listed below. All permits are subject to final inspection by a Board Compliance Officer where appropriate.

Alliance Lab's Inc.
2515 E. Rose Garden Lane, Ste. 1,
Phoenix, AZ 85050
Jim Pritchard/Steve Valentine

Manufacturer Permits

President Dutcher stated that there are two manufacturer permits to approve and representatives from one manufacturer were present to answer questions from Board Members.

Summit Pharmaceuticals will manufacture two non-prescription products and currently have a manufacturers permit to manufacture prescription drugs. They will not appear because they have had no previous complaints or issues related to their manufacturing permit.

Novel Rx Pharmaceuticals

Owners Shidfar Rouhani, Dr. Kenneth Proefrock, and Dr. Mark Rudderham were present to answer questions from Board Members. The applicants stated that the Pharmacist In Charge, Joe Maximini, could not appear because he is sick with the flu.

President Dutcher asked the applicants to describe the nature of their business. Dr. Proefrock stated that at this time they are in dialog with the FDA concerning their sole product, which is Preservative Free Lidocaine. Mr. Dutcher asked if this is an injectable product. Dr. Proefrock replied yes. Mr. Dutcher asked if this product is commercially available. Dr. Proefrock stated that it is not available preservative free. Mr. Dutcher asked who would be purchasing the product from the manufacturer. Dr. Proefrock stated that their customers would be physicians and wholesalers.

Mr. Wand asked the Board to look at the floor plans for the site. Mr. Wand stated that he is concerned that there are three different permits at the same site. Mr. Wand stated that the applicants plan to have the pharmacy, the wholesale business, and the manufacturing business in this relatively small place.

President Dutcher stated that this floor plan looks similar to the floor plans for the other two permits, but divided differently. Mr. Dutcher asked the applicants if they are planning on operating three businesses at this site. Dr. Proefrock stated that initially they plan on operating three businesses at this site. Dr. Proefrock stated that they are in discussions to obtain the building next door and move into the building. Dr. Proefrock stated that they have divided the current area into three distinct areas. Dr. Proefrock stated that one area is strictly a compounding area and the clean room will be used for manufacturing. Dr. Proefrock stated that they are currently discussing with the FDA if they should put a divider in the clean room to make two separate clean rooms. One clean room would be for sterile compounding and the other clean room would be strictly for manufacturing. Dr. Proefrock stated that is why they plan on starting with only one product. Mr. Dutcher asked Dr. Proefrock if feels that there is enough space to run three different businesses. Dr. Proefrock stated as start-up companies there is probably adequate space.

Mr. Van Hassel asked Dr. Proefrock to describe the packaging of his Lidocaine product. Dr. Proefrock stated that they will be manufacturing Lidocaine 1% Preservative-free in 10 ml, 20 ml, and 30 ml sterile vials. Mr. Van Hassel asked about the closure. Dr. Proefrock stated that it will be a rubber top. Mr. Van Hassel asked if the FDA has inspected their site and has improved the site as an injectable manufacturing facility. Dr. Proefrock stated that an inspection is pending and it is his understanding that the FDA wanted them to obtain a permit from the Board prior to the site being inspected by the FDA.

Mr. Pulver informed the Board Members that in the administrative code R4-23-604(C)(2) it states that before issuing a drug manufacturer permit, the Board shall interview the applicant and manager, if different from the applicant, and the pharmacist in charge at a Board Meeting. Mr. Pulver stated the since the pharmacist in charge is not present, the Board would need to table the application until the pharmacist in charge appears at a Board Meeting.

President Dutcher stated that if the regulations state that the pharmacist in charge shall appear at a Board Meeting then this discussion will be tabled until the next Board Meeting. Mr. Dutcher asked the applicants to re-schedule and appear at the next Board Meeting in March with their pharmacist in charge.

At the conclusion of questions from the Board Members and **on motion by Dr. Berry and Ms. Honeyestewa**, the Board

unanimously approved the resident permit listed below. The application for a permit by Novel Rx Pharmaceuticals was tabled by the Board until the next meeting requesting that the pharmacist in charge appear at the meeting. All approvals are subject to final inspection by a Board Compliance Officer where appropriate.

Summit Pharmaceuticals
2515 E. Rose Garden Lane, Ste. 1
Phoenix, AZ 85050
Jim Pritchard/Steve Valentine

Pharmacist, Pharmacy Interns, and Pharmacy Technician Licenses

Following a review and discussion of the roster of applicants for licensure as pharmacists, interns, and pharmacy technicians and assurance by the staff that all applications were in order and all fees paid: **On motion by Mr. Van Hassel and Dr. Tippett**, the Board unanimously approved the Pharmacists licenses 15161 through 15260.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously approved the Pharmacy Intern licenses 7365 through 7397.

Mr. Wand stated that most of the Intern licenses issued to students are licenses being issued to out of state students wishing to do Intern rounds in Arizona.

Mr. McAllister stated that it may be important to mention in the newsletter that Interns from out of state do need to apply for intern licenses to work as an Intern in Arizona. Mr. McAllister stated that the Pharmacist In Charge should ensure that the Interns have been licensed by Arizona as an Intern.

On motion by Dr. Smidt and Ms. Honeyestewa, the Board unanimously approved the Pharmacy Technician licenses 8958 through 9417. Also, approved were 89 licensee changes from Pharmacy technician trainee to Pharmacy technician. For a complete list of names see attachments.

AGENDA ITEM 3 - Special Requests

#1 Cynthia Meyers

Cynthia Meyers appeared on her own behalf to request to proceed with reciprocity.

President Dutcher opened the discussion by asking Ms. Meyers to describe the nature of her request. Ms. Meyers stated that she is requesting to proceed with reciprocity from her New York license. Ms. Meyers stated that she was fined by the New Hampshire Pharmacy Board when she was a District Manager for a chain pharmacy.

Mr. Dutcher asked Ms. Meyers why she was fined as a District Manager. Ms. Meyers stated that the Pharmacist In Charge was ill and left the filled prescriptions outside of the pharmacy with the pharmacy technician to hand out to the patients. Ms. Meyers stated that she was fined because she agreed to allow the pharmacist to leave the prescriptions outside the pharmacy with the technician.

Mr. Dutcher asked Ms. Meyers if she had learned anything from this experience. Ms. Meyers stated that she has learned from her error in judgment and nothing like this will ever happen again.

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

#2 Jerrold Stein

Jerrold Stein appeared with LisaYates from the PAPA program to request the termination of probation imposed by Board Order 00-0019-PHR.

President Dutcher asked Mr. Stein about the nature of his request. Mr. Stein stated that he is requesting that probation be terminated and his pharmacist license be restored to active standing.

Mr. Stein stated that he has completed all the requirements of his consent order. Mr. Stein stated that the PAPA program has served him well and he plans to continue with a life of sobriety.

Mr. Dutcher asked Ms. Yates if PAPA supports Mr. Stein's request. Ms. Yates stated that a letter was submitted from the clinical director of the PAPA program indicating that he felt Mr. Stein has completed all the requirements of the program. Ms. Yates stated that the PAPA steering committee feels that Jerry has completed the requirements of his PAPA contract. Ms. Yates stated that Mr. Stein has been a sponsor for several individuals. Ms. Yates stated that Mr. Stein has gone beyond the requirements of his contract.

Mr. Dutcher asked Mr. Stein if he is working at this time. Mr. Stein stated that he has been practicing at a grocery chain pharmacy for the last 5 years. Mr. Stein stated that he will continue to help other professionals with addiction issues.

On motion by Mr. Van Hassel and Dr. Tippett, the Board unanimously agreed to terminate the probation of Mr. Stein's license subject to the terms of Board Order Number 00-0019-PHR.

#3 Paul Dahlk

Paul Dahlk appeared with Lisa Yates from the PAPA program to request that the suspension of his pharmacist license be terminated and probation be imposed per Board Order 05-0009-PHR.

President Dutcher asked Mr. Dahlk about the nature of his request. Mr. Dahlk stated that he is requesting that his suspension be terminated and suspension imposed.

Mr. Wand stated that it has only been five months since Mr. Dahlk signed his Consent Order and his order states that his suspension must be at least six months. Mr. Wand stated that the Board could approve the request for a future date.

Ms. Yates stated that Mr. Dahlk entered the program on May 23, 2005. Ms. Yates stated that Mr. Dahlk has completed an outpatient program.

Mr. Pulver stated that the suspension must be taken from the date that the Order was approved and the Order was approved by the Board on August 17, 2005. Mr. Pulver stated that the suspension could be lifted at a future date, but must be six months from the date the Order was approved.

Mr. McAllister asked if Mr. Dahlk has been compliant with his contract. Ms. Yates replied that he has been compliant with his contract. Ms. Yates stated that there have been positive changes.

Mr. McAllister asked Mr. Dahlk how he feels about his progress in the PAPA program. Mr. Dahlk stated that he is immersed in the PAPA program and feels he is on the road to recovery.

Mr. Dahlk stated that he is doing well and will continue to be immersed in the program by attending meetings and counseling. Mr. Dahlk stated that he would like to return to work.

Mr. McAllister asked Mr. Dahlk if he could handle the stress of returning to work in a pharmacy.

Mr. Dahlk replied yes. Mr. McAllister stated that the Board has received letters of support for Mr. Dahlk.

On motion by Mr. McAllister and Dr. Smidt, the Board unanimously agreed to approve Mr. Dahlk's request to remove the suspension on his license effective on February 17, 2006 and impose probation with the standard PAPA contract for returning to work.

A roll call vote was taken. (Ms. Honeystewa - aye, Dr. Tippett - aye, Dr. Smidt - aye, Dr. Berry - aye, Mr. McAllister - aye, Mr. Van Hassel - aye, Dr. Sypherd - aye, President Dutcher - aye)

#4 Jaime Casillas

Jaime Casillas appeared on his own behalf to request that the probation on his Pharmacist license be terminated.

President Dutcher recused himself due to a conflict. Mr. Dutcher turned the meeting over to newly elected Vice President, Tom Van Hassel.

Vice President Van Hassel opened the discussion by asking Mr. Casillas about the nature of his request. Mr. Casillas stated that he was placed on probation in 2002 and received a letter from the Board Office stating that he had not appeared at a Board

Meeting to remove the probation and that is why he is appearing today. Ms. Casillas stated that he has completed all the requirements of his consent order.

Mr. Van Hassel asked Mr. Casillas if he is working. Mr. Casillas stated that he works at Smith's in Kingman.

Mr. McAllister asked if his employer was present. Mr. Casillas replied no. Mr. McAllister asked if there have been any complaints filed against Mr. Casillas since the Consent Order was signed.

Mr. Wand replied no.

Mr. McAllister asked Mr. Casillas how he has changed his practice. Mr. Casillas stated that his misfills were due to an injury that he sustained. Mr. Casillas stated that he now scans every prescription that he fills to ensure the correct drug is dispensed.

Mr. McAllister asked Mr. Casillas how he works with his patient to ensure errors do not occur.

Mr. Casillas stated that he counsels his patients. Mr. Casillas stated that he shows the patients the medication and reviews the regimen and dosage with the patient. Mr. McAllister reminded Mr. Casillas that it is very important to talk to his patients.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously approved the request by Mr. Casillas to terminate the probation imposed by Board Order 02-0014-PHR.

A roll call vote was taken. Ms. Honeyestewa - aye, Dr. Tippett - aye, Dr. Smidt - aye, Dr. Berry - aye, Mr. McAllister - aye, Mr. Van Hassel - aye, Dr. Sypherd - aye)

#4 Olvin Cuthright

Olvin Cuthright appeared on his own behalf to request that he be allowed to proceed with technician licensure.

President Dutcher asked Mr. Cuthright to explain the nature of his request. Mr. Cuthright stated that he had taken and passed a pharmacy technician course and upon applying for a license was told that he would need to appear before the Board because he had a felony conviction. Mr. Cuthright stated the felony occurred 10 years ago. Mr. Cuthright stated that the employers he has talked to told him that he would need to have a technician trainee license.

Mr. Dutcher asked Mr. Cuthright if he answered yes to Question #7 on the application. Mr. Cuthright stated yes.

Mr. Pulver stated that the question asking about felony convictions does not exclude someone from obtaining a license. Mr. Pulver stated that the applicant answered yes to the question and did explain the circumstances to the Board. Mr. Pulver stated that the Board talks to the individuals to see if they have rehabilitated themselves.

On motion by Dr. Smidt and Ms. Honeyestewa, the Board unanimously approved Mr. Cuthright's request to proceed with licensure as a pharmacy technician trainee.

#6 Augustine Aworuwa

Augustine Aworuwa appeared with Roger Morris, legal counsel, to request the waiver of the FPGEEC.

President Dutcher asked Mr. Aworuwa about the nature of his request. Mr. Aworuwa stated that he is requesting that the Board issue him an intern license and waive the FPGEEC because he was not able to obtain a license in the Philippines where he attended pharmacy school. Mr. Aworuwa stated that he is not a citizen of the Philippines and therefore is not eligible to apply for a pharmacist license in the Philippines.

Mr. Morris stated that Mr. Aworuwa was educated in the Philippines and that is where he obtained his degree. Mr. Morris stated that the Philippines do not allow non-citizens to obtain a license. Mr. Morris stated that Mr. Aworuwa was issued a pharmacist license in Nigeria and applied to NABP to take the Foreign Pharmacist Graduate Exam. Mr. Morris stated that he met all the requirements except the requirement that he obtain a license in the country in which he attended pharmacy school. Mr. Morris stated that he cannot meet that requirement. Mr. Morris stated that he has taken the TOEFL exam and he is scheduled to take a Morris-Cody private exam this afternoon to be able to show his qualifications. Mr. Morris stated that they believe that his situation is the same as Ms. Rensing that appeared before the Board several years ago.

Mr. Dutcher asked Mr. Aworuwa if he was aware when he attended pharmacy school in the Philippines that they would issue a license to someone who was not a citizen. Mr. Aworuwa stated that he was not informed.

Mr. Dutcher asked Mr. Aworuwa if he has ever worked as a pharmacist. Mr. Aworuwa stated that he worked as a pharmacist in Nigeria.

Mr. Dutcher asked Mr. Aworuwa why he wanted an Arizona license. Mr. Aworuwa stated that when he applied to NABP he was told that he should contact individual states that may be sympathetic to his case. Mr. Aworuwa stated that his aunt who is elderly would move to Arizona with them.

Mr. Dutcher asked Mr. Aworuwa if he has applied for a pharmacist license in other states by the same process. Mr. Aworuwa replied no.

Mr. McAllister stated that the law changed in 1978 requiring an individual to be a natural born Philippino citizen to obtain a license. Mr. McAllister asked Mr. Aworuwa why he did not apply for a license in 1976 when he graduated from pharmacy school. Mr. Aworuwa stated that it was not legal. Mr. Aworuwa stated as long as he can remember a non-citizen could not obtain a license.

Mr. McAllister asked Mr. Aworuwa when was the last time that he practiced pharmacy. Mr. Aworuwa stated that he is still practicing pharmacy. Mr. Aworuwa stated that he is not licensed but he does consulting for a drugstore in the Philippines.

Mr. McAllister again asked Mr. Aworuwa if he has not tried to obtain a license by this process in any other state. Mr. Aworuwa stated that he applied to 10 states upon NABP's advice and Arizona came in first. Mr. Aworuwa stated that he spoke with his Aunt and she feels the weather here would be better. Mr. McAllister stated that the Board has documentation that Mr. Aworuwa had applied for a waiver in New Jersey and Minnesota and had been denied. Mr. McAllister asked Mr. Aworuwa if he was trying to hide this from the Board. Mr. Aworuwa stated that he applied to about 10 states. Mr. Morris told Mr. Aworuwa the Board wanted to know if he applied to other states. Mr. Aworuwa stated that he did not pursue the applications in the other states because he applied to states that he could afford the fees. Mr. Aworuwa stated that Arizona replied to his request. Mr. Morris asked Mr. Aworuwa if this is the first State Board meeting that he attended.

Mr. Aworuwa replied yes. Mr. Wand stated that it is unclear if he mailed in the paperwork and the Board denied the request based on the paperwork. Mr. Dutcher asked if the other Boards had denied his request. Mr. Wand stated that the other Boards denied the application because Mr. Aworuwa did not have the FPGEEC (certificate). Mr. Wand stated that our statutes have been changed to require that a foreign graduate be issued the FPGEEC prior to being issued an intern license.

Mr. Dutcher asked Mr. Aworuwa if he wants to work as a pharmacist. He replied yes. Mr. Dutcher asked Mr. Aworuwa if he attended medical school and is licensed to practice medicine. Mr. Aworuwa replied he is licensed in Nigeria. Mr. Dutcher asked if he is licensed to practice medicine in the United States. Mr. Aworuwa replied no.

Mr. Dutcher asked Mr. Aworuwa when he was last behind the counter in a pharmacy. Mr. Aworuwa stated that he has an office in a drugstore and he counsels patients on the use of natural products. Mr. Dutcher asked when and where he last practiced. Mr. Aworuwa stated that it was in the Philippines prior to him coming to the United States in November.

Dr. Tippett asked Mr. Aworuwa if he planned to practice pharmacy in Arizona. Mr. Aworuwa replied yes. Dr. Tippett asked if his intent after completing his internship was to remain in Arizona and practice in Arizona. Mr. Aworuwa replied yes.

Mr. Morris asked Mr. Aworuwa if he has a job in Arizona. Mr. Aworuwa stated that he talked to companies while in the Philippines. Mr. Aworuwa stated that he spoke with Omnicare.

Mr. Wand stated that the Board recently changed the statutes to require the FPGEEC (certificate).

Mr. Wand stated that the purpose of the change was to prevent individuals from using the Intern license to obtain a visa. Mr. Wand stated that the Board had been issuing licenses to individuals that never worked in Arizona.

Mr. Wand stated that he did check with NABP and they had evaluated Mr. Aworuwa's transcript from the College of Pharmacy in the Philippines and determined that the degree was equivalent. Mr. Wand stated that the issue is how Mr. Aworuwa intends to use the license. Mr. Wand stated that the issue is does Mr. Aworuwa want to practice in Arizona or is using the Intern license to obtain a visa.

Mr. McAllister asked if NABP mentioned if Mr. Aworuwa's Nigerian pharmacist license was authentic. Mr. Wand stated he did

not ask NABP about his license. Mr. McAllister stated that verifying Nigerian licenses is problematic for NABP.

Mr. Van Hassel asked if Mr. Aworuwa would be allowed to become licensed through NABP. Mr. Wand stated that the Board is being asked to waive the FPGEEC and that would allow Mr. Aworuwa to apply to NABP to take the exams. Mr. Morris stated that Mr. Aworuwa would still need to do 1500 hours of internship, and pass the NAPLEX and MPJE exams.

Mr. Wand stated that the reason for taking the Morris-Cody exam is that Mr. Aworuwa cannot take the FPGEE exam which determines if the education is equivalent. Mr. Wand stated that the Board did approve another individual to take the Morris-Cody exam as an equivalent exam to the FPGEE. Mr. Wand stated that he feels the Board should receive the results of the exam before making their decision. Mr. Morris stated that he is taking the Morris-Cody exam that afternoon and can submit the results to the Board.

Mr. Dutcher asked about the Intern license. Mr. Wand stated that the Intern license is good for five years. Mr. Dutcher asked Mr. Aworuwa if he wants the Intern license to work in Arizona and not for visa purposes. Mr. Aworuwa stated that he wants to work in Arizona.

Mr. McAllister stated that there is a difference in the two cases. Mr. McAllister stated that Ms. Rensing was residing in Arizona and planned to remain in Arizona and was not in the States on a touring visa.

On motion by Mr. McAllister and Dr. Smidt, the Board unanimously agreed to approve Mr. Awowura's request to waive the FPGEE exam if the following conditions are met: Mr. Aworuwa takes the Morris-Cody exam this afternoon (January 25, 2006) and passes the exam with a score of 75% or better. If Mr. Aworuwa scores 75% or better, an Intern license can be issued and if Mr. Aworuwa scores below 75% then an Intern license will not be issued and the case is closed.

AGENDA #4 - Marvin Fein - Review of Complaint #3013

President Dutcher asked Mr. Fein if he knew why he was appearing in front of the Board. Mr. Fein replied yes. Mr. Dutcher asked Mr. Fein to explain to the Board why he is appearing here today. Mr. Fein stated that he is appearing in front of the Board because he obtained prescription medications without paying for the medications from the pharmacy where he was working. Mr. Fein stated that he would like to state how this occurred.

Mr. Fein stated that he moved from Illinois and they moved here rather rapidly before he was financially set to move to Arizona. Mr. Fein stated that his wife suffers from aortic stenosis and a mild case of emphysema. Mr. Fein stated that he tried calling her physicians in Illinois to get her prescriptions renewed. Mr. Fein stated that he tried three times in one week. Mr. Fein stated that he did not receive any answer. Mr. Fein stated that he also faxed the doctors. Mr. Fein stated that his wife was out of her medications and needed the medications. Mr. Fein stated that he took it upon himself to write down the medications and straighten out the payment later. Mr. Fein stated that was the wrong thing to do and he is sorry that he did it. Mr. Fein stated that it was not intentional stealing but his wife needed medication. Mr. Fein stated that she did not have a doctor in Arizona and they had only been in Arizona about thirty days. Mr. Fein stated that is not an excuse but that is what happened.

Mr. Dutcher asked if there was a total of 11 prescriptions. Mr. Fein replied yes.

Mr. Dutcher asked Mr. Fein if he appeared before the Board previously. Mr. Fein stated that he appeared in front of the Board in June. Mr. Fein stated that he took the reciprocity exam and received his Arizona license. Mr. Fein stated that his son had built a home in Surprise and Mr. Fein stated that he moved too soon. Mr. Fein stated that he had not obtained a job first. Mr. Fein stated that he obtained a part-time job at the pharmacy. Mr. Fein stated that he was told that he would be able to work 25 hours a week and he stated that he could just get by on 25 hours a week and as it turned out he was not offered 25 hours a week. Mr. Dutcher told Mr. Fein that a Compliance Officer conducted an audit at the store and there were some shortages of controlled substances. Mr. Fein stated that he took two narcotics and those narcotics were Ambien 5 mg and Lomotil. Mr. Fein stated that there were 30 tablets of each. Mr. Dutcher asked Mr. Fein if he is telling the Board that this is a one time incident. Mr. Fein stated yes. Mr. Dutcher asked Mr. Fein if his wife got any of these medications. Mr. Fein stated that medications were turned into the administration office.

Mr. Dutcher asked Mr. Fein what action he thought the Board should take against his license. Mr. Fein stated that they could put him on probation. Mr. Fein stated that in Illinois he had someone else running the pharmacy and since he was the pharmacist in charge he had to take responsibility.

Mr. Fein stated that the Illinois discipline occurred 17 years ago.

Mr. McAllister stated that the drugs that Mr. Fein took do not fit the diagnosis of aortic stenosis or emphysema. Mr. McAllister stated that he had a choice to take his wife to the emergency room and all pharmacists know that they cannot take medication

from the shelf.

Dr. Smidt asked Mr. Fein if he took the prescriptions and then went right to the store administration. Mr. Fein stated yes that he turned the prescriptions in. Mr. Fein stated that she went without the medication. Dr. Smidt asked if he took his wife to the doctor. Mr. Fein stated that he took his wife to Del Web Hospital. Dr. Smidt stated that he could have taken her to the hospital prior to taking the medications. Mr. Fein stated that he thought he would receive a reply from her doctors in Illinois. Mr. Fein stated that she had enough medication for a few days.

Mr. Wand asked Mr. Fein if they caught him with the drugs and he confessed or did he bring the drugs into the office. Mr. Fein stated that he returned them to the administration office. Mr. Wand asked if he turned the medications into Mr. Yee. Mr. Fein stated no that he turned them into the administration office. Mr. Wand asked Mr. Fein why he turned the prescriptions into the office. Mr. Fein stated that he felt bad.

Mr. Dutcher asked Mr. Fein why he did not return the medication to the pharmacy. Mr. Fein stated that he had already locked the pharmacy. Mr. Fein stated that he walked over to the administration office and explained what he did. Mr. Dutcher asked Mr. Fein if he had a key to the pharmacy. Mr. Fein replied yes.

Dr. Smidt asked about the Costco letter. Ms. Frush stated that she took the initial call from Mr. Yee and understood that a store director had stopped Mr. Fein leaving the store with the prescriptions, but that is not indicated in his letter.

Dr Sypherd asked for a point of clarification. Dr. Sypherd stated that in the Costco letter it states that 30 tablets of Hydrocodone/APAP were found mixed in another bottle. Dr. Sypherd stated that he does not see that drug on Mr. Fein's list that he wrote. Dr. Sypherd stated that there are alot of unanswered questions.

Dr. Smidt asked Mr. Fein if he had the Hydrocodone/APAP mixed with another prescription. Mr. Fein stated that the Vicodin was mixed with another prescription. Mr. Fein stated that he took 30 tablets at that time. Mr. Fein stated that he did not take medication at any other time.

Dr. Smidt asked if a consent order could be offered to Mr. Fein. Mr. Pulver stated that the Board could offer Mr. Fein a consent order depending on what action the Board would like to take. Dr. Smidt stated that Mr. Fein does not want to surrender his license and that is what he would like from the licensee.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously agreed to file a Notice of Hearing with Mr. Fein. Mr. Dutcher stated that the Board will contact Mr. Fein concerning the Hearing.

AGENDA ITEM #5 - Randy Savage - Review of Technician Application

President Dutcher asked Mr. Savage if he knows why he was asked to appear today. Mr. Savage replied that he did. Mr. Dutcher asked Mr. Savage to explain to the Board why he was appearing today.

Mr. Savage stated that on his technician application he replied no to Question #7 which asked if he had ever been convicted of a felony. Mr. Savage stated that is not the truth. Mr. Savage stated that he was convicted of a felony 32 years ago. Mr. Savage stated that it came to the knowledge of the Board when it was reported by a law firm opposed to the adoption of a child. Mr. Savage stated that while doing a background search the law firm found the felony conviction and reported the conviction to the Board. Mr. Savage stated that he was convicted of felony burglary 32 years ago.

Mr. Dutcher asked Mr. Savage why he answered no on Question #7. Mr. Savage stated that he has no excuse and it was wrong. Mr. Savage stated that he will have to accept the consequences because he stated that there is no excuse. Mr. Savage stated that he apologizes to the Board and will have to accept the responsibility of his actions. Mr. Savage stated that he has done nothing else in 32 years. Mr. Savage stated that he has changed his life. Mr. Savage stated that he has been a pharmacy technician for nine years. Mr. Savage stated that has been working at Banner Samaritan as a technician. Mr. Savage stated that he has just received his evaluation from the hospital where he scored 23 out of 25 points. Mr. Savage stated that he is an IV technician and was awarded the Outstanding Employee of the Year award in 2005.

Mr. Dutcher asked Mr. Savage if he has been arrested recently. Mr. Savage stated that the arrest was due to a prescription being phone into the pharmacy and picked up by his wife. Mr. Savage stated that he phoned in the prescription. He stated that it was reduced to a misdemeanor last week. Mr. Savage stated that if he can resolve the issue with the Board on Question #7 that Banner would give him his job back.

Mr. McAllister asked Mr. Savage if there was a felony conviction in Michigan. Mr. Savage stated that it was brought up in the custody hearing and he had never been convicted of a felony in Michigan. Mr. Savage stated that he grew up in Michigan and

left after he graduated when he joined the service. Mr. Savage stated that he is not aware of any felony in Michigan. Mr. McAllister asked Mr. Wand if we have confirmation of his Michigan felony. Mr. Wand stated that we do not.

Dr. Smidt asked if the prescription that he phoned into the pharmacy was for his wife that just gave birth. Mr. Savage stated that his wife has a broken back and her OB doctor had given her Vicodin in the past. Mr. Savage stated that when his wife left the hospital the doctor gave her a prescription for Percocet which was too strong for her. Mr. Savage stated that she is nursing. Mr. Savage stated that the OB doctor referred his wife to a pain doctor. Mr. Savage stated that his wife met with the pain doctor and he wanted to start her on a low dose morphine regimen.

Mr. Savage stated that she has been on nothing but Ibuprofen since the back infusion. Mr. Savage stated that his wife did not want to take Morphine because she was breastfeeding. Mr. Savage stated that his wife has been in pain ever since the birth. Mr. Savage stated that the pain doctor told his wife that the hydrocodone would do nothing for her. Mr. Savage stated that the OB doctor had given his wife the hydrocodone and it helped her sleep at night.

Dr. Smidt asked Mr. Savage if he posed as a physician and phoned in the prescription. Mr. Savage replied yes. Dr. Smidt asked Mr. Savage if he used any of the medication himself. Mr. Savage replied no and stated that he took two urinalyses for the court.

Dr. Sypherd asked Mr. Savage how old he was when he was convicted of the felony. Mr. Savage stated that he was 21 years old. Dr. Sypherd asked if he served time. Mr. Savage replied that he served time in Florence. Mr. Savage stated that he was initially at Florence and was sent to a camp in Safford where he was released at night to attend Northern Arizona University. Mr. Savage stated that his felony conviction occurred 11 days after being released from the service.

Mr. Wand stated that the applicant has violated A.R.S. § 32-1901.01 (A) (16) because he has knowingly filed with the board an application that contains false or misleading information. Mr. Wand stated that the applicant has violated A.R.S. § 32-1901.01 (A) (5) by violating a federal or state law or administrative rule relating to the manufacture, sale or distribution of drugs. Mr. Wand noted that there are two violations concerning unethical conduct.

Mr. Pulver stated that the Board could offer a consent to Mr. Savage and state the terms of the consent. If Mr. Savage agrees to the consent, then the Board would send Mr. Savage a consent order with the agreed upon terms. If not, then the Board needs to decide if they want to go to an administrative hearing.

On motion by Mr. McAllister and Dr. Sypherd, the Board unanimously agreed to move this case to a Notice of Hearing or give Mr. Savage the opportunity to surrender his license prior to the hearing.

Mr. Savage asked if he can reapply for a technician license in the future. Mr. Dutcher stated that the Board has decided to move this case to a hearing and will decide the discipline at the hearing.

Mr. Dutcher stated that Mr. Savage could reapply for a license.

Mr. McAllister asked that the Michigan incident be investigated prior to the hearing.

AGENDA ITEM 6 - Robert Moore - Discussion of Felony Convictions

President Dutcher asked Mr. Moore to explain to the Board why he requested to appear at the Board Meeting. Mr. Moore stated in 2001 he received a felony charge for the possession of marijuana. Mr. Moore stated that it was a first time offense. Mr. Moore stated that he completed one year of probation, which included random drug screenings, home visits, and the completion of a substance abuse program. Mr. Moore stated that the charges were expunged. Mr. Moore stated that when he attended the November Board meeting it was brought to his attention that he should report the charges and he reported the charges to Mr. Wand.

Mr. Moore stated that since that time he has completed five random urine screenings, a substance abuse assessment from Valley Hope to prove that he is drug free and does not pose a risk to the public. Mr. Moore stated that he made the mistake in his past and has learned from his mistake.

Mr. Dutcher asked Mr. Moore if he is an intern. Mr. Moore stated that he is an intern and enrolled in school at the University of Arizona. Mr. Dutcher stated that Mr. Moore had letters from co-workers with positive recommendations.

Mr. Wand stated that Mr. Moore was an intern and just finished a rotation at the Board Office. Mr. Wand told the Board Members that Mr. Moore did not lie on his application because the charges occurred after he applied for an Intern license.

Mr. Pulver stated that Mr. Moore should check yes on his pharmacist application and provide the necessary information. Mr. Wand stated that he feels Mr. Moore would not need to appear before the Board again to obtain approval to proceed with his Pharmacist licensure.

Mr. Dutcher stated that this puts the onus on Mr. Moore to move forward and not have any future problems. Mr. Dutcher thanked Mr. Moore for appearing.

Dr. Sypherd asked if the charges were vacated does the individual need to report the charges.

Mr. Pulver states that the application asks if the applicant has any convictions. Mr. Pulver stated that the applicant must answer yes if the charges have been dismissed.

AGENDA ITEM 7 - Mary Ryan - Medco - Remote Date Entry of Non-Judgmental Information

Mary Ryan appeared on behalf of Medco Health Solutions to explain her company's proposal to employ tribal members in remote locations to enter non-judgmental information. Ms. Ryan stated that the company is looking at a tribal location in Northern Arizona. Ms. Ryan stated that Medco is looking at numerous locations across the United States.

Ms. Ryan stated that the company wants to hire employees to enter non-judgmental information. Ms. Ryan stated that the employees would enter the patient's name, address, and insurance information. Ms. Ryan showed examples of the forms the employees would receive. Ms. Ryan stated that the employees at the remote site would receive via an image a copy of the prescriptions and a copy of the order form. Using the order form, the employee would enter the non-judgmental information. The employees at the remote site would not enter any prescription information. Ms. Ryan stated that the prescriptions would be entered and reviewed by a pharmacist at a different site. Ms. Ryan stated that the individuals at the remote site will not have the ability to download any information and the image resides on the Medco server.

Ms. Ryan stated that her company is presenting this information to the Board to determine if her company needs to apply for a pharmacy permit. Ms. Ryan stated that they feel a permit is not necessary because no prescription entry is being done at this remote location. Ms. Ryan stated that if the Board feels a permit is necessary then her company will apply for a permit.

Dr. Smidt asked what the advantage would be for Medco in developing these remote sites for data entry of non-judgmental information. Ms. Ryan stated that Medco's goal is to diversify their work force. Ms. Ryan stated that they plan on hiring 40 employees initially and use their own management to supervise the staff. Ms. Ryan stated as time passes they will appoint a management staff from the employees. Ms. Ryan stated that after training the first 40 employees they plan to hire 40 more employees. Ms. Ryan stated that they hope to be able to establish other non-pharmacy jobs at these remote sites, which could include jobs such as account management.

Mr. Dutcher asked if this will be cost effective. Ms. Ryan stated that by using imaging the process will be cost effective.

Mr. Dutcher asked if the employees will have access to personal information. Ms. Ryan stated that all employees will receive HIPAA training and the company will conduct audits.

Mr. Wand stated that he believes that a pharmacy permit is not required because prescriptions will not be processed at this site.

Mr. McAllister stated that he feels a permit is not necessary for this remote site since the pharmacy holds a permit with Arizona and if they deviate from the procedure then the Board could take action against the permit.

Mr. Dutcher asked Ms. Ryan if the Board's IT specialist could visit the site. Ms. Ryan replied yes. Mr. Dutcher thanked Ms. Ryan for appearing and sharing her company's proposal with the Board.

AGENDA ITEM #8 - Reports

Executive Director

Executive Director Wand began his report by discussing the financial reports. Mr. Wand explained to the Board that the revenues that were earned this year are not available to spend at this time. Mr. Wand stated that in September he will be starting the New Budget. Mr. Wand explained that the Budget would be submitted for the next two years. Mr. Wand stated that it is difficult to plan for two years because sometimes expenses such as postage increases are not taken into consideration when the budget is submitted. Mr. Wand stated with the surplus from last years budget the money was used to

remodel the office and purchase furniture. Mr. Wand stated that he hopes to reclassify the Compliance Officers as uncovered employees to be able to increase their pay. Mr. Wand stated that he hopes the Board Members will be able to help him obtain a larger budget to obtain the increase in Compliance Officer's pay. Mr. Wand stated that the increase in pay would make the Compliance Officer's pay more competitive with the private industry. Mr. Wand stated that it may take a large effort to reclassify the Compliance Officer's because of the agencies size and the number of uncovered employees versus the number of covered employees in the agency.

Mr. Wand stated that he and Mr. Wright attended a MPJE review session in San Diego. Mr. Wand stated that they reviewed the pool of questions used for the MPJE exam. Mr. Wand stated that they deleted 34 questions from the pool and added 200 new questions from the pool. Mr. Wand stated that while reviewing the questions he noticed several areas that the Board may want to consider for regulation in the future. Mr. Wand stated that he had the Interns review the topics and see how other states handle the situation. Mr. Wand stated that he will list the topics for future discussion. Some of the topics include: the dispensing of emergency quantities on a weekend, the dispensing of emergency quantities when natural disasters occur, and the designation of one pharmacist to be the Pharmacist In Charge at more than one location. Mr. Wand stated that these topics could be placed on a future agenda for discussion and future rule writing.

Mr. Wand stated that IBM is reviewing the automation of the office. Mr. Wand stated that they are working with the Board to have every application and permit available on line. Mr. Wand stated that the ultimate goal is to not issue the paper licenses. Mr. Wand stated that the license would be available on line and the Compliance Officers could access all the licenses and permits and an individual would only be able to access their own license. Mr. Wand stated by not issuing paper licenses the Board would save money in postage. Mr. Wand stated that the Board of Pharmacy is a pilot program for IBM.

Mr. Wand stated that he wanted to remind everyone that this is the last paper Newsletter that will be sent to the pharmacists. Mr. Wand stated that future Newsletters will be e-mailed to subscribers. Mr. Wand stated that the Newsletter provides details on how to subscribe and there is a link on the website for individuals to subscribe.

Deputy Director Report

Deputy Director Frush directed the Board Members attention to the activity reports for the Compliance Staff. Ms. Frush indicated that the Compliance Staff completed more inspections of all sites compared to 2004. Ms. Frush stated that the Compliance Staff spent more time this year investigating the numerous complaints. Ms. Frush stated that the Inspector completed more non-prescription inspections than last year. The Inspector inspected the wholesale operations during the month of December

Ms. Frush stated during the months of November and December the Compliance Staff issued letters for the following violations:

- 1. Controlled Substance Overages (11)
- 2. Controlled Substance Shortages (4)
- 3. Controlled Substance Inventory not completed upon change of PIC (1)
- 4. Controlled Substance Inventory of CIII-CV not taken upon change of PIC (1)
- 5. Annual Controlled Substance Inventory not completed (3)
- 6. Allowing unlicensed technicians to work (4)
- 7. Allowing technicians to work that did not renew their licenses (3)
- 8. Failure to have signed technician statements (19)
- 9. Failure to have technician training programs (4)
- 10. Failure to have technician policies and procedures (2)
- 11. Failure to post wall certificates for pharmacists and technicians (3)
- 12. Failure to document health conditions or allergies (11)
- 13. Failure to remove expired prescription and OTC medications from pharmacy (6)
- 14. Failure to sign computer daily logs (5)
- 15. Failure to document all necessary information on oral prescriptions (2)
- 16. Failure to correctly enter the date written into the computer (2)
- 17. Failure to have current pharmacist or intern license when working (2)
- 18. Failure to have written pharmacy policies and procedures (1)
- 19. Failure to establish a prescription blank security policy (1)
- 20. Failure to obtain copies of DHS permits for assisted living homes (1)
- 21. Failure to obtain an original prescription for a faxed CII (1)
- 22. Sink not functioning (1)
- 23. Non-cleanable floor and ceiling in a sterile compounding area (1)
- 24. Cluttered pharmacy counters not allowing for sufficient work space (1)

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

- 1. Filing of Controlled Substance Invoices
- 2. Documentation of Health conditions
- 3. Documentation of technician requirements

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

1. Documentation of prescription information on oral prescriptions and transfers.

Areas outside the inspection reports that may be of interest:

1. A prescription order for a schedule II controlled substance drug other than a hospital drug order for a hospital inpatient shall contain only one drug order per prescription blank.

The drug inspector issued 25 letters during November and December.

PAPA Report

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of thirty-eight (38) participants in the PAPA program. Ms. Yates stated since the last report on November 17, 2005, one participant has completed the program, and two new participants have entered the program. Ms. Yates stated that one participant is pending the completion of their outpatient treatment program. Ms. Yates stated that at this time the steering committee does not have any concerns about any participants.

Ms. Yates indicated that there is one issue that she would like to bring to the attention of the Board. Ms. Yates stated that with approval from the Arizona Pharmacy Foundation she will be relocating her office to her home in Show Low. Ms. Yates stated that when an individual is referred to the program the individual is referred to a treatment center first for evaluation. Ms. Yates stated that she then meets with the participant. Ms. Yates stated that she would be traveling back and forth to meet with the participants. Ms. Yates stated that if there are any difficulties in meeting with the participant, the clinical director would meet with the participant. Mr. Wand stated that the foundation feels her move would not interfere with the program.

AGENDA ITEM 9 - Governor's Letter to the Board and her State of the State Address

President Dutcher asked Mr. Wand to address this issue. Mr. Wand stated that the Governor sent a letter to the Board President addressing the issue of methamphetamine use being a huge problem in Arizona.

Mr. Wand stated that the letter commended the Board for actions taken in the past. Mr. Wand stated that Arizona is one of seven states that license non-prescription retailers. Mr. Wand stated that the letter stated that the Governor's office supports the prescription drug monitoring program and would like the Board to be able to include non-prescription medications such as pseudoephedrine. Mr. Wand stated that there is proposed legislation that could change the status of pseudoephedrine. It is possible that pseudoephedrine could be classified as a CV.

Mr. Wand stated that during the month of January, the Compliance Staff has been inspecting non-prescription retailers and explaining the pseudoephedrine regulations to the retailers.

Mr. Wand stated that a letter was sent to all wholesalers concerning the sale and distribution of pseudoephedrine. Mr. Wand introduced the Interns Kal Stiles and Seth Williams who have been helpful in compiling the data received from the wholesalers. They stated that 700 letters were mailed to the wholesalers and they have received approximately 390 responses. About 71 % of the respondents indicated that they did not buy or sell single ingredient pseudoephedrine products in the last three years. The Interns stated that they studied the customer's purchases and noticed that businesses in three cities had purchased larger numbers of pseudoephedrine products compared to other cities. These cities included: Quartzite, Casa Grande, and Kingman. It could not be determined if this was significant because these cities have several large truck stops and pseudoephedrine sells were high to these particular types of customers in these cities. The Interns stated that the initial letter was mailed on December 23, 2005 and the Board requested a response by January 9, 2006. The Interns have sent a second letter to the wholesalers that did not respond. The second letter was mailed on January 24, 2006.

AGENDA ITEM 10 - Proposed Rules

Shared Services

Compliance Officer/Rules writer Dean Wright opened the discussion by stating that he has made the requested change from

the November meeting to allow shared order processing by nonresident pharmacies. Mr. Wright stated that there is a proposed addition to R4-23- 621 (E) regarding the maintenance of joint policies and procedures which is meant to address the concerns of the regulated public.

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

General Provisions

Mr. Wright stated that the Board has decided to change the records retention requirement for all drug purchases and for drug sales other than on a prescription to two years instead of three years. This change will conform to the federal requirement.

Mr. Wright stated that a public hearing was held on January 17, 2006. Mr. Wright stated one individual; Janet Elliott representing the Arizona Community Pharmacy Committee attended the public hearing. Ms. Elliott spoke in favor of the proposed rulemaking. Ms. Elliott also provided written comment in favor of the proposed rulemaking.

On motion by Ms. Honeystewa and Dr. Smidt, the Board unanimously agreed to approve the Notice of Final Rulemaking and Economic Impact Statement for the General Provisions rule.

Mr. Wright stated that the rules package will be sent to GRRRC for placement on their April 4, 2006 agenda for final approval. If approved by GRRRC, the rules would become effective on June 3, 2006.

AGENDA ITEM 11 - Complaint Review

The Consumer Complaint Review committee met prior to the Board Meeting to review 26 complaints. Mr. Dutcher and Dr. Tippett served as the review committee. Board Members were encouraged to discuss issues and were encouraged to ask questions.

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

- Complaint # 3023 - Conference (Pharmacist)
- Complaint # 3026 - Conference (Pharmacist)
- Complaint # 3027 - No Further Action
- Complaint # 3029 - No Further Action
- Complaint # 3030 - No Further Action
- Complaint # 3034 - No Further Action
- Complaint # 3035 - Conference (Pharmacist)
- Complaint # 3036 - No Further Action
- Complaint # 3037 - Advisory Letter
- Complaint # 3038 - No Further Action
- Complaint # 3039 - No Further Action
- Complaint # 3044 - No Further Action
- Complaint # 3045 - Advisory Letter (Pharmacist and Pharmacy Technician)
- Complaint # 3046 - Conference (Pharmacist and Pharmacy Technician)
- Complaint # 3047 - Advisory Letter
- Complaint # 3049 - No Further Action
- Complaint # 3050 - Advisory Letter
- Complaint # 3052 - No Further Action
- Complaint # 3053 - No Further Action
- Complaint # 3054 - Advisory Letter
- Complaint # 3055 - Conference (Pharmacist)
- Complaint # 3060 - Conference (Pharmacist)
- Complaint # 3061 - No Further Action
- Complaint # 3062 - Conference (Pharmacist)
- Complaint # 3065 - Consent
- Complaint # 3066 - Policy to be discussed

A new complaint review committee was selected. The following Board Members will serve as the complaint review committee for the next year: Dr. Paul Sypherd, Dr. Zina Berry, and Ms. Louanne Honeystewa.

AGENDA ITEM 12 - Review of New York Policy Guidelines Concerning Pharmacist's Refusal to Fill Prescriptions And Determination if Arizona Requires a Similar Policy

As a result of a complaint, the Board decided to discuss this topic. Mr. Wand stated that an article appeared in the Tucson paper concerning the problem an individual had in obtaining Plan B. Mr. Wand stated that the article states that a patient phoned the pharmacy and asked the pharmacist if he would fill a prescription for Plan B. The pharmacist told the patient that he could fill the prescription if she arrived before his shift ended because the pharmacist after his shift did not feel comfortable filling the Plan B. The patient could not make it in time to the pharmacy before his shift ended and contacted the newspaper. Mr. Hunter stated that he visited and spoke with the pharmacist. The pharmacist stated that the patient asked if he could transfer a prescription to his pharmacy for Plan B. The pharmacist told her that he would fill the prescription if she could arrive before his shift ended. The pharmacist knew that the pharmacist that worked the next shift did not feel comfortable filling Plan B prescriptions. The pharmacist stated that the patient insisted that they did not have the right to refuse to fill the prescription.

Mr. Dutcher said as a result of the article individuals have written to the Governor's office and asked the Board to review their complaints. Mr. Dutcher wanted to know if the Board wanted to consider putting verbiage in our regulations that would protect the pharmacists. Mr. Dutcher stated that currently a pharmacist has the right to refuse to fill a prescription.

Mr. Wand stated that R4-23-402 (A)(7) states that a pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist shall perform the following professional practices in dispensing a prescription medication from a prescription order: interpret the prescription order, which includes exercising professional judgment in determining whether to dispense individual prescriptions.

Mr. Dutcher stated that the pharmacist does not have to fill every prescription. Dr. Tippett asked what is the distinguishing factor between professional judgment and moral conviction. Mr. Dutcher stated that he likes the New York policy guidelines and he feels that the professional judgment should not be taken away from the pharmacist. Mr. Dutcher stated that he feels that a pharmacist has the right to refuse to fill a prescription. Mr. Dutcher stated that he feels that the pharmacist must be protected.

Mr. Wand was asked if the regulation includes moral or religious reasons. Mr. Wand stated that it does not state moral or religious reasons.

Dr. Tippett stated these are two different points.

Mr. Dutcher stated that he likes how New York handled the issue. Mr. Dutcher stated that the New York policy states the following: When a pharmacist recognizes that his/her religious, moral, or ethical belief, or any other factor, will result in the refusal to fill a prescription that is otherwise available in a pharmacy, the pharmacist has a professional obligation to take appropriate steps to avoid the possibility of abandoning or neglecting the patient.

Dr. Tippett states that he is not sure he agrees. Dr. Tippett states that we do not have any regulations that state a pharmacist has the right to refuse a prescription based on their moral convictions. Mr. Dutcher stated that is why we need to change the regulations.

Mr. Wand stated that the Board must keep in mind that when you are making something strong enough to be a rule, the Board must make it a rule and not a policy. Mr. Wand stated that in New York this is a policy. Mr. Wand stated that from the discussion, it seems that this would need to be a rule and not a policy. Mr. Wand stated that if the Board elects to make a policy then the policy would need to state that these are guidelines for the interpretation of R4-23-40& (A) (7) or the other alternative is to write a rule.

Mr. Dutcher stated the letters to the Governor wanted the pharmacist to lose their license if they did not dispense a prescription. Mr. Dutcher stated that he felt that moral needs to be added to the rules.

Dr. Tippett stated that is something he would not like to see placed in the rules after a brief discussion.

Mr. Wand stated that a similar Bill came before the House and Senate last year and was vetoed by the Governor. Mr. Wand stated that the Bill allowed the pharmacist to refuse a prescription based on religious issues.

Dr. Tippett stated that professional judgment and moral convictions are not the same. Dr. Smidt stated that he suggests that the Board waits until a case comes before the Board. Mr. Wand stated that we do have this case and need to respond to the Governor's office.

Mr. Pulver suggested that the Board should define professional judgment. Mr. Pulver stated that what New York developed was a policy and can only be used as a guideline and cannot be used to assess misconduct. Mr. Pulver stated that making a regulation allows the Compliance Officer to point to a rule when investigating a complaint.

Mr. Wand asked the Board if he could address the complaint by sending a letter to the Governor stating that the issue is not currently addressed in the rules and statutes and the Board is looking at the issue. Mr. Wand stated that he would rather see a rule versus a policy because policies have no authority.

Dr. Tippett stated that his opinion is that someone's beliefs should not prevent him from purchasing a product that is legally dispensable.

Mr. Dutcher stated then he is putting his morals on a professional.

Dr. Tippett stated that it is a business transaction.

Mr. Dutcher stated that the dispensing involves moral issues.

P>Dr. Smidt asked how filling a prescription involves moral issues.

P>Mr. Dutcher stated that if the patient wants the prescription filled and the pharmacist has a moral belief that he should not fill the prescription then it is a moral issue. Mr. Dutcher stated that the consumer wants his morals invoked and not the pharmacist's morals.

Mr. Wand stated that the individuals that refuse to fill the prescription feel that it causes harm.

Dr. Smidt stated that there are other drugs that cause harm such as chemotherapy drugs.

Mr. Pulver recommended that the Board may want to form a subcommittee and discuss the issue.

Mr. Pulver stated that the Board could then place the item on the next agenda and block out a certain time period to discuss the issue and compromise on the issue. If a compromise cannot be reached, the item would be placed on the agenda for the next Board Meeting. If no resolution is possible, then it will stand as no resolution. Mr. Pulver stated that the sub-committee can make recommendations.

Dr. Berry asked if there is a way that the issue could be addressed without using the term moral issues. Dr. Berry stated that most national companies have policies concerning these issues. Dr. Berry stated that it might be possible for the pharmacies to have their own policies and adhere to their policies.

Mr. McAllister stated that JCAHO required hospitals to have conscience clauses in their policies.

Mr. Dutcher stated that Governors in other states have taken away the rights of a pharmacist to refuse to fill a prescription.

Mr. Pulver stated that if the Board does not review the issue, the Legislature may decide the issue for the Board.

Dr. Tippett stated that the regulations must also protect the public.

The issue will be on the agenda for the next meeting.

The Board adjourned for lunch at 12:10 P.M.. The meeting reconvened at 1:30 P.M.

AGENDA ITEM 13 - Conferences

Complaint #2952

Peter Yee appeared on his own behalf to answer questions from Board Members concerning a complaint from the Administrative Board of the Veterans Administration alleging that he dispensed approximately 15 pints of Promethazine with Codeine for personal use without a valid prescription between the years of 2001 and 2003. Mr. Yee resides in Michigan but holds an active Arizona license.

President Dutcher asked Mr. Yee to explain to the Board why he is appearing today.

Mr. Yee stated that while he was in the army he was in charge of digging ditches and setting up water lines. Mr. Yee stated

that he developed a chronic cough because of the work conditions and the doctor prescribed Phenergan with Codeine which seemed to help his cough. Mr. Yee stated that a few years later he developed heart problems and the doctor prescribed lisinopril and the medication caused his cough to be worse.

Mr. Dutcher asked Mr. Yee if he obtained the Phenergan with Codeine by legitimate means or did he just take a bottle when he needed the cough syrup. Mr. Yee replied that the first few prescriptions were legitimate and then after that time he was taking four to five pints per year for about three to four years. Mr. Dutcher asked if he was taking the medication without a prescription. Mr. Yee replied yes. Mr. Dutcher asked Mr. Yee if it crossed his mind that this may be illegal. Mr. Yee replied yes, but the doctor at his HMO would not write for the Phenergan with Codeine.

Mr. Dutcher asked what action the VA took when they found out that he was taking the cough medicine. Mr. Yee stated that the VA was going to file federal and state charges, but they compromised and told him that if he left that they would drop all the charges.

Mr. Dutcher asked Mr. Yee if he has a Michigan license. Mr. Yee stated that he has Michigan license and the Michigan Board has not taken any action against his license.

Mr. McAllister asked Mr. Yee if he has a substance abuse problem.

P> Mr. Yee replied no. Mr. Yee stated that he has not had any Phenergan with Codeine for the last three years.

P>Mr. McAllister asked Mr. Yee if he is currently working in a pharmacy.

P> Mr. Yee stated that he has two on-call positions. Mr. Yee stated that he works at a hospital one day a week and at an IV pharmacy one hour a week. Mr. Yee stated that he works about nine hours a week.

Mr. Dutcher asked Mr. Yee if he took any other medications from the pharmacy. Mr. Yee replied no. Mr. Dutcher asked Mr. Yee if he paid for the cough syrup. Mr. Yee replied no.

Dr. Smidt asked Mr. Yee if he needs to maintain his Arizona license.

Mr. Yee stated that it is too cold in Michigan and he would like to move to Arizona and practice in Arizona.

Mr. Dutcher asked Mr. Yee when he took the last bottle.

P>Mr. Yee stated that the last bottle was taken in December of 2003.

Mr. Dutcher told Mr. Yee that the Board would need to take action against his license. Mr. Dutcher stated that he feels that Mr. Yee's license should be placed on probation.

On motion by Mr. McAllister and Dr. Tippett, the Board unanimously agreed to offer a consent order to Mr. Yee with the following terms: Mr. Yee must take and pass the MPJE exam with a score of 75 prior to practicing as a pharmacist in Arizona. When Mr. Yee passes the exam his one year probation will begin on that date. Mr. Yee must abide by all the standard conditions of a consent agreement which include the following: Mr. Yee cannot be a preceptor or pharmacist in charge. Mr. Yee must show a copy of the consent agreement to all employers. Mr. Yee must appear before the Board to have the probation removed.

A roll call vote was taken. (Ms. Honeystewa - aye, Dr. Tippett - aye, Dr. Smidt - aye, Dr. Berry - aye, Mr. McAllister - aye, Mr. Van Hassel - aye, Dr. Sypherd - aye, President Dutcher - aye)

Mr. Wand told Mr. Yee that the documents will be mailed to him.

Complaint #2998

Mr. Espino was not present at the November meeting and asked for a postponement. Mr. Espino was contacted when he did not reply to the letter and he stated that he did not have transportation from Tucson to Phoenix to attend the Board Meeting. Mr. Espino was told that the Board would call him via a conference call and to be prepared to answer the Board Member's questions. The Board attempted to call Mr. Espino twice and he did not answer the phone.

Mr. McAllister stated that the individual should be asked to appear at the next meeting.

Mr. Dutcher stated that he feels that the individual should appear.

On motion by Mr. McAllister and Dr. Berry, the Board unanimously agreed to table this conference until the next meeting and send Mr. Espino a letter requesting that he must appear in person at the March 2006 meeting.

Complaint #2983

Pharmacist Amir Akhlagi and Pharmacy Supervisor Fauzia Somani were present in response to a consumer complaint.

Compliance Officer Sandy Sutcliffe gave a brief overview of the complaint.

Ms. Sutcliffe stated the patient stated that he received Triamterene/HCTZ 50/25 instead of Triamterene 50mg. The patient did not take any of the incorrect medication. The pharmacist states that he called the prescriber to obtain approval to change the medication and authorization was given. There is no documentation concerning this dispensing at this pharmacy as the original prescription was returned to the patient. A review of the prescription at the second dispensing pharmacy shows no documentation on the face of the prescription that the medication was changed. The pharmacy noted that the prescriber is the spouse of the complainant.

President Dutcher asked Mr. Akhlagi to explain what occurred in this situation.

Mr. Amir stated that he did not document on the prescription the medication change when he spoke with the physician. Mr. Akhlagi stated that the patient had taken Dyazide previously and it was prescribed by the same doctor.

Mr. Dutcher stated that the reason that Mr. Akhlagi he is appearing is because he did not document the change. Mr. Dutcher told Mr. Akhlagi that if he would have documented the change he would not be appearing today.

Mr. Akhlagi stated that he did not document the change that he just overlooked the documentation because the patient had the same medication before from the same doctor.

Mr. Dutcher asked Ms. Somani what is the corporate policy when the medication is changed.

Ms. Somani stated that the pharmacist can document the change in the computer and any pharmacy using the system can see the annotation. Ms. Somani stated that Mr. Akhlagi failed to document the change.

P>Mr. Dutcher asked if corporate policy required documentation on the hard copy.

Ms. Somani stated that because they image the prescription the annotations are made on the image in the system. Ms. Somani stated that Mr. Akhlagi did not document the change on the image.

Dr. Berry asked Mr. Akhlagi if he actually called the doctor or did he change the medication when he looked at the patient's history.

Mr. Akhlagi stated that he did call the doctor and the doctor authorized the change. Mr. Akhlagi stated that he did not document the call.

Mr. Dutcher asked Mr. Akhlagi what he has learned in this situation.

Mr. Akhlagi stated that he could have created a DUR that would have alerted the next pharmacist that the drug was changed. Mr. Akhlagi stated that the prescription could not be sold until the pharmacist spoke with the patient. Mr. Akhlagi stated that he was not working when the patient picked up the prescription.

Mr. Dutcher reminded Mr. Akhlagi to be careful and document all changes when speaking with the doctor.

Complaint #2996

Pharmacist Cindy Dye and Pharmacy Supervisor Sean Duffy were present in response to a consumer complaint. Compliance Officer Sandy Sutcliffe gave a brief overview of the complaint.

Ms. Sutcliffe stated that the complainant was prescribed Levothyroxine 150mcg but received 50mcg instead and the complainant took the incorrect strength for approximately 28 days. When the thyroid levels came back too low, the physician then prescribed Levothyroxine 200mcg. The patient took the 200mcg for 13 days, became sick and went to the emergency room, where the physician determined the thyroid levels were too high. The patient then determined that she received the incorrect strength on the initial fill.

President Dutcher asked Ms. Dye to explain what happened in this situation.

Ms. Dye stated that she neglected to verify the prescription label with the written prescription. Ms. Dye stated that she dispensed the prescription with the strength that the technician had inputted when the technician entered the prescription. Ms. Dye stated that she filled the prescription from the label. Ms. Dye stated that the technician had entered the wrong strength.

Mr. Dutcher asked if the technician selects the drug from a scroll screen.

Ms. Dye replied yes.

Mr. Dutcher asked Ms. Dye if he typed in the letters Lev if all the strengths of Levothyroxine would appear.

Ms. Dye replied yes. Ms. Dye stated that the technician then selected the wrong strength.

Mr. Dutcher asked Ms. Dye if she checked the prescription from the label and not the hard copy prescription.

Ms. Dye replied yes.

Mr. Dutcher asked Mr. Duffy if there is a way that error could be avoided on their computer system.

Mr. Duffy replied that they do have a speed input code. Mr. Duffy stated that the technician needs to enter the first three letters of the drug name and the strength. Mr. Duffy stated that the technicians are trained to use this speed code.

Mr. Dutcher asked Ms. Dye what she has learned from this experience.

Ms. Dye stated that she has learned that she must fill prescriptions from the hard copy prescription and not the label. Ms. Dye stated that she also learned that if speed codes are to be used then the speed codes should be used correctly.

Mr. Dutcher reminded the pharmacist to be careful.

Complaint # 2997

Pharmacist Sandra Joly 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 submitted six new prescriptions to the pharmacy for filling. The doctor's office phoned in another prescription for a total of seven prescriptions. The complainant thought she had picked up all the prescriptions because one of the prescriptions was for two tubes of cream. When her daughter's condition did not improve, the complainant requested that the doctor's office phone in a refill for the topical medication. It was discovered at this time that the pharmacist had never dispensed the Kwell Lotion that was on the original prescription. The complainant stated that she was not counseled.

President Dutcher asked Ms. Joly to address the complaint.

Ms. Joly stated that when the prescription showed up on her scan screen she asked the technician if they had called the doctor because the prescription was written for Brand name Kwell and the product is no longer made. Ms. Joly stated that the doctor would need to authorize the change. Ms. Joly stated that no one followed through including herself and the doctor was not called. Ms. Joly stated that she was not aware of the error until the mother complained.

Mr. Dutcher asked Ms. Joly if there is a break down in the system.

Ms. Joly stated that she saw the prescription on the screen and asked the technician if they had called the doctor. Ms. Joly

stated that her error was not taking the prescription and making the call herself.

Mr. McAllister stated that the most important item was missed for the treatment of scabies. Mr. McAllister stated that something should have triggered this omission when the patient was counseled. Mr. McAllister stated that it is important to take care of the patient.

Mr. Dutcher asked Ms. Joly if the patient was counseled.

Ms. Joly stated that no new prescription leaves the pharmacy without counseling.

Mr. Dutcher asked Ms. Joly if she has the actual script when she counsels the patient.

Ms. Joly replied the prescription is scanned and she does not have the hard copy when she counsels the patient.

Mr. Dutcher asked Ms. Joly what she has changed in her practice.

Ms. Joly stated that there is a notation in the system to let the pharmacist know how many prescriptions were scanned for the patient. Ms. Joly stated that if the system would have been in place at the time she would have known that there were six prescriptions. Ms. Joly stated that she now calls on the prescriptions when clarification is needed and does not rely on the technicians.

Mr. Dutcher asked reminded Ms. Joly to be careful.

Complaint #3006

Pharmacist Kathleen Crook, Pharmacy Technician Juan De Dios Rios, and Pharmacy Supervisor Melanie Malee were present in response to a consumer complaint.

Compliance Officer Larry Dick gave a brief overview of the complaint.

Mr. Dick stated that the complainant's prescription written for Avandia 4mg #60 with directions to take one tablet twice daily was incorrectly entered and filled with Warfarin 4mg. The complainant took the medication for three weeks prior to the error being discovered when he presented a prescription for Cipro and the pharmacist told him that he could not take the drug because it was contraindicated because he was taking Warfarin. The patient contacted his physician and questioned why he was taking Warfarin and was told that Warfarin was a blood thinner and his planned surgery could not take place the next day.

President Dutcher asked Ms. Crook to address the complaint.

Ms. Crook stated that she is very sorry for the error and was not aware of the error until the patient brought in the Cipro prescription and the original error was discovered.

Mr. Dutcher asked who entered the prescription into the computer.

Ms. Crook replied the prescription was entered by the technician.

Mr. Dutcher asked Mr. De Dios Rios about the error.

Mr. De Dios Rios stated that he read the prescription as Coumadin 4 mg.

Mr. Dutcher asked Mr. De Dios Rios if he was 100% sure that the prescription was for Coumadin.

Mr. De Dios Rios stated no.

Mr. Dutcher asked Mr. De Dios Rios what he would do if he is not 100% sure.

Mr. De Dios Rios stated that he asks the pharmacist and that is one thing that he did not do.

Mr. Dutcher asked Ms. Crook when she verifies the prescription if she has the hard copy in front of her or if the image is on

the screen.

Ms. Crook stated that the image is on the screen.

Mr. Dutcher asked Ms. Crook if she checks the label with the information entered on the screen or against the hard copy prescription.

Ms. Crook stated that she checks what is entered by the technician against the hard copy of the prescription.

Mr. Dutcher asked Ms. Crook if she also misread the prescription.

Ms. Crook stated that she did misread the prescription.

Mr. Dutcher asked Ms. Crook where the break down was in the process.

Ms. Crook stated that the writing was a little bad, but she should have checked the other prescriptions on the blank because they were for diabetic medications and that would have alerted her to the fact that the prescription was not for coumadin. Ms. Crook stated that she needs to slow down in general.

Mr. Dutcher asked if she was overworked that day.

Ms. Crook stated that she does not believe that she was overworked that day.

Mr. Dutcher asked if they were short staffed that day.

Ms. Crook replied she does not believe that they were short staffed that day.

Dr. Berry asked Ms. Crook if she has ever seen Coumadin 4 mg given twice daily.

Ms. Crook stated that she now verifies dosages if she sees something unusual.

Dr. Berry told Ms. Crook that should have tipped her off that the drug was not correct.

Mr. Van Hassel asked Ms. Crook if she counseled the patient.

Ms. Crook stated that she did not counsel the patient.

Mr. Van Hassel asked if the patient was counseled.

Ms. Crook stated that it was documented that the patient was counseled.

Mr. Dutcher asked how the Board would know which pharmacist was responsible for counseling.

Ms. Malee stated that the records could be obtained to show what time the prescription was sold and match that time to the pharmacist that was on duty at the time.

Mr. McAllister stated that he could not imagine how the patient was counseled because the patient should have been told that the medication was a blood thinner and been made aware of the side effects. Mr. McAllister stated that he would like to know the name of the counseling pharmacist and open a complaint against that pharmacist. Mr. McAllister noted that this is a life-threatening error.

Mr. Van Hassel stated that this is one of the most documented errors. Mr. Van Hassel stated that he agrees that the counseling pharmacist should have alerted the patient to the side effects of Coumadin.

On motion by Mr. McAllister and Mr. Van Hassel, the Board unanimously agreed to open a complaint against the counseling pharmacist and have the pharmacist appear at the Board meeting.

Mr. Dutcher asked Ms. Malee if two pharmacists were on duty would it be possible to tell which pharmacist counseled the

patient.

Ms. Malee stated that if two pharmacists were working then the Board would need to talk to both pharmacists.

Mr. Dutcher stated that it would be easier if the initials of the counseling pharmacist were documented.

Mr. Wand stated that the documentation of oral counseling does not require the initials of the pharmacist performing the counseling. Mr. Wand stated that the rule could be changed to require the initial.

Mr. Dutcher asked Ms. Crook what she has learned.

Ms. Crook stated that she has learned to be careful, check the other prescriptions on the profile, and be sure to counsel the patient.

Mr. Dutcher asked Mr. De Dios Rios what he has learned.

Mr. De Dios Rios stated that he has learned to slow down and double check everything that he has entered. Mr. De Dios Rios stated that he will ask the pharmacist if he has any questions.

Mr. Dutcher reminded the pharmacist and the technician to be careful and slow down.

Complaint # 3012

Pharmacist In Charge Dan Mason was present in response to a consumer complaint.

Compliance Officer Larry Dick gave a brief overview of the complaint.

Mr. Dick stated that the complaint consisted of several parts. Mr. Dick stated that the complainant is concerned about the dispensing activities of the pharmacy that dispensed medications to her mother at an assisted living home. Mr. Dick stated that the first part of the complaint involved the dispensing of wrong pills in the pharmacy sealed strip bag. Several of the medications were in bags labeled with the wrong name of the medication and some of the medications were not for her mother. The second complaint involved the dispensing of generic Coumadin when the patient's daughter had requested that her mother only receive the brand name product. The third complaint involved the listing of several medications on the MAR twice, one being aspirin. The fourth complaint involved the listing of a wrong administration time on the MAR for Coumadin. The complainant also stated that aspirin is listed as an allergy and the patient is receiving Aspirin 81 mg. daily.

President Dutcher asked Mr. Mason to address the issues. Mr. Mason stated that the patient is a resident at an assisted living home that his pharmacy services. Mr. Mason stated that this is a compilation of issues and he would like to address each issue.

Mr. Mason stated that the first error was due to a problem with the Automated machine. Mr. Mason stated that the medication strips are packaged for the resident for a two week time period. Mr. Mason stated it appeared there was a timing issue with the machine and the wrong medications were placed in the last bag. Mr. Mason believes the pharmacist checked the other bags and became complacent and assumed the last bag was correct. Mr. Mason stated the patient had received half tablets and at that time there were no descriptions on the bag. Mr. Mason stated that issue has been corrected, since it is hard to identify half tablets.

Mr. Mason stated that the complainant had requested several times that her mother receive only brand name Coumadin. Mr. Mason stated that the request pops up on the screen when the technician enters the prescription. Mr. Mason stated that the technician did not pay attention to the pop up message and entered the prescription generically. The pharmacist was given the label and the prescription and checked the prescription for generic Coumadin. The prescription was not written to be dispensed as written and the pharmacist checked and approved the generic. Mr. Mason stated that the technicians now print any screens requesting where the patient has made specific requests. Mr. Mason stated that links have been removed that change Coumadin to the generic product. Mr. Mason stated that the error was corrected when notified and the brand name product was sent.

Mr. Mason stated that he has not seen the MAR where it was indicated that the patient should take a baby aspirin twice daily. Mr. Mason stated that he is not sure how this occurred. Mr. Mason stated that the nurse checked off that both doses were administered. Mr. Mason stated that when they were contacted by the complainant and they checked their records they found that they were only sending one aspirin to the patient. Mr. Mason stated that facility confirmed that there was only one aspirin

given daily.

Mr. Mason stated that they fax the MARs to the complainant before the MARs go to the home. Mr. Mason stated that is when it was determined by the complainant that the Coumadin was being dispensed at the wrong time. Mr. Mason stated that he believed that the family asked the pharmacy to indicate aspirin as an allergy. Mr. Mason stated that the allergy was for a full strength aspirin.

Mr. Dutcher asked Mr. Mason about the MAR showing that the patient was taking Coumadin when she was actually taking warfarin.

Mr. Mason stated when the MAR was printed it would print the medication the patient was taking on that day. Mr. Mason stated that the MAR is not reprinted and the nurse will manually make the change.

Mr. Dutcher asked about the automation problem and asked if this was a timing problem or a human error.

Mr. Mason stated that they have changed their policies and two licensees must verify the medication prior to the medication being placed in the machine. After the medications are packaged, the pharmacist must check every bag to see if the medication is correct.

Mr. Wand asked Mr. Mason if the MAR is sent out typewritten and if the nurses are able to make changes by writing on the MAR. Mr. Mason replied yes.

Dr. Berry asked Mr. Mason if he has pharmacists check the MARs before they are sent out.

Mr. Mason replied no.

Dr. Berry stated that it is probably best to check the MAR before sending the MAR to the home due to technical problems with the Automed when dosages are changed. Dr. Berry asked Mr. Mason if a consultant pharmacist goes to the assisted living homes to check the records.

Mr. Mason replied that it is up to the home if they want the consulting service. Mr. Mason stated that they have started to print the MARs on paper and fax them to the homes and have the nurses review the MAR and indicate any changes. The changes are then made prior to sending out the MAR.

Mr. Dutcher asked Mr. Mason what he has learned from this complaint.

Mr. Mason stated as a result of the complaint he has tightened up his procedures.

Mr. Dutcher told Mr. Mason to take the advice given to him and continually change his procedures to improve the service he provides to his patients.

Complaint #3017

Pharmacist Daniel Saldamando and Pharmacy Supervisor Eric Scherf were present in response to a request by the Board. A technician at the store had filled more than 60 prescriptions for herself and her boyfriend without authorization from the physicians. Several prescriptions were filled for a quantity greater than the quantity prescribed by the physician. Compliance Officer Ed Hunter gave a brief overview of the complaint.

Mr. Hunter stated that a pharmacy technician filled more than 60 prescriptions for herself and her boyfriend. Mr. Hunter stated that after the technician missed work for migraine headaches the Pharmacist in Charge questioned her about the hydrocodone prescriptions. The technician stated that she was under a physician's care. The pharmacist in charge did not notice any changes in her behavior. Mr. Hunter stated that the technician was caught on camera ringing up her own prescriptions which is against company policy and an investigation began by the company.

Mr. Dutcher asked Mr. Saldamando if he knew why he was asked to appear.

Mr. Saldamando stated that he assumed that he is appearing because he is supposed to know what is going on in the pharmacy. Mr. Saldamando stated that they found out that a technician can circumvent the system and override the system safeguards. The technician is not supposed to enter refills on their own prescription and she had circumvented this in the system. Mr. Saldamando stated that the technician would have prescriptions filled when different pharmacists were working.

Mr. Saldamando stated that it was brought to the attention of the pharmacists when the technician came in on her day off to have a prescription filled.

Mr. Dutcher asked if they read the patient's name when they check the prescription.

Mr. Saldamando stated that different pharmacists verified the prescription. Mr. Saldamando stated that often they are concentrating on the correct drug and directions more so than the name.

Mr. Dutcher asked if the pharmacist questioned seeing almost 60 prescriptions for the technician and her boyfriend.

Mr. Saldamando stated that it was hard to question prescriptions when each pharmacist only saw a few prescriptions because the pharmacists knew the technician was under a physician's care for back spasms. Mr. Saldamando stated that some of the issues are trust issues and the technician was a trusted employee.

Mr. Dutcher asked if there are any corporate procedures that could have prevented this from occurring.

Mr. Scherf stated that the technician violated several corporate policies by filling her own prescriptions, accepting her own refill authorizations, and ringing up her own prescriptions at the register.

Dr. Smidt asked Mr. Saldamando if he had looked at her profile.

Mr. Saldamando stated that he did look at her profile.

Dr. Smidt asked if the profile is an important part of the process.

Mr. Saldamando stated that he checks the patient profile when verifying prescriptions. Mr. Saldamando stated that there were no red flags in this situation. Mr. Saldamando stated that he is trying to educate his technicians about the role of a pharmacy technician and the responsibilities of being a licensed technician. Mr. Saldamando stated that he reviews an employee's profile when he fills a prescription for an employee. Mr. Saldamando stated that he now treats an employee's prescription just like any other prescription. Mr. Saldamando stated that this incident has raised trust issues for him.

Mr. McAllister told Mr. Saldamando that he is in a tough spot. Mr. McAllister told Mr. Saldamando to put good procedures in place and to tighten up systems.

Mr. Dutcher thanked Mr. Saldamando and Mr. Scherf for appearing.

Complaint #3018

Pharmacist In Charge and Pharmacy Supervisor Melissa Christensen, Regional Pharmacy Manager Jason Reiser, and Pharmacy Supervisor Kelly Stokes were present to answer questions. Compliance Officer Ed Hunter gave a brief overview.

Mr. Hunter stated that a pharmacy technician was forging her own prescriptions and the forgery was discovered by the pharmacist on duty.

President Dutcher asked Ms. Christensen how the technician could forge her own prescription.

Ms. Christensen stated that the technician in question filled her own prescription for Diazepam. The next day when the other technician found an extra prescription label the staff pharmacist viewed the image of the prescription. The image was a faxed refill authorization. The staff pharmacist knew that the doctor never faxed a refill authorization to the pharmacy. The staff pharmacist called the doctor and received a statement from the doctor that he did not authorize the refill. Ms. Christensen stated that Loss Prevention became involved and the technician admitted her involvement. Ms. Christensen stated that the technician's employment was terminated. Ms. Christensen stated that the Police and the Board were notified. Ms. Christensen stated that during the investigation it was determined that the technician had phoned in prescriptions or had someone phone in prescriptions to the IVR system using the nurse's name. Ms. Christensen stated that three prescriptions were filled as a result of the phone calls.

Mr. Dutcher asked if there are processes in place that will prevent these issues from occurring in the future.

Ms. Christensen stated that she has visited with the technicians and pharmacists. Ms. Christensen stated that technicians do

know how to circumvent the system.

Mr. Reiser stated that some of the prescriptions were for non-controlled medications which do not raise a red flag as fast.

Mr. Reiser stated that he hears the comments all the time when the trust is broken that people cannot believe that someone would do such a thing because they know that person. Mr. Reiser stated that the company has developed a CE program sponsored by the University of Arkansas involving different types of diversions within the company. Mr. Reiser stated that the program will be available to the pharmacists beginning in August.

Mr. Dutcher reminded everyone to check employee prescriptions and be sure all prescriptions are legitimate. Mr. Dutcher thanked the individuals for appearing.

Complaint #3019

Pharmacist Shamini Oza and Pharmacy Supervisor Debbie Arvidson-Tholen were present in response to a consumer complaint. Compliance Officer Ed Hunter gave a brief overview of the complaint.

Mr. Hunter stated that the patient in one nursing home received the wrong strength of medication because of having the same name of a patient in another nursing home that is taking the same medication. The wrong patient was chosen from the pharmacy's computer and the pharmacist failed to catch the error during verification. The patient received the wrong strength from the nursing home staff before the error was caught. The patient had no ill effect.

President Dutcher asked Ms. Oza to address the complaint.

Ms. Oza stated that actually the patients have different last names and she did not catch the error when she verified the prescription. Ms. Oza stated that the error could have been avoided if she had verified the nursing home where the patient resides. Ms. Oza stated that the patients were both on Levothyroxine but they were on different strengths.

Mr. Dutcher asked if there was an issue with the handwriting.

Ms. Oza said no that the prescription was written by the nurse and she misread the name.

Mr. Dutcher noted that there was a large volume of prescriptions filled that day and asked if there were other pharmacists on duty.

Ms. Arvidson- Tholen stated that the volume of prescriptions is the normal number of prescriptions that they do daily. Ms. Arvidson-Tholen stated that they fill prescriptions for long-term care facilities. Ms. Arvidson-Tholen stated that there were four pharmacists on duty that day and they filled 763 prescriptions that day.

Mr. Dutcher asked Ms. Oza what she has learned from this incident.

Ms. Oza stated that she has learned to verify every detail of a prescription including the change of a room or bed number. Ms. Oza stated that they are circling the name, room number, and birth date when they verify prescription. Ms. Oza stated that it is important that mistakes do not leave the pharmacy.

Mr. Van Hassel asked Ms. Arvidson- Tholen about the normal staffing.

Ms. Arvidson- Tholen stated that on Mondays there are four pharmacists and twelve technicians. The rest of the week there are three pharmacists.

Mr. Dutcher reminded Ms. Oza to slow down and verify all prescriptions.

Complaint #3020

Pharmacist John Dahlgren and Pharmacy Supervisor Joanne Palermo were present in response to a consumer complaint. Compliance Officer Sandy Sutcliffe gave a brief overview of the complaint.

Ms. Sutcliffe stated that the patient had prescriptions filled for Naproxen and Tylenol #3. The patient received the bottles with the correct medication indicated on the label, but Naproxen was in both bottles. According to the pharmacist on duty, the

patient did ingest an unknown quantity of the duplicate medication and did complain of stomach upset.

President Dutcher asked Mr. Dahlgren to discuss the details of the complaint.

Mr. Dahlgren stated that he did not properly verify the prescriptions. Ms. Dahlgren stated that he did not look in the bottles to verify the tablets.

Mr. Dutcher asked Mr. Dahlgren how Naproxen ended up in both bottles.

Mr. Dahlgren stated that they use Teva brand generic and both bottles are red and similar in size. Mr. Dahlgren stated that it was a busy Monday afternoon and he got called away several times to counsel patients. Mr. Dahlgren stated that he lost sight of opening one bottle and checking the contents.

Mr. Dutcher told Mr. Dahlgren to take the time needed to check the prescriptions. Mr. Dutcher stated that errors occur when you are rushed and do not follow procedures.

Dr. Berry asked if he verified the prescription because there are no initials on the prescription.

Mr. Dahlgren stated that they are captured electronically.

Dr. Berry asked Mr. Dahlgren if he opens the bottle when counseling.

Mr. Dahlgren stated that at that time he was not opening the bottles on new prescriptions because the patient could not recognize the tablet. Mr. Dahlgren stated that he uses a show and tell method.

Dr. Berry told Mr. Dahlgren that if opens the bottle during counseling it gives him the opportunity to check the tablet again.

Mr. Dutcher reminded Mr. Dahlgren to be careful.

Complaint #2996

Pharmacist Dennis Lambert and Pharmacy Supervisor Sean Duffy were present in response to a consumer complaint.

Compliance Officer Ed Hunter gave a brief overview of the complaint.

Mr. Hunter stated that the complaint was filed by the Insurance Plan of the patient. Mr. Hunter stated that over a period of a year, a patient received a toxic dose of Darvocet N-100 through early refills and written prescriptions. Mr. Hunter stated that there were several issues that contributed to the problem. Mr. Hunter stated that the patient should have monitored his compliance with the directions on his prescriptions and the oral and written consultation he received from the pharmacy. The physician should have monitored the authorizations that were given for refills and written prescriptions. The pharmacy should have more closely monitored the patient's refill history in the patient profile.

President Dutcher opened the discussion by asking Mr. Lambert how did the pharmacy get to the level where the pharmacy felt it was appropriate to fill the prescription for the levels of acetaminophen that were being dispensed.

Mr. Lambert stated that the patient would request early refills with various excuses, such as going on vacation. Mr. Lambert stated that the patient would phone the pharmacy when different pharmacists and technicians were on duty. Mr. Lambert stated that if the insurance company did not stop payment on the prescription then the prescription was processed and filled.

Mr. Dutcher asked if the computer system would warn the pharmacist that this was an early refill.

Mr. Lambert stated that the computer system will show the last date the prescription was refilled.

Mr. Dutcher asked if there is a warning alerting the pharmacist that it is too early to fill the prescription.

Mr. Lambert stated no unless it is stopped by an insurance company refusing payment.

Mr. Dutcher asked Mr. Lambert if he is confident in that system.

Mr. Lambert replied yes, if the technicians who process the prescriptions see the early refill and alert the pharmacist.

Mr. Dutcher asked if the technicians alert the pharmacist.

Mr. Lambert stated that the technicians usually tell the pharmacists and the pharmacist will then question the prescription.

Mr. Dutcher stated that the standard of care is 4000 mg. Mr. Dutcher asked how the fact that the patient was exceeding the maximum daily dose got past the pharmacists.

Mr. Lambert stated that the patient requested refills at different times and would call when different people were present. Mr. Lambert stated that the days supply was calculated by using the directions on the prescription that were to Take 1 to 2 tablets every 4 to 6 hours as needed. Mr. Lambert stated that using this method the dose was calculated as 12 tablets daily. Mr. Lambert stated that the patient was counseled to take only 6 tablets daily maximum. Mr. Lambert stated that the patient told them that he was only taking 6 tablets daily, but he did request frequent refills.

Mr. Dutcher asked Mr. Duffy if a warning comes up when new prescriptions are entered indicating that the pharmacy has filled the same prescription for this individual recently.

Mr. Duffy stated that when a dose is that high a high dose alert would appear. Mr. Duffy stated that the system will not bring up multiple refills.

Mr. Dutcher asked Mr. Lambert if he reviewed the patient's chart at anytime.

Mr. Lambert stated that he did not review the chart until they were made aware of the problem.

Mr. Dutcher asked Mr. Lambert if it did not send up a red flag when they were filling all the prescriptions early for this patient.

Mr. Lambert stated that on one occasion he had the technician call the physician to see if they could refill the prescription early. Mr. Lambert stated that the doctor responded by issuing a new prescription.

Mr. Dutcher told Mr. Lambert that it is his responsibility as a pharmacist to verify the dosage and take control of the situation. Mr. Dutcher stated that the patient's request for early refills should have sent up a red flag. Mr. Dutcher stated in reviewing the patient's profile he noted that the patient was also getting other narcotic pain killers with acetaminophen. Mr. Dutcher stated that the patient was getting prescriptions for Tylenol #3 and Percocet.

Mr. McAllister stated that if the pharmacist depends on the machines then pharmacists will not be needed. Mr. McAllister stated that when the counseling rules were written the rules were concerned about DUR warnings to protect the patient. Mr. McAllister stated that he does not see this occurring in this situation.

Mr. Van Hassel asked Mr. Lambert if they routinely fill prescriptions early at his store.

Mr. Lambert stated that they get requests to fill prescriptions early because a patient is going on vacation.

Mr. Van Hassel asked how often this happens where the patient asks for an early refill.

Mr. Lambert stated that it probably occurs a couple of times a day. Mr. Van Hassel stated that the pharmacist should use his professional judgment and in this situation it is hard to say that the pharmacist used professional judgment because of the dosage.

Mr. Dutcher stated that in this situation there is a lack of professionalism. Mr. Dutcher stated that the computer system should be tweaked to prevent situations such as this from occurring. Mr. Dutcher stated that the chart is a useful tool in helping the pharmacist determine the limits of acetaminophen. Mr. Dutcher stated that as a professional the pharmacist has a duty to contact the physician and inquire about the dosage. Mr. Dutcher stated that the pharmacist should have questioned the doctor when he said it was okay to fill. Mr. Dutcher stated that this is a lack of professional judgment.

Dr. Smidt asked Mr. Lambert how many pharmacists are on staff.

Mr. Lambert replied that there are three pharmacists on staff. Mr. Lambert stated that all three pharmacists filled prescriptions.

Mr. Van Hassel asked if anything has changed in his store. Mr. Van Hassel asked Mr. Lambert what he would do if he brought in a prescription for Darvocet N 100 #120 and showed up every 10 days for a refill.

Mr. Lambert stated that are going strictly by the chart for the maximum daily dosage as the days supply and that is the days supply that they would enter into the computer. Mr. Lambert stated that the computer would then stop them as being soon. Mr. Lambert stated that they counsel the patient on the maximum daily dosage.

Mr. Dutcher asked Mr. Lambert what he would do today if the patient came to the pharmacy and requested early refills.

Mr. Lambert stated that they call the doctor on every early refill and see if the early refill is okay with the doctor and check the patient profile.

Dr. Berry asked Mr. Lambert if the computer alerts the pharmacist to other prescriptions the patient is taking that contain acetaminophen. Dr. Berry stated that if they are only looking at the chart for a single prescription it does not alert the pharmacist that the patient is taking other medications that contain acetaminophen.

Mr. Duffy replied that it will bring up a duplicate therapy warning.

Dr. Berry asked Mr. Lambert if the pharmacist sees the warning or is the technician overriding the warning.

Mr. Lambert stated that the technician prints out the DUR and sends it with the prescription to be reviewed by the pharmacist.

Dr. Smidt asked if it is possible for a pharmacist to not see the medication profile and fill a prescription.

Mr. Duffy replied that the profile is not available on a refill.

Dr. Smidt asked Mr. Lambert if he performs any clinical activities when filling a prescription.

Mr. Lambert stated that if they are alerted to a problem then they will look at the profile.

Dr. Smidt stated that it is the pharmacist's responsibility to be involved clinically.

Dr. Berry asked if the technician prints out the "refill too soon" warning.

Mr. Lambert stated yes. Mr. Lambert stated that they could then ask the patient why they are requesting the prescription early.

Mr. Dutcher stated that in R4-23-402 (5) (c) and (e) it states that a pharmacist must verify the legality and pharmaceutical feasibility of dispensing a drug based upon: a patient's use of unusual quantities of dangerous drugs or narcotics and the frequency of refills. Mr. Dutcher stated that he feels the pharmacist did not perform their professional duties.

Mr. McAllister stated that he feels the permit holder also has a responsibility to manage the staff.

Mr. McAllister stated that he would like to make a motion that the pharmacist and permit holder be offered a consent order. Mr. McAllister suggested that the pharmacist take the MPJE and PSAM assessment.

Mr. Pulver stated that the Board must first ask Mr. Lambert if he would agree to a consent order. Mr. Pulver stated that the consent should also include a probationary period. Mr. Pulver stated that it could also be a censure. Mr. Pulver stated that the probationary period allows control over the licensee. Mr. Pulver stated that Mr. Lambert does not have to agree to the consent and other actions can be taken if he does not agree.

Mr. Wand stated that the permit holder is not present. Mr. Wand stated that the PSAM deficiencies are only available to the individual taking the exam.

Mr. McAllister stated that the individual does receive a certificate indicating that they have completed the assessment. Mr. McAllister stated that the individual could provide the certificate to the Board indicating that he has completed the assessment.

Mr. Lambert asked if the consent order would only apply to him or all the pharmacists.

Mr. Pulver stated that the Board could issue a complaint against the other pharmacists and they could be brought before the Board to explain their involvement.

Mr. McAllister stated that while the other pharmacists were involved he feels that the Pharmacist In Charge, which is Mr. Lambert, and the permit holder should be held responsible because they set the tone of how the pharmacy should be managed.

Mr. Pulver stated that Mr. Lambert does not have to agree to the consent and other actions can be taken if he does not agree.

Mr. Wand stated that the permit holder is not present.

Mr. Pulver stated that the permit holder would need to appear at a meeting. Mr. Pulver stated that if Mr. Lambert does not agree to the consent then it would go to an administrative hearing.

Mr. Wand stated that an advantage to a licensee to agree to a consent is that the licensee knows the outcome. Mr. Wand stated that a licensee does not know the outcome of a hearing.

Mr. Dutcher explained to Mr. Lambert that the consent order will require him to take the MPJE (law exam) and the PSAM assessment (assessment of pharmacy skills) during a 90 day probationary period.

Mr. Lambert agreed to accept the consent order.

On motion by Mr. McAllister and Dr. Smidt, the Board unanimously agreed to offer a consent order to Mr. Lambert with the following terms: Mr. Lambert will be on probation for the next 90 days and during that time period he must take and pass the MPJE exam with a score of 75 and he must complete the PSAM assessment. A roll call vote was taken. (Ms. Honeyestewa - aye, Dr. Tippett - aye, Dr. Smidt - aye, Dr. Berry - aye, Mr. McAllister - aye, Mr. Van Hassel - aye, Dr. Sypherd - aye, President Dutcher - aye)

Mr. Pulver asked if Mr. Lambert's probation would automatically end in 90 days or would Mr. Lambert need to appear again to remove the probation.

Mr. McAllister stated that his intent was to have Mr. Lambert submit the certificates to the Board Office and if completes them successfully then the probation would end with no further appearance.

Mr. Pulver asked about the PSAM assessment.

Mr. Dutcher stated that the assessment shows the individual their deficiencies and upon completion of the assessment it is up to the pharmacist to improve in the areas where they are deficient.

Mr. Dutcher asked the Board Members if they wanted to initiate a complaint against the other two pharmacists and the permit holder. Dr. Smidt stated that he feels it may be worse that their boss was singled out as the Pharmacist In Charge and the message will be sent to the other pharmacists.

Mr. Lambert stated that the other pharmacists would get the message.

Dr. Tippett stated that he feels that the other pharmacists should be held accountable if they had a role in filling some of the prescriptions. Dr. Tippett stated that he feels that it is not fair that one person be held accountable for everyone's mistakes and that the other pharmacists should be accountable for their own mistakes. Dr. Tippett stated that he feels the other pharmacists should appear.

Mr. Wand stated that the other pharmacists would need to appear at the next meeting before disciplinary action could be taken.

Mr. Pulver stated that the pharmacists would be notified by the Board to appear at the next meeting and the Board Members would talk to the pharmacists and determine at that time if they would like to take further action as a Board. Mr. Pulver stated that if the Board wants to speak with the permit holder then a letter should be sent to their corporate office requesting someone from the corporate office appear at the next meeting.

On motion by Dr. Tippett and Dr. Berry, the Board agreed to request that the other two pharmacists involved in the incident and a representative for the permit holder appear at the March 25, 2006 Board Meeting to discuss the incident with

the Board Members. A roll call vote was taken. (Ms. Honeyestewa - aye, Dr. Tippett - aye, Dr. Smidt - aye, Dr. Berry - aye, Mr. McAllister - aye, Mr. Van Hassel - nay, Dr. Sypherd - aye, President Dutcher - aye)

Mr. Duffy told the Board Members that the Maximum Daily Dose Chart for acetaminophen and aspirin has been distributed to all their stores in Arizona.

President Dutcher thanked them for attending.

Complaint # 3032

Pharmacist Roberta Ierley and Pharmacy Supervisor Crane Davis were present in response to a consumer complaint.

Compliance Officer Dean Wright gave a brief overview of the complaint.

Mr. Wright stated that the patient presented prescriptions for Citalopram 40 mg and Ranitidine 150 mg. Both bottles were labeled correctly, but both bottles contained Ranitidine. Three days later the doctor stopped the Ranitidine and the patient continued to take what she thought was Citalopram for three more days. The patient was without her antidepressant for six days.

President Dutcher opened the discussion by asking Ms. Ierley to discuss the events leading up to this error.

Ms. Ierley stated that she does know how the error occurred and deeply regrets the error. Ms. Ierley stated that she was filling the prescriptions as the store was closing. Ms. Ierley stated that the lights were low and she was rushed. Ms. Ierley stated that she got confused and thought that she had filled the Ranitidine. Ms. Ierley stated that she could not find the Ranitidine label and reprinted the label. Ms. Ierley stated that she labeled the Ranitidine bottle with the Citalopram label. Ms. Ierley stated that she filled the Ranitidine again. Ms. Ierley stated that she showed the patient the tablets during counseling and did not pick up on the error because both tablets are white tablets. Ms. Ierley stated that when she counsels patients now she pours the tablets in the lid and shows the patients the tablets and checks the tablet herself again.

Mr. Dutcher asked if she was too busy. Ms. Ierley stated that the lights were low because they were closing and she should have taken her time to check everything. Ms. Ierley again apologized for the error.

Mr. Dutcher reminded Ms. Ierley to be careful.

Complaint #3005

Pharmacist Frank Vairo, Legal Counsel Roger Morris for Mr. Vairo, Pharmacy Technician Lucy Smith, and Pharmacy Regional Supervisor Jason Reiser were present in response to a consumer complaint. Mr. Vairo is no longer employed by the pharmacy. Compliance Officer Sandy Sutcliffe gave a brief overview of the complaint.

Ms. Sutcliffe stated a prescription was phoned to the pharmacy for Alkeran 2 mg and the pharmacist dispensed Alprazolam 2 mg. The patient took three tablets (6 mg) of the Alprazolam and became lethargic and was hospitalized.

President Dutcher asked Mr. Vairo how a mistake of the magnitude could have occurred.

Mr. Vairo replied that he does not know.

President Dutcher asked Mr. Vairo where the Alprazolam is located.

Mr. Vairo stated that the alprazolam is on the shelf.

Mr. Dutcher asked Mr. Vairo where the Alkeran is located.

Mr. Vairo stated it is in the refrigerator.

Mr. Dutcher asked how Alprazolam was placed in an Alkeran bottle.

Mr. Vairo stated that the prescription was inputted incorrectly.

Ms. Sutcliffe stated that the prescription was inputted as Alprazolam instead of Alkeran.

Mr. Dutcher asked Mr. Vairo if he did a final verification on the prescription.

Mr. Vairo stated that he does not have any recollection of a final verification. Mr. Vairo stated that he took the prescription orally over the phone. Mr. Vairo stated that it was phoned in as Melphalan and he verified the drug was Alkeran. Mr. Vairo stated that the nurse phoning in the prescription stated that the directions were 5 tablets daily for 4 days. Mr. Vairo stated that he thought this was a high dose and asked the nurse to verify the dose. Mr. Vairo stated that the nurse did verify the drug and dose. Mr. Vairo stated that he looked to see if he had the medication. Mr. Vairo stated that he gave the prescription to the technician and told her that the medication needed to be ordered. Mr. Vairo stated that usually if the medication needs to be ordered the prescription is set aside until the medication is received.

Mr. Dutcher asked the technician if Mr. Vairo told her that the medication would need to be ordered.

Ms. Smith stated that she does not recall Mr. Vairo telling her that the medication needed to be ordered.

Mr. Dutcher asked Ms. Smith if she entered the drug as Alprazolam.

Ms. Smith replied that she did. Ms. Smith stated that she remembered verifying the dose with the pharmacist. Ms. Smith stated that Mr. Vairo told her that the dose was correct.

Mr. Vairo stated that he does not recall talking to the technician about the dose.

Mr. Dutcher stated that there is apparently a break down in communication between the pharmacist and the technician.

Mr. Vairo stated that another technician filled the prescription incorrectly.

Mr. Dutcher asked who counseled the patient when the patient picked up the prescription.

Mr. Vairo stated that he was told after the fact that the patient's daughter refused counseling.

Mr. Dutcher addressed Mr. Vairo's consent order for Complaint Order #2946 which was agreed upon at the last Board Meeting held in November. Mr. Dutcher stated that both complaints have been rolled into one consent agreement.

Mr. Morris stated that the pharmacist understands the serious nature of the role of a pharmacist. Mr. Morris stated at the last meeting it was recommended that he take the MPJE exam. Mr. Morris stated that he is no longer employed at that facility and is now employed where he speaks with patients and doctors and takes new prescriptions over the phone. Mr. Morris stated that he is not involved with the inputting of prescriptions. Mr. Morris stated that Mr. Vairo understands that even though he did not make the mistake personally he is responsible for the control of the pharmacy. Mr. Morris stated that the consent has a very strict set of orders, such as suspension, probation, and the retaking of exams. Mr. Morris stated that the contract was negotiated in good faith with the Board and having sat through the conferences today he feels that this consent order is too severe. Mr. Morris stated that others received a years probation, a 90 day probation, and others received a slap on the wrist. Mr. Morris stated that Mr. Vairo is agreeable to any discipline imposed and his issue of miscommunication and lack of control of the pharmacy does not justify a suspension and probation based on the actions of the Board today.

Mr. Dutcher asked Mr. Pulver if he had any comments.

Mr. Pulver stated that Mr. Morris did tell him that he was going to bring this issue to the Board's attention. Mr. Pulver stated that it is the Board's choice if they would like to accept the consent agreement as written or make changes to the consent order.

Mr. Dutcher stated that most cases today were not repetitive. Mr. Dutcher stated that Mr. Vairo has dispensed the wrong drug twice and the Board is seeing a pattern.

Mr. Morris stated that two of the complaints were several years ago. Mr. Morris stated that Mr. Vairo took the prescription for the Alkeran over the phone, questioned the nurse and Mr. Vairo cannot explain how the prescription got verified. Mr. Morris stated that this is not an overt action.

Mr. Dutcher stated that he was asked by the technician to verify the dose.

Mr. Morris stated that Mr. Vairo is ready to sign the consent agreement if that is the consent agreement that the Board feels is appropriate. Mr. Morris stated that he was just raising the issues for the Board to consider.

Mr. McAllister stated he is happy with the consent agreement as it stands because Mr. Vairo is the pharmacist on record as verifying the prescription.

Mr. Vairo signed the consent order presented to him by the Board.

On motion by Mr. Van Hassel and Dr. Berry, all Board Members present voted to unanimously accept the following Consent Agreement signed by Mr. Vairo. A roll call vote was taken.

(Ms. Honeyestewa - aye, Dr. Tippet - aye, Dr. Smidt - aye, Dr. Berry - aye, Mr. McAllister - aye, Mr. Van Hassel - aye, Dr. Sypherd - aye, President Dutcher - aye)

AGENDA ITEM #14 - Consents

President Dutcher asked Board Members if there were any questions or discussions concerning the consent agreements.

Executive Director Hal Wand indicated that the consent agreements have been reviewed and approved by the Attorney General's Office and have been signed.

A roll call vote was taken. (Mr. McAllister - aye, Ms. Honeyestewa - aye, Dr. Tippet - aye, Dr. Smidt - aye, Dr. Berry - aye, Mr. Van Hassel - aye, Dr. Sypherd - aye ,and President Dutcher- aye). All Board Members present voted to unanimously accept the following Notices of Hearing/Consent Agreement as presented in the meeting book and signed by the respondent:

- Vickie Wonder 05-0023-PHR
- Mustafa Maher 05-0026-PHR
- Robert Hooper 05-0028-PHR
- Jon Alessi 05-0029-PHR
- Michelle Mai 05-0031-PHR
- Rob Hahn 05-0033-PHR

AGENDA ITEM 15 - Nomination and Election of Officers

The elections were held earlier in the morning.

Vice President Dutcher opened the nominations for President. Mr. Dutcher was nominated for President. **On motion by Mr. Van Hassel and Dr. Sypherd** the Board unanimously approved the nomination of Chuck Dutcher for President of the Board for 2006.

Vice President Dutcher opened the nominations for Vice President. Mr. Van Hassel was nominated for Vice President. **On motion by Mr. McAllister and Dr. Berry** the Board unanimously approved the nomination of Mr. Van Hassel for President of the Board for 2006.

On motion by Dr. Berry and Dr. Tippet, the Board unanimously agreed that Mr. Wand should continue as Executive Director of the Board of Pharmacy.

Mr. McAllister stated that the Board should evaluate the Executive Director's performance to avoid any personnel issues. The evaluation will be placed on the agenda for the next meeting.

AGENDA ITEM #16 - Attendance of NABP Convention, San Francisco, CA

President Dutcher asked Mr. Wand to address this issue.

Mr. Wand stated that in addition to the voting delegate, who receives a grant from NABP, the Board has sufficient funds to allow two individuals (Board Members or staff) to attend the NABP annual meeting to be held from April 8-11, 2006 in San Francisco, California. Mr. Wand stated that the Board would need to select a voting delegate. Mr. Wand stated in the past the voting delegate has been the President. Mr. Wand stated that the delegate receives a \$1,000 grant and the Board has funds available to reimburse the individual if their expenses exceed the \$1,000.

Mr. Dutcher was selected as the voting delegate.

Mr. Wand asked to attend the meeting and the Board agreed that Mr. Wand should attend the meeting.

On motion by Mr. Van Hassel and Dr. Sypherd, the Board unanimously agreed to allow two individuals, in addition to Mr. Dutcher, attend the NABP Convention.

Mr. Wand asked the Board Members if there were any proposed amendments to the NABP Constitution and Bylaws that they would like to submit. The Board Members did not have any proposed amendments to submit.

Mr. Wand told the Board Members that at the Convention there would be a resolution for William Lackey, a former Board Member, who passed away recently. Mr. Lackey will be honored for his contributions to the Board and NABP.

AGENDA ITEM 17 - Potential Legislation Impacting the Board of Pharmacy

President Dutcher asked Mr. Wand to address this topic.

Authorization for the Administration of Prescription Medications by Midwives.

Mr. Wand stated that the proposed legislation is similar to New York's statutes. Mr. Wand stated that he believes that the Board has no objections to the Midwife Bill. Mr. Wand stated that there is a list of medications that the Midwife can purchase from a pharmacy for office use. The Midwife cannot write prescriptions.

Possible Implementation of Prescription Drug Monitoring Program

Mr. Wand stated that Dr. Cannell from Yuma is supposed to drop a bill for the Prescription Drug Monitoring Program. Mr. Wand stated that he had the Prescription Drug Monitoring Book scanned for the Board Members. Mr. Wand stated that he did meet with the Senate Health Committee, along with other Boards to discuss the monitoring program. Mr. Wand stated that there some objections based on privacy and HIPAA. Mr. Wand stated that he told the individuals that the records are available in paper form and the Board does have access to the paper records.

Mr. Wand stated in the Governor's state of the state address she mentioned that she would support the prescription drug monitoring program.

HB2493 - Methamphetamine - Pseudoephedrine Sales

Mr. Wand stated that this Bill makes Sudafed a CV and requires that a log be maintained.

Mr. Dutcher asked why the Attorney General wanted to make Sudafed a CV.

Mr. Wand stated that the Attorney General wanted to make Sudafed a CV in 2004 and other organizations opposed the action. Mr. Wand stated that if Sudafed becomes a CV only pharmacies would be allowed to sell Sudafed. Mr. Wand stated that the retailers may oppose this action.

Mr. Dutcher stated that some companies are removing Sudafed and substituting other ingredients in the place of pseudoephedrine.

Mr. Wand stated that he can testify online or appear in person and state that the Board supports the Bills.

HB2382 - Prescription Medication - Reuse

Mr. Wand stated that the Board did have some concerns with this Bill. Mr. Wand stated that the Board had expressed three concerns. The first concern was that the Bill states that any person can donate medications. Mr. Wand stated that the Board's concerns were that the drug could be purchased off the internet or purchased from another country and may even be counterfeit.

Mr. Wand stated that he worked with Pete Wertheim, the legislative liaison, for the Department of Health Services. Mr. Wand stated that he Mr. Wertheim attended the session and told him that the Board's comments were accepted. Mr. Wand stated that it would be necessary to establish the repository at a pharmacy because the Board Office does not have a pharmacy

permit to allow a repository at the office.

The third concern was the incomplete sentence in letter D of the Bill.

Mr. Wand stated that anyone in the audience could volunteer to house the repository.

AGENDA ITEM 18 - Approval of Exams

President Dutcher asked Mr. Wand to address this topic.

Mr. Wand stated that the statutes require that the Board periodically approve the licensing exams. Mr. Wand stated that the exams are given by NABP or the PTCB. Mr. Wand stated that these are the exams that have been approved in the past, but the Board could approve other exams.

On motion by Dr. Berry and Ms. Honeyestewa, the Board unanimously approved the NAPLEX, MPJE, FPGEEC, and PTCB exams as the licensing exams for the state of Arizona.

AGENDA ITEM 19 - Approval of Delegation to Executive Director

President Dutcher asked Mr. Wand to address this topic.

Mr. Wand stated that Board can delegate authority to the Executive Director to order tests and exams listed in A.R.S. § 32-1927 (F), A.R.S. § 32-1927.01 (F), and A.R.S. § 32-1927.02 (E).

On motion by Dr. Sypherd and Dr. Smidt, the Board unanimously agreed to delegate the authority to the Executive Director to order tests and exams listed in A.R.S. § 32-1927 (F), A.R.S. § 32-1927.01 (F), and A.R.S. § 32-1927.02 (E).

AGENDA ITEM 20 - Approval of PAPA Contract

President Dutcher asked Mr. Wand to address this issue.

Mr. Wand stated that the Board Members have a copy of the contract on their CD. Mr. Wand stated he and Ken Mahan, the President of the Arizona Pharmacy Foundation, have signed the contract. Mr. Wand stated that Mr. Pulver and Mr. Morris have agreed that the contract is sound. Mr. Wand stated that the new contract requires more reporting to the Board concerning accounting practices. Mr. Wand stated that the reporting is to ensure that the money is not being misappropriated.

On motion by Mr. Van Hassel and Dr. Berry, the Board unanimously agreed to approve the PAPA contract as signed.

AGENDA ITEM 21 - Selection of Committee to Review Pharmacy Technician Trainees

Special Requests to Reapply for Licensure (R4-23-1103 (C))

President Dutcher asked Mr. Wand to address this issue.

Mr. Wand stated that the Board Office is receiving letters and calls from Pharmacy Technician Trainees because their licenses will expire in May. Mr. Wand stated that the way the statute reads is that the technician must reapply for a license and obtain permission from the Board to be approved for another two year period.

Mr. Dutcher asked if every technician needs to appear before the Board.

Mr. Wand stated that they would need to appear unless the Board selects a committee to review the requests and votes on the committee's recommendations. Mr. Wand stated that the process would be similar to the complaint review. Mr. Wand stated that the Board could decide to approve all the requests or deny all the requests. Mr. Wand stated that he feels the Board needs to review their requests prior to making a decision. Mr. Wand stated that his thoughts are that two people would review the requests and present their recommendations to the Board. Mr. Wand stated that if a large number of applicants are denied that employers may experience difficulties in filling their technician positions.

Mr. Dutcher asked if they can only reapply one time.

Mr. Wand replied yes that they could only be a trainee for a total of four years if approved by the Board.

Mr. Pulver stated that another Board has a Board Member and a staff person review the applications. Mr. Pulver stated that they list the individuals that they would recommend and the Board votes to accept these individual's requests. If the committee has concerns about individuals, then the individuals are invited to speak with the Board Members.

Mr. Van Hassel stated that he thinks it would be appropriate if a Board Member and a staff member reviewed the requests and presented the recommendations at the Board meeting. Mr. Van Hassel volunteered to serve on the committee.

On motion by Dr. Berry and Ms. Honeystewa, the Board unanimously approved the selection of a committee consisting of one Board Member and one staff employee to review the reapplication requests from Pharmacy Technician Trainees and make their recommendations at the Board Meeting to approve the Pharmacy Technician Trainee's request to reapply and work as a trainee for two additional years.

Dr. Berry asked if the committee could review the felony convictions and decide who needs to appear in front of the Board.

Mr. Wand asked if this would be just technicians and the answer was yes.

AGENDA ITEM 22 - Selection of Hospital Task Force Members to Review Hospital Pharmacist Order Review Rules

President Dutcher asked Mr. Wand to address this issue.

Mr. Wand stated that at the last meeting President McCoy appointed a task force. Mr. Van Hassel agreed to serve on the task force. Mr. Wand stated at this time no other members have been appointed. Mr. Wand asked that this item be deferred until the next meeting.

AGENDA ITEM 23 - Call to the Public

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

A pharmacist came forth and expressed his concerns about the disciplinary actions that can be taken at the time an individual appears for a conference. He felt that a pharmacist might feel intimidated by the Board. The pharmacist stated that a person appearing for a conference should be warned that disciplinary actions can take place during the conference and possibly should be avoided during the conference. The pharmacist also thanked Mr. McAllister for his work with the Board since Mr. McAllister's term has expired and it is not determined if he will be reappointed.

A pharmacist came forth expressing his concerns about the dispensing of Plan B.

There being no further business to come before the Board, on motion by Dr. Tippett and Mr. Van Hassel, the Board unanimously agreed to adjourn the meeting at 5:45 P.M.